

## Attachment 5

### CEQA Findings and Statement of Overriding Considerations

**Attachment [X] to Resolution No. xxxx Certifying EIR**

**CEQA Findings and Statement of Overriding Considerations for Approval of  
General Plan Amendments, Zoning Changes, Master Community Plan, Development  
Agreement, Disposition and Development Agreement, Lease Term Ordinance, and ALUC  
Override for the  
CityPlace Santa Clara Project.**

**Pursuant to Sections 15096(h) of the State CEQA Guidelines (California Code of  
Regulations, Title 14) and Section 21081 of the California Environmental Quality  
Act (Public Resources Code, Division 13)**

**I. INTRODUCTION**

These findings are made pursuant to the California Environmental Quality Act (Public Resources Code sections 21000 *et seq.*; “CEQA”) and CEQA Guidelines (California Code of Regulations, Title 14, sections 15000 *et seq.*) by the City Council of the City of Santa Clara in connection with the Environmental Impact Report (“EIR”)<sup>1</sup> prepared for CityPlace Santa Clara (the “Project”), EIR SCH #2014072078, Planning/CEQA File # PLN2014-10554/CEQA2014-01180. The City of Santa Clara (the “City”) is the lead agency under CEQA for the Project.

These findings are attached and incorporated by reference into Resolution No. \_\_\_\_\_. These findings are based on substantial evidence in the entire administrative record and references to specific reports and specific pages of documents are not intended to identify those sources as the exclusive basis for the findings. These findings reflect the City’s independent judgment and analysis.

**A. Purpose of CEQA Findings; Terminology**

CEQA findings play an important role in the consideration of projects for which an EIR is prepared. Under Public Resources Code section 21081 and CEQA Guidelines section 15091, where a Final EIR identifies one or more significant environmental effects, a project may not be approved until the public agency makes written findings supported by substantial evidence in the administrative record regarding each of the significant effects. In turn, the three possible findings specified in CEQA Guidelines section 15091(a) are:

1. Changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect 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.

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<sup>1</sup> Unless referring to a specific document, “EIR” shall mean the Final EIR, including the Draft EIR and all appendices and attachments to either document, including Exhibit A and Exhibit B to the FEIR, which were prepared after the initial publication of the FEIR.



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.

CEQA Guidelines section 15092(b) provides that no agency shall approve a project for which an EIR was prepared unless either:

1. The project approved will not have a significant effect on the environment; or
2. The agency has:
  - a. Eliminated or substantially lessened all significant effects where feasible as shown in the findings under section 15091; and
  - b. Determined that any remaining significant effects on the environment found to be unavoidable under section 15091 are acceptable due to overriding concerns as described in section 15093.

## **II. PROJECT DESCRIPTION**

### **A. Physical Description**

The City has entered into an exclusive negotiating agreement and non-binding term sheet with Related Santa Clara, LLC (the “Project Developer” or “Project Sponsor”), to develop upon approximately 240 acres of City-owned property a new multi-phased, mixed-use development called CityPlace Santa Clara (the “Project”). The Project would establish a new mixed-use City neighborhood with a defined center to serve as a focal point for a pedestrian-oriented “live, work, and play” environment.

The Project site is located on seven City-owned parcels (assessor’s parcel numbers [APNs] 104-03-036, 104-03-037, 104-01-102, 097 01 039, 097-01-073, 104-03-038, and 104-03-039) that total approximately 240 acres. For purposes of development, the Project site would be divided into five development parcels: Parcel 1 (36.8 acres), Parcel 2 (60.9 acres), Parcel 3 (34.9 acres), Parcel 4 (86.6 acres), and Parcel 5 (8 acres). The Project site also includes the Eastside Retention Basin (12.8 acres). The Project site is currently designated in the City 2010-2035 General Plan (General Plan) as Parks/Open Space (Parcels 1–4 and the Retention Basin) and Regional Commercial (Parcel 5). The City’s Zoning Code designates the Project site as Public, Quasi-Public, Public Park or Recreation (B) (Parcel 1–4, a portion of Parcel 5, and the Retention Basin), and Commercial Park (CP) (the remainder of Parcel 5). To accommodate high-intensity urban-oriented development such as the Project, a new General Plan land use designation (Urban Center/Entertainment District) is proposed within the category of Mixed-Use Designations. In addition, an amendment to the Climate Action Plan element of the City’s General Plan is proposed to reflect the new land use designation, and an amendment is proposed to General Plan Figure 2.3-1 (regarding “Approved/Not Constructed and Pending Projects”) is proposed .

The Project would include up to approximately 9.16 million gross square feet (“gsf”) of office buildings, retail and entertainment facilities, residential units, and hotel rooms; it would also include surface and structured parking facilities that could be used as event parking for non-

NFL events at nearby Levi's Stadium. In addition, the Project would include: large, shared open spaces throughout the Project site (including public sports facilities, multi-use trails, and children's play areas); new pedestrian and vehicular entrances and roadway networks; new roads; new, upgraded, and expanded infrastructure; and new utilities, with improvements to off-site connections. In addition, the Project could include construction of a fire station to replace the existing Santa Clara Fire Station 10 ("Fire Station 10"), which may be demolished to accommodate the Project.

Because the majority of the Project would be located over the former Santa Clara All-Purpose Landfill ("Landfill"), the following additional activities would be required: constructing foundation systems to minimize disturbance to and preserve the integrity of Landfill components; relocating, upgrading, and/or replacing, as necessary, the existing groundwater monitoring network, leachate collection system, and landfill gas collection and removal systems; and conducting associated environmental remediation activities.

The Draft EIR for the Project (the "DEIR") analyzes two different land use schemes (Scheme A and Scheme B) for the Project site to capture the range of possible land uses that could be developed. Both schemes would include a building area<sup>2</sup> of up to approximately 9.16 million gsf. Under Scheme A, the proposed uses on Parcels 1, 2, and 3 would include primarily office uses, and Parcels 4 and 5 are proposed for mixed-use development, consisting of commercial uses, including retail, food and beverage, and entertainment uses, along with offices, a hotel, and multi-family residential uses (up to 1,360 units). Scheme B would have the same development scheme and building area at Parcels 1 and 3 as Scheme A. On Parcel 2, a retail center with offices would be constructed rather than only the office use proposed under Scheme A<sup>3</sup>. At Parcel 4, no residential uses would be constructed; instead, office development equal in area to the residential development in Scheme A would be included. However, the same amount of space that would be required for the proposed hotel, retail uses, entertainment venues, and open space areas would be developed. Development on Parcel 5 would include the same amount of residential, hotel, retail, and office uses under both schemes. The DEIR also analyzed an "Increased Housing Alternative" which would increase the maximum number of housing units under Scheme A from 1,360 units to 1,680 units (see DEIR pages 5-8 and 5-9).

The DEIR also analyzed a "Variant Access Scheme" for the Project. The Variant Access Scheme would have the following features:

- Two signalized access points on Great America Parkway, both located north of the San Tomas Road/Great America Parkway intersection. The second access point would be located just north of the creek.
- Instead of an urban interchange on Lafayette Street, two "jug handle" intersections would provide access over the railroad tracks to Lafayette Street.
- Besides the three proposed access points on Tasman Drive in the Base Access Scheme, one additional intersection would be added on Tasman Drive, east of Centennial Boulevard. With the proximity of the additional intersection and the

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<sup>2</sup> Building areas do not include the proposed parking structures.

<sup>3</sup> A variant to both schemes would include only retail at Parcel 2. With the variant, development would total approximately 7.52 million gsf throughout the Project site, with an average floor area ratio (FAR) of 0.76.

intersection of Tasman Drive and Avenue B, Avenue B would be a side-street stop-controlled intersection.

This Variant Access Scheme is shown in Figure 3.3-23 of the DEIR. The internal roadway network and the locations of the on-site intersections are also shown in Figure 3.3-23 of the DEIR.

After the publication of the Final EIR for the Project (the “FEIR”), the Project Developer proposed an additional land use scheme, referred to as Enhanced Open Space Variant (“EOS Variant”). Because this variant could apply to either Scheme A or Scheme B, in this impact analysis, the revised EOS schemes are referred to in Exhibit A to the FEIR as “EOS Scheme A” and “EOS Scheme B”. Under the EOS Variant, Parcel 3 would be retained by the City and reserved for park uses, instead of being developed by the Project Developer for up to 720,000 square feet of office building uses and associated parking.<sup>4</sup> The 720,000 square feet of office that had been planned for Parcel 3 would be reallocated to other parcels. The EOS Variant, with EOS Scheme A and EOS Scheme B, is described, and its impacts are analyzed, in Exhibit A to the FEIR, which was prepared after the initial publication of the FEIR.

Except where the term “Original Project” is used, the term “Project” as used in these Findings shall mean the EOS Variant, incorporating the Increased Housing Alternative. The Project could be developed as EOS Scheme A or EOS Scheme B.

In total, development of the Project site would occur over approximately 15 years with seven construction phases. Phases 1, 2, and 3 of the Project encompass the City Center development, and are anticipated to begin construction by the beginning of 2018, the beginning of 2019, and the beginning of 2020, respectively, and open in late 2020, late 2021, and late 2022, respectively. Under the EOS Variant, the Parcel 3 Park is Phase 2A; it is expected to be made available to the City for Park purposes by the beginning of 2021. Construction of Phases 4 through 7 is expected to commence between 2021 and 2029 and be completed between 2023 and 2031.

## **B. Project Objectives**

The City and Project Developer have identified the following Project objectives that are relevant to the physical impacts considered in the EIR.

- Convert the existing uses at the former Santa Clara All-Purpose Landfill (Landfill) to more productive uses.
- Establish a new and vibrant mixed-use City neighborhood with a well-defined center to serve as a focal point for a pedestrian-friendly “live, work, and play” environment.
- Promote transit-oriented infill development by placing job-creating commercial buildings; residential units; and entertainment, dining, and shopping options in

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<sup>4</sup> The southern 4-acre portion of Parcel 3 would continue to be retained and developed by the Project Developer as North Park as part of the DAP for Phase 3.

close proximity to each other and to existing transit and other multimodal transportation facilities.

- Enhance entertainment, dining, and shopping opportunities for local and regional residents and workers.
- Provide additional opportunities for major employers to locate to the City through the creation of attractive office park complexes in proximity to new residential units and entertainment, dining, and shopping options.
- Provide additional visitor-serving facilities such as hotels, restaurants, and shops for people using the new football stadium, as well as the nearby convention center and theme park.
- Provide opportunities for supplemental parking for stadium events (including parking on football game days), while making adequate provision to maintain the vitality of the retail uses within the Project.
- Provide enhanced hotel availability to an underserved travel market.
- Allow flexibility to respond to changing market demands to ensure that the Project remains economically feasible throughout a multi-year development process.
- Provide new public open spaces and other community benefits.
- Modernize the Landfill protection systems operated by the City to ensure continued protection of human health and the environment.
- Facilitate creation of both permanent jobs and construction-related jobs.
- Create a significant new tax base and increase City revenues.

## **C. Project Approvals**

### **1. Approvals by the City**

The following discretionary approvals by the City are required prior to development as the Project site, and are informed by the EIR.

**General Plan Amendments.** Three General Plan Amendments are contemplated as part of the project approvals: a new General Plan land use classification of Urban Center/Entertainment District; an amendment to the Climate Action Plan setting forth vehicle trip reduction targets for the new classification, and an amendment revising the timing requirements for certain development projects within the City.

**Rezoning.** The City Code currently applies the Public or Quasi-Public (B) zoning district to the Project site, with the exception of a small portion of Parcel 5, which is zoned Commercial Park (CP). The Project involves a rezoning of the entire Project site to the Planned Development Master Community (PD-MC) Zoning District. The PD-MC zoning district is intended to create regulations for large-scale, integrated development that is compatible with the existing community. Any application for the rezoning to a PD-MC zoning district must include a Master Community Plan that, if approved by City Council, would become a part of the Zoning Map of the City; therefore, a Master Community Plan has been prepared for the Original Project that conforms to the City's General Plan and includes the following information, per Section 18.56.070 of the City's



Municipal Code: a general description of the proposed development; definitions of the land use designations; a table describing the minimum and maximum development by use; a description of the proposed uses; and design guidelines and development standards for site planning, architectural character, landscaping, signage, and lighting. The Master Community Plan attaches as an appendix an Infrastructure Master Plan that addresses the proposed roadway and utility infrastructure and governs the design and construction of infrastructure to support the development of the Project. A Supplement to the Master Community Plan has been prepared that reflects the substantive elements of the EOS Variant. If the rezoning is approved, then the Applicant will be directed to prepare a revised Master Community Plan that reflects the elements of the EOS Variant, as set forth in the Supplement.

**Development Agreement.** The Development Agreement between the Project Developer and the City would create vested rights in Project approvals during the lengthy construction period; addresses implementation of the proposed design and infrastructure improvements in the Project area; and specifies benefits to the City.

**Disposition and Development Agreement.** The Disposition and Development Agreement between the Project Developer and City would govern the manner and timing for ground leases for the Project site to go into effect, and set forth the City's requirements pertaining to development and operation of the Project.

**ALUC Override.** The Project requires an override of the Airport Land Use Commission of Santa Clara County's (the "ALUC's") June 2015 determination that the proposed General Plan Amendment and PD-MC rezoning for the Project are inconsistent with the ALUC's Comprehensive Land Use Plan (the "CLUP").

**Ground Lease.** As described above, the City currently owns the entirety of the Project site. The Project Developer will ground lease the Project site from the City in phases. Forms of ground lease for each phase of the Project are attached to the Disposition and Development Agreement. These ground leases would be entered into between the City and the Project Developer (or its assignee, if permitted) as each phase is developed.

**Lease Term Ordinance.** Section 37380 of the Government Code requires charter cities to establish a procedure to permit the lease of their property for a term of between 55 and 99 years. Therefore, an ordinance would be enacted as part of the Project that would establish a procedure to permit ground leases with terms of up to 99 years that are entered into for City land in connection with the Project and are consistent with the City Place Santa Clara Master Community Plan, Development Agreement, and Disposition and Development Agreement.

**Development Area Plans.** Subsequent to the initial package of Project approvals, the Project developer would submit applications for approval of one or more Development Area Plans. These would typically be associated with each of the Project phases or other increments of development, as appropriate, and would conform to the Master Community Plan and other Project approvals.

**Tentative Subdivision Maps.** In conjunction with the Development Area Plan approval process, one or more tentative subdivision maps must be approved pursuant to the California Subdivision Map Act.

## **2. Approvals by Other Responsible Agencies**

Various aspects of the Project would require approvals from the below agencies:

Bay Area Air Quality Management District (BAAQMD)

San Francisco Bay Regional Water Quality Control Board (RWQCB) (including approval of a NPDES permit for stormwater discharges, revisions to Corrective Action Plans, and revisions to applicable Waste Discharge Requirements)

Santa Clara County Department of Environmental Health (Local Enforcement Agency)

Cal Recycle (including Approval of the Post-Closure Land Use Plan, amending the Closure Plan, and amending the Post-Closure Maintenance Plan)

California Department of Public Health

California Department of Fish and Wildlife

California Department of Transportation (Caltrans)—review of traffic circulation effects and consultation on potential traffic improvements affecting State highway facilities, ramps, and intersections.

Santa Clara Valley Transportation Authority - approval of a new crossing of the VTA light rail tracks proposed with New Tasman Drive Intersection Variants 1 and 2.

California Public Utilities Commission - approval of a new crossing of the VTA light rail tracks proposed with New Tasman Drive Intersection Variants 1 and 2.

Santa Clara Valley Water District - approval of the vehicular overcrossing of the San Tomas Aquino Creek.

## **III. ENVIRONMENTAL REVIEW OF THE PROJECT**

Pursuant to CEQA and the CEQA Guidelines, the City determined that an EIR would be required for the Project. On July 30, 2014, the City issued a Notice of Preparation (“NOP”) for the EIR. The NOP was circulated to responsible agencies and interested groups and individuals and posted publicly for review and comment.

Based upon comments the City received in response to the NOP, it was determined that the Draft EIR should analyze project related environmental impacts relative to the following 16 substantive potential impacts:

- Aesthetics
- Cultural Resources
- Land Use and Planning
- Noise
- Transportation and Traffic
- Air Quality
- Hazards and Hazardous Materials
- Greenhouse Gas Emissions/Climate Change
- Hydrology and Water Quality
- Geology and Soils
- Biological Resources
- Population and Housing
- Public Services and Recreation
- Utilities and Service Systems
- Cumulative Impacts
- Energy

Additionally, the Draft EIR included other CEQA substantive sections including an Executive Summary, Introduction, Project Description (Proposed Project and Alternatives), Cumulative Impacts Summary, Alternatives, and Other CEQA Required Considerations.

The City prepared a Draft EIR pursuant to CEQA to disclose the potential environmental effects of CityPlace Santa Clara. The Draft EIR, issued for public review on October 9, 2015, for a 45-day review period, included a description of the Project, an assessment of its potential effects, a description of mitigation measures to reduce the identified significant effects, and a discussion of alternatives that could address potential impacts. The City extended the public comment period that was scheduled to end on November 23, 2015, until December 7, 2015. During this review period, the document was reviewed by various State, regional, and local agencies, as well as by interested organizations and individuals. Comment letters on the Draft EIR were received from 22 agencies, 9 organizations, and 8 individuals. Comment letters and responses to comments are included in the FEIR, which was issued in April 2016. Comment letters on the FEIR were received from 8 agencies, 5 organizations, and 2 individuals. Subsequent to the publication of the FEIR, Exhibit A and Exhibit B to the FEIR were prepared.

#### **IV. THE ADMINISTRATIVE RECORD**

The record, upon which all findings and determinations related to the approval of the Project are based, includes the following:

The EIR and all documents referenced in or relied upon by the EIR.

All information (including written evidence and testimony) presented to the City, City staff, the Project sponsors, consultants, and others.

All information (including written evidence and testimony) provided by City staff to the City Planning Commission relating to the EIR, the approvals, and the Project.

All information (including written evidence and testimony) presented to the City Planning Commission by the Project sponsors, consultants, and others.

All final applications, letters, testimony, exhibits, and presentations presented by the Project sponsors, consultants, and others to the City in connection with the Project.

All information (including written evidence and testimony) presented at any City public hearing or public meeting or City workshop related to the Project and the EIR.

For documentary and information purposes, all City-adopted land use plans and ordinances, including without limitation general plans, specific plans and ordinances, together with environmental review documents, findings, mitigation monitoring programs and other documentation relevant to planned growth in the area.

The Mitigation Monitoring and Reporting Program for the Project.

Matters of common general knowledge to the City which it may consider, including applicable state or local laws, ordinances and policies, the General Plan and all applicable planning programs and policies of the City.

All other documents composing the record pursuant to Public Resources Code section 21167.6(e).

The custodian of the documents and other materials that constitute the record of the proceedings upon which the City's decisions are based is the Director of the Department of Planning and Inspection, or his or her designee. Such documents and other materials are located at the Department of Planning and Inspection 1500 Warburton Avenue, Santa Clara, California, 95050.

## **V. REVIEW AND CONSIDERATION OF THE EIR**

In accordance with CEQA, the City certifies that it has been provided copies of the EIR and has reviewed and considered the environmental effects of the Project as shown in the EIR and supporting documents in the record.

## **VI. MITIGATION MEASURES, CONDITIONS OF APPROVAL, AND MITIGATION MONITORING AND REPORTING PROGRAM**

Public Resources Code section 21081.6 and CEQA Guidelines section 15097 require the City to adopt a monitoring or reporting program to ensure that the mitigation measures and revisions to the Project identified in the EIR are implemented. The Mitigation Monitoring and Reporting Program ("MMRP") is attached to and incorporated by reference into the EIR Certification Resolution. The MMRP satisfies the requirements of CEQA.

The mitigation measures set forth in the MMRP are specific and enforceable and are capable of being fully implemented by the efforts of the City, other identified responsible public agencies, or the Project Developer. As appropriate, some mitigation measures define performance standards to ensure no significant environmental impacts will result. The MMRP



adequately describes implementation procedures, monitoring responsibility, reporting actions, compliance schedule, non-compliance sanctions, and verification of compliance in order to ensure that the Project complies with the adopted mitigation measures.

The MMRP contains measures to substantially lessen or eliminate all significant environmental effects, where feasible. The City has thus committed to enforcing the mitigation measures contained in the MMRP and has adopted the MMRP as enforceable conditions of approval for the Project. The Project Developer must comply with the MMRP regarding the Project. The City will also ensure that the plans submitted for discretionary approvals, the subsequent construction and the on-going operation of the Project all conform to the mitigation measures as set forth in the MMRP.

The mitigation measures incorporated into and imposed as part of the MMRP will not have new significant environmental impacts that were not analyzed in the EIR.

## **VII. FINDINGS REGARDING IMPACTS**

### **A. CEQA Findings**

In accordance with Public Resources Code section 21081 and CEQA Guidelines sections 15091 and 15092, the City adopts the findings and conclusions regarding impacts and mitigation measures that are set forth in the EIR and summarized in the MMRP. These findings do not repeat the full discussions of environmental impacts contained in the EIR. The City ratifies, adopts, and incorporates the analysis, explanation, findings, responses to comments and conclusions of the EIR.

The City recognizes that the environmental analysis of the Project raises controversial environmental issues, and that a range of technical and scientific opinion exists with respect to those issues. The City acknowledges that there are differing and potentially conflicting expert and other opinions regarding the Project. The City has, through review of the evidence and analysis presented in the record, acquired a comprehensive understanding of the breadth of this technical and scientific opinion and of the full scope of the environmental issues presented. This understanding has enabled the City to make fully informed, thoroughly considered decisions after taking account of the various viewpoints on these important issues and reviewing the record. These findings are based on a full appraisal of all viewpoints expressed in the EIR, as well as other relevant information in the record of the proceedings for the Project, including the administrative record.

To be conservative, the EIR's analysis of most of the Original Project impacts focuses on the impacts of Scheme B, because an increase in the amount of retail and office uses would generate more traffic and create more transportation, air quality, greenhouse gas, noise, and jobs/housing balance impacts than the comparable increase in the amount of residential uses envisioned in Scheme A. Other impacts are equivalent among the two schemes, except for public services impacts and hazards impacts, which could be greater with increased numbers of residents; therefore, the analysis of those impacts conservatively focuses on Scheme A. Furthermore, as discussed in Exhibit A of the FEIR (and Section VII.H of these Findings below), most of the impacts of the Original Project would be similar with the EOS Variant, some impacts

would be lessened to some degree, and a few impacts would be slightly greater, but there would not be a substantial increase in the severity of any impact when all adopted mitigation measures are taken into account. As discussed in the Alternatives Analysis in Chapter 5 of the DEIR (and Section VIII.B.2.b of these Findings below), implementation of the Increased Housing Alternative would lessen some impacts of the Original Project, maintain some impacts at the same level as the Original Project, and increase noise impacts as compared to the Original Project; however, in all cases but the significance overall of impacts would not change with the implementation of the Increased Housing Alternative.

Except where otherwise noted, the discussion of the Project's impacts in Sections VII.C, D, E, F and G of these Findings below conservatively reflects Scheme B of the Original Project, except in the noted instances where it is more conservative to reflect Scheme A of the Original Project of the Original Project (e.g., public services impacts and hazards impacts). Certain specified numeric analyses cited in the discussion below reflect the Original Project (meaning, unless otherwise noted, Scheme B of the Original Project), without incorporating the effects of the EOS Variant or the Increased Housing Alternative. In all instances, however, the significance findings for each impact category set forth below (e.g., less than significant impact, less than significant impact with mitigation, significant and unavoidable impact, or significant and unavoidable with mitigation) reflect the impacts of the Project, incorporating the EOS Variant and the Increased Housing Alternative. The specific findings related to the impacts of the EOS Variant are included in Section VII.H below, and the specific findings related to the Increased Housing Alternative are included in Section VIII.B.2.b below.

## **B. The California Supreme Court's *CBIA v. BAAQMD* Decision**

In December 2015, the California Supreme Court ruled in *California Building Industry Association v. Bay Area Air Quality Management District (CBIA v. BAAQMD)*, 62 Cal.4th 369) that the general rule under CEQA is that the impacts of the environment on a project are not CEQA impacts because they are not impacts of the project on the environment. The *CBIA v. BAAQMD* ruling provided for several exceptions to the general rule: (1) if the project would exacerbate existing environmental hazards (such as exposing hazardous waste that is currently buried) then that can be considered an impact of the project on the environment; (2) if the project qualifies for certain specified exemptions (certain housing projects and transportation priority projects per California Public Resources Code sections 21159.21(f), (h); 21159.22(a), (b)(3); 21159.23(a)(2)(A); 21159.24(a)(1), (3); or 21155.1(a)(4), (6)), then the CEQA analysis may require analysis of certain impacts of the environment on the project specified in the exemptions; (3) potential noise and safety impacts on projects due to proximity to an airport must be analyzed (per California Public Resources Code section 21096); and (4) school projects require specific assessment of certain environmental hazards (per California Public Resources Code section 21151.8).

This ruling occurred after the release of the DEIR, but before release of the FEIR. Consequently, impacts examined in the DEIR that were solely related to the impact of existing environmental conditions on new receptors are no longer considered to be significant impacts per CEQA. The DEIR has been revised to provide an analysis of these impacts for informational purposes and includes potential conditions of approval that the City Council may consider to address these non-CEQA effects. While the City is not required to address these impacts as a

function of CEQA, the City nevertheless adopts certain Conditions of Approval per *CBIA v. BAAQMD* as specified, below.

**C. Less-Than-Significant Impacts That Do Not Require Mitigation**

**1. Land Use**

**Impact LU-3: Consistency with Adopted City Land Use Plans and Policies Other than Jobs/Housing Balance and Airport Noise.** The Project would be, excepted as noted in Section VII.E.1 below, generally consistent with applicable land use plans, policies, or regulations of an agency with jurisdiction over the Project (including, but not limited to, a general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect.

**Finding LU-3.** The Project site is currently designated for Parks/Open Space (Parcels 1–4) and Regional Commercial (Parcel 5) land uses, and the existing General Plan would maintain these designations for the Project site through Phase III (2025–2035) of the General Plan. The Project would include office buildings, retail and entertainment facilities, residential units, hotel rooms, new roadways and access points, and surface and structured parking facilities, and would thus not be consistent with the existing land use designation. In order to accommodate high intensity, urban-oriented development, a new General Plan land use classification (Urban Center/Entertainment District) is proposed within the Mixed-Use Designations category. This classification accommodates a wide variety and mix of commercial activities serving residents, businesses and visitors from the local community and surrounding region. Medium to very high density residential use (ranging from 37 to 90 dwelling units per acre) is also suitable under this classification. Development under the new land use classification supports alternative modes of travel, incorporating accommodations for transit users, bicyclists, and pedestrians, as well as utilizing and incentivizing transportation demand management. Open spaces and landscape features that enhance the public realm and meet the active and passive recreational needs of multiple users will be incorporated throughout the Project. The proposed General Plan Amendment would meet the intent of the City’s land use policies as described in EIR Table 3.1-7. Because of the general consistency with land use policies, any potential conflicts with the General Plan related to the new land use classification would be *less-than-significant*. No mitigation is required.

**2. Transportation**

**Impact TRA-4: On-site Intersections on Parcels 4 and 5.** The Project would provide an on-site street network on Parcels 4 and 5 with connections to the surrounding local streets and adequate lane configurations and traffic control devices.

**Findings TRA-4.** The traffic analysis used the Project-generated traffic volumes in EIR Table 3.3-16, which estimated that the Original Project would generate approximately 140,730 daily vehicle trips, 10,020 AM Peak-Hour vehicle trips (8,010 inbound and 2,010 outbound), and 12,310 PM Peak-Hour vehicle trips (4,140 inbound and 8,170 outbound). The on-site Project traffic assignment was based on the regional land use origins and destinations, ease and convenience of access on the surrounding local streets, and the parking locations and driveway



configurations at the Project site. The traffic volumes, lane configurations, and traffic control devices for the on-site intersections are presented in the on-site analysis report in EIR Appendix 3.3-I (the "CityPlace Internal Intersection Analysis"). The CityPlace Internal Intersection Analysis applied a Level of Service analysis to the major stop and signal-controlled intersections planned within the site, under two potential internal interchange networks (the "base scheme" and "variant scheme"). The CityPlace Internal Intersection Analysis conservatively based its estimates on the Project iteration that resulted in the highest trip generation for the Project.

Based on the above analyses, the on-site intersections on Parcels 4 and 5 are projected to operate at acceptable levels, as shown in EIR Table 3.3-27. Thus, there would be a *less-than-significant impact* to on-site intersections on Parcels 4 and 5. No mitigation is required.

**Impact TRA-8: Bicycle Facilities.** The Project would provide a complete on-site on-street bicycle network and connections to the Bay Trail, San Tomas Aquino Creek Trail, Guadalupe River Trail, and other existing and planned bicycle facilities.

**Findings TRA-8.** The City has plans to support bicycle use in the Project area by constructing bike lanes on Lafayette Street, Tasman Drive, and Great America Parkway north of Great America Way. The Project will provide bicycle facilities with bike paths, bike lanes, and bike routes as shown in EIR Figure 3.3-28. The Project will generate bicycle travel primarily by employees as a commute mode and as an access mode to transit.

The Project will add bike lanes to internal streets including City Place Parkway, 2nd Street, Avenue A, Avenue D, and Lick Mill Boulevard to provide a complete on-site, on-street bicycle network. Bicycle lanes would also be added to Lafayette Street as part of the Project. The site is adjacent to the Guadalupe River, which has a paved bike path along the east bank and an unpaved path on the west bank adjacent to the site. The Project will include paving the bike path on the west bank of the Guadalupe River between Tasman Drive and SR 237. This path connects to the Bay Trail to the north of the site. It can also be used by bicycle commuters to the site traveling to and from locations to the south. The Project provides adequate bicycle access to the Bay Trail and points south along the Guadalupe River Trail. Overall, this would result in a *less-than-significant impact* to bicycle facilities. No mitigation is required.

**Impact TRA-9: Transit Vehicle Capacity.** The Project would generate public transit ridership that could use available transit capacity.

**Findings TRA-9.** The bus and rail lines serving the Project site would have sufficient capacity to accommodate the added public transit ridership generated by the Project. The amount of public transit ridership generated by the Project was estimated by using the transit walk trips from the mixed-use trip generation estimates and assuming a 5 percent reduction in vehicle trips in the southern portion of the Project site within 0.5 mile (walking distance) of the Great America VTA light-rail station and the multimodal Great America station served by ACE commuter rail, Capitol Corridor commuter rail, and eight connecting ACE shuttle routes.

The analysis in the EIR concluded that, with the TDM mitigation measure (TRA-1.1, described in VI.D.2), the Original Project would generate additional transit riders, with approximately 590 during the AM Peak Hour and 870 during the PM Peak Hour. A public



transit capacity analysis for commuter rail, light rail, and buses was conducted during the PM Peak Hour when the Project's estimated public transit ridership is highest. A more detailed analysis was conducted for VTA light-rail Route 902 because it is the closest transit route to the Project site, operating along Tasman Drive. The transit analysis for Route 902 was conducted for both weekday AM and PM Peak Hours, by direction (northbound to Mountain View/southbound to Winchester Station) at both the Great America and Lick Mill Stations, the two closest stations to the Project Site.

These analyses in the EIR showed that all bus and rail transit routes meet the standards established by their respective operating agencies. Thus, the Project would have *less-than-significant impacts* on the transit vehicle capacity of the routes that serve the Project area. No mitigation is required.

**Impact TRA-10: Great America Station Platform Passenger Capacity.** The Project would generate additional Altamont Corridor Express ("ACE") and Capitol Corridor rail riders, which could be accommodated within the passenger waiting area at Great America Station.

**Findings TRA-10.** There is approximately 12,200 gsf of passenger waiting area on the platform at Great America Station. This equates to a capacity of 2,440 passengers assuming a crush capacity of 5 gsf per person. Under existing conditions, there are of 375 to 400 passengers (maximum) waiting for the ACE and Capitol Corridor trains during the evening peak hour. The platform waiting area is approximately sixteen percent full with the current passenger load. The EIR analysis concluded that the Original Project would generate 132 additional Capitol Corridor passengers and 74 additional ACE passengers during the evening peak hour. This would increase the number of waiting passengers to approximately 606. The TDM mitigation measure would generate an additional 11 riders. The existing platform waiting area with a capacity of 2,440 waiting passengers can accommodate projected PM Peak Hour ridership of 617 passengers under existing with-Project conditions with TDM. This impact is considered *less-than-significant*. No mitigation is required.

**Impact TRA-12: Emergency Access.** The Project may relocate an existing fire station to one of two location options on Great America Parkway. Either location would reduce emergency vehicle response times to locations north, west, and south of the site. Response times to locations to the east would increase 1.1 to 1.2 minutes, depending on the option. These increases are below the threshold of significance.

**Findings TRA-12.** A fire station is currently located at the intersection of Stars and Stripes Drive and the proposed Avenue B. The fire station may be relocated with development of Phase 2 on Parcel 4, with two possible relocation options: (1) east side of Great America Parkway just north of City Place Parkway (Base Access Scheme alignment) or (2) east side of Great America Parkway just north of the future driveway (north of Bunker Hill Lane). The EIR analyzed the potential impacts of the fire station relocation on emergency response times.

The EIR found that both relocation options would reduce emergency vehicle response times to destinations to the north, west, and south of the Project site. These reductions would be between 0.4 and 1.9 minutes. Both options would increase emergency vehicle response times to the destination to the east by 1.1 to 1.2 minutes. Under both options, however, emergency

response times are less than the average response time of 3.2 minutes for an engine company.<sup>5</sup> Therefore, the impact is *less-than-significant*. No mitigation is required.

**Impact TRA-13: Parking.** The Project would provide a sufficient amount of vehicle and bicycle parking on-site.

**Findings TRA-13.** Parking at CityPlace will include both on-street and off-street parking facilities. For Parcels 1, 2 and 3, parking would be provided in off-street parking facilities. For Parcels 4 and 5, on-street parking would be provided along Avenue A, Avenue B, Avenue C, 1st Street, 2nd Street, 3rd Street, and Stars and Stripes Drive. The on-street parking would be provided for short-term parking. Off-street parking facilities would be distributed across the parcels based on demand to ensure that the parking supply is provided close to the demand locations. Parking facilities would be designed to city standards and have sufficient access to limit the amount of on-street circulation required to access parking.

The EIR includes a parcel-by-parcel assessment of the parking supply and demand to ensure that sufficient parking is provided. This analysis was conducted to estimate the overall peak parking demand for CityPlace, adjusting for both the temporal (time-of-day) and non-captive demands. Parking demand rates were based on ITE Parking Generation, fourth edition. For temporal adjustments, Urban Land Institute (ULI) weekday adjustments were applied to the various land uses (ULI Shared Parking, second edition). The EIR determined that the Original Project's overall peak parking demand of 23,771 vehicles can be accommodated with the proposed parking supply of 27,867 spaces, although this conclusion assumes that all of the parking spaces would be available for all land uses and that residential parking would not be gated or controlled.

The number of bicycle parking spaces for each use is based on VTA Bicycle Technical Guidelines, December 2012. According to the CityPlace Internal Intersection Analysis, sufficient bicycle parking (1,055 Class I Bike Lockers and 736 Class II Bike Racks for the Original Project) will be provided at the main entrances to the City Center and in highly visible and accessible locations. The parking impacts would therefore be *less-than-significant*. No mitigation is required.

### 3. Air Quality

**Impact AQ-5: Exposure of Sensitive Receptors to Carbon Monoxide Hot Spots.** The Project would not result in a significant exposure of sensitive receptors to potential carbon monoxide hot spots.

**Findings AQ-5.** CO hot spots are typically observed at heavily-congested intersections where a substantial number of gasoline-powered vehicles idle for prolonged durations throughout the day. The EIR analyzed peak-hour traffic volumes under the worse-case Scheme B at intersections in the transportation study area. The analysis indicates that in the context of the Original Project, the highest traffic volumes would occur during the PM Peak Hour under Existing with Project conditions at Great America Parkway and Tasman Drive (10,500 vehicles per hour), during the AM Peak Hour under 2020 with Project conditions at

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<sup>5</sup> <https://firechief.iso.com/FCWWeb/mitigation/ppc/3000/ppc3015.jsp>

Mission College Boulevard and Montague Expressway (11,590 vehicles per hour), and during the AM Peak Hour under Cumulative 2040 with Project conditions at Mission College Boulevard and Montague Expressway (14,350 vehicles per hour).

These levels, under each Project and cumulative condition, would be far below the congested traffic volume modeled by BAAQMD (44,000 vehicles per hour) that would be needed to contribute to a localized CO hot spot and below the congested traffic volume modeled by BAAQMD (24,000 vehicles per hour) that would be needed to contribute to a localized CO hot spot at an intersection where vertical and/or horizontal mixing is substantially limited. Accordingly, CO concentrations would not exceed the CAAQS according to BAAQMD's screening criteria. This impact would be *less-than-significant*. No mitigation is required.

**Impact AQ-7a: Exposure of Existing or New Sensitive Receptors to Operational Toxic Air Contaminant Emissions from the Project.** Project emissions would result in the exposure of existing or new sensitive receptors to TAC emissions during operation.

**Findings AQ-7a:** BAAQMD guidance recommends analysis of project impacts to examine whether any individual project source would result in impacts to sensitive receptors in excess of project-level significance thresholds. The guidance also recommends analysis of whether new project receptors would be exposed to any individual source in excess of project significance thresholds.

Project operational traffic would generate vehicle-related TACs (including DPM and other TACs), resulting in the exposure of nearby existing sensitive receptors (e.g., residences, schools, and parks) as well as new onsite receptors to increased TAC concentrations. The EIR analyzed the impact of DPM and other vehicle-related TACs for the on-site parcels and the roadways surrounding the Project site, including Lafayette Street, Tasman Drive, Great America Parkway, and SR 237 between 1st Street in San José and Great America Parkway. This analysis evaluated BAAQMD thresholds for chronic non-cancer risk, increased cancer risk, and for PM<sub>2.5</sub> exposure. The EIR determined that the Project would not result in TAC impacts to any sensitive receptors that exceed the BAAQMD thresholds, and this impact would be *less-than-significant*. No mitigation is required.

On-site and off-site sensitive receptors would also be exposed to DPM from periodic emergency generator operation and due to truck idling/access at commercial loading areas resulting in the exposure to increased TAC concentrations. Based on the BAAQMD thresholds described above, the EIR determined that Project emissions would not result in exposure of any sensitive receptors to impacts exceeding the project-level thresholds, such that this impact would be *less-than-significant*. No mitigation is required.

**Impact AQ-8: Exposure of Sensitive Receptors to Asbestos During Construction.** The Project would not result in significant exposure of sensitive receptors to asbestos during demolition activities.

**Findings AQ-8.** Asbestos is a set of naturally occurring minerals that was previously used in building construction due to its heat resistance and strong insulating properties. Exposure to asbestos, however, has been shown to cause a number of disabling and fatal



diseases. Depending on their age, demolition of the three buildings to be removed along the proposed Lick Mill Boulevard extension, and other Project features may expose workers to asbestos if the material was used during construction of the existing buildings.

The Project would comply with BAAQMD Regulation 11, Rule 2, which would control emissions of asbestos to the atmosphere during demolition activities. BAAQMD Regulation 11, Rule 2 requires a person responsible for demolishing buildings that contain regulated asbestos containing material ("RACM") to remove and dispose of the RACM using specific safety measures. Regulation 11, Rule 2 also has detailed monitoring, inspection, and record-keeping requirements. Accordingly, this impact is *less-than-significant*. No mitigation is required.

#### **4. Greenhouse Gas Emissions**

##### **Impact GHG-3: Climate Change Effects on the Project Other than Sea Level Rise.**

As discussed above, under *CBIA v. BAAQMD*, CEQA no longer considers the impact of the environment on a project (such as the impact of climate-change effects on the Project) to be an impact requiring consideration under CEQA. The following analysis is neither a CEQA impact nor a finding.

**Analysis of GHG-3.** Regardless of the uncertainty in precise predictions, it is widely understood that substantial climate change is expected to occur in the future. Potential climate change impacts in the Bay Area include, but are not limited to, sea level rise, extreme heat events, increased water and energy consumption, and changes in species distribution and range. In the long run, certain low-lying parts of the Project site and parts of adjacent roadways providing access to the Project site may be susceptible to flooding influenced by climate-change induced sea level rise. Additional potential climate change impacts may affect the Project, including increased temperatures and heat stress days.

Separate from GHG emissions, the Project would not exacerbate these issues; rather, energy efficiency strategies associated with the Project could reduce potential heat-related climate change impacts on area residents. Likewise, although regional water supplies are subject to potential future climate change effects that could impact water supplies, the Project includes water-efficiency measures that would help alleviate demand for scarce statewide water resources.

#### **5. Noise**

##### **Impact NOI-2a: Construction Vibration Impacts on Off-Site Receptors.**

**Findings NOI-2a:** Project construction would require impact devices that are associated with substantial vibrational impacts (e.g., pile drivers, impact hammers/hoe rams, and jackhammers). Project construction would not result in impacts on surrounding buildings. Ground-borne vibration rarely causes damage to normal buildings, and there are no extremely fragile historic buildings located within 100 feet of where pile driving would occur (the distance at which pile drivers could potentially cause damage).

The nearest existing off-site land uses that could be considered sensitive to ground vibration are located approximately 300 feet from the Project site. At this distance, ground vibration from pile driving, jackhammering, and non-impact construction activities (e.g.,



bulldozers, loader trucks) would be less than CALTRANS's limits for "distinctly perceptible" and not considered excessive.

There are several off-site office and industrial land uses along the southern border of Parcel 2 as well as west of Parcel 4. Some office and industrial uses may contain equipment that is sensitive to vibration. However, because vibration generated by non-impact equipment would be well below the damage threshold for extremely fragile historic buildings and below the "distinctly perceptible" annoyance threshold at 50 feet, it is anticipated that construction vibration impacts would not substantially affect the office and industrial uses in Parcel 2 and Parcel 4. Thus, construction vibration impacts on off-site receptors would be *less-than-significant*. No mitigation is required.

**Impact NOI-2c: Existing Light Rail Vibration Impacts on On-Site Receptors.** As discussed above, under *CBIA v. BAAQMD*, CEQA no longer considers the impact of the environment on a project (such as the impact of the existing noise environment on new Project receptors) to be an impact requiring consideration under CEQA. The following analysis is neither a CEQA impact nor a finding.

**Analysis of NOI-2c:** The Valley Transportation Authority's (VTA's) Mountain View to Winchester light-rail track is located immediately south of the Project site in the center of Tasman Drive. The current design for the Project indicates that residential development would be located approximately 140 feet from the centerline of this rail line. Light-rail train passages on the track have the potential to affect proposed residential uses along Tasman Drive. There are currently up to 110 light-rail train passages per day on the track.

Vibration impacts for a similar light-rail line were assessed in the 2014 (Final) Vasona Light Rail Extension Project Supplemental EIR ("SEIR")/Environmental Assessment ("EA"). The vibration analysis in the SEIR/EA for the Vasona Light Rail Extension Project analyzed impacts from up to approximately 125 light-rail train passages per day, and concluded that the light rail could generate vibration levels of 66 to 68 VdB at a distance of 100 feet. Because the proposed residences under the Project's Scheme A and Scheme B would be located approximately 100 feet (or more) north of this existing rail line, vibration levels at the proposed residences are expected to be no greater than 68 VdB, which is below the FTA criterion for frequent vibration exposure at Category 2 land uses (including residences) of 72 VdB

## **6. Biology**

**Impact BIO-6: Consistency with Local Policies or Ordinances Protecting Biological Resources.** The Project would not result in conflicts with the City's Heritage Tree Ordinance.

**Findings BIO-6.** Construction activities associated with the Project would remove 951 protected trees in the Project area and approximately 153 protected trees at the Tasman East industrial/office development for the Lick Mill Boulevard extension. In addition, 79 protected trees could be removed at the Santa Clara Convention Center for construction of the roadway from Great America Parkway over San Tomas Aquino Creek. However, no heritage trees, as defined by the City's Heritage Tree List, are present that would be impacted by Project construction.

The Project would adhere to the City of Santa Clara General Plan, Policy 5.3.1-P10, which requires developments to replace trees at a ratio of 2:1 (replaced/lost). Therefore, assuming all trees are removed during construction, the Project Developer would be required to plant at least 2,810 new trees on the Project site. Additionally, if all trees are removed at the Tasman East industrial/office development and the Santa Clara Convention Center off-site locations as a result of the Project, up to 676 additional trees could be planted in their place. It is unknown how many trees could be affected by the Tasman Drive slip-ramp, but tree removal in that area would also be subject to a 2:1 replacement ratio. The replacement trees would be located throughout the Project site and would not be implemented on a parcel by parcel basis. Thus, the impact would be *less-than-significant*. No mitigation is required.

## **7. Geology and Soils**

**Impact GEO-3: Strong Seismic Ground Shaking.** The Project site could be subject to fault rupture and/or strong ground shaking from a seismic event during its design life, which has the potential to present a significant risk to structures and human lives. As discussed above, under *CBIA v. BAAQMD*, CEQA no longer considers the impact of the environment on a project (such as the impact of existing seismic hazards on new Project receptors) to be an impact requiring consideration under CEQA. The following analysis is neither a CEQA impact nor finding.

**Analysis of GEO-3.** The EIR determined that no faults cross the Project site and the site is not within an Alquist-Priolo Earthquake Fault Zone. Since faults with known surface rupture have been mapped in California, and none are known to occur at the Project site, fault rupture at the Project site would be considered very unlikely.

Regardless, the Project site is located in a seismically active region. The likelihood of a magnitude 6.0 (or greater) earthquake occurring on a San Francisco Bay Area fault (or combination of faults) is 98 percent in the next 30 years (starting in 2014). The likelihood of a magnitude 7.0 (or greater) is 51 percent. Ground shaking at the Project site may be violent and potentially to a greater degree on top of the Landfill. Ground shaking could result in significant damage, though not collapse, even to properly designed structures.

To protect against earthquake risk, the Project site buildings and improvements shall be constructed in accordance with the current CBC (as amended). The Preliminary Geotechnical Investigation (Parcels 1–4) has established design parameters as appropriate to protect Project structures in accordance with the seismic requirements in the CBC. These site-specific design parameters are based on the ground shaking produced by the Maximum Considered Earthquake, as predicted in USGS models and are intended to ensure that buildings retain structural integrity during the most severe ground shaking that would be expected at the site. Project site structures must meet these seismic design parameters of the CBC, which represents the best available guidance for design and construction to limit seismic risk.

**Impact C-GEO-1: Cumulative Soil Erosion, Soil Hazards, and Seismic Hazards Impacts.** The Project, in combination with other foreseeable development in the vicinity, would not substantially increase soil erosion potential, soil hazards, or the risk of exposure of people or structures to seismic hazards. Therefore, this cumulative impact would be less-than-significant.

**Findings C-GEO-1.** Because the geotechnical aspects of erosion are generally site-specific, the impacts would not be compounded by additional development. There would be no significant cumulative impact with respect to soil erosion because project-specific impacts would be addressed through compliance with City and State stormwater regulations and Project mitigation measures. Thus, the cumulative impact regarding soil erosion would be *less-than-significant*. No mitigation is required.

Likewise, the geographic context for the analysis of impacts related to unstable soil conditions, including compressible soils, settlement, or other conditions that could cause structural problems, is site specific; it would not be compounded by additional development. Other projects are required to undergo an analysis of geological and soil conditions, as required by the CBC and most current geotechnical guidelines. These projects will be required to include all necessary design features required by those regulations. With adherence to the City Code and related plans, regulations, and design and engineering guidelines and practices, the cumulative impact with respect to soil hazards would be *less-than-significant*. No mitigation is required.

Future population growth in the Bay Area, including the population associated with the Project and other development, will increase the number of people and structures that would be exposed to seismic hazards. The risks from seismic events are reduced to the maximum extent possible by each local jurisdiction's adherence to the CBC and related geotechnical and seismic guidelines and recommendations. With adherence to the building requirements in City Code and related plans, regulations, and design and engineering guidelines and practices, the cumulative impact would be *less-than-significant*. No mitigation is required.

## **8. Water Quality**

**Impact WQ-2: Effects on Groundwater Supplies and Recharge.** The Project would not substantially deplete groundwater supplies or interfere substantially with groundwater recharge, resulting in a net deficit in aquifer volume or a lowering of the local groundwater table level.

**Findings WQ-2.** Most of the Project site is currently covered with soil over a low-permeability cover intended to prevent precipitation and stormwater runoff from infiltrating into and through the underlying waste. While Parcel 5 is not underlain by waste, most of it is covered with pavement and a vegetated landscape. Therefore, limited infiltration and groundwater recharge occurs on the Project site. The off-site areas, including the Lick Mill Boulevard extension, the bridge over San Tomas Aquino Creek, the Santa Clara Gateway vehicular access variant, the Tasman Drive slip-ramp, and potentially the offsite fire station (Option 2), are also covered mostly with impervious surfaces (e.g., parking lots, buildings) and have underlying compacted soils that limit infiltration. Therefore, Project construction, operation, and maintenance activities (and the potential compaction or covering of the surface soils) in these areas would have essentially no impact on net deep infiltration and groundwater recharge. Any construction dewatering that may be required is expected to be minimal. Thus, construction, operation, and maintenance would result in a *less-than-significant* impact on groundwater supplies. No mitigation is required.



While the Project would result in additional water demand from both surface and groundwater resources, the projected water supply is adequate to provide water until 2035 under normal-year, single-dry-year, and multiple-dry-year scenarios. In addition, as described in the Project Water Supply Assessment (WSA) (EIR Appendix 3.14), there is approximately 85,000 acre-feet per year of unutilized groundwater supply in the groundwater basin below the Santa Clara Valley Groundwater Basin's safe yield. Therefore, the potential impact related to Project depletion of groundwater supplies, resulting in a net deficit in aquifer volume or a lowering of the local groundwater table level, would be *less-than-significant*. No mitigation is required.

**Impact WQ-8: Exposure of People or Structures to Flooding due to Levee or Dam Failure.** The Project would not expose people or structures to a significant risk of loss, injury, or death involving flooding as a result of the failure of a levee or dam. As discussed above, under *CBIA v. BAAQMD*, CEQA no longer considers the impact of the environment on a project (such as the impact of existing dam and levee risk conditions on new Project receptors) to be an impact requiring consideration under CEQA. The following analysis is neither a CEQA impact nor finding.

**Analysis of Impact WQ-8.** The Project site is 26 miles downstream of the Anderson Dam and Reservoir and 14 to 15 miles downstream of the Lenihan Dam/Lexington Reservoir but within the potential dam failure inundation area for both dams. If either dam breached, there would be potential maximum flood elevations of up to +19.94 feet.

While the dam inundation elevations are most likely lower than the majority of grades at the Project site, the following lower lying Project facilities could be subject to inundation during dam failure: (i) southern part of Parcel 5 near Tasman Drive; (ii) fire station (option 2); (iii) the following roads: Lick Mill Boulevard extension; northern part of Lafayette Street near SR 237; Great America Parkway south of San Tomas Aquino Creek; Tasman Drive (from Guadalupe River to Great American Parkway and beyond); and Santa Clara Gateway vehicular access variant.

Levees can fail because of earthquakes or storm events, if not properly maintained or reinforced to withstand potential stresses. The SCVWD maintains the banks and levees along San Tomas Aquino Creek, and the SCVWD and USACE maintain the levees along the Guadalupe River. As described in Mitigation Measures WQ-3.1 and 3.2, the Project would be designed to result in no increase in peak flows from the Project compared to pre-development conditions in order to satisfy the SCVWD 100-year peak flood elevation criteria. This would reduce the potential for the Project to cause overtopping or levee failure as a result of increased flows, and therefore minimize the exposure of people and structures to flood risks. All residential and commercial structures would be placed at least 21 to 65 feet above msl, which place them outside of the area of inundation due to levee failure. The surrounding at-grade areas consist of roads and a proposed fire station (Option 2). The area for the proposed fire station (Option 2) is currently protected by levees along San Tomas Aquino Creek, but with no increase in discharge from the Project and SCVWD maintenance of the levees and other flood control facilities along the creek, the levees are not expected to fail.

Several additional factors reduce the risk of inundation attributable to dam failure. Currently, a storage restriction of about 45 feet below the crest of Anderson Dam has been put in



place to protect the public from inundation due to dam failure, resulting in a reduced storage capacity. The Anderson Dam Seismic Retrofit Project is also addressing several dam deficiencies through new construction to reduce the risks arising from seismic activity. According to the SCVWD, the Lenihan Dam should remain intact during a major earthquake, and the potential for significant crack formation is low. No residential or commercial structures would be placed within an area vulnerable to inundation due to levee failure. The proposed fire station (Option 2) is the only structure that may be placed within an area at risk of inundation in the event of levee failure along San Tomas Aquino Creek, but with no increase in discharge from the Project and SCVMD maintenance, the potential for levee failure is substantially minimized. In the event of a levee failure, emergency response conditions would be implemented at the fire station. These conditions will be included in the City's flood warning and emergency response plan, as described in Condition of Approval WQ 6.1.

Therefore, because the risk of failure of the dam is considered remote, and because the City's flood warning and emergency response plan would be implemented in the unlikely event that a failure did occur, the Project has a low risk of loss, injury, or death to people or structures involving flooding, including flooding as a result of the failure of a levee or dam. The Project would accordingly have a *less-than-significant impact* on water flows and exposure of people to flood conditions. No mitigation is required.

## **9. Hazards and Hazardous Materials**

**Impact HAZ-1: Routine Hazardous Materials Use.** The Project would not create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.

**Findings HAZ-1.** Project construction activities would include the routine transport, use, or disposal of hazardous materials, such as motor fuels, oils, solvents, and lubricants, at the Project Site and at off-site areas. The use of hazardous materials at the Project site during construction would be subject to existing hazardous materials laws and regulations, and adherence to these standards would reduce the potential occurrence of an accidental spill or release. In addition, a Stormwater Pollution Prevention Plan ("SWPPP") will be prepared that requires implementation of best management practices ("BMPs") for hazardous materials storage and soil stockpiles, inspections, maintenance, training of employees, and containment of releases to prevent runoff into existing stormwater collection systems or waterways. Because compliance with existing regulations is mandatory, the routine transport, use, or disposal of hazardous materials during Project construction would have a *less-than-significant impact* on the public or the environment. No mitigation is required.

The Project includes residential, commercial, office, hotel, and entertainment land uses where small quantities of commercially available hazardous materials, such as household cleaning and landscaping supplies, as well as diesel fuel for backup generators, would routinely be handled and used. The relocated Fire Station 10 would use similar types and quantities of hazardous materials as the existing fire station. The relatively low toxicity and small quantities of these kinds of hazardous materials do not generally pose a threat to human health or the environment. Although some office uses (e.g., research and development facilities) may also use larger quantities of hazardous materials, the SCFD's Unified Program ensures that facilities

properly manage and disclose hazardous materials to minimize the risk of a hazardous materials release and improve emergency response actions in the event of a release. Because compliance with existing regulations would be mandatory, the routine transport, use, or disposal of hazardous materials during Project operation would have a *less-than-significant* impact on the public or the environment. No mitigation is required.

**Impact HAZ-3: Proximity to Sensitive Receptors at Schools.** The Project would not create a potentially significant hazard to nearby schools from the emissions and handling of hazardous or acutely hazardous materials.

**Findings HAZ-3.** The handling or emission of hazardous or acutely hazardous materials near schools must consider potential health effects to children, who are considered sensitive receptors. The Kathryn Hughes Elementary School is located about 0.2 miles to the southeast of the Project site. The only plausible exposure pathway of concern is the inhalation of air contaminants, such as particulate matter.

Sources of hazardous emissions during Project construction and operation would include diesel particulate matter from vehicle exhaust, operation of emergency generators, and landfill gas emissions from the LGTE plant. As discussed in the EIR's analysis of Air Quality, Mitigation Measures AQ-6.1 and AQ-7.1 will protect sensitive receptors by requiring diesel equipment to meet certain operational and fuel standards and by requiring filtration on ventilation systems that serve on-site sensitive receptors. The Project developer will comply with BAAQMD regulations regarding asbestos that could become airborne during demolition activities. These emission sources would thus have a *less-than-significant* impact on the school. No mitigation is required.

As discussed under Impact HAZ-1, above, hazardous materials used during construction and operation would be managed in accordance with applicable laws and regulations. Therefore, emissions and handling of hazardous or acutely hazardous materials during Project construction and operation would have a *less-than-significant impact* on nearby schools. No mitigation is required.

**Impact HAZ-7: Aviation Hazard.** The Project would not create a potentially significant aviation hazard to nearby public-use airports.

**Findings HAZ-7.** Development near airports can pose a potential hazard to people and property on the ground, as well as create obstructions and other hazards to flight. The Norman Y. Mineta San José International Airport is located about 2.8 miles southeast of the Project site. The proposed buildings for the Project could be constructed up to a maximum height of 17 stories, or about 190 feet above the finished grade of the on-site streets. The maximum potential elevation of proposed construction would be about 219 feet above mean sea level (msl). Where building height would exceed the height criteria for FAA notification requirements defined under FAR Part 77 (estimated to be in the range of 175 to 215 feet above msl on the Project site, depending on location), the FAA must be notified of the proposed construction. The FAA may conduct an aeronautical study to determine if proposed structures and construction equipment would create an airspace hazard. The FAA commonly requires proposed structures and construction equipment that affect navigable airspace to be marked and/or lighted for increased

visibility. Because the FAA does not have authority to approve or disapprove a proposed off-airport land use, the City coordinates with City of San José to ensure that proposed developments near Norman Y. Mineta San José International Airport comply with the FAR Part 77 notification requirements and the FAA's aeronautical determinations. Because compliance with the FAA notification requirements and subsequent aeronautical determinations is mandatory, the Project would have a *less-than-significant* impact related to aviation hazards at public-use airports. No mitigation is required.

**Impact HAZ-8: Impairment of Emergency Access or Emergency Plans.** The Project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.

**Findings HAZ-8.** The City of Santa Clara has adopted a Local Hazard Mitigation Plan. As described in the adopted plan, the SCFD is responsible for coordinating emergency response and evacuation procedures in the event of a major disaster within the City of Santa Clara. Emergency access and evacuation routes to and from the Project site would be available along the adjacent State Route 237, Great America Parkway, and Tasman Drive. While the Project would increase the amount of traffic in the Project vicinity, it would not be expected to interfere with emergency response and evacuation procedures described in the adopted plan. Therefore, the Project would have a *less-than-significant* impact on emergency response or evacuation plans. No mitigation is required.

## **10. Population and Housing**

**Impact POP-1: Population Growth.** Construction of the Project would not induce substantial population growth greater than planned within the City and the region. The findings as to construction of the Project are set forth below. However, operation of the Project would induce substantial population growth greater than planned within the City and the region, resulting in potentially significant secondary environmental impacts. An analysis of Project operations is set forth in VII.E.7, below.

**Findings POP-1.** Construction of the Project, including the site preparation and building demolition phases, would temporarily increase construction employment in the City. The number of construction workers per day would vary depending on the construction phase. Phase 2 (Parcel 4) would have the largest amount, with an average of approximately 900 workers per day. Phases 7 and 8 (Parcel 2) would require an average of approximately 400 workers per day. Although construction would occur over an extended period of time, the demand for construction employment would likely be met within the existing and future labor market in the City and the County. The size of the construction workforce would vary during the different stages of construction, but a substantial quantity of workers from outside the City or County would not be expected to relocate permanently. Therefore, population within the City or County as a result of construction workers is not anticipated to increase substantially during Project construction, resulting in a *less-than-significant impact*. No mitigation is required.

**Impact POP-2: Displacement of People.** The Project would not result in the displacement of a substantial number of people, necessitating the construction of replacement housing elsewhere.



**Findings POP-2.** The Project would not displace residents because the Project site does not currently contain housing units. However, the Project site does currently employ approximately 35 people on-site at the Santa Clara Golf & Tennis Club, BMX track, and Fire Station 10. Additionally, approximately 475 people are employed off-site in the Tasman East industrial/office development. All of these properties would be demolished during Project construction, which would displace the 510 existing workers.

The number of employees that would be displaced due to the demolition of the Santa Clara Golf & Tennis Club and BMX track would not be significant enough to trigger the construction of replacement housing elsewhere. To the extent that three fire personnel are displaced due to the potential demolition of Fire Station 10, those fire personnel would be accommodated in the replacement fire station that would be constructed as part of this Project. In addition, the approximately 475 off-site workers at the Tasman East industrial/office development could be accommodated within the proposed office uses on the Project site or within other similar office, industrial, or warehousing sites within commuting distance. Because the majority of the employees currently working on the Project site could be accommodated by the Project or within commuting distance, the Project would not displace a substantial number of people and would not necessitate the construction of replacement housing. Therefore, the impact would be *less-than-significant*. No mitigation is required.

**Impact C-POP-1: Cumulative Population and Housing Impacts.** The Project, in combination with other foreseeable development in the vicinity, would not displace substantial numbers of people.

**Findings C-POP-1.** As shown in EIR Table 3.0-1, most of the other projects in the area involve currently vacant, industrial, and commercial uses, which would be replaced with office/R&D, hotel, and residential uses. These are primarily redevelopment projects, with an expansion of uses that would be similar to existing uses. It is likely that the other projects would be able to accommodate any displaced employees (if any). Thus, the cumulative effect of displacing substantial numbers of people in the region is *less-than-significant*. No mitigation is required.

## **11. Public Services**

By incorporating into the Increased Housing Alternative into the Project, there would be 760 more residents under Scheme A than in the Original Project. As noted, the quantitative portions of impact analysis that are cited in the below findings reflect the impacts of the Original Project. However, Chapter 5 of the DEIR concludes that, despite some increased impacts to fire services and facilities, police services and facilities, library facilities, and parks and recreation facilities, the impact on these public services would remain less-than-significant under the Increased Housing Alternative. In addition, incorporation of the EOS Variant into the Project would provide more opportunities for recreation and more park space than the Original Project.

**Impact PS-1: Impacts on Fire Services and Facilities.** The Project would not result in the need for new or physically altered fire service facilities beyond what is analyzed in the EIR.



**Findings PS-1.** Operation of the Project would require additional SCFD fire services for the on-site residents, employees, and visitors to the Project site. The Project could retain the existing Fire Station 10 at its current location or require the relocation of the existing station on-site or off-site. However, expansion in terms of personnel and possibly equipment would be necessary to maintain satisfactory service levels, given the size of the Project.

Under Scheme A, the Project would generate new residents and employees at the Project site. With the Project's additional residents and office uses, implementation of the Original Project (Scheme A) would increase the typical daytime population within the SCFD service area to approximately 232,882 people (not including game days at Levi's Stadium). With 154 budgeted Suppression Division positions, the Original Project would degrade the residential population ratio from 1.29 firefighters per 1,000 residents to 1.26 firefighters per 1,000 residents. With 154 budgeted Suppression Division positions, Scheme A would also degrade the daytime population ratio from 0.75 firefighter per 1,000 persons to 0.66 firefighter per 1,000 persons.

Under Scheme B, the Original Project would not generate new residents but would result in a net increase of approximately 28,720 employees. Therefore, under Scheme B of the Original Project of the Original Project, proposed employees would increase the typical daytime population within the SCFD service area to approximately 233,572 people (not including game days at Levi's Stadium). With 154 budgeted Suppression Division positions, Scheme B of the Original Project of the Original Project would similarly degrade the daytime population ratio from 0.75 firefighter per 1,000 persons to 0.66 firefighter per 1,000 persons.

To maintain appropriate service and response times, in light of the increased demand in the area served by Fire Station 10, additional firefighters and vehicles would need to be assigned to Fire Station 10. The replacement fire station may need to be larger than the existing Fire Station 10 to accommodate such additional resources. The expansion of replacement Fire Station 10 to a size greater than what is analyzed in the EIR would be minimal in relation to the construction of the overall Project and would not be expected to generate significant or new construction-related impacts beyond those analyzed throughout the EIR.

The Project would place new structures and occupants on top of the Landfill, which is also currently monitored by the SCFD. The primary concern for Landfill-related emergencies is related to the management of methane gas. However, the new buildings on the Project site would be equipped with methane gas monitoring equipment. While aerobic decomposition or chemical oxidation of waste materials in the Landfill could result in a subsurface fire, the EIR includes Mitigation Measures HAZ-8.1 through HAZ-8.3 to reduce impacts related to subsurface fires. It is not expected that the construction of the proposed uses on top of a Landfill would require the need for additional SCFD personnel or equipment.

Because the Project includes the potential relocation of the existing fire station (and the environmental impacts of this relocation/expansion are addressed in this EIR), the Project would not result in substantial adverse physical environmental impacts associated with the provision of other new or physically altered fire and emergency service facilities in order to maintain acceptable service ratios, response times, or other performance objectives. As such, the Project would result in a *less-than-significant* impact to fire services. No mitigation is required.

**Impact PS-2: Impacts on Police Services and Facilities.** The Project would not result in the need for new or physically altered police service facilities.

**Findings PS-2.** The Project could affect the SCPD by intensifying site activity; adding new residents, employees, and visitors; increasing square footage; and increasing traffic incidents. Adding to the service population would lead to an overall increase in service calls to the SCPD.

Based on the residential figures for Scheme A of the Original Project of the Original Project discussed above, with 145 existing sworn officers, the Original Project would degrade the residential population ratio from 1.22 officers per 1,000 residents to 1.19 officers per 1,000 residents. The Original Project would also degrade the daytime population ratio from 0.71 officer per 1,000 persons to 0.62 officer per 1,000 persons. Scheme B of the Original Project of the Original Project would similarly degrade the daytime population ratio to 0.62 officers per 1,000 persons.

The SCPD would experience an increased call volume for emergency responses generated by the Project and the SCPD would need additional police officers and support staff to maintain its current level of service. This would require four additional personnel to maintain the existing officer-to-resident ratio. The SCPD recently received approval to hire two officers and the SCPD plans to hire three additional officers as soon as the budget for those positions is available. This is more officers than what would be needed to maintain the existing officer-to-resident service levels following full build-out of the Project site. Although additional SCPD staff may be required, the SCPD has no plans to add equipment and the Project would not trigger the need for the construction of a new police facility or the expansion of the existing one.

It is also expected that the proposed office uses and retail buildings would include private security, which would help reduce calls for service from the SCPD. Furthermore, according to a communication from Police Chief Sellers, the Project would not result in any impacts to the SCPD's response time objectives. Therefore, the Project would not result in substantial adverse physical environmental impacts associated with the provision of new or physically altered police protection facilities in order to maintain acceptable service ratios, response times, or other performance objectives. As such, the Project would result in a *less-than-significant* impact to police protection. No mitigation is required.

**Impact PS-3: Impacts on School Facilities.** The Project would not result in the need for new or physically altered school facilities.

**Findings PS-3.** Based on generation rates provided by SCUSD, the residential component of the Original Project (under Scheme A) would generate approximately 141 elementary school students, 53 middle school students, and 65 high school students. While the Project-area schools are currently over capacity, the SCUSD has informed the City that it currently has four closed school sites located in the City and is planning a new high school that could be used to serve new development throughout the City and help to improve capacity. While new and reopened schools are unlikely to serve the students generated by the Project, they would likely result in a redistribution of students in SCUSD facilities and potentially alleviate over-capacity issues at schools that would serve the Project. Capacity also could be addressed by

modifying school attendance boundaries, with modular classrooms, and with new school facilities being planned in north San Jose.

The Project would also be subject to SB 50 School Impact Fees, which under state law are deemed to constitute full and complete mitigation for school impacts from development. For the reasons noted above, the Project would not trigger the need for expansion or construction of new schools, resulting in a *less-than-significant* impact. No mitigation is required.

**Impact PS-4: Impacts on Parks and Recreation Facilities.** The Project would not result in the need for new or physically altered parks and recreation facilities.

**Findings PS-4.** Implementation of the Project could result in three types of impacts on parks and recreational facilities: (1) impacts associated with eliminating existing on-site active recreational facilities; (2) impacts associated with recreational demand from new residents and employees on existing off-site park and recreational facilities; and (3) the combined impacts associated with eliminating existing on-site active recreational facilities and impacts associated with recreational demand from new residents and employees.

Elimination of Existing On-Site Active Recreational Facilities. The Project would reduce the recreational facilities within the City and region by converting a public golf course, seven lighted tennis courts, and a BMX track into a new mixed-use development. Approximately 75,000 to 81,000 rounds are completed by golfers annually, approximately 180 people are members of the Sylvano Tennis Academy, and hundreds of people use the BMX track. Therefore, the Project would displace these recreational users who would most likely use other nearby facilities. However, the public would retain access to similar alternative resources within Santa Clara, San José, Sunnyvale, and Milpitas. The current on-site facilities are slightly underutilized and if the users are distributed evenly, the large number of other existing venues in the area, including golf courses, would have capacity to accommodate these users. Although the Project would increase the use of other existing recreational facilities due to the closure of the on-site golf course, tennis courts, and BMX track, this is not expected to have a substantial physical deterioration of the facilities, resulting in a *less-than-significant* impact. No mitigation is required.

Increased Use of Off-site Parks and Recreational Facilities Due to New Residents/Employees. Implementation of the Project would also contribute to an increased demand for parkland because the EIR concluded that the Original Project would result in approximately 3,270 new permanent residents living on the Project site and over 24,700 new on-site employees. The Project would provide on-site amenities such as entertainment facilities and large, shared open spaces throughout the Project site, which would reduce the likelihood of residents and employees utilizing or overburdening existing City facilities because outdoor areas would be available to employees and residents. In addition to the park and open space dedicated to the City, approximately 5 acres in private open space would be provided within the residential occupied podiums. In addition, according to the City's General Plan, a neighborhood park is planned near the Project site that could serve Project residents and employees near the intersection of Tasman Drive/Lafayette Street with future development of Tasman East.



To the extent that the Project Developer is not able to fully satisfy the Mitigation Fee Act park requirement using land dedication or on-site private open space credits, the Project Developer would pay park in-lieu fees to satisfy the City's parkland dedication requirement. The City has determined that payment of in-lieu fees represents full and complete mitigation for parkland impacts due to new development. Any new facilities would be subject to subsequent project-level CEQA review by the proposing public agency. Therefore, the new permanent residents and employees generated by the Project would result in a *less-than-significant* impact related to parks. No mitigation is required.

Total Project Impact to Parks and Recreational Facilities. Implementation of the Project would result in the combined impacts of eliminating existing on-site active recreational facilities plus the recreational demand from new residents and employees. As discussed above, the Project would reduce the recreational facilities within the City and region. Implementation of the Project would also contribute to an increased demand for parkland. New residents and employees would most likely use other nearby facilities as well as access similar alternative resources within Santa Clara, San José, Sunnyvale, and Milpitas. However, this is not expected to result in a substantial physical deterioration of the facilities or result in the need to construct new recreational facilities. Recreational space would be included within the Project site, plus any fees paid by the Project Developer would be used by the City to acquire and/or develop new parkland and/or amenities or facilities and mitigate any environmental impacts from the development of those facilities. Therefore, the combination of the conversion of the on-site recreational facilities into a new mixed-use development, and the addition of new permanent residents and employees generated by the Project, would result in a *less-than-significant* impact related to parks. No mitigation is required.

**Impact PS-5: Impacts on Library Facilities.** The Project would not result in the need for new or physically altered library facilities.

**Findings PS-5.** The EIR determined that the Original Project would result in up to approximately 3,270 new permanent residents living on the Project site (under Scheme A), which would add to the existing SCCL service population. The residents generated by the Original Project would slightly degrade the library-space-per-resident ratio from 0.88 sf of library space per resident to 0.86 sf of library space per resident. In addition, the Original Project would slightly degrade the librarian-FTE-per-resident ratio from one librarian FTE per 2,345 residents to one librarian FTE per 2,410 residents. Furthermore, the Original Project would also degrade the existing book-volumes-per-capita ratio from 3.28 book volumes per capita to 3.19 book volumes per capita as well as the library-items-per-capita ratio from 3.74 items per capita to 3.65 items per capita. With the exception of the book-volume-per-capita ration, the Project would further degrade the State averages for the library-space-per-resident ratio and librarian-FTE-per-resident ratio.

As discussed in the EIR, approximately 10,900 more volumes and 12,700 more library items would be needed to maintain the existing book-volumes-per-capita ratio of 3.28 book volumes per capita and the library-items-per-capita ratio of 3.74 items per capita due to the Original Project. Because new City library facilities would be located on existing urban parcels, the additional volumes and library items would not necessitate the construction of a new library facility. Therefore, the Project would not result in substantial adverse physical environmental

impacts associated with the provision of new or physically altered library facilities in order to maintain acceptable service ratios or other performance objectives. As such, the Project would result in a *less-than-significant* impact to libraries. No mitigation is required.

**Impact C-PS-1: Cumulative Public Service Impacts.** The Project, in combination with other foreseeable development in the City, would not result in the need for new or physically altered public service facilities.

**Findings C-PS-1.** Development in the City, which is the service area for the SCFD, would result in increased demand for fire and emergency services. As discussed above, the Project could retain the existing Fire Station 10 at its current location or require relocation of the station on-site or off-site. Expansion in terms of personnel, and possibly equipment, would be necessary to maintain satisfactory service levels as a result of the Project, potentially requiring a larger fire station. Because the Project includes the potential relocation of an existing fire station (the environmental impacts of this relocation/expansion are addressed in this EIR), the Project would not contribute to cumulative impacts, resulting in a *less than cumulatively considerable contribution* to this cumulative impact. No mitigation is required.

Development in the City, which is the service area for the SCPD, would result in increased demand for police services. As discussed above, the Project would require four additional officers to maintain the existing officer-to-resident ratio. The SCPD recently received approval to hire two officers, and the SCPD plans to hire three additional officers as soon as the budget for those positions is available. The SCPD has no existing or near-future plans to add equipment or expand its current facility that serves the Project. Therefore, although additional SCPD staff members may be required, the Project plus cumulative development would not trigger the need for the construction of a new police facility, the construction of which would cause significant environmental impacts. Therefore, the Project would have a *less than cumulatively considerable* contribution to this cumulative impact. No mitigation is required.

Future housing projects in this area would generate additional students that would need to be accommodated within the school district. SB 50 school impact fees are deemed to constitute full and complete mitigation for school impacts. The SCUSD has enacted development fees and levies these fees on development projects within its service area. Other projects would be required to pay school impact fees, which are based on the amount of proposed residential and commercial space. This process and fee payment would ensure that citywide growth would be reasonably accommodated within the cumulative context. Therefore, cumulative impacts are considered *less-than-significant*. No mitigation is required.

Other current development, including the Project, would comply with Santa Clara City Code Chapter 17.35, which requires new residential development to provide adequate park and recreational land and/or pay a fee in-lieu of dedication to mitigate the impacts of new growth. Therefore, other current development is not expected to result in a significant cumulative impact related to parks and recreation. Therefore, with the provision of adequate park and recreational land within the Project site and/or payment of a fee in lieu of dedication, the cumulative impacts would be considered *less-than-significant*. No mitigation is required.

Development in this service area would place additional demand on library services and reduce the ratios for library space per resident, librarian FTE per resident, existing book volumes per capita, and library items per capita. The Project, incorporating the Increased Housing Alternative, would result in the construction of up to 1,680 residential units on the Project site, and cumulative development within the City of Santa Clara would result in approximately 7,783 units in the Tasman East Project and the Lawrence Station Area Project. To the extent new library resources are needed to improve the above-mentioned ratios, such library resources can be located on existing urban parcels. The Project plus cumulative development would not substantially contribute to the amount of increased library resources necessitating a new library facility, the construction of which would cause significant environmental impacts. Therefore, the Project would have a *less than cumulatively considerable* contribution to this cumulative impact. No mitigation is required.

## 12. Utilities

**Impact UT-1: Water Demand.** The Project would have sufficient water supplies available to serve the Project from existing entitlements and resources, and no new or expanded entitlements would be needed. In addition, the Project's contribution to cumulative impacts is less than considerable.

**Findings UT-1.** Existing water demand to serve uses on the Project site is 319 afy. Depending on the Scheme, the EIR determined that the Original Project would result in a total water demand of between 1,602 afy and 1,911 afy. As shown in EIR Table 3.14-7, when taking into account other approved development and Project water demand along with existing demand, there is adequate projected water supply to provide water out to 2035 under normal year, single dry year, and multiple dry year scenarios. Because the Project demand estimates do not take into account the expected on-site water reduction strategies, the EIR demand estimates overstate the likely demand. Implementation of the Project would have a *less-than-significant* impact on water supplies in SCVWD's service area, and expansion of existing entitlement would not be necessary to accommodate the Project. No mitigation is required.

Evidence in the EIR and Water Supply Assessment shows that there is sufficient supply for existing, previously approved projects, and Project water demands out to 2035 under multiple water year types. As described in the WSA, under normal year demands there is ample opportunity to expand recycled water service both at the Project site and in other areas in Santa Clara through existing infrastructure. In addition, as described in the WSA, there is approximately 85,000 afy of unutilized groundwater supply in the groundwater basin below the basin's safe yield, taking into account cumulative demands of Santa Clara and other nearby cities that utilize the same groundwater basin. Under single and multiple dry year scenarios, the City can implement several specific mandatory water use prohibitions and enforcement mechanisms that can readily reduce temporary water demand by at least 20 percent. Under reasonably foreseeable conditions, cumulative water demands, including the Project, would not exceed available water supplies, and thus no significant cumulative effect on water supply is identified and the Project's contribution would be less than considerable and, thus, *cumulative impacts are also less-than-significant*. No mitigation is required.



**Impact UT-5: Landfill Capacity.** The Project would be served by a landfill with sufficient permitted capacity to accommodate the Project's solid waste disposal needs.

**Findings UT-5.** The majority of total demolition material from the entire Project site would be recycled at the Zanker Material Processing Facility. However, only approximately 40 percent of demolition material from the existing buildings at Parcel 4 would be recycled, with the rest of the building demolition debris sent to the Newby Island Landfill. On a tons-per-day basis, the Newby Island Landfill has spare daily capacity of 860 tons and the Zanker Material Processing Facility has spare daily capacity of 2,400 tons. The demolition waste generated by the Project during Phase 2 (when the most demolition waste would be generated per day) would constitute 38 percent of Newby Island Landfill's remaining daily permitted capacity and 5 percent the Zanker Material Processing Facility's remaining daily permitted capacity.

Operation of the Original Project would result in a total solid waste generation of approximately 17,944 tons per year (without any diversion). The Project would comply with the mandatory requirements of the City and Santa Clara Commercial and Residential Recycling Programs to help the City meet its waste diversion goal of 50 percent and reduce the use of single-use carryout bags and expanded polystyrene foam food service ware. Assuming a 50 percent diversion rate, implementation of the Original Project would result in a total solid waste generation of approximately 8,972 tons per year. This would constitute approximately 3 percent of the remaining daily permitted capacity at the Newby Island Landfill. The City currently has a contract with owners of Newby Island Landfill to provide disposal capacity through 2024. If the Newby Island Landfill is not available to accept waste after that date, the City will prepare a contract with another landfill with capacity, such as Guadalupe Mines in San José, which is anticipated to close in 2048. Because the Project can be served by a landfill with capacity, the Project's impact related to solid waste and landfill capacity would be *less-than-significant*. No mitigation is required.

#### **D. Less-Than-Significant Impacts That Require Mitigation**

Having reviewed and considered the information contained in the EIR, and in the administrative record before it, the City finds pursuant to Public Resources Code § 21081(a)(1) and CEQA Guidelines §15091(a)(1) and 15092(b) that changes or alterations have been required in, or incorporated into, the Project which would mitigate, avoid, or substantially lessen to below a level of significance the following potential significant environmental effects identified in the EIR. The City further finds that all of the mitigation measures adopted in the MMRP are feasible. The following potentially significant impacts will be reduced to a less than significant level through the implementation of Project mitigation measures:<sup>6</sup>

##### **1. Aesthetics**

**Impact AES-1: Degradation of Visual Character or Quality.** The EIR found that construction of the Project could change the recreational views along the Guadalupe River Trail. However, operation of the Project would not substantially degrade existing visual character or quality with implementation of the Master Community Plan Design Guidelines.

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<sup>6</sup> As noted in the Draft EIR, the Project would not result in significant environmental impacts on agricultural, forestry, or mineral resources because none of these resources exist at or surrounding the Project site.

**Mitigation Measures AES-1.1 and AES-1.2.** Implementation of Mitigation Measures AES-1.1 and AES-1.2 would reduce visual impacts during construction to a *less-than-significant level*.

**AES-1.1: Imported Material Storage.** Soils from other parcels that are imported to Parcel 2 shall be stored in areas that are not within view of the Guadalupe River Trail. Alternatively, imported soils within view of the Guadalupe River Trail shall be distributed across Parcel 2 at a depth of 2 feet or less.

**AES-1.2: Early Implementation of Master Community Plan Landscaping Plan for Parcels 1 and 2.** The existing golf course trees along the eastern edge of Parcel 2 shall be retained (leaving the view from the Guadalupe River trail unchanged) until such time as development on the eastern portion of Parcel 2 would necessitate their removal. The Project Developer shall implement the Landscaping Plan, as presented in the Master Community Plan, at the earliest feasible period, given the constraints and pacing of the development. Prior to planting and installation, the Landscaping Plan shall be submitted to the Planning Director for approval.

**Findings AES-1.** The visual impacts associated with the Project were evaluated on a qualitative basis. This evaluation was based on professional judgment, analysis of the General Plan goals and policies related to visual resources and the significance criteria established by CEQA. The EIR analyzed the degree of contrast between the proposed features and the existing features that represent the area's valued aesthetic image and the degree to which the development would contribute to the area's aesthetic value. Primary considerations included principal viewer groups, the duration of construction, proximity to and sensitivity of the closest residential neighborhoods, and visibility of on-site construction storage.

The Guadalupe River Trail runs along both sides of the river on the top of the existing levees. Although the Guadalupe River Trail is not considered a scenic vista, corridor, or resource per Santa Clara's or San José's General Plan, the user group is considered sensitive due to its recreational nature and the fact that view duration for this group is typically longer since users are on foot or bicycle. The portion of the Guadalupe River Trail along the eastern perimeter of the Project site, on both sides of the river, currently maintains an open space visual character created by the river and the undeveloped, non-built up nature of the adjacent area to the west, including the Golf Course. Contributing to the undeveloped visual character of the Guadalupe River Trail are the views from this location of the Diablo Range to the east, and the Santa Cruz Mountains to the west, as discussed in more detail below. However, development currently exists to the east on the San José side and to the west at the Tasman East industrial/office development.

Mitigation Measures AES-1.1 and AES-1.2 include site-specific means of reducing visual impacts based on these qualitative assessments. Furthermore, the visual effects of construction activities would not be permanent (i.e., they would only last for the duration of the construction activities) and the Project site would appear similar to other construction sites, which is not unusual in urban areas. The above-listed mitigation measures would help preserve the character of existing views from the Guadalupe River Trail thereby reducing the project impact to *less than significant levels*.

**Impact AES-2: New Sources of Light and Glare.** The EIR found that the Project could create a new source of substantial light or glare that could adversely affect daytime or nighttime views in the area.

**Mitigation Measures AES-2.1, AES-2.2, AES-2.3, AES-2.4.** Implementation of Mitigation Measures AES-2.1 through AES-2.4 would reduce potential light, glare, and vehicle headlight impacts of the Project to a *less-than-significant level*.

**AES-2.1: Installation of Low-Profile Lighting.** The Project Developer shall install low-profile, low-intensity lighting directed downward to minimize light and glare.

**AES-2.2: Installation of Shielded Fixtures.** The Project Developer shall use shielded fixtures for street lighting and park lighting to minimize spill onto the public right-of-way and glare produced by the lighting on the Project site.

**AES-2.3: Treat Reflective Surfaces.** The Project Developer shall ensure application of low-emissivity glass at exterior surfaces of the proposed structures for the purpose of reducing reflection of visible light that strikes the glass exterior and reduction in the amount of interior light being emitted through the glass.

**AES-2.4: Provide Obstruction for Glare from Vehicle Headlights in the Proposed Garages.** The Project Developer shall ensure that through the architectural design of the parking garages and through or in combination with landscaping or physical screening at the parking structures glare from vehicle headlights shall be screened from off-site viewers.

**Findings AES-2.2.** The impacts of additional exterior lighting, glare from newly constructed buildings, and increased vehicle headlights from surface parking lots and parking garages associated with the Project were evaluated on a qualitative basis. This evaluation was based on professional judgment, analysis of the General Plan goals and policies related to visual resources and the significance criteria established by CEQA. The EIR assessed the visibility of additional lighting from nearby roadways and residential areas. Mitigation Measures AES-2.1 through AES-2.4 include site-specific means of reducing potential light, glare and vehicle headlight impacts so as to reduce spill to neighboring receptors. The Project Developer is required to treat reflective surfaces to reduce glare and light impacts and the parking garage will use design features, landscaping and screens to shield off-site viewers from on-site vehicle light impacts. *Thus, the impact would be mitigated to a less-than-significant level.*

## **2. Transportation and Traffic**

**Impact TRA-5: On-site Intersections on Parcels 1, 2, and 3.** The EIR found that the on-site roadway system for Parcels 1, 2, and 3 has not yet been designed but could result in inadequate connections to the surrounding local streets and inadequate intersection lane configurations and traffic control devices, resulting in a roadway system that does not meet City of Santa Clara standards.



### **Mitigation Measure TRA-5.1: Transportation Design Review.**

The site plans for Parcels 1, 2, and 3 will undergo a design review by the City to ensure that City design standards are adhered to prior to construction. This review shall include an on-site intersection analysis prior to development plan approval. The on-site analysis shall include an intersection operations analysis to develop intersection traffic controls and lane geometries that meet City of Santa Clara traffic standards. These parcels shall also be reviewed for:

- Inbound queuing at parking facilities to ensure that queues do not block public streets and local streets
- Emergency vehicle access and circulation
- Vehicular circulation
- Parking layout and circulation within the site
- Bicycle access and circulation
- Pedestrian access and circulation
- Pedestrian access to and from transit stops
- Truck circulation and loading dock access for commercial parcels

**Findings TRA-5.1.** The impacts associated with on-site interactions on Parcels 1, 2, and 3 were evaluated using the standards, methods, and significance criteria of the City and VTA, including City traffic standards. An analysis was conducted to evaluate the operations of the on-site intersections and queuing into the parking facilities and local streets for the AM and PM Peak Hours. The analysis was conducted for intersections on Parcels 4 and 5 because of greater knowledge and the stability of the design of the site plan for these parcels. Based on this analysis, there is potential for inadequate connections between the on-site roadway system for Parcels 1, 2, and 3 and the surrounding local streets, and inadequate intersection land configurations and traffic control devices, resulting in a roadway system that does not meet City standards. Although the Project Developers have not yet designed the on-site roadway system for Parcels 1, 2, and 3, Mitigation Measure TRA-5.1 requires these roadways to be designed in accordance with City standards and incorporate an intersections analysis and review parking access and circulation, emergency access, vehicle circulation, bike and pedestrian access, and commercial truck circulation and access. This would result in a *less-than-significant impact* on the on-site intersections for Parcels 1, 2, and 3.

**Impact TRA-7: Pedestrian Facilities.** The Project would generate substantial numbers of pedestrians traveling to transit stops along routes where sidewalk gaps exist, thus creating a hazardous condition for pedestrians.

**Mitigation Measure TRA-7.1: Sidewalk Gap Closure on Tasman Drive on the Lafayette Street overcrossing extending east to Calle Del Sol.** The Project Developer shall construct a sidewalk on the north side of Tasman Drive on the Lafayette Street overcrossing and extending east to Calle Del Sol. The Project Developer shall fully fund the construction of this sidewalk segment between the Project frontage on Tasman Drive and Calle Del Sol.

**Findings TRA-7.** Potential impacts on pedestrian facilities were evaluated using the standards, methods, and significance criteria of the City and VTA. The EIR assessed existing and planned pedestrian facilities near the site, and facilities for pedestrian circulation identified in the CityPlace site plan and Master Community Plan. Mitigation Measure TRA-7.1 would require the Project Developer to fund and construct the missing sidewalk on the north side of Tasman Drive between the west side of the Lafayette Street overcrossing and Calle Del Sol to ensure adequate pedestrian access between the Project site and the Lick Mill Light-Rail Station. This sidewalk gap impact would be *less-than-significant with mitigation*.

**Impact TRA-15: Unsignalized (Off-Site) Intersections in Cumulative with-Project Conditions.** The EIR found that the Project would add a considerable amount of traffic to unsignalized intersections that operate at LOS F and that meet the peak hour traffic signal under cumulative with-Project conditions.

**Mitigation Measures TRA-1.1 and TRA-2.2.** Implementation of Mitigation Measures TRA-1.1 and TRA-2.2 would reduce this impact to a *less-than-significant level*.

**TRA-1.1: Vehicle Trip Reduction with Transportation Demand Management (TDM).** The Project Developer shall prepare and implement a TDM Plan approved by the Santa Clara Director of Planning and Inspection. The TDM Plan shall include trip reduction measures necessary to achieve an overall target of reducing Project office-generated daily traffic by a minimum of 4 percent and peak-hour traffic by a minimum of 10 percent, with an overall target of reducing Project residential-generated daily traffic by a minimum of 2 percent and peak-hour traffic by a minimum of 4 percent, compared to the traffic estimates used in this EIR. The TDM Plan shall also include and implement TDM Best Management Practices (BMPs) for the retail uses. The TDM Plan shall include measures to reduce the amount of vehicle traffic generated by CityPlace by shifting employees, customers, and residents from driving alone to using transit, carpooling, cycling, and walking modes through TDM measures, strategies, incentives, and policies. The TDM obligation in this measure is to apply for the lifetime of the Project. The TDM Plan may specify a phased implementation approach that provides initially for implementation of the TDM measures that are appropriate for multi-tenant offices (e.g., measures aimed at increased transit use and carpooling), which are expected to be developed during the first three phases of development, and then provide for TDM measures that are appropriate for large corporate office tenants in the remaining phases (such as shuttles). The Santa Clara Director of Planning and Inspection shall have the authority and discretion to permit modification of the measures provided that the modifications continue to achieve the overall trip reduction objective and/or the Santa Clara Director of Planning and Inspection is satisfied that all feasible TDM measures are being implemented if the overall trip reduction objective is not being met. Specific requirements as to the TDM Plan, its contents, target reductions, monitoring and remedial action are as follows:

- a. Vehicle Trip Thresholds.* Vehicle trip reductions will be measured through counts of vehicles that enter and exit the site and by comparison of the results to established trip thresholds. As part of the annual TDM Plan monitoring process, as described below, vehicle trip generation estimates, based on the land uses and their sizes, will be prepared

by a transportation professional funded by the Transportation Management Association described below, and working under the direction of the City, who will use the trip generation rates and internalization and public transit ridership reductions used in the EIR transportation analysis. The TDM reduction targets will be applied to create the thresholds. The estimates and thresholds will be reviewed and approved by the City's Traffic Engineer. While no thresholds are established for retail uses because it is difficult to enforce trip reductions for retail customers, this measure requires implementation of TDM BMPs for retail portions of the Project, as described below.

*b. Transportation Management Association* Some TDM measures and strategies shall be incorporated into the design of the site and the buildings. A Transportation Management Association (TMA) is a non-profit, organization that provides transportation services in a particular area, such as a commercial district, medical center or office park, controlled by members that are building owners or tenants in that area. A TMA shall be formed to oversee and coordinate implementation of the TDM measures to be implemented for the Project, including coordinating activities of the various employers and tenants. The TDM Plan shall identify the vehicle trip-reducing measures and strategies to be provided and implemented directly by the Project Developer, those to be implemented directly by the TMA and those to be implemented directly by individual tenants/employers, and any to be implemented directly by the City. The TDM Plan shall describe the roles and responsibilities of the TMA and its members, which shall be codified in a binding agreement with the City of Santa Clara, approved by the Director of Planning and Inspection, and recorded with the County of Santa Clara Clerk Recorder.

*c. Office TDM Measures.* TDM measures that target office employees shall be described in detail in the TDM Plan, including information regarding the direct implementing party (e.g., Project Developer, TMA, City, and tenants and employers.), The following TDM measures shall be considered for inclusion in the TDM Plan for some or all portions of the office development, to the extent feasible and appropriate, either as part of an initial TDM Plan or as options for enhanced or remedial measures if trip reduction targets are not being met:

- On-site Support Facilities: shuttle bus stops with shelters, bicycle paths and lanes, pedestrian paths linking buildings and transit stations, priority parking for carpools and vanpools
- In-building Support Facilities: showers and changing rooms, bicycle storage rooms and bicycle racks, and bicycle repair stands, cafes, and fitness centers
- Private shuttles for both long distance commute and last-mile service from nearby public transit
- Ridesharing options for long distance commuters such as carpool and vanpool matching services
- Guaranteed ride home services for commuters who carpool, take transit, or bicycle to work



- Financial incentives such as pre-tax benefits for transit and bicycle expenses (e.g., Commuter Check) or subsidized transit passes (e.g., Commuter Checks, Clipper Cards or VTA EcoPass) for all employees
- Additional support services for employees who use transit or rideshare, such as flexible work hours
- A website and marketing program to disseminate information on commute options; access to TMA management services
- A TDM information packet to be provided to all new CityPlace employees upon commencement of work at CityPlace and, the benefits of alternative commute methods stressed during new employee orientation programs
- Incentives for employees to live in locations well served by transit or shuttles
- Bike share pods to enable trips on-site and to nearby destinations to be made by bicycle
- Car share services with cars on-site for use by employees (or others) who use alternative modes to travel to the site but need a car to run an errand, travel to a meeting, etc.
- Multi-passenger demand responsive ride services for local employees that are competitive with drive alone including transportation network/ride-sharing services such as Uber Pool, Lyft Line and Chariot on-demand and crowd-sourced bus services
- Yet-to-be developed new services, programs, strategies and emerging technologies
- Congestion cordon (boundary) pricing scheme<sup>13</sup>
- Parking management strategies such as paid parking and unbundled parking to restrict the parking supply.<sup>14</sup>

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<sup>13</sup> Cordon pricing would entail charging vehicles a fee as they enter an area. The fees would be higher during congested periods. This type of strategy is most effective with limited access points and requires a high quality transit system to accommodate travel by a non-automobile mode.

<sup>14</sup> These parking management strategies can be paired with a residential permit parking program (RPPP) to ensure that Project residents seeking parking do not park in nearby neighborhoods.

*d. Residential TDM Measures.* TDM measures that target residents shall be described in the TDM Plan, including information regarding the direct implementing party (e.g., Project Developer, TMA, City, tenants and employers). The following TDM measures shall be considered for inclusion in the TDM Plan for some or all portions of the residential development, to the extent feasible and appropriate, either as part of an initial TDM Plan or as options for enhanced or remedial measures if trip reduction targets are not being met:

- Bicycle infrastructure improvements
- Bicycle parking room or lockers
- Bicycle riders guide
- On-site bicycle repair facilities
- Financial subsidies for residents who commute by carpool, transit, walking or bicycle, such as VTA EcoPasses
- A website and marketing program to disseminate information on commute options; access to TMA management services
- Rideshare matching services
- On-site shuttle services, shuttle bus stops with shelters, pedestrians path linking buildings and transit stations
- Bus stops located near buildings
- Pedestrian-oriented site design
- Congestion cordon (boundary) pricing scheme
- Parking management strategies such as paid parking and unbundled parking to restrict the parking supply.

*e. Retail Site Design BMPs.* BMPs that target retail employees and customers shall be described in the TDM Plan, including information regarding the direct implementing party (e.g., Project Developer, TMA, City, tenants and employers). The following BMPs shall be considered for inclusion in the TDM Plan for some or all portions of the retail development, to the extent feasible and appropriate:

- Bicycle infrastructure improvements
- Bicycle rider encouragement program
- Bicycle parking, showers and lockers
- Bicycle riders guide
- On-site bicycle repair facilities
- Pre-tax commuter incentives
- Rideshare matching services
- On-site shuttle services, shuttle bus stops with shelters, pedestrians path linking buildings and transit stations
- A website and marketing program to disseminate information on commute options; access to TMA management services
- Bus stop locations near building entrances
- Pedestrian-oriented site design
- Congestion cordon (boundary) pricing scheme

*f. Monitoring and Reporting.* The TDM Plan shall be monitored annually to gauge its effectiveness in meeting the thresholds; while general guidelines are provided here, the monitoring and reporting process shall be explained in detail in the TDM Plan. A transportation professional working at the City's direction and pursuant to a scope of work approved by the City's Traffic Engineer shall conduct traffic counts annually

using mechanical counters or other devices approved by the City of Santa Clara to measure the daily and peak-hour entering and exiting vehicle volumes for a 72-hour period, Tuesday through Thursday. The counts shall include traffic counts at all CityPlace driveways, traffic counts at the driveways to office parking locations, and traffic counts at the driveways to residential parking locations. The counts shall be conducted when schools are in session and during non-holiday weeks with fair weather. The individual driveway volumes will be summed to provide the total site traffic volumes. The volumes at the driveways to the office and residential parking locations will be summed to provide the office- and residential-generated traffic volumes. The volumes will be compared to the trip thresholds to determine whether the reduction in vehicle trips is being met. The TMA will assist with the monitoring activities that will be conducted.

In addition to monitoring driveway volumes, a survey will be developed by the transportation professional and administered in coordination with the TMA and individual office employers to determine actual mode splits for employees. The survey will also gather information on usage of individual TDM Plan components as well as gauge employee perception of the overall TDM Plan. After an initial survey is conducted, subsequent surveys shall be conducted in years where the previous year's annual report has concluded that trip thresholds and trip reduction targets are not being met.

The results of the annual vehicle counts and survey (if one is conducted that year) will be reported in writing by the transportation professional to the Santa Clara Director of Planning and Inspection. The report will include descriptions of the TDM measures in place, highlighting new or modified measures, summarize the results of the counts, summarize the results of the employee survey (if one is conducted that year), and conclude whether the trip thresholds and trip reduction targets are being met. The report (as well as any remedial action taken as a result) will be summarized in an annual informational report to the Planning Commission on the progress of TDM efforts throughout the City of Santa Clara.

g. *Remedial Action.* If TDM Plan monitoring results show that the trip reduction targets are not being met, the TDM Plan shall be updated to identify replacement and/or additional feasible TDM measures to be implemented. The updated TDM Plan shall be submitted to the City and approved by the Santa Clara Director of Planning and Inspection. The updated TDM Plan shall also identify other TDM measures that were considered but determined to be infeasible or ineffective. The TMA shall oversee and coordinate the implementation of the feasible additional TDM measures and continue to explore methods of making other potential TDM measures feasible.

**TRA-1.2: Intersection Improvements.** The intersection improvements and off-setting mitigation measures summarized in Table 3.3 20 in the EIR shall be implemented, and Project Developer shall pay the fair-share contributions for the mitigation measures summarized in Table



3.3-20. The intent of the table is to identify, based on a preliminary feasibility determination, physically feasible intersection mitigation measures (e.g., lane additions) that increase the intersection's vehicle carrying capacity and reduce vehicle delay while fully mitigating the impacts. As described below, feasible mitigation measures that fully mitigate the impacts were identified at some locations. However, at other locations, measures that provide only partial mitigation were identified because of physical constraints. Although these mitigation measures do not fully address the impact, they do help reduce the severity of the impact. For intersections where there are no feasible physical improvements, off-setting mitigation measures were investigated. These measures would provide improvements to other modes of travel, thereby increasing the capacity of the transportation system. At some intersections no feasible improvement or off-setting mitigation measures were identified.

The four potential entries in Table 3.3-20 are:

Full Mitigation: At the affected intersection, a physical modification to the intersection that would fully mitigate the impact that was identified. This could be accomplished by adding vehicle lanes or upgrading an intersection to an interchange or "fly-over." These improvements would reduce vehicle delays and fully mitigate Project impacts at several intersections by allowing the intersections to operate at acceptable levels, with delays that would be lower than they would be under no-project conditions, or with less than a 4-second increase in critical delay at intersections that operate at unacceptable levels.

Partial Mitigation: At the affected intersection, a physical modification to the intersection that would partially mitigate the impact was identified. The proposed measure mitigates the impact during one peak hour but not the other or reduces the delay but not enough to mitigate the impact.

Off-setting Mitigation: In the North San José Deficiency Plan area, off-setting local street network, transit, bicycle, or pedestrian improvements were identified to accommodate future travel growth but not directly mitigate the intersection with the identified impact.

No Feasible Mitigation: No physical improvements or off-setting mitigation measures were identified, typically because of physical limitations, costs, and/or right-of-way constraints.

Some of the intersection improvements would require right-of-way ("ROW") acquisition. A preliminary review of ROW constraints was done by viewing aerial photography as a part of the mitigation measure feasibility assessment. An intersection was identified as having ROW constraints if the mitigation measure would include widening the roadway or relocating aboveground utilities. (Use of the center median and "pork-chop" islands was not considered as roadway widening.) If the removal of bicycle facilities was required, the ROW required was defined as "possible." If the City makes a final determination subsequent to certification of the EIR that a portion or all of an improvement is not feasible

because the ROW cannot be acquired or for other reasons, the improvement, or infeasible portion, shall not be implemented and, if none of the improvement is feasible, and no off-setting mitigation measure is identified, that intersection shall be considered to have “no feasible mitigation.”

The Project Developer’s responsibility is included in Table 3-3.20, which indicates if the Project Developer would be wholly or partially responsible for the mitigation measure.

As seen in the table, “100 percent” indicates that the cost and construction of the proposed mitigation measure is the full responsibility of the Project Developer. These are discrete mitigation measures that either fully or partially mitigate significant Project impacts.

“Percent of total traffic” indicates that the Project Developer shall pay a fair-share contribution to the proposed mitigation measure, which is typically a larger transportation improvement, such as an expressway interchange, that has been identified in an adopted plan. Twelve of the intersections are on the County expressway system and are identified in the County’s Expressway Plan to be upgraded to an interchange or “fly-over.” The Project Developer shall pay its fair share toward these interchange upgrades per agreements between Santa Clara County and the City of Santa Clara.

“Pay the North San José fee or fair-share contribution of alternative or off-setting mitigation” is identified for affected intersections in the North San José area. There are two options for these locations. The Project Developer can pay the North San José fee or a fair-share contribution for the mitigation measure or off-setting mitigation measure based on the Project’s percent contribution of added traffic at the intersection.

Where there is no feasible mitigation measure, no fair share is identified (0 percent).

**Findings TRA-15.** The Project would have a significant impact on one unsignalized intersection (#114 Calle Del Sol/Calle De Luna) under cumulative with-Project conditions. The Project Developer’s TDM Plan will target peak-hour traffic and help reduce traffic generated by Project-related transportation activities, and will apply over the lifetime of the project. The Project Developer will also be required to implement several intersection improvements (like signalizing the Calle Del Sol/Calle Del Luna intersection), some of which will fully mitigate increased traffic impacts. For these reasons, there would be a *less-than-significant impact* on Unsignalized (Off-Site) Intersections in Cumulative with-Project Conditions.

### 3. Air Quality

**Impact AQ-2: Construction Criteria Air Pollutant Emissions.** Construction activities at the Project site would result in the generation of regional criteria pollutant emissions during construction in excess of Bay Area Air Quality Management District (BAAQMD) thresholds.

**Mitigation Measure AQ-2.1: Utilize Clean Diesel-Powered Equipment during Construction to Control Construction-Related Reactive Organic Gas (ROG) and Oxides of Nitrogen (NOX) Emissions.** The Project Developer shall ensure that all off-road diesel-powered equipment used during construction between 2017 and 2022 is equipped with the U.S. Environmental Protection Agency (EPA) Tier 3 or cleaner engines, except for specialized construction equipment for which an EPA Tier 3 engine is not available. Consistent with advancements of the statewide fleet average, the Project Developer shall ensure that all off-road diesel-powered equipment used during construction between 2023 and 2030 is equipped with EPA Tier 4 engines, except for specialized construction equipment for which an EPA Tier 4 engine is not available. This requirement will ensure construction equipment remains cleaner than the fleet-wide average.<sup>7</sup>

**Mitigation Measure AQ-2.2: Use Modern Fleet for On-Road Material Delivery and Haul Trucks during Construction.** The Project Developer shall ensure that all on-road heavy-duty diesel trucks with a gross vehicle weight rating of 19,500 pounds or greater used at the Project site comply with EPA 2007 on-road emissions standards for PM10 and NOX (0.01 grams per brake horsepower-hour [g/bhp-hr] and 0.20 g/bhp-hr, respectively).

**Mitigation Measure AQ-2.3: Implement Bay Area Air Quality Management District (BAAQMD) Additional Construction Mitigation Measures to Reduce Construction-Related Dust and Exhaust Emissions.** The Project Developer shall require all construction contractors to implement the specific construction mitigation measures below to reduce fugitive dust and equipment exhaust emissions. Emission reduction measures shall include, at a minimum, the following measures. Alternative measures may be identified by the Project Developer or its contractor, as appropriate, provided that they are as effective as the measures below. Alternative measures shall be submitted to the City of Santa Clara for approval.

All exposed surfaces shall be watered at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content can be verified by lab samples or moisture probe. If water infiltration into landfill refuse layers is a concern, non-toxic soil stabilizers may be used instead.

All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 miles per hour (mph) for a period of 2 hours or more.

Windbreaks (e.g., fences) shall be installed on the windward side(s) of actively disturbed areas of construction. Windbreaks shall have at maximum 50 percent air porosity.

Exposed ground areas that are to be reworked more than 1 month after initial grading should be sown with fast-germinating native grass seed and watered appropriately until

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<sup>7</sup> As explained in MM AQ-6.1, below, as necessary to reduce cancer risk to on-site sensitive receptors related to construction diesel particulate matter emissions to a level below the BAAQMD, the Project Developer may need to use Tier 4 equipment after occupancy of on-site residences or daycare centers, or may use other appropriate measures (see AQ-6.1). If Tier 4 equipment is used earlier than 2023, this may reduce the amount of mitigation required in MM AQ-2.4.



vegetation is established. If grass seeding is not feasible, then non-toxic soil stabilizers may be used.

All construction trucks and equipment, including tires, involved in ground disturbance or transit through loose soil areas shall be washed off prior to leaving the site.

Site accesses to a distance of 25 feet from the paved road shall be treated with a 6- to 12 inch compacted layer of wood chips, mulch, or gravel. Alternatively, a rumble plate may be used in place of chips, mulch, or gravel.

Sandbags or other erosion control measures shall be installed to prevent silt runoff to public roadways from sites with a slope greater than 1 percent.

Idling time of diesel powered construction equipment shall be limited to 2 minutes.

All construction equipment, diesel trucks, and generators shall be equipped with Best Available Control Technology for emission reductions of PM and NO<sub>x</sub>.

All contractors shall use equipment that meets the California Air Resources Board's (ARB's) most recent certification standard for off-road heavy-duty diesel engines.

**Mitigation Measure AQ-2.4: Offset NO<sub>x</sub> Emissions Generated during Construction that Are above BAAQMD NO<sub>x</sub> Average Daily Emission Threshold.** The Project Developer shall track construction activity, estimate emissions, and enter into a construction mitigation contract with BAAQMD to offset NO<sub>x</sub> emissions that exceed the BAAQMD NO<sub>x</sub> average daily threshold of 54 pounds per day.

The average daily emissions shall be calculated on an annual basis by determining total construction-related NO<sub>x</sub> emissions in each calendar year and dividing by the number of actual workdays in that calendar year. BAAQMD will use the mitigation fees provided by the Project Developer to implement emissions reduction efforts that offset Project NO<sub>x</sub> emissions that exceed the BAAQMD threshold.

Implementation of this mitigation measure shall apply only to Phase 1 through Phase 4 construction on Parcels 4 and 5 because only construction on Parcels 4 and 5 has the potential to exceed the BAAQMD average daily NO<sub>x</sub> threshold on an annual basis, depending on construction sequencing and overlapping activity.

This mitigation includes the following specific requirements:

The Project Developer shall require construction contractors to provide annual construction activity monitoring data for Phases 1 through 4 to estimate actual construction emissions, including the effect of equipment emissions reduction measures. The Project Developer shall submit the annual construction activity monitoring data and an estimate of actual annual construction emissions to the City and BAAQMD for review by February 1 of each year for the prior construction year. The City shall examine the construction activity monitoring to ensure it is representative, and BAAQMD shall examine the emissions estimate to ensure it is calculated properly.

After acceptance of the emissions estimates by BAAQMD for the prior year, the Project Developer shall submit mitigation fees to BAAQMD to fund offsets for the portion of annual emissions that exceed the average daily NO<sub>x</sub> threshold. The mitigation fees shall be based on the mitigation contract with BAAQMD (see discussion below) but shall not exceed the emissions-reduction project cost-effectiveness limit set for the Carl Moyer Memorial Air Quality Standards Attainment Program (Carl Moyer Program) for the year in which mitigation fees are paid. The current Carl Moyer Program cost-effectiveness limit is \$18,030 per weighted ton of criteria pollutants (NO<sub>x</sub> + ROG + [20\*PM]). An administrative fee of five percent shall be paid by the Project Developer to BAAQMD to implement the program.

The mitigation fees shall be used by BAAQMD to fund projects that are eligible for funding under the Carl Moyer Program guidelines or other BAAMQD emissions-reduction incentive programs that meet the Carl Moyer Program cost-effectiveness threshold and are real, surplus, quantifiable, and enforceable.

The Project Developer shall enter into a mitigation contract with BAAQMD for the emissions-reduction incentive program. The mitigation contract shall include the following:

Identification of appropriate off-site mitigation fees required for the Project.

Timing for submission of mitigation fees.

Processing of mitigation fees paid by the Project Developer.

Verification of emissions estimates submitted by the Project Developer.

Verification that off-site fees are applied to appropriate mitigation programs within the SFBAAB.

The mitigation fees shall be submitted within 4 weeks after BAAQMD accepts an emissions estimate provided by the Project Developer showing that the average daily NO<sub>x</sub> threshold was exceeded (when measured on an annual basis).

**Findings AQ-2.** The EIR evaluated construction criteria air pollutant emissions against BAAQMD thresholds and BMPs. Emissions associated with Project construction were examined assuming a 14-year, phased construction period beginning in 2017. Because activities during several phases would occur concurrently, the EIR assumed that during these periods of overlap, all equipment would operate at the same time. Daily average emissions estimates for individual phases occurring in each construction phase were added to obtain the average daily emissions on a yearly basis. Overall, construction activities at the Project site would result in the generation of regional criteria pollutant emissions during construction in excess of BAAQMD thresholds for NO<sub>x</sub>. Mitigation would be required to reduce NO<sub>x</sub> emissions generated by the Project. Similarly, because BAAQMD considers fugitive dust emissions to be significant without BMPs, mitigation would also be required to control fugitive dust. Mitigation Measure AQ-2.1 requires that heavy-duty equipment comply with Tier 3 and Tier 4 emissions standards, and Mitigation Measure AQ-2.2 requires that construction haul trucks utilize model year 2010

engines or newer. Implementation of these measures will reduce ROG and NOX emissions from off-road heavy-equipment and on-road vehicles. BAAQMD recommended BMPs for fugitive dust and equipment exhaust are outlined in Mitigation Measure AQ-2.3. Mitigation Measure GHG-1.1 would require the use of 30 percent alternative fuel for construction diesel equipment. The effects of this measure would lower particulate emissions without increasing NOx emissions. As shown in EIR Table 3.4-7, NOx emissions in 2017 would still exceed BAAQMD's 54 pounds per day threshold for NOX after implementation of Mitigation Measures AQ-2.1 through AQ-2.3. Accordingly, additional mitigation is required to reduce NOx impacts to a less-than-significant level. Pursuant to Mitigation Measure AQ-2.4, the Project Developer will pay an off-site mitigation fee for NOX emissions in excess of BAAQMD thresholds. With the implementation of Mitigation Measure AQ-2.4, NOx emissions would be reduced to *a less-than-significant level*.

**Impact AQ-6: Exposure of Sensitive Receptors to Toxic Air Contaminant Emissions during Construction.** Project construction emissions would result in the exposure of sensitive receptors to localized TAC.

**Mitigation Measures.** Mitigation Measures AQ-2.1, AQ-2.2, AQ-2.3 (described above), plus:

**Mitigation Measure AQ-6.1: Assess Construction Diesel Particulate Matter (DPM) Emissions Potential Prior to Construction, Utilize Clean Diesel-Powered Equipment, Filtration Systems, and/or other Measures as Necessary to Reduce Cancer Risks Associated with DPM during Construction.** The Project Developer shall implement the following measures, as necessary, to reduce cancer risks associated with DPM during construction to a level less than BAAMQD incremental cancer risk threshold of 10 in 1 million:

- Revised Health Risk Assessment (HRA): The Project Developer may choose to assess the potential construction DPM emissions later in the design phase, but prior to construction, and to prepare a revised HRA using updated construction equipment activity data and submit to the City for review. If the revised HRA demonstrates, to the satisfaction of the City, that the cancer risk for construction of the entire Project at all potentially exposed on-site and off-site sensitive receptors will be less than BAAMQD threshold cited, then no additional mitigation is necessary. If the revised HRA demonstrates, to the satisfaction of the City, that the cancer risk for construction of the entire Project at some of the on-site or off-site sensitive receptors will be less than presented in the EIR but still over the BAAMQD threshold, then some of the mitigation below may not be necessary.
- As necessary to reduce cancer risks below the BAAQMD threshold in light of projected DPM emissions and exposure and other mitigation (MM AQ-2.1 through MM AQ-2.3 and MM GHG-1.1), one or more of the following measures shall be implemented and the Project Developer will provide updated modeling to the City demonstrating that all on-site risks are reduced to below the BAAMQD threshold level:
  - Tier 4 Construction Equipment. If on-site residences and daycare centers are occupied, the Project Developer shall ensure that all off-



road diesel-powered equipment used during construction after occupancy of on-site residences or on-site daycare centers is equipped with EPA Tier 4 or cleaner engines, except for specialized construction equipment for which an EPA Tier 4 engine is not available. This requirement would be in addition to the clean diesel requirements in Mitigation Measure AQ-2.1.

- Install Filtration Systems on Ventilation and Recirculation Systems. Filtration systems shall be installed on ventilation and recirculation systems within on-site residences and for the heating, cooling, or ventilation systems serving daycare centers. All filters must be rated MERV-13 or higher. The Project Developer shall submit a plan for installation and maintenance of all filters in accordance with the manufacturer's recommendations to the City prior to approval of the first building permits.
- If on-site residences and daycare centers are occupied, the Project Developer shall employ other reduction measures, such as High Performance Renewable (HPR) Diesel Fuel, that would reduce DPM. Proposals for alternative reduction measures shall be submitted to the City for review and approval, including evidence of the particulate reduction and/or risk reduction effectiveness of the proposed alternative measures.

**Findings AQ-6.** The EIR evaluated exposure of sensitive receptors to TAC emissions during construction against BAAQMD thresholds. Emissions of PM<sub>2.5</sub> during construction were compared to BAAQMD's Project-level PM<sub>2.5</sub> threshold. Exposure to construction DPM emissions were assessed by predicting the health risks in terms of excess cancer and non-cancer risks at both on- and off-site receptor locations. Exposure to carcinogens is expressed in terms of the number of people in 1 million who would contract cancer over a lifetime of exposure. The BAAQMD project threshold is an increased risk of contracting cancer of 10 in 1 million (which means that out of 1 million exposed people, 10 would contract cancer). Chronic exposure to non-carcinogens is expressed with use of a hazard index (HI), which is the ratio of expected exposure level to an acceptable reference exposure level. A HI greater than 1.0 is considered significant. As shown in EIR Table 3.4-11, construction of the Project would result in an increase in cancer risk in excess of BAAQMD thresholds at residential and daycare receptors within Parcel 5, which would be constructed during Phase 1. This would be a significant impact. With implementation of Mitigation Measures AQ-2.1, AQ-2.2, AQ-2.3 and AQ-6.1, cancer risks related to DPM exposure during construction would be reduced below the BAAQMD threshold. Specifically, mitigation measures will include mandated use of EPA Tier 3 or cleaner engines (from 2017 through 2022) and EPA Tier 4 engines (from 2023 through 2030) in off-road diesel-powered equipment used in construction, compliance with EPA 2007 on-road emissions standards for PM<sub>10</sub> and NO<sub>x</sub> for all on-road heavy-duty diesel trucks with a gross vehicle weight rating of 19,500 pounds or greater, implementation of emission reduction measures to reduce fugitive dust and equipment exhaust emissions, and implementation of measures to reduce cancer risks associated with DPM during construction that occurs after the first occupancy of on-site residences or daycare centers. Accordingly, this impact would be *less than significant with mitigation*.

**Impact AQ-7b: Exposure of New Sensitive Receptors to Existing Toxic Air Contaminant Emissions.** In addition to exposure due to Project sources, new on-site sensitive receptors would also be exposed to individual TAC emissions associated with existing traffic, train, and stationary sources within 1,000 feet of the Project site resulting in exposure to TAC concentrations. As discussed above, under *CBIA v. BAAQMD*, CEQA no longer considers the impact of the environment on a project (such as the impacts of existing emissions on new project receptors) to be an impact requiring consideration under CEQA. The following analysis is neither a CEQA impact nor finding.

**Condition of Approval AQ-7.1: Provide Filtration Systems for On-site Residences and Daycare Centers as Necessary to Reduce Operational Cancer Risks and Exposure to Particulate Matter 2.5 Microns in Diameter or Less (PM<sub>2.5</sub>).** This measure only applies to on-site residences and daycare centers. The Project Developer shall implement the following measures, as necessary, to reduce cancer risks to a level less than BAAQMD project-level thresholds:

Revised HRA: The Project Developer may choose to reassess the potential on-site cancer risk and PM<sub>2.5</sub> concentrations to be experienced by on-site residential receptors and on-site daycare centers later in the design phase, but prior to occupancy, and to prepare a revised HRA using updated receptor location information and more detailed assessment of risks associated with existing and Project operational sources and submit to the City for review. If the revised HRA demonstrates, to the satisfaction of the City, that the cancer risk and exposure to PM<sub>2.5</sub> for all potentially exposed on-site receptors will be less than BAAQMD project-level thresholds, then no additional measures are necessary. If the revised HRA demonstrates, to the satisfaction of the City, that the cancer risk or exposure to PM<sub>2.5</sub> for on-site sensitive receptors will be less than presented in the EIR but still over BAAQMD threshold, then the control effort may be less.

Install Filtration Systems on Ventilation and Recirculation Systems. Filtration systems shall be installed on ventilation and recirculation systems within on-site residences and the heating, cooling, and ventilation systems that serve daycare centers that are exposed to risks above BAAQMD thresholds due to individual existing sources. All filters must be rated MERV 13 or higher. The Project Developer shall submit a plan for installation and maintenance of all filters in accordance with the manufacturer's recommendations to the City prior to approval of the first building permits.

**Findings AQ-7b.** The impacts of new sensitive receptors to existing TAC emissions were evaluated against BAAQMD thresholds. Google Earth map files and distance multipliers provided by the BAAQMD were used to estimate excess impacts for existing stationary and rail sources. The EIR modeled impacts associated with existing roadway sources. New residential and daycare receptors would be exposed to certain significant cancer risks associated with an existing on-site emergency generator (at Santa Clara Fire Station 10) and existing train service along Lafayette Street that would exceed the BAAQMD threshold values. Impacts would be less than the BAAQMD thresholds related to exposure to other stationary sources and to adjacent roadways. Cancer risk impacts above the BAAQMD thresholds related to on-site exposure to train TAC emissions are limited to the areas within approximately 400 feet of the rail line along Lafayette Street.

Dispersion modeling was conducted at the southern end of Parcel 2 related to PM<sub>2.5</sub> impacts from an off-site printed circuit board manufacturing facility. The modeling revealed that all existing source exposures would be below BAAQMD thresholds for Parcel 2 receptors. As shown in EIR Table 3.4-15, with implementation of Condition of Approval AQ-7.1—including preparation of a revised HRA for on-site residential receptors and on-site daycare centers and installation of filtration systems within on-site residences and the heating cooling, and ventilation systems that serve daycare centers exposed to risks above BAAQMD thresholds—cancer risks and PM<sub>2.5</sub> exposure for on-site new receptors associated with emissions from existing train service, an on-site emergency generator, and an off-site stationary source would be reduced below the BAAQMD project-level thresholds.

**Impact AQ-9: Objectionable Odors.** The Project could create objectionable odors affecting a substantial number of people.

**Mitigation Measure HAZ-2.1.** See Mitigation Measure HAZ-2.1, described in VII.D.10.

**Findings AQ-9.** Objectionable odor impacts associated with the Project were evaluated based on BAAQMD's CEQA Guidelines and ARB's *Air Quality and Land Use Handbook*. Beyond identifying land uses associated with odor complaints, BAAQMD provides recommended screening distances for citing new receptors near existing odor sources. As the Project would be located on the site of the previous City of Santa Clara All Purpose Sanitary Landfill and landfill materials may be disturbed during Project construction, odor impact analysis also considered potential construction-period odor generation from disturbed landfill material. For the purpose of the EIR analysis, an odor-producing facility, as defined by BAAQMD, creates an "objectionable odor" if it receives five complaints per year averaged over 3 years. Potential odors from disturbance of landfill soil would be controlled through Mitigation Measure HAZ-2.1, which includes on-site odor monitoring during excavation. If odors are detected, they will be controlled through application of a deodorant, masking agent, neutralizing agent, lime, or an interim landfill cover. Accordingly, with mitigation, construction activities would not be likely to result in nuisance odors that would violate BAAQMD Regulation 7 (Odorous Substances). This construction-period impact would be *less than significant with mitigation*.

#### 4. Greenhouse Gas Emissions

**Impact GHG-2: Conflicts with Applicable Plans and Policies.** The Project would conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs, specifically, the Santa Clara Climate Action Plan.

**Mitigation Measures.** See TRA-1.1, described in VII.D.2 above, and GHG-1.2, discussed below.

**Findings GHG-2.** The EIR analyzed the extent to which the Project GHG impacts impeded implementation of the AB 32 Scoping Plan, implemented the City's CAP, and was consistent with the GHG reduction targets set forth in EO S-03-05 and B-3015. The AB 32 Scoping Plan outlines a series of technologically feasible and cost-effective measures to reduce



statewide GHG emissions, including (1) expanding energy efficiency programs, (2) increasing electricity production from renewable resources to at least 33 percent of the statewide electricity mix, (3) increasing automobile efficiency, (4) implementing the Low Carbon Fuel Standard, and (5) developing the Cap-and-Trade Program. The Project does not impede implementation of any of the elements of the AB 32 Scoping Plan. Moreover, the Project's emissions do not exceed the BAAQMD thresholds, which are based on consistency with the AB 32 emissions reduction target.

As shown in EIR Table 3.5-7, with mitigation, the Project would implement all applicable measures in the City's CAP. As shown in EIR Table 3.5-8, because the existing CAP includes more reductions than are necessary to meet the CAP target of 15 percent below 2008 levels, the addition of CityPlace emissions would not result in the City exceeding the CAP goal. Thus, the Project is considered consistent with the CAP with respect to GHG emissions reduction goals. With Mitigation Measures GHG-1.2 and TRA-1.1, the Project would be consistent with the City's CAP measures and would not impede achievement of the City's CAP's GHG reduction target. Thus, impacts related to CAP consistency would be *less than significant with mitigation*.

## **5. Noise**

**Impact NOI-1: Exposure to Excessive Noise Levels.** The Project would expose persons to or generate noise levels in excess of standards established in a local general plan or noise ordinance or applicable standards of other agencies. Specific impacts and mitigation measures are discussed below.

**Impact NOI-1a: Construction Noise Impacts on Off-Site Land Uses.** The Project would require certain equipment would expose persons to or generate noise levels in excess of standards established in a local general plan or noise ordinance or applicable standards of other agencies. The noise levels resulting from construction of the Project would temporarily exceed the City Code noise limits at sensitive land uses during non-exempt hours. Commercial, office, and industrial uses near the Project site would also experience noise that would exceed the applicable City Code noise limits for these land uses. Thus, construction noise impacts on off-site land uses would be significant.

**Mitigation Measure NOI-1.1: Prepare and Implement a Construction Noise Control Plan to Reduce Construction Noise at Adjacent Land Uses.** The Project Developer shall develop a noise control plan that requires that the Project construction activities comply with the City Code noise limits. The requirements and limitations specified in the plan shall be determined by phase and/or parcel and/or subsections of a parcel or phase. The construction noise control plan shall require the following:

The Project Developer shall appoint a Project noise coordinator who will serve as the point of contact for noise-related complaints during Project construction. The Project noise coordinator shall transmit all construction noise-related complaints to the construction contractor, and the construction contractor shall enhance or refine the noise best management practices discussed herein to address the received noise complaints to the extent feasible. The contact information for the Project noise coordinator shall be sent to

residents in the greater vicinity of the Project site that could be affected by Project noise and municipalities affected by Project construction noise.

Construction activities that have the potential to generate noise that is detectable at adjacent residential land uses or within 300 feet of a residentially zoned property shall occur only during the times listed below. Activities that would result in no detectable noise at adjacent land uses, such as interior painting, would not be limited by the hours below.

Between 7:00 a.m. and 6:00 p.m. Monday through Friday.

Between 9:00 a.m. and 6:00 p.m. on Saturdays.

No duration in time on holidays or Sundays.

Construction contractors shall specify noise-reducing construction practices that will be employed to reduce construction noise for construction activities that would occur outside of the prohibited hours specified in the City Code and that would have the potential to exceed the receiving zone noise limits specified in the City Code. The measures determined by the Project Developer shall be reviewed and approved by the City prior to the issuance of building permits. Measures that can be used to limit noise include, but are not limited to, those listed below.

Locating construction equipment as far as feasible from noise-sensitive uses.

Requiring that all construction equipment powered by gasoline or diesel engines have sound-control devices that are at least as effective as those originally provided by the manufacturer and that all equipment be operated and maintained to minimize noise generation.

Not idling inactive construction equipment for prolonged periods (i.e., more than 2 minutes).

Prohibiting gasoline or diesel engines from having unmuffled exhaust systems.

Using noise-reducing enclosures around noise-generating equipment that has the potential to disturb nearby off-site land uses, or where otherwise necessary, to comply with the City Code noise limits for receiving zones.

**Findings NOI-1a.** The construction noise impacts on off-site land uses associated with the Project were evaluated against the California Noise Insulation Standards, the General Plan goals and policies related to the effects of noise on land uses and acceptable levels of exterior noise, the City noise ordinance set out in the City Code, and the noise policies of the Comprehensive Land Use Plan for San Jose International Airport. Noise levels associated with Project-related construction activities were evaluated by summing the noise levels of the three loudest pieces of equipment that would operate simultaneously on the Project site (a “worst-case scenario”). The three loudest equipment pieces would be the grader, scraper, and auger drill rig, according to the noise reference levels in FHWA’s Road Construction Noise Model User’s Guide. The sum of the equipment noise is then compared to the applicable noise standards.

Vibration from construction equipment was assessed by using the source levels and criteria in Tables 3.6-3, 3.6-4, and 3.6-5.

Based on this evaluation, the EIR determined that the noise levels resulting from construction of the Project would temporarily exceed the City Code noise limits at sensitive land uses during non-exempt hours. Commercial, office, and industrial uses near the Project site would also experience noise that would exceed the applicable City Code noise limits for these land uses. Implementing Mitigation Measure NOI-1.1 would result in the development of a construction noise control plan that would ensure that construction activities would comply with the City Code. The construction noise control plan would allow construction that could affect new and existing residential land uses or be located within 300 feet of residential areas to occur only during the hours specified in the City Code. The construction noise control plan would also require the construction contractor to implement best management practices to reduce construction-generated noise at surrounding land uses in the Project vicinity and within the Project site where necessary to comply with the City Code noise limits. Construction-related noise impacts on off-site receptors would be *less than significant with mitigation*.

**Impact NOI-1b: Construction Noise Impacts on On-Site Land Uses.** Construction noise would affect new land uses that are associated with the Project because new residential and commercial land uses would be occupied while construction is still occurring on other parts of the Project site. It is not currently possible to determine the overlap between where and when construction will occur and where and when land uses will be occupied. As a result, it is conservatively assumed that new residential and commercial land uses could be exposed to the noise levels shown in EIR Table 3.6-13, which would result in construction noise that would temporarily exceed the City Code noise limits during non-exempt hours. Thus, construction noise impacts on on-site land uses would be potentially significant.

**Mitigation Measure NOI-1.1.** See Mitigation Measure NOI-1.1, described above.

**Findings NOI-1b.** The construction noise impacts on on-site land uses associated with the Project were evaluated against the California Noise Insulation Standards, the General Plan goals and policies related to the effects of noise on land uses and acceptable levels of exterior noise, the City noise ordinance set out in the City Code, and the noise policies of the Comprehensive Land Use Plan for San Jose International Airport. Noise levels associated with Project-related construction activities were evaluated by summing the noise levels of the three loudest pieces of equipment that would operate simultaneously on the Project site (a “worst-case scenario”). The three loudest equipment pieces would be the grader, scraper, and auger drill rig, according to the noise reference levels in FHWA’s Road Construction Noise Model User’s Guide. The sum of the equipment noise is then compared to the applicable noise standards. Vibration from construction equipment was assessed by using the source levels and criteria in Tables 3.6-3, 3.6-4, and 3.6-5.

Although it is not currently possible to determine the overlap between where and when construction will occur and where and when land uses will be occupied, the EIR conservatively assumed that new residential and commercial land uses could be exposed to the noise levels shown in Table 3.6-13, which would result in construction noise that would temporarily exceed the City Code noise limits during non-exempt hours. Implementing Mitigation Measure NOI-1.1



would result in the development of a construction noise control plan that would ensure that construction activities comply with the City Code by allowing construction that could affect residential land uses or be located within 300 feet of residential areas to occur only during the hours specified in the City Code. The construction noise control plan would also require the construction contractor to implement best management practices to reduce construction-generated noise at surrounding land uses within the Project site where necessary to comply with the City Code noise limits. Construction-related noise impacts on on-site receptors would *be less than significant with mitigation*.

**Impact NOI-2: Exposure to Ground-borne Vibration and Noise Levels.** The Project could expose persons to or generate excessive ground-borne vibration or ground-borne noise levels. Specific impacts and mitigation measures are discussed below.

**Impact NOI-2b: Construction Vibration Impacts on On-Site Receptors.** New residences constructed as part of the Project could be inhabited while construction is still occurring. Likewise, new office uses constructed as part of the Project could be occupied while construction is still occurring at the Project site.

**Mitigation Measure NOI-2.1: Restrict Pile Driving.** Pile driving occurring 175 feet or less from new residential or commercial buildings shall be conducted prior to those buildings being occupied by future occupants.

**Findings NOI-2b.** Project impacts associated with new vibration impacts were evaluated against the California Noise Insulation Standards, the General Plan goals and policies related to the effects of noise on land uses and acceptable levels of exterior noise, the City noise ordinance set out in the City Code, and the noise policies of the Comprehensive Land Use Plan for San Jose International Airport. Vibration from construction equipment was assessed by using the source levels and criteria in Tables 3.6-3, 3.6-4, and 3.6-5. While it is unlikely that there would be residents living on the Project site or office uses occupied while construction equipment would be operating in the immediate vicinity, the EIR determined that pile driving associated with construction of new residences or commercial uses, could disturb future occupants.

Implementation of Mitigation Measure NOI-2.1 would mitigate vibration impacts on new residential and commercial uses by requiring pile driving that would occur 175 feet or less from residential or commercial buildings to be conducted prior to those buildings being occupied. Mitigation Measure NOI-2.1 would reduce this impact to *less than significant with mitigation*.

**Impact NOI-2d: Existing Train Vibration Impacts on On-Site Receptors** The EIR found that there are up to 24 passenger train passages and up to six freight train passages per day on the Union Pacific Railroad (UPRR) track that bisects the Project site. Vibrations from the train could impact on-site receptors. As discussed above, under *CBIA v. BAAQMD*, CEQA no longer considers the impact of the environment on a project (such as the impacts of existing train vibrations on Project receptors) to be an impact requiring consideration under CEQA. The following analysis is neither a CEQA impact nor finding.

**Condition of Approval NOI-2.2: Prepare and Implement a Vibration Control Plan to Reduce Vibration from UPRR Operations for Sensitive Land Uses.** The Project

Developer shall prepare a design-level operational vibration control plan that identifies all Project features and treatments that would be implemented to ensure that the Project is in compliance with the vibration standards recommended by the Federal Transit Administration (FTA) relative to railway operational vibration associated with UPRR operations. The plan shall be prepared when new uses would be located within the following screening distances, as recommended by FTA (FTA 2006):

Category 1: Buildings where vibration would interfere with interior operations (600 feet).

Category 2: Residences and buildings where people normally sleep (200 feet).

Category 3: Institutional land uses with primarily daytime use (120 feet).

The plan shall take into account current and future expected passenger and freight rail service levels adjacent to the Project site. The plan shall be developed by an acoustical design professional and shall include a detailed investigation of ground-borne train vibration that considers site-specific train vibration source and propagation conditions and the actual building designs. The design features and treatments shall be identified to ensure that vibration levels at new proposed uses are in compliance with FTA standards. The report shall be submitted to the City for review and approval prior to the issuance of building permits for the Project. Depending on the vibration exposure for a particular site, such treatments may include, but are not limited to, those listed below, as recommended by the acoustical design professional.

Increased setbacks of noise-sensitive uses from the train track.

Foundation isolation systems to reduce the transmission of vibration into buildings with noise-sensitive uses that are near the tracks.

**Findings NOI-2d.** The impacts of existing train vibrations were evaluated against the California Noise Insulation Standards, the General Plan goals and policies related to the effects of noise on land uses and acceptable levels of exterior noise, the City noise ordinance set out in the City Code, and the noise policies of the Comprehensive Land Use Plan for San Jose International Airport. Current train passages at the Project site were assessed under the FTA's 2006 Transit Noise and Vibration Impact Assessment. Although predicted vibration levels were below the impact thresholds, existing train vibration impacts were conservatively considered to potentially impact residential land uses proposed in the eastern portion of Parcel 5. Implementation of Condition of Approval NOI-2.2 would require an operational vibrational control plan that complies with federal standards, accounts for specific property uses, and takes into account future rail traffic. The plan will identify design features and treatments that can further reduce vibration impacts and must be reviewed and approved by the City before building permits are issued. Condition of Approval NOI-2.2 reduces these effects of railroad vibration on sensitive land uses.

**Impact NOI-4: Temporary or Periodic Increases in Ambient Noise Level.** The Project could result in a substantial temporary or periodic increase in ambient noise levels in the Project vicinity above levels existing without the Project.

**Mitigation Measures and Findings NOI-4.** This impact is addressed through the impact analysis under Impact NOI-1 and was determined to be *less than significant with mitigation*.

## **6. Cultural Resources**

**Impact CR-1. Archaeological Resources.** Project grading and excavation could result in disturbance to identified or previously undiscovered archaeological resources and cause substantial adverse change in the significance of a unique archaeological resource.

**Mitigation Measure CR-1.1: Conduct Extended Phase I (XPI) Archaeological Investigations within the Project Site near Recorded Resources and within an Area of Archaeological Sensitivity.** Prior to construction, if it is determined that Project-related ground-disturbing activities may extend into native soil within 100 feet of a previously recorded archaeological site, the Project Developer shall retain the services of a qualified archaeologist to conduct XPI investigations within the Project site. The XPI investigations shall consist of subsurface trench excavations to determine the presence or absence of buried features associated with the known archaeological site. If feasible, at least two trenches shall be placed in recorded location P-43-000025/CA-SCL-5, which is recorded as partially in the Project site, to ensure adequate investigations in this area.

If the XPI investigations reveal resources, additional trenches or testing may be necessary. Mitigation Measure CR-1.3, described below, shall be followed.

**Mitigation Measure CR-1.2: Provide Archaeological Monitoring of the Project Site when in Native Soil.** Prior to construction, if it is determined that Project-related ground-disturbing activities may extend into native soil, within 100 feet of a previously recorded archaeological site, the Project Developer shall retain the services of a qualified archaeologist to monitor earthmoving activities within the Project site. Monitoring shall consist of coordinating subsurface work to allow for the careful examination of vertical and horizontal soil relationships for the purpose of seeking positive archaeological finds (prehistoric and/or historic). The monitor shall maintain a field log of their presence and observations, carefully noting soil conditions. The archaeological monitor shall be pre-approved by the Director of Planning and Inspection. After written approval, the Planning Division shall be notified at least 48 hours prior to any grading or other subsurface work on the site, and the Project Developer shall provide a written protocol for the City's review and approval that stipulates the manner in which the Project Developer shall comply with the monitoring requirements. In the event that cultural resources are encountered, Mitigation Measure CR-1.3, described below, shall be followed.

**Mitigation Measure CR-1.3: Stop Work if Cultural Resources Are Encountered during Ground-Disturbing Activities.** In the event that cultural resources are encountered during ground disturbing activities, all work within proximity of the find shall temporarily halt so that the archaeological monitor can examine the find and document its provenience and nature (drawings, photographs, written description). The archaeological monitor shall then direct the work to either proceed if the find is deemed to be insignificant, or instruct the work to continue elsewhere or cease until adequate mitigation measures are adopted. If the find is determined to be potentially significant, the archaeologist, in consultation with the Planning Division, shall



develop a Treatment Plan that could include site avoidance, capping, or data recovery. If data recovery is determined to be appropriate, excavation shall target recovery of an appropriate amount of information from archaeological deposits to determine the potential of the resource to address specific research questions. If it occurs, data recovery shall emphasize the understanding of the archaeological deposit's structure, including features and stratification, horizontal and vertical extent, and content, including the nature and quantity of artifacts.

**Findings CR-1.** The archeological resources impacts associated with the Project were evaluated based on consistency with the National Historic Preservation Act, the Paleontological Resources Preservation Act, relevant portions of the California Public Resources Code, historical resources criteria and significance criteria under CEQA, General Plan goals and policies and criteria for local significance, and relevant portions of the Santa Clara City Code. Bibliographic references, previous survey reports, historic maps, and archaeological site records pertinent to the study area were compiled through a records search of the California Historical Resources Information System in order to identify prior archaeological studies and known cultural resources within a 0.5-mile area surrounding, or adjacent to, the Project site. The City also contacted the Native American Heritage Commission to request searches of the Sacred Lands file, and contacted interested Native American representatives.

Based on this evaluation, the EIR determined that in those areas of the Project site where excavation would occur below the refuse layer and into the native soils, it is possible that previously unrecorded archaeological resources could be discovered. Pursuant to Mitigation Measure CR-1.1 through CR-1.3, if the Project-related ground-disturbing activities extend into native soil within 100 feet of a previously recorded archaeological site, the Project Developer shall retain the services of a qualified archaeologist to conduct XPI investigations and monitor earthmoving activities within the Project site. In the event that cultural resources are encountered during ground disturbing activities, all work within the proximity of the find shall temporarily halt so the monitor can examine the find and follow a protocol to protect significant resources. Implementation of Mitigation Measures CR-1.1 through CR-1.3 would reduce impacts on archaeological resources to a *less-than-significant level*.

**Impact CR-2. Paleontological Resources.** Should the Project result in deeper excavations than currently proposed in areas not underlain by refuse, the Project could result in significant impact to paleontological resources.

**Mitigation Measure CR-2.1: Paleontological Resource Mitigation Plan.** Prior to any deep excavations below an elevation of -30 feet (North American Vertical Datum of 1988 [NAVD] 88) at the Project site on areas not underlain by landfill refuse, the Planning Division shall be notified at least 48 hours prior to the excavation, and a qualified professional paleontologist shall prepare a Paleontological Resource Mitigation Plan (PRMP) in consultation with the Planning Division. The PRMP shall describe the tasks necessary to monitor, assess, and recover (if present) significant paleontological resources during Project excavation activities. The PRMP shall be implemented by the qualified paleontologist during the deep Project excavations below an elevation of -30 feet (NAVD 88).

**Mitigation Measure CR-2.2: Paleontological Resource Monitoring.** In accordance with the PRMP, a qualified paleontologist shall monitor for fossils in Pleistocene deposits during

Project excavations below an elevation of -30 feet (NAVD 88) on areas not underlain by landfill refuse or below other elevations confirmed in the field by the qualified paleontologist. The qualified paleontologist shall be present initially for 100 percent of the excavation activities within the Pleistocene deposits. After 50 percent of the excavation is completed within the rock unit and if no fossils of any kind have been discovered, then the level of monitoring can be reduced or suspended entirely at the Project paleontologist's discretion. If the paleontologist discovers potential paleontological resources, all ground disturbance within 50 feet of the find shall stop immediately until the qualified professional paleontologist can assess the nature and importance of the find and recommend appropriate salvage, treatment, and future monitoring and mitigation actions.

**Mitigation Measure CR-2.3: Paleontological Resource Reporting.** If significant paleontological resources are identified, the Project qualified paleontologist shall prepare a report summarizing the field and laboratory methods, site geology and stratigraphy, faunal/floral list(s), and a brief statement of the significance and relationship of the fossils discovered to similar fossils found elsewhere. The final report should emphasize the discovery of any new or rare taxa, or paleoecological or taphonomic significance. A complete set of field notes, geologic maps, stratigraphic sections, and a list of identified specimens must be included in or accompany the final report. This report should be finalized only after all aspects of the PRMP are completed, including preparation, identification, cataloging, and curatorial inventory. Full copies of the final report shall be deposited with both the Lead Agency and the repository institution with the request that all locality data remain confidential and not made available to the general public.

**Findings CR-2.** The paleontological resources impacts associated with the Project were evaluated based on consistency with the National Historic Preservation Act, the Paleontological Resources Preservation Act, relevant portions of the California Public Resources Code, historical resources criteria and significance criteria under CEQA, General Plan goals and policies and criteria for local significance, relevant portions of the Santa Clara City Code, and the Society of Vertebrate Paleontology's *Standard Procedures for the Assessment and Mitigation of Adverse Impacts to Paleontological Resources*. Bibliographic references, previous survey reports, historic maps, and archaeological site records pertinent to the study area were compiled through a records search of the California Historical Resources Information System in order to identify prior archaeological studies and known cultural resources within a 0.5-mile area surrounding, or adjacent to, the Project site. The City also contacted the Native American Heritage Commission to request searches of the Sacred Lands file, and contacted interested Native American representatives.

Based on this evaluation, the EIR determined that during construction, the drilling of deeper pilings have the potential to disturb significant paleontological resources located within the Pleistocene deposits. Under Mitigation Measures CR-2.1 through CR-2.3, a Paleontological Resource Mitigation Plan will be prepared to monitor, assess and recover (if present) significant paleontological resources and a qualified paleontologist will monitor for fossils during excavation and report accordingly. Implementation of Mitigation Measures CR-2.1 through CR-2.3, which are consistent with the Society of Vertebrate Paleontology's standard guidelines, would reduce significant impacts on unique paleontological resources during excavation to a

*less-than-significant level* if deep excavation (greater than 35 feet below the existing ground surface) were to be proposed in areas not underlain by refuse.

**Impact CR-3. Future Discovery of Human Remains.** Project grading and excavation could result in disturbance to previously undiscovered human remains.

**Mitigation Measure CR-3.1: Stop work if human remains are encountered during ground-disturbing activities.** When human remains are discovered (in either an archaeological or construction context), all work within proximity of the remains shall stop so that the archaeological monitor can examine the remains. The County Coroner shall be notified, who shall make a determination as to whether the remains are of Native American origin. If the remains are determined to be Native American, the Coroner shall notify the Native American Heritage Commission (NAHC) immediately. The NAHC shall notify those persons it believes are most likely descended from the deceased Native American. Once the NAHC identifies the most likely descendants, the descendants will make recommendations regarding proper burial, which will be implemented in accordance with Section 15064.5(e) of the State CEQA Guidelines.

**Findings CR-3.** Potential impacts associated with discovery of human remains were evaluated based on consistency with the National Historic Preservation Act, the Paleontological Resources Preservation Act, relevant portions of the California Public Resources Code, historical resources criteria and significance criteria under CEQA, General Plan goals and policies and criteria for local significance, relevant portions of the Santa Clara City Code, and the Society of Vertebrate Paleontology's *Standard Procedures for the Assessment and Mitigation of Adverse Impacts to Paleontological Resources*. Bibliographic references, previous survey reports, historic maps, and archaeological site records pertinent to the study area were compiled through a records search of the California Historical Resources Information System in order to identify prior archaeological studies and known cultural resources within a 0.5-mile area surrounding, or adjacent to, the Project site. The City also contacted the Native American Heritage Commission to request searches of the Sacred Lands file, and contacted interested Native American representatives.

Based on this evaluation, the EIR determined that, although the potential for encountering subsurface human remains in the project area is low, there is still a possibility that human remains could be present beneath the ground surface. Such remains could be exposed during project construction. If human remains are discovered, all work within the proximity of the remains will stop so that an archeological monitor can examine the remains. Native American remains will be handled in coordination with the NAHC and state law. Implementation of Mitigation Measure CR-3.1 would therefore reduce impacts on human remains to a *less-than-significant level*.

## **7. Biology**

**Impact BIO-2: Impacts on Special-Status Species—Burrowing Owls.** The Project could result in the loss of burrowing owl habitat.



**Mitigation Measure BIO-2.1: Detection of Burrowing Owls.** The Project Developer shall allow access to the Project site or off-site areas for biologists who participate in the annual burrowing owl nest survey coordinated by the Santa Clara Valley HCP/NCCP. Burrowing owl surveys are conducted between March and August of each year. As many as four surveys may be conducted each year, in accordance with the Staff Report on Burrowing Owl Mitigation<sup>8</sup> to determine whether burrowing owls are nesting and whether nests are successful. Access to the site for burrowing owl surveys shall be granted until the Project site or off-site area is completely built out. The Project Developer shall not, however, be required to postpone planned development activities to provide such access, except to the extent such postponement is necessary to meet regulatory requirements.

**Mitigation Measure BIO-2.2: Mitigation for Loss of Burrowing Owl Habitat during Construction.** Should burrowing owls begin nesting on developable portions of the Project site or off-site areas that remain undeveloped as phases of the Project are constructed, or suitable habitat within 600 meters of an active nest is removed from the Project site, then lost burrowing owl habitat shall be replaced at a ratio of at least 1:1 prior to ground-disturbing activities in the area of the Project site or off-site area with an active nest. Affected habitat shall be defined as suitable habitat (based on the habitat mapping completed for this EIR) within a 600 meter radius of an active burrowing owl nest. Suitable land cover types include annual grassland, ruderal, or barren areas. Mitigation sites shall have documented nesting occurrences from at least 1 year within the previous 3 years.

If burrowing owls move onto undeveloped portions of the Project Site or off-site area, including the Retention Basin, once the site is fully constructed, there shall be no requirement to provide replacement habitat, unless that undeveloped habitat is developed in the future.

**Findings BIO-2.** The Project impacts on burrowing owl habitat were evaluated based on burrowing owl surveys performed during the breeding season on June 20, 23, 24, 25, and 26, 2014 (Parcels 1-4) in accordance with the California Department of Fish & Wildlife (“CDFW”) March 7, 2012 Staff Report on Burrowing Owl Mitigation (“2012 Staff Report”). Because of changes in Project schedule and design, burrowing owl surveys were repeated in 2015 on March 20 (Parcel 5) and April 21, May 12, and June , 25 and 26 (Parcels 1-5) in accordance with the 2012 Staff Report. The results of these surveys were considered in the EIR, along with existing data and information regarding the Project site and surrounding environments. The EIR also examined impacts for consistency with Migratory Bird Treaty Act, Endangered Species Act, California Endangered Species Act, Santa Clara Valley Habitat Conservation Plan/Natural Community Conservation Plan, the General Plan goals and policies related to biological resources, and past attempts at burrowing owl conservation in the vicinity of the Project area.

Burrowing owls were last observed nesting on the Project site in 2006, during surveys conducted between March and June of that year. No nesting burrowing owls were located on the Project site during 2014 nesting surveys. However, in 2014, nesting burrowing owls were documented approximately 0.4 mile south of the Project site and approximately 1 mile northeast of the Project site at the Water Pollution Control Plant (which has designated burrowing owl habitat on its site). Thus, it is plausible that burrowing owls could use the Project site for

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<sup>8</sup> CDFW 2012. Staff Report on Burrowing Owl Mitigation. State of California Natural Resources Agency.

foraging, though in both cases the nesting owls would have to navigate significant infrastructure (Levi's Stadium to the south and State Route 237 to the north) to forage on the golf course.

In addition to presence on or use of the site by burrowing owls, another basis for impacts considered in the EIR was whether the Project site the site had been designated for conservation as part of the City's effort to create 103 acres of burrowing owl habitat within or around the City. In 2000, the City Council adopted a directive instructing the City Managers "seek the development and maintenance of 44.5 acres of burrowing owl habitat in some combination on ... three sites," including the closed Lafayette landfill. This effort would have voluntarily supplemented the City's separate obligation to provide 58.5 acres of land as mitigation for the loss of burrowing owl habitat related to other developments within the City. The language of the directive was not mandatory, and the City had (and has) alternative habitat sites that it could use to meet its objectives, should it decide to pursue this program in the future. Contrary to public comments, the Project site has not been designated by the City or otherwise encumbered as a conservation area for burrowing owl.

Because no burrowing owls have been observed foraging on the Project site during recent surveys, loss of potential habitat on the Project site in the immediate future would not result in the loss of burrowing owls due to provisions in Mitigation Measure BIO-2.1 and BIO-2.2. Pursuant to Mitigation Measure BIO-2.1, until the Project is built out, access to the Project site or off-site areas will be provided for biologists who participate in the annual burrowing owl nest survey coordinated by the Santa Clara Valley HCP/NCCP. Under Mitigation Measure BIO-2.2, impacted owl habitat will be replaced at a ratio of at least 1:1 prior to ground-disturbing activities in the area of the Project site or off-site area with an active nest. Implementation of Mitigation Measures BIO-2.1 and BIO-2.2 would reduce potential nesting burrowing owl impacts from the Project to a *less-than-significant* level.

**Impact BIO-3: Impacts on Special-Status Species—Western Pond Turtle.** The Project could result in impacts on western pond turtle.

**Mitigation Measure BIO-3.1: Protect Western Pond Turtles.** Prior to the start of construction activities in or within 50 feet of aquatic habitats, the Project Developer shall retain a qualified biologist to conduct preconstruction surveys for western pond turtles in all suitable habitats (aquatic and upland) in the vicinity of the work site. Surveys shall take place no more than 72 hours prior to the onset of site preparation and construction activities with the potential to disturb turtles or their habitat. If preconstruction surveys identify active nests on the Project site, the biologist shall establish no-disturbance buffer zones around each nest using temporary orange construction fencing. The demarcation shall be permeable to allow young turtles to move away from the nest following hatching. The radius of the buffer zone and the duration of exclusion shall be determined in consultation with CDFW. The buffer zones and fencing shall remain in place until the young have left the nest, as determined by the qualified biologist. If western pond turtles are found on the Project site, the Project Developer shall still retain a qualified biologist to monitor construction activities in the vicinity of suitable habitat and implement appropriate measures to protect the western pond turtle. Such measures may include removal and relocation of western pond turtles in proposed construction areas to suitable habitats outside the Project limits, consistent with DFW protocols and permits. Relocation sites shall be subject to DFW approval.

**Findings BIO-3.** Project impacts on western pond turtles were evaluated based on consistency with the Endangered Species Act, California Endangered Species Act, Santa Clara Valley Habitat Conservation Plan/Natural Community Conservation Plan, the General Plan goals and policies related to biological resources. The EIR found that the western pond turtle, a special-status wildlife species, were identified in the Project region from the CNDDDB and FWS databased within the Milpitas USGS 7.5-minute quadrangle or have the potential to occur in the Project region based on life history.

Although the western pond turtle has not been observed on the Project site, the retention pond and drainage swale on the northern part of the site, the ponds within the golf course, San Tomas Aquino Creek, and the Guadalupe River all provide suitable habitat for western pond turtles. If western pond turtles occur within the footprint of construction activities in aquatic habitats, they could be injured or killed inadvertently by construction equipment. Under Mitigation Measure BIO-3.1, preconstruction surveys will be conducted to look for western pond turtles in all suitable habitats in the vicinity of the work site. If preconstruction surveys identify active nests on the Project site, the biologist shall establish no-disturbance buffer zones around each nest. The radius of the buffer zone and the duration of exclusion shall be determined in consultation with DFW. If western pond turtles are found on the Project site, the Project Developer shall still retain a qualified biologist to monitor construction activities in the vicinity of suitable habitat and implement appropriate measures to protect the western pond turtle, including relocation. Such efforts will be consistent with DFW protocols and permits. Implementation of Mitigation Measure BIO-3.1 would reduce impacts on western pond turtles to a *less-than-significant level*.

**Impact BIO-4: Impacts on Special-Status Species and Critical Habitat—Central California Coast Steelhead, Including Critical Habitat and Central Valley Fall-Run Chinook Salmon.** The Project could result in indirect effects on San Tomas Aquino Creek and the Guadalupe River, including native fish species.

**Mitigation Measure BIO-4.1: Protect Central California Coast Steelhead, Critical Habitat, and Chinook Salmon.** Construction, operations, and maintenance on the riverbank, as well as areas within 200 feet of the Guadalupe River, that could result in disturbed sediment depositing within the banks of the channel shall be limited to the summer low-precipitation period (June 1 to October 15), unless otherwise approved by appropriate resource agencies. Limiting riverbank disturbance during these months would reduce the likelihood of adverse effects on adult and juvenile salmonid migration.

**Findings BIO-4.** Project impacts on central California coast steelhead and Chinook Salmon were evaluated based on consistency with the Magnuson-Stevens Fisher Conservation and Management Act, Endangered Species Act, California Endangered Species Act, Santa Clara Valley Habitat Conservation Plan/Natural Community Conservation Plan, the General Plan goals and policies related to biological resources.

The EIR found that Central California coast steelhead use the Guadalupe River in the Project area as a migratory pathway to Guadalupe Creek, Alamitos Creek, and upper Los Gatos Creek where they could spawn. There is a small residual steelhead run in the Alamitos and



Guadalupe Creeks. Critical habitat has also been designated in the Guadalupe River in the Project reach (70 FR 52570, September 2, 2005).

Central Valley fall-run Chinook salmon also occur in the Project area, entering and spawning in the Guadalupe River in the early fall (September or earlier). The Project reach is used as a migratory pathway to the upper areas where spawning could occur.

Noise, vibrations, artificial light, and other physical disturbances adjacent to the Guadalupe River could harass fish, disrupt, or delay normal activities, and cause injury or mortality. While most effects on steelhead and Chinook Salmon would be limited, survival may be altered if disturbance causes fish to leave protective habitat or is of sufficient duration and magnitude to affect growth and spawning success. Runoff from proposed construction activities could temporarily degrade water quality in San Tomas Aquino Creek and the Guadalupe River, thus adversely affecting steelhead and Chinook Salmon. The Project could result in increased stormwater runoff during Project operation from an increase in the amount of impervious surfaces, which may contain contaminants that could affect water quality in San Tomas Aquino Creek and the Guadalupe River as well as steelhead, Chinook salmon, and other native fish species with potential to be present in either channel. Mitigation Measure BIO-4.1 provides site-specific measures to limit impacts to special-status fish. As prescribed by Mitigation Measure BIO-4.1, limiting construction, operations, and maintenance on the riverbank of the Guadalupe River, as well as areas within 200 feet of the river, that could result in disturbed sediment depositing within the banks of the channel to the summer low-precipitation period (June 1 to October 15), will reduce the likelihood of salmon impacts. Implementation of Mitigation Measure BIO-4.1 would reduce impacts on steelhead and fall-run Chinook salmon resulting from construction activities adjacent to the Guadalupe River to a *less-than-significant level*.

**Impact BIO-5: Substantial Effect on Wetlands and Other Waters.** The Project could result in the loss of or damage to wetlands and other waters.

**Mitigation Measure BIO-5.1: Protect Retention Pond and Eastside Retention Drainage Swale, and San Tomas Aquino Creek and the Guadalupe River Aquatic Habitat during Construction.** For construction activities within 50 feet of the aquatic habitat associated with the retention pond and drainage swale, protective measures shall be put in place to ensure that impacts on those aquatic features shall be avoided and minimized. The following measures shall be deployed during construction:

A qualified biologist shall determine the locations where orange construction barrier fencing shall be installed around aquatic resources (U.S. Army Corps of Engineers ("USACE") and State Water Resources Control Board jurisdictional wetlands/waters and DFW jurisdictional lakes and streams) that are to be avoided prior to initiation of construction activities.

Designate the protected area an Environmentally Sensitive Area and clearly identify the area in the construction specifications.

Maintain jurisdictional wetlands/waters protection fencing throughout the grading and construction period.

Prohibit grading, construction activity, traffic, equipment, or materials in fenced wetland areas.

**Mitigation Measure BIO-5.2: Compensate for Loss of Waters of the U.S. and State (including Wetlands).** If impacts to jurisdictional waters of the U.S. or State cannot be avoided, the Project Developer shall obtain permits or approvals to develop from the USACE, the RWQCB, and DFW, as appropriate and required. Both the Guadalupe River and San Tomas Aquino Creek are subject to both State and federal jurisdiction because of their connection to the Bay. To ensure that the Project results in no net loss of wetland habitat functions and values, the Project Developer shall compensate for the loss of jurisdictional wetlands/waters through one of the following options:

- Purchase of agency-approved mitigation credits from a suitably located mitigation bank prior to construction (ground disturbance that impacts wetlands/waters);
- On-site wetland/waters restoration (re-establishment or rehabilitation) establishment (creation) prior to or concurrent with construction impacts;
- Off-site wetland/waters restoration (re-establishment or rehabilitation)/establishment (creation) prior to or concurrent with construction; or
- A combination of two or more of the above.

The amount of agency approved mitigation credits required from a suitably located mitigation bank and/or size (area) and location(s) of the area(s) to be restored (re-established)/established (created) shall be based on appropriate mitigation ratios, as derived in consultation with DFW, USACE, and the RWQCB. The Project Developer shall prepare and implement a mitigation and management plan (MMP) as part of the permitting process in conformance with the US Environmental Protection Agency/USACE 2008 Mitigation Rule. The mitigation ratios shown in the initial draft MMP submitted to the permitting agencies during Project permitting shall be a minimum of 2:1, as determined through the CEQA process. The MMP, if other than sole purchase of mitigation bank credits, shall include the requirements listed below:

- Mitigation implementation plan;
- Performance (success) standards or criteria to be met in order to determine that the mitigation has successfully replaced the impacted wetlands/waters in terms of “no net loss” of the impacted functions and values;
- 5-year monitoring plan for determining that performance criteria have been successfully met through the collection of wetlands/waters vegetation survival and cover field data;
- Hydrology flooding, ponding, and/or soil saturation field data, and habitat area data;
- 5-year maintenance plan for insuring mitigation success;
- Adaptive management plan to be implemented if mitigation performance is found through annual monitoring not to be progressing towards success within the 5-year monitoring period;
- Conservation plan to ensure in-perpetuity land use protection of the mitigation site;
- Long-term (in-perpetuity) conservation management plan; and
- Funding plan for mitigation implementation, 5-year mitigation performance monitoring and maintenance, and an endowment (non-wasting fund) for long-term conservation management.

The final MMP shall be determined in consultation with DFW, USACE, and the Regional Water Board. The mitigation plan shall include measure to avoid and minimize the effects of construction on surrounding native habitats. The required performance standard is no net loss of wetland and waters habitat function and values. Monitoring shall occur for a minimum of 5 years, at which time, if the success criteria are met, wetland compensation shall be deemed complete.

**Findings BIO-5.** The impacts on wetlands and other waters associated with the Project were evaluated based on consistency with the Clean Water Act, River and Harbors Act, Magnuson-Stevens Fisher Conservation and Management Act, Endangered Species Act, California Fish and Game Code Section 1600, California Endangered Species Act, Porter-Cologne Water Quality Control Act, Santa Clara Valley Habitat Conservation Plan/Natural Community Conservation Plan, the General Plan goals and policies related to biological resources.

Based on this evaluation, the EIR found that some aquatic land cover types would be lost as a result of the Project. The retention pond could be affected during construction activities, drainage ditches internal to the Project site could be removed and the internal golf course and driving range ponds and vegetated depressions would be removed. In addition, there would be impacts in San Tomas Aquino Creek from instream work associated with the new bridge footings in the creek. Final impacts on ditches creeks, ponds, and vegetated depressions would be calculated once final design of Project features is complete.

Additionally, waters of the United States, including those in California, could be indirectly affected by erosion and stormwater runoff from construction activities. Erosion from land-disturbing construction activities and exposed stockpiles could result in a temporary increase in sediment loads in receiving waters, thereby degrading water quality. Construction of the new bridge over San Tomas Aquino Creek could also temporarily cause erosion and the discharge of construction-related pollutants, which could contaminate any flows that are present.

Mitigation Measure BIO-5.1 will use protective measures to avoid and minimize impacts on aquatic features for construction activities within 50 feet of the aquatic habitat associated with the retention pond and drainage swale. Under Mitigation Measure BIO-5.2, the Project Developer will mitigate any impacts to jurisdictional ponds, wetlands, or drainage ditches, San Tomas Aquino Creek, or the Guadalupe River by at least a 2:1 ratio, and will implement a mitigation and monitoring plan to ensure successful mitigation. Implementation of Mitigation Measures BIO-5.1 and BIO-5.2 would reduce impacts on wetlands and other waters to a *less-than-significant level*.

## **8. Geology and Soils**

**Impact GEO-1: Soil Erosion.** Construction of the Project would expose soil and buried refuse, potentially resulting in substantial soil erosion.

**Mitigation Measure GEO-1.1: Detailed Grading and Erosion Control Plan.** A detailed grading and erosion control plan shall be prepared and submitted to the City Building Department. The plan shall cover all Project parcels (not just the landfill portions) and off-site



areas and include all information required to demonstrate that earthwork activities will be in compliance with CCR 21190 et seq. and incorporate by reference the Project's Storm Water Pollution Prevention Plan, as required by the Construction General Permit

**Findings GEO-1.** The soil erosion impacts associated with the Project were evaluated based on the preliminary geotechnical investigations (one for Parcels 1-4 and one for Parcel 5). Reports documenting these investigations were prepared by Langan (Parcels 1-4) and Cornerstone Earth Group (Parcel 5). Additional information was obtained from other geotechnical reports and memoranda and government agency documents and websites. The preliminary geotechnical investigations also relied on previously completed geotechnical investigations at the Project site. Based on these data, the preliminary geotechnical investigations performed engineering analyses to develop preliminary conclusions and recommendations regarding appropriate foundation types, design parameters, and seismic coefficients for Project development. The EIR also assessed Project impacts in light of the National Earthquake Hazards Reduction Program, the Alquist-Priolo Earthquake Fault Zoning Act, California Building Code, Seismic Hazards Mapping Act, California requirements related to landfill closure, monitoring and maintenance, the City Code, and General Plan goals and policies related to structural design and geologic conditions.

Due to uneven topography at the Project site, created by the underlying refuse layers, large areas of soil may be exposed during grading activities. This may allow erosion from wind and stormwater runoff to occur. Other excavation and grading activities conducted in proximity to receiving water bodies could, if not managed properly, result in discharges of sediment-laden runoff to these waters. Mitigation Measure GEO-1.1 requires preparation of a City-approved grading and erosion control plan that demonstrates that earthwork activities will be in compliance with CCR 21190 et seq. and incorporate by reference the Project's SWPPP, as required by the Construction General Permit. Additional measures to prevent the entrainment of soils and refuse in stormwater runoff during construction will be required as part of compliance with the National Pollutant Discharge Elimination System ("NPDES") General Permit for Construction Activities (Construction General Permit), as described in more detail in EIR Section 3.10, Hydrology and Water Quality. Compliance with these requirements and implementation of Mitigation Measure GEO 1.1 would reduce potential erosion impacts at the Project site and off-site areas during construction activities to a *less-than-significant* level.

**Impact GEO-2: Unstable Soils.** Unstable soils, perimeter sideslopes susceptible to landslides, and areas subject to liquefaction at the Project site and off-site areas may result in damage to, or settlement of, buildings and other improvements and/or ground failure. This has the potential to create significant risks to structures and human lives.

**Mitigation Measure GEO-2.1: Design-Level Geotechnical Investigation.** Prior to the issuance of demolition, grading, or construction permits at the Project site, a design-level geotechnical investigation shall be conducted by a qualified professional (the qualified professional shall be retained by the Project Developer). The investigation shall include further field exploration (e.g., borings, cone penetration tests, test pits and/or geophysical surveys) to develop design-level recommendations to address erosion and other geotechnical concerns for the Project. The design-level geotechnical investigation shall include:

*Evaluation of anticipated settlement.* Additional soil borings shall be installed to determine the depth to the refuse layer for aid in preparing grading plans. Additional samples shall be analyzed to determine potential settlement and determine the likely final post-settlement surface elevation. The potential magnitude of differential settlements between improvements supported by a combination of structural slab and deep foundations and those that are supported by other foundation systems shall be fully analyzed and detailed in the design-level geotechnical report.

*Evaluation of liquefaction potential.* Additional borings shall be drilled at the Project site and off-site areas to fully characterize the liquefaction hazard associated with the Project.

*Evaluation of slope instability.* A detailed slope stability analysis for all existing slopes that would remain under the Project, including the perimeter landfill slopes, and all proposed new slopes shall be prepared.

*Evaluation of expansive soils.* Additional borings shall be drilled at the Project site and off-site areas to fully characterize the expansive soil hazard associated with the Project.

*Evaluation of corrosive soils.* Project site and off-site soils and, in those areas where foundation components would come into contact with landfill materials, refuse shall be evaluated for corrosion potential.

The design-level geotechnical investigation work plan shall be submitted for review and approval in accordance with Mitigation Measure GEO-2.6.

**Mitigation Measure GEO-2.2: Final Geotechnical Report Review. Final Geotechnical Report Review.** A final geotechnical report shall be prepared by a qualified professional based on the findings of the design-level geotechnical investigation (the qualified professional shall be retained by the Project Developer). The final report shall be submitted for review and approval in accordance with Mitigation Measure GEO-2.6. The final geotechnical report shall include:

Measures to address anticipated settlement:

Specifications of methods to address differential settlement between improvements supported by a combination of structural slab foundations and those that are supported by other deep foundation systems or unsupported areas.

Exterior slabs and ramps attached to buildings shall be hinged to allow the end of the slab or ramp not attached to the building to move downward as settlement occurs. The design shall not allow building entrance slabs to exceed a 5 percent grade, in compliance with ADA access requirements, and vehicular entrances shall not be allowed to exceed an 11 percent grade to prevent vehicles from scraping during entry or exit.

Settlement vaults and flexible connections shall be required at locations where utilities transfer from a pile-supported building to a non-supported area for all phases of construction.

Roadway and other paving at the Project site not located above an area-wide structural slab shall be constructed with flexible materials, such as asphalt or interlocking pavers. The use of concrete and other non-flexible materials shall be minimized. Where non-flexible material is used, expansion and spacing joints that allow rigid materials to shift without breaking shall be used to allow for anticipated settlement.

Measures to address liquefaction:

In those areas not supported by the structural slab foundation (which would effectively mitigate the liquefaction hazard), other measures shall be developed to mitigate the hazard, such as shallow footings constructed over ground improvement. Foundations for structures shall be designed to completely mitigate settlement hazards associated with liquefaction (i.e., no liquefaction-induced settlement damage shall be accepted for the final design).

Measures to address slope instability:

Measures (e.g., reducing slope steepness, providing structural support, or ground improvement) to ensure that an appropriate factor of safety (both static and seismic) is achieved for each slope.

Measures to address expansive soils:

In those areas not supported by the structural slab foundation (which would effectively mitigate the hazard), other measures shall be developed to mitigate the hazard, such as removal of the problematic soils, treatment of the soils, or specification of appropriate foundation design. If any soils characterized as highly or moderately expansive (linear extensibility of 3.0 percent or more) are to remain at the surface or be used as fill in the upper 5.0 feet, these soils shall be treated (using calcium-based treatment or similar approach) such that the soils are reduced to a low expansion potential (linear extensibility of less than 3.0 percent).

Measures to address corrosive soils:

A corrosion consultant shall be retained to provide specific recommendations regarding the long-term corrosion protection of pile elements and other subsurface materials. The recommendations of the corrosion consultant, which may include use of specific corrosion-resistant materials and/or treatment of corrosive soils, shall be implemented during construction.

**Mitigation Measure GEO-2.3: Construction Quality Assurance Plan.** A Construction Quality Assurance (CQA) Plan that covers both the Project site and off-site areas shall be prepared by the Project Developer for review and approval by the Director of Public Works. The CQA Plan shall establish procedures for testing final cover materials, detail the responsibilities of construction monitoring personnel, and provide procedures for addressing unexpected geologic conditions during grading activities.



**Mitigation Measure GEO-2.4: Final Project Design Review.** Final Project design plans that cover both Project site and off-site areas shall be prepared by the Project Developer and submitted for review and approval in accordance with Mitigation Measure GEO-2.6. Project site structures shall be designed to accommodate predicted ground settlement, as determined in the design-level geotechnical investigation for the Project improvements (see Mitigation Measure GEO-1.1).

For the portion of the Project overlying the Landfill, the Post-Closure Land Use Plan shall demonstrate that Project design will be protective of public health and safety and the environment, as required by 27 CCR 21190. Because of the potential for encountering buried obstructions, contingencies for relocating Auger Cast-in Place Piles and Drilled Displacement Columns during construction shall be included in the foundation design. The Project design plans shall be subject to review and approval by the City Building Department prior to initiation of field activities.

**Mitigation Measure GEO-2.5: Site Operation, Monitoring, and Maintenance Plan.** A Site Operation, Monitoring, and Maintenance Plan that covers both the Project site and off-site areas shall be prepared by the Project Developer and submitted for review and approval in accordance with Mitigation Measure GEO-2.6. The Site Operation, Monitoring, and Maintenance Plan shall establish procedures for inspecting structures and improvements as well as evaluating the effects of settlement. It will also establish a mechanism for funding and implementing the Plan's activities throughout the life of the Project.

Inspections that focus on documenting settlement, particularly at locations where different support systems meet, shall take place at least quarterly during the first 2 years following the completion of each phase of Project construction. Documentation of each inspection shall be submitted to for review and approval in accordance with Mitigation Measure GEO-2.6 within 30 days of inspection completion. After 2 years, the frequency of inspections may be adjusted with written consent from each agency that approved the Site Operation, Monitoring, and Maintenance Plan. The Site Operation, Monitoring, and Maintenance Plan shall detail the qualifications and responsibilities of monitoring personnel, including immediate notification of the City Building Department of any settlement that could affect the structural integrity of a building and/or structure or settlement that could create a hazard for the public (e.g., separations that create trip hazards for pedestrians). If the types of settlements are observed that could compromise structural integrity or cause hazards for the public, based on the judgment of the qualified inspector, remedial action shall be promptly completed. The Plan shall designate financial responsibility for remedial actions should the effects of settlement be identified and provide timetables for any required remedial action. All remedial action shall be overseen by the qualified geotechnical consultant designated by the Plan and approved by each agency that approved the Site Operation, Monitoring, and Maintenance Plan. Quarterly reports detailing inspection and remedial activities shall be submitted to each agency that approved the Site Operation, Monitoring, and Maintenance Plan following each inspection for review and approval.

**Mitigation Measure GEO-2.6: Review and Approval by Relevant Regulatory Agencies.** To the extent reports and plans required by Mitigation Measures GEO-2.1, -2.2, -2.3, -2.4 or -2.5 address the portion of the Project site overlying the Landfill, they shall be submitted

jointly by the City (as owner and operator of the landfill) and the Project Developer for review and approval to the following: (i) the Local Enforcement Agency as principal landfill regulator; (ii) the Regional Water Board for approval of the issues related to the low permeability layer of the final landfill cover pursuant to 27 CCR 21990 (d) and pilings installed in or through the bottom liner of the landfill liner pursuant to 27 CCR 21990 (e)(6), and for review but not approval of other aspects of the plans and reports; (iii) to Cal Recycle for review, but not approval; and (iv) any other agency which is specifically required by applicable law to approve a particular report, plan or component thereof. To the extent reports and plans required by this mitigation measure relate to other portions of the site not overlying the Landfill, they shall be submitted by the Developer to the City, and to any agency which is specifically required by applicable law to approve a particular report, plan or component thereof, for review and approval.

**Findings GEO-2.** Unstable soils impacts associated with the Project were evaluated based on the preliminary geotechnical investigations (one for Parcels 1-4 and one for Parcel 5). Reports documenting these investigations were prepared by Langan, (Parcels 1-4), and Cornerstone Earth Group, (Parcel 5). Additional information was obtained from other geotechnical reports and memoranda and government agency documents and websites. The preliminary geotechnical investigations also relied on previously completed geotechnical investigations at the Project site. Based on these data, the preliminary geotechnical investigations performed engineering analyses to develop preliminary conclusions and recommendations regarding appropriate foundation types, design parameters, and seismic coefficients for Project development. The EIR also assessed Project impacts in light of the National Earthquake Hazards Reduction Program, the Alquist-Priolo Earthquake Fault Zoning Act, California Building Code, Seismic Hazards Mapping Act, California requirements related to landfill closure, monitoring and maintenance, the City Code, and General Plan goals and policies related to structural design and geologic conditions.

Over the life of the Project, the refuse layer is expected to continue to compact, resulting in uneven settlement which could threaten the structural integrity of buildings, utilities and other improvements. The Preliminary Geotechnical Investigation (Parcels 1-4) and Preliminary Building Pile/Foundation Evaluation Technical Memo provided recommendations to address the potential for settlement including different foundation options, use of roadway materials, building access point design, and underground utility design. The presence of saturated layers of loose to medium dense sand suggests that these layers could liquefy and result in seismically induced settlement. Steep slopes at the Project site could cause landslides and adversely affect existing roadways and/or off-site properties. Lateral spreading, expansive soils, and corrosive soils could also impact construction materials.

Mitigation Measures GEO-2.1 through GEO-2.6 would reduce potential impacts due to unstable soils to a *less-than-significant level* by: (1) requiring a design-level geotechnical investigation prior to commencement of grading, or construction, including additional characterization of settlement potential, liquefaction potential, analysis of slope stability, distribution of expansive soils, and testing of soil and subsurface corrosion potential; (2) developing specific design measures to address each of the identified geologic hazards (e.g., specification of use of corrosion-resistant concrete in areas of moderate to high soil corrosion potential); (3) implementing the specified design measures during construction;

(4) implementing a Site Operation, Monitoring, and Maintenance Plan that includes regular inspections, including a funding mechanism to address any issues that may arise during the operation period; and (5) assignment of responsible parties for implementation.

## **9. Hydrology and Water Quality**

**Impact WQ-1: Violation of Water Quality Standards or WDRs.** The Project could result in a violation of water quality standards or WDRs.

**Mitigation Measure WQ-1.1: Design and Implement Stormwater Control Measures.** In compliance with Provision C.3 of the San Francisco Bay MS4 Permit and the Santa Clara Valley Water District's 100-year peak flood requirements, post-construction stormwater controls shall be implemented to reduce total runoff rates and associated pollutant discharges.

According to the Santa Clara Valley Urban Runoff Pollution Prevention Program's C.3. Stormwater Handbook, the three methods for hydraulically sizing flow-based stormwater treatment control measures are (1) volume-based, (2) flow-based, or (3) a combination of volume-/flow-based hydraulic sizing criteria. The simplified method for sizing bioretention areas and flow-through planters, known as the "4 percent method," is based on a runoff inflow of 0.2 inch per hour, with an infiltration rate through biotreatment soil of 5 inches per hour. The 4 percent method requires the treatment measure to be 4 percent of the impervious area that drains to it.

The design of the stormwater treatment measures is currently at the conceptual level and further details will be addressed as part of the planning, construction, and operation of the development. The treatment measures shall be designed to remove pollutants from stormwater using filtration, infiltration, and sedimentation. Because infiltration is not feasible due to the landfill, the treatment measures must be built into the structure of the development above the landfill itself. The stormwater treatment measures that provide infiltration shall be lined with an impermeable liner on the bottom and sides. Just above the liner there must be a layer of clean gravel and a network of perforated piping (underdrains). These underdrains must connect to solid drain piping at the exit of the treatment area and ultimately be connected to the storm drainage infrastructure. All of these components shall exist above the podium structure. The impermeable liner would prevent any leaks or ruptures into the landfill and structures. There shall also be perforated underdrain piping connected to solid piping at the exit of the treatment measure/planter solid piping that will connect to the storm drain infrastructure at manholes where leak monitoring can be performed. More information on the potential hazards of a leak or rupture of the stormwater treatment measures causing flooding of the landfill gas venting lines is provided in EIR Section 3.11, Hazards and Hazardous Materials. The following stormwater treatment (or Low Impact Development) measures are examples that will be considered and carefully selected as part of the final design process for the different sections of the proposed development:

Bioretention Areas (impermeable liner with underdrain—no infiltration into landfill)

Flow-through Planters



Tree Well and Media Filters

Infiltration Trenches (impermeable liner with underdrain—no infiltration into landfill)

Rainwater Harvesting and Reuse

Green Roofs

Green Streets (with bioretention, impermeable liner, and underdrain)

Pervious Pavements (impermeable liner with underdrain—no infiltration into landfill)

As noted above, a minimum of 4 percent of the site area shall be used for the stormwater treatment measures. As part of final design, these treatment measures for the Project site shall be incorporated into the aesthetics of the landscape. Some attenuation of the peak flows can be recognized, depending on the measures selected. The measures shall include an overflow to safely convey the more intense, less frequent rainfall events.

The stormwater treatment measures shall capture sufficient flows so that 100-year peak flood elevations or existing design flows within San Tomas Aquino Creek and the Guadalupe River will not increase as part of the Project. The exact reduction in 100-year peak runoff volumes and flows that the stormwater management measures will need to accommodate will be determined during the design process for the stormwater management measures and will be provided in the detailed Project Stormwater Management Plan.

Due to construction phasing, construction of interim treatment measures may be required once the 40-acre concrete pad has been constructed and before the surface of the pad is developed with new structures with their own associated post-construction stormwater treatment features. These interim measures will be reported to the San Francisco Bay Water Board. The stormwater management measures for each parcel shall be modeled during final design for buildings, parking garages, site landscaping, etc. Dynamic hydraulic modeling shall be used. Dynamic hydraulic modeling tracks the quantity and quality of runoff generated within each subcatchment as well as the flow rate, flow depth, and quality of water in each pipe and channel during a simulation period with multiple time steps. The results of the modeling shall be used to compare the proposed “permanent” stormwater peak flows and volumes for the Project with the existing peak flows and show compliance with the jurisdictional regulations. The dynamic hydraulic modeling shall consider the potential runoff volumes and rates coming from the top of the landfill. The resulting design of stormwater management measures shall be required to be sufficient to protect water quality and habitat resources along receiving waterways.

A Stormwater Management Report, including detailed hydrologic and hydraulic calculations, analysis, and conclusions, shall be prepared to document the final design of the stormwater management and storm drain system and obtain the requisite approvals.

**Findings WQ-1.** Potential Project impacts associated with water quality standards or WDRs were assessed based on consistency with the Clean Water Act, National Flood Insurance Program, Porter-Cologne Water Quality Control Act, relevant portions of the California Water Code, California Department of Fish and Game Code 1602 Lake and Streambed Alteration

Agreement requirements, the MS4 Phase I San Francisco Bay Region Municipal Regional Stormwater NPDES Permit No. CAS029718 (Order No. R2-2009-0074-DWQ, Revised November 28, 2011; NPDES Permit No. CAS612008) (San Francisco Bay MS4 Permit), WDRs for the City of Santa Clara All-Purpose Landfill, analysis of the General Plan goals and policies related to hydrology and water quality, SCVWD requirements, and the Santa Clara Valley Urban Runoff Pollution Prevention Program.

The surface water hydrology impact analysis considered changes in water bodies, impervious surfaces, and drainage patterns. Information on the change in impervious surface, runoff quantities, and drainage patterns was provided by Langan Treadwell Rollo. The analysis of changes of on-site water bodies involved a comparison of existing on-site hydrological conditions and new/modified conditions proposed as part of the Project, which were provided in the Hydrology/Water Quality Report for CityPlace Santa Clara (June 30, 2015), prepared by Langan Treadwell Rollo, and other sources.

Potential impacts on groundwater supply and groundwater quality were analyzed using information from the publically available publications and site-specific technical reports, including the Preliminary Geotechnical Investigation (August 22, 2014), prepared by Langan Treadwell Rollo, and groundwater monitoring reports associated with the former landfill at the site. The potential for Project actions, including penetrations of the landfill cover, to mobilize contaminants and degrade groundwater quality (and potentially affect groundwater supplies away from the site) was evaluated. The Stormwater Technical Memorandum for CityPlace Santa Clara (June 30, 2015), prepared by Langan Treadwell Rollo, was also relied upon.<sup>9</sup>

Impacts of the Project on surface water and groundwater quality were analyzed using information on potential existing sources of pollution generated by activities, such as vehicle use and parking, golf course and building maintenance, pesticide use, trash, and material storage. These impacts were then compared to potential Project-related sources of pollution during Project construction, such as sediments and other construction materials, and during Project operation, such as vehicle use, building maintenance, pesticide use, trash, and storage of hazardous materials.

Based on this evaluation, the EIR determined that land-disturbing activities and placement of stockpiled during within proximity to storm drain inlets during construction could result in a temporary increase in sediment loads to receiving waters. Construction of new roadways in off-site areas could result in discharge of sediment into nearby storm drains. Delivery, handling, and storage of construction materials and wastes (e.g., concrete debris), as well as the use of heavy construction equipment, could result in stormwater contamination and thereby affect water quality.

Groundwater could also be affected during construction. Grading and other excavation activities during Project construction would have the potential to temporarily modify the existing low-permeability landfill cover, which could allow precipitation and runoff to infiltrate into the underlying waste.

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<sup>9</sup> This memorandum has been updated and appended into the Infrastructure Master Plan that is part of the Master Community Plan for the Project. The findings in this updated memorandum are consistent with the findings in these CEQA findings with respect to Impact WQ-1.

During the operation and maintenance phase, new roadways may increase traffic and, therefore, contribute pollutants associated with roadways. At full development, impervious area would increase, potentially resulting in increased stormwater volumes and rates during a rain event.

Implementation of Mitigation Measure WQ-1.1 would ensure water quality and consistency with WDRs. The Project would be designed to comply with San Francisco Bay MS4 Permit Provision C.3. With regulatory compliance and implementation of Mitigation Measure WQ-1.1, the Project would not result in any increase in 100-year peak flood elevations within San Tomas Aquino Creek and the Guadalupe River, in compliance with Santa Clara Valley Water District ("SCVWD") requirements. Therefore, such measures would reduce potential flooding and water quality impacts during Project operation to a *less-than-significant level*.

**Impact WQ-3: Changes to the Existing Drainage Patterns.** The Project could substantially alter the existing drainage pattern of the site and could result in substantial erosion, siltation, or flooding on-site or off-site.

**Mitigation Measure WQ-1.1:** See Mitigation Measure WQ-1.1, described above.

**Mitigation Measure WQ-3.1: Design New Bridge and Outfall Structures to Avoid Increase in 100-year Flow or Existing Design Flow and Channel Erosion.** In compliance with the SCVWD's 100-year peak flood requirements, any new bridge and new outfalls in San Tomas Aquino Creek shall be designed to avoid increases in the 100-year flow and to avoid creek bed/channel erosion. The design shall also consider erosive action or redirection of flow during more frequent flood events in compliance with the City of Santa Clara's storm drainage design criteria<sup>10</sup> and consistent with SCVWD's guidance.<sup>11</sup> The outfalls will be set at elevations high enough to ensure the locations of outfalls are above sediment levels within the bottom of the creek.<sup>12</sup> The design shall be provided to the City of Santa Clara and the SCVWD for review and approval for the Project. Construction would be done in phases. For example, the new bridge over the San Tomas Creek would not be needed until Phase 4 and outfalls to the eastside drainage ditch would not be needed until later phases. The design review approval of outfalls shall occur prior to the issuance of the building permit for the development that triggers the need for the outfall or associated construction activity, and on a schedule similar to the phases of construction.

**Mitigation Measure WQ-3.2: Vegetation Removal from the Retention Basin Drainage Swale.** In accordance with the Retention Basin Drainage Swale Vegetation Clearing Project, and prior to the placement of new impervious surfaces on Parcels 1 or 2, overgrown tule

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<sup>10</sup> City of Santa Clara. 2015. Design Criteria for Improvements in Public Right-of-Ways and City Easements. Public Works Department. April. Available: <http://santaclaraca.gov/home/showdocument?id=14345>. Accessed: 12/29/15.

<sup>11</sup> Santa Clara Valley Water District. 2006. User Manual: Guidelines & Standards for Land Use Near Streams. A Manual of Tools, Standards, and Procedures to Protect Streams and Streamside Resources in Santa Clara County. Prepared by the Santa Clara Valley Water Resources Protection Collaborative. Originally adopted in August 2005. Revised: July 2006.

<sup>12</sup> Outfalls and work within the SCVWD right-of-way are subject to approval and issuance of permits by the SCVWD.



and cattails shall be removed from the entire length of the drainage swale to restore the swale's flood protection capacity and protect residents and businesses. Vegetation in the drainage swale shall be mowed by hand using rotary mowers, and tule and cattails shall be cut down to 3 to 4 inches above the ground surface. The clippings shall be loaded by hand and hauled from the drainage swale to the Retention Basin where the vegetation will dry out. Once dry, the vegetation shall be transported to the Newby Island Landfill. It is estimated that initial removal of overgrown vegetation will generate approximately 300 cubic yards of debris. Prior to performance of this work, all necessary permits shall be obtained from environmental regulatory agencies for this vegetation removal, including any required compensation for loss of wetland/riparian vegetation.

**Findings WQ-3.** Potential Project impacts associated with drainage patterns were assessed based on consistency with the Clean Water Act, National Flood Insurance Program, Porter-Cologne Water Quality Control Act, relevant portions of the California Water Code, the MS4 Phase I San Francisco Bay Region Municipal Regional Stormwater NPDES Permit No. CAS029718 (Order No. R2-2009-0074-DWQ, Revised November 28, 2011; NPDES Permit No. CAS612008) (San Francisco Bay MS4 Permit), WDRs for the City of Santa Clara All-Purpose Landfill, the General Plan goals and policies related to hydrology and water quality, SCVWD requirements, and the Santa Clara Valley Urban Runoff Pollution Prevention Program. The surface water hydrology impact analysis considered changes in water bodies, impervious surfaces, and drainage patterns. Information on the change in impervious surface, runoff quantities, and drainage patterns was provided by Langan Treadwell Rollo. The analysis of changes of on-site water bodies involved a comparison of existing on-site hydrological conditions and new/modified conditions proposed as part of the Project, which were provided in the Hydrology/Water Quality Report for CityPlace Santa Clara (June 30, 2015), prepared by Langan Treadwell Rollo, and other sources. The Stormwater Technical Memorandum for CityPlace Santa Clara (June 30, 2015), prepared by Langan Treadwell Rollo, was also analyzed.<sup>13</sup>

Based on this analysis, the EIR found that project construction activities would alter existing drainage patterns and could result in local (on-site) and temporary erosion and siltation during construction. Sediment transport to local drainage facilities such as drainage inlets, culverts, and storm drains could also result in reduced storm flow capacity, resulting in localized ponding or flooding during storm events.

During operation, the Project would alter on-site drainage patterns with development of buildings, roadways, and open space areas, which would modify elevations on the Project site and thereby alter the stormwater runoff pattern. The Rational Method, as prescribed in the Santa Clara County Drainage Manual, was used to estimate the preliminary peak discharges for the combined on-site and off-site areas that are tributary to San Tomas Aquino Creek and the Guadalupe River for the 10-year and 100-year events. The peak flows for the four sub-watersheds were evaluated for the existing (pre-development) and proposed (post-development) conditions, assuming no on-site stormwater attenuation (Table 3.10-5). As shown in EIR Table

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<sup>13</sup> This memorandum has been updated and appended into the Infrastructure Master Plan that is part of the Master Community Plan for the Project. The findings in this updated memorandum are consistent with the findings in these CEQA findings with respect to Impact WQ-3.

3.10-5, proposed 10-year and 100-year peak flows would increase in the Eastside Channel and the Basin Direct subwatersheds, both of which flow into the Guadalupe River. For final design, under SCVWD criteria, the public underground piped storm drain conveyance system would need to be capable of conveying the 10-year peak runoff as well as safely convey the 100-year event peak flows near storm drain pump systems. However, because of a reduction in capacity resulting from vegetation growth, the Retention Basin drainage swale cannot safely convey 100-year peak flows under existing conditions.

Public streets would need to be designed such that the 100-year event flow remains within the roadway limits and not extend into private property. The bridge constructed above San Tomas Aquino Creek has not yet been designed but may also affect 100-year flood flows. In addition, the new outfalls within San Tomas Aquino Creek have not yet been designed but could also affect 100-year flood flows and cause changes to the existing channel morphology. Implementation of Mitigation Measure WQ-3 will minimize these impacts.

Under Mitigation Measure WQ-3.1, any new bridge and new outfalls in the San Tomas Aquino Creek will be designed and approved by the City and SCVWD to avoid increases in the 100-year flow and to avoid creek bed/channel erosion. Under Mitigation Measure 3.2, vegetation would be removed from the retention basin drainage swale to ensure conveyance of peak flows to the appropriate drains. The Project would be designed to comply with San Francisco Bay MS4 Permit, SCVWD requirements, Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP), and City requirements. With regulatory compliance and implementation of Mitigation Measure WQ-1.1 and Mitigation Measures WQ-3.1 and WQ-3.2, impacts from Project related to operational flooding or associated erosion *would be less than significant*.

**Impact WQ-4: Changes to Stormwater Runoff.** The Project could create or contribute runoff water that would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff.

**Mitigation Measure.** See WQ-1.1, described above.

**Findings WQ-4.** Potential Project impacts associated with stormwater runoff were assessed based on consistency with the Clean Water Act, National Flood Insurance Program, Porter-Cologne Water Quality Control Act, relevant portions of the California Water Code, the MS4 Phase I San Francisco Bay Region Municipal Regional Stormwater NPDES Permit No. CAS029718 (Order No. R2-2009-0074-DWQ, Revised November 28, 2011; NPDES Permit No. CAS612008) (San Francisco Bay MS4 Permit), WDRs for the City of Santa Clara All-Purpose Landfill, analysis of the General Plan goals and policies related to hydrology and water quality, SCVWD requirements, and the Santa Clara Valley Urban Runoff Pollution Prevention Program. The surface water hydrology impact analysis considered changes in water bodies, impervious surfaces, and drainage patterns. Information on the change in impervious surface, runoff quantities, and drainage patterns was provided by Langan Treadwell Rollo. The analysis of changes of on-site water bodies involved a comparison of existing on-site hydrological conditions and new/modified conditions proposed as part of the Project, which were provided in the Hydrology/Water Quality Report for CityPlace Santa Clara (June 30, 2015), prepared by Langan Treadwell Rollo, and other sources. The Stormwater Technical Memorandum for

CityPlace Santa Clara (June 30, 2015), prepared by Langan Treadwell Rollo, was also analyzed.<sup>14</sup>

As stated in Impact WQ-3, a preliminary evaluation of the drainage infrastructure for the Project indicated sufficient capacity to convey 100-year peak or appropriate design flows for floods control. However, the Project would most likely ultimately abandon the existing Golf Course Pump Station system and possibly upgrade the Eastside Storm Drain Pump Station. The Hydrologic Engineering Center's Hydrologic Modeling System (HEC-HMS) was used to model the entire watershed tributary to the Retention Basin and estimate a peak runoff rate for 10-year and 100-year storm events. The Hydrologic Engineering Center's River Analysis System (HEC-RAS) was used to evaluate water surface impacts on San Tomas Aquino Creek, the Guadalupe River and the Eastside Drainage Channel. The modeling will help design the storm system upgrades so that the 100-year storm elevations within the waterways are unchanged as a result of elimination of the pump station system.

Mitigation Measure WQ-1.1 will ensure that all stormwater runoff is handled appropriately. The final design for the stormwater management and storm drainage system would be required to meet several criteria (e.g., the Santa Clara County Drainage Manual watershed criteria, SCVURPPP Provision, C.3 post-construction stormwater criteria, SCVWD levee recertification, and 100-year flood criteria) to ensure sufficient storm drain capacity for the Project. Therefore, the Project would not create or contribute runoff water that would exceed the capacity of the existing stormwater drainage systems.

There are numerous non-standard design elements to address the landfill aspects of the Project, including settlement vaults, flexible connections, structural slabs, and utility corridors in refuse. Any potential additional sources of runoff created by the Project would be treated with the stormwater management measures described in Mitigation Measure WQ-1.1. With implementation of Mitigation Measure WQ-1.1, the Project would not provide substantial additional sources of polluted runoff. Therefore, this impact *would be less than significant*.

**Impact WQ-5: Degradation of Water Quality.** The Project would not otherwise substantially degrade water quality.

**Mitigation Measure.** See Mitigation Measure WQ-1.1, described above, and Mitigation Measures BIO-5.1 and BIO-5.2, described in VII.D.7.

**Findings WQ-5.** Potential water quality impacts resulting from wetland dredge and fill were assessed based on consistency with the Clean Water Act, National Flood Insurance Program, Porter-Cologne Water Quality Control Act, relevant portions of the California Water Code, California Department of Fish and Game Code 1602 Lake and Streambed Alteration Agreement requirements, the MS4 Phase I San Francisco Bay Region Municipal Regional Stormwater NPDES Permit No. CAS029718 (Order No. R2-2009-0074-DWQ, Revised November 28, 2011; NPDES Permit No. CAS612008) (San Francisco Bay MS4 Permit), WDRs for the City of Santa Clara All-Purpose Landfill, analysis of the General Plan goals and policies

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<sup>14</sup> This memorandum has been updated and appended into the Infrastructure Master Plan that is part of the Master Community Plan for the Project. The findings in this updated memorandum are consistent with the findings in these CEQA findings with respect to Impact WQ-4.



related to hydrology and water quality, and the Santa Clara Valley Urban Runoff Pollution Prevention Program. The surface water hydrology impact analysis considered changes in water bodies, impervious surfaces, and drainage patterns. Information on the change in impervious surface, runoff quantities, and drainage patterns was provided by Langan Treadwell Rollo. The analysis of changes of on-site water bodies involved a comparison of existing on-site hydrological conditions and new/modified conditions proposed as part of the Project, which were provided in the Hydrology/Water Quality Report for CityPlace Santa Clara (June 30, 2015), prepared by Langan Treadwell Rollo, and other sources. The Stormwater Technical Memorandum for CityPlace Santa Clara (June 30, 2015), prepared by Langan Treadwell Rollo, was also analyzed.

The EIR determined that construction within waters or wetlands subject to local, state, and federal jurisdiction requires permits from the relevant agency or agencies and compensation for loss of federal and state waters (including wetlands). Water/wetland loss and/or removal without avoidance, minimization, or compensation would be a significant impact. EIR Section 3.8, Biological Resources, addresses this impact and identifies associated mitigation measures, including BIO-5.1 and BIO-5.2, to minimize associated impacts. In addition, for sites that require CWA Section 401 Water Quality Certification from the Water Board for features such as the proposed new stormwater outfalls, pile driving in San Tomas Aquino Creek for a new bridge, or impacts to other waters of the State at the Project site, the Water Board has authority to approve post-construction stormwater management plans that provide stormwater runoff treatment that is consistent with the treatment requirements described in the San Francisco Bay MS4 Permit, as described in Mitigation Measure WQ-1.1. Therefore, compliance with relevant regulations and implementation of Mitigation Measures WQ-1.1, BIO-5.1, and BIO-5.2 would reduce this impact to *less than significant*.

**Impact WQ-6: Place Housing or Structures within 100-Year Flood Hazard Area.**

The Project would place housing or structures within a 100-year flood hazard area during large storm events, as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map. As discussed above, under *CBIA v. BAAQMD*, CEQA no longer considers the impact of the environment on a project (such as the impact of existing hydrological conditions on new Project receptors) to be an impact requiring consideration under CEQA. The following analysis is neither a CEQA impact nor finding.

**Condition of Approval WQ-6.1: Incorporate Flood Warnings for the Lick Mill Boulevard Extension and Other Access Roads for Areas Vulnerable to Flooding.** The Project Developer and the City shall coordinate to provide flood warnings for new and existing roadways that provide access to the site and are vulnerable to 100-year flood levels. The Project Developer shall review the City's flood warning and emergency response plan and submit a brief plan for the Project that is consistent with the City's plan. The plan shall be submitted to the City's Emergency Services Coordinator in the City's Fire Department for review and approval. The specific frequency of expected flooding on site access roads shall be determined by the Project Developer and reviewed by the City. Flood warnings may be temporary or permanent, depending on the frequency of expected flooding, as determined by the City. Information about alternative access/egress routes, based on flooding potential and other factors, shall also be provided by the Project Developer to the City's Emergency Services Coordinator in the City's Fire Department for review and approval. If other flood improvements are implemented that

remove the flooding risk at the Lick Mill Boulevard extension or other site access roads, then this condition of approval shall no longer be required.

**Findings WQ-6.** Project impacts associated with the placement of housing or structures within an 100-year flood hazard area were assessed based on consistency with the Clean Water Act, National Flood Insurance Program, Porter-Cologne Water Quality Control Act, relevant portions of the California Water Code, California Department of Fish and Game Code 1602 Lake and Streambed Alteration Agreement requirements, the MS4 Phase I San Francisco Bay Region Municipal Regional Stormwater NPDES Permit No. CAS029718 (Order No. R2-2009-0074-DWQ, Revised November 28, 2011; NPDES Permit No. CAS612008) (San Francisco Bay MS4 Permit), WDRs for the City of Santa Clara All-Purpose Landfill, analysis of the General Plan goals and policies related to hydrology and water quality, applicable SCVWD requirements, and the Santa Clara Valley Urban Runoff Pollution Prevention Program. The impact analysis for flood risk was conducted using FEMA mapping to determine the existing flood zone and information from the Langan Treadwell Rollo report regarding changes in the drainage system and layout that may affect flood risk.

Based on this evaluation, the EIR concluded that most of the Project site is within Zone X, "Other Flood Areas," identified as areas with a 0.2 percent chance of flooding; areas with a 1 percent annual chance of flooding, with average depths of less than 1 foot; drainage areas of less than 1 square mile; and areas that are protected by levees from a 1-percent-annual-chance of flood. Therefore, residential and commercial structures placed within the Project site (Parcels 1 through 5) would be outside of the FEMA-designated 100-year flood zone's base flood elevations. Options for a relocated fire station would also be outside of the FEMA-designated 100-year flood zone. While certain roadways are located within 100-year Flood Zone HD, roadways are relatively resilient to infrequent flooding and readily repairable if damaged during such large events. Effects would be limited to the period of a large storm event and immediately afterward. Accordingly, Condition of Approval WQ-6.1 would require warnings for areas vulnerable to flooding. Flood warnings may be temporary or permanent, depending on the frequency of expected flooding, as determined by the City.

**Impact WQ-7: Structural Impedance of Flood Flows.** The Project would include new structures within a 100-year Flood Hazard Area that could impede or redirect flood flows.

**Mitigation Measure.** See Mitigation Measure WQ-6.1, described above.

**Findings WQ-7.** Project impacts associated with structural impedance of flood flows were assessed based on consistency with the Clean Water Act, National Flood Insurance Program, Porter-Cologne Water Quality Control Act, relevant portions of the California Water Code, California Department of Fish and Game Code 1602 Lake and Streambed Alteration Agreement requirements, the MS4 Phase I San Francisco Bay Region Municipal Regional Stormwater NPDES Permit No. CAS029718 (Order No. R2-2009-0074-DWQ, Revised November 28, 2011; NPDES Permit No. CAS612008) (San Francisco Bay MS4 Permit), WDRs for the City of Santa Clara All-Purpose Landfill, analysis of the General Plan goals and policies related to hydrology and water quality, applicable SCVWD requirements, and the Santa Clara Valley Urban Runoff Pollution Prevention Program. The impact analysis for flood risk was conducted using FEMA mapping to determine the existing flood zone and information from the

Langan Treadwell Rollo report regarding changes in the drainage system and layout that may affect flood risk.

As described in Impact WQ-6, Project roadways may be exposed to flooding during a 100-year flood event. However, the roadways are flat and without structures that could impede or redirect flows. The new bridge and the outfalls placed in the San Tomas Aquino Creek could impede flood flows, depending on design. Mitigation Measure WQ-6.1 requires new bridge and outfall structures to be designed to facilitate passage of the 100-year flow without causing an increase in 100-year flood levels. With implementation of Mitigation Measure WQ-6.1, this impact is considered to be *less than significant*.

## **10. Hazards and Hazardous Materials**

**Impact HAZ-2: Accidental Release of Hazardous Materials.** The Project could create a significant hazard to construction workers, the public, and/or the environment through the release of hazardous materials into the environment during demolition and excavation.

**Mitigation Measure HAZ-2.1: Finalize Waste Management Plan for Construction.** Prior to Project construction, a final Waste Management Plan shall be prepared and implemented. This plan shall be submitted to the LEA, CalRecycle, RWQCB, and BAAQMD for review and approval. Specifically, the final *Waste Management Plan* shall contain, at a minimum, the following requirements, which are included in the draft *Waste Management Plan*:

Waste excavation shall be performed in accordance with a Health and Safety Plan (HASP) designed to minimize impacts from dust, odor, and other nuisances, and assure waste is handled in a safe and environmentally responsible manner.

During waste excavation and relocation, the worksite shall be monitored for dust, odor, or other nuisances in accordance with general landfill construction practices and the HASP.

At the end of the working day, any exposed waste shall be covered with soil or an alternative material, such as a geosynthetic blanket, (i.e., interim cover).

Odors, should they occur, shall be controlled by application of a deodorant, masking agent, neutralizing agent, or lime, and an interim landfill cover at the end of each working day.

A "Project Contact" shall be designated who will be responsible for responding to any local complaints about dust, odors, or other nuisances associated with the waste excavation and re-grading operations.

During excavation activities, excavation areas shall be monitored using a hand-held instrument calibrated to measure combustible gases (including methane), hydrogen sulfide, oxygen, and VOCs.

No hot work (e.g., welding) shall be allowed in the vicinity of excavation activities unless methane concentrations are sufficiently below the lower explosive limit of 8 percent. If methane concentrations approach 5 percent, excavation activities shall be stopped until the landfill gas collection system can be modified to reduce the methane concentrations.



in the excavation area. If methane levels are persistent in areas where earthwork and/or hot work activities are necessary, inert gases (e.g., nitrogen) can be introduced into affected subsurface materials to lower oxygen and methane concentrations. By introducing an inert gas into the affected area, methane and oxygen can be displaced to create insufficient oxygen concentrations to support combustion.

**Findings HAZ-2.** Demolition of buildings containing hazardous building materials on the Project site and in Tasman East could potentially release hazardous materials into the environment. The removal of hazardous building materials prior to demolition is governed by federal and state regulations. Based on the age of the buildings, asbestos-containing materials are not expected to be encountered during demolition. Loose and peeling lead-based paint may be present and must be disposed of as a State and/or federal hazardous waste if the concentration of lead equals or exceeds applicable waste thresholds. Because compliance with existing regulations would be mandatory, the Project would have a less-than-significant impact on the public or the environment during building demolition activities.

Certain areas of the Project site are underlain by refuse. The surface grades vary between 3 and 25 feet above the refuse. Project activities would be expected to penetrate into the waste units (i.e., encounter landfill waste) in three ways: (1) constructing the utility trenches, (2) general excavation and grading and leveling activities, and (3) pile placement (both auger cast in place piles and drilled displacement columns would penetrate into the waste units). These penetrations into the waste units could expose construction workers to landfill waste (e.g., trash and debris), contaminated soil, airborne dust, and landfill gas. Based on the Site Investigation and Environmental Risk Assessment, potential receptors who could be exposed to soil contamination on the Project site were identified as construction workers (and groundskeepers, which are discussed below under Impact HAZ-4).

The final Site Investigation and Environmental Risk Assessment dated May 6, 2016 (“Final Risk Assessment”) found that no unacceptable cancer and non-cancer risks would be posed to construction workers at the Project site, and that construction workers would not be exposed to COPCs in soil at the Project site above applicable health risk thresholds. The RWQCB staff issued a letter on May 26, 2016 concurring with these findings (“RWQCB Concurrence Letter”). Nevertheless, the Project would place construction workers in proximity to known contaminants during excavation activities, and it is possible that localized areas of soil at the Project site contain higher levels of COPCs than indicated by the existing data. The potential exposure of construction workers to COPCs in soil is a significant impact. Mitigation Measure HAZ-2.1 requires that the additional safety measures outlined in the Draft Waste Management Plan be implemented during excavation activities to further protect construction workers. The Project would have a *less-than-significant impact with mitigation* on construction workers during excavation activities.

**Impact HAZ-4: Landfill Hazards – Hazardous Materials.** The Project is located on a landfill where subsurface hazardous materials could pose a significant hazard to human health.

**Mitigation Measure HAZ-4.1: Landfill Closure, Monitoring, and Maintenance Plans.** Prior to issuance of building permits for structures within the area of the Landfill (Parcels 1, 2, 3, and 4), a revised Closure Plan and Post-Closure Maintenance Plan (PCMP) shall be

prepared in accordance with the regulatory requirements described in 27 CCR 21790–21840 and submitted to the LEA, CalRecycle, and RWQCB (as required) for review and approval. In addition, a PCLUP shall be prepared in accordance with the regulatory requirements described in 27 CCR 21190 and submitted to the LEA and Regional Water Board (as required) for review and approval. Collectively, these plans shall incorporate the requirements of Mitigation Measures HAZ-4.2 through HAZ-4.6, below. In addition, the Project Developer shall continue to work with the regulatory agencies (RWQCB, LEA, or CalRecycle) and ensure the implementation of all elements and measures necessary to mitigate Project-related health risks to residents and commercial workers to a level below the Regional Water Board's cumulative incremental cancer risk threshold of  $1\text{E-}06$  and hazard index (HI) (i.e., adverse non-cancer risk) of 1.0 established for the Project are implemented.

**Mitigation Measure HAZ-4.2: Landfill Gas Collection and Removal System.**

During Project construction, the existing landfill gas collection and removal system (i.e., wells and conveyance lines) shall be systematically abandoned and replaced in conjunction with the phased Project site development while complying with applicable regulatory requirements that govern the performance of these systems. The new system shall be designed to effectively draw landfill gases (e.g., methane, hydrogen sulfide, and volatile constituent of potential concern (COPCs)) away from building sub-slab areas.

The system design shall be submitted to the City for review and approval, taking into account an evaluation of the following criteria: effective vacuum influence (based on pilot testing and pneumatic modeling), vacuum distribution control, oxygen management (for subsurface fire prevention), ease of maintenance, well location, effect of landfill settlement, mitigation of vapor intrusion risk, and the proposed development on the Project site. The system design shall incorporate temperature- and corrosion-resistant materials. The landfill gas collection and removal system shall be designed, operated, and maintained to control excessive gas concentrations as specified in 27 CCR 20939. The monitoring of landfill gases is described under Mitigation Measures HAZ-4.4, below.

**Mitigation Measure HAZ-4.3: Landfill Gas Protection Systems.** During Project construction, landfill gas protection systems shall be constructed beneath the sub-slabs of structures located on Parcels 1, 2, 3, and 4 to remove landfill gases (e.g., methane, hydrogen sulfide, and volatile COPCs) that could otherwise accumulate and/or migrate through the sub-slab. The systems may include active gas collection or passive ventilation mechanisms and shall meet the minimum design requirements described in 27 CCR 21190. The landfill gas protection systems shall be designed, operated, and maintained to control excessive gas concentrations as specified in 27 CCR 20939. The monitoring of landfill gases is described under Mitigation Measures HAZ-4.4, below.

**Mitigation Measure HAZ-4.4: Landfill Gas Monitoring and Control System Maintenance.** During Project construction and operation on Parcels 1-4, a landfill gas monitoring and control program shall be implemented in accordance with 27 CCR 20921-20939. The gas monitoring network shall be designed by a registered civil engineer or a certified engineering geologist and shall ensure detection of the presence of landfill gas migrating beyond the disposal site permitted facility boundary and also into on site structures. The monitoring network design shall include provisions for monitoring all structures on the Project site,

including but not limited to, buildings, large subsurface vaults, or any other areas where potential landfill gas buildup may cause adverse impacts on the public health or safety or the environment. Methods for monitoring on-site structures may include, but are not limited to: periodic monitoring, utilizing either permanently installed monitoring probes or gas surveys, and continuous monitoring systems. A methane monitoring system shall be installed inside all buildings on the Project site. If methane gas concentrations exceed a threshold of 1.25 percent by volume in air, as described under 27 CCR 20921, the methane monitoring system shall automatically alert the Santa Clara Fire Department, who shall assess the methane conditions and, if necessary, trigger an audible fire alarm to initiate a building evacuation. In the event of an evacuation, the building shall not be reoccupied until the Santa Clara Fire Department has confirmed and approved by that: (1) concentrations of methane meet the applicable compliance requirements and (2) the landfill gas monitoring and control system is operating in a manner that ensures adequate control of methane/vapor intrusion.

The landfill gas control system shall be operated and maintained to control excessive gas concentrations as specified in 27 CCR 20939. This includes operating the landfill gas control system in such a manner as to satisfy the following requirements specified in 27 CCR 20921(a):

The concentration of methane gas must not exceed 1.25 percent by volume in air within any portion of any on-site structures;

The concentration of methane gas migrating from the disposal site must not exceed 5 percent by volume in air at the disposal site permitted facility boundary or an alternative boundary approved in accordance with Section 20925; and

Trace gases shall be controlled to prevent adverse acute and chronic exposure to toxic and/or carcinogenic compounds that could result in a health risk exceedance of the Regional Water Board's cumulative incremental cancer risk threshold of  $1E-06$  and HI (i.e., adverse non-cancer risk) of 1.0 established for the Project.

In the event of an earthquake or other event that could cause a rupture or leak from overlying stormwater treatment measures (i.e., planters, vegetated areas), the landfill gas venting pipes shall be inspected at access ports within 24 hours of the event for leaks, ruptures, or any other conditions. Access ports shall be installed at select locations, to provide full coverage of the system based on system design and access constraints, within the venting layer to monitor for the presence of, and removal of, water that might flood the system in the event that water leaks from collection systems above the landfill gas mitigation system. This system would help prevent the water from further migrating into the underlying landfill gas mitigation system. The access ports will allow for use of portable moisture sensing devices to periodically monitor for moisture in the event that a leak is suspected. The access ports shall also be designed to allow for pumping of water from the interstitial space in the event that water is detected.

In addition to the monitoring and control of excessive gas concentrations to protect public health and safety and the environment, as specified in 27 CCR 20939, the landfill gas monitoring and control program shall incorporate the monitoring and control requirements for preventing subsurface fires that are described under Mitigation Measure HAZ-9.1, below.



**Mitigation Measure HAZ-4.5: Building Restrictions.** The Project shall prohibit the construction of enclosed basements located over refuse on Parcels 1, 2, 3, and 4 to minimize the risk of landfill gas accumulation. Over the landfill area, the Project shall also limit residential construction to only Parcel 4 areas located over open-air podium level garages or over at least one level of enclosed commercial space to mitigate vapor intrusion effects by increasing the free flow and exchange of air beneath the residences.

**Mitigation Measure HAZ-4.6: Landfill Hazards Disclosure.** Information about the existing subsurface hazardous materials conditions and the ongoing mitigation and monitoring requirements described in the PCLUP shall be included in all ground leases and space leases for space located over the Landfill. The text to be inserted shall be subject to review and approval by City.

**Findings HAZ-4.** The Final Risk Assessment identified benzene, ethylbenzene, trichloroethene (TCE) and vinyl chloride as COPCs in landfill gas because the maximum concentrations were reported above the Regional Water Board's residential and/or commercial/industrial ESLs for soil gas.

The human health risk assessment (HRA) evaluated chronic risks and hazards from exposure risks to chemicals of potential concern in relevant site media (soil, vapor, and groundwater) to four categories of potential receptors (construction workers; groundskeepers; indoor commercial workers; and apartment residents future workers and residents). In addition, TCE was evaluated for potential short-term inhalation exposure hazard in indoor air to future workers and/or residents.

The Final Risk Assessment found that no unacceptable cancer or non-cancer risks would be posed to construction workers or groundskeepers at the Project site, and that neither construction workers nor groundskeepers workers would be exposed to COPCs in soil at the Project site above applicable health risk thresholds. For the commercial indoor worker, the cumulative cancer risk is below the risk management range, and the cumulative non-cancer hazard index is below the threshold of 1.0. The predicted indoor air concentration is well below the short-term response action limit for TCE of 8 µg/m<sup>3</sup> (USEPA 2014), which indicates there is no short-term hazard posed by exposure to TCE.

For the apartment residents, the predicted indoor air concentration is well below the short-term response action limit for TCE 2 µg/m<sup>3</sup>; USEPA 2014), which indicates there is no short-term hazard posed by exposure to TCE. The cumulative non-cancer hazard index is below the threshold of 1.0. Cumulative chronic cancer risk for apartment residents is considered a significant impact because it slightly exceeds the RWQCB's default 1 X 10<sup>-6</sup> risk threshold. However, in this instance, the RWQCB concluded that, with implementation of the mitigation measures set forth above, this chronic cancer risk for future residents in the lower end of the risk management range is considered acceptable. The RWQCB concurrence letter noted that the risk assessment model used to evaluate the human health risks posed by the COPCs was conservative because the model does not consider the following key protective measures from Table 1: 1) groundwater concentrations of volatile organic compounds are expected to decline over time from natural attenuation; 2) landfill gas extraction will continue; and 3) the passive venting component of the landfill gas mitigation system will be operational. The RWQCB also noted

that the model overestimates the risk posed by the COPCs that was determined to pose the most risk (vinyl chloride).

The RWQCB concurrence letter noted that because of landfill regulatory requirements, there is an existing array of protective measures in place to mitigate hazards posed by methane in landfill gas or hazards caused by landfill settlement. These measures also serve to mitigate or remediate the VOCs in groundwater or in the refuse/landfill gas that could pose a vapor intrusion risk in future buildings. During redevelopment, these measures will be improved (e.g., enhanced landfill gas and VOC extraction system, landfill clay cap repair, removal of preferential pathways) and additional components will be added that will also serve to mitigate methane hazards or VOC risks. The redevelopment plan also integrates protective design components (e.g., residential apartments above podium parking garage or above first floor commercial space). Lastly, institutional controls will be implemented that will ensure the continued protectiveness of these measures as well as provide financial assurance necessary for long-term stewardship. These many measures serve to provide multiple, redundant levels of protectiveness for the planned redevelopment provided they are adequately constructed and maintained.

In 2014, the methane concentration in landfill gas reported at the LGTE plant was 46.1 percent by volume in air (%v). During the site investigations, methane was detected in all 46 samples at concentrations ranging from 1.98%v to 51.4%v. The lower explosive limit (i.e., the lowest concentration needed for ignition and an explosion to occur) for methane is 5%v at 20 degrees Celsius (68 degrees Fahrenheit). Without implementation of measures to prevent the accumulation of methane gases below or inside buildings there is a risk of explosion, which would pose a significant impact on residents, workers, and/or patrons on the Project site.

The Project Developer will prepare the plans identified above in accordance with state requirements, and will work with regulatory agencies to ensure that Project-related health risks are mitigated below Regional Water Board thresholds. The City will also review and approve a redesigned landfill gas collection and removal system. Landfill gas protection systems will be constructed beneath the sub-slabs of structures located on Parcels 1, 2, 3, and 4 to remove landfill gases that could otherwise accumulate and/or migrate through the sub-slab. During Project construction and operation, a landfill gas monitoring and control program shall be implemented in accordance with 27 CCR 20921-20939, and must operate pursuant to specified parameters. Inspections are required after earthquakes or other events that could cause ruptures to the stormwater treatment measures. The construction of enclosed basements over refuse on Parcels 1, 2, 3, and 4 will be prohibited, and residential construction will be limited to areas of Parcel 4 located over open-air podium level garages or over at least one level of enclosed commercial space to mitigate vapor intrusion effects. Information about the existing subsurface hazardous materials conditions and the ongoing mitigation and monitoring requirements will be included in all ground leases and space leases for space located over the Landfill. In sum, the City (as owner and operator of the landfill) and the Project Developer's implementation of HAZ-4.1, HAZ-4.2, HAZ-4.3, HAZ-4.4, HAZ-4.5 and HAZ-4.6 will reduce significant impacts related to contaminants in the subsurface to a *less-than-significant level*.

**Impact HAZ-5: Non-Landfill Hazards – Hazardous Materials.** Portions of the Project not underlain by refuse contain subsurface hazardous materials that would pose a significant hazard to human health.

**Mitigation Measure HAZ-5.1: Phase II Site Investigation.** Prior to Project construction, a Phase II Site Investigation shall be performed on Parcel 5 and the tennis courts located in the southwest portion of Parcel 4 to (1) delineate the extent of soil, soil gas, and potential groundwater contamination on the site and (2) assess potential health risks posed to construction workers and future site users. The Phase II Site Investigation shall be conducted and evaluated by a licensed professional prior to construction and earthwork activities. The findings of the Phase II Site Investigation shall be submitted to the appropriate regulatory agency to the extent required by applicable law. The Project Developer shall conduct any additional investigation and/or risk assessment and/or implement any remedial or risk mitigation measures required by the regulatory agency.

**Mitigation Measure HAZ-5.2: Soil and Groundwater Management Plan.** Construction on Parcel 5 and the tennis courts located in the southwest portion of Parcel 4 shall be conducted under a site-specific Soil and Groundwater Management Plan (SGMP) to protect construction workers, the general public, and the environment from hazardous materials identified in the Phase II Site Investigation (see Mitigation Measure HAZ-5.1) and potential undocumented sources of such materials. The SGMP shall delineate specific soil and groundwater management and disposal procedures, construction worker health and safety requirements, and contingency measures in case unknown contamination is encountered during construction. The SGMP shall incorporate the soil and groundwater analytical data from the Phase II Site Investigation to ensure that soil and groundwater are stored, managed, and disposed of in a manner protective of human health and the environment, and in accordance with applicable laws and regulations. The SGMP shall specifically include the following:

- Procedures for evaluating, handling, storing, testing, and disposing of known soil and groundwater contamination identified during the Phase II Site Investigation during Project excavation and dewatering activities, respectively;
- Procedures for identifying, testing, and managing soil and groundwater suspected of containing hazardous materials (if any) that have not previously been identified at the site;
- Descriptions of required worker health and safety provisions for all workers potentially exposed to hazardous materials in accordance with State and federal worker safety regulations; and
- Identification of personnel responsible for implementation of the SGMP.

**Mitigation Measure HAZ-5.3: Implement Measures Included in CCR Title 27, Section 21190(g).** Consistent with the Project Developer's voluntary commitment, in order to mitigate gas migration into structures located within 1,000 feet of landfill, the City (as owner and operator of the landfill) and the Project Developer shall implement the following measures identified in Title 27, Section 21190(g), with respect to development on Parcel 5 and the southwest portion of Parcel 4:

- (1) a geomembrane or equivalent system with low permeability to landfill gas shall be installed between the concrete floor slab of the building and subgrade;



- (2) a permeable layer of open graded material of clean aggregate with a minimum thickness of 12 inches shall be installed between the geomembrane and the subgrade or slab;
- (3) a geotextile filter shall be utilized to prevent the introduction of fines into the permeable layer;
- (4) perforated venting pipes shall be installed within the permeable layer, and shall be designed to operate without clogging;
- (5) the venting pipe shall be constructed with the ability to be connected to an induced draft exhaust system;
- (6) automatic methane gas sensors shall be installed within the permeable gas layer, and inside the building to trigger an audible alarm when methane gas concentrations are detected; and
- (7) periodic methane gas monitoring shall be conducted inside all buildings and underground utilities in accordance with Article 6, of Subchapter 4 of this chapter (section 20920 et seq.). At a minimum, quarterly monitoring is required, but more frequent monitoring may be required by LEA (Subchapter 4, section 20933(a)).

**Findings HAZ-5.** Soil and soil gases beneath Parcel 5 and the tennis courts located in the southwest portion of Parcel 4 have concentrations of benzo[a]pyrene, PCBs, TPHd, and TPHmo were reported in soil samples at levels exceeding the Regional Water Board's residential and/or commercial/industrial ESLs. Benzene was reported in soil gas samples at concentrations above the residential ESLs, but below the commercial/industrial ESLs. Potential impacts to groundwater have not been investigated at these locations on the Project site. Based on a review of regulatory databases, hazardous material releases have not be reported on other portions of the Project site that are not underlain by refuse (e.g., the Eastside Retention Basin) or off-site areas.

Project construction activities, such as excavation and dewatering, could disturb contaminated soil and/or groundwater beneath the site and pose a potential threat to human health and the environment. Future site users (e.g., residents, commercial workers, maintenance workers) could potentially be exposed to hazardous materials by direct exposure to soils or soil gases that migrate into buildings. If subsurface hazardous materials are not properly managed on Parcel 5 and the southwest portion of Parcel 4 (which are non-landfill areas), development of the Project could have a significant impact on human health and the environment.

Before construction, Phase II Site Investigations (and potentially additional investigations) will be performed to delineate the extent of site contamination and assess potential health risks to construction and future site users. Construction on Parcel 5 and the tennis courts located in the southwest portion of Parcel 4 will be conducted under the SGMP, which will ensure that soil and groundwater are stored, managed, and disposed of in a manner protective of human health and the environment, and in accordance with applicable laws and regulations. In sum, the City and the Project Developer will implement Mitigation Measures HAZ-5.1 and HAZ-5.2 to reduce significant impacts related to contaminants in the subsurface

on Parcel 5 and the southwest portion of Parcel 4 not underlain by refuse to a *less-than-significant level*.

**Impact HAZ-6: Leachate Collection and Removal Systems.** Project construction and operation that would disturb the existing leachate collection and removal systems could create a significant impact on groundwater quality.

**Mitigation Measure HAZ-6.1: Finalize Draft Technical Memorandum: Leachate Collection and Removal System.** Prior to Project construction, a final Technical Memorandum: Leachate Collection and Removal System shall be prepared and implemented as part of the PCLUP. The technical memorandum shall be submitted to the LEA for review and approval and to CalRecycle and the Regional Water Board for review and comment. Specifically, the final technical memorandum shall contain, at a minimum, the following requirements:

During the construction phase of Parcel 3, the existing leachate collection and removal system (LCRS) risers LR-1 and LR-4 shall be protected and preserved during construction by flagging the well head locations, extending the risers, and installing a bollard around each riser.

If LR-1 or LR-4 are damaged during construction, repairs and modifications shall be completed promptly.

LR-1 and LR-4 shall be supported and anchored to prevent potential settlement over time and finished to grade at the end of excavation and/or completion of construction.

Ongoing operation and maintenance of the leachate recovery system shall continue during and after Project construction. The LCRS monitoring shall continue in accordance with the Regional Water Board's WDR Order No. R2-2002-0008 for the site, which shall be revised to consider the proposed development and modifications to the landfill systems.

**Findings HAZ-6.** Mounding of leachate in the refuse, which can occur due to excessive leachate production and limited recovery, has not been previously observed at the Landfill. The Draft Technical Memorandum: Leachate Collection and Removal System prepared by Langan evaluated the potential impacts that Project development could have on the generation of leachate in the landfill and related impacts on groundwater to determine if significant repairs or modifications to the existing LCRSs would be necessary. The Project will implement the recommendations from the Langan Draft Technical Memorandum.

Operation of the Project would substantially reduce leachate production due to the proposed increase in aboveground impervious surfaces (i.e., structural building pads, asphalt roadways, buildings, etc.) and the construction of a stormwater collection system, which would limit infiltration of water into the refuse. By implementing the required PCLUP and increasing the impervious surface area over the landfill, the Project would improve operation of the existing LCRS and reduce leachate production. However, these improvements would occur only if the modified LCRS is properly designed and operated. The Project's proposal to modify the LCRS could result in a significant impact on groundwater quality.

Compliance with existing regulations and implementation of Mitigation Measure HAZ-6.1 (which requires the implementation of specific LCRS proposed design elements in the Draft Technical Memorandum: Leachate Collection and Removal System) would result in the Project having a *less-than-significant impact with mitigation* on groundwater quality.

**Impact HAZ-9: Landfill Hazards – Subsurface Fires.** The Project is located on a landfill where a subsurface fire resulting from the heating of waste materials could pose a significant risk of loss, injury, or death.

**Mitigation Measure HAZ-9.1: Subsurface Fire Prevention, Detection, and Response Plan.** Prior to construction, a Subsurface Fire Prevention, Detection, and Response Plan shall be prepared that describes how subsurface heating conditions above the landfill will be monitored, prevented, and suppressed. The plan, which may be included as part of a larger planning document, shall identify responsible parties and schedules for implementing the measures described in the plan. The Project Developer shall submit the plan to the LEA, CalRecycle, and SCFD for review and comment. Responses to comments shall be incorporated into a final Subsurface Fire Prevention, Detection, and Response Plan from the regulatory agencies. The plan shall also incorporate the prevention, detection, and response actions described under Mitigations HAZ-9.2 and HAZ-9.3, below, unless alternative actions are approved by LEA, CalRecycle, and SCFD. The final plan shall be implemented during Project construction and operation.

**Mitigation Measure HAZ-9.2: Subsurface Fire Prevention and Detection Measures.** The following measures may be included in whole, or in part, in the Subsurface Fire Prevention, Detection, and Response Plan, as required by the LEA, CalRecycle, and SCFD. In addition, these agencies may require additional measures.

The landfill gas collection system shall be monitored and maintained to minimize the intrusion of oxygen (i.e., air) into the landfill and prevent the overheating of waste due to aerobic decomposition. In accordance with BAAQMD monitoring requirements (Regulation 8-34), the gauge pressure, nitrogen or oxygen concentration, and temperature of landfill gas within each extraction wellhead shall be monitored once a month and evaluated to ensure the system is not overdrawing air into the landfill. The nitrogen and oxygen concentrations may be measured using a calibrated portable instrument. The landfill gas measured at each extraction well head must meet the following monitoring threshold requirements:

Nitrogen concentrations less than 20 percent or oxygen levels less than 5 percent; and

Maximum temperature of 140 degrees Fahrenheit.

The nitrogen and oxygen thresholds shall be used to indicate if the gas collection system is overdrawing and causing excessive ambient air infiltration into the landfill through its surface and sides. An exceedance of the maximum temperature threshold shall indicate that a subsurface fire may exist. Other evidence of a potential subsurface fire shall include the following:

Observations of rapid settlement over a short period of time;



Smoke or smoldering odor emanating from the gas extraction system or landfill; or

Combustion residue in extraction wells and/or headers.

The landfill gas collection system shall be adjusted to reduce well extraction rates (if necessary) to ensure the monitoring thresholds for nitrogen/oxygen and temperature are not exceeded, while continuing to ensure the control of other excessive gas concentrations in the landfill (e.g., methane and trace gases) as specified in 27 CCR 20939. In the event that one or both of the monitoring thresholds are exceeded or other evidence of a potential subsurface fire is observed, then gas samples shall be collected from the extraction wells in the affected area and submitted to a certified laboratory for analysis of nitrogen, oxygen, and carbon monoxide. Analytical results for nitrogen and oxygen that exceed the monitoring thresholds shall be used as confirmation that an aerobic environment is present. Analytical results for carbon monoxide that exceed 1,000 parts per million shall be used as confirmation that a subsurface fire exists.

**Mitigation Measure HAZ-9.3: Subsurface Fire Suppression.** If a subsurface fire condition has been confirmed (i.e., carbon monoxide level exceed 1,000 parts per million), the LEA, CalRecycle, and SCFD shall be notified immediately. The extraction wells surrounding the subsurface fire shall be shut down temporarily to reduce oxygen levels. The extraction wells shall then be returned to active use in stages in conjunction with monitoring to determine if the subsurface fire has been suppressed. If shutting down the extraction wells does not suppress the fire and/or results in the excess accumulation of methane and other trace gases beneath structures, then the LEA, CalRecycle, and SCFD shall consider injecting a Class A foam or wetting agent or liquid carbon dioxide (which also has the added benefit of rapidly cooling the refuse/fill) into the affected area. Large amounts of water shall not be used, because water can exacerbate the fire potential, generate contaminated runoff, increase leachate, and cause slope failure.

**Findings HAZ-9.** Parcels 1, 2, 3, and 4 are located on a closed landfill where aerobic decomposition or chemical oxidation of waste materials could result in a subsurface fire that could pose a potentially significant impact to human health and property. The degree and types of risks associated with subsurface fire depends in part on the contents buried in the landfill, the geography of the landfill, and the nature of the fire.

Under BAAQMD Regulation 8, Rule 34, wellheads for the landfill gas collection and removal system at the Project site must be sampled monthly for vacuum pressure, temperature, and either oxygen or nitrogen. These parameters can be useful for indicating potential subsurface fire events. While neither the BAAQMD nor other regulatory agencies specifically require monitoring and prevention of subsurface fire events at closed landfills, there are regulator guidance documents that describe best management practices for preventing, detecting and suppressing subsurface fires

Current fire prevention measures at Parcels 1, 2, 3, and 4, which include the flaring of landfill gas when the electrical conversion micro-turbines are offline and the removal of accessible surface vegetation, would not completely protect future Project site workers, residents, and shoppers from potential landfill fires. Therefore, the Project could have a significant impact related to surface fires and would require mitigation.

The Project will incorporate a plan to monitor, prevent and suppress subsurface heating conditions above the landfill that will be reviewed and approved by regulatory agencies. The technical requirements of Mitigation Measure HAZ-9.2 will mitigate the risk or impact of a subsurface fire. If a subsurface fire is confirmed, the appropriate regulatory agencies will be notified, the extraction wells shut-down, and (if necessary) a foam or wetting agent will be injected into the affected area to suppress the fire. In sum, implementation of Mitigation Measures HAZ-9.1 through HAZ-9.3 would reduce impacts related to subsurface fires to a *less-than-significant* level.

## **11. Utilities**

**Impact UT-2: Water Delivery System.** The Project would require the expansion of existing facilities, the construction of which could cause significant environmental effects.

**Mitigation Measures.** All relevant mitigation measures included for construction in other EIR sections would apply to water line and recycled water line construction on- and off-site.

**Findings UT-2.** Each of the Project's development parcels would include a combined domestic and fire water system looped network with multiple points of connection to the existing system. Connections to the public system would be to existing lines but requiring a master meter and backflow preventer. As currently designed, the on-site system would likely require some off-site improvements to the existing off-site system for increased demand and because parts of the existing system are antiquated. Recycled water distribution would continue to the Project site. Although new points of connection to the existing recycled water will be necessary, additional flow would be minimal. The City will need to obtain a waiver before improvements both the off-site and on-site systems as State Water Board regulations restrict construction of public water mains over landfills without a waiver.

Therefore, implementation of the Project would require the expansion of the City's water delivery system, including both on-site and some off-site locations, but would not require expansion of the recycled water system off-site. Construction impacts of the Project (including the water delivery system) are discussed throughout the EIR and would, in some circumstances, result in significant impacts prior to mitigation. All relevant mitigation measures included for construction in other EIR sections would apply to water line and recycled water line construction on- and off-site. As such, implementation of the Project would result in impacts on the City's water and recycled water delivery system that would be *less than significant with mitigation*.

**Impact UT-3: Wastewater Generation.** The Project would not exceed wastewater treatment requirements of the RWQCB, require or result in the construction of new wastewater treatment facilities or the expansion of existing treatment facilities, or result in a determination by the Santa Clara Regional Wastewater Treatment Facility (WWTF) that it has inadequate capacity to serve the Project's expected demand and existing entitlements. However, the existing sanitary sewer system serving the Project site would not have sufficient pumping capacity to accommodate the Project.

**Mitigation Measure UT-3.1: Make a Fair-Share Contribution to Upgrading the Rabello and Northside Pump Station System's Capacity.** The City will conduct detailed engineering study and analysis to determine the precise size and timing needed for the required pump station capacity upgrades to address overcapacity due to projected cumulative development. The City will implement the required capacity upgrades and the Developer will fund its fair share of such upgrades. The City shall determine the fair-share cost contribution for the Project based on the Project's percent of wastewater flow cumulative capacity needs above the current pump capacity (based on conceptual planning to date, that fair share is estimated as 27 percent of 2035 cumulative overcapacity amount). The City may require the Developer to fund the design and construction of the conveyance capacity upgrades to the Rabello and Northside Sanitary Sewer Pump Stations concurrent with construction of Phase 2 of the Project; the pump station upgrades would be designed to address overcapacity due to projected cumulative development. If the Developer is required to fund pump station upgrade costs, with the exception of costs attributable to the Project's fair share contribution to the upgrade, the City would reimburse the Developer for the design and construction costs through first (a) refunding the Project's Sanitary Sewer Conveyance Fees already paid by Developer or crediting those fees when due and (b) providing to Developer Sanitary Sewer Conveyance Fees collected from developers of projects that would use the Rabello and Northside Sanitary Sewer Pump Stations.

**Findings UT-3.** The WWTF treats an average of 110 mgd of wastewater and has the capacity to treat up to 167 mgd. The City's current Average Dry Weather Flow (ADWF) is 12.8 mgd, based on 2009 data with an allocation of treatment capacity is 23.103 mgd. The Project's ADWF of 1.75 mgd would increase the City's current ADWF to 14.55, which is well within the City's remaining allocation of treatment capacity. As such, implementation of the Project would have a *less-than-significant* impact related to wastewater treatment. The Project involves operation and maintenance of residential, commercial, office, hotel, and entertainment uses. No industrial wastewater would be generated by the Project. A new wastewater system would be installed on-site to accommodate the flows generated by the Project, flows typical of a mixed-use development. As a result, no specific changes to the WWTF would be required to treat these flows. Therefore, the Project would not exceed wastewater treatment requirements of the RWQCB resulting in *no impact*.

The City's 2015-2035 General Plan hydraulic model for total effluent flow is 43.0 mgd which includes all flows from planned major developments and redevelopments except for the effluent flow from the Project. With the Project, the total 2035 effluent flow to the existing downstream trunk sewer system at the Rabello and Northside Pump Stations ("pump stations") would be 44.8 mgd. The flow would exceed the pump stations' capacity of 38.2 mgd by 6.6 mgd. The City anticipated that the Project would contribute 1.8 mgd (or 27 percent of 6.6 mgd). A possible scenario is that the Project would be responsible for approximately 27 percent of the improvement costs. The City would need to determine the threshold for when pump station improvements with an estimate of the timing improvements needing to be completed soon after the Project's entitlements. Based on the analysis above, implementation of the Project would have a *significant impact* related to the need for additional off-site wastewater delivery systems due to future insufficient pumping capacity. Although the Project would have a *less-than-significant* impact related to wastewater treatment facilities and on-site wastewater delivery systems, the Project would contribute considerably to the need for additional off-site wastewater



delivery systems due to future insufficient pumping capacity, which is considered a considerable contribution to a *significant cumulative* impact.

Implementation of Mitigation Measure UT-3.1 would address the Project's contribution to a cumulative wastewater pumping capacity deficit by requiring a detailed study analyzing capacity upgrades and by requiring Developer to fund its fair share of any upgrades. It would reduce potential wastewater infrastructure impacts during Project operation to *less than significant with mitigation*.

**Impact UT-4: Stormwater Generation.** The Project would require the construction of new stormwater drainage facilities or the expansion of existing facilities, but the construction of such facilities would not cause significant environmental effects.

**Mitigation Measures.** All relevant mitigation measures included for construction in other EIR sections would apply to the construction of all Project stormwater drainage facilities on- and off-site. See EIR Section 3.9 Geology and Soils Mitigation Measure GEO 1.1 which incorporates by reference the Project's Storm Water Pollution Prevention Plan as required by the NPDES Construction General Permit; Section 3.10, Hydrology and Water Quality Mitigation Measure WQ-1.1.

**Findings UT-4.** A preliminary evaluation of the drainage infrastructure for the Project indicated sufficient storage and pumping capacity in the current system (assuming existing conditions) to convey 100-year peak flows safely. The proposed stormwater drainage system for the Project would include below-grade gravity network of pipes, catch basin, manholes, water quality treatment measures, and other appurtenances. The building drainage would be via internal systems piped directly to the storm drains. Any potential additional sources of runoff created by the Project would be treated with the stormwater control management measures in compliance with San Francisco Bay MS4 Permit.

As such, implementation of the Project would have a *less-than-significant impact with mitigation* related to secondary environmental effects of new or modified stormwater drainage facilities.

**Impact UT-6: Energy Demand.** The Project would not result in wasteful, inefficient, or unnecessary energy use with mitigation, and the construction impacts of necessary energy infrastructure would be less than significant with mitigation.

**Mitigation Measures.** All relevant mitigation measures included for construction in other EIR sections would apply to the construction of all Project energy infrastructure improvements both on- and off-site, including AQ-2.1, AQ-2.2, AQ-2.4, GHG-1.1, and GHG 1.2.

**Findings UT-6.** The Project would use energy for both construction and operation. The Project would consume 121 million kWh of electricity per year with implementation of the on-site solar photovoltaic systems, 183 to 206 million kBtu of natural gas per year and up to 1,000 billion BTU of transportation fuel per year during normal operations. This represents a significant increase in energy use from current uses. The Project Developer will pursue Leadership in Energy and Environmental Design (LEED) certification for the proposed City

Center, LEED Gold for proposed commercial, and LEED Silver for proposed residential. This LEED program includes strategies that optimize the energy performance and energy reduction strategies. While the exact building energy efficiency resulting from LEED certification was not calculated as the specific measures will be determined during design, it is expected that building energy would provide an estimated 15 percent reduction in electricity and natural gas demand and exceeding the 2013 California Title 24 standards. Project design would reduce demand for grid electricity by 10 percent due to the use of onsite solar and an estimated 11 percent savings in operational transportation energy compared to a similarly sized project that did not have the mixed use characteristics, transit location. Construction energy usage would be reduced through energy efficient construction equipment and trucks and the use of alternative fuels. Other measures would result in further reductions of operational energy consumption. Based on this information, the Project, with mitigation, would result in lower energy consumption compared to a similarly size project that did not incorporate the Project's design features and mitigation. Therefore, the Project would not result in inefficient, wasteful, or unnecessary consumption of energy. As noted above, the Project's secondary environmental effects related to increase energy demand can also be addressed such that these effects would be *less than significant with mitigation*.

#### **E. Significant and Unavoidable Impacts**

Under Public Resources Code sections 21081(a)(3) and 21081(b), and CEQA Guidelines sections 15091, 15092, and 15093, and to the extent reflected in the EIR and the MMRP, the City finds that the following impacts of the Project will remain significant and unavoidable, notwithstanding the imposition of all feasible mitigation measures, as set forth below.

##### **1. Land Use**

**Impact LU-1: Conflicts with Adopted City Land Use Plans and Policies with Regard to the Jobs/Housing Balance.** The EIR found that the Project would be inconsistent with the City's General Plan policies aimed at improving the City's jobs/housing balance and in contributing to this imbalance, the Project would result in secondary significant unavoidable impacts on traffic, air quality, and GHG emissions.

**Mitigation Measure LU-1.1: Increase Residential Density in the City's General Plan.** During the next General Plan Update cycle, the City shall explore permitting higher residential densities in the City as well as allowing residential land uses in existing non-residential areas. Where feasible, the City shall target strategic areas of the City, specifically those closest to major employment and transit hubs, for new residential land uses and/or increased residential density. In order to maintain projected 2035 jobs/housing ratios, the City shall explore permitting up to 11,000 units.

**Findings LU-1.** As an initial matter, the ultimate finding of General Plan consistency for the purpose of project approval does not require that a project be entirely consistent with each individual General Plan policy. Although Table 3.1-7 of the Draft EIR identified isolated instances where the project might be inconsistent with goals and policies (e.g., General Plan Policy 5.3.1-P18, which calls for metering new industrial and commercial space, General Policy Plan Policy 5.10.2-P2, which promotes development that minimizes air pollution and commutes,

and Housing Element Policy B-5, which calls for mitigating the effects of developments that create substantial numbers of jobs on the jobs/housing ratio), the project is not inconsistent with the majority of more than 150 applicable provisions. In addition to the goals and policies identified in Table 3.1-7, the project is also consistent with the following General Plan goals and policies: (1) maximize opportunities for the use and development of publicly-owned land to achieve the City's economic development objectives and to provide public services and amenities. (Policy 5.3.1-P19); (2) provide a mix of retail and commercial uses to meet the needs of local customers and draw patrons from the greater region. (Policy 5.3.3-P1); (3) A City that continues to be a major employment center in Silicon Valley. (Goal 5.3.5-G1); and (4) Higher-intensity employment centers located near major transit services and major transportation corridors to reduce vehicle miles traveled. (Goal 5.3.5-G2). The project is furthermore consistent with all seven "Major Strategies" in the General Plan, as it would (1) create a mixed-use, transit-oriented development pattern that would contribute to the City both economically and socially; (2) preserve and cultivate neighborhoods by promoting the creation and cultivation of a new, mixed-use urban neighborhood; (3) promote sustainability by furthering the City's goals of achieving new and improved methods to minimize water and energy consumption and protect water quality; (4) enhance city identity by reinforcing the unique entertainment and mixed-use qualities already inherent in that geographical area of the City; (5) support focus areas and community vitality by providing a mixed-use destination that would contribute socially and economically to the local and regional attractions in the area; (6) maintain the City's fiscal health and quality services by strengthening and diversifying the City's tax base, thereby promoting its fiscal health and its capability to provide quality public services to its residents; and (7) maximize health and safety benefits by implementing state of the art landfill protection systems and promoting a multi-modal environment for workers, residents, and those seeking recreation.

Both the City of Santa Clara's General Plan and the Association of Bay Area Governments' forecasts include projected future ratios of jobs to housing. During the first three phases of the Project, the Original Project (Scheme B with 200 residential units in Parcel 5 and no residential units over the landfill) would increase the jobs/housing ratio from the levels projected in the General Plan from 2.56 to 2.72 in 2035, compared to a ratio of 2.42 in 2008. This represents an increase of 6 percent over 2035 projections without the Project. Upon full build-out of the Original Project (Scheme B), the jobs/housing ratio would increase from 2.56 (without Project) to 3.02 (with Original Project Scheme B) in 2035. This represents an increase of 25 percent between 2008 (without project) and 2035 (with Original Project Scheme B). Compared to the Scheme B of the Original Project, if the Project were developed as Scheme A incorporating the Increased Housing Alternative, as permitted under the Master Community Plan, it would result in 3,550 more residents and approximately 1,150 fewer employees, thereby having a much smaller, but still significant, impact on the jobs/housing balance.

To maintain the projected jobs/housing ratio under the 2035 with-Original Project Scheme B condition for Phases 1, 2, and 3, an additional 3,700 units beyond those contemplated under the General Plan would need to be constructed within the City; if the Project were developed as Scheme A incorporating the Increased Housing Alternative, as permitted under the Master Community Plan, that number would reduce to 2,220 units. For full build-out, to maintain the projected jobs/housing ratio under the 2035 (with Original Project Scheme B) condition, an additional 11,000 units beyond those contemplated under the General Plan would need to be constructed within the City; if the Project were developed as Scheme A incorporating



the Increased Housing Alternative, as permitted under the Master Community Plan, that number would reduce to 9,520 units. The EIR identified an additional 9,576 units proposed for development as part of nine separate “pending” or “conceptual” projects that were not taken into account by the General Plan. Although the Project cannot presume that all of the aforementioned 9,576 units will be constructed, these units could alleviate most of the Project’s impacts on the City’s jobs/housing balance and as observed in the final EIR (and all of the impacts on City’s jobs/housing balance if the Project were developed as Scheme A incorporating the Increased Housing Alternative, as permitted under the Master Community Plan). Furthermore, it is not reasonable to expect that any single project would maintain the overall job/housing balance for the entire City. (See discussion in the FEIR at 3-2.)

Implementation of Mitigation Measure LU-1.1 would also help increase the housing stock within the City. This would improve the jobs/housing ratio within the City and would help to minimize the Project’s physical environmental impacts associated with increased commuting times and associated emissions. However, as with pending projects, because this mitigation measure relies on an iterative General Plan process ultimately requiring approval from City Council, it cannot be stated with certainty whether and when the mitigation measure can be implemented. In addition, adding new housing to the City’s General Plan would only potentially reduce some of the impacts within the more immediate Project vicinity, but would not fully mitigate the Project’s effect on induced growth in the region and beyond. Despite mitigation measures designed to reduce environmental effects associated with an increase in vehicle miles travelled, the Project’s inconsistency with City policies that govern the jobs/housing balance would still result in significant secondary impacts on transportation, air quality, and greenhouse gas emissions. No other feasible mitigation measures are available and specific economic, legal, social, technological, or other considerations make infeasible the project alternatives identified in the final EIR that would avoid the impacts. Thus, this impact would remain *significant and unavoidable*.

**Impact LU-2: Conflicts with Airport Land Use Plan and City Policies Related to Airport Noise.** The Project would be inconsistent with the Comprehensive Land Use Plan for the San José International Airport in relation to noise policies and the City’s General Plan related to Airport Noise.

**Mitigation Measure.** Implementation of Condition of Approval NOI-1.3, as described in Section VII.E.5.

**Findings LU-2.** Because the Project site is located northeast of the sideline safety zone for SJC, none of the airport safety policies in the CLUP would apply to the Project. In addition, because the Project’s proposed buildings would not exceed the airport vicinity height limitations, the Project would comply with applicable FAA regulations, although the Administration would be required to issue a No Hazard Determination.

However, the Project would be inconsistent with certain General Plan and CLUP provisions related to noise from SJC. Specifically, the Project would be inconsistent with General Plan Policy 5.10.6-P8 concerning uses in airport noise restriction areas, General Plan Policy 5.10.6-P9 concerning exposure to airport noise, Comprehensive Land Use Plan Policy G-4 related to policy compatibility, and Comprehensive Land Use Plan Policy N-4 aimed at

residential uses with 65 dB Community Noise Equivalent Level. Portions of two parcels would fall within the 65 dB CNEL, so some outdoor activities would experience temporary disruptions such as noise from jets taking off. However, the City Council can approve an aviation easement to provide notice to future owners and occupants are aware of the aircraft activity.

Condition of Approval NOI-1.3, as described in Section VII.E.5, would reduce the impacts of airport noise by requiring noise treatments to provide interior residential noise levels of 45 dBA CNEL, but no feasible mitigation exists to reduce outdoor noise levels to below 65 dBA CNEL. No other feasible mitigation measures are available and specific economic, legal, social, technological, or other considerations make infeasible the project alternatives identified in the final EIR that would avoid the impacts. Therefore, the land use policy conflict would result in a *significant and unavoidable impact*.

## **2. Transportation**

**Impact TRA-1. Signalized (Off-Site) Intersections.** The EIR found that the Project would add traffic to certain signalized intersections, causing them to operate at unacceptable levels of service or worsen unacceptable levels of service under existing with-Project or background with-Project conditions.

**Mitigation Measures:** See Mitigation Measures TRA-1.1 and TRA-1.2, described in Section VII.D.2.

**Mitigation Measure TRA-1.3: Prepare and Implement a Multimodal Improvement Plan.** The Project Developer shall fund the preparation of (including CEQA review for) a Multimodal Improvement Plan (“MIP”) addressing at least the Congestion Management Program (“CMP”) intersections within the City of Santa Clara that are forecasted to operate at Level of Service (“LOS”) F with the Project, either on a project level or a cumulative basis. The City shall reimburse the Project Developer for any cost of preparation of the MIP that exceeds the Project Developer’s fair share of such cost. The MIP shall be prepared in accordance with the guidelines and regulations of the Valley Transportation Authority (“VTA”) and shall be adopted by the City Council for submission to the VTA for consideration and approval no later than one year after approval of the Project. Once the MIP is adopted by the VTA, it shall be implemented in accord with its terms and commensurate with the phasing of the development that its measures are intended to offset.

**Findings TRA-1.** Under existing with-Project conditions, the Project would significantly impact 35 signalized intersections. Under background with-Project conditions, the Project would have a significant impact on 50 signalized intersections. Consolidating existing with-Project conditions and background with-Project conditions, the Project would have a significant impact on 51 signalized intersections before mitigation. These intersections would operate at unacceptable levels of service, marked by excessive delays for vehicles entering intersections. A Transportation Demand Management Plan would minimize these impacts both within the Project site and on surrounding uses.

The Project incorporates numerous features that support alternatives to single-passenger vehicle travel. The Project site is adjacent to high-quality transit services, including passenger

rail service like the Capitol Corridor and ACE, as well as VTA light-rail transit. Off-road bicycle paths along San Tomas Aquino Creek and the Guadalupe River serve the site. The proposed density of the Project would support multiple modes of transit, including intra-campus transit by transit, shuttles, bicycling, and walking, as well as off-campus transit by public transit and carpools. Further, because of the Project will support nearly 30,000 employees, there will likely be a critical mass of users to support services like shuttles. However, even with all of these advantages, impacts on some signalized intersections are likely to remain unavoidable.

Mitigation Measure TRA-1.1 would reduce the severity of traffic impacts. Mitigation Measure TRA-1.2 would fully mitigate some intersections. Mitigation Measure TRA-1.3 would address the Project's wide-ranging significant and unavoidable impacts, including impacts to Congestion Management Program ("CMP") facilities. However, even with Mitigation Measures TRA-1.1, TRA-1.2, and TRA-1.3, some intersections would still have significant Project impacts. These affected intersections include eleven within the City of Santa Clara's jurisdiction. Thirty-four additional intersections lie outside the City of Santa Clara's jurisdiction; therefore, the implementation of mitigation measures for these intersections cannot be guaranteed. No other feasible mitigation measures are available and specific economic, legal, social, technological, or other considerations make infeasible the project alternatives identified in the final EIR that would avoid the impacts. Thus, the Project impact on certain signalized intersection LOS would be *significant and unavoidable*.

**Impact TRA-2: Unsignalized (Off-Site) Intersections.** The Project would add a considerable amount of traffic to certain unsignalized intersections that would operate unacceptably under background with-Project conditions.

**Mitigation Measure:** See Mitigation Measure TRA-1.1, described in VII.D.2.

**Mitigation Measure TRA-2.1: Traffic Signal Installation.** Install a traffic signal at Intersection 109, Liberty Street/Taylor Street once the traffic volumes meet the warrant requirements. The intersection of Liberty Street/Taylor Street is located in San José; the installation of a traffic signal would need to be approved by the City of San José.

**Mitigation Measure TRA-2.2: Traffic Signal Installation.** Install a traffic signal at Intersection 114, Calle Del Sol/Calle De Luna, once the traffic volumes meet the warrant requirements. This improvement would reduce the impact to less than significant.

**Findings TRA-2.** The EIR evaluated unsignalized intersections under existing with-Project conditions using LOS calculations. In addition, the respective jurisdiction's peak-hour traffic signal standards were applied to those intersections that would operate at LOS F, whether under current conditions or existing with-Project conditions. Under existing with-Project conditions, there would be no significant impacts on unsignalized intersections. By contrast, under background with-Project conditions, the Project would have significant impacts on two unsignalized intersections.

With Mitigation Measures TRA-1.1, TRA-2.1, and TRA-2.2 (including EIR Table 3.3-20), these impacts would be reduced, but one intersection (Liberty Street/Taylor Street in San José) may still experience significant Project impacts. No other feasible mitigation measures are



available and specific economic, legal, social, technological, or other considerations make infeasible the project alternatives identified in the final EIR that would avoid the impacts. Therefore, the Project impact on this intersection's unsignalized intersection LOS would be *significant and unavoidable*.

**Impact TRA-3: Freeway Segments.** The Project would add traffic to certain freeway segments, causing them to operate at unacceptable levels of service or worsen existing unacceptable levels of service.

**Mitigation Measure:** See Mitigation Measure TRA-1.1, described in VII.D.2.

**Mitigation Measure TRA-3.1: Freeway Segment Improvements.** The Project Developer will make a voluntary contribution toward the VTP's 2040 Express Lane Projects (VTP 2040 project numbers H2, H3, H4, H5, H6, H7, and H15) and Countywide Freeway Traffic Operation System and Ramp Metering Improvements (VTP 2040 project number S83).

These VTP 2040 projects (H2, H3, H4, H5, H6, H7, H15, and S83), once fully funded and constructed, will enhance travel choices for Project travelers and make more efficient use of the transportation network.

**Findings TRA-3.** The EIR considered freeway segments under the jurisdiction of Santa Clara County, San Mateo County, and Alameda County, including portions of US 101, I-680, I-880, SR 87, and SR 237. Santa Clara County considers traffic impacts significant when Project traffic would induce freeway segment operations to degrade from LOS E or better to LOS F or when traffic would increase by more than 1 percent on a segment already operating at LOS F. San Mateo County considers impacts on freeway segments significant when additional traffic would cause a LOS that violates the LOS standard in the county's congestion management plan; alternatively, an impact is significant when a cumulative impact analysis shows that future traffic demand will cause the freeway segment to violate the applicable LOS and when the project will cause an increase of 1 percent or more in the traffic demand or the vehicle/capacity ratio of the segment. Alameda County's significance threshold for freeway segments is triggered when a project either causes a segment to decline from LOS E or better to LOS F or causes the vehicle/capacity ratio to increase by 0.03 or more for an LOS F segment. The EIR identified a total of 246 freeway segments that would face significant impacts before mitigation under existing with-Project conditions.

The complete mitigation of freeway impacts is beyond the scope of the City's powers, or any other individual development, because it is unable to execute tasks like freeway widening or major freeway improvements. These mitigation measures require approvals by regional and state agencies and funding mechanisms that would require regional or state support.

With Mitigation Measures TRA-1.1 and TRA-3.1, the severity of the impacts would be reduced, but most segments would still have significant Project impacts. The Project would have a significant impact on 246 freeway segments. These freeway segments include those that would exceed Level-of-Service standards because of the Project and those that already exceed applicable Level-of-Service standards. No other feasible mitigation measures are available and specific economic, legal, social, technological, or other considerations make infeasible the

project alternatives identified in the final EIR that would avoid the impacts. Thus, the Project impact on freeway segment LOS would be *significant and unavoidable*.

**Impact TRA-1a: Signalized (Off-Site) Intersections with Phases 1, 2 and 3.** Phases 1, 2, and 3 of the Project would add traffic to certain signalized intersections, causing them to operate at unacceptable levels of service or worsen unacceptable levels of service under existing conditions.

**Mitigation Measures:** See Mitigation Measure TRA-1.1, described in VII.D.2, and TRA-1.3, described above.

**Mitigation Measure TRA-1a.1: Intersection Improvements for Existing with Project Phases 1, 2, and 3.** The intersection improvements and off-setting mitigation measures summarized in EIR Table 3.3-26 shall be implemented, and Project Developer shall pay the fair-share contributions for the mitigation measures summarized in EIR Table 3.3-26. (This table also includes impacts and mitigation measures for the full Project for comparison purposes.) These improvements will reduce vehicle delays and fully mitigate Project impacts at several intersections by allowing the intersections to operate at acceptable levels, with delays that would be lower than they would be under no-project conditions, or with less than a 4-second increase in critical delay at intersections that operate at unacceptable levels. EIR Table 3.3-26 also contains physical improvements for select intersections that will reduce the delay, but not to a level that mitigates the impact.

Some of the intersection improvements would require ROW acquisition. A preliminary review of ROW constraints was done by viewing aerial photography as a part of the mitigation measure feasibility assessment. An intersection was identified as having ROW constraints if the mitigation measure would include widening the roadway or relocating aboveground utilities. (Use of the center median and “pork-chop” islands was not considered as roadway widening.) If the removal of bicycle facilities was required, the ROW required was defined as “possible.” If the City makes a final determination that a portion or all of an improvement is not feasible because ROW cannot be acquired or for other reasons, the improvement, or infeasible portion, shall not be implemented and, if none of the improvement is feasible, and no off-setting mitigation measure is identified, that intersection shall be considered to have “no feasible mitigation.”

**Finding TRA-1a.** Phases 1, 2, and 3 would generate roughly 40 to 50 percent of the Project’s traffic at full build-out. During these phases, twenty signalized intersections would have significant impacts, but no unsignalized intersections would have significant impacts.

Specifically, the impacts on two intersections in the City of Santa Clara would be reduced to less-than-significant levels. However, while the impacts on two other intersections located in the City of Santa Clara would be partially mitigated, the impacts would remain significant and unavoidable. One additional intersection in the City of Santa Clara has no feasible mitigation measures, so the impacts on this intersection would remain significant and unavoidable. Because mitigation measures cannot be guaranteed for the fifteen intersections lying outside the jurisdiction of the City of Santa Clara, impacts on these intersections remain significant and unavoidable. Of these fifteen intersections, five could be fully mitigated by identified measures,

three could be partially mitigated by identified measures, and one intersection has no feasible mitigation measure. Additionally, four intersections would require a fair-share payment for a planned interchange, although it is not possible to guarantee full funding for construction. One other intersection could be partially mitigated by an identified measure or a fair-share payment would be necessary.

With Mitigation Measures TRA-1.1, TRA-1.3, and TRA-1a.1, these impacts would be reduced but certain intersections would still have significant Project impacts. No other feasible mitigation measures are available and specific economic, legal, social, technological, or other considerations make infeasible the project alternatives identified in the final EIR that would avoid the impacts. Therefore, the Project impact on signalized intersection LOS during Phases 1, 2, and 3 would be *significant and unavoidable*.

**Impact TRA-3a.** Phases 1, 2, and 3 of the Project on Parcels 4 and 5 would add traffic to certain freeway segments, causing them to operate at unacceptable levels of service or worsen existing unacceptable levels of service.

**Mitigation Measures:** See Mitigation Measure TRA-1.1, described in VII.D.2, and Mitigation Measures TRA-1.3 and TRA-3.1, described above.

**Finding TRA-3a.** The EIR considered freeway segments under the jurisdiction of Santa Clara County, San Mateo County, and Alameda County, including portions of US 101, I-680, I-880, SR 87, and SR 237. Santa Clara County considers traffic impacts when Project traffic would induce freeway segment operations to degrade from LOS E or better to LOS F, or when traffic would increase by more than 1 percent on a segment already operating at LOS F. San Mateo County considers impacts on freeway segments significant when additional traffic would cause a LOS that violates the LOS standard in the county's congestion management plan; alternatively, an impact is significant when a cumulative impact analysis shows that future traffic demand will cause the freeway segment to violate the applicable LOS and when the project will cause an increase of 1 percent or more in the traffic demand or the vehicle/capacity ratio of the segment. Alameda County's significance threshold for freeway segments is triggered when a project either causes a segment to decline from LOS E or better to LOS F or causes the vehicle/capacity ratio to increase by 0.03 or more for an LOS F segment. The EIR identified a total of 246 freeway segments that would face significant impacts before mitigation under existing with-Project conditions.

With Mitigation Measures TRA-1.1, TRA-1.3, and TRA-3.1, the severity of the impacts would be reduced, but most segments would still have significant Project impacts. No other feasible mitigation measures are available and specific economic, legal, social, technological, or other considerations make infeasible the project alternatives identified in the final EIR that would avoid the impacts. Thus, the Project impact on freeway segment LOS during Phases 1, 2, and 3 would be *significant and unavoidable*.

**Impact TRA-6: Intersections with Variant Access Scheme.** With the access variant, the Project would add traffic to certain nearby intersections, causing them to operate at unacceptable levels of service or worsen existing unacceptable levels of service.



**Mitigation Measures:** See Mitigation Measure TRA-1.1, described in VII.D.2, and Mitigation Measure TRA-1.3, described above.

**Mitigation Measure TRA-6.1: Intersection Improvements with Variant Access Scheme.** The intersection improvements summarized in EIR Table 3.3-35 shall be implemented. These improvements will reduce vehicle delays and fully mitigate Project impacts at several intersections by allowing them to operate at acceptable levels, with delays that would be lower than they would be under no-project conditions, or with less than a 4 second increase in critical delay for intersections that operate at unacceptable levels.

Table 3.3-35 also contains physical improvements for select intersections that will reduce the delay, but not to a level that fully mitigates the impact.

Some of the intersection improvements would require ROW acquisition. A preliminary review of ROW constraints was done by viewing aerial photography as a part of the mitigation measure feasibility assessment. An intersection was identified as having ROW constraints if the mitigation measure would include widening the roadway or relocating aboveground utilities. (Use of the center median and “pork-chop” islands was not considered as roadway widening.) If the removal of bicycle facilities was required, the ROW required was defined as “possible.” If the City makes a final determination that a portion or all of an improvement is not feasible because ROW cannot be acquired or for other reasons, the improvement, or infeasible portion, shall not be implemented and, if none of the improvement is feasible, that intersection shall be considered to have “no feasible mitigation.”

**Mitigation Measure TRA-6.2: Intersection Improvements for Phases 1, 2 and 3.** The intersection improvements summarized in Table 3.3-36 shall be implemented. These improvements will reduce vehicle delays and fully mitigate Project impacts at several intersections by allowing the intersections to operate at acceptable levels, with delays that would be lower than they would be under no-project conditions, or with less than a 4-second increase in critical delay for intersections that operate at unacceptable levels.

Table 3.3-36 also contains physical improvements for select intersections that will reduce the delay, but not to a level that mitigates the impact.

Some of the intersection improvements would require ROW acquisition. A preliminary review of ROW constraints was done by viewing aerial photography as a part of the mitigation measure feasibility assessment. An intersection was identified as having ROW constraints if the mitigation measure would include widening the roadway or relocating aboveground utilities. (Use of the center median and “pork-chop” islands was not considered as roadway widening.) If the removal of bicycle facilities was required, the ROW required was defined as “possible.” If the City makes a final determination that a portion or all of an improvement is not feasible because ROW cannot be acquired or for other reasons, the improvement, or infeasible portion, shall not be implemented and, if none of the improvement is feasible, that intersection shall be considered to have “no feasible mitigation.”

**Findings TRA-6.** The redistribution of traffic under the Variant Access Scheme would alter how traffic would approach and depart the Project site, influencing the operation of the on-

site intersections and 23 off-site intersections. LOS analyses using the Variant Access Scheme were conducted on the 23 off-site intersections under three scenarios: existing with-Project conditions; existing conditions with-Project Phases 1, 2, and 3; and background with-Project conditions. The Project would have significant impacts on eight of the off-site, signalized intersections under existing with-Project conditions. Three of these intersections would be significantly impacted during Phases 1, 2, and 3 under existing with-Project conditions. In background with-Project conditions, the Variant Access Scheme would result in significant impacts on 10 off-site signalized intersections and two off-site unsignalized intersections. Combining existing with-Project and background with-Project conditions and with the Variant Access Scheme, a total of 11 signalized intersections would face significant impacts.

Specifically, implementing the mitigation measures above would result in four intersections in the City of Santa Clara facing less-than-significant impacts. Four other intersections in the City of Santa Clara can be partially mitigated with migration measures, but impacts will remain significant and unavoidable. Further, two intersections within the City of Santa Clara have no feasible mitigation measures and the significant impacts therefore would be significant and unavoidable. The implementation of mitigation measures at one intersection outside the City of Santa Clara, so the significant impacts there are significant and unavoidable. In addition, implementing Mitigation Measure TRA-6.2 will result in one additional intersection where impacts would be reduced to less-than-significant. Mitigation Measure TRA-6.2 also will partially mitigate impacts at two additional intersections, but impacts there will remain significant and unavoidable.

With Mitigation Measures TRA-1.1, TRA-1.3, TRA-6.1, and TRA-6.2, impacts would be reduced, but certain intersections would still have significant Project impacts. No other feasible mitigation measures are available and specific economic, legal, social, technological, or other considerations make infeasible the project alternatives identified in the final EIR that would avoid the impacts. Therefore, the Project impact on signalized intersection LOS under the Variant Access Scheme would be *significant and unavoidable*.

**Impact TRA-11: Transit Operations.** The Project would generate considerable amounts of traffic congestion at intersections on bus and light-rail routes in the study area, thereby increasing the travel times of buses and light-rail vehicles.

**Mitigation Measures.** No feasible mitigation measures are available.

**Finding TRA-11.** Project-related traffic would cause unacceptable levels of service at intersections in the Project study area, causing excessive delays to public transit vehicles. The Project would therefore cause significant delays to existing transit services, particularly buses and shuttles servicing ACE and Capitol Corridor passengers at the Great America Station. Project-related traffic could diminish the efficacy of signalized intersections that give priority to light-rail transit vehicles, causing delays for this service.

Potential mitigation measures would be ineffective. For example, adding signal priority for transit at all intersections would not address delays at those intersections. The additional right-of-way necessary to construct additional bus-only lines is not available.

No feasible mitigation measures are available, and the Project's impact on existing transit operations would be *significant and unavoidable*.

**Impact TRA-14: Signalized (Off-Site) Intersections in Cumulative with-Project Conditions.** Increases in traffic associated with the Project under cumulative with-Project conditions would result in considerable contributions at signalized intersections operating at unacceptable levels of service during both peak hours.

**Mitigation Measures:** See Mitigation Measure TRA-1.1, described in VII.D.2, and Mitigation Measure TRA-1.3, described above.

**Mitigation Measure TRA-14.1: Signalized Intersection Improvements.** The intersection improvements and off-setting mitigation measures summarized in EIR Table 3.3-20 shall be implemented, and the Project Developer shall pay fair-share contributions for the mitigation measures summarized in EIR Table 3.3-20. The Project Developer shall also pay fair-share contributions for the additional intersections or off-setting mitigation measures identified in EIR Table 3.3-50. The improvements will reduce vehicle delays and fully mitigate cumulative impacts at several intersections by allowing the intersections to operate at acceptable levels, with delays that would be less than they would be under no-project conditions, or with less than a 4-second increase in critical delay for intersections that operate at unacceptable levels.

EIR Table 3.3-50 also contains physical improvements for select intersections that will reduce the delay, but not to less than no-project conditions such that the Project's effects would remain cumulatively considerable.

Some of the intersection improvements would require ROW acquisition. A preliminary review of ROW constraints was done by viewing aerial photography as a part of the mitigation measure feasibility assessment. An intersection was identified as having ROW constraints if the mitigation measure would include widening the roadway or relocating aboveground utilities. (Use of the center median and "pork-chop" islands was not considered as roadway widening.) If the removal of bicycle facilities was required, the ROW required was defined as "possible." If the City makes a final determination that a portion or all of an improvement or mitigation is not feasible because ROW cannot be acquired or for other reasons, the improvement, or infeasible portion, shall not be implemented and, if none of the improvement is feasible, that intersection shall be considered to have "no feasible mitigation."

**Finding TRA-14.** The EIR evaluated calculations of LOS for signalized intersections in both a cumulative no-Project scenario and a cumulative with-Project scenario. The most notable differences between these scenarios are increases in the critical delay and critical vehicle/capacity ratios in the cumulative with-Project scenario as compared to the cumulative no-Project scenario. In the cumulative with-Project scenario, there will be impacts on 71 signalized intersections, and the Project will contribute to delays at most of these intersections.

Eight intersections located within the City of Santa Clara's jurisdiction would have impacts reduced to less-than-significant levels with the implementation of mitigation measures in EIR Table 3.3-50. Ten additional intersections located within the City of Santa Clara's jurisdiction would face impacts that could be partially mitigated by the use of the same measures. Five other intersections in the City of Santa Clara's jurisdiction have no feasible mitigation



measures. Forty-eight further intersections lie outside the jurisdiction of the City of Santa Clara, so the implementation of mitigation measures cannot be guaranteed.

With Mitigation Measures TRA-1.1, TRA-1.3, and TRA-14.1, the impacts would be reduced, but as many as 63 intersections would still have significant cumulative impacts. No other feasible mitigation measures are available and specific economic, legal, social, technological, or other considerations make infeasible the project alternatives identified in the final EIR that would avoid the impacts. Therefore, the Project's cumulative impact on signalized intersection LOS would be *significant and unavoidable*.

**Impact TRA-16: Cumulative with-Project Variant Access Scheme Intersections.** Increases in traffic associated with the Project under cumulative with-Project conditions would result in considerable contributions at intersections operating at unacceptable levels of service during both peak hours with the Project Variant Access Scheme.

**Mitigation Measures:** See Mitigation Measure TRA-1.1, described in Section VII.D.2, and Mitigation Measure TRA-1.3, described above.

**Mitigation Measure TRA-16.1: Intersection Improvements for Cumulative with-Project Access Variants.** The intersection improvements summarized in EIR Table 3.3-54 shall be implemented. Some of the intersection improvements would require ROW acquisition. A preliminary review of ROW constraints was done by viewing aerial photography as a part of the mitigation measure feasibility assessment. An intersection was identified as having ROW constraints if the mitigation measure would include widening the roadway or relocating aboveground utilities. (Use of the center median and "pork-chop" islands was not considered as roadway widening.) If the removal of bicycle facilities was required, the ROW required was defined as "possible." If the City makes a final determination that a portion or all of an improvement or mitigation is not feasible because ROW cannot be acquired or for other reasons, the improvement, or infeasible portion, shall not be implemented and, if none of the improvement is feasible, that intersection shall be considered to have "no feasible mitigation."

**Finding TRA-16.** Cumulative with-Project Impacts with the Variant Access Scheme would affect 23 off-site intersections differently than the baseline access scheme. Employing the Variant Access Scheme, the Project would contribute significantly to impacts at 10 signalized intersections and 2 unsignalized intersections.

Specifically, with the mitigation measures listed above, two intersections in the City of Santa Clara would have impacts reduced to less-than-significant levels. Four other intersections in the City of Santa Clara would have impacts partially mitigated, but these impacts would remain significant and unavoidable. Two additional intersections in the City of Santa Clara lack any feasible mitigation measures, and impacts would therefore be significant and unavoidable. Two intersections fall outside the jurisdiction of the City of Santa Clara, and because the adoption of mitigation measures cannot be guaranteed, impacts on this intersection would remain significant and unavoidable.

With Mitigation Measures TRA-1.1, TRA-1.3, and TRA-16.1, these impacts would be reduced, but Project impacts at certain intersections would still be cumulatively considerable.

No other feasible mitigation measures are available and specific economic, legal, social, technological, or other considerations make infeasible the project alternatives identified in the final EIR that would avoid the impacts. Therefore, the Project's cumulative impact on signalized intersection LOS would be *significant and unavoidable*.

**Impact TRA-17: Impacts on Freeway Segments under Cumulative with-Project Conditions.** Increases in traffic associated with the Project under the cumulative with-Project conditions would result in considerable contributions to numerous freeway segments with cumulative impacts.

**Mitigation Measures.** See Mitigation Measure TRA-1.1, described in VII.D.2; Mitigation Measure TRA-1.3, described above; and Mitigation Measure TRA-14.1, described above.

**Findings TRA-17.** LOS calculations comparing cumulative no-Project conditions and cumulative with-Project conditions show that 236 freeway segments will face cumulative impacts, and the Project's contribution will be significant in all of these examples.

With Mitigation Measures TRA-1.1, TRA-1.3, and TRA-14.1, these cumulative impacts would be reduced, but certain segments would still have significant cumulative impacts. No other feasible mitigation measures are available and specific economic, legal, social, technological, or other considerations make infeasible the project alternatives identified in the final EIR that would avoid the impacts. Thus the Project's contribution to cumulative freeway impacts would remain *significant and unavoidable*.

**Impact TRA-18: Construction Traffic.** Construction traffic would result in short-term increases in traffic volumes that would cause significant impacts on intersection and freeway segment levels of service and temporary road closures requiring detours for vehicles accessing the Great America ACE/Capitol Corridor Station.

**Mitigation Measure TRA-18.1: Construction Management.** Prior to the issuance of each building permit, the Project Developer and construction contractor shall meet with the Public Works Department to determine traffic management strategies to reduce, to the maximum extent feasible, traffic congestion during construction of the Project and develop acceptable detour routes for emergency vehicles and for shuttles to the Great America ACE/Capitol Corridor station. The City will coordinate with appropriate transit agencies. The Project Developer shall prepare a Construction Management Plan for review and approval by the Public Works Department, which shall share the plan with the Capitol Corridor Joint Power Authority, the VTA, and ACE for review and comment. The plan, which shall be implemented during construction, shall include at least the following items and requirements:

- A set of comprehensive traffic control measures, including detour signs if required, lane closure procedures, sidewalk closure procedures, signs, cones for drivers, and designated construction access routes.

- Notification procedures for adjacent property owners, the public, transit operators, and public safety personnel regarding when detours and lane closures will occur.

Location of construction staging areas for materials, equipment, and vehicles (must be located on the Project site).

Identification of haul routes for movement of construction vehicles that would minimize impacts on vehicular, pedestrian, and transit vehicle traffic, circulation and safety; and provision for monitoring surface streets used for haul routes so that any damage and debris attributable to the haul trucks can be identified and corrected. Construction vehicles shall be required to use designated truck/haul routes.

Provisions for removal of trash generated by Project construction activity.

A process for responding to and tracking complaints pertaining to construction activity.

Construction vehicles and construction workers shall not be allowed to park in adjacent residential neighborhoods. Construction vehicles will be required to park either in the construction zone or in the temporary parking lots.

**Finding TRA-18.** Construction phases include site preparation and building construction, each of which is comprised of several activities. In the site preparation phase, various heavy machines would be necessary for tasks including clearing and grading the site, building temporary roads, and laying necessary infrastructure. In the building phase, construction will proceed in phases, beginning in 2016 and concluding in 2031. Construction is expected to peak between November 2018 and March 2019, when some 100 trucks, and 2,700 workers are expected to be traveling to the site daily. Although the number of trips generated by the Project during construction would be much lower than the number of trips generated by the Project when complete, some mitigation measures may not yet be in place to accommodate increased construction-related traffic.

Peak construction periods are anticipated to generate between 2,100 and 4,000 vehicle trips per day. Construction-related traffic would cause significant short-term impacts on intersections and freeway segments before the Project has deployed the transportation mitigation measures discussed above. Certain freeway segments that already operate at unacceptable LOS will experience an increase in traffic of greater than 1 percent, and certain intersections that already at unacceptable LOS will see additional delays of more than 4 seconds.

A Construction Management Plan would minimize disruptions to transportation facilities and services, including emergency vehicle response times, caused by Project construction activities. However, the amount of traffic associated with the construction of the Project would cause significant impacts on freeway segment and intersections with no identified mitigation measures. In addition, temporary road closures would require shuttles to be re-routed. No other feasible mitigation measures are available and specific economic, legal, social, technological, or other considerations make infeasible the project alternatives identified in the final EIR that would avoid the impacts. Therefore, the transportation impact of construction activities would remain *significant and unavoidable*.

**Impact TRA-19: Intersections with Special Event Traffic.** Project traffic would exacerbate unacceptable levels of service at intersections near the site and Levi's Stadium during special events.



**Mitigation Measure TRA-19.1: Modify City's Traffic Management and Operations Plan (TMOP) and Prepare a Project-Specific Traffic and Parking Management Plan.**

Modify the City's TMOP to include plans to direct stadium traffic to the new parking locations on the site. (Some of the office parking areas will be used during special events.) A separate traffic and parking management plan shall be developed for the Project by the Project Developer and approved by the Director of Planning and Inspection and/or the Director of Public works. This plan would address:

Parking areas to be used by office employees (versus stadium parking);

Project customer/employee parking (versus stadium parking);

Access and egress routes for vehicles to the site, taking into consideration the lane and roadway segment closures used to direct stadium traffic;

A communications plan to inform customers and employees of game-day operations; and

Operational improvements such as signal timing and coordination to maximize efficiency of the streets during peak periods.

Performance goals that reflect a successful traffic and parking management plan would be contained in the plan and may include items such as:

Maintaining vehicular access to the Project with acceptable increases in travel times compared to non-game day conditions;

Limited vehicle queuing within the Project site such that no internal circulation roadways are blocked; and

Limited vehicle queuing extending from parking facilities within the Project onto external public roadways.

Even with mitigation, the local streets near the Project site would operate at an unacceptable LOS due to vehicle demand exceeding capacity. Widening roadways or intersections to increase capacity was considered as mitigation but rejected due to utility and secondary impacts. Street widening would provide capacity that would be needed only on game days and not at other times. The City of Santa Clara General Plan has policies to discourage the widening of existing roadways without first considering operational improvements such as the items included in the existing TMOP and items that will be included in the TDM Plan.

**Finding TRA-19.** CityPlace Santa Clara is located near the 68,500 seat Levi's Stadium, which hosts NFL games and other special events. Approximately 25 events are held at Levi's each year.

The City of Santa Clara has adopted a TMOP to accommodate attendees, who travel to Levi's Stadium by various modes, including train, light-rail, bus, private coach, private vehicle, and bicycle. The TMOP prescribes various street and lane closures and other restrictions aimed at reducing congestion, and it includes tailored plans for pre-game and post-game traffic. Before

major events, vehicles accessing parking lots serving Levi's Stadium exceed the capacity of several intersections, degrading their capacity. Road closures on Tasman Drive facilitate pedestrian access to the stadium from light-rail and shuttle services. After events, nearby intersections and freeway segments are again congested, but the congestion usually clears within 1.5 to 2 hours following events. Pedestrians typically wait less than an hour for transit services, although some platforms are congested.

The Project would generate significant vehicle trips even when there are not games or events at Levi's Stadium. Approximately 81,500 vehicle trips would occur as a result of the Project on a typical Sunday. Detours and road closures on event days would further exacerbate delays at intersections and on freeway segments that already operate at unacceptable levels of service.

Even by modifying the TMOP to include plans to direct stadium traffic to the new parking locations on the site and preparing a Traffic and Parking Management Plan to accommodate traffic going to and from the site on a game day, intersections near the site would still operate at unacceptable levels. No other feasible mitigation measures are available and specific economic, legal, social, technological, or other considerations make infeasible the project alternatives identified in the final EIR that would avoid the impacts. Therefore, the Project's impact on game-day conditions would remain *significant and unavoidable*.

### 3. Air Quality

**Impact AQ-1: Conflict with Air Quality Plan.** The Project would conflict with or obstruct implementation of the applicable air quality plan.

**Mitigation Measures.** No feasible mitigation measures are available.

**Finding AQ-1.** Santa Clara County is currently a nonattainment zone for federal ozone and PM2.5 standards, and it is designated a maintenance area under the federal CO standard. Santa Clara County also is not in attainment for state ozone, PM10, and PM2.5 standards.

Projects can be either consistent or inconsistent with applicable air quality plans depending whether they would lead to population and/or employment growth in excess of planned thresholds. Projects that propose development above expected growth projections conflict with BAAQMD air quality plans and may significantly impact air quality due to increased emissions.

Under both Scheme A and Scheme B, the Project would generate net increases in dwelling units and jobs, as well as indirect increases in housing demand and population. Increased housing demand would represent 2.6–3.0 percent of the regional growth in 2040.

The Project incorporates several strategies consistent with BAAQMD's 2010 Clean Air Plan strategies, including local land use and focused growth measures. The Project supports density and mixed uses and encourages alternative forms of transportation, such as biking, walking, and transit. Energy conservation measures include a 10 percent cut relative to the 2013 California Energy Code, TDM measures, and a LEED certified neighborhood development plan.

Despite these project features, the Project would contribute to unplanned regional growth. Moreover, long-term operational emissions generated by the Project would far exceed BAAQMD's thresholds of significance even with mitigation (see Impact AQ-3). Accordingly, the Project would conflict with implementation of the applicable air quality plan. No feasible mitigation measures are available, and specific economic, legal, social, technological, or other considerations make infeasible the project alternatives identified in the final EIR that would avoid the impacts. Therefore, this impact would be *significant and unavoidable*.

**Impact AQ-3: Operational Criteria Air Pollutant Emissions.** The Project would result in the generation of regional criteria pollutant emissions during operation in excess of BAAQMD thresholds.

**Mitigation Measures.** See Mitigation Measure GHG-1.2, described in Section VII.D.4, and Mitigation Measure TRA-1.1, described in Section VII.D.2.

**Findings AQ-3.** Operating the Project may result in emissions from mobile, area, and energy sources that cause air quality impacts. Mobile sources include resident and visitor vehicles, employee vehicles, and waste management trucks. Area sources encompass landscaping equipment, off-gassing from architectural coatings, and consumer products used on site. Natural gas combustion for space and water heating is an energy source with emissions.

The Project includes several features to minimize air emissions. The Project's close proximity to public transit services will lead to lower mobile-source emissions than a less optimally located development of a similar size. The Project will prohibit wood-fired hearths. Many of the features required by the LEED certifications the Project will seek also will promote attainment of the BAAQMD standards. The design of all buildings at the Project will exceed the California Green Building Code.

BAAQMD emissions thresholds would be exceeded for ROG, NO<sub>x</sub>, PM<sub>10</sub>, and PM<sub>2.5</sub> under both Scheme A and Scheme B. The sources of these emissions would differ. ROG emissions would be generated primarily from the use of consumer products, such as aerosols. Driving trips by residents, visitors, and employees would generate the majority of NO<sub>x</sub> emissions. Road dust would cause most PM emissions.

Mitigation Measure GHG-1.2 requires the Project's energy efficiency to exceed the 2013 Title 24 requirements by at least 15 percent or meet the Title 24 requirements that are applicable at the time of issuance of building permits for an individual phase (whichever has more stringent requirements for energy efficiency). This action will improve energy efficiency and reduce natural gas consumption. In addition, Mitigation Measure TRA-1.1 requires implementation of TDM measures to reduce mobile-source emissions. EIR Table 3.4-9 summarizes operational emissions with implementation of Mitigation Measures GHG-2.1 and TRA-1.1.

Although Project design features, LEED certification, and operational mitigation would reduce criteria pollutant reductions, ROG, NO<sub>x</sub>, PM<sub>10</sub>, and PM<sub>2.5</sub> emissions would still exceed BAAQMD's mass emissions thresholds of 54 pounds per day for ROG and NO<sub>x</sub> and 82 pounds per day for PM<sub>10</sub> and PM<sub>2.5</sub>. These emissions would be primarily the result of personal consumer products at private residences and mobile-source emissions associated with vehicle



use; as such, there is no feasible on-site mitigation to reduce emissions below BAAQMD's thresholds.

Requirement of operational offsets (such as those included in Mitigation Measure AQ-2.4) was not among the feasible mitigation measures recommended by BAAQMD in its comments on the EIR. Such a measure would require the procurement of annual offsets until Project decommissioning. Assuming a 30-year Project lifespan, implementing Mitigation Measure AQ-2.4 to also cover operational ROG and NOX emissions over the BAAQMD thresholds would result in approximately \$76 million in fees (Scheme B). Requiring a mitigation measure of this magnitude and duration that was not recommended by BAAQMD would place an undue financial burden on the Project that is not considered economically feasible. No other feasible mitigation measures are available and specific economic, legal, social, technological, or other considerations make infeasible the project alternatives identified in the final EIR that would avoid the impacts. Consequently, the impact of ROG, NOX, and PM emissions on air quality during Project operation would be *significant and unavoidable*.

**Impact AQ-4: Generation of Regional Criteria Pollutant Emissions During Combined Project Construction and Operation.** The Project would generate regional criteria pollutant emissions during combined Project construction and operation in excess of BAAQMD thresholds.

**Mitigation Measures:** See Mitigation Measures AQ-2.1 through AQ-2.4, described in VII.D.3.

**Finding AQ-4.** Emissions would commence immediately upon the start of construction work and would continue as the Project shifts from construction to occupancy. Various measures are available to mitigate these emissions, but impacts nonetheless will remain significant.

During construction, the Project will implement several measures to mitigate emissions. First, Mitigation Measure AQ-2.1 will require the Project to utilize clean diesel-powered equipment during construction. This Mitigation Measure will control construction-related ROG and NO<sub>x</sub> emissions. All off-road, diesel-powered equipment used during construction between 2017 and 2022 will use Tier 3 cleaner engines, if available. Similarly, off-road, diesel-powered vehicles used during construction between 2023 and 2030 will have to use Tier 4 engines, if available.

Second, Mitigation Measure AQ-2.2 will require that on-road, heavy-duty trucks comply with EPA's 2007 emissions standards for PM<sub>10</sub> and NO<sub>x</sub>.

Third, Mitigation Measure AQ-2.3 will require a number of steps to reduce construction-related dust and exhaust emissions. All construction contractors will be required to implement various measures to minimize fugitive dust and equipment exhaust emissions. Contractors may propose alternative measures, subject to approval by the City of Santa Clara. Required measures include: maintaining minimum soil moisture; suspending certain activities when high winds are sustained; installing windbreaks on the windward side of construction areas; sowing certain exposed ground areas with fast-germinating grass; washing construction vehicles prior to leaving

the site; treating certain site access points with wood chips, mulch, or gravel; installing sand bags or other erosion control to prevent silt runoff in certain areas; limiting the idling time of vehicles; equipping diesel-powered equipment and vehicles with Best Available Control Technology for PM and NO<sub>x</sub>; and, using equipment that meets ARB's certification standard for off-road heavy-duty diesel engines.

Fourth, Mitigation Measure AQ-2.4 will require monitoring and tracking of NO<sub>x</sub> emissions during construction. Average daily emissions will be calculated, and the Project Developer will pay offset fees to BAAQMD on the basis of a construction mitigation contract to offset NO<sub>x</sub> emissions in excess of the average daily threshold of 54 pounds per day.

Mitigation Measures AQ-2.1 through AQ-2.4 would therefore ensure that construction emissions would not exceed BAAQMD's mass emissions thresholds on their own. However, based on the magnitude of operational emissions (see EIR Table 3.4-8), combined construction and operational emissions would result in exceedances of the BAAQMD's ROG, NO<sub>x</sub>, PM<sub>10</sub>, and PM<sub>2.5</sub> thresholds.

Operational emissions would be primarily the result of personal consumer products at private residences and mobile-source emissions associated with vehicle use; as such, there is no feasible on-site mitigation to reduce combined construction and operational emissions below BAAQMD's thresholds. Expanding Mitigation Measure AQ-2.4 to include operational offsets during the 14-year overlap period as described above, is considered economically infeasible. No other feasible mitigation measures are available, and specific economic, legal, social, technological, or other considerations make infeasible the project alternatives identified in the FEIR that would avoid the impacts. Consequently, the impact of ROG, NO<sub>x</sub>, and PM emissions on air quality during Project operation would be *significant and unavoidable*.

#### **4. Greenhouse Gas Emissions**

**Impact GHG-1: Greenhouse Gas Emissions.** The Project would generate GHG emissions, either directly or indirectly, that would have a significant impact on the environment.

**Mitigation Measure:** See Mitigation Measure TRA-1.1, described in VII.D.2.

##### **Mitigation Measure GHG-1.1: Utilize Alternative Fuels during Construction.**

Require construction contractors to use alternative fuels in at least 30 percent of the construction equipment that uses diesel fuel. Alternative fuels may include electricity, compressed natural gas (CNG), biodiesel (B-20), or renewable diesel, such as diesel high-performance renewable (HPR).

##### **Mitigation Measure GHG-1.2: Operational GHG Emissions Reduction Measures.**

The Project Developer shall implement the operational GHG emissions reduction strategies described below:

1. **Energy Efficiency:** The Project's energy efficiency shall be 15 percent better than the base case energy model developed pursuant to the 2013 Title 24 requirements or shall meet the Title 24 requirements that are applicable at the time of issuance of the building

permits for individual phases, whichever is more stringent (Climate Action Plan [CAP] Measure 2.1).<sup>15</sup>

2.     **On-site Solar Energy:** The Project already includes on-site photovoltaics (PV) solar to meet 10 percent of electricity demand. The Project shall obtain renewable energy electricity corresponding to 50 percent of on-site electricity demand by 2030 through a combination of on-site solar, purchase of renewable energy or other measures. (CAP Measure 2.4). This requirement may be phased in as follows: 2020 – 15%; 2025 – 29%; 2030 – 50%). If the Project Developer can demonstrate, to the City’s satisfaction, that through Project design, adopted State or federal regulations, or other assured actions that the Project’s emissions overall will meet the 2030 metric identified in this document without the implementation of this particular measure of its full implementation, then this measure (or its full implementation) may be waived by the City.

3.     **Food Waste:** All retail restaurants shall be required to participate 100 percent in any extant City food waste and composting programs and any that may be developed in the future (CAP Measure 4.1).

4.     **Electrical Landscaping Equipment:** The Project shall include installation of electrical outlets near all maintained landscaping areas to allow for the use of electrical landscaping equipment (CAP Measure 5.1). In the landscaped City Center, only electrical landscape equipment shall be used. Use of electrical landscaping equipment shall not be required for the extensive natural landscaping contemplated at the edges of the City Center and at Parcels 1, 2, and 3.

5.     **Electrical Vehicle Charging/Preferential Parking (CAP Measure 6.3).** The Project shall provide preferential parking in all parking lots for electric vehicles and shall also provide charging equipment, as follows:

a.     **Residential Use:** A total of 10 percent of the required parking spaces shall be provided with a listed cabinet, box, or enclosure and connected to a conduit that links the parking spaces to the electrical service in a manner approved by the building and safety official. Of the listed cabinets, boxes, or enclosures provided, 50 percent shall have the necessary electric vehicle supply equipment installed to provide active charging stations that are ready for use by residents. The remainder shall be installed at such time as they are needed for use by residents. Electrical vehicle batteries and charging technology may change substantially over the next 15 years. As such, the City shall have the discretion to modify the specific requirements for this measure over time, provided that 10 percent of the spaces have electrical service and 5 percent have active charging, depending on what the technology at the time requires.

b.     **Commercial Use:** New commercial uses shall provide the electrical service capacity necessary as well as all conduits and related equipment

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<sup>15</sup> The CEC intends for residential buildings in 2020 and later to be zero net energy (ZNE) and commercial buildings in 2030 or later to be ZNE, but because pending regulations are not yet adopted, this cannot be assumed in this analysis.



necessary to serve 2 percent of the parking spaces with charging stations in a manner approved by the City's Building Official. Of these parking spaces, 50 percent shall initially be provided with the equipment necessary to function as online charging stations upon completion of the Project. The remainder shall be installed at such time as they are needed for use by customers, employees, or other users. Electrical vehicle batteries and charging technology may change substantially over the next 15 years. As such, the City shall have the discretion to modify the specific requirements for this measure over time, provided that two percent of the spaces have electrical service and one percent have active charging, depending on what the technology at the time requires.

6.     Shade Trees: Where surface parking lots are not covered by PV solar, shade trees shall be planted to reduce urban heat island effects on adjacent buildings (CAP Measure 7.1).

7.     Urban Cooling: Any uncovered parking lots or spaces shall use light-colored pavement (CAP Measure 7.2).

8.     Leases for businesses that base a diesel truck fleet within the Project site: Ensure those fleets meet the highest CARB engine-tier standard in place at the time of issuance of the building permits for the building that such businesses occupy, or the execution of a lease, whichever comes first.

9.     Electrical hook-ups at loading docks for businesses that will receive deliveries from refrigerated diesel trucks: Stipulate in the lease agreement for such businesses a requirement to use the hook-ups if the trucks will be idling for more than two minutes.

10.    Leases for business receiving deliveries: Prohibit all diesel-powered trucks from idling for more than 2 minutes.

11.    Solar hot water heating systems: Incorporate for appropriate applications including any swimming pools and buildings with swimming pools.

12.    Electric heat pumps, or other energy-efficiency techniques, including radiant systems: Include for space heating and cooling, under appropriate circumstances.

**Findings GHG-1.** Constructing the Project would generate some GHG emissions, including direct emissions of CO<sub>2</sub>, CH<sub>4</sub>, and N<sub>2</sub>O, and indirect emissions from fugitive dust control operations. In addition, grading activities will cause the release of CH<sub>4</sub> by disturbing landfill underlain by refuse. Over the projected fifteen year construction period, over 26,500 metric tons of CO<sub>2</sub> equivalent will be emitted, or the equivalent of the emissions from 5,600 passenger vehicles over the course of a year.

Operating the Project would likewise generate direct and indirect GHG emissions. Vehicle trips, natural gas combustion, and landscaping will generate direct emissions, while electricity consumption, waste generation, and water use will cause indirect emissions.

Because the State of California is yet to adopt a plan to achieve 2030 and 2050 emissions reductions targets, it is difficult to determine adequate significance assessments for the Project's GHG emissions. Operational emissions would be less than significant were AB 32 the only reduction target, but this is not the case. Despite the uncertainty associated with unset State goals, the Project's GHG emissions, it is appropriate to assume that the Project will result in significant emissions compared to background conditions.

Mitigation Measure GHG-1.1 would require the use of alternative fuels for 30 percent of the construction equipment that uses diesel fuel, consistent with BAAQMD's recommended BMPs for construction GHGs. Mitigation Measure GHG-1.2 would reduce operational GHG emissions. The measure includes strategies derived directly from the City's CAP. In addition, Mitigation Measure TRA-1.1 would require the number of Project office and residential trips to be reduced, which would reduce mobile-source emissions.

The Project does not propose to use carbon offsets to mitigate its GHG emissions. Considering that the Project will primarily generate emissions from mobile sources and energy sources that will already be covered by the Statewide cap and trade program, using GHG offsets as additional mitigation is not contemplated.

Nevertheless, even with implementation of these mitigation measures, Project operational emissions would exceed the 2030 substantial progress efficiency metric. No other feasible mitigation measures are available and specific economic, legal, social, technological, or other considerations make infeasible the project alternatives identified in the final EIR that would avoid the impacts. It is possible that future State regulations, not yet adopted, may make it possible for Project emissions to be less than the 2030 efficiency metric, but it would be speculative to make such a conclusion now and in advance of the adoption of such regulations. Therefore, the impacts would remain *significant and unavoidable*.

**Impact GHG-2: Conflicts with Applicable Plans and Policies.** The Project would conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs, specifically, EO S-03-05 and B-30-15.

**Mitigation Measures:** See Mitigation Measure TRA-1.1, discussed in VII.D.2, and Mitigation Measure GHG-1.2, described above.

**Findings GHG-2.** The Project may conflict with the AB 32 Scoping Plan, the City of Santa Clara CAP, and Executive Orders S-03-05 and B-30-15.

The AB 32 Scoping Plan is the state's framework for achieving the GHG reduction objectives of AB 32 in a technologically and cost-effective manner. The Scoping Plan calls for expanded energy efficiency programs, producing at least one-third of the state's electricity from renewable resources, improving automobile efficiency, implementing the Low Carbon Fuel Standard, and deploying a cap-and-trade program. Collectively, these measures aim to satisfy the state's targets under AB 32. The Project will not undermine any of these goals, and to the contrary, the Project's GHG emissions will be considerably lower because of the operation of these measures on the Project. Furthermore, BAAQMD has set thresholds based on the AB 32 reduction target, and the Project's emissions would not exceed these targets.

The City of Santa Clara adopted a CAP in 2013 to reduce its GHG emissions. Including mitigation measures, the Project will comply with all applicable provisions of the CAP. As discussed elsewhere, the Project will require an amendment to the City's General Plan to add a new land use designation, which will include a provision requiring a 10 percent VMT reduction. The CAP also will need to be amended to take account of the new land use designation. Although the Project will result in greater employment and population figures than the CAP assumes, the addition of the Project's emissions will not cause the City to exceed its CAP targets.

Executive Order B-30-15 set a target of reducing GHG emissions by 40 percent below 1990 levels by 2030, and Executive Order S-3-05 set a target of reducing emissions by 80 percent below 1990 levels by 2050. These targets are ambitious. Numerous and systemic changes in electricity production, transportation fuels, and industrial processes will be necessary to achieve these targets. Although the Project alone lacks control over the measures necessary to achieve these targets, developments of the Project's size will need to take steps like maximizing energy efficiency if these targets are to be achieved.

As discussed under Impact GHG-1, the feasible mitigation is not adequate on its own to reduce Project GHG emissions to a level below the 2030 efficiency metric. Because there will need to be large reductions achieved through State (and likely federal) action, the Project's actual emissions in 2030 may be less than those described in this document but, the specific value of heretofore unknown state (or federal) action cannot be presumed at this time and conclusions must be made with estimates of emissions presented in this document. Although it is possible that future state and federal actions may reduce project emissions below a level consistent with the 2030 and 2050 reduction targets in the executive orders, this cannot be known at this time and, thus out of an abundance of caution, it is conservatively assumed that the Project's emissions would be inconsistent with the goals in EO S-3-05 and EO B-30-15. No other feasible mitigation measures are available and specific economic, legal, social, technological, or other considerations make infeasible the project alternatives identified in the final EIR that would avoid the impacts. Therefore, this impact is considered *significant and unavoidable*.

## **5. Noise**

**Impact NOI-1: Exposure to Excessive Noise Levels.** The Project would expose persons to or generate noise levels in excess of standards established in a local general plan or noise ordinance or applicable standards of other agencies. Specific impacts and mitigation measures are discussed below.

**Impact NOI-1c: Operational Noise Impacts to Off-Site Land Uses.** The Project would lead to an increase in traffic noise in the vicinity of the Project site.

### **Mitigation Measure NOI-1.2: Implement Off-Site Traffic Noise Reduction Measures.**

The Project Developer shall implement off-site noise reduction measures along the east side of Lafayette Drive between Tasman Drive and Hogan Drive such that the Project-related increase in traffic noise for noise receptors is less than 3 dBA. The Project Developer shall construct a solid barrier between the roadway and adjacent residential uses along Lafayette Drive



between Tasman Drive and Hogan Drive unless deemed infeasible for any reason including unavailability of sufficient right of way or inability to secure design review/architectural approval.

The Project Developer shall implement off-site traffic noise reduction measures along the south side of Tasman Drive between Lafayette and Calle del Sol such that cumulative with project-related increase in traffic noise for noise receptors is less than 3 dBA or the project contribution to traffic noise is less than 1 dBA. The Project Developer shall construct a solid barrier between the roadway and adjacent residential uses along Tasman Drive between Lafayette and Calle del Sol unless deemed infeasible for any reason including unavailability of sufficient right of way or inability to secure design review/architectural approval.

The barriers shall be designed to provide shielding between areas of frequent human use (i.e., residence backyards) and the roadway. This would result in approximately 1,000 feet of noise barriers along the Lafayette segment (between Tasman Drive and Hogan Drive) and up to 800 feet along the Tasman segment (between Lafayette and Calle del Sol). One effective approach would be to replace the existing privacy fences at single family residences with a solid barrier that is at least 6 feet high. The Project Developer shall prepare an off-site noise control plan that identifies the location, design, and effectiveness of the specific treatments to be implemented. This plan shall be submitted to the City for review and approval prior to the issuance of building permits. The off-site noise improvements shall be completed before Project operations commence.

**Findings NOI-1c.** The Project would cause increased traffic near the site. Scheme B would result in an overall higher number of vehicle trips, so the peak-hour volumes in Scheme B are the worst case scenarios for the Project as a whole. The FHWA Traffic Noise Model supplied the parameters to assess noise impacts associated with increased traffic from the Project. Noise impacts related to traffic noise are considered significant if the noise exceeds applicable land use compatibility standards for neighboring land uses. Incremental noise increases resulting from the Project are lessened when existing noise sources, such as proximate freeways and railways, are considered.

Eight road segments were identified as potentially significantly impacted by traffic noise. Further refined analysis was conducted on these segments, taking into account existing noise sources and the precise distance between traffic noise sources and receivers. Significant noise impacts due to Project-related traffic were found for two road segments, Lafayette Street between Tasman Drive and Hogan Drive, and the south side of Tasman Drive between Lafayette Street and Calle del Sol.

Implementation of Mitigation Measure NOI-1.2 could reduce this impact on offsite receptors along the east side of Lafayette Street between Tasman Drive and Hogan Drive, and along the south side of Tasman Drive between Lafayette Street and Calle del Sol to a less-than-significant level. Soundwalls at these locations have been preliminarily determined to be feasible by the City. However, future obstacles related to design of the wall could present themselves which might make implementation infeasible. No other feasible mitigation measures are available and specific economic, legal, social, technological, or other considerations make infeasible the project alternatives identified in the final EIR that would avoid the impacts. As

such, because it is not completely certain that the soundwalls could be constructed, this impact is disclosed as *potentially significant and unavoidable*. No other feasible mitigation measures are available.

**Impact NOI-1d: Operational Noise Impacts on On-Site Land Uses.** Noise impacts from existing traffic, heavy-rail and light-rail operations on the proposed on-site land uses would exceed City noise standards for residential and commercial uses. Noise from non-transportation Project sources (e.g., HVAC equipment and minor building-related sources) could result in noise levels that would exceed the City Code exterior noise limits. However, as discussed above, under *CBIA v. BAAQMD*, CEQA no longer considers the impact of the environment on a project (such as the impact of the noise environment on new Project receptors) to be an impact requiring consideration under CEQA. Therefore, for the purpose of Impact NO-1d, the following analysis is neither a CEQA impact nor a finding.

**Mitigation Measure and Condition of Approval NOI-1.3: Prepare and Implement a Noise Control Plan to Reduce Interior Noise at Sensitive Land Uses.** The impacts of existing traffic and other non-airport sources of existing operation noise on new on-site uses are not considered an impact under CEQA. Therefore, the measure below is classified as a potential condition of approval for the Project with respect to just these topics. Because airport noise is still required to be evaluated under *CBIA v. BAAQMD*, the measure below is classified as a mitigation measure for Impact NOI-5, as discussed further below.

The Project Developer shall conduct a design-level acoustic study that identifies exterior noise levels for residential and commercial uses on the Project site. This study shall take into account existing airport noise, Project, and reasonably foreseeable future noise sources (such as proposed increases in passenger rail service along the Lafayette Street corridor). Where this study finds that the exterior noise level would exceed the residential compatibility standard of 55 dBA Ldn or the commercial incompatibility standard of 65 dBA Ldn, the Project Developer shall prepare a design-level operational noise control plan to provide acceptable interior noise levels. This plan shall identify all Project features and treatments that will be implemented to ensure that the Project is in compliance with the interior noise standards listed in the City's General Plan and City Code as well as the standards specified for new construction within the Comprehensive Land Use Plan (CLUP) for San José International Airport (SJC).

The study and plan shall be developed by an acoustical design professional. Design features and treatments will be identified to ensure that interior noise levels at new proposed uses are in compliance with the noise standards. The report shall be submitted to the City for review and approval prior to the issuance of building permits for the Project. Depending on the noise exposure for a particular site, such treatments may include, but are not limited to, those listed below, as recommended by the acoustical design professional.

Construction of enclosures around noise-generating mechanical equipment at commercial uses.

Use of setbacks from noise sources to maximum attenuation of noise over distance.

Installation of noise-reducing treatments in new buildings, including:

High-performance, sound-rated double-glazed windows,

Sound-rated doors,

Sound-rated exterior wall construction,

Special acoustical details for vents,

Acoustical caulking at all exterior façade penetrations,

Sound-rated roof and ceiling constructions, and

Adequate mechanical ventilation so that windows and doors may be kept closed at the discretion of the building occupants to control environmental noise intrusion.

**Findings NOI-1d.** The effects of existing traffic and non-transportation commercial sources on new on-site uses are not considered impacts under CEQA. While not required to reduce impacts from the existing noise environment on new receptors, implementation of Condition of Approval NOI-1.3 would reduce interior noise impacts from roadway, heavy-rail, and light-rail noise for on-site residences, hotels, and office and commercial land uses through the installation of sound-rated windows, sound-rated exterior walls, and other potential treatments where feasible. Condition of Approval NOI-1.3 would also ensure that potential interior noise impacts due to Project noise generation would be addressed through design and would reduce these effects.

**Impact NOI-3. Permanent Increase in Ambient Noise Level.** The Project would result in a substantial permanent increase in ambient noise levels in the Project vicinity above levels existing without the Project.

**Findings NOI-3.** This impact is addressed through the impact analysis and mitigation measures under Impact NOI-1. Construction Noise Impacts on Off-Site Uses and On-Site Uses can be mitigated to less-than-significant levels. Operational Noise Impacts on Off-Site and On-Site Uses are significant and cannot be fully mitigated. No other feasible mitigation measures are available and specific economic, legal, social, technological, or other considerations make infeasible the project alternatives identified in the final EIR that would avoid the impacts. Therefore, this impact is determined to be *significant and unavoidable with mitigation*.

**Impact NOI-5: Exposure of People to Noise from Airports.** The Project would be located within an airport land use plan area or, where such a plan has not been adopted, within 2 miles of a public airport or public use airport and would expose people residing or working in the Project area to excessive noise levels.

**Mitigation Measure:** Implement Mitigation Measure NOI-1.3, described in VII.E.5.



**Findings NOI-5.** The Project is within the 65 dB CNEL contour boundary established by the CLUP for SJC. Residential construction is not permitted within such 65 dB CNEL contours, unless it can be shown that indoor noise levels would not exceed 45 dB CNEL.

Implementation of Mitigation Measure NOI-1.3 would reduce interior noise levels for residential uses to 45 dB CNEL or less. However, because the Project would include outdoor residential areas located within the airport's 65 dB CNEL contour, it would result in a land use that is not compatible with the CLUP. No other feasible mitigation measures are available and specific economic, legal, social, technological, or other considerations make infeasible the project alternatives identified in the final EIR that would avoid the impacts. Consequently, this impact would be *significant and unavoidable*.

## **6. Biology**

**Impact BIO-1: Interference with Movement of Native Migratory Wildlife Species.** The Project could result in harm to or mortality of migratory birds or their active nests.

**Mitigation Measure BIO-1.1: Protect Nesting Birds.** The Project Developer and its contractors shall avoid conducting vegetation removal during the migratory bird nesting season (February 1–August 31). If Project-related activities must commence during the migratory bird nesting season, the Project Developer shall retain a qualified wildlife biologist to conduct a survey for nests of migratory birds. Surveys for nesting migratory birds shall occur within 3 days prior to the commencement of ground disturbance and vegetation removal in areas that will be affected by Project construction activities. Multiple nest surveys shall be required if construction is phased or when construction work stops for more than 2 weeks at a portion of the site where suitable nesting habitat remains. If construction is ongoing for multiple years, these surveys shall be conducted each year prior to construction in areas that have not yet been disturbed and are scheduled to be disturbed during the nesting season. In addition to nesting-season surveys, surveys shall be conducted during the non-nesting season (September 1–January 31) for overwintering burrowing owls in areas scheduled for initial disturbance during the upcoming season. The surveys shall also be conducted as described above, with a goal of identifying overwintering owls so they can be appropriately avoided during construction.

If an active nest is discovered, a no-disturbance buffer zone around the nest tree or shrub (or, for ground-nesting species, the nest itself) shall be established. The no-disturbance zone shall be marked with flagging or fencing that is easily identified by the construction crew and shall not affect the nesting bird or attract predators to the nest location. In general, the minimum buffer zone widths shall be as follows: 50 feet (radius) for non-raptor ground-nesting species, 50 feet (radius) for non-raptor shrub- and tree-nesting species, and 300 feet (radius) for raptor species. Buffer widths may be modified based on discussion with DFW. Buffers shall remain in place as long as the nest is active or young remain in the area and are dependent on the nest. If a burrowing owl nest is identified during pre-construction surveys, no-activity buffers will adhere to the recommendations in the 2012 California Department of Fish and Game Staff Report on Burrowing Owl Mitigation.<sup>16</sup> Most Project activities would result in a high level of disturbance,

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<sup>16</sup> California Department of Fish and Game. 2012. Staff Report on Burrowing Owl Mitigation. State of California Natural Resources Agency. March 7. Available: [http://www.dfg.ca.gov/wildlife/nongame/survey\\_monitor.html#Mammals](http://www.dfg.ca.gov/wildlife/nongame/survey_monitor.html#Mammals).

constituting a 1,640-foot (500-meter) required buffer around occupied nests during any time of year.<sup>17</sup>

**Mitigation Measure BIO-1.2: Implement Bird-Safe Design Standards into Project Buildings and Lighting Design.** Each Development Area Plan (DAP) approved by the City shall include a set of specific standards for minimizing hazards to birds, to be implemented by the Project Developer. The development of the specific bird safety standards for each DAP shall be tailored to the specific potential hazards to birds in that development area, taking into account the specific locations, types and heights of buildings, lighting, and landscaping. In addition, the DAP shall require enhanced protective measures for buildings within 300 feet of the retention pond, the Guadalupe River, and San Tomas Aquino Creek, such as siting buildings in relation to existing landscape features to reduce conflicts with existing features that may serve as attractive bird habitat; minimizing the reflection of existing vegetation on building facades; or using soil berms, furniture, landscaping, or architectural features to prevent reflection of water in glazed building facades.

The specific bird safety standards in each DAP shall be based on the following bird-friendly building principles to the extent applicable to the particular development area:

- Reduce mirrors and large areas of reflective glass.
- Avoid transparent glass skyways, walkways, or entryways, free-standing glass walls, and minimize transparent building corners, or utilize glazing treatments to mitigate the hazard.
- Minimize funneling of open space toward a building façade.
- Strategically place landscaping to reduce reflection and views of foliage inside or through glass.
- Reduce potential light and glare by implementing Mitigation Measures AES 2.1 (requiring low-profile, low-intensity lighting directed downward), AES-2.2 (requiring shielded fixtures for outdoor lighting), and AES-2.3 (requiring low-emissivity glass at exterior surfaces).
- To the extent consistent with the normal and expected operations of the uses planned for the particular development area, take appropriate measures to avoid use of unnecessary lighting at night, especially during bird migration season (February–May and August–November) through the installation of motion-sensor lighting, automatic light shut-off mechanisms, or other effective measures to the extent feasible.

The specific bird safety standards shall also provide for a monitoring program, and placing signs around the buildings with phone numbers for authorized bird conservation organizations.

**Findings BIO-1.** The Project site currently has some 951 protected trees and 454 non-protected trees, all of which would be removed by the Project. An additional 338 trees, of which

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<sup>17</sup> Scobie, D., and C. Faminow. 2000. Development of Standardized Guidelines for Petroleum Industry Activities that Affect COSEWIC Prairie and Northern Region Vertebrate Species at Risk. Environment Canada, Prairie and Northern Region, Edmonton, Alberta, Canada.

232 are protected, could be removed due to roadway extensions related to the Project. None of these are heritage trees.

The removal of these trees could lead to the loss of nesting sites in trees or shrubs, as well as burrowing substrate for burrowing owls. Birds may also be affected indirectly by noise and increased human activity. These indirect impacts could degrade nesting habitat, leading to nest abandonment.

The Project includes buildings of up to approximately 17 stories. Birds may die or be injured by colliding with transparent or reflective glass or as a result of improper lighting at the Project site. The Project's proximity to areas where birds are present could exacerbate these impacts.

Implementation of Mitigation Measure BIO-1.1 would reduce potential nesting migratory bird impacts from the Project to a less than significant level. However, it is unknown whether Mitigation Measure BIO-1.2 would be enough to mitigate impacts related to bird collisions. No other feasible mitigation measures are available and specific economic, legal, social, technological, or other considerations make infeasible the project alternatives identified in the final EIR that would avoid the impacts. As such, this impact is considered *significant and unavoidable*.

## **7. Population and Housing**

**Impact POP-1: Population Growth.** Implementation of the Project would induce substantial population growth greater than planned within the City and the region, resulting in potentially significant secondary environmental impacts.

**Mitigation Measure:** See Mitigation Measure LU-1.1, described in VII.E.1.

**Findings POP-1.** Significance conclusions and findings for this impact are provided in VII.E.1 for Impact LU-1.

### **F. Cumulative Impacts**

#### **1. Cumulative Land Use Impacts**

**Impact C-LU-1. Cumulative Land Use Impacts.** The Project, in combination with other foreseeable development in the nine-county ABAG region, would be inconsistent with some applicable land use plans, policies, and regulations, including those policies aimed at improving the City's jobs/housing balance.

**Mitigation Measure:** See Mitigation Measure LU-1.1, described in VII.E.1.

**Findings C-LU-1.** The Project is generally consistent with applicable goals, policies, and actions outlined in the City's General Plan. However, the Project would be inconsistent with goals and policies in the City's General Plan that promote a jobs/housing balance. As discussed in Impact LU-1, the Project would exacerbate the city's job/housing imbalance significantly. Even with implementation of Mitigation Measure LU-1.1, which supports City consideration of



higher residential densities in the city and residential land uses in non-residential areas to address the City's job/housing imbalance and mitigate the Project's contribution to this imbalance, there is uncertainty regarding implementation of the mitigation measure because it relies on approval from the City Council. The Project would thus result in a significant and unavoidable impact related to the City's jobs/housing balance.

Growth that would result from the Project is not accounted for in City's General Plan, nor is it anticipated in regional planning efforts. In addition to the Project, Tasman East contains 1,820 dwelling units that are not accounted for in the growth projections for the City's General Plan. Thus, cumulative land use impacts related to policy consistency are considered significant because unplanned growth from the Project and Tasman East combined could result in significant impacts on the environment.

The Project would result in a cumulatively considerable contribution to Land Use impacts because it would exacerbate the City's job/housing imbalance significantly, which would manifest in other significant secondary physical environmental impacts. Mitigation Measure LU-1.1 would not mitigate the Project's contribution to this imbalance with certainty because implementation of this measure, which relies on future approval from the City Council, cannot be assured. Because no feasible mitigation measures are available to reduce this impact to a less-than-significant level, this is considered a *significant and unavoidable cumulative impact*.

## **2. Cumulative Aesthetic Impacts**

**Impact C-AES-1: Cumulative Degradation of Aesthetics.** The Project, in combination with other foreseeable development in the surrounding area, would not have a significant cumulative impact on visual character or quality and would not cumulatively contribute to new sources of light and glare. This cumulative impact is less-than-significant.

**Findings C-AES-1.** Only foreseeable projects that are in the immediate vicinity of the Project site could contribute to degradation of the visual character or quality of the existing neighborhood. The only projects that could be visible from a single view corridor with the Project site are 3Com/Cognac Great America, Tasman East, and Yahoo!, all of which are located in the City of Santa Clara. The 3Com/Cognac Great America site is located approximately 0.1 mile west of the Project site on Great America Parkway, the Tasman East site is located immediately south of the Project site at the intersection of Tasman Drive and Calle Del Sol, and the Yahoo! site is located 0.4 mile southwest of the Project site on Old Ironsides Drive. All three projects are located in proximity to the Project site, are surrounded by similar types of development, and are considered redevelopment of an urban site with office and industrial development.

Most projects in the City and adjacent jurisdictions (such as the City of San José to the east of the Guadalupe River, which could also contribute to the visual setting of the Project area) are required to undergo architectural review, pursuant to the governing municipality's city code. However, review by the City's Architectural Committee is not required for Planned Development Master Community Zoning District projects; the Project is instead subject to the design guidelines and development standards outlined in the respective Master Community Plans. In the City of San José, as well as the City of Santa Clara, any proposal for a new

structure an addition to an existing structure, or a change to the exterior of a structure that requires a building permit (with the exception of single-family dwellings, duplexes, and accessory buildings) requires the Planning Commission to conduct an architectural control review to ensure that the general appearance of the structures will be in keeping with the character of the neighborhood. The San Jose and Santa Clara General Plans each require the design and character of new development to be compatible with existing development and different types of land uses.

Given the local regulations, other current projects would be expected to adhere to the architectural and design guidelines and would not substantially degrade the visual character or quality of their surroundings. The cumulative effects of the identified developments on visual quality are not considered significant, and the Project's contribution to a cumulative visual quality impact would be *less than cumulatively considerable*.

Regarding light and glare, other development could include direct illumination of project structures, features, and/or walkways and could increase ambient nighttime lighting levels in the area. The 3Com/Cognac Great America, Tasman East, and Yahoo! projects, all of which are located within 0.5 mile of the Project site, would include direct illumination of project structures, features, and/or walkways and result in increased light and glare from vehicles. However, because the other projects would all involve redevelopment of an urban site that already generates light and glare and the land uses proposed are not anticipated to be particularly light intensive, development of the other projects is not anticipated to increase nighttime lighting and glare conditions in the area dramatically.

Further, proposed rail projects would not introduce substantial new permanent sources of light or glare; only minor lighting associated with a potential new grade-separated crossing for pedestrians. While the number of nighttime trains would increase, this would not be considered a change because there is existing train service. Because the rail corridor is adjacent to a roadway that is lined with streetlights and there is the existing presence of vehicle lights at night, this is not expected to result in a significant change with respect to light and glare. Thus, cumulative impacts from nighttime lighting and glare would be *less-than-significant*, and the Project's contribution would *not be significant*.

### **3. Cumulative Air Quality Impacts**

**Impact C-AQ-1: Cumulative Criteria Pollutants.** The Project would result in a cumulatively considerable net increase in criteria pollutants for which the Project region is a nonattainment area for an applicable federal or State ambient air quality standard.

**Mitigation Measures.** See Mitigation Measures AQ-2.1 through AQ-2.4, described in VII.D.3.

**Findings C-AQ-1.** BAAQMD's emissions thresholds (Table 3.4-5) represent the average daily emissions that a project may generate before contributing to a cumulative impact on regional air quality. Therefore, exceedances of the BAAQMD project-level thresholds would be cumulatively considerable for project activities in the SFBAAB.

Construction emissions would exceed BAAQMD's project-level thresholds without mitigation. Similarly, as analyzed in Impact AQ-3, long-term operation of the Project would result in ROG, NOX, PM10, and PM2.5 emissions in excess of BAAQMD's numeric thresholds. Because the Project without mitigation would exceed BAAQMD's mass emissions thresholds, its incremental effect on regional air quality would be cumulatively considerable.

Mitigation Measures AQ-2.1 through AQ-2.4 would reduce construction-related emissions below BAAQMD's mass emissions thresholds (see EIR Table 3.4-8). Accordingly, construction of the Project would result in a less than cumulatively considerable impact on air quality with mitigation for construction emissions only. However, as described in Impact AQ-3, although there are certain feasible mitigation measures that would lower operational emissions, there is insufficient feasible mitigation that would reduce long-term operational emissions below BAAQMD's mass emissions thresholds. Accordingly, this impact would be cumulatively considerable (i.e., *significant and unavoidable*).

**Impact C-AQ-2: Cumulative Health Risks.** The Project's TAC emissions could contribute to cumulative exposure health risks of sensitive receptors. The Project would also locate new receptors where they would be exposed to cumulative health risks due to cumulative TAC emissions.

**Mitigation Measures.** See Mitigation Measures AQ-2.1 through AQ-2.3, described in VII.D.3.

**Findings C-AQ-2.** The on-site cumulative impacts are *less than significant* as shown in EIR Table 3.4-16 and no mitigation is required for on-site cumulative impacts. Mitigation Measures AQ-2.1, AQ-2.2, and AQ-2.3 would substantially reduce DPM and PM2.5 during construction.

While these mitigation measures can reduce the Project construction emission contributions, as shown in EIR Table 3.4-17, below, they would not reduce the off-site PM2.5 levels at certain residential and park receptors to a less-than-significant cumulative levels. Additional mitigation for this impact is not considered feasible for the following reasons:

- The primary source of the off-site PM2.5 impact is cumulative traffic. Cumulative traffic (including the Project) is responsible for approximately 67 percent of the off-site residential impact and 85 percent of the off-site park impact. While the Project will be required to reduce Project trip generation with Mitigation Measure TRA-1.1, the Project Developer cannot control other potential means for mitigation, including vehicle technology or fuels, which are regulated by the State and federal government.
- The second-largest source of the off-site residential PM2.5 impact is existing stationary sources. The Coatek manufacturing facility, which is located in the business park southeast of the Project site, is not controlled by or the responsibility of the Project Developer. This facility is responsible for approximately 21 percent of the off-site residential impact. Other existing stationary sources contribute an additional 8 percent of the off-site residential PM2.5 impact.



- The remaining sources of the off-site residential PM2.5 impact consist of Project construction (3 percent) and train emissions (1 percent). Construction mitigation measures would reduce construction emissions but would not completely eliminate them. The Project Developer does not control train service, train technology, or fuels, which are the responsibility of the train operators and regulated by the federal government.
- The remaining sources of the off-site park PM2.5 impact consist of Project construction (3 percent), train emissions (1 percent), and Project operations (< 0.2 percent). Construction mitigation measures (see discussed above) would reduce construction emissions but would not completely eliminate them. The Project Developer does not control train service, train technology, or fuels, which are the responsibility of the train operators and regulated by the federal government. The Project's operational emissions contribute only a very small portion of this off-site impact.

With mitigation, the Project would contribute approximately 16 percent of the off-site residential PM2.5 impact and 19 percent of the off-site park PM2.5 impact, consisting primarily of PM2.5 emissions related to Project traffic along adjacent roadways (13 percent of off-site residential impact and 10 percent of the off-site park impact), with the remainder primarily due to construction impacts. No other feasible mitigation measures are available and specific economic, legal, social, technological, or other considerations make infeasible the project alternatives identified in the final EIR that would avoid the impacts. This cumulative contribution is considerable and thus is considered *significant and unavoidable*.

#### 4. Cumulative Noise Impacts

**Impact C-NOI-1: Cumulative Exposure to Excessive Noise.** The Project would expose persons to or generate noise levels, in combination with cumulative development, in excess of standards established in a local general plan or noise ordinance or applicable standards of other agencies.

**Mitigation Measures.** See Mitigation Measures NOI-1.1, NOI-1.2, and implement Condition of Approval NOI-1.3, as described in VII.E.5.

**Findings C-NOI-1:** Implementation of Mitigation Measure NOI-1.2 would require the Project Developer to construct soundwalls to reduce noise levels along two roadway segments (Lafayette Street from Tasman Drive to Hogan Drive, and the south side of Tasman Drive between Lafayette and Calle del Sol) with direct (Project-related) traffic noise impacts. This measure would potentially eliminate the cumulatively considerable contribution to the significant cumulative impacts along these segment but, for reasons discussed above, the impact at these roadway segments is considered significant and unavoidable.

The City has determined that development of soundwalls along the other three roadway segments noted above would be infeasible due to inconsistency with General Plan policies and the limitation of soundwalls to reduce noise levels for occupants of buildings above the ground floor. EIR Appendix 3.6 contains information regarding the City's determination of infeasibility. Therefore, the Project's contribution to the cumulative traffic noise impact would remain

considerable at the three locations where soundwalls were determined to be infeasible. No other feasible mitigation measures are available and specific economic, legal, social, technological, or other considerations make infeasible the project alternatives identified in the final EIR that would avoid the impacts. This cumulative contribution is considerable and thus is considered *significant and unavoidable*.

**Potential Impact C-NOI-2: Cumulative Exposure to Ground-borne Vibration and Noise Levels.** The Project could expose persons to or generate excessive ground-borne vibration or ground-borne noise levels, in combination with cumulative development.

**Mitigation Measure.** See Mitigation Measure NOI-2.1, described in VII.D.5.

**Findings C-NOI-2:** Cumulative impacts related to construction vibration would not occur because the worst-case estimated ground vibration levels would be between the Caltrans annoyance-potential characterizations of “barely perceptible” and “distinctly perceptible” at a distance of 50 feet. Because the nearest off-site existing land uses that could be considered sensitive to ground vibration are located 300 feet from the Project site, and the nearest cumulative projects are more than 800 feet away from the Project, cumulative impacts on off-site receptors related to construction vibration would be less than significant.

As discussed under Impact NOI-2, there could be construction impacts on on-site residential receptors under certain circumstances. However, the possibility of vibration-generating effects from construction of the ACE/Capitol Corridor rail project and pile-driving activity on Parcel 5 for this Project affecting the residences at the same time is remote. Furthermore, Mitigation Measure NOI-2 requires any Project pile driving to be conducted before residential occupation if the pile driving is closer than 175 feet to the residence. Thus, with mitigation, the Project would not contribute considerably to any cumulative vibration effects on on-site residences, and this impact is less than significant.

Ground-borne vibration generated by traffic traveling on roadways is usually below the threshold of perception at adjacent land uses. Therefore, cumulative vibration generated by Project operational traffic would not result in a cumulative impact, and the Project’s increase in traffic would not contribute considerably to a cumulative impact. This cumulative impact is less than significant.

For on-site commercial and residential receptors along Lafayette Street, the number of train vibration events would be higher than existing plus-Project conditions if the proposed passenger rail service increases were to be realized. Increased service would not increase the level of vibration exposure (vibration is not cumulative like noise), but it would increase the number of vibration events. Thus, the cumulative increase in passenger train service could ultimately result in a significant increase in the number of vibration events. Although the Project would not contribute to a cumulatively significant vibration impact on off-site receptors, the Project would contribute considerably to the cumulative impact by bringing new receptors into proximity with the UPRR railway alignment, which would make possible a significant cumulative vibration impact.

As noted in Mitigation Measure NOI-2.1, the design-level vibration plan would need to take into account the expected increase in cumulative train vibration events when evaluating the need for vibration controls. It is considered feasible to design vibration treatments to address cumulative vibration levels and frequency. Thus, with the implementation of Mitigation Measure NOI-2.1, the Project would not contribute to a cumulatively significant vibration impact relative to on-site receptors, and this cumulative impact is *less than significant with mitigation*.

## **5. Cumulative Cultural Resources Impacts**

**Potential Impact C-CR-1: Cumulative Impacts on Archaeological, Paleontological Resources, and Human Remains.** Construction activities on the Project site and other development could result in impacts on unknown archaeological resources, paleontological resources, and human remains.

**Mitigation Measures.** See Mitigation Measures CR-1.1, CR-1.2, CR-1.3, CR 2.1, CR-2.2, CR-2.3, and CR-3.1, described in Section VII.D.6.

**Findings C-CR-1.** Urban development that has occurred over the past several decades in the Bay Area has resulted in the demolition or alteration of archeological and paleontological resources. It is reasonable to assume that present and future development will continue to result in impacts on these resources by disturbing native soils in potentially archeologically sensitive areas. Federal, State, and local laws protect archeological and paleontological resources in most instances. Even so, it is not always feasible to protect archeological and paleontological resources, particularly when preservation in place could prevent implementation of certain projects. For this reason, the cumulative effects of development in the region on archeological and paleontological resources are considered significant.

Mitigation Measures CR-1.1 and CR-1.2 require archeological investigations to determine the presence or absence of buried features as well as monitoring during earthmoving activities of the locations on the Project site. Further, Mitigation Measures CR-1.3, CR-2.1, CR-2.2, CR-2.3, and CR-3.1 prescribe discovery procedures for archeological resources, paleontological resources, or human remains that may be encountered during Project construction. Compliance with these mitigation measures would reduce the Project's contribution to a cumulative impact to less than cumulatively considerable with mitigation. This cumulative impact is *less than significant with mitigation*.

## **6. Cumulative Biology Impacts**

**Impact C-BIO-1: Cumulative Biological Resources Impacts.** The Project, in combination with other foreseeable development in the vicinity, would have a significant cumulative impact without mitigation on migratory birds, special-status species and their habitats, and wetlands and other waters and/or conflict with local policies or ordinances to protect biological resources.

**Mitigation Measures.** Mitigation Measures BIO-1.1, BIO-1.2, BIO-2.1, BIO-2.2 (discussed above), plus



**Mitigation Measure BIO-C.1. Make a Fair-Share Nitrogen Deposition Fee Contribution to the Santa Clara Habitat Agency's Voluntary Fee Payment Program.**

Consistent with its voluntary commitment to contribute a nitrogen deposition fee through the fee program of the Santa Clara Habitat Agency, the Project Developer shall make a pro-rated per-vehicle-trip nitrogen deposition fee contribution, which will be based on the amount charged by the Santa Clara Valley Habitat Agency under its Voluntary Fee Payments Policy (<http://scv-habitatagency.org/DocumentCenter/View/345>). Specifically, the per-vehicle trip fee shall be adjusted as set forth below to take into account the different dispersion characteristics of the Project versus the average dispersion characteristics for development in the HCP/NCCP area.

The Project is located farther from serpentine grassland habitat than the average development within the Santa Clara Valley HCP/NCCP area. Thus, the required fair-share contribution shall be figured as 38 percent (based on the ICF analysis) of the established fee of the habitat agency for the year in which the building permits are issued for the Project. The fee may be paid up front or in installments in proportion to mitigated vehicle trip generation for the phase of the Project for which the building permits are issued. For fiscal year 2015–2016, the adopted HCP/NCCP nitrogen deposition fee was \$4.20 per new vehicle trip. Using Scheme B's estimated trip generation (140,730 trips/day), taking into account the trip reduction effect of Mitigation Measure TRA-1.1 (reduction to 137,910 trips/day), and the 38 percent adjustment factor, if all fees were paid in fiscal year 2015–2016, the estimated total would be \$220,104.

**Findings C-BIO-1.** The removal of nest trees, shrubs, or other nesting substrates from the Project area and larger region could adversely affect migratory birds, either by causing a loss of young birds or the abandonment of an active nest. The increase in human activity and noise levels near nesting habitats could reduce the quality of such habitat, ultimately also resulting in nest abandonment. With future development in the Bay Area, it is reasonable to expect that there would be a loss of trees, shrubs, or other types of vegetation that provide nesting habitat and an increase in the presence of structures that contribute to bird hazards. It is assumed that future development would comply with federal and state laws that protect native migratory bird species. Regardless, disturbances to migratory birds and their habitats from the cumulative effects of all development could result in a significant cumulative impact.

The Project's cumulative contribution, prior to the application of mitigation measures, could be considerable, with the removal of 1,743 trees at the Project site and at off-site areas. However, Mitigation Measure BIO-1.1 requires pre-construction surveys for nests of migratory birds prior to the removal of vegetation during the migratory bird nesting season and the establishment of a no-disturbance buffer zone around the nest tree or shrub if an active nest is discovered. The Project's proposed structures could result in an increase in the number of injuries or deaths from birds colliding with Project buildings. Mitigation Measure BIO-1.2 prescribes the implementation of bird-safe design standards in Project buildings and Project site lighting to minimize bird hazards. In addition, the City normally requires a 2:1 replacement ratio for trees, which would compensate for the potential loss of nesting trees due to Project development. Compliance with these mitigation measures would reduce the Project's contribution to a cumulative impact to less than cumulatively considerable with mitigation because it would reduce impacts on migratory birds from Project construction and operation.

Although compliance with federal and State laws that protect special-status species would help reduce impacts from the cumulative effects of all development, it cannot be guaranteed that compliance with applicable regulations would necessarily reduce the cumulative impact on special status species to a less-than-significant level. The Project would result in the removal of approximately 100 acres of annual grassland and ruderal land cover types on the Project site that potentially provide suitable habitat for burrowing owls. However, burrowing owls have not been documented on-site since 2006 and have not been identified on-site from surveys in 2014 and 2015. If burrowing owls occupy the site in the future, the removal of suitable habitat on-site could result in the loss of individual burrowing owls or occupied nesting habitat, and the Project's cumulative contribution to impacts prior to the application of mitigation measures would be considerable. However, implementation of Mitigation Measures BIO-1.1 (preconstruction surveys and buffers), BIO-2.1, and BIO-2.2 (burrowing surveys and replacement habitat requirements) would reduce the Project's contribution to this impact to less than cumulatively considerable. Thus, the Project's contribution to any cumulative impact related to burrowing owl would be less than cumulatively considerable with mitigation.

Disturbances to western pond turtle habitat, in combination with the assumed loss of similar habitat in the Bay Area due to future development, would result in a significant cumulative impact. The Retention Basin and drainage swale on the northern part of the Project site, the ponds within the golf course, San Tomas Aquino Creek, and the Guadalupe River all provide suitable habitat for western pond turtle. Although no western pond turtles have been observed on the Project site, surveys have not been conducted. If turtles are present in affected aquatic habitats, Project construction could inadvertently injure or kill turtles. Therefore, the Project's contribution to a cumulative impact, prior to the application of mitigation measures, could be considerable. However, Mitigation Measure BIO-3.1 would reduce the Project's contribution to this significant cumulative impact to less than cumulatively considerable because it would require pre-construction surveys for western pond turtles prior to construction in suitable aquatic and upland habitats and the establishment of a no-disturbance buffer zone around each nest if an active nest is discovered. Thus, the Project's contribution to any cumulative impact related to western pond turtle would be less than cumulatively considerable with mitigation.

Nitrogen emissions from stationary, area and mobile sources results in nutrient enrichment in the serpentine grasslands south and east of San José (and other areas). This favors nonnative vegetation to the detriment of common native and rare plant species, including the host plant for the threatened Bay checkerspot butterfly. Serpentine grassland provides habitat for several listed and rare plants. The Project's emissions are only a portion of the regional nitrogen emissions and thus on their own would not result in nitrogen deposition above the threshold value. However, the Project's nitrogen emissions, combined with existing and future emissions, would result in cumulative nitrogen deposition levels that would be well above the threshold value. Cumulative development in upwind areas outside the Santa Clara Valley HCP/NCCP will also result in nitrogen emissions and deposition that will also affect downwind habitat areas. Analysis indicated that mobile and non-mobile emissions in the area containing the CityPlace project would result in 34 percent and 75 percent, respectively, of the nitrogen deposition per unit of emissions compared to the average nitrogen deposition per unit of mobile and non-mobile emissions in the HCP/NCCP area. While nitrogen emissions from the Project would contribute

to cumulative nitrogen deposition, on a per-unit of emissions basis, Project emissions would have a lesser effect on nitrogen deposition than average development in the HCP/NCCP area.

The City of Santa Clara is not part of the Santa Clara Valley HCP/NCCP and thus the Project is not required, per the HCP/NCCP requirements, to pay a nitrogen deposition fee. Because of cumulative nitrogen emissions from upwind areas outside the HCP/NCCP, there will be cumulative nitrogen deposition that will have unmitigated effects on serpentine grassland and associated rare and common species. The Project is one of the larger land use projects in Santa Clara County to be proposed in recent times and thus its contribution to cumulative nitrogen deposition, even taking into the account the different depositional characteristics described above would be cumulatively considerable.

The Project Developer has proposed to voluntarily make a contribution to the voluntary nitrogen deposition fee program of the Santa Clara Habitat Agency. The Santa Clara Habitat Agency uses such voluntary fees to help manage serpentine grasslands and address adverse nitrogen deposition effects. Mitigation Measure BIO-C.1 would require the Project Developer to fulfill its voluntary commitment. Implementation of Mitigation Measure BIO-C.1 would reduce the Project's contribution to cumulative nitrogen deposition impacts on serpentine grassland and supported special status species to a *less-than-considerable* (i.e., less-than-significant) level.

## **7. Cumulative Hydrology and Water Quality Impacts**

**Potential Impact C-WQ-1: Cumulative Hydrology and Water Quality Impacts.** The Project, in combination with other foreseeable development in the vicinity, would have a significant cumulative impact on water quality, groundwater recharge and supplies, storm drain capacity, or current flooding.

**Mitigation Measures.** See Mitigation Measures WQ-1.1 and WQ-6.1, described in VII.D.9.

**Findings C-WQ-1.** Development of the Project, combined with other past and future development within the potentially affected geographic area, could degrade stormwater quality through an increase in impervious surface area and an increase in contaminated runoff, which could ultimately violate water quality standards, affect beneficial uses, and/or further impair 303(d)-listed waters within the Santa Clara subwatershed and the Santa Clara groundwater subbasin. To prevent short-term (construction) impacts on water quality, Project construction would comply with the requirements of the Construction NPDES General Permit and the City's stormwater requirements (e.g., the Santa Clara County Grading Ordinance). If dewatering of natural groundwater is required to be discharged into surface waters or nearby storm drains, the Project would be required to be in compliance with dewatering requirements of the SFRWQCB. In addition, Project operations would be subject to the requirements of the SCVURPPP and the associated Municipal NPDES Permit. The Project would be exempt from SCVURPPP Provision C.3.f.i (Hydromodification Control Requirements) because Project site surface flows would discharge to sections of the Guadalupe River and San Tomas Aquino Creek, which are identified as having hardened channels or being in tidal areas, according to the HMP Applicability Map (Figure 3.10-1). The applicable regulations, which have been developed to protect water quality, require implementation of stormwater BMPs. The Project would be required to develop a



stormwater drainage system to meet these requirements (Mitigation Measure WQ-1.1). Through compliance with these regulations, cumulative impacts on water quality are *less than significant*.

Other development could increase the rate and volume of stormwater runoff because of the overall increase in impervious surfaces. Increases in the rate or volume of stormwater runoff can cause localized flooding if storm drain capacity is exceeded or if flows exceed channel capacities and are conveyed to overbank areas where flood storage may not be available. The Project would be required to design a stormwater drainage system in compliance with San Francisco Bay MS4 Permit Provision C.3, associated SCVURPPP requirements, and SCVMD's 100-year peak flood requirements, per Mitigation Measure WQ-1.1. Thus, cumulative impacts on storm drainage capacity would be *less than significant*.

Parts of the Project area, including the access roads, are subject to flooding. All development, including the Project, could increase impervious areas and result in greater floodflows, create impediments to flow that would raise flood levels, and/or place additional people or structures within flood-prone areas. The Project would be required to address 100-year flood events by designing an on-site drainage system that would avoid any increase in 100-year flood levels in San Tomas Aquino Creek and the Guadalupe River, per existing regulations at the time of development of each Project phase and Mitigation Measure WQ-1.1, and avoid any increases in flood flows due to the proposed new bridge over San Tomas Aquino Creek and the new outfalls, per Mitigation Measure WQ-6.1. Because the Project would not contribute to increased flood levels (with implementation of Mitigation Measures WQ-1.1 and WQ-6.1), the Project's contribution is *less than cumulatively considerable*.

## **8. Cumulative Hazards and Hazardous Substances Impacts**

**Potential Impact C-HAZ-1. Cumulative Hazards and Hazardous Materials Impacts.** The Project, in combination with other foreseeable development in the vicinity, would not have a significant cumulative impact from hazardous materials use, soil and groundwater contamination, hazardous materials in building components, landfill siting hazards, aviation hazards, or impairment of emergency access or emergency plans.

**Mitigation Measures.** See Mitigation Measures HAZ-2.1, HAZ-4.1 through 4.6, and HAZ-6.1, described in VII.D.10.

**Findings C-HAZ-1.** For projects in the City and Santa Clara Basin watershed that involve development or redevelopment of an existing site where soil or groundwater contamination may have occurred, the potential exists for a release of hazardous materials during construction and/or remediation of those sites. For the Project, the primary concern regarding hazardous materials is in regard to construction over the existing landfill. As described above under Impacts HAZ-2 and HAZ-4, Mitigation Measure HAZ-2.1 is required to manage construction-period exposure risks, and Mitigation Measures HAZ-4.1 through 4.6 are required to manage operational exposure risks. Mitigation Measure HAZ-6.1 is also required to manage the leachate recovery system. No other projects would result in impacts related to the landfill or risks to future on-site residential and commercial receptors. Therefore, this is a Project impact only (which would be reduced to a less-than-significant level by the mitigation noted above), and

is not a cumulative impact. Therefore, the cumulative impact with regard to soil and groundwater contamination would be *less than significant*.

Hazardous materials incidents associated with demolition activities where asbestos, LBP, PCBs, or other hazardous materials could be released are site specific. As a result, associated health and safety risks would be limited to those individuals who use the materials or to persons in the immediate vicinity of the materials. Further, the likelihood of multiple incidents occurring concurrently and resulting in a cumulative impact would be minimal. Therefore, the cumulative impact with regard to hazardous building materials would be *less than significant*.

Because of the siting of the Project on a closed landfill, unique hazards are present that are not typical of development or redevelopment in an infill setting. There would be no significant cumulative impact with respect to landfill siting hazards because the Project's site-specific impacts would be addressed through compliance with City and State regulations and Project mitigation measures. Thus, the cumulative impact regarding landfill siting hazards would be *less than significant*.

Most of the proposed development shown in Figure 3.0-1 is located within-about 20,000 feet of SJC. Development near airports can pose a potential hazard to people and property on the ground and create obstructions and other hazards to flight. Development within 20,000 feet of the airport is subject to height restrictions established by 49 C.F.R. part 77 (standards and notification requirements for objects affecting navigable airspace). These height restrictions are designed to protect navigable airspace around an airport. All development within 20,000 feet of the airport would be required to comply with FAA notification requirements and subsequent aeronautical determinations. Therefore, the cumulative impact regarding aviation hazards would be *less than significant*.

Emergency providers' response times could be significantly affected because of congestion at intersections, particularly for those projects that are farther away from fire and police stations. Because details regarding the site plans for the majority of the other current projects are unknown, it is possible that emergency access to these sites could be affected. The Project would remain in proximity to existing Fire Station 10. Existing traffic preemption devices would ensure that response times would not be affected significantly. Adequate emergency access would be provided at all proposed access points and driveways. With traffic preemption devices located throughout the City and in the surrounding region and adequate emergency access to the Project site maintained, implementation of the Project would not impede emergency access routes, and existing City thoroughfares would continue to be maintained. The Project would not result in permanent road closures that would physically interfere with the City's Local Hazard Mitigation Plan. The Project would result in a less than cumulatively considerable contribution to this impact and impacts are *less than significant*.

## **9. Cumulative Population and Housing Impacts**

**Impact C-POP-1: Cumulative Population and Housing Impacts.** The Project, in combination with other foreseeable development in the vicinity, would induce substantial population growth and housing demand greater than planned within the City and region.

However, the Project, in combination with cumulative development, would not displace substantial numbers of people.

**Mitigation Measure.** See Mitigation Measure LU-1.1, described in VII.E.1.

**Findings C-POP-1.** Significance conclusions associated with cumulative population and housing growth are provided in Impact C-LU-1.

## **10. Cumulative Utilities Impacts**

**Impact C-UT-2: Cumulative Utilities Impacts.** The Project, in combination with other foreseeable development in the vicinity, would not require or result in the construction of new wastewater or stormwater treatment facilities or the expansion of existing treatment facilities; result in a determination of inadequate capacity to serve the expected demand and existing entitlements; or result in wasteful, inefficient, or unnecessary energy use. However, the Project would be served by a landfill with insufficient permitted capacity to accommodate solid waste disposal needs. The Project would also contribute to cumulative energy demands that may result in significant and unavoidable secondary environmental impacts related to long-term energy generation and transmission.

**Mitigation Measure.** See Mitigation Measure UT-3.1, described in VII.D.11.

**Findings C-UT-2.** The City has an arrangement with the owners of the Newby Island Landfill, as well as other landfills located outside of the County, to provide disposal capacity for the City through 2024. The Newby Island Landfill has a remaining disposal capacity of 21.2 million cy. Given the lack of long-term assurances regarding landfill capacity, the City's General Plan EIR determined that cumulative impacts to solid waste disposal are significant. The cumulative context for this analysis also includes the Project and the Tasman East project, both of which were not anticipated in the General Plan and growth projections. Thus, cumulative impacts to solid waste are similarly considered significant.

The City has no specific plan for disposing of solid waste beyond 2024, but it would initiate a process to identify a solution prior to 2024. If the Newby Island Landfill is not available to accept waste, the City could potentially contract other landfills with adequate capacity, such as Guadalupe Mines in San José, which has capacity until 2048. However, given the uncertainties concerning the location of solid waste disposal beyond 2024, the Project's contribution to this cumulative impact is cumulatively considerable. Because there are no feasible mitigation measures to address solid waste issues, this cumulative impact is considered *significant and unavoidable*.

Existing and planned gas and electric service would be provided to meet the needs of other current projects, as required by the California Public Utilities Commission (CPUC), which obligates PG&E to provide service to its existing and potential customers. Development across the PG&E service area could require the construction of new electricity generation facilities and transmission lines. In addition, there is an increasing demand for new renewable energy facilities (such as solar and wind), which can have secondary environmental impacts. Increased demand for transportation fuels (whether gasoline/diesel or alternatives to gasoline/diesel, such as ethanol or biodiesel) can also result in additional facilities to produce, process, and transport such fuels.



Thus, although other current projects would be required through existing regulations to be efficient with respect to energy use, there is still the potential for secondary environmental impacts from meeting cumulative energy demands. Both the electricity and gas needed by other projects may in fact be generated out of State. It is therefore not reasonable to predict where the new supply sources would be located or evaluate environmental consequences from construction and operation of such facilities. Furthermore, if the new power generation facilities were to be located in California, they would be subject to environmental review and required to avoid or minimize their environmental impacts. However, it cannot be concluded that all secondary environmental impacts would be reduced to a less-than-significant level, and thus, cumulative secondary environmental impacts are considered significant. The Project, although efficient in its energy use, is of such a large scale that it would have a considerable contribution to cumulative energy demands. No other feasible mitigation measures are available and specific economic, legal, social, technological, or other considerations make infeasible the project alternatives identified in the final EIR that would avoid the impacts. Therefore, this impact would be *significant and unavoidable*.

#### **G. Secondary Impacts**

As directed by the CEQA Guidelines, in addition to direct physical changes in the environment that may be caused by a project, decisionmakers must also consider “reasonably foreseeable indirect physical changes in the environment which may be caused by the project.” CEQA Guidelines § 15064(d).

An indirect physical change in the environment is a physical change in the environment which is not immediately related to the project, but which is caused indirectly by the project. If a direct physical change in the environment in turn causes another change in the environment, then the other change is an indirect physical change in the environment. For example, the construction of a new sewage treatment plant may facilitate population growth in the service area due to the increase in sewage treatment capacity and may lead to an increase in air pollution.

*Id.* § 15064(d)(2). The City has considered the following potential indirect, or secondary, impacts and determined that while some will be less than significant with mitigation, others depend on variable circumstances that cannot be predicted with certainty at this time.

##### **1. Secondary Impact Analysis From the Construction of New Intersections**

###### **a. Land Use**

**Land Use Impacts from Improvements in Existing Road ROWs.** Intersection improvements in existing road ROWs would support local and regional goals and policies and would result in a *less-than-significant* impact related to land use.

**Findings Regarding Secondary Land Use Impacts from Improvements in Existing Road ROWs.** None of the intersection improvements to be implemented by the Project Developer would be located within the boundaries of a habitat conservation plan (“HCP”) or

natural community conservation plan (“NCCP”). All of these intersection improvements would occur within the existing ROW and would not physically divide an established community because the improvements would be additions to the existing roadways and would not introduce new features to the intersections that would change access for adjacent communities. Furthermore, because the improvements would be within the existing ROW and would not require major changes to existing land use, the improvements are not anticipated to conflict with any applicable land use plans, policies, or regulations. In general, these intersection improvements would support local and regional goals and policies. Therefore, the intersection improvements would result in a *less-than-significant* impact related to land use.

**Land Use Impacts from At-Grade Improvements Requiring Additional ROW.**

Intersection at-grade improvements requiring additional ROWs would support local and regional goals and policies and would result in a *less-than-significant* impact related to land use.

**Findings Regarding Secondary Land Use Impacts from At-Grade Improvements Requiring Additional ROW.** None of the intersection improvements to be implemented by the Project Developer would be located within the boundaries of an HCP or NCCP. All of these intersection improvements would occur within or immediately adjacent to the existing ROW and would not physically divide an established community because the improvements would be additions to the existing roadways and would not introduce new features to the intersections that would change access for adjacent communities. Furthermore, because the improvements would be within or immediately adjacent to the existing ROW and would not require major changes to existing land use, the improvements are not anticipated to conflict with any applicable land use plans, policies, or regulations. In general, these intersection improvements would support local and regional goals and policies. Therefore, these intersection improvements would result in a *less-than-significant* impact related to land use.

**Land Use Impacts from Freeway Ramps.** Freeway ramp improvements would support local and regional goals and policies and would result in a *less-than-significant* impact related to land use.

**Findings Regarding Secondary Land Use Impacts from Freeway Ramps.** Neither of the improvements to be implemented by the Project Developer would occur within the boundaries of an HCP or NCCP. Both of these intersection improvements would occur within or immediately adjacent to the existing ROW and would not physically divide an established community because the improvements would be additions to the existing roadways and would not be likely to introduce new features to the intersections that would change access for adjacent communities. Furthermore, because the improvements would be within or immediately adjacent to the existing ROW and would not require major changes to the existing land use, the improvements are not anticipated to conflict with any applicable land use plans, policies, or regulations. In general, these intersection improvements would support local and regional goals and policies. These intersection improvements would result in a *less-than-significant* impact related to land use.

**Land Use Impacts from Interchanges.** Several of the interchange improvements could require substantial ROW acquisition, which could require major changes to the existing land use, resulting in a potential conflict with applicable land use plans, policies, or regulations.

**Mitigation Measures.** All interchange improvements would undergo separate CEQA review by their respective Lead Agency.

**Findings Regarding Secondary Land Use Impacts from Interchanges.** Several of the improvements (e.g., at Intersections 27, 28, 52, and 98) could require substantial ROW acquisition, including residential property for Intersection 52. This could result in a *potentially significant and unavoidable impact* related to land use because some of the improvements could require major changes to an existing land use, resulting in a potential conflict with applicable land use plans, policies, or regulations. No other feasible mitigation measures are available.

#### **b. Aesthetics**

**Aesthetics Impacts from Improvements in Existing Road ROWs.** Intersection improvements in existing road ROWs would be visually consistent with existing roadway elements and would not introduce new substantial sources of light or glare. However, trees could be removed for improvements at certain intersections, resulting in a potentially significant impact.

**Mitigation Measure IM-BIO-1: Replace Removed Trees.** The Project Developer shall replace all trees removed as part of the intersection improvements in accordance with the tree preservation policies or ordinances of the jurisdiction in which the improvements are constructed.

**Findings Regarding Secondary Aesthetics Impacts from Improvements in Existing Road ROWs.** Implementation of Mitigation Measure IM-BIO-1 would require tree replacement in accordance with the tree preservation policies or ordinances policies of the jurisdiction in which the improvements are constructed. This would reduce the potential aesthetic impacts of tree removal to *less than significant with mitigation*.

**Aesthetics Impacts from At-Grade Improvements Requiring Additional ROW.** Intersection at-grade improvements requiring additional ROWs would be visually consistent with existing roadway elements and would not introduce new substantial sources of light or glare. However, trees could be removed for improvements at certain intersections, resulting in a potentially significant impact.

**Mitigation Measure IM-BIO-1.** See IM-BIO-1, described above.

**Findings Regarding Secondary Aesthetics Impacts from At-Grade Improvements Requiring Additional ROW.** Implementation of Mitigation Measure IM-BIO-1 would require tree replacement in accordance with the tree preservation policies or ordinances of the jurisdiction in which the improvements are constructed. This would reduce potential aesthetic impacts of tree removal to *less than significant with mitigation*.

**Aesthetics Impacts from Freeway Ramps.** Freeway ramp improvements would be visually consistent with existing roadway elements and features would be designed in accordance with the applicable Congestion Management Program (CMP) guidelines. However, trees could be removed for improvements at certain intersections, resulting in a potentially significant impact.



**Mitigation Measure IM-BIO-1.** See IM-BIO-1, described above.

**Findings Regarding Secondary Aesthetics Impacts from Freeway Ramps.**

Implementation of Mitigation Measure IM-BIO-1 (see discussion under the discussion of biological resource impacts below) would require tree replacement in accordance with the tree preservation policies or ordinances of the jurisdiction in which the improvements are constructed. This would reduce potential aesthetic impacts of tree removal to *less than significant with mitigation*.

**Aesthetics Impacts from Interchanges.** The majority of interchange improvements would be visually consistent with existing roadway elements. However, a new interchange at Intersection 52 may result in substantial visual changes with respect to views from the residential areas, given the visual intensity of large grade-separated roadways.

**Mitigation Measures.** See IM-BIO-1, described above. Interchange improvements will undergo separate CEQA review.

**Findings Regarding Secondary Aesthetics Impacts from Interchanges.** A new interchange at Intersection 52 would occur in an area with both commercial and residential uses. Depending on the design of this interchange, it may result in substantial visual changes with respect to views from the residential areas, given the visual intensity of large grade-separated roadways. The impact on visual character due to the proposed interchange at Intersection 52 may be *significant and unavoidable*. Although certain aesthetic treatments may be possible, such as new landscaping, walls, or new tree planting, often the aesthetic changes with grade-separated interchanges would be significant. No other feasible mitigation measures are available.

Trees would be removed for improvements at several of the intersections. This is considered a *potentially significant* aesthetic impact. However, mitigation similar to Mitigation Measure BIO-1 could mitigate this impact by providing for tree replacement. Interchange improvements will undergo separate CEQA review.

**c. Transportation**

**Potential Transportation Impacts from Improvements in Existing Road ROWs.**

Intersection improvements in existing road ROWs have been identified as measures that would improve the vehicle carrying capacity of intersections and/or reduce vehicle delay at the affected intersections, resulting in less-than-significant impacts to traffic. However, temporary impacts on public transit, bicycle or pedestrian facilities, and emergency access could also occur if construction of the intersection improvements were to significantly change access for these users, resulting in a *potentially significant impact*.

**Mitigation Measure IM-TRA-1: Prepare and Implement a Construction Traffic Control Plan.** Prior to issuance of grading permits, the construction contractor will develop the traffic control plan in accordance with the appropriate jurisdiction's policies and submit for approval. The plan will be implemented throughout the course of construction and may include, but will not be limited to, the following elements.

Limit truck access to the intersection during peak commute times (7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 pm.).

Require that written notification be provided to contractors regarding appropriate routes to and from the intersection, and the weight and speed limits on local roads used to access the intersection.

Provide access for emergency vehicles at all times.

Provide adequate parking for construction employees, site visitors, and inspectors as feasible.

Maintain bicycle and pedestrian access and circulation during Project construction where safe to do so. If construction encroaches on a bike lane, warning signs will be posted that indicate bicycles and vehicles are sharing the roadway. If construction encroaches on a sidewalk, a safe detour will be provided for pedestrians at the nearest crosswalk.

Require traffic controls in the vicinity of the intersection, including flagpersons with bright orange or red vests and using a "Stop/Slow" paddle to control oncoming traffic.

Post standard construction warning signs in advance of the construction area and at any intersection that provides access to the construction area.

Repair or restore the road right-of-way to its original condition or better upon completion of the work.

**Findings Regarding Secondary Transportation Impacts from Improvements in Existing Road ROWs.** Implementation of Mitigation Measure IM-TRA-1 would require the preparation and implementation of a Construction Traffic Control Plan. Therefore, this measure would reduce potential traffic impacts during intersection improvement construction to *less than significant with mitigation*.

**Transportation Impacts from At-Grade Improvements Requiring Additional ROW.** Intersection at-grade improvements requiring additional ROWs have been identified as measures that would improve the vehicle carrying capacity of intersections and/or reduce vehicle delay at the affected intersections, resulting in less-than-significant impacts to traffic. However, temporary impacts on public transit, bicycle or pedestrian facilities, and emergency access could also occur if construction of the intersection improvements were to significantly change access for these users, resulting in a *potentially significant impact*.

**Mitigation Measure.** See IM-TRA-1, described above.

**Findings Regarding Secondary Transportation Impacts from At-Grade Improvements Requiring Additional ROW.** Implementation of Mitigation Measure IM-TRA-1 would require the preparation and implementation of a Construction Traffic Control Plan. Therefore, this measure would reduce potential traffic impacts during intersection improvement construction to *less than significant with mitigation*.

**Transportation Impacts from Freeway Ramps.** Freeway ramp improvements have been identified as measures that would improve the vehicle carrying capacity of intersections and/or reduce vehicle delay at the affected intersections, resulting in less-than-significant impacts to traffic. However, temporary impacts on public transit, bicycle or pedestrian facilities, and emergency access could also occur if construction of the intersection improvements were to significantly change access for these users, resulting in a *potentially significant impact*.

**Mitigation Measure.** See IM-TRA-1, described above.

**Findings Regarding Secondary Transportation Impacts from Freeway Ramps.** Implementation of Mitigation Measure IM-TRA-1 would require the preparation and implementation of a Construction Traffic Control Plan. However, because of the intensity of construction activities and the volume of traffic at the improvement location, impacts on traffic during construction could be *potentially significant and unavoidable*.

**Transportation Impacts from Interchanges.** Interchange improvements have been identified as measures that would improve the vehicle carrying capacity of intersections and/or reduce vehicle delay at the affected intersections, resulting in less-than-significant impacts to traffic. However, temporary impacts on public transit, bicycle or pedestrian facilities, and emergency access could also occur if construction of the intersection improvements were to significantly change access for these users, resulting in a *potentially significant impact*.

**Mitigation Measures.** See IM-TRA-1, described above. Interchange improvements will undergo separate CEQA review.

**Findings Regarding Secondary Transportation Impacts from Interchanges.** Construction of the grade-separated interchanges could require lane or street closures, resulting in impacts on traffic. However, these impacts would be temporary, and in the long term, the improvements would be anticipated to improve traffic in the area. Temporary impacts on public transit, bicycle or pedestrian facilities, and emergency access could also occur if construction of the intersection improvements were to significantly change access for these users. Because of the intensity of construction activities required for the grade-separated interchanges and the large volume of existing traffic, impacts on traffic during construction would be *potentially significant*.

Implementation of mitigation similar to Mitigation Measure IM-TRA-1 would require preparation and implementation of a Construction Traffic Control Plan. However, because of the intensity of construction activities required for the grade-separated interchanges and existing traffic volumes, impacts on traffic during construction would be *potentially significant and unavoidable*. No other feasible mitigation measures exist.

As described above, interchange improvements will undergo separate CEQA review. The final impacts and mitigation measures will be disclosed by the Lead Agency.

#### **d. Air Quality**

**Air Quality Impacts from Improvements in Existing Road ROWs.** Construction and operation of intersection improvements in existing road ROWs would not generate significant air pollutant emissions.



**Findings Regarding Secondary Air Quality Impacts from Improvements in Existing Road ROWs.** All of these intersection improvements would be additions to existing roadway facilities; they would not result in the creation of new structures or sources that would emit long-term operational air pollutant emissions or conflict with applicable air quality plans. Air pollutant emissions would be limited to the duration of the construction period and would be temporary in nature. Construction-related air pollutant emissions associated with the intersection improvements would depend on the type of construction equipment used and the duration of construction activities. Given the limited scope of the intersection improvements (e.g., limited grading or excavation), it is anticipated that the construction of roadway improvements would not generate significant air pollutant emissions. The use of diesel-powered vehicles and equipment during construction could create localized odors, but these odors would be temporary and would dissipate in the outdoor construction environment. Therefore, potential air quality impacts would be *less-than-significant*.

**Air Quality Impacts from At-Grade Improvements Requiring Additional ROW.** Construction of intersection at-grade improvements requiring additional ROWs could generate significant air pollutant emissions. Two of these intersection improvements would require construction adjacent to residential development (Intersections 77 and 83), which might affect sensitive residential receptors.

**Mitigation Measure IM-AQ-1: Implement Measures to Reduce Construction-Related Dust Emissions.** The Project Developer shall require all construction contractors to implement the specific construction mitigation measures below to reduce fugitive dust. Emissions reduction measures shall include, at a minimum, the measures below. Alternative measures may be identified by the Project Developer or its contractor, as appropriate, provided that they are as effective as the measures below. Alternative measures shall be submitted to the City for approval.

All exposed surfaces shall be watered at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content can be verified by lab samples or moisture probe. If water infiltration into landfill refuse layers is a concern, non-toxic soil stabilizers may be used instead.

All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph for a period of 2 hours or more.

Windbreaks (e.g., fences) shall be installed on the windward side(s) of actively disturbed areas of construction. Windbreaks shall have at maximum 50 percent air porosity.

Exposed ground areas that are to be reworked more than 1 month after initial grading should be sown with fast-germinating native grass seed and watered appropriately until vegetation is established. If grass seeding is not feasible, then non-toxic soil stabilizers may be used.

All construction trucks and equipment, including tires, involved in ground disturbance or transit through loose soil areas shall be washed off prior to leaving the site.

Site accesses to a distance of 25 feet from the paved road shall be treated with a 6- to 12 inch compacted layer of wood chips, mulch, or gravel. Alternatively, a rumble plate may be used in place of chips, mulch, or gravel.

Sandbags or other erosion control measures shall be installed to prevent silt runoff to public roadways from sites with a slope greater than 1 percent.

**Mitigation Measure IM-AQ-2: Implement Measures to Reduce Construction-Related Exhaust Emissions.** The Project Developer shall require all construction contractors to implement the specific construction mitigation measures below to reduce equipment exhaust emissions. Emission reduction measures shall include, at a minimum, the measures below. Alternative measures may be identified by the Project Developer or its contractor, as appropriate, provided that they are as effective as the measures below. Alternative measures shall be submitted to the City for approval.

Idling time of diesel powered construction equipment shall be limited to 2 minutes.

Ensure that all off-road diesel-powered equipment used during construction between 2017 and 2022 is equipped with U.S. Environmental Protection Agency (EPA) Tier 3 or cleaner engines, except for specialized construction equipment for which an EPA Tier 3 engine is not available. Consistent with advancements of the statewide fleet average, the Project Developer shall ensure that all off-road diesel-powered equipment used during construction between 2023 and 2030 is equipped with EPA Tier 4 engines. This requirement will ensure construction equipment remains cleaner than the fleet-wide average.

Ensure that all on-road heavy-duty diesel trucks with a gross vehicle weight rating (GVWR) of 19,500 pounds or greater used at the Project site comply with EPA 2007 on-road emissions standards for particulate matter of 10 micrometers or less (PM10) and nitrogen oxides (NOX) (0.01 grams per brake horsepower-hour [g/bhp-hr] and 0.20 g/bhp-hr, respectively).

Notwithstanding the above requirements, all construction equipment, diesel trucks, and generators shall meet the California Air Resources Board's most recent certification standard for off-road heavy-duty diesel engines and shall employ Best Available Control Technology for reductions in NOX and particulate matter (PM) emissions if more stringent than the requirements above.

**Findings Regarding Secondary Air Quality Impacts from At Grade Improvements Requiring Additional ROW.** Implementation of Mitigation Measure IM-AQ-1 would require Bay Area Air Quality Management District (BAAQMD) best management practices (BMPs) for fugitive dust. Mitigation Measure IM-AQ-2 would require BAAQMD BMPs for diesel exhaust emissions, which would reduce criteria pollutant air emissions to a less-than-significant level. Given the limited scope of the improvements at the two locations with adjacent residential receptors, implementation of Mitigation Measures IM-AQ-1 and IM-AQ-2 should reduce potential exposure to toxic air contaminants (TACs) during construction to a less-than-significant

level. Therefore, these measures would reduce potential air quality impacts during intersection improvement construction to a *less-than-significant level with mitigation*.

**Air Quality Impacts from Freeway Ramps.** Construction of freeway ramp improvements could generate significant air pollutant emissions.

**Mitigation Measures.** See IM-AQ-1 and IM-AQ-2, described above.

**Findings Regarding Secondary Air Quality Impacts from Freeway Ramps.** Implementation of Mitigation Measure IM-AQ-1 would require BAAQMD BMPs for fugitive dust. Mitigation Measure IM-AQ-2 would require BAAQMD BMPs for diesel exhaust emissions. These measures would reduce potential air quality impacts during intersection improvement construction to a *less-than-significant level with mitigation*.

**Air Quality Impacts from Interchanges.** Construction of the interchange improvements could expose sensitive receptors to substantial pollutant concentrations during construction, depending on the presence of sensitive receptors in proximity to intersection improvement locations. Some intersections (e.g., Intersection 52) are adjacent to residential development.

**Mitigation Measures.** See IM-AQ-1 and IM-AQ-2, described above. These interchange improvements will undergo separate CEQA review. The final impacts and mitigation measures will be disclosed by the Lead Agency.

**Findings Regarding Secondary Air Quality Impacts from Interchanges.** Given the intensity of the construction required for these types of improvements, it is anticipated that construction would generate significant air pollutant emissions. The use of diesel-powered vehicles and equipment during construction could create localized odors, but these odors would be temporary and would dissipate in the outdoor construction environment. Furthermore, there is the potential for construction to expose sensitive receptors to substantial pollutant concentrations during construction, depending on the presence of sensitive receptors in proximity to intersection improvement locations. Some intersections identified in EIR Table 3.3-60 (e.g., Intersection 52) are adjacent to residential development. Because of the intensity of the construction required for these improvements and the proximity to sensitive receptors at some locations, impacts related to air quality would be *potentially significant*.

Implementation of mitigation similar to Mitigation Measure IM-AQ-1 would require BAAQMD BMPs for fugitive dust. Implementation of mitigation similar to Mitigation Measure IM-AQ-2 would require BAAQMD BMPs for diesel exhaust emissions. If these measures are insufficient to lower emissions below the BAAQMD thresholds, then construction-period criteria air pollutant offsets would be an additional mitigation option, if necessary.

Where potential TAC emissions during construction would affect sensitive receptors, the Lead Agency for interchange improvements will most likely need to prepare a Health Risk Assessment (HRA) for construction. If the HRA demonstrates that the health risk from construction of the intersection improvements at all potentially exposed sensitive receptor locations will be less than the BAAQMD thresholds, then no additional action will be necessary. If the HRA demonstrates that the health risk from construction of the intersection improvements



at sensitive receptor locations will be over the BAAQMD threshold, then equipment emissions controls and other measures to reduce TAC impacts to less than the BAAQMD thresholds will be necessary.

The measures described above could reduce potential air quality impacts during intersection improvement construction; however, because of the intensity of the construction required for these improvements and the proximity to sensitive receptors, impacts related to air quality for these improvements are *considered potentially significant and unavoidable*. No other feasible mitigation measures are available.

As noted above, these interchange improvements will undergo separate CEQA review.

#### **e. Greenhouse Gas Emissions**

**Greenhouse Gas Impacts from Improvements in Existing Road ROWs.** Operation and construction of the intersection improvements in existing road ROWs would not result in the creation of structures or sources that would emit long-term, operational greenhouse gases (“GHGs”).

**Findings Regarding Secondary Greenhouse Gas Impacts from Improvements in Existing Road ROWs.** These intersection improvements would not result in the creation of structures or sources that would emit long-term, operational GHGs. These improvements would enable traffic to move through the intersections more efficiently, effectively providing a benefit to GHG emissions by reducing idling. GHG emissions would be limited to the duration of the construction period and would be temporary in nature. Construction-related GHG emissions associated with the intersection improvements would depend on the type of construction equipment used and the duration of construction activities. Given the limited scope of the intersection improvements, it is anticipated that the construction of roadway improvements would not generate significant GHGs and would not conflict with applicable plans or policies adopted for the purpose of reducing GHG emissions. The intersection improvements would result in *less-than-significant* impacts related to GHG emissions.

**Greenhouse Gas Impacts from At-Grade Improvements Requiring Additional ROW.** Operation and construction of intersection at-grade improvements requiring additional ROWs would not result in the creation of structures or sources that would emit long-term operational GHGs.

**Findings Regarding Secondary Greenhouse Gas Impacts from At-Grade Improvements Requiring Additional ROW.** These intersection improvements would not result in the creation of structures or sources that would emit long-term operational GHGs. These improvements would enable traffic to move through the intersections more efficiently, effectively providing a benefit to GHG emissions by reducing idling. GHG emissions would be limited to the duration of the construction period and would be temporary in nature. Construction-related GHG emissions associated with the intersection improvements would depend on the type of construction equipment used and the duration of construction activities. Given the limited scope of the intersection improvements, it is anticipated that the construction of roadway improvements would not generate significant GHGs and would not conflict with

applicable plans or policies adopted for the purpose of reducing GHG emissions. The intersection improvements would result in *less-than-significant* impacts related to GHG emissions.

**Greenhouse Gas Impacts from Freeway Ramps.** Construction of freeway ramp improvements could generate significant GHGs.

**Mitigation Measures.** See Mitigation Measure IM-AQ-2, described in VII.G.1.d, and:

**Mitigation Measure IM-GHG-1: Utilize Alternative Fuels during Construction.** Require construction contractors to use alternative fuels in at least 30 percent of the construction equipment that uses diesel fuel. Alternative fuels may include electricity, compressed natural gas (CNG), biodiesel (B-20), or renewable diesel, such as diesel high-performance renewable (HPR).

**Findings Regarding Secondary Greenhouse Gas Impacts from Freeway Ramps.** Implementation of Mitigation Measure IM-AQ-2 would require BAAQMD BMPs for diesel exhaust emissions because it would require more efficient construction equipment and trucks, which would reduce GHG emissions. Mitigation Measure IM-GHG-1 would require the use of alternative fuels for 30 percent of the construction equipment that uses diesel fuel, consistent with BAAQMD's recommended BMPs for construction GHGs. Therefore, these measures would most likely reduce construction-related GHG emissions to *less than significant with mitigation*.

**Greenhouse Gas Impacts from Interchanges.** Construction of interchange improvements could generate significant GHGs.

**Mitigation Measures.** See Mitigation Measure IM-AQ-2, described in VII.G.1.d, and Mitigation Measure IM-GHG-1, described above. These interchange improvements will undergo separate CEQA review. The final impacts and mitigation measures will be disclosed by the Lead Agency.

**Findings Regarding Secondary Greenhouse Gas Impacts from Interchanges.** These intersection improvements would not result in the creation of structures or sources that would emit long-term operational GHGs and would not conflict with applicable plans or policies adopted for the purpose of reducing GHG emissions. These improvements would enable traffic to move through the intersections more efficiently, effectively providing a benefit to GHG emissions by reducing idling. GHG emissions would be limited to the duration of the construction period and would be temporary in nature. Construction-related GHG emissions associated with the intersection improvements would depend on the type of construction equipment used and the duration of construction activities. Given the scope of these improvements, it is anticipated that construction GHGs could result in *potentially significant impacts*. Implementation of mitigation similar to Mitigation Measures IM-AQ-2 and IM-GHG-1 would most likely reduce construction-related GHG emissions impacts to *less than significant with mitigation*.

As noted above, these interchange improvements will undergo separate CEQA review.

**f. Noise**

**Noise Impacts from Improvements in Existing Road ROWs.** Intersection improvements in existing road ROWs would not result in changes in operational intersection noise or perceptible changes in noise levels at nearby sensitive receptors. Construction-related noise impacts would be temporary and limited to the duration of the construction period.

**Findings Regarding Secondary Noise Impacts from Improvements in Existing Road ROWs.** All intersection improvements would be additions to existing roadway facilities, and it is anticipated that these additional features would not substantially increase traffic noise generated on these roadways. The intersection improvements would not expose people to excessive noise levels due to the proximity to a public or private airport. There would be no changes in operational intersection noise and no perceptible changes in noise levels at nearby sensitive receptors. Construction-related noise impacts would be temporary and limited to the duration of the construction period. Noise from construction of the intersection improvements may surpass the normally acceptable noise levels. Construction-related noise impacts associated with the intersection improvements would depend on the type of construction equipment used and the duration of construction activities. All construction activities would be required to comply with local noise ordinances for construction hours and equipment. Therefore, potential noise impacts would be *less-than-significant*.

**Noise Impacts from At-Grade Improvements Requiring Additional ROW.** Intersection at-grade improvements requiring additional ROWs could shift operational intersection noise closer to sensitive receptors (i.e., residents, office workers, recreationists, etc.) in adjacent buildings; however, this would not result in a noticeable difference compared to existing conditions, because vehicular noise already exists in the areas. Construction-related noise impacts would be temporary and limited to the duration of the construction period.

**Findings Regarding Secondary Noise Impacts from At-Grade Improvements Requiring Additional ROW.** All intersection improvements would be additions to existing roadway facilities. It is anticipated that these additional features would not substantially increase traffic noise generated on these roadways. The intersection improvements would not expose people to excessive noise levels due to proximity to a public or private airport. The ROW expansion could shift operational intersection noise closer to sensitive receptors (i.e., residents, office workers, recreationists, etc.) in adjacent buildings; however, this would not result in a noticeable difference compared to existing conditions, because vehicular noise already exists in the areas. Construction-related noise impacts would be temporary and limited to the duration of the construction period. Noise from construction of the intersection improvements may surpass the normally acceptable noise levels. Construction-related noise impacts associated with the intersection improvements would depend on the type of construction equipment used and the duration of construction activities. All construction activities would be required to comply with local noise ordinances for construction hours and equipment. Therefore, potential noise impacts would be *less-than-significant*.

**Noise Impacts from Freeway Ramps.** Freeway ramp improvements would not result in changes in operational intersection noise or perceptible changes in noise levels at nearby



sensitive receptors. Construction-related noise impacts would be temporary and limited to the duration of the construction period.

**Findings Regarding Secondary Noise Impacts from Freeway Ramps.** Ramp improvements would be additions to existing roadway facilities. It is anticipated that these additional features would not substantially increase traffic noise generated on these roadways. The intersection improvements would not expose people to excessive noise levels due to proximity to a public or private airport. There are no residential receptors adjacent to the ramp improvement locations, and the nearby commercial areas are already affected by SR 237 traffic noise. Construction-related noise impacts would be temporary and limited to the duration of the construction period. Noise from construction of the intersection improvements may surpass the normally acceptable noise levels. Construction-related noise impacts associated with the intersection improvements would depend on the type of construction equipment used and the duration of construction activities. All construction activities would be required to comply with local noise ordinances for construction hours and equipment. Therefore, potential impacts would be *less-than-significant*.

**Noise Impacts from Interchanges.** Interchange improvements could result in traffic noise from the elevated roadway that could affect adjacent receptors differently compared with current conditions. In addition, noise associated with night work or pile driving may not always be mitigable to a less-than-significant level. However, only one of the interchange locations (Intersection 52) has adjacent residential receptors, resulting in significant impacts.

**Mitigation Measures.** Interchange improvements will undergo separate CEQA review.

**Findings Regarding Secondary Noise Impacts from Interchanges.** The interchange improvements would be additions to existing roadway facilities. If a design is adopted that raises one roadway over the other, then the traffic noise from the elevated roadway could affect adjacent receptors differently compared with current conditions. This is considered a *potentially significant impact*; soundwall mitigation may or may not be able to address potential noise impacts. However, only one of the interchange locations (Intersection 52) has adjacent residential receptors. Therefore, significant impacts would most likely be limited to that location only.

Construction noise associated with night work or pile driving may not always be mitigable to a less-than-significant level, even with mitigation, such as noise barriers, building insulation, use of vibratory pile driving, or other measures. However, only one of the interchange locations (Intersection 52) has adjacent residential receptors. Therefore, significant impacts would most likely be limited to that location only. Potential impacts could be *significant and unavoidable*, even with mitigation at this one location, depending on the effectiveness of sound control measures. No other feasible mitigation measures are available at this time.

As noted above, interchange improvements will undergo separate CEQA review.

#### **g. Cultural Resources**

**Cultural Resource Impacts from Improvements in Existing Road ROWs.** All the intersection improvement sites have most likely already been disturbed during construction of

the existing roadway facilities; therefore, the improvements in the existing road ROWs would have less-than-significant impacts on cultural resources.

**Findings Regarding Secondary Cultural Resource Impacts from Improvements in Existing Road ROWs.** None of these intersection improvements would involve the demolition of any existing structures, and all work would be within the current ROWs. Therefore, no architectural historic resources would be affected. Ground-disturbing activities for the intersection improvements would be minimal and limited to areas within the ROW. All the intersection improvement sites have most likely already been disturbed during construction of the existing roadway facilities. Furthermore, these intersection improvements would involve minimal activity such as restriping. Therefore, it is unlikely that these intersection improvements would damage or destroy unknown or unrecorded archaeological resources or human remains. Impacts from these improvements related to cultural resources would be *less-than-significant*.

**Cultural Resource Impacts from At-Grade Improvements Requiring Additional ROW.** Although all the intersection improvement sites have most likely already been disturbed during construction of the existing roadway facilities, ground-disturbing activities outside of the ROW may uncover, damage, or destroy unknown or unrecorded archaeological resources, paleontological resources, or human remains.

**Mitigation Measure IM-CR-1: Conduct Cultural Resource Investigations and Protect and Recover Significant Resources.** The Lead Agency shall conduct a cultural resource investigation that includes a background records search (including a search of records from Sonoma State and historical societies, contact with Native American representatives identified by the Native American Heritage Commission (NAHC), and site pedestrian surveys) for the areas of ground disturbance from each roadway improvement. If significant known or suspected sites are discovered within the Project footprint and would be disturbed by the Project, then a cultural resource treatment plan shall be prepared, defining Project monitoring and resource recovery and curation requirements concerning any encountered cultural resources.

**Mitigation Measure IM-CR-2: Stop Work if Cultural Resources Are Encountered during Ground-Disturbing Activities.** In the event that cultural resources are encountered during ground-disturbing activities, all work within proximity of the find shall temporarily halt so that the archaeological monitor can examine the find and document its provenience and nature (e.g., with drawings, photographs, written descriptions). The archaeological monitor shall then direct that the work proceed if the find is deemed to be insignificant, continue elsewhere, or cease until adequate mitigation measures are adopted. If the find is determined to be potentially significant, the archaeologist, in consultation with the appropriate jurisdiction, shall develop a treatment plan, which could include site avoidance, capping, or data recovery. If data recovery is determined to be appropriate, excavation shall target recovery of an appropriate amount of information from archaeological deposits to determine the potential of the resource to address specific research questions. If it occurs, data recovery shall emphasize the understanding of the archaeological deposit's structure, including features and stratification, horizontal and vertical extent, and content, including the nature and quantity of artifacts.

**Mitigation Measure IM-CR-3: Stop Work if Human Remains Are Encountered during Ground-Disturbing Activities.** If human remains are discovered (in either an

archaeological or construction context), all work within proximity of the remains shall stop so that the archaeological monitor can examine the remains. The County Coroner shall be notified to make a determination as to whether the remains are of Native American origin. If the remains are determined to be Native American, the coroner shall notify the NAHC immediately. The NAHC shall notify those persons it believes are most likely descended from the deceased Native American. Once the NAHC identifies the most likely descendants, the descendants will make recommendations regarding proper burial, which will be implemented in accordance with Section 15064.5(e) of the State CEQA Guidelines.

**Findings Regarding Secondary Cultural Resource Impacts from At-Grade Improvements Requiring Additional ROW.** Implementation of Mitigation Measure IM-CR-1 would require the Lead Agency to conduct cultural resource investigations and prepare and implement a cultural resource treatment plan, if necessary. Mitigation Measure IM-CR-2 would require the contractor to stop work if cultural resources are encountered during ground-disturbing activities. Implementation of Mitigation Measure IM-CR-3 would require the contractor to stop work if human remains are encountered during ground disturbing activities. Therefore, these measures would reduce potential cultural resources impacts during intersection improvement construction to *less than significant with mitigation*.

**Cultural Resource Impacts from Freeway Ramps.** Although all of the freeway ramp improvement sites have most likely already been disturbed the construction of the existing roadway facilities, ground-disturbing activities may uncover, damage, or destroy unknown or unrecorded archaeological resources, paleontological resources, or human remains.

**Mitigation Measures.** See IM-CR-1, IM-CR-2, and IM-CR-3, described above.

**Findings Regarding Secondary Cultural Resource Impacts from Freeway Ramps.** Implementation of Mitigation Measure IM-CR-1 would require the Lead Agency to conduct cultural resource investigations and prepare and implement a cultural resource treatment plan, if necessary. Mitigation Measure IM-CR-2 would require the contractor to stop work if cultural resources are encountered during ground-disturbing activities. Implementation of Mitigation Measure IM-CR-3 would require the contractor to stop work if human remains are encountered during ground disturbing activities. Therefore, these measures would reduce potential cultural resource impacts during intersection improvement construction to *less than significant with mitigation*.

**Cultural Resource Impacts from Interchanges.** The additional ROW required for some of the interchange improvements could involve demolition of existing structures, which could potentially be historic resources. In addition, although all of the interchange improvement sites have most likely already been disturbed during construction of the existing roadway facilities, ground-disturbing activities may uncover, damage, or destroy unknown or unrecorded archaeological resources or human remains.

**Mitigation Measures.** See IM-CR-1, IM-CR-2, and IM-CR-3, described above. These interchange improvements will undergo separate CEQA review.



**Findings Regarding Secondary Cultural Resource Impacts from Interchanges.** The additional ROW required for some of the interchange improvements could involve demolition of existing structures. Because a comprehensive inventory and evaluation of potentially affected buildings has not yet been conducted. There is some potential for architectural historic resources to be affected. If an intersection improvement would require demolition of an existing structure, then an assessment of the historic significance of the structure will be required as part of the separate CEQA review. If impacts cannot be avoided or minimized (e.g., when a historic building must be removed), then impacts on historic structures could be *significant and unavoidable*. No other feasible mitigation measures are available.

#### **h. Biological Resources**

**Biological Resource Impacts from Improvements in Existing Road ROWs.** The existing urbanized setting of the intersection improvement locations makes it unlikely that the improvements would substantially affect any special-status species, special-status plants, associated habitat or other sensitive natural communities, including wetlands, or wildlife corridors. However, trees could be removed for improvements at certain intersections, resulting in a potentially significant impact.

**Mitigation Measure.** See Mitigation Measure IM-BIO-1, described in VII.G.1.b.

**Mitigation Measure IM-BIO-2: Preconstruction Surveys.** For all intersections that have trees within the intersection footprint or that will remove trees, the Project Developer and its contractors shall avoid conducting vegetation removal during the migratory bird nesting season (February 1–August 31), if feasible. If construction activities must commence during the migratory bird nesting season, the Project Developer shall retain a qualified wildlife biologist to conduct a survey for nests of migratory birds. Surveys for nesting migratory birds shall occur within 3 days prior to the commencement of ground disturbance and vegetation removal.

If an active nest is discovered, a no-disturbance buffer zone around the nest tree or shrub (or, for ground-nesting species, the nest itself) shall be established. The no-disturbance zone shall be marked with flagging or fencing that is easily identified by the construction crew and shall not affect the nesting bird or attract predators to the nest location. In general, the minimum buffer zone widths shall be as follows: 50 feet (radius) for non-raptor ground-nesting species, 50 feet (radius) for non-raptor shrub- and tree-nesting species, and 300 feet (radius) for raptor species. Buffer widths may be modified based on discussion with the California Department of Fish and Wildlife (CDFW). Buffers shall remain in place as long as the nest is active or young remain in the area and are dependent on the nest. If a burrowing owl nest is identified during preconstruction surveys, no-activity buffers will adhere to the recommendations in the 2012 California Department of Fish and Game Staff Report on Burrowing Owl Mitigation.

**Findings Regarding Secondary Biological Resource Impacts from Improvements in Existing Road ROWs.** Implementation of Mitigation Measure IM-BIO-1 would require tree replacement in accordance with the tree preservation policies or ordinances of the jurisdiction in which the improvements are constructed. Implementation of Mitigation Measure IM-BIO-2 would require preconstruction nesting surveys prior to any tree removal. Therefore, these

measures would reduce potential biological resource impacts during intersection improvement construction to *less than significant with mitigation*.

**Biological Resource Impacts from At-Grade Improvements Requiring Additional ROW.** The existing urbanized setting of the intersection improvement locations makes it unlikely that the improvements would substantially affect any special-status species, special-status plants. However, there would be improvements to some intersections (Intersections 84, 96, and 123) that have or are adjacent to sensitive habitats such as wetlands or grasslands. In addition, trees could be removed for improvements at certain intersections, resulting in a potentially significant impact.

**Mitigation Measures.** See Mitigation Measure IM-BIO-1, described in VII.G.1.b; Mitigation Measure IM-BIO-2, described above.

**Mitigation Measure IM-BIO-3: Site-Specific Surveys and Species/Habitat Avoidance, Minimization, and Compensation Measures.** For intersections with the potential to have sensitive habitats, the Project Developer, in consultation with a qualified biologist, shall conduct site-specific surveys for special-status species, sensitive habitats, wetlands and waters of the United States, and nesting birds. If found, the Project Developer and its contractor shall implement avoidance and minimization measures, where feasible. Where avoidance is not possible, the Project Developer shall compensate for lost habitat at a minimum 1:1 basis. Compensation for lost habitat will be determined in consultation with CDFW/U.S. Fish and Wildlife Service (USFWS), as appropriate. The Project Developer shall obtain all required permits from the U.S. Army Corps of Engineers (USACE), the Regional Water Quality Control Board, and CDFW, and USFWS, as appropriate. The Project Developer shall provide buffer fencing and species relocation, as necessary, if permitted by CDFW/USFWS. Additionally, if special-status species or habitats are identified during the site-specific surveys, a Worker Environmental Awareness Training Program for construction personnel will be conducted by a qualified biologist retained by the Project Developer. The program will provide workers with information on their responsibilities with regard to the special-status species. The training will provide a physical description of the special-status species that have potential to occur and be affected by construction activities to each construction crew prior to the initiation of the crew's construction activities. The worker awareness training will also detail each species' habitat and legal protections, a photo of relevant species, and contact information for the primary biologist.

**Findings Regarding Secondary Biological Resource Impacts from At-Grade Improvements Requiring Additional ROW.** Implementation of Mitigation Measure IM-BIO-1 would require tree replacement in accordance with the tree preservation policies or ordinances of the jurisdiction in which the improvements are constructed. Implementation of Mitigation Measure IM-BIO-2 would require preconstruction nesting surveys prior to any tree removal. Implementation of Mitigation Measure IM-BIO-3 would require site-specific surveys for special-status species, sensitive habitats, wetlands/waters, and nesting birds and implementation of avoidance, minimization, and compensation measures where sensitive biological resources are encountered. Therefore, these measures would reduce potential biological resource impacts during intersection improvement construction to *less than significant with mitigation*.

**Biological Resource Impacts from Freeway Ramps.** The additional required ROW for the freeway ramp intersection improvements include remnant grassland areas, which, though disturbed, may provide habitat for special-status species such as the burrowing owl. There are also adjacent wetland areas north of SR 237. Tree removal may also be necessary, which could affect native bird species that could be nesting in the trees if construction occurs during the nesting/breeding season.

**Mitigation Measures.** See Mitigation Measure IM-BIO-1, described in VII.G.1.b, and Mitigation Measures IM-BIO-2 and IM-BIO-3, described above.

**Findings Regarding Secondary Biological Resource Impacts from Freeway Ramps.** Implementation of Mitigation Measure IM-BIO-1 would require tree replacement in accordance with the tree preservation policies or ordinances of the jurisdiction in which the improvements are constructed. Implementation of Mitigation Measure IM-BIO-2 would require preconstruction nesting surveys prior to any tree removal. Implementation of Mitigation Measure IM-BIO-3 would require site-specific surveys for special-status species, sensitive habitats, wetlands/waters, and nesting birds and implementation of avoidance, minimization, and compensation measures as appropriate. Therefore, these measures would reduce potential biological resource impacts during intersection improvement construction to *less than significant with mitigation*.

**Biological Resource Impacts from Interchanges.** Although the interchange improvements could occur within a highly disturbed urban context, it is possible that there may be waters or wetlands (in the form of urban ditches) at some of the interchange locations and tree removal would be required.

**Mitigation Measures.** See Mitigation Measure IM-BIO-1, described in VII.G.1.b, and Mitigation Measures IM-BIO-2 and IM-BIO-3, described above. These interchange improvements will undergo separate CEQA review.

**Findings Regarding Secondary Biological Resource Impacts from Interchanges.** The interchange improvements would occur within or immediately adjacent to an existing ROW in established urbanized settings. The additional required ROW for some of the intersection improvements would not include any native habitat areas. The existing urbanized setting of the intersection improvement locations makes it unlikely that the improvements would substantially affect any special-status species, special-status plants, associated habitat or other sensitive natural communities, or wildlife corridors.

Although ROW acquisition is anticipated for Intersections 27 and 28, which are located within the boundaries of the Santa Clara County HCP area, the areas of effect are highly disturbed already. Although the interchange improvements could occur within a highly disturbed urban context, some impact on biological resources (like impacts to nesting birds during tree removal) is possible and thus is considered *potentially significant*.

Implementation of mitigation similar to Mitigation Measure IM-BIO-1 would require tree replacement in accordance with the tree preservation policies or ordinances of the jurisdiction in which the improvements are constructed. Implementation of mitigation similar to Mitigation Measure IM-BIO-2 would require preconstruction nesting surveys prior to any tree removal.



Implementation of Mitigation Measure IM-BIO-3 would require site-specific surveys for wetlands/waters and implementation of avoidance, minimization, and compensation measures as appropriate. Therefore, similar measures would most likely reduce potential biological resource impacts during intersection improvement construction *to less than significant with mitigation*.

As noted above, these interchange improvements will undergo separate CEQA review.

#### **i. Geology and Soils**

##### **Geology and Soils Impacts from Improvements in Existing Road ROWs.**

Intersection improvements in existing road ROWs would not expose structures or populations to new risks involving fault ruptures, seismic ground shaking, seismically related ground failures, or unstable geological units or soils.

**Findings Regarding Secondary Geology and Soils Impacts from Improvements in Existing Road ROWs.** Because these intersection improvements would be additions to existing roadways and not new roadway facilities and would be at grade, they would not expose structures or populations to new risks involving fault ruptures, seismic ground shaking, seismically related ground failures, or unstable geological units or soils. These intersection improvements would also not include the use of septic tanks or alternative wastewater disposal systems. Construction of the intersection improvements may require limited soil disturbance, but this is not expected to result in significant erosion if soil is exposed to wind or rainfall. Therefore, potential geologic, seismic, and soil impacts would be *less-than-significant*.

**Geology and Soils Impacts from At-Grade Improvements Requiring Additional ROW.** Intersection at-grade improvements requiring additional ROWs would not expose structures or populations to new risks involving fault ruptures, seismic ground shaking, seismically related ground failures, or unstable geological units or soils. However, some of the intersection improvements (Intersections 14, 45, and 84) could require construction or modification of retaining walls, which could disturb fill slopes/soils and may make them unstable.

**Mitigation Measure IM-GEO-1: Prepare a Geotechnical Investigation.** Prior to construction of any intersection improvement that requires retaining walls (or disturbance of existing retaining wall), disturbance or placement of fill, substantial excavation below grade, establishment of new slopes, and/or placement of new structures above or below grade, the Project Developer shall prepare a geotechnical investigation to evaluate the potential for geologic, seismic, and soil risks. The geotechnical investigation shall include recommendations to abate any potential risks. If risks are identified, the Project Developer shall implement the recommendations included in the geotechnical investigation.

**Findings Regarding Secondary Geology and Soils Impacts from At-Grade Improvements Requiring Additional ROW.** Implementation of Mitigation Measure IM-GEO-1 would require preparation of a geotechnical investigation that would evaluate potential risks related to geology and soils from construction of the retaining walls and disturbance of fills. Therefore, it would reduce potential geology and soil impacts during intersection improvement construction to *less than significant with mitigation*.

**Geology and Soils Impacts from Freeway Ramps.** Construction of freeway ramp improvements would include ground-disturbing activities, but would adhere to the requirements of the State Water Resources Control Board. In addition, these intersection improvements could require the construction of retaining walls and substantial grading, which could disturb fill slopes/soils and may make them unstable.

**Mitigation Measure.** See IM-GEO-1, described above.

**Findings Regarding Secondary Geology and Soils Impacts from Freeway Ramps.** Implementation of Mitigation Measure IM-GEO-1 would require preparation of a geotechnical investigation. Therefore, it would reduce potential geologic and soil impacts during intersection improvement construction to *less than significant with mitigation*.

**Geology and Soils Impacts from Interchanges.** Construction of interchange improvements would include ground-disturbing activities, but would adhere to the requirements of the State Water Resources Control Board. These intersection improvements would require substantial grading, the creation of new slopes, excavation below grade, and construction of potential above-grade and below-grade structures.

**Mitigation Measures.** The interchange improvements will undergo separate CEQA review. The final impacts and mitigation measures will be disclosed by the Lead Agency.

**Findings Regarding Secondary Geology and Soils Impacts from Interchanges.** Construction of these intersection improvements would include ground disturbing activities that may subject disturbed soils to erosion if exposed to wind or rainfall. The Project would be required to implement strategies to reduce potential impacts, such as preparing and complying with a SWPPP, as required by the State Water Resources Control Board's Construction General Permit.

Implementation of mitigation similar to Mitigation Measure IM-GEO-1 would require the preparation of a geotechnical investigation that would evaluate potential risks related to geology, seismicity, and soils during grading, construction and excavation of the intersection improvements. Therefore, it would most likely reduce potential geologic and soil impacts during intersection improvement construction to *less than significant with mitigation*.

As noted above, the interchange improvements will undergo separate CEQA review.

#### **j. Hydrology and Water Quality**

**Hydrology and Water Quality Impacts from At-Grade Improvements Requiring Additional ROW.** Intersection at-grade improvements requiring additional ROWs would not create a substantial amount of stormwater runoff that could exceed the existing capacity of the stormwater drainage system or have substantial water quality impacts. However, improvements at Intersection 84 in San José could also result in significant impacts on nearby wetlands northeast of the intersection

**Mitigation Measure.** See Mitigation Measure IM-BIO-3, described in VII.G.1.h.

**Findings Regarding Secondary Hydrology and Water Quality Impacts from At-Grade Improvements Requiring Additional ROW.** Mitigation Measure IM-BIO-3 would ensure that wetlands are avoided or the wetland habitat is compensated for at a 1:1 ratio. Implementation of this mitigation would reduce water resource impacts due to wetland disturbance to *less than significant with mitigation*.

**Hydrology and Water Quality Impacts from Freeway Ramps.** The freeway ramp improvements could alter the existing drainage patterns on-site and create new impervious surfaces, which could create a substantial amount of stormwater runoff that would exceed the existing capacity of the stormwater drainage system and have water quality impacts.

**Mitigation Measure IM-WQ-1: Prepare a Hydrology and Water Quality Technical Report.** Prior to construction of any intersection improvement, the Project Developer shall prepare a hydrology and water quality technical report to evaluate the existing drainage and stormwater conditions at the subject intersections. The technical report shall include recommendations for drainage and stormwater controls to minimize impacts related to changes in drainage patterns that would result from the intersection improvements. The Project Developer shall be required to implement the report's recommendations.

**Findings Regarding Secondary Hydrology and Water Quality Impacts from Freeway Ramps.** Mitigation Measure IM-WQ-1 would require the preparation of a hydrology and water quality technical report that would evaluate drainage and stormwater conditions at the intersections and provide recommendations for drainage and stormwater controls to ensure that the intersection improvements would not substantially alter the existing drainage patterns of the affected area, deplete groundwater supplies, interfere with groundwater recharge, or degrade water quality. Therefore, it would reduce potential hydrology and water quality impacts during intersection improvement construction and operation to *less than significant with mitigation*.

**Hydrology and Water Quality Impacts from Interchanges.** Interchange improvements could alter the existing drainage patterns on-site and create new impervious surfaces, which could create a substantial amount of stormwater runoff that would exceed the existing capacity of the stormwater drainage system and have water quality impacts.

**Mitigation Measures.** See IM-WQ-1, described above. These interchange improvements will undergo separate CEQA review.

**Findings Regarding Secondary Hydrology and Water Quality Impacts from Interchanges.** Construction of the intersection improvements could result in impacts on water quality through ground-disturbing activities that have the potential to affect water quality through soil erosion and stormwater discharge of pollutants and sedimentation. Groundwater could be encountered during excavation below grade as well. Interchange improvements would be required to implement strategies to reduce potential impacts, such as preparing and complying with a SWPPP, as required by the State Water Resources Control Board's Construction General Permit, ensuring that construction impacts would most likely be *less than significant with mitigation*.



Portions of the interchange locations would be on predominantly impervious surfaces that are currently covered by a paved roadway or sidewalk. These improvements could substantially change the amount of impervious surfaces in or adjacent to the improvement area. Given the grade changes, these improvements could also alter the existing drainage patterns of the affected area, deplete groundwater supplies, or interfere with groundwater recharge.

It is anticipated that the existing stormwater drainage facilities that serve the roadways would continue to be used. Because these intersection improvements could alter the existing drainage patterns on-site and create new impervious surfaces, the intersection improvements could create a substantial amount of stormwater runoff that could exceed the existing capacity of the stormwater drainage system. Thus, interchange improvements are considered to have *potentially significant impacts* related to runoff, water quality, and groundwater interference.

Implementation of mitigation similar to Mitigation Measure IM-WQ-1 would require preparation of drainage and stormwater evaluations. Therefore, it would most likely reduce potential hydrology and water quality impacts during intersection improvement construction and operation to *less than significant with mitigation*.

As noted above, these interchange improvements will undergo separate CEQA review.

#### **k. Hazards and Hazardous Materials**

**Hazards and Hazardous Materials Impacts from Improvements in Existing Road ROWs.** These intersection improvements would not expose people to hazards caused by proximity to a public or private airport, would not expose people to wildland fire hazards, and would not result in the creation of structures or sources that would result in the long-term operational use or emissions of hazardous materials. However, construction of the intersection improvements in existing road ROWs could result in lane or street closures and could temporarily interfere with an adopted emergency response plan or emergency evacuation plan.

**Mitigation Measure.** See Mitigation Measure IM-TRA-1, described in VII.G.1.c.

**Findings Regarding Secondary Hazards and Hazardous Materials Impacts from Improvements in Existing Road ROWs.** With implementation of Mitigation Measure IM-TRA-1), which requires preparation of a construction traffic control plan, potential impacts on emergency access would be *less than significant with mitigation*.

**Hazards and Hazardous Materials Impacts from At-Grade Improvements Requiring Additional ROW.** Construction of the intersection at-grade improvements requiring additional ROWs could result in lane or street closures and could temporarily interfere with an adopted emergency response plan or emergency evacuation plan. In addition, since it is unknown if intersection improvement sites are included on a list of hazardous materials site, it is assumed that if hazardous materials are disturbed during construction, this could create a hazard to the environment.

**Mitigation Measure.** See Mitigation Measure IM-TRA-1, described in VII.G.1.c.

**Mitigation Measure IM-HAZ-1: Prepare a Phase I Environmental Site Assessment.** Prior to construction of any intersection improvement involving ground disturbance of acquired property, the Project Developer shall conduct a Phase I Environmental Site Assessment. Where the potential to encounter hazardous materials or waste is identified, the Project Developer shall prepare and implement a soil/groundwater handling plan that identifies measures to properly dispose of contaminated materials. Measures could include worker education and training, as appropriate, and site-specific controls to avoid risks to workers and adjacent residents or others.

**Findings Regarding Secondary Hazards and Hazardous Materials Impacts from At-Grade Improvements Requiring Additional ROW.** With implementation of Mitigation Measure IM-TRA-1, which requires preparation of a construction traffic control plan, potential impacts on emergency access would be less than significant with mitigation. Implementation of Mitigation Measure IM-HAZ-1 would require the preparation of a Phase I Environmental Site Assessment of all disturbed and acquired property. Where the potential to encounter hazardous materials or waste is identified, a soil/groundwater handling plan that identifies proper disposal methods will be prepared and implemented. Therefore, it would reduce potential hazards or hazardous waste impacts during intersection improvement construction to *less than significant with mitigation*.

**Hazards and Hazardous Materials Impacts from Freeway Ramps.** Construction of the freeway ramp improvements could result in lane or street closures and could temporarily interfere with an adopted emergency response plan or emergency evacuation plan. In addition, since it is unknown if intersection improvement sites are included on a list of hazardous materials site, it is assumed that if hazardous materials are disturbed during construction, this could create a hazard to the environment.

**Mitigation Measures.** See Mitigation Measure IM-TRA-1, described in VII.G.1.c, and Mitigation Measure IM-HAZ-1, described above.

**Findings Regarding Secondary Hazards and Hazardous Materials Impacts from Freeway Ramps.** With implementation of Mitigation Measure IM-TRA-1, which requires preparation of a construction traffic control plan, potential impacts on emergency access would be less than significant with mitigation. Implementation of Mitigation Measure IM-HAZ-1 would require preparation of a Phase I Environmental Site Assessment and would require a soil/groundwater handling plan, when necessary. Therefore, it would reduce potential hazards or hazardous waste impacts during intersection improvement construction to *less than significant with mitigation*.

**Hazards and Hazardous Materials Impacts from Interchanges.** Construction of the interchange improvements could result in lane or street closures and could temporarily interfere with an adopted emergency response plan or emergency evacuation plan. In addition, since it is unknown if intersection improvement sites are included on a list of hazardous materials site, it is assumed that if hazardous materials are disturbed during construction, this could create a hazard to the environment.

**Mitigation Measures.** See Mitigation Measure IM-TRA-1, described in VII.G.1.c, and Mitigation Measure IM-HAZ-1, described above. These interchange improvements will undergo separate CEQA review.

**Findings Regarding Secondary Hazards and Hazardous Materials Impacts from Interchanges.** Construction of the intersection improvements could result in lane or street closures and interfere with an adopted emergency response plan or emergency evacuation plan, which is considered a *potentially significant impact*. With implementation of mitigation similar to Mitigation Measure IM-TRA-1, which requires preparation of a construction traffic control plan, potential impacts on emergency access would most likely be *less than significant with mitigation*.

Construction of these intersection improvements would also most likely involve the use of potentially hazardous materials such as fuel, diesel/gasoline, motor oils, and hydraulic oils. Whether the intersection improvement sites are included on a list of hazardous materials sites is unknown at this time. Hazardous materials could be disturbed, creating a hazard to the public, the environment, or schools within 0.25 mile of the sites. Implementation of mitigation similar to Mitigation Measure IM-HAZ-1 would require the preparation of a Phase I Environmental Site Assessment of all disturbed and acquired property. Where the potential to encounter hazardous materials or waste is identified, a soil/groundwater plan that identifies proper disposal methods will be prepared and implemented. Implementation of this mitigation would most likely reduce impacts to *less than significant with mitigation*.

As noted above, these interchange improvements will undergo separate CEQA review.

## **I. Population and Housing**

### **Population and Housing Impacts from Improvements in Existing Road ROWs.**

None of these potential intersection improvements in existing road ROWs would induce substantial population growth in the area either directly (by generating a population) or indirectly (through the extension of new roads into undeveloped areas). These intersection improvements would not result in the demolition of existing structures that would displace housing or people.

**Findings Regarding Secondary Population and Housing Impacts from Improvements in Existing Road ROWs.** None of these potential intersection improvements would induce substantial population growth in the area either directly (by generating a population) or indirectly (through the extension of new roads into undeveloped areas), because these improvements would occur where roadways already exist. These intersection improvements would not result in the demolition of existing structures that would displace housing or people. Therefore, the intersection improvements would result in *no impact* related to population and housing.

**Population and Housing Impacts from At-Grade Improvements Requiring Additional ROW.** None of these potential intersection improvements requiring additional ROWs would induce substantial population growth in the area either directly (by generating a population) or indirectly (through the extension of new roads into undeveloped areas). The



additional ROW required for these intersection improvements would not result in the demolition of existing structures that would displace housing or people.

**Findings Regarding Secondary Population and Housing Impacts from At-Grade Improvements Requiring Additional ROW.** None of these potential intersection improvements would induce substantial population growth in the area either directly (by generating a population) or indirectly (through the extension of new roads into undeveloped areas), because these improvements would occur where roadways already exist. The additional ROW required for these intersection improvements would not result in the demolition of existing structures that would displace housing or people. Therefore, these intersection improvements would result in *no impact* related to population and housing.

**Population and Housing Impacts from Freeway Ramps.** None of these potential freeway ramp improvements would induce substantial population growth in the area either directly (by generating a population) or indirectly (through the extension of new roads into undeveloped areas). The freeway ramps would not result in the demolition of existing structures that would displace housing or people.

**Findings Regarding Secondary Population and Housing Impacts from Freeway Ramps.** None of these potential intersection improvements would induce substantial population growth in the area either directly (by generating a population) or indirectly (through the extension of new roads into undeveloped areas), because these improvements would occur where roadways already exist. The additional ROW required for some of these freeway improvements would not result in the demolition of existing structures that would displace housing or people. Therefore, these intersection improvements would result in *no impact* related to population and housing.

**Population and Housing Impacts from Interchanges.** None of these potential intersection improvements would induce substantial population growth in the area either directly (by generating a population) or indirectly (through the extension of new roads into undeveloped areas), because these improvements would occur where roadways already exist. However, the additional ROW required for one of the interchange improvements (e.g., Intersection 52) could result in the demolition of existing structures, which could displace housing or people.

**Mitigation Measure.** These interchange improvements will undergo separate CEQA review.

**Findings Regarding Secondary Population and Housing Impacts from Interchanges.** The additional ROW required for one of the interchange improvements (e.g., Intersection 52) could result in the demolition of existing structures, which could displace housing or people. Because the detailed designs for these intersection improvements have not been developed and are, therefore, conceptual, the exact displacement is unknown at this time. Therefore, at Intersection 52, impacts related to displacement would be *potentially significant and unavoidable*. No other feasible mitigation measures are available at this time.

As described above, these interchange improvements will undergo separate CEQA review. The final impacts and mitigation measures will be disclosed by the Lead Agency.

### **m. Public Services**

**Public Services Impacts from Improvements in Existing Road ROWs.** These proposed intersection improvements in the existing road ROWs would not develop any permanent structures that would generate a new population that would increase the demand for fire protection, police protection, schools, parks, or recreational facilities. Temporary impacts on fire protection and police protection could occur if construction of the intersection improvements results in changed roadway access, causing significantly delayed response times. However, this would not trigger the need for new or expanded public facilities.

**Findings Regarding Secondary Public Services Impacts from Improvements in Existing Road ROWs.** These proposed intersection improvements would not develop any permanent structures that would generate a new population that would increase the demand for fire protection, police protection, schools, parks, or recreational facilities. Temporary impacts on fire protection and police protection could occur if construction of the intersection improvements results in changed roadway access, causing significantly delayed response times. Any such temporarily delayed response times would not trigger the need for new or expanded public facilities, resulting in a *less-than-significant* impact.

**Public Services Impacts from At-Grade Improvements Requiring Additional ROW.** These proposed intersection improvements requiring additional ROW would not develop any permanent structures that would generate a new population that would increase the demand for fire protection, police protection, schools, parks, or recreational facilities. Temporary impacts on fire protection and police protection could occur if construction of the intersection improvements results in changed roadway access, causing significantly delayed response times. However, this would not trigger the need for new or expanded public facilities.

**Findings Regarding Secondary Public Services Impacts from At-Grade Improvements Requiring Additional ROW.** These proposed intersection improvements would not develop any permanent structures that would generate a new population that would increase the demand for fire protection, police protection, schools, parks, or recreational facilities. Temporary impacts on fire protection and police protection could occur if construction of the intersection improvements results in changed roadway access, causing significantly delayed response times. Any such temporarily delayed response times would not trigger the need for new or expanded public facilities, resulting in a *less-than-significant* impact.

**Public Services Impacts from Freeway Ramps.** These proposed freeway ramp improvements would not develop any permanent structures that would generate a new population that would increase the demand for fire protection, police protection, schools, parks, or recreational facilities. Temporary impacts on fire protection and police protection could occur if construction of the intersection improvements results in changed roadway access, causing significantly delayed response times. However, this would not trigger the need for new or expanded public facilities.

**Findings Regarding Secondary Public Services Impacts from Freeway Ramps.** These proposed intersection improvements would not develop any permanent structures that would generate a new population that would increase the demand for fire protection, police

protection, schools, parks, or recreational facilities. Temporary impacts on fire protection and police protection could occur if construction of the intersection improvements results in changed roadway access, causing significantly delayed response times. Any such temporarily delayed response times would not trigger the need for new or expanded public facilities, resulting in a *less-than-significant* impact.

**Public Services Impacts from Interchanges.** These proposed interchange improvements would not develop any permanent structures that would generate a new population that would increase the demand for fire protection, police protection, schools, parks, or recreational facilities. Temporary impacts on fire protection and police protection could occur if construction of the intersection improvements results in changed roadway access, causing significantly delayed response times. However, this would not trigger the need for new or expanded public facilities.

**Findings Regarding Secondary Public Services Impacts from Interchanges.** The proposed interchange improvements would not develop any permanent structures that would generate a new population that would increase the demand for fire protection, police protection, schools, parks, or recreational facilities. Temporary impacts on fire protection and police protection could occur if construction of the intersection improvements results in changed roadway access, causing significantly delayed response times. Any such temporarily delayed response times would not trigger the need for new or expanded public facilities, resulting in a *less-than-significant* impact. These interchange improvements will undergo separate CEQA review.

#### **n. Utilities and Service Systems**

**Utilities and Service System Impacts from Improvements in Existing Road ROWs.** Improvements in existing Road ROWs would not generate a new population that would require domestic water, wastewater disposal and treatment, or solid waste collection services, and would not trigger the need for the expansion of facilities.

**Findings Regarding Secondary Utilities and Service System Impacts from Improvements in Existing Road ROWs.** The proposed intersection improvements within the existing ROW would not develop any permanent structures that would generate a new population that would require domestic water, wastewater disposal and treatment, or solid waste collection services and result in the expansion of facilities for such services. Debris generated during the construction of intersection improvements would be limited to the excess soil from ground-disturbing activities and existing roadway features that would be removed. Soil debris and demolition waste would be taken to an approved waste disposal location, would comply with applicable construction and demolition waste diversion requirements, and would not exceed the sufficient permitted capacity of a landfill.

Construction activities related to these intersection improvements could result in the relocation or temporary disruption of existing underground or overhead utilities. However, existing state law requires that all underground and overhead utilities be relocated prior to construction and that construction contractors coordinate with the appropriate utility owners regarding utility shutoff during construction and relocation, as necessary. These existing



requirements would reduce potential utility impacts during construction to a *less-than-significant* level.

**Utilities and Service System Impacts from At-Grade Improvements Requiring Additional ROWs.** Intersection at-grade improvements requiring additional ROWs would not generate a new population that would require domestic water, wastewater disposal and treatment, or solid waste collection services, and would not trigger the need for the expansion of facilities.

**Findings Regarding Secondary Utilities and Service System Impacts from At-Grade Improvements Requiring Additional ROWs.** These proposed intersection improvements would be within or adjacent to the existing ROW. They would not result in development of any permanent structures that would generate a new population that would require domestic water, wastewater disposal and treatment, or solid waste collection services and result in the expansion of facilities for such services. Debris generated during the construction of intersection improvements would be limited to the excess soil from ground-disturbing activities and existing roadway features that would be removed. Soil debris and demolition waste would be taken to an approved waste disposal location, would comply with applicable construction and demolition waste diversion requirements, and would not exceed the permitted capacity of a landfill.

Construction activities related to these improvements could result in the relocation or temporary disruption of existing underground or overhead utilities. However, existing state law requires that all underground and overhead utilities be relocated prior to construction and that construction contractors coordinate with the appropriate utility owners regarding utility shutoff during construction and relocation, as necessary. These existing requirements would reduce potential utility impacts during construction to a *less-than-significant* level.

**Utilities and Service System Impacts from Freeway Ramps.** Freeway ramp improvements would not generate a new population that would require domestic water, wastewater disposal and treatment, or solid waste collection services, and would not trigger the need for the expansion of facilities.

**Findings Regarding Secondary Utilities and Service System Impacts from Freeway Ramps.** These proposed ramp improvements would be within or adjacent to the existing ROW. They would not result in development of any permanent structures that would generate a new population that would require domestic water, wastewater disposal and treatment, or solid waste collection services and result in the expansion of facilities for such services. Debris generated during the construction of these intersection improvements would be limited to the excess soil from ground-disturbing activities and existing roadway features that would be removed. Soil debris and demolition waste would be taken to an approved waste disposal location, would comply with applicable construction and demolition waste diversion requirements, and would not exceed the permitted capacity of a landfill.

Construction activities related to these improvements could result in the relocation or temporary disruption of existing underground or overhead utilities. However, existing state law requires that all underground and overhead utilities be relocated prior to construction and that construction contractors coordinate with the appropriate utility owners regarding utility shutoff

during construction and relocation, as necessary. These existing requirements would reduce potential utility impacts during construction to a *less-than-significant* level.

**Utilities and Service System Impacts from Interchanges.** Interchange improvements would not generate a new population that would require domestic water, wastewater disposal and treatment, or solid waste collection services, and would not trigger the need for the expansion of facilities.

**Findings Regarding Secondary Utilities and Service System Impacts from Interchanges.** These proposed interchange improvements would be within or adjacent to the existing ROW. They would not result in development of any permanent structures that would generate a new population that would require domestic water, wastewater disposal and treatment, or solid waste collection services and result in the expansion of facilities for such services. Debris generated during the construction of these intersection improvements would be limited to the excess soil from ground-disturbing activities and existing roadway features that would be removed. Soil debris and demolition waste would be taken to an approved waste disposal location, would comply with applicable construction and demolition waste diversion requirements, and would not exceed the permitted capacity of a landfill.

Construction activities related to these interchanges could result in the relocation or temporary disruption of existing underground or overhead utilities. However, existing state law requires that all underground and overhead utilities be relocated prior to construction and that construction contractors coordinate with the appropriate utility owners regarding utility shutoff during construction and relocation, as necessary. These existing requirements would reduce potential utility impacts during construction to a *less-than-significant* level. These interchange improvements will undergo separate CEQA review.

## **2. Secondary Impact Analysis From Soundwall Construction**

### **a. Land Use**

**Land Use Impacts from Installation of Soundwalls.** The proposed soundwalls would not conflict with any applicable land use plans, policies, or regulations and would not divide an established community.

**Findings Regarding Secondary Land Use Impacts from Installation of Soundwalls.** The proposed soundwalls are not located within the boundaries of a HCP or NCCP. The soundwalls would be within or immediately adjacent to existing ROW, and would not physically divide an established community, because the soundwalls would replace existing privacy fencing and would not introduce new features that would change access for adjacent residences. Furthermore, because the soundwalls would be within or immediately adjacent to existing ROW, the soundwalls would not conflict with any applicable land use plans, policies, or regulations. The proposed soundwalls would result in a *less-than-significant* impact related to land use.

### **b. Aesthetics**

**Potential Aesthetic Impacts from Installation of Soundwalls.** The soundwalls' impact on the existing visual character of the surrounding area would be less than significant. However,

some trees would be removed to accommodate the proposed soundwalls, resulting in a potentially significant aesthetic impact.

**Mitigation Measure.** See Mitigation Measure SW-BIO-1, described in VII.G.2.h.

**Findings Regarding Secondary Aesthetic Impacts from Installation of Soundwalls.** Implementation of Mitigation Measure SW-BIO-1 would require tree replacement at a minimum of 2:1. This would reduce potential aesthetic impacts related to tree removal to *less than significant with mitigation*.

### **c. Transportation**

**Transportation Impacts from Installation of Soundwalls.** The proposed soundwalls would not result in the creation of any traffic-generating uses or any changes to existing traffic configurations or operations. However, construction of the proposed soundwalls could necessitate temporary lane or street closures, resulting in impacts on traffic.

**Mitigation Measure SW-TRA-1: Prepare and Implement a Construction Traffic Control Plan.** Prior to issuance of grading permits, the construction contractor will develop the traffic control plan in accordance with the City's policies and submit for approval. The plan will be implemented throughout the course of construction and may include, but will not be limited to, the following elements:

- Limit truck access to the soundwall sites during peak commute times (7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m.).

- Require that written notification be provided to contractors regarding appropriate routes to and from the soundwalls and the weight and speed limits on local roads that would be used to access the soundwall sites.

- Provide access for emergency vehicles at all times.

- Provide adequate parking for construction workers, site visitors, and inspectors as feasible.

- Maintain bicycle and pedestrian access and circulation during Project construction where safe to do so. If construction encroaches on a bike lane, warning signs will be posted that indicate that bicycles and vehicles are sharing the roadway. If construction encroaches on a sidewalk, a safe detour will be provided for pedestrians at the nearest crosswalk.

- Require traffic controls in the vicinity of the soundwalls, including flagpersons with bright orange or red vests and using a "Stop/Slow" paddle to control oncoming traffic.

- Post standard construction warning signs in advance of the construction area and at any soundwall that provides access to the construction area.

- Repair or restore the road right-of-way to its original condition or better upon completion of the work.



**Findings Regarding Secondary Transportation Impacts from Installation of Soundwalls.** Implementation of Mitigation Measure SW-TRA-1 would require the preparation and implementation of a Construction Traffic Control Plan. Therefore, this measure would reduce potential traffic impacts during soundwall construction to *less than significant with mitigation*.

**d. Air Quality**

**Air Quality Impacts from Installation of Soundwalls.** The proposed soundwall would not result in the creation of a structure or source that would emit long-term, operational air pollutant emissions and would not conflict with applicable air quality plans. However, air pollutant emissions from construction activities might affect sensitive receptors.

**Mitigation Measure SW-AQ-1: Implement Measures to Reduce Construction-Related Dust Emissions.** The Project Developer shall require all construction contractors to implement the specific construction mitigation measures below to reduce fugitive dust. Emission reduction measures shall include, at a minimum, the measures below. Alternative measures may be identified by the Project Developer or its contractor, as appropriate, provided that they are as effective as the measures below. Alternative measures shall be submitted to the City for approval.

All exposed surfaces shall be watered at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content can be verified by lab samples or moisture probe. If water infiltration into landfill refuse layers is a concern, non-toxic soil stabilizers may be used instead.

All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph for a period of 2 hours or more.

Windbreaks (e.g., fences) shall be installed on the windward side(s) of actively disturbed areas of construction. Windbreaks shall have at maximum 50 percent air porosity.

Exposed ground areas that are to be reworked more than 1 month after initial grading should be sown with fast-germinating native grass seed and watered appropriately until vegetation is established. If grass seeding is not feasible, then non-toxic soil stabilizers may be used.

All construction trucks and equipment, including tires, involved in ground disturbance or transit through loose soil areas shall be washed off prior to leaving the site.

Site accesses to a distance of 25 feet from the paved road shall be treated with a 6- to 12 inch compacted layer of wood chips, mulch, or gravel. Alternatively, a rumble plate may be used in place of chips, mulch, or gravel.

Sandbags or other erosion control measures shall be installed to prevent silt runoff to public roadways from sites with a slope greater than 1 percent.

**Mitigation Measure SW-AQ-2: Implement Measures to Reduce Construction-Related Exhaust Emissions.** The Project Developer shall require all construction contractors to implement the specific construction mitigation measures below to reduce equipment exhaust emissions. Emission reduction measures shall include, at a minimum, the measures below. Alternative measures may be identified by the Project Developer or its contractor, as appropriate, provided that they are as effective as the measures below. Alternative measures shall be submitted to the City for approval.

Idling time of diesel powered construction equipment shall be limited to 2 minutes.

The Project Developer shall ensure that all off-road diesel-powered equipment used during construction between 2017 and 2022 is equipped with U.S. Environmental Protection Agency (EPA) Tier 3 or cleaner engines, except for specialized construction equipment for which an EPA Tier 3 engine is not available. Consistent with advancements of the statewide fleet average, the Project Developer shall ensure that all off-road diesel-powered equipment used during construction between 2023 and 2030 is equipped with EPA Tier 4 engines. This requirement will ensure that construction equipment remains cleaner than the fleet-wide average.

The Project Developer shall ensure that all on-road heavy-duty diesel trucks with a gross vehicle weight rating (GVWR) of 19,500 pounds or greater used at the Project site comply with EPA 2007 on-road emissions standards for particulate matter of 10 micrometers or less (PM10) and nitrogen oxides (NOX) (0.01 grams per brake horsepower-hour [g/bhp-hr] and 0.20 g/bhp-hr, respectively).

Notwithstanding the above requirements, all construction equipment, diesel trucks, and generators shall meet the California Air Resources Board's most recent certification standard for off-road heavy-duty diesel engines and shall employ Best Available Control Technology for emission reductions of NOX and particulate matter (PM) if more stringent than the requirements above.

**Findings Regarding Secondary Air Quality Impacts from Installation of Soundwalls.** Implementation of Mitigation Measure SW-AQ-1 would require Bay Area Air Quality Management District (BAAQMD) best management practices (BMPs) for fugitive dust. Mitigation Measure SW-AQ-2 would require BAAQMD BMPs for diesel exhaust emissions, which would reduce criteria pollutant air emissions to a less-than-significant level. Given the limited scope of the construction activities associated with the soundwalls, implementation of Mitigation Measures SW-AQ-1 and SW-AQ-2 should reduce potential exposure of sensitive receptors to toxic air contaminants during construction to a less-than-significant level. Therefore, these measures would reduce potential air quality impacts during soundwall construction to a *less-than-significant level with mitigation*.

#### **e. Greenhouse Gas Emissions**

**Greenhouse Gas Emission Impacts from Installation of Soundwalls.** The proposed soundwalls would not result in the creation of a structure or source that would emit long-term, operational greenhouse gas (GHG) emissions.

**Findings Regarding Secondary Greenhouse Gas Emission Impacts from Installation of a Soundwall.** The proposed soundwalls would not result in the creation of a structure or source that would emit longterm, operational GHG emissions. GHG emissions would be limited to the duration of the construction period and would be temporary in nature. Construction-related GHG emissions associated with the soundwalls would depend on the type of construction equipment used and the duration of construction activities. Given the limited scope of the soundwalls (approximately 0.4 mile long), it is anticipated that construction of the soundwall would not generate significant GHG emissions or conflict with applicable plans or policies adopted for the purpose of reducing GHG emissions. The proposed soundwalls would result in *less-than-significant* impacts related to GHG emissions.

**f. Noise**

**Noise Impacts from Installation of Soundwalls.** The soundwalls would not generate any noise or vibration that would affect nearby sensitive receptors. Noise impacts from the construction of the soundwall would be temporary and limited to the duration of the construction period.

**Findings Regarding Secondary Noise Impacts from Installation of Soundwalls.** The soundwalls have been identified as a mitigation measure to reduce traffic noise impacts on nearby sensitive receptors. The soundwalls themselves would not generate any noise or vibration that would affect nearby sensitive receptors. The soundwalls would not expose people to excessive noise levels due to the proximity to a public or private airport. Noise impacts from the construction of the soundwalls would be temporary and limited to the duration of the construction period. Noise from construction of the soundwalls may surpass the normally acceptable noise levels, especially for the residents to the east of the proposed soundwalls. Construction noise would occur due to the use of construction equipment and ground-disturbing activities may generate minor ground-borne vibration. Construction-related noise impacts associated with the proposed soundwalls would depend on the type of construction equipment used and the duration of construction activities. All construction activities would be required to comply with Chapter 9.10 of the City Code, which regulates construction hours and equipment. Therefore, potential noise impacts would be *less-than-significant*.

**g. Cultural Resources**

**Cultural Resource Impacts from Installation of Soundwalls.** Although the site of the proposed soundwalls have already been disturbed during the construction of the existing residences and sidewalks, ground-disturbing activities may uncover, damage, or destroy unknown or unrecorded archaeological resources, paleontological resources, or human remains.

**Mitigation Measure SW-CR-1: Conduct Cultural Resource Investigations and Protect and Recover Significant Resources.** The improvement Lead Agency shall conduct a cultural resource investigation of the areas of ground disturbance associated with the soundwalls that include a background records search (including a search of records from Sonoma State and historical societies, contact with Native American representatives identified by the Native American Heritage Commission [NAHC], and site pedestrian surveys) for the areas of ground disturbance from each roadway improvement. If significant known or suspected sites are



discovered within the Project footprint and would be disturbed by the Project, then a cultural resource treatment plan shall be prepared, defining Project monitoring and resource recovery and curation requirements concerning any encountered cultural resources.

**Mitigation Measure SW-CR-2: Stop Work if Cultural Resources Are Encountered during Ground-Disturbing Activities.** In the event that cultural resources are encountered during ground-disturbing activities, all work within proximity of the find shall temporarily halt so that the archaeological monitor can examine the find and document its provenience and nature (e.g., withdrawals, photographs, written descriptions). The archaeological monitor shall then direct that the work proceed if the find is deemed to be insignificant, continue elsewhere, or cease until adequate mitigation measures are adopted. If the find is determined to be potentially significant, the archaeologist, in consultation with the appropriate jurisdiction, shall develop a treatment plan, which could include site avoidance, capping, or data recovery. If data recovery is determined to be appropriate, excavation shall target recovery of an appropriate amount of information from archaeological deposits to determine the potential of the resource to address specific research questions. If it occurs, data recovery shall emphasize the understanding of the archaeological deposit's structure, including features and stratification, horizontal and vertical extent, and content, including the nature and quantity of artifacts.

**Mitigation Measure SW-CR-3: Stop Work if Human Remains Are Encountered during Ground-Disturbing Activities.** If human remains are discovered (in either an archaeological or construction context), all work within proximity of the remains shall stop so that the archaeological monitor can examine the remains. The County Coroner shall be notified to make a determination as to whether the remains are of Native American origin. If the remains are determined to be Native American, the coroner shall notify the NAHC immediately. The NAHC shall notify those persons it believes are most likely descended from the deceased Native American. Once the NAHC identifies the most likely descendants, the descendants will make recommendations regarding proper burial, which will be implemented in accordance with Section 15064.5(e) of the State CEQA Guidelines.

**Findings Regarding Secondary Cultural Resource Impacts from Installation of Soundwalls.** Implementation of Mitigation Measure SW-CR-1 would require the Lead Agency to conduct cultural resource investigations and prepare and implement a cultural resource treatment plan, if necessary. Mitigation Measure SW-CR-2 would require the contractor to stop work if cultural resources are encountered during ground-disturbing activities. Implementation of Mitigation Measure SW-CR-3 would require the contractor to stop work if human remains are encountered during ground-disturbing activities. Therefore, these measures would reduce potential cultural resource impacts during soundwall construction to *less than significant with mitigation*.

#### **h. Biological Resources**

**Biological Resource Impacts from Installation of Soundwalls.** The proposed soundwalls would be within or immediately adjacent to existing ROW in an established urbanized setting. However, the soundwalls would require tree and shrub removal, which could affect native bird species that could be nesting in the trees and shrubs if construction occurs during the nesting/breeding season.

**Mitigation Measure SW-BIO-1: Replace Removed Trees on a 2:1 Basis.** The Project Developer shall replace all trees removed as part of soundwall construction at a minimum of 2:1, or more, as required by the local tree ordinance.

**Mitigation Measure SW-BIO-2: Preconstruction Surveys.** The Project Developer and its contractors shall avoid conducting vegetation removal during the migratory bird nesting season (February 1–August 31) if feasible. If construction activities must commence during the migratory bird nesting season, the Project Developer shall retain a qualified wildlife biologist to conduct a survey for nests of migratory birds. Surveys for nesting migratory birds shall occur within 3 days prior to the commencement of ground disturbance and vegetation removal.

If an active nest is discovered, a no-disturbance buffer zone around the nest tree or shrub (or, for ground-nesting species, the nest itself) shall be established. The no-disturbance zone shall be marked with flagging or fencing that is easily identified by the construction crew and shall not affect the nesting bird or attract predators to the nest location. In general, the minimum buffer zone widths shall be as follows: 50 feet (radius) for non-raptor ground-nesting species, 50 feet (radius) for non-raptor shrub- and tree-nesting species, and 300 feet (radius) for raptor species. Buffer widths may be modified based on discussion with the California Department of Fish and Wildlife (CDFW). Buffers shall remain in place as long as the nest is active or young remain in the area and are dependent on the nest. If a burrowing owl nest is identified during pre-construction surveys, no-activity buffers will adhere to the recommendations in the 2012 California Department of Fish and Game Staff Report on Burrowing Owl Mitigation.

**Mitigation Measure SW-BIO-3: Site-Specific Surveys and Species/Habitat Avoidance, Minimization, and Compensation Measures.** The Project Developer, in consultation with a qualified biologist, shall conduct a site-specific surveys for special-status species, sensitive habitats, wetlands and waters of the United States, and nesting birds. If found, the Project Developer and its contractor shall implement avoidance and minimization measures, where feasible. Where avoidance is not possible, the Project Developer shall compensate for lost habitat on a minimum 1:1 basis. Compensation for lost habitat will be determined in consultation with CDFW/U.S. Fish and Wildlife Service (USFWS), as appropriate. The Project Developer shall obtain all required permits from the U.S. Army Corps of Engineers (USACE), the Regional Water Quality Control Board, and CDFW and USFWS as appropriate. The Project Developer shall provide buffer fencing and species relocation, as necessary, if permitted by CDFW/USFWS. Additionally, if special-status species or habitats are identified during the site-specific surveys, a Worker Environmental Awareness Training Program for construction personnel will be conducted by a qualified biologist retained by the Project Developer. The program will provide workers with information on their responsibilities with regard to the special-status species. The training will provide a physical description of the special-status species that have potential to occur and be affected by construction activities to each construction crew prior to the initiation of the crew's construction activities. The worker awareness training will also provide details regarding each species' habitat and legal protections, a photo of relevant species, and contact information for the primary biologist.

**Findings Regarding Secondary Biological Resource Impacts from Installation of a Soundwall.** Implementation of Mitigation Measure SW-BIO-1 would require tree replacement at a minimum of 2:1. Implementation of Mitigation Measure SW-BIO-2 would require

preconstruction nesting surveys prior to any tree removal. Implementation of Mitigation Measure SW-BIO-3 would require site-specific surveys for special-status species, sensitive habitats, wetlands/waters, and nesting birds and implementation on avoidance, minimization, and compensation measures where sensitive biological resources are encountered. Therefore, these measures would reduce potential biological resource impacts during soundwall construction to *less than significant with mitigation*.

#### **i. Geology and Soils**

**Geology and Soil Impacts from Installation of Soundwalls.** The proposed soundwalls would not expose structures or populations to new risks involving earthquake fault ruptures, seismic ground shaking, seismically related ground failures, or unstable geological units or soils. However, construction of the soundwalls could disturb fill slopes/soils and make them unstable.

**Mitigation Measure SW-GEO-1: Prepare a Geotechnical Investigation.** Prior to construction of the soundwalls, the Project Developer shall prepare a geotechnical investigation to evaluate the potential for geologic, seismic, and soil risks. The geotechnical investigation shall include recommendations to abate any potential risks. If risks are identified, the Project Developer shall implement the recommendations included in the geotechnical investigation.

**Findings Regarding Secondary Geology and Soil Impacts from Installation of Soundwalls.** Implementation of Mitigation Measure SW-GEO-1 would require preparation of a geotechnical investigation that would evaluate potential risks related to geology and soils from construction of the soundwall. Therefore, it would reduce potential geologic and soil impacts during soundwall construction to *less than significant with mitigation*.

#### **j. Hydrology and Water Quality**

**Hydrology and Water Quality Impacts from Installation of Soundwalls.** The soundwall could alter the existing drainage patterns on-site and create new impervious surfaces; therefore, the soundwalls could create a substantial amount of stormwater runoff that could exceed the existing capacity of the stormwater drainage system and have water quality impacts.

**Mitigation Measure SW-WQ-1: Prepare a Hydrology and Water Quality Technical Report.** Prior to construction of the soundwalls, the Project Developer shall prepare a hydrology and water quality technical report to evaluate the existing drainage and stormwater conditions at the soundwall sites. The technical report shall include recommendations for drainage and stormwater controls to minimize impacts related to changes in drainage patterns that would result from the soundwall. The Project Developer shall be required to implement the report's recommendations.

**Findings Regarding Secondary Hydrology and Water Quality Impacts from Installation of Soundwalls.** Mitigation Measure SW-WQ-1 would require the preparation of a hydrology and water quality technical report that would evaluate drainage and stormwater conditions at the soundwall sites and provide recommendations for drainage and stormwater controls to ensure that the soundwalls would not substantially alter the existing drainage patterns of the affected area, deplete groundwater supplies, interfere with groundwater recharge, or degrade water quality. Therefore, it would reduce potential hydrology and water quality impacts



during soundwall construction and operation to *less than significant with mitigation*. Mitigation Measure SW-BIO-3 would ensure that wetlands would be avoided or wetland habitat would be compensated for at a 1:1 ratio. Implementation of this mitigation would reduce water resource impacts due to wetland disturbance to *less than significant with mitigation*.

#### **k. Hazards and Hazardous Materials**

##### **Hazards and Hazardous Material Impacts from Installation of Soundwalls.**

Construction of the soundwalls could result in temporary lane or street closures and temporarily interfere with an adopted emergency response plan or emergency evacuation plan. In addition, it is unknown if the sites of the soundwalls are included on a list of hazardous materials sites; therefore, construction could disturb hazardous materials, creating a hazard to the public, the environment, or schools within 0.25 mile.

**Mitigation Measures.** See Mitigation Measure SW-TRA-1, described in VII.G.2.c, and:

##### **Mitigation Measure SW-HAZ-1: Prepare a Phase I Environmental Site Assessment.**

Prior to construction of the soundwalls, the Project Developer shall conduct a Phase I Environmental Site Assessment. Where the potential to encounter hazardous materials or waste is identified, the Project Developer shall prepare and implement a soil/groundwater handling plan that identifies measures to properly dispose of contaminated materials. Measures could include worker education and training, as appropriate, and site-specific controls to avoid risks to workers and adjacent residents or others.

**Findings Regarding Secondary Hazards and Hazardous Material Impacts from Installation of Soundwalls.** With implementation of Mitigation Measure SW-TRA-1, which requires preparation of a construction traffic control plan, potential impacts on emergency access would be less than significant with mitigation. Implementation of Mitigation Measure SW-HAZ-1 would require the preparation of a Phase I Environmental Site Assessment of all disturbed and acquired property. Where the potential to encounter hazardous materials or waste is identified, a soil/groundwater handling plan that identifies proper disposal methods will be prepared and implemented. Therefore, it would reduce potential hazards or hazardous waste impacts during soundwall construction to *less than significant with mitigation*.

#### **l. Population and Housing**

**Population and Housing Impacts from Installation of Soundwalls.** The proposed soundwalls would not induce substantial population growth in the area either directly (by generating a population) or indirectly (through the extension of new roads) and would not result in the demolition of existing structures that would displace housing or people.

**Findings Regarding Secondary Population and Housing Impacts from Installation of a Soundwall.** The proposed soundwalls would not induce substantial population growth in the area either directly (by generating a population) or indirectly (through the extension of new roads). The construction of the proposed soundwalls could result in the demolition of existing privacy fencing, but would not result in the demolition of existing structures that would displace housing or people. Therefore, the proposed soundwalls would result in *no impact* on population and housing.

#### **m. Potential Utilities and Service Systems**

**Utilities Impacts from Installation of Soundwalls.** The proposed soundwalls would not develop any permanent structures that would generate a new population requiring domestic water, wastewater disposal and treatment, or solid waste collection services that would result in the expansion of these facilities. However, Construction activities related to the soundwalls could result in the relocation or temporary disruption of existing underground or overhead utilities.

**Mitigation Measures SW-UT-1: Identify Underground and Overhead Utilities and Provide Coordination with Utility Providers.** Prior to construction of the soundwalls, the Project Developer shall identify all underground and overhead utilities within the footprint of the soundwalls. If utilities are present, the Project Developer shall coordinate with the appropriate utility owners regarding utility shutoff during construction and relocation, as necessary.

**Findings Regarding Secondary Utilities Impacts from Installation of Soundwalls.** Implementation of Mitigation Measure SW-UT-1 would minimize utility disruptions by ensuring coordination with the appropriate utility providers. Therefore, it would reduce potential utility impacts during soundwall construction to *less than significant with mitigation*.

#### **n. Public Services**

**Public Service Impacts from Installation of Soundwalls.** Installation of soundwalls would not generate a new population, which would increase the demand for fire protection, police protection, schools, parks, or recreational facilities. Construction activities could require the temporary lane closure, but this would not result in significantly delayed response times and would not trigger the need for new or expanded public facilities.

**Findings Regarding Secondary Public Service Impacts from Installation of Soundwalls.** The proposed soundwalls would not develop any permanent structures that would generate a new population and increase the demand for fire protection, police protection, schools, parks, or recreational facilities. Construction activities could require temporary lane closure, but this would not result in significantly delayed response times. Any such temporarily delayed response times would not trigger the need for new or expanded public facilities, resulting in *less-than-significant* impacts.

#### **H. Findings Regarding Impacts of EOS Variant**

The significance findings for each impact category set forth in Sections C, D, E, F and G above (e.g., *less than significant impact*, *less than significant impact with mitigation*, or *significant and unavoidable impact*) reflect the impacts of the Project, incorporating the EOS Variant and the Increased Housing Alternative. This Section VII.H compares the impacts of the EOS Variant to those of the Original Project, and sets forth the basis for the City's findings that incorporating the EOS Variant into the Project does not change the significance findings that would have been made for the Original Project.<sup>18</sup>

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<sup>18</sup> Section VIII.B.2.b below sets forth the basis for the City's findings that incorporating the Increased Housing

With respect to the EOS Variant analyzed in Exhibit A to the FEIR, the City finds the following with respect to each type of land use impact:

**Land Use:** Like the Original Project, the EOS Variant would result in a *significant and unavoidable impact* because the jobs/housing balance would be the same the Original Project. The shift of up to 720,000 gsf from Parcel 3 to Parcels 1, 2 and 5 would not create any additional land use planning or policy conflicts. Parcel 3 is currently designated for park/open space use and thus use for a park and open space would be consistent with current land use planning.

**Aesthetics:** Like the Original Project, the impact of both construction and operation of the EOS Variant would be *less than significant with mitigation*. Using Parcel 3 for open space and park uses would introduce far fewer sources of light and glare with much more limited recreational facilities. With the increase in office space on Parcels 1, 2 and 5, the general character of new development would not substantially change from the original proposed Scheme A and B uses on Parcels 1, 2 and 5 and thus the appearance of the development from adjacent viewpoints would be similar as well.

**Transportation:** Like the Original Project, the impact of construction of the EOS Variant would have a *less than significant impact* on pedestrian, bicycle and transit facilities, and like the Original Project, construction of the EOS Variant would result in a *significant and unavoidable impact* on motor vehicle traffic. Like the Original Project, the operational impacts of the EOS variant would be *significant and unavoidable with mitigation*. The EOS Variant would increase project traffic volumes along Tasman Drive, as well as Lick Mill north of Tasman, and some intersections would get slightly worse (and some would improve). Overall, the reallocation of proposed development in the EOS Variant would not create project or cumulative impacts at any additional intersections, and mitigation measures would also be unchanged with the EOS program.

**Air Quality:** Like the Original Project, construction air quality impacts with the EOS Variant would be *less than significant with mitigation* because the passive park/open space uses would require far less construction activity on Parcel 3 that would result in far less construction emissions than 720,000 sf of office space on that parcel in isolation, and overall construction activity with the shifting of 720,000 sf of office space to Parcels 1, 2 and 5 would be roughly the same as the Original Project.

Like the Original Project, operation of the EOS Variant would result is a *less than significant impact* from toxic air contaminant emissions. Like the Original Project, operation of the EOS Variant would be *significant and unavoidable with mitigation* from criteria pollutants from traffic and on-site stationary sources, although it would not increase such emissions. Also like the Original Project, the EOS Variant would have a significant and unavoidable impact on particulate (PM 2.5) emissions. The EOS Variant would result in a small (2 %) increase in such emissions as compared to the Original Project because it would increase traffic volumes along Tasman Drive, as well as Lick Mill north of Tasman.

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Alternative into the Project does not change the significance findings that would have been made for the Original Project.



**Greenhouse Gas Emissions:** Like the Original Project, the EOS Variant would be *significant and unavoidable with mitigation* for greenhouse gas emissions. With the change in use at Parcel 3, there would be less disturbance to the landfill on Parcel 3, but potentially more disturbance on Parcels 1 and 2, and thus fugitive emissions of methane during construction are expected overall to be similar because they are likely related more to the duration of construction (which should be roughly similar with the project change) than to location in the landfill. The intensification of office use would not change the overall project GHG emissions because traffic generation and building-related emissions would be highly similar to the Original Project. The same mitigation measures would apply.

**Noise:** Like the Original Project, noise impacts during construction of the EOS Variant would be *less than significant with mitigation*. Also like the Original Project, noise impacts from operation of the EOS Variant would be *significant and unavoidable with mitigation*. The areal extent of cumulative operational noise impacts would be somewhat expanded; therefore, the mitigation measure to build soundwalls, if feasible, would apply to one additional segment of roadway (the south side of Tasman Drive between Lafayette Street and Calle del Sol). The identification of one additional location where noise would cross the threshold is not considered to be a substantial increase in the severity of the already identified significant cumulative traffic noise impact that previously identified four segments warranting mitigation. The analysis of the secondary impacts of adding the Tasman Drive soundwall concluded that it would not result in any new significant impacts or require new additional measures beyond those identified for the soundwall mitigation measure in the Original Project.

**Cultural Resources:** Like the Original Project, the impacts to cultural resources of the EOS Variant would be *less than significant with mitigation*. The EOS Variant would result in similar construction impacts to the Original Project to cultural and paleontological resources because construction excavation would occur in the same areas of undisturbed soil/ground as the Original Project. There would be a reduction of excavation on Parcel 3, but Parcel 3 is fully underlain by the former landfill and has less potential to have intact cultural or paleontological resources. The same mitigation identified for the Original Project would reduce impacts from the EOS Variant to cultural resources, paleontological resources, and human remains.

**Biological Resources:** Like the Original Project, the construction impacts to special status species, nesting birds and waters and wetlands of the EOS Variant would be *less than significant with mitigation*. Construction associated with the passive park/open space uses on Parcel 3 would likely have less surficial disturbance and would have less subsurface disturbance than construction of office uses on Parcel 3. There is non-native grassland surrounding the golf course holes on Parcel 3 and ruderal habitat between the golf course holes. Depending on the nature of passive recreation uses, some or perhaps all of this non-native grassland and ruderal habitat may be converted to recreational use. Thus, the EOS could have impacts similar to the Original Project on nesting birds (including burrowing owls should they be present at the time of construction) on Parcel 3. There is a swale along the east side of Parcel 3 and small wetland in the southeast corner. With passive park/open space uses, impacts to these water/wetland features may be similar (or possibly less) than the original Proposed Project during construction. Construction associated with the additional office space on Parcels 1, 2 and 5 is unlikely to increase the impacts of the original Proposed Project because all of these parcels would be developed under the Original Project and the EOS Variant would not include any additional

impact areas to biological resources habitat that would not already be affected. The same mitigation measures for construction impacts as the Original Project would apply.

Like the Original Project, the impacts to nesting birds, special status species (including burrowing owl) and waters and wetlands of operating the EOS Variant would be *less than significant with mitigation*. For the same reasons cited for construction impacts, operational impacts of the passive park/open space uses on Parcel 3 with the EOS Variant may have similar impacts on biological resources as office uses on Parcel 3. Likewise, on Parcels 1, 2 and 5, the impacts on biological resources would likely be the same as the Original Project because all of these parcels would be developed under the Original Project, and the EOS Variant would not include any additional impact areas to biological resources habitat that would not already be affected. The overall amount of traffic generation and thus nitrogen emissions would be roughly the same as the Original Project. The overall amount of impervious spaces for the project as a whole (all parcels) would not increase with the project change and could actually decrease with densification of office space where the additional office space on Parcels 1, 2 or 5 could be accommodated through additional building height instead of additional building footprint. The same mitigation measures for operational impacts as the Original Project would apply.

**Geology and Soils:** Like the Original Project, overall impacts with the EOS Variant related to geology and soils would be *less than significant with mitigation*. Construction of passive park improvements on Parcel 3 with the EOS Variant would likely result in less soil disturbance than construction of office uses on Parcel 3. There would be more construction on Parcels 1, 2, and 5 with the increase in office space that could result in more soil disturbance on those parcels, but the overall project disturbance would be about the same as the original Proposed Project. With the construction mitigation measures identified for the Original Project, these impacts would be less than significant. Operationally, the passive park structures would be far more limited in extent than the original proposed office buildings on Parcel 3, but depending on occupancy characteristics, some or all of the mitigation measures for geotechnical design, review, operations, monitoring, and maintenance could be required. While there would be an up to 20 percent increase in structures on Parcels 1, 2 and 5, the overall level of geological or soils risk would be similar to the original Proposed Project and the same operational mitigation would reduce geological and soils risks to a less than significant level.

**Hydrology and Water Quality:** Like the Original Project, construction impacts with the EOS Variant related to hydrology and water quality would be *less than significant with mitigation*. Construction of passive park improvements on Parcel 3 with the EOS Variant would likely result in less soil disturbance than construction of office uses on Parcel 3 and thus less water quality effects on that parcel. There would be more construction on Parcels 1, 2, and 5 with the increase in office space that could result in more soil disturbance on those parcels and localized water quality effects, but the overall project disturbance and associated water quality effects would be about the same as the Original Project. With the construction mitigation measures identified for the Original Project, these impacts would be reduced to a less than significant level.

Like the Original Project, overall operational impacts with the EOS Variant related to hydrology and water quality would be *less than significant with mitigation*. The passive park development would be far more limited in extent than the original proposed office

buildings on Parcel 3 and thus would likely have far less stormwater runoff, but the mitigation relative to stormwater and wetlands would still be required for any new buildings on Parcel 3. The increased office density on Parcels 1, 2 and 5 may increase impervious space on these parcels, but the net increase over the Original Project would depend on whether the additional square footage is achieved through adding office footprint, adding additional elevation to office buildings, or some combination of the two. The overall project impervious space total would not increase substantially over the original Proposed Project given no increase overall in floor space, but the subwatersheds on Parcels 1, 2, and 5 could see higher stormwater runoff levels than with the original Proposed Project. The project site stormwater system will need to be designed to handle the potentially larger stormwater runoff if the additional office space results in a net gain of impervious space. The requirements of the current MS4 permit would apply to all new development as well as the operational mitigation described above, which combined would require control and treatment of stormwater flows and thus impacts related to stormwater runoff would be less than significant. Overall site impervious space would not substantially change, and thus groundwater recharge impacts would not change.

**Hazards and Hazardous Materials:** Like the Original Project, construction impacts of the EOS Variant related to hazards and hazardous materials would be *less than significant with mitigation*. Construction of passive park improvements on Parcel 3 with the EOS Variant would likely result in less soil disturbance than construction of office uses on Parcel 3 but is not currently envisioned to require disturbance of the refuse in the landfill. There would be more construction on parcels 1, 2, and 5 with the increase in office space that might result in more soil disturbance and refuse exposure on those parcels, but the overall project disturbance would be about the same as the original Proposed Project. The construction mitigation would be the same as identified for the Original Project.

Like the Original Project, operational impacts of the EOS Variant related to hazards and hazardous materials would be *less than significant with mitigation*. The passive park development would be far more limited in extent than the original proposed office buildings on Parcel 3 and the park structures are not expected to disturb the landfill refuse, with less or no disturbance than the level of mitigation relative to controlling risks from the landfill would be less than the Original Project on Parcel 3. However, depending on the park buildings and proposed use, some of the landfill related mitigation may still apply such as Mitigation Measures HAZ-4.5 (Building Restrictions), and HAZ-4.6 (Landfill Hazards Disclosure). While there would be an increase in office space on Parcels 1 and 2, operational impacts related to landfill risks would be similar to the original Proposed Project and the same operational mitigation would reduce landfill hazard risks to a less than significant level. Non-landfill risks due to an increase in structures on Parcel 5 would be controlled by the same mitigation as the Original Project for non-landfill hazards.

**Population and Housing:** The population and housing impacts of the EOS Variant would be similar to those of the Original Project, resulting in *significant* secondary environmental impacts (as described above under Land Use). Like the Original Project, the EOS Variant would also result in no displacement to people or housing due to construction. Construction employment would be similar to the Original Project given the similar level of overall proposed development. The EOS Variant would result in a similar level of employment



and housing as the Original Project and thus would also induce substantial population growth greater than planned within the City and the region.

**Public Services:** Like the Original Project, the EOS Variant would result in a *less than significant* impact to public services. It would not result in the need for new or physically altered fire service facilities beyond what the Original Project would require, nor would it result in the need for new or physically altered police service, school, parks and recreation, or library facilities. The EOS Variant also would not substantially change the demand for fire services, police services, schools or libraries because it would have a similar amount of residents, employees, and visitors overall. The EOS Variant would provide more opportunities for recreation and more parks than the Original Project.

**Utilities and Service Systems:** Like the Original Project, the impact to public utilities of the EOS Variant would be *less than significant with mitigation*. Under the EOS Variant, while the passive park use at Parcel 3 may include some facilities requiring utilities connections, with the intensification of office space on Parcels 1, 2 and 5; however, the amount of on-site utility infrastructure may be less than the Original Project because of the avoidance of duplicate utility lines on Parcel 3. The impact related to wastewater pumping capacity would be the same as the Original Project because the same overall level of wastewater demand would occur. The energy efficiency of the development under the EOS Variant is expected to be similar given the same level of overall buildout.

Water demand under the EOS Variant would be different than under the original Proposed Project. The turf areas associated with the two golf course holes on Parcel 3 would be eliminated along with the associated irrigation water demand. The irrigation water demand for the passive park/open space will depend on exactly what kind of recreational uses are accommodated. As a worst-case scenario, if the passive park/open space uses would have the same irrigation water demand as the existing golf course on Parcel 3, then the water demand could increase by an estimated 35 acre-feet compared to the Original Project, which would likely be met by recycled water, not potable water. Even with this small increase, the EOS Variant would not result in a shortfall in water supply under project conditions out to 2035. Like the Original Project, the EOS Variant could have shortfalls in 2030 and 2035 under certain scenarios, but those shortfalls are not expected to actually occur because the project demand is conservatively estimated minor increases in demand can be met through likely available groundwater supply, and there are existing specific mandatory water conservation requirements that can be used to address future water supply limitations. Thus, the additional potential for irrigation needs with the EOS Variant is not expected to result in an exceedance of available water supplies.

## **VIII. FINDINGS REGARDING ALTERNATIVES**

### **A. Summary**

CEQA and the State CEQA Guidelines require that an EIR “describe a range of reasonable alternatives to the project [including a No Project alternative] which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives.”

CEQA Guidelines § 15126.6(a). The EIR analyzed two No Project Alternatives and two additional alternatives (Reduced Intensity Alternative and Increased Housing Alternative) to the Project, including the impacts of each. The alternatives are summarized below and described in more detail in Chapter 5, *Alternatives*, of the EIR.

### **No Project Alternatives**

- **No Project Alternative 1.** Under No Project Alternative 1, conditions at the Site would not change. Parcels 1–4 are currently occupied by the Santa Clara Golf & Tennis Club, Fire Station 10, a Bicycle-Motocross (BMX) track, the Ameresco Methane Plant, the Retention Basin, and a City vehicle washing station. The on-site features and buildings associated with the existing uses on Parcels 1–4 would remain. In addition, the existing surface parking lot at Parcel 5 would continue to operate as under existing conditions. The three existing off-site office buildings in Tasman East also would remain and not be demolished to accommodate the Lick Mill Boulevard extension proposed under the Project.
- **No Project Alternative 2.** No Project Alternative 2 is based on what would be reasonably expected to occur in the foreseeable future if the Project were not approved and development continued to occur in accordance with the City's General Plan and consistent with available infrastructure and community services. No construction or demolition would occur on Parcels 1–4 or off site. Although Parcel 5 is currently vacant and used for surface parking, Parcel 5 is designated for Regional Commercial land uses for Phase I (2010–2015), Phase II (2015–2025), and Phase III (2025–2035) of development under the City's General Plan. City Council review and approval would be required to rezone Parcel 5 with the appropriate zoning classifications consistent with the General Plan designation. After rezoning and a General Plan Amendment for increased floor area ratio (FAR), Parcel 5 could be developed with approximately 825,000 gsf of Regional Commercial uses that would serve both City residents and the surrounding region.

**Reduced Intensity Alternative.** The Reduced Intensity Alternative would include a 30 percent reduction in the amount of floor area compared with the Project. This reduction would involve substantially reducing the amount of office uses at all parcels, except for the City Center Zone. The Reduced Intensity Alternative would result in approximately 3.02 million gsf of office area, compared with 5.72 million gsf under the Project (Scheme A). All other land uses would have the same amount of area as proposed under Scheme A.

**Increased Housing Alternative.** Under the Increased Housing Alternative, the 320,000 gsf of office space planned under the Project (Scheme A) for the Parcel 4 portion of the City Center would be replaced with 320,000 gsf of residential space. This alternative would result in 320 additional residential units, for a total of approximately 1,680 residential units at the Project site. The Increased Housing Alternative would include the same amount of retail, hotel, and entertainment uses as the Project (Scheme A).

On the basis of comparing the extent to which the alternatives reduce or avoid the significant impacts of the Project, No Project Alternative 1 or 2 would be the environmentally

superior alternative under CEQA, but neither would meet the Project objectives. If one of the No Project Alternatives is the environmentally superior alternative, however, CEQA Guidelines section 15126.6(e)(2) requires the EIR to specify which of the other build alternatives (including the Project) would be environmentally superior.

The significant and unmitigatable impacts of the Project identified in the FEIR include impacts on traffic, air quality, noise, housing, birds, and GHG emissions. To be selected as an environmentally superior alternative, another alternative would need to reduce one or more of these significant, unmitigatable impacts to a level of insignificance. Because the Reduced Intensity Alternative will have less construction and operational impacts than the other action alternatives, the EIR identified the Reduced Intensity Alternative as the environmentally superior alternative. The Reduced Intensity Alternative is not, however, without significant impacts. Specifically, this alternative will have, in comparison with the Project, (i) a much smaller, but still significant and unavoidable, impact on the jobs-housing ratio, with concomitant significant and unavoidable impacts related to transportation, air quality, and GHG emissions; (ii) similar significant and unavoidable exterior noise levels associated with nearby airport uses; (iii) moderately reduced, but still significant and unavoidable, traffic impacts (due to changes in intersection level of service and freeway segment capacity); (iv) significant conflicts with regional air quality plans; (v) substantially less, but still significant criteria-pollutant emissions; (vi) less, but still considerable, contributions to significant cumulative regional air pollutant levels; (vii) fewer, but still significant, direct and indirect GHG emissions; and (viii) assumed lesser, though still significant and unavoidable, presumed impacts related to bird collisions. The Reduced Intensity Alternative would only reduce one of the Project's significant impacts to a level of insignificance: traffic noise impacts on off-site receptors (more specifically, those receptors along two roadway segments – Lafayette Street between Tasman Drive and Hogan Drive, and along the south side of Tasman Drive between Lafayette and Calle del Sol).

The City certifies that it has considered the information on alternatives provided in the EIR and in the record, and finds that, as described in the EIR and for the reasons identified in the following sections, specific economic, social, environmental, technological, legal or other considerations make the Reduced Intensity Alternative infeasible. Specifically, each individual reason presented below constitutes a separate and independent basis to reject the Reduced Intensity Alternative as being infeasible. The City finds that the Increased Housing Alternative is feasible, and consequently has been incorporated into the Project by increasing the allowable number of residential units under Scheme A to 1680.

## **B. Analysis of Each Alternative**

### **1. No Project Alternatives**

#### **a. No Project Alternative 1**

##### **(i) No Project Alternative 1 Impact Assessment**

No Project Alternative 1 would result in no impacts on land uses, aesthetics, transportation, air quality, GHG emissions, noise, cultural resources, biological resources, geology and soils, hazards and hazardous materials, population and housing, utilities and



services systems. Compared to the Project, No Project Alternative 1 would result in less environmental impacts.

**(ii) No Project Alternative 1 Would Not Meet Project Objectives**

No Project Alternative 1 would not meet the primary objectives of converting the existing uses at the former Santa Clara Landfill to more productive uses or modernizing the existing Landfill protection systems. Instead, Parcels 1–4 would still be occupied by the Santa Clara Golf & Tennis Club, a restaurant and banquet facility, Fire Station 10, a BMX track, the Ameresco Methane Plant, the Retention Basin, and a City vehicle washing station. In addition, Parcel 5 would remain as a surface parking lot. Because none of the proposed buildings would be constructed, No Project Alternative 1 would not achieve economies of scale and would not be able to meet the Project’s basic objective of creating a vibrant mixed-use “live, work, play environment.” The Project objective of providing commercial, residential, and entertainment uses for local and regional residents and promoting transit-oriented infill development would not be met. There would be no new public open spaces or other community benefits created under No Project Alternative 1; however, existing open spaces and community uses at the Project site would be maintained. Additionally, the primary objectives of providing additional visitor-serving facilities, augmenting hotel availability, and providing additional opportunities for major employers would not be met. Because no development would occur, No Project Alternative 1 would not create permanent or construction-related jobs compared to the Project. While this no project alternative would be environmentally superior to the Project, for all of the above reasons, No Project Alternative 1 would not meet the basic Project objectives.

**b. No Project Alternative 2**

**(i) No Project Alternative 2 Impact Assessment**

For No Project Alternative 2, the redevelopment of Parcels 1 through 4 would not occur and all existing buildings and uses would remain. There would be no environmental impacts associated with No Project Alternative 2 for Parcels 1 through 4.

Parcel 5, however, would be developed with Regional Commercial uses in accordance with the City’s General Plan. In general, the environmental impacts of developing Parcel 5 would be similar to the Project, albeit on a smaller scale.

There would be no land use impacts associated with No Project Alternative 2. Similar to the Project, No Project Alternative 2 could create a new source of light and glare that could adversely affect daytime or nighttime views in the area. Therefore, the impact on visual quality due to increased light and glare from No Project Alternative 2 at Parcel 5 would be significant (though the magnitude of the impact would be less than the Project).

Like the Project, No Project Alternative 2 would increase daily vehicle trips and would result in significant and unavoidable traffic and transportation impacts. These impacts would be smaller, given the smaller development footprint, but significant nonetheless.

Like the Project, No Project Alternative 2 would conflict with the Air Quality Plan and result in significant and unavoidable impacts. No Project Alternative 2 would also require mitigation to mitigate to a less-than-significant level the impacts resulting from construction criteria air pollutants, the exposure of sensitive receptors to TAC emissions during construction and operation, and to reduce the effects of objectionable odors. Unlike the Project, however, No Project Alternative 2 would not result in significant and unavoidable impacts to operational criteria air pollutant emissions and emissions during combined Project construction and operation. Cumulative Air Quality Impacts would, like the Project, be significant and unavoidable.

Impacts from Greenhouse Gas Emissions would be reduced to a less than significant level under No Project Alternative 2. However, lack of residential uses in No Project Alternative 2 would result in fewer opportunities for reductions in vehicle miles traveled since there would not be a wide mix of uses on the Project site. Impacts relative to plan and policy consistency would be relatively greater than the Project, but still mitigable to a less-than-significant level.

Like the Project, both operational noise impacts from stationary sources and impacts on on-site receptors from the SJC airport would be significant and unavoidable under No Project Alternative 2. Construction noise impacts and roadway and rail noise/vibration impacts to on-site receptors would require mitigation to a less-than-significant level. Because No Project Alternative 2 would generate less traffic, however, traffic noise impacts on off-site receptors would be less-than-significant. Cumulative noise impacts would also be less than significant.

Impacts to cultural resources would be similar under No Project Alternative 2 as they would be with the Project (less than significant, with mitigation); although, under No Project Alternative 2 the magnitude of such impacts would be less. For biological resources, there would remain a significant and unavoidable impact to migratory birds under the No Project Alternative 2 due to bird collisions with the new buildings on Parcel 5. While, like the Project, impacts to burrowing owls and cumulative biological impacts would require mitigation to a less-than-significant level, No Project Alternative 2 would have no impacts on the western pond turtle, on special-status fish species and critical habitat, and on wetlands and other waters.

Similar to the Project, No Project Alternative 2 would have a significant impact on soil erosion and unstable soils and require mitigation to reduce those impacts to a less-than-significant level. Parcel 5 is not underlain with landfill, however, and, unlike the Project, would not be subject to landfill-related settlement and lateral spreading. Geology and soils impacts from No Project Alternative 2 would generally be less than the Project.

Regarding hydrology and water quality, similar to the Project, No Project Alternative 2 would have (with mitigation) less-than-significant impacts on water quality standards or waste discharge requirements, stormwater runoff, degradation of water quality, and cumulative hydrology and water quality impacts. Because Parcels 1 through 4 would not be developed, some impacts would be avoided entirely. Compared to the Project, the smaller footprint of No Project Alternative 2 would result in less-than-significant impacts arising from changes to existing drainage patterns and impacts from flooding in a flood hazard area.

Like the Project, No Project Alternative 2 would require mitigation to mitigate to less-than-significant levels the impacts from hazardous materials, accidental releases, and cumulative hazards and hazardous materials impacts. Because No Project Alternative 2 would not entail development on the former Landfill property, there would be a less-than-significant impact relating to landfill hazards. Unlike the Project, there would be no issues with subsurface landfill fires and no impacts to the leachate collection and removal system.

While the Project would have a significant and unavoidable impact on population growth, No Project Alternative 2 would not include any residential units, which would reduce this impact to less-than-significant. Like the Project, all public services impacts associated with No Project Alternative 2 would be less than significant, although the magnitude of any impacts would be smaller. Like the Project, the most impacts to utilities and service systems would be less-than-significant with mitigation under No Project Alternative 2.

**(ii) No Project Alternative 2 Would Not Meet Project Objectives**

No Project Alternative 2 would not meet one of the primary Project objectives, which is to convert the existing uses at the former Landfill to more productive uses and modernizing the existing Landfill protection systems. Instead, Parcels 1–4 would continue under current conditions with no mixed-use development, and Parcel 5 may be developed with Regional Commercial uses in the future, which would involve discretionary City approval with CEQA review.

Since the proposed development on Parcels 1 to 4 would not be constructed, No Project Alternative 2 would not achieve economies of scale and would not be able to meet the Project's basic objective of creating a vibrant, mixed-use "live, work, play environment." Although Parcel 5 could be developed under No Project Alternative 2, it would not be of the magnitude needed to meet the Project's objectives. Under No Project Alternative 2, development of the Project site with commercial, residential, and entertainment uses to the magnitude envisioned under the Project would not occur. The Project objective of enhancing these opportunities for local and regional residents or promoting transit-oriented infill development would not be met to the extent envisioned by the Project. There would be no new public open spaces and other community benefits created under No Project Alternative 2; however, existing open spaces and community uses at the Project site would be maintained. Thus, the primary objectives of providing additional visitor-serving facilities, augmenting hotel availability, and providing additional opportunities for major employers to locate to the City would not fully be met.

No Project Alternative 2 would also limit the flexibility of Parcel 5's development to respond to changing market demands and ensuring that the development remains economically feasible throughout a multiyear process. No Project Alternative 2 would create approximately 2,230 jobs, instead of approximately 24,760 (Scheme A) or 28,720 (Scheme B) net new jobs under the Project. This is 91 percent fewer jobs than the Project would provide under Scheme A and 92 percent fewer jobs than the Project would provide under Scheme B. The tax revenues for the City would incrementally increase over existing conditions rather than increase with implementation of the Project. While this alternative would be environmentally superior to the



Project No Project Alternative 2, for all of the above reasons it would not meet the basic Project objectives.

## **2. Project Build Alternatives**

### **a. Reduced Intensity Alternative**

#### **(i) Reduced Intensity Alternative Impact Assessment**

The Reduced Intensity Alternative would have similar significant and unavoidable land use impacts to the Project, although the jobs/housing imbalance would be affected to a lesser extent due to fewer office jobs being created.

Construction of the Reduced Intensity Alternative would result in similar changes to the existing visual character and quality of the Project site during construction as with the Project, although for a shorter construction period compared to the Project since the Reduced Intensity Alternative would result in less building square footage. Like the Project, the Reduced Intensity Alternative would require mitigation to mitigate light and glare impacts and to reduce the degradation to visual character, although the Reduced Intensity Alternative's smaller buildings would have smaller glare and visual impacts than the Project.

The Reduced Intensity Alternative would reduce the building square footage by 30 percent compared to the Project, and the resulting trip generation would be approximately 33 percent less than proposed under the Project. The Reduced Intensity Alternative would moderately reduce impacts or reduce the severity of impacts by 20 to 50 percent for intersection level of service and freeway segment capacity. To reduce trip generation, this alternative would most likely require implementation of similar mitigation measures to the Project. Regardless, the Reduced Intensity Alternative would still result in significant and unavoidable impacts to certain intersections. The significant and unavoidable pedestrian impact due to the sidewalk gap on Tasman Drive between Lafayette Street and Calle Del Sol would remain under the Reduced Intensity Alternative.

Air Quality impacts under the Reduced Intensity Alternative would be similar to the Project. Similar to the Project, the Reduced Intensity Alternative would conflict with regional air quality plans, resulting in a significant and unavoidable impact. While there would be a shorter overall construction period, daily average construction emissions generated by the Reduced Intensity Alternative would most likely be similar to those of the Project and likely exceed the BAAQMD's significance thresholds during construction, requiring similar mitigation. Although the Reduced Intensity Alternative's operational criteria-pollutant emissions would be substantially less than those of the Project (standing alone, or combined with construction emissions), they would still exceed BAAQMD thresholds and result in a significant and unavoidable impact. Similar to the Project, implementation of feasible mitigation would reduce construction and operation TAC emissions and objectionable odors to a level below significance, and the magnitude of these impacts would be less given the reduced construction and shorter exposure duration. Cumulative impacts would be less, but remain significant and unavoidable.

While annual direct and indirect GHG emissions would be reduced relative to the Project, the Reduced Intensity Alternative would still generate an increase in direct and indirect GHG

emissions over existing conditions and exceed the substantial progress efficiency metric established for 2030. Impacts from GHG emissions would thus be significant and unavoidable. Like the Project, the Reduced Intensity Alternative would implement GHG mitigation measures that would facilitate accomplishment of long-term State goals. Relative to plan and policy consistency, the alternative's impact would be less than significant with mitigation.

Construction noise impacts from the Reduced Intensity Alternative would be very similar to the Project, requiring a construction noise control plan and pile driving restrictions to reduce the impacts to a less-than-significant level. Notably, under the Reduced Intensity Alternative the traffic noise impacts on off-site receptors would have a less-than-significant impact, due to less vehicle trips generating lower amounts of roadway noise that would not exceed the applicable standard. Remaining noise impacts would be very similar to the Project, although the Reduced Intensity Alternative would result in less cumulative noise impacts.

Due to construction methods, impacts to cultural resources under the Reduced Intensity Alternative would be similar to the Project, and would require the same types of mitigation measures to reduce impacts to a less-than-significant level. Likewise, the Reduced Intensity Alternative's impact on biological resources would be very similar. Like the Project, tree removal and new building construction could result in significant and unavoidable impacts to nesting and migratory bird. Mitigation measures would be required to reduce impacts to burrowing owl, the western pond turtle, special-status fish species and critical habitat, and wetlands and other waters to a less-than-significant level.

The Reduced Intensity Alternative would have geology and soils impacts very similar to the Project, as it is conservatively assumed that the Reduced Intensity Alternative would also result in the same amount of earthwork and amounts of material that would be exposed as with the Project. The same types of mitigation measures would be required to mitigate significant impacts from soil erosion and unstable soils to a less than significant impact.

As with the Project, construction activities associated with the Reduced Intensity Alternative would include site clearing and grubbing, demolition and removal of existing structures and pavement, cut and fill activities, grading and excavation, paving, building construction, tree removal, and landscaping. Using the same sorts of mitigation measures, all impacts related to hydrology and water quality are expected to be mitigated to a level less-than-significant. While it is possible that the Reduced Intensity Alternative would result in less impervious surface, the EIR conservatively assumed that the alternative would create the same amount of impervious surfaces as the Project. The Reduced Intensity Alternative would result in the same (or slightly less) hydrology and water quality impacts compared to the Project. Cumulative impacts under the Project, including water quality impacts, groundwater recharge and supplies, storm drain capacity, and flooding would result in less than cumulatively considerable impacts with mitigation.

The Reduced Intensity Alternative's impacts related to hazards and hazardous materials would be similar to the Project impacts. Like the Project, excavation activities associated with the Reduced Intensity Alternative would be expected to penetrate into the waste units (i.e., encounter landfill waste) and require a Waste Management Plan to reduce associated impacts to a less-than-significant level. Similar mitigation measures to the Project would be required to

reduce the risks to workers and residents posed from subsurface hazardous materials and contaminated soil. Like the Project, the Reduced Intensity Alternative would include a leachate collection and removal system and require mitigation to reduce the risks of subsurface fire to a less-than-significant level. The cumulative setting for the Reduced Intensity Alternative for hazards and hazardous materials is the same as for the Project, and any significant impacts can be mitigated to a level less-than-significant.

Population and housing impacts are expected to be similar to the Project. The Reduced Intensity Alternative would result in a residential population of approximately 3,270 new residents, the same amount of new residents compared to Scheme A and 2,790 more residents compared to Scheme B. Because this growth is not anticipated in the City's General Plan or accounted for in regional planning efforts, the Reduced Intensity Alternative would result in significant and unavoidable secondary environmental impacts from the increase in population and would worsen the jobs-housing ratio.

Like the Project, all public services impacts from the Reduced Intensity Alternative would be less than significant, although the Reduced Intensity Alternative would have a comparatively less impact on fire, police, and recreational resources. Similarly, the Reduced Intensity Alternative will be able to mitigate all utilities and service system impacts to a less-than-significant level. Due to the smaller project size, impacts to water delivery systems, wastewater, and solid waste are expected to be less, as are cumulative impacts.

In sum, the Reduced Intensity Alternative would result in a smaller overall gross square footage of development compared to the Increased Housing Alternative and the Project, which would lower the construction impacts on traffic, air quality, GHG emissions, noise, and lower operational demands for public services and utilities. While the gross square footage would be smaller, construction period disturbance impacts associated with erosion, water quality, and aesthetics would most likely be similar to the Increased Housing Alternative and the Project. The Reduced Intensity Alternative would result in fewer daily trips (94,240) compared to the Increased Housing Alternative (120,690) and the Project (140,730) and thus lower overall operational traffic, air quality, GHG, and traffic noise impacts than the Increased Housing Alternative and the Project. There are no resource areas for which the Reduced Intensity Alternative would have greater impacts than the Increased Housing Alternative or the Project. Thus, because it will notably have less construction and operational impacts than the other action alternatives, the Reduced Intensity Alternative is the environmentally superior alternative.

## **(ii) The Reduced Intensity Alternative is Not Feasible**

The reduced intensity alternative was identified for analysis in the EIR because the City made a determination that it was *potentially* feasible, subject to more detailed review as the CEQA process proceeded. Under CEQA, "the decision makers may reject as infeasible alternatives that were identified in the EIR as potentially feasible." (*San Diego Citizenry Group v. County of San Diego* (2013) 219 Cal.App.4th 1, 18.) The City has now determined that the Reduced Intensity Alternative is not in fact feasible.

Although the Reduced Intensity Alternative would achieve a number of the Project Objectives, it would achieve them to a much lesser extent than the Project. This alternative



would achieve the Project objectives of modernizing the Landfill for more productive uses, but those uses would be less productive than under the Project. Compared to the Project, the Reduced Intensity Alternative would not sufficiently achieve the following important Project objectives: stimulating economic development and job creation in the City; promoting transit oriented infill development; providing additional opportunities for major employers to locate to the City through the creation of attractive office campuses; and increasing City revenues. Compared to the Project, the Reduced Intensity Alternative would result in fewer potential weekday customers within walking distance of the retail and entertainment opportunities in the City Center, fewer job opportunities within walking distance of the residential units in the City Center, and fewer jobs overall to support the City's overall economic and job creation objectives.

Furthermore, the Reduced Intensity Alternative is not economically feasible. The Project site lacks basic infrastructure and any construction proposal involves premium costs associated with building on a former landfill. These infrastructure and premium site development costs can be thought of as "horizontal site development costs," as opposed to the "vertical development" costs associated with building structures. These horizontal site development costs would most likely not be meaningfully reduced under the Reduced Intensity Alternative because such costs are generally incurred regardless of how much vertical development is placed on top of horizontal site improvements. The per-square-foot costs of development would significantly increase under the Reduced Intensity Alternative because there would be 30 percent less square footage of vertical development to which the horizontal site development costs could be proportionately allocated.

The Reduced Intensity Alternative was originally proposed because it represents the amount of office development that the parcels surrounding the City Center could accommodate without the expense of constructing parking structures on those parcels. However, the Project Developer has now determined that the reduction in Project revenues associated with developing less office space under this alternative is greater than the savings gained by not building the additional space and structured parking.

## **b. Increased Housing Alternative**

### **(i) Increased Housing Alternative Impact Analysis**

The site plan for the Increased Housing Alternative would be generally similar to the Project, and it is assumed that the building footprint of the Increased Housing Alternative would be identical to the Project. Buildings under the Increased Housing Alternative would also be the same height as proposed under the Project. The length of the construction period associated with the Increased Housing Alternative would be similar to the Project's construction period.

The Increased Housing Alternative would have significant and unavoidable land use impacts, although the jobs/housing imbalance would be affected to a lesser extent due to additional residential units being created. Compared to the Scheme B of the Original Project, if the Project were developed as Scheme A incorporating the Increased Housing Alternative, as permitted under the Master Community Plan, it would result in 3,550 more residents and approximately 1,150 fewer employees, thereby having a much smaller, but still significant,

impact on the jobs/housing balance. The Increased Housing Alternative also improves the jobs/housing balance as compared to Scheme A of the Original Project, but to a lesser extent because the increase in residents is 760 rather than 3,550.

The Increased Housing Alternative would place an additional 320 housing units on Parcel 4 compared to Scheme A of the Original Project, and 1,460 additional housing units in Parcel 4, compared to Scheme B of the Original Project. The additional residential units would be within the 65 CNEL noise contour of the nearby airport, thereby increasing the significant and unavoidable noise impacts compared to those of the Original Project.

The Increased Housing Alternative would require mitigation to reduce light and glare impacts and to reduce the degradation to visual character of the surrounding area.

Although the Increased Housing Alternative would increase the amount of residential uses, the office uses would decrease to result in the same amount of total square footage at the Project site. Since residential uses generate less traffic than office uses, this alternative would result in approximately 14.2 percent less traffic as compared to the Original Project (Scheme B). The Increased Housing Alternative would slightly reduce the severity of impacts by 5 to 20 percent on intersection level of service and freeway segment capacity. Impacts to the transit system, pedestrian facilities, and bicycle facilities would be similar to the impacts from the Project. Nevertheless, even with similar mitigation measures, traffic and transportation impacts under the Increased Housing Alternative would remain significant and unavoidable.

The Air Quality impacts of the Increased Housing Alternative would be similar to that of the Project. The Increased Housing Alternative would conflict with regional air quality plans due to an inconsistency related to socioeconomic forecasts. These Air Quality impacts are considered significant and unavoidable. While the Increased Housing Alternative would generate fewer daily trips, its criteria-pollutant emissions would still result in significant and unavoidable impacts by exceeding applicable BAAQMD thresholds for criterial air pollutants. Due to the increased residential components, however, exposure of sensitive receptors to objectionable odors and TAC emissions during construction and operation, and to asbestos during construction, would be relatively greater than the Project (although mitigation measures would reduce any such impacts to a less-than-significant level). Cumulative Air Quality impacts would remain significant and unavoidable under the Increased Housing Alternative.

While annual direct and indirect GHG emissions would be reduced relative to the Project (because residents generate less vehicle trips than employees), the Increased Housing Alternative would still generate an increase in direct and indirect GHG emissions over existing conditions and exceed the substantial progress efficiency metric established for 2030. Impacts from GHG emissions would thus be significant and unavoidable. Like the Project, the Increased Housing Alternative would implement GHG mitigation measures that would facilitate the pursuit of long-term State goals. Relative to plan and policy consistency, the alternative's impact would be less than significant with mitigation.

Construction noise impacts from the Increased Housing Alternative would be very similar to the Project and would require a construction noise control plan and pile driving restrictions to reduce the impacts to a less-than-significant level. Notably, under the Increased

Housing Alternative the traffic noise impacts on off-site receptors would have a less-than-significant impact, due to less vehicle trips generating lower amounts of roadway noise that would not exceed the applicable standard. Remaining noise impacts would be very similar to the Project, although the Increased Housing Alternative would result in less cumulative noise impacts.

Due to similar construction methods, impacts to cultural resources under the Increased Housing Alternative would be similar to the Project and would require the same types of mitigation measures to reduce impacts to a less-than-significant level. Likewise, the Increased Housing Alternative's impact on biological resources would be very similar. Like the Project, tree removal and new building construction could result in significant and unavoidable impacts to nesting and migratory birds. Mitigation measures would be required to reduce impacts to the burrowing owl, the western pond turtle, special-status fish species and critical habitat, and wetlands and other waters to a less-than-significant level.

The Increased Housing Alternative would have geology and soils impacts very similar to the Project, as the Increased Housing Alternative would have the same project footprint and result in the same amount of earthwork and amounts of material that would be exposed as with the Project. The same types of mitigation measures would be required to mitigate significant impacts from soil erosion and unstable soils to a less than significant impact.

Like the Project, construction activities associated with the Increased Housing Alternative would include site clearing and grubbing, demolition and removal of existing structures and pavement, cut and fill activities, grading and excavation, paving, building construction, tree removal, and landscaping. Using the same sorts of mitigation measures, all impacts related to hydrology and water quality are expected to be mitigated to a less-than-significant level. The Increased Housing Alternative would result in the same amount of impervious surfaces and have the same stormwater volumes during rain events. The Increased Housing Alternative would result in the same (or slightly less) hydrology and water quality impacts compared to the Project. Cumulative impacts under the Project, including water quality impacts, groundwater recharge and supplies, storm drain capacity, and flooding would result in less than cumulatively considerable impacts with mitigation.

The Increased Housing Alternative's impacts related to hazards and hazardous materials would be similar to the Project impacts. Like the Project, excavation activities associated with the Reduced Intensity Alternative would be expected to penetrate into the waste units (i.e., encounter landfill waste) and require a Waste Management Plan to reduce associated impacts to a less-than-significant level. Similar mitigation measures to the Project would be required to reduce the risks to workers and residents posed from subsurface hazardous materials and contaminated soil to a less-than-significant level. The RWQCB has concurred in findings that an increased number of residential units on level 2 and above of buildings constructed at Parcel 4 would not change the risk characterization results, and that buildings with planned residential units can be constructed at any location on Parcel 4 and not increase the risk characterization results. Like the Project, the Increased Housing Alternative would include a leachate collection and removal system and require mitigation to reduce the risks of subsurface fire to a less-than-significant level. The cumulative setting for the Increased Housing Alternative for hazards and



hazardous materials is the same as for the Project, and any significant impacts can be mitigated to a level less-than-significant.

Population and housing impacts are expected to be less than the Project, but still significant and unavoidable. The Increased Housing Alternative would result in a residential population of approximately 4,030 new residents, which is 760 more residents compared to Scheme A and 3,550 more residents compared to Scheme B. Because this growth is not anticipated in the City's General Plan or accounted for in regional planning efforts, the Increased Housing Alternative would result in significant and unavoidable secondary environmental impacts from the increase in population. Although this Alternative would have less of an effect on the jobs-housing balance than the Project, it would still worsen the jobs-housing ratio compared with existing conditions as well as conditions that would result from the City's General Plan.

Like the Project, all public services impacts from the Increased Housing Alternative would be less than significant, although the Increased Housing Alternative would have a comparatively greater impact on fire, police, recreational, and library resources due to the increased residential population. Similarly, the Increased Housing Alternative will be able to mitigate all utilities and service system impacts to a less-than-significant level. Due to the larger residential component (with fewer office uses), impacts to water demand, wastewater generation, and solid waste generation are expected to be less, as are cumulative impacts. As with the Project, the Increased Housing Alternative, with mitigation, would result in lower energy consumption compared to a similar size project that did not incorporate the same design features and mitigation.

#### **(ii) The Increased Housing Alternative Would Meet Project Objectives**

This alternative would meet the Project objectives of modernizing the Landfill for more productive uses, creating a vibrant, mixed-use, "live, work, play environment" in the City Center, and stimulating economic development and job creation in the City. This alternative (because it still proposes a high-intensity mixed-use development with residential, retail, office, hotel, and entertainments uses) would still meet the Project objectives such as promoting transit-oriented infill development; enhancing entertainment, dining, and shopping opportunities for local and regional residents and workers; providing additional opportunities for major employers to locate to the City through the creation of attractive office parks; providing additional visitor-serving facilities for people visiting Levi's Stadium, the Convention Center, and theme park; providing new public open spaces; and creating a significant new tax base and increasing City revenues.

Compared to the Project, the Increased Housing Alternative would result in fewer potential weekday customers working in offices in proximity to the retail, hotel, food and beverage, and entertainment opportunities in the City Center and fewer job opportunities in offices in proximity to the residential units in the City Center. However, the addition of more housing in the City Center could provide an increase in a permanent on-site customer base for the retail, food, and beverage and entertainment uses in the City Center. Further, visitors of the residents on-site would also contribute to the walk-in customer base for retail, food, and

beverage and entertainment uses in the City Center. Collectively, the on-site residents and their guests could partially offset the decrease in walk-in customers working in offices.

**C. Alternatives Considered but Rejected**

**1. Alternative Site Locations**

State CEQA Guidelines Section 15126.6(f)(2) states that an EIR must consider off-site alternatives if such alternatives are deemed feasible. Other than the Project site, there are no comparable large areas of land within the City where the Project could be relocated so as to meet the Project's objectives. Because of the unique and advantageous location of the Project site, even if there were a site of comparable size at another location within the City that was available for development (which there is not), that site would not have the defining characteristic of being adjacent to Levi's Stadium, which helps to anchor the Project and which in turn is anticipated to be beneficial to Levi's Stadium.

Relocating the Project outside of the City would essentially be a different project rather than a Project alternative. Furthermore, it is unlikely that relocating the Project to a different site would avoid or substantially lessen any of the significant environmental impacts because the impacts associated with increased vehicle trips (e.g., traffic, air quality and GHG) are likely to be similar anywhere in the Bay Area, and most undeveloped areas of this size are likely to have greater natural habitat values than a former landfill. An off-site alternative would be infeasible because it would not attain most of the basic Project objectives and would not sufficiently reduce the Project impacts.

**2. Alternative Development Scenarios Considered in the Draft EIR, but Not Analyzed in Detail.**

**a. Greater Reductions in Intensity**

For the same reasons the City has now determined the Reduced Intensity Alternative is not feasible, as a general matter alternatives involving further reductions intensity (such as developing only Phases 1 and 2) were considered infeasible and not analyzed in detail. Specific intensity reduction alternatives suggested by commenters on the DEIR are discussed below.

**b. Further Increased Housing**

Four additional increased housing alternatives were considered but determined to be infeasible. First, construction of housing on Parcels 1, 2, 3 and the northwest portion of Parcel 4 is not feasible because it would be cost-prohibitive to expand the elevated podium structure planned for the Parcel 4 portion of the City Center. Second, increasing the height of the residential structures planned for Parcels 4 and 5 in the City Center enough to accommodate significant additional residential units would also not be feasible because the alternative would create significant design, cost, and marketing issues that would adversely affect the ability of the Project to create a vibrant live, work, and play environment consistent with the Project objectives. Third, replacing the office space planned under the Project for the Parcel 5 portion of the City Center would not be feasible because it would eliminate any office space in City Center (because the Increased Housing Alternative already eliminates the office space in the Parcel 4

portion of City Center), thereby not meeting the basic Project objective of creating a vibrant, mixed-use “live, work, play environment.” This alternative would also impede the Project objective of providing shared parking opportunities for events at Levi’s Stadium. Finally, replacing or redistributing any other uses (e.g., retail, food and beverage, hotel, or entertainment) in the City Center with residential uses would not be feasible because it would eliminate the entertainment, dining, and shopping options, thereby not meeting the basic Project objective of creating a vibrant, mixed-use “live, work, play environment” by conglomerating the uses at the City Center.

**c. Relocation of Housing Outside of ALUC Noise Contour Area**

Under this alternative, the residential units planned under the Project in the southwest portion of Parcel 4 that are within the Airport Land Use Commission’s (ALUC’s) 65 dBA CNEL contour would instead be located outside the 65 dBA CNEL contour. Relocating the residential structures to Parcels 1, 2, 3, or to the northwest portion of Parcel 4 outside the City Center would be infeasible because it is cost prohibitive to construct an elevated podium structure on those parcels. Relocating the residential structures to Parcel 5 is infeasible because it would impede the Project objective of providing shared parking opportunities for all events held at Levi’s Stadium. Switching the locations of the residential structures with either the hotel or the office space planned for the Parcel 4 portion of City Center would place those uses in a sub-optimal location for commercial development that would jeopardize their financial viability. Accordingly, this alternative was deemed infeasible and dismissed from further consideration.

**d. “Clean Closure” of Former Landfill**

An alternative involving removal of all waste in the former Landfill prior to development of the site (also known as a “clean closure”) was considered. This alternative was rejected for further analysis because it would substantially increase environmental impacts, and make the project economically infeasible. Clean closure would involve approximately 440,000 truck trips for the waste removal and soil importation over a 20-month period. This would be four times more than (and be in addition to) the 108,000 truckloads estimated for the 14-year construction period for the entire Project; the 75 to 100 mile new truck trips would be 10 to 50 times longer than the short trips associated with the construction, which would range from 2 to 7.3 miles. Therefore, this alternative would result in substantially greater construction-traffic-related air emissions, GHG emissions, noise, and traffic.

The estimate of the costs associated with waste removal and associated transportation, off-site disposal, and site restoration has been updated since initial publication of the FEIR, to correct an arithmetic error in the calculation of the contingency and to reflect cost escalation in the same manner escalation has been reflected in the Project transactional documents between the City and the Project Developer. The updated costs of removal are \$998 million. The estimated cost premium to build the project above the existing landfill condition is approximately \$420 million. The \$578 million of additional cost to remove the waste would make the project economically infeasible. In order to achieve minimally acceptable return-on-cost levels, the Developer would need to set asking rents for retail, office and residential, as well as hotel rates, that would be far in excess of current market rates or what the market could reasonably support in the future. It would require substantial public financing in order to close



the gap in obtaining private financing of this magnitude to fund waste removal with no resulting economic return. Furthermore, the additional time needed to remediate the site would result in protracted period of construction for each phase and land parcel which would have a critical impact on required project timing and a substantially negative impact on project returns.

Limiting the waste removal to parcel 4, where residents would be housed over the landfill, is likewise infeasible. Parcel 4 is a little less than 40 percent of the acreage of the Landfill, although the refuse layer is a little shallower than it is on other parcels, so it is likely that about 30 percent of the waste to be removed would be from Parcel 3. This would still result in substantially greater construction-traffic-related air emissions, GHG emissions, noise, and traffic. It would also still result in substantial costs – the removal would cost over \$200 million. Furthermore, this alternative would not improve the project's impacts on jobs/housing balance; for the reasons stated above, it is not feasible to build housing on Parcels 1, 2 and 3, and with incorporation of the Increased Housing Alternative, Parcels 4 and 5 cannot accommodate any additional housing. This alternative is also not necessary to address impacts related to potential land-fill related exposures, because no significant and unavoidable impacts associated with the construction of housing on top of a landfill were identified in the Draft EIR. Mitigation Measures HAZ-4.1 through HAZ-4.6 would reduce impacts on residents to less than significant.

### **3. Alternatives Suggested in Comments on the Draft EIR, and Considered, but not Analyzed in Detail, in the FEIR.**

**a. Reduced Housing/No Housing Alternative.** Commenters suggested that an alternative with reduced housing or no housing should have been analyzed because of concerns about placing housing on top of a landfill. Because no significant and unavoidable impacts associated with the construction of housing on top of a landfill were identified in the Draft EIR an alternative with reduced or no housing would not serve to avoid any significant environmental impacts. Under CEQA, an alternative to placing housing on top of a landfill is not required. Furthermore, Scheme B, which is authorized under the Project, was developed as a Project scenario in which no housing would be constructed on top of the Landfill. Housing would be developed only at Parcel 5, which is not located on top of the Landfill. Scheme B is analyzed throughout the EIR.

A reduced housing alternative, beyond what is proposed under Scheme B, or a no housing alternative would not meet the basic Project objectives. As explained on page 2-6 of the Project description, a key Project objective is to promote a transit-oriented infill development by placing job-creating commercial buildings, residential units, and retail in proximity to each other and existing transit centers. A reduced or no housing alternative would not meet this Project objective.

**b. Reduced Retail Alternative.** A commenter suggested that an alternative with reduced retail should have been analyzed in the EIR. The alternatives were developed to reduce the significant and unavoidable impacts associated with transportation, air quality, GHG emissions, and noise. Because office uses are the main driver behind these impacts, office development was decreased in the analysis of the alternatives. The Project would also result in significant and unavoidable impacts on land use, biological resources, and utilities. Reducing only the amount of retail would not lessen the impacts associated with these topics.

Therefore, because a Reduced Retail Alternative would not serve to eliminate or substantially lessen any environmental impacts, an analysis of this alternative is not required under CEQA. In addition, a Reduced Retail Alternative would not sufficiently achieve the Project Objectives related to retail include enhancing entertainment, dining, and shopping opportunities for residents and workers; providing additional visitor-serving facilities, such as restaurants and shops; creating a significant new tax base for the City; and establishing a new and vibrant mixed-use City neighborhood. Reducing retail uses, beyond what is proposed under Scheme A (which includes fewer retail and entertainment uses than Scheme B) would not be viable for the Project because it would not result in a site with a focal point for a pedestrian-friendly “live, work, and play” environment. A Reduced Retail Alternative would not meet the basic Project objectives.

**c. Nature-Oriented Alternative.** A commenter suggested that an alternative should be considered that leaves the majority of the land in natural habitats, with restoration and/or the development of new parkland where possible. The Project site is not located on land that is part of a natural habitat. The majority of the Project site was formerly the Landfill, a 210-acre site with a waste footprint of approximately 183 acres. The Landfill received final landfill closure certification in September 1994. Therefore, Parcels 1–4 are located on top of soil embankments that were constructed around landfill waste units and refuse. The Project site is currently occupied by the Santa Clara Golf & Tennis Club, a restaurant and banquet facility, Santa Clara Fire Station 10, a BMX track, the Ameresco Methane Plant, a City vehicle washing station, two City-owned parking lots, and the Eastside Storm Retention Basin. As described on page 3.8-6 of the Draft EIR, in Section 3.8, *Biological Resources*, the biological communities on the Project site consist of annual grassland, ruderal developed/turf areas, vegetated depressions, pond/creek drainages, and expansive pavement. The existing communities at the Project site reflect the highly disturbed and developed nature of the Project site. Although habitats and species are present at the Project site, the Landfill is a human-made feature and could not be feasibly and cost-effectively restored to a natural state.

As summarized above, No Project Alternatives 1 and 2 include what would be reasonably expected to occur in the foreseeable future if the Project were not approved and development continued to occur in accordance with existing plans and consistent with available infrastructure and community services. Therefore, No Project Alternative 1 analyzes no development at the Project site, while No Project Alternative 2 analyzes only development at Parcel 5, which is currently a City-owned surface parking lot. Under both No Project Alternatives, Parcels 1–4 would continue to operate as the Santa Clara Golf & Tennis Club, a restaurant and banquet facility, Fire Station 10, a BMX track, the Ameresco Methane Plant, a City vehicle washing station, and the Eastside Storm Retention Basin. The portions of the Project site that could provide natural habitats would be maintained, and the Santa Clara Golf & Tennis Club would continue to operate as a public facility for the City. Therefore, No Project Alternatives 1 and 2 include options for the closest nature-oriented Project site that is feasible. However, No Project Alternatives 1 and 2 would not meet the primary objectives of converting the existing uses at the former Landfill to more productive uses or modernizing the existing Landfill protection systems. Because none, or only very few, of the proposed buildings would be constructed, the alternatives would not achieve economies of scale and would not be able to meet the Project’s basic objective of creating a vibrant, mixed-use “live, work, and play” environment. The Project objective of providing commercial, residential, and entertainment uses for local and regional residents and promoting transit-oriented infill development would not be met. Additionally, the primary

objectives of providing additional visitor-serving facilities, augmenting hotel availability, and providing additional opportunities for major employers would not be met. This alternative would not provide development that would respond to changing market demands and, therefore, would not meet the Project objective of ensuring that development remains economically feasible throughout a multi-year process. Because no or limited development would occur, No Project Alternatives 1 and 2, each of which could also be considered a Nature-Oriented Alternative, would not meet the basic Project objectives.

Furthermore, the EOS Variant incorporated into the Project may result in Parcel 3 being used in a “nature-oriented” manner, depending upon the results of the future park planning process.

**d. Phases 1 and 2 Only Alternative.** A commenter requested analysis of the development of Phases 1 and 2 only, with the rest of the Project site developed into usable parks and open space. As shown in Table 2-11 on page 2-31 of the Draft EIR, Phase 1 would include the development of Parcel 5 (approximately 825,000 gsf) and a portion of Parcel 4 (approximately 2.41 million gsf). In total, this would result in approximately 3.24 million gsf of office, retail, hotel, and residential uses. This alternative is similar to No Project Alternative 2, as described on pages 5-5 and 5-6 of the Draft EIR. Under No Project Alternative 2, Parcels 1–4 would remain as is because the existing conditions are projected to continue under all phases of the City’s General Plan. Parcels 1–4 are currently occupied by the Santa Clara Golf & Tennis Club, a restaurant and banquet facility, Fire Station 10, a BMX track, the Ameresco Methane Plant, the Eastside Storm Retention Basin, and a City vehicle washing station. The on-site features and buildings associated with the existing uses on Parcels 1–4 would remain. Parcel 5 could be developed with regional commercial uses that serve both City residents and the surrounding region. As with the Project and a previously proposed project at Parcel 5, it is assumed that No Project Alternative 2 at Parcel 5 could be developed with up to 825,000 gsf of commercial uses.

Compared with No Project Alternative 2, an alternative that analyzes Phases 1 and 2 only would add approximately 2.41 million gsf of development on Parcel 4 and would include residential uses. However, similar to No Project Alternative 2, this alternative would not meet the basic Project objectives, as discussed above. In particular, developing only part of Parcel 4 would not allow for the creation of the City Center Zone, which is meant to provide a focal point for a “live, work, and play” environment. The City Center Zone is proposed in Phases 2 and 3 of development and would not be completed if only Phases 1 and 2 are developed. An alternative with Phases 1 and 2 only would not reduce any of the significant and unavoidable impacts identified for the Project that are not already reduced by the other alternatives considered in Chapter 5. Therefore, because a range of reasonable alternatives were analyzed in the EIR, as required by State CEQA Guidelines Section 15126.6(a), this alternative was not analyzed.

## **IX. STATEMENT OF OVERRIDING CONSIDERATIONS**

Where a proposed project may result in significant impacts on the environment, and it is infeasible to reduce impacts to less than significant through project alternatives or mitigation measures, CEQA allows a public agency to approve the project only if the benefits of the project outweigh the unavoidable adverse environmental effects.



Section 15093 of the CEQA Guidelines provides the following:

CEQA requires the decision making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered “acceptable.”

As discussed in more detail in the EIR and as summarized in Section VII above, the Project will result in significant unavoidable impacts related to traffic, air quality, noise, housing, birds, and GHG emissions. Specifically, the Project will have significant and unavoidable impacts on the following:

- Jobs-housing imbalance, with concomitant significant and unavoidable impacts related to transportation, air quality, and greenhouse gas emissions;
- Exposure to exterior noise levels associated with nearby airport uses;
- Traffic-generated noise impacts on off-site residents along two roadway segments
- Traffic impacts on multiple intersections and freeway segments;
- Conflicts with regional air quality plans;
- Criteria-pollutant air emissions;
- Cumulatively considerable contributions to regional air pollutant levels;
- Direct and indirect greenhouse gas emissions; and
- Impacts related to bird hazards.

The City identified a potentially feasible alternative (the Reduced Intensity Alternative) that can avoid one of these significant unavoidable impacts (traffic-generated noise impacts on off-site residents), but it has not identified any potentially feasible alternatives that would avoid any of the other significant and unavoidable impacts. Furthermore, although the Reduced Intensity Alternative was initially determined to be *potentially* feasible (subject to further review as the CEQA process proceeded), the City has now determined that the Reduced Intensity is not feasible, for the specific economic, social, environmental, technological, legal or other considerations set forth in section VIII.B.2.a.(ii) above. Under CEQA, “the decision makers may reject as infeasible alternatives that were identified in the EIR as potentially feasible.” (*San Diego Citizenry Group v. County of San Diego* (2013) 219 Cal.App.4th 1, 18.)

The City certifies that it has considered the information on alternatives provided in the EIR and in the record, and finds that, as described in the EIR and for the reasons identified in Section VIII above, there are no feasible alternatives that would avoid any of the above-listed significant and unavoidable impacts.

### **Overriding Considerations**

The City finds that notwithstanding the disclosure of the above significant unavoidable impacts, there are specific overriding economic, social, technological, and other reasons for approving the proposed Project. Those reasons are as follows:

- The City finds that each of the specific economic, legal, social, technological, environmental, and other considerations and the benefits of the Project separately and independently outweigh the significant, adverse impacts and is an overriding consideration independently warranting approval. The remaining significant adverse impacts identified above are acceptable in light of each of the benefits of the Project.
- The Project will revitalize a currently underutilized City-owned property adjacent to Levi's Stadium and the Convention Center by creating a dynamic, "live-work and play" City Center, incorporating retail, food, beverage and entertainment, residential, and office uses that support the Convention Center, hotels, restaurants, and Levi's Stadium and encourage new services to support the daily business activity in the area.
- The Project will allow the City to develop an approximately 31-acre community park, and a new network of pedestrian and bicycle trails to connect local residents and visitors to multiple kinds of recreation and area-wide activity.
- The Project will produce in excess of \$114 million in annual revenues for local jurisdictions at project completion from property taxes, retail sales taxes, hotel taxes, and ground rent. These revenues include annual revenues to the City of Santa Clara associated of more than \$20 million (net of costs) at completion of Phase 2, and \$41 million at project completion. Annual revenues to the County of Santa Clara from the Project will be \$17 million upon project completion.
- The Project will produce an average of approximately 1,400 new construction jobs during the peak three years of construction, and average more than 700 new construction jobs per year for 15 years. This will result in total payments of \$1.8 billion of wages and benefits to construction workers.
- The Project will promote environmental sustainability, transportation efficiency, greenhouse gas reduction, and stormwater management using green technology.
- The Project will provide new development in an already urbanized area where public services are available, including utilities, a well-developed network of roadways and where public transit is immediately adjacent to the site. New practices and standards of sustainability, relying on both current and future technologies, are applied to the project and will enable the most efficient use of resources.

On balance, the City finds that there are specific considerations associated with the Project that serve to override and outweigh the Project's significant unavoidable environmental impacts. Therefore, the significant unavoidable environmental impacts associated with the Project are considered acceptable.

As the CEQA Lead Agency for the proposed action, the City has reviewed the Project description and the EIR and fully understands the Project proposed by the applicant. Based on the entire record before the City, and having considered the unavoidable adverse impacts of the Project, the City hereby determines that all feasible mitigation has been adopted to reduce the potentially significant impacts identified in the EIR, and that no additional feasible mitigation is available to further reduce significant impacts. The City finds that economic, social, technological, and other considerations of the Project outweigh the unavoidable adverse impacts described above. Further, the City finds that each of the separate benefits of the Project is hereby determined to be, in itself and independent of the other Project benefits, a basis for overriding all unavoidable environmental impacts identified in the EIR and in these Findings. In making this finding, the City has balanced the benefits of the Project against its unavoidable environmental impacts and has indicated its willingness to accept those risks.