

Final Supplemental Environmental Impact Report to the
Coleman Avenue/Autumn Street Improvement Project Final Focused
Environmental Impact Report (SCH# 2007042035) and the Downtown
Strategy 2040 Final Environmental Impact Report
(SCH# 2003042127)

Milligan Parking Lot Project

File No. ER20-049

SCH# 2003042127



April 2024

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Section 1.0 Introduction

This document, together with the Draft Supplemental Environmental Impact Report (Draft SEIR), constitutes the Final Environmental Impact Report (Final SEIR) for the Milligan Parking Lot Project.

1.1 Purpose of the Final SEIR

In conformance with the California Environmental Quality Act (CEQA) and CEQA Guidelines, this Final SEIR provides objective information regarding the environmental consequences of the proposed project. The Final SEIR also examines mitigation measures and alternatives to the project intended to reduce or eliminate significant environmental impacts. The Final SEIR is intended to be used by the City and any Responsible Agencies in making decisions regarding the project.

Pursuant to CEQA Guidelines Section 15090(a), prior to approving a project, the lead agency shall certify that:

- (1) The Final SEIR has been completed in compliance with CEQA;
- (2) The Final SEIR was presented to the decision-making body of the lead agency, and that the decision-making body reviewed and considered the information contained in the Final SEIR prior to approving the project; and
- (3) The Final SEIR reflects the lead agency's independent judgment and analysis.

1.2 Contents of the Final SEIR

CEQA Guidelines Section 15132 specify that the Final SEIR shall consist of:

- a) The Draft SEIR or a revision of the Draft;
- b) Comments and recommendations received on the Draft SEIR either verbatim or in summary;
- c) A list of persons, organizations, and public agencies commenting on the Draft SEIR;
- d) The Lead Agency's responses to significant environmental points raised in the review and consultation process; and
- e) Any other information added by the Lead Agency.

1.3 Public Review

In accordance with CEQA and the CEQA Guidelines (Public Resources Code Section 21092.5[a] and CEQA Guidelines Section 15088[b]), the City shall provide a written response to a public agency on comments made by that public agency at least 10 days prior to certifying the SEIR. The Final SEIR and all documents referenced in the Final SEIR are available for public review at the City of San José's Department of Planning, Building and Code Enforcement on weekdays during normal business hours. The Final SEIR is also available for review on the City's website:

<https://www.sanjoseca.gov/your-government/departments-offices/planning-building-code-enforcement/planning-division/environmental-planning/environmental-review/active-eirs/milligan-parking-lot-project-er20-049>.

Section 2.0 Draft SEIR Public Review Summary

The Draft SEIR for the Milligan Parking Lot project, dated June 2023, was circulated to affected public agencies and interested parties for a 45-day review period from June 2, 2023 through July 18, 2023. The City undertook the following actions to inform the public of the availability of the Draft SEIR:

- A Notice of Availability (NOA) of Draft SEIR was published in the San José Mercury News;
- Notification of the availability of the Draft SEIR was mailed to neighboring cities, organizations, and individual members of the public who had requested notice of projects in the City;
- The NOA was emailed to neighboring cities, organizations or individuals of the public who had expressed interest in the project or requested notice of projects in the City, the Historic Landmarks Commission, City Council members, and Planning Commissioners
- The NOA was sent to members of the public who signed up for City notices via Newsflash;
- The Draft SEIR was delivered to the State Clearinghouse on June 2, 2023, as well as sent to various governmental agencies, organizations, businesses, and individuals (see Section 3.0 for a list of agencies, organizations, businesses, and individuals that received the Draft SEIR); and
- The Draft SEIR was posted on the City's website (<https://www.sanjoseca.gov/your-government/departments-offices/planning-building-code-enforcement/planning-division/environmental-planning/environmental-review/active-eirs/milligan-parking-lot-project-er20-049>) and a hard copy was made available at the Martin Luther King Jr. Main Library.

Section 3.0 Draft SEIR Recipients

CEQA Guidelines Section 15086 requires that a local lead agency consult with and request comments on the Draft SEIR 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.

The following agencies received a copy of the Draft SEIR from the City or via the State Clearinghouse:

- California Air Resources Board (CARB)
- California Department of Fish and Wildlife, Bay Delta Region 3 (CDFW)
- California Department of Forestry and Fire Protection,
- California Department of Parks and Recreation
- California Department of Toxic Substances Control
- California Department of Transportation, District 4
- California Department of Transportation, Division of Aeronautics
- California Department of Transportation, Division of Transportation Planning
- California Department of Water Resources
- California Highway Patrol
- California Native American Heritage Commission
- California Natural Resources Agency
- California Office of Historic Preservation
- California Public Utilities Commission
- California Regional Water Quality Control Board, San Francisco Bay Region 2 (RWQCB)
- California State Lands Commission
- State Water Resources Control Board, Division of Water Quality

The NOA for the Draft SEIR was emailed or mailed to the following neighboring cities, interested organizations and individuals:

- Ada Marquez, San José State University
- Adina Levin, Friends of Caltrain
- Alan Leventhal, San José State University
- Amanda Brown Stevens, Greenbelt Alliance
- Andre Luthard, Preservation Action Council of San José
- Amber Blizinski, City of Sunnyvale
- Andrew Crabtree, City of Santa Clara
- Andrew Galvan, The Ohlone Indian Tribe
- Anne Christie, SPUR
- Bill Tuttle, San Jose Water Company
- Ben Aghegnehu, Santa Clara County

- Ben Leech, Preservation Action Council of San José
- Brian Schmidt, Greenbelt Alliance
- Brook Hess
- Charlene Nijmeh, Muwekma Ohlone Tribe
- California EPA
- City Council Members
- City of Campbell
- City of Cupertino
- City of Fremont
- City of Morgan Hill
- City of Palo Alto
- City of Santa Clara
- City of Saratoga
- City of Sunnyvale
- Colleen Hagerty, Santa Clara Valley Water District
- Corrina Gould, Confederated Villages of Lisjan
- Debbie Pedro, City of Saratoga
- Dee Dee Manzanares Ybarra, Rumšen Am:a Tur:ataj Ohlone
- Don Edwards San Francisco Bay National Wildlife Refuge
- Dorothy E. Talbo, Santa Clara County
- Ed Ketchum
- Edward Saum
- Elizabeth Bugarin, Metropolitan Transportation Commission
- Eric Schoennauer
- Francis Reed, City of Saratoga
- Greenbelt Alliance
- Hannah Hughes, Lozeau Drury LLP
- Henry Hilken, Bay Area Air Quality Management District (BAAQMD)
- HLC Commissioners
- Jack Broadbent, BAAQMD
- Jake Walsh, San Jose Water Company
- Jakki Kehl
- Janet Laurain, Adams Broadwell Joseph &Cardozo
- Jean Dresden
- Jennifer Carman, City of Morgan Hill
- John Davidson, City of Santa Clara
- Jonathan Lockhart, Pacific Gas & Electric Company
- Josephine Fong, BAAQMD
- Katherine Perez, North Valley Yokuts Tribe
- Kathy Sunderland
- Kelly Gibson, Santa Clara County Parks and Recreation Department
- Kenneth Woodrow, Wuksache Indian Tribe/Eshom Valley Band

- Komalpreet Toor
- kvnj@yahoo.com
- Kristin Garrison, California Department of Fish and Wildlife
- Larry Ames
- Laura Tolkoff, SPUR
- Leza Mikhail, Santa Clara County
- Mark Connolly, Santa Clara County
- Menaka Mohan, SPUR
- Michael Fossati, City of Milpitas
- Michael Lozeau
- Mike Sodergren, Preservation Action Council of San Jose
- Molly, Lozeau Drury
- Monica Arrellano, Muwekma Ohlone Tribe
- Nate LeBlanc
- Ned Thomas, City of Milpitas
- Open Space Authority
- PG&E
- Philip Crimmins, California Department of Transportation
- Planning Commissioners
- Quirina Luna Geary, Tamien Nation
- Rebe Gallardo
- Reena Brillot, City of Santa Clara
- Richard Drury
- Robert Eastwood, City of Campbell
- Santa Clara Valley Audubon Society
- Scott Hughes
- Scott Knies, San José Downtown Association
- Shani Kleinhaus, Santa Clara Valley Audubon Society
- Sophie, Lozeau Drury
- Stephanie Richburg, Thomas Law
- Timothy Perez, North Valley Yokuts Tribe
- Trudi Ryan, City of Sunnyvale
- Valentin Lopez, Amah Mutsun Tribal Band
- Wally Charles, Association of Bay Area Governments

Section 4.0 Responses to Draft SEIR Comments

In accordance with CEQA Guidelines Section 15088, this document includes written responses to comments received by the City of San José on the Draft SEIR.

Comments are organized under headings containing the source of the letter and its date. The specific comments from each of the letters and/or emails are presented with each response to that specific comment directly following. Copies of the letters and emails received by the City of San José are included in their entirety in Appendix A of this document. Comments received on the Draft SEIR are listed below.

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Regional and Local Agencies

A. Santa Clara Valley Water District (dated July 18, 2023)

Comment A.1: Valley Water has reviewed the Draft Supplemental Environmental Impact Report (DSEIR) for the Milligan Parking Lot Project located at the corner of W. St. John Street and N. Autumn Street, received by Valley Water on June 2, 2023.

The Guadalupe River runs along the easterly property line and Valley Water has an easement and fee title property directly adjacent to the project site. Per Valley Water's Water Resources Protection Ordinance, any work proposed on Valley Water's easement, fee title property or that may impact the Valley Water facilities, including the Guadalupe River, will require the issuance of a Valley Water encroachment permit prior to the start of construction. Additionally, as the issuance of an encroachment permit is a discretionary act, Valley Water will be considered a responsible agency under California Environmental Quality Act (CEQA) if a permit is required.

Response A.1: Comment A.1 notes the Santa Clara Valley Water District (Valley Water) has an easement and fee title property adjacent to the project site. Section 3.2 Biological Resources, Page 58, of the Draft SEIR has been updated to clarify that the modifications within Valley Water property or easements would require an encroachment permit from Valley Water prior to construction and would be subject to the Water Resources Protection Ordinance (see Section 5.0 Draft SEIR Text Revisions of the Final SEIR). Section 3.2 Biological Resources of the Draft SEIR, under Section 3.2.1.1 Regulatory Framework on page 35, has been updated to include a description of Valley Water's Water Protection Ordinance. The City acknowledges Valley Water would be considered a Responsible Agency under CEQA if a permit is required. Based on information in existing title reports, the project does not propose any work within Valley Water easements (adjacent to the site). The comment does not question the adequacy of the Draft SEIR analysis, and the above clarifications do not change the conclusions of the Draft SEIR. Therefore, this comment does not provide new information that would change the analysis already disclosed in the Draft SEIR.

Comment A.2: Based on our review of the DSEIR, we have the following comments:

1. Section 2.2.1 on pages 9 and 12, MM BIO-3.3 on pages 55 and 58, and Section 3.6.2.1 (c) on page 118 mention a 600-foot future Guadalupe River Trail extension to be constructed between the proposed parking lot and the Guadalupe River. This alignment would place the future trail extension within Valley Water's fee title property and easement. Continued development of the trail system along the river will require close coordination with Valley Water to avoid impacts to the flood control improvements, mitigation areas, the riparian corridor, and creek hydraulics. The DSEIR should note that any new trails will require a Valley Water permit as well as a joint use agreement in addition to permits for the use of Valley Water property or easement.

Improvements to the existing trails adjacent to the site may require an amendment of an existing joint-use agreement.

Response A.2: Comment A.2 notes the future trail, which would be located between the Guadalupe River and the proposed parking lot, would be located within Valley Water's fee title property and easement. Page 58 of the Draft SEIR has been updated to note development of the future trail will require a Valley Water permit as well as a joint use agreement in addition to permits for the use of Valley Water property or easement (see Section 5.0 Draft SEIR Text Revisions of this Final SEIR). Improvements to adjacent trails are not a part of the project; any improvements to adjacent trails would require additional environmental review under CEQA. The above clarifications do not change the conclusions of the Draft SEIR or raise any issues about the adequacy of the Draft SEIR.

Comment A.3: 2. Section 3.2.1.2 on page 41, references Figure 3.3-1 which does not appear to exist in the document. The text needs to be revised to reference the correct figure.

Response A.3: The reference to Figure 3.3-1 on page 41 of the Draft SEIR is a typographical error and has been updated to reference Figure 3.2-1 Land Cover and Riparian Setbacks on page 40 of the Draft SEIR (see Section 5.0 Draft SEIR Text Revisions of this Final SEIR). This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft EIR.

Comment A.4: 3. It is unclear if some of the 28 trees identified in Figure 3.2-2 on page 46 are within Valley Water's fee title property and easement directly adjacent to the project site. Section 3.2.2.1 (e) on page 60, notes that there are a total of 28 trees on or adjacent to the site and that all 28 trees would be removed during project construction. Valley Water has fee title property and easement immediately adjacent to the project site. As noted above, any work proposed on Valley Water's easement, fee title property, or that may impact the Valley Water facilities, including the Guadalupe River, will require the issuance of a Valley Water encroachment permit prior to the start of construction.

Response A.4: As noted in Response A.1, the project is not proposing to remove any trees within the Valley Water jurisdiction (which is within 50 feet of the edge of the Guadalupe River) adjacent to the site. This clarification and a Tree Disposition Plan Figure showing the trees to be removed (refer to Figure 3.2-3 in Appendix B Supporting Documentation of this Final EIR), have been noted on page 60 of the Draft SEIR (see Section 5.0 Draft SEIR Text Revisions of the Final SEIR).

Comment A.5: 4. MM BIO-3.3 on page 55, refers to the Guidelines & Standards for Land Use Near Streams (Guidelines and Standards) as a Valley Water document. The Guidelines and Standards were developed cooperatively by the Santa Clara Valley Water Resources Protection Collaborative (Collaborative) to streamline the permitting process and to protect streams and streamside resources. The members of the Collaborative include Valley Water, Santa Clara County, and all 15

cities with citizens, business, and agricultural interests. Valley Water uses its Water Resources Protection Manual which is based on the Guidelines and Standards as the primary method to protect the county's creeks where a permit is necessary from Valley Water. The text under this section needs to be revised to correctly reference the Collaborative who developed the document.

Response A.5: In response to Comment A.5, mitigation measure MM BIO-3.3 text has been updated to reference the Santa Clara Valley Water Resources Protection Collaborative (Collaborative) as the author of the Guidelines and Standards for Land Use Near Streams (Guidelines and Standards). See Section 5.0 Draft SEIR Text Revisions of this Final SEIR. This revision is a clarification regarding the author of the Guidelines and Standards and does not change the conclusions of the Draft SEIR.

Comment A.6: 5. MM BIO-C-4.3 on page 65, under Off-site Mitigation it is noted that if adequate riparian habitat mitigation cannot be restored on-site, the riparian habitat will be enhanced or restored to native habitat along the immediately adjacent riparian corridor. As noted above, Valley Water's fee title property and easement are immediately adjacent to the project site. Valley Water does not allow mitigation for non-Valley Water projects on Valley Water property due to the significant mitigation needs of Valley Water. It should also be noted that all proposed plantings within Valley Water's easement are subject to review and approval by Valley Water.

Response A.6: Mitigation measure MM BIO-C-4.3 on page 65 of the Draft SEIR has been updated to note restoration/enhancement activities immediately adjacent to the riparian corridor (within the Valley Water's fee title property and easement) would require coordination with and approval by Valley Water (see Section 5.0 Draft SEIR). As noted, in Responses A.1 and A.4, the City has reviewed the project site's title reports and determined there are no Valley Water easements on the project site. The project would not require habitat restoration within the Valley Water easement adjacent to the project site as no work is proposed off-site. [This clarification to the mitigation does not change the conclusions of the Draft SEIR analysis.

Comment A.7: 6. Section 3.6.1.1 on page 111, the discussion under Municipal Regional Permit Provision C.3, should note that the Regional Water Quality Control Board (RWQCB) re-issued the Municipal Regional Stormwater NPDES Permit on May 11, 2022 (Order No. R2-2022-0018, NPDES Permit No. CAS612008) which became effective July 1, 2023.

Response A.7: The text in Section 3.6 Hydrology and Water, Regulatory Framework, Page 111 of the Draft SEIR has been updated to note the San Francisco Bay Regional Water Quality Control Board (RWQCB) re-issued the Municipal Regional Stormwater National Pollutant Discharge Elimination System Permit (MRP) in May 2022, which became effective July 1, 2022. The Notice of Preparation of the Draft SEIR was issued August 23, 2021, prior to the effective date the MRP was reissued. However, the project would comply with the most recent MRP provisions.

The text under Impact a), page 117 of the Draft SEIR, has been revised to include the updated C.3 provision which requires new and redevelopment projects that create or replace 5,000 square feet or more of impervious surface area to implement site design, source control, and Low Impact Development (LID)-based stormwater treatment controls to treat post-construction stormwater runoff. The previous provision required new and redevelopment projects that create or replace 10,000 square feet or more of impervious surface area to meet the above requirements. The project would replace 95,000 square feet of impervious surface and, therefore, would continue to be subject to C.3 requirements. As stated under Impact a), page 117 of the SEIR, with the implementation of the Conditions of Approval for post-construction water quality impacts and compliance with the requirements of the MRP, the proposed project would have a less than significant impact on post-construction water quality. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft SEIR.

Comment A.8: 7. Section 3.6.1.1 on page 111, Valley Water should be included in the discussion under Regional and Local Agencies since Valley Water operates as the County's flood control agency and wholesale water supplier. The language used to describe Valley Water's Water Resources Protection Ordinance and Well Ordinance should include the following text:

“Valley Water operates as the flood protection agency for Santa Clara County. Valley Water also provides stream stewardship and is the wholesale water supplier throughout the county, which includes the groundwater recharge program. In accordance with Valley Water’s Water Resources Protection Ordinance, any work within Valley Water's fee title right of way or easement or work that impacts Valley Water facilities requires the issuance of a Valley Water permit. Under Valley Water’s Well Ordinance 90-1, permits are required for any boring, drilling, deepening, refurbishing, or destroying a water well, cathodic protection well, observation well, monitoring well, exploratory boring (45 feet or deeper), or other deep excavation that intersects the groundwater aquifers of Santa Clara County.”

Response A.8: Section 3.6.Hydrology and Water Quality, Regulatory Framework, page 111 of the Draft SEIR has been updated to include the description of the Valley Water’s Water Resources Protection Ordinance and Well Ordinance 90-1 referenced in Comment A.8 (refer to Section 5.0 Draft SEIR Text Revisions of this Final SEIR). This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft SEIR.

Comment A.9: 8. Section 3.6.1.2 on page 115 and Section 3.6.2.1 (d) on page 119, the DSEIR should be revised for accuracy to note that in addition to the Leroy Anderson Dam, the project site is also subject to inundation from the James J. Lenihan Dam and the Calero Dam.

Response A.9: Section 3.6.1.2 on page 115 and Section 3.6.2.1, checklist question d) on page 119 of the Draft SEIR, have been updated to note the site is subject to inundation from the Lenihan Dam at a depth ranging from five to

10 feet, and the Calero Dam at a depth of one to two feet (in addition to Anderson Dam at a depth of two to five feet. These updates would not change the conclusion that the risk of the project's release of pollutants due to inundation would be less than significant. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft SEIR.

Comment A.10: 9. Section 3.6.2.1 (d) on page 119, the discussion under this section should also include the easterly portion of the site that is within Zone A, a Special Flood Hazard Area (SFHA) subject to inundation in the event of the one percent annual chance flood.

Response A.10: Section 3.6 Hydrology and Water Quality, page 114 of the Draft SEIR states that a small portion of the site, located on the eastern edge within the 35-foot Guadalupe River riparian setback area, is designated Flood Zone A, which is defined as a Special Flood Hazard Area subject to inundation in the event of the one percent annual chance flood (100-year flood). As stated under checklist question c), page 118 of the Draft SEIR, the proposed parking lot would be located within the Zone D, which is not a Specific Flood Hazard area. The future trail would be located within Zone A; however, supplemental environmental review (including a hydrologic analysis) would be required prior to development approval of the future trail. Text revisions have been made under checklist d) (page 119 of the Draft SEIR) to clarify that the eastern edge of the site (east of the proposed parking lot area and west of the Guadalupe River) is located in Zone A. The project would not store hazardous materials in the flood area and, therefore, the new less than significant impact conclusion is the same as identified in the Draft SEIR. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft SEIR.

Comment A.11: 10. Valley Water records indicate there is one (1) active well on the proposed project site (APN 259-29-102). If the current active well will continue to be used following the development of the site, it must be protected so that it does not become lost or damaged during construction. If the well will not be used following the development of the site, it must be properly destroyed by first obtaining a well permit from Valley Water. It should be noted that while Valley Water has records for most wells located in the County, it is always possible that a well exists that is not in Valley Water records. All wells found at the site must be either destroyed or registered with Valley Water as noted above. Property owners or their representatives should call the Wells and Water Measurement Unit at (408) 630-2660 for more information regarding well permits and registration for the destruction of wells.

Response A.11: Section 3.5 Hazards and Hazardous Materials, Page 100 of the Draft SEIR noted there was a network of groundwater monitoring and soil vapor extraction wells installed on the 150 North Autumn Street property (APN 259-29-102) in the 1990s. The text on page 100 has been updated to note there is one existing well on-site, which is not in use. Based on the above comment, Valley

Water's records indicate the existing on-site well is active. The City will coordinate with Valley Water to ensure the records regarding the well on-site, which is not in use, are accurate. Section 3.5, Page 104, mitigation measure MM-HAZ-1.1 states that a Site Management Plan must include proper procedures, as needed, for demolition of existing structures, including any groundwater wells if identified to be present within the project area. Page 104 of the Draft SEIR has been updated to include a condition of approval which states the existing inactive well on-site shall be properly destroyed by first obtaining a well permit from Valley Water. The above updates to the Draft SEIR do not change the less than significant Impact with mitigation incorporated conclusion related to the release of hazardous materials (checklist question b), page 103 of the Draft SEIR). This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft SEIR.

Organizations, Businesses, and Individuals

B. Guadalupe River Park Conservancy (dated July 18, 2023)

Comment B.1: The Guadalupe River Park Conservancy (GRPC) submits this letter providing commentary on the Milligan Lot Draft SEIR from the context of stewards of one of San Jose’s urban parks, the Guadalupe River Park and Gardens. We thank you for the opportunity to comment on this SEIR, and we hope that you will take into consideration our concerns for the Guadalupe River and its associated riparian corridor. We recognize the cultural, ecological, and economic importance of rivers and riparian corridors (especially in urban environments such as San Jose) and we hope that the utmost protections will be applied to the Guadalupe River and adjacent lands to help ensure that this valuable amenity remains in the highest possible quality for years to come.

Response B.1: Comment B.1 states the intent of the comment letter and does not question the adequacy of the Draft SEIR analysis. Therefore, no further response is required.

Comment B.2: Below are report comments for consideration:

- We oppose the Milligan surface parking lot project that places surface parking adjacent to the Guadalupe River. This project would be contrary to many goals set forth by the Downtown Transportation Plan, and the mention of a potential future trail is an insufficient commitment. We encourage reviewing recommendations outlined in the Guadalupe River Park & Gardens Urban Design Guidelines that was approved by the Redevelopment Agency and City Council in 2003.

Response B.2: Comment B.2 does not question the adequacy of the Draft SEIR analysis. The proposed project would be a temporary parking lot serving existing uses (i.e., SAP Center) and would not conflict with the Downtown Transportation Plan. Specifically, its intended use as a 300-space parking lot was identified in S7 under Strategy 15 of the Downtown Transportation Plan. As described on page 9 of the Draft SEIR, a 600-foot-long future pedestrian trail or Class I paved bicycle and pedestrian trail would be constructed within the 35-foot setback area located between the proposed parking lot and the Guadalupe River. As stated on page 12 of the Draft SEIR, detailed site plans of the future trail are not available at this time as additional trail planning is required and, therefore, the trail is evaluated at a program-level in the Draft SEIR. Supplemental environmental review will be required for the future trail, at the time detailed plans are available and prior to the City’s approval of the trail. The future trail would comply with the Guadalupe River Park and Gardens Urban Design Guidelines. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft SEIR.

Comment B.3:

- San Jose’s Downtown Transportation Plan emphasizes a vision to make walking and cycling trips safe, comfortable, and connecting in order to ensure that localized trips are completed via active transportation modes whenever possible. Strategy 8 of the Downtown Transportation Plan places emphasis on creating additional car-free connections across Downtown in order to support the goal of having transit, walking, biking, and micromobility trips constituting 50% of trips taken within the Downtown Core. The installation of the trail connector as outlined in the draft SEIR for the Milligan Lot project serves as a critical nexus to ensure that this project is in alignment with other work already being undertaken by the City of San Jose. The trail connector along the existing Guadalupe River Trail Network should therefore be a high-priority component of the Milligan Lot Project should it proceed, as it is the component of this project that is the most conducive to various other goals generated by the City of San Jose’s Downtown Transportation Plan.
 - Given the alignment of the trail component of this project with the goals associated with the Downtown Transportation Plan as well as various other city goals pertaining to emissions and climate protection, we request that should the Milligan Parking Lot Project proceed that there be a firm commitment to build the trail within the project, not simply a suggestion for future development. We also request that this project prioritizes the development of a high-quality trail first (with appropriate setbacks and plantings) and then configure parking in the remaining area.

Response B3. As stated in Response B.2, a future pedestrian trail or Class I paved bicycle and pedestrian trail would be constructed within the 35-foot setback area located between the proposed parking lot and the Guadalupe River. A feasibility study for the trail, which includes an analysis of sound wall impacts and ADA accessibility was completed for City review in mid-March 2024 and will be available early summer of 2024 for review on the City’s website at <https://www.sanjoseca.gov/Home/Components/FacilityDirectory/FacilityDirectory/2985/2058> . With completion of the feasibility study, City staff will begin the Master Planning and the appropriate CEQA for the entirety of the trail. The timing of the final design and construction of this trail is unknown and will include community involvement and coordination with advocates during the master planning process. Therefore, the City is unable to commit to developing the trail prior to construction of the proposed parking lot as the visioning and design process is still under way. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft SEIR.

Comment B.4:

- In light of recent changes to the timeline of the Downtown West Project, and the progress of other nearby developments that will increase parking supply, the development of the Milligan Parking Lot may not be a necessary step in order to meet the parking minimum for the SAP Center. The approvals process for the Milligan Parking Lot Project should be paused until construction begins on the other parking lots within a third of a mile of the SAP Center.

Response B.4: Under the Arena Management Agreement (AMA), the City is required to provide 6,350 parking spaces within one-half mile of the SAP Center, with half of the spaces (3,175 spaces) within one third of a mile of the SAP Center. The AMA established the timing required to meet the parking requirements and the City is currently three years behind schedule.

The Milligan Parking Lot Project would add over 182 parking spaces which would be within one third of a mile of the SAP center. This project would help replace parking spaces lost as a result of development in Downtown including spaces within Lot D, which is proposed for the development of the BART Silicon Valley Project (see Figure 2.2-1 in the Draft SEIR). While many developments are on hold, the Milligan Parking Lot project would replace parking currently set aside for the SAP Center in the AMA which would be removed as part of the BART Silicon Valley Project¹. Phase II of this project will start construction in 2024 with completion scheduled for 2033. The proposed parking at the Milligan site would remain in operation at least until the BART service to Diridon Station Area Plan area is operational or Google has constructed a minimum of 500 parking spaces. Availability of new parking on the Milligan Parking lot site will ensure parking aligns with the obligations of the AMA. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft SEIR.

Comment B.5:

- In the event that additional parking is created within the boundaries associated with the City of San Jose’s parking obligation agreement with SAP Center, the parking component of the Milligan Lot Development should be canceled in its entirety. This additional parking may be realized by upcoming developments in the near future, such as via the development of the Platform 16 project.

Response B.5: As discussed on pages 2 and 9 of the Draft SEIR, the Milligan Parking Lot project is intended to be a temporary parking lot. Per the AMA, the City’s obligation for parking will cease once the BART service to Diridon Station area is operational or Google has constructed a minimum of 500 parking spaces (as discussed in Response B.4). As noted on page 2 of the Draft SEIR, after the surface parking is no longer needed, it is anticipated the site would be redeveloped with the roadway improvements envisioned in the Coleman Avenue/Autumn Street EIR. The site could also be redeveloped with future commercial development under the Downtown Strategy 2040. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft SEIR.

¹ Santa Clara Valley Transportation Authority. VTA’s BART Silicon Valley Phase II. Accessed February 21, 2024. <https://www.vta.org/projects/bart-sv/phase-ii#accordion-when-will-construction-start->.

Comment B.6:

- We implore the City of San Jose to prioritize high-value land uses in place of the Milligan Parking Project. Such high value land uses may include the preservation of natural resources along the Guadalupe River and its associated riparian corridor, park activation, historic preservation, improved park stewardship capacity, and quality streetscaping and trail infrastructure.

Response B.6: Comment B.6 does not question the adequacy of the Draft SEIR analysis. Comment B.6 suggests the City should replace the proposed parking lot with other land uses such as uses that preserve natural resources along the Guadalupe River and its associated riparian corridor, include active parks, and preserve historic resources. As discussed on pages 54 and 55 of the Draft SEIR, the project would include mitigation measures MM BIO3-.1 and MM BIO-3.2 that would protect riparian trees and habitat. As described in the Draft SEIR on page 87, the project would result in a significant and unavoidable impact to Cultural Resources due to the demolition of the Forman’s Arena. A portion of the site is envisioned for a future 600-foot long trail that would be integrated into the future Guadalupe River trail system and would improve trail infrastructure. As described in Response B.3 above, the future trail requires further planning and environmental review. his comment does not provide new information that would change the analysis or conclusions disclosed in the Draft SEIR.

Comment B.7:

- As denoted by Management Measure BIO-3.2, this project aims to minimize impacts to riparian trees and habitat during and post construction, however it is denoted that the primary measure being implored to revegetation would be implementation of native or sterile non-native trees. Older trees are critical to the health and well-being of riparian ecosystems given that they shade river waters to keep them at optimum temperatures for fish/aquatic organisms, provide habitat for terrestrial species and avian species, and perform various ecosystem services that become exponentially more beneficial with later succession canopies. Tree replacements on-site in association with the Milligan lot should include older trees and trees closer to maturation, so as to promote faster regeneration of the ecosystem benefits associated with the trees removed with this project; furthermore, tree maintenance should be added into the scope of this project to ensure higher survival rates of the replanted trees. Emphasis should continue to be placed on maintaining the trees that exist on site, as existing trees require less establishment costs and are already generating the quality ecosystem services that would otherwise need to be replaced by new trees. Should existing mature trees cannot remain on-site, the project should prioritize relocation of those trees along the Guadalupe River in addition to replacing them on-site.

Response B.7: Mitigation Measure MM BIO-3.2 (on page 55 of the Draft SEIR) includes measures to avoid impacts to riparian trees and habitat during and post-construction. The commenter notes an emphasis should continue to be placed on maintaining existing trees on-site. Mitigation Measure MM BIO-3.2 states the removal of riparian vegetation and trees shall be limited to the minimum extent required to construct the project. Given the high cost of tree relocation, it is not

feasible for the project to relocate trees along the Guadalupe River. Based on the conclusions in the Biological Resources Report in Appendix C of the Draft SEIR, the implementation of Mitigation Measures MM BIO-3.1 (which ensures protection of riparian trees and habitat during construction) and MM BIO-3.2 would be sufficient to reduce the project's impacts to riparian trees and habitat to less than significant. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft SEIR.

Comment B.8:

- Management Measure BIO-C-4.1 suggests the potential for mitigating disturbed riparian habitat with off-site habitat restoration at a 1:1 ratio, noting that this action would have a less than significant impact with mitigation measures incorporated. While a singular off-set onset may result in a less than significant impact to the Guadalupe River and its associated riparian corridor, it is critical to note that the Milligan Lot development is not a project occurring in isolation along the Guadalupe River. A ratio of 2:1 restoration to impact acreage should be considered, and that this work be done in close proximity to the site and along the Guadalupe River watershed.
 - While Section 14130(b)(3) of CEQA guidelines states that the lead agency for any given project should define the geographic scope of the areas being affected by the cumulative effect of projects, the geographic considerations in cumulative analysis for this project's biological resources area is ill-defined as "project site and adjacent parcels", which is in opposition of the interconnectedness of riparian ecosystems. Given the inherent and undeniable interconnectedness associated with the Guadalupe River system as a whole, arbitrarily defining "biological resource impacts" to a cluster of parcels creates a mechanism for the Guadalupe River ecosystem to be irreversibly damaged while still being deemed environmentally compliant. This definition of biological resource areas is therefore insufficient.

Response B.8: Based on the Appendix C, Biological Resources Report of the Draft SEIR, a 1:1 (restored area: impacted area) ratio is sufficient to mitigate native riparian tree and shrub habitat impacts. As described on page 68 of the Draft SEIR's Appendix C, a higher mitigation ratio is not required because 1) no substantial indirect effects on riparian corridor (e.g., due to shading or building construction) will occur, 2) the project will remove existing buildings within the 100-foot setback which benefits riparian bird communities, and 3) the project will pay Habitat Plan fees for impacts on riparian trees. Therefore, a 2:1 restoration to impact ratio for native riparian and shrub habitat is not required. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft SEIR.

Comment B.9:

- Management Measure BIO-C-4.2 outlines an on-site mitigation and maintenance plan to help ensure that restored habitats along the Guadalupe River Park result in no net loss of habitat function and values. It is noted that monitoring of the restored habitat shall be implemented by

the City of San Jose and that these monitoring efforts will continue post-construction for 10 years or more. It is critical that this monitoring be held at high priority through the decade of its tenure, and it is invaluable that entities such as ours who serve as additional stewards of the Guadalupe River and associated riparian corridor have contact with the entities responsible for oversight in order to ensure accountability in this restoration process.

Response B.9: As described in Mitigation Measure BIO C-4.2 (pages 64 and 65 of the Draft SEIR) and the project’s Mitigation, Monitoring, and Reporting Program (MMRP), monitoring of the restored habitat will be implemented by the City for 10 years (or more) after construction. The City acknowledges the importance of monitoring and will ensure this mitigation measure is implemented. The Guadalupe River Park Conservancy and other agencies can contact the City’s Department of Planning, Building and Code Enforcement, Planning Division (the Department which will provide oversight for this mitigation) with any questions regarding the implementation of the MMRP. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft SEIR

Comment B.10:

- As demonstrated by Figure 3.2-1 on Page 40 of the Supplemental Environmental Impact Report, the Milligan Parking Lot Project fails to meet the 35-foot Habitat Plan Minimum Setback for Previously Developed Areas. This raises significant concerns for the future of development along the City’s critical waterways, and we do encourage you to respect the minimum setbacks designations under the Habitat Plan.

Response B.10: The City submitted a request to the Santa Clara Valley Habitat Agency (Habitat Agency) to review the proposed exception to the Santa Clara Valley Habitat Plan’s 100-foot setback from the top of bank requirement (which includes approval of a 35-foot setback from the previously developed areas of the site). The Habitat Agency determined the existing development on-site within the stream setback already reduces the depth of quality of the riparian habitat along the Guadalupe River and the degraded conditions of the site. The Habitat Agency determined that 1) meeting the 100-foot setback requirement would result in a portion of the site being unavailable for economic use by the applicant, and 2) that the applicant demonstrated a need for the site to occupy most of the existing development footprint. Because the project proposes to construct a permeable paver parking lot and remove existing pavement and structures from inside the minimum 35-foot setback, which would help offset the project’s impacts, the Habitat Agency approved a reduced stream setback of up to 35 feet from the edge of riparian for the parking lot redevelopment. The above determinations and approval are in the Santa Clara Valley Habitat Plan Conditions 11 Exception Request dated June 21, 2023 and, included in Appendix B of this Final SEIR. Final approval of the Santa Clara Valley Habitat Plan exception would be made by City Council upon approval of the project. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft SEIR.

C. Ames, Dr. Lawrence (dated July 17, 2023)

Comment C.1: In response to the Notice of Preparation (NOP) of a Draft Supplemental Environmental Impact Report (DSEIR) on "the Milligan Parking Lot Project," File No. ER20-049, in September of 2021 I wrote to Thai- Chau Lee, Environmental Project Manager. I wrote as a private citizen to give comments that fell into four broad categories: site considerations, riparian setbacks, transportation, and historic resources. I write to you now regarding the DSEIR itself, again as a private citizen and again on the four categories.

Site Considerations

I'd like to repeat some of my questions from the NOP:

- Is the planned parking lot consistent with the plans worked out with the Diridon Station Area Advisory Group (SAAG), and with the City-adopted Diridon Station Area Plan (DSAP) and the Downtown West Design Standards and Guidelines (DWDSG)?
- Does a walled-in surface parking lot make an area more livable, walkable, and/or vibrant?
- Does the City consider a surface parking lot to be "the highest and best use" of this site? Or is this a "temporary place-holding" proposal, and, if so, for what and for how long?
- What are the impacts to the future BART and potential High Speed Rail of having the nearby 2.5 acres used for surface parking rather than for high-density housing, commercial, or passenger-generating attractions? Will these impacts be considered in the Vehicle Miles Traveled (VMT) Analysis?

Response C.1: Comment C.1 does not question the adequacy of the Draft SEIR analysis. The referenced NOP letter is included in Appendix A of the Draft SEIR. The proposed parking lot would be located within the Downtown Strategy 2040 Plan area and the Diridon Station Area Plan (DSAP) area. The project is consistent with the DSAP goals, listed in Section 4.5 Parking and Transportation Demand Management Plan, to provide sufficient parking for SAP Center customers. The project site is not located within the Downtown West Plan area and is, therefore, not required to comply with the Downtown West Design Standards and Guidelines (DWDSG). The purpose of the SAAG was to provide input to the City Administration on land use, development, transportation, and construction plans affecting the Diridon Station Area, including input on the Amendment to the DSAP adopted in 2021. Based on the Initial Study/Addendum to the Downtown Strategy 2040 Environmental Impact Report (to amend the DSAP), the Milligan site is designated as Commercial Downtown with an Outer Safety Zone Overlay. The proposed Milligan Parking Lot was committed to by the City in its 2018 Settlement Agreement with Sharks Sports and Entertainment. As stated in pages 2 and 9 of the Draft SEIR, the proposed parking at the site would be temporary and would stop operations once BART service to Diridon Station is operational (which is estimated to be in 2033) or Google has constructed a minimum of 500 parking spaces. The Milligan site could then be redeveloped with commercial uses consistent with the DSAP (amended in 2021) and the Downtown Strategy 2040. Future uses of the site could include office, hotel, retail, service, and entertainment uses. The project does not propose to

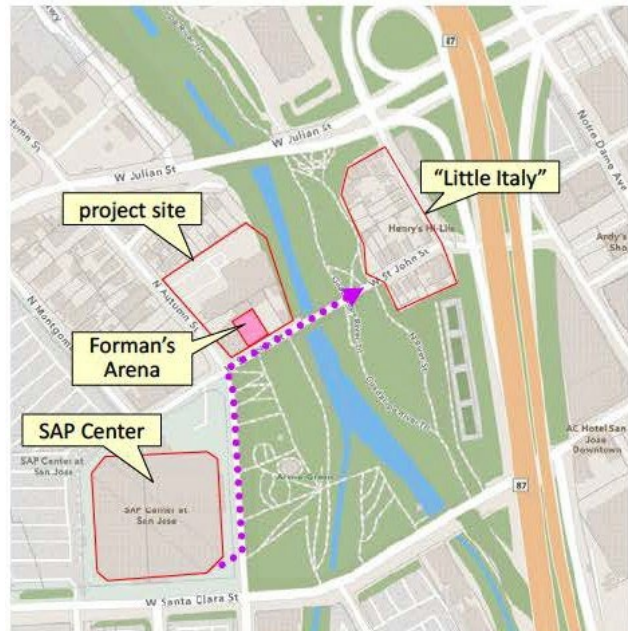
construct a wall around the surface parking lot. Sidewalks along West St. John Street and Autumn Parkway would be replaced to improve the walkability of the area.

As discussed on page 128 of the Draft SEIR, since the proposed project would replace existing parking (which will ultimately be replaced by planned development), the project would not add trips to the area and would have a less than significant VMT impact.

The nearest segment of the HSR alignment is 0.2 miles west of the project site. The purpose of CEQA is to inform decision makers and the public about the potential environmental impacts of proposed projects, and to reduce those environmental impacts to the extent feasible. Cumulative effects, which refer to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts. The Milligan Parking Lot project is proposed to be constructed and start operations by 2025. The HSR (San Francisco to San José segment) project is not estimated to start construction by 2025 and, therefore, the Milligan project would not combine impacts with the HSR project. As a result, it is not required for the HSR project to be analyzed as a part of the Draft SEIR cumulative analysis. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft SEIR.

Comment C.2: I would like to add the observation that, as is apparent in the diagram, the project site is on the direct path taken by patrons of the SAP Center who walk over to the "Little Italy" entertainment district after an event. Accordingly, I would like to also ask the following questions:

- Will the sidewalk in front of the project on the north side of St. John St. be improved so as to be inviting to pedestrians? Will it be wide enough to accommodate street vendors and food carts to help "activate" the street and make it a "vibrant" area?
- Will whatever wall, fencing, or other facade facing St. John St. be compatible with the planned activated, vibrant area?
- Can the Forman's Arena, which faces St. John St., be preserved, stabilized, and opened to the public on event nights to add to the vibrancy of the area?



Response C.2: Comment C.2 does not question the adequacy of the Draft SEIR analysis. The project would replace pavement on sidewalks along the North Autumn Street and West St. John Street project frontage. The sidewalks would be 9.5 feet in

width (which is the same as the existing width), in compliance with City of San José standards. The sidewalks would be wide enough to accommodate pedestrians and interested vendors. The vendors would be required to comply with the City's standard street vending permitting requirements. No fencing along West St. John Street is proposed as a part of the project.

An alternative to retain the Forman's Arena building and utilize it for parking is analyzed in Section 7.4.2.2 of the Draft SEIR. The City is not considering the use of the building for public events since the lot has been identified and planned as a temporary parking lot and then for use in the future road widening. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft SEIR.

Comment C.3: Riparian Setback

I'm pleased to see that the plans have been modified from the earlier NOP version and now incorporate a setback for the riparian corridor, along with its restoration.

- Who will maintain the setback area, both during its establishment phase and long term: the City, the Sharks, or the Water District?
- The DSEIR has several sections on the control of "invasive non-native species," even including the washing of "ground disturbing equipment" to avoid the spread of invasive species. Given that this project is for a public parking lot, how will the project be designed to protect the riparian habitat area against the spread of invasive species once the project is opened to the public? Will rainwater that might wash seeds from parked vehicles be collected and filtered prior to discharge into the stream?

Response C.3: This comment does not question the Draft SEIR analysis. As discussed in Section 2.2 Project Description, page 9 of the Draft SEIR, the project would be setback a minimum of 35 feet from the riparian corridor, which is consistent with the Habitat Agency exception to the 100-foot setback requirement for the majority of the site. A setback exception will be required for the portion of California annual grassland setback of 35 feet in lieu of 50 feet, as described on page 57 of the Draft SEIR. The City of San José will maintain the city-owned setback area during project operations except for the areas that are under the authority of other local and federal agencies. In general, the project site would be maintained by the Department of Transportation and Department of Parks and Recreation and Neighborhood Services; the maintenance could be carried out by a third party contractor to the City.

As described in Mitigation Measure MM BIO-C-4.2, on pages 64 and 65 of the Draft SEIR, monitoring of the restored habitat within the riparian corridor will be implemented by the City and continue post-construction as indicated in the Riparian Setback Enhancement and Monitoring Plan (RSEP) for 10 years or greater. The City has no programs in place to manage the spread of invasive species beyond this period. The stormwater on-site would be treated and filter through the project's

pervious pavement; which would not result in the spread of non-invasive species. The implementation of Mitigation Measure BIO-C-4.2 would be adequate to reduce the impacts from the spread of invasive species during project operations. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft SEIR.

Comment C.4: Transportation

I'm also pleased to see that the plans have been modified from the earlier NOP version to now include the construction of a segment of the Guadalupe River Trail: "A 600-foot-long future pedestrian trail or Class I paved bicycle and pedestrian trail would be constructed within the 35-foot setback area..."

- This trail segment will serve to connect the Los Gatos Creek Trail to the Guadalupe River Trail and is a key connection in the region's trail network. If the trail is limited to pedestrians only, how would cyclists make the connection? (There were once plans for the connection to be made by on-street bike lanes on a future Autumn Parkway extension, but I understand those plans have been dropped.) The trail segment here is critical for recreational and commuter cyclists alike as it connects residential areas to Downtown, the Diridon area, the airport, employment districts in north San Jose, and the Alviso Baylands.
- Given its central location and proximity to numerous attractions and amenities, I would imagine that the trail will be well used. Is "12 feet wide, with two-foot-wide shoulders" adequate? Should the shoulders be wider so as better handle the anticipated usage and also to help alleviate pedestrian/cyclist interactions?
- A well-designed trail is a joy to use. Please involve the various user communities in the design process so as to avoid hazards such as blind curves and sharp turns.
- Please construct the trail to high standards, with an appropriate base and pavement and with other appropriate measures to reduce settling or tree-root intrusion so that the trail will last for years with minimal maintenance.

Response C.4: Comment C.4 does not question the adequacy of the Draft SEIR analysis. The City envisions a Class 1 Multi-Use trail for all users. The trail is in its early stages of development, but the City hopes that would be wider than 12 feet with two-foot shoulders. The trail will likely have a "fall zone" as well that is clear of obstructions. See Response B.6 above for more details on the Guadalupe River Master Plan planning efforts. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft SEIR.

Comment C.5: Historic Resources

I am truly disappointed by how San José treats its historic heritage, and now here it wants to demolish two century-old structures, one of which is worthy of National listing, just to build a surface parking lot?!

- **the House**

“The house located on the rear northeast quadrant of the property was constructed around 1915, as seen on the Sanborn Maps.” The historic report (Appendix D) says the house didn’t appear on the 1891 map, and therefore it must be newer.

- If the dating is based solely on those two maps, couldn't the house have been built as early as 1892?
- I have heard it said that the house was actually built earlier (in the 1860's?) and then moved to the site sometime between 1891 and 1915: was that possibility explored?
- Per the report, the house “holds some importance within the pattern of residential development of 'Little Italy'...” - could the house be relocated there to add to the ensemble?
- The report continues, "but there are other better examples." But if only the best examples are preserved, won't that give a biased view of the past?

The historic evaluation of the 407 West St. John Street house (included as Appendix D on the Draft SEIR) was updated February 15, 2024 to address the above comments (refer to Appendix B Supporting Documentation of the Final SEIR). A physical examination of the house at 407 West St. John indicates an early 1900s construction period with varying siding styles, wire nails and vinyl fishscale siding. The evaluation report states that it is not impossible to assert the building could have been constructed in the middle nineteenth century, but everything from its building fabric to its architectural style to its related development patterns to the Sanborn Maps all indicate the building dates to the early twentieth century- likely around 1915. In addition, the house has been heavily modified by numerous updates, additions, and changes since its original construction as indicated by its varied roof forms - hip, gable and flat roofs - and patchwork siding changes and would not meet historic integrity thresholds regardless of its original construction date. Based on the conclusions of Draft SEIR (pages 77 and 78) and Appendix B of this Final SEIR, the house at 407 West St. John Street is not a historical resource or considered eligible to be listed as a historical resource; therefore, the project would not result in a substantial change to the significance of the house. The project, therefore, does not require mitigation (e.g., relocation of the 407 West St. John Street residence) for adverse impacts. This clarification has been added to Section 5.0 Draft SEIR Text Revisions of this Final SEIR. Despite the fact that mitigation is not required, it would not be advisable to relocate the house within the River Street Historic District which is a City Landmark District with a significantly higher degree of historic integrity for the vernacular houses contained within.

Comment C.6:

- **the Arena**

“Implementation of the proposed project would result in the demolition of the historic Forman’s arena building and a significant impact to the historic resource”, which, according to

the NOP, is a “building [that] is listed in the City’s Historic Resources Inventory as Eligible for [the] National Register ...”

The arena building may not look like much from the outside, but it’s a fascinating space inside. It is sort of like an old rustic barn: scenic, but maybe not all that practical. One wouldn’t want to “restore” it, “rebuild” it, “modernize” it or try to “bring it up to code” – don’t, for example, retrofit it by adding insulation or double-pane windows – because then it would lose much of its charm and character: use it “as is.”



- Can the arena structure be "stabilized" by, say, installing a steel frame inside to protect for earthquakes, installing fire sprinklers, and encapsulating contaminants by painting exposed surfaces with latex paint?
- Can the arena structure be made useful? It could never be upgraded enough to be housing or office space, but it could serve as shelter for the staging of food trucks and outdoor dining venues during events at the nearby SAP Center. I feel that it definitely would add to the desired "vibrancy" of the area, and also help encourage foot traffic to nearby Little Italy.



Response C.6: This comment does not question the adequacy of the Draft SEIR analysis. As stated in Response B.4, the project site is designated to provide parking under the AMA, which requires the City to provide temporary parking within one third of a mile of the SAP center. Once the temporary parking is no longer in operation, the site can be redeveloped for commercial use based on the Downtown Strategy 2040 and General Plan land use designations. The project does not propose the retention of the Forman’s Arena building (located at 447 West St. John Street). However, the Draft SEIR’s alternative analysis includes a Forman’s Arena Building Retention Alternative (for SAP center parking), in Section 7.0.

The Forman’s Arena building is listed on the San José Historic Resources Inventory as eligible for the listing in the National Register of Historic Places under Criterion A, eligible for listing in the California Register of Historical Resources Criteria I and 2

and a Candidate City Landmark. It is disclosed on page 80 of the Draft SEIR that the building is considered a historical resource under CEQA and demolition of Forman's Arena would result in a significant impact on a historic resource. The commenter's disappointment about the proposed demolition of Forman's Arena is acknowledged. The Coleman/Autumn EIR identified the relocation of Forman's arena as mitigation to reduce the impact to the historical resources to less than significant.

The Coleman Avenue/Autumn Street EIR identified four potential sites for the relocation including the previous City Hall's "E" parking lot, the San José History Park, the San José Fire Department site, and the former FMC (Food Machinery and Chemical) Corporation site. The City Hall parking lot, Fire Department, and FMC Corporation sites are now either developed or designated for development. Given the lack of nearby city-owned available sites to relocate the Forman's arena, it is no longer practical for the project to relocate the building. If the City Council were to approve the proposed project, in compliance with CEQA Guidelines Section 15093, a Statement of Overriding Considerations must be adopted with findings that the specific economic, legal, social, technological, or other benefits, including regionwide or statewide environmental benefits, of a proposed project outweigh the unavoidable adverse environmental effects. The San José City Council will consider the findings and decide whether the proposed project will outweigh the unavoidable adverse environmental effects.

Previous analysis of the Forman's Arena determined that the building would need seismic retrofitting to ensure structural integrity. Based on a feasibility study completed for the Forman's Arena in August 2007 as a part of the Coleman Avenue and Autumn Street Improvement Project SEIR, steel frames could be installed inside the building for stabilization. The cost to install steel frames would make stabilization infeasible; however, the addition of plywood shear walls would be a feasible seismic reinforcement option. Based on the 2006 historic evaluation of the Foreman's Arena completed as a part of the Coleman and Autumn Street Improvement Project SEIR, although the historic integrity of the former Forman's Arena has been somewhat compromised because of an addition to the building's west façade, the building retains character-defining features such as the original front facade, and exterior materials (refer to page 74 of the Draft SEIR). Since the former arena is a simple industrial style, the building is not an exceptional example of 1920s architectural design in San José. The Forman's Arena is eligible for listing under the California Register of Historical Resources (CRHR) given its association with local themes/cultural patterns and important persons in history; the Foreman's Arena is not considered eligible for the CRHR because of distinctive architectural characteristics of the building.

If the structure were to be retained consistent with the Forman's Arena Building Retention Alternative (refer pages 143 and 144 of the Draft SEIR), the plywood shear walls would be installed in the interior of the structure in a manner that would not

damage or alter the building exterior. The new plywood shear walls would, therefore, not impact the building's historic integrity. . As stated in Response B.4, the City is under an AMA to provide parking within one half mile of the SAP Center. The project site is designated to provide temporary parking under this Agreement. If parking becomes available at other sites within one half mile of the SAP Center, the City could opt to use the Forman's Arena building for the staging of food trucks or some other use similar to the proposed alternative use (parking); the installation of the plywood walls for seismic retrofit would be required prior to any reuse of the building. As the reuse of the structure for anything other than parking does not meet the objectives of the project, other reuse options were not considered further in the Draft SEIR. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft SEIR.

Comment C.7: Additional Questions

- For those portions of the parcel that are to be converted to surface parking, how about providing solar-panel shade structures, and use the land for both parking and power generation?
- What's the rush? Given the change in the post-Covid work environment, I've heard that Google may be stretching out its development schedule, and that it might be many years before it would need to use the land under the parking lots west of SAP Center, and so it also might be many years before the City of San José would need to provide parking here as recompense for the western lots. Why not let the site continue to operate in its present configuration in the meanwhile?

Response C.7: The project proposes a temporary parking lot; it is not practical to install solar panel shade structures for this temporary use. As discussed on page 94 of the Draft SEIR, the project would include energy-efficient lighting and measures to reduce energy use during construction (such as limiting idling time to be no more than five minutes). The project is consistent with the City's Greenhouse Gas Reduction Strategy (see Appendix E of the Draft SEIR) and Climate Smart San José goals (page 94 of the Draft SEIR). See Response B4 above regarding the upcoming BART project further necessitating the parking provided by this project. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft SEIR.

Comment C.8: The DSEIR considers "Analyzed Alternatives" in Section 7.4.2. If the City does have to proceed with this project at this time, I urge it to implement the "Forman's Arena Building Retention Alternative" and to "Retain existing historic Forman's Area building and utilize it for parking."

Response C.8: The commenter's support for the Forman's Arena Building Retention Alternative is acknowledged. The City will take action on the proposed project at the project's City Council hearing. At that time, the City will decide to deny the project or approve the proposed project or any of the analyzed alternatives (in Section 7.4.2

of the Draft SEIR) based on the findings/resolution. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft SEIR.

D. Preservation Action Council of San José (dated July 31, 2023)

Comment D.1: The Preservation Action Council of San Jose (PAC*SJ) submits the following comments on the Draft Supplemental Environmental Impact Report for the Milligan Lot Project (ER20-049), which proposes the demolition of at least one recognized historic resource (the Candidate City Landmark Forman’s Arena at 447 W. St. John Street), multiple other structures, and 28 trees for a temporary 2.5-acre, approximately 300-space surface parking lot. The project is an undertaking of the City of San José, which is also acting as the lead agency for the project’s environmental review. PAC*SJ is strongly opposed to the project as presented and challenges the DSEIR’s sufficiency in addressing feasible project alternatives that would avoid impacts to recognized and potential historic resources, including alternative project locations and alternative site configurations. We further challenge the DSEIR determination that a second potentially impacted structure, the single-family residence at 407 W. St. John Street, fails to qualify as a historic resource for the purposes of CEQA and/or a Structure of Merit under applicable City policies. We look forward to reviewing a revised DSEIR that includes a sufficient level of detail and alternatives analysis to meet the threshold required by CEQA Guideline §15126.6(d) that an EIR “shall include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project.”

Response D.1: The commenter is concerned with the Draft SEIR’s analysis of feasible project alternatives that would avoid impacts to both recognized and potential historic resources. This comment does not clarify what the specific concerns are regarding the alternatives analysis. Responses to specific concerns regarding Draft SEIR alternatives analysis are included in Responses D.5 and D.11. Section 7.0 (pages 142 through 144) of the Draft SEIR provides an analysis for feasible alternatives, including the Forman’s Arena Building Retention Alternative which analyzes the building’s potential use for parking, assuming the building was to remain on-site. Pages 140 and 141 of the Draft SEIR and Section 5.0 Draft Text SEIR Revisions of this Final SEIR describe why the relocation of the Forman’s Arena Building is not feasible and why no alternative sites are available. The SEIR’s alternative analysis includes sufficient information about each alternative to allow meaningful analysis and comparison with the proposed project.

In response to the comment that the house at 407 West St. John Street is a potential historical resource, the historic evaluation of the house included as Appendix D on the Draft SEIR was updated February 15, 2024 (refer to Appendix B Supporting Documentation of the Final SEIR). As discussed in Response C.5, a physical examination of the house at 407 West St. John indicates an early 1900s construction period with varying siding styles, wire nails and vinyl fishscale siding. Refer to Response D.5 for a more detailed summary of the evaluation’s results. Based on the

results of the evaluation, the house at 407 West St. John Street is not a historical resource and demolition of the building would not result in a significant impact to a historical resource. The historic evaluation does not include evaluation of buildings as a San José Structure of Merit, since Structures of Merit are not considered resources under CEQA, and the City has no formal evaluation criteria for Structures of Merit.

Comment D.2: Comment 1: Timing of Public Circulation Period

PAC* SJ objects to the timing of the DSEIR’s period of public circulation and comment (June 2, 2023 through July 18, 2023), given the fact that this 45-day public review period precluded the notification of or comment by the San Jose Historic Landmarks Commission (HLC), a City- chartered expert body whose input is entirely appropriate and necessary for a City-led project proposing the demolition of City-owned identified and potential historic resources. This review period unfortunately coincided with the HLC’s annual July recess, and the HLC was never formally notified of its circulation (the HLC’s June 7 agenda, which was publicly released on May 31, references “no items” under Agenda 8.9, “Status of Circulating Environmental Documents PAC* SJ therefore requests an extension of the DSEIR circulation period to allow the notification of and comment by the HLC, whose next scheduled meeting is August 2, 2023. We specifically seek the HLC’s input on the DSEIR’s alternatives analysis relative to 447 W. St. John (Forman’s Arena) and its determination that 407 W. St. John Street does not qualify as either a CEQA-recognized historic resource nor a City-recognized Structure of Merit.

Response D.2: The Draft SEIR circulated during a period when scheduling the document for Historic Landmarks Commission (HLC) comment was not feasible due to the July recess and timing for the preparation and publishing of the June HLC agenda. The Notice of Availability of the Draft SEIR was circulated individually to all members of the HLC, as well as the Preservation Action Council of San José and members of the public who had expressed interest in the project. On September 1, 2021 the project was presented to the HLC and comments on the SEIR Notice of Preparation were received. On September 6, 2023, the project was again presented to the HLC to provide comments on the Cultural Resources and Alternatives Sections of the Milligan Parking Lot Project Draft SEIR under the City Council Policy on the Preservation of Historic Landmarks. . Comments received on September 6, 2023 will be summarized and presented to the Planning Commission and the City Council as part of the staff reports for the project. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft SEIR.

Comment D.3: Comment 2: Overly-Broad Project Summary

According to the DSEIR’s project summary, “The proposed parking lot is intended to replace existing parking serving events at the nearby SAP Center at San José that would be lost due to future planned development within downtown San José (e.g., the Diridon Station area)” (DSEIR p. iii). For the purposes of meaningful alternatives evaluation and analysis by decision-makers and the general public, this project summary should be amended to include quantifiable project goals and identify

specific project variables, e.g. “The proposed parking lot is intended to replace [***a specific number of parking spaces***] serving events at the nearby SAP Center at San José that would be lost due to [***a specific development project***] within downtown San José (e.g., the Diridon Station area).” The exact location, construction timeline, and number of impacted parking spaces should also be specifically identified in this project description.

Response D.3: The purpose of the Draft SEIR Executive Summary is to provide a brief summary of the project, alternatives, and a list of mitigation measures that will be implemented by the project. A more detailed description of the project, including the specific number of parking spaces proposed (300 parking spaces) is included in Section 2.2 of the Draft SEIR, on pages 9 through 12. Figure 2.2-1, on page 10 of the Draft SEIR, shows the location of parking areas within one-third mile of the SAP Center, which would be replaced by future planned development. The figure also shows the number of parking spaces that would be replaced at these locations, a total of 2,265 spaces. The timing of individual projects is not known at this time, however, entitlements on these parcels necessitate the need for interim replacement parking. Additionally, refer to Response B4 above regarding the construction schedule for the upcoming BART project; the proposed Milligan Parking Lot would be removed prior to operation of the BART project or when Google has constructed a minimum of 500 parking spaces.

Comment D.4: Comment 3: Clarification of the Coleman Avenue and Autumn Street Improvement Project Status

Please clarify the current status of the Coleman Avenue and Autumn Street Improvement Project referenced throughout the DSEIR. For example, the project description included in Section 2.2 of the DSEIR states, “When the project’s surface parking is no longer needed, the project site is intended to be redeveloped *with the roadway alignment and extension envisioned in the Coleman Avenue and Autumn Street Improvements Project*” (p.9). The DSEIR “Project Objectives” in Section 2.3 likewise include the goal to “develop the parking in a manner that allows easy conversion of the parking lot to a future use *such as the Autumn Street widening, partial realignment, and extension.*” It is PAC*SJ’s understanding that this once-planned improvement project is no longer envisioned for the project area, as it does not appear in either the certified Downtown West Mixed Use Plan EIR (GP19-009, PDC19-039, AND PD19-029) nor the San Jose Downtown Transportation Plan (adopted November 15, 2022). Given the fact that two potential location alternatives (456 Autumn Court and 406 Autumn Court) were specifically rejected from consideration due to the future “realignment” and “relocation” of Autumn Street (DSEIR p. 142), current status and anticipated timeline of this project is directly relevant to the DSEIR’s alternatives analysis.

Response D.4: This comment does not raise any issues regarding adequacy of the Draft SEIR analysis. The commenter is requesting the current status of the Coleman Avenue and Autumn Parkway Street Improvement Project. The first phase of the extension of Autumn Parkway from Coleman to Julian Street was completed and opened to the public in 2017. Based on the Diridon Station Area Plan (as amended in 2021), there are two possible options for the connection of Autumn Parkway

between Julian and St. John Streets. The first option is the connection via the use of the current right-of-way along Autumn Parkway and the second option is the connection via the new Autumn Parkway extension identified in the amended Diridon Station Area Plan. The second option would occur after there is no longer a need for the Milligan parking lot to meet the City's parking obligations under the AMA with Sharks Sports and Entertainment.

Comment D.5: Comment 4: Specificity of Project Objectives

PAC* SJ questions the prescriptive nature of the stated project objective that the undertaking “maximize surface parking spaces available to provide off-street parking within one third mile of the San José SAP Center” (p. 12) Why does this objective require “surface” parking spaces (as opposed to multi-level or underground spaces) when the vast majority of other applicable City guidelines specifically discourages surface parking lots? And why is a multi-story parking structure considered appropriate and feasible for the adjacent and related “Lot E Parking Structure” project (ER20-011), but not for this site?

Response D.5: The City is required to provide parking for the SAP center, and that parking must be within a reasonable walking distance of the venue. A multi-level parking structure with retail is an alternative that was considered but rejected (see Section 7.4.1.3, page 143 of the Draft SEIR). As stated on page 143 of the Draft SEIR, the intent of the project is to provide a temporary surface parking lot during the construction activities occurring for the other projects in the vicinity. Once those construction projects are complete the future developments would include parking for the San José SAP Event Center. A surface parking lot is more cost effective and less impactful with regard to construction and redevelopment with a future use than a parking structure. Furthermore, a parking structure could result in more substantive construction and biological impacts than a surface parking lot. Therefore, this alternative is rejected from further consideration.

Comment D.6: Comment 5: Arena Management Agreement Requirements

The DSEIR's project objectives specifically reference an “Arena Management Agreement” and the City's obligations to provide required parking for the San José SAP Center. The applicable specifics of this agreement should be included in the DSEIR to allow for meaningful, transparent analysis of project objectives and alternatives.

Response D.6: The purpose of the SEIR is to analyze the project's potential physical effects on the environment and identify mitigation measures and alternatives to reduce or avoid these effects. It is not required under CEQA for the Arena Management Agreement, which is a previously approved document, to be included in the SEIR. However, this Agreement is included in Appendix B of this Final SEIR.

Comment D.7: Comment 6: Cumulative Impacts

The DSEIR rightly identifies the proposed demolition of the National Register-eligible and Candidate City Landmark Forman's Arena to be a substantial adverse change to the environment, but fails to

identify or mitigate against the cumulative negative impacts the project contributes to: namely, the disproportionate recent losses of multiple identified historic resources and Structures of Merit within or adjacent to the Downtown West area. These losses include the recent demolitions of the Candidate City Landmark Sunlite Bakery (145 S. Montgomery) and the HRI Structure of Merit Patty's Inn (102 S. Montgomery), the approved (but not yet undertaken) demolitions of the Candidate City Landmark Circus Ice Cream Building (345 N. Montgomery), National Register-eligible Democracy Hall (580 Lorraine), and HRI Structure of Merit Puccio Machine and Welding Works (357 N. Montgomery), the relocation of the Candidate City Landmark Stephen's Meat Project Neon Sign (105 S. Montgomery) and HRI Structure of Merit Poor House Bistro (91 S. Autumn) out of the project area, and the approved but not yet undertaken significant alterations to the Candidate City Landmark Hellwig Ironworks (150 S. Montgomery).

Response D.7: Section 3.3 Cultural Resources, page 87 the Draft SEIR includes a cumulative analysis of impacts to historic resources. Although the SEIR did not provide the list historic resources in Comment D.7, the analysis concludes the removal of the Forman's Arena would contribute to the on-going demolition and major alteration of historic era buildings within downtown (including the historic resources listed in Comment D.7). The SEIR concluded that based on the number of historic resources that have been lost within downtown and the potential for remaining historic buildings to be replaced or otherwise adversely affected through build out of the Downtown Strategy 2040, the proposed project would contribute to the significant unavoidable cumulative impact to historic resources. As stated on page 86 of the Draft SEIR, there is no feasible mitigation that would reduce the impact from the demolition of Forman's Arena to a less than significant level. For cumulative impacts, a project is required to only mitigate for its contribution to the cumulative impact. Because the demolition of Forman's Arena cannot be mitigated at a project level, it also cannot be mitigated at a cumulative level. Under CEQA, the loss of historic buildings not directly associated with the proposed project cannot be required to be mitigated by the proposed project.

Comment D.8: Comment 7: Miscaptioned photo p. 78

The photograph on p. 78 captioned as "407 West St. John Street Former Residence" does not appear to depict the subject property.

Response D.8: The photograph of the 407 West St. John Street Former Residence on page 78 of the Draft SEIR has been replaced with the correct photograph of the residence. Please see Section 5.0 Draft SEIR Text Revisions of this Final SEIR.

Comment D.9: Comment 8: Construction Date and Historic Status of 407 West St. John Street

PAC*SJ acknowledges a potential difference of professional opinion regarding the age and integrity of 407 West St. John Street, which the DSEIR identifies as a c.1915 Queen Anne-style cottage. The basis of this dating by the project's Historic Resource Evaluation (Garavaglia Architecture, Inc., Aug, 20, 2021) appears to be limited to a review of published fire insurance atlases, and did not involve a detailed site inspection of construction details that could corroborate or refute this determination.

Evidence suggests at least the possibility of a significantly earlier date of construction, and PAC* SJ does not believe the level of physical or archival analysis presented in the HRE is sufficient to support the stated construction date nor the determination that the structure is ineligible for listing in the California Register of Historical Resources. For example, the HRE identifies a similar structure standing at this exact location in 1884 (HRE p. 25) but claims that this older structure was subsequently replaced by the current structure between 1891 and 1915. While admittedly anecdotal, there exists a common belief among former residents and neighbors that the house actually dates to the 1860s, potentially making it a rare surviving example of mid-nineteenth-century domestic architecture in San Jose. For example, in a recent interview, former resident Shirley Christiansen told KTVU Fox reporter Ann Rubin that she had evidence for the earlier date:

For nearly 50 years, Shirley Christiansen lived here, in a home she says dates back to the Civil War. City officials dispute the date, but she says she's sure. "1865. And it said so on the wall. They had, you know, the paperwork for it, permit for it, had it there," says Christiansen. (<https://www.ktvu.com/news/preservationists-angry-historic-buildings-to-be-demolished-for-san-jose>)

Relevant alternative possibilities include the current structure being an alteration or addition to the earlier structure, which may remain extant, or that an older structure was relocated to the present site between 1891 and 1915, as was common for its era. These possibilities could and should be further investigated through physical inspection before the building can definitively be dated and its historic significance accurately assessed.

Furthermore, irrespective of potential CRHR eligibility, and admittedly outside the bounds of CEQA review, PAC* SJ requests that the HRE render an opinion on the structure's eligibility for HRI Structure of Merit status, as this is directly relevant to other applicable City policies (i.e. LU 14.4: "Discourage demolition of any building or structure listed on or eligible for the Historic Resources Inventory as a Structure of Merit by pursuing the alternatives of rehabilitation, re-use on the subject site, and/or relocation of the resource.")

Response D.9: .

As discussed in Response C.5, the historic evaluation of the house included as Appendix D on the Draft SEIR was updated February 15, 2024 (refer to Appendix B Supporting Documentation of the Final SEIR). As stated in Response D.5, a physical examination of the house at 407 West St. John indicates an early 1900s construction period with varying siding styles, wire nails and vinyl fishscale siding. Refer to Response D.5 for the results of the report. The City does not have formal evaluation criteria in place for Structures of Merit and Structures of Merit are not considered historical resources under CEQA; therefore, a Structure of Merit evaluation was not included in the project's historic resource evaluation. Removal of Structure of Merit would not result in a significant impact to a historical resource or change the impact conclusions of the Draft SEIR analysis.

Comment D.10: Comment 9: Insufficient Location Alternatives Analysis

PAC*SJ challenges the DSEIR’s claim that alternative locations for the project are infeasible, and objects to the cursory level of analysis provided to support this determination. Significant recent media coverage has highlighted the “paused” status of the Downtown West projects cited as the primary reason for this project undertaking, and the DSEIR lacks any corroborating evidence that the “anticipated development” that both necessitates this project and supposedly renders alternative locations infeasible is actually anticipated within the next 10 years (the period of projected use for this “temporary” surface parking lot). PAC*SJ requests that the DSEIR be revised to include a formal statement or corroborating evidence from Google that either supports or refutes the availability of the following Google-owned alternative locations, all of which equally satisfy the project objectives for a temporary surface parking lot within 1/3 mile of the San Jose SAP Center:

- 145 South Montgomery (APN 261-35-027): The recently demolished NRHP-eligible and Candidate City Landmark Sunlite Baking Company Building, now a vacant lot.
- 102 S. Montgomery Street (APN 259-48-012): The recently-demolished Structure of Merit Patty’s Inn, now a vacant lot.
- 510 W. San Fernando Street (APN 259-48-011): Vacant lot
- 140 S. Montgomery Street (APN 259-48-052): The recently-demolished former Airgas Welding, now a vacant lot).
- 105 S. Montgomery Street (APN 261-35-003) The former Stephen's Meat Products site, now a vacant lot/decommissioned surface parking lot)

Response D.10: The project site is owned by and will be managed by the City. The parcels noted by the commentor are not within the control of the City and have active entitlements. While the timing of future development on these private parcels may not be settled at this time, the City has no authority to utilize any private land for the relocation of Forman’s Arena. Furthermore, even if agreement could be reached with the property owner, any relocation within Downtown West would be temporary (otherwise it would interfere with existing development plans), and without a permanent site the impacts of relocation and adaptive reuse/rehabilitation could not be analyzed for conformance with the Secretary of the Interiors Standards for the Treatment of Historic Properties in accordance with CEQA requirements . On a temporary site, the building would be vulnerable to vandalism which could accelerate its deterioration and its retention would still not be guaranteed. Therefore, the project’s use of the Google-owned sites listed in Comment D.10 would not reduce the impact to less than significant and is not a feasible alternative under CEQA.

Comment D.11: Comment 10: Insufficient Site Alternatives Analysis

PAC*SJ likewise challenges the DSEIR’s claim that a multi-level parking structure on a portion of the project site is an infeasible project alternative. We likewise challenge the claim that a surface parking lot on just the 150 North Autumn Street parcel of the project site, demolishing the extant

Milligan News Building but leaving 407- 447 West St. John Street intact, would not sufficiently meet the stated project goals, as an unquantified “maximization” of surface parking should take multiple priorities and environmental concerns into account. If, for example, the site could potentially accommodate a 200+ surface parking lot without requiring the demolition of the Forman’s Arena, the DSEIR must conclusively explain why this reduced project alternative is either infeasible or categorically fails to meet the City’s stated project goals.

Response D.11: As discussed in Response D.5, a multi-level parking structure with retail is an alternative that was considered but rejected (see Section 7.4.1.3, page 143 of the Draft SEIR). A surface parking lot is more cost effective and less impactful to construction and redevelop into a future use than a parking structure. Furthermore, a parking structure could result in more substantive construction and biological impacts than a surface parking lot. Therefore, this alternative is rejected from further consideration. As described in the Forman’s Arena Building Retention Alternative analysis (page 144 of the Draft SEIR), this alternative would provide 200 parking spaces, which is 100 less parking spaces than the proposed project. This alternative would not meet Project Objective Bullet Number 1 (described on page 140 of the Draft SEIR), which is to maximize surface parking spaces available to provide off-street parking within one third mile of the San José SAP Center. It will be decided at the project’s City Council hearing if the City denies the project, approves the proposed project, or approves a project alternative.

Comment D.12: Comment 11: Additional Mitigation

PAC* SJ appreciates the inclusion of digital (3D scanning) documentation of the Forman’s Arena as a proposed mitigation measure but requests that, if pursued, such mitigation include both interior and exterior documentation, and that a clear, feasible strategy for making such documentation available to the public be identified.

Response D.12: Mitigation measure MM CUL-1.1 (page 82 of the Draft SEIR) includes three-dimensional (3D) laser scanning of the Forman’s Arena property by a qualified historic resources consultant meeting the qualifications in the Secretary of the Interior’s Professional Qualification Standards. The 3D laser scanning will include techniques to capture the existing exterior conditions of the property, to create a 3D point cloud model for digital documentation/archival purposes. Neither the Secretary of the Interior’s Standards for the Treatment of Historic Properties nor Historic American Building Survey standards impose 3D scanning documentation of the building’s interior. The building is not a public building and the documentation of the significance of the historical resource does not include interior elements as character-defining features that contribute to the building’s historic significance. Nor does the project involve any application for rehabilitation tax credits where the National Park Service might review interior spaces. Therefore, 3D scanning documentation is not required for the Forman’s Arena building interior and has not be added to mitigation measure MM CUL-1.1.

E. Sodergren, Mike (dated June 2, 2023)

Comment E.1: Thanks for sending this... Given that the "construction activities occurring for the other projects in the vicinity" are effectively on hold and that Google has not taken its option within the DT West project for Parking Lots at the Arena, how adding 172 temporary surface level parking spaces make sense? I think I've got this right. If so, I'm wondering if there is some other driver for going forward that isn't obvious for doing this?

Response E.1: Comment E.1 requests clarification on the need for the project to proceed. Refer to Response B4 above.

Comment E.2: The Civil War era home and the Foreman Arena building are unique and valuable places that we should figure out how to preserve, activate and celebrate. I know the City process takes a lot of time, and the City can always decide not to proceed after going through the public process, but this just doesn't feel right. We will of course go through the normal process on commenting, but it would be great if we could synch this project up with actual development that drives the demand for more parking. It would be great if we can get our friends in the development community to help with this.

Response E.2: A historic evaluation of the Foreman's Arena building was completed as a part of a Cultural Resources Assessment in August 2007 (see Appendix D of the Draft SEIR) and Section 3.6 Cultural Resources, pages 75 and 76 of the Draft SEIR. An alternative to retain the Foreman's Arena building and utilize it for parking is included in Section 7.4.2.2, pages 144 and 145 of the Draft SEIR. A Revised Historic Evaluation of the 407 West John Street residence (constructed in 1915) is included in Appendix B of this Final SEIR. The evaluation determined the residence is not a historic resource and, therefore, demolition of the residence would not result in a significant impact to a historic resource. As a result, an alternative analysis to retain or relocate the residence is not required. This comment does not question the adequacy of the Draft SEIR analysis. Therefore, no further response is required.

Comment E.3: If we are going to add parking, it seems like we ought to go for high density parking (a multi-story long term structure) as this would enable an option to integrate the historic buildings into the project site in a meaningful way that honors San Jose's rich history.

Response E.3: A multi-level parking structure with retail is an alternative that was considered but rejected (see Section 7.4.1.3, page 143 of the Draft SEIR). As stated on page 143 of the Draft SEIR, the intent of the project is to provide a temporary surface parking lot during the construction activities occurring for the other projects in the vicinity. Once those construction projects are complete the future developments would include parking for the San José SAP Event Center. A surface parking lot is more cost effective and less impactful to construction and redevelop into a future use than a parking structure. Furthermore, a parking structure could

result in more substantive construction and biological impacts than a surface parking lot. Therefore, this alternative is rejected from further consideration.

Section 5.0 Draft SEIR Text Revisions

This section contains revisions to the text of the Milligan Parking Lot Draft SEIR dated June 2023. Revised or new language is underlined. All deletions are shown with a ~~line through the text~~.

Page ii **REVISE** text in the Table of Contents as follows:²

Appendices

Appendix A: Notice of Preparation Comment Letters

Appendix B: Construction Health Risk Assessment

Appendix C: Biological Resources Report and Tree Inventory and Assessment

Appendix D: Historic Resources Evaluation

Appendix E: Greenhouse Gas Reduction Strategy Checklist

Appendix F: Phase I and Phase II Environmental Site Assessments

Appendix G: Local Transportation Analysis

Pages v-viii Revise Mitigation Measures MM BIO-3.3 and MM BIO-C-4.3 as follows:

Impact BIO-3: The project could result in a significant impact to adjacent riparian trees and habitat during construction.
[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]

MM BIO-3.1: Avoid Impacts to Riparian Trees and Habitat Prior to and During Construction. Riparian trees and sensitive riparian habitat along the Guadalupe River to be avoided by the project will be clearly marked on plans as such. Riparian trees to remain will be protected with environmentally sensitive area (ESA) fencing installed at their driplines to provide a Tree Protection Zone (TPZ). Should any grading, staging, trenching, or other activity need to take place within a designated TPZ for a tree intended to be retained, the City's contractor shall hire an International Society of Arboriculture (ISA) Certified arborist to monitor the work, recommend any applicable measures to lessen impact on the tree, and following completion of the work, determine whether the tree has been injured to the degree that it may die from the impacts and therefore for removal. During the construction phase, the project is required to stabilize soils adjacent to riparian trees, minimize ground-disturbing impacts, and avoid planting species identified by the California Invasive Plant Council (Cal-IPC) as invasive. All temporarily disturbed soils are required to be revegetated with native plants or sterile, nonnative species, and temporarily disturbed areas such as staging areas will be returned to pre-

² Section 3.2 Biological Resources, pages 44 through 46 (Table 3.2-1 and Figure 3.2-2) and 59 through 61 of the Draft SEIR analysis of on-site trees is based on information provided in the Tree Inventory and Assessment completed by Traverso Tree Service, July 11, 2022. No new significant information is included in the Tree Inventory and Assessment. This assessment is included in Appendix B of this Final EIR.

project or ecologically improved conditions within one year of the completion of construction.

MM BIO-3.2 Avoid Impacts to Riparian Trees and Habitat During and Post Construction. During project construction and immediately after construction (based on Habitat Conditions 3 and 4), the City's contractor shall implement the following measures to protect riparian trees and habitat:

- Removal of riparian vegetation and trees shall be limited to the minimum extent required to construct the project.
- Seed mixtures, and if needed, shrubs and trees used for revegetation of the impacted riparian habitat shall not contain invasive non-native species but will be composed of native or sterile non-native species. If sterile non-native mixtures must be used for temporary erosion control, native seed mixtures will be used in subsequent treatments to provide long-term erosion control and prevent colonization by invasive non-native species.
- The minimum amount of impermeable surface shall be used for the construction as is practicable.
- The project shall prepare and implement sediment erosion control plans to prevent erosion or other disturbance-related impacts within the riparian corridor.
- All construction within the riparian habitat shall take place during the dry season from June 15 to October 31.
- Immediately after completion of project components located in the riparian habitat, and before close of seasonal work window, stabilize all exposed soil with mulch, seeding, and/or placement of erosion control blankets.

MM BIO-3.3: Prevent Spread of Invasive Plant Species. Within the proposed planting areas in the 100-foot setback, no nonnative invasive species, as ranked by the California Invasive Plant Council and/or identified in Valley Water's Santa Clara Valley Water Resources Protection Collaborative (Collaborative) Guidelines and Standards for Land Use Near Streams: A Manual of Tools, Standards, and Procedures to Protect Streams and Streamside Resources in Santa Clara County (Valley Water 2006) and the City of San José's Riparian Corridor, shall be planted. The City's contractor shall implement following BMPs for weed control to avoid and reduce the spread of invasive plant species.

- Prior to grading or soil disturbance, infestations of non-native vegetation within areas of direct permanent or temporary disturbance will be removed and all vegetative material will be disposed of off-site.
- All ground disturbing equipment used adjacent to the riparian corridors shall be washed (including tracks, and undercarriages) at a legally operating equipment yard both before and after being used at the site.
- All applicable construction materials used on site, such as straw wattles, mulch, and fill material, shall be certified weed free.
- The project shall follow a Stormwater Pollution Prevention Plan as per the NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Construction General Permit; Water Board Order No. 2009-0009-DWQ).
- All disturbed soils shall be stabilized and planted with a native seed mix from a local source following construction.
- If excavating, soil and vegetation removed from weed-infested areas shall not be used in general soil stockpiles and shall not be redistributed as topsoil cover for the newly filled areas. All weed-infested soil shall be disposed of off-site at a landfill or buried at least 2.5 feet below final grade.

The City’s Director of Planning, Building and Code Enforcement, or the Director’s designee shall review and approve the above measures prior to grading or soil disturbance.

Impact BIO-C-4.1: Development within the 35-foot riparian setback area (adjacent to the Guadalupe River), would result in significant cumulative impacts to riparian habitat and bird communities. **[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]**

MM BIO-C-4.1: Compensate for New Urban Development within the Setback. To compensate for the degradation of setback functions in the 100-foot setback within existing California annual grassland (0.17 acres) due to the construction of a new parking lot and landscape areas, the City’s contractor shall restore native riparian tree and shrub habitat at a 1:1 (restored area: impacted area) ratio, on an acreage basis, on-site or off-site. The City shall also pay Habitat Plan fees to the to the Santa Clara Valley Habitat Agency for impacts on riparian trees prior to grading, demolition, tree removal, or initiation of impacts to currently undeveloped habitat within the riparian setback.

MM BIO-C-4.2: On-Site Mitigation. If restoration is completed on-site, native riparian vegetation shall be planted in planting areas that are contiguous with the riparian corridor (i.e., not located in isolated planting wells) and located

within the 100-foot setback. If the available planting area is smaller than the project's 0.17-acre impact area, then the City's contractor shall: (1) reduce the impact area within the California annual grassland land cover type, or (2) expand any landscape areas that are contiguous with the riparian corridor, to achieve a ratio of restored area to impacted area of 1:1.

Locally native trees and shrubs appropriate to the area as identified in Valley Water's guidance and/or the City's Policy Study shall be planted and maintained on-site to provide additional wildlife habitat adjacent to the Guadalupe River. The on-site planting areas shall include locally native understory, mid-story, and overstory vegetation to provide high-quality habitat for birds; no nonnative vegetation (including "compatible" nonnatives that may be recommended for planting along streams by local jurisdictions) shall be planted within the restoration areas. Example overstory species include coast live oak, valley oak, and example understory species include holly-leaf redberry (*Rhamnus ilicifolia*) and holly-leaf cherry (*Prunus ilicifolia*). A qualified restoration ecologist shall develop a Riparian Setback Enhancement and Monitoring Plan (RSEP), which shall contain the following components (or as otherwise modified by regulatory agency permitting conditions):

1. Goal of the restoration to achieve no net loss of habitat functions and values.
2. Restoration design:
3. Planting plan
4. Soil amendments and other site preparation elements as appropriate
5. Maintenance plan
6. Remedial measures/adaptive management
7. Monitoring plan (including final and performance criteria, monitoring methods, data analysis, reporting requirements, monitoring schedule, etc.). At a minimum, success criteria shall include elimination of nonnative woody species from within the enhancement area and establishment of a native tree and shrub canopy providing at least 50 percent canopy coverage of the mitigation area within 10 years of mitigation implementation.
8. Contingency plan for mitigation elements that do not meet performance or final success criteria.

On-site plantings shall be approved by the Director of Planning, Building and Code Enforcement, or the Director's

designee prior to grading, demolition, tree removal, or initiation of impacts to currently undeveloped habitat within the riparian setback.

The RSEP must be approved by the City's Director of Planning, Building, and Code Enforcement prior to grading, demolition, tree removal, or initiation of impacts to currently undeveloped habitat within the riparian setback.

Monitoring of the restored habitat shall be implemented by the City and continue post-construction as indicated in the Monitoring Plan (10 years or greater).

MM BIO- C-4.3: Off-Site Mitigation. If adequate riparian habitat mitigation cannot be restored on-site, riparian habitat will be enhanced or restored to native habitat along the immediately adjacent riparian corridor, and/or elsewhere along the Guadalupe River and within the City of San José. If off-site mitigation is necessary and it is not possible to find a suitable mitigation site along the Guadalupe River, the mitigation shall be provided elsewhere on the Santa Clara Valley floor and within the City of San José.

Restoration/enhancement that shall be provided along the immediately adjacent riparian corridor would consist of the removal of nonnative trees, shrubs, and vines and the planting of native riparian vegetation. The off-site planting areas shall be restored/enhanced to incorporate native understory, mid-story, and overstory vegetation to provide high-quality habitat for birds; no nonnative vegetation (even including "compatible" nonnatives that may be recommended for planting along streams by local jurisdictions) shall be planted within the restoration areas. Acreage will be credited based on the areal extent of nonnative vegetation removal and native riparian vegetation planting.

For restoration/enhancement activities immediately adjacent to the riparian corridor (within the Valley Water's fee title property and easement), the City shall coordinate with Valley Water for approval.

Any off-site restoration/enhancement would need to be performed according to a Riparian Habitat Mitigation and Monitoring Plan, as described for on-site mitigation.

ADD the first paragraph under “Regional and Local” as follows:

Water Resources Protection Ordinance and Manual

Valley Water’s Water Resources Protection Ordinance requires projects to obtain an encroachment permit prior to making modifications on or within a Valley Water facility or easement. Valley Water integrated the Guidelines and Standards for Land Use Near Streams into their permitting process by adopting the Water Resources Protection Manual as a framework for evaluating permit applications and setting permit conditions under the Water Resources Protection Ordinance. The Water Resources Protection Manual includes recommendations to protect riparian corridors such as preserving in and near-stream existing riparian vegetation whose canopies provide shade and nutrients to aquatic wildlife, protecting stream characteristics for suitable fish habitat, avoiding nighttime lighting within riparian corridors, and locating paved areas and active recreational areas outside of riparian corridors.

REPLACE text in the first paragraph under “Mixed Riparian Woodland and Forest” as follows:

Mixed Riparian Woodland and Forest

The mixed riparian woodland and forest habitat occurs along the banks of the Guadalupe River adjacent to the project site, with a small area of riparian canopy (0.01 acre) overhanging the site. A fence line along the on-site residence and the parking lot currently utilized by the SAP Center are located at the edge of the top of bank of the Guadalupe River. The riparian edge extends beyond the top of bank and fence line for less than half of the length of the fence line (refer to Figure 3.23-1).

ADD text to MM BIO-3.3 as follows:

MM BIO-3.3:

Prevent Spread of Invasive Plant Species. Within the proposed planting areas in the 100-foot setback, no nonnative invasive species, as ranked by the California Invasive Plant Council and/or identified in ~~Valley Water’s~~ Santa Clara Valley Water Resources Protection Collaborative (Collaborative) Guidelines and Standards for Land Use Near Streams: A Manual of Tools, Standards, and Procedures to Protect Streams and Streamside Resources in Santa Clara County (Valley Water 2006) and the City of San José’s Riparian Corridor, shall be planted (including planting near the future Guadalupe River Trail extension). The City’s contractor shall implement following BMPs for weed control to avoid and reduce the spread of invasive plant species.

- Prior to grading or soil disturbance, infestations of non-native vegetation within areas of direct permanent or temporary disturbance will be removed and all vegetative material will be disposed of off-site.

- All ground disturbing equipment used adjacent to the riparian corridors shall be washed (including tracks, and undercarriages) at a legally operating equipment yard both before and after being used at the site.
- All applicable construction materials used on site, such as straw wattles, mulch, and fill material, shall be certified weed free.

Page 58 **ADD** text to the fourth and fifth paragraphs as follows:

In addition, modifications within Valley Water property or easements would require an encroachment permit from Valley Water prior to construction and would comply with the Water Resources Protection Ordinance.

Based on the City’s Riparian Corridor Policy, the required setback for the future trail would be 10 feet from the riparian corridor if it is a proposed multi-use trail. If a multi-use trail is constructed within 10 feet of the riparian corridor, an exception to the City’s policy would be required. There would be no setback requirement for a new pedestrian trail. No specific plans for the trail are available at this time. Supplemental environmental review will be required at the time details and plans for the proposed trail are available. The future trail will require a Valley Water permit as well as a joint use agreement, in addition to permits for the use of Valley Water property or easement.

Page 60 **ADD** text to the third paragraph as follows:

In accordance with City policy, the proposed project would implement tree replacement as shown in Table 3.2-1 or the in-lieu mitigation. Currently, the project proposes to plant 26, 24-inch-box trees which are equivalent to 52 replacement trees. The remaining 86 replacement trees will be address through payment of the off-site tree replacement fee. In addition, for any project work on Valley Water’s easement and/or fee title property (including removal of trees), the City will coordinate with Valley Water to issue an encroachment permit prior to the start of construction.

Pages 65 and 66 **ADD** text to MM BIO-C-4.3 as follows:

MM BIO-C-4.3: **Off-Site Mitigation.** If adequate riparian habitat mitigation cannot be restored on-site, riparian habitat will be enhanced or restored to native habitat along the immediately adjacent riparian corridor, and/or elsewhere along the Guadalupe River and within the City of San José. If off-site mitigation is necessary and it is not possible to find a suitable mitigation site along the Guadalupe River, the mitigation shall be provided elsewhere on the Santa Clara Valley floor and within the City of San José.

Restoration/enhancement that shall be provided along the immediately adjacent riparian corridor would consist of the removal of nonnative trees, shrubs, and vines and the planting of native riparian vegetation. The off-site planting areas shall be restored/enhanced to incorporate native understory,

mid-story, and overstory vegetation to provide high-quality habitat for birds; no nonnative vegetation (even including “compatible” nonnatives that may be recommended for planting along streams by local jurisdictions) shall be planted within the restoration areas. Acreage will be credited based on the areal extent of nonnative vegetation removal and native riparian vegetation planting.

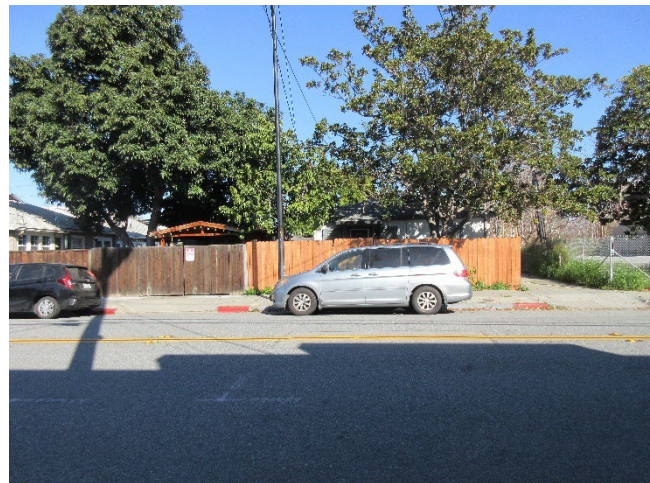
For restoration/enhancement activities immediately adjacent to the riparian corridor (within the Valley Water’s fee title property and easement), the City shall coordinate with Valley Water for approval.

Any off-site restoration/enhancement would need to be performed according to a Riparian Habitat Mitigation and Monitoring Plan, as described for on-site mitigation.

Page 78 **REPLACE** photograph as follows:

407 West St. John Street (APN 259-29-071)

The property at 407 West St. John Street property has a single-story house, a two-car garage, and a storage shed. The two-car garage building with an attached living space sits at the south edge of the property. The house located on the rear northeast quadrant of the property was constructed around 1915, as seen on the Sanborn Maps. The house has been altered over time, enclosing exterior portions of the porch and removing the roof on the east side and adding elements on the west side. The garage located at the front of the lot, near West St. John Street was permitted in 1956. There is no permit for the garden shed located to the rear of the garage structure.



*407 West St. John Street Former Residence – **TO BE REPLACED BY BELOW PHOTO***



407 West St. John Street Former Residence

Page 79 **REVISE** text in the first paragraph as follows:

The project proposes to demolish all the existing buildings and structures on-site and construct an approximately 300-space surface parking lot. An historic evaluation was completed for the 407 West St. John Street residence in 2021 and updated in 2024. Based on the evaluation of the property, the residence and associated structures are not eligible for listing under the NRHP, CRHR, and the building is not eligible as a Candidate City Landmark . Therefore, the building is not a historic resource under CEQA. The project would not result in an historic impact to the structure at 407 West St. John Street . Based on the previous historic evaluations, only the property located at 447 West St. John Street (Forman’s Arena) is eligible for listing in the NRHP, CRHR, and as a Candidate City Landmark and is listed accordingly in the San José Historic Resources Inventory. Therefore, the building at 447 West St. John Street is considered a historical resource under CEQA.

Page 100 **REVISE** text in the third paragraph as follows:

A network of groundwater monitoring wells and soil vapor extraction wells were installed on the property in 1990. Groundwater remediation activities occurred from 1990 to 1992 and briefly stopped before restarting again in 1993 and continuing until 1996. By 1996, the remediation system had removed seven million gallons of treated groundwater and 8,800 pounds of soil vapor extraction. On-site monitoring and extraction wells on-site were abandoned. The property received a case closure status from the RWQCB in January of 1997. There is one existing well on-site (at APN 259-29-102) as of July 2023, which is not in use. No active wells are located on-site.

The remaining residual TPH-gasoline and BTEX constituents detected in on-site groundwater was considered an REC. As a result, a Phase II ESA was prepared for the property in December 2019 (refer to Section 3.5.2 for a discussion of the results and Appendix F for the full Phase II ESA).

The San Francisco Bay RWQCB re-issued the Municipal Regional Stormwater NPDES Permit (MRP) in 2015 to regulate stormwater discharges from municipalities and local agencies (co-permittees) in Alameda, Contra Costa, San Mateo, and Santa Clara Counties, and the cities of Fairfield, Suisun City,

and Vallejo. Under Provision C.3 of the MRP, new and redevelopment projects that create or replace 10,000 square feet or more of impervious surface area are required to implement site design, source control, and Low Impact Development (LID)-based stormwater treatment controls to treat post construction stormwater runoff. LID-based treatment controls are intended to maintain or restore the site's natural hydrologic functions, maximizing opportunities for infiltration and evapotranspiration, and using stormwater as a resource (e.g., rainwater harvesting for non-potable uses). The MRP also requires that stormwater treatment measures are properly installed, operated, and maintained.

Pages 103 and 104: **REVISE** text in the third paragraph of page 104 (following MM HAZ-1.1) as follows:

MM HAZ-1.1: Prior to issuance any grading activities, a self-directed Site Management Plan (SMP) that includes a Health and Safety Plan (HASP) shall be prepared by a qualified environmental professional to guide activities during demolition, excavation, and construction due to the historic storage/use of hazardous materials on-site. The SMP is intended to provide guidelines and protocols in the event of encountering soil contamination during redevelopment to ensure construction worker safety. Components of the SMP shall include, but shall not be limited to:

- A detailed discussion of the site background;
- Soil management protocol to manage contaminated soils if encountered on-site;
- Proper procedures as needed for demolition of existing structures, including any groundwater wells if identified to be present within the project area;
- Management of stockpiles, including sampling, disposal, and dust and runoff control measures;
- Implementation of a stormwater pollution prevention program;
- Procedures for transporting and disposing the waste material generated during removal activities;
- Procedures for stockpiling soil on-site if such stockpiling is necessary;
- Procedures to ensure that fill and cap materials are verified as clean;
- Truck routes for export of soil;
- Staging and loading procedures and record keeping requirements;
- Procedures to follow if evidence of an unknown historic release of hazardous materials (e.g., underground storage tanks, polychlorinated biphenyls [PCBs], asbestos containing materials, lead-based paints, etc.) is discovered during excavation or demolition activities;
- Details on dewatering for treatment and discharge to the sanitary sewer or for permitting from the Regional Water Quality Control

Board (RWQCB) for treatment and discharge to the storm drain system.

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

In addition, the existing on-site well, which is not in use, will be removed from the site prior to project construction. The following condition of approval will be implemented to avoid hazardous materials impacts from the on-site well.

Conditions of Approval

- Prior to project construction, the existing inactive well on-site shall be properly destroyed by first obtaining a well permit from Valley Water. All wells found at the site must be either destroyed or registered with Valley Water. The City's project team or contractor shall contact the Wells and Water Measurement Unit at (408) 630-2660 for more information regarding well permits and registration for the destruction of wells.

Page 111 **REVISE** text in the third paragraph and **ADD** text to the fifth paragraph as follows:

~~The San Francisco Bay RWQCB re-issued the Municipal Regional Stormwater NPDES Permit (MRP) in 2015 to regulate stormwater discharges from municipalities and local agencies (co-permittees) in Alameda, Contra Costa, San Mateo, and Santa Clara Counties, and the cities of Fairfield, Suisun City, and Vallejo. Under Provision C.3 of the MRP, new and redevelopment projects that create or replace 10,000 square feet or more of impervious surface area are required to implement site design, source control, and Low Impact Development (LID)-based stormwater treatment controls to treat post-construction stormwater runoff. LID-based treatment controls are intended to maintain or restore the site's natural hydrologic functions, maximizing opportunities for infiltration and evapotranspiration, and using stormwater as a resource (e.g., rainwater harvesting for non-potable uses). The MRP also requires that stormwater treatment measures are properly installed, operated, and maintained.~~

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

uses). The MRP also requires that stormwater treatment measures be properly installed, operated, and maintained.

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

Municipal Regional Permit Provision C.12.f

Provision C.12.f of the MRP requires co-permittee agencies to implement a control program for PCBs that reduces PCB loads by a specified amount during the term of the permit, thereby making substantial progress toward achieving the urban runoff PCBs wasteload allocation in the Basin Plan by March 2030.³ Programs must include focused implementation of PCB control measures, such as source control, treatment control, and pollution prevention strategies. Municipalities throughout the Bay Area are updating their demolition permit processes to incorporate the management of PCBs in demolition building materials to ensure PCBs are not discharged to storm drains during demolition. As of July 1, 2019, buildings constructed between 1955 and 1978 that are proposed for demolition must be screened for the presence of PCBs prior to the issuance of a demolition permit.

Water Resources Protection Ordinance and Well Ordinance 90-1

Valley Water operates as the flood protection agency for Santa Clara County. Valley Water also provides stream stewardship and is the wholesale water supplier throughout the county, which includes the groundwater recharge program. In accordance with Valley Water's Water Resources Protection Ordinance, any work within Valley Water's fee title right of way, or easement, or work that impacts Valley Water facilities requires the issuance of a Valley Water permit. Under Valley Water's Well Ordinance 90-1, permits are required for any boring, drilling, deepening, refurbishing, or destroying a water well, cathodic protection well, observation well, monitoring well, exploratory boring (45 feet or deeper), or other deep excavation that intersects the groundwater aquifers of Santa Clara County."

³ San Francisco Bay Regional Water Quality Control Board. *Municipal Regional Stormwater Permit, Provision C.12.* November 19, 2015.

Page 115 **REVISE** text to the second paragraph as follows:

The project site is located within the Anderson Dam Failure Inundation Area as identified on the Valley Water Anderson Dam, Lenihan Dam, and Calero Dam Inundation Maps.⁴ The site would be subject to inundation, ranging from two to five feet in depth, resulting from potential failure of Anderson Dam, five to 10 feet resulting from Lexington/Lenihan Dam failure, and one to two feet from Calero Dam failure.

Page 117 **REVISE** text to the second paragraph as follows:

Post-Construction Water Quality Impacts

The Coleman Avenue/Autumn Street EIR concluded that operations of the project (and interim parking uses) would incrementally contribute to the volume of pollutants already entering nearby streams via existing storm drains. The Downtown Strategy 2040 EIR concluded that contaminants generated in the Downtown Strategy 2040 area could degrade the water quality of Los Gatos Creek, Guadalupe River, and the San Francisco Bay.

The proposed project would result in the replacement of approximately 95,000 square feet of impervious surfaces, including the existing building roofs, parking lot and driveway areas and add approximately 7,000 square feet of new pervious surfaces. The Downtown Strategy EIR included measures new or redevelopment projects that create, add, or replace 5,000 ~~10,000~~ square feet or more of impervious surface area control post-development stormwater runoff through site design, source control, and LID treatment control BMPs (under the City's MRP requirements). Because the proposed project would replace more than 5,000 ~~10,000~~ square feet of impervious surface area, it would be subject to Provision C.3 of the MRP. This requires that the project incorporate site design, source control and runoff treatment controls to reduce the rates, volumes and pollutant loads of runoff from the project (consistent with the Downtown Strategy EIR). The following Conditions of Approval reflect this requirement:

Page 119 **REVISE** text in the second paragraph as follows:

As discussed above, the proposed parking lot project would be located in Flood Zone D, which indicates an undetermined flood risk. The eastern edge of the site, within the 35-foot Guadalupe River riparian setback area and where the future trail would be located, is located within Zone A, a Special Flood Hazard Area. Although the site is located within the Anderson Dam Failure, Lexington and Lenihan Dam, and Calero Dam Inundation Areas, the proposed parking lot would not contain any stored hazardous materials or other concentrated pollutants that could be released in an

⁴ Valley Water. Local Dams and Reservoirs. Anderson Dam and Reservoir. Inundation Map of Hypothetical Fair Weather Failure of Anderson Dam. Sheet 19. Inundation Map of Hypothetical Inflow Design Flood Failure of Anderson Dam. Sheet 24. Lenihan Dam Inundation Map, Sheet 12. Calero Dam Inundation Map, Sheet 13. Accessed August 3, 2023 ~~May 31, 2023.~~ <https://www.valleywater.org/your-water/local-dams-and-reservoirs>.

inundation event. As discussed in the Downtown Strategy 2040 EIR, the potential for dam failure is reduced by several regulatory inspection programs reduced by local hazard mitigation planning managed by Valley Water.

The project site is not located adjacent to any large bodies of water (i.e., the San Francisco Bay), nor is the project located within a designated tsunami inundation zone. The Downtown Strategy 2040 EIR and the Coleman Avenue/Autumn Street EIRs did not evaluate the risk of release of pollutants due to project inundation flood hazard, tsunami, or seiche zones. The future trail would be located within Zone A; however, supplemental environmental review, including the impacts due to the release of pollutants in a flood hazard area, would be required prior to development approval. The future trail project would be required to include measures/conditions of approval that reduce these impacts to less than significant. ~~However, since the project would not store hazardous pollutants and is not in a flood hazard, tsunami zone or seiche zone, the project would not result in the release of pollutants in these designated areas.~~ **[New Less than Significant Impact]**

Page 141 **REVISE** text in and **ADD** text after the second paragraph:

~~The San José History Park, the previous City Hall “E” parking lot, the site of the San José Fire Department Training Center, the former FMC site, and the Guadalupe Gardens (behind the Master Metal Products building on 495 Emory Street) were areas the City identified that could potentially accommodate the historic building. However, based on information provided by the City, the above-mentioned sites can no longer accommodate the historic building since they are either developed or designated for development.~~ Based on correspondence with the San José History Park staff, San José History Park is currently limited due to funding in accepting new buildings and relocation would require approval through the Office of Cultural Affairs with evidence of funding. The City Hall “E” parking lot has been developed and the San José Fire Department Training Center is designated for development.

The Guadalupe Gardens would not be suitable for a relocated historic building. Most of the area is regulated by the San José Mineta International Airport and the Federal Aviation Administration (FAA). The Guadalupe Gardens area has safety zones regulated by the FAA. In addition, given the increase in unhoused persons occupying Guadalupe Gardens (Airport property encumbered by the FAA) during and after the pandemic, the City recently a compliance effort related to airport safety zone policies with the FAA. The City and FAA have developed future plans in the Guadalupe Gardens area to avoid having unhoused communities and residential uses in the Airport's high noise approach area. This area is now being monitored by the FAA. Specifically, in coordination with the FAA and the City's Department of Parks, Recreation and Neighborhood Services (PRNS), the Airport has defined existing and future areas to be developed, including commercial development along Coleman Ave and Hedding Street. Future development would be required to be consistent with the Guadalupe Gardens Master Plan (refer to Figure 7.4-1 in Appendix B Supporting Documentation of this Final SEIR).

There are existing policies in place for height, safety, and noise and only specific uses are permitted in the identified development areas (all of which are safety zones and critical FAA safety surfaces).

Relocating the Forman’s Arena historic building to Guadalupe Gardens would not be feasible due to its height, and Santa Clara County Airport Land Use Commission/FAA restrictions.

Since there are no available sites identified to accommodate the Forman’s Arena building, this alternative is rejected from further consideration.

Page 143 **ADD** text to the third paragraph as follows:

7.4.2.2 *Forman’s Arena Building Retention Alternative*

As discussed above, the project proposes to demolish all structures (including the Forman’s Arena building, a historical resource under CEQA, to construct the proposed 300-space parking lot. The Forman’s Arena Building Retention Alternative would demolish all structures with the exception of the Forman’s Arena building at 447 West St. John Street. This alternative would also propose a surface parking lot but would retain the Forman’s Arena and allow parking in the Forman’s Arena building. This re-design would require the relocation of the ADA stalls and would eliminate some of the spaces available for surface parking; it is estimated approximately ~~223~~¹⁷⁵ surface parking spaces could be provided and up to ~~2725~~ interior parking spaces could be provided for a total of ~~25000~~ parking spaces (refer to Figure 7.4-2). The setback area from the Foreman’s Arena building shown on Figure 7.4-2 is proposed to protect the building from damage by vehicles parking on-site and is a minimum of 15 feet from the exterior of the building. It is anticipated that the driveway locations would remain the same as the proposed project and there would be one additional driveway along West St John Street into the Forman’s Arena for parking within the structure. Any structural repairs needed for the Forman’s Arena would be completed for the building consistent with the Secretary of the Interior Standards for the Treatment of Historic Properties.

Previous analysis of the Forman’s Arena determined that the building would need seismic retrofitting to ensure structural integrity. Based on a feasibility study completed for the Forman’s Arena in August 2007 as a part of the Coleman Avenue and Autumn Street Improvement Project SEIR, the addition of plywood shear walls would be a feasible seismic reinforcement option. Under this alternative, the plywood shear walls would be required to be installed in the interior of the building in a manner that would not damage or alter the building exterior prior to its use a parking structure. The new plywood shear walls would, therefore, not impact the building’s historic integrity.

Page 144 **ADD** text to the first paragraph as follows:

Relationship to Project Objectives

This alternative would meet the objective to provide surface parking for the SAP Center, as the site is currently utilized for surface parking. However, this Alternative would only provide up to 250 ~~200~~ parking spaces compared to the proposed parking lot that would provide 300 spaces.

Page 147 **ADD** text after “Santa Clara Valley Water District” reference:

Traverso Tree Service, Inc. Tree Inventory and Assessment Table for Milligan Lot, N. Autumn Street and West, St. John Street, San José. July 11, 2022.