

Addendum

to the Final Program Environmental Impact Report
for the North San José Development Policies Update
(SCH# 2004102067)

Agnews East Parklands Project

File No. PP14-033

Prepared by the



April 2014

TABLE OF CONTENTS

	<u>Page</u>
SECTION 1.0 INTRODUCTION AND PURPOSE	3
1.1 BACKGROUND INFORMATION	4
SECTION 2.0 PROJECT INFORMATION.....	5
2.1 PROJECT TITLE	5
2.2 PROJECT LOCATION.....	5
2.3 LEAD AGENCY CONTACT	5
2.4 PROPERTY OWNER/PROJECT APPLICANT	5
2.5 ASSESSOR’S PARCEL NUMBERS	5
2.6 ZONING DISTRICT AND GENERAL PLAN DESIGNATIONS.....	5
SECTION 3.0 PROJECT DESCRIPTION.....	9
3.1 PROJECT OVERVIEW	9
3.2 PROJECT COMPONENTS	9
SECTION 4.0 ENVIRONMENTAL SETTING, CHECKLIST, AND DISCUSSION OF IMPACTS	13
4.1 AESTHETICS	14
4.3 AIR QUALITY	19
4.4 BIOLOGICAL RESOURCES.....	24
4.5 CULTURAL RESOURCES.....	35
4.6 GEOLOGY AND SOILS	41
4.7 GREENHOUSE GAS EMISSIONS	46
4.8 HAZARDS AND HAZARDOUS MATERIALS	51
4.9 HYDROLOGY AND WATER QUALITY	72
4.10 LAND USE	79
4.11 MINERAL RESOURCES.....	83
4.12 NOISE	84
4.13 POPULATION AND HOUSING	89
4.15 RECREATION.....	94
4.16 TRANSPORTATION	97
4.17 UTILITIES AND SERVICE SYSTEMS.....	101
4.18 MANDATORY FINDINGS OF SIGNIFICANCE.....	107
SECTION 5.0 REFERENCES	110
SECTION 6.0 LEAD AGENCY AND CONSULTANTS.....	111

TABLE OF CONTENTS

Page

Figures

Figure 1	Regional Map.....	6
Figure 2	Vicinity Map.....	7
Figure 3	Aerial Photograph and Surrounding Land Uses	8
Figure 4	Conceptual Site Plan.....	11
Figure 5	Conceptual Site Plan (Detail).....	12
Figure 6	Accidental Chemical Release Scenarios.....	67

Tables

Table 4.4-1:	Tree Replacement Ratios	32
Table 4.8-1:	Summary of Nearby Facilities That Could Pose a Significant Risk to Project Site ...	58
Table 4.8-2:	Key Results of the Screening Level Risk Evaluation	65

Appendices

Appendix A	Phase II Environmental Site Assessment
Appendix B	Traffic Analysis

SECTION 1.0 INTRODUCTION AND PURPOSE

The California Environmental Quality Act (CEQA) recognizes that between the date an environmental document is completed and the date the project is fully implemented, one or more of the following changes may occur: 1) the project may change; 2) the environmental setting in which the project is located may change; 3) laws, regulations, or policies may change in ways that impact the environment; and/or 4) previously unknown information can arise. Before proceeding with a project, CEQA requires the Lead Agency to evaluate these changes to determine whether or not they affect the conclusion in the environmental document.

In June 2005, the City of San José certified the Final Program Environmental Impact Report (EIR) for the North San José Development Policies Update (SCH# 2004102067) that allows for 26.7 million square feet of new industrial/ office/Research & Development uses, 1.7 million square feet of new neighborhood serving commercial uses, and the addition of 32,000 new residential units in the Rincon Area.

The purpose of this Addendum is to evaluate the environmental impacts of a Conditional Use Permit (CUP) to allow development of parklands and recreation sports facilities on a 21-acre site in north San José.

The CEQA Guidelines §15162 state that when an EIR has been certified or negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in light of the whole record, one or more of the following:

1. Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:
 - a. The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
 - b. Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - d. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

CEQA Guidelines §15164 state that the lead agency or a responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary, but none of the conditions described in §15162 (see above) calling for preparation of a subsequent EIR have occurred.

Given the proposed project description and knowledge of the project site (based on the proposed project, site specific environmental review, and environmental review prepared for the North San José Development Policies Update EIR), the City has concluded that the proposed project would not result in any new impacts not previously disclosed in the North San José Development Policies Update EIR since the proposed development was included within the amount of development analyzed for the North San José area. Furthermore, the project would not result in a substantial increase in the magnitude of any significant environmental impact previously identified in the EIRs.

The North San José EIR did not include a greenhouse gas analysis because it was prepared prior to approval of AB 32 and revisions to the CEQA Guidelines pertaining to greenhouse gas emissions. Similarly, the Bay Area Air Quality Management District (BAAQMD) has changed. Therefore, this addendum is tiering from the Envision San José 2040 General Plan EIR to utilize the greenhouse gas and air quality analysis for the proposed project, which is consistent with the General Plan land use designation for the site. For these reasons, a supplemental or subsequent EIR is not required and an addendum to the North San José Development Policies Update EIR and the Envision San José 2040 General Plan EIR has been prepared for the proposed project.

This addendum will not be circulated for public review, but will be attached to both the North San José Development Policies Update EIR and the Envision San José 2040 General Plan EIR, pursuant to CEQA Guidelines §15164(c).

1.1 BACKGROUND INFORMATION

The approximately 21-acre project site is part of a larger 81-acre property that is currently owned by the State of California. The project site is currently developed with buildings and infrastructure associated with an existing state facility called the Agnews Development Center. The Agnews Development Center was founded as the “California Hospital for the Chronically Insane” and was operated by the California Department of Developmental Services from 1888 to 2009. Programs for the mentally ill were discontinued in 1972 and the facility was utilized exclusively for the care and treatment of persons with development disabilities from that time until 2009. In April 2009, all patients from the facility were subsequently relocated and the facility has remained vacant since.¹

The project site lies in an area that has been the subject of various environmental review. In 2005, residential development was proposed under the approved North San José Development Policies Update Final Program Environmental Impact Report (EIR). In 2011, the Santa Clara Unified School District prepared an EIR for a K-12 school on 59 acres of property west of the project site, which could be developed at a future date. The proposed school site resides on part of the greater 81-acre property owned by the State of California where the proposed Agnews East Parklands, which is the subject of this environmental review, is located.

¹ California Department of Developmental Services. “Agnews Developmental Center.” August 2011. Accessed December 19, 2013. <<http://www.dds.ca.gov/Agnews/Index.cfm>>

SECTION 2.0 PROJECT INFORMATION

2.1 PROJECT TITLE

Agnews East Parklands

2.2 PROJECT LOCATION

The approximately 21-acre site is located at 3500 Zanker Road in the northeast corner of the Agnews East site in north San José. The project site is bound by Center Road to the north and Cabrillo Road, which forms a semi-circle to the east, south, and west and intersects Center Road to the north. The project site is located on the site of a former mental health facility and is adjacent to Office/Research & Development uses. Regional and vicinity maps of the project site are shown in Figure 1 and Figure 2, respectively. Figure 3 shows an aerial photograph of the project site and surrounding land uses.

2.3 LEAD AGENCY CONTACT

City of San José
Department of Planning, Building and Code Enforcement
John Davidson, Senior Planner
200 East Santa Clara Street
San José, CA 95113
(408) 535-7989
John.Davidson@sanjoseca.gov

2.4 PROPERTY OWNER/PROJECT APPLICANT

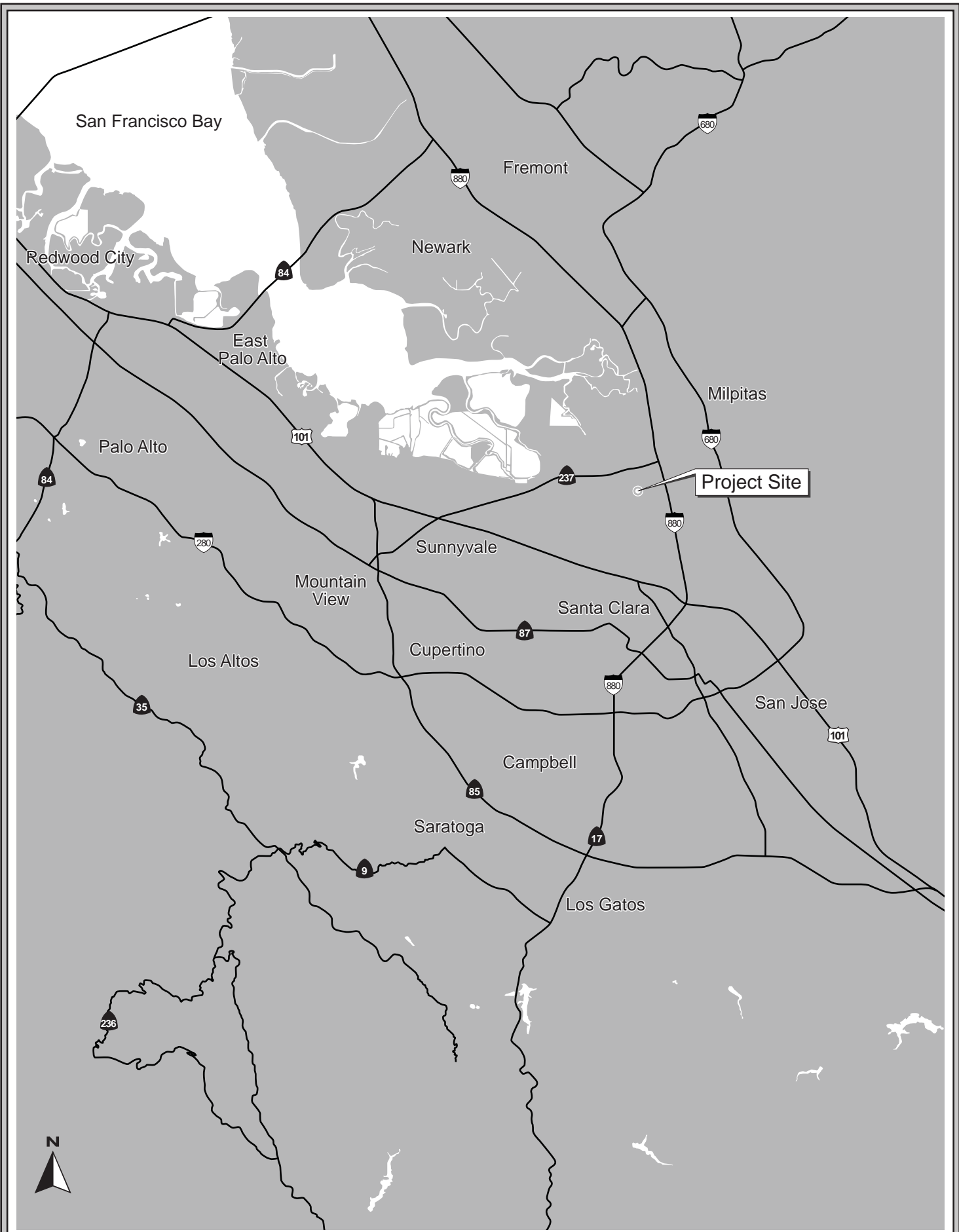
City of San José
Department of Parks, Recreation & Neighborhood Services
Marybeth Harasz, Division Manager
200 East Santa Clara Street
San José, CA 95113
(408) 793-5514
Marybeth.Harasz@sanjoseca.gov

2.5 ASSESSOR'S PARCEL NUMBERS

APN 097-04-040

2.6 ZONING DISTRICT AND GENERAL PLAN DESIGNATIONS

Zoning District: IP – Industrial Park
General Plan Designation: Public/Quasi-Public



REGIONAL MAP

FIGURE 1



VICINITY MAP

FIGURE 2

SECTION 3.0 PROJECT DESCRIPTION

3.1 PROJECT OVERVIEW

The Agnews East Parklands project proposes to develop parklands and recreational sport facilities on a portion of the Agnews Development Center property in north San José. The approximately 21-acre project site is currently owned by the State of California. It is zoned *IP – Industrial Park* and has a General Plan designation of *Public/Quasi-Public* in the Envision San José 2040 General Plan. In general, the *IP* zoning district allows for industrial and commercial uses while the *Public/Quasi-Public* designation is used for a variety of public land uses, including: schools, community centers, homeless shelters, libraries, fire stations, convention centers, museums, and airports. The project is consistent with the General Plan designation and proposes to allow recreational facilities on a site zoned *IP – Industrial Park*.

Proposed development could include two lighted soccer fields, up to four tennis courts, a playground, parking, basketball courts, a skate park, and other associated miscellaneous park amenities. All necessary utilities exist on the site, including: water, sanitary sewer, and electricity.

3.2 PROJECT COMPONENTS

3.2.1 Sport Facilities

As shown on the conceptual site plan (Figure 4), two soccer fields, which could also be used for cricket, are currently proposed in the northern portion of the site. The project would include nighttime lighting for the proposed sports fields. Up to four tennis courts and two basketball courts would also be located in the northeastern corner of the project site. A skate park and bocce ball courts are proposed in the southern and eastern portion of the site, respectively.

3.2.2 Open Space and Other Recreational Areas

An open space area, a group picnic area, and a playground is anticipated on the southern portion of the site. Passive recreational areas with associated landscaping are also anticipated throughout the project site.

3.2.3 Site Access and Parking

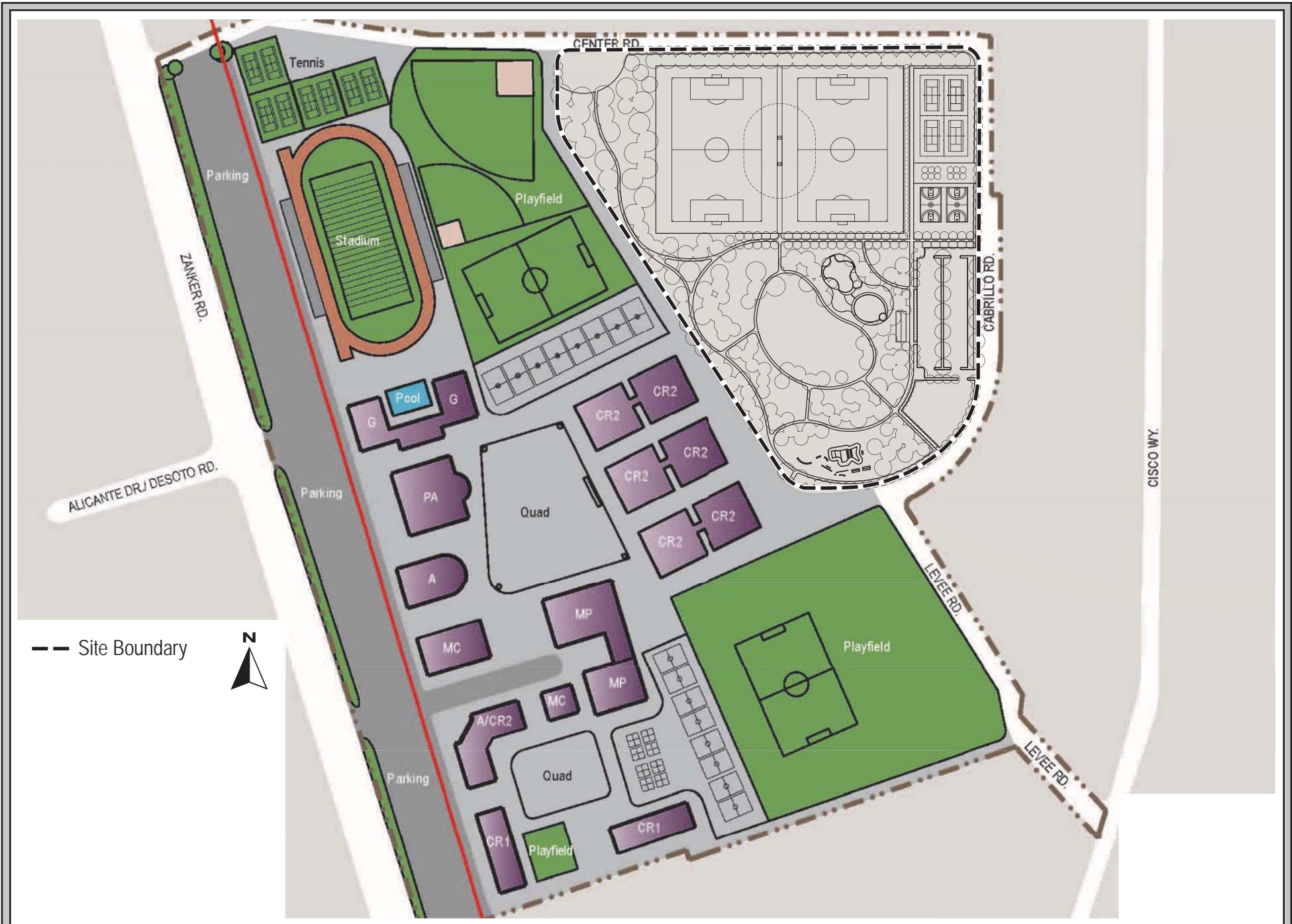
Vehicular access to park amenities would be provided via Center Road to the north and Cabrillo Road to the east. Vehicles travelling on Cabrillo Road would be able to access a parking lot on the eastern boundary of the site. Pedestrians could also use an entry plaza in the northwestern corner of the project site to reach the park and sport facilities on-site.

3.2.4 Landscaping

There are approximately 151 landscape trees spread throughout the project site. Additional shrubs and landscaping are also present. It is anticipated that some of the existing trees and landscaping would be removed as part of the proposed development. The exact number of trees to be removed would be determined during the final design phase. Mature trees and ordinance size trees would be retained to the extent possible. New trees and landscaping would be planted in other parts of the project site as part of proposed development, consistent with City policies and ordinances.

3.2.5 Hours of Operation

It is anticipated that the park would be open seven days a week from sunrise until one hour after sunset. The soccer fields, tennis courts, and basketball courts may remain open past sunset until the field or court lighting is turned off, generally by 10 PM. The picnic and play areas would be open during park hours.



CONCEPTUAL SITE PLAN

FIGURE 4



CONCEPTUAL SITE PLAN (DETAIL)

FIGURE 5

SECTION 4.0 ENVIRONMENTAL SETTING, CHECKLIST, AND DISCUSSION OF IMPACTS

In accordance with CEQA Section 21093(b) and CEQA Guidelines Section 15152(a), this Addendum tiers off the previously certified City of San José 2005 NSJ FPEIR (approved June 2005) and the Envision San José 2040 General Plan EIR (approved September 2011).

The amount of park development proposed by the project was included and analyzed in the certified 2005 NSJ FPEIR. This Addendum evaluates the project specific environmental impacts that were not addressed in the previously certified FPEIR. Because the proposed project results in minor technical project changes with no new significant impacts, and would not require major revisions to the previous EIR prepared, an Addendum has been prepared for the proposed project [CEQA Guidelines Sections 15162 and 15164], rather than a supplemental or subsequent EIR.

This section, **Section 4.0 Environmental Setting, Checklist, and Discussion of Impacts**, describes any changes that have occurred in existing environmental conditions on and near the project area, as well as environmental impacts associated with the proposed project or the changed conditions. The environmental checklist, as recommended in the California Environmental Quality Act (CEQA) Guidelines, was used to compare the environmental impacts of the “Proposed Project” with those of the “Approved Project” (i.e., development approved in the 2005 NSJ FPEIR and in the 2011 Envision San José 2040 General Plan FPEIR) and to identify whether the proposed project would likely result in new significant environmental impacts. 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.

Mitigation measures are identified for all significant project impacts. “Mitigation Measures” are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guideline 15370). Measures that are required by law or are City standard conditions of approval are categorized as “Standard Project Conditions.”

Each impact is numbered using an alpha-numerical system that identifies the environmental issue. For example, **Impact HAZ – 1**, denotes the first impact in the hazards and hazardous materials section. Mitigation measures and conclusions are also numbered to correspond to the impacts they address. For example, **MM NOI – 2.3** refers to the third mitigation measure for the second impact in the noise section. The letter codes used to identify environmental issues are as follows:

Table 4.0-1 Letter Codes of Environmental Issues			
Letter Code	Environmental Issue	Letter Code	Environmental Issue
AES	Aesthetics	LU	Land Use
AG	Agricultural Resources	MIN	Mineral Resources
AIR	Air Quality	NOI	Noise
BIO	Biological Resources	POP	Population and Housing
CUL	Cultural Resources	PS	Public Service
GEO	Geology and Soils	REC	Recreation
GHG	Greenhouse Gas Emissions	TRAN	Transportation
HAZ	Hazards and Hazardous Materials	UTIL	Utilities and Service Systems
HYD	Hydrology and Water Quality		

4.1 AESTHETICS

4.1.1 Setting

The project site is located in an area of urban development. The area immediately surrounding the site is primarily developed with one- to two-story research and development/campus industrial uses. A multi-family residential development with buildings reaching up to four stories in height is located across Zanker Road to the west.

Most of the existing buildings on the site are one to two stories and generally are only visible from the surrounding roadways on Center Road and Cabrillo Road. Although the project area is relatively flat, portions of the site are visible from Tasman Drive as it crosses Coyote Creek, northeast of the site. The project site is not located in proximity to a state scenic highway.²

The existing mature trees and grass lawns around the property’s perimeter and surrounding the existing buildings, as well as the low intensity of development, give the project site an open space aesthetic. In addition to the mature landscaping, the greater project area is characterized by existing historic buildings, which were constructed in the 1930’s in the Spanish Colonial Revival architectural style, and are left over from the previous Agnews Development Center facility.

4.1.2 Environmental Checklist and Discussion of Impacts

AESTHETICS						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)
Would the project:						
1) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,5
2) 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"/>	<input type="checkbox"/>	1,2,3,4,5
3) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
4) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

The currently proposed project would result in the same impact as the approved project, i.e. Less than Significant with Mitigation Incorporated, as described below.

² California Department of Transportation. “California Scenic Highway Mapping System.” Accessed April 12, 2010. <http://www.dot.ca.gov/hq/LandArch/scenic_highways/index.htm>

4.1.2.1 Project Design

The project proposes to demolish the existing buildings on the 21-acre project site. The buildings are typical industrial park office/R&D buildings constructed from the late 1950s to the 1990s and are not significant aesthetic resources, nor do they contribute to a scenic vista. The property is flat with mature trees located throughout the campus. Removal of existing site features would not result in a significant aesthetic impact.

The project proposes two soccer fields, which could be used for cricket, in the northern portion of the site. The project would include nighttime lighting for the proposed sports fields. Up to four tennis courts and two basketball courts would also be located in the northeastern corner of the project site. A skate park and bocce ball courts are proposed in the southern and eastern portion of the site respectively. The project proposes to plant landscape trees, shrubs, and groundcover throughout the site.

The visual conditions in the North San José area are described in the certified 2005 NSJ FPEIR and the 2011 Envision San José 2040 General Plan FPEIR. The visual analysis focuses on conformance of new development with established City of San José design guidelines. Additionally, the visual analysis evaluated the increase in shade and shadows from proposed development that could affect public and private open spaces. It was concluded in the 2005 NSJ FPEIR that future development's conformance with the City's *Title 20 Zoning Ordinance*, *Commercial Design Guidelines*, *City's Outdoor Lighting Policies* (4-2 and 4-3), and *Industrial Design Guidelines* would avoid significant visual and aesthetic impacts, including: 1) increased shade and shadow on public and private open space areas, 2) impacts to scenic vistas, 3) visual effects of light and glare.

The proposed new development is required to conform to the design criteria set forth in the North San José Area Development Policy. The proposed park project would conform to the existing General Plan designation (Public/Quasi-Public) as well as the existing zoning designation (IP-Industrial Park) for the site.

Scenic Vistas

The developed parcel is not a scenic resource. While the visual change to the property would be noticeable to occupants of nearby businesses and residences, and to passing cars on Zanker Road and Tasman Drive, the development of a park at an infill location near office buildings would not be a significant adverse environmental impact. Redevelopment of the site has already been evaluated in the 2005 NSJ FPEIR. Development of the proposed project in conformance with existing policies, regulations, and adopted plans would not result in a substantial degradation of the visual character of the area, and would not significantly affect a scenic vista.

Shade and Shadow

Shade and shadow impacts occur when a structure reduces access to natural sunlight. In an urban environment, virtually all land uses are subject to shading from adjacent properties to some extent. As discussed in the certified 2005 NSJ FPEIR, the City of San José typically identifies significant shade and shadow impacts as occurring when a building or other structure substantially reduces natural sunlight on public open spaces, measured midday on the first day of winter (December 21) and on the vernal and autumnal equinoxes (March/September 21).

The project does not include any tall structures that would be a source of shade and shadow. Light standards reaching up to 80 feet in height would be installed, but would not be a significant source of shade or shadow due to their limited horizontal profile.

Light and Glare

The proposed park would include tall light standards (poles) for use on the sport facilities at night, which may generate increased light and glare levels from nighttime usage. The light standards would not exceed 80 feet in height and would include design measures (e.g., aluminum reflectors and/or light hoods) to minimize light pollution and light impacts to adjacent land uses. The proposed lighting system is intended to provide a sufficient level of light for players and fans to safely enjoy evening sports events at the field. Design will adhere to the recommendations of the Illuminating Engineering Society of North America (IESNA). According to IESNA, a recreational facility with no provision for spectators is considered a Class IV facility.³ The IESNA recommends an average of 30 maintained footcandles for a field at a Class IV facility. The lighting system proposed at the project site would provide an average maintained light level of approximately 30 footcandles on the field.

The project site is surrounded by non-residential land uses to the north, south and east. It is not anticipated that increased light and glare generated from proposed development would have an adverse substantial impact on those non-residential uses. A multi-family residential complex is located across Zanker Road to the west. The project site is located in an urban area, and while the proposed project would affect the nighttime views of the site, particularly views from locations immediately surrounding the sports field, views from areas outside of the immediate surroundings would not be substantially different than under existing conditions. Street lights and lighting at the office parks to the north, south, and east of the site currently exist as sources of overhead lights in the area and the proposed light standards will appear as additional sources of overhead light. The proposed sports lighting would be turned off at or before 10 PM on any evening. The proposed project is not expected to substantially affect nighttime views in the general project area or substantially degrade the existing visual character of the project site and surrounding area.

Implementation of the proposed actions and policies included in the 2005 NSJ FPEIR, and existing regulations and adopted plans, will avoid substantial degradation of the existing visual character or quality of the proposed project site and its surroundings area, substantial light and glare impacts, increased shade and shadow on public open space areas, and impacts to natural scenic views from key gateways and roadways within the City. **(Less Than Significant Impact)**

4.1.3 Conclusion

The proposed project would not result in any new or more significant visual and aesthetic impacts than those previously identified in the NSJ a FPEIR. **[Same Impact as Approved Project (Less than Significant)]**

³ Illuminating Engineering Society of North America, Recommended Practice for Sports and Recreational Lighting, 2001.

4.2 AGRICULTURAL AND FOREST RESOURCES

4.2.1 Setting

The North San José area was cultivated for over one hundred years for a variety of crops including orchards, field crops, and greenhouse-grown flowers. Presently, however, very little agriculture remains and all of the land within the project area has been designated for urban uses for over 30 years.

4.2.1.1 *Agricultural Resources*

The California Department of Conservation manages the Farmland Mapping and Monitoring Program (FMMP) to assess and record how suitable a particular tract of land is for agricultural purposes. In each county, the land is analyzed for soil and irrigation quality and the highest quality land is designated as *Prime Farmland*.

The project site is not designated as farmland. According to the Santa Clara Important Farmland 2010 map, the project site is designated as *Urban and Built-Up Land*, meaning that the land contains a building density of at least six units per 10-acre parcel or is used for industrial or commercial purposes, golf courses, landfills, airports, or other utilities. The project site is not part of a Williamson Act contract.

4.2.1.2 *Forestry Resources*

According to Section 12220 (g) of the Public Resources Code, forest land is defined as “land that can support 10-percent native tree cover of any species, including hardwoods, under natural conditions, and that allows for management of one or more forest resources, including timber, aesthetics, fish and wildlife, biodiversity, water quality, recreation, and other public benefits.” Based on this definition, the project site is not considered to be forestland.

4.2.2 Environmental Checklist and Discussion of Impacts

AGRICULTURAL AND FOREST RESOURCES						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)
Would the project:						
1) 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"/>	<input type="checkbox"/>	1,6
2) 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"/>	<input type="checkbox"/>	1,2,3,4,5

AGRICULTURAL AND FOREST RESOURCES						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)
Would the project:						
3) 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"/>	<input type="checkbox"/>	1,2,3,4,5
4) 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"/>	<input type="checkbox"/>	1
5) 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"/>	<input type="checkbox"/>	1

The currently proposed project would result in the same impact as the approved project, i.e. No Impact, as described below.

4.2.2.1 Impacts to Agricultural Resources

The project site is not designated, used, or zoned for agricultural purposes. The project site is not part of a Williamson Act contract. The project site is currently developed and the proposed project would not result in the conversion of agricultural land to non-agricultural uses. For these reasons, the proposed project would not result in significant impacts to agricultural resources. **(No Impact)**

4.2.2.2 Impacts to Forestry Resources

The project and surrounding area are not used or zoned for timberland or forestland. Therefore, the project would not impact timberland or forest land. **(No Impact)**

4.2.3 Conclusion

The proposed project would not result in any new or more significant impacts to farmland or agricultural resources than were described in the certified 2005 NSJ FPEIR. **[Same Impact as Approved Project (No Impact)]**

4.3 AIR QUALITY

4.3.1 Setting

Air quality and the amount of a given pollutant in the atmosphere are determined by the amount of pollutant released and the atmosphere's ability to transport and dilute the pollutant. The major determination of transport and dilution are wind, atmospheric stability, terrain, and for photochemical pollutants, sun light.

The project site is within the San Francisco Bay Area Air Basin. The Bay Area Air Quality Management District (BAAQMD) is the regional government agency that monitors and regulates air pollution within the air basin.

Both the U.S. Environmental Protection Agency and the California Air Resources Board have established ambient air quality standards for common pollutants. These ambient air quality standards are levels of contaminants which represent safe levels that avoid specific adverse health effects associated with each pollutant. The ambient air quality standards cover what are called "criteria" pollutants because the health and other effects of each pollutant are described in criteria documents. The major criteria pollutants are ozone, carbon monoxide, nitrogen dioxide (NO_x), sulfur dioxide, and particulate matter.

Three pollutants are known at times to exceed the state and federal standards in the project area: ozone, particulates (PM₁₀), and carbon monoxide. Both ozone and PM₁₀ are considered regional pollutants because their concentrations are not determined by proximity to individual sources, but show a relative uniformity over a region. Carbon monoxide is considered a local pollutant because elevated concentrations are usually only found near the source (e.g., congested intersections).

In addition to the criteria pollutants discussed above, Toxic Air Contaminants (TACs) are another group of pollutants of concern. There are many different types of TACs with varying degrees of toxicity. Sources of TACs include industrial processes such as petroleum refining and chrome plating operations, commercial operations such as gasoline stations and dry cleaners, and motor exhaust. Cars and trucks release at least forty different toxic air contaminants. The most important, in terms of health risk, are diesel particulate, benzene, formaldehyde, 1,3-butadiene and acetaldehyde. Public exposure to TACs can result from emissions from normal operations, as well as accidental releases.

Sensitive Receptors

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, childcare centers, retirement homes, convalescent homes, hospitals and medical clinics. The nearest sensitive receptor is a residential development located approximately 1,000 feet west of the project site across Zanker Road.

4.3.1.1 *Regulatory Setting*

Since the certification of the NSJ FPEIR, new guidance for evaluating construction-related air quality impacts has been developed by the BAAQMD. However, the certified 2011 Envision San José 2040 General Plan FPEIR was evaluated under these new guidelines and, therefore, its analysis accounts

for these new changes. The project is consistent with the land use designation on the General Plan land use map.

4.3.2 Environmental Checklist and Discussion of Impacts

AIR QUALITY						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)
Would the project:						
1) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,7
2) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,7
3) 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 including releasing emissions which exceed quantitative thresholds for ozone precursors?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,7
4) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,7
5) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

The currently proposed project would result in the same impact as the approved project, i.e. Less than Significant with Mitigation Incorporated, as described below.

4.3.2.1 Regional and Local Air Quality Impacts

As previously described, BAAQMD has developed thresholds of significance for local plans (general plans, redevelopment plans, specific area plans). The following criteria must be satisfied for a local plan to be determined to be consistent with the CAP and not have a significant air quality impact:

- The local plan should be consistent with the Clean Air Plan (2010 Clean Air Plan) and Vehicle Miles Traveled (VMT) assumptions. This is demonstrated if the population growth over the planning period will not exceed the values in the current CAP, and the rate of increase in VMT for the jurisdiction is equal to or less than the rate of increase in population.
- The local plan demonstrates reasonable efforts to implement the Transportation Control Measures (TCMs) included in the CAP that identify cities as implementing agencies.

The development of the proposed project would contribute to the significant regional and local air quality impacts identified in the certified 2005 NSJ and 2011 Envision San José 2040 General Plan FPEIRs. The proposed park is included within the overall amount of growth anticipated to occur in the NSJ and General Plan FPEIRs. The proposed project would not increase jobs or population in north San Jose. For these reasons, the proposed project would not result in any new or more significant regional or local air quality impacts than were described in the certified 2005 NSJ and 2011 Envision San José 2040 General Plan FPEIRs.

The proposed project would allow for development of parklands in North San Jose, which is consistent with the land uses in the certified 2005 NSJ and 2011 Envision San Jose 2040 General Plan FPEIRs. For this reason, the proposed project would be consistent with the growth assumptions in the NSJ and Envision SJ 2040 General Plan FPEIRs, and would, therefore, be consistent with the CAP and VMT assumptions.

The 2005 NSJ and 2011 Envision San Jose 2040 General Plan FPEIRs provide for incorporation of Transportation Control Measures in future projects, which is consistent with the regional air quality plan. The proposed project, therefore, is consistent with the regional Clean Air Plan and would not have a significant impact on air quality.

Except for vehicle trips to and from the proposed park, the project will not result in air pollutant emissions. The proposed project does not include equipment (e.g., backup generators) or processes (e.g., chrome plating) that result in air pollutant emissions. The BAAQMD screening threshold for criteria pollutants associated with park projects is 2,613 acres. The proposed project is 21 acres, which is well below the BAAQMD screening threshold for a park. Therefore, a detailed assessment of project emissions is not necessary and the emissions from vehicle trips to and from the site are assumed to be less than significant.

4.3.2.2 *Construction-Related Impacts*

Construction activities would temporarily affect local air quality. Construction activities such as earthmoving, construction vehicle traffic and wind blowing over exposed earth would generate exhaust emissions and fugitive particulate matter emissions that affect local and regional air quality. Construction activities are also a source of organic gas emissions. Solvents in adhesives, non-water based paints, thinners, some insulating and caulking materials, would evaporate into the atmosphere and would participate in the photochemical reaction that creates urban ozone. Asphalt used in paving is also a source of organic gases for a short time after its application.

Construction dust could affect local air quality at various times during construction of the project. The dry, windy climate of the area during the summer months creates a high potential for dust generation when, and if, underlying soils are exposed to the atmosphere. The effects of construction activities would be increased dustfall and locally elevated levels of PM₁₀ downwind of construction activity.

Construction of the project would result in the generation of toxic air contaminants (TACs), including diesel PM, from trucks and off-road equipment exhaust emissions. Construction activity on the project site will vary over time and the emissions of TACs would also be temporary given the relatively short timeframe diesel equipment will be used. The nearest sensitive receptor is the residential development approximately 1,000 feet west of the project site, across Zanker Road.

The current models and methodologies available to conduct health risk assessments do not correlate to the temporary and variable nature of construction activities. Accurate estimates of health risk due to construction activity, therefore, are difficult to quantify. BAAQMD acknowledges that the implementation of the best management practices identified in the discussion of construction dust emissions above would reduce diesel PM exhaust emissions. With implementation of construction best management practices, including restrictions on the idling of construction vehicles, construction TAC emissions from the project site would be limited.

Impact AIR-1: The development of the proposed project would contribute to the significant construction-related, short-term air quality impacts identified in the certified 2005 NSJ and 2011 Envision San José 2040 General Plan FPEIRs. The proposed project, however, would not result in any new or more significant construction-related air quality impacts than were described in the certified 2005 NSJ and 2011 Envision San José 2040 General Plan FPEIRs.
(Significant Impact)

Mitigation Measures

Implementation of the following mitigation measures would reduce construction-related air quality impacts to a less than significant level:

MM AIR-1: Temporary air quality impacts may result from demolition of the existing structure(s), excavation of soil, and other construction activities on the subject site. Implementation of the standard project conditions listed below will reduce the temporary construction impacts to a less than significant level.

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
- All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- 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.
- All vehicle speeds on unpaved roads shall be limited to 15 mph.
- All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- Replant vegetation in disturbed areas as quickly as possible.
- Idling times shall be minimized either by shutting equipment off 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 [CCR]). Clear signage shall be provided 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 visible emissions evaluator.

- Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District’s phone number shall also be visible to ensure compliance with applicable regulations.

4.3.3 Conclusion

Impact AIR-1: The proposed project would not result in any new or more significant regional or local long-term air quality impacts than those addressed in the certified 2005 NSJ FPEIR and 2011 Envision San José 2040 General Plan FPEIRs.

[Same Impact as Approved Project (Contribution to Significant Unavoidable Cumulative Impact)]

Impact AIR-2: The proposed project, with the implementation of the standard project conditions, would not result in any new or more significant construction-related air quality impacts than those addressed in the certified 2005 NSJ and 2011 Envision San José 2040 General Plan FPEIRs. **[Same Impact as**

Approved Project (Less than Significant with Mitigation Incorporated)]

4.4 BIOLOGICAL RESOURCES

4.4.1 Setting

The project site is located within an urban area of North San José. The site is developed with buildings, roads, pathways, and landscaping, including grass areas, mature trees, and ornamental plantings. The project site does not contain any sensitive natural communities, such as waterways, wetlands, or riparian habitats. Because of the urban setting and isolation from undisturbed lands, the project site does not function as a movement corridor for wildlife.

Wildlife most often associated with developed areas such as the project site, are those most tolerant of human disturbances, such as the Rock Dove, House Sparrow, squirrels, possums, raccoons, and feral cats. Bats, raptors, and migratory birds may also occur on the site as visitors, nest in the larger trees, and/or utilize open areas for foraging.

4.4.1.1 *Special-Status Species*

Several of the special-status plants known to occur in the region are found in habitat types, including serpentine soils, chaparral, vernal pools, and coastal dunes, that are not present on the project site.⁴ Due both to the lack of appropriate habitat and the highly disturbed condition of the vegetated areas on the site (i.e., mowing of grass), no special-status plant species are expected to occur on the project site.

The only wildlife species listed as threatened or endangered under the federal or state Endangered Species Acts known to occur in the North San José area that could be present on the site is the American Peregrine Falcon.⁵ The project site does not contain suitable breeding or nesting habitat for this species, but individuals have the potential to occur in the project area as rare to occasional foragers.

Several bird species listed as California species of special concern could visit the site as foragers, transients, or migrants. These species include: Burrowing Owl, Northern Harrier, Ferruginous Hawk, Sharp-shinned Hawk, Cooper's Hawk, Golden Eagle, Merlin, Prairie Falcon, Long-billed Curlew, California Gull, Vaux's Swift, California Horned Lark, Loggerhead Shrike, California Yellow Warbler, and Tricolored Blackbird.⁶ Of these species, the only ones that appear to have the potential to nest or breed on the site are the Burrowing Owl, Cooper's Hawk, and California Horned Lark. Most of the bird species that could occur on the site are protected under the Federal Migratory Bird Treaty Act (FMBTA) and/or California Fish and Game Code, such as Red-tailed Hawk and White-tailed Kite.

⁴ City of San José. *North San José Development Policies Final Program Environmental Impact Report*. June 2005.

⁵ The only other wildlife species listed as threatened or endangered under the federal or state Endangered Species Acts that is known to occur in the North San José area is the California red-legged frog. This species requires riparian habitat, which does not occur on the project site. **Source:** City of San José. *North San José Development Policies Final Program Environmental Impact Report*. June 2005.

⁶ City of San José. *North San José Development Policies Final Program Environmental Impact Report*. June 2005.

In addition, three bat species listed as California species of special concern could be present on the site, including the Pallid Bat, Townsend’s Big Eared Bat, and California Mastiff Bat. The old buildings and mature trees (such as oaks) provide potential roosting habitat for the Pallid Bat and Townsend’s Big Eared Bat. The California Mastiff Bat may occur as a potential forager. Other bats protected under Fish and Game code may also be present.

4.4.1.2 *Trees*

There are approximately 151 trees on-site. Approximately 42 of the trees are ordinance-size trees, which are trees equal to or over 18 inches in diameter. There are no Heritage Trees, as designated by the City of San José, located on-site.⁷

4.4.1.3 *Regulatory Setting*

Several state and federal agencies have jurisdiction over biological resources. The U.S. Army Corps of Engineers and Regional Water Quality Control Board (RWQCB) regulate activities that affect wetlands, in accordance with Section 404 of the federal Clean Water Act and California’s Porter-Cologne Water Quality Control Act. The US Fish and Wildlife Service (USFWS), National Marine Fisheries Service (NMFS-NOAA Fisheries), and the California Department of Fish and Wildlife (CDFW) regulate activities that affect animal and plant species. Habitats found within San José that are considered to be sensitive habitats by these regulatory agencies include wetland and aquatic habitat, riparian habitat, serpentine habitat, and oak woodland habitat.

Federal Migratory Bird Treaty Act

The FMBTA is part of a coordinated effort between the United States, Canada, Mexico, Japan, and Russia to help protect migratory birds in this part of the world. It prohibits killing, taking, selling, 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.

State Fish and Game Code

Birds of prey, such as owls and hawks, are protected in California under provisions of the State Fish and Game Code, Section 3503.5 (1992), which 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 California Department of Fish and Wildlife.

⁷ City of San José. “The Urban Forest of San José, Map of Heritage Trees in the City San José.” <http://www.sanjoseca.gov/index.aspx?NID=3435>. Accessed December 24, 2013.

Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

The adopted Santa Clara Valley Habitat Plan/Natural Communities Conservation Plan (Habitat Plan) was developed 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), U.S. Fish and Wildlife Service (USFWS), and California Department of Fish and Wildlife (CDFW). The Habitat Plan is a conservation program 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 project site is located within the Habitat Plan study area which is defined as the area where all covered activities would occur, impacts evaluated, and conservation activities would be implemented. *Covered activities* are public and private projects or ongoing activities that will receive incidental take authorization by the ESA and NCCP permits for impacts to threatened and endangered species and associated habitats. Covered activities in the Habitat Plan fall into seven general categories:

- Urban development.
- In-stream capital projects.
- In-stream operations and maintenance.
- Rural capital projects outside streams.
- Rural development.
- Rural operation and maintenance of public infrastructure outside streams.
- Conservation strategy implementation (i.e., activities within the lands managed, enhanced, restored, and monitored to conserve the natural resources targeted by this Plan).

The project site has a designation of *Urban-Suburban*. Urban-Suburban land comprises areas where native vegetation has been cleared for residential, commercial, industrial, transportation, or recreational structures, and is defined as one or more structures per 2.5 acres. Vegetation found in the Urban-Suburban land cover type is usually in the form of landscaped residences, planted street trees, and parklands. Most of the vegetation is composed of non-native or cultivated plant species. The parcel on which the project site is located is within the Burrowing Owl Survey Area and Fee Zone and is mapped as Burrowing Owl Occupied Habitat and subject to the land cover verification process and Burrowing Owl habitat survey requirements.

The project is subject to the conditions, fees, and avoidance and minimization measures of the Habitat Plan, in order to be considered a covered activity and eligible for take authorization under the plan. This Plan utilizes a variety of private and public development-based fees to fund mitigation that will offset losses of land cover types, covered species habitat, and other biological values. These one-time fees pay for the full cost of mitigating project effects on the covered species and natural communities. Once paid, applicants do not need to find their own mitigation to satisfy state and federal endangered species laws.

City of San José Tree Ordinance

The City of San José maintains the urban landscape partly by promoting the health, safety, and welfare of the City by controlling the removal of ordinance trees on private property (San José Municipal Code Section 13.32). Ordinance trees are defined as trees over 56 inches in circumference, or approximately 18 inches in diameter, at a height of 24 inches above natural grade. Ordinance trees are generally mature trees that help beautify the City, slow erosion of topsoil, minimize flood hazards, and the risk of landslides, increase property values, and improve local air quality. A tree removal permit is required from the City of San José for the removal of ordinance trees. There are approximately 42 ordinance trees on-site.

In addition, any tree found by the City Council to have special significance based on factors including, but not limited to, its history, firth, eight, species, or unique quality, can be designated as a “Heritage tree” (San José Municipal Code Section 13.28.330 and 13.32.090). It is unlawful to vandalize, mutilate, remove, or destroy such heritage trees. There are no heritage trees on-site.

4.4.2 Environmental Checklist and Discussion of Impacts

BIOLOGICAL RESOURCES						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)
Would the project:						
1) 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 Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,5
2) 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 Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,5
3) 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,5

BIOLOGICAL RESOURCES						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)
Would the project:						
4) 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"/>	<input type="checkbox"/>	1,2,3,4,5
5) 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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
6) 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"/>	<input type="checkbox"/>	1,2,3,4,5

4.4.2.1 Impacts to Special Status and Protected Species

As discussed above, the project site does not provide suitable habitat for any special status plants known to occur in the project area and, therefore, the redevelopment of the site with parklands is not expected to significantly affect any special status plant species. However, there is potential for several protected wildlife species to be present on the site.

Tree Nesting Raptors and Migratory Birds

Hawks, owls, and other tree nesting raptors such as Cooper’s Hawks and White-tailed Kites could nest in the larger trees on the project site and forage in the open areas. The on-site trees represent a small portion of the suitable nesting and foraging habitat available for these species regionally. Therefore, it is anticipated that the loss of the trees resulting from redevelopment of the project site would have no measurable effect on regional populations. However, raptors and migratory birds are protected under the FMBTA and/or the California Fish and Game Code. Construction-related disturbances (such as the generation of loud noises) have the potential to “take” nests, eggs, or individuals, and otherwise lead to the abandonment of nests. Disturbance that causes nest abandonment or destruction of nests would be considered a significant impact.

Impact BIO-1: Construction of the proposed project could disturb or destroy active raptor or migratory bird nests and/or result in the destruction of individual birds.
(Significant Impact)

Mitigation Measures

Implementation of the following mitigation measures would reduce impacts to tree nesting raptors and migratory birds to a less than significant level:

- MM BIO-1.1:** In compliance with the FMBTA and the California Fish and Game Code, the following measures shall be implemented during project construction to reduce and avoid impacts to nesting raptors and/or migratory birds:
- If possible, tree removal shall occur prior to the start of the nesting season (February) to help preclude impacts to nesting bird species.
 - Construction shall be scheduled to avoid the nesting season to the extent feasible. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February through August.
 - If it is not possible to schedule demolition and construction between September and January, then pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests will be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of demolition/construction activities during the early part of the breeding season (February through April) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May through August). During this survey, the ornithologist will inspect all trees and other possible nesting habitats in and immediately adjacent to the construction areas for nests. If an active nest is found in an area that will be disturbed by construction, the ornithologist, in consultation with CDFW, will 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.
 - A report summarizing the results of the pre-construction survey and subsequent efforts to protect nesting raptors and/or migratory birds (if found to be present) shall be submitted to the satisfaction of the Director of Planning, prior to issuance of a building permit.

Burrowing Owls

The Habitat Plan was formally adopted and became effective on October 14, 2013. The large scale habitat conservation plan provides a comprehensive approach to addressing impacts to sensitive species and their habitats. The Habitat Plan utilizes a variety of private and public development-based fees to fund mitigation that will offset losses of land cover types, covered species habitat, and other biological values.

The parcel on which the project site is located is within modeled and mapped occupied burrowing owl nesting habitat. However, the site is completely developed with existing buildings and paved areas, with only small interspersed landscaped areas, and would not be considered burrowing owl nesting habitat. Portions of the entire 81-acre state-owned parcel consist of undeveloped ruderal grassland, which is potentially suitable burrowing owl nesting habitat. This is likely the reason the parcel was mapped as occupied habitat for purposes of the Habitat Plan.

Because the project site is developed and does not provide suitable nesting habitat for burrowing owls, the project would not impact burrowing owls and, therefore, would not be subject to burrowing owl fees in the Habitat Plan. **(Less Than Significant Impact)**

Bats

Pallid bat, Townsend's big-eared, and Mastiff bats may forage over the grass area, roost in hollow trees, and/or have nursery colonies within old buildings on the project site. The loss of potential foraging habitat for these species would not be considered a significant impact, given the currently disturbed nature of the site and availability of suitable habitat in the greater area. The demolition of existing buildings, however, could result in the elimination of active nursery colonies, if present in the attics or wall spaces. Furthermore, Townsend's big-eared bats are so sensitive to human disturbance that females will permanently leave a traditional summer roost if disturbed. If nursery colonies of these species should exist, destruction or disturbances from demolition activities that cause colony abandonment would be a significant impact.

Impact BIO-2: Construction of the proposed project could disturb or destroy active bat nursery colonies and/or result in the destruction of individual bats. **(Significant Impact)**

Mitigation Measures

The following measure will be implemented to reduce potential impacts to bat species to a less than significant level:

MM BIO-2.1: Development activities during the Pallid bat and Townsend's big-eared bat nursery season (April through July) shall be preceded by pre-demolition surveys for bat nursery colonies by a qualified bat biologist. Demolition of buildings outside of the nursery season need not be preceded by preconstruction surveys. No activities (including entering an occupied attic) that would result in disturbance to active nurseries would proceed prior to the completion of surveys. The extent of construction-free zones around active bat nurseries would be determined by the bat biologist. CDFW will be notified of any active nurseries found within construction areas.

4.4.2.2 *Impacts to Sensitive Habitats*

As described above, the project site is located within a highly urbanized area, lacks sensitive habitats, and provides limited value for wildlife. Only urban-adapted birds and animals are expected to occur on the site. Given that the site is not located adjacent to a waterway and does not serve as an important migratory corridor, the project would not substantially interfere with the movement of native wildlife.⁸ Therefore, the proposed project would not result in a significant impact to sensitive natural communities, federally protected wetlands, or wildlife corridors.

Nitrogen Deposition Impacts on Serpentine Habitat

Nitrogen deposition is known to have damaging effects on many of the serpentine plants in the Habitat Plan area, as well as the host plants that support the Bay checkerspot butterfly. All major remaining populations of the butterfly and many of the sensitive serpentine plant populations occur in areas subject to air pollution from vehicle exhaust and other sources throughout the Bay Area including the project area. Because serpentine soils tend to be nutrient poor, and nitrogen deposition artificially fertilizes serpentine soils, nitrogen deposition facilitates the spread of invasive plant species.

The displacement of these species, and subsequent decline of the several federally-listed species, including the butterfly and its larval host plants, has been documented on Coyote Ridge in central Santa Clara County. Nitrogen tends to be efficiently recycled by the plants and microbes in infertile soils such as those derived from serpentine, so that fertilization impacts could persist for years and result in cumulative habitat degradation. The impacts of nitrogen deposition upon serpentine habitat and the Bay checkerspot butterfly can be correlated to the amount of new vehicle trips that a project is expected to generate. The nitrogen deposition fees collected under the Habitat Plan for new vehicle trips will be used as mitigation to purchase and manage conservation land for the Bay checkerspot butterfly and other sensitive species. The nitrogen deposition fee applies to all Fee Zones and will be assessed as a fee per new daily vehicle trip over existing conditions. The proposed project would generate approximately 354 daily vehicle trips. Applying the nitrogen deposition fee of \$3.60 per new vehicle trip would result in a total nitrogen deposition fee of \$1,274.40 for the project.

At the time of the NSJ FEIR was certified, there was no mechanism in place to off-set the damaging effects of nitrogen deposition on serpentine plant populations and the City-wide impact of future development was identified as significant and unavoidable. Since becoming effective in October 2013, the Habitat Plan now provides a mechanism for an individual project to make a fair share contribution to an established mitigation fee program to address cumulative nitrogen impacts. Payment of the Habitat Plan nitrogen deposition fee based on the current number of new daily trips would mitigate the projects cumulative contribution to a less than significant level. The cumulative nitrogen deposition impact was not previously addressed or discussed in the NSJ FEIR and is being disclosed in this Addendum as a new less than significant impact associated with the project. (**Less Than Significant Impact**)

⁸ This finding is consistent with the NSJ FPEIR, which concluded that development under the NSJ ADP would not interfere substantially with the movement of any resident or migratory fish or wildlife species.

Trees

The existing trees on the site provide shading, refuge, nesting, and foraging habitat for urban-adapted wildlife species, as well as special-status and protected species. Proposed development could remove a substantial number of trees from the project site but would attempt to preserve mature, protected, and ordinance size trees to the extent possible. The exact trees to be removed would be determined during the final phase of the project. Depending on the final number, size, and species of the trees to be removed, redevelopment of the site could result in a significant biological impact, which was previously identified in the NSJ FEIR. For example, the removal of large native trees would have a greater effect than removal of smaller, non-native trees on the ecological value of the wildlife habitat on the site.

Impact BIO-3: The proposed project could result in a significant impact to trees, due to the removal of a substantial number of existing trees on-site. **(Significant Impact)**

Impact BIO-4: Construction of the proposed project could damage existing trees to be retained on the site. **(Significant Impact)**

Mitigation Measures

The following mitigation measures will be implemented during construction of the proposed project to reduce impacts to trees to a less than significant level:

MM BIO-3.1: Existing trees shall be incorporated into the project design to the extent feasible to maximize the number of trees preserved on the site.

MM BIO-3.2: The City of San José has determined that the appropriate mitigation for tree removal impacts is to replace trees to be removed on the project site at the following ratios:

Table 4.4-1: Tree Replacement Ratios				
Diameter of Tree to be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
18 inches or greater	5:1	4:1	3:1	24-inch box
12 -18 inches	3:1	2:1	none	24-inch box
less than 12 inches	1:1	1:1	none	15-gallon container
Note: x:x = tree replacement to tree loss ratio. Trees greater than 18” diameter shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees.				

It is intended that replacement trees would be planted on the site. In the event the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented:

- An alternative site(s) will be identified for additional tree planting within the North San José area. The City of San José will coordinate the planting and maintenance of the replacement trees with the property owners.
- A donation of \$300 per mitigation tree to Our City Forest for in-lieu off-site tree planting in San José. These funds will be used for tree planting and maintenance of planted trees for approximately three years.

The following measure will be implemented to reduce potential impacts to trees retained on the site to a less than significant level:

MM BIO-4.1: The following measures will be implemented before and during project construction to protect the on-site trees to be preserved:

- Protective fencing shall be installed no closer to the trunk than the dripline, and far enough from the trunk to protect the integrity of the tree. The fence shall be a minimum of four feet in height and shall be set securely in place. The fence shall be of a sturdy but open material (i.e., construction fencing), to allow visibility to the trunk for inspections and safety. There shall be no storage of any kind within the protective fencing.
- The existing grade level around a tree shall normally be maintained out to the dripline of the tree. Alternate grade levels may be determined during final project design.
- Drain wells shall be installed whenever impervious surfaces will be placed over the root system of a tree (the root system generally extends to the outermost edges of the branches).
- Trees that have been damaged by construction shall be repaired in accordance with accepted arboriculture methods.
- No signs, wires, or any other object shall be attached to the tree.

The Director of Planning will review all construction documents to ensure that these measures are implemented during the construction phases of the project.

4.4.2.3 *Santa Clara Valley Habitat Plan/Natural Community Conservation Plan*

The project site is located within the Habitat Plan study area, has a designation of *Urban - Suburban*, and would be subject to all applicable Habitat Plan fees. The project shall pay the appropriate fees to mitigate its impact to a less than significant level. **(Less Than Significant Impact)**

4.4.3 **Conclusion**

The proposed project would not result in significant impacts to sensitive natural habitats, federally protected wetlands, wildlife corridors, or special-status plant species. **[Same Impact as Approved Project (Less than Significant Impact)]**

Impact BIO-1: With implementation of the MM BIO-1.1, construction of the proposed project would not result in a significant impact to protected raptor or migratory bird species. **[Same Impact as Approved Project (Less than Significant with Mitigation Incorporated)]**

- Impact BIO-2:** With implementation of the MM BIO-2.1, construction of the proposed project would not result in a significant impact to bat species. [**Same Impact as Approved Project (Less than Significant with Mitigation Incorporated)**]
- Impact BIO-3:** Implementation of MM BIO-3.1 through MM BIO-3.3 would reduce the long-term effects of tree removal to a less than significant level. [**Same Impact as Approved Project (Less than Significant with Mitigation Incorporated)**]
- Impact BIO-4:** With implementation of the tree protection measure MM BIO-4.1, construction of the proposed project would not result in a significant impact to existing trees to be retained on the site. [**Same Impact as Approved Project (Less than Significant with Mitigation Incorporated)**]

4.5 CULTURAL RESOURCES

The following discussion is based upon reports prepared for the certified Agnews East School Site Project Final EIR (SCH#2011032006), including an Archaeological Resources Study prepared by *Holman & Associates* in November 2010, and a Historic Resources Technical Report prepared by *Page & Turnbull, Inc.* in 2011.

4.5.1 Setting

Native American occupation began in the Santa Clara Valley approximately 5,000-8,000 years ago. The project area was inhabited by a group referred to as the “Costanoan” or the “Ohlone.” The “prehistoric” era ended in the 18th century with the arrival of the Spanish. The “historic” period of the San Francisco Bay Area is typically divided into the Age of Exploration, the Spanish Period (1769-1821), the Mexican Period (1822-1848), and the American Period (1848-onward). Until the late 20th century, the area currently known as North San José was primarily used for agriculture, particularly orchard production. Development of industrial uses began in the 1970’s, with residential development occurring more recently. The project site was developed with agriculture until the construction of the existing institutional uses.

4.5.1.1 *History of the Agnews East Campus*

In 1888, the Agnews Developmental Center was founded as the California Hospital for the Chronically Insane in the City of Santa Clara.⁹ The original campus (referred to as the West Campus) was decimated by the 1906 earthquake and was later rebuilt. In 1926, the State of California purchased 426 acres of land, located approximately 1.5 miles to the east in San José, in order to build the Annex (later known as the East Campus) on the project site.

The “colony” plan for the East Campus was envisioned by Dr. Leonard Stocking, who was Agnews’ most influential doctor and superintendent. Dr. Stocking worked with the Office of the State Architect on the design. The colony plan included a grouping of six ward buildings that were radially sited around a central park space and intersected by a diagonal road, path network, and an axial landscaped area. Trees and vegetation, which were planted along the roads and paths, played an important role in the site planning.

The original plan for the East Campus was only half-realized, as only three of the ward buildings were constructed. The three ward buildings were designed in the Spanish Colonial Revival style and featured H-shaped plans with separate courtyards, patios, and entrances. Each building held a total of eight separate wards with each ward holding approximately 50 patients. In accordance with the “colony” plan, each ward building was intended to function as a separate and independent unit with its own heating, refrigeration, and kitchen areas. The building floor plans had several projecting wings to allow for the maximum amount of light and air to enter into the interior.

⁹ The name was changed to the State Asylum at Agnews in 1889, then to the Agnews State Hospital in 1985.

From the late 1930's to the mid 1950's, the East Campus operated as an extension of the main (west) campus of the Agnews State Hospital. Only two additional staff residences were constructed during this time. The Main Kitchen, Boiler Plant, pump house, and several other ancillary structures were added to the campus in the late 1950's. In 1959, the Receiving and Treatment ("Rapaport") Building was completed north of the ward buildings. The Rapaport Building represents a shift from the "colony" planning concept towards institutionalization, showing a distinct departure from Dr. Stocking's ideas. Following completion of the Administration Building in 1960 and three chapels in 1963, little construction took place during the 1960's and 1970's.

Programs for the mentally ill were discontinued in 1972 and the facility had been utilized exclusively for the care and treatment of persons with developmental disabilities since that time. During the 1980's and 1990's, the Agnews Developmental Center developed as a regional leader in the rehabilitation of the developmentally disabled. Approximately 20 small buildings were constructed on the campus during the 1990's, including the Multi-purpose Building in the northwestern corner of the site and the auto compound near Zanker Road.

As described in Section 1.0 *Introduction and Background*, the Agnews West Campus was closed in 1996. In August 1997, the Agnews West site was added to the National Register of Historic Places (under the name "Agnews Insane Asylum").¹⁰ In 1998, Sun Microsystems redeveloped approximately 83 acres of the West Campus with office park uses and other residential developers constructed the Rivermark planned community on approximately 152 acres of adjoining land. As partial mitigation for impacts to historic resources, Sun restored several Agnews West buildings and provided a public exhibit displaying information and photographs of the center.¹¹

With the closure of the original campus in 1996, the East Campus became the sole location of the Agnews Developmental Center. Around this time, the State of California declared the Agnews East Campus as surplus property. In 1999, Cisco Systems purchased approximately 156 acres of this land for development with industrial park uses. The 2003-04 Governor's Budget directed the State to close the Agnews Developmental Center. All patients from the facility were relocated as of April 2009, and the campus has been vacated as of July 2011.¹²

¹⁰ U.S. Department of the Interior, National Park Service. "National Register of Historic Places." 2010. Accessed November 30, 2010. <<http://nrhp.focus.nps.gov/>>

¹¹ It was concluded that implementation of these mitigation measures, in addition to several other documentation and preservation measures proposed by the project, would reduce but not eliminate impacts to historic resources, and the development of the Sun Microsystems campus would result in a significant unavoidable cultural resources impact. **Source:** City of Santa Clara. *Agnews West Campus General Plan Amendment and Development Proposal Draft Environmental Impact Report*. May 1997.

¹² California Department of Developmental Services. "Agnews Developmental Center." August 2011. Accessed September 20, 2011. <<http://www.dds.ca.gov/Agnews/Index.cfm>>

4.5.1.2 *Regulatory Setting*

California Register of Historic Resources

The California Register is an inventory of significant architectural, archaeological, and historical resources in the State of California. Resources determined eligible for the National Register and State Historical Landmarks are automatically listed on the California Register. Properties can also be nominated to the California Register by local governments, private organizations, or citizens.

The evaluative criteria used for determining eligibility for the California Register include the following:

- *Criterion 1 (Events)*: Resources that are associated with events that have made a significant contribution to the broad patterns of local or regional history, or the cultural heritage of California or the United States.
- *Criterion 2 (Persons)*: Resources that are associated with the lives of persons important to local, California, or national history.
- *Criterion 3 (Architecture)*: Resources that embody the distinctive characteristics of a type, period, region, or method of construction, or represent the work of a master, or possess high artistic values.
- *Criterion 4 (Information Potential)*: Resources or sites that have yielded or have the potential to yield information important to the prehistory or history of the local area, California, or the nation.

A resource is eligible for listing in the California Register if it meets any one of the criteria of significance *and* sufficiently retains historic integrity. A resource that has lost its historic character or appearance may still have sufficient integrity for the California Register if it maintains the potential to yield significant scientific or historical information or specific data.

Secretary of the Interior’s Standards for the Treatment of Historic Properties

The 1995 U.S. Secretary of the Interior’s *Standards for the Treatment of Historic Properties* outlines specific standards and guidelines for the preservation, rehabilitation, restoration, and reconstruction of historic properties.¹³ Each set of standards provides specific recommendations for the proper treatment of specific building materials, as well as parts of building construction. CEQA references these standards relative to consideration of the significance of project impacts, or lack thereof, on historic resources.

¹³ Preservation standards apply to those buildings that require ongoing maintenance to sustain their historical authenticity. Rehabilitation standards involve the reuse of a historic structure or property while retaining features that maintain historic value. Restoration standards are applicable to projects that remove portions of a building from another historic period in order to restore a property to its period of significance. Reconstruction standards apply to new developments that replicate a historic period or setting based on documented evidence.

Native American Burials

California law protects Native American burials, skeletal remains, and associated grave goods and provides for the sensitive treatment and disposition of those remains (Section 7050.5(b) of the California Health and Safety Code). CEQA Guidelines section 15064.5(e) requires that excavation activities be stopped whenever human remains are uncovered and that the county coroner or medical examiner be contacted to assess the remains. If the county coroner or medical examiner determines that the remains are those of Native Americans, the Native American Heritage Commission (NAHC) must be contacted within 24 hours. The property owner is required to consult with the appropriate Native Americans identified by the NAHC as a “most likely descendant” to develop an agreement for the treatment and disposition of the remains.

4.5.2 Environmental Checklist and Discussion of Impacts

CULTURAL RESOURCES						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)
Would the project:						1,2,3,4,5
1) Cause a substantial adverse change in the significance of an historical resource as defined in §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,5
2) Cause a substantial adverse change in the significance of an archaeological resource as defined in §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,5
3) Directly or indirectly destroy a unique paleontological resource or site, or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,5
4) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,5

The currently proposed project will result in the same impacts as the approved project, i.e. Less than Significant Impact, as described below.

4.5.2.1 Impacts to Historic Resources

The proposed project includes demolition of the existing structures on the project site. In addition, the project also includes removal of the existing road network and most vegetation, although mature trees would be retained to the extent possible.

Buildings on-site include office and classroom facilities, a kitchen facility, a boiler plant, an education and training center, and the main hospital (Rapaport Building). Although elements of the Agnews East Campus are eligible for listing on the California Register and are historically significant to the City of San José and State of California, the buildings on the project site are considered *non-contributing* resources that are not appropriate representations to the site’s history. *Non-contributing* resources typically do not meet the 50-year-old threshold for historical resources, do not contribute to

the historic character of the site, and are not individually eligible for listing in a historical Register. Therefore, demolition of existing buildings on-site would not result in adverse significant impacts to historical resources. **(Less Than Significant Impact)**

4.5.2.2 *Impacts to Archaeological Resources*

The project site is located within an area of archaeological sensitivity as determined in the City of San José's General Plan. There are no recorded prehistoric archaeological resources within the project boundaries. A Native American village site with midden deposits was recorded on the west bank of Coyote Creek, approximately 0.4 miles east of the project site.¹⁴ Additional prehistoric sites, generally in the form of midden deposits, villages, and/or burials, have been recorded in proximity to Coyote Creek and Guadalupe River in the greater project area.¹⁵

During the visual inspection of the greater project area completed for the cultural resources study, chert flakes were found on an undeveloped portion of the site, indicating possible Native American tool production. This material could also have been formed by discing and plowing undertaken during the historic era. However, there was no evidence of the village site recorded nearby or other obvious signs of Native American habitation, such as fire-affected rock, ash, charcoal, or artifacts of bone, stone, or shellfish.

Given the presence of recorded prehistoric resources in the project area, there is a moderate to high potential that prehistoric resources could be buried on the project site. The demolition of existing structures is not anticipated to affect any buried prehistoric deposits or human remains, if any are present on the site. A significant impact to cultural resources could occur if these materials are found to be significant under CEQA and are excavated, paved over, or otherwise disturbed.

While the potential for buried historic resources to be within the project boundaries is considered to be low, it is also possible that archaeological materials could be encountered during construction activities. The disturbance of historic burials and/or artifacts could result in the loss of important cultural information and thus result in an adverse significant impact. Therefore, the project will implement the following standard project conditions, as necessary. **(Less Than Significant Impact)**

Standard Project Conditions:

- In the event any significant cultural materials are encountered, all construction within a radius of 50-feet radius of the find shall be halted, the Director of Planning, Building and Code Enforcement shall be notified, and a professional archaeologist will examine the find and make appropriate recommendations regarding the significance of the find and make appropriate recommendations regarding the significance of the find and the appropriate mitigation. Recommendations could include collection, recordation, and analysis of any significant cultural materials.

¹⁴ Midden deposits are characterized by charcoal flecks, baked and vitrified clay, fire-affected rock, shellfish and faunal remains, and chipped and ground stone artifacts.

¹⁵ City of San José. *North San José Development Policies Update Final Program Environmental Impact Report*. June 2005.

- If human remains are discovered, the Santa Clara County Coroner will be notified. The Coroner would determine whether or not the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he would notify the Native American Heritage Commission, would attempt to identify “most likely” descendants of the deceased.
- If the Director of Planning, Building and Code Enforcement finds that the archaeological find is not a significant resource, work would resume only after the submittal of a preliminary archaeological report and after provisions for reburial and ongoing monitoring are accepted.

A final report will be prepared by the project archaeologist when a find is determined to be a significant archaeological resource, and/or when Native American remains are found on the site. The final report will include background information on the completed work, a description and list of identified resources, the disposition and curation of these resources, and testing, and other recovered information, and conclusions.

4.5.3 Conclusion

The proposed project, with the implementation of the standard project conditions, would not result in any new or more significant impacts to cultural resources than those addressed in the certified 2005 NSJ FPEIR. [**Same Impact as Approved Project, (Less than Significant Impact)**]

4.6 GEOLOGY AND SOILS

The following discussion is based in part on a *Geologic and Geotechnical Feasibility-Level Assessment of the Agnews Development Center* by Kleinfelder prepared in March 2010 for the certified Agnews East School Site Project Final EIR (SCH#2011032006).

4.6.1 Setting

The project site is flat and located on the floor of the Santa Clara Valley, which is a broad alluvial-covered plain situated between the Santa Cruz Mountains to the west and the Diablo Range to the east. There are no unique geologic features on or adjacent to the project site. Due to the flat topography of the project site and surrounding area, the potential for erosion or landslide on or adjacent to the project site is low. The nearest water body to the site is Coyote Creek, which flows northward approximately 0.35 miles east of the site. The Guadalupe River is located approximately 0.5 miles to the southwest. The project site is located at an elevation of approximately 19 feet.

4.6.1.1 *Soils*

The site is underlain by Holocene age alluvial fan deposits consisting of moderately- to poorly-bedded intermingled layers of sand, gravel, silt, and clay. Pleistocene age and older alluvial deposits lie approximately 30 feet below the Holocene age deposits. These fine-grained alluvial sediments were deposited by the many creeks that flow from the bordering hills and mountains. The clay soils on-site are moderately to highly expansive (subject to volume change as they change in moisture content).

4.6.1.2 *Seismicity*

North San José is within the seismically active San Francisco Bay Area, which is dominated by the San Andreas Fault System. Active faults in the vicinity of the site include the Calaveras, Monte Vista-Shannon, San Andreas, and Hayward, which is nearest the site (approximately four miles to the northeast). According to the Working Group for California Earthquake Probabilities, there is a 70 percent chance that an earthquake of magnitude 6.7 or greater will occur in the Bay by 2030.¹⁶

The site is not located within a State of California Alquist-Priolo Earthquake Fault Zone, City of San José Fault Hazard Zone, or a County of Santa Clara Fault Rupture Hazard Zone. A buried trace of the Silver Creek Fault transects the western boundary of the site; however, this fault is not considered an active seismic source. A review of historical aerial photos did not reveal any evidence of faulting across the site; therefore, the risk of ground rupture on the site is considered to be low.

Liquefaction

Liquefaction is the result of seismic activity and is characterized as the transformation of loosely water-saturated soils from a solid state to a liquid state after ground shaking. There are many

¹⁶ Working Group on California Earthquake Probabilities. *Earthquake Probabilities in the San Francisco Bay Region: 2000 to 2030 – A Summary of Findings*. Open File Report 99-517, Online Version 1.0. 2000.

variables that contribute to liquefaction, including the age of the soil, soil type, soil cohesion, soil density, and groundwater level. Soil susceptible to liquefaction includes loose to medium dense sand and gravel, low-plasticity silt, and some low-plasticity clay deposits. Flow failure, lateral spreading, differential settlement, loss of bearing strength, ground fissures and sand boils are evidence of excess pore pressure and liquefaction.

The project site is located in a State of California liquefaction hazard zone, which requires the evaluation of the liquefaction potential of the underlying soil.¹⁷ Studies conducted after the 1989 Loma Prieta earthquake indicate that liquefaction occurred along portions of nearby Coyote Creek and the banks of the Guadalupe River. The effects of liquefaction at the project site were not noted. Cone Penetration Tests (CPTs) were completed across the site to assess the general landslide susceptibility of the underlying alluvial soils. Based on the results, settlement due to liquefaction across the site was estimated to be ½ to one inch. Due to the limited number of exploration points, greater liquefaction-induced settlement may be present on the site.

4.6.1.3 Land Subsidence

The site lies within an area where land subsidence due to groundwater withdrawal has occurred in the past. About four to six feet of subsidence occurred in the project area between 1934 and 1967. The amount and rate of land subsidence has been dramatically reduced through extensive measures undertaken by the Santa Clara Valley Water District (SCVWD) and other agencies. The existing on-site buildings do not appear to be damaged as a result of subsidence.

4.6.1.4 Regulatory Setting

Alquist-Priolo Earthquake Fault Zoning Act

The Alquist-Priolo Earthquake Fault Zoning Act regulates development in California near known active faults due to hazards associated with surface fault ruptures. The Earthquake Fault Zones indicate areas with potential surface fault-rupture hazards. Areas within the Alquist-Priolo Earthquake Fault Zone require special studies to evaluate the potential for surface rupture to ensure that no structures intended for human occupancy are constructed across an active fault. As discussed previously, the project site is not located in an Alquist-Priolo Earthquake Fault Zone.

California Building Code

The California Building Code prescribes a standard for constructing safer buildings throughout the State of California. It contains provisions for earthquake safety based on factors including occupancy type, soil and rock profile, strength of the ground, and distance to seismic sources. The Code is renewed on a triennial basis every three years. The 2013 Building Standards Code became effective on January 1, 2014.

¹⁷ California Department of Conservation. *Seismic Hazards Zones, Milpitas Quadrangle Official Map*. October 19, 2004.

City of San José Policies

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.

4.6.2 Environmental Checklist and Discussion of Impacts

GEOLOGY AND SOILS						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)
Would the project:						
1) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:						
a) Rupture of a known earthquake fault, as described 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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,5
b) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,5
c) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,5
d) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,5
2) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,5
3) 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,5

GEOLOGY AND SOILS						
	New Potentially Significant Impact	New Than Significant With Mitigation Incorporated	Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)
Would the project:						
4) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,5
5) 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 type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3,4,5

The currently proposed project will result in the same impacts as the approved project, i.e. Less than Significant, as described below.

4.6.2.1 Seismic-Related Impacts

Although the project site is not located in a specially-designated earthquake zone, it is located in a seismically active region and, as a result, strong ground shaking would be expected during the lifetime of the project. The site is also within a liquefaction hazard zone. Potential settlement of the site due to liquefaction is estimated to be 0.5 to one inch. Due to the flat topography of the site and the proposed uses on-site, the project would not expose people or structures to substantial adverse seismic-related impacts. **(Less Than Significant Impact)**

4.6.2.2 Soil-Related Impacts

The proposed project would not be exposed to substantial slope instability, erosion, or landslide-related hazards due to the flat topography of the site. The project site includes moderately to highly expansive soils, which can cause heaving and cracking of slabs-on-grade, pavements, and structures built on shallow foundations. Soils on the site are also compressible and may be prone to settlement upon loading. In addition, the project area may be subject to land subsistence.

Standard Project Conditions:

The following measures will be implemented to reduce and avoid potential impacts associated with seismic and soil-related hazards:

- The proposed project shall be designed and constructed in accordance with applicable City of San José policies and the 2013 California Building Code, which contains the regulations that govern the construction of structures in California. Adherence to the 2007 California Building Code would ensure the proposed improvements resist minor earthquakes without damage and major earthquakes without collapse. **(Less Than Significant Impact)**

4.6.2.3 *Other Impacts*

Grading and tree removal activities would increase the potential for soil erosion during and after project construction. It is anticipated that surface soil from portions of the site will be excavated and removed or relocated, due to the presence of contamination and naturally-occurring asbestos (refer to MM HAZ-2.1 in Section 4.3 *Hazards and Hazardous Materials*). Although the project could result in the loss of topsoil, the excavated areas would either be filled with imported soil materials or covered with landscaping, pavement, buildings, or artificial turf, which would prevent substantial erosion.

Standard erosion control and grading best management practices (BMPs) will be incorporated in the project and implemented during construction to prevent substantial erosion from occurring during development of the site. The potential for erosion would be further reduced with implementation of the proposed dust control and water quality BMPs (refer to Sections 4.7 *Air Quality* and 4.11 *Hydrology and Water Quality*). A Grading Plan for review and approval during the final design stage and prior to project construction may be required. The Grading Plan would include the erosion control and grading BMPs.

For these reasons, the proposed project would not result in a significant geologic impact related to erosion. **(Less Than Significant Impact)**

4.6.3 Conclusion

The proposed project, with the implementation of the above standard project conditions, would not result in any new or more significant geologic impacts from expansive soils on-site than those addressed in the certified 2005 NSJ FPEIR. **[Same Impact As Approved Project (Less than Significant Impact)]**

The proposed project, with the implementation of the above standard project conditions, would not result in any new or more significant geological impacts relating to seismic and seismic-related hazards than those addressed in the certified 2005 NSJ FPEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.7 GREENHOUSE GAS EMISSIONS

The following discussion is based on the greenhouse gas analysis completed for the San José GPEIR, from which, this Addendum tiers. Because the project is consistent with the General Plan land use designation for the site, its greenhouse gas emissions were included in this analysis.

4.7.1 Setting

4.7.1.1 *Background Information*

Unlike emissions of criteria and toxic air pollutants, which are discussed in *Section 4.3* and 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 over time. The principal GHGs contributing to global warming and associated climate change are carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), and fluorinated compounds. Emissions of GHGs contributing to global climate change are attributable in large part to human activities associated with the transportation, industrial/ manufacturing, utility, residential, commercial, and agricultural sectors.

4.7.1.2 *Existing On-Site GHG Emissions*

The project site is currently developed with buildings associated with the Agnews Development Center. However, the Agnews Development has been vacated since July 2011 and the site is currently not in use. As a result, current GHG emissions on-site are minimal.

4.7.1.3 *Applicable Plans, Policies and Regulations*

California Assembly Bill 32 and Executive Order S-3-05

Assembly Bill 32 (AB 32), also known as the Global Warming Solutions Act, was passed in 2006 and established a goal to reduce GHG emissions to 1990 levels by 2020. Prior to the adoption of AB 32, the Governor of California also signed Executive Order S-3-05 into law, which set a long term objective to reduce GHG emissions to 90 percent below 1990 levels by 2050. The California Environmental Protection Agency (CalEPA) is the state agency in charge of coordinating the GHG emissions reduction effort and establishing targets along the way.

In December 2008, CARB approved the *Climate Change Scoping Plan*, which proposes a comprehensive set of actions designed to reduce California’s dependence on oil, diversify energy sources, save energy, and enhance public health, among other goals. Per AB 32, the Scoping Plan must be updated every five years to evaluate the mix of AB 32 policies to ensure that California is on track to achieve the 2020 greenhouse gas reduction goal. The Discussion Draft for the 2014 Update was released on October 1, 2013, and the final version will be published in Spring 2014 following CARB’s approval. The 2014 Update will define CARB’s climate change priorities for the next five years and lay the groundwork to start the transition to the post-2020 goals set forth in Executive Order S-3-05.

California Senate Bill 375

Senate Bill 375 (SB 375), known as the Sustainable Communities Strategy and Climate Protection Act, was signed into law in September 2008. It builds on AB 32 by requiring CARB to develop regional GHG reduction targets to be achieved from the automobile and light truck sectors for 2020 and 2035 in comparison to 2005 emissions. The per capita reduction targets for passenger vehicles in the San Francisco Bay Area include a seven percent reduction by 2020 and a 15 percent reduction by 2035.¹⁸ The four major requirements of SB 375 are:

1. Metropolitan Planning Organizations (MPOs) must meet greenhouse gas emission reduction targets for automobiles and light trucks through land use and transportation strategies.
2. MPOs must create a Sustainable Communities Strategy (SCS), to provide an integrated land use/transportation plan for meeting regional targets, consistent with the RTP.
3. Regional housing elements and transportation plans must be synchronized on eight-year schedules, with Regional Housing Needs Assessment (RHNA) allocation numbers conforming to the SCS.
4. MPOs must use transportation and air emissions modeling techniques consistent with guidelines prepared by the California Transportation Commission (CTC).

MTC and ABAG adopted *Plan Bay Area* in July 2013. The strategies in the plan are intended to promote compact, mixed-use development close to public transit, jobs, schools, shopping, parks, recreation, and other amenities, particularly within Priority Development Areas (PDAs) identified by local jurisdictions. The project site is located within a PDA.

Bay Area 2010 Clean Air Plan

The Bay Area 2010 Clean Air Plan (CAP) addresses air emissions in the San Francisco Bay Area Air Basin. One of the key objectives in the CAP is climate protection. The 2010 CAP includes emission control measures and performance objectives, consistent with the state's climate protection goals under AB 32 and SB 375, designed to reduce emissions of GHGs to 1990 levels by 2020 and 40 percent below 1990 levels by 2035.

Envision San José 2040 General Plan

The General Plan includes strategies, policies, and action items that are incorporated in the City's GHG Reduction Strategy to help reduce GHG emissions. Multiple policies and actions in the General Plan have GHG implications, including land use, housing, transportation, water usage, solid waste generation and recycling, and reuse of historic buildings. The City's Green Vision, as reflected in these policies, also has a monitoring component that allows for adaptation and adjustment of City programs and initiatives related to sustainability and associated reductions in

¹⁸ 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.

GHG emissions. The GHG Reduction Strategy is intended to meet the mandates as outlined in the *CEQA Guidelines* and standards for “qualified plans” as set forth by BAAQMD.

The 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.

Compliance with the mandatory measures and voluntary measures (if required by the City) would ensure an individual project’s consistency with the GHG Reduction Strategy. Projects that are consistent with the GHG Reduction Strategy would have a less than significant impact related to GHG emissions.

4.7.2 Environmental Checklist and Discussion of Impacts

GREENHOUSE GAS EMISSIONS						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)
Would the project:						
1) 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"/>	<input type="checkbox"/>	1,2,3,4,5
2) 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"/>	<input type="checkbox"/>	1,2,3,4,5

The currently proposed project will result in a new Less than Significant Impact, as described below.

4.7.2.1 Overview of Impact Assessment

GHG emissions worldwide cumulatively contribute to the significant adverse environmental impacts of global climate change. No single land use project could generate sufficient GHG emissions on its own to noticeably change the global average temperature. The combination of GHG emissions from past, present, and future projects in San José, the entire state of California, and across the nation and around the world, contribute cumulatively to the phenomenon of global climate change and its associated environmental impacts.

Per the CEQA Guidelines, a lead agency may analyze and mitigate significant greenhouse gas emissions in a plan for the reduction of greenhouse gas emissions that has been adopted in a public process following environmental review. The City of San José has an adopted GHG Reduction Strategy that was approved by the City Council in November 2011 in conjunction with the Envision San José 2040 General Plan.

The following discussion focuses on whether project emissions represent a cumulatively considerable contribution to climate change as determined by consistency with City of San José and statewide efforts to curb GHG emissions. As previously noted, projects that are consistent with the City’s adopted GHG Reduction Strategy would have a less than significant impact related to GHG emissions.

Operational Emissions

The project proposes the construction parklands and recreational facilities on a 21-acre site and is consistent with the *Public/Quasi-Public* land use designation on the General Plan land use map. The project would result in an increase in traffic trips and energy usage on-site compared to existing conditions since the project site is currently vacated and not in use. The 21-acre park project is below the 600-acre screening level threshold for operational GHG emissions from public parks developed by BAAQMD. The proposed recreational uses on the project site, therefore, would not significantly contribute to overall GHG emissions.

Construction Emissions

Project construction would result in GHG emissions from construction-related sources including construction equipment and emissions from construction workers’ personal vehicles traveling to and from the construction site. Construction-related GHG emissions vary depending on the level of activity, length of the construction period, specific construction operations, types of equipment, and number of personnel. Neither the City of San José nor BAAQMD have established a quantitative threshold or standard for determining whether a project’s construction-related GHG emissions are significant. Because project construction would be temporary and would not result in a permanent increase in emissions that would interfere with the implementation of AB 32, the project’s construction-related GHG emissions would be less than significant. **(Less Than Significant Impact)**

4.7.2.2 Consistency with Applicable Plans

Greenhouse Gas Reduction Strategy

Compliance with the mandatory measures (and any voluntary measures required by the City) would ensure an individual project’s consistency with the GHG Reduction Strategy. The project proposes to implement measures consistent with the GHG Reduction Strategy, including: conserving water and using recycled water wherever feasible and cost-effective, using energy efficient lighting, and considering opportunities to reduce parking spaces. Implementation of these measures would ensure project conformance with the City’s GHG Reduction Strategy.

Greenprint 2009 Update

The *Greenprint 2009 Update* outlines goals and strategies that would support the plan’s overall vision, including the implementation of a Balanced Park System that serves different sectors within the City. The Balanced Park System model includes parks, skate parks, community centers/gyms, sports fields, trails, community gardens, and aquatic facilities. The proposed project would include parklands, a skate park, sports fields and, therefore, would contribute to broader Balanced Park System in the North San José planning area. It would also help reduce GHG emissions, and include

water conservation and energy efficiency measures. Development of the project would, therefore, be consistent with the City's *Greenprint 2009 Update*.

4.7.3 Conclusion

The project is consistent with the Greenhouse Gas Reduction Strategy (**New Less Than Significant Impact**)

4.8 HAZARDS AND HAZARDOUS MATERIALS

The discussion in this section is based in part upon a *Phase II Environmental Site Assessment* completed for the site by Kleinfelder in December 2013 (included as Appendix A of this Addendum), as well as the following reports prepared for the *Agnews East School Site Project Final Environmental Impact Report*:

- *Phase I Environmental Site Assessment*, ERM-West, Inc., April 2010 (Appendix C of EIR)
- BAAQMD Records Search Results, February 17 2010 (Appendix E of EIR)
- *Vicinity Hazardous Materials Users Survey*, Belinda P. Blackie, P.E., R.E.A. and Risicare, LLC, February 2011 (Appendix F of EIR)
- *Probability Assessment*, Risicare, LLC, May 2011 (Appendix G of EIR)
- *Pipeline Safety Hazard Assessment for Agnews East Campus Redevelopment Project*, The Planning Center, March 2011 (Appendix H of EIR)

4.8.1 Regulatory Framework

Hazardous materials encompass a wide range of substances, some of which are naturally-occurring and some of which are man-made. Examples include pesticides, herbicides, petroleum products, metals (e.g., lead, mercury, arsenic), asbestos, and chemical compounds used in manufacturing and industrial processes. Due to the fact that hazardous substances have properties that are toxic to humans and/or the ecosystem, there are federal, state, and local laws to regulate the use, storage, and disposal of hazardous materials. Some of the regulatory programs are designed to minimize the chance for unintended releases and/or exposures to occur, while other programs set remediation requirements at sites where soil or groundwater contamination has occurred.

4.8.1.1 *Accident Prevention Programs*

The Clean Air Act Amendments of 1990 required the U.S. Environmental Protection Agency (US EPA) to publish regulations and guidance for chemical accident prevention at facilities using extremely hazardous materials, including certain flammable and toxic substances. As a result, the US EPA developed the *Risk Management Program Guidelines for Off-site Consequence Analysis* (RMP Guidelines) for operators subject to the federal Chemical Accident Prevention Program.

At the state level, the California Accidental Release Prevention Program, or CalARP, regulates facilities that use or store specified quantities of toxic or flammable substances that can have off-site consequences if accidentally released. CalARP facilities are required to prepare a Risk Management Plan (RMP) to evaluate the potential for and impacts of accidental releases, pursuant to Section 25534 of the California Health and Safety Code. RMPs also describe the facility's management system to ensure implementation of prevention measures. In the project area, the CalARP program is administered by the Santa Clara County Department of Environmental Health (SCCDEH).

4.8.1.2 *Local Regulations*

The City of San José and other neighboring cities such as Santa Clara and Milpitas also have a number of local regulations that govern the use and storage of hazardous materials. A Hazardous Materials Business Plan (HMBP) is generally required for any facility which generates any quantity of hazardous waste or which handles hazardous materials in amounts greater than 55 gallons for

liquids, 500 pounds for solids, and 200 cubic feet for compressed gases.¹⁹ Setbacks from property lines are often required for flammable storage facilities.

Toxic gas storage on industrial and commercial facilities in San José must also comply with San José Municipal Code Chapter 17.78 (Toxic Gas Ordinance), as well as the California Fire Code. The Toxic Gas Ordinance was adopted in 1990 to regulate the handling, dispensing, and potential release of toxic gases. It provides for the prevention and control of dangerous conditions, as well as for building standards and for emergency response to protect the public from acute exposure to these gases. Engineering controls, such as secondary containment, automatic shut-off, seismic shutoff, emergency alarms, gas detection, and signage may be required for these facilities depending on the class and quantity of gas stored.

The City of San José Fire Department (SJFD) has developed “Draft Guidelines for the Placement of Daycare Facilities, Churches and Schools in or adjacent to Industrial Zones” to assist in the safe design and operation of sensitive uses in or near areas where hazardous materials are used or stored. According to the guidelines, school operators should prepare a Hazards Assessment (based on chemical release modeling) and an Emergency Preparedness Plan.

4.8.1.3 Construction Worker Health and Safety Regulations

Federal regulations have also been developed for construction workers regarding health and safety. The Occupational Health and Safety Administration (OSHA) is the federal agency responsible for administering worker health and safety regulations, pursuant to the Code of Federal Regulations. At the state level, the California Department of Industrial Relations, Division of Occupational Health is responsible for supervision of workplaces in California that are not under direct federal jurisdiction.

In 1992, OSHA issued the Process Safety Management (PSM) of Highly Hazardous Chemicals standard (29 CFR 1910.119), which contains requirements for the management of hazards associated with processes using highly hazardous chemicals. The intent of the PSM standard is to prevent unexpected releases of toxic, reactive, or flammable liquids and gases through proper control and to minimize the consequences of chemical accidents.

Asbestos and Lead-based Paint Regulations

Demolition activities are subject to state and federal laws regulating the handling and disposal of asbestos containing materials (ACM) and lead. Pursuant to National Emissions Standards for Hazardous Air Pollutants (NESHAP) guidelines, materials containing more than one percent asbestos must be abated prior to demolition activities; materials containing between 0.1 and one percent asbestos may be treated as normal construction debris so long as worker notification and health and safety measures are followed.

Loose and peeling lead-based paints are classified as a hazardous waste and require removal prior to demolition activities. Paints that are adhering to their surfaces do not require abatement and can be disposed of as regular construction debris regardless of their lead content. The California Code of Regulations requires that air monitoring be performed during and following renovation or demolition activities at sites containing lead-based paint.

¹⁹ City of San José. *North San José Development Policies Update Final Program EIR*. 2005.

In addition to federal and state laws, the Bay Area Air Quality Management District (BAAQMD) has specified procedures for the demolition and disposal of ACM (Regulation 11, Rule 2: Asbestos Demolition, Renovation, and Manufacturing).

4.8.1.4 *Government Code §65962.5 (Cortese List)*

Section 65962.5 of the Government Code requires the California Environmental Protection Agency (Cal EPA) to develop at least annually an updated list of hazardous waste and substances sites, known as the Cortese List. The Cortese List includes hazardous substance release sites identified by the Department of Toxic Substances Control (DTSC) as subject to removal or remedial action, as well as lists maintained by the State Water Resources Control Board (SWRCB) and the Department of Resources Recycling and Recovery (CalRecycle).²⁰ The Cortese List is used by the State, local agencies, and developers to comply with CEQA requirements in providing information about the location of hazardous materials release sites.

4.8.1.5 *Hazardous Emissions Regulations*

For development projects proposed within one-quarter mile of a school site that may emit hazardous air emissions or handle an extremely hazardous substance, Section 21151.4 of the Public Resources states that the lead agency preparing the environmental review document for the proposed project must consult with the school district having jurisdiction regarding the potential health and safety hazards to persons who attend or are employed at the school.

4.8.1.6 *Emergency and Evacuation Plans*

The State Emergency Plan describes the methods for governmental agencies to carry out emergency operations, provide mutual aid, mobilize resources, and inform the public during an emergency or disaster. The State Emergency Plan is used in conjunction with local agency plans and operating procedures and is administered by the California Emergency Management Agency.

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.²¹ The City of San José has also joined with 60 jurisdictions in the San Francisco Bay Area and participated in the development of a multi-jurisdictional hazard plan by ABAG. The hazard mitigation plan, *Taming Natural Disasters*, includes mitigation activities and strategies for dealing with a range of hazards that are likely to impact the Bay Area, including earthquakes, faulting, earthquake-induced landslides, liquefaction, tsunamis, flooding, landslides, wildfires, and drought.

²⁰ The DTSC, CalRecycle, and SWRCB lists of hazardous materials sites are available online at http://www.dtsc.ca.gov/SiteCleanup/Cortese_List.cfm, <http://www.ciwmb.ca.gov/Swis/search.aspx>, and <http://geotracker.swrcb.ca.gov/>, respectively. CalRecycle was formally called the California Integrated Waste Management Board (CIWMB).

²¹ City of San José. *Emergency Operations Plan*. Amended 2004.

4.8.2 Existing Setting

4.8.2.1 *Existing and Historic Uses*

As previously described, the 21-acre project site is located on the eastern portion of the 81-acre East Campus of the Agnews Developmental Center. The facility is no longer used as a treatment center for the developmentally disabled and the campus has been vacated. Only a limited amount of maintenance-related activity is occurring at the site. In the past, the buildings were used for a variety of purposes including housing (staff, employee, and patients), client activities, medical care and treatment, administration, auto service, food service, mechanical support, and ancillary uses.

The buildings on the campus were constructed between 1930 and 1999. Initial development of the center began with construction of client residences, employee apartments, and the Water Tower. Additional buildings were constructed during expansions of the campus in 1947, 1957/58, the early 1960's, 1991, and late 1990's. Prior to development of the existing facilities, the site was used for agricultural purposes. Based on aerial photographs, active agricultural production continued on portions of the site through the 1960's.

Surrounding Area

The project site is located in a mixed commercial, industrial, and residential area of north San José. Industrial park/office buildings occupied by Cisco Systems are located adjacent to the Agnews East Campus to the north and east. Commercial/industrial buildings occupied by various tenants are located south of the campus on River Oaks Parkway. Multi-family residential uses and an agricultural property are located on the west side of Zanker Road.

The surrounding area was either undeveloped or under agricultural production until development of the existing uses began the 1980's and 1990's. According to aerial photographs, the commercial buildings immediately south of the site were constructed prior to 1982. By 2005, the area was built out, with the exception of the agricultural property located on the west side of Zanker Road across from the site.

4.8.2.2 *Potential On-site Sources of Contamination*

Several studies have been completed to determine if soil or groundwater contamination has occurred on the project site. The Phase I Environmental Site Assessment prepared for the entire Agnews East Campus is based on interviews with the current occupant (Agnews staff), and a review of regulatory databases, aerial photographs, topographic maps, insurance maps, and city directories. The purpose of the Phase I was to identify known or suspected sources of contamination related to the current and historic use of hazardous substances on the site and in the surrounding area.

Regulatory Agency Database Review

According to the database search completed as part of the Phase I assessment, the project site is listed on six regulatory agency databases, including HAZNET, FTTS/HIST FTTS INSP, PADS, EMI, UST, and AST. The project site is not on a list of hazardous materials sites compiled pursuant to

Government Code Section 65962.5 (Cortese List), including the CalRecycle and DTSC lists of past or current hazardous waste or solid waste disposal sites.^{22, 23}

HAZNET is a database on hazardous waste generators maintained by DTSC. The Agnews East Campus was previously identified as a large and small quantity generator of hazardous wastes, including asbestos, photochemical, PCBs, alkaline solutions, waste oils, and hydrocarbon solvents. According to the site contact, these hazardous wastes were removed from the site by an outside contractor for proper disposal or recycling. No violations were reported. In addition to the substances listed in the HAZNET database, biological waste was also generated at the Agnews East Campus in the past. According to the site contact, an outside contractor for disposal or recycling removed some of the biological waste from the site, although some biological waste was directed to an incinerator located on the campus, but outside of the project site boundaries.

The FTTS/HIST FTTS INSP database is maintained by the US EPA to track pesticide enforcement actions and compliance. The campus is listed on the FTTS database and the PCB Activity Database System (PADS) due to the past removal of 13 polychlorinated biphenyl (PCB)-containing transformers, none of which were located on the project site.²⁴

The EMI is an inventory of toxics and criteria pollutant emissions data collected by California Air Resources Board (CARB) and local air pollution agencies. The Agnews facility reported emissions of various substances from 1990 through 2006. The emissions are associated with two standby emergency generators and the boiler plant, which is located outside of the project site boundaries. No violations were reported for the Agnews East Campus in the EMI inventory.

The SWRCB tracks registered aboveground storage tank facilities in the AST database. The campus is listed as having an underground storage tank (UST), which is located on the proposed school site, and an aboveground storage tank (AST), which was formerly located on the proposed park site prior to being removed. The AST and UST serving the groundwater well pump house are described further below.

On-Site Observations

The Phase I included a site reconnaissance to assess all areas of the facility with known past or present chemical storage for evidence of contamination. No evidence of significant staining, stressed vegetation, or other visual indications of potential on-site contamination were observed during the site visit. No hazardous or biological wastes, other than used oil and universal waste (i.e., spent fluorescent bulbs, batteries, etc.), are currently generated at the site. The lighting ballasts within the fluorescent lighting system were identified as potentially containing PCBs.

Elevators

There are five hydraulic oil-driven elevators in Building 54 on the project site. The 40-gallon hydraulic oil reservoirs appeared in good condition with no signs of leakage during site

²² California Department of Resources Recycling and Recovery, Solid Waste Information System (SWIS). “Facilities/Site Listings in Santa Clara County.” 2011. Accessed July 14, 2010.

<http://www.calrecycle.ca.gov/SWFacilities/Directory/SearchList/List?COUNTY=Santa+Clara#map>.

²³ California Department of Toxic Substances Control. “EnviroStor Results.” 2011. Accessed July 15, 2011. <<http://www.envirostor.dtsc.ca.gov/public/>>

²⁴ Eight of the 13 transformers formerly located on the Agnews East Campus are located on or immediately adjacent to the project site.

reconnaissance. No maintenance records for the elevators were available for review to determine if leaks occurred in the past, and it is unknown if the hydraulic fluid contains PCBs.

Medical Waste Incinerator

A medical waste incinerator was constructed on the site in 1958 and operated until 1987. No visual evidence of potential impacts due to incinerator operation (such as ash in the area) was observed during the site visit.

Asbestos Containing Materials and Lead-based Paint

Asbestos containing materials (ACMs) can be found in building materials, insulation, and acoustical applications in buildings constructed prior to 1980. ACMs are of concern because exposure to asbestos has been linked to cancer. Lead-based paint was also widely used prior to 1978 and has public health effects. According to the site contact, lead paint has been used on windows at the campus and ACMs have been removed during past remodeling of some on-site buildings. Based on this information, it is assumed that ACMs and lead based paint are present on the site.

Agricultural Chemical Use

The site was used for agricultural purposes prior to development of the existing on-site facilities. Based on aerial photographs, active agricultural production continued on portions of the site through the 1960's and possibly through 2000. It is assumed that past agricultural operations included use of pesticides, herbicides, fertilizers, and other agricultural chemicals. It is also anticipated that pest control spraying and application of herbicides occurred around the building perimeters.

Historic Heating Practices

The campus reportedly switched from decentralized boiler systems to a central boiler plant in 1958. The boiler plant (Building 7) and associated 43,000-gallon AST (Building 264) were constructed on the project site. The 43,000-gallon AST contains diesel fuel and is located adjacent to the boiler plant within an earthen berm. Fill piping was observed to be rusting and without secondary containment, and signs of rusting on the AST was observed during the Phase I site visit. According to the SCCEHD, the facility is in violation of current fuel storage monitoring requirements related to the AST. In 1990, the campus switched to steam and electricity provided by an off-site cogeneration plant and the boiler plant is currently used as a backup.

Naturally Occurring Asbestos

A Phase II investigation of the western portion of the campus, directly adjacent to the project site, included sampling for the presence of naturally occurring asbestos (NOA), given that the site is located within 10 miles of NOA-containing rock types. Chrysotile asbestos was detected at concentrations exceeding 0.01 percent in over 25 percent of the samples, which exceeds the DTSC criteria for NOA. It is likely that NOA is present on the project site in similar concentrations. The presence of NOA in surface soils is considered a health hazard.

4.8.2.3 *Potential Off-site Sources of Contamination*

According to the database search completed for the proposed project, there are numerous properties in the vicinity that currently handle or store hazardous materials/wastes. There are also several

properties listed on regulatory agency databases for past releases of chemicals, such as through leaking underground storage tanks (LUSTs).

The Phase I concluded that no facilities in the surrounding area are expected to have an adverse impact on the project site for one or more of the following reasons: 1) the case has been closed by the regulatory agency with jurisdiction; 2) the facility is located down-gradient from the project site with respect to groundwater flow; 3) releases from the facility would not affect the site based on the distance to the project site; and/or 4) the facility has no regulatory violations.

The facility with the greatest potential to have resulted in contamination on the project site is the former Foxboro/ICT facility located at 199 River Oaks Parkway, adjacent to the southern boundary of the project site. Soil and groundwater contamination was identified during the removal of a solvent UST from this facility in the early 1990's. The impacted soil was excavated and groundwater is undergoing remediation. The LUST file has been granted closure and the groundwater remediation activities are in the final monitoring stages.

As part of the Phase II investigation for the western portion of the campus, three soil samples were collected along the southwestern boundary of the campus to determine the potential for the reported solvent release to have migrated north. The soil vapor analysis detected various compounds at concentrations well below their individual soil gas screening levels for indoor air. Based on the low concentrations, the cumulative health risk does not appear to be a concern. Therefore, it was determined that the past release on the adjacent Foxboro/ICT property is not considered a potential off-site source of contamination.

4.8.2.4 Potential Hazards Associated with Airborne Chemicals

In addition to soil and groundwater contamination, the use, transport, and storage of hazardous materials can result in the airborne dispersal of toxic substances. For example, the use of chemicals in industrial processes can generate hazardous air emissions, while the accidental release of chemicals can result in toxic vapor clouds or explosions. Accidental releases are typically caused by storage tank failures, spills during delivery truck uploading, or other equipment/operational failures.

A vicinity hazardous materials users survey ("Users Survey," Appendix F) was prepared to determine the potential for an accidental chemical release to affect the proposed school site directly adjacent to the project site to the west. The Users Survey identified 60 facilities within approximately 0.5 miles of the site that appeared likely to use, handle, and/or store large quantities of hazardous substances, based on a visual survey of the project area. To evaluate the potential hazards associated with the identified facilities, the HMBPs and other available information obtained from the SJFD, Milpitas Fire Department (MFD), and SCCEHD were reviewed. Facilities with no hazardous materials information on file with these departments or other regulatory agencies are not expected to pose a significant hazardous materials threat to the project site.²⁵

CalARP Facilities

According to the list of CalARP facilities provided by the SCCEHD in 2009, only one CalARP facility is located within one mile of the site: the OLS Energy-Agnews cogeneration plant. The facility is federally-regulated for having 58,140 pounds of anhydrous ammonia. The OLS Energy-Agnews property is located just over 0.25 miles from the project site.

²⁵ Facilities identified possibly as having quantities of hazardous materials in the site vicinity that did not have chemical inventories available at the SJFD or MFD include *China Mobile*, *Solexel*, and *Analog Devices*.

Other federally-regulated CalARP sites in the greater project area include the San Jose-Santa Clara Water Pollution Control Plan (WPCP) and Systems Services of America. The WPCP is reported to use large amounts of aqueous ammonia, chlorine, and sulfur dioxide, while Systems Services of America is regulated for its use of anhydrous ammonia.

Toxic Gas Facilities

According to SJFD and MFD files, 10 registered toxic gas facilities are located within one mile of the project site. Three of these facilities (Moitozo Brothers, KLA Tencor, and Sigen) did not appear to have significant quantities of toxic gases listed in their most recent HMBPs and were excluded from further evaluation.

Based on the Users Survey, the remaining seven toxic gas facilities, the three CalARP sites, and two other properties (VTA Cerone and Cisco Systems Building 12) were determined to have the greatest potential to affect the project site in the event of an accidental chemical release. These 12 facilities, including their location and chemicals of concern, are summarized in Table 4.8-1 and discussed further below in Section 4.8.3.5.

Facility/Business	Location* (Approximate Distance from the Site)	Database(s)	Primary Chemical(s) of Concern
JDS Uniphase	80 Rose Orchard Way (0.80 miles)	Toxic Gas Facility	Arsine and Phosphine
SVTC (formerly Cypress Semiconductor)	3901 North First Street (0.73 miles)	Toxic Gas Facility	Chlorine
Maxim Integrated Products	3725 North First Street (0.59 miles)	Toxic Gas Facility	Chlorine
Novellus Systems	4000 North First Street (0.76 miles)	Toxic Gas Facility	Phosphine, Ammonia, Hydrofluoric Acid, and Nitrogen Trifluoride
NeoPhotonics Corporation	2911 Zanker Road (0.58 miles)	Toxic Gas Facility	Phosphine
Silicon Microstructures	1701 McCarthy Boulevard, Milpitas (0.78 miles)	Toxic Gas Facility	Phosphine
Fairchild Imaging	1801 McCarthy Boulevard, Milpitas (0.85 miles)	Toxic Gas Facility	Liquid Hydrogen and Hydrogen Chloride
OLS Energy-Agnews	3800 Cisco Way (0.26 miles)	CalARP, Haznet, AST	Anhydrous Ammonia
San Jose-Santa Clara Water Pollution Control Plant	700 Los Esteros Road (1.2 miles)	CalARP	Aqueous Ammonia, Chlorine, and Sulfur

Table 4.8-1 Summary of Nearby Facilities That Could Pose a Significant Risk to the Project Site			
Facility/Business	Location* (Approximate Distance from the Site)	Database(s)	Primary Chemical(s) of Concern
(WPCP)			Dioxide
Systems Services of America	1029 Montague Expressway, Milpitas (1.3 miles)	CalARP	Anhydrous Ammonia
VTA Cerone	3990 Zanker Road (0.36 miles)	RCRA, Haznet, EMI	Liquid Hydrogen (decommissioned), Propane
Cisco Building 12	400 East Tasman Drive (0.22 miles)	HAZNET, AST, EMI [^]	Glutaraldehyde
* Address in San José unless otherwise noted.			
[^] According to the Phase I, Cisco Systems, although not necessarily Building 12, is listed in these databases.			

Hazardous Emissions

There are several facilities in the project vicinity that are reported to emit hazardous substances on a regular or periodic basis. According to the information provided by BAAQMD (Appendix E), the majority of the regulated emissions within one-quarter mile of the site are small quantities of diesel particulate associated with stand-by emergency generators. Of the various hazardous materials users identified in the project area, only the OLS Energy-Agnews facility was considered to pose a potential health risk to the the project site with respect to daily exposure to toxic air contaminants. The OLS Energy-Agnews facility operates a gas turbine 24 hours a day.

4.8.2 Environmental Checklist and Discussion of Impacts

HAZARDS AND HAZARDOUS MATERIALS						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)
Would the project:						
1) 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"/>	<input type="checkbox"/>	1,2,3,4, 5,8
2) 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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2,3,4, 5,8

HAZARDS AND HAZARDOUS MATERIALS						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)
Would the project:						
3) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,5
4) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,5,8
5) 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, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,5,9
6) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1
7) Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1
8) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3,4,5

The currently proposed project would result in the same impact as the approved project, i.e. Less than Significant with Mitigation Incorporated, as described below.

4.8.2.1 Hazardous Materials Use, Transport, and Disposal

Parks do not typically transport, store, use or dispose of hazardous materials other than universal wastes. Pesticides, herbicides, and/or fertilizers may be used for landscaped areas on an “as needed” basis to minimize the use of chemicals, consistent with City of San Jose practices at existing parks.

The City will follow State guidelines for the notification of pesticide/herbicide applications. For these reasons, operation of the proposed park is not anticipated to result in a significant impact related to the routine use of hazardous materials. **(Less than Significant Impact)**

Demolition and Construction Activities

The proposed project includes the demolition of existing on-site structures and the removal of the existing 43,000-gallon AST, hydraulic oil reservoirs associated with elevators, and lighting ballasts that may contain PCBs. These materials would require proper disposal prior to building demolition. Construction of the proposed park would involve the use of fuels, oils, and other chemicals. Additionally, the medical waste incinerator that was constructed on the site in 1958 and operated until 1987 should be considered hazardous for disposal purposes and would require disposal to a Class I hazardous facility.

The potential for the transport of demolition debris removed from the site to result in accidental releases or spills of hazardous materials is considered to be very low. However, the removal of ACMs and lead-based paint during demolition of the older buildings on the site could generate dust. Construction workers and other persons exposed to airborne asbestos fibers or lead-based paint could be adversely affected. It is also possible that unanticipated hazardous materials could be encountered during demolition or construction activities.

The handling and disposal of hazardous materials during the demolition and construction phases will be completed in accordance with construction worker health and safety regulations. Specifically, the project includes implementation of the following measures during demolition and construction:

- In accordance with National Emissions Standards for Hazardous Air Pollutants (NESHAP) guidelines, asbestos surveys will be conducted for buildings constructed prior to 1980 and all potentially friable asbestos-containing materials will be removed prior to building demolition. Demolition and disposal of ACM will be completed in accordance with the procedures specified by BAAQMD's Regulation 11, Rule 2.
- A lead survey of painted surfaces and soil around buildings built prior to 1978 will be performed prior to demolition. Requirements set forth in the CCR will be followed during demolition activities, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings will be disposed of at landfills that meet acceptance criteria for the waste being disposed.
- Dust control measures will be implemented during demolition activities, including but not limited to the BMPs listed in Section 4.7 *Air Quality*. All trucks will be hosed off prior to leaving the site to prevent track out of contaminated soils and NOA from the sides and tires.
- In the event unanticipated hazardous materials are encountered during demolition or construction activities, the City will stop work, promptly notify the appropriate regulatory agency such as the Santa Clara County Department of Environmental Health or DTSC, and take actions necessary to address the hazardous materials under regulatory oversight.

With implementation of these measures, the proposed project would not create a significant hazard to the public or environment through the handling of hazardous materials during the demolition and construction phases of the project. **(Less than Significant Impact)**

4.8.2.2 *Soil Contamination*

Project construction would require excavation and grading of on-site soils. As described above, surface soils on the project site contain NOA and have been potentially impacted by:

- PCBs from leaking transformers;
- Lead from flaking paint on the buildings; and
- Organochloride pesticides and arsenic from pest control spraying and the application of herbicides around the buildings.

As part of the Phase II investigation completed for the western portion of the campus in 2011, 60 samples were collected from the surface soils surrounding the existing buildings. Lead concentrations exceeded the California Human Health Screening Level (CHHSL) at 24 of the sampling locations. Concentrations of several pesticides (4,4'-DDE, 4,4'-DDT, and technical chlordane) exceeded the CHHSL at 39 sampling locations, while heptachlor epoxide was detected at concentration exceeding the US EPA Regional Screening Level at two sampling locations. Arsenic concentrations exceeding the DTSC SSMU criteria were detected in 12 of the samples. Additional samples collected on the proposed park site in 2013 indicated concentrations of arsenic, nickel, and thallium above the San Francisco Bay Regional Water Quality Control Board residential exposure scenario environmental screening levels.

Contaminated soil could pose a health risk to construction workers who come into direct contact with the chemicals during demolition, site preparation, and/or construction activities. Contamination could also affect future park uses on the site through vapor intrusion or direct contact. Grading, construction, and other ground disturbing activities that disturb NOA-containing soil can release airborne asbestos fibers, which could expose construction workers and the general public to a health risk. Long-term dust prevention measures would also be needed to control the potential release of NOA fibers during operation of the proposed park.

Impact HAZ-1: Soils on the project site contain hazardous materials that could create a significant hazard to construction workers, the public, and future users of the proposed park.
(Significant Impact)

Mitigation Measures

The following mitigation measures would reduce potential impacts associated with exposure to contaminated soil to a less than significant level:

MM HAZ-1.1: Prior to initiation of excavation and grading activities, soil samples shall be taken in the areas of proposed ground disturbance to test for the presence of contaminated soil.

MM HAZ-1.2: In the event contaminated soil is detected during sampling, a site management plan (SMP) shall be developed by a qualified hazardous materials professional to establish management practices for handling contaminated soil or other materials if encountered during excavation and grading activities. The SMP shall be reviewed and approved by the City of San Jose and Santa

Clara County Department of Environmental Health prior to commencing construction activities.

MM HAZ-1.3: Each contractor working at the site shall prepare a health and safety plan (HSP) that addresses the safety and health hazards of each phase of site operations and includes the requirements and procedures for employee protection.

MM HAZ-1.4: Excavated soils will be characterized prior to off-site disposal or reuse on-site. Appropriate soil characterization, storage, transportation, and disposal procedures shall be followed. Contaminated soils shall be disposed of at a licensed facility in accordance with all appropriate local, state, and federal regulations.

MM HAZ-1.5: The use of hazardous materials on the site will be subject to all applicable federal, state, and local regulations.

4.8.2.3 *Accidental Chemical Releases at Off-site Facilities*

As described above, there are numerous users of hazardous materials in the project area. In general, enforcement of federal, state, and local regulations regarding the handling of hazardous materials reduce the potential for an accidental release and the extent of impacts should one occur. These regulatory controls and programs also help to ensure that the appropriate response is provided in case of an emergency. Accordingly, the City of San José concluded in the NSJ FPEIR that enforcement of regulations and conformance with General Plan policies would reduce all hazardous materials impacts associated with build-out under the updated NSJ ADP to a less than significant level, including potential impacts to school children and future residents.²⁶ Based on this finding, the City of San José has approved residential development in the vicinity of the project site, including across Zanker Road to the west and on River Oaks Parkway to the south.

The Agnews East School Site Project Final EIR includes a Screening Level Risk Evaluation to analyze the specific hazards to the proposed school site in the event of an accidental chemical release at off-site facilities. The results of the evaluation are applicable to the proposed park project. The modeling methodology, significance criteria, and results are discussed in detail below.

Methodology

The Screening Level Risk Evaluation was based on US EPA guidelines for modeling “worst-case” and “alternative-case” release scenarios for the regulated substances and processes. The US EPA defines the worst-case scenario as the release of the largest quantity of a regulated substance from a single vessel or process line failure that results in the greatest distance to an endpoint of a toxic vapor cloud, heat from a fire, or blast waves from an explosion. The endpoint is the point at which serious injuries from short-term exposures would no longer occur. Where worst-case scenario modeling identified potentially significant impacts to the project site, releases were also modeled using an alternative scenario to further characterize the risk to the project site.

²⁶ City of San José. *North San José Development Policies Update Final Program Environmental Impact Report*. June 2005. Page 302.

Worst-case modeling is based on conservative assumptions to maximize downwind concentration predictions.²⁷ Typically, the likelihood of worst-case releases is very low, given that hazardous materials users have extensive security measures in place and are monitored by regulatory agencies to minimize risks. On the other hand, alternative-case modeling takes into account meteorological conditions and other factors that represent more realistic conditions.²⁸ According to the US EPA, alternative release scenarios are more likely to occur than the worst-case scenarios.²⁹

As discussed above, the Users Survey identified 12 facilities in the site vicinity whose storage or use of hazardous materials could affect the project site in the event of an accidental chemical release due to a process upset, equipment failure, or external event. Some of the identified facilities were previously modeled as part of vicinity hazardous materials users surveys prepared for other projects. The Screening Level Risk Evaluation included a review of the previous modeling, as well as the RMPs completed for the three CalARP facilities. For facilities not previously modeled, screening level risk modeling was completed as part of the current evaluation.

Criteria

Various public exposure guidelines have been developed to assess the severity of a hazard to the general public when a chemical release occurs. These criteria estimate the concentrations at which most people will begin to experience health effects if they are exposed to a toxic chemical for one hour. A common criterion used for emergency planning is the Emergency Response Planning Guideline (ERPG), which is developed by the American Industrial Hygiene Association (AIHA).

For each chemical release scenario modeled, a “maximum threat zone” was determined to identify the potential area of impact. The maximum threat zone is defined as the radius from the facility of concern in which emitted contaminant concentrations would be at or above the specified emergency planning guideline. BAAQMD recommends the use of ERPG exposure level 2 (ERPG-2) or equivalent for evaluating significant impacts to sensitive receptors.³⁰ ERPG-2 is defined as the maximum airborne concentration which is believed that nearly all individuals could be exposed to for up to one hour without experiencing or developing irreversible or other serious side effects or symptoms that could impair an individual’s ability to take protective action.

Given that the exact locations of chemical storage facilities are generally unknown, the distance from the modeled facility to the project site was measured as the shortest distance from property line to property line.

Results

The results of the Screening Level Risk Evaluation indicate that an accidental chemical release from Cisco Building 12, NeoPhotonics, Fairchild Imaging, and Novellus Systems would not affect the project site under worst-case scenarios. According to the RMP prepared for Systems Services of America, the distance to the toxic endpoint of an ammonia release under the worst-case and

²⁷ Typically, worst-case release assumptions are that the entire contents of a chemical container are released over a 10-minute period under stable atmospheric conditions.

²⁸ An alternative release scenario could be release of a single container rather than multiple containers simultaneously or a different release rate. Alternative-case assumptions may also include normal meteorological conditions such as higher wind speeds and lower atmospheric stability.

²⁹ US EPA. *Risk Management Program Guidelines for Off-site Consequence Analysis*. 1999.

³⁰ BAAQMD. *CEQA Air Quality Guidelines*. June 2010 (updated May 2011).

alternative-case scenarios would be 0.8 miles and 0.1 miles, respectively; these distances are less than the distance to the project site (approximately 1.3 miles). For these reasons, an accidental chemical release from these five facilities would not be expected to affect the project site.

It should be noted that the modeling indicated a potentially significant impact associated with a liquid hydrogen tank at the VTA Cerone facility, which is used as a bus yard. The liquid hydrogen was used in the past to fuel several VTA buses during the pilot program “Hydrogen Highways.” The program was discontinued and all liquid hydrogen was removed from the tank.³¹ VTA plans to remove the empty tank from the property.³² As a result, there is no impact associated with the liquid hydrogen tank at the VTA Cerone property.

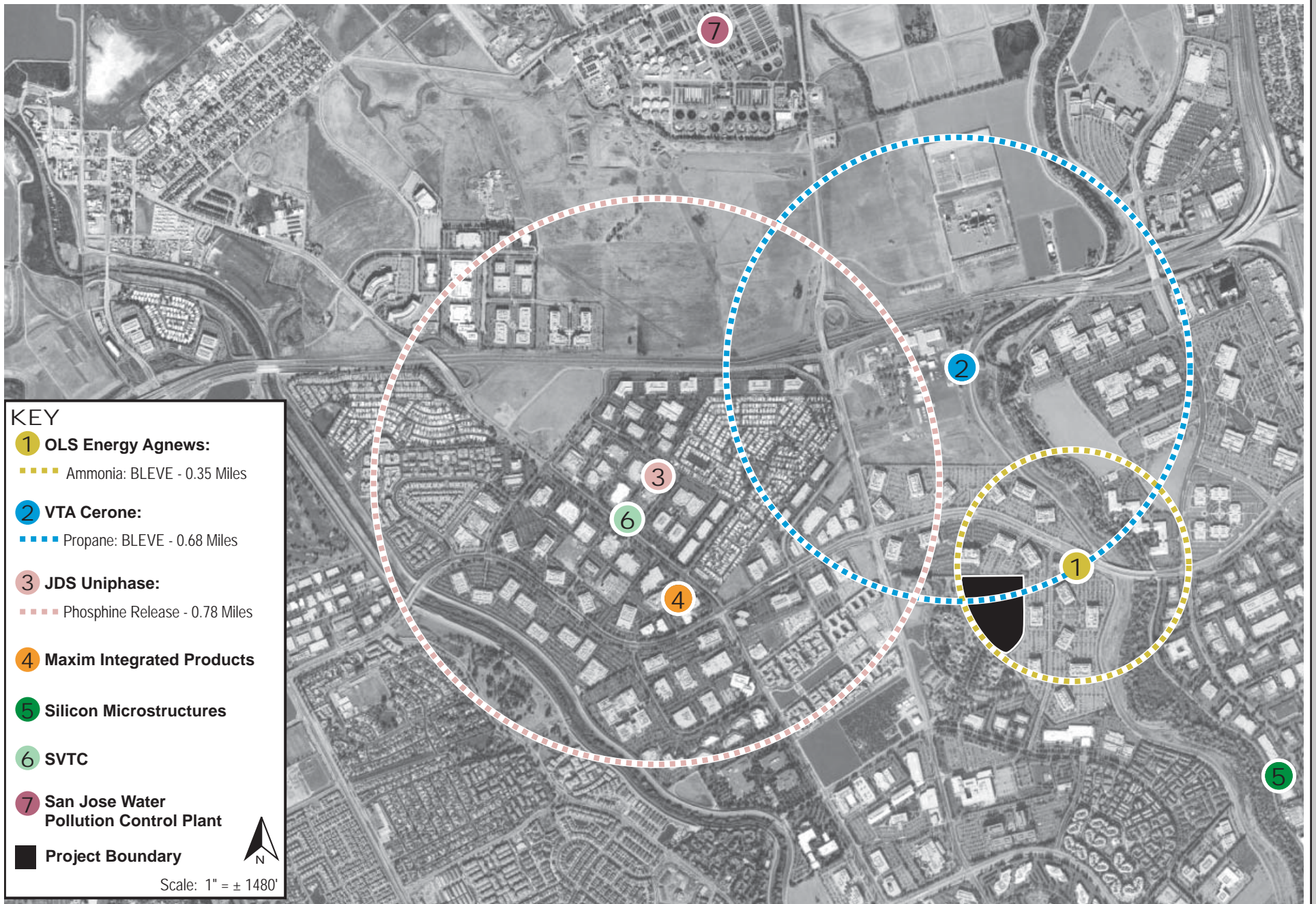
As summarized in Table 4.8-2 below, the Screening Level Risk Evaluation identified 10 worst-case release scenarios associated with seven different facilities with the potential to affect the site. The maximum threat zones for the alternative-case release of phosphine from the JDS Uniphase facility and the two worst-case boiling liquid expanding vapor explosion (BLEVE) scenarios are shown on Figure 6.

Table 4.8-2 Key Results of the Screening Level Risk Evaluation			
Chemical Release Scenario	Emergency Planning Guideline (ERPG-2 or equivalent)	Maximum Threat Zone	
		Worst-case	Alternative-case
<i>OLS Energy-Agnews (0.25 miles from site)</i>			
Anhydrous Ammonia Release (Using ALOHA Model)	ERPG-2 = 150 ppm	2.8 miles*	0.1 miles*
Anhydrous Ammonia: Thermal Radiation from a BLEVE	2 kW/m ²	0.35 miles	NA
<i>VTA Cerone (0.36 miles from site)</i>			
Propane: Thermal Radiation from a BLEVE	2 kW/m ²	0.68 miles	NA
<i>Maxim Integrated Products (0.59 miles from site)</i>			
Chlorine Release	ERPG-2 = 3 ppm	0.84 miles	0.38 miles
<i>JDS Uniphase (0.69 miles from site)</i>			
Phosphine Release (100% solution)	ERPG-2 = 0.5 ppm	1.8 miles	0.78 miles
Arsine Release	ERPG-2 = 0.5 ppm	1.1 miles	0.51 miles

³¹ Rabun, Daniel. Air Products. Personal communication. August 16, 2010 and December 3, 2010. **Note:** VTA contracted with Air Products to monitor the liquid hydrogen tank on the VTA Cerone property.

³² Marchetti, Walter. Environmental Health and Safety Supervisor, VTA. Personal communication. December 6, 2010.

Table 4.8-2 Key Results of the Screening Level Risk Evaluation			
Chemical Release Scenario	Emergency Planning Guideline (ERPG-2 or equivalent)	Maximum Threat Zone	
		Worst-case	Alternative-case
<i>Silicon Microstructures (0.72 miles from site)</i>			
Phosphine Release (0.25% solution)	ERPG-2 = 0.5 ppm	0.85 miles[^]	0.66 miles
<i>SVTC (0.73 miles from site)</i>			
Chlorine Release	ERPG-2 = 3 ppm	0.78 miles[^]	0.36 miles
<i>WPCP (1.2 miles from site)</i>			
Chlorine Release	NA	5.5 miles*	0.2 miles*
Sulfur Dioxide	NA	5.7 miles*	0.2 miles*
<p>* These distances are the modeled distance to the toxic endpoint as reported in the facility's RMP. [^] The modeling for these scenarios was completed as part of previous vicinity hazardous materials users surveys. <i>Notes:</i> Bold font above indicates a potentially significant impact to the project site. <i>Acronyms:</i> ppm = parts per million; kW/m² = kilowatts per square meter; ERPG = Emergency Response Planning Guideline; BLEVE = Boiling Liquid Expanding Vapor Explosion (BLEVE)</p>			



ACCIDENTAL CHEMICAL RELEASE SCENARIOS

FIGURE 6

While a worst-case release could have significant health and safety impacts on the project site, the likelihood of their occurrence is very low. As previously described, the worst-case modeling is based on conservative assumptions that maximize the extent of potential impacts. Furthermore, all hazardous materials users have extensive mechanical controls and security measures in place and are monitored by regulatory agencies, which reduce the probability of an accidental release *and* the magnitude of a release, should one occur. As a result, the worst-case release scenario is not generally considered a reasonable basis for a threshold of significance. The City of San Jose generally considers alternative-case scenarios to reflect reasonably foreseeable upset and accidental conditions for site planning purposes. For these reasons, none of the worst-case scenarios related to an accidental release of a toxic vapor cloud are considered to create a significant hazard to the proposed park.

The two scenarios related to BLEVE events, however, must be evaluated separately. Due to the nature of this type of release, there is no formal method for modeling an alternative-case scenario. Consequently, the results of the worst-case modeling for BLEVE impacts were considered to represent the potential risks to the proposed park site for the purpose of this assessment. Impacts associated with BLEVE events are discussed further in the following section.

Of the worst-case scenarios that could affect the site, only one scenario was also identified as potentially significant under alternative-case modeling. While a release of phosphine from the JDS Uniphase facility was modeled to have a potentially significant impact at the site exterior, phosphine is extremely reactive with air and a 100 percent mixture would likely react immediately upon release. With an instant reaction such as this, impacts beyond the immediate vicinity of the facility would be unlikely. Therefore, even under reasonably foreseeable upset conditions, an accidental chemical release from this facility would not be expected to affect the project site.

BLEVE Events

BLEVE events occur when a tank containing pressurized liquids (or liquefied gases) explodes due to the build-up of internal pressure. A BLEVE would most likely be caused by the contact of fire with the shell of the steel tank, which causes a loss of strength in the metal and a rapid buildup of vapor. If the pressure is not adequately relieved, the combination of the weakened structure and buildup of internal vapor pressure results in an instantaneous release and ignition of the vapor. The explosion of the tank is likely to occur within 10 to 30 minutes after initial flame contact.

BLEVE events are considered Low Probability High Consequence (LP-HC) releases because they rarely occur but are known to have catastrophic effects. Multiple failures need to occur simultaneously to result in a BLEVE, such as the occurrence of an earthquake, airplane crash, transportation accident, or other external event that initiates a significant fire at the tank, as well as insufficient fire-fighting efforts. The primary effects associated with BLEVE are flying objects and thermal radiation (i.e., fire and/or heat) due to the rapid combustion of the flammable material. Both effects could harm individuals and structures depending on factors such as the proximity to the explosion.

The maximum threat zone for thermal radiation from a BLEVE was estimated to be 0.35 miles for the OLS Energy facility and 0.68 miles for the VTA Cerone bus yard. Although the OLS property is identified as 0.25 miles (approximately 1,400 feet) from the Agnews campus, the actual distance between the ammonia tank itself and the closest (northeastern) boundary of the project site is approximately 0.32 miles (1,700 feet). While the VTA property is only 0.36 miles (approximately

1,900 feet) from the proposed school site, the distance between the propane tank and the closest (northern) boundary of the park site is approximately 0.60 miles (3,200 feet). Therefore, based on the modeled worst-case maximum threat zone, it is expected that the project site could be affected by thermal radiation from a BLEVE originating at OLS Energy or VTA Cerone, as shown on Figure 6.

A Probability Assessment was completed by *Risicare* in May 2011 to evaluate the likelihood for a catastrophic BLEVE to occur at the OLS Energy or VTA Cerone facilities.

Probability Assessment Results

The Probability Assessment included a review of background information. Data specifically related to the probability of BLEVE occurrences at industrial facilities is not available. Therefore, several studies of accidental release rates at RMP facilities in the United States were used to approximate the probability of LP-HC events. These accident rates are categorized by on-site and off-site impacts (i.e., hospitalizations, medical treatments, evacuations, or shelter-in-place). It was determined that the likelihood of an accident with off-site impacts to occur at an RMP facility ranges from 2.3 percent to seven percent over a 30-year period. In addition, FEMA's estimated failure rate for a single walled storage tank is 10^{-4} /year (1 in 10,000 per year).³³ Based on this rate, the likelihood of a catastrophic tank failure would be 0.3 percent over a 30-year period. However, since the likelihood of a BLEVE event is one of several accident types reflected in the RMP and FEMA statistics, the true likelihood for a BLEVE event to occur at the VTA Cerone or OLS Energy facilities is expected to be far lower than these estimates.

Given that the likelihood for a BLEVE event is related to the occurrence of a fire event, the likelihood for an airplane crash, major earthquake, or transportation related accident to occur at the facilities was estimated to approximate the potential for a large fire to affect the tanks. The Probability Assessment concluded that based on the location and features of the facilities, it is unlikely that any one of these "multiple failure" scenarios will occur at the OLS Energy or VTA Cerone facility.

Furthermore, most regulatory measures implemented at the OLS Energy and VTA Cerone facilities (Fire Code, RMP, and PSM requirements) serve to lower the likelihood of LP-HC events, including a BLEVE. As a CalARP facility, OLS Energy is required to prepare an RMP that includes safety measures and engineering controls intended to prevent fire hazards and other situations that could lead to over-pressurization of the ammonia tank. While the VTA Cerone facility is not subject to CalARP requirements because fuels such as propane are exempt, the propane tank is regularly maintained and inspected by the facility's staff. Every five years, VTA's fire insurance underwriter measures the thickness of the tank and inspects the tank integrity. A California State Pressure Vessel Permit is issued for the storage and use of propane.³⁴

Upon further review, it was determined that the worst-case modeling is based on three conservative assumptions that overestimate the potential for a BLEVE to impact the site. To summarize, the modeling assumed that 1) the tanks are operating at full capacity, 2) 100 percent of the chemical is involved in the BLEVE at the time of the hypothetical event, and 3) the thermal radiation is not screened by intercepting buildings. In fact, the tanks are not permitted to operate at full capacity,

³³ Tank failure is defined as a leak or rupture caused by equipment malfunction, corrosion, operational error, or natural causes, including but not limited to a BLEVE event caused by over-pressurization of the tank.

³⁴ Marchetti, Walter. Environmental Health and Safety Supervisor, VTA. Personal communication. April 5, 2011.

some of the chemical would not ignite in the event of the BLEVE, and buildings between the tanks and the project site would screen some of the thermal radiation. The maximum operating capacities are 85 percent for the ammonia tank at OLS Energy and 70 percent for the propane tank at VTA Cerone.^{35,36} For these reasons, the maximum threat zone of thermal radiation emanating from a hypothetical BLEVE would be less than the modeling indicates for both facilities.

To reflect the more realistic “alternative-case” conditions, additional modeling was completed for the OLS Energy facilities due to its proximity to the project site. At maximum operating capacity (85 percent) and assuming that only 65 percent of the chemical in the tank is ignited following the hypothetical BLEVE event, the impact radius was estimated to be 0.29 miles. Because the distance between the ammonia tank and the closest (northeastern) boundary of the project site is approximately 0.32 miles, the subsequent “alternative-case” modeling indicates that thermal radiation from a BLEVE of the ammonia tank would not affect the project site. It is also unlikely that a BLEVE of the propane tank at VTA Cerone would reach the site, based on the maximum operating capacity and distance from the tank to the closest (northern) boundary of the project site (approximately 0.60 miles).

Given the low probability of a BLEVE occurrence, the conservative nature of the impact analyses, and the anticipated impact radius of thermal radiation based on more realistic assumptions, the likelihood for a catastrophic BLEVE to occur at the VTA Cerone or OLS Energy facility that would affect the project site is considered to be improbable. **(Less Than Significant Impact)**

4.8.2.4 Proximity to Airports

The project site is located approximately two miles from the San José International Airport. There are no private airstrips in the vicinity. The proposed site is located outside of the Airport Influence Area, all safety zones contained in the Caltrans handbook and the Airport Land Use Compatibility Plan (ALUCP), as well as any existing or forecasted 65 dB aircraft noise contours.³⁷ **(Less than Significant Impact)**

4.8.2.5 Other Hazards

The future redevelopment of the site with park uses would not result in a safety hazard as a result of wildfires, given the urban location of the project site. The proposed project would not impair implementation of an adopted emergency response or evacuation plan, including the State Emergency Plan, the City of San José’s Emergency Operations Plan, or ABAG’s Taming Natural Disasters. **(Less than Significant Impact)**

³⁵ Mahoney, Terry. General Manager, South Bay Plants, Calpine. Personal communication. February 17, 2011.

³⁶ Marchetti, Walter. Environmental Health and Safety Supervisor, VTA. Personal communication. April 27, 2011.

³⁷ Huag, Donald. Aviation Safety Officer. California Department of Transportation, Division of Aeronautics. Letter to David Hawke, School Facilities Planning Division, California Department of Education. March 15, 2010.

4.8.3 **Conclusion**

Impact HAZ-1: Residual contamination in soils could expose future construction workers or park users to hazardous materials on site. The proposed project, with the implementation of the mitigation measures, would not result in any new or more significant hazardous material impacts than were previously identified in the 2005 NSJ FPEIR. **[Same Impact as Approved Project (Less than Significant with Mitigation Incorporated)]**

The project will not be exposed to significant impacts from off-site sources of contamination, would not result in a safety hazard related to aircraft operations, and would not be at risk from wildfires. The project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school, nor would the project impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.9 HYDROLOGY AND WATER QUALITY

4.9.1 Setting

The existing drainage and regulatory requirements regarding hydrology and water quality are generally unchanged from the certified 2005 NSJ FPEIR and the 2011 Envision San José 2040 General Plan FPEIR. The primary changes are the update of the North San José Floodplain Management Study reflecting the completion of flood control projects for Coyote Creek and Lower Guadalupe River, the City's update of its *Post-Construction Urban Runoff Management* (Policy 6-29), and the City's adoption of the *Post-Construction Hydromodification Management* (Policy 8-14).

4.9.1.1 *Flooding*

The North San José Floodplain Management Study was updated in June 2006. Existing flood conditions in North San José have been changed by completion of flood control projects for Coyote Creek and Lower Guadalupe River. The flood control projects have increased the stream channel flood capacity and reduced the potential for overflows from the stream channels into the North San José area. With the flood control projects, the flood potential has been reduced to residual shallow flooding primarily due to storm drain excess flows which exceed the capacity of the storm drain systems during a 100-year storm.

Based on the updated Federal Emergency Management Agency's Flood Insurance Rate Maps According to the Federal Emergency Management Agency (FEMA), the project site is not located within the 100-year floodplain but is within Flood Zone X.³⁸ The project site is not subject to inundation by seiche, tsunami, or mudflow.^{39,40}

4.9.1.2 *Drainage*

As described further in Section 4.12 *Utilities and Service Systems*, stormwater runoff from roadways surrounding the project site is conveyed to the Guadalupe River through the City of San José's storm drainage system. The stormwater system in North San José generally has capacity to accommodate flows from a three- to five-year storm event.⁴¹ The southern portions of North San José (south of Montague Expressway) are identified as the only areas with the potential for off-site flooding as a result of inadequate storm drain capacity.⁴² The City's *North San José/Rincon De Los Esteros Storm Drain Master Plan* identifies the infrastructure needed to meet the City's standard of providing drainage for the 10-year storm event.

³⁸ Zone X includes areas outside the one percent annual chance floodplain, areas of one percent annual chance sheet flow flooding where average depths are less than one foot, areas of one percent annual chance stream flooding where the contributing drainage area is less than one square mile, or areas protected from the one percent annual chance flood by levees. **Source:** Federal Emergency Management Agency. *Flood Insurance Rate Maps, Community-Panel Numbers 060349 0066H and 060349 0068H*. May 18, 2009.

³⁹ A seiche is an oscillation of the surface of a lake or landlocked sea varying in period from a few minutes to several hours. Seiches are often generated by small oscillations from earthquakes.

⁴⁰ Association of Bay Area Governments. *ABAG Geographic Information Systems, Hazard Maps, Tsunami Evacuation Planning Map for San Francisco Bay Area*. Accessed January 6, 2010.
<<http://www.abag.ca.gov/bayarea/eqmaps/tsunami>>

⁴¹ City of San José. *North San José Development Policies Update Final Program Environmental Impact Report*. June 2005.

⁴² Ibid.

As described in the NSJ FPEIR, the system will be upgraded to accommodate 10-year storm flows as redevelopment proceeds in the area. Additional improvements above the master planned facilities may be required to prevent localized flooding. As mitigation, all proposed development in North San José will be evaluated for the adequacy of on-site and off-site stormwater collection systems. Specific upgrades (i.e., new or supplemental stormwater lines, catch basins, or other infrastructure) will be identified and incorporated into the City’s Five Year CIP process.

4.9.1.3 *Water Quality*

Water collected by the storm drainage system contains non-point source pollutants associated with urban uses. Contaminants include oil and grease from motor vehicles, litter, heavy metals, plant and animal debris (e.g., leaves, animal feces, etc.), and landscaping supplies such as pesticides and fertilizers. In sufficient concentration, contaminated surface water runoff can adversely affect the water quality of streams, creeks, ponds, and other surface water bodies including the San Francisco Bay and Pacific Ocean.

4.9.1.4 *Groundwater*

During geotechnical testing, groundwater was measured at a depth of about 11 feet below the ground surface.⁴³ Fluctuations in the level of groundwater may occur due to variations in rainfall and local underground drainage patterns.

4.9.1.5 *Regulatory Requirements*

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

The City of San José’s Policy No. 6-29 requires all new and redevelopment projects to implement Post-Construction Best Management Practices (BMPs) and Treatment Control Measures (TCMs) to the maximum extent practicable. This Policy establishes specific design standards for Post-Construction TCMs for projects that create, add, or replace 10,000 square feet or more of impervious surfaces. Policy 6-29 also applies to Special Land Use Category projects (e.g. uncovered parking areas) that create, add, or replace 5,000 square feet or more of impervious surfaces.

Post-Construction Best Management Practices (BMPs) are methods, activities, maintenance procedures, or other management practices designed to reduce the amount of stormwater pollutant loading from a site. Examples of Post-Construction BMPs include proper materials storage and housekeeping activities, public and employee education programs, and storm inlet maintenance and stenciling.

Post-Construction Treatment Control Measures are permanent stormwater management devices installed and maintained as part of a new development or redevelopment project to reduce stormwater pollution loading from the site; is installed as part of a new development or redevelopment project; and is maintained in place after construction has been completed. Examples include filtration and infiltration devices (e.g., bioretention areas, flow-through planters, and vegetated swales) or detention/retention measures (e.g., detention/retention ponds). Post-Construction TCMs are a category of BMPs.

⁴³ Kleinfelder. *Geologic and Geotechnical Feasibility-Level Assessment of the Agnews Developmental Center, 3500 Zanker Road, San José, Ca.* March 25, 2010.

**City of San José Post-Construction
Hydromodification Management (Policy 8-14)**

In 2005, the City of San José adopted the Post-Construction Hydromodification Management (Policy 8-14) to manage development related increases in peak runoff flow, volume and duration, where such hydromodification is likely to cause increased erosion, silt pollution generation, or other impacts to local rivers, streams, and creeks.

Hydromodification occurs when the total area of impervious surfaces increases resulting in the decrease of rainfall infiltration, which causes more water to run off the surface as overland flow at a faster rate. Storms that previously did not produce runoff from a property under previous conditions can produce erosive flows in creeks. The increase in the volume of runoff and the length of time that erosive flows occur intensifies sediment transport, increasing creek scouring and erosion and causing changes in stream shape and conditions, which can, in turn, impair the beneficial uses of the stream channels.

Policy 8-14 requires stormwater discharges from new and redevelopment projects that create or replace one acre (43,560 square feet) or more of impervious surfaces to be designed and built to control project-related hydromodification. The Policy establishes specified performance criteria for Post-Construction Hydromodification control measures (HCMs) and identifies projects which are exempt from HCM requirements. Policy 8-14 hydromodification requirements are not applicable to the proposed project because stormwater in the area drains into tidally-influenced channels which are exempt from Policy 8-14.

4.9.2 Environmental Checklist and Discussion of Impacts

HYDROLOGY AND WATER QUALITY						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)
Would the project:						
1) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,5
2) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,5

HYDROLOGY AND WATER QUALITY						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)
Would the project:						
3) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on-or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,5
4) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on-or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,5
5) Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,5
6) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,5
7) Place housing within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,10
8) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,10
9) Expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,5
10) Be subject to inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3,4,5

The currently proposed project would result in the same impact as the approved project, i.e. Less than Significant with Mitigation Incorporated, as described below.

4.9.2.1 *Flooding Impacts*

The project site is not located within the 100-year floodplain or in an area subject to seiche, tsunami, or mudflow. As described in Section 4.8 *Greenhouse Gas Emissions*, sea level rise is one of the anticipated effects of global climate change, with estimates ranging from one to 4.6 feet over the next hundred years.⁴⁴ According to maps prepared by the San Francisco Bay Conservation and Development Commission, the project site is not identified as a vulnerable area in the event of a sea level rise of 55 inches (approximately 4.6 feet); however, vulnerable areas are mapped south of Tasman Drive west of the site.⁴⁵ While the northern portion of North San José could be affected by sea level rise over the next century, it is expected that the project site will not be directly impacted. **(Less than Significant Impact)**

4.9.2.2 *Drainage*

The proposed park project would reduce the amount of impervious surface area (and associated runoff) by replacing buildings and paved areas with parklands and sports fields. The project is subject to the City's Post-Construction Urban Runoff Management (Policy 6-29) which requires that new projects replacing or adding 10,000 square feet or more of impervious surfaces to a site not increase the total amount of runoff entering the storm drainage system. To accommodate the City's requirement, the proposed project has been designed to demonstrate compliance with the requirements for the Municipal Regional Stormwater NPDES Permit (MRP) issued by the California Regional Water Quality Control Board, commonly referred to as Provision C.3 and governed in San Jose by City Policies 6-29 and 8-14.

To address the municipal permit requirements, the project proposes to install a combination of source control measures (see Section 4.9.2.3 *Water Quality* that follows). The proposed project would not result in significant drainage impacts. **(Less than Significant Impact)**

4.9.2.3 *Water Quality*

Construction-Related Impacts

Construction of the proposed project, as well as grading, and excavation activities, may result in temporary impacts to surface water quality. Construction of the proposed project would also result in a disturbance to the underlying soils, thereby increasing the potential for sedimentation and erosion. When disturbance to underlying soils occurs, the surface runoff that flows across the site may contain sediments that are discharged into the storm drain system and ultimately the San Francisco Bay.

The development of the proposed project would contribute to the significant construction-related water quality impacts identified in the certified 2005 NSJ FPEIR. The proposed project would not, however, result in any new or more significant construction-related water quality impacts than were described in the certified 2005 NSJ FPEIR.

⁴⁴ California Environmental Protection Agency. *Draft Climate Action Team Report to Governor Schwarzenegger and the Legislature*. 2009.

⁴⁵ San Francisco Bay Conservation and Development Commission. *55-Inch Sea Level Rise By End Of Century: South Bay*. Map. 2008.

The project proposes to implement the following measures identified as part of the certified 2005 NSJ FPEIR:

Standard Project Conditions:

- Compliance with the NPDES General Construction Activity Stormwater Permit administered by the Regional Water Quality Control Board. Prior to future construction or grading for project with land disturbance of one acre or more, applicants shall be required to file a “Notice of Intent” (NOI) to comply with the General Permit and prepare a Stormwater Pollution Prevention Plan (SWPPP) that addresses measures that would be included in the project to minimize and control construction and post-construction runoff. Copies of the SWPPP shall be submitted to the City of San José Department of Public Works. The following measures typically are included in a SWPPP:
 - Preclude non-stormwater discharges to the stormwater system.
 - Incorporate effective, site-specific Best Management Practices for erosion and sediment control during the construction and post-construction periods.
 - Cover soil, equipment, and supplies that could contribute pollution prior to rainfall events or monitor runoff.
 - Perform monitoring of discharges to the stormwater system.

With implementation of the above standard project conditions, the proposed project would not result in construction-related water quality impacts. (**Less than Significant Impact**)

Post-Construction Impacts

Stormwater runoff from urban uses contains metals, pesticides, herbicides, and other contaminants such as oil, grease, lead, and animal waste. While the project would increase traffic and human activity on and around the project site, generating pollutants and increasing dust, litter, and other contaminants that would be washed into the storm drain system, the project would reduce overall impervious surface area and incorporate treatment control measures to treat water contaminants that could be carried downstream in stormwater runoff from paved surfaces on the site. The project would replace more than 10,000 square feet of impervious surfaces, so it must conform to Council Policy 6-29.

The City of San Jose requires projects to treat 100% of the proposed stormwater runoff with surface Low Impact Development (LID) treatment measures. LID treatment measures include rainwater harvesting, infiltration, and bio-treatment.

The project proposes the following runoff controls:

- Bio-swales in open landscape areas
- Flowing to self-retaining areas
- Flow through planters (where applicable)
- Infiltration Trenches (where applicable)
- Tree preservation and planting

The development of the proposed project would contribute to the significant post-construction related water quality impacts identified in the certified 2005 NSJ FPEIR (Section H, p.268-269). The

proposed project would not result in any new or more significant post-construction related water quality impacts than were described in the certified 2005 NSJ FPEIR. The proposed project has Best Management Practices (BMPs) in place to ensure compliance with NPDES permit requirements to reduce post-construction water quality impacts.

Standard Project Conditions:

The project proposes to implement the following measures:

- The proposed project must comply with the City’s Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) that include site design measures, source controls, and stormwater treatment controls to minimize stormwater pollutant discharges. Post-construction treatment control measures shall meet the numeric sizing design criteria specified in City Policy 6-29.
- The project’s Stormwater Control Plan and numeric sizing calculations will be in conformance with City Policy 6-29.
- Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.

With implementation of the above standard project conditions, the proposed project would not result in post-construction-related water quality impacts. **(Less than Significant Impact)**

4.9.2 Conclusion

The proposed project would not result in any new or more significant flooding impacts than those addressed in the certified 2005 NSJ FPEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

The proposed project, with the implementation of the above standard project conditions, would not result in any new or more significant construction-related impacts than those addressed in the certified 2005 NSJ FPEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

The proposed project, with the implementation of the above standard project conditions, would not result in any new or more significant post-construction water quality impacts than those addressed in the certified 2005 NSJ FPEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.10 LAND USE

4.10.1 Setting

4.10.1.1 *Existing Land Uses*

The approximately 21-acre site is currently developed with facilities associated with the Agnews Development Center. As discussed in *Section 4.5 Cultural Resources*, buildings on-site include office and classroom facilities, a kitchen facility, a boiler plant, an education and training center, and the main hospital (Rapaport Building). There are paved parking lots and pedestrian walkways located throughout the site. The site is also developed with open green spaces, trees, and landscaping.

4.10.1.2 *Surrounding Land Uses*

The project site is located in an urban, developed area. Multi-story office and commercial buildings are located to the north and east of the project site. To the south and west is what remains of the vacated Agnews Development Center. Residential development is located on the opposite side of Zanker Road, approximately 950 feet to the west of the project site.

4.10.1.3 *Land Use Plans*

Envision San José 2040 General Plan

In 2011, the City updated its General Plan and the land use designation on the site was changed to *Public/Quasi-Public* on the 2040 General Plan land use map. This designation allows for a variety of public land uses, including: schools, parks, community centers, fire stations, airports, and other similar publicly oriented institutional land uses.

In addition, 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.

Policy CD-1.18: 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-1.24: 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 LU-6.1 Prohibit conversion of lands designated for light and heavy industrial uses to non-industrial uses. Prohibit lands designated for industrial uses and mixed

industrial-commercial uses to be converted to non-employment uses. Lands that have been acquired by the City for public parks, public trails, or public open space may be re-designated from industrial or mixed-industrial lands to non-employment uses.

Policy LU-6.3 When new uses are proposed in proximity to existing industrial uses, incorporate measures within the new use to minimize its negative impacts on existing nearby land uses and to promote the health and safety of individuals at the new development site.

Zoning Ordinance

The project site is zoned *Industrial Park*, as it was in 2005 when the NSJ FPEIR was adopted. In general, the *Industrial Park* zoning allows for a wide variety of industrial and commercial uses such as research and development, manufacturing, testing, and offices. Areas identified as *Industrial Park* may contain a limited amount of supporting uses, including recreational uses.

North San José Area Development Policy

The North San Jose Area Development Policy (ADP) guides development within the Rincon de los Esteros Redevelopment Area in the north part of the City. The plan addresses the impacts of developing approximately 26.7 million square feet of new industrial/office/R&D building space in addition to up to 32,000 new dwelling units at minimum densities of 20, 55, or 90 dwelling units per acre depending on their location.

Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

The adopted Santa Clara Valley Habitat Plan/Natural Communities Conservation Plan (Habitat Plan) was developed 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), U.S. Fish and Wildlife Service (USFWS), and California Department of Fish and Wildlife (CDFW). The Habitat Plan is a conservation program 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 project site is located within the Habitat Plan study area and is designated as *Urban-Suburban*. Urban-Suburban land comprises of areas where native vegetation has been cleared for residential, commercial, industrial, transportation, or recreational structures, and is defined as one or more structures per 2.5 acres. Vegetation found in the Urban-Suburban land cover type is usually in the form of landscaped residences, planted street trees, and parklands. Most of the vegetation is composed of non-native or cultivated plant species. In addition, the project site lies within the Burrowing Owl fee zone and potential Burrowing Owl occupied habitat.

4.10.2 Environmental Checklist and Discussion of Impacts

LAND USE						
	New Potentially Significant Impact	New Than Significant With Mitigation Incorporated	Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)
Would the project:						
1) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,5
2) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,5
3) Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,5

The currently proposed project will result in the same impact as the approved project, i.e. Less than Significant, as described below.

4.10.2.1 Compatibility with Adjacent Land Uses

The project site is surrounded by existing development which mainly consists of office and commercial uses. Residential uses are also located in the greater project area. The project would support the surrounding development with recreational facilities and open space. The state-owned project site is currently inaccessible to general members of the public and, therefore, implementation of the proposed project would not physically divide the surrounding community.

Shade and Shadow

The City of San José typically identifies significant shade and shadow impacts as occurring when a building or other structure substantially reduces natural sunlight on public parks or open space areas. The project proposes to develop the park and open space and does not propose any tall structures or buildings. Tall light standards could be implemented for nighttime lighting on some of the sport facilities but, due to their thin horizontal profile, would not have an adverse shade and shadow impact on the vicinity. **(Less Than Significant Impact)**

4.10.2.2 Conformance with Land Use Plans

Envision San José 2040 General Plan

The project proposes open space and outdoor recreational facilities and is consistent with the current *Public/Quasi-Public* land use designation in the General Plan. **(Less Than Significant Impact)**

Zoning Ordinance

The project site is zoned as *Industrial Park*. The proposed project is allowed within the *Industrial Park* zoning. **(Less Than Significant Impact)**

North San José Development Policy

The project proposes open space and outdoor recreational facilities and supports the overall goals outlined in the North San Jose ADP. **(Less Than Significant Impact)**

Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

The project site is located within the Habitat Plan study area, has a designation of *Urban - Suburban*, and would be subject to all applicable Habitat Plan fees. As described in *Section 4.4 Biological Resources*, the project site lies within the Burrowing Owl fee zone and on a parcel that is considered potential Burrowing Owl occupied habitat. However, the 21-acre portion of the parcel on which the proposed park would be located is currently developed and does not provide suitable burrowing owl habitat. The project, therefore, would not be required to pay Burrowing Owl fees. The project shall, however, pay the appropriate fees to mitigate its impacts to other covered species to a less than significant level. **(Less Than Significant Impact)**

4.10.3 Conclusion

The proposed project, with the implementation of the above standard project conditions, would not result in any new or more significant land use compatibility impacts than those addressed in the certified 2005 NSJ FPEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.11 MINERAL RESOURCES

4.11.1 Setting

The project site is not designated by the State Mining and Geology Board under the Surface Mining and Reclamation Act of 1975 as containing mineral deposits of regional significance.

4.11.2 Environmental Checklist and Discussion of Impacts

MINERAL RESOURCES						
	New Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)
Would the project:						
1) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,5
2) 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"/>	<input type="checkbox"/>	1,2,3,4,5

The currently proposed project would result in the same No Impact as the approved project, as described below.

4.11.2.1 *Impacts to Mineral Resources*

As discussed above, the project site is not located in an area containing known mineral resources. The proposed project would not result in any new or more significant impacts to mineral resources than were described in the certified 2005 NSJ. **(No Impact)**

4.11.3 Conclusion

The project would not result in any new or more significant impacts to mineral resources than those addressed in the certified 2005 NSJ FPEIR. **[Same Impact as Approved Project (No Impact)]**

4.12 NOISE

4.12.1 Setting

4.12.1.1 *Existing Noise Conditions*

The project site is located east of Zanker Road and south of Tasman Drive in North San Jose. It is currently developed with buildings associated with the Agnews Developmental Center. The noise impacting the project site primarily results from transportation noise sources in the site vicinity, including traffic on Zanker Road and on Tasman Drive, as well as intermittent noise from light rail trains running along Tasman Drive. Background noise levels at the site result primarily from traffic on those streets.

In the noise assessment prepared for the 2011 Envision San José 2040 General Plan FPEIR, it was determined that the existing noise levels in the project area are 67 dBA DNL.⁴⁶ In 2035, projected noise levels in the project area would increase to 68 dBA DNL.

The project does not fall within the noise contour impact area of the Norman Y. Mineta San José International Airport.

4.12.1.2 *Noise Standards*

Based on the City’s General Plan, Table 4.12-1 shows the noise levels considered consistent with specific land uses. For neighborhood parks, outdoor noise levels of up to 65 decibels are considered normally acceptable.

4.12.3 Environmental Checklist and Discussion of Impacts

NOISE						
	New Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)
Would the project result in:						
1) Exposure of persons to or generation of noise levels 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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,5
2) Exposure of persons to, or generation of, excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,5

⁴⁶ The Day/Night Average Sound Level (DNL). The average A-weighted noise level during a 24-hour day, obtained after addition of 10 decibels to levels measured in the night between 10:00 pm and 7:00 am.

NOISE						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)
Would the project result in:						
3) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,5
4) 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, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,5
5) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3,4,5

The currently proposed project will result in the same impact as the approved project, contributing to a significant unavoidable cumulative traffic noise impact, and Less than Significant project-specific impacts, as described below.

4.12.3.1 Noise Impacts from the Project

The proposed project would construct a 21-acre park with lighted sports fields and other recreational facilities. The existing structures would be demolished to accommodate the development.

Traffic-Generated Noise Impacts

The 2005 NSJ FPEIR and the Envision San José 2040 General Plan FPEIR identified that future development in North San José would generate an increase in traffic along the local roadway network and noise levels for highways and expressways would also increase incrementally.

In the vicinity of the project in North San Jose, the Envision San José 2040 General Plan FPEIR determined that noise levels are expected increase between 2008 and 2035 with build-out of the General Plan. Specifically, noise levels at a distance of 75 from the roadway segment of Tasman Drive between Zanker Road and McCarthy Boulevard, which is roughly 650 feet north of the site, would increase to 68 dBA DNL from 67 dBA DNL (Table 3.3-7, p. 338-339).⁴⁷

Although the proposed project is located in an industrial/office area, it is within 1,000 feet of noise sensitive land uses. As a result, traffic generated by the proposed project could have a significant

⁴⁷ City of San Jose. Envision San Jose 2040 General Plan Program EIR. June 2011.

impact to nearby residences. The Envision San Jose 2040 General Plan requires the use of noise attenuation techniques in the design of streets projected to adversely impact sensitive uses. Since the noise impacts of development in this area have already been evaluated and the necessary mitigation measures adopted, this project would not have a new impact.

Development in the North San José area, including the proposed project, would attempt to reduce traffic-related noise by implementation of TDMs described in *Section 4.15 Transportation*. Even with these measures, it was concluded in the certified 2011 Envision San José 2040 General Plan FPEIR that noise impacts at some locations would remain significant and unavoidable and the City Council adopted a statement of overriding consideration for the impact. The project would contribute to this noise impact.

Impact NOI – 1: Traffic from the proposed project would contribute to noise increases on roadways in the North San José area, which would result in significant and unavoidable impacts at some noise-sensitive receptors. This impact was identified in the certified 2005 NSJ FPEIR and 2011 Envision San José 2040 General Plan FPEIR and the City Council adopted a statement of overriding consideration for the impact. **[Same Impact as Approved Project (Contribution to Significant Unavoidable Cumulative Impact)]**

Short-Term Construction Impacts

Construction noise impacts primarily occur when construction activities occur during noise-sensitive times of the day (early morning, evening, or nighttime hours), in areas immediately adjoining noise sensitive land uses, or when construction occurs over extended periods of time. Significant noise impacts do not normally occur when standard construction noise control measures are enforced at the project site and when the duration of the noise generating construction period at a particular sensitive receptor is limited to one construction season (typically one year) or less. Reasonable regulation of the hours of construction, as well as regulation of the arrival and operation of heavy equipment and the delivery of construction materials, would reduce construction-related noise impacts.

The project site is surrounded by industrial office/R&D development. However, there is a noise-sensitive residential development roughly 1,000 feet west of the project site, across Zanker Road.

The North San Jose Development Policies Update Final EIR assumed noise-generating activities at construction sites would be restricted to the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday, and 8:00 a.m. to 5:00 p.m. on Saturdays, with no construction activities occurring Sundays or holidays. The proposed project would not result in any new or more significant construction-related impacts than were described in the certified 2005 NSJ FPEIR, which assumed construction would be occurring on multiple properties throughout North San José for decades through 2035. The proposed project would result in a short-term increase in noise levels in the project area during demolition and construction activities, which could, if unregulated, adversely affect a noise-sensitive use.

The following Standard Project Conditions are identified as part of the certified 2005 NSJ FPEIR and will be implemented as part of the project:

Standard Project Conditions:

The project will implement the following measures, as documented in a noise logistics plan, to reduce construction noise levels as low as practical:

- Utilize ‘quiet’ models of air compressors and other stationary noise sources where technology exists.
- Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment;
- Locate all stationary noise-generating equipment, such as air compressors and portable power generators, as far away as possible from adjacent land uses;
- Locate staging areas and construction material areas as far away as possible from adjacent land uses;
- Prohibit all unnecessary idling of internal combustion engines;
- If impact pile driving is proposed, multiple-pile drivers shall be considered to expedite construction. Although noise levels generated by multiple pile drivers would be higher than the noise generated by a single pile driver, the total duration of pile driving activities would be reduced;
- If impact pile driving is proposed, temporary noise control blanket barriers shall shroud pile drivers or be erected in a manner to shield the adjacent land uses. Such noise control blanket barriers can be rented and quickly erected;
- If impact pile driving is proposed, foundation pile holes shall be pre-drilled to minimize the number of impacts required to seat the pile. Pre-drilling foundation pile holes is a standard construction noise control technique. Pre-drilling reduces the number of blows required to seat the pile. Notify all adjacent land uses of the construction schedule in writing;
- Designate a “disturbance coordinator” who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g. starting too early, bad muffler, etc.) and will require that reasonable measures warranted to correct the problem be implemented. The telephone number for the disturbance coordinator at the construction site will be posted and included in the notice sent to neighbors regarding the construction schedule.

With implementation of the standard noise conditions identified in the 2005 NSJ FPEIR, construction noise impacts to nearby residential land uses would be reduced to acceptable levels. (**Less Than Significant Impact**)

4.12.3.2 *Noise Impacts to the Project*

Noise measurements were taken on the project site during preparation of the Agnews East School Site Project Final EIR (SCH#2011032006). One long-term measurement was taken next to Zanker Road, and three short-term measurements were taken near the eastern and southern parcel boundaries. Based on the results of the noise measurements, the estimated day-night average noise level near Zanker Road is 63 dBA DNL. The ten-minute average noise level at the two short-term measurement locations, which are located on the proposed park site, ranged from 51 dBA L_{eq} to 62 dBA L_{eq} . The Final EIR determined that future noise levels at approximately 200 feet from Zanker Road, which is further from Zanker Road than the proposed project site, could reach up to 64 dBA DNL. As described above, the City considers noise levels up to 65 dBA DNL to be satisfactory for

public park uses. Therefore, noise levels on the project site would not exceed the standards in the General Plan. **(Less Than Significant Impact)**

4.12.4 Conclusion

Impact NOI – 1: Traffic from the proposed project would contribute to noise increases on roadways in the North San José area, which would result in significant and unavoidable impacts at some noise-sensitive receptors. This impact was identified in the certified 2005 NSJ FPEIR and 2011 Envision San José 2040 General Plan FPEIR and the City Council adopted a statement of overriding consideration for the impact. The project is compatible with the ambient noise level. **[Same Impact as Approved Project (Contribution to Significant Unavoidable Cumulative Impact)]**

In addition, the proposed project would result in a short-term increase in noise levels in the project area during demolition and construction activities, which could adversely affect a noise-sensitive use. Standard Project Conditions are identified as part of the certified 2011 Envision San José 2040 General Plan FPEIR and 2005 NSJ FPEIR, and will be implemented as part of the project. The proposed project, with the implementation of the above standard project conditions, would not result in any new or more significant short-term construction noise impacts. **[(Same Impact as Approved Project (Less than Significant Impact)]**

4.13 POPULATION AND HOUSING

4.13.1 Setting

Based on information from the Department of Finance, the City of San José population was estimated to be approximately 984,299 in January 2013.⁴⁸ San José has experienced household growth since the 1960s. The total housing stock in the City increased from 68,890 units in 1960 to 314,304 units in 2010. The average number of persons per household in San José for the period 2009-2011 was estimated as 3.13.⁴⁹

Approximately 369,500 jobs were provided within the City of San José’s Sphere of Influence in 2010, and the Association of Bay Area Governments (ABAG) Projections 2009 show a projected increase to 708,980 jobs by the year 2035. ABAG also estimates that there will be approximately 447,790 households in the City’s Sphere of Influence by 2035. Furthermore, employment in the City is projected to increase to about 708,980 jobs by 2035, up from 369,500 in 2010.

4.13.2 Environmental Checklist and Discussion of Impacts

POPULATION AND HOUSING						
	New Potentially Significant Impact	New Than Significant With Mitigation Incorporated	Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)
Would the project:						
1) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,5
2) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,5
3) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,5

The currently proposed project will result in the same No Impact as the approved project, as described below.

⁴⁸ State of California, Department of Finance. E-1 Population Estimates for Cities, Counties and the State with Annual Percent Change — January 1, 2012 and 2013. January 2014. Available at: <<http://www.dof.ca.gov/research/demographic/reports/estimates/e-1/view.php>>

⁴⁹ U.S. Census Bureau. “American Fact Finder”. Profile of General Population and Housing Characteristics: 2010, for the City of San José. Accessed January 9, 2014. Available at: <<http://factfinder2.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t>>

The project proposes developing open space parklands and recreational facilities on a 21-acre site. The proposed project is consistent with the General Plan land use designation for the site and does not propose residential uses or the development of new infrastructure. It is also consistent with General Plan goals for focused and sustainable growth because the project proposes the intensification of development in an urbanized area that is currently served by existing roads, transit, utilities, and public services, and is located within the City's existing Urban Growth Boundary. Because the project site is in an urban infill area, the development of the project would not result in the expansion of urban services or pressure to expand beyond the City's existing Sphere of Influence. **(No Impact)**

4.13.2.2 *Housing Displacement Impacts*

The project would not displace people or housing and would not require the construction of replacement housing. **(No Impact)**

4.13.3 Conclusion

The proposed project would not result in any new or more significant population growth or housing impacts than those addressed in the certified 2005 NSJ FPEIR. **[Less Impact than Approved Project (No Impact)]**

4.14 PUBLIC SERVICES

4.14.1 Setting

4.14.1.1 *Fire Service*

Fire protection services for the project site are provided by the San José Fire Department (SJFD). The SJFD responds to all fires, hazardous materials spills, and medical emergencies in the City. The SJFD has 31 fire stations within the city. The SJFD participates in a mutual aid program with Saratoga, Morgan Hill, Campbell, Milpitas, and Santa Clara. Through this program, should the SJFD need assistance above and beyond what is available within the City, one or more of the mutual aid cities would provide assistance.

The closest fire station to the project site is Station 29, located at 199 Innovation Drive approximately 0.5 miles to the south. Station 29 has an engine company, a truck company, a battalion chief, and a Hazardous Incident Team.

4.14.1.2 *Police Protection Service*

Police protection services for the project site are provided by the San José Police Department (SJPD), which is 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.

4.14.1.3 *Parks*

The City provides and maintains developed parkland and open space to serve its community members. Residents of San José are served by regional and community park facilities, including regional open space, community and neighborhood parks, playing fields, and 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 area is Moitozo Park, located approximately 0.4 miles southwest of the project site.

4.14.2 Environmental Checklist and Discussion of Impacts

PUBLIC SERVICES						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)
Would the project:						
1) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the 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:						
Fire Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,5
Police Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,5
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,5
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3,4,5
Other Public Facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,5

The currently proposed project will result in the same Less than Significant Impact as the approved project, as described below.

The project proposes recreational uses and would not generate new residents and, as a result, would not require new schools, parks or other public facilities. The provision of parks was included in the development assumed in the NSJ FPEIR. The following discussion focuses on impacts to fire and police protection services.

4.14.2.1 Impacts to Fire and Police Protection Services

The project site is located within the existing service area of the SJFD and SJPD and, therefore, would not be expanding their respective service areas. The project design, including landscaping, surveillance, access control, and lighting would be reviewed by the SJFD and SJPD to ensure that the project design does not adversely affect either agency’s ability to provide adequate service to the project site. As mentioned above, proposed development would not generate new residents. However, implementation of the project would increase the number of people using the site since the project site is currently vacated and unused and, therefore, marginally increase the demand for fire and police protection services on-site.

This incremental increase calls in for service in the project area would not require the construction of new or expanded facilities. The proposed project, therefore, would have a less than significant impact to fire and police protection services. **(Less Than Significant Impact)**

4.14.3 Conclusion

The proposed project would not result in any new or more significant impacts to public services or facilities than those addressed in the certified 2005 NSJ FPEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.15 RECREATION

4.15.1 Setting

The project proposes the construction of parklands with open space, two soccer fields, four tennis courts, two basketball courts, a skate park, bocce ball courts, a picnic area, and parking. The project site is designated as *Public/Quasi-Public* in the General Plan land use map and is zoned as *Industrial Park*. The project site is located in a predominately industrial area and there are relatively few parks located in the vicinity. The nearest recreational area is Moitozo Park, located approximately 0.4 miles southwest of the project site.

4.15.1.1 *Regulatory Framework*

The City’s General Plan has established level of service benchmarks for parks and community centers. The City has a service level objective of 3.5 acres of neighborhood and community serving recreational lands per 1,000 residents, of which a minimum is 1.5 acres of City owned neighborhood, community, or locally serving regional/City-wide park lands and up to two acres of school playgrounds, and all of which are located within a reasonable walking distance from the surrounding residences. The City also has a service level objective of 7.5 acres of regional/City-wide parkland per 1,000 residents.

The North San José Planning Area currently has 32.3 acres of parkland (including trails) and 5.9 acres of recreational school grounds, for a total of 38.2 acres. To meet demand generated by planned residential growth, an additional 141.7 acres would be needed over existing conditions. As build-out of the NSJ ADP continues, it is anticipated that additional parks will be developed on lands with a *Transit/Employment Residential District Overlay* and/or approved “Floating Park” designation.

4.15.2 Environmental Checklist and Discussion of Impacts

RECREATION						
	New Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)
Would the project:						
1) 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"/>	<input type="checkbox"/>	1,2,3,4,5
2) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,5

The project proposes to add 21 acres of parklands to the North San Jose area. As a result, the project would help meet demand for park facilities and contribute to the City of San José’s service objective of providing a minimum of 3.5 acres of neighborhood-serving parkland per 1,000 residents in North San José.

The currently proposed project will result in the same Less than Significant Impact as the approved project, as described below. The provision of recreational facilities was included in the development assumed in the NSJ FPEIR.

The project proposes the construction of recreational facilities and would not increase use of other parks in the area. The proposed project would provide additional recreational facilities in an area where demand is high. **(No Impact)**

Implementation of the project would not require the construction or expansion of additional recreational facilities that could potentially have an adverse physical effect on the environment. **(No Impact)**

4.15.3 Conclusion

Implementation of the proposed project-specific development would not result in any new or more significant recreational impacts than were previously identified in the NSJ FPEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.16 TRANSPORTATION

The discussion in this section is based in part upon a Traffic Analysis completed by Hexagon Transportation Consultants in January 2014. A copy of this report is included as Appendix B.

4.16.1 Setting

The transportation system in the project area, including regional and local roadways, bicycle and pedestrian facilities, and existing transit services (i.e., bus and light rail services) has not substantially changed since the certification of the NSJ FPEIR in June 2005.

4.16.1.1 North San José Area Development Policy

The City adopted a new Area Development Policy for North San José as part of the approved North San José Development Policies Update. The policy makes better use of the land in North San José by encouraging intensification of an existing urbanized area in order to significantly increase transit use and discourage sprawl on the outer edges of Santa Clara County and the Central Valley.

A revised Deficiency Plan for North San José was proposed as part of the approved North San José Development Policies Update as a companion to the revised North San José Development Policy. The revised Deficiency Plan reflects the City's approved intensification of development in North San José and the actions proposed to encourage and facilitate transit use in the area.

The proposed park may be developed on the site under the provisions of the NSJ Development Policy and subject to the Deficiency Plan and the current zoning.

4.16.1.2 Site Access

The site is currently developed with buildings associated with the existing state facility referred to as the Agnews Development Center. Access to the site is provided via driveways on Center Road from Zanker Road and Cabrillo Road from Cisco Way.

4.16.2 Environmental Checklist and Discussion of Impacts

TRANSPORTATION/TRAFFIC						
	New Potentially Significant Impact	New Than Significant With Mitigation Incorporated	Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)
Would the project:						
1) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4, 5,11
2) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4, 5,11
3) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
4) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
5) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,11
6) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4, 5,11

The currently proposed project would contribute to the significant unavoidable traffic impacts resulting from the North San Jose Development Policies Update (the approved project) as disclosed in the 2005 NSJ FPEIR and discussed below.

4.16.2.1 *Level of Service*

To be conservative, estimates of trips generated by the proposed park were based on individual components of the park rather than applying one trip rate for the entire park. Based on standard trip rates available in the Institute of Transportation Engineers (ITE) Trip Generation manual, 9th edition, the soccer fields are expected to generate a total of two trips during the AM peak hour and 36 trips during the PM peak hour, and the tennis courts are expected to generate approximately six trips during the AM peak hour and 16 trips during the PM peak hour. Since there are no standard trip rates for basketball courts, a basketball court was assumed to generate one half the peak hour trips generated by a soccer field. For the park component consisting of the playground, picnic area, skate park area and open space, standard ITE trip rates for a typical City park were used. A total of 45 trips during the AM peak hour and 35 trips during the PM peak hour were estimated for the general park area. In total, the proposed project is expected to generate 55 trips during the AM peak hour and 105 trips during the PM peak hour.

The traffic impacts from the proposed project have already been analyzed and accounted for in the certified 2005 NSJ FPEIR. Based on the City’s service level objective of 3.5 acres of neighborhood and community serving recreational lands per 1,000 residents, the FPEIR determined that 170 acres of additional parkland would be required to serve future residential development in North San Jose. Traffic from these future parklands was included in the 2005 NSJ FPEIR traffic analysis.

Implementation of the proposed project would contribute to the overall level of service (LOS) impact on local intersections and freeway segments in the North San José area. These impacts were found to be significant and unavoidable and, as a result, the City of San José adopted a statement of overriding consideration for the NSJ FPEIR transportation impacts in accordance with CEQA Guidelines Section 15093. This project will not result in any new or more significant impacts to the LOS of any local intersection or freeway segment than were previously identified in the NSJ FPEIR in that the project will receive allocation from the ‘pool’ of Phase I industrial development created by the NSJ Development Policies update.

The NSJ Area Development Policy anticipated the development of parks within the North San Jose area. The proposed park is intended to serve the existing and planned residential uses in North San Jose. Portions of the park may be utilized for regional uses such as soccer tournaments; however, these regional uses would primarily occur on weekends outside of peak traffic hours. For these reasons, the proposed park would not be subject to the Deficiency Fee per the NSJ Area Development Policy.

4.16.2.2 *Site Access and Circulation*

Vehicular access to the proposed parking lot, south of the basketball courts, would be provided via two driveways on Cabrillo Road. The two driveways are shown to be interconnected through the parking lot drive aisles. Traffic on Cabrillo Road would be uncontrolled and outbound traffic at the parking lot driveways would be stop controlled. The southern driveway to the parking lot would also provide access to the City Corporation Yard located immediately south of the parking lot. In order to provide adequate sight distance at the driveways, the southern driveway would be constructed as an inbound driveway and the northern driveway as an outbound driveway.

Cabrillo Road spans approximately 1,200 feet in length as it fronts the proposed park on the east. It terminates at Center Road to the north and Levee Road to the south with no conflicting traffic at

either of the termini. Cabrillo Road is expected to carry very low traffic volumes as it provides access only to the project site. Cabrillo Road makes a 90 degree bend to the west as it intersects Center Road to the north. Although no traffic control is required at this intersection, as there will be no conflicting traffic, a 15 mph reduced speed sign would be posted on northbound Cabrillo Road at least 100 feet in advance of the 90 degree bend to alert drivers of the approaching bend. A similar roadway configuration exists for southbound Cabrillo Road as it intersects Levee Road to the south. A reduced speed sign would be posted on southbound Cabrillo Road 100 feet in advance of the approaching 90 degree bend at Levee Road.

Pedestrian and Bicycle Facilities

Tasman Drive, Zanker Road, and River Oaks Parkway all provide sidewalks and bike lanes in the project vicinity, thereby connecting the proposed park to the nearby residential areas. Cisco Way has sidewalks but no bike lanes. Levee Road and Center Road do not have sidewalks or bike lanes. It is anticipated that pedestrian and bicycle facilities would be added to Levee Road and Center Road as part of the Agnews East School Site project.

4.16.2.3 *Parking*

The proposed parking lot is likely to accommodate up to 150 diagonal parking spaces and would provide adequate vehicular circulation. The San Jose parking standards for outdoor recreation is 20 spaces per acre of site. Based on this rate, the parking requirement would be 420 onsite parking spaces. In addition to the parking lot provided on-site, there will be curb parking available along Center Road and Cabrillo Road. Assuming curb parking would be available along the park frontage only (a total of about 2,000 feet), this equates to between 80 and 100 parking spaces on the street. In addition, since the park will have a joint use agreement with the adjacent future Agnews East School, visitors would be able to park at the school parking lot should overflow parking conditions occur. A direct pedestrian connection between the school and the park (through the middle of the school) would need to be provided in order for the overflow parking at the school to be functional. If the school is not ultimately constructed, additional parking may be required.

4.16.3 Conclusion

The proposed project, with the implementation of the above standard project conditions, would not result in new or more significant impacts to the transportation system than those addressed in the certified 2005 NSJ FPEIR. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.17 UTILITIES AND SERVICE SYSTEMS

4.17.1 Setting

The water, sanitary sewer, storm drainage, solid waste, natural gas, and electricity services and facilities serving the project area have not changed since the certification of the 2011 2005 NSJ FPEIR.

The Agnews East Campus has been vacated as of July 2011, and only a limited amount of maintenance-related activity is occurring at the site.

4.17.2.1 *Water Service and Supply*

Water service to the project site is provided by the San José Municipal Water System (SJMWS), which serves over 100,000 people in the San José area.⁵⁰ The SJMWS purchases a blend of imported water and treated water from San Francisco Public Utilities Commission (SFPUC) and delivers it to North San Jose customers. The main source of water supplied by the SFPUC is imported surface water from the Sierras via the Hetch-Hetchy Aqueduct, with the rest supplemented by local watersheds in Alameda and Santa Clara Counties. The SJMWS currently uses 4.9 million gallons per day (mgd). An existing groundwater well located on the Agnews East Campus has served as a back-up water source to the site.⁵¹

4.17.2.2 *Wastewater Treatment and Sanitary Sewer System*

The City of San José maintains the wastewater collection system in the project area. Sewer laterals convey flows to sewer mains from individual sites, such as the Agnews East Campus. The sewer mains in North San José primarily connect to a major sewer interceptor system located in Zanker Road. The interceptor system includes four sewer lines that convey wastewater flows from the entire South Bay drainage basin to the San José/Santa Clara Water Pollution Control Plant (WPCP). The WPCP is located in Alviso and serves over 1.5 million people in San José and surrounding areas. The existing capacity of the WPCP is 167 mgd during dry weather flow.⁵² The WPCP is subject to wastewater treatment requirements of the San Francisco Regional Water Quality Control Board (RWQCB).⁵³

4.17.2.3 *Recycled Water*

Water recycling (also referred to as water reclamation) is the treatment and management of wastewater to produce a water of suitable quality for beneficial and non-potable uses.⁵⁴ Recycled water service is provided to the cities of Milpitas, Santa Clara, and San José by South Bay Water

⁵⁰ City of San José. “San José Municipal Water System.” Last modified December 8, 2009. Accessed January 14, 2011. <<http://www.sjmuniwater.com/about.asp>>

⁵¹ ERM-West, Inc. *Phase I Environmental Site Assessment California Department of Developmentally Disabled Services – East Agnews Facility 3500 Zanker Road, San Jose, California*. April 2010.

⁵² City of San José. “San José/Santa Clara Water Pollution Control Plant.” Last modified May 4, 2010. Accessed January 14, 2011. <<http://www.sanjoseca.gov/esd/wastewater/water-pollution-control-plant.asp>>

⁵³ The interceptor system primarily includes 60- and 84-inch diameter reinforced concrete pipes (RCP). **Source:** City of San José. *North San José Development Policies Update Final Program Environmental Impact Report*. June 2005.

⁵⁴ City of San José. “About the System.” Last updated July 14, 2010. Accessed January 14, 2011. <<http://www.sanjoseca.gov/sbwr/about.htm>>

Recycling (SBWR). SBWR maintains over 100 miles of recycled water pipelines, including lines in Zanker Road, Tasman Drive, and Cisco Way.⁵⁵ During the summer months, SBWR distributes an average of 14 million gallons of recycled non-potable water to over 600 customers per day.⁵⁶ The recycled water, which is treated at the WPCP, meets disinfected tertiary treatment levels and is safe for a variety of uses, including landscape irrigation, playgrounds, school yards, and parks. The diversion of treated water from the WPCP reduces freshwater discharge into the Bay and preserves potable water for municipal use.

4.17.2.4 Stormwater Drainage System

The City of San José maintains the storm drainage system in the project area. As described in Section 4.9 *Hydrology and Water Quality*, the storm drainage system in North San José generally has capacity to accommodate flows from a three- to five-year storm event.⁵⁷ As redevelopment occurs in North San José, the storm drainage system will be upgraded to accommodate 10-year storm flows, in accordance with the *North San José/Rincon De Los Esteros Storm Drain Master Plan* and the City's CIP process.

Stormwater runoff from roadways surrounding the project site is conveyed to an 84-inch storm sewer, which conveys flows to the Oakmead Stormwater Pump Station. The pump station then lifts the runoff to an outfall on the Guadalupe River.

4.17.2.5 Solid Waste

Non-residential solid waste collection in San José is provided by a number of non-exclusive service providers and may be disposed at any of four privately owned landfills in San José or at other landfills outside of Santa Clara County. In 2009, 30 percent of the total waste generated in San José was sent to a landfill. Of this total, 185,000 tons came from residential sources, 200,000 tons came from commercial, industrial, and institutional sources, and 184,000 tons came from construction and demolition sources.⁵⁸ According to the Countywide Integrated Waste Management Plan, there is sufficient landfill capacity for Santa Clara County's projected needs at least until 2035.⁵⁹

⁵⁵ City of San José, Environmental Services Department. *Recycled Water Pipeline System*. Map. January 30, 2008.

⁵⁶ Ibid.

⁵⁷ City of San José. *North San José Development Policies Update Final Program Environmental Impact Report*. June 2005.

⁵⁸ City of San José, Environmental Services Department. "Waste Prevention." 2009. Accessed May 4, 2010. <http://www.sjrecycles.org/waste_prevention.asp>

⁵⁹ City of San José. *North San José Development Policies Update Final Program Environmental Impact Report*. June 2005. Santa Clara County's *Five-Year CIWMP/RAIWMP Review Report* (August 2007) is available at: <http://www.sccgov.org/SCC/docs%2FIntegrated%20Waste%20Management%20%28DIV%29%2FSCC%202nd%205yr%20rpt%202006%20rev4.pdf>.

4.17.2 Environmental Checklist and Discussion of Impacts

UTILITIES AND SERVICE SYSTEMS						
	New Potentially Significant Impact	New Than Significant With Mitigation Incorporated	Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)
Would the project:						
1) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,5
2) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,5
3) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,5
4) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,5
5) 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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,5
6) Be served by a landfill with sufficient permitted capacity to accommodate the project’s solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,5
7) Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4,5

The currently proposed project would result in the same impact as the approved project, i.e. Less than Significant, as described below.

4.17.2.1 Water Service

The NSJ FPEIR determined that development allowed under the ADP would not result in significant impacts to existing water supply systems, although full build-out would require expansion of the recycled water system and continued implementation of the City’s water conservation programs. Based on this finding, there would be sufficient water supplies to serve the proposed park. Consistent with the programmatic mitigation identified in the NSJ FPEIR, the project incorporates water conservation measures including but not limited to:⁶⁰

- Drought tolerant and native plantings in landscaping to reduce irrigation requirements;⁶¹
- High-efficiency devices for outdoor water uses (e.g., self-adjusting weather-based irrigation controllers, soaker hoses and drip irrigation technology to minimize evaporative water loss, timers on watering systems to ensure watering occurs at night, etc.);
- High-efficiency indoor fixtures (e.g., low-flow toilets that use less than 1.6 gallons per flush, urinals that require less than one gallon per flush, showerheads that require less than 2.5 gallons per minute, aerators to reduce flow in lavatory faucets to as low as one gallon per minute, sensors on lavatory faucets, etc.);⁶²
- Dual plumbing for both interior and exterior recycled water use; and
- Use of fully advanced treated recycled water for irrigation of large landscaped areas such as the natural turf playfields.

In accordance with the current CALGreen code, the project also proposes to:

- Reduce overall potable water use for indoor plumbing fixtures by at least 20 percent;
- Develop a landscape irrigation budget in accordance with the California Department of Water Resources Model Efficient Landscape Budget;
- Provide separate meters for indoor and outdoor potable water use;
- Provide irrigation controllers and sensors; and
- Prevent irrigation spray on buildings.

Incorporation of these water conservation measures would minimize the water demand generated by the proposed project. Additional water conservation measures will also be considered during the final design phase to comply with current regulatory requirements and to minimize water use to the extent feasible.⁶³

As described above, recycled water infrastructure exists in the project area and the SBWR’s reclaimed water is safe for use on park sites; therefore, the proposed park could connect to the SBWR system. Reclaimed water can be used to irrigate playfields and landscaping. It can also be used for toilet and urinal flushing. The use of reclaimed water from SBWR and/or providing on-site graywater or rainwater capturing systems would further reduce the project’s demand for treated water from the SJMWS.

⁶⁰ These NSJ FPEIR measures have been elaborated upon with information from the U.S. Department of Energy’s *Energy Design Guidelines for High Performance Schools* (2002).

⁶¹ “Landscaping” in this case does not include natural turf playfields.

⁶² Vandal-resistant aerators that use only 0.5 gallons per minute are available at no cost to schools in Santa Clara County from the SCVWD.

⁶³ The SCVWD provides resources on how schools can improve their water efficiency: <http://www.valleywater.org/Programs/ConservationForBusinesses.aspx>.

With incorporation of the proposed water conservation measures, the project would not require new or expanded entitlements for water supplies or the construction of new water facilities.

4.17.2.2 Sanitary Sewer/Wastewater Treatment

The 2005 NSJ FPEIR evaluated the increased wastewater flows resulting from the North San Jose Development Policies Update. At full build-out, the combined development of Phases 1-4 would generate approximately 5,214,750 gallons per day. These increased flows would not cause the WPCP to exceed its capacity or discharge limit, and would be within San Jose's treatment allocation.

Implementation of the proposed project would generate increased wastewater from use of on-site restrooms. The additional wastewater generated by the project has been accounted for in the overall North San Jose Development Policies Update's 5,214,750 gallons per day, which would not cause the WPCP to exceed its capacity or discharge limit, and would be within San Jose's treatment allocation.

4.17.2.3 Storm Drainage System

As stated in *Section 4.9 Hydrology*, implementation of the proposed project would result in a modest decrease in impervious surfaces on the project site, which would result in a net modest decrease in stormwater runoff entering the storm drain system. Additionally, the project design includes a series of treatment control and source control measures to further reduce the peak flow run off and remove contaminants that could impair water quality.

The proposed project would reduce impervious surface areas and include design measures to control the volume of storm runoff and protect water quality.

4.17.2.4 Solid Waste

Implementation of the proposed project would result in a net increase of solid waste generated on the project site. The NSJ FPEIR concluded that there is sufficient capacity in the existing solid waste disposal facilities serving San José to accommodate waste generated by the development approved under the North San José Development Policies Update, which included the proposed project. As a result, implementation of the proposed project would not result in any new or more significant impacts to solid waste collection and disposal than were previously identified in the NSJ FPEIR.

Standard Project Conditions:

The proposed project will implement the following:

- Ensure storage area is large enough to accommodate both garbage and recycling containers. The minimum enclosure size to accommodate two three cubic yard bins is 11.5 feet by eight feet with an additional eight feet in front for the concrete service pad.
- Ensure enclosure has enough capacity, or frequency of collection for garbage and recycling, to accommodate site operations.
- Ensure proper hauler access to solid waste containers. Validate width of driveway and vehicle turning radius. Enclosure areas must be accessible by garbage/recycling trucks by

providing minimum 22 foot wide driveways and a 50 foot turning radius for collection vehicles unless other waste management practices will be implemented.

- Ensure that project demolition debris is properly recycled or disposed. Details on recycling construction waste are available through the Construction and Demolition Diversion Deposit (CDDD) incentive program. Information is available at: <http://www.syrecycles.org/construction-demolition/cddd.asp>.
- It is required that scrap construction and demolition debris be recycled instead of disposing of it in a landfill.⁶⁴ An infrastructure exists within San Jose to accommodate such recycling efforts. Integrated Waste Management staff can provide assistance on how to recycle construction and demolition debris from the project, including information on where to conveniently recycle the material. Additional information can be found at <http://www.sjrecycles.org/construction-demolition/cddd.asp> or by contacting the Commercial Solid Waste Program at (408) 535-8550.

4.17.3 Conclusion

The proposed project, with implementation of the mitigation measure for the storm drainage system, would not result in any new or more significant utilities impacts than were previously identified in the NSJ FPEIR. **[Same Impact as Approved Project (Less than Significant with Standard Conditions Incorporated)]**

⁶⁴ In accordance with the San Jose Municipal Code, Chapter 9.10-Solid Waste Management.

4.18 MANDATORY FINDINGS OF SIGNIFICANCE

	New Potentially Significant Impact	New Than Significant With Mitigation Incorporated	Less Than Significant Impact	Same as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)
1) Does the project have the potential to substantially degrade the quality of the environment; substantially reduce the habitat of a fish or wildlife species; cause a fish or wildlife population to drop below self-sustaining levels; threaten to eliminate a plant or animal community; substantially reduce the number or restrict the range of an endangered, rare or threatened species; or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-11
2) Does the project have the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-11
3) Does the project have possible environmental effects that are individually limited but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a 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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-11
4) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-11

The certified 2005 NSJ FPEIR analyzed the development of 26.7 million square feet of new industrial/office/R&D building space, 1.7 million square feet of new neighborhood serving commercial uses, and the addition of 32,000 new dwelling units in the North San José area.

The project proposes to develop a 21-acre park. The proposed development is included within the amount of development analyzed in the NSJ FPEIR and planned for the North San José area. Because the proposed project results in minor technical project changes with no new significant impacts, and would not require major revisions to the previous EIRs prepared, an Addendum has been prepared for the proposed project [CEQA Guidelines Sections 15162 and 15164], rather than a supplemental or subsequent EIR.

The project site is a developed site and is not considered burrowing owl habitat, but does feature numerous large mature trees that could be used for nesting by protected raptors. The project proposes pre-construction surveys, as described in *Section 4.4, Biological Resources*.

The proposed development would contribute to significant cumulative transportation, air quality, and noise impacts resulting from full build-out of North San José under the North San José Development Policies Update. No feasible mitigation measures have been identified to reduce these cumulative

impacts to a less than significant level. The proposed project would not result in any new or more substantial significant impacts than were previously identified in the NSJ FPEIR or Envision San Jose General Plan EIR, and measures included in the 2005 NSJ FPEIR and included in the Envision San Jose General Plan EIR have been incorporated to reduce impacts where feasible.

Checklist Sources

1. Professional judgment and expertise of the environmental planner preparing this assessment, based upon a review of the site and surrounding conditions, as well as a review of the project plans.
2. City of San José. Final Environmental Impact Report, North San José Development Policies Update. June 2005.
3. City of San José. Final Program Environmental Impact Report for Envision San Jose 2040 General Plan. September 2011.
4. City of San José. Envision San José 2040 General Plan.
5. Santa Clara Unified School District. Final Environmental Impact Report, Agnews East School Site Project. January 2012.
6. California Department of Conservation. Santa Clara County Important Farmland 2010. Map.
7. Bay Area Air Quality Management District. CEQA Guidelines Update-Thresholds of Significance. June 2010.
8. Kleinfelder. Limited Phase II Environmental Site Assessment. December 2013.
9. Santa Clara County Airport Land Use Commission. Comprehensive Land Use Plan Santa Clara County: Norman Y. Mineta San Jose International Airport. October 27, 2010.
10. Federal Emergency Management Agency. Flood Insurance Rate Maps, Community-Panel Numbers 060349 0066H and 060349 0068H. May 18, 2009.
11. Hexagon Transportation Consultants, Inc. Traffic Analysis for the Agnews East Sport Park. January 7, 2013.

SECTION 5.0 REFERENCES

Bay Area Air Quality Management District. CEQA Guidelines Update-Thresholds of Significance. June 2010.

California Department of Conservation. Santa Clara County Important Farmland 2010. Map.

City of San José. Envision San José 2040 General Plan.

City of San José. Final Environmental Impact Report, North San José Development Policies Update. June 2005.

City of San José. Final Program Environmental Impact Report for Envision San Jose 2040 General Plan. September 2011.

Santa Clara Unified School District. Final Environmental Impact Report, Agnews East School Site Project. January 2012.

City of San José. North San José Area Development Policy. February 2012.

City of San José. Zoning Ordinance.

Federal Emergency Management Agency. Flood Insurance Rate Maps, Community-Panel Numbers 060349 0066H and 060349 0068H. May 18, 2009.

Hexagon Transportation Consultants, Inc. Traffic Analysis for the Agnews East Sport Park. January 7, 2013.

Kleinfelder. Limited Phase II Environmental Site Assessment. December 2013.

SECTION 6.0 LEAD AGENCY AND CONSULTANTS

Lead Agency:

City of San José

Department of Planning, Building, and Code Enforcement
Steve Piasecki, Interim Planning Official
John Davidson, Senior Planner

Consultants:

David J. Powers and Associates, Inc.

Environmental Consultants and Planners
Jodi Starbird, Principal Project Manager
Michael Lisenbee, Project Manager
Ryan Shum, Researcher
Zachary Dill, Graphic Artist

Hexagon Transportation Consultants, Inc.

Brian Jackson, Senior Associate
Trisha Dudala, Associate

Appendix A

Phase II Environmental Site Assessment

Appendix B

Traffic Analysis