

First Amendment to the
Draft Environmental Impact Report
237 Industrial Center Project

SCH# 2016052053



City of San Jose

September 2017

PREFACE

This document, together with the Draft Environmental Impact Report (Draft EIR), constitutes the Final Environmental Impact Report (FEIR) for the 237 Industrial Center project. The Draft EIR was circulated to affected public agencies and interested parties for a 45-day review period from June 1, 2017 to July 17, 2017. This volume consists of comments received by the City of San José (City), the Lead Agency on the Draft EIR, during the public review period, responses to those comments, and revisions to the text of the Draft EIR.

In conformance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines, the FEIR provides objective information regarding the environmental consequences of the proposed project. The FEIR also examines mitigation measures and alternatives to the project intended to reduce or eliminate significant environmental impacts. The FEIR is intended to be used by the City and any Responsible Agencies in making decisions regarding the project. The CEQA Guidelines advise that, while the information in the FEIR does not control the agency's ultimate discretion on the project, the agency must respond to each significant effect identified in the DEIR by making written findings for each of those significant effects.

According to the State Public Resources Code (Section 21081), no public agency shall approve or carry out a project for which an environmental impact report has been certified which identifies one or more significant effects on the environment that would occur if the project is approved or carried out unless both of the following occur:

- (a) The public agency makes one or more of the following findings with respect to each significant effect:
 - (1) Changes or alterations have been required in, or incorporated into, the project which will mitigate or avoid the significant effect on the environment.
 - (2) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.
 - (3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities of highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.
- (b) With respect to significant effects which were subject to a finding under paragraph (3) of subdivision (a), the public agency finds that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment.

In accordance with CEQA and the CEQA Guidelines, the FEIR will be made available to the public prior to consideration of the Environmental Impact Report. All documents referenced in this FEIR are available for public review in the office of the Department of Planning, Building and Code Enforcement, 200 E. Santa Clara Street, San Jose, California, on weekdays during normal business hours.

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State Agencies

California Air Resources Board, Major Industrial Projects
California Air Resources Board, Transportation Projects
California Department of Conservation
California Department of Fish and Wildlife, Region 3
California Department of Housing and Community Development
California Department of Parks and Recreation
California Department of Transportation, District 4
California Department of Water Resources
California Highway Patrol
California State Resources Agency
Department of Toxic Substances Control
Native American Heritage Commission
Public Utilities Commission
State Clearinghouse – Office of Planning and Research
State Water Quality Control Board

Regional Agencies

Association of Bay Area Governments
Bay Area Air Quality Management District
California Regional Water Quality Control Board, San Francisco Bay Region II
Santa Clara County Roads and Airports Division
Santa Clara Valley Transportation Authority (VTA)

Local Jurisdictions and Districts

City of Milpitas
City of Santa Clara
County of Santa Clara
San Jose Water Company
Santa Clara Valley Water District

SECTION 2.0**LIST OF COMMENT LETTERS RECEIVED ON THE DRAFT EIR**

Copies of written comments on the Draft EIR that were received during the public review period are provided in Section 5.0 Copies of Comments Received on the Draft EIR. A list of agencies, organizations, businesses and individuals commenting on the Draft EIR is provided below.

State Agencies**Date of Letter**

- | | | |
|----|--|---------------|
| A. | Native American Heritage Commission (NAHC) | July 6, 2017 |
| B. | California Department of Transportation (Caltrans) | July 17, 2017 |

Local Agencies

- | | | |
|----|---|---------------|
| C. | Santa Clara Valley Transportation Agency (VTA) | July 17, 2017 |
| D. | County of Santa Clara, Department of Roads and Airports | July 17, 2017 |
| E. | Bay Area Air Quality Management District (BAAQMD) | July 17, 2017 |
| F. | County of Santa Clara, Department of Parks and Recreation | July 17, 2017 |
| G. | Santa Clara Valley Water District (SCVWD) | July 17, 2017 |

Organizations and Individuals

- | | | |
|----|--|---------------|
| H. | Carpenters Local Union 405 | July 17, 2017 |
| I. | Los Esteros Critical Energy Facility (LECEF) | July 17, 2017 |
| J. | Grassetti Environmental Consulting | July 17, 2017 |
| K. | San Francisco Bay Bird Observatory | July 17, 2017 |
| L. | San Francisco Bay Citizens Committee to Complete the Refuge, Santa Clara Valley Audubon Society, and Sierra Club | July 17, 2017 |

SECTION 3.0 RESPONSES TO COMMENTS RECEIVED ON THE DRAFT EIR

The following section includes all the comments on the DEIR that were received by the City in letters and emails during the 45-day review period. The comments are organized under headings containing the source of the letter and the date submitted. The specific comments from each of the letters or emails are presented as “Comment” with each response to that specific comment directly following. Each of the letters submitted to the City of San José are included in their entirety in Section 5.0 of this document.

CEQA Guidelines Section 15086 requires that a local Lead Agency consult with and request comments on the Draft EIR prepared for a project of this type from responsible agencies (government agencies that must approve or permit some aspect of the project), trustee agencies for resources affected by the project, adjacent cities and counties, and transportation planning agencies. Section 1.0 of this document lists all of the recipients of the Draft EIR.

Seven comment letters were received from public agencies, none of whom are Responsible Agencies under CEQA for the proposed project. The CEQA Guidelines require that:

A responsible agency or other public agency shall only make substantive comments regarding those activities involved in the project that are within an area of expertise of the agency or which are required to be carried out or approved by the responsible agency. Those comments shall be supported by specific documentation. [§15086(c)]

A standard letter was received from the State of California Governor’s Office of Planning and Research (OPR) to acknowledge that the City has complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to CEQA. No response to this letter is required by CEQA.

Regarding mitigation measures identified by commenting public agencies, the CEQA Guidelines state that:

Prior to the close of the public review period, a responsible agency or trustee agency which has identified what the agency considers to be significant environmental effects shall advise the lead agency of those effects. As to those effects relevant to its decisions, if any, on the project, the responsible or trustee agency shall either submit to the lead agency complete and detailed performance objectives for mitigation measures addressing those effects or refer the lead agency to appropriate, readily available guidelines or reference documents concerning mitigation measures. If the responsible or trustee agency is not aware of mitigation measures that address identified effects, the responsible or trustee agency shall so state. [§15086(d)]

The CEQA Guidelines state that the Lead Agency shall evaluate comments on the environmental issues received from persons who reviewed the DEIR and shall prepare a written response to those comments. The Lead Agency is also required to provide a written proposed response to a public agency on comments made by that public agency at least 10 days prior to certifying an environmental impact report. This FEIR contains written responses to all comments made on the Draft EIR received during the advertised 45-day review period. Copies of this FEIR have been supplied to all persons and agencies that submitted comments.

A. RESPONSE TO COMMENTS FROM THE STATE OF CALIFORNIA, NATIVE AMERICAN HERITAGE COMMISSION, July 6, 2017:

Comment A1: The Native American Heritage Commission (NAHC) has reviewed the Draft Environmental Impact Report prepared for the project referenced above. The review included the Introduction and Project Description, the Executive Summary, the Environmental Setting, Impacts and Mitigation Measures, Section 3.4 Cultural Resources, and Appendix F, Historical Resources Survey (prepared by Holman & Associates) for the City of San Jose - Dept. of Planning, Building & Code Enforcement. We have the following concerns:

1. There is no documentation of government-to-government consultation by the lead agency under AB 52 with Native American tribes traditionally and culturally affiliated to the project area as required by statute, or that mitigation measures were developed in consultation with the tribes. Discussions under AB 52 may include the type of document prepared and proposed mitigation. Contact by consultants during the Cultural Resources Assessments is not formal consultation.

Response A1: The Notice of Preparation (NOP) for the 237 Industrial Center Project was sent to the NAHC on May 27, 2016 prior to preparation of the Draft Environmental Impact Report (DEIR). The City has not received any requests from any tribes that they be contacted for any development projects in the City and did not receive a request for consultation for the proposed project. This fact was relayed to Native American Heritage Commission (NAHC) staff upon receipt of the comment letter dated July 6, 2017. Section 3.4 *Cultural Resources* of the DEIR has been revised to reflect that government-to-government consultation with local Native American tribes was completed by the City in accordance with AB 52.

Comment A2:

2. There are no mitigation measures specifically addressing Tribal Cultural Resources separately. Mitigation measures must take Tribal Cultural Resources into consideration as required under AB 52, with or without consultation occurring. Mitigation language for archaeological resources is not always appropriate for or similar to measures specifically for handling Tribal Cultural Resources.

Response A2: The DEIR includes mitigation measures (MM CUL-1.1-1.5) to reduce impacts to subsurface cultural materials during construction. Subsurface testing will be completed and a treatment plan will be prepared as shown in the text changes shown in Section 4.0 of this First Amendment to the DEIR. When the NOP for the DEIR was released, changes to the CEQA checklist regarding tribal cultural materials had not yet occurred.

The treatment plan will include all necessary measures to reduce impacts to Tribal Cultural Resources to a less than significant level. These measures may include: 1) avoidance and preservation of the resources in place to protect the cultural and natural context, or planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria; and 2) treating the resource with culturally appropriate dignity taking into account the tribal cultural values, culture, integrity, meaning, and use of the resource; 3) preserving the confidentiality of the resource. Permanent

conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places may be considered. Section 3.4 *Cultural Resources* of the DEIR has been revised (Section 4.0 of this First Amendment to the DEIR *Text Revisions*) to add Tribal Cultural Resources to the potential resources that could be found on-site.

Comment A3: The California Environmental Quality Act (CEQA)¹, specifically Public Resources Code section 21084.1, states that a project that may cause a substantial adverse change in the significance of a historical resource is a project that may have a significant effect on the environment.² If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an environmental impact report (EIR) shall be prepared.³ In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources within the area of project effect (APE).

Response A3: The comment states the provisions of CEQA regarding cultural resources. The comment does not raise any specific environmental issue under CEQA, therefore, no further response is required.

Comment A4: CEQA was amended in 2014 by Assembly Bill 52. (AB 52).⁴ AB 52 applies to any project for which a notice of preparation or a notice of negative declaration or mitigated negative declaration is filed on or after July 1, 2015. AB 52 created a separate category for "tribal cultural resources"⁵ that now includes "a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment."⁶ Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource.⁷

Response A4: Please refer to Response A1. The Notice of Preparation for the 237 Industrial Center project was sent to NAHC on May 27, 2016 and local tribes were contacted for consultation during the NOP circulation period. The comment correctly states the provisions of AB 52.

Comment A5: Your project may also be subject to Senate Bill 18 (SB 18) (Burton, Chapter 905, Statutes of 2004), Government Code 65352.3, if it also involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space. Both SB 18 and AB 52 have tribal consultation requirements. Additionally, if your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966⁸ may also apply.

¹ Pub. Resources Code § 21000 et seq.

² Pub. Resources Code § 21084.1; Cal. Code Regs., tit.14, § 15064.5 (b); CEQA Guidelines Section 15064.5 (b)

³ Pub. Resources Code § 21080 (d); Cal. Code Regs., tit. 14, § 15064 subd.(a)(1); CEQA Guidelines § 15064 (a)(1)

⁴ Government Code 65352.3

⁵ Pub. Resources Code § 21074

⁶ Pub. Resources Code § 21084.2

⁷ Pub. Resources Code § 21084.3 (a)

⁸ 154 U.S.C. 300101, 36 C.F.R. § 800 et seq

Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.

Response A5: The proposed project does not include a General Plan amendment and is not subject to the requirements of the National Environmental Policy Act. For these reasons, the project is not subject to these state or federal laws.

Comment A6: Agencies should be aware that AB 52 does not preclude agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52. For that reason, we urge you to continue to request Native American Tribal Consultation Lists and Sacred Lands File searches from the NAHC. The request forms can be found online at: [http://nahc.ca.gov/resources/form s/](http://nahc.ca.gov/resources/form%20s/). Additional information regarding AB 52 can be found online at [http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation CalEPAPDF.pdf](http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultationCalEPAPDF.pdf), entitled "Tribal Consultation Under AB 52: Requirements and Best Practices".

The NAHC recommends lead agencies consult with all California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources.

A brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments is also attached.

Response A6: Please refer to Responses A1 and A4. The City attempted to initiate consultation with the identified local tribes; however, none responded. The City will continue to request Native American Tribal Consultation Lists and Sacred Lands File searches from the NAHC. The City acknowledges the information provided by the NAHC regarding AB 52 and SB 18 in the above comment. This comment does not raise any specific environmental issue under CEQA, therefore, no further response is required.

B. RESPONSE TO COMMENTS FROM THE CALIFORNIA STATE DEPARTMENT OF TRANSPORTATION (CALTRANS), July 17, 2017

Comment B1: Thank you for continuing to include the California Department of Transportation (Caltrans) in the environmental review process for the above-referenced project. In tandem with the Metropolitan Transportation Commission's (MTC) Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS), Caltrans new mission signals a modernization of our approach to evaluating and mitigating impacts to the State Transportation Network (STN). Caltrans Strategic Management Plan aims to reduce vehicle miles traveled (VMT) by tripling bicycle and doubling both pedestrian and transit travel by 2020. Our comments are based on the Draft Environmental Impact Report (DEIR). Please also refer to the previous comment letter, dated June 27, 2016, on this project and incorporated herein. Additional comments may be forthcoming.

Response B1: The comment states the mission of Caltrans. The previous comment letter referenced was received during the circulation period of the NOP. A response to that letter is not required. This comment does not raise any specific environmental issues under CEQA, therefore, no further response is required.

Comment B2: Project Understanding

The 64.5-acre project site is located in the northwest quadrant of the State Route (SR) 237/Interstate (I-) 880 interchange on the north side of SR 237 between Zanker Road and Coyote Creek. The project site is primarily fallow farmland with a single-family house and some accessory structures located near the southern portion of the site. The site is currently supported by well water and a septic tank system. The project includes two development options:

Option 1 proposes approximately 1.2 million square feet of light industrial development; and

Option 2 proposes an approximately 436,880 square foot data center (49.5 megawatts) with a PG&E substation to provide the electrical needs for the data center on approximately 26.5 acres of the site.

Response B2: For clarification, the DEIR indicates there are two single-family homes located in the southern portion of the site. The comment describes the proposed project and does not raise any specific environmental issue under CEQA, therefore, no further response is required.

Comment B3: Lead Agency

As the lead agency, the City of San Jose (City) is responsible for all project mitigation, including any needed improvements to the STN and for VMT reduction. The project's fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring should be fully discussed for all proposed mitigation measures.

Response B3: The City acknowledges it is the Lead Agency under CEQA and responsible for requiring applicants to implement all necessary mitigation measures. The required mitigation measures, which include the project's fair share contribution, financing, scheduling, implementation responsibilities, and Lead Agency monitoring, are described throughout Section 3.0 *Environmental Setting, Impacts, and Mitigation* of the DEIR. Mitigation measures are fully described including the payment of North San José Area Development Policy (NSJADP) fees as described on page 217 of the DEIR.

Comment B4: Travel Demand Analysis

The two options presented for this project each constitute a project of potentially statewide, regional, and areawide significance, per CEQA Guidelines Section 15206(b), which requires circulating the DEIR to the Metropolitan Planning Organization. Also, please submit a travel demand analysis that provides VMT resulting from the proposed project. With the enactment of Senate Bill (SB) 743, Caltrans is focusing on transportation infrastructure that supports smart growth and efficient development to ensure alignment with State policies through the use of efficient development patterns, innovative travel demand reduction strategies, multimodal improvements, and VMT as the primary transportation impact metric. For projects reviewed under the California Environmental Quality Act (CEQA), Caltrans uses VMT as the metric for evaluating transportation impacts and mitigation. Please ensure that the travel demand analysis includes:

1. A vicinity map, regional location map, and site plan clearly showing project access in relation to nearby State roadways. Ingress and egress for all project components should be clearly identified. Clearly identify the State right-of-way (ROW). Project driveways, local roads and intersections, car/bike parking, and transit facilities should be mapped.
2. A VMT analysis pursuant to the City's guidelines or, if the City has no guidelines, the Office of Planning and Research's Draft Guidelines. Project's that result in automobile VMT per capita greater than 15% below existing (i.e. baseline) city-wide or regional values for similar land use types may indicate a significant impact.

Response B4: As stated in this comment, SB 743 removes Level of Service (LOS) as the common metric of traffic analyses under CEQA and replaces it with the metric Vehicle Miles Travelled (VMT). The State Office of Planning and Research (OPR) has not yet submitted new CEQA Transportation Guidelines to the Natural Resources Agency to begin the formal rulemaking process.

The City currently calculates VMT to determine impacts related to traffic-generated air quality and greenhouse gas (GHG) emissions, consistent with the General Plan. However, the City is not currently required by SB 743 to prepare a Travel Demand Analysis consistent with this comment. OPR does not expect to have completed the formal rulemaking process that will amend the State's CEQA Guidelines until mid-2019. San José expects to be in full compliance with SB 743, potentially, prior to mid-2019. For this reason, the project's TIA did not include a VMT analysis, nor was it required.

Comment B5:

3. Please identify project-generated traffic and estimate the costs of public transportation improvements necessitated by the proposed project; viable funding sources such as development, transportation impact fees; and contributions to the Santa Clara Valley Transportation Authority's (VTA) latest Valley Transportation Plan (VTP).

Mitigation for increasing VMT, which should be identified and mitigated in a manner that does not further raise VMT, should support the use of transit and active transportation modes. Caltrans encourages a sufficient allocation of fair share contributions toward multi-modal and regional transit improvements to fully mitigate cumulative impacts to regional transportation. Potential mitigation measures that include the requirements of other agencies such as Caltrans are fully enforceable through permit conditions, agreements, or other legally-binding instruments under the control of the City.

Response B5: As stated on page 219 of the DEIR, the project site is not served by any transit. The nearest transit stops are located south of SR-237; approximately one-half mile at the McCarthy Boulevard/Ranch Drive intersection and 1.5 miles at the Zanker Road/Tasman Drive intersection, as shown on Figure 3.13-2 of the DEIR. There are no sidewalks or paths linking the project site with these transit stops. The nearest Light Rail Transit station is located approximately 1.5 miles south of the project site.

The proposed project would not alter existing transit facilities or conflict with the operation of existing or planned facilities. Furthermore, the light industrial development option (Option 1) would increase delay to transit vehicles by less than 15 seconds per vehicle. Option 2 (data center only) would increase transit delay by less than 10 seconds per vehicle. Therefore, the proposed project would have a less than significant impact on transit operations and improvements to transit are not required or included in the project.

Comment B6: Since the DEIR provided no mitigation measures for the significant impacts to the STN, the City should condition the project to make a major contribution to the State Highway Operation and Protection Program (SHOPP). Fair share fees can be deposited into an escrow account opened by the City, which then can be used when a future multi-modal project becomes available for the affected facilities mitigating the impacts that this project will create. To begin this fair share contribution process please facilitate a Transportation Mitigation Agreement (TMA) Form by contacting the Caltrans District 4 Local Development-Intergovernmental Review Branch.

Response B6: All mitigation measures for traffic impacts are described in Section 3.13 of the DEIR. The comment is correct that the DEIR and TIA for the project identify significant impacts to the mixed flow lanes of seven directional freeway segments and HOV lanes of three directional freeway segments.

As stated on page 221 of the DEIR, mitigation of significant project impacts on freeway segments would require freeway widening to construct additional through lanes, thereby increasing freeway capacity. It is not feasible for an individual project to bear the responsibility for implementing such extensive transportation system improvements due to constraints in acquisition and cost of right-of-way. Furthermore, no comprehensive project to increase freeway capacity on the adjacent or nearby freeways (SR-237 and I-880) has been developed by Caltrans, so there are no identified improvement projects in which to pay fair share fees. The SHOPP program is not considered to be a traffic fee program, as it is voluntary. The City supports a regional transportation program where local cities and jurisdictions will be able to pay equitably for transportation improvements.

Option 2 Phase 1 (the data center) did not identify any traffic impacts. However, with the second phase of Option 2 (approximately 728,000 square feet of light industrial uses) and full build-out of Option 1 (approximately 1.2 million square feet of light industrial development), traffic impacts are identified. Transportation Demand Measures (TDMs) are proposed that would reduce these impacts and the City will require the TDMs for the light industrial developments prior to the approval of the project-specific planning development permit. These impacts, however, will not be reduced to a less than significant level. Because an improvement program has not been developed for the impacted freeway segments, contributing towards unknown improvements would not constitute feasible mitigation under CEQA. For these reasons, full build-out of Option 1 and development of Phase 2 of Option 2 would result in significant unavoidable traffic impacts. Option 2 Phase 1 (the data center) would not result in this impact.

Comment B7:

4. Schematic illustrations of walking, biking and auto traffic conditions at the project site and study area roadways, trip distribution percentages and volumes as well as intersection geometrics (i.e., lane configurations for AM and PM peak periods). Operational concerns for all road users that may increase the potential for future collisions should be identified and fully mitigated in a manner that does not further raise VMT.

Caltrans is concerned with the ability to contain left-turning vehicles within the available storage. A spillover of vehicles has the potential to create significant speed differentials and increase the number of conflicts. Another concern is the potential for queuing vehicles to encroach up on the upstream intersection, again creating the potential for significant conflict. CEQA does not exempt these types of operational concerns from evaluation. Please ensure the Travel Demand Analysis provides such an analysis. Please provide an assessment of these concerns.

Response B7: The illustrative information requested is not required under the City's current Transportation Impact Policy (Council Policy 5-3). As stated on pages 192 and 218 of the DEIR, there are bicycle facilities located in the project area; however, pedestrian facilities in the project area are limited. The proposed project would include pedestrian improvements, including a sidewalk on the east side of Zanker Road.

The traffic study includes an evaluation of vehicle queuing at selected intersections including each of the Zanker Road intersections at SR 237. Based on the queuing analysis presented on page 74 of the TIA, it was recommended that the southbound left-turn pocket at the southerly Zanker Road intersection with SR 237 be extended 150 feet or an additional left-turn land be constructed. This improvement is only recommended for the construction of the light industrial uses (Option 1 or Phase 2 of Option 2). A TDM program is included in the light industrial projects that may improve queuing issues at these intersections.

The City of San José does not complete Travel Demand Analyses for the reasons described in Response B4.

Comment B8:

5. The project's primary and secondary effects on pedestrians, bicycles, disabled travelers and transit performance should be evaluated, including countermeasures and trade-offs resulting from mitigating VMT increases. Access to pedestrians, bicycle, and transit facilities must be maintained.

Response B8: Please refer to Response B7.

Comment B9: Vehicle Trip Reduction

Caltrans commends the City on its Transportation Demand Management (TDM) Plan, thereby reducing VMT. Transportation Demand Management programs should be documented with annual monitoring reports by an onsite TDM coordinator to demonstrate effectiveness. Caltrans recommends decreased headway times and improved way-finding on bus lines by working with the VTA to provide a better connection between the project, the Cisco Station and 1-880 Station, and regional destinations.

These smart growth approaches are consistent with the MTC's RTP/SCS goals and would meet Caltrans Strategic Management Plan sustainability goals. Reducing parking supply can encourage active forms of transportation, reduce regional VMT, and lessen future transportation impacts on SR 237, 1-880, and other nearby State facilities.

Response B9: As noted in this comment, the project (light industrial uses) includes a TDM plan to reduce traffic generation by 10%. The project will be required to submit an annual monitoring report that measures the effectiveness of the TDM plan. Additional TDM measures may be required if the TDM measures are not effective. Please refer to Responses B5 and B7.

Comment B10: Reduced Scale - Light Industrial Only Alternative (Environmentally Superior Alternative)

As the environmentally superior alternative under CEQA, Caltrans strongly urges the City adopt this alternative and follow the environmental guidelines outlined in the Live Oak Associates, Inc. Technical Biological Report (Appendix C), in an effort to avoid or reduce significant impacts resulting from the proposed project. Development under this alternative would be consistent with the City's General Plan; would not result in greater greenhouse gas (GHG) emissions impacts, conforming to the City's GHG Reduction Strategy; result in less soil disturbance; and generate *[sic]*. Although the City asserts this alternative does not meet the objectives of the project and does not wholly mitigate the project's impacts, partial mitigation is preferable to no mitigation whatsoever (i.e., a determination of "significant and unavoidable") and complete mitigation not required for this alternative to be considered a viable alternative.

Caltrans does not agree with the assertion that this alternative is not viable simply because the mitigation is perceived as unduly burdensome or too costly; does not fully mitigate all impacts by a project; or does not fully utilize the project site to the fullest extent possible, which is contrary to the intent behind developing an environmentally superior alternative. Caltrans requests instead that the City work with us to identify and implement feasible measures on a fair share basis to ensure all mitigation measures are funded and implemented. It is essential that feasible mitigation be included to ensure that impacts from the project on the transportation network are reduced or eliminated. This will be important to the success of this project and should be included in the EIR. We also recommend working with Caltrans to develop a mitigation monitoring and implementation plan that identifies an implementation schedule or impact thresholds to trigger development of mitigation projects.

For example, according to the DEIR to reduce traffic impacts to a less than significant level at the intersections of North First Street/Montague Expressway and Zanker Road/Montague Expressway and impacts to freeways, Option I of the project (1.2 million square feet of light industrial uses) would need to be reduced by 90 percent. To reduce freeway impacts only, the project would need to be reduced by 85 percent or approximately 180,000 square feet. The DEIR determines that because this alternative would need to be reduced by approximately 85 -90 percent to avoid both traffic and freeway impacts, it would be physically feasible, but economically infeasible to implement this alternative.

Also, the City claims that any construction on-site would result in soil disturbance, thereby resulting in potential hazardous materials impacts related to agricultural pesticides. Development that would affect trees to be retained would be required to conform to the City's Tree Ordinance and implement mitigation measures to avoid impacts to nesting raptors and migratory birds.

Impacts to burrowing owls and riparian habitat would also occur. These are the environmental resources meant to be protected under CEQA and by choosing an environmentally superior alternative. Instead, however, the City has determined that since the impacts cannot be fully mitigated, the impacts are significant and unavoidable, thereby rendering the Reduced Scale - Light Industrial Only Alternative as non-viable.

Response B10: The comment generally describes the conclusions of the DEIR pertaining to the environmentally superior alternative. As stated in the DEIR (page 244), CEQA requires that an EIR identify and evaluate alternatives to a proposed project. CEQA Guidelines Section 15126.6 (a) and (b) requires that alternatives considered must feasibly attain most of the basic objectives of the project while avoiding or substantially lessening any of the significant effects of the project.

As described on pages 252, 253, and 257 of the DEIR, the Reduced Scale-Light Industrial Only Alternative would result in between 120,000 and 180,000 square feet of light industrial development on the 64.5 acre site. This alternative was determined by reducing the proposed project by 90 percent to avoid the impacts at North First Street/Montague Expressway and Zanker Road/Montague Expressway and 85 percent to avoid impacts to freeway segments. It should be noted that the impacts to the intersections under the proposed project were less than significant with the payment of NSJADP fees, a program that is already in place. These project size reductions would result in construction of between 2.75 and 4.1 acres of the 64.5 acre project site. This smaller footprint would reduce physical impacts such as those related to hazardous materials, the loss of Prime Farmland and burrowing owl habitat, and air quality/GHG emissions. However, given the development potential of the site, the project's consistency with the General Plan designation of *Light Industrial*, the number of jobs that would not be generated, and the fact that extending utilities to the site would still be required, this alternative has been determined to be infeasible. In addition, it does not achieve the basic objectives of the project, including supporting job creation and meeting the growing demand for light industrial uses.

CEQA does not require that a Lead Agency approve the environmentally superior alternative. Rather, it requires that a reasonable range of potentially feasible alternatives are considered that will foster informed decision making and public participation (CEQA Guidelines

§15126.6(a)). The San José City Council will consider the information provided in the DEIR during the approval process of the project.

Comment B11: Preservation of Prime Agricultural Lands

Caltrans is concerned regarding the potential for conversion of prime or non-prime agricultural lands into non-agricultural use and are supportive of the County's focus on the need to protect valuable natural resources, including the wealth of prime agricultural lands. As stated in the DEIR, the Santa Clara County Important Farmlands 2012 Map designates the project site as Prime Farmland, defined as land with the combination of physical and chemical features able to sustain long-term agricultural production.

The DEIR states the Light Industrial Only Alternative would result in the conversion of up to 4.1 acres of Prime Farmland to non-agricultural use, when compared to 64.5 acres that would be converted with the proposed project. However, while significantly less land would be converted, the DEIR claims there would still be a loss of Prime Farmland, which would be a significant and unavoidable impact, claiming an alternative location would be unlikely to reduce the impact to a less than significant level and, therefore, infeasible. Other than the No Project Alternative, the environmentally superior alternative (see discussion above) will maximize the preservation of this Prime Farmland.

Response B11: The comment is correct that the environmentally superior alternative (Section 9.0 of the DEIR, page 256) would result in the loss of less Prime Farmland than the proposed project. Any loss of this resource is considered to be a significant unavoidable impact because to mitigate the impact, new farmland would have to be created by converting suitable sites from non-agricultural to agricultural uses.

Given the fact that most of San José is developed with urban uses, the creation of new farmland is not typically feasible or desirable. In addition, the City's General Plan promotes job creation on lands such as the project site that are designated for *Light Industrial* uses. As stated in this comment, the No Project Alternative would not result in the loss of Prime Farmland, as described on pages 247 and 248 of the DEIR.

Comment B12: Cultural Resources

The Historic Report, included as Appendix F of the DEIR, presents disjointed Primary and Building/Structure/Object (BSO) Records for the historic-era built resources. Caltrans recommends that the project site be treated as a whole with the complex developing throughout time. Additionally, Continuation Sheet 6 of the Edgar A. Jackson Ranch House BSO states that the "...house is an unusual design with well-preserved character associated with both Prairie and Craftsman residential architecture," but that it is not a distinctive example of the work of Wolfe & Higgins. If the house cannot be attributed to Wolfe & Higgins, it may or may not in itself be a historical resource individually eligible to the California Register of Historical Resources as an unusual example of Prairie and Craftsman residential architecture. Caltrans recommends that the Historic Report be revised to fully explore why the house is not a distinctive example even if it is considered unusual.

Response B12: The complex of buildings on the site were evaluated as described in Section 3.4.1.2 of the DEIR and the Historic Report and DPR Forms in Appendix F of the DEIR. The DPR forms are used to document the historical and architectural aspects of the project and associated buildings. As indicated by the DPR forms, the complexes of buildings on the site do not qualify for the California Register of Historical Resources.

As described on page 2 of the DPR forms included in Appendix F, the Edgar A. Jackson house was determined to be a non-distinctive example of a Wolfe & Higgins home because it was commissioned after Frank Wolfe's death. The design, as the report concluded, is therefore derivative of his earlier recognized work and lacks the distinctive qualities that are reflective of the hand of a master architect. The home is more associated with Frank's son, Carl, who provided continuity in the firm in the late 1920s until William Higgins became the sole proprietor. For these reasons, the home does not appear eligible for the California Register, but qualifies for listing on the City of San José's Historic Resources Inventory as a Structure of Merit.

Comment B13: There is no Native American consultation referenced in the DEIR. Pursuant to CEQA and Assembly Bill (AB) 52, Caltrans recommends that City conduct Native American consultation with tribes, groups, and individuals who are interested in the project area and may have knowledge of Tribal Cultural Resources or other sacred sites. Without such consultation, the City cannot determine if the project will cause a substantial adverse change in the significance of a Tribal Cultural Resource, as described in Section 3.4.2 Cultural Resources Impacts on page 116.

Response B13: Please refer to Response A1 and A4.

Comment B14: If an encroachment permit is needed for work within Caltrans right-of-way (ROW), Caltrans may require that cultural resource technical studies be prepared in compliance with CEQA, Public Resources Code (PRC) 5024, and the Caltrans Standard Environmental Reference (SER) Chapter 2 (<http://www.dot.ca.gov/ser/vol2/vol2.htm>). Should ground-disturbing activities take place within Caltrans right-of-way and there is an inadvertent archaeological or burial discovery, in compliance with CEQA, PRC 5024.5, and the SER, all construction within 60 feet of the find shall cease and the Caltrans District 4 Office of Cultural Resource Studies (OCRS) shall be immediately contacted at (510) 622-1673.

Response B14: The comment is noted. If an encroachment permit is necessary, the project applicant shall be responsible for obtaining one from Caltrans.

Comment B15: Traffic Control Plan

A Caltrans-approved Traffic Control Plan (TCP) is required to avoid project-related impacts to the STN, if it is anticipated that vehicular, bicycle, and pedestrian traffic will be impacted during the construction of the proposed project requiring traffic restrictions and detours. The TCP must also comply with the requirements of corresponding jurisdictions.

In addition, pedestrian access through the construction zone must be in accordance with the Americans with Disabilities Act (ADA) regulations (see Caltrans Temporary Pedestrian Facilities Handbook for maintaining pedestrian access and meeting ADA requirements during construction at: www.dot.ca.gov/hq/construct/safety/Temporary_Pedestrian_Facilities_Handbook.pdf) (see also

Caltrans Traffic Operations Policy Directive 11-01 "Accommodating Bicyclists in Temporary Traffic Control Zones" at: www.dot.ca.gov/trafficops/policy/11-01.pdf). All curb ramps and pedestrian facilities located within the limits of the project are required to be brought up to current ADA standards as part of this project.

Response B16: It is not anticipated that traffic on SR 237 will be affected during construction; however, the project applicant will be required to prepare a traffic control plan that describes any traffic restrictions, detours, and truck hauling routes. The comment is noted.

Comment B17: Please be advised of the following proposed Caltrans projects may have a conflicting construction schedule:

- 04-4H280 SCL Implement HOV/Express Lanes; and
- 04-0K250K Santa Clara 237 Westbound Auxiliary Lane Project.

For further TCP assistance, please contact the Caltrans District 4 Office of Traffic Management Operations at (510) 286-4579. Further transportation management information is available at the following website: www.dot.ca.gov/hq/traffops/trafmgmt/tmplcs/index.htm.

Response B17: The comment is noted. Please refer to Response B16. If the construction schedule of the project will conflict with the above mentioned projects, the project applicant will contact Caltrans as described in this comment.

Comment B18: Bridges, Trestles, Culverts and Other Structures in Riparian Environments

Some project level activities may affect riparian flow patterns upstream of bridges, trestles, culverts or other structures for which Caltrans holds responsibility. Please ensure your project level environmental documents include hydrological studies to determine whether such impacts will occur, and to identify appropriate mitigation measures.

Response B18: The only component of the project that may affect the riparian flow patterns of Coyote Creek is the potential installation of a stormwater outfall, as described in Section 2.2.2.1 of the DEIR. As described in Section 3.9.2.3 (page 167) of the DEIR, the new outfall, if required, would be sized appropriately to convey stormwater from the project site as well as City held lands east of Zanker Road. With implementation of all RWQCB and Santa Clara Valley Habitat Plan (SCVHP) requirements for construction of an outfall, it was determined that impacts would be less than significant.

Comment B19: Sea Level Rise

The effects of sea level rise may have impacts on transportation facilities located in the project area. Executive Order (EO) S-13-08 directs State agencies to plan for potential impacts by considering a range of sea level rise scenarios for the years 2050 and 2100. Higher water levels may increase erosion rates, change environmental characteristics that affect material durability, lead to increased groundwater levels and change sediment movement along shores and at estuaries and river mouths, as well as affect soil pore pressure at dikes and levees on which transportation facilities are

constructed. All these factors must be addressed through geotechnical and hydrological studies conducted in coordination with Caltrans.

Response B19: The proposed project is the construction of light industrial uses on a vacant property and would not result in sea level related impacts on transportation facilities located in the project area.

Comment B20: Transportation Permit

Project work that requires movement of oversized or excessive load vehicles on State roadways requires a transportation permit that is issued by Caltrans. To apply, a completed transportation permit application with the determined specific route(s) for the shipper to follow from origin to destination must be submitted to: Caltrans Transportation Permits Office, 1823 14th Street, Sacramento, CA 95811-7119. See the following website for more information: <http://www.dot.ca.gov/hq/traffops/permits>.

Response B20: The City acknowledges the comment that a transportation permit may be required for the project from Caltrans if the project affects State roadways. If the project requires the transport of oversized or excessive loads on SR 237 during construction, the City shall require the project applicant to apply for a transportation permit in accordance with Caltrans requirements.

Comment B21: Hazardous Materials

All motor carriers and drivers involved in transportation of hazardous materials, including contaminated soil, must comply with the requirements contained in federal and State regulations, and must apply for and obtain a hazardous materials transportation license from the California Highway Patrol. When transporting certain types of hazardous materials including inhalation hazards, safe routing and safe stopping places are required. A route map must be carried in the vehicle. More information is available at: www.dot.ca.gov/hq/traffops/trucks/ops-guide/hazard.htm.

Response B21: The City acknowledges the comment that a hazardous materials transportation license may be required for the project from the California Highway Patrol. If the project requires the transport of hazardous materials on SR 237 during construction, the City shall require the project applicant to apply for a hazardous materials transportation license in accordance with Caltrans requirements.

Comment B22: Encroachment Permit

Please be advised that any ingress-egress, work (e.g., construction, vegetation management, drainage improvement, etc.), staging, storage, or traffic control that is conducted within or adjacent to or encroaches upon the State ROW requires an encroachment permit that is issued by Caltrans. Where construction related traffic restrictions and detours affect the STN, a TMP or construction Transportation Impact Analysis (TIA) may be required. Traffic-related mitigation measures should be incorporated into the construction plans prior to the encroachment permit process.

To apply, a completed encroachment permit application, environmental documentation, and five (5) sets of plans clearly indicating State ROW as well as any applicable specifications, calculations, maps, etc. must be submitted to the following address: David Salladay, District Office Chief, Office

of Permits, California Department of Transportation, District 4, P.O. Box 23660, Oakland, CA 94623-0660. It is important to note that, in order to uphold the Caltrans statutory responsibility to protect the safety of the traveling public, if this information is not adequately provided, then a permit will not be issued for said encroachments. See the following website for more information: <http://www.dot.ca.gov/hq/traffops/developserv/permits>.

Response B20: The City acknowledges the comment that an encroachment permit may be required for the project from Caltrans if the project affects State rights-of-way. If the project requires an encroachment permit due to construction activities adjacent to SR 237, the City shall require the project applicant to apply for an encroachment permit in accordance with Caltrans requirements.

C. RESPONSE TO COMMENTS FROM THE SANTA CLARA VALLEY TRANSPORTATION AUTHORITY (VTA), July 17, 2017

Comment C1: Pedestrian and Bicycle Accommodations

VTA commends the project sponsor and the City for including an extension of the existing bicycle/pedestrian path on the north side of SR 237 along the southern end of the project site, as shown in DEIR Figure 2.0-5. The TIA Report includes a recommendation "that a sidewalk on the north side of Ranch Drive be constructed" (TIA page xii). VTA encourages the City and project sponsor to explore potential improvements to pedestrian and bicycle facilities on the existing portion of Milpitas-Alviso Road over the Coyote Creek to the Ranch Drive Extension. Such improvements would facilitate pedestrian and bicycle connections to the Coyote Creek Trail for commute and recreational trips, access to transit (VTA Line 47 along McCarthy Boulevard), and access to retail amenities via Ranch Drive.

Response C1: As stated on page 218 of the DEIR, the proposed project would not result in a significant impact to pedestrian safety. A sidewalk on the north side of Ranch Drive would be located in the City of Milpitas. The City will explore potential improvements to pedestrian and bicycle facilities in the project area during final project design.

Comment C2: The DEIR notes that the Project will construct three new local roadways to provide access to the site from Zanker Drive. The DEIR notes that "The proposed project would include pedestrian improvements, including a sidewalk on the east side of Zanker Road" (DEIR p. 218). However, the DEIR does not note whether sidewalks will be provided on the new roadways connecting to Zanker Drive. VTA requests that the City require sidewalks with a landscaped buffer strip between pedestrians and automobiles on the east side of Zanker Road and on both sides of the new access roadways as a Condition of Approval of the project. Resources on pedestrian quality of service, such as the Highway Capacity Manual 2010 Pedestrian Level of Service methodology, indicate that such accommodations improve pedestrian perceptions of comfort and safety on a roadway.

Response C2: The new roadways that would provide access from Zanker Road to the project site are shown on Figure 2.0-5. The figure also shows proposed cross-sections of the 68 and 78 foot wide streets. These cross-sections, which are consistent with San José design guidelines for new streets, show six foot wide sidewalks with an eight foot wide parkstrip. The park strip would be used for biofiltration purposes and contain landscaping consistent

with that purpose. The widening of Zanker Road, also as shown on Figure 2.0-5, would include a similar design according to City of San José requirements.

Comment C3: The DEIR notes that the Project will include secure bicycle parking spaces consistent with City standards (DEIR p. 75). VTA also recommends that the City require these spaces as a Condition of Approval for the Project. Bicycle parking facilities can include bicycle lockers or secure indoor parking for all-day storage and bicycle racks for short-term parking. VTA's Bicycle Technical Guidelines provide guidance for estimating supply, siting and design for bicycle parking facilities. This document may be downloaded from www.vta.org/bikeprogram.

Response C3: The provision of bicycle parking spaces will be a condition of approval for the project, consistent with San José's Municipal Code (Title 20, Chapter 20.90.060). The final design of the bicycle parking facilities will be determined during the approval process for the project and could contain lockers and/or secure indoor bicycle parking.

Comment C4: Freeway Impacts

The DEIR discloses that the project will have Significant Impacts on a number of directional freeway segments on both SR 237 and I-880. The DEIR states that "There are no feasible mitigation measures available to reduce project impacts on local freeway study segments to a less than significant level as it is beyond the capacity of any one project to acquire right-of-way and add lanes to a state freeway. Furthermore, no comprehensive project to increase freeway capacity on either SR 237 or I-880 has been developed by Caltrans or VTA, so there is no identified improvement projects in which to pay fair share fees" (DEIR p. 221).

VTA notes that the implementation of certain projects in the latest Valley Transportation Plan (VTP), such as SR 237 Express Lanes Phase II and SR 237 Auxiliary Lanes between Zanker Road and McCarthy Boulevard, would provide operational and efficiency improvements to SR 237 that would help mitigate the identified impacts. VTA notes that certain cities in Santa Clara County have identified contributions to Express Lanes and other regional improvements as mitigation measures for significant freeway impacts. VTA also notes that voluntary contributions to regional transportation improvements can be included as mitigation measures in CEQA documents even in the absence of a comprehensive funding strategy as described. VTA recommends that the City work with the project sponsor to provide Voluntary Contributions based on the latest Valley Transportation Plan (VTP) projects in the project area, such as SR 237 Express Lanes Phase II and SR 237 Auxiliary Lanes between Zanker Road and McCarthy Boulevard.

Response C4: Please refer to Response B6. A voluntary contribution to regional transportation improvements is not a feasible mitigation measure under CEQA. CEQA requires that mitigation measures be fully enforceable through permit conditions, agreements, or other legally binding instruments (Section 15126.4(2)). A voluntary contribution would not be legally binding and therefore, cannot be considered mitigation under CEQA. The City supports a regional transportation program where local cities and jurisdictions will be able to pay equitably for transportation improvements.

Comment C5: CMP Intersection Impact and Transit Vehicle Delay

The DEIR and TIA report note that the addition of project-generated traffic in Background Plus Project Conditions for Development Option 1 would result in a Significant Impact at two CMP intersections: North First Street and Montague Expressway, and Zanker Road and Montague Expressway. The TIA and DEIR note that rather than implementing improvements to mitigate its impacts, the proposed project will be required to participate in and pay the applicable North San Jose Area Development Policy (NSJADP) impact fees (TIA pp. 58-59). VTA supports this mitigation measure and recommends that the City require the Project to pay the full NSJADP fee, without any reductions that have been offered as incentives to attract development.

Response C5: The amount of the mandatory NJSADP fees to be paid will be determined during the approval phase of the project. The payment of the fee, which is mitigation under CEQA, will be a condition of approval.

Comment C6: The TIA and DEIR include an analysis of transit vehicle delay due to project-generated congestion, as required by the VTA TIA Guidelines (Section 9.2). However, VTA notes that this analysis only addresses bus routes through the study intersections and does not include VTA light rail services. Since the TIA and DEIR disclose that the project will have a Significant Impact on the intersection of North First Street and Montague Expressway, which is a critical intersection for maintaining travel times and schedule reliability on the light rail system, it is important for the Lead Agency to analyze the effect of this congestion on light rail delay through this intersection, as well as any other study intersections through which light rail vehicles travel.

VTA requests that the City provide such an analysis in a revised TIA or in the Final EIR Responses to Comments. VTA recommends that the City work with VTA to identify appropriate measures to offset increased delay on transit vehicles (consistent with VTA TIA Guidelines Section 10.2). These measures may include improvements to transit signal priority or other measures to speed up light rail service, or improvements to transit stops and passenger amenities (such as those identified in VTA's Light Rail Enhancements project or Tasman Corridor Complete Streets Study). Such measures could be funded with a portion of the NSJADP fees generated by the Project.

Response C6: Light rail vehicles are provided transit priority at each of the study intersections along North First Street, with the exception of the Montague Expressway intersection. At those intersections at which transit priority is provided, light rail trains are provided priority during the signal phasing. At most intersections, advance detectors provide a “green phase” for approaching light rail trains prior to reaching intersections. Thus, the light rail trains incur little to no additional delay due to increases in traffic volumes. Given that the LRT line does not have transit signal priority at the North First Street/Montague Expressway intersection. The estimate of delay on the LRT line used the same methodology as that to evaluate the effects on delay for buses that was included in the traffic study. The analysis shows that the traffic associated with the proposed project would result in an increase in delay to the LRT trains of 5 seconds or less during the peak hours. Thus, the LRT will experience delays similar to that of autos and buses.

Bus Service Operator	Route #	Study Area Street(s)	Direction	Projected Increase in Transit Delay (sec/veh)			
				Industrial Only		Industrial and Data Center	
				AM	PM	AM	PM
VTA	47	Calaveras Boulevard	NB	13.6	1.3	8.1	0.9
			SB	1.2	5.0	0.8	3.1
VTA	58	First Street, Tasman Drive, Zanker Road	NB	1.8	11.1	1.3	7.3
			SB	-0.1	17.5	-0.1	10.7
VTA	104	Calaveras Boulevard, Montague Expressway	EB	-- ¹	1.3	-- ¹	0.7
			WB	14.6	-- ¹	8.9	-- ¹
VTA	140	Tasman Drive	NB	-- ¹	8.2	-- ¹	5.1
			SB	4.5	-- ¹	3.0	-- ¹
VTA	321	Montague Expressway	EB	-- ¹	2.4	-- ¹	2.3
			WB	6.4	-- ¹	4.5	-- ¹
VTA	330	Tasman Drive	NB	1.9	-- ¹	1.5	-- ¹
			SB	-- ¹	-0.7	-- ¹	-0.5
AC	217	Calaveras Boulevard	NB	0.1	3.5	0.1	2.2
			SB	5.3	0.7	3.2	0.5
LRT	901	North First Street	NB	5.0	0.8	3.0	0.5
			SB	0.0	2.6	0.0	1.6

Notes:
 Projected increase in transit delay based on a comparison of background vs. background plus project conditions intersection movement delays calculated by TRIP
 VTA = Valley Transportation Authority, AC = Alameda-Contra Costa Transit, LRT = VTA Light Rail
¹Bus does not operate in this direction during during this peak hour.

Both the NSJADP and the associated North San José Deficiency Plan included improvements and costs associated with transit improvements, particularly LRT vehicle and station improvements. Therefore, the payment of the NSJADP traffic fees should cover any costs associated with identified transit improvements.

Comment C7: Transportation Demand Management/Trip Reduction

The Air Quality section of the DEIR includes a Mitigation Measure (MM AQ-1.4) that states that "Prior to approval of any project specific light industrial development on the project site (e.g., plan development permit or equivalent), excluding the data center use, the Project applicant shall submit a Transportation Demand Management (TDM) Plan to the satisfaction of the Transportation Manager of the Department of Public Works and the PBCE Supervising Environmental Planner. The TDM Plan shall contain the following components or equivalent measures to result in a 10% reduction in weekday mobile emissions" (DEIR p. iv).

VTA commends the City for including this Mitigation Measure and notes that it will help address the Significant Impacts to freeway segments, as well as the increase transit vehicle delay disclosed in the DEIR and TIA. While VTA is pleased to see that MM AQ-1.4 contains a numeric reduction target, VTA notes that such programs can be more effective when they include third-party monitoring of trip generation upon Project completion and a Lead Agency enforcement/penalty structure.

Response C7: Please refer to Response B4 and B9. The project will be required to submit an annual monitoring report to measure the effectiveness of the TDM plan. Additional TDM measures may be required if the TDM measures are not effective.

Comment C8: The TIA report includes a recommendation "that the project pursue implementation of employee shuttles to provide a link between the project site and transit services (LRT station and bus stops) near the Zanker Road and Tasman Drive intersection" (TIA page xi). VTA supports this measure and recommends that the City include it as an enforceable Condition of Approval of the project.

Response C8: The use of an employee shuttle program will be considered during the final approval process for the project. The construction of light industrial uses under both Option 1 and 2 would generate enough employees such that the provision of a shuttle reduces vehicle trips. The construction of the data center alone would not require employee shuttles as the number of employees (approximately 40) anticipated is not enough to warrant them.

Comment C9: Coordination with SR 237 Express Lanes Phase 2 Project

- The 237 Industrial Center Project has three (3) proposed utility crossings (potable water and fiber optic installation) adjacent to the Zanker Road Interchange at SR 237. Please coordinate with the SR 237 Express Lanes Phase 2 project team to resolve potential conflicts with the proposed fiber optic installation. Please contact Lam Trinh at 408.952.4217 or Brian Pantaleon at 408.952.4283.

- Please note that the 100% design plans, including construction phasing and detour plans, have been prepared for the SR 237 Express Lanes Phase 2 Project. The proposed improvements and traffic control plans for the Industrial Center Project should take into account the proposed detouring for the SR 237 Express Lanes Phase 2 Project. Please coordinate with VTA's project team concerning construction phasing and detour plans.

Response C9: The City will work with the applicant during final design to ensure coordination with VTA and other appropriate agencies in regards to the proposed utility crossings required for the project as well as the SR 237 Express Lanes Phase 2 Project.

D. RESPONSE TO COMMENTS FROM THE SANTA CLARA COUNTY, ROADS AND AIRPORTS DEPARTMENT, July 17, 2017

Comment D1: As noted in the Notice of Preparation (NOP) comment letter dated June 15, 2016, transportation impact analysis (TIA) should be conducted using the Congestion Management Program (CMP) guidelines, and most recent counts and County signal timing for County study intersections. The existing conditions analysis presented in the DEIR and TIA for the intersection of Montague Expressway and North First Street does not reflect County signal timing settings. Please contact Ananth Prasad at (408) 494-1342 or Ananth.Prasad@rda.sccgov.org for the correct signal timing information. Analysis should be revised to reflect the correct information and submitted to County for review.

Response D1: The traffic calculations presented in the traffic study utilize traffic signal timing information provided by County staff in June 2016 when the NOP was released for public circulation. The traffic analysis at all intersections along the expressways use TRAFFIX defaults and timing provided by the County for the AM peak hour and CMP for the PM peak hour. Signal timing may have been changed at intersections subsequent to the request of data from County staff and completion of the traffic study.

Consistent with CEQA, the date an NOP is circulated is considered the baseline for the determination of existing conditions. Therefore, the signal timing information provided to the City and their traffic consultant in June 2016 was correctly utilized for the traffic analysis and DEIR.

Comment D2: The NOP comment letter also indicated that traffic analysis should include all intersections along Montague Expressway between US 101 and I-680. However, intersection along Montague Expressway at Mission Boulevard, McCarthy Avenue, and Capitol Expressway were not included. These locations would meet the CMP threshold criteria and therefore, should be included in the analysis.

Response D2: Project trips would equate to less than 10 trips per lane for all movements at the Montague Expressway/McCarthy Boulevard and Montague Expressway/Capitol Expressway intersections based on the trip distribution and assignment of project traffic used in the traffic study. Therefore, these intersections do not meet the CMP threshold criteria for study. Note that the trip distribution presented in the study is a macro distribution. The assignment of trips accounts for the distribution of trips to other major and minor roadways that provide connections to Montague Expressway.

The project would result in the addition of more than 10 trips per lane at the Montague Expressway/Mission Boulevard intersection in Santa Clara. A level of service analysis was completed for this intersection that indicates that the addition of project traffic at the intersection would result in a significant impact under the light industrial only development scenario (Option 1). There would be no impact under the data center and light industrial development option (Option 2). Other significant impacts at intersections were identified in the DEIR, including those at North First Street and Montague Expressway and Zanker Road and Montague Expressway. These intersections are part of the identified Montague Expressway improvements that are being funded by the NSJADP traffic impact fees. The proposed project would be required as a condition of approval to pay these traffic impact fees for the proposed light industrial development.

At-grade improvements at the Montague Expressway/Mission College Boulevard intersection are identified as part of the Tier 1-A improvements in Santa Clara County's Expressway Planning Study 2008 Update to be funded over the next 25 years. Recently, the EIR and traffic analysis for the Great America Parkway Campus project in Santa Clara identified impacts at the intersection and the City of Santa Clara determined that the payment of a fair share contribution to the County was adequate mitigation under CEQA.

This intersection was also identified to be impacted as part of the traffic analysis for the City of San José's NSJADP project. The impact that would occur under Option 1 of the proposed project is the same impact previously identified and occurs with almost any project that generates trips through the intersection. Mitigation of the Option 1 project impacts at the Montague Expressway/Mission College Boulevard intersection would also consist of a fair-share contribution to implement the County's Tier 1-A at-grade improvements. Therefore, this impact is not a new previously unidentified impact. Further, the impact will be mitigated to a less than significant level with payment of a fair share contribution towards the County's identified improvement. The text of the DEIR will be modified as shown in Section 4.0 of this First Amendment to the DEIR. The TIA will be modified as shown in Appendix A of this First Amendment to the DEIR.

Comment D3: Appendix K - Traffic Impact Analysis, Figure 11-Project Trip Distribution shows 8% project trips assigned to San Tomas Expressway, which results in more than 10 trips per lane on the expressway. Therefore, intersections along San Tomas Expressway at Scott, Monroe and El Camino Real should be included in the analysis.

Response D3: The referenced distribution of 8% represents estimated project trips along San Tomas Expressway just south of US 101. The 8% of project trips will decrease when traveling southbound or increase when traveling northbound along San Tomas Expressway between El Camino and US 101. It is not realistic to presume that the referenced 8% of project trips will continue to travel along San Tomas Expressway indefinitely. Rather, it would be expected that the 8% of project trips would utilize one of five east-west roadways that provide access to San Tomas Expressway along the 2-mile stretch between El Camino Real and US 101. The project trip assignment estimates that approximately 1-2% of project trips would utilize these east-west roadways to access San Tomas Expressway. The distribution of trips to the east-west roadways would equate to less than 10 trips per lane for all movements at the San Tomas Expressway/Monroe Street & San Tomas Expressway/El Camino Real intersections.

Comment D4: Appendix K - Traffic Impact Analysis, Figure 11- Project Trip Distribution shows 15% of traffic using SR 237 west of the project site. As indicated in the analysis, SR-237 is highly congested and project trip are more likely to exist [sic] of Lawrence Expressway and use Tasman Drive to access the project site. Therefore, TIA should include intersections along Lawrence Expressway at Tasman Drive, and CA-237 on/off ramps in the analysis.

Response D4: The assignment of project traffic is primarily based on the shortest travel distance. The assignment of project traffic is primarily based on the shortest travel route distance. SR 237 provides the shortest travel route to the site from SR 237 west of Lawrence Expressway. Based on the assignment of project trips and use of SR 237, project traffic at intersections along Lawrence Expressway and Tasman Drive will equate to much less than 10 peak hour trips. The travel route as suggested by the comment, is approximately 1.5 miles longer than the SR 237 route and will require travel through 19 signalized intersections. In addition, Tasman Drive also is a congested roadway that provides only two lanes of travel in each direction. Therefore, assigning project traffic as suggested could be seen as a means of avoiding impacts on known freeways/roadways that are congested.

Comment D5: Please revise analysis to include all the locations listed in comments 2, 3, 4 above and submit to County staff for review. Should the revised analysis result in a significant impact, appropriate mitigation measures should be identified to address the impact. The preliminary Comprehensive County Expressway Planning Study – Expressway Plan 2040 project list should be consulted for a list of mitigation measures for significant impacts to the expressways. Should the preliminary Expressway Plan 2040 project list not include an improvement that would mitigate a significant impact, the TIA should identify mitigation measures that would address the significant impact, the TIA should identify mitigation measures that would address the significant impact. Mitigation measures listed in the TIA should be incorporated into the EIR document.

Response D5: Please refer to responses D2, D3, and D4. The payment of a fair share contribution at the intersection of Montague Expressway/Mission Boulevard, as required for other project traffic impacts (Section 3.13.2.6 of the DEIR), would reduce impacts to a less than significant level. This impact was previously identified in the Great America Office Campus Expansion project in the City of Santa Clara (State Clearinghouse Number 2012092041).

The County's 2040 Expressway Planning Study is currently pending approval; however, the draft project list for the study identifies a "partial grade separation" for the Montague Expressway/Mission Boulevard intersection. The Light Industrial (Option 1) project would pay a fair share contribution towards the previously identified improvements at this intersection as a condition of approval. Impacts would, therefore, be less than significant with mitigation incorporated. The text of the DEIR will be modified as shown in Section 4.0 of this First Amendment to the DEIR. The TIA will be modified as shown in Appendix A.

E. RESPONSE TO COMMENTS FROM THE BAY AREA AIR QUALITY MANAGEMENT DISTRICT (BAAQMD), July 17, 2017

Comment E1: Bay Area Air Quality Management District (Air District) staff has reviewed the Draft Environmental Impact Report (DEIR) for the 237 Industrial Center Project (Project). The Project includes two development options. Option 1 proposes approximately 1.2 million square feet (sf) of light industrial development. Option 2 proposes a 436,880 sf data center (49.5 megawatts) with a PG&E substation to provide electrical needs to the data center, along with 728,000 sf of light industrial land uses. As noted in the DEIR, Option 2 of the Project will require an Authority to Construct and a Permit to Operate from the Air District.

Response E1: The comment states the basic project description and the need for permits from BAAQMD. This comment does not raise any specific environmental issue under CEQA, therefore, no further response is required.

Comment E2: Greenhouse Gas (GHG) Emissions Analysis

The DEIR utilized a power usage effectiveness (PUE) metric to assess the energy efficiency of the data center (Option 2), which will be constructed prior to 2020. Air District staff supports the use of the PUE metric to analyze the efficiency of data centers, and encourages lead agencies to achieve data center PUE levels of 1.2 and below. According to pg. 129 of the DEIR, the PUE of the Project's data center is anticipated to be 1.2 (which is considered "state-of-the-art"). The DEIR concludes that the GHG impacts for 2020 would be less than significant because the Project (Options 1 and 2) is consistent with the City's General Plan and Greenhouse Gas Reduction Strategy, and because the data center in Option 2 (which would be operational by 2020) also achieves a PUE of 1.2.

Response E2: The comment states the contents of the DEIR related to the PUE of the proposed project. This comment does not raise any specific environmental issue under CEQA, therefore, no further response is required.

Comment E3: Under the data center/light industrial development option (Option 2), the data center and substation would be completed by 2020 but construction of the light industrial component would extend beyond 2020. According to the DEIR (pg. 148), "the necessary information to estimate an interim GHG target is being developed by the Air Resources Board (ARB), and the necessary information to address new state interim targets at a local level is not currently available and development of an additional target in the City's GHG Reduction Strategy will be required at a later date once the ARB 2030 Scoping Plan is complete". The Project would implement feasible energy efficiency measures post-2020 during the construction of the light industrial portion of the Project; however, the DEIR concludes that the GHG impact beyond 2020 would be significant and unavoidable.

Response E3: The comment does not exactly replicate the text on page 148 of the DEIR; however, it is an accurate representation of the intent of the discussion. The text of the DEIR states, "Therefore, the information to address this new state interim target at a local level is not currently available and development of an additional target in the City's GHG Reduction Strategy will be required at a later date once the *2030 Target Scoping Plan* is complete."

The comment is correct that the DEIR concluded that implementation of the project would result in a less than significant GHG emission impact for development through 2020. However, beyond 2020, implementation of the project could contribute to the previously identified significant GHG emission impacts resulting from implementation of the City's General Plan. For this reason, impacts would be significant and unavoidable as disclosed in the Envision San José Supplemental Final Program Supplemental EIR (December 2016). This comment does not raise any specific environmental issue under CEQA, therefore, no further response is required.

Comment E4: Although the ARB 2030 Scoping Plan is not yet final, the Air District (in its recently adopted 2017 Clean Air Plan) and the State of California (Executive Order S-3-05) have established a long-term GHG reduction goal of 80% below 1990 levels by 2050. Additionally, SB 32 codified a statewide 2030 GHG emissions reduction target of 40% below 1990 levels. Buildings and structures have long operational lifespans, and many structures built now will be operational in the year 2050.

Accordingly, Air District staff recommends that the City require that all new land use projects include all of the most efficient GHG reduction strategies available at the time of project approval and construction to support the State's ability to meet future GHG reduction targets. All feasible GHG reduction strategies are needed to ensure that new development projects minimize GHG emissions to the greatest extent possible to make progress toward the State's and Air District's climate stabilization goals. Examples include but are not limited to:

- Integration of onsite renewable energy, such as solar;
- Inclusion of charging infrastructure for electric vehicles;
- Achievement of LEED Gold or Platinum, rather than Silver (as referenced in the DEIR);
- A more stringent TDM Plan to achieve the greatest feasible VMT reductions, because transportation emissions represent the largest source of GHGs in the Bay Area.

Response E4: The comment describes the goals of the 2017 Clean Air Plan, SB 32, and Executive Order S-3-05 pertaining to the establishment of long-term GHG reduction goals. The City of San José's Municipal Code, Private Sector Green Building Policy, and General Plan include strategies, policies, and action items that are incorporated in the City's GHG Reduction Strategy, as described in Section 3.7.1.1 of the DEIR (pages 142 – 145). The General Plan also includes an implementation program for monitoring, reporting progress on, and updating the GHG Reduction Strategy over time as new technologies or practical measures are identified.

As described in Section 3.7.2.3, Option 1 for the project (the entire site developed with light industrial uses) would be constructed consistent with the City's required green building measures (Criteria 1, 2, 3, 4, and 6). Criteria 5 and 7 are not applicable because Option 1 does not include an energy-intensive industry, drive-through, or vehicle-serving uses. Option 1 would be constructed by 2020 and is consistent with applicable mandatory GHG Reduction Strategy goals and policies.

The data center/light industrial option (Option 2) would be constructed in two phases. The first phase is the construction of the data center which would occur prior to 2020. The data center would have a PUE of 1.2 and is consistent with all of the City's mandatory criteria included in the GHG Reduction Strategy. The construction of the data center would result in less than significant GHG emissions. As stated, the project is expected to achieve at least the Silver LEED standard. Other feasible measures can be considered during the final design process. This comment does not raise any specific environmental issue under CEQA, therefore, no further response is required.

Comment E5: Health Risk Assessment

As previously mentioned, Air District staff notes that the Project will be required to obtain an Authority to Construct and a Permit to Operate from the Air District. As part of the permit requirements, the Project will be required to demonstrate (via an approved health risk assessment and CEQA analysis) that the Project air emissions will not exceed 10 in a million in cancer risks to nearby sensitive receptors. Please contact Barry Young at byoung@baagmd.gov or (415) 749-4721 for guidance and recommendations on conducting the health risk assessment.

Response E5: The construction of the data center will require permits from the BAAQMD. As shown in Table 3.2-6 of the DEIR, the health risk to the nearest sensitive receptors would be well below the 10 in a million cancer risk threshold at the nearest sensitive receptors. Impacts would be less than significant. This comment does not raise any specific environmental issue under CEQA, therefore, no further response is required.

F. RESPONSE TO COMMENTS FROM COUNTY OF SANTA CLARA, PARKS AND RECREATION DEPARTMENT, July 17, 2017

Comment F1: In June 2016, the County of Santa Clara Parks and Recreation Department (County Parks) submitted a comment memorandum on the Notice of Preparation of a Draft Environmental Impact Report for the 237 Industrial Center Project located on APN 015-31-054. The project includes two development options: Option 1 proposes approximately 1,197,700 square feet of light industrial development and Option 2 proposes a 436,880 square foot data center (49.5 megawatts) with a PG&E substation to provide electrical needs for the data center on approximately 26.5 acres of the site and approximately 728,000 square feet of light industrial development. The project includes developing a trail that would connect to the Coyote Creek/Llagas Sub-Regional Trail (S1) and traverse through the property connecting to the San Francisco Bay Trail (Route R1-B).

Response F1: The comment describes the project description. Full development of either project option includes the extension of a Class I improved trail from Ranch Drive along the southern boundary of the site to the end of the existing bike trail as shown on Figure 2.0-5. This trail extension would provide access to the existing Regional Coyote Creek Trail/Bay Trail on the east side of the creek (page 186 of the DEIR). This comment does not raise any specific environmental issue under CEQA, therefore, no further response is required.

Comment F2: The County Parks Department is charged with the planning and implementation of The Santa Clara County Countywide Trails Master Plan Update (Countywide Trails Plan), an element of the Parks and Recreation Section of the County General Plan adopted by the Board of Supervisors on November 14, 1995. Although responsibility for the actual construction and long-

term management of each individual trail varies, the County Parks Department provides general oversight and protection for the overall trail system. The Countywide Trails Plan indicates the following regional trail routes are located immediately adjacent to the project site:

- Coyote Creek/Llagas Sub-Regional Trail (S1) – In order to access the southern portion of project site, the proponent must cross this trail. The partially existing trail follows Coyote Creek and Llagas Creek from the San Francisco Bay to Gilroy. A portion of this route within the project site vicinity is designed as the Highway 237 Bikeway and is part of the San Francisco Bay Trail.
- San Francisco Bay Trail (Route R1-B) – This partially existing trail provides a regional connection along the San Francisco Bay shoreline and runs along the eastern portion of the project site boundary. As described above, an existing constructed portion follows the Coyote Creek Sub-regional Trail alignment and then connects to the Highway 237 Bike Path; this route is designated for hiking and cycling. Additional proposed segments of the Bay Trail are located to the north and west of the proposed Project site.

Response F2: As stated on page 186 of the DEIR, the Class I Coyote Creek Trail is located on the east side of the creek, east of the project site in the City of Milpitas. The trail is identified as a Regional Trail on the Santa Clara County Trails Master Plan. The Coyote Creek/Llagas Sub-Regional Trail is S5 in the Master Plan and follows the alignment of the existing Coyote Creek Trail as previously described.

As shown on Figure 2.0-5 of the DEIR, full build-out of either project option would include the extension of the trail along Alviso-Milpitas Road to the existing Coyote Creek Trail on the east side of the creek. This extension would ultimately be part of the Bay Trail. This comment does not raise any specific environmental issue under CEQA, therefore, no further response is required.

Comment F3: In our June 2016 memorandum, the Department recommended a variety of items be addressed in the DEIR, including items related to aesthetics and visual resources, hydrology and water quality, biological resources, transportation and circulation, noise, and public service impacts to the Coyote Creek/Llagas Creek Sub-Regional Trail and San Francisco Bay Trail. In addition to the comments previously provided, the Department also recommends:

- Notify trail users of construction and any re-routes through sign notices. While building new trail segments, the existing trails should remain open for recreational use.
- The DEIR identifies that traffic on Ranch Drive related to the proposed project would be limited to emergency vehicle access only. Alternative mode commuters as well as recreational users actively use the Highway 237 Bike Path, San Francisco Bay Trail and Coyote Creek/Llagas Creek Sub-Regional Trails. The existing trail should remain open for recreational use.
- The additional trails constructed as part of the project be in accordance with current and existing design guidelines and recommendations for multi-use (hiking and bicycling) trail construction.

- Maps in the EIR should identify the trails that are locating within the project vicinity. The Highway 237 Bike Path and the Bay Trail connects to the Coyote Creek/Llagas Sub-Regional Trail and is located immediately to the South of APN 015-31-054.

Response F3: Construction of the proposed project would not affect the recreational operations on the Coyote Creek Trail, as it is located on the east side of the creek. Construction of the light industrial uses in the southern portion of the site may temporarily affect trail access along this boundary. The City will work with the County to notify trail users through sign notices should there be a potential for them to be affected. The proposed trail connections would be constructed according to the requirements of Caltrans for Class 1 trails. Figure 2.0-5 identifies the location of the proposed trail extension. Figures 2.0-2, 2.0-3, and 2.0-6 all identify the Coyote Creek Trail as shown on the Santa Clara County Countywide Trails Master Plan. The precise designation of all trails within the project vicinity is not required by CEQA and what was included in the DEIR is sufficient to determine potential impacts to recreational facilities. As described on page 187 of the DEIR, impacts to recreational facilities, which in fact will be enhanced by full build-out of the project, is less than significant.

Comment F4: The Department would like clarification of the following:

- Table 3.2-4: Bay Area 2017 Clean Air Plan Applicable Control Measures, under Bicycle and Pedestrian Access and Facilities states: “due to the location of the project site and the nature of the project, improved pedestrian access is not proposed as part of the project.” However, according to the DEIR: “the proposed project includes a Class I trail connection on the south side of the site, along Alviso – Milpitas Road to provide a trail connection to the Coyote Creek Trail on the east side of the creek.” The trail is also depicted in Figure 2.0-6. Please provide additional information regarding these conflicting points.

Response F4: Table 3.2-4 pertains to components of the project that have the ability to reduce vehicle trips thereby demonstrating consistency with the Bay Area 2017 Clean Air Plan. The comment is correct that the extension of a Class I trail will allow more pedestrian travel in the project area than currently exists. The new roads would have sidewalks and a new sidewalk is included on the east side of Zanker Road. For these reasons, the text of the DEIR will be revised. Please refer to Section 4.0, *Revisions to the Text of the DEIR*.

Comment F5: The County Parks Planning team is available as a resource regarding the Trail Element of the Parks and Recreation Chapter of the 1995 County of Santa Clara General Plan. We appreciate the opportunity to comment on the Notice of Availability of a Draft Environmental Impact Report (DEIR) for the 237 Industrial Center Project (CP15-054, SP16-053). If you have questions related to these comments, please call me at (408) 355-2228 or e-mail me at Cherise.Orange@prk.sccgov.org.

Response F5: This comment does not raise any specific environmental issue under CEQA, therefore, no further response is required.

G. RESPONSE TO COMMENTS FROM THE SANTA CLARA VALLEY WATER DISTRICT (SCVWD), July 17, 2017

Comment G1: The Santa Clara Valley Water District (District) is a special district with jurisdiction throughout Santa Clara County. The District acts as the county's groundwater management agency, principal water resources manager, flood protection agency and is the steward for its watershed, streams and creeks, and underground aquifers. We appreciate the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the 237 Industrial Center. It's our understanding the project site is approximately 64.5 acres and includes a proposal to develop either 1.2 million square feet of light industrial or a 436,800 square foot data center with a Pacific Gas & Electric substation servicing the data center and 728,000 square feet of light industrial development.

Response G1: The comment generally describes the project description. This comment does not raise any specific environmental issue under CEQA, therefore, no further response is required.

Comment G2: We have the following comments:

Abutting the 237 Industrial Center site to the east is Coyote Creek located within the District's fee title property. In 1984, the United States Army Corps of Engineers (Corps), with the District as the local sponsor, constructed levees along the creek to reduce the potential for flooding due to the 100-year flood. The levees are a critical flood protection structure and any work within the District's property along this reach of Coyote Creek will require both District and Corps approval. If it is determined that a permit is considered necessary for this project, a District permit application can be found on the District's website, www.valleywater.org, under the Business and Permits section.

Response G2: The only component of the project that could require a permit from the SCVWD is the potential stormwater outfall to Coyote Creek. The outfall, if constructed, would also require permits from the California Department of Fish and Wildlife (CDFW), Regional Water Quality Control Board (RWQCB), and the US Army Corps of Engineers (USACE), as stated in Section 3.3.2.6 of the DEIR (page 100). The appropriate SCVWD permit application will be completed for the outfall if it is ultimately included in the proposed project.

Comment G3: To maintain ecological compatibility with the existing riparian forest and ensure genetic specificity, MM BIO-3.4 should be revised to specify "that all seed mixtures used for revegetation of the impacted riparian habitat of Coyote Creek shall be locally native or sterile non-native species only." Local should be defined, in order of preference, as 1) local to the Coyote Creek watershed, 2) local to Santa Clara County, or 3) local to the nine counties that compose the San Francisco Bay Area. The District is available to review and approve the seed mixture, if needed.

Response G3: MM BIO-3.4 on page 106 of Section 3.3.3 and in the Summary of the DEIR has been revised to include the requested language related to "locally native" seed mixtures, as shown in Section 4.0 *Revisions to the Text of the DEIR* of this First Amendment to the DEIR. This change clarifies the details of what types of seed mixtures can be used for revegetation of the impacted riparian habitat of Coyote Creek should an outfall be constructed. This is not a material change to the mitigation measure and is only a

clarification. This comment does not raise any specific environmental issue under CEQA, therefore, no further response is required.

Comment G4: Protection of some existing trees on the project site as noted in MM BI0-4.1 would be ecologically incompatible with the City's and District's goal of protecting riparian corridor. Specifically, the following species identified as present on the project site per the Tree Survey, are considered invasive and represent a maintenance threat. We recommend that they be removed and not be preserved.

- Shamel ash
- European Olive
- Glossy Privet
- London plane
- CA[Black] walnut

Given the proximity of the project site to the riparian corridor, selecting the planting palette for the landscape plans should be done in consultation with the District's biologists via the Community Projects Review Unit (CPRU) to prevent additional ecological incompatibility. Since prevailing winds are westerly, seeds/pollen will be vectored towards the District's creek property where the resulting seedlings could increase maintenance liability and/or cause unnatural hybridization, potentially jeopardizing future recruitment of young trees needed to revitalize the existing riparian forest. Examples of this would be:

- Use of London plane trees, seedlings of which will invade the creek and pollen will hybridize with native CA sycamores. Several heritage CA sycamores are located just across HWY 237 on Coyote Creek.
- Use of Lombardy poplars which will hybridize with native Fremont cottonwood which is present all along Coyote Creek.

The Technical Biological Report [Appendix C], authored by Live Oak Associates, page 29 and referenced on page 86 of the DEIR cite the Envision SJ 2040 General Plan, MS 21.9 which suggests the new landscape 'incorporate' local natives next to riparian forest, grown from propagules sourced from wild parent plants within 5-10 miles away and preferably in the same watershed. The project proponent may contact the District's CPRU to arrange a permit for a nursery to collect seed from the adjacent Coyote Creek watershed one to several years in advance of landscape installation. Available species include valley and coast live oak, arroyo and red willows and blue elderberry. If the use of locally native species does not meet the project objectives, the project proponent may use non-invasive non-natives that will not hybridize with existing riparian natives as an alternate and be a better choice than non-local natives.

Response G4: The comment correctly states Policy MS-21.9 of the Envision San José 2040 General Plan regarding the incorporation of tree species native to the area and propagated from local sources generally from within 5-10 miles and preferable from within the same watershed. As stated on page 102 of the DEIR (Section 3.3.2.10), all 94 existing trees on the site are expected to be removed. Trees to be removed would be replaced in accordance with all applicable Municipal laws and General Plan policies. The exact number and species of trees to be planted to replace the lost trees will be determined based on consultation with the

City Arborist and Director of the Department of Planning, Building and Code Enforcement (PBCE).

As described in Responses G2 and G3, the project may include an outfall to Coyote Creek. If it is determined that an outfall is needed, all necessary permits will be acquired and all mitigation measures, including those related to the replacement of riparian habitat, will be implemented. The SCVWD will be consulted as to the types of replacement trees to be planted within their jurisdiction as part of the permit process. This comment does not raise any specific environmental issue under CEQA, therefore, no further response is required.

Comment G5: As Live Oak Associates notes, there could be potential conflict with the San Jose Tree Ordinance which requires tree replacement with 24" box or 15-gallon natives. Plants of these sizes are not likely to be local natives which generally are available only in 1-gallon equivalent sizes. If downsizing the containers is not acceptable as the tradeoff for getting higher ecological benefit, the project proponent should be allowed to pursue the alternative of planting off site or making donations, in lieu of replacement, to the Urban Forest Fund. Mitigation plantings should be located on the project site and cannot be located on District property.

Response G5: Please refer to Responses G3 and G4. Plantings within SCVWD jurisdiction as a result of outfall construction, if necessary, would comply with all regulatory agency permitting requirements. Tree species and size will be determined during the final design process in compliance with the San José Municipal Code and based on consultation with the City Arborist and Director of the Department of PBCE (Section 3.3.2.10 of the DEIR, page 102). The potential for in-lieu replacement of trees off-site is described on page 103 of the DEIR. This comment does not raise any specific environmental issue under CEQA, therefore, no further response is required.

Comment G6: Figure 2.0-6 incorrectly identifies Assessor Parcel No. 022-30-053 as a "SCVWD Easement Habitat". It is recognized this parcel is not directly adjacent to the project site; however, for accuracy, Figure 2.0-6 should be revised to reflect that the parcel is owned in fee title by the District.

Response G6: The map referenced is from the San José-Santa Clara Regional Wastewater Facility (RWF) Master Plan document and was not generated exclusively for the proposed project. The designation for lands within the RWF project boundary, which as noted by the comment are not adjacent to the project site, is not material to the evaluation of the environmental impacts of the proposed project. The RWF will be notified by PBCE staff that SCVWD requests this change. This comment does not raise any specific environmental issue under CEQA, therefore, no further response is required.

Comment G7: Section 3.6.1.2 notes that shallow groundwater to be approximately five feet below grade; however, Section 3.9.2.4 identified groundwater depth from 8.5 feet to 11 feet below grade. Language should be revised for consistency.

Response G7: The comment is correct that the two sections of the DEIR note different depths to groundwater. Depth to groundwater on the large 64.5 acre site ranges from five to 11 feet below grade. This clarification has been noted in Section 4.0, *Revisions to the Text of the DEIR* in this First Amendment to the DEIR. This comment does not raise any specific environmental issue under CEQA, therefore, no further response is required.

Comment G8: The project, as noted in Section 3.9.2, includes two options to discharge the collected stormwater runoff from the site, including constructing a new outfall to Coyote Creek. Section 3.14.2.5 also noted that the "proposed stormwater drainage system will be designed to accommodate approximately 121 cubic feet per second (cfs) of stormwater from the site, proposed roadways, and City held lands east of Zanker Road." Although the project site, proposed roadways, and the City property east of Zanker Road are currently located within the Guadalupe Watershed, the DEIR did not include a hydrologic/hydraulic analysis to evaluate impacts associated with redirecting stormwater from the Guadalupe Creek watershed to the Coyote Creek watershed. Impacts may include an increase in the 100-year water surface elevation and the water surface elevation due to lower frequency events, and induce flooding to surrounding properties since the flood protection structures did not contemplate the redirection of stormwater from one watershed to another. In any event, this is not consistent with the "Guidelines and Standards for Land Use Near Streams" (G&S) developed by the Water Resources Protection Collaborative which the City of San Jose was party to and reaffirmed through City Resolution No. 73644. While an analysis which may focus on the project site may be insignificant, the cumulative impacts along the watershed are significant.

Response G8: The proposed project will be required to include a detention system that mitigates the peak flow and discharges at a maximum rate of 28 cfs. The existing 100-year flow (1%) is 14,890 cfs at the project site. An increase of 28 cfs represents less than a 0.2% increase (conservatively assuming the peaks occur simultaneously). This is a conservative assumption because the peak of the 72-hour, 100-year design storm on Coyote Creek occurs much later than the peak flow from the 24-hour, 100-year design flow from the project site per hydrological information prepared by SCVWD for Coyote Creek. This would likely cause a negligible increase in water surface elevation during large events. For this reason, the cumulative impacts of the potential outfall to Coyote Creek are less than significant and accurately described in the DEIR. No revisions to the DEIR are required.

Comment G9: District records show one well on the site and Section 3.14.2.3 notes that the project may include construction of a new well. The existing well should be properly maintained or destroyed in accordance with the District's standards. Property owners or their representatives should call the Wells and Water Production Unit at (408) 630-2660, for more information regarding well permits and registration for a new well or destruction of the well.

Response G9: The existing and future wells on the project site will be properly maintained or destroyed in accordance with SCVWD standards. This comment does not raise any specific environmental issue under CEQA, therefore, no further response is required.

H. RESPONSE TO COMMENTS FROM THE CARPENTERS LOCAL UNION 405, July 17, 2017

Comment H1: The 237 Industrial Center Project will have Significant Unmitigated Environmental Impacts, therefore the DEIR Must Offer Evidence to Support a Statement of Overriding Considerations.

The Project will have significant, unmitigated environmental impacts that were not previously disclosed and covered by any prior Statement of Overriding Considerations.⁹ As a result, a statement of overriding considerations that is supported by substantial evidence will be required.

Under CEQA, when an agency approves a project with significant environmental impacts that will not be fully mitigated, it must adopt a "statement of overriding considerations" finding that, because of the project's overriding benefits, it is approving the project despite its environmental harm. (14 Cal.Code Regs. §15043; Pub. Res. Code §21081(B); *Sierra Club v. Contra Costa County* (1992) 10 Cal.App.4th 1212, 1222) A statement of overriding considerations expresses the "larger, more general reasons for approving the project, such as the need to create new jobs, provide housing, generate taxes and the like." (*Concerned Citizens of South Central LA v. Los Angeles Unit. Sch. Dist.* (1994) 24 Cal.App.4th 826, 847)

A statement of overriding considerations must be supported by substantial evidence in the record. (14 Cal.Code Regs. §15093(b); *Sierra Club v. Contra Costa Co.* (1992) 10 Cal.App.4th 1212, 1223). The agency must make "a fully informed and publicly disclosed" decision that "specifically identified expected benefits from the project outweigh the policy of reducing or avoiding significant environmental impacts of the project." (15 Cal.Code Regs. §15043(b). As with all findings, the agency must present an explanation to supply the logical steps between the ultimate finding and the facts in the record. (*Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515)

Response H1: The comment is correct that the project would result in significant unavoidable environmental impacts related to the loss of Prime Farmland, GHG emissions after 2020, impacts on freeway segments, and a cumulative impact at the Zanker Road/Tasman Drive intersection, as noted in Section 7.0 of the DEIR (page 243). If the City Council adopts a Statement of Overriding Consideration related to this proposed project, the City Council will be required to make the appropriate findings under CEQA based on the entirety of the administrative record. This comment does not raise any specific environmental issue under CEQA, therefore, no further response is required.

⁹DEIR at section 7.0: "6. Implementation of the light industrial uses would have a significant impact on the mixed flow lanes of seven directional freeway segments and HOV lanes of three directional freeway segments."
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Comment H2:

Key among the findings that the lead agency must make is that:

"Specific economic, legal, social, technological, or other considerations, **including the provision of employment opportunities for highly trained workers**, make infeasible the mitigation measures or alternatives identified in the environmental impact report ... [and that those] benefits of the project outweigh the significant effects on the environment." (Pub. Res. Code §21081(a)(3), (b), emphasis added)

Thus, the agency must make specific findings, supported by substantial evidence, concerning both the environmental impacts of the Project and the economic benefits including "the provision of employment opportunities for highly trained workers" created. The DEIR fails to provide substantial evidence to support a statement of overriding considerations. The City has no substantial evidence on which to base any determination that the economic benefits of the Project outweigh its admittedly significant environmental impacts.

Response H2: If the City Council adopts a Statement of Overriding Consideration related to this proposed project, the City Council will be required to make the appropriate findings under CEQA based on the entirety of the administrative record. This comment does not raise any specific environmental issue under CEQA, therefore, no further response is required.

Comment H3: CEQA expressly requires an analysis of: "Specific economic, legal, social, technological, or other considerations, including the provision of employment opportunities for highly trained workers." (Pub. Res. Code §21081(a)(3), (b)) The DEIR makes no attempt to determine whether new jobs created by the Project, in either the construction phase or the operational phase, will be for "highly trained workers," and what the likely wage ranges or fringe benefits of these jobs will be. Without this information, the agency lacks substantial evidence to make any statement of overriding considerations.

In short, the agency cannot find that the economic benefits of the Project outweigh the environmental costs if it does not know what the economic benefits will be.

Response H3: If the City Council adopts a Statement of Overriding Consideration related to this proposed project, the City Council will be required to make the appropriate findings under CEQA based on the entirety of the administrative record. This comment does not raise any specific environmental issue under CEQA, therefore, no further response is required.

Comment H4: The City should include defined requirements around construction phase and operational phase job quality & equity. Average earnings for stable, full-quarter employees of the construction industry are only 63 percent of average earnings for comparable full-quarter employees of all industries in Santa Clara County; these average earnings fall well short of the income necessary for a household to afford local Fair Market Rent two-bedroom housing. The earnings of stable, full-quarter Latino construction workers in Santa Clara County are only 53 percent of the average for stable employees across all industries.¹⁰ The 237 Industrial Center project could provide, but has

¹⁰ U.S. Census Bureau, Center for Economic Studies, LEHD.

made no commitments to provide, employment opportunities for construction trades apprentices. Joint Labor-Management-managed apprenticeship programs have enrolled approximately 3,000 residents of the County of Santa Clara since 2011.

Apprenticeship programs offer participants the opportunity to increase earnings by hundreds of thousands of dollars over the course of a career,¹¹ which translates into greater family and community stability. Without job quality and equity requirements, however, the 237 Industrial Center Project may fail to provide equal opportunities for highly trained - and training - workers of all ethnicities.

Response H4: An EIR is not required to include requirements for or an analysis of a project's job quality and equity. The project is not required from an environmental standpoint, to make commitments to provide employment opportunities for construction trade apprentices. An EIR assesses the environmental impacts of a proposed project in accordance with the requirements of CEQA. As indicted above, if the City Council adopts a Statement of Overriding Consideration related to this proposed project, the City Council will be required to make the appropriate findings under CEQA based on the entirety of the administrative record. This comment does not raise any specific environmental issue under CEQA, therefore, no further response is required.

Comment H5: We look forward the Final Environmental Impact Report addressing the need for providing the residents and policymakers of the City with the information necessary to substantiate any Statement of Overriding Considerations.

Response H5: Please refer to Responses H1-H-4, above. This comment does not raise any specific environmental issue under CEQA, therefore, no further response is required.

I. RESPONSE TO COMMENTS FROM LOS ESTEROS CRITICAL ENERGY FACILITY (LECEF), LLC, July 17, 2017

Comment I1: Los Esteros Critical Energy Facility, LLC ("LECEF") provides the following comments on the Draft Environmental Impact Report (EIR) 237 Industrial Center Project ("DEIR"). LECEF is the owner of the Los Esteros Critical Energy Facility (the "LECEF Facility") located at 800 Thomas Foon Chew Way, San José, California, to the west of the proposed site for the 237 Industrial Center Project ("Project"). The LECEF Facility has operated since 2003, and provides critically needed reliability functions to serve the electrical grid. The LECEF Facility is one of the closest neighbors to the proposed Project and has facility components that may be potentially affected by construction and operation of the Project.

Response I1: The comment is correct that the LECEF is located adjacent to the proposed project site. The potential for the project to affect facility components of the LECEF is described in Responses I4-I8, below. This comment does not raise any specific environmental issue under CEQA, therefore, no further response is required.

¹¹ See United States Department of Labor, Chief Evaluation Office. "Cost-Benefit Analysis of Registered Apprenticeship Programs Shows Promising Results" rev. 4/23/2015. Downloaded via <https://www.dol.gov/asp/evaluation/snapshots/20150224registeredApprenticeshipsSnapshot.pdf>

Comment I2: LECEF remains concerned with continuing ambiguities regarding the “ultimate” Project being proposed for approval by the City, particularly given the vast differences in densities, intensity of uses, and even needed approvals, for the two “Options” (and various permutations of each) presented in the DEIR. The proposed Project would be located near several industrial facilities, including the operating LECEF Facility, the San José-Santa Clara Regional Wastewater Facility, and the Silicon Valley Advanced Water Purification Center. The proposed Project must be designed to account for and operate in harmony with these existing permitted uses. The inconsistent descriptions of the Project in the DEIR make it impossible to accurately determine the potential adverse impacts from, and adequacy of the recommended mitigation measures for, the proposed Project.

Response I2: The EIR provides environmental review for two project proposals on the approximately 64.5 acre site. The two project options are described at length in Section 2.0 *Project Information and Description*. As stated on pages 31 and 37, Option 1 proposes approximately 1.2 million square feet of light industrial uses consistent with all of the requirements for the light industrial zoning district in San José. Option 2 proposes a 436,880 square foot (49.5 megawatts) data center with a PG&E substation on the northern 26.5 acres of the site. The remaining 38 acres of the site would be developed with light industrial uses consistent with the City’s light industrial zoning district. The City believes that the project options are consistently and accurately described in the DEIR, as required by CEQA.

The comment is correct that the proposed project would be located in proximity to the LECEF, San José-Santa Clara Regional Wastewater Facility, and Silicon Valley Advanced Water Purification Center as shown on Figure 2.0-6 of the DEIR. The proposed project (both options) would be located in an area of the City that has been designated under the City’s General Plan for industrial uses such as the LECEF. The project has been designed to be compatible with these other surrounding industrial uses. As previously stated, the project description clearly describes the proposed project and the DEIR accurately evaluates the environmental impacts and describes feasible mitigation for all environmental impacts.

Comment I3: Based on LECEF’s review of the DEIR, there remain several areas of analysis that must be conducted before publication of the Final Environmental Impact Report (“FEIR”) to ensure there are no adverse impacts from the proposed Project.

First, the FEIR should ensure that the proposed Project is consistently described and analyzed throughout each subject area. Descriptions of the Project, including the descriptions of Option 1 and Option 2, are not clearly and consistently articulated in the DEIR. LECEF offers specific comments relating to the description of the Project that require clarification in Attachment A, Section I to this letter.

Response I3: Please refer to Response I2.

Comment I4: Second, the FEIR must provide further information and analysis with respect to the Project’s stormwater conveyance scenarios. Significantly, there is no analysis of the potential impacts to the LECEF Facility’s existing stormwater outfall, nor are there any measures proposed to ensure that construction and operation of the Project will not adversely affect the LECEF Facility’s stormwater outfall. LECEF’s specific concerns regarding the stormwater conveyance scenarios,

issues requiring clarification and further analysis, and other related comments are set forth in Attachment A, Section II to this letter.

Response I4: LECEF's existing outfall to Coyote Creek would not be affected should an outfall be necessary for the conveyance of stormwater from the project site. As shown on Figure 2.0-9 and 2.0-10, a new stormwater outfall may be required for the project; however, the potential outfall would be located downstream from the existing LECEF outfall. The new outfall will be designed with rock rip-rap extending to the low flow channel, thereby, minimizing any potential adverse effects to the existing outfall. In addition, the new outfall would be required to obtain permits from CDFW, USACE, and RWQCB. All mitigation measures included in the permits including those related to water quality and impacts to other facilities would be required for construction of the outfall, thereby reducing impacts to a less than significant level.

Comment I5: Third, the FEIR must expressly acknowledge and analyze the unique sensitivities to dust and particulate matter of the existing LECEF Facility. As raised in previous comments to the City, the LECEF Facility is particularly sensitive to dust and particulate matter. Dust and particulate matter can degrade and potentially clog the air inlet filters of the LECEF Facility's combustion turbines. In addition to the turbines, additional dust and particulate matter have the potential to degrade or foul other important system components, such as instrumentation. LECEF's concerns about potential construction and operational impacts from the Project associated with dust and particulate matter are not adequately addressed in the DEIR. Moreover, due to the inconsistencies in the Project Description, it is unclear whether the air quality analysis and mitigation measures proposed for the Project are sufficient. LECEF's specific concerns regarding air quality, issues requiring clarification and further analysis, and other related comments are set forth in Attachment A, Section III to this letter.

Response I5: As stated in Section 3.2 *Air Quality* and shown in Table 3.2-5, Particulate Matter (PM₁₀ and PM_{2.5}) generated by the proposed project would be well below BAAQMD thresholds. Air Quality impacts are defined by BAAQMD and the California Air Resources Board (CARB) as those which affect sensitive receptors in proximity to the emission sources. CARB has identified children under 14, the elderly over 65, and people with cardiovascular and chronic respiratory diseases as people most likely to be affected by air pollution otherwise known as sensitive receptors. Locations that may contain a high concentration of sensitive population groups include residential areas, hospitals, daycare facilities, elder care facilities, elementary schools, and parks. By definition, the LECEF is not considered to be a sensitive receptor.

Please refer to Responses I2 - I4.

Comment I6: Fourth, the FEIR must identify and provide measures that safeguard and protect the various components of existing developments and uses in the Project area. As one example, LECEF maintains landscaping to the south of Thomas Foon Chew Way, and various linear facilities that are crucial to the operations of the LECEF Facility are located along the routes proposed for the utilities improvements identified on DEIR Figure 2.0-4. The FEIR must describe the location of these existing uses, the Project's potential impacts, and the measures that will be imposed to ensure that the LECEF Facility is not adversely affected by the proposed Project's development, construction, and operation. Such measures should include assurances that construction best

practices, including all necessary safety clearances, are followed. This will help ensure that the LECEF Facility's ability to operate safely and reliably is not impacted by the Project.

Response I6: It is unclear from this comment exactly where the landscaping and other LECEF "linear facilities" are located. Figures 2.0-4 and 2.0-5 show the general locations of the proposed utility and roadway extensions required for the project. Once final design of the utility and roadway extensions is underway, the City and the project applicant will consult with the LECEF to determine whether potential conflicts would occur. The DEIR includes standard measures, conditions of approval, and mitigation measures to ensure surrounding properties are not adversely affected during construction and long-term operations as described in Sections 3.2, 3.3, 3.4, 3.6, 3.8, 3.9, 3.10, 3.11, and 3.14 of the DEIR.

Comment I7: Furthermore, given the existing gas transmission lines, and potential for increased development and population growth by virtue of the extensions of all linears to the City's undeveloped lands, the FEIR must take into account: (i) whether the Project, and reasonably foreseeable development as a result of the extension of the linears, will impact gas transmission; (ii) whether the Project and reasonably foreseeable uses resulting from the Project are compatible with existing and reasonably foreseeable industrial uses; (iii) whether additional construction and operation measures need to be taken to ensure public safety; and (iv) must ensure that the final design of the Project provides the appropriate setbacks, clearances, and design criteria to ensure public safety and compliance with laws, ordinances, regulations, and standards.

As discussed above, and in the Attachments to these comments, the DEIR must be revised to ensure that the public and decision makers are informed of the significant environmental effects of a project.

Response I7: The proposed locations of the utility and roadway extensions required for the project have been determined based on the location of existing utilities and overhead electrical lines. For this reason, the project would not adversely affect gas transmission or public safety. The project site and adjacent surrounding properties are designated for industrial uses. The proposed light industrial and data center/light industrial uses are compatible with these uses.

The proposed project and the anticipated land uses in the project area do not include any residential development and will not result in an increase in population. The proposed project is consistent with the proposed Light Industrial zoning designation, although the data center requires a Special Use Permit, the project has been designed to be consistent with all appropriate setbacks, clearances, and design criteria to ensure public safety and compliance with laws, ordinances, regulations, and standards.

Comment I8:

I. PROJECT DESCRIPTION

Given the varying descriptions of the Project presented in the DEIR, LECEF notes and seeks clarification of the following:

1. The Project Description and the two options require clarification to avoid ambiguities and inconsistency.

2. When will the public, particularly the neighboring sites most affected by the Project, be informed of the Option that will ultimately be selected and constructed? Will there be an opportunity for further public comment and review of the Option that ultimately moves forward?
3. What are the expected timelines for acquiring any further approvals and commencing construction of the selected Option?

Response I8: Please refer to Response I2. The determination of which Option would be implemented on the project site is dependent upon site acquisition and the approval of applications currently on-file for the project; both options have applications on-file at the Department of PBCE. The DEIR evaluates both project options and the opportunity for public comment was within the circulation period from June 1, 2017 to July 17, 2017. CEQA does not require additional review times prior to implementation of the project.

As stated in the Section 2.2.5 of the DEIR, Option 1 would be constructed in generally one 20-month time period. Option 2 would be constructed in two phases, with the data center constructed first in approximately 30 months. The remaining light industrial uses included in Option 2 have not been determined. The DEIR must be certified and the project approved before construction of either option can begin. The actual construction start date has not been determined.

Comment I9:

4. The timelines provided for completion of Option 2 require further discussion and clarification for consistency throughout the DEIR. Once the development timeframes for Option 2 are confirmed, each subject area within the DEIR should be reevaluated to ensure that the analysis and underlying assumptions with respect to development timeframes are consistent. The FEIR should assume concurrent construction to give a full understanding of the potential direct, indirect, and cumulative impacts from construction of the data center, substation, and light industrial development.

Response I9: Please refer to Response I2 and I8. The DEIR assumed concurrent construction of the PG&E substation and data center. The light industrial uses would not be constructed at the same time as the data center. The area for the future light industrial development will be utilized as a construction staging/laydown area during construction of the data center. Therefore, it is not possible for both land uses included in Option 2 to be built concurrently and the DEIR need not evaluate concurrent construction.

Comment I10:

5. Several places within the DEIR identify the potential impacts and mitigation measures of the data center alone. Is the Reduced Scale-Data Center Only Alternative being considered as a potential project?

Response I10: Option 2 of the project includes both data center and light industrial uses. The DEIR describes mitigation for traffic impacts in terms of the timing of development of Option 2. For example, the data center alone does not result in any traffic impacts due to the relatively small number of employees and trips generated. Therefore, mitigation is not required for Option 2 until the light industrial uses are constructed.

The Reduced Scale-Data Center Only Alternative is included in the DEIR because it has the potential to reduce impacts related to traffic, agricultural, cultural, and biological resources, greenhouse gas, air quality, and hazardous materials. CEQA requires that an EIR identify and evaluate alternatives to a project as it is proposed. The Reduced Scale-Data Center Only Alternative is a feasible alternative; however, it does not meet all of the objectives of the proposed project.

Comment I11:

II. STORMWATER CONVEYANCE SCENARIOS

The DEIR identifies “two scenarios for the conveyance of stormwater” for the proposed Project, one of which will be constructed “adjacent to the existing LECEF outfall.” LECEF has the following questions and concerns:

1. The FEIR must provide further analysis of the stormwater conveyance scenarios that addresses potential impacts to existing uses and identifies mitigation measures to avoid or minimize potential impacts.
2. What measures will be imposed to ensure that LECEF’s existing outfall is not damaged or impacted by construction of the proposed Project?

Response I11: Please refer to Responses G8, I4, and I12. For the reasons stated in these responses, the DEIR clearly identifies all environmental impacts from both possible stormwater system scenarios and includes adequate mitigation measures to reduce the significant impacts to a less than significant level. No further analysis is required for either of the stormwater conveyance scenarios.

Comment I12:

3. The DEIR states only that the installation of a stormwater outfall to Coyote Creek “could” be included “if it is determined that connection to Oakmead Pump Station on the Guadalupe River is not feasible.”¹² The DEIR does not define or give any context for determining whether the Oakmead Pump Station connection is “feasible”. Moreover, the DEIR is not clear as to whether any other factors will impact which scenario will be chosen. The DEIR should clearly identify the potential impacts from either “scenario”, and the measures that will be imposed to mitigate any significant impacts.

¹² DEIR, p. 165.

4. The DEIR does not clearly identify the potential construction and operational impacts associated with a new stormwater outfall, as compared to a new connection with the Oakmead Pump Station.

Response I12: As stated in Section 2.2.2.1 (page 45) of the DEIR, there are two possibilities for the conveyance of stormwater from the project site. Both scenarios for stormwater conveyance are feasible, as defined by CEQA.

The outfall to Coyote Creek is feasible and would require permits from the California Department of Fish and Wildlife (CDFW), US Army Corps of Engineers, and Regional Water Quality Control Board. Impacts from construction of the potential outfall to Coyote Creek are mainly related to impacts to biological resources, as described on page 100 of the DEIR (Section 3.3.2.6). Impacts during construction include removal of riparian habitat (approximately 0.16 acres), interference with movement of native wildlife, disturbance of bird species, and impacts to steelhead and Chinook salmon.

Mitigation measures, including compliance with the Santa Clara Valley Habitat Plan (SCVHP), are included in the project to reduce impacts of constructing an outfall to a less than significant level, as described in Section 3.3.3 (page 103) of the DEIR. Appendix D of the DEIR includes a biological report that was prepared specifically for the potential outfall.

Transporting stormwater to the Guadalupe Pump Station is feasible and would require new pipes from the site, as shown on Figure 2.0-4 and as described in Section 2.2.2.1 of the DEIR, as well as within existing streets near the pump station. Because the pump station exists and operates, permits from the regulatory agencies or further environmental review are not required.

Utilization of the pump station by the project was analyzed in the attached memo (Appendix A). It was determined by the City that the existing pump station has the capacity to discharge stormwater runoff generated at the site and new roadways; however, there is not enough capacity to accommodate runoff from City held properties located east of Zanker Road. The text of the DEIR has been modified to reflect this information as shown in Section 4.0 *Revisions to the Text of the Draft EIR*.

The biological and cultural resource impacts of trenching across lands to the northwest of the site are included in the analysis completed for the EIR (Sections 3.3 and 3.4 of the DEIR). The impacts of installing pipes or upsizing existing pipes within existing streets is minimal, routine, and temporary. These impacts are less than significant. It is unclear what other “factors” the commenter is referring to.

For the reasons above, the DEIR clearly identifies all environmental impacts from both possible stormwater system scenarios and the mitigation measures are included in the project to mitigate all significant impacts.

Comment I13:

5. The DEIR does not address whether stormwater runoff from the new outfall, when combined with existing discharges, will result in cumulative impacts to either water quality or peak storm flow quantities. How will this be addressed? An analysis of the potential for cumulative impacts to water quality or storm flow quantities from the Project is particularly important since the new outfall will be “sized... to convey stormwater from the project site as well as City held lands east of Zanker Road.”

Response I13: Please refer to Response G8, I12, and I14. Based on best available hydrology information provided by the District, Coyote Creek has a 1% flow of 14,890 cfs. A peak pumping rate of 28 cfs represents less than a 0.2% increase in 100-year flow if it is conservatively assumed that peaks from the site and Coyote Creek occur simultaneously. This is a conservative assumption because the peak of the 72-hour, 100-year design storm on Coyote Creek occurs much later than the peak flow from the 24-hour, 100-year design flow from the project Site per District hydrology for Coyote Creek. This increase in flow does not represent a significant increase in peak water surface elevation in Coyote Creek for the 10- and 100-year events.

The outfall will be designed to meet the Municipal Regional NPDES Permit C.3 standards for post-construction stormwater treatment and the state Construction General Permit for water quality control during construction. Additionally, rock rip-rap will be included in the design to mitigate for the potential for in-channel erosion. With these permit conditions and mitigation measures included in the design, stormwater quality impacts have been determined to be less than significant (page 165 of Section 3.9.2.3 of the DEIR).

For the reasons described above, the cumulative impacts of the potential outfall to Coyote Creek are less than significant. Revisions to the DEIR are not required.

Comment I14:

6. The DEIR does not clearly state if the “permit conditions” proposed are applicable regardless of the “scenario” chosen, and whether such measures are adequate to mitigate any potential environmental impacts and prevent impacts to existing facilities. The FEIR should make this clear.

Response I14: As stated on page 45 (Section 2.2.2.1) and page 97 (Section 3.3.2.2), construction of the potential outfall to Coyote Creek would require permits from the USACE, RWQCB, and CDFW. All mitigation measures in the permits will be included in the project to reduce impacts to a less than significant level consistent with the plans and policies of these agencies, as well as the SCVHP.

The extension of pipes on lands west of Zanker Road would require payment of SCVHP fees; however, permits are not required from any regulatory agencies. The extension and upsizing of pipes within existing streets may require specific permits or approvals from the City of San José; however, the use of the Oakmead Pump Station does not require additional permits as it is already an active pump station and its use for the conveyance of stormwater is within the limits of its capacity. Please refer to Response I12.

Comment I15:

7. The DEIR states that with “implementation of the identified construction measures and compliance with the NPDES General Construction Permit, construction of the proposed project would have a less than significant impact on water quality,” which suggests that the measures are intended to provide mitigation for potential water quality impacts pursuant to CEQA. This does not, however, address storm flow quantities or potential impacts to the existing facilities. Furthermore, the “permit” these conditions will be incorporated into is not specified. The DEIR does not suffice as an informational document if these important issues are not addressed.

Response I15: Please refer to Responses G8, I13, and I14 for a discussion of storm flow quantities and the potential for impacts to the existing outfall to Coyote Creek. As stated on page 161 (Section 3.9.1.1 of the DEIR), the Municipal Regional Stormwater NPDES Permit requires that the project design and construct stormwater treatment controls to treat post-construction stormwater runoff. San José City Council Policy 6-29 implements the requirements of Provision C.3 of the Municipal Regional Stormwater NPDES Permit by requiring that all new development projects implement Best Management Practices and Treatment Control Measures to the maximum extent possible.

Pursuant to the City’s requirements, standard permit conditions are included in the project as a condition of approval, based on RWQCB recommendations to reduce potential construction-related water quality impacts (page 166 of the DEIR). The implementation of the identified construction measures and compliance with the NPDES General Construction Permit, which is required, would reduce water quality impacts both during construction and over the long-term to a less than significant level. Water quality impacts are addressed in the DEIR (Section 3.9.2).

Comment I16:

III. AIR QUALITY AND PUBLIC HEALTH

Due to the inconsistencies in the Project Description, it is unclear whether the air quality analysis and mitigation measures proposed for the Project are sufficient. LECEF requests clarification and further analysis of the following:

1. The air quality impacts analyses should clearly describe the Project and the potential for construction and operational impacts on existing uses.
2. As part of the Project, a new public sanitary sewer pump station will be installed to serve both the Project site and City-owned lands to the west of the site. The pump station will also include “backup emergency diesel generators”, which are described as either 70 kilowatts (kW) or 50 kW. The Air Quality Assessment was conducted based on a 50-kW backup generator. Which is the correct generating capacity, and does the air quality analysis require revision?

Response I16: Please refer to Responses I2 and I8 for a discussion of how the project description is clear. The potential for the project to result in air quality impacts both during construction and in the long-term is described in Section 3.2 of the DEIR. The air quality analysis on which the section is based is included in Appendix B of the DEIR.

The comment is correct that the project includes a sanitary sewer pump station as described in Section 2.2.3.1 of the DEIR. The pump station would require a 70 kW backup emergency diesel generator. The Air Quality analysis evaluated emissions from 24, 2,000 kW generators for the data center use and a 50 kW generator for the pump station. The DEIR found that the difference in emissions from a 50 kW generator and a 70 kW generator in the context of the whole project is not significant (page 77 of the DEIR). Therefore, the air quality analysis does not require revision because the difference is not material to the overall emissions generated by all of the generators that would be included in the project.

Comment I17:

3. The last paragraph on page 79 should be revised to reflect that the nearest land uses include the LECEF Facility, the San José-Santa Clara Regional Wastewater Facility and the Silicon Valley Advanced Water Purification Center, industrial uses.

Response I17: Please refer to *Section 4.0, Revisions to the Text of the DEIR* for text revisions adding industrial uses to the list of surrounding land uses on page 79 of the DEIR.

Comment I18:

4. Page 7, Appendix B, Air Quality Assessment: the “worst-case condition” for the land uses input contemplates construction “all at once” of Option 1. However, a similar analysis was not conducted using the different land uses inputs presented by Option 2. Instead, the air quality assessment assumes “the remaining portion of the site would be constructed at later dates such that average daily construction emissions would be less than Option 1”. This assumption is not supported by the conflicting descriptions of the timelines for completion of Option 2 presented in the DEIR. For example, other sections of the DEIR presented assumptions based on completion of the data center both prior to or concurrently with light industrial development. Therefore, the air quality analysis should be updated to examine a similar worst-case, “all at once” construction of the data center, substation, and 728,000 square feet of light industrial development proposed for Option 2, and the FEIR updated accordingly.

Response I18: Option 1 is the construction of approximately 1.2 million square feet of light industrial uses over the entire 64.5 acre site. This is the worst case scenario because the emissions would occur over a relatively short period of time (approximately 20 months) as opposed to Option 2, which would occur over many years (not yet determined), thus dissipating project emissions. By having evaluated the worst case scenario, the EIR discloses the maximum amount of emissions for either option. Therefore, the air quality report does not require updating because air quality emissions of Option 2 would be less than emissions generated by Option 1.

Comment I19:

5. A Health Risk Assessment for diesel generation should be performed taking into consideration all receptor locations. Option 2 will include 24 diesel-fired backup emergency generators at the Project site and one backup emergency diesel generator at the site of the new pump station. Diesel generators may have the potential to cause localized air quality and public health impacts. A health risk assessment should be included in the FEIR to address these concerns. LECEF is concerned with the DEIR’s statement that potential impacts to the LECEF Facility were not evaluated because “the adjacent LECEF is an industrial use and is not considered to be a sensitive receptor.” The Bay Area Air Quality Management District’s (“BAAQMD’s”) CEQA Guidelines, which are referenced in the DEIR, make clear that all new and existing receptors be analyzed. The FEIR’s health risk assessment should include analysis of the San José-Santa Clara Regional Wastewater Facility, the Silicon Valley Advanced Water Purification Center, and the LECEF Facility as additional receptor locations. The FEIR should also ensure that significant impacts to receptors, such as the LECEF Facility, are mitigated accordingly.

Response I19: The comment is incorrect. BAAQMD does not recognize industrial uses as sensitive receptors. In addition, a health risk assessment for toxic air contaminants (TACs) was completed as part of the air quality analysis and determined that the health risk to the nearest sensitive receptors (residences along Murphy Ranch Road, approximately 1,650 feet south of the project site) would be well below BAAQMD thresholds (Table 3.2-6 of the DEIR).

As stated on page 72 of the DEIR, CARB has identified children under 14, the elderly over 65, and people with cardiovascular and chronic respiratory diseases as people most likely to be affected by air pollution. These groups are classified as sensitive receptors. Locations that may contain a high concentration of sensitive population groups include residential areas, hospitals, daycare facilities, elder care facilities, elementary schools, and parks. Health risk is assessed on a cancer risk per million threshold of 10 per million. The industrial land uses described in this comment are not sensitive receptors and not susceptible to cancer risk.

Comment I20:

IV. TRANSPORTATION AND TRAFFIC

Regarding Transportation and Traffic, LECEF requests clarification and further analysis of the following:

1. In the analysis of Option 1, page 220 of the DEIR acknowledges that “[s]pecific operational characteristics for the project are not, however, available at this time as the project has no identified tenant.” There is a similar lack of operational characteristics available for Option 2. Because of the lack of operational characteristics, the DEIR relies on an approximate number of daily truck trips for each of the 108 loading dock doors that would be permitted under Option 1 to determine that there would be no significant impacts from the Project under Option 1. However, the DEIR does not identify any mitigation measures that would be imposed to ensure that the number of daily truck trips does not exceed the assumed number.

The DEIR should be revised to require the incorporation enforceable limits to ensure that truck trips do not exceed these volumes to avoid a potentially significant impact.

Response I20: The traffic report estimated the number of truck trips that would be generated by the presence of 108 loading dock doors. While the operational characteristics of the project are not yet known, ITE¹³ rates were used, to estimate that Option 1 of the project description would generate approximately 1,087 daily truck trips. These truck trips were included in the trip generation estimates for Option 1. Traffic impacts of Option 1 were assessed with these truck trips. If the project were to propose additional loading docks in the future, the traffic analysis would need to be revised and additional environmental review would be required.

CEQA requires mitigation for significant environmental impacts. Truck trips were included in the analysis as part of the project description and the air quality, noise, and greenhouse gas emissions evaluations included these truck trips. Impacts were accurately identified that included truck trips; therefore, limiting truck traffic is not required.

Comment I21:

2. Page 221 of the DEIR contains a conclusion that “Phase 1 of Option 2 (data center only) would not result in this impact.” Is this phrase intended to mean that both Option 1 and Option 2 would result in significant unavoidable impacts to local freeway study segments? The FEIR should explain the intended meaning and provide analyses to support the clarified conclusions.

Response I21: The comment refers to Section 3.14.4.1 of the DEIR, *Freeway Segments*. The section clearly states that the project’s impacts (Option 1 and Option 2) to freeway segments would be significant and unavoidable. However, Phase 1 of Option 2 (construction of a data center only) would not result in any impacts to freeway segments as trip generation from a data center is low compared to light industrial uses. This evaluation is included on page 55 of the TIA (Appendix K of the DEIR). No further analysis is required.

Comment I22:

3. Page 213 of the DEIR states that the proposed Project would have a significant impact on the Zanker Road/Montague Expressway and the Oakland Road/Montague Expressway intersections. Although significant impacts are identified, the DEIR states that “no mitigation” is required. The FEIR should explain why no mitigation is proposed for the identified significant impact.

Response I22: The comment refers to Impact TRAN-1 which is the impact for the Existing plus Project condition. As stated on page 209 of the DEIR, CEQA Guidelines Section 15125(a) states that the existing environmental setting will normally constitute the baseline physical conditions against which the impacts of a project are to be evaluated. The courts have held that a Lead Agency has the discretion to use an alternative baseline, as long as the exercise of discretion is supported by substantial evidence. For the analysis of traffic

¹³ Institute of Traffic Engineers.

impacts, the Cities of San José and Santa Clara use an alternative baseline – background conditions – which includes projected traffic from approved but not yet constructed or occupied projects in addition to existing conditions.

The purpose of identifying a background condition for calculating impacts is to ensure that all possible care is taken to identify the actual capacity of the roadways that will be available to accommodate any newly proposed development projects. This methodology also more accurately characterizes the real world conditions under which the newly proposed project would be implemented, should it be approved. For this reason and those stated above, the cities of San José and Santa Clara mitigate impacts of the Background plus Project condition and not the Existing plus Project condition. Mitigation is therefore, not required for the Existing plus Project condition.

Comment I23:

4. Page 218 of the DEIR states that the proposed Project would “have a significant impact on the mixed-flow lanes of seven directional freeway segments and HOV lanes of three directional freeway segments.” The DEIR further states that no mitigation measures are proposed, “as it is beyond the capacity of any one project to acquire right-of-way and add lanes to a state freeway.” The FEIR should explore possible mitigation measures that utilize lands and facilities other than a “state freeway,” such as deceleration lanes, signalization, other off-freeway traffic management facilities, and transportation demand management measures and strategies to minimize the significant impacts of the Project.

Response I23: Please refer to Responses B6, D2, and D5. No further response is required.

J. RESPONSE TO COMMENTS FROM GRASSETTI ENVIRONMENTAL CONSULTING (GECO), July 17, 2017:

Comment J1: Grasseti Environmental Consulting (GECO) has been retained by the Citizens Committee to Complete the Refuge to review the adequacy of the Draft Environmental Impact Report (DEIR) for the 237 Industrial Center Project. This letter specifically addresses the adequacy of the greenhouse gas/climate change, off-site infrastructure, and growth inducement sections of the DEIR. As Principal of the firm, I conducted this review to determine whether, in my professional judgment, those sections of the DEIR conform to the basic requirements of CEQA and its implementing Guidelines. This review is for general CEQA adequacy, and is not intended as a review of technical adequacy of any of the technical studies included in the DEIR. My qualifications include over 32 years of preparing and reviewing CEQA documents, as well as teaching both professional and university courses on CEQA. My resume is attached to this letter.

Our review found substantive deficiencies in the greenhouse gas/climate change, growth inducement, and alternatives sections of the DEIR, which are summarized below.

Response J1: Specific responses to the comments summarized in this comment letter are provided below. This comment does not raise any specific environmental issue under CEQA, therefore, no further response is required.

Comment J2: GREENHOUSE GAS ANALYSIS

The analysis of greenhouse gases (GHG) in the DEIR is cursory, non-quantitative, and reliant entirely on compliance with the City's General Plan. It finds that the project's GHG generation impacts before 2020 would be less than significant, but after 2020 emissions would be significant and unavoidable. The rationale for this conclusion is that the City's General Plan EIR found the same conclusions City-wide. There is no explanation in this DEIR as to why this project's emissions, specifically, would be significant, and no actual analysis of the project's emissions. There is a one-page discussion of conclusions regarding the project's conformance with City GHG-reduction strategies, but no supporting analysis or information as to how the project would or not conform.

Response J2: The comment is incorrect. GHG emissions are discussed in the DEIR in Section 3.7 and the analysis is based upon the City's 2015 Envision San José 2040 Supplemental Program EIR in accordance with CEQA Section 21093 and CEQA Guidelines Section 15152.

The discussion of GHG emission impacts of the proposed project is not cursory, or non-quantitative and meets the requirements of CEQA, the City of San José, and BAAQMD. The primary test for consistency with the City's GHG Reduction Strategy is conformance with the General Plan Land Use/Transportation Diagram and supporting policies. CEQA clearance for development proposals are required to address the consistency of individual projects with the goals and policies in the General Plan designed to reduce GHG emissions. 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 through 2020 and would not conflict with targets in the currently adopted State of California Climate Change Scoping Plan through 2020. The uses included in the proposed project are consistent with the San José General Plan's Land Use Transportation Diagram and are therefore, consistent with the City's GHG Strategy and impacts are less than significant through 2020.

The environmental impacts of the GHG Reduction Strategy were analyzed in the General Plan FPEIR as supplemented. Beyond 2020, the emission reductions in the GHG Reduction Strategy are not large enough to meet the City's identified 3.04 metric tons (MT) CO₂e/SP efficiency metric for 2035. An additional reduction of 5,392,000 MT CO₂e per year would be required for the projected service population to meet the City's target for 2035.¹⁴

Achieving the substantial communitywide GHG emissions reductions needed beyond 2020 cannot be done alone with the measures identified in the GHG Reduction Strategy adopted by the City Council in 2015. The General Plan FPEIR disclosed that it would require an aggressive multiple-pronged approach that includes policy decisions and additional emission

¹⁴ As described in General Plan FPEIR, the 2035 efficiency target above, reflects a straight line 40 percent emissions reduction compared to the projected citywide emissions (10.90 MT CO₂e) for San José in 2020. It was developed prior to issuance of Executive Order S-30-15 in April 2015, which calls for a statewide reduction target of 40 percent by 2030 (five years earlier) to keep on track with the more aggressive target of 80 percent reduction by 2050. The necessary information to estimate a second mid-term or interim efficiency target (e.g., statewide emissions, population and employment in 2030) is being developed by CARB.

controls at the federal and state level, new and substantially advanced technologies, and substantial behavioral changes to reduce single occupant vehicle trips—especially to and from work places.

Future policy and regulatory decisions by other agencies (such as CARB, California Public Utilities Commission, California Energy Commission, MTC, and BAAQMD) and technological advances are outside the City’s control, and therefore could not be relied upon as feasible mitigation strategies at the time of the latest revisions to the GHG Reduction Strategy (e.g., when the Final Supplemental PEIR to the General Plan FPEIR was certified on December 15, 2015). Thus, the City Council adopted overriding considerations for the identified cumulative impact for the 2035 timeframe.

The General Plan includes an implementation program for monitoring, reporting progress on, and updating the GHG Reduction Strategy over time as new technologies or practical measures are identified. Implementation of future updates is called for in General Plan Policies IP-3.7 and IP-17.2 and embodied in the GHG Reduction Strategy. The City of San José recognizes that additional strategies, policies and programs, to supplement those currently identified, would ultimately be required to meet the mid-term 2035 reduction target of 40 percent below 1990 levels in the GHG Reduction Strategy and the target of 80 percent below 1990 emission levels by 2050.

Consistency with the City’s Greenhouse Gas Reduction Strategy is required for impacts prior to 2020 to be less than significant. As described in Section 3.7.2.3 of the DEIR, the two options for the project (Option 1 - light industrial development only and Option 2 - data center/light industrial development) were determined to be consistent with the City’s mandatory GHG reduction criteria.

The construction of Option 1 or Phase 1 of Option 2 (data center only) would be completed and operational prior to 2020, and is therefore consistent with the analysis in the General Plan and GHG impacts would be less than significant. Consistent with Criteria 5 of the Mandatory GHG reduction criteria, Option 2 would be required to complete an evaluation of operational energy efficiency and design measures for energy intensive industries such as data centers. The data center would be LEED certified, further reducing GHG emissions.

Under the data center/light industrial development option (full build-out of Option 2), the data center and substation would be operational by the year 2020, but construction of the light industrial component would extend beyond 2020. As described previously and in the Final Supplemental PEIR for the Envision San José 2040 General Plan, the necessary information to estimate a second mid-term or interim efficiency target (e.g., statewide emissions, population and employment in 2030) is being developed by CARB.

Under SB 32 and AB 197, CARB is also charged with identifying and adopting rules and regulations to achieve the maximum technologically feasible and cost-effective GHG emissions reductions to meet this new interim statewide GHG target. Therefore, the information to address this new state interim target at a local level is not currently available and development of an additional target in the City’s GHG Reduction Strategy will be required at a later date once the 2030 Target Scoping Plan is complete.

The City's GHG Reduction Strategy, as well as local and state regulations for energy efficiency and the California's Renewables Portfolio Standard, are measures that would minimize cumulative GHG impacts but not reduce them to a less than significant level by 2035 (mid-term). Development of light industrial development on-site after 2020 could contribute to the previously identified significant GHG emission impacts resulting from implementation of the planned development considered in the Envision San José 2040 General Plan. The project would implement feasible energy efficiency measures to minimize impacts and would not result in any new or greater impacts than were previously identified in the Envision San José 2040 Supplemental FPEIR. The impact would be significant and unavoidable as disclosed in the Envision San José 2040 Supplemental FPEIR and the 237 Industrial Center DEIR.

Comment J3: The DEIR discussion (p. 148) concludes that, "The project would implement feasible energy efficiency measures to minimize impacts and would not result in any new or greater impacts than were previously identified in the Envision San Jose 2040 Supplemental FPEIR. The impacts would be significant and unavoidable as disclosed in the Envision San Jose 2040 Supplemental FPEIR." The DEIR includes no mitigation measures for this significant impact. It assumes that City's Mandatory Criteria (listed on DEIR p. 146) contain all feasible mitigation.

This approach fails to meet even the most basic CEQA requirements in the following ways:

- 1) No project-specific GHG analysis has been done, therefore there is no way to tell if the project would have significant impacts, the level of impacts, or the effectiveness of the City's Mandatory Criteria in reducing those impacts to a less-than-significant level. A project-level EIR may not use a finding of significant impacts from a program-level EIR covering an entire city and which includes no site- or project-specific information, as a substitute for conducting the project-specific analysis of impacts, and identifying project- specific mitigation. The Bay Area Air Quality Management District (BAAQMD)'s recently issued (May 2017) Guidelines include the following thresholds of significance for GHG's (section 2.2):

The *Thresholds of Significance* for operational-related GHG emissions are:

- For land use development projects, the threshold is compliance with a qualified GHG Reduction Strategy; or annual emissions less than 1,100 metric tons per year (MT/yr) of CO₂e; or 4.6 MT CO₂e/SP/yr (residents + employees). Land use development projects include residential, commercial, industrial, and public land uses and facilities.

Response J3: Please refer to Response J2. Option 1 and Phase I of Option 2 would not result in a significant GHG impact. As previously stated, the Envision San José 2040 Supplemental FPEIR evaluated the GHG emissions from build-out of the General Plan. The proposed project is consistent with the General Plan and would meet the requirements of the City's GHG Strategy for development expected to be operational before 2020. This is consistent with the threshold of significance in this comment.

For development after 2020, as stated in the Supplemental FPEIR, the City's GHG Reduction Strategy, as well as local and state regulations for energy efficiency and the California's Renewables Portfolio Standard, are measures that would minimize cumulative GHG impacts but not reduce them to a less than significant level by 2035 (mid-term). As stated in Section

3.7.2.4 of the project DEIR, development of light industrial development on-site after 2020 could contribute to the previously identified significant GHG emission impacts resulting from implementation of the planned development considered in the Envision San José 2040 General Plan. The project would implement feasible energy efficiency measures to minimize impacts and would not result in any new or greater impacts than were previously identified in the Envision San José 2040 Supplemental FPEIR. The impact of development after 2020 would be significant and unavoidable as disclosed in the Envision San José 2040 Supplemental FPEIR.

Comment J4:

- For stationary-source projects, the threshold is 10,000 metric tons per year (MT/yr) of CO₂e. Stationary-source projects include land uses that would accommodate processes and equipment that emit GHG emissions and would require an Air District permit to operate.

If annual emissions of operational-related GHGs exceed these levels, the proposed project would result in a cumulatively considerable contribution of GHG emissions and a cumulatively significant impact to global climate change.

Response J4: As stated in Section 3.7.2.3 of the DEIR, Phase 1 of Option 2 (the data center only) project would be constructed prior to 2020. The data center is consistent with the existing San José General Plan, would require a BAAQMD permit to operate, and include mandatory GHG reduction criteria. It would also be LEED certified and have a PUE of no more than 1.2. Therefore, impacts of the data center, a stationary-source project, would be less than significant.

As stated in Section 3.7.2.2, on page 145 of the DEIR, 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, across the nation and around the world, contribute cumulatively to the phenomenon of global climate change and its associated environmental impacts.

Comment J5: Further, the BAAQMD's Guidelines state (Section 3.1.2):

If a project, including stationary sources, is located in a community with an adopted qualified GHG Reduction Strategy, the project may be considered less than significant if it is consistent with the GHG Reduction Strategy. A project must demonstrate its consistency by identifying and implementing all applicable feasible measures and policies from the GHG Reduction Strategy into the project.

Response J5: Please refer to Response J4 and J6. The data center (the primary stationary source of GHG emissions) is consistent with the City of San José's adopted GHG Reduction Strategy. The construction of the data center alone would be a less than significant source of GHG emissions. The data center is consistent with all mandatory GHG reduction criteria, as described on page 147 of the DEIR. It would implement feasible energy efficiency measures to minimize impacts and would not result in any new or greater impacts than were previously

identified in the Envision San José 2040 Supplemental FPEIR. Impacts would be less than significant.

Comment J6: Although the DEIR apparently is attempting to rely on the GHG Reduction Strategy approach, in reality, it does not evaluate project GHG impacts with respect to any of these thresholds. It includes cursory mention of the mandatory criteria in its GHG Reduction Strategy, and notes that the project would comply with some, but not all, of those criteria. It fails entirely in demonstrating the project's consistency with the Plan by failing to identify and implement all applicable feasible measures and policies from the GHG Reduction Strategy into the project. There is zero discussion in the DEIR of how the strategies in the GHG Reduction Plan would be incorporated/implemented in the project. Additionally, the City acknowledges that its GHG Reduction Strategy fails to meet post-2020 State goals, and must be revised to do so. Rather than doing the requisite analyses, the DEIR plays word games, fussing over which parts of the project would be completed before or after 2020. Word games are not acceptable impact analyses, and, as described in this comment, do not constitute CEQA-mandated mitigation of GHG impacts.

Section 4.4 of the BAAQMD's CEQA Guidelines presents a detailed discussion of how GHG impacts analyses are supposed to be done. The DEIR fails to do any of the steps listed in this section.

Response J6: Please refer to Responses I2, I8, and J2-J5, above. The DEIR includes a complete discussion of GHG impacts. Per the CEQA Guidelines (Section 15126.4(c)) a lead agency may analyze and mitigate significant GHG emissions in a plan for the reduction of GHG 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 initially approved by the City Council in November 2011 in conjunction with the General Plan, and following litigation, was re-adopted after certification of a Supplemental EIR in December 2015. The City's projected emissions and the GHG Reduction Strategy are consistent with measures necessary to meet statewide 2020 goals established by AB 32 and addressed in the Climate Change Scoping Plan.

The City's projected 2035 GHG emissions could prevent the State of California from maintaining a statewide trajectory to achieve Executive Order S-3-05 emissions levels in 2050, and therefore, would represent a cumulatively considerable contribution to global climate change. The City Council adopted overriding considerations for the identified cumulative GHG impacts for the 2035 timeframe.

The GHG analysis 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. Projects that are consistent with the City's adopted GHG Reduction Strategy would have a less than significant impact related to GHG emissions for development through 2020.

Based on the project description, which is not a "word game," Option 1 (light industrial development only) and Phase 2 of Option 2 (data center only) would not result in significant GHG emissions impacts. Option 2 would result in a significant and unavoidable impact as disclosed in the Envision San José 2040 Supplemental FPEIR.

Comment J7:

2) Because the DEIR skips any actual impact analysis of the project, it fails to look for feasible mitigation measures. The CEQA Guidelines (Section 1526.4(c)) set forth possible mitigation measures for GHG emissions. These include mitigations in an existing plan, reductions in emissions from project features, and "*off-site measures, including offsets that are not otherwise required, to mitigate a project's emissions.*" [Emphasis added]. The most recent amendments to the Guidelines specifically states that mitigation may include "*Measures that sequester greenhouse gases [i.e., such as carbon credits].*" (Section 1526.4(c)(4)). The Guidelines section notes that the approach for GHG mitigation is different for a plan EIR than for a project-level EIR.

Offsets also are envisioned as mitigation at a project level by the BAAQMD in their recently updated May 2017 Guidelines (Section 4.4):

The following mitigation measures would reduce operational-related emissions of criteria air pollutants, precursors, and GHGs from mobile, area, and stationary sources. Additional mitigation measures may be used, including off-site measures, provided their mitigation efficiency is justified. Where a range of emission reduction potential is given for a measure, the Lead Agency should provide justification for the mitigation reduction efficiency assumed for the project. If mitigation does not bring a project back within the threshold requirements, the project could be cumulatively significant and could be approved only with a Statement of Overriding Considerations and a showing that all feasible mitigation measures have been implemented.

The Air District prefers for project emissions to be reduced to their extent possible onsite. For projects that are not able to mitigate onsite to a level below significance, offsite mitigation measures serve as a feasible alternative. Recent State's CEQA Guidelines amendments allow for offsite measures to mitigate a project's emissions, (Section 15126.4(c)(4)).

In implementing offsite mitigation measures, the lead agency must ensure that emission reductions from identified projects are real, permanent through the duration of the project, enforceable, and are equal to the pollutant type and amount of the project impact being offset. BAAQMD recommends that offsite mitigation projects occur within the nine-county Bay Area in order to reduce localized impacts and capture potential co-benefits. Offsite mitigation for PM and toxics emission reductions should occur within a five-mile radius to the project site.

Response J7: Please refer to Responses J2-J6. The DEIR does not skip any steps in the GHG analysis. As stated in this comment, BAAQMD prefers for project emissions to be reduced to their extent possible on-site rather than relying on off-site mitigation projects. As stated previously, San José's GHG Reduction Strategy includes mandatory reduction criteria. The options of the project expected to be constructed prior to 2020 will be consistent with the criteria for on-site emission reductions. Off-site mitigation measures are not included in the project. No further analysis is required.

Comment J8: 3) CEQA does not permit use of a "Significant Unavoidable Impacts" determination in place of an actual impacts analysis. CEQA further does not permit use of such a determination in place of identification and adoption of all feasible mitigation measures. This EIR substitutes the finding for the analyses and mitigation.

Had the DEIR been done correctly, it would have calculated project emissions, determined specific effects of the City's mandatory Criteria in reducing project emissions, and then identified any additional mitigation needed to reduce the impact to a less-than- significant level. A clear, feasible mitigation measure would be purchase of carbon offsets to reduce the project's impacts to below the BAAQMD's threshold levels. The DEIR failed to even consider this mitigation, and it is not included in the City's GHG reduction Plan, even though it is feasible mitigation used on other projects throughout the state. Instead, the DEIR skips the mitigation step entirely, and proceeds to rely on a previously adopted finding of Significant Unavoidable impacts...for an impact that is clearly avoidable through the purchase of offsets. Substituting findings for feasible mitigation is a clear violation of CEQA's (Statutes, Section 21002.1 (b)) requirements that, "*Each public agency shall mitigate or avoid the significant effects on the environment of projects it carries out or approves whenever it is feasible to do so*". [emphasis added].

The EIR substitutes findings of overriding consideration for mitigation. This approach is expressly prohibited by CEQA. Guidelines Section 15092 states:

A public agency shall not decide to approve or carry out a project for which an EIR has been prepared unless.....

- 2) The agency has
 - (A) Eliminated or substantially lessened all significant effects on the environment where feasible as shown in Findings under Section 15091, and
 - (B) Determined that any remaining significant effects.....are acceptable due to overriding concerns...

This DEIR fails to do step A, and proceeds directly to an improperly construed step B. This approach fails to meet CEQA's most basic assessment and mitigation requirements.

Response J8: The DEIR was completed correctly and evaluates GHG emissions according to the requirements of CEQA, BAAQMD, and the City of San José. As stated in Response J6, the Envision San José 2040 Supplemental FPEIR calculated the GHG emissions from all development assumed in the General Plan, of which the project is a part. Therefore, emissions were calculated according to the requirements of CEQA. It is not possible to evaluate impacts beyond 2020 at this time as the second midterm or interim efficiency target (e.g., statewide emissions, population, and employment in 2030) has not yet been determined by CARB.

The City of San José's Greenhouse Gas Reduction Strategy (Section 3.7.2.3 of the DEIR) does not require the purchase of GHG offsets. The BAAQMD 2017 Clean Air Plan (CAP) includes draft measures for GHG offsets; however, there is no verified program for credits or offsets available for use that this time.

GHG emissions of the development proposed in Phase 2 of Option 2 would exceed BAAQMD thresholds of significance (post 2035 or midterm) because it would not be consistent with the San José General Plan or Greenhouse Gas Strategy and would, therefore, result in a significant and unavoidable impact. While Phase 2 of Option 2 would be required to implement feasible energy efficiency measures to minimize impacts as described in Response J4 and Section 3.5.3.2 of the DEIR (LEED certification, Mandatory Criteria, and TDM measures, etc.) to reduce GHG emissions of the project, the increase in GHG emissions that would result from the project would be significant and unavoidable as disclosed in the Envision San José 2040 Supplemental FPEIR.

The implementation of Phase 2 of Option 2 is not expected to occur for at least 10 years. At that time, efficiency targets for GHG emissions to meet the state's 2030 target will have been established and feasible mitigation measures will be determined. Because this phase of development would require additional site development approvals, future development would be subject to environmental review and would be conditioned to include all mitigation measures feasible and enforceable at the time the future development is initiated, including but not limited to: 1) implementation of TDM measures, 2) conformance with mandatory criteria in the GHG Reduction Strategy, 3) achievement of higher levels of LEED certification, and 4) consistency with General Plan Policies.

Carbon offsets may also be considered at the time future development of Phase 2 of Option 2 is proposed. To determine the required feasible mitigation measures in advance of 2030 GHG efficiency targets is speculative. The City will have the opportunity to condition future development with mitigation measures consistent with the GHG Reduction Strategy and the San José General Plan at that time. It is unknown whether the impact would be reduced to a less than significant level. Therefore, the DEIR has concluded a significant and unavoidable GHG impact for Phase 2 of Option 2.

Finally, the San José City Council will make the decision as to whether to adopt a Statement of Overriding Considerations for the project as they did for the Envision San José 2040 Supplemental FPEIR. The EIR does not substitute findings of overriding consideration for mitigation. In fact, CEQA does not require an EIR to include findings. This is the decision of the City Council to make in light of the entire public record. Please refer to Response H2. An EIR is a public disclosure document of potential environmental impacts of a project as proposed. To reduce impacts, mitigation measures are included in the project, as required by CEQA. The EIR is, therefore, sufficient as defined by CEQA and the CEQA Guidelines.

Response J9: Conclusion

Although it may not be possible to mitigate city-wide emissions to less-than-significant levels, it is clearly possible to mitigate project impacts to those levels via carbon offsets. Therefore, an adequate CEQA analysis would have found significant unmitigable cumulative GHG emission impacts, and project-level GHG impacts that could be mitigated to a less-than-significant level.

The EIR must be revised with an actual GHG analysis and incorporating all feasible mitigations, including, if necessary, purchase of carbon offsets.

Response J10: The City has determined that if a project is consistent with the Envision San José 2040 and would be operational by 2020, GHG impacts of the project would be less than significant. The comment is correct that the EIR found that Option 2 of the proposed project would result in a significant unavoidable GHG emission impact and impacts of Option 1 and Phase 1 of Option 2 would be less than significant with conformance with the City's GHG Reduction Strategy. Please refer to Responses J2-J8. No further analysis is required.

Comment J10: SEA LEVEL RISE/CLIMATE CHANGE IMPACTS

The DEIR fails to address the potential impacts of sea level rise despite the likelihood that sea level rise will flood portions of the site, either directly or via back-up of flood waters on Coyote Creek, which flows adjacent to the proposed development area. The City relies upon The California Supreme Court's decision in the California Building Industry Association v. Bay Area Air Quality Management District, 62 Cal. 4th 369, which determined that, in most cases, EIRs need not address impacts of the environment on a project. However, that decision included an important exception which appears to apply to this project. The decision states, "What CEQA does mandate, consistent with a key element of the Resources Agency's interpretation, is an analysis of how a project might exacerbate existing environmental hazards."

Response J10: As stated on page 52 of the DEIR, the California Supreme Court in a December 2015 opinion [California Building Industry Association v. Bay Area Air Quality Management District, 62 Cal. 4th 369 (No. S 213478)] ruled that CEQA is concerned with a project's effects on the environment, and not the existing environment's effects on a project, other than to the extent that a project will be required to modify the environment to respond to existing conditions, such as protecting a site from flooding or other hazards. In this case, the issue is not an existing condition but rather forecasted sea level rise.

Among the potential implications of global climate change are rising sea levels. Sea level rise is a concern for many Bay Area residents, community leaders, and resource managers, especially along the margins of San Francisco Bay. The National Oceanic and Atmospheric Administration (NOAA) has developed a range of sea level rise scenarios from zero to six feet, as well as potential impacts to marshes and human communities. Based on NOAA's coastal management tool for assessing potential sea level rise effects, the project site would not be subject to sea-level rise within an elevation range of zero to 66 inches (five and a half feet).¹⁵

The project would not exacerbate existing environmental hazards. The development of land uses within an area potentially inundated by San Francisco Bay tides in the future would not change the elevation of the tide and therefore, would not impede or redirect tidal flooding. The San José General Plan does not regulate the siting of industrial uses in terms of sea level rise. In addition, the project does not include residential uses which would be most susceptible to the effects of sea level rise. To anticipate a future condition on the site, given that sea level rise is not probable in the near term, is speculative. Therefore, no further analysis is required.

¹⁵ National Oceanic and Atmospheric Administration. Sea Level Rise Viewer. Accessed September 13, 2017. <https://coast.noaa.gov/digitalcoast/tools/slr>.

Comment J11: In summary, the decision requires consideration of impacts of the environment on the project in cases where the project would exacerbate that impact. That exception applies to this project as follows: 1) The project and cumulative development would substantially increase flows either into Coyote Creek or the Guadalupe River, which could exacerbate flood hazards to the project from backed up water due to future sea level rise, and 2) given that the City has determined that the City-wide GHG emissions and the project GHG emissions in 2020 (less than three years from now) would be significant and unavoidable, and the City is not proposing to mitigate those impacts with GHG offsets, it can be reasonably considered that the Project GHG emissions and cumulative City-wide GHG emissions would exacerbate local sea level rise impacts, which therefore should be addressed in the DEIR.

Response J11: Please refer to Responses J2, J8, and J10. Sea level rise is not an existing condition that could affect the project. Most of the stormwater in Santa Clara County is conveyed to existing streams. As stated above, NOAA has determined that the site would not be affected by sea level rise below five and a half feet. To anticipate a future condition on the site, given that sea level rise is not probable in the near term, is speculative.

Comment J12: In any case, the DEIR fails to include an adequate analysis of the project's exacerbation of flooding hazards due to a combination of the project's increased runoff, to sea level rise. A recent State publication on sea level rise estimates a 67% chance of 1.6-3.4 feet of sea level rise by 2100, with a 5% chance of a 4.4-6.9 -foot rise (California Ocean Protection Council, Rising Seas in California, April 2017). Maps of the potential chronic flooding impacts of sea level rise are included a report that was released in early July, 2017 (<https://ucsusa.maps.arcgis.com/apps/MapSeries/index.html?appid=64b2cbd03a3d4b87aaddaf65f6b33332>). That study shows the site as vulnerable to chronic flooding but protected at its Coyote Creek boundary by Federal levees - improvements of those levees to address sea level rise are not guaranteed or proposed by the project - those improvements must be included as part of the project infrastructure or as a mitigation measure.

The EIR should be revised to include this sea-level rise analysis and recirculated as applicable.

Response J12: Please refer to Responses J2, J8, J10, and J11. The project site would not be subject to sea level rise within an elevation range of zero to five and a half feet. Revision of the DEIR and recirculation is not required. The comment is noted.

Comment J13: ANALYSIS OF GROWTH INDUCEMENT

DEIR Section 5.0 purports to assess growth-inducing impacts of the project. As described below, it distorts the CEQA requirements for analysis of Growth Inducement, and thereby fails to include a meaningful analysis of the project's actual growth inducement.

The DEIR (p. 241) identifies three significant criteria for growth inducement, including, Indirectly induce substantial growth or concentration of population (i.e., introduction of an unplanned infrastructure project or expansion of a critical facility [road or sewer line] necessitated by new development, either of which could result in the potential for new development not accounted for in local general plans).

This significance threshold misstates and misconstrues the CEQA Guidelines' language regarding growth inducement. The Guidelines (Section 15126.2(d)) state:

Growth-Inducing Impact of the Proposed Project. Discuss the ways in which the proposed project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment. Included in this are projects which would remove obstacles to population growth (a major expansion of a waste water treatment plant might, for example, allow for more construction in service areas). Increases in the population may tax existing community service facilities, requiring construction of new facilities that could cause significant environmental effects. Also discuss the characteristic of some projects which may encourage and facilitate other activities that could significantly affect the environment, either individually or cumulatively. It must not be assumed that growth in any area is necessarily beneficial, detrimental, or of little significance to the environment.

Response J13: The comment incorrectly states the thresholds for a growth-inducing impact contained in the DEIR, which are consistent with the requirements of CEQA. The DEIR (page 241) states, “For the purposes of this project, a growth inducing impact is considered significant if the project would:

- Cumulatively exceed official regional or local population projections;
- Directly induce substantial growth or concentration of population. The determination of significance shall consider the following factors: the degree to which the project would cause growth (i.e., new housing or employment generators) or accelerate development in an undeveloped area that exceeds planned levels in local land use plans; or
- Indirectly induce substantial growth or concentration of population (i.e., introduction of an unplanned infrastructure project or expansion of a critical public facility [road or sewer line] necessitated by new development, either of which could result in the potential for new development not accounted for in local general plans).

The development of light industrial uses on the project site and extension of utilities would not affect population projections or induce population growth. These activities were described and planned for in the Envision San José 2020 General Plan, the Alviso Master Plan, and the RWF Plant Master Plan. The project would not result in a significant growth inducing impact as described on page 241 of the DEIR.

Comment J14: There is no language regarding inclusion in a plan making growth-inducement less than significant because CEQA focuses on physical impacts to the environment and strictly forbids a plan-to-plan impact analysis (Guidelines Section 15125(e)), which states:

Where a proposed project is compared with an adopted plan, the analysis shall examine the existing physical conditions at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced as well as the potential future conditions discussed in the plan.

Response J14: The comment is unclear. The proposed project is consistent with all pertinent adopted plans for the project area including the City's General Plan, the Alviso Master Plan, and the San José-Santa Clara Regional Wastewater Facility Master Plan (RWF Master Plan), as stated in Section 2.1.3 of the DEIR. The DEIR evaluated all existing conditions of the project and project site that were in place at the time the Notice of Preparation was published (May 27, 2016).

Comment J15: Growth inducement analyses cannot assume that because growth is planned, it cannot be induced. In this case, development of the vacant lands in the project area is not constrained by plan designation, but is constrained by lack of adequate infrastructure. Until very recently, these lands were in agricultural use and do not include any of the infrastructure needed to develop industrial uses. As detailed in the DEIR, the project would eliminate the constraint to development on other vacant lands in the project area posed by the lack of infrastructure by extending all of the infrastructure needed to develop those lands to the project area. Specifically, the project would extend roadways, sewage service, electrical service, and water supply as well as storm water improvements sized to handle not just the project but also all of the additional planned new development north of Highway 237 near the WPCP. The properties where the project would induce growth are shown on Figure 2.0-6 of the DEIR. DEIR Figures 2.0-4 and 2.0-5, as well as the Technical Biological Report, Figure 1, shows those improvements that clearly are not intended solely for the project site, but also to all of the other vacant parcels in the project area west of the site. The elimination of the constraint to growth on these parcels is a significant growth-inducing impact of the project as discussed in the CEQA Guidelines.

Response J15: The comment is correct that the extension of utilities to the site would provide roadways and sanitary sewage, potable and reclaimed water, electrical, gas, and fiber optics utilities to the project site and the immediately surrounding area. The proposed project is the development of light industrial uses on the project site consistent with all relevant plans, as described in Response J14. The project neither proposes the construction of housing, which could induce population growth, nor the expansion of a waste water treatment facility or other facility that would remove obstacles to population growth.

The extension of roadways and utilities is included in the environmental analysis of the project. Extension of the above-named utilities would be into an area of San José within the Urban Growth Boundary intended for jobs growth and is not a growth-inducing impact of the project.

Comment J16: The DEIR (p. 45) states:

This EIR evaluates the environmental impacts of extending utilities to the site as well as to the City of San José held lands located south of the site and east of Zanker Road. The development of these lands was included as part of the RWF Master Plan as shown on Figure 2.0-6 and assumed in the Envision San José 2040 General Plan. The program-level environmental impacts of development of these lands have been evaluated in the respective EIRs prepared for the RWF Master Plan and the Envision 2040 San José General Plan.

However, while the three-paragraph Growth-Inducement analysis in the DEIR mentions the planned development in the project area, it does not evaluate the growth-inducing impacts of the extension of the utilities designed to facilitate that growth. In fact, the DEIR states, "Development under proposed rezoning would require expansion of utilities to the site, which would help facilitate development of the adjacent vacant parcels. Expansion of utilities to the site would not, however, facilitate growth beyond the immediate project area." This statement contradicts the conclusions of the Growth Inducement discussion, which states, "While the project would develop currently vacant land, it is part of planned growth in San Jose' and, as a result, would not have a significant growth inducing impact." As described above, the project would remove the physical constraints to growth, and would therefore be growth inducing. Further, the EIR is remiss in misstating CEQA's clear direction on how growth inducement must be considered in EIRs. The EIR needs to be augmented with a clear discussion of how growth inducement may affect water supply, runoff/flooding, traffic, air quality, GHG emissions, etc. To the degree that this information is available from previous EIRs, it may be summarized from those documents. However, as it stands, this section fails to meet CEQA guidelines.

Response J16: The discussion of growth-inducing impacts in the DEIR (Section 5.0) is consistent with the requirements of CEQA (CEQA Guidelines §15126.2(d)). The DEIR clearly states that the extension of roadways and utilities is included in the environmental review for the project. The two statements in the DEIR do not conflict. The extension of utilities would only serve lands east of Zanker Road and not lands beyond the immediate project area. The development of these lands has been anticipated for years as shown in the General Plan, Alviso Master Plan, and San José-Santa Clara RWF Master Plan.

The extension of utilities would not require the expansion of any facilities. The RWF is sized to accommodate all proposed development. The Oakmead Pump Station would only accommodate stormwater runoff from the site and not from any adjacent properties. The development anticipated on the other surrounding properties was included in the FPEIR prepared for the Envision San José 2040 General Plan, which included a Water Supply Assessment. The General Plan Water Supply Assessment determined that the water retailers in the City have sufficient capacity to accommodate the development assumed as part of implementation of the General Plan. Basing the conclusions regarding growth inducing impacts on a previous certified EIR is sufficient under CEQA. In addition, a project specific Water Supply Assessment was prepared for the project and is included in the DEIR as Appendix L.

Comment J17: EVALUATION OF OFF-SITE INFRASTRUCTURE IMPACTS

CEQA defines a "project" as the whole of an action that may have impacts to the physical environment (Guidelines Section 5378(a)). While the DEIR does identify the various infrastructure improvements that would be required for the project to proceed in the Project Description, it fails to assess the potentially significant impacts of those infrastructure expansions (except for the Coyote Creek stormwater outfall, which is evaluated). For example, the biological resources section fails to specifically analyze potential impacts to sensitive biological resources of constructing the water (and possibly storm-sewer) pipeline(s) through the known burrowing owl habitat and reserve. In fact, the Biological Resources section (p. 100) acknowledges that owl surveys were only conducted for the main portion of the site. Given the sensitivity of the burrowing owl reserve site, surveys of the

proposed pipeline alignment would be critical. Similarly, the impacts of the proposed pumping plant on sensitive biological resources have not been specifically evaluated in the EIR.

Response J17: As noted in this comment, the DEIR evaluates the physical impacts of extending roads and utilities off-site. The DEIR acknowledges that western burrowing owls are known to occur adjacent to the site in these off-site areas. As stated in Section 3.3.2.5 of the DEIR, the utility alignment areas, including the sanitary sewer pump station location (Figure 3.3-1 of the DEIR) were surveyed on October 18, 2016. Burrowing owls were not observed during the surveys. The site and proposed off-site utility alignments are within the burrowing owl fee zone and the project is required to conduct pre-construction surveys in accordance with Condition 15 of the SCVHP. No further analysis is required.

Comment J18: Similarly, the EIR includes no analysis of the second stormwater option, which would construct a two-mile pipeline to direct stormwater to the Oakmead Pump Station on the Guadalupe River. No surveys of biological impacts along that corridor have occurred, and no discussion of other construction impacts, including grading, dust and air pollutant emissions, and growth inducement, resulting from this pipeline have been included in the EIR.

Response J18: The comment is incorrect. The areas of utility extension are shown on Figure 3.3-1. Biological impacts were assessed all along the alignment within undeveloped areas north of SR 237. Utility trenching south of Baytech Drive would occur within existing streets and would not result in impacts to biological resources. Air quality impacts of the project were assessed with the utility and roadway extensions included in the project (page 79 of the DEIR). As discussed in Response J13-16, above, growth-inducing impacts were correctly evaluated per CEQA.

Comment J19: Additionally, the EIR should include an analysis as to whether the infrastructure expansion proposed to serve the proposed project would be economically feasible if the other parcels north of Highway 237 are not developed. If build-out of one or more of the other projects is required to make the infrastructure feasible, then the CEQA analysis must also include those projects, to avoid impermissible piecemealing.

Response J19: As stated in Response J16, with the exception of trenching to the Oakmead Pump Station for the conveyance of stormwater, the off-site utilities are included to serve City held lands east of Zanker Road. The extension of utilities is included in the proposed project and would occur prior to development of these other lands. Therefore, piecemealing, which is the breaking up of projects in such a way as to reduce overall impacts, would not occur.

Comment J20: CONCLUSIONS

It is my professional opinion that the deficiencies described above are substantial and render the EIR inadequate to meet basic CEQA analysis and disclosure standards. The City should revise the document to include an actual GHG impacts and mitigation discussion, address sea level rise hazards, analyze omitted off-site improvement impacts, and address the growth inducement that would occur from the physical infrastructure extensions proposed as part of this project, and recirculate the document for public review.

Response J20: Please refer to Responses J2-J19. Responses have been prepared for all of the comments received. The DEIR has been determined by the City to be consistent with CEQA. The comment is acknowledged and will be considered by the decision makers during project deliberations.

**K. RESPONSE TO COMMENTS FROM SAN FRANCISCO BIRD OBSERVATORY,
DATED July 17, 2017**

Comment K1: The San Francisco Bay Bird Observatory (SFBBO) is a 501(c)(3) non-profit organization based in Milpitas. Since 1981, we have been involved in bird research, conservation, and education in the South Bay Area. SFBBO operates the Coyote Creek Field Station (CCFS), a year-round bird banding station along Coyote Creek located approximately 1000 feet northwest of the proposed project boundary, to study how restoration, development, and climate change have impacted resident and migratory bird populations.

Thank you for the opportunity to comment on the draft environmental impact report (DEIR) for the 237 industrial center development, file nos. C15-054 and SP 16-053. Representatives from SFBBO prepared the following comments on the draft environmental impact report.

Response K1: The comment generally describes the San Francisco Bay Bird Observatory (SFBBO). This comment does not raise any specific environmental issue under CEQA, therefore, no further response is required.

Comment K2: 2.1 Project Description

Section 2.1.1 (page 32): the Alviso-Milpitas is incorrectly identified as connecting to Zanker Road to the west. Alviso-Milpitas Road dead-ends at the Bay Trail / Highway 237 Bikeway. A dirt road connecting Alviso-Milpitas Road to Thomas Foon Chew Way is not publicly accessible.

Response K2: The commenter correctly identifies that the Alviso-Milpitas Road dead-ends at the Bay Trail/Highway 237 Bikeway. Changes to the text have been incorporated into this Final EIR (refer to *Section 4.0 Revisions to the Text of the DEIR*).

Comment K3: 2.2 Development Options

Related to Impact BIO-1: the DEIR indicates that truck loading docks will not be built facing the Coyote Creek riparian corridor (Development Option 1, page 38). On figure 2.0-7 (page 40), loading docks depicted for Areas 1, 4, 5, 6, and 7 are generally oriented orthogonally to the riparian corridor. However, there is no indication of how that design would reduce light and noise pollution from encroaching on the riparian corridor, especially from vehicles approaching and departing from the loading docks. Specifically with respect to Area 4, the easternmost loading dock has a direct line-of-sight north into the riparian corridor, contradicting the statement that loading docks will not be build facing the riparian corridor.

We recommend incorporating light- and noise-reducing barriers along the eastern border of the buildings (and other faces, as appropriate) to reduce light and noise pollution encroaching on the Coyote Creek riparian corridor, and to bring the project into compliance with the City of San José Riparian Corridor Policy Study, Guideline 2E (listed on page 55 in the DEIR).

Response K3: The specific design for this portion of the project has not been finalized, however, the project site will observe a 100-foot buffer from the Coyote Creek corridor to protect the creek corridor from impacts of project construction and activities on the site after construction. The project would be located at least 100 feet from the edge of the riparian corridor of Coyote Creek, consistent with San José’s Riparian Corridor Policy Study. All lighting would be oriented away from the riparian corridor. The recommendations contained in this comment will be considered during the final phase of project approval.

Comment K4: Related to Impact BIO-1: the DEIR indicates that under Development Option 2 (page 42), Building B will be up to 100 feet tall. Building B is also shown to be directly adjacent to the riparian corridor (Figure 2.0- 9, page 43). Tall buildings increase the risk of bird collisions, particularly at night when birds are confused by persistent sources of light emanating from the building. We recommend reducing and limiting building height of buildings immediately adjacent to the Coyote Creek riparian corridor.

Response K4: The data center would consist of six buildings and two water tanks. The building furthest south and east (Building B) is planned to be the actual data center, while the other buildings are support and administration buildings. The data center would operate 24 hours a day, 7 days a week. Building B (4 stories- 91 feet, 6 inches) would not have any windows and the façade would be non-reflective. The exterior lighting for the site would be on during nighttime hours as minimally required for operation of the security cameras, and would be shielded and directed downward. Interior lighting of windowed buildings would use energy-efficient occupancy sensors so that interior lights would only be on when an office or room is occupied. No buildings are expected to have towers or guy wires on top of buildings and the utilities would not add power poles/lines.

Therefore, Building B of the data center site meets the bird-safe design guidance in City of San Jose’s Council Policy 6-34 “Riparian Corridor Protection and Bird-Safe Design (August 23, 2016) and would minimize bird strike danger, as stated on page 98 of the DEIR.

Comment K5: 3.1 Air Quality

Figure 3.2-1 shows nearest sensitive receptors to the project site, but fails to identify CCFS, part of which is located less than 1,000 feet to the northeast of the project boundary.

Response K5: The commenter acknowledges that the Coyote Creek Field Station (CCFS), a field station on the Santa Clara Valley Water District Coyote Creek restoration site, is 1,000 feet northeast of the project site. Under CEQA or BAAQMD thresholds, sensitive receptors include residential, schools, hospitals, and senior communities. The field station is not considered a sensitive receptor. The comment does not provide any reasoning for this determination. The project would not affect any activities at the banding station. No further analysis is required.

Comment K6: 3.2 Biological Resources

Related to Impact BIO-1: this section focuses on impacts to breeding species, but does not discuss impacts to migratory species. In particular, the California State Endangered Willow Flycatcher (*Empidonax traillii*) is known to occur along the Coyote Creek riparian corridor during migratory months (March – June, and August - October). Migratory species may be impacted by (*sic*) the

presence of tall buildings adjacent to the riparian corridor, as well as persistent night-time lighting. We recommend the DEIR address impacts of building height and proximity to the Coyote Creek riparian corridor on migratory Willow Flycatcher populations. In addition to the Willow Flycatcher, several California State Species of Special Concern are known to migrate along the Coyote Creek riparian corridor, including Bryant's Savannah Sparrow (*Passerculus sandwichensis alaudinus*), Long-eared Owl (*Asio otus*), Loggerhead Shrike (*Lanius ludovicianus*), Olive-sided Flycatcher (*Contopus cooperi*), Summer Tanager (*Piranga rubra*), Vaux's Swift (*Chaetura vauxi*), Yellow-breasted Chat (*Icteria virens*), and Yellow-headed Blackbird (*Xanthocephalus xanthocephalus*). The DEIR should ensure that these species have been taken into consideration in this context as well.

Response K6: Please refer to Response K-4 which addresses the project's potential for bird strike.

The California State Endangered willow flycatcher is a riparian species and generally is limited to thick riparian areas. Coyote Creek's riparian areas in the project vicinity are dominated by flood control levees with gaps in vegetation. Therefore, willow flycatchers would not be expected to be prevalent in the project area.

Secondary effects of noise and light would not be significant, as this is a riparian species, and the project is adhering to the 100-foot riparian setback. Further protections include: 1) a levee between the project site and the riparian habitat, 2) the tallest building (4 stories) would have no windows or reflective material, 3) the nearest other structures to the riparian habitat are the two water tanks, which also have no windows, 4) interior lighting of windowed buildings would use occupancy sensors so that interior lights would only be on when an office or room is occupied, and 5) although exterior lights would be on all night as is minimally required for security cameras to operate, all outdoor lighting would be shielded and directed downward.

Comment K7: Related to Impact BIO-1: there are several wastewater treatment ponds to the north of the proposed development. These ponds are often filled with water during the winter months (November – April), and are often used by a variety of waterbird species. Ducks are particularly susceptible to colliding with transmission lines during their approach to pond habitat. The DEIR does not mention whether the proposed PG&E substation would include power or transmission lines; however, the DEIR should require bird flight diverters be deployed on any new power or transmission lines connected to any of the proposed structures, or erected anywhere onsite.

The Coyote Creek riparian corridor is identified as an important movement corridor (page 93), particularly with respect to animals moving north-to-south. The DEIR does not take into account animal movement east-to-west, and in particular, makes no mention of animals using fallow farmland as movement corridors, which they are known to do. The proposed development site is an open field connecting the Coyote Creek riparian corridor to the San Francisco Bay Don Edwards National Wildlife Refuge through a series of undeveloped lands. We recommend that the DEIR address east-to-west animal movement through these open fields, and address the impacts of cutting off this existing east-to-west corridor with the proposed development. We also recommend the DEIR consider requiring animal corridors be built into the development plans; the northern boundary of the proposed development would be particularly suited to this purpose.

Response K7: The DEIR adequately analyzed wildlife movement corridors (see Section 3.3.2.8 of the DEIR and Section 2.3 of Appendix C of the DEIR). Section 2.3 focused on the north-south Coyote Creek corridor, as it is a complete natural riparian habitat and the most likely course wildlife would take to travel through the area. It also provides more adequate cover and higher quality foraging habitat than the surrounding adjacent lands support. Although the Coyote Creek corridor is the most prevalent wildlife corridor in the area, animals have also been observed moving east-west through the site and may pass through the site to other areas, or even pass through the site to get to or from the Coyote Creek corridor.

The electrical substation facility would be constructed in compliance with local, state and federal requirements. Overhead power and transmission lines would not be required for construction of the substation. No new overhead transmission lines would be constructed as part of the project.

Comment K8: Related to Impact BIO-1: MM BIO-1.1 (page 103) indicates that pre-construction surveys for nesting migratory birds should “occur within 14 days of the onset of ground disturbance.” However, this timeline conflicts with recommendations from Appendix D Measure 1b (page 55), which recommends that pre-construction surveys occur “no more than 7 days prior to the initiation of constructions activities.” We recommend the DEIR adopt Appendix D’s recommendation, and change MM BIO-1.1 to reflect the narrower timeline. Birds construct nests remarkably quickly, and would easily be able to initiate nesting within a 14-day time period. Reducing this window to 7 days would more reliably avoid take of nesting migratory bird species.

Response K8: The comment correctly acknowledges that Measure 1b of Appendix D recommends that a pre-construction survey be prepared no more than seven days prior to the initiation of construction activities. Changes to the text have been incorporated into this Final EIR (refer to *Section 4.0 Revisions to the Text of the DEIR*).

Comment K9: Related to Impact BIO-3: MM BIO 3.4 (page 106) indicates that seed mixtures for revegetation should be “native or sterile non-native species only.” However, this language does not fully reflect the recommendation of Appendix D (page 50) that states “If sterile non-native mixtures must be used for temporary erosion control, native seed mixtures will be used in subsequent treatments...” We recommend that the language of MM BIO 3.4 be update to indicate the use of sterile non-native species only as a temporary erosion control measure, and that only native species should be used for long-term erosion control and revegetation.

Response K9: The comment correctly identifies the recommendation of Appendix D in reference to Condition 3 of the Santa Clara Valley Habitat Plan. Changes to the text have been incorporated into this Final EIR (refer to *Section 4.0 Revisions to the Text of the DEIR*).

Comment K10: 3.11 Noise and Vibration

Related to Impact BIO-1: this section does not address the impacts of noise and vibration to animal communities along the Coyote Creek riparian corridor. Birds have been found to adjust their song pitch and frequencies to urban environments. Given the current lack of urban development adjacent to the proposed project, we recommend the DEIR evaluate noise and vibration impacts to nearby and adjacent animal communities.

Response K11: The DEIR adequately addresses potential impacts to riparian areas required (see Sections 3.3.2.6 and 3.3.2.7 of the DEIR and Sections 3.3.8 and 3.3.13 of Appendix C of the DEIR). The project site is observing a 100-foot buffer from the Coyote Creek corridor to protect the creek corridor from impacts of project construction and activities on the site after construction. Due to this distance and the fact that a raised levee road exists between the proposed development and the creek corridor, analysis in the DEIR found that potential impacts of noise and vibration are expected to be less than significant to animals using the Coyote Creek corridor. Noise and vibration during operations once the project is built out is not expected to significantly impact animals using the Coyote Creek corridor. The DEIR's conclusion that the riparian corridor will not be impacted therefore remains valid.

L. RESPONSE TO COMMENTS FROM CITIZENS COMMITTEE TO COMPLETE THE REFUGE (CCCR), SANTA CLARA VALLEY AUDUBON SOCIETY (AUDUBON), AND LOMA PRIETA CHAPTER OF THE SIERRA CLUB (SCLP), July 17, 2017:

Comment L1: The Citizens Committee to Complete the Refuge (CCCR), the Santa Clara Valley Audubon Society (Audubon) and the Loma Prieta Chapter of the Sierra Club (SCLP) appreciate this opportunity to comment on the Draft Environmental Impact (DEIR) of the 237 Industrial Project (Project) as proposed by the City of San Jose.

- This comment letter includes, by reference, the attached July 17, 2017 comment letter prepared by Grasseti Environmental Consulting on behalf of CCCR.

CCCR, SCVAS and SCLP are local environmental organizations focused on our natural resources and biological diversity. Our members enjoy creek corridors, baylands, nature, and all wildlife and the habitats in which they thrive. Members are always concerned when development adjoins and encroaches on creek corridors, grasslands, and baylands and have particular concern when special status species and rare habitat lands may be impacted.

Project Overview

Project Site: The proposed project is located on recently fallow, privately-owned agriculture lands and on grasslands/minimally developed lands held as part of the San Jose-Santa Clara Regional Wastewater Facility (RWF) buffer lands, together lying west-to-east from the eastern terminus of Nortech Parkway to Coyote Creek with a proposed easterly stormwater-outfall extension into the creek. East of Zanker Road, the project site runs north-to-south from RWF biosolid drying beds and the access road of the leased lands of the Silicon Valley Advanced Water Purification Facility (Purification Plant) to Route 237, with several utility alignments extending into developed areas south of Route 237. West of Zanker Road, a pair of extended utility alignments include one that forms a northerly limit, crossing through RWF buffer lands inclusive of designated burrowing owl habitat. The other utility alignment provides the southerly limit running along the boundary of the RWF with Route 237.

Three utility plants, owned and/or operated by other parties, occupy portions of the lands east of Zanker Road: The Santa Clara Valley Water District (SCVWD) Purification Plant, a PG&E facility and the CalPine Los Esteros Critical Energy Facility (LECEF). Lands of the PG&E Plant and LECEF are privately-owned. The Purification Plant site is leased from the RWF.

DEIR maps that present the full extent of the Project footprint include: Figure 2.0-4, Figure 3.3-1 and Figure 1 in the Technical Biological Report. Total lands within the Project footprint are described most fully in the DEIR's Biological Resources analysis, inclusive of utility alignment lands: total acreage including the farmlands (64.5 acres) and the utility alignments (46.8 acres; p.89) equaling 111.3 acres. The storm water outfall, if chosen for build-out, would add 0.43 acres to the footprint.

Project Objectives: The project is a public-private endeavor, pairing adjoining, complementary development actions. The Cilker Family seeks to develop its farmlands for light industrial uses, needing both adequate road access and all utility services. The farmland's western boundary borders RWF lands that, under the RWF Master Plan, are proposed for development, as are RWF lands west of Zanker Road. Since decades-old acquisitions as RWF buffer lands, the City-owned sites have primarily been undisturbed grasslands. With those conditions in mind, DEIR's ten-listed project objectives (pp. xviii-xix) can be viewed, in essence, as two-fold: (1) Enable use of the Cilker property for light-industrial development by constructing all of the required utility and road access infrastructure within its boundaries and on RWF lands, an action that would (2) simultaneously stimulate commercial, office and/or light industrial development of the RWF lands on both sides of Zanker Road facilitating the achievement of economic objectives of the City's Envision 2040 Plan and RWF Master Plan.

Response L1: The commenter has generally characterized the proposed project correctly. The general description of the project objectives is also accurate. This comment does not raise any specific environmental issue under CEQA, therefore, no further response is required.

Comment L2: Project Proposed Development: The DEIR, in its Summary of Alternatives, pp xviii-xxvii, presents a suite of alternatives in various combinations. No alternative is designated as a "preferred alternative" but in multiple discussions of individual alternatives, the discussion compares that alternative to the "entire proposed alternative." In Section 2.0, Project Information and Description, the discussion describes an Option 1 and an Option 2 and, on p. 49 defines: "The proposed project (full development of Option 1 or Option 2)...". We remain mystified.

Response L2: In *Section 9.0 Environmentally Superior Alternative*, the EIR identifies the Reduced Scale – Light Industrial Development Only Alternative to be the environmentally superior alternative to the proposed project, consistent with CEQA. The comment is unclear. Response L1 notes that the commenters understand the project description. Please refer to Response I2 for the project description. This comment does not raise any specific environmental issue under CEQA, therefore, no further response is required.

Comment L3:

Summary of Concerns

Our review of the DEIR, has identified several areas of concern, identified here, that will be discussed in greater depth in text that follows:

- The DEIR fails to define and apply CEQA's "whole of the action" definition of "Project", thereby undermining the information quality of all dependent analysis.
- The DEIR's Project Description is inaccurate, incomplete and inadequate, failing to clearly present information upon which decision makers, agencies and the public must depend.

- The DEIR fails throughout to adequately analyze impacts of utility and road construction for impacts that arise from disturbance at any point along a utility alignment, structure site or roadway.
- The DEIR’s storm water runoff system content fails to discuss how the decision will be made between the two methods considered and also omits analysis of one of those methods.
- The DEIR fails to analyze impacts on burrowing owls population in the region and impacts to the designated 200-acre burrowing owl habitat on RWF lands.
- Under Biological Resources, the DEIR fails to identify, analyze and mitigate multiple impacts to wildlife, omissions that need study and inclusion in the DEIR.

Response L3: The commenter references the comments discussed further in the comment letter. A response to each comment topic will be discussed separately within the responses to this letter.

Comment L4:

Comments Regarding Key Concerns Under CEQA

Project Description: The Project Description of this DEIR is incomplete and inaccurately describes the Project. Importantly, it fails to define and apply “Project” as the whole of the action. We consider CEQA Guidelines:

§15124. PROJECT DESCRIPTION

The description of the project shall contain the following information but should not supply extensive detail beyond that needed for evaluation and review of the environmental impact.

(a) The precise location and boundaries of the proposed project shall be shown on a detailed map, preferably topographic. The location of the project shall also appear on a regional map.

§15378. PROJECT

(a) “Project” means the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and that is any of the following:

(1) An activity directly undertaken by any public agency including but not limited to public works construction and related activities clearing or grading of land, improvements to existing public structures, enactment and amendment of zoning ordinances, and the adoption and amendment of local General Plans or elements thereof pursuant to Government Code Sections 65100– 65700.

[Ed: emphasis added]

These CEQA statements apply to this DEIR and its Project Description. In our Project Overview, above, we found the need to re-describe the Project footprint and interpret objectives. Even now we remain mystified at what is the “proposed project.” We found we could not interpret nor depend on the content in Section 2.0 Project Information and Description. We drew on and sorted through Project detail dispersed throughout the DEIR and related documents, sometimes found in text, sometimes only represented in figures. To determine actual acreage, we had to sift through the documents and combine data to find an answer reported nowhere in the document.

Response L4: Please refer to Response I2 for a summary of the project description. The complete project information is provided in Sections 2.0 through 9.0 of the DEIR and in the technical appendices prepared for the project. This comment does not raise any specific environmental issue under CEQA, therefore, no further response is required.

Comment L5: Under §15124, “The description of the project shall contain the following information...(a) The precise location and boundaries of the proposed project shall be shown on a detailed map, preferably topographic.” [Ed: emphasis added] The maps of the Project Description (some used elsewhere in the DEIR) painted a piece-mealed picture. The Vicinity Map, Figure 2.0-2, grid-marks just the farmland acreage as the “Project Site.” Figure 2.0-3, Surrounding Land Uses, clearly marks a “project boundary” around the 64.5 acres of farmland with the addition of a creek stormwater outfall. Figure 2.0-4, “Off-site Utilities Improvements” labels the farmlands as “Project site” while one highly visible dashed line of this map is labelled “Potential Area of disturbance” and surrounds the entirety of farmlands and every utility alignment required by the Project. It is that dashed line that actually presents the “Project” that fulfills the CEQA definition of “the whole of the action”.

Response L5: The figures included in the DEIR (Figures 2.0-1, -2, -3, -4, -5, -6, -7, -8, -9, and -10) depict both the project site on which development would occur as well as the alignments of future roadways and utilities needed to extend utilities to the site. All of these areas were included in the evaluation of environmental impacts included in the DEIR as required by CEQA.

Comment L6: In the DEIR’s persistence in identifying only the farmlands as the Project Site, as is done in the Project Description and repeatedly throughout the DEIR, the City as Lead Agency fails to fulfill this very basic and critical definition of CEQA. Doing so, it fails to set the standard to be used for all impact analysis and mitigation. To our observation, the only section of the DEIR to address the whole of the action, even revealing that 46.8 utility-alignment acres are involved, was the Section 3.3 Biological Resources. Lacking that standard, and withholding acknowledgment that the Project includes a total of 111.3 acres not just 64.5 acres, all impact analysis of the DEIR must be considered incomplete, inaccurate and inadequate under CEQA.

Response L6: The commenter has incorrectly stated that only the farmlands are included as the project site for purposes of the analysis of the DEIR. The DEIR has also adequately analyzed potential impacts from all off-site improvements (see *Sections 2.2.2, 2.2.3, 3.2.8.1, 3.3., 3.3.6, 3.3.10, 3.3.13,* and Table 1 of Appendix C of the DEIR). Please refer to Responses B10, I2, I6, and J15 for discussions related to off-site improvements. No further response to this comment is required.

Comment L7: Regarding objectives, CEQA is also instructive:

§15124. PROJECT DESCRIPTION

The description of the project shall contain the following information but should not supply extensive detail beyond that needed for evaluation and review of the environmental impact.

- (b) A statement of the objectives sought by the proposed project. A clearly written statement of objectives will help the lead agency develop a reasonable range of alternatives to evaluate in the EIR and will aid the decision makers in preparing findings or a statement of overriding considerations, if necessary. The statement of objectives should include the underlying purpose of the project.

[Ed: emphasis added]

The DEIR chooses to present objectives in the Summary section, pp. xviii and xix, prior to that section's discussion of Alternatives. Its introduction to this topic refers to the same CEQA Guideline referenced here, but also explains that the project applicant provided the objectives. As Lead Agency, it is surprising that the City did not work with the applicant to review and refine the objectives. This list of 10 objectives is vague or lofty rather than project-specific. It is also duplicative, over-detailed and generally too lengthy to identify actual desired outcomes. In the end, we chose to create a different set, as seen above. Objectives are meant to be "a clearly written statement" with which to readily develop and evaluate Alternatives of the Project and are commonly seen in DEIRs as a bulleted list of desired outcomes, brief and to the point.

Response L7: Section 2.3 of the DEIR contains a clear and concise statement of objectives sought by the proposed project and is intentionally broad so that a feasible list of alternatives can be created. Had the DEIR created a list of objectives that were too specific, the list of feasible alternatives would not have been able to capture the objectives of the project, resulting in an inadequate alternatives discussion. As the comment does not pertain to the conclusions reached in the DEIR, no further analysis is required.

Comment L8: As examples: What is the purpose of including Objectives 1 and 2 when all they do is state what the City will require i.e. be consistent with Envision 2040 and the Alviso Master Plan? Why describe the construction detail of the Data Center, Light Industrial Development and utility infrastructure (Objectives 3, 4, 6) when it is the end result that matters and as is better described in Objective 7?

- We suggest that a joint Applicant-City revision of the objectives will produce a more useful DEIR.
- Revision of the DEIR must be completed to correctly define the Project's "whole of the action" and to significantly restate the Project Description.

Response L8: The objectives of the project are accurately and clearly described in Section 2.3 of the DEIR. Revisions to the project objectives are not required or proposed in this First Amendment to the Draft EIR. The objectives and the project description include the whole of the action, as required by CEQA.

Comment L9:

Comments regarding Content of Biological Resources Impact Analysis and Mitigation

Utility and Access alignments omitted location-specific impact analysis: Given the widely disbursed and extensive web of utility and road alignments (see Figure 2.0-4), it is a significant concern that no analysis is included that examines the impact that constructing each alignment will have on lands adjoining the disturbed area. For all of these utilities (potable and reclaimed water, sanitary sewer, electricity, natural gas, telecom, access roads and storm-water runoff systems), there is little or no analysis of alignment construction impacts, one exception being the potential storm-water outfall. In the absence of doing so, the impacts repeatedly rely on building codes, Envision 2040, the Alviso Master Plan and may confine discussion to conditions that exist on the farmlands but not on the RWF lands. By omitting analysis of placement and lay of the particular utility, impacts are missed.

Response L9: The DEIR adequately analyzed potential impacts from all off-site improvements (see Sections 2.2.2, 2.2.3, 3.2.8.1, 3.3, 3.3.6, 3.3.10, and 3.3.13 and Table 1, of Appendix C of the DEIR). The areas of ground disturbance shown on Figures 2.0-4, 2.0-5, and 3.3-1 were evaluated for potential cultural and biological impacts during construction and include all areas of the site that could potentially be impacted by construction and operation of the proposed project. Additional impacts on properties other than the project site and extension locations would not occur. The utilities will not add power poles or overhead lines; however power lines would be placed underground, which would temporarily impact those areas from trenching activities. Trenched areas would be returned to their present condition shortly after installation is completed. Fees would be paid to the SCVHP for temporary impacts.

Comment L10: One example of a DEIR unidentified impact and absence of mitigation becomes obvious with a comparison of Figure 2.0-4, Utilities Improvements and 2.0-6, a map of the RWF Plant Master Plan. The Project proposes to install, via trenching, a water supply pipeline and possibly a storm water pipeline that will cut across RWF lands from Zanker Road, continuing west to the intersection with the existing Nortech Parkway. A comparison with the RWF Master Plan establishes that the western-most distance of that alignment cuts directly through Owl Habitat. This burrowing owl habitat was defined by the RWF MP and is permanently managed for that purpose. Further, it quickly became a well-used nesting habitat by the owls. As graphic evidence: <https://sanjoseca.gov/index.aspx?NID=4384>. While it is true this area is covered by the VHP Burrowing Owl Plan, it is a special case of habitat that was already protected before the VHP was adopted.

- The DEIR must analyze the construction impacts and required mitigation of the water supply line, revise the DEIR and recirculate.
- All of the utility and access construction actions need to be reviewed, along their full length and/or other dimensions, to identify specific impacts that may exist and cannot be mitigated by simply stating that City, agency or other construction standards apply.

Response L10: The DEIR adequately analyzed potential impacts to burrowing owls (see Section 3.3.6 of Appendix C of the DEIR), in accordance with CEQA guidelines. The off-site utilities will run west of the site, including through known burrowing owl habitat and near the raised artificial burrows west of Zanker Road. These utilities will all be placed underground and the above-ground habitat will be returned to its current state once utilities are placed. This activity is considered a temporary impact under the SCVHP, and the project will be required to adhere to Condition 15 of the SCVHP, including the avoidance and minimization measures.

The project site is disked at least annually, and to date, burrowing owls have not been recorded as being present on the site. Because burrowing owls are not known to use the project site, development of this area would not greatly impact the current burrowing owl population. The project site could potentially be used for foraging, even if owls are not breeding on the site; however, they have never been recorded as occurring on-site. The proposed off-site utilities will run west of the site, including through known burrowing owl habitat and near the raised artificial burrows west of Zanker Road. These utilities would all be placed underground and the above-ground habitat would be returned to the current state once utilities are placed.

Avoidance and minimization measures required by the SCVHP with regards to burrowing owls are included in Section 3.3.3 of the DEIR. Preconstruction surveys are required. If an owl is observed within 250 feet of the work area, work cannot be conducted until the owl has moved away. Should a nesting owl be observed within 250 feet of the work area, the work cannot be conducted until after the young have left the nest, and even then, if non-breeding owls remain within 250 feet of the work area, work cannot be conducted until the owl has left the area.

Condition 15 of the SCVHP goes into detail as summarized in Section 3.3.6 of Appendix C of the DEIR, regarding: 1) the fee for construction within a half-mile of known breeding habitat, 2) two sets of preconstruction surveys with one within 14 days prior to construction and the second within two days prior to construction with at least two days between the two surveys, 3) establishment of a 250-foot non-disturbance buffer should an owl be observed, 4) details as to how limited work may occur within the 250-foot buffer of an occupied burrow in the non-breeding season, and 5) details that passive relocation, although allowed prior to the SCVHP, is not allowed under the SCVHP except for research purposes.

The development of mitigation measures for impacts to burrowing owls within the SCVHP area included conversations with CDFW. The measures and recovery strategy were determined based on informed discussions with CDFW and USFWS, through which the SCVHP fee for development of burrowing owl habitat was established (\$56,166 per acre for 2017 rates), as it was found to be an adequate fee to support the recovery strategy. The DEIR's conclusion that mitigation measures included in the project will adequately reduce impacts to burrowing owls remains valid and revisions to the DEIR are not required.

Comment L11: Storm-water Runoff System Selection: The DEIR states that two options are being considered to fulfill the need for a storm-water runoff system. One option is to install a new outfall in Coyote Creek, adjacent to the outfall that serves the LECEF and the existing PG&E substation. The other option would be a pipeline to carry the runoff to the Oakmead Pump Station on the Guadalupe River. Its alignment would be the same as the water supply alignment discussed above and affecting the burrowing owl habitat. The DEIR provides, as an appendix, analysis of impacts of construction of the new outfall. There is no analysis of the pipeline to Guadalupe River option. Nowhere in the DEIR was there any discussion about how the choice for one option or the other will be made, what factors will be considered in that decision, nor who will be involved in making the decisions. No comparisons were provided of benefits and/or impacts of the two options. This analysis is another omission of the DEIR that must be corrected and it will require that impact analysis of the Guadalupe pipeline be completed.

- The DEIR must define a methodology that will guide the storm water runoff decision and provide impact analysis of the potential pipeline to Guadalupe River to allow reasonable comparison of the two options under consideration.

Response L11: Please refer to Responses B18, G2, G8, I4, and I12 for a discussion of the two options for stormwater conveyance for the project. Both options are discussed at length throughout the DEIR and the environmental impacts are assessed. CEQA does not require that the DEIR define a methodology that will guide the stormwater runoff decision. No further analysis is required.

Comment L-12: Appendix C, Technical Biological Report, Burrowing owl impacts remain significant: Our review concludes that Impacts to burrowing owls remain significant and are not mitigated by future HCP fee payments

The EIR must find that impacts to burrowing owls are significant if the Project would result in a “substantial adverse effect, either directly or through habitat modifications, on any species . . . identified as a special status species.” Burrowing owls are a California Species of Special Concern. We believe that the Project will have significant, unmitigable impacts to burrowing owls, and may cause their extirpation as a breeding species in the Bay Area.

Burrowing owl populations in the region are at a critical juncture. Past surveys found a 53% decline of burrowing owl populations in the greater San Francisco Bay area between 1986 and 1990 with just 86- 94 owls pairs located in the HCP study area in 1990 (Santa Clara Valley Habitat Plan (HCP) Appendix M at 1). Downward trends have continued, and a Population Viability Analysis in 2010 concluded that unless immediate and sustained reversion of the declining trend occurs, burrowing owls will no longer exist in Santa Clara County within 20 years (HCP Appendix N at 4, 9-14). The causes of declining burrowing owl populations are well documented. As one Bureau of Land Management paper summarized, threats to burrowing owl populations include “direct mortality from man (including vehicle collisions); pesticides; habitat degradation, destruction and loss; and predators.” (Kurt F. Campbell, Burrowing Owl). Indeed, the VHP 2016 surveys resulted in the documentation of only 61 breeding adult burrowing owls. These numbers are down to 82% of the number of adult owls observed in 2015 (74) and below those reported from the early 1990’s and

2009 (86-94), just prior to Habitat Plan publication.¹⁶ The impacts of loss of nesting and foraging habitat and open space should be studied by the EIR and adequately mitigated. We strongly believe that paying the VHP fees is in this case cannot reduce the Project’s impacts to a less than significant level.

Response L12: Please see Response L10 for a discussion on the project’s compliance with the SCVHP. The comment is incorrect. Implementation of all pertinent conditions and the payment of SCVHP fees is mitigation under CEQA. The project is in compliance with the SCVHP.

Comment L13: Page 8 of the Technical Biological Report includes a map that incorrectly shows the annual grasslands of the RWF bufferlands as Agricultural. These lands have not been used for agriculture in decades and are maintained as annual grasslands, which are mowed yearly to reduce fire risk. The bufferlands provide habitat for the only viable burrowing owl population in the South Bay, and owls use it for both foraging and nesting. See below July 2016 burrowing owl survey maps (submitted by SCVAS to the City of San Jose and the California Dept. of Fish and Wildlife). In 2016, a burrowing owl nest fledged 5 chicks in the area highlighted “developed” on the Biological Evaluation Map (Page 8). The map on page 8 also fails to identify 200 acres of existing designated, protected burrowing owl habitat that is maintained specifically for this conservation purpose. Parts of the project encroach on this habitat.

Because this area is critical to the survival of a breeding burrowing owl population in the south bay, accuracy in delineating habitat and compensating for the loss of open space (via the zone fees of the VHP) is paramount, and the Figure on page 8, and the DEIR analysis and mitigations that use this map as a baseline should be corrected.

July 2016



¹⁶ Santa Clara Valley Habitat Plan. *2016 Burrowing Owl Breeding Season Survey Report*. November 2016. Page 66.

July 2016



Response L13: The habitat map on page 8 of the Technical Biological Report included as Appendix C in the DEIR shows the main site adjacent to the Coyote Creek levee as agricultural, and the utility alignment as annual grasslands. The map is intended to be a habitat map, and does not show land ownership or special management areas. The maps do not require revision or replacement. Section 2.2.2 of Appendix C discusses the existence of the artificial burrows within mounds which were specifically designed for burrowing owls.

Comment L14: The project proposes to pay the relevant Valley Habitat Plan (VHP) burrowing owl and other fees. It is owls, not land-use designations, that determine whether the RWF bufferlands are habitat or agricultural. The owls, by their year-round presence, tell us that this is functional burrowing owl habitat.

The DEIR assumes that functional burrowing owl habitat is agricultural where in fact - it is not used for agriculture, and burrowing owls are using it as habitat. Please reevaluate the burrowing owl habitat based on wintering and nesting owl use as delineated in multiple survey reports submitted to the City of San Jose over the past five years. In addition, please provide a detailed analysis of 1) each of the project components to be mitigated through the VHP fees, in its location, and 2) please explain how the fees are calculated for each parcel of land and each linear infrastructure component. Please identify “take” of historical burrows, and provide mitigation for this loss. We ask for this analysis to be comprehensive and apply to all phases and all locations of construction and/or permanent infrastructure and buildings.

We ask for full analysis of the impacts of this project on the breeding population of burrowing owls in the South Bay area. We acknowledge that the project may receive required burrowing owl “take” permits from the VHP to satisfy the requirements of the California Department of Fish and Wildlife and the US Fish and Wildlife Service. However, CEQA requires that biological impacts should be studied, disclosed and mitigated comprehensively.

Mitigation Measure 3.3.6-b for burrowing owls is inadequate and fails to protect individual owls in the bufferlands, including in the 200-acres of designated burrowing owl habitat on the western part of the RWF. This area is refuge to both wintering and to nesting owls. For example, a survey from December 2016 documented 13 owls in the RFW bufferlands. An adequate mitigation will conduct a pre- construction survey for any of the project components and sites before any disturbance, any time of year (including the non-breeding season).

December 2016



- The DEIR and the Technical Biological Report (Appendix C) needs to be revised to make all impact analysis and mitigation corrections identified in the comments and images provided above and for the City to ensure that all needed mitigation actions are enacted.

Response L14: For a discussion of the project’s impacts to burrowing owls, see Responses L10 and L11 above. The DEIR and Technical Biological Report both adequately evaluate impacts to burrowing owls in accordance with the SCVHP and no revisions are required. No further analysis is required.

Comment L15:

Concerns pertinent to Biological Resources, Section 3.3, and Appendix C, Technical Biological Report)

Omissions of Wildlife Corridor Analysis: In scoping comments, CCCR and the San Francisco Bay Bird Observatory (SFBBO), each recommended that attention be given to analyzing and providing for an existing east-west wildlife linkage that has long served the area. Notably mammals common to the area cross to and from Coyote Creek, across the farmland and the grasslands of the RWF, a route that connects these mammals with the protected areas of the Don Edwards National Wildlife Refuge. This is a linkage that would be used by raccoon, grey fox, opossum, jackrabbits and possibly smaller critters. In addition to the Refuge, another destination next to it may be the Green Waste Zero Emissions Digesters that process organic waste.

We are dismayed by two issues of the DEIR. First is the steel security fence that will surround the proposed Data Center and, by design, will destroy this wildlife linkage. The second is that the wildlife movement analysis acknowledges only that the creek serves as a linkage, not these wide open spaces. “Although the project site and Coyote Creek are not within a defined linkage in the Santa Clara Valley Habitat Conservation Plan, Coyote Creek is defined as an important regional habitat linkage. Coyote Creek is expected to act as a movement corridor for many common local species.” (p. 93)

While the VHP does cover lands of this Project, the development of the VHP specifically excluded the Baylands and its transitional habitats, making it unlikely that any research was given to wildlife linkages north of Route 237. That may well explain why no linkage is mentioned.

We note also, in Appendix C, a lengthy discussion of wildlife corridors that focused heavily on large predators e.g. cougars and coyotes, neither of which have been known to be present in the Project Area ergo not part of the Bay transition-land biodiversity. The raccoons, grey fox, jackrabbits, opossum and other wildlife present typify species size in a Bayland ecology. Other than nearby willow groves and riparian zones, low-growing vegetation characterizes the area and is not suited for wildlife movement of the larger predators. Nonetheless the fallow fields and grasslands, especially at night, can provide cover to the smaller animals mentioned previously, animals quite able to traverse between the creek and the Refuge in dark of night. Another characteristic restricting shoreline movement, is the fact that creek linkages terminate at the Bay thereby forcing critters to find lateral linkages for movement, a service the open fields provide and a natural community that is increasing rare along the shoreline. Providing mitigation to protect this wildlife linkage is critically important to retaining balanced and healthy biodiversity on our shorelines.

- Reanalyze east-west wildlife corridors involving farmlands and/or RWF lands of the Project and identify mitigation to resolve movement disruption introduced by the steel security fence, or any other fence, to be installed as part of the Project.

Response L15: The DEIR adequately analyzed wildlife movement corridors (see Section 3.3.2.8 of the DEIR and Section 2.3 of Appendix C of the DEIR). Section 2.3 focused on the north-south Coyote Creek corridor, as it is a complete natural riparian habitat and the most likely course wildlife would take to travel through the area. It also provides more adequate cover and higher quality foraging habitat than the surrounding adjacent lands support. Although the Coyote Creek corridor is the most prevalent wildlife corridor in the area, animals have been observed moving east-west through the site and may pass through the site to other areas, or even pass through the site to get to or from the Coyote Creek corridor.

The area east of Coyote Creek is mostly built-out and the levees are a barrier to movement, therefore, most east-west movement would occur on the west side of the creek. Animals which may typically move through this area include the Pacific treefrog (*Pseudacris regilla*), snakes such as the California kingsnake (*Lampropeltis getula californiae*) and Pacific gopher snake (*Pituophis catenifer catenifer*), western fence lizard (*Sceloporus occidentalis*), alligator lizard (*Elgaria multicarinata*), a variety of bird species which fly over the site, various rodents, opossums (*Didelphis virginiana*), striped skunks (*Mephitis mephitis*), raccoons (*Procyon lotor*), bobcats (*Lynx rufus*), gray foxes (*Urocyon cinereoargenteus*), coyotes (*Canis latrans*), and black-tailed deer (*Odocoileus hemionus columbianus*). While the amphibian and reptile species may not move very far, potentially only using this east-west corridor for dispersal movements, the

other species listed above are likely to incorporate east-west movement more often, and may include daily/nightly movements, more long-term dispersal movements, or movements made during migration. Although fencing for this project would likely be permeable to some of the smaller animals, it would likely not be permeable for many wildlife species. Additionally, while most bird species are expected to continue their current movement routes over the site, some bird species may alter their route around the development. Given the case that some animals would need to seek an alternate route, the Biological Technical Report prepared for the DEIR examined the landscape for alternate potential routes.

Don Edwards Wildlife Refuge is the most likely potential destination or home range for species who may be currently using the site as an east-west corridor to and from Coyote Creek. Don Edwards Wildlife Refuge is located northwest of the site. The RWF includes many settling ponds just north of the site, which often hold water and attract many migratory birds. The salt ponds of Don Edwards Wildlife Refuge are just north of these settling ponds. The settling pond area is likely presently used more than the site as an east-west corridor between Don Edwards Wildlife Refuge and Coyote Creek, with the site being used to a lesser extent. The levees of the settling ponds as well as dry settling ponds offer terrestrial wildlife an east-west corridor to the north of the site.

Species trending more towards urban settings such as the opossum, skunk, and raccoon are likely to use the bike path and roadside south of the site as an east-west corridor, as well as the Valley Transportation Authority (VTA) property south of Highway 237, which is also adjacent to the western side of the Coyote Creek riparian corridor. Animals are expected to continue to use the areas west of the main site as they currently do, as a small access road is planned east of Zanker Road and only temporary impacts are planned for west of Zanker Road, none of which is expected to impede movement through those areas.

As alternate, more suitable east-west movement corridors already exist to the north and to the south of the project site, the development of the project site is not expected to substantially alter east-west movement of wildlife regionally. Therefore, the DEIR's conclusion that the project will not significantly impact movement corridors for wildlife regionally remains valid. No further response is required. Neither the DEIR nor Technical Biological Report require revision.

Comment L16:

Wetland Delineation: The Biological Analysis identified the location of a small but persisting wetland at a corner of the farmlands next to Alviso-Milpitas (aka Ranch) Road at the westerly edge. Google examination of the wetland in conjunction with surrounding area suggests it may be an isolated remnant of the historical channel of Coyote Creek or of its floodplain. Given the rarity of such wetlands, it is important to get a jurisdictional wetland determination by the USACE, information needed to define mitigation.

- Request a wetland delineation by the USACE and use the resulting findings to establish suitable, permanent mitigation and to be used to improve the DEIR.

Response L16: The DEIR adequately analyzed the project site for potential jurisdictional wetlands (see *Section 2.5, 3.2.8.2, and 3.3.8* of Appendix C of the DEIR). The project would be required to complete a wetland delineation prior to building in the southern portion of the site and implement measures to avoid, minimize, and compensate for any fill of Waters of the United States. The DEIR's conclusion that potentially jurisdictional wetlands occur on-site remains valid. Revisions to the DEIR or Technical Biological Report is not required.

Comment L17: Impacts of Noise and Vibration on Wildlife: Section 3.11, Noise and Vibration, analyzes for human sensitive receptors but not for wildlife sensitive receptors. This is a significant omission given Project adjacency to the Riparian zone on Coyote Creek with its extensive and varied wildlife habitats and potential for noise and/or vibration impacts on a broad spectrum of wildlife, disrupting nesting/denning, foraging and other activities.

The DEIR does not analyze the adverse impacts of construction or operational noise on existing wildlife. Noise impacts to wildlife can include wintering, migratory, and breeding birds, and potentially denning mammals.

This is a significant flaw in the EIR and must be rectified and fully mitigated.

The normal behavior of species currently utilizing habitats within the vicinity of proposed construction may be adversely impacted. Studies of the impacts of the effects of anthropogenic noise suggest the noise interferes with territorial vocalization (i.e. impacts to birds in breeding season) and the density of passerines occupying suitable habitat. These studies provide evidence that anthropogenic noise and vibration impacts on wildlife are not speculative, can be significant, and should be analyzed and avoided or fully mitigated.

- The DEIR needs to analyze impacts and identify mitigation for noise and vibration on wildlife receptors particularly as may pertain to the riparian zone and burrowing owl habitats.

Response L17: The DEIR adequately addresses potential impacts to riparian areas required (see Sections 3.3.2.6 and 3.3.2.7 of the DEIR and Sections 3.3.8 and 3.3.13 of Appendix C of the DEIR). The project site is observing a 100-foot buffer from the Coyote Creek corridor to protect the creek corridor from impacts of project construction and activities on the site after construction. Due to this distance and the fact that a raised levee road exists between the proposed development and the creek corridor, potential impacts of noise and vibration are expected to be less than significant to animals using the Coyote Creek corridor. Noise and vibration during operations once the project is built out is not expected to significantly impact animals using the Coyote Creek corridor. The DEIR's conclusion that the riparian corridor will not be impacted therefore remains valid.

Development exists between the main site and the burrowing owl habitat west of Zanker Road. The main site is disked at least annually, and to date, burrowing owls have not been recorded on the main site. Because burrowing owls are not known to use the main site, noise and vibrations of development and operations of this area would not greatly impact the current burrowing owl population. In addition, noise and vibrations of placing underground utilities on the west side of Zanker Road is not expected to impact burrowing owls, as this is a temporary activity and disturbance will only take place during placement and there are no continuing operations planned for this area. The project would be required to adhere to Condition 15 of the SCVHP, including the avoidance and minimization measures, which includes preconstruction surveys and limits

work to occur when burrowing owls are not within the work area or within 250 feet of the work area. Therefore, the DEIR's conclusion that mitigation adequately reduces impacts to burrowing owls remains valid.

Comment L18: Operational biological mitigations on/among facilities the resulting Project campus: The DEIR omits several mitigations needed to prevent this development from introducing new and ongoing impact as listed here:

The DEIR does not provide structural detail about the new PG&E substation. Nonetheless, the DEIR can establish standards that would apply to that facility. Commonly substations introduce power/transmission lines. These lines are especially dangerous when the facility adjoins habitats that attract birds, in this case waterfowl that heavily uses the RWF biosolids ponds, fall, winter and spring. The likelihood of impacts can be reduced with the use of flight diverters on the transmission lines.

The DEIR, in the Technical Biological Report, mitigates for the presence of pets during construction but not for ongoing operation of a Data Center/Light Industrial campus. This is a significant omission given the adjacency to the Riparian zone. The DEIR needs to establish a mitigation monitoring plan to be carried out by campus managers that will prevent structural or landscape elements from providing refugia to pest species (dense vegetation, outdoor storage units, similar) or perching locations for avian predators (light posts, roof edges, similar). Feeding of any animal on campus should be prohibited and any feral cats need to be permanently removed from the site.

- The DEIR needs to analyze and mitigate for wildlife impacts if impacts may be introduced by transmission lines, new predator perching locations, refugia niches of pest species, feeding of any animals outdoors or the presence of feral cats. The DEIR needs to be revised to include these wildlife mitigations as operational requirements for campus management.

Response L-18: Transmission lines are not proposed as a part of this project, as the project will be tying into existing transmission lines. Perches already exist on the landscape in the form of trees and powerline towers, including a stick nest in a tower to the northwest of the site.¹⁷ Therefore, as adequate perches for aerial predators currently exist near the project site and off-site utility locations, any additional perching opportunities as a result of the project are not likely to have a significant impact on frequency of prey for aerial predators. Feeding stations for animals such as feral cats will not be allowed on-site. For these reasons, the DEIR's conclusion that the project would not result in significant impacts to regional wildlife (Sections 3.3.2.7 and 3.3.2.8) remains valid.

¹⁷ Personal communication, Katrina Krakow, Project Manager and Staff Ecologist, Live Oak Associates, August 11, 2017.

The following section contains revisions/additions to the text of the *Draft Environmental Impact Report, 237 Industrial Center*, dated June 2017. Revised or new language is underlined. All deletions are shown with a line through the text.

Preface First paragraph will be **REVISED** as follows:

This document has been prepared by the City of San José as the Lead Agency in conformance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines. This Environmental Impact Report (EIR) provides ~~program-level~~ project-level environmental review for the proposed 237 Industrial Center Project.

Page iv Summary, the following mitigation measure will be **REVISED** as follows to correct a typographical error:

MM AQ-1.1: Prior to issuance of any building permit, the project applicant shall submit a generator operations plan to the Building Division Manager for review, that staff and ensures that generator operations for ~~or~~ maintenance and testing purposes ~~shall be limited so that~~ for the combined operation of all 24 engines generators do ~~does~~ not exceed 360 hours in any consecutive 12-month period and the average load factor does not exceed 30 percent during testing.

Page iv Summary, the following mitigation measure will be **REVISED** as follows to clarify the timing of implementation:

MM AQ-1.3: ~~Prior to issuance of any building permit, the~~ project applicant shall submit the generator operations records noted above in MM AQ-1.2 to the BAAQMD as part of the operator's Permit to Operate conditions, ~~to BAAQMD for approval.~~

Page vi Summary, the following mitigation measures will be **REVISED** as follows to clarify permitting requirements:

MM BIO-1.1: If initial site disturbance activities, including tree, shrub, or vegetation removal, are scheduled to occur during the breeding season (February 1st to August 31st, inclusive), a qualified biologist shall conduct pre-construction surveys for nesting migratory birds onsite and within 250 feet (for raptors) of the site, where accessible. The survey shall occur within ~~14~~ 7 days of the onset of ground disturbance if disturbances are to commence between February 1st and June 30th and within 30 days prior to the onset of ground disturbance between July 1st and August 31st. If a nesting migratory bird were to be detected, ~~an appropriate~~ construction-free buffer zone shall be established in consultation with the California Department of Fish and Wildlife (CDFW). The actual size of the buffer, ~~which zone~~ shall be determined by the project biologist, ~~would and will~~ will depend on species, topography, and type of activity that would occur in the vicinity of the nest. The project buffer zone would be monitored periodically by the project biologist to ensure compliance.

After the nest is completed, as determined by the biologist, the buffer zone would no longer be required can be removed.

Page xi

Summary, the following mitigation measures will be **REVISED** as follows to clarify permitting requirements:

MM BIO-3.4: The project applicant shall ensure that all seed mixtures used for revegetation of the impacted riparian habitat of Coyote Creek shall be locally native or sterile non-native species only. No invasive non-native plant species shall be used for revegetation.

MM BIO-3.5: The project applicant shall comply with all requirements of the CDFW, U.S. Army Corps of Engineers (USACE), and Regional Water Quality Control Board (RWQCB) permits required for the construction of the outfall project, including any additional mitigation measures and all monitoring requirements.

Page xiii

Summary, the following mitigation measure will be **REVISED** as follows to clarify the timing and scope of implementation:

MM CUL-1.4: In the event that prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of PBCE shall be notified, and a qualified archaeologist shall examine the find. The archaeologist shall evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource and make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits for any construction occurring within the above-referenced 50-foot radius and all areas determined by the archaeologist to not be disturbed during examination of the find. If the finds do not meet the definition of a historical or archaeological resources, no further study or protection is necessary prior to project implementation. If the find(s) does meet the definition of a historical or archaeological resource, then it shall be avoided by project activities. If avoidance is not feasible, adverse effects to such resources shall be mitigated in accordance with the recommendations of the archaeologist. Recommendations shall include, but are not limited to, collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery would be submitted to the Director of PBCE and the Northwest Information Center.

The project applicant shall ensure that construction personnel does not collect or move any cultural material, and shall ensure that any fill soils that may be used for construction purposes do not contain any archaeological materials.

Page xvii

Summary, the following mitigation measure will be **REVISED** as follows to add the analysis at the Mission College Boulevard and Montague Expressway intersection:

Impact TRAN(C)-1: The proposed project would have a cumulatively considerable contribution to ~~two~~ three intersections. The data center alone (Phase 1 of Option 2) would not result in ~~these~~ this impacts. (**Significant Impact**)

MM TRAN(C)-1.1: To reduce the average delay in traffic level of service, the project applicant shall fully fund and construct a second southbound through lane ~~The LOS at the Zanker Road/SR 237(N) intersection would be improved over background under cumulative conditions, with the addition of a second southbound through lane,~~ This improvement would be triggered when the light industrial part (non-data center component) of the project is constructed. ~~This improvement would reduce the average delay to LOS B in the PM Peak Hour.~~

Page xix Summary, the significant and unavoidable impacts list will be **REVISED** as follows:

The project would result in the following significant and unavoidable impacts:

1. Implementation of the proposed project would result in the development of 64.5 acres of land designated as Prime Farmland. Same significant unavoidable impact identified in the Envision San José Final Supplemental PEIR.
2. Implementation of the data center/light industrial development option would result in the development of new land uses after the year 2020, resulting in unmitigated GHG emissions impacts. Same significant unavoidable impact identified in the Envision San José Final Supplemental PEIR.
3. Implementation of the light industrial component of the project would have a cumulatively considerable contribution to the Zanker Road/Tasman Drive. Same significant unavoidable impact identified in the North San José Development Policy FEIR.
4. Implementation of the light industrial component of the project would result in significant unavoidable impacts on the mixed flow lanes of seven directional freeway segments and HOV lanes of three directional freeway segments.

Page xxiii Summary, will be **REVISED** to reflect analysis of the Mission College Boulevard/Montague Expressway intersections;

REDUCED SCALE – LIGHT INDUSTRIAL ONLY ALTERNATIVE

In an effort to avoid or reduce significant impacts resulting from the proposed project, this alternative evaluates a Reduced Scale - Light Industrial Only Alternative. To reduce traffic impacts to a less than significant level at the intersections of North First Street/Montague Expressway, ~~and~~ Zanker Road/Montague Expressway, and Mission College Boulevard/Montague Expressway and impacts to freeways, Option 1 of the project (1.2 million square feet of light industrial uses) would need to be reduced by up to 90 percent. This equates to approximately 120,000 square feet of light industrial uses on the 64.5 acre site. To reduce freeway impacts only, the project would need to be reduced by up to 85 percent or approximately 180,000 square feet.

At one story in height, that would be approximately 2.75 and 4.1 acres of light industrial development, respectively.

Page 29 Section 1.4, **PUBLIC PARTICIPATION IN ENVIRONMENTAL REVIEW**, second paragraph, will be revised with the correct NOP circulation and EIR scoping meeting dates:

In accordance with Section 15082 of the CEQA Guidelines, in ~~August 2015~~ May 2016 an NOP was circulated to the public and responsible agencies for input regarding the analysis in this EIR. A scoping meeting was held on ~~August 25, 2015~~ June 9, 2016 to provide an opportunity for members of the community to comment on the project and contents of the EIR. This EIR addresses those issues which were raised by the public and responsible agencies in response to the NOP and at the scoping meeting. The NOP and the public responses to the NOP are presented in Appendix A of this EIR.

Page 31 Section 2.1.1, **Background Information**, third paragraph, will be REVISED as follows to clarify roadways in the project vicinity:

The project site is primarily fallow farmland with two single-family houses, a mobile home, and farm-related accessory structures located near the southern end of the site. The site is currently supported by well water and a septic tank system. The site is accessed by Alviso-Milpitas Road, which runs along the southern boundary of the site. Alviso Milpitas Road connects to Ranch Drive on the east side of Coyote Creek in Milpitas. A road is located west of the site that provides unimproved access from and to Zanker Road west of the site in San Jose. The site is adjacent to the western bank of Coyote Creek, and east of the LECEF and an existing PG&E substation north of the LECEF, as shown on Figure 2.0-4.

Page 42 Section 2.2.2, **Data Center/Light Industrial Option (Option 2)**, the fifth paragraph, will be **REVISED** as follows to clarify the project description:

The data center ~~also requires~~ may include the potential for the installation of two 25-foot tall water storage tanks to be located in the northeastern portion of the site, as shown on Figure 2.0-9. The tanks would be approximately 110 feet and 80 feet in diameter and together, contain approximately 3.5 million gallons of water. The water ~~would could be used for backup to the recycled system source used to cool the facility and fire suppression, if necessary~~ as a backup supply to the recycled water for cooling purposes.

Page 45 Section 2.2.2.1, **Stormwater Conveyance and Biofiltration**, first four paragraphs, will be **REVISED** as follows to clarify the project description:

The proposed project (both options) includes two scenarios for the conveyance of stormwater during the 10-year rainfall event ~~on the project site as well as from the City held properties located to the west of the site, east of Zanker Road.~~

The first scenario would be to construct a new stormwater outfall to Coyote Creek adjacent to the existing LECEF outfall approximately 1,800 feet downstream (north) of the SR 237 Bridge crossing, as shown on Figure 2.0-4. The new outfall (Figure 2.0-11) would require a new pipe be installed through the existing SCVWD levee located on the west side of the creek. The existing LECEF outfall cannot be utilized by the project, as it is a private facility that is not sized to accommodate the project site alone or with the City held lands east of Zanker Road.

Stormwater flows from the site would be discharged to Coyote Creek via a forcemain into a new gravity outfall pipe that would discharge flows into the main creek channel. It is anticipated that this alternative would require permits from the California Department of Fish and Wildlife (CDFW), U.S. Army Corps of Engineers (USACE), Regional Water Quality Control Board (RWQCB), and Santa Clara Valley Water District (SCVWD). This scenario would accommodate the proposed new roadways and future planned development of City held properties located to the west of the site, east of Zanker Road.

The second scenario would be to direct stormwater to the City of San José's existing Oakmead Pump Station located on the Guadalupe River, south of SR 237 and approximately two miles southwest of the project site. New stormwater pipes would be required to convey flows to the southwest across City held lands and upgrades/increases to pipes located in existing public streets near the pump station. Improvements to the pump station itself would not be required as it is sized to accommodate run-off from the site. This scenario would only accommodate the project site and new roadways. It would not accommodate the planned future development of City held properties located to the west of the site, east of Zanker Road.

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Section 2.2.3.2, *Water Supply*, the third paragraph, will be **REVISED** as follows to clarify the project description:

SJMWS has determined that there are sources available to provide for project water demands consistent with ~~their~~ its Urban Water Management Plan (UWMP). The Water Supply Assessment considered a backup potable water supply for cooling purposes not to exceed 14.5 acre feet per year. The flow rate for this backup supply is 10,500 gallons per day per megawatt (gpd/MW). SJMWS determined that there is adequate capacity for this as an annual potable backup flow, but the potable backup flow at the required daily rate would adversely impact system-wide operations. As a condition of approval, the applicant would has agreed to provide for the purchase of an approximately 2,500 square foot property within SJMWS's North San José/Alviso service area for the future installation of a new groundwater well to meet the flow requirements of the backup supply, limited to 14.5 acre feet per year. Once the site has been identified, there shall be further analysis for the well project. Until the condition is met, the Project shall have a connection to potable water sufficient for the non-cooling purposes (150 gpm).

It is anticipated that a future well site, as a public facility, could be located on property owned by the City, ~~where in which case~~ the Developer would work with the City to determine a pro rata fair share contribution towards this facility. The well would be located and constructed by SJMWS in conformance with the provisions of their Urban Water Management Plan.

Page 75

Section 3.2.2.2, *Consistency with Plans*, **Table 3.2-4: Bay Area Clean Air Plan Applicable Control Measures**, will be **REVISED** as follows to clarify the project description:

Table 3.2-4: Bay Area 2017 Clean Air Plan Applicable Control Measures		
Control Measures	Description	Project Consistency
<i>Transportation Measures</i>		
Bicycle and Pedestrian Access and Facilities	Encourage planning for bicycle and pedestrian facilities in local plans e.g., general and specific plans, fund bike lanes, routes, paths and bicycle parking facilities.	The project would include <u>bike trail extensions</u> and secure bicycle parking spaces consistent with City standards. Due to the location of the project site and the nature of the project, improved pedestrian access is not proposed as part of the project. <u>The project includes the construction of sidewalks along the new public roadways and on the east side of Zanker Road.</u> The site is, however, within walking distance to a nearby shopping center and the Coyote Creek Trail. The project is consistent with this control measure.
<i>Energy Measures</i>		
Urban Heat Island Mitigation	Develop and urge adoption of a model ordinance for “cool parking” that promotes the use of cool surface treatments for new parking facilities, as well existing surface lots undergoing resurfacing. Develop and promote adoption of model building code requirements for new construction or re-roofing/roofing upgrades for commercial and residential multi-family housing.	The project would be required to comply with the City’s Green Building Ordinance which will increase building efficiency over standard construction. Therefore, the project is consistent with this control measure.
<i>Natural and Working Lands Measures</i>		
Urban Tree Planting	Develop or identify an existing model municipal tree planting ordinance and encourage local governments to adopt such an ordinance. Include tree planting recommendations, the Air District’s	As designed, the project will plant new trees on-site to conform to the City’s Tree Ordinance. With the required tree replacement ratios, the site would have more trees than under current conditions. The additional trees will help with the

	technical guidance, best management practices for local plans, and CEQA review.	absorption of air pollutants and will help to reduce the urban heat island effect on-site. The proposed project, therefore, is consistent with this control measure.
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Page 79 Section 3.2.2.4, **Construction Impacts**, sixth paragraph, will be **REVISED** as follows to clarify the types of land uses in the surrounding area:

Construction activities on-site would, however, generate dust and other particulate matter that could temporarily impact nearby sensitive receptors. The amount of dust generated would be highly variable and is dependent on the size of the area disturbed at any given time, the amount of activity, soil conditions, and meteorological conditions. The nearest land uses are industrial, commercial and office, and are not considered sensitive receptors. The project would be required to implement BAAQMD dust control measures as a condition of project approval, as outlined below. The following permit conditions are included in the project to further reduce construction-related air quality impacts.

Page 81 Section 3.2.3.1, **NOx Impacts**, will be **REVISED** as follows to correct a typographical error and clarify the timing of implementation:

MM AQ-1.1: Prior to issuance of a building permit, the project applicant shall submit a generator operations plan to the Building Division staff and ensure that generator operations for ~~or~~ maintenance and testing purposes shall be limited so that the combined operation of all 24 engines does not exceed 360 hours in any consecutive 12-month period and the average load factor does not exceed 30 percent during testing.

MM AQ-1.3: ~~Prior to issuance of any building permit, t~~The project applicant shall submit the records noted above in MM AQ-1.2 as part of the operator’s Permit to Operate conditions, to BAAQMD for approval.

Page 103 Section 3.3.3, **Mitigation and Avoidance Measures**, will be **REVISED** as follows to clarify pre-construction survey timeframes:

MM BIO-1.1: If initial site disturbance activities, including tree, shrub, or vegetation removal, are to occur during the breeding season February 1st to August 31st inclusive, a qualified biologist shall conduct pre-construction surveys for nesting migratory birds onsite and within 250 feet (for raptors) of the site, where accessible. The survey shall occur within ~~14~~ 7 days of the onset of ground disturbance if disturbances are to commence between February 1st and June 30th and within 30 days prior to the onset of ground disturbance between July 1st and August 31st. If a nesting migratory bird were to be detected, an appropriate construction-free buffer shall be established in consultation with the California Department of Fish and Wildlife (CDFW). The actual size of the buffer, which shall be determined by the project

biologist, would depend on species, topography, and type of activity that would occur in the vicinity of the nest. The project buffer would be monitored periodically by the project biologist to ensure compliance. After the nest is completed, as determined by the biologist, the buffer would no longer be required.

Page 106 Section 3.3.3, **Mitigation and Avoidance Measures**, will be **REVISED** as follows to clarify the mitigation measure:

MM BIO-3.4: The project applicant shall ensure that all seed mixtures used for revegetation of the impacted riparian habitat of Coyote Creek shall be locally native or sterile non-native species only. No invasive non-native plant species shall be used for revegetation.

Page 107 Section 3.3.3, **Mitigation and Avoidance Measures**, will be **REVISED** as follows to clarify permitting requirements:

MM BIO-3.5: The project applicant shall comply with all requirements of the CDFW, U.S. Army Corps of Engineers (USACE), and Regional Water Quality Control Board (RWQCB) permits required for the construction of the ~~outfall~~ project, including any additional mitigation measures and all monitoring requirements.

Page 108 Section 3.4.1.1, ***Regulatory Framework***, will be **REVISED** as follows to include information regarding AB 52 and to document that the process was implemented:

Assembly Bill 52- Tribal Cultural Resources

A tribal cultural resource can be a site, feature, place, or cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe. It also must be either on or eligible for the California Historic Register, a local historic register, or the lead agency, at its discretion, chooses to treat the resource as a tribal cultural resource. Assembly Bill 52 (AB 52), which amends the Public Resources Code, requires lead agencies to participate in formal consultations with California Native American tribes during the CEQA process, if requested by any tribe, to identify tribal cultural resources that may be subject to significant impacts by a project. Where a project may have a significant impact on a tribal cultural resource, the Lead Agency's environmental document must discuss the impact and whether feasible alternatives or mitigation measures could avoid or substantially lessen the impact. Consultation is required until the parties agree to measures to mitigate or avoid a significant effect on a tribal cultural resource or when it is concluded that mutual agreement cannot be reached.

The Notice of Preparation (NOP) for the 237 Industrial Center Project was sent to the NAHC on May 27, 2016 prior to preparation of the Draft Environmental Impact Report (DEIR) and local tribes were contacted for formal consultation regarding tribal cultural resources. The City did not receive a response from any tribe to their

request for consultation. Therefore, government-to-government consultation with local Native American tribes was completed by the City in accordance with AB 52.

Page 120 Section 3.4.3.1, *Impacts to Subsurface Cultural Resources*, will be **REVISED** as follows to clarify the timing and scope of implementation:

MM CUL-1.4: In the event that prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of PBCE shall be notified, and a qualified archaeologist shall examine the find. The archaeologist shall evaluate the find(s) to determine if they meet the definition of a historical, archaeological, or tribal cultural resource and make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits for any construction occurring within the above-referenced 50-foot radius. If the finds do not meet the definition of a historical, ~~or~~ archaeological, or tribal cultural resources, no further study or protection is necessary prior to project implementation. If the find(s) does meet the definition of a historical, ~~or~~ archaeological, or tribal cultural resource, then it shall be avoided by project activities. If avoidance is not feasible, adverse effects to such resources shall be mitigated in accordance with the recommendations of the archaeologist. Recommendations shall include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery would be submitted to the Director of PBCE, NAHC (tribal cultural resources), and the Northwest Information Center.

The project applicant shall ensure that construction personnel does not collect or move any cultural material, and shall ensure that any fill soils that may be used for construction purposes do not contain any archaeological materials.

Page 133 Section 3.6.1.2, *Existing Conditions*, will be **REVISED** as follows to clarify the depth to groundwater:

Groundwater

Depth to shallow groundwater over the entire project site has historically been encountered at between approximately five and 11 feet below ground surface.¹

Page 167 Section 3.9.2.4, *Groundwater Impacts*, second paragraph, will be **REVISED** as follows to clarify the depth to groundwater:

Groundwater depth in the immediate project area ranges from approximately 8-5 feet below ground surface (bgs) to 11 feet bgs.¹ The project would not require any substantial excavations and, as a result, the proposed project would not interfere with groundwater flow or impact any groundwater aquifers. **(Less Than Significant Impact)**

¹ *Kleinfelder, Inc. Geotechnical Study Results PACLAND Project 1926. June 10, 2016. Cardno ATC. Phase I Environmental Site Assessment of Agricultural Land Adjacent to 800 Thomas Foon Chew Way. March 20, 2015 (Appendix I).*

Section 3.13.1.3, *Methodology*, will be **REVISED** as follows:

The traffic study analyzed AM and PM Peak Hour traffic conditions for ~~40~~ 41 signalized intersections in the vicinity of the project site. The study intersections are listed in Table 3.13-3, below, and the locations of the study intersections are shown on Figure 3.13-3.

Section 3.13.1.4, *Existing Intersection Operations*, will be **REVISED** as follows:

Analysis of the existing intersection operations concluded that the following ~~five~~ six intersections currently operate at an unacceptable LOS during at least one peak hour. In some cases, an intersection meets the CMP threshold LOS but not the applicable City threshold. CMP intersections are indicated with asterisks (*) below.

City of San José Intersections:

- No. 8 – North First Street and Montague Expressway* (AM and PM Peak Hour)
- No. 9 – Zanker Road and Montague Expressway (AM Peak Hour)
- No. 20 – Oakland Road and Montague Expressway* (AM and PM Peak Hour)
- No. 21 – Trade Zone Boulevard and Montague Expressway* (AM and PM Peak Hour)

City of Santa Clara Intersection:

- No. 29 – De La Cruz Boulevard and Central Expressway* (PM Peak Hour)
- No. 41 – Mission College Boulevard and Montague Expressway* (AM Peak Hour)

Table 3.13-3: Study Intersection Level of Service – Existing Conditions, will be **ADDED** as follows:

Table 3.13-3: Study Intersection Level of Service – Existing Conditions				
No.	Intersection	Peak Hour	Average Delay	LOS
<u>41</u>	<u>Mission College Boulevard and Montague Expressway – CMP/Santa Clara</u>	<u>AM</u>	<u>83.1</u>	<u>F</u>
		<u>PM</u>	<u>60.6</u>	<u>E</u>

Section 3.13.1.5, *Background Intersection Operations*, will be **REVISED** as follows:

The LOS of the study intersections was calculated under background conditions, which is defined as the conditions just prior to completion of the proposed project. The background scenario predicts a realistic traffic condition that would occur as approved development get built and occupied. Analysis of the background intersection operations concluded that the following ~~40~~ 11 intersections would operate at an unacceptable LOS. CMP intersections are shown with asterisks (*).

City of San José Intersections:

- No. 8 – North First Street and Montague Expressway* (AM and PM Peak Hour)
- No. 9 – Zanker Road and Montage Expressway* (AM and PM Peak Hour)
- No. 12 – De La Cruz Boulevard and Trimble Road* (PM Peak Hour)
- No. 17 – North First Street and Charcot Avenue (AM Peak Hour)
- No. 18 – Zanker Road and Charcot Avenue (PM Peak Hour)
- No. 20 – Oakland Road and Montague Expressway* (AM and PM Peak Hour)
- No. 21 – Trade Zone Boulevard and Montague Expressway* (AM and PM Peak Hour)

City of Santa Clara Intersection:

- No. 27 – De La Cruz Boulevard and Montague Expressway* (AM and PM Peak Hour)
- No. 29 – De La Cruz Boulevard and Central Expressway* (PM Peak Hour)
- No. 41 – Mission College Boulevard and Montague Expressway* (AM and PM Peak Hour)

Page 202 Table 3.13-4: Background Intersection Level of Service, will be **ADDED** as follows:

Table 3.13-4: Background Intersection Levels of Service						
No.	Intersection	Peak Hour	Existing		Background	
			Delay	LOS	Delay	LOS
41	<u>Mission College Boulevard and Montague Expressway – CMP/San José</u>	AM	<u>83.1</u>	<u>F</u>	<u>159.4</u>	<u>F</u>
		PM	<u>60.6</u>	<u>E</u>	<u>130.1</u>	<u>F</u>

Page 209 Section 3.13.2.5, *Existing Plus Project Intersection Operations*, will be **REVISED** as follows:

The LOS of the study intersections was calculated under project conditions by adding the new project trips from the proposed development to the existing conditions. Analysis of the existing plus project intersection operations concluded that the ~~five~~ six intersections operating at an unacceptable LOS under existing conditions would continue to operate at an unacceptable LOS in one or more peak hours with the addition of project traffic. CMP intersections are denoted with asterisks (*) below.

City of San José Intersections:

- No. 8 – North First Street and Montague Expressway* (AM and PM Peak Hour)
- No. 9 – Zanker Road and Montage Expressway* (AM and PM Peak Hour)
- No. 12 – De La Cruz Boulevard and Trimble Road* (PM Peak Hour)
- No. 17 – North First Street and Charcot Avenue (AM Peak Hour)
- No. 18 – Zanker Road and Charcot Avenue (PM Peak Hour)
- No. 20 – Oakland Road and Montague Expressway* (AM and PM Peak Hour)

- No. 21 – Trade Zone Boulevard and Montague Expressway* (AM and PM Peak Hour)

City of Santa Clara Intersection:

- No. 27 – De La Cruz Boulevard and Montague Expressway* (AM and PM Peak Hour)
- No. 29 – De La Cruz Boulevard and Central Expressway* (PM Peak Hour)
- No. 41 – Mission College Boulevard and Montague Expressway* (AM Peak Hour)

Page 211 Table 3.13-8: Existing Plus Project Intersections Level of Service, will be **ADDED** as follows:

Table 3.13-8: Existing Plus Project Intersections Level of Service								
No.	Intersection	Peak Hour	Existing		Existing Plus Project			
			Delay	LOS	Delay	LOS	Critical Delay	V/C
41	<u>Missing College Boulevard and Montague Expressway – CMP/Santa Clara</u>	<u>AM</u>	<u>83.1</u>	<u>F</u>	<u>83.1</u>	<u>F</u>	<u>0.1</u>	<u>0.002</u>
		<u>PM</u>	<u>60.6</u>	<u>E</u>	<u>61.2</u>	<u>E</u>	<u>0.0</u>	<u>0.002</u>

Page 213 Section 3.13.2.5, *Existing Plus Project Intersection Operations*, the third paragraph, will be **ADDED** as follows:

The Mission College Boulevard and Montague Expressway intersection would continue to operate at LOS F in the AM Peak Hour, but the project would not result in a significant increase in delay.

Page 213 Section 3.13.2.6, *Background Plus Project Intersection Operations*, will be **REVISED** as follows:

The LOS of the study intersections was calculated under Background plus Project conditions by adding the new project trips from the proposed development to the background conditions. Analysis of the Background plus Project intersection operations concluded that the following ~~40~~ 11 intersections would continue to operate at an unacceptable LOS. CMP Intersections are denoted with asterisks (*) below.

City of San José Intersections:

- No. 8 – North First Street and Montague Expressway* (AM and PM Peak Hour)
- No. 9 – Zanker Road and Montague Expressway* (AM and PM Peak Hour)
- No. 20 – Oakland Road and Montague Expressway* (AM and PM Peak Hour)
- No. 21 – Trade Zone Boulevard and Montague Expressway* (AM and PM Peak Hour)

City of Santa Clara Intersections:

- No. 29 – De La Cruz Boulevard and Central Expressway* (PM Peak Hour)
- No. 41 – Mission College Boulevard and Montague Expressway* (AM Peak Hour)

Page 214 Table 3.13-9: Background Plus Project Intersections Level of Service, will be **REVISED** as follows:

Table 3.13-9: Background Plus Project Intersections Level of Service								
No.	Intersection	Peak Hour	Background		Background Plus Project			
			Delay	LOS	Delay	LOS	Critical Delay	V/C
41	<u>Mission College Boulevard and Montague Expressway – CMP/Santa Clara</u>	<u>AM</u>	<u>159.4</u>	<u>F</u>	<u>159.5</u>	<u>F</u>	<u>0.0</u>	<u>0.000</u>
		<u>PM</u>	<u>130.1</u>	<u>F</u>	<u>133.6</u>	<u>F</u>	<u>5.9</u>	<u>0.011</u>

Page 217 Section 3.13.2.6, *Background Plus Project Intersection Operations, Background Plus Project LOS Analysis*, will be **REVISED** as follows to add the analysis at the Mission College Boulevard and Montague Expressway intersection:

Mission College Boulevard and Montague Expressway would continue to operate at LOS F in the PM Peak Hour with a 5.9 second increase in critical delay and a 0.011 increase in V/C. Implementation of Option 2. This impact would only occur with Option 1 of the proposed development (light industrial uses only).

Implementation of the proposed project would have a significant impact on the North First Street/Montague Expressway and Zanker Road/Montague Expressway which are located within the North San José Area Development Policy (NSJADP) that establishes a special area within the City not subject to the City’s standard Level of Service (LOS) Policy. As a condition of project approval for Option 1 and Phase 2 of Option 2, consistent with the NSJADP, the project applicant shall be required to pay the applicable impact fees toward the improvements as identified below.

North First Street/Montague Expressway: The intersection is part of the identified Montague Expressway improvements, including road widening, that are being funded by the North San José Area Development Policy (NSJADP) traffic impact fee.

Zanker Road and Montague Expressway: The intersection is part of the identified Montague Expressway improvements to be funded by NSJADP traffic impact fees. Improvements at this particular intersection also include the addition of a second northbound and southbound turn lane.

Implementation of the proposed project would also have significant impact at the Mission College Boulevard and Montague Expressway in Santa Clara. The intersection under has been identified in the Comprehensive County Expressway

Planning Study as a Tier 1A priority project along with the planned Tier 1B improvement at the U.S. 101 and Montague Expressway partial cloverleaf interchange. The effects of the planned improvement cannot be reflected in level of service calculations because the details of the interchange design are not available. As a condition of project approval for Option 1, the project applicant shall be required to pay a fair-share contribution towards the identified improvements. This impact would not occur under Option 2.

The payment of NSJADP and County expressway improvement fees would reduce the impacts at these ~~two~~ North First Street/Montague Expressway, Zanker Road/Montague Expressway, and Mission College Boulevard/Montague Expressway intersections to a less than significant level. These fees are not required for construction of Phase 1 of Option 2 (data center only) for the San José intersections or for construction of Option 2 (data center and light industrial uses) for the Santa Clara intersection. (Less than Significant Impact)

Page 224 Section 3.14.1.2, *Existing Conditions*, first paragraph, will be **REVISED** as follows:

The project site is currently served by private well water supplies. Potable water is provided in the project area by the San José Municipal Water System (SJMWS) and is a mix of wholesale water purchase from the San Francisco Public Utilities Commission (SFPUC) with some backup supply available from locally produced groundwater.²

Page 226 Section 3.14.2.3, *Water Supply Impacts*, will be **REVISED** as follows:

As described previously, recycled water would be supplied to the site by SJMWS. A The project requires a recycled water main must be extended to the site in order to provide service for project operations.

The data center's maximum daily water demand for cooling purposes is expected to be 1,467,000 gallons per day. This need would be met with recycled water. Total recycled water cooling demand for the data center would be 1,643 AFY under normal operating conditions. Emergency backup use of potable water for cooling for up to nine days per year would require 14.5 acre-feet per year (AFY), at a flow rate of 10,500 gallons per day per megawatt (gpd/MW).

The data center would also require an additional supply of potable water for non-cooling purposes (restrooms, administration areas, etc.) This is estimated to require 14 AFY of potable water. Combined with 14.5 AFY of potential emergency backup cooling demand, total potable water use for the data center is expected to be no more than 26.6 AFY.

The 728,000 square feet of light industrial uses would require approximately 146.8 AFY. If Assuming recycled water is used for landscape irrigation purposes, the

² SJMWS, *Water Supply Assessment for the 237 Industrial Center Project*, February 2017 (Appendix L).

projected potable water demand would be 117.4 AFY. Therefore, Option 2 of the proposed project would require 129.5 AFY of potable water and 1,673 AFY of recycled water.

Current and future water supplies for the SJMWS consist of imported water, local groundwater, and recycled water. According to their most recent UWMP, SJMWS in 2015 delivered 15,707 AFY of potable water system-wide. Between 2015 and 2040, demand is projected to gradually increase to 36,116 AFY as the region experiences continued development and growth in all sectors. Industrial demand for potable and raw water is expected to be 10,110 AFY by 2040.

Page 228

Section 3.14.2.3, *Water Supply Impacts*, will be **REVISED** as follows to clarify findings of the Water Supply Assessment:

The non-emergency potable demands of Option 2 fall easily within growth forecasts for industrial water use put forth in SJMWS's 2015 UWMP. Industrial water demand in all SJMWS service areas is projected to increase by 7,937 AFY between 2015 and 2040. Therefore, the 129.5 AFY needed for the project represents less than 2% of this forecasted growth.

SJMWS has determined that there are sources available to provide for project water demands consistent with its Urban Water Management Plan (UWMP). The Water Supply Assessment considered a backup potable water supply for cooling purposes not to exceed 14.5 acre feet per year. The flow rate for this backup supply is 10,500 gallons per day per megawatt (gpd/MW). SJMWS determined that there is adequate capacity for this as an annual potable backup flow, but the potable backup flow at the required daily rate would adversely impact system-wide operations. As a condition of approval, the applicant has agreed to provide for the purchase of an approximately 2,500 square foot property within SJMWS's North San José/Alviso service area for the future installation of a new groundwater well to meet the flow requirements of the backup supply, limited to 14.5 acre feet per year. Once the site has been identified, there shall be further analysis for the well project. Until the condition is met, the Project shall have a connection to potable water sufficient for the non-cooling purposes (150 gpm).

~~The proposed project includes the acquisition of property for a future well site, as a public facility, to be located on property owned by the City. The~~ It is anticipated that a future well site, as a public facility, could be located on property owned by the City, in which case, the Developer would work with the City to determine a pro rata fair share contribution towards this facility. The well would be located and constructed by SJMWS in conformance with the provisions of their Urban Water Management Plan. While the project is not installing the well, it is believed that the location to be chosen would take into account adjacent land uses. Construction impacts from well installation would be minimal and pump operation would comply with SJMWS's UWMP.

For the reasons described above, implementation of the proposed project will not have a significant impact on existing and future potable or recycled water supplies. **(Less Than Significant Impact)**

Page 229

Section 3.14.2.5, *Storm Drainage Impacts*, will be **REVISED** as follows to clarify impacts and stormwater conveyance:

The project proposes to develop approximately 64.5 acres of land with impervious surfaces including buildings and roadways. As described previously, the site currently drains via sheet flow to the northwest corner of the property, not to Coyote Creek. ~~The proposed stormwater drainage system will be designed to accommodate approximately 121 cubic feet per second (cfs) of stormwater from the site, proposed roadways, and City held lands east of Zanker Road.~~

Two scenarios have been developed for the conveyance of stormwater from the 10-year rainfall event; an outfall to Coyote Creek or connection to the existing Oakmead Pump Station on the Guadalupe River. The outfall scenario would be designed to accommodate discharge approximately 121 cubic feet per second (cfs) flows via a forcemain into a new gravity outfall pipe at the main channel of Coyote Creek. The new outfall, if required, would be located approximately 1,800 feet downstream of the Highway 237 bridge crossing, adjacent to and downstream of the existing private LECEF outfall. Stormwater flows in excess of the 10-year event would continue to sheet flow from the site to the northwest. The biological and hydrologic impacts and regulatory permit requirements of constructing the outfall are described in Section 3.3 *Biological Resources* and Section 3.9 *Hydrology and Water Quality* of this EIR. The new outfall (if required) could discharge runoff to Coyote Creek at a rate of approximately 28 cubic feet per second (cfs) during 10-year and 100-year storm events. Based on a discharge of 28 cfs, a 0.78 acre detention vault is proposed in the northeast corner of the site. Water in the vault during 10-year and 100-year events would reach depths of two feet and eight feet, respectively. The vault would store 1.6 acre-feet of water during a 10-year storm and 6.0 acre-feet during a 100-year storm. It would take the 28 cfs pump 0.7 hours to drain the 10-year event and 2.6 hours to drain the 100-year event. As described in Section 3.9 *Hydrology and Water Quality*, the proposed project would be required to adhere to the Municipal Regional Stormwater NPDES permit for stormwater treatment on-site to prevent the discharge of pollutants into Coyote Creek.

Another scenario for stormwater drainage would be to connect via new and upgraded stormdrain lines to the Oakmead Pump Station located on the Guadalupe River, approximately two miles southwest of the project site. This scenario would extend new lines adjacent to the existing potable water line across lands held by the City of San José to Baytech Parkway, west of the site. The City has determined that the existing Oakmead Pump Station has capacity to accommodate stormwater flows from the proposed project and new roadways. It would not have the capacity to accommodate the City-held lands east of Zanker Road.

The project would be required at the implementation stage to submit a design/analysis which minimizes the rate of 10-year stormwater flows to the Oakmead Pump Station to the greatest extent possible (i.e., using a restrictor device or installing a weir for metering the flow). Analysis should also include an evaluation of the existing storm sewer system to determine if downstream storm sewer capacity upgrades are necessary.

The construction of the potential stormwater outfall or connections to the Oakmead Pump Station is included in the overall construction activities for the proposed project. As discussed in the relevant sections of this EIR, permit conditions included in the project would reduce construction impacts to a less than significant level.

(Less Than Significant Impact)

Page 236 Table 4.0-1: Cumulative Conditions Intersection Level of Service, will be **REVISED** as follows:

Table 4.0-1: Cumulative Conditions Intersection Level of Service																
No.	Intersection	Peak Hour	Background		Cumulative No Project		Cumulative Plus Project – Light Industrial Development Option					Cumulative Plus Project – Data Center/Light Industrial Development Option				
			Delay	LOS	Delay	LOS	Delay	LOS	Critical Delay	V/C	%	Delay	LOS	Critical Delay	V/C	%
41	Mission College Boulevard and Montague Expressway – CMP/Santa Clara	AM	159.4	F	202.5	F	202.7	F	0.0	0.000		202.7	F	0.0	0.000	
		PM	130.1	F	194.9	F	199.2	F	6.9	0.011	=	197.7	F	4.4	0.007	--

Page 237 Section 4.1.1.2, *Cumulative Intersection Level of Service Impacts*, will be **REVISED** as follows to add the analysis at the Mission College Boulevard and Montague Expressway intersection:

Mission College Boulevard/Montague Expressway – PM Peak Hour: The intersection would continue to operate at an unacceptable LOS of F during the PM Peak Hour under cumulative plus project conditions with a 6.9 second increase in critical delay and a 0.011 increase in V/C. This impact would only occur with development of Option 1 (light industrial development only).

The project would not have a cumulatively considerable impact on any ~~City of Santa Clara or City of Milpitas~~ intersections.

Impact TRAN(C)-1: The proposed project would have a cumulatively considerable contribution to ~~two~~ three intersections. The data center alone would not result in these impacts. **(Significant Impact)**

Page 237 Section 4.1.1.3, *Mitigation Measures for Cumulative Transportation Impacts*, will be **REVISED** as follows to add the analysis at the Mission College Boulevard and Montague Expressway intersection and to clarify the timing of implementation:

74. Implementation of the project would have a cumulatively considerable contribution to the Zanker Road/Tasman Drive intersection. Same significant unavoidable impact identified in the North San José Development Policy FEIR.

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Section 8.2.3, Reduced Scale - Light Industrial Only Alternative, will be **REVISED** as follows to reflect analysis of the Mission College Boulevard/Montague Expressway intersection:

In an effort to avoid or reduce significant impacts resulting from the proposed project, this alternative evaluates a Reduced Scale - Light Industrial Only Alternative. To reduce traffic impacts to a less than significant level at the intersections of North First Street/Montague Expressway, ~~and~~ Zanker Road/Montague Expressway, and Mission College Boulevard/Montague Expressway and impacts to freeways, Option 1 of the project (1.2 million square feet of light industrial uses) would need to be reduced by up to 90 percent. This equates to approximately 120,000 square feet of light industrial uses on the 64.5 acre site. To reduce freeway impacts only, the project would need to be reduced by up to 85 percent or approximately 180,000 square feet. At one story in height, that would be approximately 2.75 and 4.1 acres of light industrial development, respectively.

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Table 9.0-1: Project Alternatives Summary Table, will be **REVISED** as follows to reflect analysis of the Mission College Boulevard/Montague Expressway intersection:

Table 9.0-1: Project Alternatives Summary Table						
Impact	Proposed Project	No Project - No Development	No Project –Existing Zoning	Reduced Scale - Data Center Only	Reduced Scale - Light Industrial	Reduced Scale-Data Center & Reduced Light Industrial
TRAN-1: Zanker Road/Montague Expressway and Oakland Road/Montague Expressway intersections under existing plus project conditions	SU	NI	LTS	LTS	LTS	LTS
TRAN-2: North First Street/Montague Expressway, and Zanker Road/Montague Expressway, <u>and Mission College Blvd./Montague Expressway</u> intersections under background plus project conditions	LTSM	NI	LTS	LTS	LTS	LTS

TRAN-3: Impacts to Freeway Segments of SR 237 and I-880	SU	NI	SU	LTS	LTS	LTS
AGR-1: Loss of land designated as Prime Farmland	SU	NI	SU	SU	SU	SU
GHG-1: Same significant unavoidable impact identified in the Envision San José 2040 Supplemental FPEIR	SU	NI	SU	LTS	LTS	SU
AQ-1: Significant impact related to the production of NOx during generator testing	LTSM	NI	LTSM	LTSM	LTS	LTSM
BIO-1: Impacts to nesting migratory birds and other protected bird species	LTSM	NI	LTSM	LTSM	LTSM	LTSM
BIO-2: Mortality of burrowing owls test	LTSM	NI	LTS	LTSM	LTSM	LTSM
BIO-3: Permanent impacts to riparian vegetation and seasonal wetlands	LTSM	NI	LTSM	LTSM	LTSM	LTSM
BIO-4: Damage to trees	LTSM	NI	LTSM	LTSM	LTSM	LTSM
HAZ-1: Release of pesticides and expose construction workers to residual agricultural soil contamination	LTSM	NI	LTSM	LTSM	LTSM	LTSM
NI – No Impact LTS – Less Than Significant Impact LTSM – Less Than Significant Impact with Mitigation SU – Significant and Unavoidable						

SECTION 5.0 COPIES OF COMMENT LETTERS RECEIVED ON THE DRAFT EIR

The following section contains the comment letters received on the Draft Environmental Impact Report during the comment period.

NATIVE AMERICAN HERITAGE COMMISSION

Environmental and Cultural Department
1550 Harbor Blvd., Suite 100
West Sacramento, CA 95691
Phone (916) 373-3710



July 6, 2017

Kieulan Pham
City of San Jose – Dept. of Planning, Building & Code Enforcement
200 E. Santa Clara Street., Tower 3rd Floor
San Jose, CA 95113

sent via e-mail: kieulan.pham@sanjoseca.gov

Re: SCH# 2016052053, 237 Industrial Center Project, Communities of Alviso, Milpitas, Santa Clara, and San Jose; Santa Clara County, California

Dear Mr. Pham:

The Native American Heritage Commission (NAHC) has reviewed the Draft Environmental Impact Report prepared for the project referenced above. The review included the Introduction and Project Description, the Executive Summary, the Environmental Setting, Impacts and Mitigation Measures, section 3.4 Cultural Resources, and Appendix F, Historical Resources Survey (prepared by Holman & Associates) for the City of San Jose – Dept. of Planning, Building & Code Enforcement. We have the following concerns:

1. There is no documentation of **government-to-government consultation by the lead agency** under AB-52 with Native American tribes traditionally and culturally affiliated to the project area as required by statute, or that mitigation measures were developed in consultation with the tribes. Discussions under AB-52 may include the type of document prepared and proposed mitigation. Contact by consultants during the Cultural Resources Assessments is not formal consultation.
2. There are no mitigation measures specifically addressing Tribal Cultural Resources separately. Mitigation measures must take Tribal Cultural Resources into consideration as required under AB-52, **with or without consultation** occurring. Mitigation language for archaeological resources is not always appropriate for or similar to measures specifically for handling Tribal Cultural Resources.

The California Environmental Quality Act (CEQA)¹, specifically Public Resources Code section 21084.1, states that a project that may cause a substantial adverse change in the significance of a historical resource is a project that may have a significant effect on the environment.² If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an environmental impact report (EIR) shall be prepared.³ In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources with the area of project effect (APE).

CEQA was amended in 2014 by Assembly Bill 52. (AB 52).⁴ **AB 52 applies to any project for which a notice of preparation or a notice of negative declaration or mitigated negative declaration is filed on or after July 1, 2015.** AB 52 created a separate category for "tribal cultural resources"⁵, that now includes "a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment."⁶ Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource.⁷ Your project may also be subject to **Senate Bill 18 (SB 18)** (Burton, Chapter 905, Statutes of 2004), Government Code 65352.3, if it also involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space. **Both SB 18 and AB 52 have tribal consultation requirements.** Additionally, if your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966⁸ may also apply.

Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.

¹ Pub. Resources Code § 21000 et seq.

² Pub. Resources Code § 21084.1; Cal. Code Regs., tit. 14, § 15064.5 (b); CEQA Guidelines Section 15064.5 (b)

³ Pub. Resources Code § 21080 (d); Cal. Code Regs., tit. 14, § 15064 subd.(a)(1); CEQA Guidelines § 15064 (a)(1)

⁴ Government Code 65352.3

⁵ Pub. Resources Code § 21074

⁶ Pub. Resources Code § 21084.2

⁷ Pub. Resources Code § 21084.3 (a)

⁸ 154 U.S.C. 300101, 36 C.F.R. § 800 et seq.

Agencies should be aware that AB 52 does not preclude agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52. For that reason, we urge you to continue to request Native American Tribal Consultation Lists and Sacred Lands File searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>. Additional information regarding AB 52 can be found online at http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf, entitled "Tribal Consultation Under AB 52: Requirements and Best Practices".

The NAHC recommends lead agencies consult with all California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources.

A brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments is also attached.

Please contact me at gayle.totton@nahc.ca.gov or call (916) 373-3710 if you have any questions.

Sincerely,



Gayle Totton, B.S., M.A., Ph.D
Associate Governmental Project Analyst

Attachment

cc: State Clearinghouse

Pertinent Statutory Information:

Under AB 52:

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a **lead agency** shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice.

A **lead agency** shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project.⁹ and **prior to the release of a negative declaration, mitigated negative declaration or environmental impact report.** For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code § 65352.4 (SB 18).¹⁰

The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:

- a. Alternatives to the project.
- b. Recommended mitigation measures.
- c. Significant effects.¹¹

1. The following topics are discretionary topics of consultation:

- a. Type of environmental review necessary.
- b. Significance of the tribal cultural resources.
- c. Significance of the project's impacts on tribal cultural resources.

If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency.¹²

With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process **shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code sections 6254 (r) and 6254.10.** Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public.¹³

If a project may have a significant impact on a tribal cultural resource, **the lead agency's environmental document shall discuss** both of the following:

- a. Whether the proposed project has a significant impact on an identified tribal cultural resource.
- b. Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code section 21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource.¹⁴

Consultation with a tribe shall be considered concluded when either of the following occurs:

- a. The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
- b. A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached.¹⁵

Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code section 21080.3.2 **shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program,** if determined to avoid or lessen the impact pursuant to Public Resources Code section 21082.3, subdivision (b), paragraph 2, and shall be fully enforceable.¹⁶

If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, **the lead agency shall consider feasible mitigation** pursuant to Public Resources Code section 21084.3 (b).¹⁷

An environmental impact report **may not be certified,** nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:

- a. The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code sections 21080.3.1 and 21080.3.2 and concluded pursuant to Public Resources Code section 21080.3.2.
- b. The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.

⁹ Pub. Resources Code § 21080.3.1, subs. (d) and (e)

¹⁰ Pub. Resources Code § 21080.3.1 (b)

¹¹ Pub. Resources Code § 21080.3.2 (a)

¹² Pub. Resources Code § 21080.3.2 (a)

¹³ Pub. Resources Code § 21082.3 (c)(1)

¹⁴ Pub. Resources Code § 21082.3 (b)

¹⁵ Pub. Resources Code § 21080.3.2 (b)

¹⁶ Pub. Resources Code § 21082.3 (a)

¹⁷ Pub. Resources Code § 21082.3 (e)

- c. The lead agency provided notice of the project to the tribe in compliance with Public Resources Code section 21080.3.1 (d) and the tribe failed to request consultation within 30 days.¹⁸
This process should be documented in the Tribal Cultural Resources section of your environmental document.

Under SB 18:

Government Code § 65352.3 (a) (1) requires consultation with Native Americans on general plan proposals for the purposes of “preserving or mitigating impacts to places, features, and objects described § 5097.9 and § 5091.993 of the Public Resources Code that are located within the city or county’s jurisdiction. Government Code § 65560 (a), (b), and (c) provides for consultation with Native American tribes on the open-space element of a county or city general plan for the purposes of protecting places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code.

- SB 18 applies to **local governments** and requires them to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. Local governments should consult the Governor’s Office of Planning and Research’s “Tribal Consultation Guidelines,” which can be found online at: https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf
- **Tribal Consultation:** If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a “Tribal Consultation List.” If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.**¹⁹
- There is no Statutory Time Limit on Tribal Consultation under the law.
- **Confidentiality:** Consistent with the guidelines developed and adopted by the Office of Planning and Research,²⁰ the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code sections 5097.9 and 5097.993 that are within the city’s or county’s jurisdiction.²¹
- **Conclusion Tribal Consultation:** Consultation should be concluded at the point in which:
 - The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
 - Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation.²²

NAHC Recommendations for Cultural Resources Assessments:

- Contact the NAHC for:
 - A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project’s APE.
 - A Native American Tribal Contact List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.
 - The request form can be found at <http://nahc.ca.gov/resources/forms/>.
- Contact the appropriate regional California Historical Research Information System (CHRIS) Center (http://ohp.parks.ca.gov/?page_id=1068) for an archaeological records search. The records search will determine:
 - If part or the entire APE has been previously surveyed for cultural resources.
 - If any known cultural resources have been already been recorded on or adjacent to the APE.
 - If the probability is low, moderate, or high that cultural resources are located in the APE.
 - If a survey is required to determine whether previously unrecorded cultural resources are present.
- If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
 - The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.
 - The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.

¹⁸ Pub. Resources Code § 21082.3 (d)

¹⁹ (Gov. Code § 65352.3 (a)(2)).

²⁰ pursuant to Gov. Code section 65040.2,

²¹ (Gov. Code § 65352.3 (b)).

²² (Tribal Consultation Guidelines, Governor’s Office of Planning and Research (2005) at p. 18).

Examples of Mitigation Measures That May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:

- Avoidance and preservation of the resources in place, including, but not limited to:
 - Planning and construction to avoid the resources and protect the cultural and natural context.
 - Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
- Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
 - Protecting the cultural character and integrity of the resource.
 - Protecting the traditional use of the resource.
 - Protecting the confidentiality of the resource.
- Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
- Please note that a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed.²³
- Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated.²⁴

The lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.

- Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources.²⁵ In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
- Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
- Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code section 7050.5, Public Resources Code section 5097.98, and Cal. Code Regs., tit. 14, section 15064.5, subdivisions (d) and (e) (CEQA Guidelines section 15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

²³ (Civ. Code § 815.3 (c)).

²⁴ (Pub. Resources Code § 5097.991).

²⁵ per Cal. Code Regs., tit. 14, section 15064.5(f) (CEQA Guidelines section 15064.5(f)).

DEPARTMENT OF TRANSPORTATION
DISTRICT 4
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a California Way of Life.*

July 17, 2017

04-SCL-2017-00212
SCL237215
SCL/237/PM 8.6
SCH# 2016052053

Ms. Kieulan Pham
Department of Planning
City of San Jose
200 E. Santa Clara Street, Tower 3
San Jose, CA 95113

Dear Ms. Pham:

237 Industrial Center – Draft Environmental Impact Report

Thank you for continuing to include the California Department of Transportation (Caltrans) in the environmental review process for the above-referenced project. In tandem with the Metropolitan Transportation Commission's (MTC) Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS), Caltrans new mission signals a modernization of our approach to evaluating and mitigating impacts to the State Transportation Network (STN). Caltrans Strategic Management Plan aims to reduce vehicle miles traveled (VMT) by tripling bicycle and doubling both pedestrian and transit travel by 2020. Our comments are based on the Draft Environmental Impact Report (DEIR). Please also refer to the previous comment letter, dated June 27, 2016, on this project and incorporated herein. Additional comments may be forthcoming.

Project Understanding

The 64.5-acre project site is located in the northwest quadrant of the State Route (SR) 237/ Interstate (I-) 880 interchange on the north side of SR 237 between Zanker Road and Coyote Creek. The project site is primarily fallow farmland with a single-family house and some accessory structures located near the southern portion of the site. The site is currently supported by well water and a septic tank system. The project site is primarily fallow farmland, designated as "Prime Farmland," with a single-family house and some accessory structures located near the southern portion of the site. The site is currently supported by well water and a septic tank system.

The project includes two development options:

- Option 1 proposes approximately 1.2 million square feet of light industrial development; and
- Option 2 proposes an approximately 436,880 square foot data center (49.5 megawatts) with a PG&E substation to provide the electrical needs for the data center on approximately 26.5 acres of the site.

Lead Agency

As the lead agency, the City of San Jose (City) is responsible for all project mitigation, including any needed improvements to the STN and for VMT reduction. The project's fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring should be fully discussed for all proposed mitigation measures.

Travel Demand Analysis

The two options presented for this project each constitute a project of potentially statewide, regional, and areawide significance, per CEQA Guidelines Section 15206(b), which requires circulating the DEIR to the Metropolitan Planning Organization. Also, please submit a travel demand analysis that provides VMT resulting from the proposed project. With the enactment of Senate Bill (SB) 743, Caltrans is focusing on transportation infrastructure that supports smart growth and efficient development to ensure alignment with State policies through the use of efficient development patterns, innovative travel demand reduction strategies, multimodal improvements, and VMT as the primary transportation impact metric. For projects reviewed under the California Environmental Quality Act (CEQA), Caltrans uses VMT as the metric for evaluating transportation impacts and mitigation. Please ensure that the travel demand analysis includes:

1. A vicinity map, regional location map, and site plan clearly showing project access in relation to nearby State roadways. Ingress and egress for all project components should be clearly identified. Clearly identify the State right-of-way (ROW). Project driveways, local roads and intersections, car/bike parking, and transit facilities should be mapped.
2. A VMT analysis pursuant to the City's guidelines or, if the City has no guidelines, the Office of Planning and Research's Draft Guidelines. Projects that result in automobile VMT per capita greater than 15% below existing (i.e. baseline) city-wide or regional values for similar land use types may indicate a significant impact.
3. Please identify project-generated traffic and estimate the costs of public transportation improvements necessitated by the proposed project; viable funding sources such as development, transportation impact fees; and contributions to the Santa Clara Valley Transportation Authority's (VTA) latest Valley Transportation Plan (VTP).

Mitigation for increasing VMT, which should be identified and mitigated in a manner that does not further raise VMT, should support the use of transit and active transportation modes. Caltrans encourages a sufficient allocation of fair share contributions toward multi-modal and regional transit improvements to fully mitigate cumulative impacts to regional

transportation. Potential mitigation measures that include the requirements of other agencies such as Caltrans are fully enforceable through permit conditions, agreements, or other legally-binding instruments under the control of the City.

Since the DEIR provided no mitigation measures for the significant impacts to the STN, the City should condition the project to make a major contribution to the State Highway Operation and Protection Program (SHOPP). Fair share fees can be deposited into an escrow account opened by the City, which then can be used when a future multi-modal project becomes available for the affected facilities mitigating the impacts that this project will create. To begin this fair share contribution process please facilitate a Transportation Mitigation Agreement (TMA) Form by contacting the Caltrans District 4 Local Development-Intergovernmental Review Branch.

4. Schematic illustrations of walking, biking and auto traffic conditions at the project site and study area roadways, trip distribution percentages and volumes as well as intersection geometrics (i.e., lane configurations for AM and PM peak periods). Operational concerns for all road users that may increase the potential for future collisions should be identified and fully mitigated in a manner that does not further raise VMT.

Caltrans is concerned with the ability to contain left-turning vehicles within the available storage. A spillover of vehicles has the potential to create significant speed differentials and increase the number of conflicts. Another concern is the potential for queuing vehicles to encroach up on the upstream intersection, again creating the potential for significant conflict. CEQA does not exempt these types of operational concerns from evaluation. Please ensure the Travel Demand Analysis provides such an analysis. Please provide an assessment of these concerns.

5. The project's primary and secondary effects on pedestrians, bicycles, disabled travelers and transit performance should be evaluated, including countermeasures and trade-offs resulting from mitigating VMT increases. Access to pedestrians, bicycle, and transit facilities must be maintained.

Vehicle Trip Reduction

Caltrans commends the City on its Transportation Demand Management (TDM) Plan, thereby reducing VMT. Transportation Demand Management programs should be documented with annual monitoring reports by an onsite TDM coordinator to demonstrate effectiveness. Caltrans recommends decreased headway times and improved way-finding on bus lines by working with the VTA to provide a better connection between the project, the Cisco Station and I-880 Station, and regional destinations.

These smart growth approaches are consistent with the MTC's RTP/SCS goals and would meet Caltrans Strategic Management Plan sustainability goals. Reducing parking supply can encourage active forms of transportation, reduce regional VMT, and lessen future transportation impacts on SR 237, I-880, and other nearby State facilities.

Reduced Scale - Light Industrial Only Alternative (Environmentally Superior Alternative)

As the environmentally superior alternative under CEQA, Caltrans strongly urges the City adopt this alternative and follow the environmental guidelines outlined in the Live Oak Associates, Inc. Technical Biological Report (Appendix C), in an effort to avoid or reduce significant impacts resulting from the proposed project. Development under this alternative would be consistent with the City's General Plan; would not result in greater greenhouse gas (GHG) emissions impacts, conforming with the City's GHG Reduction Strategy; result in less soil disturbance; and generate. Although the City asserts this alternative does not meet the objectives of the project and does not wholly mitigate the project's impacts, partial mitigation is preferable to no mitigation whatsoever (i.e., a determination of "significant and unavoidable") and complete mitigation not required for this alternative to be considered a viable alternative.

Caltrans does not agree with the assertion that this alternative is not viable simply because the mitigation is perceived as unduly burdensome or too costly; does not fully mitigate all impacts by a project; or does not fully utilize the project site to the fullest extent possible, which is contrary to the intent behind developing an environmentally superior alternative. Caltrans requests instead that the City work with us to identify and implement feasible measures on a fair-share basis to ensure all mitigation measures are funded and implemented. It is essential that feasible mitigation be included to ensure that impacts from the project on the transportation network are reduced or eliminated. This will be important to the success of this project and should be included in the EIR. We also recommend working with Caltrans to develop a mitigation monitoring and implementation plan that identifies an implementation schedule or impact thresholds to trigger development of mitigation projects.

For example, according to the DEIR to reduce traffic impacts to a less than significant level at the intersections of North First Street/Montague Expressway and Zanker Road/Montague Expressway and impacts to freeways, Option 1 of the project (1.2 million square feet of light industrial uses) would need to be reduced by 90 percent. To reduce freeway impacts only, the project would need to be reduced by 85 percent or approximately 180,000 square feet. The DEIR determines that because this alternative would need to be reduced by approximately 85 – 90 percent to avoid both traffic and freeway impacts, it would be physically feasible, but economically infeasible to implement this alternative.

Also, the City claims that any construction on-site would result in soil disturbance, thereby resulting in potential hazardous materials impacts related to agricultural pesticides. Development that would affect trees to be retained would be required to conform to the City's Tree Ordinance and implement mitigation measures to avoid impacts to nesting raptors and migratory birds. Impacts to burrowing owls and riparian habitat would also occur. These are the environmental resources meant to be protected under CEQA and by choosing an environmentally superior alternative. Instead, however, the City has determined that since the impacts cannot be fully mitigated, the impacts are significant and unavoidable, thereby rendering the *Reduced Scale - Light Industrial Only Alternative* as non-viable.

Preservation of Prime Agricultural Lands

Caltrans is concerned regarding the potential for conversion of prime or non-prime agricultural lands into non-agricultural use and are supportive of the County's focus on the need to protect valuable natural resources, including the wealth of prime agricultural lands. As stated in the DEIR, the *Santa Clara County Important Farmlands 2012 Map* designates the project site as Prime Farmland, defined as land with the combination of physical and chemical features able to sustain long-term agricultural production.

The DEIR states the Light Industrial Only Alternative would result in the conversion of up to 4.1 acres of Prime Farmland to non-agricultural use, when compared to 64.5 acres that would be converted with the proposed project. However, while significantly less land would be converted, the DEIR claims there would still be a loss of Prime Farmland, which would be a significant and unavoidable impact, claiming an alternative location would be unlikely to reduce the impact to a less than significant level and, therefore, infeasible. Other than the No Project Alternative, the environmentally superior alternative (see discussion above) will maximize the preservation of this Prime Farmland.

Cultural Resources

The Historic Report, included as Appendix F of the DEIR, presents disjointed Primary and Building/Structure/Object (BSO) Records for the historic-era built resources. Caltrans recommends that the project site be treated as a whole with the complex developing throughout time. Additionally, Continuation Sheet 6 of the Edgar A. Jackson Ranch House BSO states that the "...house is an unusual design with well-preserved character associated with both Prairie and Craftsman residential architecture," but that it is not a distinctive example of the work of Wolfe & Higgins. If the house cannot be attributed to Wolfe & Higgins, it may or may not in itself be a historical resource individually eligible to the California Register of Historical Resources as an unusual example of Prairie and Craftsman residential architecture. Caltrans recommends that the Historic Report be revised to fully explore why the house is not a distinctive example even if it is considered unusual.

There is no Native American consultation referenced in the DEIR. Pursuant to CEQA and Assembly Bill (AB) 52, Caltrans recommends that City conduct Native American consultation with tribes, groups, and individuals who are interested in the project area and may have knowledge of Tribal Cultural Resources or other sacred sites. Without such consultation, the City cannot determine if the project will cause a substantial adverse change in the significant of a Tribal Cultural Resource, as described in Section 3.4.2 Cultural Resources Impacts on page 116.

If an encroachment permit is needed for work within Caltrans right-of-way (ROW), Caltrans may require that cultural resource technical studies be prepared in compliance with CEQA, Public Resources Code (PRC) 5024, and the Caltrans Standard Environmental Reference (SER) Chapter 2 (<http://www.dot.ca.gov/ser/vol2/vol2.htm>). Should ground-disturbing activities take place within Caltrans right-of-way and there is an inadvertent archaeological or burial discovery, in compliance with CEQA, PRC 5024.5, and the SER, all construction within 60 feet of the find shall cease and the Caltrans District 4 Office of Cultural Resource Studies (O CRS) shall be immediately contacted at (510) 622-1673.

Traffic Control Plan

A Caltrans-approved Traffic Control Plan (TCP) is required to avoid project-related impacts to the STN, if it is anticipated that vehicular, bicycle, and pedestrian traffic will be impacted during the construction of the proposed project requiring traffic restrictions and detours. The TCP must also comply with the requirements of corresponding jurisdictions.

In addition, pedestrian access through the construction zone must be in accordance with the Americans with Disabilities Act (ADA) regulations (see Caltrans *Temporary Pedestrian Facilities Handbook* for maintaining pedestrian access and meeting ADA requirements during construction at:

www.dot.ca.gov/hq/construc/safety/Temporary_Pedestrian_Facilities_Handbook.pdf) (see also Caltrans Traffic Operations Policy Directive 11-01 “Accommodating Bicyclists in Temporary Traffic Control Zones” at: www.dot.ca.gov/trafficops/policy/11-01.pdf). All curb ramps and pedestrian facilities located within the limits of the project are required to be brought up to current ADA standards as part of this project.

Please be advised of the following proposed Caltrans projects may have a conflicting construction schedule:

- 04-4H280 SCL Implement HOV/Express Lanes; and
- 04-0K250K Santa Clara 237 Westbound Auxiliary Lane Project.

For further TCP assistance, please contact the Caltrans District 4 Office of Traffic Management Operations at (510) 286-4579. Further transportation management information is available at the following website: www.dot.ca.gov/hq/traffops/trafmgmt/tmp_lcs/index.htm.

Bridges, Trestles, Culverts and Other Structures in Riparian Environments

Some project level activities may affect riparian flow patterns upstream of bridges, trestles, culverts or other structures for which Caltrans holds responsibility. Please ensure your project level environmental documents include hydrological studies to determine whether such impacts will occur, and to identify appropriate mitigation measures.

Sea Level Rise

The effects of sea level rise may have impacts on transportation facilities located in the project area. Executive Order (EO) S-13-08 directs State agencies to plan for potential impacts by considering a range of sea level rise scenarios for the years 2050 and 2100. Higher water levels may increase erosion rates, change environmental characteristics that affect material durability, lead to increased groundwater levels and change sediment movement along shores and at estuaries and river mouths, as well as affect soil pore pressure at dikes and levees on which transportation facilities are constructed. All these factors must be addressed through geotechnical and hydrological studies conducted in coordination with Caltrans.

Transportation Permit

Project work that requires movement of oversized or excessive load vehicles on State roadways requires a transportation permit that is issued by Caltrans. To apply, a completed transportation

permit application with the determined specific route(s) for the shipper to follow from origin to destination must be submitted to: Caltrans Transportation Permits Office, 1823 14th Street, Sacramento, CA 95811-7119. See the following website for more information:
<http://www.dot.ca.gov/hq/traffops/permits>.

Hazardous Materials

All motor carriers and drivers involved in transportation of hazardous materials, including contaminated soil, must comply with the requirements contained in federal and State regulations, and must apply for and obtain a hazardous materials transportation license from the California Highway Patrol. When transporting certain types of hazardous materials including inhalation hazards, safe routing and safe stopping places are required. A route map must be carried in the vehicle. More information is available at: www.dot.ca.gov/hq/traffops/trucks/ops-guide/hazard.htm.

Encroachment Permit

Please be advised that any ingress-egress, work (e.g., construction, vegetation management, drainage improvement, etc.), staging, storage, or traffic control that is conducted within or adjacent to or encroaches upon the State ROW requires an encroachment permit that is issued by Caltrans. Where construction related traffic restrictions and detours affect the STN, a TMP or construction Transportation Impact Analysis (TIA) may be required. Traffic-related mitigation measures should be incorporated into the construction plans prior to the encroachment permit process.

To apply, a completed encroachment permit application, environmental documentation, and five (5) sets of plans clearly indicating State ROW as well as any applicable specifications, calculations, maps, etc. must be submitted to the following address: David Salladay, District Office Chief, Office of Permits, California Department of Transportation, District 4, P.O. Box 23660, Oakland, CA 94623-0660. It is important to note that, in order to uphold the Caltrans statutory responsibility to protect the safety of the traveling public, if this information is not adequately provided, then a permit will not be issued for said encroachments. See the following website for more information:
<http://www.dot.ca.gov/hq/traffops/developserv/permits>.

Ms. Kieulan Pham/City of San Jose

July 17, 2017

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Should you have any questions regarding this letter, please contact Brian Ashurst at (510) 286-5505 or brian.ashurst@dot.ca.gov.

Sincerely,


for Jannette Ramirez

PATRICIA MAURICE

District Branch Chief

Local Development - Intergovernmental Review

c: Scott Morgan, State Clearinghouse – electronic copy
Robert Swierk, VTA – electronic copy



July 17, 2017

City of San Jose
Department of Planning and Building
200 East Santa Clara Street
San Jose, CA 95113

Attention: Kieulan Pham

Subject: City File No. C15-054 / 237 Industrial Center

Dear Mr. Pham:

Santa Clara Valley Transportation Authority (VTA) staff have reviewed the Draft EIR for 1.2 million square feet of industrial development on 66.5 acres located north of SR 237 between Zanker Road and Coyote Creek. We have the following comments.

Pedestrian and Bicycle Accommodations

VTA commends the project sponsor and the City for including an extension of the existing bicycle/pedestrian path on the north side of SR 237 along the southern end of the project site, as shown in DEIR Figure 2.0-5. The TIA Report includes a recommendation “that a sidewalk on the north side of Ranch Drive be constructed” (TIA page xii). VTA encourages the City and project sponsor to explore potential improvements to pedestrian and bicycle facilities on the existing portion of Milpitas-Alviso Road over the Coyote Creek to the Ranch Drive Extension. Such improvements would facilitate pedestrian and bicycle connections to the Coyote Creek Trail for commute and recreational trips, access to transit (VTA Line 47 along McCarthy Boulevard), and access to retail amenities via Ranch Drive.

The DEIR notes that the Project will construct three new local roadways to provide access to the site from Zanker Drive. The DEIR notes that “The proposed project would include pedestrian improvements, including a sidewalk on the east side of Zanker Road” (DEIR p. 218). However, the DEIR does not note whether sidewalks will be provided on the new roadways connecting to Zanker Drive. VTA requests that the City require sidewalks with a landscaped buffer strip between pedestrians and automobiles on the east side of Zanker Road and on both sides of the new access roadways as a Condition of Approval of the project. Resources on pedestrian quality of service, such as the Highway Capacity Manual 2010 Pedestrian Level of Service methodology, indicate that such accommodations improve pedestrian perceptions of comfort and safety on a roadway.

The DEIR notes that the Project will include secure bicycle parking spaces consistent with City standards (DEIR p. 75). VTA also recommends that the City require these spaces as a Condition

of Approval for the Project. Bicycle parking facilities can include bicycle lockers or secure indoor parking for all-day storage and bicycle racks for short-term parking. VTA's Bicycle Technical Guidelines provide guidance for estimating supply, siting and design for bicycle parking facilities. This document may be downloaded from www.vta.org/bikeprogram.

Freeway Impacts

The DEIR discloses that the project will have Significant Impacts on a number of directional freeway segments on both SR 237 and I-880. The DEIR states that "There are no feasible mitigation measures available to reduce project impacts on local freeway study segments to a less than significant level as it is beyond the capacity of any one project to acquire right-of-way and add lanes to a state freeway. Furthermore, no comprehensive project to increase freeway capacity on either SR 237 or I-880 has been developed by Caltrans or VTA, so there is no identified improvement projects in which to pay fair share fees" (DEIR p. 221).

VTA notes that the implementation of certain projects in the latest Valley Transportation Plan (VTP), such as SR 237 Express Lanes Phase II and SR 237 Auxiliary Lanes between Zanker Road and McCarthy Boulevard, would provide would provide operational and efficiency improvements to SR 237 that would help mitigate the identified impacts. VTA notes that certain cities in Santa Clara County have identified contributions to Express Lanes and other regional improvements as mitigation measures for significant freeway impacts. VTA also notes that voluntary contributions to regional transportation improvements can be included as mitigation measures in CEQA documents even in the absence of a comprehensive funding strategy as described. VTA recommends that the City work with the project sponsor to provide Voluntary Contributions based on the latest Valley Transportation Plan (VTP) projects in the project area, such as SR 237 Express Lanes Phase II and SR 237 Auxiliary Lanes between Zanker Road and McCarthy Boulevard.

CMP Intersection Impact and Transit Vehicle Delay

The DEIR and TIA report note that the addition of project-generated traffic in Background Plus Project Conditions for Development Option 1 would result in a Significant Impact at two CMP intersections: North First Street and Montague Expressway, and Zanker Road and Montague Expressway. The TIA and DEIR note that rather than rather than implementing improvements to mitigate its impacts, the proposed project will be required to participate in and pay the applicable North San Jose Area Development Policy (NSJADP) impact fees (TIA pp. 58-59). VTA supports this mitigation measure and recommends that the City require the Project to pay the full NSJADP fee, without any reductions that have been offered as incentives to attract development.

The TIA and DEIR include an analysis of transit vehicle delay due to project-generated congestion, as required by the VTA TIA Guidelines (Section 9.2). However, VTA notes that this analysis only addresses bus routes through the study intersections and does not include VTA light

rail services. Since the TIA and DEIR disclose that the project will have a Significant Impact on the intersection of North First Street and Montague Expressway, which is a critical intersection for maintaining travel times and schedule reliability on the light rail system, it is important for the Lead Agency to analyze the effect of this congestion on light rail delay through this intersection, as well as any other study intersections through which light rail vehicles travel. VTA requests that the City provide such an analysis in a revised TIA or in the Final EIR Responses to Comments. VTA recommends that the City work with VTA to identify appropriate measures to offset increased delay on transit vehicles (consistent with VTA TIA Guidelines Section 10.2). These measures may include improvements to transit signal priority or other measures to speed up light rail service, or improvements to transit stops and passenger amenities (such as those identified in VTA's Light Rail Enhancements project or Tasman Corridor Complete Streets Study). Such measures could be funded with a portion of the NSJADP fees generated by the Project.

Transportation Demand Management/Trip Reduction

The Air Quality section of the DEIR includes a Mitigation Measure (MM AQ-1.4) that states that "Prior to approval of any project specific light industrial development on the project site (e.g., plan development permit or equivalent), excluding the data center use, the Project applicant shall submit a Transportation Demand Management (TDM) Plan to the satisfaction of the Transportation Manager of the Department of Public Works and the PBCE Supervising Environmental Planner. The TDM Plan shall contain the following components or equivalent measures to result in a 10% reduction in weekday mobile emissions" (DEIR p. iv).

VTA commends the City for including this Mitigation Measure and notes that it will help address the Significant Impacts to freeway segments, as well as the increase transit vehicle delay disclosed in the DEIR and TIA. While VTA is pleased to see that MM AQ-1.4 contains a numeric reduction target, VTA notes that such programs can be more effective when they include third-party monitoring of trip generation upon Project completion and a Lead Agency enforcement/penalty structure.

The TIA report includes a recommendation "that the project pursue implementation of employee shuttles to provide a link between the project site and transit services (LRT station and bus stops) near the Zanker Road and Tasman Drive intersection" (TIA page xi). VTA supports this measure and recommends that the City include it as an enforceable Condition of Approval of the project.

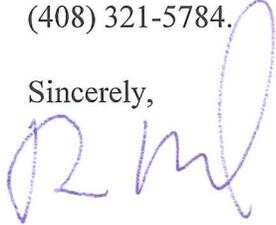
City of San Jose
July 17, 2017
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Coordination with SR 237 Express Lanes Phase 2 Project.

- The 237 Industrial Center Project has three (3) proposed utility crossings (potable water and fiber optic installation) adjacent to the Zanker Road Interchange at SR 237. Please coordinate with the SR 237 Express Lanes Phase 2 project team to resolve potential conflicts with the proposed fiber optic installation. Please contact Lam Trinh at (408) 952-4217 or Brian Pantaleon at (408) 952-4283
- Please note that the 100% design plans, including construction phasing and detour plans, have been prepared for the SR 237 Express Lanes Phase 2 Project. The proposed improvements and traffic control plans for the Industrial Center Project should take into account the proposed detouring for the SR 237 Express Lanes Phase 2 Project. Please coordinate with VTA's project team concerning construction phasing and detour plans.

Thank you for the opportunity to review this project. If you have any questions, please call me at (408) 321-5784.

Sincerely,



Roy Molseed
Senior Environmental Planner

cc: Michael Liw, San Jose Development Services
Patricia Maurice, Caltrans
Brian Ashurst, Caltrans

SJ1528

VTA Development Review Program Contact List

Last Updated: 6/30/2017

Please route development referrals to:

Environmental (CEQA) Documents, Site Plans, other miscellaneous referrals

Roy Molseed – Roy.Molseed@vta.org – 408.321.5784

Transportation Impact Analysis (TIA) Reports and Notification Forms:

Robert Swierk – Robert.Swierk@vta.org – 408.321.5792

Eugene Maeda – Eugene.Maeda@vta.org – 408.952.4298

Electronic/email referrals are preferred, but please mail any hardcopy documents to:

[Name of recipient(s) as detailed above, depending on type of document]

Planning & Program Development Division

3331 North First Street, Building B-2

San Jose, CA 95134-1906

Contacts for specific questions related to VTA comments on a referral are below by topic area:

Transportation Impact Analysis (TIA) Guidelines (General Questions)

Robert Swierk – Robert.Swierk@vta.org – 408.321.5949

Auto LOS Methodology

VTA Highway Projects & Freeway Ramp Metering

Shanthi Chatradhi – Shanthi.Chatradhi@vta.org – 408.952.4224

VTA Transit Service, Ridership & Bus Stops

Chad Steck – Chad.Steck@vta.org - 408.321.5898

Paul Nguyen - Paul.Nguyen@vta.org - 408.321.5973

TDM Programs

Congestion Management Program (CMP)

VTA Eco Pass Program Questions Before Project Approval (e.g. when writing Conditions of Approval)

Robert Swierk – Robert.Swierk@vta.org – 408.321.5792

VTA Eco Pass Program Questions After Project Approval (e.g. Program Implementation)

Dino Guevarra – Dino.Guevarra@vta.org – 408.321.5572

BART Silicon Valley Extension

Kevin Kurimoto – Kevin.Kurimoto@vta.org – 408.942.6126

VTA Bicycle & Pedestrian Projects

Lauren Ledbetter – Lauren.Ledbetter@vta.org – 408.321.5716

VTA Real Estate

Kathy Bradley – Kathy.Bradley2@vta.org – 408.321.5815

Jessie Thielen – Jessie.Thielen@vta.org – 408-321-5950

VTA Permits (Construction Access Permit, Restricted Access Permit)

Victoria King-Dethlefs – Victoria.King-Dethlefs@vta.org – 408-321-5824

Cheryl D. Gonzales – Cheryl.gonzales@vta.org – 408-546-7608

Other Topics and General Questions about VTA Comments

Roy Molseed – Roy.Molseed@vta.org – 408.321.5784

County of Santa Clara

Roads and Airports Department

101 Skyport Drive
San Jose, California 95110-1302
1-408-573-2400



July 17, 2017

Kieulan Pham
Department of Planning, Building, and Code Enforcement
City of San Jose
200 East Santa Clara Street, 3rd Floor
San Jose, CA 95113

**SUBJECT: Notice of Availability of a Draft Environmental Impact Report
237 Industrial Center**

Dear Ms. Pham:

The County of Santa Clara Roads and Airports Department is submitting the following comments regarding the draft environmental impact report (DEIR) for the project cited above.

- 1) As noted in the Notice of Preparation (NOP) comment letter dated June 15, 2016, transportation impact analysis (TIA) should be conducted using the Congestion Management Program (CMP) guidelines, and most recent counts and County signal timing for County study intersections. The existing conditions analysis presented in the DEIR and TIA for the intersection of Montague Expressway and North First Street does not reflect County signal timing settings. Please contact Ananth Prasad at (408) 494-1342 or Ananth.Prasad@rda.sccgov.org for the correct signal timing information. Analysis should be revised to reflect the correct information and submitted to County for review.
- 2) The NOP comment letter also indicated that traffic analysis should include all intersections along Montague Expressway between US 101 and I-680. However, intersection along Montague Expressway at Mission Boulevard, McCarthy Avenue, and Capitol Expressway were not included. These locations would meet the CMP threshold criteria and therefore should be included in the analysis.
- 3) Appendix K – Traffic Impact Analysis, Figure 11-Project Trip Distribution shows 8% project trips assigned to San Tomas Expressway, which results in more than 10 trips per lane on the expressway. Therefore, intersections along San Tomas Expressway at Scott, Monroe and El Camino Real should be included in the analysis.
- 4) Appendix K – Traffic Impact Analysis, Figure 11-Project Trip Distribution shows 15% of traffic using SR 237 west of the project site. As indicated in the analysis, SR-237 is highly congested and project trip are more likely to exist of Lawrence Expressway and use Tasman Drive to access the project site. Therefore, TIA should include intersections along Lawrence Expressway at Tasman Drive, and CA-237 on/off ramps in the analysis.

July 17, 2017

- 5) Please revise analysis to include all the locations listed in comments 2, 3, 4 above and submit to County staff for review.
- 6) Should the revised analysis result in a significant impact, appropriate mitigation measures should be identified to address the impact. The preliminary Comprehensive County Expressway Planning Study – Expressway Plan 2040 project list should be consulted for a list of mitigation measures for significant impacts to the expressways. Should the preliminary Expressway Plan 2040 project list not include an improvement that would mitigate a significant impact, the TIA should identify mitigation measures that would address the significant impact. Mitigation measures listed in the TIA should be incorporated into the EIR document.

Thank you for the opportunity to comment on the DEIR. If you have any questions about these comments, please contact me at 408-573-2462 or at aruna.bodduna@rda.sccgov.org.

Sincerely,



Aruna Bodduna
Associate Transportation Planner
cc: DSC, MA, AP



**BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT**

ALAMEDA COUNTY

Pauline Russo Cutter
Scott Haggerty
Rebecca Kaplan
Nate Miley

CONTRA COSTA COUNTY

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Jack P. Broadbent
EXECUTIVE OFFICER/APCO

July 17, 2017

City of San Jose
Department of Planning, Building and Code Enforcement
Kieulan Pham
200 East Santa Clara St., 3rd floor
San Jose, CA 95113

RE: DEIR for the 237 Industrial Center Project

Dear Kieulan Pham,

Bay Area Air Quality Management District (Air District) staff has reviewed the Draft Environmental Impact Report (DEIR) for the 237 Industrial Center Project (Project). The Project includes two development options. Option 1 proposes approximately 1.2 million square feet (sf) of light industrial development. Option 2 proposes a 436,880 sf data center (49.5 megawatts) with a PG&E substation to provide electrical needs to the data center, along with 728,000 sf of light industrial land uses. As noted in the DEIR, Option 2 of the Project will require an Authority to Construct and a Permit to Operate from the Air District.

Greenhouse Gas (GHG) Emissions Analysis

The DEIR utilized a power usage effectiveness (PUE) metric to assess the energy efficiency of the data center (Option 2), which will be constructed prior to 2020. Air District staff supports the use of the PUE metric to analyze the efficiency of data centers, and encourages lead agencies to achieve data center PUE levels of 1.2 and below. According to pg. 129 of the DEIR, the PUE of the Project's data center is anticipated to be 1.2 (which is considered "state-of-the-art"). The DEIR concludes that the GHG impacts for 2020 would be less than significant because the Project (Options 1 and 2) is consistent with the City's General Plan and Greenhouse Gas Reduction Strategy, and because the data center in Option 2 (which would be operational by 2020) also achieves a PUE of 1.2.

Under the data center/light industrial development option (Option 2), the data center and substation would be completed by 2020 but construction of the light industrial component would extend beyond 2020. According to the DEIR (pg. 148), "the necessary information to estimate an interim GHG target is being developed by the Air Resources Board (ARB), and the necessary information to address new state interim targets at a local level is not currently available and development of an additional target in the City's GHG Reduction Strategy will be required at a later date once the ARB 2030 Scoping Plan is complete". The Project would implement feasible energy efficiency measures post-2020 during the construction of the light industrial portion of the Project; however, the DEIR concludes that the GHG impact beyond 2020 would be significant and unavoidable.

Although the ARB 2030 Scoping Plan is not yet final, the Air District (in its recently adopted 2017 Clean Air Plan) and the State of California (Executive Order S-3-05) have established a long-term GHG reduction goal of 80% below 1990 levels by 2050. Additionally, SB 32 codified a statewide 2030 GHG emissions reduction target of 40% below 1990 levels. Buildings and structures have long operational lifespans, and many structures built now will be operational in the year 2050.

Accordingly, Air District staff recommends that the City require that all new land use projects include all of the most efficient GHG reduction strategies available at the time of project approval and construction to support the State's ability to meet future GHG reduction targets. All feasible GHG reduction strategies are needed to ensure that new development projects minimize GHG emissions to the greatest extent possible to make progress toward the State's and Air District's climate stabilization goals. Examples include but are not limited to:

- Integration of onsite renewable energy, such as solar;
- Inclusion of charging infrastructure for electric vehicles;
- Achievement of LEED Gold or Platinum, rather than Silver (as referenced in the DEIR);
- A more stringent TDM Plan to achieve the greatest feasible VMT reductions, because transportation emissions represent the largest source of GHGs in the Bay Area.

Health Risk Assessment

As previously mentioned, Air District staff notes that the Project will be required to obtain an Authority to Construct and a Permit to Operate from the Air District. As part of the permit requirements, the Project will be required to demonstrate (via an approved health risk assessment and CEQA analysis) that the Project air emissions will not exceed 10 in a million in cancer risks to nearby sensitive receptors. Please contact Barry Young at byoung@baaqmd.gov or (415) 749-4721 for guidance and recommendations on conducting the health risk assessment.

Air District staff is available to assist the City in addressing these comments. For additional information, or if you have any questions, please contact Jackie Winkel, Principal Environmental Planner at (415) 749-4933 or jwinkel@baaqmd.gov.

Sincerely,



for
Jean Roggenkamp
Deputy Executive Officer

cc: Director Margaret Abe-Koga
Director Cindy Chavez
Chair Liz Kniss
Director Rod G. Sinks

County of Santa Clara

Parks and Recreation Department

298 Garden Hill Drive
Los Gatos, California 95032-7669
(408) 355-2200 FAX 355-2290
Reservations (408) 355-2201

www.parkhere.org



July 17, 2017

Kieulan Pham
Environmental Project Manager
City of San Jose
Department of Planning, Building and Code Enforcement
200 E. Santa Clara St., 3rd Fl. Tower
San Jose, CA 95113 - 1905

SUBJECT: Notice of Availability of a Draft Environmental Impact Report (DEIR) for the 237 Industrial Center Project (CP15-054, SP16-053)

To Whom It May Concern:

The County of Santa Clara Parks and Recreation Department (County Parks) submits these comments in response to the City of San Jose's Notice of Availability of a Draft Environmental Impact Report (DEIR) for the 237 Industrial Center Project located at APN 015-31-054 (CP15-054, SP16-053). These comments supplement our previous scoping comments in June 2016 in response to the City's Notice of Preparation.

According to the Notice of Availability, the project includes two development options. Option 1 proposes approximately 1,197,700 square feet of light industrial development and Option 2 proposes an a 436,880 square foot data center (49.5 megawatts) with a PG&E substation to provide electrical needs for the data center on approximately 26.5 acres of the site and approximately 728,000 square feet of light industrial development. The project includes developing a trail that would connect through the project site to the Coyote Creek/Llagas Sub-Regional Trail (S1) to the east and the San Francisco Bay Trail (Route R1-B) to the north.

The County Parks Department is charged with the planning and implementation of *The Santa Clara County Countywide Trails Master Plan Update (Countywide Trails Plan)*, an element of the Parks and Recreation Section of the County General Plan adopted by the Board of Supervisors on November 14, 1995. Although responsibility for the actual construction and long-term management of each individual trail varies, the County Parks Department provides general oversight and protection for the overall trail system. The Countywide Trails Plan indicates the following regional trail routes are located immediately adjacent to the project site:

Board of Supervisors: Mike Wasserman, Cindy Chavez, Dave Cortese, Ken Yeager, S. Joseph Simitian

County Executive: Jeffrey V. Smith



- ***Coyote Creek/Llagas Sub-Regional Trail (S1)*** – The partially completed trail follows Coyote and Llagas Creeks from the San Francisco Bay to Gilroy. This trail bounds the project site to the east and to the south as the Highway 237 Bikeway. As a regional off-street trail per the *Countywide Trails Plan*, the trail exists along Alviso-Milpitas Rd/Ranch Road. The proposed entrance for the development intersects this route. In both the long-term use of the development and during Project construction, the Project should not impede use of the S1 Trail Route. Every effort should be made to keep the off-street route open for recreational use at all times, and users made aware (via signage and other tools) of scheduled construction activities.
- ***San Francisco Bay Trail (Route R1-B)*** – This partially completed trail provides a regional connection along the San Francisco Bay shoreline and runs along the eastern portion of the project site boundary on the west side of the Coyote Creek Riparian. As described above, an existing constructed portion follows the Coyote Creek Sub-regional Trail alignment and then connects to the Highway 237 Bike Path; this route is designated for hiking and cycling. Additional proposed segments of the Bay Trail are located to the north and west of the proposed Project site.

In our June 2016 memorandum, the Department recommended a variety of items be addressed in the DEIR, including items related to aesthetics and visual resources, hydrology and water quality, biological resources, transportation and circulation, noise, and public service impacts to the Coyote Creek/ Llagas Creek Sub-Regional Trail and San Francisco Bay Trail.

Recommendations included:

- Evaluating the potential impacts to the Coyote Creek riparian corridor. Specially evaluating the potential for light or glare from the Project to impact the riparian ecosystem including reproduction, foraging and migration.
- Evaluating the potential impact the Project may have on regional trails and minimizing impacts to the trail routes and users by incorporating complete streets designs to the proposed new public streets.
- Evaluating stormwater runoff and other drainage from the proposed Project and ensuring that excessive off-site flows are fully eliminated.

In addition to the comments previously provided, the Department also recommends:

- Notify trail users of construction and any re-routes through positing of sign notices. While building new trail segments, the existing trails should remain open for recreational use.
- The DEIR identifies that traffic on Ranch Drive related to the proposed project would be limited to emergency vehicle access only. Alternative mode commuters as well as

recreational users actively use the Highway 237 Bike Path, San Francisco Bay Trail and Coyote Creek/Llagas Creek Sub-Regional Trails. The existing trail should remain open for recreational use.

- The additional trails proposed as part of the project should be constructed in accordance with current and existing design guidelines and recommendations for multi-use (hiking and bicycling) trail construction.
- Maps in the EIR should identify the trails that are located within the project vicinity. The Highway 237 Bike Path and the Bay Trail connects to the Coyote Creek/ Llagas Sub-Regional Trail and is located immediately to the South of APN 015-31-054.

The Department would like clarification of the following:

- Table 3.2-4: Bay Area 2017 Clean Air Plan Applicable Control Measures, under Bicycle and Pedestrian Access and Facilities states: “due to the location of the project site and the nature of the project, improved pedestrian access is not proposed as part of the project.” However, according to the DEIR: “the proposed project includes a Class I trail connection on the south side of the site, along Alviso – Milpitas Road to provide a trail connection to the Coyote Creek Trail on the east side of the creek.” The trail is also depicted in Figure 2.0-6. Please provide additional information regarding these conflicting points.

The County Parks Planning team is available as a resource regarding the Trail Element of the Parks and Recreation Chapter of the 1995 County of Santa Clara General Plan. We appreciate the opportunity to comment on the Notice of Availability of a Draft Environmental Impact Report (DEIR) for the 237 Industrial Center Project (CP15-054, SP16-053). If you have questions related to these comments, please call me at (408) 355-2228 or e-mail me at Cherise.Orange@prk.sccgov.org.

Sincerely,



Cherise Orange
Associate Planner

July 17, 2017

Ms. Kieulan Pham
Planning Division
Department of Planning, Building, & Code Enforcement
City of San Jose
200 East Santa Clara Street, 3rd Floor
San Jose, CA 95113-1905

Subject: Draft Environmental Impact Report – 237 Industrial Center Project
City File Nos C15-054 & SP16-053

Dear Ms. Pham:

The Santa Clara Valley Water District (District) is a special district with jurisdiction throughout Santa Clara County. The District acts as the county's groundwater management agency, principal water resources manager, flood protection agency and is the steward for its watershed, streams and creeks, and underground aquifers. We appreciate the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the 237 Industrial Center. It's our understanding the project site is approximately 64.5 acres and includes a proposal to develop either 1.2 million square feet of light industrial or a 436,800 square foot data center with a Pacific Gas & Electric substation servicing the data center and 728,000 square feet of light industrial development.

We have the following comments:

Abutting the 237 Industrial Center site to the east is Coyote Creek located within the District's fee title property. In 1984, the United States Army Corps of Engineers (Corps), with the District as the local sponsor, constructed levees along the creek to reduce the potential for flooding due to the 100-year flood. The levees are a critical flood protection structure and any work within the District's property along this reach of Coyote Creek will require both District and Corps approval. If it is determined that a permit is considered necessary for this project, a District permit application can be found on the District's website, www.valleywater.org, under the Business and Permits section.

To maintain ecological compatibility with the existing riparian forest and ensure genetic specificity, MM BIO-3.4 should be revised to specify "that all seed mixtures used for revegetation of the impacted riparian habitat of Coyote Creek shall be **locally** native or sterile non-native species only." Local should be defined, in order of preference, as 1) local to the Coyote Creek watershed, 2) local to Santa Clara County, or 3) local to the nine counties that compose the San Francisco Bay Area. The District is available to review and approve the seed mixture, if needed.

Protection of some existing trees on the project site as noted in MM BIO-4.1 would be ecologically incompatible with the City's and District's goal of protecting riparian corridor. Specifically, the following species identified as present on the project site per the Tree Survey,

are considered invasive and represent a maintenance threat. We recommend that they be removed and **not** be preserved.

- Shamel ash
- European Olive
- Glossy Privet
- London plane
- CA [Black] walnut

Given the proximity of the project site to the riparian corridor, selecting the planting palette for the landscape plans should be done in consultation with the District's biologists via the Community Projects Review Unit (CPRU) to prevent additional ecological incompatibility. Since prevailing winds are westerly, seeds/pollen will be vectored towards the District's creek property where the resulting seedlings could increase maintenance liability and/or cause unnatural hybridization, potentially jeopardizing future recruitment of young trees needed to revitalize the existing riparian forest. Examples of this would be:

- Use of London plane trees, seedlings of which will invade the creek and pollen will hybridize with native CA sycamores. Several heritage CA sycamores are located just across HWY 237 on Coyote Creek.
- Use of Lombardy poplars which will hybridize with native Fremont cottonwood which is present all along Coyote Creek.

The Technical Biological Report [Appendix C], authored by Live Oak Associates, page 29 and referenced on page 86 of the DEIR cite the Envision SJ 2040 General Plan, MS 21.9 which suggests the new landscape 'incorporate' local natives next to riparian forest, grown from propagules sourced from wild parent plants within 5-10 miles away and preferably in the same watershed. The project proponent may contact the District's CPRU to arrange a permit for a nursery to collect seed from the adjacent Coyote Creek watershed one to several years in advance of landscape installation. Available species include valley and coast live oak, arroyo and red willows and blue elderberry. If the use of locally native species does not meet the project objectives, the project proponent may use non-invasive non-natives that will not hybridize with existing riparian natives as an alternate and be a better choice than non-local natives.

As Live Oak Associates notes, there could be potential conflict with the San Jose Tree Ordinance which requires tree replacement with 24" box or 15-gallon natives. Plants of these sizes are not likely to be local natives which generally are available only in 1-gallon equivalent sizes. If downsizing the containers is not acceptable as the tradeoff for getting higher ecological benefit, the project proponent should be allowed to pursue the alternative of planting off site or making donations, in lieu of replacement, to the Urban Forest Fund. Mitigation plantings should be located on the project site and cannot be located on District property.

Figure 2.0-6 incorrectly identifies Assessor Parcel No. 022-30-053 as a "SCVWD Easement Habitat". It is recognized this parcel is not directly adjacent to the project site; however, for accuracy, Figure 2.0-6 should be revised to reflect that the parcel is owned in fee title by the District.

Ms. Keiulan Pham
Page 3
July 17, 2017

Section 3.6.1.2 notes that shallow groundwater to be approximately five feet below grade; however, Section 3.9.2.4 identified groundwater depth from 8.5 feet to 11 feet below grade. Language should be revised for consistency.

The project, as noted in Section 3.9.2, includes two options to discharge the collected stormwater runoff from the site, including constructing a new outfall to Coyote Creek. Section 3.14.2.5 also noted that the “proposed stormwater drainage system will be designed to accommodate approximately 121 cubic feet per second (cfs) of stormwater from the site, proposed roadways, and City held lands east of Zanker Road.” Although the project site, proposed roadways, and the City property east of Zanker Road are currently located within the Guadalupe Watershed, the DEIR did not include a hydrologic/hydraulic analysis to evaluate impacts associated with redirecting stormwater from the Guadalupe Creek watershed to the Coyote Creek watershed. Impacts may include an increase in the 100-year water surface elevation and the water surface elevation due to lower frequency events, and induce flooding to surrounding properties since the flood protection structures did not contemplate the redirection of stormwater from one watershed to another. In any event, this is not consistent with the “Guidelines and Standards for Land Use Near Streams” (G&S) developed by the Water Resources Protection Collaborative which the City of San Jose was party to and reaffirmed through City Resolution No. 73644. While an analysis which may focus on the project site may be insignificant, the cumulative impacts along the watershed are significant.

District records show one well on the site and Section 3.14.2.3 notes that the project may include construction of a new well. The existing well should be properly maintained or destroyed in accordance with the District’s standards. Property owners or their representatives should call the Wells and Water Production Unit at (408) 630-2660, for more information regarding well permits and registration for a new well or destruction of the well.

We look forward to a response to our comments. If you have any questions or comments, you can contact me at (408) 630-3174 or at syung@valleywater.org.

Sincerely,


Samuel Yung
Associate Civil Engineer
Community Projects Review Unit

cc: Tracy Tam, City of San Jose (tracy.tam@sanjoseca.gov)
Arlyn Villanueva, City of San Jose (arlyn.villanueva@sanjoseca.gov)
Eileen McLaughlin, Citizens Committee to Complete the Refuge
(wildlifestewards@aol.com)
Lucy Lofruernerto, LMA Law LLP (ll@LMALLP.com)

M Richardson, U Chatwani, J. Hillman, L. Spahr, K. Thai, T. Tidwell, S. Yung, File



CARPENTERS LOCAL UNION 405

SERVING SANTA CLARA & SAN BENITO COUNTIES

July 17, 2017

BY ELECTRONIC MAIL and US MAIL

Kieulan Pham
Environmental Project Manager
Department of Planning, Building, and Code Enforcement
200 East Santa Clara St., 3rd Floor
San José, CA 95113
E-mail: Kieulan.pham@sanjoseca.gov

Re: Comments on DEIR for 237 Industrial Center (**C15-054 and SP 16-053**)

Dear Ms. Pham:

The 237 Industrial Center Project will have Significant Unmitigated Environmental Impacts, therefore the DEIR Must Offer Evidence to Support a Statement of Overriding Considerations.

The Project will have significant, unmitigated environmental impacts that were not previously disclosed and covered by any prior Statement of Overriding Considerations.¹ As a result, a statement of overriding considerations that is supported by substantial evidence will be required.

Under CEQA, when an agency approves a project with significant environmental impacts that will not be fully mitigated, it must adopt a "statement of overriding considerations" finding that, because of the project's overriding benefits, it is approving the project despite its environmental harm. (14 Cal.Code Regs. §15043; Pub. Res. Code §21081(B); Sierra Club v. Contra Costa County (1992) 10 Cal.App.4th 1212, 1222) A statement of overriding considerations expresses the "larger, more general reasons for approving the project, such as the need to create new jobs, provide housing, generate taxes and the like." (Concerned Citizens of South Central LA v. Los Angeles Unif. Sch. Dist. (1994) 24 Cal.App.4th 826, 847)

¹ DEIR at section 7.0: "6. Implementation of the light industrial uses would have a significant impact on the mixed flow lanes of seven directional freeway segments and HOV lanes of three directional freeway segments."
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A statement of overriding considerations must be supported by substantial evidence in the record. (14 Cal.Code Regs. §15093(b); *Sierra Club v. Contra Costa Co.* (1992) 10 Cal.App.4th 1212, 1223) The agency must make “a fully informed and publicly disclosed” decision that “specifically identified expected benefits from the project outweigh the policy of reducing or avoiding significant environmental impacts of the project.” (15 Cal.Code Regs. §15043(b)) As with all findings, the agency must present an explanation to supply the logical steps between the ultimate finding and the facts in the record. (*Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515)

Key among the findings that the lead agency must make is that:

“Specific economic, legal, social, technological, or other considerations, including **the provision of employment opportunities for highly trained workers**, make infeasible the mitigation measures or alternatives identified in the environmental impact report ... [and that those] benefits of the project outweigh the significant effects on the environment.” (Pub. Res. Code §21081(a)(3), (b), emphasis added)

Thus, the agency must make specific findings, supported by substantial evidence, concerning both the environmental impacts of the Project *and* the economic benefits including “the provision of employment opportunities for highly trained workers” created. The DEIR fails to provide substantial evidence to support a statement of overriding considerations. The City has no substantial evidence on which to base any determination that the economic benefits of the Project outweigh its admittedly significant environmental impacts.

CEQA expressly requires an analysis of: “Specific economic, legal, social, technological, or other considerations, including the provision of employment opportunities for highly trained workers.” (Pub. Res. Code §21081(a)(3), (b)) The DEIR makes no attempt to determine whether new jobs created by the Project, in either the construction phase or the operational phase, will be for “highly trained workers,” and what the likely wage ranges or fringe benefits of these jobs will be. Without this information, the agency lacks substantial evidence to make any statement of overriding considerations.

In short, the agency cannot find that the economic benefits of the Project outweigh the environmental costs if it does not know what the economic benefits will be.

The City should include defined requirements around construction phase and operational phase job quality & equity. Average earnings for stable, full-quarter employees of the construction industry are only 63 percent of average earnings for comparable full-quarter employees of all industries in Santa Clara County; these average earnings fall well short of the income necessary for a household to afford local Fair Market Rent two-bedroom housing. The earnings of stable, full-quarter Latino construction workers in Santa Clara County are only 53 percent of the average for

stable employees across all industries.² The 237 Industrial Center project could provide, but has made no commitments to provide, employment opportunities for construction trades apprentices. Joint Labor-Management-managed apprenticeship programs have enrolled approximately 3,000 residents of the County of Santa Clara since 2011. Apprenticeship programs offer participants the opportunity to increase earnings by hundreds of thousands of dollars over the course of a career,³ which translates into greater family and community stability. Without job quality and equity requirements, however, the 237 Industrial Center Project may fail to provide equal opportunities for highly trained – and training – workers of all ethnicities.

We look forward the Final Environmental Impact Report addressing the need for providing the residents and policymakers of the City with the information necessary to substantiate any Statement of Overriding Considerations.

Respectfully,

A handwritten signature in blue ink, appearing to read "Rick Solís", is written over a large, loopy blue scribble. The signature is positioned above the printed name and title.

Rick Solís
Senior Field Representative

² U.S. Census Bureau, Center for Economic Studies, LEHD.

³ See United States Department of Labor, Chief Evaluation Office. "Cost-Benefit Analysis of Registered Apprenticeship Programs Shows Promising Results" rev. 4/23/2015. Downloaded via <https://www.dol.gov/asp/evaluation/snapshots/20150224RegisteredApprenticeshipsSnapshot.pdf>

LOS ESTEROS CRITICAL ENERGY FACILITY, LLC

717 TEXAS AVENUE, STE. 100
HOUSTON, TEXAS 77002

July 17, 2017

Via Email

City of San José
Department of Planning, Building, and Code Enforcement
Kieulan Pham, Environmental Project Manager
200 East Santa Clara Street, 3rd Floor Tower
San José, CA 95113-1905
Kieulan.Pham@sanjoseca.gov

Re: Comments of Los Esteros Critical Energy Facility, LLC:
Draft Environmental Impact Report (EIR) 237 Industrial Center Project
File Nos. C15-054 and SP16-053

Dear Kieulan Pham:

Los Esteros Critical Energy Facility, LLC (“LECEF”) provides the following comments on the *Draft Environmental Impact Report (EIR) 237 Industrial Center Project* (“DEIR”). LECEF is the owner of the Los Esteros Critical Energy Facility (the “LECEF Facility”) located at 800 Thomas Foon Chew Way, San José, California, to the west of the proposed site for the 237 Industrial Center Project (“Project”). The LECEF Facility has operated since 2003, and provides critically needed reliability functions to serve the electrical grid. The LECEF Facility is one of the closest neighbors to the proposed Project and has facility components that may be potentially affected by construction and operation of the Project.

LECEF remains concerned with continuing ambiguities regarding the “ultimate” Project being proposed for approval by the City, particularly given the vast differences in densities, intensity of uses, and even needed approvals, for the two “Options” (and various permutations of each) presented in the DEIR. The proposed Project would be located near several industrial facilities, including the operating LECEF Facility, the San José-Santa Clara Regional Wastewater Facility, and the Silicon Valley Advanced Water Purification Center. The proposed Project must be designed to account for and operate in harmony with these existing permitted uses. The inconsistent descriptions of the Project in the DEIR make it impossible to accurately determine the potential adverse impacts from, and adequacy of the recommended mitigation measures for, the proposed Project.

Based on LECEF’s review of the DEIR, there remain several areas of analysis that must be conducted before publication of the Final Environmental Impact Report (“FEIR”) to ensure there are no adverse impacts from the proposed Project.

First, the FEIR should ensure that the proposed Project is consistently described and analyzed throughout each subject area. Descriptions of the Project, including the descriptions of Option 1 and Option 2, are not clearly and consistently articulated in the DEIR. LECEF offers specific comments relating to the description of the Project that require clarification in Attachment A, Section I to this letter.

Second, the FEIR must provide further information and analysis with respect to the Project's stormwater conveyance scenarios. Significantly, there is no analysis of the potential impacts to the LECEF Facility's existing stormwater outfall, nor are there any measures proposed to ensure that construction and operation of the Project will not adversely affect the LECEF Facility's stormwater outfall. LECEF's specific concerns regarding the stormwater conveyance scenarios, issues requiring clarification and further analysis, and other related comments are set forth in Attachment A, Section II to this letter.¹

Third, the FEIR must expressly acknowledge and analyze the unique sensitivities to dust and particulate matter of the existing LECEF Facility. As raised in previous comments to the City, the LECEF Facility is particularly sensitive to dust and particulate matter.² Dust and particulate matter can degrade and potentially clog the air inlet filters of the LECEF Facility's combustion turbines. In addition to the turbines, additional dust and particulate matter have the potential to degrade or foul other important system components, such as instrumentation. LECEF's concerns about potential construction and operational impacts from the Project associated with dust and particulate matter are not adequately addressed in the DEIR. Moreover, due to the inconsistencies in the Project Description, it is unclear whether the air quality analysis and mitigation measures proposed for the Project are sufficient. LECEF's specific concerns regarding air quality, issues requiring clarification and further analysis, and other related comments are set forth in Attachment A, Section III to this letter.

Fourth, the FEIR must identify and provide measures that safeguard and protect the various components of existing developments and uses in the Project area. As one example, LECEF maintains landscaping to the south of Thomas Foon Chew Way, and various linear facilities that are crucial to the operations of the LECEF Facility are located along the routes proposed for the utilities improvements identified on DEIR Figure 2.0-4. The FEIR must describe the location of these existing uses, the Project's potential impacts, and the measures that will be imposed to ensure that the LECEF Facility is not adversely affected by the proposed Project's development, construction, and operation. Such measures should include assurances that construction best practices, including all necessary safety clearances, are followed. This will

¹ On June 27, 2016, LECEF submitted comments on the Notice of Preparation (hereinafter, "LECEF June 27, 2016 Comment Letter"), which are incorporated herein by this reference.

² *Id.*, pp. 6-7.

help ensure that the LECEF Facility's ability to operate safely and reliably is not impacted by the Project.

Furthermore, given the existing gas transmission lines, and potential for increased development and population growth by virtue of the extensions of all linears to the City's undeveloped lands, the FEIR must take into account: (i) whether the Project, and reasonably foreseeable development as a result of the extension of the linears, will impact gas transmission; (ii) whether the Project and reasonably foreseeable uses resulting from the Project are compatible with existing and reasonably foreseeable industrial uses; (iii) whether additional construction and operation measures need to be taken to ensure public safety; and (iv) must ensure that the final design of the Project provides the appropriate setbacks, clearances, and design criteria to ensure public safety and compliance with laws, ordinances, regulations, and standards.

As discussed above, and in the Attachments to these comments, the DEIR must be revised to ensure that the public and decision makers are informed of the significant environmental effects of a project.

Sincerely,

_____/s/_____

Jill Van Dalen
Managing Counsel
Calpine Corporation *on behalf of*
Los Esteros Critical Energy Facility, LLC

ATTACHMENT A

Comments of Los Esteros Critical Energy Facility, LLC (“LECEF”)

Draft Environmental Impact Report (EIR) 237 Industrial Center Project File Nos. C15-054 and SP16-053

I. PROJECT DESCRIPTION

Given the varying descriptions of the Project presented in the DEIR, LECEF notes and seeks clarification of the following:

1. The Project Description and the two options require clarification to avoid ambiguities and inconsistency.
2. When will the public, particularly the neighboring sites most affected by the Project, be informed of the Option that will ultimately be selected and constructed? Will there be an opportunity for further public comment and review of the Option that ultimately moves forward?
3. What are the expected timelines for acquiring any further approvals and commencing construction of the selected Option?
4. The timelines provided for completion of Option 2 require further discussion and clarification for consistency throughout the DEIR. Once the development timeframes for Option 2 are confirmed, each subject area within the DEIR should be reevaluated to ensure that the analysis and underlying assumptions with respect to development timeframes are consistent. The FEIR should assume concurrent construction to give a full understanding of the potential direct, indirect, and cumulative impacts from construction of the data center, substation, and light industrial development.
5. Several places within the DEIR identify the potential impacts and mitigation measures of the data center alone. Is the Reduced Scale-Data Center Only Alternative being considered as a potential project?

II. STORMWATER CONVEYANCE SCENARIOS

The DEIR identifies “two scenarios for the conveyance of stormwater” for the proposed Project, one of which will be constructed “adjacent to the existing LECEF outfall.”³ LECEF has the following questions and concerns:

1. The FEIR must provide further analysis of the stormwater conveyance scenarios that addresses potential impacts to existing uses and identifies mitigation measures to avoid or minimize potential impacts.

³ DEIR, p. 45.

2. What measures will be imposed to ensure that LECEF's existing outfall is not damaged or impacted by construction of the proposed Project?
3. The DEIR states only that the installation of a stormwater outfall to Coyote Creek "could" be included "if it is determined that connection to Oakmead Pump Station on the Guadalupe River is not feasible."⁴ The DEIR does not define or give any context for determining whether the Oakmead Pump Station connection is "feasible". Moreover, the DEIR is not clear as to whether any other factors will impact which scenario will be chosen. The DEIR should clearly identify the potential impacts from either "scenario", and the measures that will be imposed to mitigate any significant impacts.
4. The DEIR does not clearly identify the potential construction and operational impacts associated with a new stormwater outfall, as compared to a new connection with the Oakmead Pump Station.
5. The DEIR does not address whether stormwater runoff from the new outfall, when combined with existing discharges, will result in cumulative impacts to either water quality or peak storm flow quantities. How will this be addressed? An analysis of the potential for cumulative impacts to water quality or storm flow quantities from the Project is particularly important since the new outfall will be "sized... to convey stormwater from the project site as well as City held lands east of Zanker Road."
6. The DEIR does not clearly state if the "permit conditions" proposed are applicable regardless of the "scenario" chosen, and whether such measures are adequate to mitigate any potential environmental impacts and prevent impacts to existing facilities. The FEIR should make this clear.
7. The DEIR states that with "implementation of the identified construction measures and compliance with the NPDES General Construction Permit, construction of the proposed project would have a less than significant impact on water quality,"⁵ which suggests that the measures are intended to provide mitigation for potential water quality impacts pursuant to CEQA. This does not, however, address storm flow quantities or potential impacts to the existing facilities. Furthermore, the "permit" these conditions will be incorporated into is not specified. The DEIR does not suffice as an informational document if these important issues are not addressed.

III. AIR QUALITY AND PUBLIC HEALTH

Due to the inconsistencies in the Project Description, it is unclear whether the air quality analysis and mitigation measures proposed for the Project are sufficient. LECEF requests clarification and further analysis of the following:

⁴ DEIR, p. 165.

⁵ DEIR, p. 166.

1. The air quality impacts analyses should clearly describe the Project and the potential for construction and operational impacts on existing uses.
2. As part of the Project, a new public sanitary sewer pump station will be installed to serve both the Project site and City-owned lands to the west of the site. The pump station will also include “backup emergency diesel generators”, which are described as either 70 kilowatts (kW)⁶ or 50 kW.⁷ The Air Quality Assessment was conducted based on a 50-kW backup generator. Which is the correct generating capacity, and does the air quality analysis require revision?
3. The last paragraph on page 79 should be revised to reflect that the nearest land uses include the LECEF Facility, the San José-Santa Clara Regional Wastewater Facility and the Silicon Valley Advanced Water Purification Center, industrial uses.
4. Page 7, Appendix B, Air Quality Assessment: the “worst-case condition” for the land uses input contemplates construction “all at once” of Option 1. However, a similar analysis was not conducted using the different land uses inputs presented by Option 2. Instead, the air quality assessment assumes “the remaining portion of the site would be constructed at later dates such that average daily construction emissions would be less than Option 1”. This assumption is not supported by the conflicting descriptions of the timelines for completion of Option 2 presented in the DEIR. For example, other sections of the DEIR presented assumptions based on completion of the data center both prior to or concurrently with light industrial development.⁸ Therefore, the air quality analysis should be updated to examine a similar worst-case, “all at once” construction of the data center, substation, and 728,000 square feet of light industrial development proposed for Option 2, and the FEIR updated accordingly.
5. A Health Risk Assessment for diesel generation should be performed taking into consideration all receptor locations. Option 2 will include 24 diesel fired-backup emergency generators at the Project site and one backup emergency diesel generator at the site of the new pump station. Diesel generators may have the potential to cause localized air quality and public health impacts. A health risk assessment should be included in the FEIR to address these concerns. LECEF is concerned with the DEIR’s statement that potential impacts to the LECEF Facility were not evaluated because “the adjacent LECEF is an industrial use and is not considered to be a sensitive receptor.”⁹ The Bay Area Air Quality Management District’s (“BAAQMD’s”) CEQA Guidelines, which are referenced in the DEIR, make clear that all new and existing receptors be analyzed.¹⁰ The FEIR’s health risk assessment should include analysis of the San José-Santa Clara Regional Wastewater Facility, the Silicon Valley Advanced Water Purification Center, and the LECEF Facility as

⁶ DEIR, p. 47.

⁷ DEIR, p. 77.

⁸ See, DEIR, Transportation/Traffic section.

⁹ DEIR, p. 78.

¹⁰ <http://www.baaqmd.gov/~media/Files/Planning%20and%20Research/CEQA/BAAQMD%20CEQA%20Guidelines%20May%202011.ashx?la=en> , p. 5-5.

additional receptor locations. The FEIR should also ensure that significant impacts to receptors, such as the LECEF Facility, are mitigated accordingly.

IV. TRANSPORTATION AND TRAFFIC

Regarding Transportation and Traffic, LECEF requests clarification and further analysis of the following:

1. In the analysis of Option 1, page 220 of the DEIR acknowledges that “[s]pecific operational characteristics for the project are not, however, available at this time as the project has no identified tenant.” There is a similar lack of operational characteristics available for Option 2. Because of the lack of operational characteristics, the DEIR relies on an approximate number of daily truck trips for each of the 108 loading dock doors that would be permitted under Option 1 to determine that there would be no significant impacts from the Project under Option 1. However, the DEIR does not identify any mitigation measures that would be imposed to ensure that the number of daily truck trips does not exceed the assumed number. The DEIR should be revised to require the incorporation enforceable limits to ensure that truck trips do not exceed these volumes to avoid a potentially significant impact.
2. Page 221 of the DEIR contains a conclusion that “Phase 1 of Option 2 (data center only) would not result in this impact.” Is this phrase intended to mean that both Option 1 and Option 2 would result in significant unavoidable impacts to local freeway study segments? The FEIR should explain the intended meaning and provide analyses to support the clarified conclusions.
3. Page 213 of the DEIR states that the proposed Project would have a significant impact on the Zanker Road/Montague Expressway and the Oakland Road/Montague Expressway intersections. Although significant impacts are identified, the DEIR states that “no mitigation” is required. The FEIR should explain why no mitigation is proposed for the identified significant impact.
4. Page 218 of the DEIR states that the proposed Project would “have a significant impact on the mixed-flow lanes of seven directional freeway segments and HOV lanes of three directional freeway segments.” The DEIR further states that no mitigation measures are proposed, “as it is beyond the capacity of any one project to acquire right-of-way and add lanes to a state freeway.”¹¹ The FEIR should explore possible mitigation measures that utilize lands and facilities other than a “state freeway,” such as deceleration lanes, signalization, other off-freeway traffic management facilities, and transportation demand management measures and strategies to minimize the significant impacts of the Project.

¹¹ DEIR, p. 221.



City of San Jose'
Department of Planning, Building, and Code Enforcement
200 East Santa Clara Street, 3rd Floor
San Jose', CA 95113
Attn: Kieulan Pham

July 17, 2017

SUBJECT: COMMENTS ON THE ADEQUACY OF THE ENVIRONMENTAL IMPACT REPORT FOR THE 237 INDUSTRIAL CENTER PROJECT

Dear Ms. Pham;

Grassetti Environmental Consulting (GECO) has been retained by the Citizens Committee to Complete the Refuge to review the adequacy of the Draft Environmental Impact Report (DEIR) for the 237 Industrial Center Project. This letter specifically addresses the adequacy of the greenhouse gas/climate change, off-site infrastructure, and growth inducement sections of the DEIR. As Principal of the firm, I conducted this review to determine whether, in my professional judgment, those sections of the DEIR conform to the basic requirements of CEQA and its implementing Guidelines. This review is for general CEQA adequacy, and is not intended as a review of technical adequacy of any of the technical studies included in the DEIR. My qualifications include over 32 years of preparing and reviewing CEQA documents, as well as teaching both professional and university courses on CEQA. My resume is attached to this letter.

Our review found substantive deficiencies in the greenhouse gas/climate change, growth inducement, and alternatives sections of the DEIR, which are summarized below.

GREENHOUSE GAS ANALYSIS

The analysis of greenhouse gasses (GHG) in the DEIR is cursory, non-quantitative, and reliant entirely on compliance with the City's General Plan. It finds that the project's GHG generation impacts before 2020 would be less than significant, but after 2020 emissions would be significant and unavoidable. The rationale for this conclusion is that the City's General Plan EIR found the same conclusions City-wide. There is no explanation in this DEIR as to why this project's emissions, specifically, would be significant, and no actual analysis of the project's emissions. There is a one-page discussion of conclusions regarding the project's conformance with City GHG-reduction strategies, but no supporting analysis or information as to how the project would or not conform.

The DEIR discussion (p. 148) concludes that, "The project would implement feasible energy efficiency measures to minimize impacts and would not result in any new or greater impacts than were previously identified in the Envision San Jose 2040 Supplemental FPEIR. The impacts would be significant and unavoidable as disclosed in the Envision San Jose 2040 Supplemental FPEIR." The DEIR includes no mitigation

measures for this significant impact. It assumes that City's Mandatory Criteria (listed on DEIR p. 146) contain all feasible mitigation.

This approach fails to meet even the most basic CEQA requirements in the following ways:

1) No project-specific GHG analysis has been done, therefore there is no way to tell if the project would have significant impacts, the level of impacts, or the effectiveness of the City's Mandatory Criteria in reducing those impacts to a less-than-significant level. A project-level EIR may not use a finding of significant impacts from a program-level EIR covering an entire city and which includes no site- or project-specific information, as a substitute for conducting the project-specific analysis of impacts, and identifying project-specific mitigation. The Bay Area Air Quality Management District (BAAQMD)'s recently issued (May 2017) Guidelines include the following thresholds of significance for GHG's (section 2.2):

The *Thresholds of Significance* for operational-related GHG emissions are:

- For land use development projects, the threshold is compliance with a qualified GHG Reduction Strategy; or annual emissions less than 1,100 metric tons per year (MT/yr) of CO₂e; or 4.6 MT CO₂e/SP/yr (residents + employees). Land use development projects include residential, commercial, industrial, and public land uses and facilities.
- For stationary-source projects, the threshold is 10,000 metric tons per year (MT/yr) of CO₂e. Stationary-source projects include land uses that would accommodate processes and equipment that emit GHG emissions and would require an Air District permit to operate.

If annual emissions of operational-related GHGs exceed these levels, the proposed project would result in a cumulatively considerable contribution of GHG emissions and a cumulatively significant impact to global climate change.

Further, the BAAQMD's Guidelines state (Section 3.1.2):

If a project, including stationary sources, is located in a community with an adopted qualified GHG Reduction Strategy, the project may be considered less than significant if it is consistent with the GHG Reduction Strategy. A project must demonstrate its consistency by identifying and implementing all applicable feasible measures and policies from the GHG Reduction Strategy into the project.

Although the DEIR apparently is attempting to rely on the GHG Reduction Strategy approach, in reality, it does not evaluate project GHG impacts with respect to any of these thresholds. It includes cursory mention of the mandatory criteria in its GHG Reduction Strategy, and notes that the project would comply with some, but not all, of those criteria. It fails entirely in demonstrating the project's consistency with the Plan by failing to identify and implement all applicable feasible measures and policies from the GHG Reduction Strategy into the project. There is zero discussion in the DEIR of how the strategies in the GHG Reduction Plan would be incorporated/implemented in the project. Additionally, the City acknowledges that its GHG Reduction Strategy fails to meet post-2020 State goals, and must be revised to do so. Rather than doing the requisite analyses, the DEIR plays word games, fussing over which parts of the project would be completed

before or after 2020. Word games are not acceptable impact analyses, and, as described in this comment, do not constitute CEQA-mandated mitigation of GHG impacts.

Section 4.4 of the BAAQMD's CEQA Guidelines presents a detailed discussion of how GHG impacts analyses are supposed to be done. The DEIR fails to do any of the steps listed in this section.

2) Because the DEIR skips any actual impact analysis of the project, it fails to look for feasible mitigation measures. The CEQA Guidelines (Section 1526.4(c)) set forth possible mitigation measures for GHG emissions. These include mitigations in an existing plan, reductions in emissions from project features, and "*off-site measures, including offsets that are not otherwise required, to mitigate a project's emissions.*" [Emphasis added]. The most recent amendments to the Guidelines specifically states that mitigation may include "*Measures that sequester greenhouse gases [i.e., such as carbon credits].*" (Section 1526.4(c)(4)). The Guidelines section notes that the approach for GHG mitigation is different for a plan EIR than for a project-level EIR.

Offsets also are envisioned as mitigation at a project level by the BAAQMD in their recently updated May 2017 Guidelines (Section 4.4):

The following mitigation measures would reduce operational-related emissions of criteria air pollutants, precursors, and GHGs from mobile, area, and stationary sources. Additional mitigation measures may be used, including off-site measures, provided their mitigation efficiency is justified. Where a range of emission reduction potential is given for a measure, the Lead Agency should provide justification for the mitigation reduction efficiency assumed for the project. If mitigation does not bring a project back within the threshold requirements, the project could be cumulatively significant and could be approved only with a Statement of Overriding Considerations and a showing that all feasible mitigation measures have been implemented.

The Air District prefers for project emissions to be reduced to their extent possible onsite. For projects that are not able to mitigate onsite to a level below significance, offsite mitigation measures serve as a feasible alternative. Recent State's CEQA Guidelines amendments allow for offsite measures to mitigate a project's emissions, (Section 15126.4(c)(4)).

In implementing offsite mitigation measures, the lead agency must ensure that emission reductions from identified projects are real, permanent through the duration of the project, enforceable, and are equal to the pollutant type and amount of the project impact being offset. BAAQMD recommends that offsite mitigation projects occur within the nine-county Bay Area in order to reduce localized impacts and capture potential co-benefits. Offsite mitigation for PM and toxics emission reductions should occur within a five-mile radius to the project site.

3) CEQA does not permit use of a "Significant Unavoidable Impacts" determination in place of an actual impacts analysis. CEQA further does not permit use of such a determination in place of identification and adoption of all feasible mitigation measures. This EIR substitutes the finding for the analyses and mitigation.

Had the DEIR been done correctly, it would have calculated project emissions, determined specific effects of the City's mandatory Criteria in reducing project emissions,

and then identified any additional mitigation needed to reduce the impact to a less-than-significant level. A clear, feasible mitigation measure would be purchase of carbon offsets to reduce the project's impacts to below the BAAQMD's threshold levels. The DEIR failed to even consider this mitigation, and it is not included in the City's GHG reduction Plan, even though it is feasible mitigation used on other projects throughout the state. Instead, the DEIR skips the mitigation step entirely, and proceeds to rely on a previously adopted finding of Significant Unavoidable impacts...for an impact that is clearly avoidable through the purchase of offsets. Substituting findings for feasible mitigation is a clear violation of CEQA's (Statutes, Section 21002.1 (b)) requirements that, "*Each public agency shall mitigate or avoid the significant effects on the environment of projects it carries out or approves whenever it is feasible to do so*". [emphasis added].

4) The EIR substitutes findings of overriding consideration for mitigation. This approach is expressly prohibited by CEQA. Guidelines Section 15092 states:

A public agency shall not decide to approve or carry out a project for which an EIR has been prepared unless.....

2) The agency has

(A) Eliminated or substantially lessened all significant effects on the environment where feasible as shown in Findings under Section 15091, and

(B) Determined that any remaining significant effects.....are acceptable due to overriding concerns...

This DEIR fails to do step A, and proceeds directly to an improperly construed step B. This approach fails to meet CEQA's most basic assessment and mitigation requirements.

Conclusion

Although it may not be possible to mitigate city-wide emissions to less-than-significant levels, it is clearly possible to mitigate project impacts to those levels via carbon offsets. Therefore, an adequate CEQA analysis would have found significant unmitigable *cumulative* GHG emission impacts, and *project-level* GHG impacts that could be mitigated to a less-than-significant level.

The EIR must be revised with an actual GHG analysis and incorporating all feasible mitigations, including, if necessary, purchase of carbon offsets.

SEA LEVEL RISE/CLIMATE CHANGE IMPACTS

The DEIR fails to address the potential impacts of sea level rise despite the likelihood that sea level rise will flood portions of the site, either directly or via back-up of flood waters on Coyote Creek, which flows adjacent to the proposed development area. The City relies upon The California Supreme Court's decision in the *California Building Industry Association v. Bay Area Air Quality Management District*, 62 Cal. 4th 369, which determined that, in most cases, EIRs need not address impacts of the environment on a project. However, that decision included an important exception which appears to apply to this project. The decision states, "What CEQA does mandate, consistent with a key element of the Resources Agency's interpretation, is an analysis of how a project might exacerbate existing environmental hazards."

In summary, the decision requires consideration of impacts of the environment on the

project in cases where the project would exacerbate that impact. That exception applies to this project as follows: 1) The project and cumulative development would substantially increase flows either into Coyote Creek or the Guadalupe River, which could exacerbate flood hazards to the project from backed up water due to future sea level rise, and 2) given that the City has determined that the City-wide GHG emissions and the project GHG emissions in 2020 (less than three years from now) would be significant and unavoidable, and the City is not proposing to mitigate those impacts with GHG offsets, it can be reasonably considered that the Project GHG emissions and cumulative City-wide GHG emissions would exacerbate local sea level rise impacts, which therefore should be addressed in the DEIR.

In any case, the DEIR fails to include an adequate analysis of the project's exacerbation of flooding hazards due to a combination of the project's increased runoff, to sea level rise. A recent State publication on sea level rise estimates a 67% chance of 1.6-3.4 feet of sea level rise by 2100, with a 5% chance of a 4.4-6.9 -foot rise (California Ocean Protection Council, *Rising Seas in California*, April 2017). Maps of the potential chronic flooding impacts of sea level rise are included a report that was released in early July, 2017 (<https://ucusa.maps.arcgis.com/apps/MapSeries/index.html?appid=64b2cbd03a3d4b87aaddaf65f6b33332>). That study shows the site as vulnerable to chronic flooding but protected at its Coyote Creek boundary by Federal levees - improvements of those levees to address sea level rise are not guaranteed or proposed by the project- those improvements must be included as part of the project infrastructure or as a mitigation measure.

The EIR should be revised to include this sea-level rise analysis and recirculated as applicable.

ANALYSIS OF GROWTH INDUCEMENT

DEIR Section 5.0 purports to assess growth-inducing impacts of the project. As described below, it distorts the CEQA requirements for analysis of Growth Inducement, and thereby fails to include a meaningful analysis of the project's actual growth inducement.

The DEIR (p. 241) identifies three significant criteria for growth inducement, including,

- Indirectly induce substantial growth or concentration of population (i.e., introduction of an unplanned infrastructure project or expansion of a critical facility [road or sewer line] necessitated by new development, either of which could result in the potential for new development not accounted for in local general plans).

This significance threshold misstates and misconstrues the CEQA Guidelines' language regarding growth inducement. The Guidelines (Section 15126.2(d) state:

Growth-Inducing Impact of the Proposed Project. Discuss the ways in which the proposed project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment. Included in this are projects which would remove obstacles to population growth (a major expansion of a waste water treatment plant might, for example, allow for more construction in service areas). Increases in the population may tax existing community service facilities, requiring construction of new

facilities that could cause significant environmental effects. Also discuss the characteristic of some projects which may encourage and facilitate other activities that could significantly affect the environment, either individually or cumulatively. It must not be assumed that growth in any area is necessarily beneficial, detrimental, or of little significance to the environment.

There is no language regarding inclusion in a plan making growth-inducement less than significant because CEQA focuses on physical impacts to the environment and strictly forbids a plan-to-plan impact analysis (Guidelines Section 15125(e)), which states:

Where a proposed project is compared with an adopted plan, the analysis shall examine the existing physical conditions at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced as well as the potential future conditions discussed in the plan.

Growth inducement analyses cannot assume that because growth is planned, it cannot be induced. In this case, development of the vacant lands in the project area is not constrained by plan designation, but is constrained by lack of adequate infrastructure. Until very recently, these lands were in agricultural use and do not include any of the infrastructure needed to develop industrial uses. As detailed in the DEIR, the project would eliminate the constraint to development on other vacant lands in the project area posed by the lack of infrastructure by extending all of the infrastructure needed to develop those lands to the project area. Specifically, the project would extend roadways, sewage service, electrical service, and water supply as well as storm water improvements sized to handle not just the project but also all of the additional planned new development north of Highway 237 near the WPCP. The properties where the project would induce growth are shown on Figure 2.0-6 of the DEIR. DEIR Figures 2.0-4 and 2.0-5, as well as the Technical Biological Report, Figure 1, shows those improvements that clearly are not intended solely for the project site, but also to all of the other vacant parcels in the project area west of the site. The elimination of the constraint to growth on these parcels is a significant growth-inducing impact of the project as discussed in the CEQA Guidelines.

The DEIR (p. 45) states:

This EIR evaluates the environmental impacts of extending utilities to the site as well as to the City of San José held lands located south of the site and east of Zanker Road. The development of these lands was included as part of the RWF Master Plan as shown on Figure 2.0-6 and assumed in the Envision San José 2040 General Plan. The program-level environmental impacts of development of these lands have been evaluated in the respective EIRs prepared for the RWF Master Plan and the Envision 2040 San José General Plan.

However, while the three-paragraph Growth-Inducement analysis in the DEIR mentions the planned development in the project area, it does not evaluate the growth-inducing impacts of the extension of the utilities designed to facilitate that growth. In fact, the DEIR states, "Development under proposed rezoning would require expansion of utilities to the site, which would help facilitate development of the adjacent vacant parcels. Expansion of utilities to the site would not, however, facilitate growth beyond the immediate project area." This statement contradicts the conclusions of the Growth Inducement discussion, which states, "While the project would develop currently vacant

land, it is part of planned growth in San Jose' and, as a result, would not have a significant growth inducing impact." As described above, the project would remove the physical constraints to growth, and would therefore be growth inducing. Further, the EIR is remiss in misstating CEQA's clear direction on how growth inducement must be considered in EIRs. The EIR needs to be augmented with a clear discussion of how growth inducement may affect water supply, runoff/flooding, traffic, air quality, GHG emissions, etc. To the degree that this information is available from previous EIRs, it may be summarized from those documents. However, as it stands, this section fail to meet CEQA guidelines.

EVALUATION OF OFF-SITE INFRASTRUCTURE IMPACTS

CEQA defines a "project" as the whole of an action that may have impacts to the physical environment (Guidelines Section 5378(a)). While the DEIR does identify the various infrastructure improvements that would be required for the project to proceed in the Project Description, it fails to assess the potentially significant impacts of those infrastructure expansions (except for the Coyote Creek stormwater outfall, which is evaluated). For example, the biological resources section fails to specifically analyze potential impacts to sensitive biological resources of constructing the water (and possibly storm-sewer) pipeline(s) through the known burrowing owl habitat and reserve. In fact, the Biological Resources section (p. 100) acknowledges that owl surveys were only conducted for the main portion of the site. Given the sensitivity of the burrowing owl reserve site, surveys of the proposed pipeline alignment would be critical. Similarly, the impacts of the proposed pumping plant on sensitive biological resources have not been specifically evaluated in the EIR.

Similarly, the EIR includes no analysis of the second stormwater option, which would construct a two-mile pipeline to direct stormwater to the Oakmead Pump Station on the Guadalupe River. No surveys of biological impacts along that corridor have occurred, and no discussion of other construction impacts, including grading, dust and air pollutant emissions, and growth inducement, resulting from this pipeline have been included in the EIR.

Additionally, the EIR should include an analysis as to whether the infrastructure expansion proposed to serve the proposed project would be economically feasible if the other parcels north of Highway 237 are not developed. If build-out of one or more of the other projects is required to make the infrastructure feasible, then the CEQA analysis must also include those projects, to avoid impermissible piecemealing.

CONCLUSIONS

It is my professional opinion that the deficiencies described above are substantial and render the EIR inadequate to meet basic CEQA analysis and disclosure standards. The City should revise the document to include an actual GHG impacts and mitigation discussion, address sea level rise hazards, analyze omitted off-site improvement impacts, and address the growth inducement that would occur from the physical infrastructure

extensions proposed as part of this project., and recirculate the document for public review.

Sincerely

A handwritten signature in cursive script, reading "Richard Grassetti". The signature is written in black ink and is centered horizontally below the word "Sincerely".

Richard Grassetti

Principal

Richard Grasseti

PRINCIPAL

Expertise

- CEQA/NEPA Environmental Assessment
- Project Management
- Geologic and Hydrologic Analysis

Principal Professional Responsibilities

Mr. Grasseti is an environmental planner with 30 years of experience in environmental impact analysis, project management, and regulatory compliance. He is a recognized expert on California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) processes, and has served as an expert witness on CEQA and planning issues. Mr. Grasseti regularly conducts peer review and QC/QA for all types of environmental impact analyses, and works frequently with public agencies, citizens groups, and applicants. He has managed the preparation of over 80 CEQA and NEPA documents, as well as numerous local agency planning and permitting documents. Mr. Grasseti has prepared over 200 hydrologic, geologic, and other technical analyses for CEQA and NEPA documents. He has analyzed the environmental impacts of a wide range of projects including infrastructure improvements, ecological restoration projects, waste management projects, mixed-use development, energy development, residential projects, and recreational facilities throughout the western U.S. Mr. Grasseti also has prepared numerous peer reviews of CEQA and NEPA documents for agencies, applicants, native American tribes, and citizens groups. In addition to his consulting practice, Mr. Grasseti regularly conducts professional training workshops on CEQA and NEPA compliance, and is a lecturer at California State University, East Bay, where he teaches courses on environmental impact assessment, among others.

Professional Services

- Management and preparation of all types of environmental impact assessment and documentation for public agencies, applicants, citizens groups, and attorneys

- Peer review of environmental documents for technical adequacy and regulatory compliance
- Expert witness services
- Assisting clients in CEQA and NEPA process compliance
- Preparation of hydrologic and geologic analyses for EIRs and EISs
- Preparation of project feasibility, opportunities, and constraints analyses, and mitigation monitoring and reporting plans

Education

University of Oregon, Eugene, Department of Geography, M.A., Geography (Emphasis on Fluvial Geomorphology and Water Resources Planning), 1981.

University of California, Berkeley, Department of Geography, B.A., Physical Geography, 1978.

Professional Experience

1992-Present	Principal, GECO Environmental Consulting, Berkeley, CA
1994-Present	Adjunct Professor, Department of Geography and Environmental Studies, California State University, Hayward, CA
1988-1992	Environmental Group Co-Manager/ Senior Project Manager, LSA Associates, Inc. Richmond, CA
1987-1988	Independent Environmental Consultant, Berkeley, CA
1986-1987	Environmental/Urban Planner, City of Richmond, CA
1982-1986	Senior Technical Associate - Hydrology and Geology - Environmental Science Associates, Inc. San Francisco, CA

1979-1981 Graduate Teaching Fellow,
Department of Geography, University
of Oregon, Eugene, OR

1978 Intern, California Division of Mines and
Geology, San Francisco, CA

**Professional
Affiliations and
Certifications**

Member and Past Chapter Director, Association of
Environmental Professionals, San Francisco Bay Chapter

Member, International Association for Impact Assessment

**Publications
and Presentations**

Grassetti, R. *Round Up The Usual Suspects: Common
Deficiencies in US and California Environmental Impact
assessments.* Paper Presented at International Association
for Impact Assessment Conference, Vancouver, Canada. May
2004.

Grassetti, R. *Understanding Environmental Impact
Assessment – A Layperson’s Guide to Environmental Impact
Documents and Processes.* (in press).

Grassetti, R. *Developing a Citizens Handbook for Impact
Assessment.* Paper Presented at International Association
for Impact Assessment Conference, Marrakech, Morocco.
June 2003

Grassetti, R. *CEQA and Sustainability.* Paper Presented at
Association of Environmental Professionals Conference,
Palm Springs, California. April 2002.

Grassetti, R. and M. Kent. *Certifying Green Development, an
Incentive-Based Application of Environmental Impact
Assessment.* Paper Presented at International Association
for Impact Assessment Conference, Cartagena, Colombia.
May 2001

Grassetti, Richard. *Report from the Headwaters: Promises
and Failures of Strategic Environmental Assessment in
Preserving California’s Ancient Redwoods.* Paper Presented
at International Association for Impact Assessment
Conference, Glasgow, Scotland. June 1999.

Grassetti, R. A., N. Dennis, and R. Odland. *An Analytical Framework for Sustainable Development in EIA in the USA*. Paper Presented at International Association for Impact Assessment Conference, Christchurch, New Zealand. April 1998.

Grassetti, R. A. *Ethics, Public Policy, and the Environmental Professional*. Presentation at the Association of Environmental Professionals Annual Conference, San Diego. May 1992.

Grassetti, R. A. *Regulation and Development of Urban Area Wetlands in the United States: The San Francisco Bay Area Case Study*. Water Quality Bulletin, United Nations/World Health Organization Collaborating Centre on Surface and Ground Water Quality. April 1989.

Grassetti, R. A. *Cumulative Impacts Analysis, An Overview*. Journal of Pesticide Reform. Fall 1986.

1986, 1987. Guest Lecturer, Environmental Studies Program, University of California, Berkeley.



July 17, 2017

Kieulan Pham, Environmental Review Planner
City of San Jose
200 East Santa Clara Street, 3rd Floor Tower
San Jose, CA 95113-1905

Subject: Draft EIR for 237 Industrial Center. File Nos. C15-054 and SP 16-053.

Dear Kieulan Pham:

The San Francisco Bay Bird Observatory (SFBBO) is a 501(c)(3) non-profit organization based in Milpitas. Since 1981, we have been involved in bird research, conservation, and education in the South Bay Area. SFBBO operates the Coyote Creek Field Station (CCFS), a year-round bird banding station along Coyote Creek located approximately 1000 feet northwest of the proposed project boundary, to study how restoration, development, and climate change have impacted resident and migratory bird populations.

Thank you for the opportunity to comment on the draft environmental impact report (DEIR) for the 237 industrial center development, file nos. C15-054 and SP 16-053. Representatives from SFBBO prepared the following comments on the draft environmental impact report.

2.1 Project Description

Section 2.1.1 (page 32): the Alviso-Milpitas is incorrectly identified as connecting to Zanker Road to the west. Alviso-Milpitas Road dead-ends at the Bay Trail / Highway 237 Bikeway. A dirt road connecting Alviso-Milpitas Road to Thomas Foon Chew Way is not publicly accessible.

2.2 Development Options

Related to Impact BIO-1: the DEIR indicates that truck loading docks will not be built facing the Coyote Creek riparian corridor (Development Option 1, page 38). On figure 2.0-7 (page 40), loading docks depicted for Areas 1, 4, 5, 6, and 7 are generally oriented orthogonally to the riparian corridor. However, there is no indication of how that design would reduce light and noise pollution from encroaching on the riparian corridor, especially from vehicles approaching and departing from the loading docks. Specifically with respect to Area 4, the easternmost loading dock has a direct line-of-sight north into the riparian corridor, contradicting the statement that loading docks will not be build facing the riparian corridor. We recommend incorporating light- and noise-reducing barriers along the eastern border of the buildings (and other faces, as appropriate) to reduce light and noise pollution encroaching on the Coyote Creek riparian corridor, and to bring the project into compliance with the City of San José Riparian Corridor Policy Study, Guideline 2E (listed on page 55 in the DEIR).

Related to Impact BIO-1: the DEIR indicates that under Development Option 2 (page 42), Building B will be up to 100 feet tall. Building B is also shown to be directly adjacent to the riparian corridor (Figure 2.0-9, page 43). Tall buildings increase the risk of bird collisions, particularly at night when birds are confused by persistent sources of light emanating from the building. We recommend reducing and limiting building height of buildings immediately adjacent to the Coyote Creek riparian corridor.

3.2 Air Quality



Figure 3.2-1 shows nearest sensitive receptors to the project site, but fails to identify CCFS, part of which is located less than 1,000 feet to the northeast of the project boundary.

3.3 Biological Resources

Related to Impact BIO-1: this section focuses on impacts to breeding species, but does not discuss impacts to migratory species. In particular, the California State Endangered Willow Flycatcher (*Empidonax traillii*) is known to occur along the Coyote Creek riparian corridor during migratory months (March – June, and August - October). Migratory species may be impacted by the presence of tall buildings adjacent to the riparian corridor, as well as persistent night-time lighting. We recommend the DEIR address impacts of building height and proximity to the Coyote Creek riparian corridor on migratory Willow Flycatcher populations. In addition to the Willow Flycatcher, several California State Species of Special Concern are known to migrate along the Coyote Creek riparian corridor, including Bryant's Savannah Sparrow (*Passerculus sandwichensis alaudinus*), Long-eared Owl (*Asio otus*), Loggerhead Shrike (*Lanius ludovicianus*), Olive-sided Flycatcher (*Contopus cooperi*), Summer Tanager (*Piranga rubra*), Vaux's Swift (*Chaetura vauxi*), Yellow-breasted Chat (*Icteria virens*), and Yellow-headed Blackbird (*Xanthocephalus xanthocephalus*). The DEIR should ensure that these species have been taken into consideration in this context as well.

Related to Impact BIO-1: there are several wastewater treatment ponds to the north of the proposed development. These ponds are often filled with water during the winter months (November – April), and are often used by a variety of waterbird species. Ducks are particularly susceptible to colliding with transmission lines during their approach to pond habitat. The DEIR does not mention whether the proposed PG&E substation would include power or transmission lines; however, the DEIR should require bird flight diverters be deployed on any new power or transmission lines connected to any of the proposed structures, or erected anywhere onsite.

The Coyote Creek riparian corridor is identified as an important movement corridor (page 93), particularly with respect to animals moving north-to-south. The DEIR does not take into account animal movement east-to-west, and in particular, makes no mention of animals using fallow farmland as movement corridors, which they are known to do. The proposed development site is an open field connecting the Coyote Creek riparian corridor to the San Francisco Bay Don Edwards National Wildlife Refuge through a series of undeveloped lands. We recommend that the DEIR address east-to-west animal movement through these open fields, and address the impacts of cutting off this existing east-to-west corridor with the proposed development. We also recommend the DEIR consider requiring animal corridors be built into the development plans; the northern boundary of the proposed development would be particularly suited to this purpose.

Related to Impact BIO-1: MM BIO-1.1 (page 103) indicates that pre-construction surveys for nesting migratory birds should "occur within 14 days of the onset of ground disturbance." However, this timeline conflicts with recommendations from Appendix D Measure 1b (page 55), which recommends that pre-construction surveys occur "no more than 7 days prior to the initiation of construction activities." We recommend the DEIR adopt Appendix D's recommendation, and change MM BIO-1.1 to reflect the narrower timeline. Birds construct nests remarkably quickly, and would easily be able to initiate nesting within a 14-day time period. Reducing this window to 7 days would more reliably avoid take of nesting migratory bird species.



SAN FRANCISCO BAY
BIRD OBSERVATORY

Related to Impact BIO-3: MM BIO 3.4 (page 106) indicates that seed mixtures for revegetation should be “native or sterile non-native species only.” However, this language does not fully reflect the recommendation of Appendix D (page 50) that states “If sterile non-native mixtures must be used for temporary erosion control, native seed mixtures will be used in subsequent treatments...” We recommend that the language of MM BIO 3.4 be update to indicate the use of sterile non-native species only as a temporary erosion control measure, and that only native species should be used for long-term erosion control and revegetation.

3.11 Noise and Vibration

Related to Impact BIO-1: this section does not address the impacts of noise and vibration to animal communities along the Coyote Creek riparian corridor. Birds have been found to adjust their song pitch and frequencies to urban environments. Given the current lack of urban development adjacent to the proposed project, we recommend the DEIR evaluate noise and vibration impacts to nearby and adjacent animal communities.

Thank you for the opportunity to contribute to this process and for considering our comments. Please feel free to contact me with any questions.

Sincerely,

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July 17, 2017

Via email

Kieulan Pham
Environmental Project Manager
City of San Jose
200 East Santa Clara Street, 3rd Floor
San Jose, CA 95113
kieulanpham@sanjoseca.gov

RE: Draft Environmental Impact Report of the 237 Industrial Project

Dear Ms. Pham,

The Citizens Committee to Complete the Refuge (CCCR), the Santa Clara Valley Audubon Society (Audubon) and the Loma Prieta Chapter of the Sierra Club (SCLP) appreciate this opportunity to comment on the Draft Environmental Impact (DEIR) of the 237 Industrial Project (Project) as proposed by the City of San Jose.

- This comment letter includes, by reference, the attached July 17, 2017 comment letter prepared by Grasseti Environmental Consulting on behalf of CCCR.

CCCR, SCVAS and SCLP are local environmental organizations focused on our natural resources and biological diversity. Our members enjoy creek corridors, baylands, nature, and all wildlife and the habitats in which they thrive. Members are always concerned when development adjoins and encroaches on creek corridors, grasslands, and baylands and have particular concern when special status species and rare habitat lands may be impacted.

Project Overview

Project Site: The proposed project is located on recently fallow, privately-owned agriculture lands and on grasslands/minimally developed lands held as part of the San Jose-Santa Clara Regional Wastewater Facility (RWF) buffer lands, together lying west-to-east from the eastern terminus of Nortech Parkway to Coyote Creek with a proposed easterly stormwater-outfall extension into the creek. East of Zanker Road, the project site runs north-to-south from RWF biosolid drying beds and the access road of the leased lands of the Silicon Valley Advanced Water Purification Facility (Purification Plant) to Route 237, with several utility alignments extending into developed areas south of Route 237. West of Zanker Road, a pair of extended utility alignments include one that forms a northerly limit, crossing through RWF buffer lands inclusive of designated burrowing owl habitat. The other utility alignment provides the southerly limit running along the boundary of the RWF with Route 237.

Three utility plants, owned and/or operated by other parties, occupy portions of the lands east of Zanker Road : The Santa Clara Valley Water District (SCVWD) Purification Plant, a PG&E facility and the

CalPine Los Esteros Critical Energy Facility (LECEF). Lands of the PG&E Plant and LECEF are privately-owned. The Purification Plant site is leased from the RWF.

DEIR maps that present the full extent of the Project footprint include: Figure 2.0-4, Figure 3.3-1 and Figure 1 in the Technical Biological Report. Total lands within the Project footprint are described most fully in the DEIR's Biological Resources analysis, inclusive of utility alignment lands: total acreage including the farmlands (64.5 acres) and the utility alignments (46.8 acres; p.89) equaling 111.3 acres. The storm water outfall, if chosen for build-out, would add 0.43 acres to the footprint.

Project Objectives: The project is a public-private endeavor, pairing adjoining, complementary development actions. The Cilker Family seeks to develop its farmlands for light industrial uses, needing both adequate road access and all utility services. The farmland's western boundary borders RWF lands that, under the RWF Master Plan, are proposed for development, as are RWF lands west of Zanker Road. Since decades-old acquisitions as RWF buffer lands, the City-owned sites have primarily been undisturbed grasslands. With those conditions in mind, DEIR's ten-listed project objectives (pp. xviii-xix) can be viewed, in essence, as two-fold: (1) Enable use of the Cilker property for light-industrial development by constructing all of the required utility and road access infrastructure within its boundaries and on RWF lands, an action that would (2) simultaneously stimulate commercial, office and/or light industrial development of the RWF lands on both sides of Zanker Road facilitating the achievement of economic objectives of the City's Envision 2040 Plan and RWF Master Plan.

Project Proposed Development: The DEIR, in its Summary of Alternatives, pp xviii-xxvii, presents a suite of alternatives in various combinations. No alternative is designated as a "preferred alternative" but in multiple discussions of individual alternatives, the discussion compares that alternative to the "entire proposed alternative." In Section 2.0, Project Information and Description, the discussion describes an Option 1 and an Option 2 and, on p. 49 defines: "The proposed project (full development of Option 1 or Option 2)...". We remain mystified.

Summary of Concerns

Our review of the DEIR, has identified several areas of concern, identified here, that will be discussed in greater depth in text that follows:

- The DEIR fails to define and apply CEQA's "whole of the action" definition of "Project", thereby undermining the information quality of all dependent analysis.
- The DEIR's Project Description is inaccurate, incomplete and inadequate, failing to clearly present information upon which decision makers, agencies and the public must depend.
- The DEIR fails throughout to adequately analyze impacts of utility and road construction for impacts that arise from disturbance at any point along a utility alignment, structure site or roadway.
- The DEIR's storm water runoff system content fails to discuss how the decision will be made between the two methods considered and also omits analysis of one of those methods.
- The DEIR fails to analyze impacts on burrowing owls population in the region and impacts to the designated 200-acre burrowing owl habitat on RWF lands.

- Under Biological Resources, the DEIR fails to identify, analyze and mitigate multiple impacts to wildlife, omissions that need study and inclusion in the DEIR.

Comments regarding Key Concerns Under CEQA

Project Description: The Project Description of this DEIR is incomplete and inaccurately describes the Project. Importantly, it fails to define and apply “Project” as the whole of the action. We consider CEQA Guidelines:

§15124. PROJECT DESCRIPTION

The description of the project shall contain the following information but should not supply extensive detail beyond that needed for evaluation and review of the environmental impact.

- (a) The precise location and boundaries of the proposed project shall be shown on a detailed map, preferably topographic. The location of the project shall also appear on a regional map.

§15378. PROJECT

(a) “Project” means the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and that is any of the following:

- 1) An activity directly undertaken by any public agency including but not limited to public works construction and related activities clearing or grading of land, improvements to existing public structures, enactment and amendment of zoning ordinances, and the adoption and amendment of local General Plans or elements thereof pursuant to Government Code Sections 65100–65700.

[Ed: emphasis added]

These CEQA statements apply to this DEIR and its Project Description. In our Project Overview, above, we found the need to re-describe the Project footprint and interpret objectives. Even now we remain mystified at what is the “proposed project.” We found we could not interpret nor depend on the content in Section 2.0 Project Information and Description. We drew on and sorted through Project detail dispersed throughout the DEIR and related documents, sometimes found in text, sometimes only represented in figures. To determine actual acreage, we had to sift through the documents and combine data to find an answer reported nowhere in the document.

Under §15124, “The description of the project shall contain the following information....(a) The precise location and boundaries of the proposed project shall be shown on a detailed map, preferably topographic.” [Ed: emphasis added] The maps of the Project Description (some used elsewhere in the DEIR) painted a piece-mealed picture. The Vicinity Map, Figure 2.0-2, grid-marks just the farmland acreage as the “Project Site.” Figure 2.0-3, Surrounding Land Uses, clearly marks a “project boundary” around the 64.5 acres of farmland with the addition of a creek stormwater outfall. Figure 2.0-4, “Off-site Utilities Improvements” labels the farmlands as “Project site” while one highly visible dashed line of this map is labelled “Potential Area of disturbance” and surrounds the entirety of farmlands and every utility alignment required by the Project. It is that dashed line that actually presents the “Project” that fulfills the CEQA definition of “the whole of the action”:

In the DEIR's persistence in identifying only the farmlands as the Project Site, as is done in the Project Description and repeatedly throughout the DEIR, the City as Lead Agency fails to fulfill this very basic and critical definition of CEQA. Doing so, it fails to set the standard to be used for all impact analysis and mitigation. To our observation, the only section of the DEIR to address the whole of the action, even revealing that 46.8 utility-alignment acres are involved, was the Section 3.3 Biological Resources. Lacking that standard, and withholding acknowledgment that the Project that includes a total of 111.3 acres not just 64.5 acres, all impact analysis of the DEIR must be considered incomplete, inaccurate and inadequate under CEQA.

Regarding objectives, CEQA is also instructive:

§15124. PROJECT DESCRIPTION

The description of the project shall contain the following information but should not supply extensive detail beyond that needed for evaluation and review of the environmental impact.

(b) A statement of the objectives sought by the proposed project. A clearly written statement of objectives will help the lead agency develop a reasonable range of alternatives to evaluate in the EIR and will aid the decision makers in preparing findings or a statement of overriding considerations, if necessary. The statement of objectives should include the underlying purpose of the project.

[Ed: emphasis added]

The DEIR chooses to present objectives in the Summary section, pp. xviii and xix, prior to that section's discussion of Alternatives. Its introduction to this topic refers to the same CEQA Guideline referenced here, but also explains that the project applicant provided the objectives. As Lead Agency, it is surprising that the City did not work with the applicant to review and refine the objectives. This list of 10 objectives is vague or lofty rather than project-specific. It is also duplicative, over-detailed and generally too lengthy to identify actual desired outcomes. In the end, we chose to create a different set, as seen above. Objectives are meant to be "a clearly written statement" with which to readily develop and evaluate Alternatives of the Project and are commonly seen in DEIRs as a bulleted list of desired outcomes, brief and to the point.

As examples: What is the purpose of including Objectives 1 and 2 when all they do is state what the City will require i.e. be consistent with Envision 2040 and the Alviso Master Plan? Why describe the construction detail of the Data Center, Light Industrial Development and utility infrastructure (Objectives 3,4,6) when it is the end result that matters and as is better described in Objective 7?

- ▶ We suggest that a joint Applicant-City revision of the objectives will produce a more useful DEIR.
- ▶ Revision of the DEIR must be completed to correctly define the Project's "whole of the action" and to significantly restate the Project Description.

Comments regarding Content of Biological Resources Impact Analysis and Mitigation

Utility and Access alignments omitted location-specific impact analysis: Given the widely disbursed and extensive web of utility and road alignments (see Figure 2.0-4), it is a significant concern that no analysis is included that examines the impact that constructing each alignment will have on lands adjoining the

disturbed area. For all of these utilities (potable and reclaimed water, sanitary sewer, electricity, natural gas, telecom, access roads and storm-water runoff systems), there is little or no analysis of alignment construction impacts, one exception being the potential storm-water outfall. In the absence of doing so, the impacts repeatedly rely on building codes, Envision 2040, the Alviso Master Plan and may confine discussion to conditions that exist on the farmlands but not on the RWF lands. By omitting analysis of placement and lay of the particular utility, impacts are missed.

One example of a DEIR unidentified impact and absence of mitigation becomes obvious with a comparison of Figure 2.0-4, Utilities Improvements and 2.0-6, a map of the RWF Plant Master Plan. The Project proposes to install, via trenching, a water supply pipeline and possibly a storm water pipeline that will cut across RWF lands from Zanker Road, continuing west to the intersection with the existing Nortech Parkway. A comparison with the RWF Master Plan establishes that the western-most distance of that alignment cuts directly through Owl Habitat. This burrowing owl habitat was defined by the RWF MP and is permanently managed for that purpose. Further, it quickly became a well-used nesting habitat by the owls. As graphic evidence: <https://sanjoseca.gov/index.aspx?NID=4384> While it is true this area is covered by the VHP Burrowing Owl Plan, it is a special case of habitat that was already protected before the VHP was adopted.

- ▶ The DEIR must analyze the construction impacts and required mitigation of the water supply line, revise the DEIR and recirculate.
- ▶ All of the utility and access construction actions need to be reviewed, along their full length and/or other dimensions, to identify specific impacts that may exist and cannot be mitigated by simply stating that City, agency or other construction standards apply.

Storm-water Runoff System Selection: The DEIR states that two options are being considered to fulfill the need for a storm-water runoff system. One option is to install a new outfall in Coyote Creek, adjacent to the outfall that serves the LECEF and the existing PG&E substation. The other option would be a pipeline to carry the runoff to the Oakmead Pump Station on the Guadalupe River. Its alignment would be the same as the water supply alignment discussed above and affecting the burrowing owl habitat. The DEIR provides, as an appendix, analysis of impacts of construction of the new outfall. There is no analysis of the pipeline to Guadalupe River option.

Nowhere in the DEIR was there any discussion about how the choice for one option or the other will be made, what factors will be considered in that decision, nor who will be involved in making the decisions. No comparisons were provided of benefits and/or impacts of the two options. This analysis is another omission of the DEIR that must be corrected and it will require that impact analysis of the Guadalupe pipeline be completed.

- ▶ The DEIR must define a methodology that will guide the storm water runoff decision and provide impact analysis of the potential pipeline to Guadalupe River to allow reasonable comparison of the two options under consideration.

Appendix C, Technical Biological Report, Burrowing owl impacts remain significant: Our review concludes that

Impacts to burrowing owls remain significant and are not mitigated by future HCP fee payments

The EIR must find that impacts to burrowing owls are significant if the Project would result in a “substantial adverse effect, either directly or through habitat modifications, on any species . . . identified as a special status species.” Burrowing owls are a California Species of Special Concern. We believe that the Project will have significant, unmitigable impacts to burrowing owls, and may cause their extirpation as a breeding species in the Bay Area.

Burrowing owl populations in the region are at a critical juncture. Past surveys found a 53% decline of burrowing owl populations in the greater San Francisco Bay area between 1986 and 1990 with just 86-94 owls pairs located in the HCP study area in 1990 (Santa Clara Valley Habitat Plan (HCP) Appendix M at 1). Downward trends have continued, and a Population Viability Analysis in 2010 concluded that unless immediate and sustained reversion of the declining trend occurs, burrowing owls will no longer exist in Santa Clara County within 20 years (HCP Appendix N at 4, 9-14). The causes of declining burrowing owl populations are well documented. As one Bureau of Land Management paper summarized, threats to burrowing owl populations include “direct mortality from man (including vehicle collisions); pesticides; habitat degradation, destruction and loss; and predators.” (Kurt F. Campbell, Burrowing Owl). Indeed, the VHP 2016 surveys resulted in the documentation of only 61 breeding adult burrowing owls. These numbers are down to 82% of the number of adult owls observed in 2015 (74) and below those reported from the early 1990’s and 2009 (86-94), just prior to Habitat Plan publication.¹ The impacts of loss of nesting and foraging habitat and open space should be studied by the EIR and adequately mitigated. We strongly believe that paying the VHP fees is in this case cannot reduce the Project’s impacts to a less than significant level.

Page 8 of the Technical Biological Report includes a map that incorrectly shows the annual grasslands of the RWF bufferlands as Agricultural. These lands have not been used for agriculture in decades and are maintained as annual grasslands, which are mowed yearly to reduce fire risk. The bufferlands provide habitat for the only viable burrowing owl population in the South Bay, and owls use it for both foraging and nesting. See below July 2016 burrowing owl survey maps (submitted by SCVAS to the City of San Jose and the California Dept. of Fish and Wildlife). In 2016, a burrowing owl nest fledged 5 chicks in the area highlighted “developed” on the Biological Evaluation Map (Page 8). The map on page 8 also fails to identify 200 acres of existing designated, protected burrowing owl habitat that is maintained specifically for this conservation purpose. Parts of the project encroach on this habitat.

Because this area is critical to the survival of a breeding burrowing owl population in the south bay, accuracy in delineating habitat and compensating for the loss of open space (via the zone fees of the VHP) is paramount, and the Figure on page 8, and the DEIR analysis and mitigations that use this map as a baseline should be corrected.

¹ Santa Clara Valley Habitat Plan. *2016 Burrowing Owl Breeding Season Survey Report*. November 2016. page 66

July 2016

All Burrow Locations & Numbers

Green indicates Present or Historical Nesting success
 Red indicates Owl presence



July 2016

July, 2016

83 owls observed
 25 adults &
 58 chicks

Legend
 Active Burrows
 ★ Chicks
 ★ Chicks

Burrow Information
 #1: 2 adults/1ck
 #3: 2 adults/6cks
 #3A: 2 adults/7 cks
 #4: 2 adults/5 cks
 #6: 2 adults/5 cks
 #14: 2 adults/5 cks
 #36: 2 adults/8 cks
 #40: 2 adults/2 cks
 #41: 2 adults/6 cks
 #43: 1 adult/3 cks
 #50: 1 adult
 #63: 2 adults/5 cks
 #64: 2 adults/5 cks



The project proposes to pay the relevant Valley Habitat Plan (VHP) burrowing owl and other fees. It is owls, not land-use designations, that determine whether the RWF bufferlands are habitat or agricultural. The owls, by their year-round presence, tell us that this is functional burrowing owl habitat. The DEIR assumes that functional burrowing owl habitat is agricultural where in fact - it is not used for agriculture, and burrowing owls are using it as habitat. Please reevaluate the burrowing owl habitat

based on wintering and nesting owl use as delineated in multiple survey reports submitted to the City of San Jose over the past five years. In addition, please provide a detailed analysis of 1) each of the project components to be mitigated through the VHP fees, in its location, and 2) please explain how the fees are calculated for each parcel of land and each linear infrastructure component. Please identify “take” of historical burrows, and provide mitigation for this loss. We ask for this analysis to be comprehensive and apply to all phases and all locations of construction and/or permanent infrastructure and buildings.

We ask for full analysis of the impacts of this project on the breeding population of burrowing owls in the South Bay area. We acknowledge that the project may receive required burrowing owl “take” permits from the VHP to satisfy the requirements of the California Department of Fish and Wildlife and the US Fish and Wildlife Service. However, CEQA requires that biological impacts should be studied, disclosed and mitigated comprehensively.

Mitigation Measure 3.3.6-b for burrowing owls is inadequate and fails to protect individual owls in the bufferlands, including in the 200-acres of designated burrowing owl habitat on the western part of the RWF. This area is refuge to both wintering and to nesting owls. For example, a survey from December 2016 documented 13 owls in the RFW bufferlands. An adequate mitigation will conduct a pre-construction survey for any of the project components and sites before any disturbance, any time of year (including the non-breeding season).

December 2016



► The DEIR and the Technical Biological Report (Appendix C) needs to be revised to make all impact analysis and mitigation corrections identified in the comments and images provided above and for the City to ensure that all needed mitigation actions are enacted.

Concerns pertinent to Biological Resources, Section 3.3, and Appendix C, Technical Biological Report)

Omissions of Wildlife Corridor Analysis: In scoping comments, CCCR and the San Francisco Bay Bird Observatory (SFBBO), each recommended that attention be given to analyzing and providing for an existing east-west wildlife linkage that has long served the area. Notably mammals common to the area cross to and from Coyote Creek, across the farmland and the grasslands of the RWF, a route that connects these mammals with the protected areas of the Don Edwards National Wildlife Refuge. This is a linkage that would be used by raccoon, grey fox, opossum, jackrabbits and possibly smaller critters. In addition to the Refuge, another destination next to it may be the Green Waste Zero Emissions Digesters that process organic waste.

We are dismayed by two issues of the DEIR. First is the steel security fence that will surround the proposed Data Center and, by design, will destroy this wildlife linkage. The second is that the wildlife movement analysis acknowledges only that the creek serves as a linkage, not these wide open spaces. “Although the project site and Coyote Creek are not within a defined linkage in the Santa Clara Valley Habitat Conservation Plan, Coyote Creek is defined as an important regional habitat linkage. Coyote Creek is expected to act as a movement corridor for many common local species.” (p. 93)

While the VHP does cover lands of this Project, the development of the VHP specifically excluded the Baylands and its transitional habitats, making it unlikely that any research was given to wildlife linkages north of Route 237. That may well explain why no linkage is mentioned.

We note also, in Appendix C, a lengthy discussion of wildlife corridors that focused heavily on large predators e.g. cougars and coyotes, neither of which have been known to be present in the Project Area ergo not part of the Bay transition-land biodiversity. The raccoons, grey fox, jackrabbits, opossum and other wildlife present typify species size in a Bayland ecology. Other than nearby willow groves and riparian zones, low-growing vegetation characterizes the area and is not suited for wildlife movement of the larger predators. Nonetheless the fallow fields and grasslands, especially at night, can provide cover to the smaller animals mentioned previously, animals quite able to traverse between the creek and the Refuge in dark of night. Another characteristic restricting shoreline movement, is the fact that creek linkages terminate at the Bay thereby forcing critters to find lateral linkages for movement, a service the open fields provide and a natural community that is increasing rare along the shoreline. Providing mitigation to protect this wildlife linkage is critically important to retaining balanced and healthy biodiversity on our shorelines.

► Reanalyze east-west wildlife corridors involving farmlands and/or RWF lands of the Project and identify mitigation to resolve movement disruption introduced by the steel security fence, or any other fence, to be installed as part of the Project.

Wetland Delineation: The Biological Analysis identified the location of a small but persisting wetland at a corner of the farmlands next to Alviso-Milpitas (aka Ranch) Road at the westerly edge. Google examination of the wetland in conjunction with surrounding area suggests it may be a isolated remnant of the historical channel of Coyote Creek or of its floodplain. Given the rarity of such wetlands, it is important to get a jurisdictional wetland determination by the USACE, information needed to define mitigation.

► Request a wetland delineation by the USACE and use the resulting findings to establish suitable, permanent mitigation and to be used to improve the DEIR..

Impacts of Noise and Vibration on Wildlife: Section 3.11, Noise and Vibration, analyzes for human sensitive receptors but not for wildlife sensitive receptors. This is a significant omission given Project adjacency to the Riparian zone on Coyote Creek with its extensive and varied wildlife habitats and potential for noise and/or

vibration impacts on a broad spectrum of wildlife, disrupting nesting/denning, foraging and other activities.

The DEIR does not analyze the adverse impacts of construction or operational noise on existing wildlife. Noise impacts to wildlife can include wintering, migratory, and breeding birds, and potentially denning mammals.

This is a significant flaw in the EIR and must be rectified and fully mitigated.

The normal behavior of species currently utilizing habitats within the vicinity of proposed construction may be adversely impacted. Studies of the impacts of the effects of anthropogenic noise suggest the noise interferes with territorial vocalization (i.e. impacts to birds in breeding season) and the density of passerines occupying suitable habitat. These studies provide evidence that anthropogenic noise and vibration impacts on wildlife are not speculative, can be significant, and should be analyzed and avoided or fully mitigated.

► The DEIR needs to analyze impacts and identify mitigation for noise and vibration on wildlife receptors particularly as may pertain to the riparian zone and burrowing owl habitats.

Operational biological mitigations on/among facilities the resulting Project campus: The DEIR omits several mitigations needed to prevent this development from introducing new and ongoing impact as listed here:

1. The DEIR does not provide structural detail about the new PG&E substation. Nonetheless, the DEIR can establish standards that would apply to that facility. Commonly substations introduce power/transmission lines. These lines are especially dangerous when the facility adjoins habitats that attract birds, in this case waterfowl that heavily uses the RWF biosolids ponds, fall, winter and spring. The likelihood of impacts can be reduced with the use of flight diverters on the transmission lines.

2. The DEIR, in the Technical Biological Report, mitigates for the presence of pets during construction but not for ongoing operation of a Data Center/Light Industrial campus. This is a significant omission given the adjacency to the Riparian zone. The DEIR needs to establish a mitigation monitoring plan to be carried out by campus managers that will prevent structural or landscape elements from providing refugia to pest species (dense vegetation, outdoor storage units, similar) or perching locations for avian predators (light posts, roof edges, similar). Feeding of any animal on campus should be prohibited and any feral cats need to be permanently removed from the site.

► The DEIR needs to analyze and mitigate for wildlife impacts if impacts may be introduced by transmission lines, new predator perching locations, refugia niches of pest species, feeding of any

animals outdoors or the presence of feral cats. The DEIR needs to be revised to include these wildlife mitigations as operational requirements for campus management.

Conclusion

Jointly, CCCR, SCVAS and SCLP, ask that the City as Lead Agency consider all of the concerns that our comments address, correcting content the DEIR and associated documents per our recommendations, revising impact analysis and mitigation for issues we have identified and, recirculate all modified documents for agency and public review.

We thank you for your attention to concerns discussed in these comments.

Sincerely,



Eileen McLaughlin
Board Member, Citizens Committee
to Complete the Refuge



Shani Kleinhaus
Environmental Advocate
Santa Clara Valley Audubon Society



Michael J. Ferreira
Conservation Chair
Sierra Club Loma Prieta Chapter

APPENDIX A
TRANSPORTATION IMPACT ANALYSIS (TIA) REVISIONS



HEXAGON TRANSPORTATION CONSULTANTS, INC.



237 Industrial Center Development

Traffic Impact Analysis



Prepared for:

David J. Powers & Associates, Inc.



August 15, 2017



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Areawide Circulation Plans Corridor Studies Pavement Delineation Plans Traffic Handling Plans Impact Fees Interchange Analysis Parking Studies
Transportation Planning Neighborhood Traffic Calming Traffic Operations Traffic Impact Analysis Traffic Signal Design Travel Demand Forecasting

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Background Plus Project Intersection Level of Service Analysis

Table ES-1 summarizes the results of the intersection level of service analysis under background plus project conditions for both development options. The results show that two intersections located within the City of San Jose would be significantly impacted by each of the proposed project development options and one intersection located within the City of Santa Clara would be significantly impacted by the proposed project development Option 1 only, according to City of San Jose and CMP impact criteria. The proposed improvements to mitigate the project impacts are described below. Note that the development of only the datacenter component of Option 2 would not result in impacts to any of the study intersections.

(41) Mission College Boulevard and Montague Expressway* (City of Santa Clara) (Option 1)

Impact: This intersection would operate at LOS F during the PM peak hour under background conditions, and the added trips as a result of the project development Option 1 would cause the intersection's critical-movement delay to increase by four or more seconds and the demand-to-capacity ratio (V/C) to increase by 0.01 or more during the PM peak hour. This constitutes a significant impact based on CMP level of service impact criteria. Note that the development of only the datacenter component of Option 2 would not result in an impact at this intersection.

Mitigation Measure. The Comprehensive County Expressway Planning Study identifies at-grade improvements at the intersection as a Tier 1A priority along with the planned Tier 1B improvement of the US 101 and Montague Expressway partial cloverleaf interchange improvement project. The effects of the planned improvements cannot be reflected in level of service calculations because the specific details of the interchange design are not available, but it is expected that the intersection would be improved to acceptable levels. Therefore, mitigation of the identified project impact at the intersection will consist of a fair-share contribution towards the identified improvements. City staff shall determine the fair-share contribution.

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Cumulative Intersection Level of Service Analysis

Table ES-1 summarizes the results of the intersection level of service analysis under cumulative conditions. The results show that with development Option 1, two intersections in the City of San Jose and one intersection in the City of Santa Clara would be significantly impacted by the project traffic based on City of San Jose-cumulative significance criteria. With development Option 2, one intersection in the City of San Jose would be significantly impacted by the project traffic.

(41) Mission College Boulevard and Montague Expressway* (Option 1)

Mitigation Measure. The significant cumulative impact at this intersection could be satisfactorily mitigated by constructing a grade-separated interchange to replace the at-grade intersection. The interchange would eliminate the conflicting movements at the intersection and allow for uninterrupted flow along Montague Expressway. The Comprehensive County Expressway Planning Study identifies this improvement as a Tier 2 priority. The effects of this planned improvement cannot be reflected in level of service calculations because the specific details of the interchange design are not available, but it is expected that the intersection would be improved to acceptable levels.

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Page 5**Scope of Study**

The study includes an analysis of AM and PM peak-hour traffic conditions for ~~40-41~~ existing signalized intersections within the Cities of San Jose, Santa Clara, and Milpitas as well as 26 directional freeway segments.

Study Intersections**City of Santa Clara Study Intersections (Continued)**

41. Mission College Boulevard and Montague Expressway

Page 20**Existing Intersection Levels of Service**

The results of the intersection level of service analysis under existing conditions are summarized Table 3. The results show that, measured against the applicable municipal and CMP level of service standards, the following ~~five-six~~ intersections currently operate at unacceptable levels of service during at least one peak hour under existing conditions.

City of San Jose Intersections

- 8. North First Street and Montague Expressway* (AM & PM Peak Hours)
- 9. Zanker Road and Montague Expressway* (AM Peak Hour)
- 20. Oakland Road and Montague Expressway* (AM & PM Peak Hours)
- 21. Trade Zone Road and Montague Expressway* (AM & PM Peak Hours)

City of Santa Clara Intersections

- 29. De La Cruz Boulevard and Central Expressway* (PM Peak Hour)
- 41. Mission College Boulevard and Montague Expressway * (AM Peak Hour)

* Denotes CMP Intersection

CMP Intersections

- 8. North First Street and Montague Expressway* (AM Peak Hour)
- 20. Oakland Road and Montague Expressway* (AM & PM Peak Hours)
- 29. De La Cruz Boulevard and Central Expressway* (PM Peak Hour)
- 41. Mission College Boulevard and Montague Expressway * (AM Peak Hour)

Page 26**Existing Plus Project Intersection Analysis**

The results of the intersection level of service analysis under existing plus project conditions are summarized in Table 5. The results show that, measured against the applicable municipal and CMP level of service standards, the following six intersections are projected to operate at an unacceptable level

during at least one peak hour under existing plus project conditions with each development option. The results show no difference in projected intersection levels of service for the project development options.

City of San Jose Intersections

- 8. North First Street and Montague Expressway* (AM & PM Peak Hours)
- 9. Zanker Road and Montague Expressway* (AM & PM Peak Hours)
- 20. Oakland Road and Montague Expressway* (AM & PM Peak Hours)
- 21. Trade Zone Road and Montague Expressway* (AM & PM Peak Hours)

City of Santa Clara Intersections

- 29. De La Cruz Boulevard and Central Expressway* (PM Peak Hour)
- 41. Mission College Boulevard and Montague Expressway * (AM Peak Hour)

* Denotes CMP Intersection

CMP Intersections

- 8. North First Street and Montague Expressway* (AM Peak Hour)
- 20. Oakland Road and Montague Expressway* (AM & PM Peak Hours)
- 29. De La Cruz Boulevard and Central Expressway* (PM Peak Hour)
- 41. Mission College Boulevard and Montague Expressway * (AM Peak Hour)

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Intersection Levels of Service Under Background Conditions

The results show that, measured against the applicable municipal and CMP level of service standards, the following 40-11 intersections are projected to operate at an unacceptable LOS during at least one hour under background conditions.

City of San Jose Intersections

- 8. North First Street and Montague Expressway* (AM & PM Peak Hours)
- 9. Zanker Road and Montague Expressway* (AM & PM Peak Hours)
- 12. De La Cruz Boulevard and Trimble Road* (PM Peak Hour)
- 17. North First Street and Charcot Avenue (AM Peak Hour)
- 18. Zanker Road and Charcot Avenue (PM Peak Hour)
- 20. Oakland Road and Montague Expressway* (AM & PM Peak Hours)
- 21. Trade Zone Road and Montague Expressway* (AM & PM Peak Hours)

City of Santa Clara Intersections

- 27. De La Cruz Boulevard and Montague Expressway* (AM & PM Peak Hours)
- 29. De La Cruz Boulevard and Central Expressway* (PM Peak Hour)
- 41. Mission College Boulevard and Montague Expressway * (AM & PM Peak Hours)

City of Milpitas Intersections

- 40. Alder Drive and Tasman Drive (PM Peak Hour)

* Denotes CMP Intersection

CMP Intersections

- 8. North First Street and Montague Expressway* (AM Peak Hour)
- 12. De La Cruz Boulevard and Trimble Road* (PM Peak Hour)
- 20. Oakland Road and Montague Expressway* (AM & PM Peak Hours)
- 27. De La Cruz Boulevard and Montague Expressway* (AM & PM Peak Hours)
- 29. De La Cruz Boulevard and Central Expressway* (PM Peak Hour)
- 41. Mission College Boulevard and Montague Expressway * (AM & PM Peak Hours)

Page 43**Intersection LOS Under Background Plus Project Conditions**

The results of the intersection level of service analysis under background plus project conditions are summarized in Table 8. The results show that, measured against the applicable municipal and CMP level of service standards, the following 40-41 intersections are projected to operate at an unacceptable LOS during at least one hour under background plus project conditions with each development option. The results show no difference in projected intersection levels of service for the development options.

City of San Jose Intersections

- 8. North First Street and Montague Expressway* (AM & PM Peak Hours) ***Option 1 & 2 Impact Impact***
- 9. Zanker Road and Montague Expressway* (AM & PM Peak Hours) ***Option 1 & 2 Impact Impact***
- 12. De La Cruz Boulevard and Trimble Road* (PM Peak Hour)
- 17. North First Street and Charcot Avenue (AM Peak Hour)
- 18. Zanker Road and Charcot Avenue (PM Peak Hour)
- 20. Oakland Road and Montague Expressway* (AM & PM Peak Hours)
- 21. Trade Zone Road and Montague Expressway* (AM & PM Peak Hours)

City of Santa Clara Intersections

- 27. De La Cruz Boulevard and Montague Expressway* (AM & PM Peak Hours)
- 29. De La Cruz Boulevard and Central Expressway* (PM Peak Hour)
- 41. Mission College Boulevard and Montague Expressway * (AM & PM Peak Hours) ***Option 1 Impact***

City of Milpitas Intersections

- 40. Alder Drive and Tasman Drive (PM Peak Hour)

* Denotes CMP Intersection

CMP Intersections

- 8. North First Street and Montague Expressway* (AM & PM Peak Hours) ***Option 1 & 2 Impact Impact***
- 9. Zanker Road and Montague Expressway* (PM Peak Hour) ***Option 1 & 2 Impact Impact***
- 12. De La Cruz Boulevard and Trimble Road* (PM Peak Hour)
- 20. Oakland Road and Montague Expressway* (AM & PM Peak Hours)
- 27. De La Cruz Boulevard and Montague Expressway* (AM & PM Peak Hours)
- 29. De La Cruz Boulevard and Central Expressway* (PM Peak Hour)
- 41. Mission College Boulevard and Montague Expressway * (AM & PM Peak Hours) ***Option 1 Impact***

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Based on City of San Jose and CMP significance criteria, two of the above-identified City of San Jose intersections would be significantly impacted by each project development option and one of the above-identified City of Santa Clara intersections would be significantly impacted by the proposed project development option 1 only. The impacts and proposed improvements to mitigate the impacts are described below. Note that the development of only the datacenter component of Option 2 would not result in impacts to any of the study intersections.

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Project Impacts and Mitigation Measures

(41) Mission College Boulevard and Montague Expressway* (Option 1 Only)

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Impact: This intersection would operate at LOS F during the PM peak hour under background conditions, and the added trips as a result of the project development option 1 would cause the intersection's critical-movement delay to increase by four or more seconds and the demand-to-capacity ratio (V/C) to increase by 0.01 or more during the PM peak hour. This constitutes a significant impact based on CMP level of service impact criteria. Note that the development of only the datacenter component of Option 2 would not result in an impact at this intersection.

Mitigation Measure. The Comprehensive County Expressway Planning Study identifies at-grade improvements at the intersection as a Tier 1A priority along with the planned Tier 1B improvement of the US 101 and Montague Expressway partial cloverleaf interchange improvement project. The effects of the planned improvements cannot be reflected in level of service calculations because the specific details of the interchange design are not available, but it is expected that the intersection would be improved to acceptable levels. Therefore, mitigation of the identified project impact at the intersection will consist of a fair-share contribution towards the identified improvements. City staff shall determine the fair-share contribution.

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City of Santa Clara Intersections

The intersection level of service results for intersections located within the City of Santa Clara under cumulative conditions are summarized in Table 11. The results show that, measured against applicable municipal and CMP level of service level of service standards, the following ~~three-four~~ intersections would operate at unacceptable levels under cumulative conditions with each development option.

- 24. Lick Mill Boulevard and Tasman Drive (PM Peak Hour)
- 27. De La Cruz Boulevard and Montague Expressway* (AM & PM Peak Hours)
- 29. De La Cruz Boulevard and Central Expressway* (AM & PM Peak Hours)
- 41. Mission College Boulevard and Montague Expressway* (AM & PM Peak Hours) Option 1 Impact**

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* Denotes CMP Intersection

Based on the City of Santa Clara and CMP cumulative significance criteria, ~~none-one~~ of the above intersections, Mission College Boulevard and Montague Expressway, would be significantly impacted by ~~either-of the proposed project development option 1, development options-~~

Cumulative Impacts and Mitigation Measures

(41) Mission College Boulevard and Montague Expressway* (Option 1)

Impact: This intersection would operate at LOS F during the PM peak hour under cumulative no project conditions, and the added trips as a result of the project development option 1 would cause the intersection's critical-movement delay to increase by four or more seconds and the demand-to-capacity ratio (V/C) to increase by 0.01 or more during the PM peak hour. This constitutes a significant impact based on CMP level of service impact criteria. Note that the development of only the datacenter component of Option 2 would not result in an impact at this intersection.

Mitigation Measure. The significant cumulative impact at this intersection could be satisfactorily mitigated by constructing a grade-separated interchange to replace the at-grade intersection. The interchange would eliminate the conflicting movements at the intersection and allow for uninterrupted flow along Montague Expressway. The Comprehensive County Expressway Planning Study identifies this improvement as a Tier 2 priority. The effects of this planned improvement cannot be reflected in level of service calculations because the specific details of the interchange design are not available, but it is expected that the intersection would be improved to acceptable levels.

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Conclusions

The potential impacts of the project were evaluated in accordance with the standards set forth by the Cities of San Jose, Santa Clara, and Milpitas and the Congestion Management Program (CMP) of Santa Clara County. The study included the analysis of AM and PM peak hour traffic conditions for ~~40-41~~ intersections and 26 directional freeway segments. Project impacts on other transportation facilities, such as bicycle facilities and transit service, were determined on the basis of engineering judgment.

Background Plus Project Intersection Level of Service Analysis

The results show that two intersections located within the City of San Jose would be significantly impacted by each of the proposed project development options and one intersection located within the City of Santa Clara would be significantly impacted by the proposed project development option 1 only, according to City of San Jose and CMP impact criteria. The results of the intersection level of service analysis under background-plus-project conditions show that two intersections located within the City of San Jose would be significantly impacted by each of the proposed project development options, according to City of San Jose and CMP impact criteria. The proposed improvements to mitigate the project impacts are described below. Note that the development of only the datacenter component of Option 2 would not result in impacts to any of the study intersections.

(41) Mission College Boulevard and Montague Expressway* (City of Santa Clara) (Option 1)

Impact: This intersection would operate at LOS F during the PM peak hour under background conditions, and the added trips as a result of the project development option 1 would cause the intersection's critical-movement delay to increase by four or more seconds and the demand-to-capacity ratio (V/C) to increase by 0.01 or more during the PM peak hour. This constitutes a significant impact based on CMP level of service impact criteria. Note that the development of only the datacenter component of Option 2 would not result in an impact at this intersection.

Mitigation Measure. The Comprehensive County Expressway Planning Study identifies at-grade improvements at the intersection as a Tier 1A priority along with the planned Tier 1B improvement of the US 101 and Montague Expressway partial cloverleaf interchange improvement project. The effects of the planned improvements cannot be reflected in level of service calculations because the specific details of the interchange design are not available, but it is expected that the intersection would be improved to acceptable levels. Therefore, mitigation of the identified project impact at the intersection will consist of a fair-share contribution towards the identified improvements. City staff shall determine the fair-share contribution.

Cumulative Intersection Level of Service Analysis

The results of the intersection level of service analysis under cumulative conditions show that with development Option 1, two intersections in the City of San Jose and one intersection in the City of Santa Clara would be significantly impacted by the project traffic based on City of San Jose cumulative significance criteria. With development Option 2, one intersection in the City of San Jose would be significantly impacted by the project traffic. Note that the development of only the datacenter component of Option 2 would not result in an impact at any of the study intersections.

(41) Mission College Boulevard and Montague Expressway* (Option 1)

Mitigation Measure. The significant cumulative impact at this intersection could be satisfactorily mitigated by constructing a grade-separated interchange to replace the at-grade intersection. The interchange would eliminate the conflicting movements at the intersection and allow for uninterrupted flow along Montague Expressway. The Comprehensive County Expressway Planning Study identifies this improvement as a Tier 2 priority. The effects of this planned improvement cannot be reflected in level of service calculations because the specific details of the interchange design are not available, but it is expected that the intersection would be improved to acceptable levels.

Table ES 1 (Added Int. #41 – Mission/Montague)
Intersection Level of Service Summary

Study Number	Intersection	Location	LOS Standard	Peak Hour	Count Date	Existing		Existing Plus Project (Light Industrial Only)				Existing Plus Project - Light Industrial & Data Center			
						Avg. Delay	LOS	Avg. Delay	LOS	Incr. In Delay	Incr. In Crit. W/C	Avg. Delay	LOS	Incr. In Delay	Incr. In Crit. W/C
1	Zanker Road and SR 237 (North) *	San Jose	D	AM	10/07/14	11.1	B	15.9	B	7.2	0.446	13.8	B	4.6	0.268
				PM	09/09/14	11.2	B	17.1	B	8.0	0.640	13.7	B	3.8	0.444
2	Zanker Road and SR 237 (South) *	San Jose	D	AM	10/07/14	21.8	C	22.6	C	1.6	0.111	22.4	C	1.4	0.075
				PM	09/09/14	12.5	B	16.5	B	7.6	0.342	15.0	B	4.7	0.218
3	Zanker Road and Holger Way	San Jose	D	AM	10/29/15	24.3	C	23.0	C	0.0	0.000	23.4	C	0.0	0.000
				PM	10/29/15	29.4	C	30.6	C	0.2	0.011	30.2	C	0.1	0.007
4	Zanker Road and Baypointe Parkway	San Jose	D	AM	10/07/14	13.2	B	12.4	B	-0.2	0.072	12.6	B	-0.2	0.045
				PM	10/07/14	15.1	B	14.3	B	1.1	0.032	14.4	B	-0.1	0.007
5	North First Street and Tasman Drive	San Jose	D	AM	10/27/15	33.4	C	33.5	C	0.0	0.001	33.5	C	0.0	0.001
				PM	10/27/15	37.8	D	38.9	D	2.1	0.034	38.5	D	1.4	0.021
6	Zanker Road and Tasman Drive	San Jose	D	AM	10/29/15	35.8	D	44.6	D	13.4	0.110	40.4	D	6.8	0.069
				PM	10/29/15	38.2	D	38.6	D	0.9	0.021	38.5	D	0.6	0.014
7	Zanker Road and River Oaks Parkway	San Jose	D	AM	10/23/14	18.3	B	17.1	B	-1.9	0.066	17.5	B	-1.3	0.042
				PM	10/23/14	18.7	B	18.1	B	-1.2	0.070	18.3	B	-0.8	0.044
8	North First Street and Montague Expressway *	San Jose	D	AM	10/28/15	87.1	F	87.5	F	1.4	0.005	87.4	F	1.0	0.003
				PM	09/25/14	72.9	E	73.9	E	0.6	0.007	73.5	E	0.4	0.004
9	Zanker Road and Montague Expressway *	San Jose	D	AM	10/28/15	60.7	E	64.3	E	5.4	0.069	62.5	E	2.7	0.043
				PM	09/25/14	51.3	D	62.5	E	20.1	0.070	57.7	E	11.5	0.044
10	Zanker Road and Plumeria Drive	San Jose	D	AM	10/07/14	22.6	C	21.6	C	-1.0	0.032	22.0	C	-0.6	0.020
				PM	10/07/14	23.8	C	23.2	C	-0.7	0.033	23.4	C	-0.5	0.021
11	Trimble Road and US 101	San Jose	D	AM	10/07/14	19.7	B	19.8	B	0.3	0.008	19.8	B	0.2	0.005
				PM	10/07/14	12.1	B	12.2	B	0.1	0.014	12.1	B	0.1	0.009
12	De La Cruz Boulevard and Trimble Road *	San Jose	D	AM	10/28/15	33.8	C	33.5	C	0.0	0.000	33.6	C	0.0	0.000
				PM	09/25/14	48.7	D	49.3	D	1.0	0.009	49.1	D	0.6	0.006
13	Orchard Parkway and Trimble Road	San Jose	D	AM	10/28/15	35.8	D	35.8	D	0.0	0.001	35.8	D	0.0	0.001
				PM	10/28/15	40.1	D	40.2	D	0.0	0.001	40.2	D	0.0	0.001
14	North First Street and Trimble Road *	San Jose	D	AM	10/07/14	42.3	D	42.3	D	0.1	0.009	42.3	D	0.1	0.006
				PM	09/17/14	41.1	D	41.2	D	0.2	0.010	41.2	D	0.1	0.006
15	Zanker Road and Trimble Road *	San Jose	D	AM	10/07/14	39.1	D	40.7	D	2.7	0.048	40.1	D	1.7	0.030
				PM	09/17/14	38.3	D	38.4	D	-0.2	0.016	38.3	D	-0.2	0.010
16	Orchard Parkway and Guadalupe Parkway	San Jose	D	AM	10/07/14	24.1	C	24.0	C	0.0	0.001	24.0	C	0.0	0.001
				PM	10/07/14	32.8	C	32.8	C	0.1	0.009	32.8	C	0.0	0.006
17	North First Street and Charcot Avenue	San Jose	D	AM	10/23/14	39.6	D	39.7	D	0.3	0.010	39.7	D	0.2	0.006
				PM	10/23/14	37.3	D	37.3	D	0.1	0.015	37.3	D	0.0	0.010
18	Zanker Road and Charcot Avenue	San Jose	D	AM	10/07/14	33.5	C	33.9	C	0.6	0.021	33.7	C	0.4	0.013
				PM	10/07/14	38.0	D	38.2	D	0.2	0.011	38.1	D	0.1	0.007
19	Zanker Road and Brokaw Road *	San Jose	D	AM	10/07/14	37.0	D	37.5	D	0.9	0.017	37.4	D	0.6	0.011
				PM	09/16/14	40.9	D	41.0	D	0.1	0.006	41.0	D	0.1	0.004
20	Old Oakland Road and Montague Expressway *	San Jose	D	AM	10/29/15	89.3	F	90.9	F	2.9	0.006	90.2	F	1.7	0.004
				PM	09/25/14	84.8	F	86.1	F	28.2	0.321	85.6	F	27.5	0.319
21	Trade Zone Boulevard and Montague Expressway *	San Jose	D	AM	10/29/15	58.7	E	59.4	E	1.0	0.006	59.1	E	0.6	0.004
				PM	09/25/14	55.1	E	55.7	E	1.2	0.006	55.5	E	0.9	0.004
22	Lafayette Street and Calle De Luna	Santa Clara	D	AM	08/12/14	14.8	B	14.7	B	0.0	0.014	14.8	B	0.0	0.009
				PM	08/12/14	18.8	B	19.5	B	0.7	0.013	19.2	B	0.5	0.008
23	Calle Del Sol and Tasman Drive	Santa Clara	D	AM	08/12/14	15.7	B	17.1	B	1.3	0.023	16.5	B	0.8	0.013
				PM	08/12/14	18.9	B	19.0	B	0.2	0.004	19.0	B	0.1	0.002
24	Lick Mill Boulevard and Tasman Drive	Santa Clara	D	AM	03/11/14	35.1	D	35.3	D	0.2	0.001	35.2	D	0.1	0.001
				PM	03/11/14	27.7	C	27.4	C	0.0	0.002	27.5	C	0.0	0.001
25	Lafayette Street and Montague Expressway (North)	Santa Clara	D	AM	08/12/14	30.6	C	30.6	C	-0.1	0.003	30.6	C	0.0	0.002
				PM	08/12/14	23.7	C	24.4	C	0.9	0.006	24.2	C	0.6	0.004
26	Lafayette Street and Montague Expressway (South)	Santa Clara	D	AM	08/12/14	15.1	B	14.9	B	-0.2	0.003	15.0	B	-0.1	0.002
				PM	08/12/14	12.5	B	12.4	B	-0.2	0.006	12.4	B	-0.1	0.004
27	De La Cruz Boulevard and Montague Expressway *	Santa Clara	E	AM	01/07/14	43.8	D	43.9	D	0.2	0.002	43.9	D	0.1	0.001
				PM	09/25/14	53.4	D	54.2	D	0.9	0.015	53.9	D	0.5	0.009
28	Lick Mill Boulevard and Montague Expressway	Santa Clara	E	AM	08/19/14	14.6	B	14.3	B	-0.4	0.017	14.4	B	-0.3	0.011
				PM	08/19/14	15.4	B	15.3	B	-0.5	0.018	15.3	B	-0.3	0.011
29	De La Cruz Boulevard and Central Expressway *	Santa Clara	E	AM	08/21/14	46.4	D	46.2	D	0.0	0.001	46.3	D	0.0	0.001
				PM	10/02/14	95.8	F	97.4	F	0.0	0.000	96.8	F	0.0	0.000
30	I-880 SB and Calaveras Boulevard	Milpitas	D	AM	10/28/15	13.0	B	12.3	B	-0.8	0.060	12.5	B	-0.5	0.038
				PM	10/28/15	12.4	B	12.3	B	-0.1	0.013	12.3	B	-0.1	0.008
31	I-880 NB and Calaveras Boulevard	Milpitas	D	AM	10/28/15	11.0	B	15.0	B	4.3	0.090	13.5	B	2.7	0.054
				PM	10/28/15	23.9	C	24.2	C	0.5	0.017	24.1	C	0.3	0.011
32	Abbott Avenue and Calaveras Boulevard	Milpitas	D	AM	10/28/15	26.1	C	26.2	C	0.1	0.013	26.1	C	0.0	0.008
				PM	10/28/15	26.4	C	26.3	C	0.0	0.002	26.4	C	0.0	0.001
33	Serra Way and Calaveras Boulevard	Milpitas	D	AM	10/28/15	16.3	B	16.3	B	0.1	0.013	16.3	B	0.0	0.008
				PM	10/28/15	22.8	C	22.7	C	-0.1	0.014	22.7	C	-0.1	0.009
34	Abel Street and Calaveras Boulevard *	Milpitas	E	AM	10/29/15	48.3	D	49.7	D	2.3	0.023	49.1	D	1.4	0.014
				PM	09/24/14	46.1	D	46.4	D	0.5	0.012	46.3	D	0.3	0.008
35	Milpitas Boulevard and Calaveras Boulevard *	Milpitas	E	AM	10/29/15	46.2	D	48.5	D	3.5	0.018	47.6	D	2.1	0.011
				PM	12/10/14	40.8	D	40.9	D	0.2	0.006	40.9	D	0.2	0.004
36	McCarthy Boulevard and Tasman Drive	Milpitas	D	AM	01/07/15	32.4	C	32.6	C	0.2	0.014	32.6	C	0.2	0.009
				PM	01/07/15	31.4	C	30.3	C	-10.6	-0.004	31.5	C	0.1	0.001
37	I-880 and Tasman Drive	Milpitas	D	AM	10/29/15	22.9	C	23.0	C	0.2	0.008	22.9	C	0.1	0.005
				PM	10/29/15	20.1	C	20.0	C	0.0	0.008	20.1	C	0.0	0.005
38	I-880 and Great Mall Parkway	Milpitas	D	AM	10/29/15	41.0	D	41.1	D	0.2	0.008	41.1	D	0.1	0.005
				PM	10/29/15	29.0	C	28.9	C	-0.1	0.008	29.0	C	-0.1	0.005
39	Abel Street and Great Mall Parkway	Milpitas	D	AM	11/05/15	29.1	C	29.7	C	0.9	0.017	29.5	C	0.5	0.010
				PM	11/05/15	24.0	C	24.1	C	0.0	0.006	24.0	C	0.0	0.004
40	Alder Drive and Tasman Drive	Milpitas	D	AM	11/05/15	15.2	B	15.3	B	0.2	0.008	15.2	B	0.1	0.005
				PM	11/05/15	33.3	C	33.7	C	0.5	0.008	33.6	C	0.3	0.005
41	Mission College Boulevard and Montague Expressway *	Santa Clara	E	AM	10/29/15	83.1	F	83.1	F	0.1	0.002	83.1	F	0.1	0.001
				PM	10/04/16	60.6	E	61.2	E	0.0	0.002	61.0	E	0.0	0.001

* Denotes CMP Intersections
 Entries denoted in **bold** indicate conditions that exceed the applicable level of service standard.

Table ES 1 (Continued) (Added Int. #41 – Mission/Montague)
Intersection Level of Service Summary

Study Number	Intersection	Location	LOS Standard	Peak Hour	Background		Background Plus Project (Light Industrial Only)				Background Plus Project - Light Industrial & Data Center			
					Avg. Delay	LOS	Avg. Delay	LOS	Incr. In LOS	Incr. In Crit. Delay	Incr. In Crit. V/C	Avg. Delay	LOS	Incr. In Crit. Delay
1	Zanker Road and SR 237 (North) *	San Jose	D	AM	11.2	B	17.7	B	9.6	0.467	14.2	B	5.0	0.290
				PM	13.8	B	29.3	C	23.7	0.734	16.5	B	7.0	0.537
2	Zanker Road and SR 237 (South) *	San Jose	D	AM	22.2	C	23.1	C	1.9	0.111	22.8	C	1.5	0.075
				PM	14.0	B	21.2	C	12.5	0.342	16.8	B	5.1	0.218
3	Zanker Road and Holger Way	San Jose	D	AM	26.7	C	25.8	C	0.0	0.000	26.2	C	0.0	0.000
				PM	30.5	C	31.6	C	2.9	0.076	31.1	C	0.1	0.007
4	Zanker Road and Baypointe Parkway	San Jose	D	AM	13.2	B	12.4	B	-0.2	0.072	12.6	B	-0.2	0.045
				PM	15.1	B	14.3	B	1.1	0.032	14.4	B	-0.1	0.007
5	North First Street and Tasman Drive	San Jose	D	AM	35.3	D	35.3	D	0.1	0.001	35.3	D	0.0	0.001
				PM	41.8	D	43.4	D	2.5	0.034	42.8	D	1.6	0.021
6	Zanker Road and Tasman Drive	San Jose	D	AM	41.4	D	54.6	D	22.3	0.110	48.2	D	11.4	0.069
				PM	39.7	D	40.2	D	2.0	0.023	40.0	D	1.6	0.013
7	Zanker Road and River Oaks Parkway	San Jose	D	AM	18.9	B	17.9	B	-1.4	0.066	18.3	B	-1.0	0.042
				PM	18.2	B	17.7	B	-0.7	0.070	17.8	B	-0.5	0.044
8	North First Street and Montague Expressway *	San Jose	D	AM	131.6	F	132.1	F	2.1	0.005	132.0	F	1.5	0.003
				PM	105.9	F	108.2	F	6.5	0.018	107.4	F	4.1	0.011
9	Zanker Road and Montague Expressway *	San Jose	D	AM	66.6	E	74.7	E	13.5	0.069	70.8	E	6.8	0.043
				PM	70.7	E	90.7	F	33.0	0.070	82.8	F	20.3	0.044
10	Zanker Road and Plumeria Drive	San Jose	D	AM	25.2	C	24.5	C	-0.6	0.032	24.8	C	-0.4	0.020
				PM	26.1	C	25.8	C	-0.3	0.033	25.9	C	-0.2	0.021
11	Trimble Road and US 101	San Jose	D	AM	28.1	C	29.2	C	1.6	0.008	28.8	C	1.0	0.005
				PM	15.5	B	16.2	B	0.9	0.014	16.0	B	0.6	0.009
12	De La Cruz Boulevard and Trimble Road *	San Jose	D	AM	31.7	C	31.6	C	0.0	0.000	31.6	C	0.0	0.000
				PM	64.0	F	66.7	F	3.7	0.009	65.7	F	2.3	0.006
13	Orchard Parkway and Trimble Road	San Jose	D	AM	34.7	C	34.6	C	0.0	0.000	34.6	C	0.0	0.000
				PM	47.3	D	47.4	D	0.0	0.000	47.3	D	0.0	0.000
14	North First Street and Trimble Road *	San Jose	D	AM	52.4	D	53.0	D	0.8	0.009	52.8	D	0.5	0.006
				PM	45.3	D	45.7	D	0.5	0.010	45.6	D	0.3	0.008
15	Zanker Road and Trimble Road *	San Jose	D	AM	41.6	D	43.5	D	3.2	0.048	42.8	D	2.0	0.030
				PM	44.2	D	44.8	D	0.8	0.016	44.5	D	0.5	0.010
16	Orchard Parkway and Guadalupe Parkway	San Jose	D	AM	34.7	C	34.9	C	0.4	0.009	34.8	C	0.2	0.005
				PM	39.1	D	39.5	D	0.6	0.009	39.4	D	0.4	0.006
17	North First Street and Charcot Avenue	San Jose	D	AM	55.6	E	57.0	E	2.3	0.010	56.4	E	1.4	0.006
				PM	41.3	D	41.6	D	0.4	0.009	41.5	D	0.2	0.006
18	Zanker Road and Charcot Avenue	San Jose	D	AM	43.7	D	45.0	D	1.9	0.021	44.5	D	1.1	0.013
				PM	64.0	E	66.0	E	3.2	0.011	65.3	E	2.0	0.007
19	Zanker Road and Brokaw Road *	San Jose	D	AM	48.0	D	49.3	D	2.8	0.017	48.9	D	1.8	0.011
				PM	47.3	D	47.6	D	0.4	0.006	47.5	D	0.3	0.004
20	Old Oakland Road and Montague Expressway *	San Jose	D	AM	100.4	F	102.4	F	2.8	0.006	101.6	F	1.7	0.004
				PM	102.2	F	104.3	F	3.1	0.006	103.5	F	2.0	0.004
21	Trade Zone Boulevard and Montague Expressway *	San Jose	D	AM	63.8	E	64.7	E	1.2	0.006	64.3	E	0.7	0.004
				PM	64.1	E	65.0	E	1.8	0.006	64.7	E	1.3	0.004
22	Lafayette Street and Calle De Luna	Santa Clara	D	AM	13.8	B	13.8	B	0.0	0.014	13.9	B	0.1	0.009
				PM	20.3	C	20.9	C	0.5	0.013	20.7	C	0.3	0.008
23	Calle Del Sol and Tasman Drive	Santa Clara	D	AM	16.4	B	17.6	B	1.1	0.022	17.2	B	0.8	0.016
				PM	19.0	B	19.2	B	0.2	0.004	19.1	B	0.1	0.002
24	Lick Mill Boulevard and Tasman Drive	Santa Clara	D	AM	34.5	C	34.6	C	0.2	0.001	34.6	C	0.1	0.001
				PM	28.1	C	27.9	C	0.0	0.002	28.0	C	0.0	0.001
25	Lafayette Street and Montague Expressway (North)	Santa Clara	D	AM	32.5	C	32.5	C	-0.1	0.003	32.6	C	0.0	0.002
				PM	26.0	C	26.6	C	0.7	0.006	26.4	C	0.5	0.004
26	Lafayette Street and Montague Expressway (South)	Santa Clara	D	AM	12.6	B	12.5	B	-0.1	0.003	12.6	B	-0.1	0.002
				PM	12.5	B	12.5	B	-0.1	0.006	12.5	B	0.0	0.004
27	De La Cruz Boulevard and Montague Expressway *	Santa Clara	E	AM	91.7	F	92.2	F	1.4	0.002	92.1	F	1.1	0.001
				PM	92.7	F	97.2	F	1.9	0.009	95.5	F	1.2	0.006
28	Lick Mill Boulevard and Montague Expressway	Santa Clara	E	AM	16.1	B	15.8	B	-0.3	0.017	15.9	B	-0.2	0.011
				PM	15.3	B	15.3	B	-0.2	0.018	15.3	B	-0.1	0.011
29	De La Cruz Boulevard and Central Expressway *	Santa Clara	E	AM	75.1	E	74.7	E	-0.1	0.001	74.9	E	-0.1	0.001
				PM	114.0	F	115.5	F	0.0	0.000	114.9	F	0.0	0.000
30	I-880 SB and Calaveras Boulevard	Milpitas	D	AM	17.4	B	17.4	B	0.0	0.060	17.3	B	0.0	0.038
				PM	14.8	B	14.8	B	0.0	0.013	14.8	B	0.0	0.008
31	I-880 NB and Calaveras Boulevard	Milpitas	D	AM	14.4	B	18.7	B	4.9	0.092	17.0	B	3.0	0.057
				PM	25.7	C	26.3	C	0.9	0.017	26.1	C	0.6	0.011
32	Abbott Avenue and Calaveras Boulevard	Milpitas	D	AM	26.2	C	26.4	C	0.3	0.013	26.3	C	0.2	0.008
				PM	26.1	C	26.1	C	0.0	0.002	26.1	C	0.0	0.001
33	Serra Way and Calaveras Boulevard	Milpitas	D	AM	16.3	B	16.4	B	0.2	0.013	16.4	B	0.1	0.008
				PM	21.9	C	22.0	C	0.1	0.014	22.0	C	0.1	0.009
34	Abel Street and Calaveras Boulevard *	Milpitas	E	AM	59.6	E	63.3	E	6.2	0.023	61.8	E	3.7	0.014
				PM	52.1	D	53.3	D	1.8	0.012	52.8	D	1.1	0.008
35	Milpitas Boulevard and Calaveras Boulevard *	Milpitas	E	AM	62.1	E	66.1	E	6.2	0.018	64.5	E	3.8	0.011
				PM	43.4	D	43.6	D	0.4	0.006	43.6	D	0.3	0.004
36	McCarthy Boulevard and Tasman Drive	Milpitas	D	AM	37.6	D	37.9	D	0.4	0.014	37.8	D	0.2	0.009
				PM	40.7	D	40.9	D	0.1	0.001	40.8	D	0.1	0.001
37	I-880 and Tasman Drive	Milpitas	D	AM	26.1	C	26.4	C	0.6	0.008	26.3	C	0.3	0.005
				PM	22.9	C	22.9	C	0.0	0.000	22.9	C	0.0	0.000
38	I-880 and Great Mall Parkway	Milpitas	D	AM	49.3	D	50.0	D	0.9	0.008	49.7	D	0.5	0.005
				PM	31.0	C	31.0	C	0.0	0.008	31.0	C	0.0	0.005
39	Abel Street and Great Mall Parkway	Milpitas	D	AM	31.0	C	31.9	C	1.4	0.017	31.5	C	0.8	0.010
				PM	28.4	C	28.6	C	0.3	0.006	28.5	C	0.2	0.004
40	Alder Drive and Tasman Drive	Milpitas	D	AM	25.2	C	25.7	C	0.7	0.008	25.5	C	0.4	0.005
				PM	170.8	F	173.7	F	3.6	0.008	172.6	F	2.3	0.005
41	Mission College Boulevard and Montague Expressway *	Santa Clara	E	AM	159.4	F	159.5	F	0.0	0.000	159.5	F	0.0	0.000
				PM	130.1	F	133.6	F	5.9	0.011	132.3	F	3.7	0.007

* Denotes CMP Intersections.
 Entries denoted in bold indicate conditions that exceed the applicable level of service standard.
 Bold and boxed indicate significant project impact.

Table ES 1 (Continued) (Added Int. #41 – Mission/Montague)
Intersection Level of Service Summary

Study Number	Intersection	Location	LOS Standard	Peak Hour	Cumulative No Project				Cumulative Plus Project (Light Industrial Only)				Cumulative Plus Project - Light Industrial & Data Center			
					Avg. Delay	LOS	Avg. Delay	Incr. In LOS	Incr. In Crit. V/C	% of Project Contribution	Avg. Delay	LOS	Incr. In Crit. V/C	% of Project Contribution		
1	Zanker Road and SR 237 (North) *	San Jose	D	AM	12.2	B	24.0	C	18.8	0.595	15.9	B	7.5	0.417		
				PM	15.1	B	56.4	E	59.4	0.854	22.6	C	14.8	0.658		
2	Zanker Road and SR 237 (South) *	San Jose	D	AM	22.7	C	24.2	C	3.3	0.165	23.7	C	2.7	0.128		
				PM	15.5	B	36.1	D	36.0	0.466	20.8	C	11.4	0.342		
3	Zanker Road and Holger Way	San Jose	D	AM	27.4	C	28.4	C	3.1	0.028	26.7	C	3.0	0.028		
				PM	30.9	C	32.1	C	3.8	0.121	31.6	C	1.0	0.051		
4	Zanker Road and Baypoints Parkway	San Jose	D	AM	13.1	B	12.4	B	-0.2	0.079	12.6	B	-0.2	0.062		
				PM	14.7	B	14.0	B	0.8	0.042	14.1	B	-0.3	0.017		
5	North First Street and Tasman Drive	San Jose	D	AM	44.5	D	44.4	D	13.2	0.215	44.5	D	13.2	0.215		
				PM	48.9	D	51.9	D	12.9	0.175	50.7	D	11.0	0.185		
6	Zanker Road and Tasman Drive	San Jose	D	AM	47.0	D	64.8	E	41.5	0.173	41%	57.3	E	28.5	0.133	31%
				PM	41.6	D	42.3	D	5.4	0.133	42.0	D	4.9	0.123		
7	Zanker Road and River Oaks Parkway	San Jose	D	AM	19.6	B	19.9	B	0.4	0.134	19.2	B	0.7	0.109		
				PM	19.1	B	17.6	B	0.0	0.146	17.8	B	0.1	0.121		
8	North First Street and Montague Expressway *	San Jose	D	AM	169.2	F	169.6	F	67.2	0.156	8%	169.6	F	66.6	0.155	6%
				PM	145.6	F	149.0	F	70.7	0.175	10%	147.7	F	67.9	0.169	7%
9	Zanker Road and Montague Expressway *	San Jose	D	AM	91.5	F	95.0	F	38.9	0.155	17%	98.9	F	31.7	0.139	12%
				PM	97.4	F	101.4	F	86.6	0.282	19%	111.4	F	73.1	0.237	13%
10	Zanker Road and Plumeria Drive	San Jose	D	AM	27.5	C	27.1	C	3.2	0.143	27.2	C	3.3	0.131		
				PM	28.6	C	28.6	C	4.6	0.154	28.6	C	4.5	0.142		
11	Trimble Road and US 101	San Jose	D	AM	40.1	D	42.5	D	16.8	0.067	41.6	D	15.3	0.062		
				PM	24.3	C	26.6	C	15.0	0.103	25.7	C	13.7	0.097		
12	De La Cruz Boulevard and Trimble Road *	San Jose	D	AM	41.0	D	40.8	D	21.2	0.149	40.9	D	21.2	0.149		
				PM	105.9	F	108.7	F	38.9	0.096	6%	107.7	F	37.4	0.093	4%
13	Orchard Parkway and Trimble Road	San Jose	D	AM	39.8	D	35.7	D	1.4	0.016	35.7	D	1.4	0.016		
				PM	52.8	D	53.0	D	0.9	0.053	52.9	D	0.9	0.053		
14	North First Street and Trimble Road *	San Jose	D	AM	65.6	E	67.2	E	24.3	0.139	9%	66.7	E	23.5	0.136	6%
				PM	54.0	D	55.1	E	13.9	0.148	8%	54.7	D	12.5	0.144	5%
15	Zanker Road and Trimble Road *	San Jose	D	AM	44.8	D	47.2	D	7.5	0.148	46.2	D	6.1	0.130		
				PM	55.3	E	57.4	E	20.9	0.163	12%	56.6	E	19.6	0.157	8%
16	Orchard Parkway and Gadsdale Parkway	San Jose	D	AM	40.9	D	41.6	D	10.1	0.108	41.3	D	9.6	0.105		
				PM	45.6	D	44.4	D	8.3	0.091	44.1	D	7.8	0.088		
17	North First Street and Charcot Avenue	San Jose	D	AM	86.7	F	89.1	F	52.9	0.162	7%	88.2	F	51.4	0.158	4%
				PM	47.1	D	47.5	D	8.3	0.137	47.4	D	8.1	0.134		
18	Zanker Road and Charcot Avenue	San Jose	D	AM	61.8	E	65.9	E	34.7	0.198	8%	64.2	E	32.1	0.190	6%
				PM	103.0	F	105.6	F	69.2	0.188	7%	104.6	F	67.6	0.184	5%
19	Zanker Road and Brokaw Road *	San Jose	D	AM	70.8	E	73.6	E	56.3	0.205	5%	72.7	E	54.2	0.199	3%
				PM	59.6	E	60.4	E	22.3	0.161	4%	60.1	E	21.8	0.160	3%
20	Old Oakland Road and Montague Expressway *	San Jose	D	AM	116.6	F	112.9	F	19.0	0.364	9%	111.9	F	17.7	0.379	5%
				PM	116.1	F	118.3	F	25.2	0.070	7%	117.5	F	24.1	0.068	5%
21	Trade Zone Boulevard and Montague Expressway *	San Jose	D	AM	66.1	E	67.0	E	5.4	0.049	8%	66.6	E	4.8	0.047	5%
				PM	72.6	E	73.5	E	22.0	0.063	8%	73.2	E	21.5	0.061	5%
22	Lafayette Street and Calle De Luna	Santa Clara	D	AM	17.4	B	18.1	B	0.8	0.014	17.9	B	0.5	0.009		
				PM	19.4	B	20.2	C	0.8	0.013	19.9	B	0.5	0.008		
23	Calle Del Sol and Tasman Drive	Santa Clara	D	AM	15.9	B	17.0	B	1.1	0.022	16.5	B	0.7	0.012		
				PM	19.0	B	19.2	B	0.2	0.004	19.2	B	0.1	0.002		
24	Lick Mill Boulevard and Tasman Drive	Santa Clara	D	AM	40.1	D	40.1	D	0.0	0.001	40.1	D	0.0	0.001		
				PM	64.4	E	64.5	E	0.4	0.002	64.5	E	0.3	0.001		
25	Lafayette Street and Montague Expressway (North)	Santa Clara	D	AM	46.9	D	47.0	D	0.2	0.003	47.0	D	0.1	0.002		
				PM	26.6	C	27.1	C	0.7	0.006	26.9	C	0.5	0.004		
26	Lafayette Street and Montague Expressway (South)	Santa Clara	D	AM	13.2	B	13.1	B	-0.1	0.003	13.1	B	0.0	0.002		
				PM	10.9	B	10.9	B	0.0	0.006	10.9	B	0.0	0.004		
27	De La Cruz Boulevard and Montague Expressway *	Santa Clara	E	AM	174.8	F	177.9	F	1.2	0.002	176.8	F	0.9	0.001		
				PM	154.0	F	158.9	F	2.7	0.009	157.1	F	1.7	0.006		
28	Lick Mill Boulevard and Montague Expressway	Santa Clara	E	AM	19.6	B	19.4	B	-0.4	0.017	19.5	B	-0.2	0.011		
				PM	25.2	C	25.5	C	0.1	0.018	25.4	C	0.1	0.011		
29	De La Cruz Boulevard and Central Expressway *	Santa Clara	E	AM	91.6	F	91.1	F	-0.1	0.001	91.2	F	-0.1	0.001		
				PM	136.8	F	138.6	F	0.0	0.000	137.9	F	0.0	0.000		
30	I-880 SB and Calaveras Boulevard	Milpitas	D	AM	17.4	B	17.3	B	0.1	0.060	17.3	B	0.0	0.038		
				PM	14.8	B	14.8	B	0.1	0.013	14.8	B	0.0	0.008		
31	I-880 NB and Calaveras Boulevard	Milpitas	D	AM	14.4	B	18.8	B	5.0	0.092	17.0	B	3.0	0.057		
				PM	25.9	C	26.6	C	1.0	0.017	26.3	C	0.6	0.011		
32	Abbott Avenue and Calaveras Boulevard	Milpitas	D	AM	26.2	C	26.4	C	0.3	0.013	26.3	C	0.2	0.008		
				PM	26.1	C	26.1	C	0.0	0.002	26.1	C	0.0	0.001		
33	Serra Way and Calaveras Boulevard	Milpitas	D	AM	16.3	B	16.4	B	0.2	0.013	16.4	B	0.1	0.008		
				PM	21.9	C	22.0	C	0.2	0.014	22.0	C	0.1	0.009		
34	Abel Street and Calaveras Boulevard *	Milpitas	E	AM	62.7	E	67.0	E	7.0	0.023	65.3	E	4.3	0.014		
				PM	55.3	E	56.9	E	2.5	0.012	56.3	E	1.6	0.008		
35	Milpitas Boulevard and Calaveras Boulevard *	Milpitas	E	AM	69.7	E	74.2	E	6.9	0.018	72.4	E	4.2	0.011		
				PM	44.6	D	44.8	D	0.4	0.006	44.8	D	0.3	0.004		
36	McCarty Boulevard and Tasman Drive	Milpitas	D	AM	49.7	D	50.8	D	1.7	0.014	50.4	D	1.0	0.009		
				PM	48.1	D	48.5	D	0.2	0.001	48.3	D	0.1	0.001		
37	I-880 and Tasman Drive	Milpitas	D	AM	27.0	C	27.4	C	0.7	0.008	27.2	C	0.4	0.005		
				PM	26.9	C	26.9	C	0.0	0.000	26.9	C	0.0	0.000		
38	I-880 and Great Mall Parkway	Milpitas	D	AM	53.3	D	54.3	D	1.3	0.008	53.9	D	0.8	0.005		
				PM	32.6	C	32.7	C	0.0	0.008	32.7	C	0.0	0.005		
39	Abel Street and Great Mall Parkway	Milpitas	D	AM	31.0	C	31.9	C	1.4	0.017	31.5	C	0.8	0.010		
				PM	28.8	C	29.0	C	0.3	0.006	29.0	C	0.2	0.004		
40	Alder Drive and Tasman Drive	Milpitas	D	AM	26.5	C	27.1	C	0.8	0.008	26.9	C	0.5	0.005		
				PM	178.7	F	181.6	F	3.6	0.008	180.5	F	2.3	0.005		
41	Mission College Boulevard and Montague Expressway *	Santa Clara	E	AM	202.5	F	202.7	F	0.0	0.000	202.7	F	0.0	0.000		
				PM	194.9	F	195.2	F	0.9	0.011	197.7	F	4.4	0.007		

* Denotes CMP Intersections.
 Entries denoted in bold indicate conditions that exceed the applicable level of service standard.
 Bold and boxed indicate significant project impact.

**Table 1 (Added Int. #41 – Mission/Montague)
Existing Intersection Levels of Service**

Study Number	Intersection	Location	LOS Standard	Peak Hour	Count Date	Avg. Delay	LOS
1	Zanker Road and SR 237 (North) *	San Jose	D	AM	10/07/14	11.1	B
				PM	09/09/14	11.2	B
2	Zanker Road and SR 237 (South) *	San Jose	D	AM	10/07/14	21.8	C
				PM	09/09/14	12.5	B
3	Zanker Road and Holger Way	San Jose	D	AM	10/29/15	24.3	C
				PM	10/29/15	29.4	C
4	Zanker Road and Baypointe Parkway	San Jose	D	AM	10/07/14	13.2	B
				PM	10/07/14	15.1	B
5	North First Street and Tasman Drive	San Jose	D	AM	10/27/15	33.4	C
				PM	10/27/15	37.8	D
6	Zanker Road and Tasman Drive	San Jose	D	AM	10/29/15	35.8	D
				PM	10/29/15	38.2	D
7	Zanker Road and River Oaks Parkway	San Jose	D	AM	10/23/14	18.3	B
				PM	10/23/14	18.7	B
8	North First Street and Montague Expressway *	San Jose	D	AM	10/28/15	87.1	F
				PM	09/25/14	72.9	E
9	Zanker Road and Montague Expressway *	San Jose	D	AM	10/28/15	60.7	E
				PM	09/25/14	51.3	D
10	Zanker Road and Plumeria Drive	San Jose	D	AM	10/07/14	22.6	C
				PM	10/07/14	23.8	C
11	Trimble Road and US 101	San Jose	D	AM	10/07/14	19.7	B
				PM	10/07/14	12.1	B
12	De La Cruz Boulevard and Trimble Road *	San Jose	D	AM	10/28/15	33.8	C
				PM	09/25/14	48.7	D
13	Orchard Parkway and Trimble Road	San Jose	D	AM	10/28/15	35.8	D
				PM	10/28/15	40.1	D
14	North First Street and Trimble Road *	San Jose	D	AM	10/07/14	42.3	D
				PM	09/17/14	41.1	D
15	Zanker Road and Trimble Road *	San Jose	D	AM	10/07/14	39.1	D
				PM	09/17/14	38.3	D
16	Orchard Parkway and Guadalupe Parkway	San Jose	D	AM	10/07/14	24.1	C
				PM	10/07/14	32.8	C
17	North First Street and Charcot Avenue	San Jose	D	AM	10/23/14	39.6	D
				PM	10/23/14	37.3	D
18	Zanker Road and Charcot Avenue	San Jose	D	AM	10/07/14	33.5	C
				PM	10/07/14	38.0	D
19	Zanker Road and Brokaw Road *	San Jose	D	AM	10/07/14	37.0	D
				PM	09/16/14	40.9	D
20	Old Oakland Road and Montague Expressway *	San Jose	D	AM	10/29/15	89.3	F
				PM	09/25/14	84.8	F
21	Trade Zone Boulevard and Montague Expressway *	San Jose	D	AM	10/29/15	58.7	E
				PM	09/25/14	55.1	E
22	Lafayette Street and Calle De Luna	Santa Clara	D	AM	08/12/14	14.8	B
				PM	08/12/14	18.8	B
23	Calle Del Sol and Tasman Drive	Santa Clara	D	AM	08/12/14	15.7	B
				PM	08/12/14	18.9	B
24	Lick Mill Boulevard and Tasman Drive	Santa Clara	D	AM	03/11/14	35.1	D
				PM	03/11/14	27.7	C
25	Lafayette Street and Montague Expressway (North)	Santa Clara	D	AM	08/12/14	30.6	C
				PM	08/12/14	23.7	C
26	Lafayette Street and Montague Expressway (South)	Santa Clara	D	AM	08/12/14	15.1	B
				PM	08/12/14	12.5	B
27	De La Cruz Boulevard and Montague Expressway *	Santa Clara	E	AM	01/07/14	43.8	D
				PM	09/25/14	53.4	D
28	Lick Mill Boulevard and Montague Expressway	Santa Clara	E	AM	08/19/14	14.6	B
				PM	08/19/14	15.4	B

Table 3 (Continued)
Existing Intersection Levels of Service

Study Number	Intersection	Location	LOS Standard	Peak Hour	Count Date	Avg. Delay	LOS
29	De La Cruz Boulevard and Central Expressway *	Santa Clara	E	AM	08/21/14	46.4	D
				PM	10/02/14	95.8	F
30	I-880 SB and Calaveras Boulevard	Milpitas	D	AM	10/28/15	13.0	B
				PM	10/28/15	12.4	B
31	I-880 NB and Calaveras Boulevard	Milpitas	D	AM	10/28/15	11.0	B
				PM	10/28/15	23.9	C
32	Abbott Avenue and Calaveras Boulevard	Milpitas	D	AM	10/28/15	26.1	C
				PM	10/28/15	26.4	C
33	Serra Way and Calaveras Boulevard	Milpitas	D	AM	10/28/15	16.3	B
				PM	10/28/15	22.8	C
34	Abel Street and Calaveras Boulevard *	Milpitas	E	AM	10/29/15	48.3	D
				PM	09/24/14	46.1	D
35	Milpitas Boulevard and Calaveras Boulevard *	Milpitas	E	AM	10/29/15	46.2	D
				PM	12/10/14	40.8	D
36	McCarthy Boulevard and Tasman Drive	Milpitas	D	AM	01/07/15	32.4	C
				PM	01/07/15	31.4	C
37	I-880 and Tasman Drive	Milpitas	D	AM	10/29/15	22.9	C
				PM	10/29/15	20.1	C
38	I-880 and Great Mall Parkway	Milpitas	D	AM	10/29/15	41.0	D
				PM	10/29/15	29.0	C
39	Abel Street and Great Mall Parkway	Milpitas	D	AM	11/05/15	29.1	C
				PM	11/05/15	24.0	C
40	Alder Drive and Tasman Drive	Milpitas	D	AM	11/05/15	15.2	B
				PM	11/05/15	33.3	C
41	Mission College Boulevard and Montague Expressway *	Santa Clara	E	AM	10/29/15	83.1	F
				PM	10/04/16	60.6	E

* Denotes CMP Intersections
 Entries denoted in **bold** indicate conditions that exceed the applicable level of service standard.

Table 2 (Added Int. #41 – Mission/Montague)
Existing Plus Project Intersection Levels of Service

Study Number	Intersection	Location	LOS Standard	Peak Hour	Count Date	Existing Plus Project (Light Industrial Only)						Existing Plus Project - Light Industrial & Data Center			
						Avg. Delay	LOS	Avg. Delay	LOS	Incr. In Crit. Delay	Incr. In Crit. V/C	Avg. Delay	LOS	Incr. In Crit. Delay	Incr. In Crit. V/C
1	Zanker Road and SR 237 (North) *	San Jose	D	AM	10/07/14	11.1	B	15.9	B	7.2	0.446	13.8	B	4.6	0.268
				PM	09/09/14	11.2	B	17.1	B	8.0	0.640	13.7	B	3.8	0.444
2	Zanker Road and SR 237 (South) *	San Jose	D	AM	10/07/14	21.8	C	22.6	C	1.6	0.111	22.4	C	1.4	0.075
				PM	09/09/14	12.5	B	16.5	B	7.6	0.342	15.0	B	4.7	0.218
3	Zanker Road and Holger Way	San Jose	D	AM	10/29/15	24.3	C	23.0	C	0.0	0.000	23.4	C	0.0	0.000
				PM	10/29/15	29.4	C	30.6	C	0.2	0.011	30.2	C	0.1	0.007
4	Zanker Road and Baypointe Parkway	San Jose	D	AM	10/07/14	13.2	B	12.4	B	-0.2	0.072	12.6	B	-0.2	0.045
				PM	10/07/14	15.1	B	14.3	B	1.1	0.032	14.4	B	-0.1	0.007
5	North First Street and Tasman Drive	San Jose	D	AM	10/27/15	33.4	C	33.5	C	0.0	0.001	33.5	C	0.0	0.001
				PM	10/27/15	37.8	D	38.9	D	2.1	0.034	38.5	D	1.4	0.021
6	Zanker Road and Tasman Drive	San Jose	D	AM	10/29/15	35.8	D	44.6	D	13.4	0.110	40.4	D	6.8	0.069
				PM	10/29/15	38.2	D	38.6	D	0.9	0.021	38.5	D	0.6	0.014
7	Zanker Road and River Oaks Parkway	San Jose	D	AM	10/23/14	18.3	B	17.1	B	-1.9	0.066	17.5	B	-1.3	0.042
				PM	10/23/14	18.7	B	18.1	B	-1.2	0.070	18.3	B	-0.8	0.044
8	North First Street and Montague Expressway *	San Jose	D	AM	10/28/15	87.1	F	87.5	F	1.4	0.005	87.4	F	1.0	0.003
				PM	09/25/14	72.9	E	73.9	E	0.6	0.007	73.5	E	0.4	0.004
9	Zanker Road and Montague Expressway *	San Jose	D	AM	10/28/15	60.7	E	64.3	E	5.4	0.069	62.5	E	2.7	0.043
				PM	09/25/14	51.3	D	62.5	E	20.1	0.070	57.7	E	11.5	0.044
10	Zanker Road and Plumeria Drive	San Jose	D	AM	10/07/14	22.6	C	21.6	C	-1.0	0.032	22.0	C	-0.6	0.020
				PM	10/07/14	23.8	C	23.2	C	-0.7	0.033	23.4	C	-0.5	0.021
11	Trimble Road and US 101	San Jose	D	AM	10/07/14	19.7	B	19.8	B	0.3	0.008	19.8	B	0.2	0.005
				PM	10/07/14	12.1	B	12.2	B	0.1	0.014	12.1	B	0.1	0.009
12	De La Cruz Boulevard and Trimble Road *	San Jose	D	AM	10/28/15	33.8	C	33.5	C	0.0	0.000	33.6	C	0.0	0.000
				PM	09/25/14	48.7	D	49.3	D	1.0	0.009	49.1	D	0.6	0.006
13	Orchard Parkway and Trimble Road	San Jose	D	AM	10/28/15	35.8	D	35.8	D	0.0	0.001	35.8	D	0.0	0.001
				PM	10/28/15	40.1	D	40.2	D	0.0	0.001	40.2	D	0.0	0.001
14	North First Street and Trimble Road *	San Jose	D	AM	10/07/14	42.3	D	42.3	D	0.1	0.009	42.3	D	0.1	0.006
				PM	09/17/14	41.1	D	41.2	D	0.2	0.010	41.2	D	0.1	0.006
15	Zanker Road and Trimble Road *	San Jose	D	AM	10/07/14	39.1	D	40.7	D	2.7	0.048	40.1	D	1.7	0.030
				PM	09/17/14	38.3	D	38.4	D	-0.2	0.016	38.3	D	-0.2	0.010
16	Orchard Parkway and Guadalupe Parkway	San Jose	D	AM	10/07/14	24.1	C	24.0	C	0.0	0.001	24.0	C	0.0	0.001
				PM	10/07/14	32.8	C	32.8	C	0.1	0.009	32.8	C	0.0	0.006
17	North First Street and Charcot Avenue	San Jose	D	AM	10/23/14	39.6	D	39.7	D	0.3	0.010	39.7	D	0.2	0.006
				PM	10/23/14	37.3	D	37.3	D	0.1	0.015	37.3	D	0.0	0.010
18	Zanker Road and Charcot Avenue	San Jose	D	AM	10/07/14	33.5	C	33.9	C	0.6	0.021	33.7	C	0.4	0.013
				PM	10/07/14	38.0	D	38.2	D	0.2	0.011	38.1	D	0.1	0.007
19	Zanker Road and Brokaw Road *	San Jose	D	AM	10/07/14	37.0	D	37.5	D	0.9	0.017	37.4	D	0.6	0.011
				PM	09/16/14	40.9	D	41.0	D	0.1	0.006	41.0	D	0.1	0.004
20	Old Oakland Road and Montague Expressway *	San Jose	D	AM	10/29/15	89.3	F	90.9	F	2.9	0.006	90.2	F	1.7	0.004
				PM	09/25/14	84.8	F	86.1	F	28.2	0.321	85.6	F	27.5	0.319
21	Trade Zone Boulevard and Montague Expressway *	San Jose	D	AM	10/29/15	58.7	E	59.4	E	1.0	0.006	59.1	E	0.6	0.004
				PM	09/25/14	55.1	E	55.7	E	1.2	0.006	55.5	E	0.9	0.004

Table 5 (Continued)
Existing Plus Project Intersection Levels of Service

Study Number	Intersection	Location	LOS Standard	Peak Hour	Count Date	Existing		Existing Plus Project (Light Industrial Only)				Existing Plus Project - Light Industrial & Data Center			
						Avg. Delay	LOS	Avg. Delay	LOS	Incr. In Crit. Delay	Incr. In Crit. V/C	Avg. Delay	LOS	Incr. In Crit. Delay	Incr. In Crit. V/C
22	Lafayette Street and Calle De Luna	Santa Clara	D	AM	08/12/14	14.8	B	14.7	B	0.0	0.014	14.8	B	0.0	0.009
				PM	08/12/14	18.8	B	19.5	B	0.7	0.013	19.2	B	0.5	0.008
23	Calle Del Sol and Tasman Drive	Santa Clara	D	AM	08/12/14	15.7	B	17.1	B	1.3	0.023	16.5	B	0.8	0.013
				PM	08/12/14	18.9	B	19.0	B	0.2	0.004	19.0	B	0.1	0.002
24	Lick Mill Boulevard and Tasman Drive	Santa Clara	D	AM	03/11/14	35.1	D	35.3	D	0.2	0.001	35.2	D	0.1	0.001
				PM	03/11/14	27.7	C	27.4	C	0.0	0.002	27.5	C	0.0	0.001
25	Lafayette Street and Monatague Expressway (North)	Santa Clara	D	AM	08/12/14	30.6	C	30.6	C	-0.1	0.003	30.6	C	0.0	0.002
				PM	08/12/14	23.7	C	24.4	C	0.9	0.006	24.2	C	0.6	0.004
26	Lafayette Street and Monatague Expressway (South)	Santa Clara	D	AM	08/12/14	15.1	B	14.9	B	-0.2	0.003	15.0	B	-0.1	0.002
				PM	08/12/14	12.5	B	12.4	B	-0.2	0.006	12.4	B	-0.1	0.004
27	De La Cruz Boulevard and Montague Expressway *	Santa Clara	E	AM	01/07/14	43.8	D	43.9	D	0.2	0.002	43.9	D	0.1	0.001
				PM	09/25/14	53.4	D	54.2	D	0.9	0.015	53.9	D	0.5	0.009
28	Lick Mill Boulevard and Montague Expressway	Santa Clara	E	AM	08/19/14	14.6	B	14.3	B	-0.4	0.017	14.4	B	-0.3	0.011
				PM	08/19/14	15.4	B	15.3	B	-0.5	0.018	15.3	B	-0.3	0.011
29	De La Cruz Boulevard and Central Expressway *	Santa Clara	E	AM	08/21/14	46.4	D	46.2	D	0.0	0.001	46.3	D	0.0	0.001
				PM	10/02/14	95.8	F	97.4	F	0.0	0.000	96.8	F	0.0	0.000
30	I-880 SB and Calaveras Boulevard	Milpitas	D	AM	10/28/15	13.0	B	12.3	B	-0.8	0.060	12.5	B	-0.5	0.038
				PM	10/28/15	12.4	B	12.3	B	-0.1	0.013	12.3	B	-0.1	0.008
31	I-880 NB and Calaveras Boulevard	Milpitas	D	AM	10/28/15	11.0	B	15.0	B	4.3	0.090	13.5	B	2.7	0.054
				PM	10/28/15	23.9	C	24.2	C	0.5	0.017	24.1	C	0.3	0.011
32	Abbott Avenue and Calaveras Boulevard	Milpitas	D	AM	10/28/15	26.1	C	26.2	C	0.1	0.013	26.1	C	0.0	0.008
				PM	10/28/15	26.4	C	26.3	C	0.0	0.002	26.4	C	0.0	0.001
33	Serra Way and Calaveras Boulevard	Milpitas	D	AM	10/28/15	16.3	B	16.3	B	0.1	0.013	16.3	B	0.0	0.008
				PM	10/28/15	22.8	C	22.7	C	-0.1	0.014	22.7	C	-0.1	0.009
34	Abel Street and Calaveras Boulevard *	Milpitas	E	AM	10/29/15	48.3	D	49.7	D	2.3	0.023	49.1	D	1.4	0.014
				PM	09/24/14	46.1	D	46.4	D	0.5	0.012	46.3	D	0.3	0.008
35	Milpitas Boulevard and Calaveras Boulevard *	Milpitas	E	AM	10/29/15	46.2	D	48.5	D	3.5	0.018	47.6	D	2.1	0.011
				PM	12/10/14	40.8	D	40.9	D	0.2	0.006	40.9	D	0.2	0.004
36	McCarthy Boulevard and Tasman Drive	Milpitas	D	AM	01/07/15	32.4	C	32.6	C	0.2	0.014	32.6	C	0.2	0.009
				PM	01/07/15	31.4	C	30.3	C	-10.6	-0.004	31.5	C	0.1	0.001
37	I-880 and Tasman Drive	Milpitas	D	AM	10/29/15	22.9	C	23.0	C	0.2	0.008	22.9	C	0.1	0.005
				PM	10/29/15	20.1	C	20.0	C	0.0	0.008	20.1	C	0.0	0.005
38	I-880 and Great Mall Parkway	Milpitas	D	AM	10/29/15	41.0	D	41.1	D	0.2	0.008	41.1	D	0.1	0.005
				PM	10/29/15	29.0	C	28.9	C	-0.1	0.008	29.0	C	-0.1	0.005
39	Abel Street and Great Mall Parkway	Milpitas	D	AM	11/05/15	29.1	C	29.7	C	0.9	0.017	29.5	C	0.5	0.010
				PM	11/05/15	24.0	C	24.1	C	0.0	0.006	24.0	C	0.0	0.004
40	Alder Drive and Tasman Drive	Milpitas	D	AM	11/05/15	15.2	B	15.3	B	0.2	0.008	15.2	B	0.1	0.005
				PM	11/05/15	33.3	C	33.7	C	0.5	0.008	33.6	C	0.3	0.005
41	Mission College Boulevard and Montague Expressway *	Santa Clara	E	AM	10/29/15	83.1	F	83.1	F	0.1	0.002	83.1	F	0.1	0.001
				PM	10/04/16	60.6	E	61.2	E	0.0	0.002	61.0	E	0.0	0.001

* Denotes CMP Intersections
 Entries denoted in **bold** indicate conditions that exceed the applicable level of service standard.

**Table 3 (Added Int. #41 – Mission/Montague)
Background Intersection Levels of Service**

Study Number	Intersection	Location	LOS Standard	Peak Hour	Existing		Background	
					Avg. Delay	LOS	Avg. Delay	LOS
1	Zanker Road and SR 237 (North) *	San Jose	D	AM	11.1	B	11.2	B
				PM	11.2	B	13.8	B
2	Zanker Road and SR 237 (South) *	San Jose	D	AM	21.8	C	22.2	C
				PM	12.5	B	14.0	B
3	Zanker Road and Holger Way	San Jose	D	AM	24.3	C	26.7	C
				PM	29.4	C	30.5	C
4	Zanker Road and Baypointe Parkway	San Jose	D	AM	13.2	B	13.2	B
				PM	15.1	B	15.1	B
5	North First Street and Tasman Drive	San Jose	D	AM	33.4	C	35.3	D
				PM	37.8	D	41.8	D
6	Zanker Road and Tasman Drive	San Jose	D	AM	35.8	D	41.4	D
				PM	38.2	D	39.7	D
7	Zanker Road and River Oaks Parkway	San Jose	D	AM	18.3	B	18.9	B
				PM	18.7	B	18.2	B
8	North First Street and Montague Expressway *	San Jose	D	AM	87.1	F	131.6	F
				PM	72.9	E	105.9	F
9	Zanker Road and Montague Expressway *	San Jose	D	AM	60.7	E	66.6	E
				PM	51.3	D	70.7	E
10	Zanker Road and Plumeria Drive	San Jose	D	AM	22.6	C	25.2	C
				PM	23.8	C	26.1	C
11	Trimble Road and US 101	San Jose	D	AM	19.7	B	28.1	C
				PM	12.1	B	15.5	B
12	De La Cruz Boulevard and Trimble Road *	San Jose	D	AM	33.8	C	31.7	C
				PM	48.7	D	84.0	F
13	Orchard Parkway and Trimble Road	San Jose	D	AM	35.8	D	34.7	C
				PM	40.1	D	47.3	D
14	North First Street and Trimble Road *	San Jose	D	AM	42.3	D	52.4	D
				PM	41.1	D	45.3	D
15	Zanker Road and Trimble Road *	San Jose	D	AM	39.1	D	41.6	D
				PM	38.3	D	44.2	D
16	Orchard Parkway and Guadalupe Parkway	San Jose	D	AM	24.1	C	34.7	C
				PM	32.8	C	39.1	D
17	North First Street and Charcot Avenue	San Jose	D	AM	39.6	D	55.6	E
				PM	37.3	D	41.3	D
18	Zanker Road and Charcot Avenue	San Jose	D	AM	33.5	C	43.7	D
				PM	38.0	D	64.0	E
19	Zanker Road and Brokaw Road *	San Jose	D	AM	37.0	D	48.0	D
				PM	40.9	D	47.3	D
20	Old Oakland Road and Montague Expressway *	San Jose	D	AM	89.3	F	100.4	F
				PM	84.8	F	102.2	F
21	Trade Zone Boulevard and Montague Expressway *	San Jose	D	AM	58.7	E	63.8	E
				PM	55.1	E	64.1	E
22	Lafayette Street and Calle De Luna	Santa Clara	D	AM	14.8	B	13.8	B
				PM	18.8	B	20.3	C
23	Calle Del Sol and Tasman Drive	Santa Clara	D	AM	15.7	B	16.4	B
				PM	18.9	B	19.0	B
24	Lick Mill Boulevard and Tasman Drive	Santa Clara	D	AM	35.1	D	34.5	C
				PM	27.7	C	28.1	C
25	Lafayette Street and Montague Expressway (North)	Santa Clara	D	AM	30.6	C	32.5	C
				PM	23.7	C	26.0	C
26	Lafayette Street and Montague Expressway (South)	Santa Clara	D	AM	15.1	B	12.6	B
				PM	12.5	B	12.5	B
27	De La Cruz Boulevard and Montague Expressway *	Santa Clara	E	AM	43.8	D	91.7	F
				PM	53.4	D	92.7	F
28	Lick Mill Boulevard and Montague Expressway	Santa Clara	E	AM	14.6	B	16.1	B
				PM	15.4	B	15.3	B
29	De La Cruz Boulevard and Central Expressway *	Santa Clara	E	AM	46.4	D	75.1	E
				PM	95.8	F	114.0	F

Table 6 (Continued)
Background Intersection Levels of Service

Study Number	Intersection	Location	LOS Standard	Peak Hour	Existing		Background	
					Avg. Delay	LOS	Avg. Delay	LOS
30	I-880 SB and Calaveras Boulevard	Milpitas	D	AM	13.0	B	17.4	B
				PM	12.4	B	14.8	B
31	I-880 NB and Calaveras Boulevard	Milpitas	D	AM	11.0	B	14.4	B
				PM	23.9	C	25.7	C
32	Abbott Avenue and Calaveras Boulevard	Milpitas	D	AM	26.1	C	26.2	C
				PM	26.4	C	26.1	C
33	Serra Way and Calaveras Boulevard	Milpitas	D	AM	16.3	B	16.3	B
				PM	22.8	C	21.9	C
34	Abel Street and Calaveras Boulevard *	Milpitas	E	AM	48.3	D	59.6	E
				PM	46.1	D	52.1	D
35	Milpitas Boulevard and Calaveras Boulevard *	Milpitas	E	AM	46.2	D	62.1	E
				PM	40.8	D	43.4	D
36	McCarthy Boulevard and Tasman Drive	Milpitas	D	AM	32.4	C	37.6	D
				PM	31.4	C	40.7	D
37	I-880 and Tasman Drive	Milpitas	D	AM	22.9	C	26.1	C
				PM	20.1	C	22.9	C
38	I-880 and Great Mall Parkway	Milpitas	D	AM	41.0	D	49.3	D
				PM	29.0	C	31.0	C
39	Abel Street and Great Mall Parkway	Milpitas	D	AM	29.1	C	31.0	C
				PM	24.0	C	28.4	C
40	Alder Drive and Tasman Drive	Milpitas	D	AM	15.2	B	25.2	C
				PM	33.3	C	170.8	F
41	Mission College Boulevard and Montague Expressway *	Santa Clara	E	AM	83.1	F	159.4	F
				PM	60.6	E	130.1	F

* Denotes CMP Intersections
 Entries denoted in **bold** indicate conditions that exceed the applicable level of service standard.

**Table 4 (Added Int. #41 – Mission/Montague)
Background Plus Project Levels of Service**

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Study Number	Intersection	Location	LOS Standard	Peak Hour	Background		Background Plus Project (Light Industrial Only)				Background Plus Project - Light Industrial & Data Center			
					Avg. Delay	LOS	Avg. Delay	LOS	Incr. In Crit. Delay	Incr. In Crit. V/C	Avg. Delay	LOS	Incr. In Crit. Delay	Incr. In Crit. V/C
1	Zanker Road and SR 237 (North) *	San Jose	D	AM	11.2	B	17.7	B	9.6	0.467	14.2	B	5.0	0.290
				PM	13.8	B	29.8	C	23.7	0.734	16.5	B	7.0	0.537
2	Zanker Road and SR 237 (South) *	San Jose	D	AM	22.2	C	23.1	C	1.9	0.111	22.8	C	1.5	0.075
				PM	14.0	B	21.2	C	12.5	0.342	16.8	B	5.1	0.218
3	Zanker Road and Holger Way	San Jose	D	AM	26.7	C	25.8	C	0.0	0.000	26.2	C	0.0	0.000
				PM	30.5	C	31.6	C	2.9	0.076	31.1	C	0.1	0.007
4	Zanker Road and Baypointe Parkway	San Jose	D	AM	13.2	B	12.4	B	-0.2	0.072	12.6	B	-0.2	0.045
				PM	15.1	B	14.3	B	1.1	0.032	14.4	B	-0.1	0.007
5	North First Street and Tasman Drive	San Jose	D	AM	35.3	D	35.3	D	0.1	0.001	35.3	D	0.0	0.001
				PM	41.8	D	43.4	D	2.5	0.034	42.8	D	1.6	0.021
6	Zanker Road and Tasman Drive	San Jose	D	AM	41.4	D	54.6	D	22.3	0.110	48.2	D	11.4	0.069
				PM	39.7	D	40.2	D	2.0	0.023	40.0	D	1.6	0.013
7	Zanker Road and River Oaks Parkway	San Jose	D	AM	18.9	B	17.9	B	-1.4	0.066	18.3	B	-1.0	0.042
				PM	18.2	B	17.7	B	-0.7	0.070	17.8	B	-0.5	0.044
8	North First Street and Montague Expressway *	San Jose	D	AM	131.6	F	132.1	F	2.1	0.005	132.0	F	1.5	0.003
				PM	105.9	F	108.2	F	6.5	0.018	107.4	F	4.1	0.011
9	Zanker Road and Montague Expressway *	San Jose	D	AM	66.6	E	74.7	E	13.5	0.069	70.8	E	6.8	0.043
				PM	70.7	E	90.7	F	33.0	0.070	82.8	F	20.3	0.044
10	Zanker Road and Plumeria Drive	San Jose	D	AM	25.2	C	24.5	C	-0.6	0.032	24.8	C	-0.4	0.020
				PM	26.1	C	25.8	C	-0.3	0.033	25.9	C	-0.2	0.021
11	Trimble Road and US 101	San Jose	D	AM	28.1	C	29.2	C	1.6	0.008	28.8	C	1.0	0.005
				PM	15.5	B	16.2	B	0.9	0.014	16.0	B	0.6	0.009
12	De La Cruz Boulevard and Trimble Road *	San Jose	D	AM	31.7	C	31.6	C	0.0	0.000	31.6	C	0.0	0.000
				PM	84.0	F	86.7	F	3.7	0.009	85.7	F	2.3	0.006
13	Orchard Parkway and Trimble Road	San Jose	D	AM	34.7	C	34.6	C	0.0	0.000	34.6	C	0.0	0.000
				PM	47.3	D	47.4	D	0.0	0.000	47.3	D	0.0	0.000
14	North First Street and Trimble Road *	San Jose	D	AM	52.4	D	53.0	D	0.8	0.009	52.8	D	0.5	0.006
				PM	45.3	D	45.7	D	0.5	0.010	45.6	D	0.3	0.006
15	Zanker Road and Trimble Road *	San Jose	D	AM	41.6	D	43.5	D	3.2	0.048	42.8	D	2.0	0.030
				PM	44.2	D	44.8	D	0.8	0.016	44.5	D	0.5	0.010
16	Orchard Parkway and Guadalupe Parkway	San Jose	D	AM	34.7	C	34.9	C	0.4	0.009	34.8	C	0.2	0.005
				PM	39.1	D	39.5	D	0.6	0.009	39.4	D	0.4	0.006
17	North First Street and Charcot Avenue	San Jose	D	AM	55.6	E	57.0	E	2.3	0.010	56.4	E	1.4	0.006
				PM	41.3	D	41.6	D	0.4	0.009	41.5	D	0.2	0.006
18	Zanker Road and Charcot Avenue	San Jose	D	AM	43.7	D	45.0	D	1.9	0.021	44.5	D	1.1	0.013
				PM	64.0	E	66.0	E	3.2	0.011	65.3	E	2.0	0.007
19	Zanker Road and Brokaw Road *	San Jose	D	AM	48.0	D	49.3	D	2.8	0.017	48.9	D	1.8	0.011
				PM	47.3	D	47.6	D	0.4	0.006	47.5	D	0.3	0.004
20	Old Oakland Road and Montague Expressway *	San Jose	D	AM	100.4	F	102.4	F	2.8	0.006	101.6	F	1.7	0.004
				PM	102.2	F	104.3	F	3.1	0.006	103.5	F	2.0	0.004
21	Trade Zone Boulevard and Montague Expressway *	San Jose	D	AM	63.8	E	64.7	E	1.2	0.006	64.3	E	0.7	0.004
				PM	64.1	E	65.0	E	1.8	0.006	64.7	E	1.3	0.004
22	Lafayette Street and Calle De Luna	Santa Clara	D	AM	13.8	B	13.8	B	0.0	0.014	13.9	B	0.1	0.009
				PM	20.3	C	20.9	C	0.5	0.013	20.7	C	0.3	0.008

Table 8 (Continued)
Background Plus Project Levels of Service

Study Number	Intersection	Location	LOS Standard	Peak Hour	Background		Background Plus Project (Light Industrial Only)				Background Plus Project - Light Industrial & Data Center			
					Avg. Delay	LOS	Avg. Delay	LOS	Incr. In Delay	Incr. In Crit. V/C	Avg. Delay	LOS	Incr. In Delay	Incr. In Crit. V/C
23	Calle Del Sol and Tasman Drive	Santa Clara	D	AM	16.4	B	17.6	B	1.1	0.022	17.2	B	0.8	0.016
				PM	19.0	B	19.2	B	0.2	0.004	19.1	B	0.1	0.002
24	Lick Mill Boulevard and Tasman Drive	Santa Clara	D	AM	34.5	C	34.6	C	0.2	0.001	34.6	C	0.1	0.001
				PM	28.1	C	27.9	C	0.0	0.002	28.0	C	0.0	0.001
25	Lafayette Street and Monatague Expressway (North)	Santa Clara	D	AM	32.5	C	32.5	C	-0.1	0.003	32.6	C	0.0	0.002
				PM	26.0	C	26.6	C	0.7	0.006	26.4	C	0.5	0.004
26	Lafayette Street and Monatague Expressway (South)	Santa Clara	D	AM	12.6	B	12.5	B	-0.1	0.003	12.6	B	-0.1	0.002
				PM	12.5	B	12.5	B	-0.1	0.006	12.5	B	0.0	0.004
27	De La Cruz Boulevard and Montague Expressway *	Santa Clara	E	AM	91.7	F	92.2	F	1.4	0.002	92.1	F	1.1	0.001
				PM	92.7	F	97.2	F	1.9	0.009	95.5	F	1.2	0.006
28	Lick Mill Boulevard and Montague Expressway	Santa Clara	E	AM	16.1	B	15.8	B	-0.3	0.017	15.9	B	-0.2	0.011
				PM	15.3	B	15.3	B	-0.2	0.018	15.3	B	-0.1	0.011
29	De La Cruz Boulevard and Central Expressway *	Santa Clara	E	AM	75.1	E	74.7	E	-0.1	0.001	74.9	E	-0.1	0.001
				PM	114.0	F	115.5	F	0.0	0.000	114.9	F	0.0	0.000
30	I-880 SB and Calaveras Boulevard	Milpitas	D	AM	17.4	B	17.4	B	0.0	0.060	17.3	B	0.0	0.038
				PM	14.8	B	14.8	B	0.0	0.013	14.8	B	0.0	0.008
31	I-880 NB and Calaveras Boulevard	Milpitas	D	AM	14.4	B	18.7	B	4.9	0.092	17.0	B	3.0	0.057
				PM	25.7	C	26.3	C	0.9	0.017	26.1	C	0.6	0.011
32	Abbott Avenue and Calaveras Boulevard	Milpitas	D	AM	26.2	C	26.4	C	0.3	0.013	26.3	C	0.2	0.008
				PM	26.1	C	26.1	C	0.0	0.002	26.1	C	0.0	0.001
33	Serra Way and Calaveras Boulevard	Milpitas	D	AM	16.3	B	16.4	B	0.2	0.013	16.4	B	0.1	0.008
				PM	21.9	C	22.0	C	0.1	0.014	22.0	C	0.1	0.009
34	Abel Street and Calaveras Boulevard *	Milpitas	E	AM	59.6	E	63.3	E	6.2	0.023	61.8	E	3.7	0.014
				PM	52.1	D	53.3	D	1.8	0.012	52.8	D	1.1	0.008
35	Milpitas Boulevard and Calaveras Boulevard *	Milpitas	E	AM	62.1	E	66.1	E	6.2	0.018	64.5	E	3.8	0.011
				PM	43.4	D	43.6	D	0.4	0.006	43.6	D	0.3	0.004
36	McCarthy Boulevard and Tasman Drive	Milpitas	D	AM	37.6	D	37.9	D	0.4	0.014	37.8	D	0.2	0.009
				PM	40.7	D	40.9	D	0.1	0.001	40.8	D	0.1	0.001
37	I-880 and Tasman Drive	Milpitas	D	AM	26.1	C	26.4	C	0.6	0.008	26.3	C	0.3	0.005
				PM	22.9	C	22.9	C	0.0	0.000	22.9	C	0.0	0.000
38	I-880 and Great Mall Parkway	Milpitas	D	AM	49.3	D	50.0	D	0.9	0.008	49.7	D	0.5	0.005
				PM	31.0	C	31.0	C	0.0	0.008	31.0	C	0.0	0.005
39	Abel Street and Great Mall Parkway	Milpitas	D	AM	31.0	C	31.9	C	1.4	0.017	31.5	C	0.8	0.010
				PM	28.4	C	28.6	C	0.3	0.006	28.5	C	0.2	0.004
40	Alder Drive and Tasman Drive	Milpitas	D	AM	25.2	C	25.7	C	0.7	0.008	25.5	C	0.4	0.005
				PM	170.8	F	173.7	F	3.6	0.008	172.6	F	2.3	0.005
41	Mission College Boulevard and Montague Expressway *	Santa Clara	E	AM	159.4	F	159.5	F	0.0	0.000	159.5	F	0.0	0.000
				PM	130.1	F	133.6	F	5.9	0.011	132.3	F	3.7	0.007

* Denotes CMP Intersections
 Entries denoted in **bold** indicate conditions that exceed the applicable level of service standard.
Bold and boxed indicate significant project impact.

Table 5 (Added Int. #41 – Mission/Montague)
Cumulative Conditions Intersection Levels of Service

Study Number	Intersection	Location	LOS Standard	Peak Hour	Background		Cumulative No Project		Cumulative Plus Project (Light Industrial Only)				Cumulative Plus Project - Light Industrial & Data Center					
					Avg. Delay	LOS	Avg. Delay	LOS	Avg. Delay	LOS	Incr. In Delay	Incr. In Crit. V/C	% of Project Contribution	Avg. Delay	LOS	Incr. In Delay	Incr. In Crit. V/C	% of Project Contribution
1	Zanker Road and SR 237 (North) *	San Jose	D	AM	11.2	B	12.2	B	24.0	C	18.8	0.595		15.9	B	7.5	0.417	
					PM	13.8	B	15.1	B	56.4	E	59.4	0.854	72%	22.6	C	14.8	0.658
2	Zanker Road and SR 237 (South) *	San Jose	D	AM	22.2	C	22.7	C	24.2	C	3.3	0.165		23.7	C	2.7	0.129	
					PM	14.0	B	15.5	B	36.1	D	36.0	0.466		20.8	C	11.4	0.342
3	Zanker Road and Holger Way	San Jose	D	AM	26.7	C	27.4	C	26.4	C	3.1	0.028		26.7	C	3.0	0.026	
					PM	30.5	C	30.9	C	32.1	C	3.8	0.121		31.6	C	1.0	0.051
4	Zanker Road and Baypointe Parkway	San Jose	D	AM	13.2	B	13.1	B	12.4	B	-0.2	0.079		12.6	B	-0.2	0.052	
					PM	15.1	B	14.7	B	14.0	B	0.8	0.042		14.1	B	-0.3	0.017
5	North First Street and Tasman Drive	San Jose	D	AM	35.3	D	44.5	D	44.4	D	13.2	0.215		44.5	D	13.2	0.215	
					PM	41.8	D	48.9	D	51.9	D	12.9	0.178		50.7	D	11.0	0.165
6	Zanker Road and Tasman Drive	San Jose	D	AM	41.4	D	47.0	D	64.8	E	41.5	0.173	41%	57.3	E	28.5	0.133	31%
					PM	39.7	D	41.6	D	42.3	D	5.4	0.133		42.0	D	4.9	0.123
7	Zanker Road and River Oaks Parkway	San Jose	D	AM	18.9	B	19.6	B	18.9	B	0.4	0.134		19.2	B	0.7	0.109	
					PM	18.2	B	18.1	B	17.8	B	0.0	0.146		17.8	B	0.1	0.121
8	North First Street and Montague Expressway *	San Jose	D	AM	131.6	F	169.2	F	169.6	F	67.2	0.156	8%	169.6	F	66.6	0.155	6%
					PM	105.9	F	145.6	F	149.0	F	70.7	0.175	10%	147.7	F	67.9	0.169
9	Zanker Road and Montague Expressway *	San Jose	D	AM	66.6	E	81.5	F	95.0	F	38.9	0.155	17%	89.6	F	31.7	0.139	12%
					PM	70.7	E	97.4	F	120.1	F	86.6	0.262	19%	111.4	F	73.1	0.237
10	Zanker Road and Plumeria Drive	San Jose	D	AM	25.2	C	27.5	C	27.1	C	3.2	0.143		27.2	C	3.3	0.131	
					PM	26.1	C	28.6	C	28.6	C	4.6	0.154		28.6	C	4.5	0.142
11	Trimble Road and US 101	San Jose	D	AM	28.1	C	40.1	D	42.5	D	16.8	0.067		41.6	D	15.3	0.062	
					PM	15.5	B	24.3	C	26.6	C	15.0	0.103		25.7	C	13.7	0.097
12	De La Cruz Boulevard and Trimble Road *	San Jose	D	AM	31.7	C	41.0	D	40.8	D	21.2	0.149		40.9	D	21.2	0.149	
					PM	84.0	F	105.9	F	108.7	F	38.9	0.096	6%	107.7	F	37.4	0.093
13	Orchard Parkway and Trimble Road	San Jose	D	AM	34.7	C	35.8	D	35.7	D	1.4	0.016		35.7	D	1.4	0.016	
					PM	47.3	D	52.8	D	53.0	D	0.9	0.053		52.9	D	0.9	0.053
14	North First Street and Trimble Road *	San Jose	D	AM	52.4	D	65.6	E	67.2	E	24.3	0.139	9%	66.7	E	23.5	0.136	6%
					PM	45.3	D	54.0	D	55.1	E	13.0	0.148	8%	54.7	D	12.5	0.144
15	Zanker Road and Trimble Road *	San Jose	D	AM	41.6	D	44.8	D	47.2	D	7.6	0.148		46.2	D	6.1	0.130	
					PM	44.2	D	55.3	E	57.4	E	20.9	0.163	12%	56.6	E	19.6	0.157
16	Orchard Parkway and Guadalupe Parkway	San Jose	D	AM	34.7	C	40.9	D	41.6	D	10.1	0.108		41.3	D	9.6	0.105	
					PM	39.1	D	43.6	D	44.4	D	8.3	0.091		44.1	D	7.8	0.088
17	North First Street and Charcot Avenue	San Jose	D	AM	55.6	E	86.7	F	89.1	F	52.9	0.162	7%	88.2	F	51.4	0.158	4%
					PM	41.3	D	47.1	D	47.5	D	8.3	0.137		47.4	D	8.1	0.134
18	Zanker Road and Charcot Avenue	San Jose	D	AM	43.7	D	61.8	E	65.9	E	34.7	0.198	8%	64.2	E	32.1	0.190	6%
					PM	64.0	E	103.0	F	105.6	F	69.2	0.188	7%	104.6	F	67.6	0.184
19	Zanker Road and Brokaw Road *	San Jose	D	AM	48.0	D	79.8	E	73.6	E	56.3	0.205	5%	72.7	E	54.2	0.199	3%
					PM	47.3	D	59.6	E	60.4	E	22.3	0.161	4%	60.1	E	21.8	0.160
20	Old Oakland Road and Montague Expressway *	San Jose	D	AM	100.4	F	110.6	F	112.8	F	19.0	0.384	8%	111.9	F	17.7	0.379	5%
					PM	102.2	F	116.1	F	118.3	F	25.2	0.070	7%	117.5	F	24.1	0.068
21	Trade Zone Boulevard and Montague Expressway *	San Jose	D	AM	63.8	E	66.1	E	67.0	E	5.4	0.049	8%	66.6	E	4.8	0.047	5%
					PM	64.1	E	72.6	E	73.5	E	22.0	0.063	8%	73.2	E	21.5	0.061
22	Lafayette Street and Calle De Luna	Santa Clara	D	AM	13.8	B	17.4	B	18.1	B	0.8	0.014		17.9	B	0.5	0.009	
					PM	20.3	C	19.4	B	20.2	C	0.8	0.013		19.9	B	0.5	0.008
23	Calle Del Sol and Tasman Drive	Santa Clara	D	AM	16.4	B	15.9	B	17.0	B	1.1	0.022		16.5	B	0.7	0.012	
					PM	19.0	B	19.0	B	19.2	B	0.2	0.004		19.2	B	0.1	0.002
24	Lick Mill Boulevard and Tasman Drive	Santa Clara	D	AM	34.5	C	40.1	D	40.1	D	0.0	0.001		40.1	D	0.0	0.001	
					PM	28.1	C	64.4	E	64.5	E	0.4	0.002		64.5	E	0.3	0.001
25	Lafayette Street and Montague Expressway (North)	Santa Clara	D	AM	32.5	C	46.9	D	47.0	D	0.2	0.003		47.0	D	0.1	0.002	
					PM	26.0	C	26.6	C	27.1	C	0.7	0.006		26.9	C	0.5	0.004

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Table 11 (Continued)
Cumulative Conditions Intersection Levels of Service

Study Number	Intersection	Location	LOS Standard	Peak Hour	Background		Cumulative No Project		Cumulative Plus Project (Light Industrial Only)				Cumulative Plus Project - Light Industrial & Data Center				
					Avg. Delay	LOS	Avg. Delay	LOS	Avg. Delay	LOS	Incr. In Crit. Delay	Incr. In Crit. V/C	% of Project Contribution	Avg. Delay	LOS	Incr. In Crit. Delay	Incr. In Crit. V/C
26	Lafayette Street and Montague Expressway (South)	Santa Clara	D	AM	12.6	B	13.2	B	13.1	B	-0.1	0.003		13.1	B	0.0	0.002
				PM	12.5	B	10.9	B	10.9	B	0.0	0.006		10.9	B	0.0	0.004
27	De La Cruz Boulevard and Montague Expressway *	Santa Clara	E	AM	91.7	F	174.8	F	177.9	F	1.2	0.002		176.8	F	0.9	0.001
				PM	92.7	F	154.0	F	158.9	F	2.7	0.009		157.1	F	1.7	0.006
28	Lick Mill Boulevard and Montague Expressway	Santa Clara	E	AM	16.1	B	19.6	B	19.4	B	-0.4	0.017		19.5	B	-0.2	0.011
				PM	15.3	B	25.2	C	25.5	C	0.1	0.018		25.4	C	0.1	0.011
29	De La Cruz Boulevard and Central Expressway *	Santa Clara	E	AM	75.1	E	91.6	F	91.1	F	-0.1	0.001		91.2	F	-0.1	0.001
				PM	114.0	F	136.8	F	138.6	F	0.0	0.000		137.9	F	0.0	0.000
30	I-880 SB and Calaveras Boulevard	Milpitas	D	AM	17.4	B	17.4	B	17.3	B	0.1	0.060		17.3	B	0.0	0.038
				PM	14.8	B	14.8	B	14.8	B	0.1	0.013		14.8	B	0.0	0.008
31	I-880 NB and Calaveras Boulevard	Milpitas	D	AM	14.4	B	14.4	B	18.8	B	5.0	0.092		17.0	B	3.0	0.057
				PM	25.7	C	25.9	C	26.6	C	1.0	0.017		26.3	C	0.6	0.011
32	Abbott Avenue and Calaveras Boulevard	Milpitas	D	AM	26.2	C	26.2	C	26.4	C	0.3	0.013		26.3	C	0.2	0.008
				PM	26.1	C	26.1	C	26.1	C	0.0	0.002		26.1	C	0.0	0.001
33	Serra Way and Calaveras Boulevard	Milpitas	D	AM	16.3	B	16.3	B	16.4	B	0.2	0.013		16.4	B	0.1	0.008
				PM	21.9	C	21.9	C	22.0	C	0.2	0.014		22.0	C	0.1	0.009
34	Abel Street and Calaveras Boulevard *	Milpitas	E	AM	59.6	E	62.7	E	67.0	E	7.0	0.023		65.3	E	4.3	0.014
				PM	52.1	D	55.3	E	56.9	E	2.5	0.012		56.3	E	1.6	0.008
35	Milpitas Boulevard and Calaveras Boulevard *	Milpitas	E	AM	62.1	E	69.7	E	74.2	E	6.9	0.018		72.4	E	4.2	0.011
				PM	43.4	D	44.6	D	44.8	D	0.4	0.006		44.8	D	0.3	0.004
36	McCarthy Boulevard and Tasman Drive	Milpitas	D	AM	37.6	D	49.7	D	50.8	D	1.7	0.014		50.4	D	1.0	0.009
				PM	40.7	D	48.1	D	48.5	D	0.2	0.001		48.3	D	0.1	0.001
37	I-880 and Tasman Drive	Milpitas	D	AM	26.1	C	27.0	C	27.4	C	0.7	0.008		27.2	C	0.4	0.005
				PM	22.9	C	26.9	C	26.9	C	0.0	0.000		26.9	C	0.0	0.000
38	I-880 and Great Mall Parkway	Milpitas	D	AM	49.3	D	53.3	D	54.3	D	1.3	0.008		53.9	D	0.8	0.005
				PM	31.0	C	32.6	C	32.7	C	0.0	0.008		32.7	C	0.0	0.005
39	Abel Street and Great Mall Parkway	Milpitas	D	AM	31.0	C	31.0	C	31.9	C	1.4	0.017		31.5	C	0.8	0.010
				PM	28.4	C	28.8	C	29.0	C	0.3	0.006		29.0	C	0.2	0.004
40	Alder Drive and Tasman Drive	Milpitas	D	AM	25.2	C	26.5	C	27.1	C	0.8	0.008		26.9	C	0.5	0.005
				PM	170.8	F	178.7	F	181.6	F	3.6	0.008		180.5	F	2.3	0.005
41	Mission College Boulevard and Montague Expressway *	Santa Clara	E	AM	159.4	F	202.5	F	202.7	F	0.0	0.000		202.7	F	0.0	0.000
				PM	130.1	F	194.9	F	199.2	F	6.9	0.011		197.7	F	4.4	0.007

* Denotes CMP Intersections
 Entries denoted in **bold** indicate conditions that exceed the applicable level of service standard.
Bold and boxed indicate significant project impact.

