

MISSION POINT PROJECT FINAL ENVIRONMENTAL IMPACT REPORT

STATE CLEARINGHOUSE No.

2018072068

PLANNING/CEQA FILE No.

PLN2017-12924, PLN2018-13400, PLN21-15386, and PLN21-15387

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APRIL 2024



ICF. 2024. Mission Point Project Final Environmental Impact Report. April.
(ICF 103980.0.001.) San Francisco, CA. Prepared for the City of Santa Clara,
Santa Clara, CA.

Contents

Chapter 1	Introduction	1-1
	EIR Process Following Release of the Draft EIR	1-1
	Project Description	1-1
	Significant and Unavoidable Environmental Impacts.....	1-2
	Significant and Unavoidable Project-Level Impacts.....	1-2
	Significant and Unavoidable Cumulative Impacts	1-3
	Project Alternatives	1-3
	Purpose of This Responses-to-Comments Document.....	1-5
	How to Use This Report.....	1-5
Chapter 2	List of Commenters	2-1
Chapter 3	Response to Comments.....	3-1
	Introduction.....	3-1
	Responses to Written Comments	3-1
	Public Agencies	3-2
	Organizations	3-68
Chapter 4	Revisions to the Draft EIR.....	4-1
	General Revisions to the Draft EIR	4-1
	Executive Summary.....	4-1
	Chapter 1, Introduction	4-4
	Chapter 2, Project Description.....	4-4
	Chapter 3, Environmental Impact Analysis.....	4-9
	Section 3.1, Land Use and Planning	4-9
	Section 3.2, Transportation	4-12
	Section 3.3, Air Quality	4-14
	Section 3.4, Greenhouse Gas Emissions	4-15
	Section 3.5, Energy.....	4-17
	Section 3.6, Noise	4-19
	Section 3.7, Cultural Resources	4-23
	Section 3.8, Biological Resources.....	4-23
	Section 3.9, Geology and Soils	4-27
	Section 3.10, Hydrology and Water Quality	4-29
	Section 3.11, Hazards and Hazardous Materials	4-32
	Section 3.13, Public Services and Recreation	4-37
	Section 3.15, Utilities and Service Systems.....	4-37
	Chapter 5, Alternatives	4-40

Attachment 1 Errata to Kylli Mission Point Mixed-Use Development Transportation Analysis

Attachment 2 Mission Point Project Revised Substation Design and Transmission Lines

EIR Process Following Release of the Draft EIR

A Draft Environmental Impact Report (Draft EIR), pursuant to the California Environmental Quality Act (CEQA) (Public Resources Code [PRC] Section 21000 et seq.), was prepared by the City of Santa Clara (City) as the Lead Agency under CEQA to disclose the potential environmental effects of the Mission Point Project (Project). The Draft EIR includes a description of the Project, an assessment of its potential effects, a description of mitigation measures to reduce significant effects that were identified, conclusions as to whether potential significant impacts could be avoided or reduced to less than significant by recommended mitigation measures, and consideration of alternatives that could address significant environmental impacts. The Draft EIR was released for public review on November 17, 2023, for a 46-day review period that ended on January 2, 2024. During this review period, the document was reviewed by various State of California (State), regional, and local agencies as well as interested organizations and individuals. Comment letters on the Draft EIR were received from seven agencies and one organization. Please see Chapter 2, *List of Commenters*, for a listing of all the agencies and organizations that commented on the Draft EIR.

This document responds to written comments on the Draft EIR that were raised during the public review period; it contains revisions to correct, clarify, and amplify the Draft EIR. The responses and revisions in this document clarify, substantiate, and confirm the analysis contained in the Draft EIR. No new significant environmental impacts, no new mitigation measures, no new feasible Project alternatives substantially different from those previously analyzed, and no substantial increases in the severity of previously identified impacts have been identified from comments received or as a result of a response to those comments. Although certain changes have been made in this document, those changes do not result in significant new information being added to the Draft EIR. The public had a meaningful opportunity to comment on potential substantial adverse environmental impacts, feasible mitigation, and alternatives. Thus, the City is not required to recirculate the Draft EIR, per PRC Section 21092.1 and State CEQA Guidelines Section 15088.5.

Together, the previously released Draft EIR and this response-to-comments document constitute the Final Environmental Impact Report (Final EIR). As the Lead Agency, the City must certify the Final EIR before action can be taken on discretionary approvals required for the Project. Certification requires the Lead Agency to find that the Final EIR complies with CEQA. The Final EIR was presented to, reviewed by, and considered by the decision-making body of the Lead Agency prior to its approving the Project and reflects the independent judgment and analysis of the decision-making body (State CEQA Guidelines Section 15090).

Project Description

Kylli, Inc. (Project Sponsor), the U.S. real estate subsidiary of Genzon Investment Group, proposes a mixed-use development on a 48.6-acre site (Project site) in Santa Clara, California. The Project site is currently developed with four light industrial buildings, totaling approximately 142,050 gross square feet (gsf), on the northern portion of the site; the buildings were constructed in the late 1970s. A paved surface parking lot south of Democracy Way with approximately 5,081 parking spaces is also on the Project site. The

Project Sponsor currently occupies one of the buildings on the Project site; the other buildings are vacant. The current primary use for the Project site is temporary event parking for Levi's Stadium, which uses 3,300 parking spaces.¹ The rest of the parking spaces are used by Amazon as training grounds for drivers. The Project site is designated in the City of Santa Clara 2010–2035 General Plan (General Plan) as High-Intensity Office/Research and Development (R&D).² The City's zoning code currently designates the Project site as Light Industrial (ML).

If approved by the City Council and applicable regulatory agencies, the Project would involve demolishing existing office buildings and parking lot establishing a new mixed-use neighborhood. The existing General Plan designation of High-Intensity Office/R&D would be changed to Urban Center Mixed Use, and the existing zoning would be changed from ML to Planned Development (PD), thereby providing a transit-oriented “live, work, socialize, and recreate” environment.

The Project would include up to 4,913,000 gsf of new development, consisting of approximately 1.8 million gsf of residential uses (up to 1,800 units), approximately 3 million gsf of office/ R&D³ space, approximately 100,000 gsf of neighborhood retail uses, and approximately 10,000 gsf of childcare facilities, along with 3,000 gsf of community space. An approximately 27,000 gsf electrical substation would also be constructed to support the Project.⁴ Parking would be provided in a mix of subsurface and aboveground parking facilities. In addition, the Project would include approximately 16 acres of publicly accessible open space at grade level;⁵ approximately 10 acres of private open space for residential and office uses;⁶ new bicycle, pedestrian, and vehicular circulation routes; and upgraded and expanded infrastructure.

Significant and Unavoidable Environmental Impacts

Section 21100(b)(2)(A) of the Public Resources Code and State CEQA Guidelines Section 15126.2(c) require an EIR to identify any significant environmental effects that cannot be avoided if a project is implemented. Most impacts identified for the Project would either be less than significant or reduced to a less-than-significant level with identified mitigation measures. Chapter 4, *Other CEQA Considerations*, of the Draft EIR summarizes the significant and unavoidable impacts that would result from implementation of the Project.

Significant and Unavoidable Project-Level Impacts

- **Cumulatively Considerable Net Increase in Criteria Pollutants.** The Project would result in a cumulatively considerable net increase in a criteria pollutant for which the Project region is classified

¹ To prepare the site for parking use, in 2011, the previous owner demolished six single-story office/industrial buildings that were on the Project site.

² City of Santa Clara. 2010. *City of Santa Clara 2010–2035 General Plan*. Figure 5.2-1, page 93. Available: <https://www.santaclaraca.gov/home/showpublisheddocument/56139/636619791319700000>. Accessed: April 18, 2022.

³ Although the end uses are not yet determined, the Project may include lab/R&D uses; for CEQA purposes, up to 30 percent laboratory use has been assumed. All future references to “office” include permitted lab/R&D uses.

⁴ Details regarding the substation are subject to change; Silicon Valley Power will coordinate regarding the precise size, dimensions, and layout during the design phase for the substation.

⁵ This area includes approximately 10 acres of parkland as well as bicycle and pedestrian circulation elements, retail terraces, landscaped gardens, planters, plazas, bio-retention areas, and a playground.

⁶ Because the private open space may be provided at the podium level, not all of the acreages will add up. Additional private open space will be provided on terraces, balconies, and rooftops. These spaces are not included as part of the calculations.

as a nonattainment area under an applicable federal or State ambient air quality standard (Impact AQ-2). Mitigation Measures AQ-2.1, Use Clean Diesel-Powered or Electric Equipment during Construction to Control Construction-related Emissions; AQ-2.2, Implement Bay Area Air Quality Management District Basic Construction Mitigation Measures to Reduce Dust Emissions; AQ-2.3, Require Low-VOC Coatings during Project Construction and Operation; AQ-2.4, Use Low-VOC Cleaning Supplies; AQ-2.5, Replace Gas Powered Landscape Equipment with Zero-Emission Landscape Equipment; and AQ-2.6, U.S. Environmental Protection Agency Tier 4 Final Stationary Emergency Generators, would be implemented but would not reduce the impact to less than significant.

- **Substantial Pollutant Concentrations.** The Project would expose sensitive receptors to substantial pollutant concentrations (Impact AQ-3). Mitigation Measures AQ-2.1 through AQ-2.6 would be implemented but would not reduce the impact to less than significant.
- **Construction Noise.** The Project would generate a substantial temporary increase in ambient noise levels in the vicinity of the Project site due to construction activities; such noise levels would exceed standards established in a local general plan or noise ordinance or applicable standards of other agencies (Impact NOI-1). Mitigation Measure NOI-1.1, Construction Noise Reduction Control Plan, would be implemented but would not reduce the impact to less than significant.
- **Ground-borne Vibration and Noise Levels.** The Project would generate excessive ground-borne vibration or ground-borne noise levels (Impact NOI-3). Mitigation Measure NOI-3.1, Pile Driving Vibration Reduction Plan, would be implemented but would not reduce the impact to less than significant.

Significant and Unavoidable Cumulative Impacts

- **Cumulatively Considerable Net Increase in Criteria Pollutants.** The Project in combination with other foreseeable development in the vicinity would result in a cumulatively considerable net increase in criteria pollutants for which the Project region is classified as a nonattainment area under an applicable federal or State ambient air quality standard (Impact C-AQ-2). Mitigation Measures AQ-2.1 through AQ-2.6 would be implemented but would not reduce the impact to less than significant.
- **Cumulative Substantial Pollutant Concentrations.** The Project in combination with other foreseeable development in the vicinity would expose sensitive receptors to substantial pollutant concentrations (Impact C-AQ-3). Mitigation Measures AQ-2.1, AQ-2.2, and AQ-2.6 would be implemented but would not reduce the impact to less than significant.
- **Cumulative Construction Noise.** The Project in combination with other foreseeable development in the vicinity would generate a substantial temporary increase in ambient noise levels in excess of standards established in a local general plan or noise ordinance or applicable standards of other agencies (Impact C-NOI-1). Mitigation Measure NOI-1.1 would be implemented but would not reduce the impact to less than significant.
- **Cumulative Ground-borne Vibration and Noise Levels.** The Project in combination with other foreseeable development in the vicinity would generate excessive ground-borne vibration or ground-borne noise levels (Impact C-NOI-3). Mitigation Measure NOI-3.1 would be implemented but would not reduce the impact to less than significant.

Project Alternatives

In accordance with CEQA and the State CEQA Guidelines, an EIR must “describe a range of reasonable alternatives to the project, or to the location of the project, that would feasibly attain most of the basic

objectives of the project but avoid or substantially lessen any of the significant effects of the project and evaluate the comparative merits of the alternatives” (State CEQA Guidelines Section 15126.6[a]). The EIR discusses and analyzes the No Project Alternative – Continuation of Existing Uses, No Project Alternative – Code Compliant, Reduced Scale Alternative, Reduced Office/Increased Housing Alternative, and four Construction Sequence Alternatives. Furthermore, the EIR analyzes the impacts of the alternatives and compares the significant impacts of the alternatives to the significant environmental impacts of the Project, as proposed. These alternatives are described in more detail in Chapter 5, *Alternatives*, of the Draft EIR.

- **No Project Alternative:** The No Project Alternative is provided in this Draft EIR to compare the impacts of the Project with what would be reasonably expected to occur in the foreseeable future if the Project were not approved (State CEQA Guidelines Section 15126.6[e][1]). Under the No Project Alternative, no additional construction would occur at the Project site. The existing 142,050 gsf of light industrial building space would be occupied with tenants permitted under the existing zoning. The onsite features associated with the buildings would also remain. The existing paved surface parking lot south of Democracy Way, with approximately 5,081 parking spaces, would continue to operate as it does currently (i.e., primarily temporary parking for events at Levi’s Stadium, which uses 3,300 parking spaces; the rest of the parking spaces would continue to be used by Amazon as training grounds for drivers).
- **Code Compliant Alternative:** The Code Compliant Alternative, the second No Project Alternative, 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 zoning code, consistent with available infrastructure and community services. Under the Code Complaint Alternative, the Project would be implemented subsequent to the City’s zoning code update and would not include housing. After the City’s zoning code update, the Project site would be designated as High-Intensity Office/R&D in the City’s General Plan. This designation allows “high-rise or campus-like developments for corporate headquarters, R&D, and supporting uses, with landscaped areas for employee activities.” Permitted uses include offices and prototype R&D uses with a maximum floor area ratio (FAR) of 2.00. Therefore, the Project site could be developed with up to approximately 4.2 million gsf of office/R&D space. The City’s zoning code currently designates the Project site as ML. However, with incorporation of the City’s zoning code update, the Project site would be rezoned as High-Intensity Office/R&D (HO-RD).
- **Reduced Scale Alternative:** The Reduced Scale Alternative would proportionately reduce development on the Project site by 30 percent compared to the Project. This alternative would result in up to 3,440,000 gsf of new development, consisting of approximately 1,260,000 gsf of residential uses (up to 1,260 units) and approximately 2,180,000 gsf of office/R&D space, along with neighborhood retail uses, other facilities, and community space. In addition, the amount of publicly accessible open space and private open space would also be reduced by 30 percent, resulting in approximately 7 acres of public parkland, 4 acres of publicly accessible open space, and 7 acres of other private open space for residential and office uses. Likewise, the number of parking spaces included as part of this alternative would be reduced to 6,300.
- **Reduced Office/Increased Housing Alternative:** Under the Reduced Office/Increased Housing Alternative, overall office square footage would be reduced and the overall number of housing units would increase. This would be accomplished by removing all 789,000 gsf of office/R&D space in Area C and replacing it with 800 multi-family housing units. The substation would be relocated to Area B. The retail uses, amenities, open space, and substation in Area C would all remain the same as under the Project. In addition, all other land use and development assumptions for Areas A, B, and D would

remain the same as under the Project. Thus, the Reduced Office/Increased Housing Alternative would result in up to 4,913,000 gsf of new development, consisting of up to 2,600 housing units, approximately 2,211,000 gsf of office/R&D space, approximately 100,000 gsf of neighborhood retail uses, and approximately 10,000 gsf of childcare facilities, along with 3,000 gsf of community space.

- **Construction Sequence Alternatives:** The Construction Sequence Alternatives were developed to modify the order in which construction in the four areas on the Project site could occur. The Construction Sequence Alternatives consist of:
 - Simultaneous project construction,
 - No overlapping construction,
 - Residential uses constructed first, and
 - Residential uses constructed last.

All other Project characteristics and assumptions would remain the same under each Construction Sequence Alternative as under the Project, including total development potential, types of land uses, parking, open space, access, and circulation.

Purpose of This Responses-to-Comments Document

Under CEQA, the City is required, after completion of a Draft EIR, to consult with and obtain comments from public agencies having jurisdiction by law with respect to the Project and provide the general public with an opportunity to comment on the Draft EIR. As the Lead Agency, the City is also required to respond to significant environmental issues raised in the review and consultation process.

This responses-to-comments document has been prepared to respond to public agency and general public comments received on the Draft EIR, which was circulated for a 46-day public review period between November 17, 2023, and January 2, 2024. This document contains the public comments received on the Draft EIR, written responses to those comments, and changes made to the Draft EIR in response to the comments.

The responses-to-comments document provides clarification and further substantiation for the analysis and conclusions presented in the Draft EIR. In addition, the responses correct and remedy minor technical mistakes or errors identified in the Draft EIR. The purpose of the responses-to-comments document is to address concerns raised about the environmental effects of the Project and the City's CEQA process. Section 15088 of the State CEQA Guidelines stipulates that responses should pertain to major or significant environmental issues raised by commenters. Comments that express an opinion about the merits of the Project or alternatives rather than raise questions about environmental impacts or mitigation measures and alternatives, the adequacy of the Draft EIR, or the Project's compliance with CEQA are not addressed in detail in this document. In addition, this document does not provide a response regarding financial concerns or Project designs that would not have a physical environmental impact. As explained above, the previously released Draft EIR and this responses-to-comments document together constitute the Final EIR.

How to Use This Report

This document addresses substantive comments received during the public review period and consists of four sections:

- *Chapter 1 – Introduction.* Reviews the purpose and contents of the responses-to-comments document.

- *Chapter 2 – List of Commenters.* Lists the public agencies and organizations that submitted comments on the Draft EIR.
- *Chapter 3 – Responses to Comments.* Contains each comment letter and written response to the individual comments. In Chapter 3, specific comments within each comment letter have been bracketed and enumerated in the margin of the letter. Each commenter has been assigned a discrete comment letter number, as listed in Chapter 2. Responses to each of these comments follow each comment letter reproduced in Chapter 3. For the most part, the responses provide explanatory information or additional discussion of text contained in the Draft EIR. In some instances, the response supersedes or supplements the text of the Draft EIR for accuracy or clarification. New text that has been added to the Draft EIR is indicated with underlining. Text that has been deleted is indicated with ~~striketrough~~.
- *Chapter 4 –Revisions to the Draft EIR.* Provides a comprehensive listing text changes to the Draft EIR that resulted from responding to comments as well as staff-initiated changes.

Chapter 2

List of Commenters

This chapter provides a list of the agencies and organizations that commented on the Draft EIR (Table 2-1). No individuals submitted comments on the Draft EIR. The comment letters submitted and the responses to each comment are included in Chapter 3, *Responses to Comments*. The comment letters have been numbered as shown in Table 2-1; these include letters and emails. The individual comments within each letter have been numbered in the left margin. The location of the responses for each letter is indicated in Table 2-1.

Table 2-1. List of Commenters and Location of Responses

Letter #	Commenter (Date)	Location of Comment Letter and Response in Chapter 3 (page #)
Public Agencies		
A1	City of San José Airport Planning and Development (December 12, 2023)	3-3
A2	San Francisco Public Utilities Commission (December 19, 2023)	3-15
A3	Department of Toxic Substances Control (December 21, 2023)	3-37
A4	Santa Clara Unified School District (December 28, 2023)	3-45
A5	California Department of Transportation (January 2, 2024)	3-50
A6	Santa Clara Valley Transportation Authority (January 2, 2024)	3-55
A7	Santa Clara Valley Water District (January 5, 2024 [late comment])	3-60
Organizations		
O1	Adams Broadwell Joseph & Cardozo (January 2, 2024)	3-69

Introduction

Written comments on the Mission Point Project (Project) Draft Environmental Impact Report (EIR) are reproduced in this section. Comments received were provided to the City of Santa Clara (City) by letter or email. Discrete comments from each letter and hearing are denoted in the margin by a vertical line and number. Responses immediately follow each comment letter and are enumerated to correspond with the comment number. For example, Response A2.1 refers to the response for the first comment in Letter A2. Letters from agencies are denoted with an “A,” and letters from organizations are denoted with an “O.” The text at the beginning of each response provides a summary of each distinct comment. In addition, edits made to the Draft EIR in response to certain comments are provided in this section, directly below the response. New text is underlined, and deleted text is shown with ~~striking through~~. These revisions are also reproduced in Chapter 4 of this document, *Revisions to the Draft EIR*. Please refer to Chapter 4 for a complete list of staff-initiated changes and revisions to the Draft EIR

Responses to Written Comments

Comment letters and responses begin on the following page.

Public Agencies

Comment Letter A1—City of San Jose Airport Planning and Development, Ryan Sheelen (letter dated December 12, 2023)



Letter A1



December 12, 2023

Via E-Mail

City of Santa Clara Planning Division
Rebecca Bustos, Principal Planner
1500 Warburton Avenue
Santa Clara, CA 95050

Subject: City of Santa Clara Draft EIR for Mission Point Project (PLN2017-12924, PLN2018-13400, PLN21-15386, and PLN-15387)

Dear Ms. Bustos,

A1.1 The City of San Jose Airport Department appreciates the opportunity to review the aviation-related information in the subject CEQA document and offers the following comments for consideration.

Section 3.6 (Noise)

A1.2 **1. Page 3.6-8 and 9, Santa Clara County Airport Land Use Commission**

This section referencing the Comprehensive Land Use Plan (CLUP) may be removed as the project site is not located within the SJC CLUP Airport Influence Area (AIA) and CLUP policies do not apply to the project.

2. Page 3.6 – 41, Impact NOI-4: Aircraft Noise

“However, the Project site does not fall within the 65 dBA CNEL noise contour (i.e., the lowest noise contour for aircraft noise) for San José International Airport and thus would not be exposed to aircraft noise above 65 dBA (Figure 3.1-4).”

A1.3 *There are several references, including Figure 3.1-4, that incorrectly cites the Santa Clara County Comprehensive Land Use Plan, which utilizes outdated 2027 Aircraft Noise Contours. They have been superseded by the 2037 noise contours for the San Jose Airport Master Plan Environmental Impact Report. These contours are located at https://www.flysanjose.com/sites/default/files/noise/2037_CNEL.pdf. Given this however, there are no changes to the relationship between the project site and the 65dBA contour.*

Section 3.11 (Hazards and Hazardous Materials)

The analysis and discussion regarding FAA Part 77 does not include a 100:1 obstruction notification surface required under § 77.9; any obstructions exceeding this surface must file with the FAA for airspace review, regardless of the Part 77 surface above the project site. Additionally, the project site is outside of the Santa Clara County Airport Land Use Commission (ALUC) Airport Influence Area (AIA), and policies contained in the ALUC Comprehensive Land Use Plan (CLUP) do not apply. Airport suggested edits in red below.

A1.4 **1. Page 3.11-3, Federal Aviation Regulations, Part 77**

“FAR Part 77 requires FAA notification of any construction or alteration located within an extended zone defined by an imaginary slope radiating outward for several miles from an airport’s runways or which would otherwise stand more than 200 feet above ground level.”

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A1.5	<p>2. Page 3.11-7, Santa Clara County Airport Land Use Commission</p> <p><i>This section referencing the Comprehensive Land Use Plan (CLUP) may be removed as the project site is not located within the SJC CLUP Airport Influence Area (ALA) and CLUP policies do not apply to the project.</i></p>
A1.6	<p>3. Page 3.11-9, City of Santa Clara 2010-2035 General Plan</p> <ul style="list-style-type: none"> • <i>Policy 5.10.5-P29: Continue to refer proposed projects located within the Airport Influence Area to the Airport Land Use Commission.</i> • <i>Policy 5.10.5-P30: Review the location and design of development within Airport Land Use Commission jurisdiction for compatibility with the Airport Land Use Compatibility Plan.</i> • <i>Policy 5.10.5-P32: Encourage all new projects within the Airport Influence Area to dedicate an aviation easement.</i> <p><i>The project site is located outside of the Airport Influence Area, and these policies do not apply.</i></p>
A1.7	<p>4. Pages 3.11-13 and 14, Aviation Hazards</p> <p><i>Airport suggests replacing this paragraph with the below:</i></p> <p><i>Under Federal Aviation Regulations, Part 77, “Objects Affecting Navigable Airspace”, any proposed structure on the project site exceeding approximately 168 feet above ground level (AGL) at the South-East portion of the site, and 185 feet AGL at the North-West portion of the site would require submittal to the FAA for airspace safety review.</i></p>
A1.8	<p>5. Pages 3.11-21 and 22, Impact HAZ-5: Aviation Hazards</p> <p><i>Paragraph 1 may be removed as it copies a paragraph from an earlier section. Airport recommends the following adjustments to the following paragraphs.</i></p> <p><i>“The tallest buildings proposed for the Project would have a height of up to 202 feet above ground level. The ground surface elevation of the Project site is 10 to 18 feet NAVD 88 and the MSL elevation in the vicinity of the Project site is approximately 3.4 feet NAVD 88; therefore, the proposed buildings on the Project site could reach an elevation of approximately 217 feet MSL, which is well below the maximum building heights for the Project site, based on FAR Part 77, of approximately 350 to 380 feet MSL (see Figure 3.1-5 in Section 3.1, Land Use). Any proposed structure or building, including temporary construction cranes, on the project site exceeding approximately 168 feet above ground level (AGL) at the South-East portion of the site, and 185 feet AGL at the North-West portion of the site requires submittal to the FAA for airspace safety review. For each building with a maximum proposed height exceeding 168 feet AGL, permittee shall obtain from the FAA a “Determination of No Hazard” for each rooftop corners and any additional higher points. The heights of the cranes that would be used during construction are unknown at this time but would be well below the maximum building heights for the Project site (350 to 380 feet MSL), based on FAR Part 77.</i></p> <p><i>Structures in any location that exceed 200 feet above the ground level, including construction cranes, would require FAA notification for construction or alteration. Compliance with conditions set forth by the FAA in its determinations FAR Part 77 and the CLUP for San José International Airport would ensure that the Project would not create aviation hazards. Therefore, potential construction impacts of the Project related to aviation hazards would be less than significant.</i></p> <p><i>As discussed above, the proposed buildings on the Project site could reach an elevation of approximately 217 feet MSL, which is well below the maximum allowable building height for the Project site, based on FAR Part 77, of approximately 350 to 380 feet MSL. Compliance with FAR Part 77 and the CLUP for San José International Airport would ensure that the Project would be reviewed by the FAA, and that any recommendations from the FAA for alteration of the Project’s designs, markings, or lighting would be</i></p>



A1.8
cont'd

implemented to ensure that operation of the Project would not create aviation hazards. Therefore, potential operational impacts of the Project related to aviation hazards would be *less than significant*."

A1.9

6. Page 3.11-22, Footnote #34

"A previous version of the Project from 2018 included much taller buildings that conflicted with FAA height limits. This previous version of the Project was the subject of the NOP comment discussed at the beginning of this chapter regarding building height. The Project was redesigned to its current form with reduced building heights that are below FAA limit."

The Airport concurs with applicant that the revised building heights are below the Part 77 and Terminal Instrument Procedures (TERPS) surfaces for the project site. However, FAA Determinations of No Hazard will still be required for any obstructions that exceed the 100:1 Notification Surface as described in comment #4 and #5 in compliance with 19 CFR Part 77 Part "Objects Affecting Navigable Airspace".

A1.10

For any questions on the above please don't hesitate to reach out to me at (408) 392-1193, rsheelen@sjc.org or John Wilson at (408) 392-1136, jwilson@sjc.org.

/s/

Ryan Sheelen
Senior Planner
City of San Jose Airport Planning & Development



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Response to Comment Letter A1—City of San José Airport Planning and Development, Ryan Sheelen (letter dated December 12, 2023)

A1.1 The comment expresses appreciation for the opportunity to review the Draft EIR.

The comment does not contain questions or concerns regarding the adequacy of the Draft EIR analysis. No revisions to the Draft EIR are required. No substantive response is required.

A1.2 The comment states that the text in Section 3.6, *Noise*, of the Draft EIR referencing the Comprehensive Land Use Plan (CLUP) may be removed, noting that the Project site is not located within the Airport Influence Area (AIA) of the Norman Y. Mineta San José International Airport CLUP and that CLUP policies do not apply to the Project. The background information was provided in the EIR because the Project site is adjacent to the border of the AIA, at Old Ironsides Drive; the commenter is correct that the Project site is not located within the AIA.¹ In response to, and as suggested by, this comment, the section titled “Santa Clara County Airport Land Use Commission” in Section 3.6, *Noise*, of the Draft EIR, on pages 3.6-8 and 3.6-9, has been revised, as follows. In addition, similar text has been revised in Section 3.1, *Land Use and Planning*, per this comment on pages 3.1-8, 3.1-9, 3.1-15, 3.1-17, and 3.1-19, as shown in Chapter 4, *Revisions to the Draft EIR*, of this Final EIR; however, please note that some information about the CLUP has been retained in Section 3.1, *Land Use and Planning*, for background information and context relevant to land use planning. This revision does not change the analysis or conclusions provided in the Draft EIR.

~~Santa Clara County Airport Land Use Commission~~

~~The Santa Clara Airport Land Use Commission (ALUC) was established to ensure appropriate development of areas surrounding public airports in Santa Clara County. Its intent is to minimize the public’s exposure to excessive noise and safety hazards and ensure that the approaches to airports are kept clear of structures that could pose an aviation hazard. The ALUC formulates and maintains Comprehensive Land Use Plans (CLUPs) for airports within the county. The ALUC reviews general plans and applicable specific plans for the county as well as the cities of San José and Santa Clara to determine if the plans and regulations are consistent with the policies of the CLUP for San José International Airport. The ALUC also reviews proposed amendments to general plans, specific plans, and zoning and building regulations that may affect land uses in the Airport Influence Area (AIA) of San José International Airport to determine if the proposed amendments are consistent or inconsistent with the CLUP.~~

~~The CLUP for San José International Airport includes several policies that pertain to noise compatibility and are relevant to the Project.⁴~~

- ~~• *Policy N-1.* The CNEL method of representing noise levels shall be used to determine if a specific land use is consistent with the CLUP.~~
- ~~• *Policy N-2.* In addition to the other policies herein, the noise compatibility policies presented in Table 4-1 [Table 3.6-5, below] shall be used to determine if a specific land use is consistent with this CLUP.~~

¹ Santa Clara County Airport Land Use Commission. 2016. *Comprehensive Land Use Plan, Santa Clara County*. Available: https://stgenpln.blob.core.windows.net/document/ALUC_SJC_CLUP.pdf#page=38. Accessed: January 18, 2024.

- ~~Policy N-3. Noise impacts shall be evaluated according to the Aircraft Noise Contours presented in Figure 5 [2022 Aircraft Noise Contours].~~
- ~~Policy N-4. No residential or transient lodging construction shall be permitted within the 65 dB CNEL contour boundary unless it can be demonstrated that the resulting interior sound levels will be less than 45 dB CNEL and no outdoor patios or outdoor activity areas are associated with the residential portion of a mixed-use residential project or a multi-unit residential project. (Soundwall noise mitigation measures are not effective in reducing noise generated by aircraft flying overhead.)~~
- ~~Policy N-5. All property owners within the AIA who rent or lease their property for residential use shall include in their rental/lease agreement a statement advising the tenant that he or she is living within a high noise area and the exterior noise level is predicted to be greater than 65 dB CNEL in a manner that is consistent with current State law, including Assembly Bill 2776 (2002).~~
- ~~Policy N-6. Noise level compatibility standards for other types of land uses shall be applied in the same manner as the above residential noise level criteria. Table 4-1 [Table 3.6-5, below] presents acceptable noise levels for other land uses in the vicinity of the airport.~~
- ~~Policy N-7. Single event noise levels from single aircraft overflights are also to be considered when evaluating the compatibility of highly noise sensitive land uses such as schools, libraries, outdoor theaters, and mobile homes. Single event noise levels are especially important in the areas that are regularly overflown by aircraft but may not produce significant CNEL contours, such as the down wind segment of the traffic pattern and airport entry and departure flight corridors.~~

The CLUP also summarizes land use compatibility standards from the General Plan for the impact area of San José International Airport, as shown in Table 3.6-5.

Table 3.6-5. CLUP Land Use Compatibility Standards

Land Use Category	CNEL					
	55-60	60-65	65-70	70-75	75-80	80-85
Residential (low density single family, duplex, mobile homes)	*	**	***	****	****	****
Residential (multi-family, condominiums, townhouses)	*	**	***	****	****	****
Transient lodging (motels, hotels)	*	*	**	****	****	****
Schools, libraries, indoor religious assemblies, hospitals, nursing homes	*	***	****	****	****	****
Auditoriums, concert halls, amphitheaters	*	***	***	****	****	****
Sports arenas, outdoor spectator sports, parking	*	*	*	**	***	****
Playgrounds, neighborhood parks	*	*	***	****	****	****
Golf courses, riding stables, water recreation areas, cemeteries	*	*	*	**	***	****
Office buildings, business commercial and professional, retail	*	*	**	***	****	****
Industrial, manufacturing, utilities, agriculture	*	*	*	***	***	****

~~* Generally Acceptable: Specified land use is satisfactory, based on the assumption that any buildings involved are of normal conventional construction, without special noise insulation requirements. Mobile homes may not be acceptable in these areas. Some outdoor activities may be adversely affected.~~

~~**Conditionally Acceptable: New construction or development should be undertaken only after a detailed analysis of the noise reduction requirements is made and needed noise insulation features are included in the design. Outdoor activities may be adversely affected.~~

~~Residential: Conventional construction, but with closed windows and fresh air supply systems or air-conditioning, will normally suffice.~~

~~*** Generally Unacceptable: New construction or development should be discouraged. If new construction or development does proceed, a detailed analysis of the noise reduction requirements must be made and needed noise insulation features must be included in the design. Outdoor activities are likely to be adversely affected.~~

~~**** Unacceptable: New construction or development shall not be undertaken.~~

⁴—~~Santa Clara County Airport Land Use Commission. 2016. *Norman Y. Mineta San José International Airport Comprehensive Land Use Plan*. Available: https://stgenpln.blob.core.windows.net/document/ALUC_SJC_CLUP.pdf. Accessed: August 22, 2023.~~

- A1.3 The comment states that Figure 3.1-4, cited in Section 3.6, *Noise*, of the Draft EIR and several other references incorrectly cite the Santa Clara County CLUP and depict outdated 2027 aircraft noise contours that have been superseded by the 2037 noise contours in the San José International Airport Master Plan Environmental Impact Report. The comment clarifies that there are no changes to the relationship between the Project site and the 65 dBA contour.

In response to this comment, in Section 3.6, *Noise*, of the Draft EIR, footnotes 10 and 28 on pages 3.6-12 and 3.6-41, respectively, are revised, as follows. In addition, similar text has been revised in Section 3.1, *Land Use and Planning*, per this comment on pages 3.1-8, 3.1-9, 3.1-15, 3.1-17, and 3.1-19, as shown in Chapter 4, *Revisions to the Draft EIR*, of this Final EIR.

~~Norman Y. Mineta San José International Airport. 2020. *2037 CNEL Contours Airport Master Plan*. Amended: April 28, 2020. Windus, Walter B. 2011. *Comprehensive Land Use Plan for San José International Airport*. Santa Clara County Airport Land Use Commission. Adopted: May 25, 2011. Amended: November 16, 2016.~~

Furthermore, the commenter correctly identifies that there are no changes to the relationship between the Project site and the 65 dBA contour because the Project site still falls outside of the 65 dBA noise contour. However, the 2037 noise contours in the San José International Airport Master Plan Environmental Impact Report show that the Project site also falls outside of the 60 dBA noise contour.² As a result, in Section 3.6, *Noise*, the fourth sentence in the second paragraph on page 3.6-12 of the Draft EIR has been revised, as follows:

However, the Project site is not within areas that are exposed to aircraft noise (i.e., above ~~60~~65 dBA) from San José International Airport (Figure 3.1-4).

Finally, the fourth sentence in the third paragraph on page 3.6-41 of the Draft EIR has been revised, as follows:

However, the Project site does not fall within the ~~60~~65 dBA CNEL noise contour (i.e., the lowest noise contour for aircraft noise) for San José International Airport and thus would not be exposed to aircraft noise above ~~60~~65 dBA (Figure 3.1-4).

² Norman Y. Mineta San José International Airport. 2020. *2037 CNEL Contours Airport Master Plan*. Amended: April 28, 2020.

These revisions do not change the analysis or conclusions provided in the Draft EIR.

- A1.4 This comment indicates that the Draft EIR analysis and discussion regarding Federal Aviation Administration (FAA) Part 77 does not include the 100:1 obstruction notification surface required under Section 77.9 and that any obstructions exceeding this surface must file with the FAA for airspace review, regardless of the Part 77 surface above the Project site. This comment also indicates the Project site is outside of the Santa Clara County Airport Land Use Commission (ALUC) AIA and that policies contained in the ALUC CLUP do not apply. This comment also suggested edits to page 3.11-3 of the Draft EIR.

In response to this comment, the following text has been revised on page 3.11-3 of Section 3.11, *Hazards and Hazardous Materials*, in the Draft EIR:

FAR Part 77 requires FAA notification of any construction or alteration *located within an extended zone defined by an imaginary surface radiating at 100:1 (horizontal:vertical) outward for several miles (20,000 horizontal feet) from an airport's runways or otherwise standing* more than 200 feet above ground level.

The Draft EIR acknowledges that the Project site is adjacent to but outside the AIA of San José International Airport on page 3.11-13 of Section 3.11, *Hazards and Hazardous Materials*.

In response to this comment, the following text has also been revised on pages 3.11-7 and 3.11-8 of Section 3.11, *Hazards and Hazardous Materials*, in the Draft EIR:

~~Santa Clara County Airport Land Use Commission~~

~~The Santa Clara Airport Land Use Commission (ALUC) was established to ensure appropriate development of areas surrounding public airports in Santa Clara County. Its intent is to minimize the public's exposure to excessive noise and safety hazards and ensure that the approaches to airports are kept clear of structures that could pose an aviation hazard. The ALUC formulates and maintains Comprehensive Land Use Plans (CLUPs) for airports within the county. The ALUC reviews general plans and applicable specific plans for the county as well as the cities of San José and Santa Clara to determine if the plans and regulations are consistent with the policies of the CLUP for San José International Airport. The ALUC also reviews proposed amendments to general plans, specific plans, and zoning and building regulations that may affect land uses in the Airport Influence Area (AIA) of San José International Airport to determine if the proposed amendments are consistent or inconsistent with the CLUP. The ALUC encourages local jurisdictions to submit referrals to the commission for developments that include the construction of structures that would be more than 200 feet above ground level to verify compliance with FAR Part 77 and ALUC policies.~~

These revisions do not change the analysis or conclusions provided in the Draft EIR.

- A1.5 This comment references the section titled "Santa Clara County Airport Land Use Commission" on page 3.11-7 of the Draft EIR and indicates that this section, regarding the CLUP, may be removed because the Project site is not located within the San José International Airport CLUP AIA and that CLUP policies do not apply to the Project.

See response to comment A1.4, above. These revisions do not change the analysis or conclusions provided in the Draft EIR.

- A1.6 This comment references the section titled “City of Santa Clara 2010–2035 General Plan” on page 3.11-9 of the Draft EIR and indicates that Santa Clara General Plan (General Plan) policies related to the AIA, ALUC, and CLUP do not apply because the Project site is outside the AIA.

In response to this comment, the following text has been revised on page 3.11-9 of Section 3.11, *Hazards and Hazardous Materials*, in the Draft EIR:

- ~~Policy 5.10.5-P29: Continue to refer proposed projects located within the Airport Influence Area to the Airport Land Use Commission.~~
- ~~Policy 5.10.5-P30: Review the location and design of development within Airport Land Use Commission jurisdiction for compatibility with the Airport Land Use Compatibility Plan.~~
- ~~Policy 5.10.5-P32: Encourage all new projects within the Airport Influence Area to dedicate an aviation easement.~~

These revisions do not change the analysis or conclusions provided in the Draft EIR.

- A1.7 This comment references the section titled “Aviation Hazards” on pages 3.11-13 and 3.11-14 of the Draft EIR and suggests replacing the paragraph with new text.

In response to this comment and the text revisions made in response to the comments above, the following text has been revised on pages 3.11-13 and 3.11-14 of Section 3.11, *Hazards and Hazardous Materials*, in the Draft EIR:

Airport-related hazards are generally associated with aircraft accidents, particularly during takeoff and landing. Other airport operation hazards include incompatible land uses, power transmission lines, wildlife hazards (e.g., bird strikes), and tall structures that penetrate the regulated surfaces surrounding an airport. The Project site is adjacent to but outside the AIA of San José International Airport (see Figure 3.1-3 in Section 3.1, *Land Use*). The Project would include utility work within Old Ironsides Drive, which is within the AIA of San José International Airport. The Project site is approximately 1 mile northwest of the nearest Airport Safety Zone of San José International Airport but not within areas that are exposed to aircraft noise (i.e., above 6560 decibels) (see Figure 3.1-4 in Section 3.1, *Land Use*).^{19a} The Project site is in an area where maximum building heights, based on FAR Part 77, range from approximately 350 feet above mean sea level (MSL) in the southeast portion of the Project site to approximately 380 feet MSL in the northwest portion of the Project site (see Figure 3.1-5 in Section 3.1, *Land Use*), as identified in the CLUP for San José International Airport.^{19b}

Under FAA Regulations, Part 77, any proposed structure on the Project site that could extend above an imaginary surface radiating at 100:1 (horizontal:vertical) from the runways of San José International Airport would require submittal to the FAA for airspace safety review. This imaginary surface extends from approximately 168 feet above ground level (AGL) at the southeast portion of the Project site to approximately 185 feet AGL at the northwest portion of the Project site.

^{19a} Norman Y. Mineta San José International Airport. 2020. 2037 CNEL Contours Airport Master Plan. Amended: April 28, 2020.

^{19b} Windus, Walter B. 2011. *Comprehensive Land Use Plan for San José International Airport*. Santa Clara County Airport Land Use Commission. Adopted: May 25, 2011. Amended: November 16, 2016.

These revisions do not change the analysis or conclusions provided in the Draft EIR.

- A1.8 This comment references the section titled “Impact HAZ-5: Aviation Hazards” on pages 3.11-21 and 3.11-22 of the Draft EIR and suggests that the first paragraph of this section may be removed because it copies a paragraph from an earlier section. Various revisions to the paragraphs that follow were recommended.

In response to this comment, the following text has been revised on pages 3.11-21 and 3.11-22 of Section 3.11, *Hazards and Hazardous Materials*, in the Draft EIR:

~~As discussed under *Environmental Setting*, above, the Project site is adjacent to but outside of the AIA for San José International Airport (see Figure 3.1-3 in Section 3.1, *Land Use*). The Project site is approximately 1 mile northwest of the nearest Airport Safety Zone of San José International Airport but not within areas that are exposed to aircraft noise (i.e., above 65 decibels) (see Figure 3.1-4 in Section 3.1, *Land Use*). The Project site is in an area where maximum building heights, based on FAR Part 77, range from approximately 350 feet MSL in the southeast portion of the Project site to approximately 380 feet MSL in the northwest portion of the Project site, as identified in the CLUP for San José International Airport (see Figure 3.1-5 in Section 3.1, *Land Use*).³¹~~

³¹ ~~Windus, Walter B. 2011. *Comprehensive Land Use Plan for San José International Airport*. Santa Clara County Airport Land Use Commission. Adopted: May 25, 2011. Amended: November 16, 2016.~~

Construction

Construction of the Project would include utility work within Old Ironsides Drive, which is within the AIA of San José International Airport; however, utility work would not create aviation hazards because it would not involve tall structures or other potential aviation hazards (e.g., reflective surfaces or lighting). The tallest buildings proposed for the Project would have a height of up to 202 feet AGL. The ground surface elevation of the Project site is 10 to 18 feet NAVD 88;³² and the MSL elevation in the vicinity of the Project site is approximately 3.4 feet NAVD 88;³³ therefore, the proposed buildings on the Project site could reach an elevation of approximately 217 feet MSL, ~~which is well below the maximum building heights for the Project site, based on FAR Part 77, of approximately 350 to 380 feet MSL (see Figure 3.1-5 in Section 3.1, *Land Use*).³⁴~~ Any proposed structure or building, including temporary construction cranes, on the Project site that could exceed an imaginary surface radiating at 100:1 (horizontal:vertical) from the runways of San José International Airport (this imaginary surface extends from approximately 168 feet AGL at the southeast portion of the Project site to approximately 185 feet AGL at the northwest portion of the Project site) would require submittal to the FAA for airspace safety review. For each building or structure with a maximum proposed height exceeding this imaginary surface, the Project must obtain a “Determination of No Hazard” from the FAA for each rooftop corner and any additional higher points. The heights of the cranes that would be used during construction are unknown at this time but would be well below the maximum building heights for the Project site (350 to 380 feet MSL), based on FAR Part 77.

~~Structures in any location that exceed 200 feet above the ground level, including construction cranes, would require FAA notification for construction or alteration. Compliance with conditions set forth by the FAA in its determinations FAR Part 77 and the CLUP for San José International Airport would ensure that the Project would not create aviation hazards. Therefore, potential construction impacts of the Project related to aviation hazards would be **less than significant**.~~

Operation

As discussed above, the proposed buildings on the Project site could reach an elevation of approximately 217 feet MSL, which is well below the maximum allowable building height for the Project site, based on FAR Part 77, of approximately 350 to 380 feet MSL (see Figure 3.1-5 in Section 3.1, Land Use and Planning). Compliance with FAR Part 77 ~~and the CLUP for San José International Airport~~ would ensure that the Project would be reviewed by the FAA and that any recommendations from the FAA for alteration of the Project's designs, markings, or lighting would be implemented to ensure that operation of the Project would not create aviation hazards. Therefore, potential operational impacts of the Project related to aviation hazards would be **less than significant**.

³² BKF. 2018. *3005 Democracy Way, Existing Site Boundary and Easement Plan*. July 25.

³³ AECOM. 2016. *San Francisco Bay Tidal Datums and Extreme Tides Study, Final Report*. February.

³⁴ A previous version of the Project from 2018 included much taller buildings that conflicted with FAA height limits. This previous version of the Project was the subject of the NOP comment discussed at the beginning of this chapter regarding building height. The Project was redesigned to its current form with reduced building heights that are below FAA limits.

In addition, the following text has been revised on page 3.11-26 of Section 3.11, *Hazards and Hazardous Materials*, in the Draft EIR:

Construction

Construction of cumulative projects would be required to comply with FAR Part 77 and the CLUP for San José International Airport (as applicable), ensuring that they would not create aviation hazards. As discussed under *Impact HAZ-3*, above, compliance with FAR Part 77 ~~and the CLUP for San José International Airport~~ would ensure that construction of the Project would be reviewed by the FAA and that any recommendations from the FAA for the alteration of the Project's designs, markings, or lighting would be implemented. Similarly, the cumulative projects would also be reviewed and required to comply with CLUP, FAA, and ALUC recommendations (as applicable) such that significant impacts would not result. These procedures and reviews would ensure that the Project and cumulative projects taken together would not create aviation hazards. Therefore, potential construction impacts of the Project associated with aviation hazards would not be cumulatively considerable. This impact would be **less than significant**, and no mitigation would be necessary.

Operation

Operation of cumulative projects would be required to comply with FAR Part 77 and the CLUP for San José International Airport (as applicable), ensuring that they would not create aviation hazards. As discussed under *Impact HAZ-3*, above, compliance with FAR Part 77 ~~and the CLUP for San José International Airport~~ would ensure that operation of

the Project would be reviewed by the FAA and that any recommendations from the FAA for the alteration of the Project's designs, markings, or lighting would be implemented. Similarly, the cumulative projects would also be reviewed and required to comply with CLUP, FAA, and ALUC recommendations (as applicable) such that significant impacts would not result. These procedures and reviews would ensure that the Project and cumulative projects taken together would not create aviation hazards. Therefore, potential operational impacts of the Project associated with aviation hazards would not be cumulatively considerable. This impact would be ***less than significant***, and no mitigation would be necessary.

These revisions do not change the analysis or conclusions provided in the Draft EIR.

- A1.9 This comment references footnote number 34 on page 3.11-22 of the Draft EIR and indicates that the commenter concurs that the revised building heights are below the Part 77 and Terminal Instrument Procedures (TERPS) surfaces for the Project site; however, an FAA Determination of No Hazard would still be required for any obstructions that would exceed the 100:1 notification surface, as described in comments A1.7 and A1.8.

The commenter's concurrence is noted, and FAA notification would be performed as described in the responses to comments A1.7 and A1.8, above.

- A1.10 The comment provides contact information for questions.

The comment does not contain questions or concerns regarding the adequacy of the Draft EIR analysis. No revisions to the Draft EIR are required. No substantive response is required.

Comment Letter A2—San Francisco Public Utilities Commission, Elton Wu (letter dated December 19, 2023)

Letter A2

From: Wu, Elton H <EWu@sfwater.org>
Sent: Tuesday, December 19, 2023 5:29 PM
To: Rebecca Bustos <RBustos@SantaClaraCA.gov>
Cc: Wilson, Joanne <jwilson@sfwater.org>; Rando, Casey <crando@sfwater.org>; Natesan, Ellen <ENatesan@sfwater.org>; Ramirez, Tim <TRamirez@sfwater.org>; Russell, Rosanna S <RSRussell@sfwater.org>; Leung, Tracy <TLeung@sfwater.org>; Feng, Stacie <SFeng@sfwater.org>; Read, Emily <ERead@sfwater.org>; Rodgers, Heather <HeRodgers@sfwater.org>
Subject: Mission Point Project- 4995 Patrick Henry Drive, Santa Clara, CA- Public Notification- SFPUC Response

You don't often get email from ewu@sfwater.org. [Learn why this is important](#)

Hi Rebecca,

A2.1

Thank you for providing Santa Clara's Public Notification regarding the Mission Point Project located at 4995 Patrick Henry Drive, Santa Clara, CA (aka 3005 Democracy Way). The SFPUC previously submitted scoping comments on the proposed project in an email from my colleague, Jonathan Mendoza, on 8/9/2018 (attached). The SFPUC appreciates that our earlier comments have been addressed by modifying the proposed project so that there are no proposed land uses (such as a trail) or construction activities on SFPUC property.

A2.2

Although some of the following comments do not concern a potential environmental impact pursuant to CEQA, the SFPUC would appreciate the inclusion of these items in the overall planning process for the proposed project.

- Utility Lines or other uses of the SFPUC ROW: At this time, it appears that there will be no utility lines crossing the SFPUC ROW. If this should change, or other uses are proposed on SFPUC property, please contact the SFPUC as soon as possible. All proposed projects and activities on SFPUC lands must be reviewed by the SFPUC to determine whether a proposal is compatible with SFPUC adopted plans and policies prior to obtaining written authorization from the SFPUC. For more information about the SFPUC's Project Review process, please visit [Project Review and Land Use - Bay Area \(sfpuc.org\)](https://www.sfpuc.org/Project-Review-and-Land-Use-Bay-Area).

A2.3

- For Section 3.2-34 Impact TRA-4: use the word "adjacent" to the SFPUC ROW, instead of "along" the SFPUC ROW.

A2.4

- Fence: Please construct a permanent fence on the developer's property to separate the proposed trail from the SFPUC ROW. This is to avoid the SFPUC land being incorporated into the project or Santa Clara Trail.

A2.5

Please let me know if you have any additional questions. Thanks

Elton Wu

Pronouns: He/ Him

Environmental Compliance and Land Planner

SFPUC Water Enterprise

Natural Resources and Lands Management Division

525 Golden Gate Avenue, 10th Floor

San Francisco, CA 94102

cell: (415) 971-7657

ewu@sfwater.org



From: [Mendoza, Jonathan S](#)
To: [Rebecca Bustos](#)
Cc: [Ramirez, Tim](#); [Natesan, Ellen](#); [Wilson, Joanne](#); [Read, Emily](#); [Fournet, John](#); [Herman, Jane](#); [Russell, Rosanna S](#); [Brasil, Dina](#); [Wong, Christopher J](#); [Rodgers, Heather](#); [Chow, Jonathan](#); [Feng, Stacie](#); [Leung, Tracy](#)
Subject: SFPUC Scoping Comments - 3005 Democracy Way Mixed-Use Development Project EIR
Attachments: SFPUC Basemap-3005 Democracy Wy Santa Clara.pdf
 FINAL-Amended Right of Way Integrated Vegetation Management Policy.pdf
 FINAL Interim Water Pipeline Right of Way Policy.pdf

Dear Ms. Bustos:

Thank you for sending the Notice of Preparation (NOP) and for the opportunity to provide comments during the scoping period for the proposed project entitled “**3005 Democracy Way Mixed-Use Development Project**” (project) located in the City of Santa Clara (lead agency).

The City and County of San Francisco, through its San Francisco Public Utilities Commission (SFPUC), is submitting scoping comments to the lead agency so that impacts to the SFPUC’s right-of-way (ROW) property interests and infrastructure are fully identified, disclosed, analyzed, and mitigated against in the Final EIR and during the implementation of the project.

To assist you with the preparation of the DEIR, the SFPUC provides the following comments:

- The SFPUC owns and manages land and water system infrastructure for its own exclusive use that is part of the Hetch Hetchy Regional Water System. The primary use of SFPUC lands is for the delivery, operation, maintenance and protection of water, power, and sewer systems. The SFPUC provides drinking water to 2.6 million people in the San Francisco Bay Area, including to the City of Santa Clara. The SFPUC’s Bay Division Pipelines (BDPLs) Nos. 3 and 4 are located within an 80-foot wide parcel owned in fee by the SFPUC. For your reference, attached is a GIS exports showing the approximate location of the SFPUC’s pipeline and property located adjacent to the proposed project site.
- Secondary uses of SFPUC lands may be permitted if those uses do not in any way interfere with, endanger, or damage existing or future operations of SFPUC systems. **Please note: the SFPUC does not allow third-parties to use SFPUC lands to fulfill any third-party development requirements or to mitigate third-party project impacts on SFPUC lands.**
- **All proposed projects and activities on SFPUC lands must be reviewed by the SFPUC to determine whether a proposal is compatible with SFPUC adopted plans and policies prior to obtaining written authorization from the SFPUC. For more information about the SFPUC’s Project Review process, please visit www.sfwater.org/projectreview.**
- The project location is described as “**3005 Democracy Way, a 48.6-acre project site bounded by...the ROW associated with the Hetch Hetchy aqueduct to the south...**” indicating that the SFPUC ROW is a boundary but not within the project limit. However, further in the NOP, it states that “...although not part of the Project site, the Project would implement improvements to the **Hetch Hetchy ROW to the south by incorporating landscaping, public bicycle and pedestrian paths, access to parking, and connection points.**” This description identifies and reasonably foresees proposing recreational uses on the SFPUC ROW immediately adjacent to the project site. Therefore, the lead agency must describe and analyze any foreseeable proposed activity on the SFPUC ROW within this EIR.
- If, after Project Review, the SFPUC allows any use of its property through a revocable license

A2.6

A2.6
cont'd

or lease, this would be a discretionary action. Please list the SFPUC as a “responsible agency.”

- Land Use – Describe the SFPUC’s fee ownership and water transmission pipelines as part of the existing condition at the project site. The SFPUC must preserve its ability to access the pipeline at all times for pipeline installation, maintenance, and repair. The proposed project must have a sufficient setback from the SFPUC ROW property line to allow emergency vehicle access (EVA) and emergency exit paths entirely within the project site (and without use of the SFPUC ROW). In addition, analyze the proposed project for consistency with the SFPUC’s right-of-way (ROW) policies. For your reference, I have attached the following policies:
 - SFPUC Interim Water Pipeline ROW Use Policy
 - SFPUC Integrated Vegetation Management Policy.
- Traffic and Transportation – Identify and describe all proposed roads, trails/paths, and transit lanes/stops that would be located in the project area. The SFPUC must preserve its ability to access the pipeline at all times for pipeline installation, maintenance, and repair.
- Biological Resources – Discuss impacts and mitigation measures for all special status plant and animal species (including Western Burrowing Owl) in the project vicinity.
- Geology and Soils – Describe in detail the geotechnical studies that would be conducted within and adjacent to the project site.
- Cultural Resources – Describe the potential impacts to known and unknown cultural resources.
- Hydrology and Floodplain/Water Quality and Storm Water Runoff – Describe potential storm water runoff from the project site onto SFPUC property.

Finally, please add me as a recipient of any future CEQA draft documents or notices related to this project. My contact information is the following:

Jonathan S. Mendoza
Associate Land and Resources Planner
JSMendoza@sfwater.org
(650) 652-3215

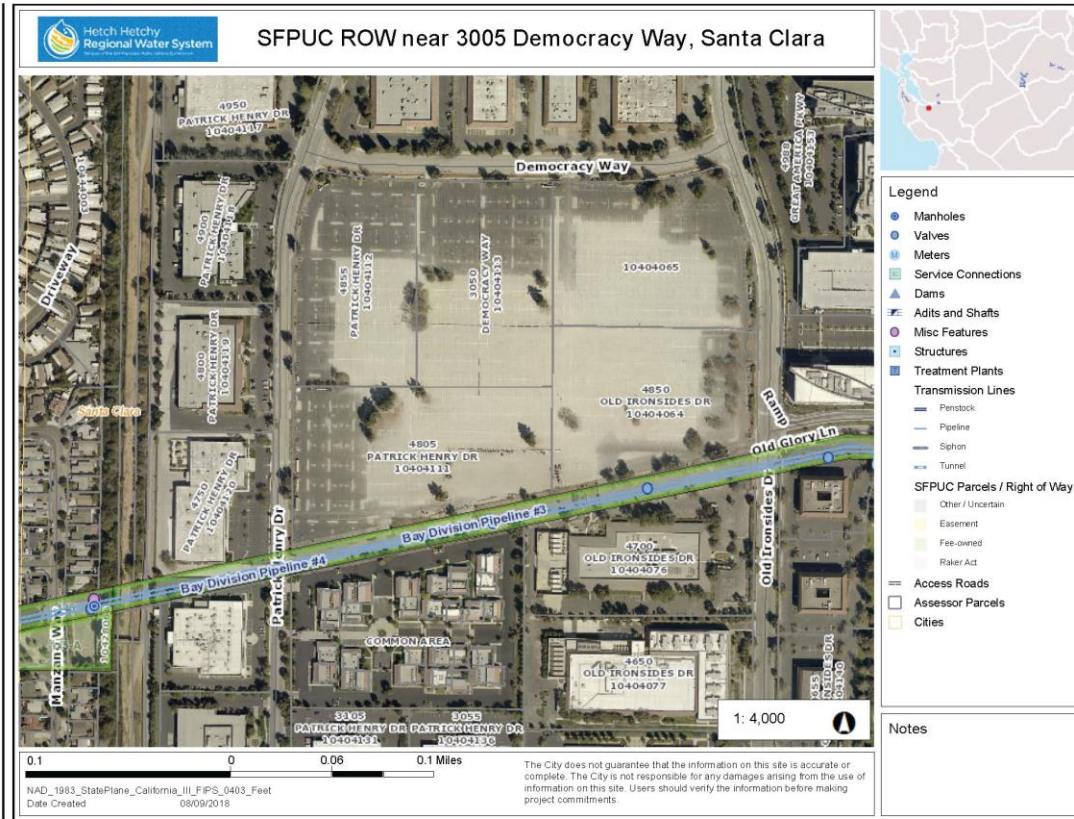
Thanks for your time and attention. If you have any questions or need further information, please contact me.

Best,

Jonathan S. Mendoza

Associate Land and Resources Planner
Natural Resources and Lands Management Division
San Francisco Public Utilities Commission
1657 Rollins Road, Burlingame, CA 94010
O: 650.652.3215
C: 415.770.1997
F: 650.652.3219
E: jsmendoza@sfwater.org
W: <http://www.sfwater.org/ProjectReview>

NOTE: I am out of the office on Mondays

A2.6
cont'd

A2.6
cont'd



**AMENDMENT TO THE
RIGHT OF WAY INTEGRATED VEGETATION MANAGEMENT POLICY**

Approved January 13, 2015

by

SFPUC Resolution No. 15-0014

A2.6
cont'd**12.000 RIGHT OF WAY INTEGRATED VEGETATION MANAGEMENT POLICY****12.001 General**

The San Francisco Public Utilities Commission ("SFPUC") is responsible for the delivery of potable water and the collection and treatment of wastewater for some 800,000 customers within the City of San Francisco; it is also responsible for the delivery of potable water to 26 other water retailers with a customer base of 1.8 million. **The following policy is established to manage vegetation on the transmission, distribution and collection systems within the SFPUC Right of Way ("ROW") so that it does not pose a threat or hazard to the system's integrity and infrastructure or impede utility maintenance and operations.**

The existence of large woody vegetation¹, hereinafter referred to as vegetation, and water transmission lines within the ROW are not compatible and, in fact, are mutually exclusive uses of the same space. Roots can impact transmission pipelines by causing corrosion. The existence of trees and other vegetation directly adjacent to pipelines makes emergency and annual maintenance very difficult, hazardous, and expensive, and increases concerns for public safety. The risk of fire within the ROW is always a concern and the reduction of fire ladder fuels within these corridors is another reason to modify the vegetation mosaic. In addition to managing vegetation in a timely manner to prevent any disruption in utility service, the SFPUC also manages vegetation on its ROW to comply with local fire ordinances enacted to protect public safety.

One of the other objectives of this policy is to reduce and eliminate as much as practicable the use of herbicides on vegetation within the ROW and to implement integrated pest management (IPM).

12.002 Woody Vegetation Management

1.0 Vegetation of any size or species will not be allowed to grow within certain critical portions of the ROW, pumping stations or other facilities as determined by a SFPUC qualified professional, and generally in accordance with the following guidelines.

1.1 Emergency Removal

SFPUC Management reserves the right to remove any vegetation without prior public notification that has been assessed by a SFPUC qualified professional as an immediate threat to transmission lines or other utility infrastructure, human life and property due to acts of God, insects, disease, or natural mortality.

1.2 Priority Removal

Vegetation that is within 15 feet of the edge of any pipe will be removed and the vegetative debris will be cut into short lengths and chipped whenever possible. Chips will be spread upon the site where the vegetation was removed. Material that cannot be chipped will be hauled away to a proper disposal site.

¹ Woody vegetation is defined as all brush, tree and ornamental shrub species planted in (or naturally occurring in) the native soil having a woody stem that at maturity exceeds 3 inches in diameter.

A2.6
cont'd

If vegetation along the ROW is grouped in contiguous stands², or populations, a systematic and staggered removal of that vegetation will be undertaken to replicate a natural appearance. Initial removal³ will be vegetation immediately above or within 15 feet of the pipeline edges; secondary vegetation⁴ within 15 to 25 feet from pipelines will then be removed.

1.3 Standard Removal

Vegetation that is more than 25 feet from the edge of a pipeline and up to the boundary of the ROW will be assessed by a SFPUC qualified professional for its age and condition, fire risk, and potential impact to the pipelines. Based on this assessment, the vegetation will be removed or retained.

1.4 Removal Standards

Each Operating Division will develop its own set of guidelines or follow established requirements in accordance with local needs.

2.0 All stems of vegetation will be cut flush with the ground and where deemed necessary or appropriate, roots will be removed. All trees identified for removal will be clearly marked with paint and/or a numbered aluminum tag.

3.0 Sprouting species of vegetation will be treated with herbicides where practicable, adhering to provisions of Chapter 3 of the San Francisco Environment Code.

4.0 Erosion control measures, where needed, will be completed before the work crew or contractors leave the work site or before October 15 of the calendar year.

5.0 Department personnel will remove in a timely manner any and all material that has been cut for maintenance purposes within any stream channel.

6.0 All vegetation removal work and consultation on vegetation retention will be reviewed and supervised by a SFPUC qualified professional. All vegetation removal work and/or treatment will be made on a case-by-case basis by a SFPUC qualified professional.

7.0 Notification process for areas of significant resource impact that are beyond regular and ongoing maintenance:

7.1 County/City Notification – The individual Operating Division will have sent to the affected county/city a map showing the sections of the ROW which will be worked, a written description of the work to be done, the appropriate removal time for the work crews, and a contact person for more information. This should be done approximately 10 days prior to start of work. Each Operating Division will develop its own set of guidelines in accordance with local need.

² A stand is defined as a community of trees possessing sufficient uniformity in composition, structure, age, arrangement, or condition to be distinguishable from adjacent forest communities to form a management unit.

³ Initial removal is defined as the vegetation removed during the base year or first year of cutting.

⁴ Secondary vegetation is defined as the vegetative growth during the second year following the base year for cutting.

A2.6
cont'd

7.2 Public Notification – The Operating Division will have notices posted at areas where the vegetation is to be removed with the same information as above also approximately 10 days prior to removal. Notices will also be sent to all property owners within 300 feet of the removal site. Posted notices will be 11- by 17-inches in size on colored paper and will be put up at each end of the project area and at crossover points through the ROW. Questions and complaints from the public will be handled through a designated contact person. Each Operating Division will develop its own set of guidelines in accordance with local needs.

12.003 Annual Grass and Weed Management

Annual grasses and weeds will be mowed, disked, sprayed or mulched along the ROW as appropriate to reduce vegetation and potential fire danger annually. This treatment should be completed before July 30 of each year. This date is targeted to allow the grasses, forbs and weeds to reach maturity and facilitate control for the season.

12.004 Segments of ROW that are covered by Agricultural deed rights

The only vegetation that may be planted within the ROW on those segments where an adjacent owner has Deeded Agricultural Rights will be: non-woody herbaceous plants such as grasses, flowers, bulbs, or vegetables.

12.005 Segments of ROW that are managed and maintained under a Lease or License

Special allowance may be made for these types of areas, as the vegetation will be maintained by the licensed user as per agreement with the City, and not allowed to grow unchecked. Only shallow rooted plants may be planted directly above the pipelines.

Within the above segments, the cost of vegetation maintenance and removal will be borne by the tenant or licensee exclusively. In a like fashion, when new vegetative encroachments are discovered they will be assessed by a SFPUC qualified professional on a case-by-case basis and either be permitted or proposed for removal.

The following is a guideline for the size at maturity of plants (small trees, shrubs, and groundcover) that may be permitted to be used as landscape materials. Note: All distance measurements are for mature trees and plants measured from the edge of the drip-line to the edge of the pipeline.

- Plants that may be permitted to be planted directly above existing and future pipelines: shallow rooted plants such as ground cover, grasses, flowers, and very low growing plants that grow to a maximum of one foot in height at maturity.
- Plants that may be permitted to be planted 15–25 feet from the edge of existing and future pipelines: shrubs and plants that grow to a maximum of five feet in height at maturity.
- Plants that may be permitted to be planted 25 feet or more from the edge of existing and future pipelines: small trees or shrubs that grow to a maximum of twenty feet in height and fifteen feet in canopy width.

A2.6
cont'd

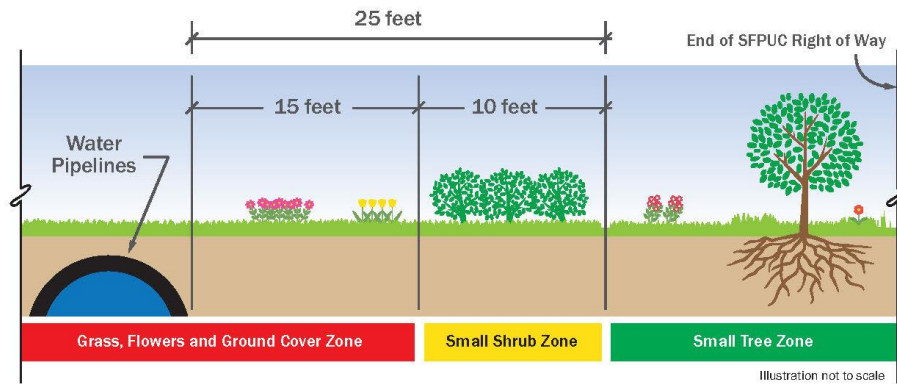
Trees and plants that exceed the maximum height and size limit (described above) may be permitted within a leased or licensed area provided they are in containers and are above ground. Container load and placement location(s) are subject to review and approval by the SFPUC.

Low water use plant species are encouraged and invasive plant species are not allowed.

All appurtenances, vaults, and facility infrastructure must remain visible and accessible at all times. All determinations of species acceptability will be made by a SFPUC qualified professional.

The above policy is for general application and for internal administration purposes only and may not be relied upon by any third party for any reason whatsoever. The SFPUC reserves the right at its sole discretion, to establish stricter policies in any particular situation and to revise and update the above policy at any time.

San Francisco Public Utilities Commission (SFPUC)

Right Of Way (ROW) Landscape Vegetation Guidelines

The following vegetation types are permitted on the ROW within the appropriate zones.

Plantings that may be permitted directly above existing and future pipelines:

Ground cover, grasses, flowers, and very low growing plants that reach no more than one foot in height at maturity.



Plantings that may be permitted 15-25 feet from the edge of existing and future pipelines:

Shrubs and plants that grow no more than five feet tall in height at maturity.



Plantings that may be permitted 25 feet or more from the edge of existing and future pipelines:

Small trees or shrubs that grow to a maximum of twenty feet in height and fifteen feet in canopy width or less.

A2.6
cont'd

A2.6
cont'd



Hetch Hetchy Regional Water System

Services of the San Francisco Public Utilities Commission

SFPUC Interim Water Pipeline Right of Way Use Policy for San Mateo, Santa Clara, and Alameda Counties

Approved January 13, 2015

by

SFPUC Resolution No. 15-0014

as an amendment to the SFPUC Real Estate Guidelines

A2.6
cont'd**SFPUC Water Pipeline Right of Way Use Policy for
San Mateo, Santa Clara, and Alameda Counties**

As part of its utility system, the San Francisco Public Utilities Commission (SFPUC) operates and maintains hundreds of miles of water pipelines. The SFPUC provides for public use on its water pipeline property or right of way (ROW) throughout Alameda, Santa Clara, and San Mateo counties consistent with our existing plans and policies. The following controls will help inform how and in which instances the ROW can serve the needs of third parties—including public agencies, private parties, nonprofit organizations, and developers—seeking to provide recreational and other use opportunities to local communities.

Primarily, SFPUC land is used to deliver high quality, efficient and reliable water, power, and sewer services in a manner that is inclusive of environmental and community interests, and that sustains the resources entrusted to our care. The SFPUC's utmost priority is maintaining the safety and security of the pipelines that run underneath the ROW.

Through our formal Project Review and Land Use Application and Project Review process, we may permit a secondary use on the ROW if it benefits the SFPUC, is consistent with our mission and policies, and does not in any way interfere with, endanger, or damage the SFPUC's current or future operations, security or facilities.¹ No secondary use of SFPUC land is permitted without the SFPUC's consent.

These controls rely on and reference several existing SFPUC policies, which should be read when noted in the document. Being mindful of these policies while planning a proposed use and submitting an application will ease the process for both the applicant and the SFPUC. These controls are subject to change over time and additional requirements and restrictions may apply depending on the project.

The SFPUC typically issues five-year revocable licenses for use of our property, with a form of rent and insurance required upon signing.²

Note: The project proponent is referred to as the "Applicant" until the license agreement is signed, at which point the project proponent is referred to as the "Licensee."

¹ SFPUC Guidelines for the Real Estate Services Division, Section 2.0.

² SFPUC Guidelines for the Real Estate Services Division, Section 3.3.

A2.6
cont'd**I. Land Use, Structures, and Compliance with Law**

The following tenets govern the specifics of land use, structures, and accessibility for a project. Each proposal will still be subject to SFPUC approval on a case-by-case basis.

- A. SFPUC Policies. The Applicant's proposed use must conform to policies approved by the SFPUC's Commission, such as the SFPUC's Land Use Framework (<http://sfwater.org/index.aspx?page=586>).
- B. Americans with Disabilities Act Compliance. The Applicant must demonstrate that a Certified Access Specialist (CASP) has reviewed and approved its design and plans to confirm that they meet all applicable accessibility requirements.
- C. Environmental Regulations. The SFPUC's issuance of a revocable license for use of the ROW is subject to compliance with the California Environmental Quality Act (CEQA). The Applicant is responsible for assessing the potential environmental impacts under CEQA of its proposed use of the ROW. The SFPUC must be named as a Responsible Agency on any CEQA document prepared for the License Area. In addition, the Applicant shall provide to SFPUC a copy of the approved CEQA document prepared by the Applicant, the certification date, and documentation of the formal approval and adoption of CEQA findings by the CEQA lead agency. The SFPUC will not issue a license for the use of the ROW until CEQA review and approval is complete.
- D. Crossover and Other Reserved Rights. For a ROW parcel that bisects a third party's land, the Applicant's proposed use must not inhibit that party's ability to cross the ROW. The Applicant must demonstrate any adjoining owner with crossover or other reserved rights approves of the proposed recreational use and that the use does not impinge on any reserved rights.
- E. Width. The License Area must span the entire width of the ROW.
 - *For example, the SFPUC will not allow a 10-foot wide trail license on a ROW parcel that is 60 feet wide.*
- F. Structures. Structures on the ROW are generally prohibited. The Licensee shall not construct or place any structure or improvement in, on, under or about the entire License Area that requires excavation, bored footings or concrete pads that are greater than six inches deep.
 - i. Structures such as benches and picnic tables that require shallow (four to six inches deep) cement pads or footings are generally permitted on the ROW. No such structure may be placed directly on top of a pipeline or within 20 feet of the edge of a pipeline.
 - ii. The SFPUC will determine the permitted weight of structures on a case-by-case basis.

A2.6
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- *When the SFPUC performs maintenance on its pipelines, structures of significant weight and/or those that require footings deeper than six inches are very difficult and time-consuming to move and can pose a safety hazard to the pipelines. The longer it takes the SFPUC to reach the pipeline in an emergency, the more damage that can occur.*

- G. Paving Materials. Permitted trails or walkways should be paved with materials that both reduce erosion and stormwater runoff (e.g., permeable pavers).
- H. License Area Boundary Marking. The License Area's boundaries should be clearly marked by landscaping or fencing, with the aim to prevent encroachments.
- I. Fences and Gates. Any fence along the ROW boundary must be of chain-link or wooden construction with viewing access to the ROW. The fence must include a gate that allows SFPUC access to the ROW.³ Any gate must be of chain-link construction and at least 12 feet wide with a minimum 6-foot vertical clearance.

II. **Types of Recreational Use**

Based on our past experience and research, the SFPUC will allow simple parks without play structures, community gardens and limited trails.

- A. Fulfilling an Open Space Requirement. An applicant may not use the ROW to fulfill a development's open space, setback, emergency access or other requirements.⁴ In cases where a public agency has received consideration for use of SFPUC land from a third party, such as a developer, the SFPUC may allow such recreational use if the public agency applicant pays full Fair Market Rent.
- B. Trail Segments. At this time, the SFPUC will consider trail proposals when a multi-jurisdictional entity presents a plan to incorporate specific ROW parcels into a fully connected trail. Licensed trail segments next to unlicensed parcels may create a trail corridor that poses liability to the SFPUC. The SFPUC will only consider trail proposals where the trail would not continue onto, or encourage entry onto, another ROW parcel without a trail and the trail otherwise meet all SFPUC license requirements.

III. **Utilities**

- A. Costs. The Licensee is responsible for all costs associated with use of utilities on the License Area.

³ SFPUC Right of Way Requirements.

⁴ SFPUC Guidelines for the Real Estate Services Division, Section 2.0.

A2.6
cont'd

B. Placement. No utilities may be installed on the ROW running parallel to the SFPUC's pipelines, above or below grade.⁵ With SFPUC approval, utilities may run perpendicular to the pipelines.

C. Lights. The Licensee shall not install any light fixtures on the ROW that require electrical conduits running parallel to the pipelines. With SFPUC approval, conduits may run perpendicular to and/or across the pipelines.

- Any lighting shall have shielding to prevent spill over onto adjacent properties.

D. Electricity. Licensees shall purchase all electricity from the SFPUC at the SFPUC's prevailing rates for comparable types of electrical load, so long as such electricity is reasonably available for the Licensee's needs.

IV. **Vegetation**

A. The Applicant shall refer to the SFPUC Integrated Vegetation Management Policy for the *minimum* requirements concerning types of vegetation and planting. (<http://www.sfwater.org/index.aspx?page=431>.) The Licensee is responsible for all vegetation maintenance and removal.

B. The Applicant shall submit a Planting Plan as part of its application.

(Community garden applicants should refer to Section VII.C for separate instructions.)

- i. The Planting Plan should include a layout of vegetation placement (grouped by hydrozone) and sources of irrigation, as well as a list of intended types of vegetation. The SFPUC will provide an area drawing including pipelines and facilities upon request.
- ii. The Applicant shall also identify the nursery(ies) supplying plant stock and provide evidence that each nursery supplier uses techniques to reduce the risk of plant pathogens, such as *Phytophthora ramorum*.

V. **Measures to Promote Water Efficiency⁶**

A. The Licensee shall maintain landscaping to ensure water use efficiency.

B. The Licensee shall choose and arrange plants in a manner best suited to the site's climate, soil, sun exposure, wildfire susceptibility and other factors. Plants with similar water needs must be grouped within an area controlled by a single irrigation valve

⁵ SFPUC Land Engineering Requirements.

⁶ SFPUC Rules and Regulations Governing Water Service to Customers, Section F.

A2.6
cont'd

- C. Turf is not allowed on slopes greater than 25 percent.
- D. The SFPUC encourages the use of local native plant species in order to reduce water use and promote wildlife habitat.
- E. Recycled Water. Irrigation systems shall use recycled water if recycled water meeting all public health codes and standards is available and will be available for the foreseeable future.
- F. Irrigation Water Runoff Prevention. For landscaped areas of any size, water runoff leaving the landscaped area due to low head drainage, overspray, broken irrigation hardware, or other similar conditions where water flows onto adjacent property, walks, roadways, parking lots, structures, or non-irrigated areas, is prohibited.

VI. **Other Requirements**

- A. Financial Stability. The SFPUC requires municipalities or other established organizations with a stable fiscal history as Licensees.
 - i. Applicants must also demonstrate sufficient financial backing to pay rent, maintain the License Area, and fulfill other license obligations over the license term.
- B. Smaller, community-based organizations without 501(c)(3) classifications must partner with a 501(c)(3) classified organization or any other entity through which it can secure funding for the License Area over the license term. Maintenance. The Licensee must maintain the License Area in a clean and sightly condition at its sole cost.⁷ Maintenance includes, but is not limited to, regular weed abatement, mowing, and removing graffiti, dumping, and trash.
- C. Mitigation and Restoration. The Licensee will be responsible, at its sole cost, for removing and replacing any recreational improvements in order to accommodate planned or emergency maintenance, repairs, replacements, or projects done by or on behalf of the SFPUC. If the Licensee refuses to remove its improvements, SFPUC will remove the improvements at the Licensee's sole expense without any obligation to replace them.
- D. Encroachments. The Licensee will be solely responsible for removing any encroachments on the License Area. An encroachment is any improvement on SFPUC property not approved by the SFPUC. Please read the SFPUC ROW Encroachment Policy for specific requirements. If the Licensee fails to remove encroachments, the SFPUC will remove them at Licensee's sole expense. The Licensee must regularly patrol the License Area to spot encroachments and remove them at an early stage.

⁷ SFPUC Framework for Land Management and Use.

A2.6
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E. Point of Contact. The Licensee will identify a point of contact (name, position title, phone number, and address) to serve as the liaison between the Licensee, the local community, and the SFPUC regarding the License Agreement and the License Area. In the event that the point of contact changes, the Licensee shall immediately provide the SFPUC with the new contact information. Once the License Term commences, the point of contact shall inform local community members to direct any maintenance requests to him or her. In the event that local community members contact the SFPUC with such requests, the SFPUC will redirect any requests or complaints to the point of contact.

F. Community Outreach.

i. Following an initial intake conversation with the SFPUC, the Applicant shall provide a Community Outreach Plan for SFPUC approval. This Plan shall include the following information:

1. Identification of key stakeholders to whom the Applicant will contact and/or ask for input, along with their contact information;
2. A description of the Applicant's outreach strategy, tactics, and materials
3. A timeline of outreach (emails/letters mailing date, meetings, etc.); and
4. A description of how the Applicant will incorporate feedback into its proposal.

ii. The Applicant shall conduct outreach for the project at its sole cost and shall keep the SFPUC apprised of any issues arising during outreach.

iii. During outreach, the Applicant shall indicate that it in no way represents the SFPUC.

G. Signage. The SFPUC will provide, at Licensee's cost, a small sign featuring the SFPUC logo and text indicating SFPUC ownership of the License Area at each entrance. In addition, the Licensee will install, at its sole cost, an accompanying sign at each entrance to the License Area notifying visitors to contact the organization's point of contact and provide a current telephone number in case the visitors have any issues. The SFPUC must approve the design and placement of the Licensee's sign.

A2.6
cont'd**VII. Community Gardens**

The following requirements also apply to community garden sites. As with all projects, the details of the operation of a particular community garden are approved on a case-by-case basis.

- A. The Applicant must demonstrate stable funding. The Applicant must provide information about grants received, pending grants, and any ongoing foundational support.
- B. The Applicant must have an established history and experience in managing urban agriculture or community gardening projects. Alternatively, the Applicant may demonstrate a formal partnership with an organization or agency with an established history and experience in managing urban agriculture or community gardening projects.
- C. During the Project Review process, the Applicant shall submit a Community Garden Planting Plan that depicts the proposed License Area with individual plot and planter box placements, landscaping, and a general list of crops that may be grown in the garden.
- D. The Applicant shall designate a Garden Manager to oversee day-to-day needs and serve as a liaison between the SFPUC and garden plot holders. The Garden Manager may be distinct from the point of contact, see Section VI.E.
- E. The Licensee must ensure that the Garden Manager informs plot holders about the potential for and responsibilities related to SFPUC repairs or emergency maintenance on the License Area. In such circumstances, the SFPUC is not liable for the removal and replacement of any features on the License Area or the costs associated with such removal and replacement.
- F. The Licensee must conduct all gardening within planter boxes with attached bottoms that allow for easy removal without damaging the crops.

Response to Comment Letter A2—San Francisco Public Utilities Commission, Elton Wu (letter dated December 19, 2023)

- A2.1 The commenter refers to the previously submitted scoping comments from Jonathan Mendoza during the scoping period held for a prior version of the Project in 2018 and expresses gratitude the Project was modified to address those comments.

The comment does not contain questions or concerns regarding the adequacy of the Draft EIR analysis. No revisions to the Draft EIR are required. No substantive response is required.

- A2.2 The commenter states that the Draft EIR does not include any utility lines crossing the San Francisco Public Utilities Commission (SFPUC) right-of-way (ROW) (i.e., Hetch Hetchy ROW, located just south of the Project site), but if that should change, the Project Sponsor should contact SFPUC as soon as possible because all activities crossing the SFPUC ROW must be reviewed and approved.

The commenter is correct in stating that the Draft EIR did not include any utilities crossing the SFPUC ROW. However, as discussed in greater detail in Chapter 4, *Revisions to the Draft EIR*, the electrical transmission lines needed for the substation would now cross the SFPUC ROW. The Project Sponsor will coordinate with SFPUC about this throughout the final design phase of the Project to obtain all necessary reviews and approvals.

- A2.3 The commenter requests changing the word “along” the SFPUC ROW to “adjacent to” the SFPUC ROW in Section 3.2-34, Impact TRA-4.

In response to this comment, the following text has been revised on page 3.2-35 of Section 3.2, *Transportation*, in the Draft EIR. Note that the commenter cited the incorrect page number (page 3.2-34); the correct page number is 3.2-35.

The Project’s internal pedestrian connections would be consistent with General Plan Policies 5.8.5-P3 and 5.9.1-P4, while the planned trail ~~along~~ adjacent to the SFPUC ROW would be consistent with General Plan Policy 5.8.4-P6.

This revision does not change the analysis or conclusions provided in the Draft EIR.

- A2.4 The commenter requests that a fence be constructed on the Project site to separate the proposed trail from the SFPUC ROW.

The need for fencing along the Project boundary would be determined during the final design phase of the Project. The commenter’s request is noted, but the comment does not contain any questions or comments regarding the adequacy of the Draft EIR. No revisions to the Draft EIR are required. No substantive response is required.

- A2.5 The commenter would like to be notified if there are any questions.

The comment does not contain questions or concerns regarding the adequacy of the Draft EIR analysis. No revisions to the Draft EIR are required. No substantive response is required.

- A2.6 The commenter provides the previously submitted scoping comments dated August 9, 2018, from Jonathan Mendoza, including documents enclosed with that previous scoping comment, as attachments to the commenter’s letter (“Scoping Comments and Enclosures”). The scoping comments and enclosures, which provided context to the commenter’s letter on the Draft EIR, are

appreciated but do not contain any questions or comments regarding the adequacy of the Draft EIR. In response to the scoping comments and enclosures, all comments regarding the notice of preparation (NOP) were addressed in the Draft EIR. No revisions to the Draft EIR are required. No substantive response is required.

**Comment Letter A3—Department of Toxic Substances Control, Tamara Purvis
(letter dated December 21, 2023)**



Yana Garcia
Secretary for
Environmental Protection



Department of Toxic Substances Control

Meredith Williams, Ph.D., Director
8800 Cal Center Drive
Sacramento, California 95826-3200



Gavin Newsom
Governor

Letter A3

SENT VIA ELECTRONIC MAIL

December 21, 2023

Rebecca Bustos
Principal Planner
City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050
rbustos@santaclaraca.gov

RE: DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR) FOR THE MISSION
POINT PROJECT DATED NOVEMBER 16, 2023 STATE CLEARINGHOUSE #
[2018072068](#)

Dear Rebecca Bustos,

A3.1

The Department of Toxic Substances Control (DTSC) received a DEIR for the Mission Point Project (Project). The Project would demolish the existing office buildings and establish a new mixed-use neighborhood. The Project includes a General Plan amendment from High-Intensity Office/Research-and-Development (R&D) to a newly established Urban Center Mixed Use, and the existing zoning would be changed from Light Industrial to Planned Development. The Project would include up to 4,913,000 gross square feet (gsf) of new development, including approximately 1.8 million gsf of residential uses (up to 1,800 units), approximately 3 million gsf of office/R&D space, approximately 100,000 gsf of neighborhood retail uses, and approximately 10,000 gsf of childcare facilities, along with 3,000 gsf of community space. An approximately 18,000 gsf electrical substation would also be constructed to support the Project.

♻️ Printed on Recycled Paper

Rebecca Bustos
December 21, 2023
Page 2

A3.1
cont'd

Parking would be provided in a mix of subsurface and aboveground parking facilities. In addition, the Project would include approximately 16 acres of publicly accessible open space; approximately 10 acres of private open space for residential and office uses; new bicycle, pedestrian, and vehicular circulation routes; and upgraded and expanded infrastructure. Based on our Project review, DTSC requests consideration of the following comments.

A3.2

1. The Environmental Setting, Soil and Groundwater Contamination section of the DEIR states the following: "The 2022 Phase I ESA contains the following conclusions and recommendations: The source of the methane in soil vapor is unclear. The presence of methane and VOCs at concentrations exceeding screening levels suggests that vapor intrusion mitigation measures may be required for some of the planned buildings. The need for vapor intrusion mitigation would depend on the building location, intended use, building design, and the methane and VOC concentrations present in soil vapor at the time of construction. Additional soil vapor sampling should be performed when 10 Tier 1 Environmental Screening Levels (ESLs) are the most conservative ESLs established by the Regional Water Board and account for all possible exposure pathways and receptors. Based on these results, DTSC recommends the City of Santa Clara should work with the County of Santa Clara who can provide oversight as a certified local agency or enter into DTSC's Standard Voluntary Agreement (SVA) program so a proper evaluation of the Project can be reviewed by designated DTSC technical staff. The [FLUXX portal link](#) is provided and the page also has a link to the [Fluxx User Guide](#) that can help you navigate the system. You will need to create a new profile and once in the system, click "Start a Request for Lead Agency Oversight Application." DTSC recommends that once the SVA is signed, a Preliminary Endangerment Assessment Report (PEA Report) be submitted for DTSC review. The PEA Report shall summarize all existing data and provide an evaluation of the possible risk to current and future users of the site.

Rebecca Bustos
December 21, 2023
Page 3

A3.2
cont'd | If you have any questions about the application portal, please contact the DTSC
Brownfield Coordinator [Gregory Shaffer](#) or contact the [Application Portal Inbox](#).

A3.3 | 2. If buildings or other structures are to be demolished on any project sites
included in the proposed project, surveys should be conducted for the
presence of lead-based paints or products, mercury, asbestos containing
materials, and polychlorinated biphenyl caulk. Removal, demolition, and
disposal of any of the above-mentioned chemicals should be conducted in
compliance with California environmental regulations and policies. In addition,
sampling near current and/or former buildings should be conducted in
accordance with DTSC's 2006 [Interim Guidance Evaluation of School Sites
with Potential Contamination from Lead Based Paint, Termiticides, and
Electrical Transformers](#).

A3.4 | 3. DTSC recommends that all imported soil and fill material should be tested to
ensure any contaminants of concern are within approved screening levels for
the intended land use. To minimize the possibility of introducing contaminated
soil and fill material there should be documentation of the origins of the soil or
fill material and, if applicable, sampling be conducted to ensure that the
imported soil and fill material meets screening levels for the intended land
use. The soil sampling should include analysis based on the source of the fill
and knowledge of the prior land use.

A3.5 | DTSC appreciates the opportunity to comment on the Mission Point Project. Thank you for
your assistance in protecting California's people and environment from the harmful effects
of toxic substances. If you have any questions or would like any clarification on DTSC's
comments, please respond to this letter or via [email](#) for additional guidance.

Rebecca Bustos
December 21, 2023
Page 4

Sincerely,

Tamara Purvis

Tamara Purvis
Associate Environmental Planner
HWMP - Permitting Division – CEQA Unit
Department of Toxic Substances Control

cc: (via email)

Governor's Office of Planning and
Research State Clearinghouse
State.Clearinghouse@opr.ca.gov

Dave Kereazis
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Response to Comment Letter A3—Department of Toxic Substances Control, Tamara Purvis (letter dated December 21, 2023)

- A3.1 The commenter describes the Project as an introduction to the commenter’s letter and subsequent comments.

The comment does not contain questions or concerns regarding the adequacy of the Draft EIR analysis. No revisions to the Draft EIR are required. No substantive response is required.

- A3.2 This comment references the “Soil and Groundwater Contamination” subsection of the “Environmental Setting” section of the Draft EIR, which begins on page 3.11-10 of Section 3.11, *Hazards and Hazardous Materials*, and excerpts the last paragraph from page 3.11-11 of the Draft EIR, which summarizes conclusions and recommendations from the 2022 Phase I Environmental Site Assessment (ESA) regarding the presence of methane and volatile organic compounds (VOCs) in soil vapor and the potential for vapor intrusion mitigation to be required for some of the planned buildings. The comment also excerpts footnote number 10 on page 3.11-11 of the Draft EIR, which explains that Tier 1 Environmental Screening Levels (ESLs) are the most conservative ESLs established by the San Francisco Bay Regional Water Board (Regional Water Board) and account for all possible exposure pathways and receptors. The comment then indicates that the City should work with the County of Santa Clara, which can provide oversight as a certified local agency or enter into the Department of Toxic Substances Control’s (DTSC’s) Standard Voluntary Agreement (SVA) program so that a proper evaluation of the Project can be conducted by designated DTSC technical staff. The comment then provides instructions on how to request DTSC oversight and recommends that once an SVA is signed, a Preliminary Endangerment Assessment Report (PEA Report) that summarizes existing data and provides an evaluation of potential risks to current and future users of the Project site be submitted to DTSC for review.

The excerpt of the footnote regarding Tier 1 ESLs appears to have been erroneously included in the comment because it was added to an incomplete sentence at the end of the excerpt from the last paragraph on page 3.11-11 of the Draft EIR. The footnote is not related to that paragraph and is not relevant to the remainder of the comment.

As indicated on page 3.11-20 of Section 3.11, *Hazards and Hazardous Materials*, in the Draft EIR, implementation of Mitigation Measure HAZ-2.1 would require the Project Sponsor to engage with an appropriate regulatory agency (e.g., the Regional Water Board, Santa Clara County Department of Environmental Health [DEH], or DTSC) to provide oversight for additional subsurface investigation at the Project site, prepare and implement a Soil and Groundwater Management Plan (SGMP), and implement remedial actions, as necessary and required by the appropriate regulatory agency. This measure would satisfy the commenter’s request. No revisions to the Draft EIR are required.

- A3.3 This comment indicates that, if buildings or other structures are to be demolished on the Project site, surveys should be conducted for the presence of lead-based paints or products, mercury, asbestos-containing materials (ACMs), and polychlorinated biphenyl (PCB) caulk; removal, demolition, and disposal of any of the above-mentioned chemicals should be conducted in compliance with California environmental regulations and policies. This comment also indicates that sampling near current and/or former buildings should be conducted in accordance with DTSC’s 2006 *Interim Guidance Evaluation of School Sites with Potential Contamination from Lead-Based Paint, Termiticides, and Electrical Transformers*.

As indicated on page 3.11-13 of Section 3.11, *Hazards and Hazardous Materials*, in the Draft EIR, hazardous materials surveys have been performed for the four existing buildings on the Project site. Hazardous building materials, including ACMs, lead-based paint, mercury-containing fluorescent light tubes, high-intensity discharge lamps, and refrigerants, have been identified in the existing buildings on the Project site. PCB-containing light ballasts were not observed; however, there are fluorescent light fixtures in the building, and any suspect PCB-containing ballasts must be inspected and disposed of properly prior to building demolition. Some materials that could not be sampled were assumed to contain asbestos until sampled. Limited sampling for PCBs in building materials, including caulking and joint/window sealants, was performed; detectable concentrations of PCBs were not reported in the samples. However, sampling for PCBs was not performed in accordance with the guidelines of the Bay Area Stormwater Management Agencies Association (BASMAA). The hazardous building materials reports call for comprehensive building surveys, including destructive sampling, prior to building demolition.

As indicated on page 3.11-17 of Section 3.11, *Hazards and Hazardous Materials*, in the Draft EIR, any disturbance of lead-based paint would be performed in accordance with applicable laws and regulations, including, but not limited to, the California Occupational Safety and Health Administration's (Cal/OSHA's) Construction Lead Standard; California Code of Regulations (CCR) Title 8, Section 1532.1; and Department of Health Services Regulation 17, CCR Sections 35001 through 36100, as may be amended. The disturbance/removal and management of ACMs must be performed in accordance with Cal/OSHA regulations and Bay Area Air Quality Management District (BAAQMD) regulations under Rule 11-2 prior to the City issuing demolition or renovation permits to ensure that asbestos would not be released into the environment.

As indicated on page 3.11-18 of Section 3.11, *Hazards and Hazardous Materials*, in the Draft EIR, the Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) permit requires all Bay Area municipalities to address potential sources of PCBs; this includes preventing certain building materials that may contain PCBs from entering storm drains as a result of building demolition activities. In order to obtain demolition permits from the City, assessments must be performed at the Project site to screen existing buildings for PCBs in priority building materials, including caulks and sealants, thermal/fiberglass insulation and other insulating materials, adhesive/mastic, and rubber window seals/gaskets. The assessments must be performed in accordance with BASMAA protocols.

As indicated on page 3.11-18 of Section 3.11, *Hazards and Hazardous Materials*, in the Draft EIR, in accordance with the existing regulations described above, comprehensive hazardous building material surveys, including destructive sampling and PCB sampling in accordance with BASMAA protocols, and hazardous building material abatement activities must be conducted prior to demolition of existing structures on the Project site. Hazardous building materials removed prior to demolition activities must be transported in accordance with U.S. Department of Transportation (DOT) regulations and disposed of in accordance with the Resource Conservation and Recovery Act (RCRA), Toxic Substances Control Act (TSCA), CCR, and/or the California Universal Waste Rule at a facility permitted to accept the wastes. Compliance with the existing regulations described above is mandatory.

Sampling near all current and/or former buildings in accordance with DTSC's 2006 *Interim Guidance Evaluation of School Sites with Potential Contamination from Lead-Based Paint, Termiticides, and Electrical Transformers* should not be necessary because the guidance document is applicable to schools, which have a much lower risk tolerance than other developments with

respect to potential exposure to contaminants in soil. In addition, the majority of soil near current and former buildings on the Project site would be excavated for subsurface parking structures. Additional subsurface investigation appropriate for the Project site, based on the proposed construction activities, design, and land use, would be performed as required by Mitigation Measure HAZ-2.1, which would require the Project Sponsor to engage with an appropriate regulatory agency (e.g., Regional Water Board, Santa Clara County DEH, DTSC) to provide oversight for additional subsurface investigation at the Project site, as indicated on page 3.11-20 of Section 3.11, *Hazards and Hazardous Materials*, in the Draft EIR. No revisions to the Draft EIR are required.

- A3.4 The comment recommends testing all imported soil and fill material to ensure that contaminants of concern are within approved screening levels for the intended land use. This should be supported by documentation regarding the origins of the soil or fill material as well as sampling and analysis, based on the source of the fill and knowledge of the prior land use.

As indicated on page 3.11-20 of Section 3.11, *Hazards and Hazardous Materials*, in the Draft EIR, implementation of Mitigation Measure HAZ-2.1 would require the Project Sponsor to engage with an appropriate regulatory agency (e.g., Regional Water Board, Santa Clara County DEH, DTSC) to provide oversight for preparation and implementation of an SGMP. The SGMP must include guidelines for importing clean fill material. No revisions to the Draft EIR are required.

- A3.5 The comment expresses appreciation for the opportunity to review the Draft EIR and states where questions or clarifications can be asked.

The comment does not contain questions or concerns regarding the adequacy of the Draft EIR analysis. No revisions to the Draft EIR are required. No substantive response is required.

Comment Letter A4—Santa Clara Unified School District, Michael Healy (letter dated December 28, 2023)



Letter A4

December 28, 2023

Via Email

Rebecca Bustos
Associate Planner
City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050
rbustos@santaclaraca.gov

RE: Mission Point Project Draft EIR

Dear Ms. Bustos:

A4.1

The Santa Clara Unified School District (District or SCUSD) appreciates the opportunity to respond to the Draft Environmental Impact Report (EIR) for the Mission Point (Project), by the City of Santa Clara. The Project is 48.6 gross acres and is 4,913,000 gsf of new development including 3 million gsf of office and research-and-development uses, 100,000 gsf of neighborhood retail uses, 1.8 million gross square feet (gsf) of residential uses (1,800 units with 15% affordable), 10,000 gsf of childcare facilities and 3,000 gsf of community space. The Project will impact the SCUSD in several ways.

Due to the known growth in the north of the Santa Clara Unified School District, the District used Measure BB General Obligation Bonds to front-fund and construct the new Huerta Middle School and MacDonald High School. Before the construction of the Huerta Middle School and the MacDonald High School, the District needed a middle and high school north of Highway 101 to accommodate all of the new residential growth. The Project should help to offset the costs of construction of the Huerta and MacDonald Schools, since they were partially constructed to accommodate the students in the Project.

A4.2

There is an error in the Draft EIR Section 3.13 School Services regarding Huerta Middle School's classroom count, which is stated as six to eight. The accurate count is 39 classrooms. The District urges the correction of this information in the final EIR for accuracy and clarity.

A4.3

The Project is in the Katherine Hughes Elementary School attendance boundary and the District proposes the modernization and upgrade of the school in order to accommodate the increase in students. The district has completed a Facility Needs Assessment and Facility Master Plan for Hughes Elementary. The Master Plan includes a new, larger multipurpose with a full cooking kitchen, a new classroom building to replace the old portables on campus and a new parking lot with enhanced student drop off and pick up.

A4.4

The District's Residential Development School Fee Justification Study (RS), dated March 24, 2022 and will be updated in February 2024, calculates the actual school facilities cost impact per residential square foot for multi-family attached houses as \$10.43 per square foot. The Statutory Residential Development School Fee is \$4.79. This is a deficit of \$5.64 for multi-family new residential per square foot constructed.

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Superintendent Gary Waddell, Ed.D. • Board of Trustees Jim Canova, Vickie Fairchild, Albert Gonzalez,
Bonnie Lieberman, Jodi Muirhead, Andrew Ratermann, Michele Ryan, Ph.D.

Graduates of Santa Clara Unified School District are resilient, future-ready, lifelong learners
who think critically, solve problems collaboratively, and are prepared to thrive in a global society.

A4.4
cont'd

The District's Commercial/Industrial Development School Fee Justification Study (CID), dated March 24, 2022 and will be updated in February 2024, calculates the actual net school facilities cost impact of retail new construction to be \$0.91 per square foot. This is a deficit of \$0.13 per square foot of retail construction. The CID calculates the actual net impact of office space is \$1.44 per square foot, which is a deficit of \$0.66 per square foot. The Statutory Commercial Development School Fee is \$0.78 per square foot.

Therefore, the Santa Clara Unified School District is requesting the Project provide for full mitigation of their impact through a combination of a voluntary community benefit payment and the Statutory Development Fee equal to the calculated impact in the SCUSD Residential and CID Study or fully fund the needed upgrades to Katherine Hughes Elementary School in collaboration with the District.

A4.5

Currently, students are slated to attend Katherine Hughes for elementary school. Access to Hughes Elementary is not easy for an elementary student, since the most direct pathway is on Tasman. The District requests the Project to study the opportunities for safe and secure pathways for students and community members to walk or bike between the Project and Katherine Hughes Elementary. The Project should be responsible for creating a safe path of travel to and from all residential units as well as financing safe routes to school education.

A4.6

The District looks forward to collaborating with the City of Santa Clara and the Project to create a community that holds education as a priority.

Sincerely,



Michal Healy
Director, Facility Development and Planning

Cc via email: Mark Schiel, mschiel@scusd.net, Deputy Superintendent / CBO

Response to Comment Letter A4—Santa Clara Unified School District, Michael Healy (letter dated December 28, 2023)

- A4.1 The commenter states that Measure BB general obligation bonds were used to fund construction of Huerta Middle School and MacDonald High School, which were needed to accommodate new residential growth. The commenter asserts that the Project should help to offset the cost of construction of these schools because they were partially constructed to accommodate students from the Project.

As stated on page 3.13-16 of Section 3.13, *Public Services and Recreation*, of the Draft EIR, the Project would be subject to Senate Bill (SB) 50 school impact fees, which are deemed to constitute full and complete mitigation for school impacts from development. Payment of the fees would help to offset the cost of construction for these schools. The comment does not contain questions or concerns regarding the adequacy of the Draft EIR analysis. No revisions to the Draft EIR are required.

- A4.2 The commenter asserts the Draft EIR is incorrect in Section 3.13, *Public Services and Recreation*, under the “School Services” subheading, where it describes Huerta Middle School’s classroom count as being six to eight rather than 39 classrooms.

In response to this comment, the following text in the first paragraph on page 3.13-9 of Section 3.13, *Public Services and Recreation*, in the Draft EIR has been revised, as follows:

Huerta Middle School has ~~six to eight~~ 39 classrooms and support spaces.

This revision does not change the analysis or conclusions provided in the Draft EIR.

- A4.3 The commenter provides information regarding the proposed upgrade and modernization efforts at Katherine Hughes Elementary School, which would accommodate students from the Project.

The comment provides current plans pertaining to the elementary school. It does not contain questions or concerns regarding the adequacy of the Draft EIR analysis. No revisions to the Draft EIR are required. No substantive response is required.

- A4.4 The commenter states that both the Santa Clara Unified School District’s (District’s) Residential Development School Fee Justification Study (RS) and the District’s Commercial/Industrial Development School Fee Justification Study (CID), dated March 24, 2022, will be updated in February 2024. The updated studies will include an increase in the cost impact per square foot. The commenter requests that the Project mitigate the impact of the Project through a combination of voluntary community benefit payments and development fees, according to the calculations from the updated study, or fully fund needed upgrades at Katherine Hughes Elementary School in collaboration with the District.

Page 3.13-1 of the Draft EIR provides an explanation of the school impact fees. As a result of the wide-ranging changes in the financing of school facilities, including the passage of State school facilities bonds intended to provide a major source of financing for new school facilities, Section 65996 of the State Government Code explains that payment of school impact fees established by SB 50 is deemed to constitute full and complete mitigation for school impacts from development that may be required from a developer by any State or local agency. Although the payment of the school impact fee by the Project Sponsor could contribute toward the construction or expansion of schools, any actual construction or expansion of school facilities would not be a direct result of

the Project and would be required to undergo a separate CEQA review process. Under CEQA, the Project Sponsor is not required to pay additional impact fees; payment of SB 50 school impact fees is deemed sufficient to reduce impacts to less than significant. Payment of additional fees, as requested by the commenter, is not a CEQA issue. Per State CEQA Guidelines Section 15131, the focus of the EIR is on the physical environmental effects rather than social or economic issues. Fiscal issues and community benefits from the Project are topics that will be considered by the City Council or Planning Commission during the decision-making process. No revisions to the Draft EIR are required.

- A4.5 The commenter requests that the Project study opportunities for a safe and secure pathway for students and community members who walk or bike between the Project site and Katherine Hughes Elementary School. The commenter further asserts that the Project should be responsible for financing and creating a safe path from the proposed residential units to educational facilities.

Students can walk east from the Project site along Tasman Drive and then south to the school using the pedestrian pathway that leads to Calle De Escuela, an approximately 1.15-mile-long path. This would provide access to the east side of the school grounds and, according to the District's master plan for the school, the future multipurpose building, classroom building, and drop-off/pickup area. Other more direct connections would not be feasible because they would require pathways through private residential development. Eventually, the City of Santa Clara's Master Trail Plan would include an additional pathway from the Project site to Katherine Hughes Elementary, passing along the southern portion of the site, tunneling under the Union Pacific Railroad line and Lafayette Street, and connecting with the sidewalk on the east side of Lafayette Street. The Project would construct the portion of the trail within the Project site and therefore would include 30 feet of land for that purpose.

The comment does not contain questions or concerns regarding the adequacy of the Draft EIR analysis. No revisions to the Draft EIR are required.

- A4.6 The commenter looks forward to working with the City on this Project.

The comment does not contain questions or concerns regarding the adequacy of the Draft EIR analysis. No revisions to the Draft EIR are required. No substantive response is required.

**Comment Letter A5—California Department of Transportation, Yunsheng Luo
(letter dated January 2, 2024)**

CALIFORNIA STATE TRANSPORTATION AGENCY

Letter A5

GAVIN NEWSOM, GOVERNOR

California Department of Transportation

DISTRICT 4
 OFFICE OF REGIONAL AND COMMUNITY PLANNING
 P.O. BOX 23660, MS-10D | OAKLAND, CA 94623-0660
www.dot.ca.gov



January 2, 2024

SCH #: 2018072068
 GTS #: 04-SCL-2022-01242
 GTS ID: 26215
 Co/Rt/Pm: SC/237/R5.3

Rebecca Bustos, Principal Planner
 City of Santa Clara
 1500 Warburton Avenue
 Santa Clara, CA 95050

Re: Mission Point Project – Draft Environmental Impact Report (DEIR)

Dear Rebecca Bustos:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the Mission Point Project. We are committed to ensuring that impacts to the State's multimodal transportation system and to our natural environment are identified and mitigated to support a safe, sustainable, integrated and efficient transportation system.

A5.1

The Local Development Review (LDR) Program reviews land use projects and plans to ensure consistency with our mission and state planning priorities. The following comments are based on our review of the November 2023 DEIR.

Project Understanding

The proposed project would establish a new mixed-use neighborhood in a transit-supported area. The project proposes up to 4,913,000 gross square feet (gsf) of new development, including 1.8 million gsf of residential uses, 3 million gsf of office/Research & Development space, 100,000 gsf of neighborhood retail uses, 10,000 gsf of childcare facilities, along with 3,000 gsf of community space. The project is located approximately 1.2 miles from State Route (SR)-237.

A5.2

Travel Demand Analysis

With the enactment of Senate Bill (SB) 743, Caltrans is focused on maximizing efficient development patterns, innovative travel demand reduction strategies, and multimodal improvements. For more information on how Caltrans assesses Vehicle Miles Traveled (VMT) analysis for land use projects, please review Caltrans' Transportation Impact Study Guide ([link](#)).

"Provide a safe and reliable transportation network that serves all people and respects the environment"

Rebecca Bustos, Principal Planner
January 2, 2024
Page 2

A5.2
cont'd

Based on the DEIR, this project qualifies as a transit-supportive project per the Office of Planning and Research's guidance and the City's VMT policy. Caltrans commends the Lead Agency on the transit oriented mixed-use development. This project supports the State's goals to reduce greenhouse gas emissions and improve multimodal transportation options for land use development.

Construction-Related Impacts

- A5.3 - Potential impacts to the State Right-of-Way (ROW) from project-related temporary access points should be analyzed. Mitigation for significant impacts due to construction and noise should be identified.
- A5.4 - Project work that requires movement of oversized or excessive load vehicles on State roadways requires a transportation permit that is issued by Caltrans. To apply, please visit Caltrans Transportation Permits ([link](#)).
- A5.5 -
- A5.6 - Prior to construction, coordination may be required with Caltrans to develop a Transportation Management Plan (TMP) to reduce construction traffic impacts to the State Transportation Network (STN).
- A5.7 - Thank you again for including Caltrans in the environmental review process. Should you have any questions regarding this letter, please contact Marley Mathews, Transportation Planner, via LDR-D4@dot.ca.gov. For future early coordination opportunities or project referrals, please contact LDR-D4@dot.ca.gov.

Sincerely,



YUNSHENG LUO
Branch Chief, Local Development Review
Office of Regional and Community Planning

c: State Clearinghouse

"Provide a safe and reliable transportation network that serves all people and respects the environment"

Response to Comment Letter A5—California Department of Transportation, Yunsheng Luo (letter dated January 2, 2024)

- A5.1 The comment expresses appreciation from the California Department of Transportation (Caltrans) for the opportunity to comment on the Draft EIR and provides a summary of the Caltrans' Local Development Review Program.

The comment does not contain questions or concerns regarding the adequacy of the Draft EIR analysis. No revisions to the Draft EIR are required. No substantive response is required.

- A5.2 The commenter states that the proposed transit-oriented, mixed-use development supports State of California (State) goals to reduce greenhouse gas emissions and improve multimodal transportation options.

The comment does not contain questions or concerns regarding the adequacy of the Draft EIR analysis. No revisions to the Draft EIR are required. No substantive response is required.

- A5.3 The commenter requests an analysis of potential impacts on State ROWs from Project-related temporary access points during construction.

The Project site is not adjacent to a State ROW, nor is the Project proposing to implement any modifications or improvements to the State Transportation Network (STN). Thus, the Project is not expected to require Project-related temporary access points to State ROWs during construction. Therefore, the requested analysis is not applicable to the Project. No revisions to the Draft EIR are required.

- A5.4 The commenter requests that mitigation be identified for significant impacts due to construction and noise.

Potential Project impacts associated with construction and noise were evaluated in the Draft EIR in Sections 3.2, *Transportation*, and 3.6, *Noise*. The Project Sponsor is required to prepare a construction management plan for review and approval by the City Public Works Department in Mitigation Measure TRA-1.1, Construction Management Plan, to minimize disruptions to the roadway network caused by Project construction activities. Furthermore, the Project Sponsor and/or contractor(s) are required to develop a construction noise control plan as part of Mitigation Measure NOI-1.1, Construction Noise Reduction Control Plan, to reduce noise levels as much as possible and, to the extent feasible, comply with City Code noise limits. These mitigation measures would reduce construction and noise impacts to the greatest extent possible. No revisions to the Draft EIR are required.

- A5.5 The comment notes the need for a transportation permit for the movement of oversized vehicles or vehicles with excessive loads on State roadways.

The Project Sponsor is obligated to consult with Caltrans and obtain any required permits or approvals. In Chapter 2, *Project Description*, on page 2-38 of the "Project Approvals" subsection of the Draft EIR, Caltrans is identified as an agency for consultation and approval. Therefore, no revisions to the Draft EIR are required.

- A5.6 The commenter suggests coordination with Caltrans prior to construction and a possible need for development of a Transportation Management Plan (TMP) to reduce construction traffic impacts on the STN.

See responses to A5.4 and A5.5. No revisions to the Draft EIR are required.

- A5.7 The comment expresses appreciation for the opportunity to review the Draft EIR and provides contact information for questions.

The comment does not contain questions or concerns regarding the adequacy of the Draft EIR analysis. No revisions to the Draft EIR are required. No substantive response is required.

**Comment Letter A6—Santa Clara Valley Transportation Authority, Lola Torney
(letter dated January 2, 2024)**



Letter A6

January 2, 2024

City of Santa Clara Planning Division
1500 Warburton Avenue
Santa Clara, CA 95050

Attn: Rebecca Bustos
By Email: rbustos@santacalaraca.gov

Dear Rebecca,

- A6.1 | VTA appreciates the opportunity to comment on the DEIR for the Mission Point Project at 3005 Democracy Way. VTA has reviewed the document and has the following comments:
- A6.2 | Land Use Mix
VTA appreciates the mix of land uses included in the project but recommends the office and residential be more mixed throughout the site, so the area seems more active throughout the day.
- A6.3 | VTA also strongly recommends the project increase the amount of 3- and 4-bedroom residential units proposed for this large, transit-adjacent development from its current proposal (for zero percent). It is both a demographic and anti-displacement concern that the proposed project preemptively excludes larger and multigenerational households from the opportunity to live/work in this well-amenitized community by having only 30% of units proposed as 2-bedrooms and 70% as studios/1-bedrooms. The pandemic has been shifting long-term residential needs for remote/hybrid work and learning space, and a project of this scale should be able to serve varying household needs at opening day, including larger families per the City/County's average household/family sizes.
- A6.4 | Parking Availability
VTA would like to applaud the project for proposing a reduced number of vehicle parking stalls than would typically be required from a project of this size. We agree that a shared parking strategy would be beneficial.
- A6.5 | Bicycle Circulation and Access
VTA appreciates the inclusion of open space in the center of the project site. We recommend the project include not just walking paths, but wide multi-use paths throughout the park, especially in the Central Green Area, so bicyclists feel welcome to use the space. This would allow for seamless bicycle travel between Kylli Drive West and Kylli Drive East. Paths should be at least 15 feet wide.
- A6.6 | VTA recommends the amount of bicycle parking for the retail/restaurant and childcare uses be increased as the current numbers shown in Table 2-5 seem low for the volume of activity that could be generated at this site.

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City of Santa Clara
Mission Point Project DEIR
Page 2 of 2

- A6.7 Site Design
VTA appreciates the proposed open spaces, activated ground floor areas, and pathways promoting enhanced bikeability and walkability throughout the project site; and the Vehicular Access and Circulation plan that minimizes vehicular traffic at street level via circulation in the below-grade garage.
- A6.8 VTA recognizes the site design core principles listed on Page 2-19 and is especially appreciative of the Inclusivity Principle. VTA recommends that the DEIR be more explicit about how these principles are incorporated into the various aspects of the project, most specifically for seniors and children who may live in the project.
- A6.8 VTA appreciates the conceptual designs for each project area shown in the Site Design section of the DEIR (starting on Page 2-19). VTA recommends the developer review VTA's Community Design and Transportation Manual (CDT) at www.vta.org/cdt for ways to incorporate best practices for public space design and for relevant transportation and land use policies.
- A6.9 VTP 2040 Compliance
As the project is expected to add traffic on multiple freeway segments along US 101, SR 237, and SR 87 the project should consider providing a fair contribution to the following projects listed in VTP 2040:
- H2 – Converting Existing HOV Lanes to Express Lanes on US 101 from Whipple Avenue in San Mateo County to Cochrane Road in Morgan Hill
 - H48 – US 101 Southbound Auxiliary Lane: Great America Parkway to Lawrence Expressway
 - X19 – Lawrence Expressway: Ramp Improvements at SR 237
- A6.10 General Comments
Figure 2-3: Given the site's optimal proximity to the start/end of VTA's Green Line light rail, wayfinding and placemaking are important along Old Ironsides Dr. between Tasman and Democracy Way (noted as the "Gateway" area).
- A6.11 Thank you again for the opportunity to review this project. If you have any questions, please do not hesitate to contact me at 408-321-5830 or lola.torney@vta.org.

Sincerely,



Lola Torney
Interim Land Use Manager
SC1708

Response to Comment Letter A6—Santa Clara Valley Transportation Authority, Lola Torney (letter dated January 2, 2024)

- A6.1 The comment expresses appreciation for the opportunity to review the Draft EIR.

The comment does not contain questions or concerns regarding the adequacy of the Draft EIR analysis. No revisions to the Draft EIR are required. No substantive response is required.

- A6.2 The commenter expresses appreciation for the mix of land uses included in the Project but recommends that the office and residential uses be more mixed throughout the site so the area is more active throughout the day.

As described in Chapter 2, *Project Description*, of the Draft EIR, ground-floor retail is included in both the commercial and residential portions of the Project, which, along with the public parkland, would activate the ground plane throughout the day. The comment does not contain questions or concerns regarding the adequacy of the Draft EIR analysis. No revisions to the Draft EIR are required.

- A6.3 The commenter recommends increasing the number of three- and four-bedroom residential units proposed by the Project.

As described in Chapter 2, *Project Description*, of the Draft EIR, the mix of three- and four-bedroom units at this preliminary stage is only an approximation. The final unit mix would be determined during the architectural review phase of the Project, based on market demand at the time of each phase of construction. Designs for live-work units and a variety of household types would also be considered during this phase. The comment does not contain questions or concerns regarding the adequacy of the Draft EIR analysis. No revisions to the Draft EIR are required.

- A6.4 The commenter praises the Project for reducing the number of vehicle parking stalls and agrees with a shared parking strategy.

The commenter's praise is noted. The comment does not contain questions or concerns regarding the adequacy of the Draft EIR analysis. No revisions to the Draft EIR are required. No substantive response is required.

- A6.5 The commenter recommends the inclusion of wide multi-use paths throughout the parks on the Project site.

The park layouts reflected in the Draft EIR are conceptual but would be finalized during the design phase of the Project. Because the proposed public parkland would ultimately be dedicated to the City, the Project Sponsor would work with the City regarding final programming and circulation within parkland boundaries. The comment does not contain questions or concerns regarding the adequacy of the Draft EIR analysis. No revisions to the Draft EIR are required.

- A6.6 The commenter recommends increasing the amount of bicycle parking for retail/restaurant as well as childcare uses.

The bicycle parking described in Chapter 2, *Project Description*, of the Draft EIR meets or exceeds Santa Clara Valley Transportation Authority (VTA) standards. For some land uses, the City's bicycle parking requirements are higher than VTA's. The higher bicycle parking requirements have been used for the Project. The comment does not contain questions or concerns regarding the adequacy of the Draft EIR analysis. No revisions to the Draft EIR are required.

- A6.7 The commenter expresses appreciation for the inclusivity principle listed as a site-design core principle and recommends a more explicit discussion in the Draft EIR about how such principles would be incorporated into the Project.

The commenters appreciation is noted. The comment does not contain questions or concerns regarding the adequacy of the Draft EIR analysis. No revisions to the Draft EIR are required. No substantive response is required.

- A6.8 The commenter notes appreciation for the conceptual Project designs and suggests that the Project Sponsor review VTA's *Community Design and Transportation Manual* for ways to incorporate best practices for public space designs as well as relevant transportation and land use policies.

Please see response to comment A6.5 regarding public spaces and parkland. The comment does not contain questions or concerns regarding the adequacy of the Draft EIR analysis. No revisions to the Draft EIR are required. No substantive response is required.

- A6.9 The commenter suggests that the Project should provide a fair contribution to projects listed in Valley Transportation Plan (VTP) 2040 that could be affected by increased traffic on freeway segments.

The Project site is not adjacent to a State ROW, nor is the Project proposing to implement any modifications or improvements to the STN. In accordance with SB 743 and the City's Transportation Analysis Policy, the Project's effects on delay and level of service at study intersections and freeway segments no longer constitute a significant impact under CEQA. As required by the City's Transportation Analysis Policy, a level-of-service analysis for key intersections and freeway segments is included but did not demonstrate impacts on these freeway segments. Locations that would be adversely affected by the addition of Project-generated traffic were identified, and recommendations for improvements were provided, where feasible. The comment makes a recommendation but does not contain questions or concerns regarding the adequacy of the Draft EIR analysis. No revisions to the Draft EIR are required. No substantive response is required.

- A6.10 The commenter states that wayfinding and placemaking are important along Old Ironsides Drive between Tasman and Democracy Way due to the Project's proximity to the start/end of VTA's Green Line light rail.

Wayfinding within Project boundaries would be considered in the design phase of the Project. Wayfinding designs within public ROWs, including the region of Tasman and Old Ironsides Drive, would be directed by the City. The comment does not contain questions or concerns regarding the adequacy of the Draft EIR analysis. No revisions to the Draft EIR are required.

- A6.11 The comment expresses appreciation for the opportunity to review the Draft EIR and provides contact information for questions.

The comment does not contain questions or concerns regarding the adequacy of the Draft EIR analysis. No revisions to the Draft EIR are required. No substantive response is required.

Comment Letter A7—Santa Clara Valley Water District, Shree Dharasker (letter dated January 5, 2024)

Letter A7

From: [Shree Dharasker](#)
To: [Sheldon Ah Sing](#); [Elizabeth Elliott](#)
Cc: [Rebecca Bustos](#); [Michael Martin](#); [Jason Gurdak](#)
Subject: RE: Notice of Availability Draft EIR - Mission Point Project
Date: Friday, January 05, 2024 10:59:26 AM
Attachments: [image001.png](#)
[image003.png](#)
[image004.png](#)

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Good Morning:

- | | |
|------|---|
| A7.1 | Thank you for providing an extension to the Mission Point Project -Draft Environmental Impact Report (EIR) review in Santa Clara. Following are the Santa Clara Valley Water District (Valley Water) comments on this EIR: |
| A7.2 | 1. Page 3.10-25, Mitigation Measure WQ-2.1: In addition to implementing applicable water conservation measures as listed, the Valley Water Board of Directors adopted Ordinance 23-02 (Enforcement Measures for Water Conservation in Santa Clara County) in June 2023, which in part prohibits the use of potable water for non-functional turf in private open space. Non-functional turf is defined as turf that is solely ornamental and does not serve a community or neighborhood function. |
| A7.3 | 2. Page 3.10-19, first paragraph, "Furthermore, saltwater intrusion has been identified in the Project area.": As the Project dewatering plan is developed and implemented, we recommend referencing Valley Water's Annual Groundwater Report (AGR) 2022, Figure 27, which is the latest (2022) map of the 100 mg/L chloride isocontour extent in the shallow groundwater and represents an early warning of seawater intrusion. The 2022 AGR is available on Valley Water's website here: https://www.valleywater.org/your-water/groundwater |
| A7.4 | 3. Page 3.10-20, Dewatering Plan: Valley Water appreciates the Project receiving and implementing the comments in the May 23, 2023 Notice of Preparation letter related to dewatering of shallow groundwater during construction. The dewatering plan will help to minimize dewatering to the greatest extent possible. On page 3.10-17, the draft EIR correctly acknowledges the need for appropriate permitting with the City and/or SFRWQCB to discharge the effluent during the dewatering activities. |
| A7.5 | 4. Page 3.10-22, Wells: Thank you for providing this plan to identify and properly destroy any wells on the Project site. Valley Water's Well Information App can be used to help locate wells on the Project site: https://www.valleywater.org/contractors/doing-businesses-with-the-district/wells-well-owners/well-information-app . This App indicates active wells on the Project site. Please coordinate the activity to identify and destroy wells with Valley Water's Staff at the Well Permitting and Inspections Hotline: 408-630-2660 (https://www.valleywater.org/contractors/doing-businesses-with-the-district/wells-well-owners) |
| A7.6 | 5. Page 3.1-43, General Plans Goals and Policies: Valley Water has no right of way at the project location. No encroachment permit will be required in accordance with the Water Resources Protection Ordinance. As discussed in the EIR, Valley Water's Guidelines and Standards for Land Use Near Streams , should be used to protect streams and riparian habitats during development. |

- A7.7 | 6. **Page 3.10-2. Flooding:** As noted in the EIR portions of this site is within Zone AO and would be subject to flood depths of 1 foot (usually areas of ponding). Design measures should be implemented to reduce impervious areas and provide detention to mitigate increased runoff due to development.
- A7.8 | Valley Water appreciates the opportunity to review this document and wishes to review and subsequent documents on this project.

Shree Dharasker
Associate Engineer Civil
Community Projects Review Unit
(408)630-3037

From: Sheldon Ah Sing <sahsing@santaclaraca.gov>
Sent: Tuesday, January 2, 2024 10:42 AM
To: Shree Dharasker <sdharasker@valleywater.org>; Elizabeth Elliott <EElliott@santaclaraca.gov>
Cc: Rebecca Bustos <RBustos@SantaClaraCA.gov>
Subject: RE: Notice of Availability Draft EIR - Mission Point Project

*** This email originated from outside of Valley Water. Do not click links or open attachments unless you recognize the sender and know the content is safe. ***

Hi Shree,

Thanks for reaching out to us regarding the review of the CEQA document. I can extend the due date to **Friday 1/5 at noon**. I hope that works for your team.

A7.9

Sheldon S. Ah Sing, AICP | Development Review Officer
Community Development Department | Planning Division
1500 Warburton Avenue | Santa Clara, CA 95050
D: 408.615.2480 | email: SAhSing@SantaClaraCA.gov

www.SantaClaraCA.gov

From: Shree Dharasker <sdharasker@valleywater.org>
Sent: Tuesday, January 2, 2024 10:32 AM
To: Elizabeth Elliott <EElliott@santaclaraca.gov>
Cc: Sheldon Ah Sing <sahsing@santaclaraca.gov>; Rebecca Bustos <RBustos@SantaClaraCA.gov>

Subject: RE: Notice of Availability Draft EIR - Mission Point Project

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Santa Clara Valley Water District (Valley Water) is currently reviewing the Mission Point EIR. Due to staff time off during the holidays, the review has been delayed.

I would like to know if the due date can be extended to Friday 1/5/2024 to allow for compilation and review,

Thanks, and best regards,

Shree Dharasker
Associate Engineer Civil
Community Projects Review Unit
(408)630-3037

A7.9
cont'd

From: Elizabeth Elliott <EElliott@santaclaraca.gov>

Sent: Thursday, November 16, 2023 2:40 PM

To: Elizabeth Elliott <EElliott@santaclaraca.gov>

Cc: Sheldon Ah Sing <sahsing@santaclaraca.gov>; Rebecca Bustos <RBustos@SantaClaraCA.gov>

Subject: Notice of Availability Draft EIR - Mission Point Project

*** This email originated from outside of Valley Water. Do not click links or open attachments unless you recognize the sender and know the content is safe. ***

Good Afternoon,

This email is notification that a Notice of Availability (NOA) with a 45-day public review period for a Draft EIR - Mission Point Project - is now available on the [City's website](#).

If you would like to be removed from this notification list please reply to this email to unsubscribe.

Thank you.

ELIZABETH ELLIOTT

Community Development Department | Planning Division
1500 Warburton Avenue | Santa Clara, CA 95050
O : 408.615.2450 Direct : 408.615.2474

Response to Comment Letter A7—Santa Clara Valley Water District, Shree Dharasker (letter dated January 5, 2024)

A7.1 The comment expresses appreciation for providing an extension to the Draft EIR review.

The comment does not contain questions or concerns regarding the adequacy of the Draft EIR analysis. No revisions to the Draft EIR are required. No substantive response is required.

A7.2 This comment references Mitigation Measure WQ-2.1 on page 3.10-25 of the Draft EIR in Section 3.10, *Hydrology and Water Quality*, and notes that, in addition to implementing water conservation measures, the Santa Clara Valley Water District (Valley Water) Board of Directors adopted Ordinance 23-02 (Enforcement Measures for Water Conservation in Santa Clara County) in June 2023, which, in part, prohibits the use of potable water for non-functional turf in private open space. The comment indicates that non-functional turf is defined as turf that is solely ornamental and does not serve a community or neighborhood function.

As indicated on page 3.10-25 of the Draft EIR, recycled water is proposed for irrigation on the Project site; recycled water for the Project would require approval from South Bay Water Recycling (SBWR). As indicated on page 3.10-25 of the Draft EIR, implementation of Mitigation Measure WQ-2.1 would require the Project Sponsor to provide the City and Valley Water evidence of approval from SBWR for the Project's use of recycled water. In addition, the water-saving features of the Project design and the water supply assessment (WSA) prepared for the Project would be provided to Valley Water for review, and additional water-saving measures would be incorporated into the Project design if requested by Valley Water or the City, ensuring that the Project would be consistent with the WSA and Valley Water's countywide water-supply planning efforts. Therefore, implementation of Mitigation Measure WQ-2.1 would ensure that potable water would not be used for non-functional turf in private open space. No revisions to the Draft EIR are required.

A7.3 This comment references a statement in the first paragraph on page 3.10-19 of the Draft EIR in Section 3.10, *Hydrology and Water Quality*, which indicates that saltwater intrusion has been identified in the Project area. The comment recommends referencing the latest (2022) map of chloride in shallow groundwater, an early warning of seawater intrusion, as the Project dewatering plan is developed and implemented. The comment indicates that the 2022 map of chloride in shallow groundwater is available in Valley Water's annual groundwater report, Figure 27, and provides a link to the 2022 report.

The 2022 map with the 100-milligrams-per-liter (mg/L) isoconcentration line for chloride in shallow groundwater is relatively similar to the 2019 map in Valley Water's 2021 groundwater management plan, as referenced on page 3.10-12 of the Draft EIR; however, the 2022 map shows the 100 mg/L isoconcentration line for chloride extending farther inland compared with the 2019 map, suggesting that saltwater intrusion in the Project area is greater than that depicted in the 2019 map. However, the updated chloride mapping would not affect the analysis in the Draft EIR. As indicated on page 3.10-20 of the Draft EIR, implementation of Mitigation Measures WQ-1.1 would require the Project Sponsor to prepare and submit a dewatering plan to Valley Water for review and approval. The dewatering plan must include hydraulic modeling to demonstrate potential changes to surrounding hydrogeologic conditions, including potential saltwater intrusion. Therefore, Valley Water would be able to ensure that the latest mapping of chloride in shallow groundwater would be used in the dewatering plan and associated hydraulic modeling.

- A7.4 This comment references the dewatering plan on page 3.10-20 of the Draft EIR; Mitigation Measures WQ-1.1 requires the plan to be prepared for the Project. The comment also indicates that Valley Water appreciates the Project for receiving and implementing the comments in the May 23, 2023, NOP letter related to dewatering shallow groundwater during construction and notes that the dewatering plan would help to minimize dewatering to the greatest extent possible. The comment indicates that the Draft EIR correctly acknowledged the need for appropriate permitting from the City and/or Regional Water Board for the discharge of effluent during dewatering.

The comment is noted. No revisions to the Draft EIR are required. No substantive response is required.

- A7.5 This comment references Mitigation Measure WQ-1.2, Wells, on page 3.10-20 of the Draft EIR. The comment extends thanks from Valley Water for providing this plan to identify and properly destroy any wells on the Project site. The comment provides a link to Valley Water's Well Information App, which can be used to locate wells on the Project site. The comment indicates that, according to the app, there are active wells on the Project site and requests that activity to identify and destroy wells be coordinated with Valley Water's staff at the Well Permitting and Inspections Hotline. The comment provides the phone number for the hotline and a link to an information page for wells and well owners.

As indicated on page 3.10-22 of the Draft EIR, implementation of Mitigation Measure WQ-1.2 would require the Project Sponsor to further investigate, under the direction of Valley Water, the locations of suspected wells; therefore, the Project Sponsor would be required to coordinate with Valley Water staff members, as requested in the comment.

In response to this comment, the following text has been revised on page 3.10-21 of Section 3.10, *Hydrology and Water Quality*, in the Draft EIR:

Valley Water has indicated that, according to its records, there are eight active wells on the Project site. If the wells will not be used following development of the Project site, they must be properly destroyed under permits from Valley Water. According to a Phase I Environmental Site Assessment (ESA) prepared for the Project site in 2022, groundwater monitoring wells were installed at the Project site during investigations conducted between 1989 and 1994, and the monitoring wells were reportedly destroyed under permits from Valley Water in 1995. The Phase I ESA did not identify any current water supply wells or groundwater monitoring wells at the Project site;^{44a} however, Valley Water's Well Information App^{44b} indicates that there are two active monitoring wells at the Project site, one in the northeast corner of the Project site and one in the southwest portion near Patrick Henry Drive. The Well Information App also identifies seven destroyed monitoring wells on the Project site. therefore, it is not clear if there are active wells present on the Project site. Operation of the Project would not involve the use of wells on the Project site; therefore, any wells on the Project site, if currently present, should be properly destroyed...

^{44a} Cornerstone Earth Group. 2022. Phase I Environmental Site Assessment, 49-acre Old Ironsides Drive, Tasman Drive, Democracy Way, and Patrick Henry Drive Parcels, Santa Clara, California. July 25.

^{44b} Valley Water. 2024. *Well Information App*. Available: <https://www.valleywater.org/contractors/doing-businesses-with-the-district/wells-well-owners/well-information-app>. Accessed: January 12, 2024.

- A7.6 The commenter states that the Project would not require an encroachment permit from Valley Water and that Valley Water's "Guidelines and Standards for Land Use Near Streams" should be implemented to minimize Project impacts on streams and riparian habitats.

As stated on page 3.1-43 in Table 3.1-3 of the Draft EIR, the Project Sponsor would follow the guidelines and standards for lands near streams to protect streams and riparian habitats. The comment does not contain questions or concerns regarding the adequacy of the Draft EIR analysis. No revisions to the Draft EIR are required. No substantive response is required.

- A7.7 This comment indicates that, as noted in the Draft EIR, a portion of the Project site is within Zone AO and would be subject to flood depths of 1 foot (usually in areas with ponding). The comment indicates that design measures should be implemented to reduce the amount of impervious surface area and provide detention to mitigate increased runoff due to development.

As indicated on page 3.10-24 of the Draft EIR, the Project would reduce runoff compared to the existing condition. While responding to this comment, an error was noted in the text on page 3.10-24 of the Draft EIR; therefore, the following text has been revised on page 3.10-24 of Section 3.10, *Hydrology and Water Quality*, in the Draft EIR:

The below-grade structures on the Project site would be waterproofed; therefore, operational dewatering would not be required following the completion of construction. As discussed under *Environmental Setting*, the Project site is currently covered by 24.5 acres of impervious surfaces (pavement and roofs), 20.8 acres of pervious crushed aggregate, and 3.4 acres of pervious landscaping. The Project would include 32.3 acres of impervious surfaces (pavement and roofs) and 16.3 acres of pervious landscaping. Although the Project would increase the amount of impervious surface by 7.8 acres compared to the existing condition, it would also increase the amount of pervious landscaping by ~~7.8~~ 12.9 acres compared to the existing condition, which would result in a decrease in stormwater runoff from the Project site compared to the existing condition because landscaping has a much lower runoff rate (and therefore a higher infiltration rate) than the compacted crushed aggregate that currently covers a large portion of the Project site. The total stormwater runoff discharge rate for the Project site was estimated to be 7.79 cubic feet per second under existing conditions and 6.14 cubic feet per second under the proposed conditions with the Project...

In addition, as part of the Project, Democracy Way would be vacated and demolished and Buildings A and B would span across the area. In order to reduce existing flooding issues and combat sea-level rise, the Project proposes raising the majority of Project site by approximately 3 to 4 feet. This would eliminate the flooding concern on Democracy Way and protect the site from flooding in adjacent areas on Old Ironsides Drive. The Project design would also increase overall site permeability by replacing a significant amount of existing impervious gravel with pervious landscaping. By maximizing the landscape area onsite, the Project would be able to reduce peak stormwater discharges, as well as runoff, leaving the site to a level below existing conditions, thereby reducing the load on existing City stormwater conveyance infrastructure and further minimizing the impact on the existing flood areas.

In addition to these design features, the Project would be required to prepare a hydraulic study that analyzes post-Project impacts on stormwater conveyance and flooding, per Mitigation Measure WQ-3.1. This study would verify that existing and proposed stormwater drainage systems that receive runoff from the Project site would be capable of conveying 10-year peak

runoff from the Project site and determine whether flows from the Project site during a 100-year flood event would remain within public roadway limits and not extend into private property, per City requirements. The study would also verify that the proposed changes to elevations onsite would not result in an increase in the base flood elevation in any areas within the city. The Project would work with the City to ensure that requirements are met and may make future design modifications, such as adding additional stormwater retention systems or adding storage pipes, as needed, to meet the requirements.

A7.8 The comment expresses appreciation for the opportunity to review the Draft EIR.

The comment does not contain questions or concerns regarding the adequacy of the Draft EIR analysis. No revisions to the Draft EIR are required. No substantive response is required.

A7.9 The comment included the preceding email correspondence between the commenter and City in which the commenter requested extra time to submit comments on the Draft EIR, with a due date of January 5, 2024. The City accepted this request, and comments from Valley Water were received on January 5, 2024. No revisions to the Draft EIR are required. No substantive response is required.

Organizations

Comment Letter O1—Adams Broadwell Joseph & Cardozo, Richard Franco and Ariana Abedifard (letter dated January 2, 2024)

Letter O1

ADAMS BROADWELL JOSEPH & CARDOZO

A PROFESSIONAL CORPORATION

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TARA C. RENGIFO

Of Counsel

MARC D. JOSEPH
DANIEL L. CARDOZO

January 2, 2023

Via Email and Overnight Mail

Andrew Crabtree
Director of Community Development
City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050
Email: acrabtree@santaclaraca.gov

Via Email Only

Rebecca Bustos, Senior Planner
Email: rbustos@santaclaraca.gov

Re: Comments on Draft Environmental Impact Report for the Mission Point Project (PLN2017-12924, PLN2018-13400, PLN21-15386, PLN21-15387, PLN22-00635, and CEQ2018-01054; SCH No. 2018072068)

O1.1

We are writing on behalf of Silicon Valley Residents for Responsible Development ("Silicon Valley Residents") to comment on the Draft Environmental Impact Report ("DEIR") prepared by the City of Santa Clara ("City") for the Mission Point Project (PLN2017-12924, PLN2018-13400, PLN21-15386, PLN21-15387, PLN22-00635, CEQ2018-01054; SCH No. 2018072068) ("Project") proposed by Kylli Inc ("Applicant"). We reserve the right to supplement these comments at later hearings and proceedings on the Project.¹


The Project proposes construction of up to 4.9 million gross square feet ("gsf") of new development consisting of up to 1,800 residential units, three million gsf of office/R&D space and 100,000 gsf of neighborhood retail.² The Project also calls for 10,000 gsf of childcare facilities and 3,000 gsf of community space.³ An electrical

¹ Gov. Code § 65009(b); PRC § 21177(a); *Bakersfield Citizens for Local Control v. Bakersfield ("Bakersfield")* (2004) 124 Cal. App. 4th 1184, 1199-1203; *see Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal. App. 4th 1109, 1121.

² DEIR, pg. 2-1.

³ *Id.*

5936-005acp

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January 2, 2024

Page 2

O1.1
cont'd | substation of approximately 18,000 gsf would be constructed to support the Project.⁴
The Project site is located at 3005 Democracy Way in Santa Clara.

O1.2 | Based on our review of the DEIR and available supporting documentation, we conclude that the DEIR fails to comply with the requirements of the California Environmental Quality Act ("CEQA").⁵ The DEIR lacks a stable project description, fails to adequately disclose and analyze the Project's significant impacts, and fails to include feasible and enforceable mitigation measures in several impact areas, as required by CEQA. The City may not approve the Project until it revises the DEIR to adequately analyze and mitigate the Project's significant impacts and incorporate all feasible mitigation measures to avoid or minimize these impacts to the greatest extent feasible.

We reviewed the DEIR, its technical appendices, and available reference documents with the assistance of noise and vibration expert Jack Meighan,⁶ air quality and hazardous resources experts Matt Hagemann and Paul Rosenfeld from Soil Water Air Protection Enterprise (SWAPE),⁷ and transportation expert Norman Marshall.⁸ The City must respond to the expert comments separately and fully.⁹

I. STATEMENT OF INTEREST

O1.3 | Silicon Valley Residents is an unincorporated association of individuals and labor organizations that may be adversely affected by the potential environmental impacts associated with Project development. Silicon Valley Residents includes the International Brotherhood of Electrical Workers Local 332, Plumbers & Steamfitters Local 393, Sheet Metal Workers Local 104, Sprinkler Fitters Local 483, along with their members and their families, and other individuals that live and/or work in the City of Santa Clara and Santa Clara County.

Individual members of Silicon Valley Residents and its member organizations live, work, recreate, and raise their families in the City and surrounding

⁴ *Id.*

⁵ Pub. Resources Code §§ 21000 et seq.; 14 Cal. Code Regs ("CEQA Guidelines") §§ 15000 et seq. ("CEQA Guidelines").

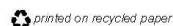
⁶ **Exhibit A:** December 29, 2023 letter from Jack Meighan to Ariana Abedifard re Comments on Mission Point Project Noise Analysis ("Meighan Comments").

⁷ **Exhibit B:** December 20, 2023 letter from Matt Hagemann and Paul Rosenfeld (SWAPE) to Ariana Abedifard re Comments on the Mission Point Project (SCH No. 2018072068) ("SWAPE Comments").

⁸ **Exhibit C:** December 29, 2023 letter from Norman Marshall to Ariana Abedifard re: Comments on the Mission Point Project ("Marshall Comments").

⁹ 14 Cal. Code Regs. ("CCR") §§ 15088(a), (c).

5936-005acp



January 2, 2024

Page 3

O1.3
cont'd

communities. Accordingly, they would be directly affected by the Project's environmental and health and safety impacts. Individual members may also work on the Project itself. They will be first in line to be exposed to any health and safety hazards that exist onsite.

In addition, Silicon Valley Residents has an interest in enforcing environmental laws that encourage sustainable development and ensure a safe working environment for its members. Environmentally detrimental projects can jeopardize future jobs by making it more difficult and more expensive for business and industry to expand in the region, and by making the area less desirable for new businesses and new residents. Continued environmental degradation can, and has, caused construction moratoriums and other restrictions on growth that, in turn, reduce future employment opportunities.

II. LEGAL BACKGROUND

O1.4

CEQA requires public agencies to analyze the potential environmental impacts of their proposed actions in an EIR.¹⁰ "The foremost principle under CEQA is that the Legislature intended the act to be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language."¹¹

CEQA has two primary purposes. First, CEQA is designed to inform decisionmakers and the public about the potential significant environmental effects of a project.¹² "Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions before they are made. Thus, the EIR 'protects not only the environment but also informed self-government.'"¹³ The EIR has been described as "an environmental 'alarm bell' whose purpose it is to alert the public and its responsible officials to environmental changes before they have

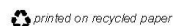
¹⁰ PRC § 21100.

¹¹ *Laurel Heights Improvement Assn. v. Regents of Univ. of Cal* ("Laurel Heights I") (1988) 47 Cal.3d 376, 390 (internal quotations omitted).

¹² Pub. Resources Code § 21061; CEQA Guidelines §§ 15002(a)(1); 15003(b)-(e); *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 517 ("[T]he basic purpose of an EIR is to provide public agencies and the public in general with detailed information about the effect [that] a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project.").

¹³ *Citizens of Goleta Valley*, 52 Cal.3d at p. 564 (quoting *Laurel Heights I*, 47 Cal.3d at 392).

5936-005acp



January 2, 2024

Page 4

O1.4
cont'd

reached ecological points of no return.”¹⁴ As the CEQA Guidelines explain, “[t]he EIR serves not only to protect the environment but also to demonstrate to the public that it is being protected.”¹⁵

Second, CEQA requires public agencies to avoid or reduce environmental damage when “feasible” by requiring consideration of environmentally superior alternatives and adoption of all feasible mitigation measures.¹⁶ The EIR serves to provide agencies and the public with information about the environmental impacts of a proposed project and to “identify ways that environmental damage can be avoided or significantly reduced.”¹⁷ If the project will have a significant effect on the environment, the agency may approve the project only if it finds that it has “eliminated or substantially lessened all significant effects on the environment” to the greatest extent feasible and that any unavoidable significant effects on the environment are “acceptable due to overriding concerns.”¹⁸

While courts review an EIR using an “abuse of discretion” standard, “the reviewing court is not to ‘uncritically rely on every study or analysis presented by a project proponent in support of its position. A clearly inadequate or unsupported study is entitled to no judicial deference.’”¹⁹ As the courts have explained, a prejudicial abuse of discretion occurs “if the failure to include relevant information precludes informed decision-making and informed public participation, thereby thwarting the statutory goals of the EIR process.”²⁰ “The ultimate inquiry, as case law and the CEQA guidelines make clear, is whether the EIR includes enough

¹⁴ *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810; *see also Berkeley Keep Jets Over the Bay v. Bd. of Port Comm’rs.* (2001) 91 Cal.App.4th 1344, 1354 (“*Berkeley Jets*”) (purpose of EIR is to inform the public and officials of environmental consequences of their decisions *before* they are made).

¹⁵ CEQA Guidelines § 15003(b).

¹⁶ CEQA Guidelines § 15002(a)(2), (3); *see also Berkeley Jets*, 91 Cal.App.4th at 1354; *Citizens of Goleta Valley*, 52 Cal.3d at p. 564.

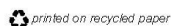
¹⁷ CEQA Guidelines § 15002(a)(2).

¹⁸ PRC § 21081(a)(3), (b); CEQA Guidelines §§ 15090(a), 15091(a), 15092(b)(2)(A), (B); *Covington v. Great Basin Unified Air Pollution Control Dist.* (2019) 43 Cal.App.5th 867, 883.

¹⁹ *Berkeley Jets*, 91 Cal.App.4th at p. 1355 (emphasis added) (quoting *Laurel Heights I*, 47 Cal.3d at 391, 409, fn. 12).

²⁰ *Berkeley Jets*, 91 Cal.App.4th at p. 1355; *see also San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 722 (error is prejudicial if the failure to include relevant information precludes informed decision making and informed public participation, thereby thwarting the statutory goals of the EIR process); *Galante Vineyards*, 60 Cal.App.4th at p. 1117 (decision to approve a project is a nullity if based upon an EIR that does not provide decision-makers and the public with information about the project as required by CEQA); *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931, 946 (prejudicial abuse of discretion results where agency fails to comply with information disclosure provisions of CEQA).

5936-005acp



January 2, 2024

Page 5

- O1.4
cont'd detail 'to enable who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project.'" ²¹

III. THE CITY FAILED TO PROVIDE TIMELY ACCESS TO DEIR REFERENCE DOCUMENTS

CEQA compels a lead agency to make all documents referenced in an environmental impact report "available for review" during the entire public comment period.²² The courts have held that the failure to provide even a few pages of a CEQA document for a portion of the public review period invalidates the entire CEQA process, and that such a failure must be remedied by permitting additional public comment.²³ It is also well settled that a CEQA document may not rely on hidden studies or documents that are not provided to the public.²⁴

- O1.5 The City failed to make all documents referenced or relied upon in the DEIR available for public review during the DEIR's entire public comment period, thereby truncating the public comment period in violation of CEQA. As a result, Silicon Valley Residents has been unable to fully analyze the DEIR and its supporting documents during the current public comment period.

On November 21, 2023, Silicon Valley Residents submitted a request to the City pursuant to CEQA section 21092(b)(1) and CEQA Guidelines section 15087(c)(5), requesting "*immediate access* to any and all documents referenced or relied upon" in the DEIR.²⁵ On December 4, 2023, having received no responsive documents, we sent a follow-up letter, again requesting documents referenced and relied upon in the DEIR, and specifically identifying several key documents that have not been included in the DEIR's appendices or otherwise made available for public review.²⁶

²¹ *Sierra Club*, 6 Cal.5th at p. 516 (quoting *Laurel Heights I*, 47 Cal.3d at 405).

²² Pub. Resources Code § 21092(b)(1); 14 C.C.R. § 15087(c)(5); *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 442, as modified (Apr. 18, 2007).

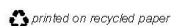
²³ *Ultramar v. South Coast Air Quality Man. Dist.* (1993) 17 Cal.App.4th 689, 699.

²⁴ *Santiago County Water District v. County of Orange* (1981) 118 Cal.App.3rd 818, 831 ("Whatever is required to be considered in an EIR must be in that formal report; what any official might have known from other writings or oral presentations cannot supply what is lacking in the report.").

²⁵ **Exhibit D:** Request from Adams, Broadwell, Joseph & Cardozo ("ABJC") to City re Request for Immediate Access to All Documents Referenced in the DEIR – Mission Point Project (PLN2017-12924, PLN2018-13400, PLN21-15386, PLN21-15387, PLN22-00635, CEQ2018-01054; SCH No. 2018072068) (November 21, 2023).

²⁶ **Exhibit E:** Letter from ABJC to City re FOLLOW-UP Request for Immediate Access to All Documents Referenced in the DEIR – Mission Point Project (PLN2017-12924, PLN2018-13400,

5936-005acp



January 2, 2024

Page 6

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Having received no response from the City to either request, on December 15, 2023, we reiterated our request for specific documents relied on in the DEIR and requested that the City extend the public comment period due to the City's failure to provide access to all of the DEIR reference documents.²⁷ The extension request was made pursuant to CEQA, which requires that "all documents referenced in the draft environmental impact report" be available for review and "readily accessible" during the entire comment period.²⁸

On December 18, 2023, the City provided hundreds of documents in response to a Public Records Act (PRA) request Silicon Valley Residents also submitted on November 21, 2023.²⁹ The document release included most, but not all, documents relied upon in the DEIR and specifically requested in our prior communications. The same day, the City responded to our request for an extension of the DEIR comment period, declining to extend the comment period because it argued it did not need to provide the requested documents.³⁰ The City also falsely claimed that it "produced all 'referenced' documents to [us] over the last several weeks, with the final production on December 18."³¹ In fact, the City made a single document production on December 18.

Regardless, the documents released on December 18 were provided with just over a week remaining in the DEIR public comment period. This belated production deprived Silicon Valley Residents of timely access to the documents, and did not cure the City's failure to make these documents available during the entire public comment period. By failing to make all documents and underlying data referenced in the DEIR readily available during the entirety of the public comment period, the City has denied Silicon Valley Residents and members of the public the ability to meaningfully comment on the potentially significant environmental impacts of the

PLN21-15386, PLN21-15387, PLN22-00635, CEQ2018-01054; SCH No. 2018072068) (December 4, 2023).

²⁷ **Exhibit F:** Letter from ABJC to City re Request to Extend the Public Review and Comment Period for the Draft Environmental Impact Report – Mission Point Project (PLN2017-12924, PLN2018-13400, PLN21-15386, PLN21-15387, PLN22-00635, CEQ2018-01054; SCH No. 2018072068) (December 15, 2023).

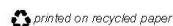
²⁸ PRC §§ 21092(b)(1) (emphasis added); 14 Cal. Code Regs. ("CCR") § 15087(c)(5).

²⁹ **Exhibit G:** Request from ABJC to City re Request for Immediate Access to Public Records – Mission Point Project (PLN2017-12924, PLN2018-13400, PLN21-15386, PLN21-15387, PLN22-00635, CEQ2018-01054; SCH No. 2018072068) (November 21, 2023).

³⁰ **Exhibit H:** Letter from Alexander Abbe, City of Santa Clara to Ariana Abedifard, ABJC re Request to Extend Public Review and Comment Period Mission Point Project, Santa Clara (December 21, 2023).

³¹ *Id.*

5936-005acp



January 2, 2024

Page 7

O1.5
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Project in violation of CEQA's procedural mandates. Even with the belated document production, the size of the DEIR and the Project's complexity have made it impossible to fully evaluate the accuracy of the City's impact analyses and the efficacy of the City's proposed mitigation measures, and effectively comment on the DEIR by the current deadline of January 2, 2024. We therefore provide these preliminary comments on the DEIR and reserve our right to submit supplemental comments on the DEIR at a future date.³²

IV. THE DEIR LACKS AN ACCURATE, COMPLETE AND STABLE PROJECT DESCRIPTION

The DEIR does not comply with CEQA because it fails to include an accurate, complete and stable description of the Project, rendering the DEIR's impact analysis inadequate.

O1.6

California courts have repeatedly held that "an accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR."³³ CEQA requires that a project be described with enough particularity that its impacts can be assessed.³⁴ Without a complete, stable and accurate project description, the environmental analysis under CEQA is impermissibly limited, thus minimizing the project's impacts and undermining meaningful public review.³⁵ Here, the DEIR does not provide a stable description of the project as it does not clearly or consistently describe the number of expected employees on the Project site at full buildout.

The DEIR's Project Description states that "[a]t Project build-out, office and other uses proposed onsite are expected to employ approximately 12,564 people."³⁶ This total includes 491 retail employees, 35 childcare employees, and 38 residential facility employees, in addition to approximately 12,000 employees for the

³² Gov. Code § 65009(b); PRC § 21177(a); *Bakersfield Citizens for Local Control v. Bakersfield ("Bakersfield")* (2004) 124 Cal. App. 4th 1184, 1199-1203; *see Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal. App. 4th 1109, 1121.

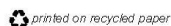
³³ *Stopthemillenniumhollywood.com v. City of Los Angeles* (2019) 39 Cal.App.5th 1, 17; *Communities for a Better Environment v. City of Richmond ("CBE v. City of Richmond")* (2010) 184 Cal.App.4th 70, 85-89; *County of Inyo v. City of Los Angeles* (3d Dist. 1977) 71 Cal.App.3d 185, 193.

³⁴ CEQA Guidelines § 15124; *see Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1988) 47 Cal.3d 376, 192-193; *see also El Dorado County Taxpayers for Quality Growth v. County of El Dorado* (2004) 122 Cal.App.4th 1591, 1597 ("An accurate and complete project description is necessary to fully evaluate the project's potential environmental effects.")

³⁵ *Id.*

³⁶ DEIR, pg. 2-24.

5936-005acp



January 2, 2024

Page 8

O1.6
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office/R&D uses.³⁷ These office/R&D employment estimates were projected using an employee generation rate of one employee per 250 square feet of office/R&D uses, based on an analysis by the City's consultant.³⁸

While the DEIR purports to use an employee generation rate of one employee per 250 square feet of office/R&D uses, it also reveals that the City's General Plan assumed *one employee per 450* square feet of office/R&D uses.³⁹ The General Plan therefore assumed far fewer employees on the Project site's 3 million sf of office/R&D uses, i.e., "3,000,000 sf/450 sf per employee for industrial/office/R&D uses=6,667 office/R&D employees."⁴⁰ This means that the Project is expected to nearly double the number of employees on the Project site as compared to the City's General Plan assumptions (12,564 employees assumed in Project DEIR vs. 6,667 employees assumed in General Plan). While the DEIR makes clear that it has adopted an "updated" employee generation rate of one employee 250 square feet of office/R&D uses, it also uses the lower employment figures assumed in the General Plan for certain analyses. "For all other environmental impact analysis outside the context of consistency with adopted land use policies, the updated employee generation rates [sic] is used."⁴¹

As discussed in detail below, the DEIR's failure to consistently use the *expected employment figures projected for this Project* minimizes the Project's true impacts. This inconsistency has profound effects on the DEIR's analysis of the Project's impacts with respect to Land Use and Planning, and Population and Housing, and in particular the City's jobs/housing balance. The DEIR recognizes that the jobs-housing balance ratio can have direct impacts on traffic congestion, vehicle miles traveled ("VMT"), air quality and greenhouse gas emissions.⁴² However, rather than using the actual number of expected employees on the Project site as set forth in the project description (i.e, based on the "updated" rate), the DEIR uses the significantly lower number of employees assumed in the General Plan to assess the Project's impact on the City's jobs-housing balance. This violates CEQA, as the DEIR is required to evaluate the impacts of the actual Project rather than impacts of assumed uses of the Project site in the General Plan.

³⁷ *Id.*, Table 2-6.

³⁸ DEIR, pg. 3.1-7, fn. 11 and pg. 3.1-11, fn. 19.

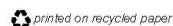
³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ DEIR, pg. 3.1-7, fn. 11

⁴² DEIR, pgs. 3.1-5 and 3.1-12.

5936-005acp



January 2, 2024

Page 9

O1.6
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Where, as here, the DEIR's project description is inconsistent, the EIR cannot serve its purpose as a vehicle for intelligent public participation in the decision-making process.⁴³ As one court has explained, "a project description that gives conflicting signals to decision makers and the public about the nature and scope of the project is fundamentally inadequate and misleading."⁴⁴ An unstable or shifting project description is an indicator that an EIR is minimizing the project's impacts by not discussing reasonably foreseeable aspects of the project.⁴⁵ By failing to adhere to the project description's estimate of the number of employees expected to populate the Project site, the DEIR minimizes the Project's impacts in key ways. The City must therefore prepare and circulate a revised EIR that assesses all Project impacts using the number of employees that are actually expected on the Project site.

V. THE DEIR'S CONCLUSIONS REGARDING THE PROJECT'S ENVIRONMENTAL IMPACTS ARE NOT SUPPORTED BY SUBSTANTIAL EVIDENCE

A. The DEIR Fails to Adequately Disclose or Analyze the Project's Significant Land Use and Planning Impacts

O1.7

CEQA requires that lead agencies consider a proposed project's impacts on land use and planning, and specifically, whether a project will "cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect."⁴⁶ The DEIR for this Project includes a chapter addressing these requirements, and purports to evaluate the Project's potential for impacts related to land use and to address consistency with the City's General Plan and ordinances.⁴⁷ This analysis relies primarily on an assessment of the Project's consistency with General Plan policies with the goal of maintaining an adequate balance of jobs to housing within the City.⁴⁸

⁴³ *County of Inyo v. City of Los Angeles* (1977) 71 Cal.3d 185, 197.

⁴⁴ *Citizens for a Sustainable Treasure Island v. City & County of San Francisco* (2014) 227 Cal.App.4th 1036, 1052.

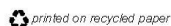
⁴⁵ See, e.g., *San Joaquin Raptor Rescue Ctr. v. County of Merced* (2007) 149 Cal.App.4th 645, 655, and *City of Santee v. County of San Diego* (1989) 214 Cal.App.3d 1438, 1450.

⁴⁶ See CEQA Guidelines, Appendix G, Section XI.

⁴⁷ DEIR, pg. 3.1-1.

⁴⁸ DEIR, pg. 3.1-5.

5936-005acp



January 2, 2024

Page 10

O1.8

As explained above, the City's General Plan projected that the Project site's 3 million sf of office/R&D uses would contribute approximately 6,667 employees to the City's job market, though the DEIR estimates that the Project site will contribute 12,564 employees. In evaluating whether the Project conflicts with land use plans and policies relating to the City's jobs/housing balance, the DEIR assumes that the Project will only generate 6,667 employees, i.e., the number projected in the General Plan. The DEIR goes on to say that because "3 million gsf of office/R&D space was previously evaluated ... and included as part of the General Plan projections," "the impact analysis *considers only the employment growth that was not previously considered as part of the General Plan projections* and would result from the proposed retail, childcare, community amenity, and residential uses of the Project."⁴⁹ The analysis therefore assumes a total of only 564 employees (i.e., the number above the 6,667 projected in the General Plan), as well as 1,800 residential units housing 3,870 new residents on the Project site which were not accounted for in General Plan projections. Using these figures, the DEIR concludes that upon build-out of the Project, the City's jobs/housing ratio would decrease.⁵⁰ This approach completely ignores the actual expected impacts of the Project on the City's jobs/housing balance, as the DEIR assumes that the Project will contribute more than 12,500 jobs, nearly 6,000 more than projected in the General Plan.

O1.9

The DEIR can only conclude that the Project will improve (i.e., decrease) the City's jobs/housing ratio by assuming an improperly low number of Project site jobs (564) above what was assumed in the General Plan. Using that figure, the DEIR states "[u]pon build-out of the Project, the jobs/housing ratio would decrease from 2.15 (without Project) to 2.11 (with Project) in 2035 compared to 2.42 in 2008."⁵¹ Similarly, using Plan Bay Area assumptions, the DEIR asserts that, "upon full build-out, the Project would decrease the jobs/housing ratio assumed in Plan Bay Area from 2.99 (without Project) to 2.91 (with Project) in 2040 compared to 3.13 in 2020."⁵² **However, using the DEIR's actual estimates of the number of jobs the Project will create, it is clear that the Project will *increase* the City's jobs/housing ratio.** The DEIR estimates that the Project will create 12,654 jobs upon build out, or 5,897 jobs more than assumed in the General Plan. Using the actual Project projections, 5,897 new jobs and 1,800 new housing units on the Project site calculates to a jobs/housing ratio of 3.28 on the Project site. This ratio is

⁴⁹ DEIR, pg. 3.1-12 (emphasis added).

⁵⁰ DEIR, pg. 3.1-13.

⁵¹ *Id.*

⁵² *Id.*

January 2, 2024

Page 11

O1.9
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significantly higher than projected by either the General Plan or Plan Bay Area estimates. The Project therefore will worsen the City's jobs/housing imbalance.

The DEIR concludes that the Project would achieve consistency with General Plan policies 5.3.1-P18 (maintain City's jobs/housing balance ratio) and 5.10.2-P2 (reduce VMT and air pollution) by "promoting more housing in the relatively job-rich Silicon Valley and maintaining the planned levels of commercial development. Adherence to these policies would ultimately avoid increases in long-distance commutes by employees to Silicon Valley, as well as associated VMT."⁵³ However, these conclusions rest entirely on the DEIR's use of an inaccurate assumption of the number of new jobs the Project will create, an assumption that is directly contradicted by the DEIR's project description. The DEIR's conclusion that the Project is consistent with the General Plan's jobs/housing policies is therefore not supported by substantial evidence.

O1.10

The DEIR attempts to justify its use of the General Plan employment projections to analyze land use impacts rather than actual Project employment projections, but these attempts fall apart under scrutiny.

First, the DEIR claims that it uses the General Plan employment projections only "for purposes of land use consistency (as opposed to environmental effects analyzed in other chapters)" of the DEIR.⁵⁴ The DEIR attempts to distinguish the CEQA analysis of impacts on land use and planning from all other environmental impact areas to justify using a different employment generation rate. However, as the DEIR expressly recognizes, a land use and planning impact analysis under CEQA must "evaluate consistency of a project with relevant local land use policies *that have been adopted with the intent to mitigate or avoid an environmental impact* [emphasis added]."⁵⁵ All CEQA impact analysis, including consistency with land use and planning, is meant to evaluate a project's possible impacts on the environment. There is no justification for claiming that land use and planning analysis under CEQA is different and therefore justifies using different employment assumptions when assessing Project impacts.

O1.11

Second, the DEIR explains that it adopted the employment generation rate used in the General Plan in its land use and planning analysis "to ensure a consistent comparison of the General Plan and population and housing

⁵³ *Id.*

⁵⁴ DEIR, pg. 3.1-11, fn. 19.

⁵⁵ DEIR, pg. 3.1-1.

5936-005acp

January 2, 2024

Page 12

O1.11
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assumptions.”⁵⁶ In other words, because the General Plan uses a 450 sf/employee generation rate, the DEIR uses that rate to analyze land use consistency in order “to allow meaningful an [sic] ‘apples to apples’ comparison between the General Plan employment projections and those of the Project”.⁵⁷ This argument is circular and nonsensical. The DEIR is essentially assessing whether the Project would be consistent with the General Plan by comparing the number of employees projected in the General Plan with the Project’s employees generated using the exact same generation rate, despite the fact that the DEIR has adopted a significantly higher employment generation rate. This is not an “apples to apples” comparison; it is comparing a single apple to itself.

O1.12

In order to truly assess the Project’s consistency with the City’s land use policies (i.e., the General Plan), the DEIR must compare the employment projections in the General Plan with the actual number of employees expected to inhabit the Project site as set forth in the project description. This is essential to achieving CEQA’s central purpose: providing public agencies and the public with accurate information concerning the Project’s likely environmental effects, so that the DEIR can serve as a vehicle for intelligent public participation.⁵⁸

The DEIR’s shortcomings have serious implications for the City’s ability to adequately assess the Project’s environmental impacts. The DEIR recognizes that the Project’s impacts on the City’s jobs/housing balance will affect a host of other environmental impacts, including VMT, air pollution, GHG emissions, and traffic.⁵⁹ Because the DEIR relies on an artificially low employment generation rate in its analysis of the Project’s land use impacts associated with the City’s jobs/housing balance, the DEIR’s conclusion that the Project will not have a significant impact with respect to land use and planning is unsupported by substantial evidence. The City must prepare a revised DEIR that analyzes the Project’s impacts based on the City’s actual estimates of the number of employees that will be generated by the Project.

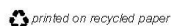
⁵⁶ DEIR pg. 3.1-7, fn. 11

⁵⁷ DEIR, pg. 3.1-11, n. 19; *see also* DEIR, pg. 5-6, Table 5-1.

⁵⁸ *County of Inyo, supra*, 71 Cal.App.3d at 197.

⁵⁹ DEIR, pg. 3.1-

5936-005acp



January 2, 2024

Page 13

B. The DEIR Fails to Adequately Disclose or Analyze the Project's Significant Housing and Population Impacts

O1.13

As required by CEQA, the DEIR includes a chapter to “characterize the potential for Project-induced population, housing, and employment changes that may trigger physical environmental effects.”⁶⁰ The DEIR notes that these potential environmental impacts, including transportation, air quality, noise, public services and utilities, are examined in other sections. The DEIR concludes that the Project will not cause significant environmental impacts due to population growth. However, the DEIR's analysis suffers from the same flaws as the land use consistency analysis: its employment generation assumptions are based on generation rates set forth in the General Plan rather than the actual expected rates for the Project.

The DEIR recognizes that total population growth generated by the Project would consist of (1) growth from the Project's proposed residential units and (2) growth from the Project's proposed office buildings, retail establishments and child care facilities.⁶¹ As to employment growth, the DEIR asserts that “the Project would result in...a net increase in the number of employees (i.e., approximately 544) beyond the 6,667 contemplated in the current General Plan for the site.”⁶² Based on a net increase of 544 employees, the DEIR states that “the Project's total demand for housing units to support employment would amount to approximately 349 units.”⁶³ This is calculated based on 544 employees/1.56 workers per household.⁶⁴

O1.14

As with the land use consistency analysis, the DEIR's population and housing analysis improperly assumes that the Project will only generate a total of 6,667 office/R&D employees, rather than the 12,564 employees set forth in the project description. The DEIR therefore artificially reduces the number of employees expected to be generated by the Project to the net new employees over the 6,667 projected in the General Plan. This ignores the fact that the Project is actually expected to generate 12,564 employees, which is 5,897 employees over what was assumed in the General Plan. The Project's housing demand to support the additional 5,897 employees anticipated from the Project amounts to 3,780 units (5,897 employees/1.56 workers per household). This is more than double the 1,800 units the Project is expected to provide at build-out.

⁶⁰ DEIR, pg. 3.12-1.

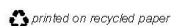
⁶¹ DEIR, pg. 3.12-9.

⁶² *Id.*

⁶³ DEIR, pg. 3.12-10.

⁶⁴ *Id.*, fn. 32.

5936-005acp



January 2, 2024

Page 14

O1.14
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The DEIR goes on to calculate the potential increase in City population based on the addition of 544 jobs; assuming that 12.4% of City workers are also residents, the DEIR estimates that the number of new workers that may seek housing in the City would require 43 housing units ($349 \text{ units} \times 0.124 = 43$).⁶⁵ Based on an average persons per household ratio of 2.15, the DEIR calculates that employment opportunities associated with the Project could result in approximately 93 new residents. However, using the actual expected employment numbers and resulting housing demand, the Project would actually result in more than 1,000 new residents.⁶⁶

As described above, the DEIR vastly underestimates the Project's actual expected impacts on the City's need for housing units and expected population growth as compared to what was forecast in the General Plan. The DEIR must account for these actual impacts in a revised DEIR.

C. The DEIR Fails To Adequately Disclose, Analyze And Mitigate The Project's Transportation Impacts

1. The DEIR Lacks Substantial Evidence Supporting Its Conclusions with Respect to Consistency with General Plan Transportation Policies

O1.15

As part of its transportation analysis, the DEIR evaluates the Project's consistency with General Plan policies designed to (1) reduce impacts to the roadway network (i.e., traffic circulation)⁶⁷ and (2) address public transit.⁶⁸ The DEIR concludes that the Project will not have significant impacts in either area. However, because the DEIR's conclusions rely heavily on an undisclosed Traffic Demand Management ("TDM") Plan, these conclusions are not supported by substantial evidence.

The DEIR's transportation impacts analysis includes Table 3.2-2, which examines the Project's consistency with General Plan policies designed to reduce traffic impacts.⁶⁹ Several of these consistency determinations rely on the implementation of a TDM plan, which apparently has not yet been prepared and certainly has not been disclosed. "The Project Sponsor is preparing a TDM plan for

⁶⁵ *Id.*, fn. 33.

⁶⁶ $(3,780 \text{ housing units} \times 0.124) = 469 \text{ units} \times 2.15 = 1008 \text{ new residents}$.

⁶⁷ DEIR, pg. 3.2-18.

⁶⁸ DEIR, pg. 3.2-31.

⁶⁹ DEIR, pg. 3.2-

January 2, 2024

Page 15

the Project site, which would help reduce Project-related vehicle miles traveled.”⁷⁰
Below are selected excerpts from the DEIR’s General Plan traffic policy consistency analysis that rely on the undisclosed TDM plan.

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Goal/Policy	Project’s Consistency
Policy 5.3.1-P14: Encourage transportation demand management strategies and the provision of bicycle and pedestrian amenities in all new development greater than 25 housing units or more than 10,000 non-residential square feet and, for City employees, decrease use of the single-occupant automobile and reduce vehicle miles traveled, consistent with the Climate Action Plan.	No conflict. The Project Sponsor would implement parking and TDM programs and strategies, which would help reduce the number of vehicle trips to/from the Project site and encourage alternatives to single occupancy vehicle travel. These programs and strategies may include subsidized transit passes, last-mile and long-haul commuter shuttles, employer rideshare assistance, bikeshare and scooter programs, emergency ride-home services, high-speed internet infrastructure to enable telecommuting, and carsharing parking consistent with the City’s CAP. In addition, bicycle and pedestrian connections and amenities would be constructed throughout the Project site to encourage alternative modes of transportation
Goal 5.8.1-G3: Transportation networks that promote a reduction in the use of personal vehicles and vehicle miles traveled.	No conflict. The Project would qualify as a transit-supportive project because it would meet the criteria established by the City related to proximity to transit, density, multimodal transportation networks, transit-oriented design elements, parking, and affordable housing. In addition, the Project would use the existing and future transportation network, as well as TDM strategies and goals, to further reduce VMT.

⁷⁰ DEIR, pg. 2-38.

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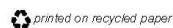
January 2, 2024

Page 16

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Policy 5.8.1-P4: Expand transportation options and improve alternative modes that reduce greenhouse gas emissions.	No conflict. The Project qualifies as a transit-supportive project because it meets the criteria established by the City related to proximity to transit, density, multimodal transportation networks, transit-oriented design elements, parking, and affordable housing. The Project would implement a variety of TDM strategies to promote more efficient utilization of transportation facilities and maximize the use of sustainable transportation, which would reduce VMT, congestion, and greenhouse gas emissions. The Project would form a Transportation Management Association to oversee and coordinate TDM activities of various employers and residential communities onsite. The Transportation Management Association may include other proximate developments, employers, or residential developments in nearby Focus/Specific Plan areas.
Goal 5.8.5-G1: Transportation demand management programs for all new development in order to decrease vehicle miles traveled and single-occupant vehicle use.	No conflict. The Project would include TDM strategies and goals that would reduce VMT and single-occupant vehicle use consistent with the 2022 City CAP. Onsite design measures may include preferred carpool and vanpool parking. Participation by major employers in programs that reduce the amount of driving would be encouraged, potentially including efforts to promote private commuter bus service, carpooling, vanpooling, ride-sharing, subsidized transit passes for employees, secure bicycle facilities, telecommuting, and flexible work schedules.
Policy 5.8.5-P1: Require new development and City employees to	No conflict. The Project would include a variety of TDM strategies, including

5936-005acp



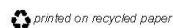
January 2, 2024

Page 17

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implement transportation demand management programs that include site-design measures, including preferred carpool and vanpool parking, enhanced pedestrian access, bicycle storage, and recreational facilities	preferential parking for carpools and vanpools; a network of bicycle and pedestrian pathways, linking buildings to transit stations and nearby trails; dedicated curb space for ride-hail and taxi service passenger loading; long-term and short-term bike parking; and other design measures, services, and incentives to reduce travel by single occupant vehicles.
Policy 5.8.5-P4: Encourage new development to participate in shuttle programs to access local transit services within the city, including buses, light rail, Bay Area Rapid Transit, Caltrain, Altamont Commuter Express Yellow Shuttle, and Lawrence Caltrain Bowers/Walsh Shuttle services.	No conflict. The Project would include TDM strategies, including last mile and long-haul commuter shuttles to promote transit and shuttle ridership. In addition, onsite bus/shuttle stops and passenger drop-off zones for rideshare users within the Project site would allow for transit, shuttle, or other micro-transit services (whether provided by VTA, a transportation management agency, or a private provider.)
Policy 5.8.5-P5: Encourage transportation demand management programs that provide incentives for the use of alternative travel modes to reduce the use of single- occupant vehicles.	No conflict. The Project would include TDM strategies and goals that would promote alternative travel modes and reduce single-occupant vehicle use, consistent with the 2022 City CAP. Participation by major employers in programs to reduce the amount of driving would be encouraged, potentially including efforts that promote private commuter bus service, carpooling, vanpooling, ride-sharing, parking management, subsidized transit passes for employees, secure bicycle facilities, telecommuting, and flexible work schedules.
Policy 5.8.5-P7: Promote programs that reduce peak hour trips, such as flexible work hours, telecommuting, home-based businesses, and off-site business centers, and encourage businesses to	No conflict. The Project would include TDM strategies, including highspeed internet infrastructure to enable telecommuting. Participation by major employers in programs to reduce the amount of driving

5936-005acp



January 2, 2024

Page 18

O1.15
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provide alternate off-peak hours for operations.	would be encouraged, potentially including efforts that promote private commuter bus service, carpooling, vanpooling, ride-sharing, parking management, subsidized transit passes for employees, secure bicycle facilities, telecommuting, and flexible work schedules.
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Based on the analysis in Table 3.2-2 (excerpted above), the DEIR concludes “[t]he Project would be largely in compliance with goals and policies set forth in the General Plan concerning the circulation system” and impacts would therefore be less than significant.⁷¹ However, because no TDM plan for the Project has been prepared or disclosed, it is impossible to evaluate the Project’s consistency with General Plan policies, including those set forth in the table above, designed to reduce traffic impacts. The DEIR therefore lacks substantial evidence to support its findings regarding consistency with the General Plan and its conclusion that the Project will not have significant impacts with respect to traffic.

O1.16

Similarly, the DEIR evaluates the Project’s consistency with General Plan policies relating to public transit.⁷² After listing several such policies, the DEIR states “[t]he Project *is expected to implement a TDM plan* that would include transit subsidies and shuttles to and from the Sunnyvale Caltrain station, the Milpitas Bay Area Rapid Transit (BART) station, and the Great America Rail station, along with other measures to increase public transit ridership. *The effect of the transit subsidy and last-mile shuttle services would depend on the amount of the subsidy, the shuttle routes and headways, and the specific mix of other TDM measures implemented by the Project Sponsor* [emphasis added].”⁷³ Based in large part on the implementation of unknown TDM measures with admittedly uncertain effects, the DEIR concludes that Project impacts on transit services would be less than significant. This conclusion lacks the support of substantial evidence.

The City must prepare a revised DEIR that discloses a mandatory TDM plan, and properly analyzes that plan’s effects on the Project’s impacts with respect to traffic and transit.

⁷¹ DEIR, pg. 3.2-20.

⁷² DEIR, pg. 3.2-32.

⁷³ *Id.*

January 2, 2024

Page 19

2. The DEIR Fails to Adequately Analyze the Project's Environmental Impacts as a Result of Displacing Levi's Stadium Parking

O1.17

The Project site currently provides 3,300 parking spaces for events at nearby Levi's Stadium, which represents approximately 16% of the 21,000 parking spaces "located within a short walking distances of Levi's Stadium."⁷⁴ The DEIR concedes that the Project may eliminate some indeterminate number of stadium parking spaces but includes no analysis of the potentially significant impacts associated with the displacement of stadium parking.⁷⁵ California courts have recognized that a project's impact on vehicle parking is a physical impact that may constitute a significant effect on the environment⁷⁶; at a minimum, the "secondary effects of scarce parking on traffic and air quality" is an environmental impact that requires analysis under CEQA.⁷⁷ The City has improperly failed to evaluate and disclose any of the impacts associated with the Project's displacement of Levi Stadium parking, in violation of CEQA.

In response to a comment on the Notice of Preparation ("NOP") from the City of Sunnyvale regarding how the Project would affect parking for Levi's Stadium events, the DEIR states as follows: "The Project anticipates that a portion of the proposed onsite parking supply would be available for use by stadium patrons; however, this would be subject to agreement by office tenants. Therefore, *the number of spaces to be shared with the stadium is unknown at this time.*"⁷⁸ In an attempt to address this uncertainty, the DEIR states: "Should the supply of parking spaces for stadium patrons be reduced, the City would require the [Transportation Management and Operations Plan] TMOP to provide an equivalent number of parking spaces by partnering with other property owners around the stadium area; providing parking at more distant locations, combined with a shuttle service; or taking other actions, as identified in the EIR for Levi's Stadium."⁷⁹ This is the extent of the DEIR's discussion of the Levi's Stadium parking issues.

⁷⁴ DEIR, pg. 3.2-3; see also, <https://www.santaclaraca.gov/our-city/santa-clara-stadium-authority/experience-levi-s-stadium/levi-s-stadium-information>, last accessed on December 26, 2023.

⁷⁵ DEIR, pg. 3.2-3.

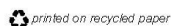
⁷⁶ *Taxpayers for Accountable Sch. Bond Spending v. San Diego Unified Sch. Dist.*, 215 Cal. App. 4th 1013, 1051 (2013) ["*Taxpayers*"].

⁷⁷ *San Franciscans Upholding the Downtown Plan v. City & Cnty. of San Francisco*, 102 Cal. App. 4th 656, 697 (2002) ["*SFUDP*"]; *Covina Residents for Responsible Dev. v. City of Covina*, 21 Cal. App. 5th 712, 728 (2018) ["*Covina*"]; *Taxpayers*, 215 Cal. App. 4th at 1052.

⁷⁸ DEIR, pg. 3.2-3 (emphasis added).

⁷⁹ *Id.*

5936-005acp



January 2, 2024

Page 20

O1.17
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The City fails to even attempt to analyze whether alternative parking will be available, where that parking might be located, or what the impacts to air quality, traffic and public safety might be. As transportation expert Norman Marshall states, “[t]o the extent the Project displaces any significant amount of stadium parking, it will inevitably have an impact on local traffic and possibly public safety. Because the DEIR includes no information regarding the number of parking spaces the Project might make available for stadium users, nor any information regarding alternative parking sites, it is impossible to conclude that impacts associated with displaced parking will not be significant.” To justify its failure to analyze or disclose such impacts, the DEIR simply states that “[p]arking is not a CEQA topic and thus is not evaluated in detail in this document.”⁸⁰ For the reasons discussed below, the City is incorrect and its failure to evaluate the Project’s impacts associated with Levi’s Stadium parking is a violation of CEQA.

In *Taxpayers*, the Court of Appeal for the Fourth Appellate District held that CEQA may require that a project’s impacts on parking be analyzed. There, the court reversed a judgment upholding a Mitigated Negative Declaration (MND) for a project involving an upgraded football stadium and athletic facilities for a high school.⁸¹ The challengers argued that installation of field lighting for the stadium might significantly impact traffic and parking.⁸² The Initial Study had predicted average attendance for evening football games and concluded that while the project would create a parking shortage, it would not significantly impact parking or traffic.⁸³ In response to public comments it received regarding the traffic and parking impacts, the School District stated that CEQA Guidelines did not require it to perform a CEQA analysis of the Project’s impact on parking.⁸⁴ The Court of Appeal disagreed. The Court clarified that although the Guidelines do not specifically list parking as one of the potential impacts that must be addressed in an initial study or EIR, “the Guidelines do not set forth an exclusive list of all potential impacts that must be addressed.”⁸⁵ Further, “the Guidelines include a section on transportation and traffic, *which issues presumably include parking issues even though parking is not expressly listed.*”⁸⁶

⁸⁰ *Id.*

⁸¹ *Taxpayers*, 215 Cal. App. 4th at 1021.

⁸² *Id.* at 1045.

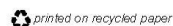
⁸³ *Id.* at 1046.

⁸⁴ *Id.* at 1046–47.

⁸⁵ *Id.* at 1051.

⁸⁶ *Id.* at 1052 (emphasis added).

5936-005acp



January 2, 2024

Page 21

O1.17
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The *Taxpayers* Court explained that parking can create significant environmental impacts. The court stated: “cars and other vehicles are physical objects that occupy space when driven and when parked. Therefore, whenever vehicles are driven or parked, they naturally must have some impact on the physical environment. The fact that a vehicle's impact may be only temporary (e.g., only so long as the vehicle remains parked) does not preclude it from having a physical impact on the environment around it.”⁸⁷ Given these inherent impacts, the Court held: “as a general rule, we believe CEQA considers a project's impact on parking of vehicles to be a physical impact that could constitute a significant effect on the environment.”⁸⁸ The Court ultimately found substantial evidence supported a fair argument that the project at issue there may have a significant impact on parking and thus the environment.⁸⁹

Even if parking itself were *not* a topic required to be directly analyzed under CEQA, it can still contribute to secondary impacts that must be analyzed. In *SFUDP*, the First District Court of Appeal held that even though the social inconvenience of having to hunt for scarce parking is not an environmental impact, the “secondary effect of scarce parking and air quality *is*.”⁹⁰ And while the CEQA Guidelines exempt from review “aesthetic and parking impacts of a residential, mixed-use residential, or employment center project on an infill site within a transit priority area,”⁹¹ a court applying the exemption has held that though parking impacts in and of themselves are exempted from CEQA review for those projects, “secondary parking impacts caused by ensuing traffic congestion (“air quality, noise, safety, or any other impact associated with transportation”) must be addressed [under CEQA].”⁹² Ultimately, “regardless of whether parking is considered a

⁸⁷ *Id.* at 1051; *see also id.* at 1053 (“Vehicles, whether driven or parked, in effect constitute manmade conditions and therefore may constitute physical conditions in an area that may be affected by a proposed project, thereby requiring a lead agency to study whether a project's impact on parking may cause a significant effect on parking and thus the environment. Furthermore, to the extent the lack of parking affects humans, that factor may be considered in determining whether the project's effect on parking is significant under CEQA.”)

⁸⁸ *Id.* at 1051 (emphasis added); *see also Save Our Access-San Gabriel Mountains v. Watershed Conservation Auth.*, 68 Cal. App. 5th 8, 25 (2021) (“We agree that in some circumstances, parking deficits can have a significant adverse impact on the environment.”)

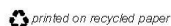
⁸⁹ *Id.* at 1056.

⁹⁰ *SFUDP*, 102 Cal. App. 4th at 697; *see also Save Our Access-San Gabriel Mountains v. Watershed Conservation Auth.*, 68 Cal. App. 5th at 25.

⁹¹ PRC § 21099(d).

⁹² *Covina*, 21 Cal. App. 5th at 728.

5936-005acp



January 2, 2024

Page 22

O1.17
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primary or secondary impact of a project, a project's impact on parking generally should be studied for any potential impact on the environment.”⁹³

Here, the DEIR admittedly fails to evaluate any of the impacts, whether direct or secondary, of the Project potentially eliminating thousands of parking spaces for stadium users. Moreover, the DEIR's suggestion that the City may partner with other property owners for replacement parking, find other, more distant parking with shuttle service, or take unspecified other actions, lacks any assurance or clarity and violates CEQA. First, it is unclear how successful, if at all, the City will be in partnering with unspecified property owners near the stadium for additional parking. Currently, stadium parking is not permitted in many private parking lots. Second, it is unclear whether patrons will actually be incentivized to utilize more distant parking, even if a shuttle service is included. Third, the DEIR asserts that transportation impacts associated with stadium events were evaluated in the EIR prepared for the Stadium,⁹⁴ but the Stadium DEIR did not consider that this Project may eliminate many of the 3,300 parking spaces provided by the Project site. In fact, the Levi's Stadium EIR specifically relied on the 3,300 parking spaces on the Project site in assessing total available parking.⁹⁵ And the Levi's Stadium EIR stated that “any substantive alternative to the parking and transportation management plans as proposed could result in different traffic impacts than those identified in this EIR and may require subsequent environmental review.”⁹⁶ This Project, by removing a significant amount of parking for Levi's Stadium, is precisely the situation noted in that EIR as requiring subsequent environmental review, which was not done here.

The DEIR's treatment of parking issues as inconsequential ignores the environmental harms that could arise from a reduction in parking availability for stadium patrons. As discussed above, courts have consistently underscored the importance of considering parking deficits' environmental impacts under CEQA.⁹⁷ A loss of stadium parking due to Project construction and operations is likely to exacerbate traffic congestion and public safety, increase vehicle emissions, affect air quality, and contribute to noise pollution. Therefore, the DEIR must be revised to

⁹³ *Taxpayers*, 215 Cal. App. 4th at 1052.

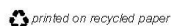
⁹⁴ DEIR, pg. 3.2-2.

⁹⁵ Compare the 49ers Proposed Stadium DEIR (“Stadium DEIR”), Figure 5, at pg. 6 with this Project DEIR's Figure 2-2 (DEIR, pg. 2-5). Stadium DEIR Figure 5 shows the Project site in the range of available parking areas, denoted as plots 454, 602, 520, and 1740.

⁹⁶ Stadium DEIR, pg. 17.

⁹⁷ See *SFUDP*, 102 Cal. App. 4th at 697; *Covina*, 21 Cal. App. 5th at 728; *Taxpayers*, 215 Cal. App. 4th at 1052.

5936-005acp



January 2, 2024

Page 23

O1.17 | include an analysis of the potentially significant environmental impacts resulting
cont'd | from the projected reduction of parking for Levi's Stadium.

3. The DEIR's Transportation Analysis Fails to Analyze or Disclose the Project's Significant Unmitigated VMT Impacts and Underestimates Project Trip Generation and Traffic Impacts

As explained in detail in transportation expert Norman Marshall's comments, the DEIR's transportation analysis contains several flaws that lead to an underestimation of the Project's significant impacts.

O1.18 | First, even though the Project is projected to add more than 12,500 employees and nearly 4,000 new residents, the DEIR fails to perform an analysis of the Project's VMT impacts. The DEIR asserts that it is not required to analyze VMT impacts because under the City's VMT Policy and State guidance,⁹⁸ the Project is presumed to have a less than significant impact on VMT since it qualifies as a "transit-supportive project."⁹⁹ Both the City VMT Policy and the State VMT Guidelines include the presumption that certain projects proposed within one-half mile of an existing major transit stop or stop along a high quality transit corridor will have a less than significant impact on VMT. However, the very same State VMT Guidelines cited in the DEIR go on to say that "[t]his *presumption would not apply, however, if project-specific or location-specific information indicates that the project will still generate significant levels of VMT.*"¹⁰⁰

As explained by Mr. Marshall, Project-specific and location-specific information clearly demonstrate that the Project will generate significant VMT impacts, despite technically qualifying as a "transit-supportive" project.¹⁰¹ Under the State VMT Guidelines, the presumption of less than significant VMT impacts would not apply. For example, Mr. Marshall presents census data showing commute mode shares to jobs in the Project area and from residences in the Project area. These data show that 93.3% of commutes to the project area are by auto, while the transit mode share is only 4.5%.¹⁰² Similarly, the census data show that

⁹⁸ California Office of Planning and Research. 2018. Technical Advisory on Evaluating Transportation Impacts in CEQA (April 2018) ("State VMT Guidelines"), accessed at https://opr.ca.gov/docs/20180416-743_Technical_Advisory_4.16.18.pdf.

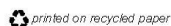
⁹⁹ DEIR, pg. 3.2-40.

¹⁰⁰ State VMT Guidelines, pgs. 11-12.

¹⁰¹ Marshall Comments, pgs. 3-11.

¹⁰² *Id.*, pgs. 4-5.

5936-005acp



January 2, 2024

Page 24

O1.18
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92% of commutes from residences in the Project area are by auto, and only 2.7% via transit.¹⁰³ Therefore, Mr. Marshall states, this “transit supportive” Project will not result in a large transit mode share in this location.¹⁰⁴ Mr. Marshall goes on to estimate worker VMT for the Project, and finds that the Project will result in a “highly significant VMT impact” of 400,000 VMT per day for commuters, i.e., not including VMT from commercial customers or resident VMT.¹⁰⁵ If the Project were not designated as “transit supportive,” a full VMT analysis would have been required and the Project would fail to meet the City’s significance threshold.¹⁰⁶

O1.19

Second, Mr. Marshall explains that the DEIR underestimates the Project’s trip generation. The DEIR uses the ITE Trip Generation Manual to estimate Project trip generation, and applies Category 710 (General Office Building) to all 3 million square feet of office/R&D space proposed for the Project site.¹⁰⁷ However, the DEIR also states that Project “office uses could include professional offices, R&D uses (offices and laboratory space), and medical offices.”¹⁰⁸ The daily trip generation rate for “Medical-Dental Office” is more than three times the rate for “General Office Building.”¹⁰⁹ Mr. Marshall states that “[a]ny amount of medical-dental office space in the project will mean that trip generation is underestimated in the DEIR. If the amount of medical-office space is significant, the difference will be large. For example, if one-quarter of the commercial space is medical-dental, the ITE-based trip generation from the 3 million square feet of commercial would be 58% higher than reported in the DEIR.”¹¹⁰ An underestimation of trip generation directly translates to underestimation of vehicle-related air pollutant and GHG emissions, as well as traffic impacts.¹¹¹ These potentially significant impacts are not disclosed, analyzed or mitigated, in violation of CEQA.

For all of the foregoing reasons, the City must prepare and circulate a revised DEIR that fully discloses, analyzes and mitigates all of the Project’s transportation impacts.

¹⁰³ *Id.*

¹⁰⁴ *Id.*, pg. 5.

¹⁰⁵ *Id.*, pg. 10.

¹⁰⁶ *Id.*, pg. 11.

¹⁰⁷ DEIR, Appendix 3.2, Table 8, pg. 52.

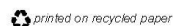
¹⁰⁸ DEIR, pg. 2-8.

¹⁰⁹ Marshall Comments, pgs. 13, 17.

¹¹⁰ *Id.*

¹¹¹ *Id.*

5936-005acp



January 2, 2024

Page 25

D. The DEIR Fails To Adequately Mitigate The Project's Air Quality And Greenhouse Gas Impacts

O1.20

Both the DEIR's air quality and GHG impact analyses contain fundamental flaws that violate CEQA. The DEIR's air quality analysis finds that the Project will have significant and unavoidable impacts with respect to emissions of criteria pollutants and health risks to sensitive receptors. However, the DEIR fails to adopt all feasible mitigation measures to reduce these impacts to the greatest extent possible, which precludes the City from approving the Project. In addition, the DEIR's GHG analysis improperly relies on nonmandatory and unenforceable project design features (including adoption of the undisclosed TDM plan) to find that the Project will be consistent with the City's Climate Action Plan ("CAP"). For the reasons explained below, the City must revise and recirculate the DEIR to address these flaws.

1. Air Quality

O1.21

The DEIR estimates that the Project's operational VOC, NO_x, PM_{2.5}, and PM₁₀ emissions will exceed the applicable BAAQMD significance thresholds.¹¹² The DEIR also estimates that the Project's combined construction and operational VOC, NO_x, and PM₁₀ emissions will exceed BAAQMD significance thresholds.¹¹³ Finally, the DEIR estimates that Project construction and operational cancer risk to residents on the Project site would exceed the BAAQMD significance threshold of 10 in one million.¹¹⁴ The DEIR concludes that each of these impacts will be significant and unavoidable with mitigation.¹¹⁵ However, as detailed in the SWAPE Comments, there are numerous feasible mitigation measures to reduce these impacts that the DEIR fails to adopt.

O1.22

CEQA is clear that if a project will have a significant effect on the environment, the lead agency may approve the project only if it finds that it has "eliminated or substantially lessened all significant effects on the environment" to the greatest extent feasible and that any unavoidable significant effects on the environment are "acceptable due to overriding concerns."¹¹⁶ CEQA therefore requires agencies to commit to all feasible mitigation measures to reduce significant

¹¹² DEIR, pg. 3.3-39, Table 3.3-10.

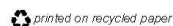
¹¹³ DEIR, pg. 3.3-41, Table 3.3-12.

¹¹⁴ DEIR, pg. 3.3-46 – 3.6-47, Table 3.3-14.

¹¹⁵ DEIR, pgs. 3.3-38, 3.3-41, 3.3-47.

¹¹⁶ PRC § 21081(a)(3), (b); CEQA Guidelines §§ 15090(a), 15091(a), 15092(b)(2)(A), (B); *Covington v. Great Basin Unified Air Pollution Control Dist.* (2019) 43 Cal.App.5th 867, 883.

5936-005acp



January 2, 2024

Page 26

O1.22
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environmental impacts.¹¹⁷ In particular, the lead agency may not make required CEQA findings, including finding that a project impact is significant and unavoidable, unless the administrative record demonstrates that it has adopted all feasible mitigation to reduce significant environmental impacts to the greatest extent feasible.¹¹⁸

In its comment letter, SWAPE identifies more than a dozen feasible mitigation measures to reduce the significant air quality and health risk impacts identified in the DEIR.¹¹⁹ These measures “offer a cost-effective, feasible way to incorporate lower-emitting design features into the proposed Project, which subsequently reduce emissions released during Project construction and operation.”¹²⁰ By failing to incorporate all feasible mitigation measures to reduce the Project’s air quality and health impacts to the greatest extent feasible, the DEIR violates CEQA and the City may not approve the Project. The DEIR must be revised to incorporate all feasible mitigation before the City may approve the Project.

2. GHG Emissions

O1.23

The DEIR relies on the Project’s consistency with the City’s CAP to conclude that the Project will have a less than significant impact with respect to GHG emissions. Specifically, the DEIR states “[r]egarding the Project’s operational GHG emissions, the Project would be consistent with applicable and required CAP checklist measures and therefore would be consistent with the City’s 2022 CAP. As a result, the Project’s operational GHG emissions would be less than significant.”¹²¹

However, the DEIR’s analysis does not adequately demonstrate that the Project will be consistent with the City’s CAP. As SWAPE points out, the DEIR’s claim of consistency with the CAP relies on implementation of several Project Design Features (“PDFs”) listed in the City’s CAP Checklist.¹²² The CAP Checklist appended to the DEIR indicates which of the Checklist items the City plans to incorporate for this Project, and includes a narrative description explaining how the

¹¹⁷ CEQA Guidelines § 15002(a)(2).

¹¹⁸ PRC § 21081(a)(3), (b); CEQA Guidelines §§ 15090, 15091; *Covington*, supra, 43 Cal.App.5th at 883.

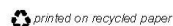
¹¹⁹ SWAPE Comments, pgs. 5-7.

¹²⁰ *Id.*, pg. 7.

¹²¹ DEIR, pg. 3.4-25.

¹²² SWAPE Comments, pg. 4.

5936-005acp



January 2, 2024

Page 27

O1.23
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action will be implemented.¹²³ However, there is no indication that any of these actions or PDFs, which are designed to mitigate GHG impacts, are included as mandatory mitigation measures or will otherwise be enforceable.

CEQA requires that mitigation measures be fully enforceable through permit conditions, agreements or other legally binding instruments.¹²⁴ Because the City has not included these PDFs as mitigation measures for the Project, they are not binding on the Applicant and will not be included in the Project's Mitigation Monitoring and Reporting Program ("MMRP"). Reliance on "proposed" nonmandatory and unenforceable PDFs to reduce impacts therefore provides no assurance that the Applicant would later comply with the "design features." The PDFs therefore fail to provide the binding mechanism required by CEQA to compel the Applicant's compliance following Project approval.

California courts have made clear that mitigation must be incorporated directly into a project's MMRP to be considered enforceable. In *Lotus v. Department of Transportation*,¹²⁵ an EIR approved by Caltrans contained several measures "[t]o help minimize potential stress on the redwood trees" during construction of a highway. Although those measures were clearly separate mitigation, the project proponents considered them "part of the project." The EIR concluded that due to the planned implementation of those measures, the project would not result in significant impacts. The Court disagreed, finding that the EIR had "disregard[ed] the requirements of CEQA" by "compressing the analysis of impacts and mitigation measures into a single issue." The Court continued, stating "[a]bsent a determination regarding the significance of the impacts ... it is impossible to determine whether mitigation measures are required or to evaluate whether other more effective measures than those proposed should be considered."¹²⁶

O1.24

Notably, the CAP Checklist also states that the City will adopt a TDM plan that requires both "a 25% reduction in project-based VMT through active TDM measures for large employers over 500 employees, including aggressive regulations to reduce parking in new developments" and the adoption of "a 20% reduction of VMT for multifamily residential with a 10% reduction through active TDM measures."¹²⁷ The narrative description for this item states "the Project will implement a TDM Plan that will achieve the CAP trip reduction requirement and

¹²³ DEIR, Appendix 3.4.

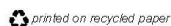
¹²⁴ 14 CCR §15126.4(a)(2).

¹²⁵ *Lotus v. Dep't of Transp.* (2014) 223 Cal. App. 4th 645, 651-52.

¹²⁶ *Id.*

¹²⁷ *Id.*, Item T-3-1.

5936-005acp



January 2, 2024

Page 28

O1.24
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include measures such as unbundled parking for market-rate residential units, bike parking, bike repair stations, showers and lockers in office buildings, and an on-site transportation coordinator.” However, as discussed above, the TDM plan for the Project has not been disclosed. It is therefore impossible to evaluate whether the TDM measures can achieve the required VMT reductions to demonstrate that the Project will be consistent with the CAP. The DEIR must be revised and recirculated following completion and disclosure of the TDM plan, so that the Project’s consistency with the City’s CAP can be properly evaluated.

E. The DEIR Construction Noise Analysis Includes Conclusions That are Not Supported By Substantial Evidence

O1.25

Noise expert Jack Meighan has reviewed the DEIR’s noise impacts analysis, and concludes that the DEIR’s construction noise analysis is deficient in at least the following ways: (1) the DEIR uses an improper metric to evaluate noise from the Project’s construction truck activity, and (2) the DEIR relies on an improper and unsupported significance threshold with respect to nighttime vibration impacts.

O1.26

The DEIR analyzes the Project’s potential impacts from construction haul truck noise, and concludes that such impacts will be less than significant because such trucks will not cause an increase in traffic noise greater than 3 dB, a level which is “barely noticeable.”¹²⁸ However, as Mr. Meighan explains, the DEIR relies on an improper metric to evaluate these noise impacts,¹²⁹ and accordingly the DEIR’s conclusions are not supported by substantial evidence.

The DEIR reports the results of its traffic noise model in Table 3.6-10, which purports to show that the Project will have no impact since the modeled truck activity will not increase noise more than 3 dB above the baseline scenario.¹³⁰ As Mr. Meighan points out, though, the results are reported using the Ldn metric, which is inappropriate to use for a temporary noise source like construction traffic that only occurs or peaks during specific daytime hours.¹³¹ The appropriate method would be to assess peak-hour traffic using the Leq metric, which is commonly used for short-term impacts.¹³² Ldn, by contrast, is a 24-hour statistic where the hourly Leq from each hour in the day is averaged, with penalties for nighttime noise.¹³³

¹²⁸ DEIR, pg. 3.6-30.

¹²⁹ Meighan Comments, pgs. 2-3.

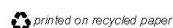
¹³⁰ DEIR, pg. 3.6-30, Table 3.6-10.

¹³¹ Meighan Comments, pg. 2.

¹³² *Id.*

¹³³ *Id.*

5936-005acp



January 2, 2024

Page 29

O1.26
cont'd

Ldn is typically used for overall traffic analysis, as it provides a convenient single number to show the overall noise exposure a site experiences in a single day, accounting for the fact that nighttime hours are inherently more noise-sensitive times; accordingly, Ldn is more appropriate to evaluate long-term effects or continuous noise.¹³⁴ Here, by using the Ldn metric, the DEIR assumes that the projected 686 haul trips would be evenly distributed over all 24 hours. The DEIR does not include any breakdown of anticipated haul truck trip times, so Mr. Meighan performed estimates using the Federal Highway Administration's Traffic Noise Model program. His analysis found significant impacts (i.e., greater than a 3 dB increase over ambient) under worst-case daytime as well as nighttime scenarios.¹³⁵ These potential impacts are masked by the DEIR's improper use of the Ldn metric.

O1.27

With respect to vibration impacts, the DEIR found less than significant impacts with respect to vibrations caused by nighttime construction activities, including the use of a vibratory roller.¹³⁶ These conclusions are based on findings that such vibrations will not exceed a Peak Particle Velocity ("PPV") of 0.1 in/sec at any sensitive receptor location. However, Mr. Meighan explains that this significance threshold, described in the DEIR as "strongly perceptible," is overly permissive and inappropriate for evaluating nighttime impacts.¹³⁷ During nighttime hours, any perceptible vibration can affect sleep; the DEIR expressly recognizes this fact, stating "humans are typically more sensitive to vibration that occurs during nighttime hours when people generally sleep."¹³⁸

Despite the recognition of higher sensitivity to vibrations at nighttime, the DEIR uses the same significance threshold for daytime and nighttime vibration impacts.¹³⁹ The DEIR offers no justification for using a 0.1 PPV for nighttime vibrations; indeed, using a vibration threshold described as "Strongly Perceptible" is inconsistent with the DEIR's use of a 3 dB noise threshold discussed above, which is described as Barely Perceptible. Mr. Meighan opines that the "Barely Perceptible" vibration level of 0.01 PPV in/sec would be more appropriate to evaluate nighttime vibration impacts given effects on sleeping during sensitive nighttime hours. Using that threshold, the predicted PPV of 0.026 in/sec from nighttime use of a vibratory roller would have a significant impact.

¹³⁴ *Id.*

¹³⁵ *Id.*, pg. 3.

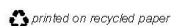
¹³⁶ DEIR, pgs. 3.6-40 –3.6-41.

¹³⁷ Meighan Comments, pg. 3.

¹³⁸ DEIR, pg. 3.6-19.

¹³⁹ *Id.*, pg. 3.6-39.

5936-005acp



January 2, 2024

Page 30

O1.27
cont'd

The DEIR's conclusions with respect to nighttime construction vibration impacts are not supported by substantial evidence, as the DEIR uses an unjustified and inappropriate significance threshold that is inconsistent with its use of a much lower "Barely Perceptible" threshold for certain noise impacts. The City must prepare a revised DEIR that analyzes such impacts with a significance threshold that is supported by substantial evidence.

VI. THE DEIR INCLUDES IMPROPERLY DEFERRED MITIGATION MEASURES AND ANALYSIS

O1.28

The CEQA Guidelines dictate that formulation of mitigation measures cannot be deferred until some future time.¹⁴⁰ Specific details of a mitigation measure may be developed after project approval only if it is impractical or infeasible to include specific details about a mitigation measure during the project's environmental review.¹⁴¹ Even then, the agency must: (1) commit itself to the mitigation, (2) adopt specific performance standards the mitigation will achieve, and (3) identify the type(s) of potential action(s) that can feasibly achieve that performance standard and that will considered, analyzed, and potentially incorporated in the mitigation measure.¹⁴²

CEQA also requires the disclosure of the severity of a project's impacts and the probability of their occurrence before a project can be approved.¹⁴³ This requires the identification of "ways that environmental damage can be avoided or significantly reduced" prior to approval.¹⁴⁴ As a result, CEQA prohibits deferred analysis of a project's potentially significant impacts.

Despite CEQA's clear mandates, the DEIR includes several mitigation measures that defer the formulation of specifics without any showing that it is impractical or infeasible to provide those details at this stage. Moreover, these measures call for the future preparation of basic studies to evaluate the Project's

¹⁴⁰ CEQA Guidelines, § 15126.4(a)(1)(B).

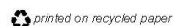
¹⁴¹ *Id.*

¹⁴² *Id.*

¹⁴³ PRC § 21003.1; 14 C.C.R. § 15063(a), (c)(4); *see also Berkeley Keep Jets Over the Bay Com. v. Bd. of Port Comrs.* (2001) 91 Cal.App.4th 1344, 1370-71; *Santa Clarita Org. v. County of Los Angeles* (2003) 106 Cal. App. 4th 715, 723 ("[An EIR's informational] purpose is not satisfied by simply stating information will be provided in the future"); *see also Sundstrom v. Cnty. of Mendocino* (1988) 202 Cal. App. 3d 296, 307 ("By deferring environmental assessment to a future date, the conditions run counter to that policy of CEQA which requires environmental review at the earliest feasible stage in the planning process"); *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal. 3d 68, 84.

¹⁴⁴ 14 C.C.R. § 15002(a)(2).

5936-005acp



January 2, 2024

Page 31

O1.28
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impacts. In doing so, the DEIR fails to disclose the severity of the Project's impacts and the probability of their occurrence and makes it impossible to identify ways that environmental damage can be avoided or significantly reduced" prior to approval.

**A. The DEIR's Hydrology & Water Quality Impact Analysis
Improperly Defers Analysis and Mitigation**

To reduce the Project's water quality impacts to less than significant, the DEIR proposes the following mitigation measures, each calling for the development of a plan to reduce impacts at some future time.

O1.29

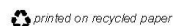
- WQ-3.1 provides in part: The Project Sponsor *shall prepare a Hydraulic Study to evaluate whether* that the existing and proposed stormwater drainage systems that would receive runoff from the Project site would be capable of conveying the 10-year peak runoff from the Project site and flows from the Project site during a 100-year flood event would remain within public roadway limits and would not extend into private property, per City requirements.¹⁴⁵
- WQ-3.2 provides in part: "Project Sponsor *shall prepare and implement a Construction-Period Stormwater Drainage Control Plan*, which shall be submitted to the City for review and approval prior to the City issuing grading or building permits."¹⁴⁶

Both of these mitigation measures rely on plans that the Project Sponsor is required to develop at a later date. Especially with respect to the Hydraulic Study, the results of the study will provide information that is critical to understanding the Project's potential hydrological and water quality impacts. The DEIR essentially admits that the City has not yet evaluated whether the existing and proposed stormwater drainage systems that would receive runoff from the Project site will be adequate. By deferring these crucial studies to a later stage, the DEIR precludes any understanding of the Project's potential impacts now, prior to Project approval. The hydraulic study should be completed now so that its findings can inform the DEIR's analysis of the Project's hydrological impacts.

¹⁴⁵ DEIR, pg. 3.10-27 (emphasis added).

¹⁴⁶ DEIR, pg. 3.10-27 (emphasis added).

5936-005acp



January 2, 2024

Page 32

O1.29
cont'd

Further, with respect to Mitigation Measure WQ-3.1, the DEIR explains that the Project may require modification depending on the results of the hydraulic study:

For Project operation, the hydraulic study shall evaluate the proposed changes to drainage patterns at the Project site and the placement of fill material and structures within the special flood hazard area currently mapped within Democracy Way and determine whether such changes would result in an increase in the base flood elevation of more than 1 foot in any areas within the city when combined with changes in flooding conditions from all other existing and anticipated development. *If the hydraulic study finds that the Project would not meet the required stormwater conveyance and flooding conditions above, the Project design shall be modified to the satisfaction of the City to meet the conditions.*¹⁴⁷

If the Hydraulic Study necessitates substantial modifications to the Project design to meet stormwater conveyance and flooding conditions, these would not be binding mitigation measures. It is unclear if these design alterations would be enforceable. Thus, by deferring critical analysis and potential mitigation actions to a future stage, the DEIR's environmental impact assessment is incomplete.

In addition to deferring crucial analysis, these mitigation measures also violate the CEQA Guidelines' directive making clear that the formulation of mitigation measures should not be delayed unless it is infeasible or impractical to include the specific details during the project's environmental review. The DEIR fails to provide any reason why it is infeasible or impractical to perform these studies now, or to incorporate the specific details of these plans in the mitigation measures at this stage of environmental review. Accordingly, the City must revise the DEIR after first completing the Hydraulic Study and Stormwater Drainage Control Plan, analyzing and disclosing the Project's hydrological impacts, and committing to specific and definite mitigation measures as necessary to reduce such impacts to the greatest extent feasible.

O1.30

B. The DEIR's Geology & Soils Impact Analysis Improperly Defers Analysis and Mitigation

The DEIR, in addressing the Geology & Soils impacts of the Project, includes Mitigation Measure GEO-3.1, which directs the Project Sponsor to "define the extent and depth of fill materials that would be placed on the Project site in the

¹⁴⁷ *Id.* (emphasis added).

January 2, 2024

Page 33

O1.30
cont'd

Project plans.”¹⁴⁸ To do so, it directs the Project Sponsor to “hire a qualified geotechnical engineer to prepare a design-level geotechnical report for the Project.”¹⁴⁹ The geotechnical report is fundamental to comprehensively assessing the Project's impact on geology and soils. By deferring this report until after the Project's approval, the DEIR neglects to integrate critical data and analysis that could significantly affect the understanding of the Project's environmental impacts.

Furthermore, as with the Hydraulic Study discussed above, the outcome of the geotechnical report could necessitate additional actions. The geotechnical report is to include a settlement analysis, and mitigation measure GEO-3.1 states: “If the settlement analysis indicates that existing offsite improvements could be adversely affected by settlement as a result of the Project, *a pre-construction survey (e.g., crack survey) and settlement monitoring program shall be developed and implemented* before and during construction for existing improvements that may be affected by the Project.”¹⁵⁰ The geotechnical report should have already been completed, so that if it identifies a need for a pre-construction survey and a settlement monitoring program to reduce adverse impacts, that could have been incorporated as a binding mitigation measure.

Moreover, as with the Hydrology and Water Quality mitigation measures, the DEIR makes no effort to demonstrate why it is infeasible to perform the settlement analysis and include specific details of mitigation at this stage.

Ultimately, the DEIR violates CEQA by deferring the City's analysis until after Project approval, thereby failing to disclose the severity of the Project's impacts and the probability of their occurrence *before* the project is approved, as required by CEQA.

VII. CONCLUSION

O1.31

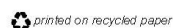
For the reasons discussed above, the DEIR for the Project is wholly inadequate under CEQA. It must be revised to provide legally adequate analysis of, and mitigation for, all of the Project's potentially significant impacts. These revisions will necessarily require that the DEIR be recirculated for additional public review and comment. Until the DEIR has been revised and recirculated, the City may not lawfully approve the Project.

¹⁴⁸ DEIR, pg. 3.9-18.

¹⁴⁹ *Id.* (emphasis added).

¹⁵⁰ *Id.* (emphasis added).

5936-005acp



January 2, 2024
Page 34

O1.31 | Thank you for your consideration of these comments. Please include them in
cont'd | the record of proceedings for the Project.

Sincerely,



Richard Franco
Ariana Abedifard

Attachments
AA:acp

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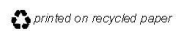


EXHIBIT A



WILSON IHRIG
ACOUSTICS, NOISE & VIBRATION

CALIFORNIA
WASHINGTON
NEW YORK

WI #23-002.37

December 29, 2023

Ms. Ariana Abedifard
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, California 94080

SUBJECT: Comments on Mission Point Project Noise Analysis

Dear Ms. Abedifard,

O1.32

Per your request, we have reviewed the subject matter document for the *Mission Point Project* in Santa Clara, California, based on the Draft Environmental Impact Report (DEIR) prepared by ICF, dated November 2023, with emphasis on section 3.6, the Acoustic Analysis. The proposed project involves the construction, use and maintenance of a 48.61-acre mixed-use neighborhood. The Project is surrounded by noise sensitive uses – single family residences to the west of the project, and a hotel to the east.

Wilson Ihrig is an acoustical consulting firm that has practiced exclusively in the field of acoustics since 1966. During our almost 57 years of operation, we have prepared hundreds of noise studies for Environmental Impact Reports and Statements. We have one of the largest technical laboratories in the acoustical consulting industry. We also utilize industry-standard acoustical programs such as Roadway Construction Noise Model (RCNM), SoundPLAN, and CadnaA. In short, we are well qualified to prepare environmental noise studies and review studies prepared by others.

Adverse Effects of Noise¹

The health effects of noise are real and, in many parts of the country, pervasive.

O1.33

Noise-Induced Hearing Loss. If a person is repeatedly exposed to loud noises, he or she may experience noise-induced hearing impairment or loss. In the United States, both the Occupational Health and Safety Administration (OSHA) and the National Institute for Occupational Safety and Health (NIOSH) promote standards and regulations to protect the hearing of people exposed to high levels of industrial noise.

Speech Interference. Another common problem associated with noise is speech interference. In addition to the obvious issues that may arise from misunderstandings, speech interference also leads to problems with concentration fatigue, irritation, decreased working capacity, and automatic stress reactions. For complete speech intelligibility, the sound level of the speech should be 15 to 18 dBA

¹ More information on these and other adverse effects of noise may be found in *Guidelines for Community Noise*, eds B Berglund, T Lindvall, and D Schwela, World Health Organization, Geneva, Switzerland, 1999. (<https://www.who.int/docstore/peh/noise/Comnoise-1.pdf>)

WILSON IHRIG
Mission Point Project
Comments on the Noise Analysis

O1.33
 cont'd

higher than the background noise. Typical indoor speech levels are 45 to 50 dBA at 1 meter, so any noise above 30 dBA begins to interfere with speech intelligibility. The common reaction to higher background noise levels is to raise one's voice. If this is required persistently for long periods of time, stress reactions and irritation will likely result.

Sleep Disturbance. Noise can disturb sleep by making it more difficult to fall asleep, by waking someone after they are asleep, or by altering their sleep stage, e.g., reducing the amount of rapid eye movement (REM) sleep. Noise exposure for people who are sleeping has also been linked to increased blood pressure, increased heart rate, increase in body movements, and other physiological effects. Not surprisingly, people whose sleep is disturbed by noise often experience secondary effects such as increased fatigue, depressed mood, and decreased work performance.

Cardiovascular and Physiological Effects. Human's bodily reactions to noise are rooted in the "fight or flight" response that evolved when many noises signaled imminent danger. These include increased blood pressure, elevated heart rate, and vasoconstriction. Prolonged exposure to acute noises can result in permanent effects such as hypertension and heart disease.

Impaired Cognitive Performance. Studies have established that noise exposure impairs people's abilities to perform complex tasks (tasks that require attention to detail or analytical processes) and it makes reading, paying attention, solving problems, and memorizing more difficult. This is why there are standards for classroom background noise levels and why offices and libraries are designed to provide quiet work environments.

An adequate evaluation of noise impacts must correlate noise levels with impacts on human health.

O1.34

Document Uses Improper Metric when Evaluating Construction Noise

Off-site noise caused by construction truck activity is not adequately evaluated. The DEIR shows the results of the traffic noise model in Table 3.6-10. No impacts are shown, since the modeled Ldn is less than 3 dBA² greater with truck activity related to this project, compared to a baseline scenario. However, Ldn is not the appropriate metric to use for a temporary source like construction traffic that only occurs or peaks during specific daytime hours.

Ldn is a 24-hour statistic where the hourly Leq from every hour in the day is averaged, with penalties for noise in nighttime and evening hours. Ldn is typically used for overall traffic analysis – it provides a useful and convenient single number to show the overall noise exposure a site experiences in one day, accounting for the fact that evening and nighttime hours are inherently more noise-sensitive hours. Ldn is more appropriate to evaluate long-term effects or noise that is continuous.

O1.35

A more appropriate metric is peak-hour traffic using the Leq metric. The City of Santa Clara's Noise Limits³ restricts all noise "received on property occupied by another person" as a fifteen-minute Leq, making a peak hour Leq more consistent with local noise codes. A peak hour Leq also accounts for unequal trip distribution, where an uneven number of trips affects one period significantly more than other periods. As such, peak-hour Leq is commonly used for short-term impacts.

² The first paragraph on page 3.6-20 and the first line of page 3.6-30 both cite 3 dBA as the significance threshold for construction haul and vendor truck noise.

³ <https://www.nonoise.org/regulation/ordinance/Santa%20Clara,%20California.pdf> Page 2

WILSON IHRIG
Mission Point Project
Comments on the Noise Analysis

- O1.36 Ldn does not account for large changes that can occur over multiple hours. By using the Ldn metric, the DEIR assumes that 686 haul trips, as cited on page 3.6-29, would be evenly distributed over all 24 hours. In a real-world situation, trips are not evenly distributed. Additionally, a worst-case scenario may occur during nighttime hours, when the ambient traffic levels are significantly lower, as trucks make their way to the site for nighttime unloading.
- O1.37 Without the breakdown of trip times, only a rough estimate can be completed. The quietest of the three peak hour Leq noise measurements in Table 3.6-6 is 57.4 dBA at location LT-1. This level is exceeded by 3 dB with the addition of 450 truck trips per hour, which only represents 65% of the total maximum number of trips, 686, as modeled using the Federal Highway Administration's (FHWA) Traffic Noise Model (TNM) Program version 2.5. Wilson Ihrig's model assumes 380 feet from the closest road to the receptor to match the measurement location.
- O1.38 On page 3.6-27, the DEIR states "Nighttime construction activities that could occur while onsite sensitive uses are occupied include material unloading, utility connections, and concrete pours for construction." The presence of 'material unloading' means that there would be truck activity occurring during nighttime hours. For nighttime activities, another traffic model can be performed using TNM to determine the number of trucks needed to exceed ambient levels by 3 dBA. The lowest recorded hourly measurement found in Table 3.6-6 is 49.7 dBA at LT-1. LT-2 was ignored, since a measurement far away from arterial roads is not applicable to model truck paths. Using the same method as above, there is a 3 dBA nighttime exceedance at 74 trucks per hour. 74 is only 11% of maximum number of daily truck trips.
- O1.39 Both worst-case and nighttime off-site truck trips have the possibility to be significant impacts and should be studied more. If impacts are found, mitigation should be implemented, such as an active construction monitoring plan, or a set route that trucks are required to take based on baseline traffic conditions that minimizes impacts.
- Document Presents an Improper Nighttime Construction Vibration Threshold**
The DEIR relies on documents from the Federal Transit Administration (FTA) and Caltrans for the construction vibration analysis methodology and criteria. The nighttime criteria selected by the DEIR is overly permissive. Table 3.6-3 presents Caltrans Guidelines for Vibration Annoyance Potential. For "Continuous/Frequent Intermittent Sources," which describes construction activities, the distinctly perceptible velocity value is 0.04 Peak Particle Velocity (PPV), and the barely perceptible level is 0.01 PPV.
- O1.40 During nighttime hours, vibration and shaking that is perceptible in any way may affect sleep and relaxation during critical and sensitive nighttime hours, which would constitute an impact. The DEIR acknowledges the higher sensitivity during nighttime hours on page 3.6-19, stating "Humans are typically more sensitive to vibration that occurs during nighttime hours when people generally sleep."
- The Federal Transit Administration's (FTA) Transit Noise and Vibration Impact Assessment Manual⁴ defines in Table 6-3 that 72 VdB is an appropriate threshold for Category 2 receptors, defined as locations where people typically sleep. Root mean squared (RMS) vibration velocity

⁴ https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/research-innovation/118131/transit-noise-and-vibration-impact-assessment-manual-fta-report-no-0123_0.pdf

WILSON IHRIG
Mission Point Project
Comments on the Noise Analysis

(which is what the FTA uses) can be transformed into peak particle velocity by using a crest factor, defined as the ratio of peak particle velocity to maximum RMS amplitude in an oscillating signal. Page 111 of the FTA manual defines a typical crest factor as 4 to 5. This matches other vibration studies⁵. Using a crest factor of 4, a VdB level can be estimated as a PPV value using the following equation, derived from equation 5-1 in the FTA manual. 10^{-6} is the reference level for VdB in the United States.

$$PPV = \text{crest factor} * v_{ref} * 10^{\left(\frac{VdB}{20}\right)}$$

Inputting 72 VdB results in a PPV value of 0.016 in/sec. This is in line with the Caltrans barely perceptible threshold of 0.01 PPV.

Table 1: Comparison of Different Vibration Thresholds to Calculated Nighttime Construction Vibration Level

Source Vibration Level / Threshold	Vibration Level/Criteria (PPV - in/sec)
Caltrans Intermittent Source - Barely Perceptible	0.01
FTA General Assessment Category 2 ^a Threshold	0.016 ^b
Nighttime use of Vibratory Roller at 100 feet	0.026
Caltrans Intermittent Source - Distinctly Perceptible	0.04
Caltrans Intermittent Source - Strongly Perceptible	0.10
^a Category 2 refers to residences where people normally sleep.	
^b Converted from VdB with a crest factor of 4	

A comparison of all Caltrans thresholds to the predicted vibration level is seen in Table 1. Page 3.6-41 of the DEIR correctly states that "vibration from nighttime construction activities, which could include the use of a vibratory roller, could result in PPV of up to 0.026 in/sec at the nearest future onsite residence" which is at 100 feet. 0.026 is more than double the perceptibility threshold as presented by Caltrans in Table 3.6-3. As such, this would affect sleeping during sensitive nighttime hours, and mitigation should be required, such as the requirement of a vibration control plan, or the restricted use of vibratory rollers during daytime hours only. If vibratory rollers are required to be used at night at precise locations, this impact may be significant and unavoidable.

Conclusion

The DEIR has several errors and omissions, including the use of an improper noise metric for the source, and a vibration criterion that is too high. Please feel free to contact me with any questions on this information.

Very truly yours,
WILSON IHRIG



Jack Meighan
Associate

comments on mission point noise analysis.docx

⁵ https://www.vibrationdata.com/tutorials2/peak_response_random_revF.pdf, equation 6



JACK MEIGHAN

Associate

Jack joined Wilson Ihrig in 2021 and is an experienced acoustics engineer with expertise in projects involving rail transit systems, highways, CEQA analysis, environmental noise reduction, mechanical drawing reviews, and construction noise and vibration mitigation. He has hands-on experience with project management, including client coordination and presentations, as well as in designing, developing, and testing MATLAB code used in acoustics applications. Additionally, his expertise includes taking field measurements, developing test plans and specifying, purchasing, setting up and repairing acoustic measurement equipment. He has experience in using Traffic Noise Model (TNM), CadnaA, EASE, Visual Basic, LabView, and CAD software.

Education

- B.S. in Mechanical Engineering, University of Southern California, Los Angeles, CA

Project Experience

Metro Regional Connector, Los Angeles CA

Planned, took, and processed measurements as part of a team to determine the effectiveness of floating slab trackwork for a new subway in downtown Los Angeles that travels below the Walt Disney Concert Hall and the Colburn School of Music.

Rodeo Credit Enterprise CEQA Analysis for New Construction, Palmdale, CA

Wrote an accepted proposal and executed it for a noise study project to determine noise mitigation requirements on a new housing development. Led all aspects of the project and managed the budget during all phases of project completion. Completed 5 separate projects of this type for this developer.

Blackhall Studios, Santa Clarita, CA

Led the vibration measurement effort for a new soundstage directly adjacent to an existing freight and commuter rail line. Tested equipment, processed data, and analyzed results to determine the vibration propagation through the soil to the proposed soundstage locations, and was part of the team that developed mitigation techniques for the office spaces directly next to the rail line.

Octavia Residential Condos CEQA Study, San Francisco, CA

Calculated the STC ratings for the proposed windows to meet Title 24 requirements, modeled the acoustic performance of floor and ceiling structures, researched noise codes, helped with a mechanical design review, and wrote a report summarizing the results for a new Condominium project being developed in San Francisco.

San Diego International Airport Terminal I Replacement, CA

Conducted interior noise and vibration measurements, analyzed measurement data to help determine project criteria, modeled the existing and future terminals in CadnaA, and was part of a team that did a complete HVAC analysis of the entire terminal, as part of a CEQA analysis where a new terminal for the airport is being designed.

O1.42

WILSON IHRIG
 Jack Meighan – Page 2

Five Points Apartments Noise Study, Whittier, CA

Took measurements, researched sound data and solutions, and recommended mitigation for a new apartment complex that was located next to an existing car wash, as part of a CEQA review.

USC Ellison Vibration Survey, Los Angeles, CA

Conducted vibration measurements as part of a survey to determine the effectiveness of vibration isolation platforms that are used to insulate cell growth in a cancer research facility. Determined the effectiveness and presented this information to the client. Researched and recommended a permanent monitoring system so the client could view data in real time.

TEN50 Condos 'Popping' Noise Investigation, Los Angeles, CA

Was part of a team that investigated the noise source of an unwanted popping noise in luxury condos in Downtown Los Angeles. Helped isolate the noise source location with accelerometers to determine where vibrations were occurring first and used an acoustic camera to determine where in the condo the noise was coming from.

2000 University Project, Berkely, CA

Wrote a construction noise monitoring plan based on environmental noise calculations, wrote a report summarizing the results, and attending a meeting with the client to discuss options.

O1.42
 cont'd

Bay Area Rapid Transit (BART) On-Track, CA, San Francisco Bay Area, CA*

Day to day project manager, responsible for meetings, presentations, and coordination with the client for an ongoing noise study on the BART system. Developed MATLAB code to process measurements and determine areas where high corrugation was present, contributing to excessively high in-car noise levels. Performed noise measurements inside both the right of way and the vehicle cabin, in addition to rail corrugation measurements.

California I-605/SR-60 Interchange Improvement, Los Angeles, CA*

Developed a noise model of the area that predicted sound levels for abatement design, in addition to conducting noise measurements and analysis. Led the Team in use of the FHWA Traffic Noise Model Software for the project, involving three major highways and two busy interchanges extending over 17 miles in southern California.

Sound Transit On-Track, Seattle, WA*

Took measurements, fixed equipment, and developed software in MATLAB to process Corrugation Analysis Trolley measurements as part of an ongoing noise study on the Sound Transit Link system. Tested vibration data to determine the best measurement and processing techniques to store the data in an online database for in-car measurements.

LA Metro CRRC Railcar Testing, Los Angeles, CA*

Led the effort to plan the measurements, determine measurement locations and finalize the test plan. Formulated a method to capture speed data directly from legacy train vehicles. Executed noise and vibration specification measurements for new rail cars delivered by CRRC.

City of Los Angeles, Pershing Square Station Rehabilitation Noise Monitoring, CA*

Built noise models, wrote a construction noise plan, and assisted in on-site construction noise issues as they arose for a renovation of the Pershing Square metro station in downtown Los

** Work done prior to working for Wilson Ihrig*

WILSON IHRIG
Jack Meighan – Page 3

Angeles. Trained construction personnel in techniques for noise reduction and how to conduct noise monitoring measurements to meet project specifications.

City of Orange Metrolink Parking Garage Construction Monitoring, CA*

Wrote an adaptive management vibration monitoring plan, set up equipment to monitor live vibration levels, and generated weekly reports as part of an effort to build a new parking garage. Designed, planned, and completed measurements to predict and mitigate pile driving construction impacts at three historic building locations adjacent to the construction site. Coordinated with the client whenever an on-site problem arose.

LA Metro Westside Subway Construction, Los Angeles, CA*

Planned, organized, and processed noise measurements for the Purple Line extension construction. Implemented both long term microphones to measure noise levels and accelerometers to measure vibration levels in existing subway tunnels. Oversaw noise monitoring at sensitive construction sites for the project and worked with the contractor to find ways to reduce construction noise levels by approximately 10dB.

Montreal Réseau Express Métropolitain, Canada*

Conducted vibration propagation measurements used to create models to predict operational vibration levels for an under-construction transit line. Managed equipment, solved problems in the field, and wrote parts of the report summarizing the findings of the acoustic study.

NHCRP Barrier*

Took on-highway measurements and wrote, designed, developed, and tested MATLAB code to identify specific spectrograms to use for analyses for a project evaluating barrier reflected highway traffic noise differences in the presence of a single absorptive or reflective noise barrier.

Siemens Railcar Testing for Sound Transit, Seattle, WA*

Measured in-car noise and vibration for new rail cars delivered by Siemens. Developed new internal techniques for measurements based on the written specifications. Contributed to the team that helped identify issues that new cars had in meeting the Sound Transit specifications for noise and vibration. Participated in developing the test plan and specified then acquired new equipment for the measurement.

Toronto/Ontario Eglinton Crosstown Light Rail, Final Design, Canada*

Assisted in vibration propagation measurements, analysis, and recommendations for mitigation for a 12-mile light-rail line both on and under Eglinton Avenue. Set up and ran equipment for at-grade measurements with an impact hammer for underground measurements with an impact load cell that was used during pre-construction borehole drilling.

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* Work done prior to working for Wilson Ihrig

EXHIBIT B



Technical Consultation, Data Analysis and
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December 20, 2023

Ariana Abedifard
Adams Broadwell Joseph & Cardozo
601 Gateway Blvd #1000
South San Francisco, CA 94080

Subject: Comments on the Mission Point Project (SCH No. 2018072068)

Dear Ms. Abedifard,

O1.43

We have reviewed the November 2023 Draft Environmental Impact Report ("DEIR") for the Mission Point Project ("Project") located in the City of Santa Clara ("City"). The Project proposes to demolish existing office buildings and construct a 4,913,000-square-foot ("SF") mixed-use neighborhood, including approximately 1,800,000-SF of residential space, approximately 3,000,000-SF of office/research-and-development space, 100,000-SF of neighborhood retail uses, 10,000-SF of childcare facilities, and 3,000-SF of community space on the 48.61-acre site.

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Our review concludes that the DEIR fails to adequately evaluate the Project's air quality and greenhouse gas impacts. As a result, emissions and health risk impacts associated with construction and operation of the proposed Project may be underestimated and inadequately addressed. An updated EIR should be prepared to adequately assess and mitigate the potential air quality and greenhouse gas impacts that the project may have on the environment.

O1.45

Air Quality

Failure to Implement All Feasible Mitigation to Reduce Emissions

The DEIR estimates that the Project's operational VOC, NO_x, PM_{2.5}, and PM₁₀ emissions would exceed the applicable BAAQMD thresholds (see excerpt below) (p. 3.3-39, Table 3.3-10).

Table 3.3-10. Estimated Net Mitigated Maximum Daily Operational Emissions (2034)

Condition and Emissions Source	Maximum Daily Emissions (lb/day)			
	ROG	NO _x	PM ₁₀ ^a	PM _{2.5} ^a
Existing Uses				
Area Sources	1.4	< 0.1	—	—
Energy Sources	0.0	0.5	< 0.1	< 0.1
Total – Existing Uses	1.4	0.5	< 0.1	< 0.1
Project Build-out				
Mobile Sources	<u>90.2</u>	<u>71.5</u>	<u>247.0</u>	<u>63.2</u>
Area Sources	<u>108.7</u>	—	—	—
Energy Sources	< 0.1	< 0.1	< 0.1	< 0.1
Stationary Sources	1.4	35.1	1.4	1.2
Total – Project	<u>200.2</u>	<u>106.6</u>	<u>248.4</u>	<u>64.4</u>
Net Emissions	<u>198.8</u>	<u>106.1</u>	<u>248.3</u>	<u>64.4</u>
BAAQMD Significance Threshold	54	54	82	54
Exceeds Threshold?	Yes	Yes	Yes	Yes

Notes:

Modeling files provided in Appendix 3.3-1. Exceedances are underlined.

Individual rows may not add up to the totals shown because of rounding.

lb/day = pounds per day; ROG= reactive organic gases; NO_x = nitrogen oxide; PM₁₀ = particulate matter no more than 10 microns in diameter; PM_{2.5} = particulate matter no more than 2.5 microns in diameter^a BAAQMD operational thresholds for PM₁₀ and PM_{2.5} include both fugitive dust and exhaust emissions.

Furthermore, the DEIR estimates that the Project's combined construction and operational VOC, NO_x, and PM₁₀ emissions would exceed the applicable BAAQMD thresholds (see excerpt below) (p. 3.3-41, Table 3.3-12).

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Table 3.3-12. Estimated Mitigated Maximum Daily Construction plus Operational Emissions of Criteria Air Pollutants and Precursors

Construction Year		Maximum Daily Emissions (lb/day) ^a			
		ROG	NO _x	PM ₁₀	PM _{2.5}
2031					
	Construction	31.1	52.5	30.6	7.6
	Operation	39.5	51.6	51.8	14.1
	Combined Total	70.6	104.1	82.4	21.7
2032					
	Construction	4.4	22.7	9.4	2.4
	Operation	92.2	74.7	127.4	33.6
	Combined total	96.6	97.4	136.8	36.0
2033					
	Construction	23.7	13.3	7.3	1.8
	Operation	146.3	85.9	170.4	44.5
	Combined Total	170.0	99.2	177.7	46.3
Maximum Daily Emissions for All Years		170.0	104.1	177.7	46.3
BAAQMD Significance Thresholds		54	54	82	54
Exceeds Threshold?		Yes	Yes	Yes	No

Source: Modeling files provided in Appendix 3.3-1. Exceedances are underlined.

Totals may not add up because of rounding.

lb/day = pounds per day; ROG= reactive organic gases; NO_x = nitrogen oxide; PM₁₀ = particulate matter no more than 10 microns in diameter; PM_{2.5} = particulate matter no more than 2.5 microns in diameter^a BAAQMD operational thresholds for PM₁₀ and PM_{2.5} include both fugitive dust and exhaust emissions.

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Lastly, the DEIR estimates that the Scenario 6 cancer risk resulting from Project construction and operation would exceed the BAAQMD significance threshold of 10 in one million (p. 3.3-46 – 3.3-47, Table 3.3-14).

Table 3.3-14. Estimated Mitigated Project-Level Health Risk Results from Modeled Scenarios

Offsite Receptor Type	Cancer Risk (cases per million)	Non-Cancer Chronic Risk	Annual PM _{2.5} Concentrations (µg/m ³)
Scenario 6 – Construction plus Operations (Onsite Development Area D)			
Residential Receptors	<u>13.02</u>	0.004	<u>3.085</u>
Recreational Receptors	<u>1.47</u>	0.004	<u>3.606</u>
BAAQMD Significance Threshold	10.0	1.0	0.3
Exceeds Threshold?	Yes (resident receptors only)	No	Yes

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As such, the DEIR concludes that the air quality impacts associated with construction and operation of the Project would be significant-and-unavoidable (p. 3.3-38, 3.3-41, 3.3-47). While we agree that the Project would result in significant air quality impacts, the DEIR's assertion that this impact is significant-and-unavoidable is unreliable. According to CEQA Guidelines § 15096(g)(2):

“When an updated EIR has been prepared for a project, the Responsible Agency shall not approve the project as proposed if the agency finds any feasible alternative or feasible mitigation measures within its powers that would substantially lessen or avoid any significant effect the project would have on the environment.”¹

The DEIR is therefore required under CEQA to implement all feasible mitigation to reduce impacts to a less-than-significant level. While the DEIR implements Mitigation Measure (“MM”) AQ-2.1 through MM AQ-2.6, the DEIR fails to implement *all* feasible mitigation (p. ES-12 – ES-15). Consequently, the DEIR's conclusion that Project's air quality emissions would be significant-and-unavoidable is unsubstantiated. To reduce the Project's air quality impacts to the maximum extent possible, additional feasible mitigation measures should be incorporated, such as those suggested in the section of this letter titled “Feasible Mitigation Measures Available to Reduce Emissions.” The Project should not be approved until an updated EIR is prepared, incorporating all feasible mitigation to reduce emissions to less-than-significant levels.

O1.47

Greenhouse Gas

Failure to Adequately Evaluate Greenhouse Gas Impacts

The DEIR relies upon the Project's consistency with the City of Santa Clara's Climate Action Plan (“CAP”) in order to conclude a less-than-significant greenhouse gas (“GHG”) impact. Specifically, the DEIR states:

¹ “Cal. Code Regs. tit. 14 § 15096.” California Legislature, available at: <https://casetext.com/regulation/california-code-of-regulations/title-14-natural-resources/division-6-resources-agency/chapter-3-guidelines-for-implementation-of-the-california-environmental-quality-act/article-7-eir-process/section-15096-process-for-a-responsible-agency>.

“Regarding the Project’s operational GHG emissions, the Project would be consistent with all applicable and required CAP checklist measures and therefore would be consistent with the City’s 2022 CAP. As a result, the Project’s operational GHG emissions would be less than significant” (p. 3.4-25).

However, the DEIR fails to adequately demonstrate that the Project would be consistent with the City’s CAP. The DEIR claims that the Project would be consistent with the City’s CAP by implementing several project design features (“PDFs”), which are listed in the Climate Action Plan Checklist, provided as Appendix 3.4 to the DEIR (see partial excerpt below) (p. 3-10).

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Action	Action Implemented?
T-2-1: Pedestrian & Bicycle Master Plans Implementation	
Fund and accelerate implementation of the Pedestrian Master Plan and Bicycle Master Plan focusing on 1) closing gaps in the bicycle and pedestrian networks with a focus on high demand arterials; 2) installing painted buffers or physical vertical elements on high stress roadways documented in the Bicycle Master Plan; and 3) implementing spot improvements in high traffic areas (e.g., bicycle detection, bulb-outs, and wayfinding elements) such that walking and biking comprise 10% of total city mode share. <i>Will the project be consistent with the Pedestrian Master Plan and Bicycle Master Plan?</i>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable
Explanation: (Please note relevant conditions of approval from the planning entitlement, demonstrate compliance on project plans, and describe below) <i>The Project would improve existing pedestrian and bicycle infrastructure, as described in the TIA, as well as improve connections to the Calabazas Creek, San Tomas Aquino Creek, and Hetch Hetchy Trail. These improvements would enhance safe crossings, wayfinding and bicycle/pedestrian-friendly streets, creating work centers, services, and retail within walking distance will promote biking and walking.</i>	
T-3-1: TDM plan requirements	
Introduce the following TDM plan requirements: Require a 25% reduction in project-based VMT through active TDM measures for large employers over 500 employees, including aggressive regulations to reduce parking in new developments. For the purpose of calculating the number of employees, separate employees sharing a building or project site would be treated as one employer. Adopt a 20% reduction of VMT for multifamily residential with a 10% reduction through active TDM measures, which may require parking maximums, in new developments.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable
Projects shall provide annual reports demonstrating compliance with VMT reduction targets, pursuant to procedures established by City staff. <i>To evaluate whether a proposed project will have a significant impact under CEQA, the City will compare the project's VMT with Countywide Average VMT (baseline) and provide reduction as established in the City's VMT policy.</i>	
Explanation: (Please list TDM measures proposed) <i>The Project qualifies as a transit supportive project and is thus exempt from a detailed VMT analysis. In addition, the Project will implement a TDM Plan that will achieve the CAP trip reduction requirement and include measures such as unbundled parking for market-rate residential units, bike parking, bike repair stations, showers and lockers in office buildings, and an on-site transportation coordinator.</i>	

However, we cannot verify that the above-mentioned PDFs would be successfully incorporated into the Project’s design. According to the Association of Environmental Professionals (“AEP”) CEQA Portal Topic Paper on Mitigation Measures:

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“While not ‘mitigation’, a good practice is to include those project design feature(s) that address environmental impacts in the mitigation monitoring and reporting program (MMRP). Often the MMRP is all that accompanies building and construction plans through the permit process. If the design features are not listed as important to addressing an environmental impact, it is easy for someone not involved in the original environmental process to approve a change to the project that could eliminate one or more of the design features without understanding the resulting environmental impact.”

As demonstrated above, PDFs that are not formally included in a mitigation monitoring and reporting program (“MMRP”) may be eliminated from the Project’s design altogether. As the above-mentioned measures from the City’s CAP are not formally included as mitigation measures, we cannot guarantee that they will be implemented, monitored, and enforced on the Project site. As such, the DEIR fails to correctly demonstrate that the Project would be consistent with the City’s CAP. Consequently, the Project’s GHG analysis is unsupported and should not be relied upon to determine Project significance.

Mitigation

Feasible Mitigation Measures Available to Reduce Emissions

Our analysis demonstrates that the Project would result in significant air quality and health risk impacts that should be mitigated further. As such, in an effort to reduce the Project’s emissions, we identified several mitigation measures that are applicable to the proposed Project. Therefore, to reduce the Project’s emissions, we recommend consideration of SCAG’s 2020 RTP/SCS PEIR’s Air Quality Project Level Mitigation Measures (“PMM-AQ-1”), as described below:²

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SCAG RTP/SCS 2020-2045	
<p align="center">Air Quality Project Level Mitigation Measures – PMM-AQ-1:</p> <p align="center">In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the <i>State CEQA Guidelines</i>, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects related to violating air quality standards. Such measures may include the following or other comparable measures identified by the Lead Agency:</p>	
a)	Minimize land disturbance.
b)	Suspend grading and earth moving when wind gusts exceed 25 miles per hour unless the soil is wet enough to prevent dust plumes.
d)	Stabilize the surface of dirt piles if not removed immediately.
e)	Limit vehicular paths on unpaved surfaces and stabilize any temporary roads.
f)	Minimize unnecessary vehicular and machinery activities.

² “4.0 Mitigation Measures.” Connect SoCal Program Environmental Impact Report Addendum #1, September 2020, available at: https://scag.ca.gov/sites/main/files/file-attachments/fpeir_connectsocial_addendum_4_mitigationmeasures.pdf?1606004420, p. 4.0-2 – 4.0-10; 4.0-19 – 4.0-23; See also: “Certified Final Connect SoCal Program Environmental Impact Report.” Southern California Association of Governments (SCAG), May 2020, available at: <https://scag.ca.gov/peir>.

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g) Sweep paved streets at least once per day where there is evidence of dirt that has been carried on to the roadway.
h) Revegetate disturbed land, including vehicular paths created during construction to avoid future off-road vehicular activities.
j) Require contractors to assemble a comprehensive inventory list (i.e., make, model, engine year, horsepower, emission rates) of all heavy-duty off-road (portable and mobile) equipment (50 horsepower and greater) that could be used an aggregate of 40 or more hours for the construction project. Prepare a plan for approval by the applicable air district demonstrating achievement of the applicable percent reduction for a CARB-approved fleet.
n) Utilize existing power sources (e.g., power poles) or clean fuel generators rather than temporary power generators.
p) As appropriate require that portable engines and portable engine-driven equipment units used at the project work site, with the exception of on-road and off-road motor vehicles, obtain CARB Portable Equipment Registration with the state or a local district permit. Arrange appropriate consultations with the CARB or the District to determine registration and permitting requirements prior to equipment operation at the site.
t) Where applicable, projects should provide information about air quality related programs to schools, including the Environmental Justice Community Partnerships (EJCP), Clean Air Ranger Education (CARE), and Why Air Quality Matters programs.
u) Projects should work with local cities and counties to install adequate signage that prohibits truck idling in certain locations (e.g., near schools and sensitive receptors).
y) Projects that will introduce sensitive receptors within 500 feet of freeways and other sources should consider installing high efficiency of enhanced filtration units, such as Minimum Efficiency Reporting Value (MERV) 13 or better. Installation of enhanced filtration units can be verified during occupancy inspection prior to the issuance of an occupancy permit.
z) Develop an ongoing monitoring, inspection, and maintenance program for the MERV filters.
aa) Consult the SCAG Environmental Justice Toolbox for potential measures to address impacts to low-income and/or minority communities.
bb) The following criteria related to diesel emissions shall be implemented on by individual project sponsors as appropriate and feasible: <ul style="list-style-type: none"> - Diesel nonroad vehicles on site for more than 10 total days shall have either (1) engines that meet EPA on road emissions standards or (2) emission control technology verified by EPA or CARB to reduce PM emissions by a minimum of 85% - Diesel generators on site for more than 10 total days shall be equipped with emission control technology verified by EPA or CARB to reduce PM emissions by a minimum of 85%. - Nonroad diesel engines on site shall be Tier 2 or higher. - Emission control technology shall be operated, maintained, and serviced as recommended by the emission control technology manufacturer. - Diesel vehicles, construction equipment, and generators on site shall be fueled with ultra-low sulfur diesel fuel (ULSD) or a biodiesel blend approved by the original engine manufacturer with sulfur content of 15 ppm or less. - The construction contractor shall maintain a list of all diesel vehicles, construction equipment, and generators to be used on site. The list shall include the following: <ul style="list-style-type: none"> i. Contractor and subcontractor name and address, plus contact person responsible for the vehicles or equipment. ii. Equipment type, equipment manufacturer, equipment serial number, engine manufacturer, engine model year, engine certification (Tier rating), horsepower, engine serial number, and expected fuel usage and hours of operation. iii. For the emission control technology installed: technology type, serial number, make, model, manufacturer, EPA/CARB verification number/level, and installation date and hour-meter reading on installation date.

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- The contractor shall establish generator sites and truck-staging zones for vehicles waiting to load or unload material on site. Such zones shall be located where diesel emissions have the least impact on abutters, the general public, and especially sensitive receptors such as hospitals, schools, daycare facilities, elderly housing, and convalescent facilities.
- The contractor shall maintain a monthly report that, for each on road diesel vehicle, nonroad construction equipment, or generator onsite, includes:
 - i. Hour-meter readings on arrival on-site, the first and last day of every month, and on off-site date.
 - ii. Any problems with the equipment or emission controls.
 - iii. Certified copies of fuel deliveries for the time period that identify:
 1. Source of supply
 2. Quantity of fuel
 3. Quantity of fuel, including sulfur content (percent by weight)

cc) Project should exceed Title-24 Building Envelope Energy Efficiency Standards (California Building Standards Code). The following measures can be used to increase energy efficiency:

- Provide pedestrian network improvements, such as interconnected street network, narrower roadways and shorter block lengths, sidewalks, accessibility to transit and transit shelters, traffic calming measures, parks and public spaces, minimize pedestrian barriers.
- Provide traffic calming measures, such as:
 - i. Marked crosswalks
 - ii. Count-down signal timers
 - iii. Curb extensions
 - iv. Speed tables
 - v. Raised crosswalks
 - vi. Raised intersections
 - vii. Median islands
 - viii. Tight corner radii
 - ix. Roundabouts or mini-circles
 - x. On-street parking
 - xi. Chicanes/chokers
- Create urban non-motorized zones
- Provide bike parking in non-residential and multi-unit residential projects
- Dedicate land for bike trails
- Limit parking supply through:
 - i. Elimination (or reduction) of minimum parking requirements
 - ii. Creation of maximum parking requirements
 - iii. Provision of shared parking
- Require residential area parking permit.
- Provide ride-sharing programs
 - i. Designate a certain percentage of parking spacing for ride sharing vehicles
 - ii. Designating adequate passenger loading and unloading and waiting areas for ride-sharing vehicles
 - iii. Providing a web site or messaging board for coordinating rides
 - iv. Permanent transportation management association membership and finding requirement.

These measures offer a cost-effective, feasible way to incorporate lower-emitting design features into the proposed Project, which subsequently, reduce emissions released during Project construction and operation. A revised EIR should be prepared to include all feasible mitigation measures, as well as include updated air quality and GHG analyses to ensure that the necessary mitigation measures are implemented to reduce emissions to below thresholds. The revised EIR should also demonstrate a commitment to the implementation of these measures prior to Project approval, to ensure that the Project's significant emissions are reduced to the maximum extent possible.

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Disclaimer

SWAPE has received limited discovery regarding this project. Additional information may become available in the future; thus, we retain the right to revise or amend this report when additional information becomes available. Our professional services have been performed using that degree of care and skill ordinarily exercised, under similar circumstances, by reputable environmental consultants practicing in this or similar localities at the time of service. No other warranty, expressed or implied, is made as to the scope of work, work methodologies and protocols, site conditions, analytical testing results, and findings presented. This report reflects efforts which were limited to information that was reasonably accessible at the time of the work, and may contain informational gaps, inconsistencies, or otherwise be incomplete due to the unavailability or uncertainty of information obtained or provided by third parties.

Sincerely,



Matt Hagemann, P.G., C.Hg.



Paul E. Rosenfeld, Ph.D.

Attachment A: Matt Hagemann CV
Attachment B: Paul Rosenfeld CV

Attachment A



Technical Consultation, Data Analysis and
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Litigation Support and Testifying Expert
Industrial Stormwater Compliance
CEQA Review

Education:

M.S. Degree, Geology, California State University Los Angeles, Los Angeles, CA, 1984.
B.A. Degree, Geology, Humboldt State University, Arcata, CA, 1982.

Professional Certifications:

California Professional Geologist
California Certified Hydrogeologist
Qualified SWPPP Developer and Practitioner

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Professional Experience:

Matt has 30 years of experience in environmental policy, contaminant assessment and remediation, stormwater compliance, and CEQA review. He spent nine years with the U.S. EPA in the RCRA and Superfund programs and served as EPA's Senior Science Policy Advisor in the Western Regional Office where he identified emerging threats to groundwater from perchlorate and MTBE. While with EPA, Matt also served as a Senior Hydrogeologist in the oversight of the assessment of seven major military facilities undergoing base closure. He led numerous enforcement actions under provisions of the Resource Conservation and Recovery Act (RCRA) and directed efforts to improve hydrogeologic characterization and water quality monitoring. For the past 15 years, as a founding partner with SWAPE, Matt has developed extensive client relationships and has managed complex projects that include consultation as an expert witness and a regulatory specialist, and a manager of projects ranging from industrial stormwater compliance to CEQA review of impacts from hazardous waste, air quality and greenhouse gas emissions.

Positions Matt has held include:

- Founding Partner, Soil/Water/Air Protection Enterprise (SWAPE) (2003 – present);
- Geology Instructor, Golden West College, 2010 – 2104, 2017;
- Senior Environmental Analyst, Komex H2O Science, Inc. (2000 -- 2003);

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- Executive Director, Orange Coast Watch (2001 – 2004);
- Senior Science Policy Advisor and Hydrogeologist, U.S. Environmental Protection Agency (1989–1998);
- Hydrogeologist, National Park Service, Water Resources Division (1998 – 2000);
- Adjunct Faculty Member, San Francisco State University, Department of Geosciences (1993 – 1998);
- Instructor, College of Marin, Department of Science (1990 – 1995);
- Geologist, U.S. Forest Service (1986 – 1998); and
- Geologist, Dames & Moore (1984 – 1986).

Senior Regulatory and Litigation Support Analyst:

With SWAPE, Matt's responsibilities have included:

- Lead analyst and testifying expert in the review of over 300 environmental impact reports and negative declarations since 2003 under CEQA that identify significant issues with regard to hazardous waste, water resources, water quality, air quality, greenhouse gas emissions, and geologic hazards. Make recommendations for additional mitigation measures to lead agencies at the local and county level to include additional characterization of health risks and implementation of protective measures to reduce worker exposure to hazards from toxins and Valley Fever.
- Stormwater analysis, sampling and best management practice evaluation at more than 100 industrial facilities.
- Expert witness on numerous cases including, for example, perfluorooctanoic acid (PFOA) contamination of groundwater, MTBE litigation, air toxins at hazards at a school, CERCLA compliance in assessment and remediation, and industrial stormwater contamination.
- Technical assistance and litigation support for vapor intrusion concerns.
- Lead analyst and testifying expert in the review of environmental issues in license applications for large solar power plants before the California Energy Commission.
- Manager of a project to evaluate numerous formerly used military sites in the western U.S.
- Manager of a comprehensive evaluation of potential sources of perchlorate contamination in Southern California drinking water wells.
- Manager and designated expert for litigation support under provisions of Proposition 65 in the review of releases of gasoline to sources drinking water at major refineries and hundreds of gas stations throughout California.

With Komex H2O Science Inc., Matt's duties included the following:

- Senior author of a report on the extent of perchlorate contamination that was used in testimony by the former U.S. EPA Administrator and General Counsel.
- Senior researcher in the development of a comprehensive, electronically interactive chronology of MTBE use, research, and regulation.
- Senior researcher in the development of a comprehensive, electronically interactive chronology of perchlorate use, research, and regulation.
- Senior researcher in a study that estimates nationwide costs for MTBE remediation and drinking water treatment, results of which were published in newspapers nationwide and in testimony against provisions of an energy bill that would limit liability for oil companies.
- Research to support litigation to restore drinking water supplies that have been contaminated by MTBE in California and New York.

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- Expert witness testimony in a case of oil production-related contamination in Mississippi.
- Lead author for a multi-volume remedial investigation report for an operating school in Los Angeles that met strict regulatory requirements and rigorous deadlines.
- Development of strategic approaches for cleanup of contaminated sites in consultation with clients and regulators.

Executive Director:

As Executive Director with Orange Coast Watch, Matt led efforts to restore water quality at Orange County beaches from multiple sources of contamination including urban runoff and the discharge of wastewater. In reporting to a Board of Directors that included representatives from leading Orange County universities and businesses, Matt prepared issue papers in the areas of treatment and disinfection of wastewater and control of the discharge of grease to sewer systems. Matt actively participated in the development of countywide water quality permits for the control of urban runoff and permits for the discharge of wastewater. Matt worked with other nonprofits to protect and restore water quality, including Surfrider, Natural Resources Defense Council and Orange County CoastKeeper as well as with business institutions including the Orange County Business Council.

Hydrogeology:

As a Senior Hydrogeologist with the U.S. Environmental Protection Agency, Matt led investigations to characterize and cleanup closing military bases, including Mare Island Naval Shipyard, Hunters Point Naval Shipyard, Treasure Island Naval Station, Alameda Naval Station, Moffett Field, Mather Army Airfield, and Sacramento Army Depot. Specific activities were as follows:

- Led efforts to model groundwater flow and contaminant transport, ensured adequacy of monitoring networks, and assessed cleanup alternatives for contaminated sediment, soil, and groundwater.
- Initiated a regional program for evaluation of groundwater sampling practices and laboratory analysis at military bases.
- Identified emerging issues, wrote technical guidance, and assisted in policy and regulation development through work on four national U.S. EPA workgroups, including the Superfund Groundwater Technical Forum and the Federal Facilities Forum.

At the request of the State of Hawaii, Matt developed a methodology to determine the vulnerability of groundwater to contamination on the islands of Maui and Oahu. He used analytical models and a GIS to show zones of vulnerability, and the results were adopted and published by the State of Hawaii and County of Maui.

As a hydrogeologist with the EPA Groundwater Protection Section, Matt worked with provisions of the Safe Drinking Water Act and NEPA to prevent drinking water contamination. Specific activities included the following:

- Received an EPA Bronze Medal for his contribution to the development of national guidance for the protection of drinking water.
- Managed the Sole Source Aquifer Program and protected the drinking water of two communities through designation under the Safe Drinking Water Act. He prepared geologic reports, conducted

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public hearings, and responded to public comments from residents who were very concerned about the impact of designation.

- Reviewed a number of Environmental Impact Statements for planned major developments, including large hazardous and solid waste disposal facilities, mine reclamation, and water transfer.

Matt served as a hydrogeologist with the RCRA Hazardous Waste program. Duties were as follows:

- Supervised the hydrogeologic investigation of hazardous waste sites to determine compliance with Subtitle C requirements.
- Reviewed and wrote "part B" permits for the disposal of hazardous waste.
- Conducted RCRA Corrective Action investigations of waste sites and led inspections that formed the basis for significant enforcement actions that were developed in close coordination with U.S. EPA legal counsel.
- Wrote contract specifications and supervised contractor's investigations of waste sites.

With the National Park Service, Matt directed service-wide investigations of contaminant sources to prevent degradation of water quality, including the following tasks:

- Applied pertinent laws and regulations including CERCLA, RCRA, NEPA, NRDA, and the Clean Water Act to control military, mining, and landfill contaminants.
- Conducted watershed-scale investigations of contaminants at parks, including Yellowstone and Olympic National Park.
- Identified high-levels of perchlorate in soil adjacent to a national park in New Mexico and advised park superintendent on appropriate response actions under CERCLA.
- Served as a Park Service representative on the Interagency Perchlorate Steering Committee, a national workgroup.
- Developed a program to conduct environmental compliance audits of all National Parks while serving on a national workgroup.
- Co-authored two papers on the potential for water contamination from the operation of personal watercraft and snowmobiles, these papers serving as the basis for the development of nation-wide policy on the use of these vehicles in National Parks.
- Contributed to the Federal Multi-Agency Source Water Agreement under the Clean Water Action Plan.

Policy:

Served senior management as the Senior Science Policy Advisor with the U.S. Environmental Protection Agency, Region 9.

Activities included the following:

- Advised the Regional Administrator and senior management on emerging issues such as the potential for the gasoline additive MTBE and ammonium perchlorate to contaminate drinking water supplies.
- Shaped EPA's national response to these threats by serving on workgroups and by contributing to guidance, including the Office of Research and Development publication, Oxygenates in Water: Critical Information and Research Needs.
- Improved the technical training of EPA's scientific and engineering staff.
- Earned an EPA Bronze Medal for representing the region's 300 scientists and engineers in negotiations with the Administrator and senior management to better integrate scientific

principles into the policy-making process.

- Established national protocol for the peer review of scientific documents.

Geology:

With the U.S. Forest Service, Matt led investigations to determine hillslope stability of areas proposed for timber harvest in the central Oregon Coast Range. Specific activities were as follows:

- Mapped geology in the field, and used aerial photographic interpretation and mathematical models to determine slope stability.
- Coordinated his research with community members who were concerned with natural resource protection.
- Characterized the geology of an aquifer that serves as the sole source of drinking water for the city of Medford, Oregon.

As a consultant with Dames and Moore, Matt led geologic investigations of two contaminated sites (later listed on the Superfund NPL) in the Portland, Oregon, area and a large hazardous waste site in eastern Oregon. Duties included the following:

- Supervised year-long effort for soil and groundwater sampling.
- Conducted aquifer tests.
- Investigated active faults beneath sites proposed for hazardous waste disposal.

Teaching:

From 1990 to 1998, Matt taught at least one course per semester at the community college and university levels:

- At San Francisco State University, held an adjunct faculty position and taught courses in environmental geology, oceanography (lab and lecture), hydrogeology, and groundwater contamination.
- Served as a committee member for graduate and undergraduate students.
- Taught courses in environmental geology and oceanography at the College of Marin.

Matt is currently a part time geology instructor at Golden West College in Huntington Beach, California where he taught from 2010 to 2014 and in 2017.

Invited Testimony, Reports, Papers and Presentations:

Hagemann, M.F., 2008. Disclosure of Hazardous Waste Issues under CEQA. Presentation to the Public Environmental Law Conference, Eugene, Oregon.

Hagemann, M.F., 2008. Disclosure of Hazardous Waste Issues under CEQA. Invited presentation to U.S. EPA Region 9, San Francisco, California.

Hagemann, M.F., 2005. Use of Electronic Databases in Environmental Regulation, Policy Making and Public Participation. Brownfields 2005, Denver, Colorado.

Hagemann, M.F., 2004. Perchlorate Contamination of the Colorado River and Impacts to Drinking Water in Nevada and the Southwestern U.S. Presentation to a meeting of the American Groundwater Trust, Las Vegas, NV (served on conference organizing committee).

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Hagemann, M.F., 2004. Invited testimony to a California Senate committee hearing on air toxins at schools in Southern California, Los Angeles.

Brown, A., Farrow, J., Gray, A. and **Hagemann, M., 2004.** An Estimate of Costs to Address MTBE Releases from Underground Storage Tanks and the Resulting Impact to Drinking Water Wells. Presentation to the Ground Water and Environmental Law Conference, National Groundwater Association.

Hagemann, M.F., 2004. Perchlorate Contamination of the Colorado River and Impacts to Drinking Water in Arizona and the Southwestern U.S. Presentation to a meeting of the American Groundwater Trust, Phoenix, AZ (served on conference organizing committee).

Hagemann, M.F., 2003. Perchlorate Contamination of the Colorado River and Impacts to Drinking Water in the Southwestern U.S. Invited presentation to a special committee meeting of the National Academy of Sciences, Irvine, CA.

Hagemann, M.F., 2003. Perchlorate Contamination of the Colorado River. Invited presentation to a tribal EPA meeting, Pechanga, CA.

Hagemann, M.F., 2003. Perchlorate Contamination of the Colorado River. Invited presentation to a meeting of tribal representatives, Parker, AZ.

Hagemann, M.F., 2003. Impact of Perchlorate on the Colorado River and Associated Drinking Water Supplies. Invited presentation to the Inter-Tribal Meeting, Torres Martinez Tribe.

Hagemann, M.F., 2003. The Emergence of Perchlorate as a Widespread Drinking Water Contaminant. Invited presentation to the U.S. EPA Region 9.

Hagemann, M.F., 2003. A Deductive Approach to the Assessment of Perchlorate Contamination. Invited presentation to the California Assembly Natural Resources Committee.

Hagemann, M.F., 2003. Perchlorate: A Cold War Legacy in Drinking Water. Presentation to a meeting of the National Groundwater Association.

Hagemann, M.F., 2002. From Tank to Tap: A Chronology of MTBE in Groundwater. Presentation to a meeting of the National Groundwater Association.

Hagemann, M.F., 2002. A Chronology of MTBE in Groundwater and an Estimate of Costs to Address Impacts to Groundwater. Presentation to the annual meeting of the Society of Environmental Journalists.

Hagemann, M.F., 2002. An Estimate of the Cost to Address MTBE Contamination in Groundwater (and Who Will Pay). Presentation to a meeting of the National Groundwater Association.

Hagemann, M.F., 2002. An Estimate of Costs to Address MTBE Releases from Underground Storage Tanks and the Resulting Impact to Drinking Water Wells. Presentation to a meeting of the U.S. EPA and State Underground Storage Tank Program managers.

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Hagemann, M.F., 2001. From Tank to Tap: A Chronology of MTBE in Groundwater. Unpublished report.

Hagemann, M.F., 2001. Estimated Cleanup Cost for MTBE in Groundwater Used as Drinking Water. Unpublished report.

Hagemann, M.F., 2001. Estimated Costs to Address MTBE Releases from Leaking Underground Storage Tanks. Unpublished report.

Hagemann, M.F., and VanMouwerik, M., 1999. Potential Water Quality Concerns Related to Snowmobile Usage. Water Resources Division, National Park Service, Technical Report.

VanMouwerik, M. and **Hagemann, M.F.** 1999, Water Quality Concerns Related to Personal Watercraft Usage. Water Resources Division, National Park Service, Technical Report.

Hagemann, M.F., 1999, Is Dilution the Solution to Pollution in National Parks? The George Wright Society Biannual Meeting, Asheville, North Carolina.

Hagemann, M.F., 1997, The Potential for MTBE to Contaminate Groundwater. U.S. EPA Superfund Groundwater Technical Forum Annual Meeting, Las Vegas, Nevada.

Hagemann, M.F., and Gill, M., 1996, Impediments to Intrinsic Remediation, Moffett Field Naval Air Station, Conference on Intrinsic Remediation of Chlorinated Hydrocarbons, Salt Lake City.

Hagemann, M.F., Fukunaga, G.L., 1996, The Vulnerability of Groundwater to Anthropogenic Contaminants on the Island of Maui, Hawaii. Hawaii Water Works Association Annual Meeting, Maui, October 1996.

Hagemann, M. F., Fukunaga, G. L., 1996, Ranking Groundwater Vulnerability in Central Oahu, Hawaii. Proceedings, Geographic Information Systems in Environmental Resources Management, Air and Waste Management Association Publication VIP-61.

Hagemann, M.F., 1994. Groundwater Characterization and Cleanup at Closing Military Bases in California. Proceedings, California Groundwater Resources Association Meeting.

Hagemann, M.F. and Sabol, M.A., 1993. Role of the U.S. EPA in the High Plains States Groundwater Recharge Demonstration Program. Proceedings, Sixth Biennial Symposium on the Artificial Recharge of Groundwater.

Hagemann, M.F., 1993. U.S. EPA Policy on the Technical Impracticability of the Cleanup of DNAPL-contaminated Groundwater. California Groundwater Resources Association Meeting.

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Hagemann, M.F., 1992. Dense Nonaqueous Phase Liquid Contamination of Groundwater: An Ounce of Prevention... Proceedings, Association of Engineering Geologists Annual Meeting, v. 35.

Other Experience:

Selected as subject matter expert for the California Professional Geologist licensing examinations, 2009-2011.

Attachment B



Technical Consultation, Data Analysis and
Litigation Support for the Environment

SOIL WATER AIR PROTECTION ENTERPRISE
2656 29th Street, Suite 201
Santa Monica, California 90405
Attn: Paul Rosenfeld, Ph.D.
Mobil: (310) 795-2335
Office: (310) 452-5555
Fax: (310) 452-5550
Email: prosenfeld@swape.com

Paul Rosenfeld, Ph.D.

Principal Environmental Chemist

Chemical Fate and Transport & Air Dispersion Modeling

Risk Assessment & Remediation Specialist

Education

Ph.D. Soil Chemistry, University of Washington, 1999. Dissertation on volatile organic compound filtration.

M.S. Environmental Science, U.C. Berkeley, 1995. Thesis on organic waste economics.

B.A. Environmental Studies, U.C. Santa Barbara, 1991. Focus on wastewater treatment.

Professional Experience

Dr. Rosenfeld has over 25 years of experience conducting environmental investigations and risk assessments for evaluating impacts to human health, property, and ecological receptors. His expertise focuses on the fate and transport of environmental contaminants, human health risk, exposure assessment, and ecological restoration. Dr. Rosenfeld has evaluated and modeled emissions from oil spills, landfills, boilers and incinerators, process stacks, storage tanks, confined animal feeding operations, industrial, military and agricultural sources, unconventional oil drilling operations, and locomotive and construction engines. His project experience ranges from monitoring and modeling of pollution sources to evaluating impacts of pollution on workers at industrial facilities and residents in surrounding communities. Dr. Rosenfeld has also successfully modeled exposure to contaminants distributed by water systems and via vapor intrusion.

Dr. Rosenfeld has investigated and designed remediation programs and risk assessments for contaminated sites containing lead, heavy metals, mold, bacteria, particulate matter, petroleum hydrocarbons, chlorinated solvents, pesticides, radioactive waste, dioxins and furans, semi- and volatile organic compounds, PCBs, PAHs, creosote, perchlorate, asbestos, per- and poly-fluoroalkyl substances (PFOA/PFOS), unusual polymers, fuel oxygenates (MTBE), among other pollutants. Dr. Rosenfeld also has experience evaluating greenhouse gas emissions from various projects and is an expert on the assessment of odors from industrial and agricultural sites, as well as the evaluation of odor nuisance impacts and technologies for abatement of odorous emissions. As a principal scientist at SWAPE, Dr. Rosenfeld directs air dispersion modeling and exposure assessments. He has served as an expert witness and testified about pollution sources causing nuisance and/or personal injury at sites and has testified as an expert witness on numerous cases involving exposure to soil, water and air contaminants from industrial, railroad, agricultural, and military sources.

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Professional History:

Soil Water Air Protection Enterprise (SWAPE); 2003 to present; Principal and Founding Partner
 UCLA School of Public Health; 2007 to 2011; Lecturer (Assistant Researcher)
 UCLA School of Public Health; 2003 to 2006; Adjunct Professor
 UCLA Environmental Science and Engineering Program; 2002-2004; Doctoral Intern Coordinator
 UCLA Institute of the Environment, 2001-2002; Research Associate
 Komex H₂O Science, 2001 to 2003; Senior Remediation Scientist
 National Groundwater Association, 2002-2004; Lecturer
 San Diego State University, 1999-2001; Adjunct Professor
 Anteon Corp., San Diego, 2000-2001; Remediation Project Manager
 Ogden (now Amec), San Diego, 2000-2000; Remediation Project Manager
 Bechtel, San Diego, California, 1999 – 2000; Risk Assessor
 King County, Seattle, 1996 – 1999; Scientist
 James River Corp., Washington, 1995-96; Scientist
 Big Creek Lumber, Davenport, California, 1995; Scientist
 Plumas Corp., California and USFS, Tahoe 1993-1995; Scientist
 Peace Corps and World Wildlife Fund, St. Kitts, West Indies, 1991-1993; Scientist

Publications:

Rosenfeld P. E., Spaeth K., Hallman R., Bressler R., Smith, G., (2022) Cancer Risk and Diesel Exhaust Exposure Among Railroad Workers. *Water Air Soil Pollution*. 233, 171.

Remy, L.L., Clay T., Byers, V., **Rosenfeld P. E.** (2019) Hospital, Health, and Community Burden After Oil Refinery Fires, Richmond, California 2007 and 2012. *Environmental Health*. 18:48

Simons, R.A., Seo, Y. **Rosenfeld, P.**, (2015) Modeling the Effect of Refinery Emission On Residential Property Value. *Journal of Real Estate Research*. 27(3):321-342

Chen, J. A, Zapata A. R., Sutherland A. J., Molmen, D.R., Chow, B. S., Wu, L. E., **Rosenfeld, P. E.**, Hesse, R. C., (2012) Sulfur Dioxide and Volatile Organic Compound Exposure To A Community In Texas City Texas Evaluated Using Aermid and Empirical Data. *American Journal of Environmental Science*, 8(6), 622-632.

Rosenfeld, P.E. & Feng, L. (2011). *The Risks of Hazardous Waste*. Amsterdam: Elsevier Publishing.

Cheremisinoff, N.P., & **Rosenfeld, P.E.** (2011). *Handbook of Pollution Prevention and Cleaner Production: Best Practices in the Agrochemical Industry*, Amsterdam: Elsevier Publishing.

Gonzalez, J., Feng, L., Sutherland, A., Waller, C., Sok, H., Hesse, R., **Rosenfeld, P.** (2010). PCBs and Dioxins/Furans in Attic Dust Collected Near Former PCB Production and Secondary Copper Facilities in Sauget, IL. *Procedia Environmental Sciences*. 113–125.

Feng, L., Wu, C., Tam, L., Sutherland, A.J., Clark, J.J., **Rosenfeld, P.E.** (2010). Dioxin and Furan Blood Lipid and Attic Dust Concentrations in Populations Living Near Four Wood Treatment Facilities in the United States. *Journal of Environmental Health*. 73(6), 34-46.

Cheremisinoff, N.P., & **Rosenfeld, P.E.** (2010). *Handbook of Pollution Prevention and Cleaner Production: Best Practices in the Wood and Paper Industries*. Amsterdam: Elsevier Publishing.

Cheremisinoff, N.P., & **Rosenfeld, P.E.** (2009). *Handbook of Pollution Prevention and Cleaner Production: Best Practices in the Petroleum Industry*. Amsterdam: Elsevier Publishing.

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Wu, C., Tam, L., Clark, J., **Rosenfeld, P.** (2009). Dioxin and furan blood lipid concentrations in populations living near four wood treatment facilities in the United States. *WIT Transactions on Ecology and the Environment, Air Pollution*, 123 (17), 319-327.

Tam L. K., Wu C. D., Clark J. J. and **Rosenfeld, P.E.** (2008). A Statistical Analysis Of Attic Dust And Blood Lipid Concentrations Of Tetrachloro-p-Dibenzodioxin (TCDD) Toxicity Equivalency Quotients (TEQ) In Two Populations Near Wood Treatment Facilities. *Organohalogen Compounds*, 70, 002252-002255.

Tam L. K., Wu C. D., Clark J. J. and **Rosenfeld, P.E.** (2008). Methods For Collect Samples For Assessing Dioxins And Other Environmental Contaminants In Attic Dust: A Review. *Organohalogen Compounds*, 70, 000527-000530.

Hensley, A.R. A. Scott, J. J. J. Clark, **Rosenfeld, P.E.** (2007). Attic Dust and Human Blood Samples Collected near a Former Wood Treatment Facility. *Environmental Research*. 105, 194-197.

Rosenfeld, P.E., J. J. J. Clark, A. R. Hensley, M. Suffet. (2007). The Use of an Odor Wheel Classification for Evaluation of Human Health Risk Criteria for Compost Facilities. *Water Science & Technology* 55(5), 345-357.

Rosenfeld, P. E., M. Suffet. (2007). The Anatomy Of Odour Wheels For Odours Of Drinking Water, Wastewater, Compost And The Urban Environment. *Water Science & Technology* 55(5), 335-344.

Sullivan, P. J. Clark, J.J.J., Agardy, F. J., **Rosenfeld, P.E.** (2007). *Toxic Legacy, Synthetic Toxins in the Food, Water, and Air in American Cities*. Boston Massachusetts: Elsevier Publishing

Rosenfeld, P.E., and Suffet I.H. (2004). Control of Compost Odor Using High Carbon Wood Ash. *Water Science and Technology*. 49(9),171-178.

Rosenfeld P. E., J.J. Clark, I.H. (Mel) Suffet (2004). The Value of An Odor-Quality-Wheel Classification Scheme For The Urban Environment. *Water Environment Federation's Technical Exhibition and Conference (WEFTEC) 2004*. New Orleans, October 2-6, 2004.

Rosenfeld, P.E., and Suffet, I.H. (2004). Understanding Odorants Associated With Compost, Biomass Facilities, and the Land Application of Biosolids. *Water Science and Technology*. 49(9), 193-199.

Rosenfeld, P.E., and Suffet I.H. (2004). Control of Compost Odor Using High Carbon Wood Ash, *Water Science and Technology*, 49(9), 171-178.

Rosenfeld, P. E., Grey, M. A., Sellow, P. (2004). Measurement of Biosolids Odor and Odorant Emissions from Windrows, Static Pile and Biofilter. *Water Environment Research*. 76(4), 310-315.

Rosenfeld, P.E., Grey, M and Suffet, M. (2002). Compost Demonstration Project, Sacramento California Using High-Carbon Wood Ash to Control Odor at a Green Materials Composting Facility. *Integrated Waste Management Board Public Affairs Office*, Publications Clearinghouse (MS-6), Sacramento, CA Publication #442-02-008.

Rosenfeld, P.E., and C.L. Henry. (2001). Characterization of odor emissions from three different biosolids. *Water Soil and Air Pollution*. 127(1-4), 173-191.

Rosenfeld, P.E., and Henry C. L., (2000). Wood ash control of odor emissions from biosolids application. *Journal of Environmental Quality*. 29, 1662-1668.

Rosenfeld, P.E., C.L. Henry and D. Bennett. (2001). Wastewater dewatering polymer affect on biosolids odor emissions and microbial activity. *Water Environment Research*. 73(4), 363-367.

Rosenfeld, P.E., and C.L. Henry. (2001). Activated Carbon and Wood Ash Sorption of Wastewater, Compost, and Biosolids Odorants. *Water Environment Research*, 73, 388-393.

Rosenfeld, P.E., and Henry C. L., (2001). High carbon wood ash effect on biosolids microbial activity and odor. *Water Environment Research*. 131(1-4), 247-262.

Chollack, T. and **P. Rosenfeld**. (1998). Compost Amendment Handbook For Landscaping. Prepared for and distributed by the City of Redmond, Washington State.

Rosenfeld, P. E. (1992). The Mount Liamuiga Crater Trail. *Heritage Magazine of St. Kitts*, 3(2).

Rosenfeld, P. E. (1993). High School Biogas Project to Prevent Deforestation On St. Kitts. *Biomass Users Network*, 7(1).

Rosenfeld, P. E. (1998). Characterization, Quantification, and Control of Odor Emissions From Biosolids Application To Forest Soil. Doctoral Thesis. University of Washington College of Forest Resources.

Rosenfeld, P. E. (1994). Potential Utilization of Small Diameter Trees on Sierra County Public Land. Masters thesis reprinted by the Sierra County Economic Council. Sierra County, California.

Rosenfeld, P. E. (1991). How to Build a Small Rural Anaerobic Digester & Uses Of Biogas In The First And Third World. Bachelors Thesis. University of California.

Presentations:

Rosenfeld, P.E., "The science for Perfluorinated Chemicals (PFAS): What makes remediation so hard?" Law Seminars International, (May 9-10, 2018) 800 Fifth Avenue, Suite 101 Seattle, WA.

Rosenfeld, P.E., Sutherland, A; Hesse, R.; Zapata, A. (October 3-6, 2013). Air dispersion modeling of volatile organic emissions from multiple natural gas wells in Decatur, TX. *44th Western Regional Meeting, American Chemical Society*. Lecture conducted from Santa Clara, CA.

Sok, H.L.; Waller, C.C.; Feng, L.; Gonzalez, J.; Sutherland, A.J.; Wisdom-Stack, T.; Sahai, R.K.; Hesse, R.C.; **Rosenfeld, P.E.** (June 20-23, 2010). Atrazine: A Persistent Pesticide in Urban Drinking Water. *Urban Environmental Pollution*. Lecture conducted from Boston, MA.

Feng, L.; Gonzalez, J.; Sok, H.L.; Sutherland, A.J.; Waller, C.C.; Wisdom-Stack, T.; Sahai, R.K.; La, M.; Hesse, R.C.; **Rosenfeld, P.E.** (June 20-23, 2010). Bringing Environmental Justice to East St. Louis, Illinois. *Urban Environmental Pollution*. Lecture conducted from Boston, MA.

Rosenfeld, P.E. (April 19-23, 2009). Perfluorooctanoic Acid (PFOA) and Perfluorooctane Sulfonate (PFOS) Contamination in Drinking Water From the Use of Aqueous Film Forming Foams (AFFF) at Airports in the United States. *2009 Ground Water Summit and 2009 Ground Water Protection Council Spring Meeting*, Lecture conducted from Tuscon, AZ.

Rosenfeld, P.E. (April 19-23, 2009). Cost to Filter Atrazine Contamination from Drinking Water in the United States" Contamination in Drinking Water From the Use of Aqueous Film Forming Foams (AFFF) at Airports in the United States. *2009 Ground Water Summit and 2009 Ground Water Protection Council Spring Meeting*. Lecture conducted from Tuscon, AZ.

Wu, C., Tam, L., Clark, J., **Rosenfeld, P.** (20-22 July, 2009). Dioxin and furan blood lipid concentrations in populations living near four wood treatment facilities in the United States. Brebbia, C.A. and Popov, V., eds., *Air Pollution XVII: Proceedings of the Seventeenth International Conference on Modeling, Monitoring and Management of Air Pollution*. Lecture conducted from Tallinn, Estonia.

Rosenfeld, P. E. (October 15-18, 2007). Moss Point Community Exposure To Contaminants From A Releasing Facility. *The 23rd Annual International Conferences on Soils Sediment and Water*. Platform lecture conducted from University of Massachusetts, Amherst MA.

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Rosenfeld, P. E. (October 15-18, 2007). The Repeated Trespass of Tritium-Contaminated Water Into A Surrounding Community Form Repeated Waste Spills From A Nuclear Power Plant. *The 23rd Annual International Conferences on Soils Sediment and Water*. Platform lecture conducted from University of Massachusetts, Amherst MA.

Rosenfeld, P. E. (October 15-18, 2007). Somerville Community Exposure To Contaminants From Wood Treatment Facility Emissions. *The 23rd Annual International Conferences on Soils Sediment and Water*. Lecture conducted from University of Massachusetts, Amherst MA.

Rosenfeld P. E. (March 2007). Production, Chemical Properties, Toxicology, & Treatment Case Studies of 1,2,3-Trichloropropane (TCP). *The Association for Environmental Health and Sciences (AEHS) Annual Meeting*. Lecture conducted from San Diego, CA.

Rosenfeld P. E. (March 2007). Blood and Attic Sampling for Dioxin/Furan, PAH, and Metal Exposure in Florida, Alabama. *The AEHS Annual Meeting*. Lecture conducted from San Diego, CA.

Hensley A.R., Scott, A., **Rosenfeld P.E.**, Clark, J.J.J. (August 21 – 25, 2006). Dioxin Containing Attic Dust And Human Blood Samples Collected Near A Former Wood Treatment Facility. *The 26th International Symposium on Halogenated Persistent Organic Pollutants – DIOXIN2006*. Lecture conducted from Radisson SAS Scandinavia Hotel in Oslo Norway.

Hensley A.R., Scott, A., **Rosenfeld P.E.**, Clark, J.J.J. (November 4-8, 2006). Dioxin Containing Attic Dust And Human Blood Samples Collected Near A Former Wood Treatment Facility. *APHA 134 Annual Meeting & Exposition*. Lecture conducted from Boston Massachusetts.

Paul Rosenfeld Ph.D. (October 24-25, 2005). Fate, Transport and Persistence of PFOA and Related Chemicals. Mealey's C8/PFOA. *Science, Risk & Litigation Conference*. Lecture conducted from The Rittenhouse Hotel, Philadelphia, PA.

Paul Rosenfeld Ph.D. (September 19, 2005). Brominated Flame Retardants in Groundwater: Pathways to Human Ingestion, *Toxicology and Remediation PEMA Emerging Contaminant Conference*. Lecture conducted from Hilton Hotel, Irvine California.

Paul Rosenfeld Ph.D. (September 19, 2005). Fate, Transport, Toxicity, And Persistence of 1,2,3-TCP. *PEMA Emerging Contaminant Conference*. Lecture conducted from Hilton Hotel in Irvine, California.

Paul Rosenfeld Ph.D. (September 26-27, 2005). Fate, Transport and Persistence of PDBEs. *Mealey's Groundwater Conference*. Lecture conducted from Ritz Carlton Hotel, Marina Del Ray, California.

Paul Rosenfeld Ph.D. (June 7-8, 2005). Fate, Transport and Persistence of PFOA and Related Chemicals. *International Society of Environmental Forensics: Focus On Emerging Contaminants*. Lecture conducted from Sheraton Oceanfront Hotel, Virginia Beach, Virginia.

Paul Rosenfeld Ph.D. (July 21-22, 2005). Fate Transport, Persistence and Toxicology of PFOA and Related Perfluorochemicals. *2005 National Groundwater Association Ground Water And Environmental Law Conference*. Lecture conducted from Wyndham Baltimore Inner Harbor, Baltimore Maryland.

Paul Rosenfeld Ph.D. (July 21-22, 2005). Brominated Flame Retardants in Groundwater: Pathways to Human Ingestion, *Toxicology and Remediation. 2005 National Groundwater Association Ground Water and Environmental Law Conference*. Lecture conducted from Wyndham Baltimore Inner Harbor, Baltimore Maryland.

Paul Rosenfeld, Ph.D. and James Clark Ph.D. and Rob Hesse R.G. (May 5-6, 2004). Tert-butyl Alcohol Liability and Toxicology, A National Problem and Unquantified Liability. *National Groundwater Association. Environmental Law Conference*. Lecture conducted from Congress Plaza Hotel, Chicago Illinois.

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Paul Rosenfeld, Ph.D. (March 2004). Perchlorate Toxicology. *Meeting of the American Groundwater Trust*. Lecture conducted from Phoenix Arizona.

Hagemann, M.F., **Paul Rosenfeld, Ph.D.** and Rob Hesse (2004). Perchlorate Contamination of the Colorado River. *Meeting of tribal representatives*. Lecture conducted from Parker, AZ.

Paul Rosenfeld, Ph.D. (April 7, 2004). A National Damage Assessment Model For PCE and Dry Cleaners. *Drycleaner Symposium. California Ground Water Association*. Lecture conducted from Radison Hotel, Sacramento, California.

Rosenfeld, P. E., Grey, M., (June 2003) Two stage biofilter for biosolids composting odor control. *Seventh International In Situ And On Site Bioremediation Symposium Battelle Conference Orlando, FL*.

Paul Rosenfeld, Ph.D. and James Clark Ph.D. (February 20-21, 2003) Understanding Historical Use, Chemical Properties, Toxicity and Regulatory Guidance of 1,4 Dioxane. *National Groundwater Association. Southwest Focus Conference. Water Supply and Emerging Contaminants*. Lecture conducted from Hyatt Regency Phoenix Arizona.

Paul Rosenfeld, Ph.D. (February 6-7, 2003). Underground Storage Tank Litigation and Remediation. *California CUPA Forum*. Lecture conducted from Marriott Hotel, Anaheim California.

Paul Rosenfeld, Ph.D. (October 23, 2002) Underground Storage Tank Litigation and Remediation. *EPA Underground Storage Tank Roundtable*. Lecture conducted from Sacramento California.

Rosenfeld, P.E. and Suffet, M. (October 7- 10, 2002). Understanding Odor from Compost, Wastewater and Industrial Processes. *Sixth Annual Symposium On Off Flavors in the Aquatic Environment. International Water Association*. Lecture conducted from Barcelona Spain.

Rosenfeld, P.E. and Suffet, M. (October 7- 10, 2002). Using High Carbon Wood Ash to Control Compost Odor. *Sixth Annual Symposium On Off Flavors in the Aquatic Environment. International Water Association*. Lecture conducted from Barcelona Spain.

Rosenfeld, P.E. and Grey, M. A. (September 22-24, 2002). Biocycle Composting For Coastal Sage Restoration. *Northwest Biosolids Management Association*. Lecture conducted from Vancouver Washington..

Rosenfeld, P.E. and Grey, M. A. (November 11-14, 2002). Using High-Carbon Wood Ash to Control Odor at a Green Materials Composting Facility. *Soil Science Society Annual Conference*. Lecture conducted from Indianapolis, Maryland.

Rosenfeld, P.E. (September 16, 2000). Two stage biofilter for biosolids composting odor control. *Water Environment Federation*. Lecture conducted from Anaheim California.

Rosenfeld, P.E. (October 16, 2000). Wood ash and biofilter control of compost odor. *Biofest*. Lecture conducted from Ocean Shores, California.

Rosenfeld, P.E. (2000). Bioremediation Using Organic Soil Amendments. *California Resource Recovery Association*. Lecture conducted from Sacramento California.

Rosenfeld, P.E., C.L. Henry, R. Harrison. (1998). Oat and Grass Seed Germination and Nitrogen and Sulfur Emissions Following Biosolids Incorporation With High-Carbon Wood-Ash. *Water Environment Federation 12th Annual Residuals and Biosolids Management Conference Proceedings*. Lecture conducted from Bellevue Washington.

Rosenfeld, P.E., and C.L. Henry. (1999). An evaluation of ash incorporation with biosolids for odor reduction. *Soil Science Society of America*. Lecture conducted from Salt Lake City Utah.

Rosenfeld, P.E., C.L. Henry, R. Harrison. (1998). Comparison of Microbial Activity and Odor Emissions from Three Different Biosolids Applied to Forest Soil. *Brown and Caldwell*. Lecture conducted from Seattle Washington.

Rosenfeld, P.E., C.L. Henry. (1998). Characterization, Quantification, and Control of Odor Emissions from Biosolids Application To Forest Soil. *Biofest*. Lecture conducted from Lake Chelan, Washington.

Rosenfeld, P.E., C.L. Henry, R. Harrison. (1998). Oat and Grass Seed Germination and Nitrogen and Sulfur Emissions Following Biosolids Incorporation With High-Carbon Wood-Ash. Water Environment Federation 12th Annual Residuals and Biosolids Management Conference Proceedings. Lecture conducted from Bellevue Washington.

Rosenfeld, P.E., C.L. Henry, R. B. Harrison, and R. Dills. (1997). Comparison of Odor Emissions From Three Different Biosolids Applied to Forest Soil. *Soil Science Society of America*. Lecture conducted from Anaheim California.

Teaching Experience:

UCLA Department of Environmental Health (Summer 2003 through 20010) Taught Environmental Health Science 100 to students, including undergrad, medical doctors, public health professionals and nurses. Course focused on the health effects of environmental contaminants.

National Ground Water Association, Successful Remediation Technologies. Custom Course in Sante Fe, New Mexico. May 21, 2002. Focused on fate and transport of fuel contaminants associated with underground storage tanks.

National Ground Water Association; Successful Remediation Technologies Course in Chicago Illinois. April 1, 2002. Focused on fate and transport of contaminants associated with Superfund and RCRA sites.

California Integrated Waste Management Board, April and May, 2001. Alternative Landfill Caps Seminar in San Diego, Ventura, and San Francisco. Focused on both prescriptive and innovative landfill cover design.

UCLA Department of Environmental Engineering, February 5, 2002. Seminar on Successful Remediation Technologies focusing on Groundwater Remediation.

University Of Washington, Soil Science Program, Teaching Assistant for several courses including: Soil Chemistry, Organic Soil Amendments, and Soil Stability.

U.C. Berkeley, Environmental Science Program Teaching Assistant for Environmental Science 10.

Academic Grants Awarded:

California Integrated Waste Management Board. \$41,000 grant awarded to UCLA Institute of the Environment. Goal: To investigate effect of high carbon wood ash on volatile organic emissions from compost. 2001.

Synagro Technologies, Corona California: \$10,000 grant awarded to San Diego State University. Goal: investigate effect of biosolids for restoration and remediation of degraded coastal sage soils. 2000.

King County, Department of Research and Technology, Washington State. \$100,000 grant awarded to University of Washington: Goal: To investigate odor emissions from biosolids application and the effect of polymers and ash on VOC emissions. 1998.

Northwest Biosolids Management Association, Washington State. \$20,000 grant awarded to investigate effect of polymers and ash on VOC emissions from biosolids. 1997.

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James River Corporation, Oregon: \$10,000 grant was awarded to investigate the success of genetically engineered Poplar trees with resistance to round-up. 1996.

United State Forest Service, Tahoe National Forest: \$15,000 grant was awarded to investigating fire ecology of the Tahoe National Forest. 1995.

Kellogg Foundation, Washington D.C. \$500 grant was awarded to construct a large anaerobic digester on St. Kitts in West Indies. 1993

Deposition and/or Trial Testimony:

In the Superior Court of the State of California, County of San Bernardino
Billy Wildrick, Plaintiff vs. BNSF Railway Company
Case No. CIVDS1711810
Rosenfeld Deposition 10-17-2022

In the State Court of Bibb County, State of Georgia
Richard Hutcherson, Plaintiff vs Norfolk Southern Railway Company
Case No. 10-SCCV-092007
Rosenfeld Deposition 10-6-2022

In the Civil District Court of the Parish of Orleans, State of Louisiana
Millard Clark, Plaintiff vs. Dixie Carriers, Inc. et al.
Case No. 2020-03891
Rosenfeld Deposition 9-15-2022

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In The Circuit Court of Livingston County, State of Missouri, Circuit Civil Division
Shirley Ralls, Plaintiff vs. Canadian Pacific Railway and Soo Line Railroad
Case No. 18-LV-CC0020
Rosenfeld Deposition 9-7-2022

In The Circuit Court of the 13th Judicial Circuit Court, Hillsborough County, Florida Civil Division
Jonny C. Daniels, Plaintiff vs. CSX Transportation Inc.
Case No. 20-CA-5502
Rosenfeld Deposition 9-1-2022

In The Circuit Court of St. Louis County, State of Missouri
Kieth Luke et. al. Plaintiff vs. Monsanto Company et. al.
Case No. 19SL-CC03191
Rosenfeld Deposition 8-25-2022

In The Circuit Court of the 13th Judicial Circuit Court, Hillsborough County, Florida Civil Division
Jeffery S. Lamotte, Plaintiff vs. CSX Transportation Inc.
Case No. NO. 20-CA-0049
Rosenfeld Deposition 8-22-2022

In State of Minnesota District Court, County of St. Louis Sixth Judicial District
Greg Bean, Plaintiff vs. Soo Line Railroad Company
Case No. 69-DU-CV-21-760
Rosenfeld Deposition 8-17-2022

In United States District Court Western District of Washington at Tacoma, Washington
John D. Fitzgerald Plaintiff vs. BNSF
Case No. 3:21-cv-05288-RJB
Rosenfeld Deposition 8-11-2022

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In Circuit Court of the Sixth Judicial Circuit, Macon Illinois
Rocky Bennyhoff Plaintiff vs. Norfolk Southern
Case No. 20-L-56
Rosenfeld Deposition 8-3-2022

In Court of Common Pleas, Hamilton County Ohio
Joe Briggins Plaintiff vs. CSX
Case No. A2004464
Rosenfeld Deposition 6-17-2022

In the Superior Court of the State of California, County of Kern
George LaFazia vs. BNSF Railway Company.
Case No. BCV-19-103087
Rosenfeld Deposition 5-17-2022

In the Circuit Court of Cook County Illinois
Bobby Earles vs. Penn Central et. al.
Case No. 2020-L-000550
Rosenfeld Deposition 4-16-2022

In United States District Court Easter District of Florida
Albert Hartman Plaintiff vs. Illinois Central
Case No. 2:20-cv-1633
Rosenfeld Deposition 4-4-2022

In the Circuit Court of the 4th Judicial Circuit, in and For Duval County, Florida
Barbara Steele vs. CSX Transportation
Case No.16-219-Ca-008796
Rosenfeld Deposition 3-15-2022

In United States District Court Easter District of New York
Romano et al. vs. Northrup Grumman Corporation
Case No. 16-cv-5760
Rosenfeld Deposition 3-10-2022

In the Circuit Court of Cook County Illinois
Linda Benjamin vs. Illinois Central
Case No. No. 2019 L 007599
Rosenfeld Deposition 1-26-2022

In the Circuit Court of Cook County Illinois
Donald Smith vs. Illinois Central
Case No. No. 2019 L 003426
Rosenfeld Deposition 1-24-2022

In the Circuit Court of Cook County Illinois
Jan Holeman vs. BNSF
Case No. 2019 L 000675
Rosenfeld Deposition 1-18-2022

In the State Court of Bibb County State of Georgia
Dwayne B. Garrett vs. Norfolk Southern
Case No. 20-SCCV-091232
Rosenfeld Deposition 11-10-2021

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- In the Circuit Court of Cook County Illinois
Joseph Ruepke vs. BNSF
Case No. 2019 L 007730
Rosenfeld Deposition 11-5-2021
- In the United States District Court For the District of Nebraska
Steven Gillett vs. BNSF
Case No. 4:20-cv-03120
Rosenfeld Deposition 10-28-2021
- In the Montana Thirteenth District Court of Yellowstone County
James Eadus vs. Soo Line Railroad and BNSF
Case No. DV 19-1056
Rosenfeld Deposition 10-21-2021
- In the Circuit Court Of The Twentieth Judicial Circuit, St Clair County, Illinois
Martha Custer et al. vs. Cerro Flow Products, Inc.
Case No. 019-L-2295
Rosenfeld Deposition 5-14-2021
Trial October 8-4-2021
- In the Circuit Court of Cook County Illinois
Joseph Rafferty vs. Consolidated Rail Corporation and National Railroad Passenger Corporation d/b/a AMTRAK,
Case No. 18-L-6845
Rosenfeld Deposition 6-28-2021
- In the United States District Court For the Northern District of Illinois
Theresa Romcoe vs. Northeast Illinois Regional Commuter Railroad Corporation d/b/a METRA Rail
Case No. 17-cv-8517
Rosenfeld Deposition 5-25-2021
- In the Superior Court of the State of Arizona In and For the County of Maricopa
Mary Tryon et al. vs. The City of Phoenix v. Cox Cactus Farm, L.L.C., Utah Shelter Systems, Inc.
Case No. CV20127-094749
Rosenfeld Deposition 5-7-2021
- In the United States District Court for the Eastern District of Texas Beaumont Division
Robinson, Jeremy et al vs. CNA Insurance Company et al.
Case No. 1:17-cv-000508
Rosenfeld Deposition 3-25-2021
- In the Superior Court of the State of California, County of San Bernardino
Gary Garner, Personal Representative for the Estate of Melvin Garner vs. BNSF Railway Company.
Case No. 1720288
Rosenfeld Deposition 2-23-2021
- In the Superior Court of the State of California, County of Los Angeles, Spring Street Courthouse
Benny M Rodriguez vs. Union Pacific Railroad, A Corporation, et al.
Case No. 18STCV01162
Rosenfeld Deposition 12-23-2020
- In the Circuit Court of Jackson County, Missouri
Karen Cornwell, Plaintiff, vs. Marathon Petroleum, L.P, Defendant.
Case No. 1716-CV10006
Rosenfeld Deposition 8-30-2019

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- In the United States District Court For The District of New Jersey
Duarte et al, Plaintiffs, vs. United States Metals Refining Company et. al. Defendant.
Case No. 2:17-cv-01624-ES-SCM
Rosenfeld Deposition 6-7-2019
- In the United States District Court of Southern District of Texas Galveston Division
M/T Carla Maersk vs. Conti 168., Schiffahrts-GMBH & Co. Bulker KG MS "Conti Perdido" Defendant.
Case No. 3:15-CV-00106 consolidated with 3:15-CV-00237
Rosenfeld Deposition 5-9-2019
- In The Superior Court of the State of California In And For The County Of Los Angeles – Santa Monica
Carole-Taddeo-Bates et al., vs. Ifran Khan et al., Defendants
Case No. BC615636
Rosenfeld Deposition 1-26-2019
- In The Superior Court of the State of California In And For The County Of Los Angeles – Santa Monica
The San Gabriel Valley Council of Governments et al. vs El Adobe Apts. Inc. et al., Defendants
Case No. BC646857
Rosenfeld Deposition 10-6-2018; Trial 3-7-19
- In United States District Court For The District of Colorado
Bells et al. Plaintiffs vs. The 3M Company et al., Defendants
Case No. 1:16-cv-02531-RBJ
Rosenfeld Deposition 3-15-2018 and 4-3-2018
- In The District Court Of Regan County, Texas, 112th Judicial District
Phillip Bales et al., Plaintiff vs. Dow Agrosiences, LLC, et al., Defendants
Cause No. 1923
Rosenfeld Deposition 11-17-2017
- In The Superior Court of the State of California In And For The County Of Contra Costa
Simons et al., Plaintiffs vs. Chevron Corporation, et al., Defendants
Cause No. C12-01481
Rosenfeld Deposition 11-20-2017
- In The Circuit Court Of The Twentieth Judicial Circuit, St Clair County, Illinois
Martha Custer et al., Plaintiff vs. Cerro Flow Products, Inc., Defendants
Case No.: No. 0i9-L-2295
Rosenfeld Deposition 8-23-2017
- In United States District Court For The Southern District of Mississippi
Guy Manuel vs. The BP Exploration et al., Defendants
Case No. 1:19-cv-00315-RHW
Rosenfeld Deposition 4-22-2020
- In The Superior Court of the State of California, For The County of Los Angeles
Warm Gilbert and Penny Gilber, Plaintiff vs. BMW of North America LLC
Case No. LC102019 (c/w BC582154)
Rosenfeld Deposition 8-16-2017, Trail 8-28-2018
- In the Northern District Court of Mississippi, Greenville Division
Brenda J. Cooper, et al., Plaintiffs, vs. Meritor Inc., et al., Defendants
Case No. 4:16-cv-52-DMB-JVM
Rosenfeld Deposition July 2017

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- In The Superior Court of the State of Washington, County of Snohomish
Michael Davis and Julie Davis et al., Plaintiff vs. Cedar Grove Composting Inc., Defendants
Case No. 13-2-03987-5
Rosenfeld Deposition, February 2017
Trial March 2017
- In The Superior Court of the State of California, County of Alameda
Charles Spain., Plaintiff vs. Thermo Fisher Scientific, et al., Defendants
Case No. RG14711115
Rosenfeld Deposition September 2015
- In The Iowa District Court In And For Poweshiek County
Russell D. Winburn, et al., Plaintiffs vs. Doug Hoksbergen, et al., Defendants
Case No. LALA002187
Rosenfeld Deposition August 2015
- In The Circuit Court of Ohio County, West Virginia
Robert Andrews, et al. v. Antero, et al.
Civil Action No. 14-C-30000
Rosenfeld Deposition June 2015
- In The Iowa District Court for Muscatine County
Laurie Freeman et. al. Plaintiffs vs. Grain Processing Corporation, Defendant
Case No. 4980
Rosenfeld Deposition May 2015
- In the Circuit Court of the 17th Judicial Circuit, in and For Broward County, Florida
Walter Hinton, et. al. Plaintiff, vs. City of Fort Lauderdale, Florida, a Municipality, Defendant.
Case No. CACE07030358 (26)
Rosenfeld Deposition December 2014
- In the County Court of Dallas County Texas
Lisa Parr et al, Plaintiff, vs. Aruba et al, Defendant.
Case No. cc-11-01650-E
Rosenfeld Deposition: March and September 2013
Rosenfeld Trial April 2014
- In the Court of Common Pleas of Tuscarawas County Ohio
John Michael Abicht, et al., Plaintiffs, vs. Republic Services, Inc., et al., Defendants
Case No. 2008 CT 10 0741 (Cons. w/ 2009 CV 10 0987)
Rosenfeld Deposition October 2012
- In the United States District Court for the Middle District of Alabama, Northern Division
James K. Benefield, et al., Plaintiffs, vs. International Paper Company, Defendant.
Civil Action No. 2:09-cv-232-WHA-TFM
Rosenfeld Deposition July 2010, June 2011
- In the Circuit Court of Jefferson County Alabama
Jaeanette Moss Anthony, et al., Plaintiffs, vs. Drummond Company Inc., et al., Defendants
Civil Action No. CV 2008-2076
Rosenfeld Deposition September 2010
- In the United States District Court, Western District Lafayette Division
Ackle et al., Plaintiffs, vs. Citgo Petroleum Corporation, et al., Defendants.
Case No. 2:07CV1052
Rosenfeld Deposition July 2009

EXHIBIT C



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December 29, 2023

Ariana Abedifard
 Adams Broadwell Joseph & Cardozo
 601 Gateway Boulevard, Suite 1000
 South San Francisco, CA 94080

Subject: Comments on the Mission Point Project

- | | |
|-------|--|
| O1.51 | Dear Ms. Abedifard, |
| O1.52 | I have reviewed the VMT and traffic impacts in the Mission Point Draft Environmental Impact Report ("DEIR") dated November 2023. I make the following findings: |
| O1.53 | <ol style="list-style-type: none"> 1) The Project alternative includes both housing and commercial uses, but the commercial uses are dominant in the mix. The Project's would exacerbate the extreme housing shortage in the City of Santa Clara and the greater region. 2) The DEIR omits a full VMT analysis because it the Project is characterized as a "transit supportive project." However, Census data show that over 90% of commute trips to and from the project area are by auto. 3) The average one-way commute length to jobs in the project area is 16.7 miles on a straight-line "as the crow flies" basis, and the average for the lowest-income worker category is a very high 23.3 miles. This is evidence of an extreme workforce housing crisis in this area which the Project would exacerbate. 4) I used Census data to estimate that commuters to the Project jobs would add 400,000 VMT per day (not including resident or visitor VMT). The Project's large VMT impact should be fully accounted for and mitigated. |

O1.54	5) The City of Santa Clara's Climate Action Plan requires all Project employers to reduce VMT by 25%. The California Air Pollution Control Officers Association (CAPCOA) estimates that a maximal commute reduction program can reduce VMT by up to 26% but this requires significant parking charges for all employees. These requirements should be spelled out now, and included in project planning, including parking planning.
O1.55	6) The DEIR underestimates trip generation because the project definition allows medical offices which have a daily trip rate that is over three times the trip generation rate applied. Higher trip generation would also result in higher emissions. Medical offices are <u>not</u> allowed on the site currently according to the General Plan.
O1.56	7) The DEIR parking analysis fails to account for visitors to medical offices. The parking analysis assumes that the office employees' commutes will be 55% drive alone and 15% carpool. This implies an impossible-high combination of 30% for transit, walk and bike trips. The parking analysis should be redone to include explicit assumptions about the TDM program including how it would affect parking for employees, residents, and visitors.
O1.57	8) The DEIR discloses extremely significant traffic impacts including significant and unmitigated traffic impacts from the Project at: <ul style="list-style-type: none"> a. 15 intersections during the weekday morning peak hour, b. 15 intersections during the weekday afternoon peak hour, c. 39 freeway segments during the weekday morning peak hour, and d. 36 freeway segments during the weekday afternoon peak hour.
O1.58	9) The extent of the Project's significant and unmitigated traffic impacts is another strong signal that the Project's jobs/housing imbalance is too great.
O1.59	10) Higher trip generation rates from medical office use during the morning and afternoon peak hours would make the Project's traffic impacts even greater.
O1.60	11) The DEIR fails to evaluate the impacts of the parking changes for Levi's Stadium events: - either for RV parking or for general parking. To the extent the Project displaces any significant amount of stadium parking, it will inevitably have an impact on local traffic and possibly public safety. Because the DEIR includes no information regarding the number of parking spaces the Project might make available for stadium users, nor any information regarding alternative parking sites, it is impossible to conclude that impacts associated with displaced parking will not be significant.
O1.61	12) Relative to the Project alternative, the Reduced Office/Increased Housing alternative analyzed in the DEIR would reduce the net in-commuting by over 40%, with a roughly proportional decrease in traffic impacts in addition to providing a much better jobs/housing balance.

The Project is Primarily Commercial

The DEIR states:

The City and Project Sponsor have identified the following Project objectives, which are relevant to the physical impacts considered in this document:

- Support the City's North Santa Clara planning effort by converting an underutilized single-use, 48.6-acre site to a vibrant, pedestrian-oriented high-intensity and very high-density mixed-use development that is sustainable and inclusive by design, with a range of building types, enriching connections between people, places, and open space.
- Broaden the housing supply and business opportunities in North Santa Clara through development of a human-centric, interconnected urban neighborhood that provides a diverse and complementary mix of residential, commercial, retail and community. . . (DEIR p. 2-4)

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The Project alternative includes both housing and commercial uses, but the commercial uses are dominant in the mix. The DEIR estimates 8,172 daily residential trips but 47,947 daily employment trips, i.e., almost six times as many. Furthermore 2/3 of the commercial trips (32,520 trips per day) are from 3 million square feet of general office building that will draw commuters from across the greater region.

The Project Would Generate Significant VMT

The DEIR estimates that the project will result in 12,544 total net new employees or a total of 12,564 employees given there are 20 current employees onsite (DEIR Table 5-1, p. 5-5 – 5.6).

The Project alternative includes 1,800 multifamily housing units. (DEIR, p. ES-1) The DEIR estimates that the average household size will be 2.15. (DEIR, p. 2-24 – 2-25) If 2/3 of the residents were in the workforce, the Project would house 2,580 workers and the net in-commuting to the Project site would be 9,986, i.e. almost 10,000.

These 10,000 net excess commuters would need to live somewhere, and this project would exacerbate the extreme housing shortage in the City of Santa Clara and the greater region. Even the Project's website calls the housing shortage "dire" stating:

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Because of the dire housing shortage in Silicon Valley, the jobs-housing balance is a critical issue to consider for the future healthy growth of any city.

(<https://missionpointbykylili.com/faqs/>)

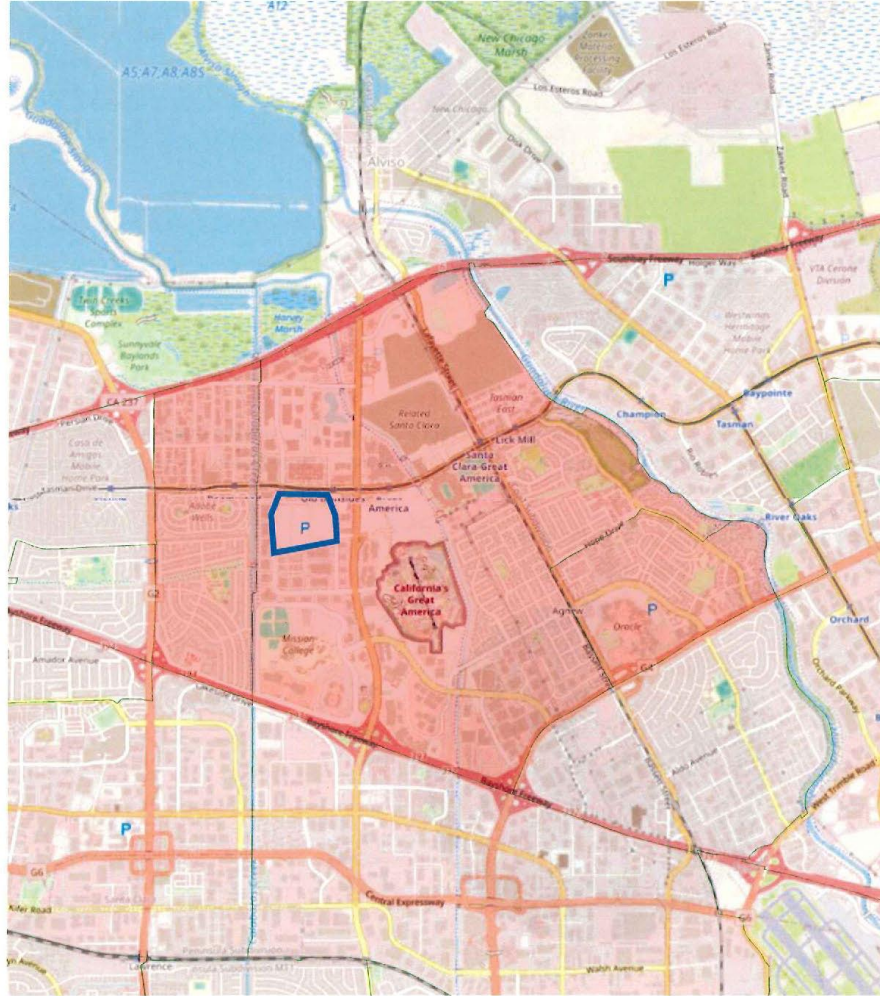
The DEIR states that this enormous increase in in-commuting is exempt from VMT analysis because it satisfies the City's criteria as a "transit-supportive project." These criteria include:

- Located within 0.5 mile of an existing "major transit stop,"
- Density,
- Promote multimodal transportation networks, and
- Transit-oriented design elements. (DEIR, p. 3.2-37 – 3.2.39)

Although the Project does meet the "transit-supportive project" requirements, most commuters would not have realistic non-auto mode choices.

The Census Transportation Planning Package (“CTPP”) reports commute mode to Census Tracts. Figure 1 shows the three Tracts selected to represent the project area.

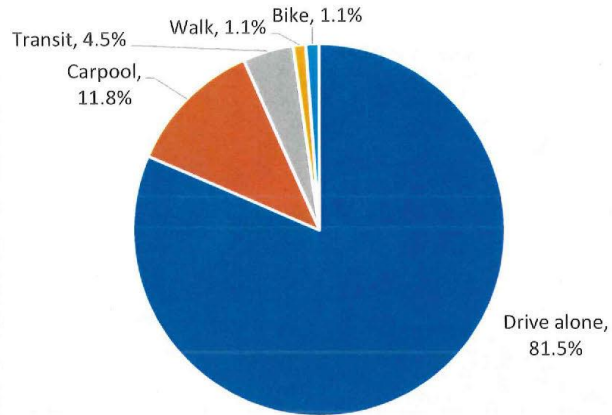
Figure 1: Project Area Census Tracts (Project Site Outlined in Blue)¹



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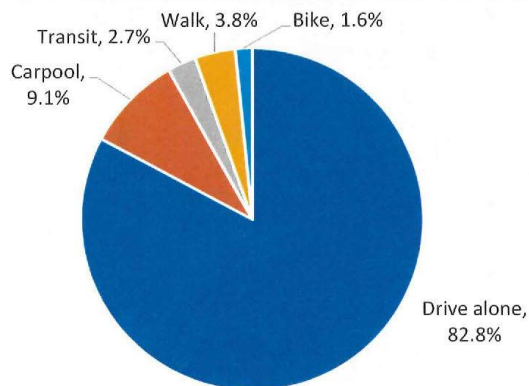
Tables 2 and 3 show commute mode shares to jobs in the project area and from residences in the project area, respectively.

¹ American Community Survey 2012-2016 (the most recent data published).

Table 2: Commute Mode Shares to Jobs in Project Area

As shown in Figure 2, 93.3% of commuting to the project area is by auto, and the transit mode share is only 4.5%. Therefore, "transit supportive" would not translate into a large transit mode share in this location.

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Table 3: Commute Mode Shares from Residences in Project Area

As shown in Figure 3, the auto commute mode share from residents in the project area is almost as high, 91.9%. Even in this job-rich area, it appears that housing issues are forcing out those working in the area from also living there, with those living there mostly commuting out by auto.

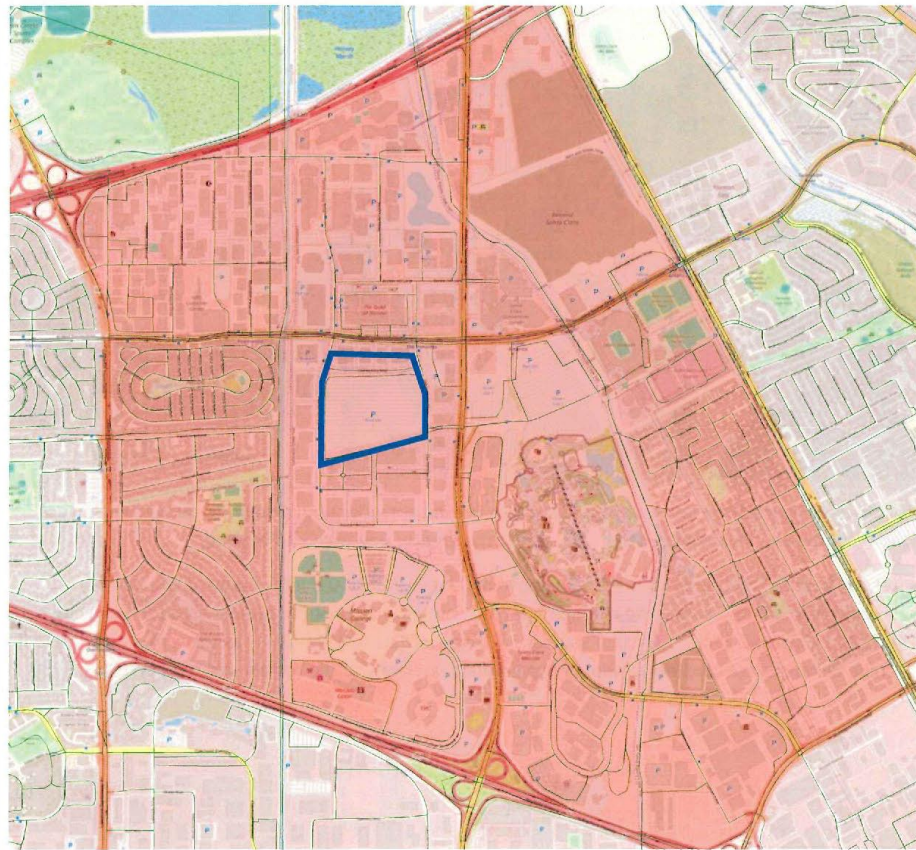
The Census Bureau publishes Longitudinal Employer-Household Dynamics (“LEHD”) Origin-Destination Employment Statistics (“LODES”) data that provide detailed geographic data about workers’ commutes.

The LODES data include three parts:

- number of workers at the home location,
- number of jobs at the workplace location, and
- flows of workers from home location to workplace location.

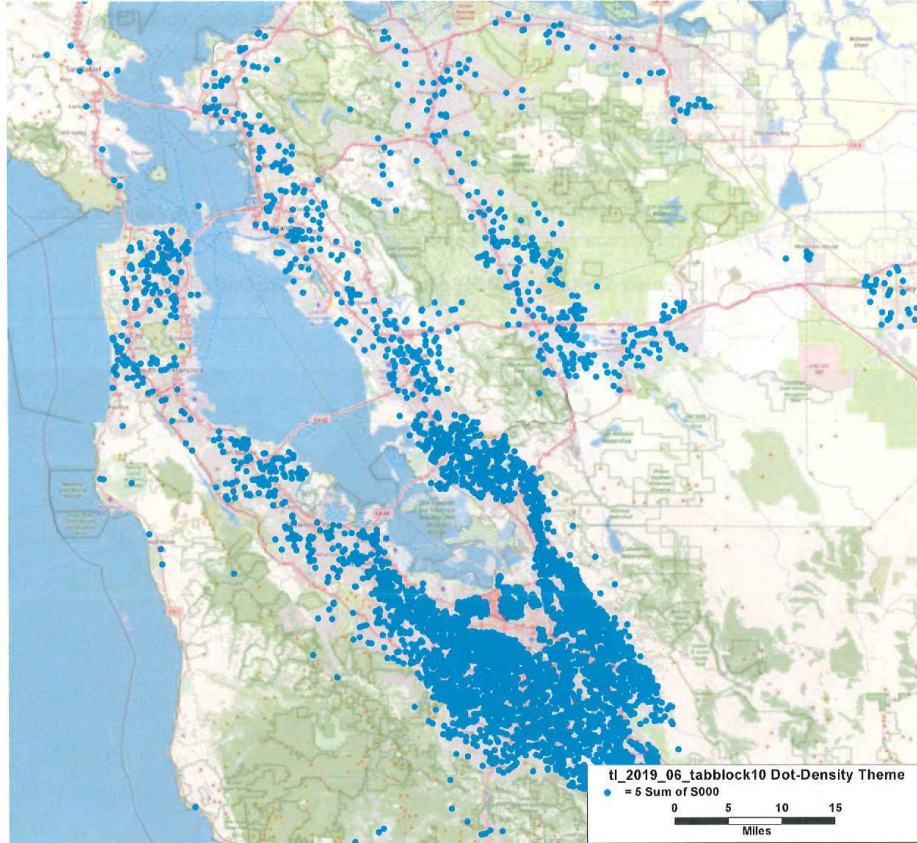
Using 2019 (pre-pandemic) data and focusing on the project area mapped in Figure 4, Figure 5 shows current home locations for those commuting to the area shown in Figure 4.

Figure 4: Area Surrounding Project Site Used in LODES Mapping (Project Site Outlined in Blue)



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Figure 5: Workers' Home Locations for Jobs in Project Area Shown in Figure 4 ²



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As shown in Figure 5, there are workers who also live in Santa Clara but also large clusters with much longer commutes, including clusters throughout the greater Bay Area and beyond.

After subtracting out LODES trips that appear to be longer than 100 miles – some of which likely represent errors in the data – the average one-way commute distance to project area jobs (as shown in Figure 4) today is 16.7 miles. These distances are measured as straight-lines “as the crows flies.” Actual average distances are considerably longer given the complexity of the terrain and road system.

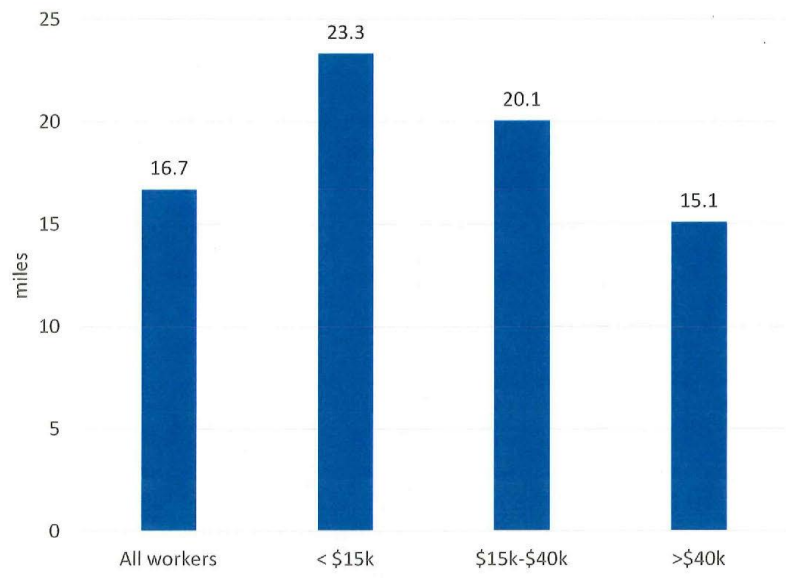
² 2019 LODES data (<https://lehd.ces.census.gov/data/>).

The LODES data are segmented across three earnings groups:

- \$1250/month or less (less than \$15,000 per year)
- \$1251/month to \$3333/month (\$15,000 to \$40,000 per year)
- greater than \$3333/month (greater than \$40,000 per year)

Figure 6 shows the average LODES commute distances by income group.

Figure 6: Average One-Way Distance from Home to Workplaces In the Project Area by Income Group

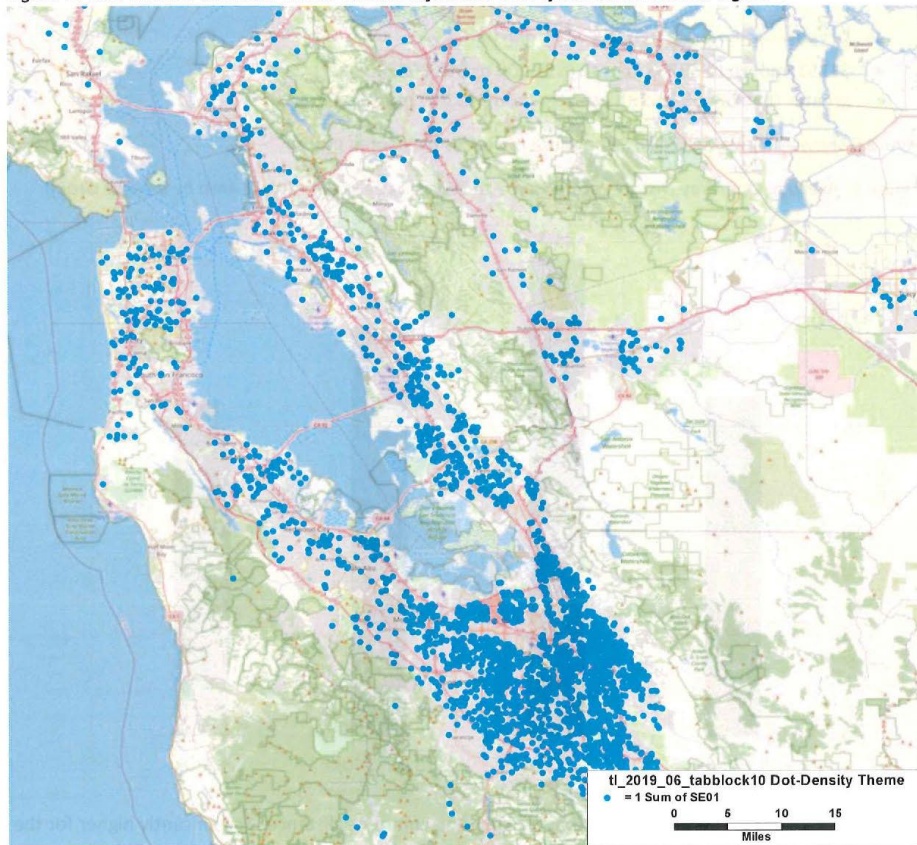


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As shown in Figure 6, the average one-way straight-line commute distance is significantly higher for the lowest income group (23.3 miles), and lowest for the highest income group (15.1 miles). This suggests that low- and moderate-income workers are priced out of the local housing market. This is consistent with the observation made above about the high auto-mode share of residents in the project area. The housing market is preventing workers from affording housing where they can walk, bike, or use transit to commute to and from work.

The residential locations for the lowest income workers commuting to the project are mapped in Figure 7.

Figure 7: Low-Income Workers' Home Locations for Jobs in Project Area Shown in Figure 4³



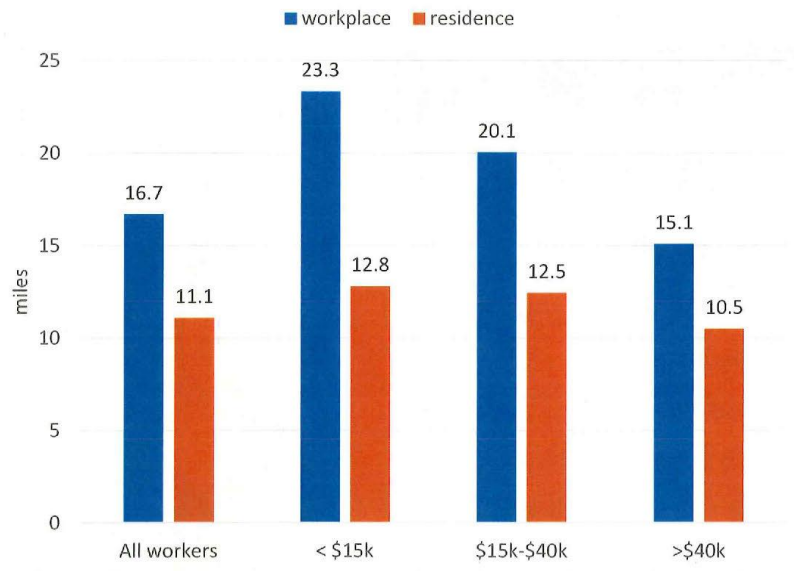
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As shown in Figure 7, there are workers who also live in Santa Clara but also large clusters with much longer commutes, including clusters throughout the greater Bay Area and beyond.

³ 2019 LODES data (<https://lehd.ces.census.gov/data/>).

As shown in Figure 8, the average one-way straight-line commute distances are significantly lower for project area residents than for those commuting to the project area.

Figure 8: Average One-Way Commute Distances To and From the Project Area by Income Group



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In general, adding housing in the project area will reduce average commute distances in the City, and adding jobs in the project area will increase average commute distances in the City.

For project area residents, the income differences are not as pronounced as for those commuting into the project area, but the pattern is the same, i.e., average distance is highest for the lowest-income group and lowest for the highest-income group.

The project would result in a highly significant VMT impact that I estimate at:

12,544 workers

X (81.5% drive alone + 11.8% carpool / 2.2 average carpool occupancy)

X 16.7-mile one-way distance

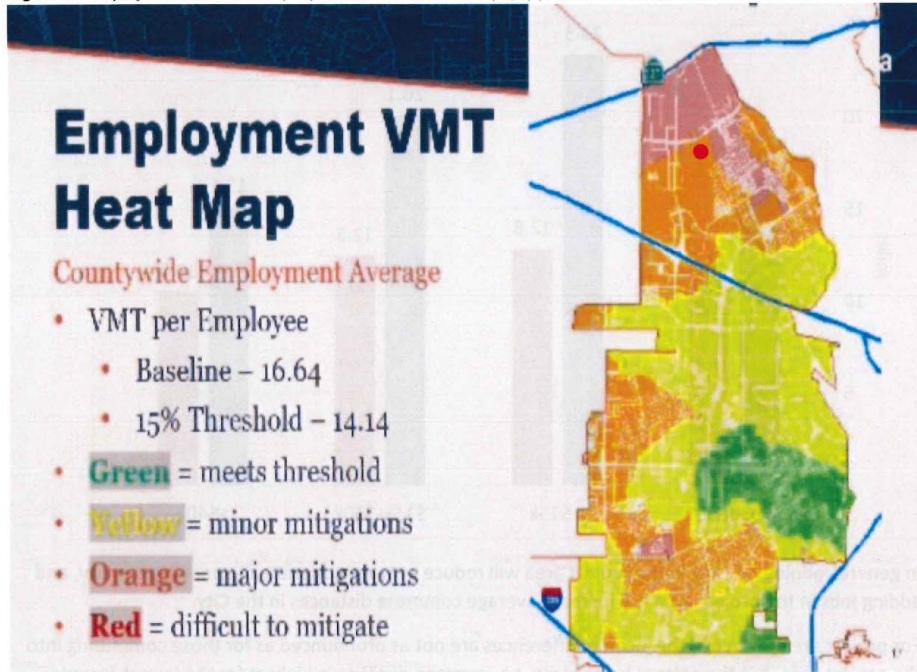
X 2.0 for round trips

X 1.1 for indirect routing

= 400,000 VMT per day just for worker commuting, i.e., not including VMT from commercial customers or resident VMT.

If the Project were not designated as “transit supportive,” a full VMT analysis would have been required and the Project site would fail to meet the required threshold. The graphic copied below from a 2020 City Planning Commission hearing reviewing draft VMT requirements show that the project area is in a high-VMT location for adding employment, relative to other parts of the City of Santa Clara.

Figure 9: City of Santa Clara Employment VMT Heat Map (Approximate Project Site Shown as Red Dot)



Source:

https://santaclara.granicus.com/player/clip/1320?view_id=1&redirect=true&h=3315e65f435d65fab9b3e31e932879e at 2:57

There are parts of the City of Santa Clara that are shown in Green and meet the City’s VMT threshold without mitigation. About half of the City’s geographic area is shown in Green or Yellow, where Yellow requires only minor mitigations. The Project site is in the Orange area where major mitigations are required.

The Project’s large VMT impact should be fully accounted for and mitigated.

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The DEIR Fails to Include Adequate VMT Mitigation

The DEIR states: "The Project Sponsor is preparing a TDM plan for the Project site, which would help reduce Project-related vehicle miles traveled." (DEIR, p. 2-38) The body of the DEIR includes "TDM" 86 times without specifying what's in the TDM plan or quantifying the benefits. Claims made in the DEIR include that the Project is consistent with City General Plan policies because the Project's TDM would:

- O1.64
- reduce the number of vehicle trips to/from the Project site and encourage alternatives to single-occupancy vehicle travel (DEIR, p. 3.1-24)
 - help increase transit ridership (DEIR, p. 3.1-27)
 - reduce the number of peak-hour trips (DEIR p. 3.1-37)

The TDM plan should be available for review now because achieving the required VMT reduction will be challenging.

The DEIR states that per the City of Santa Clara's Climate Action Plan: "Large employers with over 500 employees are now required to reduce VMT by 25 percent through Active TDM measures . . ." (DEIR, Appendix 3.2, p. 53) The City's Climate Action Plan clarifies that: "For the purpose of calculating the number of employees, separate employers sharing a building or project site would be treated as one employer." (p. 47) Therefore, this requirement applies to all employees in the Project.

The California Air Pollution Control Officers Association (CAPCOA) Handbook for Analyzing Greenhouse Gas Emission Reductions, Assessing Climate Vulnerabilities, and Advancing Health and Equity makes a critical distinction between voluntary and mandatory Commuter Trip Reduction ("CTR") programs:

T-5 Implement Commute Trip Reduction Program (Voluntary) – up to 4% VMT reduction:

Voluntary CTR programs must include the following elements to apply the VMT reductions reported in literature. • Employer-provided services, infrastructure, and incentives for alternative modes such as ridesharing (Measure T-8), discounted transit (Measure T-9), bicycling (Measure T-10), vanpool (Measure T-11), and guaranteed ride home. • Information, coordination, and marketing for said services, infrastructure, and incentives (Measure T-7). (*Handbook*, p. 83)

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T-6 Implement Commute Trip Reduction Program (Mandatory Implementation and Monitoring) – up to 26% VMT reduction:

The mandatory CTR program must include all other elements (i.e., Measures T-7 through T-11) described for the voluntary program (Measure T-5) plus include mandatory trip reduction requirements (including penalties for non-compliance) and regular monitoring and reporting to ensure the calculated VMT reduction matches the observed VMT reduction). (*Handbook*, p. 86)

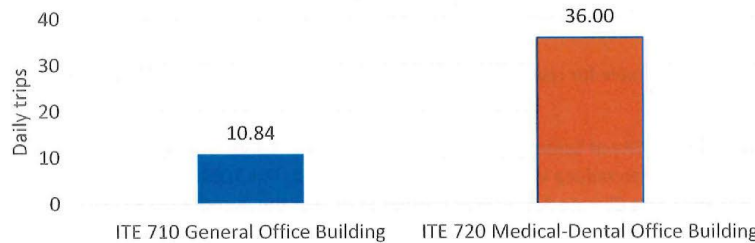
The City's requirement for a 25% reduction is close to the maximum 26% reduction. The source for the 26% reduction in the Handbook is a case study where the single-occupied vehicle share was reduced from about 90% to 64%. To achieve this sort of change, every TDM element must be included in an aggressive way, including a significant parking charge for all employees. These requirements should be spelled out now and included in project planning, including parking planning. A key question will be how the required employee parking charges would interact with parking policies for residents and visitors.

The DEIR Underestimates Trip Generation

The DEIR applies the ITE Trip Generation Category 710 “General Office Building” to 3 million square feet of commercial space. (DEIR, Appendix 3.2, Table 8, p. 52) However, the DEIR states that: “Office uses could include professional offices, R&D uses (offices and laboratory space), and medical offices.” (DEIR p. 2-8)

As shown in Figure 10, the daily trip generation rate for ITE Category 720 “Medical-Dental Office Building” is over three times the rate for “General Office Building.”

Figure 10: Average One-Way Commute Distances To and From the Project Area by Income Group



Any amount of medical-dental office space in the project will mean that trip generation is underestimated in the DEIR. If the amount of medical-office space is significant, the difference will be large. For example, if one-quarter of the commercial space is medical-dental, the ITE-based trip generation from the 3 million square feet of commercial would be 58% higher than reported in the DEIR.

Higher trip generation would also result in higher emissions.

Notably, medical office uses are explicitly excluded from the project site under the existing General Plan, so the Project could result in a significant increase in trip generation compared to the General Plan. The DEIR states:

The Project site is currently designated for High-Intensity Office/Research and Development (R&D) in the General Plan. The High-Intensity Office/R&D land use designation is intended for high-rise or campus-like developments (e.g., corporate headquarters, R&D facilities, supporting uses with landscaped areas for employee activities). Permitted uses include offices and prototype R&D uses. Data centers under this designation are limited to those that serve the use onsite. **Medical facilities, except pharmacies, are not allowed. [emphasis added]** (DEIR, p. 3.1-2)

The DEIR Parking Analysis Is Flawed

The DEIR parking analysis assumes that the office employees' commutes will be 55% drive alone and 15% carpool (DEIR Appendix 3.2, Table 20, p. 142). This implies an impossible-high combination of 30% for transit, walk and bike trips. Even with an extremely aggressive TDM program, much of the trip reduction would come from carpooling and vanpooling which requires some parking.

The parking analysis includes no parking for visitors to the office use – which makes no sense if there is any medical office space.

O1.69
cont'd

The parking analysis should be reworked to include explicit assumptions about the TDM program including how it would affect parking for employees, residents, and visitors.

The DEIR Discloses Extremely Significant Traffic Impacts

DEIR Appendix 3.2 Table 12 (p. 88-90) discloses significant and unmitigated traffic impacts from the Project in the weekday morning peak hour at 15 intersections:

- 1) Lawrence Expwy and Sandia Av/Lakehaven Dr
- 2) Lawrence Expressway and Kifer Road
- 3) Lawrence Expressway and Reed Ave/Monroe St
- 4) Great America Parkway and Great America Way
- 5) Bowers Avenue and Central Expressway
- 6) San Tomas Expressway and Walsh Avenue
- 7) San Tomas Expressway and El Camino Real
- 8) Lafayette Street and Central Expressway
- 9) De la Cruz Boulevard and Central Expressway
- 10) Lick Mill Boulevard and Tasman Drive
- 11) Lafayette Street and Agnew Road
- 12) Agnew Rd/De La Cruz Blvd and Montague Expwy
- 13) N. 1st Street and Montague Expressway
- 14) Zanker Road and Montague Expressway
- 15) McCarthy Blvd/O'Toole Av and Montague Expwy

O1.70

The table also discloses significant and unmitigated traffic impacts from the Project in the weekday afternoon peak hour at 15 intersections:

- 1) Lawrence Expwy and Sandia Av/Lakehaven Dr
- 2) Lawrence Expressway and E. Arques Ave.
- 3) Great America Parkway and Great America Way
- 4) Great America Parkway and Patrick Henry Drive
- 5) Agnew/Freedom Circle E & Mission College Blvd
- 6) San Tomas Expressway and El Camino Real
- 7) Scott Boulevard and Walsh Avenue
- 8) Lafayette Street and Central Expressway
- 9) Lick Mill Boulevard and Tasman Drive
- 10) Lafayette Street and Agnew Road
- 11) Agnew Rd/De La Cruz Blvd and Montague Expwy
- 12) Lick Mill Boulevard and Montague Expressway
- 13) N. 1st Street and Montague Expressway
- 14) De la Cruz Boulevard and W Trimble Road
- 15) McCarthy Blvd/O'Toole Av and Montague Expwy

O1.70
cont'd

DEIR Appendix 3.2 Table 15 (p. 109-113) discloses significant and unmitigated traffic impacts from the Project in the weekday morning peak hour on 39 freeway segments:

- 1) US 101 northbound Silver Creed Valley Rd to Hellyer Ave mixed-flow
- 2) US 101 northbound Silver Creed Valley Rd to Hellyer Ave HOV lane
- 3) US 101 northbound Hellyer Ave to Yerba Buena Rd mixed-flow
- 4) US 101 northbound Hellyer Ave to Yerba Buena Rd HOV lane
- 5) US 101 northbound Yerba Buena Rd to Capitol ExpwyHOV lane
- 6) US 101 northbound Yerba Capitol Expwy to Tully Rd mixed flow
- 7) US 101 northbound Yerba Capitol Expwy to Tully Rd HOV lane
- 8) US 101 northbound Yerba Tully Rd to Story Road mixed flow
- 9) US 101 northbound Story Road to I-280 mixed flow
- 10) US 101 northbound Story Road to I-280 HOV
- 11) US 101 northbound I-280 to Santa Clara St mixed flow
- 12) US 101 northbound I-280 to Santa Clara St HOV
- 13) US 101 northbound Santa Clara St to McKee Rd mixed flow
- 14) US 101 northbound Santa Clara St to McKee Rd HOV
- 15) US 101 northbound McKee Rd to Oakland Rd mixed flow
- 16) US 101 northbound McKee Rd to Oakland Rd HOV
- 17) US 101 northbound Oakland Rd to I-880 mixed flow
- 18) US 101 northbound I-880 to Old Bayshore Hwy mixed flow
- 19) US 101 northbound Old Bayshore Hwy to N. First St mixed flow
- 20) US 101 northbound N. First St to Guadalupe Pkwy mixed flow
- 21) US 101 northbound N. First St to Guadalupe Pkwy HOV
- 22) US 101 northbound Guadalupe Pkwy to De La Cruz Blvd mixed flow
- 23) US 101 northbound Guadalupe Pkwy to De La Cruz Blvd HOV
- 24) US 101 northbound De La Cruz Blvd to Montague Expwy/San Tomas Expwy mixed flow
- 25) US 101 northbound Montague Expwy/San Tomas Expwy to Bowers Ave/Great America Pkwy mixed flow
- 26) SR237 eastbound SR 85 to Central Expwy mixed flow
- 27) SR237 eastbound US 101 to Mathilda Ave mixed flow
- 28) SR237 westbound I-880 to Zanker mixed flow
- 29) SR237 westbound Zanker to N. 1st St mixed flow
- 30) SR237 westbound Lawrence Expwy to N. Fair Oaks Ave mixed flow
- 31) SR237 westbound N. Fair Oaks Ave to Mathilda Ave mixed flow
- 32) SR237 westbound N Mathilda Ave to US 101 mixed flow
- 33) SR 87 northbound SR 85 to Capitol Expwy mixed flow
- 34) SR 87 northbound Capitol Expwy to Curtner Ave mixed flow
- 35) SR 87 northbound Curtner Ave to Almaden Rd mixed flow
- 36) SR 87 northbound I-280 to Julian St mixed flow
- 37) SR 87 northbound Julian St to Coleman Ave mixed flow
- 38) SR 87 northbound Skyport Dr to US 101 mixed flow
- 39) SR 87 northbound Skyport Dr to US 101 HOV

O1.70
cont'd

DEIR Appendix 3.2 Table 15 (p. 109-113) discloses significant and unmitigated traffic impacts from the Project in the weekday morning peak hour on 37 freeway segments:

- 1) US 101 northbound SR 237 to Moffett Blvd mixed flow
- 2) US 101 northbound Moffett Blvd to SR 85 mixed flow
- 3) US 101 northbound SR 85 to Shoreline Blvd mixed flow
- 4) US 101 northbound Shoreline Blvd to Rengstorff Ave mixed flow
- 5) US 101 northbound Rengstorff Ave to San Antonio Ave mixed flow
- 6) US 101 northbound San Antonio Ave to Oregon Expwy mixed flow
- 7) US 101 northbound Oregon Expwy to Embarcadero Rd mixed flow
- 8) US 101 northbound Oregon Expwy to Embarcadero Rd HOV
- 9) US 101 southbound N. Fair Oaks Ave to Lawrence Expwy HOV
- 10) US 101 southbound Bowers Ave/Great America Pkwy to Montague Expwy/San Tomas Expwy mixed flow
- 11) US 101 southbound Montague Expwy/San Tomas Expwy to De La Cruz Blvd mixed flow
- 12) US 101 southbound De La Cruz Blvd to Guadalupe Pkwy mixed flow
- 13) US 101 southbound Guadalupe Pkwy to N. First St. mixed flow
- 14) US 101 southbound N. First St. to Old Bayshore Hwy mixed flow
- 15) US 101 southbound Old Bayshore Hwy to I-880 mixed flow
- 16) US 101 southbound I-880 to Oakland Rd mixed flow
- 17) US 101 southbound Oakland Rd to McKee Rd mixed flow
- 18) US 101 southbound McKee Rd to Santa Clara Street mixed flow
- 19) SR237 eastbound US 101 to Mathilda Ave mixed flow
- 20) SR237 eastbound Mathilda Ave to Fair Oaks Ave mixed flow
- 21) SR237 eastbound Fair Oaks Ave to Lawrence Expwy mixed flow
- 22) SR 237 eastbound Great America Pkwy to N. First St. mixed flow
- 23) SR 237 eastbound N. First St. to Zanker Rd mixed flow
- 24) SR 237 eastbound Zanker Rd to McCarthy Blvd mixed flow
- 25) SR237 westbound Lawrence Expwy to N. Fair Oaks Ave mixed flow
- 26) SR237 westbound N. Fair Oaks Ave to Mathilda Ave mixed flow
- 27) SR237 westbound N Mathilda Ave to US 101 mixed flow
- 28) SR237 westbound US 101 to Maude Ave mixed flow
- 29) SR237 westbound US 101 to Maude Ave mixed flow
- 30) SR237 westbound Maude Ave to Central Pkwy mixed flow
- 31) SR237 westbound Central Pkwy to SR 85 mixed flow
- 32) SR 87 southbound US 101 to Skyport Dr mixed flow
- 33) SR 87 southbound Skyport Dr to Taylor St mixed flow
- 34) SR 87 southbound Taylor St to Coleman St mixed flow
- 35) SR 87 southbound Julian St to I-280 mixed flow
- 36) SR 87 southbound I-280 to Alma Ave mixed flow

The extent of the Project's disclosed significant and unmitigated traffic impacts is another strong signal that the Project's jobs/housing imbalance is too great.

The DEIR Underestimates Traffic Impacts

As discussed above, the DEIR fails to include the daily trip generation that would result from any medical office use. The traffic analyses also fail to account for the higher morning and afternoon trip generation that would result from medical office use.

Figures 11 and 12 show the different peak hour trip generation rates for General Office and Medical-Dental Office for the morning and afternoon peak hours, respectively.

Figure 11: Morning Peak Hour Trip Generation Rates

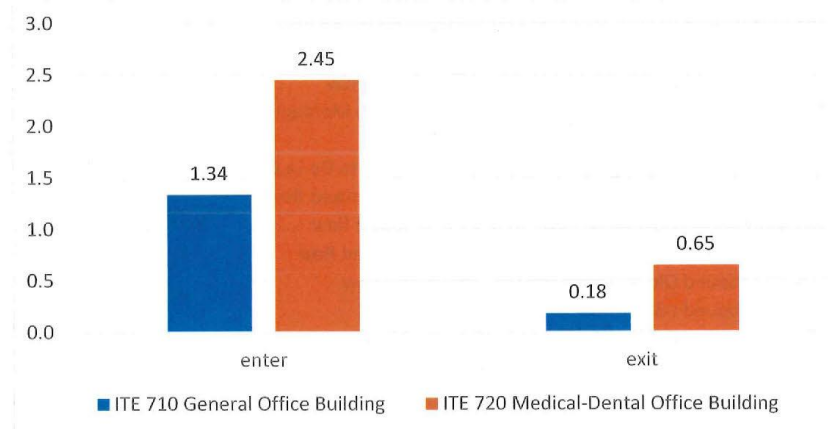
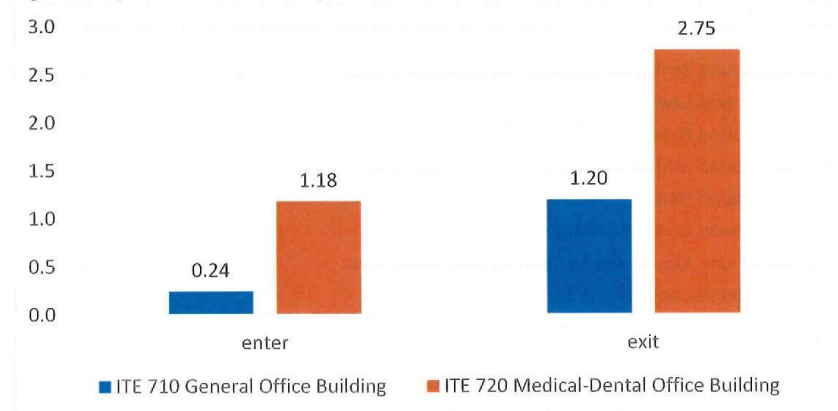


Figure 12: Afternoon Peak Hour Trip Generation Rates



As shown in the figures, the Medical-Dental office rate for peak direction (enter) is almost twice the General Office rate in the morning peak hour, and more than twice the peak direction (exit) in the afternoon peak hour. Therefore, any inclusion of medical-dental office in the Project would exacerbate the already significant Project traffic impacts beyond those disclosed in the DEIR.

O1.71

The DEIR Fails to Analyze the Impacts of Removing Parking Used by Levi's Stadium Events

The DEIR states:

Currently, the Project site is used primarily for temporary event parking associated with Levi's Stadium, which uses 3,300 parking spaces. (DEIR, p. ES-2)

Parking conditions associated with stadium events were evaluated in the EIR for the 49ers Santa Clara Stadium Project. Furthermore, the City reviews and approves a Transportation Management and Operations Plan (TMOP) and Parking Plan for Levi's Stadium annually. Table 5.5-2 of the 2022 TMOP identifies two parking locations within the Project site: Blue Lot 1 and the RV Blue Lot. These two parking locations have 3,300 parking spaces available to patrons on event days. The Project anticipates that a portion of the proposed onsite parking supply would be available for use by stadium patrons; however, this would be subject to agreement by office tenants. Therefore, the number of spaces to be shared with the stadium is unknown at this time. Should the supply of parking spaces for stadium patrons be reduced, the City would require the TMOP to provide an equivalent number of parking spaces by partnering with other property owners around the stadium area; providing parking at more distant locations, combined with a shuttle service; or taking other actions, as identified in the EIR for Levi's Stadium. (DEIR, p. 3.2-3)

O1.72

The phrase "should the supply of parking spaces for stadium patrons be reduced" is disingenuous because at minimum, the RV spaces certainly would be eliminated and need to be replaced somewhere. Each of these spaces requires the space of several regular spaces and are particularly valuable. Figure 13 shows the locations of the Blue Lot 1 and RV Blue Lot within the general Levi's Stadium parking system.

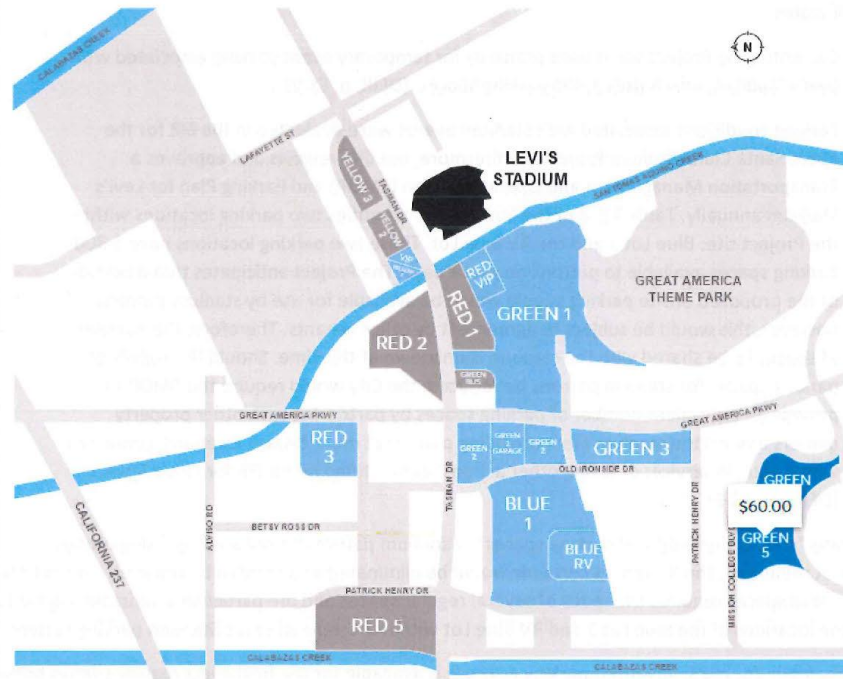
As of December 26, 2023, advanced parking purpose is available for the final 49ers regular season home game against the Rams on January 7, 2024, plus possible postseason games played at Levi's stadium. The pricing is shown in the table below.⁴

Event	Blue Lot 1	RV Blue Lot
Regular season 1/7/24	\$79	\$250
Wild Card game TBA	\$149	
NFC Divisional game TBA	\$238	
NFC Championship game TBA	\$248	

As shown in the table, RV parking is over 3 times as expensive as regular parking for the final home regular-season game. No RV parking passes are available for the postseason games as of today. It is possible that the expected parking demand is so high that the space is needed for more than the usual 3,300 total vehicles, and that RVs will not be accommodated on those days.

⁴ The website states: "Credit card lots will be available but limited on event day and may cost more than pre-paid parking passes." <https://www.levisstadium.com/plan-your-visit/parking/>

Figure 13: Levi's Stadium Parking Map



O1.72
cont'd

The DEIR fails to evaluate the impacts of the parking changes for Levi's Stadium events: - either for RV parking or for general parking. The DEIR states:

The total parking demand on weekends would be less than on weekdays because the office space would be closed; thus, weekends were not evaluated. (DIER, Appendix 3.2, p. 143)

To the extent the Project displaces any significant amount of stadium parking, it will inevitably have an impact on local traffic and possibly public safety. Because the DEIR includes no information regarding the number of parking spaces the Project might make available for stadium users, nor any information regarding alternative parking sites, it is impossible to conclude that impacts associated with displaced parking will not be significant.

The Reduced Office/Increased Housing Alternative Would Have Much Less Significant Impacts Than the Proposed Project

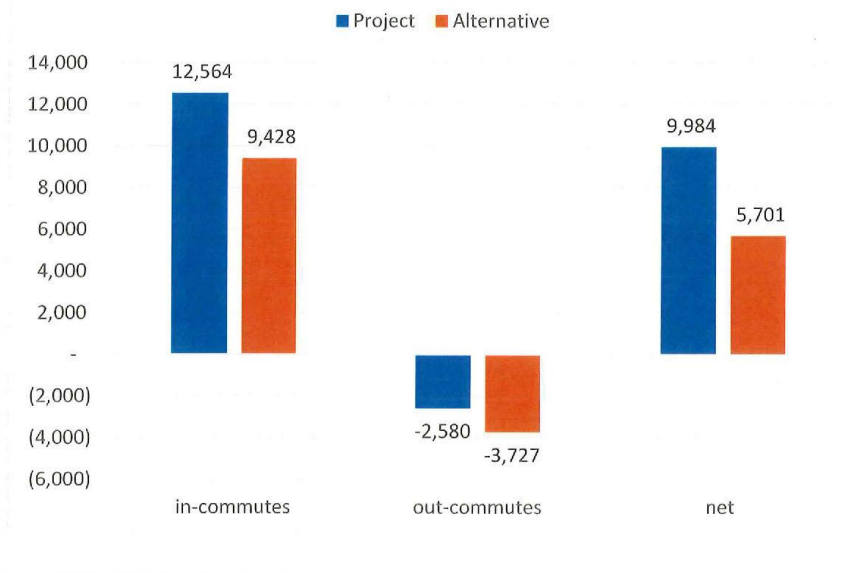
The DEIR includes a "Reduced Office/Increased Housing Alternative." It states:

Under the Reduced Office/Increased Housing Alternative, the overall office square footage would be reduced and the overall number of housing units would increase. This would be accomplished by removing all 789,000 gsf of office/R&D space in Area C and replacing it with 800 multi-family housing units. The substation would be relocated to Area B. The retail uses, amenities, open space, and substation in Area C would all remain the same as under the Project. In addition, all other land use and development assumptions for Areas A, B, and D would remain the same as under the Project. Thus, the Reduced Office/Increased Housing Alternative would result in up to 4,913,000 gsf of new development, including up to 2,600 housing units; approximately 2,211,000 gsf of office/R&D space; approximately 100,000 gsf of neighborhood retail uses; and approximately 10,000 gsf of childcare facilities, along with 3,000 gsf of community space. (DEIR, p. ES-3)

As shown in Figure 14, these changes would reduce net in-commuting by over 40% relative to the Project alternative. Because traffic impacts are primarily in the peak hours in the peak direction, traffic impacts would be reduced roughly proportionally to the reduction in in-commuting with the Reduced Office/Increased Housing alternative.

O1.73

Figure 14: Net In-Commuting for Project vs. Reduced Office/Increased Housing Alternative⁵



⁵ Reduced Office/Increased Housing Alternative employees from DEIR Table 5-1, p. 5.5. Out commutes estimated from number of housing units x 2.15 persons/household x 2/3 of residents in labor force.

O1.73
cont'd

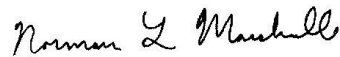
The DEIR acknowledges this alternative better meets the City's housing needs, stating:

Because the Reduced Office/Increased Housing Alternative would provide additional housing, this alternative would more thoroughly accomplish the goal of broadening the city's housing supply and meeting the City's Affordable Housing Ordinance and Inclusionary Zoning requirements.

Therefore, employment growth associated with operation of the Reduced Office/Increased Housing Alternative would improve the jobs/housing balance in the city to a greater extent than the Project because fewer jobs would be created and more housing would be constructed. (DEIR, p. 5-71)

Compared to the Project, the Reduced Office/Increased Housing Alternative would result in fewer employees and more housing (2,600 units compared to 1,800 units). This alternative would have a greater effect on the jobs/housing imbalance than the Project, and it would improve the jobs/housing ratio compared to what is expected to result from the current City General Plan projections in 2035 (2.15) and ABAG's projections in 2040 (2.99) without the alternative. The Reduced Office/Increased Housing Alternative would decrease the jobs/housing imbalance to 2.08 in 2035 (under the General Plan projections) and to 2.87 in 2040 (under ABAG projections). In comparison, the Project would result in a slightly higher imbalance of 2.11 in 2035 and 2.91 in 2040. Therefore, the Reduced Office/Increased Housing Alternative would result in greater improvement in the jobs/housing imbalance compared with the Project, and there would be no impact. (NI) (DEIR, p. 5-72)

Sincerely,



Norman L. Marshall

Resume**NORMAN L. MARSHALL, PRESIDENT**nmarshall@smartmobility.com**EDUCATION:**

Master of Science in Engineering Sciences, Dartmouth College, Hanover, NH, 1982

Bachelor of Science in Mathematics, Worcester Polytechnic Institute, Worcester, MA, 1977

PROFESSIONAL EXPERIENCE: (32 Years, 18 at Smart Mobility, Inc.)

Norm Marshall helped found Smart Mobility, Inc. in 2001. Prior to this, he was at RSG for 14 years where he developed a national practice in travel demand modeling. He specializes in analyzing the relationships between the built environment and travel behavior and doing planning that coordinates multi-modal transportation with land use and community needs.

Regional Land Use/Transportation Scenario Planning

Portland Area Comprehensive Transportation System (PACTS) – the Portland Maine Metropolitan Planning Organization. Updating regional travel demand model with new data (including AirSage), adding a truck model, and multiclass assignment including differentiation between cash toll and transponder payments.

O1.74

Loudoun County Virginia Dynamic Traffic Assignment – Enhanced subarea travel demand model to include Dynamic Traffic Assignment (Cube). Model being used to better understand impacts of roadway expansion on induced travel.

Vermont Agency of Transportation-Enhanced statewide travel demand model to evaluate travel impacts of closures and delays resulting from severe storm events. Model uses innovative Monte Carlo simulations process to account for combinations of failures.

California Air Resources Board – Led team including the University of California in \$250k project that reviewed the ability of the new generation of regional activity-based models and land use models to accurately account for greenhouse gas emissions from alternative scenarios including more compact walkable land use and roadway pricing. This work included hands-on testing of the most complex travel demand models in use in the U.S. today.

Climate Plan (California statewide) – Assisted large coalition of groups in reviewing and participating in the target setting process required by Senate Bill 375 and administered by the California Air Resources Board to reduce future greenhouse gas emissions through land use measures and other regional initiatives.

Chittenden County (2060 Land use and Transportation Vision Burlington Vermont region) – led extensive public visioning project as part of MPO's long-range transportation plan update.

Flagstaff Metropolitan Planning Organization – Implemented walk, transit and bike models within regional travel demand model. The bike model includes skimming bike networks including on-road and off-road bicycle facilities with a bike level of service established for each segment.

Chicago Metropolis Plan and Chicago Metropolis Freight Plan (6-county region)— developed alternative transportation scenarios, made enhancements in the regional travel demand model, and used the enhanced

O1.74
cont'd

model to evaluate alternative scenarios including development of alternative regional transit concepts. Developed multi-class assignment model and used it to analyze freight alternatives including congestion pricing and other peak shifting strategies.

Municipal Planning

City of Grand Rapids – Michigan Street Corridor – developed peak period subarea model including non-motorized trips based on urban form. Model is being used to develop traffic volumes for several alternatives that are being additionally analyzed using the City's Synchro model

City of Omaha - Modified regional travel demand model to properly account for non-motorized trips, transit trips and shorter auto trips that would result from more compact mixed-use development. Scenarios with different roadway, transit, and land use alternatives were modeled.

City of Dublin (Columbus region) – Modified regional travel demand model to properly account for non-motorized trips and shorter auto trips that would result from more compact mixed-use development. The model was applied in analyses for a new downtown to be constructed in the Bridge Street corridor on both sides of an historic village center.

City of Portland, Maine – Implemented model improvements that better account for non-motorized trips and interactions between land use and transportation and applied the enhanced model to two subarea studies.

City of Honolulu – Kaka'ako Transit Oriented Development (TOD) – applied regional travel demand model in estimating impacts of proposed TOD including estimating internal trip capture.

City of Burlington (Vermont) Transportation Plan – Led team that developing Transportation Plan focused on supporting increased population and employment without increases in traffic by focusing investments and policies on transit, walking, biking and Transportation Demand Management.

Transit Planning

Regional Transportation Authority (Chicago) and Chicago Metropolis 2020 – evaluated alternative 2020 and 2030 system-wide transit scenarios including deterioration and enhance/expand under alternative land use and energy pricing assumptions in support of initiatives for increased public funding.

Capital Metropolitan Transportation Authority (Austin, TX) Transit Vision – analyzed the regional effects of implementing the transit vision in concert with an aggressive transit-oriented development plan developed by Calthorpe Associates. Transit vision includes commuter rail and BRT.

Bus Rapid Transit for Northern Virginia HOT Lanes (Breakthrough Technologies, Inc and Environmental Defense.) – analyzed alternative Bus Rapid Transit (BRT) strategies for proposed privately-developing High Occupancy Toll lanes on I-95 and I-495 (Capital Beltway) including different service alternatives (point-to-point services, trunk lines intersecting connecting routes at in-line stations, and hybrid).

Roadway Corridor Planning

I-30 Little Rock Arkansas – Developed enhanced version of regional travel demand model that integrates TransCAD with open source Dynamic Traffic Assignment (DTA) software, and used to model I-30 alternatives. Freeway bottlenecks are modeled much more accurately than in the base TransCAD model.

O1.74
cont'd

South Evacuation Lifeline (SELL) – In work for the South Carolina Coastal Conservation League, used Dynamic Travel Assignment (DTA) to estimate evaluation times with different transportation alternatives in coastal South Carolina including a new proposed freeway.

Hudson River Crossing Study (Capital District Transportation Committee and NYSDOT) – Analyzing long term capacity needs for Hudson River bridges which a special focus on the I-90 Patroon Island Bridge where a microsimulation VISSIM model was developed and applied.

PUBLICATIONS AND PRESENTATIONS (partial list)

DTA Love: Co-leader of workshop on Dynamic Traffic Assignment at the June 2019 Transportation Research Board Planning Applications Conference.

Forecasting the Impossible: The Status Quo of Estimating Traffic Flows with Static Traffic Assignment and the Future of Dynamic Traffic Assignment. *Research in Transportation Business and Management* 2018.

Assessing Freeway Expansion Projects with Regional Dynamic Traffic Assignment. Presented at the August 2018 Transportation Research Board Tools of the Trade Conference on Transportation Planning for Small and Medium Sized Communities.

Vermont Statewide Resilience Modeling. With Joseph Segale, James Sullivan and Roy Schiff. Presented at the May 2017 Transportation Research Board Planning Applications Conference.

Assessing Freeway Expansion Projects with Regional Dynamic Traffic Assignment. Presented at the May 2017 Transportation Research Board Planning Applications Conference.

Pre-Destination Choice Walk Mode Choice Modeling. Presented at the May 2017 Transportation Research Board Planning Applications Conference.

A Statistical Model of Regional Traffic Congestion in the United States, presented at the 2016 Annual Meeting of the Transportation Research Board.

MEMBERSHIPS/AFFILIATIONS

Associate Member, Transportation Research Board (TRB)

Member and Co-Leader Project for Transportation Modeling Reform, Congress for the New Urbanism (CNU)

EXHIBIT D

[Skip to main content](#)[Public Record Requests](#)

City of Santa Clara

Search documents by key



Request Visibility: Unpublished

Request 23-1219 Open



Dates

Received

November 21, 2023 via web

Requester

Janet Laurain

jlaurain@adamsbroadwell.com

601 Gateway Boulevard, Suite 1000, San Francisco , CA, 94080-7037

1-650-589-1660

Adams Broadwell Joseph & Cardozo - Attorneys at Law

Invoices

No invoices due

Staff Assigned

Departments

No departments assigned

Point of contact

Stephanie Davis

Request

November 21, 2023

Via City's public records request online portal -

Make request - NextRequest - Modern FOIA & Public Records Request Software

Andrew Crabtree

Director of Community Development

City of Santa Clara

1500 Warburton Avenue

Santa Clara, CA 95050

Email: acrabtree@santaclaraca.gov

Hosam Haggag

City Clerk

City of Santa Clara

1500 Warburton Avenue

Santa Clara, CA 95050

Email: clerk@santaclaraca.gov

Rebecca Bustos, Senior Planner

Email: rbustos@santaclaraca.gov

01.75

O1.75
cont'd

Re: Req...

Show more

Timeline

Documents

External Message

Requester + Staff

Dear **Janet**:

The City of Santa Clara (the "City") continues its response to your record request ("Request") pursuant to the California Public Records Act ("PRA").

November 21, 2023

*Via City's public records request online portal -
Make request - NextRequest - Modern FOIA &
Public Records Request Software*

Andrew Crabtree

Director of Community Development

City of Santa Clara

1500 Warburton Avenue

Santa Clara, CA 95050

Email: acrabtree@santacalaraca.gov

Hosam Haggag

City Clerk

City of Santa Clara

1500 Warburton Avenue

Santa Clara, CA 95050

Email: clerk@santacalaraca.gov

Rebecca Bustos, Senior Planner

O1.75
cont'd

Email: rbustos@santacclaraca.gov

Re: Request for Immediate Access to All Documents Referenced in the DEIR – Mission Point Project (PLN2017-12924, PLN2018-13400, PLN21-15386, PLN21-15387, PLN22-00635, CEQ2018-01054; SCH No. 2018072068)

Dear Mr. Crabtree, Mr. Haggag and Ms. Bustos:

We are writing on behalf of Silicon Valley Residents for Responsible Development ("Silicon Valley Residents") to request immediate access to any and all documents referenced or relied upon in the Draft Environmental Impact Report ("DEIR") for the Mission Point Project, PLN2017-12924, PLN2018-13400, PLN21-15386, PLN21-15387, PLN22-00635, CEQ2018-01054; SCH No. 2018072068, ("Project") proposed by Kylli Inc. ("Applicant"). This request excludes the DEIR and any appendices made available on the City's website.

The Project proposes construction of up to 4.9 million gross square feet ("gsf") of new development consisting of up to 1,800 residential units, three million gsf of office/R&D space and 100,000 gsf of neighborhood retail. The project also calls for 10,000 gsf of childcare facilities and 3,000 gsf of community space. An electrical substation of 18,000 gsf would be constructed to support the project. The project site is located at 3005 Democracy Way in Santa Clara.

Silicon Valley Residents is an unincorporated association of individuals and labor organizations that may be adversely affected by the potential impacts associated with Project development. Silicon Valley Residents includes the International Brotherhood of Electrical Workers Local 332, Plumbers & Steamfitters Local 393, Sheet Metal Workers Local 104, Sprinkler Fitters Local 483 and their members and their families; and other individuals that live and/or work in the City of

O1.75
cont'd

Santa Clara and Santa Clara County. Silicon Valley Residents have a strong interest in enforcing the State's environmental laws that encourage sustainable development and ensure a safe working environment for its members.

This request for all documents referenced or relied upon in the DEIR is made pursuant to the California Environmental Quality Act ("CEQA"), which requires that all documents referenced, incorporated by reference, and relied upon in an environmental review document be made available to the public for the entire comment period.[1]

If you have any questions, please email me at jlaurain@adamsbroadwell.com or call me at (650) 589-1660. Thank you for your assistance with this matter.

Sincerely,

Janet Laurain

Paralegal

JML/ljl

[1] See Pub. Resources Code, § 21092, subd. (b)(1); 14 Cal. Code Reg. § 15087(c)(5).

The City is continuing its search of City servers to locate responsive documents in a manner consistent with the PRA, provided that we will timely notify you if this is not possible, and respectfully extend the response fourteen (14) days until **12/15/2023** for the following reasons and pursuant to California Public Record Act ("the Act"), Government code section 7922.535 **[1]**:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.

Sincerely,

O1.75
cont'd

City Clerk's Office

City of Santa Clara

Please note that email correspondence with the City of Santa Clara, along with attachments, may be subject to disclosure pursuant to the California Public Records Act, unless otherwise exempt.

December 1, 2023, 12:38pm by Marisa Welling, Office Records Specialist (Staff)

 **External Message** 

Requester + Staff

Hello,

The City of Santa Clara ("the City") acknowledges receipt of your request for information and Public Records. In Accordance with the California Public Records Act ("PRA"), we provide this response to your request:

The City will provide a further response to your request **within 10 calendar days, excluding weekends and holidays.**


Sincerely,

City Clerk's Office

City of Santa Clara

Please note that email correspondence with the City of Santa Clara, along with attachments, may be subject to disclosure pursuant to the California Public Records Act, unless otherwise exempt.

November 21, 2023, 4:03pm

 **Request Opened**

Public

Request received via web

November 21, 2023, 4:03pm by the requester

EXHIBIT E

ADAMS BROADWELL JOSEPH & CARDOZO

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

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SOUTH SAN FRANCISCO, CA 94080-7037

TEL: (650) 689-1660

FAX: (650) 689-5062

aabadifard@adamsbroadwell.com

SACRAMENTO OFFICE

520 CAPITOL MALL, SUITE 350
SACRAMENTO, CA 95814-4721

TEL: (916) 444-6201

FAX: (916) 444-6209

ARIANA ABEDIFARD
KEVIN T. CARMICHAEL
CHRISTINA M. CARO
THOMAS A. ENSLOW
KELILAH D. FEDERMAN
RICHARD M. FRANCO
ANDREW J. GRAF
TANYA A. GULESSERIAN
DARION N. JOHNSTON
RACHAEL E. KOSS
AIDAN P. MARSHALL
TARA C. RENGIFO

Of Counsel

MARC D. JOSEPH
DANIEL L. CARDOZO

December 4, 2023

Via Email and U.S. Mail

Andrew Crabtree
Director of Community Development
City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050
Email: acrabtree@santaclaraca.gov

Hosam Haggag
City Clerk
City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050
Email: clerk@santaclaraca.gov

Via Email Only

Rebecca Bustos, Senior Planner
Email: rbustos@santaclaraca.gov


**Re: FOLLOW-UP Request for Immediate Access to All Documents
Referenced in the DEIR – Mission Point Project (PLN2017-
12924, PLN2018-13400, PLN21-15386, PLN21-15387, PLN22-
00635, CEQ2018-01054; SCH No. 2018072068)**

Dear Mr. Crabtree, Mr. Haggag and Ms. Bustos:

We are writing on behalf of Silicon Valley Residents for Responsible Development ("Silicon Valley Residents") to follow up on our November 20, 2023 request for *immediate access* to any and all documents referenced or relied upon in the Draft Environmental Impact Report ("DEIR") for the Mission Point Project, PLN2017-12924, PLN2018-13400, PLN21-15386, PLN21-15387, PLN22-00635, CEQ2018-01054; SCH No. 2018072068, ("Project") proposed by Kylli Inc. ("Applicant"). This request *excluded* the DEIR and any appendices made available on the City's website.

Our review of the DEIR is ongoing, but we have identified a number of documents referenced in the DEIR and that provide a portion of the DEIR's overall analysis, but which have not been included in the DEIR's appendices or otherwise made available for public review. We therefore request that the City provide immediate access to the following documents.

5936-003aep

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December 4, 2023

Page 2

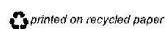
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- Reports for the site visits conducted in 2019 and 2022 and database reviews for presence of special status species supporting the biological resources impacts analysis.
- Reports of the hazardous materials surveys that were conducted for the four existing buildings on the project site in June 2021 by Terracon Consultants, Inc.
- Phase I Environmental Site Assessment (ESA) prepared for the Project by Cornerstone Earth Group on July 25, 2022.
- Preliminary Geotechnical Evaluation prepared by Langan on May 25, 2022, titled "Updated Preliminary Geotechnical Evaluation, 3005 Democracy Way, Santa Clara, California" including the previous reports referred to in the Evaluation:
 - Geotechnical Investigation, Yahoo!, Santa Clara, California, by Treadwell & Rollo, January 9, 2009
 - Preliminary Geotechnical Investigation, Yahoo Parcels, Tasman Drive and Patrick Henry Drive, Santa Clara, California, by Cornerstone Earth Group, May 20, 2016.
- Study completed by Keyser Marston Associates on September 9, 2022, titled "Memorandum: Projected Population and Employment, Mission Point Project."
- "3005 Democracy Way, Existing Site Boundary and Easement Plan" by BKF Engineers on July 25, 2018.
- "Existing Stormwater Plan and Proposed Stormwater Plan, Mission Point" by BKF Engineers on December 16, 2022.
- Study completed by Roux Associates, Inc on August 30, 2022, titled "Additional Subsurface Environmental Investigation, 3000 Patrick Henry Drive, Santa Clara, California."

Our November 20, 2023 request for all documents referenced or relied upon in the DEIR, and this follow-up request, are made pursuant to the California Environmental Quality Act ("CEQA"), which requires that all documents referenced, incorporated by reference, and relied upon in an environmental review document be made available to the public for the entire comment period.¹ Access to all of the documents referenced in the DEIR is necessary to conduct a meaningful review of its analyses, conclusions, and mitigation measures, and to assess the Project's potential environmental impacts. CEQA requires that "all documents

¹ See Pub. Resources Code, § 21092 (b)(1); 14 Cal. Code Reg. § 15087(c)(5).

5936-003acp



December 4, 2023

Page 3

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referenced” and “incorporated by reference” in the draft environmental impact report be available for review and “readily accessible” during the entire comment period.² The courts have held that the failure to provide even a few pages of a CEQA document for a portion of the review and comment period invalidates the entire CEQA process, and that such a failure must be remedied by permitting additional public comment.³ It is also well-settled that a CEQA document may not rely on hidden studies or documents that are not provided to the public.⁴

I understand that the City has previously taken the position that the CEQA Guidelines only require it to make available documents explicitly “incorporated by reference” in the DEIR, but this interpretation is not well-founded. Though Section 15087 of the CEQA Guidelines was indeed amended to include documents “incorporated by reference” in its description of the required contents of a notice of availability of a draft EIR, Section 21092 of the Act continues to require that notice of preparation of a CEQA document include “the address where copies of the draft environmental impact report or negative declaration, and all documents referenced in the draft environmental impact report or negative declaration, are available for review.”

Additionally, the California Natural Resources Agency’s (“Agency”) November 2018 “Final Statement of Reasons for Regulatory Action” has addressed this issue:

Stakeholders have noted that there is some confusion about the word “referenced” as used in that section and in the CEQA Guidelines. (CEQA Guidelines §§ 15072, 15087.) Some agencies interpret “referenced” to mean every document that is cited in the environmental document, where others interpret it to mean every document that is incorporated by reference into the document pursuant to Section 15150.

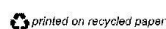
Documents that are “incorporated by reference” provide a portion of the document’s overall analysis, and because the final initial study must reflect the independent judgment of the lead agency, one would expect a copy of the incorporated document to actually be among the lead agency’s files. Other referenced documents may only provide supplementary information, and may

² Pub. Resources Code, § 21092(b)(1).

³ See *Ultramar v. South Coast Air Quality Man. Dist.* (1993) 17 Cal.App.4th 689, 699.

⁴ *Santiago County Water Dist. V. County of Orange* (1981) 118 Cal.App.3d 818, 831 (“Whatever is required to be considered in an EIR must be in that formal report; what any official might have known from other writings or oral presentations cannot supply what is lacking in the report.”).

5936-003acp



December 4, 2023
Page 4

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be contained in a consultant's files or research libraries. While still valid sources of information, it is less important for such documents to actually be in the lead agency's possession. The Natural Resources Agency, therefore, finds that the latter interpretation to be a more practical interpretation of CEQA.

The City's interpretation of the term "documents incorporated by reference" is inconsistent with the Agency's explanation that documents that provide a portion of the document's overall analysis are documents incorporated by reference. And case law provides that "[w]hatever is required to be considered in an EIR must be in that formal report."⁵ The requested documents include critical studies completed for the Project, such as the Preliminary Geotechnical Evaluation and Phase I ESA, which provide a portion of the document's overall analysis. These analyses are not supplemental – they are required by CEQA.

For instance, in *Cal. Building Industry Ass'n v. Bay Area Air Quality Mgmt. Dist.* ("*CBIA v. BAAQMD*")⁶, the California Supreme Court held that the disturbance of contaminated soil is a potentially significant impact which requires disclosure and analysis of health and safety impacts in an EIR.⁷ Without a Phase I and II Environmental Site Assessment, the City would be violation of this requirement. Here, the DEIR's Hazards analysis explicitly hinges on the Phase I ESA, stating: "The 2022 Phase I ESA prepared for the Project site provides information regarding known and potential subsurface contamination at the Project site . . . This information is used as the basis for the analysis of potential impacts related to the accidental release of hazardous materials due to soil and groundwater contamination."⁸ Because the Phase I ESA provides a portion of the DEIR's overall hazards analysis, it is incorporated by reference and is required to be made available to the public pursuant to CEQA.

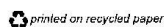
⁵ *Santiago County, supra*, 118 Cal.App.3d at 831.

⁶ (2015) 62 Cal.4th 369.

⁷ *Id.* at 388-90; 14 CCR § 15126.2(a).

⁸ DEIR, pg. 3.11-15 (emphasis added).

5936-003acp



December 4, 2023

Page 5

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The biological resources site visits and database reviews,⁹ Terracon Consultants, Inc. hazardous materials reports,¹⁰ Keyser Marston Associates study,¹¹ '3005 Democracy Way, Existing Site Boundary and Easement Plan' by BKF Engineers,¹² 'Existing Stormwater Plan and Proposed Stormwater Plan' by BKF Engineers,¹³ Roux Associates, Inc. Subsurface Environmental Investigation study,¹⁴ and Preliminary Geotechnical Evaluation¹⁵ and its incorporated studies¹⁶ are incorporated by reference in the DEIR for the same reason.

In short, the 2018 update to the CEQA Guidelines cannot reasonably be read as allowing a lead agency to withhold access to main components of the environmental analysis. We therefore request immediate access to the referenced documents.

⁹ DEIR, pg. 3.8-1 ("The information in this section is *based on* site visits from May 31 and July 25, 2019, and August 17, 2022, as well as a review of the California Department of Fish and Wildlife (CDFW) California Natural Diversity Database (CNDDDB)¹, U.S. Fish and Wildlife Service (USFWS)² Information for Planning and Consultation (IPaC), and California Native Plant Society (CNPS) Online Inventory of Rare and Endangered Plants (Online Inventory).") (emphasis added))

¹⁰ DEIR, pg. 3.11-17 (relying on the hazardous materials survey reports to conclude that "comprehensive building surveys, including destructive sampling, must be conducted prior to building demolition.")

¹¹ DEIR, pg. 2-24 ("...in order to provide an accurate estimate of the anticipated persons per household, the City commissioned a study from Keyser Marston Associates, which estimated that the persons-per-household average for multifamily units for this Project would be 2.15." This estimate is used in other parts of the analysis, such as the urban decay analysis. *See* DEIR, pg. 4-7 ("The urban decay analysis assumes an average of 2.15 persons per unit, as estimated by Keyser Marston Associates..."))

¹² DEIR, pg. 3.10-10 & 3.10-24 (relying on the BKF Engineers estimates in calculating the Project's local drainage and estimating operational groundwater impacts).

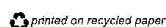
¹³ DEIR, pg. 3.11-21 (relying on BKF's elevation estimate in analyzing aviation hazard impacts from construction).

¹⁴ DEIR, pg. 3.11-25 (relying on the Subsurface Environmental Investigation in analyzing cumulative accidental releases of hazardous materials, stating that "[a] subsurface investigation for this property indicates that the likely source for the soil vapor detections may be the migration of contamination from neighboring properties through storm drains or sewer lines.")

¹⁵ DEIR, pp. 3.9-1–21 (listing the Preliminary Geotechnical Evaluation as a Method for Analysis for the Geology and Soils impact analysis as well as heavily referencing and incorporating findings from the Evaluation throughout the impact analysis).

¹⁶ *See* DEIR, pg. 3.9-1 & pg. 3.9-6 (noting that the Preliminary Geotechnical Evaluation included a review of two geotechnical investigations that were previously performed for the Project site and that the results of the previous investigations are discussed in the analysis of site topography and subsurface conditions).

5936-003acp



December 4, 2023
Page 6

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If you have any questions, please email me at aabedifard@adamsbroadwell.com or call me at (650) 589-1660. Thank you for your prompt assistance with this matter.

Sincerely,



Ariana Abedifard

AA:acp

5936-003acp

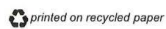


EXHIBIT F

ADAMS BROADWELL JOSEPH & CARDOZO

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ATTORNEYS AT LAW

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SOUTH SAN FRANCISCO, CA 94080-7037

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aabedifard@adamsbroadwell.com

SACRAMENTO OFFICE

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SACRAMENTO, CA 95814-4721

TEL: (916) 444-6201

FAX: (916) 444-6209

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KEVIN T. CARMICHAEL
CHRISTINA M. CARO
THOMAS A. ENSLOW
KELILAH D. FEDERMAN
RICHARD M. FRANCO
ANDREW J. GRAF
TANYA A. GULESSERIAN
DARION N. JOHNSTON
RACHAEL E. KOSS
AIDAN P. MARSHALL
TARA C. RENGIFO

Of Counsel
MARC D. JOSEPH
DANIEL L. CARDOZO

December 15, 2023

Via Email and U.S. Mail

Andrew Crabtree
Director of Community Development
City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050
Email: acrabtree@santaclaraca.gov

Hosam Haggag
City Clerk
City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050
Email: clerk@santaclaraca.gov

Via Email Only

Rebecca Bustos, Senior Planner
Email: rbustos@santaclaraca.gov

**Re: Request to Extend the Public Review and Comment Period for
the Draft Environmental Impact Report – Mission Point Project
(PLN2017-12924, PLN2018-13400, PLN21-15386, PLN21-15387,
PLN22-00635, CEQ2018-01054; SCH No. 2018072068)**

Dear Mr. Crabtree, Mr. Haggag and Ms. Bustos:

On behalf of Silicon Valley Residents for Responsible Development ("Silicon Valley Residents"), we respectfully request that City of Santa Clara ("City") extend the public review and comment period for the Draft Environmental Impact Report ("DEIR") prepared for the Mission Point Project, PLN2017-12924, PLN2018-13400, PLN21-15386, PLN21-15387, PLN22-00635, CEQ2018-01054; SCH No. 2018072068, ("Project") proposed by Kylli Inc. ("Applicant"). **The current public comment period ends on January 2, 2024.** An extension of the comment period is necessary under the California Environmental Quality Act ("CEQA")¹ because the City has failed to provide access to DEIR reference documents, as required by CEQA.²

¹ Public Resources Code ("PRC") §21000 et seq.; California Code of Regulations ("CCR"), Title 14, Division 6, Chapter 3, Sections 15000 et seq.

² PRC § 21092(b)(1); 14 CCR § 15087(c)(5).

5936-004j

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December 15, 2023

Page 2

We request that the City extend the public review and comment period on the DEIR for at least 30 days from the date on which the City releases all outstanding DEIR reference documents for public review.

CEQA requires that “all documents referenced” – and the CEQA Guidelines require that “all documents incorporated by reference” – in a draft environmental impact report shall be “readily accessible to the public during the lead agency’s normal working hours” during the entire public comment period.³ Further, an EIR may not rely on hidden studies or documents that are not provided to the public.⁴ The City is in violation of these requirements because the City has failed to provide Silicon Valley Residents with timely access to DEIR reference documents despite multiple requests for access to them.

On November 20, 2023, Silicon Valley Residents submitted a letter to the City pursuant to CEQA section 21092(b)(1) and CEQA Guidelines section 15087(c)(5), requesting “*immediate access* to any and all documents referenced or relied upon” in the DEIR.⁵ On December 4, 2023, we sent a follow-up letter, again requesting documents referenced and relied upon in the DEIR, and specifically identifying several key documents that have not been included in the DEIR’s appendices or otherwise made available for public review.⁶ To date, the City has failed to provide access to these documents, or to respond at all to Silicon Valley Residents’ requests. Because the documents are necessary for adequate review of the DEIR, the City’s failure to produce these documents in a timely manner is in violation of CEQA.

Timely access to the DEIR reference documents from the City is critical in this case because many of the DEIR’s reference documents are not readily available online and because the DEIR expressly relies on such documents as part of its impacts analyses, thereby preventing review of the full scope of the Project’s potential impacts. For example, the DEIR’s Hazards analysis explicitly hinges on the Phase I Environmental Site Assessment (“ESA”), stating: “The 2022 Phase I ESA prepared for the Project site provides information regarding known and

³ Pub. Resources Code § 21092(b)(1); 14 C.C.R. § 15072(g)(4); see *Ultramar v. South Coast Air Quality Man. Dist.* (1993) 17 Cal.App.4th 689, 699.

⁴ *Santiago County Water District v. County of Orange* (1981) 118 Cal.App.3rd 818, 831 (“Whatever is required to be considered in an EIR must be in that formal report; what any official might have known from other writings or oral presentations cannot supply what is lacking in the report.”).

⁵ **Exhibit A:** Request from Adams, Broadwell, Joseph & Cardozo (“ABJC”) to City re Request for Immediate Access to All Documents Referenced in the DEIR – Mission Point Project (PLN2017-12924, PLN2018-13400, PLN21-15386, PLN21-15387, PLN22-00635, CEQ2018-01054; SCH No. 2018072068) (November 21, 2023).

⁶ **Exhibit B:** Letter from ABJC to City re FOLLOW-UP Request for Immediate Access to All Documents Referenced in the DEIR – Mission Point Project (PLN2017-12924, PLN2018-13400, PLN21-15386, PLN21-15387, PLN22-00635, CEQ2018-01054; SCH No. 2018072068) (December 4, 2023).

5936-004j

December 15, 2023

Page 3

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potential subsurface contamination at the Project site . . . *This information is used as the basis for the analysis of potential impacts* related to the accidental release of hazardous materials due to soil and groundwater contamination.”⁷ Because the Phase I ESA provides a portion of the DEIR’s overall hazards analysis, it is incorporated by reference and is required to be made available to the public pursuant to CEQA. The biological resources site visits and database reviews,⁸ Terracon Consultants, Inc. hazardous materials reports,⁹ Keyser Marston Associates study,¹⁰ ‘3005 Democracy Way, Existing Site Boundary and Easement Plan’ by BKF Engineers,¹¹ ‘Existing Stormwater Plan and Proposed Stormwater Plan’ by BKF Engineers,¹² Roux Associates, Inc. Subsurface Environmental Investigation study,¹³ and Preliminary Geotechnical Evaluation¹⁴ and its incorporated studies¹⁵ are incorporated by reference in the DEIR for the same reason.

⁷ DEIR, pg. 3.11-15 (emphasis added).

⁸ DEIR, pg. 3.8-1 (“The information in this section is *based on* site visits from May 31 and July 25, 2019, and August 17, 2022, as well as a review of the California Department of Fish and Wildlife (CDFW) California Natural Diversity Database (CNDDDB)¹, U.S. Fish and Wildlife Service (USFWS)² Information for Planning and Consultation (IPaC), and California Native Plant Society (CNPS) Online Inventory of Rare and Endangered Plants (Online Inventory).” (emphasis added))

⁹ DEIR, pg. 3.11-17 (relying on the hazardous materials survey reports to conclude that “comprehensive building surveys, including destructive sampling, must be conducted prior to building demolition.”)

¹⁰ DEIR, pg. 2-24 (“...in order to provide an accurate estimate of the anticipated persons per household, the City commissioned a study from Keyser Marston Associates, which estimated that the persons-per-household average for multifamily units for this Project would be 2.15.” This estimate is used in other parts of the analysis, such as the urban decay analysis. See DEIR, pg. 4-7 (“The urban decay analysis assumes an average of 2.15 persons per unit, as estimated by Keyser Marston Associates...”))

¹¹ DEIR, pg. 3.10-10 & 3.10-24 (relying on the BKF Engineers estimates in calculating the Project’s local drainage and estimating operational groundwater impacts).

¹² DEIR, pg. 3.11-21 (relying on BKF’s elevation estimate in analyzing aviation hazard impacts from construction).

¹³ DEIR, pg. 3.11-25 (relying on the Subsurface Environmental Investigation in analyzing cumulative accidental releases of hazardous materials, stating that “[a] subsurface investigation for this property indicates that the likely source for the soil vapor detections may be the migration of contamination from neighboring properties through storm drains or sewer lines.”)

¹⁴ DEIR, pp. 3.9-1–21 (listing the Preliminary Geotechnical Evaluation as a Method for Analysis for the Geology and Soils impact analysis as well as heavily referencing and incorporating findings from the Evaluation throughout the impact analysis).

¹⁵ See DEIR, pg. 3.9-1 & pg. 3.9-6 (noting that the Preliminary Geotechnical Evaluation included a review of two geotechnical investigations that were previously performed for the Project site and that the results of the previous investigations are discussed in the analysis of site topography and subsurface conditions).

5936-004j

December 15, 2023

Page 4

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Without access to these critical DEIR reference documents, the public is unable to fully evaluate the DEIR's analysis, conclusions, and mitigation measures which rely on these studies and documents. As a result, Silicon Valley Residents and other members of the public are precluded from having the meaningful opportunity to review and comment on the DEIR, as required by CEQA.

The courts have held that the failure to provide even a few pages of a CEQA documents for a portion of the CEQA review period invalidates the entire CEQA process, and that such a failure must be remedied by permitting additional public comment.¹⁶ It is also well settled that an EIR may not rely on hidden studies or documents that are not provided to the public.¹⁷ By failing to make all documents referenced in the DEIR "readily available" during the current comment period, the City is violating the clear procedural mandates of CEQA, to the detriment of Silicon Valley Residents and other members of the public who wish to meaningfully review and comment on the DEIR.

Accordingly, we request that the City provide immediate access to the outstanding DEIR reference documents, as required by CEQA, and extend the public review and comment period on the DEIR for at least 30 days from the date on which the City releases all reference documents for public review.

Given the limited time in the DEIR public comment period, we respectfully request a response to this letter by Wednesday, December 20, 2023.

Sincerely,



Ariana Abedifard

AA:lj1

¹⁶ *Ultramar v. South Coast Air Quality Man. Dist.* (1993) 17 Cal.App.4th 689, 699.

¹⁷ *Santiago County Water District v. County of Orange* (1981) 118 Cal.App.3rd 818, 831 ("Whatever is required to be considered in an EIR must be in that formal report; what any official might have known from other writings or oral presentations cannot supply what is lacking in the report.").

5936-004j

EXHIBIT G

[Skip to main content](#)[Public Record Requests](#)

City of Santa Clara

Search documents by key



Request Visibility: Unpublished

Request 23-1220 Open



Dates

Received

November 21, 2023 via web

Requester

Janet Laurain

jlaurain@adamsbroadwell.com

601 Gateway Boulevard, Suite 1000, San Francisco , CA, 94080-7037

1-650-589-1660

Adams Broadwell Joseph & Cardozo - Attorneys at Law

Invoices

No invoices due

Staff Assigned

Departments

No departments assigned

Point of contact

Simrat Dhadli

Request

November 21, 2023

*Submitted via City's public records request online portal -**Make request - NextRequest - Modern FOIA & Public Records Request Software*

Andrew Crabtree

Director of Community Development

City of Santa Clara

1500 Warburton Avenue

Santa Clara, CA 95050

Email: acrabtree@santaclaraca.gov

Hosam Haggag

City Clerk

City of Santa Clara

1500 Warburton Avenue

Santa Clara, CA 95050

Email: clerk@santaclaraca.gov

Rebecca Bustos, Senior Planner

Email: rbustos@santaclaraca.gov

O1.78

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cont'd[Show more](#)

Timeline Documents

✉ External Message

Requester + Staff

Dear Janet:

The City of Santa Clara ("the City") acknowledges receipt of your request for information and Public Records. In Accordance with the California Public Records Act ("PRA"), we provide this response to your request:

"Re: Request for Immediate Access to Public Records – Mission Point Project (PLN2017-12924, PLN2018-13400, PLN21-15386, PLN21-15387, PLN22-00635, CEQ2018-01054; SCH No. 2018072068)

We are writing on behalf of Silicon Valley Residents for Responsible Development ("Silicon Valley Residents") to request immediate access to any and all public records in the City of Santa Clara's possession referring or related to the Mission Point Project, PLN2017-12924, PLN2018-13400, PLN21-15386, PLN21-15387, PLN22-00635, CEQ2018-01054; SCH No. 2018072068, ("Project") proposed by Kylli Inc. ("Applicant"). This request includes, but is not limited to, any and all file materials, applications, correspondence, resolutions, memos, notes, analysis, email messages, files, maps, charts, and any other documents related to the Project."

At this time, we request clarification of your CPRA request.

To assist you in making a focused request that will allow the City to make an effective search for responsive records, **please respond in writing and**

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identify which staff your are looking for in regards to emails.

Failure to provide written clarification of your request may result in the closure of this CPRA request.

Upon receipt of clarification, the City will engage in a search for responsive records and will disclose all non-exempt records in response to your Request, if any.

Sincerely,

City Clerk's Office

City of Santa Clara

Please note that email correspondence with the City of Santa Clara, along with attachments, may be subject to disclosure pursuant to the California Public Records Act, unless otherwise exempt.

November 22, 2023, 8:11am by Stephanie Davis, Staff Aide I (Staff)



External Message



Requester + Staff

Hello,

The City of Santa Clara ("the City") acknowledges receipt of your request for information and Public Records. In Accordance with the California Public Records Act ("PRA"), we provide this response to your request:

The City will provide a further response to your request **within 10 calendar days, excluding weekends and holidays.**

Sincerely,

City Clerk's Office

O1.78
cont'd

City of Santa Clara

Please note that email correspondence with the City of Santa Clara, along with attachments, may be subject to disclosure pursuant to the California Public Records Act, unless otherwise exempt.

November 21, 2023, 4:06pm



Request Opened

Public

Request received via web

November 21, 2023, 4:06pm by the requester

[FAQS](#) [HELP](#) [PRIVACY](#) [TERMS](#) [SANTACLARACA.GOV](#)



EXHIBIT H



**City of
Santa Clara**
The Center of What's Possible

City Attorney's Office

December 21, 2023

Ariana Abedifard, Esq.
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080-7037

**Subject: Request to Extend Public Review and Comment Period
Mission Point Project, Santa Clara**

Dear Ms. Abedifard:

This letter is in response to your correspondence dated December 15, 2023, addressed to Director of Community Development Andrew Crabtree and City Clerk Hosam Haggag, in which you request an extension of the comment period on the Mission Point EIR by "at least 30 days". I am also in receipt of your December 4, 2023 letter providing additional legal arguments regarding why you believe you are entitled to "immediate access" to all documents referenced in the EIR.

O1.79

As you are well aware, this is the same request Adams Broadwell has made to the City on a variety of projects. As always, your firm cites to the **pre-2018** version of CEQA Guideline 15072(g)(4) and essentially pretends that the law did not change in 2018. As I have informed you on every such occasion, Section 15072(g)(4) requires that the City provide all documents "**incorporated by reference**" (as of 2018), **not** all documents "**referenced**" (the pre-2018 standard). In all of the City's environmental documents, Santa Clara incorporates appendices by reference, but never incorporates any other documents by reference. Your firm has had access to the EIR and all appendices for the entire comment period. (Incidentally, the City also produced all "referenced" documents to you over the last several weeks, with the final production on December 18.) The City has satisfied the legal requirements of Guideline 15072(g)(4).

Consistent with this practice, your request for an extension is **denied**.

The only difference for the present application – the "Mission Point" Project located at 3005 Democracy Way – is that rather than simply provide your usual boilerplate request, you made additional arguments for why you believe that the City should produce all documents "referenced," in a separate letter dated December 4, 2023. Your letter argues that (1) even if Guideline 15072(g)(4) changed in 2018, Public Resources Code Section 21092 did not; (2) the Natural Resources Agency issued a November 2018 explanation of the regulatory change that

1500 Warburton Avenue • Santa Clara, CA 95050 • Phone: 408-615-2230 • Fax: 408-249-7846 • SantaClaraCA.gov

Ariana Abedifard, Esq.
 Re: Mission Point Project / Request to Extend Public Comment Period
 December 21, 2023
 Page 2 of 4

you believe supports your position; and (3) you believe that the City *implicitly* incorporated several documents by reference into the EIR, based on a forty-year-old court of appeal case. I respond to each argument below.

1. Public Resources Code Section 21092

The Legislature gave the authority to draft CEQA regulations to the Governor's Office of Planning and Research (OPR) in 1972. Pub. Res. Code § 21083. Consistent with that mandate, OPR has promulgated and regularly updated the CEQA Guidelines for more than 50 years. Although there have been legal challenges to OPR's power to enact these Guidelines, the courts have upheld OPR's authority. See, e.g., *City of Santa Ana v. City of Garden Grove*, 100 Cal. App. 3d 521, 529 (1979) ("Where the Legislature has made the fundamental policy decisions and delegated to some other body the task of implementing those policies under adequate safeguards, there is no violation of the doctrine of nondelegability of legislative power.").

O1.79
 cont'd

Administrative agencies like OPR have significant power to enact regulations defining and interpreting relevant statutes. *Id.* at 529. Here, OPR has done just that, by refining the direction of Public Resources Code § 21092(b)(1) using Guideline Section 15072(g)(4). Your letter suggests that OPR's refinement of Section 21092 is of no legal effect, and that only the text of Section 21092 applies. But if OPR had no authority to enact Guidelines Section 15072, then *all* of the CEQA Guidelines would be unenforceable, including, notably, the Guidelines that give the public the right to comment on Draft EIRs. See, e.g., Guideline § 15105 (setting the public review period for EIRs). If it is your serious assertion that OPR's Guidelines are of no legal effect, then the Guideline giving you the right to comment on the EIR is unenforceable, which would mean that the length of the comment period is immaterial.

2. Natural Resources Agency November 2018 Statement

Next, your December 4 letter selectively quotes from the November 18, 2018 Natural Resources Agency "Final Statement of Reasons for Regulatory Action". However, your selective quotation is severely misleading. Here is the relevant portion you omitted:

This addition is necessary to improve noticing standards, provide internal consistency between sections 15072, 15082 and 15150 of the CEQA Guidelines, **and clarify that CEQA itself does not mandate that a lead agency include every document cited in an EIR for public review.**

(CNRA Final Statement, at 24 (emphasis added)). The text of the Final Statement could not be clearer – the revision to 15072(g)(4) was meant to *limit* the documentation that the City had to produce during the comment period, not require that everything be produced. The Final Statement unambiguously states that Guideline 15072(g)(4) applies only to documents incorporated by reference.

Ariana Abedifard, Esq.
Re: Mission Point Project / Request to Extend Public Comment Period
December 21, 2023
Page 3 of 4

3. Implicit Incorporation

Next, you attempt to avoid this unambiguous language by arguing that the documents in question are "incorporated by reference" not by action of the City, but instead that they are *implicitly* incorporated because of their content: "Because the Phase I ESA provides a portion of the DEIR's overall hazards analysis, it is incorporated by reference . . ." (Dec. 4 letter, at 4.) But there is no legal authority for your argument.

"The phrase 'incorporation by reference' is almost universally understood, both by lawyers and nonlawyers, to mean the inclusion, within a body of a document, of text which, although physically separate from the document, becomes as much a part of the document as if it had been typed in directly." *Republic Bank v. Marine Nat'l Bank*, 45 Cal. App. 4th 919, 922 (1996). It is untenable to believe that all of the documents you listed in your December 4 letter are "as much a part of the document as if [they] had been typed in directly" without an express stated intention by the City to do so. If your interpretation of "incorporation by reference" was valid, one could only imagine would effect it would have on statutes and contracts, when any number of documents could be "incorporated by reference" even when the drafters had no intention of doing so.

O1.79
cont'd

As support for your alternate interpretation of the meaning of "incorporation by reference," you cite to a court of appeal opinion, *Santiago County Water Dist. v. County of Orange*, 118 Cal. App. 3d 818 (1983). In that case, a court found an EIR drafted by a county for a proposed mining operation to be inadequate because it failed to analyze the environmental impacts of supplying the requisite quantity of water to run the mine. The court observed that the water district had not indicated that there was sufficient water to service the mine, *id.* at 830-31, and that even if there was enough water, "the EIR is silent about the effect of that delivery on water service," *id.* at 831. In other words, *no analysis was done* about the impact of the project on water supplies. The case has nothing to do with whether a document was "incorporated by reference" into the EIR or not; rather, the court rejected the EIR because the county failed to do the analysis at all. Here, in contrast, the City has not failed to do any analysis.

The City does not incorporate any documents by reference into its environmental documents other than the appendices listed in the table of contents. As the documents listed in your December 4 action were not incorporated by reference, Guideline Section 15072(g)(4) does not apply to those documents. The review period will not be extended.

Sincerely,



Alexander Abbe
Assistant City Attorney

Ariana Abedifard, Esq.
Re: Mission Point Project / Request to Extend Public Comment Period
December 21, 2023
Page 4 of 4

cc: Andrew Crabtree, Director of Community Development
Hosam Haggag, City Clerk
Glen Googins, City Attorney

Response to Comment Letter O1—Adams Broadwell Joseph & Cardozo, Richard Franco and Ariana Abedifard (letter dated January 2, 2024)

- 01.1 The commenters identify themselves and reiterate portions of the Project description. The comment does not contain questions or concerns regarding the adequacy of the Draft EIR analysis. No revisions to the Draft EIR are required. No substantive response is required.
- 01.2 The commenter asserts that the Draft EIR fails to comply with the California Environmental Quality Act (CEQA) on the grounds that it has an unstable Project description, does not adequately disclose or analyze the Project's significant impacts, and lacks feasible mitigation measures for several impact areas. The contents of those assertions are further discussed throughout the remainder of the comment letter.

The comment raises questions and concerns regarding the adequacy of the Draft EIR analysis. A review of the accuracy of these assertions and associated revisions to the Draft EIR are discussed in the responses below. No revisions to the Draft EIR are required.

- 01.3 The commenter explains their client's (Silicon Valley Residents for Responsible Development) interest in the Project, in addition to the community's. The commenter explains their concern regarding environmental degradation as result of development.

The comment does not contain questions or concerns regarding the adequacy of the Draft EIR analysis. No revisions to the Draft EIR are required. No substantive response is required.

- 01.4 The commenter provides information regarding CEQA requirements.

This specific comment does not contain questions or concerns regarding the adequacy of the Draft EIR analysis but instead introduces the basis for the comments that follow. No revisions to the Draft EIR are required. No substantive response is required.

- 01.5 The commenter references CEQA standards for public review and states that the City did not make all documents referenced or relied upon in the Draft EIR available for public review during the Draft EIR's entire public comment period. The commenter references letters they sent to the City on November 21, 2023 (Exhibit D), requesting access to all documents relied upon in the Draft EIR, a follow-up letter sent to the City on December 4, 2023 (Exhibit E), and another request on December 15, 2023 (Exhibit F). The commenter also references a request for documents that was submitted to the City on November 21, 2023 (Exhibit G). As noted by the commenter, the City provided all documents referenced in the Draft EIR on December 18, 2023. The commenter asserts that by not making all documents and underlying data referenced in the Draft EIR readily available during the entirety of the public comment period, the City has denied members of the public the ability to meaningfully comment on the Draft EIR.

The City's response, dated December 21, 2023, is included as Exhibit H to this comment letter (Response Letter). In its Response Letter, the City explains that the commenter is citing the pre-2018 version of State CEQA Guidelines Section 15072(g)(4) and that the commenter is essentially asserting that the law did not change in 2018. As the City has informed the commenter, Section 15072(g)(4) requires that the City provide all documents "incorporated by reference" (as of 2018), not all documents "referenced" (the pre-2018 standard). As standard practice in all of the City's environmental documents, Santa Clara incorporates appendices by reference but never incorporates any other documents by reference. The commenter had access to the EIR and all

appendices for the entire comment period. The City also produced all “referenced” documents to the commenter on December 18, 2023. The City has satisfied the legal requirements of State CEQA Guidelines Section 15072(g)(4).

Because the City does not incorporate any documents by reference into its environmental documents, other than the appendices listed in the table of contents, and because the documents listed in the December 4, 2023, letter were not incorporated by reference, State CEQA Guidelines Section 15072(g)(4) does not apply to those documents. Therefore, an extension of the comment period was not legally required, and all members of the public were given adequate time to review the Draft EIR and all documents incorporated by reference.

- 01.6 The commenter summarizes, quotes, and cites several cases, as well as State CEQA Guidelines Section 15124 related to the CEQA requirements for a project description, and comments that the Draft EIR does not “clearly or consistently describe the number of employees on the Project site at full build out.” The commenter then states that the Draft EIR used an employee generation rate of one employee per 250 square feet of office/research-and-development (R&D) uses, but the City’s General Plan assumed one employee per 450 square feet of office/R&D uses. The commenter asserts that because the Draft EIR did not use the same employee generation rate, it underestimates impacts. The City is aware of the CEQA requirements for a stable and finite project description and the requirements of State CEQA Guidelines Section 15124 (Project Description), but the City disagrees with the conclusion that the Draft EIR did not clearly or consistently describe the number of employees on the Project site at full build-out or that the approach the City selected and described in the Draft EIR rendered the Project description unstable. CEQA allows a lead agency to select and explain the manner for assessing impacts and does not direct any specific methodology for employment assumptions. The Draft EIR clearly identifies and explains the use and employment generation assumptions in the Draft EIR as well as the purpose of such assumptions on page 2-24 in Table 2-6, page 3.1-7 in footnote 11, page 3.1-11 in footnote 19, page 3.12-8, and Table 5-1 in footnote c.

The City did opt to prepare updated and conservative employment generation assumptions, including for office/R&D. As discussed on page 2-24, Table 2-6 in footnote c, with respect to the “office/R&D” use category that is the subject of the comment, “Permitted uses include, but are not limited to office, R&D, R&D office type and R&D/lab type. No end users have been identified but up to 30% R&D/lab type has been assumed for CEQA purposes. This analysis is conservative because R&D has a lower occupancy rate than accounted for in this calculation.” Similarly, as stated in the referenced Keyser Marston Associates memorandum, “Projected Population and Employment, Mission Point Project” from September 9, 2022 (KM Memo), employment density in office buildings “varies by user and office layout.” Furthermore, “the level of employment in an office building can change over time.” The employment generation assumption was based on “an assumption that the Project is built out primarily as office,” “primarily tech sector occupancy,” and is “conservative.” KM at pages 2-3. The KM Memo also notes that recent Santa Clara EIRs have used a range of employment generation rates (KM Memo, page 3).

As described in the Draft EIR, the City made the determination that, in comparing the Project to General Plan policies and population and housing, it was appropriate to use the General Plan’s own employee assumptions because the Project is being compared to the already-permitted High-Intensity Office/R&D uses on the Project site that have been taken into account in the City’s General Plan policies and Regional Housing Needs Assessment process (see Draft EIR pages 3.12-2 and 3.12-3). The Project’s objective is to consolidate the same amount of planned single-use

office/R&D on a smaller portion of the Project site—specifically, to facilitate the development of new high-density housing that is not currently allowed or included in the City’s Sixth-Cycle Housing Element (Draft EIR page 2-6). For analysis of the Project’s consistency with the General Plan’s land use policies as well as its effect on the city’s population and housing, the most conservative employment assumptions possible were used, which could overstate the Project’s impacts.

The City also notes that the cases cited by the commenter are also distinguishable. *Stopthemillenniumhollywood.com v. City of Los Angeles* (2019), 39, Cal. 5th 1, 8, found the project description unstable when it “did not include any drawings or renderings of what Millennium proposed to build, the number of buildings, their shape and size, their location within the building sites, or the purposes to which they would be put. The only stable and finite description of buildings at the site was the size, location, and purposes of the existing Capitol Records Tower and Gogerty Building.” In *Communities for a Better Environment v. City of Richmond* (2010), 184 Cal. 4th 70, 82, the court found the project unstable when the project description was not clear about the future potential for an oil refinery and “failed to quantify and analyze the crude slate the Refinery currently processes as compared with the Refinery’s ability to run a heavier crude slate once the Project is implemented” and rested on “whether pertinent information was omitted from the EIR.”

In *County of Inyo v. City of Los Angeles* (1977), CA 3rd 185, 190, a Draft EIR was prepared to study a long-term groundwater extraction project that variously described the scope and scale of the overall project and its relationship to the larger Los Angeles Aqueduct system, which directly affected the basic physical characteristics, size, and components of the project, including a lack of clarity regarding “concrete-lining two canals to reduce percolation to the groundwater basin; in years of high runoff, exportation of additional water from the Owens Valley for the purpose of recharging the San Fernando groundwater basin in Los Angeles County; a water conservation program within the City of Los Angeles; rearrangement of Owens Valley reservoir operations in dry years by cutting the export rate as well as the supply of irrigation water within the valley; reduction of stockwater supplied within the Owens River basin from 18,600 to 5,600 acre-feet; extraction of groundwater at a long-term average pumping rate of 140 cfs and a high-year average of 315 cfs for export via the twin aqueducts as well as for in-valley use.”

In *Laurel Heights Improvement Assn. v. Regents of University of California* (1988), 47 Cal. 3rd 376, 396, the court held the project description was inadequate when the regents failed to discuss the future cumulative effects of a component of the whole project—specifically, “the relocation of additional UCSF operations to the Laurel Heights site.” *El Dorado County Taxpayers for Quality Growth v. County of El Dorado* (2004), 122 Cal. 4th 1591, 1598, involved a negative declaration, not an EIR. The court upheld El Dorado County’s decision to limit the project description to the proposed large mining reclamation project, found the plaintiff had “misconstrued the project at issue,” and rejected the argument that failure to include the underlying mining activities rendered the project description and impact analysis unstable. Unlike the project descriptions found deficient in these cases, the Project description in the Draft EIR includes conceptual drawings of the proposed buildings, including their shape, size, and location; clearly articulates the anticipated future potential at the site; consistently describes the various elements of the Project; and discusses all potential cumulative effects. The use of the different employment generation factors is part of the analysis and is not a shifting Project description.

The City disagrees that the Project description is inconsistent in a manner that would affect public participation. To the contrary, the basic components and features of the Project remained accurate, stable, and finite, and the methodology used to assess the impacts of the Project in the Draft EIR was clearly explained throughout for the public. The commenter was readily able to identify the methodology used in the Draft EIR. The CEQA requirement for a stable project description requires “sufficient information about the project to allow the public and reviewing agencies to evaluate and review its environmental impacts...and the ‘main features’ of [a] project” (see *Citizens for a Sustainable Treasure Island v. City & County of San Francisco* [2014], 227 Cal. 4th 1036, 1056 [citing *Dry Creek Citizens Coalition v. County of Tulare* (1999), 70 Cal. App. 4th 20, 28]). The commenter also cites *Citizens for a Sustainable Treasure Island v. City & County of San Francisco* to support its statements, but the facts are also distinguishable. It should be noted that the court upheld the EIR over claims that the project description was unstable (Id. at 1053). In *Citizens for a Sustainable Treasure Island v. City & County of San Francisco*, the plaintiff’s claimed a 20-year long-range development plan for Treasure Island was too conceptual and lacked sufficient project-level details to fully analyze impacts. The court rejected the plaintiff’s claims and found the City “made an extensive effort to provide meaningful information about the project, while providing for flexibility needed to respond to changing conditions and unforeseen events that could impact the Project’s final design.” (Id.)

The commenter also cites *San Joaquin Raptor Rescue Center v. County of Merced* (2007), 149 CA 4th 645, 655, and *City of Santee v. County of San Diego* (1989), 214 Cal. 3rd 1438, 1450, in support of its comment. Both are similarly distinguishable. In *San Joaquin Raptor Rescue Center*, the project description contained inconsistent statements about the potential for an increase in daily or annual production from a mine expansion project and failed to disclose or explain this difference in the EIR. In *City of Santee*, the court held a project description was inadequate when it contained an assumption that an interim jail would be in existence for only a few years, but the Draft EIR contained contradictory statements about the potential for it to continue for a longer time and—importantly—without any explanation to ensure meaningful public disclosure.

The Draft EIR includes an adequate and stable Project description and clearly identified and explained the use of employment generation; therefore, the City disagrees that the Draft EIR requires revision or recirculation. No revisions to the Draft EIR are required.

- 01.7 The commenter states that CEQA requires agencies to consider impacts on land use and planning and that Section 3.1, *Land Use and Planning*, of the Draft EIR relies primarily on determining land use-related impacts of the Project through an assessment of the Project’s consistency with General Plan policies, with the goal of maintaining an adequate jobs/housing balance.

As detailed in Section 3.1, *Land Use and Planning*, although the Project’s analysis does evaluate the Project’s consistency with the General Plan, with emphasis on the jobs/housing balance, the Project’s impact analysis and determination is also based on the Project’s overall consistency with the City’s Zoning Code, Plan Bay Area 2050, and the San José International Airport CLUP. In addition, the land use analysis is based on the Project’s overall consistency with other General Plan goals and policies, such as those related to vehicle miles traveled (VMT) and the City’s Climate Action Plan (CAP), which were informed by the analysis from other Draft EIR resource topics, including Section 3.2, *Transportation*, and 3.4, *Greenhouse Gas Emissions*. The comment does not contain questions or concerns regarding the adequacy of the Draft EIR analysis. No revisions to the Draft EIR are required. No substantive response is required.

- 01.8 The commenter describes the General Plan employee assumption and updated employment assumptions and notes that the Draft EIR relies on the General Plan land use plans and policies related to the City's jobs/housing balance. The commenter states that the Draft EIR land use and planning analysis related to jobs/housing balance assumes a total of 564 employees, as well as the new residents that were not accounted for in the General Plan, and therefore concludes that, upon build-out, the City's jobs/housing ratio would decrease. The comment goes on to state this "completely ignores the actual impact of the Project."

As described in the response to comment 01.6, the City acknowledges that the Draft EIR uses the General Plan employment assumptions to compare the Project for land use and planning purposes, including the City's policies related to the jobs/housing balance, but disagrees that this "ignores" the impacts of the Project. As described in the Draft EIR, the Project requires a General Plan amendment to the existing High-Intensity Office/R&D land use designation, which currently allows only office/R&D uses up to a maximum of 4.2 million square feet on the Project site (2.0 floor area ratio), to consolidate the already-allowed office/commercial on a smaller portion of the Project site; include 1,800 residential units, parks, retail establishments, and childcare facilities; and limit the maximum allowed for office/R&D to 3 million square feet—1.2 million square feet less than currently allowed under the General Plan. The City's Regional Housing Needs Assessment for the Sixth Cycle already assumed 3 million square feet of high-intensity office/R&D on the Project site, with no new housing. Therefore, comparing the General Plan's employee assumptions allows a more accurate comparison of the Project in the context of land use and planning and the City's jobs/housing balance. For an analysis of consistency with General Plan policies, an overstatement of impacts and/or confusion about consistency (or inconsistency) with the General Plan policies could occur if the City were to use a different employee generation rate than that used by the General Plan itself in the development and analysis of those policies. The Draft EIR discloses the methodology; therefore, the Draft EIR is sufficient as an informational document. No revisions to the Draft EIR are required.

- 01.9 The comment states that the Draft EIR concludes the Project will improve the City's jobs/housing balance by assuming an "improperly low number of Project site jobs" above what was assumed in the General Plan and notes that using the "actual" estimates of the number of jobs the Project will create will increase the City's jobs/housing ratio. The commenter asserts that using the Project's updated employment projections, 5,867 new jobs and 1,800 new housing units on the site, calculates to a jobs/housing ratio of 3.28 on the Project site, which would worsen the City's jobs/housing imbalance. The commenter then describes the conclusion of the Draft EIR that the Project would achieve consistency with the General Plan Policies 5.3-1-P18 and 5.10.2-P2 by promoting more housing and maintaining the planned levels of commercial development and that adherence with these policies would ultimately avoid long-distance commutes and associated VMT. The commenter asserts that this conclusion rests on the Draft EIR's employee generation assumptions and is not supported by substantial evidence (see response to comments 01.6 and 01.8).

The Draft EIR does rely on the General Plan's own employee generation assumptions when comparing the Project's consistency with the General Plan policies. Please see response to comment 01.6. The City disagrees, however, that the conclusions in the Draft EIR are not supported by substantial evidence. The State CEQA Guidelines define "substantial evidence" as "enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached" (State CEQA Guidelines, Section 15384, subd. [a]). "A court may not set aside an agency's approval of an EIR on the ground that an opposite conclusion would have been equally or more

reasonable” (*Laurel Heights Improvement Assn. v. Regents of University of California*, supra at 393 [citing *Greenebaum v. City of Los Angeles* (1984), 153 Cal. App. 3d 391, 401–402]). Using this standard, the City concludes that there is substantial evidence to support the use of the General Plan employee assumptions in the comparison of the Project’s consistency with the General Plan land use policies for the reasons explained in response to comment O1.8. No revisions to the Draft EIR are required.

- O1.10 The commenter states that the Draft EIR uses the General Plan employee projections only for the purpose of land use consistency (as opposed to other environmental effects analyzed in other chapters), adding that this distinguishes the CEQA analysis on land use and planning from other impact areas to “justify” using the different employment generation rate. The commenter cites to a quote from the Draft EIR, stating that a land use and planning impact analysis under CEQA must evaluate the consistency of a project with relevant local land use policies that have been adopted with the intent of mitigating or avoiding an environmental impact, adding that all CEQA impact analysis is meant to evaluate a project’s possible impacts on the environment and that there is “no justification” for using different employment assumptions when assessing Project impacts.

The City disagrees with the emphasis and manner in which the comment presents the information but confirms the Draft EIR quotes referenced are accurate. As discussed in responses to comments O1.6, O1.8, and O1.9, the City acknowledges the Draft EIR relies on the General Plan’s own employee generation assumptions when comparing the Project’s consistency with the General Plan policies but concludes it was done in a manner that was clear and disclosed to the public and supported by substantial evidence, as described in response to comment O1.9. Further, the fundamental land use issue is that the existing High-Intensity Office/R&D land use designation allows the same amount of office/R&D use contemplated by the Project, regardless of which employment factor is used. The Project adds residential uses to that development potential, which would improve VMT overall. No revisions to the Draft EIR are required.

- O1.11 The commenter cites to a quote from the Draft EIR that states that the General Plan employment generation rate was used to “ensure a consistent comparison of the General Plan and population and housing assumption.” The commenter also cites to a quote in the Draft EIR that this was selected to “allow a meaningful ‘apples to apples’ comparison...” The commenter states that the Project should have used the Project’s updated employment generation rate.

The City disagrees with the emphasis and manner in which the comment presents the information but confirms the Draft EIR quotes referenced are accurate. The comment repeats and rephrases the substance of comment O1.10. Please see response to comment O1.10. No revisions to the Draft EIR are required.

- O1.12 The commenter states that the Draft EIR should have used the Draft EIR’s updated employment numbers to analyze consistency with the General Plan policies, citing *County of Inyo v. Los Angeles* (1977), 71 Cal. 3d, 185, 197; doing so is essential to providing the public accurate information on the Project’s likely environmental effects. The commenter asserts that the Draft EIR uses an “artificially low employment generation rate in its analysis” of land use impacts associated with the City’s jobs/housing balance and concludes the City must prepare a revised Draft EIR.

Please see response to comment O1.10. The City notes that, as discussed in response to comment O1.6, the cited *County of Inyo* case does stand for the general proposition that an accurate and stable project description is the “sine qua non of an informative and legally sufficient EIR.” The facts of *County of Inyo*, however, are readily distinguishable, as also discussed in response to

comment 01.6. As discussed above in the responses to comments 01.6, 01.8, and 01.9, in this instance, the scope, scale, and components of the Project are clearly and consistently described in the Draft EIR. The City's determination of the use of employment generation rates was clearly identified and explained in the Draft EIR. It allows for meaningful public participation and is supported by substantial evidence. For the reasons discussed previously in the responses to comments 01.6 through 01.12, the City disagrees that a revised EIR is warranted. No revisions to the Draft EIR are required.

- 01.13 The commenter notes that the Draft EIR included a population and housing section to "characterize the potential for Project-induced population, housing and employment changes that may trigger physical environmental effects." The commenter refers to the prior comments regarding land use consistency and employment generation rates and sets forth the population and housing assumptions and calculations in the Draft EIR, noting these are based on the General Plan employment rates.

The comment refers to quotes from the Draft EIR, is general in nature, and does not allege any specific inadequacies in the Draft EIR. To the extent it refers to prior comments regarding land use consistency, please see the responses to comments 01.6 through 01.12. To the extent the commenter's concerns are more specifically detailed elsewhere in the comment letter, the concerns are more specifically addressed in those subsequent responses. No revisions to the Draft EIR are required.

- 01.14 The commenter states that the Draft EIR "improperly assumes" the Project will generate a total of 6,667 office/R&D employees, rather than the 12,564 employees set forth in the Project Description, and concludes that this "artificially reduces" the number of employees and results in housing demand from an additional 5,897 employees, amounting to 3,780 units (5,897/1.56 workers per household). The commenter mentions that the Draft EIR calculated the potential increase in the City's population, based on the additional 544 jobs that were not accounted for in the General Plan, and estimated the need for 43 housing units/93 new residents. The comment goes on to state the resulting housing demand would result in 1,000 new residents. The commenter concludes the Draft EIR underestimates impacts on the City's need for housing units and population growth and must be revised.

This comment repeats and rephrases comment 01.6 and 01.10. Please see the responses to comments 01.6, 01.8, 01.9, and 01.10. For the reasons discussed previously, the City disagrees that a revised EIR is warranted. No revisions to the Draft EIR are required.

- 01.15 The commenter notes that the Project's consistency with General Plan policies related to roadways and public transit relies heavily on the implementation of a Transportation Demand Management (TDM) plan. However, because the TDM plan has not been prepared or disclosed, the commenter asserts the Draft EIR lacks substantial evidence to support this finding.

First, it should be noted that LOS is no longer the metric for transportation impact analyses under CEQA; thus, impacts on the roadway network are not CEQA impacts beyond consideration of whether the Project is consistent with the City's General Plan goals and policies listed in the EIR. Under CEQA, transportation impacts are based on VMT, which is discussed in depth in the EIR and TIA.

Second, the General Plan policies and goals state that projects should "encourage," "promote," and "expand" transportation options but do not require set levels of VMT reduction or public transit

use. In addition, the Project's design (as described in Table 3.2-2) is consistent with the goals and policies of the General Plan because the Project is in a transit-rich location and will include bicycle and pedestrian pathways and other design features that reduce VMT, promote alternative forms of transportation, and lower single-occupancy vehicle use.

As shown in Figure RTC-1, the only General Plan goal that is directive is 5.8.5-GI, which requires development projects to submit a draft TDM plan for consideration during entitlement; the final TDM plan is approved during the building permit stage and prior to issuance of an occupancy permit. Accordingly, the Mission Point Planned Development Rezoning Application, Chapter 2 (Development Plan), Section 2.10 (TDM), describes the Project's TDM strategy. This document sets forth the Project's vehicle trip reduction targets, the Project's intention to form or join a Transportation Management Association (TMA), examples of TDM measures that may be implemented by the Project, and a requirement to include TDM monitoring and reporting. This TDM strategy serves as the draft TDM plan and will be considered during the Project's entitlement hearings. Examples of TDM measures that may be included in the Project's TDM plan include last-mile and long-haul shuttle services, transit subsidies for office workers, rideshare matching programs for all site workers and residents, preferential parking for carpools and vanpools, bikeshare and scooter programs, and parking for carshare service(s). In addition, unbundled parking would be implemented for market-rate residential units, which has been shown to reduce auto ownership and VMT. The City will impose condition(s) of approval on the Project to prepare a TDM plan that is consistent with the goals and policies set forth in the General Plan related to transportation, including the CAP requirements to reduce VMT. The TDM plan is thus a Project design feature. Although the TDM plan is not a mitigation measure required to reduce Project impacts under CEQA, it is included in the MMRP to ensure tracking and enforcement of this component of the Project. Furthermore, Project conditions of approval will set forth requirements for annual TDM monitoring and reporting; thus, the City will oversee the implementation of the TDM plan. Because the Project design has not been completed and future Project tenants are still unknown, it is not possible for the Project to finalize the TDM plan at this time.

Following the standard process established by the City for review of TDM plans, a more detailed TDM plan will be submitted to the City Planning Division with the application for a building permit for each phase of development. The TDM plan will more fully describe TDM measures, including the party responsible for implementing each measure (e.g., developer, tenant, TMA, City). The TDM plan will be subject to review and approval by the City, which will ensure that the Project will be consistent with the Project's TDM strategy submitted with the rezoning application, the City General Plan (to which the CAP is an appendix), and any related conditions of approval.

The following text has been revised on page 3.2-19 of Section 3.2, *Transportation*, in the Draft EIR:

The Project would be consistent with Plan Bay Area 2050 goals and performance targets for transportation system effectiveness. Specifically, the Project would increase non-auto mode share. The Project, as a mixed-use development, would develop new office, residential, retail, community, childcare, and public park uses, thereby reducing demand from single-occupancy vehicles. ~~The Project would also develop and implement a TDM plan to provide trip reduction measures and reduce vehicular traffic in and around the Project site.~~ In addition, the Project site, which is served by public transit facilities, would have bicycle and pedestrian facilities. This would also help to reduce demand from single-occupancy vehicles. The Project would also develop and implement a TDM plan to provide trip reduction measures and reduce vehicular traffic in and around the Project site.

Project Design Feature TRA-1 would require the Project Sponsor to submit a Final TDM plan, which will achieve the VMT reductions set forth in the CAP (Action T-3-1), with the application for a building permit for each phase of the Project.

Project Design Feature TRA-1: Implement a Transportation Demand Management (TDM) Plan in Accordance with the City of Santa Clara 2022 Climate Action Plan

The Project Sponsor shall submit a Final TDM plan subject to approval by the City with the application for a building permit for each phase of the Project. The Final TDM plan will set forth a requirement for the Project Sponsor to form or join a Transportation Management Association (TMA) to facilitate the implementation of various TDM programs and services on behalf of multiple property owners and/or tenants. Furthermore, the TDM plan will set forth requirements for annual TDM monitoring and reporting. Examples of TDM measures that may be included in the Project's TDM plan include:

- Privately operated long-haul commuter shuttle service for office workers with onsite shuttle stops.
- Participation in a City-organized/-operated shuttle service to Caltrain and Bay Area Rapid Transit (BART) stations, with onsite shuttle stops available to all site workers and residents.
- Transit subsidy for office workers.
- Rideshare matching program.
- "Guaranteed ride home" program for all office workers.
- Preferential parking for carpools and vanpools.
- Unbundled parking for market-rate residential units.
- Participation in regional bikeshare and scooter program and/or establishment of onsite bicycle and scooter fleet.
- Bike repair stations and ample bicycle parking.
- Showers and lockers provided in office buildings.
- Real-time transit information displayed on screens throughout the site.
- Onsite parking spaces reserved for car-share service(s) (e.g., ZipCar or equivalent provider).
- Dedicated curb space for ride-hail and taxi-service passenger loading.
- Onsite transportation coordinator.
- Website and marketing program to disseminate information on commute options.
- High-speed internet infrastructure to enable telecommuting.

- Distribution of a TDM information packet to new employees and residents.
- Onsite bicycle and pedestrian network, linking buildings to transit stations and nearby trails.

The City of Santa Clara will review the Final TDM plan to ensure that the proposed TDM measures identified in the plan will achieve the following VMT reductions set forth in the 2022 CAP:

- A 25 percent reduction in Project-based VMT through active TDM measures for large employers with more than 500 employees, including aggressive regulations to reduce parking (Action T-3-1)
- A 20 percent reduction in VMT for multifamily residential, with a 10 percent% reduction through active TDM measures, which may require parking maximums (Action T-3-1)

City approval of the Final TDM plan and issuance of a certificate of occupancy for each phase of the Project will be dependent upon the City finding that the Final TDM plan provides sufficient evidence to demonstrate that the proposed TDM measures will achieve the VMT reductions set forth in the 2022 CAP.

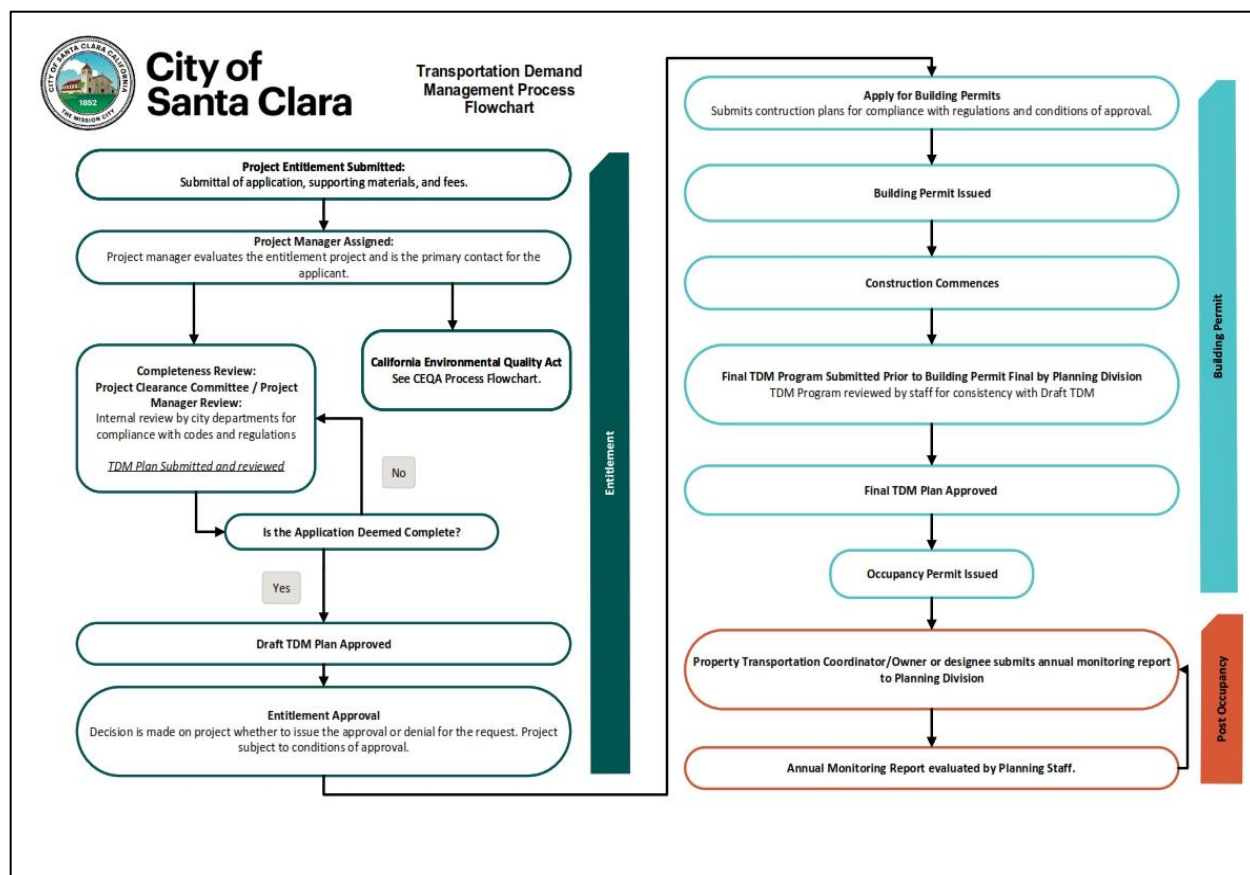


Figure RTC-1: City of Santa Clara TDM Process Flowchart

This revision does not change the analysis or conclusions provided in the Draft EIR.

- 01.16 The commenter notes that the Project's consistency with General Plan policies related to public transit relies largely on the implementation of transit subsidies and last-mile shuttle services included in a TDM plan. Yet, the effect of such measures are unknown; therefore, the commenter asserts that the Draft EIR lacks substantial evidence to support this finding. The commenter states that a revised EIR that discloses mandatory TDM measures and analyses of the Project's impacts on traffic and transit is needed.

See response to 01.15 for a discussion of the Project's consistency with General Plan goals and policies related to VMT and transit, including CAP requirements to reduce VMT, and how the City's process for reviewing and approving TDM plans for new development projects ensures consistency with the goals and policies set forth in the General Plan related to transportation. As described in response to comment 01.15, the Project would implement a TDM plan, including transit subsidies and rideshare options. In addition, the Project site is in a transit-rich area. Nothing in the General Plan requires the Project to guarantee a certain amount of transit usage or VMT reduction; thus, the EIR is not required to demonstrate the specific effects of the TDM plan on Project transportation activities. Further, the Project would have a less-than-significant impact on transportation operations; thus, no mitigation is required. No revisions to the Draft EIR are required.

- 01.17 The comment states that the Draft EIR fails to adequately analyze the Project's impacts related to the displacement of Levi's Stadium parking, citing primarily *Taxpayers for Accountable Sch. Bond Spending v. San Diego Unified Sch. District* ("*Taxpayers*"), 215 Cal. App. 4th 1013,1051 (2013); however, parking, or lack thereof, is not a CEQA impact that is required to be analyzed in an EIR. Although secondary impacts from the potential for cars to circle in a neighborhood looking for parking can be CEQA impacts and necessary to analyze, parking itself is not a CEQA impact. See Public Resources Code Section 21099; *San Franciscans Upholding the Downtown Plan v. City and County of San Francisco* (*San Franciscans*), 102 Cal. App. 4th 656 (2002), and *Save Our Access-San Gabriel Mountains v. Watershed Conservation Auth.* (*Save Our Access*), 68 Cal. App. 5th 8, 27 (2021) (review denied December 15, 2021, upholding the agency's analysis of proposed changes to parking in a recreational area). In *Save our Access*, the court noted:

The CEQA Guidelines in Appendix G list more than 20 potential environmental factors that may affect a project's environmental review. Parking availability has not been on the list since 2009. The California Natural Resources Agency explained the deletion of the question related to parking adequacy from Appendix G in a statement of reasons for amendments to the CEQA Guidelines on greenhouse gas emissions: "The Natural Resources Agency is aware of no authority requiring an analysis of parking adequacy as part of a project's environmental review. Rather, the Agency concurs with the court in the *San Franciscans* case that inadequate parking is a social impact that may, depending on the project and its setting, result in secondary effects. Consistent with existing CEQA Guidelines section 15131(a), deletion of the parking adequacy question from Appendix G checklist will ensure that . . . the focus of the analysis shall be on the physical changes." Specifically, the Appendix G checklist contains questions asking about possible project impacts on air quality and traffic. The agency's statement lends further credence to the point that parking as an environmental factor is dependent "on the project and its setting"

(Id. at 27 and fn 10 ["The agency concluded: 'In sum, nothing in the CEQA statute, or cases interpreting that statute, require an analysis of parking demand. Further, parking supply is not a reasonable proxy for direct physical impacts associated with a project because parking supply may in some circumstances adversely affect air quality and traffic while in other circumstances,

it may create air quality and traffic benefits. Thus, maintaining the parking question in the general Appendix G checklist is not necessary to effectuate the purposes of the CEQA statute.””)).

Currently, as discussed and disclosed in the Draft EIR, the Project site contains surface parking with a total of 3,300 parking spaces available to Levi’s Stadium patrons on event days. The Project anticipates that a portion of the proposed onsite parking supply would be available for use by stadium patrons; however, this would be subject to agreement by office tenants. Because the future tenants of the Project are not known, the number of spaces to be shared with the stadium is still unknown.

The comment states that one secondary impact from loss of parking is the “impact on local traffic” and “traffic congestion.” However, as explained in response to comment 01.14, above, LOS is no longer a recognized CEQA impact. Thus, any LOS impacts from traffic due to searching for parking is not a CEQA impact. And, the Project site is a largely commercial urban infill location near high-quality transit, more similar to the facts of the *San Franciscans* case than the suburban neighborhood in the *Taxpayers* case cited by the comment. Other secondary impacts from the lack of parking can include air quality and GHG impacts; however, the EIR explains that, should the supply of parking spaces for stadium patrons be reduced as phases of the Project are constructed, the Traffic Management and Operations Plan (TMOP) for Levi’s Stadium will be updated to provide an equivalent number of parking spaces for the stadium by partnering with other property owners around the stadium area; providing parking at more distant locations, combined with a shuttle service; or taking other actions, as identified in the EIR for Levi’s Stadium. Further the Mission Point Draft EIR evaluated the air quality and GHG impacts for operation of the Project, which would account for any secondary impacts associated with use of the Project site for stadium parking should that continue.

The comment also states that reduced parking could create public safety impacts but did not specify a safety impact. The commenter merely makes a conclusory statement with no support. The comment mentions noise pollution, presumably from increased traffic, but there is no evidence of an increase in traffic noise from baseline conditions due to a change in location for stadium parking.

The case law cited by commenter does not support assertions regarding parking impacts. First, with the exception of *Taxpayers* (2013) 215 Cal. App. 4th 1013, although parking shortfalls may be inconvenient, all the cases agree that parking shortfalls are not in and of themselves a significant impact and rejected challenges to CEQA documentation based on parking impacts (*San Franciscans* [2002], 102 Cal. App. 4th 656, 697; *Covina Residents for Responsible Dev. v. City of Covina* [2018], 21 Cal. App. 5th 712, 727 [Covina]; *Save Our Access* [2021], 68 Cal. App. 5th 8, 25). The *Taxpayers* case is distinguishable. First, that project was evaluated under a mitigated negative declaration; therefore, the standard of review was the less strict “fair argument test,” which would not apply here. Second, the project in that case resulted in a shortfall in parking due to usage of that project site for sporting events *on that site*. This is different from parking from offsite parking for events at Levi’s Stadium that occurs at the Project site. Ultimately, it is *Levi’s Stadium’s* responsibility through the TMOP to secure adequate parking for its venue, whether that is at the Project site or not. And, if changes or parking for the stadium are proposed, the potential environmental impact would be studied as may be required under CEQA as part of that change when the location of any new parking would be known and not speculative. The Project is more analogous to the project analyzed in *San Franciscans*. There the court noted the project was in an urban environment and limiting parking furthered the policy of promoting public transit (*San*

Franciscans, 102 Cal. App. 4th, at 697). In *Save Our Access*, the court discussed and distinguished the facts in *San Franciscans* and *Taxpayers* (the case cited by the commenter), noting “[t]he project in *San Franciscans* would attract crowds downtown without providing parking for the people who might prefer to drive, but the parking deficits would have the environmentally desirable effect of increasing reliance on mass transit.” (Id. at 25.) In contrast, the court found the project in *Taxpayers* “would attract out-of-area evening crowds to a suburban neighborhood with narrow streets where residents would have a hard time finding parking when they returned home at the end of the day.” (Id. at 25.) Third, *Taxpayers* pre-dates enactment of Public Resources Code Section 21099, which clearly articulated that parking impacts for mixed-use projects are not a CEQA impact.³ At most, the case law supports the assertion that secondary air quality and GHG impacts related to parking can be significant effects. But the City fully evaluated all potential air quality and GHG impacts related to operation of the Project site. Impacts related to operation of the Levi’s Stadium, including any secondary effects from change in stadium parking venues, are properly evaluated in environmental review of the Levi’s Stadium and in any updated TMOP.

The Draft EIR is sufficient as an information document, and the commenter’s request to analyze displacement of Levi’s Stadium parking does not require further analysis.

- 01.18 The comment states that the Draft EIR fails to analyze or disclose the Project’s impacts related to VMT.

The Santa Clara City Council adopted the Transportation Analysis Policy on June 23, 2020. City of Santa Clara, Resolution No. 20-8861, Exhibit A (“Resolution No. 20-8861”); State CEQA Guidelines § 15064.7(b) (A lead agency may adopt a threshold of significance by resolution “developed through a public review process and . . . supported by substantial evidence.”). The threshold may be “a quantitative, qualitative or performance requirement.” State CEQA Guidelines § 15064.7(d)(1). The City has the discretion to determine the “appropriate methodology to evaluate a project’s vehicle miles traveled.” State CEQA Guidelines § 15064.3(b)(4). The City’s policy sets forth screening criteria to identify certain projects that are presumed to have a less-than-significant impact and do not require a VMT analysis. One such category of projects that do not require a VMT analysis are transit-supportive projects. Specific requirements are listed to define projects that qualify as a transit-supportive project. The City’s Transportation Analysis Policy was adopted through a public hearing process at which time the public had the opportunity to comment on the City’s selection of projects that are exempt from conducting a VMT analysis. The opportunity to challenge the City’s decision to exempt transit supportive projects has passed.

The Draft EIR extensively analyzes the Project’s compliance with the City’s criteria for transit supportive projects under the City’s Transportation Analysis Policy. See Draft EIR, Section 3.2 *Transportation*, (Nov. 2023), at pages 3.2-36–40. The analysis for Impact TRA-5 explains that the Project’s proximity to VTA stations and bus routes with 15-minute headways during weekday peak commute periods, density and FAR, multimodal circulation, transit-oriented design elements, affordable housing plan, and reduced parking ratios satisfy the City’s criteria for transit supportive projects. Thus, the Project can be presumed to have a less than significant impact on VMT and no further analysis of VMT is required.

³ Public Resources Code Section 21099 (d) (1): “Aesthetic and parking impacts of a residential, mixed-use residential, or employment center project on an infill site within a transit priority area shall not be considered significant impacts on the environment.”

Although State VMT guidance published by the California Office of Planning and Research describes certain circumstances when a presumption of a less-than-significant impact on VMT may not apply, this State guidance is not regulatory, and local jurisdictions have the authority to adopt their own screening and impact criteria related to VMT. The City's Transportation Analysis Policy clearly states that transit-supportive projects are presumed to have a less-than-significant impact without any exceptions. The Patrick Henry Drive Specific Plan Draft EIR and the Freedom Circle Focus Area and Greystar General Plan Amendment Draft EIR, which are close to the Mission Point Project, each contained a similar finding. Both projects were presumed to have a less-than-significant impact and did not require a VMT analysis because they qualified as transit-supportive projects.

The census data referenced in the comment reflects development patterns found from 2012 to 2016, which differ substantially from the development pattern proposed to be constructed by the Project. The Project would create a high-density, mixed-use development with a comprehensive TDM plan that is in proximity to high-quality public transit. In contrast, the surrounding area includes predominantly low-density office/R&D campuses without a mix of uses. Furthermore, existing developments built prior to 2022 are not subject to the aggressive VMT reductions required of new developments by the City's updated CAP. The census data referenced in the comment reflect a large area within the northern portion of the city, including blocks that are not within walking distance to high-quality transit. Thus, the census data are not a reliable indicator of the transportation mode share for future employees and residents of the Project and are unrelated to the methodology used for calculating a project's VMT impact. In addition, the Project will benefit from recent and planned transportation improvements that did not exist when the referenced census data were collected, including the Silicon Valley Bay Area Rapid Transit (BART) extension, express lanes on State Route 237 and U.S. 101, and numerous bike/pedestrian improvements, including the planned Calabazas Creek Trail and Santa Clara Trail. For all of the above reasons, it is expected that the Project would result in a lower percentage of trips by single-occupant vehicles and shorter vehicle trips than the existing developments in the surrounding area, resulting in lower VMT per capita than other developments in the area.

It should also be noted that neither the number of vehicle trips nor the total VMT generated by the Project constitutes a significant impact under CEQA. According to the City's Transportation Analysis Policy, the evaluation of transportation impacts associated with residential developments is based on VMT per resident compared to the countywide evaluation of VMT per resident. Similarly, the evaluation of transportation impacts associated with employment uses (e.g., office) is based on VMT per employee compared to the existing countywide evaluation of VMT per employee. By its very nature, the Project, as a high-density, mixed-use development in a transit-rich location with an extensive network of bicycle and pedestrian facilities nearby, is exactly the type of development that would result in a reduction in VMT per capita compared to the VMT per capita associated with existing developments. Furthermore, the Project's inclusion of retail and community spaces within a walkable new neighborhood will reduce the need for residents and employees of the Project site to drive to commercial uses in more distant locations. Thus, as a transit-supportive development, it can be concluded that the Project would be below the applicable threshold of significance for VMT. No revisions to the Draft EIR are required.

- 01.19 The comment states that the Draft EIR underestimates Project trip generation and traffic impacts because the Project uses general office building generation rates, but the Project's zoning allows for medical office uses that have higher trip rates.

The commenter's statement links the Project's trip generation and traffic impacts. However, the City's methodology and thresholds for identifying transportation impacts under CEQA are unrelated to the Project's trip generation. While an increase in trip generation could cause an increase in delay and congestion, such measures no longer constitute a significant impact under the new State CEQA guidelines. Instead, the Project's impacts on transportation were evaluated based on the potential impacts on VMT. The Draft EIR concludes that the Project would have a less than significant impact on VMT because the Project qualifies as a transit supportive project. The Project would satisfy the criteria used to define a transit supportive project regardless of the mix of general office, laboratory, and medical offices uses because the criteria are not affected by trip generation. Thus, this comment is not related to the adequacy of the Draft EIR analysis. No revisions to the Draft EIR are required, and recirculation of the Draft EIR is not required.

While not required as part of the CEQA process, a transportation analysis that includes Project trip generation estimates and a level of service analysis was conducted according to the City's Transportation Analysis Policy. The Project trip generation estimates contained in the Transportation Analysis report assume 3,000,000 square feet of general office space. Although the end uses are not yet determined, the proposed PD zoning would also allow for lab/R&D uses and medical office space in place of general office uses. In comparison to general office uses, lab space would generate traffic at a lower rate while medical office space would generate traffic at a higher rate. The City will review subsequent applications for building permits with each phase of development to ensure consistency with the project description as evaluated in the Transportation Analysis. Additional transportation analyses will be required if the proposed mix of uses would generate more trips than previously analyzed.

- 01.20 The comment summarizes conclusions made by the commenter's technical consultant (SWAPE). The comment claims that the Draft EIR's analysis of air quality and greenhouse gas impacts violates CEQA because the Draft EIR fails to adopt all feasible mitigation measures to lessen or avoid significant air quality impacts and relies on nonmandatory Project design features to evaluate the Project's consistency with the City's CAP. The comment claims that, as a result, the Draft EIR should be revised and recirculated to address the purported flaws.

The assertion that the Draft EIR fails to incorporate all feasible mitigation to reduce the Project's air quality impacts is incorrect. As described in more detail in the responses to comments 01.46 and 01.48, the mitigation measures proposed by the commenter do not constitute feasible actions that would quantifiably reduce emissions or health risks beyond the reductions that would already occur under the mitigation measures evaluated in the Draft EIR. No further mitigation is available to reduce the Project's air pollutant emission and health risks. Please refer to the responses to comments 01.46 and 01.48 for a more detailed discussion regarding the Draft EIR's inclusion of all feasible mitigation to reduce the Project's significant air quality impacts.

Similarly, the assertion that the Draft EIR's analysis of the Project's consistency with the City's CAP relies on nonmandatory and unenforceable Project design features is not consistent with the analysis contained in the Draft EIR. As described in response to comment 01.47, all design features referenced in the CAP checklist are fully integrated into the Project design, are required through discretionary approvals prior to Project construction, or are necessary for compliance with existing laws, regulations, and requirements. As a result, the Draft EIR's conclusion that the Project would be consistent with the City's CAP, based on the completed CAP checklist, is substantiated. Please refer to response to comment 01.47 for a more detailed discussion regarding the Draft EIR's analysis of the Project's consistency with the City's CAP.

No revisions to the Draft EIR are required. The comment does not warrant recirculation of the Draft EIR.

- 01.21 The comment summarizes conclusions made by the commenter's technical consultant (SWAPE). The comment correctly notes that the Project would result in emissions of VOCs, nitrogen oxide (NO_x), particulate matter with an aerodynamic diameter of 2.5 microns or less (PM_{2.5}), and particulate matter with an aerodynamic diameter of 10 microns or less (PM₁₀) and that health risks due to these emissions would exceed applicable BAAQMD thresholds. However, the comment asserts that the Draft EIR does not include feasible mitigation measures that would reduce the significant air quality impacts.

Refer to the responses to comments 01.46 and 01.48 for a detailed discussion regarding the Draft EIR's inclusion of all feasible mitigation to lessen the Project's significant air quality impacts. Because no further mitigation is available to reduce the Project's criteria pollutant emissions and health risks, the Draft EIR's conclusion that these impacts would be significant and unavoidable is warranted.

No revisions to the Draft EIR are required.

- 01.22 The comment correctly notes that a lead agency may approve a project with significant environmental effects, provided the project has reduced all significant effects to the greatest extent feasible. The comment asserts that the Draft EIR fails to adopt all feasible mitigation measures to lessen or avoid significant air quality impacts and that the Draft EIR should be revised.

Please refer to the responses to comments 01.46 and 01.48 for a more detailed discussion regarding the Draft EIR's inclusion of all feasible mitigation to lessen the Project's significant air quality impacts. As described in response to comment 01.21, no further mitigation is available to reduce the Project's criteria pollutant emissions and health risks, and the Draft EIR's conclusion that these impacts would be significant and unavoidable is warranted.

No revisions to the Draft EIR are required. The comment does not warrant recirculation of the Draft EIR.

- 01.23 The comment summarizes conclusions made by the commenter's technical consultant (SWAPE), claiming that the Draft EIR's analysis of greenhouse gas impacts relies on nonmandatory and unenforceable Project design features to demonstrate the Project's consistency with the City's CAP.

The assertion that the Project's consistency with the City's CAP relies on nonmandatory and unenforceable Project design features is not consistent with the analysis contained in the Draft EIR. As described in more detail in response to comment 01.47, all design features referenced in the CAP checklist are fully integrated into the original Project design, required through discretionary approvals prior to Project construction, or necessary for compliance with existing laws, regulations, and requirements. Implementation of the CAP measures is also included in the Project's MMRP as a Project design feature for compliance tracking purposes. As a result, the Draft EIR's conclusion that the Project would be consistent with the City's CAP, based on the completed CAP checklist, is substantiated. Please refer to response to comment 01.47 for a more detailed discussion regarding the adequacy of the Draft EIR's analysis of the Project's consistency with the City's CAP.

In Section 3.4, *Greenhouse Gas Emissions*, the second paragraph on page 3.4-24 of the Draft EIR has been revised, as follows:

The City's CAP also contains measures aimed at reducing GHG emissions from other sources of emissions, such as energy consumption, water use, and waste generation. The Project would comply with the required CAP measures aimed at reducing emissions from these sources, as shown in the CAP checklist provided in Appendix 3.4. Thus, as shown in the CAP checklist provided in Appendix 3.4, the Project would be consistent with all required and applicable measures. Furthermore, Project Design Feature GHG-1 would require the Project Sponsor to submit evidence to the City demonstrating that all the referenced CAP checklist actions would be implemented prior to issuance of the first construction or grading permit for the Project.

Project Design Feature GHG-1: Implement Applicable and Mandatory Actions from the City of Santa Clara 2022 Climate Action Plan Compliance Checklist

The Project Sponsor shall ensure that the Project is consistent with the City of Santa Clara's 2022 CAP by including all mandatory and applicable actions from the *City of Santa Clara 2022 Climate Action Plan Compliance Checklist* (CAP Checklist). Inclusion of the following CAP Checklist measures is necessary to ensure the performance standard is met:

- B-1-5: Reach codes for new construction
- B-2-3: Energy-efficient and electric-ready building code
- T-1-2: EV charging for all new construction
- T-2-1: Bicycle and pedestrian master plan implementation
- T-3-1: TDM plan requirements
- T-3-3: Transit-oriented development (projects within 0.5 mile of transit corridor only)
- T-3-5: Transportation analysis policy compliance
- M-1-1: Compliance with State solid waste ordinances
- N-1-1: Right-of-way tree planting (residential projects only)
- T-2-3: Bike and shared-mobility improvements
- M-3-1: Reuse of salvageable building materials
- N-3-3: Water-efficient landscaping requirements
- N-3-5: Recycled water connection requirements
- C-2-2: Onsite and natural stormwater systems
- M-3-4: Carbon-smart building materials

The Project Sponsor would also include the following five optional actions from the CAP Checklist:

- B-3-5: Local grid resiliency and energy storage improvements (optional)
- T-3-4: Telework (optional)
- N-3-4: Community water portfolio diversion (optional)

- T-2-2: Curb management improvements (optional)
- N-2-3: Sustainable planting guide (optional)

The Project Sponsor will submit evidence to the City demonstrating that each of the CAP Checklist actions listed above would be implemented prior to issuance of the first construction or grading permit for the Project.

This revision does not change the analysis or conclusions provided in the Draft EIR. The comment does not warrant recirculation of the Draft EIR.

- 01.24 The commenter states that the Project's consistency with the City's CAP has not been evaluated properly because the TDM plan for the Project has not been disclosed. The commenter asserts it is impossible to evaluate whether the TDM measures can achieve the VMT reductions required by the CAP.

See the responses to comments 01.15 and 01.16, which describe the Project's TDM strategy and how the City's process for reviewing and approving TDM plans for new development projects ensures consistency with the goals and policies set forth in the General Plan related to transportation, including the VMT reductions required by the CAP (twenty-five percent reduction in VMT). No revisions to the Draft EIR are required.

- 01.25 The comment summarizes conclusions made by the commenter's technical consultant (Jack Meighan). The comment claims that the Draft EIR's analysis of noise impacts is inadequate, asserting that the Draft EIR applies an improper metric to evaluate noise generated by construction truck activities and relies on an unsupported significance threshold to evaluate vibration generated by nighttime construction activities.

Please refer to the responses to comments 01.34 through 01.40 for detailed discussion regarding the suitability of the noise metric for evaluating construction haul truck noise and the nighttime vibration criteria applied in the Draft EIR's analysis of the Project's noise impacts. As described in the responses to comments 01.34 through 01.40, the metrics and criteria used in the Draft EIR to evaluate construction haul truck noise and nighttime vibration impacts, respectively, are supported by substantial evidence, and the Draft EIR's conclusions that noise impacts from construction truck activities and vibration impacts from nighttime construction would be less than significant are appropriate.

No revisions to the Draft EIR are required. The comment does not warrant recirculation of the Draft EIR.

- 01.26 The comment claims that the Draft EIR applies an improper metric to evaluate noise generated by construction truck activities; as a result, the Draft EIR's conclusion that noise generated by construction truck activities would be less than significant is incorrect. The comment summarizes conclusions made by the commenter's technical consultant (Jack Meighan), including that worst-case daytime and nighttime noise levels from construction haul trucks would result in significant impacts, based on hourly noise levels estimated by the commenter's technical consultant. However, as described in response to comment 01.35, analyzing noise from construction truck activities using the peak-hour equivalent sound level (L_{eq}) would be speculative because peak-hour truck volumes are not known at this time. Instead, the Draft EIR uses the day-night level (L_{dn}) to evaluate noise levels resulting from construction truck activity, which is appropriate, given construction haul truck trips are expected to occur throughout the day, with limited truck trips occurring during nighttime construction activities,

as described in response to comment 01.34. Please refer to the response to comment 01.34 for a more detailed discussion regarding the Draft EIR's appropriate use of L_{dn} as a metric for quantifying noise levels resulting from construction truck activity. Moreover, as described in the responses to comments 01.37 and 01.38, the commenter's claims that peak-hour daytime and nighttime construction truck activities would result in L_{eq} exceedances are based on the assumption that 450 truck trips could occur in 1 hour of daytime construction and 74 truck trips would occur in 1 hour of nighttime construction. These assumptions are unreasonable. Please refer to the responses to comments 01.37 and 01.38 for detailed explanations of how the commenter's assertions that construction truck activities would result in significant daytime and nighttime noise levels are based on flawed assumptions.

No revisions to the Draft EIR are required. The comment does not warrant recirculation of the Draft EIR.

- 01.27 The comment claims that the Draft EIR applies an overly permissive threshold to evaluate vibration generated by nighttime construction activities; as a result, the Draft EIR's conclusion that vibration generated by nighttime construction activities would be less than significant is incorrect. Specifically, the comment contends that the Draft EIR applies a vibration threshold of 0.1 inch per second (in/sec), described as "strongly perceptible," which is inappropriate for evaluating nighttime vibration. Further, the comment summarizes conclusions made by the commenter's technical consultant (Jack Meighan), including that nighttime construction would result in a significant vibration impact, based on a threshold with a peak particle velocity (PPV) of 0.01 in/sec.

Response to comment 01.40 includes a detailed discussion regarding the Draft EIR's use of thresholds for evaluating vibration resulting from nighttime construction activities. As noted in response to comment 01.40, the assertion that the Draft EIR incorrectly applies a vibration threshold of 0.1 in/sec, described as "strongly perceptible," is unfounded because the Draft EIR does not apply this threshold. Rather, on page 3.6-41 in Section 3.6, *Noise*, the Draft EIR concludes that nighttime construction activities would result in perceptible but not distinctly perceptible nighttime vibration. Contrary to the comment, the Draft EIR makes no reference to the "strongly perceptible" vibration classification in its analysis of vibration levels from Project construction. Moreover, as described in response to comment 01.40, the threshold recommended by the commenter of 0.01 in/sec for intermittent sources, or a vibration decibel level (VdB) of 72 for Category 2 receptors, defined as locations where people typically sleep, is insufficient for evaluating vibration resulting from nighttime construction activities because it is unlikely that nighttime construction would result in vibration events frequently enough to warrant the use of this threshold. Response to comment 01.40 describes why the vibration threshold used in the Draft EIR is appropriate for evaluating vibration impacts from nighttime construction activities at new onsite receptors.

No revisions to the Draft EIR are required.

- 01.28 The commenter states that the Draft EIR includes mitigation measures that defer the formulation of specifics without showing that it is impractical or infeasible to provide those details at this stage and that these measures call for the future preparation of basic studies to evaluate the Project's impacts. The commenter then asserts that the Draft EIR does not disclose the severity of the Projects impacts.

The commenter does not provide any specific examples in this comment of mitigation measures without specifics or impacts that are not fully disclosed. Specific topics and mitigation measures

are discussed in subsequent comments, and responses are provided below in the responses to comments 01.29 and 01.30.

The essential rule for proper deferral of the specifics of mitigation was established in *Sacramento Old City Assoc. v. City Council of Sacramento* (1991), 229 Cal. App. 3d 1011. Under the reasoning established in this case and cited in many decisions since, in order to meet CEQA's requirements, a mitigation measure must meet one of the following basic conditions:

- The agency must commit itself to the mitigation by identifying and adopting one or more mitigation measures for the identified significant effect. The mitigation measure must also set out clear performance standards for what the future mitigation must achieve.
- Alternatively, the agency must provide a menu of feasible mitigation options from which the applicant or agency staff members can choose in order to achieve the stated performance standards.

All mitigation measures in the Draft EIR meet these requirements, as explained in more detail in the responses to the comments below. Therefore, the Draft EIR fully discloses the severity of the Projects impacts. No revisions to the Draft EIR are required.

- 01.29 The comment indicates that, to reduce the Project's water quality impacts to less than significant, the Draft EIR proposes mitigation measures calling for the development of plans to reduce impacts; the comment includes excerpts from the mitigation measures on page 3.10-27 of the Draft EIR, which refer to preparation of a hydraulic study to evaluate existing and proposed stormwater drainage systems (as part of Mitigation Measure WQ-3.1) and preparation and implementation of a construction-period Stormwater Drainage Control Plan (as part of Mitigation Measure WQ-3.2). The comment indicates that both mitigation measures rely on plans that the Project Sponsor would develop later and that the results of the hydraulic study would provide information needed to understand potential hydrological and water quality impacts of the Project. The comment indicates that the Draft EIR has not evaluated whether the existing and proposed stormwater drainage systems that would receive runoff from the Project site would be adequate and notes that deferring these studies precludes the understanding of potential impacts prior to Project approval. Therefore, the hydraulic study should be completed now.

The comment indicates that, according to Mitigation Measure WQ-3.1, the Project may require modifications, depending on the results of the hydraulic study, and that such modifications to the Project would not be binding. The commenter claims is unclear if they would be enforceable.

The comment indicates that Draft EIR conflicts with State CEQA Guidelines because it does not explain why it is infeasible or impractical to perform the studies at this stage of environmental review or incorporate the specific details of the plans in the mitigation measures. The comment indicates that the Draft EIR should be revised after completing the hydraulic study and Stormwater Drainage Control Plan, analyzing and disclosing the Project's hydrological impacts, and committing to specific and definite mitigation measures, as necessary, to reduce such impacts to the greatest extent feasible.

The comment makes multiple references to potential water quality impacts while referring to Mitigation Measures WQ-3.1 and WQ-3.2 of the Draft EIR; however, potential impacts of the Project related to water quality are addressed under Impact WQ-1, Water Quality, presented on pages 3.10-17 to 3.10-22 of the Draft EIR, and generally not addressed by Mitigation Measures WQ-3.1 and WQ-3.2, which concern potential impacts related to altering drainage patterns and

flooding, as presented on pages 3.10-27 and 3.10-28 of the Draft EIR. The only potential water quality impact addressed by Mitigation Measure WQ-3.2 is related to prohibiting the storage of hazardous materials within special flood hazard zones, as described on page 3.10-28 of the Draft EIR.

As discussed on page 3.10-24 of the Draft EIR and in the response to comment A7.7, above, stormwater runoff from the Project site under existing and proposed conditions was analyzed in the Draft EIR; it was found that the Project would reduce runoff compared to the existing condition. As discussed on page 3.10-27 of the Draft EIR, the Project would include various improvements to stormwater drainage systems to account for altered drainage conditions under the Project; however, the precise timing for stormwater drainage system construction has not been defined. If modifications to the existing stormwater drainage systems are not appropriately designed or constructed at the appropriate times with regard to the different phases of Project construction, as well as weather conditions (e.g., rain), then runoff from the Project site could exceed the capacity of existing or proposed stormwater drainage systems, flooding could occur onsite or offsite, and floodflows could be impeded or redirected by the Project. As discussed on page 3.10-29 of the Draft EIR, although the Project would result in an overall decrease in stormwater runoff from the Project site compared to the existing condition, differing amounts of runoff from the Project site could be conveyed to different storm drain systems compared to the existing condition; therefore, runoff from the Project site could exceed the capacity of existing or proposed stormwater drainage systems if the Project is not appropriately designed and constructed.

As discussed above, the Draft EIR did include an analysis of whether existing and proposed stormwater drainage infrastructure would be adequate with respect to receiving runoff from the Project. Because the Project would reduce overall runoff compared to the existing condition, any potential impacts related to exceeding storm drain capacity and flooding (if identified through more detailed analysis) would be localized issues within or adjacent to the Project site that could be addressed through Project modifications, as required by Mitigation Measures WQ-3.1 and WQ-3.2, presented on pages 3.10-27 and 3.10-28 of the Draft EIR.

The commenter does not indicate why they believe that Mitigation Measures WQ-3.1 and WQ-3.2 are not binding or enforceable. As described on pages 3.10-27 and 3.10-28 of the Draft EIR, Mitigation Measures WQ-3.1 and WQ-3.2 include requirements that are both binding and enforceable because City permits, which would be necessary for construction of the Project, would not be issued unless specific performance standards are achieved, as required to be demonstrated through detailed hydraulic evaluation. These performance standards would include demonstrating that the Project design would achieve City requirements related to conveying 10-year peak runoff and flows during 100-year flood events, demonstrating that construction-period stormwater runoff would not increase beyond the existing condition, or ensuring that existing/proposed offsite stormwater drainage systems would have the capacity necessary to convey increased runoff. As described on page 3.10-27 of the Draft EIR, Mitigation Measure WQ-3.1 includes very specific details on what must be included and analyzed in the hydraulic study. It includes specific examples of the types of feasible modifications that could be made to the Project design, if necessary, to address potential drainage related impacts, including additional stormwater retention systems and/or changing the size and location of proposed storm drain systems on the Project site. As described on page 3.10-28 of the Draft EIR, Mitigation Measure WQ-3.2 includes very specific details on what must be included and analyzed in the construction-period Stormwater Drainage Control Plan. It includes requirements for specific

construction-period actions, thereby ensuring that such actions would not impede stormwater flows. These include timing restrictions, along with implementing methods for rerouting flows from existing storm drain systems and prohibiting the placement of features that could impede or redirect floodflows within special flood hazard zones.

As discussed above, the Draft EIR indicated that the precise timing for stormwater drainage system construction has not been defined. Potential impacts related to drainage alterations would be dependent on such timing, with consideration of Project phasing and weather conditions. Detailed timing and phasing information, as well as detailed design plans, goes beyond the level of detail that is typically available during the environmental review process. It would be infeasible to generate and impractical to assume during the preliminary Project design phase; therefore, the potential for localized drainage capacity issues/flooding to occur under the Project must be further evaluated when detailed timing/phasing information and design plans are available. If the potential for drainage capacity issues/flooding is identified, it would be appropriately addressed by Mitigation Measures WQ-3.1 and WQ-3.2, presented on pages 3.10-27 and 3.10-28 of the Draft EIR. No revisions to the Draft EIR are required.

- 01.30 The comment indicates that Mitigation Measure GEO-3.1 on page 3.9-18 of the Draft EIR directs the Project Sponsor to define in the Project plans the extent and depth of the fill materials that would be placed on the Project site. The comment then includes this text: “To do so, it directs the Project Sponsor to hire a qualified geotechnical engineer to prepare a design-level geotechnical report for the Project.” The comment indicates that the geotechnical report is fundamental to assessing the Project’s environmental impacts.

The comment indicates that the geotechnical report must include settlement analysis and includes an excerpt from Mitigation Measure GEO-3.1 regarding requirements for a pre-construction survey and settlement monitoring if settlement analysis indicates that existing offsite improvements could be adversely affected by settlement as a result of the Project. The comment asserts that the geotechnical report should have already been completed; if it had identified a need for a pre-construction survey and settlement monitoring to reduce adverse impacts, that could have been incorporated as a binding mitigation measure.

The comment indicates that the Draft EIR does not demonstrate why it is infeasible to perform the settlement analysis and include specific details regarding mitigation at this stage. The comment indicates that the Draft EIR fails to disclose the severity of the Project’s impacts and the probability of their occurrence before the Project is approved.

The comment implies that the design-level geotechnical report would define the extent and depth of the fill materials that would be placed on the Project site; however, as described on page 3.9-18 of the Draft EIR, Mitigation Measure GEO-3.1 requires to the Project Sponsor to define the extent and depth of the fill materials that would be placed on the Project site in the Project plans. The design-level geotechnical report would be required to include an analysis of the potential total and differential settlement associated with the placement of defined amounts of fill material, among other requirements.

As described on page 3.9-1 of the Draft EIR, a preliminary geotechnical evaluation has been prepared for the Project to develop preliminary conclusions and recommendations regarding appropriate foundation types, design parameters, and seismic coefficients for Project development. Performing an environmental review based on preliminary geotechnical reports and recommendations is standard practice because certain details of a project’s final design

(e.g., final grading plans, dewatering/shoring plans, building loads) are often not available during the preliminary design phase when environmental review is typically performed. As described on page 3.9-17 of the Draft EIR, information regarding structural loads and the depth of basements was not available when the estimated settlement figures in the preliminary geotechnical evaluation were developed; the settlement estimates can be refined once building designs, loads, and grading plans are available. Generating final building designs, loads, and grading plans during the preliminary Project design phase would be infeasible to generate and impractical to assume. The preliminary geotechnical evaluation for the Project includes enough information regarding geologic and soil conditions at the Project site to adequately evaluate the potential impacts of the Project related to geology and soils and ensure that the potential impacts would be mitigated to the greatest extent feasible through implementation of detailed mitigation measures that include specific requirements, performance standards, and examples of feasible mitigation approaches, as required by CEQA.

The commenter does not indicate why Mitigation Measure GEO-3.1 is not binding. As described on page 3.9-18 of the Draft EIR, Mitigation Measure GEO-3.1 includes requirements that are binding because City permits, which would be necessary for the Project, would not be issued unless specific performance standards are achieved. These performance standards would include developing allowable settlement amounts, demonstrating through settlement analysis whether the Project could result in an exceedance of allowable settlement amounts, describing measures that would be implemented to ensure that potential damage from settlement would be minimized and addressed during construction prior to the City issuing grading or building permits, and performing a pre-construction survey, settlement monitoring, and repairs, as necessary, prior to the City issuing building occupancy permits. Therefore, the Draft EIR does not improperly defer analysis and is compliant with CEQA.

01.31 The commenter asserts that the Draft EIR is inadequate under CEQA for the reasons stated above in the comment letter and that it must be recirculated. This is a summary conclusion comment and does not present new information not already responded to in the responses to comments above. As described in the responses to comments 01.1 through 01.30, the Draft EIR is legally adequate under CEQA, provides acceptable mitigation measures, and fully discloses the Projects impacts. Recirculation of the Draft EIR is not required.

01.32 The commenter introduces a letter from Wilson IHRIG by discussing the Draft EIR's acoustic analysis and expressing concern regarding nearby sensitive uses. In addition, the commenter discusses his or her credibility in the field of acoustics.

The comment does not contain questions or concerns regarding the adequacy of the Draft EIR analysis. No substantive response is required.

01.33 The comment summarizes adverse health effects associated with exposure to elevated noise levels and claims that an adequate evaluation of noise impacts must correlate noise levels with impacts on human health.

In response to this comment, the following text will be added after the subsection titled "Groundborne Vibration" in Section 3.6, *Noise*, of the Draft EIR on page 3.6-4:

Human Response to Noise

Noise can have a range of effects on people, including hearing damage, sleep interference, speech interference, performance interference, physiological responses, and annoyance. Each of these is briefly described below.

- **Hearing Damage.** A person exposed to high noise levels can suffer either gradual or traumatic hearing damage. Gradual hearing loss occurs with repeated exposure to excessive noise levels and is most commonly associated with occupational noise exposures in heavy industry or other very noisy work environments. Traumatic hearing loss is caused by sudden exposure to an extremely high noise level, such as a gunshot or explosion at very close range. The potential for noise-induced hearing loss is not generally a concern in typical community noise environments. Noise levels in neighborhoods, even in very noisy airport environs, are not loud enough to cause hearing loss.
- **Sleep Interference.** Exposure to excessive noise levels at night has been shown to cause sleep disturbance. Sleep disturbance refers not only to awakening from sleep but also to effects on the quality of sleep such as altering the pattern and stages of sleep. World Health Organization guidelines recommend noise limits of 30 dBA L_{eq} (8-hour average) for continuous noise and 45 dBA L_{max} for single sound events inside bedrooms at night to minimize sleep disturbance.^{1b}
- **Speech Interference.** Speech interference can be a problem in any situation where clear communication is desired but is often of particular concern in learning environments (such as schools) or situations where poor communication could jeopardize safety. Normal conversational speech inside homes is typically in the range of 50 to 65 dBA,^{1c} and any noise in this range or louder may interfere with speech. As background noise levels rise, the intelligibility of speech decreases and the listener fails to recognize an increasing percentage of the words spoken. A speaker may raise his or her voice in an attempt to compensate for higher background noise levels, but this in turn can lead to vocal fatigue for the speaker.
- **Performance Interference.** Excessive noise has been found to have various detrimental effects on human performance, including information processing, concentration, accuracy, reaction times, and academic performance. Intrusive noise from individual events can also cause distraction. These effects are of obvious concern for learning and work environments.
- **Physiological Responses.** Acute noise has been shown to cause measurable physiological responses in humans, including changes in stress hormone levels, pulse rate, and blood pressure. The extent to which these responses cause harm or are signs of harm is not clearly defined, but it has been postulated that they could contribute to stress-related diseases, such as hypertension, anxiety, and heart disease. However, research indicates links between environmental noise and permanent health effects are generally weak and inconsistent. Statistically significant health risks have been found for extended exposure to very high noise levels, such as for workers exposed to high levels of industrial noise for 5 to 30 years.^{1d}

- **Annoyance.** The subjective effects of annoyance, nuisance, and dissatisfaction are possibly the most difficult to quantify, and no accurate method exists to measure these effects. This difficulty arises primarily from differences in individual sensitivity and habituation to sound, which can vary widely from person to person. What one person considers tolerable can be unbearable to another of equal hearing acuity. An important tool in estimating the likelihood of annoyance due to a new sound is by comparing it to the existing baseline or “ambient” environment to which that person has adapted. In general, the more the level or tonal (frequency) variations of a sound exceed the previously existing ambient sound level or tonal quality, the less acceptable the new sound will be.

In most cases, effects from sounds typically found in the natural environment would be limited to annoyance or interference. Physiological effects and hearing loss would be more commonly associated with human-made noise, such as in an industrial or occupational setting.

^{1b} Berglund, B., T. Lindvall, D. H. Schwela, and World Health Organization. 1999. *Guidelines for Community Noise*. Available: <https://iris.who.int/bitstream/handle/10665/66217/a68672.pdf?sequence=1>. Accessed: January 2024.

^{1c} Pearsons, K. S., R. L. Bennett, and S. A. Fidell. 1977. *Speech Levels in Various Noise Environments*. Office of Health and Ecological Effects, Office of Research and Development, U.S. EPA.

^{1d} Berglund, B., T. Lindvall, D. H. Schwela, and World Health Organization. 1999. *Guidelines for Community Noise*. Available: <https://iris.who.int/bitstream/handle/10665/66217/a68672.pdf?sequence=1>. Accessed: January 2024.

This revision does not change the analysis or conclusions provided in the Draft EIR.

- 01.34 The comment claims that the Draft EIR fails to adequately evaluate the effects of noise caused by construction truck activity at offsite receptors by using L_{dn} as a metric for quantifying offsite noise levels associated with construction truck activity, based on the assertion that L_{dn} is not an appropriate metric for temporary sources. In addition, the comment states that the L_{dn} metric is typically used for “overall traffic analysis.”

The commenter’s assertion that L_{dn} is not an appropriate metric for quantifying noise levels from construction truck activity is incorrect. Construction haul trips would be dispersed throughout the day, over 11 hours of potential construction activity, with a limited number of truck trips occurring during nighttime construction activities. Construction haul trucks would not be excessively concentrated in short periods of time because the logistical coordination required to access the site limits the amount of truck traffic that can occur. Construction truck traffic may not be distributed exactly uniformly throughout the work day; however, such uniformity is not a prerequisite for using the L_{dn} metric. This point is illustrated by the commenter because the logic of the commenter's assertion that the L_{dn} metric is typically used for overall traffic analysis but not for noise sources that have peak hours is not consistent. Traffic patterns comprise peak times of the day when volumes are higher, such as during typical rush-hour periods. Thus, “overall traffic analysis” is a source with peak hours, yet the commenter indicates that using the L_{dn} metric for this type of analysis is appropriate. Consequently, it is also appropriate to use the L_{dn} metric to evaluate construction haul truck traffic, particularly because construction haul truck trips are

expected to operate continuously throughout the day, with limited truck trips also occurring during nighttime hours. Therefore, L_{dn} is an appropriate metric to use and is not “improper.”

The Draft EIR’s analysis of noise from construction haul trucks conservatively evaluated the number of one-way truck trips that could occur on a worst-case day, though there would be substantially fewer truck trips during most of the construction period. Moreover, the analysis conservatively assumed that 100 percent of haul trucks would travel east on Old Glory Lane, then north on Great America Parkway, en route to Stevens Creek Quarry or Zanker Recycling, though it is expected that only a portion of the total number of haul trucks would access these facilities. Thus, even when applying conservative assumptions that could result in overstated noise levels, the Draft EIR shows that noise impacts related to construction haul truck activity would be less than significant.

No revisions to the Draft EIR are required.

- 01.35 The comment claims that peak-hour L_{eq} is a more appropriate metric for quantifying offsite noise levels from construction truck activity because it accounts for “unequal trip distribution, where an uneven number of trips affects one period significantly more than other periods.” The commenter also refers to a noise ordinance from the City of Santa Clarita; however, the Project site is in Santa Clara; thus, the ordinances of the City of Santa Clarita have no relevance to the Project.

The Draft EIR uses L_{dn} to evaluate noise levels resulting from construction truck activity, which is appropriate, given that construction haul truck trips are expected to occur throughout the day, with only a limited number of truck trips occurring during nighttime construction, as described in response to comment 01.34. Further, as noted in response to comment 01.34, there is a contradictory assertion in the commenter’s logic because “overall traffic analysis,” for which the commenter states that L_{dn} is an appropriate metric, is itself made up of periods of unequal trip distribution (i.e., during peak hours). Construction truck traffic is similar in that traffic volumes may not be distributed exactly uniformly across the workday, but L_{dn} is nevertheless an appropriate metric for the reasons described in response to comment 01.34. In addition, peak-hour construction haul truck volumes are not known at this time. It would be speculative to assume an exact peak-hour truck trip number. As such, analyzing noise from construction truck activities using peak-hour L_{eq} would be speculative and may not provide an accurate representation of potential impacts.

No revisions to the Draft EIR are required.

- 01.36 The comment claims that the Draft EIR’s use of L_{dn} as a metric for quantifying offsite noise levels associated with construction truck activity is inappropriate because L_{dn} does not account for large changes that can occur over multiple hours. The comment also claims that the Draft EIR assumes that the truck traffic will be evenly distributed over 24 hours and that a worst-case scenario may occur during the nighttime hours.

As described in the responses to comments 01.34 and 01.35, the Draft EIR uses L_{dn} to evaluate noise levels resulting from construction truck activity, which is appropriate, given that construction haul truck trips are expected to occur throughout the day, with only a limited number of truck trips occurring during nighttime construction. Further, the commenter’s assertion that the Draft EIR assumes that truck traffic will be evenly distributed over 24 hours is not correct. The commenter, in comment 01.34, states that L_{dn} is typically used for “overall traffic analysis,” which is contradictory to the assertion in comment 01.36 that using the L_{dn} metric

implies that traffic is evenly distributed over 24 hours. Traffic on roadways varies by hour of the day, with peak volumes occurring during the typical rush-hour periods. Thus, contrary to the commenter's assertion, the L_{dn} metric is used in many situations where traffic volumes are not evenly distributed throughout the day. The assertion that the L_{dn} metric is not appropriate to use for construction haul truck traffic because there may be peak hours when volumes are higher is thus incorrect, based on the commenter's own separate assertion that such a metric is appropriate for "overall traffic analysis." In addition, analyzing noise from construction truck activities using peak-hour L_{eq} would be speculative because peak-hour truck volumes are not known at this time.

No revisions to the Draft EIR are required.

- 01.37 The comment estimates that the quietest peak-hour L_{eq} noise level measured near the Project site would be exceeded by 3 decibels (dB) with the addition of 450 truck trips per hour, or 65 percent of the maximum number of haul trips per day, implying that peak-hour daytime construction truck activities could result in significant noise levels.

The claim that peak-hour daytime construction truck activities would result in an L_{eq} exceedance, based on the assumption that 450 truck trips, or 65 percent of total daily trips, could occur in 1 hour of daytime construction is not a reasonable assumption. The assumption that 450 truck trips would occur in 1 hour of daytime construction implies that approximately 7.5 trips would occur per minute, or one trip every 8 seconds, which is not logistically manageable and thus not a reasonable assumption for daytime peak-hour truck activities. As such, the commenter's assertion that a 3 dB increase could occur is based on an unreasonably high potential peak-hour truck volume. The assertion does not constitute reliable evidence that peak-hour noise levels from construction truck activities would be significant. CEQA requires an analysis of reasonably foreseeable impacts from the Project, not those that are speculative or unlikely to occur (State CEQA Guidelines Section 15064[d]).

Please refer to the responses to comments 01.34 and 01.35 for a detailed discussion of the Draft EIR's appropriate use of L_{dn} instead of peak-hour L_{eq} to evaluate noise impacts from construction truck activity.

No revisions to the Draft EIR are required.

- 01.38 The comment estimates that the quietest noise level measured near the Project site would be exceeded by 3 dB with the addition of 74 truck trips per hour, or 11 percent of the maximum number of haul trips per day, implying that nighttime construction truck activities could result in significant noise levels. The comment also cites the lowest recorded hourly measurement from Table 3.6-6 of the Draft EIR.

The claim that nighttime construction truck activities would result in an L_{eq} exceedance, based on the assumption that 74 truck trips, or 11 percent of total daily trips, would occur in 1 hour of nighttime construction, is not a reasonable assumption. The assumption that 74 truck trips would occur in 1 hour of nighttime construction implies that approximately one trip would occur per minute, which is not a reasonable frequency for off-peak nighttime construction activities. As such, the comment's assertion that a 3 dB increase could occur is based on an unreasonably high potential hourly nighttime truck volume. The assertion does not constitute reliable evidence that hourly nighttime noise from construction truck activities would be significant. CEQA requires an analysis of reasonably foreseeable impacts from the Project, not those that are speculative or unlikely to occur (State CEQA Guidelines Section 15064[d]).

Please refer to the responses to comments 01.34 and 01.35 for a detailed discussion of the Draft EIR's appropriate use of L_{dn} instead of peak-hour L_{eq} to evaluate noise impacts from construction truck activity.

No revisions to the Draft EIR are required.

- 01.39 The commenter claims that worst-case and nighttime offsite truck trips could result in significant impacts and therefore should be studied further. The comment suggests that, if impacts are found, mitigation should be implemented to reduce noise levels. However, as described in the responses to comments 01.37 and 01.38, the commenter's claims that peak-hour daytime and nighttime construction truck activities would result in an L_{eq} increase of more than 3 dB, assuming that 450 truck trips could occur in 1 hour of daytime construction and 74 truck trips would occur in 1 hour of nighttime construction, are not reasonable assumptions. Please refer to the responses to comments 01.37 and 01.38 for detailed explanations of why the commenter's assertions that construction truck activities would result in significant daytime and nighttime noise levels are not based on reasonable assumptions. Please also refer to the responses to comments 01.34 and 01.35 for a detailed discussion of why the Draft EIR's use of L_{dn} is appropriate for evaluating noise impacts from construction truck activity.

No revisions to the Draft EIR are required.

- 01.40 The comment claims that the Draft EIR relies on an overly permissive threshold to evaluate vibration resulting from nighttime construction activities. The comment asserts that Caltrans' "barely perceptible" threshold of 0.01 in/sec for intermittent sources should be used to evaluate vibration resulting from nighttime construction activities because it aligns with the Federal Transit Administration's (FTA's) threshold of 72 VdB for Category 2 receptors, defined as locations where people typically sleep. The comment explains the mathematical conversion between PPV and root-mean-square vibration velocity, based on the FTA's *Transit Noise and Vibration Impact Assessment*. The comment contends that, when applying the threshold of 72 VdB, the Project's nighttime construction activities may result in a significant vibration impact. However, FTA's threshold of 72 VdB for Category 2 receptors is inappropriate for evaluating vibration resulting from nighttime construction activities because this threshold applies to vibration events that would occur more frequently than nighttime construction activities. Specifically, FTA's threshold of 72 VdB for Category 2 receptors, from Table 6-3 of FTA 2018,⁴ corresponds to "frequent" vibration events (e.g., from transit vehicles). FTA defines "frequent" as vibration events occurring more than 70 times per day, while "occasional" and "infrequent" correspond to 30 to 70 events per day and fewer than 30 events per day, respectively.⁵ Note that the Draft EIR's analysis of vibration resulting from nighttime construction activities conservatively assumes that receptors would be located a worst-case distance of 100 feet from vibration-generating activities. This worst-case distance would most likely occur for a very limited period of time because vibration-generating construction activities would occur primarily farther from onsite receptors, resulting in lower vibration levels. As a result, it is unlikely that nighttime construction would result in more than 30 vibration events within 100 feet of new uses. Rather, construction equipment may occasionally pass within 100 feet of onsite sensitive land uses during nighttime hours but would not spend an extended amount of time at that distance.

⁴ Federal Transit Administration. 2018. *Transit Noise and Vibration Impact Assessment*. FTA Report 0123. Available: https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/research-innovation/118131/transit-noise-and-vibration-impact-assessment-manual-fta-report-no-0123_0.pdf. Accessed: January 2024.

⁵ Ibid.

The types of activities that would occur during the nighttime hours (e.g., material unloading, utility connections, concrete pours) would generally involve equipment that is less intensive than a vibratory roller and thus would generate a PPV of less than 0.026 in/sec. The Draft EIR's use of 0.026 in/sec for onsite receptors is thus conservative, and commenter's implication that this level of vibration would occur frequently is not reasonable. The Draft EIR's threshold is also consistent with State CEQA Guidelines Appendix G, which states that the EIR should analyze whether the Project would "generate *excessive* ground-borne vibration or ground-borne noise levels", and the City's Code, which states that "it shall be unlawful for any person to operate or cause, permit, or allow the operation of any fixed source of disturbing, excessive, or offensive vibration." FTA's threshold of 72 VdB for Category 2 receptors is thus inappropriate for evaluating vibration resulting from nighttime construction activities because nighttime construction activities would not result in "frequent" vibration events within 100 feet of new onsite receptors. Because the estimated PPV of 0.026 in/sec would be above the "barely perceptible" threshold and below the "distinctly perceptible" threshold and would occur under very limited circumstances, it is reasonable to conclude that onsite sensitive land uses would not be exposed to excessive levels of vibration during nighttime hours. Thus, the Draft EIR's conclusion that nighttime construction activities would result in a less-than-significant vibration impact is warranted and based on an appropriate vibration threshold.

It should also be noted that the Draft EIR's analysis of vibration levels at new onsite receptors is conservative because the courts have determined that CEQA aims primarily to reduce the impacts of a project on the existing environment rather than a project's effects on itself (see *California Building Industry Association v. Bay Area Air Quality Management District*). The generation of groundborne vibration that does not even meet the criteria for "distinctly perceptible" should not be considered a notable exacerbation of existing conditions. Therefore, the Draft EIR's analysis regarding vibration impacts at new onsite receptors represents a conservative analysis, and the less-than-significant impact conclusion with respect to vibration is appropriate.

No revisions to the Draft EIR are required.

- 01.41 The comment summarizes prior assertions that the Draft EIR applies an improper metric to evaluate noise generated by construction truck activities and relies on a significance threshold that is too high for evaluating vibration generated by nighttime construction activities.

Please refer to the responses to comments 01.34 through 01.40 for a detailed discussion regarding the suitability of the noise metric and vibration criteria applied in the Draft EIR's analysis of the Project's noise impacts.

No revisions to the Draft EIR are required.

- 01.42 The commenter provides a resume to substantiate the qualifications of the commenter.

The comment does not contain questions or concerns regarding the adequacy of the Draft EIR analysis. No substantive response is required.

- 01.43 The commenter reiterates information provided in the Project description.

The comment does not contain questions or concerns regarding the adequacy of the Draft EIR analysis. No substantive response is required.

- 01.44 The comment claims that the Draft EIR fails to adequately evaluate the Project's air quality and greenhouse gas impacts and recommends preparation of an updated EIR to adequately assess and mitigate potential air quality and greenhouse gas impacts.

This comment is introductory in nature and does not raise specific issues related to the adequacy, accuracy, or completeness of the analysis of physical environmental impacts presented in the Draft EIR. The responses to comments 01.46, 01.47, and 01.48 address the specific issues raised by the commenter regarding the Draft EIR's analysis of the Project's air quality and greenhouse gas impacts.

No revisions to the Draft EIR are required.

- 01.45 The comment summarizes the Project's estimated construction and operational emissions and health risks, noting that emissions and health risks are expected to exceed applicable BAAQMD thresholds, as disclosed in Section 3.3, *Air Quality*, of the Draft EIR, in Tables 3.3-10, 3.3-12, and 3.3-14.

This comment does not raise specific issues related to the adequacy, accuracy, or completeness of the analysis of physical environmental impacts presented in the Draft EIR. No revisions to the Draft EIR are required.

- 01.46 The comment claims that the significant and unavoidable conclusions in Section 3.3, *Air Quality*, of the Draft EIR in Impact AQ-2 and Impact AQ-3 are unsubstantiated because the Draft EIR fails to implement all feasible mitigation to lessen or avoid significant effects. The comment asserts that the EIR should not be approved until it is updated to include mitigation measures for reducing emissions to less-than-significant levels.

Please refer to response to comment 01.48 regarding the Draft EIR's inclusion of all feasible mitigation measures to lessen or avoid Impacts AQ-2 and AQ-3. No revisions to the Draft EIR are required.

- 01.47 The comment claims that the Draft EIR fails to demonstrate that the Project would be consistent with the City's 2022 CAP because the design features referenced in the CAP checklist are not formally included as mitigation measures and not guaranteed to be implemented, monitored, and enforced.

The commenter's claim that the Draft EIR fails to demonstrate that the design features referenced in the CAP checklist would successfully be incorporated into the Project's design or be implemented with certainty is incorrect. The design features referenced in the CAP checklist, while they may not be included as mitigation measures, would be required by local, regional, and State regulations; involve mandatory discretionary approvals by the City; or be fully integrated into the Project design, as identified in Chapter 2, *Project Description*, changes to which could warrant further environmental review. In addition, implementation of the CAP actions is included as a Project design feature in the EIR and in the MMRP for administrative convenience.

Design elements that are enforceable through local regulations involve the Project's electric-vehicle (EV) charging infrastructure and its all-electric design, with a potential exception regarding the use of natural gas for certain R&D uses. These features would be implemented and enforceable through the City's recently adopted "Reach Code," which includes requirements for EV charging infrastructure in new construction and prohibits new connections to natural gas infrastructure, with limited exceptions, as described in the section titled "Natural Gas" in Chapter 2, *Project Description*, of the Draft EIR on page 2-32.

Other design features referenced in the CAP checklist involve mandatory discretionary approvals by the City. For example, regarding the Project's consistency with CAP measure T-3-1, TDM Plan Requirements, as shown in the excerpt included in the comment, discretionary approval of the TDM plan is required prior to development at the Project site. Specifically, as described in response to comment O1.15, a detailed TDM plan will be submitted to the City Planning Division with the application for a building permit for each phase of development. City staff members will review the TDM plan to ensure consistency with the City General Plan, to which the CAP is an appendix. As described in response to comment O1.16, because City Council adopted VMT reduction requirements for new development projects in support of the City's greenhouse gas reduction goals, after considering public testimony and evidence in support of and in opposition to the CAP, it is appropriate to assume that the Project's TDM plan can and will achieve the VMT reductions required by the CAP. See the responses to comments O1.15 and O1.16 for more detailed discussions of the Project's TDM strategy, the City's process for reviewing and approving TDM plans for new development projects, and the VMT reductions required by the CAP. Thus, construction of the Project cannot commence without approval of the TDM plan, which would result in VMT reductions in line with CAP checklist measure T-3-1. As a result, despite the assertion in the comment that the design features referenced in the CAP checklist may be removed from the Project's design altogether, approval of the TDM plan is required for the Project to move forward, and the Draft EIR's evaluation of this required element as part of the original Project design is appropriate.

All remaining design elements referenced in the CAP checklist are fully integrated into the original Project design, as identified in Chapter 2, *Project Description*, changes to which could warrant further environmental review. Regarding the Project's consistency with CAP measure T-2-1, Pedestrian and Bicycle Master Plans Implementation, as shown in the excerpt provided in the comment, the design elements associated with improving existing pedestrian and bicycle infrastructure are described in the transportation impact analysis (Appendix 3.2 to the Draft EIR), as noted in the CAP checklist and in the sections titled "Bicycle and Pedestrian Circulation" and "Energy and Carbon" in Chapter 2, *Project Description*, of the Draft EIR on pages 2-13 and 2-33. Other Project design features referenced in the CAP checklist and described in more detail in Chapter 2, *Project Description*, include:

- Energy efficiency, waste reduction, water conservation, and landscaping in the section titled "Sustainability Features" in Chapter 2, *Project Description*, of the Draft EIR on pages 2-32 through 2-34;
- Management of construction materials in the section titled "Construction Spoils, Debris, and Materials" in Chapter 2, *Project Description*, of the Draft EIR on page 2-36;
- Recycled water infrastructure in the section titled "Utilities" in Chapter 2, *Project Description*, of the Draft EIR on page 2-25; and
- Onsite and natural stormwater systems in the section titled "Storm Drain and Water and Ecosystems" in Chapter 2, *Project Description*, of the Draft EIR on pages 2-31 and 2-34, respectively.

All of the design features referenced in the CAP checklist are necessary for compliance with existing laws, regulations, and requirements; required through discretionary approvals prior to Project construction; or fully integrated into the original Project design, changes to which could warrant further environmental review. Therefore, the Draft EIR's conclusion that the Project

would be consistent with the City's 2022 CAP, based on the design elements and commitments referenced in the CAP checklist, is substantiated. Nonetheless, in response to this comment, and to provide further substantiation that the design features referenced in the CAP checklist would be implemented, monitored, and enforced, Project Design Feature GHG-1 would require the Project Sponsor to submit evidence to the City demonstrating that all the referenced CAP Checklist actions would be implemented prior to issuance of the first construction or grading permit for the Project. Please see response to comment O1.23 for the text that was revised in the Draft EIR related to this topic.

This revision does not change the analysis or conclusions provided in the Draft EIR.

- O1.48 The comment proposes consideration of the list of mitigation measures identified in the Southern California Association of Governments (SCAG) 2020 regional transportation plan/sustainable communities strategy (RTP/SCS) program EIR. The comment requests preparation of a revised EIR, along with adopting all feasible mitigation measures, providing an updated analysis of air quality and greenhouse gas emissions, and demonstrating that mitigation measures have been implemented to reduce emissions to less-than-significant levels.

Though the list of mitigation measures provided in the comment represents recommendations for the SCAG region, which does not have jurisdiction over the Project site, the viability of these measures for reducing the Project's emissions beyond the reductions that would occur pursuant to the mitigation measures outlined in the Draft EIR has nonetheless been considered. As described below, the mitigation measures proposed by the commenter do not constitute feasible actions that would quantifiably reduce emissions or health risks beyond the reductions that would already occur under the mitigation measures evaluated in the Draft EIR.

As shown in Section 3.3, *Air Quality*, of the Draft EIR and identified in the comment, emissions resulting from Project operation as well as concurrent construction and operation would exceed applicable BAAQMD thresholds. As a result, the Draft EIR identifies and incorporates several mitigation measures to reduce emissions. Specifically, Mitigation Measure AQ-2.1 requires U.S. Environmental Protection Agency- (EPA-) approved Tier 4 Final diesel engines. Mitigation Measure AQ-2.2 ensures that BAAQMD best management practices (BMPs), as well as additional construction-related mitigation measures, would be implemented during Project construction. To reduce fugitive emissions of reactive organic gas (ROG) throughout operations, Mitigation Measures AQ-2.3 and AQ-2.4 would require the Project Sponsor to use architectural coatings and cleaning supplies with a low VOC content at all Project buildings. Mitigation Measure AQ-2.5 would require the Project Sponsor to replace gas-powered landscape equipment with zero-emission landscape equipment, thereby reducing emissions of ROG, NO_x, PM₁₀, and PM_{2.5} by eliminating the use of internal-combustion engines for landscaping activities. Finally, Mitigation Measure AQ-2.6 would require the Project Sponsor to install EPA-approved Tier 4 Final stationary emergency generators, if commercially available in a timely manner, thereby reducing the Project's ROG, NO_x, PM₁₀, and PM_{2.5} emissions.

The mitigation measures described above and incorporated in the Draft EIR would be comparable to or more effective with respect to reducing emissions than many of those proposed in the comment. Specifically, Mitigation Measure AQ-2.1 would be consistent with the recommendations for reducing dust emissions from BAAQMD, the air district with local air quality jurisdiction over the Project site, and comparable to or more effective with respect to reducing dust emissions than those proposed in the comment, such as "[minimizing] land disturbance," "[suspending] grading

and earth moving when wind gusts exceed 25 miles per hour,” and “[stabilizing] the surface of dirt piles if not removed immediately,” as mentioned in the comment. Mitigation Measure AQ-2.2 would require EPA-approved Tier 4 Final diesel engines, the most stringent efficiency tier for off-road construction equipment, and be more effective with respect to reducing emissions from off-road construction equipment than “[requiring] contractors to assemble a comprehensive inventory list... of all heavy-duty off-road (portable and mobile) construction equipment,” as mentioned in the comment. Moreover, many of the measures proposed in the comment would not quantifiably reduce emissions or health impacts, such as “[requiring] contractors to assemble a comprehensive inventory list...of all heavy-duty off-road (portable and mobile) construction equipment,” “[providing] information to air quality-related programs to schools,” “[working] with local cities to install adequate signage that prohibits truck idling in certain locations,” and “[consulting] with the SCAG Environmental Justice Toolbox for potential measures to address impacts to low-income and/or minority communities,” as mentioned in the comment. These actions, although they may result in positive changes, would not quantifiably reduce air pollutant and greenhouse gas emissions generated by Project construction and operation.

Finally, the Project already incorporates the measures recommended in the comment associated with “[exceeding] Title-24 Building Envelope Efficiency Standards,” as applicable to the Project. For example, the Project would exceed the California Green Building Standards Code (CALGreen) mandatory requirements by complying with the City’s recently adopted Reach Code, which includes more stringent EV charging requirements for new construction and prohibits new connections to natural gas infrastructure, with limited exceptions. Moreover, as described in Chapter 2, *Project Description*, the Project would “[provide] pedestrian network improvements,” “traffic calming measures” through the TDM plan, and “bike parking” as part of the original Project design. Thus, the measures proposed in the comment would not quantifiably reduce emissions from Project construction and operation beyond the reductions that would occur under the mitigation measures outlined in the Draft EIR and would not lessen the Project’s significant air quality impacts.

Even with the mitigation outlined in the Draft EIR, Project operation as well as concurrent construction and operation would generate levels of emissions that would exceed the applicable BAAQMD mass emissions thresholds. Similarly, health risks and PM_{2.5} concentrations would exceed BAAQMD thresholds, even after incorporation of Mitigation Measures AQ-2.1 and AQ-2.2.

As noted in the Draft EIR, most of the emissions that would contribute to the exceedance from ROG emissions would result from the volume of consumer products used. However, the City and Project Sponsor have minimal control over what consumer products users purchase. There are no additional mitigation measures to reduce ROG emissions from consumer products. Furthermore, vehicles traveling to and from the Project site represent a large portion of the Project’s ROG, NO_x, and PM₁₀ emissions. Aside from the Project’s transportation-efficient design features, TDM plan, and strategies to encourage alternative methods of transportation, there are no onsite mitigation measures to reduce the number of vehicle trips to and from the site. Regarding PM_{2.5} concentrations, there is no feasible mitigation to reduce the concentrations because of the nature of the emissions source (i.e., the large number of privately owned vehicles traveling on public roadways). The Project Sponsor has little control over this type of emissions source. Nonetheless, as described above, the Project would reduce the demand for motor vehicle travel by promoting transportation efficiency, implementing a TDM plan, and exploring alternative transit methods.

As described above, none of the mitigation measures proposed in the comment represent feasible methods, beyond those that the Project Sponsor has already committed to, for reducing emissions from the aforementioned sources. No further mitigation is available to reduce the Project's ROG, NO_x, PM₁₀ emissions and health risks.

No revisions to the Draft EIR are required.

- 01.49 The commenter provides a disclaimer at the end of the letter, discussing the right to revise or amend the comment given the availability of new information in the future.

The comment does not contain questions or concerns regarding the adequacy of the Draft EIR analysis. No substantive response is required.

- 01.50 The commenter provides resumes to substantiate the qualifications of the commenter.

The comment does not contain questions or concerns regarding the adequacy of the Draft EIR analysis. No substantive response is required.

- 01.51 The comment states they have reviewed the VMT and traffic impacts of the Project.

The comment does not contain questions or concerns regarding the adequacy of the Draft EIR analysis. No substantive response is required.

- 01.52 The commenter states that the Project includes a mix of housing and commercial uses and asserts that the commercial uses are dominant in the mix and would therefore exacerbate the extreme housing shortage in Santa Clara and the greater region.

See response to comment 01.6 for a discussion of the Project's impacts related to population and housing. No revisions to the Draft EIR are required.

- 01.53 The commenter notes that the Draft EIR omitted a full VMT analysis because the Project is characterized as a "transit-supportive project." The comment quotes commute length data and census data to support the need for a full analysis of VMT and mitigation for Project VMT impacts.

See response to comment 01.18 for a discussion of the Project's impacts related to VMT. No revisions to the Draft EIR are required.

- 01.54 The commenter requests that any requirements on the Project to implement commute reduction programs, including significant parking charges for all employees, be identified now and included in Project planning and parking planning.

See response to comment 01.15, which describes the Project's TDM strategy and discusses how the City's process for reviewing and approving TDM plans for new development projects ensures consistency with the goals and policies set forth in the General Plan related to transportation, including the CAP requirements to reduce VMT. No revisions to the Draft EIR are required.

- 01.55 The commenter states that the Draft EIR underestimates trip generation because the Project allows for medical offices but uses a lower trip generation rate.

See response to comment 01.19 for a discussion of the Project's inclusion of medical office space. No revisions to the Draft EIR are required.

- 01.56 The commenter states that the Draft EIR parking analysis is inaccurate because it does not account for visitors to medical offices and is based on unreasonable mode-share assumptions for

office employee commutes. The commenter asserts the parking analysis should be redone to include the effects of the TDM program.

See response to comment 01.19 for a discussion of the Project's inclusion of medical office space. No revisions to the Draft EIR are required.

Per Assembly Bill 2097, the Project is not required to provide parking because of its proximity to public transit. Nevertheless, a parking analysis was conducted to support the conclusion that the Project meets the definition of a transit-supportive project, per the City's Transportation Analysis Policy. Based on the parking ratios in the City's Zoning Code, the Project would not provide excess parking and would qualify as transit supportive under this metric.

Although not required under CEQA, a shared parking analysis was conducted to evaluate the adequacy of the proposed parking supply under the shared parking strategy to be implemented by the Project. Parking data from a variety of sources were used in this analysis. The mode-split assumptions used to develop the office parking ratios in the shared parking analysis are consistent with the forecasts developed using the City travel demand forecast model. The City model reflects the effect of the Project's proximity to transit, its internalization of trips, and the TDM reductions per the CAP that were in effect when the transportation analysis was initiated. Subsequently, the City updated the CAP, which will impose more stringent requirements to reduce vehicle travel on the Project site. Therefore, the shared parking analysis contained in the Transportation Analysis Policy is conservative in that it may overstate the parking demand generated by the Project under the updated CAP. No revisions to the Draft EIR are required.

- 01.57 The commenter states that the Draft EIR discloses significant traffic impacts and unmitigated traffic impacts from the Project at numerous intersections and freeway segments.

The Draft EIR concluded that the Project would have a less-than-significant impact on transportation with Mitigation Measure TRA-1.1, Construction Management Plan.

In accordance with SB 743 and the City's Transportation Analysis Policy, the Project's effects on delay and level of service at study intersections and freeway segments no longer constitute a significant impact under CEQA. Regardless, as required by the City's Transportation Analysis Policy, a level-of-service analysis for key intersections and freeway segments is included. Locations that would be adversely affected by the addition of Project-generated traffic were identified, and recommendations for improvements were provided, where feasible. Recommended improvements included additional turn lanes, signals, contributions to planned freeway improvements, and multimodal improvements. The City may impose conditions of approval on the Project to construct or fund the improvements recommended to address level-of-service deficiencies. No revisions to the Draft EIR are required.

- 01.58 The commentor suggests that the extent of the Project's significant and unmitigated traffic impacts is an indication that the Project's jobs/housing imbalance is too great.

See response to comment 01.57 for a discussion of the Project's transportation impacts under CEQA and the Project's effects on intersection and freeway levels of service.

As described on page 3.1-13 of the Draft EIR, upon build-out of the Project, the jobs/housing ratio would decrease from 2.15 (without Project) to 2.11 (with Project) in 2035 compared to 2.42 in 2008. Under the Project, the jobs/housing ratio would improve. Please see response to comment

01.6, 01.8, 01.9, and 01.10 for a detailed discussion of the Project's job/housing impact. No revisions to the Draft EIR are required.

- 01.59 The commenter states that higher trip generation rates from medical office use would make the Project's traffic impacts even greater.

Refer to response to comment 01.19 for a discussion of the Project's inclusion of medical office space. No revisions to the Draft EIR are required.

- 01.60 The commenter states that the Draft EIR fails to evaluate the impacts of parking changes for Levi's Stadium events.

See response to comment 01.17 for a discussion of parking at Levi's Stadium events. No revisions to the Draft EIR are required.

- 01.61 The commenter suggests that the Reduced Office/Increased Housing Alternative would reduce in-commuting, decrease traffic impacts, and provide a better jobs/housing balance.

As stated in the Draft EIR, both the Project and the Reduced Office/Increased Housing Alternative would cause less-than-significant impacts on transportation with mitigation. Compared to the Project, the Reduced Office/Increased Housing Alternative would generate fewer vehicle trips per day. Similarly, total VMT would also decrease compared to VMT under the Project. However, it should be noted that the City's adopted thresholds that define significant transportation impacts under CEQA are based on VMT per capita or VMT per employee rather than total VMT, total daily vehicle trips, or measures of congestion, including delay or level of service. VMT per capita and VMT per employee under this alternative would tend to be similar to the Project because of the substantially similar residential and employment characteristics of this alternative. Both the Project and the Reduced Office/Increased Housing Alternative would qualify as a transit-supportive project and thus be assumed to have a less-than-significant impact on VMT.

Regarding the jobs/housing ratio, the commenter is correct in stating that the Reduced Office/Increased Housing Alternative would result in greater improvement in the jobs/housing imbalance compared with the Project. However, both the Project and the Reduced Office/Increased Housing Alternative would result in an improvement to the jobs/housing ratio, resulting in no impact under CEQA. No revisions to the Draft EIR are required.

- 01.62 The comment reiterates two of the Project objectives identified in Chapter 2, *Project Description*, of the Draft EIR. The comment then states the estimated daily residential and employment trips generated by the Project.

The City disagrees with the emphasis and manner in which the comment presents the information but confirms the Draft EIR information referenced is accurate. The comment does not contain questions or concerns regarding the adequacy of the Draft EIR analysis. No substantive response is required. No revisions to the Draft EIR are required.

- 01.63 The commenter notes that the Draft EIR omitted a full VMT analysis because the Project is characterized as a "transit-supportive project." The comment quotes commute travel length and census data to support the need for a full analysis of VMT and mitigation for the Project's VMT impacts.

See response to comment 01.18 for a discussion of the Project's impacts related to VMT.

It should be noted that the VMT heat map presented in this comment was prepared using the VTA travel demand model for the 2015 base year. Like the census data referenced in this and an earlier comment (01.18), the heat map reflects historical development patterns and travel characteristics that differ substantially from the 2030 and 2035 travel patterns expected with the Project.

The Project would create a high-density, mixed-use development; in 2015, the surrounding area included predominantly low-density office/R&D campuses without a mix of uses. Furthermore, the heat map does not reflect the effect of the aggressive VMT reductions required of new developments by the City's updated CAP. In addition, the Project would benefit from recent and planned transportation improvements that were not present in 2015, including the Silicon Valley BART extension, express lanes on State Route 237 and U.S. 101, and numerous bike/pedestrian improvements, including the planned Calabazas Creek Trail and Santa Clara Trail. Therefore, the VMT heat map is not representative of the future VMT per employee that would be generated by the Project. No revisions to the Draft EIR are required.

- 01.64 The commenter states that the Draft EIR fails to include adequate VMT mitigation because the TDM plan has not been completed and the effectiveness of the TDM plan in reducing VMT has not been quantified.

See the responses to comments 01.15 and 01.16, which describe the Project's TDM strategy and how the City's process for reviewing and approving TDM plans for new development projects ensures consistency with the goals and policies set forth in the General Plan related to transportation, including the VMT reductions required under the CAP. No revisions to the Draft EIR are required.

- 01.65 The commenter states that the Project is required to reduce VMT per employee by 25 percent through an active TDM, according to the CAP. The commenter asserts the TDM plan for the Project should be completed now and included in Project planning to ensure achievement of the VMT reduction required by the CAP.

See the responses to comments 01.15 and 01.16, which describe the Project's TDM strategy and how the City's process for reviewing and approving TDM plans for new development projects ensures consistency with the goals and policies set forth in the General Plan related to transportation, including the VMT reductions required under the CAP. No revisions to the Draft EIR are required.

- 01.66 The commentor states that the Draft EIR underestimates the trips generated by the Project because it does not consider medical offices uses that would be permitted.

Refer to response to comment 01.19 for a discussion of the Project's inclusion of medical office space. No revisions to the Draft EIR are required.

- 01.66 The comment claims that higher trip generation would result in increased emissions.

The comment correctly notes that increases in vehicle trips generally correspond to greater air pollutant and greenhouse gas emissions. However, as described in the responses to comments 01.19, the trip generation estimates disclosed in the Draft EIR and evaluated in the air quality and greenhouse gas impact analyses are consistent with the proposed land use types and sizes. Refer to response to comment 01.19 for a detailed discussion of the Project's inclusion of medical office space.

No revisions to the Draft EIR are required.

- 01.68 The comment states that the inclusion of medical office uses in the Project would generate more trips compared to the existing General Plan designation, which does not permit medical facilities, except for pharmacies.

A General Plan amendment would be required to implement the Project. The amendment would designate the Project site with a new General Plan land use designation, Urban Center Mixed Use, with a “Mixed-Use” classification. The Project site also would be rezoned to Planned Development. Planned Development zoning districts are intended for sites with a mix of integrated land uses that are not permitted to be combined in other zoning districts. See response to comment 01.19 for further discussion of the Project’s inclusion of medical office space. No revisions to the Draft EIR are required.

- 01.69 The commenter states that the Draft EIR parking analysis is flawed because it does not account for visitors to office uses and is based on unreasonable mode-share assumptions for office employee commutes. The comment asserts that the parking analysis should be redone to include the effects of the TDM program.

See the response to comments 01.19 and 01.56 for discussion of the Project’s inclusion of medical office space and parking. While not required as part of the CEQA process, a shared parking analysis was included in the Transportation Analysis report that assumes 3,000,000 square feet of general office space. Although the end uses are not yet determined, the proposed PD zoning would also allow for lab/R&D uses and medical office space in place of general office uses. In comparison to general office uses, lab space would generate demand for parking at a lower rate while medical office space would generate demand for parking at a higher rate. The City will review subsequent applications for building permits with each phase of development to ensure consistency with the project description as evaluated in the Transportation Analysis. Furthermore, the City will require the Project to prepare and implement a Parking Management Plan to ensure that the Project’s parking facilities meet the needs of all users. Additional parking analyses and/or revisions to the Project’s Parking Management Plan will be required if the proposed mix of uses would generate more demand for parking than previously analyzed.

Although the parking analysis does not explicitly separate out visitor parking demand from employee and resident parking demand, the parking ratios used in the shared parking analysis reflect all users, including visitors. For office space, the assumed parking ratio of 2.5 spaces per 1,000 square feet is based on an employee density of four employees per 1,000 square feet. However, although an office may have total employment that equates to four employees per 1,000 square feet, not all employees are present on the site every weekday. An assumption that office employees average 2.5 weeks of vacation per year would reduce average employee attendance by about 5 percent. Employee absences due to illnesses or other attendance-related reasons average about 3 percent.⁶ Thus, considering vacations, illness, and other reasons for absence, employee

⁶ U.S. Bureau of Labor Statistics, Division of Labor Force Statistics. 2024. *Labor Force Statistics from the Current Population Survey*. January 26. Available: <https://www.bls.gov/cps/cpsaat47.htm>. Accessed: February 14, 2024. Employed professional and related occupations had an average absence rate of 3.1 percent in 2023. Absences are defined as instances when persons who usually work 35 or more hours per week (full time) worked less than 35 hours during the reference week for one of the following reasons: own illness, injury, or medical problems; child care problems; other family or personal obligations; civic or military duty; and maternity or paternity leave. Excluded are situations in which work was missed because of vacation or personal days, holiday, labor dispute, and other reasons.

attendance, on average, was about 8 percent below total office employment, reducing the office employee parking demand to 2.3 spaces per 1,000 square feet. The 2020 Urban Land Institute publication *Shared Parking*, third edition, estimates that visitor parking demand at general office buildings peaks at an average of 0.2 space per 1,000 square feet on weekdays. Thus, employee absences are expected to leave an ample number of parking spaces for office visitors. Furthermore, given that many companies continue to allow office workers to work remotely one or more days each week, the assumed rate of 2.5 parking spaces per 1,000 square feet of office space is expected to be adequate for both employees and visitors. No revisions to the Draft EIR are required.

- 01.70 The commenter states that the Draft EIR discloses significant traffic impacts and unmitigated traffic impacts from the Project at numerous intersections and freeway segments and that these traffic impacts are an indication that the Project's jobs/housing imbalance is too great.

See response to comment 01.57 for a discussion of the Project's transportation impacts under CEQA and the Project's effects on intersection and freeway levels of service. Please see response to comment 01.58 regarding the Project's job/housing balance. No revisions to the Draft EIR are required.

- 01.71 The comment states that the Draft EIR underestimates project trip generation and traffic impacts from potential medical office use.

Refer to response to comment 01.19 for a discussion of the Project's inclusion of medical office space. No revisions to the Draft EIR are required.

- 01.72 The commenter states that the Draft EIR fails to evaluate the impacts of removing parking used by Levi's Stadium events.

See response to comment 01.17 for a discussion of parking for Levi's Stadium events. No revisions to the Draft EIR are required.

- 01.73 The commenter suggests that the Reduced Office/Increased Housing Alternative would reduce in-commuting, decrease traffic impacts, and provide a better jobs/housing balance.

See response to comment 01.61 for a discussion of the Reduced Office/Increased Housing Alternative. No revisions to the Draft EIR are required.

- 01.74 The commenter provides a resume to substantiate the qualifications of the commenter.

The comment does not contain questions or concerns regarding the adequacy of the Draft EIR analysis. No substantive response is required.

- 01.75 This comment shows the request sent to the City on November 21, 2023 (Exhibit D), for access to all documents relied upon in the Draft EIR.

The comment does not contain questions or concerns regarding the adequacy of the Draft EIR analysis. No substantive response is required.

- 01.76 This comment shows the request sent to the City on December 4, 2023 (Exhibit E), for access to all documents relied upon in the Draft EIR. The City provided a full response to this letter on December 21, 2023, also included as Exhibit H in this comment letter.

The comment does not contain questions or concerns regarding the adequacy of the Draft EIR analysis. No substantive response is required.

- 01.77 This comment shows the request sent to the City on December 15, 2023 (Exhibit F), for an extension of the comment period. The City provided a full response to this letter on December 21, 2023, also included as Exhibit H in this comment letter.

The comment does not contain questions or concerns regarding the adequacy of the Draft EIR analysis. No substantive response is required.

- 01.78 This comment shows the public records request sent to the City on November 21, 2023 (Exhibit G), for access to public records related to the Project.

The comment does not contain questions or concerns regarding the adequacy of the Draft EIR analysis. No substantive response is required.

- 01.79 This comment shows the response sent by the City on December 21, 2023 (Exhibit H), for all requests sent in Exhibits D, E, F, and G.

The comment does not contain questions or concerns regarding the adequacy of the Draft EIR analysis. No substantive response is required.

Chapter 4

Revisions to the Draft EIR

This chapter includes revisions to the Draft EIR by errata, as allowed by CEQA. The revisions are presented in the order they appear in the Draft EIR, with the relevant page number(s) indicated with italicized print. New or revised text is shown with underline for additions and ~~strike-out~~ for deletions.

All text revisions provide clarification or additional detail. After considering all comments received on the Draft EIR, the Lead Agency has determined that the changes do not result in a need to recirculate the Draft EIR. Under State CEQA Guidelines Section 15088.5[a], recirculation is required when new significant information results in changes to the EIR that deprive the public of a meaningful opportunity to comment on a substantial adverse environmental effect or feasible mitigation measure or an alternative that was not adopted, including disclosure of one of the following:

- A new significant environmental impact resulting from the project or from a new mitigation measure proposed to be implemented;
- A substantial increase in the severity of an environmental impact unless mitigation measures are adopted that reduce the impact to a level of insignificance;
- A feasible project alternative or mitigation measure, considerably different from others previously analyzed, that clearly would lessen the significant environmental impacts of the project, but that the project's proponents decline to adopt; or
- The Draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded (State CEQA Guidelines Section 15088.5[a]).

Recirculation of a Draft EIR is not required where the new information merely clarifies, amplifies, or makes minor modifications to an adequate EIR (State CEQA Guidelines Section 15088.5[b]). The information provided below merely clarifies and supports the analysis in the Draft EIR or makes minor changes consistent with the criteria in Section 15088.5(b).

General Revisions to the Draft EIR

Executive Summary

On page ES-1 of the Executive Summary, the following text has been revised:

The Project would include up to 4,913,000 gross square feet (gsf) of new development, including approximately 1.8 million gsf of residential uses (up to 1,800 units), approximately 3 million gsf of office/research-and-development (R&D)¹ space, approximately 100,000 gsf of neighborhood retail uses, and approximately 10,000 gsf of childcare facilities, along with 3,000 gsf of community space. An approximately ~~27,000~~18,000-square-foot electrical substation would also be constructed to support the Project.² Parking would be provided in a mix of subsurface and aboveground parking facilities. In addition, the Project would include up to approximately 16 acres of publicly accessible open space at

grade level as well as approximately 10 acres of private open space for residential and office uses;³ new bicycle, pedestrian, and vehicular circulation routes; and upgraded and expanded infrastructure.

- ¹ Although the end uses are not yet determined, the Project may include lab/R&D uses. For CEQA purposes, up to 30 percent laboratory use has been assumed. All future references to “office” include permitted lab/R&D uses.
- ² The size, design, and location of the substation are subject to final discussions with Silicon Valley Power.
- ³ Additional private open space will be provided on terraces, balconies, and rooftops. These spaces are not included as part of the calculations.

On page ES-27, the following revision was made to mitigation measure CUL-2.2:

CUL-2.2: Conduct Cultural Resource Sensitivity Training Prior to Project-Related Ground Disturbance ~~and Stop Work if Archaeological Deposits Are Encountered during Ground-Disturbing Activities.~~ Prior to any Project-related ground disturbance, the Project Sponsor shall ensure that all construction workers who directly oversee excavation or operate ground-disturbing vehicles receive training, which shall be overseen by a qualified professional archaeologist who is experienced in teaching non-specialists, to ensure that contractors can recognize archaeological artifacts and deposits, as well as tribal cultural resources, in the event that any are discovered during construction. Construction personnel directly overseeing excavation, or operating ground-disturbing vehicles, will be required to participate in this preconstruction training.

On pages ES-28 and ES-29 the following revision was made to the mitigation measures column and mitigation measure BIO-1.1:

Implement Mitigation Measure BIO-4.1.

BIO-1.1: Protect Roosting Bats. To avoid impacts on roosting bats that may utilize trees and/or vacant buildings in the Project area for day roosting, the Project Sponsor shall retain a qualified wildlife biologist to conduct a survey for roosting bats no sooner than 14 days prior to the start of demolition of any vacant buildings with ingress and egress points, as determined by a qualified wildlife biologist, that could be used by bats or the removal of suitable roosting vegetation (i.e., trees) for bats. If building demolition or vegetation removal efforts do not begin within the 14 days following the survey for roosting bats, another survey shall be required. Trees adjacent to the transmission line routing options would not require surveys for bats because they would not be affected by construction activities. If roosting bats are detected, the biologist shall enact a 150-foot (minimum) no-work buffer from the perimeter of the area the bats are thought to be occupying and confer with CDFW to determine potential roost protection or roost eviction practices, such as installing one-way exclusion devices or using lights to deter roosting.

On pages ES-29 and ES-30 the following revision was made to mitigation measure BIO-4.1:

BIO-4.1: Protect Nesting Birds. To the extent feasible, the Project Sponsor and its contractor shall avoid conducting vegetation removal during the migratory bird season (February 1 through August 31). If Project-related activities must take place during the migratory bird season, the Project Sponsor 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 occurs within the minimum nest buffer zone widths described below ~~remains~~. If construction is ongoing for multiple years, these surveys *shall* be conducted each year.

The following text on pages ES-37 and ES-38 have been revised:

Impact C-GEO-1: Cumulative Seismicity Impacts. The Project, in combination with other foreseeable development in the vicinity, would not directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death, involving rupture of a known earthquake fault, strong seismic ground shaking, or seismically related ground failure.	<u>NILTS</u>	None Required	N/A
Impact C-GEO-2: Cumulative Erosion or Loss of Topsoil. The Project, in combination with other foreseeable development in the vicinity, would not result in substantial soil erosion or loss of topsoil.	<u>NILTS</u>	None Required	N/A
Impact C-GEO-3: Cumulative Collapse of Unstable Soil. The Project, in combination with other foreseeable development in the vicinity, would not result in collapse of unstable soil.	<u>NIS</u>	Implement Mitigation Measure GEO-3.1. None Required	<u>LTSN/A</u>
Impact C-GEO-4: Cumulative Settlement or Subsidence of Unstable Soil. The Project, in combination with other foreseeable development in the vicinity, could result in static settlement or subsidence, but such impacts would be adequately addressed by mitigation.	S	Implement Mitigation Measure GEO-3.1.	LTS
Impact C-GEO-5: Cumulative Expansive Soil Impacts. The Project, in combination with other foreseeable development in the vicinity, would not create substantial direct or indirect risks to life or property as a result of being located on expansive soil.	<u>NILTS</u>	None Required	N/A

The following text of Mitigation Measure HAZ-2.1 has been revised on pages ES-46 and ES-47:

HAZ-2.1: Subsurface Contamination. The Project Sponsor shall engage with an appropriate regulatory agency (e.g., the San Francisco Bay Regional Water Board, Santa Clara County DEH, DTSC) to provide oversight for additional subsurface investigation at the Project site and proposed transmission line routes for the Project, prepare and implement a Soil and Groundwater Management Plan (SGMP), and implement remedial actions, as necessary and required by the appropriate regulatory agency. When site uses and building layouts/designs are finalized and available, additional soil vapor testing shall be performed to evaluate the need for vapor intrusion mitigation measures. The additional subsurface investigation activities shall include, to the extent required by the appropriate regulatory agency, investigation of potential contamination along the proposed transmission line routes for the Project and investigation of potential contamination source areas/features of environmental concern (e.g., former hazardous materials storage areas, clarifiers/sumps/vaults and associated piping, possible UST areas) to define the extent of subsurface contamination at the Project site...

The following text of Mitigation Measure HAZ-2.1 has been revised on pages ES-46 and ES-47:

If remedial actions are required for any portion of the Project site or proposed transmission line routes for the Project, the Project Sponsor shall submit to the City evidence of approvals from all applicable regulatory oversight agencies for any proposed remedial action plans prior to the City issuing any demolition, grading, or building permits for that portion of the Project site or transmission line route.

Chapter 1, Introduction

On page 1-2 of Section 1.2, *Project Overview*, of the introduction, the following has been revised:

The Project site is located on nine parcels (assessor's parcel numbers [APNs] 104-04-150, 104-04-142, 104-04-143, 104-04-151, 104-04-112, 104-04-113, 104-04-065, 104-04-111, 104-04-064), totaling approximately 46 acres, as well as Democracy Way, a privately owned street subject to an existing public right-of-way (ROW) easement that covers approximately 2.6 acres, for a combined total Project area of 48.6 acres. The Project would result in 4,913,000 gross square feet (gsf) of new development, including approximately 1.8 million gsf of residential uses (up to 1,800 units), approximately 3 million gsf of office/R&D¹ space, approximately 100,000 gsf of neighborhood retail uses, and approximately 10,000 gsf of childcare facilities, along with 3,000 gsf of community spaces. An approximately ~~27,000~~18,000 gsf electrical substation would also be constructed to support the Project. Parking would be provided in a mix of subsurface and aboveground parking facilities. In addition, the Project would include up to approximately 16 acres of publicly accessible open space as well as approximately 10 acres of private open space for residential and office uses;² new bicycle, pedestrian, and vehicular circulation routes; upgraded and expanded infrastructure; and the new electrical substation.³

- ¹ Although the end uses are not yet determined, the Project may include lab/R&D uses. For CEQA purposes, up to 30 percent laboratory use has been assumed. All future references to "office" include permitted lab/R&D uses.
- ² Additional private open space will be provided on terraces, balconies, and rooftops. These spaces are not included as part of the calculations.
- ³ The size, design, and location of the substation are subject to final discussions with Silicon Valley Power.

Chapter 2, Project Description

On page 2-1, the second sentence of the second paragraph has been revised as follows:

An approximately ~~27,000~~18,000 gsf electrical substation would also be constructed to support the Project.²

- ² Details regarding the substation are subject to change; Silicon Valley Power will coordinate the precise size, dimensions, and layout during the design phase of the substation.

On page 2-6, the "Substation" row of Table 2-2, Proposed Development at the Project Site, has been revised as follows:

Table 4-1. Proposed Development at the Project Site

Land Use	Development Potential
Residential	Up to 1,800,000 gsf (1,800 units)
Office	Up to 3,000,000 gsf
Retail	Up to 100,000 gsf
Childcare	Up to 10,000 gsf
Community Amenity	Up to 3,000 gsf
<i>Total</i>	<i>Up to 4,913,000 gsf</i>
Substation	<u>Approximately 27,000</u> Up to 18,000 gsf
Source: Kylli, Inc., 2024 43 .	

On page 2-9, the “Area C” row of Table 2-3, Proposed Development by Development Area Program has been revised as follows:

Table 4-2. Proposed Development by Development Area Program^a

Area	Size (acres)	Height ^b	Accessible Grade-Level Open Space/Private Podium-Level Open Space ^c	Development Type	Building Area (gsf) ^d
A	13.3	123 feet	Approximately 3.2/2.5 acres	Office Retail Community <i>Area A Total</i>	1,176,000 30,000 3,000 <i>1,209,000</i>
B	8.9	153 feet	Approximately 2.9/1.4 acres	Office Retail <i>Area B Total</i>	1,034,000 43,000 <i>1,077,000</i>
C	12.7	132 feet	Approximately 5.2/2.4 acres	Office Retail Substation <i>Area C Total</i>	790,000 19,000 27,000 ^e <i>809,000</i>
D	13.7	202 feet	Approximately 4.8/3.9 acres	Residential Retail Childcare <i>Area D Total</i>	1,800,000 8,000 10,000 <i>1,818,000</i>
<i>Total</i>	<i>48.6 acres</i>		<i>Approximately 16/10 acres</i>		<i>4,913,000</i>

Source: Kylli Inc., 2024~~3~~.

Notes:

- This table is provided for CEQA analysis purposes only. Actual maximum development standards would be established in the General Plan amendment and PD zoning.
- Height values represent anticipated maximums. Approximate heights are based on the City’s [proposed] definition of height measurement in Santa Clara City Code Section 18.30.040, which states that “the height of a structure shall be measured as the vertical distance from the elevation of the finished grade to the highest point of the structure. This would be the coping of a flat roof, or the deck line of a mansard roof, or to the highest gable of a pitched or hip roof.” All building heights (including antennas, chimneys, elevators, radio towers, mechanical appurtenances, parapets, and screens) are subject to Federal Aviation Administration height restrictions.
- Note that City parkland dedication is included within these calculations, out of which approximately 10 acres would be part of the accessible grade-level open space designation and approximately 2.5 acres would be part of the private podium-level open space located exclusively on the residential podium in Area D.
- Note that the total “building area” shows the maximum build-out that could occur.
- The electrical substation square footage is not included in the Area C total because it is not a building area that would be occupied.

The following text has been revised on page 2-13:

Lastly, the following additional onsite and offsite transportation improvements would be included as part of the Project:

- Signalize the Old Ironsides Drive and Kylli Drive East intersection,
- ~~Add a second eastbound right-turn lane on Great America Parkway and Old Glory Lane.~~
- Signalize the Old Ironsides Drive and Kylli Driveway B intersection.

- Signalize the Patrick Henry Drive and Kylli Drive West intersection.
- Prohibit inbound and outbound left-turns at the Patrick Henry Drive and Kylli Project Driveway A intersection.
- Widen westbound approach to include one right-turn lane and one left-turn lane at the Patrick Henry Drive and Kylli Project Driveway D intersection.

The following text has been revised and added on page 2-32:

The Project would include a number of measures to minimize the amount of energy used, as described under *Sustainability Features*. Nonetheless, the Project is expected to result in an increase in demand for electricity. The increased demand would exceed the capacity of the existing electric distribution system. Therefore, an approximately ~~27,000~~^{18,000}-gsf electrical substation would be constructed onsite to support the Project. The at-grade substation would be located on the east side of the Project site, in Area C, with no parking above or below. The substation could also support the electrical needs of the adjacent Santa Clara North area. SVP will coordinate the precise size, dimensions, and layout of the substation during the design phase. The proposed design, which is standard in the United States, would include indoor gas-insulated switchgear with less-flammable oil-filled transformers. A minimum setback of 24 feet would be provided along the street frontage.

SVP analyzed various transmission line routing options to connect the new substation to the existing SVP electrical system. Of these, two options, "Routing Option 1" (the preferred option) and "Routing Option 3" (the alternative option), were selected by SVP for analysis as part of the Project. The routing options are shown in Figures 2-16 and 2-17. New transmission lines would be placed underground within the Project site and within public rights-of-way to connect to existing underground transmission lines. SVP will coordinate with the City and SFPUC to obtain all required approvals for the selected transmission line routing. No new overhead transmission lines are proposed under either option.

Routing Option 1 (Preferred SVP Option)

As shown in Figure 2-16, Routing Option 1 would intersect the existing NRS-MIS transmission line at the intersection of Patrick Henry Drive and Old Ironsides Drive. The existing NRS-MIS line would be split into two new segments and given the designations NRS-DEM and DEM-MIS. The new NRS-DEM line would run along the existing NRS-MIS overhead 60 kV transmission line and along the existing NRS-MIS underground 60 kV transmission line to the point of intersection where a new underground 60 kV transmission line would run north along Old Ironsides Drive from Patrick Henry Drive and enter the new substation on the Project site. A new DEM-MIS underground 60 kV transmission line would exit the substation and run south along Old Ironsides Drive, connecting to the existing NRS-MIS underground 60 kV transmission line at the intersection of Patrick Henry Drive and Old Ironsides and enter the Mission substation, which is south of the Project site. No changes are proposed to the existing MIS-JUL transmission lines exiting the MIS substation.

Routing Option 3 (Alternative SVP Option)

As shown in Figure 2-17, Routing Option 3 would intersect the existing NRS-MIS transmission line at the intersection of Patrick Henry Drive and Old Ironsides Drive. The existing NRS-MIS line would be split into two new segments and given the designations NRS-DEM and DEM-MIS. The new NRS-DEM line would run along the existing NRS-MIS overhead 60 kV transmission line and along the existing NRS-MIS underground 60 kV transmission line to the point of intersection where a new underground 60 kV transmission line would run north along Old Ironsides Drive from Patrick Henry



Figure 2-16
Conceptual Project Electrical Transmission Routing – Option 1
 Mission Point Project



Figure 2-17
Conceptual Project Electrical Transmission Routing – Option 3
 Mission Point Project

Drive and enter the new substation on the Project site. A second new underground 60 kV transmission line, exiting out of the new DEM substation, would briefly run south along Old Ironsides Drive before turning west to cross the Project site and then turning south to follow Patrick Henry Drive to intersect the existing NRS-MIS underground transmission line and create the new DEM-MIS 60 kV transmission line. The DEM-MIS 60 kV transmission line would then enter the existing Mission substation, south of the Project site. No changes are proposed to the existing MIS-JUL transmission lines exiting the MIS substation.

The following text on page 2-36 has been revised as follows:

The Project would include below-grade features for structured parking, areas for service access to buildings, and other below-finished-grade functions. The maximum depth of the proposed excavation would be approximately 16 feet for the one level of below-grade parking and up to a depth of approximately 28 feet for jack-and-bore pits to install transmission lines within a San Francisco Public Utilities Commission easement.

On page 2-38, the following bullets have been added under the “Approvals by Responsible Agencies” section:

- Silicon Valley Power – Approval, ownership, operation, and maintenance of substation and related infrastructure.
- San Francisco Public Utilities Commission – Approval of encroachment permits within San Francisco Public Utilities Commission (SFPUC) ROW.

Chapter 3, Environmental Impact Analysis

The following text has been clarified on page 3-3 in the first paragraph:

A Mitigation Monitoring and Reporting Program (MMRP) will be included in the Final EIR. Before the City Council approves the Project, it must adopt the MMRP. Pursuant to State CEQA Guidelines Section 15097, an MMRP is a mechanism for monitoring and reporting revisions to a project, ~~or~~ the conditions of approval that a public agency has required as mitigation to lessen or avoid a significant environmental effect, and tracking and enforcement of project design features for administrative convenience. The City can conduct the reporting or monitoring, or it can delegate the responsibilities to another public agency or private entity that accepts the delegation. The MMRP for the Project will identify the following: the specific monitoring actions that shall be taken, the party responsible for implementing the mitigation measures or project design features, the various City departments or other entities that shall oversee completion of the mitigation or project design features, and a timeline for implementation of the measures or project design features. The responsible departments or other entities shall ensure implementation of the measures or project design features. Implementation of the mitigation measures, consistent with the MMRP, would reduce the severity of many of the significant impacts identified in this Draft EIR or eliminate them.

Section 3.1, Land Use and Planning

The following text has been revised on pages 3.1-8 and 3.1-9 of Section 3.1, *Land Use and Planning*, in the Draft EIR:

...As depicted in Figures 3.1-3 through 3.1-5, the Project site is entirely outside the Airport Influence Area (AIA) for SJC; however, the applicable Part 77 notification requirements are discussed in more detail under Impact LU-3. Under Part 77, any proposed structure on the Project

site that could extend above an imaginary surface radiating at 100:1 (horizontal:vertical) from the runways of SJC would require submittal to the FAA for airspace safety review. This imaginary surface extends from approximately 168 feet above ground level (AGL) at the southeast portion of the Project site to approximately 185 feet AGL at the northwest portion of the Project site.

The following text has been revised on page 3.1-14 of Section 3.1, *Land Use and Planning*, in the Draft EIR:

Construction

~~Conflicts with the CLUP for SJC would not occur during construction of the Project because no permanent structures would be constructed during this phase. Any proposed structure or building, including temporary construction cranes, on the Project site that could exceed an imaginary surface radiating at 100:1 (horizontal:vertical) from the runways of SJC (this imaginary surface extends from approximately 168 feet AGL at the southeast portion of the Project site to approximately 185 feet AGL at the northwest portion of the Project site) would require submittal to the FAA for airspace safety review. For each building or structure with a maximum proposed height exceeding this imaginary surface, the Project must obtain a "Determination of No Hazard" from the FAA for each rooftop corner and any additional higher points. Compliance with conditions set forth by the FAA in its determinations would ensure that the Project would not create any conflicts with the CLUP for SJC during construction.~~ Therefore, there would be **no impact** during construction.

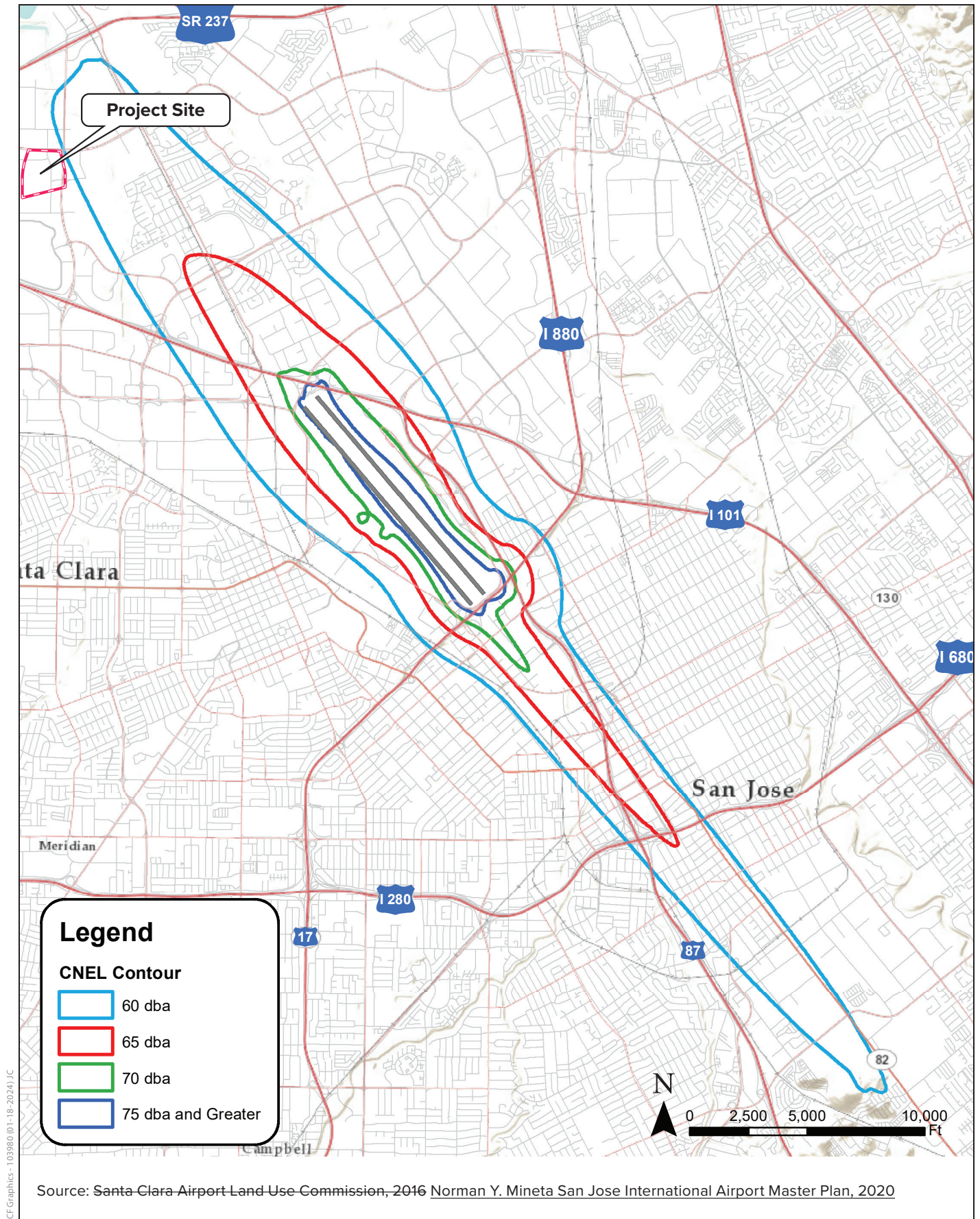
The last paragraph has been revised on page 3.1-15 of Section 3.1, *Land Use and Planning*, in the Draft EIR:

The maximum heights of new buildings within the Project area would comply with the height regulations and restrictions established by the FAA; applicable maximum height requirements would vary across the Project area, up to a maximum of approximately 202 feet above the existing grade or approximately 217 feet above mean sea level (MSL). Compliance with FAA regulations would ensure that the Project would not introduce new buildings that would exceed applicable FAA Part 77 height limits.

Figure 3.1-4 has been revised on page 3.1-17 of Section 3.1, *Land Use and Planning*, in the Draft EIR. The revised figure replaced the 2022 aircraft noise contours graphic with the 2037 aircraft noise contours graphic from the 2020 San José Airport Master Plan.

The following text has been revised on page 3.1-19 of Section 3.1, *Land Use and Planning*, in the Draft EIR:

Noise. CLUP noise contours use the Community Noise Equivalent Level (CNEL) to depict noise disruptions from aviation, with a penalty added at night when aviation noise could affect onsite residents the most. The CLUP uses 60, 65, 70, and 75 A-weighted decibel (dBA) CNEL noise contours and includes different types of noise mitigation, based on the type of use exposed to aviation noise.



The following text has been revised in Table 3.1-3 on page 3.1-58 of Section 3.1, *Land Use and Planning*, in the Draft EIR:

General Plan Goal/Policy	Consistency Analysis
<i>Policy 5.10.6-P7: Implement measures to reduce interior noise levels and restrict outdoor activities in areas subject to aircraft noise in order to make Office/research and Development uses compatible with the Norman Y. Mineta International Airport land use restrictions</i>	CONSISTENT. The Project site is adjacent to but outside the AIA of SJC. The Project would include utility work within Old Ironsides Drive, which is within the AIA of SJC. However, the Project site does not fall within the 60 65 dBA CNEL noise contour (i.e., the lowest noise contour for aircraft noise presented) for SJC and would thus not be exposed to aircraft noise above 60 65 dBA. Therefore, although the Project site may receive some noise from existing aircraft noise, people living and working at the Project site would not be greatly affected by aircraft noise.

Section 3.2, Transportation

The following text has been revised on page 3.2-1 of Section 3.2, *Transportation*, in the Draft EIR:

This section is based on the information provided in the *Kylli Mission Point Mixed-Use Development Transportation Analysis* (~~Appendix 3.2~~)^{1a} and *Errata to Kylli Mission Point Mixed-Use Development Transportation Analysis*^{1b} (~~Appendix 3.2~~) prepared by Hexagon Transportation Consultants, Inc.

^{1a} Hexagon Transportation Consultants, Inc. 2023. *Kylli Mission Point Mixed-Use Development Transportation Analysis*. Prepared for ICF Jones & Stokes. The Hexagon transportation analysis (with appendices) is on file with the City of Santa Clara; the Hexagon report is also included as Appendix 3.2 to this EIR.

^{1b} Hexagon Transportation Consultants, Inc. 2024. *Errata to Kylli Mission Point Mixed-Use Development Transportation Analysis*. Prepared for ICF Jones & Stokes. The Hexagon transportation analysis errata (with appendix) is on file with the City of Santa Clara; the Hexagon memo is also included as Appendix 3.2 to this EIR.

The following text has been revised on page 3.2-17 of Section 3.2, *Transportation*, in the Draft EIR:

Thus, a transportation analysis, which evaluates the Project's consistency with the LOS standards set forth in the City's General Plan and identifies feasible improvements to remedy any deficiencies, was prepared by Hexagon and included in Appendix 3.2. This transportation analysis evaluates CEQA-required transportation issues, including an assessment of VMT according to the City's screening criterion; hazards; emergency access; impacts on bicycle, pedestrian, and transit facilities; and potential conflicts with any adopted program, plan, ordinance, or policy addressing the circulation system, including transit, roadways, bicycle, and pedestrian facilities. It also includes, for separate use by the City, a non-CEQA analysis of road operations that identifies potential adverse effects on intersection operations resulting from anticipated Project-generated traffic and recommends measures to improve conditions. Subsequently, the *Errata to Kylli Mission Point Mixed-Use Development Transportation Analysis* was prepared by Hexagon and included in Appendix 3.2 to provide additional information and clarification regarding the operation and lane configuration of selected intersections immediately adjacent to the Project site. The errata memorandum does not change the findings of the Draft EIR regarding the Project's transportation impacts. As explained in the transportation analysis, adverse LOS effects do not constitute significant impacts under CEQA and are included solely for informational purposes.

The following text has been revised on page 3.2-19 of Section 3.2, *Transportation*, in the Draft EIR:

The Project would be consistent with Plan Bay Area 2050 goals and performance targets for transportation system effectiveness. Specifically, the Project would increase non-auto mode share. The Project, as a mixed-use development, would develop new office, residential, retail, community, childcare, and public park uses, thereby reducing demand from single-occupancy vehicles. ~~The Project would also develop and implement a TDM plan to provide trip reduction measures and reduce vehicular traffic in and around the Project site.~~ In addition, the Project site, which is served by public transit facilities, would have bicycle and pedestrian facilities. This would also help to reduce demand from single-occupancy vehicles. The Project would also develop and implement a TDM plan to provide trip reduction measures and reduce vehicular traffic in and around the Project site. Project Design Feature TRA-1 would require the Project Sponsor to submit a Final TDM plan, which will achieve the VMT reductions set forth in the CAP (Action T-3-1), with the application for a building permit for each phase of the Project.

Project Design Feature TRA-1: Implement a Transportation Demand Management (TDM) Plan in Accordance with the City of Santa Clara 2022 Climate Action Plan

The Project Sponsor shall submit a Final TDM plan, subject to approval by the City, with the application for a building permit for each phase of the Project. The Final TDM plan will set forth a requirement for the Project Sponsor to form or join a Transportation Management Association (TMA) to facilitate the implementation of various TDM programs and services on behalf of multiple property owners and/or tenants. Furthermore, the TDM plan will set forth requirements for annual TDM monitoring and reporting. Examples of TDM measures that may be included in the Project's TDM plan include:

- Privately operated long-haul commuter shuttle service for office workers with onsite shuttle stops.
- Participation in a City-organized/-operated shuttle service to Caltrain and Bay Area Rapid Transit (BART) stations, with onsite shuttle stops available to all site workers and residents.
- Transit subsidy for office workers.
- Rideshare matching program.
- "Guaranteed ride home" program for all office workers.
- Preferential parking for carpools and vanpools.
- Unbundled parking for market-rate residential units.
- Participation in regional bikeshare and scooter program and/or establishment of onsite bicycle and scooter fleet.
- Bike repair stations and ample bicycle parking.
- Showers and lockers provided in office buildings.
- Real-time transit information displayed on screens throughout the site.
- Onsite parking spaces reserved for car-share service(s) (e.g., ZipCar or equivalent provider).
- Dedicated curb space for ride-hail and taxi-service passenger loading.
- Onsite transportation coordinator.

- Website and marketing program to disseminate information on commute options.
- High-speed internet infrastructure to enable telecommuting.
- Distribution of a TDM information packet to new employees and residents.
- Onsite bicycle and pedestrian network, linking buildings to transit stations and nearby trails.

The City of Santa Clara will review the Final TDM plan to ensure that the proposed TDM measures identified in the plan will achieve the following VMT reductions set forth in the 2022 CAP:

- A 25 percent reduction in Project-related VMT through active TDM measures for large employers with more than 500 employees, including aggressive regulations to reduce parking (Action T-3-1).
- A 20 percent reduction in VMT for multifamily residential, with a 10 percent reduction through active TDM measures, which may require parking maximums (Action T-3-1).

City approval of the Final TDM plan and issuance of a certificate of occupancy for each phase of the Project will be dependent upon the City finding that the Final TDM plan provides sufficient evidence to demonstrate that the proposed TDM measures will achieve the VMT reductions set forth in the 2022 CAP.

The last paragraph on page 3.2-32 of Section 3.2, *Transportation*, in the Draft EIR has been revised, as follows:

The Project is expected to implement a TDM plan (Project Design Feature TRA-1) that would include transit subsidies and shuttles to and from the Sunnyvale Caltrain station, the Milpitas Bay Area Rapid Transit (BART) station, and the Great America Rail station, along with other measures to increase public transit ridership...

The following text has been revised on page 3.2-35 of Section 3.2, *Transportation*, in the Draft EIR:

The Project's internal pedestrian connections would be consistent with General Plan Policies 5.8.5-P3 and 5.9.1-P4, while the planned trail along-adjacent to the SFPUC ROW would be consistent with General Plan Policy 5.8.4-P6.

Section 3.3, Air Quality

The following text in the third paragraph on page 3.3-30 of Section 3.3, *Air Quality*, has been revised:

As part of the Clean Air Plan, BAAQMD identifies transportation control measures to decrease emissions of criteria pollutants, TACs, and GHGs by reducing demand for motor vehicle travel, promoting efficient vehicles and transit service, decarbonizing transportation fuels, and electrifying motor vehicles and equipment. As described in Section 3.2, *Transportation*, the Project qualifies as a "transit-supportive project" and, thus, is exempt from a detailed VMT analysis. In addition to reducing demand for motor vehicle travel and promoting transportation efficiency, the Project would develop and implement a Transportation Demand Management (TDM) plan (Project Design Feature TRA-1) that would provide trip reduction measures to reduce emissions from vehicular traffic in and around the Project site. Finally, the Project would explore alternative transit methods, such as bicycle- and pedestrian-friendly streets, connections to existing bicycle networks and public transit, bicycle parking, showers and lockers, low-emission car-share systems, preferential carpool/vanpool parking, electric-vehicle charging stations, and TDM information.

The following text has been revised on page 3.3-34 of Section 3.3, *Air Quality*:

As shown in Table 3.3-8, below, maximum daily unmitigated emissions would exceed the BAAQMD NO_x thresholds during ~~the~~ 6 years of construction but would not exceed the thresholds for any other pollutants.

The following table note has been added to the “Maximum Daily Emissions (lb/day)^{a,b}” table heading in Table 3.3-8, Estimated Maximum Daily Construction Emissions of Criteria Air Pollutants and Precursors, on pages 3.3-34 and 3.3-35 of Section 3.3, *Air Quality*:

c. Refer to the Mission Point Project Revised Substation Design and Transmission Lines Memorandum (Substation Memo) regarding construction of the revised substation design and transmission line. As described in the Substation Memo, the revised substation design, including the transmission lines, would have a minor effect on criteria pollutant emissions during construction and would not change any of the conclusions presented in this section. However, construction of the transmission lines would most likely result in higher daily emissions than those shown in this table for 2025 and 2026.

The following table note has been added to the “Project Build-Out” table heading in Table 3.3-9, Estimated Maximum Daily Operational Emissions (Existing Conditions, Project Uses, and Net Emissions), on page 3.3-37 of Section 3.3, *Air Quality*:

b. Refer to the Substation Memo regarding operation of the revised substation design. As described in the Substation Memo, emissions associated with the substation are conservatively evaluated in this section, and operation of the revised substation design would have no potential to change overall Project emissions in a meaningful way.

The following text under the “Fugitive Dust” heading on pages 3.3-44 and 3.3-45 of Section 3.3, *Air Quality*, has been revised:

During grading and excavation associated with construction, localized fugitive dust would be generated. The amount of dust generated by a project is highly variable and dependent on the size of the disturbed area at any given time, the amount of activity, soil conditions, and meteorological conditions. BAAQMD’s CEQA Guidelines consider dust impacts to be less than significant if BAAQMD’s construction BMPs are employed to reduce such emissions. Because BAAQMD’s Basic Construction Mitigation Measures would be implemented, per Mitigation Measure AQ-2.2, construction-related fugitive dust emissions would not expose receptors to substantial pollutant concentrations or risks. The impact would be ***less than significant with mitigation.***

The following table note has been added to Table 3.3-14, Estimated Mitigated Project-Level Health Risk Results from Modeled Scenarios, on pages 3.3-46 and 3.3-47 of Section 3.3, *Air Quality*:

c. Refer to the Substation Memo regarding operation of the revised substation design. As described in the Substation Memo, the revised substation design and construction of the transmission line would not alter the results of the construction HRA.

Section 3.4, Greenhouse Gas Emissions

The following table note has been added to the “Annual GHG Emissions^a (MTCO₂e)” table heading in Table 3.4-6, Greenhouse Emissions by Construction Year (MTCO₂e per year), on page 3.4-19 of Section 3.4, *Greenhouse Gas Emissions*:

b. Refer to the Mission Point Project Revised Substation Design and Transmission Lines Memorandum (Substation Memo) regarding construction of the revised substation design and transmission line. As described in the Substation Memo, construction-related emissions may be marginally higher with the revised substation design relative to the original design resulting from the additional haul truck trips and equipment

use that would be needed. However, the minor additional emissions associated with the revised substation design would not change the section's conclusion that the Project's construction GHG emissions would be less than significant with mitigation.

The following table note has been added to the "Annual GHG Emissions^a (MTCO₂e)" table heading in Table 3.4-7, Operational Greenhouse Emissions by Sector for 2034 (MTCO₂e), on page 3.4-22 of Section 3.4, *Greenhouse Gas Emissions*:

^b Refer to the Substation Memo regarding the revised substation design. As described in the Substation Memo, the revised substation design would not affect the Project's operational emissions because there would be no change in the type of emissions sources between the original and revised design.

In Section 3.4, *Greenhouse Gas Emissions*, the second paragraph on page 3.4-23 of the Draft EIR has been revised, as follows:

...Moreover, the Project would implement a TDM plan (Project Design Feature TRA-1), including measures expected to achieve the CAP-required VMT reductions for residential and non-residential uses. As described in the Project's rezoning application, measures that may be included in the TDM plan include:

In Section 3.4, *Greenhouse Gas Emissions*, the second paragraph on page 3.4-24 of the Draft EIR has been revised, as follows:

The City's CAP also contains measures aimed at reducing GHG emissions from other sources of emissions, such as energy consumption, water use, and waste generation. The Project would comply with the required CAP measures aimed at reducing emissions from these sources, as shown in the CAP checklist provided in Appendix 3.4. Thus, as shown in the CAP checklist provided in Appendix 3.4, the Project would be consistent with all required and applicable measures. Furthermore, Project Design Feature GHG-1 would require the Project Sponsor to submit evidence to the City demonstrating that all the referenced CAP checklist actions would be implemented prior to issuance of the first construction or grading permit for the Project.

Project Design Feature GHG-1: Implement Applicable and Mandatory Actions from the City of Santa Clara 2022 Climate Action Plan Compliance Checklist

The Project Sponsor shall ensure that the Project is consistent with the City of Santa Clara's 2022 CAP by including all mandatory and applicable actions from the City of Santa Clara 2022 Climate Action Plan Compliance Checklist (CAP Checklist). Inclusion of the following CAP Checklist measures is necessary to ensure the performance standard is met:

- B-1-5: Reach codes for new construction
- B-2-3: Energy-efficient and electric-ready building code
- T-1-2: EV charging for all new construction
- T-2-1: Bicycle and pedestrian master plan implementation
- T-3-1: TDM plan requirements
- T-3-3: Transit-oriented development (projects within 0.5 mile of transit corridor only)
- T-3-5: Transportation analysis policy compliance
- M-1-1: Compliance with State solid waste ordinances
- N-1-1: Right-of-way tree planting (residential projects only)

- T-2-3: Bike and shared-mobility improvements
- M-3-1: Reuse of salvageable building materials
- N-3-3: Water-efficient landscaping requirements
- N-3-5: Recycled water connection requirements
- C-2-2: Onsite and natural stormwater systems
- M-3-4: Carbon-smart building materials

The Project Sponsor would also include the following five optional actions from the CAP Checklist:

- B-3-5: Local grid resiliency and energy storage improvements (optional)
- T-3-4: Telework (optional)
- N-3-4: Community water portfolio diversion (optional)
- T-2-2: Curb management improvements (optional)
- N-2-3: Sustainable planting guide (optional)

The Project Sponsor will submit evidence to the City demonstrating that each of the CAP Checklist actions listed above would be implemented prior to issuance of the first construction or grading permit for the Project.

In Section 3.4, *Greenhouse Gas Emissions*, the second paragraph on page 3.4-26 of the Draft EIR has been revised, as follows:

As discussed above, the *City of Santa Clara 2022 Climate Action Plan Compliance Checklist* outlines the CAP actions that are applicable to new development and that can be used to demonstrate conformance with the CAP. As discussed above, the CAP checklist was completed for the Project using information provided by the Project Sponsor (Project Design Feature GHG-1) (see Appendix 3.4).⁵³ As shown in the CAP checklist, the Project would be consistent with all required and applicable measures. Furthermore, as described in Impact GHG-1, the Project would align with CAP strategies to reduce GHG emission from transportation, the predominant source of emissions during Project operation, and other sources of emissions, such as energy consumption, water use, and waste generation. Therefore, operation of the Project would not conflict with implementation of the City's CAP or attainment of local GHG reduction targets, which are designed to attain the statewide GHG targets for 2030 and 2045 mandated by SB 32 and AB 1279, respectively.

⁵³ The City's 2022 Climate Action Plan Compliance Checklist (CAP Checklist) notes that projects involving General Plan amendments may not use the CAP Checklist and should quantify emissions. Although the Project involves a General Plan amendment, the CAP Checklist measures are nonetheless applicable to the Project and, if implemented, would reduce Project-generated GHG emissions.

Section 3.5, Energy

The first paragraph on page 3.5-14 in Section 3.5, *Energy*, of the Draft EIR, has been revised, as follows:

Operation of the Project would result in the consumption of electricity, natural gas, diesel, and gasoline (e.g., for emergency generator testing, heating, cooling, landscape maintenance, vehicle trips to/from the Project site). Operational energy consumption was evaluated under existing-year (2022) and build-out-year (2034) conditions. The Project would take a number of actions to reduce energy

consumption (e.g., acquire LEED Silver and Gold certification, comply with the increasingly stringent Title 24 Building Energy Efficiency and Green Building standards). Mobile fuel usage would be reduced through an extensive Transportation Demand Management (TDM) program (Project Design Feature TRA-1). Mobile fuel would also be displaced through use of electric-vehicle charging stations. Energy use related to solid waste would be reduced through diversion, recycling, and composting programs. The Project also would incorporate onsite solar generation as well as water and waste reduction measures, including low-water landscaping, low-flow toilets, and low-flow faucets.

The last two paragraphs have been revised on page 3.5-15 in Section 3.5, *Energy*, of the Draft EIR:

The Project would install rooftop photovoltaic panels to generate renewable energy onsite in the form of solar power to offset some of the Project's operational energy consumption. Furthermore, the Project would implement a robust TDM program (Project Design Feature TRA-1) for the site that would encourage alternative modes of transportation to reduce single-occupant vehicle use as well as energy consumption from vehicle usage. The Project's TDM program may include, as appropriate for the applicable use, connections to existing bicycle networks and public transit, bicycle parking, showers and lockers, low-emission car-share systems, preferential carpool/vanpool parking, electric-vehicle charging stations, and TDM program information, which would reduce VMT and, consequently, the amount of energy (i.e., gasoline and diesel) consumed.

An analysis was performed, in addition to the evaluation of the Project's operational energy consumption, to determine whether the energy demand generated by the Project could be served by existing energy infrastructure or if additional infrastructure and capacity would be needed. As described above, the Project would result in an increase in demand for electricity, an increase that could exceed the capacity of the existing SVP electric distribution system. Therefore, an approximately 27,000 ~~18,000~~ gsf electrical substation would be constructed onsite to support the Project. The at-grade substation would be located on the east side of the Project site, in Area C, and have no parking above or below...

The following text has been added on page 3.5-16 in Section 3.5, *Energy*, of the Draft EIR:

SVP would coordinate the precise size, dimensions, and layout for the substation during the design phase of the Project. In addition, SVP analyzed various transmission line routing options to connect the new substation to the existing SVP electrical system. Of these, two options, "Routing Option 1" (the preferred option) and "Routing Option 3" (the alternative option), were selected by SVP for analysis as part of the Project. The routing options are shown in Figures 2-16 and 2-17. New transmission lines would be placed underground within the Project site and within public rights-of-way to connect to existing underground transmission lines. SVP will coordinate with the City and SFPUC to obtain all required approvals for the selected transmission line routing. No new overhead transmission lines are proposed under either option. For more details see "Electric and Energy System" in Chapter 2, *Project Description*, of this Draft EIR.

Section 3.6, Noise

The following text has been added after the subsection titled “Groundborne Vibration” in Section 3.6, *Noise*, of the Draft EIR on page 3.6-4:

Human Response to Noise

Noise can have a range of effects on people, including hearing damage, sleep interference, speech interference, performance interference, physiological responses, and annoyance. Each of these is briefly described below.

- **Hearing Damage.** A person exposed to high noise levels can suffer either gradual or traumatic hearing damage. Gradual hearing loss occurs with repeated exposure to excessive noise levels and is most commonly associated with occupational noise exposures in heavy industry or other very noisy work environments. Traumatic hearing loss is caused by sudden exposure to an extremely high noise level, such as a gunshot or explosion at very close range. The potential for noise-induced hearing loss is not generally a concern in typical community noise environments. Noise levels in neighborhoods, even in very noisy airport environs, are not loud enough to cause hearing loss.
- **Sleep Interference.** Exposure to excessive noise levels at night has been shown to cause sleep disturbance. Sleep disturbance refers not only to awakening from sleep but also to effects on the quality of sleep such as altering the pattern and stages of sleep. World Health Organization guidelines recommend noise limits of 30 dBA L_{eq} (8-hour average) for continuous noise and 45 dBA L_{max} for single sound events inside bedrooms at night to minimize sleep disturbance.^{1b}
- **Speech Interference.** Speech interference can be a problem in any situation where clear communication is desired but is often of particular concern in learning environments (such as schools) or situations where poor communication could jeopardize safety. Normal conversational speech inside homes is typically in the range of 50 to 65 dBA,^{1c} and any noise in this range or louder may interfere with speech. As background noise levels rise, the intelligibility of speech decreases and the listener fails to recognize an increasing percentage of the words spoken. A speaker may raise his or her voice in an attempt to compensate for higher background noise levels, but this in turn can lead to vocal fatigue for the speaker.
- **Performance Interference.** Excessive noise has been found to have various detrimental effects on human performance, including information processing, concentration, accuracy, reaction times, and academic performance. Intrusive noise from individual events can also cause distraction. These effects are of obvious concern for learning and work environments.
- **Physiological Responses.** Acute noise has been shown to cause measurable physiological responses in humans, including changes in stress hormone levels, pulse rate, and blood pressure. The extent to which these responses cause harm or are signs of harm is not clearly defined, but it has been postulated that they could contribute to stress-related diseases, such as hypertension, anxiety, and heart disease. However, research indicates links between environmental noise and permanent health effects are generally weak and inconsistent. Statistically significant health risks have been found for extended exposure to very high noise levels, such as for workers exposed to high levels of industrial noise for 5 to 30 years.^{1d}

- **Annoyance.** The subjective effects of annoyance, nuisance, and dissatisfaction are possibly the most difficult to quantify, and no accurate method exists to measure these effects. This difficulty arises primarily from differences in individual sensitivity and habituation to sound, which can vary widely from person to person. What one person considers tolerable can be unbearable to another of equal hearing acuity. An important tool in estimating the likelihood of annoyance due to a new sound is by comparing it to the existing baseline or “ambient” environment to which that person has adapted. In general, the more the level or tonal (frequency) variations of a sound exceed the previously existing ambient sound level or tonal quality, the less acceptable the new sound will be.

In most cases, effects from sounds typically found in the natural environment would be limited to annoyance or interference. Physiological effects and hearing loss would be more commonly associated with human-made noise, such as in an industrial or occupational setting.

^{1b} Berglund, B., T. Lindvall, D. H. Schwela, and World Health Organization. 1999. *Guidelines for Community Noise*. Available: <https://iris.who.int/bitstream/handle/10665/66217/a68672.pdf?sequence=1>. Accessed: January 2024.

^{1c} Pearsons, K. S., R. L. Bennett, and S. A. Fidell. 1977. *Speech Levels in Various Noise Environments*. Office of Health and Ecological Effects, Office of Research and Development, U.S. EPA.

^{1d} Berglund, B., T. Lindvall, D. H. Schwela, and World Health Organization. 1999. *Guidelines for Community Noise*. Available: <https://iris.who.int/bitstream/handle/10665/66217/a68672.pdf?sequence=1>. Accessed: January 2024.

Section 3.6, *Noise*, of the Draft EIR, on pages 3.6-8 and 3.6-9, has been revised, as follows.

~~Santa Clara County Airport Land Use Commission~~

~~The Santa Clara Airport Land Use Commission (ALUC) was established to ensure appropriate development of areas surrounding public airports in Santa Clara County. Its intent is to minimize the public's exposure to excessive noise and safety hazards and ensure that the approaches to airports are kept clear of structures that could pose an aviation hazard. The ALUC formulates and maintains Comprehensive Land Use Plans (CLUPs) for airports within the county. The ALUC reviews general plans and applicable specific plans for the county as well as the cities of San José and Santa Clara to determine if the plans and regulations are consistent with the policies of the CLUP for San José International Airport. The ALUC also reviews proposed amendments to general plans, specific plans, and zoning and building regulations that may affect land uses in the Airport Influence Area (AIA) of San José International Airport to determine if the proposed amendments are consistent or inconsistent with the CLUP.~~

~~The CLUP for San José International Airport includes several policies that pertain to noise compatibility and are relevant to the Project.⁴~~

- ~~• *Policy N-1.* The CNEL method of representing noise levels shall be used to determine if a specific land use is consistent with the CLUP.~~
- ~~• *Policy N-2.* In addition to the other policies herein, the noise compatibility policies presented in Table 4-1 [Table 3.6-5, below] shall be used to determine if a specific land use is consistent with this CLUP.~~
- ~~• *Policy N-3.* Noise impacts shall be evaluated according to the Aircraft Noise Contours presented in Figure 5 [2022 Aircraft Noise Contours].~~
- ~~• *Policy N-4.* No residential or transient lodging construction shall be permitted within the 65-dB CNEL contour boundary unless it can be demonstrated that the resulting interior sound levels will be less than 45-dB CNEL and no outdoor patios or outdoor activity areas are associated with the residential~~

~~portion of a mixed use residential project or a multi-unit residential project. (Soundwall noise mitigation measures are not effective in reducing noise generated by aircraft flying overhead.)~~

- ~~• Policy N-5. All property owners within the AIA who rent or lease their property for residential use shall include in their rental/lease agreement a statement advising the tenant that he or she is living within a high noise area and the exterior noise level is predicted to be greater than 65 dB CNEL in a manner that is consistent with current State law, including Assembly Bill 2776 (2002).~~
- ~~• Policy N-6. Noise level compatibility standards for other types of land uses shall be applied in the same manner as the above residential noise level criteria. Table 4-1 [Table 3.6-5, below] presents acceptable noise levels for other land uses in the vicinity of the airport.~~
- ~~• Policy N-7. Single-event noise levels from single aircraft overflights are also to be considered when evaluating the compatibility of highly noise sensitive land uses such as schools, libraries, outdoor theaters, and mobile homes. Single-event noise levels are especially important in the areas that are regularly overflown by aircraft but may not produce significant CNEL contours, such as the downwind segment of the traffic pattern and airport entry and departure flight corridors.~~

The CLUP also summarizes land use compatibility standards from the General Plan for the impact area of San José International Airport, as shown in Table 3.6-5.

Table 3.6-5. CLUP Land Use Compatibility Standards

Land Use Category	CNEL					
	55-60	60-65	65-70	70-75	75-80	80-85
Residential (low-density single family, duplex, mobile homes)	*	**	***	****	****	****
Residential (multi-family, condominiums, townhouses)	*	**	***	****	****	****
Transient lodging (motels, hotels)	*	*	**	****	****	****
Schools, libraries, indoor religious assemblies, hospitals, nursing homes	*	***	****	****	****	****
Auditoriums, concert halls, amphitheaters	*	***	***	****	****	****
Sports arenas, outdoor spectator sports, parking	*	*	*	**	***	****
Playgrounds, neighborhood parks	*	*	***	****	****	****
Golf courses, riding stables, water recreation areas, cemeteries	*	*	*	**	***	****
Office buildings, business-commercial and professional, retail	*	*	**	***	****	****
Industrial, manufacturing, utilities, agriculture	*	*	*	***	***	****

* Generally Acceptable: Specified land use is satisfactory, based on the assumption that any buildings involved are of normal conventional construction, without special noise insulation requirements. Mobile homes may not be acceptable in these areas. Some outdoor activities may be adversely affected.

** Conditionally Acceptable: New construction or development should be undertaken only after a detailed analysis of the noise reduction requirements is made and needed noise insulation features are included in the design. Outdoor activities may be adversely affected.

Residential: Conventional construction, but with closed windows and fresh air supply systems or air conditioning, will normally suffice.

*** Generally Unacceptable: New construction or development should be discouraged. If new construction or development does proceed, a detailed analysis of the noise reduction requirements must be made and needed noise insulation features must be included in the design. Outdoor activities are likely to be adversely affected.

**** Unacceptable: New construction or development shall not be undertaken.

⁴—~~Santa Clara County Airport Land Use Commission. 2016. *Norman Y. Mineta San José International Airport Comprehensive Land Use Plan*. Available: https://stgenpln.blob.core.windows.net/document/ALUC_SJC_CLUP.pdf. Accessed: August 22, 2023.~~

In Section 3.6, *Noise*, the fourth sentence in the second paragraph on page 3.6-12 of the Draft EIR has been revised, as follows:

However, the Project site is not within areas that are exposed to aircraft noise (i.e., above ~~6065~~ dBA) from San José International Airport (Figure 3.1-4).

In Section 3.6, *Noise*, of the Draft EIR, footnotes 10 and 28 on pages 3.6-12 and 3.6-41, respectively, have been revised, as follows:

~~Norman Y. Mineta San José International Airport. 2020. *2037 CNEL Contours Airport Master Plan*. Amended: April 28, 2020. Windus, Walter B. 2011. *Comprehensive Land Use Plan for San José International Airport*. Santa Clara County Airport Land Use Commission. Adopted: May 25, 2011. Amended: November 16, 2016.~~

The fourth sentence in the third paragraph on page 3.6-41 of the Draft EIR has been revised, as follows:

However, the Project site does not fall within the ~~6065~~ dBA CNEL noise contour (i.e., the lowest noise contour for aircraft noise) for San José International Airport and thus would not be exposed to aircraft noise above ~~6065~~ dBA (Figure 3.1-4).

The table note for the “Substation” column heading in Table 3.6-9, Construction Noise Levels by Construction Activity (L_{eq}),^a on pages 3.6-23 and 3.6-24 of Section 3.6, *Noise*, has been revised as follows:

- d. The substation construction activity comprises multiple subphases of construction (such as building shell and sitework); however, the worst-case noise is shown in one column to simplify the table. Presenting the substation noise separately is conservative because it is likely that the substation would be constructed with the rest of the Project and activities would be indistinguishable. Refer to the Mission Point Project Revised Substation Design and Transmission Lines Memorandum (Substation Memo) regarding construction of the revised substation design and transmission line. As described in the Substation Memo, noise levels from construction of the substation would not be expected to increase if the revised substation design is implemented. Similarly, construction of the transmission line would result in noise levels comparable to those presented above and is thus not expected to worsen noise impacts at sensitive land uses.

The following footnote has been added after the first sentence of the first paragraph in the section titled Mechanical Equipment Noise on page 3.6-32 of Section 3.6, *Noise*.

All equipment would be designed, selected, and operated such that all property-line noise ordinance requirements would be met.^{17a}

^{17a} Refer to the Substation Memo regarding operation of the revised substation design. As described in the Substation Memo, the increased square footage with the revised substation design would not increase the operational noise levels described below.

Footnote 17 has been revised on page 3.6-32 of Section 3.6, *Noise*, as such:

Typical cooling towers and exhaust fans, such as those proposed for the Project, can produce sound levels of approximately 70 dBA and 38 dBA at 50 feet, respectively.^{17b}

^{17b} Hoover and Keith. 2000. *Noise Control for Buildings, Manufacturing Plants, Equipment, and Products*. Houston, TX.

The following table note has been added to Table 3.6-12, Vibration Source Levels for Daytime Construction Equipment, on page 3.6-39 of Section 3.6, *Noise*:

- d. Refer to the Substation Memo regarding construction of the revised substation design and transmission line. As described in the Substation Memo, vibration levels from construction of the substation would not be expected to increase if the revised substation design is implemented. Similarly, construction of the transmission line would result in vibration levels comparable to those presented above and is thus not expected to worsen vibration impacts at sensitive land uses.

The following table note has been added to Table 3.6-13, Vibration Source Levels for Nighttime Construction Equipment, on page 3.6-39 of Section 3.6, *Noise*:

- c. Refer to the Substation Memo regarding construction of the revised substation design and transmission line. As described in the Substation Memo, vibration levels from construction of the substation would not be expected to increase if the revised substation design is implemented. Similarly, construction of the transmission line would result in vibration levels comparable to those presented above and is thus not expected to worsen vibration impacts at sensitive land uses.

Section 3.7, Cultural Resources

In Section 3.7, Cultural Resources, the third paragraph on page 3.7-13 has been revised as follows:

Project construction would require below-grade excavations of up to 16 feet for parking, service access to buildings, foundations, and most utilities and up to a depth of approximately 28 feet for jack-and-bore pits to install transmission lines within a San Francisco Public Utilities Commission easement. Therefore, excavations related to Project construction could encounter archaeological deposits and result in an adverse change to a buried archaeological deposit that could qualify as a historical resource and/or unique archaeological resource. Thus, **significant** impacts related to buried archaeological deposits could result from construction of the Project.

In Section 3.7, Cultural Resources, the last paragraph on page 3.7-14 has been revised as follows:

The results of the NWIC records search conducted in 2019 and 2022 and the historic-period maps and aerial photographs indicate that no known previously recorded dedicated cemeteries or cultural resources that include human remains are located within or adjacent to the Project site. However, given the sensitivity for buried pre-European contact archaeological deposits, as well as requirements for below-grade excavations up to 16 feet for parking, service access to buildings, foundations, and most utilities and up to a depth of approximately 28 feet for jack-and-bore pits to install transmission lines within a San Francisco Public Utilities Commission easement, the potential exists for encountering unknown remains associated with archaeological deposits.

Section 3.8, Biological Resources

Footnotes 1 and 2 on page 3.8-1 of Section 3.8, *Biological Resources*, in the Draft EIR have been revised as follows:

- ¹ California Natural Diversity Database. 2022. RareFind 5. California Department of Fish and Wildlife (version 5.2.14). Biogeographic Information and Observation System (BIOS) (version 5.108.157). Last updated in BIOS on October 31, 2022. Available: <https://apps.wildlife.ca.gov/bios/?al=ds85>. Accessed: November 7, 2022, and February 2, 2024.
- ² U.S. Fish and Wildlife Service. 2022. *IPaC Species List*. Available: <https://ecos.fws.gov/ipac/>. Accessed: November 15, 2022, and February 2, 2024.

The following text has been revised on page 3.8-6 in the subsection titled “Environmental Setting” of Section 3.8, *Biological Resources*, in the Draft EIR:

The 48.6-acre Project site is currently occupied by four light industrial buildings that were constructed in the late 1970s on the northern 10-acre portion of the site; a paved surface parking lot with approximately 5,081 parking spaces is located south of Democracy Way. The primary use of the parking lot is temporary event parking for Levi’s Stadium, which uses 3,300 parking spaces. The rest of the parking spaces are used by Amazon as drivers’ training grounds. The site is surrounded by low-intensity office and light industrial complexes with ornamental landscaping. The two underground transmission line routing options are planned under existing paved roads that are surrounded by additional office and industrial complexes with ornamental landscaping.

The Project site is relatively flat, with an elevation that ranges from approximately 7 to ~~18~~ 15 feet above mean sea level. The Natural Resources Conservation Service has mapped soils on the eastern portion of the Project site as Urbanland-Hangerone complex and on the western portion as Urbanland-Embarcadero complex. Soils on Routing Option 1 are mapped entirely as Urbanland-Hangerone complex, and soils on Routing Option 3 are the same as those found on the Project site. Both soil map units are associated with basin floors and composed of alluvium derived from metamorphic or sedimentary rocks, which occurred at this location prior to urban development. Hangerone soil profiles are composed primarily of clay; Embarcadero soil profiles include silty clay and clay loam. Both are poorly drained.⁵

Because the entire Project site has been modified for human use, it does not support any natural plant communities. Except for parking lot margins, medians, and landscaped areas, which are overgrown with weeds and nonnative grasses and/or planted with ornamental trees or shrubs, the entire site is dominated by buildings and pavement. There are no streams or hydrological features, including wetlands or non-wetland waters of the United States or waters of the State, that would be subject to USACE or Regional Water Board jurisdiction on or adjacent to the Project site; the nearest hydrological feature is Calabazas Creek, located approximately ~~more than~~ 500 feet (0.1 mile) west of the site. The Project site is separated from Calabazas Creek by a row of office buildings west of Patrick Henry Drive. The biological communities on the Project site (i.e., developed/landscaped and ruderal) reflect the disturbed and developed nature of the site. A brief description of each vegetation community on the Project site is provided below.

⁵ Natural Resources Conservation Service. 2019. *Custom Soil Resource Report for Santa Clara Area, California, Western Part*. Web Soil Survey. Available: <https://websoilsurvey.sc.egov.usda.gov>. Accessed: November 7, 2022, and February 2, 2024.

The following text has been revised on page 3.8-7 in the subsection titled “Developed/Landscaped” of Section 3.8, *Biological Resources*, in the Draft EIR:

Currently, 350 trees, composed of 26 species, are planted as ornamental landscaping on the Project site. Ornamental trees adjacent to the transmission line routing options were not surveyed because they would not be affected by construction activities related to the transmission line routing. Chinese elm (*Ulmus parvifolia*), Canary Island pine (*Pinus canariensis*), blackwood acacia (*Acacia melanoxylon*), and Canyon live oak (*Quercus chrysolepis*) are the most abundant tree species on the Project site.

The following text has been revised on page 3.8-9 in the subsection titled “Special-Status Plant Species” of Section 3.8, *Biological Resources*, in the Draft EIR:

Based on the results of the CNDDDB and CNPS online inventory queries, ~~165~~ special-status plant species were identified in the Project region (see Table 3.8-1 at the end of this section).

The following text has been revised on page 3.8-9 in the subsection titled “Special-Status Wildlife Species” of Section 3.8, *Biological Resources*, in the Draft EIR:

Based on the results of the CNDDDB and IPaC online inventory queries, as well as local species knowledge, ~~334~~ special-status animal species were identified in the Project region (see Table 3.8-2 at the end of this section). Upon further review of local habitat conditions and the specifics regarding documented CNDDDB occurrence records, ~~254~~ of the original ~~334~~ special-status wildlife species were deemed to have no potential to occur on the Project site because the site lacks suitable habitat, the site is outside the species’ known range, the species are presumed extirpated from the Project region, and/or evidence exists that the species do not occur in the Project vicinity.

The following text has been added on page 3.8-9 in the subsection titled “Special-Status Wildlife Species” of Section 3.8, *Biological Resources*, in the Draft EIR:

...The nearest documented occurrence of pallid bat is more than 5 miles from the Project site.

Townsend’s big-eared bat, a California species of special concern, may forage over the Project site. Although the Project site does not contain caves, tunnels, and mines that are utilized by this species, Townsend’s big-eared bat may occasionally day roost within vacant structures on the Project site, especially if the structures are undisturbed. However, a large level of bat colony roosting is highly unlikely on the Project site because of intense surrounding urbanization and the species being extremely sensitive to human disturbance. Although there is one documented occurrence of Townsend’s big-eared bat within 5 miles of the Project site, the record is presumed extirpated because the record is attributed to a fallow farm, which has been demolished and replaced with residences since the observation.

The following text has been revised on page 3.8-11 of Section 3.8, *Biological Resources*, in the Draft EIR:

Interfere with Movement of Native Resident or Migratory Fish Species (BIO-4). There are no hydrological features onsite; the nearest hydrological feature is Calabazas Creek, located ~~approximately more than~~ 500 feet (0.1 mile) west of the site. In addition, in accordance with General Plan Policy 5.10.1-P2, the Project Sponsor will follow the guidelines and standards for lands near streams to protect them as well as riparian habitats. Therefore, the Project would have **no impact** on the movement of fish species.

The following text has been revised on page 3.8-12 in the subsection titled “Construction” of Section 3.8, *Biological Resources*, in the Draft EIR:

Common native bird species not identified as candidate, sensitive, or special-status species by USFWS or CDFW are protected by both State (California Fish and Game Code Sections 3503 and 3513) and federal (MBTA) laws. Common bats species are protected by State (California Fish and Game Code Section 4150) law. Pallid bat ~~and Townsend’s big-eared bat have been~~ special-status species since ~~their~~ its designation by CDFW as a species of special concern.

The following text has been revised on page 3.8-12 in the subsection titled “Construction” of Section 3.8, *Biological Resources*, in the Draft EIR:

BIO-1.1: *Protect Roosting Bats.* To avoid impacts on roosting bats that may utilize trees and/or vacant buildings in the Project area for day roosting, the Project Sponsor shall retain a qualified wildlife biologist to conduct a survey for roosting bats no sooner than 14 days prior to the start of demolition of any vacant buildings with ingress and egress points, as determined by a qualified wildlife biologist, that could be used by bats or the removal of suitable roosting vegetation (i.e., trees) for bats. If building demolition or vegetation removal efforts do not begin within the 14 days following the survey for roosting bats, another survey shall be required. Trees adjacent to the transmission line routing options would not require surveys for bats because they would not be affected by construction activities. If roosting bats are detected, the biologist shall enact a 150-foot (minimum) no-work buffer from the perimeter of the area the bats are thought to be occupying and confer with CDFW to determine potential roost protection or roost eviction practices, such as installing one-way exclusion devices or using lights to deter roosting.

The following text has been revised on page 3.8-13 in the subsection titled “Construction” of Section 3.8, *Biological Resources*, in the Draft EIR:

Currently, there are approximately 350 ornamental and landscaping trees on the Project site and four buildings, all of which are planned for removal. Trees along streets adjacent to the transmission line routing options are located outside of the Project boundaries and would not be affected by construction activities. Impacts on native migratory birds, including tree-nesting raptors, could involve direct impacts from the removal of nesting trees or shrubs, or other nesting substrate (e.g., buildings), as well as indirect impacts from increases in noise and human activity near nesting habitat.

The following text has been revised on pages 3.8-15 and 3.8-16 of Section 3.8, *Biological Resources*, in the Draft EIR:

BIO-4.1: *Protect Nesting Birds.* To the extent feasible, the Project Sponsor and its contractor shall avoid conducting vegetation removal during the migratory bird season (February 1 through August 31). If Project-related activities must take place during the migratory bird season, the Project Sponsor 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 occurs within the minimum nest buffer zone widths described below ~~remains~~. If construction is ongoing for multiple years, these surveys *shall* be conducted each year.

The following text has been added on page 3.8-22 in Table 3.8-1 of Section 3.8, *Biological Resources*, in the Draft EIR:

<u>Plagiobothrys glaber</u>	<u>-/-/1A</u>	<u>Coastal valleys from Marin County to San Benito County.</u>	<u>Alkaline meadows.</u>	<u>Apr-May</u>	<u>None. Suitable habitat is not present.</u>
<u>Hairless popcornflower</u>					

The following text has been added on page 3.8-27 in Table 3.8-2 of Section 3.8, *Biological Resources*, in the Draft EIR:

<u><i>Rana boylei</i></u> <u>Foothill yellow-</u> <u>legged frog</u>	<u>T/E</u>	<u>Occurs in the Klamath,</u> <u>Cascade, north Coast,</u> <u>south Coast, Transverse,</u> <u>and Sierra Nevada Ranges</u> <u>up to approximately 1,800</u> <u>meters (6,000 feet).</u>	<u>Creeks or rivers in</u> <u>woodland, forest, mixed-</u> <u>chaparral, and wet</u> <u>meadow habitats with</u> <u>rock and gravel substrate</u> <u>and low overhanging</u> <u>vegetation along the</u> <u>edge. Usually found near</u> <u>riffles with rocks and</u> <u>sunny banks nearby.</u>	<u>None. Suitable</u> <u>habitat is not</u> <u>present.</u>
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The following text has been added on page 3.8-31 in Table 3.8-2 of Section 3.8, *Biological Resources*, in the Draft EIR:

<u><i>Corynorhinus</i></u> <u><i>townsendii</i></u> <u>Townsend's</u> <u>big-eared bat</u>	<u>-/SSC</u>	<u>Widespread</u> <u>throughout</u> <u>California, from</u> <u>low desert to</u> <u>mid-elevation</u> <u>montane</u> <u>habitats.</u>	<u>Distribution is</u> <u>strongly correlated</u> <u>with the availability of</u> <u>caves and cave-like</u> <u>roosting habitat,</u> <u>including abandoned</u> <u>mines; utilizes</u> <u>buildings, bridges,</u> <u>rock crevices, and</u> <u>hollow trees as roost</u> <u>sites. Will night roost</u> <u>in more open settings,</u> <u>including under</u> <u>bridges. Foraging</u> <u>associations include</u> <u>edge habitats along</u> <u>streams, adjacent to</u> <u>and within a variety of</u> <u>wooded habitats.</u>	<u>Low. Suitable habitat is not</u> <u>present; however, this species</u> <u>may occasionally day roost</u> <u>within large trees with suitable</u> <u>exfoliating bark or cavities or</u> <u>abandoned/vacant structures</u> <u>within the Project area, especially</u> <u>if properties are left undisturbed</u> <u>for a long period of time. Large</u> <u>bat colony roosting is highly</u> <u>unlikely within the Project area</u> <u>due to intense surrounding</u> <u>urbanization because the species</u> <u>is known to be very sensitive to</u> <u>human disturbance. The one</u> <u>CNDDDB record within 5 miles of</u> <u>the Project site is presumed</u> <u>extirpated because the location</u> <u>where found has been</u> <u>redeveloped from a farm into</u> <u>residences.</u>
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Section 3.9, Geology and Soils

The following text has been revised on page 3.9-12 of Section 3.9, *Geology and Soils*, in the Draft EIR:

The study area for paleontological resources is defined by a 150-foot buffer outside the extent of disturbance plus underlying units to the maximum depth of excavation, 284 feet bgs.

The following text has been revised on page 3.9-17 of Section 3.9, *Geology and Soils*, in the Draft EIR:

Construction of the Project would require excavation up to a depth of approximately 16 feet for the one level of below-grade parking and up to a depth of approximately 28 feet for jack-and-bore pits to install transmission lines within a San Francisco Public Utilities Commission easement. Shoring would be required to restrain the sidewalls of the excavations laterally, ensuring that they would not collapse, and limit the movement of adjacent improvements, such as public streets, sidewalks, and

utilities. Appropriate shoring that meets applicable regulatory standards will be specified in the detailed construction documents prepared for the Project.

The following text has been revised on page 3.9-20 of Section 3.9, *Geology and Soils*, in the Draft EIR:

The Project would be located in areas that are underlain by geologic units that have yielded scientifically important fossil finds, including vertebrate remains. Disturbance of, damage to, or loss of paleontological resources with high paleontological potential would constitute a significant impact. As stated above in Table 3.9-4, the Project is located on a geologic unit with high paleontological potential. The Project involves excavation to a maximum depth of ~~16~~28 feet bgs in sediments that have been previously disturbed at ground surface...

The following text has been revised on page 3.9-22 of Section 3.9, *Geology and Soils*, in the Draft EIR:

Impact C-GEO-1: Cumulative Seismicity Impacts. The Project, in combination with other foreseeable development in the vicinity, would not directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death, involving rupture of a known earthquake fault, strong seismic ground shaking, or seismically related ground failure. (No Impact~~Less than Significant~~)

Construction and Operation

Potential impacts of the Project related to seismicity would be localized and specific to the Project site and would not combine with other projects to create a cumulative impact. Therefore, ***no impact*** related to seismicity would result from the Project under cumulative conditions, and no mitigation would be necessary.

Impact C-GEO-2: Cumulative Erosion or Loss of Topsoil. The Project, in combination with other foreseeable development in the vicinity, would not result in substantial soil erosion or the loss of topsoil. (No Impact~~Less than Significant~~)

Construction and Operation

Potential impacts of the Project related to erosion or loss of topsoil would be localized and specific to the Project site and would not combine with other projects to create a cumulative impact. Therefore, ***no impact*** related to erosion or loss of topsoil would result from the Project under cumulative conditions, and no mitigation would be necessary.

Impact C-GEO-3: Cumulative Collapse of Unstable Soil. The Project, in combination with other foreseeable development in the vicinity, would not result in the collapse of unstable soil. (No Impact~~Less than Significant~~)

The following text has been revised on page 3.9-23 of Section 3.9, *Geology and Soils*, in the Draft EIR:

Impact C-GEO-5: Cumulative Expansive Soil Impacts. The Project, in combination with other foreseeable development in the vicinity, would not create substantial direct or indirect risks to life or property as a result of being located on expansive soil. (No Impact~~Less than Significant~~)

Section 3.10, Hydrology and Water Quality

The following text has been revised on page 3.10-13 of Section 3.10, *Hydrology and Water Quality*, in the Draft EIR:

The majority of the Project site is mapped by FEMA as being in Zone X, which are areas protected by levees from the 1-percent-annual-chance flood (also known as a 100-year flood hazard zone). FEMA mapping indicates that levees along Calabazas Creek and San Tomas Aquino Creek contain the 1-percent-annual-chance flood discharge within the creek channels in the vicinity of the Project site. The area of Democracy Way within the Project site and two areas within Old Ironsides Drive adjacent east of the Project site are mapped by FEMA as being in Zone AO, a special flood hazard area subject to inundation by the 1-percent-annual-chance flood, usually sheet flow on sloping terrain, with a flooding depth of 1 foot. An area within Patrick Henry Drive south of the Project site (where offsite utility work could occur under Routing Option 3 of the Project) is mapped by FEMA as being in Zone AH, a special flood hazard area subject to inundation by the 1-percent-annual-chance flood, with a flooding depth of 1 to 3 feet (usually areas of ponding) and base flood elevations determined.

The following text has been revised on page 3.10-19 of Section 3.10, *Hydrology and Water Quality*, in the Draft EIR:

...Therefore, dewatering at the Project site and offsite utility work could contribute to further saltwater intrusion, which would be a **significant** impact related to groundwater quality.

As discussed in Section 3.11, *Hazards and Hazardous Materials*, no hazardous materials releases have been reported in the vicinity of the Project site that would be likely to significantly affect the Project site; however, several hazardous materials users are in the vicinity of the Project site. VOCs have been detected in soil vapor at one property (3000 Patrick Henry Way), which is south of the Project site and near the area where offsite utility work could occur under Routing Option 3 of the Project. If leaks or spills occur at these facilities, contamination could affect the Project site or proposed transmission line routes for the Project. As discussed under *Environmental Setting*, subsurface investigations at the Project site have identified only low levels of VOCs and TPH as diesel and motor oil in groundwater at the Project site. Because of the extensive amount of excavation that would be required for the Project, some areas of subsurface contamination on the Project site could be removed during excavation activities, which would have a beneficial effect with respect to groundwater quality. In addition, subsurface contamination could be present in areas of the Project site that would not be excavated during dewatering in other areas because of the phasing of construction or because the areas would be outside of the proposed subsurface parking structures. Previously unidentified groundwater contamination could be present in areas near the Project site because of previous and existing commercial/industrial land uses in the Project area. Therefore, dewatering activities at the Project site or for off-site utility work could contribute to the migration of potentially contaminated groundwater to previously uncontaminated areas, which would be a **significant** impact related to groundwater quality.

MITIGATION MEASURES. Implementation of Mitigation Measure WQ-1.1 would ensure that the significant impacts related to saltwater intrusion during dewatering would be reduced to a **less-than-significant** level. The measure would evaluate the potential for saltwater intrusion through geotechnical analysis and modeling and require the Project to use shoring systems that would limit dewatering volumes and durations to the maximum extent possible, if necessary, by Valley Water. In addition, implementation of Mitigation Measures WQ-1.1 and HAZ-2.1 (discussed in Section 3.11, *Hazards and Hazardous Materials*) would ensure that the significant impact related to the migration

of contaminated groundwater would be reduced to a ***less-than-significant*** level by ensuring that subsurface contamination at the Project site and along proposed transmission line routes for the Project would be further investigated and remediated, if necessary, under the oversight of a regulatory agency and that modeling of the proposed dewatering activities would include an evaluation of the potential for...

The following text has been revised on page 3.10-21 of Section 3.10, *Hydrology and Water Quality*, in the Draft EIR:

Valley Water has indicated that, according to its records, there are eight active wells on the Project site. If the wells will not be used following development of the Project site, they must be properly destroyed under permits from Valley Water. According to a Phase I Environmental Site Assessment (ESA) prepared for the Project site in 2022, groundwater monitoring wells were installed at the Project site during investigations conducted between 1989 and 1994, and the monitoring wells were reportedly destroyed under permits from Valley Water in 1995. The Phase I ESA did not identify any current water supply wells or groundwater monitoring wells at the Project site;^{44a} however, Valley Water's Well Information App^{44b} indicates that there are two active monitoring wells at the Project site, one in the northeast corner of the Project site and one in the southwest portion near Patrick Henry Drive. The Well Information App also identifies seven destroyed monitoring wells on the Project site. ~~therefore, it is not clear if there are active wells present on the Project site.~~ Operation of the Project would not involve the use of wells on the Project site; therefore, any wells on the Project site, if currently present, should be properly destroyed...

^{44a} Cornerstone Earth Group. 2022. Phase I Environmental Site Assessment, 49-acre Old Ironsides Drive, Tasman Drive, Democracy Way, and Patrick Henry Drive Parcels, Santa Clara, California. July 25.

^{44b} Valley Water. 2024. Well Information App. Available: <https://www.valleywater.org/contractors/doing-business-with-the-district/wells-well-owners/well-information-app>. Accessed: January 12, 2024.

The following text has been revised on pages 3.10-22 to 3.10-23 of Section 3.10, *Hydrology and Water Quality*, in the Draft EIR:

Construction of the Project would require excavation for utilities and below-grade parking. Such excavation would extend to a maximum depth of approximately 16 feet on the Project site and up to a depth of approximately 28 feet for jack-and-bore pits to install transmission lines within a San Francisco Public Utilities Commission easement, ~~which is~~ These depths of excavation would be below the shallow groundwater table; therefore, construction dewatering for excavation would be required. The geotechnical engineer for the Project prepared a dewatering memorandum that described the estimated excavation dewatering flow rates associated with construction on the Project site, based on a review of subsurface information for the Project site. The dewatering memorandum indicates that the estimated excavation dewatering flow rates for the Project would be between 0.7 and 4.2 gallons per minute for each of the four areas on the Project site if the Project is constructed in four phases. Although construction in the four areas would start at different times, for purposes of this analysis, it was assumed that two areas of construction (Areas B and D) could have some overlap in their dewatering periods. Additional dewatering for depressurization purposes could be needed in the deeper sand lenses, which could require additional dewatering, with flow rates estimated to be between 7.3 and 8.5 gallons per minute for each area of construction. The duration of dewatering was estimated to be from 398 to 493 days for each area of construction. Excavation dewatering flow rates associated with offsite utility work (including the installation of transmission lines) have not been estimated; however, the volume and duration of dewatering for offsite utility work would be relatively minor compared to the dewatering required for construction on the Project site due to the relatively limited excavation size and duration associated with utility

work. Therefore, dewatering volumes or durations for offsite utility work are not discussed below, although such dewatering is considered contributory to the potential construction dewatering related impacts that are discussed below.

The following text has been revised on page 3.10-24 of Section 3.10, *Hydrology and Water Quality*, in the Draft EIR:

The below-grade structures on the Project site would be waterproofed; therefore, operational dewatering would not be required following the completion of construction. As discussed under *Environmental Setting*, the Project site is currently covered by 24.5 acres of impervious surfaces (pavement and roofs), 20.8 acres of pervious crushed aggregate, and 3.4 acres of pervious landscaping. The Project would include 32.3 acres of impervious surfaces (pavement and roofs) and 16.3 acres of pervious landscaping. Although the Project would increase the amount of impervious surface by 7.8 acres compared to the existing condition, it would also increase the amount of pervious landscaping by ~~7.8~~ 12.9 acres compared to the existing condition, which would result in a decrease in stormwater runoff from the Project site compared to the existing condition because landscaping has a much lower runoff rate (and therefore a higher infiltration rate) than the compacted crushed aggregate that currently covers a large portion of the Project site. The total stormwater runoff discharge rate for the Project site was estimated to be 7.79 cubic feet per second under existing conditions and 6.14 cubic feet per second under the proposed conditions with the Project...

The following text has been revised on page 3.10-26 of Section 3.10, *Hydrology and Water Quality*, in the Draft EIR:

Construction of the Project would alter drainage patterns by excavating areas for subsurface parking structures and utilities, placing fill material to raise some areas of the Project site above existing grades, creating new structures and areas of landscaping and pavement, removing and replacing existing stormwater drainage systems, and adding new stormwater drainage systems. As discussed under *Environmental Setting*, the area of Democracy Way within the Project site and two areas within Old Ironsides Drive adjacent east of the Project site are mapped by FEMA as being in Zone AO, a special flood hazard area subject to inundation by the 1-percent-annual-chance flood (usually sheet flow on sloping terrain), with a flooding depth of 1 foot. An area within Patrick Henry Drive south of the Project site (where offsite utility work could occur under the new Routing Option 3 of the Project) is mapped by FEMA as being in Zone AH, a special flood hazard area subject to inundation by the 1-percent-annual-chance flood, with a flooding depth of 1 to 3 feet (usually areas of ponding). Therefore, construction of the Project could alter flooding conditions.

The following text has been revised at the bottom of page 3.10-29 of Section 3.10, *Hydrology and Water Quality*, in the Draft EIR:

As described under Impact WQ-3, the area of Democracy Way within the Project site and two areas within Old Ironsides Drive adjacent east of the Project site are mapped by FEMA as being in special flood hazard areas subject to inundation by the 1-percent-annual-chance flood, with a flooding depth of 1 foot. An area within Patrick Henry Drive south of the Project site (where offsite utility work could occur under the new Routing Option 3 of the Project) is mapped by FEMA as being in special flood hazard areas subject to inundation by the 1-percent-annual-chance flood, with a flooding depth of 1 to 3 feet.

The following text has been revised on page 3.10-30 of Section 3.10, *Hydrology and Water Quality*, in the Draft EIR:

Construction

If hazardous materials are stored during construction within special flood hazard areas and flooding occurs, the Project could result in a release of pollutants due to inundation, which would be a significant impact. However, implementation of Mitigation Measure WQ-3.2 would ensure that this potential impact would be less than significant with mitigation by requiring hazardous materials not to be stored in special flood hazard areas during construction of the Project. This impact would be ***less than significant with mitigation***.

Operation

The Project would include the placement of fill material and structures within the special flood hazard area mapped within Democracy Way. The finished floor elevations of the proposed structures would be above the base flood elevation, and the subsurface portions of structures would be flood proofed, in accordance with the requirements of Chapter 15.45 of the City Code. The minimum building floor elevation for the Project would be 15 feet NAVD88, as recommended by the Project-specific SLR study, to accommodate potential flooding from Calabazas Creek and accommodate up to 4 feet of SLR (projected for 50 to 60 years in the future) from coastal flooding.⁵⁶ Because the Project would be designed to accommodate future flooding and SLR, the Project would not be at risk from pollutants being released due to inundation during operation. This impact would be ***less than significant-with mitigation***.

⁵⁶ Moffatt & Nichol. February 28, 2019—memorandum to Andrea Jones, Kylli, Inc., 3005 Democracy Way, Santa Clara, CA.

Section 3.11, Hazards and Hazardous Materials

The following text has been revised on page 3.11-3 of Section 3.11, *Hazards and Hazardous Materials*, in the Draft EIR:

FAR Part 77 requires FAA notification of any construction or alteration located within an extended zone defined by an imaginary surface radiating at 100:1 (horizontal:vertical) outward for several miles (20,000 horizontal feet) from an airport's runways or otherwise standing more than 200 feet above ground level.

The following text has also been revised on pages 3.11-7 and 3.11-8 of Section 3.11, *Hazards and Hazardous Materials*, in the Draft EIR:

~~Santa Clara County Airport Land Use Commission~~

~~The Santa Clara Airport Land Use Commission (ALUC) was established to ensure appropriate development of areas surrounding public airports in Santa Clara County. Its intent is to minimize the public's exposure to excessive noise and safety hazards and ensure that the approaches to airports are kept clear of structures that could pose an aviation hazard. The ALUC formulates and maintains Comprehensive Land Use Plans (CLUPs) for airports within the county. The ALUC reviews general plans and applicable specific plans for the county as well as the cities of San José and Santa Clara to determine if the plans and regulations are consistent with the policies of the CLUP for San José International Airport. The ALUC also reviews proposed amendments to general plans, specific plans, and zoning and building regulations that may affect land uses in the Airport Influence Area (AIA) of~~

~~San José International Airport to determine if the proposed amendments are consistent or inconsistent with the CLUP. The ALUC encourages local jurisdictions to submit referrals to the commission for developments that include the construction of structures that would be more than 200 feet above ground level to verify compliance with FAR Part 77 and ALUC policies.~~

The following text has been revised on page 3.11-9 of Section 3.11, *Hazards and Hazardous Materials*, in the Draft EIR:

- ~~• Policy 5.10.5 P29: Continue to refer proposed projects located within the Airport Influence Area to the Airport Land Use Commission.~~
- ~~• Policy 5.10.5 P30: Review the location and design of development within Airport Land Use Commission jurisdiction for compatibility with the Airport Land Use Compatibility Plan.~~
- ~~• Policy 5.10.5 P32: Encourage all new projects within the Airport Influence Area to dedicate an aviation easement.~~

Footnote 10 on page 3.11-11 of Section 3.11, *Hazards and Hazardous Materials*, in the Draft EIR has been revised as such:

- ^{10a} Tier 1 ESLs are the most conservative ESLs established by the Regional Water Board and account for all possible exposure pathways and receptors.

The following text has been added after the bulleted list on page 3.11-12 of Section 3.11, *Hazards and Hazardous Materials*, in the Draft EIR:

A review of the State Water Board's GeoTracker database^{10b} and DTSC's EnviroStor database^{10c} indicates that there is one property with known subsurface hazardous materials contamination near the area where offsite utility work could occur under Routing Option 3 of the Project. This property is at 3000 Patrick Henry Way, which is south of the Project site; VOC contamination has been identified in soil vapor beneath this property. A subsurface investigation indicates that the likely source for the soil vapor detections may be the migration of contamination from neighboring properties through storm drains or sewer lines.^{10d} Given the past and current commercial/industrial land uses, which may have involved the storage and use of hazardous materials, it is possible that previously unidentified subsurface contamination could be present near or within the proposed transmission line routes for the Project.

^{10b} State Water Resources Control Board. 2024. *GeoTracker*. Available: <https://geotracker.waterboards.ca.gov/>. Accessed: February 2, 2024.

^{10c} Department of Toxic Substances Control. 2024. *EnviroStor*. Available: <https://www.envirostor.dtsc.ca.gov/public/>. Accessed: February 2, 2024.

^{10d} Roux Associates, Inc. 2022. *Additional Subsurface Environmental Investigation, 3000 Patrick Henry Drive, Santa Clara, California*. August 30.

The following text has been revised on pages 3.11-13 and 3.11-14 of Section 3.11, *Hazards and Hazardous Materials*, in the Draft EIR:

Airport-related hazards are generally associated with aircraft accidents, particularly during takeoff and landing. Other airport operation hazards include incompatible land uses, power transmission lines, wildlife hazards (e.g., bird strikes), and tall structures that penetrate the regulated surfaces surrounding an airport. The Project site is adjacent to but outside the AIA of San José International Airport (see Figure 3.1-3 in Section 3.1, *Land Use*). The Project would include utility work within Old Ironsides Drive, which is within the AIA of San José International

Airport. The Project site is approximately 1 mile northwest of the nearest Airport Safety Zone of San José International Airport but not within areas that are exposed to aircraft noise (i.e., above ~~6560~~ decibels) (see Figure 3.1-4 in Section 3.1, *Land Use*).^{19a} The Project site is in an area where maximum building heights, based on FAR Part 77, range from approximately 350 feet above mean sea level (MSL) in the southeast portion of the Project site to approximately 380 feet MSL in the northwest portion of the Project site (see Figure 3.1-5 in Section 3.1, *Land Use*), as identified in the CLUP for San José International Airport.^{19b}

Under FAA Regulations, Part 77, any proposed structure on the Project site that could extend above an imaginary surface radiating at 100:1 (horizontal:vertical) from the runways of San José International Airport would require submittal to the FAA for airspace safety review. This imaginary surface extends from approximately 168 feet above ground level (AGL) at the southeast portion of the Project site to approximately 185 feet AGL at the northwest portion of the Project site.

^{19a} Norman Y. Mineta San José International Airport. 2020. *2037 CNEI Contours Airport Master Plan*. Amended: April 28, 2020.

^{19b} Windus, Walter B. 2011. *Comprehensive Land Use Plan for San José International Airport*. Santa Clara County Airport Land Use Commission. Adopted: May 25, 2011. Amended: November 16, 2016.

The following text has been added to the end of the subsection titled “Subsurface Contamination” on page 3.11-19 of Section 3.11, *Hazards and Hazardous Materials*, in the Draft EIR:

As discussed under *Environmental Setting*, above, VOCs have been detected in soil vapor at one property (3000 Patrick Henry Way), which is south of the Project site near the area where offsite utility work could occur under Routing Option 3 of the Project. Given the past and current commercial/industrial land uses, which may have involved the storage and use of hazardous materials, it is possible that previously unidentified subsurface contamination could be present near or within the proposed transmission line routes for the Project.

The following text of Mitigation Measure HAZ-2.1 has been revised on page 3.11-20 of Section 3.11, *Hazards and Hazardous Materials*, in the Draft EIR:

HAZ-2.1: *Subsurface Contamination.* The Project Sponsor shall engage with an appropriate regulatory agency (e.g., the San Francisco Bay Regional Water Board, Santa Clara County DEH, DTSC) to provide oversight for additional subsurface investigation at the Project site and proposed transmission line routes for the Project, prepare and implement a Soil and Groundwater Management Plan (SGMP), and implement remedial actions, as necessary and required by the appropriate regulatory agency. When site uses and building layouts/designs are finalized and available, additional soil vapor testing shall be performed to evaluate the need for vapor intrusion mitigation measures. The additional subsurface investigation activities shall include, to the extent required by the appropriate regulatory agency, investigation of potential contamination along the proposed transmission line routes for the Project and investigation of potential contamination source areas/features of environmental concern (e.g., former hazardous materials storage areas, clarifiers/sumps/vaults and associated piping, possible UST areas) to define the extent of subsurface contamination at the Project site.

The following text of Mitigation Measure HAZ-2.1 has been revised on page 3.11-21 of Section 3.11, *Hazards and Hazardous Materials*, in the Draft EIR:

If remedial actions are required for any portion of the Project site or proposed transmission line routes for the Project, the Project Sponsor shall submit to the City evidence of approvals from all applicable regulatory oversight agencies for any proposed remedial action plans prior to the City issuing any demolition, grading, or building permits for that portion of the Project site or transmission line route.

The following text has been revised on pages 3.11-21 and 3.11-22 of Section 3.11, *Hazards and Hazardous Materials*, in the Draft EIR:

~~As discussed under *Environmental Setting*, above, the Project site is adjacent to but outside of the AIA for San José International Airport (see Figure 3.1-3 in Section 3.1, *Land Use*). The Project site is approximately 1 mile northwest of the nearest Airport Safety Zone of San José International Airport but not within areas that are exposed to aircraft noise (i.e., above 65 decibels) (see Figure 3.1-4 in Section 3.1, *Land Use*). The Project site is in an area where maximum building heights, based on FAR Part 77, range from approximately 350 feet MSL in the southeast portion of the Project site to approximately 380 feet MSL in the northwest portion of the Project site, as identified in the CLUP for San José International Airport (see Figure 3.1-5 in Section 3.1, *Land Use*).³¹~~

³¹—Windus, Walter B. 2011. *Comprehensive Land Use Plan for San José International Airport*. Santa Clara County Airport Land Use Commission. Adopted: May 25, 2011. Amended: November 16, 2016.

Construction

Construction of the Project would include utility work within Old Ironsides Drive, which is within the AIA of San José International Airport; however, utility work would not create aviation hazards because it would not involve tall structures or other potential aviation hazards (e.g., reflective surfaces or lighting). The tallest buildings proposed for the Project would have a height of up to 202 feet AGL. The ground surface elevation of the Project site is 10 to 18 feet NAVD 88,³² and the MSL elevation in the vicinity of the Project site is approximately 3.4 feet NAVD 88;³³ therefore, the proposed buildings on the Project site could reach an elevation of approximately 217 feet MSL, ~~which is well below the maximum building heights for the Project site, based on FAR Part 77, of approximately 350 to 380 feet MSL (see Figure 3.1-5 in Section 3.1, *Land Use*).³⁴~~ Any proposed structure or building, including temporary construction cranes, on the Project site that could exceed an imaginary surface radiating at 100:1 (horizontal:vertical) from the runways of San José International Airport (this imaginary surface extends from approximately 168 feet AGL at the southeast portion of the Project site to approximately 185 feet AGL at the northwest portion of the Project site) would require submittal to the FAA for airspace safety review. For each building or structure with a maximum proposed height exceeding this imaginary surface, the Project must obtain a “Determination of No Hazard” from the FAA for each rooftop corner and any additional higher points. The heights of the cranes that would be used during construction are unknown at this time but would be well below the maximum building heights for the Project site (350 to 380 feet MSL), based on FAR Part 77.

~~Structures in any location that exceed 200 feet above the ground level, including construction cranes, would require FAA notification for construction or alteration. Compliance with conditions set forth by the FAA in its determinations FAR Part 77 and the CLUP for San José International Airport would ensure that the Project would not create aviation hazards. Therefore, potential construction impacts of the Project related to aviation hazards would be *less than significant*.~~

Operation

As discussed above, the proposed buildings on the Project site could reach an elevation of approximately 217 feet MSL, which is well below the maximum allowable building height for the Project site, based on FAR Part 77, of approximately 350 to 380 feet MSL (see Figure 3.1-5 in Section 3.1, Land Use and Planning). Compliance with FAR Part 77 ~~and the CLUP for San José International Airport~~ would ensure that the Project would be reviewed by the FAA and that any recommendations from the FAA for alteration of the Project's designs, markings, or lighting would be implemented to ensure that operation of the Project would not create aviation hazards. Therefore, potential operational impacts of the Project related to aviation hazards would be **less than significant**.

³² BKF. 2018. *3005 Democracy Way, Existing Site Boundary and Easement Plan*. July 25.

³³ AECOM. 2016. *San Francisco Bay Tidal Datums and Extreme Tides Study, Final Report*. February.

³⁴ A previous version of the Project from 2018 included much taller buildings that conflicted with FAA height limits. This previous version of the Project was the subject of the NOP comment discussed at the beginning of this chapter regarding building height. The Project was redesigned to its current form with reduced building heights that are below FAA limits.

The following text has been revised on page 3.11-26 of Section 3.11, *Hazards and Hazardous Materials*, in the Draft EIR:

Construction

Construction of cumulative projects would be required to comply with FAR Part 77 and the CLUP for San José International Airport (as applicable), ensuring that they would not create aviation hazards. As discussed under *Impact HAZ-3*, above, compliance with FAR Part 77 ~~and the CLUP for San José International Airport~~ would ensure that construction of the Project would be reviewed by the FAA and that any recommendations from the FAA for the alteration of the Project's designs, markings, or lighting would be implemented. Similarly, the cumulative projects would also be reviewed and required to comply with CLUP, FAA, and ALUC recommendations (as applicable) such that significant impacts would not result. These procedures and reviews would ensure that the Project and cumulative projects taken together would not create aviation hazards. Therefore, potential construction impacts of the Project associated with aviation hazards would not be cumulatively considerable. This impact would be **less than significant**, and no mitigation would be necessary.

Operation

Operation of cumulative projects would be required to comply with FAR Part 77 and the CLUP for San José International Airport (as applicable), ensuring that they would not create aviation hazards. As discussed under *Impact HAZ-3*, above, compliance with FAR Part 77 ~~and the CLUP for San José International Airport~~ would ensure that operation of the Project would be reviewed by the FAA and that any recommendations from the FAA for the alteration of the Project's designs, markings, or lighting would be implemented. Similarly, the cumulative projects would also be reviewed and required to comply with CLUP, FAA, and ALUC recommendations (as applicable) such that significant impacts would not result. These procedures and reviews would ensure that the Project and cumulative projects taken together would not create aviation hazards. Therefore, potential operational impacts of the Project associated with aviation hazards would not be cumulatively considerable. This impact would be **less than significant**, and no mitigation would be necessary.

Section 3.13, Public Services and Recreation

The following text in the first paragraph on page 3.13-9 of Section 3.13, *Public Services and Recreation*, in the Draft EIR has been revised, as follows:

Huerta Middle School has ~~six to eight~~ 39 classrooms ~~and support spaces~~.

The following text under the “Operation” heading on page 3.13-18 of Section 3.13, *Public Services and Recreation*, in the Draft EIR has been revised, as follows:

Assuming that no additional library space is added within the city, a population of 151,715 residents would result in 0.69 square foot of library space per capita, still above the 0.3 square foot per capita APA suggests as the minimum for a city of this size ~~exceeding the APA’s suggested minimum of 0.3 square foot per capita for libraries that serve 50,000 people or more.~~

The first sentence in the second paragraph on page 3.13-19 of Section 3.13, *Public Services and Recreation*, in the Draft EIR has been revised, as follows:

The adopted City General Plan does not consider residential development at the Project site.

The first sentence in the second full paragraph on page 3.13-22 of Section 3.13, *Public Services and Recreation*, in the Draft EIR has been revised, as follows:

The adopted City General Plan does not consider residential development at the Project site.

Section 3.15, Utilities and Service Systems

The following text has been revised in the first paragraph on page 3.15-1 of Section 3.15, *Utilities and Service Systems*, in the Draft EIR:

...The analysis is based on the City of Santa Clara (City) 2010–2035 General Plan (General Plan), the San Francisco Public Utilities Commission’s (SFPUC) and the City’s 2020 Urban Water Management Plans (UWMPs), the South Bay Water Recycling Strategic and Master Planning Report, and the following documents, all of which are on file with the City: Storm Drainage Study,¹ Water Supply Assessment (Appendix 3.15),² ~~and~~ Sanitary Sewer Capacity Technical Memorandum,^{3a} and the Conceptual Transmission Lines Exhibits.^{3b, 3c}

^{3a} City of Santa Clara Water and Sewer Utilities Department. 2023. *Sanitary Sewer Capacity Evaluation*. June 7.

^{3b} BNF Engineers. 2024. *Conceptual Transmission Lines Exhibit-Option 1*. January 2024

^{3c} BNF Engineers. 2024. *Conceptual Transmission Lines Exhibit-Option 3*. January 2024

The following text has been revised in the footnote on page 3.15-8 of Section 3.15, *Utilities and Service Systems*, in the Draft EIR:

⁹ City of Santa Clara. 2022. Climate Action Plan. Available: <https://www.santaclaraca.gov/our-city/departments-a-f/community-development/planning-division/general-plan/climate-action-plan>. Accessed: ~~February 1, August 24, 2023.~~

The following text has been revised in the footnote on page 3.15-10 of Section 3.15, *Utilities and Service Systems*, in the Draft EIR:

¹¹ Santa Clara Valley Water District and City of San José. 2014. South Bay Water Recycling, Strategic and Master Planning. Volume 1: Report. Available: <https://www.valleywater.org/sites/default/files/335%20P3%20Related%20Reports%20SBWR%20Stratigic%20and%20Master%20Plan%20-%20Report%20%28Vol.1%29%20%281%29.pdf>. Accessed: ~~February 1, August 24, 2023.~~

The following text has been revised in the footnote on page 3.15-11 of Section 3.15, *Utilities and Service Systems*, in the Draft EIR:

- ¹⁴ City of Santa Clara. 2016. Santa Clara Valley Urban Runoff Pollution Prevention Program. C.3 Stormwater Handbook. Guidance for Implementing Stormwater Requirements for New Development and Redevelopment Projects. Available: <https://scvurppp.org/2016/06/20/c-3-stormwater-handbook-june-2016/>. Accessed: ~~February 1, 2023~~ August 24, 2023.

The following text has been revised in the second paragraph on page 3.15-22 of Section 3.15, *Utilities and Service Systems*, in the Draft EIR:

As discussed in Section 3.10, *Hydrology and Water Quality*, the precise timing for the stormwater drainage system construction discussed above has not been defined. If modifications to the existing stormwater drainage systems are not appropriately designed or constructed at the appropriate times with regard to the different phases of Project construction, as well as weather conditions (e.g., rain), then runoff from the Project site could exceed the capacity of existing or proposed stormwater drainage systems, thereby requiring the construction of additional stormwater drainage facilities, which would be a **significant** impact. Implementation of Mitigation Measures WQ-3.1 and WQ-3.2, described in Section 3.10, *Hydrology and Water Quality*, would ensure that potential operational construction impacts of the Project related to exceeding the capacity of existing or proposed stormwater drainage systems would be **less than significant with mitigation**.

The following text has been revised on pages 3.15-23 and 3.15-24 of Section 3.15, *Utilities and Service Systems*, in the Draft EIR:

The Project is expected to result in an increase in demand for electricity, an increase that could exceed the capacity of the existing electric distribution system. Therefore, an approximately ~~1827~~ 2000-gross-square-foot (gsf) electrical substation would be constructed onsite to support the Project. The at-grade substation would be located on the east side of the Project site, in Area C, and have no parking above or below. This substation could also support electrical needs at the adjacent Santa Clara North area. SVP will coordinate the precise size, dimensions, and layout of the substation during the design phase of the Project. The proposed design, which is standard in the United States, would include indoor gas-insulated switchgear with less flammable oil-filled transformers. A minimum setback of 24 feet would be provided along the street frontage.

SVP analyzed various transmission line routing options to connect the new substation to the existing SVP electrical system. Of these, two options, "Routing Option 1" (the preferred option) and "Routing Option 3" (the alternative option), were selected by SVP for analysis as part of the Project. The routing options are shown in Figures 2-16 and 2-17 in Chapter 2, *Project Description*. New transmission lines would be placed underground within the Project site and within public rights-of-way to existing underground transmission lines. SVP will coordinate with the City and SFPUC to obtain all required approvals for the selected transmission line routing. No new overhead transmission lines are proposed under either option.

As shown in Figure 2-16, Routing Option 1 would intersect the existing NRS-MIS transmission line at the intersection of Patrick Henry Drive and Old Ironsides Drive. The existing NRS-MIS line would be split into two new segments and given the designations NRS-DEM and DEM-MIS. The new NRS-DEM line would run along the existing NRS-MIS overhead 60 kV transmission line and along the existing NRS-MIS underground 60 kV transmission line to the point of intersection where a new underground 60 kV transmission line would run north along Old Ironsides Drive from Patrick Henry Drive and enter the new substation on the Project site. A new DEM-MIS underground 60 kV transmission line would

exit the substation and run south along Old Ironsides Drive, connecting to the existing NRS-MIS underground 60 kV transmission line at the intersection of Patrick Henry Drive and Old Ironsides and enter the Mission substation, which is south of the Project site. No changes are proposed to the existing MIS-JUL transmission lines exiting the MIS substation.

As shown in Figure 2-17, Routing Option 3 would intersect the existing NRS-MIS transmission line at the intersection of Patrick Henry Drive and Old Ironsides Drive. The existing NRS-MIS line would be split into two new segments and given the designations NRS-DEM and DEM-MIS. The new NRS-DEM line would run along the existing NRS-MIS overhead 60 kV transmission line and along the existing NRS-MIS underground 60 kV transmission line to the point of intersection where a new underground 60 kV transmission line would run north along Old Ironsides Drive from Patrick Henry Drive and enter the new substation on the Project site. A second new underground 60 kV transmission line, exiting out of the new DEM substation, would briefly run south along Old Ironsides Drive before turning west to cross the Project site and then turning south to follow Patrick Henry Drive to intersect the existing NRS-MIS underground transmission line and create the new DEM-MIS 60 kV transmission line. The DEM-MIS 60 kV transmission line would then enter the existing Mission substation, south of the Project site. No changes are proposed to the existing MIS-JUL transmission lines exiting the MIS substation.

The following text has been revised in Table 3.15-7, Estimated Solid Waste Generation Rate by Land Use, on page 3.15-28 of Section 3.15, *Utilities and Service Systems*, in the Draft EIR:

Substation	Up to 1827,000 gsf	5	lbs/1,000 sq ft/day	90 lbs .05 ton	16
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The following text has been revised on page 3.15-31 of Section 3.15, *Utilities and Service Systems*, in the Draft EIR:

Electricity, Natural Gas, and Telecommunications

The Project is expected to result in an increase in demand for electricity, an increase that could exceed the capacity of the existing electric distribution system. Therefore, an approximately ~~1827,000~~ gsf electrical substation would be constructed onsite to support the Project. The at-grade substation would be located on the east side of the Project site, in Area C, and have no parking above or below. This substation could also support electrical needs at the adjacent Santa Clara North area. SVP will coordinate the precise size, dimensions, and layout of the substation during the design phase of the Project. The proposed design, which is standard in the United States, would include indoor gas-insulated switchgear with less flammable oil-filled transformers. A minimum setback of 24 feet would be provided along the street frontage.

The substation and both Routing Option 1 (Preferred SVP Option) and Routing Option 3 (Alternative SVP Option) for the substation, as detailed above in Impact UT-1 under Electricity, Natural Gas, and Telecommunications, would be maintained and overseen by the City's public utility provider, SVP. SVP's 2018 Strategic Plan addresses the challenges facing the utility over the next 10 years. The plan allows the City's electric utility to be agile, transparent, and accountable as SVP prepares for future challenges and accounts for the increase in electricity demand and facility planning. As such, there would be no cumulative impacts from development on the City's electricity, natural gas, and telecommunications facilities, which includes consideration of the two substation routing options. The Project would not result in a cumulatively considerable impact related to electricity, natural gas, and telecommunications. This impact would be ***less than significant***, and no mitigation would be necessary.

Chapter 5, Alternatives

The following row in Table 5-2, Code Compliant Alternative, on page 5-11 in Chapter 5, *Alternatives Analysis*, has been revised, as follows:

Electrical Substation	Up to 2718 ,000 gsf	Up to 2718 ,000 gsf
-----------------------	--------------------------------	--------------------------------

The following row in Table 5-3, Reduced Scale Alternative, on page 5-12 in Chapter 5, *Alternatives Analysis*, has been revised, as follows:

Electrical Substation	Up to 2718 ,000 gsf	Up to 2718 ,000 gsf
-----------------------	--------------------------------	--------------------------------

The following row in Table 5-4, Reduced Office/Increased Housing Alternative, on page 5-13 in Chapter 5, *Alternatives Analysis*, has been revised, as follows:

Electrical Substation	Up to 2718 ,000 gsf	Up to 2718 ,000 gsf
-----------------------	--------------------------------	--------------------------------

The following text has been added on page 5-25 in Chapter 5, *Alternatives Analysis*:

Alternative Substation Transmission Line Routing Options

SVP analyzed two additional options for routing of the substation's transmission lines. "Option 2" and "Option 4" are identified in the Democracy Short Circuit Duty Analysis: Democracy Substation Addition prepared by TRC for SVP in November 2023. Due to the complexity of these routing options, including encroachment on third-party private property unrelated to the Project site, SVP determined the routes to be infeasible and eliminated the options from further study.

In the first full paragraph on page 5-101 in Chapter 5, *Alternatives Analysis*, the last sentence has been deleted:

~~Similar to the Project, this alternative would result in conflicts with adopted City land use plans and policies regarding the jobs/housing ratio.~~

Attachment A

Errata to Kylli Mission Point Mixed-Use Development Transportation Analysis



HEXAGON TRANSPORTATION CONSULTANTS, INC.

Memorandum

Date: March 12, 2024

To: Jennifer Andersen, ICF

From: Michelle Hunt
Ling Jin

Subject: Errata to Kylli Mission Point Mixed-Use Development Transportation Analysis

Hexagon Transportation Consultants, Inc. prepared the Kylli Mission Point Transportation Analysis (TA) dated November 13, 2023. While measures of delay and congestion including level of service are not used to identify significant impacts under CEQA, the TA included an evaluation of intersection levels of service in accordance with the City's Transportation Analysis Policy. This memo provides additional information and clarification regarding the operation, lane configuration, and recommended improvements at selected study intersections. This memorandum does not change the findings of the Draft EIR regarding the Project's transportation impacts.

Lawrence Expressway and Sandia Avenue/Lakehaven Drive

The TA report states that the Project should provide fair-share funding towards the planned realignment of Wildwood Avenue to connect directly with Lawrence Expressway and creation of a new signalized intersection at Lawrence Expressway and Wildwood Avenue (VTP 2040 ID# R39). However, the City has determined that the adverse effect on traffic operations at the Lawrence/Sandia/Lakehaven intersection could be offset by constructing a new signalized intersection on Lawrence Expressway at Bridgewood Way-Lakewood Drive without realigning Wildwood Avenue, as identified in the Santa Clara Multimodal improvement Plan. The Project should provide fair-share funding towards this improvement. Lawrence Expressway is under the jurisdiction of Santa Clara County. Thus, the City cannot guarantee that this improvement is completed.

Old Ironsides Drive and Tasman Drive

Currently, the northbound approach leg (Old Ironsides Drive) is striped as having one left-turn lane and one shared through/right-turn lane. However, due to the width of the curb lane, the TA assumed that the leg functions as having separate through and right-turn lanes.

The TA report recommends the addition of a second northbound left-turn lane in order to ensure the intersection would continue to operate at an acceptable level of service under cumulative plus project conditions. Thus, the recommended lane configuration shown in the TA (Figure 15) includes two left-turn lanes, one through lane, and one right-turn lane on the northbound approach.

The latest Project site plan reflects the recommended addition of a second northbound left-turn lane at the Old Ironsides Drive/Tasman Drive intersection. The plans also reflect a shared through/right-turn lane on the northbound approach adjacent to a dashed green lane, which indicates an area where cars and bikes are intended to cross paths. While bicyclists have the right of way in this area, motorists that are turning right may use this area after yielding to cyclists. Including the dashed green lane, the curb lane would be 20 feet in width. Like the existing wide curb lane, the proposed

striping with the dashed green pavement markings would operate as a separate right-turn lane adjacent to the through lane. Thus, the proposed intersection striping in the latest Project site plan is consistent with the lane configuration assumed in the TA.

In order to minimize the adverse effect due to the queuing deficiency at this intersection, the TA report also stated that the Project should pay fair share fees towards the intersection spot improvements identified in the *Bicycle Master Plan Update 2018*. To clarify, the spot improvements at this intersection consist of tightening the turning radii on the northeast corner.

Old Ironsides Drive and Old Glory Lane

As shown in Figure 15, the TA report recommends the addition of a northbound right-turn lane, a new west leg (Kylli Driveway C) with one left-turn lane and one shared through/right-turn lane, and restriping of the east leg to include one shared through/left-turn lane and one right-turn lane. Although not required to achieve an acceptable level of service and thus not shown in Figure 15, the TA report on page 126 also recommends the addition of a second southbound left-turn lane at this intersection to provide additional queue storage at this intersection. The Project site plans show the dual southbound left-turn lanes as recommended in the TA report.

Old Ironsides Drive and Kylli Driveway B

The TA assumed that the intersection of Old Ironsides Drive and Kylli Driveway B would have three approach legs with a new driveway in and out of the Kylli site (Area B) comprising the west leg and Old Ironsides Drive comprising the north and south legs. The intersection was recommended to operate under two-phase traffic signal control with one phase serving all movements on Old Ironsides Drive (permitted left turns), and another phase serving the Project driveway and a crosswalk on the south leg. The eastbound approach (Kylli Driveway B) was assumed to have two lanes (one right-turn lane and one left-turn lane), while Old Ironsides Drive would have one shared through/right-turn lane on the southbound approach and one left-turn lane and one through lane on the northbound approach. Under this configuration, the intersection is expected to operate at LOS B during the AM peak hour and LOS C during the PM peak hour under both background (2030) plus project and cumulative (2035) plus project conditions.

Subsequently, the applicant has revised the Project site plan and moved Kylli Driveway B north to approximately align with an existing driveway for the properties located on the east side of Old Ironsides Drive (including 4980 and 4988 Great America Parkway). The level of service analysis was updated to evaluate the operation of this intersection as a four-legged intersection.

Traffic Volume Estimation at the Existing Driveway

Existing volumes used in the Kylli Mission Point TA are based on counts conducted in 2018/2019 and early 2020, prior to the COVID-19 pandemic. Due to ongoing hybrid and remote work policies, new driveway counts are not expected to reflect typical traffic conditions prior to the COVID-19 pandemic. To be consistent with the assumptions used in the Kylli Mission Point TA, the trips generated by the properties on the east side of Old Ironsides Drive were estimated by using the trip generation rates published in the Institute of Transportation Engineers' (ITE) *Trip Generation Manual, 11th Edition* (2021). Trip generation rates published for "General Office Building - in General Urban/Suburban areas" (Land Use Code 710) were used to estimate the trips generated by these properties. Based on the ITE rates, the existing properties east of Old Ironsides Drive would generate 414 AM peak-hour trips and 393 PM peak-hour trips.

Per the VTA TIA Guidelines, a six percent trip reduction was assumed for transit use due to the site being located within 2,000 feet of the Old Ironsides LRT Station. After applying the trip reduction, the existing office buildings east of Old Ironsides Drive are estimated to generate 389 trips during the AM peak hour (342 in and 47 out) and 369 trips during the PM peak hour (63 in and 306 out) (see Table 1).

Table 1
Trip Generation Estimates at 4980 and 4988 Great America Parkway

Trip Generation Estimates at 1000 and 1000 Great America Parkway												
Land Use	Size	Daily		AM Peak Hour				PM Peak Hour				
		Trip Rate	Trips	Trip Rate	Trips			Trip Rate	Trips			
					In	Out	Total		In	Out	Total	
Existing Use												
General Office Building ^{1&2}	272.686	ksf	10.84	2,956	1.52	364	50	414	1.44	67	326	393
Transit Reduction (6%) ³				(177)		(22)	(3)	(25)		(4)	(20)	(24)
Gross Existing Trips				2,779		342	47	389		63	306	369
Notes:												
Source: ITE Trip Generation Manual, 11th Edition, 2019.												
1. The size of the existing buildings east of Old Ironside Drive (including 4980 and 4988 Great America Parkway) was based on information provided by City of Santa Clara.												
2. Average trip rates expressed in trips per 1,000 square feet (ksf) for "General Office in a General Urban/Suburban Area" (ITE Land Use 710) are used.												
3. Per VTA TIA Guidelines, a transit trip reduction is applied to the development that is within 2,000 feet of a LRT station.												

The trip distribution pattern for these existing office buildings was assumed to be the same as that estimated for a nearby office development in the "Great America Parkway & Tasman Drive Office Development LTA Report, dated August 21, 2023 (see Figure 1).

The peak-hour trips associated with the existing properties were assigned to the driveways serving these properties in accordance with the distribution pattern discussed above, the roadway network connections, and freeway access points.

Revised Intersection Level of Service Analysis

The revised site plan shows that Kylli Driveway B would be offset approximately 45 feet to the south of the existing driveway on the east side of Old Ironsides Drive. The north and south legs (Old Ironsides Drive) would each have an exclusive left-turn lane and a shared through/right-turn lane while the west leg (Kylli Driveway B) would have one left-turn lane and one shared through/right-turn lane, and the east leg (existing driveway) would have one shared left/through/right-turn lane. Due to the offset between the two driveways, it is assumed that the east and west approach legs would have split phase signal operation, while the north and south legs would operate in a single phase with permitted left-turn control. There would be only one crosswalk across Old Ironsides Drive (on the south leg).

Table 2 presents a summary of the revised level of service analysis at this intersection. Under this revised configuration with four legs, this Project driveway intersection would operate at acceptable levels (LOS B/C during the AM/PM peak hours under background plus project conditions and LOS B/D during the AM/PM peak hours under cumulative plus project conditions). The level of service calculation sheets are included in the Appendix.

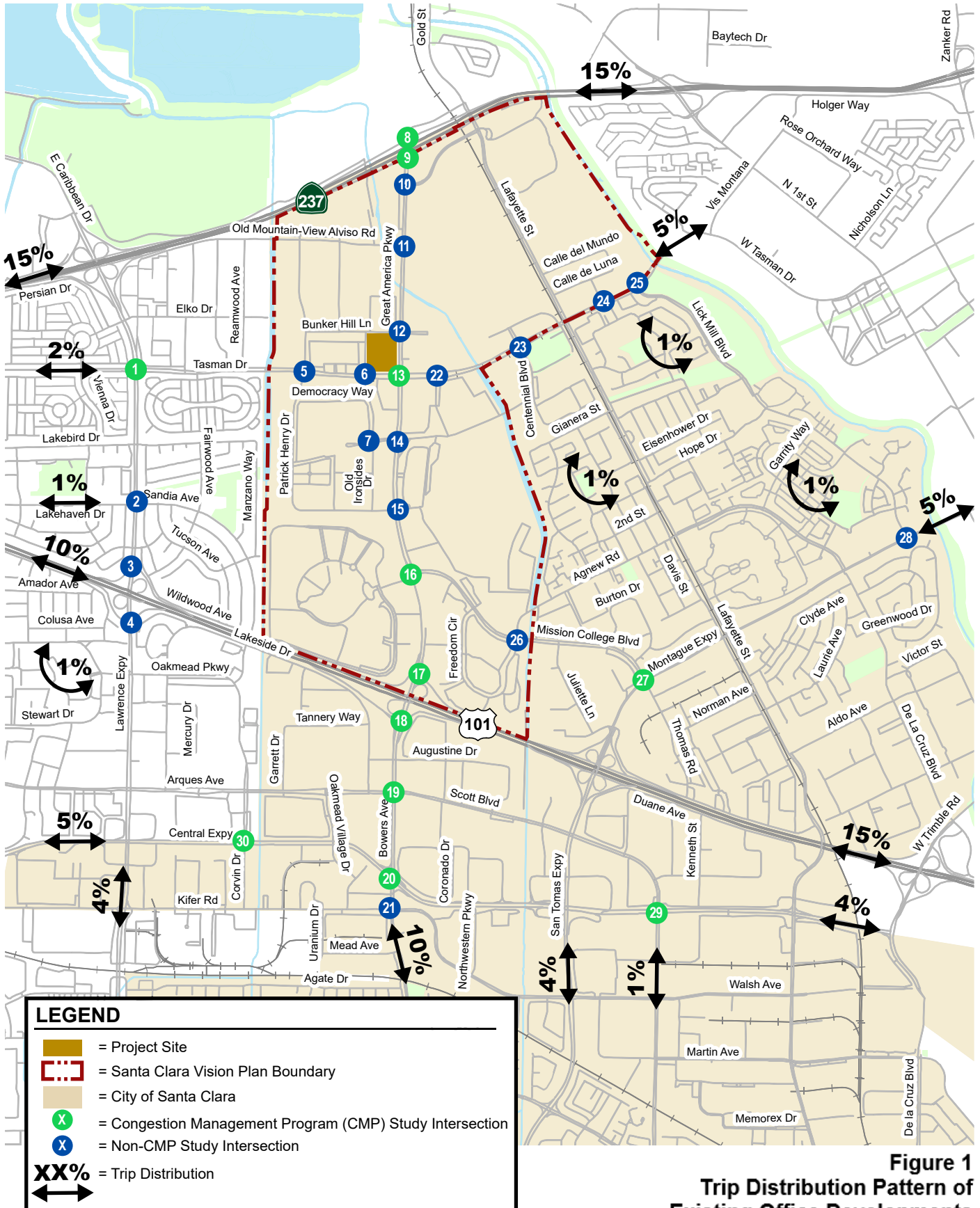


Figure 1
Trip Distribution Pattern of
Existing Office Developments

Table 2**Level of Service Summary at Old Ironsides Drive and Kylli Driveway B (4-leg Intersection)**

#	Intersection	Peak Hour	Background (2030) Conditions		Cumulative (2035) Conditions	
			Project+Improv		Project+Improv	
			Avg Delay	LOS	Avg Delay	LOS
64	Old Ironsides Drive and Kylli Project Driveway B (Four-leg signalized)	AM	17.2	B	19.2	B
		PM	29.8	C	46.0	D

Great America Parkway and Great America Way

The TA recommended that the Project pay fair share fees toward the construction of a Class IV separated bikeway on Great America Parkway between SR 237 and Tasman Drive. Since the publication of the TA, the City has changed the approach used to determine fair share fees for bikeways. Instead of requiring the Project to pay the full cost of a specific segment of the bikeway project, the City will instead require the Project to pay a proportionate share towards the full bikeway project as defined in the City's *Bicycle Master Plan Update 2018* excluding the segments that are to be fully funded by other approved developments. The Patrick Henry Specific Plan developments are required to fully fund the Class IV separated bikeway on Great America Parkway between Old Glory Lane and Patrick Henry Drive, while the Freedom Circle Focus Area developments are required to fully fund the Great America Parkway bikeway between Patrick Henry Drive and US 101. Thus, the Project will instead be required to pay fair share fees towards the construction of a Class IV separated bikeway on Great America Parkway/Bowers Avenue between the Bay Trail and Old Glory Lane and between US 101 and Chromite Drive.

Great America Parkway and Old Glory Lane

The TA recommended the addition of a second eastbound right-turn lane on Old Glory Lane to mitigate the Project's adverse effect on level of service under background plus project conditions at the Great America/Old Glory intersection. However, as part of the Creek Trail Network Expansion Project, the City is planning to construct a multipurpose trail along the south side of Old Glory Lane with a new crosswalk on the south leg of the Great America Parkway/Old Glory Lane intersection. Dual right-turn lanes would result in challenges with visibility between turning vehicles and pedestrians on the new crosswalk and conflicts with the City's bicycle and pedestrian policies. Therefore, in place of the recommended dual right-turn lanes, the Project shall contribute a fair share fee for the future construction of a Class IV separated bikeway on Great America Parkway/Bowers Avenue between the Bay Trail and Old Glory Lane and between US 101 and Chromite Drive. This multimodal improvement, which was identified in the City's *Bicycle Master Plan Update 2018*, would encourage residents and employees to leave their vehicles at home by adding a physical barrier between the existing bicycle lane and the vehicular travel lane, thereby increasing the comfort level for cyclists.

Great America Parkway and Patrick Henry Drive

The TA recommended the Project pay fair share fees toward the construction of a Class IV separated bikeway on Great America Parkway between Patrick Henry Drive and Tasman Drive and the construction of the Hetch Hetchy Trail east of Old Ironsides Drive. As stated above, the City has

changed the approach used to determine fair share fees for bikeways. Instead of requiring the Project to pay the full cost of a specific segment of the bikeway project, the City will instead require the Project to pay a proportionate share towards the full bikeway project as defined in the City's *Bicycle Master Plan Update 2018* excluding the segments that are to be fully funded by other approved developments. The Patrick Henry Specific Plan developments are required to fully fund the Class IV separated bikeway on Great America Parkway between Old Glory Lane and Patrick Henry Drive, while the Freedom Circle Focus Area developments are required to fully fund the Great America Parkway bikeway between Patrick Henry Drive and US 101.. Thus, the Project will instead be required to pay fair share fees towards the construction of a Class IV separated bikeway on Great America Parkway/Bowers Avenue between the Bay Trail and Old Glory Lane and between US 101 and Chromite Drive. Similarly, the Project will be required to provide fair share funding towards the construction of the Hetch Hetchy trail as defined in the *Creek Trail Network Expansion Master Plan* excluding the Patrick Henry Drive crossing improvements, which will be fully funded by the Patrick Henry Drive Specific Plan developments, and the trail segment between Patrick Henry Drive and Great America Parkway, which will be constructed as part of the Kylli Project. Thus, the Project will be required to pay fair share fees towards the construction of the Hetch Hetchy Trail between Guadalupe River Parkway and Great America Parkway and between Patrick Henry Drive and the Calabazas Creek Trail.

Great America Parkway and Mission College Boulevard

The TA assumed the completion of a CIP improvement project at the intersection of Great America Parkway and Mission College Boulevard under all future scenarios that would add a third northbound left-turn lane, a third westbound left-turn lane, a second eastbound left-turn lane, a fourth southbound through lane, and a westbound right-turn pocket. Subsequently, the design of the intersection improvement has been modified. The current design does not include a third northbound left-turn lane. In addition, the current design shows that the westbound approach would be modified to include a third left-turn lane and a right-turn pocket but would have only a single through lane instead of two as previously assumed.

The intersection level of service calculations at this intersection were rerun under all future scenarios with the revised lane configuration. The level of service calculation sheets are included in the Appendix. The results of the revised intersection level of service calculations are presented in Table 3. Consistent with the findings of the TA, the revised analysis shows that the Project would cause an adverse effect on level of service under cumulative plus project conditions.

The TA recommended that the Project pay a fair share fee towards restriping the eastbound approach to include three left-turn lanes, one through lane, and one right-turn lane, and implementing lead/lag left-turn phasing for the eastbound and westbound approaches. However, the City is moving forward with implementation of the planned CIP improvements and does not intend to implement the additional improvements as recommended in the TA as the design is complete and construction will start soon. Therefore, in place of the recommended lane geometry and signal phasing improvements recommended in the TA, the Project shall contribute a fair share fee for the future construction of a Class IV separated bikeway on Great America Parkway/Bowers Avenue between the Bay Trail and Old Glory Lane and between US 101 and Chromite Drive. This multimodal improvement, which was identified in the City's *Bicycle Master Plan Update 2018*, would encourage cycling by adding a physical barrier between the existing bicycle lane and the vehicular travel lane, thereby increasing the comfort level for cyclists.

In addition, the Project should provide fair-share funding towards improvements identified in the City of Santa Clara Multimodal Improvement Plan (MIP). MIP Actions intended to address the LOS deficiency at this intersection include installation of transit signal priority, trail crossing

improvements, crosswalk motion sensors, upgraded safety lighting, enhanced crosswalks, travel time data collection systems, adaptive traffic signals and periodic retiming of signal coordination at intersections along Mission College Boulevard.

Table 3**Level of Service Summary at Great America Parkway and Mission College Boulevard**

#	Intersection	Background (2030) Conditions							Cumulative (2035) Conditions					
		No Project			With Project				No Project		With Project			
		Peak Hour	Avg Delay	LOS	Avg Delay	LOS	Incr. In Delay	Incr. In Crit. V/C	Avg Delay	LOS	Avg Delay	LOS	Incr. In Delay	Incr. In Crit. V/C
26	Great America Pkwy and Mission College Blvd (CMP)	AM	41.6	D	49.6	D	6.0	0.263	62.1	E	95.5	F	60.8	0.198
		PM	42.9	D	46.1	D	3.4	0.090	53.5	D	69.0	E	27.9	0.085

Notes:
Bold indicates an adverse effect caused by the project.

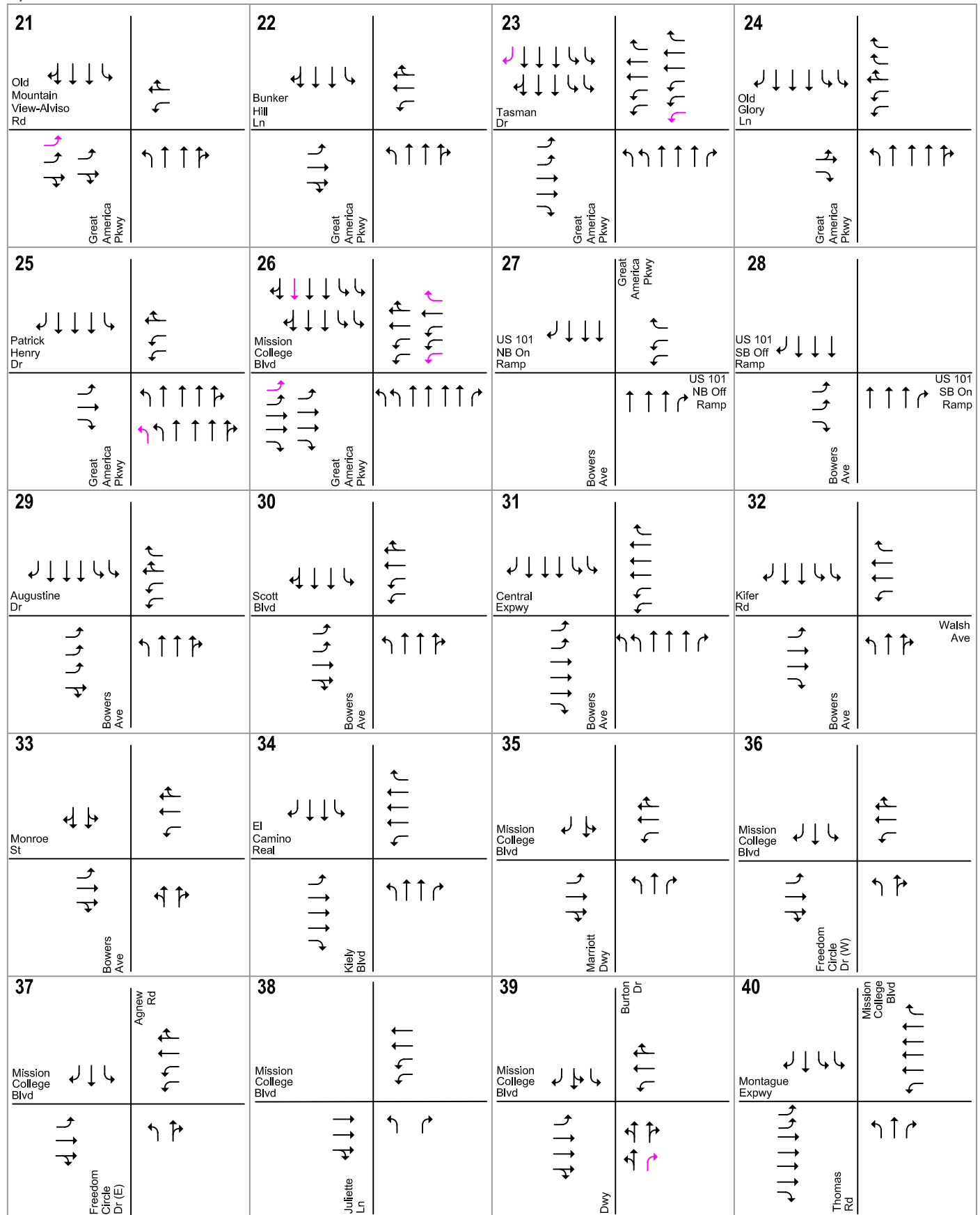
McCarthy Boulevard/O'Toole Avenue and Montague Expressway

The TA report text in Chapters 4 and 5 states that the Project would be required to pay fair share fees towards a grade-separated interchange at this intersection. However, this project will be fully funded by City of San Jose under the terms of the North San Jose Settlement agreement. Thus, no Project contribution is required. Furthermore, the description of the recommended improvement at this intersection contained in Tables 10 and 13 are inconsistent. Table 13 is correct. Table 10 incorrectly referred to a partial grade-separated interchange and referenced the Measure B Expressway Program. Table 10 is hereby revised to indicate the Project would not provide funding towards the grade-separated interchange as originally identified in the North San Jose Development Policy.

Conclusions

This memorandum clarifies the recommendations regarding lane configuration, traffic control, and recommended improvements for selected study intersections as discussed above. Figures 8, 11, 12, and 15 on the next pages replace the original Figures 8, 11, 12, and 15 in the TA, respectively. Because the recommended improvements are expected to address deficiencies related to intersection levels of service and queuing, which do not constitute a significant impact under the updated CEQA guidelines, this memorandum does not change the findings of the Draft EIR regarding the Project's transportation impacts.

Kylli Mixed-Use Mission Point



LEGEND

- = Improvement
- = HOV Lane

Figure 8
Background No Project Lane Configurations

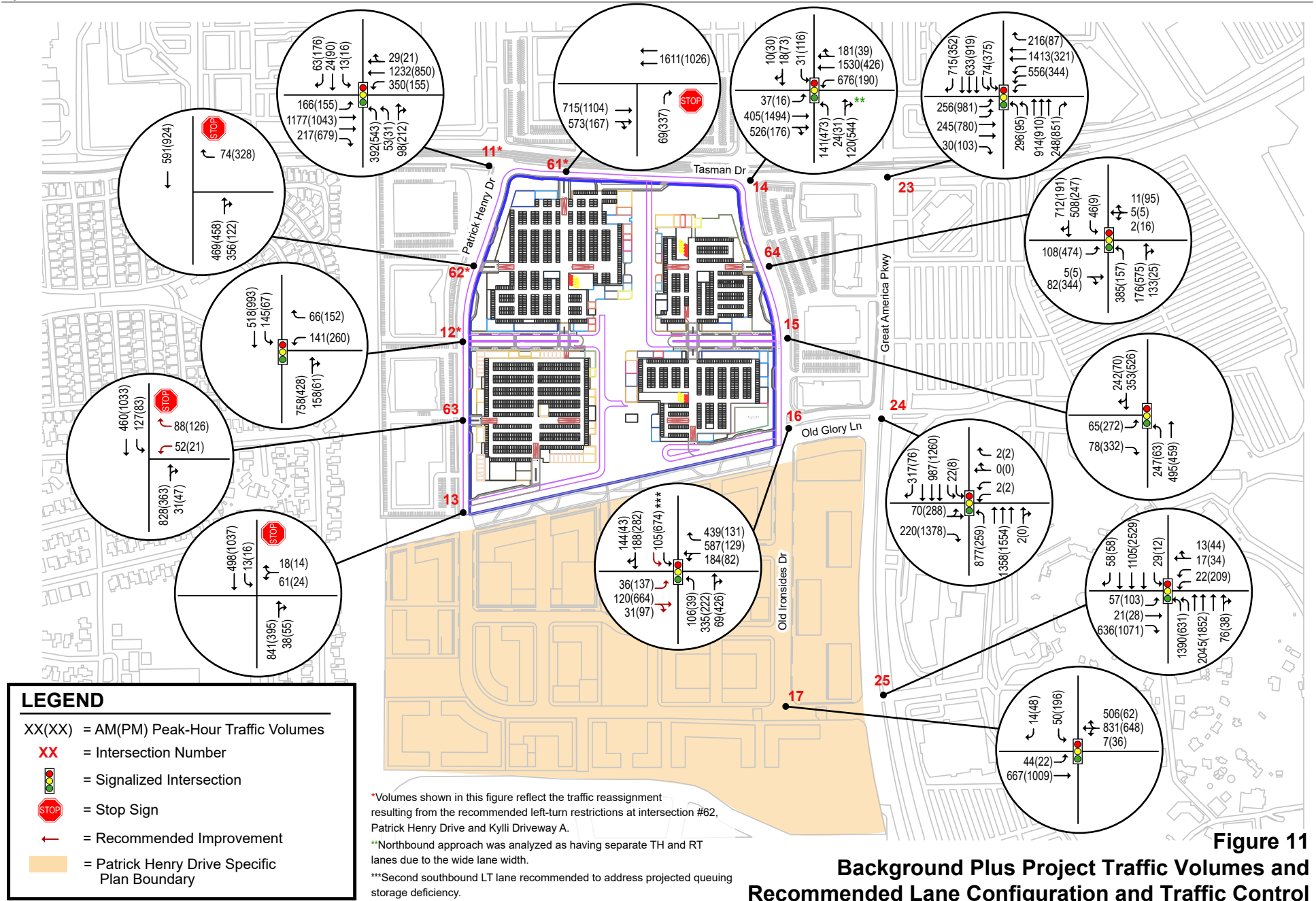
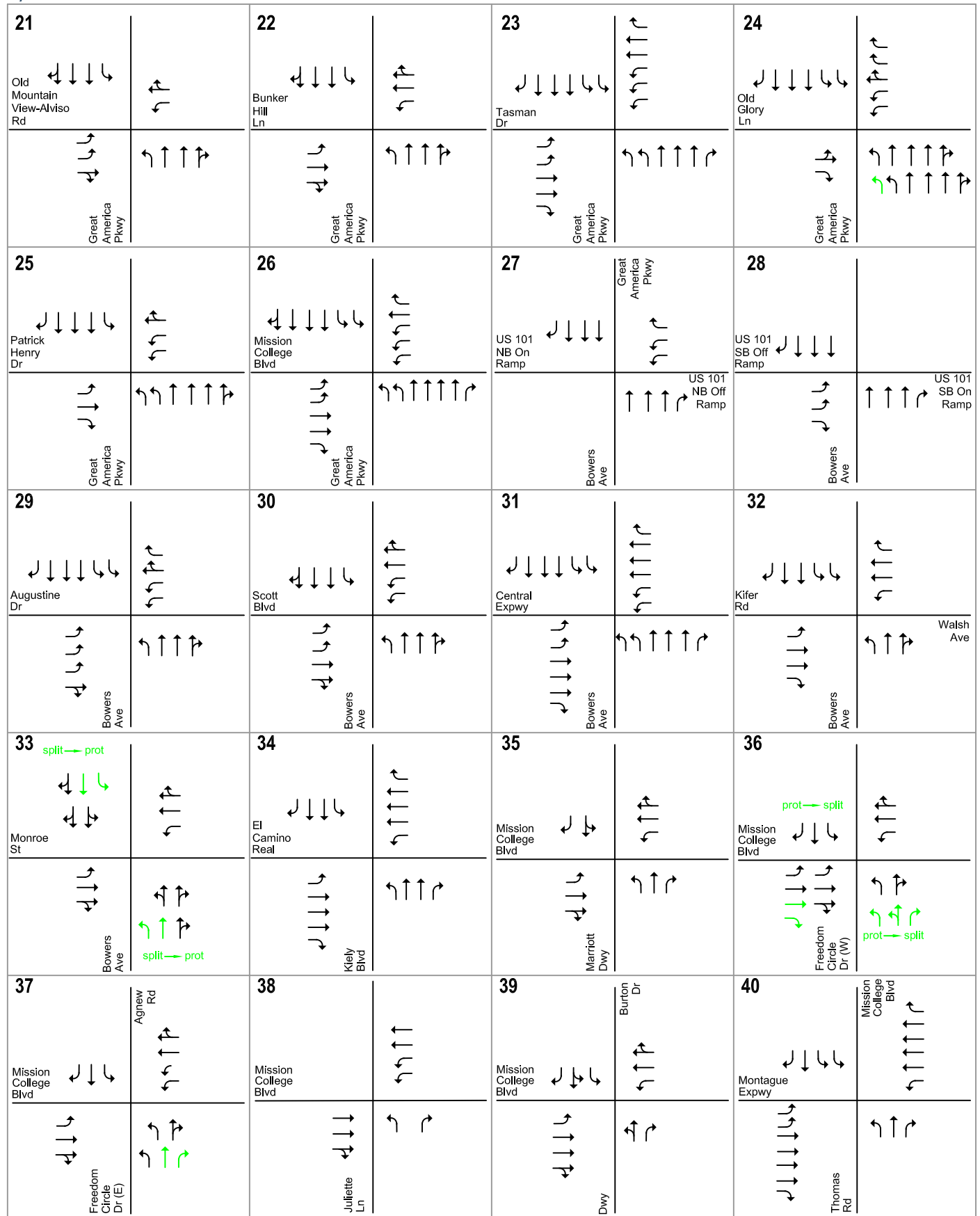


Figure 11
Background Plus Project Traffic Volumes and Recommended Lane Configuration and Traffic Control

Kylli Mixed-Use Mission Point



LEGEND

- ← = Cumulative Improvement
- ◇ = HOV Lane

Figure 12
Cumulative No Project Lane Configurations

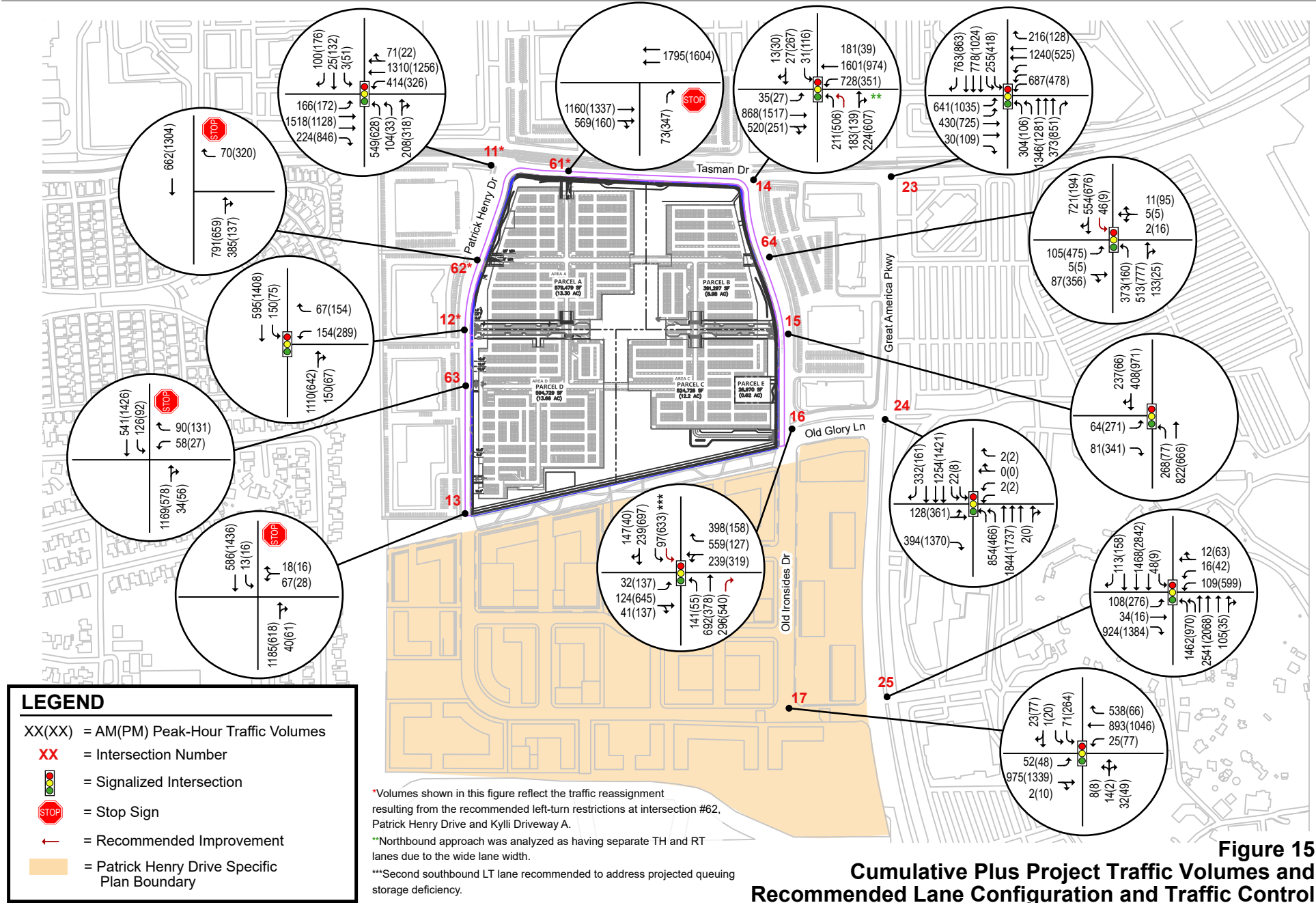


Figure 15
Cumulative Plus Project Traffic Volumes and Recommended Lane Configuration and Traffic Control

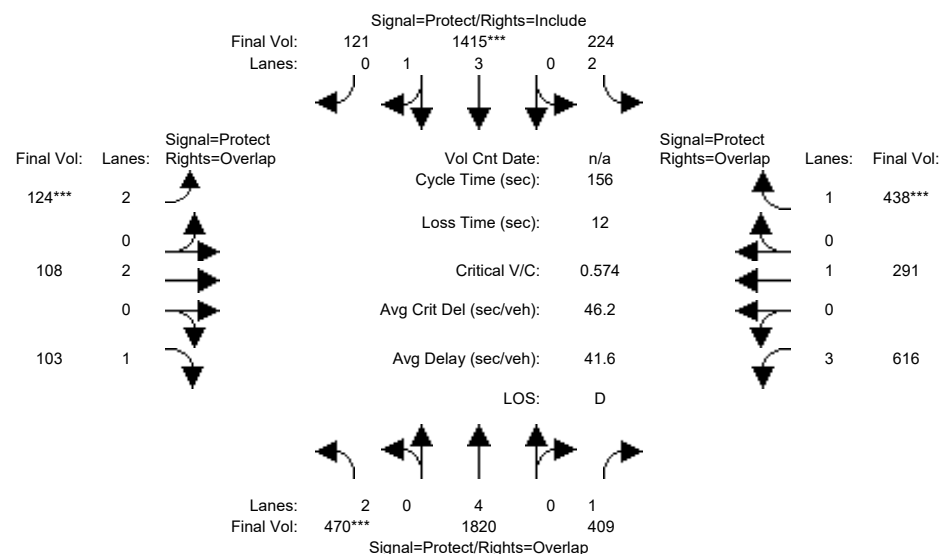
Appendix A

Intersection Level of Service Calculations

Kylli Mission Point Mixed-Use Development
City of Santa Clara

Level Of Service Computation Report
2000 HCM Operations (Future Volume Alternative)
2030 NoProj AM

Intersection #1206: (26) GREAT AMERICA / MISSION COLLEGE



Approach:	North Bound			South Bound			East Bound			West Bound		
Movement:	L	T	R	L	T	R	L	T	R	L	T	R
Min. Green:	8	37	37	10	37	37	4	10	10	5	10	10
Y+R:	5.0	7.2	7.2	5.0	7.2	7.2	5.0	6.4	6.4	5.0	6.4	6.4

Volume Module:

Base Vol:	470	1820	409	224	1415	121	124	108	103	616	291	438
Growth Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Initial Bse:	470	1820	409	224	1415	121	124	108	103	616	291	438
Added Vol:	0	0	0	0	0	0	0	0	0	0	0	0
ATI:	0	0	0	0	0	0	0	0	0	0	0	0
Initial Fut:	470	1820	409	224	1415	121	124	108	103	616	291	438
User Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
PHF Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
PHF Volume:	470	1820	409	224	1415	121	124	108	103	616	291	438
Reduct Vol:	0	0	0	0	0	0	0	0	0	0	0	0
Reduced Vol:	470	1820	409	224	1415	121	124	108	103	616	291	438
PCE Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
MLF Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Final Volume:	470	1820	409	224	1415	121	124	108	103	616	291	438

Saturation Flow Module:

Sat/Lane:	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Adjustment:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Lanes:	2.00	4.00	1.00	2.00	3.68	0.32	2.00	2.00	1.00	3.00	1.00	1.00
Final Sat.:	3800	7600	1900	3800	7001	599	3800	3800	1900	5700	1900	1900

Capacity Analysis Module:

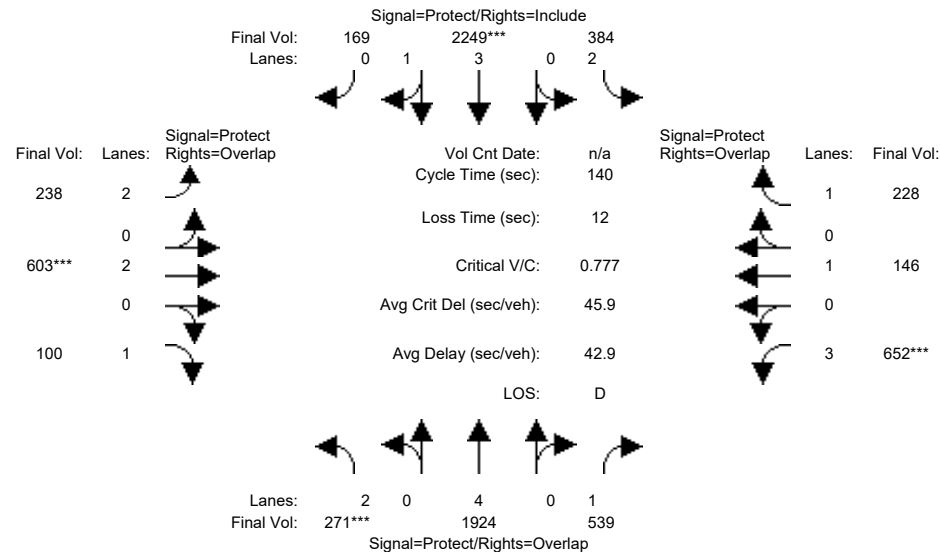
Vol/Sat:	0.12	0.24	0.22	0.06	0.20	0.20	0.03	0.03	0.05	0.11	0.15	0.23
Crit Moves:	***			***			***					***
Green Time:	33.6	69.8	103.8	18.7	54.9	54.9	8.9	20.1	53.7	33.9	45.2	63.9
Volume/Cap:	0.57	0.54	0.32	0.49	0.57	0.57	0.57	0.22	0.16	0.50	0.53	0.56
Delay/Veh:	57.7	31.9	11.8	68.0	42.0	42.0	82.4	61.9	35.9	55.0	50.1	38.3
User DelAdj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
AdjDel/Veh:	57.7	31.9	11.8	68.0	42.0	42.0	82.4	61.9	35.9	55.0	50.1	38.3
LOS by Move:	E	C	B	E	D	D	F	E	D	D	D	D
HCM2k95thQ:	18	26	15	10	24	24	7	5	7	15	20	26

Note: Queue reported is the number of cars per lane.

Kylli Mission Point Mixed-Use Development
City of Santa Clara

Level Of Service Computation Report
2000 HCM Operations (Future Volume Alternative)
2030 NoProj PM

Intersection #1206: (26) GREAT AMERICA / MISSION COLLEGE



Approach:	North Bound			South Bound			East Bound			West Bound		
Movement:	L	T	R	L	T	R	L	T	R	L	T	R
Min. Green:	7	37	37	7	37	37	7	10	10	7	10	10
Y+R:	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0

Volume Module:

Base Vol:	271	1924	539	384	2249	169	238	603	100	652	146	228
Growth Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Initial Bse:	271	1924	539	384	2249	169	238	603	100	652	146	228
Added Vol:	0	0	0	0	0	0	0	0	0	0	0	0
ATI:	0	0	0	0	0	0	0	0	0	0	0	0
Initial Fut:	271	1924	539	384	2249	169	238	603	100	652	146	228
User Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
PHF Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
PHF Volume:	271	1924	539	384	2249	169	238	603	100	652	146	228
Reduct Vol:	0	0	0	0	0	0	0	0	0	0	0	0
Reduced Vol:	271	1924	539	384	2249	169	238	603	100	652	146	228
PCE Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
MLF Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Final Volume:	271	1924	539	384	2249	169	238	603	100	652	146	228

Saturation Flow Module:

Sat/Lane:	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Adjustment:	0.83	1.00	0.92	0.83	0.99	0.95	0.83	1.00	0.92	0.80	1.00	0.92
Lanes:	2.00	4.00	1.00	2.00	3.71	0.29	2.00	2.00	1.00	3.00	1.00	1.00
Final Sat.:	3150	7600	1750	3150	6975	524	3150	3800	1750	4551	1900	1750

Capacity Analysis Module:

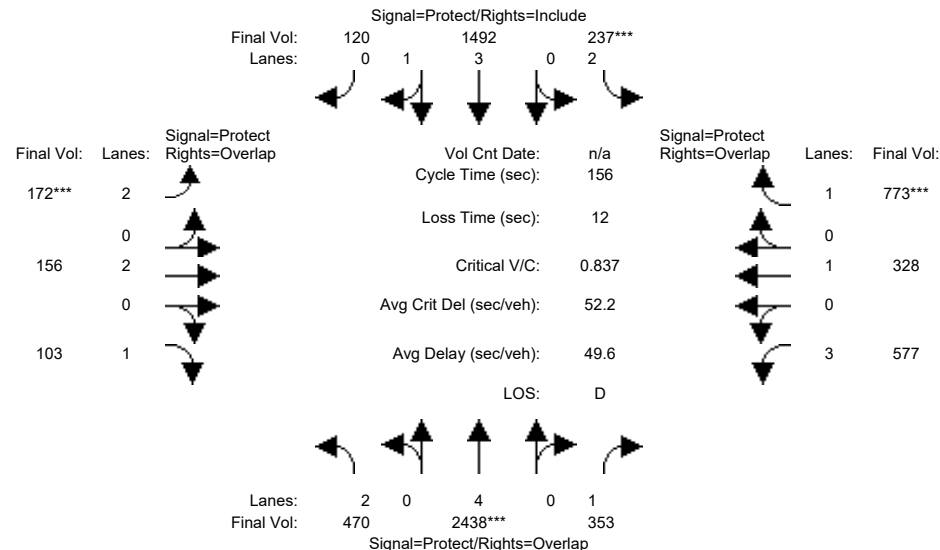
Vol/Sat:	0.09	0.25	0.31	0.12	0.32	0.32	0.08	0.16	0.06	0.14	0.08	0.13
Crit Moves:	****			****			****			****		
Green Time:	15.5	50.4	76.2	23.2	58.1	58.1	27.0	28.6	44.1	25.8	27.4	50.7
Volume/Cap:	0.78	0.70	0.57	0.73	0.78	0.78	0.39	0.78	0.18	0.78	0.39	0.36
Delay/Veh:	71.1	39.3	21.8	60.8	36.6	36.6	49.8	57.7	35.0	59.0	49.7	33.1
User DelAdj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
AdjDel/Veh:	71.1	39.3	21.8	60.8	36.6	36.6	49.8	57.7	35.0	59.0	49.7	33.1
LOS by Move:	E	D	C	E	D	D	D	E	D	E	D	C
HCM2k95thQ:	14	30	28	16	35	35	10	23	6	21	10	14

Note: Queue reported is the number of cars per lane.

Kylli Mission Point Mixed-Use Development
City of Santa Clara

Level Of Service Computation Report
2000 HCM Operations (Future Volume Alternative)
2030 Kylli AM - Rev.Retail

Intersection #1206: (26) GREAT AMERICA / MISSION COLLEGE



Approach:	North Bound			South Bound			East Bound			West Bound		
Movement:	L	T	R	L	T	R	L	T	R	L	T	R
Min. Green:	8	37	37	10	37	37	4	10	10	5	10	10
Y+R:	5.0	7.2	7.2	5.0	7.2	7.2	5.0	6.4	6.4	5.0	6.4	6.4

Volume Module:

Base Vol:	470	2438	353	237	1492	120	172	156	103	577	328	773
Growth Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Initial Bse:	470	2438	353	237	1492	120	172	156	103	577	328	773
Added Vol:	0	0	0	0	0	0	0	0	0	0	0	0
ATI:	0	0	0	0	0	0	0	0	0	0	0	0
Initial Fut:	470	2438	353	237	1492	120	172	156	103	577	328	773
User Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
PHF Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
PHF Volume:	470	2438	353	237	1492	120	172	156	103	577	328	773
Reduct Vol:	0	0	0	0	0	0	0	0	0	0	0	0
Reduced Vol:	470	2438	353	237	1492	120	172	156	103	577	328	773
PCE Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
MLF Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Final Volume:	470	2438	353	237	1492	120	172	156	103	577	328	773

Saturation Flow Module:

Sat/Lane:	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Adjustment:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Lanes:	2.00	4.00	1.00	2.00	3.70	0.30	2.00	2.00	1.00	3.00	1.00	1.00
Final Sat.:	3800	7600	1900	3800	7034	566	3800	3800	1900	5700	1900	1900

Capacity Analysis Module:

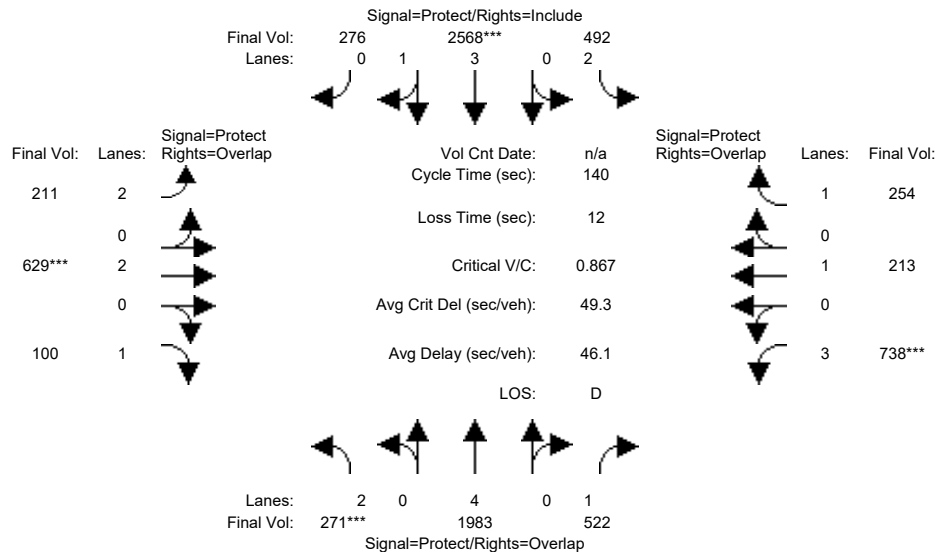
Vol/Sat:	0.12	0.32	0.19	0.06	0.21	0.21	0.05	0.04	0.05	0.10	0.17	0.41
Crit Moves:	****	****	****	****	****	****	****	****	****	****	****	****
Green Time:	24.5	59.8	104.0	11.6	46.9	46.9	8.4	28.0	52.5	44.3	63.9	75.5
Volume/Cap:	0.79	0.84	0.28	0.84	0.71	0.71	0.84	0.23	0.16	0.36	0.42	0.84
Delay/Veh:	73.5	46.8	11.2	95.8	50.3	50.3	104.6	55.5	36.8	45.1	34.6	44.2
User DelAdj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
AdjDel/Veh:	73.5	46.8	11.2	95.8	50.3	50.3	104.6	55.5	36.8	45.1	34.6	44.2
LOS by Move:	E	D	B	F	D	D	F	E	D	D	C	D
HCM2k95thQ:	20	47	13	11	27	27	10	7	7	13	19	55

Note: Queue reported is the number of cars per lane.

Kylli Mission Point Mixed-Use Development
City of Santa Clara

Level Of Service Computation Report
2000 HCM Operations (Future Volume Alternative)
2030 Kylli PM - Rev.Retail

Intersection #1206: (26) GREAT AMERICA / MISSION COLLEGE



Approach:	North Bound			South Bound			East Bound			West Bound		
Movement:	L	T	R	L	T	R	L	T	R	L	T	R
Min. Green:	7	37	37	7	37	37	7	10	10	7	10	10
Y+R:	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0

Volume Module:

Base Vol:	271	1983	522	492	2568	276	211	629	100	738	213	254
Growth Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Initial Bse:	271	1983	522	492	2568	276	211	629	100	738	213	254
Added Vol:	0	0	0	0	0	0	0	0	0	0	0	0
ATI:	0	0	0	0	0	0	0	0	0	0	0	0
Initial Fut:	271	1983	522	492	2568	276	211	629	100	738	213	254
User Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
PHF Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
PHF Volume:	271	1983	522	492	2568	276	211	629	100	738	213	254
Reduct Vol:	0	0	0	0	0	0	0	0	0	0	0	0
Reduced Vol:	271	1983	522	492	2568	276	211	629	100	738	213	254
PCE Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
MLF Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Final Volume:	271	1983	522	492	2568	276	211	629	100	738	213	254

Saturation Flow Module:

Sat/Lane:	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Adjustment:	0.83	1.00	0.92	0.83	0.99	0.95	0.83	1.00	0.92	0.80	1.00	0.92
Lanes:	2.00	4.00	1.00	2.00	3.60	0.40	2.00	2.00	1.00	3.00	1.00	1.00
Final Sat.:	3150	7600	1750	3150	6771	728	3150	3800	1750	4551	1900	1750

Capacity Analysis Module:

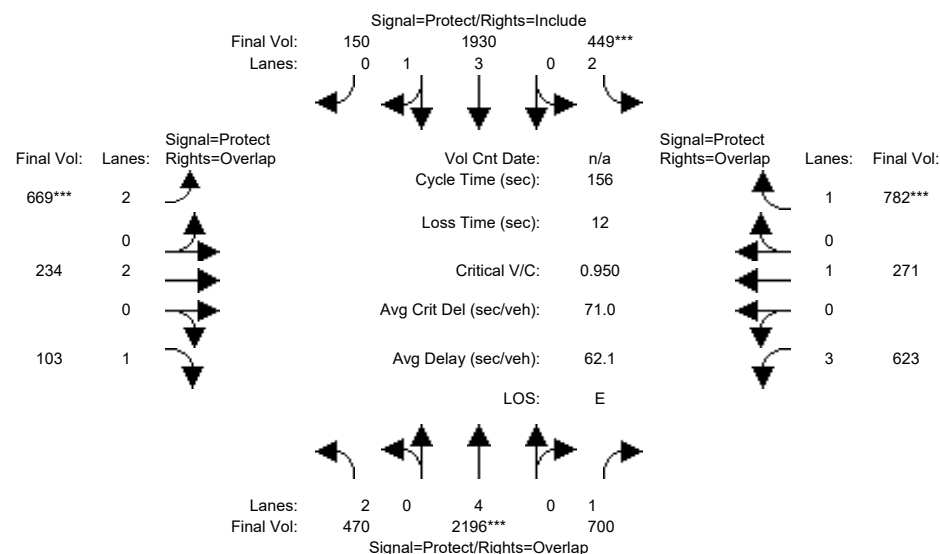
Vol/Sat:	0.09	0.26	0.30	0.16	0.38	0.38	0.07	0.17	0.06	0.16	0.11	0.15
Crit Moves:	****			****			****			****		
Green Time:	13.9	47.2	73.4	27.9	61.2	61.2	19.8	26.7	40.6	26.2	33.1	61.0
Volume/Cap:	0.87	0.77	0.57	0.78	0.87	0.87	0.47	0.87	0.20	0.87	0.47	0.33
Delay/Veh:	83.9	43.1	23.4	59.6	38.4	38.4	56.1	65.7	37.6	64.6	46.7	26.3
User DelAdj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
AdjDel/Veh:	83.9	43.1	23.4	59.6	38.4	38.4	56.1	65.7	37.6	64.6	46.7	26.3
LOS by Move:	F	D	C	E	D	D	E	E	D	E	D	C
HCM2k95thQ:	15	33	28	20	42	42	10	25	7	24	14	14

Note: Queue reported is the number of cars per lane.

Kylli Mission Point Mixed-Use Development
City of Santa Clara

Level Of Service Computation Report
2000 HCM Operations (Future Volume Alternative)
2035 NoProj AM

Intersection #1206: (26) GREAT AMERICA / MISSION COLLEGE



Approach:	North Bound			South Bound			East Bound			West Bound		
Movement:	L	T	R	L	T	R	L	T	R	L	T	R
Min. Green:	8	37	37	10	37	37	4	10	10	5	10	10
Y+R:	5.0	7.2	7.2	5.0	7.2	7.2	5.0	6.4	6.4	5.0	6.4	6.4

Volume Module:

Base Vol:	470	2196	700	449	1930	150	669	234	103	623	271	782
Growth Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Initial Bse:	470	2196	700	449	1930	150	669	234	103	623	271	782
Added Vol:	0	0	0	0	0	0	0	0	0	0	0	0
ATI:	0	0	0	0	0	0	0	0	0	0	0	0
Initial Fut:	470	2196	700	449	1930	150	669	234	103	623	271	782
User Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
PHF Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
PHF Volume:	470	2196	700	449	1930	150	669	234	103	623	271	782
Reduct Vol:	0	0	0	0	0	0	0	0	0	0	0	0
Reduced Vol:	470	2196	700	449	1930	150	669	234	103	623	271	782
PCE Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
MLF Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Final Volume:	470	2196	700	449	1930	150	669	234	103	623	271	782

Saturation Flow Module:

Sat/Lane:	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Adjustment:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Lanes:	2.00	4.00	1.00	2.00	3.71	0.29	2.00	2.00	1.00	3.00	1.00	1.00
Final Sat.:	3800	7600	1900	3800	7052	548	3800	3800	1900	5700	1900	1900

Capacity Analysis Module:

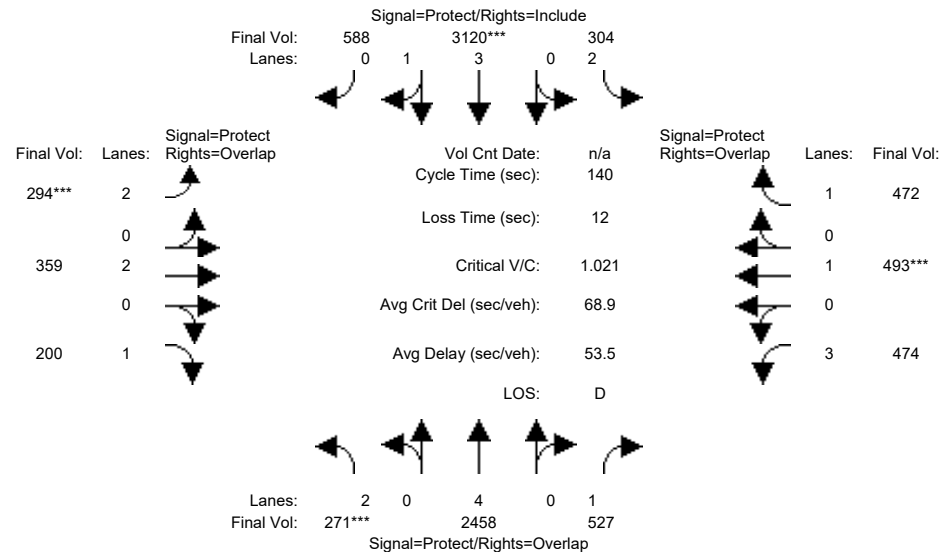
Vol/Sat:	0.12	0.29	0.37	0.12	0.27	0.27	0.18	0.06	0.05	0.11	0.14	0.41
Crit Moves:	****			****			****					****
Green Time:	20.8	47.5	96.1	19.4	46.1	46.1	28.9	28.5	49.3	48.6	48.2	67.6
Volume/Cap:	0.93	0.95	0.60	0.95	0.93	0.93	0.95	0.34	0.17	0.35	0.46	0.95
Delay/Veh:	92.2	63.2	20.5	98.4	61.5	61.5	86.4	56.8	39.2	42.0	46.0	63.8
User DelAdj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
AdjDel/Veh:	92.2	63.2	20.5	98.4	61.5	61.5	86.4	56.8	39.2	42.0	46.0	63.8
LOS by Move:	F	E	C	F	E	E	F	E	D	D	D	E
HCM2k95thQ:	22	49	34	19	39	39	31	10	7	14	18	65

Note: Queue reported is the number of cars per lane.

Kylli Mission Point Mixed-Use Development
City of Santa Clara

Level Of Service Computation Report
2000 HCM Operations (Future Volume Alternative)
2035 NoProj PM

Intersection #1206: (26) GREAT AMERICA / MISSION COLLEGE



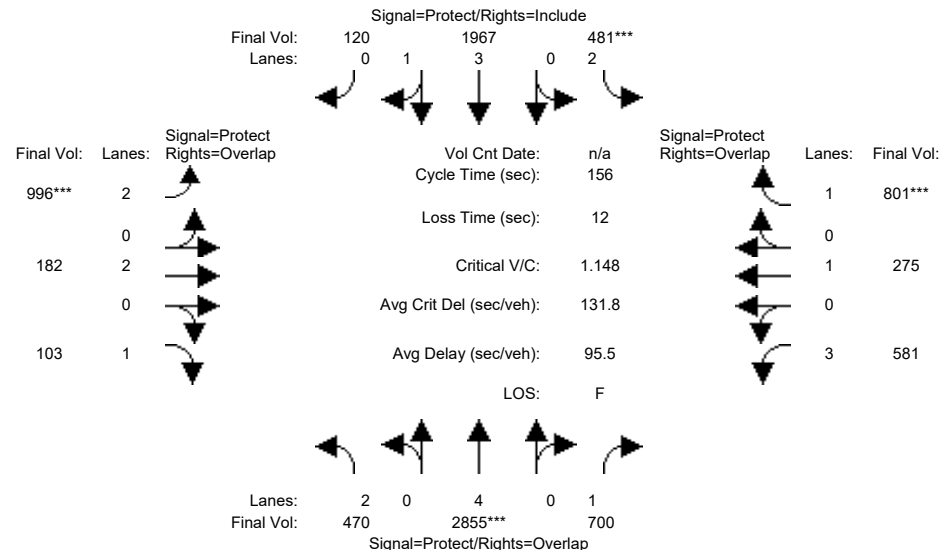
Approach:	North Bound			South Bound			East Bound			West Bound		
Movement:	L	T	R	L	T	R	L	T	R	L	T	R
Min. Green:	7	37	37	7	37	37	7	10	10	7	10	10
Y+R:	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0
Volume Module:												
Base Vol:	271	2458	527	304	3120	588	294	359	200	474	493	472
Growth Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Initial Bse:	271	2458	527	304	3120	588	294	359	200	474	493	472
Added Vol:	0	0	0	0	0	0	0	0	0	0	0	0
ATI:	0	0	0	0	0	0	0	0	0	0	0	0
Initial Fut:	271	2458	527	304	3120	588	294	359	200	474	493	472
User Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
PHF Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
PHF Volume:	271	2458	527	304	3120	588	294	359	200	474	493	472
Reduct Vol:	0	0	0	0	0	0	0	0	0	0	0	0
Reduced Vol:	271	2458	527	304	3120	588	294	359	200	474	493	472
PCE Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
MLF Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Final Volume:	271	2458	527	304	3120	588	294	359	200	474	493	472
Saturation Flow Module:												
Sat/Lane:	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Adjustment:	0.83	1.00	0.92	0.83	0.99	0.95	0.83	1.00	0.92	0.80	1.00	0.92
Lanes:	2.00	4.00	1.00	2.00	3.34	0.66	2.00	2.00	1.00	3.00	1.00	1.00
Final Sat.:	3150	7600	1750	3150	6309	1189	3150	3800	1750	4551	1900	1750
Capacity Analysis Module:												
Vol/Sat:	0.09	0.32	0.30	0.10	0.49	0.49	0.09	0.09	0.11	0.10	0.26	0.27
Crit Moves:	****			****			****			****		
Green Time:	11.8	61.3	86.7	18.3	67.8	67.8	12.8	23.0	34.8	25.4	35.6	53.9
Volume/Cap:	1.02	0.74	0.49	0.74	1.02	1.02	1.02	0.57	0.46	0.57	1.02	0.70
Delay/Veh:	124.8	33.6	14.9	65.5	56.6	56.6	122.1	55.3	45.4	53.4	98.6	39.6
User DelAdj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
AdjDel/Veh:	124.8	33.6	14.9	65.5	56.6	56.6	122.1	55.3	45.4	53.4	98.6	39.6
LOS by Move:	F	C	B	E	E	E	F	E	D	D	F	D
HCM2k95thQ:	17	37	23	13	64	64	18	13	14	14	41	31

Note: Queue reported is the number of cars per lane.

Kylli Mission Point Mixed-Use Development
City of Santa Clara

Level Of Service Computation Report
2000 HCM Operations (Future Volume Alternative)
2035 Kylli AM -Rev.Retail

Intersection #1206: (26) GREAT AMERICA / MISSION COLLEGE

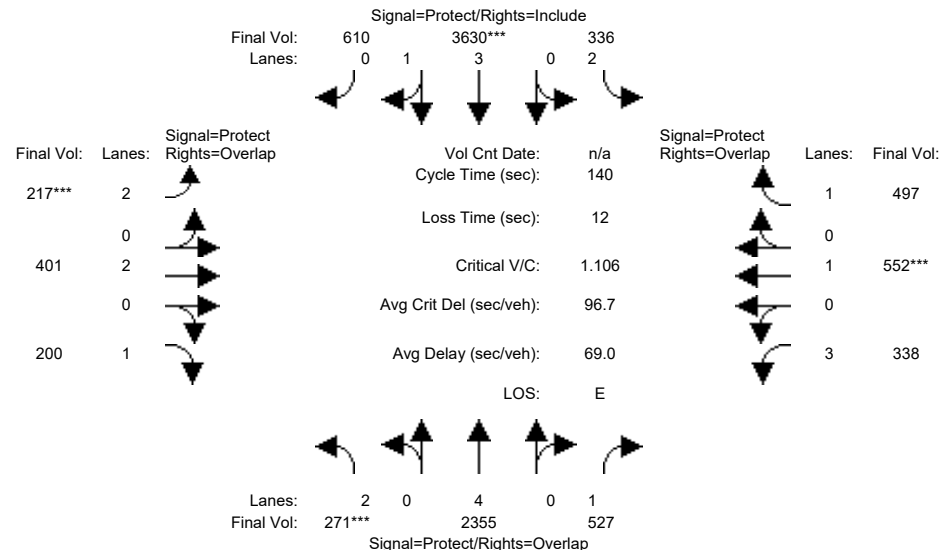


Approach:	North Bound			South Bound			East Bound			West Bound		
Movement:	L	T	R	L	T	R	L	T	R	L	T	R
Min. Green:	8	37	37	10	37	37	4	10	10	5	10	10
Y+R:	5.0	7.2	7.2	5.0	7.2	7.2	5.0	6.4	6.4	5.0	6.4	6.4
Volume Module:												
Base Vol:	470	2855	700	481	1967	120	996	182	103	581	275	801
Growth Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Initial Bse:	470	2855	700	481	1967	120	996	182	103	581	275	801
Added Vol:	0	0	0	0	0	0	0	0	0	0	0	0
ATI:	0	0	0	0	0	0	0	0	0	0	0	0
Initial Fut:	470	2855	700	481	1967	120	996	182	103	581	275	801
User Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
PHF Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
PHF Volume:	470	2855	700	481	1967	120	996	182	103	581	275	801
Reduct Vol:	0	0	0	0	0	0	0	0	0	0	0	0
Reduced Vol:	470	2855	700	481	1967	120	996	182	103	581	275	801
PCE Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
MLF Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Final Volume:	470	2855	700	481	1967	120	996	182	103	581	275	801
Saturation Flow Module:												
Sat/Lane:	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Adjustment:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Lanes:	2.00	4.00	1.00	2.00	3.77	0.23	2.00	2.00	1.00	3.00	1.00	1.00
Final Sat.:	3800	7600	1900	3800	7163	437	3800	3800	1900	5700	1900	1900
Capacity Analysis Module:												
Vol/Sat:	0.12	0.38	0.37	0.13	0.27	0.27	0.26	0.05	0.05	0.10	0.14	0.42
Crit Moves:	****	****	****	****	****	****	****	****	****	****	****	****
Green Time:	21.2	51.1	97.6	17.2	47.1	47.1	35.6	29.2	50.4	46.5	40.1	57.3
Volume/Cap:	0.91	1.15	0.59	1.15	0.91	0.91	1.15	0.26	0.17	0.34	0.56	1.15
Delay/Veh:	89.1	124	19.5	160.2	59.2	59.2	140.0	55.0	38.4	43.3	55.0	131.9
User DelAdj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
AdjDel/Veh:	89.1	124	19.5	160.2	59.2	59.2	140.0	55.0	38.4	43.3	55.0	131.9
LOS by Move:	F	F	B	F	E	E	F	D	D	D	D	F
HCM2k95thQ:	22	78	33	24	37	37	55	8	7	13	19	85
Note: Queue reported is the number of cars per lane.												

Kylli Mission Point Mixed-Use Development
City of Santa Clara

Level Of Service Computation Report
2000 HCM Operations (Future Volume Alternative)
2035 Kylli PM -Rev.Retail

Intersection #1206: (26) GREAT AMERICA / MISSION COLLEGE



Approach:	North Bound			South Bound			East Bound			West Bound		
Movement:	L	T	R	L	T	R	L	T	R	L	T	R
Min. Green:	7	37	37	7	37	37	7	10	10	7	10	10
Y+R:	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0

Volume Module:

Base Vol:	271	2355	527	336	3630	610	217	401	200	338	552	497
Growth Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Initial Bse:	271	2355	527	336	3630	610	217	401	200	338	552	497
Added Vol:	0	0	0	0	0	0	0	0	0	0	0	0
ATI:	0	0	0	0	0	0	0	0	0	0	0	0
Initial Fut:	271	2355	527	336	3630	610	217	401	200	338	552	497
User Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
PHF Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
PHF Volume:	271	2355	527	336	3630	610	217	401	200	338	552	497
Reduct Vol:	0	0	0	0	0	0	0	0	0	0	0	0
Reduced Vol:	271	2355	527	336	3630	610	217	401	200	338	552	497
PCE Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
MLF Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Final Volume:	271	2355	527	336	3630	610	217	401	200	338	552	497

Saturation Flow Module:

Sat/Lane:	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Adjustment:	0.83	1.00	0.92	0.83	0.99	0.95	0.83	1.00	0.92	0.80	1.00	0.92
Lanes:	2.00	4.00	1.00	2.00	3.40	0.60	2.00	2.00	1.00	3.00	1.00	1.00
Final Sat.:	3150	7600	1750	3150	6419	1079	3150	3800	1750	4551	1900	1750

Capacity Analysis Module:

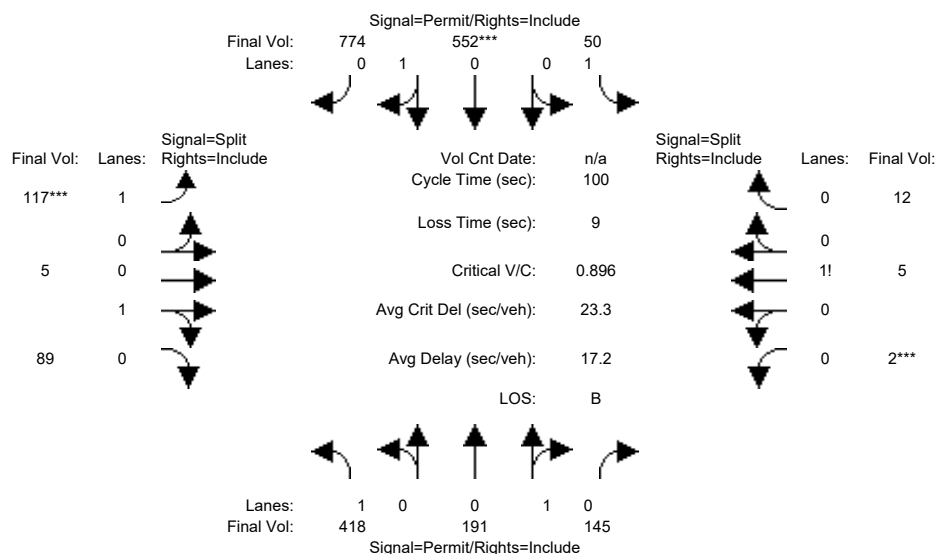
Vol/Sat:	0.09	0.31	0.30	0.11	0.57	0.57	0.07	0.11	0.11	0.07	0.29	0.28
Crit Moves:	****			****			****			****		
Green Time:	10.9	61.4	80.2	21.1	71.6	71.6	8.7	26.7	37.6	18.8	36.8	57.9
Volume/Cap:	1.11	0.71	0.53	0.71	1.11	1.11	1.11	0.55	0.43	0.55	1.11	0.69
Delay/Veh:	153.3	32.7	18.8	61.3	86.3	86.3	161.0	52.2	42.9	57.8	124	36.4
User DelAdj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
AdjDel/Veh:	153.3	32.7	18.8	61.3	86.3	86.3	161.0	52.2	42.9	57.8	124	36.4
LOS by Move:	F	C	B	E	F	F	F	D	D	E	F	D
HCM2k95thQ:	18	35	26	14	85	85	15	14	14	11	50	31

Note: Queue reported is the number of cars per lane.

Kylli Mission Point Mixed-Use Development
City of Santa Clara

Level Of Service Computation Report
2000 HCM Operations (Future Volume Alternative)
2030 Kylli AM - Rev.Retail

Intersection #9283: (#64) Old Ironsides Dr & Kylli Dwy B (signal)



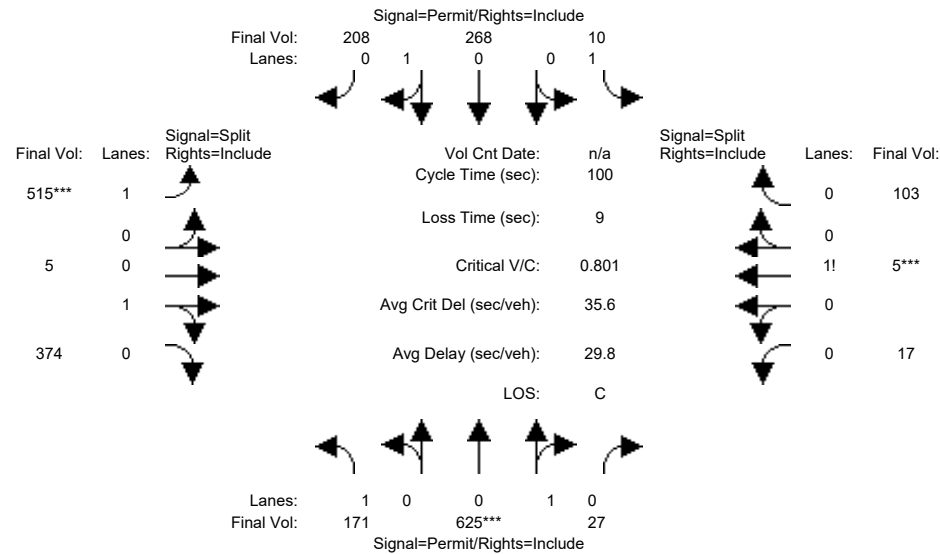
Street Name:	Old Ironsides Dr						Kylli Dwy B					
Approach:	North Bound			South Bound			East Bound			West Bound		
Movement:	L	T	R	L	T	R	L	T	R	L	T	R
Min. Green:	10	10	10	10	10	10	10	0	10	0	0	0
Y+R:	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0
Volume Module:												
Base Vol:	385	176	133	46	508	712	108	5	82	2	5	11
Growth Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Initial Bse:	385	176	133	46	508	712	108	5	82	2	5	11
Added Vol:	0	0	0	0	0	0	0	0	0	0	0	0
ATI:	0	0	0	0	0	0	0	0	0	0	0	0
Initial Fut:	385	176	133	46	508	712	108	5	82	2	5	11
User Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
PHF Adj:	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92
PHF Volume:	418	191	145	50	552	774	117	5	89	2	5	12
Reduct Vol:	0	0	0	0	0	0	0	0	0	0	0	0
Reduced Vol:	418	191	145	50	552	774	117	5	89	2	5	12
PCE Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
MLF Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Final Volume:	418	191	145	50	552	774	117	5	89	2	5	12
Saturation Flow Module:												
Sat/Lane:	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Adjustment:	0.92	0.95	0.95	0.92	0.95	0.95	0.92	0.95	0.95	0.92	0.92	0.92
Lanes:	1.00	0.57	0.43	1.00	0.42	0.58	1.00	0.06	0.94	0.11	0.28	0.61
Final Sat.:	1750	1025	775	1750	750	1050	1750	103	1697	194	486	1069
Capacity Analysis Module:												
Vol/Sat:	0.24	0.19	0.19	0.03	0.74	0.74	0.07	0.05	0.05	0.01	0.01	0.01
Crit Moves:				****			****			****		
Green Time:	79.8	79.8	79.8	79.8	79.8	79.8	10.0	10.0	10.0	1.2	1.2	1.2
Volume/Cap:	0.30	0.23	0.23	0.04	0.92	0.92	0.67	0.53	0.53	0.92	0.92	0.92
Delay/Veh:	2.8	2.6	2.6	2.1	18.0	18.0	53.1	45.6	45.6	208.9	209	208.9
User DelAdj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
AdjDel/Veh:	2.8	2.6	2.6	2.1	18.0	18.0	53.1	45.6	45.6	208.9	209	208.9
LOS by Move:	A	A	A	A	B	B	D	D	D	F	F	F
HCM2k95thQ:	8	6	6	1	59	59	10	7	7	4	4	4

Note: Queue reported is the number of cars per lane.

Kylli Mission Point Mixed-Use Development
City of Santa Clara

Level Of Service Computation Report
2000 HCM Operations (Future Volume Alternative)
2030 Kylli PM - Rev.Retail

Intersection #9283: (#64) Old Ironsides Dr & Kylli Dwy B (signal)



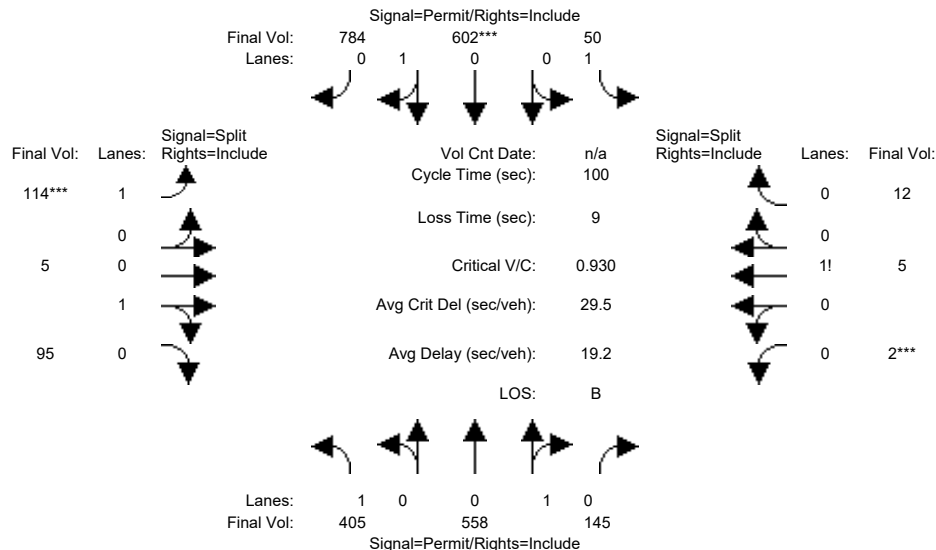
Street Name:	Old Ironsides Dr						Kylli Dwy B					
Approach:	North Bound			South Bound			East Bound			West Bound		
Movement:	L	T	R	L	T	R	L	T	R	L	T	R
Min. Green:	10	10	10	10	10	10	10	0	10	0	0	0
Y+R:	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0
Volume Module:												
Base Vol:	157	575	25	9	247	191	474	5	344	16	5	95
Growth Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Initial Bse:	157	575	25	9	247	191	474	5	344	16	5	95
Added Vol:	0	0	0	0	0	0	0	0	0	0	0	0
ATI:	0	0	0	0	0	0	0	0	0	0	0	0
Initial Fut:	157	575	25	9	247	191	474	5	344	16	5	95
User Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
PHF Adj:	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92
PHF Volume:	171	625	27	10	268	208	515	5	374	17	5	103
Reduct Vol:	0	0	0	0	0	0	0	0	0	0	0	0
Reduced Vol:	171	625	27	10	268	208	515	5	374	17	5	103
PCE Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
MLF Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Final Volume:	171	625	27	10	268	208	515	5	374	17	5	103
Saturation Flow Module:												
Sat/Lane:	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Adjustment:	0.92	0.95	0.95	0.92	0.95	0.95	0.92	0.95	0.95	0.92	0.92	0.92
Lanes:	1.00	0.96	0.04	1.00	0.56	0.44	1.00	0.01	0.99	0.14	0.04	0.82
Final Sat.:	1750	1725	75	1750	1015	785	1750	26	1774	241	75	1433
Capacity Analysis Module:												
Vol/Sat:	0.10	0.36	0.36	0.01	0.26	0.26	0.29	0.21	0.21	0.07	0.07	0.07
Crit Moves:	****						****			****		
Green Time:	45.2	45.2	45.2	45.2	45.2	45.2	36.8	36.8	36.8	9.0	9.0	9.0
Volume/Cap:	0.22	0.80	0.80	0.01	0.58	0.58	0.80	0.57	0.57	0.80	0.80	0.80
Delay/Veh:	16.7	29.2	29.2	15.1	21.5	21.5	35.4	26.6	26.6	69.2	69.2	69.2
User DelAdj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
AdjDel/Veh:	16.7	29.2	29.2	15.1	21.5	21.5	35.4	26.6	26.6	69.2	69.2	69.2
LOS by Move:	B	C	C	B	C	C	D	C	C	E	E	E
HCM2k95thQ:	7	34	34	0	21	21	30	19	19	12	12	12

Note: Queue reported is the number of cars per lane.

Kylli Mission Point Mixed-Use Development
City of Santa Clara

Level Of Service Computation Report
2000 HCM Operations (Future Volume Alternative)
2035 Kylli AM -Rev.Retail

Intersection #9283: (#64) Old Ironsides Dr & Kylli Dwy B (signal)



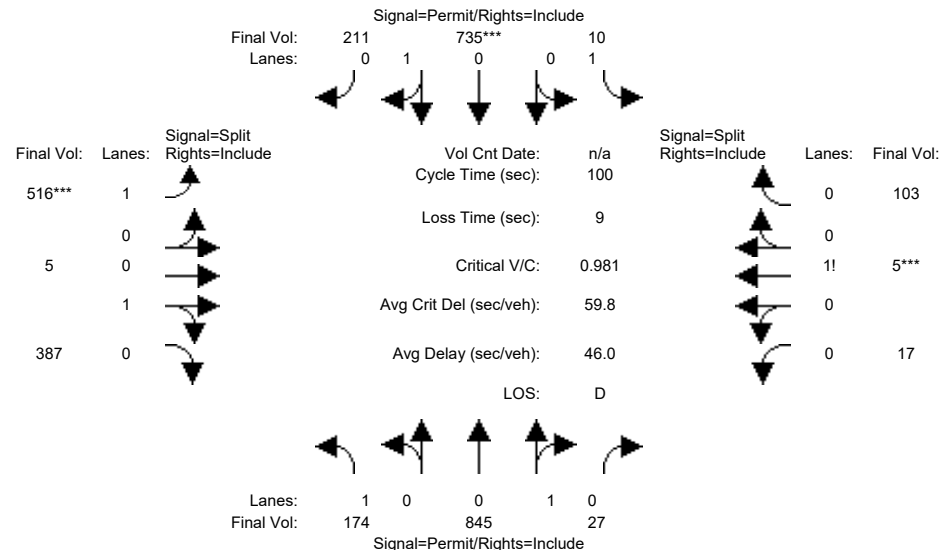
Street Name:	Old Ironsides Dr						Kylli Dwy B					
Approach:	North Bound			South Bound			East Bound			West Bound		
Movement:	L	T	R	L	T	R	L	T	R	L	T	R
Min. Green:	10	10	10	10	10	10	10	0	10	0	0	0
Y+R:	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0
Volume Module:												
Base Vol:	373	513	133	46	554	721	105	5	87	2	5	11
Growth Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Initial Bse:	373	513	133	46	554	721	105	5	87	2	5	11
Added Vol:	0	0	0	0	0	0	0	0	0	0	0	0
ATI:	0	0	0	0	0	0	0	0	0	0	0	0
Initial Fut:	373	513	133	46	554	721	105	5	87	2	5	11
User Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
PHF Adj:	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92
PHF Volume:	405	558	145	50	602	784	114	5	95	2	5	12
Reduct Vol:	0	0	0	0	0	0	0	0	0	0	0	0
Reduced Vol:	405	558	145	50	602	784	114	5	95	2	5	12
PCE Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
MLF Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Final Volume:	405	558	145	50	602	784	114	5	95	2	5	12
Saturation Flow Module:												
Sat/Lane:	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Adjustment:	0.92	0.95	0.95	0.92	0.95	0.95	0.92	0.95	0.95	0.92	0.92	0.92
Lanes:	1.00	0.79	0.21	1.00	0.43	0.57	1.00	0.05	0.95	0.11	0.28	0.61
Final Sat.:	1750	1429	371	1750	782	1018	1750	98	1702	194	486	1069
Capacity Analysis Module:												
Vol/Sat:	0.23	0.39	0.39	0.03	0.77	0.77	0.07	0.06	0.06	0.01	0.01	0.01
Crit Moves:	****											
Green Time:	79.8	79.8	79.8	79.8	79.8	79.8	10.0	10.0	10.0	1.2	1.2	1.2
Volume/Cap:	0.29	0.49	0.49	0.04	0.96	0.96	0.65	0.56	0.56	0.96	0.96	0.96
Delay/Veh:	2.8	3.6	3.6	2.1	24.8	24.8	51.8	46.7	46.7	232.1	232	232.1
User DelAdj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
AdjDel/Veh:	2.8	3.6	3.6	2.1	24.8	24.8	51.8	46.7	46.7	232.1	232	232.1
LOS by Move:	A	A	A	A	C	C	D	D	D	F	F	F
HCM2k95thQ:	7	15	15	1	71	71	10	8	8	4	4	4

Note: Queue reported is the number of cars per lane.

Kylli Mission Point Mixed-Use Development
City of Santa Clara

Level Of Service Computation Report
2000 HCM Operations (Future Volume Alternative)
2035 Kylli PM -Rev.Retail

Intersection #9283: (#64) Old Ironsides Dr & Kylli Dwy B (signal)



Street Name:	Old Ironsides Dr						Kylli Dwy B					
Approach:	North Bound			South Bound			East Bound			West Bound		
Movement:	L	T	R	L	T	R	L	T	R	L	T	R
Min. Green:	10	10	10	10	10	10	10	0	10	0	0	0
Y+R:	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0
Volume Module:												
Base Vol:	160	777	25	9	676	194	475	5	356	16	5	95
Growth Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Initial Bse:	160	777	25	9	676	194	475	5	356	16	5	95
Added Vol:	0	0	0	0	0	0	0	0	0	0	0	0
ATI:	0	0	0	0	0	0	0	0	0	0	0	0
Initial Fut:	160	777	25	9	676	194	475	5	356	16	5	95
User Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
PHF Adj:	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92
PHF Volume:	174	845	27	10	735	211	516	5	387	17	5	103
Reduct Vol:	0	0	0	0	0	0	0	0	0	0	0	0
Reduced Vol:	174	845	27	10	735	211	516	5	387	17	5	103
PCE Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
MLF Adj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Final Volume:	174	845	27	10	735	211	516	5	387	17	5	103
Saturation Flow Module:												
Sat/Lane:	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Adjustment:	0.92	0.95	0.95	0.92	0.95	0.95	0.92	0.95	0.95	0.92	0.92	0.92
Lanes:	1.00	0.97	0.03	1.00	0.78	0.22	1.00	0.01	0.99	0.14	0.04	0.82
Final Sat.:	1750	1744	56	1750	1399	401	1750	25	1775	241	75	1433
Capacity Analysis Module:												
Vol/Sat:	0.10	0.48	0.48	0.01	0.53	0.53	0.30	0.22	0.22	0.07	0.07	0.07
Crit Moves:	*****											
Green Time:	53.6	53.6	53.6	53.6	53.6	53.6	30.1	30.1	30.1	7.3	7.3	7.3
Volume/Cap:	0.19	0.90	0.90	0.01	0.98	0.98	0.98	0.72	0.72	0.98	0.98	0.98
Delay/Veh:	12.1	32.6	32.6	10.8	47.0	47.0	68.8	36.1	36.1	119.4	119	119.4
User DelAdj:	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
AdjDel/Veh:	12.1	32.6	32.6	10.8	47.0	47.0	68.8	36.1	36.1	119.4	119	119.4
LOS by Move:	B	C	C	B	D	D	E	D	D	F	F	F
HCM2k95thQ:	6	47	47	0	59	59	39	23	23	15	15	15

Note: Queue reported is the number of cars per lane.

Attachment B

Mission Point Project Revised Substation Design and Transmission Lines

Memorandum

To:	Rebecca Bustos City of Santa Clara 1500 Warburton Avenue Santa Clara, CA 95050
From:	Jennifer Andersen, Project Manager Cory Matsui, Senior Manager, Air Quality and Climate Change Pierre Glaize, Senior Air Quality and Climate Change Specialist Kelsey Hartfelder, Air Quality and Climate Change Specialist
Date:	March 4, 2024
Re:	Mission Point Project Revised Substation Design and Transmission Lines

Revised Substation Design and Transmission Lines

The purpose of this Memorandum (Memo) is to qualitatively analyze the proposed revised substation design and transmission line options for the Mission Point Project (Project). The Draft Environmental Impact Report (EIR) analyzed the construction and operations of an electrical substation footprint of 18,000 gross square feet (gsf) within Area C of the Project site. In order to better accommodate equipment, setbacks, equipment clearances, and ingress, egress, and circulation within the substation, Silicon Valley Power (SVP) revised the substation design to a new footprint of 27,000 gsf, or a 9,000 gsf increase. There would be no material changes with respect to any other buildings or uses on the Project site, and the electricity demand of the Project would not change, because the same voltage is supported with the larger footprint.

Additionally, SVP analyzed various transmission line routing options to connect the new substation to the existing SVP system. Various routing alternatives were explored by SVP, and, of these, two options identified in *Democracy Short Circuit Duty Analysis: Democracy Substation Addition*¹, as “Routing Option 1” (the preferred option) and “Routing Option 3” (the alternative option) were moved forward by SVP. New transmission lines would be placed underground within public rights of way between the Project site and the existing underground transmission lines. SVP will coordinate with the City of Santa Clara (City) and the San Francisco Public Utilities Commission (SFPUC) to obtain all required approvals for the selected transmission line routing. No new overhead transmission lines are proposed under either option. Construction of either Routing Option 1 or Routing Option 3 would occur simultaneously with construction of the revised substation design within Area C. Routing Option 1 would result in approximately 8,500 cubic yards of additional soil export and Routing Option 3 would result in approximately 9,950 cubic yards of additional soil export.

¹ Report prepared by TRC for SVP in November 2023

Construction Mass Emissions

For the original substation design, the construction mass emission modeling in the Draft EIR assumed a construction schedule of 3/1/2025 to 4/26/2026, or 300 workdays. It should be noted that the modeling approach used in the Draft EIR is highly conservative, because substation construction activities were modeled separately from the rest of the Project. The substation was thus assumed to require separate construction phases and construction equipment, workers, and vendor trucks. The actual construction implementation of the substation will likely be more unified with the rest of the Project site, because it is more efficient to construct the entire Area C at one time rather than further subdividing Area C. The treatment of the substation as a separate group of construction phases is thus highly conservative. For example, the entire Area C would likely be graded at one time for efficiency; however, the Draft EIR modeling analysis assumes that a separate grading phase would occur for the substation. Furthermore, default construction equipment for a light industrial use were modeled for construction of the substation, which is also likely conservative, because the construction equipment to build a typical light industrial use may be more intensive than a substation. Thus, the emissions presented in the Draft EIR are likely to be highly conservative, and the changes to the substation design described in this memo are less intensive from a construction perspective than the conservative approach used to model emissions in the Draft EIR.

The construction schedule and equipment would not appreciably change if the revised substation design is implemented and the footprint increases, because the change in design is only a layout refinement, and the operating characteristics of the building would be unchanged. For the transmission lines, three additional pieces of equipment would be required: an excavator, a loader, and a small backhoe loader. On-road hauling trucks would also be needed to haul soil away from the site.

Assuming the worst-case excavation and soil export of 9,950 cubic yards (Routing Option 3), there would be an increase in haul truck trips of approximately 4 trips per day, on average. This estimate is based on the assumption that an additional 1,200 one-way haul trucks trips would be required for the transmission line excavation over 300 days, which assumes a truck capacity of 16 cubic yards. Total haul truck trips to and from the Project site during the construction of Area C would thus increase from 64 to 68 per day. This increase in haul trucks in 2025 and 2026 would not change the overall worst-case maximum daily construction emissions shown in the Draft EIR, because the worst-case emissions occur in 2031 when Areas A, B and D are constructed simultaneously. The use of the three additional pieces of equipment would also generate emissions; however, as noted above, the modeling approach used in the Draft EIR is highly conservative and likely already includes a substantial “buffer” of additional activity that may not actually occur during Project construction. As noted above, the inclusion of separate construction phases and vehicle trips for the substation is conservative, because construction at Area C is likely to be more unified rather than have a disparate group of construction phases for the substation, which would result in substantial emissions efficiency benefits. As such, the additional equipment required for transmission line construction is likely already accounted for by the conservative approach used to modeling emissions in the Draft EIR.

The emissions in 2025 and 2026 would be affected by the additional haul truck trips and off-road equipment; however, the increase in emissions would be minor. In total, the additional four haul truck trips per day and three additional pieces of equipment may increase the maximum daily emissions by 0.02 pounds (lb) on the low-end, for exhaust particulate matter 10 microns or less in diameter (PM₁₀), and up to 0.67 lb on the high-end, for nitrogen oxides (NO_x) emissions. In 2026, the pollutant closest to

the threshold is NO_x at 28.8 lbs. per day with mitigation implemented, as shown in Table 3.3-8 of the Draft EIR. The addition of four haul truck trips and use of equipment may increase the emissions of NO_x by up to 0.67 lb per day, which would not change the overall worst-case daily emissions in 2031, and would thus not change any of the conclusions in the Draft EIR. When comparing the emissions by year, the maximum daily emissions in 2026 are 0.6 lb per day less for PM₁₀ exhaust (55% lower), 23.7 lb per day less for NO_x (45% lower), and 27.9 lb per day less for reactive organic compounds (ROG) (90% lower) compared to the Project-wide worst-case daily emissions in 2031. For the reasons noted above, the revised substation design, including the transmission lines, would have a minor effect on criteria pollutant emissions during construction and would not change any of the conclusions of the Draft EIR. However, the construction of the transmission lines would likely result in higher daily emissions than what is shown in the Draft EIR for 2025 and 2026.

With respect to greenhouse gas emissions, construction-related emissions may be marginally higher with the revised substation design relative to the original design resulting from the additional haul truck trips and equipment use that would be needed. However, any difference in emissions is anticipated to be minor, given the minor magnitude of the change in substation design relative to the magnitude of overall construction required for the Project and the conservative modeling approach used in the Draft EIR. The increase in 9,000 square feet represents 0.001% of the overall Project square footage. Construction GHG emissions for the Project are less than significant with mitigation, and the minor additional emissions associated with the revised substation design would not change that conclusion.

Operational Mass Emissions

The operational mass emissions modeling in the Draft EIR assumed that the substation use would be 'light industrial' in the California Emission Estimator Model (CalEEMod), because CalEEMod does not have a land use option for a substation or energy-related infrastructure. As such, the general light industrial category is a reasonable approximation for the substation; however, it is nevertheless a conservative assumption, because the substation may not actually have certain emissions sources that a light industrial building would have for criteria pollutants. For example, the substation is not anticipated to have the following: painted interior and exterior surfaces; regular use of cleaning products and other consumer products or independent use of landscaping equipment. Currently, the general light industrial uses modeled and emissions shown in the Draft EIR include these sources of emissions, which is thus conservative and results in additional criteria air pollutant emissions from area sources than what would actually occur. In total, the current modeling in the Draft EIR conservatively includes an additional 0.56 lb. per day of ROG emissions that is not anticipated to occur as part of the operation of the substation. Further, the additional square footage at the substation only affects unoccupied building space. Although the revised substation building footprint design is 9,000 square feet greater than the original design, the modeling presented in the Draft EIR is conservative, because it includes emissions sources for a light industrial use that the substation would not likely have. Furthermore, the additional square footage represents 0.001% of the overall Project square footage and, given the magnitude of this change, would have no potential to change overall Project emissions in a meaningful way.

For greenhouse gas emissions, the revised substation design would not affect the Project's consistency with the City's Climate Action Plan (CAP), because there would be no change in the type of emissions sources between the original and revised design. Thus, the CAP checklist provided in Appendix 3.4 of the Draft EIR still applies.

Health Risks

The revised substation design and increase in square footage would not alter the results of the construction health risk analysis (HRA) that was conducted in the Draft EIR. Specifically, the modeling area of the HRA in the Draft EIR included the entire Area C where the substation is; thus, the revised substation footprint is covered by the existing modeling area. Additionally, the construction equipment and duration for the revised substation design would not appreciably differ from the equipment and duration modeled in the Draft EIR. With respect to haul truck trips, the additional 4 daily haul truck trips in 2025 and 2026 would not have a discernible effect on the modeled health risks and fine particulate matter (PM_{2.5}) concentrations shown in the Draft EIR, as there would not be on-site receptors present during the construction of Area C. Additionally, the largest emission source of diesel particulate matter (DPM) and PM_{2.5} is from the off-road construction equipment that are located on-site, with haul trucks resulting in a substantially smaller contribution to health risks and PM_{2.5} than off-road equipment. As shown in the Draft EIR, off-site non-residential worker receptor health risk impacts during construction (1.46 in a million-cancer risk and 0.06 micrograms per cubic meter for PM_{2.5}) were well below the Bay Area Air Quality Management District (BAAQMD) thresholds when exposed to the full 9.55-year construction of the Project. Although the three additional pieces of equipment would also result in emissions of DPM and PM_{2.5} that could affect off-site (non-residential) receptors, these receptors were analyzed in the HRA and would have a negligible increase in health risk impacts due to the transitory nature of the transmission line construction and the significantly shorter construction schedule than the overall Project. Construction of the transmission line will progress along the alignment and thus not affect any single receptor for an appreciable amount of time.

As discussed above, the installation of the transmission lines in Routing Option 1 or Routing Option 3 would be simultaneous with the construction of the substation in Area C. As such, transmission line construction would not affect on-site residential receptors, as construction activities would be completed prior to residential receptors being located on site. Lastly, the construction of the substation and transmission lines would be completed prior to the construction of the Patrick Henry Specific Plan Area and would thus not affect future residential receptors located in that plan area. Thus, the revised substation design, including Routing Option 1 or Routing Option 3 for the transmission lines, is not anticipated to change the significance determination for on-site or off-site receptors.

Noise

For the original substation design, the Draft EIR evaluated worst-case noise and vibration levels that could result from the loudest and most vibration-intensive pieces of equipment for each construction phase. Overall, noise and vibration levels from construction of the substation would not be expected to increase if the revised substation design is implemented. As noted above, additional off-road equipment (an excavator, a loader, and a small backhoe loader) and four additional daily haul truck trips would be required during construction of the transmission line.

As mentioned above, the transmission line installation would be complete before residential receptors are located on-site, so construction would not impact on-site residential uses. However, additional off-site land uses could be affected by noise and vibration from equipment during the construction of the transmission line. The trenching and jack and bore locations would be to the south of the Project site where there are no residential uses and only office uses. As such, these land uses would not be

considered sensitive to noise or vibration generated by the transmission line construction. Moreover, noise and vibration resulting from equipment used during transmission line construction is expected to be less than or comparable to the levels disclosed in the Draft EIR. The additional equipment required for transmission line construction is the same type of equipment that would be used on the Project site for primary construction activities and would not include the more noise-intensive equipment (i.e. pile driver, concrete saw). As a result, construction of the transmission line would result in comparable noise and vibration levels to the noise levels presented in the Draft EIR and is thus not expected to worsen noise and vibration impacts at sensitive land uses.

For haul and vendor truck trips, the Draft EIR conservatively analyzes noise levels for the worst-case day on which up to 686 one-way trips could occur. As noted above, assuming the worst-case excavation and soil export of 9,950 cubic yards (Routing Option 3), there would be an average increase in haul truck trips of approximately 4 trips per day. This increase in haul trucks would not change the overall worst-case noise levels from haul and vendor trucks, because the worst-case day would occur when Areas A, B and D are constructed simultaneously in 2031. As a result, additional haul truck activities associated with excavation and soil export for the transmission line, which would occur during construction of Area C, would not result in greater noise levels than those disclosed in the Draft EIR.

During Project operation, the increased footprint would not result in any new sources of noise or vibration or changes to the anticipated operational activities. The additional square footage at the substation only affects unoccupied building space, and there would be no material changes with respect to any other buildings and uses on the site, as mentioned above. The increased square footage with the revised substation design would not increase the operational noise and vibration levels shown in the Draft EIR.

Conclusion

For the reasons discussed above, the *Air Quality*, *Greenhouse Gas*, and *Noise* chapters of the Draft EIR conservatively evaluate potential impacts of the Project. The revised substation design and transmission line may result in construction activity in addition to the activities to build the Project and original substation design. However, the additional activities would result in overall minor effects for emissions of criteria pollutants and GHGs during construction and operation; health risks and pollutant concentrations; and noise generated during construction. The analysis components conducted for the Draft EIR include a level of conservativeness such that the impacts presented would not likely be appreciably affected by the additional construction activities discussed in this memo. As noted above, the magnitude of footprint increase in the design of the substation is an exceedingly small portion of the overall Project size (0.001%). Thus, the conclusions of the Draft EIR are accurate and representative of the Project, including the potential change in substation design and transmission lines.