

# INITIAL STUDY/ MITIGATED NEGATIVE DECLARATION

For the

## SOLAR4AMERCIA ICE FACILITY EXPANSION

1500 S. 10<sup>TH</sup> STREET, SAN JOSE, CA 95112

File No.: PP18-037, CP19-024, C19-029



In Consultation with



Consulting

November 2019

**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:** Solar4Amercia Ice Facility Expansion

**PROJECT FILE NUMBERS:** CP19-024, C19-029, PP18-037

**PROJECT DESCRIPTION:** The project site is currently developed with the existing Solar 4Amercia Ice Facility, associated parking, the Excite Ballpark, and the Municipal Firing Range. The project includes a Conforming Rezoning and a Conditional Use Permit to allow the demolition of the existing municipal firing range, demolition of a portion of the existing parking lot area, and the removal of approximately 35 ordinance-size trees to allow the for the expansion of approximately 204,193 square feet to an existing ice rink facility and late night use on an approximately 21.23-gross acre site. Approximately 20,000 square feet of expansion would include medical office uses, and the expansion would also add two ice rinks to the existing three-rink facility.

**PROJECT LOCATION:** Southeast Corner of East Alma Avenue and South 10<sup>th</sup> Street

**ASSESSORS PARCEL NO.:** 477-38-003

**COUNCIL DISTRICT:** 7

**APPLICANT CONTACT INFORMATION:** Sharks Ice (Attn: Jon Gustafson), 1500 South 10<sup>th</sup> Street, San Jose, CA 95112, (408)999-6751

**FINDING:** This Proposed Mitigated Negative Declaration (MND) is included to give notice to interested agencies and the public that the City of San José (City) intends to adopt an MND for this project. This does not mean that the City's decision regarding the project is final. This Proposed MND is subject to modification based on comments received by interested agencies and the public.

An initial study has been prepared by City. On the basis of this study it is determined, pending public review, that the proposed action with the incorporation of the identified mitigation measures will not have a significant effect on the environment.

**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:** Construction activities may affect nesting birds, raptors, or other migratory birds protected under the Migratory Bird Treaty Act.

**MM BIO-1:** To avoid disturbance of nesting and special-status birds, the project applicant shall schedule activities related to the project, including, but not limited to, vegetation removal, ground disturbance, construction, and demolition to occur outside of the bird nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1 through August 31 (inclusive).

**MM BIO-2:** If demolition and construction activities cannot be scheduled between September 1 and January 31 (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified biologist or ornithologist to ensure that no nests shall be disturbed during project implementation. The nesting bird pre-construction survey shall be conducted within the project boundary, including a 300-foot buffer (500-foot for raptors). The survey shall be conducted by a biologist familiar with the identification of avian species known to occur in the area. The pre-construction survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1 through April 30, inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1 through August 31, inclusive).

If active nests are found, the qualified biologist or ornithologist, in consultation with California Department of Fish and Wildlife (CDFW), shall determine the extent of a construction-free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests will not be disturbed during project construction (which depends upon the species, the proposed work activity, and existing disturbances associated with land uses outside the site). The buffer zone shall be demarcated by the qualified biologist or ornithologist with bright orange construction fencing, flagging, construction lathe, or other means to mark the boundary. All construction personnel shall be notified as to the existence of the buffer zone and shall be instructed to avoid entering the buffer zone during the nesting season. No ground disturbing activities shall occur within this buffer until the qualified biologist or ornithologist has confirmed that breeding/nesting is completed and the young have fledged the nest. Encroachment into the buffer shall occur only at the discretion of the qualified biologist.

The project applicant shall submit a report to the City's Director of Planning, Building and Code Enforcement or Director's designee indicating the results of the survey and any designated buffer zones, and is to be completed to the satisfaction of the Director of Planning, Building and Code Enforcement prior to the issuance of any demolition or grading permits.

- E. CULTURAL RESOURCES** – The project would not have a significant impact on this resource; therefore, no mitigation is required.
- 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 proposed project could result in impacts to construction workers during construction due to potentially hazardous soil resulting from the previous plant nursery and firing range operations in the southern portion of the site.

**MM HAZ-1:** Prior to demolition and issuance of grading permits, the applicant shall complete a limited soil investigation to address potential lead contamination in the sand pit area at the firing range and potential pesticide and pesticide based metals (arsenic and lead) contamination due to the former nursery that occupied the southern portion of property from the late 1970s to early 1990s. If contaminated soil is found in concentrations above regulatory environmental screening levels for construction worker safety the applicant shall share results of the limited soil sampling with the Santa Clara County Department of Environmental Health. The SCCDEH will then decide upon appropriate further action including but not limited to more testing, and/or the development of a Site Management Plan (SMP), Removal Action Plan (RAP), or equivalent document.

The Plan and evidence of regulatory correspondence shall be provided to the Director of the City of San Jose Planning, Building, and Code Enforcement or the Director's designee, and the Environmental Compliance Officer in the City of San Jose's 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** – The project would not have a significant impact on this resource; therefore, no mitigation is required.
- R. TRIBAL CULTURAL RESOURCES** – The project would not have a significant impact on this resource; therefore, no mitigation is required.
- 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** – The project would not have a significant impact on this resource; therefore, no mitigation is required.

#### **PUBLIC REVIEW PERIOD**

Before 5:00 p.m. on **Thursday, December 12<sup>th</sup>, 2019** any person may:

1. Review the Proposed Mitigated Negative Declaration (MND) as an informational document only; or
2. Submit written comments regarding the information and analysis in the Proposed MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Proposed 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.

Rosalynn Hughey, Director  
Planning, Building and Code Enforcement

11/14/19  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Deputy

Kara Hawkins  
Environmental Project Manager

Circulation period: **November 20, 2019 to December 12, 2019**

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**Appendix A:** Air Quality and Greenhouse Gas Emission Assessment

**Appendix B:** Tree Survey Report

**Appendix C:** Geotechnical Report

**Appendix D:** Phase I Environmental Site Assessment and Testing Reports

**Appendix E:** Traffic Impact Analysis

## **SECTION 1.0 INTRODUCTION AND PURPOSE**

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### **1.1 PURPOSE OF THE INITIAL STUDY**

The City of San José as the Lead Agency, has prepared this Initial Study for the Solar4America Ice Facility expansion 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 rezone an approximately 21.2-acre site to be consistent with the General Plan and allow the expansion of the existing Solar4America Ice Facility to include two new ice rinks. With the exception of modifying some of the parking, the existing Excite Ballpark, Home of the San Jose Giants (formerly San Jose Municipal Stadium) would not be affected by the project. 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:

Kara Hawkins, Planner  
City of San Jose Planning Department  
200 E. Santa Clara Street, 3rd Floor  
San Jose, CA 95112  
(408) 530-7852  
Kara.hawkins@sanjoseca.gov

### **1.3 CONSIDERATION OF THE INITIAL STUDY AND PROJECT**

Following the conclusion of the public review period, the City Council 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 action.

### **1.4 NOTICE OF DETERMINATION**

If the project is approved, the City 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**

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### **2.0 PROJECT TITLE**

Solar4America Ice Facility Expansion, File Number PP18-037, CP19-024, and C19-029

### **2.1 LEAD AGENCY ADDRESS AND LEAD AGENCY CONTACT**

Kara Hawkins, Planner  
City of San Jose Planning Department  
200 E. Santa Clara Street, 3rd Floor  
San Jose, CA 95112  
(408)535-7852  
Kara.Hawkins@sanjoseca.gov

### **2.2 PROJECT LOCATION**

The City-owned project site is an approximately 21.2-acre property located on the southeastern corner of the intersection of S. 10th Street and E. Alma Avenue in Central San Jose. The site is currently occupied by the Solar4America Ice Facility (4 ice rinks), parking for the facility, Excite Ballpark, and the Municipal Firing Range building, located in the southwest corner of the site. The Solar4America Facility is located on the western portion of the site.

Regional and vicinity maps of the project site are provided on Figures 1 and 2, respectively. An aerial photograph of the project site is provided on Figure 3.

### **2.3 ASSESSOR'S PARCEL NUMBER**

477-38-003

### **2.4 PROJECT APPLICANT'S NAME AND ADDRESS**

Jon Gustafson, Vice President  
Sharks Ice LLC  
1500 S. 10th Street  
San Jose, CA 95112  
Phone: (408) 999-6751  
jgustafson@sharkssports.net

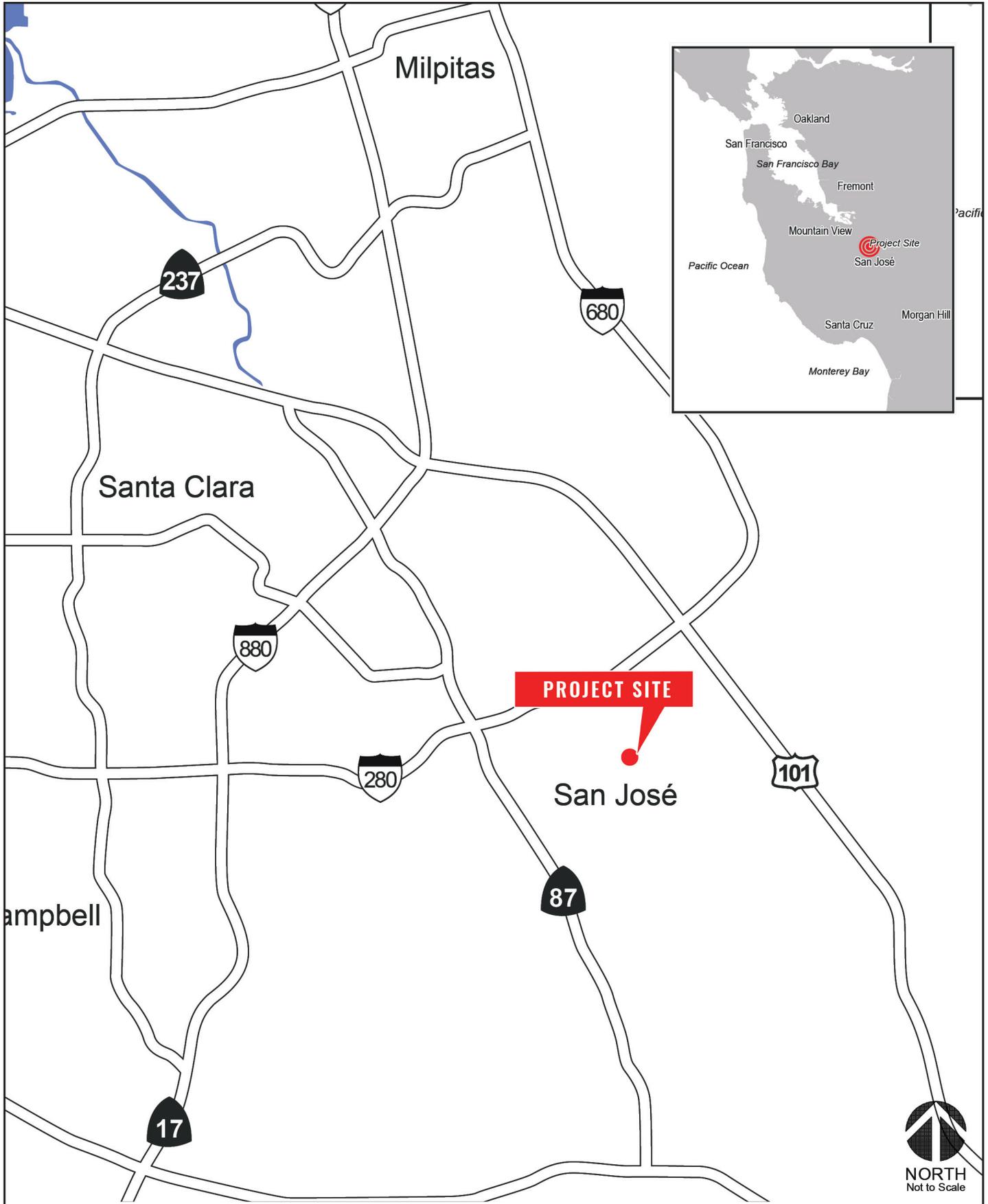
### **2.5 GENERAL PLAN LAND USE DESIGNATION AND ZONING DISTRICT**

General Plan Land Use Designation: *Public/Quasi-Public*

Zoning District: *R-2 Residential*: single-family and two-family subdivisions with an allowable density range of eight to sixteen dwelling units per acre.

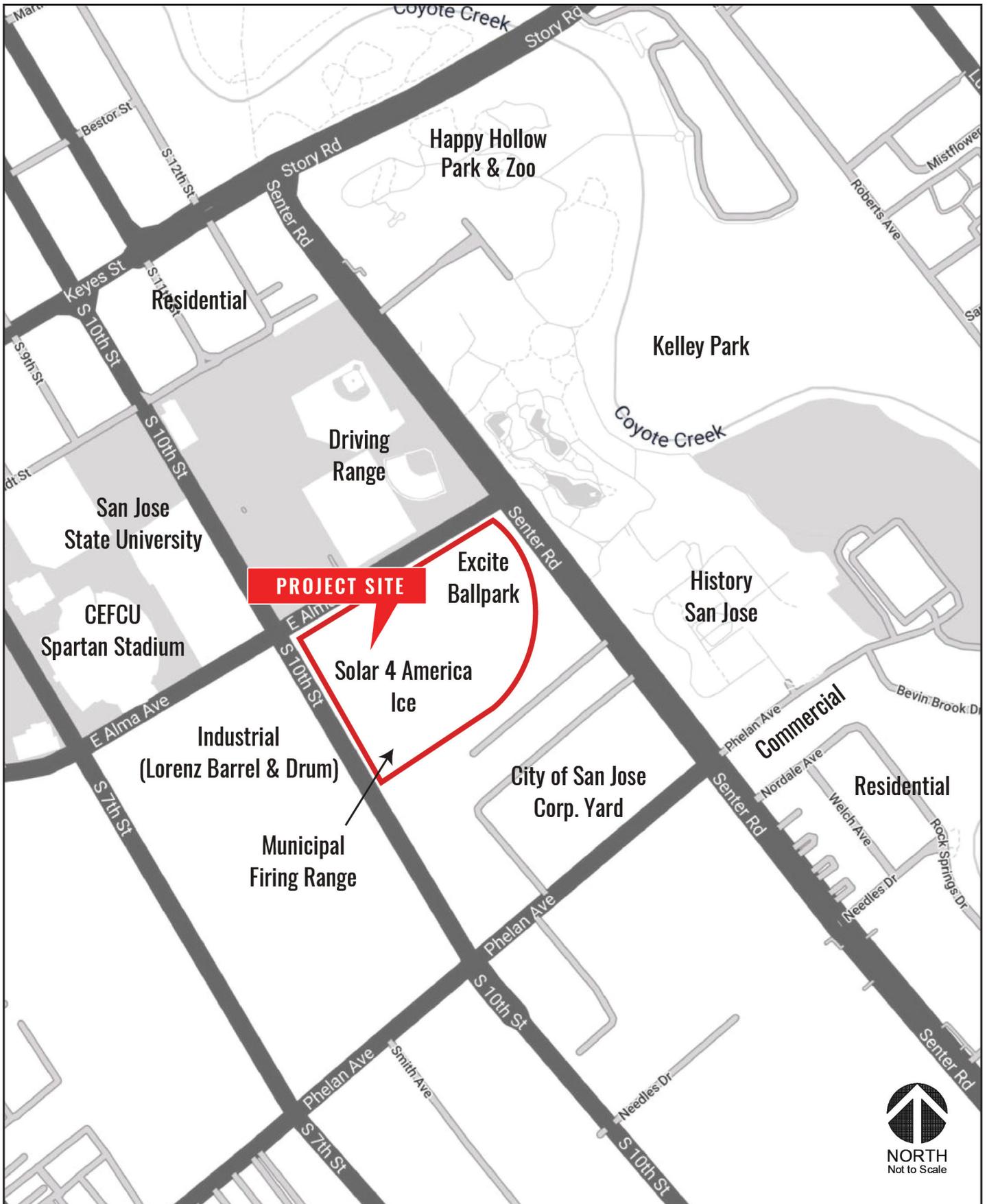
# REGIONAL MAP

FIGURE 1



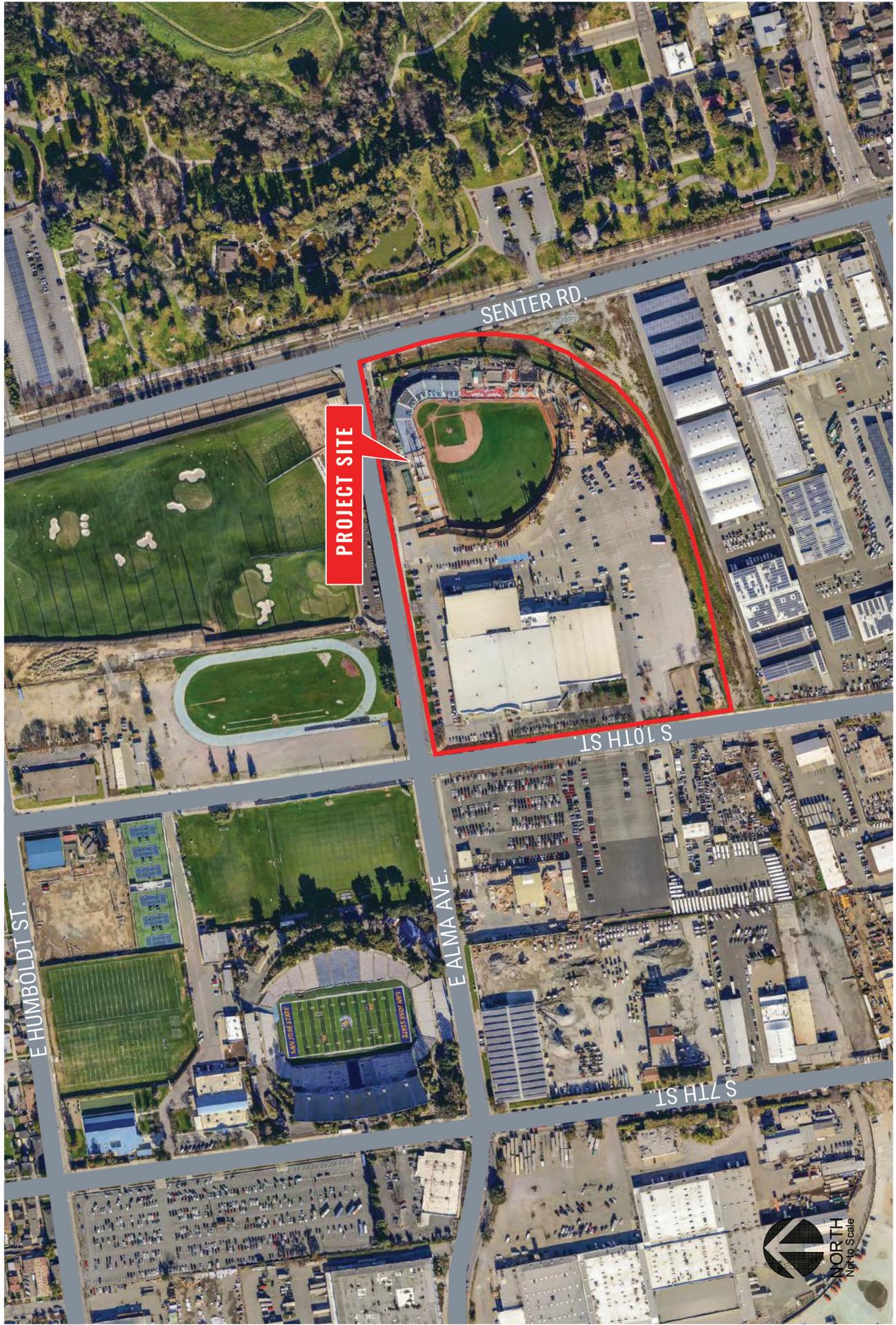
# VICINITY MAP

FIGURE 2



# AERIAL PHOTOGRAPH

FIGURE 3



## **2.6 SURROUNDING LAND USES**

North: *Public/Quasi-Public*, San Jose State University

South: *Heavy Industrial*

East: *Open Space, Parkland & Habitat*, Happy Hollow Park & Zoo/Kelley Park/History San Jose

West: *Heavy Industrial*

## **2.7 HABITAT PLAN DESIGNATION**

Land Cover Designation: Urban – Suburban

Development Zone: Area 4: Urban Development Equal to or Greater than Two Acres

Fee Zone: Urban Areas (No land cover fee)

Burrowing Owl Conservation Zone: N/A

## SECTION 3.0 PROJECT DESCRIPTION

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The proposed project is the expansion of the existing Solar4America Ice Facility (“Facility”) to include two additional ice rinks and medical office uses at the existing Solar4America Ice Facility (the “Facility”) located at 1500 S. 10th Street in central San Jose. The project will add approximately 204,193 square feet of new space to the existing 179,687 square-foot facility, including a community/practice ice rink (Rink 5) and a 4,213-seat competition rink (Rink 6) for the San Jose Barracuda. It is estimated that 34 events per year would occur at Rink 6 and the remainder of the time, Rink 6 would be operated similar to Rink 5 and the other existing rinks at the facility.

Associated ancillary uses such as locker rooms, restrooms, spectator seating, ticket lobby, concessions/commissary/ merchandise sales, bar/restaurant/lounge concepts, security/event offices, team training areas, and loading dock and utility areas are also included in the project. A conceptual site plan of the project as well as a ground floor plan are provided on Figures 4 and 5. Elevations of the proposed building can be seen on Figures 6 and 7.

Approximately 20,000 square feet of the expansion would include medical office uses to be leased to a 3rd party tenant and include a reception/lobby area, restrooms, offices, exam rooms, and support services.

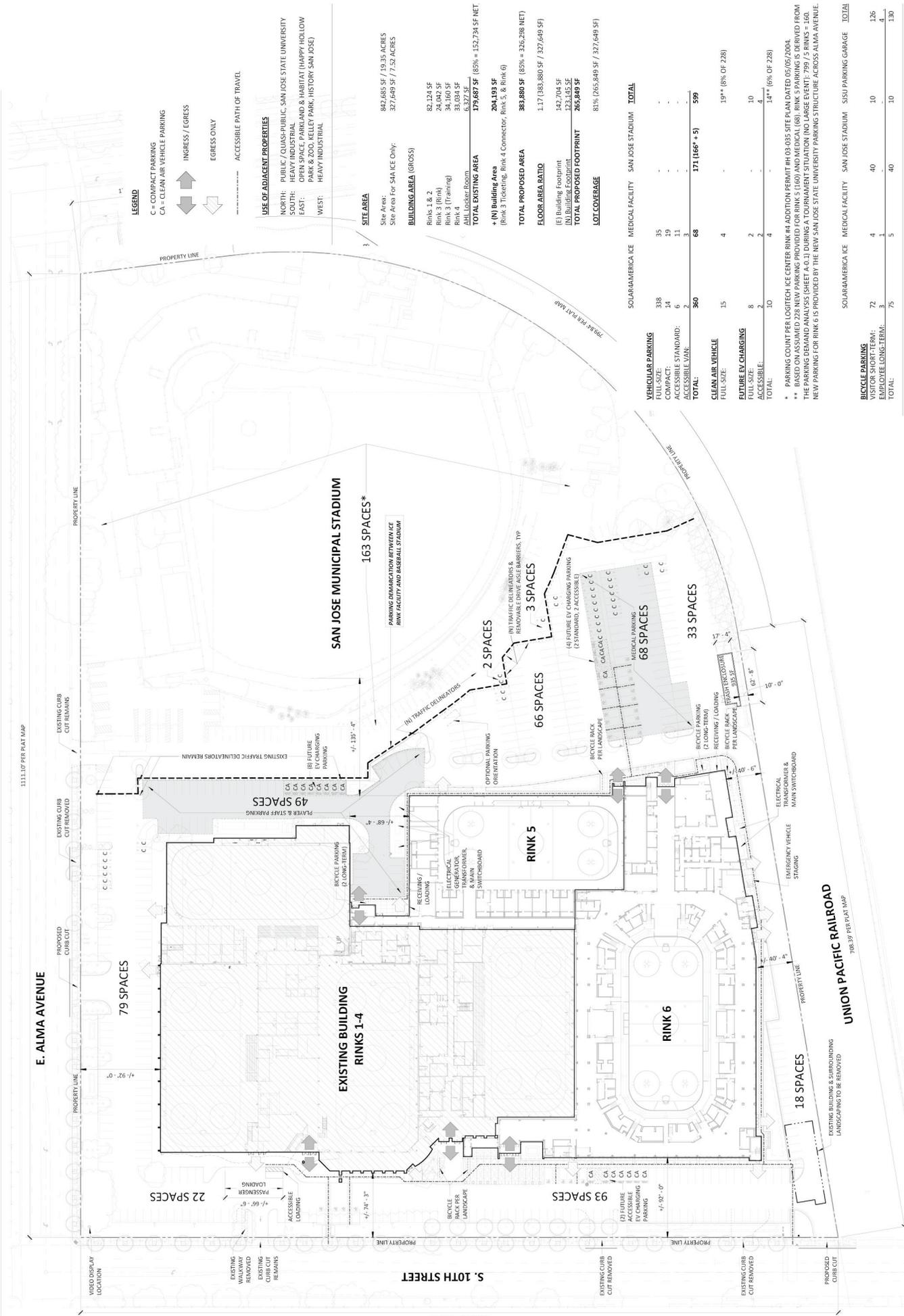
The project also includes the installation of one, 650 kW emergency generator with a 660-gallon fuel tank and sound-attenuating enclosure. The generator would be operated for testing and maintenance purposes, with a maximum of 50 hours per year of non-emergency operation under normal conditions. During testing periods, the engine would typically be run for less than one hour under light engine loads. The generator engine would be required to meet U.S. EPA emission standards and consume commercially available California low sulfur diesel fuel. It would also require a Permit to Operate from the Bay Area Air Quality Management District (BAAQMD).

Per City of San Jose Municipal Code, the project is required to provide 2,185 parking spaces. Approximately 599 spaces would be provided on-site, including approximately 50 reserved spaces for professional hockey players and 168 joint-use parking spaces for the San Jose Giants or other users of the Excite Ballpark. Sixty-eight parking spaces would be available to the medical office uses during regular business hours ending at 6 PM, at which time those spaces would be available for events.

Additional parking would be provided in a future 4-story, 1,500 space parking structure to be constructed by San Jose State University (SJSU) at the northeast corner of the intersection of S. 10th Street and Alma Avenue. Approximately 18 additional spaces would be provided at the SJSU park-and-ride lot located at S. 7<sup>th</sup> Street and E. Humboldt Street. A long-term parking use agreement will be required between Sharks Ice and SJSU to guarantee that this off-site

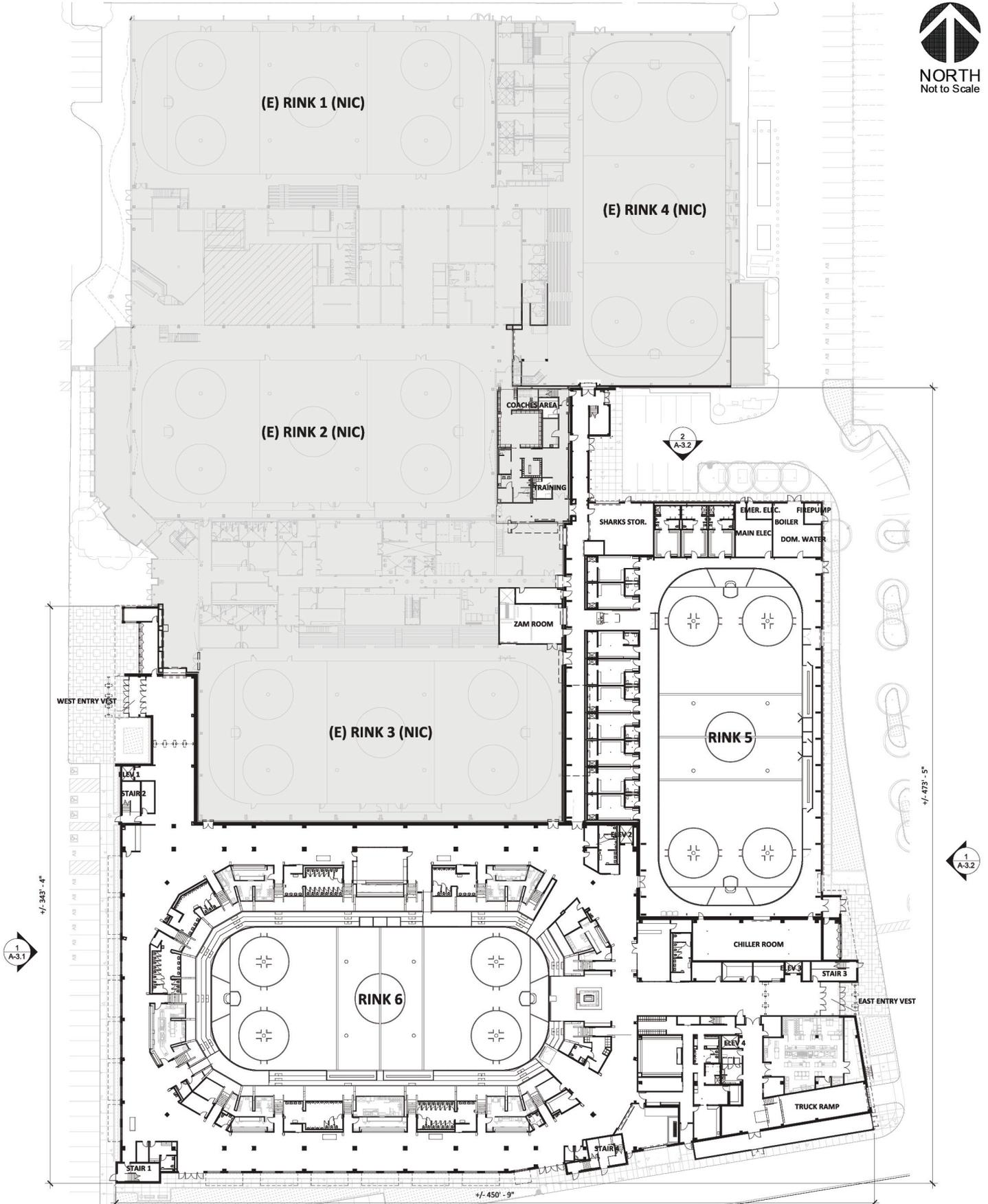
# SITE PLAN

FIGURE 4



# GROUND FLOOR PLAN

FIGURE 5

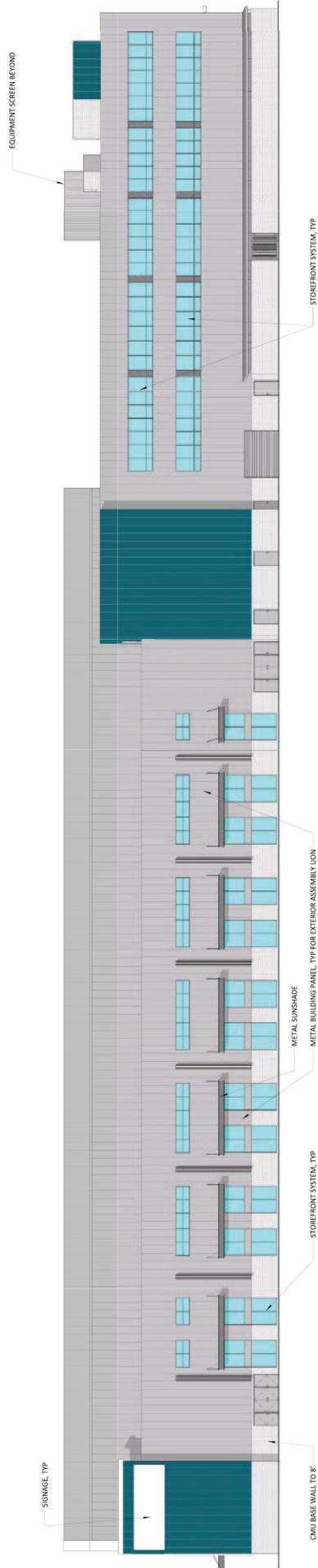


# WEST AND SOUTH ELEVATIONS

FIGURE 6



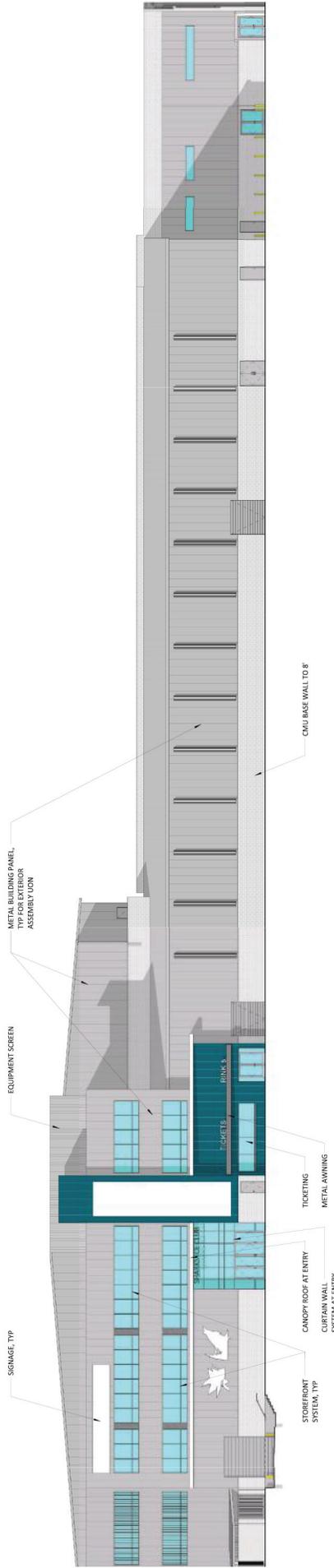
1 WEST ELEVATION  
1/16" = 1'-0"



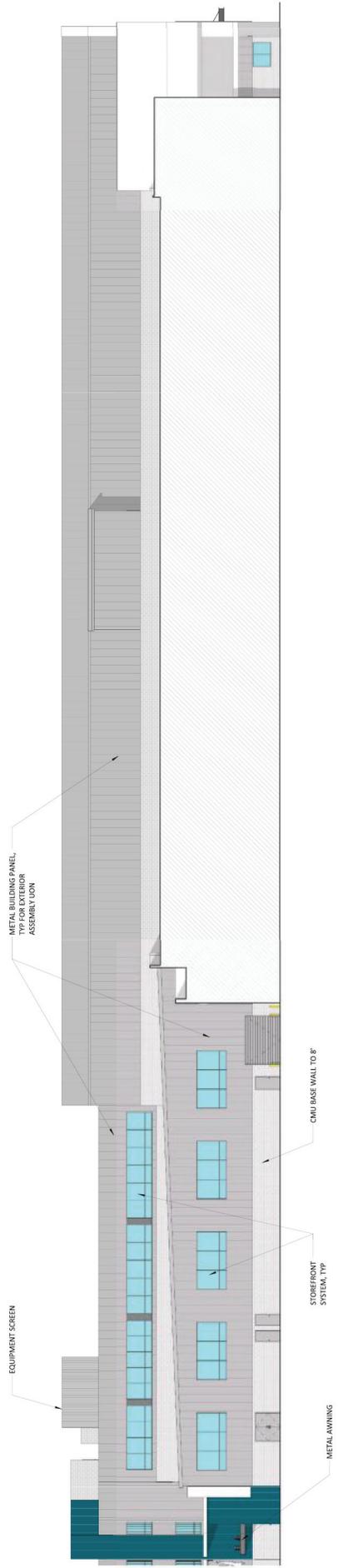
2 SOUTH ELEVATION  
1/16" = 1'-0"

# EAST AND NORTH ELEVATIONS

FIGURE 7



1 EAST ELEVATION  
1/16" = 1'-0"



2 NORTH ELEVATION  
1/16" = 1'-0"

parking will be available for use by Solar4America patrons when the new rinks are operational. It is assumed that if the parking structure is not completed by the time the Solar4America project is constructed, alternative parking in the project area will be identified. The garage will be operated by Sharks Ice during Solar4America events. Approximately 130 bicycle parking spaces would also be provided as part of the project.

Approximately 115 trees would be removed to facilitate project construction and will be replaced per City of San Jose requirements. Landscaping (i.e. trees, shrubs, and groundcover) for the project would consist of ornamental species. The project also includes stormwater quality measures as required by the City of San Jose.

### **3.1 REZONING**

The 21.2-acre project site currently zoned *R-2*, which is a residential zoning district that allows single- and two-family residential uses at a density of eight to 16 dwelling units per acre. The proposed project includes rezoning the entire project site to *Public/Quasi-Public* to be consistent with the General Plan designations and existing uses of the sites.

### **3.2 CONSTRUCTION**

Project construction is anticipated to last approximately two years.

### **3.3 PROJECT-RELATED APPROVALS AND PERMITS**

- Conforming Rezoning
- Conditional Use Permit
- Tree Removal Permit
- Other Applicable Public Works Clearances (grading, easements, etc.)

## SECTION 4.0 EVALUATION OF ENVIRONMENTAL IMPACTS

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This section describes the existing environmental conditions on and near the project area, as well as environmental impacts associated with the proposed project. The environmental checklist, as recommended in the California Environmental Quality Act (CEQA) Guidelines, identifies environmental impacts that could occur if the proposed project is implemented.

The discussion for each environmental subject includes the following subsections:

- **Environmental Setting** - This subsection 1) describes the existing, physical environmental conditions at the project site and in the surrounding area, as relevant and 2) provides a brief overview of relevant plans, policies, and regulations that compose the regulatory framework for the project.
- **Environmental Checklist** - This subsection includes the City's checklist for determining potential environmental impacts.
- **Impacts Evaluation** - This subsection discusses the project's environmental impact as it relates to the checklist questions. For significant impacts, feasible mitigation measures are identified that will minimize, avoid, or eliminate a significant impact (CEQA Guidelines Section 15370). Measures that are required by the Lead Agency or other regulatory agency that will reduce or avoid impacts are categorized as "Standard Permit Conditions."

Each impact is numbered using an alphanumeric system that identifies the environmental issue. For example, Impact AES-1 denotes the first potentially significant impact discussed in the Aesthetics section. Mitigation measures are also numbered to correspond to the impact they address. For example, MM AES-2.3 refers to the third mitigation measure for the second impact in the Aesthetics section.

The right-hand column in the checklist lists the source(s) for the answer to each question. The sources cited are identified at the end of this section.

- **Conclusion** - This subsection provides a summary of the project's impacts on the resource.

**Important Note to the Reader:** The California Supreme Court in a December 2015 opinion [California Building Industry Association v. Bay Area Air Quality Management District, 62 Cal. 4th 369 (No. S 213478)] confirmed that CEQA, with several specific exceptions, is concerned with the impacts of a project on the environment, not the effects the existing environment may have on a project. Therefore, the evaluation of the significance of project impacts under CEQA

in the following sections focuses on impacts of the project on the environment, including whether a project may exacerbate existing environmental hazards.

The City of San José currently has policies that address existing conditions (e.g., noise) affecting a proposed project, which are also addressed below. This is consistent with one of the primary objectives of CEQA and this document, which is to provide objective information to decision-makers and the public regarding a project as a whole. The CEQA Guidelines and the courts are clear that a CEQA document (e.g., EIR or Initial Study) can include information of interest even if such information is not an “environmental impact” as defined by CEQA.

Therefore, where applicable, in addition to describing the effects of the project on the environment, this chapter will discuss effects on the project related to City policies pertaining to existing conditions. Such examples include, but are not limited to, locating a project near sources of air emissions that can pose a health risk, in a floodplain, in a geologic hazard zone, in a high noise environment, or on/adjacent to sites involving hazardous substances.

## 4.1 AESTHETICS

### Environmental Setting

The approximately 21.2-acre site is located in an area of industrial and public/quasi-public uses and includes the existing Solar4America Ice Facility, San Jose Municipal Firing Range, and Excite Ballpark, an outdoor minor league baseball field utilized by the San Jose Giants with concession stands and multi-tiered seating areas. The project site is in an urban and developed area. Thus, views from the project site include views of the immediate, surrounding development.

The project site is bound by E. Alma Avenue (a four-lane roadway) to the north, Senter Road (a six-lane roadway with a center median) to the east, an existing former UPRR parcel to be developed with mini-storage units to the south, and S. 10th Street (a four-lane roadway) to the west. Other uses in the immediate project area include the City's service/corporation yard to the south, Kelly Park and the History San Jose Park to the east, the future location of a San Jose State University (SJSU) parking structure and an existing golf range to the north, and Spartan Stadium (SJSU) to the northwest. A parking lot utilized by a variety of car dealerships is located to the west, across S. 10th Street. To the south and west of the project site are heavy industrial land uses consisting primarily of one- to two-story metal and concrete buildings and paved storage yards.

There are approximately 208 trees on the project site, primarily along the site boundaries. Additional detail regarding trees on-site is provided in Section 4.4 *Biological Resources*. Photos of the project site and surrounding area are provided in Photos 1-6 on the following pages.

### Regulatory Framework

#### **State**

The State Scenic Highways Program is designed to protect and enhance the natural scenic beauty of California highways and adjacent corridors through special conservation treatment. The project site is not located near any scenic highways.

#### **Local**

##### Envision San Jose 2040 General Plan

The General Plan defines scenic vistas in the City of San José as views of and from the Santa Clara Valley, surrounding hillsides, and urban skyline. Scenic urban corridors, such as segments of major highways that provide gateways into the City, can also be defined as scenic resources by the City. The designation of a scenic route applies to routes affording especially aesthetically pleasing views. The project site is not located along any scenic corridors per the City's Scenic Corridors Diagram.



**Photo 1: Western side of the existing Solar4America Ice Facility on S. 10<sup>th</sup> Street.**



**Photo 2: Existing Municipal Firing Range on S. 10<sup>th</sup> Street south of the project site. This structure would be removed as part of the proposed project.**



**Photo 3: Southeastern and eastern portions of the site. This portion of the existing facility would be expanded as part of the proposed project.**



**Photo 4: View of rear parking lot area with the existing Excite Ballpark in the background looking to the northwest.**



**Photo 7: View of Alma Street and the existing golf driving range looking north from the project site parking lot.**



**Photo 9: View from the project site looking north. The site of the future SJSU parking structure to be located at the northeast corner of the intersection of S. 10<sup>th</sup> and Alma Streets can be seen. The existing golf driving range is seen in the background.**

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating aesthetic impacts from development projects. The following policies are applicable to the proposed project.

**Policy 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.

**Policy CD- 1.13** Use design review to encourage creative, high-quality, innovative, and distinctive architecture that helps to create unique, vibrant places that are both desirable urban places to live, work, and play and that lead to competitive advantages over other regions.

**Policy CD- 1.17** Minimize the footprint and visibility of parking areas. Where parking areas are necessary, provide aesthetically pleasing and visually interesting parking garages with clearly identified pedestrian entrances and walkways. Encourage designs that encapsulate parking facilities behind active building space or screen parked vehicles from view from the public realm. Ensure that garage lighting does not impact adjacent uses, and to the extent feasible, avoid impacts of headlights on adjacent land uses.

**Policy 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.

**Policy 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).

**Policy 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.

City Council’s Private Outdoor Lighting Policy 4-3

The Private Outdoor Lighting Policy passed by the San José City Council in 1983 and supplemented in 2000 requires all new developments to implement low-pressure sodium illumination be used in all outdoor areas of new private developments. The policy is intended to promote energy efficient and cost-efficient lighting, and minimize light pollution into the night sky. The policy allows adequate light for nighttime activities while benefiting the continued enjoyment of the night sky and continuing operation of the Lick Observatory by reducing light pollution and sky glow.

The City has adopted an Interim Lighting Policy to encourage the use of broad-spectrum lighting such as LED for private streets, parking areas, and pedestrian areas as an alternative to low pressure sodium. Projects that met specific standards outlined in the Interim Policy regarding outdoor lighting plans, illumination levels, backlight, uplight, glare, correlated color temperature, and dimming qualify for a permit adjustment and an exception to the required use of low-pressure sodium lighting on private development.

**Aesthetics Environmental Checklist**

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporated	Less than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a. Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,4
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"/>	1,4
c. 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1
d. Create a new source of substantial light or glare which will adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

**Impacts Evaluation**

**a.,b. Would the project have a substantial adverse effect on a scenic vista? Would the project substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?**

Scenic resources and views in the City of San José include the broad sweep of the Santa Clara Valley, the hills and mountains which frame the Valley floor, the baylands and the urban skyline, particularly high-rise development. Other natural resources, such as trees, are also considered a scenic resource. An impact to a scenic resource or vista would occur if a project modifies a scenic feature, such as a hillside, woodland, or bayland areas, or scenic skyline or built environment.

Due to the project site's location on the valley floor and presence of surrounding development, views of the project site are limited to the immediate area. Views of the foothills and the Diablo range from the project area are already obstructed by existing surrounding development and trees. Development of the proposed project would, therefore, not substantially hinder existing views. The view of the project site is not an integral part of a scenic vista and is not located in an area considered to be a scenic vista.

Implementation of the proposed project could result in the removal of up to 98 existing trees in the southwestern area of the site. However, existing trees to be removed would be replaced in accordance with the City's Tree Protection Ordinance (refer to Section 3.4 Biological Resources for a complete discussion of the project's impacts on trees).

There are no rock outcroppings or historic resources on or near the site. The project site is not located along a Caltrans-designated scenic highway or City of San José scenic gateway or rural scenic corridor.

Based on the above discussion, the project would not substantially damage scenic resources.

**(No Impact)**

**c. 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 proposes to demolish a small portion of the existing structure in the southwestern portion of the site as well as the firing range building. Parking in the rear of the structure would be reconfigured. The project site is currently developed as is most of the surrounding area. A mini-storage project has been approved for the previous UPRR site to the south of the project site. The proposed development would be similar in height to surrounding development and would be constructed primarily with concrete and metal materials, consistent with the visual character of the project area. Final project design would be subject to the City's design review process and would conform to current architectural and landscaping standards. For these reasons, construction of the proposed project would not substantially degrade the existing visual character or quality of public views of the site and surrounding area.

The project includes a conforming rezoning to *Public/Quasi-Public* uses, consistent with the existing General Plan land use designation for the site. The project, which is an expansion of an

existing building with heights and massing similar to the existing structure, would be consistent with applicable General Plan aesthetics policies that relate to scenic quality. **(No Impact)**

**d. Create a new source of substantial light or glare that would adversely affect day or nighttime views in the area?**

Development of the proposed project would incrementally increase nighttime light in the surrounding area due to the net increase in nighttime and security lighting. The project does not propose to use highly reflective construction material (e.g., mirrored glass); therefore, the project would not create substantial glare.

The certified 2011 Envision San José 2040 General Plan Final Program EIR (General Plan FPEIR) (SCH# 2009072096) and the 2015 Envision San José 2040 General Plan Supplemental Final Program EIR (General Plan FSPEIR) (SCH#2009072096) concluded that while new development and redevelopment under the General Plan could create additional sources of nighttime light and daytime glare, implementation of adopted plans, conformance with adopted policies and regulations and with General Plan policies would avoid substantial light and glare impacts.

The project shall comply with the City's Outdoor Lighting on Private Development Policy (Policy 4-3) and Interim Lighting Policy to reduce spillover light. Compliance with the Outdoor Lighting on Private Development Policy (Policy 4-3) and Interim Lighting Policy would not substantially increase nighttime light levels. For these reasons, the project would not be a substantial new source of light or glare. **(Less Than Significant Impact)**

**Conclusion**

The project would not result in significant aesthetic impacts. **(Less than Significant Impact)**

## 4.2 AGRICULTURAL AND FOREST RESOURCES

### Environmental Setting

CEQA requires the evaluation of agricultural and forest/timber resources where they are present. The developed, infill project site does not contain any agricultural and forest/timber resources. It is also not considered to be important farmlands, per the Santa Clara County Important Farmlands Map (2016).

The project site is in an urban and developed area. It is currently developed with the existing Solar4America Ice Facility, San Jose Municipal Firing Range, and Excite Ballpark and zoned for residential uses, although the General Plan designation for the site is Public/Quasi-public. The proposed project includes rezoning the parcel to match the General Plan designation. The site is located within an urban area of San José and there is no property used for agricultural or forestry/timberland purposes adjacent to the project site.

### Regulatory Framework

#### **Farmland Mapping and Monitoring Program**

The California Resources Agency'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 called 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 onsite or in the project area.

#### **California Land Conservation Act (Williamson Act)**

The California Land Conservation Act (commonly referred to as the Williamson Act) enables local governments to enter into contracts with private landowners to restrict parcels of land to agricultural or related open space use. In return, landowners receive lower property tax assessments. In CEQA analyses, identification of properties that are under Williamson Act contract is used, in part, to identify sites that may include agricultural resources or are zoned for agricultural uses. The project site is not part of a Williamson Act contract.<sup>1</sup>

#### **Forest Land, Timberland, and Timberland Production**

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. 3 In CEQA analyses, programs such as Cal Fire's Fire and Resource Assessment

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<sup>1</sup> Santa Clara County Department of Planning, Interactive Williamson Act Map, <https://www.sccgov.org/sites/dpd/Programs/WA/Pages/WA.aspx> . Accessed August 30, 2019.

Program (FRAP) 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.

**Agricultural and Forestry Resources Environmental Checklist**

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporated	Less than Significant Impact	No Impact	Checklist Source(s)
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"/>	5
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"/>	8
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"/>	6
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"/>	1,2,3
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"/>	1,2,3

**Impacts Evaluation**

**a.,b. Would the project convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland) to non-agricultural use? Would the project conflict with existing zoning for agricultural use, or a Williamson Act contract?**

As described above, the project site is designated as Urban and Built-Up Land. The project site and surrounding properties are not designated for agricultural use. Therefore, development of the project would not convert farmland. The project site is currently zoned for residential use and is not part of a Williamson Act Contract. **(No Impact)**

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

The project site and surrounding area are developed and are not zoned or used for forestland or timberland. Development of the proposed project would not result in the loss or conversion of existing forest land or timberland. **(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?**

There is no farmland or forestland in the project area; therefore, the proposed development would not interfere with agricultural operations or facilitate the unplanned conversion of farmland or forest elsewhere in San José to non-agricultural or non-forest uses, respectively. **(No Impact)**

### **Conclusion**

The project would not impact agricultural or forestry resources. **(No Impact)**

### 4.3 AIR QUALITY

The following section is based upon an Air Quality and Greenhouse Gas Emission Assessment prepared by *Illingworth & Rodin* (August 26, 2019). This assessment is contained within Appendix A.

#### **Environmental Setting**

Air quality is determined by natural factors such as topography, meteorology, and climate, in addition to the presence of existing air pollution sources and ambient conditions. The City of San José is located in the Santa Clara Valley within the San Francisco Bay Area Air Basin. The Santa Clara Valley is bounded by the San Francisco Bay to the north and by mountains to the east, south and west. The project area's proximity to both the Pacific Ocean and the San Francisco Bay has a moderating influence on the climate. The surrounding terrain greatly influences winds in the valley, resulting in a prevailing wind that follows along the valley's northwest-southwest axis.

The Bay Area Air Quality Management District (BAAQMD) is the regional air quality agency for the San Francisco Bay Area Air Basin. As discussed in CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for careful 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 and other jurisdictions in the San Francisco Bay Area Air Basin utilize the thresholds and methodology for assessing air emissions and/or health effects adopted by the BAAQMD.

#### **Criteria Pollutants**

Ambient air quality standards have been established at both the state and federal level. The ambient air quality in a given area depends on the quantities of pollutants emitted within the area, transport of pollutants to and from surrounding areas, local and regional meteorological conditions, as well as the surrounding topography of the air basin. Air quality is described by the concentration of various pollutants in the atmosphere.

As required by the federal Clean Air Act, National Ambient Air Quality Standards (NAAQS) have been established for six major air pollutants: carbon monoxide (CO), nitrogen dioxide (NO<sub>2</sub>), ozone (O<sub>3</sub>), particulate matter, sulfur oxides, and lead. Pursuant to the California Clean Air Act, the State has established the California Ambient Air Quality Standards (CAAQS).

The Bay Area as a whole does not meet state or federal ambient air quality standards for ground level ozone and fine particulate matter (PM<sub>2.5</sub>) and state standards for respirable

particulate matter (PM10).<sup>2</sup> The area is considered attainment or unclassified for all other pollutants.

### **Air Pollutants of Concern**

High ozone levels are caused by the cumulative emissions of reactive organic gases (ROG) and nitrogen oxides (NOx). These precursor pollutants react under certain meteorological conditions to form high ozone levels. Controlling the emissions of these precursor pollutants is the focus of the Bay Area's attempts to reduce ozone levels. High ozone levels aggravate respiratory and cardiovascular diseases, reduced lung function, and increase coughing and chest discomfort.

Besides criteria air pollutants, there is another group of substances found in ambient air referred to as Toxic Air Contaminants (TACs). These contaminants tend to be localized and are found in relatively low concentrations in ambient air. Exposure to low concentrations over long periods, however, can result in adverse chronic health effects. Diesel exhaust is a predominant TAC in urban air and is estimated to represent about three-quarters of the cancer risk from TACs (based on the Bay Area average).

Particulate matter is another problematic air pollutant of the Bay Area. Particulate matter 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 (PM2.5). Elevated concentrations of PM10 and PM2.5 are the result of both region- wide (or cumulative) emissions and localized emissions. High particulate matter levels aggravate respiratory and cardiovascular diseases, reduce lung function, increase mortality (e.g., lung cancer), and result in reduced lung function growth in children.

Long-term and short-term exposure to TACs and PM2.5 can cause a wide range of health effects. Common stationary sources of TACs and PM2.5 include gasoline stations, dry cleaners, and diesel backup generators. The other, more significant, common source is motor vehicles on roadways and freeways.

### **Sensitive Receptors**

The BAAQMD defines sensitive receptors as facilities where sensitive receptor population groups (children, the elderly, the acutely ill and the chronically ill) are likely to be located. These land uses include residences, school playgrounds, child-care centers, retirement homes, convalescent homes, hospitals and medical clinics. There are no sensitive receptors in the

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<sup>2</sup> Particulate matter 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 (PM2.5).

immediate project area. The closest sensitive land use are residences located approximately 0.25 miles (1,300 feet) north of the project site.

### **Odors**

Common sources of odors and odor complaints include wastewater treatment plants, transfer stations, coffee roasters, painting/coating operations, and landfills. Significant sources of offending odors are typically identified based on complaint histories received and compiled by BAAQMD. Typical large sources of odors that result in complaints are wastewater treatment facilities, landfills including composting operations, food processing facilities, and chemical plants. Other sources, such as restaurants, paint or body shops, and coffee roasters typically result in localized sources of odors. The project site is in an area predominantly surrounded by industrial and commercial uses and is not surrounded by facilities that produce substantial odors.

### **Regulatory Framework**

Below is a summary of the Federal, State, regional, and local regulations.

#### **Federal**

The US Environmental Protection Agency (USEPA) sets nationwide emission standards for mobile sources, which include on-road (highway) motor vehicles such trucks, buses, and automobiles, and non-road (off-road) vehicles and equipment used in construction, agricultural, industrial, and mining activities (such as bulldozers and loaders). The USEPA also sets nationwide fuel standards, including diesel engine emission standards and diesel fuel requirements. The federal diesel engine and diesel fuel requirements have been adopted by California, in some cases with modifications making the requirements more stringent or the implementation dates sooner.

#### **State**

To address the issue of diesel emissions in the State, CARB developed the Diesel Risk Reduction Plan (Diesel RRP) to reduce diesel particulate matter (DPM) emissions. In addition to requiring more stringent emission standards for new on- and off-road mobile sources and stationary diesel-fueled engines to reduce particulate matter emissions by 90 percent, a significant component of the Diesel RRP involves application of emission control strategies to existing diesel vehicles and equipment. Many of the measures of the Diesel RRP have been approved and adopted, including the federal on- and non-road diesel engine emission standards for new engines, as well as adoption of regulations for low sulfur fuel in California.

CARB has adopted and implemented a number of regulations for stationary and mobile sources to reduce emissions of DPM. Several of these regulatory programs affect medium and heavy-duty diesel trucks that represent the bulk of DPM emissions from California highways. CARB has also adopted and implemented regulations to reduce DPM and NOX emissions from in-use (existing) and new off-road heavy-duty diesel vehicles (e.g., loaders, tractors, bulldozers, backhoes, off-highway trucks, etc.).

## Regional

Regional air quality management districts, such as BAAQMD, must prepare air quality plans specifying how state air quality standards would be met. BAAQMD’s most recently adopted plan is the Bay Area 2017 Clean Air Plan (2017 CAP). The 2017 CAP focuses on two closely related BAAQMD goals: protecting public health and protecting the climate. To protect public health, the 2017 CAP describes how the 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.

The 2017 CAP includes a wide range of control measures designed to decrease emissions of the air pollutants that are most harmful to Bay Area residents, such as particulate matter, ozone, and toxic air contaminants; 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. BAAQMD Air Quality Significance Thresholds are shown in Table 4.3-1, below.

<b>Table 4.3-1: BAAQMD Air Quality Significance Thresholds</b>				
<b>Criteria Air Pollutant</b>	<b>Construction Thresholds</b>		<b>Operational Thresholds</b>	
	<b>Average Daily Emissions (lbs./day)</b>		<b>Average Daily Emissions (lbs./day)</b>	<b>Annual Average Emissions (tons/year)</b>
ROG	54		54	10
NOx	54		54	10
PM10	82 (exhaust)		82	15
PM2.5	54 (exhaust)		54	10
CO	Not Applicable		9.0 ppm (8-hour average) or 20.0 ppm (1-hour average)	
Fugitive Dust	Construction Dust Ordinance or other Best Management Practices		Not Applicable	
<b>Health Risks and Hazards</b>	<b>Single Sources within 1,000-foot Zone of Influence</b>		<b>Combined Sources (Cumulative from all sources within 1,000-foot Zone of Influence)</b>	
Excess Cancer Risk	>10.0 per one million		>100 per one million	
Hazard Index	>1.0		>10.0	
Incremental Annual PM2.5	>0.3 ug/m <sup>3</sup>		>0.8 ug/m <sup>3</sup>	
<b>Greenhouse Gas Emissions</b>				
Land Use Projects -Direct and Indirect Emissions	Compliance with a Qualified GHG Reduction Strategy OR 1,100 metric tons annually or 4.6 metric tons per capita (for 2020) 660 metric tons annually or 2.6 metric tons per capita (for 2030)*			

Note: ROG = reactive organic gases, NOx = nitrogen oxides, PM10 = course particulate matter or particulates with an aerodynamic diameter of 10 um (micrometers) or less, PM2.5 = fine particulate matter or particulates with an aerodynamic diameter of 2.5 um or less. GHG = G greenhouse gases.

\*BAAQMD does not have a recommended post-2020 GHG threshold.

## Local

### Envision San Jose 2040 General Plan

The General Plan includes policies for avoiding or mitigating air quality impacts from planned development projects in the City, with overall goals to minimize emissions from new development and exposure of people to air pollution and toxic air contaminants. In addition, goals and policies throughout the General Plan encourage a reduction in vehicle miles traveled through land use, pedestrian and bicycle improvements, and parking strategies. A reduction in vehicle miles traveled reduces air pollutant emissions. The following policies are applicable to the proposed project:

- MS-10.1** Assess projected air emissions from new development in conformance with the with the BAAQMD CEQA Guidelines and relative to State and federal standards. Identify and implement air emissions 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-10.3** Promote the expansion and improvement of public transportation services and facilities, where appropriate, to encourage energy conservation and reduce air pollution.
- 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. Alternately, 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-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.

**MS-13.3** Construction and/or demolition projects that have the potential to disturb asbestos (from soil or building material) shall comply with all the requirements of the California Air Resources Board’s air toxic control measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.

**CD-3.3** Within new development, create and maintain a pedestrian-friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets.

**Air Quality Environmental Checklist**

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporated	Less than Significant Impact	No Impact	Checklist Source(s)
Where available, the significance criteria established by BAAQMD may be relied upon to make the following determinations. 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"/>	14
b. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is classified as 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"/>	1,2,14
c. Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,14
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 type="checkbox"/>	<input checked="" type="checkbox"/>	1

**Impacts Evaluation**

**a. Would the project conflict with or obstruct implementation of the applicable air quality plan?**

The proposed project would not conflict with the 2017 CAP because it would not have operational emissions that exceed BAAQMD significance thresholds as described in b., below. In addition, the project is considered urban infill and would be located near bike lanes and transit with regional connections. Because the project would not exceed the BAAQMD thresholds for operational criteria air pollutant, it is not required to incorporate project-specific

control measures listed in the 2017 CAP. Further, implementation of the project would not inhibit BAAQMD or partner agencies from continuing progress toward attaining state and federal air quality standards and eliminating health-risk disparities from exposure to air pollution among Bay Area communities, as described within the 2017 CAP. **(Less Than Significant Impact)**

**b. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is classified as non- attainment under an applicable federal or state ambient air quality standard?**

The California Emissions Estimator Model (CalEEMod) Version 2016.3.2 was used to estimate emissions from construction and operation of the site assuming full build-out of the project. The project land use types and size, and anticipated construction schedule were input to CalEEMod. Separate model runs were developed for construction and operational inputs because of the unique traffic generating features of the project.

Construction Emissions

Emissions from construction-related automobiles, trucks, and heavy equipment are a primary concern due to release of diesel particulate matter (an air toxic contaminant due to its potential to cause cancer), TACs from all vehicles, and PM2.5, which is a regulated air pollutant. A detailed air quality assessment was completed to address construction air quality impacts from the proposed project.

Average daily emissions were computed for construction of the proposed project and average daily construction emissions of ROG, NOx, PM10 exhaust, and PM2.5 exhaust were determined. As indicated in Table 4.3-2, below, predicted construction period emissions would not exceed the BAAQMD significance thresholds.

<b>Table 4.3-2: Construction Period Emissions</b>				
<b>Scenario</b>	<b>ROG</b>	<b>NOx</b>	<b>PM10 Exhaust</b>	<b>PM2.5 Exhaust</b>
Total construction emissions (tons)	1.8 tons	4.9 tons	0.2 tons	0.2 tons
<b>Average daily emissions (pounds)</b>	<b>7.1 lbs./day</b>	<b>19.8 lbs./day</b>	<b>0.8 lbs./day</b>	<b>0.8 lbs./day</b>
<i>BAAQMD Thresholds (pounds per day)</i>	54 lbs./day	54 lbs./day	82 lbs./day	54 lbs./day
<b>Exceed Threshold?</b>	No	No	No	No
Note: Assumes 475 workdays.				

Construction activities would temporarily affect local air quality. Construction activities, particularly during site preparation and grading, would temporarily generate fugitive dust in the form of PM10 and PM2.5. 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.

Fugitive dust emissions would vary from day to day, depending on the nature and magnitude of construction activity and local weather conditions. Fugitive dust emissions would also depend on soil moisture, silt content of soil, wind speed, and the amount of equipment operating. Larger dust particles would settle near the source, while fine particles would be dispersed over greater distances from the construction site. Nearby land uses, particularly sensitive receptors to the north and southeast of the project site, could be affected by dust generated during construction activities. BAAQMD considers impacts from construction dust to be less than significant if best management practices are employed.

**Standard Permit Conditions:** During any construction period ground disturbance, the project applicant shall ensure that the project contractor implement the following standard BAAQMD measures to control dust and exhaust:

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day or often as needed to control dust emissions.
- All haul trucks transporting soil, sand, or other loose material off-site shall be covered and/or maintain at least two feet of freeboard.
- All visible mud or dirt track-out onto adjacent public roads shall be removed 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.
- Replant vegetation in disturbed areas as quickly as possible.
- Install sandbags or other erosion control measures to prevent silt runoff onto 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.
- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked

by a certified mechanic and determined to be running in proper condition prior to operation.

- Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints.

The project, with the implementation of the above Standard Permit Conditions to control dust, minimize erosion, and control exhaust, would not result in significant fugitive dust. **(Less than Significant Impact)**

Operational Emissions

Operational air emissions from the project would be generated primarily from vehicles driven by visitors of the project. There would also be operational air emissions associated with energy and water usage, as well as an emergency generator. CalEEMod was used to estimate emissions from operation of the proposed project in year 2020. The proposed land uses were input into CalEEMod, which includes two rinks modeled separately as arenas, a 20,000 square foot medical office building, and associated trips.

Operational emissions were determined in terms of annual emissions in tons per year and average daily emissions in pounds per day. As shown in Table 4.3-3, below, the project would not exceed BAAQMD significance thresholds. **(Less than Significant Impact)**

<b>Table 4.3-3: Operational Emissions</b>				
<b>Scenario</b>	<b>ROG</b>	<b>NOx</b>	<b>PM10</b>	<b>PM2.5</b>
Annual Emissions				
Rink 5	0.4 tons	0.4 tons	0.3 tons	0.1 tons
Rink 6 (typical)	0.4 tons	0.4 tons	0.3 tons	0.1 tons
Rink 6 (events)	0.1 tons	0.2 tons	0.3 tons	0.1 tons
Medical Office Building	0.2 tons	0.5 tons	0.4 tons	0.1 tons
Total Annual Emissions	1.15 tons	2.07 tons	1.10 tons	0.31 tons
<i>BAAQMD Thresholds (tons /year)</i>	<i>10 tons</i>	<i>10 tons</i>	<i>15 tons</i>	<i>10 tons</i>
Project Operational Emissions ( <i>lbs/day</i> ) <sup>1</sup>	6.3 lbs.	11.3 lbs.	6.0 lbs.	1.7 lbs.
<i>BAAQMD Thresholds (pounds/day)</i>	<i>54 lbs.</i>	<i>54 lbs.</i>	<i>82 lbs.</i>	<i>54 lbs.</i>
<b><i>Exceed Threshold?</i></b>	<i>No</i>	<i>No</i>	<i>No</i>	<i>No</i>

Note: Assumes 365-day operation.

Operational Traffic Emissions

BAAQMD CEQA Air Quality Guidelines recommend projects evaluate roadway impacts where traffic volumes exceed 20,000 vehicles per day. It has been calculated for purposes of

determining air quality impacts, that the project, on average, would generate 1,620 daily trips. This is based on daily operation over 365 days per year of Rinks 5 and 6 as practice rinks, events at Rink 6 (approximately 34 per year, mostly on weekends), and medical office uses. The project traffic would not cause health risk impacts along roadways serving the project as the total project traffic projections are below the BAAQMD screening volumes. **(Less than Significant Impact)**

#### Operational Emergency Generator Emissions

Operation of a diesel generator would be a source of TAC emissions. The generator would be operated for testing and maintenance purposes, with a maximum of 50 hours per year of non-emergency operation under normal conditions. During testing periods, the engine would typically be run for less than one hour under light engine loads. The generator engine would be required to meet U.S. EPA emission standards and consume commercially available California low sulfur diesel fuel.

Emissions from the operation of the generator were calculated using the CalEEMod model. The diesel engine would be subject to CARB's Stationary Diesel Airborne Toxics Control Measure (ATCM) and require permits from the BAAQMD, since it will be equipped with an engine larger than 50 hp.

**Condition of Approval:** As part of the BAAQMD permit requirements for toxics screening analysis, the engine emissions will have to meet Best Available Control Technology for Toxics (TBACT) and pass the toxic risk screening level of less than ten in a million. The risk assessment would be prepared by BAAQMD. Depending on results, BAAQMD would set limits for DPM emissions (e.g., more restricted engine operation periods). Sources of air pollutant emissions complying with all applicable BAAQMD regulations generally will not be considered to have a significant air quality community risk impact. **(Less than Significant Impact)**

The project site, where the generator would be located, is not within 1,000 feet of sensitive receptors; therefore, an analysis of health risk impacts from the generator was not necessary under BAAQMD standard recommendations to show less than significant health risk impacts. Short-term visitors to the site and Excite Ballpark would not be affected.

#### **c. Expose sensitive receptors to substantial pollutant concentrations?**

Project impacts related to increased community risk can occur either by introducing a new sensitive receptor, such as a residential use, in proximity to an existing source of TACs, or by introducing a new source of TACs with the potential to adversely affect existing sensitive receptors in the project vicinity. The project would not introduce new sensitive receptors. The project would generate automobile traffic and infrequent truck traffic and introduce a diesel generator.

BAAQMD has developed community risk thresholds that evaluate increased cancer risk, non-cancer adverse health impacts in terms of a hazard index and annual PM2.5 concentrations (see

Table 4.3-1). Project construction would be a temporary source of TAC and PM2.5 emissions. Most on-site construction equipment would be diesel-powered. DPM would be emitted from this equipment and trucks used during construction, which is a TAC that can elevate cancer risk and PM2.5 concentrations.

In applying the community risk thresholds, BAAQMD recommends that sensitive receptors within 1,000 feet of a project be considered. The closest sensitive receptors to the project are located beyond 1,000 feet at about 1,300 feet to the north.

A health risk assessment of the project construction activities was not conducted since sensitive receptors are not located near the site. Given the large distance and temporary nature of this impact, community risk caused by construction is considered less than significant. It should be noted that the Standard Permit Conditions listed under b., above, would reduce the emissions of TACs and PM2.5 during construction. **(Less than Significant Impact)**

**d. Result in other emissions such as those leading to odors adversely affecting a substantial number of people?**

Odors are general considered an annoyance rather than a health hazard. Land uses that have the potential to be sources of odors that generate complaints include, but are not limited to, wastewater treatment plants, landfills, composting operations, and food manufacturing facilities. The expansion of an existing ice rink facility would not typically generate objectionable odors. In addition, sensitive receptors are located 0.25 miles away. Therefore, the proposed project would not create objectionable odors affecting a substantial number of people. **(No Impact)**

**Conclusion**

The project, with the implementation of standard permit conditions, would not result in significant air quality impacts. **(Less Than Significant Impact)**

#### 4.4 BIOLOGICAL RESOURCES

The following discussion is based on a Tree Survey completed for the project site by *Arbor Resources* on June 21, 2019. This report is included in Appendix B of this Initial Study.

##### Environmental Setting

The project site is in an area of public/quasi-public and industrial uses and is surrounded by existing development. The primary biological resources on-site are trees. Based on the tree survey, there are 208 trees of 17 different species located within the proposed project construction area, with 14 located off-site. Tree locations are shown on Figure 8. Specific information on each tree can be found in Appendix B.

Most of the trees are in fair and poor condition. Thirteen of the trees surveyed are native tree species including Coast live oak and California redwood. Of the 208 trees located within the project work area, 54 are ordinance-size (defined by the City as trees over 38 inches in circumference measured at a height of 54 inches above natural grade), as shown in Table 4.4-1, below. There are no Heritage trees on-site.

<b>NAME</b>	<b>TREE NUMBER(S)</b>	<b>COUNT</b>	<b>% OF TOTAL</b>
American sweetgum	116, 120-157	39	19%
Black locust	100-102, 105-109 (#100, 107, and 109)	8 (#3)	4%
Blue elderberry	91 (#91)	1 (#1)	0%
Chinese hackberry	1-16, 18-33 (#1, 2, 5, 10, 14, 24, 26, 31, 32, and 33), 191-208	50 (#14)	24%
Coast live oak	17, 69, 71-73, 75, 77, 79, 81, 92, 93, 117 (#17, 69, 71, 72, 73, 75, 77, 79, 92, and 93)	12 (#10)	6%
Coast redwood	47-53, 112 (#112)	8 (#1)	4%
Deodar cedar	113-115 (#113, 114, and 115)	3 (#3)	3%
Colorado blue spruce	182	1	0%
Flowering pear	54-68, 118, 119, 179, 180, 184-190	26	13%

Glossy privet	82-85 (#82, 83, 84, and 85)	4 (#4)	2%
Indian hawthorn	34-36	3	1%
Mexican fan palm	70 (#70)	1 (#1)	0%
Olive tree	74, 76 (#74 and 76)	2 (#2)	1%
Purple-leaf plum	158-178	21	10%
Raywood ash	37-46 (#38, 39, 40, 41, 42, 44, and 46), 181,183	12 (#8)	6%
Shamel ash	90	1	1%
Tree-of-Heaven	78, 80, 86-89, 94-99, 103, 104, 110, 111 (#78, 80, 86, 94, 103, 104, and 111)	16 (#7)	14%
Total		208 (#54)	100%
*Ordinance Size Trees are noted in parentheses (#) for both Tree Number and Count.			

The project site is located on land cover designated as *Urban-Suburban*, which as defined by the Habitat Plan as land that has been cleared for residential, commercial, industrial, or other urban developments, and is defined as having one or more structures per 2.5 acres. Vegetation found in *Urban-Suburban* land cover is usually in the form of landscaped residences, planted street trees, and parklands. Most of the vegetation on-site is composed of non-native or cultivated plant species. The project site is not located within any other potential fee zones, plant or wildlife survey areas, or other areas that would be subject to specific Habitat Plan conditions such as stream setbacks.

### **Regulatory Framework**

#### **Federal and State**

##### **Special-Status Species**

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

# TREE LOCATIONS

FIGURE 8



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 will 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” said 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, Section 15380(b) and (c) of the CEQA Guidelines provide that all potential rare or sensitive species, or habitats capable of supporting rare species, are considered for environmental review per the CEQA Guidelines. These may include plant species of concern in California listed by the California Native Plant Society and CDFW listed “Species of Special Concern.”

#### Migratory Bird and Birds of Prey Protections

Federal and State laws also protect most bird species. The federal Migratory Bird Treaty Act (MBTA) prohibits killing, possessing, or trading in migratory birds, except in accordance with regulations prescribed by the Secretary of the Interior. This act encompasses whole birds, parts of birds, and bird nests and eggs.

Birds of prey, such as owls and hawks, are protected in California under provisions of the State Fish and Game Code. The Code states that it is “unlawful to take, possess, or destroy any birds in the order Falconiformes or Strigiformes (birds of prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by this code or any regulation adopted pursuant thereto.” Construction disturbance during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. Disturbance that causes nest abandonment and/or loss of reproductive effort is considered “taking” by the CDFW.

#### Sensitive Habitats

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, protection, or consideration by the US 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. USEPA regulations, called for under Section 402 of the Clean Water Act, also include the National Pollutant Discharge Elimination System (NPDES) permit program, which controls sources that discharge into waters of the United States (e.g., streams, lakes, bays, etc.).

## Regional

### Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

As previously described, the project site is located within the Habitat Plan study area and is designated as *Urban-Suburban*. The Santa Clara Valley Habitat Plan/Natural Community Conservation Plan (Habitat Plan) covers an area of 519,506 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 (SCVWD), Santa Clara Valley Transportation Authority (VTA), US Fish and Wildlife Service (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 approximately 500,000 acres of southern Santa Clara County. The Santa Clara Valley Habitat Agency is responsible for implementing the plan.

## Local

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 biological resources and are applicable to the proposed project:

### Relevant Envision San Jose 2040 Biological Resources Policies

- 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.
- MS-21.4** Encourage the maintenance of mature trees, especially natives, on public and private property as an integral part of the community forest. Prior to allowing the removal of any mature tree, pursue all reasonable measures to preserve it.
- MS-21.5** As part of the development review process, preserve protected trees (as defined by the Municipal Code), and other significant trees. Avoid any adverse effect on the health and longevity of protected or other significant trees through appropriate design measures and construction practices. Special priority should be given to the preservation of native oaks and native sycamores. When tree preservation is not feasible, include appropriate tree replacement, both in number and spread of canopy.

**MS-21.6** As a condition of new development, require the planting and maintenance of both street trees and trees on private property to achieve a level of tree coverage in compliance with and that implements City laws, policies, or guidelines.

**CD-1.25** Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Any adverse effect on the health and longevity of such trees should be avoided through design measures, construction, and best maintenance practices. When tree preservation is not feasible include replacements or alternative mitigation measures in the project to maintain and enhance our Community Forest.

**Biological Resources Environmental Checklist**

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporated	Less than Significant Impact	No Impact	Checklist Source(s)
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"/>	1
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 type="checkbox"/>	<input checked="" type="checkbox"/>	1
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 type="checkbox"/>	<input checked="" type="checkbox"/>	1
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, impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1
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"/>	7

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 type="checkbox"/>	<input checked="" type="checkbox"/>	1,10
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**Impacts Evaluation**

- 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 California Department of Fish and Wildlife or US Fish and Wildlife Service?**

Trees on and adjacent to the project site could provide nesting habitat for birds, including migratory birds. Nesting birds are protected under provisions of the Migratory Bird Treaty Act and California Department of Fish and Wildlife (CDFW) Code Sections 3503, 3503.5, and 2800.

**IMPACT BIO-1:** Construction disturbance during the breeding season 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 the CDFW. Construction activities such as tree removal and site grading that disturb a nesting bird on-site or immediately adjacent to the construction zone would constitute a significant impact. **(Significant Impact)**

In conformance with the California State Fish and Wildlife Code and provisions of the Migratory Bird Treaty Act, the project proposes to implement the following mitigation measures to avoid and/or reduce impacts to nesting birds (if present on or adjacent to the site) to a less than significant level:

**MM BIO-1.1:** To avoid disturbance of nesting and special-status birds, the project applicant shall schedule activities related to the project, including, but not limited to, vegetation removal, ground disturbance, construction, and demolition to occur outside of the bird nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1 through August 31 (inclusive).

**MM BIO-1.2:** If demolition and construction activities cannot be scheduled between September 1 and January 31 (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified biologist or ornithologist prior to the issuance of any grading permits to ensure that no nests shall be disturbed during project implementation. The nesting bird pre-construction survey shall be conducted within the project boundary, including a 300-foot buffer (500-foot for raptors). The survey shall be conducted by a qualified biologist familiar with the identification of avian species known to occur in the area. The pre-construction survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1 through April 30, inclusive) and no more than 30 days prior to the

initiation of these activities during the late part of the breeding season (May 1 through August 31, inclusive).

**MM BIO-1.3:** If active nests are found, the qualified biologist or ornithologist, in consultation with California Department of Fish and Wildlife (CDFW), shall determine the extent of a construction-free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests will not be disturbed during project construction (which depends upon the species, the proposed work activity, and existing disturbances associated with land uses outside the site). The buffer zone shall be demarcated by the qualified biologist or ornithologist with bright orange construction fencing, flagging, construction lathe, or other means to mark the boundary. All construction personnel shall be notified as to the existence of the buffer zone and shall be instructed to avoid entering the buffer zone during the nesting season. No ground disturbing activities shall occur within this buffer until the qualified biologist or ornithologist has confirmed that breeding/nesting is completed and the young have fledged the nest. Encroachment into the buffer shall occur only at the discretion of the qualified biologist.

**MM BIO-1.4:** The project applicant shall submit a report to the City's Director of Planning, Building and Code Enforcement or Director's designee indicating the results of the survey and any designated buffer zones, and is to be completed to the satisfaction of the Director of Planning, Building and Code Enforcement prior to the issuance of any demolition or grading permits.

The project, with the implementation of the above mitigation measures, would not result in significant impacts to nesting birds by avoiding construction activities during the nesting season, inhibiting nesting, and conducting preconstruction surveys in order to avoid disturbance of active nests that may be affected by project construction. **(Less Than Significant Impact with Mitigation Incorporated)**

**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 California Department of Fish and Wildlife or US Fish and Wildlife Service?**

Due to the urban nature of the site, there are no sensitive, riparian, or wetland habitats on-site. Because of the lack of these habitats and the extent of human disturbance on the project site, special status plant and animal species are not expected to be present. The project site is not located near, and would not affect, any riparian habitat or other sensitive natural community as identified in the General Plan and Santa Clara Valley Habitat Plan (Habitat Plan) or by the CDFW or United States Fish and Wildlife Service (USFWS). **(No Impact)**

**c. Would the project have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?**

There are no federally protected wetlands on-site or in the project area that could be affected by the proposed project. **(No 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, impede the use of native wildlife nursery sites?**

There are no waterways located on the project site; therefore, the project would not interfere with migratory fish species. Given the developed nature of the project site and adjacent area, the project site does not act as a wildlife corridor. **(No Impact)**

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

Development of the proposed project would result in the removal of up to 115 trees on-site. Trees that are within the project work area and anticipated to be removed for the purpose of the currently proposed project, shall be replaced in accordance with the City’s standard tree replacement ratios summarized in Table 4.4-1 below. There are approximately 14 off-site trees included in the tree survey that are located along the southern and southeastern portions of the site that are expected to be retained. Seven of these trees are ordinance-size. These off-site trees may be trimmed to facilitate the proposed expansion.

**Standard Permit Conditions:** The removed trees would be replaced according to tree replacement ratios required by the City, as provided in Table 4.4-2 below, as amended.

<b>Table 4.4-2: Tree Replacement Ratios</b>				
<b>Circumference of Tree to be Removed</b>	<b>Type of Tree to be Removed</b>			<b>Minimum Size of Each Replacement Tree</b>
	<b>Native</b>	<b>Non-Native</b>	<b>Orchard</b>	
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
<p>x:x = tree replacement to tree loss ratio</p> <p><b>Note:</b> 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, Commercial and Industrial properties, a permit is required for removal of trees of any size.</p> <p>A 38-inch tree equals 12.1 inches in diameter</p> <p>A 24-inch box tree = two 15-gallon trees</p>				

As previously described, 115 trees on-site would be removed. Based on the size and types of trees, approximately four trees would be replaced at a 5:1 ratio, 31 trees would be replaced at a 4:1 ratio, 7 trees would be replaced at a 3:1 ratio, 60 trees would be replaced at a 2:1 ratio, and the remaining 13 trees would be replaced at a 1:1 ratio. As mentioned previously, there are 13 native trees on-site. The total number of replacement trees required to be planted would be approximately 148, 24-inch box trees. Of those, approximately 109 would be on-site and 39 would be street trees. The species of trees to be planted would be determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement.

In the event that the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented, to the satisfaction of the Director of Planning, Building, and Code Enforcement, at the development permit stage:

- The size of a 15-gallon replacement tree may be increased to a 24-inch box and count as two replacement trees to be planted on the project site, at the development permit stage.
- Pay Off-Site Tree Replacement Fee(s) to the City, prior to the issuance of Public Works grading permit(s), in accordance to the City Council approved Fee Resolution. The City will use the off-site tree replacement fee(s) to plant trees at alternative sites.

In addition, the project shall implement the following conditions of approval to reduce potential construction impacts to the 14 off-site trees expected to be preserved.

**Conditions of Approval:** The project shall implement a tree protection plan to reduce impacts to trees on the property line or trees with a canopy that extends over the project site during the construction period.

- The project applicant, in consultation with a certified arborist or biologist, shall submit a tree protection plan to the Director of Planning, Building, and Code Enforcement or Director's designee for trees on the property line or trees with a canopy that extends over the project site prior to issuance of any grading permit. The tree protection plan shall include, but is not limited to, the following:
  - Number, location, and type of tree to be protected.
  - Size and location for tree protection zones. The tree protection plan shall include any specific recommendation and suggestions for each protect zone if applicable.
  - Maintenance methodology for tree protection zones during the entire demolition and construction periods.

Implementation of standard permit conditions and conditions of approval would reduce impacts to trees to a less than significant level. **(Less than Significant)**

**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?**

The project site is located within the Santa Clara Valley Habitat Plan (Habitat Plan) area and has a land cover designation of Urban-Suburban. The Urban-Suburban designation is for land that has been identified for residential, commercial, industrial, or other urban development, and is defined as having one or more structures per 2.5 acres. The proposed residential development, therefore, is consistent with the land use assumptions for the site in the Habitat Plan. The expansion of the existing facility would not impact any of the Habitat Plan's covered species and would implement the following standard permit condition.

**Standard Permit Condition:** 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](http://www.scv-habitatplan.org). **(Less Than Significant Impact)**

**Conclusion**

The project, with the implementation of mitigation measures and standard permit conditions identified above, would result in less than significant biological resource impacts. **(Less than Significant Impact with Mitigation Incorporated)**

## 4.5 CULTURAL/TRIBAL CULTURAL RESOURCES

### Environmental Setting

Cultural resources are evidence of past human occupation and activity and include both historical and archaeological resources. These resources may be located aboveground or underground and have significance in history, prehistory, architecture, State of California, or local or tribal communities.

The project site is located in Santa Clara Valley, where Native American occupation extended over 5,000 to 8,000 years and possibly longer. Before European settlement, Native Americans (specifically the Ohlone/Costanoan populations) resided in the area that encompasses the project site. The Bay Area's favorable environment during the prehistoric period included bay marshes, valley grasslands, mountainous uplands and open coastal environments that provided an abundance of wild food and other resources.

There are no designated historic resources on the subject site nor in the vicinity.<sup>3</sup>

### Regulatory Framework

#### **Federal**

The National Register of Historic Places (NRHP), established under the National Historic Preservation Act, is a comprehensive inventory of known historic resources throughout the United States. The NRHP is administered by the National Park Service and includes buildings, structures, sites, objects and districts that possess historic, architectural, engineering, archaeological or cultural significance. For a resource to be eligible for listing, it also must retain integrity of those features necessary to convey its significance in terms of 1) location, 2) design, 3) setting, 4) materials, 5) workmanship, 6) feeling, and 7) association. CEQA requires evaluation of project effects on properties that are listed in or eligible for listing in the NRHP.

#### **State**

#### California Register of Historical Resources

The California Register of Historical Resources (CRHR) is a guide to cultural resources that must be considered when a government agency undertakes a discretionary action subject to CEQA. The CRHR aids government agencies in identifying, evaluating, and protecting California's historical resources, and indicates which properties are to be protected from substantial adverse change (Public Resources Code, Section 5024.1(a)). The CRHR is administered through the State Office of Historic Preservation (SHPO), which is part of the California State Parks system. A historic resource listed in, or formally determined to be eligible for listing in, the NRHP is, by definition, included in the CRHR (Public Resources Code Section 5024.1(d)(1)). 11

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<sup>3</sup> City of San José. *Envision San José 2040 General Plan Final Program EIR*. November 2011.

## State Regulations Regarding Cultural and Paleontological Resources

Archaeological, paleontological, and historical sites are protected by several State policies and regulations under the California Public Resources Code, California Code of Regulations (Title 14 Section 1427), and California Health and Safety Code. California Public Resources Code Sections 5097.9-5097.991 require notification of discoveries of Native American remains and provides for the treatment and disposition of human remains and associated grave goods.

Both State law and County of Santa Clara County Code (Sections B6-19 and B6-20) require that the Santa Clara County Coroner be notified if cultural remains are found on a site. If the Coroner determines the remains are those of Native Americans, the Native American Heritage Commission and a “most likely descendant” must also be notified.

## Assembly Bill 52 – Tribal Cultural Resources

A tribal cultural resource can be a site, feature, place, or 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. It also must be either on or eligible for the California Historic Register, a local historic register, or the lead agency, at its discretion, chooses to treat the resource as a tribal cultural resource. Assembly Bill (AB) 52, which amends the Public Resources Code, requires lead agencies to participate in formal consultations with California Native American tribes during the CEQA process, if requested by any tribe, to identify tribal cultural resources that may be subject to significant impacts by a project.

Where a project may have a significant impact on a tribal cultural resource, the lead agency’s environmental document must discuss the impact and whether feasible alternatives or mitigation measures could avoid or substantially lessen the impact. Consultation is required until the parties agree to measures to mitigate or avoid a significant effect on a tribal cultural resource or when it is concluded that agreement cannot be reached.

## **Local**

### Envision San José 2040 General Plan

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

- 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 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.

**Cultural/Tribal Cultural Resources Environmental Checklist**

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporated	Less than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a. Cause a substantial adverse change in the significance of an historical resource pursuant to CEQA Guidelines Section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,9,11
b. Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,3,11
c. Disturb any human remains, including those interred outside of dedicated cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
d. 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: 1. 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); or 2. 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 these criteria, the significance of the resource to a California Native American tribe shall be considered.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3,11

## Impacts Evaluation

**a. Would the project cause a substantial adverse change in the significance of an historical resource as defined in §15063.5?**

The project site is developed with a ballpark, the Solar4America Ice Facility, a firing range, and parking. There are no historic resources on-site or in the immediate vicinity of the site. Therefore, implementation of the proposed project would not affect historical resources. **(No Impact)**

**b.-c. Would the project cause a substantial adverse change in the significance of an archaeological resource as defined in §15063.5? Would the project disturb any human remains, including those interred outside of formal cemeteries?**

Archaeological resources are not known to occur on the project site. However, according to the General Plan (approved in 2011), the project site is located in an archaeologically sensitive area due to its location on the valley floor between the Guadalupe River and Coyote Creek, an area known to have been occupied by Native Americans prior to European settlement. Therefore, construction of the project could encounter unknown, buried archaeological resources and/or human remains.

While the project does not propose extensive excavation, the area is known as archaeologically sensitive and the project shall implement the following standard measures to reduce potential impacts to a less than significant level.

**Standard Permit Conditions:** Consistent with General Plan policies ER-10.2 and ER-10.3, the following Standard Permit Conditions shall be implemented by the project to reduce or avoid impacts to subsurface cultural resources to a less than significant level:

### Subsurface Cultural Resources

- If prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the City's Historic Preservation Officer shall be notified, and a qualified archaeologist shall examine the find. The archaeologist shall 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery shall be submitted to Director of PBCE or the Director's designee and the City's Historic Preservation Officer and the Northwest Information Center (if applicable). Project personnel shall not collect or move any cultural materials.

## 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 AB 2641, shall be followed. In the event of the discovery of human remains 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 Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner shall make a determination as to whether the remains are Native American.
- If the remains are believed to be Native American, the Coroner shall contact the NAHC within 24 hours. The NAHC shall then designate a Most Likely Descendant (MLD). The MLD shall inspect the remains and make a recommendation on the treatment of the remains and associated artifacts.
- If one of the following conditions occurs, the applicant 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:
  - o The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 24 hours after being notified by the NAHC.
  - o The MLD identified fails to make a recommendation; or
  - o The landowner or their authorized representative rejects the recommendation of the MLD, and the mediation by the NAHC fails to provide measures acceptable to the landowner.

### **(Less than Significant Impact)**

#### **d. Cause a substantial adverse change in the significance of a tribal cultural resource?**

AB 52 requires lead agencies to complete formal consultations with California Native American tribes during the CEQA process to identify tribal cultural resources that may be subject to significant impacts by a project. Where a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document must discuss the impact and whether feasible alternatives or mitigation measures could avoid or substantially lessen the impact. This consultation requirement applies only if the tribes have sent written requests for notification of projects to the lead agency.

In 2017, the City had sent a letter to tribal representatives in the area to welcome participation in consultation process for all ongoing, proposed, or future projects within the City's Sphere of Influence or specific areas of the City. No tribes have requested notice of projects within the

geographic area of the project site from the City of San José except for in Coyote Valley (approximately five miles southeast of the site). Due to the distance of the project site from Coyote Valley, the project would not have an impact on tribal cultural resources. To date, the tribe has not initiated formal consultation for this project.

The project is the expansion of an existing facility on a site that is currently completely developed with structures or parking. Excavation for the project will be minimal and no greater than has already occurred with a negative result for subsurface cultural materials. For this reason, the project would not cause a substantial adverse change in the significance of a tribal cultural resource. **(No Impact)**

### **Conclusion**

The project, with the implementation of standard permit conditions, would not result in significant impacts to cultural resources/tribal cultural resources. **(Less than Significant Impact)**

## 4.6 ENERGY

### Environmental Setting

Pacific Gas and Electric Company (PG&E) is San José's energy utility provider, furnishing both natural gas and electricity for residential, commercial, industrial, and municipal uses. PG&E generates or buys electricity from hydroelectric, nuclear, renewable, natural gas, and coal facilities. In 2017, natural gas facilities provided 20 percent of PG&E's electricity delivered to retail customers; nuclear plants provided 27 percent; hydroelectric operations provided 18 percent; renewable energy facilities including solar, geothermal, and biomass provided 33 percent; and two percent was unspecified.<sup>4</sup>

### Regulatory Framework

Many federal, state, and local statutes and policies address energy conservation. At the federal level, energy standards set by the U.S. Environmental Protection Agency (EPA) apply to numerous consumer and commercial products (e.g., the EnergyStar™ program). The EPA also sets fuel efficiency standards for automobiles and other modes of transportation.

#### **State**

### California Renewable Energy Standards

In 2002, California established its Renewables Portfolio Standard (RPS) 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. In 2006, California's 20 percent by 2010 RPS goal was codified under Senate Bill (SB) 107. Under the provisions of SB 107 (signed into law in 2006), investor-owned utilities were required to generate 20 percent of their retail electricity using qualified renewable energy technologies by the end of 2010. In 2008, Executive Order S-14-08 was signed into law and requires that retail sellers of electricity serve 33 percent of their load with renewable energy by 2020.

As described previously, PG&E's electricity mix in 2015 was 30 percent renewable. In October 2015, Governor Brown signed SB 350 to codify California's climate and clean energy goals. A key provision of SB 350 for retail sellers and publicly owned utilities, requires them to procure 50 percent of the State's electricity from renewable sources by 2030.

### California Building Codes

At the state level, 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

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<sup>4</sup> PG&E, Delivering low-emission energy. Accessed September 19, 2018. Available at: [https://www.pge.com/en\\_US/about-pge/environment/what-we-are-doing/clean-energy-solutions/clean-energy-solutions.page](https://www.pge.com/en_US/about-pge/environment/what-we-are-doing/clean-energy-solutions/clean-energy-solutions.page)

updated approximately every three years; the 2013 standards became effective July 1, 2014.<sup>5</sup> The 2016 Title 24 updates went into effect on January 1, 2017. Compliance with Title 24 is mandatory at the time new building permits are issued by city and county governments.<sup>6</sup>

In January 2010, the State of California adopted the California Green Building Standards Code (CalGreen) that establishes mandatory green building standards for all buildings in California. The code was subsequently updated in 2013. The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resource efficiency, and indoor environmental quality.

### **Local**

#### **Council Policy 6-32 Private Sector Green Building Policy**

Council Policy 6-32 Private Sector Green Building Policy, adopted in October 2008, establishes baseline green building standards for private sector new construction and provides a framework for the implementation of these standards. It fosters practices in the design, construction, and maintenance of buildings that will minimize the use and waste of energy, water and other resources in the City of San Jose. Private developments are required to implement green building practices if they meet the Applicable Projects criteria defined by Council Policy 6-32. The proposed project would be a Tier 2 (25,000 square feet or greater) Commercial/industrial project and would be required to be LEED Silver.

#### **Envision San Jose 2040 General Plan Policies**

- |                      |  |
|----------------------|--|
| <b>Policy MS-1.6</b> | Recognize the interconnected nature of green building systems, and, in the implementation of Green Building Policies, give priority to green building options that provide environmental benefit by reducing water and/or energy use and solid waste.  |
| <b>Policy MS-2.1</b> | Develop and maintain policies, zoning regulations, and guidelines that require energy conservation and use of renewable energy sources.  |
| <b>Policy MS-2.4</b> | Promote energy efficient construction industry practices.  |
| <b>Policy MS-2.6</b> | Promote roofing design and surface treatments that reduce the heat island effect of new and existing development and support reduced energy use, reduced air pollution, and a healthy urban forest. Connect businesses and residents with cool roof rebate programs through City outreach efforts. |

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<sup>5</sup> California Building Standards Commission. California Building Standards Code (California Code of Regulations, Title 24). Accessed September 20, 2018. <http://www.bsc.ca.gov/Codes.aspx>.

<sup>6</sup> CEC. 2016 Building Energy Efficiency Standards for Residential and Nonresidential Buildings. 2013. Accessed September 20, 2018. <http://www.energy.ca.gov/2015publications/CEC-400-2015-037/CEC-400-2015-037-CMF.pdf>.

**Policy MS-2.11** 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).

**Policy MS-14.1** Promote job and housing growth in areas served by public transit and that have community amenities within a 20-minute walking distance.

**Policy MS-14.4** Implement the City’s Green Building Policies (see Green Building Section) so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.

**Energy Environmental Checklist**

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporated	Less than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a. Result in potentially significant environmental impacts 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"/>	1,2,3,14
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"/>	1,2,3

**Impacts Evaluation**

**a. Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?**

A discussion of the project’s effect on energy use is presented below. Energy use consumed by the proposed project was estimated in the Air Quality and Greenhouse Gas Assessment prepared for the project by *Illingworth & Rodkin*. This included natural gas and electricity consumption for the proposed expansion of an existing ice rink facility. The project site

contains an existing facility with 4 ice rinks, which currently generates energy demand. For the evaluation below, existing operational energy use was compared to proposed energy use.

### Construction Impacts

The anticipated construction schedule assumes that the project would be built out over a period of approximately 18-24 months. The project would require demolition, site preparation, minor grading, site construction, paving, and architectural coating. The construction phase would require energy for the manufacture and transportation of building materials, preparation of the site (e.g., excavation, and grading), and the actual construction of the building. Petroleum-based fuels such as diesel fuel and gasoline would be the primary sources of energy for these tasks. The construction energy use has not been determined at this time.

The overall construction schedule and process is already designed to be efficient in order to avoid excess monetary costs. That is because equipment and fuel are not typically used wastefully due to the added expense associated with renting the equipment, maintaining it, and fueling it. Therefore, the opportunities for future efficiency gains during construction are limited. The proposed project does, however, include several measures that would improve the efficiency of the construction process.

Implementation of the BAAQMD BMPs detailed in Section 4.3 *Air Quality* would restrict equipment idling times to five minutes or less and would require the applicant to post signs on the project site reminding workers to shut off idle equipment. The project would also recycle or salvage at least 30 percent of construction waste as part of its LEED certification (discussed further below).

With implementation of the BAAQMD BMPs and LEED certification requirements, the short-term energy impacts associated with use of fuel or energy related to construction would be less than significant. **(Less than Significant Impact)**

### Operational Impacts

Operation of the proposed project would consume energy, in the form of electricity and natural gas, primarily for building heating and cooling, lighting, ice making, and other commercial uses. Table 4.6-1 summarizes the total estimated energy use of the proposed project including the existing uses.

<b>Table 4.6-1 Estimated Annual Energy Use of Proposed Project</b>		
<b>Proposed Project</b>	<b>Electricity Use (kWh)</b>	<b>Natural Gas Use (MMBtu)</b>
Commercial Development	2.6 million	50,000
Source: Sharks Ice and Illingworth & Rodkin, Inc., <i>Solar4America Air Quality and Greenhouse Gas Assessment</i> , August 16, 2019 (Appendix A)		

However, the energy use increase is likely overstated because the estimates for energy use do not take into account the efficiency measures incorporated into the project. In addition, the project would be built to the 2016 California Building Code standards and Title 24 energy efficiency standards (or subsequently adopted standards during the one-year construction term), and CALGreen code, which includes insulation and design provisions to minimize wasteful energy consumption, thereby improving the efficiency of the overall project. Though the proposed project does not include on-site renewable energy resources, the proposed project also is required to be built to LEED Checklist standards consistent with Council Policy 6-32.

The proposed project would result in an average daily increase in traffic to the project site of approximately 1,620 trips (Appendix A). The total annual Vehicle Miles Travelled (VMT) for the project is approximately 6,504,300, assuming that the average trip length in Santa Clara County is 11 miles. Using the U.S. EPA's estimated average fuel economy of 23.2 miles per gallon (mpg), the project would result in the consumption of approximately 280,358 gallons of gasoline per year.

The project is in proximity to VTA bus routes 42, 70, and 73 (refer to Section 4.17 *Transportation*). As a result, implementation of the proposed project would not result in a substantial increase on transportation-related energy use.

Though the proposed project does not include on-site renewable energy resources, the proposed public/quasi-public building would also be built to achieve LEED certification consistent with San José Council Policy 6-32. The project proponent anticipates that LEED certification would be achieved in part by conforming to the City's Green Building Measures.

The proposed project would provide bicycle parking consistent with the requirements of the City of San José Municipal Code. The inclusion of bicycle parking and proximity to transit would incentivize the use of alternative methods of transportation to and from the site. Based on the measures required for LEED Certification, the proposed project would comply with existing state and local energy standards. EV charging stations for autos are also included in the project.

Based on the discussion above, the project would not result in significant environmental impacts due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation. **(Less than Significant Impact)**

**b. Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?**

As stated above, the project would be required to be built to LEED Certification pursuant to Council Policy 6-32. By reducing single-occupancy traffic trips and including green design measures to achieve LEED certification, the proposed project would comply with existing state and local energy standards. The project would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency. **(Less Than Significant Impact)**

## Conclusion

The project proposed would have less than significant impacts related to energy use. **(Less than Significant Impact)**

## 4.7 GEOLOGY AND SOILS

A geotechnical investigation of the project site was prepared by Cornerstone Earth Group in April 2019. This report is contained in Appendix C.

### Environmental Setting

The project site is located in Santa Clara Valley, an alluvial basin that lies between the Santa Cruz Mountains to the southwest and the Diablo Range to the northeast. Santa Clara Valley bedrock consists of Franciscan Complex and Cretaceous-age marine sediment. This bedrock is overlain by Santa Clara Formation sediments, which consist of a complex distribution of sand, silt, and clay lenses. Alluvial soil thicknesses in the site area range from 500 to more than 600 feet.

The project property is an essentially flat lot with an elevation of approximately 110 feet above mean sea level. Topography in the vicinity of the site slopes downward gently to the northwest towards the San Francisco Bay.

An exploratory boring on-site encountered about 2.5 feet of undocumented fill consisting of hard sandy lean clay. Below the fill, the boring encountered hard sandy lean clay to a depth of about 4.5 feet, medium dense silty sand to a depth of about 12 feet, and interbedded layers of soft to medium stiff lean clays with variable amounts of sand and medium stiff sandy silt to a depth of about 40 feet. Beneath 40 feet, the boring encountered still lean clays and silts with varying amounts of clay, sand, and silt to the maximum depth explored of about 60 feet. The geotechnical investigation determined that soils on the site have a low expansion potential and near surface soils may be mildly to severely corrosive to buried metallic improvements.

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. The faults nearest the site include the Hayward (southeast extension), the Monte Vista-Shannon, the Calaveras, and the Hayward (total length). These faults are located approximately 3.8, 5.8, 6.5, and 7.9 miles from the site respectively.

The fault with the highest estimated probability of generating damaging earthquakes between 2014 and 2043 is the Hayward Fault, with a 33% probability. The site is not located within a state-designated Alquist Priolo Earthquake Fault Zone, a Santa Clara County Fault Hazard Zone, or a City of San Jose Potential Hazard Zone. No known surface expression of fault traces is thought to cross the site; therefore, fault rupture is not a significant geologic hazard at the site.

The site is within a state-designated Liquefaction Hazard Zone and Santa Clara County Liquefaction Hazard Zone. Field and laboratory testing was completed which found potentially liquefiable layers to depths of at least 50 feet. Differential settlements are anticipated to be on the order of up to ½-inch between independent foundation elements, estimated on the order of 30 feet. Unsaturated soils could experience up to 1.25 inches of movement after strong seismic shaking, however, the potential for lateral spreading to affect the site is low.

## **Regulatory Framework**

### **California Building Code**

The 2016 California Building Standards Code (CBC) was published July 1, 2016, with an effective date of January 1, 2017. The CBC is a compilation of three types of building criteria from three different origins:

- Building standards that have been adopted by state agencies without change from building standards contained in national model codes;
- Building standards that have been adopted and adapted from the National model code standards to meet California conditions; and
- Building standards, authorized by the California legislature, that constitute extensive additions not covered by the model codes that have been adopted to address particular California concerns.

The CBC identifies acceptable design criteria for construction that addresses seismic design and loadbearing capacity, including specific requirements for seismic safety; excavation, foundation and retaining wall design, site demolition, excavation, and construction, and; drainage and erosion control.

### **Paleontological Resources Regulations**

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 are in part valued for the information they yield about the history of the earth and its past ecological settings. The 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 will disturb or destroy a unique paleontological resource or site or unique geologic feature.

### **Local**

#### **City of San José Municipal Code**

Title 24 of the San José Municipal Code includes the current California Building, Plumbing, Mechanical, Electrical, Existing Building, and Historical Building Codes. Requirements for building safety and earthquake hazard reduction are also addressed in Chapter 17.40 (Dangerous Buildings) and Chapter 17.10 (Geologic Hazards Regulations) of the Municipal Code. Requirements for grading, excavation, and erosion control are included in Chapter 17.10 (Building Code, Part 6 Excavation and Grading). In accordance with the Municipal Code, the Director of Public Works must issue a Certificate of Geologic Hazard Clearance prior to the

issuance of grading and building permits within defined geologic hazard zones, including State Seismic Hazard Zones for Liquefaction.

### Envision San Jose General Plan Policies

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating geology and soils impacts resulting from development projects. Policies applicable to the project are presented below.

- Policy EC-3.1** Design all new or remodeled habitable structures in accordance with the most recent California Building Code and California Fire Code as amended locally and adopted by the City of San José, including provisions regarding lateral forces.
- Policy EC-4.1** Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and storm water controls.
- Policy EC-4.2** 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. [The City Geologist will issue a Geologic Clearance for approved geotechnical reports.]
- Policy EC-4.4** Require all new development to conform to the City of San José’s Geologic Hazard Ordinance.
- Policy 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, 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 30.
- Action EC-4.11** Require the preparation of geotechnical and geological investigation reports for projects within areas subject to soils and geologic hazards, and require review and implementation of mitigation measures as part of the project approval process.

**Action EC-4.12** Require review and approval of grading plans and erosion control plans prior to issuance of grading permits by the Director of Public Works.

**Policy ES-4.9** Permit development only in those areas where potential danger to health, safety, and welfare of the persons in that area can be mitigated to an acceptable level.

**Geology and Soils Environmental Checklist**

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporated	Less than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a. Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:					
i) 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"/>	1,2,3,15
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,15
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,15
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,15
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,15
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"/>	1,2,3,15
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,15

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"/>	1,2,3,15
f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3

**Impacts Evaluation**

- 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?**

Although the project site is not located on a known, active fault and is not located in an Alquist-Priolo Earthquake Fault Zone, the project site is in a seismically-active region and would be subject to strong shaking in the event of seismic activity. Due to the distances to known earthquake faults, fault rupture is not a significant geologic hazard at the site.

The site is located within both State- and County-designated Liquefaction Hazard Zones. Analysis of the potential for on-site post-liquefaction settlement has determined that several layers could experience liquefaction triggering that could result in soil softening. Liquefaction can result in ground failure (e.g., fissures), foundation bearing failure, and settlement of the ground surface, which can ultimately damage future development or endanger future residents on-site.

**Standard Permit Conditions:** To avoid or minimize potential damage from seismic shaking and seismic-related hazards (including liquefaction), 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.

The existing seismic conditions discussed above would not be exacerbated by the project such that it would impact (or worsen) off-site seismic conditions. **(Less Than Significant Impact)**

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

The project site is flat and developed. Ground disturbance would be required for removal of the existing pavement and excavation, grading, and construction of the proposed project. Ground disturbance would expose soils and increase the potential for wind or water-related erosion, loss of topsoil, and sedimentation at the site until construction is complete. As further discussed in *Section 4.9 Hydrology and Water Quality*, the project is required to minimize soil erosion hazards through compliance with the NPDES General Permit for Construction Activities, and implementation of an Erosion Control Plan with Best Management Practices (BMPs).

**Standard Permit Conditions:** To avoid or minimize potential soil erosion during construction activities, the project applicant shall implement the following standard permit conditions:

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

The project, with the implementation of the Standard Permit Condition as outlined above, would not result in significant soil erosion impacts. **(Less Than Significant Impact)**

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

As discussed above, the project site has high potential for liquefaction impacts during a regional earthquake, however, the potential for lateral spreading is low and the project would be required to implement the recommendations of the site-specific geotechnical report. The site would not be subject to impacts from other seismically-induced soil hazards including slope instability or landslides due to the flat topography of the site. **(Less Than Significant Impact)**

**d. Would the project be located on expansive soil, as defined in Section 1803.5.3 of the California Building Code (2016), creating substantial risks to life or property?**

The project site contains moderately expansive soils and undocumented fill, which could damage future buildings and development on-site. Differential settlement, structural damage, warping and cracking of roads and sidewalks, and rupture of utility lines may occur if the nature of expansive soils are not considered during project design and construction.

**Standard Permit Conditions:** 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.

The project, with implementation of the Standard Permit Conditions as outlined above and the removal of undocumented fill under future structures, would not result in significant expansive soil impacts. **(Less Than Significant Impact)**

- e. **Does the site 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 project does not propose the use of 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 geologic feature?**

#### Paleontological Resources

Soil on-site has been previously disturbed during construction of the existing development. The proposed development is not expected to encounter paleontological resources. Although not anticipated, construction activities associated with the proposed project could impact paleontological resources.

**Standard Permit Conditions:** Consistent with General Plan policy ER-10.3, the project shall implement the following to reduce or avoid impacts to paleontological resources to a less than significant level:

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.

The project, with the implementation of the above Standard Permit Conditions, would not result in significant impacts to archaeological or paleontological resources or human remains. **(Less Than Significant Impact)**

#### Conclusion

The project, with the implementation of the above Standard Permit Conditions, would not result in significant geology and soil impacts. **(Less Than Significant Impact)**

## 4.8 GREENHOUSE GAS EMISSIONS

The following discussion is based on an Air Quality and Greenhouse Gas Analysis completed by *Illingworth & Rodkin* on August 26, 2019. This report is included in Appendix A of this Initial Study.

### **Environmental Setting**

Unlike emissions of criteria and toxic air pollutants, which have local or regional impacts, emissions of Greenhouse Gases (GHGs) have a broader, global impact. Global warming associated with the “greenhouse effect” is a process whereby GHGs accumulating in the atmosphere contribute to an increase in the temperature of the earth’s atmosphere. The principal GHGs contributing to global warming and associated climate change are carbon dioxide (CO<sub>2</sub>), water vapor, methane (CH<sub>4</sub>), nitrous oxide (N<sub>2</sub>O), and fluorinated compounds.

Emissions of GHGs contributing to global climate change are attributable in large part to human activities associated with the transportation, industrial and manufacturing, utility, residential, commercial, and agricultural sectors. The project site is currently developed with four ice rinks and ancillary uses including locker rooms, a restaurant, training facilities, offices, lobby and ticket areas, and parking. Therefore, the project site is currently generating GHG emissions.

### **Regulatory Framework**

#### **State**

#### **California Global Warming Solutions Act**

Under the California Global Warming Solution Act, also known as AB 32, CARB has established a statewide GHG emissions cap for 2020, adopted mandatory reporting rules for significant sources of GHG, and adopted a comprehensive plan, known as the Climate Change Scoping Plan. The plan identifies how emission reductions will be achieved from significant GHG sources via regulations, market mechanisms, and other actions.

On September 8, 2016, Governor Brown signed Senate Bill 32 (SB 32) into law, amending the California Global Warming Solution Act. SB 32 requires CARB to ensure that statewide greenhouse gas emissions are reduced to 40 percent below the 1990 level by 2030. As a part of this effort, CARB is required to update the Climate Change Scoping Plan to express the 2030 target in terms of million metric tons of carbon dioxide equivalent. CARB adopted the State’s updated Climate Change Scoping Plan in December 2017. The updated plan provides a framework for achieving the 2030 target.

## Senate Bill 375 – Redesigning Communities to Reduce Greenhouse Gases

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, as compared to 2005 emissions levels. 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.<sup>7</sup>

Consistent with the requirements of SB 375, Metropolitan Transportation Commission (MTC) partnered with the Association of Bay Area Governments (ABAG), BAAQMD, and Bay Conservation and Development Commission (BCDC) 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.

Originally adopted in 2013, Plan Bay Area established a course for reducing per-capita GHG emissions through the promotion of compact, mixed-use residential and commercial neighborhoods near transit, particularly within identified Priority Development Areas (PDAs). Building upon the development strategies outlined in the original plan, Plan Bay Area 2040 was adopted in July 2017 as a focused update with revised planning assumptions based current demographic trends. Target areas in the Plan Bay Area 2040 Action Plan area related to reducing GHG emissions, improving transportation access, maintaining the region's infrastructure, and enhancing resilience to climate change (including fostering open space as a means to reduce flood risk and enhance air quality).

### Other Implementing Laws and Regulations

There are a number of laws that have been adopted as part of the State's efforts to reduce GHG emissions and their contribution to climate change. State laws and regulations related to growth, development, planning and municipal operations in San José include, but are not limited to:

- California Mandatory Commercial Recycling Law (AB 341)
- California Water Conservation in Landscaping Act of 2006 (AB 1881)
- California Water Conservation Act of 2009 (SBX7-7)
- Various Diesel-Fuel Vehicle Idling regulations in Chapter 13 of the California Code of Regulations

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<sup>7</sup> The emission reduction targets are for those associated with land use and transportation strategies, only. Emission reductions due to the California Low Carbon Fuel Standards or Pavley emission control standards are not included in the targets.

- Building Energy Efficiency Standards (Title 24, Part 6)
- California Green Building Code (Title 25, Part 11)
- Appliance Energy Efficiency Standards (Title 20)

Significance Thresholds

BAAQMD’s CEQA Air Quality Guidelines recommend a GHG threshold of 1,100 metric tons or 4.6 metric tons (MT) per capita. These thresholds were developed based on meeting the 2020 GHG targets set in the scoping plan that addressed AB 32. Development of the project would occur beyond 2020, so a threshold that addresses a future target is appropriate. Although BAAQMD has not published a quantified threshold for 2030 yet, this assessment uses a “Substantial Progress” efficiency metric of 2.6 MT CO2e/year/service population and a bright-line threshold of 660 MT CO2e/year based on the GHG reduction goals of EO B-30-15. The service population metric of 2.6 is calculated for 2030 based on the 1990 inventory and the projected 2030 statewide population and employment levels. The 2030 bright-line threshold is a 40 percent reduction of the 2020 1,100 MT CO2e/year threshold.

**Local**

Envision San José 2040 General Plan

The General Plan includes strategies, policies, and action items that are also incorporated in the City’s GHG Reduction Strategy to help reduce GHG emissions. Implementation of the policies in the Envision San José 2040 General Plan as a part of the City’s development permitting and other programs provides for meeting building standards for energy efficiency, recycling, and water conservation, consistent with State laws and regulations designed to reduce GHG emissions. Multiple policies and actions in the General Plan also have GHG implications, including land use, housing, transportation, water usage, solid waste generation and recycling, and reuse of historic buildings.

The following policies are specific to greenhouse gas emissions and are applicable to the proposed project:

- 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.
- CD-2.10** Recognize that finite land area exists for development and that density supports retail vitality and transit ridership. Use land regulations to require compact, low-impact development that efficiently uses land planned for growth, particularly for residential development which tends to have a long life-span. Strongly

discourage small-lot and single-family detached residential product types in growth areas.

- CD-3.2** Prioritize pedestrian and bicycle connections to transit, community facilities (including schools), commercial areas, and other areas serving daily needs. Ensure that the design of new facilities can accommodate significant anticipated future increases in bicycle and pedestrian activity.
- CD-5.1** Design areas to promote pedestrian and bicycle movements, to facilitate interaction between community members, and to strengthen the sense of community.
- MS-2.3** Utilize solar orientation (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
- MS-2.11** Require new development to incorporate green building policies, 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 effectiveness of passive solar design.).
- MS-14.4** Implement the City’s Green Building Policies so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.
- TR-2.18** Provide bicycle storage facilities as identified in the San José Bicycle Master Plan.
- TR-3.3** As part of the development review process, require that new development along existing and planned transit facilities consist of land use development types and intensities that contribute toward transit ridership. In addition, require that new development is designed to accommodate and provide direct access to transit facilities.

### Greenhouse Gas Reduction Strategy

The City, in conjunction with its preparation of the Envision San José 2040 General Plan, prepared a GHG Gas Reduction Strategy to ensure that implementation of the General Plan aligns with implementation requirements of AB 32 (2020 emission target).

The City’s GHG Reduction Strategy identifies GHG emissions reduction measures to be implemented by development projects in three categories: built environment and energy, land

use and transportation, and recycling and waste reduction. Some measures are mandatory for all proposed development projects and others are voluntary. Voluntary measures could be incorporated as mitigation measures for proposed projects, at the City's discretion.

Projects that are consistent with the GHG Reduction Strategy would have a less than significant impact related to GHG emissions through 2020 and would not conflict with targets in the currently adopted State of California Climate Change Scoping Plan through 2020. The City's current GHG Reduction Strategy does not address meeting the requirements of SB 32 (2030 emission target). In addition, it is currently being revised for 2030 emissions targets.

#### City of San José Municipal Code

The City's Municipal Code includes the following regulations that would reduce GHG emissions from future development:

- Green Building Ordinance (Chapter 17.84)
- Water Efficient Landscape Standards for New and Rehabilitated Landscaping (Chapter 15.10)
- Transportation Demand Programs for employers with more than 100 employees (Chapter 11.105)
- Construction and Demolition Diversion Deposit Program (Chapter 9.10)
- Wood Burning Ordinance (Chapter 9.10)

#### City of San José Municipal Sector Green Building Policy

In June 2001, the San José City Council unanimously adopted the Green Building Policies as developed by the members of the community and various City Departments. The Municipal Green Building Guidelines establish baseline green building standards for City of San Jose facilities and provide a framework for the implementation of these standards. The policies require that all new construction and major retrofit projects of City of San José facilities and buildings over 10,000 gross square feet of occupied space shall earn a Leadership in Energy and Environmental Design (LEED) Silver rating at a minimum, with a goal of earning Gold or Platinum certification. The proposed project would be subject to this policy.

#### City of San Jose Climate Smart Plan

In 2018, the City of San Jose City Council unanimously adopted Climate Smart San José - a plan to reduce air pollution, save water, and create a stronger and healthier community. The Plan focuses on three pillars and nine key strategies to encourage the City and community to actively engage in charting a course to reduce greenhouse gas emissions. Strategies include, but are not limited to transitioning to renewable energy in the future, creating local jobs to reduce vehicle miles travelled, and developing an integrated, accessible public transport infrastructure.

## Greenhouse Gas Emissions Environmental Checklist

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporated	Less than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a. Generate greenhouse gas 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"/>	1,2,3,4,14
b. Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,14

- a. Would the project generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?**

### **Construction Emissions**

The proposed development would result in temporary increases in GHG emissions associated with construction activities including operation of construction equipment and emissions from construction workers' personal vehicles traveling to and from the project site. Construction-related GHG emissions were input into the CalEEMod model to estimate GHG emissions during the construction period. The project would generate approximately 909 MT of CO<sub>2</sub>e total during construction period (refer to Appendix A for the GHG emissions model).

Neither the City of San José nor BAAQMD have established a quantitative threshold or standard for determining whether a project's construction-related GHG emissions are significant. However, BAAQMD encourages the incorporation of best management practices to reduce GHG emissions during construction where feasible and applicable. Best management practices assumed to be incorporated into construction of the proposed project include but are not limited to: using local building materials of at least 10 percent and recycling or reusing at least 50 percent of construction waste or demolition materials. Because project construction would be temporary and occur over a relatively short period of time, it is concluded that the project's construction-related GHG emissions would be less than significant. **(Less than Significant Impact)**

### **Operational Emissions**

The General Plan FPEIR disclosed that, in order to meet the State's SB 32 2030 emissions target, buildout of the General Plan post 2020 would require an aggressive multiple-pronged approach that includes policy decisions and additional emission controls at the federal and State level, new and substantially advanced technologies, and substantial behavioral changes to reduce

single occupant vehicle trips – especially to and from work places. Future policy and regulatory decisions by other agencies (such as CARB, California Public Utilities Commission, California Energy Commission, MTC, and BAAQMD) and technological advances are outside the City’s control and, therefore, could not be relied upon as feasible mitigation strategies the City could implement. The General Plan FPEIR, therefore, concluded that the buildout of the General Plan would result in significant and unavoidable greenhouse gas emissions.

The project would be operational post-2020. At a project-level, in order to meet the State’s 2030 GHG emissions target, the project would be compared to the threshold of 2.6 MT per service population. The service population efficiency rate is based on the number of full-time commercial and retail employees. Modeling was completed to estimate the project’s GHG emissions and accounts for the project’s density and proximity to transit. The traffic analysis included a 20% trip reduction due to ride-sharing that is already occurring on-site and the fact it is expected to continue with the proposed project.

The results of the modeling show that the project would generate approximately 1,597 MT of CO<sub>2</sub>e in 2022 and 1,388 MT of CO<sub>2</sub>e in 2030 (refer to Table 5 of Appendix A for the GHG emissions model information), or 48.4 and 42.1 MT/CO<sub>2</sub>e/year/service population because the project has so few existing and new full-time employees. This exceeds the 2030 operational annual emissions bright-line threshold of 660 MT CO<sub>2</sub>e/year and the service population emissions “substantial progress” efficiency metric of 2.6 MT CO<sub>2</sub>e/year/service population needed to meet the State’s SB 532 2030 GHG emission target.

In order to reduce project vehicle trips, the City has determined that the amount of parking required for the project will be based on actual square footage of the recreational commercial indoor, sports arena, and medical office uses as allowed by the Municipal Code, rather than on total building square footage. This will result in a 43 % reduction of parking while still being consistent with City parking requirements. This reduction would reduce and incentivize alternative modes of transportation.

In addition to the reduction in parking, the project also proposes to implement a Transportation Demand Management Program which would assist in reducing GHG emissions.

**Condition of Approval:** As a condition of approval, the project applicant shall implement the following TDM plan to reduce the project’s GHG emissions:

The project applicant shall develop and successfully implement a written Transportation Demand Management (TDM) plan to reduce project generated vehicle trips and parking demand. Using the City’s VMT Evaluation Tool, the TDM plan shall demonstrate the reduction of project generated vehicle trips to the extent possible in an effort to subsequently reduce operational GHG emissions from the project site. The TDM plan shall incorporate at least three or more TDM elements including, but not limited to, measures such as transit passes, on-site TDM coordination/services (kiosk and website), end of bike trip facilities (showers/lockers), transit subsidies, car sharing, carpool and vanpools, unbundled parking, or other reasonable

measures. The TDM Plan shall be submitted to the Director of Planning, Building and code Enforcement or Director's designee and be completed to the satisfaction of the Director of Planning, Building and Code Enforcement prior to issuance of a grading permit.

As stated in the traffic analysis (Appendix E), overall, the existing network of sidewalks and crosswalks in the immediate vicinity of the project site has good connectivity and provides adequate access to nearby transit facilities located on Senter Road, Alma Avenue, S. 10<sup>th</sup> Street, Keyes Street, and S. 1<sup>st</sup> Street. However, it has been determined that facility users would not be inclined to utilize transit due to the amount of equipment they are required to transport. Therefore, trips cannot be assumed to be significantly reduced for patrons beyond the trip reduction assumed for ride-sharing. Because of the low number of full-time employees, TDM coordination/services, end of bike trip facilities (showers/lockers), transit subsidies could only be expected to reduce employee trips by approximately 2-3 % for each measure, which would not be enough to reduce the impact to a less than significant level.

Even with the reduction in parking and the proposed TDM measures, the project is estimated to still be above the 2030 threshold for individual projects. However, the City of San Jose General Plan FEIR (as supplemented) concluded that Citywide 2040 GHG emissions are projected to exceed efficiency standards necessary to maintain a trajectory to meet long-term 2050 state climate change reduction goals. Achieving the substantial emissions reductions would require policy decisions at the federal and state level and new and substantially advanced technologies that cannot be anticipated today, and are outside the City's control, and therefore cannot be relied upon as feasible mitigation strategies.

Given the uncertainties about the feasibility of achieving the substantial 2040 emissions reductions, the City's contribution to climate change for the 2040 timeframe is conservatively determined to be cumulatively considerable. Based on this conclusion, the City found that build out of the 2040 General Plan would have a significant and unavoidable GHG emissions impact beyond 2020, as identified in the General Plan FEIR (as supplemented). Furthermore, the City adopted a statement of overriding considerations for the significant and unavoidable GHG impact assumed for development under the General Plan.

The project is consistent with the development assumptions in the General Plan and therefore would not cause the city to exceed to projected post-2020 GHG emissions described in the General Plan FEIR (as supplemented). This significant unavoidable impact was previously disclosed in the certified Envision San Jose 2040 General Plan FPEIR. **(Less than Significant Impact)**

### **Emergency Generator**

The proposed emergency generator is a stationary source of GHG emissions that would require a Permit to Operate from BAAQMD. BAAQMD assesses stationary sources separate from other project-related emissions. The generator is anticipated to emit 19 metric tons per year of CO<sub>2</sub>e. Compared to BAAQMD's threshold of 10,000 metric tons per year for permitted

stationary sources, the emergency generator would not produce emissions that would result in a significant impact. **(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 greenhouse gases?**

**GHG Reduction Strategy**

The project's conformance with the GHG Reduction Strategy is based on its consistency with the General Plan land use designation, applicable GHG General Plan policies (as described above), and mandatory measures (i.e., consistency with the Land Use/Transportation diagram, implementation of Green Building Measures, and incorporation of pedestrian/bicycle site design measures) from the GHG Reduction Strategy. Refer to Appendix A of this Initial Study for a full list of mandatory GHG reduction criteria and additional (optional) actions to reduce GHG emissions.

The project would be consistent with the GHG Reduction Strategy by developing a use consistent with the General Plan land use designation, achieving a minimum LEED Silver certification, utilizing energy conserving technology in operations, and providing ground level bicycle parking consistent with the City's Municipal Code.

**General Plan**

The project is consistent with the General Plan policies (MS-1.1, CD-2.10, CD-3.2, CD-5.1, MS-2.3, MS-2.11, MS-14.4, TR-2.18, and TR-3.3) and is consistent with the General Plan Land Use Designation for the site. The project would be constructed in accordance with the City's Green Building Ordinance and most current State building codes. The project will also participate in the construction and demolition debris recycling program, plant new trees and drought tolerant landscaping, and incorporate all applicable energy efficient technology in operations. **(Less Than Significant Impact)**

**Conclusion**

The proposed project, with implementation of MM GHG-1.1, would not result in a new or more significant greenhouse gas emission impact than previously disclosed in the certified General Plan FPEIR. **(Less than Significant Impact)**

## 4.9 HAZARDS AND HAZARDOUS MATERIALS

The following discussion is based on Phase I Environmental Site Assessment (ESA) of the southwest corner of the site completed by *Cornerstone Earth* on April 30, 2019. This report is included as Appendix D of this Initial Study. A Geotracker report was also prepared for the remainder of the project site (June 11, 2019).

### Environmental Setting

The Phase I ESA was completed on the site in accordance with American Society for Testing and Materials (ASTM) requirements to determine the presence or likely presence of any hazardous substances or petroleum products in, on, or at the property: (1) due to any 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.

The Phase I included site reconnaissance and observations of surrounding properties, review of regulatory databases and readily available information on file at selected governmental agencies, and hazardous materials management practices. All readily available maps and aerial photographs were reviewed and persons reportedly knowledgeable about the site were interviewed to determine potential recognized environmental conditions.

While the project site is currently home to the Solar4America Ice Facility, previous uses on the site include agricultural row crops with widely spaced residences and the UPRR railroad to the south. Based on a review of aerial photos of the project area, it appears that a plant nursery occupied the southern portion of the site from the late 1970's to the early 1990's.

### **Database Review**

Based on regulatory database review, the existing Municipal Firing Range has permits to generate hazardous waste and has been previously tested for lead. The review also found that the former Union Pacific Railroad right-of-way south of the project site is an open Cleanup Program Site that is being overseen by the Santa Clara County Department of Environmental Health. The remainder of the project site is not included on any regulatory database and has been developed with ice rink uses since 1993. Those uses were expanded in 1999, 2005, and 2015. Environmental review was conducted for the 1999 and 2005 expansions and hazardous materials were evaluated.<sup>8</sup>Therefore, any required mitigation measures or permit conditions would have been implemented as the expansions occurred and all impacts related to hazardous materials on the project site, exclusive of the firing range site, would have been less than significant. The Lorentz Barrel and Drum property, a Federal Environmental Protection Agency (EPA) Superfund site, is located west of the site across S. 10<sup>th</sup> Street from the project site. The Lorentz Barrel & Drum Co. site is located at the intersection of Alma Avenue and 10<sup>th</sup> Street in San Jose, California. A waste drum reconditioning and recycling facility operated on site from

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<sup>8</sup> H 03-035/CP 03-045 Site Development Permit and Conditional Use Permit, Use of a Negative Declaration from a Previous Project, City of San Jose, August 27, 2003.

1947 to 1987. Facility operations contaminated soil and groundwater with hazardous chemicals; however, most of the site's cleanup has been completed and site investigations and cleanup planning for a remaining source area of contamination are ongoing. The groundwater contaminant plume flow direction is north/northeast and there may be some groundwater contamination below part of the parking lot in the northwest corner of the Solar4America site, but it is not below any of the existing or proposed buildings. When this remedial action is completed, the site should be fully remediated and ready for closeout.<sup>9</sup>

### Site Reconnaissance

The firing range facility is a single-story concrete building used for indoor fire practice and is on a Santa Clara County database of facilities with permits to generate hazardous waste. Potential asbestos-containing materials were identified during the building material survey completed at the firing range and samples were taken and tested. Asbestos was found above laboratory reporting limits in four locations including joint compound and associated drywall, exterior paint, and roofing materials. Boiler components and fire doors are also assumed to contain asbestos.

The pre-demolition survey of the structure also identified the potential for polychlorinated biphenyl [PCB] containing materials such as caulking, light fixtures, ballasts, and oils and refrigerants in the heating and cooling system.

Lead and brass debris from discharged ammunitions was observed to be collected within plastic buckets for off-site recycling. Analyses of soil samples previously collected on the southerly adjacent property at locations near the property line shared with the on-site firing range detected lead concentrations at up to 940 mg/kg, which exceed the DTSC-SL of 80 mg/kg. Soluble lead levels were detected at up to 58 mg/L, which exceed the STLC of 5 mg/L. The on-site firing range was identified as a possible source for the elevated lead concentrations.

Subsequent testing for lead on the firing range site was conducted on August 19, 2019 (Appendix D) by Cornerstone Earth Group. Four exploratory borings were advanced to depths of up to approximately three feet adjacent to the exterior walls of the existing building. Discrete soil samples were collected using hand sampling methods from the upper approximately ½-foot of soils and from a depth interval of approximately two to three feet.

Soil samples were analyzed for total lead by EPA Test Method 6010B. The detected total lead concentrations were compared to the residential and commercial screening levels of 80 mg/kg and 320 mg/kg, respectively. The soluble lead concentrations were compared to the soluble threshold limit concentration (STLC) and toxicity characteristic leaching procedure (TCLP) hazardous waste thresholds of five milligrams/liter each.

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<sup>9</sup> United States EPA website, <https://cumulis.epa.gov/supercpad/SiteProfiles/index.cfm?fuseaction=second.cleanup&id=0901287>, accessed July 17, 2019.

Samples collected from the upper approximately ½-foot of soil in three of the four locations sampled along the exterior of the building contained lead at concentrations exceeding the residential DTSC-SL but were below the commercial DTSC-SL. In addition, the soluble lead concentration detected in one sample was above the STLC threshold, indicating the soil at this location could be considered a non-RCRA hazardous material.

Samples collected from depths of approximately two to three feet did not have elevated lead concentrations. It is believed that lead at the surface is likely caused by either the peeling of lead-based paint on the exterior walls or from airborne lead from the firing range vents. In either case, the elevated lead concentrations typically are restricted vertically to the upper few feet of soil and horizontally to within approximately five feet of the building perimeter.

Building plans dated in 1961 and 1962 provided by the City depict an interior sand pit at the down-range (east) end of the building below the original steel plate backstop. The sand pit was shown on the plans to have been underlain partially by the concrete building footing and partially by baserock and compacted fill. Cornerstone Earth Group attempted to sample this indoor location, but it was determined that a backstop was constructed over the former sand pit area. This backstop could not be easily removed; therefore, it was determined that because the firing range was still in use, it would be best to wait until the site was no longer used and the backstop could be safely removed. This testing will occur prior to total building demolition.

## **Regulatory Framework**

### **Federal and State**

The storage, use, generation, transport, and disposal of hazardous materials and waste are highly regulated under federal and State laws. Key federal regulations and policies related to development include the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund, and the Resource Conservation and Recovery Act (RCRA). In California, the USEPA has granted most enforcement authority over federal hazardous materials regulations to the California Environmental Protection Agency (CalEPA). In turn, local agencies including the Santa Clara County Department of Environmental Health (SCCDEH) have been granted responsibility for implementation and enforcement of many hazardous materials regulations under the Certified Unified Program Agency (CUPA) program.

Other regional agencies are responsible for programs regulating emissions to the air, surface water, and groundwater include BAAQMD, which has oversight over air emissions, and the Regional Water Quality Control Board (RWQCB) which regulates discharges and releases to surface waters and groundwater.

Oversight over investigation and remediation of sites impacted by hazardous materials releases can be completed by State agencies, such as the Department of Toxic Substances Control [(DTSC) a division of CalEPA], regional agencies, such as the RWQCB, or local agencies, such as SCCDEH. The SCCDEH oversees investigation and remediation Leaking Underground Storage

Tank (LUST) sites in the City of San José. Other agencies that regulate hazardous materials include the California Department of Transportation and California Highway Patrol (transportation safety), and California Occupational Safety and Health Administration (Cal/OSHA).

### **Cortese List (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 the State, local agencies, and developers to comply with CEQA requirements. The Cortese List includes hazardous substance release sites identified by DTSC, State Water Resources Control Board (SWRCB), and the Department of Resources Recycling and Recovery (CalRecycle). The project site is not on the Cortese List.

### **Local**

#### Envision San José 2040 General Plan

The General Plan includes the following policies for the purpose of reducing or avoiding impacts related to hazards and hazardous materials:

- 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-6.6** Address through environmental review all proposals for new residential, park and recreation, school, day care, hospital, church or other uses that would place a sensitive population in close proximity to sites on which hazardous materials are or are likely to be located, the likelihood of an accidental release, the risks posed to human health and for sensitive populations, and mitigation measures, if needed, to protect human health.
- 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-7.3** Where a property is located near known groundwater contamination with volatile organic compounds or within 1,000 feet of an active or inactive landfill, evaluate and mitigate the potential for indoor air intrusion of hazardous compounds to the satisfaction of the City’s Environmental Compliance Officer and appropriate regional, state and federal agencies prior to approval of a development or redevelopment project.
- EC-7.4** On redevelopment sites, determine the presence of hazardous building materials during the environmental review process or prior to project approval. Mitigation and remediation of hazardous building materials, such as lead-paint and asbestos-containing materials, shall be implemented in accordance with State and federal laws and regulations.
- 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-7.8** Where an environmental review process identifies the presence of hazardous materials on a proposed development site, the City will ensure that feasible mitigation measures that will satisfactorily reduce impact to human health and safety and to the environment are required of or incorporated into project. This applies to hazardous materials found in the soil, groundwater, soil vapor, or in existing structures.
- EC-7.10** Require review and approval of grading, erosion control and dust control plans prior to issuance of a grading permit by the Director of Public Works on sites with known soil contamination. Construction operations shall be conducted to limit the creation and dispersion of dust and sediment runoff.

#### Emergency Operations and Evacuation Plans

The City of San José’s Emergency Operations Plan includes standard operating procedures for flood events, heat waves, off-airport aviation accidents, power outages, terrorism, and urban/wildland interface fires. The Citywide Emergency Evacuation Plan sets forth the responsibilities of City personnel and coordination with other agencies to ensure the safety of San José citizens in the event of a fire, geologic, or other hazardous occurrence.

## Hazardous Materials Environmental Checklist

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporated	Less than Significant Impact	No Impact	Checklist Source(s)
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"/>	1,2,3,16
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"/>	1,2,3,16, 25
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 checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,16
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, will it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,16, 17,18, 25
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, will the project result in a safety hazard or excessive noise for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,18
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"/>	1,2,3
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 checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,22

## Impacts Evaluation

### **a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?**

The proposed project is the expansion of an existing ice rink facility. The ice making process requires two types of coolants – refrigerant gas R-134A and ethylene glycol (anti-freeze). These

components are transported once to the facility by a permitted company that places it into the ice-making system. This process does not occur routinely and hazardous reactions will not occur under standard storage and transport conditions.

A small (five gallon) can of gas for use in the ice edger is stored on-site in a fire-rated box. The project also includes a diesel-powered generator. The diesel is stored outdoors adjacent to the generator and is used primarily for generator testing per all BAAQMD requirements, including the required Permit to Operate. **(Less than Significant Impact)**

**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?**

The Phase I Environmental Site Assessment for the Municipal Firing Range and the Geotracker for the remainder of the site do not identify any subsurface tanks nor is the site on the Cortese List. While the Lorentz Barrel and Drum site is located to the west of the site, neither soil or groundwater on-site have been affected.

As previously described, a plant nursery was located in the southern portion of the project site sometime between the late 1970's and early 1990's. Nurseries can utilize pesticides and other chemicals for the procurement and maintenances of plants. Therefore, there is a potential for these hazardous materials to be present in the soil which could lead to impacts to construction workers during construction.

The areas around the firing range were tested for lead and levels were found to be below commercial reuse criteria, indicating that the soil is suitable for reuse if it remains in place. If the soil is excavated from its current location, then it may be considered a waste which could trigger hazardous disposal requirements. To further evaluate potential lead impacts from the firing range, samples will be collected and tested in the sand pit/backstop area upon building demolition and elevated concentrations will be removed from the interior of the building.

**IMPACT HAZ-1:** The proposed project could result in impacts to construction workers during construction due to potentially hazardous soil resulting from the previous plant nursery and firing range operations in the southern portion of the site. **(Significant Impact)**

**MM HAZ-1.1:** Prior to demolition and issuance of grading permits, the applicant will complete a limited soil investigation to address potential lead contamination in the sand pit/backstop area at the firing range and potential pesticide and pesticide-based metals (arsenic and lead) contamination due to the former nursery that occupied the southern portion of property. If contaminated soil is found in concentrations above regulatory environmental screening levels for construction worker safety the applicant shall share results of the limited soil sampling with the Santa Clara County Department of Environmental Health. The SCCDEH will then decide upon appropriate further action including but not limited to more testing, and/or the

development of a Site Management Plan (SMP), Removal Action Plan (RAP), or equivalent document.

The Plan and evidence of regulatory correspondence shall be provided to the Supervising Environmental Planner of the City of San Jose Planning, Building, and Code Enforcement, and the Environmental Compliance Officer in the City of San Jose's Environmental Services Department.

Building materials were also tested for asbestos, lead-based paint, and PCBs. Because these compounds could be disturbed during construction, the project shall conform to the following standard permit conditions to reduce the likelihood of release of hazardous materials into the environment.

***Standard Permit Conditions:***

- During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Title 8, California Code of Regulations (CCR), Section 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of lead being disposed.
- All potentially friable asbestos containing materials (ACMs) shall be removed in accordance with National Emission Standards for Air Pollution (NESHAP) guidelines prior to demolition or renovation activities that may disturb ACMs. All demolition activities shall be undertaken in accordance with Cal/OSHA standards contained in Title 8, CCR, Section 1529, to protect workers from asbestos exposure.
- A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.
- Materials containing more than one-percent asbestos are also subject to Bay Area Air Quality Management District (BAAQMD) regulations. Removal of materials containing more than one-percent asbestos shall be completed in accordance with BAAQMD requirements and notifications.
- Based on Cal/OSHA rules and regulations, the following conditions are required to limit impacts to construction workers.
  - Prior to commencement of demolition activities, a building survey, including sampling and testing, shall be completed to identify and quantify building materials containing lead-based paint.
  - During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, CCR, Section 1532.1, including employee training, employee air monitoring and dust control.
  - Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of waste being disposed.

Demolition of the firing range building will be subject to Federal National Emission Standards for Hazardous Air Pollutants (NESHAP). NESHAP demolition permitting will require notification to the BAAQMD for demolition of the building. A copy of the BAAQMD Demolition Notification form must be submitted online before demolition work can commence. The local building department should also be contacted to determine if a building demolition permit will be required. **(Less than Significant Impact with Mitigation Incorporated)**

- c. **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 not located within 1/4-mile of a school. **(Less than Significant Impact)**

- 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, will it create a significant hazard to the public or the environment?**

The Municipal Firing Range is listed on a Santa Clara County database of facilities with permits to generate hazardous waste. Neither it nor the remainder of the site are listed on any other Government listing including the Cortese List. With the mitigation measures described above, which are part of the proposed project, the project would not create a significant hazard to the public or the environment. **(Less than Significant Impact)**

- 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, will the project result in a safety hazard or excessive noise for people residing or working in the project area?**

The project site is not located within an airport land use plan and would not result represent a safety hazard or expose workers at the project site to excessive noise. **(Less than Significant Impact)**

- f. **Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?**

The project would not interfere with any adopted emergency or evacuation plans. The project would comply with all City of San Jose Municipal Code and Fire Department requirements related to driveway widths and emergency access. **(Less than Significant Impact)**

- g. **Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?**

The project would not expose people or structures, either directly or indirectly, to risk from wildland fires because it is located in a highly urbanized area that is not prone to such events. See also Section 4.19 *Wildfire* of this Initial Study. **(Less than Significant Impact)**

## Conclusion

With the mitigation measures described above, the proposed project would not result a significant impact related to Hazards and Hazardous Materials. **(Less than Significant Impact with Mitigation Incorporated)**

## 4.10 HYDROLOGY AND WATER QUALITY

### Environmental Setting

The project site is an essentially flat lot with an elevation of approximately 110 feet above mean sea level. The project site is currently occupied by the existing Solar4America Ice Facility and the Municipal Firing Range. Groundwater levels are estimated to be on the order of 15-30 feet below current grade (Cornerstone Earth Group, Appendix E, 2019). Near surface soils are clayey and are expected to have limited infiltration rates for stormwater.

The project site does not contain any natural drainages or waterways. The nearest waterway is Coyote Creek, located about ¼-miles east of the project site. The Flood Insurance Rate Maps issued by the Federal Emergency Management Agency (FEMA) indicate that the project site is located within Zone D. The project site is not located 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. The City does not have any floodplain restrictions for development in Zone D.

### Regulatory Framework

#### **Federal, State, and Regional**

#### Water Quality Overview

The federal Clean Water Act and California's Porter-Cologne Water Quality Control Act are the primary laws related to water quality. Regulations set forth by the USEPA and the State Water Resources Control Board (SWRCB) have been developed to fulfill the requirements of this legislation. USEPA 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 water quality control boards. The project site is within the jurisdiction of the San Francisco Bay Regional Water Quality Control Board (RWQCB).

#### Basin Plan

The San Francisco Bay RWQCB regulates water quality in accordance with the Water Quality Control Plan or "Basin Plan." The Basin Plan lists the beneficial uses that the 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 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.

### Statewide Construction General Permit

The SWRCB has implemented a NPDES General Construction Permit for the State of California. For projects disturbing one acre or more of soil, a Notice of Intent (NOI) and Storm Water Pollution Prevention Plan (SWPPP) must be prepared by a qualified professional prior to commencement of construction. 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.

### Municipal Regional Stormwater NPDES Permit/C.3 Requirement

The San Francisco Bay RWQCB has issued a Municipal Regional Stormwater NPDES Permit (Permit Number CAS612008) (MRP) that covers the project area. Under provisions of the NPDES Municipal Permit, redevelopment projects that disturb more than 10,000 square feet are required to design and construct stormwater treatment controls to treat post-construction stormwater runoff. The MRP requires regulated projects to include Low Impact Development (LID) practices, such as pollutant source control measures and stormwater treatment features aimed to maintain or restore the site's natural hydrologic functions. The MRP also requires that stormwater treatment measures are properly installed, operated and maintained.

In addition to water quality controls, the MRP requires all new 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 beneficial uses of local rivers, streams, and creeks. Projects may be deemed exempt from the permit requirements if they do not meet the size threshold, drain into tidally-influenced areas or directly into the Bay, drain into hardened channels, or are infill projects in subwatersheds or catchments areas that are greater than or equal to 65 percent impervious (per the Santa Clara Valley Permittees Hydromodification Management Applicability Map).

### National Flood Insurance Program

The Federal Emergency Management Agency (FEMA) established the National Flood Insurance Program (NFIP) in order 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 (FIRM) that identify Special Flood Hazard Areas (SFHA). An SFHA is an area that will be inundated by the one-percent annual chance flood, which is also referred to as the base flood or 100-year flood. The SFHA is the area where the NFIP floodplain management regulations must be enforced and the area where the mandatory purchase of flood insurance applies.

## Dam Safety

Dam failure is the uncontrolled release of impounded water behind a dam. Flooding, earthquakes, blockages, landslides, lack of maintenance, improper operation, poor construction, vandalism, and terrorism can all cause a dam to fail.<sup>10</sup> Because dam failure that results in downstream flooding may affect life and property, dam safety is regulated at both the federal and State level. Dams under the jurisdiction of the California Division of Safety of Dams are identified in California Water Code Sections 6002, 6003, and 6004 and regulations for dams and reservoirs are included in the California Code of Regulations. In accordance with the State Dam Safety Act, dams are inspected regularly and detailed evacuation procedures have been prepared for each dam.

As part of its comprehensive dam safety program, the Santa Clara Valley Water District (SCVWD) routinely monitors and studies the condition of each of its 10 dams. The SCVWD also has its own Emergency Operations Center and a response team that inspects dams after significant earthquakes. These regulatory inspection programs reduce the potential for dam failure.

## Santa Clara Valley Water District

The SCVWD 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 SCVWD property or easements are required under the SCVWD's Water Resources Protection Ordinance and District Well Ordinance.

## **Local**

### City of San José Post-Construction Urban Runoff Management (Policy 6-29)

The City of San José's Policy 6-29 implements the stormwater treatment requirements of Provision C.3 of the Municipal Regional Stormwater NPDES Permit. The City of San José's Policy 6-29 requires all new development and redevelopment projects to implement post-construction Best Management Practices (BMP) and Treatment Control Measures (TCM) to the maximum extent practicable. This policy also establishes specific design standards for post-construction TCMs for projects that create, add, or replace 10,000 square feet or more of impervious surfaces. The proposed project meets this threshold.

### City of San José Hydromodification Management (Policy 8-14)

The City of San José's Policy 8-14 implements the stormwater treatment requirements of Provision C.3 of the Municipal Regional Stormwater NPDES Permit. Policy 8-14 requires all new and redevelopment projects that create or replace one acre or more of impervious surface to

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<sup>10</sup> State of California. 2018. 2018 State Hazards Mitigation Plan. Accessed: July 29, 2019. Available at: [http://hazardmitigation.calema.ca.gov/plan/state\\_multi-hazard\\_mitigation\\_plan\\_shmp](http://hazardmitigation.calema.ca.gov/plan/state_multi-hazard_mitigation_plan_shmp).

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 beneficial uses of local rivers, streams, and creeks. The policy requires these projects to be designed to control project-related hydromodification through a Hydromodification Management Plan (HMP).

Based on the Santa Clara Permittees Hydromodification Management Applicability Map for the City of San José, the project site is exempt from the NPDES hydromodification requirements related to preparation of an HMP because it is located in a subwatershed greater than or equal to 65 percent impervious.

### 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 hydrology and water quality and are applicable to the proposed project.

- 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 for proposed developments that define needed drainage improvements per City standards.
- MS-3.4** Promote the use of green roofs (i.e., roofs with vegetated cover), landscape-based treatment measures, pervious materials for hardscape, and other stormwater management practices to reduce water pollution.
- MS-3.5** Minimize area dedicated to surface parking to reduce rainwater that comes into contact with pollutants.
- ER-8.1** Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.
- ER-8.3** Ensure that private development in San José includes adequate measures to treat stormwater runoff.
- EC-4.1** Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and stormwater controls.
- EC-5.7** Allow new urban development only when mitigation measures are incorporated into the project design to ensure that new urban runoff does not increase flood risks elsewhere.

**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.

**Hydrology and Water Quality Environmental Checklist**

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporated	Less than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a. Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface groundwater quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,12,24
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"/>	1,2,3
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 that would:					
i. result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,24
ii. substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,24
iii. create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted run-off?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,12,24
d. In flood hazard, tsunami, or seiche zones, would the project risk release of pollutants due to project inundation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,14
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"/>	1,2,3,12,24

## Impacts Evaluation

### a. **Would the project violate any water quality standards or waste discharge requirements or otherwise substantially degrade water quality?**

#### **During Construction**

Construction of the project may result in temporary impacts to surface water quality. When disturbance to underlying soils occurs, the surface runoff that flows across the site may contain sediments that are ultimately discharged into the storm drainage system. Construction of the project would disturb more than one acre of soil and, therefore, compliance with the NPDES General Permit for Construction Activities is required.

In addition, all development projects in San José must comply with the City's Grading Ordinance. The City of San José Grading Ordinance requires the use of erosion and sediment controls to protect water quality while a site is under construction. Prior to issuance of a permit for grading activity occurring during the rainy season (October 1 to April 30), the applicant is required to submit an Erosion Control Plan to the Director of Public Works for review and approval. The Plan must detail the BMPs that shall be implemented to prevent the discard of stormwater pollutants.

***Standard Permit Conditions:*** The proposed project must comply with the City's Grading Ordinance, which includes submitting an Erosion Control Plan 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 by the wind shall be watered or covered.
- All trucks hauling soil, sand, and other loose materials shall be covered and all trucks shall 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 remove mud from 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.

The project, with implementation of the above Standard Permit Conditions, would not result in significant construction-related water quality impacts. **(Less Than Significant Impact)**

### **Post-Construction**

Implementation of the project would increase impervious surfaces on-site by approximately 34,503 square feet. Since the project would create and/or replace over 10,000 square feet of impervious surfaces, the proposed project shall comply with the RWQCB Municipal Regional NPDES permit and City of San José's Post-Construction Urban Runoff Policy 6-29. In order to meet these requirements, the project proposes stormwater Treatment Control Measures, Site Design Measures, and Source Control Measures.

Stormwater runoff from the Treatment Control Measures and Site Design Measures would drain into the treatment areas on-site prior to entering the storm drainage system. Details of specific Site Design, Pollutant Source Control, and Treatment Control Measures demonstrating compliance with Provision C.3 of the Municipal Regional Stormwater Permit (NPDES Permit Number CAS612008), shall be included in the project design, to the satisfaction of the Director of Planning, Building and Code Enforcement.

The proposed project would increase the impervious surface area on-site, therefore increasing stormwater runoff. With implementation of a stormwater control plan consistent with RWQCB requirements 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. **(Less Than Significant Impact)**

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

The depth of groundwater in the site vicinity is expected to be 15-30 feet or more below current grade (Cornerstone Earth Group, 2019). The project would not affect groundwater supplies since it requires minor grading and would not access groundwater. Thus, the proposed project would not decrease groundwater supplies or interfere substantially with groundwater recharge (such that the project may impede sustainable groundwater management of the basin), because it would not access groundwater. **(Less Than Significant Impact)**

**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 that would:**

**i. result in substantial erosion or siltation on- or off-site?**

The project does not include altering any drainage patterns of the site or area that would involve the alteration of a stream or river. The only drainage pattern that would be altered/improved, would be that of the existing site, which is currently developed. The

Treatment Control Measures and SWPPP for the site will be implemented in conformance with all City and State requirements. Runoff would be collected in the storm drain system and conveyed to bioretention facilities on-site prior to outfall to Coyote Creek. The increase in runoff would not result in substantial erosion or siltation on- or off-site. **(Less Than Significant Impact)**

**ii. substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or off-site?**

The project will result in additional impervious surfaces on-site. However, the majority of the site is currently impervious due to building and parking surfaces. The expansion of the facility would not result in an increase in surface runoff that could lead to flooding on- or off-site. The project is located within Flood Zone D, which is not a designated FEMA 100-year floodplain. Flood Zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. The City does not have any floodplain restrictions for development in Zone D. In addition, because the site is not located within a flood hazard zone, it will not impede or redirect flood flows. **(Less Than Significant Impact)**

**iii. create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted run-off?**

The project proposes to connect to the City's existing storm drainage system. Surface runoff from the site may contain urban pollutants. Runoff from the parking and driveway areas could include oil, grease, and trace metals. The project could also generate urban pollutants related to the use of fertilizers, pesticides, and herbicides on landscaped areas. Runoff will be collected in a storm drain system and conveyed to a bio- retention facility, where it will be treated prior to discharging into City's existing storm drainage system. The project is not expected to contribute runoff that will exceed the capacity of existing or planned stormwater drainage systems or result in substantial additional sources of polluted runoff. See also a., ci., and cii. above. **(Less Than Significant Impact)**

**d. In flood hazard, tsunami, or seiche zones, would the project risk release of pollutants due to project inundation?**

The proposed project is not located in a flood hazard, tsunami, or seiche zone. Therefore, there is no risk of release of pollutants due to project inundation. Based on the City's Dam Failure Inundation Areas from the 2040 General Plan EIR, the project site appears to be within the inundation area in the event of a failure of Anderson Dam. The inundation map assumes complete failure of the dam with a full reservoir. The actual extent and depth of inundation in the event of a failure would depend on the volume of storage in the reservoir at the time of failure. The risks of dam failure are reduced by several regulatory inspection programs and local hazard mitigation planning.

The Santa Clara Valley Water District has received preliminary findings of a seismic study of Anderson Dam that shows the material at the base of the dam would liquefy in a 7.25 magnitude earthquake on the nearby Calaveras Fault. The District is currently studying what corrective measures are needed to ensure public safety and has imposed operating restrictions at Anderson Dam. To prevent the uncontrolled release of water after a major earthquake, water at Anderson Reservoir is kept at least 37-feet below the spillway and 57-feet below the crest of the dam. The proposed project would not increase the risk of failure of the Anderson Dam, nor would it result in the release of pollutants should the dam fail. **(Less Than Significant Impact)**

**e. Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan.**

As described above, the proposed project would be required to comply with the City of San José Grading Ordinance, C3 provisions, the approved SWPPP, as well as standard BMPs during construction. Based on the measures required by the City, the proposed project would not conflict with or obstruction the implementation of a water quality control plan or sustainable groundwater management plan. **(Less Than Significant Impact)**

**Conclusion**

With the Standard Permit Conditions above as well as other City and State requirements, the proposed project would not result in a significant impact to hydrology or water quality. **(Less than Significant Impact)**

## 4.11 LAND USE

### Environmental Setting

The project site is located in an area of primarily industrial and public uses in central San Jose. The site is owned by the City of San Jose and is currently developed with the existing Solar4America Ice Facility, the Excite Ballpark (previously, San Jose Municipal Ballpark), and the Municipal Firing Range.

The Solar4America ice facility includes four ice rinks and ancillary uses, such as a restaurant, locker rooms, bathrooms, lobby and ticket areas, offices, and parking. The Excite San Jose Giants Ballpark would not be affected by the project except to allow shared parking along its western and southwestern boundaries. The Municipal Firing Range would be demolished and incorporated into the project site.

The project site is bounded on the north by San Jose State University property including CEFCU Spartan Stadium (primarily football and soccer games), the location of the future parking structure to be located at the northeast corner of the intersection of S. 10<sup>th</sup> Street and Alma Avenue, and a golf driving range. Kelley Park, History San Jose, and Happy Hollow Park & Zoo are located to the east of the site.

The previous location of UPRR tracks is located along the southeastern and southern boundaries of the site. This privately-owned property is planned for mini-storage uses. City of San Jose Corporation Yard uses are located farther to the south between S. 10<sup>th</sup> Street and Senter Road. The Lorentz Barrel and Drum site, now used for car storage for various dealerships, is located to the west of the site. The nearest residential uses are located to the north of the site between S. 10<sup>th</sup> Street and Senter Road.

### Regulatory Framework

#### **Local**

##### City of San Jose Zoning Ordinance

Per the San Jose Municipal Code Title 20 (Zoning Ordinance), the project site is currently zoned *R-2 Residential*: Single-family and two-family subdivisions with an allowable density range of eight to sixteen dwelling units per acre. The General Plan designation for the site is *PQP Public/Quasi-Public*. The proposed project includes a conforming rezoning to bring the zoning of the publicly-owned site into conformance with the General Plan.

Uses allowed in the *PQP* zoning district include schools, colleges, research institutions, corporation yards, homeless shelters, libraries, fire stations, water treatment facilities, convention centers with integrated hotels and restaurants, auditoriums, museums, governmental offices, airports, stadiums, and other similar publicly-oriented institutional land uses with associated incidental commercial uses supporting such publicly-oriented institutional land uses.

## 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. As previously stated, the project site has a General Plan designation of *PQP*.

- CD-2.9** Encourage adaptable space that can be used for multiple employment or public/quasi-public purposes (e.g., satellite office space, community meeting, and religious assembly uses accommodated in a single space).
  
- CD-3.4** Encourage pedestrian cross-access connections between adjacent properties and require pedestrian and bicycle connections to streets and other public spaces, with particular attention and priority given to providing convenient access to transit facilities. Provide pedestrian and vehicular connections with cross-access easements within and between new and existing developments to encourage walking and minimize interruptions by parking areas and curb cuts.
  
- ES-6.2** Maintain and update the Envision General Plan Land Use/Transportation Diagram as necessary to provide sufficient opportunities for hospitals and medical care facilities to locate in San José. Consider locating health care and medical service facilities, including hospitals, in residential, commercial, Urban Village, mixed use, Downtown, Transit Employment Center, Combined Industrial/Commercial, Industrial Park, and Public/Quasi-Public designations.
  
- IP-1.6** Ensure that proposals to rezone and prezone properties conform to the Land Use/Transportation Diagram, and advance General Plan Vision, goals and policies.
  
- LU-1.9** Preserve existing Public/Quasi-Public lands in order to maintain an inventory of sites suitable for Private Community Gathering Facilities, particularly within the Residential Neighborhoods, Urban Villages and commercial areas, and to reduce the potential conversion of employment lands to non-employment use.

**Land Use Environmental Checklist**

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporated	Less than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a. Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
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"/>	1,2,3

**Impacts Evaluation**

**a. Would the project physically divide an established community?**

The project proposes to expand an existing use on a developed parcel in a highly urbanized area, consistent with the site’s existing General Plan land use designation of *PQP*. The project site does not include any physical features that would physically divide the community (e.g., blocking of sidewalks, construction of roadways, etc.). For these reasons, the project 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?**

As previously described, the project includes rezoning the project site from R-2 to *PQP* consistent with the existing and future uses of the site. The General Plan states that Public/Quasi-Public uses on public land uses can include the facilities of any organization involved in the provision of public services. The appropriate intensity of development can vary considerably depending on potential impacts on surrounding uses and the particular public use developed on the site. The provision of public ice rink facilities meets this definition and is therefore, consistent with the General Plan.

The proposed project includes Standard Permit Conditions and mitigation measures to reduce all environmental impacts to a less than significant level, thus complying with all applicable land use plans, policies, and regulations. For this reason, the project would not result in a significant environmental impact due to a conflict with policies, plans, or regulations adopted for the purpose of avoiding or mitigating an environmental effect. **(Less than Significant Impact)**

## Conclusion

With the Standard Permit Conditions and mitigation measures identified in this Initial Study, as well as other City requirements, the proposed project would not result in a significant land use impact. **(Less than Significant Impact)**

## 4.12 MINERAL RESOURCES

### Environmental Setting

The Santa Clara Valley was formed when sediments derived from the Santa Cruz Mountains and the Mount Hamilton-Diablo Range were exposed by continuous tectonic uplift and regression of the inland sea that had previously inundated the area. As a result of this process, the topography of the City is relatively flat and there are no significant mineral resources. The proposed project site, which is located on the valley floor, does not contain any known mineral resources.

The State Mining and Geology Board under the Surface Mining and Reclamation Act of 1975 (SMARA) has designated an area of Communications Hill in Central San José, bounded by the Union Pacific Railroad, Curtner Avenue, State Route 87, and Hillsdale Avenue, as a regional source of construction aggregate materials. Other than the Communications Hills area, San José does not have mineral deposits subject to SMARA.

### Regulatory Framework

#### **State**

#### Mineral Resources and the 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. SMARA mandated the initiation by the State Geologist of mineral land classification 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, 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 Surface Mining and Reclamation Act of 1975 (SMARA), the State Mining and Geology Board 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 State Mining and Geology Board have classified any other areas in San José as containing mineral deposits of statewide significance or requiring further evaluation.

**Environmental Checklist**

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporated	Less than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a. Result in the loss of availability of a known mineral resource that will 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"/>	1,2,3
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"/>	1,2,3

**Impacts Evaluation**

- a. **Result in the loss of availability of a known mineral resource that will be of value to the region and the residents of the state?**
- 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?**

The project site is not located on or near Communications Hill and, therefore, does not contain known mineral resources. The Communications Hill area is approximately 1.5 miles southwest of the project site. Due to the distance of the site from the nearest designated mineral resources, implementation of the project would not result in the loss of availability of a known mineral resource. **(No Impact)**

**Conclusion**

The project would not result in the loss of availability of known mineral resources. **(No Impact)**

## 4.13 NOISE AND VIBRATION

### Overview

#### *Noise Fundamentals*

There are several methods of characterizing sound. The most common in California is the A-weighted sound level or dBA. This scale gives greater weight to the frequencies to which the human ear is most sensitive. The City's Envision San José 2040 General Plan applies the Day-Night Level (DNL) descriptor in evaluating noise conditions. The DNL represents the average noise level over a 24-hour period and penalizes noise occurring between the hours of 10 PM and 7 AM by 10 dB.

Construction is a temporary source of noise for residences and other uses located near construction sites. Construction noise can be significant for short periods of time at any particular location and generates the highest noise levels during grading and excavation, with lower noise levels occurring during building construction. Typical hourly average construction-generated noise levels are approximately 80 to 85 dBA measured at a distance of 50 feet from the site during busy construction periods. Some construction techniques, such as impact pile driving, can generate very high levels of noise (105 dBA L<sub>max</sub> at 50 feet) that are difficult to control. Construction activities can elevate noise levels at adjacent businesses and residences by 15 to 20 dBA or more during construction hours.

#### *Vibration Fundamentals*

Several different methods are typically used to quantify vibration amplitude. One method, used by the City, is Peak Particle Velocity (PPV). The PPV is defined as the maximum instantaneous positive or negative peak of the vibration wave. For this analysis, the PPV descriptor with units of mm/sec or in/sec is used to evaluate construction generated vibration for building damage and human annoyance.

Construction activities can cause vibration that varies in intensity depending on several factors. The use of pile driving and vibratory compaction equipment typically generates the highest construction related groundborne vibration levels. Because of the impulsive nature of such activities, the use of the PPV descriptor has been routinely used to measure and assess groundborne vibration and almost exclusively to assess the potential of vibration to induce structural damage and the degree of annoyance for humans.

### **Environmental Setting**

The proposed project site is located in area of primarily public and industrial uses. The nearest noise sensitive receptors are residential uses located approximately 1,300 feet (0.25 miles) north of the site on E. Humboldt Street. Noise in the project area is dominated by traffic noise on E. Humboldt Street, S. 10<sup>th</sup> Street, Alma Avenue, and Senter and Story Roads. Short-term visitors (around three hours for a game) to the outdoor Excite Ballpark would be exposed to similar roadway and event noise on a temporary basis and are not considered to be sensitive receptors.

Based on the noise assessment for the 2040 General Plan EIR, noise levels along Senter Road just west of the project site were determined to be 70 dBA (DNL) at a distance of 75 feet for 2008-2035.<sup>11</sup>

Land uses within the project area have not changed in many years. The Excite Ballpark (previously San Jose Municipal Stadium) was constructed in 1942. Kelley Park became a City park beginning in about 1956 with Happy Hollow Zoo being constructed in 1961 and San Jose History Park being constructed in 1965. San Jose State University's Spartan Stadium northwest of the project site was constructed in 1933 and became CEFCU Stadium in 2015. Other SJSU uses on the north side of Alma Avenue and to the south of the site, including the City's Corp Yard, have also been in existence for many years and no new development has occurred.

The land uses to the south are all publicly owned and have not changed, nor have there been any General Plan amendments in the area that would have resulted in significant changes in General Plan assumptions. Based on information from Illingworth & Rodkin, the 70 dBA at a distance of 75 feet of Senter Road just west of the project site, is still believed to be accurate.<sup>12</sup> For these reasons and because the General Plan analysis projected noise in the City assuming General Plan buildout until 2035, noise levels on Senter Road in the project vicinity have not changed substantially.

## **Regulatory Framework**

### **State**

#### **California Building Code**

The current version of the California Building Code (CBC) requires interior noise levels attributable to exterior environmental noise sources to be limited to a level not exceeding 45 dBA DNL/CNEL in any habitable room. The State of California established exterior sound transmission control standards for new non-residential buildings as set forth in the 2016 California Green Building Standards Code (Section 5.507.4.1 and 5.507.4.2). These sections identify the standards (e.g., STC rating) that building materials and assemblies need to be in compliance with based on the noise environment.

### **Local**

#### **San José General Plan Noise Compatibility Guidelines**

The City's Envision San José 2040 General Plan includes goals and policies pertaining to noise and vibration. Community Noise Levels and Land Use Compatibility (commonly referred to as the Noise Element) of the General Plan utilizes the DNL descriptor and identifies interior and exterior noise standards for residential uses. The Envision San José 2040 General Plan and the San José Municipal Code include the following criteria for land use compatibility and acceptable noise levels in the City.

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<sup>11</sup> Source: "Environmental Noise Assessment for Envision San José 2040 General Plan Comprehensive Update," Illingworth & Rodkin, Inc., December 2010, page 53.

<sup>12</sup> Personal communication, Michael Thill, Principal, Illingworth & Rodkin, October 25, 2019.

Table 4.13-1: General Plan Land Use Compatibility Guidelines (Table EC-1)						
Land Use Category	Exterior DNL Value in Decibels					
	55	60	65	70	75	80
1. Residential, Hotels and Motels, Hospitals and Residential Care <sup>1</sup>		Gray			Black	
2. Outdoor Sports and Recreation, Neighborhood Parks and Playgrounds			Gray			
3. Schools, Libraries, Museums, Meeting Halls, and Churches		Gray			Black	
4. Office Buildings, Business Commercial, and Professional Offices				Gray		
5. Sports Arena, Outdoor Spectator Sports				Gray		
6. Public and Quasi-Public Auditoriums, Concert Halls, and Amphitheaters	Gray			Black		

Notes: <sup>1</sup>Noise mitigation to reduce interior noise levels pursuant to Policy EC-1.1 is required.

**Normally Acceptable (White):**  
Specified land use is satisfactory, based upon the assumption that any buildings involved are of normal conventional construction, without any special noise insulation requirements.

**Conditionally Acceptable (Gray):**  
Specified land use may be permitted only after detailed analysis of the noise reduction requirements and noise mitigation features included in the design.

**Unacceptable (Black):**  
New construction or development should generally not be undertaken because mitigation is usually not feasible to comply with noise element policies. Development will only be considered when technically feasible mitigation is identified that is also compatible with relevant design guidelines.

### 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. In addition, the noise and land use compatibility guidelines set forth in the General Plan are shown in Table 4.13-1, above.

**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 Envision 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. Residential uses are considered “normally acceptable” with exterior noise exposures of up to 60 dBA DNL and “conditionally compatible” where the exterior noise exposure is between 60 and 75 dBA DNL such that the specified land use may be permitted only after detailed analysis of the noise reduction requirements and needed noise insulation features are included in the design.

**Policy EC-1.2** Minimize the noise impacts of new development on land uses sensitive to increased noise levels (Land Use Categories 1, 2, 3 and 6 in Table EC-1 in the General Plan) by limiting noise generation and by requiring use of noise attenuation measures such as Envision San José 2040 Relevant Noise and Vibration Policies acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would:

- 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-1.3** Mitigate noise generation of new nonresidential land uses to 55 dBA DNL at the property line when located adjacent to existing or planned noise sensitive residential and public/quasi-public land uses.

**Policy EC-1.6** 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.

**Policy EC-1.7** 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:

- 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.

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.

**Policy EC-2.3** 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 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.

San José Municipal Code

Per the San José Municipal Code Title 20 (Zoning Ordinance) Noise Performance Standards, the sound pressure level generated by any use or combination of uses on a property shall not exceed the decibel levels indicated in the table below at any property line, except upon issuance and in compliance with a Special Use Permit as provided in Chapter 20.100.

<b>Land use Types</b>	<b>Maximum Noise Levels in Decibels at the Property Line</b>
Residential, open space, industrial or commercial uses adjacent to a property used or zoned for residential purposes	50
Open space, commercial, or industrial use adjacent to a property used for zoned for commercial purposes or other non-residential uses	60
Industrial use adjacent to a property used or zoned for industrial use or other use other than commercial or residential purposes	70

Chapter 20.100.450 of the Municipal Code establishes allowable hours of construction within 500 feet of a residential unit between 7:00 AM to 7:00 PM on Monday through Friday, unless otherwise expressly allowed in a Development Permit or other planning approval. The Municipal Code does not establish quantitative noise limits for demolition or construction activities occurring in the City.

**Noise and Vibration Environmental Checklist**

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporated	Less than Significant Impact	No Impact	Checklist Source(s)
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"/>	1,2,3
b. Generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
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 checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,19

## Impacts Evaluation

- 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?**

### Operational Noise

The proposed project is the expansion of an existing ice facility in an area of primarily public and industrial uses. Noise generated on site would be generated by two sources; additional vehicular traffic, and noise from outdoor mechanical equipment, including a new emergency generator.

The proposed project would result in up to 3,783 net daily vehicle trips (refer to Section 4.17 *Transportation*). The increase in traffic would result in an overall increase in traffic noise along roadways; however, not above projected General Plan levels, as previously. To increase noise substantially in the project area, the number of trips generated by the project must result in a doubling of the existing traffic volumes, which it does not. For this reason, traffic generated by the project would not result in a significant noise level increase as outlined in General Plan Policies EC-1.1 and EC-1.2.

Furthermore, the noise levels along Senter Road, a six-lane roadway located west of the project site, are relatively high (70 dBA DNL at 75 feet). No significant noise impacts are anticipated from the project, since the new noise sources (e.g., additional vehicle traffic, the emergency generator during testing, and outdoor HVAC equipment) are anticipated to be less than existing noise generated by traffic on Senter Road, S. 10<sup>th</sup> Street, and Alma Avenue.

Under the City's Noise Element in the General Plan, noise levels from mechanical equipment shall not exceed a noise level of 55 dBA DNL at receiving noise-sensitive land uses. Due to the distance to noise-sensitive land uses (approximately 1,300 feet north of the site), mechanical equipment associated with the proposed project would not be audible to these uses.

Noise generated by an emergency generator is attributable to the testing and maintenance of the generator with a maximum of 50 hours per year of non-emergency operation under normal conditions. During testing periods, the engine would typically be run for less than one hour under light engine loads. The generator engine would be required to meet U.S. EPA emission standards and consume commercially available California low sulfur diesel fuel.

The generator, which would be located in the central portion of the site, would include a weather-proof sound attenuated enclosure with a critical grade exhaust silencer which can reduce noise generated during testing by up to 40 dB. The generator testing would result in a noise level of approximately 74 dB at a distance of 23 feet from the generator for one hour per month. The generator would be located approximately 350 feet from the northern property

boundary. With a six (6) dB reduction in noise when doubling the distance from the source,<sup>13</sup> noise levels at the northern property line, approximately 1,300 feet from residential uses to the north, would be approximately 53 dB, consistent with General Plan policies.

The previous UPRR site south of the project site is very narrow in this location and is planned for mini-storage uses. Existing land uses farther to the south include the City of San Jose's Corp Yard. Neither of these uses are considered sensitive and the mini-storage uses would also serve to screen the Corp Yard where vehicles are stored. In addition, testing would only occur a maximum of 50 hours per year, which can be timed to avoid games at the Excite Ballpark and events at Solar4America Ice.

### Construction Noise

Construction activities generate considerable amounts of noise, especially during earth-moving activities when heavy equipment is used. Construction of the project would involve demolition, grading, foundation placement, building development, and paving. The project does not propose any pile driving. Given that construction equipment can generate noise levels of 85 dBA or louder at a distance of 50 feet, project-related construction activities would temporarily raise ambient noise levels in the project vicinity, however, residential uses approximately ¼-mile north of the site would not be affected.

While sensitive residential uses are too far from the site to be affected, construction activities would occur over a two-year period, with the highest levels of noise occurring as the site is graded and the building is constructed, which would take approximately one year. After the first year, most construction will occur inside the structure and outdoor construction noise would be significantly reduced. The project will be constructed in accordance with the provisions of the City's General Plan and the Municipal Code. Therefore, the project will incorporate the following standard permit conditions to reduce construction noise.

#### ***Standard Permit Conditions:***

- 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.
- 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

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<sup>13</sup> <https://www.enoisecontrol.com/acoustic-terminology/doubling-distance-noise-reduction-decibel/>. Accessed 11/11/19

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.

Permanent and temporary noise impacts of the proposed project would be less than significant. The implementation of the identified Standard Permit Conditions would further reduce the temporary noise impacts from construction to a less than significant impact. **(Less than Significant Impact)**

**b. Would the project result in generation of excessive groundborne vibration or groundborne noise levels?**

Construction of the project may generate perceptible vibration levels when heavy equipment or impact tools (e.g. jackhammers, bulldozers, etc.) are used during construction. No pile driving will be required. Construction activities on the project site would include site demolition work, preparation and foundation work, and new building framing and finishing. The project does not include any land uses that could result in permanent groundborne vibration or noise levels. Because the project site is not located in an area of sensitive land uses, all nearby structures are of conventional construction, and groundborne impacts would be temporary, the proposed project would not result in either temporary or permanent significant vibration or noise impacts. **(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 project site is outside the 65 dB noise contour for the San José International Airport and is not within the vicinity of a private airstrip. The project would not expose people residing or working in the project area to excessive noise levels. **(Less than Significant Impact)**

**Conclusion**

The project would have a less than significant impact related to long-and short-term noise and vibration. The incorporation of identified standard permit conditions would further reduce potential construction-related impacts. **(Less than Significant Impact)**

**4.14 POPULATION AND HOUSING**

**Environmental Setting**

Based on information from the California Department of Finance, the City of San José population was estimated to be 1,051,316 in January 2018 and had an estimated total of 335,165 housing units with an average of 3.2 persons per household.<sup>14</sup> The Association of Bay Area Governments (ABAG) projects that the City’s population will reach 1,445,000 with 472,000 households by 2040. The proposed ice facility is intended to accommodate the demand for public ice rinks and recreational opportunities in the local community.

The jobs/housing balance is the relationship between the number of housing units required as a result of local jobs and the number of residential units available in the City. This relationship is quantified by the jobs/employed resident ratio. When the ratio reaches 1.0, a balance is struck between the supply of local housing and local jobs. The jobs/employed resident ratio is determined by dividing the number of local jobs by the number of employed residents that can be housed in local housing. At the time of preparation of the General Plan FEIR, San José had 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 current General Plan.

**Population and Housing Environmental Checklist**

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporated	Less than Significant Impact	No Impact	Checklist Source(s)
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 checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
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"/>	1,2,3

**Impacts Evaluation**

- 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)?**

<sup>14</sup> California Department of Finance. “Table 2: E-5 City/County Population and Housing Estimates, 1/1/2018.” Accessed May 10, 2018. Available at: <http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-5/>

A project can induce substantial population growth by: 1) proposing new housing beyond projected or planned development levels, 2) generating demand for housing as a result of new businesses, 3) extending roads or other infrastructure to previously undeveloped areas, or 4) removing obstacles to population growth (e.g., expanding capacity of a wastewater treatment plant beyond that necessary to serve planned growth).

The proposed ice facility expansion would not induce substantial population growth in an area either directly (e.g., by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure). The proposed project including medical office uses would result in a net increase of approximately 33 full-time employees. Therefore, the project would not generate substantial job creation resulting in population growth and is consistent with the development assumptions in the General Plan. The project would have a less than significant impact on population growth. **(Less than Significant Impact)**

**b. Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?**

The project consists of an expansion of an existing ice rink facility on an infill site that does not contain housing. The project would not displace existing housing or require the construction of replacement housing since the site does not contain any residential uses. **(No Impact)**

**Conclusion**

The project would have a less than significant impact on population and housing. **(Less than Significant Impact)**

## 4.15 PUBLIC SERVICES

### Environmental Setting

**Fire Protection:** Fire protection services are provided to the project site by the San José Fire Department (SJFD). The closest fire station to the project site is Station 26, located at 528 Tully Road about one mile from the project site.

**Police Protection:** Police protection services are provided to the project site by the San José Police Department (SJPD) headquartered at 201 West Mission Street. The City has four patrol divisions and 16 patrol districts. Patrols are dispatched from police headquarters and the patrol districts consist of 83 patrol beats, which include 357 patrol beat building blocks.

**Parks:** The nearest park is Kelley Park, a 172-acre regional park located directly across Senter Road from the project site, as shown on Figure 2. Kelley Park includes Happy Hollow Park & Zoo, the Japanese Friendship Garden, History Park, and a Disc Golf Course.

The City of San José has adopted the Parkland Dedication Ordinance and Park Impact Ordinance, which require residential developers to dedicate public park land or pay in-lieu fees (or both) to compensate for the increase in demand for neighborhood parks.

**Library:** The nearest library is the Tully Community Branch Library located at 880 Tully Road, approximately 2.75 miles southeast of the project site. The proposed project is the expansion of an existing ice rink facility and would not increase the need for library services in the City.

**Schools:** The nearest schools to the project site are George Shirakawa Sr. Elementary School (1.6 miles to the southeast), Downtown College Prep Middle School (2.24 miles to the southwest), and Yerba Buena High School (0.8 miles to the northeast). The proposed public/quasi-public uses would not result in the need for additional schools.

### Regulatory Framework

#### Local

#### Envision San Jose 2040 General Plan Policies

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating public service impacts from development projects. Policies applicable to the project are presented below.

- ES-3.1** Provide rapid and timely Level of Service (LOS) response time to all emergencies:
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.

**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.

**Public Services Environmental Checklist**

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporated	Less than Significant Impact	No Impact	Checklist Source(s)
Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities or 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"/>	1,2,3
b. Police Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
c. Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3
d. Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3

e. Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3
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**Impacts Evaluation**

**Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities or 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:** The proposed project could result in an incremental increase in the demand for fire protection services. The project site is currently served by the SJFD and the amount of proposed development/expansion represents a small fraction of the total growth identified in the General Plan. The project, by itself, would not preclude the SJFD from meeting their service goals and would not require the construction of new or expanded fire facilities. In addition, the proposed project would be constructed in accordance with all current building and Fire codes and be maintained in accordance with applicable City policies to promote public and property safety. **(Less than Significant Impact)**

**b. Police Protection:** The project would result in an incremental increase in the demand for police protection services. The project site is currently served by the SJPD and the amount of proposed development/expansion represents a small fraction of the total growth identified in the General Plan. The project, by itself, would not preclude the SJPD from meeting their service goals and would not require the construction of new or expanded fire facilities. In addition, the project would be constructed in accordance with current building codes and would be required to be maintained in accordance with applicable City policies to promote public and property safety. **(Less than Significant Impact)**

**c. Schools:** The project does not propose any residential uses that generate new student population. The proposed public/quasi-public uses would not result in an increase in student demand on school services. **(No Impact)**

**d. Parks:** The proposed development would place more people on-site during regular business hours than exist currently but would not increase the permanent population of the City. While future employees and patrons of the site may utilize nearby parks, they are unlikely to place a major physical burden on these facilities. In addition, the project would provide additional public recreation opportunities for the City. As a result, the proposed project would have a less than significant impact on park facilities. **(Less than Significant Impact)**

**e. Other Public Services:** The project would not impact other public services, including library services. **(No Impact)**

## Conclusion

The proposed expansion of the Solar 4 America Ice Facility and rezoning of the site would have a less than significant impact on public services. **(Less than Significant Impact)**

## 4.16 RECREATION

### Environmental Setting

The City of San José owns and maintains approximately 3,502 acres of parkland, including neighborhood parks, community parks, and regional parks. The City has 51 community centers and over 57 miles of trails. The City’s Department of Parks, Recreation, and Neighborhood Services is responsible for development, operation, and maintenance of all City park facilities. The nearest park is Kelley Park, a 172-acre regional park located directly across Senter Road from the project site, as shown on Figure 2. Kelley Park includes Happy Hollow Park & Zoo, the Japanese Friendship Garden, History Park, and a Disc Golf Course.

The proposed project is an expansion of Solar4America Ice, a public ice rink facility, on City-owned property. It is considered to be a recreational use and would not affect existing park land or facilities in the local community.

### Regulatory Framework

The City of San José has adopted the Parkland Dedication Ordinance (PDO) and Park Impact Ordinance (PIO), which require residential developers to dedicate public park land or pay in-lieu fees (or both) to compensate for the increase in demand for neighborhood parks. The proposed project is not subject to the City’s PDO or PIO. No policies of the General Plan are applicable to the proposed project.

### Recreation Environmental Checklist

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporated	Less than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a. 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"/>	1,2,3
b. 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 checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3

### Impacts Evaluation

- a. 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 is an expansion of an existing recreational use. It would not generate additional population in the City and would therefore, not increase the use of any existing parks. Expanding the recreational uses at the site would not lead to substantial physical deterioration of any existing facilities. It would only serve to increase and improve the existing recreational ice skating uses on-site. The expanded facility would not affect the existing Excite Ballpark. Parking would continue to be shared by both facilities on-site. **(No Impact)**

**b. Include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?**

The proposed project includes standard permit conditions, best management practices, and mitigation measures as described in this Initial Study to reduce all environmental impacts of the project to a less than significant level. **(Less than Significant Impact)**

**Conclusion**

The proposed project would not result in significant impacts to recreational uses in the City. **(Less than Significant Impact)**

## 4.17 TRANSPORTATION

The following discussion is based on a traffic impact analysis prepared for the project by *Hexagon Transportation Consultants* (August 26, 2019). This study is contained in Appendix E.

### Environmental Setting

#### Existing Roadway Network

As shown on Figure 9, Regional access to the project site is provided by SR 87, US 101, and I-280. Local access to the project site is provided via 1st Street/Monterey Road, 7th Street, 10th Street, 11th Street, Senter Road, Keyes Street, Alma Avenue, and Phelan Avenue. These facilities are described below.

**State Route 87 (SR 87)** is primarily a six-lane freeway (four mixed-flow lanes and two HOV lanes) that is aligned in a north-south orientation within the project vicinity. SR 87 begins at its interchange with SR 85 and extends northward, terminating at its junction with US 101. Connections from SR-87 to the project site are provided via a partial interchange at Lelong Street (ramps to and from north) and a full interchange at Curtner Avenue.

**U.S. Route 101 (US 101)** is an eight-lane (three mixed-flow lanes and one high-occupancy vehicle (HOV) lane in each direction) freeway in the vicinity of the site. It extends north through San Francisco and south through Gilroy. Regional access to the project site is provided via its interchanges with Story Road and I-280.

**Interstate 280 (I-280)** is an east-west freeway in the vicinity of the project that extends through the Bay Area, connecting San Francisco to San Jose. I-280 is eight lanes wide with three mixed-flow lanes and one high occupancy vehicle (HOV) lane in each direction in the vicinity of the project site. I-280 provides site access via partial interchanges at 10th Street (ramps to and from west) and 11th Street (ramps to and from east).

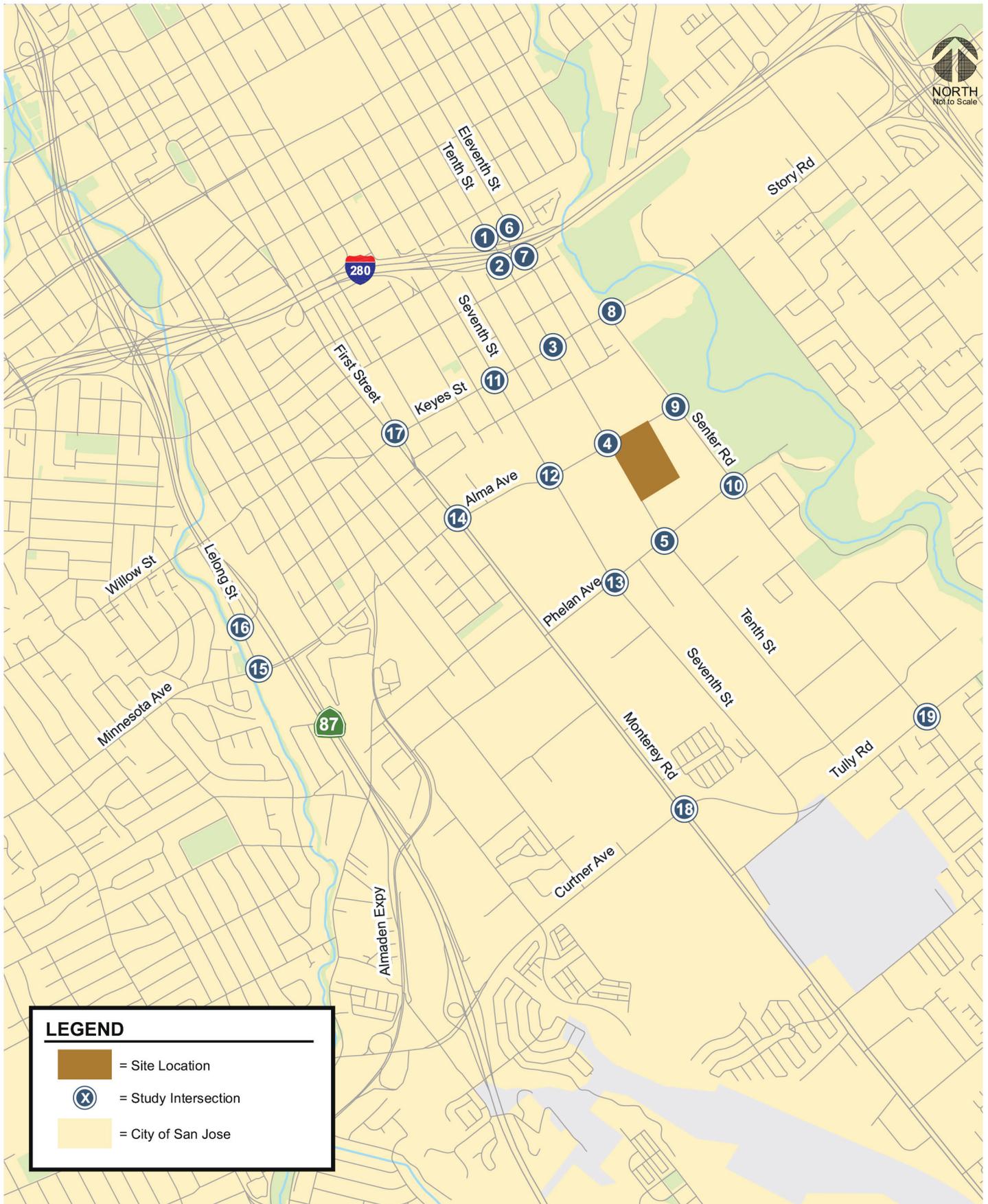
**1st Street/Monterey Road** is a north-south regional roadway that extends from Downtown San Jose south to Gilroy. A designated Grand Boulevard per the City's General Plan, 1st Street is six lanes wide (three lanes in each direction) in the vicinity of the project and has bike lanes south of its intersection with Keyes Street. Within the vicinity of the project area, the posted speed limit is 35 mph and on-street parking is prohibited on both sides of the street.

**S. 7th Street** is a north-south local roadway that extends from East San Salvador Street to Old Tully Road. S. 7th Street has a posted speed limit of 30 mph and is two lanes wide. 7th Street has sidewalks on both sides and has bike lanes along the street. On-street parking is allowed along the west side of S. 7th Street south of Alma Avenue within the project vicinity.

**S. 10th Street** is a north-south local roadway that extends from Old Bayshore Highway to Tully Road. S. 10th Street has bike lanes and sidewalks on both sides near the project site. S. 10th Street is a one-way, 2-lane southbound street from East Hedding Street to East Humboldt

# STUDY INTERSECTIONS

FIGURE 9



Street and a two-way, 4-lane (two lanes in each direction) street from East Humboldt Street to Tully Road. Within the vicinity of the project site, the posted speed limit is 35 mph and on-street parking is prohibited on both sides of the street. S. 10th Street runs along the west project frontage and would provide direct access to the site via one existing full-access driveway and one existing right-out only driveway.

**Senter Road** is a north-south local roadway that extends from Keyes Street/Story Road to Coyote Road and then bends east-west from Coyote Road to Monterey Road. Senter Road has a posted speed limit of 40 mph from Keyes Street to Capitol Expressway. Senter Road is six lanes wide (three lanes in each direction) and has bike lanes throughout the entire segment. Within the vicinity of the project site, Senter Road has sidewalks on the eastern side of the street between Keyes Street/Story Road to Alma Avenue.

**Keyes Street** is an east-west local roadway that extends from 1st Street to Senter Road, where it transitions to Story Road. Keyes Street has a posted speed limit of 35 mph and is four to six lanes wide (two to three lanes in each direction). Keyes Street has sidewalks and bike lanes on both sides of the street. On-street parking is permitted between 2nd Street and 10th Street in the vicinity of the project site.

**Alma Avenue** is an east-west local roadway that extends from Minnesota Avenue to Senter Road. Alma Avenue has a posted speed limit of 35 mph and is four lanes wide (two lanes in each direction). Within the vicinity of the project site, Alma Avenue has sidewalks on both sides of the street and has on-street parking between 10th Street and Senter Road. Alma Avenue runs along the north project frontage and would provide direct access to the site via one existing full-access driveway and one existing right-in/right-out only driveway. The project proposes to relocate the right-in/right-out only driveway approximately 140 feet west of its current location.

**Phelan Avenue** is an east-west local roadway that extends from Monterey Road to Kelley Park. Phelan Avenue has a posted speed limit of 25 mph and is two lanes wide (one lane in each direction) between Monterey Road and S. 10th Street and a four-lane road between S. 10th Street and Senter Road. Phelan Avenue has sidewalks on both sides of the street and has bike lanes between Monterey Road and 7th Street, with the exception of a shared-lane bike route segment near a railroad crossing.

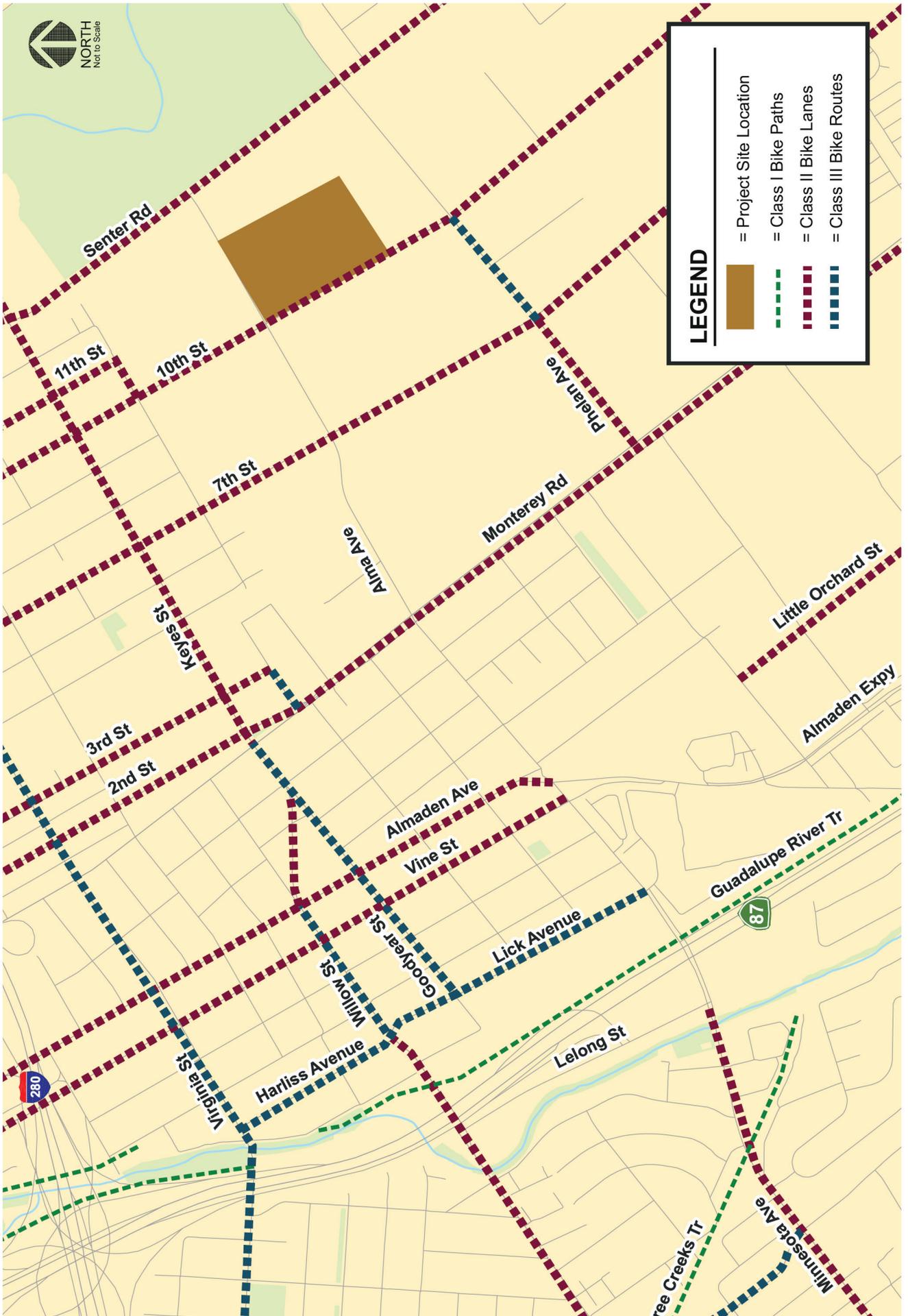
### **Existing Pedestrian and Bicycle Facilities**

Existing bicycle facilities are shown on Figure 10. Most of the streets shown also include pedestrian facilities in the form of sidewalks, except where noted.

**Class I Trail or Path** is an off-street path with exclusive right-of-way for non-motorized transportation used for commuting as well as recreation. There is a Class I bike path that runs through the City of San Jose along the Guadalupe River and is shared between pedestrians and bicyclists and separated from motor vehicle traffic. The Guadalupe River trail is an 11-mile

# EXISTING BICYCLE FACILITIES

FIGURE 10



continuous Class I bikeway from Curtner Avenue in the south to Alviso in the north. This trail system can be accessed from the Tamien Caltrain station located along Lick Avenue.

**Class II Bike Lanes** are preferential use areas within a roadway designated for bicycles. Within the project vicinity, Class II bikeways are present along the following roadways:

- S. 1st Street/Monterey Road, south of Humboldt Street
- S. 2nd Street, north of Humboldt Street (southbound only)
- S. 3rd Street, north of Humboldt Street (northbound only)
- S. 7th Street, between San Salvador Street and Tully Road
- S. 10th Street, along its entire extent
- S. 11th Street, along its entire extent
- Senter Road, between Story Road and Singleton Road
- Almaden Avenue, north of Alma Avenue
- Vine Street, north of Alma Avenue
- Keyes Street, east of 2nd Street
- Phelan Avenue, between Monterey Road and 7th Street

**Class III Bike Routes** are signed bike routes that provide a connection through residential, downtown, and rural/hillside areas to Class I and Class II facilities. Bike routes serve as transportation routes within neighborhoods to parks, schools, and other community amenities. Designated bike routes are provided along the following roadways

- Phelan Avenue, between S. 7th Street and S. 10th Street
- Goodyear Street, between Lick Avenue and S. First Street
- Willow Street, between Lick Avenue and Almaden Avenue
- Harliss Avenue between Virginia Street and Willow Street
- Lick Avenue, between Willow Street and Alma Avenue

Pedestrian facilities consist of sidewalks, crosswalks, and pedestrian signals at signalized intersections. In the project vicinity, sidewalks exist along most nearby streets. However, sidewalks do not exist along portions of the following roadways:

- South side of Alma Avenue, between S. 1st Street/Monterey Road and S. 10th Street
- Both sides of Phelan Avenue, between S. 1st Street/Monterey Road and S. 10th Street.
- Both sides of S. 7th Street, between Alma Avenue and Tully Road
- West side of Senter Road, between Keyes Street/Story Road and Alma Avenue

All of the crosswalks at the signalized study intersections include pedestrian signal heads and push buttons. Crosswalks are provided on all approaches of all signalized study intersections in the vicinity of the project site, with the exception of the following locations:

- Senter Road and Keyes Street/Story Road, west leg of the intersection
- Monterey Road and Phelan Avenue, south leg of the intersection
- S. 7th Street and Phelan Avenue, north leg of the intersection
- S. 10th Street and Keyes Street, east leg of the intersection

There is a pedestrian midblock crosswalk across S. 10th Street about 700 feet north of Alma Avenue. Overall, the existing network of sidewalks and crosswalks in the immediate vicinity of the project site has good connectivity and provide adequate access to nearby transit facilities.

### Transit Facilities

Existing transit facilities in the project area are provided by the Valley Transportation Agency (VTA) as shown on Figure 11 and in Table 4.17-1, below.

<b>Table 4.17-1: Existing Transit Services</b>			
<b>Bus Route</b>	<b>Route Description</b>	<b>Nearest Stop</b>	<b>Headway*</b>
Local Route 25	DeAnza College to Alum Rock Transit Ctr. via Valley Medical Ctr.	Keyes/S. 10th	10-12
Local Route 66	Kaiser San Jose Med. Ctr. To Dixon Landing Road (Milpitas)	Monterey/Alma	15
Local Route 68	Gilroy Transit Ctr. To San Jose Diridon Station	Monterey/Alma	15-20
Local Route 73	Snell/Capitol to Downtown San Jose	Keyes/S. 10th	15
Local Route 82	Westgate Shopping Ctr. to Downtown San Jose	Monterey/Alma	30
Limited Stop Route 304	Santa Teresa LRT Station to Sunnyvale Transit Ctr.	Monterey/Tully	30-50
*Approximate headways in minutes during peak commute periods			

The nearest bus stops to the project site are located at the intersections of Senter Road/Alma Avenue, 10th Street/Keyes Street, and 1st Street/Keyes Street. Shuttle service to the study area is provided by San Jose State University (SJSU), as described below.

**San Jose Park & Ride Lot Shuttle Service** provides service from the San Jose Park & Ride Lot on 7th Street and Alma Avenue to Duncan Hall at SJSU located on 5th Street and San Salvador Street. The Shuttle Service operates during the college semester, Monday through Thursday

# EXISTING TRANSIT SERVICES

FIGURE 11



with approximately 10-minute headways from 6:30 AM to 9:00 AM, 5-minute headways from 9:00 AM to 4:10 PM, 10-minute headways from 4:10 PM to 8:00 PM, and 20-minute headways from 8:00 PM to 10:30 PM.

### Study Intersections

The traffic study includes an analysis of 18 signalized intersections and one unsignalized intersection in the vicinity of the project site. All of the study intersections are located in the City of San Jose. A total of eight of the study intersections also are CMP designated intersections. All of the study intersections were evaluated against the standards of the City of San Jose, including the eight CMP signalized study intersections as noted with an asterisk (\*).

The operations of the unsignalized study intersection were also evaluated; however, unsignalized intersections are not subject to the City of San Jose level of service policy, as described in the analysis, below.

1. Tenth Street and I-280 NB On-Ramp (N) \*
2. Tenth Street and I-280 SB Off-Ramp (S) \*
3. Tenth Street and Keyes Street
4. Tenth Street and Alma Avenue
5. Tenth Street and Phelan Avenue
6. Eleventh Street and I-280 NB Off-Ramp (N) \*
7. Eleventh Street and I-280 SB On-Ramp (S) \*
8. Senter Road and Keyes Street/Story Road
9. Senter Road and Alma Avenue
10. Senter Road and Phelan Avenue
11. Seventh Street and Keyes Street
12. Seventh Street and Alma Avenue
13. Seventh Street and Phelan Avenue
14. First Street and Alma Avenue\*
15. Lelong Street and Alma Avenue
16. Lelong Street and SR-87 Ramps (unsignalized)
17. First Street and Keyes Street\*
18. Monterey Road and Curtner Avenue\*
19. Senter Road and Tully Road\*

## Study Freeway Segments

The traffic study includes an analysis of 12 directional freeway segments in the vicinity of the project site. All of the freeway segments are located in the City of San Jose.

1. Eastbound I-280, from SR 87 to S. Tenth Street
2. Eastbound I-280, from S. Tenth Street to McLaughlin Avenue
3. Northbound SR 87, from Capitol Expressway to Curtner Avenue
4. Northbound SR 87, from Curtner Avenue to Almaden Road
5. Northbound SR 87, from Almaden Road to Alma Avenue
6. Northbound SR 87, from Alma Avenue to I-280
7. Southbound SR 87, from I-280 to Alma Avenue
8. Southbound SR 87, from Alma Avenue to Almaden Avenue
9. Southbound SR 87, from Almaden Avenue to Curtner Avenue
10. Southbound SR 87, from Curtner Avenue to Capitol Expressway
11. Westbound I-280, from McLaughlin Avenue to S. Tenth Street
12. Westbound I-280, from S. Tenth Street to SR 87

## Regulatory Framework

### Santa Clara County Congestion Management Program

In accordance with California Statute (Government Code 65088), Santa Clara County has established a Congestion Management Program (CMP). The intent of the CMP legislation is to develop a comprehensive transportation improvement program among local jurisdictions to reduce traffic congestion and improve land use decision-making and air quality. VTA serves as the Congestion Management Agency (CMA) for Santa Clara County and maintains the County's CMP.

### Council Policy 5-1 Transportation Impact Policy

In 2018, consistent with State Senate Bill 743, the City Council adopted Council Policy 5-1 to use vehicle miles traveled (VMT) as the metric to assess transportation impacts from new development. VMT is the total miles of travel by personal motorized vehicles a project is expected to generate in a day. According to the policy, an employment (e.g., office, R&D) or residential project's transportation impact would be less than significant if the project VMT is 15 percent or more below the existing average regional per capita. The VMT policy does not negate Area Development Policies (ADPs) and Transportation Development Policies (TDPs) approved prior to adoption of Policy 5-1.

The new transportation policy provides "pipeline provisions" that allow for the use of the prior Council Policy 5-3 provided that a final development application for a project is submitted prior

to the effective date (30 days after adoption), of the new Council Policy 5-1. Given that the proposed project filed its development application and traffic scope of work on March 28, 2018, before the effective date of the new policy, the evaluation of the project’s potential traffic impacts is not required to adhere to Council Policy 5-1 and has been evaluated based on level of service as required by Council Policy 5-3.

### Council Policy 5-3 Transportation Impact Policy

The City of San José’s Council Policy 5-3 “Transportation Impact Policy” was the adopted established threshold for CEQA at the onset of the traffic study. Council Policy 5-3 acts as a guide to analyze and make determinations regarding the overall conformance of a proposed development with the City’s various General Plan multi-modal transportation policies, which together seek to provide a safe, efficient, and environmentally sensitive transportation system for the movement of people and goods. It also establishes thresholds to determine environmental impacts and requires new development to mitigate for significant impacts.

### Vision Zero San José

Senter Road, between Story Road and Monterey Road, is designated as a “Safety Priority Street” as part of San José’s Vision Zero Policy (Vision Zero San José, April 2015). The goal of Vision Zero San José is to create a community culture that prioritizes traffic safety. Vision Zero is designed to create policies that focus on roadway safety for all modes of travel, particularly non-automobile modes. Streets with these “Safety Priority Street” designations are given priority within the City’s Transportation Capital Improvement Program (CIP) to provide safer transportation systems for all users.

### General Plan Policies

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating transportation impacts from development projects. Policies applicable to the project are presented below.

- 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, fund needed transportation improvements for all transportation modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand.

- TR-1.5** Design, construct, operate, and maintain public streets to enable safe, comfortable, and attractive access and travel for motorists and for pedestrians, bicyclists, and transit users of all ages, abilities, and preferences.
- TR-1.6** Require that public street improvements provide safe access for motorists and pedestrians along development frontages per current City design standards.
- TR-2.8** Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
- TR-3.3** As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute towards transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.
- TR-5.3** The minimum overall roadway performance during peak travel periods should be level of service “D” except for designated areas and specified exceptions identified in the General Plan including the Downtown Core Area. Mitigation measures for vehicular traffic should not compromise or minimize community livability by removing mature street trees, significantly reducing front or side yards, or creating other adverse neighborhood impacts.
- TR-9.1** Enhance, expand and maintain facilities for walking and bicycling, particularly to connect with and ensure access to transit and to provide a safe and complete alternative transportation network that facilitates non-automobile trips.

### **Traffic Analysis Methodology**

The traffic study was prepared for the purpose of identifying potential traffic impacts related to the proposed development. The impacts of the project were evaluated following the standards and methodologies set forth by the City of San José and the VTA CMP guidelines. The study determined the traffic impacts of the proposed development on the 18 signalized intersections within the vicinity of the project site during the weekday PM peak periods of traffic. The AM peak hour was not analyzed as project trips between the hours of 7 AM and 9 AM would not be greater than 100 due to the small size of the medical office uses. The study also included an operations analysis, based on vehicle-storage requirements, at selected intersections, and a review of site access and on-site circulation.

Traffic conditions at the signalized study intersections were evaluated using level of service (LOS). Level of Service is a qualitative description of operating conditions ranging from LOS A, or free-flow conditions with little or no delay, to LOS F, or jammed conditions with excessive delays.

The City of San José level of service methodology for signalized intersections is the 2000 Highway Capacity Manual (HCM) method. This method is applied using the TRAFFIX software. The 2000 HCM operations method evaluates signalized intersection operations on the basis of average control delay time for all vehicles at the intersection. Since TRAFFIX is also the CMP-designated intersection level of service methodology, the City of San José methodology employs the CMP default values for the analysis parameters. The City of San José level of service standard for signalized intersections is LOS D or better, whether or not the intersection is a CMP intersection.

### **Traffic Scenarios Analyzed**

Traffic conditions at the study intersections and on the study freeway segments were analyzed for the weekday PM peak hours of traffic for two different scenarios. Scenario 1 represents a regular weekday PM peak-hour where no large event is occurring at Rink 6 but it is being operated as a regular practice rink with Rink 5 and medical office uses. Scenario 2 represents the scenario where a large event is being held in Rink 6 during the PM peak hour. In this scenario, Rink 5 and the medical office uses are operating. This scenario is considered to be the worst-case scenario and is described below. The impacts of Scenario 1 can be found in Appendix E.

The AM peak hour of traffic is generally between 7:00 and 9:00 AM and the PM peak hour is typically between 4:00 and 6:00 PM. It is during these periods on an average weekday that the most congested traffic conditions occur. The traffic conditions were evaluated for the following conditions:

- *Existing Conditions* represent existing peak-hour traffic volumes on the existing roadway.
- *Existing Plus Project Conditions* represent existing peak-hour traffic volumes plus peak-hour traffic from the proposed project. Existing plus project conditions were evaluated relative to existing conditions in order to determine the effects the project would have on existing traffic conditions. Because the City of San Jose does not consider this scenario to be pertinent in the evaluation of CEQA impacts, it is not presented below, but can be found in Appendix E. All signalized intersections would continue to operate at acceptable levels of service (LOS D or better) during the PM peak-hour for this condition.
- *Background Conditions* represent existing peak-hour traffic volumes plus projected peak-hour volumes from approved but not yet completed developments.
- *Background Plus Project Conditions* represent background traffic volumes plus projected peak-hour traffic volumes from the proposed project. Background plus project conditions were evaluated relative to background conditions in order to determine potential project impacts according to the City of San José Level of Service Policy.

## Existing Levels of Service

### Existing Intersection Levels of Service

The results of the intersection level of service analysis under existing conditions are summarized in Table 4.17-2 and show that all signalized study intersections operate at an acceptable LOS D or better during the PM peak hours.

<b>Table 4.17-2: Existing, Background, and Background plus Project Conditions Intersection Levels of Service – Scenario 2</b>							
Study Intersection	Peak Hour	Existing Condition		Background Condition		Background + Project Conditions	
		Ave. Delay <sup>1</sup>	LOS	Ave. Delay <sup>1</sup>	LOS	Ave. Delay <sup>1</sup>	LOS
1. S. 10th St. & I-280 NB On-ramp (N)	PM	16.5	B	18.2	B	19.4	B
2. S. 10th St. & I-280 SB On-ramp (S)	PM	15.3	B	16.6	B	18.3	B
3. S. 10th St. & Keyes St.	PM	24.5	C	28.4	C	28.7	C
4. S. 10th St. & Alma Av.	PM	24.8	C	26.4	C	27.2	C
5. S. 10th St. & Phelan Ave.	PM	20.3	C	20.4	C	20.7	C
6. S. 11h St. & I-280 NB Off-ramp (N)	PM	14.5	B	14.7	B	15.5	B
7. S. 11th St. & I-280 SB Off-ramp (S)	PM	12.5	B	12.8	B	12.8	B
8. Senter Rd. & Keyes St./Story Rd.	PM	26.0	C	27.4	C	27.6	C
9. Senter Rd. & Alma Ave.	PM	13.8	B	14.7	B	14.9	B
10. Senter Rd. & Phelan Ave.	PM	24.3	C	24.2	C	24.6	C
11. S. 7th St. & Keyes St.	PM	35.0	D	39.1	D	39.1	D
12. S. 7th St. & Alma Ave.	PM	26.0	C	26.5	C	26.5	C
13. S. 7th St. & Phelan Ave.	PM	31.5	C	32.1	C	32.4	C
14. S. 1 <sup>st</sup> St. & Alma Ave.	PM	45.1	D	52.5	D	54.9	D
15. Lelong St. & Alma Ave.	PM	33.1	C	33.3	C	33.5	C
17.S. 1 <sup>st</sup> St. & Keyes St.	PM	33.1	C	36.3	D	36.3	D
18.Monterey Rd. & Curtner Ave.	PM	53.4	D	<b>67.0</b>	<b>E</b>	<b>67.1</b>	<b>E</b>
19.Senter Rd. and Tully Rd.	PM	48.4	D	49.6	D	49.6	D
<sup>1</sup> In seconds *CMP Intersections							

### Existing Freeway Segments

According to CMP Traffic Impact Analysis Guidelines, a freeway level of service analysis is required if the number of project trips added to any freeway segment equals or exceeds one percent of the capacity of the segment. The key freeway segments in the study area were evaluated to determine if the project traffic on each segment would exceed this threshold. The CMP specifies that a mixed-flow lane capacity of 2,300 vehicles per hour per lane (vphpl) be used for segments six lanes or wider in both directions and a capacity of 2,200 vphpl be used for segments with less than six lanes. Using the CMP’s one-percent threshold, the proposed

project would not add enough traffic to the freeway segments near the site to warrant a freeway analysis.

### **Background Conditions**

Background traffic conditions are defined as conditions just prior to completion of the proposed project. Traffic volumes for background conditions are existing traffic counts plus traffic generated by other approved but not yet completed developments in the vicinity of the site. Background conditions predict a realistic traffic condition that would occur as approved development gets built and occupied. The transportation network under background conditions would be the same as the roadway network described under existing conditions.

#### Background Traffic Volumes

Background peak hour traffic volumes were estimated by adding to existing peak hour volumes the estimated traffic from approved but not yet constructed developments. The added traffic from approved but not yet constructed developments in the City of San José was obtained from the City’s Approved Trips Inventory (ATI).

#### Background Intersection Levels of Service

The results of the intersection level of service analysis under background conditions are summarized in Table 4.17-2. The results of the analysis show that all but one of the study intersections would operate at an acceptable LOS D or better during both the AM and PM peak hours of traffic under background conditions. The intersection of Monterey Road and Curtner Avenue would operate at LOS E during background conditions.

#### Transportation Environmental Checklist

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporated	Less than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a. Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,20 1
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"/>	1,2,3,9,21

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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,21
d. Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,21

**Impacts Evaluation**

**a. Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?**

Significance criteria are used to establish what constitutes an impact. Impacts on intersections are based on the significance criteria and thresholds of the jurisdiction in which the intersection is located. For this analysis, potential impacts were evaluated following the standards and methodologies set forth by the City of San Jose and Santa Clara Valley Transportation Agency (VTA), which administers the County Congestion Management Program (CMP).

As described in b., below, the project’s traffic impacts were assessed based on the City’s level of service policy.

**City of San Jose Definition of Significant Intersection LOS Impacts**

The project is said to create a significant adverse impact on traffic conditions at a signalized intersection in the City of San Jose if for either peak hour:

1. The level of service at the intersection degrades from an acceptable LOS D or better under background conditions to an unacceptable LOS E or F under background plus project conditions, or
2. The level of service at the intersection is an unacceptable LOS E or F under background conditions and the addition of project trips causes both the critical-movement delay at the intersection to increase by four (4) or more seconds and the volume-to-capacity ratio (V/C) to increase by one percent (.01) or more.

An exception to this rule applies when the addition of project traffic reduces the amount of average stopped delay for critical movements (i.e., the change in average stopped delay for critical movements is negative). In this case, the threshold of significance is an increase in the critical V/C value by 0.01 or more.

A significant impact by City of San Jose standards is said to be satisfactorily mitigated when measures are implemented that would restore intersection level of service to background

conditions or better. It is assumed in this analysis that the transportation network under background plus project conditions would be the same as the existing transportation network.

### Trip Generation

As previously described, two scenarios were evaluated for the proposed project. The analysis for Scenario 1 is included in Appendix E. The analysis for Scenario 2, the worst-case scenario is presented below.

Project trips generated by the 4,213-seat capacity arena were estimated with the following assumptions:

- The event is sold-out with 4,213 attendees.
- The occupancy of each arriving vehicle is 2.5 attendees per vehicle.
- The event will start at around 7PM, or at least one hour after the end of the PM peak-hour.
- Approximately 20% of the total inbound vehicles will enter the project site during the PM peak-hour.
- It is expected that attendees will utilize transit or ride-sharing vehicles to access the site. A 20% TDM reduction was applied to project trips generated by the arena rink, based upon survey data collected in 2019 and provided by SAP Center/Sharks Ice that indicates that 80% of visitors arrive by car, thus 20% arrive by other means including transit and ride-sharing. The proposed project includes two, on-site passenger loading zones that may be used for convenient access to ride-share. Therefore, a 20% reduction to account for other travel modes was applied to the project trips estimated to be generated by the project.

As shown in Table 6 of Appendix E, Scenario 2 is expected to generate 3,783 daily trips with 322 trips inbound and 91 trips outbound during the PM peak hour. Trips were then distributed and assigned based on existing travel patterns on the surrounding roadway network, as shown on Figures 9 and 10 in Appendix E.

### **Background Plus Project Conditions**

The results of the intersection level of service analysis under background plus project conditions are summarized in Table 4.17-2. The results show that, measured against the City of San Jose level of service standards, the intersection of Monterey Road and Curtner Avenue is projected to operate at unacceptable LOS E during the PM peak-hour. However, based on the applicable level of service standards and significance criteria, none of the study intersections would be significantly impacted by the proposed project under background plus project conditions.

The unsignalized intersection of Lelong Street and SR-87 ramps was analyzed for operational and signal warrant purposes. The results indicate that the intersection is projected to continue to have traffic volumes that meet the thresholds that warrant signalization under background plus project conditions. **(Less than Significant Impact)**

### **Pedestrian, Bicycle, and Transit Access**

The proposed project would maintain all existing sidewalks in the project area. The existing crosswalk at the intersection of S. 10<sup>th</sup> Street and Alma Avenue would provide direct access between the site and the proposed SJSU parking structure to be located at the northeast corner. With maintenance of these facilities, the proposed project would provide adequate pedestrian access and no off-site improvements would be required.

Bicycle facilities, including bike lanes, are located adjacent to the project site. It is estimated that the project could generate 6-7 new bicycle trips during peak hours. This demand can easily be served by the various bicycle facilities available in the project area. Adverse effects to bicyclists would not occur.

Bicycle parking would be included in the proposed project in accordance with Municipal Code requirements. It is estimated that up to 101 bicycle parking spaces will be required; however, due to complementary uses (medical office and hockey facility), there may be opportunities to reduce this amount, if allowed by the City.

The existing transit in the area is sufficient to serve the proposed project. Sidewalks along the project frontages would continue to be utilized to access bus stops in the project area. The project would not result in a significant impact to pedestrian, bicycle, and transit facilities and services. **(Less than Significant Impact)**

#### **b. Conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?**

As previously described, in adherence to Senate Bill (SB) 743, the City of San Jose adopted a new Transportation Policy in March 2018, Council Policy 5-1. The policy replaced its predecessor (Council Policy 5-3) and established the thresholds for transportation impacts under the CEQA based on VMT instead of LOS. However, the new transportation policy provides “pipeline provisions” that allow for the use of the prior Council Policy 5-3 provided that a final development application for a project is submitted prior to the effective date (30 days after adoption), of the new Council Policy 5-1.

Given that the proposed project filed its development application in March 2018, before the effective date of the new policy, the evaluation of the project is not required to adhere to Council Policy 5-1. For this reason, the project has completed a Transportation Impact Analysis (TIA) (Appendix E) utilizing the City’s LOS thresholds, as described in a., above. **(Less than Significant Impact)**

**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)?**

The proposed project would not substantially increase hazards due to a design feature (for example, sharp curves or dangerous intersections) or incompatible uses. Based on the site plan provided, adequate sight distance would be provided at the project driveways on S. 10<sup>th</sup> Street and Alma Avenue. The site plan includes 26 feet wide drive aisles, consistent with City standards, and has efficient on-site circulation with all parking provided at 90-degrees, allowing sufficient room for vehicles to back out and circulate throughout the parking area. Additionally, all parking areas would be connected, allowing drivers to circulate the site without having to enter and exit the site while looking for parking. For these reasons, the project would not result in significant impacts by increase hazards on the site.

A queuing analysis was also completed for the project which evaluated storage capacity at left-turn movements of intersections in the project area. The results show that there would be inadequate queue storage at six of the 12 left-turn movements analyzed; however, improvements at some of the intersections are not feasible. In addition, in most locations, the queues are inadequate in the existing condition and the proposed project (Scenario 2) would only increase the queues by one vehicle per lane during the PM peak hour. **(Less than Significant Impact)**

**d) Would the project result in inadequate emergency access?**

The City's fire code requires driveways to provide at least 32 feet for fire access. Drive aisles on the site are 26 feet wide, providing adequate emergency access on-site. Additional turn-around space is provided by a drive aisle that travels east on the site, giving emergency vehicles areas to maneuver. An emergency vehicle staging area is shown on the south drive aisle, west of the truck loading zone. It is recommended that access to the truck loading spaces be prohibited during a major sporting event.

The City of San José Fire Department additionally requires that all portions of buildings be within 150 feet of a fire department access road and a minimum of six feet clearance from the property line along all sides of the building. Based on the site plan, the project would meet the six-foot clearance requirement. The project would also meet the 150-foot fire access requirement. The impacts to emergency access would be less than significant. **(Less than Significant Impact)**

***Operational Issues Not Addressed Under CEQA***

**Parking**

A parking demand analysis was completed for the project. It was determined that based on City Municipal Code requirements for Recreation, Commercial Indoor, Sports Arena, and Medical Office uses, the total parking required would be 2,185 spaces. As previously stated in the project description, the project would reconfigure the existing parking on the site, resulting

in a total of approximately 599 on-site parking spaces, including approximately 50 reserved spaces for professional hockey players. The proposed project also allocates approximately 168 parking spaces for use by the San Jose Giants or other users of the Excite Ballpark.

Additional parking would be provided in a future 4-story, 1,500 space parking structure to be constructed by San Jose State University (SJSU) at the northeast corner of the intersection of S. 10th Street and Alma Avenue. An additional approximately 18 spaces would be provided at the SJSU park-and-ride lot located at S. 7<sup>th</sup> Street and E. Humboldt Street.

A long-term parking use agreement will be required between Sharks Ice and SJSU to guarantee that parking at the garage and park-and-ride lot will be available for use by Solar4America patrons when the new rinks are operational. It is assumed that if the parking structure is not completed by the time the Solar4America project is constructed, alternative parking in the project area will be identified. The garage will be operated by Sharks Ice during Solar4America events. Approximately 130 bicycle parking spaces would also be provided as part of the project.

### **Conclusion**

The proposed project would have a less than significant impact on transportation. **(Less than Significant Impact)**

## 4.18 UTILITIES AND SERVICE SYSTEMS

### Environmental Setting

Utilities and services are furnished to the project site by the following providers:

- Wastewater Treatment: treatment and disposal provided by the San José/Santa Clara Water Regional Wastewater Facility (RWF); sanitary sewer lines maintained by the City of San José
- Water Service: San Jose Water Company
- Storm Drainage: City of San José
- Solid Waste: Republic Services
- Natural Gas & Electricity: PG&E

### Regulatory Framework

#### Assembly Bill (AB) 939

California AB 939 established the California Integrated Waste Management Board (CalRecycle), which required all California counties to prepare Integrated Waste Management Plans. In addition, AB 939 required all municipalities to divert 50 percent of their waste stream by the year 2000.

#### California Green Building Standards Code

In January 2017, California adopted the most recent version of the California Green Building Standards Code, which establishes mandatory green building standards for new and remodeled structures in California. These standards include a mandatory set of guidelines and more stringent voluntary measures for new construction projects, in order to achieve specific green building performance levels as follows:

- Reduce indoor water use by 20 percent;
- Reduce wastewater by 20 percent;
- Recycle and/or salvage 50 percent of nonhazardous construction and demolition debris; and
- Provide readily accessible areas for recycling by occupant.

#### San José Zero Waste Strategic Plan/Green Vision

The City's Green Vision provides a comprehensive approach to achieving sustainability through technology and innovation. The Zero Waste Strategic Plan outlines policies to help the City of San José facilitate a healthier community and achieve its Green Vision goals, including 75 percent waste diversion by 2013, which has been achieved, and zero waste by 2022.

## Private Sector Green Building Policy

The City of San José Green Building Policy for private sector new construction encourages building owners, architects, developers, and contractors to incorporate sustainable building goals early in the building design process. This policy establishes baseline green building standards for new private construction projects, and provides a framework for the implementation of these standards. The Policy is also intended to enhance the public health, safety, and welfare of the City's residents, workers, and visitors by encouraging design, construction, and maintenance practices that minimize the use and waste of energy, water, and other resources in the City.

## General Plan Policies

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating utilities and service system impacts from development projects. Policies applicable to the proposed project are presented below.

- 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.
  
- 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-3.9**      Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.
  
- 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.

## Utilities and Service Systems Environmental Checklist

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporated	Less than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a. Require or result in the relocation or construction of new or expanded water, or wastewater treatment or storm water 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"/>	1,2,3,23,24
b. Have sufficient 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"/>	1,2,3
c. Result in a determination by the wastewater treatment provider which serves or may serve the project that it has 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"/>	1,2,3
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"/>	1,2,3
e. Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3

### Impacts Evaluation

- a. Would the project require or result in the relocation or construction of new or expanded water, or wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?**

The City of San José owns and maintains the sanitary sewer drain system in the project area. There are existing sanitary sewer (18 inch), water (16 inch), natural gas, and storm drain (15 inch) lines in S. 10<sup>th</sup> Street, as well as water (8 inch) and storm drain (60 inch) lines in Alma Avenue. These lines would serve the proposed project site.

As described in Section F. *Energy*, the project would have a less than significant impact related to natural gas and electricity use (among other energy sources). The provision/relocation of

telecommunication facilities would be coordinated between the project applicant and telecommunication provider and no significant environmental effects are anticipated as a result of the project.

As described in Section J. *Hydrology and Water Quality*, the project would not significantly impact storm drainage facilities. There is an existing 60-inch storm sewer main within Alma Avenue and additional storm sewer main in Senter Road, east of the site, that will serve the proposed project site. While the project would increase the amount of impervious surfaces on the site, the resulting increase in runoff from the site would be managed and treated in accordance with City policies, which includes implementation of a stormwater control plan.

For the reasons presented above and below in sections b-e, below, the project is not expected to require or result in the relocation or construction of new or expanded water, wastewater treatment, storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects.

The project site is currently developed with ice facility uses and lateral lines already exist. These laterals may need to be increased and/or improved; however, such improvements would not cause significant environmental effects. **(Less than Significant Impact)**

**b. Would the project have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?**

The project would incrementally increase demands on water supplies. Water service to the site would be supplied by the San Jose Water Company (SJWC), a private entity that obtains water from a variety of groundwater and surface water sources. The project applicant would be required to acquire a “will serve” letter from SJWC to assure adequate water is available to serve the proposed commercial uses during normal, dry, and multiple dry year conditions.

Additionally, as the project is consistent with the City’s General Plan, the growth as proposed in the project and associated water use was identified in the General Plan EIR. It is not expected that impacts to water supply would be significant. It should be noted that the ice rinks are made once every two years (whenever they need to be painted). Thereafter, the Zamboni cuts out the imperfections and adds new water to correct the imperfections and level the ice. An ice sheet is normally 1.5 to 1.75 inches thick to ensure solid ice and maximum efficiency. The imperfections taken off the ice (ice shavings) by the Zamboni are then put into a tank, melted by reclaimed heat and then sent to the sanitary system to be reclaimed for some other use. Reclaimed heat is generated in the refrigeration process and used to heat the Zamboni dump tanks and the underfloor warm pipes. Green building code standards will be implemented. **(Less than Significant Impact)**

**c. Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?**

The proposed project is the expansion of an existing commercial development, consistent with the General Plan land use designation for the site. Wastewater in the City of San José is treated at the RWF. The RWF has the capacity to provide tertiary treatment of up to 167 million gallons of wastewater per day (mgd) but is limited to a 120 mgd dry weather effluent flow by the State and Regional Water Quality Control Boards. Based on the General Plan EIR, the City's average dry weather flow is approximately 69.8 million gallons per day and the City's capacity allocation is approximately 108.6 mgd, leaving the City with approximately 38.8 mgd of excess treatment capacity.

Development allowed under the General Plan (which includes the project) would not exceed the City's allocated capacity at the RWF; therefore, development of the project would have a less than significant impact on wastewater treatment capacity. **(Less than Significant Impact)**

**d.,e. 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? Would the project comply with federal, state, and local management and reduction statutes and regulations related to solid waste?**

The project would generate additional solid waste depending on the future occupant of the industrial building. The City's General Plan EIR concluded that growth identified in the General Plan would not exceed the capacity of existing landfills serving the City of San José. The increase in solid waste generation from development of the project would be avoided through implementation of the City's Zero Waste Strategic Plan, which set a goal of 75 percent waste diversion by 2013 and zero waste by 2022.

The Waste Strategic Plan in combination with existing regulations and programs, would ensure that full buildout of the General Plan would not result in significant impacts on solid waste generation, disposal capacity or otherwise impair the attainment of solid waste reduction goals. Furthermore, with the implementation of City policies to reduce waste the project would comply with all federal, state, and local statutes and regulations related to solid waste.

The 2040 General Plan EIR concluded that the increase in waste at buildout of the General Plan would not exceed existing landfill capacity. The proposed project is consistent with the development assumptions in the General Plan; and would have a less than significant impact on landfill capacity. Final project design would be required to comply with all federal, state, and local statutes and regulations related to solid waste disposal. **(Less than Significant Impact)**

**Conclusion**

The project would have a less than significant impact on utilities and service systems. **(Less than Significant Impact)**

## 4.19 WILDFIRE

### Environmental Setting

The project site is surrounded by industrial and public/quasi-public development and is not located within a Very-High Fire Hazard Severity Zone for wildland fires, as designated by the California Department of Forestry and Fire Protection (Cal Fire, Fire Hazard Severity Maps, 2007, 2008).

### Regulatory Framework

#### Public Resources Code 4201 – 4204

Sections 4201 through 4204 of the California Public Resources Code direct Cal Fire to map Fire Hazard Severity Zones (FHSZ) within State Responsibility Areas (SRA), based on relevant factors such as fuels, terrain, and weather. Mitigation strategies and building code requirements to reduce wildland fire risks to buildings within SRAs are based on these zone designations.

#### Government Code 51175 – 51189

Sections 51175 through 51189 of the California Government Code directs Cal Fire to recommend FHSZs within Local Responsibility Areas (LRA). Local agencies are required to designate VHFHSZs in their jurisdiction within 120 days of receiving recommendations from Cal Fire, and may include additional areas not identified by Cal Fire as VHFHSZs.

#### California Fire Code

Chapter 49 of the 2016 California Fire Code establishes the requirements for development within wildland-urban interface areas, including regulations for wildfire protection building construction, hazardous vegetation and fuel management, and defensible space maintained around buildings and structures.

#### General Plan Policies

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating wildfire impacts from development projects. Relevant policies applicable to the project are presented below.

- EC-8.1** Minimize development in very high fire hazard zone areas. Plan and construct permitted development so as to reduce exposure to fire hazards and to facilitate fire suppression efforts in the event of a wildfire.
- EC-8.2** Avoid actions which increase fire risk, such as increasing public access roads in very high fire hazard areas, because of the great environmental damage and economic loss associated with a large wildfire.

**EC-8.3** For development proposed on parcels located within a very high fire hazard severity zone or wildland-urban interface area, implement requirements for building materials and assemblies to provide a reasonable level of exterior wildfire exposure protection in accordance with City-adopted requirements in the California Building Code.

**EC-8.4** Require use of defensible space vegetation management best practices to protect structures at and near the urban/wildland interface.

**Wildfire Environmental Checklist**

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporated	Less than Significant Impact	No Impact	Checklist Source(s)
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 checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,22
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 checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,22
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 checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
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 checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,22

**Impacts Evaluation**

The project site is not located in or near state responsibility areas or lands classified as very high fire hazard severity zones. Therefore, this section of the CEQA Guidelines do not apply. **(Less than Significant Impact)**

**4.20 MANDATORY FINDINGS OF SIGNIFICANCE**

	Potentially Significant Impact	Less than Significant Impact with Mitigation Incorporated	Less than Significant Impact	No Impact	Checklist Source(s)
Does the project:					
a. 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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-23
b. 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 the past projects, the effects of other current projects, and the effects of probable future projects.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-23
c. Have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-23

**Impacts Evaluation**

- a. Would 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?**

The proposed project site is currently vacant and will not require the removal of trees or other vegetation. Based on the analysis provided in this Initial Study, the proposed project would not 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. Standard permit conditions are identified for potential biological, air quality, archaeological, geology and soils, greenhouse gas emissions, hydrology and water quality, and noise impacts which will reduce these impacts to a less than significant level. **(Less than Significant Impact)**

- b. Would 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 the past projects, the effects of other current projects, and the effects of probable future projects).**

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.”

Based on the analysis provided in this Initial Study, the project would not significantly contribute to cumulative impacts, because the proposed project is the expansion of an existing, previously approved facility and is located on a site surrounded by existing urban development that is designated for industrial/commercial and public/quasi-public uses in the City’s General Plan. As described in the noise section, land uses in the project area were developed from the 1930’s to the 1960’s and have not changed in recent history. New projects have not been approved in the project area for many years that would contribute to cumulative traffic, air quality, noise, or greenhouse gas emissions. In addition, no new projects are being proposed that would contribute towards a future cumulatively considerable impact. Standard permit conditions and mitigation measures identified in this Initial Study would reduce impacts to a less than significant level and would not significantly contribute to cumulative impacts in the area. **(Less than Significant Impact)**

- c. Have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?**

Based on the analysis provided in this Initial Study, the proposed project would not result in environmental effects that would cause substantial adverse effects on human beings, either directly or indirectly. **(Less than Significant Impact)**

### **Conclusion**

The project will have less than significant impacts related to the CEQA mandatory findings of significance. **(Less than Significant Impact)**

## CHECKLIST SOURCES

1. Professional judgment and expertise of the environmental specialist preparing this assessment, based upon a review of the site and surrounding conditions, as well as review of project plans.
2. City of San José. *Envision San José 2040 General Plan*. November 2011.
3. City of San José. *Envision San José 2040 General Plan Final Program EIR*. November 2011.
4. City of San José. *Envision San José 2040 Final Supplemental Program Environmental Impact Report*. September 2015.
5. California Department of Conservation. *Santa Clara County Important Farmland 2012*. August 2014.
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