City of East Palo Alto

Community and Economic Development Department, Planning Division
California Environmental Quality Act (CEQA)

MITIGATED NEGATIVE DECLARATION

PROJECT TITLE: Martin Luther King Jr. Park Master Plan Project

PROJECT LOCATION: 435 Daisy Lane, East Palo Alto

ASSESSORS PARCEL NO.: 063-600-060, 063-600-999, 063-390-030, 063-580-050, and 063-580-040

PROJECT DESCRIPTION: The project would redevelop the existing 4.7-acre MLK Jr. Park and expand the park into undeveloped land adjacent to the east and north, resulting in a total of 13.89 acres, and construct a new access road south from the Daisy Lane parking lot to O'Connor Street. The redeveloped park would include one new lighted synthetic multi-sport playing field with a perimeter track, one new lighted synthetic baseball field, lighted sports courts, lighted amphitheater/performance stage, all-inclusive playground, exercise equipment, fenced dog park, public address (PA) system, and a new surface 44 space parking lot with access from Beech Street. The project would preserve the existing seasonal wetlands and potential seasonal wetlands on the project site. The existing concessions/restroom building, play structure, and BBQ/picnic areas would be retained and renovated, the existing fence along the western project boundary would be replaced with a new eight to 10-foot-tall chain-link fence with privacy screen, and the existing parking lot off Daisy Lane would be expanded from 25 to 71 spaces.

I. FINDING AND BASIS FOR A MITIGATED NEGATIVE DECLARATION:

In accordance with the California Environmental Quality Act (CEQA), the City of East Palo Alto, Community and Economic Development Department has conducted an Initial Study to determine whether the proposed project may have a significant adverse effect on the environment. It is hereby determined that, based on the information contained in the attached Initial Study, the proposed project will not result in a significant effect on the environment because the mitigation and avoidance measures described in the Initial Study are included in the project. The project proponent, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level. The mitigation and avoidance measures described in the Initial Study and included in the proposed project are listed below.

II. MITIGATION MEASURES:

Air Quality

Impact AIR-1: Ground disturbing activities associated with project construction could generate fugitive dust emissions. **(Significant Impact)**

Mitigation Measure: The following mitigation measure, which is consistent with the Basic Construction Mitigation Measures identified in the BAAQMD CEQA Air Quality Guidelines to reduce impacts from construction-related fugitive dust to a less than significant level, shall be implemented.

MM AIR-1.1: During construction period ground disturbance, the project contractor shall implement the following measures recommended by BAAQMD to control dust and exhaust:

- Exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
- Haul trucks transporting soil, sand, or other loose material off-site shall be covered
- Visible mud or dirt tracked-out onto adjacent public roads shall be removed using wet power vacuum street sweeps at least once per day. The use of dry power sweeping is prohibited.
- Vehicle speeds on unpaved surfaces shall be limited to 15 miles per hour (mph)
- Roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations). Clear signage shall be posted for construction workers at all access points.
- Construction equipment shall be maintained and properly tunes in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- Post a publicly visible sign with the telephone number and contact at the City of East Palo Alto regarding dust complaints. This person shall respond and take corrective action within 48 hours. The BAAQMD's phone number shall also be included to ensure compliance with applicable regulations.

Impact AIR-2: Project construction activities would expose sensitive receptors at the maximally exposed individual and Sweet Angels WeeCare to toxic air contaminant emissions in excess of BAAQMD thresholds for cancer risk of

10 per million and the maximally exposed individual to annual $PM_{2.5}$ emissions exceeding 0.3 micrograms, respectively. **(Significant Impact)**

Mitigation Measure: The project shall implement MM AIR-1.1 above and the following mitigation measure to reduce exposure of sensitive receptors to TAC emissions during construction.

MM AIR-2.1: Prior to the start of construction activities for the project, the project shall submit a construction operations plan that includes specifications of the equipment to be used during construction and a letter signed by a qualified air quality specialist, verifying that the equipment included in the plan meets the standards set forth below:

- All construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall meet U.S. EPA Tier 4 emission standards for PM (PM_{10} and $PM_{2.5}$), if feasible, otherwise,
    - If use of Tier 4 equipment is not available, alternatively use equipment that meets U.S. EPA emission standards for Tier 3 engines and include particulate matter emissions control equivalent to CARB Level 3 verifiable diesel emission control devices that altogether achieve an 85 percent reduction in particulate matter exhaust in comparison to uncontrolled equipment.
    - Use of electrical or non-diesel fueled equipment.

- Alternatively, the applicant may develop another construction operations plan demonstrating that the construction equipment used on-site would achieve a reduction in construction diesel particulate matter emissions by 85 percent or greater. Elements of the plan could include a combination of some of the following measures:
    - Implementation of No. 1 above to use Tier 4 or alternatively fueled equipment,
    - Installation of electric power lines during early construction phases to avoid use of diesel generators and compressors,
    - Use of electrically-powered equipment,
    - Forklifts and aerial lifts used for exterior and interior building construction shall be electric or propane/natural gas powered,
    - Change in construction build-out plans to lengthen phases, and
    - Implementation of different building techniques that result in less diesel equipment usage.

Biological Resources

Impact BIO-1: Implementation of the proposed project could result in direct and indirect impacts to Congdon's Tarplant if present. **(Significant Impact)**

Mitigation Measures: The following mitigation measures would reduce and/or avoid impacts to nesting birds (if present on or adjacent to the site) to a less than significant level.

MM BIO-1.1: **Pre-Activity Surveys for Congdon's Tarplant.** Prior to initial ground disturbance for project-related activities in seasonal wetland, potential seasonal wetland, and ruderal grassland habitats, a qualified plant ecologist shall conduct a survey for Congdon's tarplant within the project footprint and within a 50-ft buffer around the project footprint (to the extent access permits). This buffer may be increased by the qualified plant ecologist depending on site-specific conditions and activities planned in the areas, but must be at least 50 ft wide. Situations for which a greater buffer may be required include proximity to proposed activities expected to generate large volumes of dust, such as grading; potential for project activities to alter hydrology supporting habitat for the species; or proximity to proposed structures that may shade areas farther than 50 feet away. Surveys shall be conducted during the appropriate blooming season for the species (typically July through October) in a year with near-average or above-average precipitation. Surveys may be conducted earlier or later than July-October, or in a year of below-average rainfall, if examination of nearby reference populations indicate that the species would be detectable if present. The purpose of the survey shall be to assess the presence (and distribution/abundance) or absence of Congdon's tarplant. If Congdon's tarplant is not found in the impact area or the identified buffer, then no further mitigation shall be required. If Congdon's tarplant is found in the impact area or identified buffer, then MM BIO-1.2 and BIO-1.3 shall be implemented.

MM BIO-1.2: **Congdon's Tarplant Avoidance Buffers, Protection, and Management.** To the extent feasible, and in consultation with a qualified plant ecologist, the project proponent shall design and construct the proposed project to completely avoid impacts on all populations of Congdon's tarplant within the project footprints or within the identified buffers of the impact areas. Avoided populations of the species shall be protected by establishing and observing the identified buffer between plant populations and the impact area. All such populations located in the impact area or the identified buffer, and their associated designated avoidance areas, shall be clearly depicted on any construction plans. In addition, prior to initial ground disturbance or vegetation removal, the limits of the identified buffer around Congdon's tarplant to be avoided shall be marked in the field (e.g., with flagging, fencing, paint, or other means appropriate for the site in question). This marking shall be maintained intact and in good condition throughout project-related construction activities.

Any onsite occurrence of Congdon's tarplant that can be avoided shall be protected with signage or low fencing (less than 3 feet tall, to avoid providing high-quality raptor foraging perches for potential salt marsh harvest mouse predators) to discourage people from entering the occupied habitat. Any management of the occupied habitat that currently occurs – which may include periodic mowing – the management shall continue to occur to maintain suitable conditions for the species.

If complete avoidance is not feasible and more than 10% of a population (by occupied area or individuals) would be impacted as determined by a qualified plant ecologist, MM BIO-1.3 shall be implemented.

MM BIO-1.3: **Preserve and Manage Mitigation Populations of Congdon's Tarplant.** If avoidance of Congdon's tarplant is not feasible and more than 10% of the population would be impacted, compensatory mitigation shall be provided via the preservation, enhancement, and management of occupied habitat for the species, or the creation and management of a new population. To compensate for impacts on Congdon's tarplant, habitat occupied by the affected species shall be preserved and managed in perpetuity at a minimum 1:1 mitigation ratio (at least one plant preserved for each plant impacted, and at least one occupied acre preserved for each occupied acre affected), for any impact over the 10% significance threshold. Alternately, seed from the population to be impacted may be harvested and used either to expand an existing population (by a similar number/occupied area to compensate for impacts to special-status plants beyond the 10% significance threshold) or establish an entirely new population in suitable habitat.

Areas proposed to be preserved as compensatory mitigation for impacts to Congdon's tarplant must contain verified extant populations of the species, or in the event that enhancement of existing populations or establishment of a new population is selected, the area must contain suitable habitat for the species as identified by a qualified plant ecologist. Mitigation areas shall be managed in perpetuity to encourage persistence and even expansion of this species. Mitigation lands cannot be located on land that is currently held publicly for resource protection unless substantial enhancement of habitat quality shall be achieved by the mitigation activities. The mitigation habitat will be of equal or greater habitat quality compared to the impacted areas, as determined by a qualified plant ecologist, in terms of soil features, extent of disturbance, vegetation structure, and dominant species composition, and shall contain at least as many individuals of the species as are impacted by project activities. The permanent protection and management of mitigation lands shall be ensured through an appropriate mechanism, such as a conservation easement or fee title purchase.

A habitat mitigation and monitoring plan (HMMP) shall be developed and implemented for the mitigation lands. That plan shall include, at a minimum, the following information:

- a summary of habitat impacts and the proposed mitigation;
- a description of the location and boundaries of the mitigation site and description of existing site conditions;
- a description of measures to be undertaken to enhance (e.g., through focused management that may include removal of invasive species in adjacent suitable but currently unoccupied habitat) the mitigation site for the species;
- a description of measures to transplant individual plants or seeds from the impact area to the mitigation site, if appropriate (which shall be determined by a qualified plant or restoration ecologist);
- proposed management activities to maintain high-quality habitat conditions for the species;

- a description of habitat and species monitoring measures on the mitigation site, including specific, objective final and performance criteria, monitoring methods, data analysis, reporting requirements, monitoring schedule, etc. At a minimum, performance criteria shall include demonstration that any plant population fluctuations over the monitoring period of a minimum of 5 years for preserved populations and a minimum of 10 years for enhanced or established populations do not indicate a downward trajectory in terms of reduction in numbers and/or occupied area for the preserved mitigation population that can be attributed to management (i.e., that are not the result of local weather patterns, as determined by monitoring of a nearby reference population, or other factors unrelated to management); and
- contingency measures for mitigation elements that do not meet performance criteria.

The HMMP shall be prepared by a qualified plant or restoration ecologist. Approval of the HMMP by the City shall be required before project impacts to this species occur.

Impact BIO-1.2: Project construction and operation could result in impacts to salt marsh harvest mouse and salt marsh wandering shrew due to loss of individuals and suitable habitat. **(Significant Impact)**

Mitigation Measures:

MM BIO-1.4: **Salt Marsh Harvest Mouse and Salt Marsh Wandering Shrew Construction Minimization Measures.** The following measures shall be implemented to minimize the potential for impacts on individual salt marsh harvest mice and salt marsh wandering shrews, and these species' habitats, during project construction.

- Before any construction activities begin, a qualified biologist shall conduct a worker environmental awareness training program (WEAP) for all construction personnel. At a minimum, the training shall include descriptions of the salt marsh harvest mouse, salt marsh wandering shrew, California black rail, and California Ridgway's rail, their habitats, the laws protecting them, the general measures that are being implemented to conserve these species as they relate to the project, and the boundaries within which the project may be accomplished.
- To avoid the loss of individual harvest mice or shrews from any excavation, fill, or construction activities in suitable habitat, vegetation removal shall be limited to the minimum amount necessary to permit the activity to occur. Wherever feasible, sufficient suitable habitat, as determined by a qualified biologist, shall remain adjacent to the activity area to provide refugia for displaced individuals.
- Within areas where vegetation potentially supporting salt marsh harvest mice or salt marsh wandering shrews (as determined by a qualified biologist) shall be impacted, vegetation and debris that could provide cover for mice shall be removed using only hand tools (which may

include motorized equipment such as line trimmers if the vegetation removed is inspected by a qualified biologist and does not contain any salt marsh harvest mice or salt marsh wandering shrews) at least one week prior to the commencement of construction activities. Vegetation removal within potential habitat for these mammals shall occur under the supervision of a qualified biologist. This vegetation shall be removed on a progressive basis, such that the advancing front of vegetation removal moves toward suitable habitat that would not be disturbed. A qualified biologist shall monitor the vegetation removal and make specific recommendations with respect to the rate of vegetation removal (to ensure that any harvest mice or shrews present are able to escape to cover that shall not be impacted), and whether vegetation needs to remain in a certain area temporarily to facilitate dispersal of mice into habitat outside the impact area.

- All cut vegetation, except cut vegetation left in place as escape cover, shall be removed daily from vegetation removal areas within 50 feet of suitable salt marsh harvest mouse and salt marsh wandering shrew habitats to prevent it from being used as refugia by these species.
- If a salt marsh harvest mouse or salt marsh wandering shrew, or an animal that may be a salt marsh harvest mouse or salt marsh wandering shrew, is detected during vegetation removal or other project activities, all work that could impact the individual shall cease until the animal has moved out of the impact area on its own. A qualified biologist will monitor the animal to ensure that it disperses out of the impact area. If the animal does not move on its own, the biologist will confer with the USFWS and CDFW to identify appropriate measures to avoid impacts to the animal. No salt marsh harvest mice or salt marsh wandering shrews shall be handled (even for relocation) without prior approval from the USFWS and CDFW.
- Following the hand-removal of vegetation, exclusion fencing shall be erected as needed between construction areas and harvest mouse/shrew habitat that is to remain unimpacted to define and isolate protected harvest mouse/shrew habitat. This would specifically include the seasonal wetland and potential seasonal wetland habitats found on the project site; no fencing would be constructed on the east or north side of the larger seasonal/potential seasonal wetland area, to allow mammals to move between the on-site wetland and suitable habitat to the north and east. This fencing shall consist of material that cannot be climbed by harvest mice, buried at least 4 inches below the ground's surface, and with at least one ft (but no more than 3 ft) above the ground. All supports for the fencing shall be placed on the inside of the work area. A minimum one-ft buffer shall be maintained free of vegetation around the outside of the exclusion fencing. The fencing shall be inspected daily during construction, and any necessary repairs shall be made within 24 hours of when they are found. If any breaks in the fencing are found, the qualified biologist shall inspect the work area for salt marsh harvest mice and salt marsh wandering shrews.

- No animals (e.g., dogs or cats) shall be brought to the project site during construction by project personnel to avoid harassment, killing, or injuring of wildlife.
- The project site shall be maintained trash-free, and food refuse shall be contained in secure bins and removed daily during construction, to avoid attracting nuisance animals that may then prey on salt marsh harvest mice.
- Nighttime construction shall be avoided if feasible. If avoidance of night work is infeasible, all project lighting shall be shielded and directed away from tidal marshes.

MM BIO-1.5: **Prohibit Rodenticides.** Use of rodenticides shall not be allowed by the City within 100 feet of any seasonal wetland or potential seasonal wetland habitat on-site.

MM BIO-1.6: **Restrict Pesticide Use in and near Wetland Habitats.** All pesticides (e.g., herbicides or insecticides) used within 100 ft of seasonal wetland or potential seasonal wetland habitats must be utilized in accordance with the manufacturer's directions. No pesticides shall be applied within seasonal wetland or potential seasonal wetland habitats as part of project activities. Any pesticides used in areas where they could be washed, or could drift via wind, into tidal marsh or seasonal wetland habitat must be approved by the EPA for use in aquatic habitats.

MM BIO-1.7: **Avian Predator Perch Deterrents.** A qualified biologist shall assess any new structures, including fencing, buildings, light poles, bleachers, or other structures, that shall be constructed within 300 ft of any suitable salt marsh harvest mouse and salt marsh wandering shrew habitat (both onsite and offsite) to determine whether they provide suitable perches for avian predators of the salt marsh harvest mouse and salt marsh wandering shrew, and whether their construction shall improve the ability of predators to prey on these sensitive mammals (relative to existing structures, such as electrical poles, that shall remain on the site). This assessment shall take into consideration both onsite habitat for these mammals and offsite habitat, such as potential habitat across the nontidal Runnymede channel from the project site and in Faber Marsh. Avian predator perch deterrents shall be placed on any structures that are determined by the qualified biologist to improve the ability of predators to prey on these sensitive mammals. The specific type of perch deterrent(s) used shall be approved by a qualified biologist and the City.

MM BIO-1.8: **Landscape Design.** Landscaping shall be designed to avoid providing suitable perches for avian predators and dense woody vegetation that could hide mammalian predators of salt marsh harvest mouse and salt marsh wandering shrew. No dense shrubs or trees capable of reaching heights (at maturity) greater than four feet shall be planted within 100 feet of the seasonal wetlands, potential seasonal wetlands, or the wetlands east of the Bay Trail, and no shrubs or trees capable of reaching heights (at maturity) greater than six feet shall be planted within 200 feet of the seasonal wetlands, potential seasonal wetlands, or the wetlands east of the Bay Trail, unless there are intervening structures, topography, or other features shall be considered by the biologist that may block

the view of the seasonal wetland and potential seasonal wetland areas on the project site or the salt marsh to the east, from avian predators using proposed trees and shrubs.

MM BIO-1.9: **Restrictions on Off-Leash Dogs.** Off-leash dogs shall be prohibited within 100 ft of seasonal wetland or potential seasonal wetland habitats unless within fenced areas designated specifically for dogs. Signage prohibiting off-leash dogs shall be placed at various locations around the park, including on the fence around the onsite seasonal wetlands and potential seasonal wetlands and at the entrance to the Bay Trail.

MM BIO-1.10: **Food Waste Management.** The following measures shall be implemented within 100 ft of salt marsh or seasonal wetland habitats to minimize impacts on salt marsh harvest mice and salt marsh wandering shrews due to the attraction of nuisance predators.

- Any bins used for food waste shall include lids that seal tightly to prevent access by animals and incorporate a mechanism to prevent them from being inadvertently left open when not in active use.
- Outdoor trash and recycling receptacles shall be emptied frequently enough that cans do not fill up and allow food waste to spill out.
- Litter on the site shall be picked up daily, and no food trash shall be left onsite overnight.
- Signs will be placed on trash and recycling receptacles reminding users to close the lids so that they shall not be inadvertently left open.
- Residents and visitors shall be prohibited from feeding feral or wild mammals.
- Educational signs shall be posted explaining the importance and sensitivity of nearby marsh habitats and the seasonal wetland habitats onsite, prohibiting feeding wildlife and feral animals on the property, prohibiting off-leash dogs within 100 ft of seasonal wetland or potential seasonal wetland habitats, as well as offsite tidal salt marsh, and advising visitors to dispose of food waste in outdoor areas appropriately to avoid attracting and subsidizing nuisance species.

MM BIO-1.11: **Fencing of Seasonal Wetlands and Potential Seasonal Wetlands.** To discourage park visitors from entering seasonal wetlands and potential seasonal wetlands that provide potential habitat for salt marsh harvest mice and salt marsh wandering shrews, low (<3 feet tall) symbolic fencing, with educational signs prohibiting entry, shall be placed around the seasonal wetlands and potential seasonal wetlands. On the east side of the larger wetland area north of the Bay Trail access pathway, such fencing shall only be installed on the north, west, and south sides of the wetland/potential wetland (i.e., no fencing shall be installed between this wetland and the nontidal Runnymede channel to avoid placing even a low avian predator perch in this area).

MM BIO-1.12: **Maintenance of Hydrology and Water Quality in the Seasonal Wetlands.** Effects of changes in stormwater runoff on hydrology and water quality within

the seasonal wetlands and potential seasonal wetlands shall be minimized during detailed project design by designing stormwater features so that the amount and timing of runoff does not change substantially as a result of the project, and so that no runoff from new hardscape, artificial turf fields, or fertilized lawn or landscaping enters the wetlands without first being treated in stormwater treatment features. A qualified hydrologist shall inform detailed design of the stormwater system so that the amount of runoff entering the wetlands, and the rate at which it enters the wetlands, from the rest of the park does not increase or decrease by more than 10 percent from existing conditions. Further, stormwater treatment features, which may include vegetated swales, detention basins, or other features located outside of the existing seasonal wetlands and potential seasonal wetlands, shall be included to treat any runoff from new hardscape, artificial turf fields, or fertilized lawns or landscaping before that water enters the seasonal wetlands or potential seasonal wetlands.

Impact BIO-1.3: Project construction and operation could result in impacts to California Black rail and California Ridgway's rail due to loss of individuals and suitable habitat. **(Significant Impact)**

Mitigation Measure:

MM BIO-1.13: **Seasonal Avoidance or Protocol-level Surveys and Buffers around Calling Centers.** To avoid causing the abandonment of an active California Ridgway's rail or California black rail nest, project construction activities occurring within 700 of salt marsh habitats located in Faber Marsh to the east shall be avoided during the rail breeding season (from February 1 through August 31) unless (a) a qualified biologist determines that a reduced buffer (but no less than 200 feet) is appropriate due to intervening development or obstructions, the level of disturbance by the activity in question (in terms of noise and equipment), or other factors that would reduce the potential for the activity to disturb nesting rails, or (2) protocol-level surveys are conducted by a qualified biologist to determine rail locations and territories during the year in which construction is initiated. Protocol-level surveys are typically initiated in late January, so proactive planning is necessary to ensure that such surveys are conducted according to the protocol during the year in which construction occurs. If breeding rails are determined to be present, construction activities shall not occur within 700 ft of an identified California Ridgway's rail calling center, or within 300 feet of a California black rail calling center, during the breeding season, unless the buffer is reduced based on the assessment of a qualified biologist as described above. California Ridgway's rails are known to breed in Faber Marsh, though their calling centers may vary from year to year, and they may not necessarily be nesting/calling from the immediate edge of the marsh, closest to the project area; thus, conducting protocol-level surveys may help to determine whether and where breeding-season construction can occur, relative to rail locations.

Impact BIO-1.4: Project construction could result in impacts to burrowing owls foraging and roosting on and adjacent to the project site.

Mitigation Measure:

MM BIO-1.14: **Burrowing Owl Minimization Measures.** To minimize impacts on burrowing owls, the following measures shall be implemented.

- **Preconstruction Surveys.** Preconstruction surveys for burrowing owls shall be conducted prior to the initiation of construction activities (regardless of the time of year) within suitable burrowing owl roosting or nesting habitat (i.e., grassland or ruderal habitats), or within 250 feet of this habitat. During the initial site visit, a qualified biologist shall survey the entire project site and (to the extent that access allows) areas within 250 feet by walking transects with centerlines no more than 50 feet apart and ensure complete visual coverage and looking for suitable burrows that could be used by burrowing owls. If no suitable burrows are present, no additional surveys are required. If suitable burrows are determined to be present within 250 feet of project impact areas, a qualified biologist shall conduct a second survey to determine whether owls are present in areas where they could be affected by proposed activities. The surveys shall last a minimum of three hours, beginning one hour before sunrise and continuing until 2 hours after sunrise or beginning 2 hours before sunset and continuing until 1 hour after sunset. Regardless of the time of year, the first survey may occur up to 14 days prior to the start of construction activities in any given area, and the second survey shall be conducted within two days prior to the start of construction activities.
- **Implement Buffer Zones for Burrowing Owls.** If burrowing owls are detected during the pre-activity survey, a 165-foot buffer, within which no newly initiated construction-related activities should occur, shall be maintained between construction activities and occupied burrows to the extent feasible during the nonbreeding season (September 1 through January 31). This buffer may be reduced if a qualified biologist determines that work shall not result in damage to the burrow(s) being used by the owls. Though the species is highly unlikely to breed on or nearby to the project site, owls present between February 1 and August 31 shall be assumed to be nesting, and a 250-foot protected area shall remain in effect until August 31, or until the burrow is no longer occupied, whichever occurs first.
- **Passive Relocation.** No burrowing owls shall be relocated from burrows during the breeding season (February 1 through August 31). If, during the nonbreeding season (September 1 through January 31), it is infeasible to maintain a buffer around occupied burrow(s) large enough to ensure that the burrow(s) shall not be physically disturbed (thus risking injury or mortality of the owl), the owl may be passively relocated from the occupied burrow(s) using one-way doors. Passive relocation shall be performed only by a qualified biologist, in coordination with CDFW to obtain any appropriate guidance. One-way doors must be in place for a minimum of 48 hours, during dry conditions, to ensure that owls have left the burrow before the burrow is impacted.

Impact BIO-1.5: Project construction could directly or indirectly impact nesting birds protected

under the Migratory Bird Treaty Act and the California Fish and Game Code. **(Significant Impact)**

Mitigation Measures:

MM BIO-1.14: Nesting Bird Avoidance. The following measures would be implemented to avoid and minimize impacts of project activities on nesting birds.

- **Seasonal Avoidance.** To the extent feasible, vegetation removal, demolition, and initiation of grading and other construction activities should be scheduled to avoid the nesting season. If such activities take place outside the nesting season, all impacts on nesting birds protected under the MBTA and California Fish and Game Code shall be avoided. The nesting season for most birds in San Mateo County extends from February 1 through August 31.
- **Preconstruction Surveys.** If it is not possible to schedule vegetation removal, demolition, and construction activities between September 1 and January 31, then preconstruction surveys for nesting birds shall be conducted by a qualified biologist to ensure that no nests of migratory birds shall be disturbed during project implementation. These surveys shall be conducted no more than 7 days prior to the initiation of tree removal, demolition, ground disturbance, or construction activities for each construction phase. During this survey, the biologist shall inspect all potential nesting habitats (e.g., trees, shrubs, buildings, electrical towers, and the ground) in and immediately adjacent to the impact areas for migratory bird nests.
- Buffers. If an active nest is found within areas that would be disturbed by project activities, the qualified biologist shall determine the extent of a construction-free buffer zone to be established around the nest (typically 300 ft for raptors and 100 ft for other species, though buffers may be reduced by the biologist based on intervening structures or vegetation, the magnitude of disturbance produced by the activity, and the level of human activity to which the birds are already habituated), to ensure that no active nests of species protected by the MBTA and California Fish and Game Code shall be disturbed during project implementation.
- Inhibition of Nesting. If construction activities shall not be initiated until after the start of the nesting season, all potential nesting substrates (e.g., bushes, trees, grasses, and other vegetation) that are scheduled to be removed by the project may be removed prior to the start of the nesting season (e.g., prior to February 1) to reduce the potential for establishment of nests in areas to be disturbed.

Impact BIO-1.5: Increased lighting in the project area could result in loss sensitive habitat and disorientation of birds. **(Significant Impact)**

Mitigation Measure:

MM BIO-1.15: Lighting Impact Reduction Measures. Measures shall be implemented to

reduce spillover of lighting into, or glare/increased luminance perceived by animals using seasonal wetlands and potential seasonal wetland habitat on the project site and sensitive habitats east of the project site, as well as adverse effects of lighting on migratory birds.

- All lights (including those that are and are not associated with the athletic field) shall be oriented downward toward park areas and shall include shielding to minimize light spillover into the seasonal wetlands and potential seasonal wetlands on the project site, as well as sensitive habitats located east of the project site. The luminaires (e.g., bulbs) of new project lighting shall be shielded from view of any animals in Faber Marsh, and to the extent feasible, from any animals in the wetlands and potential wetlands on the site and between the site and the Bay Trail levee. Shielding shall also be provided to prevent lights from shining upward.
- Any spillage of lighting that does occur into sensitive habitats, such as the seasonal wetland and potential seasonal wetland habitat on the project site, wetlands between the project site and the Bay Trail levee, and the western edge of Faber Marsh, shall not exceed 0.1 fc over ambient, pre-project light conditions. This shall be measured by a qualified light technician with a handheld photometer held 5 ft above ground level, standing at the edge of each sensitive habitat area. Should illuminance levels be found above 0.1 fc over ambient light levels (i.e., no stadium, parking lot or pedestrian lighting on) at the edge of sensitive habitats, then the City shall make the necessary adjustments to lighting angles, shields, and other variables to reduce the increase in lighting to 0.1 fc or lower in these sensitive habitat areas.

Impact BIO-2: Project construction could result in disturbance of soils and promote the spread of nonnative species degrading the ecological value of on-site seasonal wetlands (and potential seasonal wetlands). **(Significant Impact)**

Mitigation Measure:

MM BIO-2.1: The invasion and/or spread of noxious weeds would be avoided by the use of the following invasive weed Best Management Practices:

- The use of moderate or highly invasive (Cal-IPC 2022) and/or noxious weed (as defined by California Department of Food and Agriculture) for landscaping shall be prohibited.
- During project construction, all seeds and straw materials used in the project area shall be weed-free rice (or similar material acceptable to the City) straw, and all gravel and fill material shall be certified weed-free to the satisfaction of the City. Any deviation from this shall be approved by the City.
- Vehicles and equipment used during project construction within 100 feet of seasonal wetlands, including wheels, undercarriages, and bumpers, shall be washed at existing construction yards or car washes before entering the proposed project footprint.

- Following construction of the project, a standard erosion control seed mix (acceptable to the City) from a local source, and free of invasive species, shall be planted within the temporary impact zones on any disturbed ground that shall not be under hardscape, landscaped, or maintained. This would minimize the potential for the germination of the majority of seeds from nonnative, invasive plant species.

Impact BIO-3.1: Implementation of the proposed project could result in unauthorized entry of the wetlands by construction workers, equipment and by park users during operations resulting in trampling of wetland vegetation and increased impervious surfaces could affect the amount of runoff entering seasonal wetlands and the length of time in which the water pools in these areas, filling existing wetland vegetation. **(Significant Impact)**

Mitigation Measure:

MM BIO-3.1: The following measures shall be implemented to avoid and minimize impacts to jurisdictional wetlands found on the project site:

- Prior to commencement of project activities, a wetland delineation of the project area shall be conducted in accordance with USACE standards to determine the precise boundaries of jurisdictional wetlands on the project site. Impacts to any jurisdictional habitats will be avoided.
- The jurisdictional wetlands on the project site, as well as other jurisdictional aquatic and wetland habitats immediately adjacent to the construction area, shall be demarcated with orange construction fencing to exclude workers, vehicles, and equipment during construction.
- The locations of habitats to be avoided shall be identified in the contract documents (plans and specifications) as "Sensitive Biological Resources – Do Not Disturb."

Cultural Resources

Impact CUL-2: Ground disturbing activities associated with construction of the project could disturb previously unrecorded archaeological resources. **(Significant Impact)**

Mitigation Measures: The following mitigation measures shall be implemented to reduce impacts to archaeological resources that may be present on the site.

MM CUL-2.1: The following mitigation measures are based on the recommendations in the archaeological assessment and based on tribal consultation completed pursuant to AB 52. Implementation of these mitigation measures would reduce impacts to previously unidentified archaeological resources to a less than significant level:

- Prior to the start of any grading activities associated with the project, the City's contractor shall submit evidence to the Director of the Department of Community and Economic Development that one Cultural Awareness Training was held prior to ground disturbance. The training shall be facilitated by a qualified archaeologist in coordination with a

representative of a tribe that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3. This training shall be provided to all construction workers as a field training prior to the beginning of ground disturbing activities, and shall include a discussion of applicable laws and penalties under the laws; samples or visual aids of resources that could be encountered in the project vicinity, instructions regarding the need to halt work in the vicinity of any potential archaeological and Native American resource encountered, and measures to notify their supervisor, the applicant, and the specialists.

- In the event that archaeological resources are exposed during construction, the City of East Palo Alto Community and Economic Development Department Director or their designee shall be notified, work within 100 feet of the find shall cease, and the City shall engage with a qualified archaeologist and Native American monitor who shall examine the find to allow the City as lead agency to determine if it meets the definition of a historical, unique archaeological, or tribal cultural resource as defined in the CEQA Guidelines. If the find does not meet the definition of a historical, unique archaeological, or tribal cultural resource, no further study or protection is necessary for work to continue. If the find does meet the definition of a historical, unique archaeological, or tribal cultural resource, then it shall be avoided by project activities for the entire duration of construction.
- If avoidance is not feasible, adverse effects to a historical, unique archaeological, or tribal cultural resource shall be mitigated through the implementation of a treatment plan prepared by the project archaeologist in consultation with the Native American monitor. The scope of the treatment plan shall be commensurate with the level of project impacts and determined by a qualified archaeologist in consultation with a Native American representative. The treatment plan shall outline the potential data categories associated with the find, and shall detail methods of data collection, recording, and analysis of significant cultural materials. The treatment plan shall be submitted to the City of East Palo Alto Community and Economic Development Department Director or their designee for approval prior to implementation. After field testing, an evaluation report shall be prepared documenting the fieldwork, analyzing the cultural materials recovered, defining the resource boundaries on the project site, and evaluating the resource per the California Register of Historic Resources. The report shall document the results of field and laboratory investigations and shall meet the Secretary of the Interior's Standards for Archaeological Documentation. The report shall be submitted to the City of East Palo Alto Community and Economic Development Department Director or their designee for review and approval. The NAHC (for tribal cultural resources) and the Northwest Information Center shall receive copies of the final report after City approval.

Impact CUL-3: Ground disturbance during construction of the proposed project could disturb human remains. **(Significant Impact)**

Mitigation Measures: The following mitigation measures shall be implemented under the proposed project to reduce potential impacts to human remains.

MM CUL-3.1: If human remains are encountered during project construction activities, all work in the vicinity shall be halted and the San Mateo County Coroner contacted. In the event that the County Coroner determines the human remains are Native American, notification of the Native American Heritage Commission (NAHC) is required, who shall appoint a Most Likely Descendant (MLD) (PRC Section 5097.98). The qualified archaeologist, project sponsor, and MLD shall make all reasonable efforts to develop an agreement for treatment. The agreement shall incorporate 'best practices' as identified by the NAHC. A final report shall be prepared by the project archaeologist in consultation with the MLD and approved by the City of East Palo Alto. Work on the project may proceed upon City approval.

Geology and Soils

Impact GEO-6: Although unlikely, construction of the proposed project paleontological resources could disturb paleontological resources. **(Significant Impact)**

Mitigation Measure: The proposed project would implement the following mitigation measure:

MM GEO-6.1: If paleontological resources are encountered during the grading or excavation, all construction activities within 50 feet shall stop and the City of East Palo Alto shall be notified. A qualified paleontologist shall inspect the findings within 24 hours of discovery. If it is determined that the proposed development could damage unique paleontological resources, mitigation shall be implemented in accordance with Public Resources Code Section 21083.2 and Section 15126.4 of the CEQA Guidelines. Possible mitigation under Public Resources Code Section 21083.2 requires that reasonable efforts be made for resources to be preserved in place or left undisturbed. If preservation in place is not feasible, data recovery through excavation shall be conducted with a data recovery plan in place. Therefore, when considering these possible mitigations, the City shall have a preference for preservation in place.

Noise and Vibration

Impact NOI-1: Project construction would occur for more than one year and be located within 500 feet of residential uses, conflicting with General Plan Policy 7.11 for construction noise impacts. **(Significant Impact)**

Mitigation Measures: The project applicant would be required to implement the following mitigation measures to reduce noise impacts related to project construction.

MM NOI-1.1: Prior to the issuance of any grading or demolition permits, the City's contractor shall submit and implement a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting and

notification of construction schedules, equipment to be used, and designation of a noise disturbance coordinator to respond to any local complaints about construction noise. The disturbance coordinator would determine the cause of the complaints (e.g., beginning work too early, bad mufflers, etc.) and institute reasonable measures warranted to correct the problem. The noise disturbance coordinator shall be in place prior to the start of construction. The noise logistics plan shall be signed by a qualified acoustical specialist verifying that this plan meets the reduction to noise levels and shall be submitted to the Director of Community and Economic Development or the Director's designee. As a part of the noise logistics plan, construction activities for the proposed project shall include, but are not limited to, the following best management practices:

- Limit construction activity to weekdays between 7:00 AM and 6:00 PM and Saturdays between 9:00 AM and 5:00 PM, with no construction on Sundays and holidays;
- Utilize "quiet" models of air compressors and other stationary noise sources where such technology exists;
- Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment;
- Locate all stationary noise-generating equipment, such as air compressors and portable power generators, as far away as possible from adjacent land uses;
- Locate staging areas and construction material areas as far away as possible from adjacent land uses;
- Prohibit all unnecessary idling of internal combustion engines;
- Designate a "disturbance coordinator" who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and will require that reasonable measures warranted to correct the problem are implemented.
- Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction.

Utilities and Service Systems

Impact UTL-2: The City does not have sufficient water supplies available to serve the project and reasonably foreseeable future development during single-dry and multiple-dry years in 2025 and beyond. **(Significant Impact)**

Mitigation Measure: The following mitigation measures shall be implemented by the proposed project to ensure adequate water supplies are available to serve the project and reduce impacts to a less than significant level.

MM UTL-2.1: To address the discrepancy between the proposed project's 19.3-acre feet per year water demand and the available water supply, the City shall secure the additional water supplies needed for the proposed project. To do so, the City shall implement one or more of the following programs to supply a minimum of 19.3-acre feet per year:

- **Groundwater Opportunities.** The City has completed environmental review and has constructed a new groundwater well and treatment facility at Pad D to address the supply shortfall. This project produces 33-acre feet per year (29,460 gpd) and provides sufficient water supplies to serve the proposed project.
- **Transfer and Exchange Opportunities.** The City's agreement with SFPUC allows for the transfer or exchange of unused portions of water allocations among contracting agencies within the SFPUC system. Additionally, the agreement allows for purchase and transfer of water from outside the SFPUC service area through third party transmission systems. The City of East Palo Alto is seeking other opportunities for water supply transfers. However, no specific agreements are currently being negotiated by the City.
- **Recycled Water Opportunities.** The RWQCP currently produces an average of 672-acre feet (219 million gallons per year) of recycled water. It is estimated that the City of East Palo Alto could use approximately 450 acre-feet (146 million gallons per year) of recycled water for non-potable uses. There is currently no conveyance system to transport recycled water throughout the City of East Palo Alto service area. However, a four-inch recycled water pipeline was constructed as part of the San Francisquito Creek Bridge Replacement Project which would allow for future conveyance of recycled water from the RWQCP to the City of East Palo Alto. Extending the recycled water system into the City of East Palo Alto is considered a low cost and reasonable investment for the City. When this project is complete, a portion of the City's existing potable water demand (such as landscape irrigation) could be served by the new recycled water supply. The excess potable water supply made available with this program would be sufficient to meet the needs of the proposed project. This option would require additional design and environmental review prior to it being a feasible option.