



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Christopher Burton

SUBJECT: See Below

DATE: July 22, 2024

Approved

Date:

7/24/24

COUNCIL DISTRICT: 2

SUBJECT: H22-022 & ER22-113 - Public Hearing on the Environmental Appeal of the 865 Embedded Way Industrial Project Initial Study supporting a Mitigated Negative Declaration as the Environmental Clearance for Approval of a Site Development Permit

RECOMMENDATION

- a) Conduct a Public Hearing to consider the environmental appeal of the Planning Director's adoption of the 865 Embedded Way Industrial Project Initial Study Mitigated Negative Declaration (MND) in accordance with the California Environmental Quality Act (CEQA) for a Site Development Permit (File Nos. H22-022, ER22-113) to allow the construction of a one-story 121,400 square foot industrial building and a surface parking lot on a vacant 10.17-acre site.
- b) Adopt a resolution denying the environmental appeal and upholding the Planning Director's adoption of the 865 Embedded Way Industrial Project MND in accordance with CEQA, as amended, and finding that:
 - (1) The City Council has independently reviewed and analyzed the MND for the 865 Embedded Way Industrial Project, and related administrative records related to Site Development Permit No. H22-022; and
 - (2) The MND for the 865 Embedded Way Industrial Project was prepared and completed in full compliance with CEQA, as amended, together with state and local implementing guidelines;
 - (3) Adoption of the MND for the 865 Embedded Way Industrial Project reflects the independent judgment and analysis of the City of San José, as the lead agency for the Project; and
 - (4) Preparation of a new, subsequent, or supplemental environmental document is not required because the appeal does not raise any new significant impacts that have not already been analyzed or addressed in

the 865 Embedded Way Industrial Project MND in accordance with Public Resources Code (PRC) Section 21083 or CEQA Guidelines Sections 15073 and 15185.

SUMMARY AND OUTCOME

Public Hearing and Environmental Appeals

On May 1, 2024, John Tu, Division Manager for the Planning Division and acting on behalf of the Director of Planning, Building, and Code Enforcement (Hearing Officer), held a public hearing to consider the 865 Embedded Way Industrial Project MND in accordance with CEQA (**Exhibit A**) and Site Development Permit No. H22-022 (**Exhibit B**). The potential environmental impacts of the subject project were assessed in an Initial Study, which the City circulated with the MND for public comment for 20 days between December 21, 2023, to January 10, 2024. The Hearing Officer considered all the information in the administrative record including the Initial Study, all comment letters, and information presented at the public hearing, and determined the 865 Embedded Way Industrial Project MND was the appropriate environmental clearance under CEQA for the proposed project and approved the Site Development Permit, File No. H22-022.

After the Director's decision to adopt the 865 Embedded Way Industrial Project MND in accordance with CEQA and approve Site Development Permit No. H22-022, the City received two appeals of the environmental determination:

- 1) On May 6, 2024, Mitchell M. Tsai Law Firm, on behalf of the Carpenters Local Union 405, filed a timely appeal of the environmental determination for the project (**Exhibit C**). The appeal is based on the adequacy of the Initial Study prepared for the project under CEQA. The appeal cited that the MND did not accurately disclose the Project's potential significant impacts to traffic, air quality, greenhouse gas emissions, noise, biological resources, and other environmental factors and that the MND improperly defers mitigation; and therefore, the City should prepare an Environmental Impact Report (EIR) to further evaluate and mitigate significant environmental impacts of the project.
- 2) Also on May 6, 2024, Adams Broadwell Joseph & Cardozo, on behalf of Silicon Valley Residents for Responsible Development, filed a timely environmental appeal (**Exhibit D**) of the environmental determination for the 865 Embedded Way Industrial Project on the adequacy of the Initial Study prepared for the project under CEQA. The appeal stated the Initial Study should have found that the project would have a potentially significant impact due to air quality and public health impacts from construction and operational activities and transportation impacts, making an MND inappropriate and necessitating preparation of a full EIR.

Public Circulation and Response to Comments

The City circulated the MND for public comment between December 21, 2023, and January 10, 2024. A total of four comment letters were received during the public review period, including a letter from the Mitchell M. Tsai Law Firm that filed the appeal. Adams Broadwell Joseph & Cardozo did not submit a public comment during the public review period. A response to comments document was prepared by staff responding to the four comment letters, and the document was posted on the City's Planning Department's environmental review webpage on April 19, 2024, and is included in **Exhibit E** to this memorandum. Staff received two additional late comment letters after the close of public circulation of the MND, both submitted on April 30, 2024, the day prior to the scheduled Director's Hearing. These letters were from Mitchell M. Tsai Law Firm and Adams Broadwell Joseph & Cardozo.

Outcome

Based on documents in the record including the MND and City responses to public comments received during the public comment period, staff recommends that City Council deny the two environmental appeals and uphold the Hearing Officer's determination that the 865 Embedded Way Industrial Project MND is the appropriate CEQA clearance. The environmental impacts of the subject project were adequately evaluated and disclosed in the MND. The appellants failed to provide substantial evidence in raising a fair argument under CEQA that the proposed project would result in significant, adverse, un-mitigatable impacts requiring preparation of an EIR or re-circulation of the MND pursuant to CEQA Guidelines Sections 15064 and 15073.5, or any other provisions under CEQA.

Denying the environmental appeal and upholding the Planning Director's reliance on the MND (CEQA determination) would allow the project applicant to move forward under Site Development Permit No. H22-022, approved by the Director on May 1, 2024, to allow the construction of a one-story 121,400 square-foot industrial building and a surface parking lot on a 10.17-acre single vacant parcel located at 865 Embedded Way in San José, California. The Site Development Permit was not appealed.

Upholding the environmental appeal would void both the Planning Director's CEQA determination and the Site Development Permit. The project applicant would be required to prepare a new or revised environmental document, such as an EIR, prior to reconsideration of the proposed project. Alternatively, the applicant could choose to not proceed with the proposed project and withdraw the application.

BACKGROUND

Site Location

The project site is located at 865 Embedded Way within the city limits of San José, in Santa Clara County. The project site consists of a single lot that is approximately 10.17 acres in size. The Assessor's Parcel Number is 679-01-020. The majority of the project site is currently vacant and consists of undeveloped grassland. A paved parking area and access roadways associated with the adjacent property extend onto a portion of the site along its eastern boundary.

Proposed Project

The proposed project requires a Site Development Permit to allow the removal of 11 trees on-site for the construction of a one-story 121,400 square-foot industrial building and surface parking lot on a 10.17-acre, single vacant parcel. The proposed building would have a maximum roof height of approximately 45 feet. While a designated end-user has not yet been determined, the building is designed for a research and development (R&D) use. The project would include a connection to an existing 26-foot-wide drive aisle that extends from the eastern Embedded Way driveway through the adjacent eastern industrial property (875 Embedded Way) and currently terminates at the southeastern boundary of the project site. A total of 300 parking spaces would be provided in the surface parking lot surrounding the building.

Environmental Review

Pursuant to CEQA, the City prepared an Initial Study for the project which concluded that all the identified potentially significant impacts would be reduced to less than significant with the implementation of mitigation measures, and therefore, an MND was the appropriate environmental clearance for the proposed project. The 865 Embedded Way Industrial Project MND (State Clearinghouse # 2023120640) was circulated for public review and comment for 20 days, from December 21, 2023 to January 10, 2024. Four comment letters were received from public agencies, labor unions, organizations, and private parties during the public comment period. These letters are listed in the **Table** below. In addition, two comment letters were received after the close of public circulation on April 30, 2024, prior to the scheduled Director's Hearing on May 1, 20

Table: List of Comments Received on MND	
Name	Date Received
Muwekma Ohlone Indian Tribe	1/4/2024
Pacific Gas and Electric Company	1/5/2024
Santa Clara Valley Transportation Authority	1/10/2024
Mitchell M. Tsai, Attorney at Law (on behalf of Carpenter's Local Union 405)	1/10/2024
Mitchell M. Tsai, Attorney at Law (on behalf of Carpenter's Local Union 405)*	4/30/2024
Adams Broadwell Joseph & Cardozo (on behalf of Silicon Valley Residents for Responsible Development)*	4/30/2024
* Comment letter received on 4/30/2024, one day prior to the public hearing.	

The comments received raised the following concerns:

- Information regarding the locations of known cultural resources that are located in the project vicinity.
- Recommendation for construction activities to be monitored by qualified archaeologists and a Muwekma Ohlone monitor.
- Relocation of existing Pacific Gas and Electric gas service facilities.
- Recommendations for additional transportation and transportation network improvements.
- Cumulative analysis with other projects proposed in the area regarding employment growth, air pollution, biological resources, traffic, and noise.
- Air pollutant emissions from project construction and operation, including truck trips.
- Infeasibility of mitigation measures to reduce project vehicle miles traveled (VMT) below the City's threshold of significance.
- Reliance on City's Greenhouse Gas Reduction Strategy (GHGRS) is insufficient and greenhouse gas emissions from construction were not quantified.
- Inconsistency with all land use plans, policies, or regulations related but not limited to transit facilities, VMT, water efficiency, and sensitive receptors.
- Transportation impacts regarding VMT, unsafe geometric design, and emergency access.
- Impacts to workers from exposure to hazards due to the potential soil contamination on-site.
- Impacts from criteria and toxic pollutants if the end use of the project is a warehouse.
- Inadequate air quality analysis regarding the project's construction and mechanical equipment.
- Updates to the City's VMT Evaluation tool affect the project's baseline for the transportation analysis resulting in a significant and unavoidable impact.

Staff responded to all concerns raised during the public comment period in the Response to Comments document (**Exhibit E**) posted on the City's Planning Department website on April 19, 2024, and notified commenters of the document's availability via email. The comments received on the MND did not raise any new or previously unknown issues about the project's environmental impacts, nor did they provide information indicating the project would result in new environmental impacts or impacts substantially greater in severity than disclosed in the MND. The entire MND, Responses to Comments and Errata, and other related environmental documents are attached as **Exhibit A** and **Exhibit E** respectively, and available on the Planning Department's environmental review webpage: [865 Embedded Way Industrial Project | City of San José \(sanjoseca.gov\)](https://sanjoseca.gov/865-Embedded-Way-Industrial-Project).

Planning Director's Public Hearing

The project was noticed for a public hearing on April 5, 2024. On May 1, 2024, the Hearing Officer held a public hearing to consider the MND and Site Development Permit No. H22-022. At the public hearing, one member of the public representing Adams Broadwell Joseph & Cardozo, on behalf of Silicon Valley Residents for Responsible Development, spoke against the project approval citing concerns with the project and MND including:

- The air quality analysis assumes all construction equipment would include Tier IV interim emission controls, but the MND does not include this as a mitigation measure. Therefore, no enforcing mechanism exists to require the use of Tier IV equipment.
- The MND is inadequate and the City must prepare an EIR based on comments in the letter submitted on 4/30/2024 by Adams Broadwell Joseph & Cardozo.

After public comment, staff briefly responded to the concerns raised by the commenter and the comment letters received the day prior to the hearing from Mitchell M. Tsai Law Firm and from Adams Broadwell Joseph & Cardozo. Staff stated that comments received on the MND did not raise any new or previously unknown issues about the project's environmental impacts or provide information indicating the project would result in new environmental impacts or impacts substantially greater in severity than disclosed in the MND. The Hearing Officer considered the administrative record, including written and verbal testimony, and found that the MND is the appropriate environmental clearance under CEQA for the project. The Hearing Officer then approved the Site Development Permit. The audio recording of the meeting is available on the City's Agendas and Meetings webpage at [Planning Director's Hearing \(granicus.com\)](https://sanjose.granicus.com/player/clip/14389?view_id=54&redirect=true): https://sanjose.granicus.com/player/clip/14389?view_id=54&redirect=true.

Environmental Appeal

Pursuant to Section 21.04.140 of the San José Municipal Code, any interested person can submit a timely request to appeal to the City Council the determination made by the

Planning Director, Planning Commission, or non-elected decision-making body regarding the appropriate environmental clearance for a project. At the Appeal Hearing, the City Council may uphold the Planning Director's adoption of the MND or require additional actions prior to adoption of the CEQA clearance for the project, including revisions to the MND and re-circulation or preparation of an EIR, in accordance with Title 21 of the San José Municipal Code.

The City received two timely environmental appeals of the Director's adoption of the MND after the Hearing Officer's actions to consider the MND in accordance with CEQA and approve the Site Development Permit for the 865 Embedded Way Industrial Project. These appeals are described below.

On May 6, 2024, Mitchell M. Tsai Law Firm, on behalf of the Carpenters Local Union 405, filed a timely Appeal of the Environmental Determination (**Exhibit C**). This appeal cited general concerns with the project's impacts to traffic, air quality, greenhouse gas, noise, biological resources, and other environmental factors, and stated that the MND improperly includes deferring mitigation. The appeal requested that these issues be addressed and that the MND be re-circulated or an EIR be prepared. While the appeal did not cite more specific concerns or request to incorporate Mitchell M. Tsai Law Firm's April 30, 2024 letter or any other letter or document, the City responds to the concerns detailed in Mitchell M. Tsai Law Firm's April 30, 2024 letter below. As for Mitchell M. Tsai Law Firm's January 10, 2024 letter, the City responded to those concerns in its April 19, 2024 Response to Comments and Errata which was incorporated into the final MND and does so again below.

Also on May 6, 2024, Adams Broadwell Joseph & Cardozo, on behalf of the Silicon Valley Residents for Responsible Development, filed a timely Appeal of the Environmental Determination (**Exhibit D**). This appeal, which was accompanied by a letter detailing their concerns, states that the MND did not have a clear project description, failed to disclose and analyze the project's potentially significant environmental impacts, and failed to identify enforceable measures that can reduce those impacts to a less than significant level. The appellant claims that for these reasons, the IS/MND is deficient and that there is substantial evidence supporting a fair argument requiring the preparation of an EIR.

ANALYSIS

Responses to claims in each appeal are summarized below. Detailed responses to each appeal are included in **Exhibit F**.

Response to the Environmental Appeal

The environmental appeal applications expressed an overarching concern regarding potential significant impacts to traffic, air quality, greenhouse gas, noise, biological

resources, hazards, and other environmental factors. The City affirms its responses and maintains that none of the comments by the appellants raised any new issues about the project's environmental impacts, nor did they provide information indicating the project would result in new environmental impacts or impacts substantially greater in severity than disclosed in the supporting MND. The following summarizes the staff's response to each topic area from the Response to Late Comments and Subsequent Appeals and Errata document (**Exhibit F**):

1) Project Description

Issues Raised

a. The project description is misleading.

Adams Broadwell Joseph & Cardozo raise the issue that the differences in impacts between an industrial/manufacturing warehouse described in the project description and the inclusion of environmental analysis for a R&D facility creates ambiguity and uncertainty for the future use of the proposed building.

Staff Response

The project description in the Initial Study supporting the MND states that the project would involve the construction of an industrial/manufacturing warehouse designed for R&D uses, which is a land use type consistent with the existing Industrial Park General Plan land use designation and IP Industrial Park Zoning District for the project site. The MND evaluated two reasonably foreseeable uses (warehouse and R&D) of the building and site. To cover a scenario where the project is used as a more traditional warehouse instead of the intended R&D uses, the Transportation Analysis provided in Appendix H of the MND also included a scenario analyzing trip generation and VMT from a purely warehouse use. The analysis of more than one potential use of the building and disclosure of impacts resulting from a potential alternative use of the proposed building recognizes that multiple uses may occupy the building over time. The MND analyzed transportation and air quality impacts based on the proposed future use described in the project description and therefore, adequately and appropriately assessed the project's impacts in accordance with the requirements of CEQA.

2) Air Quality

Issues Raised

a. Construction and operational air quality impacts were improperly evaluated.

Adams Broadwell Joseph & Cardozo raises issues regarding the construction equipment assumptions and the lack of analysis for an emergency generator on-site.

Staff Response

The Air Quality Assessment provided in Appendix A of the MND evaluated construction and operational air quality, including toxic air contaminants. As described in the MND and the Response to Comments and Errata dated April 2024 (**Exhibit E**), the Bay Area Air Quality Management District (BAAQMD) CEQA Guidelines include screening levels and thresholds for evaluating air quality impacts in the San Francisco Bay Area Air Basin as part of an effort to attain and maintain ambient air quality standards for ozone, particulate matter, and their precursors. These thresholds apply to both construction period and operational period impacts. The Air Quality Assessment was prepared following BAAQMD methodologies, and modeled criteria air pollutant emissions that would be generated by the project during construction and operation and prepared a refined health risk assessment. The results of the Air Quality Assessment were compared to the BAAQMD thresholds of significance for both construction and operation and all project-generated emissions and health risks would be under the BAAQMD thresholds.

The MND's evaluation of the project's construction air quality impacts is based on unmitigated emissions using the California Emissions Estimator Model. The construction emissions shown in the MND, which were the basis for determining the project's impacts, match the emissions shown in the California Emissions Estimator Model's unmitigated scenario in the Air Quality Assessment. In addition, the Air Quality Assessment evaluated toxic air contaminant emissions from the project from new sources of toxic air contaminants during construction (i.e., on-site construction and truck hauling emissions) and operation (i.e., mechanical equipment, trucks, and other vehicle traffic). To clarify, the project would not include any emergency generators on-site. The toxic air contaminant evaluation concluded that the health risks from project activities would not exceed the maximum increased cancer risk single-source threshold or cumulative source threshold. The proposed project, therefore, would have a less than significant impact with respect to exposing sensitive receptors to substantial pollutant concentrations.

3) Biological Resources

Issues Raised

a. Additional biological surveys are needed to determine if protected species exist on site.

Mitchell M. Tsai Law Firm claims additional site surveys were needed to determine whether and to what extent protected biological species may be present on the project site.

Staff Response

The evaluation of biological resources is based on the Biological Resources Report included in the MND as Appendix B. As disclosed in the MND and in the

Responses to Comments and Errata document dated April 2024 (**Exhibit E**), the project site either generally lacks suitable habitat for special-status wildlife species and/or the site is isolated from the nearest known population by development or unsuitable habitat. The MND explains in detail why each of the species raised in the appellant's comments are unlikely to occur on the site, including the fact that none of these species were observed on the site during surveys completed by biologists. Additional site surveys, other than those identified in the MND mitigation measures requiring pre-construction surveys for species determined to potentially occur on the site, are unwarranted since it has been established in the Biological Resources Report that the project site generally lacks suitable habitat for these special-status wildlife species and/or the site is isolated from the nearest known population. The MND has disclosed the extent that there is the potential for special status species to be present on the site and included permit conditions and mitigation measures to ensure no impacts to special status species occur that would remain significant after mitigation. The project applicant is required to comply with the Santa Clara Valley Habitat Plan (Habitat Plan) by contributing the project's required impact fees to the Habitat Plan's conservation program. The project applicant is also required to implement the four mitigation measures, which are widely applied to construction projects during nesting season in compliance with state and federal laws described in the MND, to address impacts to nesting birds and raptors via actions that would minimize significant adverse impacts. Therefore, the project's biological resources analysis determination that the project would have a less than significant impact on special-status species is correct and adequate.

4) Greenhouse Gas

Issues Raised

a. Reliance on the City's Greenhouse Gas Reduction Strategy is insufficient to reduce the project's greenhouse gas emissions impact.

Mitchell M. Tsai Law Firm claims that the reliance on the City's GHGRS is insufficient and that the project's greenhouse gas emissions need to be quantified.

Staff Response

As discussed in Appendix A of the MND and the Response to Comments and Errata document dated April 2024, the CEQA Guidelines Section 15064.4 do not require the quantification of greenhouse gas (GHG) emissions, as qualitative approaches to evaluating a project's GHG emissions are explicitly allowed. The CEQA Guidelines Section 15064.4 states that a lead agency shall make a good-faith effort, based on available information, to describe, calculate, or estimate the amount of GHG emissions resulting from a project. A lead agency has the discretion to determine, in the context of a particular project, whether to: (1) quantify GHS emissions resulting from a project; and/or or (2) rely on a qualitative analysis or performance-based standards. The City has exercised its

discretion to utilize qualitative thresholds in the CEQA Guidelines issued by the regional agency BAAQMND for evaluating construction- and operation-related GHG emissions as well as compliance with the City's GHGRS.

As stated in the BAAQMD 2022 CEQA Air Quality Guidelines, BAAQMD has not developed a quantitative threshold for construction-related GHG emissions since the GHG emissions are temporary and variable. However, BAAQMD recommends construction GHG emissions be quantified for purposes of disclosure. As stated above, qualitative approaches to evaluating a project's GHG emissions are explicitly allowed in the CEQA Guidelines, and the City was not required to quantify construction-related GHG emissions. However, the City chose to quantify the magnitude of construction-related GHG emissions (140 total MTCO_{2e}) so the project's contribution could be compared within the context of the statewide GHG emissions goal for 2030 (260 million MTCO_{2e}). For these reasons, the construction GHG emissions (roughly one-half of one-millionth the amount of annual statewide emissions required in 2030) would not have an impact that would interfere with State laws, such as Senate Bill 32, that works to reduce active operational sources of GHG emissions.

BAAQMD has developed two qualitative thresholds of significance a lead agency may opt to use for the operational GHG emissions generated from a new land use development project: (1) qualitative project design measures related to building design and transportation or (2) consistency with a local greenhouse reduction strategy that meets the criteria under the State CEQA Guidelines Section 15183.5(b). The City's GHGRS is prepared in response to Senate Bill 32 that establishes an interim GHG reduction goal for 2030 and proposes strategies designed to reduce the City's GHG emissions levels to 40 percent below 1990 levels by the year 2030 to meet the long-term target of carbon neutrality by 2045 [Executive Order B-55-18]. The 2030 GHGRS serves as a Qualified Climate Action Plan for purposes of tiering and streamlining under the CEQA. The Development Compliance Checklist developed to apply the relevant General Plan policies and the 2030 GHGRS provides for a streamlined review process for proposed new development projects subject to discretionary review and that trigger the environmental review under CEQA. The GHGRS includes several criteria for meeting compliance such as land use and zoning consistency and enrollment in San José Clean Energy. The City of San José's 2030 GHGRS is a qualified GHG reduction strategy that meets the criteria stated in CEQA Guidelines Section 15183.5(b); therefore, the use of the City's 2030 GHGRS Compliance Checklist to demonstrate consistency with a qualified local GHG reduction strategy is appropriate and conforms with BAAQMD's latest CEQA guidance for GHG analyses.

5) Hazards and Hazardous Materials

Issues Raised

a. Soil contamination could pose a risk to construction workers and future employees.

Mitchell M. Tsai Law Firm raises the issue of significant hazards impact from potential soil contamination due to prior agricultural work and use of pesticides on-site.

Staff Response

As described in the MND, the project site's baseline condition is such that the soil on the project site could be contaminated with agricultural chemicals and naturally occurring asbestos due to its past use as an orchard and the presence of ultramafic rock outcrops. The presence of agricultural chemicals and naturally occurring asbestos were identified as potential environmental concerns. The site is undeveloped and vacant with no history of hazardous substances or petroleum products being stored or used on-site. The hazards issues that the commenter raised, given the baseline conditions of the project site, have been disclosed in the MND, and appropriate mitigation has been included in the project. The mitigation measures would require the preparation of a Phase II Environmental Site Assessment prior to the issuance of a grading permit. If contaminated soil is found on-site, then appropriate measures would be utilized during construction to protect employees and the environment generally from the release of these soils. These mitigation measures have been employed routinely for sites known or suspected to have residual agriculture pesticides and naturally occurring asbestos, as these are not unique or unusual circumstances, and the approaches to address the conditions are well established and effective. Furthermore, the project would be required to comply with existing legal requirements from the State's Hazardous Materials Management Program as well as code requirements from the City of San José Fire Department, the San José–Santa Clara Wastewater Treatment Facility, the Santa Clara County Department of Environment Health, and the California Department of Transportation for actions related to the storage, transportation, and disposal of hazardous materials. Therefore, compliance with the project-specific mitigation measures and existing legal requirements would ensure that project impacts are reduced to less than significant levels.

6) Noise

Issues Raised

a. The MND does not analyze noise impacts from the construction and operation of the project.

Mitchell M. Tsai Law Firm claims that the MND does not conduct any analysis of the project's potential noise impacts and relies on the applicant's compliance with regulatory measures.

Staff Response

As explained in the Response to Comments and Errata document dated April 2024, the project-specific Noise and Vibration Assessment prepared by Illingworth and Rodkin dated August 2, 2022 (Appendix G to the MND) is based on substantial evidence because it (1) specifically accounts for the noise environment on and around the project site, (2) identifies any noise-sensitive land uses in the vicinity, (3) calculates the project's construction and operational noise impacts, (4) applies objective thresholds based on the City's General Plan policies, and (5) quantifies noise impacts utilizing the objective thresholds.

The Noise and Vibration Assessment modeled all sources of noise from construction and operational activities and the estimated noise level increases were compared to the City's General Plan and San José Municipal Code thresholds for noise levels identified in the MND. The computed noise levels from the Noise and Vibration Assessment model show that exterior thresholds for industrial and residential land uses would not be exceeded during any phase of construction. Similarly, the approximate operational noise levels from project vehicle traffic, mechanical equipment, the parking lot, and truck deliveries and loading were all modeled at the receiving property lines of the existing single-family homes located approximately 345 feet southwest of the project site across Coyote Creek (identified in the MND as noise-sensitive receptors), and the noise level increases were evaluated against the City's General Plan and San José Municipal Code thresholds for noise levels. Furthermore, the identified standard permit condition implementing General Plan Policy EC-1.7 and San José Municipal Code requirements for construction-related noise is required by the City of San José for all new development projects regardless of if an impact is identified. Therefore, the project-specific Noise and Vibration Assessment that accounted for the project's noise environment and the potential noise generated from the construction and operational activities determined that the project would have less than significant impact impacts on noise.

7) Transportation

Issues Raised

a. The project would result in a significant and unavoidable impact to VMT and will increase road hazards.

Mitchell M. Tsai Law Firm raises issues regarding transportation impacts from VMT due to the longer worker commutes, cumulative VMT impacts with projects nearby, efficacy of VMT mitigation measures, emergency access, and increase traffic hazards.

b. The transportation impacts of the project were not evaluated with the updated VMT Evaluation Tool.

Adams Broadwell Joseph & Cardozo raises the issue that the transportation analysis for the project is not based on the City's updated VMT Evaluation Tool and that the proposed VMT mitigation measures are ineffective.

Staff Response

Appendix H to the MND included project-specific Transportation Analysis evaluated the project's transportation impacts pursuant to the City's Transportation Analysis Policy (City Council Policy 5-1), which is based on VMT. As described in the MND, the VMT levels estimated by the City for industrial and office jobs based on their locations are shown. The VMT Evaluation Tool is used to establish baseline conditions, such as daily VMT for a given land use, and in turn, baseline conditions are used to establish thresholds of significance, which in the case of office uses is 15 percent below the citywide average VMT for office uses, and so the use of a particular version of the VMT Evaluation Tool establishes the baseline conditions and thresholds of significance for a project. The City of San José Department of Public Works approved the project's Transportation Analysis scope in June 2022, which included the previous 2018 iteration of the VMT Evaluation tool. From July 2022 to December 2022, the Transportation Analysis was drafted and subsequently reviewed by the Department of Public Works. The Final Transportation Analysis was approved by the Department of Public Works on April 4, 2023, prior to the date the City released the updated VMT Evaluation Tool on May 16, 2023. Therefore, the project's transportation analysis, baseline conditions, and thresholds of significance were all based on the VMT Evaluation Tool in use at the time the Final Transportation Analysis was approved.

The VMT threshold of 14.37 miles per employee for industrial employment and 12.21 VMT per employee for office employment was used for the VMT analysis because the project is designed for industrial/warehouse and R&D uses. Based on the City's VMT Evaluation Tool for an industrial use, the project would generate a 15.03 VMT per employee. For an office use, the project would generate a 14.95 VMT per employee. The MND identified that both VMTs exceed their respective thresholds. Based on the VMT reduction strategy tiers included in the VMT Evaluation Tool, the MND identified mitigation, including the construction of multi-modal infrastructure improvements and the development of a Transportation Demand Management plan which would reduce the project VMT to 12.34 VMT per employee for industrial uses and 12.20 VMT per employee of office uses, which are below the City's thresholds. The mitigation measures are feasible and enforceable because the project applicant is required to submit a Public Improvement Plan demonstrating how the multi-modal improvements will be implemented. Schedules for completing the improvements will be reviewed and approved by the Director of Public Works or the Director's designee. The project applicant will be required to construct the multi-modal improvements prior to issuance of a certificate of occupancy from the City. Additionally, the applicant is required to have an approved Transportation

Demand Management plan prior to the issuance of a Site Development Permit. This Transportation Demand Management plan is included as **Exhibit G**. The applicant is required to submit annual reports to the Department of Public Works documenting compliance with the Transportation Demand Management plan, including monitoring trips associated with the project to ensure they are below an established trip cap. The mitigation measures include clear performance standards and enforcement mechanisms, ensuring that VMT impacts are reduced to a less than significant level.

The Local Transportation Analysis included an evaluation of sight distance, site access, and on-site circulation for vehicles and trucks. The Local Transportation Analysis found that the proposed project would increase hazards due to inadequate driveway width on Embedded Way, requiring inbound trucks entering the westernmost Embedded Way driveway to utilize the opposing outbound travel lane. This would reduce sight distance for outbound vehicles. The MND identified a mitigation measure (MM TRAN-2.1), requiring the widening of the westernmost driveway on Embedded Way to ensure that trucks do not utilize the opposing outbound travel lane when entering the project site. The project applicant is required to submit a site plan showing the widening of the driveway and a truck circulation plan that includes truck turning radii demonstrating adequate driveway width to the Director of Planning, Building, and Code Enforcement or the Director's designee and the Director of Public Works or the Director's designee for review and approval prior to issuance of grading permits. Therefore, the project would not substantially increase hazards related to on-site vehicular circulation.

Detailed responses to late comment letters submitted on April 30, 2024, and to consequent appeals submitted on May 6, 2024, from Mitchell M. Tsai Law Firm and Adams Broadwell Joseph & Cardozo are included in **Exhibit F**.

Policy Alternatives

For the Environmental Appeal, the City Council can either:

- a. Deny the appeal and uphold the adoption of the 865 Embedded Way Industrial Project MND and approval of the Site Development Permit; or
- b. Grant the appeal and direct staff to conduct additional environmental review, such as additional analysis to support the MND and recirculation for public review or preparation of an EIR, prior to approval of the Site Development Permit.

Staff recommends that the City Council deny the environmental appeal, uphold the Planning Director's reliance on the 865 Embedded Way Industrial Project MND and associated Mitigation Monitoring and Reporting Program (**Exhibit H**), and approve Site Development Permit H22-022.

Climate Smart San José Analysis

The recommendation in this memorandum aligns with one or more Climate Smart San José energy, water, or mobility goals. The development of the project would:

- Increase the density of new development by constructing a new industrial building on a vacant site; and,
- Facilitate job creation within City limits.

EVALUATION AND FOLLOW-UP

If the City Council denies the appeal and upholds the Planning Director's reliance on the MND for the 865 Embedded Way Industrial Project, then the applicant may proceed with the acquisition of the necessary grading and building permits and implement the required mitigation measures to complete the development of the project.

COORDINATION

The preparation of this memorandum has been coordinated with the City Attorney's Office, the City Manager's Budget Office, and the Department of Public Works.

PUBLIC OUTREACH

This memorandum will be posted on the City Council Agenda website for the August 13, 2024 City Council meeting.

Staff followed City Council Policy 6-30: Public Outreach Policy to inform the public of the proposed project. A sign was posted on site notifying the public about the project on July 11, 2022. A community meeting for the project was held via video conference on January 12, 2023. The Notice of Intent for the MND was distributed to interested members via email and newsflash on the City's website at the start of the public circulation period, from December 21, 2023 to January 10, 2024. Public Hearing Notices for the Director's Hearing were sent to residents, tenants, and property owners within 1,000 feet of the project site on April 5, 2024. Furthermore, interested parties were notified when the response to comments were posted to the City website on April 19, 2024. Notice of the public hearing for this appeal and associated materials were distributed to the appellants, applicant, and adjacent property owner(s). Staff has been available to answer questions from the public.

COMMISSION RECOMMENDATION AND INPUT

No commission recommendation or input is associated with this action.

On May 1, 2024, the Hearing Officer held a public hearing to consider the 865 Embedded Way Industrial Project MND, File Nos. H22-022 and ER22-113. The Hearing Officer considered the information presented and determined that the 865 Embedded Way Industrial Project MND is the appropriate environmental clearance under CEQA and approved the Site Development Permit.

CEQA

Initial Study/Mitigated Negative Declaration for the 865 Embedded Way Industrial Project.

PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.

/s/

Chris Burton, Director
Planning, Building, and Code
Enforcement

For questions, please contact David Keyon, Principal Planner, Department of Planning, Building and Code Enforcement, at David.Keyon@sanjoseca.gov or (408) 535-7898.

The principal author of this memorandum is Nhu Nguyen, Planner I, Department of Planning, Building and Code Enforcement.

ATTACHMENTS

Exhibit A: 865 Embedded Way Industrial Project Initial Study and Mitigated Negative Declaration

Exhibit B: Site Development Permit, File No. H22-022

Exhibit C: Environmental Appeal from Mitchell M. Tsai on behalf of Carpenters Local Union 405 dated May 6, 2024

Exhibit D: Environmental Appeal from Adams Broadwell Joseph & Cardozo on behalf of Silicon Valley Residents for Responsible Development dated May 6, 2024

Exhibit E: Final Response to Comments and Errata to the 865 Embedded Way Industrial Project MND

HONORABLE MAYOR AND CITY COUNCIL

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Exhibit F: Final Response to Late Comments and Consequent Appeals and Errata

Exhibit G: Embedded Way Industrial Development Draft Transportation Demand Management Plan

Exhibit H: 865 Embedded Way Industrial Project Mitigation Monitoring and Reporting Program



Planning, Building and Code Enforcement

CHRISTOPHER BURTON, DIRECTOR

MITIGATED NEGATIVE DECLARATION

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. “Significant effect on the environment” means a substantial or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

PROJECT NAME: 865 Embedded Way Industrial Project

PROJECT FILE NUMBER: H22-022, ER22-113

PROJECT DESCRIPTION: The project consists of a Site Development Permit (File No. H22-022) to allow the construction of a one-story 121,400 square foot industrial/manufacturing warehouse on a vacant 10.17-acre project site. The project would include a connection to an existing 26-foot-wide drive aisle that extends from the eastern Embedded Way driveway through the adjacent eastern industrial property (875 Embedded Way) and currently terminates at the southeastern boundary of the project site. A total of 300 parking spaces would be provided in the surface parking lot surrounding the proposed building. The project would include the removal of 11 trees on-site, 2 of which are ordinance-size.

PROJECT LOCATION: The project site is located at 865 Embedded Way in San José, California.

ASSESSORS PARCEL NO.: 679-01-020

COUNCIL DISTRICT: 2

APPLICANT CONTACT INFORMATION: Oppidan, Inc. (Attn: Ian Halker), 1100 Lincoln Ave, Suite 382, San Jose, CA 95125; ianh@oppidan.com; (612) 803-8377

FINDING

The Director of Planning, Building and Code Enforcement finds the project described above would not have a significant effect on the environment if certain mitigation measures are incorporated into the project. The attached Initial Study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this Mitigated Negative Declaration (MND), has made or agrees to make project revisions that will clearly mitigate the potentially significant effects to a less than significant level.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

- A. **AESTHETICS** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- B. **AGRICULTURE AND FORESTRY RESOURCES** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- C. **AIR QUALITY**– The project would not have a significant impact on this resource, therefore no

mitigation is required.

D. BIOLOGICAL RESOURCES

Impact BIO-1: While the project does not intend to remove or damage any Hall's bush mallow individuals, construction of the project could inadvertently, without proper precautions, result in impacts to Hall's bush mallow, a special-status plant species occurring within and outside the project development area.

MM BIO-1.1: *Protect Hall's Bush Mallow Individuals During Construction.* Prior to issuance of any grading or building permits, the project applicant shall prepare and submit construction plans clearly depicting all individual Hall's bush mallow (not including seedlings) and shall show construction-free buffers for individuals located within the project site to the Director of Planning, Building and Code Enforcement or the Director's designee. The project shall maintain construction-free buffers around individuals throughout the construction period to prevent incidental take of Hall's Bush Mallow individuals during construction activities. The radii of the buffers shall represent the maximum feasible distance between the individuals and proposed development activities. Based on the known locations of Hall's bush mallow individuals within the proposed development area, the maximum feasible radius for individuals within the proposed development area is four feet. Prior to initial ground disturbance or vegetation removal, the established buffers 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, and all construction personnel shall be trained (through a Worker Environmental Awareness Program or WEAP) on the locations of these plants, how their locations and the surrounding buffer are marked, and how impacts on these plants are to be avoided (i.e., the entry of construction personnel and vehicles within the marked buffers shall be prohibited, and no storage of equipment or materials within the marked buffers shall occur). These requirements shall be printed on all approved plans for grading and construction.

MM BIO-1.2: *Post-Construction Monitoring.* Post-construction monitoring shall be conducted for a period of three years after completion of construction activities to determine if MM BIO-1.1 successfully ensured the long-term survival of Hall's bush mallow individuals, or if indirect impacts of the project (e.g., dust mobilization, shading, and/or changes to hydrology) resulted in the death or decline in health of Hall's bush mallow plants. Monitoring shall be conducted annually by a qualified plant ecologist, consisting of a site visit conducted during the species' May to September flowering period, until the three year monitoring period is complete. A schedule for the flowering period surveys shall be prepared by the qualified plant ecologist and submitted to the Director of Planning, Building and Code Enforcement, or the Director's designee, for review and approval prior to the issuance of a grading permit or building permit, whichever occurs first. This schedule must include timing of the submittal of monitoring reports for the annual reports in the May to September flowering period, starting the first flowering period after issuance of the certificate of occupancy. A report documenting the survey results shall be submitted to the Director of Planning, Building and Code Enforcement, or the Director's designee, on an annual basis based on the approved schedule until monitoring is complete.

If the qualified plant ecologist determines that more than 10 percent of the 13 mature Hall's bush mallow population (i.e., more than one plant) within the project development area dies

or declines substantially in health following completion of the project, MM BIO-1.3 shall be implemented. However, if at least 90 percent of the mature Hall's bush mallow population (i.e., at least 12 plants) continues to be present and in good health three years following the completion of construction, no additional mitigation is required.

MM BIO-1.3: *Create or Enhance, Preserve, and Manage Mitigation Populations.* If more than 10 percent of the site population would be impacted despite the implementation of MM BIO-1.1, compensatory mitigation shall be provided by the property owner to increase the size of an existing population, or the creation and management of a new population to offset the impact. The compensatory mitigation shall be provided via the preservation, enhancement, and management of occupied habitat for the species as follows:

- (1) If mitigation occurs through enhancement of an existing population, then on-site or off-site habitat occupied by the affected species shall be enhanced (e.g., through focused management for the species in question) to increase the number of individuals present. Mitigation may occur on-site if a qualified biologist identifies a location on the project site with sufficient available area to support the plants as well as suitable habitat conditions (e.g., slope, soils, lack of shading, and other factors) in the context of site conditions following project construction. If no locations on the site are suitable, off-site mitigation would be necessary. The increase in numbers shall be at least twice the number of individuals impacted (i.e., a 2:1 mitigation:impact ratio). The permanent preservation and management of these mitigation lands shall be ensured through an appropriate mechanism, such as a conservation easement or fee title purchase.
- (2) Areas proposed to be preserved and enhanced as compensatory mitigation for impacts to Hall's bush mallow must contain extant populations of the species (as verified by a qualified plant ecologist), or in the event that expansion or establishment of a new population is selected, the area must contain sufficient suitable habitat to support the new mitigation population as determined by a qualified plant ecologist. Verification of the presence of suitable habitat shall be performed by a qualified plant ecologist at any time prior to establishment of the mitigation. Mitigation areas shall be permanently preserved and managed 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 will be achieved by the mitigation activities, as determined by a qualified plant ecologist. The mitigation habitat shall 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. At the time the mitigation is established, the mitigation habitat shall contain sufficient habitat to support at least twice as many individuals as are impacted, as determined by a qualified plant ecologist. The permanent protection and management of mitigation lands shall be ensured through an appropriate mechanism, such as a conservation easement or fee title purchase.
- (3) A habitat mitigation and monitoring plan (HMMP) shall be developed by qualified plant or restoration ecologists and implemented for the mitigation lands for a minimum of 10 years. That plan shall include, at a minimum, the following information:
 - a. A summary of impacts to Hall's bush mallow, including impacts to its

- habitat, and the proposed mitigation;
- b. A description of the location and boundaries of the mitigation site and description of existing site conditions;
 - c. 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, or other appropriate methods such as grazing, prescribed burns, planting native species, or mowing) the mitigation site for the species;
 - d. 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, who will take into account factors such as genetics and the spread of pathogens, such as *Phytophthora*);
 - e. Proposed management activities to maintain high-quality habitat conditions for the species;
 - f. 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 species, or mowing) the mitigation site for the species;
 - g. 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, who will take into account factors such as genetics and the spread of pathogens, such as *Phytophthora*);
 - h. Proposed management activities to maintain high-quality habitat conditions for the species;
 - i. 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 monitoring period of a minimum of 10 years 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). The duration of the monitoring activities (a minimum of 10 years, as stated above) shall ultimately be determined by the qualified plant or restoration ecologist based on the number of years that are necessary to ensure that the mitigation is successful;
 - j. The new population must contain at least twice the number of impacted individuals, by year 10, as determined by a qualified plant ecologist. If year 10 is a poor weather year for summer and fall-blooming annual plants and reference populations show a decline, this criteria can be measured in the next year occurring with average or better rainfall; and
 - k. Contingency measures for mitigation elements that do not meet performance criteria. For example, if by year 10 (or the next suitable rainfall year after year 10) of monitoring, the project is unable to establish a self-sustaining population of the required number of individuals as described above, the applicant shall create and manage an extant population of that

same species in order to achieve the success criteria under a revised HMMP. The ultimate performance criteria for the revised HMMP shall be unchanged, but the methods used to achieve the criteria may change, and additional land may need to be purchased.

The HMMP shall be provided to the Director of Planning, Building and Code Enforcement, or the Director's designee for approval. The applicant shall fund the management and monitoring of the mitigation site at least until the success criteria are achieved; if the applicant sells the land or its interest in the project and its mitigation, it must provide the City financial assurances that it shall satisfy its mitigation obligations.

Impact BIO-2: The project's ground disturbing activities including grading, construction activities, and tree removal during the nesting season could impact migratory birds and raptors, including the Yellow Warbler and White-Tailed Kite.

MM BIO-2.1: *Avoidance.* The project applicant shall schedule ground-disturbing and construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st (inclusive).

MM BIO-2.2: *Nesting bird surveys.* If it is not possible to schedule construction activities and/or tree removal between September 1 and January 31, preconstruction surveys for nesting birds shall be conducted by a qualified ornithologist to ensure that no nests shall be disturbed during project implementation. These surveys shall be conducted no more than seven days prior to the initiation of demolition or construction activities, including tree removal and pruning. During this survey, the ornithologist shall inspect all trees and other potential nesting habitats (e.g., trees, shrubs, ruderal grasslands, buildings) in and immediately adjacent to the impact areas for nests.

MM BIO-2.3: *Buffer zones.* If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist shall determine the extent of a construction free buffer zone to be established around the nest, typically 300 feet for raptors and 100 feet for other species, to ensure that raptor or migratory bird nests shall not be disturbed during project construction.

MM BIO-2.4: *Reporting.* Prior to any tree removal, or approval of any grading permits (whichever occurs first), the project applicant shall submit the ornithologist's report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning, Building and Code Enforcement, or the Director's designee.

Impact BIO-3: The project would increase lighting near the Coyote Creek which could have a substantial adverse effect through habitat modifications on wildlife species that inhabit or occur along Coyote Creek s which are identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS.

MM BIO-3.1: Prior to the issuance of building permits, the project shall demonstrate the implementation of the following measures to minimize the lighting impacts on wildlife species using or near Coyote Creek:

1. All exterior lighting shall be fully shielded to block illumination from shining

outward towards Coyote Creek

2. Exterior light fixtures shall comply with lighting zone LZ-2, Moderate Ambient, as recommended by the International Dark-Sky Association (2011) for light commercial business districts and high-density or mixed-use residential districts. The allowed total initial luminaire lumens for the project site is 2.5 lumens per square foot of hardscape, and the BUG rating for individual fixtures shall not exceed B3 or G2, as follows:
 - a. B3: 2,500 lumens high (60–80 degrees), 5,000 lumens mid (30–60 degrees), 2,500 lumens low (0–30 degrees)
 - b. G2: 225 lumens (forward/back light 80–90 degrees), 5,000 lumens (forward 60–80 degrees), 1,000 lumens (back light 60–80 degrees asymmetrical fixtures), 5,000 lumens (back light 60–80 degrees quadrilateral symmetrical fixtures)
 - c. Exterior lighting shall be minimized from 10 p.m. until sunrise, except as needed for safety and City code compliance. (i.e., the total outdoor lighting lumens shall be reduced by at least 30 percent or extinguished, consistent with recommendations from the International Dark-Sky Association [2011]).

A lighting plan demonstrating compliance with these requirements shall be submitted to the Director of Planning, Building and Code Enforcement, or the Director's designee, for review and approval prior to issuance of building permits.

E. CULTURAL RESOURCES & TRIBAL CULTURAL RESOURCES

Impact CUL-1: Project construction activities could result in the accidental disturbance and/or destruction of undocumented archaeological resources due to the site's high sensitivity based on the proximity of the site to Coyote Creek and known archaeological sites in the project's vicinity.

MM CUL-1.1: *Treatment Plan.* Prior to the issuance of any grading permit, a project-specific Cultural Resources Treatment Plan shall be prepared by a qualified archaeologist, in consultation with a qualified Native American monitor, registered with the Native American Heritage Commission (NAHC) for the City of San José and that is traditionally and culturally affiliated with the geographic area. The Cultural Resources Treatment Plan shall reflect detail pertaining to depths and locations of all ground disturbing activities. The Cultural Resources Treatment Plan shall be prepared and submitted to the Director of the City of San José Department of Planning, Building, and Code Enforcement or their designee prior to approval of any grading permit. The Treatment Plan shall contain, at a minimum:

1. Identification of the scope of work and range of subsurface effects (including location map and development plan), including requirements for preliminary field investigations.
2. Description of the environmental setting (past and present) and the historic/prehistoric background of the parcel (potential range of what might be found).
3. Development of research questions and goals to be addressed by the investigation (what is significant vs. what is redundant information).
4. Detailed field strategy used to record, recover, or avoid the finds and address research goals.
5. Analytical methods.

6. Report structure and outline of document contents.
7. Disposition of the artifacts.
8. Appendices: all site records, correspondence, and consultation with Native Americans, etc.

MM CUL-1.2: *Investigation.* Prior to issuance of any grading permits, the project applicant shall complete a preliminary field investigation program in conformance with the project-specific Cultural Resources Treatment Plan required under Mitigation Measure MM CUL-1.1. The locations of subsurface testing and exploratory trenching shall be determined prior to issuance of any grading permit based on the Cultural Resources Treatment Plan recommendations. A qualified archaeologist and a qualified Native American monitor, registered with the Native American Heritage Commission (NAHC) for the City of San José and that is traditionally and culturally affiliated with the geographic area, shall complete a presence/absence exploration. Results of the investigation shall be provided to the Director of the City of San José Department of Planning, Building, and Code Enforcement or their designee prior to issuance of any grading permit.

If any finds were discovered during the preliminary field investigation, the project shall implement MM CUL-1.4 for evaluation and recovery methodologies. The results of the preliminary field investigation and program shall be submitted to the Director of the City of San José Department of Planning, Building, and Code Enforcement or their designee for review and approval prior to issuance of any grading permit.

MM CUL-1.3: *Construction Monitoring and Protection Measures.* Although the data recovery and treatment program would be expected to recover potentially significant materials and information from the areas impacted by the project prior to grading, it is possible that additional resources could remain on-site. Therefore, all ground-disturbing activities (e.g., grading and excavation) shall be completed under the observation of a qualified archaeologist and a qualified Native American monitor, registered with the Native American Heritage Commission (NAHC) for the City of San José and that is traditionally and culturally affiliated with the geographic area.

The qualified archaeologist or a qualified Native American monitor, registered with the NAHC for the City of San José and that is traditionally and culturally affiliated with the geographic area, shall have authority to halt construction activities temporarily in the immediate vicinity of an unanticipated find. If, for any reasons, the qualified archaeologist or a qualified Native American monitor, registered with the NAHC for the City of San José and that is traditionally and culturally affiliated with the geographic area, is not present, but construction crews encounter a cultural resource, all work shall stop temporarily within 50 feet of the find until a qualified archaeologist in consultation with a qualified Native American monitor, registered with the NAHC for the City of San José and that is traditionally and culturally affiliated with the geographic area, has been contacted to determine the proper course of action. The Director of the City of San José Department of Planning, Building, and Code Enforcement or their designee shall be notified of any finds during the grading or other construction activities. Any human remains encountered during construction shall be treated according to the protocol identified in MM CUL-1.5.

MM CUL-1.4: *Evaluation and Data Recovery.* The Director of the City of San José Department of Planning, Building, and Code Enforcement or their designee shall be notified of any finds during the preliminary field investigation, grading, or other construction activities. Any historic or prehistoric material identified in the project area during the

preliminary field investigation and during grading or other construction activities shall be evaluated for eligibility for listing as a Candidate City Landmark and/or in the California Register of Historic Resources. Data recovery methods may include, but are not limited to, backhoe trenching, shovel test units, hand auguring, and hand-excavation.

The techniques used for data recovery shall follow the protocols identified in the project-specific Cultural Resources Treatment Plan. Data recovery shall include excavation and exposure of features, field documentation, and recordation.

MM CUL-1.5: *Site Security.* At the discretion of the Director of the City of San José Department of Planning, Building, and Code Enforcement or the Director's designee, site fencing shall be installed on-site during the investigation, grading, building, or other construction activities to avoid destruction and/or theft of potential cultural resources (if determined to be present on-site during investigation). The responsible qualified archaeologist, in consultation with a qualified Native American monitor, registered with the Native American Heritage Commission (NAHC) for the City of San José and that is traditionally and culturally affiliated with the geographic area, shall advise the Director of the City of San José Department of Planning, Building, and Code Enforcement or their designee as to the necessity for a guard. The purpose of the security guard shall be to ensure the safety of any potential cultural resources (including human remains) that are left exposed overnight. The Director of PBCE shall have the final discretion to authorize the use of a security guard at the project site.

MM CUL-1.6: *Final Reporting.* Once all analyses and studies required by the project-specific Cultural Resources Treatment Plan have been completed, the project applicant, or representative, shall prepare a final report summarizing the results of the field investigation, data recovery activities and results, and compliance with the Cultural Resources Treatment Plan during all demolition, grading, building, and other construction activities (as applicable). 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 contents of the report shall be consistent with the protocol included in the project-specific Cultural Resources Treatment Plan. The report shall be submitted to the Director of Planning, Building, and Code Enforcement for review and approval prior to issuance of any Certificates of Occupancy. Once approved, the final documentation shall be submitted to the NWIC at Sonoma State University, as appropriate.

MM CUL-1.7: *Curation.* Upon completion of the final report required by the project-specific Cultural Resources Treatment Plan, all recovered archaeological materials not identified as tribal cultural resources by the Native American monitor, shall be transferred to a long-term curation facility. Any curation facility used shall meet the standards outlined in the National Park Services' Curation of Federally Owned and Administered Archaeological Collections (36 CFR 79). The project applicant shall notify the Director of the City of San José Department of Planning, Building, and Code Enforcement or their designee of the selected curation facility prior to the issuance of any Certificates of Occupancy. To the extent feasible, and in consultation with the Native American representative, all recovered Native American/tribal cultural resources and artifacts shall be reburied on-site in an area that is unlikely to be disturbed again. Treatment of materials to be curated shall be consistent with the protocols included in the project-specific Cultural Resources Treatment Plan.

All archaeological materials recovered during the data recovery efforts shall be cleaned, sorted, catalogued, and analyzed following standard archaeological procedures, and shall be documented in a report submitted to the Director of Planning, Building and Code Enforcement and the Northwest Information Center at Sonoma State University.

MM CUL-1.8: *Dignified and Respectful Treatment – Cultural Sensitivity Training Prior to Construction.* An important aspect of the consultation process is the dignified and respectful treatment of Tribal Cultural Resources. Prior to issuance of the Grading Permit, the project shall be required to submit evidence that an Archaeological Monitoring Contractor Awareness Training was held prior to ground disturbance. The training shall be facilitated by the project archaeologist in coordination with a Native American representative registered with the Native American Heritage Commissions for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3.

- F. ENERGY** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- G. GEOLOGY AND SOILS** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- H. GREENHOUSE GAS EMISSIONS** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- I. HAZARDS AND HAZARDOUS MATERIALS**

Impact HAZ-1: The surface and sub-surface soils on-site could be contaminated due to the presence of agricultural chemicals and naturally occurring asbestos (NOA) on-site. Implementation of the project could expose construction workers and adjacent land uses to residual agricultural soil contamination above commercial screening levels.

MM HAZ-1.1: Prior to issuance of a grading permit, the project applicant shall retain a qualified environmental professional to complete a Phase II soil contamination investigation to evaluate past agricultural use and the potential for encountering asbestos. The Phase II shall include soil sampling and analysis for asbestos in accordance with the California Air Resources Board (CARB) test method 435, organochlorine pesticides and pesticide-based metals, arsenic, and lead to determine if these chemicals are present above the regulatory environmental screening levels for construction worker safety and commercial/industrial uses. The results of the soil sampling and testing must be provided to the Supervising Environmental Planner of the City of San José Planning, Building, and Code Enforcement, and the Environmental Compliance Officer in the City of San José's Environmental Services Department.

The SMP shall be provided to the Director of Planning, Building and Code Enforcement or the Director's designee, and Environmental Services Department (ESD) Municipal Compliance Officer prior to issuance of a grading permit.

MM HAZ-1.2: If the Phase II results indicate soil concentrations of pesticides or metals above the environmental screening levels, the applicant must obtain regulatory oversight from the Department of Toxic Substances Control, or the Santa Clara County Department of Environmental Health under their Site Cleanup Program. A Site Management Plan (SMP), Removal Action Plan (RAP), or equivalent document shall be prepared by a

qualified environmental consultant under regulatory oversight and approval that identifies remedial measures and/or soil management practices to ensure construction worker safety and the health of future site occupants. If asbestos is present above 0.25 percent, an Asbestos Dust Mitigation Plan (ADMP) will be prepared and submitted to the Bay Area Air Quality Management District (BAAQMD) for approval prior to construction. The ADMP would include track-out prevention and control, storage piles, on-site traffic control, preparation of areas prior to earth moving activities, and control for offsite transport, consistent with the California Air Resources Board's Asbestos Airborne Toxic Control Measure for Construction, Grading, Quarrying, and Surface Mining Operations. The plan and evidence of regulatory oversight shall be provided to the Director of Planning, Building, and Code Enforcement or Director's designee and the Environmental Compliance Officer in the City of San José Environmental Services Department.

- J. HYDROLOGY AND WATER QUALITY** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- K. LAND USE AND PLANNING** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- L. MINERAL RESOURCES** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- M. NOISE** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- N. POPULATION AND HOUSING** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- O. PUBLIC SERVICES** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- P. RECREATION** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- Q. TRANSPORTATION**

Impact TRN-1: The proposed Research & Development project, which would support both office and industrial uses, would have 15.12 vehicles miles traveled (VMT) per industrial employee which would exceed the 14.37 VMT per industrial employees and would have 14.95 VMT per office employee which would exceed the 12.21 VMT per office employee threshold.

MM TRAN-1.1: Prior to issuance of a Certificate of Occupancy, the project shall implement the following multi-modal infrastructure improvements to incentivize alternative modes of travel and reduce VMT generation for the site:

1. The project shall remove the pork-chop islands on the southwest and northwest corners of the Embedded Way and Hellyer Avenue intersection to improve pedestrian safety and access. This improvement will require a signal modification at this intersection that will include the relocation of signal poles, heads, and crosswalks.

2. The project shall install raised median islands along Embedded Way consisting of a 120-foot segment at its western terminus and a 190-foot segment near the Embedded Way and Hellyer Avenue intersection for traffic calming purposes.

The multi-modal infrastructure improvements shall be part of a Public Improvement Plan that includes how the multi-modal improvements will be implemented and the schedules for completing the improvements. The Public Improvement Plan shall be reviewed and approved by the Director of Public Works or the Director's designee.

MM TRAN-1.2: Prior to the issuance of the Planning Site Development Permit, the project applicant shall submit a final TDM Plan, approved by the Director of Department of Public Works or Director's designee and the Director of Planning, Building and Code Enforcement, or Director's designee, that shall include implementation of the following TDM measures to reduce the project's VMT.

1. Commute Trip Reduction Marketing/Education: Implement marketing/educational campaigns that promote the use of transit, shared rides, and travel through active modes for 25 percent of the project employees. Strategies may include the incorporation of alternative commute options into new employee orientations, event promotions, and publications.
2. Subsidize Vanpool: Provide subsidies for individuals forming new vanpools for their commute. This encourages the use of vanpools, reducing drive-alone trips, and thereby reducing VMT. The project shall be required to subsidize 100 percent of the cost of the vanpool and achieve at least 25 percent employee participation.

The TDM plan shall be submitted to the Director of Public Works or Director's designee and the Director of Planning, Building and Code Enforcement or the Director's designee and shall include a trip cap for VMT monitoring purposes. The trip cap shall be prepared by a traffic engineer. The monitoring shall be based on annual trip generation counts that demonstrate the vehicle trips generated by the project are within 10 percent of an established peak hour trip cap that is prepared by a traffic engineer. The annual trip monitoring reports shall be submitted that demonstrate that project-generated VMT is below the significance threshold. If the annual trip monitoring report finds that the project is exceeding the established trip cap, the project shall be required to submit a follow-up report that demonstrates compliance with the trip cap requirements within a period not to exceed six months.

Impact TRN-2: The proposed project would increase hazards due to inadequate driveway width on Embedded Way, requiring inbound trucks entering the westernmost Embedded Way driveway to utilize the opposing outbound travel lane, reducing sight distance for outbound vehicles.

MM TRAN-2.1: The project shall increase the width of the westernmost driveway on Embedded Way in a manner sufficient to ensure that trucks do not utilize the opposing outbound travel lane when entering the project site. A site plan showing the widening of the driveway and a truck circulation plan that includes truck turning radii demonstrating adequate driveway width shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval prior to issuance of grading permits.

S. UTILITIES AND SERVICE SYSTEMS – The project would not have a significant impact on

this resource, therefore no mitigation is required.

T. WILDFIRE – The project would not have a significant impact on this resource, therefore no mitigation is required.

U. MANDATORY FINDINGS OF SIGNIFICANCE.

Cumulative impacts would be less than significant. The proposed project would implement the identified mitigation measures and would either have no impacts or less than significant impacts on riparian habitat or other sensitive natural communities, migration of species, or applicable biological resources protection ordinances. Therefore, the proposed project would not contribute to any cumulative impact for these resources. The project would not cause changes in the environment that have any potential to cause substantial adverse direct or indirect effects on human beings.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **Wednesday, January 10, 2024** any person may:

1. Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
2. Submit written comments regarding the information and analysis in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND.

CHRISTOPHER BURTON, Director
Planning, Building and Code Enforcement

12/18/23

Date

Nhu Nguyen
Environmental Project Manager



Deputy

Circulation period: December 21, 2023 to January 10, 2024

Initial Study
865 Embedded Way Industrial Project
File No. H22-022 and ER22-113



prepared by
**CITY OF
SAN JOSE**
CAPITAL OF SILICON VALLEY

In Consultation with
**DAVID J. POWERS
& ASSOCIATES, INC.**
ENVIRONMENTAL CONSULTANTS & PLANNERS



December 2023

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Appendix C: Arborist Report

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Appendix E: Greenhouse Gas Reduction Strategy Consistency Checklist

Appendix F: Phase I Environmental Site Assessment

Appendix G: Noise and Vibration Assessment

Appendix H: Transportation Analysis

SECTION 1.0 INTRODUCTION AND PURPOSE

1.1 PURPOSE OF THE INITIAL STUDY

The City of San José, as the Lead Agency, has prepared this Initial Study for the Embedded Way Industrial project in compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines (California Code of Regulations §15000 et. seq.) and the regulations and policies of the City of San José, California.

The project proposes to develop a 121,400 square foot industrial building on an approximately 10.17-acre undeveloped site located at 865 Embedded Way in the City of San José. This Initial Study evaluates the environmental impacts that might reasonably be anticipated to result from implementation of the proposed project.

1.2 PUBLIC REVIEW PERIOD

Publication of this Initial Study marks the beginning of a 20-day public review and comment period. During this period, the Initial Study will be available to local, state, and federal agencies and to interested organizations and individuals for review. Written comments concerning the environmental review contained in this Initial Study during the 20-day public review period should be sent to:

Nhu Nguyen
Department of Planning, Building & Code Enforcement
200 East Santa Clara Street, 3rd Floor Tower
San José, CA 95113
Nhu.Nguyen@sanjoseca.gov

1.3 CONSIDERATION OF THE INITIAL STUDY AND PROJECT

Following the conclusion of the public review period, the City of San José will consider the adoption of the Initial Study/Mitigated Negative Declaration (MND) for the project at a regularly scheduled meeting. The City shall consider the Initial Study/MND together with any comments received during the public review process. Upon adoption of the MND, the City may proceed with project approval actions.

1.4 NOTICE OF DETERMINATION

If the project is approved, the City of San José will file a Notice of Determination (NOD), which will be available for public inspection and posted within 24 hours of receipt at the County Clerk's Office for 30 days. The filing of the NOD starts a 30-day statute of limitations on court challenges to the approval under CEQA (CEQA Guidelines Section 15075(g)).

SECTION 2.0 PROJECT INFORMATION

2.1 PROJECT TITLE

865 Embedded Way Industrial Project

2.2 LEAD AGENCY CONTACT

Nhu Nguyen
City of San José, Department of Planning, Building & Code Enforcement
200 East Santa Clara Street, 3rd Floor Tower
San José, CA 95113
(408) 535-6894
nhu.nguyen@sanjoseca.gov

2.3 PROJECT APPLICANT

Ian Halker
Oppidan, Inc.
1100 Lincoln Avenue, Suite 382
San José, California 95125
(612) 803-8377
ianh@oppidan.com

2.4 PROJECT LOCATION

The project site is located at 865 Embedded Way in San José, California. Refer to Figure 2.8-1, Figure 2.8-2, and Figure 2.8-3 for the Regional, Vicinity, and Aerial maps, respectively.

2.5 ASSESSOR'S PARCEL NUMBER

The Assessor's Parcel Number (APN) for 865 Embedded Way is 679-01-020.

2.6 GENERAL PLAN DESIGNATION AND ZONING DISTRICT

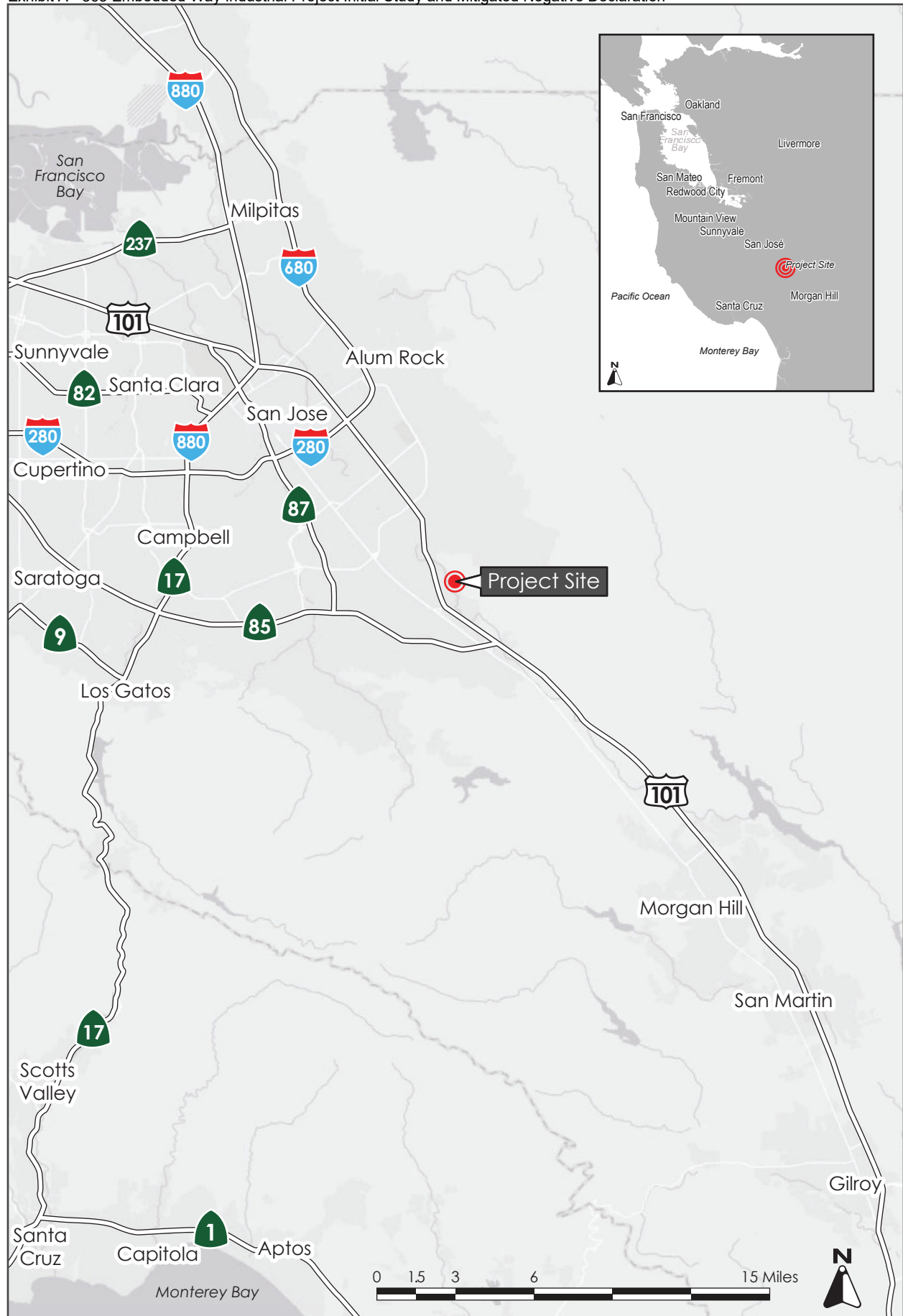
The project site is designated Industrial Park in the Envision San José 2040 General Plan (General Plan) and is within the Industrial Park (IP) Zoning District.

2.7 HABITAT PLAN DESIGNATION

The habitat plan designation is Urban – Suburban.

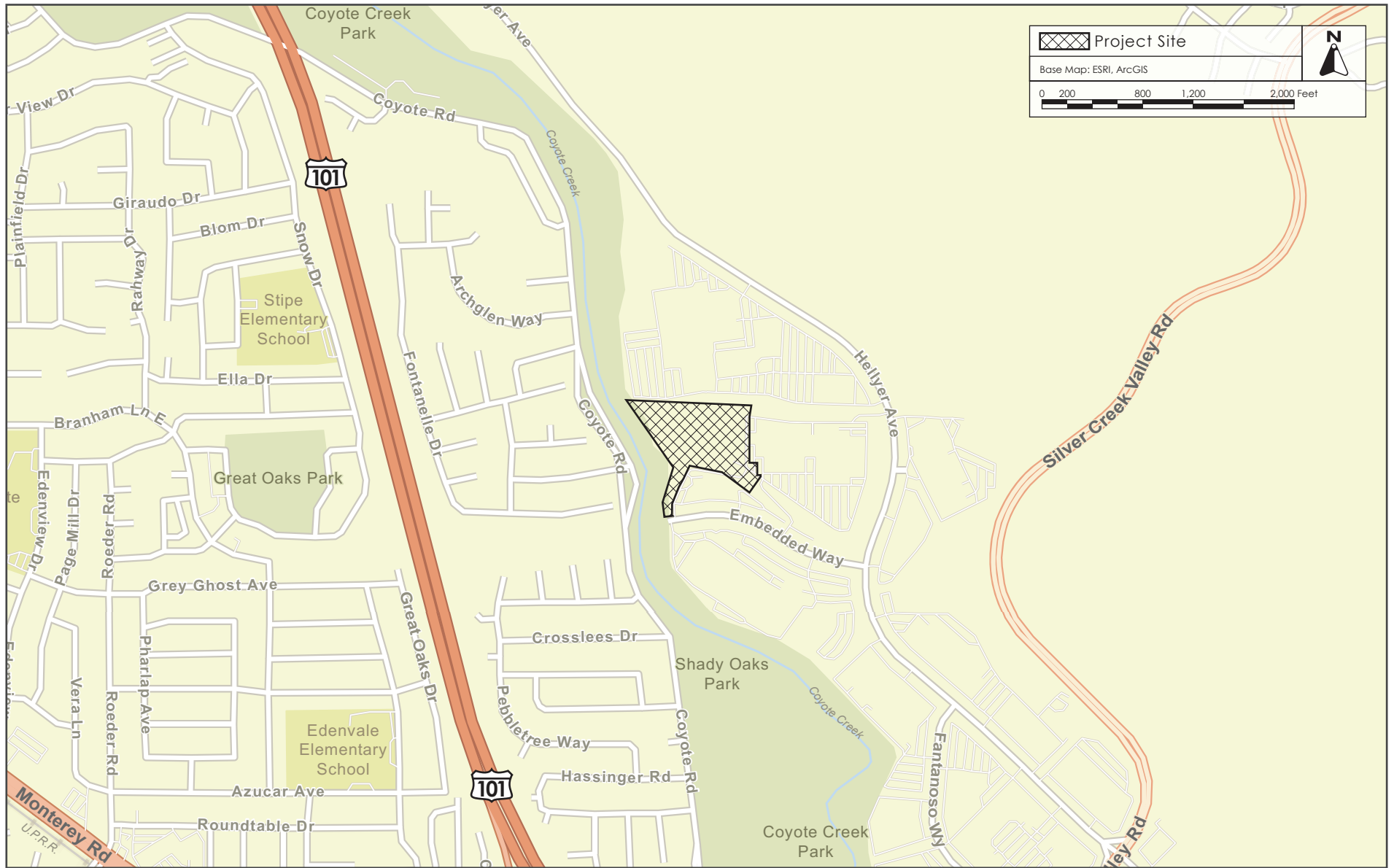
2.8 PROJECT-RELATED APPROVALS, AGREEMENTS, AND PERMITS

The project would require the following approvals, agreements, and permit: Site Development Permit, Tree Removal Permit, Demolition Permit, Public Works Clearances, including Grading Permit, and Building Permit.



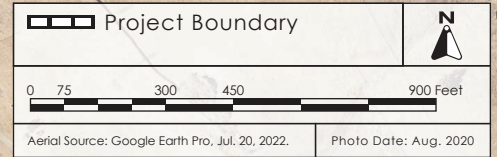
REGIONAL MAP

FIGURE 2.8-1



VICINITY MAP

FIGURE 2.8-2



AERIAL MAP AND SURROUNDING LAND USE

FIGURE 2.8-3

SECTION 3.0 PROJECT DESCRIPTION

3.1 EXISTING SETTING

The approximately 10.17-acre project site is located at 865 Embedded Way (APN 679-01-020). The majority of the site is currently vacant and consists of undeveloped grassland. A paved parking area and access roadways associated with the adjacent property extend onto a portion of the site along its eastern boundary. The Coyote Creek Trail borders the project site to the west, while industrial uses border the site to the north and east. Embedded Way is directly south of the project site and there is a recreational facility south of Embedded Way. The existing site features are shown in Figure 2.8-3 above.

3.2 PROPOSED DEVELOPMENT

The 865 Embedded Way project (herein referred to as the project) proposes to construct a one-story 121,400 square foot industrial/manufacturing warehouse surrounded by a paved surface parking lot.¹ While a designated end user has not yet been determined for the project, the project is designed for a research and development (R&D) use. The IP land use and zoning designation allow for a variety of industrial uses, such as R&D, manufacturing, assembly, testing, and offices. For the purposes of this Initial Study, the project will be analyzed as an R&D facility. See Figure 3.2-1 for the project site plan.

3.2.1 Building Heights and Setbacks

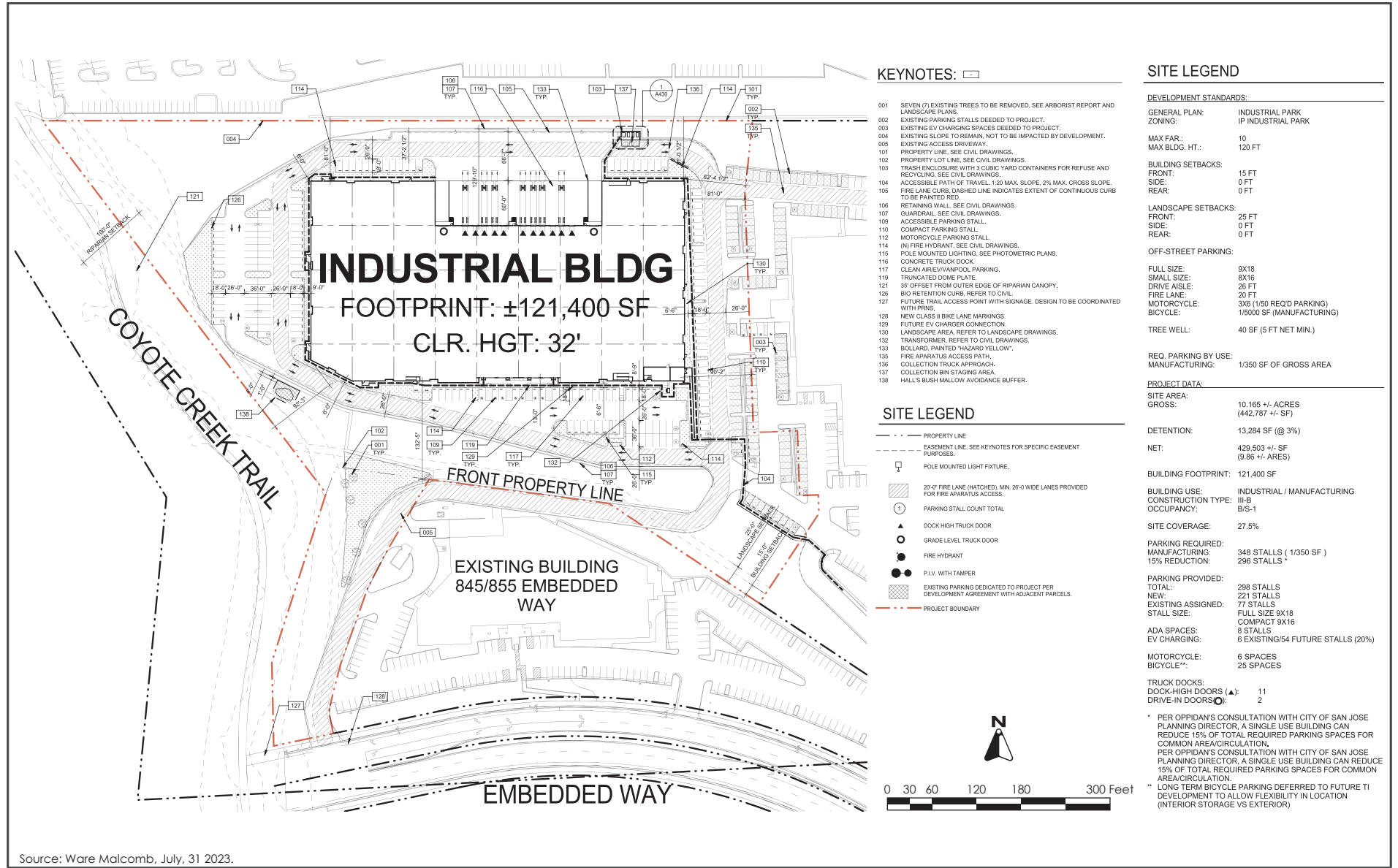
The proposed building would have a maximum roof height of approximately 45 feet. Refer to Figure 3.2-2 for building elevations.

The western limit of development, which includes the building footprint and pavement, would be set back 100 feet from the outer edge of the riparian habitat along Coyote Creek as required by the City's Riparian Corridor Protection and Bird-Safe Design Policy (Policy 6-34) and the Santa Clara Valley Habitat Conservation Plan. The proposed building would be set back approximately 81 feet from the northern property line, 132 feet from the southern property line, and 81 feet from the eastern property line.

3.2.2 Site Access and Parking

The project site would be accessible via three existing driveways that currently provide access to adjacent contiguous properties, with one driveway located on Hellyer Avenue and two driveways located on Embedded Way. Employees and visitors to the site traveling in passenger vehicles would likely utilize the two driveways on Embedded Way that connect to the eastern and southern adjacent properties. All future trucks traveling to the project site would be required to use only the western terminus project driveway due to the sight distance issues for outbound vehicles traveling on Hellyer Avenue, which are described further in Section 4.17 Transportation.

¹ Note that during the environmental review process the project square footage decreased from 121,850 square feet to 121,400, which is a difference of 450 square feet. Some of the technical analyses prepared for the project are based on the larger square footage, which represents a conservative impact scenario.



Source: Ware Malcomb, July, 31 2023.

SITE PLAN

FIGURE 3.2-1



FIGURE 3.2-2

The project would include a connection to an existing 26-foot-wide drive aisle that extends from the eastern Embedded Way driveway through the adjacent eastern industrial property (875 Embedded Way) and currently terminates at the southeastern boundary of the project site. Trucks accessing the site would only be permitted to use the westernmost driveway off of Embedded Way. Internal drive aisles (26-feet in width) would provide vehicle and truck circulation around the perimeter of the proposed building.

A total of 300 parking spaces would be provided in the surface parking lot surrounding the proposed building. Out of the 300 parking spaces, 223 would be new stalls and the remaining 77 stalls are existing parking spaces currently associated with the eastern adjacent parcel but dedicated to the 865 Embedded Way property (i.e., the project) per a development agreement. In addition, eight parking spaces out of the total 300 spaces would be designed to be compliant with the Americans with Disabilities Act (ADA) regulations and 24 spaces would be designated clean air vehicle spaces. A total of 18 electric vehicle (EV) capable spaces would be provided with six of the spaces currently existing and 12 new spaces proposed. A total of six motorcycle parking spaces and 25 bicycle parking spaces would also be provided. The northern side of the building would include 11 truck loading docks.² Of the trucks anticipated to travel to the project site, none are assumed to be trucks equipped with transport refrigeration units because the project would not include cold storage.

3.2.3 Stormwater Management

To manage stormwater runoff on the site, the project proposes two bioretention basins and a subsurface infiltration system consisting of underground reservoirs that capture, temporarily store, and infiltrate stormwater into the surrounding soil. A 3,192 square foot bioretention basin would be located on-site adjacent to the western surface parking area and a 6,956 square foot bioretention basin would be located on the southern portion of the site adjacent to the existing drive aisle on the 845 Embedded Way property. Both bioretention basins would be unlined with an underdrain system. The subsurface infiltration system would be located underneath the western parking lot adjacent to the 3,400 square foot detention basin. The infiltration system would have a volume of approximately 9,746 cubic feet.

3.2.4 Landscaping

The project site would be landscaped with drought tolerant, medium water, and low water use trees, shrubs, and grasses. Vegetation would be planted along the perimeter of the property line and the proposed building. In addition, trees and shrubs would be placed in planters throughout the surface parking lot. The project would remove a total of 11 trees with two being ordinance-sized native trees and nine being non-ordinance sized trees. Of the nine trees, five are native trees and four are non-native trees. To replace the trees that would be removed, a total of 129 15-gallon trees would be planted with 53 of the trees being native trees and 76 trees being non-native trees.

² Note that during the environmental review process the number of truck loading docks decreased from 12 to 11 loading docks. Some of the technical analyses prepared for the project are based on the former number of docks.

3.2.5 Site Lighting

The project would install 25 foot tall security lighting throughout the site in parking areas, along pathways, and adjacent to buildings. All lighting would conform to the City's Outdoor Lighting Policy (Policy 4-3) as applicable and be shielded to direct light downwards to ensure that lighting does not spill over onto adjacent residential properties, consistent with City standards.

3.2.6 Sustainability Features

The proposed project would include energy conservation measures required by the California Building Code Title 24 building energy efficiency standards including high-efficiency lighting, high-efficiency heating/cooling, thermal insulation, and water conserving plumbing fixtures. The project would provide solar photovoltaic panels on the rooftop as required under the 2019 Building Energy Efficiency Standards. The proposed building would also be built in conformance with San José Council Policy 6-32 and the City's Green Building Measures. Pursuant to Ordinance Number 30502, which was adopted by the San José City Council on December 1, 2020, the proposed structure would be required to be an all-electric building with no natural gas infrastructure. This energy requirement applies to all new construction in the City of San José. The project would also procure electricity from the San José Clean Energy (SJCE) TotalGreen service, which provides electricity sourced from 100 percent renewable energy.

3.2.7 Mechanical Equipment

The project would include a 472-horsepower diesel fueled fire pump within the building in the southeast corner. The project would also include mechanical equipment such as heating, ventilation , and air conditioning (HVAC) units

3.2.8 Construction

The total construction period would be 10 months with construction beginning in 2024. The site is vacant and would not require demolition. Construction activities would include site preparation, grading, building construction, architectural coating, and paving. Approximately 18,000 cubic yards of soil would be imported during the grading phase. The project would also complete utility work in the project's driveway off Embedded Way. During excavation, the maximum depth of excavation on-site would be 20 feet. The project would also comply with the City's Zero Waste Strategic Plan to enhance construction recycling.

SECTION 4.0 ENVIRONMENTAL SETTING, CHECKLIST, AND IMPACT DISCUSSION

This section presents the discussion of impacts related to the following environmental subjects in their respective subsections:

4.1	Aesthetics	4.12	Mineral Resources
4.2	Agriculture and Forestry Resources	4.13	Noise
4.3	Air Quality	4.14	Population and Housing
4.4	Biological Resources	4.15	Public Services
4.5	Cultural Resources	4.16	Recreation
4.6	Energy	4.17	Transportation
4.7	Geology and Soils	4.18	Tribal Cultural Resources
4.8	Greenhouse Gas Emissions	4.19	Utilities and Service Systems
4.9	Hazards and Hazardous Materials	4.20	Wildfire
4.10	Hydrology and Water Quality	4.21	Mandatory Findings of Significance
4.11	Land Use and Planning		

The discussion for each environmental subject includes the following subsections:

- **Environmental Setting** – This subsection 1) provides a brief overview of relevant plans, policies, and regulations that compose the regulatory framework for the project and 2) describes the existing, physical environmental conditions at the project site and in the surrounding area, as relevant.
- **Impact Discussion** – This subsection 1) includes the recommended checklist questions from Appendix G of the CEQA Guidelines to assess impacts and 2) discusses the project's impact on the environmental subject as related to the checklist questions. For significant impacts, feasible mitigation measures are identified. "Mitigation measures" are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guidelines Section 15370).

4.1 AESTHETICS

4.1.1 Environmental Setting

4.1.1.1 *Regulatory Framework*

State

Streets and Highway Code Sections 260 through 263

The California Scenic Highway Program (Streets and Highway Code, Sections 260 through 263) is managed by the California Department of Transportation (Caltrans). The program is intended to protect and enhance the natural scenic beauty of California highways and adjacent corridors through special conservation treatment. There are no state-designated scenic highways in San José. Interstate 280 from the San Mateo County line to State Route (SR) 17, which includes segments in San José, is an eligible, but not officially designated, State Scenic Highway.³

In Santa Clara County, the one state-designated scenic highway is SR 9 from the Santa Cruz County line to the Los Gatos City Limit. Eligible State Scenic Highways (not officially designated) include SR 17 from the Santa Cruz County line to SR 9; SR 35 from Santa Cruz County line to SR 9; Interstate 280 from the San Mateo County line to SR 17; and the entire length of SR 152 within the County.

Local

Envision San José 2040 General Plan

The 2040 General Plan includes the following policies applicable specifically to development projects in San José:

Envision San José 2040 Relevant Aesthetic Policies

Policy	Description
CD-1.1	Require the highest standards of architecture and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.
CD-1.22	Include adequate, drought-tolerant landscaped areas in development and require provisions for ongoing landscape maintenance.
CD-1.23	Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.
CD-1.25	Apply Riparian Corridor Goals and Policies of this Plan when reviewing development adjacent to creeks.

³ California Department of Transportation. "Scenic Highways." Accessed May 11, 2022.

<https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability/lap-liv-i-scenic-highways>.

	<ul style="list-style-type: none">• Development adjacent to creekside areas should incorporate compatible design and landscaping, including appropriate setbacks and plant species that are native to the area or are compatible with native species.• Development should maximize visual and physical access to creeks from the public right-of-way while protecting the natural ecosystem. Consider whether designs could incorporate linear parks along creeks or accommodate them in the future.
CD-1.27	When approving new construction, require the undergrounding of distribution utility lines serving the development. Encourage programs for undergrounding existing overhead distribution lines. Overhead lines providing electrical power to light rail transit vehicles and high-tension electrical transmission lines are exempt from this policy.
CD-2.5	Integrate Green Building Goals and Policies of this Plan into site design to create healthful environments. Consider factors such as shaded parking areas, pedestrian connections, minimization of impervious surfaces, incorporation of stormwater treatment measures, appropriate building orientations, etc.
CD-4.1	Maintain and update design guidelines adopted by the City and abide by them in the development of projects.
CD-4.4	In non-growth areas, design new development and subdivisions to reflect the character of predominant existing development of the same type in the surrounding area through the regulation of lot size, street frontage, height, building scale, siting/setbacks, and building orientation.
CD-4.9	For development subject to design review, ensure the design of new or remodeled structures is consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).
CD-8.1	Ensure new development is consistent with specific height limits established within the City's Zoning Ordinance and applied through the zoning designation for properties throughout the City. Land use designations in the Land Use/Transportation Diagram provide an indication of the typical number of stories expected for new development, however specific height limitations for buildings and structures in San José are not identified in the <i>Envision General Plan</i> .

San José Design Review Process and Citywide Design Standards and Guidelines

Nearly all new private development is subject to a design review process (architecture and site planning). The design review process is used to evaluate projects for conformance with adopted design guidelines and other relevant policies and ordinances.

To assist those involved with the design, construction, review, and approval of development in San José, the City developed the San José Citywide Design Standard Guidelines, which were adopted in October 2022. Guidelines are provided for specific development types, including general industrial and industrial research and development as described below.

The General Industrial Guidelines apply to facilities such as light and heavy industrial uses, combined industrial commercial uses, and manufacturing, processing, and recycling. These facilities are typically space-intensive, have large open plan spaces, and require large vehicle/truck access and circulation. Any proposed office and open space uses should be located facing the street to engage

the public realm. Parking should be screened from adjacent developments. Utilities should be placed in such a way that minimizes the visual and physical impact on the public realm. Building façades should be articulated using architectural elements such as windows, columns, and sunshades. Pedestrian connections should be provided to the street, and parking connections should be provided to primary building entrances. Driveways should be located to the side or rear of development sites.

City of San José Outdoor Lighting Policy (Policy 4-3)

The City of San José's Outdoor Lighting Policy requires outdoor lighting on private properties to be directed downward and include shielding to reduce light pollution and spill light. The policy also requires the use of energy efficient lighting fixtures.⁴

4.1.1.2 *Existing Conditions*

Existing On-site Setting

The project site is a vacant, undeveloped property that had been previously graded. It primarily consists of ruderal grasses and small shrubs. A few scattered trees are located on the southeastern portion of the site. The site contains serpentine rock outcroppings within areas (approximately 1.5 acres) mapped as serpentine bunchgrass grassland as shown in the Biological Communities Figure 4.4-1. Pictures of the project site can be seen in Photo 1, Photo 2, Photo 3, and Photo 4.

Existing Surrounding Setting

The area surrounding the project site is currently occupied by two-story industrial and office buildings. These structures are located to the north, east and south of the project site. To the west, the project site is bordered by Coyote Creek, Coyote Creek Trail, and its associated open space recreational area. The surrounding area can be seen in Photo 5, Photo 6, Photo 7, and Photo 8. In addition, views of the project site from the Coyote Creek Trail are shown in Photo 9 and Photo 10.

Scenic Views

Based on the General Plan EIR, a scenic vista consists of hillsides, woodland, bayland areas, scenic skyline, or the built environment. Panoramic views of hillside areas, including the foothills of the Diablo Range, Silver Creek Hills, Santa Teresa Hills, and foothills of the Santa Cruz Mountains, are key scenic features in the San José area. Other open space areas visible locally include areas of open fields off State Route 85 in the Edenvale area and open fields, farmland, and the wooded riparian corridor of Coyote Creek visible from roadways in the Coyote and Edenvale Planning Areas. Notable riparian corridors include segments of Penitencia Creek in the Alum Rock and Berryessa Planning Areas and Coyote Creek in the Central and South Planning Areas, upstream and downstream of Kelly Park. Views of the Baylands are generally local due to the flat topography of marsh and tidal wetland areas around San Francisco Bay.⁵ The project site and surrounding areas are located on an

⁴ City of San José. "Outdoor Lighting on Private Developments, Policy Number 4-3". Revised June 20, 2020. Accessed May 11, 2022. Available at:

<https://www.sanjoseca.gov/home/showpublisheddocument/12835/636669964179500000#:~:text=Outdoor%20lighting%20shall%20be%20fully,of%20business%2C%20whichever%20is%20later.>

⁵ City of San José. Draft Program Environmental Impact Report for the Envision San José 2040 General Plan. SCH# 2009072096. Page 722. June 2011.



Photo 1: Western Project Site Existing Conditions



Photo 2: Northern Project Site Existing Conditions

PHOTOS 1 & 2



Photo 3: Eastern Project Site Existing Conditions



Photo 4: Southern Project Site Existing Conditions

PHOTOS 3 & 4



Photo 5: Southern Surrounding Land Uses (Office Buildings and Athletic Facility)



Photo 6: Eastern Surrounding Land Uses (Parking Lot and Office Building)

PHOTOS 5 & 6



Photo 7: Northern Surrounding Land Uses (Office Buildings)



Photo 8: Western Surrounding Land Uses (Coyote Creek Trail)

PHOTOS 7 & 8



Photo 9: View of Western Project Site Boundary from the Coyote Creek Trail



Photo 10: View of Western Project Site Boundary from the Coyote Creek Trail

PHOTOS 9 & 10

elevated parcel that has a view of the Coyote Ridge to the east. The project area has minimal to no scenic views of the Santa Cruz Mountains to the west and the Diablo Range to the east, apart from the adjacent Coyote Ridge.

Light and Glare

Sources of light and glare in the project vicinity include but are not limited to streetlights, parking lot lights, security lights, vehicular headlights, internal building lights, and reflective building surfaces and windows.

4.1.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Except as provided in Public Resources Code Section 21099, would the project:				
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? ⁶ If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

a) Would the project have a substantial adverse effect on a scenic vista?

The construction of the proposed project would create a single-story 45-foot-tall warehouse structure that would be used for R&D purposes. The proposed structure would be similar in scale to existing buildings east, north, and south of the site. The building would occupy most of the vacant lot, which would obstruct the views of the Coyote Ridge east of the project site from the south. However, the Coyote Ridge scenic vista (refer to Section 4.1.1.2 Existing Conditions for a description of scenic vistas) would still be visible from most areas around the project site. From the publicly available areas, such as the Coyote Creek trail, the views of Coyote Ridge are already obstructed due to the existing elevated nature of the site or due to the existing surrounding buildings. Refer to Photo 9 and Photo 10 to see the public vantage point from the Coyote Creek Trail. The project site and the Coyote Ridge are not visible from the trail due to the elevation difference.

⁶ Public views are those that are experienced from publicly accessible vantage points.

The proposed development would alter the visual character of the project site compared to the existing conditions since the existing site is undeveloped. The General Plan Final EIR (as amended) concluded that new development and redevelopment allowed under the General Plan would alter the appearance of San José, but implementation of applicable policies and regulations (including the City's Design Guidelines) would avoid substantial degradation of the visual character of the City. The project would also be required to comply with the City of San José Industrial Design Guidelines, which establish standards for aesthetic compatibility and ensure that new industrial developments align with the City's objectives.⁷ As an industrial development, the project would complement the surrounding existing industrial buildings and keep in character (e.g., building form and scale) with the existing uses. The proposed building would, however, be comparable in mass and scale to the existing light industrial buildings in the project area and consistent with the planned growth within the General Plan.

The project would comply with the setback requirements for an IP zoning district (as described in Chapter 20.50.200 of the City's Municipal Code). The building would be setback more than 15 feet of the front property line at approximately 133 feet, loading docks would be more than 60 feet from the property line at approximately 68 feet, and the parking lot for passenger vehicles would be setback more than 25 feet from the front at approximately 115 feet. There are no side or rear setback requirements. The project development (including the building footprint, surface parking lot, and landscaping) would be outside of the 100-foot Coyote Creek riparian corridor setback and would not degrade the riparian corridor as described in Section 4.4 Biological Resources. The loading docks for trucks and the trash enclosures would be located in the rear of the building away from public streets. The project would also include landscaping throughout the perimeter of the site. The above-mentioned project design features comply with the Industrial Design Guidelines. As a result, the project would not degrade visual character of the area, and would not obscure any scenic vistas, damage scenic resources, or degrade the visual quality of the area. Therefore, implementation of the project would not result in a significant impact on a scenic vista. **(Less than Significant Impact)**

b) Would the project substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

As described in Section 4.1.1.1 Regulatory Framework, there are no state-designated scenic highways in San José. The nearest scenic highway, Interstate 280, is located approximately nine miles northwest from the project site.⁸ Moreover, according to the General Plan Scenic Corridors Diagram, the project site is located approximately two feet north from the nearest designated Gateway (intersection of U.S. Route 101 and State Route 85), and intervening development and vegetation obscures the project site from the designated Gateway.

While the project site contains serpentine rock outcroppings as described in Section 4.1.1.2 Existing Conditions and construction of the project would remove these rock outcroppings (shown in Photo 7); the serpentine rock outcroppings are not a scenic resource because the rock outcroppings are not prominent, are not visible off the property, and are not within a state scenic highway. Discussion of

⁷ City of San José. *Industrial Design Guidelines*. August 25, 1992.

⁸ California Department of Transportation. "California State Scenic Highway System Map." Accessed February 6, 2023. <https://caltrans.maps.arcgis.com/apps/webappviewer/index.html?id=465dfd3d807c46cc8e8057116f1aaca>.

the serpentine rock outcroppings as a biological resources is included in Section 4.4 Biological Resources. Therefore, the project would not damage scenic resources within any state-designated scenic highways. **(No Impact)**

c) In non-urbanized areas, would the project substantially degrade the existing visual character or quality of public views of the site and its surroundings? If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?

The project site is located within an increasingly urbanized area that consists of other industrial uses, roadways, and a recreational facility. The proposed project would comply with Title 20 of the City's Municipal Code and would be subject to a design review process conducted as part of the development permit review process to ensure that it conforms with all adopted design guidelines and other relevant policies and ordinances. Pursuant to the Zoning Code, the maximum height for the project is 50 feet (similar to other industrial buildings in the area), and the proposed project at 45 feet would not exceed this height. This height would also be consistent and thus compatible with adjacent existing industrial uses to the north, south, and east. Because of this, the proposed project would be consistent with the current pattern of the project vicinity. The City of San José Municipal Code (Zoning Code) Title 20, Chapter 20.50, Part 3, Section 200, includes other development standards to assist in ensuring scenic quality such as minimum lot area, minimum setbacks, and minimum street frontage (see Table 20-120 of the Zoning Code), and the City would confirm consistency with these requirements as part of the development review process.

The General Plan contains design guidelines, policies, and development standards that include measures to help ensure quality design listed in the regulatory section above which pertain to appearance of buildings, site and landscape design, utility placement, and design of projects near riparian corridors. The project would be required to adhere to these goal, policies, and development standards, and the City would confirm consistency with these requirements as part of the development review process. For these reasons, the proposed project would not conflict with applicable zoning and other regulations governing scenic quality. **(Less than Significant Impact)**

d) Would the project create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

The proposed project would construct a 45-foot tall industrial structure which would result in more visible nighttime lighting than currently exists on-site. The proposed project would include internal building lights and external security lights. Exterior lighting on the site would be similar to the exterior lighting present on surrounding industrial properties. Exterior lights would be placed at the entrance of the building, in the truck loading area, and throughout the surface parking lot. All exterior lights in the parking lot would be 25 feet tall.

There are no residential uses in proximity to the site. The nearest residences are a part of a single-family neighborhood approximately 345 feet west of the project site, separated by the Coyote Creek. Due to the location of Coyote Creek and associated riparian vegetation (in-between the site and neighborhood), the view of the proposed building from the single-family residences would be obscured. Additionally, as described previously, exterior lighting on the site would be similar to the

exterior lighting present on surrounding industrial properties. For these reasons, the project would not result in substantial light or glare affecting views in the area. The project's lighting impacts to the Coyote Creek riparian corridor are discussed further in Section 4.4 Biological Resources.

Additionally, the proposed project would be subject to the City's design review process prior to the issuance of development permits to ensure that it is consistent with General Plan policies and the City's Design Guidelines. Compliance with the City Design Guidelines, City policies, and regulations would protect the night sky and control the amount of light shining on streets and sidewalks. Therefore, the proposed project would not adversely affect day or nighttime views in the area from lighting or glare. **(Less than Significant Impact)**

4.2 AGRICULTURE AND FORESTRY RESOURCES

4.2.1 Environmental Setting

4.2.1.1 *Regulatory Framework*

State

Farmland Mapping and Monitoring Program

The California Department of Conservation's Farmland Mapping and Monitoring Program (FMMP) assesses the location, quality, and quantity of agricultural land and conversion of these lands over time. Agricultural land is rated according to soil quality and irrigation status. The best quality land is identified as Prime Farmland. In CEQA analyses, the FMMP classifications and published county maps are used, in part, to identify whether agricultural resources that could be affected are present on-site or in the project area.⁹

California Land Conservation Act

The California Land Conservation Act (Williamson Act) enables local governments to enter into contracts with private landowners to restrict parcels of land to agricultural or related open space uses. In return, landowners receive lower property tax assessments. In CEQA analyses, identification of properties that are under a Williamson Act contract is used to also identify sites that may contain agricultural resources or are zoned for agricultural uses.¹⁰

Fire and Resource Assessment Program

The California Department of Forestry and Fire Protection (CAL FIRE) identifies forest land, timberland, and lands zoned for timberland production that can (or do) support forestry resources.¹¹ Programs such as CAL FIRE's Fire and Resource Assessment Program and are used to identify whether forest land, timberland, or timberland production areas that could be affected are located on or adjacent to a project site.¹²

⁹ California Department of Conservation. "Farmland Mapping and Monitoring Program." Accessed May 11, 2022. <http://www.conservation.ca.gov/dlrp/fmmp/Pages/Index.aspx>.

¹⁰ California Department of Conservation. "Williamson Act." <http://www.conservation.ca.gov/dlrp/lca>.

¹¹ Forest Land is land that can support 10 percent native tree cover and allows for management of forest resources (California Public Resources Code Section 12220(g)); Timberland is land not owned by the federal government or designated as experimental forest land that is available for, and capable of, growing trees to produce lumber and other products, including Christmas trees (California Public Resources Code Section 4526); and Timberland Production is land used for growing and harvesting timber and compatible uses (Government Code Section 51104(g)).

¹² California Department of Forestry and Fire Protection. "Fire and Resource Assessment Program." Accessed May 12, 2022. <http://frap.fire.ca.gov/>.

4.2.1.2 *Existing Conditions*

The project site is vacant land not under a current Williamson Act contract and is classified as Urban and Built-Up Land on the California Important Farmland Finder.^{13,14} Under the Fire and Resources Assessment Program provided by CAL FIRE, the project site is not identified as forestland and does not contain forest resources.¹⁵

4.2.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in a loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Note: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment Project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board.

¹³ California Department of Conservation. "California Important Farmland Finder." Updated September 29, 2021. Accessed May 11, 2022. <https://www.arcgis.com/home/item.html?id=8ab78d6c403b402786cc231941d1b929>

¹⁴ County of Santa Clara. "Williamson Act Properties." Accessed May 12, 2022. Available at <https://sccplanning.maps.arcgis.com/apps/webappviewer/index.html?id=1f39e32b4c0644b0915354c3e59778ce>

¹⁵ California Department of Forestry and Fire Protection. "Landcover California Wildlife Habitat Relationships System Types." Accessed May 11, 2022. https://frap.fire.ca.gov/media/10311/fveg_19_ada.pdf.

-
- a) Would the project convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?**
-

As discussed in Section 4.2.12 Existing Conditions, there are no agricultural resources located on-site including, Prime Farmland; Unique Farmland; or Farmland of Statewide Importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency. The project would have no impact on agricultural resources. **(No Impact)**

-
- b) Would the project conflict with existing zoning for agricultural use, or a Williamson Act contract?**
-

The project site is not subject to a Williamson Act contract. The site is located within the Industrial Park District zoning district and would not conflict with any agricultural zoning. **(No Impact)**

-
- c) Would the project conflict with existing zoning for, or cause rezoning of, forest land, timberland, or timberland zoned Timberland Production?**
-

The project site is zoned Industrial Park District. The project site is not zoned for forestland, timberland, or timberland zoned Timberland Production. The project would not impact these resources by conflicting with existing zoning for forest land, timberland, or timberland zoned Timberland Production. **(No Impact)**

-
- d) Would the project result in a loss of forest land or conversion of forest land to non-forest use?**
-

The project site does not contain land uses that could serve as forest land. Therefore, the project would not result in the conversion of forest land to non-forest uses. **(No Impact)**

-
- e) Would the project involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?**
-

The project site is vacant and does not contain land uses that could serve as agricultural or forest land. Therefore, the project would not result in the conversion of agricultural or forest land to non-agricultural or non-forest uses. **(No Impact)**

4.3 AIR QUALITY

The information in this section is based in part on an Air Quality Assessment prepared by Illingworth and Rodkin, Inc. in August 2022. This report is available in Appendix A of this document.

4.3.1 Environmental Setting

4.3.1.1 *Regulatory Framework*

4.3.1.2 *Background Information*

Criteria Pollutants

Air quality in the Bay Area is assessed related to six common air pollutants (referred to as criteria pollutants), including ground-level ozone (O₃), nitrogen oxides (NO_x), particulate matter (PM), carbon monoxide (CO), sulfur oxides (SO_x), and lead.¹⁶ Criteria pollutants are regulated because they result in health effects. An overview of the sources of criteria pollutants and their associated health are summarized in Table 4.3-1. The most commonly regulated criteria pollutants in the San Francisco Bay Area (Bay Area) are discussed further below.

Table 4.3-1: Health Effects of Air Pollutants

Pollutants	Sources	Primary Effects
Ozone (O ₃)	Atmospheric reaction of organic gases with nitrogen oxides in sunlight	<ul style="list-style-type: none"> • Aggravation of respiratory and cardiovascular diseases • Irritation of eyes • Cardiopulmonary function impairment
Nitrogen Dioxide (NO ₂)	Motor vehicle exhaust, high temperature stationary combustion, atmospheric reactions	<ul style="list-style-type: none"> • Aggravation of respiratory illness • Reduced visibility
Fine Particulate Matter (PM _{2.5}) and Coarse Particulate Matter (PM ₁₀)	Stationary combustion of solid fuels, construction activities, industrial processes, atmospheric chemical reactions	<ul style="list-style-type: none"> • Reduced lung function, especially in children • Aggravation of respiratory and cardiorespiratory diseases • Increased cough and chest discomfort • Reduced visibility
Toxic Air Contaminants (TACs)	Cars and trucks, especially diesel-fueled; industrial sources, such as chrome platers; dry cleaners and service stations; building materials and products	<ul style="list-style-type: none"> • Cancer • Chronic eye, lung, or skin irritation • Neurological and reproductive disorders

High O₃ levels are caused by the cumulative emissions of reactive organic gases (ROG) and NO_x. These precursor pollutants react under certain meteorological conditions to form high O₃ levels.

¹⁶ The area has attained both state and federal ambient air quality standards for CO. The project does not include substantial new emissions of sulfur dioxide or lead. These criteria pollutants are not discussed further.

Controlling the emissions of these precursor pollutants is the focus of the Bay Area's attempts to reduce O₃ levels. The highest O₃ levels in the Bay Area occur in the eastern and southern inland valleys that are downwind of air pollutant sources.

PM is a problematic air pollutant of the Bay Area. PM is assessed and measured in terms of respirable particulate matter or particles that have a diameter of 10 micrometers or less (PM₁₀) and fine particulate matter where particles have a diameter of 2.5 micrometers or less (PM_{2.5}). Elevated concentrations of PM₁₀ and PM_{2.5} are the result of both region-wide emissions and localized emissions.

Toxic Air Contaminants

TACs are a broad class of compounds known to have health effects. They include but are not limited to criteria pollutants. TACs are found in ambient air, especially in urban areas, and are caused by industry, agriculture, diesel fuel combustion, and some commercial operations (e.g., dry cleaners). TACs are typically found in low concentrations, even near their source (e.g., diesel particulate matter [DPM] near a freeway).

Diesel exhaust is the predominant TAC in urban air and is estimated to represent about three-quarters of the cancer risk from TACs. Diesel exhaust is a complex mixture of gases, vapors, and fine particles. Medium- and heavy-duty diesel trucks represent the bulk of DPM emissions from California highways. The majority of DPM is small enough to be inhaled into the lungs. Most inhaled particles are subsequently exhaled, but some deposit on the lung surface or are deposited in the deepest regions of the lungs (most susceptible to injury).¹⁷ Chemicals in diesel exhaust, such as benzene and formaldehyde, have been previously identified as TACs by the California Air Resources Board (CARB).

Sensitive Receptors

Some groups of people are more affected by air pollution than others. CARB has identified the following persons who are most likely to be affected by air pollution: children under 16, the elderly over 65, athletes, and people with cardiovascular and chronic respiratory diseases. These groups are classified as sensitive receptors. Locations that may contain a high concentration of these sensitive population groups include residential areas, hospitals, daycare facilities, elder care facilities, and elementary schools. The closest sensitive receptors to the project site are the single-family residences in a single-family neighborhood approximately 345 feet to the west of the project site opposite Coyote Creek. This project would not introduce new sensitive receptors (i.e., residents) to the area.

Federal and State

Clean Air Act

At the federal level, the United States Environmental Protection Agency (EPA) is responsible for overseeing implementation of the Clean Air Act and its subsequent amendments. The federal Clean

¹⁷ California Air Resources Board. "Overview: Diesel Exhaust and Health." Accessed May 13, 2022. <https://ww2.arb.ca.gov/resources/overview-diesel-exhaust-and-health>.

Air Act requires the EPA to set national ambient air quality standards for the six common criteria pollutants (discussed previously), including PM, O₃, CO, SO_x, NO_x, and lead.

CARB is the state agency that regulates mobile sources throughout the state and oversees implementation of the state air quality laws and regulations, including the California Clean Air Act. The EPA and the CARB have adopted ambient air quality standards establishing permissible levels of these pollutants to protect public health and the climate. Violations of ambient air quality standards are based on air pollutant monitoring data and are determined for each air pollutant. Attainment status for a pollutant means that a given air district meets the standard set by the EPA and/or CARB.

Risk Reduction Plan

To address the issue of diesel emissions in the state, CARB developed the Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel-Fueled Engines and Vehicles. In addition to requiring more stringent emission standards for new on-road and off-road mobile sources and stationary diesel-fueled engines to reduce particulate matter emissions by 90 percent, the plan involves application of emission control strategies to existing diesel vehicles and equipment to reduce DPM (in addition to other pollutants). Implementation of this plan, in conjunction with stringent federal and CARB-adopted emission limits for diesel fueled vehicles and equipment (including off-road equipment), will significantly reduce emissions of DPM and NO_x.

Regional

2017 Clean Air Plan

The Bay Area Air Quality Management District (BAAQMD) is the agency primarily responsible for assuring that the federal and state ambient air quality standards are maintained in the San Francisco Bay Area. Regional air quality management districts, such as BAAQMD, must prepare air quality plans specifying how state and federal air quality standards will be met. BAAQMD's most recently adopted plan is the Bay Area 2017 Clean Air Plan (2017 CAP). The 2017 CAP focuses on two related BAAQMD goals: protecting public health and protecting the climate. To protect public health, the 2017 CAP describes how BAAQMD will continue its progress toward attaining state and federal air quality standards and eliminating health risk disparities from exposure to air pollution among Bay Area communities. To protect the climate, the 2017 CAP includes control measures designed to reduce emissions of methane and other super-greenhouse gases (GHGs) that are potent climate pollutants in the near-term, and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.¹⁸

¹⁸ BAAQMD. *Final 2017 Clean Air Plan*. April 19, 2017. Accessed May 13, 2022. Available at: https://www.baaqmd.gov/~media/files/planning-and-research/plans/2017-clean-air-plan/attachment-a_-_proposed-final-cap-vol-1-pdf.pdf?la=en.

CEQA Air Quality Guidelines

The BAAQMD CEQA Air Quality Guidelines are intended to serve as a guide for those who prepare or evaluate air quality impact analyses for projects and plans in the San Francisco Bay Area. Jurisdictions in the San Francisco Bay Area Air Basin utilize the thresholds and methodology for assessing air quality impacts developed by BAAQMD within their CEQA Air Quality Guidelines. The guidelines include information on legal requirements, BAAQMD rules, methods of analyzing impacts, and recommended mitigation measures.

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects with the City. The following policies are specific to air quality and are applicable to the proposed project.

Envision San José 2040 Relevant Air Quality Policies

Policy	Description
MS-10.1	Assess projected air emissions from new development in conformance with the BAAQMD CEQA Guidelines and relative to state and federal standards. Identify and implement feasible air emission reduction measures.
MS-10.2	Consider the cumulative air quality impacts from proposed developments for proposed land use designation changes and new development, consistent with the region's Clean Air Plan and State law.
MS-11.2	For projects that emit toxic air contaminants, require project proponents to prepare health risk assessments in accordance with BAAQMD-recommended procedures as part of environmental review and employ effective mitigation to reduce possible health risks to a less than significant level. Alternatively, require new projects (such as, but not limited to, industrial, manufacturing, and processing facilities) that are sources of TACs to be located an adequate distance from residential areas and other sensitive receptors.
MS-11.3	Review projects generating significant heavy duty truck traffic to designate truck routes that minimize exposure of sensitive receptors to TACs and particulate matter.
MS-11.5	Encourage the use of pollution absorbing trees and vegetation in buffer areas between substantial sources of TACs and sensitive land uses.
MS-13.1	Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.

4.3.1.3 *Existing Conditions*

The Bay Area is designated nonattainment-marginal for the 8-hour ozone National Ambient Air Quality Standard (NAAQS), nonattainment-moderate for the PM_{2.5} NAAQS, and maintenance for CO. The Bay Area is designated nonattainment for the O₃, PM_{2.5}, and PM₁₀ California Ambient Air Quality Standards (CAAQS). As part of an effort to attain and maintain ambient air quality standards for O₃, PM₁₀, and PM_{2.5}, BAAQMD has established thresholds of significance for these air pollutants and their precursors. These thresholds are for O₃ precursor pollutants (ROG and NO_x), PM₁₀, and PM_{2.5}, and apply to both construction period and operational period impacts.

4.3.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

4.3.2.1 *Thresholds of Significance*

Impacts from the Project

As discussed in CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for judgment on the part of the lead agency and must be based to the extent possible on scientific and factual data. The City of San José has considered the air quality thresholds updated by BAAQMD in May 2017 and regards these thresholds to be based on the best information available for the San Francisco Bay Area Air Basin and conservative in terms of the assessment of health effects associated with TACs and PM_{2.5}. The BAAQMD CEQA Air Quality thresholds used in this analysis are identified in Table 4.3-2 below.

It should be noted that BAAQMD published the updated 2022 California Environmental Quality Act Air Quality Guidelines on April 20, 2023. At the time the environmental review for the project commenced, BAAQMD's 2017 Guidelines were still in effect. As a result, this Initial Study, and the Air Quality Assessment contained in Appendix A, were prepared in accordance with BAAQMD's 2017 Guidelines. While the 2022 Guidelines contain updates to recommended methodology, the significance thresholds remain unchanged from those included in the 2017 Guidelines. The updated

methodological recommendations would not alter the overall conclusions of the Air Quality Assessment or the Initial Study.

Table 4.3-2: BAAQMD Air Quality Significance Thresholds

	Construction Thresholds	Operation Thresholds	
Pollutant	Average Daily Emissions (pounds/day)	Average Daily Emissions (pounds/day)	Annual Average Emissions (tons/year)
Criteria Air Pollutants			
ROG, NO _x	54	54	10
PM ₁₀	82 (exhaust)	82	15
PM _{2.5}	54 (exhaust)	54	10
CO	Not Applicable	9.0 ppm (eight-hour) or 20.0 ppm (one-hour)	
Fugitive Dust	Dust Control Measures/Best Management Practices	Not Applicable	
Health Risks and Hazards for New Sources (within a 1,000-foot Zone of Influence)			
Health Hazard	Single Source	Combined Cumulative Sources	
Excess Cancer Risk	10 per one million	100 per one million	
Hazard Index	1.0	10.0	
Incremental Annual PM _{2.5}	0.3 µg/m ³	0.8 µg/m ³ (average)	
a) Would the project conflict with or obstruct implementation of the applicable air quality plan?			

2017 Clean Air Plan

As described in Section 4.3.1.3 Regulatory Framework, the most current air quality plan from BAAQMD is the 2017 CAP. The goals of the 2017 CAP include protecting public health (as it relates to air quality) and protecting the climate. The BAAQMD Air Quality Guidelines states that a determination of consistency with the 2017 CAP should demonstrate that the project supports the primary goals of the 2017 CAP, includes applicable control measures from the 2017 CAP, and does not disrupt or hinder implementation of any 2017 CAP control measures.

The project would support the primary goals of the 2017 CAP of protecting public health and protecting the climate and would be consistent with control measures that focus on reducing emissions in the transportation, building, and energy sectors. The project's consistency with the Bay Area 2017 CAP is summarized below in Table 4.3-3.

Table 4.3-3: Applicable Control Measures

Control Measure	Project Consistency with Measure Intent
<i>Stationary Source Measures</i>	
SS30 - Residential Fan Type Furnaces: Reduce NO _x emission limits on new and replacement central furnace installations. Explore potential Air District rulemaking options regarding the sale of fossil fuel-based space and water heating systems for both residential and commercial use.	The City adopted a Reach Code ordinance which prohibits natural gas infrastructure in all new construction. The proposed project would include all electric building construction, consistent with the City's Reach Code. The project is consistent with this measure.
TR9 - Bicycle and Pedestrian Access and Facilities: Encourage planning for bicycle and pedestrian facilities in local plans, e.g., general and specific plans, fund bike lanes, routes, paths and bicycle parking facilities.	The project would include 25 bicycle parking spaces consistent with City requirements. The project is consistent with this measure.
TR13 - Parking Policies: Encourage parking policies and programs in local plans, e.g., reduce minimum parking requirements; limit the supply of off-street parking in transit-oriented areas; unbundle the price of parking spaces; support implementation of demand-based pricing in high-traffic areas.	The project proposes parking for the site consistent with City urban design policies and guidelines. Parking for the project would be provided within surface parking lots located on the western, southern, and eastern sides of the proposed building. For these reasons, the project is consistent with this measure.
<i>Energy Measures</i>	
EN2 - Decrease Electricity Demand: Work with local governments to adopt additional energy-efficiency policies and programs. Support local government energy efficiency program via best practices, model ordinances, and technical support. Work with partners to develop messaging to decrease electricity demand during peak times.	The project would be required to comply with the City's Green Building Ordinance and the most recent CALGreen requirements. For these reasons, the project would be consistent with this measure.
<i>Building Measures</i>	
BL1 - Green Buildings: Collaborate with partners such as KyotoUSA to identify energy-related improvements and opportunities for onsite renewable energy systems in school districts; investigate funding strategies to implement upgrades. Identify barriers to effective local implementation of the California Green Building Standards Code (CALGreen; Title 24) statewide building energy code; develop solutions to improve implementation/enforcement. Work with ABAG's BayREN program to make additional funding available for energy-related projects in	As discussed above, the project would be required to comply with the City's Green Building Ordinance and the most recent CALGreen requirements. The project would also procure electricity from San José Clean Energy at the TotalGreen level, which is electricity that is 100 percent carbon free and sourced from all renewables. Therefore, the project is consistent with this measure.

Control Measure	Project Consistency with Measure Intent
the buildings sector. Engage with additional partners to target reducing emissions from specific types of buildings.	
BL2 - Decarbonize Buildings: Explore potential Air District rulemaking options regarding the sale of fossil fuel-based space and water heating systems for both residential and commercial use. Explore incentives for property owners to replace their furnace, water heater or natural-gas powered appliances with zero-carbon alternatives. Update Air District guidance documents to recommend that commercial and multi-family developments install ground source heat pumps and solar hot water heaters.	As noted above, the City adopted a Reach Code ordinance which prohibits natural gas infrastructure in all new construction. The proposed project would include all electric building construction, consistent with the City's Reach Code and 18 EV parking spaces would be provided on-site. The project is consistent with this measure.
<i>Natural and Working Lands Measures</i>	
NW2 - Urban Tree Planting: Develop or identify an existing model municipal tree planting ordinance and encourage local governments to adopt such an ordinance. Include tree planting recommendations, BAAQMD's technical guidance, best management practices for local plans, and CEQA review.	A total of 11 on-site trees would be removed as a part of the project. The project would be required to comply with the City's tree replacement policy to replace the trees. The project proposes to plant 131 15-gallon trees. Therefore, the project is consistent with this control measure.
<i>Waste Management Measures</i>	
WA4 - Recycling and Waste Reduction: Develop or identify and promote model ordinances on community-wide zero waste goals and recycling of construction and demolition materials in commercial and public construction projects.	The City adopted the Zero Waste Strategic Plan which outlines policies to help the City foster a healthier community and achieve its Green Vision goals, including 75 percent diversion by 2013 and zero waste by 2022. In addition, the project would comply with the City's Construction and Demolition Diversion Program during construction which ensures that at least 75 percent of construction waste generated by the project is recovered and diverted from landfills. Therefore, the project is consistent with this control measure.
<i>Water Measures</i>	
WR2 - Support Water Conservation: Develop a list of best practices that reduce water consumption and increase on-site water recycling in new and existing buildings; incorporate into local planning guidance.	The project includes water efficient landscaping and irrigation systems throughout the site. For this reason, the project would be consistent with this measure.

The project is consistent with the planned growth in the General Plan and the applicable control measures identified above. Therefore, the proposed project would not result in a significant impact related to consistency with the Bay Area 2017 CAP.

Additionally, as described in further detail below, the project would not exceed the BAAQMD significance thresholds related to criteria air pollutant emissions (refer to Table 4.3-4, Table 4.3-5, and Table 4.3-6), therefore, the project would not conflict with 2017 CAP's goal of attaining the NAAQS and CAAQS. As a result, the project would not conflict with or obstruct the implementation of an applicable air quality plan and the project would have a less than significant impact. **(Less than Significant Impact)**

Construction Criteria Pollutant Emissions

The California Emissions Estimator Model (CalEEMod) Version 2020.4.0 was used to estimate emissions from on-site construction activity, construction vehicle trips, and evaporative emissions. The model provides emission estimates for both on-site and off-site construction activities. On-site activities are primarily made up of construction equipment emissions, while off-site activity includes worker, hauling, and vendor traffic. The project land use types and size, and anticipated construction schedule described in Section 3.0 Project Description, were input to CalEEMod. The CARB Emission FACtors 2021 (EMFAC2021) model was used to predict emissions from construction traffic, which includes worker travel, vendor trucks, and haul trucks. The CalEEMod model output along with construction inputs are included in Appendix A.

Average daily emissions were calculated for construction by dividing the annual construction emissions by the number of active construction workdays that year.¹⁹ Table 4.3-4 shows the average daily construction emissions of ROG, NO_x, PM₁₀ exhaust, and PM_{2.5} exhaust during construction of the project. As indicated in Table 4.3-4, predicted average daily project construction emissions would not exceed the BAAQMD significance thresholds during any year of construction. Therefore, project construction would have a less than significant criteria pollutant emissions impact and would not conflict with or obstruct implementation of the 2017 CAP. **(Less than Significant Impact)**

Table 4.3-4: Average Daily Construction Criteria Pollutant Emissions

Year	Emissions (pounds/day)*			
	ROG	NO _x	PM ₁₀ Exhaust	PM _{2.5} Exhaust
2023	7.77	11.13	0.51	0.62
BAAQMD Significance Threshold	54	54	82	54
Significant?	No	No	No	No

*Based on 195 construction workdays

Source: Illingworth & Rodkin, Inc. *865 Embedded Way Industrial Project Air Quality Assessment*. August 2022.

¹⁹ As noted in Section 3.2.8 Construction of the Initial Study, construction is anticipated to begin in fall 2023 and end in 2024. However, at the time the Air Quality and GHG Assessment was prepared (refer to Appendix B), construction was anticipated to begin and end in 2023. As a result, the emissions computed in the Initial Study are based on a 2023 construction start date. This represents a conservative estimate of project's construction emissions because the modeling software used to estimate construction emissions assumes a slightly older construction fleet for the year 2023 than for the year 2024, resulting in slightly higher emissions estimates.

Operational Criteria Pollutant Emissions

Operational criteria pollutant emissions from the project would be generated primarily from trucks and passenger vehicles driven by future employees traveling to the proposed project site. Based on the 12 truck loading docks, it was assumed that the project would generate 24 trucks or 48 truck trips daily. In addition, evaporative emissions from architectural coatings and maintenance products (classified as consumer products) are typical operational emissions from these types of uses. CalEEMod was used to estimate emissions from operation of the proposed project assuming full build-out. Additionally, a 472-horsepower diesel fueled fire pump would be installed in the southeastern corner of the building as part of the project. It was assumed the fire pump would operate 50 hours per year for testing and maintenance purposes. Table 4.3-5 provides annual operational emissions and Table 4.3-6 provides the average daily operational emissions. The daily emissions were calculated assuming 365 days of operation.

Table 4.3-5: Annual Operational Criteria Pollutant Emissions

Year	Annual Emissions (tons/year)			
	ROG	NO _x	PM ₁₀	PM _{2.5}
2024	1.16	0.50	0.82	0.21
BAAQMD Significance Threshold	10	10	15	10
<i>Exceed Threshold?</i>	<i>No</i>	<i>No</i>	<i>No</i>	<i>No</i>

Source: Illingworth & Rodkin, Inc. *Air Quality Assessment*. August 2022.

Table 4.3-6: Average Daily Operational Criteria Pollutant Emissions

Year	Emissions (pounds/day)*			
	ROG	NO _x	PM ₁₀	PM _{2.5}
2024	6.38	2.74	4.49	1.16
BAAQMD Significance Threshold	54	54	82	54
<i>Exceed Threshold?</i>	<i>No</i>	<i>No</i>	<i>No</i>	<i>No</i>

*Based on 365 days of operation

Source: Illingworth & Rodkin, Inc. *865 Embedded Way Industrial Project Air Quality Assessment*. August 2022.

As shown in Table 4.3-5 and Table 4.3-6, the proposed project would not exceed significance thresholds for ROG, NO_x, PM₁₀, and PM_{2.5} during operations. Therefore, the project would have a less than significant criteria pollutant emissions impact and would not conflict with or obstruct implementation of the 2017 CAP. **(Less than Significant Impact)**

b) Would the project result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?

The Bay Area is designated a nonattainment area for the federal O₃ and PM_{2.5} standards and for the State O₃, PM₁₀, and PM_{2.5} standards. The proposed project would increase criteria pollutants in the

Bay Area, contributing to existing violations of O₃ and particulate matter standards. As described in the BAAQMD CEQA Air Quality Guidelines, air pollution by its nature is largely a cumulative impact. No single project is sufficient in size to, by itself, result in nonattainment of ambient air quality standards. If a project exceeds the identified significance thresholds, its emissions would be cumulatively considerable, resulting in significant adverse air quality impacts to the region's existing air quality conditions. As discussed above in the discussion under checklist question "a" the proposed project would not result in any air pollutant emissions exceeding BAAQMD's significance thresholds. As a result, the proposed project would not result in a cumulatively considerable net increase of any criteria pollutant for which the region is in non-attainment. **(Less than Significant Impact)**

c) Would the project expose sensitive receptors to substantial pollutant concentrations?

Criteria Air Pollutants

In a 2018 decision (*Sierra Club v. County of Fresno*), the state Supreme Court determined CEQA requires that when a project's criteria air pollutant emissions would exceed applicable thresholds and contribute a cumulatively considerable contribution to a significant cumulative regional criteria pollutant impact, the potential for the project's emissions to affect human health in the air basin must be disclosed. State and federal ambient air quality standards are health-based standards, and exceedances of those standards result in continued unhealthy levels of air pollutants. As stated in the 2017 BAAQMD CEQA Air Quality Guidelines, air pollution by its nature is largely a cumulative impact. No single project is sufficient in size, by itself, to result in nonattainment of ambient air quality standards. Instead, a project's individual emissions contribute to existing cumulatively significant adverse air quality impacts. In developing thresholds of significance for air pollutants, BAAQMD considered the emission levels for which a project's individual emissions would be cumulatively considerable. If a project has a less than significant impact for criteria pollutants, it is assumed to have no adverse health effect.

Fugitive Dust

Construction activities associated with the project, particularly during site preparation and grading, would temporarily generate fugitive dust in the form of PM₁₀ and PM_{2.5}. Sources of fugitive dust would include disturbed soils at the construction site and trucks carrying uncovered loads of soils. Unless properly controlled, vehicles leaving the site would deposit mud on local streets, which could be an additional source of airborne dust after it dries. The BAAQMD CEQA Air Quality Guidelines consider these impacts to be less than significant if best management practices are implemented to reduce the emissions. As described below, the project includes Standard Permit Conditions that incorporate the BAAQMD best management practices to reduce fugitive dust related impacts to a less than significant level.

Standard Permit Condition:

- **Construction-related Air Quality.** The following measures shall be implemented during all phases of construction to control dust and exhaust at the project site:

- Water active construction areas at least twice daily or as often as needed to control dust emissions.
- Cover trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
- Remove visible mud or dirt track-out onto adjacent public roads using wet-power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- Pave new or improved roadways, driveways, and sidewalks as soon as possible.
- Lay building pads as soon as possible after grading unless seeding or soil binders are used.
- All vehicle speeds on unpaved roads shall be limited to 15 mph
- Replant vegetation in disturbed areas as quickly as possible.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Minimize idling times either by shutting off equipment when not in use, or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations). Provide clear signage for construction workers at all access points.
- Maintain and properly tune construction equipment in accordance with manufacturer's specifications. Check all equipment by a certified mechanic and record a determination of running in proper condition prior to operation.
- Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints.

With implementation of the above Standard Permit Conditions, the project would have a less than significant impact related fugitive dust emissions. The project would, therefore, not expose sensitive receptors to substantial pollutant concentrations associated with fugitive dust.

Toxic Air Contaminants

Construction

Construction equipment and associated heavy-duty truck traffic emit DPM, which is a known TAC. Construction exhaust emissions pose health risks for sensitive receptors such as surrounding residents west of the Coyote Creek. The primary community risk impacts associated with construction emissions are cancer risk and exposure to DPM and PM_{2.5}.

Operation

Sources of operational TAC would be the trucks traveling to and from the project site in addition to the emergency fire pump source. The health risk assessment prepared by Illingworth & Rodkin, Inc. estimated there would be 24 trucks or 48 truck trips generated daily by the project based on the 12 truck loading docks. All trucks were assumed to be heavy-duty diesel-powered trucks and a source of

long-term DPM emissions. These trucks would travel to and from the site and are anticipated to idle at loading docks for 5 minutes for each trip. The 472-horsepower) diesel emergency fire pump would be operated for testing and maintenance purposes for a maximum of 50 hours per year under normal conditions.

As described in Section 3.0 Project Description, trucks equipped with transport refrigeration units are not anticipated since the project would not include cold storage. The project includes the following condition of approval to ensure no refrigerated trucks are used in the future:

Condition of Approval

- No Refrigerated Uses: Approved operations under this permit include dry storage only, with no option for the conversion to cold storage in the future. If conversion to cold storage is proposed in the future, additional environmental review is required.

Summary of Project TAC Health Risks and Hazards

The health risk assessment completed for the project (refer to Appendix A) evaluated potential health effects from the project's TAC sources (construction and operation) upon nearby sensitive receptors (e.g., residences). The health risk assessment identified a maximally exposed individual (MEI). The project maximally exposed individual (MEI) is identified as the sensitive receptor that is most impacted by the project's construction and operation TAC sources based on factors such as emission sources and the prevailing wind direction. The MEI for this project is located at a single-family residence to the northwest of the project site across Coyote Creek approximately 535 feet northwest of the project site. The sensitive receptor identified as the MEI is the most exposed receptor to construction activity, truck traffic, and emissions from the testing and maintenance of the fire pump station. The health risk impacts related to the project's TAC sources are summarized in Table 4.3-7 and the location of the MEI is shown in Figure 4.3-1 below.

Table 4.3-7: Project Risk Impacts at the Off-Site MEI

Source	Cancer Risk (per million)	Annual PM_{2.5} (µg/m³)	Hazard Index
Project Construction (Years 0-1)	0.47 (infant)	0.01	<0.01
Project Truck Traffic (Years 2-30)	0.21 (infant)	<0.01	<0.01
Project Fire Pump	0.23 (infant)	<0.01	<0.01
Total/Maximum Project Impact (Years 0-30)	0.91 (infant)	0.01	<0.01
<i>BAAQMD Single-Source Threshold</i>	<i>10</i>	<i>0.3</i>	<i>1.0</i>
Exceed Threshold?	No	No	No

Source: Illingworth & Rodkin, Inc. *865 Embedded Way Industrial Project Air Quality Assessment*. August 2022.

As shown in Table 4.3-7, the risk impacts associated with construction and operation of the proposed project would not exceed the BAAQMD single-source thresholds for cancer risk, PM_{2.5} concentrations, or the hazard index at the MEI receptor; therefore, the project would result in less than significant TAC related impacts.



Source: Illingworth & Rodkin, Inc., August 5, 2022.

PROJECT TAC SOURCES AND MAXIMUM TAC IMPACT (MEI)

FIGURE 4.3-1

Cumulative Health Risk Impact at the Project MEI

The community health risk assessment considered all substantial sources of TACs that could affect sensitive receptors located within 1,000 feet of the project site. Cumulative community risk sources within 1,000 feet of the project site include Hellyer Avenue and one permitted stationary source (emergency generator owned by KBAY-KEZR Alpha Media LLC). Table 4.3-8 reports both the project and cumulative community risk impacts at the project MEI. Figure 4.3-2 shows the locations of the cumulative TAC sources in relation to the Project MEI.

Table 4.3-8: Cumulative Risk Impacts at the Off-Site MEI

Source	Cancer Risk (per million)	Annual PM_{2.5} (µg/m³)	Hazard Index
Total/Maximum Project Impact	0.7	0.01	<0.01
Hellyer Ave, ADT 12,710	0.05	<0.01	<0.01
KBAY-KEZR Alpha Media LLC (Facility ID #201638, Generators), MEI at 750 feet	0.01	-	-
Combined Sources ¹	0.72	<0.02	<0.02
<i>BAAQMD Cumulative Source Threshold</i>	<i>100</i>	<i>0.8</i>	<i>10.0</i>
Exceed Threshold?	No	No	No

¹Some numbers may not add up precisely due to rounding considerations

Source: Illingworth & Rodkin, Inc. *865 Embedded Way Industrial Project Air Quality Assessment*. August 2022.

As shown in Table 4.3-8, the project's community risk impact would not exceed the cumulative thresholds for increased cancer risk, PM_{2.5} concentration, or hazard index values. Therefore, the project would not expose sensitive receptors to substantial pollutant concentrations. **(Less than Significant Impact)**

d) Would the project result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?

The proposed project would construct an industrial building for research and development purposes. Heavy-duty construction equipment and vehicles would emit odors, such as diesel exhaust, during use and at idle (limited to five minutes). However, these odors would be intermittent, and the odors disperse with distance. All construction-related odors would cease upon completion of construction. In addition, the operation of the R&D building would not be a typical source of odors. The BAAQMD 2017 *CEQA Air Quality Guidelines* lists screening distance for land uses that generate substantial odors with typical land uses being landfills, food manufacturing, composting facilities, and chemical plants. An industrial research and development facility is not listed nor is anticipated to release significant and unusual odors; therefore, the project would not include any sources of significant odors that would cause complaints from surrounding uses. Odor impacts from construction and operational activities would be less than significant. **(Less than Significant Impact)**



CUMULATIVE TAC AND $PM_{2.5}$ SOURCES AND THE PROJECT MEI

FIGURE 4.3-2

4.4 BIOLOGICAL RESOURCES

The following discussion is based in part on a Biological Resources Report prepared for the project by H.T. Harvey & Associates, Inc. in November 2023 and an Arborist Report prepared by Traverso Tree in March 2023. Copies of these reports are attached to this Initial Study as Appendix B and Appendix C, respectively.

4.4.1 Environmental Setting

4.4.1.1 *Regulatory Framework*

Federal and State

Endangered Species Act

Individual plant and animal species listed as rare, threatened, or endangered under state and federal Endangered Species Acts are considered special-status species. Federal and state endangered species legislation has provided the United States Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife (CDFW) with a mechanism for conserving and protecting plant and animal species of limited distribution and/or low or declining populations. Permits may be required from both the USFWS and CDFW if activities associated with a proposed project would result in the “take” of a species listed as threatened or endangered. To “take” a listed species, as defined by the State of California, is “to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill” these species. Take is more broadly defined by the federal Endangered Species Act to include harm of a listed species.

In addition to species listed under state and federal Endangered Species Acts, Sections 15380(b) and (c) of the CEQA Guidelines provide that all potential rare or sensitive species, or habitats capable of supporting rare species, must be considered as part of the environmental review process. These may include plant species listed by the California Native Plant Society and CDFW-listed Species of Special Concern.

Migratory Bird Treaty Act

The federal Migratory Bird Treaty Act (MBTA) prohibits killing, capture, possession, or trade of migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. Hunting and poaching are also prohibited. This includes direct and indirect acts, except for harassment and habitat modification, which are not included unless they result in direct loss of birds, nests, or eggs. The CDFW also protects migratory and nesting birds under California Fish and Game Code Sections 3503, 3503.5, and 3800. The CDFW defines taking as causing abandonment and/or loss of reproductive efforts through disturbance.

Sensitive Habitat Regulations

Wetland and riparian habitats are considered sensitive habitats under CEQA. They are also afforded protection under applicable federal, state, and local regulations, and are generally subject to regulation by the United States Army Corps of Engineers (USACE), Regional Water Quality Control Board (RWQCB), CDFW, and/or the USFWS under provisions of the federal Clean Water Act (e.g., Sections 303, 304, 404) and State of California Porter-Cologne Water Quality Control Act.

Fish and Game Code Section 1602

Streambeds and banks, as well as associated riparian habitat, are regulated by the CDFW per Section 1602 of the Fish and Game Code. Work within the bed or banks of a stream or the adjacent riparian habitat requires a Streambed Alteration Agreement from the CDFW.

Regional and Local

Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

The Santa Clara Valley Habitat Plan/Natural Community Conservation Plan (Habitat Plan) covers approximately 520,000 acres, or approximately 62 percent of Santa Clara County. It was developed and adopted through a partnership between Santa Clara County, the Cities of San José, Morgan Hill, and Gilroy, Santa Clara Valley Water District (Valley Water), Santa Clara Valley Transportation Authority (VTA), USFWS, and CDFW. The Habitat Plan is intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in southern Santa Clara County. The Santa Clara Valley Habitat Agency is responsible for implementing the plan.

San José Tree Ordinance

The City of San José maintains the urban landscape by controlling the removal of ordinance trees on private property (San José Municipal Code Section 13.32). Ordinance trees are defined as trees 38 inches in circumference, or approximately 12 inches in diameter, at a height of 4.5 feet above the ground. Ordinance trees are generally mature trees that help beautify the City, slow the erosion of topsoil, minimize flood hazards, minimize the risk of landslides, increase property values, and improve local air quality. A tree removal permit is required from the City of San José for the removal of ordinance trees.

Riparian Corridor Protection and Bird-Safe Design Council Policy

The City's Riparian Corridor Protection and Bird-Safe Design Council Policy provides guidance consistent with the goals, policies, and actions of the City's General Plan.²⁰ New buildings in existing urban infill areas are required to have a minimum 100-foot setback from riparian corridors. Additionally, new development should use materials and lighting that are designed and constructed to reduce light and glare impacts to riparian corridors and should be directed away from riparian corridors.

Bird-Safe Design Guidance includes: (1) the design of buildings and structures should avoid mirrors and large areas of reflective glass, (2) avoidance of transparent glass skyways, walkways, or entryways, (3) free-standing glass walls, and transparent building corners, (4) avoidance of funneling open space to a building façade. The area north of Highway 237 is specifically mentioned in these guidelines as a location where bird safe design is an important consideration.

²⁰ City of San José. *Riparian Corridor Protection and Bird-Safe Design*. August 23, 2016. Accessed May 13, 2022. Available at: <https://www.sanjoseca.gov/home/showpublisheddocument?id=12815>

Envision San José 2040 General Plan

The Envision San José 2040 General Plan contains the following policies which are specific to biology and applicable to the proposed project:

Envision San José 2040 Relevant Biological Policies

Policy	Description
ER-4.1	Preserve and restore, to the greatest extent feasible, habitat areas that support special-status species. Avoid development in such habitats unless no feasible alternatives exist and mitigation is provided of equivalent value.
ER-4.4	Require that development projects incorporate mitigation measures to avoid and minimize impacts to individuals of special-status species.
ER-5.1	Avoid implementing activities that result in the loss of active native birds' nests, including both direct loss and indirect loss through abandonment, of native birds. Avoidance of activities that could result in impacts to nests during the breeding season or maintenance of buffers between such activities and active nests would avoid such impacts.
ER-5.2	Require that development projects incorporate measures to avoid impacts to nesting migratory birds
ER-6.3	Employ low-glare lighting in areas developed adjacent to natural areas, including riparian woodlands. Any high-intensity lighting used near natural areas will be placed as close to the ground as possible and directed downward or away from natural areas.
ER-6.6	Encourage the use of native plants in the landscaping of developed areas adjacent to natural lands.
ER-6.8	Design and construct development to avoid changes in drainage patterns across adjacent natural areas and for adjacent native trees, such as oaks.

4.4.1.2 *Existing Conditions*

The project site is located within the Coyote Creek watershed, at the southern end of the San Francisco Bay. The proposed project is classified as an “Urban Development” land cover type, which is a “covered project” under the Habitat Plan.

Habitat Conditions

Field surveys completed on the site in May 2022 identified four land cover types: California annual grassland, serpentine bunchgrass grassland, urban-suburban, and mixed oak woodland. These habitats are described in detail below. Table 4.4-1 provides a summary of the land cover acreages on the site, and their distribution is depicted in Figure 4.4-1. Focused surveys were conducted in May

2022, October 2022, March 2023, April 2023, May 2023, and August 2023, and the results of these surveys are discussed in detail below.

Table 4.4-1: Habitats on the Project Site

Biological Community	Area (acres)	Percentage of Site
California Annual Grassland	6.9	68%
Serpentine Bunchgrass Grassland	1.5	15%
Urban-Suburban	1.3	13%
Mixed Oak Woodland	0.4	4%
Total	10.1	100%

Source: H.T. Harvey & Associates. *865 Embedded Way Biological Resources Report*. November 2023.

California Annual Grassland

California annual grassland is the dominant land cover type on the project site (refer to Figure 4.4-1). Nonnative grasses such as wild oat, ripgut brome, foxtail barley, and soft brome, as well as weedy nonnative forbs such as short-podded mustard, black mustard, redstem filaree, annual yellow sweetclover, and rose clover are present within this habitat. Native California poppies are widely distributed throughout this habitat, and small patches of native dwarf plantain are interspersed among the annual grasses. In the central portion of the site, the California annual grassland habitat has been previously disturbed due to historical grading and is dominated by nonnatives, but portions of the site that have not been previously disturbed support small patches of native California sage or widely dispersed individuals of native naked buckwheat. In addition, dense patches of nonnative poison hemlock (*Conium maculatum*), black mustard, and sweetclover are present in the northwest and southwest corners of this land cover. This annual grassland habitat contains a number of plant species ranked by the California Invasive Plant Council (Cal-IPC) as being moderately invasive.

Serpentine Bunchgrass Grassland

Serpentine bunchgrass grassland is present along the boundaries of the previously disturbed area on the project site (refer to Figure 4.4-1). Native plants present within this habitat include grasses such as purple needlegrass and small fescue; shrubs such as toyon; and forbs such as dwarf plantain, hayfield tarweed, blow wives, gumweed, popcorn flower, naked buckwheat, and California poppy. Approximately 85 individuals of Santa Clara Valley dudleya, a state rare plant and federally endangered species, are present on approximately 10 serpentine rock outcrops in these grasslands in the northeastern corner of the project site. Hall's bush mallow is also a species often associated with serpentine habitats. A total of 13 individuals of Hall's bush mallow, a California rare plant that is not listed on either the state or federal endangered species lists, and three seedlings are also present on the project site along the western boundary of the pavement footprint shown in Figure 4.4-1. Two additional Hall's bush mallow individuals located outside of the project's impact area were detected immediately off-site, on the slope between the site boundary and the Coyote Creek Trail as shown in Figure 4.4-1. A total of 15 mature Hall's bush mallow individuals and three seedlings are within the project site vicinity.

Urban-Suburban

Urban-Suburban areas include paved asphalt parking lots, sidewalks, and roadways adjacent to the undeveloped portion of the project site that are interspersed with small islands of landscape

vegetation, as well as a graveled roadway that extends westward across the previously disturbed portion of the site from the site's eastern boundary (refer to Figure 4.4-1). Landscape vegetation present within these areas includes nonnative creeping rosemary, flowering pear, and strawberry tree.

Mixed Oak Woodland

Mixed Oak Woodland habitat is located in the southwestern portion of the site (refer to Figure 4.4-1) and includes native coast live oaks, valley oaks, toyon, elderberry, and coyote bush. Several nonnative flowering pears and ornamental plums are also present in this habitat.

Seasonal Wetland

No wetlands or other waters of the United States/state occur on the project site.

Non-Wetland Waters

The Coyote Creek borders the project site to the west and flows south to north. Coyote Creek is considered a water of the United States based on the ordinary high-water mark, regular flow, and direct connectivity to the San Francisco Bay. The RWQCB regulates the Coyote Creek. No project activities are proposed within the bed and banks of Coyote Creek.

Special-Status Species

CEQA requires assessment of the effects of a project on species that are protected by state, federal, or local governments as "threatened, rare, or endangered," which are species typically described as "special-status species." For the purpose of the environmental review of the project, special-status species have been defined as described below.

For purposes of this analysis, "special-status" plants are considered plant species that meet one or more of the following criteria:

- Listed under the Federal Endangered Species Act (FESA) as threatened, endangered, proposed threatened, proposed endangered, or a candidate species.
- Listed under California Endangered Species Act (CESA) as threatened, endangered, rare, or a candidate species.
- Listed by the CNPS as CRPR 1A, 1B, 2, 3, or 4.

For purposes of this analysis, "special-status" animals are considered animal species that meet one or more of the following criteria:

- Listed under FESA as threatened, endangered, proposed threatened, proposed endangered, or a candidate species.
- Listed under CESA as threatened, endangered, or a candidate threatened or endangered species.
- Designated by the CDFW as a California species of special concern.



BIOLOGICAL COMMUNITIES PRESENT WITHIN PROJECT AREA

FIGURE 4.4-1

- Listed in the California Fish and Game Code as fully protected species (fully protected birds are provided in Section 3511, mammals in Section 4700, reptiles and amphibians in Section 5050, and fish in Section 5515).

Information concerning threatened, endangered, and other special-status species that potentially occur on the project site was collected from several sources and reviewed by H. T. Harvey & Associates.

Focused surveys were conducted in May 2022, October 2022, March 2023, April 2023, May 2023, and August 2023 to (1) identify and assess existing biotic habitats and plant and animal communities on the project site, (2) assess the project site for its potential to support special-status species and their habitats, and (3) identify potential jurisdictional and sensitive habitats, such as waters of the U.S./state and riparian habitat.

Special-Status Plant Species

Based on the Biological Resources Report (Appendix B), 16 special-status plant species were determined to have suitable habitat present on the project site. Based on field surveys completed, the following 14 special-status plant species were determined to be absent from the project site: Tiburon paintbrush, coyote ceanothus, Metcalf Canyon jewel-flower, arcuate bush mallow, big-scale balsamroot, Brewer's clarkia, most beautiful jewel-flower, woolly-headed lessingia, bent-flowered fiddleneck, fragrant fritillary, pink creamsacs, San Francisco collinsia, woodland woollythreads, and smooth lessingia.

Two special-status plant species, Santa Clara Valley dudleya (a federally endangered species and a Habitat Plan covered species) and Hall's bush mallow²¹, were observed on the project site during the May 2022 site visit. Approximately 85 individual Santa Clara Valley dudleya plants were identified in the northwestern corner (as shown in Figure 4.4-1) of the project site during the field survey. A total of 13 mature individuals of Hall's bush mallow and three seedlings were identified on-site west of the pavement footprint as shown in Figure 4.4-1 with two more mature Hall's bush mallow individuals off-site approximately 70 feet west of the project site boundaries. The mature Hall's bush mallow individuals were identified in the May 2022 surveys. In March 2023, the three Hall's bush mallow seedlings were identified.

Table 4.4-2 lists the two special-status plant species that are either confirmed to be present or have the potential to occur on the site. Of the two species, only the Santa Clara Valley dudleya is covered under the Habitat Plan.

²¹ Section 15380(b) of the CEQA Guidelines provides that a species not listed on the federal or state lists of protected species may be considered rare if the species can be shown to meet certain specified criteria. All potentially rare or sensitive species, or habitats capable of supporting rare species, are considered for environmental review per the CEQA Guidelines Section 15380(b). Hall's bush mallow has no formal regulatory protection but this plant species is listed as a rare, threatened, or endangered in California on the California Rare Plant Rank (CRPR 1 B.2) per the California Native Plant Society (CNPS). Pursuant to CEQA Guidelines Section 15380(b), this plant species is analyzed as a special-status plant and adverse effects to this plant may be considered significant.

Table 4.4-2: Special-Status Plant Species on the Project Site

Special-Status Plant Species	Potential to Occur on Project Site	Covered under the Valley Habitat Plan?
Hall's bush mallow	Present	No
Santa Clara Valley dudleya	Present	Yes

Source: H.T. Harvey & Associates. *865 Embedded Way Biological Resources Report*. November 2023.

Special-Status Wildlife Species

The project site either generally lacks suitable habitat for special-status wildlife species and/or the site is isolated from the nearest known population by development or unsuitable habitat. As a result, no federal or state listed wildlife species are expected to occur on the site. Specifically, the following special-status wildlife species are absent from the project site based on the lack of habitat observed during the May 2022 field survey and lack of recorded sightings: the western bumble bee, California tiger salamander, California red-legged frog, foothill yellow-legged frog, Swainson's hawk, bald eagle, least Bell's vireo, San Joaquin kit fox, burrowing owl, loggerhead shrike, San Francisco dusky-footed woodrats, and Townsend's big-eared bat.

Due to the lack of aquatic habitat on-site, the project site does not support special-status fish species. However, there is potential for project activities to affect special-status fish species present in the Coyote Creek, such as Central California Coast steelhead, Central Valley fall-run Chinook salmon, Pacific lamprey, Sacramento hitch, and Central California roach. Additionally, the southwestern pond turtle, a California species of special concern, may be present along Coyote Creek.

Due to the project site lacking suitable nesting, roosting, or breeding habitat, the following species are not expected to nest, roost, or breed on or near the project site: tricolored blackbird, Bryant's savannah sparrow, golden eagle, peregrine falcon, mountain lion, pallid bat, American badger, and monarch butterfly. The project site is in an area with high levels of human activity and does not provide the specific habitat needs (e.g., trees with large cavities for roosting, non-tidal freshwater marshes with tall emergent herbaceous vegetation, and diked/muted tidal salt marsh habitat with pickleweed-dominated portions) for the listed wildlife species.

The only special-status wildlife species that can potentially breed or occur on or immediately adjacent to the project site are the Bay checkerspot butterfly, Crotch's bumble bee, yellow warbler, and white-tailed kite. Of these species, only the Bay checkerspot butterfly is covered under the Habitat Plan. During a survey conducted in April 2023, no Bay checkerspot butterfly adults or Crotch's bumble bees were observed. While the Bay checkerspot butterfly and Crotch's bumble bee are unlikely to be present, it is possible that individuals may occasionally forage or breed on the site and, therefore, the species cannot be deemed absent.

Existing Trees

A total of 29 trees were identified on-site with 11 trees requiring removal based on the results of the Arborist Report (refer to Appendix C). Per the project's proposed landscape plan, development of the project would result in the removal of 11 trees. The species and quantities of each tree are listed in Table 4.4-3. As shown in Table 4.4-3, 11 trees are proposed for removal by the project in order to accommodate the proposed development.

Table 4.4-3: Summary of Existing Trees On-Site

Number	Species	Diameter at Breast Height	Ordinance Trees	Preservation Status
1	Callery Pear	7	No	Keep
2	Valley Oak	13	Yes	Keep
3	Valley Oak	10,13	Yes	Keep
4	Valley Oak	9, 14	Yes	Keep
5	Callery Pear	5.5	No	Keep
6	Coast Live Oak	7, 6, 7, 4	Yes	Keep
7	Valley Oak	10,9, 12, 13	Yes	Keep
8	Valley Oak	8	No	Keep
9	Callery Pear	6.5	No	Remove
10	Callery Pear	6	No	Remove
11	Callery Pear	6	No	Remove
12	Coast Live Oak	10.5	No	Remove
13	Coast Live Oak	7	No	Remove
14	Valley Oak	14.5	Yes	Remove
15	Valley Oak	11	No	Remove
16	Valley Oak	9.5	No	Remove
17	Valley Oak	8, 8	Yes	Remove
18	Valley Oak	10, 16	Yes	Remove
19	Callery Pear	3.5	No	Remove
20	Holly Oak	5	No	Remove
21	Mexican Fan Palm	20	Yes	Keep
22	Coast Live Oak	4, 4, 7	Yes	Keep
23	Coast Live Oak	2, 3	No	Keep
24	Coast Live Oak	7, 3, 3, 3, 4	Yes	Keep
25	Callery Pear	11.5	No	Keep
26	Purple Leaf Plum	11	No	Keep
27	Purple Leaf Plum	5, 6, 4.5	Yes	Keep
28	Holly Oak	5.5	No	Keep
29	Holly Oak	5.5	No	Keep

Note: Multiple trucks resulted in multiple diameter at breast height.

Source: Traverso Tree. *Arborist Report for 865 Embedded Way – Parcel B*. March 2023.

4.4.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW) or United States Fish and Wildlife Service (USFWS)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the CDFW or USFWS?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

a) Would the project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS?

Impacts on California Annual Grassland and Urban-Suburban Land Cover

The construction of the project would result in the permanent removal of approximately 6.6-acres of California annual grassland habitat and disturbance of approximately 1.3-acres of urban-suburban land cover on the project site. However, these areas have been previously disturbed due to historical

grading (refer to Section 4.5 Cultural Resources and Section 4.7 Geology and Soils for the grading history) and are located in an urban area. The grassland does not provide high-quality habitat for native vegetation, wildlife, or special-status species as described in Section 4.4.1.2 Existing Conditions. Therefore, impacts related to the permanent removal of California annual grassland and disturbance of urban-suburban land cover would be less than significant. **(Less than Significant Impact)**

Impacts on Serpentine Bunchgrass Grassland and Associated Special-Status Plant Species

As a result of the project, approximately 1.5 acres of serpentine bunchgrass grassland would be converted into urban-suburban land uses on the project site, which would reduce native serpentine vegetation on-site. The project would be required to pay all applicable Habitat Plan land cover fees, including fees for impacts to serpentine land cover, as a standard permit condition. These fees would contribute to the Habitat Plan's conservation program, which includes habitat acquisition, restoration, preservation, and management targeted at serpentine land cover habitats. With payment of Habitat Plan fees, project impacts on 1.5 acres of serpentine bunchgrass grassland would be reduced to a less-than-significant level.

As described previously, serpentine bunchgrass grassland supports many special-status plant species, two of which have been confirmed to be present on the site: Santa Clara Valley dudleya and Hall's bush mallow. Impacts to these two species are discussed below.

Santa Clara Valley Dudleya

The Santa Clara Valley dudleya is a special-status plant species covered under the Habitat Plan. The 85 Santa Clara Valley dudleya individual plants known to be present within the serpentine bunchgrass grassland habitat on the site would be removed as a result of the project. Since Santa Clara Valley dudleya is a covered species under the Habitat Plan, payment of relevant fees and compliance with required conditions under the Habitat Plan would reduce impacts to a less-than-significant level. As described in the discussion under checklist question "f" below, the project would be required to comply with all applicable Habitat Plan provisions as a standard permit condition. As a result, impacts to Santa Clara Valley dudleya would be less than significant, as the Habitat Plan was prepared specifically to allow for development projects to mitigate for their impacts to covered species by participating in, including providing funding for, the Habitat Plan. **(Less than Significant Impact)**

Hall's Bush Mallow

The Hall's bush mallow is a special-status plant species that is not covered under the Habitat Plan, nor is it listed under the FESA or CESA. The 13 mature Hall's bush mallow individuals identified in the May 2022 survey and three seedlings present in the March 2023 survey are present within the serpentine bunchgrass grassland habitat on the site. The project does not propose or intend to remove or damage these individuals, and the project site design includes small buffers to avoid impacting these plants. However, without proper precautions, the 13 mature Hall's bush mallow individuals may inadvertently be directly or indirectly impacted by the project. Direct impacts could include unintentional grading or filling areas supporting this species, trampling or crushing of plants, and soil compaction, if construction crews are not properly informed of the plants' locations and need for protection. Indirect impacts could include increased mobilization of dust onto plants, which can

affect their photosynthesis and respiration, changes to hydrology supporting these plants due to grading or construction in nearby habitats, and nitrogen deposition resulting from an increase in vehicle trips associated with the completed project.

While the surveys disclosed the presence of several seedlings, unlike the mature Hall's bush mallow individuals, the effects of construction are not considered for the three seedlings because the seedlings' mortality is high (with or without the impacts of construction activities) and seedlings take approximately three years to mature. Based on these factors, the three seedlings are not considered individuals that would be possibly impacted by construction of the project. In addition, construction activities would not indirectly impact the two mature Hall's bush mallow individuals approximately 70 feet west of the site boundary due to their distance to active construction areas.

The project would actively avoid impacts to the Hall's bush mallow individuals identified within the project disturbance area (which includes the 13 mature individuals and three seedlings) with a buffer surrounding the plant individuals. The project does not intend to remove or damage any Hall's bush mallow individuals; all individuals within the project site boundaries would be retained. However, the possibility exists, even with the use of avoidance buffers implemented during project construction, that individual plants may be unintentionally directly or indirectly impacted.

.As a result, implementation of the mitigation measures identified below would be required to reduce potential impacts to Hall's bush mallow. Alternatively, if Hall's bush mallow is formally added to the Habitat Plan as a covered species in the future and the project has not submitted a Habitat Plan application, compliance with Habitat Plan conditions and payment of Habitat Plan fees would reduce impacts on Hall's bush mallow to less-than-significant levels under CEQA, and mitigation measures MM BIO-1.1, BIO-1.2, and BIO-1.3 would not be necessary.

Impact BIO-1: While the project does not intend to remove or damage any Hall's bush mallow individuals, construction of the project could inadvertently, without proper precautions, result in impacts to Hall's bush mallow, a special-status plant species occurring within and outside the project development area.

Mitigation Measures:

MM BIO-1.1: **Protect Hall's Bush Mallow Individuals During Construction.** Prior to issuance of any grading or building permits, the project applicant shall prepare and submit construction plans clearly depicting all individual Hall's bush mallow (not including seedlings) and shall show construction-free buffers for individuals located within the project site to the Director of Planning, Building and Code Enforcement or the Director's designee. The project shall maintain construction-free buffers around individuals throughout the construction period to prevent incidental take of Hall's Bush Mallow individuals during construction activities. The radii of the buffers shall represent the maximum feasible distance between the individuals and proposed development activities. Based on the known locations of Hall's bush mallow individuals within the proposed development area, the maximum feasible radius for individuals within the proposed development area is four feet. Prior to initial ground disturbance or vegetation removal, the

established buffers 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, and all construction personnel shall be trained (through a Worker Environmental Awareness Program or WEAP) on the locations of these plants, how their locations and the surrounding buffer are marked, and how impacts on these plants are to be avoided (i.e., the entry of construction personnel and vehicles within the marked buffers shall be prohibited, and no storage of equipment or materials within the marked buffers shall occur). These requirements shall be printed on all approved plans for grading and construction.

MM BIO-1.2:

Post-Construction Monitoring. Post-construction monitoring shall be conducted for a period of three years after completion of construction activities to determine if MM BIO-1.1 successfully ensured the long-term survival of Hall's bush mallow individuals, or if indirect impacts of the project (e.g., dust mobilization, shading, and/or changes to hydrology) resulted in the death or decline in health of Hall's bush mallow plants. Monitoring shall be conducted annually by a qualified plant ecologist, consisting of a site visit conducted during the species' May to September flowering period, until the three year monitoring period is complete. A schedule for the flowering period surveys shall be prepared by the qualified plant ecologist and submitted to the Director of Planning, Building and Code Enforcement, or the Director's designee, for review and approval prior to the issuance of a grading permit or building permit, whichever occurs first. This schedule must include timing of the submittal of monitoring reports for the annual reports in the May to September flowering period, starting the first flowering period after issuance of the certificate of occupancy. A report documenting the survey results shall be submitted to the Director of Planning, Building and Code Enforcement, or the Director's designee, on an annual basis based on the approved schedule until monitoring is complete.

If the qualified plant ecologist determines that more than 10 percent of the 13 mature Hall's bush mallow population (i.e., more than one plant) within the project development area dies or declines substantially in health following completion of the project, MM BIO-1.3 shall be implemented. However, if at least 90 percent of the mature Hall's bush mallow population (i.e., at least 12 plants) continues to be present and in good health three years following the completion of construction, no additional mitigation is required.

MM BIO-1.3:

Create or Enhance, Preserve, and Manage Mitigation Populations. If more than 10 percent of the site population would be impacted despite the implementation of MM BIO-1.1, compensatory mitigation shall be provided by the property owner to increase the size of an existing population, or the creation and management of a new population to offset the impact. The compensatory mitigation shall be provided via the preservation, enhancement, and management of occupied habitat for the species as follows:

- (1) If mitigation occurs through enhancement of an existing population, then on-site or off-site habitat occupied by the affected species shall be enhanced (e.g., through focused management for the species in question) to increase the number of individuals present. Mitigation may occur on-site if a qualified biologist identifies a location on the project site with sufficient available area to support the plants as well as suitable habitat conditions (e.g., slope, soils, lack of shading, and other factors) in the context of site conditions following project construction. If no locations on the site are suitable, off-site mitigation would be necessary. The increase in numbers shall be at least twice the number of individuals impacted (i.e., a 2:1 mitigation:impact ratio). The permanent preservation and management of these mitigation lands shall be ensured through an appropriate mechanism, such as a conservation easement or fee title purchase.
- (2) If mitigation occurs through creation of a new population, seed from the population to be impacted shall be harvested (or obtained from another Santa Clara County source) and used either to expand an existing population or to establish an entirely new population in suitable habitat. The number of individuals produced by this population expansion or creation shall be at least twice the number of individuals impacted (i.e., a 2:1 mitigation:impact ratio). The permanent protection and management of these mitigation lands shall be ensured through an appropriate mechanism, such as a conservation easement or fee title purchase.

Areas proposed to be preserved and enhanced as compensatory mitigation for impacts to Hall's bush mallow must contain extant populations of the species (as verified by a qualified plant ecologist), or in the event that expansion or establishment of a new population is selected, the area must contain sufficient suitable habitat to support the new mitigation population as determined by a qualified plant ecologist. Verification of the presence of suitable habitat shall be performed by a qualified plant ecologist at any time prior to establishment of the mitigation. Mitigation areas shall be permanently preserved and managed 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 will be achieved by the mitigation activities, as determined by a qualified plant ecologist. The mitigation habitat shall 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. At the time the mitigation is established, the mitigation habitat shall contain sufficient habitat to support at least twice as many individuals as are impacted, as determined by a qualified plant ecologist. 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 by qualified plant or restoration ecologists and implemented for the mitigation lands for a minimum of 10 years. That plan shall include, at a minimum, the following information:

- A summary of impacts to Hall's bush mallow, including impacts to its habitat, 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, or other appropriate methods such as grazing, prescribed burns, planting native species, or mowing) 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, who will take into account factors such as genetics and the spread of pathogens, such as *Phytophthora*);
- 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 10 years 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). The duration of the monitoring activities (a minimum of 10 years, as stated above) shall ultimately be determined by the qualified plant or restoration ecologist based on the number of years that are necessary to ensure that the mitigation is successful;
- The new population must contain at least twice the number of impacted individuals, by year 10, as determined by a qualified plant ecologist. If year 10 is a poor weather year for summer and fall-blooming annual plants and reference populations show a decline, this criteria can be measured in the next year occurring with average or better rainfall; and
- Contingency measures for mitigation elements that do not meet performance criteria. For example, if by year 10 (or the next suitable rainfall year after year 10) of monitoring, the project is unable to establish a self-sustaining population of the required number of individuals as

described above, the applicant shall create and manage an extant population of that same species in order to achieve the success criteria under a revised HMMP. The ultimate performance criteria for the revised HMMP shall be unchanged, but the methods used to achieve the criteria may change, and additional land may need to be purchased.

The HMMP shall be provided to the Director of Planning, Building and Code Enforcement, or the Director's designee for approval. The applicant shall fund the management and monitoring of the mitigation site at least until the success criteria are achieved; if the applicant sells the land or its interest in the project and its mitigation, it must provide the City financial assurances that it shall satisfy its mitigation obligations.

Implementation of mitigation measures MM BIO-1.1 through MM BIO-1.3 would reduce potential impacts to Hall's bush mallow to a less than significant level. **(Less than Significant Impact with Mitigation Incorporated)**

Impacts on Mixed Oak Woodland

The project would result in the permanent conversion of 0.4 acre of mixed oak woodland to urban-suburban land uses on the project site. These impacts would result in a reduction in the extent of native oak woodland vegetation on the site, including approximately nine mature native oak trees based on the Arborist Report Appendix C. Direct impacts would include grading or filling areas supporting oak woodland species, trampling, or crushing of plants, and soil compaction. Indirect impacts would include increased mobilization of dust onto plants, which can affect their photosynthesis and respiration, and changes to hydrology supporting these plants due to grading or construction in nearby habitats.

The project would be required to pay all applicable Habitat Plan land cover fees, including fees for impacts to mixed oak woodland, as a standard permit condition. These fees would contribute to the Habitat Plan's conservation program, which includes habitat acquisition, restoration, preservation, and management targeted at oak woodland habitats. With payment of Habitat Plan fees, project impacts on 0.4 acre of mixed oak woodland would be reduced to a less-than-significant level. **(Less than Significant Impact)**

Impacts on Water Quality, Special-Status Fish, and Southwestern Pond Turtle

The project would not directly impact the Coyote Creek since no project activities are proposed within 100 feet of the edge of the riparian canopy. Project construction activities that increase erosion, sedimentation, and turbidity, or result in spillage from refueling could indirectly affect water quality, the Central California Coast steelhead, Central Valley fall-run Chinook salmon, Pacific lamprey, Central California roach, Sacramento hitch, and the southwestern pond turtle in Coyote Creek. Since the project is a covered activity under the Habitat Plan, it would be required to comply with Condition 3, which applies to all covered projects and identifies a set of programmatic BMPs, performance standards, and control measures to minimize increases of peak discharge of storm water and to reduce runoff of pollutants to protect water quality, including during project construction. These requirements include preconstruction, construction site, and post-construction actions.

Preconstruction conditions are site design planning approaches that protect water quality by preventing and reducing the impacts of stormwater pollutants and increases in peak runoff rate and volume. They include hydrologic source control measures that focus on the protection of natural resources. Construction site conditions include source and treatment control measure to prevent pollutants from leaving the construction site and minimizing site erosion and local stream sedimentation during construction. Post-construction conditions include measures for stormwater treatment and flow control.

Also, as described in Section 4.10 Hydrology and Water Quality, the project is required to comply with the National Pollutant Discharge Elimination System (NPDES) General Construction Permit to control discharging pollutant into a water of the United States as a City standard permit condition. For post-construction urban runoff, the project would be required to comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29), which would ensure that the project includes stormwater design features to minimize stormwater pollutant discharges. The project proposes to create two bioretention areas and a subsurface infiltration system underneath the western parking lot. Compliance with these regulatory requirements would avoid indirect effects on water quality, special-status fish, or southwestern pond turtles in Coyote Creek and the project would be in compliance with Condition 3 above. **(Less than Significant Impact)**

Impacts on the Bay Checkerspot Butterfly

As described above, the project would permanently impact one acre of serpentine bunchgrass grassland and approximately 6.6-acres of California annual grassland, which are land covers that are potential habitats for the Bay checkerspot butterfly. Both land covers on the site have low potential to be occupied by Bay checkerspot butterflies since there is not suitable quality serpentine bunchgrass grassland habitat to support a viable population, and no butterflies were identified in the 2023 surveys, as described in Section 4.4.1.2 Existing Conditions. However, since a portion of the serpentine habitat includes dwarf plantain (a plant that is suitable for breeding), it is possible that small numbers of Bay checkerspot butterflies could either breed on-site or forage within the project site. The preparation of a Habitat Plan application for the project and payment of Habitat Plan impact fees (including the serpentine specialty fee) pursuant to the City's standard permit condition would reduce impacts to the Bay checkerspot butterfly. Payment of these fees would contribute to the Habitat Plan's conservation program, which includes habitat acquisition, restoration, preservation, and management targeted at the Bay checkerspot butterfly and its habitat. For these reasons, impacts related to Bay checkerspot butterfly would be less than significant. **(Less than Significant Impact)**

Impacts on Crotch's Bumble Bee

As described in Section 4.4.1.2 Existing Conditions, Crotch's bumble bee is unlikely to occur on the site and, therefore, unlikely to be impacted by the project. If the project impacts the species at all, it would impact only a very small proportion of the species' regional population, given that the project site provides a very small proportion of the species' regionally available habitat (i.e., grassland, scrub, and woodland throughout the South San Francisco Bay area). The areas of serpentine bunchgrass grassland and California annual grassland that would be impacted by the project are limited in extent, and do not support high-quality foraging habitat for this species. Grassland that would remain unimpacted on the project site, and possibly landscaped areas, may provide suitable habitat (at least for foraging) following project construction. Given the very limited extent of

potentially suitable habitat within the project impact area; the low quality of this habitat; the lack of any detections of this species during an April 2023 survey (in which the species was looked for); and the isolation of this habitat from known populations, few, if any, Crotch's bumble bees are expected to be present on the project site when construction occurs. Thus, due to the abundance of suitable foraging habitat in the project region (i.e., east and south of the project site in the foothills of the Diablo Range and along Coyote Ridge) and low probability of the Crotch's bumble bee occurring on-site, project activities are not expected to result in a substantial impact on nesting and foraging habitat for Crotch's bumble bees. . **(Less than Significant Impact)**

Impacts on Nesting Birds (Yellow Warbler and White-Tailed Kite)

The trees on and adjacent to the project site could provide nesting habitat for birds, including migratory birds and raptors. The yellow warbler (a California species of special concern) could potentially nest adjacent to the project site in riparian trees along Coyote Creek, and the white-tailed kite (a state fully protected species) may nest in trees along Coyote Creek or in mixed oak woodland habitat or landscape trees on and adjacent to the project site. The project would not result in the loss of suitable nesting habitat for the yellow warbler since no activities are proposed within the bed and banks of Coyote Creek. However, the project would result in the permanent loss of suitable nesting and foraging habitat for the white-tailed kite, as well as suitable foraging habitat for the yellow warbler.

Nesting birds are among the species protected under provisions of the Migratory Bird Treaty Act and California Fish and Game Code Sections 3503, 3503.5, and 2800. Development of the site during the nesting season (i.e., February 1 to August 31) could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. Disturbance that causes abandonment and/or loss of reproductive effort is considered a taking by CDFW and USFWS. Any loss of fertile eggs, nesting raptors, or any activities resulting in nest abandonment would constitute an impact. Construction activities such as site grading that disturb a nesting bird or raptor on-site or immediately adjacent to the project construction zone would also constitute an impact.

Impact BIO-2: The project's ground disturbing activities including grading, construction activities, and tree removal during the nesting season could impact migratory birds and raptors, including the Yellow Warbler and White-Tailed Kite.

Mitigation Measures:

MM BIO-2.1: **Avoidance.** The project applicant shall schedule ground-disturbing and construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st (inclusive), as amended.

MM BIO-2.2: **Nesting bird surveys.** If it is not possible to schedule construction activities and/or tree removal between September 1 and January 31, preconstruction surveys for nesting birds shall be conducted by a qualified ornithologist to ensure that no nests shall be disturbed during project implementation. These surveys shall be conducted no more than seven days prior to the initiation of demolition or construction activities, including tree removal and pruning.

During this survey, the ornithologist shall inspect all trees and other potential nesting habitats (e.g., trees, shrubs, ruderal grasslands, buildings) in and immediately adjacent to the impact areas for nests.

MM BIO-2.3: **Buffer zones.** If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist shall determine the extent of a construction free buffer zone to be established around the nest, typically 300 feet for raptors and 100 feet for other species, to ensure that raptor or migratory bird nests shall not be disturbed during project construction.

MM BIO-2.4: **Reporting.** Prior to any tree removal, or approval of any grading permits (whichever occurs first), the project applicant shall submit the ornithologist's report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning, Building and Code Enforcement, or the Director's designee.

Implementation of mitigation measures MM BIO-2.1 through MM BIO-2.4 would reduce potential impacts to nesting birds to a less than significant level. **(Less than Significant Impact with Mitigation Incorporated)**

Impacts Due to Bird Collisions

The proposed project would convert the existing undeveloped land into an urban development with a R&D building. The project's installation of new trees and landscaping may provide greater habitat opportunities for birds compared to existing conditions. The future landscape vegetation that would be planted on the site would be expected to provide somewhat greater habitat structure and foraging opportunities for birds compared to the existing grassland vegetation, primarily due to the presence of new trees on the site.

Additionally, riparian habitats along the Coyote Creek adjacent to the western project boundary support relatively high bird diversity. Birds on the project site would be expected to move between the riparian habitat along Coyote Creek and planted landscape vegetation on-site to look for feeding and resting opportunities in landscape vegetation of the project. Due to the movement of the birds between the riparian habitat and project site there is moderate potential for collisions with all building facades. The highest potential for bird collisions with the new building is with glazing that faces Coyote Creek (i.e., the west façade of the proposed new building). There is also collision potential due to the rows of trees that would be planted alongside the proposed R&D building providing connectivity between the Coyote Creek and portions of the project site located farther to the east.

Based on the project architectural plans, the building facades are composed primarily of opaque wall panels broken up by smaller windows, and no extensive areas of glazing are proposed. The opaque material would improve building visibility to birds. Also, the proposed project does not include any free-standing glass features or transparent glass corners, which are materials that lead to high-risk avian collision hazards. There is some glazing on the proposed building's main entrance, but vegetation and the limited glazing portion would limit bird collisions with this glazed area. A low number of bird collisions are expected due to the overall opaque material of the proposed R&D

building. Therefore, any bird collisions resulting from the proposed project would represent a very small portion of regional populations and would not represent a substantial portion of any species. For these reasons, the project would not result in the substantial loss of any special-status birds due to bird collision, and the project design conforms with the City's bird-safe design guidelines. **(Less than Significant Impact)**

Impacts Due to Increased Lighting

The project would result in the construction of buildings and other features (e.g., pedestrian walkways and open space areas) that would increase the amount of lighting within and around the project site. Lighting from the project would be generated by light fixtures illuminating buildings, building architectural lighting, and parking lot and pedestrian lighting. Depending on the location, direction, and intensity of exterior lighting, this lighting could potentially spill into adjacent natural areas, thereby resulting in an increase in lighting compared to existing conditions. Riparian and wetland habitat along Coyote Creek located west of the project site are close enough to the project site to be affected by the increase in lighting.

Wildlife species using Coyote Creek or inhabiting sensitive habitats along the creek may be subject to increased predation, decreased habitat availability (for species that show aversions to increased lighting), and alterations of physiological processes if the proposed development produces appreciably greater illuminance than the existing conditions. This impact on local wildlife populations is potentially significant due to the high ecological value of the adjacent habitat area along the Coyote Creek.

Impact BIO-3: The project would increase lighting near the Coyote Creek which could have a substantial adverse effect through habitat modifications on wildlife species that inhabit or occur along Coyote Creek s which are identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS.

Mitigation Measures:

MM BIO-3.1: Prior to the issuance of building permits, the project shall demonstrate the implementation of the following measures to minimize the lighting impacts on wildlife species using or near Coyote Creek:

- All exterior lighting shall be fully shielded to block illumination from shining outward towards Coyote Creek
- Exterior light fixtures shall comply with lighting zone LZ-2, Moderate Ambient, as recommended by the International Dark-Sky Association (2011) for light commercial business districts and high-density or mixed-use residential districts. The allowed total initial luminaire lumens for the project site is 2.5 lumens per square foot of hardscape, and the BUG rating for individual fixtures shall not exceed B3 or G2, as follows:

- B3: 2,500 lumens high (60–80 degrees), 5,000 lumens mid (30–60 degrees), 2,500 lumens low (0–30 degrees)
- G2: 225 lumens (forward/back light 80–90 degrees), 5,000 lumens (forward 60–80 degrees), 1,000 lumens (back light 60–80 degrees asymmetrical fixtures), 5,000 lumens (back light 60–80 degrees quadrilateral symmetrical fixtures)
- Exterior lighting shall be minimized from 10 p.m. until sunrise, except as needed for safety and City code compliance. (i.e., the total outdoor lighting lumens shall be reduced by at least 30 percent or extinguished, consistent with recommendations from the International Dark-Sky Association [2011]).

A lighting plan demonstrating compliance with these requirements shall be submitted to the Director of Planning, Building and Code Enforcement, or the Director's designee, for review and approval prior to issuance of building permits.

Implementation of MM BIO-3.1, above, would minimize the spillover of lighting as part of the project and would therefore reduce this impact to a less-than-significant level. **(Less than Significant Impact with Mitigation Incorporated)**

Impacts due to Increased Noise Levels

There would be potential for the project to result in the indirect disturbance of wildlife species using habitats along Coyote Creek due to construction noise and post-construction noise levels during operation of the new facility. Disturbance from increased noise levels could result in a reduction in foraging efficiency, increased movement or flushing from cover, or altered activity patterns that reduce energy reserves and increase predation risk. However, the increased noise levels from construction activities would be temporary and the operational noise associated with the project (e.g., vehicles and human activity) is similar to existing surrounding uses. Wildlife that occurs along Coyote Creek adjacent to the site are acclimated to the existing noise levels within this habitat from surrounding urban disturbances, including the operation of commercial facilities north and south of the site, residents located west of Coyote Creek, vehicle traffic on busy roadways such as Coyote Road and Hellyer Avenue, and recreational activity along the Coyote Creek Trail. In addition, the project footprint is set back a minimum of 100 feet from the riparian corridor, with the exception of a small portion of an existing driveway that is already used by existing development and would be used by the project. Noise and vibration levels attenuate or decrease with increasing distance from the source. The 100-foot riparian setback would provide buffer between the project site and the riparian habitat, minimizing the noise and vibration impacts on the wildlife in the riparian corridor. Therefore, given the existing development in proximity to the riparian corridor and the 100-foot riparian setback, wildlife inhabiting areas along Coyote Creek adjacent to the site would not be substantially affected by increased noise levels during or following project construction. **(Less than Significant Impact)**

b) Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the CDFW or USFWS?

Coyote Creek flows from south to north adjacent to the west of, but not through, the project site. The entirety of ground-disturbing project impacts would occur outside of the riparian corridor and east of the Coyote Creek Trail. The project building footprint and landscaping are designed to be outside of the 100 foot riparian setback. However, the southwestern portion of the existing paved western-most driveway on Embedded Way (approximately 1,720 square feet of the 36 foot driveway at the widest portion) encroaches into the 100 foot riparian setback. The Embedded Way driveway is an existing driveway that was constructed in the early 2000s as part of adjacent development, and the driveway was analyzed in the 2000 Mitigated Negative Declaration adopted for the adjacent development (referred to as the Hellyer Vista View and Creekside Plaza project).²² As part of the overall construction activities described in Section 3.2.8, there would be utility work within the driveway which would require trenching and re-paving. A 15-inch storm drain pipe and two 2-inch water lines would be installed. The utility work would require construction phases, such as excavation, trenching, and paving, which would be completed alongside the overall construction of the project and not take more than several months to complete. These construction impacts within the 100 feet setback would be temporary and the driveway would be restored to its original use post-construction. All construction activities would occur within the paved driveway and, therefore, would not physically alter the riparian corridor.

During project operation, the Embedded Way driveway would be the primary site access point for future project vehicle and truck trips. As a result, traffic associated with the project (during construction and operation) would increase the number of vehicles using the driveway compared to existing conditions. The most western Embedded Way driveway is likely a secondary driveway for the adjacent commercial buildings because there are two more eastern driveways along Embedded Way that provide direct access to the adjacent existing buildings.

However, as determined by the project biologists, the increase in usage of the driveway would not represent a new impact on the riparian corridor since the driveway is used by the existing industrial and office buildings surrounding the project site. The increased use of the Embedded Way driveway by the project would also not affect the ecological value of the riparian corridor or its use by wildlife due to the slight encroachment, which has existed for nearly two decades. Wildlife in the riparian corridor is already acclimated to the human activity that is present on the trail, on the roadways, and within the project area. Therefore, while a portion of the driveway associated with the project is already located within the 100-foot riparian setback, it is an existing driveway that is currently used by vehicles and the increased usage from additional project trips would not remove or cause the degradation of the riparian corridor. Therefore, the proposed project would have no direct permanent or temporary impacts on riparian habitat.

There is potential for indirect effects to occur within riparian areas adjacent to the project site if runoff from the project increases in intensity or frequency due to the proposed project. However, required construction-period BMPs and post-construction stormwater requirements would apply to

²² City of San José. *Initial Study and Negative Declaration for Site Development Permits (File H 99-06-040 & H 99-06-041)*. May 11, 2000.

the proposed project as discussed above, and these requirements would avoid and reduce these impacts to a less-than-significant level.

For the reasons described above, impacts related to encroachment into the riparian corridor along Coyote Creek would be less than significant. **(Less than Significant Impact)**

c) Would the project have a substantial adverse effect on state or federally protected wetlands through direct removal, filling, hydrological interruption, or other means?

Wetlands and other waters of the U.S./state are present adjacent to the project site within the Coyote Creek corridor. The project would avoid all impacts to state or federally protected wetlands and aquatic habitats by limiting development and construction activities to only occur outside of the 100-foot riparian setbacks required under City Council Policy 6-34 and the Habitat Plan. Additionally, required construction-period BMPs and post-construction stormwater requirements would apply to the proposed project, as discussed above, reducing the potential for project activities to affect nearby wetlands. Therefore, no wetland habitat would be impacted directly or indirectly by the project. **(Less than Significant Impact)**

d) Would the project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

Migratory movements of animal species are most often associated with riparian corridors. The Coyote Creek and the associated riparian corridor provide an important movement pathway for both aquatic and terrestrial wildlife species, connecting the associated wetlands to the San Francisco Bay. Although the proposed project would not result in any loss of aquatic, wetland, or riparian habitat along the Coyote Creek or in any substantial reduction in the value of the Coyote Creek corridor for wildlife movement (as described in the discussions under checklist questions “a” and “b”, above), it is expected to increase the number of human users of the Coyote Creek Trail to a small degree due to the introduction of employees on the project site, potentially subjecting animals within the riparian corridor to increased human disturbance. However, this trail is already heavily used by pedestrians and cyclists, and use of the riparian habitat along the river by persons experiencing homelessness already introduces human disturbance within the riparian habitat. The increase in users of the Coyote Creek Trail as a result of this project is not expected to contribute substantially to human disturbance of animals using the Coyote Creek corridor. Aquatic and terrestrial species would continue to be able to move north to south along the Coyote Creek following project development. Therefore, the project would not interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors or impede the use of native wildlife nursery sites. **(Less than Significant Impact)**

e) Would the project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

Tree Replacement

As described in Section 4.4.1.2 Existing Conditions, the proposed project would remove approximately 11 trees on-site, including two ordinance-sized native trees and nine non-ordinance sized trees of which five are native trees and four are non-native trees. The proposed project would be required to conform to tree replacement requirements as identified in the Municipal Code Section 13.28.300, General Plan Policies MS-21.4, MS-21.5, MS-21.6 and CD-1.24 and City of San José Tree Removal Ordinance (Municipal Code Section 13.31.010 to 13.32.100). The proposed project would be required to offset the impact to the urban forest through compliance with the Standard Permit Conditions below.

Standard Permit Condition: Trees removed for the project shall be replaced at ratios required by the City. The removal of a total of 11 trees would require planting of 38 15-gallon replacement trees or 19 24-inch box replacement trees at a tree planting ratio as stated in Table 4.4-4 below.

Table 4.4-4: Tree Replacement Ratios

Circumference of Tree to be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
38 inches or greater	5:1	4:1	3:1	15-gallon container
19 up to 38 inches	3:1	2:1	none	15-gallon container
Less than 19 inches	1:1	1:1	none	15-gallon container

x:x = tree replacement to tree loss ratio

Note: Trees greater than or equal to 38-inch circumference shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For Multi-Family residential, Commercial, and Industrial properties, a permit is required for removal of trees of any size.

A 38-inch tree equals 12.1 inches in diameter.

A 24-inch box tree = two 15-gallon trees

Single Family and Two-dwelling properties may be mitigated at a 1:1 ratio.

- A total of 11 trees on-site would be removed. According to the replacement ratios noted above, four trees would be replaced at a 2:1 ratio, five trees would be replaced at a 3:1 ratio, and the remaining two trees would be replaced at a 5:1 ratio. The total number and size of replacement trees required to be planted on-site is 38 15-gallon trees.
- The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees to be planted on the project site.
- Pay Off-Site Tree Replacement Fee(s) to the City, prior to the issuance of building permit(s), in accordance with the City Council approved Fee Resolution in effect at the time of payment. The City will use the off-site tree replacement fee(s) to plant trees at alternative sites.

The project proposes to plant a total of 129 15-gallon trees, which would exceed the City's requirements. Therefore, the proposed project would not conflict with any ordinance protecting

biological resources and would not result in a significant impact to trees and the community forest.
(Less than Significant Impact)

City of San José Riparian Setback Policy (Policy 6-34)

As discussed in checklist question “b,” a portion of the existing Embedded Way driveway that would be used by the project encroaches into the City of San José’s 100-foot riparian setback. As described in the Biological Resources Report (Appendix B), the existing paved driveway does not have a riparian setback exception because the previous Mitigated Negative Declaration for the project site (which included the project site) indicated the Embedded Way driveway would be outside the riparian setback identified at the time it was prepared in 2000.²³ However, due to increased riparian vegetation growth in the intervening period, along with more accurate mapping, the riparian corridor, and the corresponding 100-foot riparian setback, has shifted and now a section of the existing Embedded Way driveway is within the setback. The encroachment of the driveway would not require a riparian setback exception since this is an existing developed infrastructure feature and construction work in the driveway would be temporary. Animals using the riparian habitat along the adjacent reach of Coyote Creek are habituated to traffic, trail use, and other activities on both sides of the creek, the increase in use of the driveway due to project trips would not substantially affect the ecological value of the riparian corridor or its use by wildlife. Therefore, the project would not conflict with the City’s riparian setback policy, and impacts would be less-than-significant. **(Less than Significant Impact)**

f) Would the project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

The proposed project falls within the Habitat Plan Permit Area and would be required to comply with the Habitat Plan conditions and fees including the measures discussed above to mitigate impacts to serpentine bunchgrass grassland, Santa Clara Valley dudleya, and the Bay checkerspot butterfly.

Nitrogen Deposition Impacts on Serpentine Habitat

All development covered by the Habitat Plan is required to pay a nitrogen deposition fee as mitigation for cumulative impacts to serpentine plants in the Habitat Plan area. Nitrogen deposition is known to have damaging effects on many of the serpentine plants in the Habitat Plan area, as well as the host plants that support the Bay checkerspot butterfly. All major remaining populations of the butterfly and many of the sensitive serpentine plant populations occur in areas subject to air pollution from vehicle exhaust and other sources throughout the Bay Area including the project area. Because serpentine soils tend to be nutrient poor, and nitrogen deposition artificially fertilizes serpentine soils, nitrogen deposition facilitates the spread of invasive plant species. The displacement of these species, and subsequent decline of the several federally listed species, including the butterfly and its larval host plants, has been documented on Coyote Ridge in central Santa Clara County, immediately east of the project site.

²³ City of San José. *Initial Study and Negative Declaration for Site Development Permits (File H 99-06-040 & H 99-06-041)*. May 11, 2000.

Nitrogen tends to be efficiently recycled by the plants and microbes in infertile soils such as those derived from serpentine, so that fertilization impacts could persist for years and result in cumulative habitat degradation. The impacts of nitrogen deposition upon serpentine habitat and the Bay checkerspot butterfly can be correlated to the amount of new vehicle trips that a project is expected to generate. The nitrogen deposition fees collected under the Habitat Plan for new vehicle trips would be used as mitigation to purchase and manage conservation land for the Bay checkerspot butterfly and other sensitive species. The project would implement the following Standard Permit Condition.

Standard Permit Condition:

- The project may be subject to applicable SCVHP conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The project applicant shall submit the Santa Clara Valley Habitat Plan Coverage Screening Form ((<https://www.scv-habitatagency.org/DocumentCenter/View/151/Coverage-Screening-Form?bidId=>) to the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee for approval and payment of all applicable fees prior to the issuance of a grading permit. The Habitat Plan and supporting materials can be viewed at <https://scv-habitatagency.org/178/Santa-Clara-Valley-Habitat-Plan>.

Through compliance with the condition above, the project would not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. The project would pay nitrogen deposition fees based on the trip generation associated with the proposed uses. **(Less than Significant Impact)**

4.5 CULTURAL RESOURCES

The discussion below is based in part on a Literature Review Memorandum prepared for the project by PaleoWest in July 2022. A copy of the Literature Search, which is a confidential report, is on file at the City of San José Department of Planning, Building & Code Enforcement and is available upon request with appropriate credentials.

4.5.1 Environmental Setting

4.5.1.1 *Regulatory Framework*

Federal and State

National Historic Preservation Act

Federal protection is legislated by the National Historic Preservation Act of 1966 (NHPA) and the Archaeological Resource Protection Act of 1979. These laws maintain processes for determination of the effects on historical properties eligible for listing in the National Register of Historic Places (NRHP). Section 106 of the NHPA and related regulations (36 Code of Federal Regulations [CFR] Part 800) constitute the primary federal regulatory framework guiding cultural resources investigations and require consideration of effects on properties that are listed or eligible for listing in the NRHP. Impacts to properties listed in the NRHP must be evaluated under CEQA.

California Register of Historical Resources

The California Register of Historical Resources (CRHR) is administered by the State Office of Historic Preservation and encourages protection of resources of architectural, historical, archeological, and cultural significance. The CRHR identifies historic resources for state and local planning purposes and affords protections under CEQA. Under Public Resources Code Section 5024.1(c), a resource may be eligible for listing in the CRHR if it meets any of the NRHP criteria.²⁴

Historical resources eligible for listing in the CRHR must meet the significance criteria described previously and retain enough of their historic character or appearance to be recognizable as historical resources and to convey the reasons for their significance. A resource that has lost its historic character or appearance may still have sufficient integrity for the CRHR if it maintains the potential to yield significant scientific or historical information or specific data.

The concept of integrity is essential to identifying the important physical characteristics of historical resources and, therefore, in evaluating adverse changes to them. Integrity is defined as “the authenticity of a historical resource’s physical identity evidenced by the survival of characteristics that existed during the resource’s period of significance.” The processes of determining integrity are similar for both the CRHR and NRHP and use the same seven variables or aspects to define integrity that are used to evaluate a resource’s eligibility for listing. These seven characteristics include 1) location, 2) design, 3) setting, 4) materials, 5) workmanship, 6) feeling, and 7) association.

²⁴ California Office of Historic Preservation. “CEQA Guidelines Section 15064.5(a)(3) and California Office of Historic Preservation Technical Assistance Series #6.” Accessed August 31, 2020.
<http://www.ohp.parks.ca.gov/pages/1069/files/technical%20assistance%20bulletin%206%202011%20update.pdf>.

California Native American Historical, Cultural, and Sacred Sites Act

The California Native American Historical, Cultural, and Sacred Sites Act applies to both state and private lands. The act requires that upon discovery of human remains, construction or excavation activity must cease, and the county coroner be notified.

Public Resources Code Sections 5097 and 5097.98

Section 15064.5 of the CEQA Guidelines specifies procedures to be used in the event of an unexpected discovery of Native American human remains on non-federal land. These procedures are outlined in Public Resources Code Sections 5097 and 5097.98. These codes protect such remains from disturbance, vandalism, and inadvertent destruction, establish procedures to be implemented if Native American skeletal remains are discovered during construction of a project, and establish the Native American Heritage Commission (NAHC) as the authority to resolve disputes regarding disposition of such remains.

Pursuant to Public Resources Code Section 5097.98, in the event of human remains discovery, no further disturbance is allowed until the county coroner has made the necessary findings regarding the origin and disposition of the remains. If the remains are of a Native American, the county coroner must notify the NAHC. The NAHC then notifies those persons most likely to be related to the Native American remains. The code section also stipulates the procedures that the descendants may follow for treating or disposing of the remains and associated grave goods.

Local

Envision San José 2040 General Plan

The 2040 General Plan includes the following policies applicable specifically to development projects in San José:

Envision San José 2040 Relevant Cultural Resources Policies	
Policy	Description
ER-10.1	For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design
ER-10.2	Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon their discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced.

- ER-10.3 Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources
-

4.5.1.2 *Existing Conditions*

Archeological Setting

Native Americans occupied Santa Clara Valley and the greater Bay Area for more than 5,000 years. The exact time period of the Ohlone (originally referred to as Costanoan) migration into the Bay Area is debated by scholars. Dates of the migration range between 3,000 B.C. and 500 A.D. Regardless of the actual time frame of their initial occupation of the Bay Area and, in particular, Santa Clara Valley, it is known that the Ohlone had a well-established population of approximately 7,000 to 11,000 people with a territory that ranged from the San Francisco Peninsula and the East Bay south through the Santa Clara Valley and down to Monterey and San Juan Bautista.

Artifacts pertaining to the Ohlone occupation of San José have been found primarily along the City's major waterways. The project site is located adjacent to Coyote Creek, which is a known area of archaeological sensitivity. The project site has been analyzed as part of previous environmental studies addressing a much larger planning area, specifically the Edenvale Redevelopment Project EIR.²⁵ A Limited Cultural Resources Record Review memorandum was prepared by Basin Research Associates for the Edenvale Redevelopment area on May 12, 1998. The memorandum noted that three formally recorded prehistoric archaeological sites with lithic scatter were within or adjacent to the Edenvale Redevelopment area.²⁶ One of the identified archaeological sites is located directly south of the project site. Archaeological boundary testing was conducted in 1981 for all three sites to re-evaluate the boundaries of resources, resulting in the redefinition of the archaeological site boundaries near the project site. Subsequent subsurface trenching completed in 1983 on the archaeological site near the project site did not result in any cultural material that extended to any depth below the surface, and the lithic scatter known to be present on the archaeological site was determined to lack contextual integrity. It was also determined that prior subsurface disturbances within the Edenvale Redevelopment project area near the three identified archaeological sites had compromised the integrity of any subsurface deposits. While no cultural materials of significance were identified during the subsurface testing of the archaeological site near the project site, the portions of the Edenvale Redevelopment area in proximity to Coyote Creek were still deemed a high sensitivity archaeological zone; therefore, archaeological monitoring during subsurface construction activities and data recovery (for unexpected finds) were recommended in the Edenvale Redevelopment Plan EIR as mitigation measures for future development of the redevelopment area. The Edenvale Redevelopment area was graded in late the 1980s and grading activities were

²⁵ The Edenvale Redevelopment project was an approximately 2,312 acre project area. The project encompasses two areas with the "Old Edenvale" area bounded by Santa Teresa Boulevard, Bernal Road to the South, Cottle Road to the west, and Monterey Highway to the northeast. The "New Edenvale" area was bounded by United States Highway 101 and Coyote Creek to the west, Hellyer Avenue to the northeast, and Silicon Valley Boulevard to the south. The project included the construction of approximately 8.08 million square feet of industrial uses and transportation improvements. Source: City of San José. *Draft Environmental Impact Report Edenvale Redevelopment Project*. March 2000.

²⁶ Archaeological sites and cultural resources are typically found near sources of fresh water, such as rivers and lakes, because humans occupied areas where food and shelter opportunities were present.

monitored by Basin Research Associates. No significant cultural materials were noted or found at the locations of the three archaeological sites (which included the archaeological site south of the project site) during grading activities.²⁷

The Literature Review Memorandum completed for the project site by PaleoWest in 2022 also noted the prehistoric resources (in particular the archaeological site to the south of the project site) near Coyote Creek that were evaluated in the Basin Research Associates reports. A records search request was submitted to the Northwest Information Center on April 27, 2022 and the results indicated that one previously identified Prehistoric Period site and one informal resource overlaps with a small portion of the project site. During a site reconnaissance completed by PaleoWest archaeologists on June 2, 2022, there were no cultural materials, prehistoric or historic, identified as present on-site. Additionally, as detailed in Section 4.7 Geology and Soils and shown on Figure 4.7-1, the areas of the project site where ground disturbing activities would occur consist entirely of artificial fill or serpentine bedrock material, neither of which are considered sensitive for buried archaeological resources. The only native alluvium soil deposits, which are considered sensitive for buried archaeological resources, are located along the western boundary of the project site adjacent to Coyote Creek, in areas where no ground disturbing activities are proposed. The utility work that would occur in the project's driveway (the existing most western driveway off Embedded Way) would occur in area that is archaeologically sensitive but the existing driveway is located in an area with artificial fill and has been disturbed previously.

However, due to the existence of known archaeological sites in the immediate vicinity, the project site is considered to have high sensitivity for the presence of subsurface archaeological resources.

Historical Resources

The project site contains no built structures and, therefore, does not contain historic resources. There are no designated historic resources on properties surrounding the site. The nearest designated historic resource is Hayes Mansion, located approximately one mile southwest of the project site.²⁸ The project site was developed as a rural agricultural farmland from 1948 until the mid-1980s. Between 1982 and 1987, Embedded Way and Hellyer Avenue were constructed and during this time period the project site was graded and levelled. The surrounding industrial development was constructed between 1998 and 2002.

²⁷ Basin Research Associates. *Limited Cultural Resources Records Review*. May 12, 1998.

²⁸ City of San José. "Historic Resource Inventory." Map. Accessed July 12, 2022.

<https://www.arcgis.com/apps/webappviewer/index.html?id=b2d7cc355a86493c8da904b8c2fc3e3e&extent=-13591970.1207%2C4462771.7617%2C-13533877.9792%2C4499308.6613%2C102100>

4.5.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Disturb any human remains, including those interred outside of dedicated cemeteries?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

a) **Would the project cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5?**

The project site is vacant and does not contain structures of historical significance. Additionally, there are no historic structures located adjacent to the project site. Therefore, the proposed project would have no impact on historically significant structures pursuant to CEQA Guidelines Section 15064.5. **(No Impact)**

b) **Would the project cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5?**

As discussed in Section 4.5.1.2 Existing Conditions, the site is considered to have high sensitivity for prehistoric and historic archaeological resources. As a result, construction activities could result in the inadvertent exposure of buried prehistoric or historic archaeological materials that could be eligible for inclusion on the California Register and/or meet the definition of a unique archaeological resource as defined in Section 21083.2 of the Public Resources Code.

Impact CUL-1: Project construction activities could result in the accidental disturbance and/or destruction of undocumented archaeological resources due to the site's high sensitivity based on the proximity of the site to Coyote Creek and known archaeological sites in the project's vicinity.

Mitigation Measures:

MM CUL-1.1: **Treatment Plan:** Prior to the issuance of any grading permit, a project-specific Cultural Resources Treatment Plan shall be prepared by a qualified archaeologist, in consultation with a qualified Native American monitor, registered with the Native American Heritage Commission (NAHC) for the City of San José and that is traditionally and culturally affiliated with the geographic area. The Cultural Resources Treatment Plan shall reflect detail

pertaining to depths and locations of all ground disturbing activities. The Cultural Resources Treatment Plan shall be prepared and submitted to the Director of the City of San José Department of Planning, Building, and Code Enforcement or their designee prior to approval of any grading permit. The Treatment Plan shall contain, at a minimum:

- Identification of the scope of work and range of subsurface effects (including location map and development plan), including requirements for preliminary field investigations.
- Description of the environmental setting (past and present) and the historic/prehistoric background of the parcel (potential range of what might be found).
- Development of research questions and goals to be addressed by the investigation (what is significant vs. what is redundant information).
- Detailed field strategy used to record, recover, or avoid the finds and address research goals.
- Analytical methods.
- Report structure and outline of document contents.
- Disposition of the artifacts.
- Appendices: all site records, correspondence, and consultation with Native Americans, etc.

MM CUL-1.2:

Investigation. Prior to issuance of any grading permits, the project applicant shall complete a preliminary field investigation program in conformance with the project-specific Cultural Resources Treatment Plan required under Mitigation Measure MM CUL-1.1. The locations of subsurface testing and exploratory trenching shall be determined prior to issuance of any grading permit based on the Cultural Resources Treatment Plan recommendations. A qualified archaeologist and a qualified Native American monitor, registered with the Native American Heritage Commission (NAHC) for the City of San José and that is traditionally and culturally affiliated with the geographic area, shall complete a presence/absence exploration. Results of the investigation shall be provided to the Director of the City of San José Department of Planning, Building, and Code Enforcement or their designee prior to issuance of any grading permit.

If any finds were discovered during the preliminary field investigation, the project shall implement MM CUL-1.4 for evaluation and recovery methodologies. The results of the preliminary field investigation and program shall be submitted to the Director of the City of San José Department of Planning, Building, and Code Enforcement or their designee for review and approval prior to issuance of any grading permit.

MM CUL-1.3:

Construction Monitoring and Protection Measures. Although the data recovery and treatment program would be expected to recover potentially

significant materials and information from the areas impacted by the project prior to grading, it is possible that additional resources could remain on-site. Therefore, all ground-disturbing activities (e.g., grading and excavation) shall be completed under the observation of a qualified archaeologist and a qualified Native American monitor, registered with the Native American Heritage Commission (NAHC) for the City of San José and that is traditionally and culturally affiliated with the geographic area.

The qualified archaeologist or a qualified Native American monitor, registered with the NAHC for the City of San José and that is traditionally and culturally affiliated with the geographic area, shall have authority to halt construction activities temporarily in the immediate vicinity of an unanticipated find. If, for any reasons, the qualified archaeologist or a qualified Native American monitor, registered with the NAHC for the City of San José and that is traditionally and culturally affiliated with the geographic area, is not present, but construction crews encounter a cultural resource, all work shall stop temporarily within 50 feet of the find until a qualified archaeologist in consultation with a qualified Native American monitor, registered with the NAHC for the City of San José and that is traditionally and culturally affiliated with the geographic area, has been contacted to determine the proper course of action. The Director of the City of San José Department of Planning, Building, and Code Enforcement or their designee shall be notified of any finds during the grading or other construction activities. Any human remains encountered during construction shall be treated according to the protocol identified in MM CUL-1.5.

MM CUL-1.4:

Evaluation and Data Recovery. The Director of the City of San José Department of Planning, Building, and Code Enforcement or their designee shall be notified of any finds during the preliminary field investigation, grading, or other construction activities. Any historic or prehistoric material identified in the project area during the preliminary field investigation and during grading or other construction activities shall be evaluated for eligibility for listing as a Candidate City Landmark and/or in the California Register of Historic Resources. Data recovery methods may include, but are not limited to, backhoe trenching, shovel test units, hand auguring, and hand-excavation.

The techniques used for data recovery shall follow the protocols identified in the project-specific Cultural Resources Treatment Plan. Data recovery shall include excavation and exposure of features, field documentation, and recordation.

MM CUL-1.5:

Site Security. At the discretion of the Director of the City of San José Department of Planning, Building, and Code Enforcement or the Director's designee, site fencing shall be installed on-site during the investigation, grading, building, or other construction activities to avoid destruction and/or theft of potential cultural resources (if determined to be present on-site during

investigation). The responsible qualified archaeologist, in consultation with a qualified Native American monitor, registered with the Native American Heritage Commission (NAHC) for the City of San José and that is traditionally and culturally affiliated with the geographic area, shall advise the Director of the City of San José Department of Planning, Building, and Code Enforcement or their designee as to the necessity for a guard. The purpose of the security guard shall be to ensure the safety of any potential cultural resources (including human remains) that are left exposed overnight. The Director of PBCE shall have the final discretion to authorize the use of a security guard at the project site.

MM CUL-1.6:

Final Reporting. Once all analyses and studies required by the project-specific Cultural Resources Treatment Plan have been completed, the project applicant, or representative, shall prepare a final report summarizing the results of the field investigation, data recovery activities and results, and compliance with the Cultural Resources Treatment Plan during all demolition, grading, building, and other construction activities (as applicable). 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 contents of the report shall be consistent with the protocol included in the project-specific Cultural Resources Treatment Plan. The report shall be submitted to the Director of Planning, Building, and Code Enforcement for review and approval prior to issuance of any Certificates of Occupancy. Once approved, the final documentation shall be submitted to the Northwest Information Center at Sonoma State University, as appropriate.

MM CUL-1.7:

Curation. Upon completion of the final report required by the project-specific Cultural Resources Treatment Plan, all recovered archaeological materials not identified as tribal cultural resources by the Native American monitor, shall be transferred to a long-term curation facility. Any curation facility used shall meet the standards outlined in the National Park Services' Curation of Federally Owned and Administered Archaeological Collections (36 CFR 79). The project applicant shall notify the Director of the City of San José Department of Planning, Building, and Code Enforcement or their designee of the selected curation facility prior to the issuance of any Certificates of Occupancy. To the extent feasible, and in consultation with the Native American representative, all recovered Native American/tribal cultural resources and artifacts shall be reburied on-site in an area that is unlikely to be disturbed again. Treatment of materials to be curated shall be consistent with the protocols included in the project-specific Cultural Resources Treatment Plan.

All archaeological materials recovered during the data recovery efforts shall be cleaned, sorted, catalogued, and analyzed following standard archaeological procedures, and shall be documented in a report submitted to

the Director of Planning, Building and Code Enforcement and the Northwest Information Center at Sonoma State University.

MM CUL-1.8: Dignified and Respectful Treatment – Cultural Sensitivity Training Prior to Construction. An important aspect of the consultation process is the dignified and respectful treatment of Tribal Cultural Resources. Prior to issuance of the Grading Permit, the project shall be required to submit evidence that an Archaeological Monitoring Contractor Awareness Training was held prior to ground disturbance. The training shall be facilitated by the project archaeologist in coordination with a Native American representative registered with the Native American Heritage Commissions for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3.

The proposed project would be required to implement the provisions of a project-specific Cultural Resources Treatment Plan, as outlined in the mitigation measures above. Implementation of these measures would ensure extensive subsurface investigation where subsurface excavation and groundwork would occur. Through this field investigation and data recovery program, the project would avoid demolition, substantial alteration, or relocation of an eligible resource. Significant disturbance of any human remains, Native American or otherwise, would be avoided through a robust protection program designed to respond to an encounter with cultural resources and/or human remains in consultation with appropriate parties (e.g., the Most Likely Descendant).

With implementation of MM CUL-1.1 through MM CUL-1.8, the project would not cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5. **(Less than Significant Impact with Mitigation Incorporated)**

c) Would the project disturb any human remains, including those interred outside of dedicated cemeteries?

As stated above, the proposed project would require ground disturbing activities within an area of high archeological sensitivity. The project would be required to comply with the City's standard permit condition if human remains are encountered at the project site during construction.

Standard Permit Condition:

- If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American

Heritage Commission (NAHC) within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:

- The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 48 hours after being given access to the site.
- The MLD identified fails to make a recommendation; or
- The landowner or his authorized representative rejects the recommendation of the MLD, and mediation by the NAHC fails to provide measures acceptable to the landowner.

Through compliance with the standard permit condition, the proposed project would result in less than significant impacts to human remains which may be present on site. **(Less than Significant Impact)**

4.6 ENERGY

4.6.1 Environmental Setting

4.6.1.1 *Regulatory Framework*

Federal and State

Energy Star and Fuel Efficiency

At the federal level, energy standards set by the EPA apply to numerous consumer products and appliances (e.g., the EnergyStar™ program). The EPA also sets fuel efficiency standards for automobiles and other modes of transportation.

Renewables Portfolio Standard Program

In 2002, California established its Renewables Portfolio Standard Program, with the goal of increasing the percentage of renewable energy in the state's electricity mix to 20 percent of retail sales by 2010. Governor Schwarzenegger issued Executive Order (EO) S-3-05, requiring statewide emissions reductions to 80 percent below 1990 levels by 2050. In 2008, EO S-14-08 was signed into law, requiring retail sellers of electricity serve 33 percent of their load with renewable energy by 2020. In October 2015, Governor Brown signed SB 350 to codify California's climate and clean energy goals. A key provision of SB 350 requires retail sellers and publicly owned utilities to procure 50 percent of their electricity from renewable sources by 2030. SB 100, passed in 2018, requires 100 percent of electricity in California to be provided by 100 percent renewable and carbon-free sources by 2045.

Executive Order B-55-18 To Achieve Carbon Neutrality

In September 2018, Governor Brown issued an executive order, EO-B-55-18 To Achieve Carbon Neutrality, setting a statewide goal "to achieve carbon neutrality as soon as possible, and no later than 2045, and achieve and maintain net negative emissions thereafter." The executive order requires CARB to "ensure future Scoping Plans identify and recommend measures to achieve the carbon neutrality goal." EO-B-55-18 supplements EO S-3-05 by requiring not only emissions reductions, but also that, by no later than 2045, the remaining emissions be offset by equivalent net removals of CO₂ from the atmosphere through sequestration.

California Building Standards Code

The Energy Efficiency Standards for Residential and Nonresidential Buildings, as specified in Title 24, Part 6 of the California Code of Regulations (Title 24), was established in 1978 in response to a legislative mandate to reduce California's energy consumption. Title 24 is updated approximately every three years.²⁹ Compliance with Title 24 is mandatory at the time new building permits are issued by city and county governments.³⁰

²⁹ California Building Standards Commission. "California Building Standards Code." Accessed May 13, 2022. <https://www.dgs.ca.gov/BSC/Codes#@ViewBag.JumpTo>.

³⁰ California Energy Commission (CEC). "2019 Building Energy Efficiency Standards." Accessed May 13, 2022. <https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2019-building-energy-efficiency>.

California Green Building Standards Code

California Green Building Standards Code (CALGreen) establishes mandatory green building standards for buildings in California. CALGreen was developed to reduce GHG emissions from buildings, promote environmentally responsible and healthier places to live and work, reduce energy and water consumption, and respond to state environmental directives. CALGreen covers five categories: planning and design, energy efficiency, water efficiency and conservation, material and resource efficiency, and indoor environmental quality.

Advanced Clean Cars Program

CARB adopted the Advanced Clean Cars program in 2012 in coordination with the EPA and National Highway Traffic Safety Administration. The program combines the control of smog-causing pollutants and GHG emissions into a single coordinated set of requirements for vehicle model years 2015 through 2025. The program promotes development of environmentally superior passenger cars and other vehicles, as well as saving the consumer money through fuel savings.³¹

Regional and Local

Climate Smart San José

Climate Smart San José is a plan to reduce air pollution, save water, and create a stronger and healthier community. The City approved goals and milestones in February 2018 to ensure the City can substantially reduce GHG emissions through reaching the following goals and milestones:

- All new residential buildings will be Zero Net Carbon Emissions (ZNE) by 2020 and all new commercial buildings will be ZNE by 2030 (Note that ZNE buildings would be all electric with a carbon-free electricity source).
- One gigawatt of solar power will be installed in San Jose by 2040.
- 61 percent of passenger vehicles will be powered by electricity by 2030.

Reach Building Code

In 2019, the San José City Council approved Ordinance No. 30311 and adopted Reach Code Ordinance (Reach Code) to reduce energy related GHG emissions consistent with the goals of Climate Smart San José. The Reach Code applies to new construction projects in San Jose. It requires new residential construction to be outfitted with entirely electric fixtures. Mixed-fuel buildings (i.e., use of natural gas) are required to demonstrate increased energy efficiency through a higher Energy Design Ratings and be electrification ready. Effective August 1, 2021, all new construction developments are required to be all-electric buildings with no natural gas infrastructure. In addition, the Reach Code requires EV charging infrastructure for all building types (above current CALGreen requirements), and solar readiness for non-residential buildings.

³¹ California Air Resources Board. "The Advanced Clean Cars Program." Accessed May 13, 2022. <https://www.arb.ca.gov/msprog/acc/acc.htm>.

Envision San José 2040 General Plan

The Envision San José 2040 General Plan contains the following policies which are specific to energy and applicable to the proposed project:

Envision San José 2040 Relevant Energy Policies

Policy	Description
MS-1.1	Demonstrate leadership in the development and implementation of green building policies and practices. Ensure that all projects are consistent with or exceed the City's Green Building Ordinance and City Council Policies as well as State and/or regional policies which require that projects incorporate various green building principles into their design and construction.
MS-2.3	Utilize solar orientation (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
MS-2.4	Promote energy efficient construction industry practices.
MS-2.1.1	Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g., design to maximize cross ventilation and interior daylight) and through site design techniques (e.g., orienting buildings on sites to maximize the effectiveness of passive solar design).

4.6.1.2 *Existing Conditions*

Total energy usage in California was approximately 7,802 trillion British thermal units (Btu) in the year 2019, the most recent year for which this data was available.³² Out of the 50 states, California is ranked second in total energy consumption and 46th in energy consumption per capita. The California Energy consumption breakdown by end-use sector was approximately 19 percent (1,456 trillion Btu) for residential uses, 19 percent (1,468 trillion Btu) for commercial uses, 23 percent (1,805 trillion Btu) for industrial uses, and 39 percent (3,073 trillion Btu) for transportation.³³ This energy is primarily supplied in the form of natural gas, petroleum, nuclear electric power, and hydroelectric power.

³² United States Energy Information Administration. "California State Energy Profile." Last Updated March 17, 2022. Accessed May 13, 2022. Available at: <https://www.eia.gov/state/?sid=CA#tabs-3>

³³ Ibid.

Electricity

In 2020, a total of approximately 16,436 gigawatt hours (GWh) of electricity was consumed in Santa Clara County.³⁴ The non-residential sector consumed 12,043 GWh or 73 percent of the total, while the residential sector consumed 4,392 GWh or 25 percent.

SJCE is the electricity provider for residents and businesses in the City of San José. SJCE sources the electricity, and the Pacific Gas and Electric Company (PG&E) delivers it to customers over their existing utility lines. SJCE customers are automatically enrolled in the GreenSource program, which provides 80 percent GHG emission-free electricity. Customers can choose to enroll in SJCE's TotalGreen program at any time to receive 100 percent GHG emission-free electricity from entirely renewable sources.

Natural Gas

PG&E provides natural gas services within San José. In 2020, approximately two percent of California's natural gas supply came from in-state production, while the remaining supply was imported from other western states and Canada.³⁵ In 2020, 12,332 millions of therms of natural gas were consumed. The commercial sector consumed approximately 12 percent of the natural gas delivered to California, while the residential sector consumed approximately 23 percent. The electric power sector used 30 percent of the natural gas delivered and the industrial sector used 34 percent. Transportation accounted for one percent of natural gas use in California. In 2020, Santa Clara County (419 million of therms) used approximately two percent of the state's total consumption of natural gas (12,332 million of therms).³⁶

Fuel for Motor Vehicles

In 2021, 13.1 billion gallons of gasoline were sold in California.³⁷ The average fuel economy for light-duty vehicles (autos, pickups, vans, and sport utility vehicles) in the United States has steadily increased from about 13.1 miles per gallon (mpg) in the mid-1970s to 25.4 mpg in 2020.³⁸ Federal fuel economy standards have changed substantially since the Energy Independence and Security Act was passed in 2007. That standard, which originally mandated a national fuel economy standard of 35 miles per gallon by the year 2020, was updated in March 2020 to require all cars and light duty trucks achieve an overall industry average fuel economy of 40.4 mpg by model year 2026.^{39,40}

³⁴ California Energy Commission. Energy Consumption Data Management System. "Electricity Consumption by County." Accessed May 13, 2022. <http://ecdms.energy.ca.gov/elecbycounty.aspx>.

³⁵ California Gas and Electric Utilities. 2020 *California Gas Report*. Accessed May 13, 2021. Available at: https://www.socalgas.com/sites/default/files/2020-10/2020_California_Gas_Report_Joint_Utility_Biennial_Comprehensive_Filing.pdf

³⁶ California Energy Commission. "Natural Gas Consumption by County." Accessed May 13, 2022. Available at: <http://ecdms.energy.ca.gov/gasbycounty.aspx>.

³⁷ California Department of Tax and Fee Administration. "Net Taxable Gasoline Gallons." Accessed May 13, 2022. Available at: <https://www.cdtfa.ca.gov/taxes-and-fees/spftrpts.htm>.

³⁸ United States Environmental Protection Agency. "The 2021 EPA Automotive Trends Report: Greenhouse Gas Emissions, Fuel Economy, and Technology since 1975." November 2021. Accessed May 13, 2022. Available at: <https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P1013L1O.pdf>.

³⁹ United States Department of Energy. *Energy Independence & Security Act of 2007*. Accessed May 13, 2022. Available at: <http://www.afdc.energy.gov/laws/eisa>.

⁴⁰ Public Law 110-140—December 19, 2007. *Energy Independence & Security Act of 2007*. Accessed May 13, 2022. Available at: <http://www.gpo.gov/fdsys/pkg/PLAW-110publ140/pdf/PLAW-110publ140.pdf>.

4.6.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
a) Would the project result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?				

Energy Use During Construction

Construction of the project would require energy for the manufacture and transportation of building materials, preparation of the project site (i.e., grading), and the construction of the building. Construction energy usage is temporary and would not result in excessive energy consumption because construction processes are generally designed to be efficient to avoid excess monetary costs. The project would be constructed in an urbanized area with close access to roadways, construction supplies, and workers, making the project more efficient than construction occurring in outlying, more isolated areas. The construction process is already efficient and opportunities for increasing energy efficiency during construction are limited.

The project would be required to implement BAAQMD Best Management Practices, which would restrict unnecessary idling of construction equipment and require the applicant to post signs on the project site reminding workers to shut off idle equipment, thus reducing the potential for energy waste. In accordance with General Plan Policies MS-14.3 and MS-2.11, the project would implement the City's Green Building Policies to ensure that construction of the project meets industry best practices and techniques are applied to maximize energy performance at the construction stage. The City's Zero Waste Strategic Plan would be implemented at a project level to enhance construction and demolition debris recycling, thus increasing diversion from landfills and further contributing to the energy efficiency of the project's construction activities. For these reasons, construction of the project would not result in wasteful or inefficient use of energy. **(Less than Significant Impact)**

Energy Use During Operation

The project site is vacant, and the proposed project would result in an increase in energy use at the site. Energy would be consumed via heating and cooling of the proposed building, electricity use, water use, solid waste disposal and gasoline consumption of vehicles traveling to and from the site. The project is in an urban area and would connect to existing utilities and use existing roadways for access. Table 4.6-1 below shows the estimated annual energy use of the proposed R&D use.

Table 4.6-1: Estimated Annual Energy Use of Proposed Development¹

Land Use	Electricity Use (kWh)	Gasoline (gallons)
Research and Development	989,422	94,192
Parking Lot	30,100	--
Total	1,019,522	94,192

kWh = kilowatt per hour; kBtu = kilo-British thermal unit

Note: the estimated gasoline demand is based on the estimated annual VMT of 2,392,483 for the project, and an average fuel economy of 25.4 mpg. Source United States Environmental Protection Agency. The 2021 EPA Automotive Trends Report. November 2021. <https://nepis.epa.gov/Exec/ZipPDF.cgi?Dockey=P1013L1O.pdf>

Source: Illingworth & Rodkin, Inc. *865 Embedded Way Industrial Project Air Quality Assessment*. August 2022.

The proposed project would result in an annual increase in energy use of approximately 1,019,522 kWh and 94,192 gallons of gasoline. The project would be required to comply with all standards set in the latest iteration of the California Building Standards Code (California Code of Regulations Title 24), which would minimize the wasteful, inefficient, or unnecessary consumption of energy resources by the built environment during operation. California's CALGreen standards (California Code of Regulations Title 24, Part 11) require implementation of energy-efficient light fixtures and building materials into the design of new construction projects. The project would provide solar photovoltaic panels on the rooftop as required under the 2019 Building Energy Efficiency Standards and procure electricity from SJCE at the TotalGreen level, which is 100 percent carbon free electricity. The proposed project would also construct a 100 percent electric building with no natural gas infrastructure in accordance with the City's each code.

In addition, the project would be required to prepare and implement a Transportation Demand Management (TDM) plan (refer to MM TRAN-1.2) to reduce project VMT below the City threshold for office and commercial projects. The TDM plan would incentivize the use of alternative methods of transportation to and from the site, which would reduce the project's gasoline demand. New automobiles used by employees, guests, and vendors of the proposed project would be subject to fuel economy and efficiency standards applied throughout the State of California, which means that over time the fuel efficiency of vehicles associated with the project site would improve. For these reasons, the project would not result in a wasteful use of energy or conflict with a state or local plan for renewable energy or energy efficiency. **(Less than Significant Impact)**

b) Would the project conflict with or obstruct a state or local plan for renewable energy or energy efficiency?

The proposed project would be required to be built in conformance with City of San José policies and plans, including Council Policy 6-32 which governs green building requirements for private development. The project would be required to comply with existing regulations, including applicable measures from the City's General Plan and the City's reach code, which requires all new developments to be all-electric with no natural gas infrastructure. As such, the proposed project would not conflict with any other state-level regulations pertaining to energy. The proposed project would comply with existing State energy standards and would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency and, as a result, impacts would be less than significant. **(Less than Significant Impact)**

4.7 GEOLOGY AND SOILS

A geological hazard evaluation and geotechnical investigation was prepared for the project by Cornerstone Earth Group in May 2023 (Appendix D). The report summarized the current geological site conditions, identified geological hazards, and provided engineering recommendations to reduce geological hazards. The contents of the geotechnical engineering study inform the following discussions.

4.7.1 Environmental Setting

4.7.1.1 *Regulatory Framework*

State

Alquist-Priolo Earthquake Fault Zoning Act

The Alquist-Priolo Earthquake Fault Zoning Act was passed following the 1971 San Fernando earthquake. The act regulates development in California near known active faults due to hazards associated with surface fault ruptures. Alquist-Priolo maps are distributed to affected cities, counties, and state agencies for their use in planning and controlling new construction. Areas within an Alquist-Priolo Earthquake Fault Zone require special studies to evaluate the potential for surface rupture to ensure that no structures intended for human occupancy are constructed across an active fault.

Seismic Hazards Mapping Act

The Seismic Hazards Mapping Act (SHMA) was passed in 1990 following the 1989 Loma Prieta earthquake. The SHMA directs the California Geological Survey (CGS) to identify and map areas prone to liquefaction, earthquake-induced landslides, and amplified ground shaking. CGS has completed seismic hazard mapping for the portions of California most susceptible to liquefaction, landslides, and ground shaking, including the central San Francisco Bay Area. The SHMA requires that agencies only approve projects in seismic hazard zones following site-specific geotechnical investigations to determine if the seismic hazard is present and identify measures to reduce earthquake-related hazards.

California Building Standards Code

The California Building Standards Code (CBC) prescribes standards for constructing safe buildings. The CBC contains provisions for earthquake safety based on factors including occupancy type, soil and rock profile, ground strength, and distance to seismic sources. The CBC requires that a site-specific geotechnical investigation report be prepared for most development projects to evaluate seismic and geologic conditions such as surface fault ruptures, ground shaking, liquefaction, differential settlement, lateral spreading, expansive soils, and slope stability. The CBC is updated every three years.

California Division of Occupational Safety and Health Regulations

Excavation, shoring, and trenching activities during construction are subject to occupational safety standards for stabilization by the California Department of Industrial Relations, Division of Occupational Safety and Health (Cal/OSHA) under Title 8 of the California Code of Regulations and Excavation Rules. These regulations minimize the potential for instability and collapse that could injure construction workers on the site.

Public Resources Code Section 5097.5

Paleontological resources are the fossilized remains of organisms from prehistoric environments found in geologic strata. They range from mammoth and dinosaur bones to impressions of ancient animals and plants, trace remains, and microfossils. These materials are valued for the information they yield about the history of the earth and its past ecological settings. California Public Resources Code Section 5097.5 specifies that unauthorized removal of a paleontological resource is a misdemeanor. Under the CEQA Guidelines, a project would have a significant impact on paleontological resources if it would disturb or destroy a unique paleontological resource or site or unique geologic feature.

Local

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects with the City. The following policies are specific to geological resources and are applicable to the proposed project.

Envision San José 2040 Relevant Geologic and Soil Hazard Policies

Policy	Description
EC-4.2	Approve development in areas subject to soils and geologic hazards, including unengineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. The City of San José Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process.
EC-4.4	Require all new development to conform to the City of San José's Geologic Hazard Ordinance.
EC-4.5	Ensure that any development activity that requires grading does not impact adjacent properties, local creeks and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have a soil disturbance of one acre or more, are adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 1 and April 15.

4.7.1.2 *Existing Conditions*

Regional Geology

The project site is located within the Santa Clara Valley, which is a broad alluvial plane between the Santa Cruz Mountains to the southwest and west, and the Diablo Range to the northeast. The San Andreas Fault system, including the Monte Vista-Shannon Fault, exists within the Santa Cruz Mountains and the Hayward and Calaveras Fault systems exist within the Diablo Range.

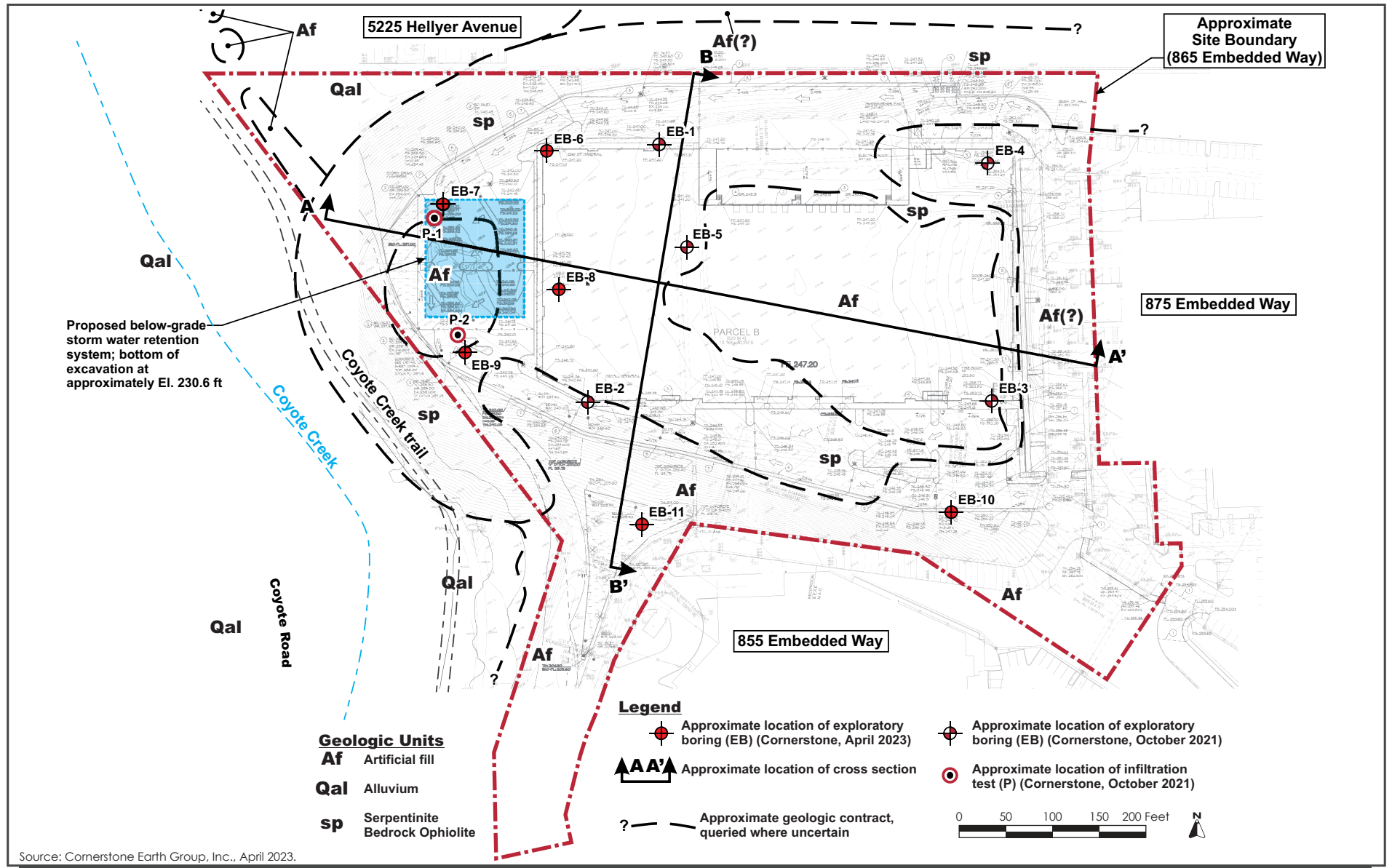
On-site Geologic Conditions

Topography and Soils

The topography of the site has been modified by grading from its original form and now consists of a flat building pad that slopes along the northern, western, and southern sides. The slopes that bound to the site to the north and west range from 30 to 35 feet high and are inclined at approximately 2:1 to 3:1 (horizontal: vertical). The southern and eastern slopes are man-made fill slopes with heights of 30 and 10 feet, respectively, and an incline of 2:1. The site was previously graded in the 1980s for future development.⁴¹ The site was then re-graded in the 1990s. As a result of the previous grading, the site is underlain by localized man-made fills near the ground surface and shallow bedrock consisting of ultramafic rocks from the Cretaceous-Jurassic Franciscan Complex. In samples of the bedrock, serpentinite was identified, which is often associated with natural occurring asbestos (NOA). The artificial man-made fill ranges from a silty gravelly sand to sandy gravel with cobbles. Artificial fill was encountered between approximately two and 14 feet below ground surface in the building footprint for the project, the western parking lot, the eastern parking lot, and along the project's driveway off Embedded Way. Serpentine bedrock was identified along the northwestern and northern boundaries of the project site, in between the project's western boundary and east of Coyote Creek trail. Alluvium soil deposits were identified along the western boundary of Coyote Creek, within the northwestern corner of the project's property line, and directly west of the project's driveway outside of the project's property lines. Refer to Figure 4.7-1.

Expansive soils possess a "shrink-swell" characteristic. Shrink-swell is the cyclic change in volume (expansion and contraction) that occurs in fine-grained clay sediments from the process of wetting and drying. Structural damage may result over a long period of time, usually the result of inadequate soil and foundation engineering or the placement of structures directly on expansive soils. Although expansive soils can be a hazard, it is generally mitigated through adherence with the standard engineering and building practices and techniques specified in the CBC and adherence to the recommendations in the site-specific geotechnical report. Based on the results of the geotechnical investigation, the soils on-site have a plasticity index of 21 and have a medium potential for expansion.

⁴¹ Basin Research Associates. *Limited Cultural Resources Records Review*. May 12, 1998.



PROJECT SITE SOIL GEOLOGY MAP

FIGURE 4.7-1

Groundwater

Based on the geological hazard evaluation and preliminary geotechnical investigation, groundwater is likely at or near the Coyote Creek level. Groundwater in the project area flows in a west or southwest direction. Based on the Geotechnical Investigation, groundwater has been estimated to occur at depths greater than 30 feet below ground surface. Fluctuations in the groundwater level may occur due to seasonal changes, variations in rainfall, underground patterns, and other factors, such as surface topography and distance from Coyote Creek.

Seismic and Seismic-Related Hazards

The San Francisco Bay Area is one of the most seismically active regions in the U.S. The significant earthquakes that occur in the Bay Area are generally associated with the crustal movements along well-defined active fault zones of the San Andreas Fault system, which regionally trend in a northwesterly direction. Faults in the region are capable of generating earthquakes of magnitude 6.7 or higher, and strong to very strong ground shaking is expected to occur at the project site during a major earthquake. Active faults within 16 miles of the project site are shown in Table 4.7-1. The project area is not located within the Alquist-Priolo Earthquake Fault Zone.

Table 4.7-1: Active Faults Near the Project Site

Fault	Distance from Site
Hayward Fault	3.2 miles west
Monte Vista-Shannon Fault	4.6 miles southwest
Calaveras Fault	6.8 miles east
San Andreas Fault	12.6 miles west

Source: Cornerstone Earth Group. Geological Hazard Evaluation and Preliminary Geotechnical Investigation. August 2022

Liquefaction

Liquefaction occurs when water-saturated soils lose structural integrity due to seismic activity. Soils that are most susceptible to liquefaction are loose to moderately dense, saturated granular soils with poor drainage. Based on the results of the analysis in Appendix D, the project is not located within State-designated liquefaction hazard zone or a Santa Clara County liquefaction hazard zone. The site has low potential for liquefaction.

Lateral Spreading

Lateral spreading is a type of ground failure related to liquefaction. It consists of the horizontal displacement of flat-lying alluvial material toward an open area, such as a steep bank of a stream channel. Areas of San José most prone to lateral spreading include lands adjacent to Guadalupe River and Coyote Creek.⁴² Coyote Creek is located adjacent to the western project site boundary. However, as described in the geotechnical engineering study, the potential for lateral spreading on the site is low because the site is underlain by shallow bedrock (Appendix D).

⁴² City of San José. *Envision San José 2040 General Plan Draft Program Environmental Impact Report*. June 2011. P. 504.

Landslides

Landslides occur when the stability of a slope changes from a stable to an unstable condition. A small portion of the northeastern section of the project site is located within a Santa Clara County Landslide Hazard Zone likely due to a western slope having a free face towards the Coyote Creek Drainage (Appendix D).⁴³

Paleontological Resources

Paleontological resources include fossils (the remains or traces of once-living organisms preserved in sediments or sedimentary rocks) and the geologic context in which they occur. Based on the paleontological sensitivity diagram in the General Plan FEIR, the project site has serpentinite (Jsp) and melange (fm) rock types and there is low paleontological sensitivity.

4.7.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:				
– Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault (refer to Division of Mines and Geology Special Publication 42)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
– Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
– Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
– Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Be located on expansive soil, as defined in the current California Building Code, creating substantial direct or indirect risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

⁴³ County of Santa Clara. "Landslide Hazard Zones KMZ files." Accessed May 16, 2022.

<https://plandev.sccgov.org/ordinances-codes/geology-and-natural-hazards/geological-maps-and-data>

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Directly or indirectly destroy a unique paleontological resource or site or unique geological feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
a) Would the project directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault; strong seismic ground shaking; seismic-related ground failure, including liquefaction; or landslides?				

Fault Rupture

According to the geotechnical report prepared for the project, the site is not located within an Earthquake Fault Zone as defined by the California Geological Survey in accordance with the Alquist-Priolo Earthquake Fault Zone Act of 1972. As shown in Table 4.7-1, there are active faults within 10 miles of the site, but the project site is located outside their fault rupture zones. For these reasons, the project would not directly or indirectly cause potential substantial adverse effects from rupture of a known earthquake fault. **(Less than Significant Impact)**

Strong Seismic Shaking

The project site would be subject to strong seismic ground shaking and seismic-related ground failure, including liquefaction in the event of a large earthquake. Consistent with the City's General Plan and Municipal Code, to avoid and/or minimize potential damage from seismic shaking, the proposed project would be built using standard engineering and seismic safety design techniques. Consistent with these requirements, the following Standard Permit Condition shall be implemented to ensure the proposed development is designed to address seismic hazards.

Standard Permit Condition:

- The project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The report should also include, but not limited to, foundation, earthwork, utility trenching, retaining and drainage recommendations. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation.

Through compliance with the standard permit condition above the proposed project would not experience a substantial risk of loss of life or property as a result of seismic activity causing ground failure or strong shaking. **(Less than Significant Impact)**

Liquefaction and Lateral Spreading

As discussed previously in Section 4.7.1.2 Existing Conditions, the project site is not located within a designated liquefaction hazard zone. Adherence to the current CBC and the recommendations in the required site-specific geotechnical report would reduce the risk of liquefaction at the project site. Additionally, as described in Section 4.7.1.2 Existing Conditions, the site is underlain with shallow bedrock, which reduces the potential for lateral spreading associated with the adjacent Coyote Creek. For these reasons, the project would not cause potential substantial adverse effects related to liquefaction and lateral spreading. Impacts would be less than significant. **(Less than Significant Impact)**

Landslides

As discussed under Section 4.7.1.2 Existing Conditions, a small portion of the northwestern part of the project site is within an earthquake-induced landslide zone due to the moderately steep slope that faces towards the Coyote Creek drainage. Construction of the project would not include substantial earthwork that would create unstable slopes that would exacerbate any existing landslide risks nor would construction occur in the landslide hazard zone. The project would be required to adhere to the current CBC and the recommendations in the site-specific geotechnical report in accordance with the City's standard permit conditions. Therefore, the proposed project would not result in instability which may cause landslides, and impacts would be less than significant. **(Less than Significant Impact)**

b) Would the project result in substantial soil erosion or the loss of topsoil?

Construction of the proposed project would involve ground disturbance activities, such as excavation, and on-site vehicle activity that would also disturb soils. These activities would increase exposure of soil to wind and water erosion and increase sedimentation. The City's NPDES Municipal Permit, urban runoff policies, and the Municipal Code are the primary means of enforcing erosion control measures through the grading and building permit process. The Final Program EIR for the General Plan concluded that with the regulatory programs currently in place, the possible impacts of accelerated erosion during construction would be less than significant.⁴⁴ The City shall require all phases of the project to comply with all applicable City regulatory programs pertaining to construction related erosion, including the following standard permit conditions:

Standard Permit Conditions:

- All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.

⁴⁴ City of San José. *Draft Program Environmental Impact Report for the Envision San José 2040 General Plan*. SCH# 2009072096. Page 515.

- Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.
- Ditches shall be installed to divert runoff around excavations and graded areas if necessary.

Through compliance with the NPDES Municipal Permit, the proposed project would have a less than significant impact on soil erosion or loss of topsoil. **(Less than Significant Impact)**

c) Would the project be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?

Strong shaking during an earthquake can result in ground failure such as that associated with soil liquefaction and differential compaction. The project site is not within a liquefaction or landslide zone, but a portion of the northwest site is within a liquefaction landslide overlap zone. Impacts related to these geological hazards would be reduced with implementation with the City's Standard permit condition, which requires future developments be designed and constructed in accordance with the recent California Building Code.

Standard Permit Condition:

- The project shall be constructed in accordance with the standard engineering practices in the California Building Code, as adopted by the City of San José. A grading permit from the San José Department of Public Works shall be obtained prior to the issuance of a Public Works clearance. These standard practices would ensure that the future building on the site is designed to properly account for soils-related hazards on the site.

A design-level geotechnical investigation will also be prepared for the proposed development that identifies site-specific ground failure hazards such as liquefaction and lateral spreading and appropriate techniques to minimize risks to people and structures. Development of the project site would not change or exacerbate the geologic conditions of the project area. Therefore, the project would not be located on a geologic unit or soil that is unstable, or that would become unstable because of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse. For these reasons, the proposed project would have a less than significant impact on the stability of the site geologic unit. **(Less than Significant Impact)**

d) Would the project be located on expansive soil, as defined in the current California Building Code, creating substantial direct or indirect risks to life or property?

Soils on the project site were determined to have a medium potential for expansion with changes in moisture content. Structures supported by this type of soil are exposed to cycles of heave and settlement which may result in damage if structures are not constructed with proper structural design. As stated under checklist questions a) and b), building design and construction at the site shall be completed in conformance with the recommendations of an approved geotechnical investigation. This would include constructing the project in such a manner as to reduce the effects of underlying expansive soils. Therefore, through compliance with standard measures established in the California Building Code, and the standard permit conditions as adopted by the City, the proposed project

would result in a less than significant impact associated with expansive soils. **(Less than Significant Impact)**

e) Would the project have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?

The proposed project would connect to the existing sewer system; therefore, the project would not require septic tanks or alternative wastewater disposal systems. **(No Impact)**

f) Would the project directly or indirectly destroy a unique paleontological resource or site or unique geological feature?

As described in Section 4.7.1.2 Existing Conditions, the project site is located in an area with low paleontological resource sensitivity. It is unlikely the project would encounter paleontological resources since sensitivity is low; however, the General Plan EIR recognized that while development allowed under the General Plan could directly impact paleontological resources, implementation of General Plan policies and existing regulations and programs would reduce potential impacts to a less than significant level. As such, the following standard permit condition would be applied to the proposed project to reduce and avoid impacts to unidentified paleontological resources.

Standard Permit Condition:

- If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee shall be notified, and a qualified professional paleontologist shall assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, but is not limited to, preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The project applicant shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of PBCE or the Director's designee.

Through implementation of the standard permit condition above, the proposed project would result in a less than significant impact to paleontological resources. **(Less than Significant Impact)**

4.8 GREENHOUSE GAS EMISSIONS

4.8.1 Environmental Setting

4.8.1.1 *Background Information*

Gases that trap heat in the atmosphere, GHGs, regulate the earth's temperature. This phenomenon, known as the greenhouse effect, is responsible for maintaining a habitable climate. In GHG emission inventories, the weight of each gas is multiplied by its global warming potential (GWP) and is measured in units of CO₂ equivalents (CO₂e). The most common GHGs are carbon dioxide (CO₂) and water vapor but there are also several others, most importantly methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF₆). These are released into the earth's atmosphere through a variety of natural processes and human activities. Sources of GHGs are generally as follows:

- CO₂ and N₂O are byproducts of fossil fuel combustion.
- N₂O is associated with agricultural operations such as fertilization of crops.
- CH₄ is commonly created by off-gassing from agricultural practices (e.g., keeping livestock) and landfill operations.
- Chlorofluorocarbons (CFCs) were widely used as refrigerants, propellants, and cleaning solvents, but their production has been stopped by international treaty.
- HFCs are now used as a substitute for CFCs in refrigeration and cooling.
- PFCs and SF₆ emissions are commonly created by industries such as aluminum production and semiconductor manufacturing.

An expanding body of scientific research supports the theory that global climate change is currently causing changes in weather patterns, average sea level, ocean acidification, chemical reaction rates, and precipitation rates, and that it will increasingly do so in the future. The climate and several naturally occurring resources within California are adversely affected by the global warming trend. Increased precipitation and sea level rise will increase coastal flooding, saltwater intrusion, and degradation of wetlands. Mass migration and/or loss of plant and animal species could also occur. Potential effects of global climate change that could adversely affect human health include more extreme heat waves and heat-related stress; an increase in climate-sensitive diseases; more frequent and intense natural disasters such as flooding, hurricanes, and drought; and increased levels of air pollution.

4.8.1.2 *Regulatory Framework*

State

Assembly Bill 32 and State Bill 32

Under the California Global Warming Solutions Act, also known as Assembly Bill (AB) 32, CARB established a statewide GHG emissions cap for 2020, adopted mandatory reporting rules for significant sources of GHGs, and adopted a comprehensive plan, known as the Climate Change Scoping Plan, identifying how emission reductions would be achieved from significant GHG sources.

In 2016, SB 32 was signed into law, amending the California Global Warming Solution Act. SB 32, and accompanying Executive Order B-30-15, require CARB to ensure that statewide GHG emissions are reduced to 40 percent below the 1990 level by 2030. CARB updated its Climate Change Scoping Plan in December of 2017 to express the 2030 statewide target in terms of million metric tons of CO₂e (MMTCO₂e). Based on the emissions reductions directed by SB 32, the annual 2030 statewide target emissions level for California is 260 MMTCO₂e.

Senate Bill 375

SB 375, known as the Sustainable Communities Strategy and Climate Protection Act, was signed into law in September 2008. SB 375 builds upon AB 32 by requiring CARB to develop regional GHG reduction targets for automobile and light truck sectors for 2020 and 2035. The per capita GHG emissions reduction targets for passenger vehicles in the San Francisco Bay Area include a seven percent reduction by 2020 and a 15 percent reduction by 2035.

Consistent with the requirements of SB 375, the Metropolitan Transportation Commission (MTC) partnered with the Association of Bay Area Governments (ABAG), BAAQMD, and the Bay Conservation and Development Commission to prepare the region's Sustainable Communities Strategy (SCS) as part of the Regional Transportation Plan (RTP) process. The SCS is referred to as Plan Bay Area 2050. Plan Bay Area 2050 is a 30-year plan that focuses on implementing 35 measures to improve housing, the economy, transportation, and environment in the Bay Area.

Regional and Local

2017 Clean Air Plan

To protect the climate, the 2017 CAP (prepared by BAAQMD) includes control measures designed to reduce emissions of methane and other super-GHGs that are potent climate pollutants in the near-term, and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.

CEQA Air Quality Guidelines

The BAAQMD CEQA Air Quality Guidelines are intended to serve as a guide for those who prepare or evaluate air quality impact analyses for projects and plans in the San Francisco Bay Area. The jurisdictions in the San Francisco Bay Area Air Basin utilize the thresholds and methodology for assessing GHG impacts developed by BAAQMD within the CEQA Air Quality Guidelines. The guidelines include information on legal requirements, BAAQMD rules, methods of analyzing impacts, and recommended mitigation measures.

On April 20, 2022, the BAAQMD Board of Directors adopted the Justification Report: CEQA Thresholds for Evaluating the Significance of Climate Impacts from Land Use Projects and Plans. The report includes BAAQMD's thresholds of significance for use in determining whether a proposed project or plan would have a significant impact on climate change and provides substantial evidence to support these thresholds. The April 2022 GHG thresholds replace the GHG thresholds set forth in the May 2017 BAAQMD CEQA Air Quality Guidelines and represent the approach

BAAQMD recommends lead agencies use to evaluate new land use development projects and plans to achieve California's long-term climate goal of carbon neutrality by 2045.⁴⁵

Climate Smart San José

Climate Smart San José is a plan to reduce air pollution, save water, and create a stronger and healthier community. Refer to Section 4.6 Energy, for the details of the plan.

Reach Building Code

In 2019, the San José City Council approved Ordinance No. 30311 and adopted Reach Code Ordinance (Reach Code) to reduce energy related GHG emissions consistent with the goals of Climate Smart San José. The Reach Code applies to new construction projects in San Jose. It requires new residential construction to be outfitted with entirely electric fixtures. Mixed-fuel buildings (i.e., use of natural gas) are required to demonstrate increased energy efficiency through a higher Energy Design Ratings and be electrification ready. In addition, the Reach Code requires EV charging infrastructure for all building types (above current CALGreen requirements), and solar readiness for non-residential buildings.

San José 2030 Greenhouse Gas Reduction Strategy

The 2030 Greenhouse Gas Reduction Strategy (GHGRS) is the latest update to the City's GHGRS and is designed to meet statewide GHG reduction targets for 2030 set by Senate Bill 32. As a qualified Climate Action Plan, the 2030 GHGRS allows for tiering and streamlining of GHG analyses under CEQA. The GHGRS identifies General Plan policies and strategies to be implemented by development projects in the areas of green building/energy use, multimodal transportation, water conservation, and solid waste reduction. Projects that comply with the policies and strategies outlined in the 2030 GHGRS, would have less than significant GHG impacts under CEQA.⁴⁶

4.8.1.3 *Existing Conditions*

Unlike emissions of criteria and toxic air pollutants, which have regional and local impacts, emissions of GHGs have a broader, global impact. Global warming is a process whereby GHGs accumulating in the upper atmosphere contribute to an increase in the temperature of the earth and changes in weather patterns.

⁴⁵ Unlike the 2022 California Environmental Quality Act Air Quality Guidelines, the updated BAAQMD GHG thresholds were published during preparation of the Initial Study. Therefore, these guidelines are incorporated into the analysis.

⁴⁶ City of San José. "Greenhouse Gas Reduction Strategy." Accessed May 16, 2022. Available at: <https://www.sanjoseca.gov/your-government/departments/planning-building-code-enforcement/planning-division/environmental-planning/greenhouse-gas-reduction-strategy>.

4.8.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Generate greenhouse gas (GHG) emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

4.8.2.1 *Thresholds of Significance*

The BAAQMD threshold of significance for land use development projects is to either A) incorporate project design elements and achieve a reduction in project-generated vehicle miles traveled (VMT) below the regional average consistent with the current version of the California Climate Change Scoping Plan or B) be consistent with a local GHG reduction strategy that meets the criteria of CEQA Guidelines Section 15183.5 (b). Pursuant with BAAQMD, for land use projects to result in a less than significant GHG emissions impact, the land use project would need to comply with threshold A or B below.

A. Projects must include, at a minimum, the following project design elements:

1. Buildings
 - a. The project will not include natural gas appliances or natural gas plumbing (in both residential and nonresidential development).
 - b. The project will not result in any wasteful, inefficient, or unnecessary energy usage as determined by the analysis required under CEQA Section 21100(b)(3) and Section 15126.2(b) of the State CEQA Guidelines.
2. Transportation
 - a. Achieve a reduction in project-generated vehicle miles traveled (VMT) below the regional average consistent with the current version of the California Climate Change Scoping Plan (currently 15 percent) or meet a locally adopted Senate Bill 743 VMT target, reflecting the recommendations provided in the Governor's Office of Planning and Research's Technical Advisory on Evaluating Transportation Impacts in CEQA:
 - i. Residential projects: 15 percent below the existing VMT per capita
 - ii. Office projects: 15 percent below the existing VMT per employee
 - iii. Retail projects: no net increase in existing VMT
 - a. Achieve compliance with off-street electric vehicle requirements in the most recently adopted version of CALGreen Tier 2.

B. Be consistent with a local GHG reduction strategy that meets the criteria under State CEQA Guidelines Section 15183.5(b)

a) Would the project generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment?

Construction Emissions

Construction activities on-site would result in temporary GHG emissions. Construction-related GHG emissions vary depending on the level of activity, length of the construction period, specific construction operations, types of equipment, and number of personnel. Neither the City of San José nor BAAQMD has established a quantitative threshold or standard for determining whether a project's construction related GHG emissions are significant. Project construction would occur over a period of approximately 10 months and would result in the release of 140 MTCO₂e. Since these impacts would only occur during construction the proposed project would not result in a significant contribution to GHG emission. The proposed project construction activity and resulting GHG emissions would not interfere with the implementation of SB 32.

Operational Emissions

As described in Section 4.8.1.2 Regulatory Framework, BAAQMD updated their recommended CEQA thresholds of significance for GHG emissions. Under these recently updated thresholds, projects must demonstrate either A) specific building design and transportation elements or B) consistency with a local GHG reduction strategy. The City of San José has adopted a qualified GHG reduction strategy that meets the CEQA Guidelines Section 15183.5(b) guidelines. Therefore, the BAAQMD qualitative threshold B (described above) is used.

Since the project is consistent with the General Plan land use designation for the site and planned growth from build out of the General Plan, the project's GHG emissions are accounted for in the citywide GHG emissions inventory addressed in the GHGRS, provided the project complies with applicable GHG reduction measures identified in the GHGRS. As discussed in more detail below under question b), the project applicant has completed the Greenhouse Gas Reduction Strategy Consistency Checklist, which documents the project's compliance with the GHGRS and demonstrates the project would result in a less than significant GHG emissions impact.

As stated above, the proposed project would result in temporary GHG emissions during construction which would not contribute to interference with SB 32 and the project's ongoing operational GHG emissions would be covered by the GHGRS given the project is consistent with the General Plan and the project incorporates applicable requirements of the GHGRS. Therefore, the proposed project would result in a less than significant GHG impact during construction and operations of the proposed project. **(Less than Significant Impact)**

b) Would the project conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs?

2030 Greenhouse Gas Reduction Strategy

As mentioned in Section 4.8.1.3 Regulatory Framework, projects that are consistent with the GHGRS would have a less than significant impact related to GHG emissions through 2030. The proposed

project is consistent with the General Plan development assumptions for the site and therefore covered by the analysis included within the General Plan Final EIR; therefore, the project would be consistent with the 2030 GHGRS.

The GHGRS includes seven strategies for emissions reductions. These include use of San José Clean Energy, achieving zero net carbon for residential construction, renewable energy development, retrofits of existing buildings to remove natural gas demands, achieving a zero-waste goal, modernization of Caltrain, and water conservation. The proposed project would comply with specific measures of the GHGRS, as follows. The proposed project is consistent with the Land Use/Transportation Diagram designation of General Plan. The project would be enrolled in the SJCE TotalGreen program, which represents the largest reduction in GHG emissions identified in the reduction strategy. To ensure the project would enroll in SJCE, the following City of San José Standard Permit Condition is required.

Standard Permit Condition:

- Prior to issuance of any Certificate of Occupancy for the project, the occupant shall provide to the Director of the PBCE, or Director's designee, proof of enrollment in either the SJCE GreenSource program (which is procured approximately 90 percent carbon free or renewable energy) or SJCE TotalGreen program (which is procured from 100 percent renewable energy). Program enrollment will be determined by the level assumed in the approved environmental clearance for the project in accordance with CEQA. If it is determined the project's environmental clearance requires enrollment in the TotalGreen program, neither the occupant, nor any future occupant, may opt out of the TotalGreen program.

The applicant shall enroll in SJCE's TotalGreen program as stated in their response to the GHGRS Development Checklist contained in Appendix E.

The proposed project also incorporates all applicable mandatory measures of the GHGRS (refer to Appendix E), including installing solar photovoltaic panels on the rooftop of the proposed building and providing bicycle parking spaces. Additionally, the proposed project would include Tier 2 multi-modal infrastructure that would help reduce vehicle miles traveled (VMT) and mobile greenhouse gas emissions, and the project would implement a Transportation Demand Management (TDM) program. The proposed project would also be consistent with the 2030 GHG Reduction Strategy through compliance with the State's Model Water Efficient Landscape Ordinance and the City's Water-Efficient Landscape Ordinance (Chapter 15.11 of the San José Municipal Code) and would include landscaping and landscaped shading of the parking areas and walkways. Additionally, the project would include low-flow fixtures and appliances and would utilize recycled water for the outdoor landscaping based on availability. Lastly, the project would be constructed in accordance with the latest California Building Code, green building regulations/CALGreen, the City's Council Policy 6-32 and the City's Green Building Ordinance.

For these reasons, the project would not conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs.

Climate Smart San José

Climate Smart San José, adopted by the City, is a community-wide initiative intended to create a more sustainable, connected, and economically inclusive City. Climate Smart San José is aligned with General Plan growth patterns and General Plan policies which prioritize automobile-alternative transportation modes, encourage denser development, and ensure energy-efficient features are included in new buildings.

As discussed in Section 4.6 Energy, the project would be designed and constructed in compliance with the City of San José Council Policy 6-32, the City's reach code, and the City's Green Building Ordinance. In addition, Action MS-2.11 of the General Plan requires new development to incorporate energy conservation and efficiency through site design, architectural design, and construction techniques. For these reasons, the project is consistent with the City's climate action goals as set forth in Climate Smart San José. **(Less than Significant Impact)**

4.9 HAZARDS AND HAZARDOUS MATERIALS

A Phase I Environmental Site Assessment (ESA) was prepared for the project by Cornerstone Earth Group on October 17, 2021 (Appendix F). The report summarized the historical use of the site, identified records of hazardous waste incidents, and listed potential hazardous risks. The contents of the Phase I ESA inform the following discussions.

4.9.1 Environmental Setting

4.9.1.1 *Regulatory Framework*

Overview

The storage, use, generation, transport, and disposal of hazardous materials and waste are highly regulated under federal and state laws. In California, the EPA has granted the enforcement authority over federal hazardous materials regulations to the California Environmental Protection Agency (CalEPA). In turn, local agencies have been granted responsibility for implementation and enforcement of many hazardous materials regulations under the Certified Unified Program Agency (CUPA) program.

Worker health and safety and public safety are key issues when dealing with hazardous materials. Proper handling and disposal of hazardous material is vital if it is disturbed during project construction. Cal/OSHA enforces state worker health and safety regulations related to construction activities. Regulations include exposure limits, requirements for protective clothing, and training requirements to prevent exposure to hazardous materials. Cal/OSHA also enforces occupational health and safety regulations specific to lead and asbestos investigations and abatement.

Federal and State

Federal Aviation Regulations Part 77

Federal Aviation Regulations, Part 77 Objects Affecting Navigable Airspace (FAR Part 77) sets forth standards and review requirements for protecting the airspace for safe aircraft operation, particularly by restricting the height of potential structures and minimizing other potential hazards (such as reflective surfaces, flashing lights, and electronic interference) to aircraft in flight. These regulations require that the Federal Aviation Administration (FAA) be notified of certain proposed construction projects 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 at least 200 feet in height above the ground.

Comprehensive Environmental Response, Compensation, and Liability Act

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund, was enacted by Congress on December 11, 1980. This law created a tax on the chemical and petroleum industries and provided broad federal authority to respond directly to releases or threatened releases of hazardous substances that may endanger public health or the environment. Over five years, \$1.6 billion was collected and the tax went to a trust fund for cleaning

up abandoned or uncontrolled hazardous waste sites. CERCLA accomplished the following objectives:

- Established prohibitions and requirements concerning closed and abandoned hazardous waste sites;
- Provided for liability of persons responsible for releases of hazardous waste at these sites; and
- Established a trust fund to provide for cleanup when no responsible party could be identified.

The law authorizes two kinds of response actions:

- Short-term removals, where actions may be taken to address releases or threatened releases requiring prompt response; and
- Long-term remedial response actions that permanently and significantly reduce the dangers associated with releases or threats of releases of hazardous substances that are serious, but not immediately life-threatening. These actions can be completed only at sites listed on the EPA's National Priorities List.

CERCLA also enabled the revision of the National Contingency Plan (NCP). The NCP provided the guidelines and procedures needed to respond to releases and threatened releases of hazardous substances, pollutants, or contaminants. The NCP also established the National Priorities List. CERCLA was amended by the Superfund Amendments and Reauthorization Act on October 17, 1986.⁴⁷

Resource Conservation and Recovery Act

The Resource Conservation and Recovery Act (RCRA), enacted in 1976, is the principal federal law in the United States governing the disposal of solid waste and hazardous waste. RCRA gives the EPA the authority to control hazardous waste from the "cradle to the grave." This includes the generation, transportation, treatment, storage, and disposal of hazardous waste. RCRA also sets forth a framework for the management of non-hazardous solid wastes.

The Federal Hazardous and Solid Waste Amendments (HSWA) are the 1984 amendments to RCRA that focused on waste minimization, phasing out land disposal of hazardous waste, and corrective action for releases. Some of the other mandates of this law include increased enforcement authority for the EPA, more stringent hazardous waste management standards, and a comprehensive underground storage tank program.⁴⁸

⁴⁷ United States Environmental Protection Agency. "Superfund: CERCLA Overview." Accessed June 8, 2022. <https://www.epa.gov/superfund/superfund-cercla-overview>.

⁴⁸ United States Environmental Protection Agency. "Summary of the Resource Conservation and Recovery Act." Accessed June 8, 2022. <https://www.epa.gov/laws-regulations/summary-resource-conservation-and-recovery-act>.

Government Code Section 65962.5

Section 65962.5 of the Government Code requires CalEPA to develop and update a list of hazardous waste and substances sites, known as the Cortese List. The Cortese List is used by state and local agencies and developers to comply with CEQA requirements. The Cortese List includes hazardous substance release sites identified by the Department of Toxic Substances Control (DTSC) and State Water Resources Control Board (SWRCB).⁴⁹

Toxic Substances Control Act

The Toxic Substances Control Act (TSCA) of 1976 provides the EPA with authority to require reporting, record-keeping and testing requirements, and restrictions relating to chemical substances and/or mixtures. Certain substances are generally excluded from TSCA, including, among others, food, drugs, cosmetics, and pesticides. The TSCA addresses the production, importation, use, and disposal of specific chemicals including polychlorinated biphenyls (PCBs), asbestos, radon, and lead-based paint.

California Accidental Release Prevention Program

The California Accidental Release Prevention (CalARP) Program aims to prevent accidental releases of regulated hazardous materials that represent a potential hazard beyond the boundaries of a property. Facilities that are required to participate in the CalARP Program use or store specified quantities of toxic and flammable substances (hazardous materials) that can have off-site consequences if accidentally released. The Santa Clara County Department of Environmental Health reviews CalARP risk management plans as the CUPA.

Asbestos-Containing Materials

Friable asbestos is any asbestos-containing material (ACM) that, when dry, can easily be crumbled or pulverized to a powder by hand, allowing the asbestos particles to become airborne. Common examples of products that have been found to contain friable asbestos include acoustical ceilings, plaster, wallboard, and thermal insulation for water heaters and pipes. Common examples of non-friable ACMs are asphalt roofing shingles, vinyl floor tiles, and transite siding made with cement. The EPA began phasing out use of friable asbestos products in 1973 and issued a ban in 1978 on manufacture, import, processing, and distribution of some asbestos-containing products and new uses of asbestos products.⁵⁰ The EPA is currently considering a proposed ban on on-going use of asbestos.⁵¹ National Emission Standards for Hazardous Air Pollutants (NESHAP) guidelines require that potentially friable ACMs be removed prior to building demolition or remodeling that may disturb the ACMs.

⁴⁹ California Environmental Protection Agency. "Cortese List Data Resources." Accessed June 8, 2022. <https://calepa.ca.gov/sitecleanup/corteselist/>.

⁵⁰ United States Environmental Protection Agency. "EPA Actions to Protect the Public from Exposure to Asbestos." Accessed April 19, 2022. <https://www.epa.gov/asbestos/epa-actions-protect-public-exposure-asbestos>

⁵¹Ibid.

CCR Title 8, Section 1532.1

The United States Consumer Product Safety Commission banned the use of lead-based paint in 1978. Removal of older structures with lead-based paint is subject to requirements outlined by the Cal/OSHA Lead in Construction Standard, CCR Title 8, Section 1532.1 during demolition activities. Requirements include employee training, employee air monitoring, and dust control. If lead-based paint is peeling, flaking, or blistered, it is required to be removed prior to demolition.

Regional and LocalEnvision San José 2040 General Plan

The Envision San José 2040 General Plan contains the following policies which are specific to hazards and hazardous materials and applicable to the proposed project:

Envision San José 2040 Relevant Hazards Policies	
Policy	Description
EC-6.1	Require all users and producers of hazardous materials and wastes to clearly identify and inventory the hazardous materials that they store, use or transport in conformance with local, state and federal laws, regulations and guidelines.
EC-6.2	Require proper storage and use of hazardous materials and wastes to prevent leakage, potential explosions, fires, or the escape of harmful gases, and to prevent individually innocuous materials from combining to form hazardous substances, especially at the time of disposal by businesses and residences. Require proper disposal of hazardous materials and wastes at licensed facilities.
EC-6.4	Require all proposals for new or expanded facilities that handle hazardous materials that could impact sensitive uses off-site to include adequate mitigation to reduce identified hazardous materials impacts to less than significant levels.
EC-6.5	The City shall designate transportation routes to and from hazardous waste facilities as part of the permitting process in order to minimize adverse impacts on surrounding land uses and to minimize travel distances along residential and other non-industrial frontages.
EC-6.10	Promote source reduction and recycling as alternatives to hazardous materials land disposal whenever feasible.
EC-7.1	For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment.
EC-7.2	Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater

contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, state and federal laws, regulations, guidelines and standards.

- EC-7.5 On development and redevelopment sites, require all sources of imported fill to have adequate documentation that it is clean and free of contamination and/or acceptable for the proposed land use considering appropriate environmental screening levels for contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and state requirements.
- EC-7.6 The City will encourage use of green building practices to reduce exposure to volatile or other hazardous materials in new construction materials.
- EC-7.7 Determine for any development or redevelopment site that is within 1,000 feet of a known, suspected, or likely geographic ultramafic rock unit (as identified in maps developed by the Department of Conservation – Division of Mines and Geology) or any other known or suspected locations of serpentine or naturally occurring asbestos, if naturally occurring asbestos exists and, if so, comply with the Bay Area Air Quality Management District's Asbestos Air Toxic Control Measure requirements.
- EC-7.11 Require sampling for residual agricultural chemicals, based on the history of land use, on sites to be used for any new development or redevelopment to account for worker and community safety during construction. Mitigation to meet appropriate end use such as residential or commercial/industrial shall be provided.
-

4.9.1.2 Existing Conditions

Site History

The site has historically been undeveloped since at least 1889. Between 1939 and 1982, the site was developed land with orchards along the northwest corner and southern boundary of the site. In 1998, the project site was graded and the orchards along the southern boundary were removed. Between the years 2006 to 2016, paved parking areas for the adjacent southern and eastern commercial buildings were constructed on the project site. However, the majority of the site remains undeveloped. Due to site being previously occupied by orchards there is a possibility that residual pesticides are present on-site.

Conditions On-Site

Hazardous Materials Storage and Use

A recognized environmental condition (REC) refers to the presence or likely presence of any hazardous substances or petroleum products in, on, or at a property; due to release to the environment; under conditions indicative of a release to the environment; or under conditions that pose a material threat of a future release to the environment. The Phase I ESA prepared for the proposed project did not identify any recognized environmental concerns on-site. There was no evidence of chemical storage or use on-site, nor was there evidence of underground storage tanks or

above ground storage tanks on the project site. No nearby spill incidents were reported nor were there any city or county agency files about the project site.

Naturally Occurring Asbestos

The site is located within an area that contains ultramafic rock outcrops, which naturally contains asbestos. Naturally occurring asbestos (NOA) when disturbed can result in negative health ailments.

BAAQMD oversees the public exposure to NOA and enforces the Asbestos Airborne Toxic Control Measure (ATCM) for Construction and Grading Operations.

Cortese List

The project site is not located on the Cortese List.⁵²

Off-Site Sources of Contamination

There are no off-site sources of contamination report within 1,000 feet of the project site as documented in the Phase I ESA.

Other Hazards

Airports

The nearest public airport is the County of Santa Clara Reid-Hillview Airport. The project site is approximately six miles south of the airport. Due to the distance of the airport, the project site is not within the 2022 aircraft noise contours, or the airport safety zones for the Reid-Hillview Airport.⁵³

Wildfire Hazards

The project site is in an urban area surrounded by existing development that is not near any wildlands that could present a fire hazard. The site is not located within an identified Very High Fire Hazard Severity Zone in a State Responsibility Area (SRA) or a Local Responsibility (LRA).⁵⁴

⁵² California Environmental Protection Agency. "Cortese List Data Resources." Accessed June 8, 2022. <https://calepa.ca.gov/sitecleanup/corteselist/>.

⁵³ Santa Clara County Airport Land Use Commission. *Reid-Hillview Airport Comprehensive Land Use Plan*. Figures 5 and 6. Amended November 18, 2020. Accessed June 8, 2022. https://stgenpln.blob.core.windows.net/document/ALUC_RHV_CLUP.pdf

⁵⁴ California Department of Forestry & Fire Protection. Fire Hazards Severity Zone Viewer. Accessed May 23, 2022. Available at: <https://egis.fire.ca.gov/FHSZ/>

4.9.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, result in a safety hazard or excessive noise for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

a) Would the project create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

The proposed project would construct an industrial building on a vacant site that could be used for developments such as R&D, manufacturing, assembly, testing, and offices. The exact operational occupant of the site is not currently determined and is likely to change over the full economic life of the project which may be 50 or more years; however, for the purposes of this Initial Study it is assumed the proposed development would be used for R&D purposes. Based on the proposed R&D designation and the existing land use designations for the project site, it is possible that hazardous materials may be utilized in operations on the site. Additionally, the proposed building would contain

small amounts of cleaning supplies and would create increased operations of large diesel vehicles during deliveries, which could result in minor fuel spills.

As required by the state's Hazardous Materials Management Program, if the project handles hazardous materials, then the project would be required to prepare and submit a Hazardous Materials Business Plan to the Santa Clara County Hazardous Materials Compliance Division, the local CUPA for Santa Clara County, before beginning to operate any facility that would manage hazardous materials subject to the requirement. Business Plans include information about the handling and storage of hazardous materials, including site layout, storage in appropriate containers with secondary containment to contain a potential release, and emergency response and notification procedures in the event of a spill or release. In addition, the Business Plans require annual employee health and safety training. The Business Plan must be approved by the CUPA before the start of operations. The Business Plan would also provide local agencies with the information needed to plan appropriately for a chemical release, fire, or other incident, reducing the potential for an accidental release to harm the health of workers or the public or substantially degrade the environment.

All hazardous materials must be stored and handled according to manufacturers' directions and federal, state, and local regulations. The California Fire Code would also require measures for the safe storage and handling of hazardous materials. As a part of the CUPA program, all hazardous materials must be used, stored, transported, and disposed of in compliance with the code requirements of the City of San José Fire Department, the San José–Santa Clara Wastewater Treatment Facility, the Santa Clara County Department of Environment Health (SCCDEH), and Caltrans. Transportation and disposal of wastes, such as spent cleaning solutions, would also be subject to regulations for safe handling, transportation, and disposal. These regulations would include appropriate containerization and labeling, transportation by licensed hazardous materials haulers, and disposal at licensed facilities permitted to accept the waste.

Compliance with the broad array of existing regulations from state and local governments noted above in Section 4.9.1.1 Regulatory Framework would ensure the project would result in less than significant impacts related to the potential routine transport, use, or disposal of hazardous materials.
(Less than Significant Impact)

b) Would the project create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

Given the project site was used for orchards from the years 1889 to 1980, there is potential that agricultural chemicals, such as pesticides, are present on-site. In addition, there is potential for NOA to be present on-site due to the project site being within a mapped ultramafic rock outcrop area. Soils on-site and groundwater beneath the site could be contaminated with agricultural chemicals and/or NOA, which could be released into the environment and expose construction workers and adjacent land uses to contamination.

Impact HAZ-1: The surface and sub-surface soils on-site could be contaminated due to the presence of agricultural chemicals and naturally occurring asbestos (NOA) on-site. Implementation of the project could expose construction workers and

adjacent land uses to residual agricultural soil contamination and NOA above commercial screening levels.

Mitigation Measures:

MM HAZ-1.1: Prior to issuance of a grading permit, the project applicant shall retain a qualified environmental professional to complete a Phase II soil contamination investigation to evaluate past agricultural use and the potential for encountering asbestos. The Phase II shall include soil sampling and analysis for asbestos in accordance with the California Air Resources Board (CARB) test method 435, organochlorine pesticides and pesticide-based metals, arsenic, and lead to determine if these chemicals are present above the regulatory environmental screening levels for construction worker safety and commercial/industrial uses. The results of the soil sampling and testing must be provided to the Supervising Environmental Planner of the City of San José Planning, Building, and Code Enforcement, and the Environmental Compliance Officer in the City of San José's Environmental Services Department.

MM HAZ-1.2: If the Phase II results indicate soil concentrations of pesticides or metals above the environmental screening levels, the applicant must obtain regulatory oversight from the Department of Toxic Substances Control, or the Santa Clara County Department of Environmental Health under their Site Cleanup Program. A Site Management Plan (SMP), Removal Action Plan (RAP), or equivalent document shall be prepared by a qualified environmental consultant under regulatory oversight and approval that identifies remedial measures and/or soil management practices to ensure construction worker safety and the health of future site occupants. If asbestos is present above 0.25 percent, an Asbestos Dust Mitigation Plan (ADMP) will be prepared and submitted to the Bay Area Air Quality Management District (BAAQMD) for approval prior to construction. The ADMP would include track-out prevention and control, storage piles, on-site traffic control, preparation of areas prior to earth moving activities, and control for offsite transport, consistent with the California Air Resources Board's Asbestos Airborne Toxic Control Measure for Construction, Grading, Quarrying, and Surface Mining Operations. The plan and evidence of regulatory oversight shall be provided to the Director of Planning, Building, and Code Enforcement or Director's designee and the Environmental Compliance Officer in the City of San José Environmental Services Department.

With implementation of MM HAZ-1.1 and MM HAZ-1.2 above, the proposed project would not result in impacts related to soil and groundwater quality. **(Less than Significant Impact with Mitigation Incorporated)**

As stated above, the proposed project is not identified on regulatory databases for hazardous materials and would not result in accidental release of hazardous materials. During construction, the construction workers would have risk of exposure to NOA and soil contaminants associated with historical agriculture uses. The proposed project would implement Mitigation Measure MM HAZ-1.1 and MM HAZ-1.2 to reduce the exposure of construction workers to a less than significant impact.

Therefore, the proposed project would result in a less than significant impact with mitigation incorporated. **(Less than Significant Impact with Mitigation Incorporated)**

-
- c) Would the project emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?**
-

The project site is approximately 0.4 mile southeast of the nearest school, Samuel E. Strip Elementary School. The project is not located within 0.25 mile of any existing or proposed schools. **(No Impact)**

-
- d) Would the project be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?**
-

The project site was not identified to be on current lists of hazardous materials sites pursuant to Government Code Section 65962.5. Therefore, the proposed project would not result in a significant hazard to the public or the environment as a result of being included on a list of existing hazardous materials sites. **(No Impact)**

-
- e) If located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?**
-

As described in Section 4.9.1.2 Existing Conditions, the project site is located approximately six miles from the Reid-Hillview County Airport. The proposed project would be located outside the noise contours of the airport and would not be located within the airport safety zones. Therefore, the proposed project would result in no impacts from hazards associated with nearby airports. **(No Impacts)**

-
- f) Would the project impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?**
-

The proposed project would develop a vacant site consistent with the General Plan land use designation and would not alter evacuation routes. The project would not result in closure, rerouting or substantial alteration of streets or property access points during or after construction. Construction would occur within the project site. In addition, the project would be constructed in accordance with current building and fire codes and would be required to be maintained in accordance with applicable City policies identified in the General Plan Final EIR to avoid unsafe building conditions. Therefore, the proposed project would be consistent with existing emergency response plans and emergency evacuation plans and would have a less than significant impact **(Less than Significant Impact)**

g) Would the project expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires?

As described in Section 4.9.1.2 Existing Conditions, the project site is not located in a fire hazard severity zone. The project would not exacerbate existing conditions. Therefore, the project would not expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires. **(No Impact)**

4.10 HYDROLOGY AND WATER QUALITY

4.10.1 Environmental Setting

4.10.1.1 *Regulatory Framework*

Federal and State

The federal Clean Water Act and California's Porter-Cologne Water Quality Control Act are the primary laws related to water quality in California. Regulations set forth by the Environmental Protection Agency (EPA) and the State Water Resources Control Board (SWRCB) have been developed to fulfill the requirements of this legislation. EPA regulations include the National Pollutant Discharge Elimination System (NPDES) permit program, which controls sources that discharge pollutants into the waters of the United States (e.g., streams, lakes, bays, etc.). These regulations are implemented at the regional level by the Regional Water Quality Control Boards (RWQCBs). The project site is within the jurisdiction of the San Francisco Bay RWQCB.

Under Section 303(d) of the federal Clean Water Act, the SWRCB and RWQCBs are required to identify impaired surface water bodies that do not meet water quality standards and develop total maximum daily loads (TMDLs) for contaminants of concern. The list of the state's identified impaired surface water bodies, known as the "303(d) list" can be found on the on the SWRCB's website.⁵⁵

National Flood Insurance Program

The Federal Emergency Management Agency (FEMA) established the National Flood Insurance Program (NFIP) to reduce impacts of flooding on private and public properties. The program provides subsidized flood insurance to communities that comply with FEMA regulations protecting development in floodplains. As part of the program, FEMA publishes Flood Insurance Rate Maps (FIRMs) that identify Special Flood Hazard Areas (SFHAs). An SFHA is an area that would be inundated by the one-percent annual chance flood, which is also referred to as the base flood or 100-year flood.

Statewide Construction General Permit

The SWRCB has implemented an NPDES General Construction Permit for the State of California (Construction General Permit). For projects disturbing one acre or more of soil, a Notice of Intent (NOI) must be filed with the RWQCB by the project sponsor, and a Storm Water Pollution Prevention Plan (SWPPP) must be prepared by a qualified professional prior to commencement of construction and filed with the RWQCB by the project sponsor. The Construction General Permit includes requirements for training, inspections, record keeping, and, for projects of certain risk levels, monitoring. The general purpose of the requirements is to minimize the discharge of pollutants and to protect beneficial uses and receiving waters from the adverse effects of construction-related storm water discharges.

⁵⁵ California State Water Resources Control Board. "2020-2022 California Integrated Report (Clean Water Act Section 303(d) List and 305(b) Report)." May 11, 2022. Accessed September 2, 2022. https://www.waterboards.ca.gov/water_issues/programs/water_quality_assessment/2020_2022_integrated_report.html.

Regional and Local

San Francisco Bay Basin Plan

The San Francisco Bay RWQCB regulates water quality in accordance with the Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan). The Basin Plan lists the beneficial uses that the San Francisco Bay RWQCB has identified for local aquifers, streams, marshes, rivers, and the San Francisco Bay, as well as the water quality objectives and criteria that must be met to protect these uses. The San Francisco Bay RWQCB implements the Basin Plan by issuing and enforcing waste discharge requirements, including permits for nonpoint sources such as the urban runoff discharged by a City's stormwater drainage system. The Basin Plan also describes watershed management programs and water quality attainment strategies.

Municipal Regional Permit Provision C.3

The San Francisco Bay RWQCB re-issued the Municipal Regional Stormwater NPDES Permit (MRP) in May 2022 to regulate stormwater discharges from municipalities and local agencies (co-permittees) in Alameda, Contra Costa, San Mateo, and Santa Clara Counties, and the cities of Fairfield, Suisun City, and Vallejo.⁵⁶ Under Provision C.3 of the MRP, new and redevelopment projects that create or replace 5,000 square feet or more of impervious surface area are required to implement site design, source control, and Low Impact Development (LID)-based stormwater treatment controls to treat post-construction stormwater runoff. LID-based treatment controls are intended to maintain or restore the site's natural hydrologic functions, maximizing opportunities for infiltration and evapotranspiration, and using stormwater as a resource (e.g., rainwater harvesting for non-potable uses). The MRP also requires that stormwater treatment measures are properly installed, operated, and maintained.

In addition to water quality controls, the MRP requires new development and redevelopment projects that create or replace one acre or more of impervious surface to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation, or other impacts to local rivers, streams, and creeks. Projects may be deemed exempt from these requirements if: (1) the post-project impervious surface area is less than, or the same as, the pre-project impervious surface area; (2) the project is located in a catchment that drains to a hardened (e.g., continuously lined with concrete) engineered channel or channels or enclosed pipes, which extend continuously to the Bay, Delta, or flow controlled reservoir, or, in a catchment that drains to channels that are tidally influenced; or (3) the project is located in a catchment or sub-watershed that is highly developed (i.e., that is 70 percent or more impervious).⁵⁷

⁵⁶ California Regional Water Quality Control Board San Francisco Region. *Municipal Regional Stormwater NPDES Permit, Order No. R2-2022-0018, NPDES Permit No. CAS612008*. May 11, 2022.

⁵⁷ The Hydromodification Applicability Maps developed the permittees under Order No. R2-2009-0074 were prepared using this standard, adjusted to 65 percent imperviousness to account for the presence of vegetation on the photographic references used to determine imperviousness. Thus, the maps for Order No. R2-2009-0074 are accepted as meeting the 70 percent requirement.

Water Resources Protection Ordinance and District Well Ordinance

Valley Water operates as the flood control agency for Santa Clara County. Their stewardship also includes creek restoration, pollution prevention efforts, and groundwater recharge. Permits for well construction and destruction work, most exploratory boring for groundwater exploration, and projects within Valley Water property or easements are required under Valley Water's Water Resources Protection Ordinance and District Well Ordinance.

2021 Groundwater Management Plan

The 2021 Groundwater Management Plan (GWMP) describes the Valley Water's comprehensive groundwater management framework, including existing and potential actions to achieve basin sustainability goals and ensure continued sustainable groundwater management. The GWMP covers the Santa Clara and Llagas subbasins, which are located entirely in Santa Clara County. Valley Water manages a diverse water supply portfolio, with sources including groundwater, local surface water, imported water, and recycled water. About half of the county's water supply comes from local sources and the other half comes from imported sources. Imported water includes the District's State Water Project and Central Valley contract supplies and supplies delivered by the San Francisco Public Utilities Commission (SFPUC) to cities in northern Santa Clara County. Local sources include natural groundwater recharge and surface water supplies. A small portion of the county's water supply is recycled water.

Local groundwater resources make up the foundation of the county's water supply, but they need to be augmented by the District's comprehensive water supply management activities to reliably meet the county's needs. These include the managed recharge of imported and local surface water and in-lieu groundwater recharge through the provision of treated surface water and raw water, acquisition of supplemental water supplies, and water conservation and recycling.⁵⁸

Post-Construction Urban Runoff Management (City Council Policy No. 6-29)

The City of San José's Policy No. 6-29 implements the stormwater treatment requirements of Provision C.3 of the MRP. City Council Policy No. 6-29 requires new development and redevelopment projects to implement post-construction Best Management Practices (BMPs) and Treatment Control Measures (TCMs). This policy also established specific design standards for post-construction TCMs for projects that create or replace 10,000 square feet or more of impervious surfaces.

Post-Construction Hydromodification Management (City Council Policy No. 8-14)

The City of San José's Policy No. 8-14 implements the hydromodification management requirements of Provision C.3 of the MRP. Policy No. 8-14 requires new development and redevelopment projects that create or replace one acre or more of impervious surface area and are located within a sub-watershed that is less than 65 percent impervious, to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt generation, or other impacts to local rivers, streams, and creeks. The policy requires these projects to be designed to control project-related hydromodification through a

⁵⁸ Valley Water. *2021 Groundwater Management Plan, Santa Clara, and Llagas Subbasins*. November 2021.

Hydromodification Management Plan (HMP). Projects that do not meet the minimum size threshold, drain into tidally influenced areas or directly into the Bay, or are infill projects in sub-watersheds or catchment areas that are greater than or equal to 65 percent impervious would not be subject to the HMP requirement.

Construction Dewatering Waste Discharge Requirements

Each of the RWQCBs regulate construction dewatering discharges to storm drains or surface waters within its Region under the NPDES program and Waste Discharge Requirements.

4.10.1.2 *Existing Conditions*

Site Drainage and Water Quality

The project site does not contain surface water resources within the boundaries of the site. The nearest waterway, Coyote Creek, is located approximately 150 feet southwest of the project site. Water from the project site would primarily infiltrate into the bare ground surface on the site or surface flow across the site into the City's established drainage system or Coyote Creek. According to the EPA, the Coyote Creek is currently listed on the 303(d) list of impaired waterways for Diazinon toxicity and trash.⁵⁹

Flooding

According to the FEMA Flood Insurance Rate Maps (FIRM), the project site is located in Flood Zone D. Zone D is an area of undetermined but possible flood hazard that is outside the 100-year flood plain. There are no City floodplain requirements for Zone D.⁶⁰

Dam Failure

The project site is not located within the Anderson Dam nor the Coyote dam failure inundation hazard zones.^{61,62}

Seiches, Tsunamis, and Mudflows

A seiche is the oscillation of water in an enclosed body of water such as a lake or the San Francisco Bay. There are no landlocked bodies of water near the project site that would affect the site in the event of a seiche.

⁵⁹ United States Environmental Protection Agency. Waterbody Quality Assessment Report for 2022 Waterbody Report for Coyote Creek (Santa Clara Co.). 2016. Accessed November 7, 2022. https://mywaterway.epa.gov/waterbody-report/CA_SWRCB/CAR2053002119990218112824/2022.

⁶⁰ Federal Emergency Management Agency. "FEMA Flood Map Service Center." Accessed June 13, 2022. <https://msc.fema.gov/portal/search?AddressQuery>.

⁶¹ Santa Clara Valley Water District. "Inundation Map for the Hypothetical Fair Weather Failure of Leroy Anderson Dam." January 2020. Accessed June 13, 2022. <https://fta.valleywater.org/dl/f0uHPXKX7E>

⁶² Santa Clara Valley Water District. "Inundation Map for the Hypothetical Fair Weather Failure of Coyote Dam." January 2020. Accessed June 13, 2022. <https://fta.valleywater.org/dl/zeXOXXRO1b>.

A tsunami is a sea wave generated by an earthquake, landslide, or other large displacement of water in the ocean. There are no bodies of water near the project site that would affect the site in the event of a tsunami.⁶³

A mudflow is the rapid movement of a large mass of mud formed from loose soil and water. The project site and surrounding area are relatively flat. The project site is not susceptible to mudflows.

Groundwater

Groundwater has been estimated to occur at depths greater than 30 feet below ground surface flowing to the west or southwest direction.⁶⁴ Fluctuations in the groundwater level may occur due to seasonal changes, variations in rainfall, and underground drainage patterns.

Hydromodification

Hydromodification is a change in stormwater runoff characteristics from a watershed caused by changes in land use conditions (i.e., urbanization) that alter the natural cycling of water. Changes in local land use can cause runoff volumes and velocity to increase which can result in a decrease in natural vegetation, changing of river/creek bank grades, soil compaction, and the creation of new drainages

The project site is located within a sub-watershed with less than 65 percent impervious surfaces, therefore the project site is subject to hydromodification requirements outlined in City Council Policy No. 8-14.⁶⁵

⁶³ [California](https://maps.conservation.ca.gov/cgs/informationwarehouse/ts_evacuation/?extent=-13597903.6729%2C4493258.9735%2C-13569239.7873%2C4508871.2366%2C102100&utm_source=cgs+active&utm_content=santaclara) Geological Survey. "CGS Information Warehouse: Tsunami Hazard Area Map." Accessed November 7, 2022. https://maps.conservation.ca.gov/cgs/informationwarehouse/ts_evacuation/?extent=-13597903.6729%2C4493258.9735%2C-13569239.7873%2C4508871.2366%2C102100&utm_source=cgs+active&utm_content=santaclara

⁶⁴ Valley Water. Santa Clara County Depth to First Groundwater. Updated January 24, 2017. Accessed June 13, 2022.

⁶⁵ City of San José. "Public GIS Viewer – Hydromodification Management Zone." Accessed November 7, 2022. <https://csj.maps.arcgis.com/apps/webappviewer/index.html?id=3c5516412b594e79bd25c49f10fc672f>

4.10.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
– result in substantial erosion or siltation on- or off-site;	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
– substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
– create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
– impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
a) Would the project violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?				

Construction Impacts

Implementation of the proposed project would involve excavation and grading activities on-site. Ground-disturbing activities would temporarily increase the volume of loose debris on-site and grading activities could increase erosion and sedimentation that could be carried by runoff into the San Francisco Bay. More than one acre of soil would be disturbed since the project site is approximately 10.17-acres. Therefore, the project would be required to obtain an NPDES General Permit for Construction Activities. All development projects in the City are also required to comply

with the City of San José's Grading Ordinance regardless even if the project is required to obtain an NDPES General Construction Permit.⁶⁶ Prior to the issuance of a permit for grading activity occurring during the rainy season (October 1st to April 30th), the applicant shall submit an Erosion Control Plan to the Director of Public Works for review and approval. The Erosion Control Plan shall detail BMPs that would be implemented to prevent the discharge of stormwater pollutants.

Pursuant to City requirements, the following Standard Permit Conditions have been included in the project to reduce potential construction-related water quality impacts.

Standard Permit Conditions:

- Consistent with the General Plan, measures shall be implemented to prevent stormwater pollution and minimize potential sedimentation during construction including, but not limited to, the following:
- Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
- Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
- All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.
- Stockpiles of soil or other materials that can be blown away by the wind shall be watered or covered.
- All trucks hauling soil, sand, and other loose materials shall be required to cover all trucks or maintain at least two feet of freeboard.
- All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).
- Vegetation in disturbed areas shall be replanted as quickly as possible.
- All unpaved entrances to the site shall be filled with rock to knock mud from truck tires prior to entering City streets. A tire wash system shall be installed if requested by the City.
- The project applicant shall comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.

With implementation of the identified Standard Permit Conditions, construction of the proposed project would have a less than significant impact on water quality.

Post-Construction Impacts

Under existing conditions, the project site is entirely comprised of pervious surface area. Upon completion of the proposed project, the site would be covered with approximately 239,905 square feet (91 percent) of impervious surfaces and 23,093 square feet (9 percent) of pervious surface area.

⁶⁶ The San José Grading Ordinance requires the use of erosion and sediment controls to protect water quality when a site is under construction.

Construction of the project would result in the replacement of more than 10,000 square feet of impervious surface area. Therefore, the project would be required to comply with the City of San José' Post-Construction Urban Runoff Policy 6-29 and the MRP.

The MRP requires all post-construction stormwater runoff to be treated by numerically sized LID treatment controls, such as biotreatment facilities, unless the project is granted Special Project LID Reduction Credits, which would allow the project to implement non-LID measures for all or a portion of the site depending on the project characteristics. To treat stormwater runoff, the project proposes two unlined bioretention basins with underdrains and a subsurface infiltration system underneath the western parking lot adjacent to one of the detention basins.

In addition to LID measures the proposed project would be required to comply with measures included in the General Plan for managing stormwater runoff. The General Plan Final EIR concluded that with the regulatory programs currently in place, stormwater runoff from new development would have a less than significant impact on stormwater quality. With inclusion of LID stormwater treatment and compliance with the City's regulatory policies pertaining to stormwater runoff, operation of the proposed project would have a less than significant water quality impact.

The proposed project would implement the standard permit conditions established by the City of San José and would be constructed with LID features to capture and release stormwater during project operations. Additionally, the project would not impact groundwater and would not require groundwater dewatering. Therefore, the proposed project would result in less than significant impacts on runoff and groundwater associated with the proposed project. **(Less than Significant Impact)**

b) Would the project substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?

The proposed project is located within the Santa Clara Subbasin, one of two groundwater basins located within the City of San José Urban Growth Boundaries. Planned build out within the scope of the General Plan does not include areas within any of the Santa Clara Valley Water District's 18 major groundwater recharge systems. The Santa Clara Subbasin has not been identified as a groundwater basin in a state of overdraft. The project site is not located within a groundwater recharge area.

Groundwater has been estimated to occur at depths greater than 30 feet below ground surface, although the depth can vary seasonally. Since construction of the project would not require substantial below-ground excavation (maximum excavation of 20 feet), dewatering would not be required. Construction activities proposed by the project would therefore not substantially decrease groundwater supplies or interfere with groundwater recharge. The proposed project would increase water demand on-site but would rely on existing water delivery systems to meet its demand and would not rely on groundwater derived from beneath the site. The project would not establish or require additional groundwater pumping, actions which could impede efforts to sustainably manage the Santa Clara Subbasin. **(Less than Significant Impact)**

-
- c) Would the project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would result in substantial erosion or siltation on- or off-site; substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site; create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or impede or redirect flood flows?**
-

Although the project site is located adjacent to Coyote Creek, improvements are limited to the project site and the project would not substantially alter the existing drainage pattern of the site or area through the alteration of any waterway.

As described in checklist question “a”, the impervious area on-site would increase with the proposed project compared to existing conditions, which would result in increased surface runoff. The project would comply with the City’s Post-Construction Urban Runoff Policy 6-29 and the RWQCB MRP to minimize and treat stormwater runoff to reduce the rate of stormwater runoff while removing pollutants. The proposed project would include two bioretention basins and a subsurface infiltration system consisting of underground reservoirs that capture, temporarily store, and infiltrate stormwater into the surrounding soil. The bioretention basins would be located on the western side of the project site and the subsurface infiltration system would be underneath a portion of the western parking lot. These stormwater management features would capture stormwater during rainfall events and would prevent surface runoff from resulting in flooding on- and off-site during most rainfall events by retaining and releasing water slowly over time. Stormwater management features are not sized to handle flows from large, infrequent rainfall events. The proposed project would size the stormwater features consistent with Provision C.3.c.iii.(3) of the Municipal Regional Stormwater Permit which requires features to accommodate runoff of five inches per hour. This drainage rate would accommodate most storms and the project would not release water from the site during a majority of storm events and therefore, polluted runoff and erosion would not be delivered into streams or other waterways. Therefore, the proposed project would not substantially alter the existing drainage pattern of the site or create or contribute runoff which would exceed existing stormwater drainage capacity or result in flooding on- or off-site. Impacts related to the existing drainage pattern and stormwater runoff would be less than significant. **(Less than Significant Impact)**

-
- d) Would the project risk release of pollutants due to project inundation in flood hazard, tsunami, or seiche zones?**
-

Based on the FEMA Flood Map Service, the project site is located in Flood Zone D, an area of undetermined but possible flood hazard that is outside of the 100-year floodplain. Also, based on the Valley Water dam failure inundation hazard maps (fair weather and inflow design flood failure), the project site is not within the Anderson Dam failure flood inundation hazard zone; therefore, in the event that a dam failure happens, the site would not become inundated.^{67,68} In addition, the project

⁶⁷ Valley Water. Inundation Map of Hypothetical Fair Weather Failure of Anderson Dam. Sheet 11 and 12. November 2019. Accessed June 13, 2022. <https://fta.valleywater.org/dl/f0uHPXKX7E>

⁶⁸ Valley Water. Inundation Map of Hypothetical Inflow Design Flood Failure of Anderson Dam. Sheet 16 and 17. November 2019. Accessed June 13, 2022. <https://fta.valleywater.org/dl/f0uHPXKX7E>

site is located inland of the San Francisco Bay and would not be subject to inundation following a tsunami or seiche. Therefore, the project would not risk the release of pollutants due to inundation from flooding, tsunamis, or seiches. **(Less than Significant Impact)**

e) Would the project conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?

As discussed in checklist questions a) and b), the proposed project would implement Standard Permit Conditions and would be required to comply with the Post-Construction Urban Runoff Policy 6-29 and Provision C.3 of the RWQCB MRP requirements. The project would not impact groundwater recharge, consistent with the SCVWD's 2021 Groundwater Management Plan. For these reasons, the project would not conflict with implementation of a water quality or groundwater management plan. **(Less than Significant Impact)**

4.11 LAND USE AND PLANNING

4.11.1 Environmental Setting

4.11.1.1 *Regulatory Framework*

Regional

Habitat Conservation Plan/Natural Community Conservation Plan

As described in Section 4.4 Biological Resources, the Santa Clara Valley Habitat Plan (Habitat Plan), which encompasses a study area of 519,506 acres (or approximately 62 percent of Santa Clara County), was adopted by six local entities in Santa Clara County and went into effect in October 2013. The entire 10.17-acre project site is contained within the boundaries of the HCP and the project would be considered a covered activity.

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects with the City. The following policies are specific to land use and are applicable to the proposed project.

Envision San José 2040 Relevant Land Use Policies

Policies	Description
CD-1.1	Require the highest standards of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.
CD-1.23	Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.
CD-4.9	For development subject to design review, ensure the design of new or remodeled structures is consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).
ER-2.1	Ensure that new public and private development adjacent to riparian corridors in San José are consistent with the provisions of the City's Riparian Corridor Policy Study and any adopted Santa Clara Valley Habitat Conservation Plan/Natural Communities Conservation Plan (HCP/NCCP).

ER-2.2	Ensure that a 100-foot setback from riparian habitat is the standard to be achieved in all but a limited number of instances, only where no significant environmental impacts would occur.
Policy ER-2.3	Design new development to protect adjacent riparian corridors from encroachment of lighting, exotic landscaping, noise and toxic substances into the riparian zone.
Policy ER-2.4	When disturbances to riparian corridors cannot be avoided, implement appropriate measures to restore, and/or mitigate damage and allow for fish passage during construction.
Policy ER-2.5	Restore riparian habitat through native plant restoration and removal of nonnative/invasive plants along riparian corridors and adjacent areas.

4.11.1.2 *Existing Conditions*

The project site is currently designated Industrial Park under the General Plan and located within the Industrial Park Zoning District.

The Industrial Park General Plan designation is an industrial designation intended for a wide variety of industrial users such as research and development, manufacturing, assembly, testing and offices. This designation is differentiated from the Light Industrial and Heavy Industrial designations in that Industrial Park uses are limited to those for which the functional or operational characteristics of a hazardous or nuisance nature can be mitigated through design controls. Areas identified exclusively for Industrial Park uses may contain a very limited number of supportive and compatible commercial uses, when those uses are of a scale and design providing support only to the needs of businesses and their employees in the immediate industrial area. These commercial uses should typically be located within a larger industrial building to protect the character of the area and maintain land use compatibility. One primary difference between this use category and the “Light Industrial” category is that, through the Zoning Ordinance, performance and design standards are more stringently applied to Industrial Park uses.⁶⁹

The Industrial Park District zoning district is intended for a wide variety of industrial users such as research and development, manufacturing, assembly, testing, and offices. Industrial uses are consistent with this designation insofar as any functional or operational characteristics of a hazardous or nuisance nature can be mitigated through design controls. Areas exclusively for industrial uses may contain a very limited amount of supportive commercial uses, in addition to industrial uses, when those uses are of a scale and design providing support only to the needs of businesses and their employees in the immediate industrial area. These commercial uses should be located within a larger industrially utilized building to protect the character of the area and maintain land use compatibility.

⁶⁹ City of San José. *Envision San José 2040 General Plan*. As amended December 14, 2021. P. 11.

In addition, warehouse retail uses are allowed where they are compatible with adjacent industrial uses and would not constrain future use of the subject site for industrial purposes.⁷⁰

4.11.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

a) Would the project physically divide an established community?

Changes in land use are not adverse environmental impacts in and of themselves, however, they may create conditions that adversely affect existing uses in the immediate vicinity. As proposed, the project would construct a one-story, 121,400 square-foot industrial building and associated surface parking. The project would not result in the construction of any features that would physically divide the community (e.g., roadway, railway, or highway). The General Plan Final EIR concluded that future development under the General Plan would not substantially change allowed land uses in the City and would generally continue and reinforce the patterns of land use currently in place. The proposed project would be consistent with the existing uses in the project area and would not physically divide an established community. **(Less than Significant Impact)**

b) Would the project 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?

The proposed project would be consistent with the Industrial Park General Plan designation and zoning code regulations. As described within the individual sections of this document, implementation of the identified mitigation measures, the City's Standard Permit Conditions, and the required General Plan Final EIR and regulatory requirements, the project would not cause a significant environmental impact due to a conflict with plans, policies or regulation adopted for the purpose of avoiding or mitigating an environmental effect. The project site is located within the New Edenvale Employment Area General Plan Planned Growth Area. According to the General Plan, significant job growth is planned through intensification of the City's Employment Land Areas, including Edenvale. The City anticipates accommodating a wide variety of industry types and development forms, including high rise and mid-rise office or research and development uses, heavy and light industrial uses, and supporting commercial uses to respond to the projected demand for

⁷⁰ City of San José. San Jose - Municipal Code Section 20.50.010(C)3. Accessed May 20, 2022. Available at https://library.municode.com/ca/san_jose/codes/code_of_ordinances?nodeId=TIT20ZO_CH20.50INZODI_PT1GE_20.50.010INZODI

each type of industrial land. The proposed project is consistent with the industrial development envisioned by the plan. Additionally, the project site is located within the boundaries of the Santa Clara Valley Habitat Plan and would be considered a covered activity. As described in Section 4.4 Biological Resources, the project would comply with the requirements of the Habitat Plan. **(Less than Significant Impact)**

4.12 MINERAL RESOURCES**4.12.1 Environmental Setting****4.12.1.1 *Regulatory Framework*****State****Surface Mining and Reclamation Act**

The Surface Mining and Reclamation Act (SMARA) was enacted by the California legislature in 1975 to address the need for a continuing supply of mineral resources, and to prevent or minimize the negative impacts of surface mining to public health, property, and the environment. As mandated under SMARA, the State Geologist has designated mineral land classifications in order to help identify and protect mineral resources in areas within the state subject to urban expansion or other irreversible land uses which would preclude mineral extraction. SMARA also allowed the State Mining and Geology Board (SMGB), after receiving classification information from the State Geologist, to designate lands containing mineral deposits of regional or statewide significance.

Pursuant to the mandate of the SMARA, the SMGB has designated the Communications Hill Area (Sector EE), bounded generally by the Southern Pacific Railroad, Curtner Avenue, SR 87, and Hillsdale Avenue as containing mineral deposits that are of regional significance as a source of construction aggregate materials. Neither the State Geologist nor the SMGB have classified any other areas in San José as containing mineral deposits of statewide significance or requiring further evaluation.

4.12.1.2 *Existing Conditions*

The project site is located in the southern area of San José which is not known to contain mineral resources of local or state importance. The nearest mineral resources identified in the General Plan are located approximately 5.7 miles northwest at Communications Hill.⁷¹

4.12.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

⁷¹ City of San José. *Envision San José 2040 General Plan*. Page 36. As Amended on December 14, 2021.

a) Would the project result in the loss of availability of a known mineral resource that would be of value to the region and residents of the state?

Based on the United States Geological Survey (USGS) map of mines and mineral resources, the project site is not comprised of known mineral resources or mineral resource production areas. The project site is located in the southern area of San José and is located 5.7 miles southeast of Communications Hill, which is the nearest identified mineral resource. Therefore, the proposed project would not result in the loss of availability of a known mineral resource that would be of value to the region and residents of the state. **(No Impact)**

b) Would the project result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?

As described in question a), the project site includes no mineral resources, no mineral resource production areas, nor is it in proximity to an area with identified mineral resources. Therefore, the project would not result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan. **(No Impact)**

4.13 NOISE

The information in this section is based in part on the *865 Embedded Way Industrial Project Noise and Vibration Assessment* prepared by Illingworth & Rodkin, Inc. in August 2022. This report is available as Appendix G of this document.

4.13.1 Environmental Setting

4.13.1.1 *Background Information*

Noise

Factors that influence sound as it is perceived by the human ear, include the actual level of sound, period of exposure, frequencies involved, and fluctuation in the noise level during exposure. Noise is measured on a decibel scale, which serves as an index of loudness. The zero on the decibel scale is based on the lowest sound level that the healthy, unimpaired human ear can detect. Each 10 decibel increase in sound level is perceived as approximately a doubling of loudness. Because the human ear cannot hear all pitches or frequencies, sound levels are frequently adjusted or weighted to correspond to human hearing. This adjusted unit is known as the A-weighted decibel, or dBA.

Since excessive noise levels can adversely affect human activities and human health, federal, state, and local governmental agencies have set forth criteria or planning goals to minimize or avoid these effects. Noise guidelines are generally expressed using one of several noise averaging methods, including L_{eq} , DNL, or CNEL.⁷² These descriptors are used to measure a location's overall noise exposure, given that there are times when noise levels are higher (e.g., when a jet is taking off from an airport or when a leaf blower is operating) and times when noise levels are lower (e.g., during lulls in traffic flows on freeways or in the middle of the night). L_{max} is the maximum A-weighted noise level during a measurement period.

Vibration

Ground vibration consists of rapidly fluctuating motions or waves with an average motion of zero. Vibration amplitude can be quantified using Peak Particle Velocity (PPV), which is defined as the maximum instantaneous positive or negative peak of the vibration wave. PPV has been routinely used to measure and assess ground-borne construction vibration. Studies have shown that the threshold of perception for average persons is in the range of 0.008 to 0.012 inches/second (in/sec) PPV.

⁷² L_{eq} is a measurement of average energy level intensity of noise over a given period of time. Day-Night Level (DNL) is a 24-hour average of noise levels, with a 10 dB penalty applied to noise occurring between 10:00 PM and 7:00 AM. Community Noise Equivalent Level (CNEL) includes an additional five dB applied to noise occurring between 7:00 PM and 10:00 PM. Where traffic noise predominates, the CNEL and DNL are typically within two dBA of the peak-hour L_{eq} .

4.13.1.2 *Regulatory Framework*

State and Local

California Green Building Standards Code

For commercial uses, CALGreen (Section 5.507.4.1 and 5.507.4.2) requires that wall and roof-ceiling assemblies exposed to the adjacent roadways have a composite STC rating of at least 50 or a composite OITC rating of no less than 40, with exterior windows of a minimum STC of 40 or OITC of 30 when the commercial property falls within the 65 dBA L_{dn} or greater noise contour for a freeway or expressway, railroad, or industrial or stationary noise source. The state requires interior noise levels to be maintained at 50 dBA $L_{eq}(1-hr)$ or less during hours of operation at a proposed commercial use.

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects with the City. The following policies are specific to noise and vibration and are applicable to the proposed project.

Envision San José 2040 Relevant Noise Policies

Policies	Description
Policy EC-1.1	Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, State and City noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José include:

Interior Noise Levels

- The City's standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meet this standard. For sites with exterior noise levels of 60 dBA DNL or more, an acoustical analysis following protocols in the City-adopted California Building Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected General Plan traffic volumes to ensure land use compatibility and General Plan consistency over the life of this plan.




Exterior Noise Levels

- The City's acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses (refer to Table EC-1 in the General Plan or
- Table 4.13-1 in this Initial Study). The acceptable exterior noise level objective is established for the City, except in the environs of the San José International Airport and the Downtown, as described below:
For new multi-family residential projects and for the residential component of mixed-use development, use a standard of 60 dBA

	<p>DNL in usable outdoor activity areas, excluding balconies and residential stoops and porches facing existing roadways. Some common use areas that meet the 60 dBA DNL exterior standard will be available to all residents. Use noise attenuation techniques such as shielding by buildings and structures for outdoor common use areas. On sites subject to aircraft overflights or adjacent to elevated roadways, use noise attenuation techniques to achieve the 60 dBA DNL standard for noise from sources other than aircraft and elevated roadway segments.</p>
Policy EC-1.2	<p>Minimize the noise impacts of new development on land uses sensitive to increased noise levels (Categories 1, 2, 3 and 6) by limiting noise generation and by requiring use of noise attenuation measures such as acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would:</p> <ul style="list-style-type: none"> • Cause the DNL at noise sensitive receptors to increase by five dBA DNL or more where the noise levels would remain “Normally Acceptable;” or • Cause the DNL at noise sensitive receptors to increase by three dBA DNL or more where noise levels would equal or exceed the “Normally Acceptable” level.
Policy EC-1.6	<p>Regulate the effects of operational noise from existing and new industrial and commercial development on adjacent uses through noise standards in the City’s Municipal Code.</p>
Policy EC-1.7	<p>Require construction operations within San José to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City’s Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would:</p> <ul style="list-style-type: none"> • Involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months. <p>For such large or complex projects, a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.</p>
EC-2.3	<p>Require new development to minimize continuous vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, including ruins and ancient monuments or building that are documented to be structurally weakened, a continuous vibration limit of 0.08 in/sec PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. A continuous vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction. Equipment or activities typical of generating continuous vibration include but are not limited to: excavation equipment; static compaction equipment; vibratory pile drivers; pile-extraction equipment; and vibratory compaction equipment. Avoid use of impact pile drivers within 125 feet of any buildings, and within 300 feet of historical buildings, or buildings in poor condition. On a project-specific basis, this distance of 300 feet may be reduced where warranted by a technical study by a qualified professional that verifies that there will be virtually no risk of cosmetic damage to sensitive buildings from the new</p>

development during demolition and construction. Transient vibration impacts may exceed a vibration limit of 0.08 in/sec PPV only when and where warranted by a technical study by a qualified professional that verifies that there will be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction.

Table 4.13-1: General Plan Land Use Compatibility Guidelines

Land Use Category	Exterior DNL Value in Decibels					
	55	60	65	70	75	80
1. Residential, Hotels and Motels, Hospitals and Residential Care ¹						
2. Outdoor Sports and Recreation, Neighborhood Parks and Playgrounds						
3. Schools, Libraries, Museums, Meeting Halls, and Churches						
4. Office Buildings, Business Commercial, and Professional Offices						
5. Sports Arena, Outdoor Spectator Sports						
6. Public and Quasi-Public Auditoriums, Concert Halls, and Amphitheaters						
Notes: ¹ Noise mitigation to reduce interior noise levels pursuant to Policy EC-1.1 is required. <div style="display: flex; align-items: flex-start;"> <div style="margin-right: 10px;">    </div> <div> <p>Normally Acceptable: Specified land use is satisfactory, based upon the assumption that any buildings involved are of normal conventional construction, without any special noise insulation requirements.</p> <p>Conditionally Acceptable: Specified land use may be permitted only after detailed analysis of the noise reduction requirements and noise mitigation features included in the design.</p> <p>Unacceptable: New construction or development should generally not be undertaken because mitigation is usually not feasible to comply with noise element policies.</p> </div> </div>						

4.13.1.3 Existing Conditions

Existing Noise Environment

The existing noise environment in the project area is primarily due to vehicular traffic along United States Highway (US 101) and Hellyer Avenue.

Existing Ambient Noise Levels

A noise monitoring survey consisting of two long-term (LT-1 and LT-2) and three short-term (ST-1, ST-2, and ST-3) noise measurements was completed at the site and the surrounding area between Wednesday, July 6, 2022, and Friday, July 8, 2022. All measurement locations are shown in Figure

4.13-1, and Table 4.13-2 lists the short-term noise measurements. The long-term measurement at LT-1 was 63 dBA DNL and at LT-2 was 61 dBA DNL.

Table 4.13-2: Short-Term Noise Measurements

Noise Measurement Location	Date, Time	L _{max}	L ₍₁₎	L ₍₁₀₎	L ₍₅₀₎	L ₍₉₀₎	L _{eq}
ST-1: NE corner of the project site	7/6/2022, 12:20-12:30	66	57	53	52	51	52
ST-2: ~35 feet west of the centerline of the southbound through lanes of Coyote Road	7/6/2022, 12:40-12:50	74	71	63	52	45	59
ST-3: Near the intersection of Embedded Way and Hellyer Avenue	7/8/2022, 12:10-12:20	64	62	58	51	47	54

ST = short-term; L_{max} = maximum A-weighted noise level during the measurement period; L₍₁₎, L₍₁₀₎, L₍₅₀₎, L₍₉₀₎ = The A-weighted noise levels that are exceeded 1%, 10%, 50%, and 90% of the time during the measurement period; L_{eq} = The average A-weighted noise level during the measurement period.

Source: Illingworth & Rodkin Inc. *865 Embedded Way Industrial Project Noise and Vibration Assessment*. August 2022

Existing Noise-Sensitive Receptors

The nearest noise sensitive receptors to the project site are the single-family residences in a single-family neighborhood approximately 345 feet to the west of the project site across Coyote Creek.



NOISE MEASUREMENT LOCATIONS

FIGURE 4.13-1

4.13.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project result in:				
a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

4.13.2.1 *Thresholds of Significance*

The following criteria were used to evaluate the significance of environmental noise resulting from the project:

- A significant noise impact would be identified if the project would generate a substantial temporary or permanent noise level increase over ambient noise levels at existing noise-sensitive receptors surrounding the project site and that would exceed applicable noise standards presented in the General Plan at existing noise-sensitive receptors surrounding the project site.
 - A significant noise impact would be identified if temporary construction-related activities would substantially increase ambient noise levels at sensitive receptors. The City of San José considers large or complex projects involving substantial noise-generating activities and lasting more than 12 months significant when within 500 feet of residential land uses or within 200 feet of commercial land uses or offices. After a period of 12 months, a significant temporary noise impact would occur if construction noise levels would exceed 80 dBA L_{eq} at residential land uses near the site or 90 dBA L_{eq} at commercial land uses near the site.
 - A significant permanent noise level increase would occur if the project would result in: a) a noise level increase of 5 dBA DNL or greater, with a future noise level of less than 60 dBA DNL, or b) a noise level increase of 3 dBA DNL or greater, with a future noise level of 60 dBA DNL or greater.

- A significant noise impact would be identified if the project would expose persons to or generate noise levels that would exceed applicable noise standards presented in the General Plan.
- A significant impact would be identified if the construction of the project would generate excessive vibration levels surrounding receptors. Groundborne vibration levels exceeding 0.08 in/sec PPV would have the potential to result in cosmetic damage to historic buildings, and groundborne vibration levels exceeding 0.2 in/sec PPV would have the potential to result in cosmetic damage to normal buildings.
- A significant noise impact would be identified if the project would expose people residing or working in the project area to excessive aircraft noise levels.

a) Would the project result in generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?

Construction Noise

Policy EC-1.7 of the City's General Plan requires that all construction activities within the City use best available noise suppression devices and techniques and to limit construction hours near residential uses per the Municipal Code, which are between 7:00 AM and 7:00 PM on weekdays when construction occurs within 500 feet of a residential land use. Furthermore, the City considers a significant construction noise impact to occur if a project is located within 500 feet of a residential use or 200 feet of a commercial or office use and would involve substantial noise-generating activities continuing for a period of more than 12 months.

While the City of San José does not establish noise level thresholds for construction activities, this analysis uses the noise limits established by the Federal Transit Administration (FTA) to identify the potential for impacts due to substantial temporary construction noise. The FTA identifies construction noise limits in the *Transit Noise and Vibration Impact Assessment Manual*.¹ During daytime hours, an exterior threshold of 80 dBA L_{eq} shall be applied at residential land uses and 90 dBA L_{eq} shall be applied at commercial and industrial land uses. Table 4.13-3 lists the noise level estimates at nearby land uses in proximity to the project. The noise levels do not assume reductions due to intervening buildings or existing barriers.

Table 4.13-3: Estimated Construction Noise Levels at Nearby Land Uses (dBA)

Phase of Construction	North Industrial (310ft)	East Industrial (340ft)	South Industrial (240ft)	West Residences (700ft)
Demolition	66 dBA L_{eq}	65 dBA L_{eq}	68 dBA L_{eq}	59 dBA L_{eq}
Site Preparation	68 dBA L_{eq}	67 dBA L_{eq}	70 dBA L_{eq}	61 dBA L_{eq}
Grading/Excavation	69 dBA L_{eq}	68 dBA L_{eq}	71 dBA L_{eq}	62 dBA L_{eq}
Trenching/Foundation	66 dBA L_{eq}	65 dBA L_{eq}	68 dBA L_{eq}	59 dBA L_{eq}
Building – Exterior	65 dBA L_{eq}	64 dBA L_{eq}	67 dBA L_{eq}	58 dBA L_{eq}
Building – Interior/ Architectural Coating	52 dBA L_{eq}	51 dBA L_{eq}	54 dBA L_{eq}	45 dBA L_{eq}
Paving	69 dBA L_{eq}	68 dBA L_{eq}	71 dBA L_{eq}	62 dBA L_{eq}

L_{eq} = The average A-weighted noise level during the measurement period.

Source: Illingworth & Rodkin Inc. *865 Embedded Way Industrial Project Noise and Vibration Assessment*. August 2022

As shown in Table 4.13-3, construction noise levels would intermittently range from 45 to 62 dBA L_{eq} at existing residential uses and from 51 to 71 dBA L_{eq} at existing industrial uses in the project vicinity when construction activities are focused near the center of the project site. These construction noise levels would not exceed the exterior threshold of 80 dBA L_{eq} at residential land uses. The 90 dBA L_{eq} threshold would not be exceeded at industrial land uses in the project vicinity during project construction. Additionally, the project would be required to implement the following standard permit condition to minimize construction-related noise impacts.

Standard Permit Condition:

- **Construction-related Noise.** Noise minimization measures include, but are not limited to, the following:
 - Limit construction to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific “construction noise mitigation plan” and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential use.
 - Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.
 - Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
 - Prohibit unnecessary idling of internal combustion engines.
 - Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
 - Utilize “quiet” air compressors and other stationary noise sources where technology exists.
 - Control noise from construction workers’ radios to a point where they are not audible at existing residences bordering the project site.

- Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of “noisy” construction activities to the adjacent land uses and nearby residences.
- If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.
- Designate a “disturbance coordinator” who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. 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 schedule.

Based the above, project construction would not exceed 12 months in duration, nor would construction-related noise impacts exceed the FTA thresholds for residential and industrial land uses. With implementation of the standard permit condition, General Plan Policy EC-1.7, and Municipal Code requirements, the proposed project would not result in a significant construction noise impact. **(Less than Significant Impact)**

Operational Noise

The proposed project would create new sources of noise in the project vicinity. Major sources of noise associated with the proposed project include the following: vehicular traffic, mechanical equipment, parking lot, and truck deliveries.

As discussed in Section 4.13.1.4 Existing Conditions, the closest sensitive receptors are single-family homes located approximately 345 feet southwest of the project site west of the Coyote Creek Trail. For this analysis, the residential noise standards were used to determine impacts. The City of San José’s stationary source exterior Zoning Ordinance Noise Standards for industrial areas adjacent to a property used or zoned for industrial or use other than commercial or residential purposes uses is limited to 70 dBA Leq. Additionally, the noise standard for industrial next to residential uses is 55 dBA Leq. Per General Plan Policy EC-1.1, land use compatibility standard for business commercial areas is up to 70 dBA DNL.

Project Vehicular Traffic Increase

In general, a traffic noise increase of less than three dBA is barely perceptible to people, while a five-dBA increase is readily noticeable. Traffic volumes on project area roadways would have to approximately double for the resulting traffic noise levels to increase by three dBA. Therefore, permanent increases in ambient noise levels of less than three dBA are considered to be less than significant. The proposed project would generate increased traffic volumes along roadway segments near the project site. As shown in Table 4.13-4, the noise analysis determined that the additional traffic generated from the project (which are estimated from peak hour project trips) would increase the existing noise levels on nearby roadways by one dBA DNL or less. **(Less than Significant Impact)**

Table 4.13-4 Estimated Noise Level Increases of Existing Plus Project Traffic Volumes Over Existing Volumes at Receptors in the Project Vicinity

Roadway	Segment	Estimated Noise Level Increase
Embedded Way	East of Hellyer Avenue	0 dBA DNL
	West of Hellyer Avenue	1 dBA DNL
Fontanoso Way	East of Hellyer Avenue	0 dBA DNL
	Hellyer Avenue to Silver Creek Valley Road	1 dBA DNL
	South of Silver Creek Valley Road	0 dBA DNL
	East of Hellyer Avenue	0 dBA DNL
Silver Creek Valley Road/ Blossom Hill Road	Hellyer Avenue to Fontanoso Way	0 dBA DNL
	Fontanoso Way to US 101 NB ramps/Coyote Road	0 dBA DNL
	US 101 NB ramps/Coyote Road to US SB ramps	0 dBA DNL
	West of US 101 SB ramps	0 dBA DNL
Hellyer Avenue	North of US 101 SB ramps	0 dBA DNL
	US 101 SB ramps to US 101 NB ramps/Dove Road	0 dBA DNL
	US 101 NB ramps/Dove Road to Embedded Way	0 dBA DNL
	Embedded Way to Fontanoso Way	0 dBA DNL
	Fontanoso Way to Silver Creek Valley Road	0 dBA DNL
	South of Silver Creek Valley Road	0 dBA DNL
Coyote Road	North of Silver Creek Valley Road/Blossom Hill Road	0 dBA DNL
Dove Road	North of Hellyer Avenue	0 dBA DNL
US 101 NB ramps	On/off ramp at Hellyer Avenue	0 dBA DNL
	Off ramp at Silver Creek Valley Road/Blossom Hill Road	0 dBA DNL
US 101 SB ramps	On/off ramp at Hellyer Road	0 dBA DNL
	Off ramp at Blossom Hill Road	0 dBA DNL
	On ramp at Blossom Hill Road	0 dBA DNL

dBA = The average A-weighted noise level during the measurement period; DNL = Day/Night Average Sound Level

Source: Illingworth & Rodkin Inc. *865 Embedded Way Industrial Project Noise and Vibration Assessment*. August 2022

Mechanical Equipment

The project would include HVAC units which are associated with operational noise. Noise levels from the project's rooftop HVAC units were calculated assuming all four proposed units would cycle on and off continuously throughout a 24-hour period. Assuming no reductions due to shielding effects or building elevations, the estimated rooftop equipment noise levels were estimated at the property lines of the nearest surrounding land uses. The estimated noise levels at the receptors are summarized in Table 4.13-5.

Table 4.13-5: Estimated Rooftop Equipment Noise Levels at Receiving Land Uses

Receptor	Distance from Nearest Center of the Equipment Area		Noise Level Increase, DNL	
	Hourly L_{eq}	DNL		
West Residences	700 feet	43 to 44 dBA	50 dBA	0 dBA
North Industrial	385 feet	48 to 49 dBA	55 dBA	N/A ^a
East Industrial	315 feet	50 to 51 dBA	57 dBA	N/A ^a
South Industrial	200 feet	54 to 55 dBA	61 dBA	N/A ^a

^a Noise level increases were not calculated at the existing industrial uses surrounding the site since Policy EC-1.2 would not apply to these land uses.

dBA = The average A-weighted noise level during the measurement period; L_{eq} = The average A-weighted noise level during the measurement period.; DNL = Day/Night Average Sound Level

Source: Illingworth & Rodkin Inc. *865 Embedded Way Industrial Project Noise and Vibration Assessment*. August 2022

Hourly average noise levels would not exceed the 55 dBA threshold at the property lines of the nearest residences west of the site, and the day-night average noise level would not exceed 55 dBA DNL at the nearest residences. The Municipal Code thresholds for industrial uses would also not be exceeded at the property lines of the nearest land uses. Mechanical equipment noise would not result in a measurable or detectable increase over existing ambient noise levels at the residential land uses in the project vicinity. Therefore, the project would not have a significant permanent noise impact pertaining to mechanical equipment. **(Less than Significant Impact)**

Parking Lot

Surface parking lots would be located to the east, to the south, and to the west of the proposed building. Noise sources associated with the use of the parking lots would include vehicular circulation, loud engines, door slams, and human voices. Due to the nature of the proposed industrial building, the parking lot activity would be busy in the morning when people arrive to work and, in the evening, when people depart. For estimating worst-case conditions, hourly average noise levels in a busy parking lot were assumed for two AM hours and for three PM hours when calculating the day-night average noise level. Table 4.13-6 lists the estimated parking lot noise levels at the nearby land uses.

Table 4.13-6: Estimated Parking Lot Noise Levels at Receiving Land Uses

Receptor	Distance from Center of Nearest Parking Area	Hourly L_{eq}	DNL	Noise Level Increase, DNL
West Residences	435 feet	27 to 37 dBA	30 dBA	0 dBA
North Industrial	300 feet	31 to 41 dBA	34 dBA	N/A*
East Industrial	45 feet	47 to 57 dBA	50 dBA	N/A*
South Industrial	150 feet	37 to 47 dBA	40 dBA	N/A*

*Noise level increases were not calculated at the existing industrial uses surrounding the site since Policy EC-1.2 would not apply to these land uses.

dBA = The average A-weighted noise level during the measurement period; L_{eq} = The average A-weighted noise level during the measurement period.; DNL = Day/Night Average Sound Level

Source: Illingworth & Rodkin Inc. *865 Embedded Way Industrial Project Noise and Vibration Assessment*. August 2022

Noise levels resulting from parking activities would be below ambient noise levels and the City threshold for residences (55 dBA DNL). Proposed parking lot/parking activities would not measurably contribute to an increase in the ambient noise levels at noise-sensitive receptors in the project vicinity.

Truck Deliveries and Loading

Truck delivery noise would include both maneuvering activities occurring at the loading docks and truck pass-by activities occurring at the access driveways. Trucks maneuvering would generate a combination of engine, exhaust, and tire noise, as well as the intermittent sounds of back-up alarms and releases of compressed air associated with truck/trailer air brakes. Similar to the truck delivery analysis in Section 4.3 Air Quality, the 12 truck loading docks were assumed to have a maximum turnover of two trucks per day, which equates to 48 daily truck trips. For an assumed 12-hour daily operations schedule from 7:00 a.m. to 7:00 p.m., this would equate to four trucks per hour for the entire 12-hour period.

Due to the orientation of the proposed warehouse building, the only surrounding receptors with direct line-of-sight to the loading docks where the truck maneuvering would occur would be the industrial building to the north. All other receptors, including the nearest residences to the west, would be shielded from the truck loading area and would not be exposed to truck maneuvering noise. The property line of the industrial building to the north would be approximately 170 feet from the center of the truck loading area. At this distance, hourly average noise levels would be 54 to 59 dBA L_{eq} , and the day-night average noise level is estimated to be 53 dBA DNL. Noise levels resulting from truck maneuvering activities in the loading area would not exceed the City's Municipal Code threshold of 70 dBA DNL for receiving industrial land uses.

To estimate the pass-by noise levels for heavy trucks traveling at speeds of 15 to 25 mph, which is assumed for on-site driveway access, the Federal Highway Administration's Traffic Noise Model (FHWA TNM), Version 2.5, was used to model various hourly scenarios for truck traffic, based on the assumed daily trip distribution discussed above. Table 4.13-7 summarizes the estimated truck pass-by noise levels at the property lines of the surrounding receptors when propagated from the center of the nearest on-site access driveway.

Table 4.13-7: Estimated Truck Pass-by Noise Levels at Receiving Land Uses

Receptor	Distance from Center of Nearest Driveway	Hourly L_{eq}	DNL	Noise Level Increase, DNL
West Residences	380 feet	36 dBA	33 dBA	0 dBA
North Industrial	100 feet	47 dBA	44 dBA	N/A ^a
East Industrial	45 feet	54 dBA	51 dBA	N/A ^a
South Industrial	110 feet	47 dBA	44 dBA	N/A ^a

^a Noise level increases were not calculated at the existing industrial uses surrounding the site since Policy EC-1.2 would not apply to these land uses.

Source: Illingworth & Rodkin Inc. *865 Embedded Way Industrial Project Noise and Vibration Assessment*. August 2022

Hourly average noise levels and the day-night average noise level due to truck deliveries at the project site would not exceed the City's General Plan or Municipal Code thresholds at the property lines of the nearest surrounding land uses. Additionally, project noise due to truck deliveries would not result in a measurable or detectable increase over existing ambient noise levels at the nearest residences. Therefore, the project would not have a significant permanent noise impact pertaining to truck deliveries. **(Less than Significant Impact)**

b) Would the project result in generation of excessive groundborne vibration or groundborne noise levels?

Construction of the proposed project may generate perceptible vibration when heavy equipment or impact tools (e.g., jackhammers, hoe rams) are used in the vicinity of nearby sensitive land uses. Construction activities would include site demolition work, preparation work, excavation, foundation work, and new building framing and finishing. Impact pile driving (which generates substantial vibration) is not proposed as a method of construction.

According to General Plan Policy EC-2.3, a continuous vibration limit of 0.2 in/sec PPV is used to minimize damage at buildings of conventional construction and a continuous vibration limit of 0.08 in/sec PPV is used to minimize the potential for cosmetic damage to historical structures. The vibration limits contained in this policy are conservative and designed to provide the ultimate level of protection for existing buildings in San José.

As described in Section 4.5 Cultural Resources, the nearest historical building is the Hayes Mansion, approximately one mile southwest of the project site. At this distance, vibration levels due to construction activities at the project site would be 0.0004 in/sec PPV or below. All buildings in the immediate vicinity of the project site would consist of normal conventional construction materials and would be subject to the City's 0.2 in/sec PPV threshold. Table 4.13-8 lists the vibration levels at the adjacent buildings to the project site.

Table 4.13-8: Vibration Levels at Adjacent Buildings Surrounding the Project Site

Equipment	PPV (in/sec)			
	West Residences (350ft)	North Industrial (120ft)	East Industrial (60ft)	South Industrial (95ft)
Clam shovel drop	0.011	0.036	0.077	0.047
Hydromill in soil	<0.001	0.001	0.003	0.002
(slurry wall) in rock	0.001	0.003	0.006	0.004
Vibratory Roller	0.012	0.037	0.080	0.048
Hoe Ram	0.005	0.016	0.034	0.020
Large bulldozer	0.005	0.016	0.034	0.020
Caisson drilling	0.005	0.016	0.034	0.020
Loaded trucks	0.004	0.014	0.029	0.018
Jackhammer	0.002	0.006	0.013	0.008
Small bulldozer	<0.001	0.001	0.001	0.001

Source: Illingworth & Rodkin Inc. *865 Embedded Way Industrial Project Noise and Vibration Assessment*. August 2022

The nearest structure adjoining the project site would be the industrial building approximately 60 feet east from the boundary of the project site. At this distance, the conventional industrial building would be exposed to vibration levels at or below 0.08 in/sec PPV, which is below the City's 0.2 in/sec PPV threshold. All other buildings in the project vicinity would be exposed to lower vibration levels due to project construction.

Construction of the project would not generate vibration levels exceeding the General Plan threshold of 0.08 in/sec PPV at the nearest historic property (located over one mile southwest from the project site). Additionally, maximum vibration levels at the nearest non-historical building would be 0.008 in/sec PPV, which would not exceed the City's 0.2 in/sec PPV threshold for buildings of conventional construction. For these reasons, the project would not result in generation of excessive ground borne vibration or ground borne noise and impacts would be less than significant. **(Less than Significant Impact)**

-
- c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?**
-

The proposed project is approximately six miles from the nearest airport, the Reid-Hillview County Airport. Additionally, the Norman Y. Mineta San Jose International Airport is located approximately nine miles to the north. Therefore, the proposed project would not be constructed within two miles of a public or private airport and would not expose people working in the project area to excessive noise. **(No Impact)**

4.14 POPULATION AND HOUSING

4.14.1 Environmental Setting

4.14.1.1 *Regulatory Framework*

State

Housing-Element Law

State requirements mandating that housing be included as an element of each jurisdiction's general plan is known as housing-element law. The Regional Housing Need Allocation (RHNA) is the state-mandated process to identify the total number of housing units (by affordability level) that each jurisdiction must accommodate in its housing element. California housing-element law requires cities to: 1) zone adequate lands to accommodate its RHNA; 2) produce an inventory of sites that can accommodate its share of the RHNA; 3) identify governmental and non-governmental constraints to residential development; 4) develop strategies and a work plan to mitigate or eliminate those constraints; and 5) adopt a housing element and update it on a regular basis.⁷³ The City of San José Housing Element and related land use policies were last updated in 2015.⁷⁴

Regional and Local

Plan Bay Area 2050

Plan Bay Area 2050 is a long-range plan for the nine-county San Francisco Bay Area that provides strategies that increase the availability of affordable housing, support a more equitable and efficient economy, improve the transportation network, and enhance the region's environmental resilience. Plan Bay Area 2050 promotes the development of a variety of housing types and densities within identified Priority Development Areas (PDAs). PDAs are areas generally near existing job centers or frequent transit that are locally identified for housing and job growth.⁷⁵

ABAG allocates regional housing needs to each city and county within the San Francisco Bay Area, based on statewide goals. These allocations are designed to lay the foundation for Plan Bay Area 2050's long-term envisioned growth pattern for the region. ABAG also develops a series of forecasts and models to project the growth of population, housing units, and jobs in the Bay Area. ABAG, MTC, and local jurisdiction planning staff created the Forecasting and Modeling Report, which is a technical overview of the growth forecasts and land use models upon which Plan Bay Area 2050 is based.

⁷³ California Department of Housing and Community Development. "Regional Housing Needs Allocation and Housing Elements" Accessed August 25, 2022. <https://www.hcd.ca.gov/regional-housing-needs-allocation>

⁷⁴ City of San José. 2014-2023 Housing Element. Adopted January 27, 2015. Accessed May 20, 2022. Available at: <https://www.sanjoseca.gov/home/showpublisheddocument/16025/636681585185400000>

⁷⁵ Association of Bay Area Governments and Metropolitan Transportation Commission. *Plan Bay Area 2050*. October 21, 2021. Page 20.

4.14.1.2 *Existing Conditions*

The population of San José was estimated to be approximately 1,049,187 in January 2020 with an average of 3.19 persons per household.⁷⁶ The City currently has approximately 336,507 housing units⁷⁷ and, by 2040, the City's population is projected to reach 1,337,145 and 448,310 households.⁷⁸ The City of San José currently has a higher number of employed residents than jobs (approximately 0.8 jobs per employed resident), but this trend is projected to reverse with full build out under the General Plan.

The project site is comprised of a vacant parcel with no existing development.

4.14.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
a) Would the project induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?				

The proposed project would construct an industrial development with R&D uses on a vacant site. As described in Section 4.11 Land Use and Planning, the proposed project would be consistent with the General Plan land use designation and zoning for Industrial Park uses on the site. Therefore, the jobs created by the proposed project are currently accounted for in the General Plan. The proposed project would not directly contribute to residential development or population expansion since it is a non-residential industrial use. Additionally, the proposed project would not expand existing roads or infrastructure supporting population growth. Therefore, the proposed project would not induce substantial unplanned population growth, and no impacts would occur. **(No Impact)**

⁷⁶ State of California, Department of Finance. *E-5 Population and Housing Estimates for Cities, Counties, and the State – January 1, 2011 – 2020*. Sacramento, California, May 2020.

⁷⁷ Ibid.

⁷⁸ ABAG. *Projections 2040: Forecasts for Population, Household, and Employment for the Nine County San Francisco Bay Area Region*. 2017.

b) Would the project displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?

The site is not currently developed and has not been used for residential purposes in the recent past. Therefore, the proposed development would not displace existing housing or people. No impact would occur. **(No Impact)**

4.15 PUBLIC SERVICES

4.15.1 Environmental Setting

4.15.1.1 *Regulatory Framework*

State

Government Code Section 66477

The Quimby Act (included within Government Code Section 66477) requires local governments to set aside parkland and open space for recreational purposes. It provides provisions for the dedication of parkland and/or payment of fees in lieu of parkland dedication to help mitigate the impacts from new residential developments. The Quimby Act authorizes local governments to establish ordinances requiring developers of new residential subdivisions to dedicate parks, pay a fee in lieu of parkland dedication, or perform a combination of the two.

Government Code Section 65995 through 65998

California Government Code Section 65996 specifies that an acceptable method of offsetting a project's effect on the adequacy of school facilities is the payment of a school impact fee prior to the issuance of a building permit. Government Code Sections 65995 through 65998 set forth provisions for the payment of school impact fees by new development by "mitigating impacts on school facilities that occur (as a result of the planning, use, or development of real property" (Section 65996[a]). The legislation states that the payment of school impact fees "are hereby deemed to provide full and complete school facilities mitigation" under CEQA (Section 65996[b]).

Developers are required to pay a school impact fee to the school district to offset the increased demands on school facilities caused by the proposed residential development project. The school district is responsible for implementing the specific methods for mitigating school impacts under the Government Code.

Regional and Local

Countywide Trails Master Plan

The Santa Clara County Trails Master Plan Update is a regional trails plan approved by the Santa Clara County Board of Supervisors. It provides a framework for implementing the County's vision of providing a contiguous trail network that connects cities to one another, cities to the county's regional open space resources, County parks to other County parks, and the northern and southern urbanized regions of the County. The plan identifies regional trail routes, sub-regional trail routes, connector trail routes, and historic trails.

Parkland Dedication Ordinance and Park Impact Ordinance

The City of San José has adopted the Parkland Dedication Ordinance (PDO, Municipal Code Chapter 19.38) and Park Impact Ordinance (PIO, Municipal Code Chapter 14.25), requiring new residential development to either dedicate sufficient land to serve new residents or pay fees to offset the increased costs of providing new park facilities for new development. Under the PDO and PIO, a

project can satisfy half of its total parkland obligation by providing private recreational facilities on-site. For projects exceeding 50 units, the City decides whether the project will dedicate land for a new public park site or provide a fee in-lieu of land dedication. Affordable housing including low, very-low, and extremely-low income units are subject to the PDO and PIO at a rate of 50 percent of applicable parkland obligation. The acreage of parkland required is based on the minimum acreage dedication formula outlined in the PDO.

Envision San José 2040 General Plan

The following policies are specific to public services and are applicable to the proposed project:

Envision San José 2040 Relevant Public Services Policies

Policies	Description
FS-5.7	Encourage school districts and residential developers to engage in early discussions regarding the nature and scope of proposed projects and possible fiscal impacts and mitigation measures early in the project planning stage, preferably immediately preceding or following land acquisition.
ES-2.2	Construct and maintain architecturally attractive, durable, resource-efficient, and environmentally healthful library facilities to minimize operating costs, foster learning, and express in built form the significant civic functions and spaces that libraries provide for the San José community. Library design should anticipate and build in flexibility to accommodate evolving community needs and evolving methods for providing the community with access to information sources. Provide at least 0.59 square feet of space per capita in library facilities.
ES-3.1	Provide rapid and timely Level of Service response time to all emergencies: <ol style="list-style-type: none"> 1. For police protection, use as a goal a response time of six minutes or less for 60 percent of all Priority 1 calls, and of eleven minutes or less for 60 percent of all Priority 2 calls. 2. For fire protection, use as a goal a total response time (reflex) of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents. 3. Enhance service delivery through the adoption and effective use of innovative, emerging techniques, technologies and operating models. 4. Measure service delivery to identify the degree to which services are meeting the needs of San José's community. 5. Ensure that development of police and fire service facilities and delivery of services keeps pace with development and growth in the city.
ES-3.9	Implement urban design techniques that promote public and property safety in new development through safe, durable construction and publicly-visible and accessible spaces.

- ES-3.11 Ensure that adequate water supplies are available for fire-suppression throughout the City. Require development to construct and include all fire suppression infrastructure and equipment needed for their projects.
- PR-1.1 Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.
- PR-1.2 Provide 7.5 acres per 1,000 population of citywide /regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.
- PR-1.3 Provide 500 square feet per 1,000 population of community center space.
- PR-2.4 To ensure that residents of a new project and existing residents in the area benefit from new amenities, spend Park Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) fees for neighborhood serving elements (such as playgrounds/tot-lots, basketball courts, etc.) within a $\frac{3}{4}$ mile radius of the project site that generates the funds.
-

4.15.1.2 Existing Conditions

Fire Protection Services

Fire protection services for the project site are provided by the San José Fire Department (SJFD). The SJFD responds to all fires, hazardous materials spills, and medical emergencies (including injury accidents) in the City.⁷⁹ The closest station to the project site is San José Fire Department Station 35 located at 135 Poughkeepsie Road, approximately 2.5-miles southwest of the project site.⁸⁰ The General Plan identifies a service goal of eight minutes and a total travel time of four minutes or less for 80 percent of emergency incidents for fire protection.⁸¹

Police Protection Services

Police protection services for the project site are provided by the San José Police Department (SJPd), which is headquartered at 201 West Mission Street, approximately 11-miles northwest of the project site. SJPd is divided into four geographic divisions: Central, Western, Foothill, and Southern. The project site is directly served by the SJPd Southern Division.⁸² The Southern Division includes four police patrol districts that cover approximately 123 square miles.⁸³ The General Plan identifies a

⁷⁹ City of San José. "About SJFD." Accessed May 20, 2022. Available at: <https://www.sanjoseca.gov/your-government/departments/fire-department>

⁸⁰ City of San José. "Fire Stations." Accessed May 20, 2022. Available at: <https://www.sanjoseca.gov/your-government/departments-offices/fire/stations>

⁸¹ City of San José. *Envision San José 2040 General Plan*. P. 38-39.

⁸² San José Police Department. "Bureau of Field Operations." Accessed May 20, 2022. Available at: <https://www.sjpd.org/about-us/organization/bureau-of-field-operations>

⁸³ San José Police Department. "Western Division." Accessed May 2, 2022. Available at: <https://www.sjpd.org/about-us/organization/bureau-of-field-operations/western-division>

service goal of six minutes or less for 60 percent of all Priority 1 (emergency) calls and 11 minutes or less for 60 percent all Priority 2 (nonemergency) calls.⁸⁴

Schools

The project site is located in the Oak Grove School District and East Side Union High School District. The Oak Grove School District is a transitional kindergarten through eighth grade school district that provides services to neighborhoods in San José. The district includes 15 elementary schools, one intermediate school for 5th through 8th grade, and three intermediate schools that serve 7th through 8th grade that serve approximately 9,896 students.^{85,86} East Side Union High School District includes one adult education school, five alternative education schools, 11 traditional high schools, and 12 charter schools.⁸⁷ The nearest schools to the project site are Ledesma Elementary School, Bernal Intermediate School, and Oak Grove High School.

Parks

The City of San José currently operates 209 parks, 41 community/neighborhood centers, and 61.6 miles of trail. Of the total 209 parks, 199 are neighborhood parks and 10 are regional parks. Some of the community amenities overseen by the Department of Parks, Recreation, and Neighborhood Services include bike parks, community gardens, park playgrounds, tennis courts, and swimming pools.⁸⁸ Shady Oaks Park is an 8.2-acre neighborhood park located approximately 925 feet south of the project site. Adjacent to the south of Shady Oaks Park is the 50-acre Shady Oaks open space.⁸⁹ The Coyote Creek trail is a Class I shared use pathway and one of the longest trail systems extending from the Bay to the City's southern boundary. The trail runs parallel to Coyote Creek and provides both pedestrian and bicycle access to the project site. The closest trail access is informally provided at the west end of Embedded Way, approximately 900 feet from the project site. The trail borders the site on the west side, but there is a steep slope between the site and the trail that presently prevents direct access along that border.

Libraries

The City of San José is served by the San José Public Library System. The San José Public Library System has a total of 25 facilities.⁹⁰ The main library is the Dr. Martin Luther King, Jr. Library in downtown San José and there are 24 branch libraries. The nearest public library is the Edenvale Branch Library at 101 Branham Lane East (three miles west of the site).⁹¹

⁸⁴ City of San José. *Envision San José 2040 General Plan*. P. 38-39.

⁸⁵ Oak Grove School District. "Schools." Accessed May 20, 2022. Available at: <https://www.ogsd.net/our-schools/schools>

⁸⁶ Oak Grove School District. "About Us." Accessed May 20, 2022. Available at: <https://www.ogsd.net/our-district/about-us>

⁸⁷ East Side High School District. "Schools" Accessed May 20, 2022. Available at: <https://www.esuhdsd.org/Schools/>

⁸⁸ City of San José Parks, Recreation & Neighborhood Services. Fast Facts 2019-2020. Last Updated on November 12, 2020.

⁸⁹ City of San José. "San Jose Parks Finder." Accessed May 20, 2022. Available at:

<https://csj.maps.arcgis.com/apps/webappviewer/index.html?id=93ae7909fe8f4b758daa5a73baa895c3>

⁹⁰ San José Public Library. "Facts and Awards." Accessed May 20, 2022. Available at: <https://www.sjpl.org/facts>

⁹¹ San José Public Library. "Map Search." Accessed May 20, 2022. Available at: <https://www.sjpl.org/locations-map-search>

4.15.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services:				
a) Fire Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Police Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Other Public Facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

-
- a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for fire protection services?**
-

The proposed industrial development on the project site is accounted for in the planned growth for the City under the General Plan. The project site is also located adjacent to industrial buildings which are currently served by the San José fire protection services. Therefore, the proposed project would not expand the demand for fire protection services and would result in a less than significant impact on service ratios, response times, or other performance objectives for fire protection services.
(Less than Significant Impact)

-
- b) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for police protection services?**
-

The proposed industrial development on the project site is accounted for in the planned growth for the City under the General Plan. The project site also located adjacent to industrial buildings which are currently served by the San José police department. Therefore, the proposed project would not expand the demand for police protection services and would result in a less than significant impact on service ratios, response times, or other performance objectives for police protection services.
(Less than Significant Impact)

-
- c) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for schools?**
-

The proposed project would not involve the construction of new housing or other uses that would generate students requiring school facilities. **(No Impact)**

-
- d) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for parks?**
-

The proposed project would involve the construction of a new industrial R&D facility and it would not be subject to PDO/PIO fees. There would be new jobs associated with the proposed project and future employees may utilize nearby parks and trails, such as the Coyote Creek trail, but these employees would not place a physical burden or substantial increase in demand on these facilities. The proposed project would not increase the use of existing parks or other recreational facilities such that substantial physical deterioration would occur. Therefore, the proposed project would have a less than significant impact on park facilities in the City. **(Less than Significant Impact)**

-
- e) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for other public facilities?**
-

Public facilities, such as libraries and community centers, would not experience a substantial increase in demand as a result of the proposed project because it is an industrial use that would not result in new residential growth. The project would not require the construction or expansion of additional governmental facilities in order to maintain acceptable service ratios or performance objectives. Therefore, the proposed project would have a less than significant impact on other public facilities. **(Less than Significant Impact)**

4.16 RECREATION

4.16.1 Environmental Setting

4.16.1.1 *Regulatory Framework*

State

Government Code Section 66477

The Quimby Act (included within Government Code Section 66477) requires local governments to set aside parkland and open space for recreational purposes. It provides provisions for the dedication of parkland and/or payment of fees in lieu of parkland dedication to help mitigate the impacts from new residential developments. The Quimby Act authorizes local governments to establish ordinances requiring developers of new residential subdivisions to dedicate parks, pay a fee in lieu of parkland dedication, or perform a combination of the two.

4.16.1.2 *Existing Conditions*

The City of San José currently operates 209 parks, 41 community/neighborhood centers, and 61.6 miles of trail. Of the total 209 parks, 199 are neighborhood parks and 10 are regional parks. Some of the community amenities overseen by the Department of Parks, Recreation, and Neighborhood Services include bike parks, community gardens, park playgrounds, tennis courts, and swimming pools.⁹² The City's Departments of Parks, Recreation, and Neighborhood Services is responsible for the development, operation, and maintenance of all park facilities.

Shady Oaks Park is an 8.2-acre neighborhood park located approximately 925 feet south of the project site. Adjacent to the south of Shady Oaks Park is the 50-acre Shady Oaks open space.⁹³ The nearest community center is Edenvale Community Center, located approximately 0.9 miles west of the project site.⁹⁴

The Coyote Creek trail is a Class I shared use pathway and one of the longest trail systems extending from the Bay to the City's southern boundary. The trail runs parallel to Coyote Creek and provides both pedestrian and bicycle access to the project site. The closest trail access is informally provided at the west end of Embedded Way, approximately 900 feet from the project site. The trail borders the site on the west side, but there is a steep slope between the site and the trail that presently prevents direct access along that border.

⁹² City of San José Parks, Recreation & Neighborhood Services. Fast Facts 2019-2020. Last Updated on November 12, 2020.

⁹³ City of San José. "San Jose Parks Finder." Accessed May 20, 2022. Available at:

<https://csj.maps.arcgis.com/apps/webappviewer/index.html?id=93ae7909fe8f4b758daa5a73baa895c3>

⁹⁴ City of San José. "Browse Citywide Community Centers." Accessed May 20, 2022. Available at:

<https://www.sanjoseca.gov/your-government/departments/parks-recreation-neighborhood-services/search-locations-facilities/community-centers>

4.16.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

The proposed project would construct an industrial structure to be occupied with R&D uses, which would not increase the population of the City and would not contribute to the use of parks surrounding the project site. Therefore, the proposed project would not cause substantial physical deterioration of the park facilities. **(No Impact)**

b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

The project does not include the expansion or construction of additional recreational facilities. In addition, as an industrial building to be occupied by R&D uses, the project would not require the construction or expansion of recreational facilities for the City to meet its service goals. For these reasons, implementation of the project would not result in an adverse physical effect on the environment. **(No Impact)**

4.17 TRANSPORTATION

The following discussion is based, in part, on a Transportation Analysis (TA) prepared for the proposed project by Hexagon Transportation Consultants, Inc. The TA, dated October 2022, is included as Appendix H.

4.17.1 Environmental Setting

4.17.1.1 *Regulatory Framework*

State

Regional Transportation Plan

MTC is the transportation planning, coordinating, and financing agency for the nine-county San Francisco Bay Area, including Santa Clara County. MTC is charged with regularly updating the Regional Transportation Plan, a comprehensive blueprint for the development of mass transit, highway, airport, seaport, railroad, bicycle, and pedestrian facilities in the region. MTC and ABAG adopted Plan Bay Area 2050 on October 21, 2021, which includes a Regional Transportation Plan to guide regional transportation investment for revenues from federal, state, regional and local sources through 2050.

Senate Bill 743

SB 743 establishes criteria for determining the significance of transportation impacts using a vehicle miles traveled (VMT) metric intended to promote the reduction of GHG emissions, the development of multimodal transportation networks, and a diversity of land uses. Specifically, SB 743 requires analysis of VMT in determining the significance of transportation impacts. Local jurisdictions were required by the Governor's Office of Planning and Research (OPR) to implement a VMT policy by July 1, 2020.

SB 743 did not authorize OPR to set specific VMT impact thresholds, but it did direct OPR to develop guidelines for jurisdictions to utilize. CEQA Guidelines Section 15064.3(b)(1) describes factors that might indicate whether a development project's VMT may be significant.

Regional and Local

Congestion Management Program

VTA oversees the Congestion Management Program (CMP), which is aimed at reducing regional traffic congestion. The relevant state legislation requires that urbanized counties in California prepare a CMP in order to obtain each county's share of gas tax revenues. State legislation requires that each CMP define traffic LOS standards, transit service standards, a trip reduction and transportation demand management plan, a land use impact analysis program, and a capital improvement element. VTA has review responsibility for proposed development projects that are expected to affect CMP-designated intersections.

Transportation Analysis Policy (City Council Policy 5-1)

As established in City Council Policy 5-1, Transportation Analysis Policy, the City of San José uses VMT as the metric to assess transportation impacts from new development. According to the policy, for an industrial project (e.g., warehouse, manufacturing, distribution), the impact would be less than significant if the project VMT is equal to or less than existing average regional VMT per employee. Screening criteria have been established to determine which projects require a detailed VMT analysis. If a project meets the relevant screening criteria, it is considered to have a less than significant VMT impact.

If a project's VMT does not meet the established thresholds, mitigation measures would be required, where feasible. The policy also requires preparation of a Local Transportation Analysis to analyze non-CEQA transportation issues, including local transportation operations, intersection level of service, site access and circulation, and neighborhood transportation issues such as pedestrian and bicycle access and recommend transportation improvements. The VMT policy does not negate Area Development policies and Transportation Development policies approved prior to adoption of Policy 5-1; however, it does negate the City's Protected Intersection policy as defined in Policy 5-3.

Edenvale Area Development Policy

The project site is located in Area 1 of the Edenvale Area Development Policy (EADP), and the base maximum floor area ratio (FAR) is 0.35 for development in this area. The EADP establishes a policy framework to guide the ongoing development of the Edenvale San José area and accomplish the following goals:

- Manage the traffic congestion associated with near term development in the Edenvale Policy Area
- Promote General Plan goals for economic development, particularly high technology driven industries
- Encourage a citywide reverse commute to jobs at southerly location in San Jose
- Provide for transit-oriented, mixed-use residential and commercial development to increase internalization of automobile trips and promote transit ridership

4.17.1.2 *Existing Conditions*

Roadway Network

Highway 101

United States Highway 101 (US 101) is an eight-lane freeway that connects with State Route 85 and travels in a north-south direction in the City of San José. Access to and from the project site is provided by ramps at the intersection of Blossom Hill Road and Silver Creek Valley Road. The existing interchange at Blossom Hill Road is being expanded to provide additional travel lanes and roadway capacity.

State Route 85

State Route 85 is a predominantly north-south freeway that is oriented in an east-west direction in the vicinity of the project site. It extends from Mountain View to south San Jose, terminating at US 101. SR 85 is a six-lane freeway with four mixed-flow lanes and two HOV lanes. SR 85 provides access to the project site via interchanges with US 101 and Bernal Road.

Monterey Road

Monterey Road is a four- to six-lane north-south oriented Grand Boulevard that extends from Alma Street in downtown San Jose to US 101 south of the City of Gilroy. Monterey Road has a raised median island with left-turn pockets and has a posted speed limit of 55 mph in the project vicinity. A sidewalk is provided on the east side of the street only while striped bike lanes are provided on both sides. Monterey Road provides access to the project site via an interchange at Blossom Hill Road.

Blossom Hill Road

Blossom Hill Road is a six-lane divided arterial that runs in an east-west direction from the US 101/Silver Creek Valley Road interchange to the Town of Los Gatos. In the vicinity of the proposed project, it has a posted speed of 40 mph and has an interchange with the US 101 southbound ramps. East of the interchange, Blossom Hill Road becomes Silver Creek Valley Road. Blossom Hill Road has sidewalks and striped bike lanes on both sides of the street east of the US 101 northbound off-ramp. There are no bike lanes or sidewalks between US 101 and Monterey Road. Blossom Hill Road is a designated Main Street west of Snell Avenue and a designated City Connector Street east of Snell Avenue. Blossom Hill Road provides access to the project site via Silver Creek Valley Road.

Silver Creek Valley Road

Silver Creek Valley Road is generally a divided four-lane arterial that extends from the US 101/Blossom Hill Road interchange in the west to Yerba Buena Road in the east. In the vicinity of the proposed project, Silver Creek Valley Road has a posted speed of 45 mph, has an interchange with the US 101 northbound ramps, and provides access to the project site via Hellyer Avenue and Fontanoso Way. Silver Creek Valley Road is a designated On-Street Primary Bicycle Facility with striped bike lanes and sidewalks on both sides of the street in the project vicinity. East of Hellyer Avenue, Silver Creek Valley Road has a sidewalk on one side of the street only.

Hellyer Avenue

Hellyer Avenue is a four-lane divided City Connector Street with a posted speed limit of 45 mph. Hellyer Avenue extends northward from Silicon Valley Boulevard until its intersection with Senter Road. Hellyer Avenue has striped bike lanes along the extent of the roadway and sidewalks on the east side of the street in the immediate vicinity of the project site. Hellyer Avenue provides access to the project site via its intersection with Embedded Way and an existing driveway located north of Embedded Way that serves the parcel along the eastside of the project site.

Fontanoso Way

Fontanoso Way is a two-lane local collector street that runs between Silver Creek Valley Road and Hellyer Avenue. Fontanoso Way has a posted speed limit of 35 mph. Fontanoso Way has sidewalks

along both sides of the street. It provides access to the project site via its intersections with Hellyer Avenue and Silver Creek Valley Road.

Embedded Way

Embedded Way is a four-lane local street with a posted speed limit of 35 mph that extends westward from Hellyer Avenue. Sidewalks are provided along both sides of the street. Embedded Way provides direct access to the project site via an existing driveway at its western terminus as well as a driveway that serves the parcel adjacent to the east side of the project site.

Pedestrian and Bicycle Facilities

Pedestrian and bicycle activity within project vicinity are active along several routes surrounding the site. Connected sidewalks at least six feet wide are available on at least one side of all major City roadways in the project vicinity with adequate lighting and signing. At signalized intersections, marked crosswalks, Americans with Disabilities Act (ADA) standard curb ramps, and count down pedestrian signals provide improved pedestrian visibility and safety.

The Coyote Creek trail is a Class I shared use pathway and one of the longest trail systems extending from the Bay to the City's southern boundary. The trail runs parallel to Coyote Creek and provides both pedestrian and bicycle access to the project site. The closest trail access is informally provided at the west end of Embedded Way, approximately 900 feet from the project site. The trail borders the site on the west side, but there is a steep slope between the site and the trail that presently prevents direct access along that border.

Class II bikeways are striped bike lanes on roadways that are marked by signage and pavement markings. The following roadway segments have Class II bikeways:

- Hellyer Avenue, between the US 101 northbound ramps and Silicon Valley Road
- Silver Creek Valley Road, between the US 101 northbound ramps and Yerba Buena Road
- Embedded Way, along its entire length

Existing Transit Facilities

Transit services in the study area include light rail, shuttles, and buses provided by the Santa Clara Valley Transportation Authority (VTA) and Caltrain. The project site is served by VTA Local Bus Route 42. Route 42 travels along Silver Creek Valley Road, Hellyer Avenue, and Silicon Valley Boulevard in the project vicinity and provides service between Evergreen Valley College and Kaiser San Jose. Route 42 runs on 60-minute headways between 6:00 AM and 7:00 PM and provides service to the Blossom Hill Caltrain station. Local Route 42 has stops just west of the intersection of Silver Creek Valley Road and Hellyer Avenue, about 0.9 miles from the project site. The Blossom Hill Caltrain Station is located at the Monterey Road/Ford Road intersection, approximately 1.15 miles southwest of the project site. A pedestrian bridge to access the station is provided between Great Oaks Boulevard and Monterey Road. The associated Park-and-Ride lot is located on the southeast corner of the intersection of Monterey Road and Ford Road. The Blossom Hill Caltrain Station is served by two northbound trains in the morning commute period with 30-minute headway and two southbound trains in the evening commute period with 90-minute headway.

4.17.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadways, bicycle lanes, and pedestrian facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
a) Would the project conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadways, bicycle lanes, and pedestrian facilities?				

Edenvale Area Development Policy

As described in Section 4.17.1.1 Regulatory Setting, the EADP is a policy addressing the circulation system and specifically roadways serving the project area. The project is located in Area 1, and per the EADP, the base maximum floor area ratio (FAR) is 0.35 for development. The project would have a FAR of 0.27 and would not exceed the maximum FAR in the EADP. The proposed project, therefore, is within the development envelope assumed in the EADP.

Bicycle Facilities

The project would not remove or inhibit access to any existing bicycle facilities. The project would be required to provide an in-lieu contribution for the future Class IV protected bike lanes along the Hellyer Avenue project frontage per the City's 2025 Better Bike Plan. The project would also provide 25 short-term bicycle parking spaces in the front of the building facing Embedded Way.

Pedestrian Facilities

The project would not inhibit pedestrian flow through the area by reducing sidewalk width or eliminating sidewalks to accommodate vehicular flow. The existing network of sidewalks and crosswalks provides connectivity between Hellyer Avenue, Embedded Way, and Fontanoso Way. Within the project site, sidewalks would provide access to the proposed building and the surface parking areas. The project would not conflict with any program, plan, ordinance, or policy addressing pedestrian facilities.

Transit Facilities

The project site is not near bus or rail services. VTA local bus route 42 is the only bus service in the project vicinity and the nearest bus stop is approximately one mile south of the project site at the intersection of Silver Creek Valley Road and Hellyer Avenue. It is assumed that based on the distance of the bus stop to the project site few employees would use the transit facilities. However, the employees that may use the VTA buses could be accommodated by the current transit system. Therefore, implementation of the proposed project would not conflict with any program, plan, ordinance, or policy addressing transit facilities.

The proposed project would not result in conflicts with transit, roadways, bicycle lanes, and pedestrian facilities. Additionally, the proposed project would not result in design features which would prevent plans or policies from creating the planned transportation facilities. Therefore, the proposed project would result in a less than significant impact on the circulation system around the project site. **(Less than Significant Impact)**

b) Would the project conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?

The proposed project would construct an approximately 121,400 square foot industrial building to be occupied with R&D uses in the City of San José. The San José City Council Policy 5-1 establishes guidelines for the generation of Vehicle Miles Traveled by new development in the City and has determined screening criteria for different land uses. The City's VMT evaluation methodology and VMT evaluation tool require that proposed project uses be categorized as one of three primary land use types: office, industrial, or retail. In terms of trip generation, warehouse and industrial uses generate fewer daily trips per 1,000 square feet than R&D uses. R&D uses generate daily trips per 1,000 square feet of space that are similar to office uses. Therefore, the VMT analysis included the evaluation of the proposed 121,850 square feet of building space as both industrial for the potential warehouse and industrial uses and office space for the potential R&D uses.

The current regional average VMT for industrial employment uses is 14.37 per employee and for office uses the VMT threshold is 12.21 VMT per employee.

Based on the City's VMT Evaluation Tool for an industrial use, the project would generate a 15.03 VMT per employee. For an office use, the project would generate a 14.95 VMT per employee. Both VMTs exceed their respective thresholds. Implementation of Mitigation Measure TRAN-1 and Mitigation Measure TRAN-2 would be required to reduce impacts to less than significant.

Impact TRAN-1 The proposed Research & Development project, which would support both office and industrial uses, would have 15.12 vehicles miles traveled (VMT) per industrial employee which would exceed the 14.37 VMT per industrial employees and would have 14.95 VMT per office employee which would exceed the 12.21 VMT per office employee threshold.

Mitigation Measures:

MM TRAN-1.1: Prior to issuance of a Certificate of Occupancy, the project shall implement the following multi-modal infrastructure improvements to incentivize alternative modes of travel and reduce VMT generation for the site:

- The project shall remove the pork-chop islands on the southwest and northwest corners of the Embedded Way and Hellyer Avenue intersection to improve pedestrian safety and access. This improvement shall require a signal modification at this intersection that shall include the relocation of signal poles, heads, and crosswalks.
- The project shall install raised median islands along Embedded Way consisting of a 120-foot segment at its western terminus and a 190-foot segment near the Embedded Way and Hellyer Avenue intersection for traffic calming purposes.

The multi-modal infrastructure improvements shall be part of a Public Improvement Plan that demonstrates how the multi-modal improvements will be implemented and the schedules for completing the improvements. The Public Improvement Plan shall be reviewed and approved by the Director of Public Works or the Director's designee. The implementation of the multi-modal improvements shall be verified by the Director of Public Works or the Director's designee.

The implementation of the multimodal infrastructure improvements described above would reduce the VMT generated by the industrial uses to 14.52 VMT per R&D employee and to 114.36 VMT per office employee which would both still be greater than the established impact thresholds in the City's Transportation Analysis Policy. The project's VMT could be reduced further with the implementation of Travel Demand Management (TDM) measures.

MM TRAN-1.2: Prior to the issuance of the Planning Site Development Permit, the project applicant shall submit a final TDM Plan, approved by the Director of Department of Public Works or Director's designee and the Director of Planning, Building and Code Enforcement, or Director's designee, that shall include implementation of the following TDM measures to reduce the project's VMT.

- Commute Trip Reduction Marketing/Education: Implement marketing/educational campaigns that promote the use of transit, shared rides, and travel through active modes for 25 percent of the project employees. Strategies may include the incorporation of alternative commute options into new employee orientations, event promotions, and publications.
- Subsidize Vanpool: Provide subsidies for individuals forming new vanpools for their commute. This encourages the use of vanpools, reducing drive-alone trips, and thereby reducing VMT. The project shall

be required to subsidize 100 percent of the cost of the vanpool and achieve at least 25 percent employee participation.

The TDM plan shall be submitted to the Director of Public Works or Director's designee and the Director of Planning, Building and Code Enforcement or the Director's designee and shall include a trip cap for VMT monitoring purposes. The trip cap shall be prepared by a traffic engineer. The monitoring shall be based on annual trip generation counts that demonstrate the vehicle trips generated by the project are within 10 percent of an established peak hour trip cap that is prepared by a traffic engineer. The annual trip monitoring reports shall be submitted that demonstrate that project-generated VMT is below the significance threshold. If the annual trip monitoring report finds that the project is exceeding the established trip cap, the project shall be required to submit a follow-up report that demonstrates compliance with the trip cap requirements within a period not to exceed six months.

The implementation of MM TRAN-1.1 and MM TRAN-1.2 would reduce the project's VMT to 14.36 VMT per employee for R&D uses and 12.18 VMT per employee for office uses. The current regional average VMT for industrial employment uses is 14.37 per employee and for office uses the VMT threshold is 12.21 VMT per employee. Therefore, VMT would be below the regional average VMT thresholds and result in a less than significant impact for both potential uses of the proposed building. **(Less than Significant Impact with Mitigation Incorporated)**

c) Would the project substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

Geometric Design

On-Site Circulation

Direct access to the site would be provided via an existing full-access driveway located at the western terminus of Embedded Way. Vehicles would also be able to access the project site via driveways off Hellyer Avenue and the eastern terminus of Embedded Way because the project's surface lots and drive aisles would connect to the adjoining properties. The project's drive aisle would also all be 26 feet wide, which would comply with the City's standard minimum width of 26 feet wide. Therefore, there would be adequate space and connectivity for vehicles traveling on-site

Sight Distance and Truck Operations

Acceptable sight distance at project driveways must comply with the American Association of State Highway Transportation Officials sight distance guidance to reduce the probability of collision at a driveway. The minimum acceptable sight distance is the American Association of State Highway Transportation Officials stopping sight distance. There are no sight distance issues at the westernmost driveway on Embedded Way due to the driveway being at the end of a dead-end, low roadway speeds, and no visual obstructions along the driveway. Drivers entering and existing the

western Embedded Way driveway would have adequate sight distance, consistent with the American Association of State Highway Transportation Officials stopping sight distance.

All future trucks traveling to the project site would be required to use only the western terminus project driveway due to the sight distance issues for outbound vehicles traveling on Hellyer Avenue. If a truck were to turn into the driveway off Hellyer Avenue, the truck would cross the lane of oncoming traffic and southbound vehicles would not have adequate sight distance to stop in time. This access issue is avoided by requiring trucks to enter and exit via the western terminus driveway on Embedded Way. All future trucks would be directed to only utilize the western Embedded Way driveway. However, the right-hand turn into the western Embedded Way drive is sharper than 90 degrees, which would require incoming trucks to cross into the outbound drive lane of the site driveway. Trucks crossing into the outbound lane would limit the sight distance for the outbound vehicles. The project would implement the following condition of approval to ensure the project avoids hazardous geometric roadway design.

Impact TRAN-2 The proposed project would increase hazards due to inadequate driveway width on Embedded Way, requiring inbound trucks entering the westernmost Embedded Way driveway to utilize the opposing outbound travel lane, reducing sight distance for outbound vehicles.

Mitigation Measures:

MM TRAN-2.1: The project shall increase the width of the westernmost driveway on Embedded Way in a manner sufficient to ensure that trucks do not utilize the opposing outbound travel lane when entering the project site. A site plan showing the widening of the driveway and a truck circulation plan that includes truck turning radii demonstrating adequate driveway width shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval prior to issuance of grading permits.

With adherence to MM TRAN 2.1, identified above, the project would not substantially increase hazards related to on-site vehicular circulation. Therefore, the project would not substantially increase hazards due to vehicles entering and exiting the project site. **(Less than Significant Impact with Mitigation Incorporated)**

Incompatible Uses

As shown on Figure 2.8-3, the project site, which has a IP General Plan land use designation, is adjacent to similar light industrial and office uses to the north, east, and south, As discussed under Section 3.11 Land Use and Planning, the proposed R&D use is consistent with the project site's land use designation and therefore has been found programmatically compatible by the General Plan EIR with the aforementioned surrounding developments. Because the project's land use is compatible with uses in the area, the project's use of circulation systems also would be compatible and would not create a hazard. **(Less than Significant Impact)**

d) Would the project result in inadequate emergency access?

The proposed project would be required to comply with the City of San José policies and ordinances requiring adequate emergency access for the project site. The proposed project would not interfere with the emergency response to the project area; therefore, the proposed project would result in a less than significant impact to emergency access to and around the project site. **(Less than Significant Impact)**

4.17.3 Non-CEQA Effects

While the evaluation of project CEQA impacts on the transportation system is focused on vehicle miles traveled (VMT), in accordance with the City of San José Transportation Policy (Council Policy 5-1), the following discussion is included for informational purposes because City Council Policy 5-1 requires preparation of a Local Transportation Analysis (LTA) to analyze non-CEQA transportation issues, including local transportation operations, intersection level of service, site access and circulation, and neighborhood transportation issues such as pedestrian and bicycle access, and recommend needed transportation improvements.

Project Trip Generation

Trip generation for the proposed project land uses was calculated using average trip generation rates from the Institute of Transportation Engineers (ITE) Trip Generation Manual, 11th Edition 2021. Trip generation calculations are displayed in Table 4.17-1 below.

Pursuant with the City of San José's 2020 Transportation Analysis Handbook, trip generation reduction credits were applied to the project including location-based mode-share and potential VMT reduction strategies. Development of the proposed project with all applicable trip reductions and credits is anticipated to generate a net new total of 1,269 additional daily trips, 119 AM Peak Hour trips, and 112 PM peak hour trips to the roadway network.

Vehicle and Bicycle Parking

Based on City required parking ratios for R&D and light industrial uses, one off-street vehicle parking space per 350 square feet of floor area is required. According to the City's Bicycle Parking Standards, both R&D and light industrial uses are required to provide one bicycle parking space per 5,000 square feet of floor area. Floor area is defined as 85 percent of the total gross floor area of the building. Based on the City's rates, the project would be required to provide 295 parking spaces and 24 bicycle parking spaces. The project would provide a total of 300 parking spaces and 25 bicycle parking spaces. Therefore, the project would comply with the City's requirements for vehicle and bicycle parking spaces.

Table 4.17-1 Project Trip Generation

Land Use	Project Size	Total Daily Rate	Total Daily Trips	AM Peak Trips				PM Peak Trips			
				Rate	In	Out	Total	Rate	In	Out	Total
Research and Development Location Based Reduction ¹	121,850 sf*	11.08	1,350	1.03	10 3	23	126	0.98	19	100	119
VMT-Based Reduction ²			-68		-5	-1	-6		-1	-5	-6
Project Trips After Reduction			1,269		97	22	119		18	94	112

¹ A 5 percent reduction was applied based on the location-based vehicle mode share percentage outputs

(Contained in Table 6 of the City's TA Handbook) produced from the San Jose Travel Demand Model for the Place

²Existing and project VMTs were estimated using the City of San Jose VMT Evaluation Tool. It is assumed that every percent reduction in VMT per-employee (in this case 1.05 percent) is equivalent to one percent reduction in peak-hour vehicle trips.

*At the time of analysis, the project had a larger square footage at 121,850 but the size of the project has since decreased to 121,400 square feet. The use of the larger square footage is a conservative approach.

Source: Hexagon Transportation Consultants, Inc. *Embedded Way Industrial Development Transportation Analysis*. October 2022

4.18 TRIBAL CULTURAL RESOURCES

4.18.1 Environmental Setting

4.18.1.1 *Regulatory Framework*

State

Assembly Bill 52

AB 52, effective July 2015, established a new category of resources for consideration by public agencies called Tribal Cultural Resources (TCR). AB 52 requires lead agencies to provide notice of projects to tribes that are traditionally and culturally affiliated with the geographic area if they have requested to be notified. Where a project may have a significant impact on a TCR, consultation is required until the parties agree to measures to mitigate or avoid a significant effect on a TCR or until it is concluded that mutual agreement cannot be reached.

Under AB 52, TCRs are defined as follows:

- Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are also either:
 - Included or determined to be eligible for inclusion in the California Register of Historic Resources, or
 - Included in a local register of historical resources as defined in Public Resources Code Section 5020.1(k).
- A resource determined by the lead agency to be a TCR.

Local

Envision San José 2040 General Plan

The City of San José sets forth the following policies pertaining to TCR in its General Plan.

Envision San José 2040 Relevant Tribal Cultural Resources Policies

Policy	Description
ER-10.1	For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.
ER-10.2	Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon their discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced.

- ER-10.3 Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.

4.18.1.2 *Existing Conditions*

A records search of the Native American Heritage Commission (NAHC) Sacred Lands File was completed for the site on May 29, 2022 and the results were negative, meaning no Sacred Lands or TCRs have been reported to the NAHC in the project vicinity.

An AB 52 notification letter was sent to Tamien Nation on July 6, 2022. No response or request for consultation was received from Tamien Nation within the 30 day response timeframe. An AB 52 notification letter was sent to the Indian Canyon Band of Costanoan Ohlone People on August 3, 2022 with no response or request for consultation received within the 30 day response timeframe. Due to a lack of response during the AB 52 consultation period, the City determined in late summer 2022 that AB 52 consultation had closed and that further discussions with any tribe would be in the context of the normal environmental review process under CEQA available to any public agency and the general public. However, in February 2023, the City sent a follow up e-mail inquiry to Tamien Nation as a courtesy to determine interest in the project. In March 2023, Tamien Nation responded to the City's followup email inquiry and requested formal AB 52 consultation for the project. As a result, the City entered into AB 52 consultation with Tamien Nation. Consultation continued through October 2023 and consisted of meetings, calls, provision of technical reports, and a general exchange of information between the two agencies. Based on the evidence in the record, known cultural resources in the project area, and communication with Tribes, including AB 52 consultation with Tamien Nation, the City has determined that there may be TCRs present on the project site. A letter from Tamien Nation was received by the City on November 15, 2023 indicating that the mitigation measures required to be implemented by the project were satisfactory to reduce impacts to TCRs (refer to Section 4.5.2 and the discussion under checklist question "a" below for details regarding the mitigation measures). As a result, consistent with the requirements of AB 52, consultation concluded with both parties agreeing to measures to mitigate or avoid significant effects on TCRs.

4.18.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:				
a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

- b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

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a) Would the project cause a substantial adverse change in the significance of a tribal cultural resource that is listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?

As described in Section 4.18.1.2 Existing Conditions, TCRs may be present on the site and there is the possibility that TCRs could be impacted during project construction activities, such as excavation and grading.

As described in Section 4.5 Cultural Resources, the project would be required to implement standard permit conditions to avoid potential impacts to unknown subsurface cultural resources and human remains. In addition to implementing the City's standard permit conditions, the project would implement MM CUL-1.1 through MM CUL 1.8 to reduce impacts to archaeological resources, which may include TCRs. These standard permit conditions and mitigation measures would be applicable to TCRs and would function to avoid impacts to such resources if they are discovered on-site during construction. Therefore, the proposed project would not cause a substantial adverse change in the significance of a TCR that is listed or eligible for listing on local or state registers. **(Less than Significant Impact with Mitigation Incorporated)**

b) Would the project cause a substantial adverse change in the significance of a tribal cultural resource that is determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1?

As discussed above under checklist question "a", there are no known TCRs on the project site, but implementation of the project could disturb unknown subsurface resources. These resources may not be eligible for listing in the CRHR, but the City or a qualified archaeologist could nonetheless determine resources uncovered during construction to be significant. The proposed project would be required to implement City standard permit conditions (which apply to archaeological resources and human remains) and MM CUL-1.1 through CUL-1.8 to address any accidental disturbance of cultural resources (including TCRs) and set forth the appropriate procedure to be followed in the event of discovery. Implementation of these standard permit conditions and mitigation measures would ensure the project does not cause a substantial adverse change in the significance of a TCR that is determined to be significant by the City. Therefore, the impact would be less than significant. **(Less than Significant Impact with Mitigation Incorporated)**

4.19 UTILITIES AND SERVICE SYSTEMS

4.19.1 Environmental Setting

4.19.1.1 *Regulatory Framework*

State

State Water Code

Pursuant to the State Water Code, water suppliers providing water for municipal purposes to more than 3,000 customers or supplying more than 3,000 acre-feet (approximately 980 million gallons) of water annually must prepare and adopt an urban water management plan (UWMP) and update it every five years. As part of a UWMP, water agencies are required to evaluate and describe their water resource supplies and projected needs over a 20-year planning horizon, water conservation, water service reliability, water recycling, opportunities for water transfers, and contingency plans for drought events. The City of San José adopted its most recent UWMP in June 2021.⁹⁵

Assembly Bill 939

The California Integrated Waste Management Act of 1989, or AB 939, established the Integrated Waste Management Board, required the implementation of integrated waste management plans, and mandated that local jurisdictions divert at least 50 percent of solid waste generated (from 1990 levels), beginning January 1, 2000, and divert at least 75 percent by 2010. Projects that would have an adverse effect on waste diversion goals are required to include waste diversion mitigation measures.

Assembly Bill 341

AB 341 sets forth the requirements of the statewide mandatory commercial recycling program. Businesses that generate four or more cubic yards of garbage per week and multi-family dwellings with five or more units in California are required to recycle. AB 341 sets a statewide goal for 75 percent disposal reduction by the year 2020.

Senate Bill 1383

SB 1383 establishes targets to achieve a 50 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75 percent reduction by 2025. The bill grants CalRecycle the regulatory authority required to achieve the organic waste disposal reduction targets and establishes an additional target that at least 20 percent of currently disposed edible food is recovered for human consumption by 2025. CalRecycle released an analysis titled “Analysis of the Progress Toward the SB 1383 Organic Waste Reduction Goals” in August of 2020, which recommended maintaining the disposal reduction targets set forth in SB 1383.⁹⁶

⁹⁵ City of San José. *City of San Jose 2020 Urban Water Management Plan*. June 2021. Accessed June 8, 2022. <https://www.sanjoseca.gov/home/showpublisheddocument/422/637602045327100000>

⁹⁶ CalRecycle. *Analysis of the Progress Toward the SB 1383 Organic Waste Reduction Goals*. August 18, 2020. [https://www2.calrecycle.ca.gov/Publications/Details/1693#:~:text=Analysis%20of%20the%20Progress%20Toward,\(DRRR%2D2020%2D1693\)&text=SB%201383%20establishes%20targets%20to,75%20percent%20reduction%20by%202025.](https://www2.calrecycle.ca.gov/Publications/Details/1693#:~:text=Analysis%20of%20the%20Progress%20Toward,(DRRR%2D2020%2D1693)&text=SB%201383%20establishes%20targets%20to,75%20percent%20reduction%20by%202025.)

California Green Building Standards Code

In January 2010, the State of California adopted the California Green Building Standards Code, establishing mandatory green building standards for all buildings in California. The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resources efficiency, and indoor environmental quality. These standards include the following mandatory set of measures, as well as more rigorous voluntary guidelines, for new construction projects to achieve specific green building performance levels:

- Reducing indoor water use by 20 percent;
- Reducing wastewater by 20 percent;
- Recycling and/or salvaging 50 percent of nonhazardous construction and demolition debris; and
- Providing readily accessible areas for recycling by occupants.

Local

Envision San José 2040 General Plan

The Envision San José 2040 General contains the following policies which are specific to utilities and service systems and applicable to the proposed project:

Envision San José 2040 Relevant Utilities and Service Systems Policies

Policy	Description
IN-3.3	Meet the water supply, sanitary sewer and storm drainage level of service objectives through an orderly process of ensuring that, before development occurs, there is adequate capacity. Coordinate with water and sewer providers to prioritize service needs for approved affordable housing projects.
IN-3.5	Require development which will have the potential to reduce downstream LOS to lower than “D”, or development which would be served by downstream lines already operating at a LOS lower than “D”, to provide mitigation measures to improve the LOS to “D” or better, either acting independently or jointly with other developments in the same area or in coordination with the City’s Sanitary Sewer Capital Improvement Program.
IN-3.7	Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.
IN-3.9	Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.
MS-3.1	Require water-efficient landscaping, which conforms to the State’s Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions.

MS-3.2	Promote use of green building technology or techniques that can help to reduce the depletion of the City's potable water supply as building codes permit.
MS-3.3	Promote the use of drought tolerant plants and landscaping materials for nonresidential and residential uses.
IN-3.10	Incorporate appropriate stormwater treatment measures in development projects to achieve stormwater quality and quantity standards and objectives in compliance with the City's National Pollutant Discharge Elimination System (NPDES) permit.
EC-5.16	Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.

In addition to the above-listed San José General Plan policies, new development in San José is also required to comply with programs that mandate the use of water-conserving features and appliances and the Santa Clara County Integrated Watershed Management (IWM) Program, which minimizes solid waste.

San José Zero Waste Strategic Plan/Climate Smart San José

The Climate Smart San Jose provides a comprehensive approach to achieving sustainability through new technology and innovation. The Zero Waste Strategic Plan outlines policies to help the City of San José foster a healthier community and achieve its Climate Smart San Jose goals, including 75 percent waste diversion by 2013 and zero waste by 2022. The Climate Smart San Jose also includes ambitious goals for economic growth, environmental sustainability, and enhanced quality of life for San José residents and businesses.

San José Sewer System Management Plan

The purpose of the Sewer System Management Plan (SSMP) is to provide guidance to the City in the operation, maintenance, and rehabilitation of the sewer assets of the City of San José. The SSMP includes construction standards and specifications for the installation and repair of the collection system and its associated infrastructure.

Private Sector Green Building Policy

The City of San José's Green Building Policy for new private sector construction encourages building owners, architects, developers, and contractors to incorporate meaningful sustainable building goals early in the design process. This policy establishes baseline green building standards for private sector construction and provides a framework for the implementation of these standards. It is also intended to enhance the public health, safety, and welfare of San José residents, workers, and visitors by fostering practices in the design, construction, and maintenance of buildings that will minimize the use and waste of energy, water, and other resources.

4.19.1.2 *Existing Conditions*

Water Supply

The site is vacant and does not generate water demand. The project site is located within the Edenvale Service Area, which consists of approximately 700 acres of area located east of Coyote Creek and south of Hellyer Avenue. The service areas is zoned only for industrial and commercial uses.⁹⁷ Water service to the project area is provided by the San José Municipal Water System with the water source being groundwater for the Edenvale Service Area.⁹⁸

Wastewater Services

Wastewater from the City of San José is treated at the San José-Santa Clara Regional Wastewater Facility (Wastewater Facility) which is administered and operated by the City's Environmental Services Department. The Wastewater Facility treats an average of 110 million gallons of wastewater per day with a capacity of up to 167 million gallons per day. The Wastewater Facility serves 1.4 million residents and 17,000 businesses.⁹⁹ The City generates approximately 69.8 million gallons per day of dry weather sewage flow. The City's capacity allocation at the Facility is approximately 108.6 million gallons per day, leaving the City with approximately 38.8 million gallons per day of excess treatment capacity.¹⁰⁰

The site is vacant and does not generate wastewater. There is an existing 10-inch sanitary sewer main at the end of Embedded Way which could be utilized to serve the project site.

Storm Drainage

The City of San José owns and maintains the municipal stormwater drainage system which serves the project site. Currently, the project site is undeveloped and comprised of 100 percent pervious surfaces. Stormwater on the existing site likely infiltrates into the soil but is it possible there is some overland release of stormwater directly into Coyote Creek during heavy rain flow.

There is an existing 24" storm main line located along Embedded Way that could potentially serve the project. The line drains into Coyote Creek which ultimately flows to the San Francisco Bay.

Solid Waste

Santa Clara County's Integrated Waste Management Plan (IWMP) was approved by the California IWMB in 1996 and was reviewed in 2004 and 2007. Based on the IWMP, the County has adequate landfill capacity. In October 2007, the San José City Council adopted a Zero Waste Resolution which set a goal of 75 percent waste diversion by 2013 and zero waste by 2022. According to the IWMP, the County has adequate disposal capacity beyond 2030.¹⁰¹ Solid waste generated within the County is transported to Guadalupe Mines, Kirby Canyon, Newby Island, and Zanker Road landfills. In

⁹⁷ City of San José. *2020 Urban Water Management Plan*. June 2021. Page 3-2.

⁹⁸ Valley Water. "Water Service Area." Accessed June 8, 2022.

<https://valleywater.maps.arcgis.com/apps/webappviewer/index.html?id=0f05e5c2956b49da940b62b0313ae142>

⁹⁹ City of San José. San José-Santa Clara Regional Wastewater Facility. Accessed June 8, 2022.

<http://www.sanjoseca.gov/?nid=1663>.

¹⁰⁰ City of San José. *Envision San José 2040 General Plan Draft Program EIR*. June 2011. Page 631.

¹⁰¹ Ibid.

2019, there were approximately 600,000 tons of material generated in San Jose that was disposed in various landfills throughout the State. Newby Island, however, only received approximately 290,000 of that tonnage. The total permitted landfill capacity of the five operating landfills in the City is approximately 5.3 million tons per year. According to the IWMP, the County has adequate disposal capacity beyond 2030.¹⁰²

Municipal solid waste generated in the City is first processed at various approved facilities in San José, and the residuals are disposed at Newby Island Sanitary Landfill (NISL). The City has an existing contract with NISL through December 31, 2022 with the option to extend the contract for as long as the landfill is open. The estimated closure date for NISL is 2035 and the facility has a remaining life of 12 years.¹⁰³ The City has an annual disposal allocation for 395,000 tons per year. As of May 2023, NISL had approximately 12.4 million cubic yards of capacity remaining.¹⁰⁴

The project site is vacant and does not currently generate solid waste.

4.19.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Be noncompliant with federal, state, or local management and reduction statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

¹⁰² Santa Clara County. *Five-Year CIWMP/RAIWMP Review Report*. June 2016.

¹⁰³ Boccaleoni, Anthony. Division Manager, Republic Services. Personal Communication. May 12, 2023.

¹⁰⁴ Ibid.

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- a) Would the project require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?**
-

Water Facilities

The project would construct an industrial building totaling 121,400 square feet on a 10.17-acre site. The development would use approximately 611,755 gallons of water per year for landscaping and 59,691,652 gallons per year (60 million gallons per year) for indoor water use.¹⁰⁵ The project would use 1,676 gallons per day of water for landscaping and 163,539 gallons per day for indoor water use. The potable and irrigation water demands of the project would be met by existing service providers (San Jose Municipal Water). Existing water lines in the adjacent streets would serve the proposed project. The project would not require the construction or expansion of water delivery systems or the expansion of the boundaries of the San Jose Municipal Water service area. Although water demand within the San José Municipal Water System service area could exceed water supply during dry and multiple dry years after 2025 from full build out, the General Plan Final EIR concluded that with the implementation of existing regulations and General Plan policies, water demand would not exceed water supply. As noted previously, the project is consistent with the General Plan land use assumptions for the site, and the project's water demand has been accounted for in the water supply assessment prepared by San José Municipal Water System evaluating planned growth in the General Plan. The project would comply with all applicable Public Works requirements to ensure water mains would have the capacity for water and fire flows required by the proposed project. Therefore, the project would not result in significant environmental effects related to the relocation or construction of new or expanded water facilities.

Sanitary Sewer and Wastewater Treatment

The proposed project would connect to the City's existing sanitary sewer system, and sanitary sewer lines in adjacent streets would be used to serve the project. The proposed project is estimated to generate 56,917,262 gallons of wastewater per year or 155,362 gallons of wastewater per day.¹⁰⁶ No relocation or construction of new or expanded treatment facilities would be required to serve the proposed project. The proposed project does not include the construction of any additional sewer mains or sewer lines, aside from lateral connections to existing mains. Installation of sanitary sewer laterals for the new building would occur during grading of the site and would result in minimal impacts.

Wastewater generated by the proposed project would be disposed of at the RWF, a wastewater treatment facility which has adequate capacity to accommodate the increased demand created by the project. The RWF currently has approximately 38.8 million gallons per day of excess wastewater treatment capacity. The full build out under the General Plan would increase average dry weather flows by approximately 30.8 million gallons per day. Wastewater from the proposed project (155,362 gallons per day) would be treated at the RWF which has adequate capacity to accommodate the

¹⁰⁵ Indoor water use based on CalEEMod annual water use rates of 491,694 gallons per year per 1,000 square feet of R&D space.

¹⁰⁶ Wastewater is assumed to be 95 percent of the total on-site water use (59,691,652 gallons of wastewater*0.95 = 56,707,069 gallons of wastewater)

increased demand created by the project. Since the proposed development is consistent with planned growth in the City, the project would not require expansion or relocation of the existing City infrastructure. In addition, the project would comply with CALGreen requirements and the City's Private Sector Green Building Policy. As a result, relocation or construction of new or expanded water facilities would not be needed.

There is an existing 10" sanitary main line located at the end of Embedded Way. The project would comply with all applicable Public Works requirements to ensure sanitary sewer mains would have capacity for sanitary sewer service and wastewater as required by the proposed project. The General Plan Final EIR concluded that implementation of General Plan policies requiring future development to provide adequate sewer system capacity would reduce project-level impacts to a less than significant level.

Storm Drainage

Impervious surfaces on-site would increase by approximately 239,905 square feet under project conditions. All new and redeveloped projects, including the project, regardless of size and land use would be required to implement post-construction BMPs and TCM consistent with City Policy No. 6-29, Post-Construction Urban Runoff Management. Additionally, the project would be required to comply with the RWQCB MRP as described in Section 4.10 Hydrology and Water Quality. With the project's adherence to these requirements, the existing storm drainage system has sufficient capacity to support the proposed project. Furthermore, all new and redeveloped projects, including the project, regardless of size and land use would be required to implement post-construction BMPs and TCM consistent with City Policy No. 6-29, Post-Construction Urban Runoff. Management Development of the project site would not exceed the capacity of the existing storm drainage system serving the project site. Installation of storm sewer laterals for the site areas would occur during grading of the site and would result in minimal impacts. For these reasons, no new storm water treatment or disposal facilities would need to be constructed to accommodate the proposed project.

Electric Power, Natural Gas, and Telecommunications

The project would utilize existing connections for electrical and telecommunication systems. Although the project would increase the demand on existing facilities in the City, relocation of existing or construction of new electrical, or telecommunication facilities would not be needed to serve the proposed project. As a result, the proposed project would have a less than significant impact on these facilities.

The proposed project would comply with all applicable Public Works requirements and would utilize existing water infrastructure, dispose of wastewater at the RWF, convey stormwater via the City's existing drainage system, and connect to existing utility lines in the vicinity of the site for electricity, natural gas, and telecommunication services. Therefore, the proposed project would result in a less than significant impact on these facilities. **(Less than Significant Impact)**

b) Would the project have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?

As mentioned above, the proposed project would use approximately 611,755 gallons of water per year for landscaping and 59,912,907 gallons per year (60 million gallons per year) for indoor water use.¹⁰⁷ As discussed above, San José Municipal Water provides water service to the project site. The San José Municipal Water adopted an UWMP in June 2021 to assess water supply and demand requirements within the service area. The UWMP accounted for existing and planned growth analyzed in the General Plan FEIR (including the proposed project) and found insufficient water supplies would be available during normal, single-dry, and multiple-dry years within its service area without conservation measures.¹⁰⁸ In accordance with Section 10632(a) of the California Water Code, the UWMP included a water shortage contingency plan that includes measures such as annual water supply and demand assessment and conservation measures to address supply deficiencies, should one occur. Conservation measures include mandatory and voluntary measures such as reductions in the amount and time when landscaping can be irrigated, requiring automatic hose shutoffs, requiring restaurants to only provide water on request, requiring hotels to offer opt out of linen service, and restricting water use for decorative water features such as fountains and pools.

For the reasons discussed above, sufficient water supplies would be available to serve the proposed project and reasonably foreseeable future development during normal and dry years. **(Less than Significant Impact)**

c) Would the project result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

As described in Section 4.19.1.2 Existing Conditions, wastewater generated by the proposed project (155,362 gallons per day) would be treated at the Wastewater Facility. All wastewater generated by the proposed project would be directed to the municipal wastewater conveyance and treatment system. The proposed project would be consistent with the growth assumptions in the General Plan Final EIR and the Wastewater Facility would have adequate capacity to serve 100 percent of the project's projected demand in addition to its existing commitments (refer to checklist question "a"). **(Less than Significant Impact)**

d) Would the project generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?

¹⁰⁷ Based on CalEEMod annual water use rates of 491,694 gallons per year per 1,000 square feet of R&D space

¹⁰⁸ San Jose Water Company. 2020 Urban Water Management Plan. June 2021. Pages 7-24 through 7-26.

The proposed project would generate approximately 10 tons per year of solid waste per 1,000 square feet based on the solid waste generation rate from CalEEMod for a R&D land use.¹⁰⁹ This would equate to approximately five pounds per day of solid waste or less than one cubic yard per day.¹¹⁰ As mentioned previously, NISL had approximately 13.7 million cubic yards of capacity remaining in April 2021. Given NISL's remaining capacity, the City's contract with NISL, the amount of waste the City disposes at NISL, and the amount of waste the project is estimated to generate, there is sufficient capacity at NISL to serve the project and impacts related to solid waste would be less than significant. **(Less than Significant Impact)**

e) Would the project be noncompliant with federal, state, or local management and reduction statutes and regulations related to solid waste?

Future projects (including the proposed project) would be required to provide on-site recycling facilities, develop a construction waste management plan, salvage at least 50 percent of non-hazardous construction/demolition debris (by weight), and implement other waste reduction measures consistent with CALGreen requirements. The estimated increase in solid waste generation from future development would be avoided through implementation of the City's Zero Waste Strategic Plan. The Zero Waste Strategic Plan, in combination with existing regulations and programs, would ensure that the proposed project would not result in significant impacts on solid waste disposal capacity in excess of state or local standards or in excess of NISL capacity. **(Less than Significant Impact)**

¹⁰⁹ Based on the CalEEMod rate of 0.08 tons per year of solid per 1,000 square feet of R&D space, the annual tons of solid waste would be 10 tons (121.85 1000 square feet * 0.08 tons per year = 10 tons per year).

¹¹⁰ Based on CalRecycle conversion rates for Mixed Solid Waste (Uncompacted) material of 0.0005 ton per pound and 0.217590909 ton per cubic yard. The daily amount assumes 365 days of operation ([10 tons per year * 0.005 ton per pound]/365 days = 5 pounds per day; [10 tons per year * 0.217590909 ton per cubic yard]/365 days = <1 cubic yard per day).

4.20 WILDFIRE

4.20.1 Environmental Setting

4.20.1.1 *Regulatory Framework*

State

Fire Hazard Severity Zones

CAL FIRE is required by law to map areas of significant fire hazards based on fuels, terrain, weather, and other relevant factors. Referred to as Fire Hazard Severity Zones (FHSZs), these maps influence how people construct buildings and protect property to reduce risk associated with wildland fires. FHSZs are divided into areas where the state has financial responsibility for wildland fire protection, known as SRAs, and areas where local governments have financial responsibility for wildland fire protection, known as LRAs. Homeowners living in an SRA are responsible for ensuring that their property is in compliance with California's building and fire codes. Only lands zoned for very high fire hazard are identified within LRAs.

California Fire Code Chapter 47

Chapter 47 of the California Fire Code sets requirements for wildland-urban interface fire areas that increase the ability of buildings to resist the intrusion of flame or burning embers being projected by a vegetation fire, in addition to systematically reducing conflagration losses through the use of performance and prescriptive requirements.

California Public Resources Code Section 4442 through 4431

The California Public Resources Code includes fire safety regulations that restrict the use of equipment that may produce a spark, flame, or fire; require the use of spark arrestors on construction equipment that uses an internal combustion engine; specify requirements for the safe use of gasoline-powered tools on forest-covered land, brush-covered land, or grass-covered land; and specify fire suppression equipment that must be provided on-site for various types of work in fire-prone areas. These regulations include the following:

- Earthmoving and portable equipment with internal combustion engines would be equipped with a spark arrestor to reduce the potential for igniting a wildland fire (Public Resources Code Section 4442);
- Appropriate fire suppression equipment would be maintained during the highest fire danger period, from April 1 to December 1 (Public Resources Code Section 4428);
- On days when a burning permit is required, flammable materials would be removed to a distance of 10 feet from any equipment that could produce a spark, fire, or flame, and the construction contractor would maintain appropriate fire suppression equipment (Public Resources Code Section 4427); and
- On days when a burning permit is required, portable tools powered by gasoline-fueled internal combustion engines would not be used within 25 feet of any flammable materials (Public Resources Code Section 4431).

California Code of Regulations Title 14

The California Board of Forestry and Fire Protection has adopted regulations, known as SRA Fire Safe Regulations, which apply basic wildland fire protection standards for building, construction, and development occurring in a SRA. The future design and construction of structures, subdivisions, and developments in SRAs are required to provide for the basic emergency access and perimeter wildfire protection measures discussed in Title 14.

Fire Management Plans

CAL FIRE has developed an individual Unit Fire Management Plan for each of its 21 units and six contract counties. CAL FIRE has developed a strategic fire management plan for the Santa Clara County Unit, which covers the project area and addresses citizen and firefighter safety, watersheds and water, timber, wildlife, and habitat (including rare and endangered species), unique areas (scenic, cultural, and historic), recreation, range, structures, and air quality. The plan includes stakeholder contributions and priorities and identifies strategic areas for pre-fire planning and fuel treatment as defined by the people who live and work with the local fire issues.

Local

San José Fire Department Wildland-Urban Interface Fire Conformance Policy

Buildings proposed to be built within the San José Fire Department wildland-urban interface (WUI) shall comply with all WUI materials and construction methods per CBC Chapter 7A and CRC Section R337.¹¹¹ The applicant shall, prior to construction, provide sufficient detail to demonstrate that the building proposed to be built complies with this policy. Building Permit Plans are also to be approved by the SJFD.

4.20.1.2 *Existing Conditions*

The project site is located in an urbanized area of San José. The project site is not located in or near State responsibility areas or lands classified as Very High FHSZ. The project site is not in any fire hazard severity zone in a State Responsibility Area. The nearest Very High FHSZ is approximately 4.8 miles east of the project site.¹¹²

¹¹¹ San José Fire Department. *Wildland-Urban Interface (WUI) Fire Conformance Policy*. January 1, 2017. Accessed May 23, 2022. Available at: <https://www.sanjoseca.gov/Home/ShowDocument?id=9345>

¹¹² California Department of Forestry & Fire Protection. Fire Hazards Severity Zone Viewer. November 21, 2022. Accessed June 9, 2023. Available at: <https://calfire-forestry.maps.arcgis.com/apps/webappviewer/index.html?id=fd937aba2b044c3484a642ae03c35677>.

4.20.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, Would the project:				
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines, or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

The project site is not located in or near state responsibility areas or lands classified as very high fire hazard severity zones; therefore, the project would not result in wildfire impacts. **(No Impact)**

4.21 MANDATORY FINDINGS OF SIGNIFICANCE

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?

As discussed in the individual resource sections of this Initial Study, the proposed project would not degrade the quality of the environment with the implementation of identified standard conditions of approval and mitigation measures. As discussed in Section 4.4 Biological Resources, with implementation of the identified mitigation measures (MM BIO-1.1 to reduce potential disturbance to Santa Clara Valley dudleya special-status plants; MM BIO-2.1 through MM BIO-2.3 to reduce impacts to Hall's bush mallow; MM BIO-3.1 through MM BIO-3.4 to reduce impacts to nesting birds; and MM BIO-4.1 to reduce lighting impacts on species) As discussed in Section 4.5 Cultural Resources, the project would implement MM CUL-1.1 through MM CUL-1.8 to reduce potential impacts to unknown buried cultural resources to a less than significant level (**Less than Significant Impact with Mitigation Incorporated**)

b) Does the project have impacts that are individually limited, but cumulatively considerable?

Under Section 15065(a)(3) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has potential environmental effects “that are individually limited, but cumulatively considerable.” As defined in Section 15065(a)(3) of the CEQA Guidelines, cumulatively considerable means “that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.” In addition, under Section 15152(f) of the CEQA Guidelines, where a lead agency has determined that a cumulative effect has been adequately addressed in a prior EIR, the effect is not treated as significant for purposes of later environmental review and need not be discussed in detail.

Resource Topics Not Impacted by the Project

As described in the respective sections throughout this Initial Study, the proposed project would have no impact on agricultural resources, historic resources, mineral resources, population/housing, recreational facilities, or wildfire risk. Therefore, the project has no potential to combine with other projects to result in cumulative impacts to those resources.

Cumulative Biological Resources Impacts

The geographic area for cumulative impacts to biological resources includes the project site and its Habitat Plan area because localized development would affect the same group of biological resources. As discussed in Section 4.4 Biological Resources, the project site is in an urban area with existing industrial uses and Coyote Creek borders the project to the west. The project does include land cover that would provide some suitable habitat for species and a portion of the project site is within the Coyote Creek riparian setback (100-foot setback). To reduce impacts to special-status plants, MM BIO-1.1 through MM BIO-1.3 include measures to reduce construction disturbance by requiring a pre-construction survey and by providing avoidance measures to reduce loss of special-status plants. Existing trees on-site could provide nesting habitat for birds, and construction disturbance during the breeding season could result in the incidental loss of fertile eggs or nestlings. Implementation of mitigation measures MM BIO-2.1 through MM BIO-2.4 would ensure that project construction does not result in the loss of fertile eggs or nestlings or otherwise lead to nest abandonment. Implementation of MM BIO-3.1 would reduce disturbance of the existing wildlife due to the increased lighting from the project. The project proposes removal of 11 trees, including three ordinance-sized trees, which would conform with tree replacement requirements identified in Municipal Code Section 13.28.300, General Plan Policies MS-21.4, MS-21.5, MS-21.6 and CD-1.24, and City of San José Tree Removal Ordinance. Similarly, the project would comply with the City’s ordinances protecting biological resources and the requirements of the Santa Clara Valley Habitat Plan. Future developments in proximity to the project would be subject to similar mitigation measures and standard conditions of approval. For these reasons, the proposed project would not contribute to a cumulatively considerable contribution to a significant biological resources impact.

Cumulative Air Quality, Greenhouse Gas, and Energy Impacts

By its very nature, air pollution is a cumulative impact. The geographic area for cumulative air quality impacts is the San Francisco Bay Area Air Basin. No single project is sufficient in size, by itself, to result in nonattainment of ambient air quality standards. Instead, a project's individual emissions contribute to existing cumulatively significant adverse air quality impacts. The proposed project would emit criteria air pollutants and contribute to the overall regional emissions of these pollutants. The project-level thresholds identified by BAAQMD (which the project's emissions were compared to in Section 4.3 Air Quality) are the basis for determining whether a project has a cumulatively considerable contribution to g cumulative air quality impacts. As discussed in Section 4.3 Air Quality, the project's construction and operational criteria air pollutant emissions would be below BAAQMD's recommended thresholds for these pollutants. Additionally, the project would result in temporary, localized odors during construction (i.e., from diesel exhaust, construction equipment, and painting) and operation (i.e., use of cleaning supplies and landscaping chemicals). Thus, the project would not result in a cumulatively considerable contribution to a significant cumulative air quality impact.

The proposed project and past, present, present, and future development projects worldwide contribute to global climate change. No single project is sufficient in size to, by itself, change the global average temperature. Therefore, due to the nature of GHG impacts, a significant project impact is a significant cumulative impact. As discussed in Section 4.8 Greenhouse Gas Emissions, the project's operational emissions would be less than significant since the project would be consistent with the City's Greenhouse Gas Reduction Strategy for 2030. Therefore, the project would not result in a significant GHG impact. For these reasons, the project would not result in a cumulatively considerable contribution to a significant cumulative GHG impact.

Similarly, the discussion of the project's energy impact also reflects cumulative conditions since the project's consumption of electricity and gasoline was assessed in comparison with consumption at the state and county level. Therefore, the proposed project would not make a cumulatively considerable contribution to significant cumulative air quality, GHG emissions, or energy use impacts.

Cumulative Cultural Resources, Tribal Cultural Resources, and Geologic Impacts

The geographic area for cumulative archaeological resources, TCR, and geologic impacts would be locations adjacent to the site that would have the potential to also affect resources that may be present and potentially impacted by the project. The project would be designed to meet the current City code and would not change any geologic conditions, of which there are no significant cumulative impacts. The project thus would not combine with other past, present, and reasonably foreseeable future projects to create a significant cumulative geologic impact. The project also would not make a cumulatively considerable contribution to significant cumulative impacts on archeological resources and TCRs with the project-level mitigation (MM CUL-1.1 through MM CUL-1.8) and adherence to standard permit conditions described in this Initial Study. There are no other current or future projects immediately adjacent to the project site. Therefore, the project would not result in a cumulatively considerable contribution to a significant cumulative impact to cultural resources or TCRs, nor a cumulative geological impact.

Cumulative Hydrology and Utilities Impacts

The geographic area for cumulative hydrology and water quality impacts is the Coyote Creek watershed. Cumulative developments near the project would be subject to similar hydrological and urban runoff conditions. All projects occurring within San José would be required to implement the same standard conditions and measures related to construction quality as the proposed project (including preparation of a SWPPP if disturbance is greater than one acre). In addition, all current and future projects that would disturb more than one acre of soil or replace/add more than 2,500 square feet of impervious surfaces would be required to meet applicable site design and runoff reductions measures where feasible. For these reasons, cumulative projects, including the proposed project, would not combine to result in significant cumulative hydrology or water quality impacts.

The geographic area for cumulative utilities and service systems is the City boundaries. The project would incrementally contribute to cumulative demands on utilities and service systems (i.e., water, sewer, solid waste, and storm drainage). The proposed project, and other future projects that were accounted for in the General Plan, were included in the UWMP water demand projections and General Plan EIR. Under Section 15152(f) of the CEQA Guidelines, where a lead agency has determined that a cumulative effect has been adequately addressed in a prior EIR, the effect is not treated as significant for purposes of later environmental review and need not be discussed in detail. Therefore, the proposed project would not result in cumulatively considerable impacts to utilities and service systems.

Cumulative Hazards and Hazardous Materials Impacts

The geographic area for cumulative hazardous materials impacts would be the project site and adjacent parcels. The use, storage, transportation, and disposal of fuel, and maintenance chemicals would be managed in accordance with existing laws and regulations that ensure storage, and transportation to and from the cumulative sites would not result in a significant cumulative impact related to hazardous materials. There are no other current or future projects immediately adjacent to the project site that the project would combine with to create a significant cumulative impact. Therefore, the proposed project would not contribute to a cumulatively significant hazards and hazardous materials impact.

Cumulative Noise Impacts

The geographic area for cumulative noise impacts is defined as all locations within 1,000 feet of the project site. Based on a review of proposed and approved development permits, there are no developments proposed within 1,000 feet of the proposed project. Therefore, there would be no significant cumulative impact with respect to construction noise, and the project would not result in a cumulatively considerable contribution to construction noise impacts.

Additionally, as discussed in Section 4.13 Noise, the permanent operational sources of noise (e.g., rooftop mechanical equipment, vehicle trips, parking lot noise, and truck deliveries) would constitute a less than significant operational noise impact because the increase in ambient noise is below the recommended City thresholds. Furthermore, the additional daily vehicle trips on local roadways resulting from the proposed project would not correspond to an increase in ambient noise levels in

the area. Due to the existing noise environment, simultaneous operation of the project would result in a less than significant cumulative noise impact.

For these reasons, the project would not combine with other projects to create a significant cumulative noise impact and would not make a cumulatively considerable contribution to areas with existing significant cumulative noise impacts.

Cumulative Transportation Impacts

The City's Transportation Analysis Handbook states that an evaluation of cumulative transportation impacts should take a project's long-term effects on VMT into account. In addition, a cumulative analysis should address a project's potential to increase land development in outlying areas, thereby increasing lengths and VMT. As discussed in Section 4.17 Transportation, the impacts of the proposed project on long-term VMT would be less than cumulatively considerable with implementation of mitigation measures MM TRAN-1.1 and MM TRAN-1.2. Impacts related to geometric design and hazards would be addressed with implementation of MM TRAN-2.1. Since the year 2040 is the horizon year for the City's General Plan, the VMT analysis for the year 2020 takes planned Citywide/cumulative growth into account. Furthermore, the proposed project would be consistent with applicable General Plan policies regarding circulation and would, therefore, not result in a cumulative conflict with those policies. Additionally, cumulative projects, including the proposed project, would be required to comply with current building and fire codes and would be reviewed by the SJFD to ensure adequate emergency access. For these reasons, the project would not combine with other projects to create a significant cumulative transportation impact and would not make a cumulatively considerable contribution to areas with existing significant cumulative transportation impacts.

The project does not have impacts that are individually limited, but cumulatively considerable. **(Less than Significant Impact with Mitigation Incorporated)**

c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

Consistent with Section 15065(a)(4) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has the potential to cause substantial adverse effects on human beings, either directly or indirectly. Under this standard, a change to the physical environment that might otherwise be minor must be treated as significant if people would be significantly affected. This factor relates to adverse changes to the environment of human beings generally, and not to effects on particular individuals. While changes to the environment that could indirectly affect human beings would be represented by all of the designated CEQA issue areas, those that could directly affect human beings include construction TACs, noise, and contaminated soil. Implementation of applicable regulations and policies, Standard Permit Conditions, and mitigation measures (MM HAZ-1.1 and MM HAZ-1.2) would reduce the impacts to a less than significant level. No other direct or indirect adverse effects on human beings have been identified. **(Less than Significant Impact with Mitigation Incorporated)**

SECTION 5.0 REFERENCES

The analysis in this Initial Study is based on the professional judgement and expertise of the environmental specialists preparing this document, based upon review of the site, surrounding conditions, site plans, and the following references:

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SECTION 6.0 LEAD AGENCY AND CONSULTANTS

6.1 LEAD AGENCY

City of San José

Department of Planning, Building, and Code Enforcement

David Keyon, Principal Planner

Nhu Nguyen, Environmental Planner

6.2 CONSULTANTS

David J. Powers & Associates, Inc.

Environmental Consultants and Planners

Akoni Danielsén, Principal Project Manager

Michael Lisenbee, Senior Project Manager

Mimi McNamara, Associate Project Manager

Ryan Osako, Graphic Artist

Cornerstone Earth Group

Geotechnical Consultants and Engineers

William Godwin, Senior Engineering Geologist

John R. Dye, Senior Principal Engineer

Peter M. Langtry, Senior Principal Geologist

Diana Lin, Project Engineer

Hexagon Transportation Consultants

Transportation Consultants and Engineers

Robert Del Rio, Vice President, Principal

H. T. Harvey & Associates

Biological Resources Consultants

Steve Rottenborn, Ph.D., Principal/Senior Wildlife Ecologist

Kelly Hardwicke, Ph.D., Associate Plant/Senior Wetland Ecologist

Robin Carle, M.S., Project Manager/Senior Wildlife Ecologist

Jane Lien, B.S., Wildlife Ecologist

Illingworth & Rodkin, Inc.

Air Quality and Acoustical Consultants

James Reyff, Principal

Michael Thill, Principal

Carrie Janello, Senior Consultant

Casey Divine, Consultant

PaleoWest

Archaeological Consultants

Clarús Backes, Principal Investigator and Northern California Team Lead

Katherine Sinsky, Associate Archaeologist

SECTION 7.0 ACRONYMS AND ABBREVIATIONS

2017 CAP	2017 Clean Air Plan
2040 General Plan	Envision San José 2040 General Plan
AB	Assembly Bill
ABAG	Association of Bay Area Governments
ACM	Asbestos-Containing Material
ALUC	Airport Land Use Commission
APN	Assessor's Parcel Number
ATCM	Asbestos Airborne Toxic Control Measure
BAAQMD	Bay Area Air Quality Management District
Bay Area	San Francisco Bay Area
BCDC	San Francisco Bay Conservation and Development Commission
Btu	British Thermal Unit
CAAQS	California Ambient Air Quality Standard
CAL FIRE	California Department of Forestry and Fire Protection
Cal/OSHA	California Department of Industrial Relations, Division of Occupational Safety and Health
CalARP	California Accidental Release Prevention
CalEPA	California Environmental Protection Agency
CALGreen	California Green Building Standards
Caltrans	California Department of Transportation
CARB	California Air Resources Board
CBC	California Building Standards Code
CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality Act
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CESA	California Endangered Species Act
CFC	Chlorofluorocarbon
CFR	Code of Federal Regulations
CGS	California Geological Survey
CH ₄	Methane
CLUP	Comprehensive Land Use Plan
CNEL	Community Noise Equivalent Level

CNPS	California Native Plant Society
CO	Carbon Monoxide
CO ₂	Carbon Dioxide
CO ₂ e	Carbon Dioxide Equivalents
CRHR	California Register of Historical Resources
CRPR	California Rare Plant Rank
CUPA	Certified Unified Program Agency
dBA	A-weighted decibel
DNL	Day/Night Average Sound Level
DPM	Diesel Particulate Matter
DTSC	Department of Toxic Substances Control
EIR	Environmental Impact Report
EO	Executive Order
EPA	Environmental Protection Agency
ESA	Environmental Site Assessment
FAA	Federal Aviation Administration
FAR	Federal Aviation Regulations
FESA	Federal Endangered Species Act
FHSZ	Fire Hazard Severity Zone
FMMP	Farmland Mapping and Monitoring Program
GHG	Greenhouse Gases
GHGRS	Greenhouse Gas Reduction Strategy
GWh	Gigawatt Hour
GWP	Global Warming Potential
Habitat Plan	Santa Clara Valley Habitat Plan
HSWA	Hazardous and Solid Waste Amendments
IP	Industrial Park
L _{eq}	Energy-Equivalent Sound/Noise Descriptor
L _{max}	Maximum A-weighted noise level during a measurement period
LOS	Level of Service
LRA	Local Responsibility Area
MBTA	Migratory Bird Treaty Act
MMTCO ₂ e	Million Metric Tons of Carbon Dioxide Equivalent

MND	Mitigated Negative Declaration
mpg	Miles per Gallon
MSL	Mean Sea Level
MTC	Metropolitan Transportation Commission
N ₂ O	Nitrous Oxide
NAAQS	National Ambient Air Quality Standard
NAHC	Native American Heritage Commission
NCP	National Contingency Plan
NESHAP	National Emission Standards for Hazardous Air Pollutants
NO ₂	Nitrogen Dioxide
NOA	Naturally Occurring Asbestos
NOD	Notice of Determination
NO _x	Nitrogen Oxides
NRHP	National Register of Historic Places
O ₃	Ozone
PCB	Polychlorinated Biphenyls
PCF	Perfluorocarbon
PDA	Priority Development Areas
PG&E	Pacific Gas and Electric Company
PM	Particulate Matter
PM ₁₀	Particulate matter with a diameter of 10 microns or less
PM _{2.5}	Particulate matter with a diameter of 2.5 microns or less
PPV	Peak Particle Velocity
R&D	Research and Development
RAP	Removal Action Plan
RCRA	Resource Conservation and Recovery Act
ROG	Reactive Organic Gases
RTP	Regional Transportation Plan
RWQCB	Regional Water Quality Control Board
SB	State Bill
SCCDEH	Santa Clara County Department of Environment Health
SCS	Sustainable Communities Strategy
SF ₆	Sulfur Hexafluoride

SHMA	Seismic Hazards Mapping Act
SJCE	San José Clean Energy
SMARA	Surface Mining and Reclamation Act
SMGB	State Mining and Geology Board
SMP	Site Management Plan
SO _x	Sulfur Oxides
SR	State Route
SRA	State Responsibility Area
SWRCB	State Water Resources Control Board
TAC	Toxic Air Contaminants
Title 24	Title 24, Part 6 of the California Code of Regulations
TSCA	Toxic Substances Control Act
USACE	United States Army Corps of Engineers
USFWS	United States Fish and Wildlife Service
Valley Water	Santa Clara Valley Water District
VMT	Vehicle Miles Traveled
VTa	Santa Clara Valley Transportation Authority
Williamson Act	California Land Conservation Act
WUI	Wildland-Urban Interface
ZNE	Zero Net Carbon Emission
CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality Act
EIR	Environmental Impact Report
MND	Mitigated Negative Declaration
NOD	Notice of Determination
RWQCB	Regional Water Quality Control Board
USFWS	United States Fish and Wildlife Service



Planning, Building and Code Enforcement

CHRISTOPHER BURTON, DIRECTOR

SITE DEVELOPMENT PERMIT

FILE NO.	H22-022 & ER22-113
LOCATION OF PROPERTY	865 Embedded Way
ZONING DISTRICT	IP Industrial Park
GENERAL PLAN DESIGNATION	Industrial Park
PROPOSED USE	Site Development Permit to allow the construction of an approximately 121,430-square foot concrete tilt-up industrial building and removal of two ordinance-size trees and nine non-ordinance-size trees on an approximately 10.17-gross acre site.
ENVIRONMENTAL STATUS	Initial Study/Mitigated Negative Declaration (IS/MND) for 865 Embedded Way Industrial Project.
OWNER/ADDRESS	J&J Properties 7230 Medical Center Drive, Unit 500 West Hills, CA 91307
APPLICANT/ADDRESS	Oppidan 1100 Lincoln Avenue, Suite 382 San Jose, CA 95125
ARCHITECT/ADDRESS	Zachary Peterson 4683 Chabot Drive, Suite 300 Pleasanton, CA 94588

FACTS AND FINDINGS

The Director of Planning, Building, and Code Enforcement finds that the following are the relevant facts and findings regarding this proposed project:

- 1. Project Description.** This Site Development Permit is to allow the construction of an approximately 121,430-square-foot concrete tilt-up industrial building and the removal of two ordinance-size trees and nine non-ordinance-size trees on an approximately 10.17-gross-acre site. The project includes on-site improvements including grading, utility installation, landscaping, and paving. Access to the site will be provided via an existing two-way paved driveway easement from Embedded Way.
- 2. Site Description and Surrounding Uses.** The project site is currently vacant and is located on the north side of Embedded Way, approximately 1,400 feet west of Hellyer Avenue. The project site is bounded by the Coyote Creek Trail to the west, industrial buildings to the north, east, and south, Embedded Way (public street) further to the south, and Hellyer

Avenue further to the east. The closest residential uses are located approximately 250 feet beyond Coyote Creek to the west of the project site. The riparian setback from the riparian vegetative edge of Coyote Creek to the project development (parking lot and drive aisles) is approximately 100 feet. The site is accessed via two private easement driveways one from Embedded Way to the south and second from Hellyer Avenue to the east.

3. General Plan Conformance

The Envision San José 2040 General Plan Land Use Transportation Diagram designation of the project site is Industrial Park (allowed FAR up to 10.0 (2 to 15 stories)).

The Industrial Park designation is intended for a wide variety of industrial users such as research and development, manufacturing, assembly, testing, and offices. This designation is differentiated from the Light Industrial and Heavy Industrial designations in that Industrial Park uses are limited to those for which the functional or operational characteristics of a hazardous or nuisance nature can be mitigated through design controls. The project includes manufacturing uses, consistent with the allowed industrial uses for the site.

- a. *Floor Area Ratio (FAR)*: The maximum allowable FAR is 10.0 which would typically allow 101.7 acres of building area for the property. However, the site is also in the Edenvale Area Development Policy Sub-Area 1, in which a FAR of up to 0.35 maximum is allowed. The proposed gross floor area of 121,430 square feet results in an FAR of 0.27 which is within the allowed FAR of 0.35 for the site.

The project conforms to the following General Plan Goal:

- a. Goal LU-6 – Industrial Preservation: Preserve and protect industrial uses to sustain and develop the city's economy and fiscal sustainability.

Analysis: The project will provide industrial land uses and will not facilitate the conversion of industrial lands. The subject site is primarily surrounded by light industrial uses and the proposed manufacturing and assembly uses are consistent with the industrial land use designation.

The proposed project is consistent with the following General Plan policies:

- b. Fiscal Sustainability Policy IE-2.7: Encourage business and property development that will provide jobs and generate revenue to support city services and infrastructure.
- c. Broad Economic Prosperity Policy IE-6.2: Attract and retain a diverse mix of businesses and industries that can provide jobs for residents of all skill and education levels to support a thriving community.

Analysis: The project would be consistent with the policies above as the project is for the construction of a new manufacturing building on a vacant industrial parcel. The construction of the new building would implement the development of the industrial site and would expand industrial uses within the city. The building is programmed and designed to attract users such as research and development, manufacturing and assembly uses, thereby providing jobs for residents.

4. Edenvale Area Development Policy (EADP)

This project is located in the Edenvale Area Development Policy Sub-Area 1. The Policy includes a maximum base building floor area ratio (FAR) allocation of 0.35 for development within Sub-Area 1. For the 10.17-gross-acre site, the maximum building square footage

allowance at 0.35 FAR is 3.55 acres or 155,052 square feet. The project includes a total of approximately 121,430 square feet or 0.27 FAR, hence would be consistent with the EADP.

5. Zoning Code Compliance

Land Use

The subject site is located within the **IP Industrial Park** Zoning District. Pursuant to Table 20-110 of Section 20.50.100 of the Zoning Code, research and development, warehouse/distribution facilities are permitted in the Industrial Park Zoning District. As the project includes the construction of a new building, the issuance of a Site Development Permit is required pursuant to Section 20.100.610 of the City of San José Municipal Code.

- a. **Use.** Light and medium manufacturing and assembly and R&D uses are permitted uses on site.
- b. **Setbacks.** The IP Industrial Park Zoning District requires a minimum of 15-foot front setback, and zero-foot side and rear setbacks. The required front setback for parking and circulation for passenger vehicles is 25 feet and the front parking setback for trucks and buses is 40 feet from the front property line. Pursuant to [Section 20.50.200](#) for industrial zoning districts, the front setback refers to lot boundaries abutting streets, excluding freeways, and side and rear setbacks refer to lot boundaries not abutting streets, or which abut freeways.

Analysis: The 10.17-gross acre site does not have a street frontage but is accessed via a private easement driveway from Embedded Way (public street) on the south end of the site. The side most parallel to the street frontage is approximately 350-foot distance from Embedded Way. Since the site does not have a lot boundary abutting a public street (Embedded Way), the site only has side and rear setbacks. The building is set back approximately 132 feet and parking spaces are set back approximately 26 feet from the south side property line most parallel to the street frontage along Embedded Way. Furthermore, the building is set back approximately 81 feet from the east and north side (rear) property lines and is set back approximately 92 feet from the west side property line, where no setbacks are required. Therefore, the project conforms with the required setbacks of the IP Industrial Park Zoning District pursuant to [Table 20-120, Section 20.50.200](#) of the Zoning Ordinance.

- c. **Riparian Setback.** Pursuant to Riparian Policy 6-34, the project is a “Riparian Project” as it is within 300 feet of a Riparian Corridor’s top of the bank or the vegetative edge. For riparian protection, the standard required setback per the Riparian Policy is 100 feet minimum, measured from the outside dripline of the Riparian Corridor vegetative edge or the top-of-bank.

Analysis: The project development conforms to the minimum 100-foot riparian setback requirement from the vegetative edge of Coyote Creek to the west of the project site. The project’s paved parking lot and access road is approximately 100 feet from the top of the bank or the vegetative edge to the west and the building corner is more than 100 feet from the riparian vegetative edge to the west of the project site.

- d. **Height.** The allowable maximum height in this zoning district is 50 feet. *The project elevations and sections show an overall height of 43 feet to the top of the parapet which meets the requirement.*

- e. **Parking.** Since the Planning application for the proposed project was deemed complete before the effective date (4/10/2023) of the current parking ordinance, the following parking spaces are required and provided on-site per Section 20.90.060 of the prior Zoning Ordinance. The project provides 299 parking spaces which meets the vehicle parking requirement of 296 spaces per Table 1 below.

Land Use	Vehicle Parking Requirement	Vehicle Parking Provided	Bicycle Parking Requirement
Manufacturing	1 space per 350 square feet of floor area plus one space per company vehicle	103,216 square feet (15% of 121,430 square feet) of net floor area would require 296 spaces	1 space per 5,000 square feet of floor area
Loading Spaces	1 per 10,000 square feet of floor area plus 1 per each additional 20,000 square feet of floor area	121,430 sf would require 7 truck loading spaces and 11 spaces are provided on site	

Table 1: Parking Requirements

Vehicle parking

Manufacturing use requires one parking space per 350 square feet of floor area plus one space per company vehicle. Based on the proposed 121,430 gross square feet (103,216 net square feet) of floor area, the project requires 296 vehicle parking spaces. *The total site parking count on sheet A1 indicates the provision of 299 vehicle parking stalls, which meets the vehicle parking requirement.*

Bicycle and Motorcycle Parking

The parking section of the code requires one bicycle space per 5,000 square feet of floor area, and one motorcycle parking space per up to 50 code required parking spaces. *The proposed project requires the provision of 21 bicycle parking spaces and 6 motorcycle parking spaces and provides 25 bicycle parking and 6 motorcycle parking to meet the requirement as shown on the site plan.*

Loading Spaces

The parking section of the code requires one loading space per 10,000 square feet of floor area, plus one per each additional 20,000 square feet of floor area. *A total of 7 loading spaces are required and 11 spaces are provided for the 121,430 square feet floor area of the industrial building, in conformance with the Parking Ordinance.*

6. Riparian Corridor Protection and Bird Safe Design Policy (“Riparian Corridor Policy”)

[City Council Policy 6-34 Riparian Corridor Protection and Bird-Safe Design](#) is for the protection, preservation, and restoration of the riparian habitat. The Riparian Policy provides general guidelines for riparian corridor protection and requires a minimum 100-foot setback

for new development or activity from a riparian corridor's top of the bank or a vegetative edge, whichever is closest, to minimize intrusion into the riparian corridor. The Riparian Policy also allows reductions to the 100-foot setback to be made on a case-by-case basis. For example, sites with unique geometric characteristics or disproportionately long riparian frontages; or where the project implements measures that better protect and enhance riparian values than a 100-foot setback would, may be allowed a reduced setback. A reduced setback may be considered under limited circumstances such as:

- a. The existence of legal uses within the minimum setback.

Analysis: The subject property borders the riparian corridor along its west side adjacent to Coyote Creek and qualifies as a riparian project. An approximately 100-foot setback is proposed for the new drive aisles and parking lot on the project site from the vegetative edge as shown in the plans. Additionally, the building corner closest to the riparian corridor will be more than 100 feet from the top of the bank and vegetative edge, in conformance with the stated Council Policy 6-34 above for riparian corridor protection.

Furthermore, the driveway access from Embedded Way to the project site will utilize an existing paved driveway serving the building at 845/855 Embedded Way, to the south of the project site. This paved driveway is approximately 90 feet from the riparian vegetative edge, where the requirement is a minimum 100-foot riparian setback. However, this driveway access is considered an existing legal use as it was analyzed and approved with prior Site Development Planning Permit File No. HA82-269-11 for the development of industrial buildings at 845/855 Embedded Way.

Furthermore, the applicant submitted a Biological Resource Evaluation, dated November 7, 2023, by a qualified biologist, H.T. Harvey and Associates. The project's Biological Resource Evaluation includes an analysis of the Riparian Policy and indicates that based on a review of the technical information and observations at the subject property and its vicinity, the operational use of the existing paved driveway would be considered an existing legal use and would not result in a biological impact to the adjacent riparian area. The traffic associated with the existing businesses already use that driveway and new project-related traffic would still be approximately 90 feet or more from the edge of the riparian vegetation. Additionally, the animals using the riparian habitat along the adjacent reach of Coyote Creek are habituated to traffic, trail use, and other activities on both sides of the creek, and the increase in use of the driveway will not substantially affect the ecological value of the riparian corridor or its use by wildlife. Therefore, the reduced setback will not significantly reduce or adversely affect the riparian corridor.

7. Citywide Design Standards and Guidelines Conformance

The project application was submitted on April 22, 2022. Therefore, the project is subject to the Citywide Design Standards and Guidelines, which became effective on March 24, 2021. The project is consistent with the following applicable provisions.

- a. Section 3.3.1 Façade Design and Articulation
 - i. Standard 1 - Articulate all building façades facing a street or public open space for at least 80 percent of each façade length. Articulate all other building façades for at least 60 percent of each façade length. Façade articulation can be achieved by providing material and wall plane changes or by providing a rhythmic pattern of bays, columns, and other architectural elements to break up the building mass.

- ii. Standard 2 - Building elements such as bays, windows, and balconies that project from façades must have at least two feet of plane change.

Analysis: The proposed building is 43 feet in overall height and incorporates base, middle, and top features in the building design. The roof form is articulated with variations in parapet heights and roof lines. The building entrance feature along the south side (facing Embedded Way) protrudes with a minimum of 2 feet wall plane changes along that façade and the height is raised above the roof parapet to create a visual focus and interest, in conformance with the Design Guidelines Section above.

- b. Section 3.3.2 Roofs and Parapets: Design roofs to be compatible with surroundings and add character to buildings.

- i. Guideline 1. Design articulated roof forms for new developments and building extensions with elements such as parapets, parapet caps, and cornices to create strong edges and reinforce massing and building façade articulation.

- c. Section 3.3.4 Awnings, Sunshades, and Screens: Reduce heat gain and provide visual interest to buildings with awnings, sunshades, and screens.

- i. Guideline 2. Integrate awnings when used, into residential and industrial entrances and commercial frontage design to highlight primary building entrances.

Analysis: The architectural treatment at the building entrance wall (south facade wall) with the use of a combination of materials such as painted concrete tilt-up panels, painted composite metal panels over metal stud walls, painted metal canopies and aluminum storefront system creates visual interest and reduces the flatness of roof line, per the guideline above.

- d. Section 3.3.7 Materials and Colors: The quality of the materials and color palette helps define a building's character.

- i. Standard 1. In *General Plan* growth areas, ground floor elevation fronting *primary streets* must have high-quality materials and texture for at least 50 percent of the non-glass areas. High-quality materials include (but are not limited to) stone, marble, granite, brick, tile, wood, terracotta, and steel.
- ii. Guideline 2. Use heavier materials such as masonry, concrete, and stucco with darker colors at the base and middle of building façades and progressively lighter materials and colors such as wood, panels, etc. on the middle and top of façades at upper levels.

Analysis: The project wall facades include sufficient articulation with the use of different materials and wall plane changes, as discussed above. The design consists of aluminum storefront framing with tempered glass and concrete tilt-up panels with metal canopies, creating visual interest.

A variety of accent colors and wall plane changes as well as cladding materials are used to sufficiently articulate the building facades and provide a desirable scale for the building context, in conformance with the Design Guidelines Section above.

- e. Section 2.3.8 Landscaping and Stormwater Management

- i. Standard 1. Select trees that at maturity create a tree canopy cover that shades a minimum of 50 percent of each on-site surface parking area, common open space at the ground floor, and privately owned (and maintained) Public Open Space.

Analysis: Based on the information provided on Landscape Plan Sheet L-2.0 of the approved plan set, 130 new 15-gallon trees will be planted on-site, and approximately 50% of the on-site surface parking area will be shaded by the tree canopy, in conformance with the Design Guideline Section above.

7. Environmental Review

The City of San José, as the lead agency prepared an Initial Study/Mitigated Negative Declaration (IS/MND) for the 865 Embedded Way Industrial Project. The document was circulated for public comment between December 21, 2023, to January 10, 2024. A total of four comment letters were received from public agencies and private parties. The comments received are summarized below:

- a. Santa Clara Valley Transportation Authority (VTA) recommended additional transportation and transportation network improvements and did not raise any new significant impacts.
- b. Muwekma Ohlone Indian Tribe disclosed information on ancestral heritage sites near the project site and recommended monitoring during construction.
- c. Pacific Gas and Electric Company (PG&E) commented on the coordination with the applicant regarding the relocation of PGE utilities and did not raise any environmental concerns.
- d. Mitchell M. Tsai Law Firm raised concerns regarding air quality, noise, transportation, and cumulative analysis in the IS/MND.

The comments received did not result in any substantial changes to the project description, analyses, and/or impacts that were previously disclosed in the IS/MND. These environmental comments were addressed by staff in a formal Response to Comments document available on the project website and emailed to the commenting parties.

The IS/MND identified potential impacts on Biological Resources, Cultural Resources, Hazards and Hazardous Materials, and Transportation. The IS/MND concluded that the project would not result in any significant and unavoidable environmental impacts with the implementation of identified mitigation measures and standard permit conditions. The project includes a Mitigation Monitoring and Reporting Program (MMRP) and incorporates standard conditions and best management practices for construction activities to lessen the identified impacts to a less than significant level. The IS/MND concluded that the proposed project would not result in a significant and unavoidable impact and an MND is the appropriate level of CEQA clearance for the project.

The entire IS/MND and other related environmental documents are available on the Planning website at: <https://www.sanjoseca.gov/your-government/departments-offices/planning-building-code-enforcement/planning-division/environmental-planning/environmental-review/negative-declaration-initial-studies/865-embedded-way-industrial-project>.

8. Site Development Permit Findings. Section 20.100.630 of the San José Municipal Code specifies the required findings for the issuance of a Site Development Permit.

- a. The site development permit, as approved, is consistent with and will further the policies of the general plan and applicable specific plans and area development policies.

Analysis: As discussed above, the project is consistent with the General Plan Land Use Designation of Industrial Park and General Plan Goal LU-6 and Sustainability Policies IE-2.7 and IE-6.2 as it would provide industrial land use and will not facilitate the conversion of industrial lands. The building is programmed and designed to attract users such as research and development, light and medium manufacturing and assembly uses on site. The maximum allowed Floor Area Ratio (FAR) for a project with an Industrial Park Land Use Designation in the EADP sub-area 1 is 0.35. The project proposes a FAR of approximately 0.27, less than the maximum allowed.

- b. The site development permit, as approved, conforms with the zoning code and all other provisions of the San José Municipal Code applicable to the project.

Analysis: As discussed above, the project conforms with all required minimum setbacks and maximum height allowed within the IP Industrial Park Zoning District. The project provides the required number of vehicle, motorcycle, and bicycle parking and loading spaces in conformance with Chapter 20.90 of the Zoning Code. Therefore, the project is consistent with all applicable provisions of the San José Municipal Code.

- c. The site development permit, as approved, is consistent with applicable city council policies, or counterbalancing considerations justify the inconsistency.

Analysis: The project is subject to and is consistent with [City Council Policy 6-30: Public Outreach Policy for Pending Land Use and Development Proposals](#). In conformance with the City's public outreach policy, an on-site sign has been posted at the site since July 12, 2022, to inform the neighborhood of the project. Public Notices of the community meeting and public hearing were distributed to the owners and tenants of all properties located within 1,000 feet of the project site and posted on the City website. The draft permit is also posted on the City's website. Staff has been available to respond to questions from the public. A community meeting was held to discuss the project on January 12, 2023, via Zoom webinar. No public comments were received.

The project is also within 300 feet of a riparian corridor and is subject to and is consistent with the [City Council Policy 6-34 Riparian Corridor Protection and Bird-Safe Design](#). Based on a review of the technical information and observations at the Project Site and its vicinity and the applicant's proposed development plans for the property, the project would not result in a biological impact on the adjacent riparian area of Coyote Creek, as discussed under Section 6 above.

- d. The interrelationship between the orientation, location, and elevations of proposed buildings and structures and other uses on-site are mutually compatible and aesthetically harmonious.

Analysis: The project includes the construction of a new one-story industrial building on the existing 10.17-gross-acre site. The building is oriented towards Embedded Way and two-way access driveways from both Embedded Way and Hellyer Avenue would allow for all necessary functions on-site including vehicular, truck, and pedestrian circulation. The building is similar in height, scale, and orientation to the surrounding industrial buildings in the immediate vicinity. Adequate space is provided for loading and circulation for the light and medium manufacturing and assembly uses on site. The truck dock is located at the rear(north) of the building on the property. The parking for visitors and employees is located on the rear, side, and front of the building on site. The project separates the employee parking and truck loading area to provide harmonious uses

within the project site. Employee entrances are provided along the building periphery, with direct access from the parking lot.

- e. The orientation, location, and elevation of the proposed buildings and structures and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood.

Analysis: The subject site is located in a primarily industrial area. The site is bounded by similar one- and two-story warehouse and office industrial park uses, as well as vacant industrial-zoned land, beyond Hellyer Avenue to the east and is bounded by Coyote Creek riparian habitat to the west. The project conforms to all the required height, setbacks, parking, loading, and landscaping requirements. As discussed above, the project conforms with the Citywide Design Guidelines regarding materials, colors, and variations in wall planes and roof heights. Additionally, the perimeter of the site is fully landscaped to beautify the site and provide shading both on and off-site, to be aesthetically harmonious with adjacent development or the character of the neighborhood.

- f. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, stormwater runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.

Analysis: No new development is located within the required riparian corridor setback; the property is vacant and is within an urbanized area. The project will include stormwater management infrastructure to address drainage, erosion, and runoff. Standard Environmental Permit Conditions are included with this permit to reduce or eliminate any construction-related impacts on surrounding properties including conditions related to air quality, hazards and hazardous materials, hydrology and water quality, and noise. Construction hours are limited to between 7:00 a.m. to 7:00 p.m., Monday through Friday.

Additionally, as conditioned in this permit, the project is required to appoint a Construction Disturbance Coordinator to address any construction-related complaints. All construction activity would be temporary and would be limited to the construction hours stated above for the site improvements and the construction of the industrial building. Additionally, this project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires the implementation of Best Management Practices (BMPs) which include site design measures, source controls, and numerically sized Low Impact Development (LID) stormwater treatment measures to minimize stormwater pollutant discharges, per Public works Final Memo dated 4/12/23. Therefore, the project would not result in significant noise, vibration, drainage, erosion, stormwater runoff, or odor impacts.

- g. Landscaping, irrigation systems, walls, fences, features to conceal outdoor activities, exterior heating, ventilating, plumbing, utility, and trash facilities are sufficient to maintain or upgrade the appearance of the neighborhood.

Analysis: All new landscaping is provided in conformance with applicable Citywide Design Standards. The project site includes adequate space for all necessary site functions, including truck and vehicular access, while also providing adequate space for landscaping, trash pick-up operations, and any necessary utilities. All parking is concealed from the street by the building or new landscaping. The project also includes

the construction of a fully enclosed trash enclosure in conformance with the City's Solid Waste Enclosure Area Guidelines for New Construction and Redevelopment Projects.

- h. Traffic access, pedestrian access, and parking are adequate.

Analysis: The subject property is directly accessible to vehicles via driveways from Embedded Way and Hellyer Avenue. The subject property is directly accessible to employees from the parking lot. The project provides all required vehicle, motorcycle, and bicycle parking in accordance with Chapter 20.90 of the Zoning Code. The parking and drive aisles meet all design requirements of Chapter 20.90 of the Zoning Code.

A Transportation Analysis (TA) was performed for this project based on a net new 118 AM and 111 PM peak hour trips and conditions such as removal of pork chop islands, signal modification, and traffic calming measures at the intersection of Embedded Way and Hellyer Avenue will be required to be implemented as traffic mitigation measures per the final Public Works Memo dated 4/12/23.

9. Tree Removal Findings

Chapter 13.32 of the San José Municipal Code establishes required findings that must be made for issuance of a Live Tree Removal Permit for ordinance-size trees. The ordinance-size tree removal meets the following required findings:

- a. The location of the tree with respect to a proposed improvement unreasonably restricts the economic development of the lot in question.

Analysis: As identified above, the project includes the removal of 2 ordinance-size trees and 9 non-ordinance-size trees. In order to construct the project, the trees are required to be removed and replaced at the City-required tree ratio. The trees to be removed cannot be preserved, since they are distributed within the developable areas of the site in a manner and density that preclude a viable floor plan without removal of the trees. The location of the trees throughout the site unreasonably restricts the economic development of the parcel, in that the trees will be within the footprint of the proposed building construction and site improvements.

The tree replacement ratio for the 2 ordinance size non-native trees, at a ratio of 4:1, will require planting of 8 new 15-gallon trees or 4 new 24-inch box trees. The tree replacement ratio for 9 non-ordinance size trees at 2:1 would require the planting of 18 new 15-gallon trees, or 9 new 24-inch box trees, for a total of 26 new 15-gallon trees or 13 new 24-inch box trees.

The project includes planting of 130 new 15-gallon trees to meet the tree planting requirement. An offsite tree replacement in-lieu fee, at \$775 per tree, will be incurred if the required replacement trees are not planted on-site.

Proof of tree replacement planting is required. The applicant shall provide appropriate evidence such as, but not limited to, photographs and/or receipts to the Planning Project Manager of the replacement tree to verify compliance with the tree mitigation requirement. Such evidence shall be sent to the Planning Project Manager labeled H22-022 per condition of approval No.23 of this permit.

In accordance with the findings set forth above, a **Site Development Permit** for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **approved**. The Director of Planning, Building, and Code Enforcement expressly declares that it

would not have granted this Permit except upon and subject to each and all of the said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
 - a. Acceptance of the Permit by the applicant; and
 - b. Agreement of the applicant to be bound by, to comply with, and do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such permit.
2. **Permit Expiration.** This Permit shall automatically expire two (2) years from and after the date of issuance hereof by the Director, if within such time period, the proposed use of the site or the construction of buildings (if a Building Permit is required) has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the Director. However, the Director of Planning may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
3. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this Permit shall be deemed acceptance of all conditions specified in this Permit and the Permittee's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described in the Building Code shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
4. **Sewage Treatment Demand.** Pursuant to Chapter 15.12 of Title 15 of the San José Municipal Code, acceptance of this Permit by Permittee shall constitute acknowledgement of receipt of notice by Permittee that (1) no vested right to a Building Permit shall accrue as the result of the granting of this Permit when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José - Santa Clara Regional Wastewater Facility- represented by approved land uses in the area served by said Facility will cause the total sewage treatment demand to meet or exceed the capacity of San José - Santa Clara Regional Wastewater Facility to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region; (2) substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority; (3) issuance of a Building Permit to implement this Permit may be suspended, conditioned or denied where the City Manager makes a determination that such action is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of San José or to meet the discharge standards of the sanitary sewer system imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region.

5. **Conformance to Plans.** The development of the site and all associated development and improvements shall conform to the approved Site Development Permit plans entitled, "Coyote Creek Industrial R&D, 865 Embedded Way, San Jose, CA 95138" dated revised on December 27, 2023, on file with the Department of Planning, Building and Code Enforcement ("Approved Plans"), and to the San José Building Code (San José Municipal Code, Title 24), with the exception of any subsequently approved changes.
6. **Nuisance.** This use shall be operated in a manner that does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
7. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
8. **Compliance with Local, State, and Federal Laws.** The subject use shall be conducted in full compliance with all local, state, and federal laws.
9. **Discretionary Review.** The City maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San José Municipal Code.
10. **Refuse.** All trash and refuse storage areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the trash or refuse container(s). Trash areas shall be maintained in a manner to discourage illegal dumping.
11. **Outdoor Storage.** No outdoor storage is allowed or permitted unless designated on the Approved Plan Set.
12. **Anti-Graffiti.** All graffiti shall be removed from buildings and wall surfaces, including job sites for projects under construction, within 48 hours of defacement.
13. **Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris.
14. **No Sign Approval.** Any signage shown on the Approved Plan Set is conceptual only. No signs are approved at this time. Any signs shall be subject to review and approval by the Director of Planning through a subsequent Permit Adjustment.
15. **Building and Property Maintenance.** The property shall be maintained in good visual and functional condition. This shall include, but not be limited to, all exterior elements of the buildings such as paint, roof, paving, signs, lighting, and landscaping.
16. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
17. **Required Vehicular, Motorcycle, and Bicycle Parking.** This project shall conform to the vehicular, motorcycle, and bicycle parking requirements of the Zoning Ordinance, as amended. Any changes to the required vehicular, motorcycle, or bicycle parking require the issuance of a Permit Adjustment or Amendment to the satisfaction of the Director of Planning.
18. **Colors and Materials.** All building colors, materials, and architectural features are to be those specified on the Approved Plan Set.
19. **Tree Removals.** Two ordinance-size trees and nine non-ordinance-sized trees, for a total of 11 trees are approved for removal with this permit. The project requires the planting of 26

new 15-gallon trees and proposes to plant 130 new 15-gallon trees as shown in the approved Landscape Plan, to meet the on-site tree planting requirement. An in-lieu fee of \$775 per tree is applicable for each required 15-gallon tree not planted on-site.

20. **Timing of Tree Removals.** Trees that are proposed for removal to accommodate new development shall not be removed until the related complete Public Works Grading Permit Application or Building Permit Application has been filed.
21. **Tree Replacement Enforcement.** Failure to plant trees in conformance with the approved plan set may be subject to in-lieu fees for trees not planted.
22. **Tree Protection Standards.** The Permittee shall maintain the trees and other vegetation shown to be retained in this project and as noted on the Approved Plan Set. Maintenance shall include pruning and watering as necessary and protection from construction damage. Prior to the removal of any tree on the site, all trees to be preserved shall be permanently identified by metal numbered tags. Prior to issuance of the Grading Permit or removal of any tree, all trees to be saved shall be protected by chain link fencing or other fencing type approved by the Director of Planning. Said fencing shall be installed at the dripline of the tree in all cases and shall remain during construction. No storage of construction materials, landscape materials, vehicles, or construction activities shall occur within the fenced tree protection area. Any root pruning required for construction purposes shall receive prior review and approval and shall be supervised by the consulting licensed arborist. Fencing and signage shall be maintained by the Permittee to prevent disturbances during the full length of the construction period that could potentially disrupt the habitat or trees.
23. **Verification of Planting of Replacement Tree(s).** After payment of the in-lieu fee and/or the planting of replacement trees on-site, the permittee shall provide appropriate evidence such as, but not limited to, photographs and/or receipts to the Planning Project Manager to verify compliance with the mitigation requirements. Such evidence shall be uploaded to www.sjpermits.org using these instructions: (1) how to set up an account: <https://www.sanjoseca.gov/business/development-services-permit-center/online-permits-at-sjpermits-org>, and (2) how to upload: <https://www.sanjoseca.gov/home/showpublisheddocument/88853/638088605255430000>.

Such evidence shall also be e-mailed to the Planning Project Manager and labeled File No. H22-022.
24. **Permit Posting.** Prior to the commencement of and during removal of any ordinance-size tree pursuant to this Permit, the applicant shall post on the site, or cause to be posted, a copy of this validated Permit in conformance with the following:
 - a. The copy of the Permit shall be a minimum size of 8.5 by 11.0 inches; shall be posted at each public street frontage within 2 feet of the public sidewalk or right-of-way; and shall be posted in such a manner that the Permit is readable from the public sidewalk or right-of-way; or
 - b. If the site does not have a public street frontage, a copy of the Permit shall be posted at a location where the Permit is readable from a common access driveway or roadway.
25. **Presentation of Permit.** During the removal of any ordinance-size tree pursuant to this Permit, the applicant shall maintain the validated Permit on the site and present it immediately upon request by the Director of Planning, Building and Code Enforcement, Police Officers or their designee.

26. **Landscaping.** Planting and irrigation are to be provided by the Permittee, as indicated, on the final Approved Plans.
27. **Irrigation Standards.** Irrigation shall be installed in accordance with Part 3 of Chapter 15.11 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping, the City of San José Landscape and Irrigation Guidelines and the Zonal Irrigation Plan in the Approved Plans. The design of the system shall be approved and stamped by a California Registered Landscape Architect.
28. **Certification.** Pursuant to San José Municipal Code, Section 15.11.1050 certificates of substantial completion for landscape and irrigation installation shall be completed by a licensed or certified professional and included on the Landscape Sheets in the plan set submitted to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project.
29. **Reclaimed Water.** The project shall conform to Chapters 15.10 and 15.11 of the San José Municipal Code for the use of reclaimed water and shall include an irrigation system designed to allow for the current and future use of reclaimed water for all landscaping.
30. **Lighting.** All new on-site, exterior, unroofed lighting shall conform to the City's Outdoor Lighting Policy and shall use fully cut-off and fully shielded, LED fixtures as shown in the Approved Plan Set. Lighting shall be designed, controlled, and maintained so that no light source is visible from outside of the property. All proposed changes shall be subject to review and approval by the Director of Planning through a subsequent Permit Adjustment.
31. **No Generators Approved.** This Permit does not include the approval of any stand-by/backup electrical power generation facility. The Permittee shall secure appropriate permits for any future stand-by/backup generators in conformance with the regulations of Title 20 of the Municipal Code.
32. **Construction Disturbance Coordinator.** Rules and regulations pertaining to all construction activities and limitations identified in this Permit, along with the name and telephone number of a Permittee-appointed disturbance coordinator, shall be posted in a prominent location at the entrance to the job site.
33. **Green Building Requirements.** This development is subject to the City's Green Building Ordinance for Private Sector New Construction as set for in Municipal Code Section 17.84. Prior to the issuance of any shell permits, or complete building permits, for the construction of buildings approved through the scope of this Permit, the Permittee shall pay a Green Building Refundable Deposit. To receive a refund of the deposit, the project must achieve the minimum requirements as set forth in Municipal Code Section 17.84. The request for the refund of the Green Building Deposit together with evidence demonstrating the achievement of the green building standards indicated in Municipal Code Section 17.84 shall be submitted within a year after the building permit expires or becomes final unless a request for an extension is submitted to the Director of Planning, Building, and Code Enforcement in accordance with Section 17.84.305D of the Municipal Code.
34. **Dry Storage Only.** Approved operations under this permit include dry storage only, with no option for the conversion to cold storage in the future. If conversion of cold storage is proposed in the future, additional environmental review is required.
35. **Proof of Enrollment in SJCE.** Prior to issuance of any Certificate of Occupancy for the project, the occupant shall provide to the Director of the Department of Planning, Building, and

Code Enforcement (PBCE, or Director's designee, proof of enrollment in SJCE GreenSource program (approximately 100% renewable energy) as assumed in the approved environmental clearance for the project in accordance with the California Environmental Quality Act (CEQA). If it is determined that the project's environmental clearance requires enrollment in the TotalGreen program, neither the occupant nor any future occupant, may opt out of the TotalGreen program.

36. **Building Division Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
- a. *Construction Plans.* This permit file number, H22-022 shall be printed on all construction plans submitted to the Building Division.
 - b. *San Jose's Natural Gas Infrastructure Prohibition and Reach Code Ordinances.* The City's Natural Gas Infrastructure Prohibition and Reach Code Ordinances apply to this project and all requirements shall be met. For more information, please visit www.sjenvironment.org/reachcode.
 - c. *Americans with Disabilities Act.* The Permittee shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
 - d. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance begins with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.
 - e. *Project Addressing Plan.* Prior to issuance of a Building Permit, the following requirements shall be met to the satisfaction of the Chief Building Official: The project Permittee shall submit an addressing plan for approval for the subject development (residential, mixed-use, complex commercial or industrial).
 - f. *Other.* Such other requirements as may be specified by the Chief Building Official.
37. **Bureau of Fire Department Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the project must comply with the 2019 California Fire Code, or as may be amended or updated by the city.
38. **Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works or the issuance of Building permits, whichever occurs first, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review timelines and submittal instructions for Public Works permits may be found at the following: <http://www.sanjoseca.gov/devresources>.
- a. **Minor Improvement Permit:** The public improvements conditioned as part of this permit require the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. The Minor Improvement Permit includes privately engineered plans, insurance, surety deposit, and engineering and inspection fees.

- b. **Transportation:** A Transportation Analysis (TA) has been performed for this project based on a net new 118 AM and 111 PM peak hour trips. See separate Traffic Memo dated 04/06/2023 for additional information. The following conditions shall be implemented:
- i. Implement the following multimodal infrastructure to reduce the project employee VMT and partially mitigate the VMT impact prior to the issuance of Building occupancy:
 - 1) Pedestrian Network Improvements
 - a) Remove the pork-chop islands at the southwest and northwest corners of the Embedded Way and Hellyer Avenue intersection. A signal modification at the intersection will be required, which may include but is not limited to the relocation of signal poles, signal heads, and crosswalks.
 - 2) Traffic Calming Measures
 - a) Install the missing raised median island along Embedded Way consisting of a 120-foot segment at its western terminus and a 190-foot segment near the Embedded Way/Hellyer Avenue intersection.
 - ii. Provide a TDM plan prior to Planning Permit approval for the VMT impact mitigation for the following measures based on whichever development option moves forward:
 - 1) Commute Trip Reduction Marketing/Education
 - a) Implement a marketing campaign that encourages active modes of transportation with an expected participation rate of 25% of project employees.
 - 2) Subsidize Vanpool
 - a) Subsidize 100% of the cost for employees forming new vanpools for their commute, with at least a 25% expected employee participation.
 - 3) Provide an On-site TDM Coordinator
 - a) Provide a Transportation Demand Management (TDM) plan prior to Planning Permit approval. Include an annual monitoring requirement establishing an average daily trip (ADT) cap of 118 AM peak-hour trips and 111 PM peak-hour trips for the R&D office option (20 AM peak-hour trips and 21 PM peak-hour trips for the industrial/warehouse option). The annual monitoring report must demonstrate the project is within 10% of the ADT cap and must be prepared by a traffic engineer.
 - b) If the project is not in conformance with the trip cap, the project may add additional TDM measure(s) to meet the trip cap. A follow-up report will be required within six months. If the project is still out of conformance, penalties will be assessed. See Council Policy 5-1.
- c. **Grading/Geology:**
- i. A grading permit is required prior to the issuance of a Public Works Clearance.

- ii. All on-site storm drainage conveyance facilities and earth retaining structures 4 feet in height or greater (top of wall to bottom of footing) or are being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the latest California Plumbing Code as adopted under the City of San Jose Municipal Code Section 24.04.100 or submit a stamped and signed engineered design alternative for Public Works discretionary approval and must be designed to convey a 10-year storm event.
 - iii. If the project proposes to haul more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements for obtaining this permit.
 - iv. Because this project involves a land disturbance of one or more acres, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling stormwater discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.
 - v. The Project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The report should also include, but not be limited to: foundation, earthwork, utility trenching, retaining, and drainage recommendations. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation.
 - vi. A Geologic Hazard Clearance was issued on February 22, 2023, and will be valid for three years from the date of issuance.
- d. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) which includes site design measures, source controls and numerically sized Low Impact Development (LID) stormwater treatment measures to minimize stormwater pollutant discharges.
- i. The project's Stormwater Control Plan and numeric sizing calculations have been reviewed and this project shall be in conformance with City Policy 6-29.
 - ii. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.
 - iii. A post construction Final Report is required by the Director of Public Works from a Civil Engineer retained by the owner to observe the installation of the BMPs and stating that all post construction storm water pollution control BMPs have been

- installed as indicated in the approved plans and all significant changes have been reviewed and approved in advance by the Department of Public Works.
- e. **Stormwater Peak Flow Control Measures:** The project is located in a Hydromodification Management (HM) area and will create and/or replace one acre or more of impervious surface. The project must comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14) which requires demonstrating that post-project runoff is less than or equal to the estimated pre-project rates and durations.
 - i. The project's HM plan and sizing calculations have been reviewed and this project shall be in conformance with City Policy 8-14.
 - ii. Final inspection and maintenance information for the HM controls must be included on the final HM plans.
 - f. **Flood: Zone D:** The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for Zone D.
 - g. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
 - h. **Municipal Water:** In accordance with City Ordinance #23975, Major Water Facilities Fee is due and payable. Contact Juan Renteria at (408) 794-6772 for further information.
 - i. **Undergrounding:** The In-Lieu Undergrounding Fee is not due for this project as there are no overhead facilities along the Embedded Way project frontage.
 - j. **Street Improvements:**
 - i. Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
 - ii. Construct a 38' wide City standard driveway along Embedded Way project frontage.
 - iii. Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
 - iv. Remove the pork-chop islands at the southwest and northwest corners of the Embedded Way and Hellyer Avenue intersection. A signal modification at the intersection will be required, which may include but is not limited to the relocation of signal poles, signal heads, and crosswalks.
 - v. Install the missing raised median island along Embedded Way consisting of a 120-foot segment at its western terminus and a 190-foot segment near the Embedded Way/Hellyer Avenue intersection.
 - k. **Electrical:** Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.

1. Street Trees:

- i. The locations of the street trees will be determined at the street improvement stage. Contact the City Arborist at (408) 794-1901 for the designated street tree. Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Street trees shall be installed in cut-outs at the back of curb. Obtain a DOT street tree planting permit for any proposed street tree plantings. Street trees shown on this permit are conceptual only.
- ii. Replace any missing street trees in empty tree wells or park strips along Embedded Way and match existing trees per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Obtain a DOT street tree planting permit for any proposed street tree plantings.
- iii. Show all existing trees by species and diameter that are to be retained or removed. Obtain a street tree removal permit for any street trees that are over 6 feet in height that are proposed to be removed.

39. Conformance to MMRP. This project shall conform to all applicable requirements of the Mitigation Monitoring and Reporting Program for this development.

40. Standard Environmental Permit Conditions.

- a. Air Quality: The following measures shall be implemented during all phases of construction to control dust and exhaust at the project site:
 - i. Water all exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) two times per day.
 - ii. Cover all haul trucks transporting soil, sand, or other loose material off-site.
 - iii. Remove all visible mud or dirt tracks out onto adjacent public roads at least once per day using wet power vacuum street sweepers. The use of dry power sweeping is prohibited.
 - iv. Limit all vehicle speeds on unpaved roads to 15 mph.
 - v. Pave all new roadways, driveways, and sidewalks as soon as possible.
 - vi. Lay building pads as soon as possible after grading unless seeding or soil binders are used.
 - vii. Suspend all excavation, grading, and/or demolition activities when average wind speeds exceed 20 mph.
 - viii. Wash off all trucks and equipment, including their tires, prior to leaving the site.
 - ix. Treat unpaved roads providing access to sites located 100 feet or further from a paved road with a 6- to 12-inch layer of compacted layer of wood chips, mulch, or gravel.
 - x. Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to no more than 2 minutes (A 5-minute limit is required by the state airborne toxics control measure [Title 13, Sections 2449(d)(3) and 2485 of the California Code of Regulations]). Provide clear signage that posts this requirement for workers at all access points to the site.

- xi. Maintain and properly tune all construction equipment in accordance with the manufacturer's specifications. Check all equipment by a certified mechanic and record a determination of running in proper condition prior to operation.
- xii. Post a publicly visible sign with the name and phone number of an on-site construction coordinator to contact regarding dust complaints. The on-site construction coordinator shall respond and take corrective action within 48 hours. The sign shall also provide the City's Code Enforcement Complaints email and number and the Air District's General Air Pollution Complaints number to ensure compliance with applicable regulations.

b. Santa Clara Valley Habitat Plan.

The project is subject to applicable SCVHP conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The project applicant would be required to submit the Santa Clara Valley Habitat Plan Coverage Screening Form to the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee for approval and payment of the nitrogen deposition fee prior to the issuance of a grading permit. The Habitat Plan and supporting materials can be viewed at www.scv-habitatplan.org.

- c. Tree Replacement. Trees removed for the project shall be replaced at ratios required by the City. The removal of a total of 11 trees would require planting 26 15-gallon replacement trees or 13 24-inch box replacement trees at a tree planting ratio as stated in the table below. An offsite tree replacement in-lieu fee, at \$775 per tree, will be incurred if the required replacement trees are not planted on-site.

Tree Replacement Ratios				
Circumference of Tree to be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
38 inches or more	5:1	4:1	3:1	15-gallon
19 up to 38 inches	3:1	2:1	none	15-gallon
Less than 19 inches	1:1	1:1	none	15-gallon
x:x = tree replacement to tree loss ratio Note: Trees greater than or equal to 38-inch circumference shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For Multi-Family residential, Commercial and Industrial properties, a permit is required for removal of trees of any size. A 38-inch tree equals 12.1 inches in diameter. A 24-inch box tree = two 15-gallon trees Single Family and Two-dwelling properties may be mitigated at a 1:1 ratio.				

d. Human Remains

If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per

Assembly Bill 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:

- i. The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 48 hours after being given access to the site.
 - ii. The MLD identified fails to make a recommendation; or
 - iii. The landowner or his authorized representative rejects the recommendation of the MLD, and mediation by the NAHC fails to provide measures acceptable to the landowner.
- e. Geology and Soils
- i. To avoid or minimize potential damage from seismic shaking, the project shall be constructed using standard engineering and seismic safety design techniques. Building design and construction at the site shall be completed in conformance with the recommendations of an approved geotechnical investigation. The report shall be reviewed and approved by the City of San José Department of Public Works as part of the building permit review and issuance process. The buildings shall meet the requirements of applicable Building and Fire Codes as adopted or updated by the City. The project shall be designed to withstand soil hazards identified on the site and the project shall be designed to reduce the risk to life or property on site and off site to the extent feasible and in compliance with the Building Code.
 - ii. All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.
 - iii. Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.
 - iv. Ditches shall be installed to divert runoff around excavations and graded areas if necessary.
 - v. The project shall be constructed in accordance with the standard engineering practices in the California Building Code, as adopted by the City of San José. A grading permit from the San José Department of Public Works shall be obtained prior to the issuance of a Public Works clearance. These standard practices would ensure that the future building on the site is designed to properly account for soils-related hazards on the site.

- f. **Paleontological Resources.** If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement (PBCE) shall be notified, and a qualified professional paleontologist shall assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, but is not limited to, preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The project applicant shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of Planning or Director's designee of the PBCE.
- g. **Enrollment in SJCE.** Prior to issuance of any Certificate of Occupancy for the project, the occupant shall provide to the Director of the PBCE, or Director's designee, proof of enrollment in either the SJCE GreenSource program (which is procured approximately 90 percent carbon free or renewable energy) or SJCE TotalGreen program (which is procured from 100 percent renewable energy). Program enrollment will be determined by the level assumed in the approved environmental clearance for the project in accordance with CEQA. If it is determined the project's environmental clearance requires enrollment in the TotalGreen program, neither the occupant, nor any future occupant, may opt out of the TotalGreen program.
- h. **Construction-related water quality.**
- i. Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
 - ii. Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
 - iii. All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.
 - iv. Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
 - v. All trucks hauling soil, sand, and other loose materials shall be covered and all trucks shall maintain at least two feet of freeboard.
 - vi. All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).
 - vii. Vegetation in disturbed areas shall be replanted as quickly as possible.
 - viii. All unpaved entrances to the site shall be filled with rock to remove mud from tires prior to entering City streets. A tire wash system shall be installed if requested by the City.
 - ix. The project applicant shall comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.

i. **Construction-Related Noise.** Noise minimization measures include, but are not limited to, the following:

- i. Limit construction hours to between 7:00 a.m. and 7:00 p.m., Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence.
- ii. Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.
- iii. Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- iv. Prohibit unnecessary idling of internal combustion engines.
- v. Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
- vi. Utilize “quiet” air compressors and other stationary noise sources where technology exists.
- vii. Control noise from construction workers’ radios to a point where they are not audible at existing residences bordering the project site.
- viii. Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of “noisy” construction activities to the adjacent land uses and nearby residences.
- ix. If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.
- x. Designate a “disturbance coordinator” who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. 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 schedule.
- xi. Limit construction to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific “construction noise mitigation plan” and a finding by the Director of Planning, Building, and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.

10. Revocation, Suspension, Modification. This Site Development Permit may be revoked, suspended, or modified by the Planning Director, or by the Planning Commission on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof, or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 2, Chapter 20.100, Title 20 of the San José Municipal Code it finds:

- a. A violation of any conditions of the Site Development was not abated, corrected, or rectified within the time specified on the notice of violation; or
- b. a violation of any City ordinance or State law was not abated, corrected, or rectified within the time specified on the notice of violation; or
- c. The use as presently conducted creates a nuisance.

APPROVED and issued on **May 1st, 2024**.

CHRISTOPHER BURTON, Director
Planning, Building, and Code Enforcement

Tong A Tu
Deputy



CITY OF SAN JOSE

Planning, Building and Code Enforcement
200 East Santa Clara Street
San José, CA 95113-1905
tel (408) 535-3555 fax (408) 292-6055
Website: www.sanjoseca.gov/planning

INSTRUCTIONS FOR FILING AN APPLICATION FOR APPEAL OF AN ENVIRONMENTAL DETERMINATION

WHO MAY APPEAL

Any person may file.

TIME LIMIT

A complete Notice of Environmental Appeal (see back page) must be filed in person at Development Services Center, City Hall, no later than 5 p.m. on the **third business day** following the day of the public hearing that relied upon the Environmental Determination.

APPEAL REQUIREMENTS

1. A complete Notice of Environmental Appeal including the following within the appropriate time limit:
 - a. Application filing fee, (see Filing Fee Schedule).
 - b. The appeal shall state with specificity the reasons that the Environmental Determination should be found not to be complete or not to have been prepared in compliance with the requirements of CEQA.
 - c. No appeal shall be considered unless it is based on issues which were raised at the public hearing either orally or in writing prior to the public hearing. (21.07.040C)

PROCESSING SCHEDULE

Planning Staff:

- Checks the application for completeness.
- Logs and collects fees.
- Sets a public hearing date before City Council and places the item in the agenda.
- Prepares a recommendation to the City Council.

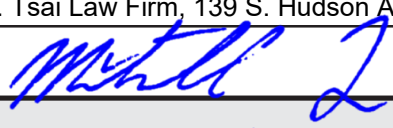
City Council:

- considers and acts upon the appeal in a public hearing.

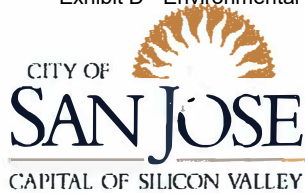
**CITY OF SAN JOSE**

Planning, Building and Code Enforcement
200 East Santa Clara Street
San José, CA 95113-1905
tel (408) 535-3555 fax (408) 292-6055
Website: www.sanjoseca.gov/planning

NOTICE OF ENVIRONMENTAL APPEAL

TO BE COMPLETED BY PLANNING STAFF			
FILE NUMBER		RECEIPT # _____	
TYPE OF ENVIRONMENTAL DETERMINATION (EIR, MND, EX)		AMOUNT _____	
		DATE _____	
		BY _____	
TO BE COMPLETED BY PERSON FILING APPEAL			
PLEASE REFER TO ENVIRONMENTAL APPEAL INSTRUCTIONS BEFORE COMPLETING THIS PAGE.			
THE UNDERSIGNED RESPECTFULLY REQUESTS AN APPEAL FOR THE FOLLOWING ENVIRONMENTAL DETERMINATION:			
Initial Study/Mitigated Negative Declaration for 865 Embedded Way Industrial Project. File No. H22-022 & ER22-113.			
REASON(S) FOR APPEAL (For additional comments, please attach a separate sheet.):			
The Project's IS/MND does not accurately disclose the Project's potential significant impacts and fails to adequately mitigate the Projects significant impacts, including as to traffic, air quality, greenhouse gases, noise, biological resources, and other environmental factors. Further, the IS/MND improperly defers mitigation. The City should therefore prepare an EIR to further evaluate and mitigate significant environmental impacts of the Project, or at minimum, revise and recirculate the IS/MND.			
PERSON FILING APPEAL			
NAME Mitchell M. Tsai / Carpenters Local Union 405		DAYTIME TELEPHONE (626) 314-3821	
ADDRESS Mitchell M. Tsai Law Firm, 139 S. Hudson Avenue, Suite 200		CITY Pasadena	STATE CA
		ZIP CODE 91101	
SIGNATURE 		DATE May 3, 2024	
CONTACT PERSON (IF DIFFERENT FROM PERSON FILING APPEAL)			
NAME			
ADDRESS		CITY	STATE
		ZIP CODE	
DAYTIME TELEPHONE ()	FAX NUMBER ()	E-MAIL ADDRESS	

PLEASE CALL THE APPOINTMENT DESK AT (408) 535-3555 FOR AN APPLICATION APPOINTMENT.



CITY OF SAN JOSE

Planning, Building and Code Enforcement
200 East Santa Clara Street
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tel (408) 535-3555 fax (408) 292-6055
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INSTRUCTIONS FOR FILING AN APPLICATION FOR APPEAL OF AN ENVIRONMENTAL DETERMINATION

WHO MAY APPEAL

Any person may file.

TIME LIMIT

A complete Notice of Environmental Appeal (see back page) must be filed in person at Development Services Center, City Hall, no later than 5 p.m. on the **third business day** following the day of the public hearing that relied upon the Environmental Determination.

APPEAL REQUIREMENTS

1. A complete Notice of Environmental Appeal including the following within the appropriate time limit:
 - a. Application filing fee, (see Filing Fee Schedule).
 - b. The appeal shall state with specificity the reasons that the Environmental Determination should be found not to be complete or not to have been prepared in compliance with the requirements of CEQA.
 - c. No appeal shall be considered unless it is based on issues which were raised at the public hearing either orally or in writing prior to the public hearing. (21.07.040C)

PROCESSING SCHEDULE

Planning Staff:

- Checks the application for completeness.
- Logs and collects fees.
- Sets a public hearing date before City Council and places the item in the agenda.
- Prepares a recommendation to the City Council.

City Council:

- considers and acts upon the appeal in a public hearing.

PLEASE CALL THE APPOINTMENT DESK AT (408) 535-3555 FOR AN APPLICATION APPOINTMENT.



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 200 East Santa Clara Street
 San José, CA 95113-1905
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NOTICE OF ENVIRONMENTAL APPEAL

TO BE COMPLETED BY PLANNING STAFF			
FILE NUMBER		RECEIPT # _____	
TYPE OF ENVIRONMENTAL DETERMINATION (EIR, MND, EX)		AMOUNT _____	
		DATE _____	
		BY _____	
TO BE COMPLETED BY PERSON FILING APPEAL			
PLEASE REFER TO ENVIRONMENTAL APPEAL INSTRUCTIONS BEFORE COMPLETING THIS PAGE.			
THE UNDERSIGNED RESPECTFULLY REQUESTS AN APPEAL FOR THE FOLLOWING ENVIRONMENTAL DETERMINATION: Initial Study/Mitigated Negative Declaration ("MND") for the 865 Embedded Way Industrial Project (H22-022, ER22-113)			
REASON(S) FOR APPEAL (For additional comments, please attach a separate sheet.): <u>The Planning Director's decision to approve the Project violated CEQA as there is more than a fair argument that the Project will result in potentially significant air quality and public health impacts from construction and operational emissions and transportation impacts. See Attached Comment Letter for additional comments.</u>			
PERSON FILING APPEAL			
NAME Silicon Valley Residents for Responsible Development, c/o Ariana Abedifard, Adams Broadwell Joseph & Cardozo		DAYTIME TELEPHONE (650) 589-1660	
ADDRESS 601 Gateway Boulevard, Suite 1000	CITY South San Francisco	STATE CA	ZIP CODE 94080
SIGNATURE 		DATE May 6, 2024	
CONTACT PERSON (IF DIFFERENT FROM PERSON FILING APPEAL)			
NAME Alisha Pember			
ADDRESS 601 Gateway Boulevard, Suite 1000	CITY South San Francisco	STATE CA	ZIP CODE 94080
DAYTIME TELEPHONE (650) 589-1660	FAX NUMBER (650) 589-5062	E-MAIL ADDRESS apember@adamsbroadwell.com	

PLEASE CALL THE APPOINTMENT DESK AT (408) 535-3555 FOR AN APPLICATION APPOINTMENT.

ADAMS BROADWELL JOSEPH & CARDOZO

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

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TARA C. RENGIFO

Of Counsel
MARC D. JOSEPH
DANIEL L. CARDOZO

May 6, 2024

Via Hand Delivery

Development Services Permit Center
Planning, Building and Code Enforcement
San José City Hall
200 E. Santa Clara St.
1st Floor Tower
San José, CA 95113

Via Email Only

Christopher Burton, Planning Director
Email: christopher.burton@sanjose.gov
Rina Shah, Project Manager
Email: rina.shah@sanjoseca.gov
Toni Taber, City Clerk
Email: city.clerk@Sanjoseca.gov

Re: Appeal of the Environmental Clearance Determination -- Initial Study/Mitigated Negative Declaration for 865 Embedded Way Industrial Project (H22-022, ER22-113)

We are writing on behalf of Silicon Valley Residents for Responsible Development ("Silicon Valley Residents") to appeal the San Jose Planning Director's May 1, 2024 environmental clearance determination for the 865 Embedded Way Industrial Project ("Project") (H22-022, ER22-113) ("Project") proposed by Oppidan, Inc. ("Applicant"), based on the Initial Study/Mitigated Negative Declaration ("MND") prepared by the City of San Jose ("City") pursuant to the California Environmental Quality Act ("CEQA").¹ This appeal is filed pursuant to Title 21 of the San Jose Municipal Code (Environmental Clearance).

The Project consists of a Site Development Permit to allow the construction of a one-story, 121,400-square foot industrial/manufacturing warehouse on a vacant 10.17-acre project site. The Project would include a connection to an existing 26-

¹ Pub. Resources Code ("PRC") §§ 21000 et seq.; 14 Cal. Code Regs. ("CCR" or "CEQA Guidelines") §§ 15000 et seq.

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foot-wide drive aisle that extends from the eastern Embedded Way driveway through the adjacent eastern industrial property and currently terminates at the southeastern boundary of the project site. A total of 300 parking spaces would be provided in the surface parking lot surrounding the proposed building. The project would include the removal of 11 trees on-site, 2 of which are ordinance-size.

This Appeal letter, and Silicon Valley Residents' attached April 30, 2024 comments to the Planning Director,² demonstrate that the Planning Director's decision to approve the Project violated CEQA as there is more than a fair argument that the Project will result in potentially significant (1) air quality and public health impacts from construction and operational emissions and (2) transportation impacts. Our prior comments, and the accompanying comments of our expert consultants James Clark, PhD and Norman Marshall, identified several flaws in the City's environmental analysis, and provided new information and substantial evidence demonstrating that the MND fails as an informational document under CEQA.

Title 21 of the San Jose Municipal Code ("SJMC") sets forth the procedures for appeals of environmental determinations. Any person may file a written appeal to the City Council of a decision maker's decision to adopt an MND.³ Appeals must be submitted on the designated form no later than 5:00 p.m. on the third business day of the Planning Director's decision.⁴ The Appeal must state with specificity the reasons that the MND should be found not to have been adequate or not to have been prepared in compliance with the requirements of CEQA.⁵ Appeals are limited to issues that were raised previously either orally or in writing to the Planning Director prior to approval of the Project.⁶

Pursuant to these appeals procedures, Silicon Valley Residents hereby appeals the Planning Director's May 1, 2024 approval of the MND for the Project. This appeal includes a copy of the required Appeal Form and the required appeal fee of \$250. This Appeal is based on the issues raised in Silicon Valley Residents'

² Silicon Valley Residents for Responsible Development's April 30, 2024 written comments to the Planning Director are attached hereto as **Exhibit A**.

³ SJMC, § 21.06.020(A).

⁴ SJMC, § 21.06.020(B).

⁵ SJMC, § 21.06.020(C).

⁶ SJMC § 21.06.020(D) (providing that "[n]o appeal shall be considered unless it is based upon issues that were raised previously either orally or in writing to an advisory body or a decision-making body at or prior to a public hearing whenever the negative declaration or mitigated negative declaration or underlying project is considered at a public hearing.").

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April 30, 2024 written comments and in oral comments at the May 1, 2024 Planning Director Hearing, as summarized below.

Silicon Valley Residents urges the City Council to grant this Appeal and remand the Project to City Staff to prepare an Environmental Impact Report ("EIR") for the Project. Silicon Valley Residents reserves the right to submit supplemental comments and evidence at any later hearings and proceedings related to the Project, in accordance with State law.⁷

I. APPELLANTS

Appellant Silicon Valley Residents is an unincorporated association of individuals and labor organizations that may be adversely affected by the potential public health and environmental impacts of the Project. The association includes: the International Brotherhood of Electrical Workers Local 332, Plumbers & Steamfitters Local 393, Sheet Metal Workers Local 104, Sprinkler Fitters Local 483, and District Council of Ironworkers and their members and their families; and other individuals that live and/or work in the City of San Jose and Santa Clara County. 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. Indeed, continued environmental degradation can, and has, caused construction moratoriums and other restrictions on growth that, in turn, reduce future employment opportunities.

II. BASIS FOR APPEAL

Based on our review of the MND and available supporting documents, we conclude that the MND fails to comply with the requirements of CEQA. The MND

⁷ 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.

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lacks a clear project description, fails to disclose and analyze the Project's potentially significant environmental impacts, and fails to identify enforceable measures that can reduce those impacts to a less than significant level. As explained in our April 30, 2024 comments, there is more than a fair argument that the Project will result in potentially significant air quality and public health impacts from construction and operational emissions and transportation impacts.

First, regarding the project description, the MND describes the project as an industrial/manufacturing warehouse but analyzes the Project as designed for research and development (R&D). Without a designated end user, this ambiguity leads to uncertainties about the project's future use and potential impacts, particularly concerning differences in impacts between a warehouse and an R&D facility.

Second, as Dr. Clark explained, in estimating the Project's expected construction emissions the MND's air quality analysis assumed that all Project construction equipment would include Tier 4 Interim emission controls.⁸ However, the MND does not include such emission controls as a mitigation measure, nor is there any other enforceable mechanism requiring the use of such controls. Without such controls, the Project's construction emissions will be higher than disclosed, and, as demonstrated by Dr. Clark, these emissions will exceed the air district's significance thresholds.⁹ Furthermore, the MND fails to address other potential sources of emissions, such as the backup generator required for the Project which will emit toxic diesel particulate matter. Consequently, the MND's assessment of construction and operational emissions is flawed and underestimates the true impact of emissions on air quality and public health.

Third, the transportation analysis, as analyzed by Mr. Marshall, reveals significant deficiencies in the identification of transportation impacts and the MND's proposed mitigation measures. Specifically, the MND provides unsubstantiated assumptions regarding vehicle miles traveled ("VMT") impacts, including unsupported assumptions regarding vanpool participation rates.¹⁰ In addition, as explained by Mr. Marshall, the proposed monitoring approach for transportation mitigation measures is inadequate.¹¹

⁸ Clark Comments, pp. 3-4.

⁹ *Id.* at pg. 6.

¹⁰ Marshall Comments, pg. 5.

¹¹ *Id.* at pp. 5-7.

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Accordingly, the City must remand the Project to City Staff to prepare an EIR for the Project that adequately analyzes all of the Project's potentially significant direct, indirect and cumulative impacts, and incorporates all feasible mitigation measures to avoid or minimize these impacts.

III. CONCLUSION

For the reasons stated herein, and as will be presented to the City Council on appeal, Silicon Valley Residents urges the City Council to reverse the Planning Director's approval of the Project, and require staff to prepare an EIR. Thank you for your consideration.

Sincerely,



Ariana Abedifard

Attachments
AA:acp

6679-007acp

EXHIBIT A

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April 30, 2024

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Re: **Comments on Agenda Item 3.a: Initial Study/Mitigated Negative
Declaration for 865 Embedded Way Industrial Project (H22-022,
ER22-113)**

Dear Mr. Tu and Ms. Shah:

We are writing on behalf of Silicon Valley Residents for Responsible Development ("Silicon Valley Residents") to provide comments on May 1, 2024 Planning Director Hearing Agenda Item 3.a, regarding the Site Development Permit and Initial Study/Mitigated Negative Declaration ("MND") prepared by the City of San Jose ("City") for the 865 Embedded Way Industrial Project ("Project") (H22-022, ER22-113) ("Project") proposed by Oppidian, Inc. ("Applicant").

The Project consists of a Site Development Permit to allow the construction of a one-story, 121,400-square foot industrial/manufacturing warehouse on a vacant 10.17-acre project site. The Project would include a connection to an existing 26-foot-wide drive aisle that extends from the eastern Embedded Way driveway through the adjacent eastern industrial property and currently terminates at the southeastern boundary of the project site. A total of 300 parking spaces would be provided in the surface parking lot surrounding the proposed building. The project would include the removal of 11 trees on-site, 2 of which are ordinance-size.

6679-006acp

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Based on our review of the MND and available supporting documents, we conclude that the MND fails to comply with the requirements of the California Environmental Quality Act¹ (“CEQA”). The MND lacks a clear project description, fails to disclose and analyze the Project’s potentially significant environmental impacts and fails to identify enforceable measures that can reduce those impacts to a less than significant level.

As explained in these comments, there is more than a fair argument that the Project will result in potentially significant air quality and public health impacts from construction and operational emissions and transportation impacts. The City may not approve the Project until it prepares an environmental impact report (“EIR”) that adequately analyzes all of the Project’s potentially significant direct, indirect and cumulative impacts, and incorporates all feasible mitigation measures to avoid or minimize these impacts. The MND’s flaws also preclude the City from making the findings necessary to approve the Project’s Site Development Permit.

These comments were prepared with the assistance of air quality expert James Clark, PhD² and transportation expert Norman Marshall.³ Dr. Clark and Mr. Marshall provide substantial evidence supporting a fair argument of potentially significant impacts that have not been adequately disclosed, analyzed, or mitigated in the MND. Dr. Clark and Mr. Marshall’s technical comments are attached hereto and are submitted to the City, in addition to the comments in this letter.

I. STATEMENT OF INTEREST

Silicon Valley Residents is an unincorporated association of individuals and labor organizations that may be adversely affected by the potential public health and environmental impacts of the Project. The association includes: the International Brotherhood of Electrical Workers Local 332, Plumbers & Steamfitters Local 393, Sheet Metal Workers Local 104, Sprinkler Fitters Local 483, and District Council of Ironworkers and their members and their families; and other individuals that live and/or work in the City of San Jose and Santa Clara County. Accordingly, they would be directly affected by the Project’s environmental

¹ Pub. Resources Code, §§ 21000 et seq.; 14 Cal. Code Regs. (“C.C.R.”) §§ 15000 et seq. (“CEQA Guidelines”).

² **Exhibit A:** April 30, 204 James Clark Comment Letter on Initial Study/Mitigated Negative Declaration For 865 Embedded Way Industrial Project, City of San Jose, California File Nos. H22-022 & ER22-113 (hereinafter, “Clark Comments”).

³ **Exhibit B:** April 30, 2024 Norm Marshall Comment Letter re 865 Embedded Way Industrial Project (hereinafter, “Marshall Comments”).

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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. Indeed, continued environmental degradation can, and has, caused construction moratoriums and other restrictions on growth that, in turn, reduce future employment opportunities.

II. AN EIR IS REQUIRED

CEQA requires that lead agencies analyze any project with potentially significant environmental impacts in an EIR.⁴ “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.”⁵ 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 reached ecological points of no return.”⁶

CEQA’s purpose and goals must be met through the preparation of an EIR, except in certain limited circumstances.⁷ CEQA contains a strong presumption in favor of requiring a lead agency to prepare an EIR. This presumption is reflected in the “fair argument” standard. Under that standard, a lead agency “shall” prepare an EIR whenever substantial evidence in the whole record before the agency supports a fair argument that a project may have a significant effect on the environment.⁸

⁴ See Pub. Resources Code § 21000; CEQA Guidelines § 15002.

⁵ *Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal.3d 553, 564 (internal citations omitted).

⁶ *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810.

⁷ See Pub. Resources Code § 21100.

⁸ Pub. Resources Code §§ 21080(d), 21082.2(d); CEQA Guidelines §§ 15002(k)(3), 15064(f)(1), (h)(1); *Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1993) 6 Cal.4th 1112, 1123; *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75, 82; *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-151; *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1601-1602.

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In contrast, a mitigated negative declaration may be prepared only when, after preparing an initial study, a lead agency determines that a project may have a significant effect on the environment, but:

(1) revisions in the project plans or proposals made by, or agreed to by, the applicant before the proposed negative declaration and initial study are released for public review *would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur*, and (2) there is *no substantial evidence* in light of the whole record before the public agency that the project, as revised, *may* have a significant effect on the environment.⁹

Courts have held that if “no EIR has been prepared for a nonexempt project, but substantial evidence in the record supports a fair argument that the project may result in significant adverse impacts, the proper remedy is to order preparation of an EIR.”¹⁰ The fair argument standard creates a “low threshold” favoring environmental review through an EIR, rather than through issuance of a negative declaration.¹¹ An agency’s decision not to require an EIR can be upheld only when there is no credible evidence to the contrary.¹²

“Substantial evidence” required to support a fair argument is defined 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.”¹³ According to the CEQA Guidelines, when determining whether an EIR is required, the lead agency is required to apply the principles set forth in Section 15064, subdivision (f):

[I]n marginal cases where it is not clear whether there is substantial evidence that a project may have a significant effect on the

⁹ Pub. Resources Code § 21064.5 (emphasis added).

¹⁰ See, e.g., *Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 319-320.

¹¹ *Citizens Action to Serve All Students v. Thornley* (1990) 222 Cal.App.3d 748, 754.

¹² *Sierra Club v. County of Sonoma* (1992) 6 Cal.App.4th, 1307, 1318; see also *Friends of B Street v. City of Hayward* (1980) 106 Cal.App.3d 988, 1002 (“If there was substantial evidence that the proposed project might have a significant environmental impact, evidence to the contrary is not sufficient to support a decision to dispense with preparation of an EIR and adopt a negative declaration, because it could be ‘fairly argued’ that the project might have a significant environmental impact”).

¹³ CEQA Guidelines § 15384(a).

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environment, the lead agency shall be guided by the following principle: If there is disagreement among expert opinion supported by facts over the significance of an effect on the environment, the Lead Agency shall treat the effect as significant and shall prepare an EIR.

Furthermore, CEQA documents, including EIRs and MNDs, must mitigate significant impacts through measures that are “fully enforceable through permit conditions, agreements, or other legally binding instruments.”¹⁴

With respect to this Project, the MND fails to satisfy the basic purposes of CEQA. The City failed to adequately investigate, analyze, and disclose the Project’s potentially significant air quality and transportation impacts. Therefore, the City’s conclusions that the Project will have less than significant impacts are unsupported. Whereas the City lacks substantial evidence to support its conclusions, Dr. Clark and Mr. Marshall provide substantial evidence demonstrating that the Project may result in potentially significant impacts on air quality and transportation. Therefore, there is a fair argument that the Project may cause significant impacts requiring the preparation of an EIR.

III. THE MND FAILS TO INCLUDE A COMPLETE, STABLE AND ACCURATE PROJECT DESCRIPTION

The MND does not meet CEQA’s requirements because it fails to include a complete, stable project description, rendering the entire analysis inadequate. Without a complete and accurate project description, the environmental analysis under CEQA can be impermissibly narrow, thus minimizing the Project’s impacts and undercutting public review.¹⁵

CEQA places the burden of environmental investigation on the lead agency rather than the public. Accordingly, a lead agency may not hide behind its failure to provide a complete and accurate project description.¹⁶ Under CEQA, the “project” is defined as “the whole of an action” and the lead agency therefore must describe the entirety of the project’s activities to ensure that all potential impacts of the project will be examined prior to approval.¹⁷ An initial study that fails to describe the

¹⁴ CEQA Guidelines § 15126.4(a)(2).

¹⁵ See, e.g., *Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1988) 47 Cal.3d 376.

¹⁶ *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 311.

¹⁷ CEQA Guidelines § 15378.

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entire project is fatally deficient: “[A] correct determination of the nature and scope of the project is a critical step in complying with the mandates of CEQA.”¹⁸ Where an agency fails to provide an accurate project description, or fails to gather information and undertake an adequate environmental analysis in its initial study, a negative declaration is inappropriate.¹⁹ An accurate and complete project description is necessary to fully and intelligently evaluate the project’s potential environmental effects.²⁰ Without a complete project description, the environmental analysis under CEQA will be impermissibly narrow, thus minimizing the project’s impacts and undercutting public review.²¹

The MND’s Project Description describes the Project as an industrial/manufacturing warehouse but then states the project is “designed for a research and development (R&D) use” because “a designated end user has not yet been determined.”²² As a warehouse with unidentified future tenants and use, it cannot be known how the Project building will be used once operational. Despite this, the MND states that “the project will be analyzed as an R&D facility.”²³ As both Dr. Clark and Mr. Marshall’s comments highlight, there are vast differences in impacts between a warehouse facility and a R&D facility. As Dr. Clark states, “[t]hese two different uses have different associated traffic and criteria pollutant analyses.”²⁴ Notably, if the Project ultimately moves forward as a warehouse, the number of associated truck trips and diesel particulate matter (“DPM”) emissions would be significantly higher than what is presented in the MND and air quality assessment.²⁵ For example, the Air Quality Study fails to include the emissions from onsite service vehicles that may be used to move to and products from the warehouse.²⁶ The MND therefore fails to analyze or disclose a potentially significant source of criteria and toxic pollutants.²⁷

Similarly, Mr. Marshall states, “there are large differences between categories and great variation in the [trip generation] rates” for warehouse uses as

¹⁸ *Nelson v. County of Kern* (2010) 190 Cal.App.4th 252, 267; see also, *Tuolumne County Citizens for Responsible Growth, Inc. v. City of Sonora* (2007) 155 Cal.App.4th 1214.

¹⁹ *El Dorado County Taxpayers for Quality Growth v. County of El Dorado* (2004) 122 Cal.App.4th 1591, 1597.

²⁰ *City of Redlands v. County of San Bernardino* (2002) 96 Cal.App.4th 398, 406.

²¹ *Laurel Heights Improvement Association, supra*, 47 Cal.3d 376.

²² MND, pg. 6.

²³ *Id.*

²⁴ Clark Comments, pg. 7.

²⁵ *Id.*

²⁶ *Id.* at pg. 8.

²⁷ *Id.*

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compared to R&D uses.²⁸ “Actual project trip generation could be significantly higher or lower than the baseline estimate” used to assess the vehicle miles traveled (“VMT”) mitigation proposed in the MND.²⁹ Given the significant differences in associated impacts between the different uses, it is imperative that the MND provide an accurate project description.

The City must prepare and circulate an EIR with a complete, stable and accurate project description that analyzes all of the Project’s potential impacts using realistic and enforceable assumptions about the Project’s operations.

IV. SUBSTANTIAL EVIDENCE SUPPORTS A FAIR ARGUMENT THAT THE PROJECT WILL HAVE SIGNIFICANT UNMITIGATED AIR QUALITY AND PUBLIC HEALTH IMPACTS

A lead agency’s significance determination must be supported by accurate scientific and factual data.³⁰ An agency cannot conclude that an impact is less than significant unless it produces rigorous analysis and concrete substantial evidence justifying the finding.³¹

These standards apply to an agency’s analysis of public health impacts of a project under CEQA. In *Sierra Club v. County of Fresno*, the California Supreme Court affirmed CEQA’s mandate to protect public health and safety by holding that an EIR fails as an informational document when it fails to disclose the public health impacts from air pollutants that would be generated by a development project.³² In *Sierra Club*, the Supreme Court held that the EIR for the Friant Ranch Project—a 942-acre master-planned, mixed-use development with 2,500 senior residential units, 250,000 square feet of commercial space, and open space on former agricultural land in north central Fresno County—was deficient as a matter of law in its informational discussion of air quality impacts as they relate to adverse human health effects.³³ As the Court explained, “a sufficient discussion of impacts requires not merely a determination of whether an impact is significant, but some effort to explain the nature and magnitude of the impact.”³⁴ The Court concluded

²⁸ Marshall Comments, pg. 6.

²⁹ *Id.* at pg. 7.

³⁰ 14 C.C.R. § 15064(b).

³¹ *Kings County Farm Bureau*, 221 Cal.App.3d at 732.

³² *Sierra Club*, 6 Cal.5th at 518–522.

³³ *Id.* at 507–508, 518–522.

³⁴ *Id.* at 519, citing *Cleveland National Forest Foundation v. San Diego Assn. of Governments* (2017) 3 Cal.5th 497, 514–515.

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that the County's EIR was inadequate for failing to disclose the nature and extent of public health impacts caused by the project's air pollution. As the Court explained, the EIR failed to comply with CEQA because after reading the EIR, "the public would have no idea of the health consequences that result when more pollutants are added to a nonattainment basin."³⁵ CEQA mandates discussion, supported by substantial evidence, of the nature and magnitude of impacts of air pollution on public health.³⁶

Furthermore, in *Berkeley Jets*, the Court of Appeal held that a CEQA document must analyze the impacts from human exposure to toxic substances.³⁷ In that case, the Port of Oakland approved a development plan for the Oakland International Airport.³⁸ The EIR admitted that the Project would result in an increase in the release of toxic air contaminants ("TACs") and adopted mitigation measures to reduce TAC emissions, but failed to quantify the severity of the Project's impacts on human health.³⁹ The Court held that mitigation alone was insufficient, and that the Port had a duty to analyze the health risks associated with exposure to TACs.⁴⁰ 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."⁴¹

Here, as discussed below, the MND's conclusions regarding the Project's air quality and related public health impacts are unsupported by substantial evidence.

³⁵ *Id.* at 518. CEQA's statutory scheme and legislative intent also include an express mandate that agencies analyze human health impacts and determine whether the "***environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly.***" (Public Resources Code § 21083(b)(3) (emphasis added).) Moreover, CEQA directs agencies to "take immediate steps to identify any critical thresholds for the ***health and safety of the people*** of the state and take all coordinated actions necessary to prevent such thresholds being reached." (Public Resources Code § 21000(d) (emphasis added).)

³⁶ *Sierra Club*, 6 Cal.5th at 518–522.

³⁷ *Berkeley Jets*, 91 Cal.App.4th at 1369–1371.

³⁸ *Id.* at 1349–1350.

³⁹ *Id.* at 1364–1371.

⁴⁰ *Id.*

⁴¹ 14 C.C.R. § 15003(b).

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A. The MND's Air Quality Impact Analysis Improperly Relies on Mitigated Emissions to Conclude that Construction Emissions Are Less Than Significant

Determining whether a project may have a significant effect plays a critical role in the CEQA process.⁴² The determination as to whether a project may have one or more significant effects must be based on substantial evidence in the record.⁴³ Lead agencies can only rely on an MND for a project where they determine that revisions in project plans or proposals made by, or agreed to, by the applicant would avoid or mitigate effects to a point where clearly no significant effect on the environment would occur.⁴⁴

Under CEQA, a project has significant impacts if it “[v]iolate[s] any air quality standard or contribute[s] substantially to an existing or projected air quality violation.”⁴⁵ The Bay Area Air Quality Management District (“BAAQMD” or “Air District”) maintains thresholds of significance for criteria air pollutants that are to be used in determining the significance of a project’s air quality impacts under CEQA.⁴⁶ The MND failed to fully analyze the Project’s construction emissions by improperly applying mitigation measures to unmitigated emissions prior to making its significance determination. By assuming the application of emissions controls to the Project’s unmitigated emissions, the MND “compress[es] the analysis of impacts and mitigation measures into a single issue,”⁴⁷ in violation of CEQA. This approach is prohibited by CEQA because it fails to inform the public of the true severity of an impact. As a result, the MND fails to disclose that Project construction may result in significant emissions that exceed applicable Air District thresholds, resulting in significant, unmitigated air quality and public health impacts.

As Dr. Clark’s comments reveal, the air quality analysis completed for the MND⁴⁸ calculated construction emissions assuming that the construction would incorporate Tier 4 interim equipment.⁴⁹ However, as Dr. Clark highlights, the availability of such equipment is limited and there is nothing in the MND to ensure that such equipment will be used in Project construction. Dr. Clark states: “Without

⁴² CEQA Guidelines § 15064.

⁴³ CEQA Guidelines § 15064(f).

⁴⁴ CEQA Guidelines §§ 15064(f)(2), 15071(c).

⁴⁵ CEQA Appendix G.

⁴⁶ As stated in the MND, the MND relies on BAAQMD’s 2017 thresholds, reproduced in MND, pg.32.

⁴⁷ See *Lotus v. Dep’t of Transp.* (2014) 223 Cal. App. 4th 645, 651-52.

⁴⁸ MND, Appendix A: Air Quality and Greenhouse Gas Assessment (hereinafter “AQ Study”).

⁴⁹ Clark Comments, pp. 3-4.

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a binding commitment to only use Tier 4 interim and above construction equipment for all phases of the Project, the emissions from the construction phase will exceed BAAQMD's threshold and will create an adverse health outcome for the community."⁵⁰ Dr. Clark's analysis confirms that, without application of Tier 4 interim controls, the Project's construction emissions will exceed the BAAQMD significance threshold for nitrogen oxides ("NO_x").⁵¹ The MND fails to include specific and enforceable mitigation measures that would bind the Applicant to ensure Tier 4 interim construction equipment is used.

Critically, neither the MND nor the AQ Study calculate or disclose the Project's unmitigated construction emissions. Instead, the AQ Study simply assumes that Tier 4 interim equipment will be used and calculates emissions accordingly. This approach incorrectly dismisses the significance of the Project's actual, unmitigated emissions. Without disclosing the Project's unmitigated construction emissions, the MND only discloses estimated emissions with the application of an unenforceable mitigation measure, the inclusion of Tier 4 interim equipment. This "downward adjustment" of the Project's construction emissions artificially reduces their significance. The MND concludes that the Project's construction emissions are less than significant, based on these unsupported and unenforceable assumptions, and without application of any binding mitigation measures.⁵²

This approach violates CEQA. CEQA defines mitigation as including any measures designed to avoid, minimize, rectify, reduce, or compensate for a significant impact.⁵³ The inclusion of Tier 4 interim equipment in the emissions calculations is clearly designed as mitigation to reduce the Project's construction emissions that would result from using equipment with less efficient emissions controls. As the inclusion is meant to reduce impacts, this makes it a mitigation measure within the meaning of CEQA.

CEQA requires that mitigation measures be fully enforceable through permit conditions, agreements or other legally binding instruments.⁵⁴ When adopting a mitigated negative declaration, the lead agency is required to adopt "a program for reporting on or monitoring the changes which it has either required in the project or

⁵⁰ Clark Comments, pg. 6.

⁵¹ Clark Comments, pg. 4.

⁵² MND, pg. 37.

⁵³ 14 CCR § 15370.

⁵⁴ 14 CCR § 15126.4(a)(2).

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made a condition of approval to mitigate or avoid significant environmental effects.”⁵⁵ Because the City has not required the use of Tier 4 interim equipment as a mitigation measure, it is not included in the Project’s Mitigation Monitoring and Reporting Program (“MMRP”). Therefore, there is nothing to require the use of Tier 4 interim equipment during Project construction, and the MND’s conclusions that Project air quality and public health impacts will be less than significant are completely unsupported.

The Court of Appeal has made clear that mitigation must be incorporated directly into a project’s MMRP to be considered enforceable. In *Lotus v. Department of Transportation*,⁵⁶ 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.”⁵⁷ 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.”⁵⁸

Similar to the inadequate analysis contained in the *Lotus* EIR, the MND’s Air Quality analysis only shows emissions with mitigation and the MND thus concludes the Project’s air quality emissions will result in less than significant levels prior to mitigation. This approach improperly “compress[es] the analysis of impacts and mitigation measures into a single issue.” Even if the MND’s conclusions were accurate, the use of Tier 4 interim equipment must be incorporated into the Project’s MMRP as formal mitigation measures in order to be factored into the City’s ultimate significance findings. “Simply stating that there will be no significant impacts because the project incorporates ‘special construction techniques’ is not adequate or permissible.”⁵⁹

⁵⁵ CEQA Guidelines § 15074(d).

⁵⁶ *Lotus v. Dep’t of Transp.* (2014) 223 Cal. App. 4th 645, 651-52.

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*

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The City has a duty to disclose unmitigated emissions and compare them to the applicable significance thresholds before applying mitigation measures. As a result of its improper reliance on Tier 4 interim equipment to achieve emissions reductions, the MND underestimates the amount of emissions that will be generated by the Project and the effects on nearby sensitive receptors. The City must prepare and circulate an EIR that includes an accurate analysis of the Project's air quality impacts, and incorporates all mitigation measures intended to reduce emissions as binding mitigation in the Project's MMRP.

B. The MND Underestimates Project Operational Emissions and Resultant Health Risks by Omitting Emissions Sources

The MND purports to evaluate and disclose the Project's expected emissions of air pollutants, including diesel particulate matter ("DPM").⁶⁰ However, as explained by Dr. Clark, the emissions modeling excludes known sources of emissions. Specifically, the Air Quality Study's analysis of operational emissions fails to include emissions from the backup generator that will be installed onsite.⁶¹ These emissions, particularly DPM, are crucial components of the Project's overall air quality impact. Exposure to diesel exhaust emissions has been linked to a range of adverse health effects, including respiratory problems, cardiovascular diseases, and even premature death.⁶²

In failing to include these critical emissions, the MND underestimates the Project's operational air quality and public health impacts. The MND's conclusions regarding these impacts are therefore unsupported by substantial evidence, and Dr. Clark's comments provide a fair argument supported by substantial evidence that the Project may have significant air quality and health risk impacts. The City must therefore prepare an EIR that fully analyzes, discloses and mitigates all of the Project's emissions-related impacts.

⁶⁰ MND, pp. 38-39.

⁶¹ Clark Comments, pg. 7.

⁶² U.S. EPA, *Learn About Impacts of Diesel Exhaust and the Diesel Emissions Reduction Act (DERA)*, <https://www.epa.gov/dera/learn-about-impacts-diesel-exhaust-and-diesel-emissions-reduction-act-dera>.

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V. THE MND FAILS TO ADEQUATELY ANALYZE AND MITIGATE THE PROJECT'S POTENTIALLY SIGNIFICANT TRANSPORTATION IMPACTS

The MND's conclusion that transportation impacts from the Project will be less than significant with mitigation is not supported by substantial evidence. Evidence supplied in the accompanying report from transportation expert Norman Marshall provides a fair argument supported by substantial evidence that the Project will have significant unmitigated transportation impacts.

First, Mr. Marshall's analysis using the updated version of the San Jose VMT Evaluation Tool reveals significant deficiencies in the identification of significant impacts and requisite mitigation. Using the updated VMT Tool, Mr. Marshall demonstrates that the proposed project exceeds the VMT threshold for office employment use.⁶³ Despite the MND's assertion that the proposed mitigation is adequate to reduce VMT impacts, Mr. Marshall found that the VMT mitigation package "is only adequate if using the previous version of the City's VMT Evaluation Tool."⁶⁴ Mr. Marshall's comments explain how the mitigation measures proposed in the MND are insufficient to reduce VMT below the established threshold.⁶⁵

Moreover, Mr. Marshall identifies serious flaws in the assumptions underlying the proposed VMT mitigation measures.⁶⁶ One key assumption is the requirement that the vanpool program achieve a 25 percent employee participation rate.⁶⁷ However, Mr. Marshall contends that this assumption is wildly optimistic and likely unattainable, particularly given the unidentified tenant and use of the project.⁶⁸ The MND provides no evidence supporting this assumption and how it plans to achieve a 25 percent participation rate.

Additionally, Mr. Marshall highlights deficiencies in the proposed monitoring of the efficacy of the VMT mitigation measures. While the MND outlines a monitoring approach based on trip counts, Mr. Marshall explains why this method is insufficient for accurately measuring VMT reduction.⁶⁹ Instead, Marshall advocates for a monitoring process that encompasses each of the VMT-reducing

⁶³ Marshall Comments, pg. 4.

⁶⁴ *Id.* at pg. 1.

⁶⁵ *Id.* at pg. 4.

⁶⁶ *Id.* at pg. 5.

⁶⁷ MND, pg. 11.

⁶⁸ Marshall Comments, pg. 5.

⁶⁹ *Id.* at pp. 5-6.

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measures identified in the mitigation plan.⁷⁰ He emphasizes the importance of auditing each traffic demand management (“TDM”) measure to ensure compliance and effectiveness in reducing VMT.⁷¹

Based on Mr. Marshall’s analysis, the MND’s conclusions with respect to the Project’s transportation are not supported by substantial evidence. Mr. Marshall’s comments provide a fair argument supported by substantial evidence that the Project will have significant transportation impacts. These impacts must be analyzed, disclosed, and mitigated in an EIR before the City can approve the Project.

VI. THE CITY CANNOT MAKE THE REQUISITE FINDINGS TO APPROVE THE PROJECT’S SITE DEVELOPMENT PERMIT

Under San Jose Municipal Code (“SJMC”) section 20.100.630, the Site Development Permit requires that the City make certain findings, including that the permit as approved is consistent with and will further the policies of the General Plan.⁷² The City must also find that “[t]he environmental impacts of the project, including, but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, *even if insignificant for purposes of the California Environmental Quality Act (CEQA)*, will not have an unacceptable negative effect on adjacent property or properties.”⁷³

As an initial matter, the City may not make the required finding for the Site Development Permit that the Project will not result in unacceptable negative environmental impacts. As demonstrated above, the MND fails to disclose, analyze, or effectively mitigate the Project’s potentially significant impacts on air quality and transportation. Accordingly, the Project will have an unacceptable negative effect on adjacent property, as even “insignificant” impacts under CEQA can be deemed so. Therefore, the City cannot make the necessary findings under SJMC section 20.100.630(A)(6), as required to approve the Project’s Site Development permit.

These impacts also create inconsistencies with General Plan policies. Specifically, our analysis of the MND reflected in these comments show that the

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² SJMC § 20.100.630(A)(1).

⁷³ SJMC § 20.100.630 (A)(6) (emphasis added).

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Project fails to comply with several key goals and policies in the Envision San José 2040 General Plan,⁷⁴ including the following.

Air Quality

MS-10.1	Assess projected air emissions from new development in conformance with the Bay Area Air Quality Management District (BAAQMD) CEQA Guidelines and relative to state and federal standards. Identify and implement feasible air emission reduction measures.
MS-11.3	Review projects generating significant heavy duty truck traffic to designate truck routes that minimize exposure of sensitive receptors to TACs and particulate matter.
MS-13.1	Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.

The MND's approach to assessing air quality impacts contradicts several key General Plan policies, including MS-10.1, and MS-13.1, both of which emphasize the importance of implementing enforceable mitigation measures to protect air quality. MS-10.1 mandates the implementation of feasible air emission reduction measures in accordance with BAAQMD guidelines and state and federal standards. However, the MND's reliance on Tier 4 interim equipment without including it as enforceable mitigation measures fails to fulfill this requirement. Similarly, MS-13.1 requires the inclusion of dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for various permits, including site development permits. The MND's failure to incorporate enforceable mitigation measures to address the Project's construction emissions directly contradicts this policy.

Finally, the MND overlooks emissions from the backup generator onsite, thereby disregarding potential impacts on nearby sensitive receptors, which contravenes MS-11.3. Moreover, the MND fails to evaluate the emissions associated with the movement of materials by trucks during the operational phase, undermining the MND's compliance with MS-11.3. In summary, the MND's failure

⁷⁴ Available at:

<https://www.sanioseca.gov/home/showpublisheddocument/22359/637928744399330000>

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to properly analyze air quality impacts or to incorporate binding mitigation measures violates multiple General Plan policies.

Transportation

TR-1.1	Accommodate and encourage use of non-automobile transportation modes to achieve San José's mobility goals and reduce vehicle trip generation and vehicle miles traveled (VMT)
TR-1.2	Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects
TR-1.4	Through the entitlement process for new development, projects shall be required to fund or construct needed transportation improvements for all transportation modes giving first consideration to improvement of bicycling, walking and transit facilities and services that encourage reduced vehicle travel demand. . . Development proposals shall be reviewed for their impacts on all transportation modes through the study of Vehicle Miles Traveled (VMT), Envision San José 2040 General Plan policies, and other measures enumerated in the City Council Transportation Analysis Policy and its Local Transportation Analysis. Projects shall fund or construct proportional fair share mitigations and improvements to address their impacts on the transportation systems
TR-5.3	Development projects' effects on the transportation network will be evaluated during the entitlement process and will be required to fund or construct improvements in proportion to their impacts on the transportation system. Improvements will prioritize multimodal improvements that reduce VMT over automobile network improvements
TR-9.1	Enhance, expand and maintain facilities for walking and bicycling to provide neighborhoods with safe and direct access to transit and key destinations, a particularly to provide neighborhoods with safe and direct access to transit and key destinations, a complete alternative transportation network that facilitates non-automobile trips, and enjoyable outdoor open space.
TR-9.2	Serve as a model city for VMT reduction by implementing programs and policies that reduce VMT for City of San José employees
TR-9.3	Enhance the overall travel experience of transit riders, pedestrians, bicyclists, and shared micromobility users to encourage mode shift.

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The MND's inadequate disclosure and analysis of the Project's transportation impacts directly conflict with the above-cited General Plan policies. For example, policies such as TR-1.1, TR-1.4, TR-5.3, and TR-9.2 underscore the City's commitment to reducing VMT, a goal undermined by the MND's flawed VMT analysis and insufficient proposed mitigation measures highlighted by Mr. Marshall's analysis. By failing to accurately assess and address the significant VMT impact associated with the Project, the MND falls short of meeting these critical General Plan policies, undermining the city's efforts to reduce VMT and promote sustainable transportation and mobility.

As a result of the Project's inconsistencies with these General Plan policies, the City is precluded from making the necessary findings to approve the Project's Site Development Permit pursuant to SJMC section 20.100.630 (A)(1).

VII. CONCLUSION

CEQA requires that an EIR be prepared if there is substantial evidence that any aspect of a project, either individually or cumulatively, may cause a significant effect on the environment.⁷⁵ As discussed herein, there is substantial evidence supporting a fair argument that the Project would result in significant adverse impacts that were not identified in the MND, and that are not adequately analyzed or mitigated. The MND also fails to contain the basic information and analysis required by CEQA, deficiencies which "cannot be dismissed as harmless or insignificant defects."⁷⁶ Moreover, the serious flaws in the MND preclude the City from making the required findings to approve the Project's site development permit.

We urge the City to fulfill its responsibilities under CEQA by withdrawing the MND and preparing a legally adequate EIR to address the potentially significant impacts described in this comment letter. Only by complying with all applicable laws will the City and the public be able to ensure that the Project's environmental impacts are mitigated to less than significant levels.

⁷⁵ Pub. Res. Code § 21151; 14 CCR § 15063(b)(1).

⁷⁶ *Bakersfield Citizens for Local Control v. Bakersfield ("Bakersfield")* (2004) 124 Cal. App. 4th 1184, 1220.

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Thank you for your attention to these comments.

Sincerely,

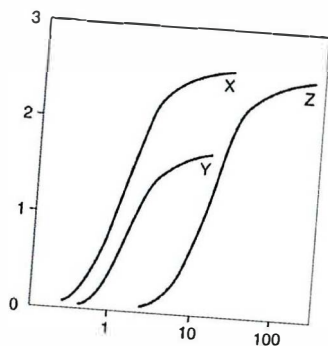
A handwritten signature in black ink, appearing to read 'Ariana Abedifard', written in a cursive style.

Ariana Abedifard

Attachments
AA:acp

6679-006acp

EXHIBIT A



April 30, 2024

Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080

Attn: Ms. Ariana Abedifard

Subject: Comment Letter on Initial Study/Mitigated Negative Declaration For 865 Embedded Way Industrial Project, City of San Jose, California File Nos. H22-022 & ER22-113

Clark & Associates
Environmental Consulting, Inc.

OFFICE

12405 Venice Blvd
Suite 331
Los Angeles, CA 90066

PHONE

310-907-6165

FAX

310-398-7626

EMAIL

jcclark.assoc@gmail.com

Dear Ms. Abedifard:

At the request of Adams Broadwell Joseph & Cardozo (ABJC), Clark and Associates (Clark) has reviewed materials related to the above referenced project.

Clark's review of the materials in no way constitutes a validation of the conclusions or materials contained within the IS/MND. If we do not comment on a specific item, this does not constitute acceptance of the item.

Project Description:

The project consists of a Site Development Permit (File No. H22-022) to allow the construction of a one-story 121,400 square foot industrial/manufacturing warehouse on a vacant 10.17-acre project site. The project would include a connection to an existing 26-foot-wide drive aisle that extends from the eastern Embedded Way driveway through the adjacent eastern industrial property (875 Embedded Way) and currently terminates at the southeastern boundary of the project site. A total of 300 parking spaces would be provided in the surface parking

lot surrounding the proposed building. The project would include the removal of 11 trees on-site, 2 of which are ordinance-size.

According to the Air Quality Study of the IS/MND, the northern side of the proposed building would include 12 truck loading docks and the southeast corner of the building would include a 472-horsepower (HP) diesel emergency fire pump. While a designated end use has not been determined for the proposed building, the project is designed for a research and development (R&D) use. The land use and zoning designation allow for a variety of industrial uses, such as R&D, manufacturing, assembly, testing, and offices. For purposes of this study, the project was assumed to be an R&D facility.¹

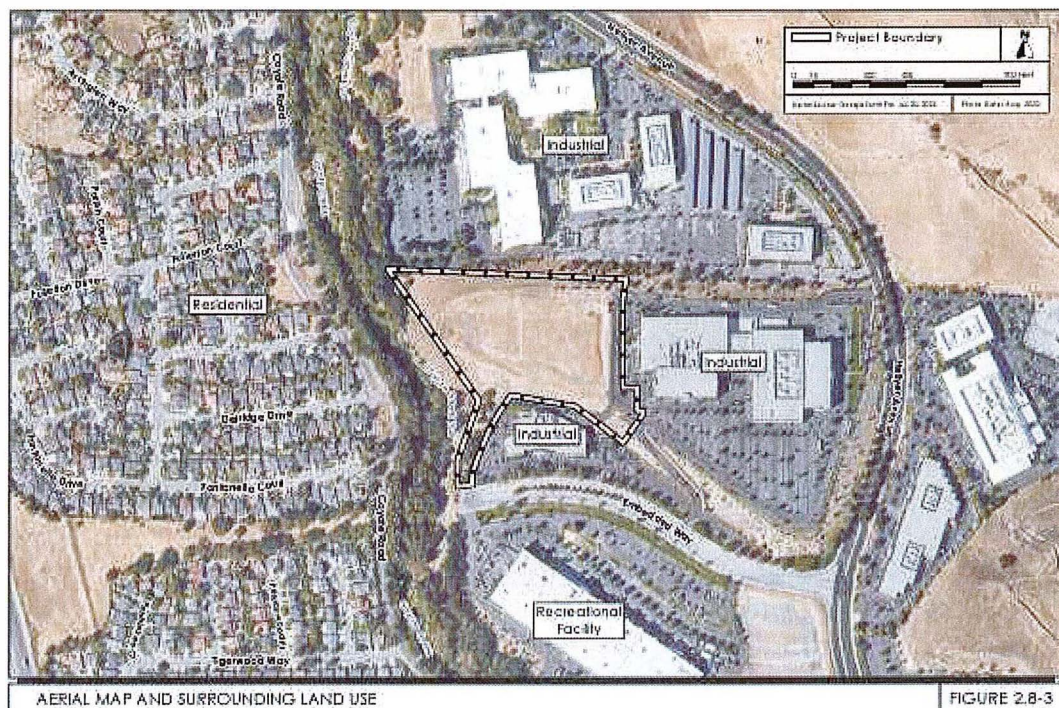


Figure 1: Proposed Site Location

¹ Illingworth & Rodkin, Inc. 2022. 865 Embedded Way Industrial Project Air Quality Assessment, San Jose, California. Dated August 5, 2022. Pg 2.

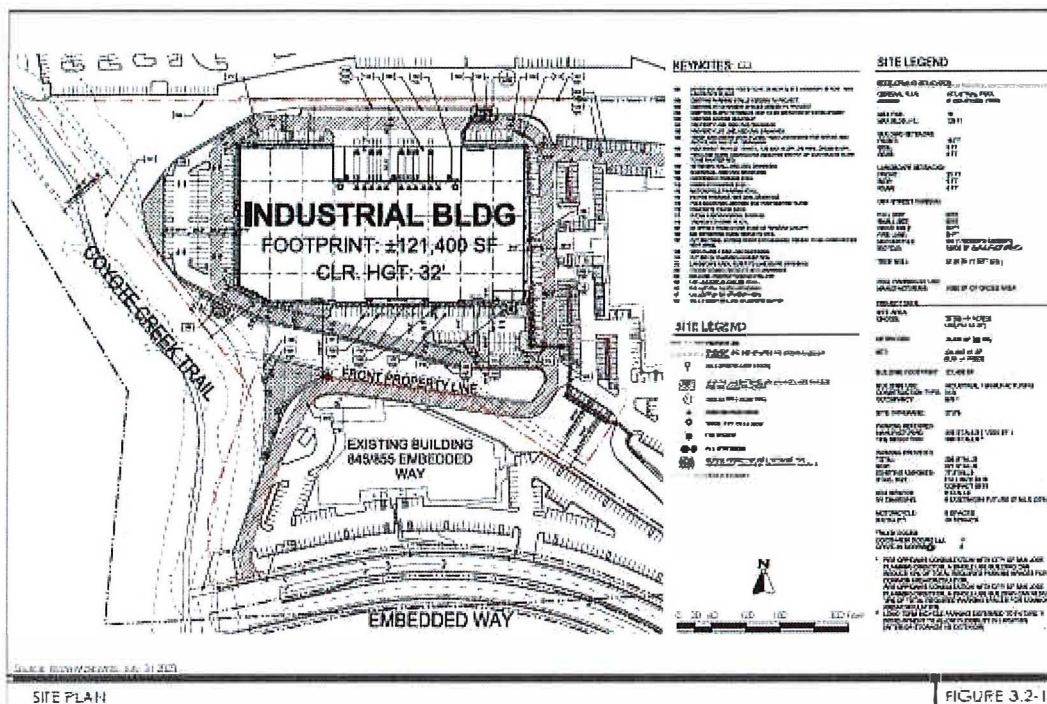


Figure 2: Project Site Plan

The IS/MND concludes that no mitigation is required to prevent impacts from the project on air quality in the area. This conclusion is in conflict with the facts provided within the IS/MND.

Specific Comments:

1. The Air Quality Analysis Does Not Provide A Baseline Scenario And The Analysis Presented Underestimate The Project's Potential Criteria Pollutants

According the Air Quality Study, after mitigation the criteria pollutants and exhaust emissions would not exceed the BAAQMD significance thresholds. The project achieves the emission levels by requiring Tier 4 interim controls on all off-road equipment.

Table 4. Construction Period Emissions

Year	ROG	NO _x	PM ₁₀ Exhaust	PM _{2.5} Exhaust
<i>Construction Emissions Per Year (Tons)</i>				
2023	0.76	1.08	0.05	0.06
<i>Average Daily Construction Emissions Per Year (pounds/day)</i>				
2023 (195 construction workdays)	7.77	11.13	0.51	0.62
<i>BAAQMD Thresholds (pounds per day)</i>	54 lbs./day	54 lbs./day	82 lbs./day	54 lbs./day
<i>Exceed Threshold?</i>	No	No	No	No

Figure 3: Emission Estimate From AQ Study Assuming All Tier 4 Interim Controls

The Air Quality Study does not present a baseline (unmitigated) scenario in which emissions would most likely be produced from the average fleet of equipment available. Using the same input values (and not including the Tier 4 interim mitigation measures) and using the latest version of CalEEMOD (2022.1.1.22), an unmitigated analysis of the construction emissions shows a very different result. (Partial results reproduced below and full results attached as appendix to this letter).

	ROG	NO _x	CO	SO ₂	PM _{10T}	PM _{2.5T}
	lbs/day	lbs/day	lbs/day	lbs/day	lbs/day	lbs/day
Daily, Summer (Max)						
Unmitigated	6.28	64.40	59.86	0.14	28.50	14.24
Daily, Winter (Max)						
Unmitigated	11.11	114.72	92.24	0.21	48.38	23.99
Average Daily (Max)						
Unmitigated	4.71	11.96	12.76	0.03	3.93	1.98
Threshold	54	54			82	54
Exceeds (Daily Max)	No	Yes			No	No
Threshold	54	54			82	54
Exceeds (Average Daily)	No	No			No	No

	ROG	NO _x	CO	SO ₂	PM _{10T}	PM _{2.5T}
	tons/yr	tons/yr	tons/yr	tons/yr	tons/yr	tons/yr
Annual (Max)						
Unmitigated	0.86	2.18	2.33	0.00	0.72	0.36
Threshold	10	10			15	10
Exceeds (Annual Max)	No	No			No	No

In the baseline (unmitigated) scenario, emissions oxides of nitrogen (NO_x) will exceed the BAAQMD thresholds for construction. In the winter phase of the construction period the NO_x emissions are double the BAAQMD threshold. This is based on the scheduling proposed in which there are overlapping tasks being performed in winter months (e.g., demolition, site preparation, and grading activities).

Based upon a review of public records of the California Air Resources Board's (CARB) Diesel Off-Road Online Reporting System (DOORS), it is evident that the availability of Tiered construction equipment is highly dependent on the type of equipment.

Table 1: Percent of Equipment in California DOORS Database by Emission Tier Level

Equipment Type (> 50 hp)	U.S. EPA Emission Tier Level					
	T0	T1	T2	T3	T4F	T4I
Aerial Lifts	1.63%	4.67%	14.86%	4.08%	48.64%	26.12%
Boom	0.15%	0.77%	5.22%	1.59%	76.20%	16.06%
Bore/Drill Rigs	11.53%	15.42%	16.86%	21.76%	17.72%	14.34%
Bucket	8.33%	18.33%	10.00%	6.67%	33.33%	23.33%
Concrete Mixer	0.00%	0.00%	0.00%	14.29%	85.71%	0.00%
Concrete Pump	1.30%	7.79%	40.26%	1.30%	32.47%	16.88%
Crane 35ton or more	5.57%	4.41%	5.37%	18.81%	37.62%	27.45%
Crane less than 35ton	20.37%	2.47%	6.79%	12.35%	38.27%	19.75%
Cranes	27.84%	11.49%	9.13%	26.60%	10.82%	11.80%
Crawler Tractors	26.56%	13.31%	13.11%	13.70%	22.39%	10.93%
Crushing/Processing Equipment	0.00%	0.78%	2.34%	14.06%	74.22%	8.59%
Drill Rig	7.09%	4.14%	8.86%	12.56%	45.79%	17.87%
Drill Rig (Mobile)	11.51%	8.71%	11.51%	17.26%	30.95%	14.77%
Excavators	5.24%	8.34%	13.95%	7.29%	48.67%	16.50%
Forklifts	9.57%	10.57%	13.82%	7.99%	40.45%	17.46%
Garbage Refuse	0.00%	0.00%	8.70%	8.70%	43.48%	39.13%
Garbage Transfer	0.00%	0.00%	0.00%	33.33%	66.67%	0.00%
Graders	29.78%	14.12%	12.89%	15.27%	17.40%	10.52%
Hopper Tractor Trailer	0.00%	0.00%	0.00%	0.00%	50.00%	50.00%
Mower	2.44%	7.27%	13.58%	1.10%	54.40%	21.22%
Nurse Rig Aircraft Supply	0.00%	0.00%	0.00%	0.00%	100.00%	0.00%
Nurse Rig Other	0.00%	0.00%	0.00%	100.00%	0.00%	0.00%
Off Highway Tractors	3.55%	6.28%	6.01%	8.74%	65.30%	10.11%
Off Highway Trucks	1.69%	3.87%	11.14%	5.81%	62.23%	15.25%
Off-Highway Tractors	18.25%	17.06%	20.98%	10.02%	17.18%	16.31%
Off-Highway Trucks	16.96%	12.96%	17.54%	20.81%	16.13%	13.99%
Other Construction Equipment	16.35%	14.20%	17.11%	10.53%	24.03%	17.19%
Other General Industrial Equipment	13.18%	16.56%	27.57%	8.61%	13.80%	19.84%
Other Material Handling Equipment	10.84%	11.39%	19.25%	15.55%	26.63%	16.26%
Other Truck	15.64%	10.34%	5.31%	13.41%	36.87%	11.45%
Pavers	12.11%	21.18%	16.99%	14.97%	23.34%	11.41%
Paving Equipment	6.49%	12.80%	12.74%	12.44%	38.17%	17.05%
Railcars or Track Cars	16.33%	8.16%	0.00%	14.29%	51.02%	10.20%
Rollers	14.09%	15.93%	18.30%	6.46%	30.61%	14.59%
Rough Terrain Forklifts	3.95%	9.32%	15.89%	8.11%	41.94%	20.80%

Equipment Type (> 50 hp)	U.S. EPA Emission Tier Level					
	T0	T1	T2	T3	T4F	T4I
Rubber Tired Dozers	41.04%	10.02%	9.44%	19.65%	15.22%	4.62%
Rubber Tired Loaders	16.74%	12.71%	13.56%	14.94%	29.29%	12.76%
Scrapers	28.91%	10.98%	15.47%	30.41%	10.15%	4.04%
Skid Steer Loaders	3.70%	10.02%	15.81%	3.20%	54.69%	12.58%
Spray Truck	5.56%	4.17%	19.44%	2.78%	34.72%	26.39%
Spreader Tractor Trailer	0.00%	14.29%	28.57%	0.00%	42.86%	14.29%
Spreader Truck	4.17%	0.00%	4.17%	37.50%	16.67%	25.00%
Surfacing Equipment	15.38%	14.25%	10.18%	23.08%	19.23%	17.65%
Sweepers/Scrubbers	11.02%	20.84%	16.57%	6.61%	25.75%	19.06%
Tank Truck	4.05%	6.76%	8.11%	27.03%	37.84%	16.22%
Tanker Truck Trailer	0.00%	18.18%	0.00%	0.00%	63.64%	18.18%
Telescopic Handler	1.33%	0.00%	2.67%	0.00%	80.00%	16.00%
Tow Tractor	0.00%	100.00%	0.00%	0.00%	0.00%	0.00%
Tractors/Loaders/Backhoes	13.53%	16.50%	18.73%	8.96%	29.23%	13.05%
Trenchers	21.86%	19.57%	20.87%	3.28%	21.86%	12.57%
Vacuum Truck	2.21%	18.38%	15.44%	25.00%	13.24%	14.71%
Water Truck	21.79%	8.21%	16.43%	16.07%	23.57%	13.57%
Workover Rig (Mobile)	5.99%	15.14%	9.78%	17.35%	7.10%	13.56%
Yard Goat	4.40%	4.58%	9.41%	18.31%	41.71%	21.33%

It is clear from the CARB data that access to Tier 4 interim certified equipment necessary for the construction phase are in short supply in the State. In particular, Tier 4 interim rubber dozers, scrapers, and cranes make up a small portion of the registered fleet in California. If the Proponent cannot acquire the necessary equipment during construction or delay the construction until the equipment is available, project construction could be substantially delayed while the Proponent searches for Tier equipment to comply with mitigation requirement. Without a binding commitment to only use Tier 4 interim and above construction equipment for all phases of the Project, the emissions from the construction phase will exceed BAAQMD's threshold and will create an adverse health outcome for the community. The analysis is therefore incomplete and must be corrected in an environmental impact report (EIR) for the Project.

2. The Air Quality Analysis And Greenhouse Gas Analysis Of Operational Emissions Is Incomplete And Fails To Include Emissions From Generators That Will Be Installed Onsite.

According to the Air Quality Analysis prepared for the Project, operational emissions were calculated using the CalEEMOD software. Included in the analysis are area source emissions and mobile source emissions. Not included in the analysis are emissions from the back-up generator (BUG) that will need to be installed. The BUG would add to the total amount of toxic air contaminants (TACs), specifically diesel particulate matter (DPM), that will be released from the site.

10.0 Stationary Equipment

Fire Pumps and Emergency Generators

Equipment Type	Number	Hours/Day	Hours/Year	Horse Power	Load Factor	Fuel Type
Fire Pump	1	0	50	472	0.73	Diesel

Boilers

Equipment Type	Number	Heat Input/Day	Heat Input/Year	Boiler Rating	Fuel Type
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Figure 4: CalEEMod Assumptions

The analysis is therefore incomplete and must be corrected in an environmental impact report (EIR) for the Project.

3. The Analysis of Operational Emissions is Based A Classification That May Not Accurately Reflect the Project's Use and Impacts

According to the Air Quality Analysis prepared for the Project, operational emissions were calculated using the CalEEMOD software assuming that Project would be a Research and Development center. The emission and traffic estimates are based on that classification. In the Project description of the IS/MND, the project is described as an industrial/warehouse project. The description also notes that while a designated end user has not been determined, the project is designed for a research and development use. These two different uses have different associated traffic and criteria pollutant analyses. If the Project moves forward as a warehouse, the number of associates truck trips and DPM emissions would significantly increase over the assumption used in the analysis.

For example, the Air Quality Study ignored the emissions from onsite service vehicles that may be used to move products from the warehouse area into the loading bays. According to the Air Quality Study, the northern side of the proposed building would include 12 truck loading docks.

Movement of materials from trucks into and out of the building are not assessed in the operation phase of the Air Quality study. According to the latest CAPCOA Guidance² cargo handling equipment (e.g., forklifts, yard goats, and pallet jacks), may include diesel powered, compressed natural gas powered, and gasoline powered equipment. The Air Quality study is therefore missing a potentially significant source of criteria and toxic pollutants. These analyses (AQ and GHG) are therefore incomplete and must be corrected in an EIR report for the Project.

Conclusion

The facts identified and referenced in this comment letter lead me to reasonably conclude that the Project could result in significant impacts if allowed to proceed. An EIR should be prepared to address these substantial concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Clark', with a stylized flourish at the end.

James Clark

² CAPCOA. 2021. Handbook for Analyzing Greenhouse Gas Emissions Reductions, Assessing Climate Vulnerabilities, and Advancing Health and Equity. Pg 741

Embedded Way Summary Report

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2.4. Operations Emissions Compared Against Thresholds

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6.2. Initial Climate Risk Scores

6.3. Adjusted Climate Risk Scores

7. Health and Equity Details

7.3. Overall Health & Equity Scores

7.5. Evaluation Scorecard

1. Basic Project Information

1.1. Basic Project Information

Data Field	Value
Project Name	Embedded Way
Construction Start Date	2/8/2025
Operational Year	2026
Lead Agency	City of San Jose
Land Use Scale	Project/site
Analysis Level for Defaults	County
Windspeed (m/s)	3.40
Precipitation (days)	12.4
Location	865 Embedded Way, San Jose, CA 95138, USA
County	Santa Clara
City	San Jose
Air District	Bay Area AQMD
Air Basin	San Francisco Bay Area
TAZ	6702
EDFZ	1
Electric Utility	Pacific Gas & Electric Company
Gas Utility	Pacific Gas & Electric
App Version	2022.1.1.22

1.2. Land Use Types

Land Use Subtype	Size	Unit	Lot Acreage	Building Area (sq ft)	Landscape Area (sq ft)	Special Landscape Area (sq ft)	Population	Description
------------------	------	------	-------------	-----------------------	------------------------	--------------------------------	------------	-------------

Unrefrigerated Warehouse-No Rail	122	1000sqft	0.00	0.00	0.00	—	—	—
Parking Lot	298	Space	0.00	0.00	0.00	—	—	—

1.3. User-Selected Emission Reduction Measures by Emissions Sector

Sector	#	Measure Title
Construction	C-5	Use Advanced Engine Tiers

2. Emissions Summary

2.1. Construction Emissions Compared Against Thresholds

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Un/Mit.	TOG	ROG	NOx	CO	SO2	PM10E	PM10D	PM10T	PM2.5E	PM2.5D	PM2.5T	BCO2	NBCO2	CO2T	CH4	N2O	R	CO2e
Daily, Summer (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unmit.	7.83	6.28	64.4	59.9	0.14	2.42	26.1	28.5	2.21	12.0	14.2	—	16,281	16,281	0.84	0.80	11.2	16,550
Mit.	7.83	6.28	64.4	59.9	0.14	2.42	26.1	28.5	2.21	12.0	14.2	—	16,281	16,281	0.84	0.80	11.2	16,550
% Reduced	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Daily, Winter (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unmit.	13.5	11.1	115	92.2	0.21	4.38	44.0	48.4	4.01	20.0	24.0	—	24,684	24,684	1.18	0.87	0.31	24,974
Mit.	13.5	11.1	115	92.2	0.21	4.38	44.0	48.4	4.01	20.0	24.0	—	24,684	24,684	1.18	0.87	0.31	24,974
% Reduced	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Average Daily (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—

Unmit.	1.47	1.20	11.8	12.5	0.03	0.45	3.39	3.84	0.41	1.55	1.96	—	2,804	2,804	0.13	0.09	0.53	2,834
Mit.	1.47	1.20	11.8	12.5	0.03	0.45	3.39	3.84	0.41	1.55	1.96	—	2,804	2,804	0.13	0.09	0.53	2,834
% Reduced	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Annual (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unmit.	0.27	0.22	2.16	2.27	< 0.005	0.08	0.62	0.70	0.07	0.28	0.36	—	464	464	0.02	0.02	0.09	469
Mit.	0.27	0.22	2.16	2.27	< 0.005	0.08	0.62	0.70	0.07	0.28	0.36	—	464	464	0.02	0.02	0.09	469
% Reduced	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Exceeds (Daily Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Threshold	—	54.0	54.0	—	—	82.0	—	—	54.0	—	—	—	—	—	—	—	—	—
Unmit.	—	No	Yes	—	—	No	—	—	No	—	—	—	—	—	—	—	—	—
Mit.	—	No	Yes	—	—	No	—	—	No	—	—	—	—	—	—	—	—	—
Exceeds (Average Daily)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Threshold	—	54.0	54.0	—	—	82.0	—	—	54.0	—	—	—	—	—	—	—	—	—
Unmit.	—	No	No	—	—	No	—	—	No	—	—	—	—	—	—	—	—	—
Mit.	—	No	No	—	—	No	—	—	No	—	—	—	—	—	—	—	—	—

2.4. Operations Emissions Compared Against Thresholds

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Un/Mit.	TOG	ROG	NOx	CO	SO2	PM10E	PM10D	PM10T	PM2.5E	PM2.5D	PM2.5T	BCO2	NBCO2	CO2T	CH4	N2O	R	CO2e
Daily, Summer (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—

Embedded Way Summary Report, 4/28/2024

Unmit.	0.76	0.70	0.54	6.17	0.02	0.01	1.43	1.44	0.01	0.36	0.37	116	1,646	1,762	11.8	0.19	5.53	2,119
Daily, Winter (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unmit.	0.73	0.67	0.63	5.69	0.01	0.01	1.43	1.44	0.01	0.36	0.37	116	1,553	1,669	11.8	0.20	0.14	2,023
Average Daily (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unmit.	0.72	0.66	0.59	5.55	0.01	0.01	1.42	1.43	0.01	0.36	0.37	116	1,566	1,682	11.8	0.20	2.39	2,037
Annual (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unmit.	0.13	0.12	0.11	1.01	< 0.005	< 0.005	0.26	0.26	< 0.005	0.07	0.07	19.2	259	278	1.95	0.03	0.40	337
Exceeds (Daily Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Threshold	—	54.0	54.0	—	—	—	82.0	—	—	54.0	—	—	—	—	—	—	—	—
Unmit.	—	No	No	Yes	—	—	No	—	—	No	—	—	—	—	—	—	—	—
Exceeds (Average Daily)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Threshold	—	54.0	54.0	—	—	—	82.0	—	—	54.0	—	—	—	—	—	—	—	—
Unmit.	—	No	No	Yes	—	—	No	—	—	No	—	—	—	—	—	—	—	—
Exceeds (Annual)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Threshold	—	10.0	10.0	—	—	—	15.0	—	—	10.0	—	—	—	—	—	—	—	—
Unmit.	—	No	No	—	—	—	No	—	—	No	—	—	—	—	—	—	—	—

6. Climate Risk Detailed Report

6.2. Initial Climate Risk Scores

Climate Hazard	Exposure Score	Sensitivity Score	Adaptive Capacity Score	Vulnerability Score
Temperature and Extreme Heat	N/A	N/A	N/A	N/A
Extreme Precipitation	1	0	0	N/A
Sea Level Rise	1	0	0	N/A
Wildfire	1	0	0	N/A
Flooding	N/A	N/A	N/A	N/A
Drought	N/A	N/A	N/A	N/A
Snowpack Reduction	N/A	N/A	N/A	N/A
Air Quality Degradation	0	0	0	N/A

The sensitivity score reflects the extent to which a project would be adversely affected by exposure to a climate hazard. Exposure is rated on a scale of 1 to 5, with a score of 5 representing the greatest exposure.

The adaptive capacity of a project refers to its ability to manage and reduce vulnerabilities from projected climate hazards. Adaptive capacity is rated on a scale of 1 to 5, with a score of 5 representing the greatest ability to adapt.

The overall vulnerability scores are calculated based on the potential impacts and adaptive capacity assessments for each hazard. Scores do not include implementation of climate risk reduction measures.

6.3. Adjusted Climate Risk Scores

Climate Hazard	Exposure Score	Sensitivity Score	Adaptive Capacity Score	Vulnerability Score
Temperature and Extreme Heat	N/A	N/A	N/A	N/A
Extreme Precipitation	1	1	1	2
Sea Level Rise	1	1	1	2
Wildfire	1	1	1	2
Flooding	N/A	N/A	N/A	N/A
Drought	N/A	N/A	N/A	N/A
Snowpack Reduction	N/A	N/A	N/A	N/A
Air Quality Degradation	1	1	1	2

The sensitivity score reflects the extent to which a project would be adversely affected by exposure to a climate hazard. Exposure is rated on a scale of 1 to 5, with a score of 5 representing the greatest exposure.

The adaptive capacity of a project refers to its ability to manage and reduce vulnerabilities from projected climate hazards. Adaptive capacity is rated on a scale of 1 to 5, with a score of 5 representing the greatest ability to adapt.

The overall vulnerability scores are calculated based on the potential impacts and adaptive capacity assessments for each hazard. Scores include implementation of climate risk reduction measures.

7. Health and Equity Details

7.3. Overall Health & Equity Scores

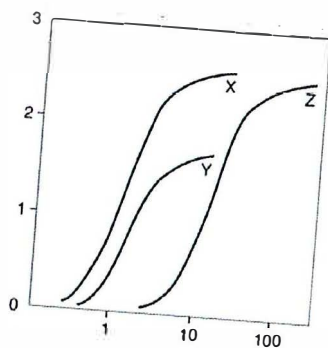
Metric	Result for Project Census Tract
CalEnviroScreen 4.0 Score for Project Location (a)	17.0
Healthy Places Index Score for Project Location (b)	91.0
Project Located in a Designated Disadvantaged Community (Senate Bill 535)	No
Project Located in a Low-Income Community (Assembly Bill 1550)	No
Project Located in a Community Air Protection Program Community (Assembly Bill 617)	No

a: The maximum CalEnviroScreen score is 100. A high score (i.e., greater than 50) reflects a higher pollution burden compared to other census tracts in the state.

b: The maximum Health Places Index score is 100. A high score (i.e., greater than 50) reflects healthier community conditions compared to other census tracts in the state.

7.5. Evaluation Scorecard

Health & Equity Evaluation Scorecard not completed.



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James J. J. Clark, Ph.D.

Principal Toxicologist

Toxicology/Exposure Assessment Modeling

Risk Assessment/Analysis/Dispersion Modeling

Education:

Ph.D., Environmental Health Science, University of California, 1995

M.S., Environmental Health Science, University of California, 1993

B.S., Biophysical and Biochemical Sciences, University of Houston, 1987

Professional Experience:

Dr. Clark is a well recognized toxicologist, air modeler, and health scientist. He has 20 years of experience in researching the effects of environmental contaminants on human health including environmental fate and transport modeling (SCREEN3, AEROMOD, ISCST3, Johnson-Ettinger Vapor Intrusion Modeling); exposure assessment modeling (partitioning of contaminants in the environment as well as PBPK modeling); conducting and managing human health risk assessments for regulatory compliance and risk-based clean-up levels; and toxicological and medical literature research.

Significant projects performed by Dr. Clark include the following:

LITIGATION SUPPORT

Case: James Harold Caygle, et al, v. Drummond Company, Inc. Circuit Court for the Tenth Judicial Circuit, Jefferson County, Alabama. Civil Action. CV-2009

Client: Environmental Litigation Group, Birmingham, Alabama

Dr. Clark performed an air quality assessment of emissions from a coke factory located in Tarrant, Alabama. The assessment reviewed include a comprehensive review of air quality standards, measured concentrations of pollutants from factory, an inspection of the facility and detailed assessment of the impacts on the community. The results of the assessment and literature have been provided in a declaration to the court.

Case Result: Settlement in favor of plaintiff.

Case: Rose Roper V. Nissan North America, et al. Superior Court of the State Of California for the County Of Los Angeles – Central Civil West. Civil Action. NC041739

Client: Rose, Klein, Marias, LLP, Long Beach, California

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to multiple chemicals, including benzene, who later developed a respiratory distress. A review of the individual's medical and occupational history was performed to prepare an exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to respiratory irritants. The results of the assessment and literature have been provided in a declaration to the court.

Case Result: Settlement in favor of plaintiff.

Case: O'Neil V. Sherwin Williams, et al. United States District Court Central District of California

Client: Rose, Klein, Marias, LLP, Long Beach, California

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to petroleum distillates who later developed a bladder cancer. A review of the individual's medical and occupational history was performed to prepare a quantitative exposure assessment. The results of the assessment and literature have been provided in a declaration to the court.

Case Result: Summary judgment for defendants.

Case: Moore V., Shell Oil Company, et al. Superior Court of the State Of California for the County Of Los Angeles

Client: Rose, Klein, Marias, LLP, Long Beach, California

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to chemicals while benzene who later developed a leukogenic disease. A review of the individual's medical and occupational history was performed to prepare a quantitative exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to refined petroleum hydrocarbons. The results of the assessment and literature have been provided in a declaration to the court.

Case Result: Settlement in favor of plaintiff.

Case: Raymond Saltonstall V. Fuller O'Brien, KILZ, and Zinsser, et al. United States District Court Central District of California

Client: Rose, Klein, Marias, LLP, Long Beach, California

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to benzene who later developed a leukogenic disease. A review of the individual's medical and occupational history was performed to prepare a quantitative exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to refined petroleum hydrocarbons. The results of the assessment and literature have been provided in a declaration to the court.

Case Result: Settlement in favor of plaintiff.

Case: Richard Boyer and Elizabeth Boyer, husband and wife, V. DESCO Corporation, et al. Circuit Court of Brooke County, West Virginia. Civil Action Number 04-C-7G.

Client: Frankovitch, Anetakis, Colantonio & Simon, Morgantown, West Virginia.

Dr. Clark performed a toxicological assessment of a family exposed to chlorinated solvents released from the defendant's facility into local drinking water supplies. A review of the individual's medical and occupational history was performed to prepare a qualitative exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to chlorinated solvents. The results of the assessment and literature have been provided in a declaration to the court.

Case Result: Settlement in favor of plaintiff.

Case: JoAnne R. Cook, V. DESCO Corporation, et al. Circuit Court of Brooke County, West Virginia. Civil Action Number 04-C-9R

Client: Frankovitch, Anetakis, Colantonio & Simon, Morgantown, West Virginia.

Dr. Clark performed a toxicological assessment of an individual exposed to chlorinated solvents released from the defendant's facility into local drinking water supplies. A review of the individual's medical and occupational history was performed to prepare a qualitative exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to chlorinated solvents. The results of the assessment and literature have been provided in a declaration to the court.

Case Result: Settlement in favor of plaintiff.

Case: Patrick Allen And Susan Allen, husband and wife, and Andrew Allen, a minor, V. DESCO Corporation, et al. Circuit Court of Brooke County, West Virginia. Civil Action Number 04-C-W

Client: Frankovitch, Anetakis, Colantonio & Simon, Morgantown, West Virginia.

Dr. Clark performed a toxicological assessment of a family exposed to chlorinated solvents released from the defendant's facility into local drinking water supplies. A review of the individual's medical and occupational history was performed to prepare a qualitative exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to chlorinated solvents. The results of the assessment and literature have been provided in a declaration to the court.

Case Result: Settlement in favor of plaintiff.

Case: Michael Fahey, Susan Fahey V. Atlantic Richfield Company, et al. United States District Court Central District of California Civil Action Number CV-06 7109 JCL.

Client: Rose, Klein, Marias, LLP, Long Beach, California

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to refined petroleum hydrocarbons who later developed a leukogenic disease. A review of the individual's medical and occupational history was performed to prepare a qualitative exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to refined petroleum hydrocarbons. The results of the assessment and literature have been provided in a declaration to the court.

Case Result: Settlement in favor of plaintiff.

Case: Constance Acevedo, et al., V. California Spray-Chemical Company, et al., Superior Court of the State Of California, County Of Santa Cruz. Case No. CV 146344

Dr. Clark performed a comprehensive exposure assessment of community members exposed to toxic metals from a former lead arsenate manufacturing facility. The former manufacturing site had undergone a DTSC mandated removal action/remediation for the presence of the toxic metals at the site. Opinions were presented regarding the elevated levels of arsenic and lead (in attic dust and soils) found throughout the community and the potential for harm to the plaintiffs in question.

Case Result: Settlement in favor of defendant.

Case: Michael Nawrocki V. The Coastal Corporation, Kurk Fuel Company, Pautler Oil Service, State of New York Supreme Court, County of Erie, Index Number I2001-11247

Client: Richard G. Berger Attorney At Law, Buffalo, New York

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to refined petroleum hydrocarbons who later developed a leukogenic disease. A review of the individual's medical and occupational history was performed to prepare a qualitative exposure assessment. The exposure assessment was evaluated against the

known outcomes in published literature to exposure to refined petroleum hydrocarbons. The results of the assessment and literature have been provided in a declaration to the court.

Case Result: Judgement in favor of defendant.

SELECTED AIR MODELING RESEARCH/PROJECTS

Client – Confidential

Dr. Clark performed a comprehensive evaluation of criteria pollutants, air toxins, and particulate matter emissions from a carbon black production facility to determine the impacts on the surrounding communities. The results of the dispersion model will be used to estimate acute and chronic exposure concentrations to multiple contaminants and will be incorporated into a comprehensive risk evaluation.

Client – Confidential

Dr. Clark performed a comprehensive evaluation of air toxins and particulate matter emissions from a railroad tie manufacturing facility to determine the impacts on the surrounding communities. The results of the dispersion model have been used to estimate acute and chronic exposure concentrations to multiple contaminants and have been incorporated into a comprehensive risk evaluation.

Client – Los Angeles Alliance for a New Economy (LAANE), Los Angeles, California

Dr. Clark is advising the LAANE on air quality issues related to current flight operations at the Los Angeles International Airport (LAX) operated by the Los Angeles World Airport (LAWA) Authority. He is working with the LAANE and LAX staff to develop a comprehensive strategy for meeting local community concerns over emissions from flight operations and to engage federal agencies on the issue of local impacts of community airports.

Client – City of Santa Monica, Santa Monica, California

Dr. Clark is advising the City of Santa Monica on air quality issues related to current flight operations at the facility. He is working with the City staff to develop a comprehensive strategy for meeting local community concerns over emissions from flight operations and to engage federal agencies on the issue of local impacts of community airports.

Client: Omnitrans, San Bernardino, California

Dr. Clark managed a public health survey of three communities near transit fueling facilities in San Bernardino and Montclair California in compliance with California Senate Bill 1927. The survey included an epidemiological survey of the effected communities, emission surveys of local businesses, dispersion modeling to determine potential emission concentrations within the communities, and a comprehensive risk assessment of each community. The results of the study were presented to the Governor as mandated by Senate Bill 1927.

Client: Confidential, San Francisco, California

Summarized cancer types associated with exposure to metals and smoking. Researched the specific types of cancers associated with exposure to metals and smoking. Provided causation analysis of the association between cancer types and exposure for use by non-public health professionals.

Client: Confidential, Minneapolis, Minnesota

Prepared human health risk assessment of workers exposed to VOCs from neighboring petroleum storage/transport facility. Reviewed the systems in place for distribution of petroleum hydrocarbons to identify chemicals of concern (COCs), prepared comprehensive toxicological summaries of COCs, and quantified potential risks from carcinogens and non-carcinogens to receptors at or adjacent to site. This evaluation was used in the support of litigation.

Client – United Kingdom Environmental Agency

Dr. Clark is part of team that performed comprehensive evaluation of soil vapor intrusion of VOCs from former landfill adjacent residences for the United Kingdom's Environment

Agency. The evaluation included collection of liquid and soil vapor samples at site, modeling of vapor migration using the Johnson Ettinger Vapor Intrusion model, and calculation of site-specific health based vapor thresholds for chlorinated solvents, aromatic hydrocarbons, and semi-volatile organic compounds. The evaluation also included a detailed evaluation of the use, chemical characteristics, fate and transport, and toxicology of chemicals of concern (COC). The results of the evaluation have been used as a briefing tool for public health professionals.

EMERGING/PERSISTENT CONTAMINANT RESEARCH/PROJECTS

Client: Ameren Services, St. Louis, Missouri

Managed the preparation of a comprehensive human health risk assessment of workers and residents at or near an NPL site in Missouri. The former operations at the Property included the servicing and repair of electrical transformers, which resulted in soils and groundwater beneath the Property and adjacent land becoming impacted with PCB and chlorinated solvent compounds. The results were submitted to U.S. EPA for evaluation and will be used in the final ROD.

Client: City of Santa Clarita, Santa Clarita, California

Dr. Clark is managing the oversight of the characterization, remediation and development activities of a former 1,000 acre munitions manufacturing facility for the City of Santa Clarita. The site is impacted with a number of contaminants including perchlorate, unexploded ordinance, and volatile organic compounds (VOCs). The site is currently under a number of regulatory consent orders, including an Imminent and Substantial Endangerment Order. Dr. Clark is assisting the impacted municipality with the development of remediation strategies, interaction with the responsible parties and stakeholders, as well as interfacing with the regulatory agency responsible for oversight of the site cleanup.

Client: Confidential, Los Angeles, California

Prepared comprehensive evaluation of perchlorate in environment. Dr. Clark evaluated the production, use, chemical characteristics, fate and transport, toxicology, and remediation of perchlorate. Perchlorates form the basis of solid rocket fuels and have recently been detected in water supplies in the United States. The results of this research

were presented to the USEPA, National GroundWater, and ultimately published in a recent book entitled *Perchlorate in the Environment*.

Client – Confidential, Los Angeles, California

Dr. Clark is performing a comprehensive review of the potential for pharmaceuticals and their by-products to impact groundwater and surface water supplies. This evaluation will include a review if available data on the history of pharmaceutical production in the United States; the chemical characteristics of various pharmaceuticals; environmental fate and transport; uptake by xenobiotics; the potential effects of pharmaceuticals on water treatment systems; and the potential threat to public health. The results of the evaluation may be used as a briefing tool for non-public health professionals.

PUBLIC HEALTH/TOXICOLOGY

Client: Brayton Purcell, Novato, California

Dr. Clark performed a toxicological assessment of residents exposed to methyl-tertiary butyl ether (MTBE) from leaking underground storage tanks (LUSTs) adjacent to the subject property. The symptomology of residents and guests of the subject property were evaluated against the known outcomes in published literature to exposure to MTBE. The study found that residents had been exposed to MTBE in their drinking water; that concentrations of MTBE detected at the site were above regulatory guidelines; and, that the symptoms and outcomes expressed by residents and guests were consistent with symptoms and outcomes documented in published literature.

Client: Confidential, San Francisco, California

Identified and analyzed fifty years of epidemiological literature on workplace exposures to heavy metals. This research resulted in a summary of the types of cancer and non-cancer diseases associated with occupational exposure to chromium as well as the mortality and morbidity rates.

Client: Confidential, San Francisco, California

Summarized major public health research in United States. Identified major public health research efforts within United States over last twenty years. Results were used as a briefing tool for non-public health professionals.

Client: Confidential, San Francisco, California

Quantified the potential multi-pathway dose received by humans from a pesticide applied indoors. Part of team that developed exposure model and evaluated exposure concentrations in a comprehensive report on the plausible range of doses received by a specific person. This evaluation was used in the support of litigation.

Client: Covanta Energy, Westwood, California

Evaluated health risk from metals in biosolids applied as soil amendment on agricultural lands. The biosolids were created at a forest waste cogeneration facility using 96% whole tree wood chips and 4 percent green waste. Mass loading calculations were used to estimate Cr(VI) concentrations in agricultural soils based on a maximum loading rate of 40 tons of biomass per acre of agricultural soil. The results of the study were used by the Regulatory agency to determine that the application of biosolids did not constitute a health risk to workers applying the biosolids or to residences near the agricultural lands.

Client – United Kingdom Environmental Agency

Oversaw a comprehensive toxicological evaluation of methyl-*tertiary* butyl ether (MtBE) for the United Kingdom's Environment Agency. The evaluation included available data on the production, use, chemical characteristics, fate and transport, toxicology, and remediation of MtBE. The results of the evaluation have been used as a briefing tool for public health professionals.

Client – Confidential, Los Angeles, California

Prepared comprehensive evaluation of *tertiary* butyl alcohol (TBA) in municipal drinking water system. TBA is the primary breakdown product of MtBE, and is suspected to be the primary cause of MtBE toxicity. This evaluation will include available information on the production, use, chemical characteristics, fate and transport in the environment, absorption, distribution, routes of detoxification, metabolites, carcinogenic potential, and remediation of TBA. The results of the evaluation were used as a briefing tool for non-public health professionals.

Client – Confidential, Los Angeles, California

Prepared comprehensive evaluation of methyl *tertiary* butyl ether (MTBE) in municipal drinking water system. MTBE is a chemical added to gasoline to increase the octane

rating and to meet Federally mandated emission criteria. The evaluation included available data on the production, use, chemical characteristics, fate and transport, toxicology, and remediation of MTBE. The results of the evaluation have been used as a briefing tool for non-public health professionals.

Client – Ministry of Environment, Lands & Parks, British Columbia

Dr. Clark assisted in the development of water quality guidelines for methyl tertiary-butyl ether (MTBE) to protect water uses in British Columbia (BC). The water uses to be considered includes freshwater and marine life, wildlife, industrial, and agricultural (e.g., irrigation and livestock watering) water uses. Guidelines from other jurisdictions for the protection of drinking water, recreation and aesthetics were to be identified.

Client: Confidential, Los Angeles, California

Prepared physiologically based pharmacokinetic (PBPK) assessment of lead risk of receptors at middle school built over former industrial facility. This evaluation is being used to determine cleanup goals and will be basis for regulatory closure of site.

Client: Kaiser Venture Incorporated, Fontana, California

Prepared PBPK assessment of lead risk of receptors at a 1,100-acre former steel mill. This evaluation was used as the basis for granting closure of the site by lead regulatory agency.

RISK ASSESSMENTS/REMEDIAL INVESTIGATIONS

Client: Confidential, Atlanta, Georgia

Researched potential exposure and health risks to community members potentially exposed to creosote, polycyclic aromatic hydrocarbons, pentachlorophenol, and dioxin compounds used at a former wood treatment facility. Prepared a comprehensive toxicological summary of the chemicals of concern, including the chemical characteristics, absorption, distribution, and carcinogenic potential. Prepared risk characterization of the carcinogenic and non-carcinogenic chemicals based on the exposure assessment to quantify the potential risk to members of the surrounding community. This evaluation was used to help settle class-action tort.

Client: Confidential, Escondido, California

Prepared comprehensive Preliminary Endangerment Assessment (PEA) of dense non-aqueous liquid phase hydrocarbon (chlorinated solvents) contamination at a former printed circuit board manufacturing facility. This evaluation was used for litigation support and may be used as the basis for reaching closure of the site with the lead regulatory agency.

Client: Confidential, San Francisco, California

Summarized epidemiological evidence for connective tissue and autoimmune diseases for product liability litigation. Identified epidemiological research efforts on the health effects of medical prostheses. This research was used in a meta-analysis of the health effects and as a briefing tool for non-public health professionals.

Client: Confidential, Bogotá, Columbia

Prepared comprehensive evaluation of the potential health risks associated with the redevelopment of a 13.7 hectares plastic manufacturing facility in Bogotá, Colombia. The risk assessment was used as the basis for the remedial goals and closure of the site.

Client: Confidential, Los Angeles, California

Prepared comprehensive human health risk assessment of students, staff, and residents potentially exposed to heavy metals (principally cadmium) and VOCs from soil and soil vapor at 12-acre former crude oilfield and municipal landfill. The site is currently used as a middle school housing approximately 3,000 children. The evaluation determined that the site was safe for the current and future uses and was used as the basis for regulatory closure of site.

Client: Confidential, Los Angeles, California

Managed remedial investigation (RI) of heavy metals and volatile organic chemicals (VOCs) for a 15-acre former manufacturing facility. The RI investigation of the site included over 800 different sampling locations and the collection of soil, soil gas, and groundwater samples. The site is currently used as a year round school housing approximately 3,000 children. The Remedial Investigation was performed in a manner

that did not interrupt school activities and met the time restrictions placed on the project by the overseeing regulatory agency. The RI Report identified the off-site source of metals that impacted groundwater beneath the site and the sources of VOCs in soil gas and groundwater. The RI included a numerical model of vapor intrusion into the buildings at the site from the vadose zone to determine exposure concentrations and an air dispersion model of VOCs from the proposed soil vapor treatment system. The Feasibility Study for the Site is currently being drafted and may be used as the basis for granting closure of the site by DTSC.

Client: Confidential, Los Angeles, California

Prepared comprehensive human health risk assessment of students, staff, and residents potentially exposed to heavy metals (principally lead), VOCs, SVOCs, and PCBs from soil, soil vapor, and groundwater at 15-acre former manufacturing facility. The site is currently used as a year round school housing approximately 3,000 children. The evaluation determined that the site was safe for the current and future uses and will be basis for regulatory closure of site.

Client: Confidential, Los Angeles, California

Prepared comprehensive evaluation of VOC vapor intrusion into classrooms of middle school that was former 15-acre industrial facility. Using the Johnson-Ettinger Vapor Intrusion model, the evaluation determined acceptable soil gas concentrations at the site that did not pose health threat to students, staff, and residents. This evaluation is being used to determine cleanup goals and will be basis for regulatory closure of site.

Client –Dominguez Energy, Carson, California

Prepared comprehensive evaluation of the potential health risks associated with the redevelopment of 6-acre portion of a 500-acre oil and natural gas production facility in Carson, California. The risk assessment was used as the basis for closure of the site.

Kaiser Ventures Incorporated, Fontana, California

Prepared health risk assessment of semi-volatile organic chemicals and metals for a fifty-year old wastewater treatment facility used at a 1,100-acre former steel mill. This evaluation was used as the basis for granting closure of the site by lead regulatory agency.

ANR Freight - Los Angeles, California

Prepared a comprehensive Preliminary Endangerment Assessment (PEA) of petroleum hydrocarbon and metal contamination of a former freight depot. This evaluation was as the basis for reaching closure of the site with lead regulatory agency.

Kaiser Ventures Incorporated, Fontana, California

Prepared comprehensive health risk assessment of semi-volatile organic chemicals and metals for 23-acre parcel of a 1,100-acre former steel mill. The health risk assessment was used to determine clean up goals and as the basis for granting closure of the site by lead regulatory agency. Air dispersion modeling using ISCST3 was performed to determine downwind exposure point concentrations at sensitive receptors within a 1 kilometer radius of the site. The results of the health risk assessment were presented at a public meeting sponsored by the Department of Toxic Substances Control (DTSC) in the community potentially affected by the site.

Unocal Corporation - Los Angeles, California

Prepared comprehensive assessment of petroleum hydrocarbons and metals for a former petroleum service station located next to sensitive population center (elementary school). The assessment used a probabilistic approach to estimate risks to the community and was used as the basis for granting closure of the site by lead regulatory agency.

Client: Confidential, Los Angeles, California

Managed oversight of remedial investigation most contaminated heavy metal site in California. Lead concentrations in soil excess of 68,000,000 parts per billion (ppb) have been measured at the site. This State Superfund Site was a former hard chrome plating operation that operated for approximately 40-years.

Client: Confidential, San Francisco, California

Coordinator of regional monitoring program to determine background concentrations of metals in air. Acted as liaison with SCAQMD and CARB to perform co-location sampling and comparison of accepted regulatory method with ASTM methodology.

Client: Confidential, San Francisco, California

Analyzed historical air monitoring data for South Coast Air Basin in Southern California and potential health risks related to ambient concentrations of carcinogenic metals and volatile organic compounds. Identified and reviewed the available literature and calculated risks from toxins in South Coast Air Basin.

IT Corporation, North Carolina

Prepared comprehensive evaluation of potential exposure of workers to air-borne VOCs at hazardous waste storage facility under SUPERFUND cleanup decree. Assessment used in developing health based clean-up levels.

Professional Associations

American Public Health Association (APHA)
Association for Environmental Health and Sciences (AEHS)
American Chemical Society (ACS)
California Redevelopment Association (CRA)
International Society of Environmental Forensics (ISEF)
Society of Environmental Toxicology and Chemistry (SETAC)

Publications and Presentations:

Books and Book Chapters

Sullivan, P., **J.J. J. Clark**, F.J. Agardy, and P.E. Rosenfeld. (2007). *Synthetic Toxins In The Food, Water and Air of American Cities*. Elsevier, Inc. Burlington, MA.

Sullivan, P. and **J.J. J. Clark**. 2006. *Choosing Safer Foods, A Guide To Minimizing Synthetic Chemicals In Your Diet*. Elsevier, Inc. Burlington, MA.

Sullivan, P., Agardy, F.J., and **J.J.J. Clark**. 2005. *The Environmental Science of Drinking Water*. Elsevier, Inc. Burlington, MA.

Sullivan, P.J., Agardy, F.J., **Clark, J.J.J.** 2002. *America's Threatened Drinking Water: Hazards and Solutions*. Trafford Publishing, Victoria B.C.

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Clark, J.J.J. 2000. "Toxicology of Perchlorate" in *Perchlorate in the Environment*. Edward Urbansky, Ed. Kluwer/Plenum: New York.

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EXHIBIT B



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Thetford Center VT 05075
Norman Marshall, President
(802) 356-2969
nmarshall@smartmobility.com

April 30, 2024

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

Subject: 865 Embedded Way Industrial Project

Dear Ms. Abedifard,

I have reviewed trip generation and vehicle miles traveled (VMT) impacts and proposed VMT mitigation of the Mitigated Negative Declaration for the 865 Embedded Way Industrial Project ("MND") prepared by the City of San Jose. I make the following findings:

- 1) There is a high degree of uncertainty about the project use and its impacts.
- 2) The MND proposes a VMT mitigation package that is only adequate if using the previous version of the City's VMT Evaluation Tool, and falls short of the threshold for Research and Development (R&D) use with the City's updated VMT tool.
- 3) Most of the calculated VMT reduction is based on the assumption that 25 percent of employees would commute in company-paid vanpools. With an unidentified tenant and use, this assumption is wildly optimistic and likely impossible to achieve. Mitigation should be replanned with a more plausible set of measures.
- 4) The MND's proposed monitoring for mitigation measures is insufficient and should be revised. For example, the percentage of commuters using the vanpools should be certified. Counting trips and comparing them to a baseline, as proposed in the MND, would provide no information about VMT reduction, particularly if an unrealistically high trip generation rate is used as the baseline.

High Degree of Uncertainty About the Project Use and Impacts

The MND describes the project as an “industrial/manufacturing warehouse.”

PROJECT DESCRIPTION: The project consists of a Site Development Permit (File No. H22-022) to allow the construction of a one-story 121,400 square foot industrial/manufacturing warehouse on a vacant 10.17-acre project site. (MND, p. 1)

The MND also describes the project as an “R&D facility.”

While a designated end user has not yet been determined for the project, the project is designed for a research and development (R&D) use. . .For the purposes of this Initial Study, the project will be analyzed as an R&D facility. (MND, p. 6)

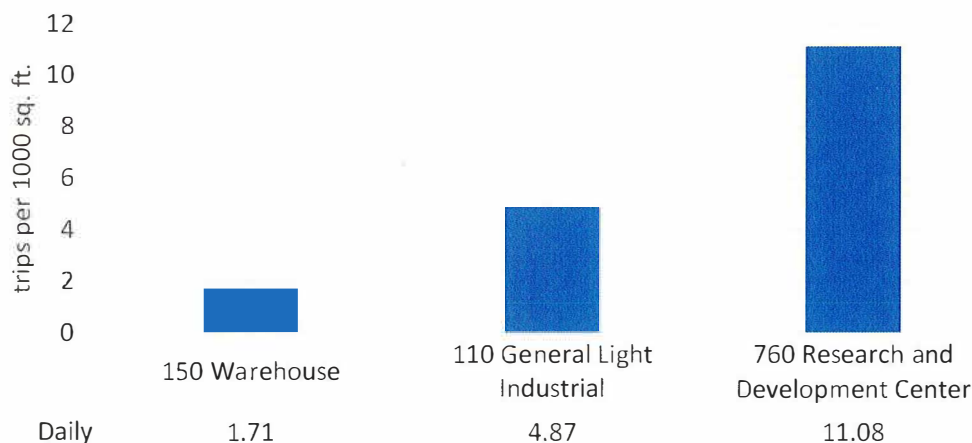
The proposed project would construct an industrial building on a vacant site that could be used for developments such as R&D, manufacturing, assembly, testing, and offices. The exact operational occupant of the site is not currently determined and is likely to change over the full economic life of the project which may be 50 or more years; however, for the purposes of this Initial Study it is assumed the proposed development would be used for R&D purposes. (MND, p. 108)

The MND makes it clear that the building’s end use and its impacts are unknown:

Since a tenant and use of the proposed building have yet to be identified, the applicant for the project has requested that the transportation analysis allow for the flexibility to utilize the building with either warehouse, industrial, or research & development (R&D) space. Of the above-identified uses, R&D space generates the greatest number of daily and peak hour trips per 1,000 s.f. of space. Therefore, the LTA evaluates the proposed project as 121,850 s.f. of R&D space for the purpose of providing the flexibility to allow for the use of the proposed building with low traffic generating warehouse uses or greater traffic generating uses such as R&D space. (MND Appendix H, p. 39 of 155)

Figure 1 shows daily trip generation rates per 1000 sq. ft. for warehouse, light industrial and R&D uses.

Figure 1: Trip Generation Rates for Warehouse, Light Industrial and R&D Uses from Institute of Transportation Engineers (“ITE”) - Latest Edition



The MND is correct that R&D generates more trips than the other categories on a 1000 sq. ft. basis – over twice as many trips as General Light Industrial and over six times as many trips as Warehouse. Therefore, using the higher trip generation rate is a conservative approach for a traditional traffic impact analysis. However, with SB 743, VMT impacts are much more important than traffic impacts. As is discussed later in this letter, assuming an unrealistically high trip generation would invalidate the VMT monitoring approach proposed in the MND.

The Updated San Jose VMT Evaluation Tool Reveals Significant VMT

The MND VMT analysis was done on April 3, 2023 with a February 29, 2019 version of the San Jose VMT Evaluation Tool. I redid the analysis with a newer Tool Version 3 dated April 2023. With the newer Tool, the area VMT, project VMT, and VMT reduction numbers are significant and exceed the threshold(s). Figures 2-3 compare the VMT summary graphics from the MND vs. the newer Tool.

Figure 2: 2019 Tool Output for Office Employment (MND, Appendix H, PDF p. 70 of 155)

EMPLOYMENT ONLY

The tool estimates that the project would generate per non-industrial worker VMT below the City's threshold. There are selected strategies that require coordination with the City of San Jose to implement.

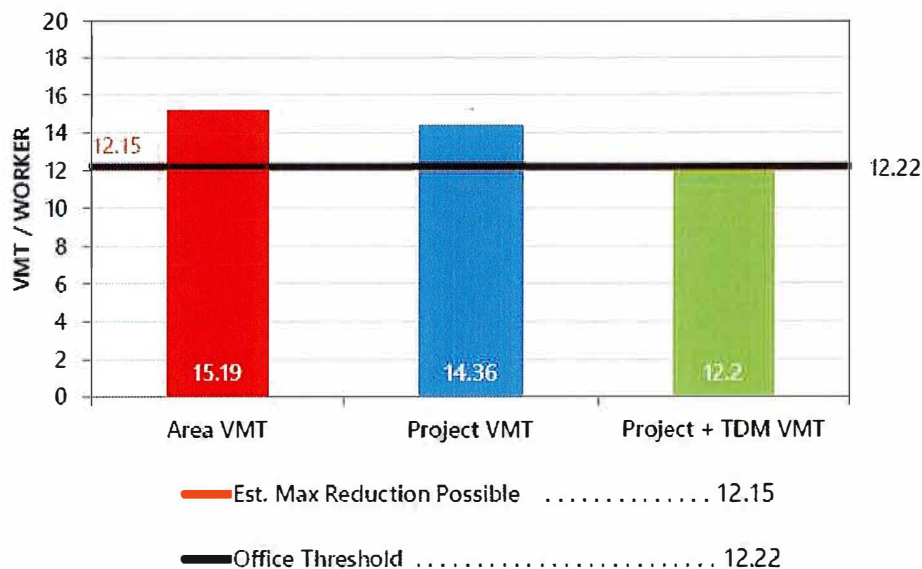
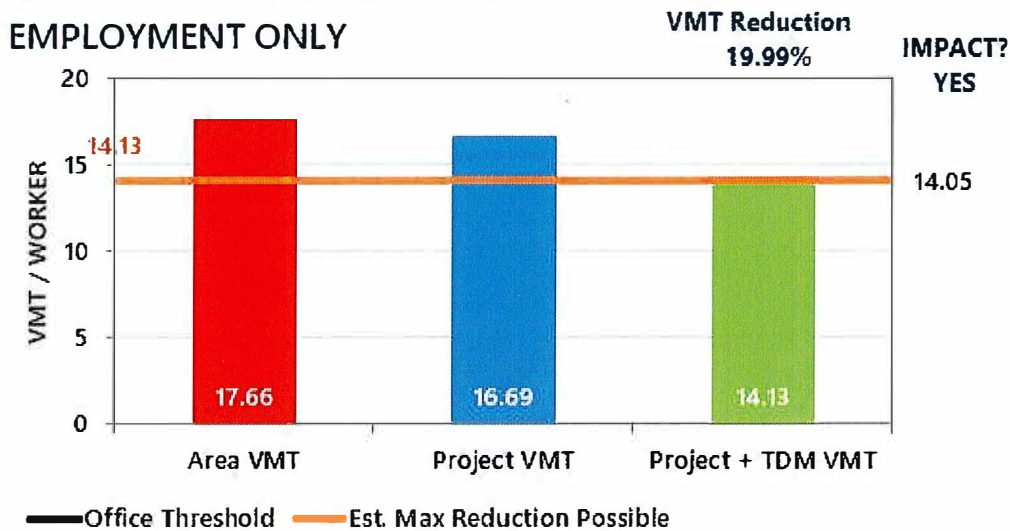


Figure 3: 2023 Tool Output for Office Employment



As shown in the figures above, for office (R&D) employment, the proposed mitigation is just sufficient to meet the VMT threshold with the older Tool, but not sufficient with the newer version of the Tool. Figure 3, with the new Tool, shows a 19.99 percent reduction in VMT to 14.13 which is higher than the threshold of 14.05 and the Tool shows “IMPACT? YES.”

The MND’s proposed mitigation measures would not be sufficient to reduce the VMT below the threshold. First, increasing the percentage of employees participating in the two TDM measures beyond the 25% level assumed in the MND does not reduce VMT in the Tool; the maximum VMT reduction for those two measures has been achieved at the 25% level. Furthermore, adding other mitigation measures also fails to reduce VMT in the Tool. It appears that the combination of the two mitigation measures represents the maximum mitigation possible with the tool.

The Required VMT Mitigation is Uncertain and Will Be Very Hard to Achieve

The MND states:

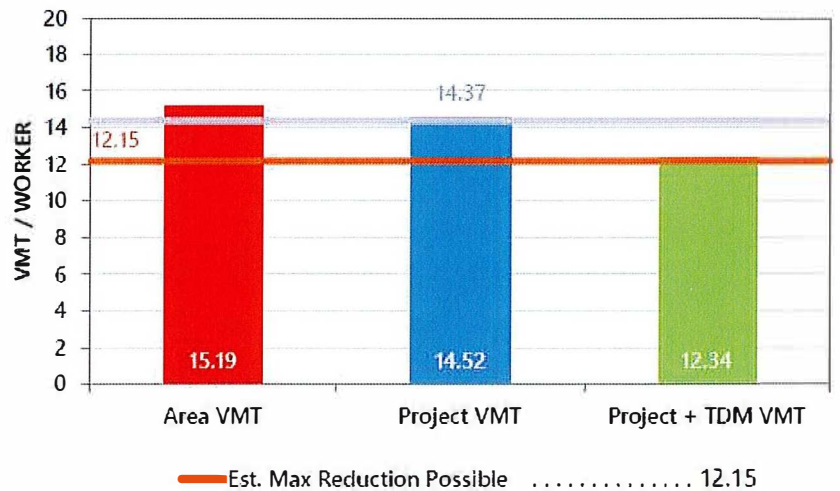
The TDM measures must be incorporated within a TDM plan for the project and submitted to the City for approval. The applicant will need to work with the City to ensure the TDM measures are implemented by the building tenants or identify other TDM measures deemed appropriate for the building uses. Therefore, the ultimate TDM measures may differ from those identified above so long as the measures meet the required VMT reduction of 5.4 percent for warehouse uses and 19.6 percent for R&D uses and are approved by City staff. (MND, Appendix H, PDF p. 7 of 155)

The “5.4 percent” value for warehouse uses is wrong. As seen in the graph summary provided in MND Appendix H, reproduced below as Figure 4, a 15 percent reduction (after area adjustments) is required to just reduce the project VMT from 14.52 to the threshold of 12.22.

Figure 4: 2019 Tool Output for Industrial Employment (MND, Appendix H, PDF p. 66 of 155)

EMPLOYMENT ONLY

The tool estimates that the project would generate per non-industrial worker VMT below the City's threshold. There are selected strategies that require coordination with the City of San Jose to implement.



Over 90 percent of the VMT reduction in the 2023 Tool is achieved with the vanpool measure. The MND assumes that 25 percent of employees will commute by company-paid vanpool. However, with an unidentified tenant and building use, this assumption is wildly optimistic and likely impossible to achieve. Mitigation should be replanned with a more plausible set of measures.

Monitoring Proposed in MND Does Not Sufficiently Measure VMT and Must Be Replaced

The current monitoring approach proposed in the MND lacks sufficient capability to accurately measure VMT and needs to be replaced. Instead of focusing solely on counting trips, the monitoring process should encompass each of the VMT-reducing measures identified in the MND's proposed mitigation. With the mitigation listed in the MND, the most important element is the vanpools. The actual percentage of employees that will use the vanpool should be compared to the TDM plan.

The MND instead proposes VMT monitoring based on counting trips:

The TDM plan shall be submitted to the Director of Public Works or Director's designee and the Director of Planning, Building and Code Enforcement or the Director's designee and shall include a trip cap for VMT monitoring purposes. The trip cap shall be prepared by a traffic engineer. *The monitoring shall be based on annual trip generation counts* that demonstrate the vehicle trips generated by the project are within 10 percent of an established peak hour trip cap that is prepared by a traffic engineer. The annual trip monitoring reports shall be submitted that demonstrate that project-generated VMT is below the significance threshold. If the annual trip monitoring report finds that the project is exceeding the established trip cap, the project shall be required to submit a follow-up report that demonstrates compliance with the trip cap requirements within a period not to exceed six months. (MND, p. 11, emphasis added)

Figure 5 shows weekday morning and afternoon peak hour period trips for the different land uses discussed in the MND.

Figure 5: Trip Generation Rates for Warehouse, Light Industrial and R&D Uses from Institute of Transportation Engineers ("ITE") – Latest Edition



Baseline trip generation rate estimated from data from other sites gives only a crude estimate of trip generation for any particular project. As shown in Figures 1 and 5, there are large differences between categories. There is also great variation in the rates for each category. Actual project trip generation could be significantly higher or lower than the baseline estimate. This difference between baseline estimates and actual trips provides no information about VMT mitigation.

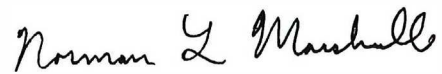
If actual project trips could be counted prior to mitigation, this would provide a better baseline, but would still be insufficient. This approach would require holding off on mitigation until this baseline was established and would undermine mitigation efforts.

Even if it were possible to develop an accurate trips baseline, this would not provide an accurate basis for assessing VMT mitigation. A 20 percent reduction in trips does not directly translate into a 20 percent decrease in VMT. Some of the trip reduction could come from shorter trips--e.g. shifting trips to walking and bike modes with only a small VMT effect--and some of the trip reduction could come from longer trips--e.g. vanpooling with a larger VMT effect. The VMT Evaluation Tool is designed to assess interactions between trips and trip lengths. Measuring trips alone cannot do this.

If an unrealistically high trip generation rate is used as the baseline, such as using the R&D rate (as is the case in the MND) when the building ultimately is designated as a warehouse, the resulting trip count is likely to fall significantly below that high baseline, even if there is no VMT mitigation. Therefore, the proposed VMT mitigation measures would become practically irrelevant.

Once the VMT mitigation program has been finalized, monitoring must account for each of the VMT-reducing measures. With the mitigation listed in the MND, the most important element is the vanpools. The actual percentage of employees should be compared to the TDM plan. Each of the other TDM measures should be audited similarly.

Sincerely,

A handwritten signature in black ink that reads "Norman L. Marshall". The signature is written in a cursive style with a large, stylized 'N' and 'M'.

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: (33 Years, 19 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.

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

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 a 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.

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 Caroline 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)

865 Embedded Way Industrial Project

File Numbers: H22-022 and ER22-113

Initial Study/Mitigated Negative Declaration

RESPONSES TO PUBLIC COMMENTS

April 19, 2023

CEQA Lead Agency:



City of San José

Department of Planning, Building and Code Enforcement
200 E. Santa Clara Street
San José, CA 95113
(408) 535-3555

In Consultation with:



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Section 2.0	Responses to Comments Received on Draft IS/MND	2
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Appendix A: Comment Letters

Appendix B: 865 Embedded Way Transportation Demand Management Plan

Section 1.0 Introduction

The Initial Study/Mitigated Negative Declaration (IS/MND) for the 865 Embedded Way project was prepared in compliance with the requirements of the California Environmental Quality Act (CEQA). The 20-day local public circulation period for the IS/MND started December 21, 2023 and ended January 10, 2024. The Notice of Intent (NOI) for the adoption of the IS/MND was sent via email to applicable public agencies, public members who have requested notices on all CEQA documents, and public members interested in the project. The NOI was also sent to all those who have registered for electronic notifications of Planning document posting and news on the City's website. The NOI and Draft IS/MND was also submitted to the State Clearinghouse (SCH) at the commencement of the comment period. The following pages contain responses to comments submitted by agencies, organizations, and individuals during the IS/MND public review period. Copies of the comment letters are attached to this document in Appendix A.

Pursuant to CEQA Guidelines Section 15073.5, recirculation of the MND is required when the document must be "substantially revised" after public notice of its availability. A "substantial revision" is defined as:

- (1) A new, avoidable significant effect is identified and mitigation measures or project revisions must be added in order to reduce the effect to insignificance; or
- (2) The lead agency determines that the proposed mitigation measures or project revisions will not reduce potential effects to less than significance and new measures or revisions must be required.

CEQA does not require formal responses to comments on an IS/MND and the decision-making body shall adopt the proposed MND only if it finds on the basis of the whole record before it, that there is no substantial evidence that the project will have a significant effect on the environment and the MND reflects the lead agency's independent judgment and analysis [CEQA Guidelines Section 15074(b)].

Pursuant to CEQA Guidelines Section 15384, substantial evidence is defined as:

- (a) "Substantial evidence" as used in these guidelines means 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. Whether a fair argument can be made that the project may have a significant effect on the environment is to be determined by examining the whole record before the lead agency. Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence.
- (b) Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.

Section 2.0 Responses to Comments Received on Draft IS/MND

Comments are organized under headings containing the source of the letter and its date. The specific comments from each of the letters and/or emails are presented, with each response to that specific comment directly following. Copies of the letters and emails received by the City of San José are included in their entirety, unless otherwise noted, in Appendix A of this document. Comments received on the Draft IS/MND are listed below.

<u>Comment Letter and Commenter</u>	<u>Page of Response</u>
Regional and Local Agencies	3
A. Santa Clara Valley Transportation Authority (dated January 10, 2024).....	3
B. Muwekma Ohlone Indian Tribe (dated January 4, 2024).....	5
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C. Pacific Gas and Electric Company (dated January 5, 2024).....	8
D. Mitchell M. Tsai Law Firm (dated January 10, 2024)	10

Regional and Local Agencies

A. Santa Clara Valley Transportation Authority (dated January 10, 2024)

Comment A.1: VTA appreciates the opportunity to comment on the IS/MND for the 865 Embedded Way Industrial Project. VTA has reviewed the document and has the following comments:

Coyote Creek Trail Access

Coyote Creek Trail is adjacent to the project site and is identified as a future bicycle superhighway. These are high quality, uninterrupted, long-distance bikeways separated from motor vehicles that will allow people to travel quickly from city to city. The closest trail access is informally at the end of Embedded Way. VTA encourages the applicant to work with the City to formalize the access to Coyote Creek Trail with a trailhead and other amenities.

Response A.1: This comment recommends formalizing access to the Coyote Creek Trail at the terminus of Embedded Way with a trailhead and other amenities. As discussed in *Section 4.17 Transportation* of the IS/MND (refer to page 158), the trail runs parallel to Coyote Creek and provides both pedestrian and bicycle access to the project site. The closest trail access is informally provided at the west end of Embedded Way, approximately 900 feet from the project site. The trail borders the site on the west side, but there is a steep slope between the site and the trail that presently prevents direct access along that border. Typically, public improvements such as the trailhead connection could be implemented to reduce Vehicle Miles Traveled (VMT) by encouraging other modes of transportation. As described in *Section 4.17 Transportation* of the IS/MND, the project will be implementing Mitigation Measure TRAN-1 and Mitigation Measure TRAN-2 to reduce VMT impacts to less than significant levels, including construction of multi-modal improvements and development of a TDM plan. The comment identifies an additional potential measure the project could potentially implement to reduce VMT, but the measures included in the IS/MND are sufficient, and there is no nexus to require additional mitigation. Further, the comment does not identify a new significant impact, nor does it provide substantial evidence supporting a fair argument that formalizing access to the trail is necessary to reduce project impacts to a less than significant level. The comment does not address the adequacy of the IS/MND and, therefore, no further CEQA analysis is required. The comment is included in the record and will be considered by the decision makers prior to taking action on the project.

Comment A.2: Given the proximity to Coyote Creek Trail, it is likely employees will use the trail to bike to work and/or during their breaks. Currently, the proposed project will only provide 25 short-term bicycle racks. VTA recommends providing long-term bicycle parking (e.g. bike lockers, bike cage, bike room) in addition to the short-term bicycle racks. VTA's Bicycle Technical Guidelines provide guidance for estimating the amount and the design of bicycle parking facilities. For

industrial uses, VTA recommends long-term bike parking provided at a minimum of 1 space per 10,000 square feet or a goal of 1 space per 5,000 square feet.

Response A.2: This comment recommends the project provide long-term bicycle parking facilities. As described on page 164 of the IS/MND, the project would comply with the City's Bicycle Parking Standard, which requires a rate of one bicycle parking space per 5,000 square feet of floor area, by providing 25 bicycle parking spaces. The City's requirements do not differentiate between short-term and long-term spaces. The project, therefore, would provide adequate bicycle parking in accordance with City requirements. The Transportation Analysis (which is included as Appendix H to the IS/MND) completed for the project, including the VMT analysis, reflected the proposed amount of bicycle parking, and the project includes adequate mitigation to reduce VMT below the applicable thresholds. Therefore additional mitigation in the form of more long-term bicycle parking is not required. The comment does not identify a new significant impact, nor does it provide substantial evidence supporting a fair argument that long-term bicycle parking is necessary to reduce project impacts to a less than significant level. The comment does not address the adequacy of the IS/MND and, therefore, no further CEQA analysis is required. The comment is included in the record and will be considered by the decision makers prior to taking action on the project.

Comment A.3: TDM Program

One proposed transportation mitigation measure is a Commute Trip Reduction Marketing/Education program to promote the use of transit, shared rides, and active transportation. VTA supports this marketing and education program but wants to note that current transit service options are not within walking distance of the project site. Resources are better used to promote shared rides and active transportation.

Thank you again for the opportunity to review this project. If you have any questions, please do not hesitate to contact me at (408) 321-5804 or larissa.sanderfer@vta.org.

Response A.3: This comment recommends that the project's Transportation Demand Management (TDM) plan focus on promoting shared rides and active transportation instead of transit use due to the lack of transit facilities within walking distance of the project site. As described on page 158 of the IS/MND, the nearest bus stop is located west of the intersection of Silver Creek Valley Road and Hellyer Avenue, about 0.9 mile from the project site. Additionally, the Blossom Hill Caltrain Station is located at the Monterey Road/Ford Road intersection roughly 1.15 miles southwest of the project site. As described on page 162 of the IS/MND, the project's TDM Plan shall include annual monitoring to ensure that the project's VMT does not exceed relevant thresholds. The comment does not identify a new significant impact, nor does it provide substantial evidence supporting a fair argument that revisions to the identified mitigation measure are necessary to reduce project impacts to a less than significant level.

B. Muwekma Ohlone Indian Tribe (dated January 4, 2024)

Comment B.1: Thank you for contacting the Muwekma Ohlone Tribal Administration with regards to the proposed construction of a one-story 121,400 square foot industrial/manufacturing warehouse on a vacant 10.17-acre project site located at 865 Embedded Way in South San Jose (file #H22-022, ER22-113) [Assessor's Parcel No.: 679-01-020].

Based upon the information that was provided in your letter, stating that the

"City has performed an environmental review of the project. The environmental review examines the nature and extent of any adverse effects on the environment that could occur if the project is approved and implemented. Based on the review, the City has prepared a Draft Mitigated Negative Declaration (MND) for this project. An MND is a statement by the City that the project will not have a significant effect on the environment because the project will include mitigation measures that will reduce identified project impacts to a less than significant level."

Response B.1: This comment is an introductory paragraph summarizing the City's CEQA review process and determination and does not raise any issues regarding the adequacy of the IS/MND; therefore, no further response or additional CEQA analysis is required.

Comment B.2: Based upon our Tribe's site sensitivity maps, it appears that the proposed project is located approximately [REDACTED] of one of our Tribe's ancestral heritage mortuary sites [REDACTED] as well as [REDACTED] of two major ancestral burial sites [REDACTED] which yielded over 100 ancestral human remains (as some examples of nearby sites adjacent to Coyote Creek). Furthermore, the project is located approximately [REDACTED] of [REDACTED] which when we worked on that project in 1983, the lower cultural components dated 9300 -9900 BP (before present), therefore, these sites are of great significance under CEQA and other Environmental laws.

Response B.2: This comment provides information regarding the locations of known cultural resources in the project vicinity (but not on the subject site) considered by the Tribe to be associated with their ancestral heritage. Text describing the locations of cultural resources has been redacted to ensure confidential information is protected. The comment does not raise any issues regarding the adequacy of the IS/MND; therefore, no further response or additional CEQA analysis is required.

Comment B.3: As a result, given the proposed project's proximity to Coyote Creek, the Muwekma Ohlone tribal leadership is concerned that this demolition project which may indeed encounter unreported Tribal Cultural Resources, and therefore, we are formally recommending that the demolition, subsurface excavations, and related construction activities within subject project area be monitored by qualified archaeologists and a Muwekma Ohlone monitor during various stages of demolition, tree removal, and subsurface utilities excavations.

Response B.3: As described on page 72 of the IS/MND, the project site is considered to have high sensitivity for prehistoric and historic archaeological resources, which includes tribal cultural resources. Impact CUL-1 identifies that project construction activities could result in the accidental disturbance and/or destruction of undocumented archaeological resources due to the site's high sensitivity based on its proximity to Coyote Creek and known archaeological sites in the project vicinity; however, no resources are known to exist on the subject property itself. The IS/MND identified MM CUL-1.1 through MM CUL-1.8 to reduce impacts to cultural resources and tribal cultural resources. MM CUL-1.3 specifically requires that a Native American tribal representative registered with the Native American Heritage Commission (NAHC) for the City of San José, and that is traditionally and culturally affiliated with the geographic area, would be involved in construction monitoring. The project applicant will be required to hire a qualified archaeologist and an affiliated Native American tribe to monitor construction prior to ground disturbing construction activities. The applicant will select a tribal monitor prior to construction activity as noted in MM CUL-1.3. Accordingly, no revision to the IS/MND is required.

Comment B.4: The Tribe's Cultural Resources arm is available to provide monitors and willingness to work along side with any Cultural Resources Management (CRM) firms that will be hired by the City or applicant to monitor this project.

Response B.4: This comment expresses the Muwekma Ohlone Indian Tribe's availability to monitor the project. Pursuant to mitigation measure MM CUL-1.3 all ground-disturbing activities (e.g., grading and excavation) shall be completed under the observation of a qualified archaeologist and a qualified Native American monitor, registered with the Native American Heritage Commission (NAHC) for the City of San José and that is traditionally and culturally affiliated with the geographic area. The project applicant would be required to hire a Native American monitor to observe ground-disturbing activities. The comment does not raise any issues regarding the adequacy of the IS/MND; therefore, no further response or additional CEQA analysis is required.

Comment B.5: We make these recommendations based upon the recovery of several hundred ancestral remains recovered from [REDACTED] which were discovered after the demolition of the old cannery at that location. Similar Mitigated Negative Declaration (MND) determinations by the City of San Jose Planning Department for the [REDACTED] [REDACTED] also stated that the project will not have a significant effect on the tribal and cultural resources, even though our Tribe was involved in the removal of over 50 ancestral human remains at these two adjacent locations.

Response B.5: This comment describes other projects in San José where previously unrecorded cultural resources were discovered during construction activities. An

Addendum to the Downtown Strategy 2040 EIR was prepared for the 200 Park Project. Measures to reduce impacts to tribal cultural resources were developed during preparation of the Downtown Strategy 2040 EIR in consultation a representative of the Ohlone Indian Tribe. A Supplemental EIR to the original Downtown Strategy 2000 EIR and subsequent Addendums to the adopted Supplemental EIR and Downtown Strategy 2040 EIR were prepared for the 180 Park Project (also known at the Museum Place/Park Habitat Project), which included mitigation measures to reduce impacts to cultural resources (including tribal cultural resources).

Text describing the locations of cultural resources has been redacted to ensure confidential information is protected. As described in Response B.3, the IS/MND acknowledged that project construction activities could result in the accidental disturbance and/or destruction of undocumented archaeological resources, if present, and identified mitigation measures MM CUL-1.1 through MM CUL-1.8 to reduce impacts to a less than significant level. These measures include development of a Cultural Resources Treatment Plan prior to issuance of grading permits, preliminary investigation, a requirement that Native American monitors that are traditionally and culturally affiliated with the geographic area be present on-site during ground disturbing activities, and cultural sensitivity training for construction workers. However, nothing in this comment provides substantial evidence of the presence of tribal cultural resources on the subject project site.

Comment B.6: We are including a copy of one of our archaeological projects conducted by our Tribe at [REDACTED] as an example of our previous CRM work.

Thank you once again for contacting our Tribe and informing us of any and all City of San Jose construction projects as it relates to potential adverse impacts to our ancestral heritage sites/Tribal Cultural Resources as specified under AB 52.

Should you have any questions, please feel free to contact us.

Response B.6: As described in the comment, the Tribe's comment letter included an attachment with information regarding their experience providing cultural resources monitoring services. Neither this comment nor the supplemental information raise any issues regarding the adequacy of the IS/MND, and the applicant will select a tribal monitor as prescribed by MM CUL-1.3. Therefore, no further response or additional CEQA analysis is required. Text describing the location of cultural resources has been redacted to ensure confidential information is protected. The full unredacted comment letter and supplemental information is on file at the City of San José Department of Planning, Building & Code Enforcement and is available upon request with appropriate credentials.

Organizations, Businesses, and Individuals

C. Pacific Gas and Electric Company (dated January 5, 2024)

Comment C.1: Thank you for giving us the opportunity to review the subject plans. The proposed 865 Embedded Way Industrial Project is within the same vicinity of PG&E's existing 3" and 1 ¼" high pressure gas distribution facilities that impact this property.

The proposed 865 Embedded Way Industrial Project will require the relocation of existing PG&E gas service facilities. The applicant must contact the below resources to apply for the relocation of any existing PG&E gas services that exist on the subject parcels.

Please contact the Building and Renovation Center (BRSC) for facility map requests by calling 1-877-743-7782 and PG&E's Service Planning department at www.pge.com/cco for any modification or relocation requests, or for any additional services you may require.

As a reminder, before any digging or excavation occurs, please contact Underground Service Alert (USA) by dialing 811 a minimum of 2 working days prior to commencing any work. This free and independent service will ensure that all existing underground utilities are identified and marked on-site.

If you have any questions regarding our response, please contact me at Brian.Callaghan@pge.com.

Response C.1: The comment states that the project would require the relocation of existing PG&E gas service facilities. As described in *Section 4.6 Energy* of the IS/MND, PG&E is the electricity and natural gas provider for the project site. While the relocation of the two natural gas pipelines identified in the comment were not explicitly discussed in the Initial Study, as at the time of preparation of the IS/MND it was not understood that any gas line relocation would be necessary. Their relocation, if ultimately confirmed to be necessary, would not result in any new or more severe impacts. Relocation of the pipelines would occur within the anticipated construction period of the overall project utilizing construction equipment already on site for other project construction activities. The final relocation area has not yet been determined because it requires further coordination with PG&E. However, the potential locations that would be considered are all within the proposed development footprint of the project, meaning the area of site disturbance would not increase. A potential relocation spot would be within the southern drive aisle of the project site. As a result, the relocation of pipelines would not result in impacts different than those associated with the overall construction of the project, as the timeframe for construction activity and the location of site disturbance would remain unchanged. In the event PG&E determines that the pipelines must be relocated to an area outside the proposed construction footprint, the applicant would be required to amend their Site Development Permit with the City, as all site

disturbance must conform to the approved Site Development Permit plans, and the City would conduct additional environmental review prior to issuance of any permit amendment allowing for the pipeline relocation in a new area(s) of disturbance. Text in *Section 4.19.1.2 Existing Conditions*, and *Section 4.19.2 Impact Discussion* under impact checklist question a), has been revised to provide details regarding the relocation of PG&E natural gas pipelines. Refer to Section 3.0 Revisions to the Text of the Initial Study, below.

D. Mitchell M. Tsai Law Firm (dated January 10, 2024)

Comment D.1: On behalf of Carpenters Local Union 405 (“Local 405”) this office is submitting these comments on the Initial Study/Mitigated Negative Declaration (“IS/MND”) for the City of San Jose’s (“City”) 865 Embedded Way Industrial Project (“Project”).

The Project proposes a Site Development Permit (File No. H22-022) to allow the construction of a one-story, 121,400-square-foot industrial/manufacturing warehouse on a vacant 10.17-acre project site located at 865 Embedded Way in San Jose, California 95138 (APN 679-01-020) (“Site”). The Project also includes a connection to an existing 26-foot-wide drive aisle that extends from the eastern Embedded Way driveway through the adjacent eastern industrial property at 875 Embedded Way and currently terminates at the southeastern boundary of the Site. A total of 300 parking spaces would be provided in a surface parking lot surrounding the proposed building. The Project requires the removal of 11 trees on-site, two of which are ordinance-size.

Local 405 represents thousands of union carpenters in San Jose and has a strong interest in well-ordered land use planning and in addressing the environmental impacts of development projects. Individual members of Local 405 live, work, and recreate in the City and surrounding communities and would be directly affected by the Project’s environmental impacts.

Local 405 expressly reserves the right to supplement these comments at or prior to hearings on the Project, and at any later hearing or proceeding related to the Project. Gov. Code, § 65009, subd. (b); Pub. Res. Code, § 21177, subd. (a); see *Bakersfield Citizens for Local Control v. Bakersfield* (2004) 124 Cal.App.4th 1184, 1199-1203; see also *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal.App.4th 1109, 1121.

Local 405 incorporates by reference all comments related to the Project or its California Environmental Quality Act (“CEQA”) review, including the IS/MND. See *Citizens for Clean Energy v. City of Woodland* (2014) 225 Cal.App.4th 173, 191 (finding that any party who has objected to the project’s environmental documentation may assert any issue timely raised by other parties).

Moreover, Local 405 requests that the City provide notice for any and all notices referring or related to the Project issued under CEQA (Pub. Res. Code, § 21000 et seq.) and the California Planning and Zoning Law (“Planning and Zoning Law”) (Gov. Code, §§ 65000-65010). California Public Resources Code sections 21092.2 and 21167(f) and California Government Code section 65092 require agencies to mail such notices to any person who has filed a written request for them with the clerk of the agency’s governing body.

Response D.1: This comment is an introductory paragraph. The commenter requests that any and all notices be provided, and does not raise any CEQA issues nor address the adequacy of the IS/MND; therefore, no further response or additional CEQA analysis is required. The City will provide the requested notices as they are issued.

Comment D.2: I. The City Should Require the Use of A Local Workforce to Benefit The Community's Economic Development and Environment.

The City should require that the Project be built by contractors who participate in a Joint Labor-Management Apprenticeship Program approved by the State of California and make a commitment to hiring a local workforce. Community benefits such as local hire can also be helpful to reduce environmental impacts and improve the positive economic impact of the Project. Local hire provisions requiring that a certain percentage of workers reside within 10 miles or less of the Site can reduce the length of vendor trips, reduce greenhouse gas ("GHG") emissions, and provide localized economic benefits. As environmental consultants Matt Hagemann and Paul E. Rosenfeld note:

[A]ny local hire requirement that results in a decreased worker trip length from the default value has the potential to result in a reduction of construction-related GHG emissions, though the significance of the reduction would vary based on the location and urbanization level of the project site.

March 8, 2021, SWAPE Letter to Mitchell M. Tsai re Local Hire Requirements and Considerations for Greenhouse Gas Modeling. Workforce requirements promote the development of skilled trades that yield sustainable economic development. As the California Workforce Development Board and the University of California, Berkeley Center for Labor Research and Education concluded:

[L]abor should be considered an investment rather than a cost—and investments in growing, diversifying, and upskilling California's workforce can positively affect returns on climate mitigation efforts. In other words, well-trained workers are key to delivering emissions reductions and moving California closer to its climate targets.¹

Furthermore, workforce policies have significant environmental benefits given that they improve an area's jobs-housing balance, decreasing the amount and length of job commutes and the associated greenhouse gas (GHG) emissions. In fact, on May 7, 2021, the South Coast Air Quality Management District found that that the "[u]se of a local state-certified apprenticeship program" can result in air pollutant reductions.²

Locating jobs closer to residential areas can have significant environmental benefits. As the California Planning Roundtable noted in 2008:

¹ California Workforce Development Board (2020) Putting California on the High Road: A Jobs and Climate Action Plan for 2030 at p. ii, available at <https://laborcenter.berkeley.edu/wp-content/uploads/2020/09/Putting-California-on-the-High-Road.pdf>.

² South Coast Air Quality Management District (May 7, 2021) Certify Final Environmental Assessment and Adopt Proposed Rule 2305 – Warehouse Indirect Source Rule – Warehouse Actions and Investments to Reduce Emissions Program, and Proposed Rule 316 – Fees for Rule 2305, Submit Rule 2305 for Inclusion Into the SIP, and Approve Supporting Budget Actions, available at <http://www.aqmd.gov/docs/default-source/Agendas/Governing-Board/2021/2021-May7-027.pdf?sfvrsn=10>.

People who live and work in the same jurisdiction would be more likely to take transit, walk, or bicycle to work than residents of less balanced communities and their vehicle trips would be shorter. Benefits would include potential reductions in both vehicle miles traveled and vehicle hours traveled.³

Moreover, local hire mandates and skill-training are critical facets of a strategy to reduce vehicle miles traveled (“VMT”). As planning experts Robert Cervero and Michael Duncan have noted, simply placing jobs near housing stock is insufficient to achieve VMT reductions given that the skill requirements of available local jobs must match those held by local residents.⁴ Some municipalities have even tied local hire and other workforce policies to local development permits to address transportation issues. Cervero and Duncan note that:

In nearly built-out Berkeley, CA, the approach to balancing jobs and housing is to create local jobs rather than to develop new housing. The city’s First Source program encourages businesses to hire local residents, especially for entry- and intermediate-level jobs, and sponsors vocational training to ensure residents are employment-ready. While the program is voluntary, some 300 businesses have used it to date, placing more than 3,000 city residents in local jobs since it was launched in 1986. When needed, these carrots are matched by sticks, since the city is not shy about negotiating corporate participation in First Source as a condition of approval for development permits.

Recently, the State of California verified its commitment towards workforce development through the Affordable Housing and High Road Jobs Act of 2022, otherwise known as Assembly Bill No. 2011 (“AB2011”). AB2011 amended the Planning and Zoning Law to allow ministerial, by-right approval for projects being built alongside commercial corridors that meet affordability and labor requirements.

The City should consider utilizing local workforce policies and requirements to benefit the local area economically and to mitigate GHG emissions, improve air quality, and reduce transportation impacts.

Response D.2: This comment recommends the use of local workforce for construction of the project. The City does not require nor has any programs that require projects to be constructed utilizing only local workforce. The decision to hire contractors will be made by the applicant. There is no requirement under CEQA to attempt to identify the location of the workforce that would construct a project. The IS/MND’s evaluation of the project’s construction activity has been based on modeling and methodologies developed by and recommended by regional and state

³ California Planning Roundtable (2008) Deconstructing Jobs-Housing Balance at p. 6, available at <https://cproundtable.org/static/media/uploads/publications/cpr-jobshousing.pdf>.

⁴ Cervero, Robert and Duncan, Michael (2006) Which Reduces Vehicle Travel More: Jobs-Housing Balance or Retail-Housing Mixing? Journal of the American Planning Association 72 (4), 475-490, 482, available at <http://reconnectingamerica.org/assets/Uploads/UTCT-825.pdf>.

agencies. The IS/MND has accurately forecasted project impacts based on available information, has identified mitigation for any impacts forecasted to be significant, and does not speculate about where future construction workers might reside. The decision to hire particular contractors is the project applicant's discretion, and not within the Lead Agency's. The comment is included in the record and will be considered by the decisions makers prior to taking action on the project. This comment does not address the adequacy of the IS/MND. No further response or additional CEQA analysis is required.

Comment D.3: II. The Project would be Approved In Violation of the California Environmental Quality Act.

A. Background Concerning the California Environmental Quality Act.

The California Environmental Quality Act is a California statute designed to inform decision-makers and the public about the potential significant environmental effects of a project. 14 California Code of Regulations ("CEQA Guidelines"), § 15002, subd. (a)(1).⁵ At its core, its purpose is to "inform the public and its responsible officials of the environmental consequences of their decisions before they are made." *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564.

1. Background Concerning Environmental Impact Reports.

CEQA directs public agencies to avoid or reduce environmental damage, when possible, by requiring alternatives or mitigation measures. CEQA Guidelines, § 15002, subds. (a)(2)-(3); see also *Berkeley Keep Jets Over the Bay Committee v. Board of Port Comes* (2001) 91 Cal.App.4th 1344, 1354; *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553; *Laurel Heights Improvement Assn.*, 47 Cal.3d at p. 400. The EIR serves to provide public agencies and the public in general with information about the effect that a proposed project is likely to have on the environment and to "identify ways that environmental damage can be avoided or significantly reduced." CEQA Guidelines, § 15002, subd. (a)(2). If the project has a significant effect on the environment, the agency may approve the project only upon finding that it has "eliminated or substantially lessened all significant effects on the environment where feasible" and that any unavoidable significant effects on the environment are "acceptable due to overriding concerns" specified in Public Resources Code section 21081. See CEQA Guidelines, § 15092, subds. (b)(2)(A)-(B).

While the 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. *Berkeley Jets*, 91 Cal.App.4th at p. 1355 (quoting *Laurel Heights Improvement Assn.*, 47 Cal.3d at pp. 391, 409 fn. 12) (internal quotations omitted). A clearly inadequate or unsupported study is entitled to no judicial deference. *Id.* Drawing this line and determining whether the EIR

⁵ The CEQA Guidelines, codified in Title 14 of the California Code of Regulations, section 15000 et seq., are regulatory guidelines promulgated by the state Natural Resources Agency for the implementation of CEQA. Cal. Pub. Res. Code, § 21083. The CEQA Guidelines are given "great weight in interpreting CEQA except when . . . clearly unauthorized or erroneous." *Center for Biological Diversity v. Dept. of Fish & Wildlife* (2015) 62 Cal.4th 204, 217.

complies with CEQA's information disclosure requirements presents a question of law subject to independent review by the courts. *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 515; *Madera Oversight Coalition, Inc. v. County of Madera* (2011) 199 Cal.App.4th 48, 102, 131. As the court stated in *Berkeley Jets*, 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. 91 Cal.App.4th at p. 1355 (internal quotations omitted).

The preparation and circulation of an EIR is more than a set of technical hurdles for agencies and developers to overcome. *Communities for a Better Environment v. Richmond* (2010) 184 Cal.App.4th 70, 80 (quoting *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 449-450). The EIR's function is to ensure that government officials who decide to build or approve a project do so with a full understanding of the environmental consequences and, equally important, that the public is assured those consequences have been considered. *Id.* For the EIR to serve these goals it must present information so that the foreseeable impacts of pursuing the project can be understood and weighed, and the public must be given an adequate opportunity to comment on that presentation before the decision to go forward is made. *Id.*

A strong presumption in favor of requiring preparation of an EIR is built into CEQA. This presumption is reflected in what is known as the "fair argument" standard under which an EIR must be prepared whenever substantial evidence in the record supports a fair argument that a project may have a significant effect on the environment. *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1602; *Friends of "B" St. v. City of Hayward* (1980) 106 Cal.3d 988, 1002.

The fair argument test stems from the statutory mandate that an EIR be prepared for any project that "may have a significant effect on the environment." PRC, § 21151; see *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.App.3d 68, 75; accord *Jensen v. City of Santa Rosa* (2018) 23 Cal.App.5th 877, 884. Under this test, if a proposed project is not exempt and may cause a significant effect on the environment, the lead agency must prepare an EIR. PRC, §§ 21100 (a), 21151; CEQA Guidelines, § 15064 (a)(1), (f)(1). An EIR may be dispensed with only if the lead agency finds no substantial evidence in the initial study or elsewhere in the record that the project may have a significant effect on the environment. *Parker Shattuck Neighbors v. Berkeley City Council* (2013) 222 Cal.App.4th 768, 785. In such a situation, the agency must adopt a negative declaration. PRC, § 21080, subd. (c)(1); CEQA Guidelines, §§ 15063 (b)(2), 15064(f)(3).

"Significant effect upon the environment" is defined as "a substantial or potentially substantial adverse change in the environment." PRC, § 21068; CEQA Guidelines, § 15382. A project may have a significant effect on the environment if there is a reasonable probability that it will result in a significant impact. *No Oil, Inc.*, 13 Cal.3d at p. 83 fn. 16; see *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 309. If any aspect of the project may result in a significant impact on the environment, an EIR must be prepared even if the overall effect of the project is beneficial. CEQA

Guidelines, § 15063(b)(1); see County Sanitation Dist. No. 2 v. County of Kern (2005) 127 Cal.App.4th 1544, 1580.

This standard sets a “low threshold” for preparation of an EIR. Consolidated Irrigation Dist. v. City of Selma (2012) 204 Cal.App.4th 187, 207; Nelson v. County of Kern (2010) 190 Cal.App.4th 252; Pocket Protectors v. City of Sacramento (2004) 124 Cal.App.4th 903, 928; Bowman v. City of Berkeley (2004) 122 Cal.App.4th 572, 580; Citizen Action to Serve All Students v. Thornley (1990) 222 Cal.App.3d 748, 754; Sundstrom, 202 Cal.App.3d at p. 310. If substantial evidence in the record supports a fair argument that the project may have a significant environmental effect, the lead agency must prepare an EIR even if other substantial evidence before it indicates the project will have no significant effect. See Jensen, 23 Cal.App.5th at p. 886; Clews Land & Livestock v. City of San Diego (2017) 19 Cal.App.5th 161, 183; Stanislaus Audubon Society, Inc. v. County of Stanislaus (1995) 33 Cal.App.4th 144, 150; Brentwood Assn. for No Drilling, Inc. v. City of Los Angeles (1982) 134 Cal.App.3d 491; Friends of “B” St., 106 Cal.App.3d 988; CEQA Guidelines, § 15064(f)(1).

Response D.3: This comment provides background on CEQA and defines the function of an environmental impact report along with the fair argument standard. This comment is included in the record. This comment does not make any specific comment about the subject project and the IS/MND’s evaluation of the project, nor address the adequacy of the IS/MND. No further response or additional CEQA analysis is required.

Comment D.4: 2. Background Concerning Initial Studies, Negative Declarations and Mitigated Negative Declarations.

CEQA and CEQA Guidelines are strict and unambiguous about when an MND may be used. A public agency must prepare an EIR whenever substantial evidence supports a “fair argument” that a proposed project “may have a significant effect on the environment.” Pub. Res. Code, §§ 21100, 21151; CEQA Guidelines, §§ 15002, subds. (f)(1)-(2), 15063; No Oil, Inc., 13 Cal.3d at p. 75; Communities for a Better Environment v. California Resources Agency (2002) 103 Cal.App.4th 98, 111-112.

Essentially, should a lead agency be presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect. CEQA Guidelines, §§ 15064, subds. (f)(1)-(2); see No Oil Inc., supra, 13 Cal.3d at p. 75 (internal citations and quotations omitted). Substantial evidence includes “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.” CEQA Guidelines, § 15384(a)

The fair argument standard is a “low threshold” test for requiring the preparation of an EIR. No Oil Inc., supra, 13 Cal.3d at p. 84; County Sanitation Dist. No. 2 of Los Angeles County v. County of Kern (2005) 127 Cal.App.4th 1544, 1579. It “requires the preparation of an EIR where there is substantial evidence that any aspect of the project, either individually or cumulatively, may cause a significant

effect on the environment, regardless of whether the overall effect of the project is adverse or beneficial[.]” County Sanitation, *supra*, 127 Cal.App.4th at p. 1580 (quoting CEQA Guidelines, § 15063(b)(1)). A lead agency may adopt an MND only if “there is no substantial evidence that the project will have a significant effect on the environment.” CEQA Guidelines, § 15074(b).

Evidence supporting a fair argument of a significant environmental impact triggers preparation of an EIR regardless of whether the record contains contrary evidence. *League for Protection of Oakland’s Architectural and Historical Resources v. City of Oakland* (1997) 52 Cal.App.4th 896, 904-905. “Where the question is the sufficiency of the evidence to support a fair argument, deference to the agency’s determination is not appropriate[.]” County Sanitation, 127 Cal.App.4th at 1579 (quoting *Sierra Club v. County of Sonoma* (1992) 6 Cal.App.4th 1307, 1317-1318).

Further, it is the duty of the lead agency, not the public, to conduct the proper environmental studies. “The agency should not be allowed to hide behind its own failure to gather relevant data.” Sundstrom, 202 Cal.App.3d at p. 311. “Deficiencies in the record may actually enlarge the scope of fair argument by lending a logical plausibility to a wider range of inferences.” *Id.*; see also *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1382 (lack of study enlarges the scope of the fair argument which may be made based on the limited facts in the record).

Thus, refusal to complete recommended studies lowers the already low threshold to establish a fair argument. The court may not exercise its independent judgment on the omitted material by determining whether the ultimate decision of the lead agency would have been affected had the law been followed. *Environmental Protection Information Center v. Cal. Dept. of Forestry* (2008) 44 Cal.4th 459, 486 (internal citations and quotations omitted). The remedy for this deficiency would be for the trial court to issue a writ of mandate. *Id.*

Both the review for failure to follow CEQA’s procedures and the fair argument test are questions of law, thus, the *de novo* standard of review applies. *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 435. “Whether the agency’s record contains substantial evidence that would support a fair argument that the project may have a significant effect on the environment is treated as a question of law. *Consolidated Irrigation Dist.*, 204 Cal.App.4th at p. 207; *Kostka and Zischke, Practice Under the Environmental Quality Act* (2017, 2d ed.) at § 6.76.

In an MND context, courts give no deference to the agency. Additionally, the agency or the court should not weigh expert testimony or decide on the credibility of such evidence—this is one of the EIR’s functions. As stated in *Pocket Protectors v. City of Sacramento* (2004):

Unlike the situation where an EIR has been prepared, neither the lead agency nor a court may “weigh” conflicting substantial evidence to determine whether an EIR must be prepared in the first instance. Guidelines section 15064, subdivision (f)(1) provides in pertinent part: if a lead agency is presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a

significant effect. Thus, as Claremont itself recognized, [c]onsideration is not to be given contrary evidence supporting the preparation of a negative declaration.

124 Cal.App.4th 903, 935 (internal citations and quotations omitted).

In cases where it is not clear whether there is substantial evidence of significant environmental impacts, CEQA requires erring on the side of a “preference for resolving doubts in favor of environmental review.” *Mejia v. City of Los Angeles* (2005) 130 Cal.App.4th 322, 332. “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. *Friends of Mammoth v. Board of Supervisors* (1972) 8 Cal.3d 247, 259.

Response D.4: This comment provides background on Initial Studies, Negative Declarations and Mitigated Negative Declarations, and the requirement of lead agencies to prepare an EIR whenever the record includes substantial evidence in support of a fair argument that the project, after considering feasible mitigation measures, would have a significant effect. This comment is included in the record. This comment does not make any specific comment about the subject project and the IS/MND’s evaluation of the project, nor address the adequacy of the IS/MND. No further response or additional CEQA analysis is required.

Comment D.5: As explained below, the IS/MND fails to make certain essential findings. Further, for a number of findings that the IS/MND does make, it fails to support such findings with sufficient analysis and substantial evidence, or it fails to incorporate adequate mitigation measures. Therefore, there is a fair argument that the Project will have a significant effect on the environment, triggering the “low threshold” standard for preparation of an EIR.

Response D.5: The City of San José prepared the IS/MND for the referenced project in compliance with the requirements of CEQA and the CEQA Guidelines [Guidelines Section 15070, 15071, 15073 and Public Resource Code Section 21083]. As discussed in the responses to specific comments on the IS/MND below, the comments raised in this letter do not identify any new or more significant impacts, or mitigation measures considerably different than identified in the IS/MND. As discussed more specifically below in multiple responses, the assumptions and conclusions made in the IS/MND are supported by substantial evidence, and the assertions presented in this comment letter do not provide substantial evidence (pursuant with CEQA Guidelines Section 15384) supporting a fair argument that the project would result in a significant environmental impact.

Comment D.6: B. There Is a Fair Argument that the Project May Have a Significant Traffic Impact.

The very nature of the Project—a 121,400-square-foot building with 300 parking spaces on roughly 10 acres of land—indicates that it may have significant and severe traffic impacts, thus requiring the preparation of an EIR. This is further supported by the fact that the Project will generate an

estimated 1,350 net daily trips per the Institute of Transportation Engineers (“ITE”) Trip Generation Manual, 11th Edition (2021). IS/MND, pp. 163-164.⁶

Response D.6: Based on the responses below, the comments related to traffic impacts do not present new information that has not been previously analyzed in the IS/MND nor does it provide substantial evidence supporting a fair argument that the project would result in significant unavoidable impacts requiring preparation of an EIR. There is no specific requirement in CEQA that establishes that a project above a certain size, or that generates a certain number of daily vehicle trips, is per se a project that would result in significant un-mitigatable impacts. Rather, a project’s size and trip generation are used to evaluate how much of an impact the project would have to certain environmental factors, such as air pollution, roadway noise, GHG emissions, gasoline consumption, and vehicle miles traveled (VMT). For each of these topics, there are applicable thresholds of significance that have been developed, either by the City as lead agency or by other agencies with expertise in that subject area.

For instance, as discussed in IS/MND *Section 4.3 Air Quality*, air pollution thresholds have been developed by the Bay Area Air Quality Management District (BAAQMD), both for construction activity and for long-term operation of the proposed project. Taking into account the project’s size and intended use, the Air Quality and Greenhouse Gas Assessment (refer to Appendix A) prepared for the project documents that project construction and operational air pollution would be below applicable BAAQMD thresholds. Nothing in the comment provides any substantial evidence that the project would result in significant air quality impacts, and the IS/MND’s conclusions are clearly based on substantial evidence provided by the Air Quality and Greenhouse Gas Assessment prepared in conformance with the BAAQMD Guidelines.

Similarly, other sections of the IS/MND (e.g., Energy, GHG, Noise, Transportation) rely on applicable thresholds, and based on technical studies prepared for the project, to document the project’s impacts would remain below applicable thresholds. As with air quality, the comment provides no substantial evidence with regard to these other environmental topics, other than citing the size of the project, which is not substantial evidence. The comment only states what the project is and expresses an unsupported opinion that a project of that size must be large enough to produce significant impacts that are un-mitigatable, and therefore, an EIR is warranted. However, this opinion lacks any substantial evidence.

The commenter also incorrectly states that the project would have 1,350 net daily trips. The project would generate 1,350 total daily trips and 1,262 net daily trips,

⁶ The IS/MND contends that, after “all applicable trip reductions and credits,” the Project would generate a “net new total of 1,269 additional daily trips.” IS/MND, p. 164.

after trip reductions, as shown in Table 5 of the Transportation Analysis, which is included as Appendix H to the IS/MND. The IS/MND incorrectly stated there would be 1,269 net daily trips as shown in Table 4.17-4 on page 165. In Section 3.0 Draft IS/MND Text Revisions, the number of daily trips has been corrected. The text revisions do not affect the analysis of the IS/MND since the number of daily trips reported in the IS/MND was higher than the corrected value by seven daily trips.

Furthermore, for evaluation of transportation impacts, with passage of, lead agencies are to employ VMT as the metric since the passage of Senate Bill (SB) 743. San Jose's adopted VMT Policy 5-1 includes thresholds based on the average VMT per employee. These thresholds were applied in the Transportation Analysis (refer to Appendix H of the IS/MND) prepared for the project. The VMT analysis from the Transportation Analysis identified that project VMT would exceed the thresholds and identifies feasible mitigation measures to reduce VMT below the thresholds. Therefore, the IS/MND's evaluation of the project's transportation impacts is based on an adopted City policy, with an established methodology compliant with CEQA Guidelines Section 15064.3, and the IS/MND's conclusion the project's impacts would be less than significant is supported by substantial evidence. Therefore, no further response or additional CEQA analysis is required.

Comment D.7: Furthermore, the IS/MND acknowledges that the Project's daily Vehicle Miles Traveled ("VMT") would be 15.12 per industrial employee, which exceeds the City's VMT Evaluation Tool's industrial threshold of 14.37 daily VMT per worker:

The proposed Research & Development project, which would support both office and industrial uses, would have 15.12 vehicles miles traveled (VMT) per industrial employee which would exceed the 14.37 VMT per industrial employees and would have 14.95 VMT per office employee which would exceed the 12.21 VMT per office employee threshold.

IS/MND, pp. 10, 160.

Thus, the IS/MND admits that the project's generated VMT would exceed the significance threshold for industrial employment and therefore result in a significant transportation impact on VMT. Id.

To dispose of the need to prepare an EIR, the IS/MND relies on mitigation measure MM TRAN-1.1 to support its contention that the Project would have a less than significant impact with mitigation incorporated as it pertains to CEQA Guidelines Section 15064.3 and its required VMT evaluation of a project's transportation impacts. IS/MND, p. 161. Yet, mitigation measure MM TRAN-1.1 is inadequate for an EIR, given that it is unenforceable, illusory, and infeasible. It also improperly delegates the City's affirmative duty to ensure the reduction of traffic impacts onto the Project's Applicant and further improperly delegates the approval of any traffic mitigation plans to the City's Public Works department, rather than the elected decision-makers. MM TRAN-1.1 also improperly defers mitigation.

Specifically, mitigation measure MM TRAN-1.1 states:

MM TR-1.1: Prior to the issuance Certificate of Occupancy, the project shall implement the following multi-modal infrastructure improvements to incentivize alternative modes of travel and reduce VMT generation for the site:

- The project shall remove the pork-chop islands on the southwest and northwest corners of the Embedded Way and Hellyer Avenue intersection to improve pedestrian safety and access. This improvement shall require a signal modification at this intersection that shall include the relocation of signal poles, heads, and crosswalks.
- The project shall install raised median islands along Embedded Way consisting of a 120-foot segment at its western terminus and a 190-foot segment near the Embedded Way and Hellyer Avenue intersection for traffic calming purposes.

The multi-modal infrastructure improvements shall be part of a Public Improvement Plan that demonstrates how the multi-modal improvements will be implemented and the schedules for completing the improvements. The Public Improvement Plan shall be reviewed and approved by the Director of Public Works or the Director's designee. The implementation of the multimodal improvements shall be verified by the Director of Public Works or the Director's designee.

The implementation of the multimodal infrastructure improvements described above would reduce the VMT generated by the industrial uses to 14.52 VMT per R&D employee and to 114.36 [sic] VMT per office employee which would both still be greater than the established impact thresholds in the City's Transportation Analysis Policy. The project's VMT could be reduced further with the implementation of Travel Demand Management (TDM) measures.

Id.

As can be evinced from the above-quoted IS/MND statements, the proposed plans are aimed to reduce industrial and employee VMT, yet, critically, the VMT "would still be greater than the established impact thresholds in the City's Transportation Analysis Policy." Mitigation measure MM-TRAN-1.1 then concludes that "[t]he project's VMT could be reduced further with the implementation of Travel Demand Management (TDM) measures." Id.

Specifically, MM-TRAN-1.2 states:

Prior to the issuance of the Planning Site Development Permit, the project applicant shall submit a final TDM Plan, approved by the Director of Department of Public Works or Director's designee and the Director of Planning, Building and Code Enforcement, or Director's designee, that shall include implementation of the following TDM measures to reduce the project's VMT.

- Commute Trip Reduction Marketing/Education: Implement marketing/educational campaigns that promote the use of transit, shared rides, and travel through active modes for 25 percent of the project employees. Strategies may include the incorporation of alternative commute options into new employee orientations, event promotions, and publications.
- The TDM plan shall be submitted to the Director of Public Works or Director's designee and the Director of Planning, Building and Code Enforcement or the Director's designee and shall include a trip cap for VMT monitoring purposes. The trip cap shall be prepared by a traffic engineer.

The TDM plan shall be submitted to the Director of Public Works or Director's designee and the Director of Planning, Building and Code Enforcement or the Director's designee and shall include a trip cap for VMT monitoring purposes. The trip cap shall be prepared by a traffic engineer. The monitoring shall be based on annual trip generation counts that demonstrate the vehicle trips generated by the project are within 10 percent of an established peak hour trip cap that is prepared by a traffic engineer. The annual trip monitoring reports shall be submitted that demonstrate that project-generated VMT is below the significance threshold. If the annual trip monitoring report finds that the project is exceeding the established trip cap, the project shall be required to submit a follow-up report that demonstrates compliance with the trip cap requirements within a period not to exceed six months.

IS/MND, pp. 161-162.

The IS/MND concludes that, through the implementation of both MM TRAN-1.1 and MM TRAN-1.2, the Project's VMT would be reduced to 14.36 per employee for research and development (R&D) uses and 12.18 per employee for office uses. IS/MND, p. 162.

Response D.7: The comment summarizes the project's VMT impact and associated mitigation measures identified in the IS/MND. As noted in the comment, the IS/MND includes a typo stating that with implementation of MM TRAN-1.1 the VMT per office employee would be reduced to 114.36. The correct value is 14.36 VMT per office employee. This typo has been corrected through a revision to the text of the IS/MND (refer to Section 3.0 Revisions to the Text of the Initial Study, below). With implementation of both MM TRAN-1.1 and MM TRAN-1.2 the VMT would be reduced to 12.34 VMT per employee for warehouse uses and 12.20 VMT per employee of office uses as stated on page 49 of the Transportation Analysis (refer to Appendix H of the IS/MND). The VMT per employee for warehouse uses has been corrected through a revision to the IS/MND as shown in Section 3.0 Revisions to the Text of the Initial Study. The typo and related text revision have no effect on the analysis or conclusions in the IS/MND.

Additionally, the comment asserts that MM TRAN-1.1 is unenforceable, illusory, and infeasible, which is not true. MM TRAN-1.1 requires multi-modal physical

improvements such as removing pork-chop islands and installing raised medians, which are feasible and real, and the construction of which is enforceable by the City. As stated in MM TRAN-1.1, a Public Improvement Plan demonstrating how the multi-modal improvements will be implemented and the schedules for completing the improvements shall be reviewed and approved by the Director of Public Works or the Director's designee, and the project applicant will be required to construct the multi-modal improvements prior to issuance of a certificate of occupancy from the City. Thus, there is a permitting mechanism in place that the City will use to enforce implementation of MM TRAN-1.1; otherwise, the project applicant would not receive a certificate of occupancy. Further, because the mitigation would be implemented prior to project operation, it would not constitute improper deferral of mitigation, as asserted in the comment.

Additionally, the comment incorrectly states that the City is delegating the reduction of traffic impacts onto the project applicant. The City has identified specific physical improvements that would reduce VMT. While the applicant is responsible for implementing the physical improvements, the City is responsible for enforcing proper implementation of the mitigation measure. The measure includes a mechanism for the City to review and approve the design of proposed improvements through the Public Improvement Plan, and also includes a mechanism to ensure the improvements were properly implemented since the certificate of occupancy would not be issued until the City has deemed the mitigation complete.

The comment also incorrectly states that the City is improperly delegating the approval of any traffic mitigation plans to the City's Department of Public Works. The City's Department of Public Works would be the correct department to review the Public Improvement Plan as they are the City's experts on public improvements and infrastructure. The actual approval of the project and adoption of the MND, which includes the identified mitigation measures would be the subject of a public hearing before the Director of Planning, as specified by Title 20 of the City's Municipal Code.

Overall, the comment does not provide substantial evidence (i.e., facts or expert opinion based on facts) supporting a fair argument that the identified mitigation measures are inadequate to reduce project impacts to a less than significant level. No further response or additional CEQA analysis is required.

Comment D.8: First, the proposed mitigation measures are illusory given they only require that the Project Applicant submit plans at some future point which the City may then review. These measures further place the burden on the Applicant to "ensure" that the proposed changes result in a reduction of VMT. Simply put, there is no definitive and measurable commitment to mitigation at all. Even under the EIR-related CEQA Guidelines section 15126.4(a)(1)(B), this is improper since, inter alia, the City does not commit to mitigation but rather relies on the applicant to mitigate.

Response D.8: This comment asserts that the City is relying on the project applicant to implement mitigation instead of implementing the mitigation itself. While the project applicant will be required to construct the multi-modal improvements and implement the required TDM Plan identified in MM TRAN-1.1 and MM TRAN-1.2 , the City will ensure that the project's impact on VMT is satisfactorily mitigated. The City is requiring the applicant to construct multi-modal improvements prior to the issuance of the final occupancy permit and requiring an approved TDM Plan capable of reducing project trips to the extent identified in the MM TRAN-1.2 prior to the issuance of the Planning Site Development Permit, as described on page 161 of the IS/MND. A completed TDM Plan for the project is included as Appendix B.

Additionally, the applicant will be required to submit annual reports to the Department of Public Works documenting compliance with the TDM Plan, including monitoring trips associated with the project to ensure they are below an established trip cap. The mitigation measures include clear performance standards and enforcement mechanisms, ensuring that VMT impacts are reduced to a less than significant level. There is no deferral of additional study or development of additional measures to the future nor is there a lack of specificity as to what standard of performance the project must achieve to ensure its impacts are adequately reduced. Additionally, the City is fully capable of confirming that the measures are implemented at the applicable time and are achieving the required effect. The comment does not provide substantial evidence (i.e., facts or expert opinion based on facts) supporting a fair argument that the identified mitigation measures are inadequate to reduce project impacts to a less than significant level. Please also refer to Response D.6 above. This comment does not raise any new CEQA issues or address the adequacy of the IS/MND. No further response or additional CEQA analysis is required.

Comment D.9: Second, the proposed mitigation measures are illusory because of their timing (i.e., prior to the issuance of the Certificate of Occupancy and the Planning Site Development Permit) and they do not provide for any discretionary approval or hearing. As related, the proposed mitigation measures provide for "approval" of plans regarding multi-modal infrastructure improvements which may incentivize alternative modes of travel, and such approval will be by the Public Works department, apparently without any public hearing.

Response D.9: This comment states that MM TRAN-1.1. and MM TRAN-1.2 are illusory because of their timing and because they do not require discretionary approval. The specific off-site improvements and required contents and performance standards of the TDM Plan are clearly identified in the IS/MND, which will be subject to a discretionary action at a public hearing as part of the Planning Permit hearing process. CEQA does not require that a public hearing be held to adopt an IS/MND, let alone that a public hearing be held to approve a mitigation measure required in the IS/MND (refer to CEQA Guidelines Section 15202). Instead,

the CEQA Guidelines state that if the discretionary action to be taken by the lead agency involves a public hearing, then the CEQA determination to be made for the project should also be part of the public hearing for the project. This is the case for this project, where both the CEQA determination and Planning Permit will be the subject of a public hearing before the Director of Planning, as specified by Title 20 of the City's Municipal Code. As described in Response D.8, the City will ensure that the project's impact on VMT is satisfactorily mitigated by requiring construction of multi-modal improvements prior to the issuance of the final occupancy permit and requiring an approved TDM Plan prior to the issuance of the Planning Site Development Permit. The timing and the manner of the implementation of these mitigation measures have been disclosed to the public, and the public is welcome to provide input on those details at or prior to the public hearing. As discussed above in prior responses, the mitigation measures include clear performance standards and enforcement mechanisms to ensure that VMT impacts are reduced to a less than significant level. The comment does not provide substantial evidence supporting a fair argument that the identified mitigation measures are inadequate to reduce project impacts to a less than significant level, and to the contrary, the IS/MND includes substantial evidence supporting the feasibility and enforceability of the mitigation measures, demonstrating they are not illusory as alleged. Therefore, no further response or additional CEQA analysis is required.

Comment D.10: Third, the proposed mitigation measures improperly and speculatively conclude that they will necessarily reduce the traffic impacts to a sufficient level of significance without any assurances, figures, or evidence. The IS/MND fails to offer any evidence showing that Applicant's removal of the pork-chop islands on the southwest and northwest corners of the Embedded Way and Hellyer Avenue and installation of raised median islands along Embedded Way will reduce VMT from 15.12 to 14.52 per industrial employee and 14.95 to 14.36 per office employee. IS/MND, pp. 160-161. Further, the IS/MND fails to offer evidence showing that commute trip reduction marketing techniques, worker education, and vanpool subsidies will so successfully incentivize alternative commute options and promote employee participation to such a degree that VMT will be further reduced from 14.52 to 14.37 for industrial employees and 14.36 to 12.21 for office employees. IS/MND, pp. 161-162.

Response D.10: As described on page 162 of the IS/MND, the proposed off-site improvements in combination with the proposed measures in the required TDM Plan would reduce the project's VMT below the City's threshold of 14.37 VMT per industrial employee and 12.21 VMT per office employee.

The recommended removal of pork-chop islands at the Embedded Way and Hellyer Avenue intersection would improve pedestrian safety and access, thereby encouraging people to walk instead of drive short distances and thus reduce the number of vehicle trips, which reduces VMT. Similarly, traffic calming measures such as median islands also promote walking and biking and reduce VMT. VMT reductions due to pedestrian network improvements and traffic calming measures were

estimated using the City's VMT Evaluation Tool based on research conducted by Cambridge Systematics for the Urban Land Institute.⁷ These reductions are also recognized by the Valley Transportation Agency (VTA), which is the regional transportation agency for Santa Clara County, and who has developed guidelines and methodologies for estimating and mitigating VMT, based on numerous studies of travel behavior and VMT reduction, which San Jose has incorporated into its VMT Policy 5-1.

The recommended TDM measures would encourage users to commute using transit, shared rides, and active modes of transportation, thereby reducing drive-alone trips and VMT. VMT reductions due to the implementation of commute trip reduction marketing/education were estimated using the City's VMT Evaluation Tool based on research published by the Transit Cooperative Research Program⁸, while research on implementation of subsidized vanpools was published by the Victoria Transport Policy Institute and other sources.⁹

Based on the VMT analysis conducted using the City's VMT Evaluation Tool, the recommended multimodal improvements and TDM measures together would satisfactorily mitigate the project's impact on VMT below applicable thresholds for employee type. The City, through implementation of the Mitigation Monitoring and Reporting Program (MMRP) will ensure that the project's impact on VMT is satisfactorily mitigated by requiring an approved TDM plan prior to the issuance of the Planning Site Development Permit (i.e., prior to the public hearing on the discretionary Planning Permit application). A completed TDM plan for the project is included as Appendix B. Additionally, the City will ensure that the project constructs necessary multimodal improvements prior to the issuance of the final occupancy permit. The Department of Public Works will have the responsibility for reviewing the project's public improvement plan and TDM plan to ensure that the design of the recommended multimodal improvements meets City standards. Additionally, the applicant will be required to submit annual reports to the Department of Public Works documenting compliance with the TDM Plan, including monitoring trips associated with the project to ensure they are below an established trip cap.

The comment alleges the City does not have substantial evidence supporting the effectiveness of the VMT-related mitigation measures, which has been refuted above, and the comment does not provide substantial evidence of its own supporting a fair argument that the identified mitigation measures are inadequate

⁷ Cambridge Systematics. Moving Cooler: An Analysis of Transportation Strategies for Reducing Greenhouse Gas Emissions. Technical Appendices. Prepared for the Urban Land Institute.

⁸ Pratt, Dick. Personal communication regarding the Draft of TCRP 95 Traveler Response to Transportation System Changes – Chapter 19 Employer and Institutional TDM Strategies. Transit Cooperative Research Program.

⁹ VTPI. TDM Encyclopedia. <http://www.vtpi.org/tdm/tdm34.htm>; Fare Pricing Elasticity, Subsidies and the Demand for Vanpool Services, Concas, Winters and Wambalaba (2005); Way to Go, 2015 Annual Report.

to reduce project impacts to a less than significant level. Therefore, no further response or additional CEQA analysis is required.

Comment D.11: Fourth, based on these mitigation measures, it is the Public Works department, if at all, that will be making the finding that the Project's mitigation plans, as proposed by the Applicant, will indeed reduce traffic impacts to the requisite level of insignificance. This violates CEQA's non-delegation provision. See CEQA Guidelines, § 15025, subd. (b)(2) (Delegation of Responsibilities).

Response D.11: As described in Response D.9, the specific off-site improvements and required contents and performance standards of the TDM Plan are clearly identified in the IS/MND, which will be subject to a discretionary action by the decision-making body at a public hearing, consistent with the requirements on CEQA Guidelines Section 15025. Contrary to the assertion in the comment, the Department of Public Works will not be making a CEQA "finding," as defined in Section 15091 and Section 15093 of the CEQA Guidelines, in its role of verifying that the mitigation identified in the IS/MND was properly implemented prior to issuance of future ministerial permits and/or certificates of occupancy. The CEQA findings for the project will be made by the Director of Planning, in the Director's capacity as the decision-maker for the requested Planning Permit, as specified in Title 20 of the City's Municipal Code. The Department of Public Works, in its role ensuring the implementation of certain mitigation measures, is not required to make separate findings. The Department of Public Works is not a separate public agency from the City as lead agency, rather it is a department within the lead agency, and CEQA does not require that separate departments within the lead agency make their own CEQA findings, rather the findings are made by the entity within the City organization vested with the authority to approve the project, which in this case is the Director of Planning, pursuant to Title 20. Therefore, no further response or additional CEQA analysis is required.

Comment D.12: Fifth, the mitigation measures are infeasible and illusory given that they are based on the speculation and assumption that the Project's employees will be so motivated and incentivized as to adopt alternative commuting options to get to the Site. There are no assurances that employees will indeed do so. The measures also propose to add and remove components of nearby roads to "to improve pedestrian safety and access" and "for traffic calming purposes." IS/MND, p. 161. Yet, at the same time, the IS/MND elsewhere acknowledges that the Project site will attract heavy-duty trucks: "Based on the 12 truck loading docks, it was assumed that the project would generate 24 trucks or 48 truck trips daily." IS/MND, pp. 38-39. The IS/MND further states that "[a]ll trucks were assumed to be heavy-duty diesel-powered trucks and a source of longterm [diesel particulate matter] emissions." Id. The IS/MND then contends that "[t]hese trucks would travel to and from the site and are anticipated to idle at loading docks for 5 minutes for each trip." IS/MND, p. 39.

It is also reasonably foreseeable that employees will not choose to ride bikes or walk to the Project Site at a minimum due to the road safety concerns as well as concerns about being exposed to a high level of diesel emissions and air and GHG impacts from such heavy trucks on the road and regularly visiting the Site. CEQA requires that in such cases of doubt, the agency should resolve such issues in favor of an EIR. *Nelson v. County of Kern* (2010) 190 Cal.App.4th 252, 282.

The above-noted and critical flaws violate CEQA's standard for IS/MNDs under Public Resources Code section 21064.5 to show that:

(1) [R]evisions in the project plans or proposals made by, or agreed to by, the applicant before the proposed negative declaration and initial study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur, and (2) there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment.

Clearly, here, the Project may have significant effects on the environment at least in the context of traffic.

Response D.12: The methodology and findings of the Transportation Analysis are consistent with the requirements stated in the City of San Jose Transportation Analysis Handbook. The Transportation Analysis is based on City Council Policy 5-1, which the City has adopted to implement CEQA Guidelines Section 15064.3 related to VMT.

The commenter states that the IS/MND bases its traffic findings on the assumption that employees would be walking or bicycling to the project site. The VMT mitigation measure does not assume that all of the project's employees will be taking bikes or walking to the project site. The mitigation measures consist of the implementation of off-site multi-modal transportation infrastructure improvements as well as TDM measures which would provide better multi-modal transportation facilities and encourage project employees to utilize alternative transportation modes. According to the City's VMT Evaluation Tool, the identified mitigation measures are estimated to reduce the project's VMT to amounts for each type of employee (e.g., industrial and office employees) below the City's threshold of significance. Refer to Response D.10 for further information about the City's VMT Evaluation Tool and the sources used by the VMT Evaluation Tool to estimate the reduction in VMT due to the bike, pedestrian, and traffic calming improvements. Additionally, the applicant will be required to submit annual reports to the Department of Public Works documenting compliance with the TDM Plan, including monitoring trips associated with the project to ensure they are below an established trip cap, thus ensuring the project's VMT remains below established thresholds. Further, the comment does not provide substantial evidence to support its claim that truck traffic generated by the project, and the associated emissions, would

render the identified mitigation measures ineffective. The analysis of the project's trucking activity included elsewhere in the IS/MND, such as in *Section 4.3 Air Quality* and *Section 4.13 Noise*, show that project impacts related to air emissions and vehicle noise, are less than significant. Therefore, there is no basis to conclude on-site truck activity would discourage employees from traveling to/from the site by other modes than vehicles in sufficient numbers to undermine the effectiveness of the mitigation measures. Without substantial evidence to provide otherwise, it is speculative to assume that implementation of MM TRAN-1.1 would lead to VMT impacts remaining above applicable thresholds. The comment simply speculates that a sufficient amount of project employees would be discouraged from arriving via modes other than vehicles, but cites no facts, evidence, studies, etc. in support of the allegation, only unsupported opinion. Overall, the comment does not provide substantial evidence supporting a fair argument that the identified mitigation measures are inadequate to reduce project impacts to a less than significant level. Therefore, no further response or additional CEQA analysis is required.

Comment D.13: Sixth, the proposed mitigation measures are improperly deferred and vague as they defer the formulation of mitigation measures or final design thereof to a later time, shift that burden to the Applicant, and further do not adequately explain how removing the pork-chop islands or installing raised median islands will improve pedestrian safety and calm traffic to such a degree that such measures will “clearly” reduce VMT to the requisite level of insignificance, as required for an IS/MND.

Response D.13: As discussed in Response D.8, the mitigation measures in the IS/MND include clearly defined performance standards and enforcement mechanisms and, therefore, do not represent improper deferral of mitigation under CEQA. The mitigation measures identified (MM TRAN-1.1 and MM TRAN-1.2) are known to be capable of reducing VMT to the necessary degree (refer to Response D.10) and are fully capable of being monitored for their effectiveness. Additionally, as discussed in Response D.10, the conclusion in the IS/MND that VMT impacts would be reduced to a less than significant level is supported by substantial evidence in the form of the Transportation Analysis (refer to Appendix H of the IS/MND) prepared for the project in compliance with the City's Policy 5-1. The City's policy is based on studies and models developed by other agencies with expertise in this area, including the VTA, to successfully comply with Guidelines section 15064.3. Therefore, no further response or additional CEQA analysis is required.

Comment D.14: As stated previously, the IS/MND fails to meet CEQA's pre-conditions and requirements even in the case of an EIR. CEQA forbids deferred mitigation. CEQA Guidelines, § 15126.4, subd. (a)(1)(B). CEQA allows deferral of details of mitigation measures only “when it is impractical or infeasible to include those details during the project's environmental review.” *Id.* CEQA further requires that the lead agency:

- (1) [C]ommits itself to the mitigation, (2) adopts specific performance standards the mitigation will achieve, and (3) identifies the type(s) of potential action(s) that can feasibly achieve that performance standard[.]

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

Here, the City failed each of these preconditions and requirements, as the IS/MND fails to show why the development of the traffic calming plans or pedestrian improvements could not be developed before the issuance of the IS/MND, what impacts they will have individually or cumulatively, if such plans would indeed be feasible, and the specific performance criteria that Applicant will have to meet. Moreover, as noted previously, the City clearly did not commit to mitigation, since all it would do, per the mitigation measures, is review and approve Applicant's proposed plans.

Response D.14: Please refer to Responses D.8 through D.13, which address the assertions made in this comment. To reiterate the above responses, the mitigation measures have not been deferred; the specific physical improvements are well-defined; and the TDM Plan will be approved prior to the Director's Hearing for the Planning Permit. Furthermore, the effectiveness of these measures is demonstrated by the City's VMT Evaluation Tool. Therefore, no further response or additional CEQA analysis is required.

Comment D.15: Furthermore, mitigation measure MM TRAN-1.1 relies on some future coordination with other public entities aside from the City to implement the measure and does not show how it will be enforced nor what the outcome will be.

Response D.15: MM TRAN-1.1, which requires improvements to City roadways and transportation facilities, does not rely on other public entities aside from the City for implementation. As discussed above in Response D.11, the Department of Public Works is part of the lead agency and is not a separate authority or agency.

Comment D.16: For example, there is no requirement that Applicant report the number of employee trips after the pork-chop islands are removed and median islands installed or to ensure that the VMTs are indeed reduced to the requisite level of insignificance such that an IS/MND would suffice to bring the Project in compliance with CEQA. Yet again, this mitigation measure fails to explain how simply encouraging pedestrian travel will actually discourage vehicle travel and thus cause an actual decrease in VMT resulting from the Project and thus result in a less than significant impact on traffic and transportation.

Response D.16: As described in Response D.8, MM TRAN-1.2 explicitly requires annual monitoring of project trips for comparison against a trip cap to ensure that project VMT remains at a less than significant level for the lifetime of the project. The purpose of the trip cap is to show the number of trips is below the applicable thresholds, and therefore the VMT resulting from the project (given VMT equals

trips times trip lengths) would be reduced. By capping trips, VMT will be below the thresholds. This requirement placed on the applicant will be monitored and enforced by the City as specified in MM TRAN-1.2. Furthermore, as described in Response D.10, the VMT Evaluation Tool, which is based on substantial evidence, accounts for the VMT reductions the multi-modal improvements detailed in MM TRAN-1.1 would provide. This comment alleges a lack of substantial evidence for the City's determination, which has been fully refuted, and the comment provides no substantial evidence of its own, in the form of facts, or expert opinion supported by facts. Therefore, no further response or additional CEQA analysis is required.

Comment D.17: The foregoing measure is impermissibly vague and improperly defers the actual reduction in VMT to some later unspecified date without showing how these proposed measures would reduce VMT.

Response D.17: As discussed in Responses D.8, D.13, and D.16, the VMT-related mitigation measures in the IS/MND include clearly defined performance standards (e.g., trip cap) and enforcement mechanisms (e.g., surveys). Based on these reasons, these mitigation measures (MM TRAN-1.1 and MM TRAN-1.2) do not represent improper deferral of mitigation under CEQA, as the project is required to demonstrate achievement of definite. There are measurable outcomes that are below the level of significance that the lead agency (i.e., the City of San José) can readily monitor and enforce.

Comment D.18: Yet another flaw in the City's traffic impact analysis is its reliance on Senate Bill 743 ("SB 743") to disregard traffic congestion. The City claims it provides a level of service analysis for information purposes only. IS/MND, p. 164. And yet, SB 743 on its face does not apply to industrial projects here, but rather to commercial and residential projects only. Further, the IS/MND fails to include an Intersection Level of Service, as is required under existing, background, and background plus project conditions, yet the City claims the traffic impacts will be less than significant despite that certain intersection levels may worsen after implementation of the Project.

Response D.18: Pursuant to Senate Bill (SB) 743 and CEQA Guidelines Section 15064.3, the CEQA metric for transportation impacts is VMT, and nothing in Section 15064.3 indicates that VMT is not to be utilized for industrial projects, or that VMT is to be used only for commercial and residential projects. Such a suggestion is simply wrong. Furthermore, SB 743 clearly states that vehicle delay (or Level of Service [LOS]) is not an impact under CEQA. This was affirmed by the appellate court in *Citizens for Positive Growth & Preservation v. City of Sacramento* (Dec. 18, 2019) 43 Cal.App.5th 609. Thus, the comment's claim that LOS was required by CEQA to be evaluated in the IS/MND is also wrong. The City adopted its Transportation Analysis Policy (Council Policy 5-1) to align with SB 743 and the goals set forth in the Envision San Jose 2040 General Plan. A summary of SB 743 and Council Policy 5-1 is provided on pages 155 and 156 of the IS/MND, respectively. The comment provides no evidence to support its claim that SB 743, or Guidelines Section 15064.3

implementing SB 743, does not apply to industrial projects. CEQA Guidelines Section 15064.3 provides substantial discretion for lead agencies in how to evaluate VMT, including allowing for both qualitative and quantitative approaches. The City, as the lead agency, has elected to use a quantitative approach in Council Policy 5-1 by employing numeric thresholds for various land uses (including industrial land uses) and this approach is well within the City's discretion in implementing Guidelines Section 15064.3.

As described on page 156 of the IS/MND, SB 743 requires "the replacement of automobile delay-described solely by level of service or similar measures of vehicular capacity or traffic congestion-with VMT as the recommended metric for determining the significance of transportation impacts." SB 743 is intended to replace LOS with VMT for evaluating transportation impacts for new development projects, including industrial projects. Therefore, there is no requirement to include results of an intersection LOS analysis, other than to identify the potential need for roadway improvements which would be evaluated as related physical changes to the environment.

As explained in IS/MND Section 4.17.3 Non-CEQA Effects, Policy 5-1 requires preparation of a Local Transportation Analysis (LTA) to analyze non-CEQA transportation issues. The LTA typically includes local transportation operations, intersection level of service, site access and circulation, and neighborhood transportation issues such as pedestrian and bicycle access. If potential transportation issues are identified then recommendations for transportation improvements are provided to ensure that any off-site transportation improvements are also accounted for as part of the IS/MND Project Description.

Nothing contained within this comment constitutes substantial evidence that the project's transportation impacts would be significant beyond what has already been disclosed regarding VMT impacts. Also as stated above, the vehicular delay at intersections serving the site (whether under project conditions, background, or cumulative) is no longer considered an impact on the environment with passage of SB 743. Therefore, no further response or additional CEQA analysis is required.

Comment D.19: Finally, also given that construction of the Project itself may result in road closures and detours, there is a fair argument that the Project may have significant traffic impacts which should be assessed in an EIR pursuant to CEQA.

Response D.19: As stated on page 111 of the IS/MND, the project would not result in closure, rerouting or substantial alteration of streets or property access points during or after construction. The project does not front onto a public road other than an existing driveway on Embedded Way, and the project's use of that driveway during construction would not cause the closure of Embedded Way or detours. Construction would occur within the project site boundaries and setback hundreds

of feet from public streets. The comment speculates without any facts or analysis that project construction may cause road closures or detours and does not provide substantial evidence supporting a fair argument that the project would result in significant impacts related road closures and detours during construction. This comment does not raise any new CEQA issues or address the adequacy of the IS/MND. No further response or additional CEQA analysis is required.

Comment D.20: For the reasons set forth above, the IS/MND fails to prove that the Project's traffic impacts will be mitigated to a less than significant level with the incorporation of the proposed mitigation measures. In fact, the IS/MND shows the opposite, necessitating the preparation of an EIR.

Response D.20: As described in Responses D.8 through D.19, the commenter has not identified any new or more significant transportation impacts that have not already been addressed by the IS/MND, nor has the commenter produced any facts, reasonable inferences based on facts, or expert opinion based on facts, that project impacts would not be capable of mitigating impacts, where necessary, to less than significant levels. The commenter has also not proven that project impacts would remain significant nor has the commenter shown that the City's determinations regarding the project's traffic impacts are not supported by substantial evidence. To the contrary, mitigation measures MM TRAN-1.1. and MM TRAN-1.2 are feasible and enforceable mitigation measures that, based on substantial evidence, have been determined to reduce the project's VMT impacts to a less than significant level. The commenter has not provided substantial evidence supporting a fair argument that the project would result in significant unavoidable transportation impacts that would require the preparation of an EIR. Therefore, no further response or additional CEQA analysis are required.

Comment D.21: C. There Is a Fair Argument that the Project May Have Significant Air Quality, GHG Emission, Water, Noise, Hazards, Human Health, and Wildlife/Biological Impacts, and Cumulative Impacts, Requiring Mandatory Findings of Significance and the Preparation of an EIR.

Response D.21: This comment claims a fair argument exists, but provides no specific comment, and introduces topics discussed in more detail in comments that follow below. As described in further detail in the responses below, the commenter does not provide substantial evidence supporting a fair argument that the project, after identified mitigation, would result in significant unavoidable impacts. The analysis and conclusions in the IS/MND are supported by substantial evidence and, therefore, the preparation of an EIR is not required.

Comment D.22: Given that the Project may have significant traffic impacts that are not accurately disclosed or mitigated against in the IS/MND, then its traffic-related impacts are also derivatively understated and may be significant, thereby requiring the preparation and circulation of an EIR.

There is an acknowledged direct correlation between the increase in traffic impacts and an increase in the associated air quality, GHG emission, and noise impacts. See e.g., *City of Redlands v. County of San Bernardino* (2002) 96 Cal.App.4th 398, 413 (“it is reasonable to assume” that a project enabling physical residential development would have reasonably foreseeable indirect air and other impacts).

As stated in the Office of Planning Research’s (“OPR”) technical advisory in 2018:

VMT and Greenhouse Gas Emissions Reduction. Senate Bill 32 (Pavley, 2016) requires California to reduce greenhouse gas (GHG) emissions 40 percent below 1990 levels by 2030, and Executive Order B-16-12 provides a target of 80 percent below 1990 emissions levels for the transportation sector by 2050. The transportation sector has three major means of reducing GHG emissions: increasing vehicle efficiency, reducing fuel carbon content, and reducing the amount of vehicle travel.

Similarly, there is an acknowledged nexus between the increase in traffic and in related air quality, GHG impacts, noise, water/flooding impacts, and impacts on human health and the natural environment, including wildlife and waterways. As described in the 2018 OPR Technical advisory:

VMT and Other Impacts to Health and Environment. VMT mitigation also creates substantial benefits (sometimes characterized as “co-benefits” to GHG reduction) in both in the near-term and the long-term. Beyond GHG emissions, increases in VMT also impact human health and the natural environment. Human health is impacted as increases in vehicle travel lead to more vehicle crashes, poorer air quality, increases in chronic diseases associated with reduced physical activity, and worse mental health. Increases in vehicle travel also negatively affect other road users, including pedestrians, cyclists, other motorists, and many transit users. The natural environment is impacted as higher VMT leads to more collisions with wildlife and fragments habitat. Additionally, development that leads to more vehicle travel also tends to consume more energy, water, and open space (including farmland and sensitive habitat). This increase in impermeable surfaces raises the flood risk and pollutant transport into waterways.

As such, there is a fair argument that the Project here may have significant GHG emissions, air quality, energy, water, noise and other impacts, including impacts on human beings and the natural environment.

Response D.22: This comment raises general issues that would result from virtually any development that generates new VMT by noting various topics that are related to the magnitude of VMT generated by a project. However, nothing in the comment is specific to the project’s VMT and resulting traffic-related impacts, such as air pollution, energy consumption, roadway noise, etc. Rather, the comment only makes general observations about how VMT can lead to other impacts. The comment does not make a specific argument, based on substantial evidence, as to why the project’s VMT would lead to significant impacts to other topics. As

described in Responses D.7 through D.18, the project would result in a significant increase in VMT, as judged using the City's thresholds which are based on per employee VMT; however MM TRAN-1.1 and MM TRAN-1.2 would sufficiently reduce the project's VMT below established thresholds. The comment does not provide substantial evidence supporting a fair argument that the project, applying a per employee VMT threshold as allowed by Guidelines section 15064.3, would result in significant VMT impacts that are un-mitigable. However, the comment appears more focused on the general magnitude of project VMT and the impacts that would result, rather than the amount of VMT per employee. Fortunately, to address the commenter's concerns regarding the magnitude of VMT, the IS/MND and a number of supporting technical reports have accounted for the total amount of VMT that the project would generate. Relevant thresholds are applied to various environmental topics such as air pollution, energy consumption, roadway noise, etc. where impacts would be significant. The comment does not acknowledge the IS/MND's evaluation, which is based on multiple technical reports, of project impacts in these other topic areas resulting from the magnitude of project VMT. Additionally, as described in further detail in the responses below, the commenter does not provide substantial evidence supporting a fair argument that the project would result in significant GHG emissions, air quality, energy, water, noise, and other impacts. The analysis and conclusions in the IS/MND are supported by substantial evidence and, therefore, an EIR is not required.

Comment D.23: 1. GHG Emissions and Air Quality Impacts

The IS/MND ultimately concludes that the Project will have a less than significant impact with regards to GHG emissions based only on the contention that "Project construction would occur over a period of approximately 10 months and would result in the release of 140 MTCO₂e." IS/MND, p. 99. The IS/MND then contends that the Project construction activity and resulting GHG emissions "would not interfere with the implementation of Senate Bill 32. Id.

The IS/MND completely fails to analyze, to any degree sufficient to constitute compliance with CEQA, the Project's potential GHG emissions impacts, and instead offers a conclusory statement that because construction emissions would occur over a certain period and result in a certain tonnage of CO₂, that the Project will not result in a significant impact with regards to GHG emissions. Consequently, the IS/MND requires substantial revisions or an EIR must be prepared.

Response D.23: The CEQA Guidelines do not require the quantification of GHG emissions, as qualitative approaches to evaluating a project's GHG emissions are explicitly allowed; therefore, the City was not required to quantify construction-related GHG emissions. However, the City chose to quantify the magnitude of construction-related GHG emissions (140 total MTCO₂e) so the project's contribution could be compared within the context of the statewide GHG emissions goal for 2030 (260 **million** MTCO₂e).

The regional agency with substantial expertise in evaluating GHG emissions has issued guidelines, which do not include quantitative thresholds for construction-related GHG emissions. As stated on page 6-7 of the BAAQMD 2022 CEQA Air Quality Guidelines, BAAQMD has not developed a quantitative threshold for construction since the GHG emissions are temporary and variable but the Air District recommends construction GHG emissions be quantified for purposes of disclosure.¹⁰ Per the Appendix B of the 2022 CEQA Air Quality Guidelines, there is no proposed threshold since the “Greenhouse gas emissions from construction represent a very small portion of a project’s lifetime GHG emissions.”¹¹ As shown on page 99 of the IS/MND, the approximate construction generated GHG emissions (140 total MTCO₂e) are disclosed and it is stated that the contribution of construction-related GHG emissions are essentially temporary and would not contribute to a significant GHG impact. Once construction is complete, the construction-related GHG emissions would cease to be emitted. For these reasons, the construction GHG emissions (roughly one half of one millionth the amount of annual statewide emissions required in 2030) would not have an impact that would interfere with State laws, such as Senate Bill 32, that works to reduce active operational sources of GHG emissions. This comment does not present new information that has not been previously analyzed in the IS/MND nor does it provide substantial evidence supporting a fair argument that the project would result in significant unavoidable impacts requiring preparation of an EIR.

Comment D.24: In terms of the Project’s operational emissions, the IS/MND too heavily depends on the Project’s consistency with the General Plan land use designation for the Site and planned growth from build out of the General Plan and that “the project’s GHG emissions are accounted for in the citywide GHG emissions inventory addressed in the GHGRS, provided the project complies with applicable GHG reduction measures identified in the GHGRS.” IS/MND, p. 99. The IS/MND’s reliance on the Project’s consistency with the City’s 2030 GHG Reduction Strategy (“GHGRS”), i.e., the hope that the Project “complies with applicable GHG reduction measures,” cannot constitute as mitigation nor a determination that the Project will have less than significant impacts for purposes of CEQA compliance.

The IS/MND concludes that the Project will have less than significant GHG emissions impacts due to the Project’s adoption of certain measures of the GHGRS, including consistency with the Land Use/Transportation Diagram designation of the General Plan and enrollment in the SJCE TotalGreen program. IS/MND, p. 100.

¹⁰ Bay Area Air Quality Management District. *California Environmental Quality Act Air Quality Guidelines*. April 2023. Page 6-7. https://www.baaqmd.gov/~media/files/planning-and-research/ceqa/ceqa-guidelines-2022/ceqa-guidelines-chapter-6-project-climate-impacts_final.pdf?rev=ce3ba3fe9d39448f9c15bbabd8c36c7f&sc_lang=en

¹¹ Bay Area Air Quality Management District. *California Environmental Quality Act Air Quality Guidelines Appendix B: CEQA Thresholds for Evaluating the Significance of Climate Impacts From Land Use Projects and Plans*. April 2022. Page 15. https://www.baaqmd.gov/~media/files/planning-and-research/ceqa/ceqa-guidelines-2022/appendix-b-thresholds-for-evaluating-significance-of-climate-impacts_final.pdf?rev=10305f45037b41dba2cd1b45b288d54b&sc_lang=en

According to the IS/MND, the Project will be designed and constructed in compliance with the City of San Jose Council Policy 6-32, the City's reach code, and the City's Green Building Ordinance. IS/MND, p. 101. However, the Project's mere implementation of GHG reduction strategies, compliance with city initiatives, and reliance on regulations is insufficient to conclude that the Project will have less than significant GHG emissions impacts, as these measures are not specific to this Project.

That the Project may have air quality and GHG emissions impacts is also evidenced by the recent BAAQMD thresholds, according to which "[i]f the project includes any of the operational screening criteria above [including industrial sources or activities], then the lead agency would need to perform a detailed assessment of the project's criteria air pollutant and precursor emissions."¹² Yet, the IS/MND concludes that the Project will have neither GHG emissions nor air quality impacts.

The Project may further have severe GHG emissions and air quality impacts in light of its traffic mitigation measure which assumes that the employees will choose to bike or walk to the Project Site and thereby be exposed to the high level of diesel emissions of heavy trucks both at the Project Site and the nearby industrial sites. Such increased GHG emissions and air quality impacts may also occur in light of the fact that the Project proposes traffic-calming alterations to nearby roads, which reasonably foreseeably—along with the trucks and bikes riding on the same roads—will create congestion on the roads and idling of the heavy-duty trucks, as well as other vehicles.

Response D.24: As noted above in Response D.23, CEQA allows for both qualitative and quantitative approaches to evaluate a project's GHG emissions. In turn, as described on page 98 of the IS/MND, BAAQMD has promulgated two qualitative thresholds of significance a lead agency may opt to use for the operational GHG emissions generated from a new land use development project: (1) qualitative project design measures related to building design and transportation or (2) consistency with a local GHG reduction strategy that meets the criteria under the State CEQA Guidelines Section 15183.5(b). The City of San José's 2030 Greenhouse Gas Reduction Strategy is a qualified GHG reduction strategy that meets the criteria stated CEQA Guidelines Section 15183.5(b); therefore, the use of the City's 2030 Greenhouse Gas Reduction Strategy Compliance Checklist to demonstrate consistency with a qualified local GHG reduction strategy is appropriate and conforms with BAAQMD's latest CEQA guidance for GHG analyses. Furthermore, the City of San José's Department of Planning, Building, & Code Enforcement will enforce the GHG reduction measures the project committed to in the completed Greenhouse Gas Reduction Strategy Consistency Checklist (refer to Appendix E of the IS/MND) via site plan review and during the permitting process. Therefore, the GHG reduction strategies from the City's Greenhouse Gas Reduction Strategy Consistency Checklist are specific to the project, and the project would have less

¹² BAAQMD, Chapter 4, p. 4-3; see available at: Bay Area Air Quality Management District California Environmental Quality Act Air Quality Guidelines (baaqmd.gov).

than significant GHG impacts. The approach employed by the City to evaluate and conclude that the project's GHG emissions are less than significant is explicitly allowed by CEQA. The approach is further supported by the BAAQMD, the regional agency with substantial expertise regarding evaluating GHG emissions from new development. Therefore, the City's approach is legal and supported by substantial evidence.

The comment further alleges, without substantial evidence, the project would have significant air quality impacts. To the contrary, the project would not have significant air quality impacts as described in *Section 4.3 Air Quality* of the IS/MND. A technical Air Quality Assessment was prepared by Illingworth & Rodkin, Inc., in August 2022 and is included as Appendix A to the IS/MND. This Air Quality Assessment was prepared following BAAQMD methodologies, and modeled criteria air pollutant emissions that would be generated by the project during construction and operation and prepared a refined health risk assessment. The results of the Air Quality Assessment were compared to the BAAQMD thresholds of significance for both construction and operation and all project generated emissions and health risks would be under the BAAQMD thresholds. Refer to pages 35, 36, 39, and 41 of the IS/MND for the computed air quality emissions and health risk impacts. The several conclusions in the IS/MND that the project would have less than significant air quality impacts related to both construction criteria pollutants and health risk and operational criteria pollutants and health risk, are, therefore, based on substantial evidence.

The commenter also states that future employees of the project would be exposed to high level of diesel emissions of heavy trucks both at the project site and the nearby industrial sites due the nature of the project area and with the assumption the project would result in more congestion with implementation of multi-modal infrastructure improvements detailed in MM TRAN-1.1. This is a speculative comment with no substantial evidence to demonstrate that implementation of MM TRAN-1.1 would increase congestion and idling of heavy-duty trucks. Additionally, per *California Building Industry Association v. Bay Area Air Quality Management District*, 62 Cal. 4th 369 (BIA v. BAAQMD), effects of the environment on the project, (i.e., future project employees), are not considered CEQA impacts.

Overall, this comment does not present new information that has not been previously analyzed in the IS/MND nor does it provide substantial evidence supporting a fair argument that the project would result in significant unavoidable impacts requiring preparation of an EIR.

Comment D.25: 2. Hazard Impacts

The Project may also have hazards impacts, in light of potential soil contamination due to prior agricultural work and use of pesticides. The Project's Phase I ESA, for this purpose, discloses such potential. Phase I ESA, p. 10. And yet, the Phase I ESA does not adequately study that potential as,

inter alia, it concludes, without supporting evidence, that “the potential for residual pesticides, if any, at these locations to significantly impact the planned commercial use of the Site appears low.” Id. It reaches this conclusion despite admitting that “residual pesticide concentrations could remain in on-Site soil.” Id. The Phase I ESA also recommends that soil sampling be conducted in order to determine if naturally occurring asbestos (“NOA”) is present at the Site and whether an asbestos dust mitigation plan (“ADMP”) and associated air monitoring is required. Phase I ESA, p. 11. Fatally, the timing of such study and determination of the need for mitigation should have been conducted prior to and in preparation of the IS/MND, not at some future date considering that the Site is located within an area of mapped ultramafic rock outcrops in which asbestos occurs naturally. Phase I ESA, p. 10. Further, Phase I ESA prepared in 2021 uses the older ASTM standard. Id. (“Cornerstone performed this Phase I ESA in general accordance with ASTM E1527-13”).

This omission is particularly critical and constitutes the Phase I ESA as tellingly inaccurate given that as of 2021—post-dating the October 17, 2021, ESA Phase I Environmental Site Assessment—ASTM has revised its standards, and as of 2022, EPA¹³ has adopted ASTM’s new and more expansive definition of REC. Thus:

“Under ASTM E1527-13, a REC is defined as the presence or likely presence of any hazardous substances or petroleum products in, on, or at a property: (1) due to release to the environment; (2) under conditions indicative of a release to the environment; or (3) under conditions that pose a material threat of a future release to the environment.

Under ASTM E1527-21, a REC means (1) the presence of hazardous substances or petroleum due to a release to the environment; (2) the likely presence of hazardous substances or petroleum products due to a likely release to the environment; or (3) the presence of hazardous substances or petroleum products under conditions that pose a material threat of a future release to the environment. Further, the new standard provides clarifying discussion notes and examples to assist the environmental professional in applying the definition. Together, the new definition and interpretations direct a consultant to rely on the environmental professional’s experience regarding the likelihood of certain conditions resulting in releases, such as the long term operation of a dry cleaner, instead of discounting that professional experience based on the lack of current “indications of a release.”¹⁴ (ital. original, bold emphasis added.)

Response D.25: As described in pages 109 and 110 of the IS/MND, the project site’s baseline condition is such that the soil on the project site could be contaminated with agricultural chemicals and naturally occurring asbestos (NOA) due to its past use as an orchard and the presence of ultramafic rock outcrops. The presence of agricultural chemicals and naturally occurring asbestos were identified as potential environmental concerns. The site is undeveloped and vacant with no history of

¹³ <https://www.govinfo.gov/content/pkg/FR-2022-03-14/pdf/2022-05259.pdf>.

¹⁴ <https://www.quarles.com/publications/epa-approves-astm-e1527-21-phase-i-esa-standardfor-all-appropriate-inquiry/>.

hazardous substances or petroleum products being stored or used on-site. Considering that the IS/MND and the supporting Phase I ESA identified a potential hazards impact, the change in the ASTM E1527-21 definition does not fundamentally change the impact identified or mitigation measures required to reduce the impact. The impacts the commenter is concerned about, given the baseline conditions of the project site, have been disclosed in the IS/MND and appropriate mitigation has been included in the project. MM HAZ-1.1 and MM HAZ-1.2 have measures that have been employed routinely for sites known or suspected to have residual agriculture pesticides and NOA, as these are not unique or unusual circumstances, and the approaches to address the conditions are well established and effective. Implementation of MM HAZ-1.1 and MM HAZ-1.2, would require the preparation of a Phase II soil contamination investigation prior to the issuance of a grading permit. If contaminated soil is found on-site, then appropriate measures would be utilized during construction to protect employees and the environment generally from the release of these soils. The mitigation measures in the IS/MND include clearly defined performance standards and enforcement mechanisms and, therefore, do not represent improper deferral of mitigation under CEQA. Overall, the comment does not provide substantial evidence supporting a fair argument that the identified mitigation measures are inadequate to reduce project impacts to a less than significant level. The IS/MND's description of the baseline conditions, the potential for the project to create significant impacts, and the effectiveness of the mitigation measures to reduce impacts to less than significant levels are all supported by substantial evidence in the IS/MND and supporting Phase I ESA. Therefore, no further response or additional CEQA analysis is required.

Comment D.26: Lastly, the Phase I ESA is silent on vapor intrusion REC, which study is specifically mandated by ASTM and the Environmental Protection Agency ("EPA") since 2013 under the EPA Final Rule.¹⁵ Thus, in its Final Rule in 2013, the EPA states:

EPA believes that ASTM E1527–13 improves upon the previous standard and reflects the evolving best practices and level of rigor that will afford prospective property owners necessary and essential information when making property transaction decisions and meeting continuing obligations under the CERCLA liability protections. In particular, the new ASTM E1527–13 standard enhances the previous standard with regard to the delineation of historical releases or recognized environmental conditions at a property and makes important revisions to the standard practice to clarify that all appropriate inquires and phase I environmental site assessments must include, within the scope of the investigation, an assessment of the real or potential occurrence of vapor migration and vapor releases on, at, in or to the subject property.

Federal Register, Vol. 78, No. 250, December 30, 2013, p. 3 (emph. added).

¹⁵ <https://www.govinfo.gov/content/pkg/FR-2013-12-30/pdf/2013-31112.pdf>.

Response D.26: Based on the information presented in the agency database report on page 5 of Appendix F - Phase I Environmental Site Assessment, , no off-site spill incidents were reported that appear likely to significantly impact soil, soil vapor or groundwater beneath the project site. The project site is also undeveloped with no history of using or storing hazardous materials on the site. The two potential concerns identified, related to residual agricultural pesticides and NOA, are not contributors to soil vapor. Therefore, vapor migration and vapor releases were not identified as a concern requiring further evaluation. The comment does not provide substantial evidence supporting a fair argument that the project would result in significant impacts related to vapor intrusion. No changes to the text of the IS/MND are required.

Comment D.27: As such, the Phase I ESA's reliance on a soil sample to be collected at some future date with the expectation that it may produce asbestos results given the Site's location within an area of mapped, asbestos-containing ultramafic rock outcrops, and failure to consider a more comprehensive ASTM E1527-21 suggests that the Project Site may have hazards impacts that have not been studied and accounted for. Needless to say that, per the Phase I ESA, the Project had to be a commercial one—rather than industrial. All of these factors suggest the Project may have hazards impacts, which may also translate into adverse impacts to human beings, including employees of the Project Site as well as other human beings and sensitive receptors, including during the Project's construction, grading, and dirt-hauling phase.

Response D.27: The comment does not provide substantial evidence supporting a fair argument that the IS/MND did not disclose all relevant hazard impacts within the project area. The Phase I ESA, which is Appendix F to the IS/MND, did identify NOA as a potential environmental concern and the IS/MND incorporated MM HAZ-1.1 and MM HAZ-1.2 to reduce hazards-related impacts. The use of the ASTM E1527-21 standard would not have changed the results of the Phase I ESA or the incorporation of MM HAZ-1.1 and MM HAZ-1.2 considering the project site has been historically undeveloped. There is no history of spills or releases due to the site's undeveloped nature. No changes to the text of the IS/MND are required. See also Responses D.25 and D. 26.

Comment D.28: Lastly, the IS/MND acknowledges the potential for significant hazards impacts including on human health, yet concludes, without evidentiary support, that “[c]ompliance with the broad array of existing regulations from state and local governments noted above in Section 4.9.1.1 Regulatory Framework would ensure the project would result in less than significant impacts related to the potential routine transport, use, or disposal of hazardous materials.” IS/MND, p. 109. Again, the Project's mere implementation of hazards reduction strategies, compliance with city initiatives, and reliance on regulations is insufficient to conclude that the Project will have less than significant hazards impacts, as these measures are not specific to this Project.

Response D.28: The comment fails to capture and acknowledge the analysis in the IS/MND related to the potential routine transport, use, or disposal of hazardous

materials. The excerpt quoted in the above comment is the conclusion sentence for the analysis. On page 109 of the IS/MND, it is specifically stated that the project would be required to comply with the State's Hazardous Materials Management Program, a State program governing how hazardous materials must be managed. It is specifically noted that if a project handles hazardous materials, a Hazardous Materials Business Plan with information about the handling and storage of hazardous materials (including site layout, storage in appropriate containers with secondary containment to contain a potential release, and emergency response and notification procedures in the event of a spill or release) would need to be prepared and submitted to the Santa Clara County Hazardous Materials Compliance Division, the local Certified Unified Program Agency for Santa Clara County. Additionally, on the same page, the IS/MND notes that project would be required to comply with code requirements from the City of San José Fire Department, the San José–Santa Clara Wastewater Treatment Facility, the Santa Clara County Department of Environment Health (SCCDEH), and the California Department of Transportation as it relates to the storage, transportation, and disposal of hazardous materials. The IS/MND does not merely state that the project would be required to comply with applicable regulations. Instead, specific laws and regulations related to the handling of hazardous materials are explained in detail and the specific authorities tasked with overseeing the compliance are identified. A project specific mitigation measure is not required if there are already laws or legal requirements in place that would reduce impacts. The comment does not provide substantial evidence supporting a fair argument that additional mitigation is needed to reduce the project's hazardous materials impacts to a less than significant level. Therefore, no further response or additional CEQA analysis is required.

Comment D.29: 3. Water Quality Impacts

As for water impacts, the IS/MND acknowledges that the Project site soils may be contaminated, including with NOA and due to the presence of agricultural chemicals. IS/MND, p. 109. As such, to the extent the Project's grading affects the underground waters, there is a reasonable foreseeability that the Project may have water impacts. Moreover, based on the IS/MND, the Project will require disturbance of soil on 10.1 acres of land, permanent conversion of 0.4 acres of mixed oak woodland to suburban land uses, permanent impacts on one acre of serpentine bunchgrass grassland and approximately 6.6-acres of California annual grassland (IS/MND, p. 59), removal of at least 11 trees including approximately nine mature native oak trees (IS/MND, pp. 50, 58), and removal of Santa Clara Valley dudleya (a federally endangered species and a Habitat Plan covered species) (IS/MND, p. 49). As such, the Project may affect the natural drainage patterns and thus have water/hydrology impacts.

Response D.29: To address the possible presence of NOA and agricultural chemicals in the soil on-site, the project would be required to conduct a Phase II soil investigation and create a Site Management Plan (or equivalent document) if concentrations exceed environmental screening levels pursuant with MM HAZ-1.1 and MM HAZ-1.2, respectively. Completion of these two mitigation measures would

occur prior to construction activities. Groundwater would not be contaminated as a result of construction grading activities because the agricultural chemicals and NOA are already present in the undeveloped site soils. Thus, under baseline conditions, runoff is currently infiltrating through the site soils, and the exposure of these soils during construction would not further subject them to runoff. Additionally, the project would not encounter groundwater during construction, given groundwater depths are 30 feet below ground surface and construction would not extend beyond 20 feet for utility trenches and foundations.

As stated on page 121 of the IS/MND, the natural drainage patterns of the site would change as a result of the project because the amount of impervious area would increase as compared to existing conditions. As required by the Regional Water Quality Control Board Municipal Regional Stormwater National Pollutant Discharge Elimination System Permit (MRP) and the City's Post-Construction Urban Runoff Management Policy (City Council Policy No. 6-29), the project would be required to include 'low impact development' stormwater treatment controls to maintain or restore the site's natural hydrologic functions. Furthermore, as part of the application review and permitting process, the City reviews site plans to ensure the project design includes proper stormwater control design features. To control runoff, the project includes two unlined bioretention basins with underdrains and a subsurface infiltration system underneath the western parking lot. Therefore, the project includes design measures to reduce operational impacts on hydrological features and the natural drainage pattern. The comment does not provide substantial evidence supporting a fair argument that the project would result in significant impacts to water quality, and the IS/MND's conclusions that impacts to water quality and hydrology would be less than significant are supported by substantial evidence. No further response or additional CEQA analysis is required.

Comment D.30: 4. Wildlife and Biological Impacts

Lastly, as for wildlife and biological impacts, the IS/MND discloses that the Project site may have various protected species but proposed inadequate mitigation measures, suffering from the same flaws as the traffic mitigation measures above. To name a few problems, the IS/MND acknowledges that the Project site may accommodate the western bumble bee, California tiger salamander, California red-legged frog, foothill yellow-legged frog, Swainson's hawk, bald eagle, least Bell's vireo, San Joaquin kit fox, burrowing owl, loggerhead shrike, San Francisco dusky-footed woodrats, and Townsend's big-eared bat, yet concludes that all are absent from the Site due to a lack of observance during the May 2022 field survey. IS/MND, p. 50. The IS/MND is silent on whether these species were observed at any point after May 2022. Additional site surveys must be completed prior to the Project's building phase to adequately determine whether and to what extent protected species may be present on the Site.

Response D.30: Contrary to the assertion in the comment, the IS/MND did not determine "...that the Project site may accommodate the western bumble bee, California tiger salamander, California red-legged frog, foothill yellow-legged frog,

Swainson's hawk, bald eagle, least Bell's vireo, San Joaquin kit fox, burrowing owl, loggerhead shrike, San Francisco dusky-footed woodrats, and Townsend's big-eared bat..." Page 50 of the IS/MND explicitly states that "(t)he project site either generally lacks suitable habitat for special-status wildlife species and/or the site is isolated from the nearest known population by development or unsuitable habitat..." and goes on to explain in detail why each of the species listed in the comment are unlikely to occur on the site, including the fact that none of these species were observed on the site during surveys completed by biologists. Additional site surveys, other than those identified in the IS/MND mitigation measures requiring pre-construction surveys for species determined to potentially occur on the site, are unwarranted since it has been established in the Biological Resources Report that the project site generally lacks suitable habitat for these special-status wildlife species and/or the site is isolated from the nearest known population. The comment does not provide substantial evidence supporting a fair argument that any of the species listed in the comment are present on the site or are likely to be present during construction activities. The IS/MND has disclosed the extent that there is the potential for special status species to be present on the site and included mitigation measures to ensure no impacts to special status species occur that would remain significant after mitigation. No further response or additional CEQA analysis is needed.

Comment D.31: Further, the IS/MND acknowledges that:

The only special-status wildlife species that can potentially breed or occur on or immediately adjacent to the project site are the Bay checkerspot butterfly, Crotch's bumble bee, yellow warbler, and white-tailed kite. Of these species, only the Bay checkerspot butterfly is covered under the Habitat Plan. During a survey conducted in April 2023, no Bay checkerspot butterfly adults or Crotch's bumble bees were observed. While the Bay checkerspot butterfly and Crotch's bumble bee are unlikely to be present, it is possible that individuals may occasionally forage or breed on the site and, therefore, the species cannot be deemed absent.

Id.

That the federally threatened Bay checkerspot butterfly and Crotch's bumble bee were not observed during a single survey conducted in April 2023 says little about whether the Site hosts or is suitable to host the Bay checkerspot butterfly, which live an average of just 10 days as adults, and emerge during a six-week period from late February to early May. The IS/MND acknowledges that "[w]hile the Bay checkerspot butterfly and Crotch's bumble bee are unlikely to be present, it is possible that individuals may occasionally forage or breed on the site and, therefore, the species cannot be deemed absent." Id.

The IS/MND provides that the "preparation of a Habitat Plan application for the project and payment of Habitat Plan impact fees (including the serpentine specialty fee) pursuant to the City's

standard permit condition would reduce impacts to the Bay checkerspot butterfly.” IS/MND, p. 59. The IS/MND is silent on the mechanism by which such measure will reduce impacts to the Bay checkerspot butterfly. Further, this measure defers mitigation in violation of CEQA.

Response D.31: The project applicant’s compliance with the Santa Clara Valley Habitat Plan (Habitat Plan) would reduce impacts on the Bay checkerspot butterfly by contributing the project’s required impact fees to the Habitat Plan’s conservation program, which includes numerous conservation measures focused on the conservation and recovery of the Bay checkerspot butterfly. The Habitat Plan’s conservation program (approved by the U.S. Fish and Wildlife Service and California Department of Fish and Wildlife) includes the preservation, enhancement, management, and monitoring of Bay checkerspot butterfly habitat. The goals of the conservation program include improving the viability of existing checkerspot populations, increasing the number of populations, and expanding the species’ geographic distribution. The type and amount of impact fees that Habitat Plan-covered projects need to pay were determined based on the anticipated impacts of Habitat Plan-covered projects; the type and amount of conservation that would need to be performed to not only reduce impacts on covered species to less than significant levels under CEQA, but also to contribute to the recovery of these species; and the costs of those conservation measures. Thus, by paying Habitat Plan impact fees in accordance with Habitat Plan requirements, the project applicant will be contributing its share of the funding to support landscape-scale conservation of this species. This approach does not inappropriately defer mitigation; rather, the conservation strategy, and conservation measures specific to the Bay checkerspot butterfly, are already well established, are well-described in the Habitat Plan, and are already being implemented for the benefit of this species. Further, the comment does not identify a new significant impact, nor does it provide substantial evidence supporting a fair argument that preparation of a Habitat Plan Application would not reduce impacts to the Bay checkerspot butterfly. Therefore, no further response or additional CEQA analysis is required.

Comment D.32: The MND’s mitigation measures for nesting raptors, other migratory birds, or Western burrowing owls are similarly inadequate, unenforceable, and illusory. MND, pp. 60-63.

Response D.32: The comment provides no details or support (i.e., substantial evidence) as to why the IS/MND’s mitigation measures for the noted species are inadequate, unenforceable, and illusory. The IS/MND acknowledges that the project’s ground disturbing activities including grading, construction activities, and tree removal during the nesting season could impact migratory birds and raptors, including the yellow warbler and white-tailed kite (refer to page 60 of the IS/MND). Impacts to western burrowing owls are not applicable considering the project site lacks suitable habitat for burrowing owls and the species is absent from the site as stated on page 50 of the IS/MND, and therefore the project would not be subject to any owl-related HCP fees or conditions. To reduce impacts to migratory birds and

raptors, mitigation measures MM BIO-2.1, MM BIO-2.2, MM BIO-2.3, and MM BIO-2.4 are required. These four mitigation measures, which are widely applied to construction projects during nesting season in compliance with state and federal laws described in the IS/MND, address impacts to nesting birds and raptors via actions that would minimize significant adverse impacts and that are within the powers of the lead agency to impose and enforce. If the project applicant cannot avoid the nesting season (MM BIO 2.1) then a nesting bird survey conducted by a qualified ornithologist would be required not more than seven days prior to the initiation of construction (MM BIO-2.2). If an active nest is found, then a construction free buffer zone would be established around the nest (MM BIO-2.3). The ornithologist's findings of the nesting bird surveys would then be reported to the Director of Planning, Building and Code Enforcement, or the Director's designee prior to issuance of any tree removal or grading permits. As described, these four mitigation measures for migratory birds and raptors are (1) feasible, (2) fully enforceable, and (3) include specific performance standards that the mitigation will achieve by including a timeline for implementation. Taken together, these four mitigation measures would ensure that the project would not disturb or impede nesting activity during the breeding season. The comment does not provide substantial evidence supporting a fair argument that the identified mitigation measures are inadequate to reduce impacts to nesting birds and raptors to a less than significant level. Therefore, no further response or additional CEQA analysis is required.

Comment D.33: In sum, the MND's findings of no impacts, including but not limited to impacts in air quality and GHG emissions, are clearly erroneous, and an EIR is required to not only disclose the Project's respective impacts, but also relate those to the adverse health impacts and impacts to the human beings that the Project may have. *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502. Further, the above-noted impacts to human beings, as well as the fact that the Project may have cumulative impacts with related projects, these impacts by themselves require mandatory findings of significance and the preparation of an EIR under CEQA Guidelines section 15065. The City's summary denial of such mandatory significance impacts is conclusory and unsupported, in light of the above-mentioned evidence.

Response D.33: The commenter states the project may have cumulative impacts but does not specifically comment about the IS/MND's discussion of cumulative conditions, how the project would contribute to cumulative conditions, or the measures included in the project to reduce any contribution to less than cumulatively considerable levels. Therefore, no substantial evidence is provided regarding the project's potential to contribute to cumulative impacts. Based on the above responses D.1 through D.32, the commenter did not identify any new or more significant impacts than those disclosed in the IS/MND. The IS/MND's conclusions for traffic, GHG emissions, air quality, hazards, water quality, biological resources, and noise are supported by substantial evidence and are valid under CEQA. The mitigation measures to reduce impacts related to traffic, hazards, and biological

resources are feasible, effective at reducing impacts below identified thresholds, and enforceable measures with specific performance standards and timelines for completion. These measures are also commonly employed for construction projects in San José and elsewhere throughout the region (i.e., there are no novel approaches proposed by the project to reduce identified impacts). Rather, all measures have been implemented for other projects and were able to achieve applicable performance standards. None of the comments present new information that has not been previously analyzed nor do they provide substantial evidence supporting a fair argument that the project would result in significant unavoidable impacts requiring preparation of an EIR.

Comment D.34: 5. Noise Impacts

The Project proposes to construct a one-story 121,850-square-foot industrial/manufacturing warehouse. IS/MND, p. 1. Yet, while the IS/MND ultimately concludes that the Project will have a less than significant impact on noise and therefore no mitigation is required (IS/MND, p. 10), the IS/MND fails to actually conduct any analysis of the Project's potential noise impacts which would show that such impacts may occur. In fact, the Noise Assessment in Appendix G ("Noise Assessment") of the IS/MND explicitly concludes that no mitigation is required with regards to each impact discussed.

Furthermore, where the Noise Assessment does find that there will be a significant noise impact, it relies on the Project's "implementation of GP Policy EC-1.7, Municipal Code requirements, and the City's Standard Permit Conditions" to conclude that the Project's "temporary construction noise impacts would be reduced to a less-than-significant level." However, it is improper for the IS/MND to merely rely on Applicant's compliance with regulatory measures to conclude that the Project will have less than significant impacts for a number of reasons. For example, noise regulations do not capture all the noise impacts of the Project, including construction and operation. Moreover, the regulatory measures are not Project-specific and are focused on the Project itself—as such, they fail to consider issues specific to the Project, such as location, size, proposed mitigation measures, as well as the Project's cumulative impacts along with other related projects. Further, the IS/MND's traffic impacts are understated, and therefore traffic noise is understated and left unaccounted for. Thus, an EIR is required to study the Project's noise impacts and to determine whether those will be significant.

As stated in CEQA, Guidelines section 15126.4(a)(1)(B), "[c]ompliance with a regulatory permit or other similar process may be identified as mitigation if compliance would result in implementation of measures that would be reasonably expected, based on substantial evidence in the record, to reduce the significant impact to the specified performance standards." See also *Californians for Alternatives to Toxics v. Department of Food & Agric.* (2005) 136 Cal.App.4th 1 (the court set aside an EIR for a statewide crop disease control plan because it did not include an evaluation of the risks to the environment and human health from the proposed program but simply presumed that no adverse impacts would occur from use of pesticides in accordance with the registration and labeling program of the California Department of Pesticide Regulation); *Ebbetts Pass Forest Watch v Department of Forestry & Fire Protection* (2008) 43 Cal. App. 4th 936, 956 (fact that Department of

Pesticide Regulation had assessed environmental effects of certain herbicides in general did not excuse failure to assess effects of their use for specific timber harvesting project).

In addition, the Project's reliance on regulatory compliance with the referenced regulations is misplaced because there is no evidence that such ordinances were to control noise outside of the building's envelope, such as, for example, traffic noise or increase in ambient noises due to the Project's construction and operation. *California Clean Energy Committee v. City of Woodland* (2014) 225 Cal.App.4th 173, 210 (the building codes do not address the question of whether the Project is even safe to build, "whether a building should be constructed at all, how large it should be, where it should be located, whether it should incorporate certain resources, or anything else external to the building's envelope.")

Accordingly, there is a fair argument that the Project may have a significant noise impact and as such, the Project's potential noise impacts should be thoroughly analyzed and evaluated in an Environmental Impact Report pursuant to CEQA.

Response D.34: The comment makes general claims that the project should be considered to have significant noise impacts but does not mention the actual environmental setting for the project nor provide analysis based on any facts of the project's noise impacts during construction and once operational. The comment provides no substantial evidence to support its claims. The IS/MND's noise analysis is based on substantial evidence because it (1) specifically accounts for the noise environment on and around the project site, (2) identifies any noise-sensitive land uses in the vicinity, (3) calculates the project's construction and operational noise impacts, (4) applies objective thresholds based on the City's General Plan policies, and (5) quantifies noise impacts utilizing the objective thresholds¹⁶.

As identified on page 129 of the IS/MND and in the comment above, a Noise and Vibration Assessment was prepared by Illingworth & Rodkin, Inc., an air quality and acoustic consulting firm, in August 2022. All sources of noise from construction and operational activities were modeled and the estimated noise level increases were compared to thresholds of significance identified on page 135 and 136 of the IS/MND under Section 4.13.2.1 Thresholds of Significance. Estimated construction noise levels are shown in Table 4.13-3. Based on the computed noise levels, the exterior thresholds for industrial and residential land uses would not be exceeded during any phase of construction. Similarly, the approximate operational noise levels from project vehicle traffic (Table 4.13-4), mechanical equipment (Table 4.13-5), the parking lot (Table 4.13-6), and truck deliveries and loading (Table 4.13-7), were all modeled at the receiving property lines of existing noise-sensitive receptors, and the noise level increases were evaluated against the City's General Plan and Municipal Code thresholds for noise levels. Therefore, the less than significant impact

¹⁶ CEQA itself does not specify what noise increases caused by a project must be treated as significant, as that is very much a context specific assessment.

determinations for construction and operational noise levels were all based on substantial evidence and are not reliant solely on compliance with regulatory requirements. Furthermore, the identified standard permit condition implementing General Plan Policy EC-1.7 and Municipal Code requirements for construction-related noise is required by the City of San José for all new development projects regardless if an impact is identified. For these reasons, the IS/MND's conclusions for noise impacts are valid, (i.e., consistent with the City's noise regulatory framework) and based on substantial evidence in the project-specific noise study that accounted for the project's noise environment and the potential noise generated from the construction and operational activities. Therefore, no further response or additional CEQA analysis is required and the preparation of an EIR is not warranted.

Comment D.35: III. The City Must, At the Very Least, Revise and Recirculate the IS/MND

Section 15073.5 of the CEQA Guidelines provides that a negative declaration must be recirculated whenever the document must be substantially revised. A substantial revision includes the identification of new, avoidable significant effects requiring mitigation measures or project revisions to be added to reduce the effect to less than significant levels or upon the agency determining that a proposed mitigation measure or project change would not reduce a potential impact to insignificance.

Additionally, when new information is brought to light showing that an impact previously discussed in an IS/MND and found to be insignificant with or without mitigation in the IS/MND's analysis has the potential for a significant environmental impact supported by substantial evidence, the IS/MND must consider and resolve the conflict in the evidence. See *Visalia Retail, L.P. v. City of Visalia* (2018) 20 Cal. App. 5th 1, 13, 17; see also *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal. App. 4th 1099, 1109.

Here, in light of the IS/MND's failure to substantiate all of its findings, provide adequate mitigation measures, and fully assess all relevant factors, the Project requires significant revisions and resolution of conflicts in evidence. Therefore, at a minimum, the City must revise and recirculate the IS/MND if it does not prepare an EIR.

Response D.35: Recirculation of an IS/MND is required when the document must be substantially revised after public notice of its availability has been given prior to its adoption (Guidelines Section 15073.5(a)(b)) or when new substantial evidence significant comes to light that indicates the project may have a significant effect on the environment which cannot be mitigated or avoided (Guidelines Section 15073.5(d)). As discussed in the responses above, D.1 through D.34, to specific comments on the IS/MND, the comments raised in this letter do not identify any new or more significant impacts or mitigation measures considerably different than identified in the IS/MND. For these reasons, there is no need to disclose new information, as defined in the noted CEQA guidelines, and the IS/MND does not need to be recirculated.

Comment D.36: A. The IS/MND's Project Description Is Insufficient

"[A]n accurate, stable and finite project description is the sine qua non of an informative and legally sufficient" environmental document. County of Inyo v. City of Los Angeles (1977) 71 Cal.App.3d 185, 200. "A curtailed or distorted project description may stultify the objectives of the reporting process" as an accurate, stable, and finite project description is necessary to allow "affected outsiders and public decisionmakers balance the proposal's benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the proposal. Id. at 192-93.

Here, as a preliminary matter, the IS/MND is insufficient and requires revision given that it fails to specify the Project's objective and intended usage. Rather, the MND provides that "the exact usage of the proposed building is yet to be determined, but would likely be utilized for industrial distribution, manufacturing, and/or research & development activities." IS/MND at 1. Such lack of specification does not provide the public or City with a meaningful understanding of the intent of the Project and why it is warranted. The IS/MND must be revised to conclusively establish why the Project is needed and what exactly it intends to achieve before the City blanketly signs off on an unspecified industrial development.

Response D.36: The commenter inaccurately quotes text from the IS/MND. As stated on page 6 of the IS/MND, the actual text says "(w)hile a designated end user has not yet been determined for the project, the project is designed for a research and development (R&D) use." For the purposes of the IS/MND the approximately 121,400 square foot industrial/manufacturing warehouse was analyzed as a research and development use, which is a land use type consistent with the Industrial Park General Plan designation and Industrial Park Zoning District consistent with the existing General Plan land use designation and zoning for the project site. A comprehensive description of the project is provided in Section 3.0 Project Description. The CEQA Guidelines also do not require that an Initial Study, Negative Declaration, or Mitigated Negative Declaration include a statement of project objectives. A statement of objectives for the proposed project is specific to Environmental Impact Reports pursuant with CEQA Guidelines Section 15124(b), as project objectives are crucial to development of alternatives in an EIR, which are not required for an IS/MND. Environmental impacts associated with the construction and operation of a research and development use were evaluated in the IS/MND to inform decisions makers. Accordingly, no revision to the IS/MND is warranted. No further response or additional CEQA analysis is required.

Comment D.37: B. The IS/MND Fails to Mitigate the Project's Significant Impacts

If a project has a significant effect on the environment, an agency may approve the project only upon finding that it has "eliminated or substantially lessened all significant effects on the environment where feasible" and that any unavoidable significant effects on the environment are "acceptable due to overriding concerns." CEQA Guidelines, § 15092, subds. (b)(2)(A)-(B).

CEQA mitigation measures proposed and adopted are required to describe what actions will be taken to reduce or avoid an environmental impact. CEQA Guidelines, § 15126.4, subd. (a)(1)(B) (providing “[f]ormulation of mitigation measures should not be deferred until some future time”). While the same Guidelines section 15126.5(a)(1)(B) acknowledges an exception to the rule against deferrals, such exception is narrowly proscribed to situations where it is impractical or infeasible to include those details during the project’s environmental review. Moreover, CEQA allows deferral of details of mitigation measures only “when it is impractical or infeasible to include those details during the project’s environmental review.” Id. CEQA further requires “that the agency (1) commits itself to the mitigation, (2) adopts specific performance standards the mitigation will achieve, and (3) identifies the type(s) of potential action(s) that can feasibly achieve that performance standard[.]” CEQA Guidelines, § 15126.4, subd. (a)(1)(B).

As discussed above, the Project fails to mitigate its significant impacts. Therefore, at minimum, the IS/MND must be revised or otherwise an EIR prepared.

Response D.37: As responded above in Responses D.1 through D.36, the IS/MND includes real, feasible, and fully enforceable mitigation measures for traffic, hazards and hazardous materials, and biological resources impacts. Specifically, mitigation measures MM TRAN-1.1, MM TRAN-1.2, MM HAZ-1.1, MM HAZ-1.2, MM BIO-2.1, MM BIO-2.2, MM BIO-2.3, and MM BIO-2.4 identify specific performance standards to reduce impacts to acceptable levels, whether based on qualitative or quantitative thresholds applied to the project given the site location and surrounding environment, and actions that would feasibly achieve these performance standards. There are no deferred mitigation measures in the IS/MND, as explained in detail in responses provided above where the commenter has alleged that a particular measure has been improperly deferred. No further response or additional CEQA analysis is required.

Comment D.38: IV. Conclusion

Based on the foregoing, the City should prepare an EIR for the Project given that there is a fair argument that the Project will result in significant environmental impacts. However, at the very least, the City must revise the IS/MND to address the aforementioned concerns. Should the City have any questions, it should feel free to contact this office.

Response D.38: Based on the above responses, the comments raised in this letter do not identify any new or more significant impacts or mitigation measures considerably different than identified in the IS/MND. No substantial evidence has been presented, in light of the whole record, that the project, with identified mitigation measures, may have a significant effect on the environment. Therefore, the City has determined that the conclusions in the IS/MND are valid, supported by substantial evidence, and preparation of an EIR is not warranted.

Section 3.0 Draft IS/MND Text Revisions

This section contains revisions to the text of the 865 Embedded Way project IS/MND dated December 2023. Revised or new language is underlined. All deletions are shown with a line through the text.

Page 10 Section 3.2.8, the text in the section is **REVISED** as follows:

3.2.8 Construction

The total construction period would be 10 months with construction beginning in 2024. The site is vacant and would not require demolition. Construction activities would include site preparation, grading, building construction, architectural coating, and paving. Approximately 18,000 cubic yards of soil would be imported during the grading phase. The maximum depth of excavation on-site would be 20 feet.

The project would ~~also complete~~ include utility work such as installation of a two inch water line (approximately 290 linear feet in length) and a 15 inch storm drain pipe (approximately 227 linear feet in length) in the project's driveway off Embedded Way. During excavation, the maximum depth of excavation on-site would be 20 feet. Additional utility work would include the relocation of 1.25-inch and three-inch Pacific Gas and Electric (PG&E) natural gas lines (currently located on the eastern portion of the site) to a new location within the site that is proposed for disturbance. The natural gas pipes could be relocated within the project site's proposed southern drive aisle.

The project would also comply with the City's Zero Waste Strategic Plan to enhance construction recycling.

Page 161 Section 4.17.2, the text of the mitigation measure MM TRAN-1.1 at the top of the page is **REVISED** as follows:

MM TRAN-1.1: Prior to issuance of ~~any~~ any ~~Certificate of Occupancy~~, the project applicant shall implement the following multi-modal infrastructure improvements to incentivize alternative modes of travel and reduce VMT generation for the site:

- ~~The project shall~~ Remove the pork-chop islands on the southwest and northwest corners of the Embedded Way and Hellyer Avenue intersection to improve pedestrian safety and access. This improvement shall require a signal modification at this intersection that shall include the relocation of signal poles, heads, and crosswalks.
- ~~The project shall~~ install raised median islands along Embedded Way consisting of a 120-foot segment at its western terminus and a 190-foot

segment near the Embedded Way and Hellyer Avenue intersection for traffic calming purposes.

The multi-modal infrastructure improvements shall be part of a Public Improvement Plan prepared by the project applicant that demonstrates how the multi-modal improvements will be implemented and the schedules for completing the improvements. Prior to issuance of any certificates of occupancy, the project applicant shall submit ~~The Public Improvement Plan shall be reviewed and approved by~~ to the Director of Public Works or the Director's designee. The implementation of the multi-modal improvements shall be verified by the Director of Public Works or the Director's designee for review and approval.

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Section 4.17.2, the VMT per employee listed in the paragraph in-between MM TRAN-1.1 and MM TRAN-1.2 is revised with the following **REMOVAL**:

The implementation of the multimodal infrastructure improvements described above would reduce the VMT generated by the industrial uses to 14.52 VMT per R&D employee and to ~~14.36~~ VMT per office employee which would both still be greater than the established impact thresholds in the City's Transportation Analysis Policy. The project's VMT could be reduced further with the implementation of Travel Demand Management (TDM) measures.

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Section 4.17.2 the VMT per employee identified before CEQA checklist question c) is **REVISED** as follows:

The implementation of MM TRAN-1.1 and MM TRAN-1.2 would reduce the project's VMT to ~~14.36~~ 12.34 VMT per employee for ~~R&D uses~~ warehouse uses and ~~12.18~~ 12.20 VMT per employee for office uses. The current regional average VMT for industrial employment uses is 14.37 per employee and for office uses the VMT threshold is 12.21 VMT per employee. Therefore, VMT would be below the regional average VMT thresholds and result in a less than significant impact for both potential uses of the proposed building.
(Less than Significant Impact with Mitigation Incorporated)

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Section 4.17.2, the project trip generation rates shown in Table 4.17-1 are **REVISED** as follows:

Table 4.17-1 Project Trip Generation

Land Use	Project Size	Total Daily Rate	Total Daily Trips	AM Peak Trips			Total	PM Peak Trips			
				Rate	In	Out		Rate	In	Out	Total
Research and Development Location Based Reduction ¹	121,850 sf*	11.08	1,350	1.03	103	23	126	0.98	19	100	119
VTM-Based Reduction ²			-68		-5	-1	-6		-1	-5	-6
Project Trips After Reduction			1,282 1,262		97 96	22 22	119 119		18 18	94 94	112 112

¹ A 5 percent reduction was applied based on the location-based vehicle mode share percentage outputs

(Contained in Table 6 of the City's TA Handbook) produced from the San Jose Travel Demand Model for the Place

² Existing and project VMTs were estimated using the City of San Jose VMT Evaluation Tool. It is assumed that every percent reduction in VMT per-employee (in this case 1.05 percent) is equivalent to one percent reduction in peak-hour vehicle trips.

*At the time of analysis, the project had a larger square footage at 121,850 but the size of the project has since decreased to 121,400 square feet. The use of the larger square footage is a conservative approach.

Source: Hexagon Transportation Consultants, Inc. *Embedded Way Industrial Development Transportation Analysis*.
~~October 2022~~ April 2023

Page 173 Section 4.19.1.2, the following text is **ADDED** before Section 4.19.2 Impact Discussion:

Natural Gas and Electricity Facilities

Existing underground natural gas lines are located on the eastern portion of the project site based on confidential maps provided by PG&E to the project applicant. A three-inch natural gas line connects to the adjacent industrial buildings east of the project site (875 Embedded Way and 5345 Hellyer Avenue). On the project site, the three-inch natural gas lines connects to a 1.25-inch natural gas line that is mapped within the proposed building footprint.

Page 175 Section 4.19.2 the following text is **ADDED** towards the end of page 175:

Electric Power, Natural Gas, and Telecommunications

The project would utilize existing connections for electrical and telecommunication systems. The project would relocate two existing natural gas lines (one 1.25-inch line and one three-inch line) currently located on the eastern portion of the site. The relocation would take roughly two weeks and would occur within the anticipated construction period of the overall project utilizing construction equipment already on site for other project construction activities, such as a backhoe and dump trucks. For relocation, the construction contractors for the project would dig a new trench for the natural gas pipelines to expose new tie in locations for the contractors to install the new pipelines. All exposed trenches would be backfilled post-relocation. While the final relocation area has not yet been determined because it requires further coordination with PG&E, the potential

locations being considered are all within the proposed development footprint of the project. As described in Section 3.2.8, a possible location would be to relocate the natural gas pipelines within the southern drive aisle. As a result, the relocation would not result in impacts different than those associated with the overall construction of the project. In the event PG&E determines that the pipelines must be relocated to an area outside the proposed construction footprint, additional environmental review would be required prior to issuance of any permits associated with the construction work related to the relocation effort.

Although the project would increase the demand on existing facilities in the City, relocation of existing natural gas lines or construction of new electrical, or telecommunication facilities would not be needed to serve the proposed project. As a result, the proposed project would have a less than significant impact on these facilities.

Section 4.0 Conclusion

The comments received on the IS/MND did not raise any new issues about the project's environmental impacts, provide substantial evidence in support of a fair argument the project's impacts, following mitigation, would remain significant and unavoidable, or provide information indicating the project would result in new environmental impacts or impacts substantially greater in severity than disclosed in the IS/MND. Minor clarifications were added to the text of the IS/MND (refer to Section 3.0 Draft IS/MND Text Revisions). The text revisions do not constitute a "substantial revision" pursuant to CEQA Guidelines §15073.5 and recirculation of the MND is not required.

Appendix A: Comment Letters



January 10, 2024

City of San Jose
200 E. Santa Clara Street
San Jose, CA 95113

Attn: Nhu Nguyen,
By Email: nhu.nguyen@sanjoseca.gov

Dear Nhu,

Comment A.1

VTA appreciates the opportunity to comment on the IS/MND for the 865 Embedded Way Industrial Project. VTA has reviewed the document and has the following comments:

Coyote Creek Trail Access

Coyote Creek Trail is adjacent to the project site and is identified as a future [bicycle superhighway](#). These are high quality, uninterrupted, long-distance bikeways separated from motor vehicles that will allow people to travel quickly from city to city. The closest trail access is informally at the end of Embedded Way. VTA encourages the applicant to work with the City to formalize the access to Coyote Creek Trail with a trailhead and other amenities.

Bicycle Parking Comment A.2

Given the proximity to Coyote Creek Trail, it is likely employees will use the trail to bike to work and/or during their breaks. Currently, the proposed project will only provide 25 short-term bicycle racks. VTA recommends providing long-term bicycle parking (e.g. bike lockers, bike cage, bike room) in addition to the short-term bicycle racks. [VTA's Bicycle Technical Guidelines](#) provide guidance for estimating the amount and the design of bicycle parking facilities. For industrial uses, VTA recommends long-term bike parking provided at a minimum of 1 space per 10,000 square feet or a goal of 1 space per 5,000 square feet.

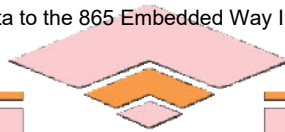
TDM Program Comment A.3

One proposed transportation mitigation measure is a Commute Trip Reduction Marketing/Education program to promote the use of transit, shared rides, and active transportation. VTA supports this marketing and education program but wants to note that current transit service options are not within walking distance of the project site. Resources are better used to promote shared rides and active transportation.

Thank you again for the opportunity to review this project. If you have any questions, please do not hesitate to contact me at (408) 321-5804 or larissa.sanderfer@vta.org.

Sincerely,

Larissa Sanderfer
Transportation Planner II
SJ2323



MUWEKMA OHLONE INDIAN TRIBE

OF THE SAN FRANCISCO BAY AREA REGION

'Innu Huššıştak Makiš Mak-Muwekma "The Road To The Future For Our People"

January 4, 2024

TRIBAL CHAIRPERSON
CHARLENE NIJMEH

TRIBAL VICE CHAIRPERSON
MONICA V. ARELLANO

TRIBAL TREASURER
RICHARD MASSIATT

TRIBAL COUNCIL
JOANN BROSE
FRANK RUANO
SHEILA SCHMIDT
CAROL SULLIVAN

TRIBAL ETHNO-HISTORIAN
ALAN LEVENTHAL

**TRIBAL HISTORIC
PRESERVATION OFFICER**
PROF. MICHAEL WILCOX PhD

Nhu Nguyen, Environmental Project Manager
City of San José, Department of Planning, Building and Code Enforcement
200 E Santa Clara St.,
San José, CA 95113
nhu.nguyen@sanjoseca.gov

Dear Ms. Nguyen,

Comment B.1

Thank you for contacting the Muwekma Ohlone Tribal Administration with regards to the proposed construction of a one-story 121,400 square foot industrial/manufacturing warehouse on a vacant 10.17-acre project site located at 865 Embedded Way in South San Jose (file # H22-022, ER22-113) [Assessor's Parcel No.: 679-01-020].

Based upon the information that was provided in your letter, stating that the

"City has performed an environmental review of the project. The environmental review examines the nature and extent of any adverse effects on the environment that could occur if the project is approved and implemented. Based on the review, the City has prepared a Draft Mitigated Negative Declaration (MND) for this project. An MND is a statement by the City that the project will not have a significant effect on the environment because the project will include mitigation measures that will reduce identified project impacts to a less than significant level."

Comment B.2

Based upon our Tribe's site sensitivity maps, it appears that the proposed project is located approximately [REDACTED] of one of our Tribe's ancestral heritage mortuary sites [REDACTED]; as well as [REDACTED] of two major ancestral burial sites [REDACTED] and [REDACTED] which yielded over 100 ancestral human remains (as some examples of nearby sites adjacent to Coyote Creek). Furthermore, the project is located approximately [REDACTED] of [REDACTED] which when we worked on that project in 1983, the lower cultural components dated 9300 -9900 BP (before present), therefore, these sites are of great significance under CEQA and other Environmental laws.

Comment B.3

As a result, given the proposed project's proximity to Coyote Creek, the Muwekma Ohlone tribal leadership is concerned that this demolition project which may indeed encounter unreported Tribal Cultural Resources, and therefore, we are formally recommending that the demolition, subsurface excavations, and related construction activities within subject project area be monitored by qualified archaeologists and a Muwekma Ohlone monitor during various stages of demolition, tree removal, and subsurface utilities excavations.

Comment B.4

The Tribe's Cultural Resources arm is available to provide monitors and willingness to work along side with any Cultural Resources Management (CRM) firms that will be hired by the City or applicant to monitor this project.

Comment B.5

We make these recommendations based upon the recovery of several hundred ancestral remains recovered from site [REDACTED] which were discovered after the demolition of the old cannery at that location. Similar Mitigated Negative Declaration (MND) determinations by the City of San Jose Planning Department for the recent [REDACTED] also stated that the project will not have a significant effect on the tribal and cultural resources, even though our Tribe was involved in the removal of over 50 ancestral human remains at these two adjacent locations.

Comment B.6

We are including a copy of one of our archaeological projects conducted by our Tribe at [REDACTED] as an example of our previous CRM work.

Thank you once again for contacting our Tribe and informing us of any and all City of San Jose construction projects as it relates to potential adverse impacts to our ancestral heritage sites/Tribal Cultural Resources as specified under AB 52.

Should you have any questions, please feel free to contact us.

On behalf of the Muwekma Ohlone Tribe of the San Francisco Bay Area,



Monica V. Arellano, Vice Chairwoman and MLD Tribal Representative



Alan Leventhal, Muwekma Tribal Archaeologist and Ethnohistorian

Cc: Muwekma Tribal Council
attachments



January 5, 2024

Nhu Nguyen
City of San Jose
200 East Santa Clara St, Tower-3
San Jose, CA 95113

Re: H22-022 ER22-113 865 Embedded Way Industrial Project
APN: 679-01-020

Dear Nhu Nguyen,

Comment C.1

Thank you for giving us the opportunity to review the subject plans. The proposed 865 Embedded Way Industrial Project is within the same vicinity of PG&E's existing 3" and 1 1/4" high pressure gas distribution facilities that impact this property.

The proposed 865 Embedded Way Industrial Project will require the relocation of existing PG&E gas service facilities. The applicant must contact the below resources to apply for the relocation of any existing PG&E gas services that exist on the subject parcels.

Please contact the Building and Renovation Center (BRSC) for facility map requests by calling 1-877-743-7782 and PG&E's Service Planning department at www.pge.com/cco for any modification or relocation requests, or for any additional services you may require.

As a reminder, before any digging or excavation occurs, please contact Underground Service Alert (USA) by dialing 811 a minimum of 2 working days prior to commencing any work. This free and independent service will ensure that all existing underground utilities are identified and marked on-site.

If you have any questions regarding our response, please contact me at Brian.Callaghan@pge.com.

Sincerely,

Brian Callaghan
Land Management
(925) 204-4074

P: (626) 314-3821
F: (626) 389-5414
E: info@mitshtsailaw.com



Mitchell M. Tsai
Law Firm

139 South Hudson Avenue
Suite 200
Pasadena, California 91101

VIA E-MAIL

January 10, 2024

Nhu Nguyen,
Environmental Project Manager
City of San Jose
200 East Santa Clara Street, 3rd Floor Tower
San Jose, CA 95113
P: (408) 535-6894
E: nhu.nguyen@sanjoseca.gov

RE: City of San Jose's 865 Embedded Way Industrial Project (Project File Nos. H22-022, ER22-113)

Dear Nhu Nguyen,

Comment D.1

On behalf of Carpenters Local Union 405 (“**Local 405**”) this office is submitting these comments on the Initial Study/Mitigated Negative Declaration (“**IS/MND**”) for the City of San Jose’s (“**City**”) 865 Embedded Way Industrial Project (“**Project**”).

The Project proposes a Site Development Permit (File No. H22-022) to allow the construction of a one-story, 121,400-square-foot industrial/manufacturing warehouse on a vacant 10.17-acre project site located at 865 Embedded Way in San Jose, California 95138 (APN 679-01-020) (“**Site**”). The Project also includes a connection to an existing 26-foot-wide drive aisle that extends from the eastern Embedded Way driveway through the adjacent eastern industrial property at 875 Embedded Way and currently terminates at the southeastern boundary of the Site. A total of 300 parking spaces would be provided in a surface parking lot surrounding the proposed building. The Project requires the removal of 11 trees on-site, two of which are ordinance-size.

Local 405 represents thousands of union carpenters in San Jose and has a strong interest in well-ordered land use planning and in addressing the environmental impacts of development projects. Individual members of Local 405 live, work, and recreate in the City and surrounding communities and would be directly affected by the Project’s environmental impacts.

Local 405 expressly reserves the right to supplement these comments at or prior to hearings on the Project, and at any later hearing or proceeding related to the Project. Gov. Code, § 65009, subd. (b); Pub. Res. Code, § 21177, subd. (a); see *Bakersfield Citizens for Local Control v. Bakersfield* (2004) 124 Cal.App.4th 1184, 1199-1203; see also *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal.App.4th 1109, 1121.

Local 405 incorporates by reference all comments related to the Project or its California Environmental Quality Act (“**CEQA**”) review, including the IS/MND. See *Citizens for Clean Energy v. City of Woodland* (2014) 225 Cal.App.4th 173, 191 (finding that any party who has objected to the project’s environmental documentation may assert any issue timely raised by other parties).

Moreover, Local 405 requests that the City provide notice for any and all notices referring or related to the Project issued under CEQA (Pub. Res. Code, § 21000 *et seq.*) and the California Planning and Zoning Law (“**Planning and Zoning Law**”) (Gov. Code, §§ 65000-65010). California Public Resources Code sections 21092.2 and 21167(f) and California Government Code section 65092 require agencies to mail such notices to any person who has filed a written request for them with the clerk of the agency’s governing body.

I. THE CITY SHOULD REQUIRE THE USE OF A LOCAL WORKFORCE TO BENEFIT THE COMMUNITY’S ECONOMIC DEVELOPMENT AND ENVIRONMENT.

Comment D.2

The City should require that the Project be built by contractors who participate in a Joint Labor-Management Apprenticeship Program approved by the State of California and make a commitment to hiring a local workforce.

Community benefits such as local hire can also be helpful to reduce environmental impacts and improve the positive economic impact of the Project. Local hire provisions requiring that a certain percentage of workers reside within 10 miles or less of the Site can reduce the length of vendor trips, reduce greenhouse gas (“**GHG**”) emissions, and provide localized economic benefits. As environmental consultants Matt Hagemann and Paul E. Rosenfeld note:

[A]ny local hire requirement that results in a decreased worker trip length from the default value has the potential to result in a reduction of construction-related GHG emissions, though the significance of the

reduction would vary based on the location and urbanization level of the project site.

March 8, 2021, SWAPE Letter to Mitchell M. Tsai re Local Hire Requirements and Considerations for Greenhouse Gas Modeling.

Workforce requirements promote the development of skilled trades that yield sustainable economic development. As the California Workforce Development Board and the University of California, Berkeley Center for Labor Research and Education concluded:

[L]abor should be considered an investment rather than a cost—and investments in growing, diversifying, and upskilling California’s workforce can positively affect returns on climate mitigation efforts. In other words, well-trained workers are key to delivering emissions reductions and moving California closer to its climate targets.¹

Furthermore, workforce policies have significant environmental benefits given that they improve an area’s jobs-housing balance, decreasing the amount and length of job commutes and the associated greenhouse gas (GHG) emissions. In fact, on May 7, 2021, the South Coast Air Quality Management District found that that the “[u]se of a local state-certified apprenticeship program” can result in air pollutant reductions.²

Locating jobs closer to residential areas can have significant environmental benefits. As the California Planning Roundtable noted in 2008:

People who live and work in the same jurisdiction would be more likely to take transit, walk, or bicycle to work than residents of less balanced communities and their vehicle trips would be shorter. Benefits would

¹ California Workforce Development Board (2020) Putting California on the High Road: A Jobs and Climate Action Plan for 2030 at p. ii, *available at* <https://laborcenter.berkeley.edu/wp-content/uploads/2020/09/Putting-California-on-the-High-Road.pdf>.

² South Coast Air Quality Management District (May 7, 2021) Certify Final Environmental Assessment and Adopt Proposed Rule 2305 – Warehouse Indirect Source Rule – Warehouse Actions and Investments to Reduce Emissions Program, and Proposed Rule 316 – Fees for Rule 2305, Submit Rule 2305 for Inclusion Into the SIP, and Approve Supporting Budget Actions, *available at* <http://www.aqmd.gov/docs/default-source/Agendas/Governing-Board/2021/2021-May7-027.pdf?sfvrsn=10>.

include potential reductions in both vehicle miles traveled and vehicle hours traveled.³

Moreover, local hire mandates and skill-training are critical facets of a strategy to reduce vehicle miles traveled (“**VMT**”). As planning experts Robert Cervero and Michael Duncan have noted, simply placing jobs near housing stock is insufficient to achieve VMT reductions given that the skill requirements of available local jobs must match those held by local residents.⁴ Some municipalities have even tied local hire and other workforce policies to local development permits to address transportation issues. Cervero and Duncan note that:

In nearly built-out Berkeley, CA, the approach to balancing jobs and housing is to create local jobs rather than to develop new housing. The city’s First Source program encourages businesses to hire local residents, especially for entry- and intermediate-level jobs, and sponsors vocational training to ensure residents are employment-ready. While the program is voluntary, some 300 businesses have used it to date, placing more than 3,000 city residents in local jobs since it was launched in 1986. When needed, these carrots are matched by sticks, since the city is not shy about negotiating corporate participation in First Source as a condition of approval for development permits.

Recently, the State of California verified its commitment towards workforce development through the Affordable Housing and High Road Jobs Act of 2022, otherwise known as Assembly Bill No. 2011 (“**AB2011**”). AB2011 amended the Planning and Zoning Law to allow ministerial, by-right approval for projects being built alongside commercial corridors that meet affordability and labor requirements.

The City should consider utilizing local workforce policies and requirements to benefit the local area economically and to mitigate GHG emissions, improve air quality, and reduce transportation impacts.

³ California Planning Roundtable (2008) Deconstructing Jobs-Housing Balance at p. 6, available at <https://cprroundtable.org/static/media/uploads/publications/cpr-jobs-housing.pdf>.

⁴ Cervero, Robert and Duncan, Michael (2006) Which Reduces Vehicle Travel More: Jobs-Housing Balance or Retail-Housing Mixing? Journal of the American Planning Association 72 (4), 475-490, 482, available at <http://reconnectingamerica.org/assets/Uploads/UTCT-825.pdf>.

II. THE PROJECT WOULD BE APPROVED IN VIOLATION OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

Comment D.3

A. Background Concerning the California Environmental Quality Act.

The California Environmental Quality Act is a California statute designed to inform decision-makers and the public about the potential significant environmental effects of a project. 14 California Code of Regulations (“**CEQA Guidelines**”), § 15002, subd. (a)(1).⁵ At its core, its purpose is to “inform the public and its responsible officials of the environmental consequences of their decisions *before* they are made.” *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564.

1. *Background Concerning Environmental Impact Reports.*

CEQA directs public agencies to avoid or reduce environmental damage, when possible, by requiring alternatives or mitigation measures. CEQA Guidelines, § 15002, subds. (a)(2)-(3); see also *Berkeley Keep Jets Over the Bay Committee v. Board of Port Comes* (2001) 91 Cal.App.4th 1344, 1354; *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553; *Laurel Heights Improvement Assn.*, 47 Cal.3d at p. 400. The EIR serves to provide public agencies and the public in general with information about the effect that a proposed project is likely to have on the environment and to “identify ways that environmental damage can be avoided or significantly reduced.” CEQA Guidelines, § 15002, subd. (a)(2). If the project has a significant effect on the environment, the agency may approve the project only upon finding that it has “eliminated or substantially lessened all significant effects on the environment where feasible” and that any unavoidable significant effects on the environment are “acceptable due to overriding concerns” specified in Public Resources Code section 21081. See CEQA Guidelines, § 15092, subds. (b)(2)(A)-(B).

While the 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. *Berkeley Jets*, 91 Cal.App.4th at p. 1355 (quoting *Laurel Heights Improvement Assn.*, 47 Cal.3d at pp. 391, 409 fn. 12) (internal quotations omitted). A clearly inadequate or unsupported study is entitled to no judicial

⁵ The CEQA Guidelines, codified in Title 14 of the California Code of Regulations, section 15000 et seq., are regulatory guidelines promulgated by the state Natural Resources Agency for the implementation of CEQA. Cal. Pub. Res. Code, § 21083. The CEQA Guidelines are given “great weight in interpreting CEQA except when . . . clearly unauthorized or erroneous.” *Center for Biological Diversity v. Dept. of Fish & Wildlife* (2015) 62 Cal.4th 204, 217.

deference. *Id.* Drawing this line and determining whether the EIR complies with CEQA's information disclosure requirements presents a question of law subject to independent review by the courts. *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 515; *Madera Oversight Coalition, Inc. v. County of Madera* (2011) 199 Cal.App.4th 48, 102, 131. As the court stated in *Berkeley Jets*, 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. 91 Cal.App.4th at p. 1355 (internal quotations omitted).

The preparation and circulation of an EIR is more than a set of technical hurdles for agencies and developers to overcome. *Communities for a Better Environment v. Richmond* (2010) 184 Cal.App.4th 70, 80 (quoting *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 449-450). The EIR's function is to ensure that government officials who decide to build or approve a project do so with a full understanding of the environmental consequences and, equally important, that the public is assured those consequences have been considered. *Id.* For the EIR to serve these goals it must present information so that the foreseeable impacts of pursuing the project can be understood and weighed, and the public must be given an adequate opportunity to comment on that presentation before the decision to go forward is made. *Id.*

A strong presumption in favor of requiring preparation of an EIR is built into CEQA. This presumption is reflected in what is known as the "fair argument" standard under which an EIR must be prepared whenever substantial evidence in the record supports a fair argument that a project may have a significant effect on the environment. *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1602; *Friends of "B" St. v. City of Hayward* (1980) 106 Cal.3d 988, 1002.

The fair argument test stems from the statutory mandate that an EIR be prepared for any project that "may have a significant effect on the environment." PRC, § 21151; see *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.App.3d 68, 75; accord *Jensen v. City of Santa Rosa* (2018) 23 Cal.App.5th 877, 884. Under this test, if a proposed project is not exempt and may cause a significant effect on the environment, the lead agency must prepare an EIR. PRC, §§ 21100 (a), 21151; CEQA Guidelines, § 15064 (a)(1), (f)(1). An EIR may be dispensed with only if the lead agency finds no substantial evidence in the initial study or elsewhere in the record that the project may have a significant effect on the environment. *Parker Shattuck Neighbors v. Berkeley City Council* (2013) 222

Cal.App.4th 768, 785. In such a situation, the agency must adopt a negative declaration. PRC, § 21080, subd. (c)(1); CEQA Guidelines, §§ 15063 (b)(2), 15064(f)(3).

“Significant effect upon the environment” is defined as “a substantial or potentially substantial adverse change in the environment.” PRC, § 21068; CEQA Guidelines, § 15382. A project may have a significant effect on the environment if there is a reasonable probability that it will result in a significant impact. *No Oil, Inc.*, 13 Cal.3d at p. 83 fn. 16; see *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 309. If any aspect of the project may result in a significant impact on the environment, an EIR must be prepared even if the overall effect of the project is beneficial. CEQA Guidelines, § 15063(b)(1); see *County Sanitation Dist. No. 2 v. County of Kern* (2005) 127 Cal.App.4th 1544, 1580.

This standard sets a “low threshold” for preparation of an EIR. *Consolidated Irrigation Dist. v. City of Selma* (2012) 204 Cal.App.4th 187, 207; *Nelson v. County of Kern* (2010) 190 Cal.App.4th 252; *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 928; *Bowman v. City of Berkeley* (2004) 122 Cal.App.4th 572, 580; *Citizen Action to Serve All Students v. Thornley* (1990) 222 Cal.App.3d 748, 754; *Sundstrom*, 202 Cal.App.3d at p. 310. If substantial evidence in the record supports a fair argument that the project may have a significant environmental effect, the lead agency must prepare an EIR even if other substantial evidence before it indicates the project will have no significant effect. See *Jensen*, 23 Cal.App.5th at p. 886; *Clews Land & Livestock v. City of San Diego* (2017) 19 Cal.App.5th 161, 183; *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150; *Brentwood Assn. for No Drilling, Inc. v. City of Los Angeles* (1982) 134 Cal.App.3d 491; *Friends of “B” St.*, 106 Cal.App.3d 988; CEQA Guidelines, § 15064(f)(1).

Comment D.4² *Background Concerning Initial Studies, Negative Declarations and Mitigated Negative Declarations.*

CEQA and CEQA Guidelines are strict and unambiguous about when an MND may be used. A public agency must prepare an EIR whenever substantial evidence supports a “fair argument” that a proposed project “may have a significant effect on the environment.” Pub. Res. Code, §§ 21100, 21151; CEQA Guidelines, §§ 15002, subds. (f)(1)-(2), 15063; *No Oil, Inc.*, 13 Cal.3d at p. 75; *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 111-112.

Essentially, should a lead agency be presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect. CEQA Guidelines, §§ 15064, subds. (f)(1)-(2); see *No Oil Inc.*, *supra*, 13 Cal.3d at p. 75 (internal citations and quotations omitted). Substantial evidence includes “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.” CEQA Guidelines, § 15384(a).

The fair argument standard is a “low threshold” test for requiring the preparation of an EIR. *No Oil Inc.*, *supra*, 13 Cal.3d at p. 84; *County Sanitation Dist. No. 2 of Los Angeles County v. County of Kern* (2005) 127 Cal.App.4th 1544, 1579. It “requires the preparation of an EIR where there is substantial evidence that any aspect of the project, either individually or cumulatively, may cause a significant effect on the environment, regardless of whether the overall effect of the project is adverse or beneficial[.]” *County Sanitation*, *supra*, 127 Cal.App.4th at p. 1580 (quoting CEQA Guidelines, § 15063(b)(1)). A lead agency may adopt an MND only if “there is no substantial evidence that the project will have a significant effect on the environment.” CEQA Guidelines, § 15074(b).

Evidence supporting a fair argument of a significant environmental impact triggers preparation of an EIR regardless of whether the record contains contrary evidence. *League for Protection of Oakland’s Architectural and Historical Resources v. City of Oakland* (1997) 52 Cal.App.4th 896, 904-905. “Where the question is the sufficiency of the evidence to support a fair argument, deference to the agency’s determination is not appropriate[.]” *County Sanitation*, 127 Cal.App.4th at 1579 (quoting *Sierra Club v. County of Sonoma* (1992) 6 Cal.App.4th 1307, 1317-1318).

Further, it is the duty of the lead agency, not the public, to conduct the proper environmental studies. “The agency should not be allowed to hide behind its own failure to gather relevant data.” *Sundstrom*, 202 Cal.App.3d at p. 311. “Deficiencies in the record may actually enlarge the scope of fair argument by lending a logical plausibility to a wider range of inferences.” *Id.*; see also *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1382 (lack of study enlarges the scope of the fair argument which may be made based on the limited facts in the record).

Thus, refusal to complete recommended studies lowers the already low threshold to establish a fair argument. The court may not exercise its independent judgment on the

omitted material by determining whether the ultimate decision of the lead agency would have been affected had the law been followed. *Environmental Protection Information Center v. Cal. Dept. of Forestry* (2008) 44 Cal.4th 459, 486 (internal citations and quotations omitted). The remedy for this deficiency would be for the trial court to issue a writ of mandate. *Id.*

Both the review for failure to follow CEQA's procedures and the fair argument test are questions of law, thus, the de novo standard of review applies. *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 435.

"Whether the agency's record contains substantial evidence that would support a fair argument that the project may have a significant effect on the environment is treated as a question of law. *Consolidated Irrigation Dist.*, 204 Cal.App.4th at p. 207; Kostka and Zischke, *Practice Under the Environmental Quality Act* (2017, 2d ed.) at § 6.76.

In an MND context, courts give no deference to the agency. Additionally, the agency or the court should not weigh expert testimony or decide on the credibility of such evidence—this is one of the EIR's functions. As stated in *Pocket Protectors v. City of Sacramento* (2004):

Unlike the situation where an EIR has been prepared, neither the lead agency nor a court may "weigh" conflicting substantial evidence to determine whether an EIR must be prepared in the first instance. Guidelines section 15064, subdivision (f)(1) provides in pertinent part: if a lead agency is presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect. Thus, as *Claremont* itself recognized, [c]onsideration is not to be given contrary evidence supporting the preparation of a negative declaration.

124 Cal.App.4th 903, 935 (internal citations and quotations omitted).

In cases where it is not clear whether there is substantial evidence of significant environmental impacts, CEQA requires erring on the side of a "preference for resolving doubts in favor of environmental review." *Mejia v. City of Los Angeles* (2005) 130 Cal.App.4th 322, 332. "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. *Friends of Mammoth v. Board of Supervisors* (1972) 8 Cal.3d 247, 259.

Comment D.5

As explained below, the IS/MND fails to make certain essential findings. Further, for a number of findings that the IS/MND does make, it fails to support such findings with sufficient analysis and substantial evidence, or it fails to incorporate adequate mitigation measures. Therefore, there is a fair argument that the Project will have a significant effect on the environment, triggering the “low threshold” standard for preparation of an EIR.

B. There Is a Fair Argument that the Project May Have a Significant Traffic Impact.

Comment D.6

The very nature of the Project—a 121,400-square-foot building with 300 parking spaces on roughly 10 acres of land—indicates that it may have significant and severe traffic impacts, thus requiring the preparation of an EIR. This is further supported by the fact that the Project will generate an estimated 1,350 net daily trips per the Institute of Transportation Engineers (“ITE”) *Trip Generation Manual*, 11th Edition (2021). IS/MND, pp. 163-164.⁶

Comment D.7

Furthermore, the IS/MND acknowledges that the Project’s daily Vehicle Miles Traveled (“VMT”) would be 15.12 per industrial employee, which exceeds the City’s VMT Evaluation Tool’s industrial threshold of 14.37 daily VMT per worker:

The proposed Research & Development project, which would support both office and industrial uses, would have 15.12 vehicles miles traveled (VMT) per industrial employee which would exceed the 14.37 VMT per industrial employees and would have 14.95 VMT per office employee which would exceed the 12.21 VMT per office employee threshold.

IS/MND, pp. 10, 160.

Thus, the IS/MND admits that the project’s generated VMT would exceed the significance threshold for industrial employment and therefore result in a significant transportation impact on VMT. *Id.*

To dispose of the need to prepare an EIR, the IS/MND relies on mitigation measure MM TRAN-1.1 to support its contention that the Project would have a less than

⁶ The IS/MND contends that, after “all applicable trip reductions and credits,” the Project would generate a “net new total of 1,269 additional daily trips.” IS/MND, p. 164.

significant impact with mitigation incorporated as it pertains to CEQA Guidelines Section 15064.3 and its required VMT evaluation of a project's transportation impacts. IS/MND, p. 161. Yet, mitigation measure MM TRAN-1.1 is inadequate for an EIR, given that it is unenforceable, illusory, and infeasible. It also improperly delegates the City's affirmative duty to ensure the reduction of traffic impacts onto the Project's Applicant and further improperly delegates the approval of any traffic mitigation plans to the City's Public Works department, rather than the elected decision-makers. MM TRAN-1.1 also improperly defers mitigation.

Specifically, mitigation measure MM TRAN-1.1 states:

MM TR-1.1: Prior to the issuance Certificate of Occupancy, the project shall implement the following multi-modal infrastructure improvements to incentivize alternative modes of travel and reduce VMT generation for the site:

- The project shall remove the pork-chop islands on the southwest and northwest corners of the Embedded Way and Hellyer Avenue intersection to improve pedestrian safety and access. This improvement shall require a signal modification at this intersection that shall include the relocation of signal poles, heads, and crosswalks.
- The project shall install raised median islands along Embedded Way consisting of a 120-foot segment at its western terminus and a 190-foot segment near the Embedded Way and Hellyer Avenue intersection for traffic calming purposes.

The multi-modal infrastructure improvements shall be part of a Public Improvement Plan that demonstrates how the multi-modal improvements will be implemented and the schedules for completing the improvements. The Public Improvement Plan shall be reviewed and approved by the Director of Public Works or the Director's designee. The implementation of the multimodal improvements shall be verified by the Director of Public Works or the Director's designee.

The implementation of the multimodal infrastructure improvements described above would reduce the VMT generated by the industrial uses to 14.52 VMT per R&D employee and to 114.36 [sic] VMT per office employee which would both still be greater than the established impact

thresholds in the City's Transportation Analysis Policy. The project's VMT could be reduced further with the implementation of Travel Demand Management (TDM) measures.

Id.

As can be evinced from the above-quoted IS/MND statements, the proposed plans are aimed to reduce *industrial* and *employee* VMT, yet, critically, the VMT "would still be greater than the established impact thresholds in the City's Transportation Analysis Policy." Mitigation measure MM-TRAN-1.1 then concludes that "[t]he project's VMT could be reduced further with the implementation of Travel Demand Management (TDM) measures." *Id.*

Specifically, MM-TRAN-1.2 states:

Prior to the issuance of the Planning Site Development Permit, the project applicant shall submit a final TDM Plan, approved by the Director of Department of Public Works or Director's designee and the Director of Planning, Building and Code Enforcement, or Director's designee, that shall include implementation of the following TDM measures to reduce the project's VMT.

- Commute Trip Reduction Marketing/Education: Implement marketing/educational campaigns that promote the use of transit, shared rides, and travel through active modes for 25 percent of the project employees. Strategies may include the incorporation of alternative commute options into new employee orientations, event promotions, and publications.
- Subsidize Vanpool: Provide subsidies for individuals forming new vanpools for their commute. This encourages the use of vanpools, reducing drive-alone trips, and thereby reducing VMT. The project shall be required to subsidize 100 percent of the cost of the vanpool and achieve at least 25 percent employee participation.

The TDM plan shall be submitted to the Director of Public Works or Director's designee and the Director of Planning, Building and Code Enforcement or the Director's designee and shall include a trip cap for VMT monitoring purposes. The trip cap shall be prepared by a traffic

engineer. The monitoring shall be based on annual trip generation counts that demonstrate the vehicle trips generated by the project are within 10 percent of an established peak hour trip cap that is prepared by a traffic engineer. The annual trip monitoring reports shall be submitted that demonstrate that project-generated VMT is below the significance threshold. If the annual trip monitoring report finds that the project is exceeding the established trip cap, the project shall be required to submit a follow-up report that demonstrates compliance with the trip cap requirements within a period not to exceed six months.

IS/MND, pp. 161-162.

The IS/MND concludes that, through the implementation of both MM TRAN-1.1 and MM TRAN-1.2, the Project's VMT would be reduced to 14.36 per employee for research and development (R&D) uses and 12.18 per employee for office uses.

IS/MND, p. 162.

Comment D.8
First, the proposed mitigation measures are illusory given they only require that the Project Applicant submit plans at some future point which the City may then review. These measures further place the burden on the Applicant to "ensure" that the proposed changes result in a reduction of VMT. Simply put, there is no definitive and measurable commitment to mitigation at all. Even under the EIR-related CEQA Guidelines section 15126.4(a)(1)(B), this is improper since, *inter alia*, the City does not commit to mitigation but rather relies on the applicant to mitigate.

Comment D.9
Second, the proposed mitigation measures are illusory because of their timing (i.e., prior to the issuance of the Certificate of Occupancy and the Planning Site Development Permit) and they do not provide for any *discretionary approval* or hearing. As related, the proposed mitigation measures provide for "approval" of plans regarding multi-modal infrastructure improvements which *may* incentivize alternative modes of travel, and such approval will be by the Public Works department, apparently without any public hearing.

Comment D.10
Third, the proposed mitigation measures improperly and speculatively conclude that they will *necessarily* reduce the traffic impacts to a sufficient level of significance without any assurances, figures, or evidence. The IS/MND fails to offer any evidence showing that Applicant's removal of the pork-chop islands on the southwest and northwest corners of the Embedded Way and Hellyer Avenue and installation of

raised median islands along Embedded Way will reduce VMT from 15.12 to 14.52 per industrial employee and 14.95 to 14.36 per office employee. IS/MND, pp. 160-161. Further, the IS/MND fails to offer evidence showing that commute trip reduction marketing techniques, worker education, and vanpool subsidies will so successfully incentivize alternative commute options and promote employee participation to such a degree that VMT will be further reduced from 14.52 to 14.37 for industrial employees and 14.36 to 12.21 for office employees. IS/MND, pp. 161-162.

Comment D.11

Fourth, based on these mitigation measures, it is the Public Works department, if at all, that will be making the finding that the Project's mitigation plans, as proposed by the Applicant, will indeed reduce traffic impacts to the requisite level of insignificance. This violates CEQA's non-delegation provision. See CEQA Guidelines, § 15025, subd. (b)(2) (Delegation of Responsibilities).

Comment D.12

Fifth, the mitigation measures are infeasible and illusory given that they are based on the speculation and assumption that the Project's *employees* will be so motivated and incentivized as to adopt alternative commuting options to get to the Site. There are no assurances that employees will indeed do so. The measures also propose to *add* and *remove* components of nearby roads to "to improve pedestrian safety and access" and "for traffic calming purposes." IS/MND, p. 161. Yet, at the same time, the IS/MND elsewhere acknowledges that the Project site will attract heavy-duty trucks: "Based on the 12 truck loading docks, it was assumed that the project would generate 24 trucks or 48 truck trips daily." IS/MND, pp. 38-39. The IS/MND further states that "[a]ll trucks were assumed to be heavy-duty diesel-powered trucks and a source of long-term [diesel particulate matter] emissions." *Id.* The IS/MND then contends that "[t]hese trucks would travel to and from the site and are anticipated to idle at loading docks for 5 minutes for each trip." IS/MND, p. 39.

It is also reasonably foreseeable that employees will not choose to ride bikes or walk to the Project Site at a minimum due to the road safety concerns as well as concerns about being exposed to a high level of diesel emissions and air and GHG impacts from such heavy trucks on the road and regularly visiting the Site. CEQA requires that in such cases of doubt, the agency should resolve such issues in favor of an EIR. *Nelson v. County of Kern* (2010) 190 Cal.App.4th 252, 282.

The above-noted and critical flaws violate CEQA's standard for IS/MNDs under Public Resources Code section 21064.5 to show that:

Comment D.13

(1) [R]evisions in the project plans or proposals made by, or agreed to by, the applicant before the proposed negative declaration and initial study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur, and (2) there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment.

Clearly, here, the Project may have significant effects on the environment at least in the context of traffic.

Comment D.13

Sixth, the proposed mitigation measures are improperly deferred and vague as they defer the formulation of mitigation measures or final design thereof to a later time, shift that burden to the Applicant, and further do not adequately explain how removing the pork-chop islands or installing raised median islands will improve pedestrian safety and calm traffic to such a degree that such measures will “clearly” reduce VMT to the requisite level of insignificance, as required for an IS/MND.

Comment D.14

As stated previously, the IS/MND fails to meet CEQA’s pre-conditions and requirements even in the case of an EIR. CEQA forbids deferred mitigation. CEQA Guidelines, § 15126.4, subd. (a)(1)(B). CEQA allows deferral of details of mitigation measures only “when it is impractical or infeasible to include those details during the project’s environmental review.” **Comment D.30** CEQA further requires that the lead agency:

(1) [C]ommits itself to the mitigation, (2) adopts specific performance standards the mitigation will achieve, and (3) identifies the type(s) of potential action(s) that can feasibly achieve that performance standard[.]

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

Here, the City failed each of these preconditions and requirements, as the IS/MND fails to show why the development of the traffic calming plans or pedestrian improvements could not be developed before the issuance of the IS/MND, what impacts they will have individually or cumulatively, if such plans would indeed be feasible, and the specific performance criteria that Applicant will have to meet.

Moreover, as noted previously, the City clearly did not commit to mitigation, since all it would do, per the mitigation measures, is review and approve Applicant’s proposed plans.

Comment D.15.

Furthermore, mitigation measure MM TRAN-1.1 relies on some future coordination with other public entities aside from the City to implement the measure and does not show how it will be enforced nor what the outcome will be. **Comment D.16** For example, there is no requirement that Applicant report the number of employee trips after the pork-chop islands are removed and median islands installed or to ensure that the VMTs are indeed reduced to the requisite level of insignificance such that an IS/MND would suffice to bring the Project in compliance with CEQA. Yet again, this mitigation measure fails to explain how simply encouraging pedestrian travel will actually discourage vehicle travel and thus cause an actual decrease in VMT resulting from the Project and thus result in a less than significant impact on traffic and transportation.

Comment D.17

The foregoing measure is impermissibly vague and improperly defers the actual reduction in VMT to some later unspecified date without showing *how* these proposed measures would reduce VMT.

Comment D.18.

Yet another flaw in the City's traffic impact analysis is its reliance on Senate Bill 743 ("SB 743") to disregard traffic congestion. The City claims it provides a level of service analysis for information purposes only. IS/MND, p. 164. And yet, SB 743 on its face does not apply to *industrial* projects here, but rather to commercial and residential projects only. Further, the IS/MND fails to include an Intersection Level of Service, as is required under existing, background, and background plus project conditions, yet the City claims the traffic impacts will be less than significant despite that certain intersection levels may worsen after implementation of the Project.

Comment D.19

Finally, also given that construction of the Project itself may result in road closures and detours, there is a fair argument that the Project may have significant traffic impacts which should be assessed in an EIR pursuant to CEQA.

Comment D.20

For the reasons set forth above, the IS/MND fails to prove that the Project's traffic impacts will be mitigated to a less than significant level with the incorporation of the proposed mitigation measures. In fact, the IS/MND shows the opposite, necessitating the preparation of an EIR.

Comment D. 21

C. There Is a Fair Argument that the Project May Have Significant Air Quality, GHG Emission, Water, Noise, Hazards, Human Health, and Wildlife/Biological Impacts, and Cumulative Impacts, Requiring Mandatory Findings of Significance and the Preparation of an EIR.

Comment D.22

Given that the Project may have significant traffic impacts that are not accurately disclosed or mitigated against in the IS/MND, then its traffic-related impacts are also derivatively understated and may be significant, thereby requiring the preparation and circulation of an EIR.

There is an acknowledged direct correlation between the increase in traffic impacts and an increase in the associated air quality, GHG emission, and noise impacts. See e.g., *City of Redlands v. County of San Bernardino* (2002) 96 Cal.App.4th 398, 413 (“it is reasonable to assume” that a project enabling physical residential development would have reasonably foreseeable indirect air and other impacts).

As stated in the Office of Planning Research’s (“**OPR**”) technical advisory in 2018:

VTM and Greenhouse Gas Emissions Reduction. Senate Bill 32 (Pavley, 2016) requires California to reduce greenhouse gas (GHG) emissions 40 percent below 1990 levels by 2030, and Executive Order B-16-12 provides a target of 80 percent below 1990 emissions levels for the transportation sector by 2050. The transportation sector has three major means of reducing GHG emissions: increasing vehicle efficiency, reducing fuel carbon content, and reducing the amount of vehicle travel.

Similarly, there is an acknowledged nexus between the increase in traffic and in related air quality, GHG impacts, noise, water/flooding impacts, and impacts on human health and the natural environment, including wildlife and waterways. As described in the 2018 OPR Technical advisory:

VTM and Other Impacts to Health and Environment. VTM mitigation also creates substantial benefits (sometimes characterized as “co-benefits” to GHG reduction) in both in the near-term and the long-term. Beyond GHG emissions, increases in VTM also impact human health and the natural environment. Human health is impacted as increases in vehicle travel lead to more vehicle crashes, poorer air quality, increases in chronic diseases associated with reduced physical activity, and worse mental health. Increases in vehicle travel also negatively affect other road users, including pedestrians, cyclists, other motorists, and many transit users. The natural environment is impacted as higher VTM leads to more collisions with wildlife and fragments habitat. Additionally, development that leads to more vehicle travel also tends to consume more energy,

water, and open space (including farmland and sensitive habitat). This increase in impermeable surfaces raises the flood risk and pollutant transport into waterways.

As such, there is a fair argument that the Project here may have significant GHG emissions, air quality, energy, water, noise and other impacts, including impacts on human beings and the natural environment.

1. *GHG Emissions and Air Quality Impacts*

Comment D.23

The IS/MND ultimately concludes that the Project will have a less than significant impact with regards to GHG emissions based only on the contention that “Project construction would occur over a period of approximately 10 months and would result in the release of 140 MTCO₂e.” IS/MND, p. 99. The IS/MND then contends that the Project construction activity and resulting GHG emissions “would not interfere with the implementation of Senate Bill 32. *Id.*

The IS/MND completely fails to analyze, to any degree sufficient to constitute compliance with CEQA, the Project’s potential GHG emissions impacts, and instead offers a conclusory statement that because construction emissions would occur over a certain period and result in a certain tonnage of CO₂, that the Project will not result in a significant impact with regards to GHG emissions. Consequently, the IS/MND requires substantial revisions or an EIR must be prepared.

Comment D.24

In terms of the Project’s operational emissions, the IS/MND too heavily depends on the Project’s consistency with the General Plan land use designation for the Site and planned growth from build out of the General Plan and that “the project’s GHG emissions are accounted for in the citywide GHG emissions inventory addressed in the GHGRS, *provided the project complies with applicable GHG reduction measures identified in the GHGRS.*” IS/MND, p. 99. The IS/MND’s reliance on the Project’s consistency with the City’s 2030 GHG Reduction Strategy (“**GHGRS**”), i.e., the hope that the Project “complies with applicable GHG reduction measures,” cannot constitute as mitigation nor a determination that the Project will have less than significant impacts for purposes of CEQA compliance.

The IS/MND concludes that the Project will have less than significant GHG emissions impacts due to the Project’s adoption of certain measures of the GHGRS, including consistency with the Land Use/Transportation Diagram designation of the General Plan and enrollment in the SJCE TotalGreen program. IS/MND, p. 100.

According to the IS/MND, the Project will be designed and constructed in compliance with the City of San Jose Council Policy 6-32, the City's reach code, and the City's Green Building Ordinance. IS/MND, p. 101. However, the Project's mere implementation of GHG reduction strategies, compliance with city initiatives, and reliance on regulations is insufficient to conclude that the Project will have less than significant GHG emissions impacts, as these measures are not specific to *this* Project.

That the Project may have air quality and GHG emissions impacts is also evidenced by the recent BAAQMD thresholds, according to which "[i]f the project includes any of the operational screening criteria above [including industrial sources or activities], then the lead agency would need to perform a detailed assessment of the project's criteria air pollutant and precursor emissions."⁷ Yet, the IS/MND concludes that the Project will have *neither* GHG emissions nor air quality impacts.

The Project may further have severe GHG emissions and air quality impacts in light of its traffic mitigation measure which assumes that the employees will choose to bike or walk to the Project Site and thereby be exposed to the high level of diesel emissions of heavy trucks both at the Project Site and the nearby industrial sites. Such increased GHG emissions and air quality impacts may also occur in light of the fact that the Project proposes traffic-calming alterations to nearby roads, which reasonably foreseeably—along with the trucks and bikes riding on the same roads—will create congestion on the roads and idling of the heavy-duty trucks, as well as other vehicles.

2. Hazards Impacts

Comment D.25

The Project may also have hazards impacts, in light of potential soil contamination due to prior agricultural work and use of pesticides. The Project's Phase I ESA, for this purpose, discloses such potential. Phase I ESA, p. 10. And yet, the Phase I ESA does not adequately study that potential as, *inter alia*, it concludes, without supporting evidence, that "the potential for residual pesticides, if any, at these locations to significantly impact the planned commercial use of the Site appears low." *Id.* It reaches this conclusion despite admitting that "residual pesticide concentrations could remain in on-Site soil." *Id.* The Phase I ESA also recommends that soil sampling be conducted in order to determine if naturally occurring asbestos ("NOA") is present at the Site and whether an asbestos dust mitigation plan ("ADMP") and associated air

⁷ BAAQMD, Chapter 4, p. 4-3; see available at: [Bay Area Air Quality Management District California Environmental Quality Act Air Quality Guidelines \(baaqmd.gov\)](https://www.baaqmd.gov/California-Environmental-Quality-Act-Air-Quality-Guidelines).

monitoring is required. Phase I ESA, p. 11. Fatally, the timing of such study and determination of the need for mitigation should have been conducted prior to and in preparation of the IS/MND, not at some future date considering that the Site is located within an area of mapped ultramafic rock outcrops in which asbestos occurs naturally. Phase I ESA, p. 10. Further, Phase I ESA prepared in 2021 uses the *older* ASTM standard. *Id.* (“Cornerstone performed this Phase I ESA in general accordance with ASTM E1527-13”).

This omission is particularly critical and constitutes the Phase I ESA as tellingly inaccurate given that as of 2021—post-dating the October 17, 2021, ESA Phase I Environmental Site Assessment—ASTM has revised its standards, and as of 2022, EPA⁸ has adopted ASTM’s new and more expansive definition of REC. Thus:

“Under **ASTM E1527-13**, a REC is defined as the **presence** or **likely presence** of **any hazardous substances** or petroleum products in, on, or at a property: (1) due to **release** to the environment; (2) under **conditions indicative** of a release to the environment; or (3) under conditions that **pose a material threat** of a future release to the environment.

Under **ASTM E1527-21**, a REC means (1) the **presence** of hazardous substances or petroleum due to a release to the environment; (2) the **likely presence** of hazardous substances or petroleum products due to a **likely release** to the environment; or (3) the presence of hazardous substances or petroleum products under conditions that pose a material threat of a future release to the environment. Further, the new standard provides clarifying discussion notes and examples to assist the environmental professional in applying the definition. Together, the new definition and interpretations direct a consultant to rely on the environmental professional’s experience regarding the **likelihood** of certain conditions resulting in releases, such as the long term operation of a dry cleaner, instead of discounting that professional experience based on the lack of current “indications of a release.”⁹ (ital. original, bold emphasis added.)

⁸ <https://www.govinfo.gov/content/pkg/FR-2022-03-14/pdf/2022-05259.pdf>.

⁹ <https://www.quarles.com/publications/epa-approves-astm-e1527-21-phase-i-esa-standard-for-all-appropriate-inquiry/>.

Comment D.26

Lastly, the Phase I ESA is silent on vapor intrusion REC, which study is specifically mandated by ASTM and the Environmental Protection Agency (“**EPA**”) since 2013 under the EPA Final Rule.¹⁰ Thus, in its Final Rule in 2013, the EPA states:

EPA believes that ASTM E1527–13 improves upon the previous standard and reflects the evolving best practices and level of rigor that will afford prospective property owners necessary and essential information when making property transaction decisions and meeting continuing obligations under the CERCLA liability protections.

In particular, the new ASTM E1527–13 standard enhances the previous standard with regard to the delineation of historical releases or recognized environmental conditions at a property and makes important revisions to the standard practice to clarify that all appropriate inquires and **phase I environmental site assessments must include**, within the scope of the investigation, an **assessment of the real or potential occurrence of vapor migration and vapor releases on, at, in or to** the subject property.

Federal Register, Vol. 78, No. 250, December 30, 2013, p. 3 (emph. added).

Comment D.27

As such, the Phase I ESA’s reliance on a soil sample to be collected at some future date with the expectation that it may produce asbestos results given the Site’s location within an area of mapped, asbestos-containing ultramafic rock outcrops, and failure to consider a more comprehensive ASTM E1527-21 suggests that the Project Site may have hazards impacts that have not been studied and accounted for. Needless to say that, per the Phase I ESA, the Project had to be a *commercial* one—rather than industrial. All of these factors suggest the Project may have hazards impacts, which may also translate into adverse impacts to human beings, including employees of the Project Site as well as other human beings and sensitive receptors, including during the Project’s construction, grading, and dirt-hauling phase.

Comment D.28

Lastly, the IS/MND acknowledges the potential for significant hazards impacts including on human health, yet concludes, without evidentiary support, that “[c]ompliance with the broad array of existing regulations from state and local governments noted above in Section 4.9.1.1 Regulatory Framework would ensure the

¹⁰ <https://www.epa.gov/ust/petroleum-vapor-intrusion>;
<https://www.govinfo.gov/content/pkg/FR-2013-12-30/pdf/2013-31112.pdf>.

project would result in less than significant impacts related to the potential routine transport, use, or disposal of hazardous materials.” IS/MND, p. 109. Again, the Project’s mere implementation of hazards reduction strategies, compliance with city initiatives, and reliance on regulations is insufficient to conclude that the Project will have less than significant hazards impacts, as these measures are not specific to *this* Project.

3. *Water Quality Impacts*

Comment D.29

As for water impacts, the IS/MND acknowledges that the Project site soils may be contaminated, including with NOA and due to the presence of agricultural chemicals. IS/MND, p. 109. As such, to the extent the Project’s grading affects the underground waters, there is a reasonable foreseeability that the Project may have water impacts. Moreover, based on the IS/MND, the Project will require disturbance of soil on 10.1 acres of land, permanent conversion of 0.4 acres of mixed oak woodland to suburban land uses, permanent impacts on one acre of serpentine bunchgrass grassland and approximately 6.6-acres of California annual grassland (IS/MND, p. 59), removal of at least 11 trees including approximately nine mature native oak trees (IS/MND, pp. 50, 58), and removal of Santa Clara Valley dudleya (a federally endangered species and a Habitat Plan covered species) (IS/MND, p. 49). As such, the Project may affect the natural drainage patterns and thus have water/hydrology impacts.

4. *Wildlife and Biological Impacts*

Comment D.30

Lastly, as for wildlife and biological impacts, the IS/MND discloses that the Project site may have various protected species but proposed inadequate mitigation measures, suffering from the same flaws as the traffic mitigation measures above. To name a few problems, the IS/MND acknowledges that the Project site may accommodate the western bumble bee, California tiger salamander, California red-legged frog, foothill yellow-legged frog, Swainson’s hawk, bald eagle, least Bell’s vireo, San Joaquin kit fox, burrowing owl, loggerhead shrike, San Francisco dusky-footed woodrats, and Townsend’s big-eared bat, yet concludes that all are absent from the Site due to a lack of observance during the May 2022 field survey. IS/MND, p. 50. The IS/MND is silent on whether these species were observed at any point after May 2022. Additional site surveys must be completed prior to the Project’s building phase to adequately determine whether and to what extent protected species may be present on the Site.

Comment D.31

Further, the IS/MND acknowledges that:

The only special-status wildlife species that can potentially breed or occur on or immediately adjacent to the project site are the Bay checkerspot butterfly, Crotch's bumble bee, yellow warbler, and white-tailed kite. Of these species, only the Bay checkerspot butterfly is covered under the Habitat Plan. During a survey conducted in April 2023, no Bay checkerspot butterfly adults or Crotch's bumble bees were observed. While the Bay checkerspot butterfly and Crotch's bumble bee are unlikely to be present, it is possible that individuals may occasionally forage or breed on the site and, therefore, the species cannot be deemed absent.

Id.

That the federally threatened Bay checkerspot butterfly and Crotch's bumble bee were not observed during a single survey conducted in April 2023 says little about whether the Site hosts or is suitable to host the Bay checkerspot butterfly, which live an average of just 10 days as adults, and emerge during a six-week period from late February to early May. The IS/MND acknowledges that "[w]hile the Bay checkerspot butterfly and Crotch's bumble bee are unlikely to be present, it is possible that individuals may occasionally forage or breed on the site and, therefore, the species cannot be deemed absent." *Id.*

The IS/MND provides that the "preparation of a Habitat Plan application for the project and payment of Habitat Plan impact fees (including the serpentine specialty fee) pursuant to the City's standard permit condition would reduce impacts to the Bay checkerspot butterfly." IS/MND, p. 59. The IS/MND is silent on the mechanism by which such measure will reduce impacts to the Bay checkerspot butterfly. Further, this measure defers mitigation in violation of CEQA. Comment D.32 The MND's mitigation measures for nesting raptors, other migratory birds, or Western burrowing owls are similarly inadequate, unenforceable, and illusory. MND, pp. 60-63. Comment D.33

Comment D.33 In sum, the MND's findings of no impacts, including but not limited to impacts in air quality and GHG emissions, are clearly erroneous, and an EIR is required to not only disclose the Project's respective impacts, but also relate those to the adverse health impacts and impacts to the human beings that the Project may have. *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502.

Further, the above-noted impacts to human beings, as well as the fact that the Project may have cumulative impacts with related projects, these impacts by themselves

require mandatory findings of significance and the preparation of an EIR under CEQA Guidelines section 15065. The City's summary denial of such mandatory significance impacts is conclusory and unsupported, in light of the above-mentioned evidence.

Comment D.34 ^{5.} *Noise Impacts*

The Project proposes to construct a one-story 121,850-square-foot industrial/manufacturing warehouse. IS/MND, p. 1. Yet, while the IS/MND ultimately concludes that the Project will have a less than significant impact on noise and therefore no mitigation is required (IS/MND, p. 10), the IS/MND fails to actually conduct any analysis of the Project's potential noise impacts which would show that such impacts may occur. In fact, the Noise Assessment in Appendix G ("**Noise Assessment**") of the IS/MND explicitly concludes that no mitigation is required with regards to each impact discussed.

Furthermore, where the Noise Assessment does find that there will be a significant noise impact, it relies on the Project's "implementation of GP Policy EC-1.7, Municipal Code requirements, and the City's Standard Permit Conditions" to conclude that the Project's "temporary construction noise impacts would be reduced to a less-than-significant level." However, it is improper for the IS/MND to merely rely on Applicant's compliance with regulatory measures to conclude that the Project will have less than significant impacts for a number of reasons. For example, noise regulations do not capture all the noise impacts of the Project, including construction and operation. Moreover, the regulatory measures are not Project-specific and are focused on the Project itself—as such, they fail to consider issues specific to the Project, such as location, size, proposed mitigation measures, as well as the Project's *cumulative* impacts along with other related projects. Further, the IS/MND's traffic impacts are understated, and therefore traffic noise is understated and left unaccounted for. Thus, an EIR is required to study the Project's noise impacts and to determine whether those will be significant.

As stated in CEQA, Guidelines section 15126.4(a)(1)(B), "[c]ompliance with a regulatory permit or other similar process may be identified as mitigation if compliance would result in implementation of measures that would be reasonably expected, based on substantial evidence in the record, to reduce the significant impact to the specified performance standards." See also *Californians for Alternatives to Toxics v. Department of Food & Agric.* (2005) 136 Cal.App.4th 1 (the court set aside an EIR for a statewide crop

disease control plan because it did not include an evaluation of the risks to the environment and human health from the proposed program but simply presumed that no adverse impacts would occur from use of pesticides in accordance with the registration and labeling program of the California Department of Pesticide Regulation); *Ebbetts Pass Forest Watch v Department of Forestry & Fire Protection* (2008) 43 Cal. App. 4th 936, 956 (fact that Department of Pesticide Regulation had assessed environmental effects of certain herbicides in general did not excuse failure to assess effects of their use for specific timber harvesting project).

In addition, the Project's reliance on regulatory compliance with the referenced regulations is misplaced because there is no evidence that such ordinances were to control noise outside of the building's envelope, such as, for example, traffic noise or increase in ambient noises due to the Project's construction and operation. *California Clean Energy Committee v. City of Woodland* (2014) 225 Cal.App.4th 173, 210 (the building codes do not address the question of whether the Project is even *safe* to build, "whether a building should be constructed at all, how large it should be, where it should be located, whether it should incorporate certain resources, or anything else external to the building's envelope.")

Accordingly, there is a fair argument that the Project may have a significant noise impact and as such, the Project's potential noise impacts should be thoroughly analyzed and evaluated in an Environmental Impact Report pursuant to CEQA.

III. THE CITY MUST, AT THE VERY LEAST, REVISE AND RECIRCULATE THE IS/MND.

Comment D.35

Section 15073.5 of the CEQA Guidelines provides that a negative declaration must be recirculated whenever the document must be substantially revised. A substantial revision includes the identification of new, avoidable significant effects requiring mitigation measures or project revisions to be added to reduce the effect to less than significant levels or upon the agency determining that a proposed mitigation measure or project change would not reduce a potential impact to insignificance.

Additionally, when new information is brought to light showing that an impact previously discussed in an IS/MND and found to be insignificant with or without mitigation in the IS/MND's analysis has the potential for a significant environmental impact supported by substantial evidence, the IS/MND must consider and resolve the conflict in the evidence. See *Visalia Retail, L.P. v. City of Visalia* (2018) 20 Cal. App.

5th 1, 13, 17; see also *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal. App. 4th 1099, 1109.

Here, in light of the IS/MND's failure to substantiate all of its findings, provide adequate mitigation measures, and fully assess all relevant factors, the Project requires significant revisions and resolution of conflicts in evidence. Therefore, at a minimum, the City must revise and recirculate the IS/MND if it does not prepare an EIR.

A. The IS/MND's Project Description Is Insufficient.

Comment D.36

"[A]n accurate, stable and finite project description is the sine qua non of an informative and legally sufficient" environmental document. *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 200. "A curtailed or distorted project description may stultify the objectives of the reporting process" as an accurate, stable, and finite project description is necessary to allow "affected outsiders and public decision-makers balance the proposal's benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the proposal. *Id.* at 192-93.

Here, as a preliminary matter, the IS/MND is insufficient and requires revision given that it fails to specify the Project's objective and intended usage. Rather, the MND provides that "the exact usage of the proposed building is yet to be determined, but would likely be utilized for industrial distribution, manufacturing, and/or research & development activities." IS/MND at 1. Such lack of specification does not provide the public or City with a meaningful understanding of the intent of the Project and why it is warranted. The IS/MND must be revised to conclusively establish why the Project is needed and what exactly it intends to achieve before the City blanketly signs off on an unspecified industrial development.

B. The IS/MND Fails to Mitigate the Project's Significant Impacts.

Comment D.37

If a project has a significant effect on the environment, an agency may approve the project only upon finding that it has "eliminated or substantially lessened all significant effects on the environment where feasible" and that any unavoidable significant effects on the environment are "acceptable due to overriding concerns." CEQA Guidelines, § 15092, subds. (b)(2)(A)-(B).

CEQA mitigation measures proposed and adopted are required to describe what actions will be taken to reduce or avoid an environmental impact. CEQA Guidelines, § 15126.4, subd. (a)(1)(B) (providing "[f]ormulation of mitigation measures should not be deferred until some future time"). While the same Guidelines section

15126.5(a)(1)(B) acknowledges an exception to the rule against deferrals, such exception is narrowly proscribed to situations where it is impractical or infeasible to include those details during the project's environmental review. Moreover, CEQA allows deferral of details of mitigation measures only "when it is impractical or infeasible to include those details during the project's environmental review." *Id.* CEQA further requires "that the agency (1) commits itself to the mitigation, (2) adopts specific performance standards the mitigation will achieve, and (3) identifies the type(s) of potential action(s) that can feasibly achieve that performance standard[.]" CEQA Guidelines, § 15126.4, subd. (a)(1)(B).

As discussed above, the Project fails to mitigate its significant impacts. Therefore, at minimum, the IS/MND must be revised or otherwise an EIR prepared.

IV. CONCLUSION

Comment D.38

Based on the foregoing, the City should prepare an EIR for the Project given that there is a fair argument that the Project will result in significant environmental impacts. However, at the very least, the City must revise the IS/MND to address the aforementioned concerns. Should the City have any questions, it should feel free to contact this office.

Sincerely,



Reza Mohamadzadeh
Attorneys for Carpenters Local Union 405

Attached:

March 8, 2021, SWAPE Letter to Mitchell M. Tsai re Local Hire Requirements and Considerations for Greenhouse Gas Modeling (Exhibit A);

Air Quality and GHG Expert Paul Rosenfeld CV (Exhibit B);

Air Quality and GHG Expert Matt Hagemann CV (Exhibit C).

EXHIBIT A

Comment D.36



Technical Consultation, Data Analysis and
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March 8, 2021

Mitchell M. Tsai
155 South El Molino, Suite 104
Pasadena, CA 91101

Subject: Local Hire Requirements and Considerations for Greenhouse Gas Modeling

Dear Mr. Tsai,

Soil Water Air Protection Enterprise ("SWAPE") is pleased to provide the following draft technical report explaining the significance of worker trips required for construction of land use development projects with respect to the estimation of greenhouse gas ("GHG") emissions. The report will also discuss the potential for local hire requirements to reduce the length of worker trips, and consequently, reduced or mitigate the potential GHG impacts.

Worker Trips and Greenhouse Gas Calculations

The California Emissions Estimator Model ("CalEEMod") is a "statewide land use emissions computer model designed to provide a uniform platform for government agencies, land use planners, and environmental professionals to quantify potential criteria pollutant and greenhouse gas (GHG) emissions associated with both construction and operations from a variety of land use projects."¹ CalEEMod quantifies construction-related emissions associated with land use projects resulting from off-road construction equipment; on-road mobile equipment associated with workers, vendors, and hauling; fugitive dust associated with grading, demolition, truck loading, and on-road vehicles traveling along paved and unpaved roads; and architectural coating activities; and paving.²

The number, length, and vehicle class of worker trips are utilized by CalEEMod to calculate emissions associated with the on-road vehicle trips required to transport workers to and from the Project site during construction.³

¹ "California Emissions Estimator Model." CAPCOA, 2017, available at: <http://www.aqmd.gov/caleemod/home>.

² "California Emissions Estimator Model." CAPCOA, 2017, available at: <http://www.aqmd.gov/caleemod/home>.

³ "CalEEMod User's Guide." CAPCOA, November 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/01_user-39-s-guide2016-3-2_15november2017.pdf?sfvrsn=4, p. 34.

Specifically, the number and length of vehicle trips is utilized to estimate the vehicle miles travelled (“VMT”) associated with construction. Then, utilizing vehicle-class specific EMFAC 2014 emission factors, CalEEMod calculates the vehicle exhaust, evaporative, and dust emissions resulting from construction-related VMT, including personal vehicles for worker commuting.⁴

Specifically, in order to calculate VMT, CalEEMod multiplies the average daily trip rate by the average overall trip length (see excerpt below):

$$\text{“VMT}_d = \Sigma(\text{Average Daily Trip Rate}_i * \text{Average Overall Trip Length}_i) _n$$

Where:

n = Number of land uses being modeled.”⁵

Furthermore, to calculate the on-road emissions associated with worker trips, CalEEMod utilizes the following equation (see excerpt below):

$$\text{“Emissions}_{\text{pollutant}} = \text{VMT} * \text{EF}_{\text{running,pollutant}}$$

Where:

$\text{Emissions}_{\text{pollutant}}$ = emissions from vehicle running for each pollutant

VMT = vehicle miles traveled

$\text{EF}_{\text{running,pollutant}}$ = emission factor for running emissions.”⁶

Thus, there is a direct relationship between trip length and VMT, as well as a direct relationship between VMT and vehicle running emissions. In other words, when the trip length is increased, the VMT and vehicle running emissions increase as a result. Thus, vehicle running emissions can be reduced by decreasing the average overall trip length, by way of a local hire requirement or otherwise.

Default Worker Trip Parameters and Potential Local Hire Requirements

As previously discussed, the number, length, and vehicle class of worker trips are utilized by CalEEMod to calculate emissions associated with the on-road vehicle trips required to transport workers to and from the Project site during construction.⁷ In order to understand how local hire requirements and associated worker trip length reductions impact GHG emissions calculations, it is important to consider the CalEEMod default worker trip parameters. CalEEMod provides recommended default values based on site-specific information, such as land use type, meteorological data, total lot acreage, project type and typical equipment associated with project type. If more specific project information is known, the user can change the default values and input project-specific values, but the California Environmental Quality Act (“CEQA”) requires that such changes be justified by substantial evidence.⁸ The default number of construction-related worker trips is calculated by multiplying the

⁴ “Appendix A Calculation Details for CalEEMod.” CAPCOA, October 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6, p. 14-15.

⁵ “Appendix A Calculation Details for CalEEMod.” CAPCOA, October 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6, p. 23.

⁶ “Appendix A Calculation Details for CalEEMod.” CAPCOA, October 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6, p. 15.

⁷ “CalEEMod User’s Guide.” CAPCOA, November 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/01_user-39-s-guide2016-3-2_15november2017.pdf?sfvrsn=4, p. 34.

⁸ CalEEMod User Guide, available at: <http://www.caleemod.com/>, p. 1, 9.

number of pieces of equipment for all phases by 1.25, with the exception of worker trips required for the building construction and architectural coating phases.⁹ Furthermore, the worker trip vehicle class is a 50/25/25 percent mix of light duty autos, light duty truck class 1 and light duty truck class 2, respectively.”¹⁰ Finally, the default worker trip length is consistent with the length of the operational home-to-work vehicle trips.¹¹ The operational home-to-work vehicle trip lengths are:

“[B]ased on the location and urbanization selected on the project characteristic screen. These values were supplied by the air districts or use a default average for the state. Each district (or county) also assigns trip lengths for urban and rural settings” (emphasis added).¹²

Thus, the default worker trip length is based on the location and urbanization level selected by the User when modeling emissions. The below table shows the CalEEMod default rural and urban worker trip lengths by air basin (see excerpt below and Attachment A).¹³

Worker Trip Length by Air Basin		
Air Basin	Rural (miles)	Urban (miles)
Great Basin Valleys	16.8	10.8
Lake County	16.8	10.8
Lake Tahoe	16.8	10.8
Mojave Desert	16.8	10.8
Mountain Counties	16.8	10.8
North Central Coast	17.1	12.3
North Coast	16.8	10.8
Northeast Plateau	16.8	10.8
Sacramento Valley	16.8	10.8
Salton Sea	14.6	11
San Diego	16.8	10.8
San Francisco Bay Area	10.8	10.8
San Joaquin Valley	16.8	10.8
South Central Coast	16.8	10.8
South Coast	19.8	14.7
Average	16.47	11.17
Minimum	10.80	10.80
Maximum	19.80	14.70
Range	9.00	3.90

⁹ “CalEEMod User’s Guide.” CAPCOA, November 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/01_user-39-s-guide2016-3-2_15november2017.pdf?sfvrsn=4, p. 34.

¹⁰ “Appendix A Calculation Details for CalEEMod.” CAPCOA, October 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6, p. 15.

¹¹ “Appendix A Calculation Details for CalEEMod.” CAPCOA, October 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6, p. 14.

¹² “Appendix A Calculation Details for CalEEMod.” CAPCOA, October 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6, p. 21.

¹³ “Appendix D Default Data Tables.” CAPCOA, October 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/05_appendix-d2016-3-2.pdf?sfvrsn=4, p. D-84 – D-86.

As demonstrated above, default rural worker trip lengths for air basins in California vary from 10.8- to 19.8- miles, with an average of 16.47 miles. Furthermore, default urban worker trip lengths vary from 10.8- to 14.7- miles, with an average of 11.17 miles. Thus, while default worker trip lengths vary by location, default urban worker trip lengths tend to be shorter in length. Based on these trends evident in the CalEEMod default worker trip lengths, we can reasonably assume that the efficacy of a local hire requirement is especially dependent upon the urbanization of the project site, as well as the project location.

Practical Application of a Local Hire Requirement and Associated Impact

To provide an example of the potential impact of a local hire provision on construction-related GHG emissions, we estimated the significance of a local hire provision for the Village South Specific Plan (“Project”) located in the City of Claremont (“City”). The Project proposed to construct 1,000 residential units, 100,000-SF of retail space, 45,000-SF of office space, as well as a 50-room hotel, on the 24-acre site. The Project location is classified as Urban and lies within the Los Angeles-South Coast County. As a result, the Project has a default worker trip length of 14.7 miles.¹⁴ In an effort to evaluate the potential for a local hire provision to reduce the Project’s construction-related GHG emissions, we prepared an updated model, reducing all worker trip lengths to 10 miles (see Attachment B). Our analysis estimates that if a local hire provision with a 10-mile radius were to be implemented, the GHG emissions associated with Project construction would decrease by approximately 17% (see table below and Attachment C).

Local Hire Provision Net Change	
Without Local Hire Provision	
Total Construction GHG Emissions (MT CO ₂ e)	3,623
Amortized Construction GHG Emissions (MT CO ₂ e/year)	120.77
With Local Hire Provision	
Total Construction GHG Emissions (MT CO ₂ e)	3,024
Amortized Construction GHG Emissions (MT CO ₂ e/year)	100.80
% Decrease in Construction-related GHG Emissions	17%

As demonstrated above, by implementing a local hire provision requiring 10 mile worker trip lengths, the Project could reduce potential GHG emissions associated with construction worker trips. More broadly, any local hire requirement that results in a decreased worker trip length from the default value has the potential to result in a reduction of construction-related GHG emissions, though the significance of the reduction would vary based on the location and urbanization level of the project site.

This serves as an example of the potential impacts of local hire requirements on estimated project-level GHG emissions, though it does not indicate that local hire requirements would result in reduced construction-related GHG emission for all projects. As previously described, the significance of a local hire requirement depends on the worker trip length enforced and the default worker trip length for the project’s urbanization level and location.

¹⁴ “Appendix D Default Data Tables.” CAPCOA, October 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/05_appendix-d2016-3-2.pdf?sfvrsn=4, p. D-85.

Disclaimer

SWAPE has received limited discovery. 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,

A handwritten signature in blue ink, appearing to read "M Hagemann".

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

A handwritten signature in blue ink, appearing to read "Paul Rosenfeld".

Paul E. Rosenfeld, Ph.D.

Attachment A

Exhibit E - Final Response to Comments and Errata to the 865 Embedded Way Industrial Project MND

Location Type	Location Name	Rural H-W (miles)	Urban H-W (miles)
Air Basin	Great Basin	16.8	10.8
Air Basin	Lake County	16.8	10.8
Air Basin	Lake Tahoe	16.8	10.8
Air Basin	Mojave Desert	16.8	10.8
Air Basin	Mountain	16.8	10.8
Air Basin	North Central	17.1	12.3
Air Basin	North Coast	16.8	10.8
Air Basin	Northeast	16.8	10.8
Air Basin	Sacramento	16.8	10.8
Air Basin	Salton Sea	14.6	11
Air Basin	San Diego	16.8	10.8
Air Basin	San Francisco	10.8	10.8
Air Basin	San Joaquin	16.8	10.8
Air Basin	South Central	16.8	10.8
Air Basin	South Coast	19.8	14.7
Air District	Amador County	16.8	10.8
Air District	Antelope Valley	16.8	10.8
Air District	Bay Area AQMD	10.8	10.8
Air District	Butte County	12.54	12.54
Air District	Calaveras	16.8	10.8
Air District	Colusa County	16.8	10.8
Air District	El Dorado	16.8	10.8
Air District	Feather River	16.8	10.8
Air District	Glenn County	16.8	10.8
Air District	Great Basin	16.8	10.8
Air District	Imperial County	10.2	7.3
Air District	Kern County	16.8	10.8
Air District	Lake County	16.8	10.8
Air District	Lassen County	16.8	10.8
Air District	Mariposa	16.8	10.8
Air District	Mendocino	16.8	10.8
Air District	Modoc County	16.8	10.8
Air District	Mojave Desert	16.8	10.8
Air District	Monterey Bay	16.8	10.8
Air District	North Coast	16.8	10.8
Air District	Northern Sierra	16.8	10.8
Air District	Northern	16.8	10.8
Air District	Placer County	16.8	10.8
Air District	Sacramento	15	10

Air District	San Diego	16.8	10.8
Air District	San Joaquin	16.8	10.8
Air District	San Luis Obispo	13	13
Air District	Santa Barbara	8.3	8.3
Air District	Shasta County	16.8	10.8
Air District	Siskiyou County	16.8	10.8
Air District	South Coast	19.8	14.7
Air District	Tehama County	16.8	10.8
Air District	Tuolumne	16.8	10.8
Air District	Ventura County	16.8	10.8
Air District	Yolo/Solano	15	10
County	Alameda	10.8	10.8
County	Alpine	16.8	10.8
County	Amador	16.8	10.8
County	Butte	12.54	12.54
County	Calaveras	16.8	10.8
County	Colusa	16.8	10.8
County	Contra Costa	10.8	10.8
County	Del Norte	16.8	10.8
County	El Dorado-Lake	16.8	10.8
County	El Dorado-	16.8	10.8
County	Fresno	16.8	10.8
County	Glenn	16.8	10.8
County	Humboldt	16.8	10.8
County	Imperial	10.2	7.3
County	Inyo	16.8	10.8
County	Kern-Mojave	16.8	10.8
County	Kern-San	16.8	10.8
County	Kings	16.8	10.8
County	Lake	16.8	10.8
County	Lassen	16.8	10.8
County	Los Angeles-	16.8	10.8
County	Los Angeles-	19.8	14.7
County	Madera	16.8	10.8
County	Marin	10.8	10.8
County	Mariposa	16.8	10.8
County	Mendocino-	16.8	10.8
County	Mendocino-	16.8	10.8
County	Mendocino-	16.8	10.8
County	Mendocino-	16.8	10.8
County	Merced	16.8	10.8
County	Modoc	16.8	10.8
County	Mono	16.8	10.8
County	Monterey	16.8	10.8
County	Napa	10.8	10.8

County	Nevada	16.8	10.8
County	Orange	19.8	14.7
County	Placer-Lake	16.8	10.8
County	Placer-Mountain	16.8	10.8
County	Placer-	16.8	10.8
County	Plumas	16.8	10.8
County	Riverside-	16.8	10.8
County	Riverside-	19.8	14.7
County	Riverside-Salton	14.6	11
County	Riverside-South	19.8	14.7
County	Sacramento	15	10
County	San Benito	16.8	10.8
County	San Bernardino-	16.8	10.8
County	San Bernardino-	19.8	14.7
County	San Diego	16.8	10.8
County	San Francisco	10.8	10.8
County	San Joaquin	16.8	10.8
County	San Luis Obispo	13	13
County	San Mateo	10.8	10.8
County	Santa Barbara-	8.3	8.3
County	Santa Barbara-	8.3	8.3
County	Santa Clara	10.8	10.8
County	Santa Cruz	16.8	10.8
County	Shasta	16.8	10.8
County	Sierra	16.8	10.8
County	Siskiyou	16.8	10.8
County	Solano-	15	10
County	Solano-San	16.8	10.8
County	Sonoma-North	16.8	10.8
County	Sonoma-San	10.8	10.8
County	Stanislaus	16.8	10.8
County	Sutter	16.8	10.8
County	Tehama	16.8	10.8
County	Trinity	16.8	10.8
County	Tulare	16.8	10.8
County	Tuolumne	16.8	10.8
County	Ventura	16.8	10.8
County	Yolo	15	10
County	Yuba	16.8	10.8
Statewide	Statewide	16.8	10.8

Worker Trip Length by Air Basin		
Air Basin	Rural (miles)	Urban (miles)
Great Basin Valleys	16.8	10.8
Lake County	16.8	10.8
Lake Tahoe	16.8	10.8
Mojave Desert	16.8	10.8
Mountain Counties	16.8	10.8
North Central Coast	17.1	12.3
North Coast	16.8	10.8
Northeast Plateau	16.8	10.8
Sacramento Valley	16.8	10.8
Salton Sea	14.6	11
San Diego	16.8	10.8
San Francisco Bay Area	10.8	10.8
San Joaquin Valley	16.8	10.8
South Central Coast	16.8	10.8
South Coast	19.8	14.7
Average	16.47	11.17
Minimum	10.80	10.80
Maximum	19.80	14.70
Range	9.00	3.90

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Annual

Village South Specific Plan (Proposed)
Los Angeles-South Coast County, Annual

1.0 Project Characteristics

1.1 Land Usage

Land Uses	Size	Metric	Lot Acreage	Floor Surface Area	Population
General Office Building	45.00	1000sqft	1.03	45,000.00	0
High Turnover (Sit Down Restaurant)	36.00	1000sqft	0.83	36,000.00	0
Hotel	50.00	Room	1.67	72,600.00	0
Quality Restaurant	8.00	1000sqft	0.18	8,000.00	0
Apartments Low Rise	25.00	Dwelling Unit	1.56	25,000.00	72
Apartments Mid Rise	975.00	Dwelling Unit	25.66	975,000.00	2789
Regional Shopping Center	56.00	1000sqft	1.29	56,000.00	0

1.2 Other Project Characteristics

Urbanization	Urban	Wind Speed (m/s)	2.2	Precipitation Freq (Days)	33
Climate Zone	9			Operational Year	2028
Utility Company	Southern California Edison				
CO2 Intensity (lb/MW hr)	702.44	CH4 Intensity (lb/MW hr)	0.029	N2O Intensity (lb/MW hr)	0.006

1.3 User Entered Comments & Non-Default Data

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Annual

Project Characteristics - Consistent with the DEIR's model.

Land Use - See SWAPE comment regarding residential and retail land uses.

Construction Phase - See SWAPE comment regarding individual construction phase lengths.

Demolition - Consistent with the DEIR's model. See SWAPE comment regarding demolition.

Vehicle Trips - Saturday trips consistent with the DEIR's model. See SWAPE comment regarding weekday and Sunday trips.

Woodstoves - Woodstoves and wood-burning fireplaces consistent with the DEIR's model. See SWAPE comment regarding gas fireplaces.

Energy Use -

Construction Off-road Equipment Mitigation - See SWAPE comment on construction-related mitigation.

Area Mitigation - See SWAPE comment regarding operational mitigation measures.

Water Mitigation - See SWAPE comment regarding operational mitigation measures.

Table Name	Column Name	Default Value	New Value
tblFireplaces	FireplaceWoodMass	1,019.20	0.00
tblFireplaces	FireplaceWoodMass	1,019.20	0.00
tblFireplaces	NumberWood	1.25	0.00
tblFireplaces	NumberWood	48.75	0.00
tblVehicleTrips	ST_TR	7.16	6.17
tblVehicleTrips	ST_TR	6.39	3.87
tblVehicleTrips	ST_TR	2.46	1.39
tblVehicleTrips	ST_TR	158.37	79.82
tblVehicleTrips	ST_TR	8.19	3.75
tblVehicleTrips	ST_TR	94.36	63.99
tblVehicleTrips	ST_TR	49.97	10.74
tblVehicleTrips	SU_TR	6.07	6.16
tblVehicleTrips	SU_TR	5.86	4.18
tblVehicleTrips	SU_TR	1.05	0.69
tblVehicleTrips	SU_TR	131.84	78.27

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tblVehicleTrips	SU_TR	5.95	3.20
tblVehicleTrips	SU_TR	72.16	57.65
tblVehicleTrips	SU_TR	25.24	6.39
tblVehicleTrips	WD_TR	6.59	5.83
tblVehicleTrips	WD_TR	6.65	4.13
tblVehicleTrips	WD_TR	11.03	6.41
tblVehicleTrips	WD_TR	127.15	65.80
tblVehicleTrips	WD_TR	8.17	3.84
tblVehicleTrips	WD_TR	89.95	62.64
tblVehicleTrips	WD_TR	42.70	9.43
tblWoodstoves	NumberCatalytic	1.25	0.00
tblWoodstoves	NumberCatalytic	48.75	0.00
tblWoodstoves	NumberNoncatalytic	1.25	0.00
tblWoodstoves	NumberNoncatalytic	48.75	0.00
tblWoodstoves	WoodstoveDayYear	25.00	0.00
tblWoodstoves	WoodstoveDayYear	25.00	0.00
tblWoodstoves	WoodstoveWoodMass	999.60	0.00
tblWoodstoves	WoodstoveWoodMass	999.60	0.00

2.0 Emissions Summary

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2.1 Overall Construction

Unmitigated Construction

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Year	tons/yr										MT/yr					
2021	0.1713	1.8242	1.1662	2.4000e-003	0.4169	0.0817	0.4986	0.1795	0.0754	0.2549	0.0000	213.1969	213.1969	0.0601	0.0000	214.6993
2022	0.6904	4.1142	6.1625	0.0189	1.3058	0.1201	1.4259	0.3460	0.1128	0.4588	0.0000	1,721.6826	1,721.6826	0.1294	0.0000	1,724.9187
2023	0.6148	3.3649	5.6747	0.0178	1.1963	0.0996	1.2959	0.3203	0.0935	0.4138	0.0000	1,627.5295	1,627.5295	0.1185	0.0000	1,630.4925
2024	4.1619	0.1335	0.2810	5.9000e-004	0.0325	6.4700e-003	0.0390	8.6300e-003	6.0400e-003	0.0147	0.0000	52.9078	52.9078	8.0200e-003	0.0000	53.1082
Maximum	4.1619	4.1142	6.1625	0.0189	1.3058	0.1201	1.4259	0.3460	0.1128	0.4588	0.0000	1,721.6826	1,721.6826	0.1294	0.0000	1,724.9187

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2.1 Overall Construction

Mitigated Construction

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Year	tons/yr										MT/yr					
2021	0.1713	1.8242	1.1662	2.4000e-003	0.4169	0.0817	0.4986	0.1795	0.0754	0.2549	0.0000	213.1967	213.1967	0.0601	0.0000	214.6991
2022	0.6904	4.1142	6.1625	0.0189	1.3058	0.1201	1.4259	0.3460	0.1128	0.4588	0.0000	1,721.6823	1,721.6823	0.1294	0.0000	1,724.9183
2023	0.6148	3.3648	5.6747	0.0178	1.1963	0.0996	1.2959	0.3203	0.0935	0.4138	0.0000	1,627.5291	1,627.5291	0.1185	0.0000	1,630.4921
2024	4.1619	0.1335	0.2810	5.9000e-004	0.0325	6.4700e-003	0.0390	8.6300e-003	6.0400e-003	0.0147	0.0000	52.9077	52.9077	8.0200e-003	0.0000	53.1082
Maximum	4.1619	4.1142	6.1625	0.0189	1.3058	0.1201	1.4259	0.3460	0.1128	0.4588	0.0000	1,721.6823	1,721.6823	0.1294	0.0000	1,724.9183

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Percent Reduction	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

Quarter	Start Date	End Date	Maximum Unmitigated ROG + NOX (tons/quarter)	Maximum Mitigated ROG + NOX (tons/quarter)
1	9-1-2021	11-30-2021	1.4103	1.4103
2	12-1-2021	2-28-2022	1.3613	1.3613
3	3-1-2022	5-31-2022	1.1985	1.1985
4	6-1-2022	8-31-2022	1.1921	1.1921
5	9-1-2022	11-30-2022	1.1918	1.1918
6	12-1-2022	2-28-2023	1.0774	1.0774
7	3-1-2023	5-31-2023	1.0320	1.0320
8	6-1-2023	8-31-2023	1.0260	1.0260

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9	9-1-2023	11-30-2023	1.0265	1.0265
10	12-1-2023	2-29-2024	2.8857	2.8857
11	3-1-2024	5-31-2024	1.6207	1.6207
		Highest	2.8857	2.8857

2.2 Overall Operational

Unmitigated Operational

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Area	5.1437	0.2950	10.3804	1.6700e-003		0.0714	0.0714		0.0714	0.0714	0.0000	220.9670	220.9670	0.0201	3.7400e-003	222.5835
Energy	0.1398	1.2312	0.7770	7.6200e-003		0.0966	0.0966		0.0966	0.0966	0.0000	3,896.0732	3,896.0732	0.1303	0.0468	3,913.2833
Mobile	1.5857	7.9962	19.1834	0.0821	7.7979	0.0580	7.8559	2.0895	0.0539	2.1434	0.0000	7,620.4986	7,620.4986	0.3407	0.0000	7,629.0162
Waste						0.0000	0.0000		0.0000	0.0000	207.8079	0.0000	207.8079	12.2811	0.0000	514.8354
Water						0.0000	0.0000		0.0000	0.0000	29.1632	556.6420	585.8052	3.0183	0.0755	683.7567
Total	6.8692	9.5223	30.3407	0.0914	7.7979	0.2260	8.0240	2.0895	0.2219	2.3114	236.9712	12,294.1807	12,531.1519	15.7904	0.1260	12,963.4751

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2.2 Overall Operational

Mitigated Operational

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Area	5.1437	0.2950	10.3804	1.6700e-003		0.0714	0.0714		0.0714	0.0714	0.0000	220.9670	220.9670	0.0201	3.7400e-003	222.5835
Energy	0.1398	1.2312	0.7770	7.6200e-003		0.0966	0.0966		0.0966	0.0966	0.0000	3,896.0732	3,896.0732	0.1303	0.0468	3,913.2833
Mobile	1.5857	7.9962	19.1834	0.0821	7.7979	0.0580	7.8559	2.0895	0.0539	2.1434	0.0000	7,620.4986	7,620.4986	0.3407	0.0000	7,629.0162
Waste						0.0000	0.0000		0.0000	0.0000	207.8079	0.0000	207.8079	12.2811	0.0000	514.8354
Water						0.0000	0.0000		0.0000	0.0000	29.1632	556.6420	585.8052	3.0183	0.0755	683.7567
Total	6.8692	9.5223	30.3407	0.0914	7.7979	0.2260	8.0240	2.0895	0.2219	2.3114	236.9712	12,294.1807	12,531.1519	15.7904	0.1260	12,963.4751

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio-CO2	Total CO2	CH4	N2O	CO2e
Percent Reduction	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

3.0 Construction Detail

Construction Phase

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Phase Number	Phase Name	Phase Type	Start Date	End Date	Num Days Week	Num Days	Phase Description
1	Demolition	Demolition	9/1/2021	10/12/2021	5	30	
2	Site Preparation	Site Preparation	10/13/2021	11/9/2021	5	20	
3	Grading	Grading	11/10/2021	1/11/2022	5	45	
4	Building Construction	Building Construction	1/12/2022	12/12/2023	5	500	
5	Paving	Paving	12/13/2023	1/30/2024	5	35	
6	Architectural Coating	Architectural Coating	1/31/2024	3/19/2024	5	35	

Acres of Grading (Site Preparation Phase): 0

Acres of Grading (Grading Phase): 112.5

Acres of Paving: 0

Residential Indoor: 2,025,000; Residential Outdoor: 675,000; Non-Residential Indoor: 326,400; Non-Residential Outdoor: 108,800; Striped Parking Area: 0 (Architectural Coating – sqft)

OffRoad Equipment

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Phase Name	Offroad Equipment Type	Amount	Usage Hours	Horse Power	Load Factor
Demolition	Concrete/Industrial Saws	1	8.00	81	0.73
Demolition	Excavators	3	8.00	158	0.38
Demolition	Rubber Tired Dozers	2	8.00	247	0.40
Site Preparation	Rubber Tired Dozers	3	8.00	247	0.40
Site Preparation	Tractors/Loaders/Backhoes	4	8.00	97	0.37
Grading	Excavators	2	8.00	158	0.38
Grading	Graders	1	8.00	187	0.41
Grading	Rubber Tired Dozers	1	8.00	247	0.40
Grading	Scrapers	2	8.00	367	0.48
Grading	Tractors/Loaders/Backhoes	2	8.00	97	0.37
Building Construction	Cranes	1	7.00	231	0.29
Building Construction	Forklifts	3	8.00	89	0.20
Building Construction	Generator Sets	1	8.00	84	0.74
Building Construction	Tractors/Loaders/Backhoes	3	7.00	97	0.37
Building Construction	Welders	1	8.00	46	0.45
Paving	Pavers	2	8.00	130	0.42
Paving	Paving Equipment	2	8.00	132	0.36
Paving	Rollers	2	8.00	80	0.38
Architectural Coating	Air Compressors	1	6.00	78	0.48

Trips and VMT

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Phase Name	Offroad Equipment Count	Worker Trip Number	Vendor Trip Number	Hauling Trip Number	Worker Trip Length	Vendor Trip Length	Hauling Trip Length	Worker Vehicle Class	Vendor Vehicle Class	Hauling Vehicle Class
Demolition	6	15.00	0.00	458.00	14.70	6.90	20.00	LD_Mix	HDT_Mix	HHDT
Site Preparation	7	18.00	0.00	0.00	14.70	6.90	20.00	LD_Mix	HDT_Mix	HHDT
Grading	8	20.00	0.00	0.00	14.70	6.90	20.00	LD_Mix	HDT_Mix	HHDT
Building Construction	9	801.00	143.00	0.00	14.70	6.90	20.00	LD_Mix	HDT_Mix	HHDT
Paving	6	15.00	0.00	0.00	14.70	6.90	20.00	LD_Mix	HDT_Mix	HHDT
Architectural Coating	1	160.00	0.00	0.00	14.70	6.90	20.00	LD_Mix	HDT_Mix	HHDT

3.1 Mitigation Measures Construction

3.2 Demolition - 2021

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Fugitive Dust					0.0496	0.0000	0.0496	7.5100e-003	0.0000	7.5100e-003	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Off-Road	0.0475	0.4716	0.3235	5.8000e-004		0.0233	0.0233		0.0216	0.0216	0.0000	51.0012	51.0012	0.0144	0.0000	51.3601
Total	0.0475	0.4716	0.3235	5.8000e-004	0.0496	0.0233	0.0729	7.5100e-003	0.0216	0.0291	0.0000	51.0012	51.0012	0.0144	0.0000	51.3601

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3.2 Demolition - 2021

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	1.9300e-003	0.0634	0.0148	1.8000e-004	3.9400e-003	1.9000e-004	4.1300e-003	1.0800e-003	1.8000e-004	1.2600e-003	0.0000	17.4566	17.4566	1.2100e-003	0.0000	17.4869
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	9.7000e-004	7.5000e-004	8.5100e-003	2.0000e-005	2.4700e-003	2.0000e-005	2.4900e-003	6.5000e-004	2.0000e-005	6.7000e-004	0.0000	2.2251	2.2251	7.0000e-005	0.0000	2.2267
Total	2.9000e-003	0.0641	0.0233	2.0000e-004	6.4100e-003	2.1000e-004	6.6200e-003	1.7300e-003	2.0000e-004	1.9300e-003	0.0000	19.6816	19.6816	1.2800e-003	0.0000	19.7136

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Fugitive Dust					0.0496	0.0000	0.0496	7.5100e-003	0.0000	7.5100e-003	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Off-Road	0.0475	0.4716	0.3235	5.8000e-004		0.0233	0.0233		0.0216	0.0216	0.0000	51.0011	51.0011	0.0144	0.0000	51.3600
Total	0.0475	0.4716	0.3235	5.8000e-004	0.0496	0.0233	0.0729	7.5100e-003	0.0216	0.0291	0.0000	51.0011	51.0011	0.0144	0.0000	51.3600

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3.2 Demolition - 2021

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	1.9300e-003	0.0634	0.0148	1.8000e-004	3.9400e-003	1.9000e-004	4.1300e-003	1.0800e-003	1.8000e-004	1.2600e-003	0.0000	17.4566	17.4566	1.2100e-003	0.0000	17.4869
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	9.7000e-004	7.5000e-004	8.5100e-003	2.0000e-005	2.4700e-003	2.0000e-005	2.4900e-003	6.5000e-004	2.0000e-005	6.7000e-004	0.0000	2.2251	2.2251	7.0000e-005	0.0000	2.2267
Total	2.9000e-003	0.0641	0.0233	2.0000e-004	6.4100e-003	2.1000e-004	6.6200e-003	1.7300e-003	2.0000e-004	1.9300e-003	0.0000	19.6816	19.6816	1.2800e-003	0.0000	19.7136

3.3 Site Preparation - 2021

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Fugitive Dust					0.1807	0.0000	0.1807	0.0993	0.0000	0.0993	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Off-Road	0.0389	0.4050	0.2115	3.8000e-004		0.0204	0.0204		0.0188	0.0188	0.0000	33.4357	33.4357	0.0108	0.0000	33.7061
Total	0.0389	0.4050	0.2115	3.8000e-004	0.1807	0.0204	0.2011	0.0993	0.0188	0.1181	0.0000	33.4357	33.4357	0.0108	0.0000	33.7061

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3.3 Site Preparation - 2021

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	7.7000e-004	6.0000e-004	6.8100e-003	2.0000e-005	1.9700e-003	2.0000e-005	1.9900e-003	5.2000e-004	1.0000e-005	5.4000e-004	0.0000	1.7801	1.7801	5.0000e-005	0.0000	1.7814
Total	7.7000e-004	6.0000e-004	6.8100e-003	2.0000e-005	1.9700e-003	2.0000e-005	1.9900e-003	5.2000e-004	1.0000e-005	5.4000e-004	0.0000	1.7801	1.7801	5.0000e-005	0.0000	1.7814

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Fugitive Dust					0.1807	0.0000	0.1807	0.0993	0.0000	0.0993	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Off-Road	0.0389	0.4050	0.2115	3.8000e-004		0.0204	0.0204		0.0188	0.0188	0.0000	33.4357	33.4357	0.0108	0.0000	33.7060
Total	0.0389	0.4050	0.2115	3.8000e-004	0.1807	0.0204	0.2011	0.0993	0.0188	0.1181	0.0000	33.4357	33.4357	0.0108	0.0000	33.7060

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3.3 Site Preparation - 2021

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	7.7000e-004	6.0000e-004	6.8100e-003	2.0000e-005	1.9700e-003	2.0000e-005	1.9900e-003	5.2000e-004	1.0000e-005	5.4000e-004	0.0000	1.7801	1.7801	5.0000e-005	0.0000	1.7814
Total	7.7000e-004	6.0000e-004	6.8100e-003	2.0000e-005	1.9700e-003	2.0000e-005	1.9900e-003	5.2000e-004	1.0000e-005	5.4000e-004	0.0000	1.7801	1.7801	5.0000e-005	0.0000	1.7814

3.4 Grading - 2021

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Fugitive Dust					0.1741	0.0000	0.1741	0.0693	0.0000	0.0693	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Off-Road	0.0796	0.8816	0.5867	1.1800e-003		0.0377	0.0377		0.0347	0.0347	0.0000	103.5405	103.5405	0.0335	0.0000	104.3776
Total	0.0796	0.8816	0.5867	1.1800e-003	0.1741	0.0377	0.2118	0.0693	0.0347	0.1040	0.0000	103.5405	103.5405	0.0335	0.0000	104.3776

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3.4 Grading - 2021

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	1.6400e-003	1.2700e-003	0.0144	4.0000e-005	4.1600e-003	3.0000e-005	4.2000e-003	1.1100e-003	3.0000e-005	1.1400e-003	0.0000	3.7579	3.7579	1.1000e-004	0.0000	3.7607
Total	1.6400e-003	1.2700e-003	0.0144	4.0000e-005	4.1600e-003	3.0000e-005	4.2000e-003	1.1100e-003	3.0000e-005	1.1400e-003	0.0000	3.7579	3.7579	1.1000e-004	0.0000	3.7607

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Fugitive Dust					0.1741	0.0000	0.1741	0.0693	0.0000	0.0693	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Off-Road	0.0796	0.8816	0.5867	1.1800e-003		0.0377	0.0377		0.0347	0.0347	0.0000	103.5403	103.5403	0.0335	0.0000	104.3775
Total	0.0796	0.8816	0.5867	1.1800e-003	0.1741	0.0377	0.2118	0.0693	0.0347	0.1040	0.0000	103.5403	103.5403	0.0335	0.0000	104.3775

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3.4 Grading - 2021

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	1.6400e-003	1.2700e-003	0.0144	4.0000e-005	4.1600e-003	3.0000e-005	4.2000e-003	1.1100e-003	3.0000e-005	1.1400e-003	0.0000	3.7579	3.7579	1.1000e-004	0.0000	3.7607
Total	1.6400e-003	1.2700e-003	0.0144	4.0000e-005	4.1600e-003	3.0000e-005	4.2000e-003	1.1100e-003	3.0000e-005	1.1400e-003	0.0000	3.7579	3.7579	1.1000e-004	0.0000	3.7607

3.4 Grading - 2022

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Fugitive Dust					0.0807	0.0000	0.0807	0.0180	0.0000	0.0180	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Off-Road	0.0127	0.1360	0.1017	2.2000e-004		5.7200e-003	5.7200e-003		5.2600e-003	5.2600e-003	0.0000	19.0871	19.0871	6.1700e-003	0.0000	19.2414
Total	0.0127	0.1360	0.1017	2.2000e-004	0.0807	5.7200e-003	0.0865	0.0180	5.2600e-003	0.0233	0.0000	19.0871	19.0871	6.1700e-003	0.0000	19.2414

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3.4 Grading - 2022

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	2.8000e-004	2.1000e-004	2.4400e-003	1.0000e-005	7.7000e-004	1.0000e-005	7.7000e-004	2.0000e-004	1.0000e-005	2.1000e-004	0.0000	0.6679	0.6679	2.0000e-005	0.0000	0.6684
Total	2.8000e-004	2.1000e-004	2.4400e-003	1.0000e-005	7.7000e-004	1.0000e-005	7.7000e-004	2.0000e-004	1.0000e-005	2.1000e-004	0.0000	0.6679	0.6679	2.0000e-005	0.0000	0.6684

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Fugitive Dust					0.0807	0.0000	0.0807	0.0180	0.0000	0.0180	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Off-Road	0.0127	0.1360	0.1017	2.2000e-004		5.7200e-003	5.7200e-003		5.2600e-003	5.2600e-003	0.0000	19.0871	19.0871	6.1700e-003	0.0000	19.2414
Total	0.0127	0.1360	0.1017	2.2000e-004	0.0807	5.7200e-003	0.0865	0.0180	5.2600e-003	0.0233	0.0000	19.0871	19.0871	6.1700e-003	0.0000	19.2414

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3.4 Grading - 2022

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	2.8000e-004	2.1000e-004	2.4400e-003	1.0000e-005	7.7000e-004	1.0000e-005	7.7000e-004	2.0000e-004	1.0000e-005	2.1000e-004	0.0000	0.6679	0.6679	2.0000e-005	0.0000	0.6684
Total	2.8000e-004	2.1000e-004	2.4400e-003	1.0000e-005	7.7000e-004	1.0000e-005	7.7000e-004	2.0000e-004	1.0000e-005	2.1000e-004	0.0000	0.6679	0.6679	2.0000e-005	0.0000	0.6684

3.5 Building Construction - 2022

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Off-Road	0.2158	1.9754	2.0700	3.4100e-003		0.1023	0.1023		0.0963	0.0963	0.0000	293.1324	293.1324	0.0702	0.0000	294.8881
Total	0.2158	1.9754	2.0700	3.4100e-003		0.1023	0.1023		0.0963	0.0963	0.0000	293.1324	293.1324	0.0702	0.0000	294.8881

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3.5 Building Construction - 2022

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	0.0527	1.6961	0.4580	4.5500e-003	0.1140	3.1800e-003	0.1171	0.0329	3.0400e-003	0.0359	0.0000	441.9835	441.9835	0.0264	0.0000	442.6435
Worker	0.4088	0.3066	3.5305	0.0107	1.1103	8.8700e-003	1.1192	0.2949	8.1700e-003	0.3031	0.0000	966.8117	966.8117	0.0266	0.0000	967.4773
Total	0.4616	2.0027	3.9885	0.0152	1.2243	0.0121	1.2363	0.3278	0.0112	0.3390	0.0000	1,408.7952	1,408.7952	0.0530	0.0000	1,410.1208

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Off-Road	0.2158	1.9754	2.0700	3.4100e-003		0.1023	0.1023		0.0963	0.0963	0.0000	293.1321	293.1321	0.0702	0.0000	294.8877
Total	0.2158	1.9754	2.0700	3.4100e-003		0.1023	0.1023		0.0963	0.0963	0.0000	293.1321	293.1321	0.0702	0.0000	294.8877

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3.5 Building Construction - 2022

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	0.0527	1.6961	0.4580	4.5500e-003	0.1140	3.1800e-003	0.1171	0.0329	3.0400e-003	0.0359	0.0000	441.9835	441.9835	0.0264	0.0000	442.6435
Worker	0.4088	0.3066	3.5305	0.0107	1.1103	8.8700e-003	1.1192	0.2949	8.1700e-003	0.3031	0.0000	966.8117	966.8117	0.0266	0.0000	967.4773
Total	0.4616	2.0027	3.9885	0.0152	1.2243	0.0121	1.2363	0.3278	0.0112	0.3390	0.0000	1,408.7952	1,408.7952	0.0530	0.0000	1,410.1208

3.5 Building Construction - 2023

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Off-Road	0.1942	1.7765	2.0061	3.3300e-003		0.0864	0.0864		0.0813	0.0813	0.0000	286.2789	286.2789	0.0681	0.0000	287.9814
Total	0.1942	1.7765	2.0061	3.3300e-003		0.0864	0.0864		0.0813	0.0813	0.0000	286.2789	286.2789	0.0681	0.0000	287.9814

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Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	0.0382	1.2511	0.4011	4.3000e-003	0.1113	1.4600e-003	0.1127	0.0321	1.4000e-003	0.0335	0.0000	417.9930	417.9930	0.0228	0.0000	418.5624
Worker	0.3753	0.2708	3.1696	0.0101	1.0840	8.4100e-003	1.0924	0.2879	7.7400e-003	0.2957	0.0000	909.3439	909.3439	0.0234	0.0000	909.9291
Total	0.4135	1.5218	3.5707	0.0144	1.1953	9.8700e-003	1.2051	0.3200	9.1400e-003	0.3292	0.0000	1,327.3369	1,327.3369	0.0462	0.0000	1,328.4916

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Off-Road	0.1942	1.7765	2.0061	3.3300e-003		0.0864	0.0864		0.0813	0.0813	0.0000	286.2785	286.2785	0.0681	0.0000	287.9811
Total	0.1942	1.7765	2.0061	3.3300e-003		0.0864	0.0864		0.0813	0.0813	0.0000	286.2785	286.2785	0.0681	0.0000	287.9811

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3.5 Building Construction - 2023

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	0.0382	1.2511	0.4011	4.3000e-003	0.1113	1.4600e-003	0.1127	0.0321	1.4000e-003	0.0335	0.0000	417.9930	417.9930	0.0228	0.0000	418.5624
Worker	0.3753	0.2708	3.1696	0.0101	1.0840	8.4100e-003	1.0924	0.2879	7.7400e-003	0.2957	0.0000	909.3439	909.3439	0.0234	0.0000	909.9291
Total	0.4135	1.5218	3.5707	0.0144	1.1953	9.8700e-003	1.2051	0.3200	9.1400e-003	0.3292	0.0000	1,327.3369	1,327.3369	0.0462	0.0000	1,328.4916

3.6 Paving - 2023

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Off-Road	6.7100e-003	0.0663	0.0948	1.5000e-004		3.3200e-003	3.3200e-003		3.0500e-003	3.0500e-003	0.0000	13.0175	13.0175	4.2100e-003	0.0000	13.1227
Paving	0.0000					0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Total	6.7100e-003	0.0663	0.0948	1.5000e-004		3.3200e-003	3.3200e-003		3.0500e-003	3.0500e-003	0.0000	13.0175	13.0175	4.2100e-003	0.0000	13.1227

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3.6 Paving - 2023

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	3.7000e-004	2.7000e-004	3.1200e-003	1.0000e-005	1.0700e-003	1.0000e-005	1.0800e-003	2.8000e-004	1.0000e-005	2.9000e-004	0.0000	0.8963	0.8963	2.0000e-005	0.0000	0.8968
Total	3.7000e-004	2.7000e-004	3.1200e-003	1.0000e-005	1.0700e-003	1.0000e-005	1.0800e-003	2.8000e-004	1.0000e-005	2.9000e-004	0.0000	0.8963	0.8963	2.0000e-005	0.0000	0.8968

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Off-Road	6.7100e-003	0.0663	0.0948	1.5000e-004		3.3200e-003	3.3200e-003		3.0500e-003	3.0500e-003	0.0000	13.0175	13.0175	4.2100e-003	0.0000	13.1227
Paving	0.0000					0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Total	6.7100e-003	0.0663	0.0948	1.5000e-004		3.3200e-003	3.3200e-003		3.0500e-003	3.0500e-003	0.0000	13.0175	13.0175	4.2100e-003	0.0000	13.1227

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3.6 Paving - 2023

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	3.7000e-004	2.7000e-004	3.1200e-003	1.0000e-005	1.0700e-003	1.0000e-005	1.0800e-003	2.8000e-004	1.0000e-005	2.9000e-004	0.0000	0.8963	0.8963	2.0000e-005	0.0000	0.8968
Total	3.7000e-004	2.7000e-004	3.1200e-003	1.0000e-005	1.0700e-003	1.0000e-005	1.0800e-003	2.8000e-004	1.0000e-005	2.9000e-004	0.0000	0.8963	0.8963	2.0000e-005	0.0000	0.8968

3.6 Paving - 2024

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Off-Road	0.0109	0.1048	0.1609	2.5000e-004		5.1500e-003	5.1500e-003		4.7400e-003	4.7400e-003	0.0000	22.0292	22.0292	7.1200e-003	0.0000	22.2073
Paving	0.0000					0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Total	0.0109	0.1048	0.1609	2.5000e-004		5.1500e-003	5.1500e-003		4.7400e-003	4.7400e-003	0.0000	22.0292	22.0292	7.1200e-003	0.0000	22.2073

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3.6 Paving - 2024

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	5.9000e-004	4.1000e-004	4.9200e-003	2.0000e-005	1.8100e-003	1.0000e-005	1.8200e-003	4.8000e-004	1.0000e-005	4.9000e-004	0.0000	1.4697	1.4697	4.0000e-005	0.0000	1.4706
Total	5.9000e-004	4.1000e-004	4.9200e-003	2.0000e-005	1.8100e-003	1.0000e-005	1.8200e-003	4.8000e-004	1.0000e-005	4.9000e-004	0.0000	1.4697	1.4697	4.0000e-005	0.0000	1.4706

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Off-Road	0.0109	0.1048	0.1609	2.5000e-004		5.1500e-003	5.1500e-003		4.7400e-003	4.7400e-003	0.0000	22.0292	22.0292	7.1200e-003	0.0000	22.2073
Paving	0.0000					0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Total	0.0109	0.1048	0.1609	2.5000e-004		5.1500e-003	5.1500e-003		4.7400e-003	4.7400e-003	0.0000	22.0292	22.0292	7.1200e-003	0.0000	22.2073

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3.6 Paving - 2024

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	5.9000e-004	4.1000e-004	4.9200e-003	2.0000e-005	1.8100e-003	1.0000e-005	1.8200e-003	4.8000e-004	1.0000e-005	4.9000e-004	0.0000	1.4697	1.4697	4.0000e-005	0.0000	1.4706
Total	5.9000e-004	4.1000e-004	4.9200e-003	2.0000e-005	1.8100e-003	1.0000e-005	1.8200e-003	4.8000e-004	1.0000e-005	4.9000e-004	0.0000	1.4697	1.4697	4.0000e-005	0.0000	1.4706

3.7 Architectural Coating - 2024

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Archit. Coating	4.1372					0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Off-Road	3.1600e-003	0.0213	0.0317	5.0000e-005		1.0700e-003	1.0700e-003		1.0700e-003	1.0700e-003	0.0000	4.4682	4.4682	2.5000e-004	0.0000	4.4745
Total	4.1404	0.0213	0.0317	5.0000e-005		1.0700e-003	1.0700e-003		1.0700e-003	1.0700e-003	0.0000	4.4682	4.4682	2.5000e-004	0.0000	4.4745

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3.7 Architectural Coating - 2024

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	0.0101	6.9900e-003	0.0835	2.8000e-004	0.0307	2.3000e-004	0.0309	8.1500e-003	2.2000e-004	8.3700e-003	0.0000	24.9407	24.9407	6.1000e-004	0.0000	24.9558
Total	0.0101	6.9900e-003	0.0835	2.8000e-004	0.0307	2.3000e-004	0.0309	8.1500e-003	2.2000e-004	8.3700e-003	0.0000	24.9407	24.9407	6.1000e-004	0.0000	24.9558

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Archit. Coating	4.1372					0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Off-Road	3.1600e-003	0.0213	0.0317	5.0000e-005		1.0700e-003	1.0700e-003		1.0700e-003	1.0700e-003	0.0000	4.4682	4.4682	2.5000e-004	0.0000	4.4745
Total	4.1404	0.0213	0.0317	5.0000e-005		1.0700e-003	1.0700e-003		1.0700e-003	1.0700e-003	0.0000	4.4682	4.4682	2.5000e-004	0.0000	4.4745

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3.7 Architectural Coating - 2024

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	0.0101	6.9900e-003	0.0835	2.8000e-004	0.0307	2.3000e-004	0.0309	8.1500e-003	2.2000e-004	8.3700e-003	0.0000	24.9407	24.9407	6.1000e-004	0.0000	24.9558
Total	0.0101	6.9900e-003	0.0835	2.8000e-004	0.0307	2.3000e-004	0.0309	8.1500e-003	2.2000e-004	8.3700e-003	0.0000	24.9407	24.9407	6.1000e-004	0.0000	24.9558

4.0 Operational Detail - Mobile

4.1 Mitigation Measures Mobile

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Annual

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Mitigated	1.5857	7.9962	19.1834	0.0821	7.7979	0.0580	7.8559	2.0895	0.0539	2.1434	0.0000	7,620.4986	7,620.4986	0.3407	0.0000	7,629.0162
Unmitigated	1.5857	7.9962	19.1834	0.0821	7.7979	0.0580	7.8559	2.0895	0.0539	2.1434	0.0000	7,620.4986	7,620.4986	0.3407	0.0000	7,629.0162

4.2 Trip Summary Information

Land Use	Average Daily Trip Rate			Unmitigated	Mitigated
	Weekday	Saturday	Sunday	Annual VMT	Annual VMT
Apartments Low Rise	145.75	154.25	154.00	506,227	506,227
Apartments Mid Rise	4,026.75	3,773.25	4075.50	13,660,065	13,660,065
General Office Building	288.45	62.55	31.05	706,812	706,812
High Turnover (Sit Down Restaurant)	2,368.80	2,873.52	2817.72	3,413,937	3,413,937
Hotel	192.00	187.50	160.00	445,703	445,703
Quality Restaurant	501.12	511.92	461.20	707,488	707,488
Regional Shopping Center	528.08	601.44	357.84	1,112,221	1,112,221
Total	8,050.95	8,164.43	8,057.31	20,552,452	20,552,452

4.3 Trip Type Information

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Land Use	Miles			Trip %			Trip Purpose %		
	H-W or C-W	H-S or C-C	H-O or C-NW	H-W or C-W	H-S or C-C	H-O or C-NW	Primary	Diverted	Pass-by
Apartments Low Rise	14.70	5.90	8.70	40.20	19.20	40.60	86	11	3
Apartments Mid Rise	14.70	5.90	8.70	40.20	19.20	40.60	86	11	3
General Office Building	16.60	8.40	6.90	33.00	48.00	19.00	77	19	4
High Turnover (Sit Down	16.60	8.40	6.90	8.50	72.50	19.00	37	20	43
Hotel	16.60	8.40	6.90	19.40	61.60	19.00	58	38	4
Quality Restaurant	16.60	8.40	6.90	12.00	69.00	19.00	38	18	44
Regional Shopping Center	16.60	8.40	6.90	16.30	64.70	19.00	54	35	11

4.4 Fleet Mix

Land Use	LDA	LDT1	LDT2	MDV	LHD1	LHD2	MHD	HHD	OBUS	UBUS	MCY	SBUS	MH
Apartments Low Rise	0.543088	0.044216	0.209971	0.116369	0.014033	0.006332	0.021166	0.033577	0.002613	0.001817	0.005285	0.000712	0.000821
Apartments Mid Rise	0.543088	0.044216	0.209971	0.116369	0.014033	0.006332	0.021166	0.033577	0.002613	0.001817	0.005285	0.000712	0.000821
General Office Building	0.543088	0.044216	0.209971	0.116369	0.014033	0.006332	0.021166	0.033577	0.002613	0.001817	0.005285	0.000712	0.000821
High Turnover (Sit Down Restaurant)	0.543088	0.044216	0.209971	0.116369	0.014033	0.006332	0.021166	0.033577	0.002613	0.001817	0.005285	0.000712	0.000821
Hotel	0.543088	0.044216	0.209971	0.116369	0.014033	0.006332	0.021166	0.033577	0.002613	0.001817	0.005285	0.000712	0.000821
Quality Restaurant	0.543088	0.044216	0.209971	0.116369	0.014033	0.006332	0.021166	0.033577	0.002613	0.001817	0.005285	0.000712	0.000821
Regional Shopping Center	0.543088	0.044216	0.209971	0.116369	0.014033	0.006332	0.021166	0.033577	0.002613	0.001817	0.005285	0.000712	0.000821

5.0 Energy Detail

Historical Energy Use: N

5.1 Mitigation Measures Energy

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	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Electricity Mitigated						0.0000	0.0000		0.0000	0.0000	0.0000	2,512.6465	2,512.6465	0.1037	0.0215	2,521.6356
Electricity Unmitigated						0.0000	0.0000		0.0000	0.0000	0.0000	2,512.6465	2,512.6465	0.1037	0.0215	2,521.6356
NaturalGas Mitigated	0.1398	1.2312	0.7770	7.6200e-003		0.0966	0.0966		0.0966	0.0966	0.0000	1,383.4267	1,383.4267	0.0265	0.0254	1,391.6478
NaturalGas Unmitigated	0.1398	1.2312	0.7770	7.6200e-003		0.0966	0.0966		0.0966	0.0966	0.0000	1,383.4267	1,383.4267	0.0265	0.0254	1,391.6478

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5.2 Energy by Land Use - NaturalGas

Unmitigated

	NaturalGas Use	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Land Use	kBTU/yr	tons/yr										MT/yr					
Apartments Low Rise	408494	2.2000e-003	0.0188	8.0100e-003	1.2000e-004		1.5200e-003	1.5200e-003		1.5200e-003	1.5200e-003	0.0000	21.7988	21.7988	4.2000e-004	4.0000e-004	21.9284
Apartments Mid Rise	1.30613e+007	0.0704	0.6018	0.2561	3.8400e-003		0.0487	0.0487		0.0487	0.0487	0.0000	696.9989	696.9989	0.0134	0.0128	701.1408
General Office Building	468450	2.5300e-003	0.0230	0.0193	1.4000e-004		1.7500e-003	1.7500e-003		1.7500e-003	1.7500e-003	0.0000	24.9983	24.9983	4.8000e-004	4.6000e-004	25.1468
High Turnover (Sit Down Restaurant)	8.30736e+006	0.0448	0.4072	0.3421	2.4400e-003		0.0310	0.0310		0.0310	0.0310	0.0000	443.3124	443.3124	8.5000e-003	8.1300e-003	445.9468
Hotel	1.74095e+006	9.3900e-003	0.0853	0.0717	5.1000e-004		6.4900e-003	6.4900e-003		6.4900e-003	6.4900e-003	0.0000	92.9036	92.9036	1.7800e-003	1.7000e-003	93.4557
Quality Restaurant	1.84608e+006	9.9500e-003	0.0905	0.0760	5.4000e-004		6.8800e-003	6.8800e-003		6.8800e-003	6.8800e-003	0.0000	98.5139	98.5139	1.8900e-003	1.8100e-003	99.0993
Regional Shopping Center	91840	5.0000e-004	4.5000e-003	3.7800e-003	3.0000e-005		3.4000e-004	3.4000e-004		3.4000e-004	3.4000e-004	0.0000	4.9009	4.9009	9.0000e-005	9.0000e-005	4.9301
Total		0.1398	1.2312	0.7770	7.6200e-003		0.0966	0.0966		0.0966	0.0966	0.0000	1,383.4268	1,383.4268	0.0265	0.0254	1,391.6478

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5.2 Energy by Land Use - NaturalGas

Mitigated

	NaturalGas Use	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Land Use	kBTU/yr	tons/yr										MT/yr					
Apartments Low Rise	408494	2.2000e-003	0.0188	8.0100e-003	1.2000e-004		1.5200e-003	1.5200e-003		1.5200e-003	1.5200e-003	0.0000	21.7988	21.7988	4.2000e-004	4.0000e-004	21.9284
Apartments Mid Rise	1.30613e+007	0.0704	0.6018	0.2561	3.8400e-003		0.0487	0.0487		0.0487	0.0487	0.0000	696.9989	696.9989	0.0134	0.0128	701.1408
General Office Building	468450	2.5300e-003	0.0230	0.0193	1.4000e-004		1.7500e-003	1.7500e-003		1.7500e-003	1.7500e-003	0.0000	24.9983	24.9983	4.8000e-004	4.6000e-004	25.1468
High Turnover (Sit Down Restaurant)	8.30736e+006	0.0448	0.4072	0.3421	2.4400e-003		0.0310	0.0310		0.0310	0.0310	0.0000	443.3124	443.3124	8.5000e-003	8.1300e-003	445.9468
Hotel	1.74095e+006	9.3900e-003	0.0853	0.0717	5.1000e-004		6.4900e-003	6.4900e-003		6.4900e-003	6.4900e-003	0.0000	92.9036	92.9036	1.7800e-003	1.7000e-003	93.4557
Quality Restaurant	1.84608e+006	9.9500e-003	0.0905	0.0760	5.4000e-004		6.8800e-003	6.8800e-003		6.8800e-003	6.8800e-003	0.0000	98.5139	98.5139	1.8900e-003	1.8100e-003	99.0993
Regional Shopping Center	91840	5.0000e-004	4.5000e-003	3.7800e-003	3.0000e-005		3.4000e-004	3.4000e-004		3.4000e-004	3.4000e-004	0.0000	4.9009	4.9009	9.0000e-005	9.0000e-005	4.9301
Total		0.1398	1.2312	0.7770	7.6200e-003		0.0966	0.0966		0.0966	0.0966	0.0000	1,383.4268	1,383.4268	0.0265	0.0254	1,391.6478

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5.3 Energy by Land Use - Electricity

Unmitigated

	Electricity Use	Total CO2	CH4	N2O	CO2e
Land Use	kWh/yr	MT/yr			
Apartments Low Rise	106010	33.7770	1.3900e-003	2.9000e-004	33.8978
Apartments Mid Rise	3.94697e+006	1,257.5879	0.0519	0.0107	1,262.0869
General Office Building	584550	186.2502	7.6900e-003	1.5900e-003	186.9165
High Turnover (Sit Down Restaurant)	1.58904e+006	506.3022	0.0209	4.3200e-003	508.1135
Hotel	550308	175.3399	7.2400e-003	1.5000e-003	175.9672
Quality Restaurant	353120	112.5116	4.6500e-003	9.6000e-004	112.9141
Regional Shopping Center	756000	240.8778	9.9400e-003	2.0600e-003	241.7395
Total		2,512.6465	0.1037	0.0215	2,521.6356

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5.3 Energy by Land Use - Electricity

Mitigated

	Electricity Use	Total CO2	CH4	N2O	CO2e
Land Use	kWh/yr	MT/yr			
Apartments Low Rise	106010	33.7770	1.3900e-003	2.9000e-004	33.8978
Apartments Mid Rise	3.94697e+006	1,257.5879	0.0519	0.0107	1,262.0869
General Office Building	584550	186.2502	7.6900e-003	1.5900e-003	186.9165
High Turnover (Sit Down Restaurant)	1.58904e+006	506.3022	0.0209	4.3200e-003	508.1135
Hotel	550308	175.3399	7.2400e-003	1.5000e-003	175.9672
Quality Restaurant	353120	112.5116	4.6500e-003	9.6000e-004	112.9141
Regional Shopping Center	756000	240.8778	9.9400e-003	2.0600e-003	241.7395
Total		2,512.6465	0.1037	0.0215	2,521.6356

6.0 Area Detail

6.1 Mitigation Measures Area

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	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Mitigated	5.1437	0.2950	10.3804	1.6700e-003		0.0714	0.0714		0.0714	0.0714	0.0000	220.9670	220.9670	0.0201	3.7400e-003	222.5835
Unmitigated	5.1437	0.2950	10.3804	1.6700e-003		0.0714	0.0714		0.0714	0.0714	0.0000	220.9670	220.9670	0.0201	3.7400e-003	222.5835

6.2 Area by SubCategory

Unmitigated

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
SubCategory	tons/yr										MT/yr					
Architectural Coating	0.4137					0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Consumer Products	4.3998					0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Hearth	0.0206	0.1763	0.0750	1.1200e-003		0.0143	0.0143		0.0143	0.0143	0.0000	204.1166	204.1166	3.9100e-003	3.7400e-003	205.3295
Landscaping	0.3096	0.1187	10.3054	5.4000e-004		0.0572	0.0572		0.0572	0.0572	0.0000	16.8504	16.8504	0.0161	0.0000	17.2540
Total	5.1437	0.2950	10.3804	1.6600e-003		0.0714	0.0714		0.0714	0.0714	0.0000	220.9670	220.9670	0.0201	3.7400e-003	222.5835

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6.2 Area by SubCategory

Mitigated

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
SubCategory	tons/yr										MT/yr					
Architectural Coating	0.4137					0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Consumer Products	4.3998					0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Hearth	0.0206	0.1763	0.0750	1.1200e-003		0.0143	0.0143		0.0143	0.0143	0.0000	204.1166	204.1166	3.9100e-003	3.7400e-003	205.3295
Landscaping	0.3096	0.1187	10.3054	5.4000e-004		0.0572	0.0572		0.0572	0.0572	0.0000	16.8504	16.8504	0.0161	0.0000	17.2540
Total	5.1437	0.2950	10.3804	1.6600e-003		0.0714	0.0714		0.0714	0.0714	0.0000	220.9670	220.9670	0.0201	3.7400e-003	222.5835

7.0 Water Detail

7.1 Mitigation Measures Water

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Annual

	Total CO2	CH4	N2O	CO2e
Category	MT/yr			
Mitigated	585.8052	3.0183	0.0755	683.7567
Unmitigated	585.8052	3.0183	0.0755	683.7567

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Annual

7.2 Water by Land Use

Unmitigated

	Indoor/Outdoor Use	Total CO2	CH4	N2O	CO2e
Land Use	Mgal	MT/yr			
Apartments Low Rise	1.62885 / 1.02688	10.9095	0.0535	1.3400e-003	12.6471
Apartments Mid Rise	63.5252 / 40.0485	425.4719	2.0867	0.0523	493.2363
General Office Building	7.99802 / 4.90201	53.0719	0.2627	6.5900e-003	61.6019
High Turnover (Sit Down Restaurant)	10.9272 / 0.697482	51.2702	0.3580	8.8200e-003	62.8482
Hotel	1.26834 / 0.140927	6.1633	0.0416	1.0300e-003	7.5079
Quality Restaurant	2.42827 / 0.154996	11.3934	0.0796	1.9600e-003	13.9663
Regional Shopping Center	4.14806 / 2.54236	27.5250	0.1363	3.4200e-003	31.9490
Total		585.8052	3.0183	0.0755	683.7567

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Annual

7.2 Water by Land Use

Mitigated

	Indoor/Outdoor Use	Total CO2	CH4	N2O	CO2e
Land Use	Mgal	MT/yr			
Apartments Low Rise	1.62885 / 1.02688	10.9095	0.0535	1.3400e-003	12.6471
Apartments Mid Rise	63.5252 / 40.0485	425.4719	2.0867	0.0523	493.2363
General Office Building	7.99802 / 4.90201	53.0719	0.2627	6.5900e-003	61.6019
High Turnover (Sit Down Restaurant)	10.9272 / 0.697482	51.2702	0.3580	8.8200e-003	62.8482
Hotel	1.26834 / 0.140927	6.1633	0.0416	1.0300e-003	7.5079
Quality Restaurant	2.42827 / 0.154996	11.3934	0.0796	1.9600e-003	13.9663
Regional Shopping Center	4.14806 / 2.54236	27.5250	0.1363	3.4200e-003	31.9490
Total		585.8052	3.0183	0.0755	683.7567

8.0 Waste Detail

8.1 Mitigation Measures Waste

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Annual

Category/Year

	Total CO2	CH4	N2O	CO2e
	MT/yr			
Mitigated	207.8079	12.2811	0.0000	514.8354
Unmitigated	207.8079	12.2811	0.0000	514.8354

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Annual

8.2 Waste by Land Use

Unmitigated

	Waste Disposed	Total CO2	CH4	N2O	CO2e
Land Use	tons	MT/yr			
Apartments Low Rise	11.5	2.3344	0.1380	0.0000	5.7834
Apartments Mid Rise	448.5	91.0415	5.3804	0.0000	225.5513
General Office Building	41.85	8.4952	0.5021	0.0000	21.0464
High Turnover (Sit Down Restaurant)	428.4	86.9613	5.1393	0.0000	215.4430
Hotel	27.38	5.5579	0.3285	0.0000	13.7694
Quality Restaurant	7.3	1.4818	0.0876	0.0000	3.6712
Regional Shopping Center	58.8	11.9359	0.7054	0.0000	29.5706
Total		207.8079	12.2811	0.0000	514.8354

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Annual

8.2 Waste by Land Use

Mitigated

	Waste Disposed	Total CO2	CH4	N2O	CO2e
Land Use	tons	MT/yr			
Apartments Low Rise	11.5	2.3344	0.1380	0.0000	5.7834
Apartments Mid Rise	448.5	91.0415	5.3804	0.0000	225.5513
General Office Building	41.85	8.4952	0.5021	0.0000	21.0464
High Turnover (Sit Down Restaurant)	428.4	86.9613	5.1393	0.0000	215.4430
Hotel	27.38	5.5579	0.3285	0.0000	13.7694
Quality Restaurant	7.3	1.4818	0.0876	0.0000	3.6712
Regional Shopping Center	58.8	11.9359	0.7054	0.0000	29.5706
Total		207.8079	12.2811	0.0000	514.8354

9.0 Operational Offroad

Equipment Type	Number	Hours/Day	Days/Year	Horse Power	Load Factor	Fuel Type
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10.0 Stationary Equipment

Fire Pumps and Emergency Generators

Equipment Type	Number	Hours/Day	Hours/Year	Horse Power	Load Factor	Fuel Type
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Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Annual

Boilers

Equipment Type	Number	Heat Input/Day	Heat Input/Year	Boiler Rating	Fuel Type
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User Defined Equipment

Equipment Type	Number
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11.0 Vegetation

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

Village South Specific Plan (Proposed)
Los Angeles-South Coast County, Summer

1.0 Project Characteristics

1.1 Land Usage

Land Uses	Size	Metric	Lot Acreage	Floor Surface Area	Population
General Office Building	45.00	1000sqft	1.03	45,000.00	0
High Turnover (Sit Down Restaurant)	36.00	1000sqft	0.83	36,000.00	0
Hotel	50.00	Room	1.67	72,600.00	0
Quality Restaurant	8.00	1000sqft	0.18	8,000.00	0
Apartments Low Rise	25.00	Dwelling Unit	1.56	25,000.00	72
Apartments Mid Rise	975.00	Dwelling Unit	25.66	975,000.00	2789
Regional Shopping Center	56.00	1000sqft	1.29	56,000.00	0

1.2 Other Project Characteristics

Urbanization	Urban	Wind Speed (m/s)	2.2	Precipitation Freq (Days)	33
Climate Zone	9			Operational Year	2028
Utility Company	Southern California Edison				
CO2 Intensity (lb/MW hr)	702.44	CH4 Intensity (lb/MW hr)	0.029	N2O Intensity (lb/MW hr)	0.006

1.3 User Entered Comments & Non-Default Data

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

Project Characteristics - Consistent with the DEIR's model.

Land Use - See SWAPE comment regarding residential and retail land uses.

Construction Phase - See SWAPE comment regarding individual construction phase lengths.

Demolition - Consistent with the DEIR's model. See SWAPE comment regarding demolition.

Vehicle Trips - Saturday trips consistent with the DEIR's model. See SWAPE comment regarding weekday and Sunday trips.

Woodstoves - Woodstoves and wood-burning fireplaces consistent with the DEIR's model. See SWAPE comment regarding gas fireplaces.

Energy Use -

Construction Off-road Equipment Mitigation - See SWAPE comment on construction-related mitigation.

Area Mitigation - See SWAPE comment regarding operational mitigation measures.

Water Mitigation - See SWAPE comment regarding operational mitigation measures.

Table Name	Column Name	Default Value	New Value
tblFireplaces	FireplaceWoodMass	1,019.20	0.00
tblFireplaces	FireplaceWoodMass	1,019.20	0.00
tblFireplaces	NumberWood	1.25	0.00
tblFireplaces	NumberWood	48.75	0.00
tblVehicleTrips	ST_TR	7.16	6.17
tblVehicleTrips	ST_TR	6.39	3.87
tblVehicleTrips	ST_TR	2.46	1.39
tblVehicleTrips	ST_TR	158.37	79.82
tblVehicleTrips	ST_TR	8.19	3.75
tblVehicleTrips	ST_TR	94.36	63.99
tblVehicleTrips	ST_TR	49.97	10.74
tblVehicleTrips	SU_TR	6.07	6.16
tblVehicleTrips	SU_TR	5.86	4.18
tblVehicleTrips	SU_TR	1.05	0.69
tblVehicleTrips	SU_TR	131.84	78.27

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

tblVehicleTrips	SU_TR	5.95	3.20
tblVehicleTrips	SU_TR	72.16	57.65
tblVehicleTrips	SU_TR	25.24	6.39
tblVehicleTrips	WD_TR	6.59	5.83
tblVehicleTrips	WD_TR	6.65	4.13
tblVehicleTrips	WD_TR	11.03	6.41
tblVehicleTrips	WD_TR	127.15	65.80
tblVehicleTrips	WD_TR	8.17	3.84
tblVehicleTrips	WD_TR	89.95	62.64
tblVehicleTrips	WD_TR	42.70	9.43
tblWoodstoves	NumberCatalytic	1.25	0.00
tblWoodstoves	NumberCatalytic	48.75	0.00
tblWoodstoves	NumberNoncatalytic	1.25	0.00
tblWoodstoves	NumberNoncatalytic	48.75	0.00
tblWoodstoves	WoodstoveDayYear	25.00	0.00
tblWoodstoves	WoodstoveDayYear	25.00	0.00
tblWoodstoves	WoodstoveWoodMass	999.60	0.00
tblWoodstoves	WoodstoveWoodMass	999.60	0.00

2.0 Emissions Summary

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

2.1 Overall Construction (Maximum Daily Emission)

Unmitigated Construction

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Year	lb/day										lb/day					
2021	4.2769	46.4588	31.6840	0.0643	18.2675	2.0461	20.3135	9.9840	1.8824	11.8664	0.0000	6,234.797 4	6,234.797 4	1.9495	0.0000	6,283.535 2
2022	5.3304	38.8967	49.5629	0.1517	9.8688	1.6366	10.7727	3.6558	1.5057	5.1615	0.0000	15,251.56 74	15,251.56 74	1.9503	0.0000	15,278.52 88
2023	4.8957	26.3317	46.7567	0.1472	9.8688	0.7794	10.6482	2.6381	0.7322	3.3702	0.0000	14,807.52 69	14,807.52 69	1.0250	0.0000	14,833.15 21
2024	237.1630	9.5575	15.1043	0.0244	1.7884	0.4698	1.8628	0.4743	0.4322	0.5476	0.0000	2,361.398 9	2,361.398 9	0.7177	0.0000	2,379.342 1
Maximum	237.1630	46.4588	49.5629	0.1517	18.2675	2.0461	20.3135	9.9840	1.8824	11.8664	0.0000	15,251.56 74	15,251.56 74	1.9503	0.0000	15,278.52 88

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

2.1 Overall Construction (Maximum Daily Emission)

Mitigated Construction

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Year	lb/day										lb/day					
2021	4.2769	46.4588	31.6840	0.0643	18.2675	2.0461	20.3135	9.9840	1.8824	11.8664	0.0000	6,234.7974	6,234.7974	1.9495	0.0000	6,283.5352
2022	5.3304	38.8967	49.5629	0.1517	9.8688	1.6366	10.7727	3.6558	1.5057	5.1615	0.0000	15,251.5674	15,251.5674	1.9503	0.0000	15,278.5288
2023	4.8957	26.3317	46.7567	0.1472	9.8688	0.7794	10.6482	2.6381	0.7322	3.3702	0.0000	14,807.5269	14,807.5269	1.0250	0.0000	14,833.1520
2024	237.1630	9.5575	15.1043	0.0244	1.7884	0.4698	1.8628	0.4743	0.4322	0.5476	0.0000	2,361.3989	2,361.3989	0.7177	0.0000	2,379.3421
Maximum	237.1630	46.4588	49.5629	0.1517	18.2675	2.0461	20.3135	9.9840	1.8824	11.8664	0.0000	15,251.5674	15,251.5674	1.9503	0.0000	15,278.5288

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio-CO2	Total CO2	CH4	N2O	CO2e
Percent Reduction	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

2.2 Overall Operational

Unmitigated Operational

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Area	30.5020	15.0496	88.4430	0.0944		1.5974	1.5974		1.5974	1.5974	0.0000	18,148.59 50	18,148.59 50	0.4874	0.3300	18,259.11 92
Energy	0.7660	6.7462	4.2573	0.0418		0.5292	0.5292		0.5292	0.5292		8,355.983 2	8,355.983 2	0.1602	0.1532	8,405.638 7
Mobile	9.8489	45.4304	114.8495	0.4917	45.9592	0.3360	46.2951	12.2950	0.3119	12.6070		50,306.60 34	50,306.60 34	2.1807		50,361.12 08
Total	41.1168	67.2262	207.5497	0.6278	45.9592	2.4626	48.4217	12.2950	2.4385	14.7336	0.0000	76,811.18 16	76,811.18 16	2.8282	0.4832	77,025.87 86

Mitigated Operational

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Area	30.5020	15.0496	88.4430	0.0944		1.5974	1.5974		1.5974	1.5974	0.0000	18,148.59 50	18,148.59 50	0.4874	0.3300	18,259.11 92
Energy	0.7660	6.7462	4.2573	0.0418		0.5292	0.5292		0.5292	0.5292		8,355.983 2	8,355.983 2	0.1602	0.1532	8,405.638 7
Mobile	9.8489	45.4304	114.8495	0.4917	45.9592	0.3360	46.2951	12.2950	0.3119	12.6070		50,306.60 34	50,306.60 34	2.1807		50,361.12 08
Total	41.1168	67.2262	207.5497	0.6278	45.9592	2.4626	48.4217	12.2950	2.4385	14.7336	0.0000	76,811.18 16	76,811.18 16	2.8282	0.4832	77,025.87 86

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio-CO2	Total CO2	CH4	N2O	CO2e
Percent Reduction	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

3.0 Construction Detail

Construction Phase

Phase Number	Phase Name	Phase Type	Start Date	End Date	Num Days Week	Num Days	Phase Description
1	Demolition	Demolition	9/1/2021	10/12/2021	5	30	
2	Site Preparation	Site Preparation	10/13/2021	11/9/2021	5	20	
3	Grading	Grading	11/10/2021	1/11/2022	5	45	
4	Building Construction	Building Construction	1/12/2022	12/12/2023	5	500	
5	Paving	Paving	12/13/2023	1/30/2024	5	35	
6	Architectural Coating	Architectural Coating	1/31/2024	3/19/2024	5	35	

Acres of Grading (Site Preparation Phase): 0

Acres of Grading (Grading Phase): 112.5

Acres of Paving: 0

Residential Indoor: 2,025,000; Residential Outdoor: 675,000; Non-Residential Indoor: 326,400; Non-Residential Outdoor: 108,800; Striped Parking Area: 0 (Architectural Coating – sqft)

OffRoad Equipment

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

Phase Name	Offroad Equipment Type	Amount	Usage Hours	Horse Power	Load Factor
Demolition	Concrete/Industrial Saws	1	8.00	81	0.73
Demolition	Excavators	3	8.00	158	0.38
Demolition	Rubber Tired Dozers	2	8.00	247	0.40
Site Preparation	Rubber Tired Dozers	3	8.00	247	0.40
Site Preparation	Tractors/Loaders/Backhoes	4	8.00	97	0.37
Grading	Excavators	2	8.00	158	0.38
Grading	Graders	1	8.00	187	0.41
Grading	Rubber Tired Dozers	1	8.00	247	0.40
Grading	Scrapers	2	8.00	367	0.48
Grading	Tractors/Loaders/Backhoes	2	8.00	97	0.37
Building Construction	Cranes	1	7.00	231	0.29
Building Construction	Forklifts	3	8.00	89	0.20
Building Construction	Generator Sets	1	8.00	84	0.74
Building Construction	Tractors/Loaders/Backhoes	3	7.00	97	0.37
Building Construction	Welders	1	8.00	46	0.45
Paving	Pavers	2	8.00	130	0.42
Paving	Paving Equipment	2	8.00	132	0.36
Paving	Rollers	2	8.00	80	0.38
Architectural Coating	Air Compressors	1	6.00	78	0.48

Trips and VMT

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

Phase Name	Offroad Equipment Count	Worker Trip Number	Vendor Trip Number	Hauling Trip Number	Worker Trip Length	Vendor Trip Length	Hauling Trip Length	Worker Vehicle Class	Vendor Vehicle Class	Hauling Vehicle Class
Demolition	6	15.00	0.00	458.00	14.70	6.90	20.00	LD_Mix	HDT_Mix	HHDT
Site Preparation	7	18.00	0.00	0.00	14.70	6.90	20.00	LD_Mix	HDT_Mix	HHDT
Grading	8	20.00	0.00	0.00	14.70	6.90	20.00	LD_Mix	HDT_Mix	HHDT
Building Construction	9	801.00	143.00	0.00	14.70	6.90	20.00	LD_Mix	HDT_Mix	HHDT
Paving	6	15.00	0.00	0.00	14.70	6.90	20.00	LD_Mix	HDT_Mix	HHDT
Architectural Coating	1	160.00	0.00	0.00	14.70	6.90	20.00	LD_Mix	HDT_Mix	HHDT

3.1 Mitigation Measures Construction

3.2 Demolition - 2021

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					3.3074	0.0000	3.3074	0.5008	0.0000	0.5008			0.0000			0.0000
Off-Road	3.1651	31.4407	21.5650	0.0388		1.5513	1.5513		1.4411	1.4411		3,747.9449	3,747.9449	1.0549		3,774.3174
Total	3.1651	31.4407	21.5650	0.0388	3.3074	1.5513	4.8588	0.5008	1.4411	1.9419		3,747.9449	3,747.9449	1.0549		3,774.3174

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

3.2 Demolition - 2021

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.1273	4.0952	0.9602	0.0119	0.2669	0.0126	0.2795	0.0732	0.0120	0.0852		1,292.241 3	1,292.241 3	0.0877		1,294.433 7
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0643	0.0442	0.6042	1.7100e-003	0.1677	1.3500e-003	0.1690	0.0445	1.2500e-003	0.0457		170.8155	170.8155	5.0300e-003		170.9413
Total	0.1916	4.1394	1.5644	0.0136	0.4346	0.0139	0.4485	0.1176	0.0133	0.1309		1,463.056 8	1,463.056 8	0.0927		1,465.375 0

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					3.3074	0.0000	3.3074	0.5008	0.0000	0.5008			0.0000			0.0000
Off-Road	3.1651	31.4407	21.5650	0.0388		1.5513	1.5513		1.4411	1.4411	0.0000	3,747.944 9	3,747.944 9	1.0549		3,774.317 4
Total	3.1651	31.4407	21.5650	0.0388	3.3074	1.5513	4.8588	0.5008	1.4411	1.9419	0.0000	3,747.944 9	3,747.944 9	1.0549		3,774.317 4

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

3.2 Demolition - 2021

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.1273	4.0952	0.9602	0.0119	0.2669	0.0126	0.2795	0.0732	0.0120	0.0852		1,292.241 3	1,292.241 3	0.0877		1,294.433 7
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0643	0.0442	0.6042	1.7100e-003	0.1677	1.3500e-003	0.1690	0.0445	1.2500e-003	0.0457		170.8155	170.8155	5.0300e-003		170.9413
Total	0.1916	4.1394	1.5644	0.0136	0.4346	0.0139	0.4485	0.1176	0.0133	0.1309		1,463.056 8	1,463.056 8	0.0927		1,465.375 0

3.3 Site Preparation - 2021

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					18.0663	0.0000	18.0663	9.9307	0.0000	9.9307			0.0000			0.0000
Off-Road	3.8882	40.4971	21.1543	0.0380		2.0445	2.0445		1.8809	1.8809		3,685.656 9	3,685.656 9	1.1920		3,715.457 3
Total	3.8882	40.4971	21.1543	0.0380	18.0663	2.0445	20.1107	9.9307	1.8809	11.8116		3,685.656 9	3,685.656 9	1.1920		3,715.457 3

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

3.3 Site Preparation - 2021

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0772	0.0530	0.7250	2.0600e-003	0.2012	1.6300e-003	0.2028	0.0534	1.5000e-003	0.0549		204.9786	204.9786	6.0400e-003		205.1296
Total	0.0772	0.0530	0.7250	2.0600e-003	0.2012	1.6300e-003	0.2028	0.0534	1.5000e-003	0.0549		204.9786	204.9786	6.0400e-003		205.1296

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					18.0663	0.0000	18.0663	9.9307	0.0000	9.9307			0.0000			0.0000
Off-Road	3.8882	40.4971	21.1543	0.0380		2.0445	2.0445		1.8809	1.8809	0.0000	3,685.6569	3,685.6569	1.1920		3,715.4573
Total	3.8882	40.4971	21.1543	0.0380	18.0663	2.0445	20.1107	9.9307	1.8809	11.8116	0.0000	3,685.6569	3,685.6569	1.1920		3,715.4573

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

3.3 Site Preparation - 2021

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0772	0.0530	0.7250	2.0600e-003	0.2012	1.6300e-003	0.2028	0.0534	1.5000e-003	0.0549		204.9786	204.9786	6.0400e-003		205.1296
Total	0.0772	0.0530	0.7250	2.0600e-003	0.2012	1.6300e-003	0.2028	0.0534	1.5000e-003	0.0549		204.9786	204.9786	6.0400e-003		205.1296

3.4 Grading - 2021

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					8.6733	0.0000	8.6733	3.5965	0.0000	3.5965			0.0000			0.0000
Off-Road	4.1912	46.3998	30.8785	0.0620		1.9853	1.9853		1.8265	1.8265		6,007.0434	6,007.0434	1.9428		6,055,6134
Total	4.1912	46.3998	30.8785	0.0620	8.6733	1.9853	10.6587	3.5965	1.8265	5.4230		6,007.0434	6,007.0434	1.9428		6,055,6134

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

3.4 Grading - 2021

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0857	0.0589	0.8056	2.2900e-003	0.2236	1.8100e-003	0.2254	0.0593	1.6600e-003	0.0610		227.7540	227.7540	6.7100e-003		227.9217
Total	0.0857	0.0589	0.8056	2.2900e-003	0.2236	1.8100e-003	0.2254	0.0593	1.6600e-003	0.0610		227.7540	227.7540	6.7100e-003		227.9217

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					8.6733	0.0000	8.6733	3.5965	0.0000	3.5965			0.0000			0.0000
Off-Road	4.1912	46.3998	30.8785	0.0620		1.9853	1.9853		1.8265	1.8265	0.0000	6,007.0434	6,007.0434	1.9428		6,055,6134
Total	4.1912	46.3998	30.8785	0.0620	8.6733	1.9853	10.6587	3.5965	1.8265	5.4230	0.0000	6,007.0434	6,007.0434	1.9428		6,055,6134

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

3.4 Grading - 2021

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0857	0.0589	0.8056	2.2900e-003	0.2236	1.8100e-003	0.2254	0.0593	1.6600e-003	0.0610		227.7540	227.7540	6.7100e-003		227.9217
Total	0.0857	0.0589	0.8056	2.2900e-003	0.2236	1.8100e-003	0.2254	0.0593	1.6600e-003	0.0610		227.7540	227.7540	6.7100e-003		227.9217

3.4 Grading - 2022

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					8.6733	0.0000	8.6733	3.5965	0.0000	3.5965			0.0000			0.0000
Off-Road	3.6248	38.8435	29.0415	0.0621		1.6349	1.6349		1.5041	1.5041		6,011.4105	6,011.4105	1.9442		6,060.0158
Total	3.6248	38.8435	29.0415	0.0621	8.6733	1.6349	10.3082	3.5965	1.5041	5.1006		6,011.4105	6,011.4105	1.9442		6,060.0158

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

3.4 Grading - 2022

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0803	0.0532	0.7432	2.2100e-003	0.2236	1.7500e-003	0.2253	0.0593	1.6100e-003	0.0609		219.7425	219.7425	6.0600e-003		219.8941
Total	0.0803	0.0532	0.7432	2.2100e-003	0.2236	1.7500e-003	0.2253	0.0593	1.6100e-003	0.0609		219.7425	219.7425	6.0600e-003		219.8941

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					8.6733	0.0000	8.6733	3.5965	0.0000	3.5965			0.0000			0.0000
Off-Road	3.6248	38.8435	29.0415	0.0621		1.6349	1.6349		1.5041	1.5041	0.0000	6,011.4105	6,011.4105	1.9442		6,060.0158
Total	3.6248	38.8435	29.0415	0.0621	8.6733	1.6349	10.3082	3.5965	1.5041	5.1006	0.0000	6,011.4105	6,011.4105	1.9442		6,060.0158

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

3.4 Grading - 2022

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0803	0.0532	0.7432	2.2100e-003	0.2236	1.7500e-003	0.2253	0.0593	1.6100e-003	0.0609		219.7425	219.7425	6.0600e-003		219.8941
Total	0.0803	0.0532	0.7432	2.2100e-003	0.2236	1.7500e-003	0.2253	0.0593	1.6100e-003	0.0609		219.7425	219.7425	6.0600e-003		219.8941

3.5 Building Construction - 2022

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Off-Road	1.7062	15.6156	16.3634	0.0269		0.8090	0.8090		0.7612	0.7612		2,554.3336	2,554.3336	0.6120		2,569.6322
Total	1.7062	15.6156	16.3634	0.0269		0.8090	0.8090		0.7612	0.7612		2,554.3336	2,554.3336	0.6120		2,569.6322

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

3.5 Building Construction - 2022

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.4079	13.2032	3.4341	0.0364	0.9155	0.0248	0.9404	0.2636	0.0237	0.2873		3,896.548 2	3,896.548 2	0.2236		3,902.138 4
Worker	3.2162	2.1318	29.7654	0.0883	8.9533	0.0701	9.0234	2.3745	0.0646	2.4390		8,800.685 7	8,800.685 7	0.2429		8,806.758 2
Total	3.6242	15.3350	33.1995	0.1247	9.8688	0.0949	9.9637	2.6381	0.0883	2.7263		12,697.23 39	12,697.23 39	0.4665		12,708.89 66

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Off-Road	1.7062	15.6156	16.3634	0.0269		0.8090	0.8090		0.7612	0.7612	0.0000	2,554.333 6	2,554.333 6	0.6120		2,569.632 2
Total	1.7062	15.6156	16.3634	0.0269		0.8090	0.8090		0.7612	0.7612	0.0000	2,554.333 6	2,554.333 6	0.6120		2,569.632 2

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

3.5 Building Construction - 2022

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.4079	13.2032	3.4341	0.0364	0.9155	0.0248	0.9404	0.2636	0.0237	0.2873		3,896.548 2	3,896.548 2	0.2236		3,902.138 4
Worker	3.2162	2.1318	29.7654	0.0883	8.9533	0.0701	9.0234	2.3745	0.0646	2.4390		8,800.685 7	8,800.685 7	0.2429		8,806.758 2
Total	3.6242	15.3350	33.1995	0.1247	9.8688	0.0949	9.9637	2.6381	0.0883	2.7263		12,697.23 39	12,697.23 39	0.4665		12,708.89 66

3.5 Building Construction - 2023

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Off-Road	1.5728	14.3849	16.2440	0.0269		0.6997	0.6997		0.6584	0.6584		2,555.209 9	2,555.209 9	0.6079		2,570.406 1
Total	1.5728	14.3849	16.2440	0.0269		0.6997	0.6997		0.6584	0.6584		2,555.209 9	2,555.209 9	0.6079		2,570.406 1

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

3.5 Building Construction - 2023

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.3027	10.0181	3.1014	0.0352	0.9156	0.0116	0.9271	0.2636	0.0111	0.2747		3,773.876 2	3,773.876 2	0.1982		3,778.830 0
Worker	3.0203	1.9287	27.4113	0.0851	8.9533	0.0681	9.0214	2.3745	0.0627	2.4372		8,478.440 8	8,478.440 8	0.2190		8,483.916 0
Total	3.3229	11.9468	30.5127	0.1203	9.8688	0.0797	9.9485	2.6381	0.0738	2.7118		12,252.31 70	12,252.31 70	0.4172		12,262.74 60

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Off-Road	1.5728	14.3849	16.2440	0.0269		0.6997	0.6997		0.6584	0.6584	0.0000	2,555.209 9	2,555.209 9	0.6079		2,570.406 1
Total	1.5728	14.3849	16.2440	0.0269		0.6997	0.6997		0.6584	0.6584	0.0000	2,555.209 9	2,555.209 9	0.6079		2,570.406 1

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

3.5 Building Construction - 2023

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.3027	10.0181	3.1014	0.0352	0.9156	0.0116	0.9271	0.2636	0.0111	0.2747		3,773.876 2	3,773.876 2	0.1982		3,778.830 0
Worker	3.0203	1.9287	27.4113	0.0851	8.9533	0.0681	9.0214	2.3745	0.0627	2.4372		8,478.440 8	8,478.440 8	0.2190		8,483.916 0
Total	3.3229	11.9468	30.5127	0.1203	9.8688	0.0797	9.9485	2.6381	0.0738	2.7118		12,252.31 70	12,252.31 70	0.4172		12,262.74 60

3.6 Paving - 2023

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Off-Road	1.0327	10.1917	14.5842	0.0228		0.5102	0.5102		0.4694	0.4694		2,207.584 1	2,207.584 1	0.7140		2,225.433 6
Paving	0.0000					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Total	1.0327	10.1917	14.5842	0.0228		0.5102	0.5102		0.4694	0.4694		2,207.584 1	2,207.584 1	0.7140		2,225.433 6

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

3.6 Paving - 2023

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0566	0.0361	0.5133	1.5900e-003	0.1677	1.2800e-003	0.1689	0.0445	1.1700e-003	0.0456		158.7723	158.7723	4.1000e-003		158.8748
Total	0.0566	0.0361	0.5133	1.5900e-003	0.1677	1.2800e-003	0.1689	0.0445	1.1700e-003	0.0456		158.7723	158.7723	4.1000e-003		158.8748

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Off-Road	1.0327	10.1917	14.5842	0.0228		0.5102	0.5102		0.4694	0.4694	0.0000	2,207.5841	2,207.5841	0.7140		2,225.4336
Paving	0.0000					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Total	1.0327	10.1917	14.5842	0.0228		0.5102	0.5102		0.4694	0.4694	0.0000	2,207.5841	2,207.5841	0.7140		2,225.4336

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

3.6 Paving - 2023

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0566	0.0361	0.5133	1.5900e-003	0.1677	1.2800e-003	0.1689	0.0445	1.1700e-003	0.0456		158.7723	158.7723	4.1000e-003		158.8748
Total	0.0566	0.0361	0.5133	1.5900e-003	0.1677	1.2800e-003	0.1689	0.0445	1.1700e-003	0.0456		158.7723	158.7723	4.1000e-003		158.8748

3.6 Paving - 2024

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Off-Road	0.9882	9.5246	14.6258	0.0228		0.4685	0.4685		0.4310	0.4310		2,207.547 2	2,207.547 2	0.7140		2,225.396 3
Paving	0.0000					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Total	0.9882	9.5246	14.6258	0.0228		0.4685	0.4685		0.4310	0.4310		2,207.547 2	2,207.547 2	0.7140		2,225.396 3

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

3.6 Paving - 2024

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0535	0.0329	0.4785	1.5400e-003	0.1677	1.2600e-003	0.1689	0.0445	1.1600e-003	0.0456		153.8517	153.8517	3.7600e-003		153.9458
Total	0.0535	0.0329	0.4785	1.5400e-003	0.1677	1.2600e-003	0.1689	0.0445	1.1600e-003	0.0456		153.8517	153.8517	3.7600e-003		153.9458

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Off-Road	0.9882	9.5246	14.6258	0.0228		0.4685	0.4685		0.4310	0.4310	0.0000	2,207.5472	2,207.5472	0.7140		2,225.3963
Paving	0.0000					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Total	0.9882	9.5246	14.6258	0.0228		0.4685	0.4685		0.4310	0.4310	0.0000	2,207.5472	2,207.5472	0.7140		2,225.3963

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

3.6 Paving - 2024

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0535	0.0329	0.4785	1.5400e-003	0.1677	1.2600e-003	0.1689	0.0445	1.1600e-003	0.0456		153.8517	153.8517	3.7600e-003		153.9458
Total	0.0535	0.0329	0.4785	1.5400e-003	0.1677	1.2600e-003	0.1689	0.0445	1.1600e-003	0.0456		153.8517	153.8517	3.7600e-003		153.9458

3.7 Architectural Coating - 2024

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Archit. Coating	236.4115					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Off-Road	0.1808	1.2188	1.8101	2.9700e-003		0.0609	0.0609		0.0609	0.0609		281.4481	281.4481	0.0159		281.8443
Total	236.5923	1.2188	1.8101	2.9700e-003		0.0609	0.0609		0.0609	0.0609		281.4481	281.4481	0.0159		281.8443

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

3.7 Architectural Coating - 2024

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.5707	0.3513	5.1044	0.0165	1.7884	0.0134	1.8018	0.4743	0.0123	0.4866		1,641.085 2	1,641.085 2	0.0401		1,642.088 6
Total	0.5707	0.3513	5.1044	0.0165	1.7884	0.0134	1.8018	0.4743	0.0123	0.4866		1,641.085 2	1,641.085 2	0.0401		1,642.088 6

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Archit. Coating	236.4115					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Off-Road	0.1808	1.2188	1.8101	2.9700e-003		0.0609	0.0609		0.0609	0.0609	0.0000	281.4481	281.4481	0.0159		281.8443
Total	236.5923	1.2188	1.8101	2.9700e-003		0.0609	0.0609		0.0609	0.0609	0.0000	281.4481	281.4481	0.0159		281.8443

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

3.7 Architectural Coating - 2024

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.5707	0.3513	5.1044	0.0165	1.7884	0.0134	1.8018	0.4743	0.0123	0.4866		1,641.085 2	1,641.085 2	0.0401		1,642.088 6
Total	0.5707	0.3513	5.1044	0.0165	1.7884	0.0134	1.8018	0.4743	0.0123	0.4866		1,641.085 2	1,641.085 2	0.0401		1,642.088 6

4.0 Operational Detail - Mobile

4.1 Mitigation Measures Mobile

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Mitigated	9.8489	45.4304	114.8495	0.4917	45.9592	0.3360	46.2951	12.2950	0.3119	12.6070		50,306.60 34	50,306.60 34	2.1807		50,361.12 08
Unmitigated	9.8489	45.4304	114.8495	0.4917	45.9592	0.3360	46.2951	12.2950	0.3119	12.6070		50,306.60 34	50,306.60 34	2.1807		50,361.12 08

4.2 Trip Summary Information

Land Use	Average Daily Trip Rate			Unmitigated	Mitigated
	Weekday	Saturday	Sunday	Annual VMT	Annual VMT
Apartments Low Rise	145.75	154.25	154.00	506,227	506,227
Apartments Mid Rise	4,026.75	3,773.25	4075.50	13,660,065	13,660,065
General Office Building	288.45	62.55	31.05	706,812	706,812
High Turnover (Sit Down Restaurant)	2,368.80	2,873.52	2817.72	3,413,937	3,413,937
Hotel	192.00	187.50	160.00	445,703	445,703
Quality Restaurant	501.12	511.92	461.20	707,488	707,488
Regional Shopping Center	528.08	601.44	357.84	1,112,221	1,112,221
Total	8,050.95	8,164.43	8,057.31	20,552,452	20,552,452

4.3 Trip Type Information

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

Land Use	Miles			Trip %			Trip Purpose %		
	H-W or C-W	H-S or C-C	H-O or C-NW	H-W or C-W	H-S or C-C	H-O or C-NW	Primary	Diverted	Pass-by
Apartments Low Rise	14.70	5.90	8.70	40.20	19.20	40.60	86	11	3
Apartments Mid Rise	14.70	5.90	8.70	40.20	19.20	40.60	86	11	3
General Office Building	16.60	8.40	6.90	33.00	48.00	19.00	77	19	4
High Turnover (Sit Down	16.60	8.40	6.90	8.50	72.50	19.00	37	20	43
Hotel	16.60	8.40	6.90	19.40	61.60	19.00	58	38	4
Quality Restaurant	16.60	8.40	6.90	12.00	69.00	19.00	38	18	44
Regional Shopping Center	16.60	8.40	6.90	16.30	64.70	19.00	54	35	11

4.4 Fleet Mix

Land Use	LDA	LDT1	LDT2	MDV	LHD1	LHD2	MHD	HHD	OBUS	UBUS	MCY	SBUS	MH
Apartments Low Rise	0.543088	0.044216	0.209971	0.116369	0.014033	0.006332	0.021166	0.033577	0.002613	0.001817	0.005285	0.000712	0.000821
Apartments Mid Rise	0.543088	0.044216	0.209971	0.116369	0.014033	0.006332	0.021166	0.033577	0.002613	0.001817	0.005285	0.000712	0.000821
General Office Building	0.543088	0.044216	0.209971	0.116369	0.014033	0.006332	0.021166	0.033577	0.002613	0.001817	0.005285	0.000712	0.000821
High Turnover (Sit Down Restaurant)	0.543088	0.044216	0.209971	0.116369	0.014033	0.006332	0.021166	0.033577	0.002613	0.001817	0.005285	0.000712	0.000821
Hotel	0.543088	0.044216	0.209971	0.116369	0.014033	0.006332	0.021166	0.033577	0.002613	0.001817	0.005285	0.000712	0.000821
Quality Restaurant	0.543088	0.044216	0.209971	0.116369	0.014033	0.006332	0.021166	0.033577	0.002613	0.001817	0.005285	0.000712	0.000821
Regional Shopping Center	0.543088	0.044216	0.209971	0.116369	0.014033	0.006332	0.021166	0.033577	0.002613	0.001817	0.005285	0.000712	0.000821

5.0 Energy Detail

Historical Energy Use: N

5.1 Mitigation Measures Energy

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
NaturalGas Mitigated	0.7660	6.7462	4.2573	0.0418		0.5292	0.5292		0.5292	0.5292		8,355.983 2	8,355.983 2	0.1602	0.1532	8,405.638 7
NaturalGas Unmitigated	0.7660	6.7462	4.2573	0.0418		0.5292	0.5292		0.5292	0.5292		8,355.983 2	8,355.983 2	0.1602	0.1532	8,405.638 7

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

5.2 Energy by Land Use - NaturalGas

Unmitigated

	NaturalGas Use	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Land Use	kBTU/yr	lb/day										lb/day					
Apartments Low Rise	1119.16	0.0121	0.1031	0.0439	6.6000e-004		8.3400e-003	8.3400e-003		8.3400e-003	8.3400e-003		131.6662	131.6662	2.5200e-003	2.4100e-003	132.4486
Apartments Mid Rise	35784.3	0.3859	3.2978	1.4033	0.0211		0.2666	0.2666		0.2666	0.2666		4,209.9164	4,209.9164	0.0807	0.0772	4,234.9339
General Office Building	1283.42	0.0138	0.1258	0.1057	7.5000e-004		9.5600e-003	9.5600e-003		9.5600e-003	9.5600e-003		150.9911	150.9911	2.8900e-003	2.7700e-003	151.8884
High Turnover (Sit Down Restaurant)	22759.9	0.2455	2.2314	1.8743	0.0134		0.1696	0.1696		0.1696	0.1696		2,677.6342	2,677.6342	0.0513	0.0491	2,693.5460
Hotel	4769.72	0.0514	0.4676	0.3928	2.8100e-003		0.0355	0.0355		0.0355	0.0355		561.1436	561.1436	0.0108	0.0103	564.4782
Quality Restaurant	5057.75	0.0545	0.4959	0.4165	2.9800e-003		0.0377	0.0377		0.0377	0.0377		595.0298	595.0298	0.0114	0.0109	598.5658
Regional Shopping Center	251.616	2.7100e-003	0.0247	0.0207	1.5000e-004		1.8700e-003	1.8700e-003		1.8700e-003	1.8700e-003		29.6019	29.6019	5.7000e-004	5.4000e-004	29.7778
Total		0.7660	6.7463	4.2573	0.0418		0.5292	0.5292		0.5292	0.5292		8,355.9832	8,355.9832	0.1602	0.1532	8,405.6387

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

5.2 Energy by Land Use - NaturalGas

Mitigated

	NaturalGas Use	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Land Use	kBTU/yr	lb/day										lb/day					
Apartments Low Rise	1.11916	0.0121	0.1031	0.0439	6.6000e-004		8.3400e-003	8.3400e-003		8.3400e-003	8.3400e-003		131.6662	131.6662	2.5200e-003	2.4100e-003	132.4486
Apartments Mid Rise	35.7843	0.3859	3.2978	1.4033	0.0211		0.2666	0.2666		0.2666	0.2666		4,209.9164	4,209.9164	0.0807	0.0772	4,234.9339
General Office Building	1.28342	0.0138	0.1258	0.1057	7.5000e-004		9.5600e-003	9.5600e-003		9.5600e-003	9.5600e-003		150.9911	150.9911	2.8900e-003	2.7700e-003	151.8884
High Turnover (Sit Down Restaurant)	22.7599	0.2455	2.2314	1.8743	0.0134		0.1696	0.1696		0.1696	0.1696		2,677.6342	2,677.6342	0.0513	0.0491	2,693.5460
Hotel	4.76972	0.0514	0.4676	0.3928	2.8100e-003		0.0355	0.0355		0.0355	0.0355		561.1436	561.1436	0.0108	0.0103	564.4782
Quality Restaurant	5.05775	0.0545	0.4959	0.4165	2.9800e-003		0.0377	0.0377		0.0377	0.0377		595.0298	595.0298	0.0114	0.0109	598.5658
Regional Shopping Center	0.251616	2.7100e-003	0.0247	0.0207	1.5000e-004		1.8700e-003	1.8700e-003		1.8700e-003	1.8700e-003		29.6019	29.6019	5.7000e-004	5.4000e-004	29.7778
Total		0.7660	6.7463	4.2573	0.0418		0.5292	0.5292		0.5292	0.5292		8,355.9832	8,355.9832	0.1602	0.1532	8,405.6387

6.0 Area Detail

6.1 Mitigation Measures Area

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Mitigated	30.5020	15.0496	88.4430	0.0944		1.5974	1.5974		1.5974	1.5974	0.0000	18,148.5950	18,148.5950	0.4874	0.3300	18,259.1192
Unmitigated	30.5020	15.0496	88.4430	0.0944		1.5974	1.5974		1.5974	1.5974	0.0000	18,148.5950	18,148.5950	0.4874	0.3300	18,259.1192

6.2 Area by SubCategory

Unmitigated

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
SubCategory	lb/day										lb/day					
Architectural Coating	2.2670					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Consumer Products	24.1085					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Hearth	1.6500	14.1000	6.0000	0.0900		1.1400	1.1400		1.1400	1.1400	0.0000	18,000.0000	18,000.0000	0.3450	0.3300	18,106.9650
Landscaping	2.4766	0.9496	82.4430	4.3600e-003		0.4574	0.4574		0.4574	0.4574		148.5950	148.5950	0.1424		152.1542
Total	30.5020	15.0496	88.4430	0.0944		1.5974	1.5974		1.5974	1.5974	0.0000	18,148.5950	18,148.5950	0.4874	0.3300	18,259.1192

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

6.2 Area by SubCategory

Mitigated

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
SubCategory	lb/day										lb/day					
Architectural Coating	2.2670					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Consumer Products	24.1085					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Hearth	1.6500	14.1000	6.0000	0.0900		1.1400	1.1400		1.1400	1.1400	0.0000	18,000.0000	18,000.0000	0.3450	0.3300	18,106.9650
Landscaping	2.4766	0.9496	82.4430	4.3600e-003		0.4574	0.4574		0.4574	0.4574		148.5950	148.5950	0.1424		152.1542
Total	30.5020	15.0496	88.4430	0.0944		1.5974	1.5974		1.5974	1.5974	0.0000	18,148.5950	18,148.5950	0.4874	0.3300	18,259.1192

7.0 Water Detail

7.1 Mitigation Measures Water

8.0 Waste Detail

8.1 Mitigation Measures Waste

9.0 Operational Offroad

Equipment Type	Number	Hours/Day	Days/Year	Horse Power	Load Factor	Fuel Type
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10.0 Stationary Equipment

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

Fire Pumps and Emergency Generators

Equipment Type	Number	Hours/Day	Hours/Year	Horse Power	Load Factor	Fuel Type
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Boilers

Equipment Type	Number	Heat Input/Day	Heat Input/Year	Boiler Rating	Fuel Type
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User Defined Equipment

Equipment Type	Number
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11.0 Vegetation

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

Village South Specific Plan (Proposed)
Los Angeles-South Coast County, Winter

1.0 Project Characteristics

1.1 Land Usage

Land Uses	Size	Metric	Lot Acreage	Floor Surface Area	Population
General Office Building	45.00	1000sqft	1.03	45,000.00	0
High Turnover (Sit Down Restaurant)	36.00	1000sqft	0.83	36,000.00	0
Hotel	50.00	Room	1.67	72,600.00	0
Quality Restaurant	8.00	1000sqft	0.18	8,000.00	0
Apartments Low Rise	25.00	Dwelling Unit	1.56	25,000.00	72
Apartments Mid Rise	975.00	Dwelling Unit	25.66	975,000.00	2789
Regional Shopping Center	56.00	1000sqft	1.29	56,000.00	0

1.2 Other Project Characteristics

Urbanization	Urban	Wind Speed (m/s)	2.2	Precipitation Freq (Days)	33
Climate Zone	9			Operational Year	2028
Utility Company	Southern California Edison				
CO2 Intensity (lb/MW hr)	702.44	CH4 Intensity (lb/MW hr)	0.029	N2O Intensity (lb/MW hr)	0.006

1.3 User Entered Comments & Non-Default Data

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

Project Characteristics - Consistent with the DEIR's model.

Land Use - See SWAPE comment regarding residential and retail land uses.

Construction Phase - See SWAPE comment regarding individual construction phase lengths.

Demolition - Consistent with the DEIR's model. See SWAPE comment regarding demolition.

Vehicle Trips - Saturday trips consistent with the DEIR's model. See SWAPE comment regarding weekday and Sunday trips.

Woodstoves - Woodstoves and wood-burning fireplaces consistent with the DEIR's model. See SWAPE comment regarding gas fireplaces.

Energy Use -

Construction Off-road Equipment Mitigation - See SWAPE comment on construction-related mitigation.

Area Mitigation - See SWAPE comment regarding operational mitigation measures.

Water Mitigation - See SWAPE comment regarding operational mitigation measures.

Table Name	Column Name	Default Value	New Value
tblFireplaces	FireplaceWoodMass	1,019.20	0.00
tblFireplaces	FireplaceWoodMass	1,019.20	0.00
tblFireplaces	NumberWood	1.25	0.00
tblFireplaces	NumberWood	48.75	0.00
tblVehicleTrips	ST_TR	7.16	6.17
tblVehicleTrips	ST_TR	6.39	3.87
tblVehicleTrips	ST_TR	2.46	1.39
tblVehicleTrips	ST_TR	158.37	79.82
tblVehicleTrips	ST_TR	8.19	3.75
tblVehicleTrips	ST_TR	94.36	63.99
tblVehicleTrips	ST_TR	49.97	10.74
tblVehicleTrips	SU_TR	6.07	6.16
tblVehicleTrips	SU_TR	5.86	4.18
tblVehicleTrips	SU_TR	1.05	0.69
tblVehicleTrips	SU_TR	131.84	78.27

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

tblVehicleTrips	SU_TR	5.95	3.20
tblVehicleTrips	SU_TR	72.16	57.65
tblVehicleTrips	SU_TR	25.24	6.39
tblVehicleTrips	WD_TR	6.59	5.83
tblVehicleTrips	WD_TR	6.65	4.13
tblVehicleTrips	WD_TR	11.03	6.41
tblVehicleTrips	WD_TR	127.15	65.80
tblVehicleTrips	WD_TR	8.17	3.84
tblVehicleTrips	WD_TR	89.95	62.64
tblVehicleTrips	WD_TR	42.70	9.43
tblWoodstoves	NumberCatalytic	1.25	0.00
tblWoodstoves	NumberCatalytic	48.75	0.00
tblWoodstoves	NumberNoncatalytic	1.25	0.00
tblWoodstoves	NumberNoncatalytic	48.75	0.00
tblWoodstoves	WoodstoveDayYear	25.00	0.00
tblWoodstoves	WoodstoveDayYear	25.00	0.00
tblWoodstoves	WoodstoveWoodMass	999.60	0.00
tblWoodstoves	WoodstoveWoodMass	999.60	0.00

2.0 Emissions Summary

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

2.1 Overall Construction (Maximum Daily Emission)

Unmitigated Construction

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Year	lb/day										lb/day					
2021	4.2865	46.4651	31.6150	0.0642	18.2675	2.0461	20.3135	9.9840	1.8824	11.8664	0.0000	6,221.4937	6,221.4937	1.9491	0.0000	6,270.2214
2022	5.7218	38.9024	47.3319	0.1455	9.8688	1.6366	10.7736	3.6558	1.5057	5.1615	0.0000	14,630.3099	14,630.3099	1.9499	0.0000	14,657.2663
2023	5.2705	26.4914	44.5936	0.1413	9.8688	0.7800	10.6488	2.6381	0.7328	3.3708	0.0000	14,210.3424	14,210.3424	1.0230	0.0000	14,235.9160
2024	237.2328	9.5610	15.0611	0.0243	1.7884	0.4698	1.8628	0.4743	0.4322	0.5476	0.0000	2,352.4178	2,352.4178	0.7175	0.0000	2,370.3550
Maximum	237.2328	46.4651	47.3319	0.1455	18.2675	2.0461	20.3135	9.9840	1.8824	11.8664	0.0000	14,630.3099	14,630.3099	1.9499	0.0000	14,657.2663

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

2.1 Overall Construction (Maximum Daily Emission)

Mitigated Construction

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Year	lb/day										lb/day					
2021	4.2865	46.4651	31.6150	0.0642	18.2675	2.0461	20.3135	9.9840	1.8824	11.8664	0.0000	6,221.4937	6,221.4937	1.9491	0.0000	6,270.2214
2022	5.7218	38.9024	47.3319	0.1455	9.8688	1.6366	10.7736	3.6558	1.5057	5.1615	0.0000	14,630.3099	14,630.3099	1.9499	0.0000	14,657.2663
2023	5.2705	26.4914	44.5936	0.1413	9.8688	0.7800	10.6488	2.6381	0.7328	3.3708	0.0000	14,210.3424	14,210.3424	1.0230	0.0000	14,235.9160
2024	237.2328	9.5610	15.0611	0.0243	1.7884	0.4698	1.8628	0.4743	0.4322	0.5476	0.0000	2,352.4178	2,352.4178	0.7175	0.0000	2,370.3550
Maximum	237.2328	46.4651	47.3319	0.1455	18.2675	2.0461	20.3135	9.9840	1.8824	11.8664	0.0000	14,630.3099	14,630.3099	1.9499	0.0000	14,657.2663

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio-CO2	Total CO2	CH4	N2O	CO2e
Percent Reduction	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

2.2 Overall Operational

Unmitigated Operational

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Area	30.5020	15.0496	88.4430	0.0944		1.5974	1.5974		1.5974	1.5974	0.0000	18,148.59 50	18,148.59 50	0.4874	0.3300	18,259.11 92
Energy	0.7660	6.7462	4.2573	0.0418		0.5292	0.5292		0.5292	0.5292		8,355.983 2	8,355.983 2	0.1602	0.1532	8,405.638 7
Mobile	9.5233	45.9914	110.0422	0.4681	45.9592	0.3373	46.2965	12.2950	0.3132	12.6083		47,917.80 05	47,917.80 05	2.1953		47,972.68 39
Total	40.7912	67.7872	202.7424	0.6043	45.9592	2.4640	48.4231	12.2950	2.4399	14.7349	0.0000	74,422.37 87	74,422.37 87	2.8429	0.4832	74,637.44 17

Mitigated Operational

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Area	30.5020	15.0496	88.4430	0.0944		1.5974	1.5974		1.5974	1.5974	0.0000	18,148.59 50	18,148.59 50	0.4874	0.3300	18,259.11 92
Energy	0.7660	6.7462	4.2573	0.0418		0.5292	0.5292		0.5292	0.5292		8,355.983 2	8,355.983 2	0.1602	0.1532	8,405.638 7
Mobile	9.5233	45.9914	110.0422	0.4681	45.9592	0.3373	46.2965	12.2950	0.3132	12.6083		47,917.80 05	47,917.80 05	2.1953		47,972.68 39
Total	40.7912	67.7872	202.7424	0.6043	45.9592	2.4640	48.4231	12.2950	2.4399	14.7349	0.0000	74,422.37 87	74,422.37 87	2.8429	0.4832	74,637.44 17

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio-CO2	Total CO2	CH4	N2O	CO2e
Percent Reduction	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

3.0 Construction Detail

Construction Phase

Phase Number	Phase Name	Phase Type	Start Date	End Date	Num Days Week	Num Days	Phase Description
1	Demolition	Demolition	9/1/2021	10/12/2021	5	30	
2	Site Preparation	Site Preparation	10/13/2021	11/9/2021	5	20	
3	Grading	Grading	11/10/2021	1/11/2022	5	45	
4	Building Construction	Building Construction	1/12/2022	12/12/2023	5	500	
5	Paving	Paving	12/13/2023	1/30/2024	5	35	
6	Architectural Coating	Architectural Coating	1/31/2024	3/19/2024	5	35	

Acres of Grading (Site Preparation Phase): 0

Acres of Grading (Grading Phase): 112.5

Acres of Paving: 0

Residential Indoor: 2,025,000; Residential Outdoor: 675,000; Non-Residential Indoor: 326,400; Non-Residential Outdoor: 108,800; Striped Parking Area: 0 (Architectural Coating – sqft)

OffRoad Equipment

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

Phase Name	Offroad Equipment Type	Amount	Usage Hours	Horse Power	Load Factor
Demolition	Concrete/Industrial Saws	1	8.00	81	0.73
Demolition	Excavators	3	8.00	158	0.38
Demolition	Rubber Tired Dozers	2	8.00	247	0.40
Site Preparation	Rubber Tired Dozers	3	8.00	247	0.40
Site Preparation	Tractors/Loaders/Backhoes	4	8.00	97	0.37
Grading	Excavators	2	8.00	158	0.38
Grading	Graders	1	8.00	187	0.41
Grading	Rubber Tired Dozers	1	8.00	247	0.40
Grading	Scrapers	2	8.00	367	0.48
Grading	Tractors/Loaders/Backhoes	2	8.00	97	0.37
Building Construction	Cranes	1	7.00	231	0.29
Building Construction	Forklifts	3	8.00	89	0.20
Building Construction	Generator Sets	1	8.00	84	0.74
Building Construction	Tractors/Loaders/Backhoes	3	7.00	97	0.37
Building Construction	Welders	1	8.00	46	0.45
Paving	Pavers	2	8.00	130	0.42
Paving	Paving Equipment	2	8.00	132	0.36
Paving	Rollers	2	8.00	80	0.38
Architectural Coating	Air Compressors	1	6.00	78	0.48

Trips and VMT

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

Phase Name	Offroad Equipment Count	Worker Trip Number	Vendor Trip Number	Hauling Trip Number	Worker Trip Length	Vendor Trip Length	Hauling Trip Length	Worker Vehicle Class	Vendor Vehicle Class	Hauling Vehicle Class
Demolition	6	15.00	0.00	458.00	14.70	6.90	20.00	LD_Mix	HDT_Mix	HHDT
Site Preparation	7	18.00	0.00	0.00	14.70	6.90	20.00	LD_Mix	HDT_Mix	HHDT
Grading	8	20.00	0.00	0.00	14.70	6.90	20.00	LD_Mix	HDT_Mix	HHDT
Building Construction	9	801.00	143.00	0.00	14.70	6.90	20.00	LD_Mix	HDT_Mix	HHDT
Paving	6	15.00	0.00	0.00	14.70	6.90	20.00	LD_Mix	HDT_Mix	HHDT
Architectural Coating	1	160.00	0.00	0.00	14.70	6.90	20.00	LD_Mix	HDT_Mix	HHDT

3.1 Mitigation Measures Construction

3.2 Demolition - 2021

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					3.3074	0.0000	3.3074	0.5008	0.0000	0.5008			0.0000			0.0000
Off-Road	3.1651	31.4407	21.5650	0.0388		1.5513	1.5513		1.4411	1.4411		3,747.9449	3,747.9449	1.0549		3,774.3174
Total	3.1651	31.4407	21.5650	0.0388	3.3074	1.5513	4.8588	0.5008	1.4411	1.9419		3,747.9449	3,747.9449	1.0549		3,774.3174

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

3.2 Demolition - 2021

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.1304	4.1454	1.0182	0.0117	0.2669	0.0128	0.2797	0.0732	0.0122	0.0854		1,269.855 5	1,269.855 5	0.0908		1,272.125 2
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0715	0.0489	0.5524	1.6100e-003	0.1677	1.3500e-003	0.1690	0.0445	1.2500e-003	0.0457		160.8377	160.8377	4.7300e-003		160.9560
Total	0.2019	4.1943	1.5706	0.0133	0.4346	0.0141	0.4487	0.1176	0.0135	0.1311		1,430.693 2	1,430.693 2	0.0955		1,433.081 2

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					3.3074	0.0000	3.3074	0.5008	0.0000	0.5008			0.0000			0.0000
Off-Road	3.1651	31.4407	21.5650	0.0388		1.5513	1.5513		1.4411	1.4411	0.0000	3,747.944 9	3,747.944 9	1.0549		3,774.317 4
Total	3.1651	31.4407	21.5650	0.0388	3.3074	1.5513	4.8588	0.5008	1.4411	1.9419	0.0000	3,747.944 9	3,747.944 9	1.0549		3,774.317 4

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

3.2 Demolition - 2021

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.1304	4.1454	1.0182	0.0117	0.2669	0.0128	0.2797	0.0732	0.0122	0.0854		1,269.855 5	1,269.855 5	0.0908		1,272.125 2
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0715	0.0489	0.5524	1.6100e-003	0.1677	1.3500e-003	0.1690	0.0445	1.2500e-003	0.0457		160.8377	160.8377	4.7300e-003		160.9560
Total	0.2019	4.1943	1.5706	0.0133	0.4346	0.0141	0.4487	0.1176	0.0135	0.1311		1,430.693 2	1,430.693 2	0.0955		1,433.081 2

3.3 Site Preparation - 2021

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					18.0663	0.0000	18.0663	9.9307	0.0000	9.9307			0.0000			0.0000
Off-Road	3.8882	40.4971	21.1543	0.0380		2.0445	2.0445		1.8809	1.8809		3,685.656 9	3,685.656 9	1.1920		3,715.457 3
Total	3.8882	40.4971	21.1543	0.0380	18.0663	2.0445	20.1107	9.9307	1.8809	11.8116		3,685.656 9	3,685.656 9	1.1920		3,715.457 3

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

3.3 Site Preparation - 2021

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0858	0.0587	0.6629	1.9400e-003	0.2012	1.6300e-003	0.2028	0.0534	1.5000e-003	0.0549		193.0052	193.0052	5.6800e-003		193.1472
Total	0.0858	0.0587	0.6629	1.9400e-003	0.2012	1.6300e-003	0.2028	0.0534	1.5000e-003	0.0549		193.0052	193.0052	5.6800e-003		193.1472

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					18.0663	0.0000	18.0663	9.9307	0.0000	9.9307			0.0000			0.0000
Off-Road	3.8882	40.4971	21.1543	0.0380		2.0445	2.0445		1.8809	1.8809	0.0000	3,685.6569	3,685.6569	1.1920		3,715.4573
Total	3.8882	40.4971	21.1543	0.0380	18.0663	2.0445	20.1107	9.9307	1.8809	11.8116	0.0000	3,685.6569	3,685.6569	1.1920		3,715.4573

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

3.3 Site Preparation - 2021

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0858	0.0587	0.6629	1.9400e-003	0.2012	1.6300e-003	0.2028	0.0534	1.5000e-003	0.0549		193.0052	193.0052	5.6800e-003		193.1472
Total	0.0858	0.0587	0.6629	1.9400e-003	0.2012	1.6300e-003	0.2028	0.0534	1.5000e-003	0.0549		193.0052	193.0052	5.6800e-003		193.1472

3.4 Grading - 2021

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					8.6733	0.0000	8.6733	3.5965	0.0000	3.5965			0.0000			0.0000
Off-Road	4.1912	46.3998	30.8785	0.0620		1.9853	1.9853		1.8265	1.8265		6,007.043 4	6,007.043 4	1.9428		6,055,613 4
Total	4.1912	46.3998	30.8785	0.0620	8.6733	1.9853	10.6587	3.5965	1.8265	5.4230		6,007.043 4	6,007.043 4	1.9428		6,055,613 4

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

3.4 Grading - 2021

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0954	0.0652	0.7365	2.1500e-003	0.2236	1.8100e-003	0.2254	0.0593	1.6600e-003	0.0610		214.4502	214.4502	6.3100e-003		214.6080
Total	0.0954	0.0652	0.7365	2.1500e-003	0.2236	1.8100e-003	0.2254	0.0593	1.6600e-003	0.0610		214.4502	214.4502	6.3100e-003		214.6080

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					8.6733	0.0000	8.6733	3.5965	0.0000	3.5965			0.0000			0.0000
Off-Road	4.1912	46.3998	30.8785	0.0620		1.9853	1.9853		1.8265	1.8265	0.0000	6,007.0434	6,007.0434	1.9428		6,055,6134
Total	4.1912	46.3998	30.8785	0.0620	8.6733	1.9853	10.6587	3.5965	1.8265	5.4230	0.0000	6,007.0434	6,007.0434	1.9428		6,055,6134

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

3.4 Grading - 2021

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0954	0.0652	0.7365	2.1500e-003	0.2236	1.8100e-003	0.2254	0.0593	1.6600e-003	0.0610		214.4502	214.4502	6.3100e-003		214.6080
Total	0.0954	0.0652	0.7365	2.1500e-003	0.2236	1.8100e-003	0.2254	0.0593	1.6600e-003	0.0610		214.4502	214.4502	6.3100e-003		214.6080

3.4 Grading - 2022

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					8.6733	0.0000	8.6733	3.5965	0.0000	3.5965			0.0000			0.0000
Off-Road	3.6248	38.8435	29.0415	0.0621		1.6349	1.6349		1.5041	1.5041		6,011.4105	6,011.4105	1.9442		6,060.0158
Total	3.6248	38.8435	29.0415	0.0621	8.6733	1.6349	10.3082	3.5965	1.5041	5.1006		6,011.4105	6,011.4105	1.9442		6,060.0158

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

3.4 Grading - 2022

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0896	0.0589	0.6784	2.0800e-003	0.2236	1.7500e-003	0.2253	0.0593	1.6100e-003	0.0609		206.9139	206.9139	5.7000e-003		207.0563
Total	0.0896	0.0589	0.6784	2.0800e-003	0.2236	1.7500e-003	0.2253	0.0593	1.6100e-003	0.0609		206.9139	206.9139	5.7000e-003		207.0563

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					8.6733	0.0000	8.6733	3.5965	0.0000	3.5965			0.0000			0.0000
Off-Road	3.6248	38.8435	29.0415	0.0621		1.6349	1.6349		1.5041	1.5041	0.0000	6,011.4105	6,011.4105	1.9442		6,060.0158
Total	3.6248	38.8435	29.0415	0.0621	8.6733	1.6349	10.3082	3.5965	1.5041	5.1006	0.0000	6,011.4105	6,011.4105	1.9442		6,060.0158

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

3.4 Grading - 2022

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0896	0.0589	0.6784	2.0800e-003	0.2236	1.7500e-003	0.2253	0.0593	1.6100e-003	0.0609		206.9139	206.9139	5.7000e-003		207.0563
Total	0.0896	0.0589	0.6784	2.0800e-003	0.2236	1.7500e-003	0.2253	0.0593	1.6100e-003	0.0609		206.9139	206.9139	5.7000e-003		207.0563

3.5 Building Construction - 2022

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Off-Road	1.7062	15.6156	16.3634	0.0269		0.8090	0.8090		0.7612	0.7612		2,554.3336	2,554.3336	0.6120		2,569.6322
Total	1.7062	15.6156	16.3634	0.0269		0.8090	0.8090		0.7612	0.7612		2,554.3336	2,554.3336	0.6120		2,569.6322

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

3.5 Building Construction - 2022

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.4284	13.1673	3.8005	0.0354	0.9155	0.0256	0.9412	0.2636	0.0245	0.2881		3,789.0750	3,789.0750	0.2381		3,795.0283
Worker	3.5872	2.3593	27.1680	0.0832	8.9533	0.0701	9.0234	2.3745	0.0646	2.4390		8,286.9013	8,286.9013	0.2282		8,292.6058
Total	4.0156	15.5266	30.9685	0.1186	9.8688	0.0957	9.9645	2.6381	0.0891	2.7271		12,075.9763	12,075.9763	0.4663		12,087.6341

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Off-Road	1.7062	15.6156	16.3634	0.0269		0.8090	0.8090		0.7612	0.7612	0.0000	2,554.3336	2,554.3336	0.6120		2,569.6322
Total	1.7062	15.6156	16.3634	0.0269		0.8090	0.8090		0.7612	0.7612	0.0000	2,554.3336	2,554.3336	0.6120		2,569.6322

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

3.5 Building Construction - 2022

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.4284	13.1673	3.8005	0.0354	0.9155	0.0256	0.9412	0.2636	0.0245	0.2881		3,789.0750	3,789.0750	0.2381		3,795.0283
Worker	3.5872	2.3593	27.1680	0.0832	8.9533	0.0701	9.0234	2.3745	0.0646	2.4390		8,286.9013	8,286.9013	0.2282		8,292.6058
Total	4.0156	15.5266	30.9685	0.1186	9.8688	0.0957	9.9645	2.6381	0.0891	2.7271		12,075.9763	12,075.9763	0.4663		12,087.6341

3.5 Building Construction - 2023

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Off-Road	1.5728	14.3849	16.2440	0.0269		0.6997	0.6997		0.6584	0.6584		2,555.2099	2,555.2099	0.6079		2,570.4061
Total	1.5728	14.3849	16.2440	0.0269		0.6997	0.6997		0.6584	0.6584		2,555.2099	2,555.2099	0.6079		2,570.4061

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

3.5 Building Construction - 2023

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.3183	9.9726	3.3771	0.0343	0.9156	0.0122	0.9277	0.2636	0.0116	0.2752		3,671.4007	3,671.4007	0.2096		3,676.6417
Worker	3.3795	2.1338	24.9725	0.0801	8.9533	0.0681	9.0214	2.3745	0.0627	2.4372		7,983.7318	7,983.7318	0.2055		7,988.8683
Total	3.6978	12.1065	28.3496	0.1144	9.8688	0.0803	9.9491	2.6381	0.0743	2.7124		11,655.1325	11,655.1325	0.4151		11,665.5099

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Off-Road	1.5728	14.3849	16.2440	0.0269		0.6997	0.6997		0.6584	0.6584	0.0000	2,555.2099	2,555.2099	0.6079		2,570.4061
Total	1.5728	14.3849	16.2440	0.0269		0.6997	0.6997		0.6584	0.6584	0.0000	2,555.2099	2,555.2099	0.6079		2,570.4061

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

3.5 Building Construction - 2023

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.3183	9.9726	3.3771	0.0343	0.9156	0.0122	0.9277	0.2636	0.0116	0.2752		3,671.400 7	3,671.400 7	0.2096		3,676.641 7
Worker	3.3795	2.1338	24.9725	0.0801	8.9533	0.0681	9.0214	2.3745	0.0627	2.4372		7,983.731 8	7,983.731 8	0.2055		7,988.868 3
Total	3.6978	12.1065	28.3496	0.1144	9.8688	0.0803	9.9491	2.6381	0.0743	2.7124		11,655.13 25	11,655.13 25	0.4151		11,665.50 99

3.6 Paving - 2023

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Off-Road	1.0327	10.1917	14.5842	0.0228		0.5102	0.5102		0.4694	0.4694		2,207.584 1	2,207.584 1	0.7140		2,225.433 6
Paving	0.0000					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Total	1.0327	10.1917	14.5842	0.0228		0.5102	0.5102		0.4694	0.4694		2,207.584 1	2,207.584 1	0.7140		2,225.433 6

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

3.6 Paving - 2023

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0633	0.0400	0.4677	1.5000e-003	0.1677	1.2800e-003	0.1689	0.0445	1.1700e-003	0.0456		149.5081	149.5081	3.8500e-003		149.6043
Total	0.0633	0.0400	0.4677	1.5000e-003	0.1677	1.2800e-003	0.1689	0.0445	1.1700e-003	0.0456		149.5081	149.5081	3.8500e-003		149.6043

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Off-Road	1.0327	10.1917	14.5842	0.0228		0.5102	0.5102		0.4694	0.4694	0.0000	2,207.5841	2,207.5841	0.7140		2,225.4336
Paving	0.0000					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Total	1.0327	10.1917	14.5842	0.0228		0.5102	0.5102		0.4694	0.4694	0.0000	2,207.5841	2,207.5841	0.7140		2,225.4336

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

3.6 Paving - 2023

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0633	0.0400	0.4677	1.5000e-003	0.1677	1.2800e-003	0.1689	0.0445	1.1700e-003	0.0456		149.5081	149.5081	3.8500e-003		149.6043
Total	0.0633	0.0400	0.4677	1.5000e-003	0.1677	1.2800e-003	0.1689	0.0445	1.1700e-003	0.0456		149.5081	149.5081	3.8500e-003		149.6043

3.6 Paving - 2024

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Off-Road	0.9882	9.5246	14.6258	0.0228		0.4685	0.4685		0.4310	0.4310		2,207.547 2	2,207.547 2	0.7140		2,225.396 3
Paving	0.0000					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Total	0.9882	9.5246	14.6258	0.0228		0.4685	0.4685		0.4310	0.4310		2,207.547 2	2,207.547 2	0.7140		2,225.396 3

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

3.6 Paving - 2024

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0601	0.0364	0.4354	1.4500e-003	0.1677	1.2600e-003	0.1689	0.0445	1.1600e-003	0.0456		144.8706	144.8706	3.5300e-003		144.9587
Total	0.0601	0.0364	0.4354	1.4500e-003	0.1677	1.2600e-003	0.1689	0.0445	1.1600e-003	0.0456		144.8706	144.8706	3.5300e-003		144.9587

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Off-Road	0.9882	9.5246	14.6258	0.0228		0.4685	0.4685		0.4310	0.4310	0.0000	2,207.5472	2,207.5472	0.7140		2,225.3963
Paving	0.0000					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Total	0.9882	9.5246	14.6258	0.0228		0.4685	0.4685		0.4310	0.4310	0.0000	2,207.5472	2,207.5472	0.7140		2,225.3963

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

3.6 Paving - 2024

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0601	0.0364	0.4354	1.4500e-003	0.1677	1.2600e-003	0.1689	0.0445	1.1600e-003	0.0456		144.8706	144.8706	3.5300e-003		144.9587
Total	0.0601	0.0364	0.4354	1.4500e-003	0.1677	1.2600e-003	0.1689	0.0445	1.1600e-003	0.0456		144.8706	144.8706	3.5300e-003		144.9587

3.7 Architectural Coating - 2024

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Archit. Coating	236.4115					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Off-Road	0.1808	1.2188	1.8101	2.9700e-003		0.0609	0.0609		0.0609	0.0609		281.4481	281.4481	0.0159		281.8443
Total	236.5923	1.2188	1.8101	2.9700e-003		0.0609	0.0609		0.0609	0.0609		281.4481	281.4481	0.0159		281.8443

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

3.7 Architectural Coating - 2024

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.6406	0.3886	4.6439	0.0155	1.7884	0.0134	1.8018	0.4743	0.0123	0.4866		1,545.286 0	1,545.286 0	0.0376		1,546.226 2
Total	0.6406	0.3886	4.6439	0.0155	1.7884	0.0134	1.8018	0.4743	0.0123	0.4866		1,545.286 0	1,545.286 0	0.0376		1,546.226 2

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Archit. Coating	236.4115					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Off-Road	0.1808	1.2188	1.8101	2.9700e-003		0.0609	0.0609		0.0609	0.0609	0.0000	281.4481	281.4481	0.0159		281.8443
Total	236.5923	1.2188	1.8101	2.9700e-003		0.0609	0.0609		0.0609	0.0609	0.0000	281.4481	281.4481	0.0159		281.8443

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

3.7 Architectural Coating - 2024

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.6406	0.3886	4.6439	0.0155	1.7884	0.0134	1.8018	0.4743	0.0123	0.4866		1,545.286 0	1,545.286 0	0.0376		1,546.226 2
Total	0.6406	0.3886	4.6439	0.0155	1.7884	0.0134	1.8018	0.4743	0.0123	0.4866		1,545.286 0	1,545.286 0	0.0376		1,546.226 2

4.0 Operational Detail - Mobile

4.1 Mitigation Measures Mobile

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Mitigated	9.5233	45.9914	110.0422	0.4681	45.9592	0.3373	46.2965	12.2950	0.3132	12.6083		47,917.8005	47,917.8005	2.1953		47,972.6839
Unmitigated	9.5233	45.9914	110.0422	0.4681	45.9592	0.3373	46.2965	12.2950	0.3132	12.6083		47,917.8005	47,917.8005	2.1953		47,972.6839

4.2 Trip Summary Information

Land Use	Average Daily Trip Rate			Unmitigated	Mitigated
	Weekday	Saturday	Sunday	Annual VMT	Annual VMT
Apartments Low Rise	145.75	154.25	154.00	506,227	506,227
Apartments Mid Rise	4,026.75	3,773.25	4075.50	13,660,065	13,660,065
General Office Building	288.45	62.55	31.05	706,812	706,812
High Turnover (Sit Down Restaurant)	2,368.80	2,873.52	2817.72	3,413,937	3,413,937
Hotel	192.00	187.50	160.00	445,703	445,703
Quality Restaurant	501.12	511.92	461.20	707,488	707,488
Regional Shopping Center	528.08	601.44	357.84	1,112,221	1,112,221
Total	8,050.95	8,164.43	8,057.31	20,552,452	20,552,452

4.3 Trip Type Information

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

Land Use	Miles			Trip %			Trip Purpose %		
	H-W or C-W	H-S or C-C	H-O or C-NW	H-W or C-W	H-S or C-C	H-O or C-NW	Primary	Diverted	Pass-by
Apartments Low Rise	14.70	5.90	8.70	40.20	19.20	40.60	86	11	3
Apartments Mid Rise	14.70	5.90	8.70	40.20	19.20	40.60	86	11	3
General Office Building	16.60	8.40	6.90	33.00	48.00	19.00	77	19	4
High Turnover (Sit Down	16.60	8.40	6.90	8.50	72.50	19.00	37	20	43
Hotel	16.60	8.40	6.90	19.40	61.60	19.00	58	38	4
Quality Restaurant	16.60	8.40	6.90	12.00	69.00	19.00	38	18	44
Regional Shopping Center	16.60	8.40	6.90	16.30	64.70	19.00	54	35	11

4.4 Fleet Mix

Land Use	LDA	LDT1	LDT2	MDV	LHD1	LHD2	MHD	HHD	OBUS	UBUS	MCY	SBUS	MH
Apartments Low Rise	0.543088	0.044216	0.209971	0.116369	0.014033	0.006332	0.021166	0.033577	0.002613	0.001817	0.005285	0.000712	0.000821
Apartments Mid Rise	0.543088	0.044216	0.209971	0.116369	0.014033	0.006332	0.021166	0.033577	0.002613	0.001817	0.005285	0.000712	0.000821
General Office Building	0.543088	0.044216	0.209971	0.116369	0.014033	0.006332	0.021166	0.033577	0.002613	0.001817	0.005285	0.000712	0.000821
High Turnover (Sit Down Restaurant)	0.543088	0.044216	0.209971	0.116369	0.014033	0.006332	0.021166	0.033577	0.002613	0.001817	0.005285	0.000712	0.000821
Hotel	0.543088	0.044216	0.209971	0.116369	0.014033	0.006332	0.021166	0.033577	0.002613	0.001817	0.005285	0.000712	0.000821
Quality Restaurant	0.543088	0.044216	0.209971	0.116369	0.014033	0.006332	0.021166	0.033577	0.002613	0.001817	0.005285	0.000712	0.000821
Regional Shopping Center	0.543088	0.044216	0.209971	0.116369	0.014033	0.006332	0.021166	0.033577	0.002613	0.001817	0.005285	0.000712	0.000821

5.0 Energy Detail

Historical Energy Use: N

5.1 Mitigation Measures Energy

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
NaturalGas Mitigated	0.7660	6.7462	4.2573	0.0418		0.5292	0.5292		0.5292	0.5292		8,355.983 2	8,355.983 2	0.1602	0.1532	8,405.638 7
NaturalGas Unmitigated	0.7660	6.7462	4.2573	0.0418		0.5292	0.5292		0.5292	0.5292		8,355.983 2	8,355.983 2	0.1602	0.1532	8,405.638 7

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

5.2 Energy by Land Use - NaturalGas

Unmitigated

	NaturalGas Use	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Land Use	kBTU/yr	lb/day										lb/day					
Apartments Low Rise	1119.16	0.0121	0.1031	0.0439	6.6000e-004		8.3400e-003	8.3400e-003		8.3400e-003	8.3400e-003		131.6662	131.6662	2.5200e-003	2.4100e-003	132.4486
Apartments Mid Rise	35784.3	0.3859	3.2978	1.4033	0.0211		0.2666	0.2666		0.2666	0.2666		4,209.9164	4,209.9164	0.0807	0.0772	4,234.9339
General Office Building	1283.42	0.0138	0.1258	0.1057	7.5000e-004		9.5600e-003	9.5600e-003		9.5600e-003	9.5600e-003		150.9911	150.9911	2.8900e-003	2.7700e-003	151.8884
High Turnover (Sit Down Restaurant)	22759.9	0.2455	2.2314	1.8743	0.0134		0.1696	0.1696		0.1696	0.1696		2,677.6342	2,677.6342	0.0513	0.0491	2,693.5460
Hotel	4769.72	0.0514	0.4676	0.3928	2.8100e-003		0.0355	0.0355		0.0355	0.0355		561.1436	561.1436	0.0108	0.0103	564.4782
Quality Restaurant	5057.75	0.0545	0.4959	0.4165	2.9800e-003		0.0377	0.0377		0.0377	0.0377		595.0298	595.0298	0.0114	0.0109	598.5658
Regional Shopping Center	251.616	2.7100e-003	0.0247	0.0207	1.5000e-004		1.8700e-003	1.8700e-003		1.8700e-003	1.8700e-003		29.6019	29.6019	5.7000e-004	5.4000e-004	29.7778
Total		0.7660	6.7463	4.2573	0.0418		0.5292	0.5292		0.5292	0.5292		8,355.9832	8,355.9832	0.1602	0.1532	8,405.6387

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

5.2 Energy by Land Use - NaturalGas

Mitigated

	NaturalGas Use	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Land Use	kBTU/yr	lb/day										lb/day					
Apartments Low Rise	1.11916	0.0121	0.1031	0.0439	6.6000e-004		8.3400e-003	8.3400e-003		8.3400e-003	8.3400e-003		131.6662	131.6662	2.5200e-003	2.4100e-003	132.4486
Apartments Mid Rise	35.7843	0.3859	3.2978	1.4033	0.0211		0.2666	0.2666		0.2666	0.2666		4,209.9164	4,209.9164	0.0807	0.0772	4,234.9339
General Office Building	1.28342	0.0138	0.1258	0.1057	7.5000e-004		9.5600e-003	9.5600e-003		9.5600e-003	9.5600e-003		150.9911	150.9911	2.8900e-003	2.7700e-003	151.8884
High Turnover (Sit Down Restaurant)	22.7599	0.2455	2.2314	1.8743	0.0134		0.1696	0.1696		0.1696	0.1696		2,677.6342	2,677.6342	0.0513	0.0491	2,693.5460
Hotel	4.76972	0.0514	0.4676	0.3928	2.8100e-003		0.0355	0.0355		0.0355	0.0355		561.1436	561.1436	0.0108	0.0103	564.4782
Quality Restaurant	5.05775	0.0545	0.4959	0.4165	2.9800e-003		0.0377	0.0377		0.0377	0.0377		595.0298	595.0298	0.0114	0.0109	598.5658
Regional Shopping Center	0.251616	2.7100e-003	0.0247	0.0207	1.5000e-004		1.8700e-003	1.8700e-003		1.8700e-003	1.8700e-003		29.6019	29.6019	5.7000e-004	5.4000e-004	29.7778
Total		0.7660	6.7463	4.2573	0.0418		0.5292	0.5292		0.5292	0.5292		8,355.9832	8,355.9832	0.1602	0.1532	8,405.6387

6.0 Area Detail

6.1 Mitigation Measures Area

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Mitigated	30.5020	15.0496	88.4430	0.0944		1.5974	1.5974		1.5974	1.5974	0.0000	18,148.5950	18,148.5950	0.4874	0.3300	18,259.1192
Unmitigated	30.5020	15.0496	88.4430	0.0944		1.5974	1.5974		1.5974	1.5974	0.0000	18,148.5950	18,148.5950	0.4874	0.3300	18,259.1192

6.2 Area by SubCategory

Unmitigated

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
SubCategory	lb/day										lb/day					
Architectural Coating	2.2670					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Consumer Products	24.1085					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Hearth	1.6500	14.1000	6.0000	0.0900		1.1400	1.1400		1.1400	1.1400	0.0000	18,000.0000	18,000.0000	0.3450	0.3300	18,106.9650
Landscaping	2.4766	0.9496	82.4430	4.3600e-003		0.4574	0.4574		0.4574	0.4574		148.5950	148.5950	0.1424		152.1542
Total	30.5020	15.0496	88.4430	0.0944		1.5974	1.5974		1.5974	1.5974	0.0000	18,148.5950	18,148.5950	0.4874	0.3300	18,259.1192

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

6.2 Area by SubCategory

Mitigated

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
SubCategory	lb/day										lb/day					
Architectural Coating	2.2670					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Consumer Products	24.1085					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Hearth	1.6500	14.1000	6.0000	0.0900		1.1400	1.1400		1.1400	1.1400	0.0000	18,000.0000	18,000.0000	0.3450	0.3300	18,106.9650
Landscaping	2.4766	0.9496	82.4430	4.3600e-003		0.4574	0.4574		0.4574	0.4574		148.5950	148.5950	0.1424		152.1542
Total	30.5020	15.0496	88.4430	0.0944		1.5974	1.5974		1.5974	1.5974	0.0000	18,148.5950	18,148.5950	0.4874	0.3300	18,259.1192

7.0 Water Detail

7.1 Mitigation Measures Water

8.0 Waste Detail

8.1 Mitigation Measures Waste

9.0 Operational Offroad

Equipment Type	Number	Hours/Day	Days/Year	Horse Power	Load Factor	Fuel Type
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10.0 Stationary Equipment

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

Fire Pumps and Emergency Generators

Equipment Type	Number	Hours/Day	Hours/Year	Horse Power	Load Factor	Fuel Type
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Boilers

Equipment Type	Number	Heat Input/Day	Heat Input/Year	Boiler Rating	Fuel Type
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User Defined Equipment

Equipment Type	Number
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11.0 Vegetation

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Annual

Village South Specific Plan (Proposed)
Los Angeles-South Coast County, Annual

1.0 Project Characteristics

1.1 Land Usage

Land Uses	Size	Metric	Lot Acreage	Floor Surface Area	Population
General Office Building	45.00	1000sqft	1.03	45,000.00	0
High Turnover (Sit Down Restaurant)	36.00	1000sqft	0.83	36,000.00	0
Hotel	50.00	Room	1.67	72,600.00	0
Quality Restaurant	8.00	1000sqft	0.18	8,000.00	0
Apartments Low Rise	25.00	Dwelling Unit	1.56	25,000.00	72
Apartments Mid Rise	975.00	Dwelling Unit	25.66	975,000.00	2789
Regional Shopping Center	56.00	1000sqft	1.29	56,000.00	0

1.2 Other Project Characteristics

Urbanization	Urban	Wind Speed (m/s)	2.2	Precipitation Freq (Days)	33
Climate Zone	9			Operational Year	2028
Utility Company	Southern California Edison				
CO2 Intensity (lb/MWhr)	702.44	CH4 Intensity (lb/MWhr)	0.029	N2O Intensity (lb/MWhr)	0.006

1.3 User Entered Comments & Non-Default Data

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Annual

Project Characteristics - Consistent with the DEIR's model.

Land Use - See SWAPE comment regarding residential and retail land uses.

Construction Phase - See SWAPE comment regarding individual construction phase lengths.

Demolition - Consistent with the DEIR's model. See SWAPE comment regarding demolition.

Vehicle Trips - Saturday trips consistent with the DEIR's model. See SWAPE comment regarding weekday and Sunday trips.

Woodstoves - Woodstoves and wood-burning fireplaces consistent with the DEIR's model. See SWAPE comment regarding gas fireplaces.

Energy Use -

Construction Off-road Equipment Mitigation - See SWAPE comment on construction-related mitigation.

Area Mitigation - See SWAPE comment regarding operational mitigation measures.

Water Mitigation - See SWAPE comment regarding operational mitigation measures.

Trips and VMT - Local hire provision

Table Name	Column Name	Default Value	New Value
tblFireplaces	FireplaceWoodMass	1,019.20	0.00
tblFireplaces	FireplaceWoodMass	1,019.20	0.00
tblFireplaces	NumberWood	1.25	0.00
tblFireplaces	NumberWood	48.75	0.00
tblTripsAndVMT	WorkerTripLength	14.70	10.00
tblTripsAndVMT	WorkerTripLength	14.70	10.00
tblTripsAndVMT	WorkerTripLength	14.70	10.00
tblTripsAndVMT	WorkerTripLength	14.70	10.00
tblTripsAndVMT	WorkerTripLength	14.70	10.00
tblTripsAndVMT	WorkerTripLength	14.70	10.00
tblVehicleTrips	ST_TR	7.16	6.17
tblVehicleTrips	ST_TR	6.39	3.87
tblVehicleTrips	ST_TR	2.46	1.39
tblVehicleTrips	ST_TR	158.37	79.82

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Annual

tblVehicleTrips	ST_TR	8.19	3.75
tblVehicleTrips	ST_TR	94.36	63.99
tblVehicleTrips	ST_TR	49.97	10.74
tblVehicleTrips	SU_TR	6.07	6.16
tblVehicleTrips	SU_TR	5.86	4.18
tblVehicleTrips	SU_TR	1.05	0.69
tblVehicleTrips	SU_TR	131.84	78.27
tblVehicleTrips	SU_TR	5.95	3.20
tblVehicleTrips	SU_TR	72.16	57.65
tblVehicleTrips	SU_TR	25.24	6.39
tblVehicleTrips	WD_TR	6.59	5.83
tblVehicleTrips	WD_TR	6.65	4.13
tblVehicleTrips	WD_TR	11.03	6.41
tblVehicleTrips	WD_TR	127.15	65.80
tblVehicleTrips	WD_TR	8.17	3.84
tblVehicleTrips	WD_TR	89.95	62.64
tblVehicleTrips	WD_TR	42.70	9.43
tblWoodstoves	NumberCatalytic	1.25	0.00
tblWoodstoves	NumberCatalytic	48.75	0.00
tblWoodstoves	NumberNoncatalytic	1.25	0.00
tblWoodstoves	NumberNoncatalytic	48.75	0.00
tblWoodstoves	WoodstoveDayYear	25.00	0.00
tblWoodstoves	WoodstoveDayYear	25.00	0.00
tblWoodstoves	WoodstoveWoodMass	999.60	0.00
tblWoodstoves	WoodstoveWoodMass	999.60	0.00

2.0 Emissions Summary

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Annual

2.1 Overall Construction

Unmitigated Construction

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Year	tons/yr										MT/yr					
2021	0.1704	1.8234	1.1577	2.3800e-003	0.4141	0.0817	0.4958	0.1788	0.0754	0.2542	0.0000	210.7654	210.7654	0.0600	0.0000	212.2661
2022	0.5865	4.0240	5.1546	0.0155	0.9509	0.1175	1.0683	0.2518	0.1103	0.3621	0.0000	1,418.6554	1,418.6554	0.1215	0.0000	1,421.6925
2023	0.5190	3.2850	4.7678	0.0147	0.8497	0.0971	0.9468	0.2283	0.0912	0.3195	0.0000	1,342.4412	1,342.4412	0.1115	0.0000	1,345.2291
2024	4.1592	0.1313	0.2557	5.0000e-004	0.0221	6.3900e-003	0.0285	5.8700e-003	5.9700e-003	0.0118	0.0000	44.6355	44.6355	7.8300e-003	0.0000	44.8311
Maximum	4.1592	4.0240	5.1546	0.0155	0.9509	0.1175	1.0683	0.2518	0.1103	0.3621	0.0000	1,418.6554	1,418.6554	0.1215	0.0000	1,421.6925

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2.1 Overall Construction

Mitigated Construction

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Year	tons/yr										MT/yr					
2021	0.1704	1.8234	1.1577	2.3800e-003	0.4141	0.0817	0.4958	0.1788	0.0754	0.2542	0.0000	210.7651	210.7651	0.0600	0.0000	212.2658
2022	0.5865	4.0240	5.1546	0.0155	0.9509	0.1175	1.0683	0.2518	0.1103	0.3621	0.0000	1,418.6550	1,418.6550	0.1215	0.0000	1,421.6921
2023	0.5190	3.2850	4.7678	0.0147	0.8497	0.0971	0.9468	0.2283	0.0912	0.3195	0.0000	1,342.4409	1,342.4409	0.1115	0.0000	1,345.2287
2024	4.1592	0.1313	0.2557	5.0000e-004	0.0221	6.3900e-003	0.0285	5.8700e-003	5.9700e-003	0.0118	0.0000	44.6354	44.6354	7.8300e-003	0.0000	44.8311
Maximum	4.1592	4.0240	5.1546	0.0155	0.9509	0.1175	1.0683	0.2518	0.1103	0.3621	0.0000	1,418.6550	1,418.6550	0.1215	0.0000	1,421.6921

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio-CO2	Total CO2	CH4	N2O	CO2e
Percent Reduction	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

Quarter	Start Date	End Date	Maximum Unmitigated ROG + NOX (tons/quarter)	Maximum Mitigated ROG + NOX (tons/quarter)
1	9-1-2021	11-30-2021	1.4091	1.4091
2	12-1-2021	2-28-2022	1.3329	1.3329
3	3-1-2022	5-31-2022	1.1499	1.1499
4	6-1-2022	8-31-2022	1.1457	1.1457
5	9-1-2022	11-30-2022	1.1415	1.1415
6	12-1-2022	2-28-2023	1.0278	1.0278
7	3-1-2023	5-31-2023	0.9868	0.9868
8	6-1-2023	8-31-2023	0.9831	0.9831

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9	9-1-2023	11-30-2023	0.9798	0.9798
10	12-1-2023	2-29-2024	2.8757	2.8757
11	3-1-2024	5-31-2024	1.6188	1.6188
		Highest	2.8757	2.8757

2.2 Overall Operational

Unmitigated Operational

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Area	5.1437	0.2950	10.3804	1.6700e-003		0.0714	0.0714		0.0714	0.0714	0.0000	220.9670	220.9670	0.0201	3.7400e-003	222.5835
Energy	0.1398	1.2312	0.7770	7.6200e-003		0.0966	0.0966		0.0966	0.0966	0.0000	3,896.0732	3,896.0732	0.1303	0.0468	3,913.2833
Mobile	1.5857	7.9962	19.1834	0.0821	7.7979	0.0580	7.8559	2.0895	0.0539	2.1434	0.0000	7,620.4986	7,620.4986	0.3407	0.0000	7,629.0162
Waste						0.0000	0.0000		0.0000	0.0000	207.8079	0.0000	207.8079	12.2811	0.0000	514.8354
Water						0.0000	0.0000		0.0000	0.0000	29.1632	556.6420	585.8052	3.0183	0.0755	683.7567
Total	6.8692	9.5223	30.3407	0.0914	7.7979	0.2260	8.0240	2.0895	0.2219	2.3114	236.9712	12,294.1807	12,531.1519	15.7904	0.1260	12,963.4751

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2.2 Overall Operational

Mitigated Operational

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Area	5.1437	0.2950	10.3804	1.6700e-003		0.0714	0.0714		0.0714	0.0714	0.0000	220.9670	220.9670	0.0201	3.7400e-003	222.5835
Energy	0.1398	1.2312	0.7770	7.6200e-003		0.0966	0.0966		0.0966	0.0966	0.0000	3,896.0732	3,896.0732	0.1303	0.0468	3,913.2833
Mobile	1.5857	7.9962	19.1834	0.0821	7.7979	0.0580	7.8559	2.0895	0.0539	2.1434	0.0000	7,620.4986	7,620.4986	0.3407	0.0000	7,629.0162
Waste						0.0000	0.0000		0.0000	0.0000	207.8079	0.0000	207.8079	12.2811	0.0000	514.8354
Water						0.0000	0.0000		0.0000	0.0000	29.1632	556.6420	585.8052	3.0183	0.0755	683.7567
Total	6.8692	9.5223	30.3407	0.0914	7.7979	0.2260	8.0240	2.0895	0.2219	2.3114	236.9712	12,294.1807	12,531.1519	15.7904	0.1260	12,963.4751

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio-CO2	Total CO2	CH4	N2O	CO2e
Percent Reduction	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

3.0 Construction Detail

Construction Phase

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Phase Number	Phase Name	Phase Type	Start Date	End Date	Num Days Week	Num Days	Phase Description
1	Demolition	Demolition	9/1/2021	10/12/2021	5	30	
2	Site Preparation	Site Preparation	10/13/2021	11/9/2021	5	20	
3	Grading	Grading	11/10/2021	1/11/2022	5	45	
4	Building Construction	Building Construction	1/12/2022	12/12/2023	5	500	
5	Paving	Paving	12/13/2023	1/30/2024	5	35	
6	Architectural Coating	Architectural Coating	1/31/2024	3/19/2024	5	35	

Acres of Grading (Site Preparation Phase): 0

Acres of Grading (Grading Phase): 112.5

Acres of Paving: 0

Residential Indoor: 2,025,000; Residential Outdoor: 675,000; Non-Residential Indoor: 326,400; Non-Residential Outdoor: 108,800; Striped Parking Area: 0 (Architectural Coating – sqft)

OffRoad Equipment

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Phase Name	Offroad Equipment Type	Amount	Usage Hours	Horse Power	Load Factor
Demolition	Concrete/Industrial Saws	1	8.00	81	0.73
Demolition	Excavators	3	8.00	158	0.38
Demolition	Rubber Tired Dozers	2	8.00	247	0.40
Site Preparation	Rubber Tired Dozers	3	8.00	247	0.40
Site Preparation	Tractors/Loaders/Backhoes	4	8.00	97	0.37
Grading	Excavators	2	8.00	158	0.38
Grading	Graders	1	8.00	187	0.41
Grading	Rubber Tired Dozers	1	8.00	247	0.40
Grading	Scrapers	2	8.00	367	0.48
Grading	Tractors/Loaders/Backhoes	2	8.00	97	0.37
Building Construction	Cranes	1	7.00	231	0.29
Building Construction	Forklifts	3	8.00	89	0.20
Building Construction	Generator Sets	1	8.00	84	0.74
Building Construction	Tractors/Loaders/Backhoes	3	7.00	97	0.37
Building Construction	Welders	1	8.00	46	0.45
Paving	Pavers	2	8.00	130	0.42
Paving	Paving Equipment	2	8.00	132	0.36
Paving	Rollers	2	8.00	80	0.38
Architectural Coating	Air Compressors	1	6.00	78	0.48

Trips and VMT

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Phase Name	Offroad Equipment Count	Worker Trip Number	Vendor Trip Number	Hauling Trip Number	Worker Trip Length	Vendor Trip Length	Hauling Trip Length	Worker Vehicle Class	Vendor Vehicle Class	Hauling Vehicle Class
Demolition	6	15.00	0.00	458.00	10.00	6.90	20.00	LD_Mix	HDT_Mix	HHDT
Site Preparation	7	18.00	0.00	0.00	10.00	6.90	20.00	LD_Mix	HDT_Mix	HHDT
Grading	8	20.00	0.00	0.00	10.00	6.90	20.00	LD_Mix	HDT_Mix	HHDT
Building Construction	9	801.00	143.00	0.00	10.00	6.90	20.00	LD_Mix	HDT_Mix	HHDT
Paving	6	15.00	0.00	0.00	10.00	6.90	20.00	LD_Mix	HDT_Mix	HHDT
Architectural Coating	1	160.00	0.00	0.00	10.00	6.90	20.00	LD_Mix	HDT_Mix	HHDT

3.1 Mitigation Measures Construction

3.2 Demolition - 2021

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Fugitive Dust					0.0496	0.0000	0.0496	7.5100e-003	0.0000	7.5100e-003	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Off-Road	0.0475	0.4716	0.3235	5.8000e-004		0.0233	0.0233		0.0216	0.0216	0.0000	51.0012	51.0012	0.0144	0.0000	51.3601
Total	0.0475	0.4716	0.3235	5.8000e-004	0.0496	0.0233	0.0729	7.5100e-003	0.0216	0.0291	0.0000	51.0012	51.0012	0.0144	0.0000	51.3601

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3.2 Demolition - 2021

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	1.9300e-003	0.0634	0.0148	1.8000e-004	3.9400e-003	1.9000e-004	4.1300e-003	1.0800e-003	1.8000e-004	1.2600e-003	0.0000	17.4566	17.4566	1.2100e-003	0.0000	17.4869
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	7.2000e-004	5.3000e-004	6.0900e-003	2.0000e-005	1.6800e-003	1.0000e-005	1.6900e-003	4.5000e-004	1.0000e-005	4.6000e-004	0.0000	1.5281	1.5281	5.0000e-005	0.0000	1.5293
Total	2.6500e-003	0.0639	0.0209	2.0000e-004	5.6200e-003	2.0000e-004	5.8200e-003	1.5300e-003	1.9000e-004	1.7200e-003	0.0000	18.9847	18.9847	1.2600e-003	0.0000	19.0161

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Fugitive Dust					0.0496	0.0000	0.0496	7.5100e-003	0.0000	7.5100e-003	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Off-Road	0.0475	0.4716	0.3235	5.8000e-004		0.0233	0.0233		0.0216	0.0216	0.0000	51.0011	51.0011	0.0144	0.0000	51.3600
Total	0.0475	0.4716	0.3235	5.8000e-004	0.0496	0.0233	0.0729	7.5100e-003	0.0216	0.0291	0.0000	51.0011	51.0011	0.0144	0.0000	51.3600

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3.2 Demolition - 2021

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	1.9300e-003	0.0634	0.0148	1.8000e-004	3.9400e-003	1.9000e-004	4.1300e-003	1.0800e-003	1.8000e-004	1.2600e-003	0.0000	17.4566	17.4566	1.2100e-003	0.0000	17.4869
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	7.2000e-004	5.3000e-004	6.0900e-003	2.0000e-005	1.6800e-003	1.0000e-005	1.6900e-003	4.5000e-004	1.0000e-005	4.6000e-004	0.0000	1.5281	1.5281	5.0000e-005	0.0000	1.5293
Total	2.6500e-003	0.0639	0.0209	2.0000e-004	5.6200e-003	2.0000e-004	5.8200e-003	1.5300e-003	1.9000e-004	1.7200e-003	0.0000	18.9847	18.9847	1.2600e-003	0.0000	19.0161

3.3 Site Preparation - 2021

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Fugitive Dust					0.1807	0.0000	0.1807	0.0993	0.0000	0.0993	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Off-Road	0.0389	0.4050	0.2115	3.8000e-004		0.0204	0.0204		0.0188	0.0188	0.0000	33.4357	33.4357	0.0108	0.0000	33.7061
Total	0.0389	0.4050	0.2115	3.8000e-004	0.1807	0.0204	0.2011	0.0993	0.0188	0.1181	0.0000	33.4357	33.4357	0.0108	0.0000	33.7061

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3.3 Site Preparation - 2021

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	5.8000e-004	4.3000e-004	4.8700e-003	1.0000e-005	1.3400e-003	1.0000e-005	1.3500e-003	3.6000e-004	1.0000e-005	3.7000e-004	0.0000	1.2225	1.2225	4.0000e-005	0.0000	1.2234
Total	5.8000e-004	4.3000e-004	4.8700e-003	1.0000e-005	1.3400e-003	1.0000e-005	1.3500e-003	3.6000e-004	1.0000e-005	3.7000e-004	0.0000	1.2225	1.2225	4.0000e-005	0.0000	1.2234

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Fugitive Dust					0.1807	0.0000	0.1807	0.0993	0.0000	0.0993	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Off-Road	0.0389	0.4050	0.2115	3.8000e-004		0.0204	0.0204		0.0188	0.0188	0.0000	33.4357	33.4357	0.0108	0.0000	33.7060
Total	0.0389	0.4050	0.2115	3.8000e-004	0.1807	0.0204	0.2011	0.0993	0.0188	0.1181	0.0000	33.4357	33.4357	0.0108	0.0000	33.7060

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3.3 Site Preparation - 2021

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	5.8000e-004	4.3000e-004	4.8700e-003	1.0000e-005	1.3400e-003	1.0000e-005	1.3500e-003	3.6000e-004	1.0000e-005	3.7000e-004	0.0000	1.2225	1.2225	4.0000e-005	0.0000	1.2234
Total	5.8000e-004	4.3000e-004	4.8700e-003	1.0000e-005	1.3400e-003	1.0000e-005	1.3500e-003	3.6000e-004	1.0000e-005	3.7000e-004	0.0000	1.2225	1.2225	4.0000e-005	0.0000	1.2234

3.4 Grading - 2021

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Fugitive Dust					0.1741	0.0000	0.1741	0.0693	0.0000	0.0693	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Off-Road	0.0796	0.8816	0.5867	1.1800e-003		0.0377	0.0377		0.0347	0.0347	0.0000	103.5405	103.5405	0.0335	0.0000	104.3776
Total	0.0796	0.8816	0.5867	1.1800e-003	0.1741	0.0377	0.2118	0.0693	0.0347	0.1040	0.0000	103.5405	103.5405	0.0335	0.0000	104.3776

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3.4 Grading - 2021

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	1.2200e-003	9.0000e-004	0.0103	3.0000e-005	2.8300e-003	2.0000e-005	2.8600e-003	7.5000e-004	2.0000e-005	7.8000e-004	0.0000	2.5808	2.5808	8.0000e-005	0.0000	2.5828
Total	1.2200e-003	9.0000e-004	0.0103	3.0000e-005	2.8300e-003	2.0000e-005	2.8600e-003	7.5000e-004	2.0000e-005	7.8000e-004	0.0000	2.5808	2.5808	8.0000e-005	0.0000	2.5828

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Fugitive Dust					0.1741	0.0000	0.1741	0.0693	0.0000	0.0693	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Off-Road	0.0796	0.8816	0.5867	1.1800e-003		0.0377	0.0377		0.0347	0.0347	0.0000	103.5403	103.5403	0.0335	0.0000	104.3775
Total	0.0796	0.8816	0.5867	1.1800e-003	0.1741	0.0377	0.2118	0.0693	0.0347	0.1040	0.0000	103.5403	103.5403	0.0335	0.0000	104.3775

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3.4 Grading - 2021

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	1.2200e-003	9.0000e-004	0.0103	3.0000e-005	2.8300e-003	2.0000e-005	2.8600e-003	7.5000e-004	2.0000e-005	7.8000e-004	0.0000	2.5808	2.5808	8.0000e-005	0.0000	2.5828
Total	1.2200e-003	9.0000e-004	0.0103	3.0000e-005	2.8300e-003	2.0000e-005	2.8600e-003	7.5000e-004	2.0000e-005	7.8000e-004	0.0000	2.5808	2.5808	8.0000e-005	0.0000	2.5828

3.4 Grading - 2022

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Fugitive Dust					0.0807	0.0000	0.0807	0.0180	0.0000	0.0180	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Off-Road	0.0127	0.1360	0.1017	2.2000e-004		5.7200e-003	5.7200e-003		5.2600e-003	5.2600e-003	0.0000	19.0871	19.0871	6.1700e-003	0.0000	19.2414
Total	0.0127	0.1360	0.1017	2.2000e-004	0.0807	5.7200e-003	0.0865	0.0180	5.2600e-003	0.0233	0.0000	19.0871	19.0871	6.1700e-003	0.0000	19.2414

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3.4 Grading - 2022

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	2.1000e-004	1.5000e-004	1.7400e-003	1.0000e-005	5.2000e-004	0.0000	5.3000e-004	1.4000e-004	0.0000	1.4000e-004	0.0000	0.4587	0.4587	1.0000e-005	0.0000	0.4590
Total	2.1000e-004	1.5000e-004	1.7400e-003	1.0000e-005	5.2000e-004	0.0000	5.3000e-004	1.4000e-004	0.0000	1.4000e-004	0.0000	0.4587	0.4587	1.0000e-005	0.0000	0.4590

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Fugitive Dust					0.0807	0.0000	0.0807	0.0180	0.0000	0.0180	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Off-Road	0.0127	0.1360	0.1017	2.2000e-004		5.7200e-003	5.7200e-003		5.2600e-003	5.2600e-003	0.0000	19.0871	19.0871	6.1700e-003	0.0000	19.2414
Total	0.0127	0.1360	0.1017	2.2000e-004	0.0807	5.7200e-003	0.0865	0.0180	5.2600e-003	0.0233	0.0000	19.0871	19.0871	6.1700e-003	0.0000	19.2414

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3.4 Grading - 2022

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	2.1000e-004	1.5000e-004	1.7400e-003	1.0000e-005	5.2000e-004	0.0000	5.3000e-004	1.4000e-004	0.0000	1.4000e-004	0.0000	0.4587	0.4587	1.0000e-005	0.0000	0.4590
Total	2.1000e-004	1.5000e-004	1.7400e-003	1.0000e-005	5.2000e-004	0.0000	5.3000e-004	1.4000e-004	0.0000	1.4000e-004	0.0000	0.4587	0.4587	1.0000e-005	0.0000	0.4590

3.5 Building Construction - 2022

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Off-Road	0.2158	1.9754	2.0700	3.4100e-003		0.1023	0.1023		0.0963	0.0963	0.0000	293.1324	293.1324	0.0702	0.0000	294.8881
Total	0.2158	1.9754	2.0700	3.4100e-003		0.1023	0.1023		0.0963	0.0963	0.0000	293.1324	293.1324	0.0702	0.0000	294.8881

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3.5 Building Construction - 2022

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	0.0527	1.6961	0.4580	4.5500e-003	0.1140	3.1800e-003	0.1171	0.0329	3.0400e-003	0.0359	0.0000	441.9835	441.9835	0.0264	0.0000	442.6435
Worker	0.3051	0.2164	2.5233	7.3500e-003	0.7557	6.2300e-003	0.7619	0.2007	5.7400e-003	0.2065	0.0000	663.9936	663.9936	0.0187	0.0000	664.4604
Total	0.3578	1.9125	2.9812	0.0119	0.8696	9.4100e-003	0.8790	0.2336	8.7800e-003	0.2424	0.0000	1,105.9771	1,105.9771	0.0451	0.0000	1,107.1039

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Off-Road	0.2158	1.9754	2.0700	3.4100e-003		0.1023	0.1023		0.0963	0.0963	0.0000	293.1321	293.1321	0.0702	0.0000	294.8877
Total	0.2158	1.9754	2.0700	3.4100e-003		0.1023	0.1023		0.0963	0.0963	0.0000	293.1321	293.1321	0.0702	0.0000	294.8877

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3.5 Building Construction - 2022

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	0.0527	1.6961	0.4580	4.5500e-003	0.1140	3.1800e-003	0.1171	0.0329	3.0400e-003	0.0359	0.0000	441.9835	441.9835	0.0264	0.0000	442.6435
Worker	0.3051	0.2164	2.5233	7.3500e-003	0.7557	6.2300e-003	0.7619	0.2007	5.7400e-003	0.2065	0.0000	663.9936	663.9936	0.0187	0.0000	664.4604
Total	0.3578	1.9125	2.9812	0.0119	0.8696	9.4100e-003	0.8790	0.2336	8.7800e-003	0.2424	0.0000	1,105.9771	1,105.9771	0.0451	0.0000	1,107.1039

3.5 Building Construction - 2023

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Off-Road	0.1942	1.7765	2.0061	3.3300e-003		0.0864	0.0864		0.0813	0.0813	0.0000	286.2789	286.2789	0.0681	0.0000	287.9814
Total	0.1942	1.7765	2.0061	3.3300e-003		0.0864	0.0864		0.0813	0.0813	0.0000	286.2789	286.2789	0.0681	0.0000	287.9814

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3.5 Building Construction - 2023

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	0.0382	1.2511	0.4011	4.3000e-003	0.1113	1.4600e-003	0.1127	0.0321	1.4000e-003	0.0335	0.0000	417.9930	417.9930	0.0228	0.0000	418.5624
Worker	0.2795	0.1910	2.2635	6.9100e-003	0.7377	5.9100e-003	0.7436	0.1960	5.4500e-003	0.2014	0.0000	624.5363	624.5363	0.0164	0.0000	624.9466
Total	0.3177	1.4420	2.6646	0.0112	0.8490	7.3700e-003	0.8564	0.2281	6.8500e-003	0.2349	0.0000	1,042.5294	1,042.5294	0.0392	0.0000	1,043.5090

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Off-Road	0.1942	1.7765	2.0061	3.3300e-003		0.0864	0.0864		0.0813	0.0813	0.0000	286.2785	286.2785	0.0681	0.0000	287.9811
Total	0.1942	1.7765	2.0061	3.3300e-003		0.0864	0.0864		0.0813	0.0813	0.0000	286.2785	286.2785	0.0681	0.0000	287.9811

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3.5 Building Construction - 2023

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	0.0382	1.2511	0.4011	4.3000e-003	0.1113	1.4600e-003	0.1127	0.0321	1.4000e-003	0.0335	0.0000	417.9930	417.9930	0.0228	0.0000	418.5624
Worker	0.2795	0.1910	2.2635	6.9100e-003	0.7377	5.9100e-003	0.7436	0.1960	5.4500e-003	0.2014	0.0000	624.5363	624.5363	0.0164	0.0000	624.9466
Total	0.3177	1.4420	2.6646	0.0112	0.8490	7.3700e-003	0.8564	0.2281	6.8500e-003	0.2349	0.0000	1,042.5294	1,042.5294	0.0392	0.0000	1,043.5090

3.6 Paving - 2023

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Off-Road	6.7100e-003	0.0663	0.0948	1.5000e-004		3.3200e-003	3.3200e-003		3.0500e-003	3.0500e-003	0.0000	13.0175	13.0175	4.2100e-003	0.0000	13.1227
Paving	0.0000					0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Total	6.7100e-003	0.0663	0.0948	1.5000e-004		3.3200e-003	3.3200e-003		3.0500e-003	3.0500e-003	0.0000	13.0175	13.0175	4.2100e-003	0.0000	13.1227

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3.6 Paving - 2023

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	2.8000e-004	1.9000e-004	2.2300e-003	1.0000e-005	7.3000e-004	1.0000e-005	7.3000e-004	1.9000e-004	1.0000e-005	2.0000e-004	0.0000	0.6156	0.6156	2.0000e-005	0.0000	0.6160
Total	2.8000e-004	1.9000e-004	2.2300e-003	1.0000e-005	7.3000e-004	1.0000e-005	7.3000e-004	1.9000e-004	1.0000e-005	2.0000e-004	0.0000	0.6156	0.6156	2.0000e-005	0.0000	0.6160

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Off-Road	6.7100e-003	0.0663	0.0948	1.5000e-004		3.3200e-003	3.3200e-003		3.0500e-003	3.0500e-003	0.0000	13.0175	13.0175	4.2100e-003	0.0000	13.1227
Paving	0.0000					0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Total	6.7100e-003	0.0663	0.0948	1.5000e-004		3.3200e-003	3.3200e-003		3.0500e-003	3.0500e-003	0.0000	13.0175	13.0175	4.2100e-003	0.0000	13.1227

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Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	2.8000e-004	1.9000e-004	2.2300e-003	1.0000e-005	7.3000e-004	1.0000e-005	7.3000e-004	1.9000e-004	1.0000e-005	2.0000e-004	0.0000	0.6156	0.6156	2.0000e-005	0.0000	0.6160
Total	2.8000e-004	1.9000e-004	2.2300e-003	1.0000e-005	7.3000e-004	1.0000e-005	7.3000e-004	1.9000e-004	1.0000e-005	2.0000e-004	0.0000	0.6156	0.6156	2.0000e-005	0.0000	0.6160

3.6 Paving - 2024

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Off-Road	0.0109	0.1048	0.1609	2.5000e-004		5.1500e-003	5.1500e-003		4.7400e-003	4.7400e-003	0.0000	22.0292	22.0292	7.1200e-003	0.0000	22.2073
Paving	0.0000					0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Total	0.0109	0.1048	0.1609	2.5000e-004		5.1500e-003	5.1500e-003		4.7400e-003	4.7400e-003	0.0000	22.0292	22.0292	7.1200e-003	0.0000	22.2073

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3.6 Paving - 2024

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	4.4000e-004	2.9000e-004	3.5100e-003	1.0000e-005	1.2300e-003	1.0000e-005	1.2400e-003	3.3000e-004	1.0000e-005	3.4000e-004	0.0000	1.0094	1.0094	3.0000e-005	0.0000	1.0100
Total	4.4000e-004	2.9000e-004	3.5100e-003	1.0000e-005	1.2300e-003	1.0000e-005	1.2400e-003	3.3000e-004	1.0000e-005	3.4000e-004	0.0000	1.0094	1.0094	3.0000e-005	0.0000	1.0100

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Off-Road	0.0109	0.1048	0.1609	2.5000e-004		5.1500e-003	5.1500e-003		4.7400e-003	4.7400e-003	0.0000	22.0292	22.0292	7.1200e-003	0.0000	22.2073
Paving	0.0000					0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Total	0.0109	0.1048	0.1609	2.5000e-004		5.1500e-003	5.1500e-003		4.7400e-003	4.7400e-003	0.0000	22.0292	22.0292	7.1200e-003	0.0000	22.2073

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Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	4.4000e-004	2.9000e-004	3.5100e-003	1.0000e-005	1.2300e-003	1.0000e-005	1.2400e-003	3.3000e-004	1.0000e-005	3.4000e-004	0.0000	1.0094	1.0094	3.0000e-005	0.0000	1.0100
Total	4.4000e-004	2.9000e-004	3.5100e-003	1.0000e-005	1.2300e-003	1.0000e-005	1.2400e-003	3.3000e-004	1.0000e-005	3.4000e-004	0.0000	1.0094	1.0094	3.0000e-005	0.0000	1.0100

3.7 Architectural Coating - 2024

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Archit. Coating	4.1372					0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Off-Road	3.1600e-003	0.0213	0.0317	5.0000e-005		1.0700e-003	1.0700e-003		1.0700e-003	1.0700e-003	0.0000	4.4682	4.4682	2.5000e-004	0.0000	4.4745
Total	4.1404	0.0213	0.0317	5.0000e-005		1.0700e-003	1.0700e-003		1.0700e-003	1.0700e-003	0.0000	4.4682	4.4682	2.5000e-004	0.0000	4.4745

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3.7 Architectural Coating - 2024

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	7.4800e-003	4.9300e-003	0.0596	1.9000e-004	0.0209	1.6000e-004	0.0211	5.5500e-003	1.5000e-004	5.7000e-003	0.0000	17.1287	17.1287	4.3000e-004	0.0000	17.1394
Total	7.4800e-003	4.9300e-003	0.0596	1.9000e-004	0.0209	1.6000e-004	0.0211	5.5500e-003	1.5000e-004	5.7000e-003	0.0000	17.1287	17.1287	4.3000e-004	0.0000	17.1394

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Archit. Coating	4.1372					0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Off-Road	3.1600e-003	0.0213	0.0317	5.0000e-005		1.0700e-003	1.0700e-003		1.0700e-003	1.0700e-003	0.0000	4.4682	4.4682	2.5000e-004	0.0000	4.4745
Total	4.1404	0.0213	0.0317	5.0000e-005		1.0700e-003	1.0700e-003		1.0700e-003	1.0700e-003	0.0000	4.4682	4.4682	2.5000e-004	0.0000	4.4745

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3.7 Architectural Coating - 2024

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	7.4800e-003	4.9300e-003	0.0596	1.9000e-004	0.0209	1.6000e-004	0.0211	5.5500e-003	1.5000e-004	5.7000e-003	0.0000	17.1287	17.1287	4.3000e-004	0.0000	17.1394
Total	7.4800e-003	4.9300e-003	0.0596	1.9000e-004	0.0209	1.6000e-004	0.0211	5.5500e-003	1.5000e-004	5.7000e-003	0.0000	17.1287	17.1287	4.3000e-004	0.0000	17.1394

4.0 Operational Detail - Mobile

4.1 Mitigation Measures Mobile

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Annual

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Mitigated	1.5857	7.9962	19.1834	0.0821	7.7979	0.0580	7.8559	2.0895	0.0539	2.1434	0.0000	7,620.4986	7,620.4986	0.3407	0.0000	7,629.0162
Unmitigated	1.5857	7.9962	19.1834	0.0821	7.7979	0.0580	7.8559	2.0895	0.0539	2.1434	0.0000	7,620.4986	7,620.4986	0.3407	0.0000	7,629.0162

4.2 Trip Summary Information

Land Use	Average Daily Trip Rate			Unmitigated	Mitigated
	Weekday	Saturday	Sunday	Annual VMT	Annual VMT
Apartments Low Rise	145.75	154.25	154.00	506,227	506,227
Apartments Mid Rise	4,026.75	3,773.25	4075.50	13,660,065	13,660,065
General Office Building	288.45	62.55	31.05	706,812	706,812
High Turnover (Sit Down Restaurant)	2,368.80	2,873.52	2817.72	3,413,937	3,413,937
Hotel	192.00	187.50	160.00	445,703	445,703
Quality Restaurant	501.12	511.92	461.20	707,488	707,488
Regional Shopping Center	528.08	601.44	357.84	1,112,221	1,112,221
Total	8,050.95	8,164.43	8,057.31	20,552,452	20,552,452

4.3 Trip Type Information

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Annual

Land Use	Miles			Trip %			Trip Purpose %		
	H-W or C-W	H-S or C-C	H-O or C-NW	H-W or C-W	H-S or C-C	H-O or C-NW	Primary	Diverted	Pass-by
Apartments Low Rise	14.70	5.90	8.70	40.20	19.20	40.60	86	11	3
Apartments Mid Rise	14.70	5.90	8.70	40.20	19.20	40.60	86	11	3
General Office Building	16.60	8.40	6.90	33.00	48.00	19.00	77	19	4
High Turnover (Sit Down	16.60	8.40	6.90	8.50	72.50	19.00	37	20	43
Hotel	16.60	8.40	6.90	19.40	61.60	19.00	58	38	4
Quality Restaurant	16.60	8.40	6.90	12.00	69.00	19.00	38	18	44
Regional Shopping Center	16.60	8.40	6.90	16.30	64.70	19.00	54	35	11

4.4 Fleet Mix

Land Use	LDA	LDT1	LDT2	MDV	LHD1	LHD2	MHD	HHD	OBUS	UBUS	MCY	SBUS	MH
Apartments Low Rise	0.543088	0.044216	0.209971	0.116369	0.014033	0.006332	0.021166	0.033577	0.002613	0.001817	0.005285	0.000712	0.000821
Apartments Mid Rise	0.543088	0.044216	0.209971	0.116369	0.014033	0.006332	0.021166	0.033577	0.002613	0.001817	0.005285	0.000712	0.000821
General Office Building	0.543088	0.044216	0.209971	0.116369	0.014033	0.006332	0.021166	0.033577	0.002613	0.001817	0.005285	0.000712	0.000821
High Turnover (Sit Down Restaurant)	0.543088	0.044216	0.209971	0.116369	0.014033	0.006332	0.021166	0.033577	0.002613	0.001817	0.005285	0.000712	0.000821
Hotel	0.543088	0.044216	0.209971	0.116369	0.014033	0.006332	0.021166	0.033577	0.002613	0.001817	0.005285	0.000712	0.000821
Quality Restaurant	0.543088	0.044216	0.209971	0.116369	0.014033	0.006332	0.021166	0.033577	0.002613	0.001817	0.005285	0.000712	0.000821
Regional Shopping Center	0.543088	0.044216	0.209971	0.116369	0.014033	0.006332	0.021166	0.033577	0.002613	0.001817	0.005285	0.000712	0.000821

5.0 Energy Detail

Historical Energy Use: N

5.1 Mitigation Measures Energy

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	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Electricity Mitigated						0.0000	0.0000		0.0000	0.0000	0.0000	2,512.6465	2,512.6465	0.1037	0.0215	2,521.6356
Electricity Unmitigated						0.0000	0.0000		0.0000	0.0000	0.0000	2,512.6465	2,512.6465	0.1037	0.0215	2,521.6356
NaturalGas Mitigated	0.1398	1.2312	0.7770	7.6200e-003		0.0966	0.0966		0.0966	0.0966	0.0000	1,383.4267	1,383.4267	0.0265	0.0254	1,391.6478
NaturalGas Unmitigated	0.1398	1.2312	0.7770	7.6200e-003		0.0966	0.0966		0.0966	0.0966	0.0000	1,383.4267	1,383.4267	0.0265	0.0254	1,391.6478

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Annual

5.2 Energy by Land Use - NaturalGas

Unmitigated

	NaturalGas Use	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Land Use	kBTU/yr	tons/yr										MT/yr					
Apartments Low Rise	408494	2.2000e-003	0.0188	8.0100e-003	1.2000e-004		1.5200e-003	1.5200e-003		1.5200e-003	1.5200e-003	0.0000	21.7988	21.7988	4.2000e-004	4.0000e-004	21.9284
Apartments Mid Rise	1.30613e+007	0.0704	0.6018	0.2561	3.8400e-003		0.0487	0.0487		0.0487	0.0487	0.0000	696.9989	696.9989	0.0134	0.0128	701.1408
General Office Building	468450	2.5300e-003	0.0230	0.0193	1.4000e-004		1.7500e-003	1.7500e-003		1.7500e-003	1.7500e-003	0.0000	24.9983	24.9983	4.8000e-004	4.6000e-004	25.1468
High Turnover (Sit Down Restaurant)	8.30736e+006	0.0448	0.4072	0.3421	2.4400e-003		0.0310	0.0310		0.0310	0.0310	0.0000	443.3124	443.3124	8.5000e-003	8.1300e-003	445.9468
Hotel	1.74095e+006	9.3900e-003	0.0853	0.0717	5.1000e-004		6.4900e-003	6.4900e-003		6.4900e-003	6.4900e-003	0.0000	92.9036	92.9036	1.7800e-003	1.7000e-003	93.4557
Quality Restaurant	1.84608e+006	9.9500e-003	0.0905	0.0760	5.4000e-004		6.8800e-003	6.8800e-003		6.8800e-003	6.8800e-003	0.0000	98.5139	98.5139	1.8900e-003	1.8100e-003	99.0993
Regional Shopping Center	91840	5.0000e-004	4.5000e-003	3.7800e-003	3.0000e-005		3.4000e-004	3.4000e-004		3.4000e-004	3.4000e-004	0.0000	4.9009	4.9009	9.0000e-005	9.0000e-005	4.9301
Total		0.1398	1.2312	0.7770	7.6200e-003		0.0966	0.0966		0.0966	0.0966	0.0000	1,383.4268	1,383.4268	0.0265	0.0254	1,391.6478

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Annual

5.2 Energy by Land Use - NaturalGas

Mitigated

	NaturalGas Use	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Land Use	kBTU/yr	tons/yr										MT/yr					
Apartments Low Rise	408494	2.2000e-003	0.0188	8.0100e-003	1.2000e-004		1.5200e-003	1.5200e-003		1.5200e-003	1.5200e-003	0.0000	21.7988	21.7988	4.2000e-004	4.0000e-004	21.9284
Apartments Mid Rise	1.30613e+007	0.0704	0.6018	0.2561	3.8400e-003		0.0487	0.0487		0.0487	0.0487	0.0000	696.9989	696.9989	0.0134	0.0128	701.1408
General Office Building	468450	2.5300e-003	0.0230	0.0193	1.4000e-004		1.7500e-003	1.7500e-003		1.7500e-003	1.7500e-003	0.0000	24.9983	24.9983	4.8000e-004	4.6000e-004	25.1468
High Turnover (Sit Down Restaurant)	8.30736e+006	0.0448	0.4072	0.3421	2.4400e-003		0.0310	0.0310		0.0310	0.0310	0.0000	443.3124	443.3124	8.5000e-003	8.1300e-003	445.9468
Hotel	1.74095e+006	9.3900e-003	0.0853	0.0717	5.1000e-004		6.4900e-003	6.4900e-003		6.4900e-003	6.4900e-003	0.0000	92.9036	92.9036	1.7800e-003	1.7000e-003	93.4557
Quality Restaurant	1.84608e+006	9.9500e-003	0.0905	0.0760	5.4000e-004		6.8800e-003	6.8800e-003		6.8800e-003	6.8800e-003	0.0000	98.5139	98.5139	1.8900e-003	1.8100e-003	99.0993
Regional Shopping Center	91840	5.0000e-004	4.5000e-003	3.7800e-003	3.0000e-005		3.4000e-004	3.4000e-004		3.4000e-004	3.4000e-004	0.0000	4.9009	4.9009	9.0000e-005	9.0000e-005	4.9301
Total		0.1398	1.2312	0.7770	7.6200e-003		0.0966	0.0966		0.0966	0.0966	0.0000	1,383.4268	1,383.4268	0.0265	0.0254	1,391.6478

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5.3 Energy by Land Use - Electricity

Unmitigated

	Electricity Use	Total CO2	CH4	N2O	CO2e
Land Use	kWh/yr	MT/yr			
Apartments Low Rise	106010	33.7770	1.3900e-003	2.9000e-004	33.8978
Apartments Mid Rise	3.94697e+006	1,257.5879	0.0519	0.0107	1,262.0869
General Office Building	584550	186.2502	7.6900e-003	1.5900e-003	186.9165
High Turnover (Sit Down Restaurant)	1.58904e+006	506.3022	0.0209	4.3200e-003	508.1135
Hotel	550308	175.3399	7.2400e-003	1.5000e-003	175.9672
Quality Restaurant	353120	112.5116	4.6500e-003	9.6000e-004	112.9141
Regional Shopping Center	756000	240.8778	9.9400e-003	2.0600e-003	241.7395
Total		2,512.6465	0.1037	0.0215	2,521.6356

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5.3 Energy by Land Use - Electricity

Mitigated

	Electricity Use	Total CO2	CH4	N2O	CO2e
Land Use	kWh/yr	MT/yr			
Apartments Low Rise	106010	33.7770	1.3900e-003	2.9000e-004	33.8978
Apartments Mid Rise	3.94697e+006	1,257.5879	0.0519	0.0107	1,262.0869
General Office Building	584550	186.2502	7.6900e-003	1.5900e-003	186.9165
High Turnover (Sit Down Restaurant)	1.58904e+006	506.3022	0.0209	4.3200e-003	508.1135
Hotel	550308	175.3399	7.2400e-003	1.5000e-003	175.9672
Quality Restaurant	353120	112.5116	4.6500e-003	9.6000e-004	112.9141
Regional Shopping Center	756000	240.8778	9.9400e-003	2.0600e-003	241.7395
Total		2,512.6465	0.1037	0.0215	2,521.6356

6.0 Area Detail

6.1 Mitigation Measures Area

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Annual

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Mitigated	5.1437	0.2950	10.3804	1.6700e-003		0.0714	0.0714		0.0714	0.0714	0.0000	220.9670	220.9670	0.0201	3.7400e-003	222.5835
Unmitigated	5.1437	0.2950	10.3804	1.6700e-003		0.0714	0.0714		0.0714	0.0714	0.0000	220.9670	220.9670	0.0201	3.7400e-003	222.5835

6.2 Area by SubCategory

Unmitigated

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
SubCategory	tons/yr										MT/yr					
Architectural Coating	0.4137					0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Consumer Products	4.3998					0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Hearth	0.0206	0.1763	0.0750	1.1200e-003		0.0143	0.0143		0.0143	0.0143	0.0000	204.1166	204.1166	3.9100e-003	3.7400e-003	205.3295
Landscaping	0.3096	0.1187	10.3054	5.4000e-004		0.0572	0.0572		0.0572	0.0572	0.0000	16.8504	16.8504	0.0161	0.0000	17.2540
Total	5.1437	0.2950	10.3804	1.6600e-003		0.0714	0.0714		0.0714	0.0714	0.0000	220.9670	220.9670	0.0201	3.7400e-003	222.5835

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6.2 Area by SubCategory

Mitigated

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
SubCategory	tons/yr										MT/yr					
Architectural Coating	0.4137					0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Consumer Products	4.3998					0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Hearth	0.0206	0.1763	0.0750	1.1200e-003		0.0143	0.0143		0.0143	0.0143	0.0000	204.1166	204.1166	3.9100e-003	3.7400e-003	205.3295
Landscaping	0.3096	0.1187	10.3054	5.4000e-004		0.0572	0.0572		0.0572	0.0572	0.0000	16.8504	16.8504	0.0161	0.0000	17.2540
Total	5.1437	0.2950	10.3804	1.6600e-003		0.0714	0.0714		0.0714	0.0714	0.0000	220.9670	220.9670	0.0201	3.7400e-003	222.5835

7.0 Water Detail

7.1 Mitigation Measures Water

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	Total CO2	CH4	N2O	CO2e
Category	MT/yr			
Mitigated	585.8052	3.0183	0.0755	683.7567
Unmitigated	585.8052	3.0183	0.0755	683.7567

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7.2 Water by Land Use

Unmitigated

	Indoor/Outdoor Use	Total CO2	CH4	N2O	CO2e
Land Use	Mgal	MT/yr			
Apartments Low Rise	1.62885 / 1.02688	10.9095	0.0535	1.3400e-003	12.6471
Apartments Mid Rise	63.5252 / 40.0485	425.4719	2.0867	0.0523	493.2363
General Office Building	7.99802 / 4.90201	53.0719	0.2627	6.5900e-003	61.6019
High Turnover (Sit Down Restaurant)	10.9272 / 0.697482	51.2702	0.3580	8.8200e-003	62.8482
Hotel	1.26834 / 0.140927	6.1633	0.0416	1.0300e-003	7.5079
Quality Restaurant	2.42827 / 0.154996	11.3934	0.0796	1.9600e-003	13.9663
Regional Shopping Center	4.14806 / 2.54236	27.5250	0.1363	3.4200e-003	31.9490
Total		585.8052	3.0183	0.0755	683.7567

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Annual

7.2 Water by Land Use

Mitigated

	Indoor/Outdoor Use	Total CO2	CH4	N2O	CO2e
Land Use	Mgal	MT/yr			
Apartments Low Rise	1.62885 / 1.02688	10.9095	0.0535	1.3400e-003	12.6471
Apartments Mid Rise	63.5252 / 40.0485	425.4719	2.0867	0.0523	493.2363
General Office Building	7.99802 / 4.90201	53.0719	0.2627	6.5900e-003	61.6019
High Turnover (Sit Down Restaurant)	10.9272 / 0.697482	51.2702	0.3580	8.8200e-003	62.8482
Hotel	1.26834 / 0.140927	6.1633	0.0416	1.0300e-003	7.5079
Quality Restaurant	2.42827 / 0.154996	11.3934	0.0796	1.9600e-003	13.9663
Regional Shopping Center	4.14806 / 2.54236	27.5250	0.1363	3.4200e-003	31.9490
Total		585.8052	3.0183	0.0755	683.7567

8.0 Waste Detail

8.1 Mitigation Measures Waste

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Annual

Category/Year

	Total CO2	CH4	N2O	CO2e
	MT/yr			
Mitigated	207.8079	12.2811	0.0000	514.8354
Unmitigated	207.8079	12.2811	0.0000	514.8354

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Annual

8.2 Waste by Land Use

Unmitigated

	Waste Disposed	Total CO2	CH4	N2O	CO2e
Land Use	tons	MT/yr			
Apartments Low Rise	11.5	2.3344	0.1380	0.0000	5.7834
Apartments Mid Rise	448.5	91.0415	5.3804	0.0000	225.5513
General Office Building	41.85	8.4952	0.5021	0.0000	21.0464
High Turnover (Sit Down Restaurant)	428.4	86.9613	5.1393	0.0000	215.4430
Hotel	27.38	5.5579	0.3285	0.0000	13.7694
Quality Restaurant	7.3	1.4818	0.0876	0.0000	3.6712
Regional Shopping Center	58.8	11.9359	0.7054	0.0000	29.5706
Total		207.8079	12.2811	0.0000	514.8354

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Annual

8.2 Waste by Land Use

Mitigated

	Waste Disposed	Total CO2	CH4	N2O	CO2e
Land Use	tons	MT/yr			
Apartments Low Rise	11.5	2.3344	0.1380	0.0000	5.7834
Apartments Mid Rise	448.5	91.0415	5.3804	0.0000	225.5513
General Office Building	41.85	8.4952	0.5021	0.0000	21.0464
High Turnover (Sit Down Restaurant)	428.4	86.9613	5.1393	0.0000	215.4430
Hotel	27.38	5.5579	0.3285	0.0000	13.7694
Quality Restaurant	7.3	1.4818	0.0876	0.0000	3.6712
Regional Shopping Center	58.8	11.9359	0.7054	0.0000	29.5706
Total		207.8079	12.2811	0.0000	514.8354

9.0 Operational Offroad

Equipment Type	Number	Hours/Day	Days/Year	Horse Power	Load Factor	Fuel Type
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10.0 Stationary Equipment

Fire Pumps and Emergency Generators

Equipment Type	Number	Hours/Day	Hours/Year	Horse Power	Load Factor	Fuel Type
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Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Annual

Boilers

Equipment Type	Number	Heat Input/Day	Heat Input/Year	Boiler Rating	Fuel Type
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User Defined Equipment

Equipment Type	Number
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11.0 Vegetation

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

Village South Specific Plan (Proposed)
Los Angeles-South Coast County, Summer

1.0 Project Characteristics

1.1 Land Usage

Land Uses	Size	Metric	Lot Acreage	Floor Surface Area	Population
General Office Building	45.00	1000sqft	1.03	45,000.00	0
High Turnover (Sit Down Restaurant)	36.00	1000sqft	0.83	36,000.00	0
Hotel	50.00	Room	1.67	72,600.00	0
Quality Restaurant	8.00	1000sqft	0.18	8,000.00	0
Apartments Low Rise	25.00	Dwelling Unit	1.56	25,000.00	72
Apartments Mid Rise	975.00	Dwelling Unit	25.66	975,000.00	2789
Regional Shopping Center	56.00	1000sqft	1.29	56,000.00	0

1.2 Other Project Characteristics

Urbanization	Urban	Wind Speed (m/s)	2.2	Precipitation Freq (Days)	33
Climate Zone	9			Operational Year	2028
Utility Company	Southern California Edison				
CO2 Intensity (lb/MW hr)	702.44	CH4 Intensity (lb/MW hr)	0.029	N2O Intensity (lb/MW hr)	0.006

1.3 User Entered Comments & Non-Default Data

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

Project Characteristics - Consistent with the DEIR's model.

Land Use - See SWAPE comment regarding residential and retail land uses.

Construction Phase - See SWAPE comment regarding individual construction phase lengths.

Demolition - Consistent with the DEIR's model. See SWAPE comment regarding demolition.

Vehicle Trips - Saturday trips consistent with the DEIR's model. See SWAPE comment regarding weekday and Sunday trips.

Woodstoves - Woodstoves and wood-burning fireplaces consistent with the DEIR's model. See SWAPE comment regarding gas fireplaces.

Energy Use -

Construction Off-road Equipment Mitigation - See SWAPE comment on construction-related mitigation.

Area Mitigation - See SWAPE comment regarding operational mitigation measures.

Water Mitigation - See SWAPE comment regarding operational mitigation measures.

Trips and VMT - Local hire provision

Table Name	Column Name	Default Value	New Value
tblFireplaces	FireplaceWoodMass	1,019.20	0.00
tblFireplaces	FireplaceWoodMass	1,019.20	0.00
tblFireplaces	NumberWood	1.25	0.00
tblFireplaces	NumberWood	48.75	0.00
tblTripsAndVMT	WorkerTripLength	14.70	10.00
tblTripsAndVMT	WorkerTripLength	14.70	10.00
tblTripsAndVMT	WorkerTripLength	14.70	10.00
tblTripsAndVMT	WorkerTripLength	14.70	10.00
tblTripsAndVMT	WorkerTripLength	14.70	10.00
tblTripsAndVMT	WorkerTripLength	14.70	10.00
tblVehicleTrips	ST_TR	7.16	6.17
tblVehicleTrips	ST_TR	6.39	3.87
tblVehicleTrips	ST_TR	2.46	1.39
tblVehicleTrips	ST_TR	158.37	79.82

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

tblVehicleTrips	ST_TR	8.19	3.75
tblVehicleTrips	ST_TR	94.36	63.99
tblVehicleTrips	ST_TR	49.97	10.74
tblVehicleTrips	SU_TR	6.07	6.16
tblVehicleTrips	SU_TR	5.86	4.18
tblVehicleTrips	SU_TR	1.05	0.69
tblVehicleTrips	SU_TR	131.84	78.27
tblVehicleTrips	SU_TR	5.95	3.20
tblVehicleTrips	SU_TR	72.16	57.65
tblVehicleTrips	SU_TR	25.24	6.39
tblVehicleTrips	WD_TR	6.59	5.83
tblVehicleTrips	WD_TR	6.65	4.13
tblVehicleTrips	WD_TR	11.03	6.41
tblVehicleTrips	WD_TR	127.15	65.80
tblVehicleTrips	WD_TR	8.17	3.84
tblVehicleTrips	WD_TR	89.95	62.64
tblVehicleTrips	WD_TR	42.70	9.43
tblWoodstoves	NumberCatalytic	1.25	0.00
tblWoodstoves	NumberCatalytic	48.75	0.00
tblWoodstoves	NumberNoncatalytic	1.25	0.00
tblWoodstoves	NumberNoncatalytic	48.75	0.00
tblWoodstoves	WoodstoveDayYear	25.00	0.00
tblWoodstoves	WoodstoveDayYear	25.00	0.00
tblWoodstoves	WoodstoveWoodMass	999.60	0.00
tblWoodstoves	WoodstoveWoodMass	999.60	0.00

2.0 Emissions Summary

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

2.1 Overall Construction (Maximum Daily Emission)

Unmitigated Construction

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Year	lb/day										lb/day					
2021	4.2561	46.4415	31.4494	0.0636	18.2032	2.0456	20.2488	9.9670	1.8820	11.8490	0.0000	6,163.4166	6,163.4166	1.9475	0.0000	6,212.1039
2022	4.5441	38.8811	40.8776	0.1240	8.8255	1.6361	10.4616	3.6369	1.5052	5.1421	0.0000	12,493.4403	12,493.4403	1.9485	0.0000	12,518.5707
2023	4.1534	25.7658	38.7457	0.1206	7.0088	0.7592	7.7679	1.8799	0.7136	2.5935	0.0000	12,150.4890	12,150.4890	0.9589	0.0000	12,174.4615
2024	237.0219	9.5478	14.9642	0.0239	1.2171	0.4694	1.2875	0.3229	0.4319	0.4621	0.0000	2,313.1808	2,313.1808	0.7166	0.0000	2,331.0956
Maximum	237.0219	46.4415	40.8776	0.1240	18.2032	2.0456	20.2488	9.9670	1.8820	11.8490	0.0000	12,493.4403	12,493.4403	1.9485	0.0000	12,518.5707

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

2.1 Overall Construction (Maximum Daily Emission)

Mitigated Construction

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Year	lb/day										lb/day					
2021	4.2561	46.4415	31.4494	0.0636	18.2032	2.0456	20.2488	9.9670	1.8820	11.8490	0.0000	6,163.4166	6,163.4166	1.9475	0.0000	6,212.1039
2022	4.5441	38.8811	40.8776	0.1240	8.8255	1.6361	10.4616	3.6369	1.5052	5.1421	0.0000	12,493.4403	12,493.4403	1.9485	0.0000	12,518.5707
2023	4.1534	25.7658	38.7457	0.1206	7.0088	0.7592	7.7679	1.8799	0.7136	2.5935	0.0000	12,150.4890	12,150.4890	0.9589	0.0000	12,174.4615
2024	237.0219	9.5478	14.9642	0.0239	1.2171	0.4694	1.2875	0.3229	0.4319	0.4621	0.0000	2,313.1808	2,313.1808	0.7166	0.0000	2,331.0955
Maximum	237.0219	46.4415	40.8776	0.1240	18.2032	2.0456	20.2488	9.9670	1.8820	11.8490	0.0000	12,493.4403	12,493.4403	1.9485	0.0000	12,518.5707

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio-CO2	Total CO2	CH4	N2O	CO2e
Percent Reduction	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

2.2 Overall Operational

Unmitigated Operational

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Area	30.5020	15.0496	88.4430	0.0944		1.5974	1.5974		1.5974	1.5974	0.0000	18,148.59 50	18,148.59 50	0.4874	0.3300	18,259.11 92
Energy	0.7660	6.7462	4.2573	0.0418		0.5292	0.5292		0.5292	0.5292		8,355.983 2	8,355.983 2	0.1602	0.1532	8,405.638 7
Mobile	9.8489	45.4304	114.8495	0.4917	45.9592	0.3360	46.2951	12.2950	0.3119	12.6070		50,306.60 34	50,306.60 34	2.1807		50,361.12 08
Total	41.1168	67.2262	207.5497	0.6278	45.9592	2.4626	48.4217	12.2950	2.4385	14.7336	0.0000	76,811.18 16	76,811.18 16	2.8282	0.4832	77,025.87 86

Mitigated Operational

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Area	30.5020	15.0496	88.4430	0.0944		1.5974	1.5974		1.5974	1.5974	0.0000	18,148.59 50	18,148.59 50	0.4874	0.3300	18,259.11 92
Energy	0.7660	6.7462	4.2573	0.0418		0.5292	0.5292		0.5292	0.5292		8,355.983 2	8,355.983 2	0.1602	0.1532	8,405.638 7
Mobile	9.8489	45.4304	114.8495	0.4917	45.9592	0.3360	46.2951	12.2950	0.3119	12.6070		50,306.60 34	50,306.60 34	2.1807		50,361.12 08
Total	41.1168	67.2262	207.5497	0.6278	45.9592	2.4626	48.4217	12.2950	2.4385	14.7336	0.0000	76,811.18 16	76,811.18 16	2.8282	0.4832	77,025.87 86

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio-CO2	Total CO2	CH4	N2O	CO2e
Percent Reduction	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

3.0 Construction Detail

Construction Phase

Phase Number	Phase Name	Phase Type	Start Date	End Date	Num Days Week	Num Days	Phase Description
1	Demolition	Demolition	9/1/2021	10/12/2021	5	30	
2	Site Preparation	Site Preparation	10/13/2021	11/9/2021	5	20	
3	Grading	Grading	11/10/2021	1/11/2022	5	45	
4	Building Construction	Building Construction	1/12/2022	12/12/2023	5	500	
5	Paving	Paving	12/13/2023	1/30/2024	5	35	
6	Architectural Coating	Architectural Coating	1/31/2024	3/19/2024	5	35	

Acres of Grading (Site Preparation Phase): 0

Acres of Grading (Grading Phase): 112.5

Acres of Paving: 0

Residential Indoor: 2,025,000; Residential Outdoor: 675,000; Non-Residential Indoor: 326,400; Non-Residential Outdoor: 108,800; Striped Parking Area: 0 (Architectural Coating – sqft)

OffRoad Equipment

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

Phase Name	Offroad Equipment Type	Amount	Usage Hours	Horse Power	Load Factor
Demolition	Concrete/Industrial Saws	1	8.00	81	0.73
Demolition	Excavators	3	8.00	158	0.38
Demolition	Rubber Tired Dozers	2	8.00	247	0.40
Site Preparation	Rubber Tired Dozers	3	8.00	247	0.40
Site Preparation	Tractors/Loaders/Backhoes	4	8.00	97	0.37
Grading	Excavators	2	8.00	158	0.38
Grading	Graders	1	8.00	187	0.41
Grading	Rubber Tired Dozers	1	8.00	247	0.40
Grading	Scrapers	2	8.00	367	0.48
Grading	Tractors/Loaders/Backhoes	2	8.00	97	0.37
Building Construction	Cranes	1	7.00	231	0.29
Building Construction	Forklifts	3	8.00	89	0.20
Building Construction	Generator Sets	1	8.00	84	0.74
Building Construction	Tractors/Loaders/Backhoes	3	7.00	97	0.37
Building Construction	Welders	1	8.00	46	0.45
Paving	Pavers	2	8.00	130	0.42
Paving	Paving Equipment	2	8.00	132	0.36
Paving	Rollers	2	8.00	80	0.38
Architectural Coating	Air Compressors	1	6.00	78	0.48

Trips and VMT

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

Phase Name	Offroad Equipment Count	Worker Trip Number	Vendor Trip Number	Hauling Trip Number	Worker Trip Length	Vendor Trip Length	Hauling Trip Length	Worker Vehicle Class	Vendor Vehicle Class	Hauling Vehicle Class
Demolition	6	15.00	0.00	458.00	10.00	6.90	20.00	LD_Mix	HDT_Mix	HHDT
Site Preparation	7	18.00	0.00	0.00	10.00	6.90	20.00	LD_Mix	HDT_Mix	HHDT
Grading	8	20.00	0.00	0.00	10.00	6.90	20.00	LD_Mix	HDT_Mix	HHDT
Building Construction	9	801.00	143.00	0.00	10.00	6.90	20.00	LD_Mix	HDT_Mix	HHDT
Paving	6	15.00	0.00	0.00	10.00	6.90	20.00	LD_Mix	HDT_Mix	HHDT
Architectural Coating	1	160.00	0.00	0.00	10.00	6.90	20.00	LD_Mix	HDT_Mix	HHDT

3.1 Mitigation Measures Construction

3.2 Demolition - 2021

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					3.3074	0.0000	3.3074	0.5008	0.0000	0.5008			0.0000			0.0000
Off-Road	3.1651	31.4407	21.5650	0.0388		1.5513	1.5513		1.4411	1.4411		3,747.9449	3,747.9449	1.0549		3,774.3174
Total	3.1651	31.4407	21.5650	0.0388	3.3074	1.5513	4.8588	0.5008	1.4411	1.9419		3,747.9449	3,747.9449	1.0549		3,774.3174

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

3.2 Demolition - 2021

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.1273	4.0952	0.9602	0.0119	0.2669	0.0126	0.2795	0.0732	0.0120	0.0852		1,292.241 3	1,292.241 3	0.0877		1,294.433 7
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0487	0.0313	0.4282	1.1800e-003	0.1141	9.5000e-004	0.1151	0.0303	8.8000e-004	0.0311		117.2799	117.2799	3.5200e-003		117.3678
Total	0.1760	4.1265	1.3884	0.0131	0.3810	0.0135	0.3946	0.1034	0.0129	0.1163		1,409.521 2	1,409.521 2	0.0912		1,411.801 5

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					3.3074	0.0000	3.3074	0.5008	0.0000	0.5008			0.0000			0.0000
Off-Road	3.1651	31.4407	21.5650	0.0388		1.5513	1.5513		1.4411	1.4411	0.0000	3,747.944 9	3,747.944 9	1.0549		3,774.317 4
Total	3.1651	31.4407	21.5650	0.0388	3.3074	1.5513	4.8588	0.5008	1.4411	1.9419	0.0000	3,747.944 9	3,747.944 9	1.0549		3,774.317 4

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

3.2 Demolition - 2021

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.1273	4.0952	0.9602	0.0119	0.2669	0.0126	0.2795	0.0732	0.0120	0.0852		1,292.241 3	1,292.241 3	0.0877		1,294.433 7
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0487	0.0313	0.4282	1.1800e-003	0.1141	9.5000e-004	0.1151	0.0303	8.8000e-004	0.0311		117.2799	117.2799	3.5200e-003		117.3678
Total	0.1760	4.1265	1.3884	0.0131	0.3810	0.0135	0.3946	0.1034	0.0129	0.1163		1,409.521 2	1,409.521 2	0.0912		1,411.801 5

3.3 Site Preparation - 2021

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					18.0663	0.0000	18.0663	9.9307	0.0000	9.9307			0.0000			0.0000
Off-Road	3.8882	40.4971	21.1543	0.0380		2.0445	2.0445		1.8809	1.8809		3,685.656 9	3,685.656 9	1.1920		3,715.457 3
Total	3.8882	40.4971	21.1543	0.0380	18.0663	2.0445	20.1107	9.9307	1.8809	11.8116		3,685.656 9	3,685.656 9	1.1920		3,715.457 3

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

3.3 Site Preparation - 2021

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0584	0.0375	0.5139	1.4100e-003	0.1369	1.1400e-003	0.1381	0.0363	1.0500e-003	0.0374		140.7359	140.7359	4.2200e-003		140.8414
Total	0.0584	0.0375	0.5139	1.4100e-003	0.1369	1.1400e-003	0.1381	0.0363	1.0500e-003	0.0374		140.7359	140.7359	4.2200e-003		140.8414

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					18.0663	0.0000	18.0663	9.9307	0.0000	9.9307			0.0000			0.0000
Off-Road	3.8882	40.4971	21.1543	0.0380		2.0445	2.0445		1.8809	1.8809	0.0000	3,685.6569	3,685.6569	1.1920		3,715.4573
Total	3.8882	40.4971	21.1543	0.0380	18.0663	2.0445	20.1107	9.9307	1.8809	11.8116	0.0000	3,685.6569	3,685.6569	1.1920		3,715.4573

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

3.3 Site Preparation - 2021

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0584	0.0375	0.5139	1.4100e-003	0.1369	1.1400e-003	0.1381	0.0363	1.0500e-003	0.0374		140.7359	140.7359	4.2200e-003		140.8414
Total	0.0584	0.0375	0.5139	1.4100e-003	0.1369	1.1400e-003	0.1381	0.0363	1.0500e-003	0.0374		140.7359	140.7359	4.2200e-003		140.8414

3.4 Grading - 2021

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					8.6733	0.0000	8.6733	3.5965	0.0000	3.5965			0.0000			0.0000
Off-Road	4.1912	46.3998	30.8785	0.0620		1.9853	1.9853		1.8265	1.8265		6,007.0434	6,007.0434	1.9428		6,055,6134
Total	4.1912	46.3998	30.8785	0.0620	8.6733	1.9853	10.6587	3.5965	1.8265	5.4230		6,007.0434	6,007.0434	1.9428		6,055,6134

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

3.4 Grading - 2021

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0649	0.0417	0.5710	1.5700e-003	0.1521	1.2700e-003	0.1534	0.0404	1.1700e-003	0.0415		156.3732	156.3732	4.6900e-003		156.4904
Total	0.0649	0.0417	0.5710	1.5700e-003	0.1521	1.2700e-003	0.1534	0.0404	1.1700e-003	0.0415		156.3732	156.3732	4.6900e-003		156.4904

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					8.6733	0.0000	8.6733	3.5965	0.0000	3.5965			0.0000			0.0000
Off-Road	4.1912	46.3998	30.8785	0.0620		1.9853	1.9853		1.8265	1.8265	0.0000	6,007.0434	6,007.0434	1.9428		6,055,6134
Total	4.1912	46.3998	30.8785	0.0620	8.6733	1.9853	10.6587	3.5965	1.8265	5.4230	0.0000	6,007.0434	6,007.0434	1.9428		6,055,6134

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

3.4 Grading - 2021

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0649	0.0417	0.5710	1.5700e-003	0.1521	1.2700e-003	0.1534	0.0404	1.1700e-003	0.0415		156.3732	156.3732	4.6900e-003		156.4904
Total	0.0649	0.0417	0.5710	1.5700e-003	0.1521	1.2700e-003	0.1534	0.0404	1.1700e-003	0.0415		156.3732	156.3732	4.6900e-003		156.4904

3.4 Grading - 2022

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					8.6733	0.0000	8.6733	3.5965	0.0000	3.5965			0.0000			0.0000
Off-Road	3.6248	38.8435	29.0415	0.0621		1.6349	1.6349		1.5041	1.5041		6,011.4105	6,011.4105	1.9442		6,060.0158
Total	3.6248	38.8435	29.0415	0.0621	8.6733	1.6349	10.3082	3.5965	1.5041	5.1006		6,011.4105	6,011.4105	1.9442		6,060.0158

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

3.4 Grading - 2022

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0607	0.0376	0.5263	1.5100e-003	0.1521	1.2300e-003	0.1534	0.0404	1.1300e-003	0.0415		150.8754	150.8754	4.2400e-003		150.9813
Total	0.0607	0.0376	0.5263	1.5100e-003	0.1521	1.2300e-003	0.1534	0.0404	1.1300e-003	0.0415		150.8754	150.8754	4.2400e-003		150.9813

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					8.6733	0.0000	8.6733	3.5965	0.0000	3.5965			0.0000			0.0000
Off-Road	3.6248	38.8435	29.0415	0.0621		1.6349	1.6349		1.5041	1.5041	0.0000	6,011.4105	6,011.4105	1.9442		6,060.0158
Total	3.6248	38.8435	29.0415	0.0621	8.6733	1.6349	10.3082	3.5965	1.5041	5.1006	0.0000	6,011.4105	6,011.4105	1.9442		6,060.0158

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

3.4 Grading - 2022

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0607	0.0376	0.5263	1.5100e-003	0.1521	1.2300e-003	0.1534	0.0404	1.1300e-003	0.0415		150.8754	150.8754	4.2400e-003		150.9813
Total	0.0607	0.0376	0.5263	1.5100e-003	0.1521	1.2300e-003	0.1534	0.0404	1.1300e-003	0.0415		150.8754	150.8754	4.2400e-003		150.9813

3.5 Building Construction - 2022

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Off-Road	1.7062	15.6156	16.3634	0.0269		0.8090	0.8090		0.7612	0.7612		2,554.3336	2,554.3336	0.6120		2,569.6322
Total	1.7062	15.6156	16.3634	0.0269		0.8090	0.8090		0.7612	0.7612		2,554.3336	2,554.3336	0.6120		2,569.6322

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

3.5 Building Construction - 2022

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.4079	13.2032	3.4341	0.0364	0.9155	0.0248	0.9404	0.2636	0.0237	0.2873		3,896.548 2	3,896.548 2	0.2236		3,902.138 4
Worker	2.4299	1.5074	21.0801	0.0607	6.0932	0.0493	6.1425	1.6163	0.0454	1.6617		6,042.558 5	6,042.558 5	0.1697		6,046.800 0
Total	2.8378	14.7106	24.5142	0.0971	7.0087	0.0741	7.0828	1.8799	0.0691	1.9490		9,939.106 7	9,939.106 7	0.3933		9,948.938 4

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Off-Road	1.7062	15.6156	16.3634	0.0269		0.8090	0.8090		0.7612	0.7612	0.0000	2,554.333 6	2,554.333 6	0.6120		2,569.632 2
Total	1.7062	15.6156	16.3634	0.0269		0.8090	0.8090		0.7612	0.7612	0.0000	2,554.333 6	2,554.333 6	0.6120		2,569.632 2

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

3.5 Building Construction - 2022

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.4079	13.2032	3.4341	0.0364	0.9155	0.0248	0.9404	0.2636	0.0237	0.2873		3,896.548 2	3,896.548 2	0.2236		3,902.138 4
Worker	2.4299	1.5074	21.0801	0.0607	6.0932	0.0493	6.1425	1.6163	0.0454	1.6617		6,042.558 5	6,042.558 5	0.1697		6,046.800 0
Total	2.8378	14.7106	24.5142	0.0971	7.0087	0.0741	7.0828	1.8799	0.0691	1.9490		9,939.106 7	9,939.106 7	0.3933		9,948.938 4

3.5 Building Construction - 2023

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Off-Road	1.5728	14.3849	16.2440	0.0269		0.6997	0.6997		0.6584	0.6584		2,555.209 9	2,555.209 9	0.6079		2,570.406 1
Total	1.5728	14.3849	16.2440	0.0269		0.6997	0.6997		0.6584	0.6584		2,555.209 9	2,555.209 9	0.6079		2,570.406 1

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

3.5 Building Construction - 2023

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.3027	10.0181	3.1014	0.0352	0.9156	0.0116	0.9271	0.2636	0.0111	0.2747		3,773.876 2	3,773.876 2	0.1982		3,778.830 0
Worker	2.2780	1.3628	19.4002	0.0584	6.0932	0.0479	6.1411	1.6163	0.0441	1.6604		5,821.402 8	5,821.402 8	0.1529		5,825.225 4
Total	2.5807	11.3809	22.5017	0.0936	7.0088	0.0595	7.0682	1.8799	0.0552	1.9350		9,595.279 0	9,595.279 0	0.3511		9,604.055 4

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Off-Road	1.5728	14.3849	16.2440	0.0269		0.6997	0.6997		0.6584	0.6584	0.0000	2,555.209 9	2,555.209 9	0.6079		2,570.406 1
Total	1.5728	14.3849	16.2440	0.0269		0.6997	0.6997		0.6584	0.6584	0.0000	2,555.209 9	2,555.209 9	0.6079		2,570.406 1

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

3.5 Building Construction - 2023

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.3027	10.0181	3.1014	0.0352	0.9156	0.0116	0.9271	0.2636	0.0111	0.2747		3,773.876 2	3,773.876 2	0.1982		3,778.830 0
Worker	2.2780	1.3628	19.4002	0.0584	6.0932	0.0479	6.1411	1.6163	0.0441	1.6604		5,821.402 8	5,821.402 8	0.1529		5,825.225 4
Total	2.5807	11.3809	22.5017	0.0936	7.0088	0.0595	7.0682	1.8799	0.0552	1.9350		9,595.279 0	9,595.279 0	0.3511		9,604.055 4

3.6 Paving - 2023

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Off-Road	1.0327	10.1917	14.5842	0.0228		0.5102	0.5102		0.4694	0.4694		2,207.584 1	2,207.584 1	0.7140		2,225.433 6
Paving	0.0000					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Total	1.0327	10.1917	14.5842	0.0228		0.5102	0.5102		0.4694	0.4694		2,207.584 1	2,207.584 1	0.7140		2,225.433 6

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

3.6 Paving - 2023

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0427	0.0255	0.3633	1.0900e-003	0.1141	9.0000e-004	0.1150	0.0303	8.3000e-004	0.0311		109.0150	109.0150	2.8600e-003		109.0866
Total	0.0427	0.0255	0.3633	1.0900e-003	0.1141	9.0000e-004	0.1150	0.0303	8.3000e-004	0.0311		109.0150	109.0150	2.8600e-003		109.0866

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Off-Road	1.0327	10.1917	14.5842	0.0228		0.5102	0.5102		0.4694	0.4694	0.0000	2,207.5841	2,207.5841	0.7140		2,225.4336
Paving	0.0000					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Total	1.0327	10.1917	14.5842	0.0228		0.5102	0.5102		0.4694	0.4694	0.0000	2,207.5841	2,207.5841	0.7140		2,225.4336

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

3.6 Paving - 2023

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0427	0.0255	0.3633	1.0900e-003	0.1141	9.0000e-004	0.1150	0.0303	8.3000e-004	0.0311		109.0150	109.0150	2.8600e-003		109.0866
Total	0.0427	0.0255	0.3633	1.0900e-003	0.1141	9.0000e-004	0.1150	0.0303	8.3000e-004	0.0311		109.0150	109.0150	2.8600e-003		109.0866

3.6 Paving - 2024

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Off-Road	0.9882	9.5246	14.6258	0.0228		0.4685	0.4685		0.4310	0.4310		2,207.547 2	2,207.547 2	0.7140		2,225.396 3
Paving	0.0000					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Total	0.9882	9.5246	14.6258	0.0228		0.4685	0.4685		0.4310	0.4310		2,207.547 2	2,207.547 2	0.7140		2,225.396 3

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

3.6 Paving - 2024

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0403	0.0233	0.3384	1.0600e-003	0.1141	8.8000e-004	0.1150	0.0303	8.1000e-004	0.0311		105.6336	105.6336	2.6300e-003		105.6992
Total	0.0403	0.0233	0.3384	1.0600e-003	0.1141	8.8000e-004	0.1150	0.0303	8.1000e-004	0.0311		105.6336	105.6336	2.6300e-003		105.6992

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Off-Road	0.9882	9.5246	14.6258	0.0228		0.4685	0.4685		0.4310	0.4310	0.0000	2,207.547 2	2,207.547 2	0.7140		2,225.396 3
Paving	0.0000					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Total	0.9882	9.5246	14.6258	0.0228		0.4685	0.4685		0.4310	0.4310	0.0000	2,207.547 2	2,207.547 2	0.7140		2,225.396 3

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

3.6 Paving - 2024

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0403	0.0233	0.3384	1.0600e-003	0.1141	8.8000e-004	0.1150	0.0303	8.1000e-004	0.0311		105.6336	105.6336	2.6300e-003		105.6992
Total	0.0403	0.0233	0.3384	1.0600e-003	0.1141	8.8000e-004	0.1150	0.0303	8.1000e-004	0.0311		105.6336	105.6336	2.6300e-003		105.6992

3.7 Architectural Coating - 2024

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Archit. Coating	236.4115					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Off-Road	0.1808	1.2188	1.8101	2.9700e-003		0.0609	0.0609		0.0609	0.0609		281.4481	281.4481	0.0159		281.8443
Total	236.5923	1.2188	1.8101	2.9700e-003		0.0609	0.0609		0.0609	0.0609		281.4481	281.4481	0.0159		281.8443

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

3.7 Architectural Coating - 2024

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.4296	0.2481	3.6098	0.0113	1.2171	9.4300e-003	1.2266	0.3229	8.6800e-003	0.3315		1,126.7583	1,126.7583	0.0280		1,127.4583
Total	0.4296	0.2481	3.6098	0.0113	1.2171	9.4300e-003	1.2266	0.3229	8.6800e-003	0.3315		1,126.7583	1,126.7583	0.0280		1,127.4583

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Archit. Coating	236.4115					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Off-Road	0.1808	1.2188	1.8101	2.9700e-003		0.0609	0.0609		0.0609	0.0609	0.0000	281.4481	281.4481	0.0159		281.8443
Total	236.5923	1.2188	1.8101	2.9700e-003		0.0609	0.0609		0.0609	0.0609	0.0000	281.4481	281.4481	0.0159		281.8443

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

3.7 Architectural Coating - 2024

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.4296	0.2481	3.6098	0.0113	1.2171	9.4300e-003	1.2266	0.3229	8.6800e-003	0.3315		1,126.7583	1,126.7583	0.0280		1,127.4583
Total	0.4296	0.2481	3.6098	0.0113	1.2171	9.4300e-003	1.2266	0.3229	8.6800e-003	0.3315		1,126.7583	1,126.7583	0.0280		1,127.4583

4.0 Operational Detail - Mobile

4.1 Mitigation Measures Mobile

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Mitigated	9.8489	45.4304	114.8495	0.4917	45.9592	0.3360	46.2951	12.2950	0.3119	12.6070		50,306.60 34	50,306.60 34	2.1807		50,361.12 08
Unmitigated	9.8489	45.4304	114.8495	0.4917	45.9592	0.3360	46.2951	12.2950	0.3119	12.6070		50,306.60 34	50,306.60 34	2.1807		50,361.12 08

4.2 Trip Summary Information

Land Use	Average Daily Trip Rate			Unmitigated	Mitigated
	Weekday	Saturday	Sunday	Annual VMT	Annual VMT
Apartments Low Rise	145.75	154.25	154.00	506,227	506,227
Apartments Mid Rise	4,026.75	3,773.25	4075.50	13,660,065	13,660,065
General Office Building	288.45	62.55	31.05	706,812	706,812
High Turnover (Sit Down Restaurant)	2,368.80	2,873.52	2817.72	3,413,937	3,413,937
Hotel	192.00	187.50	160.00	445,703	445,703
Quality Restaurant	501.12	511.92	461.20	707,488	707,488
Regional Shopping Center	528.08	601.44	357.84	1,112,221	1,112,221
Total	8,050.95	8,164.43	8,057.31	20,552,452	20,552,452

4.3 Trip Type Information

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

Land Use	Miles			Trip %			Trip Purpose %		
	H-W or C-W	H-S or C-C	H-O or C-NW	H-W or C-W	H-S or C-C	H-O or C-NW	Primary	Diverted	Pass-by
Apartments Low Rise	14.70	5.90	8.70	40.20	19.20	40.60	86	11	3
Apartments Mid Rise	14.70	5.90	8.70	40.20	19.20	40.60	86	11	3
General Office Building	16.60	8.40	6.90	33.00	48.00	19.00	77	19	4
High Turnover (Sit Down	16.60	8.40	6.90	8.50	72.50	19.00	37	20	43
Hotel	16.60	8.40	6.90	19.40	61.60	19.00	58	38	4
Quality Restaurant	16.60	8.40	6.90	12.00	69.00	19.00	38	18	44
Regional Shopping Center	16.60	8.40	6.90	16.30	64.70	19.00	54	35	11

4.4 Fleet Mix

Land Use	LDA	LDT1	LDT2	MDV	LHD1	LHD2	MHD	HHD	OBUS	UBUS	MCY	SBUS	MH
Apartments Low Rise	0.543088	0.044216	0.209971	0.116369	0.014033	0.006332	0.021166	0.033577	0.002613	0.001817	0.005285	0.000712	0.000821
Apartments Mid Rise	0.543088	0.044216	0.209971	0.116369	0.014033	0.006332	0.021166	0.033577	0.002613	0.001817	0.005285	0.000712	0.000821
General Office Building	0.543088	0.044216	0.209971	0.116369	0.014033	0.006332	0.021166	0.033577	0.002613	0.001817	0.005285	0.000712	0.000821
High Turnover (Sit Down Restaurant)	0.543088	0.044216	0.209971	0.116369	0.014033	0.006332	0.021166	0.033577	0.002613	0.001817	0.005285	0.000712	0.000821
Hotel	0.543088	0.044216	0.209971	0.116369	0.014033	0.006332	0.021166	0.033577	0.002613	0.001817	0.005285	0.000712	0.000821
Quality Restaurant	0.543088	0.044216	0.209971	0.116369	0.014033	0.006332	0.021166	0.033577	0.002613	0.001817	0.005285	0.000712	0.000821
Regional Shopping Center	0.543088	0.044216	0.209971	0.116369	0.014033	0.006332	0.021166	0.033577	0.002613	0.001817	0.005285	0.000712	0.000821

5.0 Energy Detail

Historical Energy Use: N

5.1 Mitigation Measures Energy

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
NaturalGas Mitigated	0.7660	6.7462	4.2573	0.0418		0.5292	0.5292		0.5292	0.5292		8,355.983 2	8,355.983 2	0.1602	0.1532	8,405.638 7
NaturalGas Unmitigated	0.7660	6.7462	4.2573	0.0418		0.5292	0.5292		0.5292	0.5292		8,355.983 2	8,355.983 2	0.1602	0.1532	8,405.638 7

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

5.2 Energy by Land Use - NaturalGas

Unmitigated

	NaturalGas Use	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Land Use	kBTU/yr	lb/day										lb/day					
Apartments Low Rise	1119.16	0.0121	0.1031	0.0439	6.6000e-004		8.3400e-003	8.3400e-003		8.3400e-003	8.3400e-003		131.6662	131.6662	2.5200e-003	2.4100e-003	132.4486
Apartments Mid Rise	35784.3	0.3859	3.2978	1.4033	0.0211		0.2666	0.2666		0.2666	0.2666		4,209.9164	4,209.9164	0.0807	0.0772	4,234.9339
General Office Building	1283.42	0.0138	0.1258	0.1057	7.5000e-004		9.5600e-003	9.5600e-003		9.5600e-003	9.5600e-003		150.9911	150.9911	2.8900e-003	2.7700e-003	151.8884
High Turnover (Sit Down Restaurant)	22759.9	0.2455	2.2314	1.8743	0.0134		0.1696	0.1696		0.1696	0.1696		2,677.6342	2,677.6342	0.0513	0.0491	2,693.5460
Hotel	4769.72	0.0514	0.4676	0.3928	2.8100e-003		0.0355	0.0355		0.0355	0.0355		561.1436	561.1436	0.0108	0.0103	564.4782
Quality Restaurant	5057.75	0.0545	0.4959	0.4165	2.9800e-003		0.0377	0.0377		0.0377	0.0377		595.0298	595.0298	0.0114	0.0109	598.5658
Regional Shopping Center	251.616	2.7100e-003	0.0247	0.0207	1.5000e-004		1.8700e-003	1.8700e-003		1.8700e-003	1.8700e-003		29.6019	29.6019	5.7000e-004	5.4000e-004	29.7778
Total		0.7660	6.7463	4.2573	0.0418		0.5292	0.5292		0.5292	0.5292		8,355.9832	8,355.9832	0.1602	0.1532	8,405.6387

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

5.2 Energy by Land Use - NaturalGas

Mitigated

	NaturalGas Use	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Land Use	kBTU/yr	lb/day										lb/day					
Apartments Low Rise	1.11916	0.0121	0.1031	0.0439	6.6000e-004		8.3400e-003	8.3400e-003		8.3400e-003	8.3400e-003		131.6662	131.6662	2.5200e-003	2.4100e-003	132.4486
Apartments Mid Rise	35.7843	0.3859	3.2978	1.4033	0.0211		0.2666	0.2666		0.2666	0.2666		4,209.9164	4,209.9164	0.0807	0.0772	4,234.9339
General Office Building	1.28342	0.0138	0.1258	0.1057	7.5000e-004		9.5600e-003	9.5600e-003		9.5600e-003	9.5600e-003		150.9911	150.9911	2.8900e-003	2.7700e-003	151.8884
High Turnover (Sit Down Restaurant)	22.7599	0.2455	2.2314	1.8743	0.0134		0.1696	0.1696		0.1696	0.1696		2,677.6342	2,677.6342	0.0513	0.0491	2,693.5460
Hotel	4.76972	0.0514	0.4676	0.3928	2.8100e-003		0.0355	0.0355		0.0355	0.0355		561.1436	561.1436	0.0108	0.0103	564.4782
Quality Restaurant	5.05775	0.0545	0.4959	0.4165	2.9800e-003		0.0377	0.0377		0.0377	0.0377		595.0298	595.0298	0.0114	0.0109	598.5658
Regional Shopping Center	0.251616	2.7100e-003	0.0247	0.0207	1.5000e-004		1.8700e-003	1.8700e-003		1.8700e-003	1.8700e-003		29.6019	29.6019	5.7000e-004	5.4000e-004	29.7778
Total		0.7660	6.7463	4.2573	0.0418		0.5292	0.5292		0.5292	0.5292		8,355.9832	8,355.9832	0.1602	0.1532	8,405.6387

6.0 Area Detail

6.1 Mitigation Measures Area

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Mitigated	30.5020	15.0496	88.4430	0.0944		1.5974	1.5974		1.5974	1.5974	0.0000	18,148.5950	18,148.5950	0.4874	0.3300	18,259.1192
Unmitigated	30.5020	15.0496	88.4430	0.0944		1.5974	1.5974		1.5974	1.5974	0.0000	18,148.5950	18,148.5950	0.4874	0.3300	18,259.1192

6.2 Area by SubCategory

Unmitigated

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
SubCategory	lb/day										lb/day					
Architectural Coating	2.2670					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Consumer Products	24.1085					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Hearth	1.6500	14.1000	6.0000	0.0900		1.1400	1.1400		1.1400	1.1400	0.0000	18,000.0000	18,000.0000	0.3450	0.3300	18,106.9650
Landscaping	2.4766	0.9496	82.4430	4.3600e-003		0.4574	0.4574		0.4574	0.4574		148.5950	148.5950	0.1424		152.1542
Total	30.5020	15.0496	88.4430	0.0944		1.5974	1.5974		1.5974	1.5974	0.0000	18,148.5950	18,148.5950	0.4874	0.3300	18,259.1192

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

6.2 Area by SubCategory

Mitigated

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
SubCategory	lb/day										lb/day					
Architectural Coating	2.2670					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Consumer Products	24.1085					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Hearth	1.6500	14.1000	6.0000	0.0900		1.1400	1.1400		1.1400	1.1400	0.0000	18,000.0000	18,000.0000	0.3450	0.3300	18,106.9650
Landscaping	2.4766	0.9496	82.4430	4.3600e-003		0.4574	0.4574		0.4574	0.4574		148.5950	148.5950	0.1424		152.1542
Total	30.5020	15.0496	88.4430	0.0944		1.5974	1.5974		1.5974	1.5974	0.0000	18,148.5950	18,148.5950	0.4874	0.3300	18,259.1192

7.0 Water Detail

7.1 Mitigation Measures Water

8.0 Waste Detail

8.1 Mitigation Measures Waste

9.0 Operational Offroad

Equipment Type	Number	Hours/Day	Days/Year	Horse Power	Load Factor	Fuel Type
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10.0 Stationary Equipment

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Summer

Fire Pumps and Emergency Generators

Equipment Type	Number	Hours/Day	Hours/Year	Horse Power	Load Factor	Fuel Type
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Boilers

Equipment Type	Number	Heat Input/Day	Heat Input/Year	Boiler Rating	Fuel Type
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User Defined Equipment

Equipment Type	Number
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11.0 Vegetation

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

Village South Specific Plan (Proposed)
Los Angeles-South Coast County, Winter

1.0 Project Characteristics

1.1 Land Usage

Land Uses	Size	Metric	Lot Acreage	Floor Surface Area	Population
General Office Building	45.00	1000sqft	1.03	45,000.00	0
High Turnover (Sit Down Restaurant)	36.00	1000sqft	0.83	36,000.00	0
Hotel	50.00	Room	1.67	72,600.00	0
Quality Restaurant	8.00	1000sqft	0.18	8,000.00	0
Apartments Low Rise	25.00	Dwelling Unit	1.56	25,000.00	72
Apartments Mid Rise	975.00	Dwelling Unit	25.66	975,000.00	2789
Regional Shopping Center	56.00	1000sqft	1.29	56,000.00	0

1.2 Other Project Characteristics

Urbanization	Urban	Wind Speed (m/s)	2.2	Precipitation Freq (Days)	33
Climate Zone	9			Operational Year	2028
Utility Company	Southern California Edison				
CO2 Intensity (lb/MW hr)	702.44	CH4 Intensity (lb/MW hr)	0.029	N2O Intensity (lb/MW hr)	0.006

1.3 User Entered Comments & Non-Default Data

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

Project Characteristics - Consistent with the DEIR's model.

Land Use - See SWAPE comment regarding residential and retail land uses.

Construction Phase - See SWAPE comment regarding individual construction phase lengths.

Demolition - Consistent with the DEIR's model. See SWAPE comment regarding demolition.

Vehicle Trips - Saturday trips consistent with the DEIR's model. See SWAPE comment regarding weekday and Sunday trips.

Woodstoves - Woodstoves and wood-burning fireplaces consistent with the DEIR's model. See SWAPE comment regarding gas fireplaces.

Energy Use -

Construction Off-road Equipment Mitigation - See SWAPE comment on construction-related mitigation.

Area Mitigation - See SWAPE comment regarding operational mitigation measures.

Water Mitigation - See SWAPE comment regarding operational mitigation measures.

Trips and VMT - Local hire provision

Table Name	Column Name	Default Value	New Value
tblFireplaces	FireplaceWoodMass	1,019.20	0.00
tblFireplaces	FireplaceWoodMass	1,019.20	0.00
tblFireplaces	NumberWood	1.25	0.00
tblFireplaces	NumberWood	48.75	0.00
tblTripsAndVMT	WorkerTripLength	14.70	10.00
tblTripsAndVMT	WorkerTripLength	14.70	10.00
tblTripsAndVMT	WorkerTripLength	14.70	10.00
tblTripsAndVMT	WorkerTripLength	14.70	10.00
tblTripsAndVMT	WorkerTripLength	14.70	10.00
tblTripsAndVMT	WorkerTripLength	14.70	10.00
tblVehicleTrips	ST_TR	7.16	6.17
tblVehicleTrips	ST_TR	6.39	3.87
tblVehicleTrips	ST_TR	2.46	1.39
tblVehicleTrips	ST_TR	158.37	79.82

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

tblVehicleTrips	ST_TR	8.19	3.75
tblVehicleTrips	ST_TR	94.36	63.99
tblVehicleTrips	ST_TR	49.97	10.74
tblVehicleTrips	SU_TR	6.07	6.16
tblVehicleTrips	SU_TR	5.86	4.18
tblVehicleTrips	SU_TR	1.05	0.69
tblVehicleTrips	SU_TR	131.84	78.27
tblVehicleTrips	SU_TR	5.95	3.20
tblVehicleTrips	SU_TR	72.16	57.65
tblVehicleTrips	SU_TR	25.24	6.39
tblVehicleTrips	WD_TR	6.59	5.83
tblVehicleTrips	WD_TR	6.65	4.13
tblVehicleTrips	WD_TR	11.03	6.41
tblVehicleTrips	WD_TR	127.15	65.80
tblVehicleTrips	WD_TR	8.17	3.84
tblVehicleTrips	WD_TR	89.95	62.64
tblVehicleTrips	WD_TR	42.70	9.43
tblWoodstoves	NumberCatalytic	1.25	0.00
tblWoodstoves	NumberCatalytic	48.75	0.00
tblWoodstoves	NumberNoncatalytic	1.25	0.00
tblWoodstoves	NumberNoncatalytic	48.75	0.00
tblWoodstoves	WoodstoveDayYear	25.00	0.00
tblWoodstoves	WoodstoveDayYear	25.00	0.00
tblWoodstoves	WoodstoveWoodMass	999.60	0.00
tblWoodstoves	WoodstoveWoodMass	999.60	0.00

2.0 Emissions Summary

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

2.1 Overall Construction (Maximum Daily Emission)

Unmitigated Construction

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Year	lb/day										lb/day					
2021	4.2621	46.4460	31.4068	0.0635	18.2032	2.0456	20.2488	9.9670	1.8820	11.8490	0.0000	6,154.3377	6,154.3377	1.9472	0.0000	6,203.0186
2022	4.7966	38.8851	39.6338	0.1195	8.8255	1.6361	10.4616	3.6369	1.5052	5.1421	0.0000	12,035.3440	12,035.3440	1.9482	0.0000	12,060.6013
2023	4.3939	25.8648	37.5031	0.1162	7.0088	0.7598	7.7685	1.8799	0.7142	2.5940	0.0000	11,710.4080	11,710.4080	0.9617	0.0000	11,734.4497
2024	237.0656	9.5503	14.9372	0.0238	1.2171	0.4694	1.2875	0.3229	0.4319	0.4621	0.0000	2,307.0517	2,307.0517	0.7164	0.0000	2,324.9627
Maximum	237.0656	46.4460	39.6338	0.1195	18.2032	2.0456	20.2488	9.9670	1.8820	11.8490	0.0000	12,035.3440	12,035.3440	1.9482	0.0000	12,060.6013

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

2.1 Overall Construction (Maximum Daily Emission)

Mitigated Construction

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Year	lb/day										lb/day					
2021	4.2621	46.4460	31.4068	0.0635	18.2032	2.0456	20.2488	9.9670	1.8820	11.8490	0.0000	6,154.3377	6,154.3377	1.9472	0.0000	6,203.0186
2022	4.7966	38.8851	39.6338	0.1195	8.8255	1.6361	10.4616	3.6369	1.5052	5.1421	0.0000	12,035.3440	12,035.3440	1.9482	0.0000	12,060.6013
2023	4.3939	25.8648	37.5031	0.1162	7.0088	0.7598	7.7685	1.8799	0.7142	2.5940	0.0000	11,710.4080	11,710.4080	0.9617	0.0000	11,734.4497
2024	237.0656	9.5503	14.9372	0.0238	1.2171	0.4694	1.2875	0.3229	0.4319	0.4621	0.0000	2,307.0517	2,307.0517	0.7164	0.0000	2,324.9627
Maximum	237.0656	46.4460	39.6338	0.1195	18.2032	2.0456	20.2488	9.9670	1.8820	11.8490	0.0000	12,035.3440	12,035.3440	1.9482	0.0000	12,060.6013

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio-CO2	Total CO2	CH4	N2O	CO2e
Percent Reduction	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

2.2 Overall Operational

Unmitigated Operational

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Area	30.5020	15.0496	88.4430	0.0944		1.5974	1.5974		1.5974	1.5974	0.0000	18,148.59 50	18,148.59 50	0.4874	0.3300	18,259.11 92
Energy	0.7660	6.7462	4.2573	0.0418		0.5292	0.5292		0.5292	0.5292		8,355.983 2	8,355.983 2	0.1602	0.1532	8,405.638 7
Mobile	9.5233	45.9914	110.0422	0.4681	45.9592	0.3373	46.2965	12.2950	0.3132	12.6083		47,917.80 05	47,917.80 05	2.1953		47,972.68 39
Total	40.7912	67.7872	202.7424	0.6043	45.9592	2.4640	48.4231	12.2950	2.4399	14.7349	0.0000	74,422.37 87	74,422.37 87	2.8429	0.4832	74,637.44 17

Mitigated Operational

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Area	30.5020	15.0496	88.4430	0.0944		1.5974	1.5974		1.5974	1.5974	0.0000	18,148.59 50	18,148.59 50	0.4874	0.3300	18,259.11 92
Energy	0.7660	6.7462	4.2573	0.0418		0.5292	0.5292		0.5292	0.5292		8,355.983 2	8,355.983 2	0.1602	0.1532	8,405.638 7
Mobile	9.5233	45.9914	110.0422	0.4681	45.9592	0.3373	46.2965	12.2950	0.3132	12.6083		47,917.80 05	47,917.80 05	2.1953		47,972.68 39
Total	40.7912	67.7872	202.7424	0.6043	45.9592	2.4640	48.4231	12.2950	2.4399	14.7349	0.0000	74,422.37 87	74,422.37 87	2.8429	0.4832	74,637.44 17

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio-CO2	Total CO2	CH4	N2O	CO2e
Percent Reduction	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

3.0 Construction Detail

Construction Phase

Phase Number	Phase Name	Phase Type	Start Date	End Date	Num Days Week	Num Days	Phase Description
1	Demolition	Demolition	9/1/2021	10/12/2021	5	30	
2	Site Preparation	Site Preparation	10/13/2021	11/9/2021	5	20	
3	Grading	Grading	11/10/2021	1/11/2022	5	45	
4	Building Construction	Building Construction	1/12/2022	12/12/2023	5	500	
5	Paving	Paving	12/13/2023	1/30/2024	5	35	
6	Architectural Coating	Architectural Coating	1/31/2024	3/19/2024	5	35	

Acres of Grading (Site Preparation Phase): 0

Acres of Grading (Grading Phase): 112.5

Acres of Paving: 0

Residential Indoor: 2,025,000; Residential Outdoor: 675,000; Non-Residential Indoor: 326,400; Non-Residential Outdoor: 108,800; Striped Parking Area: 0 (Architectural Coating – sqft)

OffRoad Equipment

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

Phase Name	Offroad Equipment Type	Amount	Usage Hours	Horse Power	Load Factor
Demolition	Concrete/Industrial Saws	1	8.00	81	0.73
Demolition	Excavators	3	8.00	158	0.38
Demolition	Rubber Tired Dozers	2	8.00	247	0.40
Site Preparation	Rubber Tired Dozers	3	8.00	247	0.40
Site Preparation	Tractors/Loaders/Backhoes	4	8.00	97	0.37
Grading	Excavators	2	8.00	158	0.38
Grading	Graders	1	8.00	187	0.41
Grading	Rubber Tired Dozers	1	8.00	247	0.40
Grading	Scrapers	2	8.00	367	0.48
Grading	Tractors/Loaders/Backhoes	2	8.00	97	0.37
Building Construction	Cranes	1	7.00	231	0.29
Building Construction	Forklifts	3	8.00	89	0.20
Building Construction	Generator Sets	1	8.00	84	0.74
Building Construction	Tractors/Loaders/Backhoes	3	7.00	97	0.37
Building Construction	Welders	1	8.00	46	0.45
Paving	Pavers	2	8.00	130	0.42
Paving	Paving Equipment	2	8.00	132	0.36
Paving	Rollers	2	8.00	80	0.38
Architectural Coating	Air Compressors	1	6.00	78	0.48

Trips and VMT

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

Phase Name	Offroad Equipment Count	Worker Trip Number	Vendor Trip Number	Hauling Trip Number	Worker Trip Length	Vendor Trip Length	Hauling Trip Length	Worker Vehicle Class	Vendor Vehicle Class	Hauling Vehicle Class
Demolition	6	15.00	0.00	458.00	10.00	6.90	20.00	LD_Mix	HDT_Mix	HHDT
Site Preparation	7	18.00	0.00	0.00	10.00	6.90	20.00	LD_Mix	HDT_Mix	HHDT
Grading	8	20.00	0.00	0.00	10.00	6.90	20.00	LD_Mix	HDT_Mix	HHDT
Building Construction	9	801.00	143.00	0.00	10.00	6.90	20.00	LD_Mix	HDT_Mix	HHDT
Paving	6	15.00	0.00	0.00	10.00	6.90	20.00	LD_Mix	HDT_Mix	HHDT
Architectural Coating	1	160.00	0.00	0.00	10.00	6.90	20.00	LD_Mix	HDT_Mix	HHDT

3.1 Mitigation Measures Construction

3.2 Demolition - 2021

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					3.3074	0.0000	3.3074	0.5008	0.0000	0.5008			0.0000			0.0000
Off-Road	3.1651	31.4407	21.5650	0.0388		1.5513	1.5513		1.4411	1.4411		3,747.9449	3,747.9449	1.0549		3,774.3174
Total	3.1651	31.4407	21.5650	0.0388	3.3074	1.5513	4.8588	0.5008	1.4411	1.9419		3,747.9449	3,747.9449	1.0549		3,774.3174

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

3.2 Demolition - 2021

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.1304	4.1454	1.0182	0.0117	0.2669	0.0128	0.2797	0.0732	0.0122	0.0854		1,269.855 5	1,269.855 5	0.0908		1,272.125 2
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0532	0.0346	0.3963	1.1100e-003	0.1141	9.5000e-004	0.1151	0.0303	8.8000e-004	0.0311		110.4707	110.4707	3.3300e-003		110.5539
Total	0.1835	4.1800	1.4144	0.0128	0.3810	0.0137	0.3948	0.1034	0.0131	0.1165		1,380.326 2	1,380.326 2	0.0941		1,382.679 1

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					3.3074	0.0000	3.3074	0.5008	0.0000	0.5008			0.0000			0.0000
Off-Road	3.1651	31.4407	21.5650	0.0388		1.5513	1.5513		1.4411	1.4411	0.0000	3,747.944 9	3,747.944 9	1.0549		3,774.317 4
Total	3.1651	31.4407	21.5650	0.0388	3.3074	1.5513	4.8588	0.5008	1.4411	1.9419	0.0000	3,747.944 9	3,747.944 9	1.0549		3,774.317 4

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

3.2 Demolition - 2021

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.1304	4.1454	1.0182	0.0117	0.2669	0.0128	0.2797	0.0732	0.0122	0.0854		1,269.855 5	1,269.855 5	0.0908		1,272.125 2
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0532	0.0346	0.3963	1.1100e- 003	0.1141	9.5000e- 004	0.1151	0.0303	8.8000e- 004	0.0311		110.4707	110.4707	3.3300e- 003		110.5539
Total	0.1835	4.1800	1.4144	0.0128	0.3810	0.0137	0.3948	0.1034	0.0131	0.1165		1,380.326 2	1,380.326 2	0.0941		1,382.679 1

3.3 Site Preparation - 2021

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					18.0663	0.0000	18.0663	9.9307	0.0000	9.9307			0.0000			0.0000
Off-Road	3.8882	40.4971	21.1543	0.0380		2.0445	2.0445		1.8809	1.8809		3,685.656 9	3,685.656 9	1.1920		3,715.457 3
Total	3.8882	40.4971	21.1543	0.0380	18.0663	2.0445	20.1107	9.9307	1.8809	11.8116		3,685.656 9	3,685.656 9	1.1920		3,715.457 3

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

3.3 Site Preparation - 2021

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0638	0.0415	0.4755	1.3300e-003	0.1369	1.1400e-003	0.1381	0.0363	1.0500e-003	0.0374		132.5649	132.5649	3.9900e-003		132.6646
Total	0.0638	0.0415	0.4755	1.3300e-003	0.1369	1.1400e-003	0.1381	0.0363	1.0500e-003	0.0374		132.5649	132.5649	3.9900e-003		132.6646

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					18.0663	0.0000	18.0663	9.9307	0.0000	9.9307			0.0000			0.0000
Off-Road	3.8882	40.4971	21.1543	0.0380		2.0445	2.0445		1.8809	1.8809	0.0000	3,685.6569	3,685.6569	1.1920		3,715.4573
Total	3.8882	40.4971	21.1543	0.0380	18.0663	2.0445	20.1107	9.9307	1.8809	11.8116	0.0000	3,685.6569	3,685.6569	1.1920		3,715.4573

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

3.3 Site Preparation - 2021

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0638	0.0415	0.4755	1.3300e-003	0.1369	1.1400e-003	0.1381	0.0363	1.0500e-003	0.0374		132.5649	132.5649	3.9900e-003		132.6646
Total	0.0638	0.0415	0.4755	1.3300e-003	0.1369	1.1400e-003	0.1381	0.0363	1.0500e-003	0.0374		132.5649	132.5649	3.9900e-003		132.6646

3.4 Grading - 2021

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					8.6733	0.0000	8.6733	3.5965	0.0000	3.5965			0.0000			0.0000
Off-Road	4.1912	46.3998	30.8785	0.0620		1.9853	1.9853		1.8265	1.8265		6,007.0434	6,007.0434	1.9428		6,055.6134
Total	4.1912	46.3998	30.8785	0.0620	8.6733	1.9853	10.6587	3.5965	1.8265	5.4230		6,007.0434	6,007.0434	1.9428		6,055.6134

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

3.4 Grading - 2021

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0709	0.0462	0.5284	1.4800e-003	0.1521	1.2700e-003	0.1534	0.0404	1.1700e-003	0.0415		147.2943	147.2943	4.4300e-003		147.4051
Total	0.0709	0.0462	0.5284	1.4800e-003	0.1521	1.2700e-003	0.1534	0.0404	1.1700e-003	0.0415		147.2943	147.2943	4.4300e-003		147.4051

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					8.6733	0.0000	8.6733	3.5965	0.0000	3.5965			0.0000			0.0000
Off-Road	4.1912	46.3998	30.8785	0.0620		1.9853	1.9853		1.8265	1.8265	0.0000	6,007.0434	6,007.0434	1.9428		6,055,6134
Total	4.1912	46.3998	30.8785	0.0620	8.6733	1.9853	10.6587	3.5965	1.8265	5.4230	0.0000	6,007.0434	6,007.0434	1.9428		6,055,6134

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

3.4 Grading - 2021

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0709	0.0462	0.5284	1.4800e-003	0.1521	1.2700e-003	0.1534	0.0404	1.1700e-003	0.0415		147.2943	147.2943	4.4300e-003		147.4051
Total	0.0709	0.0462	0.5284	1.4800e-003	0.1521	1.2700e-003	0.1534	0.0404	1.1700e-003	0.0415		147.2943	147.2943	4.4300e-003		147.4051

3.4 Grading - 2022

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					8.6733	0.0000	8.6733	3.5965	0.0000	3.5965			0.0000			0.0000
Off-Road	3.6248	38.8435	29.0415	0.0621		1.6349	1.6349		1.5041	1.5041		6,011.4105	6,011.4105	1.9442		6,060.0158
Total	3.6248	38.8435	29.0415	0.0621	8.6733	1.6349	10.3082	3.5965	1.5041	5.1006		6,011.4105	6,011.4105	1.9442		6,060.0158

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

3.4 Grading - 2022

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0665	0.0416	0.4861	1.4300e-003	0.1521	1.2300e-003	0.1534	0.0404	1.1300e-003	0.0415		142.1207	142.1207	4.0000e-003		142.2207
Total	0.0665	0.0416	0.4861	1.4300e-003	0.1521	1.2300e-003	0.1534	0.0404	1.1300e-003	0.0415		142.1207	142.1207	4.0000e-003		142.2207

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					8.6733	0.0000	8.6733	3.5965	0.0000	3.5965			0.0000			0.0000
Off-Road	3.6248	38.8435	29.0415	0.0621		1.6349	1.6349		1.5041	1.5041	0.0000	6,011.4105	6,011.4105	1.9442		6,060.0158
Total	3.6248	38.8435	29.0415	0.0621	8.6733	1.6349	10.3082	3.5965	1.5041	5.1006	0.0000	6,011.4105	6,011.4105	1.9442		6,060.0158

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

3.4 Grading - 2022

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0665	0.0416	0.4861	1.4300e-003	0.1521	1.2300e-003	0.1534	0.0404	1.1300e-003	0.0415		142.1207	142.1207	4.0000e-003		142.2207
Total	0.0665	0.0416	0.4861	1.4300e-003	0.1521	1.2300e-003	0.1534	0.0404	1.1300e-003	0.0415		142.1207	142.1207	4.0000e-003		142.2207

3.5 Building Construction - 2022

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Off-Road	1.7062	15.6156	16.3634	0.0269		0.8090	0.8090		0.7612	0.7612		2,554.3336	2,554.3336	0.6120		2,569.6322
Total	1.7062	15.6156	16.3634	0.0269		0.8090	0.8090		0.7612	0.7612		2,554.3336	2,554.3336	0.6120		2,569.6322

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

3.5 Building Construction - 2022

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.4284	13.1673	3.8005	0.0354	0.9155	0.0256	0.9412	0.2636	0.0245	0.2881		3,789.075 0	3,789.075 0	0.2381		3,795.028 3
Worker	2.6620	1.6677	19.4699	0.0571	6.0932	0.0493	6.1425	1.6163	0.0454	1.6617		5,691.935 4	5,691.935 4	0.1602		5,695.940 8
Total	3.0904	14.8350	23.2704	0.0926	7.0087	0.0749	7.0836	1.8799	0.0699	1.9498		9,481.010 4	9,481.010 4	0.3984		9,490.969 1

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Off-Road	1.7062	15.6156	16.3634	0.0269		0.8090	0.8090		0.7612	0.7612	0.0000	2,554.333 6	2,554.333 6	0.6120		2,569.632 2
Total	1.7062	15.6156	16.3634	0.0269		0.8090	0.8090		0.7612	0.7612	0.0000	2,554.333 6	2,554.333 6	0.6120		2,569.632 2

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

3.5 Building Construction - 2022

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.4284	13.1673	3.8005	0.0354	0.9155	0.0256	0.9412	0.2636	0.0245	0.2881		3,789.075 0	3,789.075 0	0.2381		3,795.028 3
Worker	2.6620	1.6677	19.4699	0.0571	6.0932	0.0493	6.1425	1.6163	0.0454	1.6617		5,691.935 4	5,691.935 4	0.1602		5,695.940 8
Total	3.0904	14.8350	23.2704	0.0926	7.0087	0.0749	7.0836	1.8799	0.0699	1.9498		9,481.010 4	9,481.010 4	0.3984		9,490.969 1

3.5 Building Construction - 2023

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Off-Road	1.5728	14.3849	16.2440	0.0269		0.6997	0.6997		0.6584	0.6584		2,555.209 9	2,555.209 9	0.6079		2,570.406 1
Total	1.5728	14.3849	16.2440	0.0269		0.6997	0.6997		0.6584	0.6584		2,555.209 9	2,555.209 9	0.6079		2,570.406 1

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

3.5 Building Construction - 2023

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.3183	9.9726	3.3771	0.0343	0.9156	0.0122	0.9277	0.2636	0.0116	0.2752		3,671.4007	3,671.4007	0.2096		3,676.6417
Worker	2.5029	1.5073	17.8820	0.0550	6.0932	0.0479	6.1411	1.6163	0.0441	1.6604		5,483.7974	5,483.7974	0.1442		5,487.4020
Total	2.8211	11.4799	21.2591	0.0893	7.0088	0.0601	7.0688	1.8799	0.0557	1.9356		9,155.1981	9,155.1981	0.3538		9,164.0437

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Off-Road	1.5728	14.3849	16.2440	0.0269		0.6997	0.6997		0.6584	0.6584	0.0000	2,555.2099	2,555.2099	0.6079		2,570.4061
Total	1.5728	14.3849	16.2440	0.0269		0.6997	0.6997		0.6584	0.6584	0.0000	2,555.2099	2,555.2099	0.6079		2,570.4061

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

3.5 Building Construction - 2023

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.3183	9.9726	3.3771	0.0343	0.9156	0.0122	0.9277	0.2636	0.0116	0.2752		3,671.4007	3,671.4007	0.2096		3,676.6417
Worker	2.5029	1.5073	17.8820	0.0550	6.0932	0.0479	6.1411	1.6163	0.0441	1.6604		5,483.7974	5,483.7974	0.1442		5,487.4020
Total	2.8211	11.4799	21.2591	0.0893	7.0088	0.0601	7.0688	1.8799	0.0557	1.9356		9,155.1981	9,155.1981	0.3538		9,164.0437

3.6 Paving - 2023

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Off-Road	1.0327	10.1917	14.5842	0.0228		0.5102	0.5102		0.4694	0.4694		2,207.5841	2,207.5841	0.7140		2,225.4336
Paving	0.0000					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Total	1.0327	10.1917	14.5842	0.0228		0.5102	0.5102		0.4694	0.4694		2,207.5841	2,207.5841	0.7140		2,225.4336

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

3.6 Paving - 2023

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0469	0.0282	0.3349	1.0300e-003	0.1141	9.0000e-004	0.1150	0.0303	8.3000e-004	0.0311		102.6928	102.6928	2.7000e-003		102.7603
Total	0.0469	0.0282	0.3349	1.0300e-003	0.1141	9.0000e-004	0.1150	0.0303	8.3000e-004	0.0311		102.6928	102.6928	2.7000e-003		102.7603

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Off-Road	1.0327	10.1917	14.5842	0.0228		0.5102	0.5102		0.4694	0.4694	0.0000	2,207.5841	2,207.5841	0.7140		2,225.4336
Paving	0.0000					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Total	1.0327	10.1917	14.5842	0.0228		0.5102	0.5102		0.4694	0.4694	0.0000	2,207.5841	2,207.5841	0.7140		2,225.4336

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

3.6 Paving - 2023

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0469	0.0282	0.3349	1.0300e-003	0.1141	9.0000e-004	0.1150	0.0303	8.3000e-004	0.0311		102.6928	102.6928	2.7000e-003		102.7603
Total	0.0469	0.0282	0.3349	1.0300e-003	0.1141	9.0000e-004	0.1150	0.0303	8.3000e-004	0.0311		102.6928	102.6928	2.7000e-003		102.7603

3.6 Paving - 2024

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Off-Road	0.9882	9.5246	14.6258	0.0228		0.4685	0.4685		0.4310	0.4310		2,207.547 2	2,207.547 2	0.7140		2,225.396 3
Paving	0.0000					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Total	0.9882	9.5246	14.6258	0.0228		0.4685	0.4685		0.4310	0.4310		2,207.547 2	2,207.547 2	0.7140		2,225.396 3

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

3.6 Paving - 2024

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0444	0.0257	0.3114	1.0000e-003	0.1141	8.8000e-004	0.1150	0.0303	8.1000e-004	0.0311		99.5045	99.5045	2.4700e-003		99.5663
Total	0.0444	0.0257	0.3114	1.0000e-003	0.1141	8.8000e-004	0.1150	0.0303	8.1000e-004	0.0311		99.5045	99.5045	2.4700e-003		99.5663

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Off-Road	0.9882	9.5246	14.6258	0.0228		0.4685	0.4685		0.4310	0.4310	0.0000	2,207.5472	2,207.5472	0.7140		2,225.3963
Paving	0.0000					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Total	0.9882	9.5246	14.6258	0.0228		0.4685	0.4685		0.4310	0.4310	0.0000	2,207.5472	2,207.5472	0.7140		2,225.3963

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

3.6 Paving - 2024

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0444	0.0257	0.3114	1.0000e-003	0.1141	8.8000e-004	0.1150	0.0303	8.1000e-004	0.0311		99.5045	99.5045	2.4700e-003		99.5663
Total	0.0444	0.0257	0.3114	1.0000e-003	0.1141	8.8000e-004	0.1150	0.0303	8.1000e-004	0.0311		99.5045	99.5045	2.4700e-003		99.5663

3.7 Architectural Coating - 2024

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Archit. Coating	236.4115					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Off-Road	0.1808	1.2188	1.8101	2.9700e-003		0.0609	0.0609		0.0609	0.0609		281.4481	281.4481	0.0159		281.8443
Total	236.5923	1.2188	1.8101	2.9700e-003		0.0609	0.0609		0.0609	0.0609		281.4481	281.4481	0.0159		281.8443

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

3.7 Architectural Coating - 2024

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.4734	0.2743	3.3220	0.0107	1.2171	9.4300e-003	1.2266	0.3229	8.6800e-003	0.3315		1,061.3818	1,061.3818	0.0264		1,062.0410
Total	0.4734	0.2743	3.3220	0.0107	1.2171	9.4300e-003	1.2266	0.3229	8.6800e-003	0.3315		1,061.3818	1,061.3818	0.0264		1,062.0410

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Archit. Coating	236.4115					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Off-Road	0.1808	1.2188	1.8101	2.9700e-003		0.0609	0.0609		0.0609	0.0609	0.0000	281.4481	281.4481	0.0159		281.8443
Total	236.5923	1.2188	1.8101	2.9700e-003		0.0609	0.0609		0.0609	0.0609	0.0000	281.4481	281.4481	0.0159		281.8443

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

3.7 Architectural Coating - 2024

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.4734	0.2743	3.3220	0.0107	1.2171	9.4300e-003	1.2266	0.3229	8.6800e-003	0.3315		1,061.3818	1,061.3818	0.0264		1,062.0410
Total	0.4734	0.2743	3.3220	0.0107	1.2171	9.4300e-003	1.2266	0.3229	8.6800e-003	0.3315		1,061.3818	1,061.3818	0.0264		1,062.0410

4.0 Operational Detail - Mobile

4.1 Mitigation Measures Mobile

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Mitigated	9.5233	45.9914	110.0422	0.4681	45.9592	0.3373	46.2965	12.2950	0.3132	12.6083		47,917.8005	47,917.8005	2.1953		47,972.6839
Unmitigated	9.5233	45.9914	110.0422	0.4681	45.9592	0.3373	46.2965	12.2950	0.3132	12.6083		47,917.8005	47,917.8005	2.1953		47,972.6839

4.2 Trip Summary Information

Land Use	Average Daily Trip Rate			Unmitigated	Mitigated
	Weekday	Saturday	Sunday	Annual VMT	Annual VMT
Apartments Low Rise	145.75	154.25	154.00	506,227	506,227
Apartments Mid Rise	4,026.75	3,773.25	4075.50	13,660,065	13,660,065
General Office Building	288.45	62.55	31.05	706,812	706,812
High Turnover (Sit Down Restaurant)	2,368.80	2,873.52	2817.72	3,413,937	3,413,937
Hotel	192.00	187.50	160.00	445,703	445,703
Quality Restaurant	501.12	511.92	461.20	707,488	707,488
Regional Shopping Center	528.08	601.44	357.84	1,112,221	1,112,221
Total	8,050.95	8,164.43	8,057.31	20,552,452	20,552,452

4.3 Trip Type Information

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

Land Use	Miles			Trip %			Trip Purpose %		
	H-W or C-W	H-S or C-C	H-O or C-NW	H-W or C-W	H-S or C-C	H-O or C-NW	Primary	Diverted	Pass-by
Apartments Low Rise	14.70	5.90	8.70	40.20	19.20	40.60	86	11	3
Apartments Mid Rise	14.70	5.90	8.70	40.20	19.20	40.60	86	11	3
General Office Building	16.60	8.40	6.90	33.00	48.00	19.00	77	19	4
High Turnover (Sit Down	16.60	8.40	6.90	8.50	72.50	19.00	37	20	43
Hotel	16.60	8.40	6.90	19.40	61.60	19.00	58	38	4
Quality Restaurant	16.60	8.40	6.90	12.00	69.00	19.00	38	18	44
Regional Shopping Center	16.60	8.40	6.90	16.30	64.70	19.00	54	35	11

4.4 Fleet Mix

Land Use	LDA	LDT1	LDT2	MDV	LHD1	LHD2	MHD	HHD	OBUS	UBUS	MCY	SBUS	MH
Apartments Low Rise	0.543088	0.044216	0.209971	0.116369	0.014033	0.006332	0.021166	0.033577	0.002613	0.001817	0.005285	0.000712	0.000821
Apartments Mid Rise	0.543088	0.044216	0.209971	0.116369	0.014033	0.006332	0.021166	0.033577	0.002613	0.001817	0.005285	0.000712	0.000821
General Office Building	0.543088	0.044216	0.209971	0.116369	0.014033	0.006332	0.021166	0.033577	0.002613	0.001817	0.005285	0.000712	0.000821
High Turnover (Sit Down Restaurant)	0.543088	0.044216	0.209971	0.116369	0.014033	0.006332	0.021166	0.033577	0.002613	0.001817	0.005285	0.000712	0.000821
Hotel	0.543088	0.044216	0.209971	0.116369	0.014033	0.006332	0.021166	0.033577	0.002613	0.001817	0.005285	0.000712	0.000821
Quality Restaurant	0.543088	0.044216	0.209971	0.116369	0.014033	0.006332	0.021166	0.033577	0.002613	0.001817	0.005285	0.000712	0.000821
Regional Shopping Center	0.543088	0.044216	0.209971	0.116369	0.014033	0.006332	0.021166	0.033577	0.002613	0.001817	0.005285	0.000712	0.000821

5.0 Energy Detail

Historical Energy Use: N

5.1 Mitigation Measures Energy

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
NaturalGas Mitigated	0.7660	6.7462	4.2573	0.0418		0.5292	0.5292		0.5292	0.5292		8,355.983 2	8,355.983 2	0.1602	0.1532	8,405.638 7
NaturalGas Unmitigated	0.7660	6.7462	4.2573	0.0418		0.5292	0.5292		0.5292	0.5292		8,355.983 2	8,355.983 2	0.1602	0.1532	8,405.638 7

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

5.2 Energy by Land Use - NaturalGas

Unmitigated

	NaturalGas Use	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Land Use	kBTU/yr	lb/day										lb/day					
Apartments Low Rise	1119.16	0.0121	0.1031	0.0439	6.6000e-004		8.3400e-003	8.3400e-003		8.3400e-003	8.3400e-003		131.6662	131.6662	2.5200e-003	2.4100e-003	132.4486
Apartments Mid Rise	35784.3	0.3859	3.2978	1.4033	0.0211		0.2666	0.2666		0.2666	0.2666		4,209.9164	4,209.9164	0.0807	0.0772	4,234.9339
General Office Building	1283.42	0.0138	0.1258	0.1057	7.5000e-004		9.5600e-003	9.5600e-003		9.5600e-003	9.5600e-003		150.9911	150.9911	2.8900e-003	2.7700e-003	151.8884
High Turnover (Sit Down Restaurant)	22759.9	0.2455	2.2314	1.8743	0.0134		0.1696	0.1696		0.1696	0.1696		2,677.6342	2,677.6342	0.0513	0.0491	2,693.5460
Hotel	4769.72	0.0514	0.4676	0.3928	2.8100e-003		0.0355	0.0355		0.0355	0.0355		561.1436	561.1436	0.0108	0.0103	564.4782
Quality Restaurant	5057.75	0.0545	0.4959	0.4165	2.9800e-003		0.0377	0.0377		0.0377	0.0377		595.0298	595.0298	0.0114	0.0109	598.5658
Regional Shopping Center	251.616	2.7100e-003	0.0247	0.0207	1.5000e-004		1.8700e-003	1.8700e-003		1.8700e-003	1.8700e-003		29.6019	29.6019	5.7000e-004	5.4000e-004	29.7778
Total		0.7660	6.7463	4.2573	0.0418		0.5292	0.5292		0.5292	0.5292		8,355.9832	8,355.9832	0.1602	0.1532	8,405.6387

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

5.2 Energy by Land Use - NaturalGas

Mitigated

	NaturalGas Use	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Land Use	kBTU/yr	lb/day										lb/day					
Apartments Low Rise	1.11916	0.0121	0.1031	0.0439	6.6000e-004		8.3400e-003	8.3400e-003		8.3400e-003	8.3400e-003		131.6662	131.6662	2.5200e-003	2.4100e-003	132.4486
Apartments Mid Rise	35.7843	0.3859	3.2978	1.4033	0.0211		0.2666	0.2666		0.2666	0.2666		4,209.9164	4,209.9164	0.0807	0.0772	4,234.9339
General Office Building	1.28342	0.0138	0.1258	0.1057	7.5000e-004		9.5600e-003	9.5600e-003		9.5600e-003	9.5600e-003		150.9911	150.9911	2.8900e-003	2.7700e-003	151.8884
High Turnover (Sit Down Restaurant)	22.7599	0.2455	2.2314	1.8743	0.0134		0.1696	0.1696		0.1696	0.1696		2,677.6342	2,677.6342	0.0513	0.0491	2,693.5460
Hotel	4.76972	0.0514	0.4676	0.3928	2.8100e-003		0.0355	0.0355		0.0355	0.0355		561.1436	561.1436	0.0108	0.0103	564.4782
Quality Restaurant	5.05775	0.0545	0.4959	0.4165	2.9800e-003		0.0377	0.0377		0.0377	0.0377		595.0298	595.0298	0.0114	0.0109	598.5658
Regional Shopping Center	0.251616	2.7100e-003	0.0247	0.0207	1.5000e-004		1.8700e-003	1.8700e-003		1.8700e-003	1.8700e-003		29.6019	29.6019	5.7000e-004	5.4000e-004	29.7778
Total		0.7660	6.7463	4.2573	0.0418		0.5292	0.5292		0.5292	0.5292		8,355.9832	8,355.9832	0.1602	0.1532	8,405.6387

6.0 Area Detail

6.1 Mitigation Measures Area

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Mitigated	30.5020	15.0496	88.4430	0.0944		1.5974	1.5974		1.5974	1.5974	0.0000	18,148.5950	18,148.5950	0.4874	0.3300	18,259.1192
Unmitigated	30.5020	15.0496	88.4430	0.0944		1.5974	1.5974		1.5974	1.5974	0.0000	18,148.5950	18,148.5950	0.4874	0.3300	18,259.1192

6.2 Area by SubCategory

Unmitigated

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
SubCategory	lb/day										lb/day					
Architectural Coating	2.2670					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Consumer Products	24.1085					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Hearth	1.6500	14.1000	6.0000	0.0900		1.1400	1.1400		1.1400	1.1400	0.0000	18,000.0000	18,000.0000	0.3450	0.3300	18,106.9650
Landscaping	2.4766	0.9496	82.4430	4.3600e-003		0.4574	0.4574		0.4574	0.4574		148.5950	148.5950	0.1424		152.1542
Total	30.5020	15.0496	88.4430	0.0944		1.5974	1.5974		1.5974	1.5974	0.0000	18,148.5950	18,148.5950	0.4874	0.3300	18,259.1192

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

6.2 Area by SubCategory

Mitigated

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
SubCategory	lb/day										lb/day					
Architectural Coating	2.2670					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Consumer Products	24.1085					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Hearth	1.6500	14.1000	6.0000	0.0900		1.1400	1.1400		1.1400	1.1400	0.0000	18,000.0000	18,000.0000	0.3450	0.3300	18,106.9650
Landscaping	2.4766	0.9496	82.4430	4.3600e-003		0.4574	0.4574		0.4574	0.4574		148.5950	148.5950	0.1424		152.1542
Total	30.5020	15.0496	88.4430	0.0944		1.5974	1.5974		1.5974	1.5974	0.0000	18,148.5950	18,148.5950	0.4874	0.3300	18,259.1192

7.0 Water Detail

7.1 Mitigation Measures Water

8.0 Waste Detail

8.1 Mitigation Measures Waste

9.0 Operational Offroad

Equipment Type	Number	Hours/Day	Days/Year	Horse Power	Load Factor	Fuel Type
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10.0 Stationary Equipment

Village South Specific Plan (Proposed) - Los Angeles-South Coast County, Winter

Fire Pumps and Emergency Generators

Equipment Type	Number	Hours/Day	Hours/Year	Horse Power	Load Factor	Fuel Type
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Boilers

Equipment Type	Number	Heat Input/Day	Heat Input/Year	Boiler Rating	Fuel Type
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User Defined Equipment

Equipment Type	Number
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11.0 Vegetation

Local Hire Provision Net Change	
Without Local Hire Provision	
Total Construction GHG Emissions (MT CO ₂ e)	3,623
Amortized (MT CO ₂ e/year)	120.77
With Local Hire Provision	
Total Construction GHG Emissions (MT CO ₂ e)	3,024
Amortized (MT CO ₂ e/year)	100.80
% Decrease in Construction-related GHG Emissions	17%

EXHIBIT B



Technical Consultation, Data Analysis and
Litigation Support for the Environment

SOIL WATER AIR PROTECTION ENTERPRISE

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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. Thesis on wastewater treatment.

Professional Experience

Dr. Rosenfeld has over 25 years' 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 unconventional oil drilling operations, oil spills, landfills, boilers and incinerators, process stacks, storage tanks, confined animal feeding operations, and many other industrial and agricultural sources. 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 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, 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 dozens of sites and has testified as an expert witness on more than ten cases involving exposure to air contaminants from industrial sources.

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:

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

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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.

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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.

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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., 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.

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 Florala, 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.

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.

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 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, *Plaintiffs*, 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.: 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.: No. BC646857

Rosenfeld Deposition, 10-6-2018; Trial 3-7-19

In United States District Court For The District of Colorado

Bells et al. Plaintiff 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 The Superior Court of the State of California, For The County of Los Angeles

Warrn 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 Number: 4:16-cv-52-DMB-JVM

Rosenfeld Deposition: July 2017

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.: 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 Iowa District Court For Wapello County
Jerry Dovico, et al., Plaintiffs vs. Valley View Sine LLC, et al., Defendants
Law No.: LALA105144 - Division A
Rosenfeld Deposition, August 2015

In The Iowa District Court For Wapello County
Doug Pauls, et al., et al., Plaintiffs vs. Richard Warren, et al., Defendants
Law No.: LALA105144 - Division A
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 Third Judicial District County of Dona Ana, New Mexico
Betty Gonzalez, et al. Plaintiffs vs. Del Oro Dairy, Del Oro Real Estate LLC, Jerry Settles and Deward
DeRuyter, Defendants
Rosenfeld Deposition: July 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 Number CACE07030358 (26)
Rosenfeld Deposition: December 2014

In the United States District Court Western District of Oklahoma
Tommy McCarty, et al., Plaintiffs, v. Oklahoma City Landfill, LLC d/b/a Southeast Oklahoma City
Landfill, et al. Defendants.
Case No. 5:12-cv-01152-C
Rosenfeld Deposition: July 2014

In the County Court of Dallas County Texas

Lisa Parr et al, *Plaintiff*, vs. Aruba et al, *Defendant*.

Case Number 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 Number: 2008 CT 10 0741 (Cons. w/ 2009 CV 10 0987)

Rosenfeld Deposition: October 2012

In the United States District Court of Southern District of Texas Galveston Division

Kyle Cannon, Eugene Donovan, Genaro Ramirez, Carol Sassler, and Harvey Walton, each Individually and on behalf of those similarly situated, *Plaintiffs*, vs. BP Products North America, Inc., *Defendant*.

Case 3:10-cv-00622

Rosenfeld Deposition: February 2012

Rosenfeld Trial: April 2013

In the Circuit Court of Baltimore County Maryland

Philip E. Cvach, II et al., *Plaintiffs* vs. Two Farms, Inc. d/b/a Royal Farms, Defendants

Case Number: 03-C-12-012487 OT

Rosenfeld Deposition: September 2013

EXHIBIT C



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Matthew F. Hagemann, P.G., C.Hg., QSD, QSP

**Geologic and Hydrogeologic Characterization
Industrial Stormwater Compliance
Investigation and Remediation Strategies
Litigation Support and Testifying Expert
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

Professional Experience:

Matt has 25 years of experience in environmental policy, assessment and remediation. 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) while also working with permit holders to improve hydrogeologic characterization and water quality monitoring.

Matt has worked closely with U.S. EPA legal counsel and the technical staff of several states in the application and enforcement of RCRA, Safe Drinking Water Act and Clean Water Act regulations. Matt has trained the technical staff in the States of California, Hawaii, Nevada, Arizona and the Territory of Guam in the conduct of investigations, groundwater fundamentals, and sampling techniques.

Positions Matt has held include:

- Founding Partner, Soil/Water/Air Protection Enterprise (SWAPE) (2003 – present);
- Geology Instructor, Golden West College, 2010 – 2014;
- Senior Environmental Analyst, Komex H2O Science, Inc. (2000 -- 2003);

- 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 100 environmental impact reports since 2003 under CEQA that identify significant issues with regard to hazardous waste, water resources, water quality, air quality, Valley Fever, 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 industrial facilities.
- Manager of a project to provide technical assistance to a community adjacent to a former Naval shipyard under a grant from the U.S. EPA.
- 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.
- Expert witness on two cases involving MTBE litigation.
- Expert witness and litigation support on the impact of air toxins and hazards at a school.
- Expert witness in litigation at a former plywood plant.

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.

- 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 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 taught physical geology (lecture and lab and introductory geology at Golden West College in Huntington Beach, California from 2010 to 2014.

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).

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.

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., Fukanaga, 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.

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 examination, 2009-2011.

Appendix B: 865 Embedded Way Transportation Demand Management Plan



HEXAGON TRANSPORTATION CONSULTANTS, INC.

Embedded Way Industrial Development

Draft Transportation Demand Management (TDM) Plan

Prepared for:

David J. Powers & Associates, Inc.

May 30, 2023

Hexagon Transportation Consultants, Inc.

Hexagon Office: 8070 Santa Teresa Boulevard, Suite 230

Gilroy, CA 95020

Hexagon Job Number: 22LD09

Phone: 408.846.7410

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1.

Introduction

Transportation Demand Management (TDM) is a combination of services, incentives, facilities, and actions that reduce single-occupant vehicle (SOV) trips and resulting vehicle miles traveled (VMT) to help relieve traffic congestion and air pollution problems. The purpose of TDM is to (1) reduce the amount of trips and resulting VMT generated by new development; (2) promote more efficient utilization of existing transportation facilities and ensure that new developments are designed to maximize the potential for sustainable transportation usage; and (3) establish an ongoing monitoring and enforcement program to guarantee the desired trip reductions are achieved.

This TDM plan has been prepared for the proposed development at on the north side of Embedded Way between Coyote Creek and Hellyer Avenue. The Transportation Analysis dated April 3, 2023 completed for the proposed project indicates that the project would result in an impact on the transportation system based on the City's VMT impact criteria. Per the completed Transportation Analysis, the project will be required to implement the following multi-modal facility improvements to reduce the identified significant VMT impact:

- Provide Pedestrian Network Improvements for Active Transportation (Tier 2 – Pedestrian Access Improvements): Implement pedestrian improvements both on-site and in the surrounding area. Improving pedestrian connections encourages people to walk instead of driving and reduces VMT. The project will be required to remove the pork-chop islands on the southwest and northwest corners at the Embedded Way and Hellyer Avenue intersection to improve pedestrian safety and access. This improvement will require a signal modification at this intersection that will include the relocation of signal poles, heads, and crosswalks. **and**
- Provide Traffic Calming Measures (Tier 2 – Traffic Calming Measures): Implement pedestrian/bicycle safety and traffic calming measures both on-site and in the surrounding neighborhood. Providing traffic calming measures promotes walking and biking as an alternative to driving. The project will be required to install raised median islands along Embedded Way consisting of a 120-foot segment at its western terminus and a 190-foot segment near the Embedded Way and Hellyer Avenue intersection.

In addition, the project must implement Travel Demand Management (TDM) measures that may include the following:

- Commute Trip Reduction Marketing/Education: Implement marketing/educational campaigns that promote the use of transit, shared rides, and travel through active modes for 25% of the project

employees. Strategies may include the incorporation of alternative commute options into new employee orientations, event promotions, and publications.

- Subsidize Vanpool: Provide subsidies for individuals forming new vanpools for their commute. This encourages the use of vanpools, reducing drive-alone trips, and thereby reducing VMT. The project would be required to subsidize 100% of the cost of the vanpool cost with at least 25% employee participation.

This TDM plan must be submitted to the City for approval. The applicant will need to work with the City to ensure the TDM measures are implemented by the building tenants or identify other TDM measures deemed appropriate for the building uses. Therefore, the ultimate TDM measures may differ from those identified above so long as the measures meet the required VMT reduction and are approved by City staff.

Project Description

The proposed project consists of a 121,850-square-foot (s.f.) industrial building on an approximately ten-acre vacant site. Since a tenant and use of the proposed building have yet to be identified, the applicant for the Transportation Analysis was completed for two tenant use alternatives to allow for the flexibility to utilize the building with either warehouse, industrial, or research & development (R&D) uses. The TA study included the evaluation of the proposed 121,850 s.f. of building space as both R&D and industrial space.

Direct access to the project site would be provided via an existing full-access driveway located at the western terminus of Embedded Way. However, the project's surface lots, and drive aisles, would connect to the adjoining property along its eastern frontage (5325 Hellyer Avenue). Therefore, there would also be additional access points at existing driveways along Hellyer Avenue (right-in/right-out only) and Embedded Way (full-access). A total of 299 vehicular parking spaces are proposed on-site. The on-site parking will consist of 179 new parking spaces as well as 120 existing spaces that will be dedicated for project use per a development agreement with adjacent properties (*Declaration of Covenants, Conditions, Restrictions and Easements for Edenvale Technology Park, Article 2 Project Easements, July 2018*).

The project site location and the surrounding study area are shown in Figure 1. The project site plan is shown in Figure 2.

Report Organization

The remainder of this report is divided into two chapters. Chapter 2 describes the existing transportation facilities and services in the vicinity of the project site. Chapter 3 describes the TDM measures that would be implemented for the proposed project, including the program for implementing and monitoring the TDM plan.

Figure 1
Project Site Location

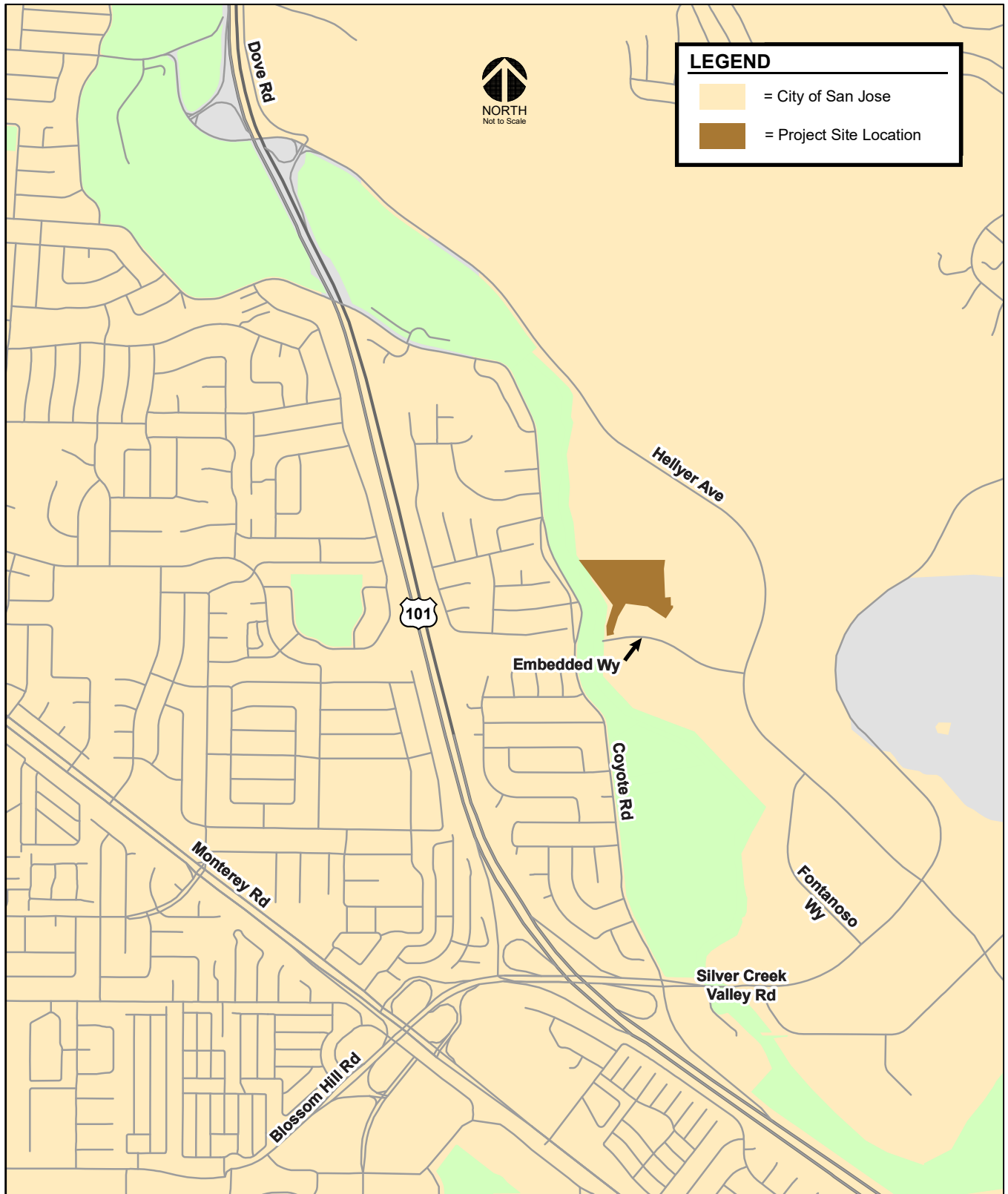
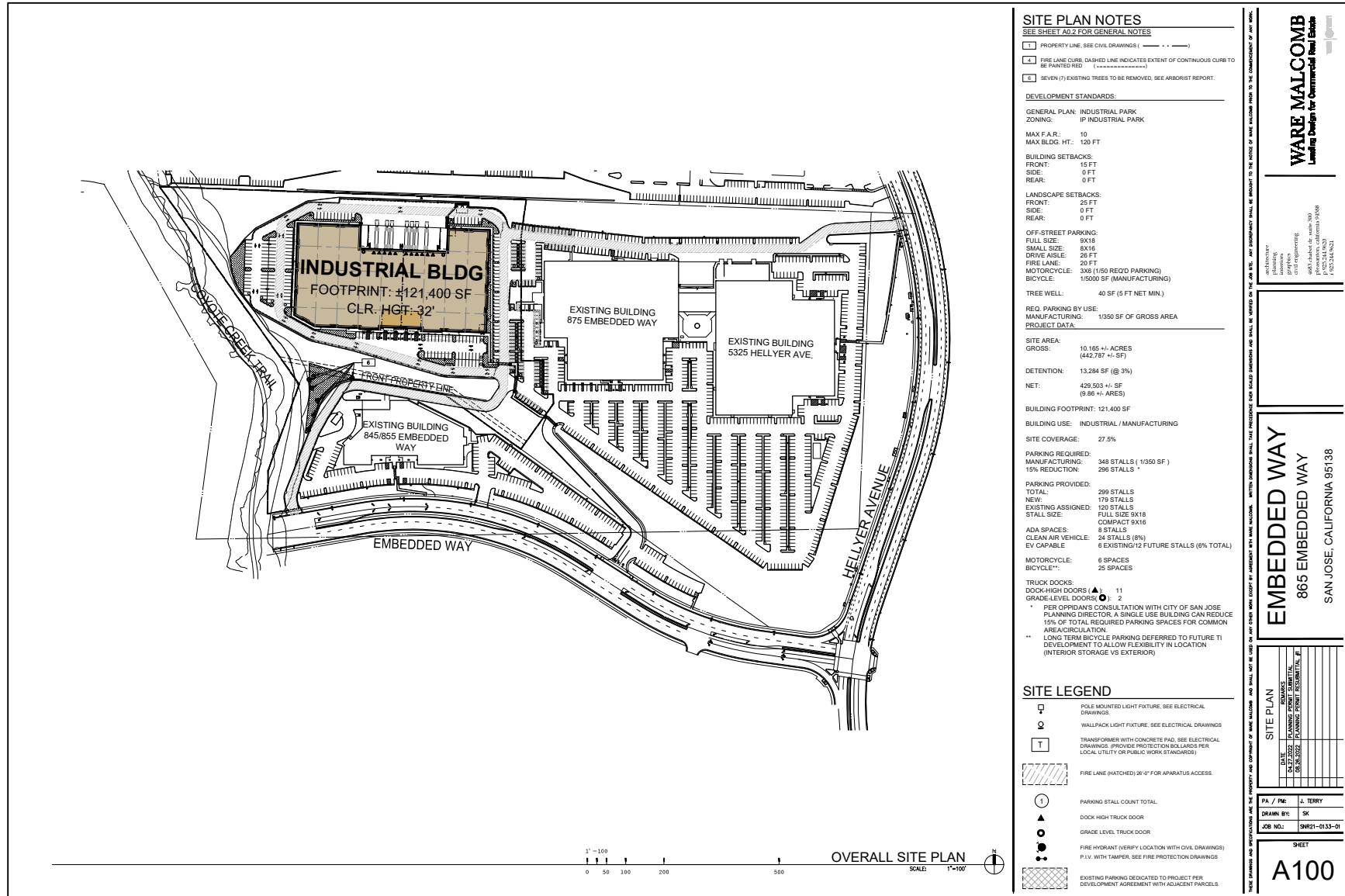


Figure 2
 Project Site Plan



2. Existing Transportation Facilities and Services

Transportation facilities and services that support sustainable modes of transportation include commuter rail, buses and shuttle buses, bicycle facilities, and pedestrian facilities. This chapter describes the existing and future transit services, as well as bicycle and pedestrian facilities, in the vicinity of the project site.

Existing Bicycle and Pedestrian Facilities

All new development projects in San Jose should encourage multi-modal travel, consistent with the goals of the City's General Plan. It is the goal of the General Plan that all development projects accommodate and encourage the use of non-automobile transportation modes to achieve San Jose's mobility goals and reduce vehicle trip generation and vehicle miles traveled. In addition, the adopted City Bike Master Plan establishes goals, policies, and actions to make bicycling a daily part of life in San Jose. The Master Plan includes designated bike lanes along many City streets, including designated bike corridors. In order to further the goals of the City, pedestrian and bicycle facilities should be encouraged with new development projects.

Note that the City's General Plan identifies both walk and bicycle commute mode split targets as 15 percent or more for the year 2040. This level of pedestrian and bicycle mode share is a reasonable goal for the project, particularly if LRT and bus services are utilized in combination with bicycle commuting. The existing bicycle, pedestrian, and transit facilities in the study area are described below.

Existing Pedestrian Facilities

Pedestrian facilities consist of sidewalks and crosswalks in the project vicinity, as well as the Coyote Creek Trail. Crosswalks with pedestrian signal heads and push buttons are located at all the signalized intersections in the study area. In the project vicinity, there are sidewalks along both sides of Hellyer Avenue, Embedded Way, and Fontanoso Way. There are existing crosswalks and accessible ramps at the signalized intersections of Hellyer Avenue/Embedded Way and Hellyer Avenue/Fontanoso Way.

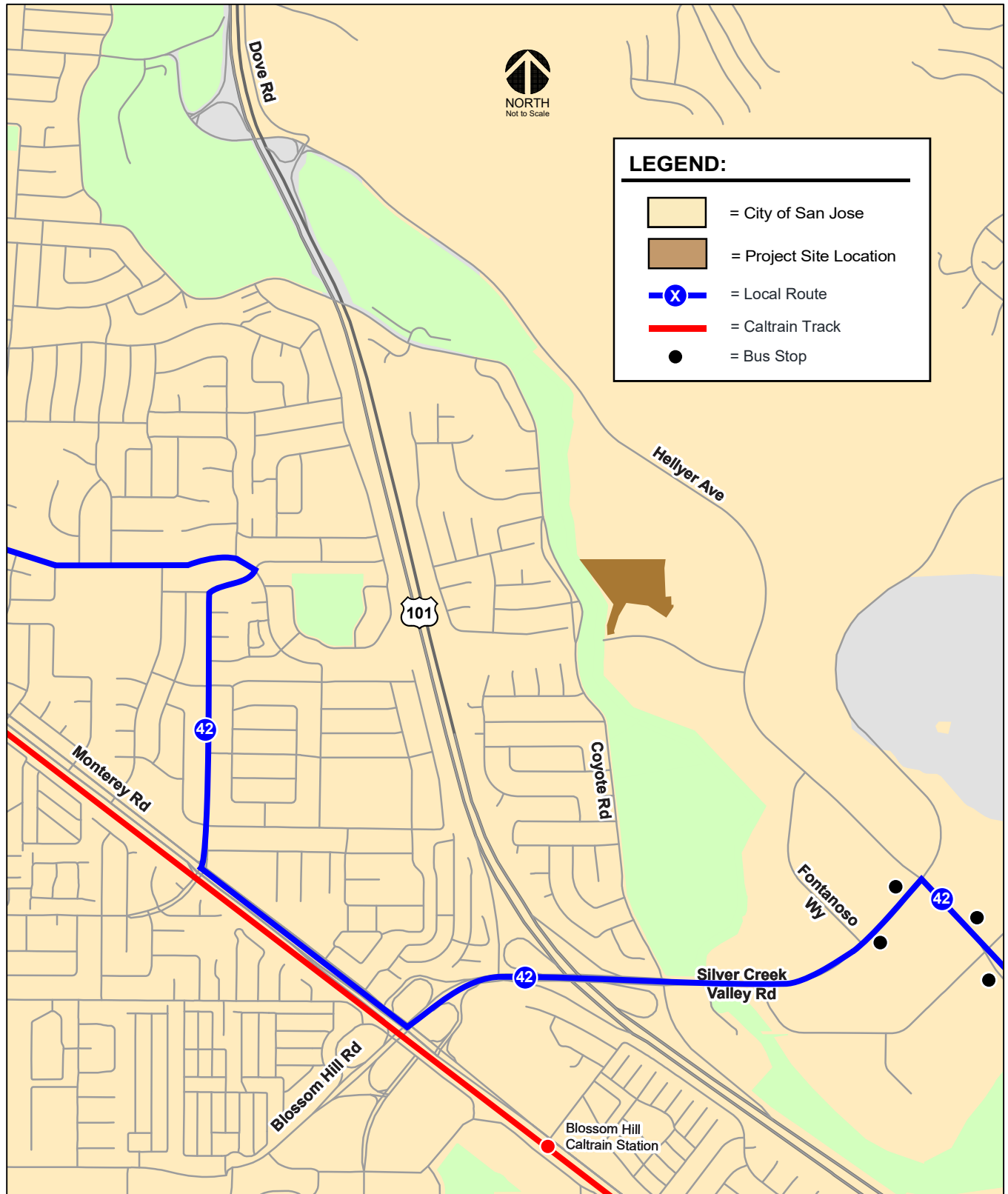
Existing Bicycle Facilities

The existing bicycle facilities in the project vicinity include Class II bike lanes and Class III bike routes (see Figure 3).

Figure 3
Existing Bicycle Facilities



Figure 4
Existing Transit Facilities



Class I Bikeway (Trail or Path). Class I bikeways are off-street trails or paths with exclusive right-of-way for nonmotorized transportation used for commuting as well as recreation. The Coyote Creek Trail is one of the longest trail systems extending from the Bay to the City's southern boundary. The northern portion of the trail system runs from SR 237 to Montague Expressway. A short downtown portion travels through Selma Olinder Park. The southern portion begins at Tully Road and extends southward through county jurisdiction and reaches Morgan Hill. The closest trail access is provided at the west end of Embedded Way, approximately 900 feet from the project site. The trail actually borders the site on the west side, but there's a steep slope between the site and the trail that presently prevents direct access along that border.

Class II Bikeway (Bike Lane). Class II bikeways are striped bike lanes on roadways that are marked by signage and pavement markings. Within the vicinity of the project site, striped bike lanes are present on the following roadway segments:

- Hellyer Avenue, between the US 101 northbound ramps and Silicon Valley Road
- Silver Creek Valley Road, between the US 101 northbound ramps and Yerba Buena Road
- Embedded Way, along its entire length

Existing Transit Service

Existing transit services to the study area are provided by the Santa Clara Valley Transportation Authority (VTA) and Caltrain. The transit stations and VTA bus routes within walking distance of the project site are shown in Figure 4.

VTA Bus Services

The project site is served by VTA Local Bus Route 42. Route 42 travels along Silver Creek Valley Road, Hellyer Avenue, and Silicon Valley Boulevard in the project vicinity and provides service between Evergreen Valley College and Kaiser San Jose. Route 42 runs on 60-minute headways between 6:00 AM and 7:00 PM and provides service to the Blossom Hill Caltrain station. Local Route 42 has stops just west of the intersection of Silver Creek Valley Road and Hellyer Avenue, about 0.9 miles from the project site.

Caltrain Services

Commuter rail service between San Francisco and Gilroy is provided by Caltrain. The Blossom Hill Caltrain Station is located at the Monterey Road/Ford Road intersection, approximately 1.15 miles southwest of the project site. A pedestrian bridge to access the station is provided between Great Oaks Boulevard and Monterey Road. The associated Park-and-Ride lot is located on the southeast corner of the intersection of Monterey Road and Ford Road. The Blossom Hill Caltrain Station is served by two northbound trains in the morning commute period with 30-minute headway and two southbound trains in the evening commute period with 90-minute headway.

3.

VMT Impacts and Mitigation Measures

Per the VMT analysis completed for the project, the mitigation of the project's impacts to VMT will include both physical multi-modal improvements to the transportation system and implementation of TDM measures. Therefore, the project also will be required to complete annual TDM monitoring to ensure that its peak hour trip cap as established by the City is not exceeded. The project's impacts on VMT and required mitigation are discussed below.

Project VMT Impacts and Mitigation Measures

Per Council Policy 5-1, the effects of the proposed project on VMT were evaluated in the Transportation Analysis dated April 3, 2023 using the methodology outlined in the City's *Transportation Analysis Handbook*. The results of the VMT evaluation, using the City's VMT Evaluation Tool, indicate that the project is located within a high-VMT area for industrial employment, and it is projected to generate VMT per industrial employee which would exceed the City's established VMT impact threshold. Therefore, the project would result in an impact on the transportation system based on the City's VMT impact criteria.

Project Impact: The use of the proposed building for warehouse/industrial uses is projected to generate 15.12 VMT per employee, which would exceed the established impact threshold of 14.37 VMT per employee for industrial employment uses. The use of the proposed building for R&D uses is projected to generate 14.95 VMT per employee, which would exceed the established impact threshold of 12.21 VMT per employee for office employment uses. Therefore, the project would result in an impact on the transportation system based on the City's VMT impact criteria with the use of the proposed building as warehouse/industrial and R&D uses, and mitigation measures are required to reduce the VMT impact.

Mitigation Measures: Per the completed Transportation Analysis, the project will be required to implement the following multi-modal facility improvements to reduce the project's VMT impact to less than significant levels for the use of the proposed building as either warehouse/industrial or office uses:

- **Provide Pedestrian Network Improvements for Active Transportation (Tier 2 – Pedestrian Access Improvements):** Implement pedestrian improvements both on-site and in the surrounding area. Improving pedestrian connections encourages people to walk instead of driving and reduces VMT. The project will be required to remove the pork-chop islands on the southwest and northwest corners at the Embedded Way and Hellyer Avenue intersection to improve pedestrian

safety and access. This improvement will require a signal modification at this intersection that will include the relocation of signal poles, heads, and crosswalks. **and**

- **Provide Traffic Calming Measures (Tier 2 – Traffic Calming Measures):** Implement pedestrian/bicycle safety and traffic calming measures both on-site and in the surrounding neighborhood. Providing traffic calming measures promotes walking and biking as an alternative to driving. The project will be required to install raised median islands along Embedded Way consisting of a 120-foot segment at its western terminus and a 190-foot segment near the Embedded Way and Hellyer Avenue intersection.

The implementation of the Tier 2 mitigation measures described above would reduce the VMT generated by the warehouse/industrial uses to 14.52 per employee and 14.36 per office employee which would both still be greater than the established impact thresholds. The project's VMT could be reduced further with the implementation of Travel Demand Management (TDM) measures that may include the following:

- **Commute Trip Reduction Marketing/Education:** Implement marketing/educational campaigns that promote the use of transit, shared rides, and travel through active modes for 25% of the project employees. Strategies may include the incorporation of alternative commute options into new employee orientations, event promotions, and publications.
- **Subsidize Vanpool:** Provide subsidies for individuals forming new vanpools for their commute. This encourages the use of vanpools, reducing drive-alone trips, and thereby reducing VMT. The project would be required to subsidize 100% of the cost of the vanpool cost with at least 25% employee participation.

The implementation of Tier 2 mitigation measures and TDM plan would reduce the projected VMT to 12.34 VMT per employee for warehouse uses and 12.20 VMT per employee for office uses, which would reduce the project impact to less than significant for both uses of the proposed building.

The applicant will need to work with the City to ensure the TDM measures are implemented by the building tenants or identify other TDM measures deemed appropriate for the building uses. Therefore, the ultimate TDM measures may differ from those identified above so long as the measures meet the required VMT reduction of 5.4 percent for warehouse uses and 19.6 percent for R&D uses and are approved by City staff.

4. TDM Implementation and Monitoring

The primary purpose of the TDM plan is to reduce the VMT generated by the project by 5.4 percent for warehouse uses and 19.6 percent for R&D uses. Per Section 20.90.220 of the San Jose Code of Ordinances, monitoring will be necessary to ensure that the TDM measures are effective and continue to be successfully implemented.

Implementation

The project applicant must submit this TDM Plan to the City of San Jose and will be responsible for ensuring that the TDM elements are incorporated into the project. After the development is constructed and occupied, the project applicant needs to identify a TDM coordinator. It is assumed that the property manager for the project would be responsible for implementing the ongoing TDM measures. If the TDM coordinator changes for any reason, the City and tenants should be notified of the name and contact information of the new designated TDM coordinator.

Monitoring and Reporting

The TDM plan will need to be re-evaluated annually for the life of the project. The designated TDM coordinator will consult with City staff to ensure the monitoring and reporting meets the City's expectations. Monitoring will include the following components:

- Annual Vehicle Trip Generation Counts
- Annual Mode Share Survey
- Annual Monitoring Report

Annual Vehicle Trip Generation Counts

Annual trip generation counts must demonstrate the vehicle trips generated by the project are within 10% of an established peak hour trip cap and must be prepared by a traffic engineer. The peak hour trip cap will be based on the project's estimated gross project trips for its potential R&D uses consisting of 118 gross AM peak-hour trips and 111 gross PM peak-hour trips or 20 gross AM peak-hour trips and 21 gross PM peak-hour trips for warehouse/industrial uses. The gross project trips are identified in the project's Transportation Analysis dated April 3, 2023. If the counts show the project trip generation is higher than expected, then the TDM Plan may need to be altered or enhanced. If the project is not in conformance with the peak hour trip cap, the project may add additional TDM measures to lower the project's trip generation and meet the trip cap.

Annual Mode Share Survey

The annual survey would provide qualitative data regarding employee perceptions of the alternative transportation programs and perceptions of the obstacles to using an alternative mode of transportation. The annual survey would also provide quantitative data regarding the number of employees who utilize alternative modes of transportation (e.g., bike-to-work) to commute to work, including the frequency of use. The mode share survey results would measure the relative effectiveness of individual program components and facilitate the design of possible program enhancements.

Annual Monitoring Report

The property manager should submit annual reports to the City of San Jose for three years, and then upon request of the Zoning Administrator for the life of the project with the following information:

- Findings of the trip generation counts and mode share surveys.
- Effectiveness of individual program components from the annual mode share survey.
- A description of the TDM programs and services that were offered to tenants in the preceding year, with an explanation of any changes or new programs offered or planned.

865 Embedded Way Industrial Project

File Numbers: H22-022 and ER22-113

Initial Study/Mitigated Negative Declaration

RESPONSES TO PUBLIC COMMENTS AND ERRATA

July 19, 2024

CEQA Lead Agency:



City of San José

Department of Planning, Building and Code Enforcement
200 E. Santa Clara Street
San José, CA 95113
(408) 535-3555

In Consultation with:



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Appendix A: Comment Letters Received on the IS/MND After Public Circulation

Appendix B: Appeals of the Planning Director’s Decision

Section 1.0 Introduction

The Initial Study/Mitigated Negative Declaration (IS/MND) for the 865 Embedded Way project was prepared in compliance with the requirements of the California Environmental Quality Act (CEQA). The 20-day local public circulation period for the IS/MND started December 21, 2023 and ended January 10, 2024. The Notice of Intent (NOI) for the adoption of the IS/MND was sent via email to applicable public agencies, public members who have requested notices on all CEQA documents, and public members interested in the project. The NOI was also sent to all those who have registered for electronic notifications of Planning document posting and news on the City's website. The NOI and Draft IS/MND was also submitted to the State Clearinghouse (SCH) at the commencement of the comment period.

A total of four comment letters were received during the public circulation period.¹ Responses to comments were provided in a memorandum dated April 19, 2024, which was included in the hearing packet prepared for the May 1, 2024 Planning Director's Hearing, at which the Site Development Permit for the project was considered and approved. Two additional comment letters from the Mitchell M. Tsai Law Firm and Adams Broadwell Joseph & Cardozo were received the day before the hearing (April 30, 2024) and were responded to orally at the hearing. Following the Site Development Permit approval, two appeals of the Planning Director's decision were submitted to the City, with the Adams Broadwell Joseph & Cardozo environmental appeal including an attached comment letter (refer to Appendix B). The following pages contain responses to (1) the two additional comment letters received prior to the Planning Director's Hearing and (2) the two appeals of the Planning Director's decision submitted after Site Development Permit approval. Copies of the comment letters and appeals are attached to this document in Appendix A.

Pursuant to CEQA Guidelines §15073.5, the recirculation of the MND is required when the document must be "substantially revised" after public notice of its availability. A "substantial revision" is defined as:

- (1) A new, avoidable significant effect is identified and mitigation measures or project revisions must be added in order to reduce the effect to insignificance; or
- (2) The lead agency determines that the proposed mitigation measures or project revisions will not reduce potential effects to less than significance and new measures or revisions must be required.

CEQA does not require formal responses to comments on an IS/MND and the decision-making body shall adopt the proposed ND only if it finds on the basis of the whole record before it, that there is no substantial evidence that the project will have a significant effect on the environment and the MND reflects the lead agency's independent judgment and analysis [CEQA Guidelines §15074(b)].

¹ Comments received during the public comment period were from Santa Clara Valley Transportation Authority (dated January 10, 2024), Muwekma Ohlone Indian Tribe (dated January 4, 2024), Pacific Gas and Electric Company (dated January 5, 2024), and Mitchell M. Tsai Law Firm (dated January 10, 2024).

Section 2.0 Responses to Late Comments and Subsequent Appeals

Comments are organized under headings containing the source of the letter and its date. The specific comments from each of the letters and/or emails are presented, with each response to that specific comment directly following. Copies of the letters and emails received by the City of San José are included in their entirety in Appendix A of this document. Comments received on the Draft IS/MND and in the appeals are listed below.

<u>Comment Letter and Commenter</u>	<u>Page of Response</u>
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A. Mitchell M. Tsai Law Firm (dated April 30, 2024)	3
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D. Adams Broadwell Joseph & Cardozo (dated May 6, 2024)	62

Comments on the IS/MND Received After Public Circulation

A. Mitchell M. Tsai Law Firm (dated April 30, 2024)

Comment A.1: On behalf of Carpenters Local Union 405 (“Local 405”) this office is submitting these further comments regarding the Initial Study/Mitigated Negative Declaration (“IS/MND”) for the City of San Jose’s (“City”) 865 Embedded Way Industrial Project (“Project”), and the City’s written responses to prior written comments submitted on the Project.

The Project proposes a Site Development Permit (File No. H22-022) to allow the construction of a one-story, 121,400-square-foot industrial/manufacturing warehouse on a vacant 10.17-acre project site located at 865 Embedded Way in San Jose, California 95138 (APN 679-01-020) (“Site”). The Project also includes a connection to an existing 26-foot-wide drive aisle that extends from the eastern Embedded Way driveway through the adjacent eastern industrial property at 875 Embedded Way and currently terminates at the southeastern boundary of the Site. A total of 300 parking spaces would be provided in a surface parking lot surrounding the proposed building. The Project requires the removal of 11 trees on-site, two of which are ordinance-size.

Local 405 represents thousands of union carpenters in San Jose and has a strong interest in well-ordered land use planning and in addressing the environmental impacts of development projects. Individual members of Local 405 live, work, and recreate in the City and surrounding communities and would be directly affected by the Project’s environmental impacts.

Local 405 expressly reserves the right to supplement these comments at or prior to hearings on the Project, and at any later hearing or proceeding related to the Project. Gov. Code, § 65009, subd. (b); Pub. Res. Code, § 21177, subd. (a); see *Bakersfield Citizens for Local Control v. Bakersfield* (2004) 124 Cal.App.4th 1184, 1199-1203; see also *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal.App.4th 1109, 1121.

Local 405 incorporates by reference all comments related to the Project or its California Environmental Quality Act (“CEQA”) review, including the IS/MND. See *Citizens for Clean Energy v. City of Woodland* (2014) 225 Cal.App.4th 173, 191 (finding that any party who has objected to the project’s environmental documentation may assert any issue timely raised by other parties).

Moreover, Local 405 requests that the City provide notice for any and all notices referring or related to the Project issued under CEQA (Pub. Res. Code, § 21000 et seq.) and the California Planning and Zoning Law (“Planning and Zoning Law”) (Gov. Code, §§ 65000-65010). California Public Resources Code sections 21092.2 and 21167(f) and California Government Code section 65092 require agencies to mail such notices to any person who has filed a written request for them with the clerk of the agency’s governing body.

Response A.1: The issues raised in this comment were addressed in Response D.1 in the April 2024 Responses to Comments, which is reproduced in its entirety below

This comment does not provide any new information or substantial evidence supporting a fair argument that the project would result in significant impacts requiring preparation of an EIR. No further response or additional CEQA analysis is necessary.

Response D.1: This comment is an introductory paragraph. The commenter requests that any and all notices be provided and does not raise any CEQA issues nor address the adequacy of the IS/MND; therefore, no further response or additional CEQA analysis is required. The City will provide the requested notices as they are issued.

Comment A.2: I. The City Should Require The Use Of A Local Workforce To Benefit The Community's Economic Development And Environment.

Local 405 reiterates that the City should require that the Project be built by contractors who participate in a Joint Labor-Management Apprenticeship Program approved by the State of California and make a commitment to hiring a local workforce.

Community benefits such as local hire can also be helpful to reduce environmental impacts and improve the positive economic impact of the Project. Local hire provisions requiring that a certain percentage of workers reside within 10 miles or less of the Site can reduce the length of vendor trips, reduce greenhouse gas ("GHG") emissions, and provide localized economic benefits.

Workforce requirements promote the development of skilled trades that yield sustainable economic development. Furthermore, workforce policies have significant environmental benefits given that they improve an area's jobs-housing balance, decreasing the amount and length of job commutes and the associated greenhouse gas (GHG) emissions. In fact, on May 7, 2021, the South Coast Air Quality Management District found that that the "[u]se of a local state-certified apprenticeship program" can result in air pollutant reductions.²

Locating jobs closer to residential areas can have significant environmental benefits. Moreover, local hire mandates and skill-training are critical facets of a strategy to reduce vehicle miles traveled ("VMT"). As planning experts Robert Cervero and Michael Duncan have noted, simply placing jobs near housing stock is insufficient to achieve VMT reductions given that the skill requirements of available local jobs must match those held by local residents.³ Some municipalities have even tied local hire and other workforce policies to local development permits to address transportation issues.

² South Coast Air Quality Management District (May 7, 2021) Certify Final Environmental Assessment and Adopt Proposed Rule 2305 – Warehouse Indirect Source Rule – Warehouse Actions and Investments to Reduce Emissions Program, and Proposed Rule 316 – Fees for Rule 2305, Submit Rule 2305 for Inclusion Into the SIP, and Approve Supporting Budget Actions, available at <http://www.aqmd.gov/docs/default-source/Agendas/Governing-Board/2021/2021-May7-027.pdf?sfvrsn=10>.

³ Cervero, Robert and Duncan, Michael (2006) Which Reduces Vehicle Travel More: Jobs- Housing Balance or Retail-Housing Mixing? Journal of the American Planning Association 72 (4), 475-490, 482, available at <http://reconnectingamerica.org/assets/Uploads/UTCT- 825.pdf>.

Recently, the State of California verified its commitment towards workforce development through the Affordable Housing and High Road Jobs Act of 2022, otherwise known as Assembly Bill No. 2011 (“AB2011”). AB2011 amended the Planning and Zoning Law to allow ministerial, by-right approval for projects being built alongside commercial corridors that meet affordability and labor requirements.

The City should consider utilizing local workforce policies and requirements to benefit the local area economically and to mitigate GHG emissions, improve air quality, and reduce transportation impacts.

Response A.2: The issues raised in this comment were addressed in Response D.2 in the April 2024 Responses to Comments, which is reproduced in its entirety below. This comment does not provide any new information or substantial evidence supporting a fair argument that the project would result in significant impacts requiring preparation of an EIR. No further response or additional CEQA analysis is necessary.

Response D.2: This comment recommends the use of local workforce for construction of the project. The City does not require nor has any programs that require projects to be constructed utilizing only local workforce. The decision to hire contractors will be made by the applicant. There is no requirement under CEQA to attempt to identify the location of the workforce that would construct a project. The IS/MND’s evaluation of the project’s construction activity has been based on modeling and methodologies developed by and recommended by regional and state agencies. The IS/MND has accurately forecasted project impacts based on available information, has identified mitigation for any impacts forecasted to be significant, and does not speculate about where future construction workers might reside. The decision to hire particular contractors is the project applicant’s discretion, and not within the Lead Agency’s. The comment is included in the record and will be considered by the decisions makers prior to taking action on the project. This comment does not address the adequacy of the IS/MND. No further response or additional CEQA analysis is required.

Comment A.3: II. The Project Would Be Approved In Violation Of The California Environmental Quality Act.

A. Background Concerning the California Environmental Quality Act.

The California Environmental Quality Act is a California statute designed to inform decision-makers and the public about the potential significant environmental effects of a project. 14 California Code of Regulations (“CEQA Guidelines”), § 15002, subd. (a)(1).⁴ At its core, its purpose is to “inform the

⁴ The CEQA Guidelines, codified in Title 14 of the California Code of Regulations, section 15000 et seq., are regulatory guidelines promulgated by the state Natural Resources Agency for the implementation of CEQA. Cal.

public and its responsible officials of the environmental consequences of their decisions before they are made.” *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564.

1. Background Concerning Environmental Impact Reports.

CEQA directs public agencies to avoid or reduce environmental damage, when possible, by requiring alternatives or mitigation measures. CEQA Guidelines, § 15002, subds. (a)(2)-(3); see also *Berkeley Keep Jets Over the Bay Committee v. Board of Port Comes* (2001) 91 Cal.App.4th 1344, 1354; *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553; *Laurel Heights Improvement Assn.*, 47 Cal.3d at p. 400. The EIR serves to provide public agencies and the public in general with information about the effect that a proposed project is likely to have on the environment and to “identify ways that environmental damage can be avoided or significantly reduced.” CEQA Guidelines, § 15002, subd. (a)(2). If the project has a significant effect on the environment, the agency may approve the project only upon finding that it has “eliminated or substantially lessened all significant effects on the environment where feasible” and that any unavoidable significant effects on the environment are “acceptable due to overriding concerns” specified in Public Resources Code section 21081. See CEQA Guidelines, § 15092, subds. (b)(2)(A)-(B).

While the 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. *Berkeley Jets*, 91 Cal.App.4th at p. 1355 (quoting *Laurel Heights Improvement Assn.*, 47 Cal.3d at pp. 391, 409 fn. 12) (internal quotations omitted). A clearly inadequate or unsupported study is entitled to no judicial deference. *Id.* Drawing this line and determining whether the EIR complies with CEQA’s information disclosure requirements presents a question of law subject to independent review by the courts. *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 515; *Madera Oversight Coalition, Inc. v. County of Madera* (2011) 199 Cal.App.4th 48, 102, 131. As the court stated in *Berkeley Jets*, 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. 91 Cal.App.4th at p. 1355 (internal quotations omitted).

The preparation and circulation of an EIR is more than a set of technical hurdles for agencies and developers to overcome. *Communities for a Better Environment v. Richmond* (2010) 184 Cal.App.4th 70, 80 (quoting *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 449-450). The EIR’s function is to ensure that government officials who decide to build or approve a project do so with a full understanding of the environmental consequences and, equally important, that the public is assured those consequences have been considered. *Id.* For the EIR to serve these goals it must present information so that the foreseeable impacts of pursuing the project can be understood and weighed, and the public must

Pub. Res. Code, § 21083. The CEQA Guidelines are given “great weight in interpreting CEQA except when . . . clearly unauthorized or erroneous.” *Center for Biological Diversity v. Dept. of Fish & Wildlife* (2015) 62 Cal.4th 204, 217.

be given an adequate opportunity to comment on that presentation before the decision to go forward is made. *Id.*

A strong presumption in favor of requiring preparation of an EIR is built into CEQA. This presumption is reflected in what is known as the “fair argument” standard under which an EIR must be prepared whenever substantial evidence in the record supports a fair argument that a project may have a significant effect on the environment. *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1602; *Friends of “B” St. v. City of Hayward* (1980) 106 Cal.3d 988, 1002.

The fair argument test stems from the statutory mandate that an EIR be prepared for any project that “may have a significant effect on the environment.” PRC, § 21151; see *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.App.3d 68, 75; accord *Jensen v. City of Santa Rosa* (2018) 23 Cal.App.5th 877, 884. Under this test, if a proposed project is not exempt and may cause a significant effect on the environment, the lead agency must prepare an EIR. PRC, §§ 21100 (a), 21151; CEQA Guidelines, § 15064 (a)(1), (f)(1). An EIR may be dispensed with only if the lead agency finds no substantial evidence in the initial study or elsewhere in the record that the project may have a significant effect on the environment. *Parker Shattuck Neighbors v. Berkeley City Council* (2013) 222 Cal.App.4th 768, 785. In such a situation, the agency must adopt a negative declaration. PRC, § 21080, subd. (c)(1); CEQA Guidelines, §§ 15063 (b)(2), 15064(f)(3).

“Significant effect upon the environment” is defined as “a substantial or potentially substantial adverse change in the environment.” PRC, § 21068; CEQA Guidelines, § 15382. A project may have a significant effect on the environment if there is a reasonable probability that it will result in a significant impact. *No Oil, Inc.*, 13 Cal.3d at p. 83 fn. 16; see *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 309. If any aspect of the project may result in a significant impact on the environment, an EIR must be prepared even if the overall effect of the project is beneficial. CEQA Guidelines, § 15063(b)(1); see *County Sanitation Dist. No. 2 v. County of Kern* (2005) 127 Cal.App.4th 1544, 1580.

This standard sets a “low threshold” for preparation of an EIR. *Consolidated Irrigation Dist. v. City of Selma* (2012) 204 Cal.App.4th 187, 207; *Nelson v. County of Kern* (2010) 190 Cal.App.4th 252; *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 928; *Bowman v. City of Berkeley* (2004) 122 Cal.App.4th 572, 580; *Citizen Action to Serve All Students v. Thornley* (1990) 222 Cal.App.3d 748, 754; *Sundstrom*, 202 Cal.App.3d at p.310. If substantial evidence in the record supports a fair argument that the project may have a significant environmental effect, the lead agency must prepare an EIR even if other substantial evidence before it indicates the project will have no significant effect. See *Jensen*, 23 Cal.App.5th at p. 886; *Clews Land & Livestock v. City of San Diego* (2017) 19 Cal.App.5th 161, 183; *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150; *Brentwood Assn. for No Drilling, Inc. v. City of Los Angeles* (1982) 134 Cal.App.3d 491; *Friends of “B” St.*, 106 Cal.App.3d 988; CEQA Guidelines, § 15064(f)(1).

Response A.3: The issues raised in this comment were addressed in Response D.3 in the April 2024 Responses to Comments, which is reproduced in its entirety below.

This comment does not provide any new information or substantial evidence supporting a fair argument that the project would result in significant impacts requiring preparation of an EIR. No further response or additional CEQA analysis is necessary.

Response D.3: This comment provides background on CEQA and defines the function of an environmental impact report along with the fair argument standard. This comment is included in the record. This comment does not make any specific comment about the subject project and the IS/MND's evaluation of the project, nor address the adequacy of the IS/MND. No further response or additional CEQA analysis is required.

Comment A.4: 2.Background Concerning Initial Studies, Negative Declarations and Mitigated Negative Declarations.

CEQA and CEQA Guidelines are strict and unambiguous about when an MND may be used. A public agency must prepare an EIR whenever substantial evidence supports a "fair argument" that a proposed project "may have a significant effect on the environment." Pub. Res. Code, §§ 21100, 21151; CEQA Guidelines, §§ 15002, subds. (f)(1)-(2), 15063; No Oil, Inc., 13 Cal.3d at p. 75; *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 111-112.

Essentially, should a lead agency be presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect. CEQA Guidelines, §§ 15064, subds. (f)(1)-(2); see *No Oil Inc.*, supra, 13 Cal.3d at p. 75 (internal citations and quotations omitted). Substantial evidence includes "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." CEQA Guidelines, § 15384(a).

The fair argument standard is a "low threshold" test for requiring the preparation of an EIR. *No Oil Inc.*, supra, 13 Cal.3d at p. 84; *County Sanitation Dist. No. 2 of Los Angeles County v. County of Kern* (2005) 127 Cal.App.4th 1544, 1579. It "requires the preparation of an EIR where there is substantial evidence that any aspect of the project, either individually or cumulatively, may cause a significant effect on the environment, regardless of whether the overall effect of the project is adverse or beneficial[.]" *County Sanitation*, supra, 127 Cal.App.4th at p. 1580 (quoting CEQA Guidelines, § 15063(b)(1)). A lead agency may adopt an MND only if "there is no substantial evidence that the project will have a significant effect on the environment." CEQA Guidelines, § 15074(b).

Evidence supporting a fair argument of a significant environmental impact triggers preparation of an EIR regardless of whether the record contains contrary evidence. *League for Protection of Oakland's Architectural and Historical Resources v. City of Oakland* (1997) 52 Cal.App.4th 896, 904-905. "Where the question is the sufficiency of the evidence to support a fair argument, deference

to the agency's determination is not appropriate[.]” *County Sanitation*, 127 Cal.App.4th at 1579 (quoting *Sierra Club v. County of Sonoma* (1992) 6 Cal.App.4th 1307, 1317-1318).

Further, it is the duty of the lead agency, not the public, to conduct the proper environmental studies. “The agency should not be allowed to hide behind its own failure to gather relevant data.” *Sundstrom*, 202 Cal.App.3d at p. 311. “Deficiencies in the record may actually enlarge the scope of fair argument by lending a logical plausibility to a wider range of inferences.” *Id*; see also *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1382 (lack of study enlarges the scope of the fair argument which may be made based on the limited facts in the record).

Thus, refusal to complete recommended studies lowers the already low threshold to establish a fair argument. The court may not exercise its independent judgment on the omitted material by determining whether the ultimate decision of the lead agency would have been affected had the law been followed. *Environmental Protection Information Center v. Cal. Dept. of Forestry* (2008) 44 Cal.4th 459, 486 (internal citations and quotations omitted). The remedy for this deficiency would be for the trial court to issue a writ of mandate. *Id*.

Both the review for failure to follow CEQA's procedures and the fair argument test are questions of law, thus, the de novo standard of review applies. *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 435. “Whether the agency's record contains substantial evidence that would support a fair argument that the project may have a significant effect on the environment is treated as a question of law. *Consolidated Irrigation Dist.*, 204 Cal.App.4th at p. 207; *Kostka and Zischke, Practice Under the Environmental Quality Act* (2017, 2d ed.) at § 6.76.

In an MND context, courts give no deference to the agency. Additionally, the agency or the court should not weigh expert testimony or decide on the credibility of such evidence—this is one of the EIR's functions. As stated in *Pocket Protectors v. City of Sacramento* (2004):

Unlike the situation where an EIR has been prepared, neither the lead agency nor a court may “weigh” conflicting substantial evidence to determine whether an EIR must be prepared in the first instance. Guidelines section 15064, subdivision (f)(1) provides in pertinent part: if a lead agency is presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect. Thus, as Claremont itself recognized, [c]onsideration is not to be given contrary evidence supporting the preparation of a negative declaration.

124 Cal.App.4th 903, 935 (internal citations and quotations omitted).

In cases where it is not clear whether there is substantial evidence of significant environmental impacts, CEQA requires erring on the side of a “preference for resolving doubts in favor of environmental review.” *Mejia v. City of Los Angeles* (2005) 130 Cal.App.4th 322, 332. “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. *Friends of Mammoth v. Board of Supervisors* (1972) 8 Cal.3d 247, 259.

Response A.4: . The issues raised in this comment were addressed in Response D.4 in the April 2024 Responses to Comments, which is reproduced in its entirety below. This comment does not provide any new information or substantial evidence supporting a fair argument that the project would result in significant impacts requiring preparation of an EIR. No further response or additional CEQA analysis is necessary.

Response D.4: This comment provides background on Initial Studies, Negative Declarations and Mitigated Negative Declarations, and the requirement of lead agencies to prepare an EIR whenever the record includes substantial evidence in support of a fair argument that the project, after considering feasible mitigation measures, would have a significant effect. This comment is included in the record. This comment does not make any specific comment about the subject project and the IS/MND's evaluation of the project, nor address the adequacy of the IS/MND. No further response or additional CEQA analysis is required.

Comment A.5: As explained below, the IS/MND fails to make certain essential findings. Further, for a number of findings that the IS/MND does make, it fails to support such findings with sufficient analysis and substantial evidence, or it fails to incorporate adequate mitigation measures. Therefore, there is a fair argument that the Project will have a significant effect on the environment, triggering the "low threshold" standard for preparation of an EIR.

Response A.5: As explained in the responses below, this comment letter does not raise any new issues compared to the comment letters received during the public comment period. Similar comments were raised in the comment letter received from the Mitchell M. Tsai Law Firm during the public comment period (dated January 10, 2024). Refer to Responses D.1 through D.38 in the April 2024 Responses to Comments, which addressed similar comments. No further response or additional CEQA analysis is required.

Comment A.6: B. The City's Responses to Comments Misconstrue and Misapply the Substantial Evidence Standard.

In its April 2024 Responses to Comments (the "Responses"), the City repeatedly asserts that the comments provided by Local 405 (and other commenting parties) "[do] not provide substantial evidence of [their] own supporting a fair argument that the identified mitigation measures are inadequate to reduce project impacts to a less than significant level." This boilerplate dismissal of Local 405's comments ignores the proper substantial evidence standard that applies to a commenting party challenging the adequacy of environmental review under CEQA. Indeed, a commenting party need not provide "its own" substantial evidence to support a fair argument that a project will have a significant impact. Rather, that evidence can be contained in any of the

documents associated with and prepared for a project (including CEQA environmental documents), as is the case here.

Again, a strong presumption in favor of requiring preparation of an EIR is built into CEQA. This presumption is reflected in what is known as the “fair argument” standard, under which an agency must prepare an EIR whenever substantial evidence in the record supports a fair argument that a project may have a significant effect on the environment. *Quail Botanical Gardens Found., Inc. v City of Encinitas* (1994) 29 CA4th 1597, 1602; *Friends of “B” St. v City of Hayward* (1980) 106 CA3d 988, 1002. Here, Local 405 has commented regarding the MND and the data and information set forth therein, and has raised arguments regarding the Project’s perceived significant environmental impacts based on that information and documentation. The City is not at liberty to summarily dispose of those comments simply because its analysis has led it to differing conclusions regarding the Project’s impacts. The MND constitutes a significant component of the “evidence in the record,” and to the extent that other fair arguments regarding the Project’s environmental impacts can be drawn from the information presented therein, Local 405 (and other commenting parties) are not required to supply any additional evidence in support of those fair arguments. More importantly, the City, as the lead agency for the Project, cannot simply dismiss other fair arguments regarding environmental impacts that arise from the evidence in the record, and it is the City’s obligation to instead carefully weigh and consider any other such arguments before making a determination as to whether further environmental review is warranted.

Response A.6: The Response to Comments Memorandum prepared for the 865 Embedded Way Industrial project IS/MND (dated April 19, 2024) reviewed and responded to every comment contained in the letter dated January 10, 2024 written by the Mitchell M. Tsai Law Firm on behalf of the Local Union 405. As described in detail throughout the Responses to Comments Memorandum, the comments in the letter did not provide substantial evidence supporting a fair argument that the project would result in significant impacts, and thus, preparation of an EIR would not be warranted (refer to Responses D.1 through D.38).

Per CEQA Guidelines Section 21080(d), an EIR shall be prepared if there is substantial evidence, in light of the whole record before the lead agency, that the project may have a significant impact on the environment. The commentor is not required to provide their own substantial evidence but the commentor must make a fair argument that substantial evidence in the administrative record proves that a significant impact on the environment would occur because of the project.

The comments included in the Mitchell M. Tsai Law Firm letter dated January 10, 2024 failed to provide new substantial evidence, or demonstrate that substantial evidence already existed in the administrative record, supporting a fair argument that the project would have a significant impact on the environment. The comments in the letter purporting to provide substantial evidence either incorrectly characterized the analysis in the IS/MND, or the evidence provided was based on speculation or unsubstantiated opinion, which does not constitute substantial

evidence pursuant to CEQA Guidelines Section 15384. The City's responses to comments, on the other hand, were based on substantial evidence in the administrative record.

The commentor incorrectly asserts that the City, as the lead agency, did not fulfill its obligation to determine if there is substantial evidence in light of the whole record that would require the City to prepare an EIR. The City reviewed the comments and compared them against evidence in the record (which includes the IS/MND prepared for the project), ultimately determining that the comment letter did not provide substantial evidence supporting a fair argument that the project would result in significant unavoidable impacts.

Comment A.7: C. There Is a Fair Argument that the Project May Have a Significant Traffic Impact.

To dispose of the need to prepare an EIR, the IS/MND relies on mitigation measure MM TRAN-1.1 to support its contention that the Project would have a less than significant impact with mitigation incorporated as it pertains to CEQA Guidelines Section 15064.3 and its required VMT evaluation of a project's transportation impacts. IS/MND, p. 161. Yet, mitigation measure MM TRAN-1.1 is inadequate for an EIR, given that it is unenforceable, illusory, and infeasible. It also improperly delegates the City's affirmative duty to ensure the reduction of traffic impacts onto the Project's Applicant and further improperly delegates the approval of any traffic mitigation plans to the City's Public Works department, rather than the elected decision-makers. MM TRAN-1.1 also improperly defers mitigation.

CEQA's standard under Public Resources Code section 21064.5 requires an IS/MND to show that:

(1) [R]evisions in the project plans or proposals made by, or agreed to by, the applicant before the proposed negative declaration and initial study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur, and (2) there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment.

In addition to its prior comments on this issue, Local 405 reiterates that the proposed mitigation measures are illusory given they only require that the Project Applicant submit plans at some future point which the City may then review. These measures further place the burden on the Applicant to "ensure" that the proposed changes result in a reduction of VMT. Simply put, there is no definitive and measurable commitment to mitigation at all. Even under the EIR-related CEQA Guidelines section 15126.4(a)(1)(B), this is improper since, inter alia, the City does not commit to mitigation but rather relies on the Applicant to mitigate. As a result, the public is being denied the opportunity to assess the City's analysis behind the claimed adequacy of the proposed mitigation measures, as the specific plans for implementing the mitigation measures have not yet been prepared. The City's April 2024 Responses to Public Comments fail to cure these material defects.

Response A.7: As stated in Responses D.7 through D.17, from the April 2024 Responses to Comments (which are reproduced in their entirety below), MM TRAN-1.1 and MM TRAN-1.2 are feasible and enforceable mitigation measures that, based on substantial evidence, have been determined to reduce the project's VMT impacts to a less than significant level. The commentor incorrectly characterizes the transportation mitigation measures as illusory when each mitigation measure includes specific timing, compliance requirements, and City oversight to ensure implementation is completed. In MM TRAN-1.1, the physical improvements (removal of pork-chop islands and installation of raised median islands) shall be implemented prior to issuance of a Certificate of Occupancy (refer to page 161 of the IS/MND for MM TRAN-1.1). The Transportation Demand Management (TDM) Plan shall be submitted prior to issuance of a Planning Site Development Permit and the TDM measures must be implemented for the life of the project with annual trip monitoring reports to ensure trip reduction targets are met. Based on the above summary of MM TRAN-1.1 and MM TRAN-1.2, it is clear that there is a definitive time the project applicant must complete said mitigation measures (e.g., permit issuance) and what responsibility the City has to ensure the project implements the mitigation measures (e.g., issuing permit and review of deliverables). Furthermore, the Director of Planning, Building, and Code Enforcement has adopted a Mitigation Monitoring and Reporting Program (MMRP, adopted May 1, 2024) for this project pursuant with CEQA Guidelines Section 15097, which will require the project applicant to carry out mitigation actions with City oversight, ensuring that mitigation is implemented in accordance with the IS/MND, and should the City Council reject the appeals and approve the Site Development Permit, the City Council would adopt the MMRP.

Overall, the comment does not provide substantial evidence supporting a fair argument that the identified mitigation measures are inadequate to reduce project impacts to a less than significant level. Therefore, no further response or additional CEQA analysis is required.

Response D.7: The comment summarizes the project's VMT impact and associated mitigation measures identified in the IS/MND. As noted in the comment, the IS/MND includes a typo stating that with implementation of MM TRAN-1.1 the VMT per office employee would be reduced to 114.36. The correct value is 14.36 VMT per office employee. This typo has been corrected through a revision to the text of the IS/MND (refer to Section 3.0 Revisions to the Text of the Initial Study, below). With implementation of both MM TRAN-1.1 and MM TRAN-1.2 the VMT would be reduced to 12.34 VMT per employee for warehouse uses and 12.20 VMT per employee of office uses as stated on page 49 of the Transportation Analysis (refer to Appendix H of the IS/MND). The VMT per employee for warehouse uses has been corrected through a revision to the IS/MND as shown in Section 3.0 Revisions to the Text of the Initial Study. The typo and related text revision have no effect on the analysis or conclusions in the IS/MND.

Additionally, the comment asserts that MM TRAN-1.1 is unenforceable, illusory, and infeasible, which is not true. MM TRAN-1.1 requires multi-modal physical improvements such as removing pork-chop islands and installing raised medians, which are feasible and real, and the construction of which is enforceable by the City. As stated in MM TRAN-1.1, a Public Improvement Plan demonstrating how the multi-modal improvements will be implemented and the schedules for completing the improvements shall be reviewed and approved by the Director of Public Works or the Director's designee, and the project applicant will be required to construct the multi-modal improvements prior to issuance of a certificate of occupancy from the City. Thus, there is a permitting mechanism in place that the City will use to enforce implementation of MM TRAN-1.1; otherwise, the project applicant would not receive a certificate of occupancy. Further, because the mitigation would be implemented prior to project operation, it would not constitute improper deferral of mitigation, as asserted in the comment.

Additionally, the comment incorrectly states that the City is delegating the reduction of traffic impacts onto the project applicant. The City has identified specific physical improvements that would reduce VMT. While the applicant is responsible for implementing the physical improvements, the City is responsible for enforcing proper implementation of the mitigation measure. The measure includes a mechanism for the City to review and approve the design of proposed improvements through the Public Improvement Plan, and also includes a mechanism to ensure the improvements were properly implemented since the certificate of occupancy would not be issued until the City has deemed the mitigation complete.

The comment also incorrectly states that the City is improperly delegating the approval of any traffic mitigation plans to the City's Department of Public Works. The City's Department of Public Works would be the correct department to review the Public Improvement Plan as they are the City's experts on public improvements and infrastructure. The actual approval of the project and adoption of the MND, which includes the identified mitigation measures would be the subject of a public hearing before the Director of Planning, as specified by Title 20 of the City's Municipal Code.

Overall, the comment does not provide substantial evidence (i.e., facts or expert opinion based on facts) supporting a fair argument that the identified mitigation measures are inadequate to reduce project impacts to a less than significant level. No further response or additional CEQA analysis is required.

Response D.8: This comment asserts that the City is relying on the project applicant to implement mitigation instead of implementing the mitigation itself. While the project applicant will be required to construct the multi-modal improvements and implement the required TDM Plan identified in MM TRAN-1.1 and MM TRAN-1.2 ,

the City will ensure that the project's impact on VMT is satisfactorily mitigated. The City is requiring the applicant to construct multi-modal improvements prior to the issuance of the final occupancy permit and requiring an approved TDM Plan capable of reducing project trips to the extent identified in the MM TRAN-1.2 prior to the issuance of the Planning Site Development Permit, as described on page 161 of the IS/MND. A completed TDM Plan for the project is included as Appendix B.

Additionally, the applicant will be required to submit annual reports to the Department of Public Works documenting compliance with the TDM Plan, including monitoring trips associated with the project to ensure they are below an established trip cap. The mitigation measures include clear performance standards and enforcement mechanisms, ensuring that VMT impacts are reduced to a less than significant level. There is no deferral of additional study or development of additional measures to the future nor is there a lack of specificity as to what standard of performance the project must achieve to ensure its impacts are adequately reduced. Additionally, the City is fully capable of confirming that the measures are implemented at the applicable time and are achieving the required effect. The comment does not provide substantial evidence (i.e., facts or expert opinion based on facts) supporting a fair argument that the identified mitigation measures are inadequate to reduce project impacts to a less than significant level. Please also refer to Response D.6 above. This comment does not raise any new CEQA issues or address the adequacy of the IS/MND. No further response or additional CEQA analysis is required.

Response D.9: This comment states that MM TRAN-1.1. and MM TRAN-1.2 are illusory because of their timing and because they do not require discretionary approval. The specific off-site improvements and required contents and performance standards of the TDM Plan are clearly identified in the IS/MND, which will be subject to a discretionary action at a public hearing as part of the Planning Permit hearing process. CEQA does not require that a public hearing be held to adopt an IS/MND, let alone that a public hearing be held to approve a mitigation measure required in the IS/MND (refer to CEQA Guidelines Section 15202). Instead, the CEQA Guidelines state that if the discretionary action to be taken by the lead agency involves a public hearing, then the CEQA determination to be made for the project should also be part of the public hearing for the project. This is the case for this project, where both the CEQA determination and Planning Permit will be the subject of a public hearing before the Director of Planning, as specified by Title 20 of the City's Municipal Code. As described in Response D.8, the City will ensure that the project's impact on VMT is satisfactorily mitigated by requiring construction of multi-modal improvements prior to the issuance of the final occupancy permit and requiring an approved TDM Plan prior to the issuance of the Planning Site Development Permit. The timing and the manner of the implementation of these mitigation measures have been disclosed to the public, and the public is welcome to provide input on those details at or prior to the public hearing. As discussed above in

prior responses, the mitigation measures include clear performance standards and enforcement mechanisms to ensure that VMT impacts are reduced to a less than significant level. The comment does not provide substantial evidence supporting a fair argument that the identified mitigation measures are inadequate to reduce project impacts to a less than significant level, and to the contrary, the IS/MND includes substantial evidence supporting the feasibility and enforceability of the mitigation measures, demonstrating they are not illusory as alleged. Therefore, no further response or additional CEQA analysis is required.

Response D.10: As described on page 162 of the IS/MND, the proposed off-site improvements in combination with the proposed measures in the required TDM Plan would reduce the project's VMT below the City's threshold of 14.37 VMT per industrial employee and 12.21 VMT per office employee.

The recommended removal of pork-chop islands at the Embedded Way and Hellyer Avenue intersection would improve pedestrian safety and access, thereby encouraging people to walk instead of drive short distances and thus reduce the number of vehicle trips, which reduces VMT. Similarly, traffic calming measures such as median islands also promote walking and biking and reduce VMT. VMT reductions due to pedestrian network improvements and traffic calming measures were estimated using the City's VMT Evaluation Tool based on research conducted by Cambridge Systematics for the Urban Land Institute.⁵ These reductions are also recognized by the Valley Transportation Agency (VTA), which is the regional transportation agency for Santa Clara County, and who has developed guidelines and methodologies for estimating and mitigating VMT, based on numerous studies of travel behavior and VMT reduction, which San Jose has incorporated into its VMT Policy 5-1.

The recommended TDM measures would encourage users to commute using transit, shared rides, and active modes of transportation, thereby reducing drive-alone trips and VMT. VMT reductions due to the implementation of commute trip reduction marketing/education were estimated using the City's VMT Evaluation Tool based on research published by the Transit Cooperative Research Program⁶, while research on implementation of subsidized vanpools was published by the Victoria Transport Policy Institute and other sources.⁷

⁵ Cambridge Systematics. Moving Cooler: An Analysis of Transportation Strategies for Reducing Greenhouse Gas Emissions. Technical Appendices. Prepared for the Urban Land Institute.

⁶ Pratt, Dick. Personal communication regarding the Draft of TCRP 95 Traveler Response to Transportation System Changes – Chapter 19 Employer and Institutional TDM Strategies. Transit Cooperative Research Program.

⁷ VTPI. TDM Encyclopedia. <http://www.vtpi.org/tdm/tdm34.htm>; Fare Pricing Elasticity, Subsidies and the Demand for Vanpool Services, Concas, Winters and Wambalaba (2005); Way to Go, 2015 Annual Report.

Based on the VMT analysis conducted using the City's VMT Evaluation Tool, the recommended multimodal improvements and TDM measures together would satisfactorily mitigate the project's impact on VMT below applicable thresholds for employee type. The City, through implementation of the Mitigation Monitoring and Reporting Program (MMRP) will ensure that the project's impact on VMT is satisfactorily mitigated by requiring an approved TDM plan prior to the issuance of the Planning Site Development Permit (i.e., prior to the public hearing on the discretionary Planning Permit application). A completed TDM plan for the project is included as Appendix B. Additionally, the City will ensure that the project constructs necessary multimodal improvements prior to the issuance of the final occupancy permit. The Department of Public Works will have the responsibility for reviewing the project's public improvement plan and TDM plan to ensure that the design of the recommended multimodal improvements meets City standards. Additionally, the applicant will be required to submit annual reports to the Department of Public Works documenting compliance with the TDM Plan, including monitoring trips associated with the project to ensure they are below an established trip cap.

The comment alleges the City does not have substantial evidence supporting the effectiveness of the VMT-related mitigation measures, which has been refuted above, and the comment does not provide substantial evidence of its own supporting a fair argument that the identified mitigation measures are inadequate to reduce project impacts to a less than significant level. Therefore, no further response or additional CEQA analysis is required.

Response D.11: As described in Response D.9, the specific off-site improvements and required contents and performance standards of the TDM Plan are clearly identified in the IS/MND, which will be subject to a discretionary action by the decision-making body at a public hearing, consistent with the requirements on CEQA Guidelines Section 15025. Contrary to the assertion in the comment, the Department of Public Works will not be making a CEQA "finding," as defined in Section 15091 and Section 15093 of the CEQA Guidelines, in its role of verifying that the mitigation identified in the IS/MND was properly implemented prior to issuance of future ministerial permits and/or certificates of occupancy. The CEQA findings for the project will be made by the Director of Planning, in the Director's capacity as the decision-maker for the requested Planning Permit, as specified in Title 20 of the City's Municipal Code. The Department of Public Works, in its role ensuring the implementation of certain mitigation measures, is not required to make separate findings. The Department of Public Works is not a separate public agency from the City as lead agency, rather it is a department within the lead agency, and CEQA does not require that separate departments within the lead agency make their own CEQA findings, rather the findings are made by the entity within the City organization vested with the authority to approve the project, which in this case is the Director of Planning, pursuant to Title 20. Therefore, no further response or additional CEQA analysis is required.

Response D.12: The methodology and findings of the Transportation Analysis are consistent with the requirements stated in the City of San Jose Transportation Analysis Handbook. The Transportation Analysis is based on City Council Policy 5-1, which the City has adopted to implement CEQA Guidelines Section 15064.3 related to VMT.

The commenter states that the IS/MND bases its traffic findings on the assumption that employees would be walking or bicycling to the project site. The VMT mitigation measure does not assume that all of the project's employees will be taking bikes or walking to the project site. The mitigation measures consist of the implementation of off-site multi-modal transportation infrastructure improvements as well as TDM measures which would provide better multi-modal transportation facilities and encourage project employees to utilize alternative transportation modes. According to the City's VMT Evaluation Tool, the identified mitigation measures are estimated to reduce the project's VMT to amounts for each type of employee (e.g., industrial and office employees) below the City's threshold of significance. Refer to Response D.10 for further information about the City's VMT Evaluation Tool and the sources used by the VMT Evaluation Tool to estimate the reduction in VMT due to the bike, pedestrian, and traffic calming improvements. Additionally, the applicant will be required to submit annual reports to the Department of Public Works documenting compliance with the TDM Plan, including monitoring trips associated with the project to ensure they are below an established trip cap, thus ensuring the project's VMT remains below established thresholds. Further, the comment does not provide substantial evidence to support its claim that truck traffic generated by the project, and the associated emissions, would render the identified mitigation measures ineffective. The analysis of the project's trucking activity included elsewhere in the IS/MND, such as in Section 4.3 Air Quality and Section 4.13 Noise, show that project impacts related to air emissions and vehicle noise, are less than significant. Therefore, there is no basis to conclude on-site truck activity would discourage employees from traveling to/from the site by other modes than vehicles in sufficient numbers to undermine the effectiveness of the mitigation measures. Without substantial evidence to provide otherwise, it is speculative to assume that implementation of MM TRAN-1.1 would lead to VMT impacts remaining above applicable thresholds. The comment simply speculates that a sufficient amount of project employees would be discouraged from arriving via modes other than vehicles, but cites no facts, evidence, studies, etc. in support of the allegation, only unsupported opinion. Overall, the comment does not provide substantial evidence supporting a fair argument that the identified mitigation measures are inadequate to reduce project impacts to a less than significant level. Therefore, no further response or additional CEQA analysis is required.

Response D.13: As discussed in Response D.8, the mitigation measures in the IS/MND include clearly defined performance standards and enforcement mechanisms and, therefore, do not represent improper deferral of mitigation under

CEQA. The mitigation measures identified (MM TRAN-1.1 and MM TRAN-1.2) are known to be capable of reducing VMT to the necessary degree (refer to Response D.10) and are fully capable of being monitored for their effectiveness. Additionally, as discussed in Response D.10, the conclusion in the IS/MND that VMT impacts would be reduced to a less than significant level is supported by substantial evidence in the form of the Transportation Analysis (refer to Appendix H of the IS/MND) prepared for the project in compliance with the City's Policy 5-1. The City's policy is based on studies and models developed by other agencies with expertise in this area, including the VTA, to successfully comply with Guidelines section 15064.3. Therefore, no further response or additional CEQA analysis is required.

Response D.14: Please refer to Responses D.8 through D.13, which address the assertions made in this comment. To reiterate the above responses, the mitigation measures have not been deferred; the specific physical improvements are well-defined; and the TDM Plan will be approved prior to the Director's Hearing for the Planning Permit. Furthermore, the effectiveness of these measures is demonstrated by the City's VMT Evaluation Tool. Therefore, no further response or additional CEQA analysis is required.

Response D.15: MM TRAN-1.1, which requires improvements to City roadways and transportation facilities, does not rely on other public entities aside from the City for implementation. As discussed above in Response D.11, the Department of Public Works is part of the lead agency and is not a separate authority or agency.

Response D.16: As described in Response D.8, MM TRAN-1.2 explicitly requires annual monitoring of project trips for comparison against a trip cap to ensure that project VMT remains at a less than significant level for the lifetime of the project. The purpose of the trip cap is to show the number of trips is below the applicable thresholds, and therefore the VMT resulting from the project (given VMT equals trips times trip lengths) would be reduced. By capping trips, VMT will be below the thresholds. This requirement placed on the applicant will be monitored and enforced by the City as specified in MM TRAN-1.2. Furthermore, as described in Response D.10, the VMT Evaluation Tool, which is based on substantial evidence, accounts for the VMT reductions the multi-modal improvements detailed in MM TRAN-1.1 would provide. This comment alleges a lack of substantial evidence for the City's determination, which has been fully refuted, and the comment provides no substantial evidence of its own, in the form of facts, or expert opinion supported by facts. Therefore, no further response or additional CEQA analysis is required.

Response D.17: As discussed in Responses D.8, D.13, and D.16, the VMT-related mitigation measures in the IS/MND include clearly defined performance standards (e.g., trip cap) and enforcement mechanisms (e.g., surveys). Based on these reasons, these mitigation measures (MM TRAN-1.1 and MM TRAN-1.2) do not represent improper deferral of mitigation under CEQA, as the project is required to

demonstrate achievement of definite. There are measurable outcomes that are below the level of significance that the lead agency (i.e., the City of San José) can readily monitor and enforce.

Comment A.8: Indeed, the proposed mitigation measures are improperly deferred and vague as they defer the formulation of mitigation measures or final design thereof to a later time, shift that burden to the Applicant, and further do not adequately explain how removing the pork-chop islands or installing raised median islands will improve pedestrian safety and calm traffic to such a degree that such measures will “clearly” reduce VMT to the requisite level of insignificance, as required for an IS/MND.

Response A.8: . The issues raised in this comment were addressed in Response D.13 in the April 2024 Responses to Comments, which is reproduced in its entirety below. This comment does not provide any new information or substantial evidence supporting a fair argument that the project would result in significant impacts requiring preparation of an EIR. No further response or additional CEQA analysis is necessary

Response D.13: As discussed in Response D.8, the mitigation measures in the IS/MND include clearly defined performance standards and enforcement mechanisms and, therefore, do not represent improper deferral of mitigation under CEQA. The mitigation measures identified (MM TRAN-1.1 and MM TRAN-1.2) are known to be capable of reducing VMT to the necessary degree (refer to Response D.10) and are fully capable of being monitored for their effectiveness. Additionally, as discussed in Response D.10, the conclusion in the IS/MND that VMT impacts would be reduced to a less than significant level is supported by substantial evidence in the form of the Transportation Analysis (refer to Appendix H of the IS/MND) prepared for the project in compliance with the City’s Policy 5-1. The City’s policy is based on studies and models developed by other agencies with expertise in this area, including the VTA, to successfully comply with Guidelines section 15064.3. Therefore, no further response or additional CEQA analysis is required.

Comment A.9: As stated previously, the IS/MND fails to meet CEQA’s pre-conditions and requirements even in the case of an EIR. CEQA forbids deferred mitigation. CEQA Guidelines, § 15126.4, subd. (a)(1)(B). CEQA allows deferral of details of mitigation measures only “when it is impractical or infeasible to include those details during the project’s environmental review.” Id. CEQA further requires that the lead agency:

(1) [C]ommits itself to the mitigation, (2) adopts specific performance standards the mitigation will achieve, and (3) identifies the type(s) of potential action(s) that can feasibly achieve that performance standard[.]

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

Here, Local 405 maintains that the City has failed each of these preconditions and requirements, as the IS/MND fails to show why the development of the traffic calming plans or pedestrian improvements could not be developed before the issuance of the IS/MND, what impacts they will have individually or cumulatively, if such plans would indeed be feasible, and the specific performance criteria that Applicant will have to meet.

Response A.9: The issues raised in this comment were addressed in Responses D.8 through D. 13 in the April 2024 Responses to Comments and above in Responses A.8 and A.9. Refer to Response A.7 above for Responses D.8 through D.13 from the April 2024 Responses to Comments where said responses are reproduced in their entirety. This comment does not provide any new information or substantial evidence supporting a fair argument that the project would result in significant impacts requiring preparation of an EIR. No further response or additional CEQA analysis is necessary.

Comment A.10: Moreover, the revisions that the City has proposed to the IS/MND in its April 2024 Responses to Public Comments only further compound the City's deferment of mitigation by expanding upon the City's withdrawal from the impact mitigation process. Specifically, the Responses propose the following revisions to MM-TRAN- 1.1, in relevant part:

The multi-modal infrastructure improvements shall be part of a Public Improvement Plan prepared by the project applicant that demonstrates how the multi-modal improvements will be implemented and the schedules for completing the improvements. Prior to issuance of any certificates of occupancy, the project applicant shall submit ~~The Public Improvement Plan shall be reviewed and approved by~~ to the Director of Public Works or the Director's designee. The implementation of the multi-modal improvements shall be verified by the Director of Public Works or the Director's designee for review and approval.

See April 2024 Responses to Public Comments at p. 52.

These revisions to the mitigation measure indicate that the City is removing itself from the process of approving the Public Improvement Plan prior to the Applicant's implementation of any multi-modal infrastructure improvements. To that end, the mitigation measure now vests the Applicant with all of the discretionary authority over the contents of the Public Improvement Plan. According to the revised mitigation measure, the only role the City will now play with regard to the Public Improvement Plan is verifying the Applicant's implementation of the multi-modal improvements that the Applicant determined were appropriate for incorporation into the Project.

Response A.10: The commentator incorrectly interprets the text revisions on page 52 of the April 2024 865 Embedded Way Industrial Project Responses to Comments Memorandum. As shown in the excerpt above, the City's role is to review and approve the Public Improvement Plan, and the text additions clearly define what party is responsible for preparing a Public Improvement Plan and when the plan shall be submitted to the City for review and approval. The City has a clear

responsibility over the implementation of MM TRAN-1.1 since the Director of Public Works or the Director's designee will receive the Public Improvement Plan that the project applicant prepares for review and ultimately approve the plan prior the construction of said physical improvements. The text of MM TRAN-1.1 has been revised (refer to Section 3.0 Revisions to the Text of the Initial Study, below) to clarify that the Director of Public Works or the Director's designee will review and approve the Public Improvement Plan.

Moving the phrase "for review and approval" to the last sentence of MM TRAN-1.1 is to clarify that the multi-modal improvements that would be part of the Public Improvement Plan must not only be verified by the Director of Public Works or the Director's designee but also reviewed and approved to ensure said improvements align with the contents of the Public Improvement Plan and the City's requirements for physical improvements (e.g., street widths and safety). Thus, the City will, acting as lead agency, ensure that the proper physical public improvements identified in MM TRAN-1.1 are implemented. For these reasons, this comment does not provide substantial evidence (i.e., facts or expert opinion based on facts) supporting a fair argument that the identified mitigation measure violate the CEQA Guidelines Section 15126.4(a)(1)(B). No further response or additional CEQA analysis is required.

Comment A.11: Furthermore, the City has simply no justification for the deferment of the Public Improvement Plan until after the conclusion of the environmental review process for the Project, seeing as the IS/MND's determination of "less than significant impacts with mitigation" is entirely contingent upon the establishment and implementation of that Public Improvement Plan.

Response A.11: The multimodal infrastructure improvements needed to reduce the project's VMT to a less than significant level are clearly identified in MM TRAN-1.1 (removing the pork-chop islands on the southwest and northwest corners of the Embedded Way and Hellyer Avenue intersection to improve pedestrian safety and access, and installing raised median islands along Embedded Way), along with performance standards and enforcement mechanisms to ensure compliance. The Public Improvement Plan described in MM TRAN-1.1 is the detailed engineering plan describing the logistics of implementing the already-identified multi-modal improvements, such as the schedule for completing the improvements. The detailed engineering for these public improvements need not be completed unless/until the project is approved and proceeds to implementation. As a result, MM TRAN-1.1 does not represent improper deferral of mitigation under CEQA.

Comment A.12: Lastly, the IS/MND improperly fails to provide any analysis whatsoever of the potential environmental impacts that would result from the implementation of the proposed mitigation measures, including the multi-modal infrastructure improvements that the mitigation measure demands. In the absence of providing that requisite analysis, and by deferring and delegating away aspects of the mitigation measure, the City has improperly denied the public of the

requisite opportunity to fully evaluate the environmental impacts of the Project prior to a final agency determination being made.

Response A.12: The multi-modal infrastructure improvements identified in MM TRAN-1.1 include removal of pork-chop islands at the corners of Embedded Way and Hellyer Avenue and installing raised median islands along Embedded Way and at the Embedded Way and Hellyer Avenue intersection. The schedule for implementation of the aforementioned physical improvements is unknown as the schedule must be part of a Planned Improvement Plan prepared by the project applicant and then reviewed and approved by the Director of the Department of Public Works or the Director's designee. However, the construction associated with the pork-chop island removal and installation of raised medians would be minor in comparison to the construction contemplated for the project.

First, the intensity of the construction is much higher for the proposed project compared to the off-site roadway physical improvements mentioned since the project would include a site preparation, grading, building construction, architectural coating, and paving phase where heavy-duty diesel-fueled equipment and trucks are used. Furthermore, the air quality impacts (refer to *Section 4.3 Air Quality* on page 27 of the IS/MND) and noise impacts (refer to *Section 4.13 Noise* on page 129 of the IS/MND) associated with project construction were found to be under the applicable threshold. No mitigation measures to reduce construction impacts for these particular resource areas were identified. For example, the nitrogen oxides (NO_x) construction emissions from the project were identified as 11.13 pounds per day, which is well below the Bay Area Air Quality Management District threshold of 54 pounds per day (refer to Table 4.4-4 on page 35 of the IS/MND). Thus, there is an approximately 80 percent buffer before the NO_x threshold would be exceeded by construction of the multi-modal infrastructure improvements. The inclusion of the construction emissions from the multi-modal infrastructure improvements would not be large enough to cause the project to exceed the Bay Area Air Quality Management District threshold. Also, the areas where the multi-modal infrastructure improvements would be located (Embedded Way and/or the Embedded Way and Hellyer Avenue intersection) are further away from the nearest sensitive receptor, which would reduce construction noise and vibration impacts since said impacts diminish with distance to the sensitive receptor. Therefore, the environmental impact contribution from the removal of pork-chop islands and installation of raised medians would be a minor contribution to the project's impact and would not result in more severe impacts than the IS/MND has already identified.

Second, the multi-modal infrastructure improvements would likely occur after the major construction phases of the proposed project, such as site preparation, grading, trenching, and vertical building construction. Thus, there would be minimal overlap during project construction when the most intense work is occurring. The

multi-modal improvements will likely occur during architectural coating or landscaping activities, which do not typically involve heavy-duty construction equipment. As stated above, even if the project construction and multi-modal infrastructure improvements construction overlap, the intensity of the multi-modal construction work is not large enough to cause a significant impact, given the project construction itself is roughly 80 percent below the applicable thresholds.

Overall, the comment provides no substantial evidence of its own, in the form of facts, or expert opinion supported by facts. Therefore, no further response or additional CEQA analysis is required.

Comment A.13: For the reasons set forth previously and hereinabove, Local 405 maintains that the IS/MND fails to prove that the Project's traffic impacts will be mitigated to a less than significant level with the incorporation of the proposed mitigation measures. In fact, the IS/MND suggests the opposite, necessitating the preparation of an EIR. The City's responses to comments and revisions to the proposed mitigation measures fail to address the concerns previously raised by Local 405.

Response A.13: Nothing contained within this comment or the comments above (Comments A.8 through A.12) constitutes substantial evidence that the project's transportation impacts would be significant beyond what has already been disclosed regarding VMT impacts in the IS/MND. Therefore, no further response or additional CEQA analysis is required.

Comment A.14: D. There Is a Fair Argument that the Project May Have Significant Air Quality, GHG Emission, Water, Noise, Hazards, Human Health, and Wildlife/Biological Impacts, and Cumulative Impacts, Requiring Mandatory Findings of Significance and the Preparation of an EIR.

Response A.14: The issues raised in this comment were addressed in Responses D.21, D.22, 23, D. 24, D.25, D.28, D.29, D.30, D. 31, D. 32, D.33, and D.34 in the April 2024 Responses to Comments, which is reproduced in its entirety below. This comment does not provide any new information or substantial evidence supporting a fair argument that the project would result in significant impacts requiring preparation of an EIR. No further response or additional CEQA analysis is necessary.

Response D.21: This comment claims a fair argument exists, but provides no specific comment, and introduces topics discussed in more detail in comments that follow below. As described in further detail in the responses below, the commenter does not provide substantial evidence supporting a fair argument that the project, after identified mitigation, would result in significant unavoidable impacts. The analysis and conclusions in the IS/MND are supported by substantial evidence and, therefore, the preparation of an EIR is not required.

Response D.22: This comment raises general issues that would result from virtually any development that generates new VMT by noting various topics that are related

to the magnitude of VMT generated by a project. However, nothing in the comment is specific to the project's VMT and resulting traffic-related impacts, such as air pollution, energy consumption, roadway noise, etc. Rather, the comment only makes general observations about how VMT can lead to other impacts. The comment does not make a specific argument, based on substantial evidence, as to why the project's VMT would lead to significant impacts to other topics. As described in Responses D.7 through D.18, the project would result in a significant increase in VMT, as judged using the City's thresholds which are based on per employee VMT; however, MM TRAN-1.1 and MM TRAN-1.2 would sufficiently reduce the project's VMT below established thresholds. The comment does not provide substantial evidence supporting a fair argument that the project, applying a per employee VMT threshold as allowed by Guidelines section 15064.3, would result in significant VMT impacts that are un-mitigable. However, the comment appears more focused on the general magnitude of project VMT and the impacts that would result, rather than the amount of VMT per employee. Fortunately, to address the commenter's concerns regarding the magnitude of VMT, the IS/MND and a number of supporting technical reports have accounted for the total amount of VMT that the project would generate. Relevant thresholds are applied to various environmental topics such as air pollution, energy consumption, roadway noise, etc. where impacts would be significant. The comment does not acknowledge the IS/MND's evaluation, which is based on multiple technical reports, of project impacts in these other topic areas resulting from the magnitude of project VMT. Additionally, as described in further detail in the responses below, the commenter does not provide substantial evidence supporting a fair argument that the project would result in significant GHG emissions, air quality, energy, water, noise, and other impacts. The analysis and conclusions in the IS/MND are supported by substantial evidence and, therefore, an EIR is not required.

Response D.23: The CEQA Guidelines do not require the quantification of GHG emissions, as qualitative approaches to evaluating a project's GHG emissions are explicitly allowed; therefore, the City was not required to quantify construction-related GHG emissions. However, the City chose to quantify the magnitude of construction-related GHG emissions (140 total MTCO₂e) so the project's contribution could be compared within the context of the statewide GHG emissions goal for 2030 (260 million MTCO₂e).

The regional agency with substantial expertise in evaluating GHG emissions has issued guidelines, which do not include quantitative thresholds for construction-related GHG emissions. As stated on page 6-7 of the BAAQMD 2022 CEQA Air Quality Guidelines, BAAQMD has not developed a quantitative threshold for construction since the GHG emissions are temporary and variable but the Air District

recommends construction GHG emissions be quantified for purposes of disclosure.⁸ Per the Appendix B of the 2022 CEQA Air Quality Guidelines, there is no proposed threshold since the “Greenhouse gas emissions from construction represent a very small portion of a project’s lifetime GHG emissions.”⁹ As shown on page 99 of the IS/MND, the approximate construction generated GHG emissions (140 total MTCO₂e) are disclosed and it is stated that the contribution of construction-related GHG emissions are essentially temporary and would not contribute to a significant GHG impact. Once construction is complete, the construction-related GHG emissions would cease to be emitted. For these reasons, the construction GHG emissions (roughly one half of one millionth the amount of annual statewide emissions required in 2030) would not have an impact that would interfere with State laws, such as Senate Bill 32, that works to reduce active operational sources of GHG emissions. This comment does not present new information that has not been previously analyzed in the IS/MND nor does it provide substantial evidence supporting a fair argument that the project would result in significant unavoidable impacts requiring preparation of an EIR.

Response D.24: As noted above in Response D.23, CEQA allows for both qualitative and quantitative approaches to evaluate a project’s GHG emissions. In turn, as described on page 98 of the IS/MND, BAAQMD has promulgated two qualitative thresholds of significance a lead agency may opt to use for the operational GHG emissions generated from a new land use development project: (1) qualitative project design measures related to building design and transportation or (2) consistency with a local GHG reduction strategy that meets the criteria under the State CEQA Guidelines Section 15183.5(b). The City of San José’s 2030 Greenhouse Gas Reduction Strategy is a qualified GHG reduction strategy that meets the criteria stated CEQA Guidelines Section 15183.5(b); therefore, the use of the City’s 2030 Greenhouse Gas Reduction Strategy Compliance Checklist to demonstrate consistency with a qualified local GHG reduction strategy is appropriate and conforms with BAAQMD’s latest CEQA guidance for GHG analyses. Furthermore, the City of San José’s Department of Planning, Building, & Code Enforcement will enforce the GHG reduction measures the project committed to in the completed Greenhouse Gas Reduction Strategy Consistency Checklist (refer to Appendix E of the IS/MND) via site plan review and during the permitting process. Therefore, the GHG reduction strategies from the City’s Greenhouse Gas Reduction Strategy Consistency Checklist are specific to the project, and the project would have less

⁸ Bay Area Air Quality Management District. *California Environmental Quality Act Air Quality Guidelines*. April 2023. Page 6-7. https://www.baaqmd.gov/~media/files/planning-and-research/ceqa/ceqa-guidelines-2022/ceqa-guidelines-chapter-6-project-climate-impacts_final.pdf?rev=ce3ba3fe9d39448f9c15bbabd8c36c7f&sc_lang=en

⁹ Bay Area Air Quality Management District. *California Environmental Quality Act Air Quality Guidelines Appendix B: CEQA Thresholds for Evaluating the Significance of Climate Impacts From Land Use Projects and Plans*. April 2022. Page 15. https://www.baaqmd.gov/~media/files/planning-and-research/ceqa/ceqa-guidelines-2022/appendix-b-thresholds-for-evaluating-significance-of-climate-impacts_final.pdf?rev=10305f45037b41dba2cd1b45b288d54b&sc_lang=en

than significant GHG impacts. The approach employed by the City to evaluate and conclude that the project's GHG emissions are less than significant is explicitly allowed by CEQA. The approach is further supported by the BAAQMD, the regional agency with substantial expertise regarding evaluating GHG emissions from new development. Therefore, the City's approach is legal and supported by substantial evidence.

The comment further alleges, without substantial evidence, the project would have significant air quality impacts. To the contrary, the project would not have significant air quality impacts as described in Section 4.3 Air Quality of the IS/MND. A technical Air Quality Assessment was prepared by Illingworth & Rodkin, Inc., in August 2022 and is included as Appendix A to the IS/MND. This Air Quality Assessment was prepared following BAAQMD methodologies, and modeled criteria air pollutant emissions that would be generated by the project during construction and operation and prepared a refined health risk assessment. The results of the Air Quality Assessment were compared to the BAAQMD thresholds of significance for both construction and operation. Refer to pages 35, 36, 39, and 41 of the IS/MND for the computed air quality emissions and health risk impacts. The several conclusions in the IS/MND that the project would have less than significant air quality impacts related to both construction criteria pollutants and health risk and operational criteria pollutants and health risk, are, therefore, based on substantial evidence.

The commenter also states that future employees of the project would be exposed to high level of diesel emissions of heavy trucks both at the project site and the nearby industrial sites due the nature of the project area and with the assumption the project would result in more congestion with implementation of multi-modal infrastructure improvements detailed in MM TRAN-1.1. This is a speculative comment with no substantial evidence to demonstrate that implementation of MM TRAN-1.1 would increase congestion and idling of heavy-duty trucks. Additionally, per *California Building Industry Association v. Bay Area Air Quality Management District*, 62 Cal. 4th 369 (BIA v. BAAQMD), effects of the environment on the project, (i.e., future project employees), are not considered CEQA impacts.

Overall, this comment does not present new information that has not been previously analyzed in the IS/MND nor does it provide substantial evidence supporting a fair argument that the project would result in significant unavoidable impacts requiring preparation of an EIR.

Response D.25: As described in pages 109 and 110 of the IS/MND, the project site's baseline condition is such that the soil on the project site could be contaminated with agricultural chemicals and naturally occurring asbestos (NOA) due to its past use as an orchard and the presence of ultramafic rock outcrops. The presence of agricultural chemicals and naturally occurring asbestos were identified as potential environmental concerns. The site is undeveloped and vacant with no history of

hazardous substances or petroleum products being stored or used on-site. Considering that the IS/MND and the supporting Phase I ESA identified a potential hazards impact, the change in the ASTM E1527-21 definition does not fundamentally change the impact identified or mitigation measures required to reduce the impact. The impacts the commenter is concerned about, given the baseline conditions of the project site, have been disclosed in the IS/MND and appropriate mitigation has been included in the project. MM HAZ-1.1 and MM HAZ-1.2 have measures that have been employed routinely for sites known or suspected to have residual agriculture pesticides and NOA, as these are not unique or unusual circumstances, and the approaches to address the conditions are well established and effective. Implementation of MM HAZ-1.1 and MM HAZ-1.2, would require the preparation of a Phase II soil contamination investigation prior to the issuance of a grading permit. If contaminated soil is found on-site, then appropriate measures would be utilized during construction to protect employees and the environment generally from the release of these soils. The mitigation measures in the IS/MND include clearly defined performance standards and enforcement mechanisms and, therefore, do not represent improper deferral of mitigation under CEQA. Overall, the comment does not provide substantial evidence supporting a fair argument that the identified mitigation measures are inadequate to reduce project impacts to a less than significant level. The IS/MND's description of the baseline conditions, the potential for the project to create significant impacts, and the effectiveness of the mitigation measures to reduce impacts to less than significant levels are all supported by substantial evidence in the IS/MND and supporting Phase I ESA. Therefore, no further response or additional CEQA analysis is required.

Response D.28: The comment fails to capture and acknowledge the analysis in the IS/MND related to the potential routine transport, use, or disposal of hazardous materials. The excerpt quoted in the above comment is the conclusion sentence for the analysis. On page 109 of the IS/MND, it is specifically stated that the project would be required to comply with the State's Hazardous Materials Management Program, a State program governing how hazardous materials must be managed. It is specifically noted that if a project handles hazardous materials, a Hazardous Materials Business Plan with information about the handling and storage of hazardous materials (including site layout, storage in appropriate containers with secondary containment to contain a potential release, and emergency response and notification procedures in the event of a spill or release) would need to be prepared and submitted to the Santa Clara County Hazardous Materials Compliance Division, the local Certified Unified Program Agency for Santa Clara County. Additionally, on the same page, the IS/MND notes that project would be required to comply with code requirements from the City of San José Fire Department, the San José–Santa Clara Wastewater Treatment Facility, the Santa Clara County Department of Environment Health (SCCDEH), and the California Department of Transportation as it relates to the storage, transportation, and disposal of hazardous materials. The IS/MND does not merely state that the project would be required to comply with

applicable regulations. Instead, specific laws and regulations related to the handling of hazardous materials are explained in detail and the specific authorities tasked with overseeing the compliance are identified. A project specific mitigation measure is not required if there are already laws or legal requirements in place that would reduce impacts. The comment does not provide substantial evidence supporting a fair argument that additional mitigation is needed to reduce the project's hazardous materials impacts to a less than significant level. Therefore, no further response or additional CEQA analysis is required.

Response D.29: To address the possible presence of NOA and agricultural chemicals in the soil on-site, the project would be required to conduct a Phase II soil investigation and create a Site Management Plan (or equivalent document) if concentrations exceed environmental screening levels pursuant with MM HAZ-1.1 and MM HAZ-1.2, respectively. Completion of these two mitigation measures would occur prior to construction activities. Groundwater would not be contaminated as a result of construction grading activities because the agricultural chemicals and NOA are already present in the undeveloped site soils. Thus, under baseline conditions, runoff is currently infiltrating through the site soils, and the exposure of these soils during construction would not further subject them to runoff. Additionally, the project would not encounter groundwater during construction, given groundwater depths are 30 feet below ground surface and construction would not extend beyond 20 feet for utility trenches and foundations.

As stated on page 121 of the IS/MND, the natural drainage patterns of the site would change as a result of the project because the amount of impervious area would increase as compared to existing conditions. As required by the Regional Water Quality Control Board Municipal Regional Stormwater National Pollutant Discharge Elimination System Permit (MRP) and the City's Post-Construction Urban Runoff Management Policy (City Council Policy No, 6-29), the project would be required to include 'low impact development' stormwater treatment controls to maintain or restore the site's natural hydrologic functions. Furthermore, as part of the application review and permitting process, the City reviews site plans to ensure the project design includes proper stormwater control design features. To control runoff, the project includes two unlined bioretention basins with underdrains and a subsurface infiltration system underneath the western parking lot. Therefore, the project includes design measures to reduce operational impacts on hydrological features and the natural drainage pattern. The comment does not provide substantial evidence supporting a fair argument that the project would result in significant impacts to water quality, and the IS/MND's conclusions that impacts to water quality and hydrology would be less than significant are supported by substantial evidence. No further response or additional CEQA analysis is required.

Response D.30: Contrary to the assertion in the comment, the IS/MND did not determine "...that the Project site may accommodate the western bumble bee,

California tiger salamander, California red-legged frog, foothill yellow-legged frog, Swainson's hawk, bald eagle, least Bell's vireo, San Joaquin kit fox, burrowing owl, loggerhead shrike, San Francisco dusky-footed woodrats, and Townsend's big-eared bat..." Page 50 of the IS/MND explicitly states that "(t)he project site either generally lacks suitable habitat for special-status wildlife species and/or the site is isolated from the nearest known population by development or unsuitable habitat..." and goes on to explain in detail why each of the species listed in the comment are unlikely to occur on the site, including the fact that none of these species were observed on the site during surveys completed by biologists. Additional site surveys, other than those identified in the IS/MND mitigation measures requiring pre-construction surveys for species determined to potentially occur on the site, are unwarranted since it has been established in the Biological Resources Report that the project site generally lacks suitable habitat for these special-status wildlife species and/or the site is isolated from the nearest known population. The comment does not provide substantial evidence supporting a fair argument that any of the species listed in the comment are present on the site or are likely to be present during construction activities. The IS/MND has disclosed the extent that there is the potential for special status species to be present on the site and included mitigation measures to ensure no impacts to special status species occur that would remain significant after mitigation. No further response or additional CEQA analysis is needed.

Response D.31: The project applicant's compliance with the Santa Clara Valley Habitat Plan (Habitat Plan) would reduce impacts on the Bay checkerspot butterfly by contributing the project's required impact fees to the Habitat Plan's conservation program, which includes numerous conservation measures focused on the conservation and recovery of the Bay checkerspot butterfly. The Habitat Plan's conservation program (approved by the U.S. Fish and Wildlife Service and California Department of Fish and Wildlife) includes the preservation, enhancement, management, and monitoring of Bay checkerspot butterfly habitat. The goals of the conservation program include improving the viability of existing checkerspot populations, increasing the number of populations, and expanding the species' geographic distribution. The type and amount of impact fees that Habitat Plan-covered projects need to pay were determined based on the anticipated impacts of Habitat Plan-covered projects; the type and amount of conservation that would need to be performed to not only reduce impacts on covered species to less than significant levels under CEQA, but also to contribute to the recovery of these species; and the costs of those conservation measures. Thus, by paying Habitat Plan impact fees in accordance with Habitat Plan requirements, the project applicant will be contributing its share of the funding to support landscape-scale conservation of this species. This approach does not inappropriately defer mitigation; rather, the conservation strategy, and conservation measures specific to the Bay checkerspot butterfly, are already well established, are well-described in the Habitat Plan, and are already being implemented for the benefit of this species. Further, the comment

does not identify a new significant impact, nor does it provide substantial evidence supporting a fair argument that preparation of a Habitat Plan Application would not reduce impacts to the Bay checkerspot butterfly. Therefore, no further response or additional CEQA analysis is required.

Response D.32: The comment provides no details or support (i.e., substantial evidence) as to why the IS/MND's mitigation measures for the noted species are inadequate, unenforceable, and illusory. The IS/MND acknowledges that the project's ground disturbing activities including grading, construction activities, and tree removal during the nesting season could impact migratory birds and raptors, including the yellow warbler and white-tailed kite (refer to page 60 of the IS/MND). Impacts to western burrowing owls are not applicable considering the project site lacks suitable habitat for burrowing owls and the species is absent from the site as stated on page 50 of the IS/MND, and therefore the project would not be subject to any owl-related HCP fees or conditions. To reduce impacts to migratory birds and raptors, mitigation measures MM BIO-2.1, MM BIO-2.2, MM BIO-2.3, and MM BIO-2.4 are required. These four mitigation measures, which are widely applied to construction projects during nesting season in compliance with state and federal laws described in the IS/MND, address impacts to nesting birds and raptors via actions that would minimize significant adverse impacts and that are within the powers of the lead agency to impose and enforce. If the project applicant cannot avoid the nesting season (MM BIO 2.1) then a nesting bird survey conducted by a qualified ornithologist would be required not more than seven days prior to the initiation of construction (MM BIO-2.2). If an active nest is found, then a construction free buffer zone would be established around the nest (MM BIO-2.3). The ornithologist's findings of the nesting bird surveys would then be reported to the Director of Planning, Building and Code Enforcement, or the Director's designee prior to issuance of any tree removal or grading permits. As described, these four mitigation measures for migratory birds and raptors are (1) feasible, (2) fully enforceable, and (3) include specific performance standards that the mitigation will achieve by including a timeline for implementation. Taken together, these four mitigation measures would ensure that the project would not disturb or impede nesting activity during the breeding season. The comment does not provide substantial evidence supporting a fair argument that the identified mitigation measures are inadequate to reduce impacts to nesting birds and raptors to a less than significant level. Therefore, no further response or additional CEQA analysis is required.

Response D.33: The commenter states the project may have cumulative impacts but does not specifically comment about the IS/MND's discussion of cumulative conditions, how the project would contribute to cumulative conditions, or the measures included in the project to reduce any contribution to less than cumulatively considerable levels. Therefore, no substantial evidence is provided regarding the project's potential to contribute to cumulative impacts. Based on the

above responses D.1 through D.32, the commenter did not identify any new or more significant impacts than those disclosed in the IS/MND. The IS/MND's conclusions for traffic, GHG emissions, air quality, hazards, water quality, biological resources, and noise are supported by substantial evidence and are valid under CEQA. The mitigation measures to reduce impacts related to traffic, hazards, and biological resources are feasible, effective at reducing impacts below identified thresholds, and enforceable measures with specific performance standards and timelines for completion. These measures are also commonly employed for construction projects in San José and elsewhere throughout the region (i.e., there are no novel approaches proposed by the project to reduce identified impacts). Rather, all measures have been implemented for other projects and were able to achieve applicable performance standards. None of the comments present new information that has not been previously analyzed nor do they provide substantial evidence supporting a fair argument that the project would result in significant unavoidable impacts requiring preparation of an EIR.

Response D.34: The comment makes general claims that the project should be considered to have significant noise impacts but does not mention the actual environmental setting for the project nor provide analysis based on any facts of the project's noise impacts during construction and once operational. The comment provides no substantial evidence to support its claims. The IS/MND's noise analysis is based on substantial evidence because it (1) specifically accounts for the noise environment on and around the project site, (2) identifies any noise-sensitive land uses in the vicinity, (3) calculates the project's construction and operational noise impacts, (4) applies objective thresholds based on the City's General Plan policies, and (5) quantifies noise impacts utilizing the objective thresholds.¹⁰

As identified on page 129 of the IS/MND and in the comment above, a Noise and Vibration Assessment was prepared by Illingworth & Rodkin, Inc., an air quality and acoustic consulting firm, in August 2022. All sources of noise from construction and operational activities were modeled and the estimated noise level increases were compared to thresholds of significance identified on page 135 and 136 of the IS/MND under Section 4.13.2.1 Thresholds of Significance. Estimated construction noise levels are shown in Table 4.13-3. Based on the computed noise levels, the exterior thresholds for industrial and residential land uses would not be exceeded during any phase of construction. Similarly, the approximate operational noise levels from project vehicle traffic (Table 4.13-4), mechanical equipment (Table 4.13-5), the parking lot (Table 4.13-6), and truck deliveries and loading (Table 4.13-7), were all modeled at the receiving property lines of existing noise-sensitive receptors, and the noise level increases were evaluated against the City's General Plan and Municipal Code thresholds for noise levels. Therefore, the less than significant impact

¹⁰ CEQA itself does not specify what noise increases caused by a project must be treated as significant, as that is very much a context specific assessment.

determinations for construction and operational noise levels were all based on substantial evidence and are not reliant solely on compliance with regulatory requirements. Furthermore, the identified standard permit condition implementing General Plan Policy EC-1.7 and Municipal Code requirements for construction-related noise is required by the City of San José for all new development projects regardless if an impact is identified. For these reasons, the IS/MND's conclusions for noise impacts are valid, (i.e., consistent with the City's noise regulatory framework) and based on substantial evidence in the project-specific noise study that accounted for the project's noise environment and the potential noise generated from the construction and operational activities. Therefore, no further response or additional CEQA analysis is required and the preparation of an EIR is not warranted.

Comment A.15: Again, given that the Project may have significant traffic impacts that are not accurately disclosed or mitigated against in the IS/MND, then its traffic-related impacts are also derivatively understated and may be significant, thereby requiring the preparation and circulation of an EIR.

There is an acknowledged direct correlation between the increase in traffic impacts and an increase in the associated air quality, GHG emission, and noise impacts. See e.g., *City of Redlands v. County of San Bernardino* (2002) 96 Cal.App.4th 398, 413 ("it is reasonable to assume" that a project enabling physical residential development would have reasonably foreseeable indirect air and other impacts).

As stated in the Office of Planning Research's ("OPR") technical advisory in 2018:

VMT and Greenhouse Gas Emissions Reduction. Senate Bill 32 (Pavley, 2016) requires California to reduce greenhouse gas (GHG) emissions 40 percent below 1990 levels by 2030, and Executive Order B-16-12 provides a target of 80 percent below 1990 emissions levels for the transportation sector by 2050. The transportation sector has three major means of reducing GHG emissions: increasing vehicle efficiency, reducing fuel carbon content, and reducing the amount of vehicle travel.

Similarly, there is an acknowledged nexus between the increase in traffic and in related air quality, GHG impacts, noise, water/flooding impacts, and impacts on human health and the natural environment, including wildlife and waterways. As described in the 2018 OPR Technical advisory:

VMT and Other Impacts to Health and Environment. VMT mitigation also creates substantial benefits (sometimes characterized as "co-benefits" to GHG reduction) in both in the near-term and the long-term. Beyond GHG emissions, increases in VMT also impact human health and the natural environment. Human health is impacted as increases in vehicle travel lead to more vehicle crashes, poorer air quality, increases in chronic diseases associated with reduced physical activity, and worse mental health. Increases in vehicle travel also negatively affect other road users, including pedestrians, cyclists, other motorists, and many

transit users. The natural environment is impacted as higher VMT leads to more collisions with wildlife and fragments habitat. Additionally, development that leads to more vehicle travel also tends to consume more energy, water, and open space (including farmland and sensitive habitat). This increase in impermeable surfaces raises the flood risk and pollutant transport into waterways.

As such, there is a fair argument that the Project here may have significant GHG emissions, air quality, energy, water, noise and other impacts, including impacts on human beings and the natural environment.

Response A.15: The issues raised in this comment were addressed in Response D.22 in the April 2024 Responses to Comments, which is reproduced in its entirety in Response A.14 above. This comment does not provide any new information or substantial evidence supporting a fair argument that the project would result in significant impacts requiring preparation of an EIR. No further response or additional CEQA analysis is necessary.

Comment A.16: 1. GHG Emissions and Air Quality Impacts

Local 405 reiterates that the IS/MND fails to analyze, to any degree sufficient to constitute compliance with CEQA, the Project's potential GHG emissions impacts, and instead offers a conclusory statement that because construction emissions would occur over a certain period and result in a certain tonnage of CO₂, that the Project will not result in a significant impact with regards to GHG emissions. Consequently, the IS/MND requires substantial revisions or an EIR must be prepared.

For purposes of the Project's operational emissions, the IS/MND leans too almost entirely on the Project's consistency with the General Plan land use designation for the Site and planned growth from build out of the General Plan and that "the project's GHG emissions are accounted for in the citywide GHG emissions inventory addressed in the GHGRS, provided the project complies with applicable GHG reduction measures identified in the GHGRS." IS/MND, p. 99. However, Local 405 maintains that the IS/MND's reliance on the Project's consistency with the City's 2030 GHG Reduction Strategy ("GHGRS"), i.e., the hope that the Project "complies with applicable GHG reduction measures," cannot constitute as mitigation nor a determination that the Project will have less than significant impacts for purposes of CEQA compliance. The Project's compliance with municipal planning and GHGRS is not a substitute for performing a detailed analysis of the Projects GHG impacts, as required by CEQA.

In sum, the MND's findings of no impacts, including but not limited to impacts in air quality and GHG emissions, are clearly erroneous, and an EIR is required to not only disclose the Project's respective impacts, but also relate those to the adverse health impacts and impacts to the human beings that the Project may have. *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502.

Response A.16: The issues raised in this comment were addressed in Responses D.24 and D.33 in the April 2024 Responses to Comments, which are reproduced in their entirety in Response A.14 above. This comment does not provide any new information or substantial evidence supporting a fair argument that the project would result in significant impacts requiring preparation of an EIR. No further response or additional CEQA analysis is necessary.

Comment A.17: 2. Wildlife and Biological Impacts

Based on the known potential for occurrence of special-status species on or near the project site, Local 405 reiterates that additional site surveys must be completed prior to the Project's building phase to adequately determine whether and to what extent protected species may be present on the Site. Moreover, despite the position detailed in the City's Responses to Comments, the Santa Clara Valley Habitat Plan (and the Applicant's payment of fees associated therewith) cannot and does not act as a CEQA-compliant substitute for implementation of necessary mitigation measures pertaining to biological resources impacted by the Project. Rather, the appropriate course for mitigation of any potential adverse impacts of the Project on sensitive biological resources would be the establishment of mitigation measures that would include comprehensive and seasonally appropriate biological surveys prior to and during the construction of the project.

Again, the IS/MND acknowledges that the "Bay checkerspot butterfly and Crotch's bumble bee ... may occasionally forage or breed on the site and, therefore, the species cannot be deemed absent." IS/MND at p. 50. It also notes the potential for yellow warblers and white-tailed kites to occur at the site. Id. Given the potential for occurrence of these special-status species on or near the Project site, CEQA requires that the IS/MND, at minimum, be revised to craft specific mitigation measures aimed at ensuring a reduction in Project impacts to such species to the maximum extent possible.

Response A.17: The issues raised in this comment were addressed in Responses D.30 through D.32 in the April 2024 Responses to Comments, which are reproduced in their entirety above in Response A.14. This comment does not provide any new information or substantial evidence supporting a fair argument that the project would result in significant impacts requiring preparation of an EIR. No further response or additional CEQA analysis is necessary.

Comment A.18: 3. Noise Impacts

As stated in CEQA, Guidelines section 15126.4(a)(1)(B), "[c]ompliance with a regulatory permit or other similar process may be identified as mitigation if compliance would result in implementation of measures that would be reasonably expected, based on substantial evidence in the record, to reduce the significant impact to the specified performance standards." See also *Californians for Alternatives to Toxics v. Department of Food & Agric.* (2005) 136 Cal.App.4th 1 (the court set aside an EIR for a statewide crop disease control plan because it did not include an evaluation of the risks to the environment and human health from the proposed program but simply presumed that no adverse impacts would occur from use of pesticides in accordance with the registration and labeling

program of the California Department of Pesticide Regulation); Ebbetts Pass Forest Watch v Department of Forestry & Fire Protection (2008) 43 Cal. App. 4th 936, 956 (fact that Department of Pesticide Regulation had assessed environmental effects of certain herbicides in general did not excuse failure to assess effects of their use for specific timber harvesting project).

Here, the IS/MND relies on the Project's "implementation of GP Policy EC-1.7, Municipal Code requirements, and the City's Standard Permit Conditions" to conclude that the Project's "temporary construction noise impacts would be reduced to a less- than-significant level." However, based on the authority outlined above, Local 405 maintains that it is improper for the IS/MND to merely rely on Applicant's compliance with regulatory measures to conclude that the Project will have less than significant impacts for a number of reasons. Again, noise regulations do not capture all the noise impacts of the Project, including construction and operation. Moreover, the regulatory measures are not Project-specific and are focused on the Project itself—as such, they fail to consider issues specific to the Project, such as location, size, proposed mitigation measures, as well as the Project's cumulative impacts along with other related projects. Further, as discussed previously, the IS/MND's traffic impacts are understated, and therefore traffic noise impacts have not been fully accounted for.

Further still, the Project's reliance on regulatory compliance with the referenced regulations is misplaced because there is no evidence that such ordinances were to control noise outside of the building's envelope, such as, for example, traffic noise or increase in ambient noises due to the Project's construction and operation. *California Clean Energy Committee v. City of Woodland* (2014) 225 Cal.App.4th 173, 210 (the building codes do not address the question of whether the Project is even safe to build, "whether a building should be constructed at all, how large it should be, where it should be located, whether it should incorporate certain resources, or anything else external to the building's envelope.")

Accordingly, Local 405 maintains that there is a fair argument that the Project may have a significant noise impact and as such, the Project's potential noise impacts should be thoroughly analyzed and evaluated in an Environmental Impact Report pursuant to CEQA. At a minimum, Local 405 submits that the IS/MND must be revised and recirculated with respect to the Project's noise impacts to reflect greater analysis beyond applying the Project's regulatory compliance as a substitute for sufficient mitigation of noise impacts.

Response A.18: The issues raised in this comment were addressed in Response D.34 in the April 2024 Responses to Comments, which is reproduced in its entirety in Response A.14 above. This comment does not provide any new information or substantial evidence supporting a fair argument that the project would result in significant impacts requiring preparation of an EIR. No further response or additional CEQA analysis is necessary.

Comment A.19: III. The City Must, At The Very Least, Revise And Recirculate The IS/MND.

Section 15073.5 of the CEQA Guidelines provides that a negative declaration must be recirculated whenever the document must be substantially revised. A substantial revision includes the identification of new, avoidable significant effects requiring mitigation measures or project revisions to be added to reduce the effect to less than significant levels or upon the agency determining that a proposed mitigation measure or project change would not reduce a potential impact to insignificance.

Additionally, when new information is brought to light showing that an impact previously discussed in an IS/MND and found to be insignificant with or without mitigation in the IS/MND's analysis has the potential for a significant environmental impact supported by substantial evidence, the IS/MND must consider and resolve the conflict in the evidence. See *Visalia Retail, L.P. v. City of Visalia* (2018) 20 Cal. App.5th 1, 13, 17; see also *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal. App. 4th 1099, 1109.

Here, in light of the IS/MND's failure to substantiate all of its findings, provide adequate mitigation measures, and fully assess all relevant factors, Local 405 resubmits that the Project requires significant revisions and resolution of conflicts in evidence. Therefore, at a minimum, the City must revise and recirculate the IS/MND if it does not prepare an EIR.

Response A.19: To reiterate, recirculation of an IS/MND is required when the document must be substantially revised after public notice of its availability has been given prior to its adoption (CEQA Guidelines Section 15073.5(a)(b)) or when new substantial evidence significant comes to light that indicates the project may have a significant effect on the environment which cannot be mitigated or avoided (CEQA Guidelines Section 15073.5(d)). As stated in Responses A.1 through A.18 and in Responses D.1 through D.34 from the April 2024 Responses to Comments, the comments raised in this letter do not identify any new or more significant impacts or mitigation measures considerably different than identified in the IS/MND. For these reasons, there is no need to disclose new information, as defined in the noted CEQA guidelines, and the IS/MND does not need to be recirculated.

Comment A.20: A. The IS/MND Fails to Mitigate the Project's Significant Impacts.

If a project has a significant effect on the environment, an agency may approve the project only upon finding that it has "eliminated or substantially lessened all significant effects on the environment where feasible" and that any unavoidable significant effects on the environment are "acceptable due to overriding concerns." CEQA Guidelines, § 15092, subds. (b)(2)(A)-(B).

CEQA mitigation measures proposed and adopted are required to describe what actions will be taken to reduce or avoid an environmental impact. CEQA Guidelines, § 15126.4, subd. (a)(1)(B) (providing "[f]ormulation of mitigation measures should not be deferred until some future time"). While the same Guidelines section 15126.5(a)(1)(B) acknowledges an exception to the rule against deferrals, such exception is narrowly proscribed to situations where it is impractical or infeasible to include those details during the project's environmental review. Moreover, CEQA allows deferral of

details of mitigation measures only “when it is impractical or infeasible to include those details during the project’s environmental review.” Id. CEQA further requires “that the agency (1) commits itself to the mitigation, (2) adopts specific performance standards the mitigation will achieve, and (3) identifies the type(s) of potential action(s) that can feasibly achieve that performance standard[.]” CEQA Guidelines, § 15126.4, subd. (a)(1)(B).

As discussed above, the Project fails to mitigate its significant impacts, improperly defers critical aspects of proposed mitigation measures, and fails to analyze the impacts associated with its proposed mitigation measures. Therefore, at minimum, the IS/MND must be revised or otherwise an EIR prepared.

Response A.20: The issues raised in this comment were addressed in Response D.37 in the April 2024 Responses to Comments, which is reproduced in its entirety below. The IS/MND includes real, feasible, and fully enforceable mitigation measures for traffic and biological resources impacts. There are no deferred mitigation measures in the IS/MND, as explained in Responses A.9 and A.17 above. No further response or additional CEQA analysis is required.

Response D.37: As responded above in Responses D.1 through D.36, the IS/MND includes real, feasible, and fully enforceable mitigation measures for traffic, hazards and hazardous materials, and biological resources impacts. Specifically, mitigation measures MM TRAN-1.1, MM TRAN-1.2, MM HAZ-1.1, MM HAZ-1.2, MM BIO-2.1, MM BIO-2.2, MM BIO-2.3, and MM BIO-2.4 identify specific performance standards to reduce impacts to acceptable levels, whether based on qualitative or quantitative thresholds applied to the project given the site location and surrounding environment, and actions that would feasibly achieve these performance standards. There are no deferred mitigation measures in the IS/MND, as explained in detail in responses provided above where the commenter has alleged that a particular measure has been improperly deferred. No further response or additional CEQA analysis is required.

Comment A.21: IV. Conclusion

Based on the foregoing, Local 405 resubmits that the City should prepare an EIR for the Project given that there is a fair argument that the Project will result in significant environmental impacts. However, at the very least, the City must revise the IS/MND to address the aforementioned concerns and those previously raised. Should the City have any questions, please do not hesitate to contact this office.

Response A.21: Based on the above responses, the comments raised in this letter (and the previous comment letter dated January 10, 2024) do not identify any new or more significant impacts or mitigation measures considerably different than identified in the IS/MND. No substantial evidence has been presented, in light of the whole record, that the project, with identified mitigation measures, may have a

significant effect on the environment. Therefore, the City has determined that the conclusions in the IS/MND are valid, supported by substantial evidence, and preparation of an EIR is not warranted.

B. Adams Broadwell Joseph & Cardozo (dated April 30, 2024)

Comment B.1: We are writing on behalf of Silicon Valley Residents for Responsible Development (“Silicon Valley Residents”) to provide comments on May 1, 2024 Planning Director Hearing Agenda Item 3.a, regarding the Site Development Permit and Initial Study/Mitigated Negative Declaration (“MND”) prepared by the City of San Jose (“City”) for the 865 Embedded Way Industrial Project (“Project”) (H22-022, ER22-113) (“Project”) proposed by Oppidian, Inc. (“Applicant”).

The Project consists of a Site Development Permit to allow the construction of a one-story, 121,400-square foot industrial/manufacturing warehouse on a vacant 10.17-acre project site. The Project would include a connection to an existing 26-foot-wide drive aisle that extends from the eastern Embedded Way driveway through the adjacent eastern industrial property and currently terminates at the southeastern boundary of the project site. A total of 300 parking spaces would be provided in the surface parking lot surrounding the proposed building. The project would include the removal of 11 trees on-site, 2 of which are ordinance-size.

Response B.1: This comment is an introductory paragraph and does not raise any CEQA issues or address the adequacy of the IS/MND; therefore, no further response or additional CEQA analysis is required.

Comment B.2: Based on our review of the MND and available supporting documents, we conclude that the MND fails to comply with the requirements of the California Environmental Quality Act¹¹ (“CEQA”). The MND lacks a clear project description, fails to disclose and analyze the Project’s potentially significant environmental impacts and fails to identify enforceable measures that can reduce those impacts to a less than significant level.

As explained in these comments, there is more than a fair argument that the Project will result in potentially significant air quality and public health impacts from construction and operational emissions and transportation impacts. The City may not approve the Project until it prepares an environmental impact report (“EIR”) that adequately analyzes all of the Project’s potentially significant direct, indirect and cumulative impacts, and incorporates all feasible mitigation measures to avoid or minimize these impacts. The MND’s flaws also preclude the City from making the findings necessary to approve the Project’s Site Development Permit.

These comments were prepared with the assistance of air quality expert James Clark, PhD¹² and transportation expert Norman Marshall.¹³ Dr. Clark and Mr. Marshall provide substantial evidence supporting a fair argument of potentially significant impacts that have not been adequately

¹¹Pub. Resources Code, §§ 21000 et seq.; 14 Cal. Code Regs. (“C.C.R”) §§ 15000 et seq. (“CEQA Guidelines”).

¹² Exhibit A: April 30, 2024 James Clark Comment Letter on Initial Study/Mitigated Negative Declaration For 865 Embedded Way Industrial Project, City of San Jose, California File Nos. H22- 022 & ER22-113 (hereinafter, “Clark Comments”).

¹³ Exhibit B: April 30, 2024 Norm Marshall Comment Letter re 865 Embedded Way Industrial Project (hereinafter, “Marshall Comments”).

disclosed, analyzed, or mitigated in the MND. Dr. Clark and Mr. Marshall's technical comments are attached hereto and are submitted to the City, in addition to the comments in this letter.

Response B.2: The City of San José prepared the IS/MND for the referenced project in compliance with the requirements of CEQA and the CEQA Guidelines. As discussed in the responses to specific comments on the IS/MND below, the assumptions and conclusions made in the IS/MND are supported by substantial evidence, and the assertions presented in this comment letter do not provide substantial evidence supporting a fair argument that the project would result in a significant environmental impact. Furthermore, the City notes that the commenter never provided comments during the public comment period, despite having been sent the Notice of Intent to Adopt a Mitigated Negative Declaration via e-mail on December 21, 2023. The April 30, 2024 letter is the first time Adams Broadwell Joseph and Cardozo commented on the project, and this letter was sent to the City the evening prior to the May 1, 2024 Director's Hearing.

Comment B.3: I. Statement Of Interest

Silicon Valley Residents is an unincorporated association of individuals and labor organizations that may be adversely affected by the potential public health and environmental impacts of the Project. The association includes: the International Brotherhood of Electrical Workers Local 332, Plumbers & Steamfitters Local 393, Sheet Metal Workers Local 104, Sprinkler Fitters Local 483, and District Council of Ironworkers and their members and their families; and other individuals that live and/or work in the City of San Jose and Santa Clara County. 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. Indeed, continued environmental degradation can, and has, caused construction moratoriums and other restrictions on growth that, in turn, reduce future employment opportunities.

Response B.3: This comment provides background on the commentor. This comment is included in the record. This comment does not address the adequacy of the IS/MND. No further response or additional CEQA analysis is required.

Comment B.4: II. An EIR Is Required

CEQA requires that lead agencies analyze any project with potentially significant environmental impacts in an EIR.¹⁴ “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.”¹⁵ 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 reached ecological points of no return.”¹⁶

CEQA’s purpose and goals must be met through the preparation of an EIR, except in certain limited circumstances.¹⁷ CEQA contains a strong presumption in favor of requiring a lead agency to prepare an EIR. This presumption is reflected in the “fair argument” standard. Under that standard, a lead agency “shall” prepare an EIR whenever substantial evidence in the whole record before the agency supports a fair argument that a project may have a significant effect on the environment.¹⁸

In contrast, a mitigated negative declaration may be prepared only when, after preparing an initial study, a lead agency determines that a project may have a significant effect on the environment, but:

(1) revisions in the project plans or proposals made by, or agreed to by, the applicant before the proposed negative declaration and initial study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur, and (2) there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment.¹⁹

Courts have held that if “no EIR has been prepared for a nonexempt project, but substantial evidence in the record supports a fair argument that the project may result in significant adverse impacts, the proper remedy is to order preparation of an EIR.”²⁰ The fair argument standard creates a “low threshold” favoring environmental review through an EIR, rather than through issuance of a negative declaration.²¹ An agency’s decision not to require an EIR can be upheld only when there is no credible evidence to the contrary.²²

¹⁴ See Pub. Resources Code § 21000; CEQA Guidelines § 15002.

¹⁵ *Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal.3d 553, 564 (internal citations omitted).

¹⁶ *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810.

¹⁷ See Pub. Resources Code § 21100.

¹⁸ Pub. Resources Code §§ 21080(d), 21082.2(d); CEQA Guidelines §§ 15002(k)(3), 15064(f)(1), (h)(1); *Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1993) 6 Cal.4th 1112, 1123; *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75, 82; *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-151; *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1601-1602.

¹⁹ Pub. Resources Code § 21064.5 (emphasis added).

²⁰ See, e.g., *Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 319-320.

²¹ *Citizens Action to Serve All Students v. Thornley* (1990) 222 Cal.App.3d 748, 754.

²² *Sierra Club v. County of Sonoma* (1992) 6 Cal.App.4th, 1307, 1318; see also *Friends of B Street v. City of Hayward* (1980) 106 Cal.App.3d 988, 1002 (“If there was substantial evidence that the proposed project might have a

“Substantial evidence” required to support a fair argument is defined 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.”²³ According to the CEQA Guidelines, when determining whether an EIR is required, the lead agency is required to apply the principles set forth in Section 15064, subdivision (f):

[I]n marginal cases where it is not clear whether there is substantial evidence that a project may have a significant effect on the environment, the lead agency shall be guided by the following principle: If there is disagreement among expert opinion supported by facts over the significance of an effect on the environment, the Lead Agency shall treat the effect as significant and shall prepare an EIR.

Furthermore, CEQA documents, including EIRs and MNDs, must mitigate significant impacts through measures that are “fully enforceable through permit conditions, agreements, or other legally binding instruments.”²⁴

Response B.4: This comment provides background on CEQA and defines the function of an EIR along with the fair argument standard. This comment provides background on Initial Studies, Negative Declarations and Mitigated Negative Declarations. This comment is included in the record. This comment does not address the adequacy of the IS/MND. No further response or additional CEQA analysis is required.

Comment B.5: With respect to this Project, the MND fails to satisfy the basic purposes of CEQA. The City failed to adequately investigate, analyze, and disclose the Project’s potentially significant air quality and transportation impacts. Therefore, the City’s conclusions that the Project will have less than significant impacts are unsupported. Whereas the City lacks substantial evidence to support its conclusions, Dr. Clark and Mr. Marshall provide substantial evidence demonstrating that the Project may result in potentially significant impacts on air quality and transportation. Therefore, there is a fair argument that the Project may cause significant impacts requiring the preparation of an EIR.

Response B.5: As described below in Responses B.6 through B.22, the IS/MND properly analyzed and disclosed the project’s air quality and traffic impacts and identified mitigation to reduce impacts to a less than significant level. The analysis in the IS/MND is based on substantial evidence and, as demonstrated in the responses below, the commenter’s assertions of significant impacts are not supported by substantial evidence. No further response or additional CEQA analysis is required.

significant environmental impact, evidence to the contrary is not sufficient to support a decision to dispense with preparation of an EIR and adopt a negative declaration, because it could be ‘fairly argued’ that the project might have a significant environmental impact”).

²³ CEQA Guidelines § 15384(a).

²⁴ CEQA Guidelines § 15126.4(a)(2).

Comment B.6: III. The MND Fails To Include A Complete, Stable And Accurate Project Description

The MND does not meet CEQA's requirements because it fails to include a complete, stable project description, rendering the entire analysis inadequate. Without a complete and accurate project description, the environmental analysis under CEQA can be impermissibly narrow, thus minimizing the Project's impacts and undercutting public review.²⁵

CEQA places the burden of environmental investigation on the lead agency rather than the public. Accordingly, a lead agency may not hide behind its failure to provide a complete and accurate project description.²⁶ Under CEQA, the "project" is defined as "the whole of an action" and the lead agency therefore must describe the entirety of the project's activities to ensure that all potential impacts of the project will be examined prior to approval.²⁷ An initial study that fails to describe the entire project is fatally deficient: "[A] correct determination of the nature and scope of the project is a critical step in complying with the mandates of CEQA."²⁸ Where an agency fails to provide an accurate project description, or fails to gather information and undertake an adequate environmental analysis in its initial study, a negative declaration is inappropriate.²⁹ An accurate and complete project description is necessary to fully and intelligently evaluate the project's potential environmental effects.³⁰ Without a complete project description, the environmental analysis under CEQA will be impermissibly narrow, thus minimizing the project's impacts and undercutting public review.³¹

The MND's Project Description describes the Project as an industrial/manufacturing warehouse but then states the project is "designed for a research and development (R&D) use" because "a designated end user has not yet been determined."³² As a warehouse with unidentified future tenants and use, it cannot be known how the Project building will be used once operational. Despite this, the MND states that "the project will be analyzed as an R&D facility."³³ As both Dr. Clark and Mr. Marshall's comments highlight, there are vast differences in impacts between a warehouse facility and a R&D facility. As Dr. Clark states, "[t]hese two different uses have different associated traffic and criteria pollutant analyses."³⁴ Notably, if the Project ultimately moves forward as a warehouse, the number of associated truck trips and diesel particulate matter ("DPM") emissions would be significantly higher than what is presented in the MND and air quality assessment.³⁵ For example, the Air Quality Study fails to include the emissions from onsite service

²⁵ See, e.g., *Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1988) 47 Cal.3d 376.

²⁶ *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 311.

²⁷ CEQA Guidelines § 15378.

²⁸ *Nelson v. County of Kern* (2010) 190 Cal.App.4th 252, 267; see also, *Tuolumne County Citizens for Responsible Growth, Inc. v. City of Sonora* (2007) 155 Cal.App.4th 1214.

²⁹ *El Dorado County Taxpayers for Quality Growth v. County of El Dorado* (2004) 122 Cal.App.4th 1591, 1597.

³⁰ *City of Redlands v. County of San Bernardino* (2002) 96 Cal.App.4th 398, 406.

³¹ *Laurel Heights Improvement Association*, *supra*, 47 Cal.3d 376.

³² MND, pg. 6.

³³ *Id.*

³⁴ Clark Comments, pg. 7.

³⁵ *Id.*

vehicles that may be used to move to and products from the warehouse.³⁶ The MND therefore fails to analyze or disclose a potentially significant source of criteria and toxic pollutants.³⁷

Response B.6: As stated on page 6 of the IS/MND, the project “...proposes to construct a one-story 121,400 square foot industrial/manufacturing warehouse surrounded by a paved surface parking lot. While a designated end user has not yet been determined for the project, the project is designed for a research and development (R&D) use.” The project description in the IS/MND clearly states that the project would involve the construction of an industrial/manufacturing warehouse designed for R&D uses, which is a land use type consistent with the Industrial Park General Plan designation and Industrial Park Zoning District consistent with the existing General Plan land use designation and zoning for the project site. A comprehensive description of the project is provided in *Section 3.0 Project Description*. Environmental impacts associated with the construction and operation of an R&D use were evaluated in the IS/MND to inform decisions makers. The IS/MND analyzed transportation and air quality impacts based on the proposed R&D use described in the project description and therefore, adequately and appropriately assessed the project’s impacts in accordance with the requirements of CEQA.

The application under review by the City is a Site Development Permit for the construction of an industrial building and related site improvements in the Industrial Park Zoning District, and a number of uses which are permitted by right in the zoning district could occupy the building over its economic lifetime, and the IS/MND evaluates two reasonably foreseeable uses (warehouse and R&D) of the building and site. To cover a scenario where the project is used as a more traditional warehouse instead of the intended R&D uses, the Transportation Analysis also included a scenario analyzing trip generation and VMT from a warehouse use. The analysis of more than one potential use of the building and disclosure of impacts resulting from a potential alternative use of the proposed building does not represent an unstable or inaccurate project description in the IS/MND, rather it recognizes that multiple uses may occupy the building over time.

Furthermore, the project square footage of 121,400 square feet is below the Bay Area Air Quality Management District (BAAQMD) 2022 CEQA Guidelines screening level land use thresholds for a warehouse (452,000 square feet for construction and 1,423,000 square feet for operational screening), general light industrial use (452,000 square feet for construction and 998,000 square feet for operational screening), and R&D use (452,000 square feet for construction and 692,000 square feet). Therefore, the project would not have significant air quality impacts either as a warehouse, general light industrial, or R&D use since the project is below the

³⁶ Id. at pg. 8.

³⁷ Id.

screening land use size for those various potential future site occupants. Also, construction and operational health risks would be similar for each of the three land use types mentioned due to the distance of the nearest sensitive receptor and the location of the sensitive receptors being upwind not downwind of the project site.

Comment B.7: Accordingly, no revision to the IS/MND is warranted. No further response or additional CEQA analysis is required. Similarly, Mr. Marshall states, “there are large differences between categories and great variation in the [trip generation] rates” for warehouse uses as compared to R&D uses.³⁸ “Actual project trip generation could be significantly higher or lower than the baseline estimate” used to assess the vehicle miles traveled (“VMT”) mitigation proposed in the MND.³⁹ Given the significant differences in associated impacts between the different uses, it is imperative that the MND provide an accurate project description.

Response B.7: Refer to Response B.6 above. The project is assumed to be R&D because it is designed for R&D uses, as stated in the project description. However, as described in *Section 4.17 Transportation*, the VMT analysis in the Transportation Analysis (refer to Appendix H of the IS/MND) considered both industrial and office uses to provide a robust transportation analysis since a R&D land use has operational vehicle activity similar to industrial and office. As stated on page 160 of the IS/MND under *Section 4.17 Transportation*, “The City’s VMT evaluation methodology and VMT evaluation tool require that proposed project uses be categorized as one of three primary land use types: office, industrial, or retail. In terms of trip generation, warehouse and industrial uses generate fewer daily trips per 1,000 square feet than R&D uses. R&D uses generate daily trips per 1,000 square feet of space that are similar to office uses. Therefore, the VMT analysis included the evaluation of the proposed 121,850 square feet of building space as both industrial for the potential warehouse and industrial uses and office space for the potential R&D uses. Thus, the IS/MND for the project (1) disclosed that trip generation rates differ between warehouse and R&D uses and (2) analyzed VMT impacts assuming the project as an industrial and office use to adjust for the trip generation rate differences between land use types.

The text of MM TRAN-1.2 has been revised (refer to Section 3.0 Revisions to the Text of the Initial Study, below) to clarify that the TDM plan and trip cap metric prepared for the project must be based on the ultimate end use, whether R&D or warehouse, prior to issuance of any certificate of occupancy. This text edit acknowledges that the different uses may occupy the space but that the TDM Plan required of MM TRAN-1.2 will be based on the use of the space receiving an occupancy permit.

³⁸ Marshall Comments, pg. 6.

³⁹ Id. at pg. 7.

Overall, the comment does not provide substantial evidence (i.e., facts or expert opinion based on facts) supporting a fair argument that the project description is unstable or that the transportation analysis is inadequate due to inaccurate project description. No further response or additional CEQA analysis is required.

Comment B.8: The City must prepare and circulate an EIR with a complete, stable and accurate project description that analyzes all of the Project's potential impacts using realistic and enforceable assumptions about the Project's operations.

Response B.8: Please refer to Responses B.6 and B.7 above, which address the assertion that the Project Description is unstable and inaccurate. To the contrary, the IS/MND evaluates more than one use of the building, given that a variety of uses are allowed by right in the Industrial Park Zoning District, and that various uses may occupy the building and site over its economic life. Therefore, environmental impacts associated with the construction and operation of both an R&D use and warehouse use were evaluated in the IS/MND to inform decisions makers. Accordingly, the preparation of an EIR is not warranted as no substantial evidence supporting a fair argument has been presented. As noted above, the operational criteria pollutant impacts from either an R&D or warehouse use would be less than significant, based on the modeling completed for the project for the R&D use and the BAAQMD screening levels for warehouse/industrial and R&D uses. Therefore, no further response or additional CEQA analysis is required.

Comment B.9: IV. Substantial Evidence Supports A Fair Argument That The Project Will Have Significant Unmitigated Air Quality And Public Health Impacts

A lead agency's significance determination must be supported by accurate scientific and factual data.⁴⁰ An agency cannot conclude that an impact is less than significant unless it produces rigorous analysis and concrete substantial evidence justifying the finding.⁴¹

These standards apply to an agency's analysis of public health impacts of a project under CEQA. In *Sierra Club v. County of Fresno*, the California Supreme Court affirmed CEQA's mandate to protect public health and safety by holding that an EIR fails as an informational document when it fails to disclose the public health impacts from air pollutants that would be generated by a development project.⁴² In *Sierra Club*, the Supreme Court held that the EIR for the Friant Ranch Project—a 942-acre master-planned, mixed-use development with 2,500 senior residential units, 250,000 square feet of commercial space, and open space on former agricultural land in north central Fresno County—was deficient as a matter of law in its informational discussion of air quality impacts as they relate to adverse human health effects.⁴³ As the Court explained, “a sufficient discussion of

⁴⁰ 14 C.C.R. § 15064(b).

⁴¹ *Kings County Farm Bureau*, 221 Cal.App.3d at 732.

⁴² *Sierra Club*, 6 Cal.5th at 518–522.

⁴³ *Id.* at 507–508, 518–522.

impacts requires not merely a determination of whether an impact is significant, but some effort to explain the nature and magnitude of the impact.”⁴⁴ The Court concluded that the County’s EIR was inadequate for failing to disclose the nature and extent of public health impacts caused by the project’s air pollution. As the Court explained, the EIR failed to comply with CEQA because after reading the EIR, “the public would have no idea of the health consequences that result when more pollutants are added to a nonattainment basin.”⁴⁵ CEQA mandates discussion, supported by substantial evidence, of the nature and magnitude of impacts of air pollution on public health.⁴⁶

Furthermore, in *Berkeley Jets*, the Court of Appeal held that a CEQA document must analyze the impacts from human exposure to toxic substances.⁴⁷ In that case, the Port of Oakland approved a development plan for the Oakland International Airport.⁴⁸ The EIR admitted that the Project would result in an increase in the release of toxic air contaminants (“TACs”) and adopted mitigation measures to reduce TAC emissions, but failed to quantify the severity of the Project’s impacts on human health.⁴⁹ The Court held that mitigation alone was insufficient, and that the Port had a duty to analyze the health risks associated with exposure to TACs.⁵⁰ 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.”⁵¹

Response B.9: The comment provides background on case law related to disclose of air quality and public health impacts due to air pollution. The comment is included in the record and will be considered by the decisions makers prior to taking action on the project. This comment makes no specific comment about the project itself and does not address the adequacy of the IS/MND. No further response or additional CEQA analysis is required.

Comment B.10: Here, as discussed below, the MND’s conclusions regarding the Project’s air quality and related public health impacts are unsupported by substantial evidence.

Response B.10: As shown in Responses B.12 through B.18, the comments related to construction and operational air quality impacts do not present new information that has not been previously analyzed in the IS/MND nor does it provide substantial

⁴⁴ Id. at 519, citing *Cleveland National Forest Foundation v. San Diego Assn. of Governments* (2017) 3 Cal.5th 497, 514–515.

⁴⁵ Id. at 518. CEQA’s statutory scheme and legislative intent also include an express mandate that agencies analyze human health impacts and determine whether the “environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly.” (Public Resources Code § 21083(b)(3) (emphasis added).) Moreover, CEQA directs agencies to “take immediate steps to identify any critical thresholds for the health and safety of the people of the state and take all coordinated actions necessary to prevent such thresholds being reached.” (Public Resources Code § 21000(d) (emphasis added).)

⁴⁶ *Sierra Club*, 6 Cal.5th at 518–522.

⁴⁷ *Berkeley Jets*, 91 Cal.App.4th at 1369–1371.

⁴⁸ Id. at 1349–1350.

⁴⁹ Id. at 1364–1371.

⁵⁰ Id.

⁵¹ 14 C.C.R. § 15003(b).

evidence supporting a fair argument that the project would result in significant unavoidable impacts requiring preparation of an EIR.

Comment B.11: A. The MND's Air Quality Impact Analysis Improperly Relies on Mitigated Emissions to Conclude that Construction Emissions Are Less Than Significant

Determining whether a project may have a significant effect plays a critical role in the CEQA process.⁵² The determination as to whether a project may have one or more significant effects must be based on substantial evidence in the record.⁵³ Lead agencies can only rely on an MND for a project where they determine that revisions in project plans or proposals made by, or agreed to, by the applicant would avoid or mitigate effects to a point where clearly no significant effect on the environment would occur.⁵⁴

Under CEQA, a project has significant impacts if it "[v]iolate[s] any air quality standard or contribute[s] substantially to an existing or projected air quality violation."⁵⁵ The Bay Area Air Quality Management District ("BAAQMD" or "Air District") maintains thresholds of significance for criteria air pollutants that are to be used in determining the significance of a project's air quality impacts under CEQA.⁵⁶ The MND failed to fully analyze the Project's construction emissions by improperly applying mitigation measures to unmitigated emissions prior to making its significance determination. By assuming the application of emissions controls to the Project's unmitigated emissions, the MND "compress[es] the analysis of impacts and mitigation measures into a single issue,"⁵⁷ in violation of CEQA. This approach is prohibited by CEQA because it fails to inform the public of the true severity of an impact. As a result, the MND fails to disclose that Project construction may result in significant emissions that exceed applicable Air District thresholds, resulting in significant, unmitigated air quality and public health impacts.

As Dr. Clark's comments reveal, the air quality analysis completed for the MND⁵⁸ calculated construction emissions assuming that the construction would incorporate Tier 4 interim equipment.⁵⁹ However, as Dr. Clark highlights, the availability of such equipment is limited and there is nothing in the MND to ensure that such equipment will be used in Project construction. Dr. Clark states: "Without a binding commitment to only use Tier 4 interim and above construction equipment for all phases of the Project, the emissions from the construction phase will exceed BAAQMD's threshold and will create an adverse health outcome for the community."⁶⁰ Dr. Clark's analysis confirms that, without application of Tier 4 interim controls, the Project's construction emissions will exceed the BAAQMD significance threshold for nitrogen oxides ("NOx").⁶¹ The MND

⁵² CEQA Guidelines § 15064.

⁵³ CEQA Guidelines § 15064(f).

⁵⁴ CEQA Guidelines §§ 15064(f)(2), 15071(c).

⁵⁵ CEQA Appendix G

⁵⁶ As stated in the MND, the MND relies on BAAQMD's 2017 thresholds, reproduced in MND, pg.32.

⁵⁷ See *Lotus v. Dep't of Transp.* (2014) 223 Cal. App. 4th 645, 651-52.

⁵⁸ MND, Appendix A: Air Quality and Greenhouse Gas Assessment (hereinafter "AQ Study").

⁵⁹ Clark Comments, pp. 3-4.

⁶⁰ Clark Comments, pg. 6.

⁶¹ Clark Comments, pg. 4.

fails to include specific and enforceable mitigation measures that would bind the Applicant to ensure Tier 4 interim construction equipment is used.

Response B.11: This comment inaccurately describes the construction emissions identified in the Air Quality Assessment prepared for the project (refer to Appendix A of the IS/MND). Contrary to the assertions in the comment, the IS/MND's evaluation of the project's construction air quality impacts is based on unmitigated emissions. In the California Emissions Estimator Model (CalEEMod), the modeling output always includes an unmitigated and mitigated scenario. While a mitigated scenario with construction equipment adjusted to have diesel engines rated Tier 4 Interim is included in the CalEEMod output shown in Attachment 2 of the Air Quality Assessment, these mitigated emission totals were not used to determine the project's impacts. The construction emissions shown in Table 4.3-4 and 4.3-7 in the IS/MND, which were the basis for determining the project's impacts, match the emissions shown in the unmitigated scenario in the Air Quality Assessment. As a result, the IS/MND properly disclosed the unmitigated construction air quality emissions, which were determined to be below the BAAQMD thresholds of significance for construction.

Additionally, when the comment asserts that the project's construction emissions would exceed BAAQMD thresholds, it is relying on modeling prepared by a technical expert (Clark & Associates, as shown in Exhibit A attached to the comment letter) that inaccurately portrays the project's construction air quality impacts. As shown on page 4 of Exhibit A of the comment letter, the technical expert models the project's construction using the latest version of CalEEMod (which does not provide a direct comparison to the IS/MND since an older version of CalEEMod with different emissions rates was used at the time the IS/MND was prepared), and then compares the summer and winter emissions to the BAAQMD thresholds, which is incorrect methodology that does not conform to BAAQMD guidance. The summer and winter scenarios show maximum daily emission scenarios during particular seasons based on assumed meteorological conditions which sometimes result in higher emissions compared to other times of the year. BAAQMD significance thresholds are based on average daily emissions (pounds per day) that are calculated using the total number of project construction workdays. The technical expert fails to calculate the average daily emissions using the 195 construction workdays assumed in the Air Quality Assessment. Instead, the technical expert incorrectly compares the maximum seasonal emissions to the BAAQMD significance thresholds. This comparison is incorrect and does not conform to the methodology BAAQMD recommends in their 2022 CEQA Guidelines.

Instead, the expert's analysis should have used the modeled annual tons per year to calculate average daily emissions based on the number of construction days. Utilizing the expert's own data from Attachment A to the comment letter (shown in the table below), calculating the project's construction emissions using the correct

methodology would result in average daily construction emissions of 8.8 pounds per day of ROG, 22.4 pounds per day of NO_x, 7.4 pounds per day of exhaust PM₁₀, and 3.7 pounds per day of exhaust PM_{2.5}. The technical expert's modeled construction emissions would not exceed the BAAQMD construction significance threshold of 54 pounds per day of ROG, 54 pounds per day of NO_x, 82 pounds per day of exhaust PM₁₀, or 54 pounds per day of exhaust PM_{2.5}. As a result, the claim that the project's construction emissions will exceed the BAAQMD significance threshold for NO_x is incorrect. In addition, the project square footage of 121,400 is below the BAAQMD screening land use operational thresholds for a warehouse, general light industrial use, and R&D use as described in Response B.6 above. This further proves that the project would not have a significant air quality impact.

	ROG	NO _x	CO	SO ₂	PM10T	PM2.5T
	tons/yr	tons/yr	tons/yr	tons/yr	tons/yr	tons/yr
Annual (Max)						
Unmitigated	0.86	2.18	2.33	0.00	0.72	0.36
Threshold	10	10			15	10
Exceeds (Annual Max)	No	No			No	No

Overall, the comment does not provide substantial evidence (i.e., facts or expert opinion based on facts) supporting a fair argument that the IS/MND used mitigated construction emissions project impacts when comparing project construction impacts against BAAQMD construction thresholds. Therefore, the conclusion that the project would have less than significant construction air quality impacts is correct. The comment also does not identify any new or more significant impacts or mitigation measures considerably different than identified in the IS/MND. No further response or additional CEQA analysis is required.

Comment B.12: Critically, neither the MND nor the AQ Study calculate or disclose the Project's unmitigated construction emissions. Instead, the AQ Study simply assumes that Tier 4 interim equipment will be used and calculates emissions accordingly. This approach incorrectly dismisses the significance of the Project's actual, unmitigated emissions. Without disclosing the Project's unmitigated construction emissions, the MND only discloses estimated emissions with the application of an unenforceable mitigation measure, the inclusion of Tier 4 interim equipment. This "downward adjustment" of the Project's construction emissions artificially reduces their significance. The MND concludes that the Project's construction emissions are less than significant, based on these unsupported and unenforceable assumptions, and without application of any binding mitigation measures.⁶²

⁶² MND, pg. 37

This approach violates CEQA. CEQA defines mitigation as including any measures designed to avoid, minimize, rectify, reduce, or compensate for a significant impact.⁶³ The inclusion of Tier 4 interim equipment in the emissions calculations is clearly designed as mitigation to reduce the Project's construction emissions that would result from using equipment with less efficient emissions controls. As the inclusion is meant to reduce impacts, this makes it a mitigation measure within the meaning of CEQA.

CEQA requires that mitigation measures be fully enforceable through permit conditions, agreements or other legally binding instruments.⁶⁴ When adopting a mitigated negative declaration, the lead agency is required to adopt "a program for reporting on or monitoring the changes which it has either required in the project or made a condition of approval to mitigate or avoid significant environmental effects."⁶⁵ Because the City has not required the use of Tier 4 interim equipment as a mitigation measure, it is not included in the Project's Mitigation Monitoring and Reporting Program ("MMRP"). Therefore, there is nothing to require the use of Tier 4 interim equipment during Project construction, and the MND's conclusions that Project air quality and public health impacts will be less than significant are completely unsupported.

The Court of Appeal has made clear that mitigation must be incorporated directly into a project's MMRP to be considered enforceable. In *Lotus v. Department of Transportation*,⁶⁶ 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."⁶⁷ 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."⁶⁸

Similar to the inadequate analysis contained in the Lotus EIR, the MND's Air Quality analysis only shows emissions with mitigation and the MND thus concludes the Project's air quality emissions will result in less than significant levels prior to mitigation. This approach improperly "compress[es] the analysis of impacts and mitigation measures into a single issue." Even if the MND's conclusions were accurate, the use of Tier 4 interim equipment must be incorporated into the Project's MMRP as formal mitigation measures in order to be factored into the City's ultimate significance findings. "Simply stating that there will be no significant impacts because the project incorporates 'special construction techniques' is not adequate or permissible."⁶⁹

⁶³ 14 CCR § 15370

⁶⁴ 14 CCR §15126.4(a)(2).

⁶⁵ CEQA Guidelines § 15074(d).

⁶⁶ *Lotus v. Dep't of Transp.* (2014) 223 Cal. App. 4th 645, 651-52.

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.*

The City has a duty to disclose unmitigated emissions and compare them to the applicable significance thresholds before applying mitigation measures. As a result of its improper reliance on Tier 4 interim equipment to achieve emissions reductions, the MND underestimates the amount of emissions that will be generated by the Project and the effects on nearby sensitive receptors. The City must prepare and circulate an EIR that includes an accurate analysis of the Project's air quality impacts, and incorporates all mitigation measures intended to reduce emissions as binding mitigation in the Project's MMRP.

Response B.12: Please refer to Response B.11 which explains that the analysis in the IS/MND did not assume Tier 4 interim equipment when determining the project's impacts. No further response or additional CEQA analysis is required.

Comment B.13: B. The MND Underestimates Project Operational Emissions and Resultant Health Risks by Omitting Emissions Sources

The MND purports to evaluate and disclose the Project's expected emissions of air pollutants, including diesel particulate matter ("DPM").⁷⁰ However, as explained by Dr. Clark, the emissions modeling excludes known sources of emissions. Specifically, the Air Quality Study's analysis of operational emissions fails to include emissions from the backup generator that will be installed onsite.⁷¹ These emissions, particularly DPM, are crucial components of the Project's overall air quality impact. Exposure to diesel exhaust emissions has been linked to a range of adverse health effects, including respiratory problems, cardiovascular diseases, and even premature death.⁷²

In failing to include these critical emissions, the MND underestimates the Project's operational air quality and public health impacts. The MND's conclusions regarding these impacts are therefore unsupported by substantial evidence, and Dr. Clark's comments provide a fair argument supported by substantial evidence that the Project may have significant air quality and health risk impacts. The City must therefore prepare an EIR that fully analyzes, discloses and mitigates all of the Project's emissions-related impacts.

Response B.13: The comment incorrectly states that the project includes a backup generator. No backup generators are proposed by the project. On page 10 of the IS/MND under *Section 3.2.7 Mechanical Equipment*, a 472-horsepower diesel fueled fire pump is described as being included in the project. Emissions from the fire pump were modeled in operational air quality analyses for criteria air pollutant emissions and health risk impacts (refer to Table 4.3-5, Table 4.3-6, and Table 4.3-7). This comment does not provide substantial evidence supporting a fair argument that the project would result in significant impacts given the comment mischaracterizes the

⁷⁰ MND, pp. 38-39.

⁷¹ Clark Comments, pg. 7.

⁷² U.S. EPA, Learn About Impacts of Diesel Exhaust and the Diesel Emissions Reduction Act (DERA), <https://www.epa.gov/dera/learn-about-impacts-diesel-exhaust-and-diesel-emissions-reduction-act-dera>.

project as having a backup generator. No further response or additional CEQA analysis is required.

Comment B.14: V. The MND Fails To Adequately Analyze And Mitigate The Project's Potentially Significant Transportation Impacts

The MND's conclusion that transportation impacts from the Project will be less than significant with mitigation is not supported by substantial evidence. Evidence supplied in the accompanying report from transportation expert Norman Marshall provides a fair argument supported by substantial evidence that the Project will have significant unmitigated transportation impacts.

First, Mr. Marshall's analysis using the updated version of the San Jose VMT Evaluation Tool reveals significant deficiencies in the identification of significant impacts and requisite mitigation. Using the updated VMT Tool, Mr. Marshall demonstrates that the proposed project exceeds the VMT threshold for office employment use.⁷³ Despite the MND's assertion that the proposed mitigation is adequate to reduce VMT impacts, Mr. Marshall found that the VMT mitigation package "is only adequate if using the previous version of the City's VMT Evaluation Tool."⁷⁴ Mr. Marshall's comments explain how the mitigation measures proposed in the MND are insufficient to reduce VMT below the established threshold.⁷⁵

Response B.14: The comment refers to a later version of the City's VMT Evaluation Tool that was available after the project's transportation analysis was completed and approved by the Department of Public Works. The VMT Evaluation Tool is used to establish baseline conditions, such as daily VMT for a given land use, and in turn, baseline conditions are used to establish thresholds of significance, which in the case of office uses is 15 percent below the citywide average VMT for office uses, and so the use of a particular version of the VMT Evaluation Tool establishes the baseline conditions and thresholds of significance for a project. It should be noted that as development occurs in San Jose and the region, travel patterns are adjusted as jobs and housing are introduced in various locations, and the VMT for various land uses changes, increasing in some cases and reduced in others, as the proximity of jobs and housing is altered over time. Therefore, release of an updated version of the VMT Evaluation Tool necessarily adjusts the baseline conditions and related thresholds of significance. The City of San José Department of Public Works approved the project's Transportation Analysis scope in June 2022, which included the previous 2018 iteration of the VMT Evaluation tool. From July 2022 to December 2022, the Transportation Analysis was drafted and subsequently reviewed by the Department of Public Works. The Final Transportation Analysis was approved by the Department of Public Works on April 4, 2023, prior to the date the City released the updated VMT Evaluation Tool on May 16, 2023. Therefore, the project's

⁷³ Marshall Comments, pg. 4.

⁷⁴ Id. at pg. 1.

⁷⁵ Id. at pg. 4.

transportation analysis, baseline conditions, and thresholds of significance were all based on the VMT Evaluation Tool in use at the time.

CEQA establishes the baseline conditions as the conditions that exist at the time the environmental analysis is commenced. Those conditions include regulations, thresholds, analytical tools, and methodologies used to analyze the project's impacts under CEQA. The City utilized the tools and methodologies in effect at the time the environmental analysis for the project commenced, including the VMT Evaluation Tool, which established the baseline conditions and thresholds of significance. Published appellate CEQA case law opinions, including opinions by the California Supreme Court, recognize that when baseline conditions are dynamic, changing over time, a lead agency has discretion to establish baseline conditions at the time the lead agency conducts its analysis, and the subsequent change in baseline conditions while the project remains pending a decision does not invalidate the established baseline used for the project's analysis. Case law also affirms that a lead agency's discretionary selection of a baseline, when supported by substantial evidence, is not subject to a fair argument challenge that relies on an alternate baseline, as the lead agency's discretion to select a baseline would be meaningless if a fair argument could be made using an alternate baseline. So, in this instance, the City's use of the VMT Evaluation Tool in effect at the time the transportation analysis was completed reflects the lead agency's discretion to select a baseline, and a fair argument cannot be made by the commentor applying an alternate baseline, i.e., a later version of the VMT Evaluation Tool. The CEQA process can take multiple years, and when baseline conditions can vary over time, as is the case with VMT, CEQA does not require the lead agency, once the transportation analysis has been completed for a project, to revise and update the transportation analysis each time a newer VMT model is released that discloses changed baseline conditions, and apply new thresholds tied to those changed baseline conditions. The City exercised its discretion to select a baseline and apply the appropriate thresholds tied to that selected baseline, and the transportation analysis shows the project's VMT impacts would be less than significant after implementation of feasible mitigation, and a fair argument cannot be made by referencing a subsequent alternate baseline and new thresholds, as that would invalidate the City's discretion in selecting the baseline at the time the project's environmental review commenced.

Comment B.15: Moreover, Mr. Marshall identifies serious flaws in the assumptions underlying the proposed VMT mitigation measures.⁷⁶ One key assumption is the requirement that the vanpool program achieve a 25 percent employee participation rate.⁷⁷ However, Mr. Marshall contends that this assumption is wildly optimistic and likely unattainable, particularly given the unidentified

⁷⁶ Id. at pg. 5.

⁷⁷ MND, pg. 11.

tenant and use of the project.⁷⁸ The MND provides no evidence supporting this assumption and how it plans to achieve a 25 percent participation rate.

Response B.15: The issues raised in this comment were addressed in Responses D.10 and D.12 in the April 2024 Responses to Comments, which are reproduced in their entirety in Response A.7. This comment does not provide any new information or substantial evidence supporting a fair argument that the project would result in significant impacts requiring preparation of an EIR. No further response or additional CEQA analysis is necessary.

Comment B.16: Additionally, Mr. Marshall highlights deficiencies in the proposed monitoring of the efficacy of the VMT mitigation measures. While the MND outlines a monitoring approach based on trip counts, Mr. Marshall explains why this method is insufficient for accurately measuring VMT reduction.⁷⁹ Instead, Marshall advocates for a monitoring process that encompasses each of the VMT-reducing measures identified in the mitigation plan.⁸⁰ He emphasizes the importance of auditing each traffic demand management (“TDM”) measure to ensure compliance and effectiveness in reducing VMT.⁸¹

Response B.16: The comment states that implementation of MM TRAN-1.2 should include a monitoring process that encompasses each TDM measure identified. MM TRAN-1.2 is designed so that the project, once operational, shall implement the two TDM measures identified (commute trip reduction marketing/education and subsidized vanpool) to ensure that the project would not exceed the trip cap established by a qualified traffic engineer for monitoring purposes. Therefore, MM TRAN-1.2 includes effective and enforceable monitoring mechanisms. Therefore, no further response or additional CEQA analysis is required and the preparation of an EIR is not warranted.

Comment B.17: Based on Mr. Marshall’s analysis, the MND’s conclusions with respect to the Project’s transportation are not supported by substantial evidence. Mr. Marshall’s comments provide a fair argument supported by substantial evidence that the Project will have significant transportation impacts. These impacts must be analyzed, disclosed, and mitigated in an EIR before the City can approve the Project.

Response B.17: The MND’s conclusions regarding transportation are supported by a transportation analysis, completed according to the City’s Transportation Analysis Handbook, which documents the project, with implementation of identified mitigation, would comply with the City’s Policy 5-3 and result in a less than significant impact. Per Responses B.1 through B.16, the commenter has not

⁷⁸ Marshall Comments, pg. 5.

⁷⁹ Id. at pp. 5-6.

⁸⁰ Id.

⁸¹ Id.

provided substantial evidence supporting a fair argument that the project would result in significant unavoidable transportation impacts that would require the preparation of an EIR. Therefore, no further response or additional CEQA analysis are required.

Comment B.18: VI. The City Cannot Make The Requisite Findings To Approve The Project's Site Development Permit

Under San Jose Municipal Code ("SJMC") section 20.100.630, the Site Development Permit requires that the City make certain findings, including that the permit as approved is consistent with and will further the policies of the General Plan.⁸² The City must also find that "[t]he environmental impacts of the project, including, but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative effect on adjacent property or properties."⁸³

As an initial matter, the City may not make the required finding for the Site Development Permit that the Project will not result in unacceptable negative environmental impacts. As demonstrated above, the MND fails to disclose, analyze, or effectively mitigate the Project's potentially significant impacts on air quality and transportation. Accordingly, the Project will have an unacceptable negative effect on adjacent property, as even "insignificant" impacts under CEQA can be deemed so. Therefore, the City cannot make the necessary findings under SJMC section 20.100.630(A)(6), as required to approve the Project's Site Development permit.

Response B.18: The City of San José prepared the IS/MND for the referenced project in compliance with the requirements of CEQA and the CEQA Guidelines. As discussed in Responses B.1 through B.21, the comments raised in this letter do not identify any new or more significant impacts, or mitigation measures considerably different than identified in the IS/MND. The assumptions and conclusions made in the IS/MND are supported by substantial evidence, and the assertions presented in this comment letter do not provide substantial evidence (pursuant with CEQA Guidelines Section 15384) supporting a fair argument that the project would result in a significant environmental impact. The comment has not identified what specific adjacent property would allegedly be subjected to unacceptable negative effects, not what those effects purportedly would be. The comments raised previously relate to VMT and criteria air pollutants, which are regional in nature, and not directed at, or experienced by, adjacent properties. Therefore, the City can make the necessary findings under San José Municipal Code Section 20.100.630(A)(6), as required to approve a Site Development permit for the project.

⁸² SJMC § 20.100.630(A)(1).

⁸³ SJMC § 20.100.630 (A)(6) (emphasis added).

Comment B.19: These impacts also create inconsistencies with General Plan policies. Specifically, our analysis of the MND reflected in these comments show that the Project fails to comply with several key goals and policies in the Envision San José 2040 General Plan,⁸⁴ including the following.

Air Quality

MS-10.1	Assess projected air emissions from new development in conformance with the Bay Area Air Quality Management District (BAAQMD) CEQA Guidelines and relative to state and federal standards. Identify and implement feasible air emission reduction measures.
MS-11.3	Review projects generating significant heavy duty truck traffic to designate truck routes that minimize exposure of sensitive receptors to TACs and particulate matter.
MS-13.1	Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.

The MND's approach to assessing air quality impacts contradicts several key General Plan policies, including MS-10.1, and MS-13.1, both of which emphasize the importance of implementing enforceable mitigation measures to protect air quality. MS-10.1 mandates the implementation of feasible air emission reduction measures in accordance with BAAQMD guidelines and state and federal standards. However, the MND's reliance on Tier 4 interim equipment without including it as enforceable mitigation measures fails to fulfill this requirement. Similarly, MS-13.1 requires the inclusion of dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for various permits, including site development permits. The MND's failure to incorporate enforceable mitigation measures to address the Project's construction emissions directly contradicts this policy.

Response B.19: Please refer to Response B.11 which explains that the air quality analysis in the IS/MND did not assume Tier 4 interim equipment when determining the project's impacts. In addition, the BAAQMD CEQA recommended best management practices to reduce fugitive dust are included as a standard permit condition on pages 37 and 38 of the IS/MND. Also as mentioned in Response B.6, the project is below the BAAQMD screening land use sizes for a warehouse, general light industrial use, and R&D use; therefore, further proving that the project would not result in significant air quality impacts. No further response or additional CEQA analysis is required.

Comment B.20: Finally, the MND overlooks emissions from the backup generator onsite, thereby disregarding potential impacts on nearby sensitive receptors, which contravenes MS-11.3. Moreover, the MND fails to evaluate the emissions associated with the movement of materials by

⁸⁴ Available at: <https://www.sanjoseca.gov/home/showpublisheddocument/22359/637928744399330000>

trucks during the operational phase, undermining the MND's compliance with MS-11.3. In summary, the MND's failure to properly analyze air quality impacts or to incorporate binding mitigation measures violates multiple General Plan policies.

Response B.20: As described in Response B.13, the project does not include a backup generator.

Comment B.21: Transportation

TR-1.1	Accommodate and encourage use of non-automobile transportation modes to achieve San José's mobility goals and reduce vehicle trip generation and vehicle miles traveled (VMT)
TR-1.2	Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects
TR-1.4	Through the entitlement process for new development, projects shall be required to fund or construct needed transportation improvements for all transportation modes giving first consideration to improvement of bicycling, walking and transit facilities and services that encourage reduced vehicle travel demand. . . Development proposals shall be reviewed for their impacts on all transportation modes through the study of Vehicle Miles Traveled (VMT), Envision San José 2040 General Plan policies, and other measures enumerated in the City Council Transportation Analysis Policy and its Local Transportation Analysis. Projects shall fund or construct proportional fair share mitigations and improvements to address their impacts on the transportation systems
TR-5.3	Development projects' effects on the transportation network will be evaluated during the entitlement process and will be required to fund or construct improvements in proportion to their impacts on the transportation system. Improvements will prioritize multimodal improvements that reduce VMT over automobile network improvements
TR-9.1	Enhance, expand and maintain facilities for walking and bicycling to provide neighborhoods with safe and direct access to transit and key destinations, a particularly to provide neighborhoods with safe and direct access to transit and key destinations, a complete alternative transportation network that facilitates non-automobile trips, and enjoyable outdoor open space.
TR-9.2	Serve as a model city for VMT reduction by implementing programs and policies that reduce VMT for City of San José employees
TR-9.3	Enhance the overall travel experience of transit riders, pedestrians, bicyclists, and shared micromobility users to encourage mode shift.

The MND's inadequate disclosure and analysis of the Project's transportation impacts directly conflict with the above-cited General Plan policies. For example, policies such as TR-1.1, TR-1.4, TR-5.3, and TR-9.2 underscore the City's commitment to reducing VMT, a goal undermined by the MND's flawed VMT analysis and insufficient proposed mitigation measures highlighted by Mr. Marshall's analysis. By failing to accurately assess and address the significant VMT impact associated with the Project, the MND falls short of meeting these critical General Plan policies, undermining the city's efforts to reduce VMT and promote sustainable transportation and mobility.

As a result of the Project's inconsistencies with these General Plan policies, the City is precluded from making the necessary findings to approve the Project's Site Development Permit pursuant to SJMC section 20.100.630 (A)(1).

Response B.21: As described in Responses B.14 through B.17, the IS/MND was supported by a transportation analysis, completed according to the City's Transportation Analysis Handbook, which appropriately analyzed the project's VMT impacts and determined that the project would result in less than significant impacts with implementation of the identified mitigation measures.

Comment B.22: VII. Conclusion

CEQA requires that an EIR be prepared if there is substantial evidence that any aspect of a project, either individually or cumulatively, may cause a significant effect on the environment.⁸⁵ As discussed herein, there is substantial evidence supporting a fair argument that the Project would result in significant adverse impacts that were not identified in the MND, and that are not adequately analyzed or mitigated. The MND also fails to contain the basic information and analysis required by CEQA, deficiencies which "cannot be dismissed as harmless or insignificant defects."⁸⁶ Moreover, the serious flaws in the MND preclude the City from making the required findings to approve the Project's site development permit.

We urge the City to fulfill its responsibilities under CEQA by withdrawing the MND and preparing a legally adequate EIR to address the potentially significant impacts described in this comment letter. Only by complying with all applicable laws will the City and the public be able to ensure that the Project's environmental impacts are mitigated to less than significant levels.

Thank you for your attention to these comments.

Response B.22: As stated in the above responses (B.1 through B.21), the comments raised in this letter do not identify any new or more significant impacts or mitigation measures considerably different than identified in the IS/MND. No substantial evidence has been presented, in light of the whole record, that the project, with identified mitigation measures, may have a significant effect on the environment. Therefore, the City has determined that the conclusions in the IS/MND are valid, supported by substantial evidence, and preparation of an EIR is not warranted.

⁸⁵ Pub. Res. Code § 21151; 14 CCR §15063(b)(1).

⁸⁶ Bakersfield Citizens for Local Control v. Bakersfield ("Bakersfield") (2004) 124 Cal. App. 4th 1184, 1220.

Appeals of the Planning Director's Decision

C. Mitchell M. Tsai Law Firm (dated May 6, 2024)

Comment C.1: Reason(s) for Appeal

The Project's IS/MND does not accurately disclose the Project's potential significant impacts and fails to adequately mitigate the Project's significant impacts, including as to traffic, air quality, greenhouse gases, noise, biological resources, and other environmental factors. Further, the IS/MND improperly defers mitigation. The City should therefore prepare an EIR to further evaluate and mitigate significant environmental impacts of the Project, or at minimum, revise and recirculate the IS/MND.

Response C.1: Refer to Responses A.1 through A.21. This comment does not provide any new information or substantial evidence supporting a fair argument that the project would result in significant impacts requiring preparation of an EIR. No further response or additional CEQA analysis is necessary.

D. Adams Broadwell Joseph & Cardozo (dated May 6, 2024)

Comment D.1: Reason(s) for Appeal

The Planning Director's decision to approve the Project violated CEQA as there is more than a fair argument that the Project will result in potentially significant air quality and public health impacts from construction an operational emissions and transportation impacts. See Attached Comment Letter for additional comments.

Response D.1: Refer to Responses B.1 through B.22 that address the attached comment letter. This comment does not provide any new information or substantial evidence supporting a fair argument that the project would result in significant impacts requiring preparation of an EIR. No further response or additional CEQA analysis is necessary.

Comment D.2: We are writing on behalf of Silicon Valley Residents for Responsible Development ("Silicon Valley Residents") to appeal the San Jose Planning Director's May 1, 2024 environmental clearance determination for the 865 Embedded Way Industrial Project ("Project") (H22-022, ER22-113) ("Project") proposed by Oppidan, Inc. ("Applicant"), based on the Initial Study/Mitigated Negative Declaration ("MND") prepared by the City of San Jose ("City") pursuant to the California Environmental Quality Act ("CEQA").⁸⁷ This appeal is filed pursuant to Title 21 of the San Jose Municipal Code (Environmental Clearance).

The Project consists of a Site Development Permit to allow the construction of a one-story, 121,400-square foot industrial/manufacturing warehouse on a vacant 10.17-acre project site. The Project would include a connection to an existing 26- foot-wide drive aisle that extends from the eastern Embedded Way driveway through the adjacent eastern industrial property and currently terminates at the southeastern boundary of the project site. A total of 300 parking spaces would be provided in the surface parking lot surrounding the proposed building. The project would include the removal of 11 trees on-site, 2 of which are ordinance-size.

This Appeal letter, and Silicon Valley Residents' attached April 30, 2024 comments to the Planning Director,⁸⁸ demonstrate that the Planning Director's decision to approve the Project violated CEQA as there is more than a fair argument that the Project will result in potentially significant (1) air quality and public health impacts from construction and operational emissions and (2) transportation impacts. Our prior comments, and the accompanying comments of our expert consultants James Clark, PhD and Norman Marshall, identified several flaws in the City's environmental analysis, and provided new information and substantial evidence demonstrating that the MND fails as an informational document under CEQA.

⁸⁷ Pub. Resources Code ("PRC") §§ 21000 et seq.; 14 Cal. Code Regs. ("CCR" or "CEQA Guidelines") §§ 15000 et seq.

⁸⁸ Silicon Valley Residents for Responsible Development's April 30, 2024 written comments to the Planning Director are attached hereto as Exhibit A.

Response D.2: The comment states that the comment letter dated April 30, 2024 included fair arguments that the project would result in significant impacts for air quality and transportation. As discussed above in Responses B.1 through B.22, the April 2024 comment letter submitted by the commentor did not present new information that has not been previously analyzed nor do they provide substantial evidence supporting a fair argument that the project would result in significant unavoidable impacts requiring preparation of an EIR.

Comment D.3: Title 21 of the San Jose Municipal Code ("SJMC") sets forth the procedures for appeals of environmental determinations. Any person may file a written appeal to the City Council of a decision maker's decision to adopt an MND.⁸⁹ Appeals must be submitted on the designated form no later than 5:00 p.m. on the third business day of the Planning Director's decision.⁹⁰ The Appeal must state with specificity the reasons that the MND should be found not to have been adequate or not to have been prepared in compliance with the requirements of CEQA.⁹¹ Appeals are limited to issues that were raised previously either orally or in writing to the Planning Director prior to approval of the Project.⁹²

Pursuant to these appeals procedures, Silicon Valley Residents hereby appeals the Planning Director's May 1, 2024 approval of the MND for the Project. This appeal includes a copy of the required Appeal Form and the required appeal fee of \$250. This Appeal is based on the issues raised in Silicon Valley Residents' April 30, 2024 written comments and in oral comments at the May 1, 2024 Planning Director Hearing, as summarized below.

Silicon Valley Residents urges the City Council to grant this Appeal and remand the Project to City Staff to prepare an Environmental Impact Report ("EIR") for the Project. Silicon Valley Residents reserves the right to submit supplemental comments and evidence at any later hearings and proceedings related to the Project, in accordance with State law.⁹³

Response D.3: This comment is formally stating the commentor's appeal of the approval of the MND for the project. The comment is included in the record and will be considered by the decisions makers prior to taking action on the project. This comment does not directly address the adequacy of the IS/MND but generally states that an EIR should be prepared. No further response or additional CEQA analysis is required.

⁸⁹ SJMC, § 21.06.020(A).

⁹⁰ SJMC, § 21.06.020(B).

⁹¹ SJMC, § 21.06.020(C).

⁹² SJMC § 21.06.020(D) (providing that "[n]o appeal shall be considered unless it is based upon issues that were raised previously either orally or in writing to an advisory body or a decision-making body at or prior to a public hearing whenever the negative declaration or mitigated negative declaration or underlying project is considered at a public hearing.").

⁹³ 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.

Comment D.4: I. Appellants

Appellant Silicon Valley Residents is an unincorporated association of individuals and labor organizations that may be adversely affected by the potential public health and environmental impacts of the Project. The association includes: the International Brotherhood of Electrical Workers Local 332, Plumbers & Steamfitters Local 393, Sheet Metal Workers Local 104, Sprinkler Fitters Local 483, and District Council of Ironworkers and their members and their families; and other individuals that live and/or work in the City of San Jose and Santa Clara County. 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. Indeed, continued environmental degradation can, and has, caused construction moratoriums and other restrictions on growth that, in turn, reduce future employment opportunities.

Response D.4: This comment describes the appellants. This comment is included in the record. This comment does not make any specific comment about the subject project and the IS/MND's evaluation of the project, nor address the adequacy of the IS/MND. No further response or additional CEQA analysis is required.

Comment D.5: II. Basis For Appeal

Based on our review of the MND and available supporting documents, we conclude that the MND fails to comply with the requirements of CEQA. The MND lacks a clear project description, fails to disclose and analyze the Project's potentially significant environmental impacts, and fails to identify enforceable measures that can reduce those impacts to a less than significant level. As explained in our April 30, 2024 comments, there is more than a fair argument that the Project will result in potentially significant air quality and public health impacts from construction and operational emissions and transportation impacts.

Response D.5: As discussed in Responses B.1 and B.22 the comment letter from Adams Broadwell Joseph & Cardozo dated April 30, 2024, does not provide substantial evidence supporting a fair argument that the project would result in significant unavoidable impacts requiring preparation of an EIR. Therefore, no further response or additional CEQA analysis is required and the preparation of an EIR is not warranted.

Comment D.6: First, regarding the project description, the MND describes the project as an industrial/manufacturing warehouse but analyzes the Project as designed for research and development (R&D). Without a designated end user, this ambiguity leads to uncertainties about the

project's future use and potential impacts, particularly concerning differences in impacts between a warehouse and an R&D facility.

Response D.6: Refer to Responses B.6 through B.8 that explain why the IS/MND's environmental analysis considered different potential occupants of the proposed industrial building. This comment does not present new information that has not been previously analyzed in the IS/MND nor does it provide substantial evidence supporting a fair argument that the project would result in significant unavoidable impacts requiring preparation of an EIR.

Comment D.7: Second, as Dr. Clark explained, in estimating the Project's expected construction emissions the MND's air quality analysis assumed that all Project construction equipment would include Tier 4 Interim emission controls.⁹⁴ However, the MND does not include such emission controls as a mitigation measure, nor is there any other enforceable mechanism requiring the use of such controls. Without such controls, the Project's construction emissions will be higher than disclosed, and, as demonstrated by Dr. Clark, these emissions will exceed the air district's significance thresholds.⁹⁵ Furthermore, the MND fails to address other potential sources of emissions, such as the backup generator required for the Project which will emit toxic diesel particulate matter. Consequently, the MND's assessment of construction and operational emissions is flawed and underestimates the true impact of emissions on air quality and public health.

Response D.7: Refer to Responses B.12 through B.15, where the claims of undisclosed air quality impacts were addressed. The IS/MND did not assume Tier 4 interim equipment when determining the project's impacts. The project does not include a backup generator. This comment does not present new information that has not been previously analyzed in the IS/MND nor does it provide substantial evidence supporting a fair argument that the project would result in significant unavoidable impacts requiring preparation of an EIR.

Comment D.8: Third, the transportation analysis, as analyzed by Mr. Marshall, reveals significant deficiencies in the identification of transportation impacts and the MND's proposed mitigation measures. Specifically, the MND provides unsubstantiated assumptions regarding vehicle miles traveled ("VMT") impacts, including unsupported assumptions regarding vanpool participation rates.⁹⁶ In addition, as explained by Mr. Marshall, the proposed monitoring approach for transportation mitigation measures is inadequate.⁹⁷

Response D.8: Please refer to Responses B.17 and B.19, wherein claims regarding the project's VMT impacts were addressed. This comment does not present new information that has not been previously analyzed in the IS/MND nor does it provide

⁹⁴ Clark Comments, pp. 3-4.

⁹⁵ Id. at pg. 6.

⁹⁶ Marshall Comments, pg. 5.

⁹⁷ Id. at pp. 5-7.

substantial evidence supporting a fair argument that the project would result in significant unavoidable impacts requiring preparation of an EIR.

Comment D.9: Accordingly, the City must remand the Project to City Staff to prepare an EIR for the Project that adequately analyzes all of the Project's potentially significant direct, indirect and cumulative impacts, and incorporates all feasible mitigation measures to avoid or minimize these impacts.

III. Conclusion

For the reasons stated herein, and as will be presented to the City Council on appeal, Silicon Valley Residents urges the City Council to reverse the Planning Director's approval of the Project, and require staff to prepare an EIR. Thank you for your consideration.

Response D.9: Based on Responses B.1 through B.22, the comments raised in the comment letter from Adams Broadwell Joseph & Cardozo dated April 30, 2024 did not identify any new or more significant impacts or mitigation measures considerably different than identified in the IS/MND. No substantial evidence has been presented, in light of the whole record, that the project, with identified mitigation measures, may have a significant effect on the environment. Therefore, the City has determined that the conclusions in the IS/MND are valid, supported by substantial evidence, and preparation of an EIR is not warranted.

Section 3.0 IS/MND Text Revisions

This section contains revisions to the text of the 865 Embedded Way Industrial project IS/MND dated December 2022 and text revisions to the April 2024 Responses to Comments. The following text edits comprehensively present all proposed text revisions and supersede any applicable text revisions made in the April 2024 Responses to Comments. Revised or new language is underlined. All deletions are shown with a ~~line through the text~~.

Page 161 Section 4.17.2, the text of the mitigation measure MM TRAN-1.1 at the top of the page is **REVISED** as follows:

MM TRAN-1.1: Prior to issuance of any certificates of occupancy, the project applicant shall implement the following multi-modal infrastructure improvements to incentivize alternative modes of travel and reduce trip generation and reduce VMT generation for the site:

- Remove the pork-chop islands on the southwest and northwest corners of the Embedded Way and Hellyer Avenue intersection to improve pedestrian safety and access. This improvement shall require a signal modification at this intersection that shall include the relocation of signal poles, heads, and crosswalks.
- Install raised median islands along Embedded Way consisting of a 120-foot segment at its western terminus and a 190-foot segment near the Embedded Way and Hellyer Avenue intersection for traffic calming purposes.

The multi-modal infrastructure improvements shall be part of a Public Improvement Plan prepared by the project applicant that demonstrates how the multi-modal improvements will be implemented and the schedules for completing the improvements. Prior to issuance of any certificates of occupancy, the project applicant shall submit the Public Improvement Plan to the Director of Public Works or the Director's designee for review and approval. The implementation of the multi-modal improvements shall be verified by the Director of Public Works or the Director's designee for review and approval.

Page 161 and 162 Section 4.17.2, the text of the mitigation measure MM TRAN-1.2 is **REVISED** as follows:

MM TRAN-1.2: Prior to the issuance of ~~Planning Site Development Permit~~ any certificates of occupancy, the project applicant shall submit a final TDM Plan that is based on the specific intended use for the project. The final TDM Plan shall be approved by the Director of the Department of Public Works or Director's designee and the Director of Planning, Building and Code Enforcement, or Director's designee.; The final TDM Plan that shall include implementation of the following TDM measures to reduce the project's VMT.

- Commute Trip Reduction Marketing/Education: Implement marketing/educational campaigns that promote the use of transit, shared rides, and travel through active modes for 25 percent of the project employees. Strategies may include the incorporation of alternative commute options into new employee orientations, event promotions, and publications.
- Subsidize Vanpool: Provide subsidies for individuals forming new vanpools for their commute. This encourages the use of vanpools, reducing drive-alone trips, and thereby reducing VMT. The project shall be required to subsidize 100 percent of the cost of the vanpool and achieve at least 25 percent employee participation.

The TDM plan shall be submitted to the Director of Public Works or Director's designee and the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval and shall include a trip cap for VMT monitoring purposes. The trip cap shall be prepared by a traffic engineer and be based on the specific intended use for the project. The monitoring shall be based on annual trip generation counts that demonstrate the vehicle trips generated by the project are within 10 percent of an established peak hour trip cap that is prepared by a traffic engineer. The annual trip monitoring reports shall be submitted that demonstrate that project-generated VMT is below the significance threshold. If the annual trip monitoring report finds that the project is exceeding the established trip cap, the project shall be required to submit a follow-up report that demonstrates compliance with the trip cap requirements within a period not to exceed six months.

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Section 4.17.2, the following text is **ADDED** to mitigation measure MM TRAN-2.1:

Impact TRAN-2

The proposed project would increase hazards due to inadequate driveway width on Embedded Way, requiring inbound trucks entering the westernmost Embedded Way driveway to utilize the opposing outbound travel lane, reducing sight distance for outbound vehicles.

Mitigation Measures:

MM TRAN-2.1: The project shall increase the width of the westernmost driveway on Embedded Way in a manner sufficient to ensure that trucks do not utilize the opposing outbound travel lane when entering the project site. A site plan showing the widening of the driveway and a truck circulation plan that includes truck turning radii demonstrating adequate driveway width shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee and the Director of Public Works or the Directors' designee for review and approval prior to issuance of grading permits.

Section 4.0 Conclusion

The issues raised in the appeals of the Planning Director’s decision to adopt the IS/MND did not raise any new issues about the project’s environmental impacts, present a fair argument that the project, with mitigation, would result in significant and unavoidable impacts, or provide information indicating the project would result in new environmental impacts or impacts substantially greater in severity than disclosed in the IS/MND. Minor clarifications were added to the text of the IS/MND (refer to Section 3.0 IS/MND Text Revisions). The text revisions do not constitute a “substantial revision” pursuant to CEQA Guidelines §15073.5 and recirculation of the MND is not required, nor is preparation of an EIR warranted.

Appendix A: Comment Letters Received on the IS/MND After Public Circulation



VIA E-MAIL

April 30, 2024

Nhu Nguyen,
Environmental Project Manager
City of San Jose
200 East Santa Clara Street, 3rd Floor Tower
San Jose, CA 95113
P: (408) 535-6894
E: nhu.nguyen@sanjoseca.gov

RE: City of San Jose's 865 Embedded Way Industrial Project (Project File Nos. H22-022, ER22-113)

Dear Nhu Nguyen,

On behalf of Carpenters Local Union 405 (“**Local 405**”) this office is submitting these further comments regarding the Initial Study/Mitigated Negative Declaration (“**IS/MND**”) for the City of San Jose’s (“**City**”) 865 Embedded Way Industrial Project (“**Project**”), and the City’s written responses to prior written comments submitted on the Project.

The Project proposes a Site Development Permit (File No. H22-022) to allow the construction of a one-story, 121,400-square-foot industrial/manufacturing warehouse on a vacant 10.17-acre project site located at 865 Embedded Way in San Jose, California 95138 (APN 679-01-020) (“**Site**”). The Project also includes a connection to an existing 26-foot-wide drive aisle that extends from the eastern Embedded Way driveway through the adjacent eastern industrial property at 875 Embedded Way and currently terminates at the southeastern boundary of the Site. A total of 300 parking spaces would be provided in a surface parking lot surrounding the proposed building. The Project requires the removal of 11 trees on-site, two of which are ordinance-size.

Local 405 represents thousands of union carpenters in San Jose and has a strong interest in well-ordered land use planning and in addressing the environmental impacts of development projects. Individual members of Local 405 live, work, and

recreate in the City and surrounding communities and would be directly affected by the Project's environmental impacts.

Local 405 expressly reserves the right to supplement these comments at or prior to hearings on the Project, and at any later hearing or proceeding related to the Project. Gov. Code, § 65009, subd. (b); Pub. Res. Code, § 21177, subd. (a); see *Bakersfield Citizens for Local Control v. Bakersfield* (2004) 124 Cal.App.4th 1184, 1199-1203; see also *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal.App.4th 1109, 1121.

Local 405 incorporates by reference all comments related to the Project or its California Environmental Quality Act (“**CEQA**”) review, including the IS/MND. See *Citizens for Clean Energy v. City of Woodland* (2014) 225 Cal.App.4th 173, 191 (finding that any party who has objected to the project's environmental documentation may assert any issue timely raised by other parties).

Moreover, Local 405 requests that the City provide notice for any and all notices referring or related to the Project issued under CEQA (Pub. Res. Code, § 21000 *et seq.*) and the California Planning and Zoning Law (“**Planning and Zoning Law**”) (Gov. Code, §§ 65000-65010). California Public Resources Code sections 21092.2 and 21167(f) and California Government Code section 65092 require agencies to mail such notices to any person who has filed a written request for them with the clerk of the agency's governing body.

I. THE CITY SHOULD REQUIRE THE USE OF A LOCAL WORKFORCE TO BENEFIT THE COMMUNITY'S ECONOMIC DEVELOPMENT AND ENVIRONMENT.

Local 405 reiterates that the City should require that the Project be built by contractors who participate in a Joint Labor-Management Apprenticeship Program approved by the State of California and make a commitment to hiring a local workforce.

Community benefits such as local hire can also be helpful to reduce environmental impacts and improve the positive economic impact of the Project. Local hire provisions requiring that a certain percentage of workers reside within 10 miles or less of the Site can reduce the length of vendor trips, reduce greenhouse gas (“**GHG**”) emissions, and provide localized economic benefits.

Workforce requirements promote the development of skilled trades that yield sustainable economic development. Furthermore, workforce policies have significant

environmental benefits given that they improve an area's jobs-housing balance, decreasing the amount and length of job commutes and the associated greenhouse gas (GHG) emissions. In fact, on May 7, 2021, the South Coast Air Quality Management District found that that the “[u]se of a local state-certified apprenticeship program” can result in air pollutant reductions.¹

Locating jobs closer to residential areas can have significant environmental benefits. Moreover, local hire mandates and skill-training are critical facets of a strategy to reduce vehicle miles traveled (“**VMT**”). As planning experts Robert Cervero and Michael Duncan have noted, simply placing jobs near housing stock is insufficient to achieve VMT reductions given that the skill requirements of available local jobs must match those held by local residents.² Some municipalities have even tied local hire and other workforce policies to local development permits to address transportation issues.

Recently, the State of California verified its commitment towards workforce development through the Affordable Housing and High Road Jobs Act of 2022, otherwise known as Assembly Bill No. 2011 (“**AB2011**”). AB2011 amended the Planning and Zoning Law to allow ministerial, by-right approval for projects being built alongside commercial corridors that meet affordability and labor requirements.

The City should consider utilizing local workforce policies and requirements to benefit the local area economically and to mitigate GHG emissions, improve air quality, and reduce transportation impacts.

II. THE PROJECT WOULD BE APPROVED IN VIOLATION OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

A. Background Concerning the California Environmental Quality Act.

¹ South Coast Air Quality Management District (May 7, 2021) Certify Final Environmental Assessment and Adopt Proposed Rule 2305 – Warehouse Indirect Source Rule – Warehouse Actions and Investments to Reduce Emissions Program, and Proposed Rule 316 – Fees for Rule 2305, Submit Rule 2305 for Inclusion Into the SIP, and Approve Supporting Budget Actions, *available at* <http://www.aqmd.gov/docs/default-source/Agendas/Governing-Board/2021/2021-May7-027.pdf?sfvrsn=10>.

² Cervero, Robert and Duncan, Michael (2006) Which Reduces Vehicle Travel More: Jobs-Housing Balance or Retail-Housing Mixing? *Journal of the American Planning Association* 72 (4), 475-490, 482, *available at* <http://reconnectingamerica.org/assets/Uploads/UTCT-825.pdf>.

The California Environmental Quality Act is a California statute designed to inform decision-makers and the public about the potential significant environmental effects of a project. 14 California Code of Regulations (“**CEQA Guidelines**”), § 15002, subd. (a)(1).³ At its core, its purpose is to “inform the public and its responsible officials of the environmental consequences of their decisions *before* they are made.” *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564.

1. Background Concerning Environmental Impact Reports.

CEQA directs public agencies to avoid or reduce environmental damage, when possible, by requiring alternatives or mitigation measures. CEQA Guidelines, § 15002, subds. (a)(2)-(3); see also *Berkeley Keep Jets Over the Bay Committee v. Board of Port Comes* (2001) 91 Cal.App.4th 1344, 1354; *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553; *Laurel Heights Improvement Assn.*, 47 Cal.3d at p. 400. The EIR serves to provide public agencies and the public in general with information about the effect that a proposed project is likely to have on the environment and to “identify ways that environmental damage can be avoided or significantly reduced.” CEQA Guidelines, § 15002, subd. (a)(2). If the project has a significant effect on the environment, the agency may approve the project only upon finding that it has “eliminated or substantially lessened all significant effects on the environment where feasible” and that any unavoidable significant effects on the environment are “acceptable due to overriding concerns” specified in Public Resources Code section 21081. See CEQA Guidelines, § 15092, subds. (b)(2)(A)-(B).

While the 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. *Berkeley Jets*, 91 Cal.App.4th at p. 1355 (quoting *Laurel Heights Improvement Assn.*, 47 Cal.3d at pp. 391, 409 fn. 12) (internal quotations omitted). A clearly inadequate or unsupported study is entitled to no judicial deference. *Id.* Drawing this line and determining whether the EIR complies with CEQA’s information disclosure requirements presents a question of law subject to independent review by the courts. *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502,

³ The CEQA Guidelines, codified in Title 14 of the California Code of Regulations, section 15000 et seq., are regulatory guidelines promulgated by the state Natural Resources Agency for the implementation of CEQA. Cal. Pub. Res. Code, § 21083. The CEQA Guidelines are given “great weight in interpreting CEQA except when . . . clearly unauthorized or erroneous.” *Center for Biological Diversity v. Dept. of Fish & Wildlife* (2015) 62 Cal.4th 204, 217.

515; *Madera Oversight Coalition, Inc. v. County of Madera* (2011) 199 Cal.App.4th 48, 102, 131. As the court stated in *Berkeley Jets*, 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. 91 Cal.App.4th at p. 1355 (internal quotations omitted).

The preparation and circulation of an EIR is more than a set of technical hurdles for agencies and developers to overcome. *Communities for a Better Environment v. Richmond* (2010) 184 Cal.App.4th 70, 80 (quoting *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 449-450). The EIR's function is to ensure that government officials who decide to build or approve a project do so with a full understanding of the environmental consequences and, equally important, that the public is assured those consequences have been considered. *Id.* For the EIR to serve these goals it must present information so that the foreseeable impacts of pursuing the project can be understood and weighed, and the public must be given an adequate opportunity to comment on that presentation before the decision to go forward is made. *Id.*

A strong presumption in favor of requiring preparation of an EIR is built into CEQA. This presumption is reflected in what is known as the “fair argument” standard under which an EIR must be prepared whenever substantial evidence in the record supports a fair argument that a project may have a significant effect on the environment. *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1602; *Friends of “B” St. v. City of Hayward* (1980) 106 Cal.3d 988, 1002.

The fair argument test stems from the statutory mandate that an EIR be prepared for any project that “may have a significant effect on the environment.” PRC, § 21151; see *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.App.3d 68, 75; accord *Jensen v. City of Santa Rosa* (2018) 23 Cal.App.5th 877, 884. Under this test, if a proposed project is not exempt and may cause a significant effect on the environment, the lead agency must prepare an EIR. PRC, §§ 21100 (a), 21151; CEQA Guidelines, § 15064 (a)(1), (f)(1). An EIR may be dispensed with only if the lead agency finds no substantial evidence in the initial study or elsewhere in the record that the project may have a significant effect on the environment. *Parker Shattuck Neighbors v. Berkeley City Council* (2013) 222 Cal.App.4th 768, 785. In such a situation, the agency must adopt a negative declaration. PRC, § 21080, subd. (c)(1); CEQA Guidelines, §§ 15063 (b)(2), 15064(f)(3).

“Significant effect upon the environment” is defined as “a substantial or potentially substantial adverse change in the environment.” PRC, § 21068; CEQA Guidelines, § 15382. A project may have a significant effect on the environment if there is a reasonable probability that it will result in a significant impact. *No Oil, Inc.*, 13 Cal.3d at p. 83 fn. 16; see *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 309. If any aspect of the project may result in a significant impact on the environment, an EIR must be prepared even if the overall effect of the project is beneficial. CEQA Guidelines, § 15063(b)(1); see *County Sanitation Dist. No. 2 v. County of Kern* (2005) 127 Cal.App.4th 1544, 1580.

This standard sets a “low threshold” for preparation of an EIR. *Consolidated Irrigation Dist. v. City of Selma* (2012) 204 Cal.App.4th 187, 207; *Nelson v. County of Kern* (2010) 190 Cal.App.4th 252; *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 928; *Bowman v. City of Berkeley* (2004) 122 Cal.App.4th 572, 580; *Citizen Action to Serve All Students v. Thornley* (1990) 222 Cal.App.3d 748, 754; *Sundstrom*, 202 Cal.App.3d at p. 310. If substantial evidence in the record supports a fair argument that the project may have a significant environmental effect, the lead agency must prepare an EIR even if other substantial evidence before it indicates the project will have no significant effect. See *Jensen*, 23 Cal.App.5th at p. 886; *Clews Land & Livestock v. City of San Diego* (2017) 19 Cal.App.5th 161, 183; *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150; *Brentwood Assn. for No Drilling, Inc. v. City of Los Angeles* (1982) 134 Cal.App.3d 491; *Friends of “B” St.*, 106 Cal.App.3d 988; CEQA Guidelines, § 15064(f)(1).

2. *Background Concerning Initial Studies, Negative Declarations and Mitigated Negative Declarations.*

CEQA and CEQA Guidelines are strict and unambiguous about when an MND may be used. A public agency must prepare an EIR whenever substantial evidence supports a “fair argument” that a proposed project “may have a significant effect on the environment.” Pub. Res. Code, §§ 21100, 21151; CEQA Guidelines, §§ 15002, subds. (f)(1)-(2), 15063; *No Oil, Inc.*, 13 Cal.3d at p. 75; *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 111-112.

Essentially, should a lead agency be presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect. CEQA Guidelines, §§ 15064, subds. (f)(1)-(2); see *No*

Oil Inc., *supra*, 13 Cal.3d at p. 75 (internal citations and quotations omitted). Substantial evidence includes “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.” CEQA Guidelines, § 15384(a).

The fair argument standard is a “low threshold” test for requiring the preparation of an EIR. *No Oil Inc.*, *supra*, 13 Cal.3d at p. 84; *County Sanitation Dist. No. 2 of Los Angeles County v. County of Kern* (2005) 127 Cal.App.4th 1544, 1579. It “requires the preparation of an EIR where there is substantial evidence that any aspect of the project, either individually or cumulatively, may cause a significant effect on the environment, regardless of whether the overall effect of the project is adverse or beneficial[.]” *County Sanitation*, *supra*, 127 Cal.App.4th at p. 1580 (quoting CEQA Guidelines, § 15063(b)(1)). A lead agency may adopt an MND only if “there is no substantial evidence that the project will have a significant effect on the environment.” CEQA Guidelines, § 15074(b).

Evidence supporting a fair argument of a significant environmental impact triggers preparation of an EIR regardless of whether the record contains contrary evidence. *League for Protection of Oakland’s Architectural and Historical Resources v. City of Oakland* (1997) 52 Cal.App.4th 896, 904-905. “Where the question is the sufficiency of the evidence to support a fair argument, deference to the agency’s determination is not appropriate[.]” *County Sanitation*, 127 Cal.App.4th at 1579 (quoting *Sierra Club v. County of Sonoma* (1992) 6 Cal.App.4th 1307, 1317-1318).

Further, it is the duty of the lead agency, not the public, to conduct the proper environmental studies. “The agency should not be allowed to hide behind its own failure to gather relevant data.” *Sundstrom*, 202 Cal.App.3d at p. 311. “Deficiencies in the record may actually enlarge the scope of fair argument by lending a logical plausibility to a wider range of inferences.” *Id*; see also *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1382 (lack of study enlarges the scope of the fair argument which may be made based on the limited facts in the record).

Thus, refusal to complete recommended studies lowers the already low threshold to establish a fair argument. The court may not exercise its independent judgment on the omitted material by determining whether the ultimate decision of the lead agency would have been affected had the law been followed. *Environmental Protection Information Center v. Cal. Dept. of Forestry* (2008) 44 Cal.4th 459, 486 (internal citations

and quotations omitted). The remedy for this deficiency would be for the trial court to issue a writ of mandate. *Id.*

Both the review for failure to follow CEQA's procedures and the fair argument test are questions of law, thus, the de novo standard of review applies. *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 435.

“Whether the agency’s record contains substantial evidence that would support a fair argument that the project may have a significant effect on the environment is treated as a question of law. *Consolidated Irrigation Dist.*, 204 Cal.App.4th at p. 207; Kostka and Zischke, *Practice Under the Environmental Quality Act* (2017, 2d ed.) at § 6.76.

In an MND context, courts give no deference to the agency. Additionally, the agency or the court should not weigh expert testimony or decide on the credibility of such evidence—this is one of the EIR’s functions. As stated in *Pocket Protectors v. City of Sacramento* (2004):

Unlike the situation where an EIR has been prepared, neither the lead agency nor a court may “weigh” conflicting substantial evidence to determine whether an EIR must be prepared in the first instance. Guidelines section 15064, subdivision (f)(1) provides in pertinent part: if a lead agency is presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect. Thus, as *Claremont* itself recognized, [c]onsideration is not to be given contrary evidence supporting the preparation of a negative declaration.

124 Cal.App.4th 903, 935 (internal citations and quotations omitted).

In cases where it is not clear whether there is substantial evidence of significant environmental impacts, CEQA requires erring on the side of a “preference for resolving doubts in favor of environmental review.” *Mejia v. City of Los Angeles* (2005) 130 Cal.App.4th 322, 332. “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. *Friends of Mammoth v. Board of Supervisors* (1972) 8 Cal.3d 247, 259.

As explained below, the IS/MND fails to make certain essential findings. Further, for a number of findings that the IS/MND does make, it fails to support such findings

with sufficient analysis and substantial evidence, or it fails to incorporate adequate mitigation measures. Therefore, there is a fair argument that the Project will have a significant effect on the environment, triggering the “low threshold” standard for preparation of an EIR.

B. The City’s Responses to Comments Misconstrue and Misapply the Substantial Evidence Standard.

In its April 2024 Responses to Comments (the “**Responses**”), the City repeatedly asserts that the comments provided by Local 405 (and other commenting parties) “[do] not provide substantial evidence of [their] own supporting a fair argument that the identified mitigation measures are inadequate to reduce project impacts to a less than significant level.” This boilerplate dismissal of Local 405’s comments ignores the proper substantial evidence standard that applies to a commenting party challenging the adequacy of environmental review under CEQA. Indeed, a commenting party need not provide “its own” substantial evidence to support a fair argument that a project will have a significant impact. Rather, that evidence can be contained in any of the documents associated with and prepared for a project (including CEQA environmental documents), as is the case here.

Again, a strong presumption in favor of requiring preparation of an EIR is built into CEQA. This presumption is reflected in what is known as the “fair argument” standard, under which an agency must prepare an EIR whenever ***substantial evidence in the record*** supports a fair argument that a project may have a significant effect on the environment. *Quail Botanical Gardens Found., Inc. v City of Encinitas* (1994) 29 CA4th 1597, 1602; *Friends of “B” St. v City of Hayward* (1980) 106 CA3d 988, 1002. Here, Local 405 has commented regarding the MND and the data and information set forth therein, and has raised arguments regarding the Project’s perceived significant environmental impacts based on that information and documentation. The City is not at liberty to summarily dispose of those comments simply because its analysis has led it to differing conclusions regarding the Project’s impacts. The MND constitutes a significant component of the “evidence in the record,” and to the extent that other fair arguments regarding the Project’s environmental impacts can be drawn from the information presented therein, Local 405 (and other commenting parties) are not required to supply any additional evidence in support of those fair arguments. More importantly, the City, as the lead agency for the Project, cannot simply dismiss other fair arguments regarding environmental impacts that arise from the evidence in the record, and it is the City’s obligation to instead carefully weigh and consider any other such arguments before making a determination as to whether further environmental review is warranted.

C. There Is a Fair Argument that the Project May Have a Significant Traffic Impact.

To dispose of the need to prepare an EIR, the IS/MND relies on mitigation measure MM TRAN-1.1 to support its contention that the Project would have a less than significant impact with mitigation incorporated as it pertains to CEQA Guidelines Section 15064.3 and its required VMT evaluation of a project's transportation impacts. IS/MND, p. 161. Yet, mitigation measure MM TRAN-1.1 is inadequate for an EIR, given that it is unenforceable, illusory, and infeasible. It also improperly delegates the City's affirmative duty to ensure the reduction of traffic impacts onto the Project's Applicant and further improperly delegates the approval of any traffic mitigation plans to the City's Public Works department, rather than the elected decision-makers. MM TRAN-1.1 also improperly defers mitigation.

CEQA's standard under Public Resources Code section 21064.5 requires an IS/MND to show that:

(1) [R]evisions in the project plans or proposals made by, or agreed to by, the applicant before the proposed negative declaration and initial study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur, and (2) there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment.

In addition to its prior comments on this issue, Local 405 reiterates that the proposed mitigation measures are illusory given they only require that the Project Applicant submit plans at some future point which the City may then review. These measures further place the burden on the Applicant to "ensure" that the proposed changes result in a reduction of VMT. Simply put, there is no definitive and measurable commitment to mitigation at all. Even under the EIR-related CEQA Guidelines section 15126.4(a)(1)(B), this is improper since, *inter alia*, the City does not commit to mitigation but rather relies on the Applicant to mitigate. As a result, the public is being denied the opportunity to assess the City's analysis behind the claimed adequacy of the proposed mitigation measures, as the specific plans for implementing the mitigation measures have not yet been prepared. The City's April 2024 Responses to Public Comments fail to cure these material defects.

Indeed, the proposed mitigation measures are improperly deferred and vague as they defer the formulation of mitigation measures or final design thereof to a later time, shift that burden to the Applicant, and further do not adequately explain how removing the pork-chop islands or installing raised median islands will improve pedestrian safety and calm traffic to such a degree that such measures will “clearly” reduce VMT to the requisite level of insignificance, as required for an IS/MND.

As stated previously, the IS/MND fails to meet CEQA’s pre-conditions and requirements even in the case of an EIR. CEQA forbids deferred mitigation. CEQA Guidelines, § 15126.4, subd. (a)(1)(B). CEQA allows deferral of details of mitigation measures only “when it is impractical or infeasible to include those details during the project’s environmental review.” *Id.* CEQA further requires that the lead agency:

(1) [C]ommits itself to the mitigation, (2) adopts specific performance standards the mitigation will achieve, and (3) identifies the type(s) of potential action(s) that can feasibly achieve that performance standard[.]

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

Here, Local 405 maintains that the City has failed each of these preconditions and requirements, as the IS/MND fails to show why the development of the traffic calming plans or pedestrian improvements could not be developed before the issuance of the IS/MND, what impacts they will have individually or cumulatively, if such plans would indeed be feasible, and the specific performance criteria that Applicant will have to meet.

Moreover, the revisions that the City has proposed to the IS/MND in its April 2024 Responses to Public Comments only further compound the City’s deferment of mitigation by expanding upon the City’s withdrawal from the impact mitigation process. Specifically, the Responses propose the following revisions to MM-TRAN-1.1, in relevant part:

The multi-modal infrastructure improvements shall be part of a Public Improvement Plan prepared by the project applicant that demonstrates how the multi-modal improvements will be implemented and the schedules for completing the improvements. Prior to issuance of any certificates of occupancy, the project applicant shall submit ~~The Public Improvement Plan shall be reviewed and approved by~~ to the Director of Public Works or the Director’s designee. The implementation of the

multi-modal improvements shall be verified by the Director of Public Works or the Director's designee for review and approval.

See April 2024 Responses to Public Comments at p. 52.

These revisions to the mitigation measure indicate that the City is removing itself from the process of approving the Public Improvement Plan prior to the Applicant's implementation of any multi-modal infrastructure improvements. To that end, the mitigation measure now vests the Applicant with all of the discretionary authority over the contents of the Public Improvement Plan. According to the revised mitigation measure, the only role the City will now play with regard to the Public Improvement Plan is verifying the Applicant's implementation of the multi-modal improvements that the Applicant determined were appropriate for incorporation into the Project.

Furthermore, the City has simply no justification for the deferment of the Public Improvement Plan until after the conclusion of the environmental review process for the Project, seeing as the IS/MND's determination of "less than significant impacts with mitigation" is entirely contingent upon the establishment and implementation of that Public Improvement Plan.

Lastly, the IS/MND improperly fails to provide any analysis whatsoever of the potential environmental impacts that would result from the implementation of the proposed mitigation measures, including the multi-modal infrastructure improvements that the mitigation measure demands. In the absence of providing that requisite analysis, and by deferring and delegating away aspects of the mitigation measure, the City has improperly denied the public of the requisite opportunity to fully evaluate the environmental impacts of the Project prior to a final agency determination being made.

For the reasons set forth previously and hereinabove, Local 405 maintains that the IS/MND fails to prove that the Project's traffic impacts will be mitigated to a less than significant level with the incorporation of the proposed mitigation measures. In fact, the IS/MND suggests the opposite, necessitating the preparation of an EIR. The City's responses to comments and revisions to the proposed mitigation measures fail to address the concerns previously raised by Local 405.

D. There Is a Fair Argument that the Project May Have Significant Air Quality, GHG Emission, Water, Noise, Hazards, Human Health, and

Wildlife/Biological Impacts, and Cumulative Impacts, Requiring
Mandatory Findings of Significance and the Preparation of an EIR.

Again, given that the Project may have significant traffic impacts that are not accurately disclosed or mitigated against in the IS/MND, then its traffic-related impacts are also derivatively understated and may be significant, thereby requiring the preparation and circulation of an EIR.

There is an acknowledged direct correlation between the increase in traffic impacts and an increase in the associated air quality, GHG emission, and noise impacts. See e.g., *City of Redlands v. County of San Bernardino* (2002) 96 Cal.App.4th 398, 413 (“it is reasonable to assume” that a project enabling physical residential development would have reasonably foreseeable indirect air and other impacts).

As stated in the Office of Planning Research’s (“**OPR**”) technical advisory in 2018:

VTM and Greenhouse Gas Emissions Reduction. Senate Bill 32 (Pavley, 2016) requires California to reduce greenhouse gas (GHG) emissions 40 percent below 1990 levels by 2030, and Executive Order B-16-12 provides a target of 80 percent below 1990 emissions levels for the transportation sector by 2050. The transportation sector has three major means of reducing GHG emissions: increasing vehicle efficiency, reducing fuel carbon content, and reducing the amount of vehicle travel.

Similarly, there is an acknowledged nexus between the increase in traffic and in related air quality, GHG impacts, noise, water/flooding impacts, and impacts on human health and the natural environment, including wildlife and waterways. As described in the 2018 OPR Technical advisory:

VTM and Other Impacts to Health and Environment. VMT mitigation also creates substantial benefits (sometimes characterized as “co-benefits” to GHG reduction) in both in the near-term and the long-term. Beyond GHG emissions, increases in VMT also impact human health and the natural environment. Human health is impacted as increases in vehicle travel lead to more vehicle crashes, poorer air quality, increases in chronic diseases associated with reduced physical activity, and worse mental health. Increases in vehicle travel also negatively affect other road users, including pedestrians, cyclists, other motorists, and many transit users. The natural environment is impacted as higher VMT leads to more

collisions with wildlife and fragments habitat. Additionally, development that leads to more vehicle travel also tends to consume more energy, water, and open space (including farmland and sensitive habitat). This increase in impermeable surfaces raises the flood risk and pollutant transport into waterways.

As such, there is a fair argument that the Project here may have significant GHG emissions, air quality, energy, water, noise and other impacts, including impacts on human beings and the natural environment.

1. *GHG Emissions and Air Quality Impacts*

Local 405 reiterates that the IS/MND fails to analyze, to any degree sufficient to constitute compliance with CEQA, the Project's potential GHG emissions impacts, and instead offers a conclusory statement that because construction emissions would occur over a certain period and result in a certain tonnage of CO₂, that the Project will not result in a significant impact with regards to GHG emissions. Consequently, the IS/MND requires substantial revisions or an EIR must be prepared.

For purposes of the Project's operational emissions, the IS/MND leans too almost entirely on the Project's consistency with the General Plan land use designation for the Site and planned growth from build out of the General Plan and that "the project's GHG emissions are accounted for in the citywide GHG emissions inventory addressed in the GHGRS, *provided the project complies with applicable GHG reduction measures identified in the GHGRS.*" IS/MND, p. 99. However, Local 405 maintains that the IS/MND's reliance on the Project's consistency with the City's 2030 GHG Reduction Strategy ("**GHGRS**"), i.e., the hope that the Project "complies with applicable GHG reduction measures," cannot constitute as mitigation nor a determination that the Project will have less than significant impacts for purposes of CEQA compliance. The Project's compliance with municipal planning and GHGRS is not a substitute for performing a detailed analysis of the Projects GHG impacts, as required by CEQA.

In sum, the MND's findings of no impacts, including but not limited to impacts in air quality and GHG emissions, are clearly erroneous, and an EIR is required to not only disclose the Project's respective impacts, but also relate those to the adverse health impacts and impacts to the human beings that the Project may have. *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502.

2. *Wildlife and Biological Impacts*

Based on the known potential for occurrence of special-status species on or near the project site, Local 405 reiterates that additional site surveys must be completed prior to the Project's building phase to adequately determine whether and to what extent protected species may be present on the Site. Moreover, despite the position detailed in the City's Responses to Comments, the Santa Clara Valley Habitat Plan (and the Applicant's payment of fees associated therewith) cannot and does not act as a CEQA-compliant substitute for implementation of necessary mitigation measures pertaining to biological resources impacted by the Project. Rather, the appropriate course for mitigation of any potential adverse impacts of the Project on sensitive biological resources would be the establishment of mitigation measures that would include comprehensive and seasonally appropriate biological surveys prior to and during the construction of the project.

Again, the IS/MND acknowledges that the "Bay checkerspot butterfly and Crotch's bumble bee ... may occasionally forage or breed on the site and, therefore, the species cannot be deemed absent." IS/MND at p. 50. It also notes the potential for yellow warblers and white-tailed kites to occur at the site. *Id.* Given the potential for occurrence of these special-status species on or near the Project site, CEQA requires that the IS/MND, at minimum, be revised to craft specific mitigation measures aimed at ensuring a reduction in Project impacts to such species to the maximum extent possible.

3. *Noise Impacts*

As stated in CEQA, Guidelines section 15126.4(a)(1)(B), "[c]ompliance with a regulatory permit or other similar process may be identified as mitigation if compliance would result in implementation of measures that would be reasonably expected, based on substantial evidence in the record, to reduce the significant impact to the specified performance standards." See also *Californians for Alternatives to Toxics v. Department of Food & Agric.* (2005) 136 Cal.App.4th 1 (the court set aside an EIR for a statewide crop disease control plan because it did not include an evaluation of the risks to the environment and human health from the proposed program but simply presumed that no adverse impacts would occur from use of pesticides in accordance with the registration and labeling program of the California Department of Pesticide Regulation); *Ebbetts Pass Forest Watch v Department of Forestry & Fire Protection* (2008) 43 Cal. App. 4th 936, 956 (fact that Department of Pesticide Regulation had assessed

environmental effects of certain herbicides in general did not excuse failure to assess effects of their use for specific timber harvesting project).

Here, the IS/MND relies on the Project’s “implementation of GP Policy EC-1.7, Municipal Code requirements, and the City’s Standard Permit Conditions” to conclude that the Project’s “temporary construction noise impacts would be reduced to a less-than-significant level.” However, based on the authority outlined above, Local 405 maintains that it is improper for the IS/MND to merely rely on Applicant’s compliance with regulatory measures to conclude that the Project will have less than significant impacts for a number of reasons. Again, noise regulations do not capture all the noise impacts of the Project, including construction and operation. Moreover, the regulatory measures are not Project-specific and are focused on the Project itself—as such, they fail to consider issues specific to the Project, such as location, size, proposed mitigation measures, as well as the Project’s *cumulative* impacts along with other related projects. Further, as discussed previously, the IS/MND’s traffic impacts are understated, and therefore traffic noise impacts have not been fully accounted for.

Further still, the Project’s reliance on regulatory compliance with the referenced regulations is misplaced because there is no evidence that such ordinances were to control noise outside of the building’s envelope, such as, for example, traffic noise or increase in ambient noises due to the Project’s construction and operation. *California Clean Energy Committee v. City of Woodland* (2014) 225 Cal.App.4th 173, 210 (the building codes do not address the question of whether the Project is even *safe* to build, “whether a building should be constructed at all, how large it should be, where it should be located, whether it should incorporate certain resources, or anything else external to the building’s envelope.”)

Accordingly, Local 405 maintains that there is a fair argument that the Project may have a significant noise impact and as such, the Project’s potential noise impacts should be thoroughly analyzed and evaluated in an Environmental Impact Report pursuant to CEQA. At a minimum, Local 405 submits that the IS/MND must be revised and recirculated with respect to the Project’s noise impacts to reflect greater analysis beyond applying the Project’s regulatory compliance as a substitute for sufficient mitigation of noise impacts.

III. THE CITY MUST, AT THE VERY LEAST, REVISE AND RECIRCULATE THE IS/MND.

Section 15073.5 of the CEQA Guidelines provides that a negative declaration must be recirculated whenever the document must be substantially revised. A substantial revision includes the identification of new, avoidable significant effects requiring mitigation measures or project revisions to be added to reduce the effect to less than significant levels or upon the agency determining that a proposed mitigation measure or project change would not reduce a potential impact to insignificance.

Additionally, when new information is brought to light showing that an impact previously discussed in an IS/MND and found to be insignificant with or without mitigation in the IS/MND's analysis has the potential for a significant environmental impact supported by substantial evidence, the IS/MND must consider and resolve the conflict in the evidence. See *Visalia Retail, L.P. v. City of Visalia* (2018) 20 Cal. App. 5th 1, 13, 17; see also *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal. App. 4th 1099, 1109.

Here, in light of the IS/MND's failure to substantiate all of its findings, provide adequate mitigation measures, and fully assess all relevant factors, Local 405 resubmits that the Project requires significant revisions and resolution of conflicts in evidence. Therefore, at a minimum, the City must revise and recirculate the IS/MND if it does not prepare an EIR.

A. The IS/MND Fails to Mitigate the Project's Significant Impacts.

If a project has a significant effect on the environment, an agency may approve the project only upon finding that it has "eliminated or substantially lessened all significant effects on the environment where feasible" and that any unavoidable significant effects on the environment are "acceptable due to overriding concerns." CEQA Guidelines, § 15092, subds. (b)(2)(A)-(B).

CEQA mitigation measures proposed and adopted are required to describe what actions will be taken to reduce or avoid an environmental impact. CEQA Guidelines, § 15126.4, subd. (a)(1)(B) (providing "[f]ormulation of mitigation measures should not be deferred until some future time"). While the same Guidelines section 15126.5(a)(1)(B) acknowledges an exception to the rule against deferrals, such exception is narrowly proscribed to situations where it is impractical or infeasible to include those details during the project's environmental review. Moreover, CEQA

allows deferral of details of mitigation measures only “when it is impractical or infeasible to include those details during the project’s environmental review.” *Id.* CEQA further requires “that the agency (1) commits itself to the mitigation, (2) adopts specific performance standards the mitigation will achieve, and (3) identifies the type(s) of potential action(s) that can feasibly achieve that performance standard[.]” CEQA Guidelines, § 15126.4, subd. (a)(1)(B).

As discussed above, the Project fails to mitigate its significant impacts, improperly defers critical aspects of proposed mitigation measures, and fails to analyze the impacts associated with its proposed mitigation measures. Therefore, at minimum, the IS/MND must be revised or otherwise an EIR prepared.

IV. CONCLUSION

Based on the foregoing, Local 405 resubmits that the City should prepare an EIR for the Project given that there is a fair argument that the Project will result in significant environmental impacts. However, at the very least, the City must revise the IS/MND to address the aforementioned concerns and those previously raised. Should the City have any questions, please do not hesitate to contact this office.

Sincerely,



Jeremy H. Herwitt
Attorneys for Carpenters Local Union 405

April 30, 2024

Via Email and Overnight Mail

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Re: Comments on Agenda Item 3.a: Initial Study/Mitigated Negative Declaration for 865 Embedded Way Industrial Project (H22-022, ER22-113)

Dear Mr. Tu and Ms. Shah:

We are writing on behalf of Silicon Valley Residents for Responsible Development (“Silicon Valley Residents”) to provide comments on May 1, 2024 Planning Director Hearing Agenda Item 3.a, regarding the Site Development Permit and Initial Study/Mitigated Negative Declaration (“MND”) prepared by the City of San Jose (“City”) for the 865 Embedded Way Industrial Project (“Project”) (H22-022, ER22-113) (“Project”) proposed by Oppidian, Inc. (“Applicant”).

The Project consists of a Site Development Permit to allow the construction of a one-story, 121,400-square foot industrial/manufacturing warehouse on a vacant 10.17-acre project site. The Project would include a connection to an existing 26-foot-wide drive aisle that extends from the eastern Embedded Way driveway through the adjacent eastern industrial property and currently terminates at the southeastern boundary of the project site. A total of 300 parking spaces would be provided in the surface parking lot surrounding the proposed building. The project would include the removal of 11 trees on-site, 2 of which are ordinance-size.

Based on our review of the MND and available supporting documents, we conclude that the MND fails to comply with the requirements of the California Environmental Quality Act¹ (“CEQA”). The MND lacks a clear project description, fails to disclose and analyze the Project’s potentially significant environmental impacts and fails to identify enforceable measures that can reduce those impacts to a less than significant level.

As explained in these comments, there is more than a fair argument that the Project will result in potentially significant air quality and public health impacts from construction and operational emissions and transportation impacts. The City may not approve the Project until it prepares an environmental impact report (“EIR”) that adequately analyzes all of the Project’s potentially significant direct, indirect and cumulative impacts, and incorporates all feasible mitigation measures to avoid or minimize these impacts. The MND’s flaws also preclude the City from making the findings necessary to approve the Project’s Site Development Permit.

These comments were prepared with the assistance of air quality expert James Clark, PhD² and transportation expert Norman Marshall.³ Dr. Clark and Mr. Marshall provide substantial evidence supporting a fair argument of potentially significant impacts that have not been adequately disclosed, analyzed, or mitigated in the MND. Dr. Clark and Mr. Marshall’s technical comments are attached hereto and are submitted to the City, in addition to the comments in this letter.

I. STATEMENT OF INTEREST

Silicon Valley Residents is an unincorporated association of individuals and labor organizations that may be adversely affected by the potential public health and environmental impacts of the Project. The association includes: the International Brotherhood of Electrical Workers Local 332, Plumbers & Steamfitters Local 393, Sheet Metal Workers Local 104, Sprinkler Fitters Local 483, and District Council of Ironworkers and their members and their families; and other individuals that live and/or work in the City of San Jose and Santa Clara County. Accordingly, they would be directly affected by the Project’s environmental

¹ Pub. Resources Code, §§ 21000 et seq.; 14 Cal. Code Regs. (“C.C.R”) §§ 15000 et seq. (“CEQA Guidelines”).

² **Exhibit A:** April 30, 204 James Clark Comment Letter on Initial Study/Mitigated Negative Declaration For 865 Embedded Way Industrial Project, City of San Jose, California File Nos. H22-022 & ER22-113 (hereinafter, “Clark Comments”).

³ **Exhibit B:** April 30, 2024 Norm Marshall Comment Letter re 865 Embedded Way Industrial Project (hereinafter, “Marshall Comments”).



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. Indeed, continued environmental degradation can, and has, caused construction moratoriums and other restrictions on growth that, in turn, reduce future employment opportunities.

II. AN EIR IS REQUIRED

CEQA requires that lead agencies analyze any project with potentially significant environmental impacts in an EIR.⁴ “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.”⁵ 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 reached ecological points of no return.”⁶

CEQA’s purpose and goals must be met through the preparation of an EIR, except in certain limited circumstances.⁷ CEQA contains a strong presumption in favor of requiring a lead agency to prepare an EIR. This presumption is reflected in the “fair argument” standard. Under that standard, a lead agency “shall” prepare an EIR whenever substantial evidence in the whole record before the agency supports a fair argument that a project may have a significant effect on the environment.⁸

⁴ See Pub. Resources Code § 21000; CEQA Guidelines § 15002.

⁵ *Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal.3d 553, 564 (internal citations omitted).

⁶ *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810.

⁷ See Pub. Resources Code § 21100.

⁸ Pub. Resources Code §§ 21080(d), 21082.2(d); CEQA Guidelines §§ 15002(k)(3), 15064(f)(1), (h)(1); *Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1993) 6 Cal.4th 1112, 1123; *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75, 82; *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-151; *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1601-1602.



In contrast, a mitigated negative declaration may be prepared only when, after preparing an initial study, a lead agency determines that a project may have a significant effect on the environment, but:

(1) revisions in the project plans or proposals made by, or agreed to by, the applicant before the proposed negative declaration and initial study are released for public review *would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur*, and (2) there is *no substantial evidence* in light of the whole record before the public agency that the project, as revised, *may* have a significant effect on the environment.⁹

Courts have held that if “no EIR has been prepared for a nonexempt project, but substantial evidence in the record supports a fair argument that the project may result in significant adverse impacts, the proper remedy is to order preparation of an EIR.”¹⁰ The fair argument standard creates a “low threshold” favoring environmental review through an EIR, rather than through issuance of a negative declaration.¹¹ An agency’s decision not to require an EIR can be upheld only when there is no credible evidence to the contrary.¹²

“Substantial evidence” required to support a fair argument is defined 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.”¹³ According to the CEQA Guidelines, when determining whether an EIR is required, the lead agency is required to apply the principles set forth in Section 15064, subdivision (f):

[I]n marginal cases where it is not clear whether there is substantial evidence that a project may have a significant effect on the

⁹ Pub. Resources Code § 21064.5 (emphasis added).

¹⁰ See, e.g., *Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 319-320.

¹¹ *Citizens Action to Serve All Students v. Thornley* (1990) 222 Cal.App.3d 748, 754.

¹² *Sierra Club v. County of Sonoma* (1992) 6 Cal.App.4th, 1307, 1318; see also *Friends of B Street v. City of Hayward* (1980) 106 Cal.App.3d 988, 1002 (“If there was substantial evidence that the proposed project might have a significant environmental impact, evidence to the contrary is not sufficient to support a decision to dispense with preparation of an EIR and adopt a negative declaration, because it could be ‘fairly argued’ that the project might have a significant environmental impact”).

¹³ CEQA Guidelines § 15384(a).



environment, the lead agency shall be guided by the following principle: If there is disagreement among expert opinion supported by facts over the significance of an effect on the environment, the Lead Agency shall treat the effect as significant and shall prepare an EIR.

Furthermore, CEQA documents, including EIRs and MNDs, must mitigate significant impacts through measures that are “fully enforceable through permit conditions, agreements, or other legally binding instruments.”¹⁴

With respect to this Project, the MND fails to satisfy the basic purposes of CEQA. The City failed to adequately investigate, analyze, and disclose the Project’s potentially significant air quality and transportation impacts. Therefore, the City’s conclusions that the Project will have less than significant impacts are unsupported. Whereas the City lacks substantial evidence to support its conclusions, Dr. Clark and Mr. Marshall provide substantial evidence demonstrating that the Project may result in potentially significant impacts on air quality and transportation. Therefore, there is a fair argument that the Project may cause significant impacts requiring the preparation of an EIR.

III. THE MND FAILS TO INCLUDE A COMPLETE, STABLE AND ACCURATE PROJECT DESCRIPTION

The MND does not meet CEQA’s requirements because it fails to include a complete, stable project description, rendering the entire analysis inadequate. Without a complete and accurate project description, the environmental analysis under CEQA can be impermissibly narrow, thus minimizing the Project’s impacts and undercutting public review.¹⁵

CEQA places the burden of environmental investigation on the lead agency rather than the public. Accordingly, a lead agency may not hide behind its failure to provide a complete and accurate project description.¹⁶ Under CEQA, the “project” is defined as “the whole of an action” and the lead agency therefore must describe the entirety of the project’s activities to ensure that all potential impacts of the project will be examined prior to approval.¹⁷ An initial study that fails to describe the

¹⁴ CEQA Guidelines § 15126.4(a)(2).

¹⁵ See, e.g., *Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1988) 47 Cal.3d 376.

¹⁶ *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 311.

¹⁷ CEQA Guidelines § 15378.



entire project is fatally deficient: “[A] correct determination of the nature and scope of the project is a critical step in complying with the mandates of CEQA.”¹⁸ Where an agency fails to provide an accurate project description, or fails to gather information and undertake an adequate environmental analysis in its initial study, a negative declaration is inappropriate.¹⁹ An accurate and complete project description is necessary to fully and intelligently evaluate the project’s potential environmental effects.²⁰ Without a complete project description, the environmental analysis under CEQA will be impermissibly narrow, thus minimizing the project’s impacts and undercutting public review.²¹

The MND’s Project Description describes the Project as an industrial/manufacturing warehouse but then states the project is “designed for a research and development (R&D) use” because “a designated end user has not yet been determined.”²² As a warehouse with unidentified future tenants and use, it cannot be known how the Project building will be used once operational. Despite this, the MND states that “the project will be analyzed as an R&D facility.”²³ As both Dr. Clark and Mr. Marshall’s comments highlight, there are vast differences in impacts between a warehouse facility and a R&D facility. As Dr. Clark states, “[t]hese two different uses have different associated traffic and criteria pollutant analyses.”²⁴ Notably, if the Project ultimately moves forward as a warehouse, the number of associated truck trips and diesel particulate matter (“DPM”) emissions would be significantly higher than what is presented in the MND and air quality assessment.²⁵ For example, the Air Quality Study fails to include the emissions from onsite service vehicles that may be used to move to and products from the warehouse.²⁶ The MND therefore fails to analyze or disclose a potentially significant source of criteria and toxic pollutants.²⁷

Similarly, Mr. Marshall states, “there are large differences between categories and great variation in the [trip generation] rates” for warehouse uses as

¹⁸ *Nelson v. County of Kern* (2010) 190 Cal.App.4th 252, 267; see also, *Tuolumne County Citizens for Responsible Growth, Inc. v. City of Sonora* (2007) 155 Cal.App.4th 1214.

¹⁹ *El Dorado County Taxpayers for Quality Growth v. County of El Dorado* (2004) 122 Cal.App.4th 1591, 1597.

²⁰ *City of Redlands v. County of San Bernardino* (2002) 96 Cal.App.4th 398, 406.

²¹ *Laurel Heights Improvement Association, supra*, 47 Cal.3d 376.

²² MND, pg. 6.

²³ *Id.*

²⁴ Clark Comments, pg. 7.

²⁵ *Id.*

²⁶ *Id.* at pg. 8.

²⁷ *Id.*



compared to R&D uses.²⁸ “Actual project trip generation could be significantly higher or lower than the baseline estimate” used to assess the vehicle miles traveled (“VMT”) mitigation proposed in the MND.²⁹ Given the significant differences in associated impacts between the different uses, it is imperative that the MND provide an accurate project description.

The City must prepare and circulate an EIR with a complete, stable and accurate project description that analyzes all of the Project’s potential impacts using realistic and enforceable assumptions about the Project’s operations.

IV. SUBSTANTIAL EVIDENCE SUPPORTS A FAIR ARGUMENT THAT THE PROJECT WILL HAVE SIGNIFICANT UNMITIGATED AIR QUALITY AND PUBLIC HEALTH IMPACTS

A lead agency’s significance determination must be supported by accurate scientific and factual data.³⁰ An agency cannot conclude that an impact is less than significant unless it produces rigorous analysis and concrete substantial evidence justifying the finding.³¹

These standards apply to an agency’s analysis of public health impacts of a project under CEQA. In *Sierra Club v. County of Fresno*, the California Supreme Court affirmed CEQA’s mandate to protect public health and safety by holding that an EIR fails as an informational document when it fails to disclose the public health impacts from air pollutants that would be generated by a development project.³² In *Sierra Club*, the Supreme Court held that the EIR for the Friant Ranch Project—a 942-acre master-planned, mixed-use development with 2,500 senior residential units, 250,000 square feet of commercial space, and open space on former agricultural land in north central Fresno County—was deficient as a matter of law in its informational discussion of air quality impacts as they relate to adverse human health effects.³³ As the Court explained, “a sufficient discussion of impacts requires not merely a determination of whether an impact is significant, but some effort to explain the nature and magnitude of the impact.”³⁴ The Court concluded

²⁸ Marshall Comments, pg. 6.

²⁹ *Id.* at pg. 7.

³⁰ 14 C.C.R. § 15064(b).

³¹ *Kings County Farm Bureau*, 221 Cal.App.3d at 732.

³² *Sierra Club*, 6 Cal.5th at 518–522.

³³ *Id.* at 507–508, 518–522.

³⁴ *Id.* at 519, citing *Cleveland National Forest Foundation v. San Diego Assn. of Governments* (2017) 3 Cal.5th 497, 514–515.



that the County's EIR was inadequate for failing to disclose the nature and extent of public health impacts caused by the project's air pollution. As the Court explained, the EIR failed to comply with CEQA because after reading the EIR, "the public would have no idea of the health consequences that result when more pollutants are added to a nonattainment basin."³⁵ CEQA mandates discussion, supported by substantial evidence, of the nature and magnitude of impacts of air pollution on public health.³⁶

Furthermore, in *Berkeley Jets*, the Court of Appeal held that a CEQA document must analyze the impacts from human exposure to toxic substances.³⁷ In that case, the Port of Oakland approved a development plan for the Oakland International Airport.³⁸ The EIR admitted that the Project would result in an increase in the release of toxic air contaminants ("TACs") and adopted mitigation measures to reduce TAC emissions, but failed to quantify the severity of the Project's impacts on human health.³⁹ The Court held that mitigation alone was insufficient, and that the Port had a duty to analyze the health risks associated with exposure to TACs.⁴⁰ 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."⁴¹

Here, as discussed below, the MND's conclusions regarding the Project's air quality and related public health impacts are unsupported by substantial evidence.

³⁵ *Id.* at 518. CEQA's statutory scheme and legislative intent also include an express mandate that agencies analyze human health impacts and determine whether the "***environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly.***" (Public Resources Code § 21083(b)(3) (emphasis added).) Moreover, CEQA directs agencies to "take immediate steps to identify any critical thresholds for the ***health and safety of the people*** of the state and take all coordinated actions necessary to prevent such thresholds being reached." (Public Resources Code § 21000(d) (emphasis added).)

³⁶ *Sierra Club*, 6 Cal.5th at 518–522.

³⁷ *Berkeley Jets*, 91 Cal.App.4th at 1369–1371.

³⁸ *Id.* at 1349–1350.

³⁹ *Id.* at 1364–1371.

⁴⁰ *Id.*

⁴¹ 14 C.C.R. § 15003(b).



A. The MND's Air Quality Impact Analysis Improperly Relies on Mitigated Emissions to Conclude that Construction Emissions Are Less Than Significant

Determining whether a project may have a significant effect plays a critical role in the CEQA process.⁴² The determination as to whether a project may have one or more significant effects must be based on substantial evidence in the record.⁴³ Lead agencies can only rely on an MND for a project where they determine that revisions in project plans or proposals made by, or agreed to, by the applicant would avoid or mitigate effects to a point where clearly no significant effect on the environment would occur.⁴⁴

Under CEQA, a project has significant impacts if it “[v]iolate[s] any air quality standard or contribute[s] substantially to an existing or projected air quality violation.”⁴⁵ The Bay Area Air Quality Management District (“BAAQMD” or “Air District”) maintains thresholds of significance for criteria air pollutants that are to be used in determining the significance of a project’s air quality impacts under CEQA.⁴⁶ The MND failed to fully analyze the Project’s construction emissions by improperly applying mitigation measures to unmitigated emissions prior to making its significance determination. By assuming the application of emissions controls to the Project’s unmitigated emissions, the MND “compress[es] the analysis of impacts and mitigation measures into a single issue,”⁴⁷ in violation of CEQA. This approach is prohibited by CEQA because it fails to inform the public of the true severity of an impact. As a result, the MND fails to disclose that Project construction may result in significant emissions that exceed applicable Air District thresholds, resulting in significant, unmitigated air quality and public health impacts.

As Dr. Clark’s comments reveal, the air quality analysis completed for the MND⁴⁸ calculated construction emissions assuming that the construction would incorporate Tier 4 interim equipment.⁴⁹ However, as Dr. Clark highlights, the availability of such equipment is limited and there is nothing in the MND to ensure that such equipment will be used in Project construction. Dr. Clark states: “Without

⁴² CEQA Guidelines § 15064.

⁴³ CEQA Guidelines § 15064(f).

⁴⁴ CEQA Guidelines §§ 15064(f)(2), 15071(c).

⁴⁵ CEQA Appendix G.

⁴⁶ As stated in the MND, the MND relies on BAAQMD’s 2017 thresholds, reproduced in MND, pg.32.

⁴⁷ See *Lotus v. Dep’t of Transp.* (2014) 223 Cal. App. 4th 645, 651-52.

⁴⁸ MND, Appendix A: Air Quality and Greenhouse Gas Assessment (hereinafter “AQ Study”).

⁴⁹ Clark Comments, pp. 3-4.



a binding commitment to only use Tier 4 interim and above construction equipment for all phases of the Project, the emissions from the construction phase will exceed BAAQMD's threshold and will create an adverse health outcome for the community.”⁵⁰ Dr. Clark's analysis confirms that, without application of Tier 4 interim controls, the Project's construction emissions will exceed the BAAQMD significance threshold for nitrogen oxides (“NO_x”).⁵¹ The MND fails to include specific and enforceable mitigation measures that would bind the Applicant to ensure Tier 4 interim construction equipment is used.

Critically, neither the MND nor the AQ Study calculate or disclose the Project's unmitigated construction emissions. Instead, the AQ Study simply assumes that Tier 4 interim equipment will be used and calculates emissions accordingly. This approach incorrectly dismisses the significance of the Project's actual, unmitigated emissions. Without disclosing the Project's unmitigated construction emissions, the MND only discloses estimated emissions with the application of an unenforceable mitigation measure, the inclusion of Tier 4 interim equipment. This “downward adjustment” of the Project's construction emissions artificially reduces their significance. The MND concludes that the Project's construction emissions are less than significant, based on these unsupported and unenforceable assumptions, and without application of any binding mitigation measures.⁵²

This approach violates CEQA. CEQA defines mitigation as including any measures designed to avoid, minimize, rectify, reduce, or compensate for a significant impact.⁵³ The inclusion of Tier 4 interim equipment in the emissions calculations is clearly designed as mitigation to reduce the Project's construction emissions that would result from using equipment with less efficient emissions controls. As the inclusion is meant to reduce impacts, this makes it a mitigation measure within the meaning of CEQA.

CEQA requires that mitigation measures be fully enforceable through permit conditions, agreements or other legally binding instruments.⁵⁴ When adopting a mitigated negative declaration, the lead agency is required to adopt “a program for reporting on or monitoring the changes which it has either required in the project or

⁵⁰ Clark Comments, pg. 6.

⁵¹ Clark Comments, pg. 4.

⁵² MND, pg. 37.

⁵³ 14 CCR § 15370.

⁵⁴ 14 CCR §15126.4(a)(2).



made a condition of approval to mitigate or avoid significant environmental effects.”⁵⁵ Because the City has not required the use of Tier 4 interim equipment as a mitigation measure, it is not included in the Project’s Mitigation Monitoring and Reporting Program (“MMRP”). Therefore, there is nothing to require the use of Tier 4 interim equipment during Project construction, and the MND’s conclusions that Project air quality and public health impacts will be less than significant are completely unsupported.

The Court of Appeal has made clear that mitigation must be incorporated directly into a project’s MMRP to be considered enforceable. In *Lotus v. Department of Transportation*,⁵⁶ 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.”⁵⁷ 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.”⁵⁸

Similar to the inadequate analysis contained in the *Lotus* EIR, the MND’s Air Quality analysis only shows emissions with mitigation and the MND thus concludes the Project’s air quality emissions will result in less than significant levels prior to mitigation. This approach improperly “compress[es] the analysis of impacts and mitigation measures into a single issue.” Even if the MND’s conclusions were accurate, the use of Tier 4 interim equipment must be incorporated into the Project’s MMRP as formal mitigation measures in order to be factored into the City’s ultimate significance findings. “Simply stating that there will be no significant impacts because the project incorporates ‘special construction techniques’ is not adequate or permissible.”⁵⁹

⁵⁵ CEQA Guidelines § 15074(d).

⁵⁶ *Lotus v. Dep’t of Transp.* (2014) 223 Cal. App. 4th 645, 651-52.

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*



The City has a duty to disclose unmitigated emissions and compare them to the applicable significance thresholds before applying mitigation measures. As a result of its improper reliance on Tier 4 interim equipment to achieve emissions reductions, the MND underestimates the amount of emissions that will be generated by the Project and the effects on nearby sensitive receptors. The City must prepare and circulate an EIR that includes an accurate analysis of the Project's air quality impacts, and incorporates all mitigation measures intended to reduce emissions as binding mitigation in the Project's MMRP.

B. The MND Underestimates Project Operational Emissions and Resultant Health Risks by Omitting Emissions Sources

The MND purports to evaluate and disclose the Project's expected emissions of air pollutants, including diesel particulate matter ("DPM").⁶⁰ However, as explained by Dr. Clark, the emissions modeling excludes known sources of emissions. Specifically, the Air Quality Study's analysis of operational emissions fails to include emissions from the backup generator that will be installed onsite.⁶¹ These emissions, particularly DPM, are crucial components of the Project's overall air quality impact. Exposure to diesel exhaust emissions has been linked to a range of adverse health effects, including respiratory problems, cardiovascular diseases, and even premature death.⁶²

In failing to include these critical emissions, the MND underestimates the Project's operational air quality and public health impacts. The MND's conclusions regarding these impacts are therefore unsupported by substantial evidence, and Dr. Clark's comments provide a fair argument supported by substantial evidence that the Project may have significant air quality and health risk impacts. The City must therefore prepare an EIR that fully analyzes, discloses and mitigates all of the Project's emissions-related impacts.

⁶⁰ MND, pp. 38-39.

⁶¹ Clark Comments, pg. 7.

⁶² U.S. EPA, *Learn About Impacts of Diesel Exhaust and the Diesel Emissions Reduction Act (DERA)*, <https://www.epa.gov/dera/learn-about-impacts-diesel-exhaust-and-diesel-emissions-reduction-act-dera>.



V. THE MND FAILS TO ADEQUATELY ANALYZE AND MITIGATE THE PROJECT'S POTENTIALLY SIGNIFICANT TRANSPORTATION IMPACTS

The MND's conclusion that transportation impacts from the Project will be less than significant with mitigation is not supported by substantial evidence. Evidence supplied in the accompanying report from transportation expert Norman Marshall provides a fair argument supported by substantial evidence that the Project will have significant unmitigated transportation impacts.

First, Mr. Marshall's analysis using the updated version of the San Jose VMT Evaluation Tool reveals significant deficiencies in the identification of significant impacts and requisite mitigation. Using the updated VMT Tool, Mr. Marshall demonstrates that the proposed project exceeds the VMT threshold for office employment use.⁶³ Despite the MND's assertion that the proposed mitigation is adequate to reduce VMT impacts, Mr. Marshall found that the VMT mitigation package "is only adequate if using the previous version of the City's VMT Evaluation Tool."⁶⁴ Mr. Marshall's comments explain how the mitigation measures proposed in the MND are insufficient to reduce VMT below the established threshold.⁶⁵

Moreover, Mr. Marshall identifies serious flaws in the assumptions underlying the proposed VMT mitigation measures.⁶⁶ One key assumption is the requirement that the vanpool program achieve a 25 percent employee participation rate.⁶⁷ However, Mr. Marshall contends that this assumption is wildly optimistic and likely unattainable, particularly given the unidentified tenant and use of the project.⁶⁸ The MND provides no evidence supporting this assumption and how it plans to achieve a 25 percent participation rate.

Additionally, Mr. Marshall highlights deficiencies in the proposed monitoring of the efficacy of the VMT mitigation measures. While the MND outlines a monitoring approach based on trip counts, Mr. Marshall explains why this method is insufficient for accurately measuring VMT reduction.⁶⁹ Instead, Marshall advocates for a monitoring process that encompasses each of the VMT-reducing

⁶³ Marshall Comments, pg. 4.

⁶⁴ *Id.* at pg. 1.

⁶⁵ *Id.* at pg. 4.

⁶⁶ *Id.* at pg. 5.

⁶⁷ MND, pg. 11.

⁶⁸ Marshall Comments, pg. 5.

⁶⁹ *Id.* at pp. 5-6.



measures identified in the mitigation plan.⁷⁰ He emphasizes the importance of auditing each traffic demand management (“TDM”) measure to ensure compliance and effectiveness in reducing VMT.⁷¹

Based on Mr. Marshall’s analysis, the MND’s conclusions with respect to the Project’s transportation are not supported by substantial evidence. Mr. Marshall’s comments provide a fair argument supported by substantial evidence that the Project will have significant transportation impacts. These impacts must be analyzed, disclosed, and mitigated in an EIR before the City can approve the Project.

VI. THE CITY CANNOT MAKE THE REQUISITE FINDINGS TO APPROVE THE PROJECT’S SITE DEVELOPMENT PERMIT

Under San Jose Municipal Code (“SJMC”) section 20.100.630, the Site Development Permit requires that the City make certain findings, including that the permit as approved is consistent with and will further the policies of the General Plan.⁷² The City must also find that “[t]he environmental impacts of the project, including, but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, *even if insignificant for purposes of the California Environmental Quality Act (CEQA)*, will not have an unacceptable negative effect on adjacent property or properties.”⁷³

As an initial matter, the City may not make the required finding for the Site Development Permit that the Project will not result in unacceptable negative environmental impacts. As demonstrated above, the MND fails to disclose, analyze, or effectively mitigate the Project’s potentially significant impacts on air quality and transportation. Accordingly, the Project will have an unacceptable negative effect on adjacent property, as even “insignificant” impacts under CEQA can be deemed so. Therefore, the City cannot make the necessary findings under SJMC section 20.100.630(A)(6), as required to approve the Project’s Site Development permit.

These impacts also create inconsistencies with General Plan policies. Specifically, our analysis of the MND reflected in these comments show that the

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² SJMC § 20.100.630(A)(1).

⁷³ SJMC § 20.100.630 (A)(6) (emphasis added).



Project fails to comply with several key goals and policies in the Envision San José 2040 General Plan,⁷⁴ including the following.

Air Quality

MS-10.1	Assess projected air emissions from new development in conformance with the Bay Area Air Quality Management District (BAAQMD) CEQA Guidelines and relative to state and federal standards. Identify and implement feasible air emission reduction measures.
MS-11.3	Review projects generating significant heavy duty truck traffic to designate truck routes that minimize exposure of sensitive receptors to TACs and particulate matter.
MS-13.1	Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.

The MND's approach to assessing air quality impacts contradicts several key General Plan policies, including MS-10.1, and MS-13.1, both of which emphasize the importance of implementing enforceable mitigation measures to protect air quality. MS-10.1 mandates the implementation of feasible air emission reduction measures in accordance with BAAQMD guidelines and state and federal standards. However, the MND's reliance on Tier 4 interim equipment without including it as enforceable mitigation measures fails to fulfill this requirement. Similarly, MS-13.1 requires the inclusion of dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for various permits, including site development permits. The MND's failure to incorporate enforceable mitigation measures to address the Project's construction emissions directly contradicts this policy.

Finally, the MND overlooks emissions from the backup generator onsite, thereby disregarding potential impacts on nearby sensitive receptors, which contravenes MS-11.3. Moreover, the MND fails to evaluate the emissions associated with the movement of materials by trucks during the operational phase, undermining the MND's compliance with MS-11.3. In summary, the MND's failure

⁷⁴ Available at:

<https://www.sanjoseca.gov/home/showpublisheddocument/22359/637928744399330000>



to properly analyze air quality impacts or to incorporate binding mitigation measures violates multiple General Plan policies.

Transportation

TR-1.1	Accommodate and encourage use of non-automobile transportation modes to achieve San José's mobility goals and reduce vehicle trip generation and vehicle miles traveled (VMT)
TR-1.2	Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects
TR-1.4	Through the entitlement process for new development, projects shall be required to fund or construct needed transportation improvements for all transportation modes giving first consideration to improvement of bicycling, walking and transit facilities and services that encourage reduced vehicle travel demand. . . Development proposals shall be reviewed for their impacts on all transportation modes through the study of Vehicle Miles Traveled (VMT), Envision San José 2040 General Plan policies, and other measures enumerated in the City Council Transportation Analysis Policy and its Local Transportation Analysis. Projects shall fund or construct proportional fair share mitigations and improvements to address their impacts on the transportation systems
TR-5.3	Development projects' effects on the transportation network will be evaluated during the entitlement process and will be required to fund or construct improvements in proportion to their impacts on the transportation system. Improvements will prioritize multimodal improvements that reduce VMT over automobile network improvements
TR-9.1	Enhance, expand and maintain facilities for walking and bicycling to provide neighborhoods with safe and direct access to transit and key destinations, a particularly to provide neighborhoods with safe and direct access to transit and key destinations, a complete alternative transportation network that facilitates non-automobile trips, and enjoyable outdoor open space.
TR-9.2	Serve as a model city for VMT reduction by implementing programs and policies that reduce VMT for City of San José employees
TR-9.3	Enhance the overall travel experience of transit riders, pedestrians, bicyclists, and shared micromobility users to encourage mode shift.



The MND's inadequate disclosure and analysis of the Project's transportation impacts directly conflict with the above-cited General Plan policies. For example, policies such as TR-1.1, TR-1.4, TR-5.3, and TR-9.2 underscore the City's commitment to reducing VMT, a goal undermined by the MND's flawed VMT analysis and insufficient proposed mitigation measures highlighted by Mr. Marshall's analysis. By failing to accurately assess and address the significant VMT impact associated with the Project, the MND falls short of meeting these critical General Plan policies, undermining the city's efforts to reduce VMT and promote sustainable transportation and mobility.

As a result of the Project's inconsistencies with these General Plan policies, the City is precluded from making the necessary findings to approve the Project's Site Development Permit pursuant to SJMC section 20.100.630 (A)(1).

VII. CONCLUSION

CEQA requires that an EIR be prepared if there is substantial evidence that any aspect of a project, either individually or cumulatively, may cause a significant effect on the environment.⁷⁵ As discussed herein, there is substantial evidence supporting a fair argument that the Project would result in significant adverse impacts that were not identified in the MND, and that are not adequately analyzed or mitigated. The MND also fails to contain the basic information and analysis required by CEQA, deficiencies which "cannot be dismissed as harmless or insignificant defects."⁷⁶ Moreover, the serious flaws in the MND preclude the City from making the required findings to approve the Project's site development permit.

We urge the City to fulfill its responsibilities under CEQA by withdrawing the MND and preparing a legally adequate EIR to address the potentially significant impacts described in this comment letter. Only by complying with all applicable laws will the City and the public be able to ensure that the Project's environmental impacts are mitigated to less than significant levels.

⁷⁵ Pub. Res. Code § 21151; 14 CCR §15063(b)(1).

⁷⁶ *Bakersfield Citizens for Local Control v. Bakersfield* ("Bakersfield") (2004) 124 Cal. App. 4th 1184, 1220.



Thank you for your attention to these comments.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ariana Abedifard".

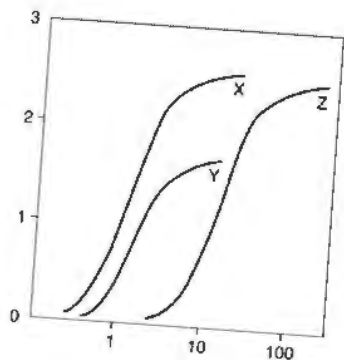
Ariana Abedifard

Attachments

AA:acp



EXHIBIT A



April 30, 2024

Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080

Attn: Ms. Ariana Abedifard

Subject: Comment Letter on Initial Study/Mitigated Negative Declaration For 865 Embedded Way Industrial Project, City of San Jose, California File Nos. H22-022 & ER22-113

Clark & Associates
Environmental Consulting, Inc.

OFFICE

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jclark.assoc@gmail.com

Dear Ms. Abedifard:

At the request of Adams Broadwell Joseph & Cardozo (ABJC), Clark and Associates (Clark) has reviewed materials related to the above referenced project.

Clark's review of the materials in no way constitutes a validation of the conclusions or materials contained within the IS/MND. If we do not comment on a specific item, this does not constitute acceptance of the item.

Project Description:

The project consists of a Site Development Permit (File No. H22-022) to allow the construction of a one-story 121,400 square foot industrial/manufacturing warehouse on a vacant 10.17-acre project site. The project would include a connection to an existing 26-foot-wide drive aisle that extends from the eastern Embedded Way driveway through the adjacent eastern industrial property (875 Embedded Way) and currently terminates at the southeastern boundary of the project site. A total of 300 parking spaces would be provided in the surface parking

lot surrounding the proposed building. The project would include the removal of 11 trees on-site, 2 of which are ordinance-size.

According to the Air Quality Study of the IS/MND, the northern side of the proposed building would include 12 truck loading docks and the southeast corner of the building would include a 472-horsepower (HP) diesel emergency fire pump. While a designated end use has not been determined for the proposed building, the project is designed for a research and development (R&D) use. The land use and zoning designation allow for a variety of industrial uses, such as R&D, manufacturing, assembly, testing, and offices. For purposes of this study, the project was assumed to be an R&D facility.¹



Figure 1: Proposed Site Location

¹ Illingworth & Rodkin, Inc. 2022. 865 Embedded Way Industrial Project Air Quality Assessment, San Jose, California. Dated August 5, 2022. Pg 2.

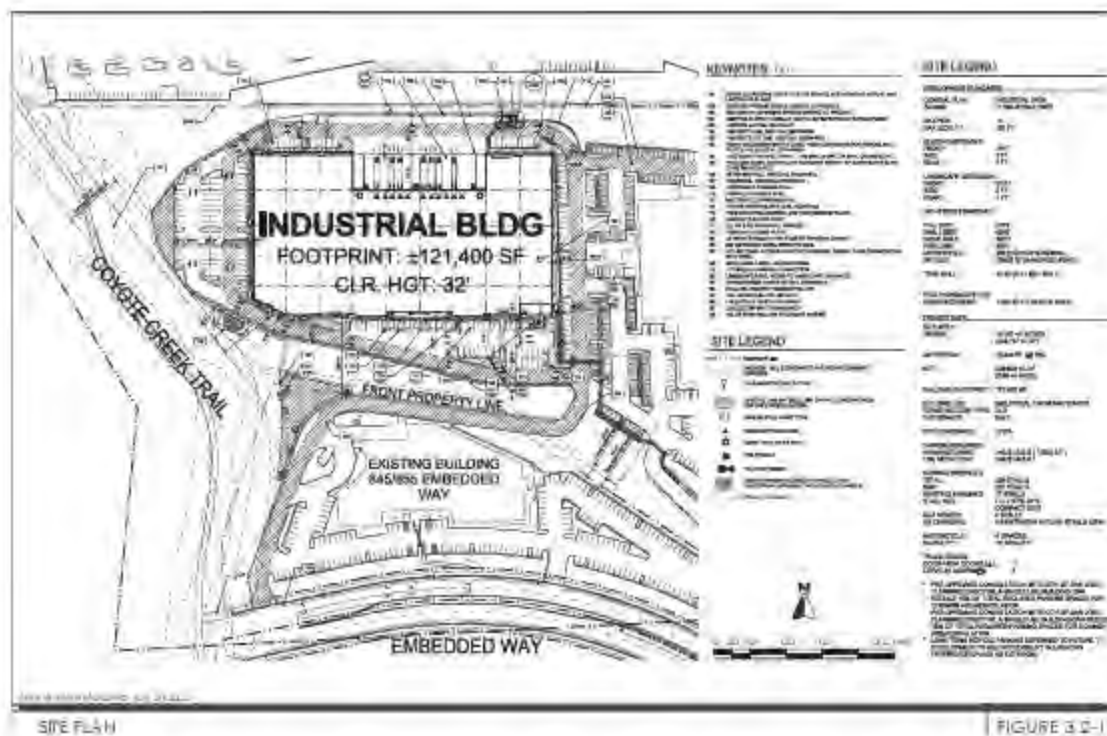


Figure 2: Project Site Plan

The IS/MND concludes that no mitigation is required to prevent impacts from the project on air quality in the area. This conclusion is in conflict with the facts provided within the IS/MND.

Specific Comments:

1. The Air Quality Analysis Does Not Provide A Baseline Scenario And The Analysis Presented Underestimate The Project's Potential Criteria Pollutants

According the Air Quality Study, after mitigation the criteria pollutants and exhaust emissions would not exceed the BAAQMD significance thresholds. The project achieves the emission levels by requiring Tier 4 interim controls on all off-road equipment.

Table 4. Construction Period Emissions

Year	ROG	NOx	PM ₁₀ Exhaust	PM _{2.5} Exhaust
<i>Construction Emissions Per Year (Tons)</i>				
2023	0.76	1.08	0.05	0.06
<i>Average Daily Construction Emissions Per Year (pounds/day)</i>				
2023 (195 construction workdays)	7.77	11.13	0.51	0.62
<i>BAAQMD Thresholds (pounds per day)</i>	54 lbs./day	54 lbs./day	82 lbs./day	54 lbs./day
<i>Exceed Threshold?</i>	No	No	No	No

Figure 3: Emission Estimate From AQ Study Assuming All Tier 4 Interim Controls

The Air Quality Study does not present a baseline (unmitigated) scenario in which emissions would most likely be produced from the average fleet of equipment available. Using the same input values (and not including the Tier 4 interim mitigation measures) and using the latest version of CalEEMOD (2022.1.1.22), an unmitigated analysis of the construction emissions shows a very different result. (Partial results reproduced below and full results attached as appendix to this letter).

	ROG	NO _x	CO	SO ₂	PM _{10T}	PM _{2.5T}
	lbs/day	lbs/day	lbs/day	lbs/day	lbs/day	lbs/day
Daily, Summer (Max)						
Unmitigated	6.28	64.40	59.86	0.14	28.50	14.24
Daily, Winter (Max)						
Unmitigated	11.11	114.72	92.24	0.21	48.38	23.99
Average Daily (Max)						
Unmitigated	4.71	11.96	12.76	0.03	3.93	1.98
Threshold	54	54			82	54
Exceeds (Daily Max)	No	Yes			No	No
Threshold	54	54			82	54
Exceeds (Average Daily)	No	No			No	No

	ROG	NO _x	CO	SO ₂	PM _{10T}	PM _{2.5T}
	tons/yr	tons/yr	tons/yr	tons/yr	tons/yr	tons/yr
Annual (Max)						
Unmitigated	0.86	2.18	2.33	0.00	0.72	0.36
Threshold	10	10			15	10
Exceeds (Annual Max)	No	No			No	No

In the baseline (unmitigated) scenario, emissions oxides of nitrogen (NO_x) will exceed the BAAQMD thresholds for construction. In the winter phase of the construction period the NO_x emissions are double the BAAQMD threshold. This is based on the scheduling proposed in which there are overlapping tasks being performed in winter months (e.g., demolition, site preparation, and grading activities).

Based upon a review of public records of the California Air Resources Board's (CARB) Diesel Off-Road Online Reporting System (DOORS), it is evident that the availability of Tiered construction equipment is highly dependent on the type of equipment.

Table 1: Percent of Equipment in California DOORS Database by Emission Tier Level

Equipment Type (> 50 hp)	U.S. EPA Emission Tier Level					
	T0	T1	T2	T3	T4F	T4I
Aerial Lifts	1.63%	4.67%	14.86%	4.08%	48.64%	26.12%
Boom	0.15%	0.77%	5.22%	1.59%	76.20%	16.06%
Bore/Drill Rigs	11.53%	15.42%	16.86%	21.76%	17.72%	14.34%
Bucket	8.33%	18.33%	10.00%	6.67%	33.33%	23.33%
Concrete Mixer	0.00%	0.00%	0.00%	14.29%	85.71%	0.00%
Concrete Pump	1.30%	7.79%	40.26%	1.30%	32.47%	16.88%
Crane 35ton or more	5.57%	4.41%	5.37%	18.81%	37.62%	27.45%
Crane less than 35ton	20.37%	2.47%	6.79%	12.35%	38.27%	19.75%
Cranes	27.84%	11.49%	9.13%	26.60%	10.82%	11.80%
Crawler Tractors	26.56%	13.31%	13.11%	13.70%	22.39%	10.93%
Crushing/Processing Equipment	0.00%	0.78%	2.34%	14.06%	74.22%	8.59%
Drill Rig	7.09%	4.14%	8.86%	12.56%	45.79%	17.87%
Drill Rig (Mobile)	11.51%	8.71%	11.51%	17.26%	30.95%	14.77%
Excavators	5.24%	8.34%	13.95%	7.29%	48.67%	16.50%
Forklifts	9.57%	10.57%	13.82%	7.99%	40.45%	17.46%
Garbage Refuse	0.00%	0.00%	8.70%	8.70%	43.48%	39.13%
Garbage Transfer	0.00%	0.00%	0.00%	33.33%	66.67%	0.00%
Graders	29.78%	14.12%	12.89%	15.27%	17.40%	10.52%
Hopper Tractor Trailer	0.00%	0.00%	0.00%	0.00%	50.00%	50.00%
Mower	2.44%	7.27%	13.58%	1.10%	54.40%	21.22%
Nurse Rig Aircraft Supply	0.00%	0.00%	0.00%	0.00%	100.00%	0.00%
Nurse Rig Other	0.00%	0.00%	0.00%	100.00%	0.00%	0.00%
Off Highway Tractors	3.55%	6.28%	6.01%	8.74%	65.30%	10.11%
Off Highway Trucks	1.69%	3.87%	11.14%	5.81%	62.23%	15.25%
Off-Highway Tractors	18.25%	17.06%	20.98%	10.02%	17.18%	16.31%
Off-Highway Trucks	16.96%	12.96%	17.54%	20.81%	16.13%	13.99%
Other Construction Equipment	16.35%	14.20%	17.11%	10.53%	24.03%	17.19%
Other General Industrial Equipment	13.18%	16.56%	27.57%	8.61%	13.80%	19.84%
Other Material Handling Equipment	10.84%	11.39%	19.25%	15.55%	26.63%	16.26%
Other Truck	15.64%	10.34%	5.31%	13.41%	36.87%	11.45%
Pavers	12.11%	21.18%	16.99%	14.97%	23.34%	11.41%
Paving Equipment	6.49%	12.80%	12.74%	12.44%	38.17%	17.05%
Railcars or Track Cars	16.33%	8.16%	0.00%	14.29%	51.02%	10.20%
Rollers	14.09%	15.93%	18.30%	6.46%	30.61%	14.59%
Rough Terrain Forklifts	3.95%	9.32%	15.89%	8.11%	41.94%	20.80%

Equipment Type (> 50 hp)	U.S. EPA Emission Tier Level					
	T0	T1	T2	T3	T4F	T4I
Rubber Tired Dozers	41.04%	10.02%	9.44%	19.65%	15.22%	4.62%
Rubber Tired Loaders	16.74%	12.71%	13.56%	14.94%	29.29%	12.76%
Scrapers	28.91%	10.98%	15.47%	30.41%	10.15%	4.04%
Skid Steer Loaders	3.70%	10.02%	15.81%	3.20%	54.69%	12.58%
Spray Truck	5.56%	4.17%	19.44%	2.78%	34.72%	26.39%
Spreader Tractor Trailer	0.00%	14.29%	28.57%	0.00%	42.86%	14.29%
Spreader Truck	4.17%	0.00%	4.17%	37.50%	16.67%	25.00%
Surfacing Equipment	15.38%	14.25%	10.18%	23.08%	19.23%	17.65%
Sweepers/Scrubbers	11.02%	20.84%	16.57%	6.61%	25.75%	19.06%
Tank Truck	4.05%	6.76%	8.11%	27.03%	37.84%	16.22%
Tanker Truck Trailer	0.00%	18.18%	0.00%	0.00%	63.64%	18.18%
Telescopic Handler	1.33%	0.00%	2.67%	0.00%	80.00%	16.00%
Tow Tractor	0.00%	100.00%	0.00%	0.00%	0.00%	0.00%
Tractors/Loaders/Backhoes	13.53%	16.50%	18.73%	8.96%	29.23%	13.05%
Trenchers	21.86%	19.57%	20.87%	3.28%	21.86%	12.57%
Vacuum Truck	2.21%	18.38%	15.44%	25.00%	13.24%	14.71%
Water Truck	21.79%	8.21%	16.43%	16.07%	23.57%	13.57%
Workover Rig (Mobile)	5.99%	15.14%	9.78%	17.35%	7.10%	13.56%
Yard Goat	4.40%	4.58%	9.41%	18.31%	41.71%	21.33%

It is clear from the CARB data that access to Tier 4 interim certified equipment necessary for the construction phase are in short supply in the State. In particular, Tier 4 interim rubber dozers, scrapers, and cranes make up a small portion of the registered fleet in California. If the Proponent cannot acquire the necessary equipment during construction or delay the construction until the equipment is available, project construction could be substantially delayed while the Proponent searches for Tier equipment to comply with mitigation requirement. Without a binding commitment to only use Tier 4 interim and above construction equipment for all phases of the Project, the emissions from the construction phase will exceed BAAQMD's threshold and will create an adverse health outcome for the community. The analysis is therefore incomplete and must be corrected in an environmental impact report (EIR) for the Project.

2. The Air Quality Analysis And Greenhouse Gas Analysis Of Operational Emissions Is Incomplete And Fails To Include Emissions From Generators That Will Be Installed Onsite.

According to the Air Quality Analysis prepared for the Project, operational emissions were calculated using the CalEEMOD software. Included in the analysis are area source emissions and mobile source emissions. Not included in the analysis are emissions from the back-up generator (BUG) that will need to be installed. The BUG would add to the total amount of toxic air contaminants (TACs), specifically diesel particulate matter (DPM), that will be released from the site.

10.0 Stationary Equipment

Fire Pumps and Emergency Generators

Equipment Type	Number	Hours/Day	Hours/Year	Horse Power	Load Factor	Fuel Type
Fire Pump	1	0	50	472	0.75	Diesel

Boilers

Equipment Type	Number	Heat Input/Day	Heat Input/Year	Boiler Rating	Fuel Type

Figure 4: CalEEMod Assumptions

The analysis is therefore incomplete and must be corrected in an environmental impact report (EIR) for the Project.

3. The Analysis of Operational Emissions is Based A Classification That May Not Accurately Reflect the Project's Use and Impacts

According to the Air Quality Analysis prepared for the Project, operational emissions were calculated using the CalEEMOD software assuming that Project would be a Research and Development center. The emission and traffic estimates are based on that classification. In the Project description of the IS/MND, the project is described as an industrial/warehouse project. The description also notes that while a designated end user has not been determined, the project is designed for a research and development use. These two different uses have different associated traffic and criteria pollutant analyses. If the Project moves forward as a warehouse, the number of associates truck trips and DPM emissions would significantly increase over the assumption used in the analysis.

For example, the Air Quality Study ignored the emissions from onsite service vehicles that may be used to move products from the warehouse area into the loading bays. According to the Air Quality Study, the northern side of the proposed building would include 12 truck loading docks.

Movement of materials from trucks into and out of the building are not assessed in the operation phase of the Air Quality study. According to the latest CAPCOA Guidance² cargo handling equipment (e.g., forklifts, yard goats, and pallet jacks), may include diesel powered, compressed natural gas powered, and gasoline powered equipment. The Air Quality study is therefore missing a potentially significant source of criteria and toxic pollutants. These analyses (AQ and GHG) are therefore incomplete and must be corrected in an EIR report for the Project.

Conclusion

The facts identified and referenced in this comment letter lead me to reasonably conclude that the Project could result in significant impacts if allowed to proceed. An EIR should be prepared to address these substantial concerns.

Sincerely,

A handwritten signature in dark ink, appearing to read "James Clark", is positioned above the printed name.

James Clark

² CAPCOA. 2021. Handbook for Analyzing Greenhouse Gas Emissions Reductions, Assessing Climate Vulnerabilities, and Advancing Health and Equity. Pg 741

Embedded Way Summary Report

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1. Basic Project Information

1.1. Basic Project Information

Data Field	Value
Project Name	Embedded Way
Construction Start Date	2/8/2025
Operational Year	2026
Lead Agency	City of San Jose
Land Use Scale	Project/site
Analysis Level for Defaults	County
Windspeed (m/s)	3.40
Precipitation (days)	12.4
Location	865 Embedded Way, San Jose, CA 95138, USA
County	Santa Clara
City	San Jose
Air District	Bay Area AQMD
Air Basin	San Francisco Bay Area
TAZ	6702
EDFZ	1
Electric Utility	Pacific Gas & Electric Company
Gas Utility	Pacific Gas & Electric
App Version	2022.1.1.22

1.2. Land Use Types

Land Use Subtype	Size	Unit	Lot Acreage	Building Area (sq ft)	Landscape Area (sq ft)	Special Landscape Area (sq ft)	Population	Description
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Unrefrigerated Warehouse-No Rail	122	1000sqft	0.00	0.00	0.00	—	—	—
Parking Lot	298	Space	0.00	0.00	0.00	—	—	—

1.3. User-Selected Emission Reduction Measures by Emissions Sector

Sector	#	Measure Title
Construction	C-5	Use Advanced Engine Tiers

2. Emissions Summary

2.1. Construction Emissions Compared Against Thresholds

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Un/Mit.	TOG	ROG	NOx	CO	SO2	PM10E	PM10D	PM10T	PM2.5E	PM2.5D	PM2.5T	BCO2	NBCO2	CO2T	CH4	N2O	R	CO2e
Daily, Summer (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unmit.	7.83	6.28	64.4	59.9	0.14	2.42	26.1	28.5	2.21	12.0	14.2	—	16,281	16,281	0.84	0.80	11.2	16,550
Mit.	7.83	6.28	64.4	59.9	0.14	2.42	26.1	28.5	2.21	12.0	14.2	—	16,281	16,281	0.84	0.80	11.2	16,550
% Reduced	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Daily, Winter (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unmit.	13.5	11.1	115	92.2	0.21	4.38	44.0	48.4	4.01	20.0	24.0	—	24,684	24,684	1.18	0.87	0.31	24,974
Mit.	13.5	11.1	115	92.2	0.21	4.38	44.0	48.4	4.01	20.0	24.0	—	24,684	24,684	1.18	0.87	0.31	24,974
% Reduced	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Average Daily (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—

Exhibit F -Final Response to Late Comments and Consequent Appeals and Errata

Unmit.	1.47	1.20	11.8	12.5	0.03	0.45	3.39	3.84	0.41	1.55	1.96	—	2,804	2,804	0.13	0.09	0.53	2,834
Mit.	1.47	1.20	11.8	12.5	0.03	0.45	3.39	3.84	0.41	1.55	1.96	—	2,804	2,804	0.13	0.09	0.53	2,834
% Reduced	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Annual (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unmit.	0.27	0.22	2.16	2.27	< 0.005	0.08	0.62	0.70	0.07	0.28	0.36	—	464	464	0.02	0.02	0.09	469
Mit.	0.27	0.22	2.16	2.27	< 0.005	0.08	0.62	0.70	0.07	0.28	0.36	—	464	464	0.02	0.02	0.09	469
% Reduced	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Exceeds (Daily Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Threshold	—	54.0	54.0	—	—	82.0	—	—	54.0	—	—	—	—	—	—	—	—	—
Unmit.	—	No	Yes	—	—	No	—	—	No	—	—	—	—	—	—	—	—	—
Mit.	—	No	Yes	—	—	No	—	—	No	—	—	—	—	—	—	—	—	—
Exceeds (Average Daily)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Threshold	—	54.0	54.0	—	—	82.0	—	—	54.0	—	—	—	—	—	—	—	—	—
Unmit.	—	No	No	—	—	No	—	—	No	—	—	—	—	—	—	—	—	—
Mit.	—	No	No	—	—	No	—	—	No	—	—	—	—	—	—	—	—	—

2.4. Operations Emissions Compared Against Thresholds

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Un/Mit.	TOG	ROG	NOx	CO	SO2	PM10E	PM10D	PM10T	PM2.5E	PM2.5D	PM2.5T	BCO2	NBCO2	CO2T	CH4	N2O	R	CO2e
Daily, Summer (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—

Exhibit F -Final Response to Late Comments and Consequent Appeals and Errata

Unmit.	0.76	0.70	0.54	6.17	0.02	0.01	1.43	1.44	0.01	0.36	0.37	116	1,646	1,762	11.8	0.19	5.53	2,119
Daily, Winter (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unmit.	0.73	0.67	0.63	5.69	0.01	0.01	1.43	1.44	0.01	0.36	0.37	116	1,553	1,669	11.8	0.20	0.14	2,023
Average Daily (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unmit.	0.72	0.66	0.59	5.55	0.01	0.01	1.42	1.43	0.01	0.36	0.37	116	1,566	1,682	11.8	0.20	2.39	2,037
Annual (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unmit.	0.13	0.12	0.11	1.01	< 0.005	< 0.005	0.26	0.26	< 0.005	0.07	0.07	19.2	259	278	1.95	0.03	0.40	337
Exceeds (Daily Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Threshol d	—	54.0	54.0	—	—	—	82.0	—	—	54.0	—	—	—	—	—	—	—	—
Unmit.	—	No	No	Yes	—	—	No	—	—	No	—	—	—	—	—	—	—	—
Exceeds (Average Daily)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Threshol d	—	54.0	54.0	—	—	—	82.0	—	—	54.0	—	—	—	—	—	—	—	—
Unmit.	—	No	No	Yes	—	—	No	—	—	No	—	—	—	—	—	—	—	—
Exceeds (Annual)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Threshol d	—	10.0	10.0	—	—	—	15.0	—	—	10.0	—	—	—	—	—	—	—	—
Unmit.	—	No	No	—	—	—	No	—	—	No	—	—	—	—	—	—	—	—

6. Climate Risk Detailed Report

6.2. Initial Climate Risk Scores

Climate Hazard	Exposure Score	Sensitivity Score	Adaptive Capacity Score	Vulnerability Score
Temperature and Extreme Heat	N/A	N/A	N/A	N/A
Extreme Precipitation	1	0	0	N/A
Sea Level Rise	1	0	0	N/A
Wildfire	1	0	0	N/A
Flooding	N/A	N/A	N/A	N/A
Drought	N/A	N/A	N/A	N/A
Snowpack Reduction	N/A	N/A	N/A	N/A
Air Quality Degradation	0	0	0	N/A

The sensitivity score reflects the extent to which a project would be adversely affected by exposure to a climate hazard. Exposure is rated on a scale of 1 to 5, with a score of 5 representing the greatest exposure.

The adaptive capacity of a project refers to its ability to manage and reduce vulnerabilities from projected climate hazards. Adaptive capacity is rated on a scale of 1 to 5, with a score of 5 representing the greatest ability to adapt.

The overall vulnerability scores are calculated based on the potential impacts and adaptive capacity assessments for each hazard. Scores do not include implementation of climate risk reduction measures.

6.3. Adjusted Climate Risk Scores

Climate Hazard	Exposure Score	Sensitivity Score	Adaptive Capacity Score	Vulnerability Score
Temperature and Extreme Heat	N/A	N/A	N/A	N/A
Extreme Precipitation	1	1	1	2
Sea Level Rise	1	1	1	2
Wildfire	1	1	1	2
Flooding	N/A	N/A	N/A	N/A
Drought	N/A	N/A	N/A	N/A
Snowpack Reduction	N/A	N/A	N/A	N/A
Air Quality Degradation	1	1	1	2

The sensitivity score reflects the extent to which a project would be adversely affected by exposure to a climate hazard. Exposure is rated on a scale of 1 to 5, with a score of 5 representing the greatest exposure.

The adaptive capacity of a project refers to its ability to manage and reduce vulnerabilities from projected climate hazards. Adaptive capacity is rated on a scale of 1 to 5, with a score of 5 representing the greatest ability to adapt.

The overall vulnerability scores are calculated based on the potential impacts and adaptive capacity assessments for each hazard. Scores include implementation of climate risk reduction measures.

7. Health and Equity Details

7.3. Overall Health & Equity Scores

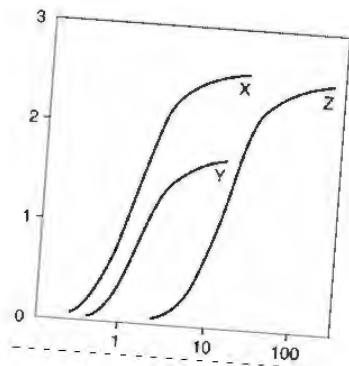
Metric	Result for Project Census Tract
CalEnviroScreen 4.0 Score for Project Location (a)	17.0
Healthy Places Index Score for Project Location (b)	91.0
Project Located in a Designated Disadvantaged Community (Senate Bill 535)	No
Project Located in a Low-Income Community (Assembly Bill 1550)	No
Project Located in a Community Air Protection Program Community (Assembly Bill 617)	No

a: The maximum CalEnviroScreen score is 100. A high score (i.e., greater than 50) reflects a higher pollution burden compared to other census tracts in the state.

b: The maximum Health Places Index score is 100. A high score (i.e., greater than 50) reflects healthier community conditions compared to other census tracts in the state.

7.5. Evaluation Scorecard

Health & Equity Evaluation Scorecard not completed.



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James J. J. Clark, Ph.D.

Principal Toxicologist

Toxicology/Exposure Assessment Modeling

Risk Assessment/Analysis/Dispersion Modeling

Education:

Ph.D., Environmental Health Science, University of California, 1995

M.S., Environmental Health Science, University of California, 1993

B.S., Biophysical and Biochemical Sciences, University of Houston, 1987

Professional Experience:

Dr. Clark is a well recognized toxicologist, air modeler, and health scientist. He has 20 years of experience in researching the effects of environmental contaminants on human health including environmental fate and transport modeling (SCREEN3, AEROMOD, ISCST3, Johnson-Ettinger Vapor Intrusion Modeling); exposure assessment modeling (partitioning of contaminants in the environment as well as PBPK modeling); conducting and managing human health risk assessments for regulatory compliance and risk-based clean-up levels; and toxicological and medical literature research.

Significant projects performed by Dr. Clark include the following:

LITIGATION SUPPORT

Case: James Harold Caygle, et al, v. Drummond Company, Inc. Circuit Court for the Tenth Judicial Circuit, Jefferson County, Alabama. Civil Action. CV-2009

Client: Environmental Litigation Group, Birmingham, Alabama

Dr. Clark performed an air quality assessment of emissions from a coke factory located in Tarrant, Alabama. The assessment reviewed include a comprehensive review of air quality standards, measured concentrations of pollutants from factory, an inspection of the facility and detailed assessment of the impacts on the community. The results of the assessment and literature have been provided in a declaration to the court.

Case Result: Settlement in favor of plaintiff.

Case: Rose Roper V. Nissan North America, et al. Superior Court of the State Of California for the County Of Los Angeles – Central Civil West. Civil Action. NC041739

Client: Rose, Klein, Marias, LLP, Long Beach, California

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to multiple chemicals, including benzene, who later developed a respiratory distress. A review of the individual's medical and occupational history was performed to prepare an exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to respiratory irritants. The results of the assessment and literature have been provided in a declaration to the court.

Case Result: Settlement in favor of plaintiff.

Case: O'Neil V. Sherwin Williams, et al. United States District Court Central District of California

Client: Rose, Klein, Marias, LLP, Long Beach, California

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to petroleum distillates who later developed a bladder cancer. A review of the individual's medical and occupational history was performed to prepare a quantitative exposure assessment. The results of the assessment and literature have been provided in a declaration to the court.

Case Result: Summary judgment for defendants.

Case: Moore V., Shell Oil Company, et al. Superior Court of the State Of California for the County Of Los Angeles

Client: Rose, Klein, Marias, LLP, Long Beach, California

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to chemicals while benzene who later developed a leukogenic disease. A review of the individual's medical and occupational history was performed to prepare a quantitative exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to refined petroleum hydrocarbons. The results of the assessment and literature have been provided in a declaration to the court.

Case Result: Settlement in favor of plaintiff.

Case: Raymond Saltonstall V. Fuller O'Brien, KILZ, and Zinsser, et al. United States District Court Central District of California

Client: Rose, Klein, Marias, LLP, Long Beach, California

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to benzene who later developed a leukogenic disease. A review of the individual's medical and occupational history was performed to prepare a quantitative exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to refined petroleum hydrocarbons. The results of the assessment and literature have been provided in a declaration to the court.

Case Result: Settlement in favor of plaintiff.

Case: Richard Boyer and Elizabeth Boyer, husband and wife, V. DESCO Corporation, et al. Circuit Court of Brooke County, West Virginia. Civil Action Number 04-C-7G.

Client: Frankovitch, Anetakakis, Colantonio & Simon, Morgantown, West Virginia.

Dr. Clark performed a toxicological assessment of a family exposed to chlorinated solvents released from the defendant's facility into local drinking water supplies. A review of the individual's medical and occupational history was performed to prepare a qualitative exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to chlorinated solvents. The results of the assessment and literature have been provided in a declaration to the court.

Case Result: Settlement in favor of plaintiff.

Case: JoAnne R. Cook, V. DESCO Corporation, et al. Circuit Court of Brooke County, West Virginia. Civil Action Number 04-C-9R

Client: Frankovitch, Anetakis, Colantonio & Simon, Morgantown, West Virginia.

Dr. Clark performed a toxicological assessment of an individual exposed to chlorinated solvents released from the defendant's facility into local drinking water supplies. A review of the individual's medical and occupational history was performed to prepare a qualitative exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to chlorinated solvents. The results of the assessment and literature have been provided in a declaration to the court.

Case Result: Settlement in favor of plaintiff.

Case: Patrick Allen And Susan Allen, husband and wife, and Andrew Allen, a minor, V. DESCO Corporation, et al. Circuit Court of Brooke County, West Virginia. Civil Action Number 04-C-W

Client: Frankovitch, Anetakis, Colantonio & Simon, Morgantown, West Virginia.

Dr. Clark performed a toxicological assessment of a family exposed to chlorinated solvents released from the defendant's facility into local drinking water supplies. A review of the individual's medical and occupational history was performed to prepare a qualitative exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to chlorinated solvents. The results of the assessment and literature have been provided in a declaration to the court.

Case Result: Settlement in favor of plaintiff.

Case: Michael Fahey, Susan Fahey V. Atlantic Richfield Company, et al. United States District Court Central District of California Civil Action Number CV-06 7109 JCL.

Client: Rose, Klein, Marias, LLP, Long Beach, California

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to refined petroleum hydrocarbons who later developed a leukogenic disease. A review of the individual's medical and occupational history was performed to prepare a qualitative exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to refined petroleum hydrocarbons. The results of the assessment and literature have been provided in a declaration to the court.

Case Result: Settlement in favor of plaintiff.

Case: Constance Acevedo, et al., V. California Spray-Chemical Company, et al., Superior Court of the State Of California, County Of Santa Cruz. Case No. CV 146344

Dr. Clark performed a comprehensive exposure assessment of community members exposed to toxic metals from a former lead arsenate manufacturing facility. The former manufacturing site had undergone a DTSC mandated removal action/remediation for the presence of the toxic metals at the site. Opinions were presented regarding the elevated levels of arsenic and lead (in attic dust and soils) found throughout the community and the potential for harm to the plaintiffs in question.

Case Result: Settlement in favor of defendant.

Case: Michael Nawrocki V. The Coastal Corporation, Kurk Fuel Company, Pautler Oil Service, State of New York Supreme Court, County of Erie, Index Number I2001-11247

Client: Richard G. Berger Attorney At Law, Buffalo, New York

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to refined petroleum hydrocarbons who later developed a leukogenic disease. A review of the individual's medical and occupational history was performed to prepare a qualitative exposure assessment. The exposure assessment was evaluated against the

known outcomes in published literature to exposure to refined petroleum hydrocarbons. The results of the assessment and literature have been provided in a declaration to the court.

Case Result: Judgement in favor of defendant.

SELECTED AIR MODELING RESEARCH/PROJECTS

Client – Confidential

Dr. Clark performed a comprehensive evaluation of criteria pollutants, air toxins, and particulate matter emissions from a carbon black production facility to determine the impacts on the surrounding communities. The results of the dispersion model will be used to estimate acute and chronic exposure concentrations to multiple contaminants and will be incorporated into a comprehensive risk evaluation.

Client – Confidential

Dr. Clark performed a comprehensive evaluation of air toxins and particulate matter emissions from a railroad tie manufacturing facility to determine the impacts on the surrounding communities. The results of the dispersion model have been used to estimate acute and chronic exposure concentrations to multiple contaminants and have been incorporated into a comprehensive risk evaluation.

Client – Los Angeles Alliance for a New Economy (LAANE), Los Angeles, California

Dr. Clark is advising the LAANE on air quality issues related to current flight operations at the Los Angeles International Airport (LAX) operated by the Los Angeles World Airport (LAWA) Authority. He is working with the LAANE and LAX staff to develop a comprehensive strategy for meeting local community concerns over emissions from flight operations and to engage federal agencies on the issue of local impacts of community airports.

Client – City of Santa Monica, Santa Monica, California

Dr. Clark is advising the City of Santa Monica on air quality issues related to current flight operations at the facility. He is working with the City staff to develop a comprehensive strategy for meeting local community concerns over emissions from flight operations and to engage federal agencies on the issue of local impacts of community airports.

Client: Omnitrans, San Bernardino, California

Dr. Clark managed a public health survey of three communities near transit fueling facilities in San Bernardino and Montclair California in compliance with California Senate Bill 1927. The survey included an epidemiological survey of the effected communities, emission surveys of local businesses, dispersion modeling to determine potential emission concentrations within the communities, and a comprehensive risk assessment of each community. The results of the study were presented to the Governor as mandated by Senate Bill 1927.

Client: Confidential, San Francisco, California

Summarized cancer types associated with exposure to metals and smoking. Researched the specific types of cancers associated with exposure to metals and smoking. Provided causation analysis of the association between cancer types and exposure for use by non-public health professionals.

Client: Confidential, Minneapolis, Minnesota

Prepared human health risk assessment of workers exposed to VOCs from neighboring petroleum storage/transport facility. Reviewed the systems in place for distribution of petroleum hydrocarbons to identify chemicals of concern (COCs), prepared comprehensive toxicological summaries of COCs, and quantified potential risks from carcinogens and non-carcinogens to receptors at or adjacent to site. This evaluation was used in the support of litigation.

Client – United Kingdom Environmental Agency

Dr. Clark is part of team that performed comprehensive evaluation of soil vapor intrusion of VOCs from former landfill adjacent residences for the United Kingdom's Environment

Agency. The evaluation included collection of liquid and soil vapor samples at site, modeling of vapor migration using the Johnson Ettinger Vapor Intrusion model, and calculation of site-specific health based vapor thresholds for chlorinated solvents, aromatic hydrocarbons, and semi-volatile organic compounds. The evaluation also included a detailed evaluation of the use, chemical characteristics, fate and transport, and toxicology of chemicals of concern (COC). The results of the evaluation have been used as a briefing tool for public health professionals.

EMERGING/PERSISTENT CONTAMINANT RESEARCH/PROJECTS

Client: Ameren Services, St. Louis, Missouri

Managed the preparation of a comprehensive human health risk assessment of workers and residents at or near an NPL site in Missouri. The former operations at the Property included the servicing and repair of electrical transformers, which resulted in soils and groundwater beneath the Property and adjacent land becoming impacted with PCB and chlorinated solvent compounds. The results were submitted to U.S. EPA for evaluation and will be used in the final ROD.

Client: City of Santa Clarita, Santa Clarita, California

Dr. Clark is managing the oversight of the characterization, remediation and development activities of a former 1,000 acre munitions manufacturing facility for the City of Santa Clarita. The site is impacted with a number of contaminants including perchlorate, unexploded ordinance, and volatile organic compounds (VOCs). The site is currently under a number of regulatory consent orders, including an Imminent and Substantial Endangerment Order. Dr. Clark is assisting the impacted municipality with the development of remediation strategies, interaction with the responsible parties and stakeholders, as well as interfacing with the regulatory agency responsible for oversight of the site cleanup.

Client: Confidential, Los Angeles, California

Prepared comprehensive evaluation of perchlorate in environment. Dr. Clark evaluated the production, use, chemical characteristics, fate and transport, toxicology, and remediation of perchlorate. Perchlorates form the basis of solid rocket fuels and have recently been detected in water supplies in the United States. The results of this research

were presented to the USEPA, National GroundWater, and ultimately published in a recent book entitled *Perchlorate in the Environment*.

Client – Confidential, Los Angeles, California

Dr. Clark is performing a comprehensive review of the potential for pharmaceuticals and their by-products to impact groundwater and surface water supplies. This evaluation will include a review if available data on the history of pharmaceutical production in the United States; the chemical characteristics of various pharmaceuticals; environmental fate and transport; uptake by xenobiotics; the potential effects of pharmaceuticals on water treatment systems; and the potential threat to public health. The results of the evaluation may be used as a briefing tool for non-public health professionals.

PUBLIC HEALTH/TOXICOLOGY

Client: Brayton Purcell, Novato, California

Dr. Clark performed a toxicological assessment of residents exposed to methyl-tertiary butyl ether (MTBE) from leaking underground storage tanks (LUSTs) adjacent to the subject property. The symptomology of residents and guests of the subject property were evaluated against the known outcomes in published literature to exposure to MTBE. The study found that residents had been exposed to MTBE in their drinking water; that concentrations of MTBE detected at the site were above regulatory guidelines; and, that the symptoms and outcomes expressed by residents and guests were consistent with symptoms and outcomes documented in published literature.

Client: Confidential, San Francisco, California

Identified and analyzed fifty years of epidemiological literature on workplace exposures to heavy metals. This research resulted in a summary of the types of cancer and non-cancer diseases associated with occupational exposure to chromium as well as the mortality and morbidity rates.

Client: Confidential, San Francisco, California

Summarized major public health research in United States. Identified major public health research efforts within United States over last twenty years. Results were used as a briefing tool for non-public health professionals.

Client: Confidential, San Francisco, California

Quantified the potential multi-pathway dose received by humans from a pesticide applied indoors. Part of team that developed exposure model and evaluated exposure concentrations in a comprehensive report on the plausible range of doses received by a specific person. This evaluation was used in the support of litigation.

Client: Covanta Energy, Westwood, California

Evaluated health risk from metals in biosolids applied as soil amendment on agricultural lands. The biosolids were created at a forest waste cogeneration facility using 96% whole tree wood chips and 4 percent green waste. Mass loading calculations were used to estimate Cr(VI) concentrations in agricultural soils based on a maximum loading rate of 40 tons of biomass per acre of agricultural soil. The results of the study were used by the Regulatory agency to determine that the application of biosolids did not constitute a health risk to workers applying the biosolids or to residences near the agricultural lands.

Client – United Kingdom Environmental Agency

Oversaw a comprehensive toxicological evaluation of methyl-*tertiary* butyl ether (MtBE) for the United Kingdom's Environment Agency. The evaluation included available data on the production, use, chemical characteristics, fate and transport, toxicology, and remediation of MtBE. The results of the evaluation have been used as a briefing tool for public health professionals.

Client – Confidential, Los Angeles, California

Prepared comprehensive evaluation of *tertiary* butyl alcohol (TBA) in municipal drinking water system. TBA is the primary breakdown product of MtBE, and is suspected to be the primary cause of MtBE toxicity. This evaluation will include available information on the production, use, chemical characteristics, fate and transport in the environment, absorption, distribution, routes of detoxification, metabolites, carcinogenic potential, and remediation of TBA. The results of the evaluation were used as a briefing tool for non-public health professionals.

Client – Confidential, Los Angeles, California

Prepared comprehensive evaluation of methyl *tertiary* butyl ether (MTBE) in municipal drinking water system. MTBE is a chemical added to gasoline to increase the octane

rating and to meet Federally mandated emission criteria. The evaluation included available data on the production, use, chemical characteristics, fate and transport, toxicology, and remediation of MTBE. The results of the evaluation have been were used as a briefing tool for non-public health professionals.

Client – Ministry of Environment, Lands & Parks, British Columbia

Dr. Clark assisted in the development of water quality guidelines for methyl tertiary-butyl ether (MTBE) to protect water uses in British Columbia (BC). The water uses to be considered includes freshwater and marine life, wildlife, industrial, and agricultural (e.g., irrigation and livestock watering) water uses. Guidelines from other jurisdictions for the protection of drinking water, recreation and aesthetics were to be identified.

Client: Confidential, Los Angeles, California

Prepared physiologically based pharmacokinetic (PBPK) assessment of lead risk of receptors at middle school built over former industrial facility. This evaluation is being used to determine cleanup goals and will be basis for regulatory closure of site.

Client: Kaiser Venture Incorporated, Fontana, California

Prepared PBPK assessment of lead risk of receptors at a 1,100-acre former steel mill. This evaluation was used as the basis for granting closure of the site by lead regulatory agency.

RISK ASSESSMENTS/REMEDIAL INVESTIGATIONS

Client: Confidential, Atlanta, Georgia

Researched potential exposure and health risks to community members potentially exposed to creosote, polycyclic aromatic hydrocarbons, pentachlorophenol, and dioxin compounds used at a former wood treatment facility. Prepared a comprehensive toxicological summary of the chemicals of concern, including the chemical characteristics, absorption, distribution, and carcinogenic potential. Prepared risk characterization of the carcinogenic and non-carcinogenic chemicals based on the exposure assessment to quantify the potential risk to members of the surrounding community. This evaluation was used to help settle class-action tort.

Client: Confidential, Escondido, California

Prepared comprehensive Preliminary Endangerment Assessment (PEA) of dense non-aqueous liquid phase hydrocarbon (chlorinated solvents) contamination at a former printed circuit board manufacturing facility. This evaluation was used for litigation support and may be used as the basis for reaching closure of the site with the lead regulatory agency.

Client: Confidential, San Francisco, California

Summarized epidemiological evidence for connective tissue and autoimmune diseases for product liability litigation. Identified epidemiological research efforts on the health effects of medical prostheses. This research was used in a meta-analysis of the health effects and as a briefing tool for non-public health professionals.

Client: Confidential, Bogotá, Columbia

Prepared comprehensive evaluation of the potential health risks associated with the redevelopment of a 13.7 hectares plastic manufacturing facility in Bogotá, Colombia. The risk assessment was used as the basis for the remedial goals and closure of the site.

Client: Confidential, Los Angeles, California

Prepared comprehensive human health risk assessment of students, staff, and residents potentially exposed to heavy metals (principally cadmium) and VOCs from soil and soil vapor at 12-acre former crude oilfield and municipal landfill. The site is currently used as a middle school housing approximately 3,000 children. The evaluation determined that the site was safe for the current and future uses and was used as the basis for regulatory closure of site.

Client: Confidential, Los Angeles, California

Managed remedial investigation (RI) of heavy metals and volatile organic chemicals (VOCs) for a 15-acre former manufacturing facility. The RI investigation of the site included over 800 different sampling locations and the collection of soil, soil gas, and groundwater samples. The site is currently used as a year round school housing approximately 3,000 children. The Remedial Investigation was performed in a manner

that did not interrupt school activities and met the time restrictions placed on the project by the overseeing regulatory agency. The RI Report identified the off-site source of metals that impacted groundwater beneath the site and the sources of VOCs in soil gas and groundwater. The RI included a numerical model of vapor intrusion into the buildings at the site from the vadose zone to determine exposure concentrations and an air dispersion model of VOCs from the proposed soil vapor treatment system. The Feasibility Study for the Site is currently being drafted and may be used as the basis for granting closure of the site by DTSC.

Client: Confidential, Los Angeles, California

Prepared comprehensive human health risk assessment of students, staff, and residents potentially exposed to heavy metals (principally lead), VOCs, SVOCs, and PCBs from soil, soil vapor, and groundwater at 15-acre former manufacturing facility. The site is currently used as a year round school housing approximately 3,000 children. The evaluation determined that the site was safe for the current and future uses and will be basis for regulatory closure of site.

Client: Confidential, Los Angeles, California

Prepared comprehensive evaluation of VOC vapor intrusion into classrooms of middle school that was former 15-acre industrial facility. Using the Johnson-Ettinger Vapor Intrusion model, the evaluation determined acceptable soil gas concentrations at the site that did not pose health threat to students, staff, and residents. This evaluation is being used to determine cleanup goals and will be basis for regulatory closure of site.

Client –Dominguez Energy, Carson, California

Prepared comprehensive evaluation of the potential health risks associated with the redevelopment of 6-acre portion of a 500-acre oil and natural gas production facility in Carson, California. The risk assessment was used as the basis for closure of the site.

Kaiser Ventures Incorporated, Fontana, California

Prepared health risk assessment of semi-volatile organic chemicals and metals for a fifty-year old wastewater treatment facility used at a 1,100-acre former steel mill. This evaluation was used as the basis for granting closure of the site by lead regulatory agency.

ANR Freight - Los Angeles, California

Prepared a comprehensive Preliminary Endangerment Assessment (PEA) of petroleum hydrocarbon and metal contamination of a former freight depot. This evaluation was as the basis for reaching closure of the site with lead regulatory agency.

Kaiser Ventures Incorporated, Fontana, California

Prepared comprehensive health risk assessment of semi-volatile organic chemicals and metals for 23-acre parcel of a 1,100-acre former steel mill. The health risk assessment was used to determine clean up goals and as the basis for granting closure of the site by lead regulatory agency. Air dispersion modeling using ISCST3 was performed to determine downwind exposure point concentrations at sensitive receptors within a 1 kilometer radius of the site. The results of the health risk assessment were presented at a public meeting sponsored by the Department of Toxic Substances Control (DTSC) in the community potentially affected by the site.

Unocal Corporation - Los Angeles, California

Prepared comprehensive assessment of petroleum hydrocarbons and metals for a former petroleum service station located next to sensitive population center (elementary school). The assessment used a probabilistic approach to estimate risks to the community and was used as the basis for granting closure of the site by lead regulatory agency.

Client: Confidential, Los Angeles, California

Managed oversight of remedial investigation most contaminated heavy metal site in California. Lead concentrations in soil excess of 68,000,000 parts per billion (ppb) have been measured at the site. This State Superfund Site was a former hard chrome plating operation that operated for approximately 40-years.

Client: Confidential, San Francisco, California

Coordinator of regional monitoring program to determine background concentrations of metals in air. Acted as liaison with SCAQMD and CARB to perform co-location sampling and comparison of accepted regulatory method with ASTM methodology.

Client: Confidential, San Francisco, California

Analyzed historical air monitoring data for South Coast Air Basin in Southern California and potential health risks related to ambient concentrations of carcinogenic metals and volatile organic compounds. Identified and reviewed the available literature and calculated risks from toxins in South Coast Air Basin.

IT Corporation, North Carolina

Prepared comprehensive evaluation of potential exposure of workers to air-borne VOCs at hazardous waste storage facility under SUPERFUND cleanup decree. Assessment used in developing health based clean-up levels.

Professional Associations

American Public Health Association (APHA)

Association for Environmental Health and Sciences (AEHS)

American Chemical Society (ACS)

California Redevelopment Association (CRA)

International Society of Environmental Forensics (ISEF)

Society of Environmental Toxicology and Chemistry (SETAC)

Publications and Presentations:

Books and Book Chapters

Sullivan, P., **J.J. J. Clark**, F.J. Agardy, and P.E. Rosenfeld. (2007). *Synthetic Toxins In The Food, Water and Air of American Cities*. Elsevier, Inc. Burlington, MA.

Sullivan, P. and **J.J. J. Clark**. 2006. *Choosing Safer Foods, A Guide To Minimizing Synthetic Chemicals In Your Diet*. Elsevier, Inc. Burlington, MA.

Sullivan, P., Agardy, F.J., and **J.J.J. Clark**. 2005. *The Environmental Science of Drinking Water*. Elsevier, Inc. Burlington, MA.

Sullivan, P.J., Agardy, F.J., **Clark, J.J.J.** 2002. *America's Threatened Drinking Water: Hazards and Solutions*. Trafford Publishing, Victoria B.C.

Clark, J.J.J. 2001. "TBA: Chemical Properties, Production & Use, Fate and Transport, Toxicology, Detection in Groundwater, and Regulatory Standards" in *Oxygenates in the Environment*. Art Diaz, Ed.. Oxford University Press: New York.

Clark, J.J.J. 2000. "Toxicology of Perchlorate" in *Perchlorate in the Environment*. Edward Urbansky, Ed. Kluwer/Plenum: New York.

Clark, J.J.J. 1995. Probabilistic Forecasting of Volatile Organic Compound Concentrations At The Soil Surface From Contaminated Groundwater. UMI.

Baker, J.; **Clark, J.J.J.**; Stanford, J.T. 1994. Ex Situ Remediation of Diesel Contaminated Railroad Sand by Soil Washing. Principles and Practices for Diesel Contaminated Soils, Volume III. P.T. Kostecki, E.J. Calabrese, and C.P.L. Barkan, eds. Amherst Scientific Publishers, Amherst, MA. pp 89-96.

Journal and Proceeding Articles

- 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, Volume 70 (2008) page 002254.
- 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, Volume 70 (2008) page 000527
- Hensley A.R., Scott, A., Rosenfeld P.E., **Clark, J.J.J.** (2007). "Attic Dust And Human Blood Samples Collected Near A Former Wood Treatment Facility." *Environmental Research*. 105:194-199.
- Rosenfeld, P.E., **Clark, J. J.**, Hensley, A.R., and Suffet, I.H. 2007. "The Use Of An Odor Wheel Classification For The Evaluation of Human Health Risk Criteria For Compost Facilities" Water Science & Technology. 55(5): 345-357.
- Hensley A.R., Scott, A., Rosenfeld P.E., **Clark, J.J.J.** 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, August 21 – 25, 2006. Radisson SAS Scandinavia Hotel in Oslo Norway.
- Rosenfeld, P.E., **Clark, J. J.** and Suffet, I.H. 2005. "The Value Of An Odor Quality Classification Scheme For Compost Facility Evaluations" The U.S. Composting Council's 13th Annual Conference January 23 - 26, 2005, Crowne Plaza Riverwalk, San Antonio, TX.
- Rosenfeld, P.E., **Clark, J. J.** and Suffet, I.H. 2004. "The Value Of An Odor Quality Classification Scheme For Urban Odor" WEFTEC 2004. 77th Annual Technical Exhibition & Conference October 2 - 6, 2004, Ernest N. Morial Convention Center, New Orleans, Louisiana.
- Clark, J.J.J.** 2003. "Manufacturing, Use, Regulation, and Occurrence of a Known Endocrine Disrupting Chemical (EDC), 2,4-Dichlorophenoxyacetic Acid (2,4-D) in California Drinking Water Supplies." National Groundwater Association Southwest Focus Conference: Water Supply and Emerging Contaminants. Minneapolis, MN. March 20, 2003.

- Rosenfeld, P. and **J.J.J. Clark**. 2003. "Understanding Historical Use, Chemical Properties, Toxicity, and Regulatory Guidance" National Groundwater Association Southwest Focus Conference: Water Supply and Emerging Contaminants. Phoenix, AZ. February 21, 2003.
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- Browne, T., **Clark, J.J.J.** 1998. Treatment Options For Perchlorate In Drinking Water. Proceedings From the Groundwater Resource Association Seventh Annual Meeting, Walnut Creek, CA, October 23, 1998.
- Clark, J.J.J.**, Brown, A., Rodriguez, R. 1998. The Public Health Implications of MtBE and Perchlorate in Water: Risk Management Decisions for Water Purveyors. Proceedings of the National Ground Water Association, Anaheim, CA, June 3-4, 1998.
- Clark J.J.J.**, Brown, A., Ulrey, A. 1997. Impacts of Perchlorate On Drinking Water In The Western United States. U.S. EPA Symposium on Biological and Chemical Reduction of Chlorate and Perchlorate, Cincinnati, OH, December 5, 1997.
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- Gong, H., Jr.; Simmons, M.S.; McManus, M.S.; Tashkin, D.P.; Clark, V.A.; Detels, R.; **Clark, J.J.** (1990). Relationship Between Responses to Chronic Oxidant and Acute

Ozone Exposures in Residents of Los Angeles County. American Review of Respiratory Disease. 141(4):A70.

Tierney, D.F. and **J.J.J. Clark.** (1990). Lung Polyamine Content Can Be Increased By Spermidine Infusions Into Hyperoxic Rats. American Review of Respiratory Disease. 139(4):A41.

EXHIBIT B



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Thetford Center VT 05075
Norman Marshall, President
(802) 356-2969
nmarshall@smartmobility.com

April 30, 2024

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

Subject: 865 Embedded Way Industrial Project

Dear Ms. Abedifard,

I have reviewed trip generation and vehicle miles traveled (VMT) impacts and proposed VMT mitigation of the Mitigated Negative Declaration for the 865 Embedded Way Industrial Project ("MND") prepared by the City of San Jose. I make the following findings:

- 1) There is a high degree of uncertainty about the project use and its impacts.
- 2) The MND proposes a VMT mitigation package that is only adequate if using the previous version of the City's VMT Evaluation Tool, and falls short of the threshold for Research and Development (R&D) use with the City's updated VMT tool.
- 3) Most of the calculated VMT reduction is based on the assumption that 25 percent of employees would commute in company-paid vanpools. With an unidentified tenant and use, this assumption is wildly optimistic and likely impossible to achieve. Mitigation should be replanned with a more plausible set of measures.
- 4) The MND's proposed monitoring for mitigation measures is insufficient and should be revised. For example, the percentage of commuters using the vanpools should be certified. Counting trips and comparing them to a baseline, as proposed in the MND, would provide no information about VMT reduction, particularly if an unrealistically high trip generation rate is used as the baseline.

High Degree of Uncertainty About the Project Use and Impacts

The MND describes the project as an “industrial/manufacturing warehouse.”

PROJECT DESCRIPTION: The project consists of a Site Development Permit (File No. H22-022) to allow the construction of a one-story 121,400 square foot industrial/manufacturing warehouse on a vacant 10.17-acre project site. (MND, p. 1)

The MND also describes the project as an “R&D facility.”

While a designated end user has not yet been determined for the project, the project is designed for a research and development (R&D) use. . For the purposes of this Initial Study, the project will be analyzed as an R&D facility. (MND, p. 6)

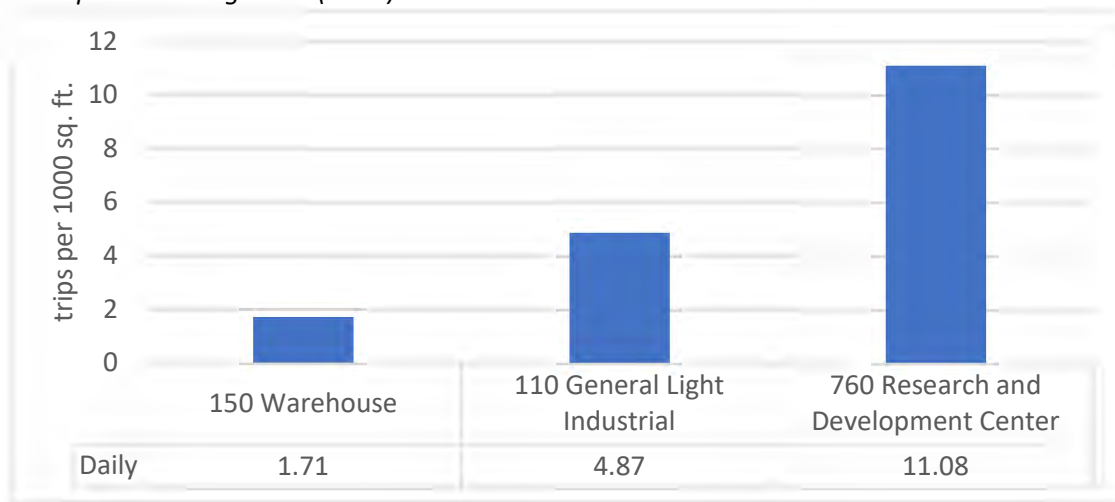
The proposed project would construct an industrial building on a vacant site that could be used for developments such as R&D, manufacturing, assembly, testing, and offices. The exact operational occupant of the site is not currently determined and is likely to change over the full economic life of the project which may be 50 or more years; however, for the purposes of this Initial Study it is assumed the proposed development would be used for R&D purposes. (MND, p. 108)

The MND makes it clear that the building’s end use and its impacts are unknown:

Since a tenant and use of the proposed building have yet to be identified, the applicant for the project has requested that the transportation analysis allow for the flexibility to utilize the building with either warehouse, industrial, or research & development (R&D) space. Of the above-identified uses, R&D space generates the greatest number of daily and peak hour trips per 1,000 s.f. of space. Therefore, the LTA evaluates the proposed project as 121,850 s.f. of R&D space for the purpose of providing the flexibility to allow for the use of the proposed building with low traffic generating warehouse uses or greater traffic generating uses such as R&D space. (MND Appendix H, p. 39 of 155)

Figure 1 shows daily trip generation rates per 1000 sq. ft. for warehouse, light industrial and R&D uses.

Figure 1: Trip Generation Rates for Warehouse, Light Industrial and R&D Uses from Institute of Transportation Engineers (“ITE”) - Latest Edition



The MND is correct that R&D generates more trips than the other categories on a 1000 sq. ft. basis – over twice as many trips as General Light Industrial and over six times as many trips as Warehouse. Therefore, using the higher trip generation rate is a conservative approach for a traditional traffic impact analysis. However, with SB 743, VMT impacts are much more important than traffic impacts. As is discussed later in this letter, assuming an unrealistically high trip generation would invalidate the VMT monitoring approach proposed in the MND.

The Updated San Jose VMT Evaluation Tool Reveals Significant VMT

The MND VMT analysis was done on April 3, 2023 with a February 29, 2019 version of the San Jose VMT Evaluation Tool. I redid the analysis with a newer Tool Version 3 dated April 2023. With the newer Tool, the area VMT, project VMT, and VMT reduction numbers are significant and exceed the threshold(s). Figures 2-3 compare the VMT summary graphics from the MND vs. the newer Tool.

Figure 2: 2019 Tool Output for Office Employment (MND, Appendix H, PDF p. 70 of 155)

EMPLOYMENT ONLY

The tool estimates that the project would generate per non-industrial worker VMT below the City's threshold. There are selected strategies that require coordination with the City of San Jose to implement.

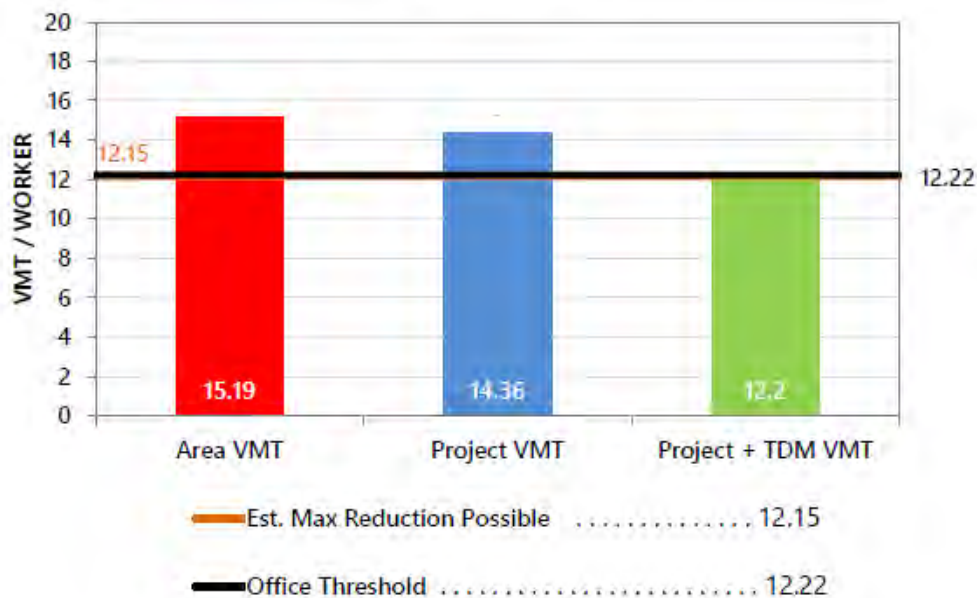
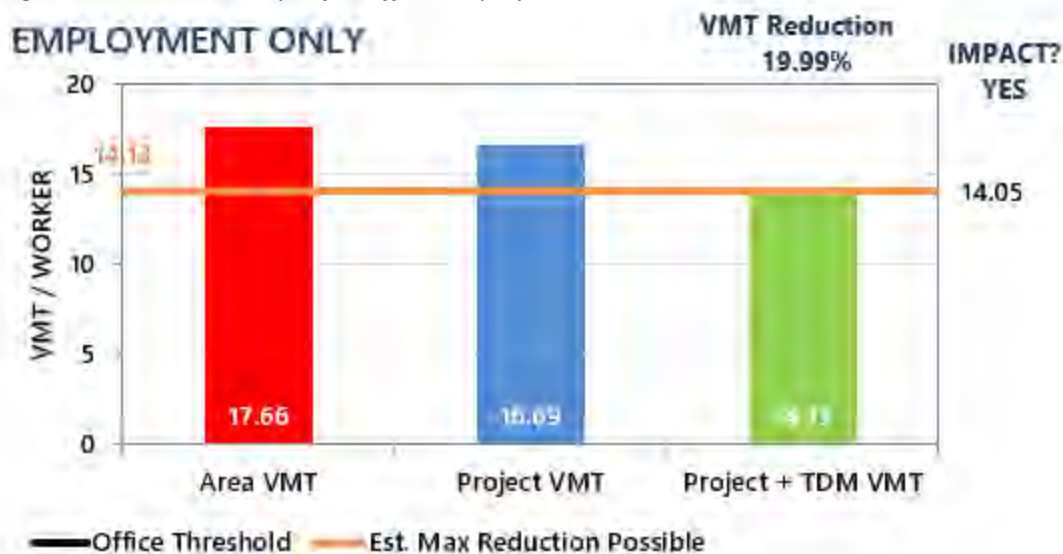


Figure 3: 2023 Tool Output for Office Employment



As shown in the figures above, for office (R&D) employment, the proposed mitigation is just sufficient to meet the VMT threshold with the older Tool, but not sufficient with the newer version of the Tool. Figure 3, with the new Tool, shows a 19.99 percent reduction in VMT to 14.13 which is higher than the threshold of 14.05 and the Tool shows “IMPACT? YES.”

The MND’s proposed mitigation measures would not be sufficient to reduce the VMT below the threshold. First, increasing the percentage of employees participating in the two TDM measures beyond the 25% level assumed in the MND does not reduce VMT in the Tool; the maximum VMT reduction for those two measures has been achieved at the 25% level. Furthermore, adding other mitigation measures also fails to reduce VMT in the Tool. It appears that the combination of the two mitigation measures represents the maximum mitigation possible with the tool.

The Required VMT Mitigation is Uncertain and Will Be Very Hard to Achieve

The MND states:

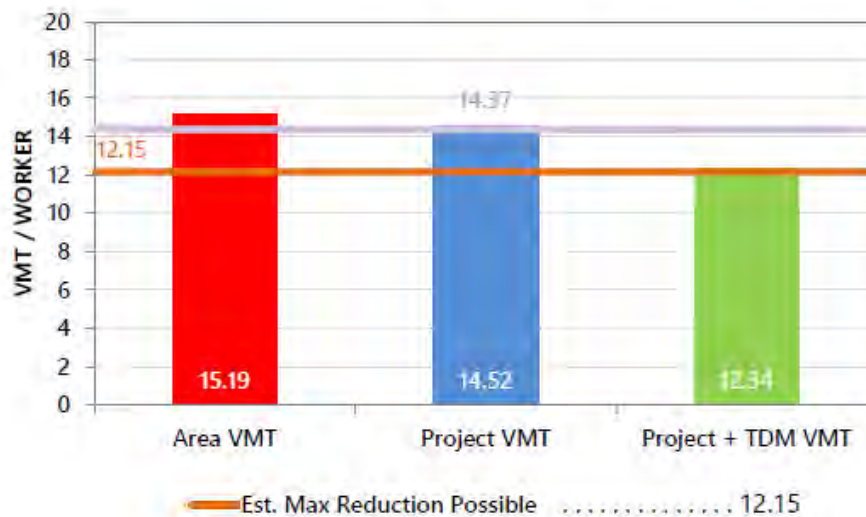
The TDM measures must be incorporated within a TDM plan for the project and submitted to the City for approval. The applicant will need to work with the City to ensure the TDM measures are implemented by the building tenants or identify other TDM measures deemed appropriate for the building uses. Therefore, the ultimate TDM measures may differ from those identified above so long as the measures meet the required VMT reduction of 5.4 percent for warehouse uses and 19.6 percent for R&D uses and are approved by City staff. (MND, Appendix H, PDF p. 7 of 155)

The “5.4 percent” value for warehouse uses is wrong. As seen in the graph summary provided in MND Appendix H, reproduced below as Figure 4, a 15 percent reduction (after area adjustments) is required to just reduce the project VMT from 14.52 to the threshold of 12.22.

Figure 4: 2019 Tool Output for Industrial Employment (MND, Appendix H, PDF p. 66 of 155)

EMPLOYMENT ONLY

The tool estimates that the project would generate per non-industrial worker VMT below the City's threshold. There are selected strategies that require coordination with the City of San Jose to implement.



Over 90 percent of the VMT reduction in the 2023 Tool is achieved with the vanpool measure. The MND assumes that 25 percent of employees will commute by company-paid vanpool. However, with an unidentified tenant and building use, this assumption is wildly optimistic and likely impossible to achieve. Mitigation should be replanned with a more plausible set of measures.

Monitoring Proposed in MND Does Not Sufficiently Measure VMT and Must Be Replaced

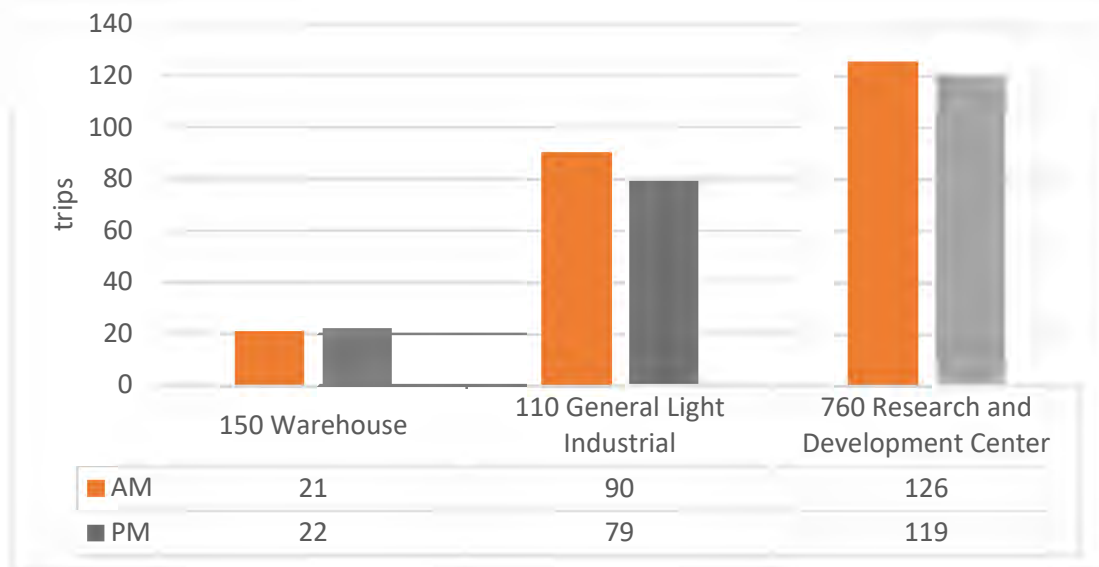
The current monitoring approach proposed in the MND lacks sufficient capability to accurately measure VMT and needs to be replaced. Instead of focusing solely on counting trips, the monitoring process should encompass each of the VMT-reducing measures identified in the MND's proposed mitigation. With the mitigation listed in the MND, the most important element is the vanpools. The actual percentage of employees that will use the vanpool should be compared to the TDM plan.

The MND instead proposes VMT monitoring based on counting trips:

The TDM plan shall be submitted to the Director of Public Works or Director's designee and the Director of Planning, Building and Code Enforcement or the Director's designee and shall include a trip cap for VMT monitoring purposes. The trip cap shall be prepared by a traffic engineer. *The monitoring shall be based on annual trip generation counts* that demonstrate the vehicle trips generated by the project are within 10 percent of an established peak hour trip cap that is prepared by a traffic engineer. The annual trip monitoring reports shall be submitted that demonstrate that project-generated VMT is below the significance threshold. If the annual trip monitoring report finds that the project is exceeding the established trip cap, the project shall be required to submit a follow-up report that demonstrates compliance with the trip cap requirements within a period not to exceed six months. (MND, p. 11, emphasis added)

Figure 5 shows weekday morning and afternoon peak hour period trips for the different land uses discussed in the MND.

Figure 5: Trip Generation Rates for Warehouse, Light Industrial and R&D Uses from Institute of Transportation Engineers (“ITE”) – Latest Edition



Baseline trip generation rate estimated from data from other sites gives only a crude estimate of trip generation for any particular project. As shown in Figures 1 and 5, there are large differences between categories. There is also great variation in the rates for each category. Actual project trip generation could be significantly higher or lower than the baseline estimate. This difference between baseline estimates and actual trips provides no information about VMT mitigation.

If actual project trips could be counted prior to mitigation, this would provide a better baseline, but would still be insufficient. This approach would require holding off on mitigation until this baseline was established and would undermine mitigation efforts.

Even if it were possible to develop an accurate trips baseline, this would not provide an accurate basis for assessing VMT mitigation. A 20 percent reduction in trips does not directly translate into a 20 percent decrease in VMT. Some of the trip reduction could come from shorter trips--e.g. shifting trips to walking and bike modes with only a small VMT effect--and some of the trip reduction could come from longer trips--e.g. vanpooling with a larger VMT effect. The VMT Evaluation Tool is designed to assess interactions between trips and trip lengths. Measuring trips alone cannot do this.

If an unrealistically high trip generation rate is used as the baseline, such as using the R&D rate (as is the case in the MND) when the building ultimately is designated as a warehouse, the resulting trip count is likely to fall significantly below that high baseline, even if there is no VMT mitigation. Therefore, the proposed VMT mitigation measures would become practically irrelevant.

Once the VMT mitigation program has been finalized, monitoring must account for each of the VMT-reducing measures. With the mitigation listed in the MND, the most important element is the vanpools. The actual percentage of employees should be compared to the TDM plan. Each of the other TDM measures should be audited similarly.

Sincerely,

A handwritten signature in black ink, reading "Norman L. Marshall". The signature is written in a cursive, flowing style.

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: (33 Years, 19 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.

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

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.

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 Caroline 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)

Appendix B: Appeals of the Planning Director's Decision



CITY OF SAN JOSE

Planning, Building and Code Enforcement
200 East Santa Clara Street
San José, CA 95113-1905
tel (408) 535-3555 fax (408) 292-6055
Website: www.sanjoseca.gov/planning

INSTRUCTIONS FOR FILING AN APPLICATION FOR APPEAL OF AN ENVIRONMENTAL DETERMINATION

WHO MAY APPEAL

Any person may file.

TIME LIMIT

A complete Notice of Environmental Appeal (see back page) must be filed in person at Development Services Center, City Hall, no later than 5 p.m. on the **third business day** following the day of the public hearing that relied upon the Environmental Determination.

APPEAL REQUIREMENTS

1. A complete Notice of Environmental Appeal including the following within the appropriate time limit:
 - a. Application filing fee, (see Filing Fee Schedule).
 - b. The appeal shall state with specificity the reasons that the Environmental Determination should be found not to be complete or not to have been prepared in compliance with the requirements of CEQA.
 - c. No appeal shall be considered unless it is based on issues which were raised at the public hearing either orally or in writing prior to the public hearing. (21.07.040C)

PROCESSING SCHEDULE

Planning Staff:

- Checks the application for completeness.
- Logs and collects fees.
- Sets a public hearing date before City Council and places the item in the agenda.
- Prepares a recommendation to the City Council.

City Council:

- considers and acts upon the appeal in a public hearing.

**CITY OF SAN JOSE**

Planning, Building and Code Enforcement
200 East Santa Clara Street
San José, CA 95113-1905
tel (408) 535-3555 fax (408) 292-6055
Website: www.sanjoseca.gov/planning

NOTICE OF ENVIRONMENTAL APPEAL**TO BE COMPLETED BY PLANNING STAFF**

FILE NUMBER	RECEIPT # _____
TYPE OF ENVIRONMENTAL DETERMINATION (EIR, MND, EX)	AMOUNT _____
	DATE _____
	BY _____

TO BE COMPLETED BY PERSON FILING APPEAL

PLEASE REFER TO ENVIRONMENTAL APPEAL INSTRUCTIONS BEFORE COMPLETING THIS PAGE.

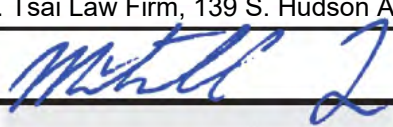
THE UNDERSIGNED RESPECTFULLY REQUESTS AN APPEAL FOR THE FOLLOWING ENVIRONMENTAL DETERMINATION:

Initial Study/Mitigated Negative Declaration for 865 Embedded Way Industrial Project. File No. H22-022 & ER22-113.

REASON(S) FOR APPEAL (For additional comments, please attach a separate sheet.):

The Project's IS/MND does not accurately disclose the Project's potential significant impacts and fails to adequately mitigate the Projects significant impacts, including as to traffic, air quality, greenhouse gases, noise, biological resources, and other environmental factors. Further, the IS/MND improperly defers mitigation. The City should therefore prepare an EIR to further evaluate and mitigate significant environmental impacts of the Project, or at minimum, revise and recirculate the IS/MND.

PERSON FILING APPEAL

NAME Mitchell M. Tsai / Carpenters Local Union 405	DAYTIME TELEPHONE (626) 314-3821
ADDRESS Mitchell M. Tsai Law Firm, 139 S. Hudson Avenue, Suite 200	CITY Pasadena
	STATE CA
	ZIP CODE 91101
SIGNATURE 	DATE May 3, 2024

CONTACT PERSON
 (IF DIFFERENT FROM PERSON FILING APPEAL)

NAME			
ADDRESS		CITY	STATE
			ZIP CODE
DAYTIME TELEPHONE ()		FAX NUMBER ()	E-MAIL ADDRESS

PLEASE CALL THE APPOINTMENT DESK AT (408) 535-3555 FOR AN APPLICATION APPOINTMENT.



CITY OF SAN JOSE

Planning, Building and Code Enforcement
200 East Santa Clara Street
San José, CA 95113-1905
tel (408) 535-3555 fax (408) 292-6055
Website: www.sanjoseca.gov/planning

INSTRUCTIONS FOR FILING AN APPLICATION FOR APPEAL OF AN ENVIRONMENTAL DETERMINATION

WHO MAY APPEAL

Any person may file.

TIME LIMIT

A complete Notice of Environmental Appeal (see back page) must be filed in person at Development Services Center, City Hall, no later than 5 p.m. on the **third business day** following the day of the public hearing that relied upon the Environmental Determination.

APPEAL REQUIREMENTS

1. A complete Notice of Environmental Appeal including the following within the appropriate time limit:
 - a. Application filing fee, (see Filing Fee Schedule).
 - b. The appeal shall state with specificity the reasons that the Environmental Determination should be found not to be complete or not to have been prepared in compliance with the requirements of CEQA.
 - c. No appeal shall be considered unless it is based on issues which were raised at the public hearing either orally or in writing prior to the public hearing. (21.07.040C)

PROCESSING SCHEDULE

Planning Staff:

- Checks the application for completeness.
- Logs and collects fees.
- Sets a public hearing date before City Council and places the item in the agenda.
- Prepares a recommendation to the City Council.

City Council:

- considers and acts upon the appeal in a public hearing.

PLEASE CALL THE APPOINTMENT DESK AT (408) 535-3555 FOR AN APPLICATION APPOINTMENT.

Appeal of ED pm65/Applications Rev 5/28/2008



CITY OF SAN JOSE
Planning, Building and Code Enforcement
 200 East Santa Clara Street
 San José, CA 95113-1905
 tel (408) 535-3555 fax (408) 292-6055
 Website: www.sanjoseca.gov/planning

NOTICE OF ENVIRONMENTAL APPEAL

TO BE COMPLETED BY PLANNING STAFF			
FILE NUMBER		RECEIPT # _____	
TYPE OF ENVIRONMENTAL DETERMINATION (EIR, MND, EX)		AMOUNT _____	
		DATE _____	
		BY _____	
TO BE COMPLETED BY PERSON FILING APPEAL			
PLEASE REFER TO ENVIRONMENTAL APPEAL INSTRUCTIONS BEFORE COMPLETING THIS PAGE.			
THE UNDERSIGNED RESPECTFULLY REQUESTS AN APPEAL FOR THE FOLLOWING ENVIRONMENTAL DETERMINATION: Initial Study/Mitigated Negative Declaration ("MND") for the 865 Embedded Way Industrial Project (H22-022, ER22-113)			
REASON(S) FOR APPEAL (For additional comments, please attach a separate sheet.): <u>The Planning Director's decision to approve the Project violated CEQA as there is more than a fair argument that the Project will result in potentially significant air quality and public health impacts from construction and operational emissions and transportation impacts. See Attached Comment Letter for additional comments.</u>			
PERSON FILING APPEAL			
NAME Silicon Valley Residents for Responsible Development, c/o Ariana Abedifard, Adams Broadwell Joseph & Cardozo		DAYTIME TELEPHONE (650) 589-1660	
ADDRESS 601 Gateway Boulevard, Suite 1000	CITY South San Francisco	STATE CA	ZIP CODE 94080
SIGNATURE 		DATE May 6, 2024	
CONTACT PERSON (IF DIFFERENT FROM PERSON FILING APPEAL)			
NAME Alisha Pember			
ADDRESS 601 Gateway Boulevard, Suite 1000	CITY South San Francisco	STATE CA	ZIP CODE 94080
DAYTIME TELEPHONE (650) 589-1660	FAX NUMBER (650) 589-5062	E-MAIL ADDRESS apember@adamsbroadwell.com	

PLEASE CALL THE APPOINTMENT DESK AT (408) 535-3555 FOR AN APPLICATION APPOINTMENT.

ADAMS BROADWELL JOSEPH & CARDOZO

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

601 GATEWAY BOULEVARD, SUITE 1000
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520 CAPITOL MALL, SUITE 350
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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

May 6, 2024

Via Hand Delivery

Development Services Permit Center
Planning, Building and Code Enforcement
San José City Hall
200 E. Santa Clara St.
1st Floor Tower
San José, CA 95113

Via Email Only

Christopher Burton, Planning Director
Email: christopher.burton@sanjose.gov
Rina Shah, Project Manager
Email: rina.shah@sanjoseca.gov
Toni Taber, City Clerk
Email: city.clerk@Sanjoseca.gov

Re: Appeal of the Environmental Clearance Determination – Initial Study/Mitigated Negative Declaration for 865 Embedded Way Industrial Project (H22-022, ER22-113)

We are writing on behalf of Silicon Valley Residents for Responsible Development (“Silicon Valley Residents”) to appeal the San Jose Planning Director’s May 1, 2024 environmental clearance determination for the 865 Embedded Way Industrial Project (“Project”) (H22-022, ER22-113) (“Project”) proposed by Oppidan, Inc. (“Applicant”), based on the Initial Study/Mitigated Negative Declaration (“MND”) prepared by the City of San Jose (“City”) pursuant to the California Environmental Quality Act (“CEQA”).¹ This appeal is filed pursuant to Title 21 of the San Jose Municipal Code (Environmental Clearance).

The Project consists of a Site Development Permit to allow the construction of a one-story, 121,400-square foot industrial/manufacturing warehouse on a vacant 10.17-acre project site. The Project would include a connection to an existing 26-

¹ Pub. Resources Code (“PRC”) §§ 21000 et seq.; 14 Cal. Code Regs. (“CCR” or “CEQA Guidelines”) §§ 15000 et seq.

May 6, 2024

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foot-wide drive aisle that extends from the eastern Embedded Way driveway through the adjacent eastern industrial property and currently terminates at the southeastern boundary of the project site. A total of 300 parking spaces would be provided in the surface parking lot surrounding the proposed building. The project would include the removal of 11 trees on-site, 2 of which are ordinance-size.

This Appeal letter, and Silicon Valley Residents' attached April 30, 2024 comments to the Planning Director,² demonstrate that the Planning Director's decision to approve the Project violated CEQA as there is more than a fair argument that the Project will result in potentially significant (1) air quality and public health impacts from construction and operational emissions and (2) transportation impacts. Our prior comments, and the accompanying comments of our expert consultants James Clark, PhD and Norman Marshall, identified several flaws in the City's environmental analysis, and provided new information and substantial evidence demonstrating that the MND fails as an informational document under CEQA.

Title 21 of the San Jose Municipal Code ("SJMC") sets forth the procedures for appeals of environmental determinations. Any person may file a written appeal to the City Council of a decision maker's decision to adopt an MND.³ Appeals must be submitted on the designated form no later than 5:00 p.m. on the third business day of the Planning Director's decision.⁴ The Appeal must state with specificity the reasons that the MND should be found not to have been adequate or not to have been prepared in compliance with the requirements of CEQA.⁵ Appeals are limited to issues that were raised previously either orally or in writing to the Planning Director prior to approval of the Project.⁶

Pursuant to these appeals procedures, Silicon Valley Residents hereby appeals the Planning Director's May 1, 2024 approval of the MND for the Project. This appeal includes a copy of the required Appeal Form and the required appeal fee of \$250. This Appeal is based on the issues raised in Silicon Valley Residents'

² Silicon Valley Residents for Responsible Development's April 30, 2024 written comments to the Planning Director are attached hereto as **Exhibit A**.

³ SJMC, § 21.06.020(A).

⁴ SJMC, § 21.06.020(B).

⁵ SJMC, § 21.06.020(C).

⁶ SJMC § 21.06.020(D) (providing that "[n]o appeal shall be considered unless it is based upon issues that were raised previously either orally or in writing to an advisory body or a decision-making body at or prior to a public hearing whenever the negative declaration or mitigated negative declaration or underlying project is considered at a public hearing.").

May 6, 2024

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April 30, 2024 written comments and in oral comments at the May 1, 2024 Planning Director Hearing, as summarized below.

Silicon Valley Residents urges the City Council to grant this Appeal and remand the Project to City Staff to prepare an Environmental Impact Report (“EIR”) for the Project. Silicon Valley Residents reserves the right to submit supplemental comments and evidence at any later hearings and proceedings related to the Project, in accordance with State law.⁷

I. APPELLANTS

Appellant Silicon Valley Residents is an unincorporated association of individuals and labor organizations that may be adversely affected by the potential public health and environmental impacts of the Project. The association includes: the International Brotherhood of Electrical Workers Local 332, Plumbers & Steamfitters Local 393, Sheet Metal Workers Local 104, Sprinkler Fitters Local 483, and District Council of Ironworkers and their members and their families; and other individuals that live and/or work in the City of San Jose and Santa Clara County. 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. Indeed, continued environmental degradation can, and has, caused construction moratoriums and other restrictions on growth that, in turn, reduce future employment opportunities.

II. BASIS FOR APPEAL

Based on our review of the MND and available supporting documents, we conclude that the MND fails to comply with the requirements of CEQA. The MND

⁷ 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.

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lacks a clear project description, fails to disclose and analyze the Project's potentially significant environmental impacts, and fails to identify enforceable measures that can reduce those impacts to a less than significant level. As explained in our April 30, 2024 comments, there is more than a fair argument that the Project will result in potentially significant air quality and public health impacts from construction and operational emissions and transportation impacts.

First, regarding the project description, the MND describes the project as an industrial/manufacturing warehouse but analyzes the Project as designed for research and development (R&D). Without a designated end user, this ambiguity leads to uncertainties about the project's future use and potential impacts, particularly concerning differences in impacts between a warehouse and an R&D facility.

Second, as Dr. Clark explained, in estimating the Project's expected construction emissions the MND's air quality analysis assumed that all Project construction equipment would include Tier 4 Interim emission controls.⁸ However, the MND does not include such emission controls as a mitigation measure, nor is there any other enforceable mechanism requiring the use of such controls. Without such controls, the Project's construction emissions will be higher than disclosed, and, as demonstrated by Dr. Clark, these emissions will exceed the air district's significance thresholds.⁹ Furthermore, the MND fails to address other potential sources of emissions, such as the backup generator required for the Project which will emit toxic diesel particulate matter. Consequently, the MND's assessment of construction and operational emissions is flawed and underestimates the true impact of emissions on air quality and public health.

Third, the transportation analysis, as analyzed by Mr. Marshall, reveals significant deficiencies in the identification of transportation impacts and the MND's proposed mitigation measures. Specifically, the MND provides unsubstantiated assumptions regarding vehicle miles traveled ("VMT") impacts, including unsupported assumptions regarding vanpool participation rates.¹⁰ In addition, as explained by Mr. Marshall, the proposed monitoring approach for transportation mitigation measures is inadequate.¹¹

⁸ Clark Comments, pp. 3-4.

⁹ *Id.* at pg. 6.

¹⁰ Marshall Comments, pg. 5.

¹¹ *Id.* at pp. 5-7.

May 6, 2024

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Accordingly, the City must remand the Project to City Staff to prepare an EIR for the Project that adequately analyzes all of the Project's potentially significant direct, indirect and cumulative impacts, and incorporates all feasible mitigation measures to avoid or minimize these impacts.

III. CONCLUSION

For the reasons stated herein, and as will be presented to the City Council on appeal, Silicon Valley Residents urges the City Council to reverse the Planning Director's approval of the Project, and require staff to prepare an EIR. Thank you for your consideration.

Sincerely,



Ariana Abedifard

Attachments

AA:acp

EXHIBIT A

ADAMS BROADWELL JOSEPH & CARDOZO

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

601 GATEWAY BOULEVARD, SUITE 1000
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DARION N. JOHNSTON
RACHAEL E. KOSS
AIDAN P. MARSHALL
TARA C. RENGIFO

Of Counsel
MARC D. JOSEPH
DANIEL L. CARDOZO

April 30, 2024

Via Email and Overnight Mail

Hearing Officer John Tu, Division Manager, on behalf of
Chris Burton, Director of Planning, Building and Code Enforcement
City of San Jose
200 E. Santa Clara St.
Tower, 3rd Floor
San José, CA 95113
Email: john.tu@sanjoseca.gov

Via Email Only

Rina Shah, Project Manager
Email: rina.shah@sanjoseca.gov

Re: **Comments on Agenda Item 3.a: Initial Study/Mitigated Negative
Declaration for 865 Embedded Way Industrial Project (H22-022,
ER22-113)**

Dear Mr. Tu and Ms. Shah:

We are writing on behalf of Silicon Valley Residents for Responsible Development ("Silicon Valley Residents") to provide comments on May 1, 2024 Planning Director Hearing Agenda Item 3.a, regarding the Site Development Permit and Initial Study/Mitigated Negative Declaration ("MND") prepared by the City of San Jose ("City") for the 865 Embedded Way Industrial Project ("Project") (H22-022, ER22-113) ("Project") proposed by Oppidian, Inc. ("Applicant").

The Project consists of a Site Development Permit to allow the construction of a one-story, 121,400-square foot industrial/manufacturing warehouse on a vacant 10.17-acre project site. The Project would include a connection to an existing 26-foot-wide drive aisle that extends from the eastern Embedded Way driveway through the adjacent eastern industrial property and currently terminates at the southeastern boundary of the project site. A total of 300 parking spaces would be provided in the surface parking lot surrounding the proposed building. The project would include the removal of 11 trees on-site, 2 of which are ordinance-size.

April 30, 2024

Page 2

Based on our review of the MND and available supporting documents, we conclude that the MND fails to comply with the requirements of the California Environmental Quality Act¹ (“CEQA”). The MND lacks a clear project description, fails to disclose and analyze the Project’s potentially significant environmental impacts and fails to identify enforceable measures that can reduce those impacts to a less than significant level.

As explained in these comments, there is more than a fair argument that the Project will result in potentially significant air quality and public health impacts from construction and operational emissions and transportation impacts. The City may not approve the Project until it prepares an environmental impact report (“EIR”) that adequately analyzes all of the Project’s potentially significant direct, indirect and cumulative impacts, and incorporates all feasible mitigation measures to avoid or minimize these impacts. The MND’s flaws also preclude the City from making the findings necessary to approve the Project’s Site Development Permit.

These comments were prepared with the assistance of air quality expert James Clark, PhD² and transportation expert Norman Marshall.³ Dr. Clark and Mr. Marshall provide substantial evidence supporting a fair argument of potentially significant impacts that have not been adequately disclosed, analyzed, or mitigated in the MND. Dr. Clark and Mr. Marshall’s technical comments are attached hereto and are submitted to the City, in addition to the comments in this letter.

I. STATEMENT OF INTEREST

Silicon Valley Residents is an unincorporated association of individuals and labor organizations that may be adversely affected by the potential public health and environmental impacts of the Project. The association includes: the International Brotherhood of Electrical Workers Local 332, Plumbers & Steamfitters Local 393, Sheet Metal Workers Local 104, Sprinkler Fitters Local 483, and District Council of Ironworkers and their members and their families; and other individuals that live and/or work in the City of San Jose and Santa Clara County. Accordingly, they would be directly affected by the Project’s environmental

¹ Pub. Resources Code, §§ 21000 et seq.; 14 Cal. Code Regs. (“C.C.R.”) §§ 15000 et seq. (“CEQA Guidelines”).

² **Exhibit A:** April 30, 2024 James Clark Comment Letter on Initial Study/Mitigated Negative Declaration For 865 Embedded Way Industrial Project, City of San Jose, California File Nos. H22-022 & ER22-113 (hereinafter, “Clark Comments”).

³ **Exhibit B:** April 30, 2024 Norm Marshall Comment Letter re 865 Embedded Way Industrial Project (hereinafter, “Marshall Comments”).

April 30, 2024

Page 3

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. Indeed, continued environmental degradation can, and has, caused construction moratoriums and other restrictions on growth that, in turn, reduce future employment opportunities.

II. AN EIR IS REQUIRED

CEQA requires that lead agencies analyze any project with potentially significant environmental impacts in an EIR.⁴ “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.”⁵ 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 reached ecological points of no return.”⁶

CEQA’s purpose and goals must be met through the preparation of an EIR, except in certain limited circumstances.⁷ CEQA contains a strong presumption in favor of requiring a lead agency to prepare an EIR. This presumption is reflected in the “fair argument” standard. Under that standard, a lead agency “shall” prepare an EIR whenever substantial evidence in the whole record before the agency supports a fair argument that a project may have a significant effect on the environment.⁸

⁴ See Pub. Resources Code § 21000; CEQA Guidelines § 15002.

⁵ *Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal.3d 553, 564 (internal citations omitted).

⁶ *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810.

⁷ See Pub. Resources Code § 21100.

⁸ Pub. Resources Code §§ 21080(d), 21082.2(d); CEQA Guidelines §§ 15002(k)(3), 15064(f)(1), (h)(1); *Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1993) 6 Cal.4th 1112, 1123; *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75, 82; *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-151; *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1601-1602.

April 30, 2024

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In contrast, a mitigated negative declaration may be prepared only when, after preparing an initial study, a lead agency determines that a project may have a significant effect on the environment, but:

(1) revisions in the project plans or proposals made by, or agreed to by, the applicant before the proposed negative declaration and initial study are released for public review *would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur*, and (2) there is *no substantial evidence* in light of the whole record before the public agency that the project, as revised, *may* have a significant effect on the environment.⁹

Courts have held that if “no EIR has been prepared for a nonexempt project, but substantial evidence in the record supports a fair argument that the project may result in significant adverse impacts, the proper remedy is to order preparation of an EIR.”¹⁰ The fair argument standard creates a “low threshold” favoring environmental review through an EIR, rather than through issuance of a negative declaration.¹¹ An agency’s decision not to require an EIR can be upheld only when there is no credible evidence to the contrary.¹²

“Substantial evidence” required to support a fair argument is defined 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.”¹³ According to the CEQA Guidelines, when determining whether an EIR is required, the lead agency is required to apply the principles set forth in Section 15064, subdivision (f):

[I]n marginal cases where it is not clear whether there is substantial evidence that a project may have a significant effect on the

⁹ Pub. Resources Code § 21064.5 (emphasis added).

¹⁰ See, e.g., *Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 319-320.

¹¹ *Citizens Action to Serve All Students v. Thornley* (1990) 222 Cal.App.3d 748, 754.

¹² *Sierra Club v. County of Sonoma* (1992) 6 Cal.App.4th, 1307, 1318; see also *Friends of B Street v. City of Hayward* (1980) 106 Cal.App.3d 988, 1002 (“If there was substantial evidence that the proposed project might have a significant environmental impact, evidence to the contrary is not sufficient to support a decision to dispense with preparation of an EIR and adopt a negative declaration, because it could be ‘fairly argued’ that the project might have a significant environmental impact”).

¹³ CEQA Guidelines § 15384(a).

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environment, the lead agency shall be guided by the following principle: If there is disagreement among expert opinion supported by facts over the significance of an effect on the environment, the Lead Agency shall treat the effect as significant and shall prepare an EIR.

Furthermore, CEQA documents, including EIRs and MNDs, must mitigate significant impacts through measures that are “fully enforceable through permit conditions, agreements, or other legally binding instruments.”¹⁴

With respect to this Project, the MND fails to satisfy the basic purposes of CEQA. The City failed to adequately investigate, analyze, and disclose the Project’s potentially significant air quality and transportation impacts. Therefore, the City’s conclusions that the Project will have less than significant impacts are unsupported. Whereas the City lacks substantial evidence to support its conclusions, Dr. Clark and Mr. Marshall provide substantial evidence demonstrating that the Project may result in potentially significant impacts on air quality and transportation. Therefore, there is a fair argument that the Project may cause significant impacts requiring the preparation of an EIR.

III. THE MND FAILS TO INCLUDE A COMPLETE, STABLE AND ACCURATE PROJECT DESCRIPTION

The MND does not meet CEQA’s requirements because it fails to include a complete, stable project description, rendering the entire analysis inadequate. Without a complete and accurate project description, the environmental analysis under CEQA can be impermissibly narrow, thus minimizing the Project’s impacts and undercutting public review.¹⁵

CEQA places the burden of environmental investigation on the lead agency rather than the public. Accordingly, a lead agency may not hide behind its failure to provide a complete and accurate project description.¹⁶ Under CEQA, the “project” is defined as “the whole of an action” and the lead agency therefore must describe the entirety of the project’s activities to ensure that all potential impacts of the project will be examined prior to approval.¹⁷ An initial study that fails to describe the

¹⁴ CEQA Guidelines § 15126.4(a)(2).

¹⁵ See, e.g., *Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1988) 47 Cal.3d 376.

¹⁶ *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 311.

¹⁷ CEQA Guidelines § 15378.

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entire project is fatally deficient: “[A] correct determination of the nature and scope of the project is a critical step in complying with the mandates of CEQA.”¹⁸ Where an agency fails to provide an accurate project description, or fails to gather information and undertake an adequate environmental analysis in its initial study, a negative declaration is inappropriate.¹⁹ An accurate and complete project description is necessary to fully and intelligently evaluate the project’s potential environmental effects.²⁰ Without a complete project description, the environmental analysis under CEQA will be impermissibly narrow, thus minimizing the project’s impacts and undercutting public review.²¹

The MND’s Project Description describes the Project as an industrial/manufacturing warehouse but then states the project is “designed for a research and development (R&D) use” because “a designated end user has not yet been determined.”²² As a warehouse with unidentified future tenants and use, it cannot be known how the Project building will be used once operational. Despite this, the MND states that “the project will be analyzed as an R&D facility.”²³ As both Dr. Clark and Mr. Marshall’s comments highlight, there are vast differences in impacts between a warehouse facility and a R&D facility. As Dr. Clark states, “[t]hese two different uses have different associated traffic and criteria pollutant analyses.”²⁴ Notably, if the Project ultimately moves forward as a warehouse, the number of associated truck trips and diesel particulate matter (“DPM”) emissions would be significantly higher than what is presented in the MND and air quality assessment.²⁵ For example, the Air Quality Study fails to include the emissions from onsite service vehicles that may be used to move to and products from the warehouse.²⁶ The MND therefore fails to analyze or disclose a potentially significant source of criteria and toxic pollutants.²⁷

Similarly, Mr. Marshall states, “there are large differences between categories and great variation in the [trip generation] rates” for warehouse uses as

¹⁸ *Nelson v. County of Kern* (2010) 190 Cal.App.4th 252, 267; see also, *Tuolumne County Citizens for Responsible Growth, Inc. v. City of Sonora* (2007) 155 Cal.App.4th 1214.

¹⁹ *El Dorado County Taxpayers for Quality Growth v. County of El Dorado* (2004) 122 Cal.App.4th 1591, 1597.

²⁰ *City of Redlands v. County of San Bernardino* (2002) 96 Cal.App.4th 398, 406.

²¹ *Laurel Heights Improvement Association, supra*, 47 Cal.3d 376.

²² MND, pg. 6.

²³ *Id.*

²⁴ Clark Comments, pg. 7.

²⁵ *Id.*

²⁶ *Id.* at pg. 8.

²⁷ *Id.*

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compared to R&D uses.²⁸ “Actual project trip generation could be significantly higher or lower than the baseline estimate” used to assess the vehicle miles traveled (“VMT”) mitigation proposed in the MND.²⁹ Given the significant differences in associated impacts between the different uses, it is imperative that the MND provide an accurate project description.

The City must prepare and circulate an EIR with a complete, stable and accurate project description that analyzes all of the Project’s potential impacts using realistic and enforceable assumptions about the Project’s operations.

IV. SUBSTANTIAL EVIDENCE SUPPORTS A FAIR ARGUMENT THAT THE PROJECT WILL HAVE SIGNIFICANT UNMITIGATED AIR QUALITY AND PUBLIC HEALTH IMPACTS

A lead agency’s significance determination must be supported by accurate scientific and factual data.³⁰ An agency cannot conclude that an impact is less than significant unless it produces rigorous analysis and concrete substantial evidence justifying the finding.³¹

These standards apply to an agency’s analysis of public health impacts of a project under CEQA. In *Sierra Club v. County of Fresno*, the California Supreme Court affirmed CEQA’s mandate to protect public health and safety by holding that an EIR fails as an informational document when it fails to disclose the public health impacts from air pollutants that would be generated by a development project.³² In *Sierra Club*, the Supreme Court held that the EIR for the Friant Ranch Project—a 942-acre master-planned, mixed-use development with 2,500 senior residential units, 250,000 square feet of commercial space, and open space on former agricultural land in north central Fresno County—was deficient as a matter of law in its informational discussion of air quality impacts as they relate to adverse human health effects.³³ As the Court explained, “a sufficient discussion of impacts requires not merely a determination of whether an impact is significant, but some effort to explain the nature and magnitude of the impact.”³⁴ The Court concluded

²⁸ Marshall Comments, pg. 6.

²⁹ *Id.* at pg. 7.

³⁰ 14 C.C.R. § 15064(b).

³¹ *Kings County Farm Bureau*, 221 Cal.App.3d at 732.

³² *Sierra Club*, 6 Cal.5th at 518–522.

³³ *Id.* at 507–508, 518–522.

³⁴ *Id.* at 519, citing *Cleveland National Forest Foundation v. San Diego Assn. of Governments* (2017) 3 Cal.5th 497, 514–515.

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that the County's EIR was inadequate for failing to disclose the nature and extent of public health impacts caused by the project's air pollution. As the Court explained, the EIR failed to comply with CEQA because after reading the EIR, "the public would have no idea of the health consequences that result when more pollutants are added to a nonattainment basin."³⁵ CEQA mandates discussion, supported by substantial evidence, of the nature and magnitude of impacts of air pollution on public health.³⁶

Furthermore, in *Berkeley Jets*, the Court of Appeal held that a CEQA document must analyze the impacts from human exposure to toxic substances.³⁷ In that case, the Port of Oakland approved a development plan for the Oakland International Airport.³⁸ The EIR admitted that the Project would result in an increase in the release of toxic air contaminants ("TACs") and adopted mitigation measures to reduce TAC emissions, but failed to quantify the severity of the Project's impacts on human health.³⁹ The Court held that mitigation alone was insufficient, and that the Port had a duty to analyze the health risks associated with exposure to TACs.⁴⁰ 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."⁴¹

Here, as discussed below, the MND's conclusions regarding the Project's air quality and related public health impacts are unsupported by substantial evidence.

³⁵ *Id.* at 518. CEQA's statutory scheme and legislative intent also include an express mandate that agencies analyze human health impacts and determine whether the "environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly." (Public Resources Code § 21083(b)(3) (emphasis added).) Moreover, CEQA directs agencies to "take immediate steps to identify any critical thresholds for the health and safety of the people of the state and take all coordinated actions necessary to prevent such thresholds being reached." (Public Resources Code § 21000(d) (emphasis added).)

³⁶ *Sierra Club*, 6 Cal.5th at 518–522.

³⁷ *Berkeley Jets*, 91 Cal.App.4th at 1369–1371.

³⁸ *Id.* at 1349–1350.

³⁹ *Id.* at 1364–1371.

⁴⁰ *Id.*

⁴¹ 14 C.C.R. § 15003(b).

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A. The MND's Air Quality Impact Analysis Improperly Relies on Mitigated Emissions to Conclude that Construction Emissions Are Less Than Significant

Determining whether a project may have a significant effect plays a critical role in the CEQA process.⁴² The determination as to whether a project may have one or more significant effects must be based on substantial evidence in the record.⁴³ Lead agencies can only rely on an MND for a project where they determine that revisions in project plans or proposals made by, or agreed to, by the applicant would avoid or mitigate effects to a point where clearly no significant effect on the environment would occur.⁴⁴

Under CEQA, a project has significant impacts if it “[v]iolate[s] any air quality standard or contribute[s] substantially to an existing or projected air quality violation.”⁴⁵ The Bay Area Air Quality Management District (“BAAQMD” or “Air District”) maintains thresholds of significance for criteria air pollutants that are to be used in determining the significance of a project’s air quality impacts under CEQA.⁴⁶ The MND failed to fully analyze the Project’s construction emissions by improperly applying mitigation measures to unmitigated emissions prior to making its significance determination. By assuming the application of emissions controls to the Project’s unmitigated emissions, the MND “compress[es] the analysis of impacts and mitigation measures into a single issue,”⁴⁷ in violation of CEQA. This approach is prohibited by CEQA because it fails to inform the public of the true severity of an impact. As a result, the MND fails to disclose that Project construction may result in significant emissions that exceed applicable Air District thresholds, resulting in significant, unmitigated air quality and public health impacts.

As Dr. Clark’s comments reveal, the air quality analysis completed for the MND⁴⁸ calculated construction emissions assuming that the construction would incorporate Tier 4 interim equipment.⁴⁹ However, as Dr. Clark highlights, the availability of such equipment is limited and there is nothing in the MND to ensure that such equipment will be used in Project construction. Dr. Clark states: “Without

⁴² CEQA Guidelines § 15064.

⁴³ CEQA Guidelines § 15064(f).

⁴⁴ CEQA Guidelines §§ 15064(f)(2), 15071(c).

⁴⁵ CEQA Appendix G.

⁴⁶ As stated in the MND, the MND relies on BAAQMD’s 2017 thresholds, reproduced in MND, pg.32.

⁴⁷ See *Lotus v. Dep’t of Transp.* (2014) 223 Cal. App. 4th 645, 651-52.

⁴⁸ MND, Appendix A: Air Quality and Greenhouse Gas Assessment (hereinafter “AQ Study”).

⁴⁹ Clark Comments, pp. 3-4.

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a binding commitment to only use Tier 4 interim and above construction equipment for all phases of the Project, the emissions from the construction phase will exceed BAAQMD's threshold and will create an adverse health outcome for the community."⁵⁰ Dr. Clark's analysis confirms that, without application of Tier 4 interim controls, the Project's construction emissions will exceed the BAAQMD significance threshold for nitrogen oxides ("NO_x").⁵¹ The MND fails to include specific and enforceable mitigation measures that would bind the Applicant to ensure Tier 4 interim construction equipment is used.

Critically, neither the MND nor the AQ Study calculate or disclose the Project's unmitigated construction emissions. Instead, the AQ Study simply assumes that Tier 4 interim equipment will be used and calculates emissions accordingly. This approach incorrectly dismisses the significance of the Project's actual, unmitigated emissions. Without disclosing the Project's unmitigated construction emissions, the MND only discloses estimated emissions with the application of an unenforceable mitigation measure, the inclusion of Tier 4 interim equipment. This "downward adjustment" of the Project's construction emissions artificially reduces their significance. The MND concludes that the Project's construction emissions are less than significant, based on these unsupported and unenforceable assumptions, and without application of any binding mitigation measures.⁵²

This approach violates CEQA. CEQA defines mitigation as including any measures designed to avoid, minimize, rectify, reduce, or compensate for a significant impact.⁵³ The inclusion of Tier 4 interim equipment in the emissions calculations is clearly designed as mitigation to reduce the Project's construction emissions that would result from using equipment with less efficient emissions controls. As the inclusion is meant to reduce impacts, this makes it a mitigation measure within the meaning of CEQA.

CEQA requires that mitigation measures be fully enforceable through permit conditions, agreements or other legally binding instruments.⁵⁴ When adopting a mitigated negative declaration, the lead agency is required to adopt "a program for reporting on or monitoring the changes which it has either required in the project or

⁵⁰ Clark Comments, pg. 6.

⁵¹ Clark Comments, pg. 4.

⁵² MND, pg. 37.

⁵³ 14 CCR § 15370.

⁵⁴ 14 CCR § 15126.4(a)(2).

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made a condition of approval to mitigate or avoid significant environmental effects.”⁵⁵ Because the City has not required the use of Tier 4 interim equipment as a mitigation measure, it is not included in the Project’s Mitigation Monitoring and Reporting Program (“MMRP”). Therefore, there is nothing to require the use of Tier 4 interim equipment during Project construction, and the MND’s conclusions that Project air quality and public health impacts will be less than significant are completely unsupported.

The Court of Appeal has made clear that mitigation must be incorporated directly into a project’s MMRP to be considered enforceable. In *Lotus v. Department of Transportation*,⁵⁶ 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.”⁵⁷ 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.”⁵⁸

Similar to the inadequate analysis contained in the *Lotus* EIR, the MND’s Air Quality analysis only shows emissions with mitigation and the MND thus concludes the Project’s air quality emissions will result in less than significant levels prior to mitigation. This approach improperly “compress[es] the analysis of impacts and mitigation measures into a single issue.” Even if the MND’s conclusions were accurate, the use of Tier 4 interim equipment must be incorporated into the Project’s MMRP as formal mitigation measures in order to be factored into the City’s ultimate significance findings. “Simply stating that there will be no significant impacts because the project incorporates ‘special construction techniques’ is not adequate or permissible.”⁵⁹

⁵⁵ CEQA Guidelines § 15074(d).

⁵⁶ *Lotus v. Dep’t of Transp.* (2014) 223 Cal. App. 4th 645, 651-52.

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*

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The City has a duty to disclose unmitigated emissions and compare them to the applicable significance thresholds before applying mitigation measures. As a result of its improper reliance on Tier 4 interim equipment to achieve emissions reductions, the MND underestimates the amount of emissions that will be generated by the Project and the effects on nearby sensitive receptors. The City must prepare and circulate an EIR that includes an accurate analysis of the Project's air quality impacts, and incorporates all mitigation measures intended to reduce emissions as binding mitigation in the Project's MMRP.

B. The MND Underestimates Project Operational Emissions and Resultant Health Risks by Omitting Emissions Sources

The MND purports to evaluate and disclose the Project's expected emissions of air pollutants, including diesel particulate matter ("DPM").⁶⁰ However, as explained by Dr. Clark, the emissions modeling excludes known sources of emissions. Specifically, the Air Quality Study's analysis of operational emissions fails to include emissions from the backup generator that will be installed onsite.⁶¹ These emissions, particularly DPM, are crucial components of the Project's overall air quality impact. Exposure to diesel exhaust emissions has been linked to a range of adverse health effects, including respiratory problems, cardiovascular diseases, and even premature death.⁶²

In failing to include these critical emissions, the MND underestimates the Project's operational air quality and public health impacts. The MND's conclusions regarding these impacts are therefore unsupported by substantial evidence, and Dr. Clark's comments provide a fair argument supported by substantial evidence that the Project may have significant air quality and health risk impacts. The City must therefore prepare an EIR that fully analyzes, discloses and mitigates all of the Project's emissions-related impacts.

⁶⁰ MND, pp. 38-39.

⁶¹ Clark Comments, pg. 7.

⁶² U.S. EPA, *Learn About Impacts of Diesel Exhaust and the Diesel Emissions Reduction Act (DERA)*, <https://www.epa.gov/dera/learn-about-impacts-diesel-exhaust-and-diesel-emissions-reduction-act-dera>.

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V. THE MND FAILS TO ADEQUATELY ANALYZE AND MITIGATE THE PROJECT'S POTENTIALLY SIGNIFICANT TRANSPORTATION IMPACTS

The MND's conclusion that transportation impacts from the Project will be less than significant with mitigation is not supported by substantial evidence. Evidence supplied in the accompanying report from transportation expert Norman Marshall provides a fair argument supported by substantial evidence that the Project will have significant unmitigated transportation impacts.

First, Mr. Marshall's analysis using the updated version of the San Jose VMT Evaluation Tool reveals significant deficiencies in the identification of significant impacts and requisite mitigation. Using the updated VMT Tool, Mr. Marshall demonstrates that the proposed project exceeds the VMT threshold for office employment use.⁶³ Despite the MND's assertion that the proposed mitigation is adequate to reduce VMT impacts, Mr. Marshall found that the VMT mitigation package "is only adequate if using the previous version of the City's VMT Evaluation Tool."⁶⁴ Mr. Marshall's comments explain how the mitigation measures proposed in the MND are insufficient to reduce VMT below the established threshold.⁶⁵

Moreover, Mr. Marshall identifies serious flaws in the assumptions underlying the proposed VMT mitigation measures.⁶⁶ One key assumption is the requirement that the vanpool program achieve a 25 percent employee participation rate.⁶⁷ However, Mr. Marshall contends that this assumption is wildly optimistic and likely unattainable, particularly given the unidentified tenant and use of the project.⁶⁸ The MND provides no evidence supporting this assumption and how it plans to achieve a 25 percent participation rate.

Additionally, Mr. Marshall highlights deficiencies in the proposed monitoring of the efficacy of the VMT mitigation measures. While the MND outlines a monitoring approach based on trip counts, Mr. Marshall explains why this method is insufficient for accurately measuring VMT reduction.⁶⁹ Instead, Marshall advocates for a monitoring process that encompasses each of the VMT-reducing

⁶³ Marshall Comments, pg. 4.

⁶⁴ *Id.* at pg. 1.

⁶⁵ *Id.* at pg. 4.

⁶⁶ *Id.* at pg. 5.

⁶⁷ MND, pg. 11.

⁶⁸ Marshall Comments, pg. 5.

⁶⁹ *Id.* at pp. 5-6.

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measures identified in the mitigation plan.⁷⁰ He emphasizes the importance of auditing each traffic demand management (“TDM”) measure to ensure compliance and effectiveness in reducing VMT.⁷¹

Based on Mr. Marshall’s analysis, the MND’s conclusions with respect to the Project’s transportation are not supported by substantial evidence. Mr. Marshall’s comments provide a fair argument supported by substantial evidence that the Project will have significant transportation impacts. These impacts must be analyzed, disclosed, and mitigated in an EIR before the City can approve the Project.

VI. THE CITY CANNOT MAKE THE REQUISITE FINDINGS TO APPROVE THE PROJECT’S SITE DEVELOPMENT PERMIT

Under San Jose Municipal Code (“SJMC”) section 20.100.630, the Site Development Permit requires that the City make certain findings, including that the permit as approved is consistent with and will further the policies of the General Plan.⁷² The City must also find that “[t]he environmental impacts of the project, including, but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, *even if insignificant for purposes of the California Environmental Quality Act (CEQA)*, will not have an unacceptable negative effect on adjacent property or properties.”⁷³

As an initial matter, the City may not make the required finding for the Site Development Permit that the Project will not result in unacceptable negative environmental impacts. As demonstrated above, the MND fails to disclose, analyze, or effectively mitigate the Project’s potentially significant impacts on air quality and transportation. Accordingly, the Project will have an unacceptable negative effect on adjacent property, as even “insignificant” impacts under CEQA can be deemed so. Therefore, the City cannot make the necessary findings under SJMC section 20.100.630(A)(6), as required to approve the Project’s Site Development permit.

These impacts also create inconsistencies with General Plan policies. Specifically, our analysis of the MND reflected in these comments show that the

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² SJMC § 20.100.630(A)(1).

⁷³ SJMC § 20.100.630 (A)(6) (emphasis added).

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Project fails to comply with several key goals and policies in the Envision San José 2040 General Plan,⁷⁴ including the following.

Air Quality

MS-10.1	Assess projected air emissions from new development in conformance with the Bay Area Air Quality Management District (BAAQMD) CEQA Guidelines and relative to state and federal standards. Identify and implement feasible air emission reduction measures.
MS-11.3	Review projects generating significant heavy duty truck traffic to designate truck routes that minimize exposure of sensitive receptors to TACs and particulate matter.
MS-13.1	Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.

The MND's approach to assessing air quality impacts contradicts several key General Plan policies, including MS-10.1, and MS-13.1, both of which emphasize the importance of implementing enforceable mitigation measures to protect air quality. MS-10.1 mandates the implementation of feasible air emission reduction measures in accordance with BAAQMD guidelines and state and federal standards. However, the MND's reliance on Tier 4 interim equipment without including it as enforceable mitigation measures fails to fulfill this requirement. Similarly, MS-13.1 requires the inclusion of dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for various permits, including site development permits. The MND's failure to incorporate enforceable mitigation measures to address the Project's construction emissions directly contradicts this policy.

Finally, the MND overlooks emissions from the backup generator onsite, thereby disregarding potential impacts on nearby sensitive receptors, which contravenes MS-11.3. Moreover, the MND fails to evaluate the emissions associated with the movement of materials by trucks during the operational phase, undermining the MND's compliance with MS-11.3. In summary, the MND's failure

⁷⁴ Available at:

<https://www.sanjoseca.gov/home/showpublisheddocument/22359/637928744399330000>

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to properly analyze air quality impacts or to incorporate binding mitigation measures violates multiple General Plan policies.

Transportation

TR-1.1	Accommodate and encourage use of non-automobile transportation modes to achieve San José's mobility goals and reduce vehicle trip generation and vehicle miles traveled (VMT)
TR-1.2	Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects
TR-1.4	Through the entitlement process for new development, projects shall be required to fund or construct needed transportation improvements for all transportation modes giving first consideration to improvement of bicycling, walking and transit facilities and services that encourage reduced vehicle travel demand. . . Development proposals shall be reviewed for their impacts on all transportation modes through the study of Vehicle Miles Traveled (VMT), Envision San José 2040 General Plan policies, and other measures enumerated in the City Council Transportation Analysis Policy and its Local Transportation Analysis. Projects shall fund or construct proportional fair share mitigations and improvements to address their impacts on the transportation systems
TR-5.3	Development projects' effects on the transportation network will be evaluated during the entitlement process and will be required to fund or construct improvements in proportion to their impacts on the transportation system. Improvements will prioritize multimodal improvements that reduce VMT over automobile network improvements
TR-9.1	Enhance, expand and maintain facilities for walking and bicycling to provide neighborhoods with safe and direct access to transit and key destinations, a particularly to provide neighborhoods with safe and direct access to transit and key destinations, a complete alternative transportation network that facilitates non-automobile trips, and enjoyable outdoor open space.
TR-9.2	Serve as a model city for VMT reduction by implementing programs and policies that reduce VMT for City of San José employees
TR-9.3	Enhance the overall travel experience of transit riders, pedestrians, bicyclists, and shared micromobility users to encourage mode shift.

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The MND's inadequate disclosure and analysis of the Project's transportation impacts directly conflict with the above-cited General Plan policies. For example, policies such as TR-1.1, TR-1.4, TR-5.3, and TR-9.2 underscore the City's commitment to reducing VMT, a goal undermined by the MND's flawed VMT analysis and insufficient proposed mitigation measures highlighted by Mr. Marshall's analysis. By failing to accurately assess and address the significant VMT impact associated with the Project, the MND falls short of meeting these critical General Plan policies, undermining the city's efforts to reduce VMT and promote sustainable transportation and mobility.

As a result of the Project's inconsistencies with these General Plan policies, the City is precluded from making the necessary findings to approve the Project's Site Development Permit pursuant to SJMC section 20.100.630 (A)(1).

VII. CONCLUSION

CEQA requires that an EIR be prepared if there is substantial evidence that any aspect of a project, either individually or cumulatively, may cause a significant effect on the environment.⁷⁵ As discussed herein, there is substantial evidence supporting a fair argument that the Project would result in significant adverse impacts that were not identified in the MND, and that are not adequately analyzed or mitigated. The MND also fails to contain the basic information and analysis required by CEQA, deficiencies which "cannot be dismissed as harmless or insignificant defects."⁷⁶ Moreover, the serious flaws in the MND preclude the City from making the required findings to approve the Project's site development permit.

We urge the City to fulfill its responsibilities under CEQA by withdrawing the MND and preparing a legally adequate EIR to address the potentially significant impacts described in this comment letter. Only by complying with all applicable laws will the City and the public be able to ensure that the Project's environmental impacts are mitigated to less than significant levels.

⁷⁵ Pub. Res. Code § 21151; 14 CCR § 15063(b)(1).

⁷⁶ *Bakersfield Citizens for Local Control v. Bakersfield ("Bakersfield")* (2004) 124 Cal. App. 4th 1184, 1220.

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Thank you for your attention to these comments.

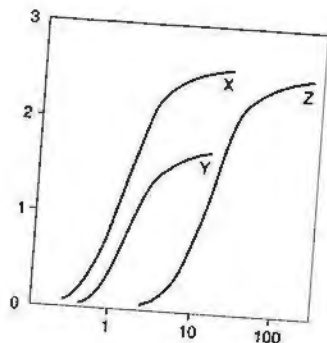
Sincerely,

A handwritten signature in black ink, appearing to read 'Ariana Abedifard', written in a cursive style.

Ariana Abedifard

Attachments
AA:acp

EXHIBIT A



Clark & Associates

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April 30, 2024

Adams Broadwell Joseph & Cardozo

601 Gateway Boulevard, Suite 1000

South San Francisco, CA 94080

Attn: Ms. Ariana Abedifard

Subject: Comment Letter on Initial Study/Mitigated Negative Declaration For 865 Embedded Way Industrial Project, City of San Jose, California File Nos. H22-022 & ER22-113

Dear Ms. Abedifard:

At the request of Adams Broadwell Joseph & Cardozo (ABJC), Clark and Associates (Clark) has reviewed materials related to the above referenced project.

Clark's review of the materials in no way constitutes a validation of the conclusions or materials contained within the IS/MND. If we do not comment on a specific item, this does not constitute acceptance of the item.

Project Description:

The project consists of a Site Development Permit (File No. H22-022) to allow the construction of a one-story 121,400 square foot industrial/manufacturing warehouse on a vacant 10.17-acre project site. The project would include a connection to an existing 26-foot-wide drive aisle that extends from the eastern Embedded Way driveway through the adjacent eastern industrial property (875 Embedded Way) and currently terminates at the southeastern boundary of the project site. A total of 300 parking spaces would be provided in the surface parking

lot surrounding the proposed building. The project would include the removal of 11 trees on-site, 2 of which are ordinance-size.

According to the Air Quality Study of the IS/MND, the northern side of the proposed building would include 12 truck loading docks and the southeast corner of the building would include a 472-horsepower (HP) diesel emergency fire pump. While a designated end use has not been determined for the proposed building, the project is designed for a research and development (R&D) use. The land use and zoning designation allow for a variety of industrial uses, such as R&D, manufacturing, assembly, testing, and offices. For purposes of this study, the project was assumed to be an R&D facility.¹



Figure 1: Proposed Site Location

¹ Illingworth & Rodkin, Inc. 2022. 865 Embedded Way Industrial Project Air Quality Assessment, San Jose, California. Dated August 5, 2022. Pg 2.

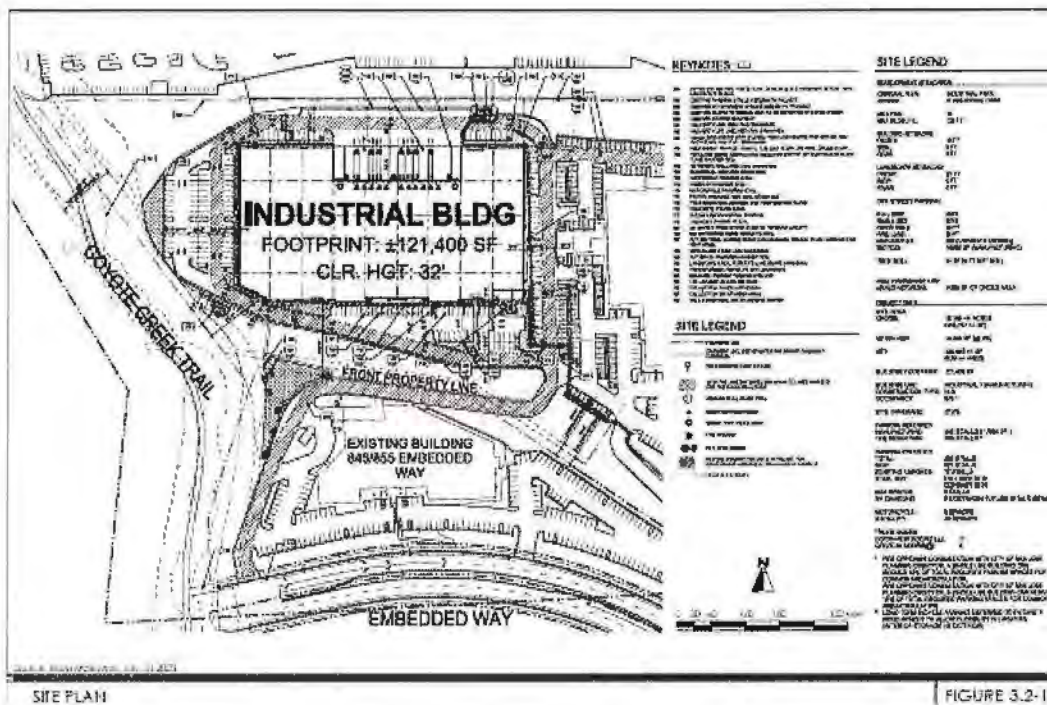


Figure 2: Project Site Plan

The IS/MND concludes that no mitigation is required to prevent impacts from the project on air quality in the area. This conclusion is in conflict with the facts provided within the IS/MND.

Specific Comments:

1. The Air Quality Analysis Does Not Provide A Baseline Scenario And The Analysis Presented Underestimate The Project's Potential Criteria Pollutants

According to the Air Quality Study, after mitigation the criteria pollutants and exhaust emissions would not exceed the BAAQMD significance thresholds. The project achieves the emission levels by requiring Tier 4 interim controls on all off-road equipment.

Table 4. Construction Period Emissions

Year	ROG	NOx	PM ₁₀ Exhaust	PM _{2.5} Exhaust
<i>Construction Emissions Per Year (Tons)</i>				
2023	0.76	1.08	0.05	0.06
<i>Average Daily Construction Emissions Per Year (pounds/day)</i>				
2023 (195 construction workdays)	7.77	11.13	0.51	0.62
<i>BAAQMD Thresholds (pounds per day)</i>	54 lbs./day	54 lbs./day	82 lbs./day	54 lbs./day
Exceed Threshold?	No	No	No	No

Figure 3: Emission Estimate From AQ Study Assuming All Tier 4 Interim Controls

The Air Quality Study does not present a baseline (unmitigated) scenario in which emissions would most likely be produced from the average fleet of equipment available. Using the same input values (and not including the Tier 4 interim mitigation measures) and using the latest version of CalEEMOD (2022.1.1.22), an unmitigated analysis of the construction emissions shows a very different result. (Partial results reproduced below and full results attached as appendix to this letter).

	ROG	NO _x	CO	SO ₂	PM _{10T}	PM _{2.5T}
	lbs/day	lbs/day	lbs/day	lbs/day	lbs/day	lbs/day
Daily, Summer (Max)						
Unmitigated	6.28	64.40	59.86	0.14	28.50	14.24
Daily, Winter (Max)						
Unmitigated	11.11	114.72	92.24	0.21	48.38	23.99
Average Daily (Max)						
Unmitigated	4.71	11.96	12.76	0.03	3.93	1.98
Threshold	54	54			82	54
Exceeds (Daily Max)	No	Yes			No	No
Threshold	54	54			82	54
Exceeds (Average Daily)	No	No			No	No

	ROG	NO _x	CO	SO ₂	PM _{10T}	PM _{2.5T}
	tons/yr	tons/yr	tons/yr	tons/yr	tons/yr	tons/yr
Annual (Max)						
Unmitigated	0.86	2.18	2.33	0.00	0.72	0.36
Threshold	10	10			15	10
Exceeds (Annual Max)	No	No			No	No

In the baseline (unmitigated) scenario, emissions oxides of nitrogen (NO_x) will exceed the BAAQMD thresholds for construction. In the winter phase of the construction period the NO_x emissions are double the BAAQMD threshold. This is based on the scheduling proposed in which there are overlapping tasks being performed in winter months (e.g., demolition, site preparation, and grading activities).

Based upon a review of public records of the California Air Resources Board's (CARB) Diesel Off-Road Online Reporting System (DOORS), it is evident that the availability of Tiered construction equipment is highly dependent on the type of equipment.

Table 1: Percent of Equipment in California DOORS Database by Emission Tier Level

Equipment Type (> 50 hp)	U.S. EPA Emission Tier Level					
	T0	T1	T2	T3	T4F	T4I
Aerial Lifts	1.63%	4.67%	14.86%	4.08%	48.64%	26.12%
Boom	0.15%	0.77%	5.22%	1.59%	76.20%	16.06%
Bore/Drill Rigs	11.53%	15.42%	16.86%	21.76%	17.72%	14.34%
Bucket	8.33%	18.33%	10.00%	6.67%	33.33%	23.33%
Concrete Mixer	0.00%	0.00%	0.00%	14.29%	85.71%	0.00%
Concrete Pump	1.30%	7.79%	40.26%	1.30%	32.47%	16.88%
Crane 35ton or more	5.57%	4.41%	5.37%	18.81%	37.62%	27.45%
Crane less than 35ton	20.37%	2.47%	6.79%	12.35%	38.27%	19.75%
Cranes	27.84%	11.49%	9.13%	26.60%	10.82%	11.80%
Crawler Tractors	26.56%	13.31%	13.11%	13.70%	22.39%	10.93%
Crushing/Processing Equipment	0.00%	0.78%	2.34%	14.06%	74.22%	8.59%
Drill Rig	7.09%	4.14%	8.86%	12.56%	45.79%	17.87%
Drill Rig (Mobile)	11.51%	8.71%	11.51%	17.26%	30.95%	14.77%
Excavators	5.24%	8.34%	13.95%	7.29%	48.67%	16.50%
Forklifts	9.57%	10.57%	13.82%	7.99%	40.45%	17.46%
Garbage Refuse	0.00%	0.00%	8.70%	8.70%	43.48%	39.13%
Garbage Transfer	0.00%	0.00%	0.00%	33.33%	66.67%	0.00%
Graders	29.78%	14.12%	12.89%	15.27%	17.40%	10.52%
Hopper Tractor Trailer	0.00%	0.00%	0.00%	0.00%	50.00%	50.00%
Mower	2.44%	7.27%	13.58%	1.10%	54.40%	21.22%
Nurse Rig Aircraft Supply	0.00%	0.00%	0.00%	0.00%	100.00%	0.00%
Nurse Rig Other	0.00%	0.00%	0.00%	100.00%	0.00%	0.00%
Off Highway Tractors	3.55%	6.28%	6.01%	8.74%	65.30%	10.11%
Off Highway Trucks	1.69%	3.87%	11.14%	5.81%	62.23%	15.25%
Off-Highway Tractors	18.25%	17.06%	20.98%	10.02%	17.18%	16.31%
Off-Highway Trucks	16.96%	12.96%	17.54%	20.81%	16.13%	13.99%
Other Construction Equipment	16.35%	14.20%	17.11%	10.53%	24.03%	17.19%
Other General Industrial Equipment	13.18%	16.56%	27.57%	8.61%	13.80%	19.84%
Other Material Handling Equipment	10.84%	11.39%	19.25%	15.55%	26.63%	16.26%
Other Truck	15.64%	10.34%	5.31%	13.41%	36.87%	11.45%
Pavers	12.11%	21.18%	16.99%	14.97%	23.34%	11.41%
Paving Equipment	6.49%	12.80%	12.74%	12.44%	38.17%	17.05%
Railcars or Track Cars	16.33%	8.16%	0.00%	14.29%	51.02%	10.20%
Rollers	14.09%	15.93%	18.30%	6.46%	30.61%	14.59%
Rough Terrain Forklifts	3.95%	9.32%	15.89%	8.11%	41.94%	20.80%

Equipment Type (> 50 hp)	U.S. EPA Emission Tier Level					
	T0	T1	T2	T3	T4F	T4I
Rubber Tired Dozers	41.04%	10.02%	9.44%	19.65%	15.22%	4.62%
Rubber Tired Loaders	16.74%	12.71%	13.56%	14.94%	29.29%	12.76%
Scrapers	28.91%	10.98%	15.47%	30.41%	10.15%	4.04%
Skid Steer Loaders	3.70%	10.02%	15.81%	3.20%	54.69%	12.58%
Spray Truck	5.56%	4.17%	19.44%	2.78%	34.72%	26.39%
Spreader Tractor Trailer	0.00%	14.29%	28.57%	0.00%	42.86%	14.29%
Spreader Truck	4.17%	0.00%	4.17%	37.50%	16.67%	25.00%
Surfacing Equipment	15.38%	14.25%	10.18%	23.08%	19.23%	17.65%
Sweepers/Scrubbers	11.02%	20.84%	16.57%	6.61%	25.75%	19.06%
Tank Truck	4.05%	6.76%	8.11%	27.03%	37.84%	16.22%
Tanker Truck Trailer	0.00%	18.18%	0.00%	0.00%	63.64%	18.18%
Telescopic Handler	1.33%	0.00%	2.67%	0.00%	80.00%	16.00%
Tow Tractor	0.00%	100.00%	0.00%	0.00%	0.00%	0.00%
Tractors/Loaders/Backhoes	13.53%	16.50%	18.73%	8.96%	29.23%	13.05%
Trenchers	21.86%	19.57%	20.87%	3.28%	21.86%	12.57%
Vacuum Truck	2.21%	18.38%	15.44%	25.00%	13.24%	14.71%
Water Truck	21.79%	8.21%	16.43%	16.07%	23.57%	13.57%
Workover Rig (Mobile)	5.99%	15.14%	9.78%	17.35%	7.10%	13.56%
Yard Goat	4.40%	4.58%	9.41%	18.31%	41.71%	21.33%

It is clear from the CARB data that access to Tier 4 interim certified equipment necessary for the construction phase are in short supply in the State. In particular, Tier 4 interim rubber dozers, scrapers, and cranes make up a small portion of the registered fleet in California. If the Proponent cannot acquire the necessary equipment during construction or delay the construction until the equipment is available, project construction could be substantially delayed while the Proponent searches for Tier equipment to comply with mitigation requirement. Without a binding commitment to only use Tier 4 interim and above construction equipment for all phases of the Project, the emissions from the construction phase will exceed BAAQMD's threshold and will create an adverse health outcome for the community. The analysis is therefore incomplete and must be corrected in an environmental impact report (EIR) for the Project.

2. The Air Quality Analysis And Greenhouse Gas Analysis Of Operational Emissions Is Incomplete And Fails To Include Emissions From Generators That Will Be Installed Onsite.

According to the Air Quality Analysis prepared for the Project, operational emissions were calculated using the CalEEMOD software. Included in the analysis are area source emissions and mobile source emissions. Not included in the analysis are emissions from the back-up generator (BUG) that will need to be installed. The BUG would add to the total amount of toxic air contaminants (TACs), specifically diesel particulate matter (DPM), that will be released from the site.

10.0 Stationary Equipment

Fire Pumps and Emergency Generators

Equipment Type	Number	Hours/Day	Hours/Year	Horse Power	Load Factor	Fuel Type
Fire Pump	1	0	50	472	0.73	Diesel

Boilers

Equipment Type	Number	Heat Input/Day	Heat Input/Year	Boiler Rating	Fuel Type
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Figure 4: CalEEMod Assumptions

The analysis is therefore incomplete and must be corrected in an environmental impact report (EIR) for the Project.

3. The Analysis of Operational Emissions is Based A Classification That May Not Accurately Reflect the Project's Use and Impacts

According to the Air Quality Analysis prepared for the Project, operational emissions were calculated using the CalEEMOD software assuming that Project would be a Research and Development center. The emission and traffic estimates are based on that classification. In the Project description of the IS/MND, the project is described as an industrial/warehouse project. The description also notes that while a designated end user has not been determined, the project is designed for a research and development use. These two different uses have different associated traffic and criteria pollutant analyses. If the Project moves forward as a warehouse, the number of associates truck trips and DPM emissions would significantly increase over the assumption used in the analysis.

For example, the Air Quality Study ignored the emissions from onsite service vehicles that may be used to move products from the warehouse area into the loading bays. According to the Air Quality Study, the northern side of the proposed building would include 12 truck loading docks.

Movement of materials from trucks into and out of the building are not assessed in the operation phase of the Air Quality study. According to the latest CAPCOA Guidance² cargo handling equipment (e.g., forklifts, yard goats, and pallet jacks), may include diesel powered, compressed natural gas powered, and gasoline powered equipment. The Air Quality study is therefore missing a potentially significant source of criteria and toxic pollutants. These analyses (AQ and GHG) are therefore incomplete and must be corrected in an EIR report for the Project.

Conclusion

The facts identified and referenced in this comment letter lead me to reasonably conclude that the Project could result in significant impacts if allowed to proceed. An EIR should be prepared to address these substantial concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Clark', with a stylized, cursive script.

James Clark

² CAPCOA. 2021. Handbook for Analyzing Greenhouse Gas Emissions Reductions, Assessing Climate Vulnerabilities, and Advancing Health and Equity. Pg 741

Embedded Way Summary Report

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1. Basic Project Information

1.1. Basic Project Information

Data Field	Value
Project Name	Embedded Way
Construction Start Date	2/8/2025
Operational Year	2026
Lead Agency	City of San Jose
Land Use Scale	Project/site
Analysis Level for Defaults	County
Windspeed (m/s)	3.40
Precipitation (days)	12.4
Location	865 Embedded Way, San Jose, CA 95138, USA
County	Santa Clara
City	San Jose
Air District	Bay Area AQMD
Air Basin	San Francisco Bay Area
TAZ	6702
EDFZ	1
Electric Utility	Pacific Gas & Electric Company
Gas Utility	Pacific Gas & Electric
App Version	2022.1.1.22

1.2. Land Use Types

Land Use Subtype	Size	Unit	Lot Acreage	Building Area (sq ft)	Landscape Area (sq ft)	Special Landscape Area (sq ft)	Population	Description
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Unrefrigerated Warehouse-No Rail	122	1000sqft	0.00	0.00	0.00	—	—	—
Parking Lot	298	Space	0.00	0.00	0.00	—	—	—

1.3. User-Selected Emission Reduction Measures by Emissions Sector

Sector	#	Measure Title
Construction	C-5	Use Advanced Engine Tiers

2. Emissions Summary

2.1. Construction Emissions Compared Against Thresholds

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Un/Mit.	TOG	ROG	NOx	CO	SO2	PM10E	PM10D	PM10T	PM2.5E	PM2.5D	PM2.5T	BCO2	NBCO2	CO2T	CH4	N2O	R	CO2e
Daily, Summer (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unmit.	7.83	6.28	64.4	59.9	0.14	2.42	26.1	28.5	2.21	12.0	14.2	—	16,281	16,281	0.84	0.80	11.2	16,550
Mit.	7.83	6.28	64.4	59.9	0.14	2.42	26.1	28.5	2.21	12.0	14.2	—	16,281	16,281	0.84	0.80	11.2	16,550
% Reduced	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Daily, Winter (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unmit.	13.5	11.1	115	92.2	0.21	4.38	44.0	48.4	4.01	20.0	24.0	—	24,684	24,684	1.18	0.87	0.31	24,974
Mit.	13.5	11.1	115	92.2	0.21	4.38	44.0	48.4	4.01	20.0	24.0	—	24,684	24,684	1.18	0.87	0.31	24,974
% Reduced	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Average Daily (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—

Unmit.	1.47	1.20	11.8	12.5	0.03	0.45	3.39	3.84	0.41	1.55	1.96	—	2,804	2,804	0.13	0.09	0.53	2,834
Mit.	1.47	1.20	11.8	12.5	0.03	0.45	3.39	3.84	0.41	1.55	1.96	—	2,804	2,804	0.13	0.09	0.53	2,834
% Reduced	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Annual (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unmit.	0.27	0.22	2.16	2.27	< 0.005	0.08	0.62	0.70	0.07	0.28	0.36	—	464	464	0.02	0.02	0.09	469
Mit.	0.27	0.22	2.16	2.27	< 0.005	0.08	0.62	0.70	0.07	0.28	0.36	—	464	464	0.02	0.02	0.09	469
% Reduced	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Exceeds (Daily Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Threshold	—	54.0	54.0	—	—	82.0	—	—	54.0	—	—	—	—	—	—	—	—	—
Unmit.	—	No	Yes	—	—	No	—	—	No	—	—	—	—	—	—	—	—	—
Mit.	—	No	Yes	—	—	No	—	—	No	—	—	—	—	—	—	—	—	—
Exceeds (Average Daily)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Threshold	—	54.0	54.0	—	—	82.0	—	—	54.0	—	—	—	—	—	—	—	—	—
Unmit.	—	No	No	—	—	No	—	—	No	—	—	—	—	—	—	—	—	—
Mit.	—	No	No	—	—	No	—	—	No	—	—	—	—	—	—	—	—	—

2.4. Operations Emissions Compared Against Thresholds

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Un/Mit.	TOG	ROG	NOx	CO	SO2	PM10E	PM10D	PM10T	PM2.5E	PM2.5D	PM2.5T	BCO2	NBCO2	CO2T	CH4	N2O	R	CO2e
Daily, Summer (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—

Unmit.	0.76	0.70	0.54	6.17	0.02	0.01	1.43	1.44	0.01	0.36	0.37	116	1,646	1,762	11.8	0.19	5.53	2,119
Daily, Winter (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unmit.	0.73	0.67	0.63	5.69	0.01	0.01	1.43	1.44	0.01	0.36	0.37	116	1,553	1,669	11.8	0.20	0.14	2,023
Average Daily (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unmit.	0.72	0.66	0.59	5.55	0.01	0.01	1.42	1.43	0.01	0.36	0.37	116	1,566	1,682	11.8	0.20	2.39	2,037
Annual (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unmit.	0.13	0.12	0.11	1.01	< 0.005	< 0.005	0.26	0.26	< 0.005	0.07	0.07	19.2	259	278	1.95	0.03	0.40	337
Exceeds (Daily Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Threshold	—	54.0	54.0	—	—	—	82.0	—	—	54.0	—	—	—	—	—	—	—	—
Unmit.	—	No	No	Yes	—	—	No	—	—	No	—	—	—	—	—	—	—	—
Exceeds (Average Daily)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Threshold	—	54.0	54.0	—	—	—	82.0	—	—	54.0	—	—	—	—	—	—	—	—
Unmit.	—	No	No	Yes	—	—	No	—	—	No	—	—	—	—	—	—	—	—
Exceeds (Annual)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Threshold	—	10.0	10.0	—	—	—	15.0	—	—	10.0	—	—	—	—	—	—	—	—
Unmit.	—	No	No	—	—	—	No	—	—	No	—	—	—	—	—	—	—	—

6. Climate Risk Detailed Report

6.2. Initial Climate Risk Scores

Climate Hazard	Exposure Score	Sensitivity Score	Adaptive Capacity Score	Vulnerability Score
Temperature and Extreme Heat	N/A	N/A	N/A	N/A
Extreme Precipitation	1	0	0	N/A
Sea Level Rise	1	0	0	N/A
Wildfire	1	0	0	N/A
Flooding	N/A	N/A	N/A	N/A
Drought	N/A	N/A	N/A	N/A
Snowpack Reduction	N/A	N/A	N/A	N/A
Air Quality Degradation	0	0	0	N/A

The sensitivity score reflects the extent to which a project would be adversely affected by exposure to a climate hazard. Exposure is rated on a scale of 1 to 5, with a score of 5 representing the greatest exposure.

The adaptive capacity of a project refers to its ability to manage and reduce vulnerabilities from projected climate hazards. Adaptive capacity is rated on a scale of 1 to 5, with a score of 5 representing the greatest ability to adapt.

The overall vulnerability scores are calculated based on the potential impacts and adaptive capacity assessments for each hazard. Scores do not include implementation of climate risk reduction measures.

6.3. Adjusted Climate Risk Scores

Climate Hazard	Exposure Score	Sensitivity Score	Adaptive Capacity Score	Vulnerability Score
Temperature and Extreme Heat	N/A	N/A	N/A	N/A
Extreme Precipitation	1	1	1	2
Sea Level Rise	1	1	1	2
Wildfire	1	1	1	2
Flooding	N/A	N/A	N/A	N/A
Drought	N/A	N/A	N/A	N/A
Snowpack Reduction	N/A	N/A	N/A	N/A
Air Quality Degradation	1	1	1	2

The sensitivity score reflects the extent to which a project would be adversely affected by exposure to a climate hazard. Exposure is rated on a scale of 1 to 5, with a score of 5 representing the greatest exposure.

The adaptive capacity of a project refers to its ability to manage and reduce vulnerabilities from projected climate hazards. Adaptive capacity is rated on a scale of 1 to 5, with a score of 5 representing the greatest ability to adapt.

The overall vulnerability scores are calculated based on the potential impacts and adaptive capacity assessments for each hazard. Scores include implementation of climate risk reduction measures.

7. Health and Equity Details

7.3. Overall Health & Equity Scores

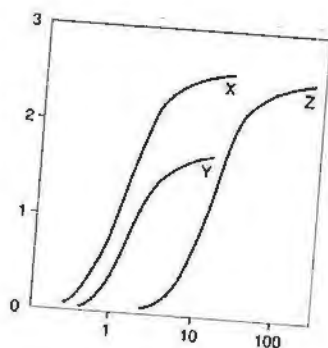
Metric	Result for Project Census Tract
CalEnviroScreen 4.0 Score for Project Location (a)	17.0
Healthy Places Index Score for Project Location (b)	91.0
Project Located in a Designated Disadvantaged Community (Senate Bill 535)	No
Project Located in a Low-Income Community (Assembly Bill 1550)	No
Project Located in a Community Air Protection Program Community (Assembly Bill 617)	No

a: The maximum CalEnviroScreen score is 100. A high score (i.e., greater than 50) reflects a higher pollution burden compared to other census tracts in the state.

b: The maximum Healthy Places Index score is 100. A high score (i.e., greater than 50) reflects healthier community conditions compared to other census tracts in the state.

7.5. Evaluation Scorecard

Health & Equity Evaluation Scorecard not completed.



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James J. J. Clark, Ph.D.

Principal Toxicologist

Toxicology/Exposure Assessment Modeling

Risk Assessment/Analysis/Dispersion Modeling

Education:

Ph.D., Environmental Health Science, University of California, 1995

M.S., Environmental Health Science, University of California, 1993

B.S., Biophysical and Biochemical Sciences, University of Houston, 1987

Professional Experience:

Dr. Clark is a well recognized toxicologist, air modeler, and health scientist. He has 20 years of experience in researching the effects of environmental contaminants on human health including environmental fate and transport modeling (SCREEN3, AEROMOD, ISCST3, Johnson-Ettinger Vapor Intrusion Modeling); exposure assessment modeling (partitioning of contaminants in the environment as well as PBPK modeling); conducting and managing human health risk assessments for regulatory compliance and risk-based clean-up levels; and toxicological and medical literature research.

Significant projects performed by Dr. Clark include the following:

LITIGATION SUPPORT

Case: James Harold Caygle, et al, v. Drummond Company, Inc. Circuit Court for the Tenth Judicial Circuit, Jefferson County, Alabama. Civil Action. CV-2009

Client: Environmental Litigation Group, Birmingham, Alabama

Dr. Clark performed an air quality assessment of emissions from a coke factory located in Tarrant, Alabama. The assessment reviewed include a comprehensive review of air quality standards, measured concentrations of pollutants from factory, an inspection of the facility and detailed assessment of the impacts on the community. The results of the assessment and literature have been provided in a declaration to the court.

Case Result: Settlement in favor of plaintiff.

Case: Rose Roper V. Nissan North America, et al. Superior Court of the State Of California for the County Of Los Angeles – Central Civil West. Civil Action. NC041739

Client: Rose, Klein, Marias, LLP, Long Beach, California

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to multiple chemicals, including benzene, who later developed a respiratory distress. A review of the individual's medical and occupational history was performed to prepare an exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to respiratory irritants. The results of the assessment and literature have been provided in a declaration to the court.

Case Result: Settlement in favor of plaintiff.

Case: O'Neil V. Sherwin Williams, et al. United States District Court Central District of California

Client: Rose, Klein, Marias, LLP, Long Beach, California

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to petroleum distillates who later developed a bladder cancer. A review of the individual's medical and occupational history was performed to prepare a quantitative exposure assessment. The results of the assessment and literature have been provided in a declaration to the court.

Case Result: Summary judgment for defendants.

Case: Moore V., Shell Oil Company, et al. Superior Court of the State Of California for the County Of Los Angeles

Client: Rose, Klein, Marias, LLP, Long Beach, California

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to chemicals while benzene who later developed a leukogenic disease. A review of the individual's medical and occupational history was performed to prepare a quantitative exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to refined petroleum hydrocarbons. The results of the assessment and literature have been provided in a declaration to the court.

Case Result: Settlement in favor of plaintiff.

Case: Raymond Saltonstall V. Fuller O'Brien, KILZ, and Zinsser, et al. United States District Court Central District of California

Client: Rose, Klein, Marias, LLP, Long Beach, California

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to benzene who later developed a leukogenic disease. A review of the individual's medical and occupational history was performed to prepare a quantitative exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to refined petroleum hydrocarbons. The results of the assessment and literature have been provided in a declaration to the court.

Case Result: Settlement in favor of plaintiff.

Case: Richard Boyer and Elizabeth Boyer, husband and wife, V. DESCO Corporation, et al. Circuit Court of Brooke County, West Virginia. Civil Action Number 04-C-7G.

Client: Frankovitch, Anetakis, Colantonio & Simon, Morgantown, West Virginia.

Dr. Clark performed a toxicological assessment of a family exposed to chlorinated solvents released from the defendant's facility into local drinking water supplies. A review of the individual's medical and occupational history was performed to prepare a qualitative exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to chlorinated solvents. The results of the assessment and literature have been provided in a declaration to the court.

Case Result: Settlement in favor of plaintiff.

Case: JoAnne R. Cook, V. DESCO Corporation, et al. Circuit Court of Brooke County, West Virginia. Civil Action Number 04-C-9R

Client: Frankovitch, Anetakis, Colantonio & Simon, Morgantown, West Virginia.

Dr. Clark performed a toxicological assessment of an individual exposed to chlorinated solvents released from the defendant's facility into local drinking water supplies. A review of the individual's medical and occupational history was performed to prepare a qualitative exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to chlorinated solvents. The results of the assessment and literature have been provided in a declaration to the court.

Case Result: Settlement in favor of plaintiff.

Case: Patrick Allen And Susan Allen, husband and wife, and Andrew Allen, a minor, V. DESCO Corporation, et al. Circuit Court of Brooke County, West Virginia. Civil Action Number 04-C-W

Client: Frankovitch, Anetakis, Colantonio & Simon, Morgantown, West Virginia.

Dr. Clark performed a toxicological assessment of a family exposed to chlorinated solvents released from the defendant's facility into local drinking water supplies. A review of the individual's medical and occupational history was performed to prepare a qualitative exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to chlorinated solvents. The results of the assessment and literature have been provided in a declaration to the court.

Case Result: Settlement in favor of plaintiff.

Case: Michael Fahey, Susan Fahey V. Atlantic Richfield Company, et al. United States District Court Central District of California Civil Action Number CV-06 7109 JCL.

Client: Rose, Klein, Marias, LLP, Long Beach, California

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to refined petroleum hydrocarbons who later developed a leukogenic disease. A review of the individual's medical and occupational history was performed to prepare a qualitative exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to refined petroleum hydrocarbons. The results of the assessment and literature have been provided in a declaration to the court.

Case Result: Settlement in favor of plaintiff.

Case: Constance Acevedo, et al., V. California Spray-Chemical Company, et al., Superior Court of the State Of California, County Of Santa Cruz. Case No. CV 146344

Dr. Clark performed a comprehensive exposure assessment of community members exposed to toxic metals from a former lead arsenate manufacturing facility. The former manufacturing site had undergone a DTSC mandated removal action/remediation for the presence of the toxic metals at the site. Opinions were presented regarding the elevated levels of arsenic and lead (in attic dust and soils) found throughout the community and the potential for harm to the plaintiffs in question.

Case Result: Settlement in favor of defendant.

Case: Michael Nawrocki V. The Coastal Corporation, Kurk Fuel Company, Pautler Oil Service, State of New York Supreme Court, County of Erie, Index Number 12001-11247

Client: Richard G. Berger Attorney At Law, Buffalo, New York

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to refined petroleum hydrocarbons who later developed a leukogenic disease. A review of the individual's medical and occupational history was performed to prepare a qualitative exposure assessment. The exposure assessment was evaluated against the

known outcomes in published literature to exposure to refined petroleum hydrocarbons. The results of the assessment and literature have been provided in a declaration to the court.

Case Result: Judgement in favor of defendant.

SELECTED AIR MODELING RESEARCH/PROJECTS

Client – Confidential

Dr. Clark performed a comprehensive evaluation of criteria pollutants, air toxins, and particulate matter emissions from a carbon black production facility to determine the impacts on the surrounding communities. The results of the dispersion model will be used to estimate acute and chronic exposure concentrations to multiple contaminants and will be incorporated into a comprehensive risk evaluation.

Client – Confidential

Dr. Clark performed a comprehensive evaluation of air toxins and particulate matter emissions from a railroad tie manufacturing facility to determine the impacts on the surrounding communities. The results of the dispersion model have been used to estimate acute and chronic exposure concentrations to multiple contaminants and have been incorporated into a comprehensive risk evaluation.

Client – Los Angeles Alliance for a New Economy (LAANE), Los Angeles, California

Dr. Clark is advising the LAANE on air quality issues related to current flight operations at the Los Angeles International Airport (LAX) operated by the Los Angeles World Airport (LAWA) Authority. He is working with the LAANE and LAX staff to develop a comprehensive strategy for meeting local community concerns over emissions from flight operations and to engage federal agencies on the issue of local impacts of community airports.

Client – City of Santa Monica, Santa Monica, California

Dr. Clark is advising the City of Santa Monica on air quality issues related to current flight operations at the facility. He is working with the City staff to develop a comprehensive strategy for meeting local community concerns over emissions from flight operations and to engage federal agencies on the issue of local impacts of community airports.

Client: Omnitrans, San Bernardino, California

Dr. Clark managed a public health survey of three communities near transit fueling facilities in San Bernardino and Montclair California in compliance with California Senate Bill 1927. The survey included an epidemiological survey of the effected communities, emission surveys of local businesses, dispersion modeling to determine potential emission concentrations within the communities, and a comprehensive risk assessment of each community. The results of the study were presented to the Governor as mandated by Senate Bill 1927.

Client: Confidential, San Francisco, California

Summarized cancer types associated with exposure to metals and smoking. Researched the specific types of cancers associated with exposure to metals and smoking. Provided causation analysis of the association between cancer types and exposure for use by non-public health professionals.

Client: Confidential, Minneapolis, Minnesota

Prepared human health risk assessment of workers exposed to VOCs from neighboring petroleum storage/transport facility. Reviewed the systems in place for distribution of petroleum hydrocarbons to identify chemicals of concern (COCs), prepared comprehensive toxicological summaries of COCs, and quantified potential risks from carcinogens and non-carcinogens to receptors at or adjacent to site. This evaluation was used in the support of litigation.

Client – United Kingdom Environmental Agency

Dr. Clark is part of team that performed comprehensive evaluation of soil vapor intrusion of VOCs from former landfill adjacent residences for the United Kingdom's Environment

Agency. The evaluation included collection of liquid and soil vapor samples at site, modeling of vapor migration using the Johnson Ettinger Vapor Intrusion model, and calculation of site-specific health based vapor thresholds for chlorinated solvents, aromatic hydrocarbons, and semi-volatile organic compounds. The evaluation also included a detailed evaluation of the use, chemical characteristics, fate and transport, and toxicology of chemicals of concern (COC). The results of the evaluation have been used as a briefing tool for public health professionals.

EMERGING/PERSISTENT CONTAMINANT RESEARCH/PROJECTS

Client: Ameren Services, St. Louis, Missouri

Managed the preparation of a comprehensive human health risk assessment of workers and residents at or near an NPL site in Missouri. The former operations at the Property included the servicing and repair of electrical transformers, which resulted in soils and groundwater beneath the Property and adjacent land becoming impacted with PCB and chlorinated solvent compounds. The results were submitted to U.S. EPA for evaluation and will be used in the final ROD.

Client: City of Santa Clarita, Santa Clarita, California

Dr. Clark is managing the oversight of the characterization, remediation and development activities of a former 1,000 acre munitions manufacturing facility for the City of Santa Clarita. The site is impacted with a number of contaminants including perchlorate, unexploded ordinance, and volatile organic compounds (VOCs). The site is currently under a number of regulatory consent orders, including an Imminent and Substantial Endangerment Order. Dr. Clark is assisting the impacted municipality with the development of remediation strategies, interaction with the responsible parties and stakeholders, as well as interfacing with the regulatory agency responsible for oversight of the site cleanup.

Client: Confidential, Los Angeles, California

Prepared comprehensive evaluation of perchlorate in environment. Dr. Clark evaluated the production, use, chemical characteristics, fate and transport, toxicology, and remediation of perchlorate. Perchlorates form the basis of solid rocket fuels and have recently been detected in water supplies in the United States. The results of this research

were presented to the USEPA, National GroundWater, and ultimately published in a recent book entitled *Perchlorate in the Environment*.

Client – Confidential, Los Angeles, California

Dr. Clark is performing a comprehensive review of the potential for pharmaceuticals and their by-products to impact groundwater and surface water supplies. This evaluation will include a review of available data on the history of pharmaceutical production in the United States; the chemical characteristics of various pharmaceuticals; environmental fate and transport; uptake by xenobiotics; the potential effects of pharmaceuticals on water treatment systems; and the potential threat to public health. The results of the evaluation may be used as a briefing tool for non-public health professionals.

PUBLIC HEALTH/TOXICOLOGY

Client: Brayton Purcell, Novato, California

Dr. Clark performed a toxicological assessment of residents exposed to methyl-tertiary butyl ether (MTBE) from leaking underground storage tanks (LUSTs) adjacent to the subject property. The symptomology of residents and guests of the subject property were evaluated against the known outcomes in published literature to exposure to MTBE. The study found that residents had been exposed to MTBE in their drinking water; that concentrations of MTBE detected at the site were above regulatory guidelines; and, that the symptoms and outcomes expressed by residents and guests were consistent with symptoms and outcomes documented in published literature.

Client: Confidential, San Francisco, California

Identified and analyzed fifty years of epidemiological literature on workplace exposures to heavy metals. This research resulted in a summary of the types of cancer and non-cancer diseases associated with occupational exposure to chromium as well as the mortality and morbidity rates.

Client: Confidential, San Francisco, California

Summarized major public health research in United States. Identified major public health research efforts within United States over last twenty years. Results were used as a briefing tool for non-public health professionals.

Client: Confidential, San Francisco, California

Quantified the potential multi-pathway dose received by humans from a pesticide applied indoors. Part of team that developed exposure model and evaluated exposure concentrations in a comprehensive report on the plausible range of doses received by a specific person. This evaluation was used in the support of litigation.

Client: Covanta Energy, Westwood, California

Evaluated health risk from metals in biosolids applied as soil amendment on agricultural lands. The biosolids were created at a forest waste cogeneration facility using 96% whole tree wood chips and 4 percent green waste. Mass loading calculations were used to estimate Cr(VI) concentrations in agricultural soils based on a maximum loading rate of 40 tons of biomass per acre of agricultural soil. The results of the study were used by the Regulatory agency to determine that the application of biosolids did not constitute a health risk to workers applying the biosolids or to residences near the agricultural lands.

Client – United Kingdom Environmental Agency

Oversaw a comprehensive toxicological evaluation of methyl-*tertiary* butyl ether (MtBE) for the United Kingdom's Environment Agency. The evaluation included available data on the production, use, chemical characteristics, fate and transport, toxicology, and remediation of MtBE. The results of the evaluation have been used as a briefing tool for public health professionals.

Client – Confidential, Los Angeles, California

Prepared comprehensive evaluation of *tertiary* butyl alcohol (TBA) in municipal drinking water system. TBA is the primary breakdown product of MtBE, and is suspected to be the primary cause of MtBE toxicity. This evaluation will include available information on the production, use, chemical characteristics, fate and transport in the environment, absorption, distribution, routes of detoxification, metabolites, carcinogenic potential, and remediation of TBA. The results of the evaluation were used as a briefing tool for non-public health professionals.

Client – Confidential, Los Angeles, California

Prepared comprehensive evaluation of methyl *tertiary* butyl ether (MTBE) in municipal drinking water system. MTBE is a chemical added to gasoline to increase the octane

rating and to meet Federally mandated emission criteria. The evaluation included available data on the production, use, chemical characteristics, fate and transport, toxicology, and remediation of MTBE. The results of the evaluation have been were used as a briefing tool for non-public health professionals.

Client – Ministry of Environment, Lands & Parks, British Columbia

Dr. Clark assisted in the development of water quality guidelines for methyl tertiary-butyl ether (MTBE) to protect water uses in British Columbia (BC). The water uses to be considered includes freshwater and marine life, wildlife, industrial, and agricultural (e.g., irrigation and livestock watering) water uses. Guidelines from other jurisdictions for the protection of drinking water, recreation and aesthetics were to be identified.

Client: Confidential, Los Angeles, California

Prepared physiologically based pharmacokinetic (PBPK) assessment of lead risk of receptors at middle school built over former industrial facility. This evaluation is being used to determine cleanup goals and will be basis for regulatory closure of site.

Client: Kaiser Venture Incorporated, Fontana, California

Prepared PBPK assessment of lead risk of receptors at a 1,100-acre former steel mill. This evaluation was used as the basis for granting closure of the site by lead regulatory agency.

RISK ASSESSMENTS/REMEDIAL INVESTIGATIONS

Client: Confidential, Atlanta, Georgia

Researched potential exposure and health risks to community members potentially exposed to creosote, polycyclic aromatic hydrocarbons, pentachlorophenol, and dioxin compounds used at a former wood treatment facility. Prepared a comprehensive toxicological summary of the chemicals of concern, including the chemical characteristics, absorption, distribution, and carcinogenic potential. Prepared risk characterization of the carcinogenic and non-carcinogenic chemicals based on the exposure assessment to quantify the potential risk to members of the surrounding community. This evaluation was used to help settle class-action tort.

Client: Confidential, Escondido, California

Prepared comprehensive Preliminary Endangerment Assessment (PEA) of dense non-aqueous liquid phase hydrocarbon (chlorinated solvents) contamination at a former printed circuit board manufacturing facility. This evaluation was used for litigation support and may be used as the basis for reaching closure of the site with the lead regulatory agency.

Client: Confidential, San Francisco, California

Summarized epidemiological evidence for connective tissue and autoimmune diseases for product liability litigation. Identified epidemiological research efforts on the health effects of medical prostheses. This research was used in a meta-analysis of the health effects and as a briefing tool for non-public health professionals.

Client: Confidential, Bogotá, Columbia

Prepared comprehensive evaluation of the potential health risks associated with the redevelopment of a 13.7 hectares plastic manufacturing facility in Bogotá, Colombia. The risk-assessment was used as the basis for the remedial goals and closure of the site.

Client: Confidential, Los Angeles, California

Prepared comprehensive human health risk assessment of students, staff, and residents potentially exposed to heavy metals (principally cadmium) and VOCs from soil and soil vapor at 12-acre former crude oilfield and municipal landfill. The site is currently used as a middle school housing approximately 3,000 children. The evaluation determined that the site was safe for the current and future uses and was used as the basis for regulatory closure of site.

Client: Confidential, Los Angeles, California

Managed remedial investigation (RI) of heavy metals and volatile organic chemicals (VOCs) for a 15-acre former manufacturing facility. The RI investigation of the site included over 800 different sampling locations and the collection of soil, soil gas, and groundwater samples. The site is currently used as a year round school housing approximately 3,000 children. The Remedial Investigation was performed in a manner

that did not interrupt school activities and met the time restrictions placed on the project by the overseeing regulatory agency. The RI Report identified the off-site source of metals that impacted groundwater beneath the site and the sources of VOCs in soil gas and groundwater. The RI included a numerical model of vapor intrusion into the buildings at the site from the vadose zone to determine exposure concentrations and an air dispersion model of VOCs from the proposed soil vapor treatment system. The Feasibility Study for the Site is currently being drafted and may be used as the basis for granting closure of the site by DTSC.

Client: Confidential, Los Angeles, California

Prepared comprehensive human health risk assessment of students, staff, and residents potentially exposed to heavy metals (principally lead), VOCs, SVOCs, and PCBs from soil, soil vapor, and groundwater at 15-acre former manufacturing facility. The site is currently used as a year round school housing approximately 3,000 children. The evaluation determined that the site was safe for the current and future uses and will be basis for regulatory closure of site.

Client: Confidential, Los Angeles, California

Prepared comprehensive evaluation of VOC vapor intrusion into classrooms of middle school that was former 15-acre industrial facility. Using the Johnson-Ettinger Vapor Intrusion model, the evaluation determined acceptable soil gas concentrations at the site that did not pose health threat to students, staff, and residents. This evaluation is being used to determine cleanup goals and will be basis for regulatory closure of site.

Client: Dominguez Energy, Carson, California

Prepared comprehensive evaluation of the potential health risks associated with the redevelopment of 6-acre portion of a 500-acre oil and natural gas production facility in Carson, California. The risk assessment was used as the basis for closure of the site.

Kaiser Ventures Incorporated, Fontana, California

Prepared health risk assessment of semi-volatile organic chemicals and metals for a fifty-year old wastewater treatment facility used at a 1,100-acre former steel mill. This evaluation was used as the basis for granting closure of the site by lead regulatory agency.

ANR Freight - Los Angeles, California

Prepared a comprehensive Preliminary Endangerment Assessment (PEA) of petroleum hydrocarbon and metal contamination of a former freight depot. This evaluation was as the basis for reaching closure of the site with lead regulatory agency.

Kaiser Ventures Incorporated, Fontana, California

Prepared comprehensive health risk assessment of semi-volatile organic chemicals and metals for 23-acre parcel of a 1,100-acre former steel mill. The health risk assessment was used to determine clean up goals and as the basis for granting closure of the site by lead regulatory agency. Air dispersion modeling using ISCST3 was performed to determine downwind exposure point concentrations at sensitive receptors within a 1 kilometer radius of the site. The results of the health risk assessment were presented at a public meeting sponsored by the Department of Toxic Substances Control (DTSC) in the community potentially affected by the site.

Unocal Corporation - Los Angeles, California

Prepared comprehensive assessment of petroleum hydrocarbons and metals for a former petroleum service station located next to sensitive population center (elementary school). The assessment used a probabilistic approach to estimate risks to the community and was used as the basis for granting closure of the site by lead regulatory agency.

Client: Confidential, Los Angeles, California

Managed oversight of remedial investigation most contaminated heavy metal site in California. Lead concentrations in soil excess of 68,000,000 parts per billion (ppb) have been measured at the site. This State Superfund Site was a former hard chrome plating operation that operated for approximately 40-years.

Client: Confidential, San Francisco, California

Coordinator of regional monitoring program to determine background concentrations of metals in air. Acted as liaison with SCAQMD and CARB to perform co-location sampling and comparison of accepted regulatory method with ASTM methodology.

Client: Confidential, San Francisco, California

Analyzed historical air monitoring data for South Coast Air Basin in Southern California and potential health risks related to ambient concentrations of carcinogenic metals and volatile organic compounds. Identified and reviewed the available literature and calculated risks from toxins in South Coast Air Basin.

IT Corporation, North Carolina

Prepared comprehensive evaluation of potential exposure of workers to air-borne VOCs at hazardous waste storage facility under SUPERFUND cleanup decree. Assessment used in developing health based clean-up levels.

Professional Associations

American Public Health Association (APHA)
Association for Environmental Health and Sciences (AEHS)
American Chemical Society (ACS)
California Redevelopment Association (CRA)
International Society of Environmental Forensics (ISEF)
Society of Environmental Toxicology and Chemistry (SETAC)

Publications and Presentations:

Books and Book Chapters

Sullivan, P., J.J. J. Clark, F.J. Agardy, and P.E. Rosenfeld. (2007). *Synthetic Toxins In The Food, Water and Air of American Cities*. Elsevier, Inc. Burlington, MA.

Sullivan, P. and J.J. J. Clark. 2006. *Choosing Safer Foods, A Guide To Minimizing Synthetic Chemicals In Your Diet*. Elsevier, Inc. Burlington, MA.

Sullivan, P., Agardy, F.J., and J.J.J. Clark. 2005. *The Environmental Science of Drinking Water*. Elsevier, Inc. Burlington, MA.

Sullivan, P.J., Agardy, F.J., Clark, J.J.J. 2002. *America's Threatened Drinking Water: Hazards and Solutions*. Trafford Publishing, Victoria B.C.

Clark, J.J.J. 2001. "TBA: Chemical Properties, Production & Use, Fate and Transport, Toxicology, Detection in Groundwater, and Regulatory Standards" in *Oxygenates in the Environment*. Art Diaz, Ed.. Oxford University Press: New York.

Clark, J.J.J. 2000. "Toxicology of Perchlorate" in *Perchlorate in the Environment*. Edward Urbansky, Ed. Kluwer/Plenum: New York.

Clark, J.J.J. 1995. Probabilistic Forecasting of Volatile Organic Compound Concentrations At The Soil Surface From Contaminated Groundwater. UMI.

Baker, J.; **Clark, J.J.J.**; Stanford, J.T. 1994. Ex Situ Remediation of Diesel Contaminated Railroad Sand by Soil Washing. Principles and Practices for Diesel Contaminated Soils, Volume III. P.T. Kostecki, E.J. Calabrese, and C.P.L. Barkan, eds. Amherst Scientific Publishers, Amherst, MA. pp 89-96.

Journal and Proceeding Articles

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*, Volume 70 (2008) page 002254.

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*, Volume 70 (2008) page 000527

Hensley A.R., Scott, A., Rosenfeld P.E., **Clark, J.J.J.** (2007). "Attic Dust And Human Blood Samples Collected Near A Former Wood Treatment Facility." *Environmental Research*. 105:194-199.

Rosenfeld, P.E., **Clark, J. J.**, Hensley, A.R., and Suffet, I.H. 2007. "The Use Of An Odor Wheel Classification For The Evaluation of Human Health Risk Criteria For Compost Facilities" *Water Science & Technology*. 55(5): 345-357.

Hensley A.R., Scott, A., Rosenfeld P.E., **Clark, J.J.J.** 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, August 21 – 25, 2006. Radisson SAS Scandinavia Hotel in Oslo Norway.

Rosenfeld, P.E., **Clark, J. J.** and Suffet, I.H. 2005. "The Value Of An Odor Quality Classification Scheme For Compost Facility Evaluations" The U.S. Composting Council's 13th Annual Conference January 23 - 26, 2005, Crowne Plaza Riverwalk, San Antonio, TX.

Rosenfeld, P.E., **Clark, J. J.** and Suffet, I.H. 2004. "The Value Of An Odor Quality Classification Scheme For Urban Odor" WEFTEC 2004. 77th Annual Technical Exhibition & Conference October 2 - 6, 2004, Ernest N. Morial Convention Center, New Orleans, Louisiana.

Clark, J.J.J. 2003. "Manufacturing, Use, Regulation, and Occurrence of a Known Endocrine Disrupting Chemical (EDC), 2,4-Dichlorophenoxyacetic Acid (2,4-D) in California Drinking Water Supplies." National Groundwater Association Southwest Focus Conference: Water Supply and Emerging Contaminants. Minneapolis, MN. March 20, 2003.

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- Clark, J.J.J.**, Brown A. 1999. Perchlorate Contamination: Fate in the Environment and Treatment Options. In Situ and On-Site Bioremediation, Fifth International Symposium. San Diego, CA, April, 1999.
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- Clark, J.J.J.**, Brown, A., Rodriguez, R. 1998. The Public Health Implications of MtBE and Perchlorate in Water: Risk Management Decisions for Water Purveyors. Proceedings of the National Ground Water Association, Anaheim, CA, June 3-4, 1998.
- Clark J.J.J.**, Brown, A., Ulrey, A. 1997. Impacts of Perchlorate On Drinking Water In The Western United States. U.S. EPA Symposium on Biological and Chemical Reduction of Chlorate and Perchlorate, Cincinnati, OH, December 5, 1997.
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Ozone Exposures in Residents of Los Angeles County. American Review of Respiratory Disease. 141(4):A70.

Tierney, D.F. and J.J.J. Clark. (1990). Lung Polyamine Content Can Be Increased By Spermidine Infusions Into Hyperoxic Rats. American Review of Respiratory Disease. 139(4):A41.

EXHIBIT B



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April 30, 2024

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

Subject: 865 Embedded Way Industrial Project

Dear Ms. Abedifard,

I have reviewed trip generation and vehicle miles traveled (VMT) impacts and proposed VMT mitigation of the Mitigated Negative Declaration for the 865 Embedded Way Industrial Project ("MND") prepared by the City of San Jose. I make the following findings:

- 1) There is a high degree of uncertainty about the project use and its impacts.
- 2) The MND proposes a VMT mitigation package that is only adequate if using the previous version of the City's VMT Evaluation Tool, and falls short of the threshold for Research and Development (R&D) use with the City's updated VMT tool.
- 3) Most of the calculated VMT reduction is based on the assumption that 25 percent of employees would commute in company-paid vanpools. With an unidentified tenant and use, this assumption is wildly optimistic and likely impossible to achieve. Mitigation should be replanned with a more plausible set of measures.
- 4) The MND's proposed monitoring for mitigation measures is insufficient and should be revised. For example, the percentage of commuters using the vanpools should be certified. Counting trips and comparing them to a baseline, as proposed in the MND, would provide no information about VMT reduction, particularly if an unrealistically high trip generation rate is used as the baseline.

High Degree of Uncertainty About the Project Use and Impacts

The MND describes the project as an “industrial/manufacturing warehouse.”

PROJECT DESCRIPTION: The project consists of a Site Development Permit (File No. H22-022) to allow the construction of a one-story 121,400 square foot industrial/manufacturing warehouse on a vacant 10.17-acre project site. (MND, p. 1)

The MND also describes the project as an “R&D facility.”

While a designated end user has not yet been determined for the project, the project is designed for a research and development (R&D) use. . .For the purposes of this Initial Study, the project will be analyzed as an R&D facility. (MND, p. 6)

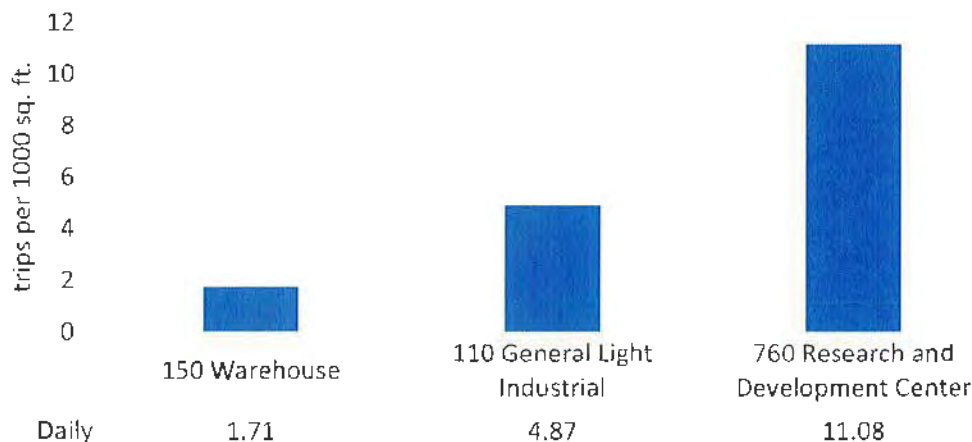
The proposed project would construct an industrial building on a vacant site that could be used for developments such as R&D, manufacturing, assembly, testing, and offices. The exact operational occupant of the site is not currently determined and is likely to change over the full economic life of the project which may be 50 or more years; however, for the purposes of this Initial Study it is assumed the proposed development would be used for R&D purposes. (MND, p. 108)

The MND makes it clear that the building’s end use and its impacts are unknown:

Since a tenant and use of the proposed building have yet to be identified, the applicant for the project has requested that the transportation analysis allow for the flexibility to utilize the building with either warehouse, industrial, or research & development (R&D) space. Of the above-identified uses, R&D space generates the greatest number of daily and peak hour trips per 1,000 s.f. of space. Therefore, the LTA evaluates the proposed project as 121,850 s.f. of R&D space for the purpose of providing the flexibility to allow for the use of the proposed building with low traffic generating warehouse uses or greater traffic generating uses such as R&D space. (MND Appendix H, p. 39 of 155)

Figure 1 shows daily trip generation rates per 1000 sq. ft. for warehouse, light industrial and R&D uses.

Figure 1: Trip Generation Rates for Warehouse, Light Industrial and R&D Uses from Institute of Transportation Engineers (“ITE”) – Latest Edition



The MND is correct that R&D generates more trips than the other categories on a 1000 sq. ft. basis – over twice as many trips as General Light Industrial and over six times as many trips as Warehouse. Therefore, using the higher trip generation rate is a conservative approach for a traditional traffic impact analysis. However, with SB 743, VMT impacts are much more important than traffic impacts. As is discussed later in this letter, assuming an unrealistically high trip generation would invalidate the VMT monitoring approach proposed in the MND.

The Updated San Jose VMT Evaluation Tool Reveals Significant VMT

The MND VMT analysis was done on April 3, 2023 with a February 29, 2019 version of the San Jose VMT Evaluation Tool. I redid the analysis with a newer Tool Version 3 dated April 2023. With the newer Tool, the area VMT, project VMT, and VMT reduction numbers are significant and exceed the threshold(s). Figures 2-3 compare the VMT summary graphics from the MND vs. the newer Tool.

Figure 2: 2019 Tool Output for Office Employment (MND, Appendix H, PDF p. 70 of 155)

EMPLOYMENT ONLY

The tool estimates that the project would generate per non-industrial worker VMT below the City's threshold. There are selected strategies that require coordination with the City of San Jose to implement.

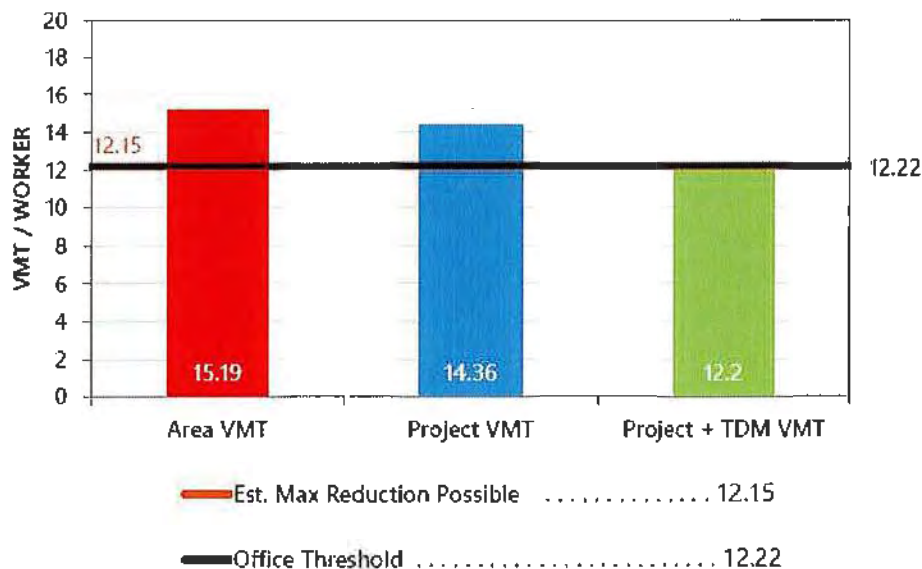
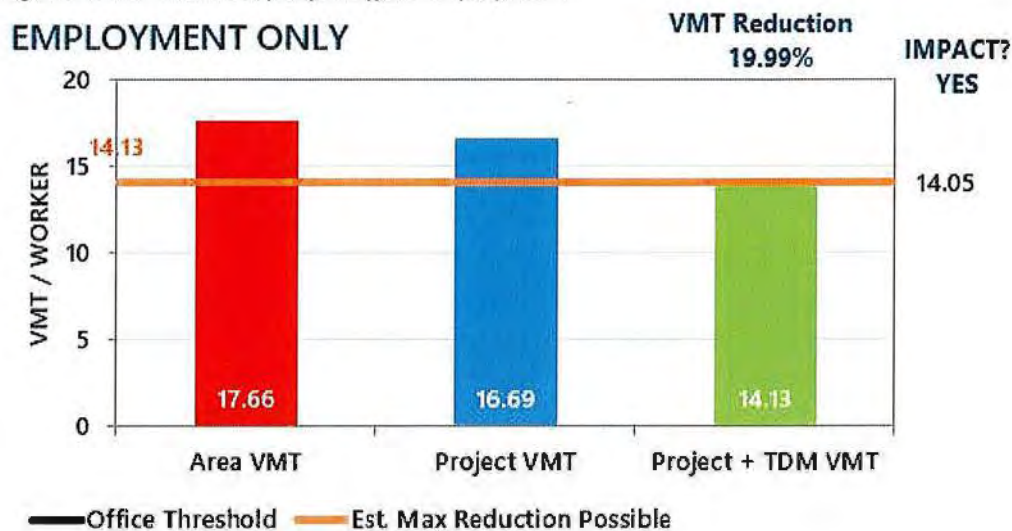


Figure 3: 2023 Tool Output for Office Employment



As shown in the figures above, for office (R&D) employment, the proposed mitigation is just sufficient to meet the VMT threshold with the older Tool, but not sufficient with the newer version of the Tool. Figure 3, with the new Tool, shows a 19.99 percent reduction in VMT to 14.13 which is higher than the threshold of 14.05 and the Tool shows "IMPACT? YES."

The MND's proposed mitigation measures would not be sufficient to reduce the VMT below the threshold. First, increasing the percentage of employees participating in the two TDM measures beyond the 25% level assumed in the MND does not reduce VMT in the Tool; the maximum VMT reduction for those two measures has been achieved at the 25% level. Furthermore, adding other mitigation measures also fails to reduce VMT in the Tool. It appears that the combination of the two mitigation measures represents the maximum mitigation possible with the tool.

The Required VMT Mitigation is Uncertain and Will Be Very Hard to Achieve

The MND states:

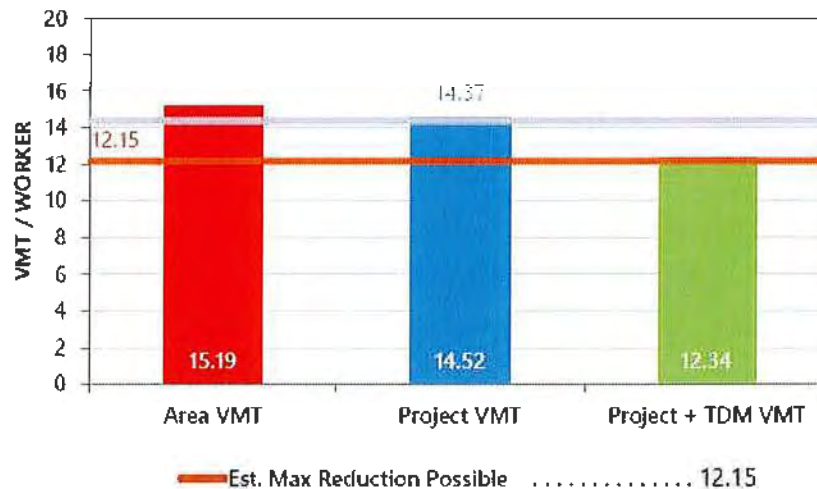
The TDM measures must be incorporated within a TDM plan for the project and submitted to the City for approval. The applicant will need to work with the City to ensure the TDM measures are implemented by the building tenants or identify other TDM measures deemed appropriate for the building uses. Therefore, the ultimate TDM measures may differ from those identified above so long as the measures meet the required VMT reduction of 5.4 percent for warehouse uses and 19.6 percent for R&D uses and are approved by City staff. (MND, Appendix H, PDF p. 7 of 155)

The "5.4 percent" value for warehouse uses is wrong. As seen in the graph summary provided in MND Appendix H, reproduced below as Figure 4, a 15 percent reduction (after area adjustments) is required to just reduce the project VMT from 14.52 to the threshold of 12.22.

Figure 4: 2019 Tool Output for Industrial Employment (MND, Appendix H, PDF p. 66 of 155)

EMPLOYMENT ONLY

The tool estimates that the project would generate per non-industrial worker VMT below the City's threshold. There are selected strategies that require coordination with the City of San Jose to implement.



Over 90 percent of the VMT reduction in the 2023 Tool is achieved with the vanpool measure. The MND assumes that 25 percent of employees will commute by company-paid vanpool. However, with an unidentified tenant and building use, this assumption is wildly optimistic and likely impossible to achieve. Mitigation should be replanned with a more plausible set of measures.

Monitoring Proposed in MND Does Not Sufficiently Measure VMT and Must Be Replaced

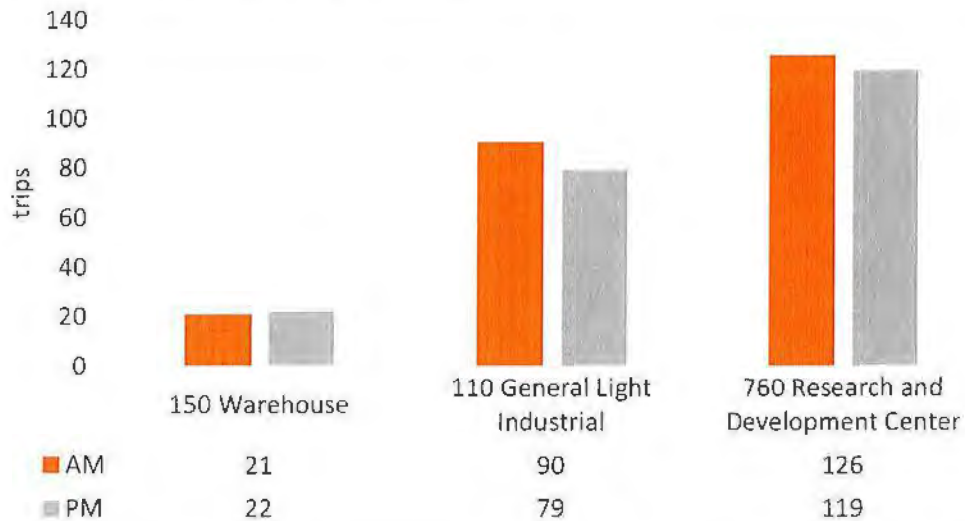
The current monitoring approach proposed in the MND lacks sufficient capability to accurately measure VMT and needs to be replaced. Instead of focusing solely on counting trips, the monitoring process should encompass each of the VMT-reducing measures identified in the MND's proposed mitigation. With the mitigation listed in the MND, the most important element is the vanpools. The actual percentage of employees that will use the vanpool should be compared to the TDM plan.

The MND instead proposes VMT monitoring based on counting trips:

The TDM plan shall be submitted to the Director of Public Works or Director's designee and the Director of Planning, Building and Code Enforcement or the Director's designee and shall include a trip cap for VMT monitoring purposes. The trip cap shall be prepared by a traffic engineer. *The monitoring shall be based on annual trip generation counts* that demonstrate the vehicle trips generated by the project are within 10 percent of an established peak hour trip cap that is prepared by a traffic engineer. The annual trip monitoring reports shall be submitted that demonstrate that project-generated VMT is below the significance threshold. If the annual trip monitoring report finds that the project is exceeding the established trip cap, the project shall be required to submit a follow-up report that demonstrates compliance with the trip cap requirements within a period not to exceed six months. (MND, p. 11, emphasis added)

Figure 5 shows weekday morning and afternoon peak hour period trips for the different land uses discussed in the MND.

Figure 5: Trip Generation Rates for Warehouse, Light Industrial and R&D Uses from Institute of Transportation Engineers (“ITE”) – Latest Edition



Baseline trip generation rate estimated from data from other sites gives only a crude estimate of trip generation for any particular project. As shown in Figures 1 and 5, there are large differences between categories. There is also great variation in the rates for each category. Actual project trip generation could be significantly higher or lower than the baseline estimate. This difference between baseline estimates and actual trips provides no information about VMT mitigation.

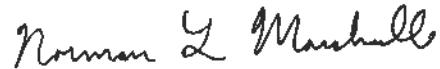
If actual project trips could be counted prior to mitigation, this would provide a better baseline, but would still be insufficient. This approach would require holding off on mitigation until this baseline was established and would undermine mitigation efforts.

Even if it were possible to develop an accurate trips baseline, this would not provide an accurate basis for assessing VMT mitigation. A 20 percent reduction in trips does not directly translate into a 20 percent decrease in VMT. Some of the trip reduction could come from shorter trips--e.g. shifting trips to walking and bike modes with only a small VMT effect--and some of the trip reduction could come from longer trips--e.g. vanpooling with a larger VMT effect. The VMT Evaluation Tool is designed to assess interactions between trips and trip lengths. Measuring trips alone cannot do this.

If an unrealistically high trip generation rate is used as the baseline, such as using the R&D rate (as is the case in the MND) when the building ultimately is designated as a warehouse, the resulting trip count is likely to fall significantly below that high baseline, even if there is no VMT mitigation. Therefore, the proposed VMT mitigation measures would become practically irrelevant.

Once the VMT mitigation program has been finalized, monitoring must account for each of the VMT-reducing measures. With the mitigation listed in the MND, the most important element is the vanpools. The actual percentage of employees should be compared to the TDM plan. Each of the other TDM measures should be audited similarly.

Sincerely,

A handwritten signature in black ink that reads "Norman L. Marshall". The signature is written in a cursive style with a large, stylized 'N' and 'M'.

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: (33 Years, 19 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.

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

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 additional 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.

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 Caroline 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)



HEXAGON TRANSPORTATION CONSULTANTS, INC.

Embedded Way Industrial Development

Draft Transportation Demand Management (TDM) Plan

Prepared for:

David J. Powers & Associates, Inc.

May 30, 2023

Hexagon Transportation Consultants, Inc.

Hexagon Office: 8070 Santa Teresa Boulevard, Suite 230

Gilroy, CA 95020

Hexagon Job Number: 22LD09

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1.

Introduction

Transportation Demand Management (TDM) is a combination of services, incentives, facilities, and actions that reduce single-occupant vehicle (SOV) trips and resulting vehicle miles traveled (VMT) to help relieve traffic congestion and air pollution problems. The purpose of TDM is to (1) reduce the amount of trips and resulting VMT generated by new development; (2) promote more efficient utilization of existing transportation facilities and ensure that new developments are designed to maximize the potential for sustainable transportation usage; and (3) establish an ongoing monitoring and enforcement program to guarantee the desired trip reductions are achieved.

This TDM plan has been prepared for the proposed development at on the north side of Embedded Way between Coyote Creek and Hellyer Avenue. The Transportation Analysis dated April 3, 2023 completed for the proposed project indicates that the project would result in an impact on the transportation system based on the City's VMT impact criteria. Per the completed Transportation Analysis, the project will be required to implement the following multi-modal facility improvements to reduce the identified significant VMT impact:

- Provide Pedestrian Network Improvements for Active Transportation (Tier 2 – Pedestrian Access Improvements): Implement pedestrian improvements both on-site and in the surrounding area. Improving pedestrian connections encourages people to walk instead of driving and reduces VMT. The project will be required to remove the pork-chop islands on the southwest and northwest corners at the Embedded Way and Hellyer Avenue intersection to improve pedestrian safety and access. This improvement will require a signal modification at this intersection that will include the relocation of signal poles, heads, and crosswalks. **and**
- Provide Traffic Calming Measures (Tier 2 – Traffic Calming Measures): Implement pedestrian/bicycle safety and traffic calming measures both on-site and in the surrounding neighborhood. Providing traffic calming measures promotes walking and biking as an alternative to driving. The project will be required to install raised median islands along Embedded Way consisting of a 120-foot segment at its western terminus and a 190-foot segment near the Embedded Way and Hellyer Avenue intersection.

In addition, the project must implement Travel Demand Management (TDM) measures that may include the following:

- Commute Trip Reduction Marketing/Education: Implement marketing/educational campaigns that promote the use of transit, shared rides, and travel through active modes for 25% of the project

employees. Strategies may include the incorporation of alternative commute options into new employee orientations, event promotions, and publications.

- Subsidize Vanpool: Provide subsidies for individuals forming new vanpools for their commute. This encourages the use of vanpools, reducing drive-alone trips, and thereby reducing VMT. The project would be required to subsidize 100% of the cost of the vanpool cost with at least 25% employee participation.

This TDM plan must be submitted to the City for approval. The applicant will need to work with the City to ensure the TDM measures are implemented by the building tenants or identify other TDM measures deemed appropriate for the building uses. Therefore, the ultimate TDM measures may differ from those identified above so long as the measures meet the required VMT reduction and are approved by City staff.

Project Description

The proposed project consists of a 121,850-square-foot (s.f.) industrial building on an approximately ten-acre vacant site. Since a tenant and use of the proposed building have yet to be identified, the applicant for the Transportation Analysis was completed for two tenant use alternatives to allow for the flexibility to utilize the building with either warehouse, industrial, or research & development (R&D) uses. The TA study included the evaluation of the proposed 121,850 s.f. of building space as both R&D and industrial space.

Direct access to the project site would be provided via an existing full-access driveway located at the western terminus of Embedded Way. However, the project's surface lots, and drive aisles, would connect to the adjoining property along its eastern frontage (5325 Hellyer Avenue). Therefore, there would also be additional access points at existing driveways along Hellyer Avenue (right-in/right-out only) and Embedded Way (full-access). A total of 299 vehicular parking spaces are proposed on-site. The on-site parking will consist of 179 new parking spaces as well as 120 existing spaces that will be dedicated for project use per a development agreement with adjacent properties (*Declaration of Covenants, Conditions, Restrictions and Easements for Edenvale Technology Park, Article 2 Project Easements, July 2018*).

The project site location and the surrounding study area are shown in Figure 1. The project site plan is shown in Figure 2.

Report Organization

The remainder of this report is divided into two chapters. Chapter 2 describes the existing transportation facilities and services in the vicinity of the project site. Chapter 3 describes the TDM measures that would be implemented for the proposed project, including the program for implementing and monitoring the TDM plan.

Figure 1
Project Site Location

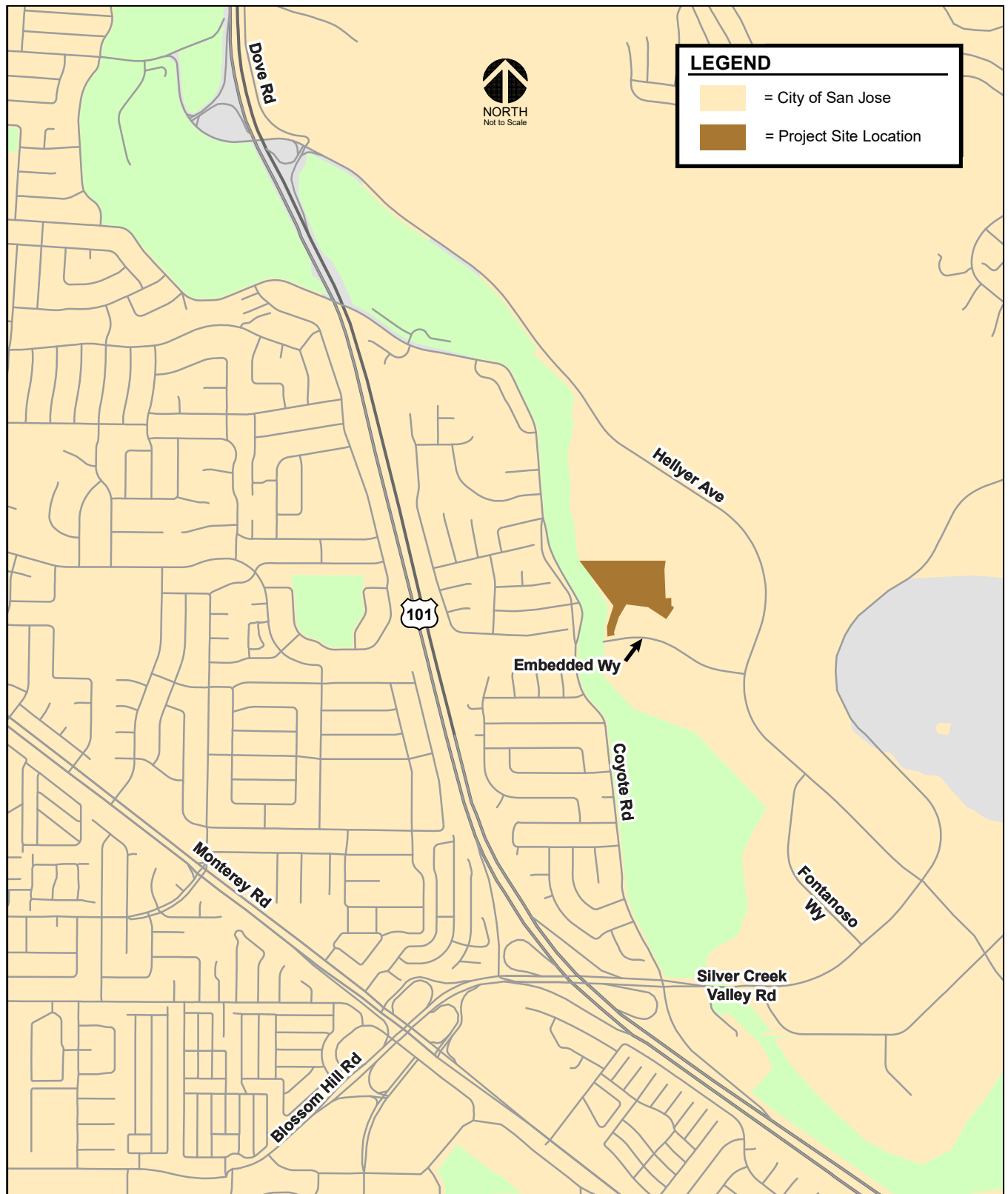
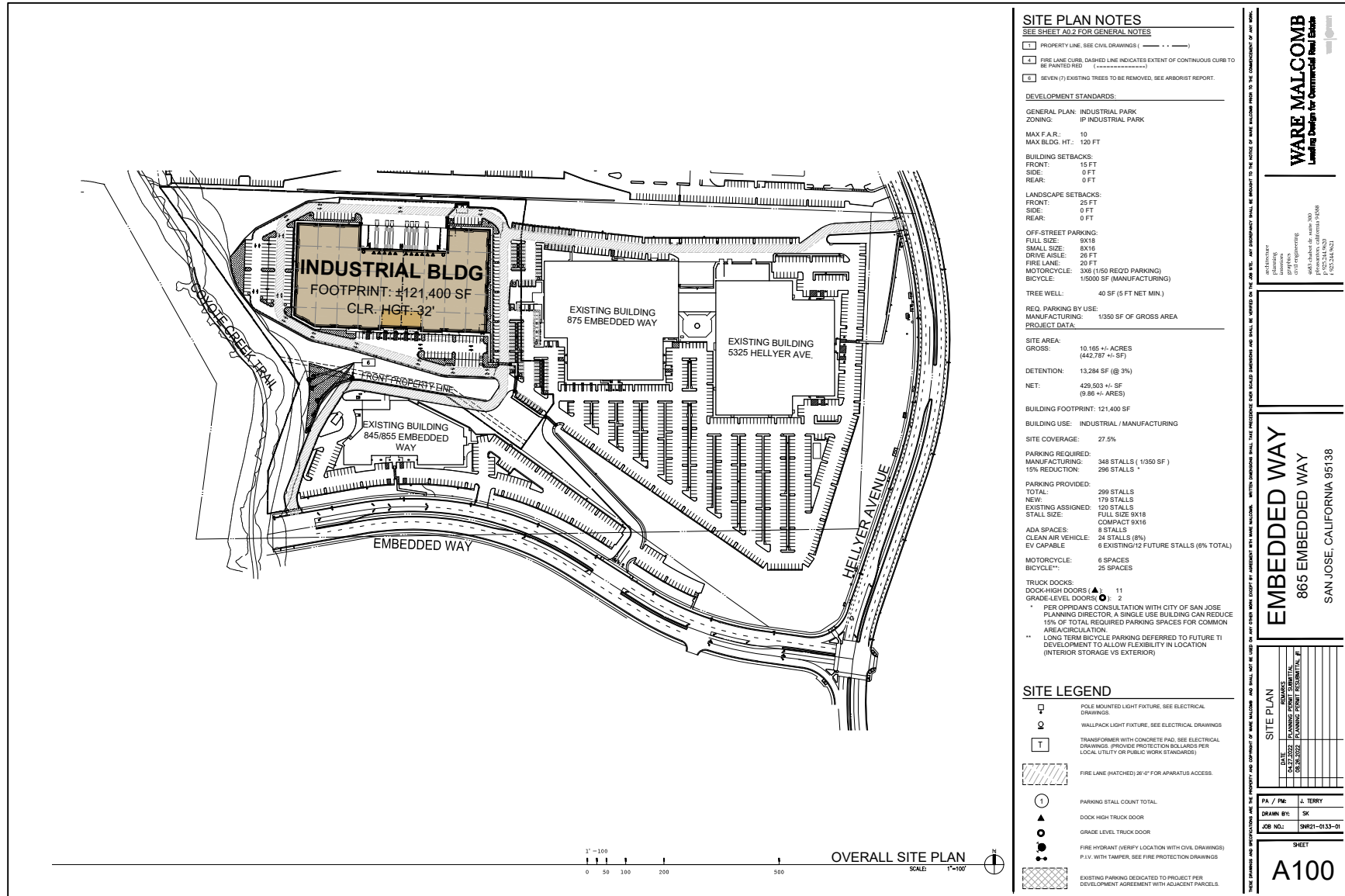


Figure 2
 Project Site Plan



2. Existing Transportation Facilities and Services

Transportation facilities and services that support sustainable modes of transportation include commuter rail, buses and shuttle buses, bicycle facilities, and pedestrian facilities. This chapter describes the existing and future transit services, as well as bicycle and pedestrian facilities, in the vicinity of the project site.

Existing Bicycle and Pedestrian Facilities

All new development projects in San Jose should encourage multi-modal travel, consistent with the goals of the City's General Plan. It is the goal of the General Plan that all development projects accommodate and encourage the use of non-automobile transportation modes to achieve San Jose's mobility goals and reduce vehicle trip generation and vehicle miles traveled. In addition, the adopted City Bike Master Plan establishes goals, policies, and actions to make bicycling a daily part of life in San Jose. The Master Plan includes designated bike lanes along many City streets, including designated bike corridors. In order to further the goals of the City, pedestrian and bicycle facilities should be encouraged with new development projects.

Note that the City's General Plan identifies both walk and bicycle commute mode split targets as 15 percent or more for the year 2040. This level of pedestrian and bicycle mode share is a reasonable goal for the project, particularly if LRT and bus services are utilized in combination with bicycle commuting. The existing bicycle, pedestrian, and transit facilities in the study area are described below.

Existing Pedestrian Facilities

Pedestrian facilities consist of sidewalks and crosswalks in the project vicinity, as well as the Coyote Creek Trail. Crosswalks with pedestrian signal heads and push buttons are located at all the signalized intersections in the study area. In the project vicinity, there are sidewalks along both sides of Hellyer Avenue, Embedded Way, and Fontanoso Way. There are existing crosswalks and accessible ramps at the signalized intersections of Hellyer Avenue/Embedded Way and Hellyer Avenue/Fontanoso Way.

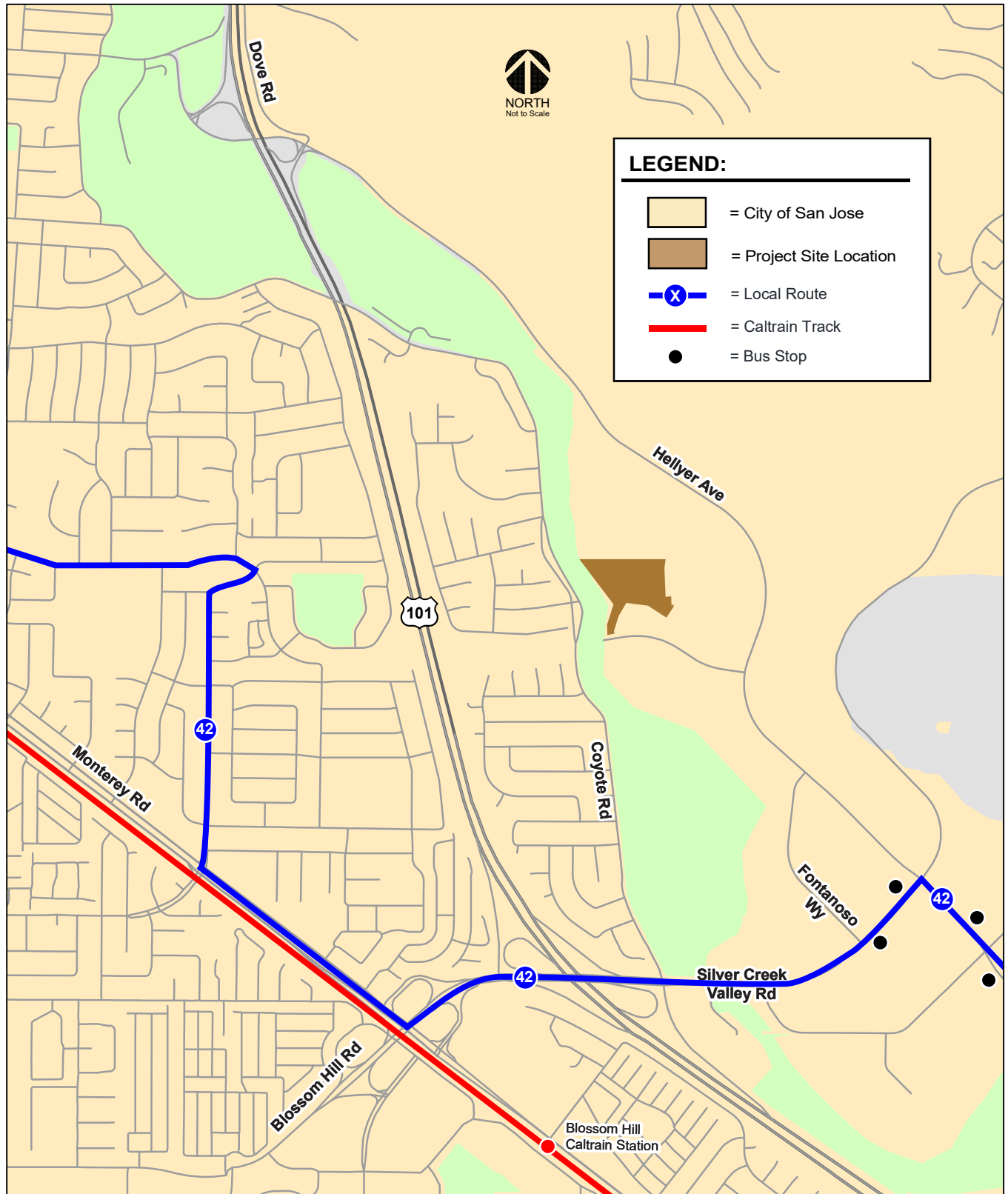
Existing Bicycle Facilities

The existing bicycle facilities in the project vicinity include Class II bike lanes and Class III bike routes (see Figure 3).

Figure 3
Existing Bicycle Facilities



Figure 4
Existing Transit Facilities



Class I Bikeway (Trail or Path). Class I bikeways are off-street trails or paths with exclusive right-of-way for nonmotorized transportation used for commuting as well as recreation. The Coyote Creek Trail is one of the longest trail systems extending from the Bay to the City's southern boundary. The northern portion of the trail system runs from SR 237 to Montague Expressway. A short downtown portion travels through Selma Olinder Park. The southern portion begins at Tully Road and extends southward through county jurisdiction and reaches Morgan Hill. The closest trail access is provided at the west end of Embedded Way, approximately 900 feet from the project site. The trail actually borders the site on the west side, but there's a steep slope between the site and the trail that presently prevents direct access along that border.

Class II Bikeway (Bike Lane). Class II bikeways are striped bike lanes on roadways that are marked by signage and pavement markings. Within the vicinity of the project site, striped bike lanes are present on the following roadway segments:

- Hellyer Avenue, between the US 101 northbound ramps and Silicon Valley Road
- Silver Creek Valley Road, between the US 101 northbound ramps and Yerba Buena Road
- Embedded Way, along its entire length

Existing Transit Service

Existing transit services to the study area are provided by the Santa Clara Valley Transportation Authority (VTA) and Caltrain. The transit stations and VTA bus routes within walking distance of the project site are shown in Figure 4.

VTA Bus Services

The project site is served by VTA Local Bus Route 42. Route 42 travels along Silver Creek Valley Road, Hellyer Avenue, and Silicon Valley Boulevard in the project vicinity and provides service between Evergreen Valley College and Kaiser San Jose. Route 42 runs on 60-minute headways between 6:00 AM and 7:00 PM and provides service to the Blossom Hill Caltrain station. Local Route 42 has stops just west of the intersection of Silver Creek Valley Road and Hellyer Avenue, about 0.9 miles from the project site.

Caltrain Services

Commuter rail service between San Francisco and Gilroy is provided by Caltrain. The Blossom Hill Caltrain Station is located at the Monterey Road/Ford Road intersection, approximately 1.15 miles southwest of the project site. A pedestrian bridge to access the station is provided between Great Oaks Boulevard and Monterey Road. The associated Park-and-Ride lot is located on the southeast corner of the intersection of Monterey Road and Ford Road. The Blossom Hill Caltrain Station is served by two northbound trains in the morning commute period with 30-minute headway and two southbound trains in the evening commute period with 90-minute headway.

3.

VMT Impacts and Mitigation Measures

Per the VMT analysis completed for the project, the mitigation of the project's impacts to VMT will include both physical multi-modal improvements to the transportation system and implementation of TDM measures. Therefore, the project also will be required to complete annual TDM monitoring to ensure that its peak hour trip cap as established by the City is not exceeded. The project's impacts on VMT and required mitigation are discussed below.

Project VMT Impacts and Mitigation Measures

Per Council Policy 5-1, the effects of the proposed project on VMT were evaluated in the Transportation Analysis dated April 3, 2023 using the methodology outlined in the City's *Transportation Analysis Handbook*. The results of the VMT evaluation, using the City's VMT Evaluation Tool, indicate that the project is located within a high-VMT area for industrial employment, and it is projected to generate VMT per industrial employee which would exceed the City's established VMT impact threshold. Therefore, the project would result in an impact on the transportation system based on the City's VMT impact criteria.

Project Impact: The use of the proposed building for warehouse/industrial uses is projected to generate 15.12 VMT per employee, which would exceed the established impact threshold of 14.37 VMT per employee for industrial employment uses. The use of the proposed building for R&D uses is projected to generate 14.95 VMT per employee, which would exceed the established impact threshold of 12.21 VMT per employee for office employment uses. Therefore, the project would result in an impact on the transportation system based on the City's VMT impact criteria with the use of the proposed building as warehouse/industrial and R&D uses, and mitigation measures are required to reduce the VMT impact.

Mitigation Measures: Per the completed Transportation Analysis, the project will be required to implement the following multi-modal facility improvements to reduce the project's VMT impact to less than significant levels for the use of the proposed building as either warehouse/industrial or office uses:

- **Provide Pedestrian Network Improvements for Active Transportation (Tier 2 – Pedestrian Access Improvements):** Implement pedestrian improvements both on-site and in the surrounding area. Improving pedestrian connections encourages people to walk instead of driving and reduces VMT. The project will be required to remove the pork-chop islands on the southwest and northwest corners at the Embedded Way and Hellyer Avenue intersection to improve pedestrian

safety and access. This improvement will require a signal modification at this intersection that will include the relocation of signal poles, heads, and crosswalks. **and**

- Provide Traffic Calming Measures (Tier 2 – Traffic Calming Measures): Implement pedestrian/bicycle safety and traffic calming measures both on-site and in the surrounding neighborhood. Providing traffic calming measures promotes walking and biking as an alternative to driving. The project will be required to install raised median islands along Embedded Way consisting of a 120-foot segment at its western terminus and a 190-foot segment near the Embedded Way and Hellyer Avenue intersection.

The implementation of the Tier 2 mitigation measures described above would reduce the VMT generated by the warehouse/industrial uses to 14.52 per employee and 14.36 per office employee which would both still be greater than the established impact thresholds. The project's VMT could be reduced further with the implementation of Travel Demand Management (TDM) measures that may include the following:

- Commute Trip Reduction Marketing/Education: Implement marketing/educational campaigns that promote the use of transit, shared rides, and travel through active modes for 25% of the project employees. Strategies may include the incorporation of alternative commute options into new employee orientations, event promotions, and publications.
- Subsidize Vanpool: Provide subsidies for individuals forming new vanpools for their commute. This encourages the use of vanpools, reducing drive-alone trips, and thereby reducing VMT. The project would be required to subsidize 100% of the cost of the vanpool cost with at least 25% employee participation.

The implementation of Tier 2 mitigation measures and TDM plan would reduce the projected VMT to 12.34 VMT per employee for warehouse uses and 12.20 VMT per employee for office uses, which would reduce the project impact to less than significant for both uses of the proposed building.

The applicant will need to work with the City to ensure the TDM measures are implemented by the building tenants or identify other TDM measures deemed appropriate for the building uses. Therefore, the ultimate TDM measures may differ from those identified above so long as the measures meet the required VMT reduction of 5.4 percent for warehouse uses and 19.6 percent for R&D uses and are approved by City staff.

4. TDM Implementation and Monitoring

The primary purpose of the TDM plan is to reduce the VMT generated by the project by 5.4 percent for warehouse uses and 19.6 percent for R&D uses. Per Section 20.90.220 of the San Jose Code of Ordinances, monitoring will be necessary to ensure that the TDM measures are effective and continue to be successfully implemented.

Implementation

The project applicant must submit this TDM Plan to the City of San Jose and will be responsible for ensuring that the TDM elements are incorporated into the project. After the development is constructed and occupied, the project applicant needs to identify a TDM coordinator. It is assumed that the property manager for the project would be responsible for implementing the ongoing TDM measures. If the TDM coordinator changes for any reason, the City and tenants should be notified of the name and contact information of the new designated TDM coordinator.

Monitoring and Reporting

The TDM plan will need to be re-evaluated annually for the life of the project. The designated TDM coordinator will consult with City staff to ensure the monitoring and reporting meets the City's expectations. Monitoring will include the following components:

- Annual Vehicle Trip Generation Counts
- Annual Mode Share Survey
- Annual Monitoring Report

Annual Vehicle Trip Generation Counts

Annual trip generation counts must demonstrate the vehicle trips generated by the project are within 10% of an established peak hour trip cap and must be prepared by a traffic engineer. The peak hour trip cap will be based on the project's estimated gross project trips for its potential R&D uses consisting of 118 gross AM peak-hour trips and 111 gross PM peak-hour trips or 20 gross AM peak-hour trips and 21 gross PM peak-hour trips for warehouse/industrial uses. The gross project trips are identified in the project's Transportation Analysis dated April 3, 2023. If the counts show the project trip generation is higher than expected, then the TDM Plan may need to be altered or enhanced. If the project is not in conformance with the peak hour trip cap, the project may add additional TDM measures to lower the project's trip generation and meet the trip cap.

Annual Mode Share Survey

The annual survey would provide qualitative data regarding employee perceptions of the alternative transportation programs and perceptions of the obstacles to using an alternative mode of transportation. The annual survey would also provide quantitative data regarding the number of employees who utilize alternative modes of transportation (e.g., bike-to-work) to commute to work, including the frequency of use. The mode share survey results would measure the relative effectiveness of individual program components and facilitate the design of possible program enhancements.

Annual Monitoring Report

The property manager should submit annual reports to the City of San Jose for three years, and then upon request of the Zoning Administrator for the life of the project with the following information:

- Findings of the trip generation counts and mode share surveys.
- Effectiveness of individual program components from the annual mode share survey.
- A description of the TDM programs and services that were offered to tenants in the preceding year, with an explanation of any changes or new programs offered or planned.

MITIGATION MONITORING AND REPORTING PROGRAM

865 Embedded Way Project

File No. H22-022

April 2024



PREFACE


Section 21081.6 of the California Environmental Quality Act (CEQA) requires a Lead Agency to adopt a Mitigation Monitoring and Reporting Program (MMRP) whenever it approves a project for which measures have been required to mitigate or avoid significant effects on the environment. The purpose of the monitoring and reporting program is to ensure compliance with the mitigation measures during project implementation.

The Initial Study (IS)/Mitigated Negative Declaration (MND) prepared for the 865 Embedded Way Project concluded that the implementation of the project could result in significant effects on the environment and mitigation measures were incorporated into the proposed project or are required as a condition of project approval. This MMRP addresses those measures in terms of how and when they will be implemented.

The mitigation measures enumerated in this document would reduce the level of impact of potential environmental effects of the proposed action. In all cases, these mitigation measures would reduce the impact of any effects determined to be significant prior to mitigation to less-than-significant levels.

This document does *not* discuss those subjects for which the IS/MND concluded that the impacts from implementation of the project would be less than significant.

I, David Scott, the applicant, on the behalf of 865 Embedded Way Owner, LLC, hereby agree to fully implement the Mitigation Measures described below which have been developed in conjunction with the preparation of an IS/MND for my proposed project. I understand that these mitigation measures or substantially similar measures will be adopted as conditions of approval with my development permit request to avoid or significantly reduce potential environmental impacts to a less than significant level.

Project Applicant's Signature  _____

Date May 2, 2024 _____



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File No. H22-022

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CHRISTOPHER BURTON, DIRECTOR

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Biological Resources					
Impact BIO-1: While the project does not intend to remove or damage any Hall's bush mallow individuals, construction of the project could inadvertently, without proper precautions, result in impacts to Hall's bush mallow, a special-status plant species occurring within and outside the project development area.					
<p>MM BIO-1.1: Protect Hall's Bush Mallow Individuals During Construction. Prior to issuance of any grading or building permits, the project applicant shall prepare and submit construction plans clearly depicting all individual Hall's bush mallow (not including seedlings) and shall show construction-free buffers for individuals located within the project site to the Director of Planning, Building and Code Enforcement or the Director's designee.</p> <p>The project shall maintain construction-free buffers around individuals throughout the construction period to prevent incidental take of Hall's Bush Mallow individuals during construction activities. The radii of the buffers shall represent the maximum feasible distance between the individuals and proposed development activities. Based on the known locations of Hall's bush mallow individuals within the proposed</p>	<p>Prepare and submit construction plans clearly depicting all Hall's bush mallow mature individuals (not including seedlings) within the project area, show construction-free buffers for individuals located within the project site, provide a WEAP for all construction personnel on the locations of Hall's bush mallow, and maintain construction-free buffers around Hall's bush mallow throughout the construction period.</p>	<p>Prior to issuance of any grading or building permits; mark buffers in the field prior to initial ground disturbance or vegetation removal; buffers shall be maintained throughout the construction period.</p>	<p>Director of Planning, Building and Code Enforcement or Director's designee.</p>	<p>Approve the project construction plans and WEAP.</p>	<p>Prior to issuance of any grading or building permits.</p>



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development area, the maximum feasible radius for individuals within the proposed development area is four feet. Prior to initial ground disturbance or vegetation removal, the established buffers 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, and all construction personnel shall be trained through a Worker Environmental Awareness Program or WEAP) on the locations of these plants, how their locations and the surrounding buffer are marked, and how impacts on these plants are to be avoided (i.e., the entry of construction personnel and vehicles within the marked buffers shall be prohibited, and no storage of equipment or materials within the marked buffers shall occur). These requirements shall be printed on all approved plans for grading and construction.	Include requirements on all approved plans for grading and construction.				
MM BIO-1.2: Post-Construction Monitoring. Post-construction monitoring shall be conducted for a	A qualified biologist shall submit a three-sequential	Prior to the issuance of a	Director of Planning, Building and Code	Approve the post-construction	Prior to the issuance of a



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<p>period of three years after completion of construction activities to determine if MM BIO-1.1 successfully ensured the long-term survival of Hall's bush mallow individuals, or if indirect impacts of the project (e.g., dust mobilization, shading, and/or changes to hydrology) resulted in the death or decline in health of Hall's bush mallow plants.</p> <p>Monitoring shall be conducted annually by a qualified plant ecologist, consisting of a site visit conducted during the species' May to September flowering period, until the three year monitoring period is complete. A schedule for the flowering period surveys shall be prepared by the qualified plant ecologist and submitted to the Director of Planning, Building and Code Enforcement, or the Director's designee, for review and approval prior to the issuance of a grading permit or building permit, whichever occurs first. This schedule must include timing of the submittal of monitoring reports for the annual reports in the May to September flowering period, starting the first</p>	<p>year post-construction Hall's bush mallow flowering period (May to September) site monitoring visit schedule, conduct three annual surveys, and submit the annual reports documenting results.</p> <p>If the qualified plant ecologist determines that more than 10 percent of the 13 mature Hall's bush mallow population (i.e., more than one plant) within the project development area dies or declines substantially in health following completion of the project, MM BIO-1.3 shall be implemented. However, if at</p>	<p>grading permit or building permit, whichever comes first.</p> <p>Site visit surveys shall occur post-construction on a three-sequential year annual basis during the May to September flowering period.</p>	<p>Enforcement or Director's designee.</p>	<p>flowering period survey schedule and annual survey results</p>	<p>grading permit or building permit, whichever comes first.</p>



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<p>flowering period after issuance of the certificate of occupancy. A report documenting the survey results shall be submitted to the Director of Planning, Building and Code Enforcement, or the Director's designee, on an annual basis based on the approved schedule until monitoring is complete.</p> <p>If the qualified plant ecologist determines that more than 10 percent of the 13 mature Hall's bush mallow population (i.e., more than one plant) within the project development area dies or declines substantially in health following completion of the project, MM BIO-1.3 shall be implemented. However, if at least 90 percent of the mature Hall's bush mallow population (i.e., at least 12 plants) continues to be present and in good health three years following the completion of construction, no additional mitigation is required.</p>	<p>least 90 percent of the mature Hall's bush mallow population (i.e., at least 12 plants) continues to be present and in good health three years following the completion of construction, then MM BIO-1.3 is not required.</p>				
<p>MM BIO-1.3: Create or Enhance, Preserve, and Manage Mitigation Populations. If more than 10 percent of the site population would be impacted</p>	<p>If more than 10 percent of the site population would be impacted despite the</p>	<p>After construction for a period of 10 consecutive years if</p>	<p>Director of Planning, Building and Code</p>	<p>Review and approval of the HMMP.</p>	<p>After construction for a period of 10</p>



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<p>despite the implementation of MM BIO-1.1, compensatory mitigation shall be provided by the property owner to increase the size of an existing population, or the creation and management of a new population to offset the impact. The compensatory mitigation shall be provided via the preservation, enhancement, and management of occupied habitat for the species as follows:</p> <p>(1) If mitigation occurs through enhancement of an existing population, then on-site or off-site habitat occupied by the affected species shall be enhanced (e.g., through focused management for the species in question) to increase the number of individuals present. Mitigation may occur on-site if a qualified biologist identifies a location on the project site with sufficient available area to support the plants as well as suitable habitat conditions (e.g., slope, soils, lack of shading, and other factors) in the context of site conditions following project construction. If no locations on the site are suitable, off-site mitigation would be necessary. The increase in numbers shall be</p>	<p>implementation of MM BIO-1.1, the project applicant shall provide compensatory mitigation via the preservation, enhancement, and management of occupied habitat for the species to increase the size of an existing population, or the creation and management of a new population to offset the impact. A HMMP shall be developed by qualified plant or restoration ecologists and implemented for the mitigation lands for a minimum of 10 years. The HMMP shall be provided to the Director of Planning, Building and Code</p>	<p>the qualified plant ecologist determines through annual surveys required by MM BIO-1.2 that more than 10 percent of the 13 mature Hall's bush mallow population (i.e., more than one plant) within the project development area dies or declines substantially in health.</p>	<p>Enforcement, or the Director's designee.</p>		<p>years if the qualified plant ecologist determines through annual surveys required by MM BIO-1.2 that more than 10 percent of the 13 mature Hall's bush mallow population (i.e., more than one plant) within the project development area dies or declines substantially in health.</p>



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<p>at least twice the number of individuals impacted (i.e., a 2:1 mitigation: impact ratio). The permanent preservation and management of these mitigation lands shall be ensured through an appropriate mechanism, such as a conservation easement or fee title purchase.</p> <p>(2) Areas proposed to be preserved and enhanced as compensatory mitigation for impacts to Hall's bush mallow must contain extant populations of the species (as verified by a qualified plant ecologist), or in the event that expansion or establishment of a new population is selected, the area must contain sufficient suitable habitat to support the new mitigation population as determined by a qualified plant ecologist. Verification of the presence of suitable habitat shall be performed by a qualified plant ecologist at any time prior to establishment of the mitigation. Mitigation areas shall be permanently preserved and managed to encourage persistence and even expansion of this species. Mitigation lands cannot be located on land that is currently held</p>	<p>Enforcement, or the Director's designee for approval. The applicant shall fund the management and monitoring of the mitigation site at least until the success criteria are achieved.</p>				



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<p>publicly for resource protection unless substantial enhancement of habitat quality will be achieved by the mitigation activities, as determined by a qualified plant ecologist. The mitigation habitat shall 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. At the time the mitigation is established, the mitigation habitat shall contain sufficient habitat to support at least twice as many individuals as are impacted, as determined by a qualified plant ecologist. The permanent protection and management of mitigation lands shall be ensured through an appropriate mechanism, such as a conservation easement or fee title purchase.</p> <p>A habitat mitigation and monitoring plan (HMMP) shall be developed by qualified plant or restoration ecologists and implemented for the mitigation lands for a minimum of 10 years. That plan shall include, at a minimum, the following information:</p>					



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<ul style="list-style-type: none"> • A summary of impacts to Hall's bush mallow, including impacts to its habitat, 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, or other appropriate methods such as grazing, prescribed burns, planting native species, or mowing) 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, who will take into account factors such as genetics and the spread of pathogens, such as Phytophthora); 					



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<p>Proposed management activities to maintain high-quality habitat conditions for the species;</p> <ul style="list-style-type: none"> • 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 10 years 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). The duration of the monitoring activities (a minimum of 10 years, as stated above) shall ultimately be determined by the qualified plant or restoration 					



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<p>ecologist based on the number of years that are necessary to ensure that the mitigation is successful;</p> <ul style="list-style-type: none"> • The new population must contain at least twice the number of impacted individuals, by year 10, as determined by a qualified plant ecologist. If year 10 is a poor weather year for summer and fall-blooming annual plants and reference populations show a decline, this criteria can be measured in the next year occurring with average or better rainfall; and • Contingency measures for mitigation elements that do not meet performance criteria. For example, if by year 10 (or the next suitable rainfall year after year 10) of monitoring, the project is unable to establish a self-sustaining population of the required number of individuals as described above, the applicant shall create and manage an extant population of that same species in order to achieve the success criteria under a revised HMMP. The ultimate performance criteria for the revised HMMP shall be unchanged, but the methods used to achieve the criteria may 					



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<p>change, and additional land may need to be purchased.</p> <p>The HMMP shall be provided to the Director of Planning, Building and Code Enforcement, or the Director's designee for approval. The applicant shall fund the management and monitoring of the mitigation site at least until the success criteria are achieved; if the applicant sells the land or its interest in the project and its mitigation, they must provide the City financial assurances that they shall satisfy their mitigation obligations.</p>					
Impact BIO-2: The project's ground disturbing activities including grading, construction activities, and tree removal during the nesting season could impact migratory birds and raptors, including the Yellow Warbler and White-Tailed Kite.					
MM BIO-2.1: Avoidance. The project applicant shall schedule ground-disturbing and construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st (inclusive).	Avoid construction activities during the nesting season from February 1st through August 31st inclusive.	Schedule construction between September 1 through January 31 inclusive.	Director of Planning, Building, and Code Enforcement or Director's designee.	Confirm that construction activities are scheduled outside of the nesting season.	Prior to the issuance of any grading permits (whichever occurs first).



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MM BIO-2.2: Nesting bird surveys. If it is not possible to schedule construction activities and/or tree removal between September 1 and January 31, preconstruction surveys for nesting birds shall be conducted by a qualified ornithologist to ensure that no nests shall be disturbed during project implementation. These surveys shall be conducted no more than seven days prior to the initiation of demolition or construction activities, including tree removal and pruning. During this survey, the ornithologist shall inspect all trees and other potential nesting habitats (e.g., trees, shrubs, ruderal grasslands, buildings) in and immediately adjacent to the impact areas for nests.	If construction activities are initiated during the nesting season between February 1- August 31, inclusive, a qualified ornithologist shall complete pre-construction surveys no more than seven days prior to the start of construction activities.	The pre-construction surveys shall be completed no more than seven days prior to the initiation of construction activities.	Director of Planning, Building, and Code Enforcement or Director's designee.	Review and approve the pre-construction surveys.	Prior to any tree removal or the issuance of any grading permits (whichever occurs first).
MM BIO-2.3: Buffer zones. If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist shall determine the extent of a construction free buffer zone to be established around the nest, typically 300 feet for raptors and 100 feet for other species, to ensure that	If an active nest is found, a qualified ornithologist shall establish a construction free buffer zone and submit a report of the findings and the buffer zone to the	Prior to any tree removal or the issuance of any grading and/or building permit	Director of Planning, Building, and Code Enforcement or Director's designee.	Review and approve the construction free buffer zone.	Prior to any tree removal or the issuance of any grading permits (whichever occurs first).



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raptor or migratory bird nests shall not be disturbed during project construction.	Director of Planning, Building, and Code Enforcement or Director's designee.	(whichever occurs first).			
MM BIO-2.4: Reporting. Prior to any tree removal, or approval of any grading permits (whichever occurs first), the project applicant shall submit the ornithologist's report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning, Building and Code Enforcement, or the Director's designee.	Submit the ornithologist's report indicating the results of the survey and any designated buffer zones to the City's Director of PBCE or the Director's designee.	Prior to any tree removal or the issuance of grading permit (whichever occurs first).	Director of Planning, Building, and Code Enforcement or Director's designee.	Review and approve the pre-construction survey report and designated buffer zones.	Prior to any tree removal or the issuance of any grading permits (whichever occurs first).
Impact BIO-3: The project would increase lighting near the Coyote Creek which could have a substantial adverse effect through habitat modifications on wildlife species that inhabit or occur along Coyote Creek s which are identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS.					
MM BIO-3.1: Prior to the issuance of building permits, the project shall demonstrate the implementation of the following measures to minimize the lighting impacts on wildlife species using or near Coyote Creek:	Submit a lighting plan demonstrating compliance with the specified requirements shall be submitted to the Director of Planning, Building and Code	Prior to issuance of any building permits.	Director of Planning, Building, and Code Enforcement or Director's designee.	the lighting plan.	Prior to issuance of any building permits.



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<ul style="list-style-type: none"> • All exterior lighting shall be fully shielded to block illumination from shining outward towards Coyote Creek • Exterior light fixtures shall comply with lighting zone LZ-2, Moderate Ambient, as recommended by the International Dark-Sky Association (2011) for light commercial business districts and high-density or mixed-use residential districts. The allowed total initial luminaire lumens for the project site is 2.5 lumens per square foot of hardscape, and the BUG rating for individual fixtures shall not exceed B3 or G2, as follows: <ul style="list-style-type: none"> ○ B3: 2,500 lumens high (60–80 degrees), 5,000 lumens mid (30–60 degrees), 2,500 lumens low (0–30 degrees) ○ G2: 225 lumens (forward/back light 80–90 degrees), 5,000 lumens (forward 60–80 degrees), 1,000 lumens (back light 60–80 degrees asymmetrical fixtures), 5,000 lumens (back light 60–80 degrees quadrilateral symmetrical fixtures) 	Enforcement, or the Director's designee.				



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<ul style="list-style-type: none"> Exterior lighting shall be minimized from 10 p.m. until sunrise, except as needed for safety and City code compliance. (i.e., the total outdoor lighting lumens shall be reduced by at least 30 percent or extinguished, consistent with recommendations from the International Dark-Sky Association [2011]). <p>A lighting plan demonstrating compliance with these requirements shall be submitted to the Director of Planning, Building and Code Enforcement, or the Director's designee, for review and approval prior to issuance of building permits.</p>					
Cultural Resources					
Impact CUL-1: Project construction activities could result in the accidental disturbance and/or destruction of undocumented archaeological resources due to the site's high sensitivity based on the proximity of the site to Coyote Creek and known archaeological sites in the project's vicinity.					
MM CUL-1.1: Treatment Plan. Prior to the issuance of any grading permits, a project-specific Cultural Resources Treatment Plan shall be prepared by a qualified archaeologist, in consultation with a qualified Native American monitor, registered with the Native American Heritage Commission (NAHC) for the City of San José and that is traditionally and culturally	Retain a qualified archaeologist and Native American Tribal representative to prepare a project-specific Cultural Resources Treatment Plan that includes details	Prior to issuance of any grading permits.	Director of Planning, Building, and Code Enforcement or Director's designee.	Review and approve the Cultural Resources Treatment Plan.	Prior to issuance of any grading permits.



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<p>affiliated with the geographic area. The Cultural Resources Treatment Plan shall reflect details pertaining to depths and locations of all ground disturbing activities. The Cultural Resources Treatment Plan shall be prepared and submitted to the Director of the City of San José Department of Planning, Building, and Code Enforcement or their designee prior to approval of any grading permits. The Treatment Plan shall contain, at a minimum:</p> <ul style="list-style-type: none"> • Identification of the scope of work and range of subsurface effects (including location map and development plan), including requirements for preliminary field investigations. • Description of the environmental setting (past and present) and the historic/prehistoric background of the parcel (potential range of what might be found). • Development of research questions and goals to be addressed by the investigation (what is significant vs. what is redundant information). 	<p>pertaining to depths and locations of all ground disturbing activities.</p>				



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<ul style="list-style-type: none"> Detailed field strategy used to record, recover, or avoid the finds and address research goals. Analytical methods. Report structure and outline of document contents. Disposition of the artifacts. Appendices: all site records, correspondence, and consultation with Native Americans, etc. 					
MM CUL-1.2: Investigation. Prior to issuance of any grading permits, the project applicant shall complete a preliminary field investigation program in conformance with the project-specific Cultural Resources Treatment Plan required under Mitigation Measure MM CUL-1.1. The locations of subsurface testing and exploratory trenching shall be determined prior to issuance of any grading permits based on the Cultural Resources Treatment Plan recommendations. A qualified archaeologist and a qualified Native American monitor, registered with the Native American Heritage Commission (NAHC) for the City of	Complete a preliminary field investigation that includes subsurface testing and exploratory trenching.	Prior to issuance of any grading permits.	Director of Planning, Building, and Code Enforcement or Director's designee.	Review and approve results of the field investigation.	Prior to issuance of any grading permits.



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<p>San José and that is traditionally and culturally affiliated with the geographic area, shall complete a presence/absence exploration. Results of the investigation shall be provided to the Director of the City of San José Department of Planning, Building, and Code Enforcement or their designee prior to issuance of any grading permit.</p> <p>If any finds were discovered during the preliminary field investigation, the project shall implement MM CUL-1.4 for evaluation and recovery methodologies. The results of the preliminary field investigation and program shall be submitted to the Director of the City of San José Department of Planning, Building, and Code Enforcement or their designee for review and approval prior to issuance of any grading permits.</p>					
<p>MM CUL-1.3: Construction Monitoring and Protection Measures. Although the data recovery and treatment program would be expected to recover potentially significant materials and information from the areas impacted by the project prior to grading, it is</p>	<p>A qualified archaeologist and a qualified Native American monitor shall monitor all ground-disturbing activities. Submit</p>	<p>During all ground disturbing activities.</p>	<p>Director of Planning, Building, and Code Enforcement or Director's designee.</p>	<p>Review and approve the qualifications of archaeologist and</p>	<p>During ground-disturbing activities.</p>



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<p>possible that additional resources could remain on-site. Therefore, all ground-disturbing activities (e.g., grading and excavation) shall be completed under the observation of a qualified archaeologist and a qualified Native American monitor, registered with the Native American Heritage Commission (NAHC) for the City of San José and that is traditionally and culturally affiliated with the geographic area.</p> <p>The qualified archaeologist or a qualified Native American monitor, registered with the NAHC for the City of San José and that is traditionally and culturally affiliated with the geographic area, shall have authority to halt construction activities temporarily in the immediate vicinity of an unanticipated find. If, for any reasons, the qualified archaeologist or a qualified Native American monitor, registered with the NAHC for the City of San José and that is traditionally and culturally affiliated with the geographic area, is not present, but construction crews encounter a cultural resource, all work shall stop temporarily within 50 feet</p>	<p>proof of contractual agreement and/or engagement with a qualified archaeologist or a qualified Native American monitor.</p> <p>Stop all ground-disturbing activities within a 50-foot radius if prehistoric or historic resources are encountered. Notify the Director of Planning, Building, and Code Enforcement or Director's designee when finds are encountered.</p>			Native American monitors.	



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<p>of the find until a qualified archaeologist in consultation with a qualified Native American monitor, registered with the NAHC for the City of San José and that is traditionally and culturally affiliated with the geographic area, has been contacted to determine the proper course of action. The Director of the City of San José Department of Planning, Building, and Code Enforcement or their designee shall be notified of any finds during the grading or other construction activities. Any human remains encountered during construction shall be treated according to the protocol identified in MM CUL-1.5.</p>					
<p>MM CUL-1.4: Evaluation and Data Recovery. The Director of the City of San José Department of Planning, Building, and Code Enforcement or their designee shall be notified of any finds during the preliminary field investigation, grading, or other construction activities. Any historic or prehistoric material identified in the project area during the preliminary field investigation and during grading or other construction activities shall be evaluated for</p>	<p>Notify the Director of Planning, Building, and Code Enforcement or Director's designee when finds are encountered.</p> <p>Complete data recovery of the find and evaluate the eligibility of the find for</p>	<p>During the preliminary field investigation, grading, or other construction activities.</p>	<p>Director of Planning, Building, and Code Enforcement or Director's designee.</p>	<p>Receive notification of any finds any finds during the preliminary field investigation, grading, or other construction activities.</p>	<p>During the preliminary field investigation, grading, or other construction activities.</p>



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<p>eligibility for listing as a Candidate City Landmark and/or in the California Register of Historic Resources. Data recovery methods may include, but are not limited to, backhoe trenching, shovel test units, hand auguring, and hand-excavation.</p> <p>The techniques used for data recovery shall follow the protocols identified in the project-specific Cultural Resources Treatment Plan. Data recovery shall include excavation and exposure of features, field documentation, and recordation.</p>	<p>listing as a Candidate City Landmark and/or in the California Register of Historic Resources.</p>				
<p>MM CUL-1.5: Site Security. At the discretion of the Director of the City of San José Department of Planning, Building, and Code Enforcement or the Director's designee, site fencing shall be installed on-site during the investigation, grading, building, or other construction activities to avoid destruction and/or theft of potential cultural resources if determined to be present on-site during investigation. The responsible qualified archaeologist, in consultation with a qualified Native American</p>	<p>Install site fencing on-site during the investigation, grading, building, or other construction activities to avoid destruction and/or theft of potential cultural resources, if encountered.</p>	<p>During the investigation, grading, building, or other construction activities.</p>	<p>Director of Planning, Building, and Code Enforcement or Director's designee.</p>	<p>Determine necessity for a security guard to be present at the site , and approve the installation of security fencing.</p>	<p>During the investigation, grading, building, or other construction activities.</p>



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<p>monitor, registered with the NAHC for the City of San José and that is traditionally and culturally affiliated with the geographic area, shall advise the Director of the City of San José Department of Planning, Building, and Code Enforcement or their designee as to the necessity for a guard. The purpose of the security guard shall be to ensure the safety of any potential cultural resources (including human remains) that are left exposed overnight. The Director of Planning, Building and Code Enforcement shall have the final discretion to authorize the use of a security guard at the project site.</p>					
<p>MM CUL-1.6: Final Reporting. Once all analyses and studies required by the project-specific Cultural Resources Treatment Plan have been completed, the project applicant, or representative, shall prepare a final report summarizing the results of the field investigation, data recovery activities and results, and compliance with the Cultural Resources Treatment Plan during all demolition, grading, building, and other</p>	<p>Prepare a final report summarizing the results of the field investigation, data recovery activities and results, and compliance with the Cultural Resources Treatment Plan.</p>	<p>After all analyses and studies required by the project-specific Cultural Resources Treatment Plan have been completed and</p>	<p>Director of Planning, Building, and Code Enforcement or Director's designee.</p>	<p>Review and approve report of findings.</p>	<p>Prior to issuance of any Certificates of Occupancy.</p>



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<p>construction activities (as applicable). 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 contents of the report shall be consistent with the protocol included in the project-specific Cultural Resources Treatment Plan. The report shall be submitted to the Director of Planning, Building, and Code Enforcement for review and approval prior to issuance of any Certificates of Occupancy. Once approved, the final documentation shall be submitted to the Northwest Information Center at Sonoma State University, as appropriate.</p>		<p>prior to issuance of any Certificates of Occupancy.</p>			
<p>MM CUL-1.7: Curation. Upon completion of the final report required by the project-specific Cultural Resources Treatment Plan, all recovered archaeological materials not identified as tribal cultural resources by the Native American monitor, shall be transferred to a long-term curation facility. Any curation facility used shall meet the standards outlined in the National Park Services' Curation of</p>	<p>Transfer all recovered archaeological materials not identified as tribal cultural resources to a long-term curation facility. Notify the Director of Planning, Building, and Code Enforcement or Director's</p>	<p>Prior to the issuance of any Certificates of Occupancy.</p>	<p>Director of Planning, Building, and Code Enforcement or Director's designee</p>	<p>Receive the final curation report containing information on the selected curation facility.</p>	<p>Prior to the issuance of any Certificates of Occupancy.</p>



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<p>Federally Owned and Administered Archaeological Collections (36 CFR 79). The project applicant shall notify the Director of the City of San José Department of Planning, Building, and Code Enforcement or their designee of the selected curation facility prior to the issuance of any Certificates of Occupancy. To the extent feasible, and in consultation with the Native American representative, all recovered Native American/tribal cultural resources and artifacts shall be reburied on-site in an area that is unlikely to be disturbed again. Treatment of materials to be curated shall be consistent with the protocols included in the project-specific Cultural Resources Treatment Plan.</p> <p>All archaeological materials recovered during the data recovery efforts shall be cleaned, sorted, catalogued, and analyzed following standard archaeological procedures, and shall be documented in a report submitted to the Director of Planning, Building and Code Enforcement and the Northwest Information Center at Sonoma State University.</p>	designee of the selected curation facility and prepare a final report for the Director of Planning, Building and Code Enforcement and the Northwest Information Center at Sonoma State University				



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MM CUL-1.8: Dignified and Respectful Treatment – Cultural Sensitivity Training Prior to Construction. Prior to issuance of any grading permits, the project applicant shall be required to submit evidence that an Archaeological Monitoring Contractor Awareness Training was held prior to ground disturbance for construction personnel. The training shall be facilitated by the project archaeologist in coordination with a Native American representative registered with the NAHC for the City and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3.	Submit evidence that an Archaeological Monitoring Contractor Awareness Training was held for all construction personnel prior to ground disturbance.	Prior to issuance of any grading permits.	Director of Planning, Building, and Code Enforcement or Director's designee.	Review and approve evidence that an Archaeological Monitoring Contractor Awareness Training was held for construction personnel prior to ground disturbance.	Prior to issuance of any grading permits.
Hazards and Hazardous Materials					
Impact HAZ-1: The surface and sub-surface soils on-site could be contaminated due to the presence of agricultural chemicals and naturally occurring asbestos (NOA) on-site. Implementation of the project could expose construction workers and adjacent land uses to residual agricultural soil contamination above commercial screening levels.					
MM HAZ-1.1: Prior to issuance of a grading permits, the project applicant shall retain a qualified environmental professional to complete a Phase II soil contamination investigation to evaluate past agricultural use and the potential for encountering asbestos. The Phase II shall include soil sampling and	Complete a Phase II soil contamination investigation to evaluate the potential for encountering agricultural chemicals and asbestos.	Prior to issuance of any grading permits.	Director of Planning, Building, and Code Enforcement or Director's designee including the Supervising	Review and approve the Phase II soil contamination investigation results.	Prior to issuance of any grading permits.



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analysis for asbestos in accordance with the California Air Resources Board (CARB) test method 435, organochlorine pesticides and pesticide-based metals, arsenic, and lead to determine if these chemicals are present above the regulatory environmental screening levels for construction worker safety and commercial/industrial uses. The results of the soil sampling and testing must be provided to the City's Supervising Environmental Planner of the City of San José Planning, Building, and Code Enforcement, and the Environmental Compliance Officer in the City of San José's Environmental Services Department.			Environmental Planner of the Planning, Building, and Code Enforcement, and the City's Environmental Compliance Officer		
MM HAZ-1.2: If the Phase II results indicate soil concentrations of pesticides or metals above the environmental screening levels, the applicant must obtain regulatory oversight from the Department of Toxic Substances Control, or the Santa Clara County Department of Environmental Health under their Site Cleanup Program. A Site Management Plan (SMP), Removal Action Plan (RAP), or equivalent document shall be prepared by a qualified environmental	Obtain regulatory oversight from the Santa Clara County Department of Environmental Health (or Department of Toxic Substances Control) under their Site Cleanup Program if contaminated soils are found in concentrations	Prior to issuance of any grading permits.	Santa Clara County Department of Environmental Health (or Department of Toxic Substances Control), BAAQMD, Director of Planning, Building, and Code Enforcement or	Receive copy of SMP, RAP, ADMP, or equivalent document verifying regulatory oversight	Prior to issuance of any grading permits.



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<p>consultant under regulatory oversight and approval that identifies remedial measures and/or soil management practices to ensure construction worker safety and the health of future site occupants. If asbestos is present above 0.25 percent, an Asbestos Dust Mitigation Plan (ADMP) will be prepared and submitted to the Bay Area Air Quality Management District (BAAQMD) for approval prior to construction. The ADMP would include track-out prevention and control, storage piles, on-site traffic control, preparation of areas prior to earth moving activities, and control for offsite transport, consistent with the California Air Resources Board's Asbestos Airborne Toxic Control Measure for Construction, Grading, Quarrying, and Surface Mining Operations. The plan and evidence of regulatory oversight shall be provided to the Director of Planning, Building, and Code Enforcement or Director's designee and the Environmental Compliance Officer in the City of San José Environmental Services Department.</p>	<p>above the applicable environmental screening levels. A SMP, RAP, ADMP, or equivalent document shall be prepared by a qualified hazardous materials consultant to document the remedial measures and/or soil management that would be implemented. Provide the plan(s) and evidence of regulatory oversight to the Director of Planning Building and Code Enforcement or Director's designee, and the City's Environmental Compliance Officer.</p>		<p>Director's designee, and the City's Environmental Compliance Officer.</p>		



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Transportation					
Impact TRN-1: The proposed Research & Development project, which would support both office and industrial uses, would have 15.12 vehicles miles traveled (VMT) per industrial employee which would exceed the 14.37 VMT per industrial employees and would have 14.95 VMT per office employee which would exceed the 12.21 VMT per office employee threshold.					
MM TRAN-1.1: Prior to issuance of any certificates of occupancy, the project applicant shall implement the following multi-modal infrastructure improvements to incentivize alternative modes of travel and reduce VMT generation for the site: <ul style="list-style-type: none"> Remove the pork-chop islands on the southwest and northwest corners of the Embedded Way and Hellyer Avenue intersection to improve pedestrian safety and access. This improvement shall require a signal modification at this intersection that will include the relocation of signal poles, heads, and crosswalks. Install raised median islands along Embedded Way consisting of a 120-foot segment at its western terminus and a 190-foot segment near the 	Prepare and implement a Public Improvement Plan that includes multi-modal improvements to be implemented and schedules for completing the improvements.	Prior to the issuance of any Certificates of Occupancy.	Director of Public Works or Director's designee	Review and approve the Public Improvement Plan.	Prior to the issuance of any Certificates of Occupancy.



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<p>Embedded Way and Hellyer Avenue intersection for traffic calming purposes.</p> <p>The multi-modal infrastructure improvements shall be part of a Public Improvement Plan prepared by the project applicant that includes how the multi-modal improvements will be implemented and the schedules for completing the improvements. Prior to issuance of any certificates of occupancy, the project applicant shall submit the Public Improvement Plan to the Director of Public Works or the Director's designee for review and approval.</p>					
<p>MM TRAN-1.2: Prior to the issuance of the Planning Site Development Permit, the project applicant shall submit a final TDM Plan, approved by the Director of Department of Public Works or Director's designee and the Director of Planning, Building and Code Enforcement, or Director's designee, that shall include implementation of the following TDM measures to reduce the project's VMT.</p>	<p>Submit the TDM Plan and annual trip monitoring reports demonstrating that project VMT is below threshold for both the industrial and office land use. .</p>	<p>Prior to issuance of the Site Development Permit. Annual trip monitoring reports shall be submitted for the life of the project.</p>	<p>Director of Department of Public Works or Director's designee and/or the Director of Planning, Building and Code Enforcement, or Director's designee</p>	<p>Review and approve the TDM Plan and annual trip monitoring reports.</p>	<p>Prior to issuance of the Site Development Permit. Annual trip monitoring reports shall be reviewed and approved for</p>



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<ul style="list-style-type: none"> • <u>Commute Trip Reduction Marketing/Education</u>: Implement marketing/educational campaigns that promote the use of transit, shared rides, and travel through active modes for 25 percent of the project employees. Strategies may include the incorporation of alternative commute options into new employee orientations, event promotions, and publications. • <u>Subsidize Vanpool</u>: Provide subsidies for individuals forming new vanpools for their commute. This encourages the use of vanpools, reducing drive-alone trips, and thereby reducing VMT. The project shall be required to subsidize 100 percent of the cost of the vanpool and achieve at least 25 percent employee participation. <p>The TDM plan shall be submitted to the Director of Public Works or Director's designee and the Director of Planning, Building and Code Enforcement or the Director's designee, and shall include a trip cap for VMT monitoring purposes. The trip cap shall be prepared by a traffic engineer. The monitoring shall be based on annual trip generation counts that</p>					the life of the project.



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<p>demonstrate the vehicle trips generated by the project are within 10 percent of an established peak hour trip cap that is prepared by a traffic engineer. The annual trip monitoring reports shall be submitted that demonstrate that project-generated VMT is below the significance threshold. If the annual trip monitoring report finds that the project is exceeding the established trip cap, the project shall be required to submit a follow-up report that demonstrates compliance with the trip cap requirements within a period not to exceed six months.</p>					
<p>Impact TRN-2: The proposed project would increase hazards due to inadequate driveway width on Embedded Way, requiring inbound trucks entering the westernmost Embedded Way driveway to utilize the opposing outbound travel lane, reducing sight distance for outbound vehicles.</p>					
<p>MM TRAN-2.1: The project shall increase the width of the westernmost driveway on Embedded Way in a manner sufficient to ensure that trucks do not utilize the opposing outbound travel lane when entering the project site. A site plan showing the widening of the driveway and a truck circulation plan that includes truck turning radii demonstrating adequate driveway width shall be submitted to the Director of Planning,</p>	<p>Submit a site plan showing the widening of the driveway and a truck circulation plan, including the westernmost driveway on Embedded Way, that demonstrates adequate driveway width as</p>	<p>Prior to issuance of any grading permits.</p>	<p>Director of Planning, Building and Code Enforcement or the Director's designee</p>	<p>Review and approve the site plan demonstrating adequate driveway width.</p>	<p>Prior to issuance of any grading permits.</p>



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Building and Code Enforcement or the Director's designee for review and approval prior to issuance of grading permits.	determined by the Director of Planning, Building and Code Enforcement or the Director's designee.				

Source: City of San José. *865 Embedded Way Project Initial Study*. April 2024.