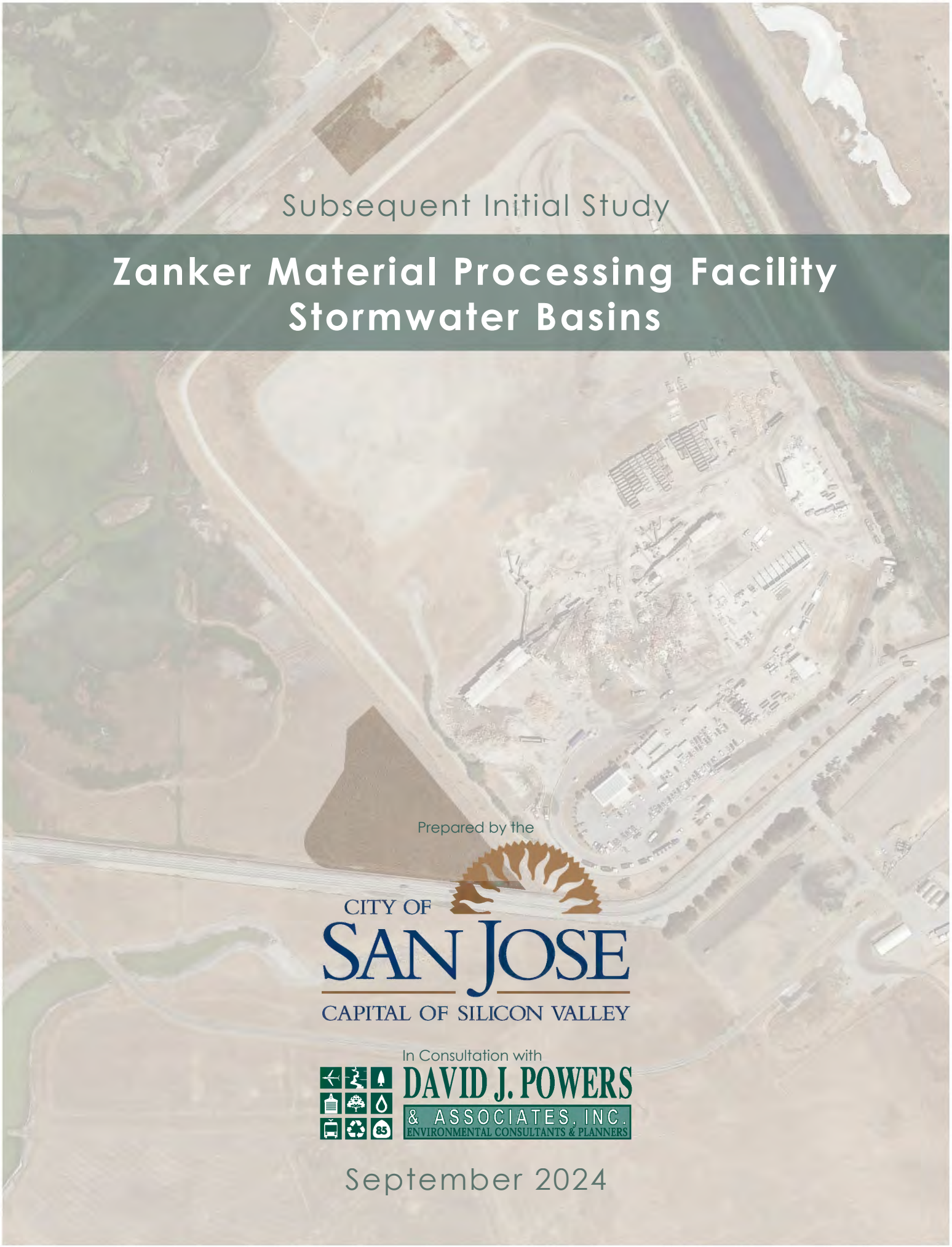
Subsequent Initial Study

Zanker Material Processing Facility Stormwater Basins



Prepared by the

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

In Consultation with

DAVID J. POWERS & ASSOCIATES, INC.
ENVIRONMENTAL CONSULTANTS & PLANNERS

September 2024

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SECTION 1.0 INTRODUCTION AND PURPOSE

1.1 PURPOSE OF THE INITIAL STUDY

The City of San José, as the Lead Agency, has prepared this Initial Study for the Zanker Material Processing Facility Stormwater Basins project in compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines (California Code of Regulations Section 15000 et. seq.) and the regulations and policies of the City of San José, California.

The applicant proposes to construct two separate stormwater retention basins near the northwestern and southwestern corners of the existing Zanker Material Processing Facility (ZMPF) in north San José.

The purpose of the Initial Study is to inform decision makers and the general public of the environmental impacts that might reasonably be anticipated to result from development of the proposed project.

CEQA recognizes that between the date an environmental document is completed and the date the project is fully implemented, one or more of the following changes may occur: 1) the project may change; 2) the environmental setting in which the project is located may change; 3) laws, regulations, or policies may change in ways that impact the environment; and/or 4) previously unknown information can arise. Before proceeding with a project, CEQA requires the Lead Agency to evaluate these changes to determine if they affect the conclusions in the environmental document.

In June 2008, the City of San José certified the Environmental Impact Report (EIR) for the Zanker Materials Recycling Facility Planned Development Rezoning project (PDC06-120) and approved the project. The approved project rezoned the approximately 53-acre Zanker Material Recycling Facility (ZMPF) site to allow continued use of the ZMPF, as well as expansion of its operations, and construction of a 200,000-square foot material recovery facility (MRF).

In November 2009, the City of San José prepared and adopted a subsequent Initial Study/Mitigated Negative Declaration (IS/MND) for the Zanker Material Recycling Facility Driveway project (PDC08-054) and approved the project. This subsequent project rezoned the ZMPF site to allow a driveway modification and wetlands exchange in addition to the changes analyzed and previously approved in 2008 under PDC06-120. The Initial Study prepared for PDC08-054 concluded that the driveway modifications would impact approximately 0.19 acres of seasonal wetland. As such, a new significant environmental impact and mitigation which were not previously disclosed in the 2008 EIR prepared for PDC06-120 were identified.

In April 2013, the City of San José prepared an Addendum to the Zanker Materials Recycling Facility Final Environmental Impact Report and Subsequent Mitigated Negative Declaration (PDC12-029) to again rezone the ZMPF site to allow the expansion of waste recovery operations and an increase in maximum landfill height. This rezoning was approved by City Council in June 2013.

At the times of the environmental review and approvals in 2008, 2009, and 2013, Zanker Road Resource Management, LLC. (ZRRML), who own and operate the ZMPF, anticipated that the stormwater management for the ZMPF site may need to be modified as the planned improvements

and operational changes were implemented. The details of the potential changes to the stormwater management were not yet known at those times and therefore, were not evaluated in prior environmental reviews. However, the existing stormwater management for the ZMPF is inadequate during extreme wet weather conditions. The applicant, ZRRML, is now proposing to redirect the stormwater runoff on the site into two new basins that would be designed to adequately accommodate existing runoff flows and future increased flows from the planned improvements at the ZMPF. The currently proposed project would require a rezoning to include two new basins and expand the ZMPF site boundary to include the new southwest basin. The proposed basins were not analyzed during the environmental review of previously approved development projects on the property (PDC06-120, PDC08-054, and PDC12-029).

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

(1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

(2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or

(3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:

    (A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
    (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR.
    (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
    (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Given the previous environmental review completed for the ZMPF, the nature of the proposed project, knowledge of the site, and analysis contained in this Initial Study, the City has concluded that the proposed project would result in new impacts to biological resources in areas not previously

discussed or analyzed in the 2008 FEIR, the 2009 IS/MND, or the 2013 Addendum. For this reason, a subsequent Initial Study and Mitigated Negative Declaration have been prepared.

1.2 PUBLIC REVIEW PERIOD

Publication of this Initial Study marks the beginning of a 30-day public review and comment period. During this period, the Initial Study will be available to local, state, and federal agencies and to interested organizations and individuals for review. Written comments concerning the environmental review contained in this Initial Study during the 30-day public review period should be sent to:

Cort Hitchens
City of San José
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street, Tower 3rd Floor
San Jose, CA 95113
Phone: (408) 794-7386
Email: cort.hitchens@sanjoseca.gov

1.3 CONSIDERATION OF THE INITIAL STUDY AND PROJECT

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

1.4 NOTICE OF DETERMINATION

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

SECTION 2.0 PROJECT INFORMATION

2.1 PROJECT TITLE

Zanker Material Processing Facility Stormwater Basins Project

2.2 LEAD AGENCY CONTACT

Cort Hitchens
City of San José
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street, Tower 3rd Floor
San Jose, CA 95113
Phone: (408) 794-7386
Email: cort.hitchens@sanjoseca.gov

2.3 PROJECT APPLICANT

Zanker Road Resource Management, LLC
675 Los Esteros Road
San José, CA 95134

2.4 PROJECT LOCATION

The project site consists of land immediately adjacent to the Zanker Material Processing Facility (ZMPF), east of the community of Alviso in north San José, and the ZMPF property. The ZMPF is bordered by Grand Boulevard to the northwest, Coyote Creek and the San José-Santa Clara Regional Wastewater Facility (RWF) outfall channel to the east, Los Esteros Road to the south and southeast, and existing wetlands habitat to the southwest and west. Further north of Grand Boulevard is the approximately 30,000-acre Don Edwards San Francisco Bay National Wildlife Refuge. Southeast of the site is the RWF. Regional, vicinity, and aerial maps of the project site are shown on Figures 2.4-1, 2.4-2, and 2.4-3, respectively, on the following pages.

2.5 ASSESSOR'S PARCEL NUMBERS

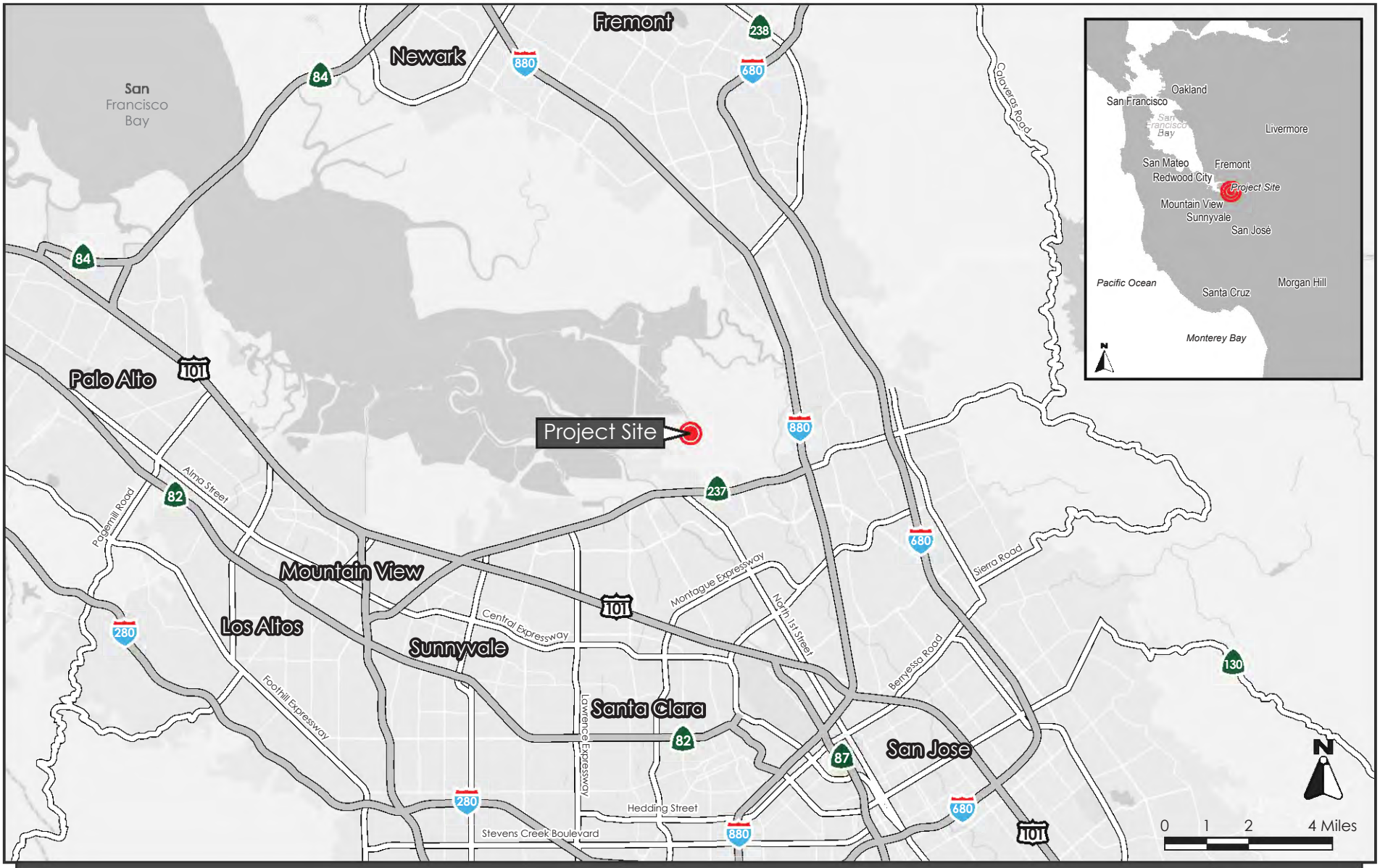
015-30-071 and 015-30-106

2.6 GENERAL PLAN DESIGNATION AND ZONING DISTRICT

General Plan Designation:	Open Space, Parklands and Habitat; Light Industrial
Zoning District:	A(PD) Planned Development District

2.7 PROJECT-RELATED APPROVALS, AGREEMENTS, AND PERMITS

- Planned Development Rezoning (City of San José Planning Department)
- Planned Development Permit (City of San José Planning Department)
- Grading Permit (City of San José Public Works Department)
- Solid Waste Facilities Permit (City of San José Local Enforcement Agency and California Integrated Waste Management Board)
- National Pollution Discharge Elimination System Permit (San Francisco Regional Water Quality Control Board)
- Waste Discharge Requirements (San Francisco Regional Water Quality Control Board)
- Permits to Operate (Bay Area Air Quality Management District)
- Clean Water Act Section 404 Nationwide Permit (United States Army Corps of Engineers)



REGIONAL MAP

FIGURE 2.4-1

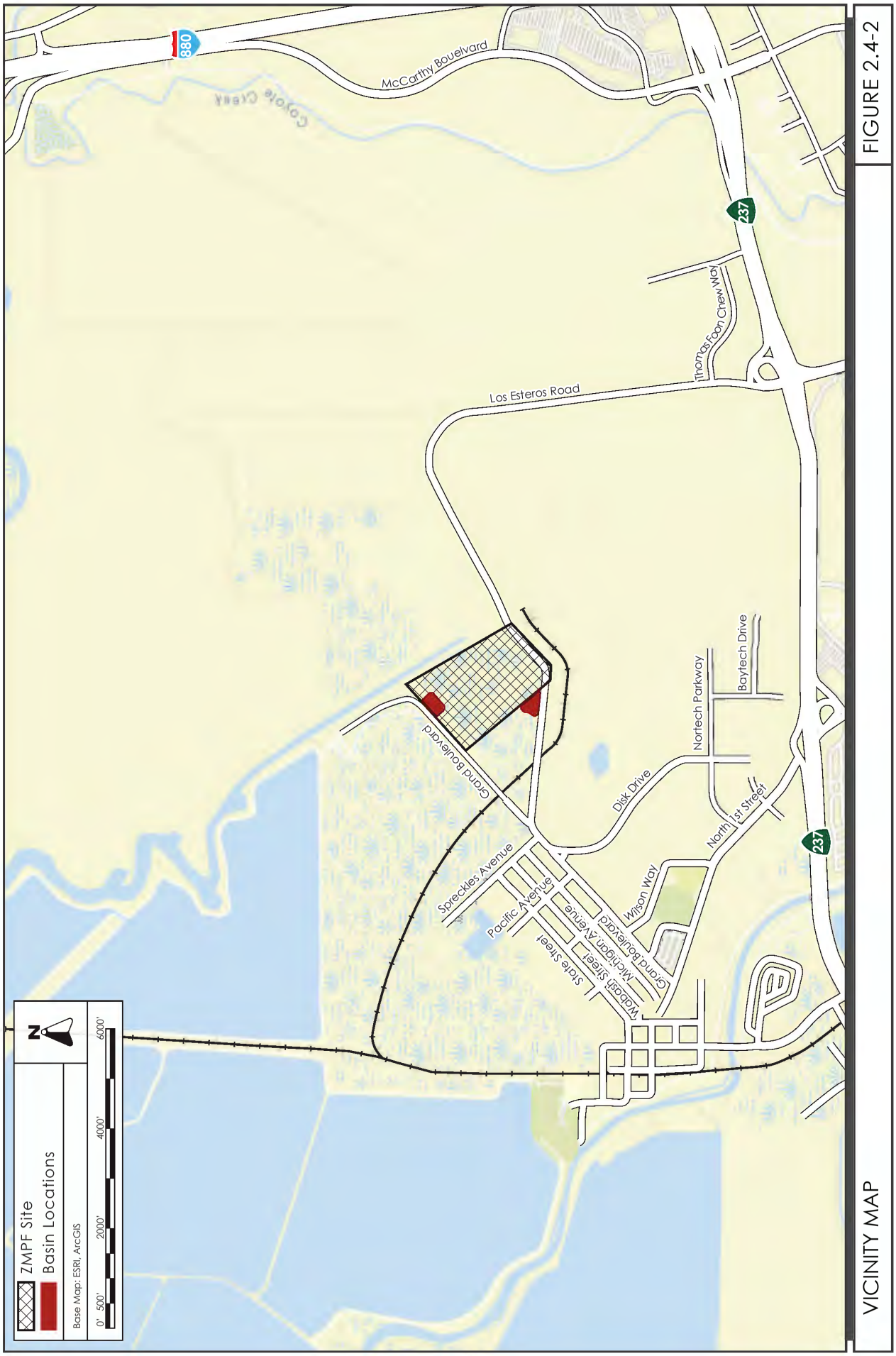


FIGURE 2.4-2

VICINITY MAP

AERIAL PHOTOGRAPH AND SURROUNDING LAND USES | FIGURE 2.4-3

SECTION 3.0 PROJECT BACKGROUND AND DESCRIPTION

3.1 HISTORIC OVERVIEW AND BACKGROUND

The ZMPF site is situated on approximately 53 acres of a 76-gross acre property that was formerly owned by the Owens-Corning Fiberglas Corporation. From the 1950s to the 1960s, approximately 30 acres of the site was used to dispose of wastes from its fiberglass manufacturing plant located nearby in the City of Santa Clara. The site was purchased by Zanker Road Resource Management from the Owens-Corning Fiberglas Corporation in 1998 and the ZMPF was opened to the public as a resource recovery facility and disposal site in 1999. The ZMPF is currently operating under the site configuration, tonnage, and landfill height limitations approved under PD13-022, which included an increase in maximum daily tonnage processed to 1,800 tons per day, an increase in landfill height to 80 feet above mean sea level (MSL) and associated increased disposal capacity, landfill closure in accordance with a final closure/post closure maintenance plan, one additional inbound scale, and the construction of a new, two-story 6,400-square foot office building. Ultimately, as approved under PDC06-120, PDC08-054, and PDC12-029, the ZMPF is entitled to expand to include the approximately 200,000 square feet MRF and handle up to 5,000 tons per day, 24 hours per day, 365 days per year.

3.1.1 Existing Stormwater Management

The ZMPF is currently configured with three sedimentation basins (drainage sumps), which are regularly used for stormwater collection and re-use at the facility, as well as one external media filter basin located outside of the resource recovery area, near Los Esteros Road, that is only used in extreme emergency situations to prevent flooding of the site's processing area. Figure 3.1-1 shows the location of the three existing sedimentation basins. To prevent flooding of the site in extreme wet weather conditions, the ZMPF pumps out the drainage sumps to the external media filter basin when the water level threatens to inundate the processing areas, allowing additional capacity in the drainage sumps to capture runoff from the processing areas. Under the planned expansions of the ZMPF (approved under PDC06-120, PDC08-054, and PDC12-029), the drainage sumps would be eliminated, permeable areas would be reduced, and the capacity of the three existing sedimentation basins would be reduced or eliminated. As a result, new stormwater basins would be required to adequately manage stormwater from the planned expansion of the ZMPF.

Surface water and groundwater at the project site currently drains directly into the San Francisco Bay and the areas surrounding the ZMPF via a surface drainage system. As shown in Figure 3.1-2, there are surface features, such as grades, berms, swales, and ditches, that direct stormwater runoff into the four currently permitted drainage discharge points (#1, #2, #3, #4). Runoff from the western top portion of the landfill drains into the Pacific Gas and Electric (PG&E) easement area, downslope of the northern end of the site, and eventually to the New Chicago Marsh (drainage discharge point #1). Runoff from the southern portion of the landfill drains into an existing drainage ditch along Los Esteros Road, which in turn drains into the wetland areas west of the ZMPF (drainage discharge points #2 and #3). Runoff from northeastern/eastern portions of the ZMPF drain into ditches (drainage discharge point #4) along the access road on the eastern property line. These ditches direct runoff to the seasonal wetland area in the southeastern corner of the site, which overflows into a stormwater channel and ultimately flows into the RWF outfall channel along the eastern property line.

Source: GreenWaste Recovery, September 16, 2022.

EXISTING AND PROPOSED ZMPF SEDIMENTATION BASINS

FIGURE 3.1-1

Source: WCL, August 31, 2022.

ON-SITE DRAINAGE DIRECTION

FIGURE 3.1-2

3.2 PROJECT DESCRIPTION

The applicant proposes to construct two separate, unlined stormwater basins to retain, treat, and store stormwater runoff from the ZMPF site. The northwest basin (NW Basin) would be located within the existing PD Zoning boundary of the ZMPF, at the base of landfill perimeter levee in the northwest area of the ZMPF site. The NW Basin would have a total capacity of approximately 8.4-acre feet (approximately 366,000 cubic feet or 2.7 million gallons) and a footprint of approximately 1.55 acres. The NW Basin site is undeveloped and is currently used as an unpaved temporary parking lot.

The southwest basin (SW Basin) would be located adjacent to the ZMPF site but outside of the PD Zoning boundary at the southwest corner of the ZMPF site along Los Esteros Road. The applicant proposes to expand the PD Zoning boundary in order to include the SW Basin site within the ZMPF boundary. This area is undeveloped and consists of historically diked baylands that have had limited to no tidal connectivity since at least 1948.[1] The habitat in this area is considered transitional upland, which is a non-sensitive natural community. The SW Basin would have a total capacity of approximately 21.9-acre feet (approximately 950,000 cubic feet or 7.1 million gallons) and a footprint of approximately 3.03 acres.

The proposed locations of the NW and SW basins were chosen to allow for efficient collection and management of runoff because the stormwater basins would be immediately adjacent to the active waste management unit, as well as to minimize impacts to wetland areas located adjacent to the ZMPF.

The two new stormwater basins would be sized to accommodate runoff flows from the existing and the expansion of the ZMPF site under future planned conditions and would be designed to retain multiple 100-year, 24-hour flood events.[2] The water that collects in the proposed basins would be utilized at the ZMPF whenever possible for material processing and dust control. The stormwater basins would be designed to naturally allow any sediments that collect in the runoff to settle out. The water would then be pumped into water trucks and would be sprayed on the on-site roads, vehicle maneuvering areas, and material stockpiles to minimize dust generation during site operations. Collected runoff water has historically been used at the ZMPF for these purposes and is currently suitable for these purposes without any active treatment requirements as described in the ZMPF's Stormwater Pollution Prevention Plan (Order Number R2-2016-0010). No surface discharge of stormwater to the surrounding areas would occur with implementation of the proposed retention basins, which would be designed to allow infiltration of stormwater into the native soil beneath the basins. The proposed site plan for the project is shown in Figure 3.1-1.[3]

3.2.1 Proposed Stormwater Management

The construction of the two proposed stormwater basins would not change the overall drainage pattern as described in Section 3.1.1 Existing Stormwater Management. The existing surface

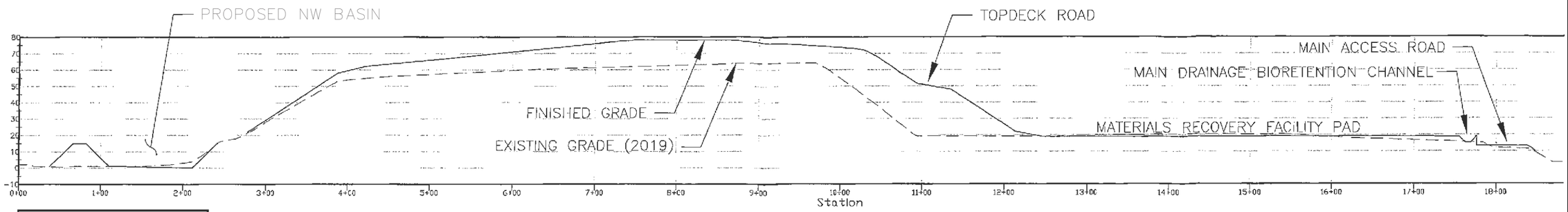
[1] WRA. *Zanker Material Processing Facility Stormwater Basins Biological Resources Assessment*. August 2022. Page 11.
[2] As described in Section 1.1 Purpose of the Initial Study, the two new stormwater basins were not contemplated since ZRRMIL did not yet know what type of stormwater management changes would be needed due to future planned improvements and operation.
[3] It should be noted that the conceptual site plan shows the location of the MRF, which has been approved but not yet implemented.

drainage system would continue to be used to direct flow into the current and proposed basins. The drainage discharge point #4 that currently directs runoff from northeastern/eastern portions of the ZMPF into the seasonal wetland area in the southeastern corner of the site would function as a backup drainage ditch in cases of overflow on-site and the two new stormwater basins are at capacity. After implementation of the proposed project, all stormwater runoff would ultimately be directed to the drainage discharge points #1, #2, and #3 identified in Figure 3.1-2. The new proposed NW and SW basins would be designed to handle all stormwater runoff on the site under existing conditions and planned expansions under PD13-022. Grading and leveling would be completed on-site to connect the existing stormwater flow at drainage discharge points #1, #2, and #3 to the new proposed NW and SW basins. The two proposed stormwater basins would be included in the ZMPF operational plans, which would require design, maintenance and upkeep of the proposed basins. Additionally, the basins would be incorporated into the current Storm Water Pollution Prevention Plan (SWPPP), which would require regular inspections and maintenance of the stormwater basins during dry and wet weather seasons. Annual reporting would also be required as part of the SWPPP.

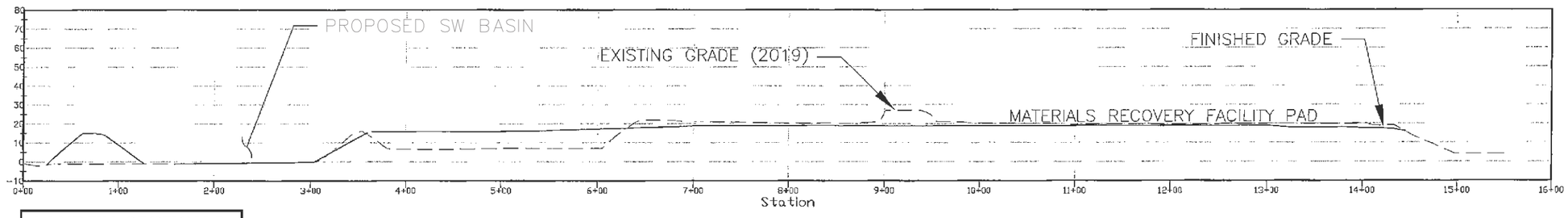
3.2.2 Construction Details

The combined construction of the two new basins would occur on approximately 5.7 acres; the basins' footprint would occupy approximately 4.6 acres and approximately 1.1 acres would be temporarily used as construction staging areas surrounding the basins. One side of each proposed basin would be formed by the existing perimeter soil levee of the landfill. The remaining perimeter berms for these basins would be constructed of suitable soil using conventional soil construction techniques. The berms would be constructed with stable side slopes to approximately 14 feet above MSL. The top surface of the berms would be wide enough to provide vehicle access for routine berm maintenance and inspection. Approximately 26,000 cubic yards (cy) of soil would be used to construct the SW Basin berms, and approximately 10,000 cubic yards of soil would be used to construct the NW Basin berms. The soil needed to construct the berms would be clean fill sourced from existing operations at the ZMPF, and no cut or fill would be imported or exported. The project would also include minor excavation with both basins requiring a maximum excavation depth of three feet. Construction of the proposed stormwater basins is anticipated to take approximately five months total. Because the soil used to construct the basins would be sourced from on-site, no off-site trucking of soil to the site would occur during construction of the project. Landfill sections showing the approximate elevations of the landfill and soil berms are shown on Figure 3.2-1.

All trucks and vehicles accessing the site during construction would travel westward on Los Esteros Road via Zanker Road. All vehicles exiting the site would travel eastward on Los Esteros Road to connect with Zanker Road, which then connects to State Route 237.



LANDFILL SECTION A



LANDFILL SECTION B

Source: APTIM Environmental & Infrastructure, Inc., 5/20/19.

LANDFILL SECTIONS | FIGURE 3.2-1

SECTION 4.0 ENVIRONMENTAL SETTING, CHECKLIST, AND IMPACT DISCUSSION

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

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

The discussion for each environmental subject includes the following subsections:

- **Environmental Setting** – This subsection 1) provides a brief overview of relevant plans, policies, and regulations that compose the regulatory framework for the project and 2) describes the existing, physical environmental conditions at the project site and in the surrounding area, as relevant.
- **Impact Discussion** – This subsection 1) includes the recommended checklist questions from Appendix G of the CEQA Guidelines to assess impacts and 2) discusses the project's impact on the environmental subject as related to the checklist questions. For significant impacts, feasible mitigation measures are identified. "Mitigation measures" are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guidelines Section 15370). Each impact is numbered to correspond to the checklist question being answered. For example, Impact BIO-1 answers the first checklist question in the Biological Resources section. Mitigation measures are also numbered to correspond to the impact they address. For example, MM BIO-1.3 refers to the third mitigation measure for the first impact in the Biological Resources section.

4.1 AESTHETICS

4.1.1 Environmental Setting

4.1.1.1 *Regulatory Framework*

State

Streets and Highway Code Sections 260 through 263

The California Scenic Highway Program (Streets and Highway Code, Sections 260 through 263) is managed by the California Department of Transportation (Caltrans). The program is intended to protect and enhance the natural scenic beauty of California highways and adjacent corridors through special conservation treatment. There are no state-designated scenic highways in San José. Interstate 280 from the San Mateo County line to State Route (SR) 17, which includes segments in San José, is an eligible but not officially designated State Scenic Highway.[4]

Local

Envision San José 2040 General Plan

The Envision San José 2040 General Plan identifies gateways, freeways, and rural scenic corridors where preservation and enhancement of views of the natural and man-made environment are crucial. The General Plan also includes a range of policies that address the character of the natural and built environment. Development within the City is reviewed for consistency with a range of community design standards.

4.1.1.2 *Existing Conditions*

The project site is designated Open Space, Parklands and Habitat (SW Basin area) and Light Industrial (NW Basin area) in the Envision San José 2040 General Plan. As stated in the General Plan, new development on lands within the Open Space, Parklands and Habitat designation should be limited to minimize potential environmental and visual impacts. The project site is not located along a designated Rural Scenic Corridor, Gateway, freeway or Grand Boulevard, where aesthetic resource policies addressing these thoroughfares would apply. Note that the street named Grand Boulevard directly north of the proposed NW Basin location is not a designated "Grand Boulevard" per the General Plan because it is not a major transportation corridor.[5]

The proposed stormwater treatment areas are located within and immediately adjacent to the approximately 53-acre ZMPF site. The ZMPF consists of a landfill approximately 65 feet (MSL) in height, resource recovery operations (i.e., conveyor belts, moving tractor-trailer trucks, piles of sorted materials), a two-story office building, several one-story office/maintenance buildings, and a

[4] California Department of Transportation. "Scenic Highways." Accessed November 8, 2021. http://www.dot.ca.gov/design/lap/livability/scenic-highways/index.html.

[5] A Grand Boulevard is a major transportation corridor that connects neighborhoods. They are primary transit routes and are sized to accommodate Santa Clara Valley Transportation Authority (VTA) light-rail, bus rapid transit (BRT), buses, and other forms of public transit. Grand Boulevards are designed with transit as the primary mode of transportation. Source: City of San José. *Envision San José 2040 General Plan*. Adopted November 1, 2011. As Amended on January 31, 2024.Chapter 5, Page 34.

paved surface parking lot and entry driveway (refer to Figure 2.4-3 for the existing conditions on the site).

The triangular-shaped SW Basin site is located downslope and to the southwest of the existing landfill. The SW Basin site currently consists of grassland and ruderal vegetation. Los Esteros Road is located just south of the SW Basin site. This area provides limited scenic views of the salt marshes in the adjacent wildlife refuge, and views of the mountain ranges to the east are largely blocked by the existing ZMPF. The SW Basin site is visible from Los Esteros Road and Grand Boulevard but does not provide scenic views or contain scenic resources. Views of the SW Basin site are shown on Photos 1 through 4 on the following pages.

The rectangular-shaped NW Basin site is located downslope and to the northwest of the existing landfill. The NW Basin site currently includes open soil surfaces, gravel, and sparse vegetation. Two parallel rows of electrical transmission line towers are located east and west of the NW Basin site, with transmission lines passing overhead. To the north is Grand Boulevard and the Don Edwards National Wildlife Refuge. The Don Edwards National Wildlife Refuge is a major public open space feature that consists of a variety of wetlands and associated habitats along the margins of the San Francisco Bay. Scenic views from the NW Basin area include views of salt marshes and vegetated open space areas to the north and west and the Diablo Range to the east. The NW Basin area is visible from Grand Boulevard and from recreational trails within the wildlife refuge but offers no scenic views and does not contain scenic resources. Views of the NW Basin area are shown on Photos 5 through 8 on the following pages.

The project site is located adjacent to the baylands of San Francisco Bay and facilities that are industrial in character. Industrial facilities in the area generally are set back from Zanker Road and Los Esteros Road, and rows of trees are planted along some street frontages. The main treatment facilities at the RWF are located east of the site. The RWF treatment facilities are generally screened from view at the two stormwater treatment areas by intervening structures and vegetation.

Photo 1 Looking south toward the SW Basin site from Grand Boulevard.

Photo 2 Looking southeast towards the SW Basin site and Zanker Materials Processing Facility from Grand Boulevard.

PHOTOS 1 & 2

Photo 3 Looking northeast toward the SW Basin site from Los Esteros Road.

Photo 4 View of the SW Basin site from Los Esteros Road, looking north.

PHOTOS 3 & 4

Photo 5 Looking east toward the NW Basin site from the entrance gate of the Don Edwards National Wildlife Refuge on Grand Boulevard.

Photo 6 Looking northwest towards the Don Edwards National Wildlife Refuge from the NW Basin site.

PHOTOS 5 & 6

Photo 7 Looking southeast towards the NW Basin site from the Don Edwards National Wildlife refuge.

Photo 8 Looking southwest towards Alviso from the NW Basin site.

PHOTOS 7 & 8

4.1.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Except as provided in Public Resources Code Section 21099, would the project:					
a) Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☒	☐
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒	☐
c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	☐	☐	☐	☒	☐
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☐	☒	☐

As described below, the proposed project would not result in new or greater aesthetics impacts than were previously disclosed in the 2008 FEIR, 2009 IS/MND, and 2013 Addendum.

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

The General Plan describes scenic vistas or resources in the City of San José as broad views of the Santa Clara Valley, the hills and mountains surrounding the valley, the urban skyline, and the baylands.[6] The project would develop two stormwater basins adjacent to the perimeter of the existing ZMPF, in proximity to the baylands at the southern end of the San Francisco Bay. The proposed basin areas are relatively flat. The project would construct berms up to 14 feet in height, which would be visible from surrounding roadways (Los Esteros Road and Grand Boulevard); however, the berms would not substantially affect public views of scenic vistas including the baylands in the adjacent wildlife refuge or of the Diablo Range to the east. For this reason, the project would have a less than significant impact on scenic vistas. **[Same Impact as Approved Project (Less than Significant Impact)]**

[6] City of San José. *Envision San José 2040 General Plan Integrated Final Program EIR SCH Number 2009072096.* Page 734. September 2011.

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

The NW Basin site consists of open soil surfaces, gravel, and sparse vegetation. The SW Basin site consists of grassland and ruderal and wetland vegetation. There are no trees, rock outcroppings, or historic buildings in either of the proposed treatment areas. The project site is not located within, or visible from, a state scenic highway. Therefore, the project would not substantially damage scenic resources within a state scenic highway. **[Same Impact as Approved Project (Less than Significant Impact)]**

c) Would the project conflict with applicable zoning and other regulations governing scenic quality?

The project site and surrounding areas are characterized by both industrial development and open space areas. The project site meets the definition of an urbanized area as defined in CEQA Guidelines Section 15387. The proposed project would result in minor changes in the site's appearance when viewed from the surrounding streets and recreational trails. The project site is designated Open Space, Parklands, and Habitat (SW Basin) and Light Industrial (NW Basin) in the Envision San José 2040 General Plan (General Plan). New development on private land within the Open Space, Parklands, and Habitat designation should respect the visual quality of native habitat areas. The proposed project would develop two stormwater basins adjacent to a visually sensitive area (Don Edwards San Francisco Bay National Wildlife Refuge); however, the proposed basins are low-intensity land uses that would not detract from the scenic qualities of the area. The project would comply with the development standards set forth in the Planned Development zoning district. The main general development standard for a Planned Development zoning district is no structure, facility, improvement or sign of any kind shall be constructed upon properties in this zoning district unless allowed under the provisions the Planned Development permit granted for said property. The project does not involve the construction of new structures or signs and would be required to comply with the provisions of the Planned Development permit. For these reasons, the project would not conflict with zoning or other regulations governing scenic quality. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

The project does not include new sources of light and the proposed stormwater basins would not create light or glare. Therefore, there would be no impact. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.2 AGRICULTURE AND FORESTRY RESOURCES

4.2.1 Environmental Setting

4.2.1.1 *Regulatory Framework*

State

Farmland Mapping and Monitoring Program

The California Department of Conservation's Farmland Mapping and Monitoring Program (FMMP) assesses the location, quality, and quantity of agricultural land and conversion of these lands over time. Agricultural land is rated according to soil quality and irrigation status. The best quality land is called Prime Farmland. In CEQA analyses, the FMMP classifications and published county maps are used, in part, to identify whether agricultural resources that could be affected are present on-site or in the project area.[7]

California Land Conservation Act

The California Land Conservation Act (Williamson Act) enables local governments to enter into contracts with private landowners to restrict parcels of land to agricultural or related open space uses. In return, landowners receive lower property tax assessments. In CEQA analyses, identification of properties that are under a Williamson Act contract is used to also identify sites that may contain agricultural resources or are zoned for agricultural uses.[8]

Fire and Resource Assessment Program

The California Department of Forestry and Fire Protection (CAL FIRE) identifies forest land, timberland, and lands zoned for timberland production that can (or do) support forestry resources.[9] Programs such as CAL FIRE's Fire and Resource Assessment Program and are used to identify whether forest land, timberland, or timberland production areas that could be affected are located on or adjacent to a project site.[10]

[7] California Department of Conservation. "Farmland Mapping and Monitoring Program." Accessed October 25, 2019. http://www.conservation.ca.gov/dlrp/fmmp/Pages/Index.aspx.
[8] California Department of Conservation. "Williamson Act." Accessed October 25, 2019. http://www.conservation.ca.gov/dlrp/lca.
[9] Forest Land is land that can support 10 percent native tree cover and allows for management of forest resources (California Public Resources Code Section 12220(g)); Timberland is land not owned by the federal government or designated as experimental forest land that is available for, and capable of, growing trees to produce lumber and other products, including Christmas trees (California Public Resources Code Section 4526); and Timberland Production is land used for growing and harvesting timber and compatible uses (Government Code Section 51104(g)).
[10] California Department of Forestry and Fire Protection. "Fire and Resource Assessment Program." Accessed October 25, 2019. http://frap.fire.ca.gov/.

Local

Envision San José 2040 General Plan

The Envision San José 2040 General Plan includes policies applicable to all development projects in San José. The following policies are specific to agricultural resources and are applicable to the proposed project:

Policy	Description
LU-12.3	Protect and preserve the remaining farmlands within San José's sphere of influence that are not planned for urbanization in the timeframe of the Envision General Plan through the following means: • Limit residential uses in agricultural areas to those which are incidental to agriculture. • Restrict and discourage subdivision of agricultural lands. Encourage contractual protection for agricultural lands, such as Williamson Act contracts, agricultural conservation easements, and transfers of development rights. • Prohibit land uses within or adjacent to agricultural lands that would compromise the viability of these lands for agricultural uses. • Strictly maintain the Urban Growth Boundary in accordance with other goals and policies in this Plan.
LU-12.4	Preserve agricultural lands and prime soils in non-urban areas in order to retain the aquifer recharge capacity of these lands.

4.2.1.2 *Existing Conditions*

The project site is not currently used for agricultural purposes. The site is covered by sparse vegetation and/or grasslands. According to the *Santa Clara County Important Farmland 2016 Map,* the project site is not designated as farmland and is designated as "Other Land."[11] "Other Land" is defined as land not included in any other mapping category. Common examples of land with this designation include low density rural developments, wetland, and riparian areas not suitable for livestock grazing. Vacant and nonagricultural land surrounded on all sides by urban development and greater than 40 acres is also mapped as "Other Land". The site is not zoned or used as forestland or timberland. There are no Williamson Act parcels on the project site.[12]

[11] California Department of Conservation. "Farmland Mapping and Monitoring Program – Santa Clara County." Accessed October 25, 2019. https://www.conservation.ca.gov/dlrp/fmmp/Pages/SantaClara.aspx
[12] County of Santa Clara. "Williamson Act Properties." Accessed January 3, 2020. https://www.sccgov.org/sites/dpd/programs/wa/pages/wa.aspx

4.2.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:					
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☒	☐
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒	☐
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?	☐	☐	☐	☒	☐
d) Result in a loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒	☐
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☐	☒	☐

As described below, the proposed project would not result in new or greater impacts to agriculture and forestry resources than previously disclosed in the 2008 FEIR, 2009 IS/MND, and 2013 Addendum.

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

The project site is not designated as farmland according to maps prepared pursuant to the FMMP. Therefore, the project would not convert any Prime Farmland, Unique Farmland, or Farmland of Statewide Importance. **[Same Impact as Approved Project (No Impact)]**

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

As mentioned, the project site, (i.e., the two stormwater basin sites), is zoned A(PD) Planned Development. The site is not under a Williamson Act contract. Therefore, there would be no impact. **[Same Impact as Approved Project (No Impact)]**

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

The site is not zoned, or adjacent to any zoning, for forest land or timberland. The proposed project would not conflict with existing zoning for forest land or timberland. **[Same Impact as Approved Project (No Impact)]**

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

The project site does not contain any forest land and is not adjacent to any forest land. Therefore, no forest land would be lost as a result of the project, nor would forest land be converted to non-forest use. **[Same Impact as Approved Project (No Impact)]**

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

The proposed project would construct two stormwater basins on undeveloped land adjacent to the ZMPF. The site is not in the vicinity of any significant farmland or forest land. The project, therefore, would not indirectly result in the conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use. **[Same Impact as Approved Project (No Impact)]**

4.3 AIR QUALITY

4.3.1 Environmental Setting

4.3.1.1 *Background Information*

Criteria Pollutants

Air quality in the Bay Area is assessed related to six common air pollutants (referred to as criteria pollutants), including ground-level ozone (O_3), nitrogen oxides (NO_x), particulate matter (PM), carbon monoxide (CO), sulfur oxides (SO_x), and lead.[13] Criteria pollutants are regulated because they result in health effects. An overview of the sources of criteria pollutants and their associated health are summarized in Table 4.3-1. The most commonly regulated criteria pollutants in the Bay Area are discussed further below.

Table 4.3-1: Health Effects of Air Pollutants

Pollutants	Sources	Primary Effects
O_3 (ozone)	Atmospheric reaction of organic gases with nitrogen oxides in sunlight	• Aggravation of respiratory and cardiovascular diseases • Irritation of eyes • Cardiopulmonary function impairment
Nitrogen Dioxide (NO_2)	Motor vehicle exhaust, high temperature stationary combustion, atmospheric reactions	• Aggravation of respiratory illness • Reduced visibility
Fine Particulate Matter ($PM_{2.5}$) and Coarse Particulate Matter (PM_{10})	Stationary combustion of solid fuels, construction activities, industrial processes, atmospheric chemical reactions	• Reduced lung function, especially in children • Aggravation of respiratory and cardiorespiratory diseases • Increased cough and chest discomfort • Reduced visibility
Toxic Air Contaminants (TACs)	Cars and trucks, especially diesel-fueled; industrial sources, such as chrome platers; dry cleaners and service stations; building materials and products	• Cancer • Chronic eye, lung, or skin irritation • Neurological and reproductive disorders

High ozone levels are caused by the cumulative emissions of reactive organic gases (ROG) and NO_x. These precursor pollutants react under certain meteorological conditions to form high ozone levels. Controlling the emissions of these precursor pollutants is the focus of the Bay Area's attempts to reduce ozone levels. The highest ozone levels in the Bay Area occur in the eastern and southern inland valleys that are downwind of air pollutant sources.

PM is a problematic air pollutant of the Bay Area. It is assessed and measured in terms of respirable particulate matter or particles that have a diameter of 10 micrometers or less (PM_{10}) and fine

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

particulate matter where particles have a diameter of 2.5 micrometers or less ($PM_{2.5}$). Elevated concentrations of PM_{10} and $PM_{2.5}$ are the result of both region-wide emissions and localized emissions.

Toxic Air Contaminants

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

Diesel exhaust is the predominant TAC in urban air and is estimated to represent about three-quarters of the cancer risk from TACs. Diesel exhaust is a complex mixture of gases, vapors, and fine particles. Medium- and heavy-duty diesel trucks represent the bulk of DPM emissions from California highways. The majority of DPM is small enough to be inhaled into the lungs. Most inhaled particles are subsequently exhaled, but some deposit on the lung surface or are deposited in the deepest regions of the lungs (most susceptible to injury).[14] Chemicals in diesel exhaust, such as benzene and formaldehyde, have been previously identified as TACs by the California Air Resources Board (CARB).

Sensitive Receptors

Some groups of people are more affected by air pollution than others. CARB has identified the following groups who are most likely to be affected by air pollution: children under 16, the elderly over 65, athletes, and people with cardiovascular and chronic respiratory diseases. These groups are classified as sensitive receptors. Locations that may contain a high concentration of these sensitive population groups include residential areas, hospitals, daycare facilities, elder care facilities, and elementary schools.

4.3.1.2 *Regulatory Framework*

Federal and State

Clean Air Act

At the federal level, the United States Environmental Protection Agency (EPA) is responsible for overseeing implementation of the Clean Air Act and its subsequent amendments. The federal Clean Air Act requires the EPA to set national ambient air quality standards for the six common criteria pollutants (discussed previously), including PM, O_3, CO, SO_x, NO_x, and lead.

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

[14] California Air Resources Board. "Overview: Diesel Exhaust and Health." Accessed October 28, 2019. https://www.arb.ca.gov/research/diesel/diesel-health.htm.

Attainment status for a pollutant means that a given air district meets the standard set by the EPA and/or CARB.

Risk Reduction Plan

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

Regional

2017 Clean Air Plan

The Bay Area Air Quality Management District (BAAQMD) is the agency primarily responsible for assuring that the federal and state ambient air quality standards are maintained in the San Francisco Bay Area. Regional air quality management districts, such as BAAQMD, must prepare air quality plans specifying how state and federal air quality standards will be met. BAAQMD's most recently adopted plan is the Bay Area 2017 Clean Air Plan (2017 CAP). The 2017 CAP focuses on two related BAAQMD goals: protecting public health and protecting the climate. To protect public health, the 2017 CAP describes how BAAQMD will continue its progress toward attaining state and federal air quality standards and eliminating health risk disparities from exposure to air pollution among Bay Area communities. To protect the climate, the 2017 CAP includes control measures designed to reduce emissions of methane and other super-greenhouse gases (GHGs) that are potent climate pollutants in the near-term, and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.[15]

CEQA Air Quality Guidelines

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

[15] BAAQMD. *Final 2017 Clean Air Plan.* April 19, 2017. http://www.baaqmd.gov/plans-and-climate/air-quality-plans/current-plans.

Local

Envision San José 2040 General Plan

In connection with the implementation of BAAQMD's 2017 CAP, various policies in the General Plan have been adopted for the purpose of avoiding or mitigating air quality impacts from development projects. The proposed project would be subject to the air quality policies listed in the General Plan, including the following:

Policy	Description
MS-10.1	Assess projected air emissions from new development in conformance with the BAAQMD CEQA Guidelines and relative to state and federal standards. Identify and implement air emissions reduction measures.
MS-10.2	Consider the cumulative air quality impacts from proposed developments for proposed land use designation changes and new development, consistent with the region's Clean Air Plan and State law.
MS-11.2	For projects that emit toxic air contaminants, require project proponents to prepare health risk assessments in accordance with BAAQMD-recommended procedures as part of environmental review and employ effective mitigation to reduce possible health risks to a less than significant level. Alternatively, require new projects (such as, but not limited to, industrial, manufacturing, and processing facilities) are sources of TACs to be located an adequate distance from residential areas and other sensitive receptors.

4.3.1.3 *Existing Conditions*

The proposed basin sites are undeveloped and do not emit any air pollutants. The adjacent ZMPF generates air pollutants due to site operations (mobile on-site equipment, off-site vehicle trips, and permitted sources). Sensitive receptors in the area include visitors to the Don Edwards National Wildlife Refuge Education Center (approximately 0.3-mile north), homes in the residential area of Alviso (approximately 0.4-mile west), and students at George Mayne Elementary School (approximately 0.7-mile southwest).

4.3.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:					
a) Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☐	☒	☐
b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?	☐	☐	☐	☒	☐
c) Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☐	☒	☐
d) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?	☐	☐	☐	☒	☐

As described below, the proposed project would not result in new or greater air quality impacts than were previously disclosed in the 2008 FEIR, 2009 IS/MND, and 2013 Addendum.

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

BAAQMD recommends that the agency approving a project where an air quality plan consistency determination is required analyze the project with respect to the following questions.

1) Does the project support the primary goals of the 2017 CAP?
2) Does the project include applicable control measures from the 2017 CAP?
3) Does the project disrupt or hinder the implementation of any 2017 CAP control measures?

The project would support the primary goals of the CAP, which are to attain air quality standards, reduce population exposure and protect public health, reduce greenhouse gas emissions, and protect the climate. This is evidenced by the project's minimal contribution to local and regional air pollutant and greenhouse gas emissions during both construction and operation [as discussed below under Question b) and in Section 4.8 Greenhouse Gas Emissions] and the low-intensity use proposed. The 2017 CAP contains 85 control measures which are generally applicable to large-scale industrial uses and/or regional plans, such as general plans and specific plans. The project would not disrupt, delay,

or otherwise hinder the implementation of any of the control measures. For these reasons, the project would not conflict with or obstruct implementation of the 2017 CAP. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

Construction

Construction of the proposed stormwater basins is estimated to last five months. A total of approximately 36,000 CY of soil would be used to construct the NW and SW Basins, respectively. The soil needed to construct the two basins would be clean fill sourced from ongoing operations at the ZMPF. As a result, no increase in truck traffic would occur on Zanker Road/Los Esteros Road to deliver or offload soil during construction of the basins. Further, all equipment and labor needed for construction of the basins would be provided from existing equipment and personnel at the ZMPF. Internalizing the construction process reduces potential criteria pollutant emissions from material and worker transport to and from the site.

Project construction activities would include, but not be limited to, site clearing, soil transport within the site, and soil compaction. Construction activities, particularly during site preparation, would temporarily generate fugitive dust in the form of PM_{10} and $PM_{2.5}$. Sources of fugitive dust would include disturbed soils at the construction site, which could potentially become airborne. The BAAQMD CEQA Air Quality Guidelines consider these impacts to be less than significant if best management practices are implemented to reduce these emissions.

Standard Permit Conditions: The following measures shall be implemented during all phases of construction to control dust and exhaust at the project site:

- Water active construction areas at least twice daily or as often as needed to control dust emissions.
- Cover trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
- Remove visible mud or dirt track-out onto adjacent public roads using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- Pave new or improved roadways, driveways, and sidewalks as soon as possible.
- Lay building pads as soon as possible after grading unless seeding or soil binders are used.
- Replant vegetation in disturbed areas as quickly as possible.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Minimize idling times either by shutting off equipment when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations). Provide clear signage for construction workers at all access points.

- Maintain and property tune construction equipment in accordance with manufacturer's specifications. Check all equipment by a certified mechanic and record a determination of running in proper condition prior to operation.
- Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints.

Implementation of the standard permit conditions listed above would reduce potential air quality and fugitive dust-related impacts during construction to a less than significant level by implementing measures to reduce dust, limiting equipment idling, and properly maintaining equipment. **[Same Impact as Approved Project (Less than Significant Impact)]**

Operation

Once operational, ongoing maintenance and repair of the proposed stormwater basins would be minimal. The stormwater collected in the basins would be treated on-site and allowed to infiltrate into the soil or used at the ZMPF for material processing and dust control similar to how stormwater management is described in Section 3.1.1. Therefore, operation of the stormwater basins would not emit any criteria air pollutants. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

The closest sensitive receptors include visitors to the Don Edwards National Wildlife Refuge Education Center (approximately 0.3-mile northwest), residents in the residential area of Alviso (approximately 0.4-mile west), and students at George Mayne Elementary School (approximately 0.7-mile southwest). Construction activities, particularly during site preparation and grading, would temporarily generate fugitive dust in the form of PM_{10} and $PM_{2.5}$. Fugitive dust would be managed by construction BMPs, as provided in the standard permit conditions above, and would not pose a health risk to nearby receptors.

In addition to fugitive dust, construction equipment and associated heavy-duty truck traffic generates diesel exhaust, which is a known TAC. While construction of the project would generate TACs, the amount of exposure of nearby receptors to construction TACs would be minimal given the distances between the site and the sensitive receptors, in addition to compliance with the standard permit conditions for air quality. Further, all construction processes would be confined to the site and the soil used to construct the berms would be sourced from within the ZMPF. Furthermore, there are no sensitive receptors immediately adjacent to the site. No heavy-duty construction truck traffic associated with this project would pass by the nearest residences along Grand Boulevard. As described in Section 3.2.2. Construction, all project construction traffic would enter the site from Los Esteros Road via Zanker Road. Furthermore, the single-family residences along Grand Boulevard are over 2,000 feet west of the nearest project site boundary. For sources of TACs, BAAQMD recommends a 1,000-foot radius zone of influence from the property line of the source to the receptor.[16] This is consistent with CARB's research that adverse health effects related to TAC

[16] BAAQMD. *California Environmental Quality Act Air Quality Guidelines*. May 2017. Page 5-2. https://www.baaqmd.gov/~/media/files/planning-and-research/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en&rev=0d2d971e661d41f28a56953f1776bdde

sources are apparent within 1,000 feet (with the strongest health effects identified within 300 feet), but concentrations of TAC drop off rapidly with distance.[17] Therefore, sensitive receptors located 1,000 feet or further from a TAC source have reduced exposure and are unlikely to experience adverse health effects due to the distance. Unnecessary idling of construction equipment would be prohibited, as stated in standard permit conditions above, thereby further reducing the emission of pollutants during construction.

For the reasons described above, the proposed project would not expose sensitive receptors to substantial pollutant concentrations. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

Localized odors, mainly resulting from diesel exhaust and construction equipment on-site, would be created during the construction phase of the project. These odors would be temporary and not likely to be noticed beyond the project site's boundaries. The ZMPF is subject to a previously approved Odor Minimization Plan and the proposed project would not conflict with implementation of this plan. The proposed project would, therefore, result in less than significant odor impacts. **[Same Impact as Approved Project (Less than Significant Impact)]**

[17] CARB. *Air Quality and Land use Handbook: A Community Health Perspective*. April 2005. https://www.arb.ca.gov/ch/handbook.pdf

4.4 BIOLOGICAL RESOURCES

The following discussion is based, in part, on a Biological Resources Assessment dated September 2024 and a Section 404 Wetlands Delineation dated September 2020 prepared for the project by WRA, Inc. The reports are included in this Initial Study as Appendix A-1 and A-2.

4.4.1 Environmental Setting

4.4.1.1 *Regulatory Framework*

Federal and State

Endangered Species Act

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

In addition to species listed under state and federal Endangered Species Acts, Sections 15380(b) and (c) of the CEQA Guidelines provide that all potential rare or sensitive species, or habitats capable of supporting rare species, must be considered as part of the environmental review process. These may include plant species listed by the California Native Plant Society (CNPS) and CDFW-listed Species of Special Concern. The CNPS ranks rare plants in its Rare and Endangered Plant Inventory; plant species in this inventory with California Rare Plant Ranks of 1, 2, and sometimes 3 are considered under CEQA. Some Rank 3 and all Rank 4 species are typically only afforded protection under CEQA when such species are particularly unique to the locale or are otherwise considered locally rare. Special-status wildlife species include those species that have been formally listed, are proposed as endangered or threatened, or are candidates for such listing under the Endangered Species Act or the California Endangered Species Act. Additionally, CDFW Species of Special Concern and California Fully Protected Species are all considered special-status species. Although these aforementioned species generally have no special legal status, they are given special consideration under CEQA.

Migratory Bird Treaty Act

The federal Migratory Bird Treaty Act (MBTA) prohibits killing, capture, possession, or trade of migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. Hunting and poaching are also prohibited. The taking and killing of birds resulting from an activity is not prohibited by the MBTA when the underlying purpose of that activity is not to take birds.[18]

[18] United States Department of the Interior. "Memorandum M-37050. The Migratory Bird Treaty Act Does Not Prohibit Incidental Take." Accessed January 16, 2020. https://www.doi.gov/sites/doi.gov/files/uploads/m-37050.pdf.

Nesting birds are considered special-status species and are protected by the USFWS. The CDFW also protects migratory and nesting birds under California Fish and Game Code Sections 3503, 3503.5, and 3800. The CDFW defines taking as causing abandonment and/or loss of reproductive efforts through disturbance.

Sensitive Habitat Regulations

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

Additionally, sensitive natural communities include vegetation alliances and associations on the CDFW Natural Communities List with a rarity ranking of S1, S2 or S3. Sensitive natural communities include habitats that fulfill special functions, have limited distribution or are dominated by special-status plant species (Special Stands). Special Stands are protected under federal regulations such as the Endangered Species Act, state regulations such as the California Endangered Species Act, the California Fish and Game Code, and CEQA. They are also protected by local ordinances or policies such as the General Plan and Zoning Ordinances.

Fish and Game Code Section 1602

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

Regional and Local

San Francisco Bay and Shoreline

The San Francisco Bay Conservation and Development Commission (BCDC) has regulatory jurisdiction, as defined by the McAteer-Petris Act, over the Bay and its shoreline, which generally consists of the area between the Bay shoreline and a line 100 feet landward of and parallel to the shoreline. BCDC has two areas of jurisdiction: San Francisco Bay and the Shoreline Band.

Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

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

Envision San José 2040 General Plan

The Envision San José 2040 General Plan includes the following policies that are specific to biological resources and applicable to development projects in San José:

Policy	Description
ER-3.4	Avoid new development which creates substantial adverse impacts on the Don Edwards San Francisco Bay National Wildlife Refuge or results in a net loss of baylands habitat value.
ER-4.4	Require that development projects incorporate mitigation measures to avoid and minimize impacts to individuals of special-status species
ER-5.1	Avoid implementing activities that result in the loss of active native birds' nests, including both direct loss and indirect loss through abandonment, of native birds. Avoidance of activities that could result in impacts to nests during the breeding season or maintenance of buffers between such activities and active nests would avoid such impacts.
ER-5.2	Require that development projects incorporate measures to avoid impacts to nesting migratory birds.

4.4.1.2 *Existing Conditions*

The basins are proposed on two undeveloped sites adjacent to the approximately 53-acre ZMPF site. The SW Basin site is located at the southwest corner of the ZMPF, just north of Los Esteros Road. The NW Basin site is located at the base of landfill perimeter levee in the northwest area of the site, south of Grand Boulevard. Across Grand Boulevard to the north of the NW Basin site is the 30,000-acre Don Edwards San Francisco Bay National Wildlife Refuge. Evidence of past management and/or disturbance is found throughout much of the project area[19], including evidence of past diking and channelization of wetlands, draining of uplands via drainage ditches, and likely mowing of upland areas.

A biological resource assessment of the project area was completed by WRA, a biological consulting firm, in September 2024 to determine (1) the presence of sensitive natural communities, (2) the potential for natural communities on the site to support special-status plant and wildlife species, and (3) the presence of any other sensitive natural resources protected by local, state, or federal laws and regulations. The assessment included field observations, a review of historical aerial imagery and relevant literature, and database searches. The results of the assessment are discussed below.

[19] The "project area" includes 74.8 acres owned by ZRRML, bounded by Grand Boulevard to the north, the RWF outfall channel to the east, Los Esteros Road to the south, and the Union Pacific Railroad to the west. This area comprises the study area of the biological resource assessment and differs from the approximately 5.7-acre area proposed for development, which is referenced as the "project site" throughout this Initial Study.

Sensitive Natural Communities

Sensitive natural communities include habitats that fulfill special functions, have limited distribution, or are dominated by special-status plant species. Sensitive natural communities in the project area include tidal open water/mud flat (7.4 acres), tidal wetland (0.64 acres), muted tidal wetland (11.45 acres), and seasonal wetland (1.27 acres). Figure 4.4-1 on the following page shows the location of natural communities (both sensitive and non-sensitive) within the project area. The nearest riparian corridor to the site is Coyote Creek, located approximately 150 feet to the east of the NW Basin site.

Tidal Open Water/Mud Flat

Tidal open water/mudflats habitat occurs in the northern corner of the project area, along an unculverted tidal channel connected to Coyote Creek, and in the western portion of the project area, in low-lying areas of the relatively flat plain that were inundated and/or saturated at the time of the site visit in November 2019. These portions of the project area are unvegetated, consisting of either open waters or barren, permanently saturated mudflats.

Tidal Wetland

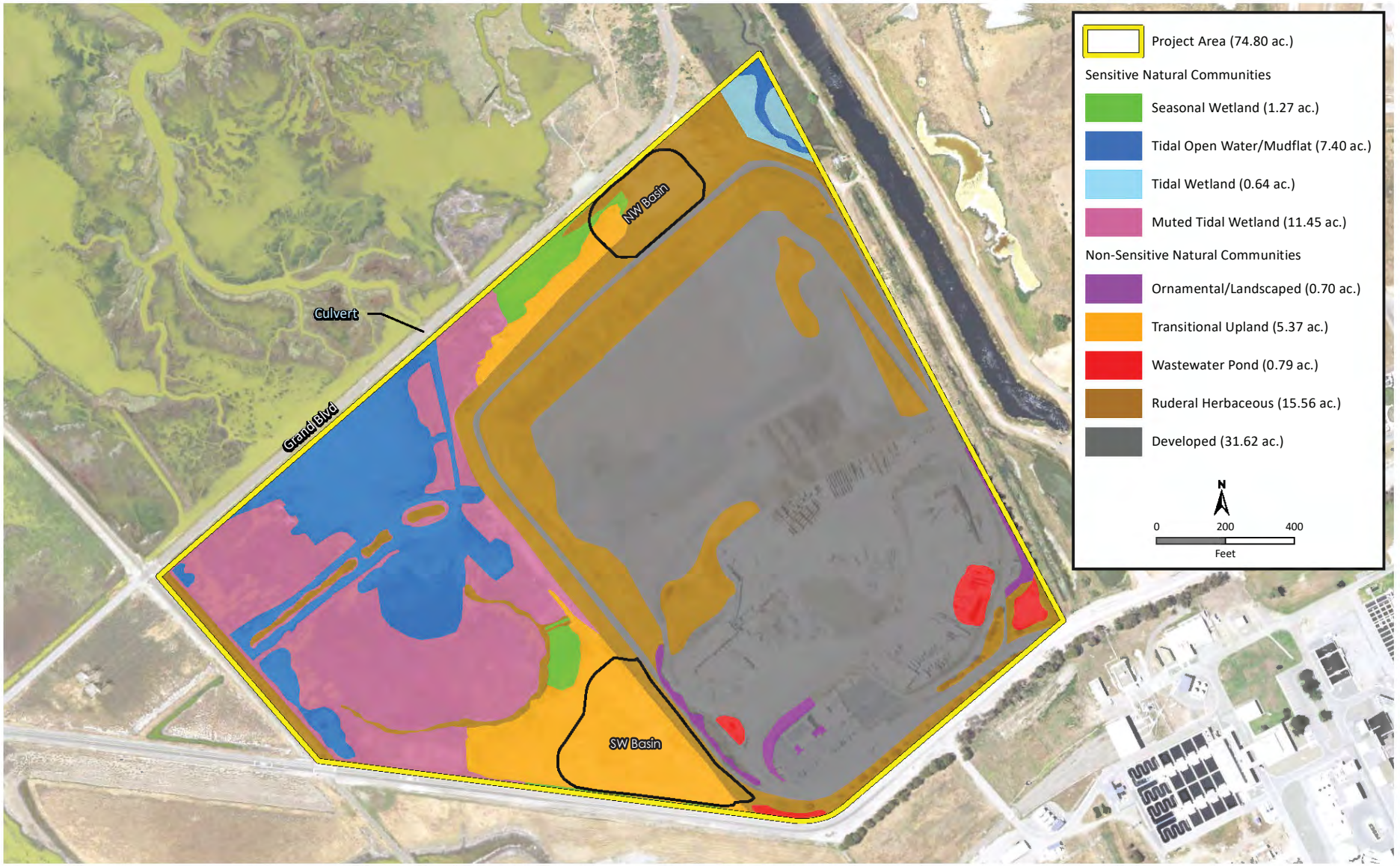
A tidal wetland fringe, dominated by a near-monotypic strand of California bulrush with small patches of cattail, occurs along both banks of tidal channel in the northern corner of the project area. This community provides potential foraging and nesting habitat for sensitive salt marsh mammals, California Ridgway's rail, black rail, northern harrier, white-tailed kite, Alameda song sparrow, San Francisco common yellowthroat, and other birds.

Muted Tidal Wetland

Within the project area, vegetated areas that have muted tidal connectivity, supplied by a culvert below Grand Boulevard, can be classified as muted tidal wetland. Vegetation in this community includes pickleweed, Italian ryegrass, Mediterranean barley, and annual beardgrass. This community provides potential foraging and nesting habitat for sensitive salt marsh mammals, black rail, northern harrier, white-tailed kite, Alameda song sparrow, San Francisco common yellowthroat, and other birds. Ridgway's rail have the potential to forage here, but are generally absent from highly muted tidal wetlands.

Seasonal Wetland

Seasonal wetland is present in three different areas within the project area. Along the southern border of the project area, parallel to Los Esteros Road, a man-made ditch contains vegetation dominated by Italian ryegrass and salt grass. Just southwest of the ZMPF, a short ditch contains vegetation comprised of scattered pickleweed with non-native grasses, including Italian ryegrass, Mediterranean barely, and annual beard grass, with scattered patches of goldfields. Along the northern border of the project area, just south of Grand Boulevard, muted tidal wetland transitions to seasonal wetland; vegetation is similarly dominated by pickleweed and non-native grasses. This community provides potential foraging and high-water refuge for sensitive salt marsh mammals; potential foraging and nesting habitat for Alameda song sparrow; and potential foraging habitat for Northern harrier and white-tailed kite.



NATURAL COMMUNITIES IN THE PROJECT AREA | FIGURE 4.4-1

Special-Status Species

Special-status plants and animals include species listed under state and federal Endangered Species Acts (including candidate species), animals designated as Species of Special Concern by the CDFW, and plants listed in the California Native Plant Society's Inventory of Rare and Endangered Vascular Plants of California.

Plant Species

A total of 11 special-status plant species were found to have a moderate to high potential to occur in the project area. These species (and their blooming period) are described in Table 4.4-1 below.

Table 4.4-1: Special-Status Plant Species

Common Name	Scientific Name	Blooming Period (inclusive)	Potential for Occurrence	Conservation Status[1]
Alkali milk-vetch	*Astragalus tener* var. *tener*	March 1 - July 30	Moderate	California Rare Plant Rank (CRPR) 1B.2
Brittlescale	*Atriplex depressa*	June 1 - October 31	Moderate	CRPR 1B.1
Congdon's tarplant	*Centromadia parryi* ssp. *congdonii*	May 1 - October 31	High	CRPR 1B.1
Point Reyes bird's beak	*Chloropyron maritimum* spp. *palustris*	July 1 - July 30	Moderate	CRPR 1B.2
Hoover's button-celery	*Eryngium aristulatum* var. *hooveri*	April 1 - October 31	Moderate	CRPR 1B.1
San Joaquin spearscale	*Extriplex joaquinana*	March 1 - June 30	Moderate	CRPR 1B.2
Contra Costa goldfields	*Lasthenia conjugens*	April 1 - July 30	Moderate	Federal Endangered (FE), CRPR 1B.1
Prostrate vernal pool navarretia	*Navarretia prostrata*	March 1 - May 31	Moderate	CRPR 1B.1
California alkali grass	*Puccinellia simplex*	April 1 - June 30	Moderate	CRPR 1B.2
California seablite	*Suaeda californica*	March 1 - July 30	Moderate	CRPR 1B.1
Saline clover	*Trifolium hydrophilum*	June 1 - October 31	Moderate	CRPR 1B.2

Notes:[1] CRPR Rank 1B is rare, threatened, or endangered in California and elsewhere. A threat rank of 0.1 means seriously threatened in California and a threat rank of 0.2 means moderately threatened in California.

Source: WRA. *Zanker Materia Processing Facility Stormwater Basins Biological Resources Assessment.* September 2024. Table 5.

During WRA's site reconnaissance, no occurrences of any special-status plant species were documented within the project area.

Wildlife Species

A total of 40 special-status wildlife species have been recorded in the vicinity of the project area. Of these species, eight were determined to have a moderate to high potential to occur in the project area. These species are described in Table 4.4-2 below.

Table 4.4-2: Special-Status Wildlife Species

Common Name	Scientific Name	Potential for Occurrence	Conservation Status[1]
Salt-marsh harvest mouse	*Reithrodontomys raviventris*	High	Federal Endangered (FE), State Endangered (SE), California Fully Protected (CFP)
Saltmarsh wandering shrew	*Sorex vagrans halicoetes*	Moderate	Species of Special Concern (SSC)
California Ridgway's rail	*Rallus longirostris obsoletus*	Moderate	FE, SE, CFP
California black rail	*Laterallus jamaicensis coturniculus*	Moderate	State Threatened (ST), CFP, USFWS Birds of Conservation Concern (BCC)
Northern harrier	*Circus cyaneus*	Moderate	SSC
White-tailed Kite	*Elanus leucurus*	Moderate	CFP
Alameda song sparrow	*Melospiza melodia pusillula*	Present	SSC, BCC
San Francisco (saltmarsh) common yellowthroat	*Geothlypis trichas sinuosa*	Moderate	SSC, BCC
Burrowing Owl	*Athene cunicularia*	Moderate	SSC, BBC
Native nesting birds	*Various*	Moderate	California Fish and Game Code (CFGC), MBTA

Notes:[1] For definitions of wildlife species conservation statuses, refer to Section 4.4.1.1 Regulatory Framework.

Source: WRA. *Zanker Materia Processing Facility Stormwater Basins Biological Resources Assessment.* September 2024. Table 4.

As noted in the table, Alameda song sparrows were observed within the project area during the site reconnaissance.

Santa Clara Valley Habitat Plan

The basin sites are located outside of the bounds of the Santa Clara Valley Habitat Plan.[20] The SW Basin site is located immediately north (opposite Los Esteros Road) of lands recognized as "Burrowing Owl Occupied Habitat" and as western burrowing owl and tricolored blackbird survey

[20] Santa Clara Valley Habitat Agency. "Habitat Agency Geobrowser." http://www.hcpmaps.com/habitat/. Accessed October 31, 2019.

areas in the Habitat Plan. The adjacent lands have been designated as burrowing owl habitat/reserve areas by past development projects in the area.[21]

4.4.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:					
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW) or United States Fish and Wildlife Service (USFWS)?	☐	☒	☐	☐	☐
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the CDFW or USFWS?	☐	☒	☐	☐	☐
c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☒	☐	☐	☐
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	☐	☒	☐	☐	☐
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☐	☒	☐
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☐	☒	☐

[21] City of San José. *Zanker Material Processing Facility Rezoning Addendum.* April 2013.

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

Special-Status Plant Species

Eleven special-status plant species have a moderate or high potential to occur within the project area. Muted tidal wetlands that occur in the project area have the potential to support two special-status species (Point Reyes bird's beak and California seablite); however, the project's extent of disturbance is unlikely to affect species within the muted tidal wetlands due to the distance between the disturbance area and the muted tidal wetlands. Refer to Figure 4.4-1 to see the muted tidal wetlands in proximity to the project site. Seasonal wetlands with alkaline, clay soils that occur in the project area have the potential to support several special-status species.

The special-status plants that are supported by seasonal wetlands that may be directly or indirectly impacted by the proposed project include the following: alkali milk-vetch, brittlescale, Congdon's tarplant, Hoover's button-celery, San Joaquin spearscale, Contra Costa goldfields, Prostrate vernal pool navarretia, California alkali grass, and saline clover. Project impacts to seasonal wetlands would result in direct impacts to these species. Additionally, any project impacts occurring in vegetated areas would result in direct impacts to Congdon's tarplant, if present. Special-status plant surveys shall be required prior to the start of construction to confirm the presence or absence of these species. If found on-site during future surveys, and if impacts cannot be avoided, impacts to the occupied area or individuals of alkali milk-vetch, brittlescale, Congdon's tarplant, Contra Costa goldfields, Hoover's button-celery, San Joaquin spearscale, prostrate vernal pool navarettia, California alkali grass and saline clover may be significant. Impacts to these special-status plant species were not previously identified in the 2008 FEIR, 2009 IS/MND, and 2013 Addendum. This would be a new significant impact.

This project may require consultation with the USFWS if there are potential impacts to the Contra Costa goldfield, which would be determined as part of the wetland permit process with the USACE.[22]

Impact BIO-1: The project would result in significant impacts on special-status plant species, including alkali milk-vetch, brittlescale, Congdon's tarplant, Hoover's button-celery, San Joaquin spearscale, Contra Costa goldfields, Prostrate vernal pool navarretia, California alkali grass, and saline clover.

Mitigation Measures:

MM BIO-1.1 **Complete Surveys.** Prior to issuance of any grading permit for vegetation removal and ground-disturbing activities at the proposed stormwater basin locations, a focused survey (when rare or endangered species are both "evident" and identifiable) shall be conducted by a qualified biologist to determine the presence of the special-status plant species (i.e., alkali milk-vetch, brittlescale, Congdon's tarplant, Hoover's button-celery, San Joaquin

[22] The project would impact approximately 0.15 acre (includes the acreage for both temporary and permanent impacts) of seasonal wetlands; therefore, a Clean Water Act Section 404 Nationwide Permit would be required. The USACE would initiate consultation with the USFWS if impacts to the Contra Costa goldfield are identified.

spearscale, Contra Costa goldfields, Prostrate vernal pool navarretia, California alkali grass, and saline clover) with potential to occur within the project area. Surveys shall be conducted in accordance with the 2018 California Department of Fish and Wildlife Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities. The following is a condensed summary of this protocol:

- Relevant botanical information shall be compiled for the general project area pre-survey to provide a regional context.
- Surveys shall be floristic in nature (every plant taxon is identified to the taxonomic level necessary to determine rarity and listing status), comprehensive and systematic over the entire project area, and conducted when plants are evident and identifiable.
- Reference sites shall be visited by the qualified biologist to confirm that the survey timing is appropriate and to gain familiarity with suitable habitats.
- For each special status plant and sensitive natural community observed, specific locations, site specific characteristics, phenology, and prevalence data shall be recorded and photographs taken.
- Special-status plant data shall be submitted to the California Natural Diversity Database.
- Voucher specimens shall be collected for each special-status plant species observed and deposited in herbaria that are members of the Consortium of California Herbaria.
- A botanical survey report shall be submitted that includes:

    - Project and location description
    - List of potential sensitive botanical resources and list of background references
    - Detailed description of survey methodology and results
    - List of all plants and natural communities detected
    - Assessment of potential project impacts, including avoidance, minimization, or mitigation measures.

These guidelines require special-status plant surveys to be conducted at the proper time of year when rare or endangered species are both “evident” and identifiable. Field surveys shall be scheduled to coincide with known blooming periods, as determined by a qualified biologist, that are necessary to identify the plant species of concern. Table 4.4-3 shows the typical blooming periods for these special-status plant species.

Table 4.4-3: Special-Status Plant Species Typical Blooming Period and Potential for Occurrence

Special- Status Plant Species Common Name	Blooming Period (Inclusive)	Potential for Occurrence
Alkali milk-vetch	March 1 - July 30	Moderate
Brittlescale	June 1 - October 31	Moderate
Congdon's tarplant	May 1 - October 31	High
Point Reyes bird's beak	July 1 - July 30	Moderate
Hoover's button-celery	April 1 - October 31	Moderate
San Joaquin spearscale	March 1 - June 30	Moderate
Contra Costa goldfields	April 1 - July 30	Moderate
Prostrate vernal pool navarretia	March 1 - May 31	Moderate
California alkali grass	April 1 - June 30	Moderate
California seablite	March 1 - July 30	Moderate
Saline clover	June 1 - October 31	Moderate

Prior to the issuance of any grading permit, a botanical survey report indicating the results of the surveys and any measures needed to avoid and reduce impacts to any special status plant species found present (see description of measures below) shall be submitted to the Director of Planning, Building, and Code Enforcement or the Director's designee for review and approval.

If no special-status plant species are found during the surveys, then the project would not have any impacts to the species and no additional mitigation measures are necessary.

MM BIO-1.2: **Establish Exclusion Zones or Provide Compensatory Mitigation.** If any of the identified rare plant species are found on-site, option 1 below shall be implemented. If Option 1 is found infeasible, then Option 2 shall be implemented.

1. Option 1: If the survey determines that one or more special-status plant species are present within the project area, direct and indirect impacts of the project on the species shall be avoided where feasible through the establishment of activity exclusion zones, where no ground-disturbing activities shall take place, including construction staging or other temporary work areas. Prior to the issuance of any grading permit for vegetation removal and ground-disturbing activities, activity exclusion zones for special-status plant species shall be established, around each

occupied habitat site, the boundaries of which shall be clearly marked with standard orange plastic construction exclusion fencing or its equivalent. The boundaries of the activity exclusion zones shall be identified in the biological survey report described above in MM BIO-1.1 and marked on all construction documents, contracts, and project plans. The establishment of activity exclusion zones shall not be required if construction-related disturbances would not occur within 250 feet of the occupied habitat site. The size of activity exclusion zones may be reduced if a qualified biologist determines that the reduction would not increase impacts to the habitat and the reduction is approved by the Director of Planning, Building, and Code Enforcement or the Director's designee.

OR

2. Option 2: If exclusion zones and avoidance of impacts to special-status species within the project area are not feasible, then the loss of individuals or occupied habitat of special-status plants shall be compensated for through the on-site or off-site preservation, restoration and/or creation of habitat that would support affected special-status species, prior to the issuance of any grading permit and construction activities. A mitigation plan that details appropriate compensation shall be prepared by a qualified biologist for impacted subject special status species for review and approval by the Director of Planning, Building, and Code Enforcement or the Director's designee. A mitigation plan shall result in the replacement of the special status plants and habitat lost during project construction at a proportional basis to the impact, which may be achieved through the following:

    - Restoration of temporarily impacted special status plant habitat on-site.
    - The preservation, enhancement, restoration and/or creation of special status plant habitat at off-site mitigation areas that historically and/or presently support the special-status species within the project area;
    - Purchase of credits in a mitigation bank that is approved by a federal or state trustee agency to sell credits for special-status plants; or
    - Payment of in-lieu fees to a public agency or conservation organization (e.g., a local land trust) for the preservation and management of existing populations of special-status plants.

    If the mitigation plan includes areas to be preserved, restored/enhanced, and/or created by the applicant, the areas shall be managed in perpetuity to encourage persistence and even expansion of the impacted species. A Habitat Mitigation and Monitoring Plan (HMMP) shall be developed by a qualified plant or restoration

ecologist and implemented for the mitigation lands. The HMMP shall include, at minimum, the following information:

- A summary of impacts to the special-status plant species in question, including impacts to its habitat, and the proposed mitigation;
- A description of the location and boundaries of the mitigation site and description of existing site conditions;
- A description of measures to be undertaken to enhance (e.g., through focused management that may include removal of invasive species in adjacent suitable but currently unoccupied habitat) the mitigation site for the species;
- A description of measures to transplant individual plants or seeds from the impact area to the mitigation site, if appropriate (which shall be determined by a qualified plant or restoration ecologist);
- Proposed management activities to maintain high-quality habitat conditions for the species;
- A description of habitat and species monitoring measures on the mitigation site, including specific, objective final and performance criteria, monitoring methods, data analysis, reporting requirements, monitoring schedule, etc. At a minimum, performance criteria shall demonstrate that any plant population fluctuations over the monitoring period of a minimum of five years for preserved populations and a minimum of 10 years for enhanced or established populations do not indicate a downward trajectory in terms of reduction in numbers and/or occupied area for the preserved mitigation population that can be attributed to management (i.e., that are not the result of local weather patterns, as determined by monitoring of a nearby reference population, or other factors unrelated to management);
- If a new population is established, the new population must contain at least the same number of impacted individuals by year five. If year five is a poor weather year for summer and fall-blooming annual plants and reference populations show a decline, this criterion can be measured in the next year occurring with average or better rainfall; and
- Contingency measures for mitigation elements that do not meet performance criteria. Potential remediation actions shall be proposed if monitoring observations indicate that performance criteria are not being met. For example, changes in management or timing of management, alterations in monitoring, replacement plantings, irrigation or changes in irrigation management could be recommended for the following monitoring period. Alternative mitigation (purchase of mitigation bank credits, purchase of in-lieu fees) could be

proposed as a contingency for performance criteria failures at the end of the monitoring period where no feasible corrective actions can be undertaken.

If an HMMP is required, the HMMP shall be provided to the Director of Planning, Building and Code Enforcement, or the Director's designee for approval, prior to issuance of any grading permit.

Implementation of the mitigation measure described above would reduce impacts to special-status plant species to a less than significant level by requiring pre-construction plant surveys, establishing activity exclusion zones for special-status species (if present), and/or adequately compensating for or replacing impacted individuals if avoidance is not feasible. **[New Impact (Less than Significant Impact with Mitigation Incorporated)]**

Special-Status Wildlife Species

Habitat suitability for grassland-associated species in the area surrounding the project site is reduced due to persistent auditory and visual disturbance by the existing waste management unit operations. Additional adjacent auditory disturbance sources include automobile and truck traffic on Los Esteros Road to the south and Grand Boulevard to the north, railroad traffic on the on the rail spur to and from the San José-Santa Clara Regional Wastewater Facility to the south and west, and overhead commercial airline traffic from flights taking off from San José International Airport, as the property is in the takeoff flight path. Any areas that may become inundated, such as the transitional uplands and the stormwater detention basin on the project site, are highly intermittent, and do not provide value as migration corridors or breeding habitat for species with freshwater aquatic life-histories. The tidal and muted tidal saline wetlands that occur on the project site have the potential to support several special-status species. Special-status wildlife species on-site may fall under the jurisdiction of USFWS under the ESA and MBTA, and/or the CDFW under the CFGC, CESA, and CEQA. Ten special-status wildlife species were determined to have a moderate or high potential to occur in the project area.

The special-status wildlife species that could be impacted by project implementation include salt marsh harvest mouse, salt marsh wandering shrew, California Ridgway's rail, California black rail, Northern harrier, White-tailed Kite, Alameda song sparrow, San Francisco (saltmarsh) common yellowthroat, burrowing owl, and native and migratory nesting birds.

Nesting Birds

Four species of special-status birds may use the sensitive and non-sensitive upland habitats in the project area for foraging and, in some cases, breeding, including the Northern harrier, white-tailed kite, Alameda song sparrow and San Francisco common yellowthroat. Nesting by raptors is less likely due to significant and continual disturbance from ZMPF operations, nearby traffic and rail auditory disturbance, and a lack of large trees. Grading within the project area may reduce nesting and foraging habitat for special-status species, or may impact these species through visual and auditory disturbance sufficient to cause nest abandonment. Impacts to nesting birds from site

disturbance would be considered significant. The 2008 FEIR, 2009 IS/MND, and 2013 Addendum identified a similar impact to nesting birds.[23]

Impact BIO-2: The project would have a significant impact on nesting native and migratory birds, including the Northern harrier, white-tailed kite, Alameda song sparrow and San Francisco common yellowthroat.

Mitigation Measures:

MM BIO-2.1: **Avoid Nesting Season or Complete Pre-construction Surveys.** The project applicant shall schedule ground-disturbing and construction activities to avoid the nesting season. The nesting season for most birds, in the San Francisco Bay area, extends from February 1 through August 31 (inclusive) to the extent feasible.

If project activities are initiated during the nesting season (February 1 through August 31, inclusive), a pre-construction nesting bird survey of the project site and surrounding 500 feet shall be conducted by a qualified ornithologist within 14 days and within 48 hours of commencement of ground disturbance or construction activities, whichever occurs first, to avoid disturbance to active nests, eggs, and/or young of nesting birds. If project construction activities (including shrub removal) are initiated outside of the nesting season, no pre-construction surveys are required for nesting birds.

MM BIO-2.2: **Establish Buffer.** In the event that an active nest is observed on the project site or is located within the 500 feet surrounding the site, the ornithologist shall establish a no disturbance buffer around the nest. The buffer shall remain in place until all young have fledged or the nest otherwise becomes inactive (e.g., due to predation) as determined by a qualified ornithologist. Suggested buffer zone distances differ depending on species, location, and placement of nest and shall be determined and implemented in the field by the ornithologist. Prior to the issuance of any grading permit, the ornithologist shall submit a report indicating the results of the survey and any designated buffer zones for review and approval by the Director of Planning, Building and Code Enforcement or the Director's designee.

Implementation of the mitigation measure above would reduce potential impacts to nesting birds to a less than significant level by requiring pre-construction surveys during the nesting season and establishing disturbance buffers if the nest of a protected species is located. **[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]**

Salt Marsh Mammals

There is a high potential for salt marsh harvest mice and a moderate potential for salt marsh wandering shrews to occur in seasonal wetlands and transitional uplands within the project area. The

[23] City of San José. *Zanker Road Material Recycling Facility EIR.* October 2007. Page 82.

proposed project would impact seasonal wetlands and transitional uplands, which could contain these special-status species. These species could be impacted by visual or auditory disturbance during project construction, which could interfere with feeding and breeding. Individual animals could also be harmed or killed by crew or equipment working in or near suitable habitat. Animals would also be impacted by permanent loss of foraging and high-water refuge habitat. These impacts are considered significant under CEQA. The 2009 IS/MND identified a similar impact to salt marsh harvest mice as the proposed project.[24] However, the project's impact to the salt marsh wandering shrew is a new impact that was not previously identified in the 2008 FEIR, 2009 IS/MND, or 2013 Addendum.

The project may require consultation with the USFWS and/or CDFW if there are potential for adverse impacts to the salt marsh harvest mouse and its high-water refuge habitat, which would be determined as part of the wetland permit process with the USACE.[25]

Impact BIO-3: The project would have a significant impact on salt marsh mammals, specifically the salt marsh harvest mice and salt marsh wandering shrews.

Mitigation Measures:

MM BIO-3.1: **Avoid Breeding Season or Complete Pre-construction Surveys.** To the extent feasible, project construction activities shall be scheduled outside of the salt marsh harvest mouse breeding season (March 1 – November 30, inclusive) and outside of the salt marsh wandering shrew breeding season (February 1 – June 30, inclusive).

If project construction activities are initiated during the breeding season, prior to the start of construction activities in salt marsh habitat, the project proponent shall retain a qualified biologist to conduct pre-construction surveys for salt marsh harvest mouse and salt marsh wandering shrew. Surveys shall take place no more than 24 hours prior to the onset of site preparation and construction activities with the potential to disturb these species or their habitat and shall include inspection of nesting substrate, such as salt marsh vegetation and debris within the work footprint. If the salt marsh harvest mouse and/or salt marsh wandering shrew are discovered during the pre-construction survey, consultation with the USFWS and/or CDFW would be required and necessary protection measures shall be in place prior to the onset of site preparation and construction activities. The results of the pre-construction survey, including results of the consultation with USFWS and/or CDFW and all measures required to reduce and avoid impacts to the salt marsh harvest mouse and/or salt marsh wandering shrews (including required no-work buffers, plans for vegetation removal, and exclusionary fencing outlined below), shall be documented in a report to be submitted to the

[24] City of San José. *Zanker Material Recycling Facility Driveway Project Initial Study.* October 2009. Page 29.
[25] The project would impact approximately 0.15 acre (includes the acreage for both temporary and permanent impacts) of seasonal wetlands; therefore, a Clean Water Act Section 404 Nationwide Permit would be required. The USACE would initiate consultation with the USFWS (and/or CDFW) if impacts to salt marsh mammals are identified.

Director of Planning, Building, and Code Enforcement or the Director's designee for review.

MM BIO-3.2: **Establish Buffer or Complete Vegetation Removal.** If salt marsh harvest mouse and/or salt marsh wandering shrew are found on-site and cannot be avoided, option 1 shall be implemented. If Option 1 is found infeasible, then Option 2 shall be implemented. The chosen option shall be implemented prior to and during construction to avoid or minimize impacts to salt marsh harvest mice and salt marsh wandering shrews:

1. Option 1: If the salt marsh harvest mouse or salt marsh wandering shrew are found during surveys, a 100 meter no-work buffer shall be established by a qualified biologist around occupied habitat or individual observations of salt marsh harvest mice and salt marsh wandering shrews.

OR

2. Option 2: If salt marsh harvest mouse or salt marsh wandering shrew are not found during surveys, or if they are found during surveys but a 100 meter no-work buffer cannot be established (e.g., because work cannot be avoided within the buffer area), then vegetation removal in work areas taking place in potential salt marsh mammal habitat (e.g., seasonal wetlands and transitional upland) shall be performed to remove cover and render these areas unattractive to salt marsh harvest mouse and salt marsh wandering shrew.

    - Only non-motorized equipment, hand-held motorized equipment (i.e., string trimmers), and high-clearance (minimum six-inch), push-type, motorized mowers shall be used to remove the vegetation.
    - The qualified biologist shall inspect areas of vegetation removal immediately prior to the initiation of removal to search for salt marsh harvest mice and "flush"[26] small mammals out of the area and toward adjacent tidal marsh areas that would not be subject to removal.
    - Vegetation removal shall start in the position farthest from the highest quality and most accessible salt marsh harvest mouse habitat within the work area, and progress toward that habitat, such that the salt marsh harvest mice are protected to the greatest degree possible as they move out of the focal area.
    - Vegetation shall be cut in at least two passes: with the first pass cutting vegetation at approximately half of its height above the ground (mid-canopy) and the next pass, or

[26] Flushing refers to the agitation or moving of vegetation to reveal the species.

subsequent passes, cutting vegetation to ground-level or no higher than one inch.
- Cut vegetation shall be removed from the exclusion area (work area) so that no cut vegetation remains there once the exclusionary fence is installed.
- All non-native, invasive vegetation removed shall be discarded at a location outside of any tidal marsh areas to prevent reseeding.

Following completion of vegetation removal, temporary exclusionary fencing shall be installed.

- The fencing shall be installed between suitable habitat areas (e.g., tidal marsh and other pickleweed-dominated areas) and the defined work area (or areas) immediately following vegetation removal and prior to the start of other construction/excavation activities. A figure showing the location(s) of proposed fencing shall be provided to the City for approval prior to the initiation of vegetation removal and construction.
- The fence shall consist of a material that does not allow salt marsh harvest mice to pass through or climb, or a standard silt fence with slick tape (or an effectively similar material) a minimum of six inches wide fixed to the fence to render it non-climbable. The bottom shall be buried to a depth of at least four inches so that animals cannot crawl under the fence. Fence height shall be at least 12 inches higher than the highest adjacent vegetation with a maximum height of four feet.
- Fence posts shall be placed facing the work area side (i.e., vegetation-cleared side) and not the side of the fencing facing intact habitat areas. The fencing shall be installed under the supervision of a qualified biologist.
- The qualified biologist shall routinely inspect exclusionary fencing daily to ensure that it remains intact and effective. Fencing deficiencies noted during the daily inspection or during construction shall immediately be repaired by the Contractor. The project applicant shall submit proof of contracting with a qualified biologist for daily fence inspection to the Director of Planning, Building, and Code Enforcement or the Director's designee.

With implementation of the mitigation measures described above, the proposed project would result in a less than significant impact on the salt marsh harvest mice and salt marsh wandering shrew by avoiding the species, creating no-work buffers, or removing vegetation then installing temporary fencing to discourage the species from entering the project site during construction. **[New Impact (Less than Significant Impact with Mitigation Incorporated)]**

Marsh Birds

The tidal wetlands that occur within the project area have the potential to support two species of special-status birds, the California Ridgway's rail and the California black rail. Rails could be impacted by visual or auditory disturbance, which could interfere with feeding and nesting, and potentially cause nest abandonment. The California Ridgway's rail was previously listed as the California clapper rail but was renamed in 2014.[27] The 2009 IS/MND identified a significant impact to the California clapper rail, thus the impact resulting from the proposed project on this species would not be a new impact. Impacts to California black rails were not identified in the 2009 IS/MND and impacts to this species would constitute a new significant impact.

This project may require consultation with the USFWS and/or CDFW due to the potential for adverse impacts to the California Ridgway's rail and the California black rail, which would be determined as part of the wetland permit process with the USACE.[28] .

Impact BIO-4: The project would have a significant impact on marsh birds, specifically the California Ridgway's rail and the California black rail.

Mitigation Measure:

MM BIO-4.1: **Avoid Breeding Season or Complete Pre-construction Surveys.** No construction work, except as noted below, shall not occur within 200 meters (656 feet) of potential rail nesting habitat from February 1 to August 31, inclusive, to avoid impacts to nesting rails. Only the following limited construction work may be performed from June 1 to August 31, inclusive, within 200 meters of rail nesting habitat:

- Installation of temporary construction fencing
- Installation of any stormwater pollution prevention measures
- Clearing and grubbing of vegetation within the project site using hand-held equipment.

Construction work within 200 meters (656 feet) of potential rail nesting habitat may be performed outside of both the rail breeding and nesting rail survey period of September 1 to January 14, inclusive.

If construction work must take place during the rail nesting season from February 1 to August 31 (inclusive), then a qualified biologist shall perform a protocol-level survey for the California Ridgway's rail and California black rail in areas where habitat for these species may be present, as determined by the biologist. The results of the pre-construction, protocol-level survey,

[27] The California Ridgway's rail was previously listed as the California Clapper Rail. Source: USFWS. "The Life and Times of the California Clapper Rail." Accessed January 30, 2020. https://www.fws.gov/refuge/San_Pablo_Bay/LifeTimesofCCR.html

[28] The project would impact approximately 0.15 acre (includes the acreage for both temporary and permanent impacts) of seasonal wetlands; therefore, a Clean Water Act Section 404 Nationwide Permit would be required. The USACE would initiate consultation with the USFWS (and/or CDFW) if impacts to the California Ridgway's rail and/or California black rail are identified.

including results of the consultation with USFWS and/or CDFW (required if California Ridgway's rail and the California black rail are identified) and all measures required to reduce and avoid impacts to the California Ridgway's rail and the California black rail (including the 200 meter no-work buffer), shall be submitted via a report to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval prior to the issuance of any grading permit.

The California Ridgway's rail protocol-level survey shall be conducted in accordance with the June 2015 USFWS California Clapper Rail Survey Protocol and must be conducted between January 15 through April 15 (inclusive). A total of four surveys shall be completed during this time period: two passive surveys, followed by two active surveys. Surveys shall be spaced at least two weeks apart. For the California black rail protocol survey, no protocol has been published for this species; therefore, the protocol survey shall follow the 2015 California Clapper Rail Survey Protocol.[29] A total of four surveys (two passive and two active surveys) shall be conducted for the California black rail protocol survey between March 15 and May 31 (inclusive) with each of the surveys conducted at least two weeks apart.

- If no species are detected during protocol-level surveys for California Ridgway's rail and California black rail, then the project would not have any impacts to the species and no additional measures are necessary.
- If California Ridgway's rail and/or California black rail are detected during protocol level surveys, the detections shall be recorded and a 200 meter (656 feet) no-work buffer shall be established around each detection of California Ridgway's rail and California black rail. Construction work shall not occur within the 200 meters (656 feet) no-work buffers from February 1 to August 31 (inclusive), which is the greater rail breeding season).

MM BIO-4.2: **Prepare a Worker Education Program.** A worker education program shall be developed and implemented by a qualified biologist to train workers on identification of the California Ridgway's rail and the California black rail and avoiding impacts (e.g., educate about the nesting season, potential nesting habitat, and the measures described in MM BIO-4.1 to avoid impacts) to these species. Construction personnel working in or near wetlands shall participate in environmental training prior to beginning work in or near wetlands. Prior to the issuance of any grading permit, the project applicant shall submit a copy of the worker education program with evidence that a qualified biologist has been contracted to perform the training to the Director of Planning, Building and Code Enforcement or the Director's designee.

[29] The California Ridgeway Rail was formerly known as the California Clapper rail.

With implementation of the mitigation measure described above, impacts to the California Ridgway's rail and the California black rail would be reduced to a less than significant level by conducting protocol surveys, establishing no work buffer zones, and providing worker training. **[New Impact (Less than Significant Impact with Mitigation Incorporated]**

Burrowing Owl

The levees and other uplands within the project site have the potential to support wintering or nesting burrowing owls. Therefore, the site contains suitable habitat for burrowing owls. Vegetation removal and ground disturbance during construction has the potential to damage suitable burrows, make burrows inaccessible, and/or harm burrowing owl individuals. These impacts are considered significant under CEQA. The 2008 FEIR had a similar impact and stated that burrowing owls had not been identified on-site but the site has potential for nesting in the future.[30]

Impact BIO-5: The project would have a significant impact on burrowing owls during vegetation removal and ground disturbance.

Mitigation Measures:

MM BIO-5.1: **Complete Pre-construction Surveys.** Prior to issuance of any grading permit, a qualified biologist shall conduct pre-construction surveys in all suitable habitat areas within the project site and within 250 feet of the project site, as accessible. A minimum of two site visits shall occur as part of pre-construction surveys (if owls are detected, a second site visit is not needed): one within 14 days prior to commencement of construction work, and one within 48 hours of commencement of construction work. To maximize the likelihood of detecting owls, the pre-construction survey shall last a minimum of three hours. The survey shall begin one hour before sunrise and continue until two hours after sunrise (three hours total) or begin two hours before sunset and continue until one hour after sunset. Any owls observed location of the occupied burrow shall be mapped. A qualified biologist shall submit results of the pre-construction burrowing owl surveys, including a description of all measures required to reduce and avoid impacts to the burrowing owl (if present), to the City of San José Director of Planning, Building and Code Enforcement or the Director's designee for review prior to issuance of any grading permit.

MM BIO-5.2: **Establish Buffer.** If nesting owls are encountered during the breeding season (February 1 to August 31, inclusive), active nests shall be avoided by maintaining a 250 foot no-disturbance buffer either until the end of the breeding season or until the nest can be confirmed to be inactive by a qualified biologist. If work must occur within this buffer, consultation with CDFW may be required.

[30] City of San José. *Zanker Material Recycling Facility Project Draft Environmental Impact Report.* October 2007. Page 83.

If owls are encountered during the non-breeding season (September 1 to January 31, inclusive), the occupied burrow shall be avoided by maintaining a 250-foot no-disturbance buffer until such time as a qualified biologist can confirm that the owl is no longer utilizing the burrow site.

Prior to issuance of any grading permit, qualified biologist must establish the 250-foot buffers. The established buffers shall be marked in the field (e.g., with flagging, fencing, paint, or other means appropriate for the location in question). This marking shall be maintained intact and in good condition throughout project-related construction activities.

With implementation of the mitigation measure described above, impacts to burrowing owls would be reduced to a less than significant level by conducting surveys to determine if burrowing owls are present, protecting the nests of burrowing owls until declared inactive, and consulting with CDFW when required. **[New Impact (Less than Significant Impact with Mitigation Incorporated)]**

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

Construction of the NW and SW Basins would result in impacts to seasonal wetland, as discussed under Question c) below. These particular wetlands were not previously identified as being impacted in the 2008 FEIR, 2009 IS/MND, or 2013 Addendum. Other sensitive aquatic resources within the project area, such as muted tidal wetland and tidal wetland, are outside of the limit of disturbance of the project. The nearest riparian habitat is contained within Coyote Creek, located approximately 150 east of the NW Basin area, and would be unaffected by the proposed project. Therefore, with implementation of the mitigation measures MM BIO-7.1 through MM BIO-7.5 described below, the proposed project would have a less than significant impact on sensitive natural communities.

Impact BIO-6: The project would result in a significant impact on sensitive wetland habitat.

Mitigation Measures: See MM BIO-7.1 through MM BIO-7.5 (below).

With implementation of the mitigation measures described below, the proposed project would not substantial affect sensitive natural communities by requiring permits from agencies with potential jurisdiction over impact wetland habitat, compensating or replacing removed wetland habitat, and implementing erosion controls. **[New Impact (Less than Significant Impact with Mitigation Incorporated)]**

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

Wetlands and Non-Wetland Waters

Construction of the NW and SW Basins would result in permanent impacts to approximately 0.14 acres of seasonal wetland, and an additional approximately 0.05 acres of temporary impacts to

seasonal wetlands resulting from access and staging. These particular wetlands were not previously identified as being impacted in the 2008 FEIR, 2009 IS/MND, or 2013 Addendum. Seasonal wetland within the project area is potentially subject to USACE and RWQCB jurisdiction under Sections 404 and 401 of the Clean Water Act or BCDC under the McAtteer-Petris Act. A Clean Water Act Section 404 Nationwide Permit would be required and necessitate consultation with USACE prior to project ground-disturbing activities and vegetation removal. Without proper erosion and sedimentation measures, ground-disturbing activities and vegetation removal also increase the likelihood of sedimentation occurring in adjacent seasonal wetland and muted tidal wetland outside of the proposed limit of disturbance. Impacts to seasonal wetlands and muted tidal wetland from sedimentation were not previously identified in the 2008 FEIR, 2009 IS/MND, or 2013 Addendum. Additionally, earth work and equipment use may result in erosion, siltation, or discharge of fuels or other construction equipment-related substances into the seasonal wetlands. Discharge of sediment or hazardous materials may impact potentially jurisdictional features within the project area and aquatic resources downstream of the project area.

Impact BIO-7: The project would result in a significant impact to seasonal wetlands within the area of disturbance, and potential significant impacts to seasonal wetland and muted tidal wetland outside of the proposed area of disturbance.

Mitigation Measures:

MM BIO-7.1: **Prepare a Wetland Delineation Report.** Prior to issuance of grading permit for any vegetation removal or ground-disturbing activities, a formal wetland delineation report shall be prepared for the project area by a qualified biologist. Based on the findings of the delineation report, relevant permits through the USACE, RWQCB, and BCDC shall be acquired prior to the fill of seasonal wetlands. The formal wetland delineation report and proof of permits (as applicable) shall be submitted by the project applicant to the Director of Planning, Building and Code Enforcement or the Director's designee for review prior to the issuance of any grading permit.

MM BIO-7.2: **Demarcate Wetlands Within the Project Site to be Avoided.** Delineated wetlands to be avoided during construction activities shall be demarcated with barrier fencing around the boundaries of the wetlands prior to construction activities. The installation of the fencing shall be overseen by a qualified biologist. Demarcated wetlands shall be designated as an environmentally sensitive area and clearly identified on construction documents, contracts, and project plans. A qualified biologist shall review the construction documents, contracts, and project plans prior to the commencement of construction. The project applicant shall submit all construction documents, contracts, and project plans with the demarcated wetlands identified prior to the issuance of any grading permit.

MM BIO-7.3: **Purchase Mitigation Credits for Permanent Loss of Wetlands.** If there would be a permanent loss of Waters of the US and State, then the project shall purchase appropriate mitigation credits from either an approved mitigation bank or via permittee responsible mitigation which would involve

creating, restoring, or enhancing analogous habitat types. The ratio for acres of mitigation to acres impacted shall be no less than 1:1. The project applicant shall submit proof of purchase of mitigation credits to the Director of Planning, Building, and Code Enforcement or the Director's designee prior to the issuance of any grading permit.

MM BIO-7.4: **Prepare Best Management Practices for Wetlands.** Best Management Practices (BMPs) shall be devised by a qualified biologist and implemented by the general contractor to prevent discharge of any project-related materials such as fuel, engine lubricants or sediment into potentially jurisdictional wetlands and water features. If wattles are used, only natural fiber or biodegradable wattles shall be installed. Silt fencing is recommended for erosion control as it would double as a wildlife exclusion fence. All erosion control products shall be removed at the completion of construction activities. All BMPS shall be printed on all construction documents, contracts, and project plans.

MM BIO-7.5: **Prepare a Worker Education Program for Wetlands.** Prior to the issuance of any grading permit, a worker education program shall be developed and implemented by a qualified biologist to train workers on identification of wetlands and avoiding impacts to project area wetlands. Construction personnel working in or near wetlands shall participate in environmental training prior to beginning work in or near wetlands. The project applicant shall submit evidence that a worker education program was developed and implemented by a qualified biologist, prior to ground disturbance, to the Director of Planning, Building and Code Enforcement or the Director's designee.

With implementation of the mitigation measures described above, impacts to state or federally protected wetlands would be reduced to a less than significant level by requiring permits to be obtained, mitigated removed wetlands at a 1:1 ratio, and implementing erosion and sediment control measures **[New Impact (Less than Significant Impact with Mitigation Incorporated]**

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

As discussed under Question a), there are several special-status wildlife species which could use the habitat present in the project area for foraging, breeding, and/or nesting. The proposed project would incorporate mitigation measures (MM BIO-1.1, -1.2, -2.1, -2.2, -3.1, -3.2, -4.1, -4.2, -5.1, and -5.2) to reduce potential impacts to these species during construction. The 2008 FEIR and/or 2009 IS/MND identified similar impacts to nesting birds, salt marsh harvest mice, and California Ridgway's rail as the proposed project. The project's impacts to the salt marsh wandering shrew and California black rail are new impacts that were not previously identified in the 2008 FEIR, 2009 IS/MND, or 2013 Addendum.

Migratory movements of wildlife species are most often associated with riparian corridors, and the project site (NW Basin site) is located approximately 150 feet to the west of the nearest riparian corridor (Coyote Creek). Development of the project would not impact the nearby riparian corridor. The project area is surrounded by many miles of landscape deemed to have limited connectivity area. The project area does not currently provide aquatic connectivity between the tidal marsh to the north and other saline wetlands in the area. Further, the project site and surrounding habitat does not contain any identified wildlife nursery sites.[31] For these reasons, development of the project would not substantially interfere with the movement of any native resident or migratory fish or wildlife species or impede the use of native wildlife nursery sites.

Impact BIO-8: The project would result in significant impacts on the movement of nesting birds (Northern harrier, white-tailed kite, Alameda song sparrow and San Francisco common yellowthroat), burrowing owls, salt marsh mammals (salt marsh harvest mice and salt marsh wandering shrews), and marsh birds (California Ridgway's rail and the California black rail).

Mitigation Measures: See MM BIO-1.1, -1.2, -2.1, -2.2, -3.1, -3.2, -4.1, -4.2, -5.1, -5.2,

The project, with the implementation of the mitigation measures described previously, would result in a less than significant impact to wildlife movement by establishing preventative construction measures to reduce or avoid impacts to wildlife species identified within the project area. **[New Impact (Less than Significant Impact with Mitigation Incorporated)]**

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

There are no trees on the project site and it is not anticipated that tree removal would be required to implement the project. Therefore, the project does not conflict with a local policy adopted to protect biological resources. **[Same Impact as Approved Project (No Impact)]**

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

As discussed in Section 4.4.1.2 Existing Conditions, the project site is located outside of the boundaries of the Habitat Plan. Note that MM BIO-5.1 and MM BIO-5.2 is consistent with Condition 15 from the Santa Clara Valley Habitat Plan, which addresses impacts to burrowing owls. Therefore, the proposed project would not conflict with the provisions of the Habitat Plan. **[Same Impact as Approved Project (No Impact)]**

[31] A wildlife nursery site is defined as a site where wildlife concentrates for hatching and/or raising young, such as rookeries, spawning areas and bat colonies.

4.5 CULTURAL RESOURCES

4.5.1 Environmental Setting

4.5.1.1 *Regulatory Framework*

Federal and State

National Historic Preservation Act

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

California Register of Historical Resources

The California Register of Historical Resources (CRHR) is administered by the State Office of Historic Preservation and encourages protection of resources of architectural, historical, archeological, and cultural significance. The CRHR identifies historic resources for state and local planning purposes and affords protections under CEQA. Under Public Resources Code Section 5024.1(c), a resource may be eligible for listing in the CRHR if it meets any of the NRHP criteria.[32]

California Native American Historical, Cultural, and Sacred Sites Act

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

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

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

[32] California Office of Historic Preservation. "CEQA Guidelines Section 15064.5(a)(3) and California Office of Historic Preservation Technical Assistance Series #6." March 14, 2006.

Public Resources Code Sections 5097 and 5097.98

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

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

Local

Envision San José 2040 General Plan

The Envision San José 2040 General Plan includes the following policies that are specific to cultural resources and applicable to development projects in San José:

Policy	Description
ER-10.1	For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archaeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.
ER-10.2	Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced.
ER-10.3	Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.
LU-13.15	Implement City, State, and Federal historic preservation laws, regulations, and codes to ensure the adequate protection of historic resources.

4.5.1.2 *Existing Conditions*

The project site is undeveloped and not located within or adjacent to a designated historical district, conservation district, or landmark district, according to maps included in the General Plan EIR.[33] There are no designated historic sites or buildings on or adjacent to the project site. [34] The Port of Alviso National Register Historic District is located approximately one mile west of the project site.

According to archaeological sensitivity maps prepared for the General Plan EIR, the project site is not located in an area which is sensitive for archaeological resources. The nearest identified archaeological sites are located approximately 0.8-mile south, consisting of several Hispanic adobe sites along the east side of the Guadalupe River.

On March 24, 2022, representatives of the Tamien Nation Tribe and of the Indian Canyon Mutsun Band of Costanoan Ohlone People were notified via certified mail and email about the proposed project. The City had a follow-up phone conversation with a representative of the Tamien Nation on April 14, 2022, and on this call the representative recommended cultural sensitivity training be provided for all new workers on the site, and that a qualified Native American monitor be on-site during ground disturbing activities. The City did not receive a response from the Indian Canyon Mutsun Band of Costanoan Ohlone Tribe requesting AB 52 consultation for the Project.

4.5.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:					
a) Cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5?	☐	☐	☐	☒	☐
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5?	☐	☒	☐	☐	☐
c) Disturb any human remains, including those interred outside of dedicated cemeteries?	☐	☐	☐	☒	☐

As described below, the proposed project would not result in new or greater impacts to cultural resources than were previously disclosed in the 2008 FEIR, 2009 IS/MND, and 2013 Addendum.

[33] City of San José. *Envision San José Integrated Final EIR.* Figure 3.11-2. September 2011.
[34] City of San José. "Historic Resources Inventory." Accessed January 22, 2020. https://www.sanjoseca.gov/your-government/departments/planning-building-code-enforcement/planning-division/historic-preservation/historic-resources-inventory

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

The project would construct two stormwater basins on undeveloped land. As discussed in Section 4.5.1.2 Existing Conditions, there are no known historic resources on or adjacent to the project site. As a result, no historical resources would be impacted upon implementation of the project. Additionally, the project would not detract from the historical integrity of the Port of Alviso Historic District, or the buildings contained therein because the district is approximately one mile away from the sites. For these reasons, the project would not cause a substantial adverse change in the significance of a historical resource. **[Same Impact as Approved Project (No Impact)]**

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

The project site is undeveloped and the construction of the proposed stormwater basins would result in the disturbance of native soils on the sites. Based on the site's low archaeological sensitivity, it is unlikely that subsurface archaeological resources would be present on the sites; however, accidental disturbance of unknown resources during construction could occur. The project would be required to implement the following mitigation measure.

Impact CUL-1: Project ground-disturbing construction activities could result in the accidental disturbance and/or destruction of undocumented archaeological resources.

Mitigation Measures:

MM CUL-1.1: **Subsurface Cultural Resources.** If prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement or the Director's designee and the City's Historic Preservation Officer shall be notified, and a qualified archaeologist in consultation with a Native American Tribal representative that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3 shall examine the find. The archaeologist in consultation with the Tribal representative shall 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding the disposition of such finds. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee, the City's Historic Preservation Officer and the Northwest Information Center (if applicable). Project personnel shall not collect or move any cultural materials. The 50-foot no-work buffer shall remain in effect until the Director of Planning, Building and Code Enforcement or the Director's designee has been provided documentation that all recommendations have been implemented and the Director of Planning, Building and Code Enforcement

or the Director's designee issues the project applicant notice to proceed with construction in the no-work buffer.

The proposed project would not result in significant impacts to subsurface archaeological resources upon implementation of MM CUL-1.1 described above, which sets forth an appropriate process to be followed upon accidental discovery of archaeological resources. **[New Impact (Less than Significant Impact with Mitigation Incorporated)]**

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

It is unlikely that human remains are discovered during the on-site construction activities proposed by the project. Nonetheless, the project would be required to implement the following standard permit conditions.

Standard Permit Condition: The project shall implement the following standard permit conditions to reduce potential impacts to human remains.

- **Human Remains.** If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Director of Planning, Building and Code Enforcement or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner shall make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD shall inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:
    - The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 48 hours after being given access to the site;
    - The MLD identified fails to make a recommendation; or
    - The landowner or his authorized representative rejects the recommendation of the MLD, and mediation by the NAHC fails to provide measures acceptable to the landowner.

As described in the standard permit condition above, the project would be required to follow procedures according to the California Health and Safety Code and Public Resources Code upon the accidental discovery of human remains during project construction activities. By adhering to these procedures, timely identification of remains and notification of relevant agencies would follow any accidental discoveries, and significant impacts to human remains would be avoided. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.6 ENERGY

4.6.1 Environmental Setting

4.6.1.1 *Regulatory Framework*

Federal and State

Energy Star and Fuel Efficiency

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

Renewables Portfolio Standard Program

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

Executive Order B-55-18 To Achieve Carbon Neutrality

In September 2018, Governor Brown issued an executive order, EO-B-55-18 To Achieve Carbon Neutrality, setting a statewide goal "to achieve carbon neutrality as soon as possible, and no later than 2045, and achieve and maintain net negative emissions thereafter." The executive order requires CARB to "ensure future Scoping Plans identify and recommend measures to achieve the carbon neutrality goal." EO-B-55-18 supplements EO S-3-05 by requiring not only emissions reductions, but also that, by no later than 2045, the remaining emissions be offset by equivalent net removals of CO_2 from the atmosphere through sequestration.

Regional and Local

Climate Smart San José

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

- All new residential buildings will be Zero Net Carbon Emissions (ZNE) by 2020 and all new commercial buildings will be ZNE by 2030 (Note that ZNE buildings would be all electric with a carbon-free electricity source).
- San José Clean Energy (SJCE) will provide 100-percent carbon-free base power by 2021.

- One gigawatt of solar power will be installed in San Jose by 2040.
- 61 percent of passenger vehicles will be powered by electricity by 2030.

4.6.1.2 *Existing Conditions*

Total energy usage in California was approximately 6,956.6 trillion British thermal units (Btu) in the year 2020, the most recent year for which this data was available.[35] Out of the 50 states, California is ranked second in total energy consumption and 49th in energy consumption per capita. The breakdown by sector was approximately 21.8 percent (1,507.7 trillion Btu) for residential uses, 19.6 percent (1,358.3 trillion Btu) for commercial uses, 24.6 percent (1,701.2 trillion Btu) for industrial uses, and 34 percent (2,355.5 trillion Btu) for transportation.[36] This energy is primarily supplied in the form of natural gas, petroleum, nuclear electric power, and hydroelectric power.

Electricity

Electricity in Santa Clara County in 2020 was consumed primarily by the non-residential sector (73 percent), followed by the residential sector consuming 24 percent. In 2020, a total of approximately 16,435 gigawatt hours (GWh) of electricity was consumed in Santa Clara County.[37]

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

Natural Gas

PG&E provides natural gas services within Santa Clara County. In 2020, approximately two percent of California's natural gas supply came from in-state production, while the remaining supply was imported from other western states and Canada.[38] In 2020 California used 2,144 trillion Btu of natural gas.[39] In 2020, Santa Clara County used less than one percent of the state's total consumption of natural gas.[40]

[35] United States Energy Information Administration. "State Profile and Energy Estimates, 2020." Accessed October 10, 2022. https://www.eia.gov/state/?sid=CA#tabs-2.
[36] United States Energy Information Administration. "State Profile and Energy Estimates, 2020." Accessed October 10, 2022. https://www.eia.gov/state/?sid=CA#tabs-2.
[37] California Energy Commission. Energy Consumption Data Management System. "Electricity Consumption by County." Accessed October 10, 2022. http://ecdms.energy.ca.gov/elecbycounty.aspx.
[38] California Gas and Electric Utilities. 2020 *California Gas Report.* Accessed August 2, 2021. https://www.socalgas.com/sites/default/files/2020-10/2020_California_Gas_Report_Joint_Utility_Biennial_Comprehensive_Filing.pdf.
[39] United States Energy Information Administration. "State Profile and Energy Estimates, 2020." Accessed October 10, 2022. https://www.eia.gov/state/?sid=CA#tabs-2.
[40] California Energy Commission. "Natural Gas Consumption by County." Accessed October 10, 2022. http://ecdms.energy.ca.gov/gasbycounty.aspx.

Fuel for Motor Vehicles

In 2019, 15.4 billion gallons of gasoline were sold in California.[41] The average fuel economy for light-duty vehicles (autos, pickups, vans, and sport utility vehicles) in the United States has steadily increased from about 13.1 miles per gallon (mpg) in the mid-1970s to 25.4 mpg in 2020.[42] Federal fuel economy standards have changed substantially since the Energy Independence and Security Act was passed in 2007. That standard, which originally mandated a national fuel economy standard of 35 miles per gallon by the year 2020, was updated in April 2022 to require all cars and light duty trucks achieve an overall industry average fuel economy of 49 mpg by model year 2026. [43,44]

4.6.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:					
a) Result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?	☐	☐	☐	☒	☐
b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	☐	☐	☐	☒	☐

As described below, the proposed project would not result in new or greater impacts to energy resources than were previously disclosed in the 2008 FEIR, 2009 IS/MND, and 2013 Addendum.

a) Would the project result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?

Construction

Construction of the proposed project would last approximately five months. All equipment and labor for construction of the proposed stormwater basins would be provided from existing equipment and

[41] California Department of Tax and Fee Administration. "Net Taxable Gasoline Gallons." Accessed October 10, 2022. https://www.cdtfa.ca.gov/dataportal/dataset.htm?url=VehicleTaxableFuelDist.
[42] United States Environmental Protection Agency. "The 2021 EPA Automotive Trends Report: Greenhouse Gas Emissions, Fuel Economy, and Technology since 1975." November 2021. https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P1010U68.pdf
[43] United States Department of Energy. *Energy Independence & Security Act of 2007.* Accessed October 10, 2022. http://www.afdc.energy.gov/laws/eisa.
[44] United States Department of Transportation. USDOT Announces New Vehicle Fuel Economy Standards for Model Year 2024-2026." Accessed October 10, 2022. https://www.nhtsa.gov/press-releases/usdot-announces-new-vehicle-fuel-economy-standards-model-year-2024-2026

personnel at the ZMPF. The project would require 36,000 CY of soil to construct the basins; all of the required soil is already available from existing operations at the ZMPF. Excess energy would not be spent transporting construction equipment, materials, or workers to and from the site. Additionally, the project would adhere to BAAQMD Best Management Practices [refer to the discussion under Question b) in Section 4.3 Air Quality] which would restrict equipment idling time to five minutes, and consequently reduce unnecessary energy usage. Construction energy usage is temporary and would not result in excessive energy consumption because construction processes are generally designed to be efficient to avoid excess monetary costs. For these reasons, construction of the proposed stormwater basins would not result in wasteful or inefficient use of energy. **[Same Impact as Approved Project (Less than Significant Impact)]**

Operation

Operational activities related to the proposed project would be minimal, consisting mainly of routine maintenance and repair of the perimeter soil berms. Existing personnel at the ZMPF would complete the ongoing inspections and make any necessary repairs, thereby reducing off-site transport of materials or workers and associated energy expenditures. The proposed stormwater basins are low-intensity uses which would collect and retain stormwater on-site. Currently, stormwater runoff at the site is discharged to the surrounding areas via existing drainage sumps and pumped out of the processing area during flood risks. The proposed basins would eliminate the energy required to pump out the existing interior basins to the exterior basins during emergency flood events, as the basins would be designed to hold runoff generated during multiple 100-year, 24-hour storm events. (i.e., 0.00001 percent) of the total California production would not create a significant adverse impact on California's energy resources.

For these reasons, operation of the project would not result in the wasteful or inefficient use of energy. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

As discussed under Question a) above, the construction and operation of the project would be efficient and would not result in the wasteful consumption of energy. The existing plans for renewable energy and energy efficiency are not applicable to this type of project. The project would not conflict with the regulations discussed in Section 4.6.1.1 Regulatory Framework. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.7 GEOLOGY AND SOILS

The following discussion is based, in part, on a preliminary geotechnical investigation prepared for the project by ES Engineering Services. A copy of the report dated November 19, 2018 is included in Appendix B of this Initial Study.

4.7.1 Environmental Setting

4.7.1.1 *Regulatory Framework*

State

Alquist-Priolo Earthquake Fault Zoning Act

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

Seismic Hazards Mapping Act

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

California Building Standards Code

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

California Division of Occupational Safety and Health Regulations

Excavation, shoring, and trenching activities during construction are subject to occupational safety standards for stabilization by the California Department of Industrial Relations, Division of Occupational Safety and Health (Cal/OSHA) under Title 8 of the California Code of Regulations and

Excavation Rules. These regulations minimize the potential for instability and collapse that could injure construction workers on the site.

Public Resources Code Section 5097.5

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

Local

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects within the City. The proposed project would be subject to the geology and soil policies listed in the City's General Plan, including the following:

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

City of San José Municipal Code

Title 24 of the San José Municipal Code includes the current California Building, Plumbing, Mechanical, Electrical, Existing Building, and Historical Building Codes. Requirements for grading, excavation, and erosion control are included in Chapter 17.10 (Building Code, Part 6 Excavation and Grading). In accordance with the Municipal Code, the Director of Public Works must issue a

Certificate of Geologic Hazard Clearance prior to the issuance of grading and building permits within defined geologic hazard zones, including State Seismic Hazard Zones for Liquefaction.

4.7.1.2 *Existing Conditions*

Geology and Soils

The site is located in the southern end of San Francisco Bay where the tidal mudflats that ring the bay margin meet the north-west trending Santa Clara Valley. The valley is a relatively flat plain that slopes toward the bay and is bordered by two coastal mountain ranges; the Diablo Range on the east and the Santa Cruz Mountains on the west.

Alluvial sediments were deposited throughout the valley by streams draining the adjacent mountain ranges. Fine-grained sediments were also deposited in the bay and along the bay margin in a tidal marsh environment subjected to seasonal flooding and high water levels. The fine grained sediments are called bay mud and consist of unconsolidated, water-saturated plastic clay and silty clay soils. The bay mud unit is up to 120 feet thick beneath the bay but pinches out at the margins where it is 10 to 20 feet thick. Holocene alluvial deposits interfinger with and occur below the bay mud. These alluvial soils consist of clay and silt to sand and gravel and range from ten to 50 feet thick. Beneath the Holocene alluvium is Pleistocene alluvium and bedrock. The bedrock occurs at an approximate elevation of 600 feet MSL. The ZMPF is located at the contact between the bay mud and fine-grained Holocene alluvium.

Based on the boring log data from the geotechnical report, the near surface soils beneath the project site primarily consists of clayey soils. These soils exhibited low strength characteristic and were found to be compressible, especially in the upper 10 feet of the on-site soils. The geotechnical report did not identify any of the soils on the project site as highly expansive.

Seismicity and Seismic Hazards

The project site is located within the seismically-active San Francisco Bay Area. Several active faults have been mapped within the general vicinity of the site; however, the project site is not located within an active earthquake fault zone as defined by the State of California. Because the project site not located within an Alquist-Priolo Earthquake Fault Zone or a Santa Clara County Fault Rupture Hazard Zone, the risk of ground rupture is considered very low.

The project site not located within a California Seismic Hazard Zone for landslides.[45] The project site is, however, located directly adjacent to a sloped landfill. Strong seismic events could potentially result in slope instability at the adjacent landfill, although the probability of landslides occurring at the site during a seismic event is low because the landfill slopes have been engineered to withstand seismic events. An inspection of the existing landfill was completed after the 7.1 Loma Prieta earthquake in October 1989. There was no evidence of levee damage, slope failure, or sand boils during this inspection.[46]

[45] California Geological Survey. "Earthquake Zones of Required Investigation." Accessed December 23, 2019. https://maps.conservation.ca.gov/cgs/EQZApp/app/
[46] City of San José. *Zanker Material Processing Facility Rezoning Addendum.* April 2013.

Liquefaction occurs when water-saturated soils lose structural integrity due to seismic activity. Soils that are most susceptible to liquefaction are loose to moderately dense, saturated granular soils with poor drainage. Based on references cited in the geotechnical report, there are sand lenses beneath the bay mud that may be prone to settlement and lateral spreading, although it is anticipated that the surface deformation would likely be limited due to the relatively thin and discontinuous nature of the sand lenses. Strain softening of the near surface clay soils is likely to occur and would probably result in some additional settlement. The resulting settlement is difficult to predict, but could be on the order of several inches over the entire site.

Groundwater

Depth to groundwater is expected to vary considerably depending on tidal and rainfall conditions. At the time of the field work conducted for the geotechnical report (September 6, 2018), the static groundwater elevation was recorded at approximately six to eight feet below ground surface (bgs).

Paleontological Resources

Per the City's Paleontological Sensitivity Map, the project site is located in an area of high paleontological sensitivity at depth. [47]

4.7.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:					
a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:					
– Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault (refer to Division of Mines and Geology Special Publication 42)?	☐	☐	☐	☒	☐
– Strong seismic ground shaking?	☐	☐	☐	☒	☐
– Seismic-related ground failure, including liquefaction?	☐	☐	☐	☒	☐
– Landslides?	☐	☐	☐	☒	☐
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☐	☒	☐

[47] C. Bruce Hanson. *Paleontological Evaluation Report for the Envision San José 2040 General Plan, Santa Clara County, California*. September 2010.

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:					
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?	☐	☐	☐	☒	☐
d) Be located on expansive soil, as defined in the current California Building Code, creating substantial direct or indirect risks to life or property?	☐	☐	☐	☒	☐
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	☐	☐	☐	☒	☐
f) Directly or indirectly destroy a unique paleontological resource or site or unique geological feature?	☐	☐	☐	☒	☐

As described below, the proposed project would not result in new or greater geology and soils impacts than were previously disclosed in the 2008 FEIR, 2009 IS/MND, and 2013 Addendum.

a) Would the project directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault; strong seismic ground shaking; seismic-related ground failure, including liquefaction; or landslides?

Fault Rupture

The project site is not located within an Alquist-Priolo Earthquake Fault Zone or a Santa Clara County Fault Rupture Hazard Zone, making fault rupture at the sites unlikely. In addition, no known faults cross the project site. For these reasons, fault rupture on the sites would not occur. **[Same Impact as Approved Project (No Impact)]**

Seismic Ground Shaking

The project site is located within the seismically active San Francisco Bay region. The faults in this region are capable of generating earthquakes of magnitude 7.0 or higher. During an earthquake, very strong ground shaking could occur at the project site.

In accordance with the City's General Plan and Municipal Code, and to avoid or minimize potential damage from seismic shaking, the proposed basins would be built using standard engineering and seismic safety design techniques. Consistent with City requirements, the following condition shall be implemented by the proposed project to ensure the proposed development is designed to address seismic hazards.

Standard Permit Conditions

- A Geotechnical Report shall be submitted, reviewed, and approved by the City Geologist. The Geotechnical Report shall determine the site-specific soil conditions and identify the appropriate design and construction techniques to minimize risks to people and structures, including but not limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations. The investigation should be consistent with State of California guidelines for the preparation of seismic hazard evaluation reports (CGS Special Publication 117A, 2008, and the Southern California Earthquake Center report, SCEC, 1999). A recommended minimum depth of 50 feet should be explored and evaluated in the investigation. The City Geologist will review the Geotechnical Report and issue a Geologic Clearance.
- All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.
- Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.
- Ditches shall be installed to divert runoff around excavations and graded areas if necessary.
- The project shall be constructed in accordance with the standard engineering practices in the California Building Code, as adopted by the City of San José. A grading permit from the San José Department of Public Works shall be obtained prior to the issuance of a Public Works clearance. These standard practices would ensure that the future building on the site is designed to properly account for soils-related hazards on the site.

As described above, the project would be required to be built in conformance with the recommendations of a design-level geotechnical investigation and would be designed to withstand soil hazards. With implementation of the above Standard Permit Condition, the proposed project would not expose people or structures to substantial adverse effects due to ground shaking; nor would the project exacerbate existing geological hazards on the project site such that it would impact (or worsen) off-site geological and soil conditions. **[Same Impact as Approved Project (Less than Significant Impact)]**

Landslides

The project site is not located within a Geologic Hazard Zone for landslides. In addition, the adjacent landfill is engineered to withstand seismic and seismic-related hazards. For these reasons, the proposed project would not exacerbate any landslide risks in the area. **[Same Impact as Approved Project (Less than Significant Impact)]**

Liquefaction

The proposed project is located in a State Seismic Hazard Zone for liquefaction. According to the City's Municipal Code, a Certificate of Geologic Hazard Clearance is required for the project due to

its location within a Geologic Hazard Zone. A Certificate of Geologic Hazard Clearance must be issued for the proposed project prior to issuance of grading and/or development permits. By subjecting the proposed project to review by the City of San Jose's geologist and requiring geologic hazard clearance from the Director of Public Works, and adhering to the standard permit condition described above, hazards posed by seismically-induced liquefaction would be reduced to less than significant. **[Same Impact as Approved Project (Less than Significant Impact)]**

Lateral Spreading

Lateral spreading is a geologic hazard commonly associated with liquefaction. This phenomenon occurs when ground-shaking induces the horizontal displacement of relatively flat-lying soil towards an open or "free" face such as an open body of water, drainage channel, or excavation. Lateral spread presents a significant hazard to the integrity of buildings and other structures that are located in seismically active regions, such as the San Francisco Bay Area. The geotechnical report prepared for the project states, that surface deformation resulting from settlement and lateral spreading on the site would likely be limited due to the relatively thin and discontinuous nature of the sand lenses beneath the bay mud that underlies the sites. Therefore, lateral spreading impacts would be less than significant. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

General Plan Policy EC-4.5 requires an Erosion Control Plan for private development projects that have a soil disturbance of one acre or more, are adjacent to a creek/river, and/or located in a hillside area. The project would disturb over an acre of soil and would prepare an Erosion Control Plan to the satisfaction of the City. Preparation of an Erosion Control Plan would ensure the project is in compliance with General Plan policies, and would provide a site-specific analysis to determine necessary measures, design modification, and/or off-site improvements to reduce the possibility of substantial erosion on-site.

The City's urban runoff policies, grading permit requirements, and Municipal Code measures pertaining to erosion control are also applicable to the proposed project. Conformance with applicable policies and permit requirements would ensure that the project would not substantially increase soil erosion on-site or contribute to the loss of topsoil. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

The project site is located adjacent to existing soil levees which border the landfill at the ZMPF. The existing soil levees would be used as one side of each of the proposed stormwater basins, with soil berms up to 14 feet high constructed as part of the project to make up the remaining sides. The stability of the existing soil levees is dependent upon the strength characteristics of the soils used to construct the soil berms, as well as the underlying materials. The analysis in the geotechnical investigation included a static and seismic analysis of the existing slope, which determined the slope

has a Factor of Safety[48] of 3.047 and 1.430, respectively, against gross failure. Thus, the proposed stormwater basins would not be located on a geologic unit or soil that is unstable.

As set forth in the standard permit condition described under Question a), the project would be required to obtain Geologic Hazard Clearance from the City Geologist due to potential liquefaction hazards. By obtaining Geologic Hazard Clearance and adhering to the recommendations of a design-level geotechnical investigation, including those pertaining to maintaining moisture and water conditions of soils to ensure soil stability, the proposed project would not result in on- or off-site hazards due to unstable geologic units or soil. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

As described in Section 4.7.1.2 Existing Conditions, the soils on the project site do not have a high expansion potential. By adhering to the recommendations included in the geotechnical investigation for soil and seismic hazards, and constructing the basins in accordance with standard engineering practices, the proposed project would not result in a significant impact as a result of the soils underlying the site. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

The proposed project would not generate wastewater or require wastewater disposal. Therefore, there would be no impact. **[Same Impact as Approved Project (No Impact)]**

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

Most of the City of San José is situated on alluvial fan deposits of Holocene age that have a low potential to contain significant nonrenewable paleontological resources; however, older Pleistocene sediments present at or near the ground surface at some locations have high potential to contain these resources. These older sediments, often found at depths of greater than 10 feet below the ground surface, have yielded the fossil remains of plants and extinct terrestrial Pleistocene vertebrates. The project would require a maximum excavation of three feet. For this reason, the proposed project would not potentially disturb undiscovered paleontological resources underlying the project site during excavation, grading and construction activities. The proposed project would not result in a significant impact related to paleontological resources. **[Same Impact as Approved Project (Less than Significant Impact)]**

[48] A Factor of Safety is defined as the ratio between the strength of the material and maximum stress on the material. When the stress is superior to the strength, the safety factor becomes less than 1, which is considered unsafe.

4.8 GREENHOUSE GAS EMISSIONS

4.8.1 Environmental Setting

4.8.1.1 *Background Information*

Gases that trap heat in the atmosphere, GHGs, regulate the earth's temperature. This phenomenon, known as the greenhouse effect, is responsible for maintaining a habitable climate. In GHG emission inventories, the weight of each gas is multiplied by its global warming potential (GWP) and is measured in units of CO_2 equivalents (CO_2e). The most common GHGs are carbon dioxide (CO_2) and water vapor but there are also several others, most importantly methane (CH_4), nitrous oxide (N_2O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF_6). These are released into the earth's atmosphere through a variety of natural processes and human activities. Sources of GHGs are generally as follows:

- CO_2 and N_2O are byproducts of fossil fuel combustion.
- N_2O is associated with agricultural operations such as fertilization of crops.
- CH_4 is commonly created by off-gassing from agricultural practices (e.g., keeping livestock) and landfill operations.
- Chlorofluorocarbons (CFCs) were widely used as refrigerants, propellants, and cleaning solvents, but their production has been stopped by international treaty.
- HFCs are now used as a substitute for CFCs in refrigeration and cooling.
- PFCs and SF_6 emissions are commonly created by industries such as aluminum production and semiconductor manufacturing.

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

4.8.1.2 *Regulatory Framework*

State

Assembly Bill 32

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

In 2016, SB 32 was signed into law, amending the California Global Warming Solution Act. SB 32, and accompanying Executive Order B-30-15, require CARB to ensure that statewide GHG emissions are reduced to 40 percent below the 1990 level by 2030. CARB updated its Climate Change Scoping Plan in December of 2017 to express the 2030 statewide target in terms of million metric tons of CO_2E ($MMTCO_2e$). Based on the emissions reductions directed by SB 32, the annual 2030 statewide target emissions level for California is 260 $MMTCO_2e$.

Senate Bill 375

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

Consistent with the requirements of SB 375, the Metropolitan Transportation Commission (MTC) partnered with the Association of Bay Area Governments (ABAG), BAAQMD, and the BCDC to prepare the region's Sustainable Communities Strategy (SCS) as part of the Regional Transportation Plan process. The SCS is referred to as Plan Bay Area 2040. Plan Bay Area 2040 establishes a course for reducing per-capita GHG emissions through the promotion of compact, high-density, mixed-use neighborhoods near transit, particularly within identified Priority Development Areas (PDAs).

Regional and Local

2017 Clean Air Plan

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

CEQA Air Quality Guidelines

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

Envision San José 2040 General Plan and Greenhouse Gas Reduction Strategy

The General Plan includes strategies, policies, and action items that are incorporated into the City's GHG Reduction Strategy to help reduce GHG emissions. Multiple policies and actions in the General Plan have GHG implications, including land use, housing, transportation, water usage, solid waste generation and recycling, and reuse of historic buildings. The GHG Reduction Strategy is intended to meet the mandates outlined in the CEQA Air Quality Guidelines, as well as the BAAQMD requirements for Qualified GHG Reduction Strategies.

The City's GHG Reduction Strategy identifies GHG emissions reduction measures to be implemented by development projects as part of three categories: built environment and energy, land use and transportation, and recycling and waste reduction. Some measures are mandatory for all proposed development projects and others are voluntary and could be incorporated as mitigation measures for proposed projects, at the City's discretion. The GHG Reduction Strategy was adopted by City Council in 2015.

The primary test for consistency with the City's GHG Reduction Strategy is conformance with the General Plan Land Use / Transportation Diagram and supporting policies. CEQA clearance for development proposals are required to address the consistency of individual projects with the goals and policies in the General Plan designed to reduce GHG emissions. Compliance with the mandatory measures and voluntary measures (if required by the City) would ensure an individual project's consistency with the GHG Reduction Strategy.

Climate Smart San José

Climate Smart San José, adopted in February 2018, is a plan to reduce air pollution, save water, and create a healthy community. Climate Smart San José focuses on three pillars and nine key strategies, to transform San José into a climate smart city that is substantially decarbonized and meeting requirements of Californian climate change laws. Implementation of Climate Smart San José is guided by "playbooks," which are action, targets or metrics tailored to specific entities, groups or stakeholders.

4.8.1.3 *Existing Conditions*

The NW basin would be located within the boundaries of the Zanker Resource Recovery Facility (APN 015-30-071) but outside the main area where daily recycling activities and operations occur. The NW basin would occupy a currently undeveloped portion of the Zanker Resource Recovery Facility that is temporarily being used as a parking lot for PG&E. GHG emissions are indirectly emitted by vehicles traveling to and from this parking lot. The SW basin would be located on a vacant and undeveloped portion of APN 015-30-106 that does not generate direct or indirect GHG emissions.

4.8.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:					
a) Generate greenhouse gas (GHG) emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☐	☒	☐
b) Conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs?	☐	☐	☐	☒	☐

As described below, the proposed project would not result in new or greater GHG impacts than were previously disclosed in the 2008 FEIR, 2009 IS/MND, and 2013 Addendum.

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

GHG emissions would be generated during construction of the proposed stormwater basins, primarily from the operation of heavy equipment and soil transport from the ZMPF. Neither the City of San José nor BAAQMD have an adopted threshold of significance for construction-related GHG emissions. BAAQMD recommends the incorporation of best management practices to reduce GHG emissions during construction where feasible and applicable. The project would adhere to BAAQMD BMPs [refer to the discussion under Question b) in Section 4.3 Air Quality] which would restrict equipment idling time to five minutes, and consequently reduce unnecessary energy usage and subsequent GHG emissions. Construction of the project is estimated to last approximately five months. Because construction would be temporary and the project would implement BMPs to minimize GHG emissions, the project would not result in significant GHG emissions.

The operation of the proposed basins would eliminate the need to pump out the existing interior basins to the exterior basins for emergency flood prevention, a process which currently occurs and indirectly generates GHG emissions through energy consumption. Vehicles driving onto the soil berms to inspect and maintain the proposed basins would generate GHG emissions; however, these activities would be infrequent and would not result in substantial GHG emissions.

For these reasons, the operation of the project would not generate significant GHG emissions. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

City of San José Greenhouse Gas Reduction Strategy

The GHG Reduction Strategy lists mandatory criteria that development projects must satisfy in order to be consistent with City goals and policies. The mandatory criteria for development projects are listed below.

1. Consistency with the Land Use/Transportation Diagram (General Plan Goals/Policies IP-1, LU-10);
2. Implementation of Green Building Measures (General Plan Goals MS-1, MS-14)
    a. Solar site orientation
    b. Site design
    c. Architectural design
    d. Construction techniques
    e. Consistency with City Green Building Ordinances and Policies

f. Consistency with GHG Reduction Strategy Policies MS-1.1, MS-1.2, MS-2.3, MS-2.11, and MS-14.4;

3. Pedestrian/Bicycle Site Design Measures
    a. Consistency with Zoning Ordinance
    b. Consistency with GHG Reduction Strategy Policies CD-2.1, CD-3.2, CD-3.3, CD-3.4, CD-3.6, CD-3.8, CD-3.10, CD-5.1, LU-5.4, LU-5.5, LU-9.1, TR-2.8, TR-2.18, TR-3.3, and TR-6.7;
4. Salvage building materials and architectural elements from historic structures to be demolished to allow reuse (General Plan Policy LU-16.4), if applicable;
5. Complete an evaluation of operational energy efficiency and design measures for energy-intensive industries (e.g., data centers; General Plan Policy MS-2.8), if applicable;
6. Preparation and implementation of the Transportation Demand Management Program at large employers (General Plan Policy TR-7.1), if applicable; and
7. Limits on drive-through and vehicle serving uses, if applicable. All new uses that serve the occupants of vehicles (e.g., drive-through windows, car washes, service stations) must not disrupt pedestrian flow (General Plan Policy LU-3.6).

The project site is designated Open Space, Parklands and Habitat and Light Industrial in the General Plan and the proposed basins would be low-intensity uses that are consistent with these land use designations (Criteria 1). The project does not propose demolition of any structures or the construction of new buildings or infrastructure which would be subject to the City's Green Building Measures (Criteria 2, 4). The project proposes to construct two stormwater basins to serve the planned expansion of the ZMPF and would not be required to include pedestrian/bicycle site design measures (Criteria 3). Additionally, the project would not stimulate a growth in employment, be an energy-intensive industry, or be a vehicle-serving use (Criteria 5, 6, 7). For these reasons, the project would not conflict with the City of San José GHG Reduction Strategy. **[Same Impact as Approved Project (Less than Significant Impact)]**

Climate Smart San José

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

The project would not conflict with the implementation strategy of Climate Smart San José, as none of the nine strategies are directly applicable to the project. **[Same Impact as Approved Project (No Impact)]**

4.9 HAZARDS AND HAZARDOUS MATERIALS

The following discussion is based, in part, on a Limited Environmental Site Assessment prepared for the project by Cornerstone Earth Group, Inc. in March 2023. The analysis is also supported by a Hydrogeologic Review prepared by WSP in June 2023. The Limited Environmental Site Assessment is included as Appendix C and the Hydrogeologic Review is included as Appendix D in this Initial Study.

4.9.1 Environmental Setting

4.9.1.1 *Regulatory Framework*

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

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

Federal and State

Federal Aviation Regulations Part 77

Federal Aviation Regulations, Part 77 Objects Affecting Navigable Airspace (FAR Part 77) sets forth standards and review requirements for protecting the airspace for safe aircraft operation, particularly by restricting the height of potential structures and minimizing other potential hazards (such as reflective surfaces, flashing lights, and electronic interference) to aircraft in flight. These regulations require that the Federal Aviation Administration (FAA) be notified of certain proposed construction projects located within an extended zone defined by an imaginary slope radiating outward for several miles from an airport's runways, or which would otherwise stand at least 200 feet in height above the ground.

Comprehensive Environmental Response, Compensation, and Liability Act

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

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

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

The law authorizes two kinds of response actions:

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

CERCLA also enabled the revision of the National Contingency Plan (NCP). The NCP provided the guidelines and procedures needed to respond to releases and threatened releases of hazardous substances, pollutants, or contaminants. The NCP also established the National Priorities List. CERCLA was amended by the Superfund Amendments and Reauthorization Act on October 17, 1986.[49]

Resource Conservation and Recovery Act

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

The Federal Hazardous and Solid Waste Amendments (HSWA) are the 1984 amendments to RCRA that focused on waste minimization, phasing out land disposal of hazardous waste, and corrective action for releases. Some of the other mandates of this law include increased enforcement authority for the EPA, more stringent hazardous waste management standards, and a comprehensive underground storage tank program.[50]

Government Code Section 65962.5

Section 65962.5 of the Government Code requires CalEPA to develop and update a list of hazardous waste and substances sites, known as the Cortese List. The Cortese List is used by state and local

[49] United States Environmental Protection Agency. "Superfund: CERCLA Overview." Accessed May 11, 2020. https://www.epa.gov/superfund/superfund-cercla-overview.
[50] United States Environmental Protection Agency. "Summary of the Resource Conservation and Recovery Act." Accessed May 11, 2020. https://www.epa.gov/laws-regulations/summary-resource-conservation-and-recovery-act.

agencies and developers to comply with CEQA requirements. The Cortese List includes hazardous substance release sites identified by the Department of Toxic Substances Control (DTSC) and State Water Resources Control Board (SWRCB).

Toxic Substances Control Act

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

California Accidental Release Prevention Program

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

Asbestos-Containing Materials

Friable asbestos is any asbestos-containing material (ACM) that, when dry, can easily be crumbled or pulverized to a powder by hand, allowing the asbestos particles to become airborne. Common examples of products that have been found to contain friable asbestos include acoustical ceilings, plaster, wallboard, and thermal insulation for water heaters and pipes. Common examples of non-friable ACMs are asphalt roofing shingles, vinyl floor tiles, and transite siding made with cement. The EPA began phasing out use of friable asbestos products in 1973 and issued a ban in 1978 on manufacture, import, processing, and distribution of some asbestos-containing products and new uses of asbestos products.[51] The EPA is currently considering a proposed ban on on-going use of asbestos.[52] National Emission Standards for Hazardous Air Pollutants (NESHAP) guidelines require that potentially friable ACMs be removed prior to building demolition or remodeling that may disturb the ACMs.

CCR Title 8, Section 1532.1

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

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

Regional and Local

Santa Clara Valley Water Ordinance 90-1

The Santa Clara Valley Water District has the goal and authority to protect Santa Clara County's groundwater resources. Ordinance 90-1 regulates the construction and destruction of wells and other deep excavations. This ordinance requires permitting for any person digging, 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. All existing wells affected by new or redevelopment need to be identified and properly registered with the Valley Water and either be maintained or destroyed in accordance with Valley Water's standards. Destruction of any well and the construction of any new wells proposed, including monitoring wells, requires a permit from Valley Water prior to construction.

Norman Y. Mineta San José International Airport Comprehensive Land Use Plan

Development within the Airport Influence Area (AIA) of the Norman Y. Mineta San José International Airport can be subject to hazards from aircraft and also pose hazards to aircraft traveling to and from the airport. The County of Santa Clara Airport Land Use Commission (ALUC) adopted an Airport Comprehensive Land Use Plan (CLUP) in October of 2010, amended November 16, 2016, to address these potential hazards and establish review procedures for potentially incompatible land uses.

The AIA is a composite of areas surrounding the airport that are affected by noise, height and safety considerations. These hazards are addressed in federal and state regulations as well as in land use regulations and policies in the CLUP. The CLUP set standards focused on three areas of ALUC responsibility: noise, objects in navigable airspace, and the safety of persons on the ground and in aircraft. Projects within the AIA are subject to an additional level of review by the City to determine how policies established in the CLUP may impact the proposed development.

Envision San José 2040 General Plan

The Envision San José 2040 General Plan includes the following policies that are specific to hazards and hazardous materials and applicable to development projects in San José:

Policy	Description
EC-7.1	For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment.
EC-7.2	Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, state and federal laws, regulations, guidelines and standards.

EC-7.3	Where a property is located in near proximity of known groundwater contamination with volatile organic compounds or within 1,000 feet of an active or inactive landfill, evaluate and mitigate the potential for indoor air intrusion of hazardous compounds to the satisfaction of the City's Environmental Compliance Officer and appropriate regional, state and federal agencies prior to Approval of a development or redevelopment project.
EC-7.5	In development and redevelopment sites, require all sources of imported fill to have adequate documentation that it is clean and free of contamination and/or acceptable for the proposed land use considering appropriate environmental screening levels for contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and State requirements.
EC-7.8	Where an environmental review process identifies the presence of hazardous materials on a proposed development site, the City will ensure that feasible mitigation measures that will satisfactorily reduce impacts to human health and safety and to the environment are required of or incorporated into the projects. This applies to hazardous materials found in the soil, groundwater, soil vapor, or in existing structures.
EC-7.10	Require review and approval of grading, erosion control and dust control plans prior to issuance of a grading permit by the Director of Public Works on sites with known soil contamination. Construction operations shall be conducted to limit the creation and dispersion of dust and sediment runoff.
EC-14.4	Require avigation and "no build" easement dedications, setting forth maximum elevation limits as well as for acceptance of noise or other aircraft related effects, as needed, as a condition of approval of development in the vicinity of airports.

4.9.1.2 *Existing Conditions*

Stormwater Basin Sites

Currently, the locations of the proposed stormwater basins are undeveloped and consist of non-native grasses, ruderal vegetation, and open soil surfaces. A portion of the NW Basin site consists of seasonal wetlands. The stormwater basin sites have not historically been used for any of the nearby landfill and/or resource recovery operations.

ZMPF

In general, the hazardous materials use on the ZMPF is limited to diesel, gasoline, and oil in vehicles and motorized equipment. Oil and grease for servicing trucks and equipment used at the landfill and for resource recovery activities are stored near the existing office, adjacent to Los Esteros Road. The ZMPF is a permitted solid waste facility with an operating landfill. The landfill and resource recovery operation on the site is permitted to accept only non-hazardous, non-putrescible mixed wastes, yard waste, and dirt. Because the recycling residuals and waste landfilled at the nearby

ZMPF consist of only nonhazardous and non-putrescible waste, the on-site landfill gas generation is substantially lower than other landfills that handle putrescible waste.

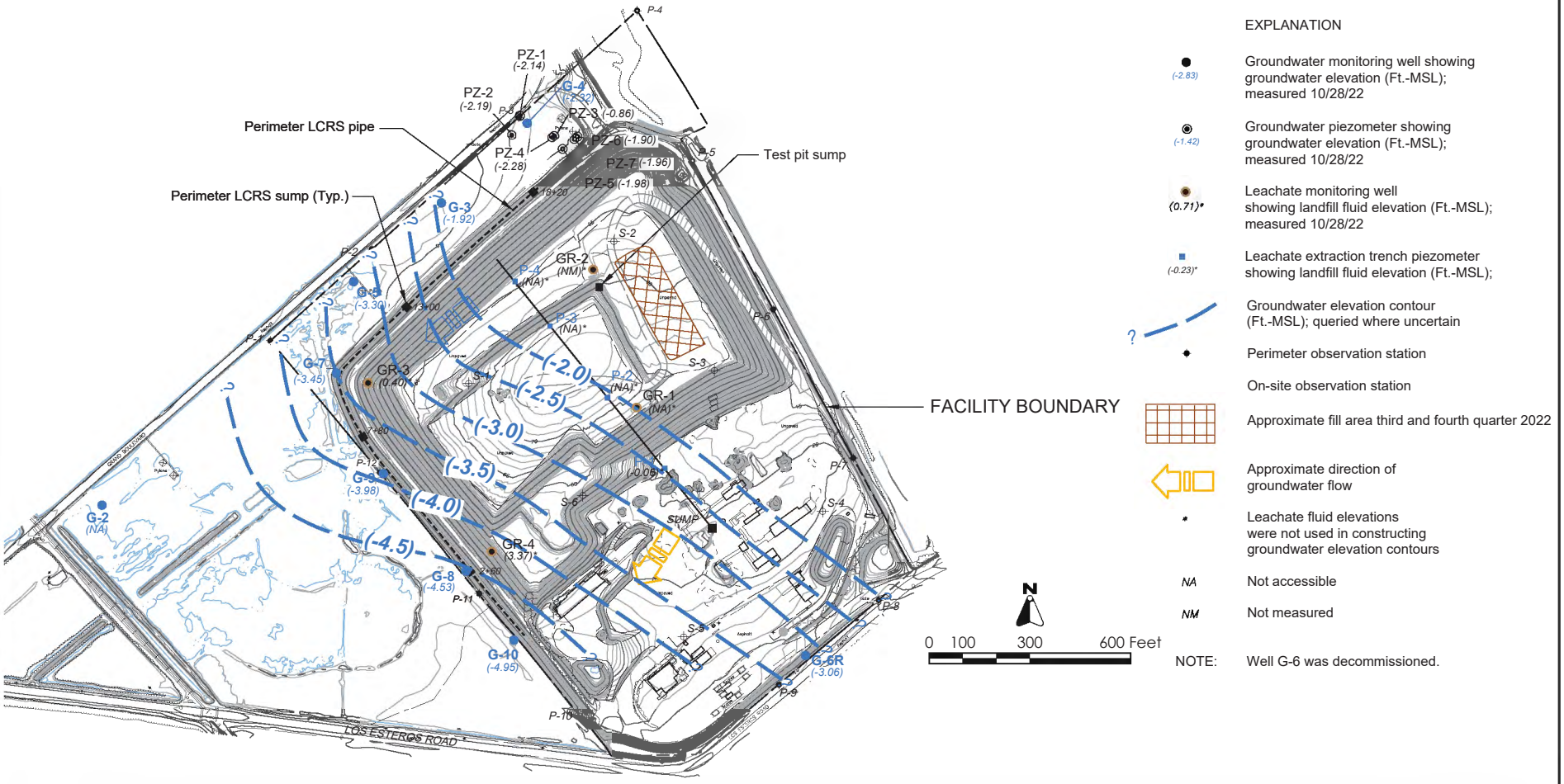
Monitoring at ZMPF

The site has been regulated by the San Francisco Regional Water Quality Control Board (RWQCB) since 1972. In 1977, while under Owens-Corning Fiberglas Corporation, the RWQCB issued Order Number 77-127 to require waste discharge requirements and compliance schedules due to potential landfill impacts to water quality. The requirements mandated groundwater and surface water monitoring. The order was amended in 1978 to change the compliance schedule.[53] In September 1985, the Department of Health Services (predecessor to the Department of Toxic Substances Control) conducted a preliminary assessment and documented heavy metals and solvents (both hazardous wastes) to have been disposed of in the landfill. As a result, the RWQCB required installation of a leachate collection and removal system along with ongoing monitoring in 1985.[54] When ownership changed for the property and the ZMPF was built, the RWQCB required that the ZMPF also include a leachate collection and removal system under Order Number 98-123 issued in December 16, 1998. Order Number 98-123 also continued the groundwater monitoring programs to monitor for the potential impact to water quality. The waste discharge requirements and Self-Monitoring Program (which encompasses the groundwater, surface water, and leachate monitoring programs) were updated in 2016 under Order Number R2-2016-0010.

The self-monitoring program in Order Number R2-2016-0010 contains requirements for semi-annual and five-year constituent-of-concern (COC) sampling, analysis, and evaluation of analytical results. Semi-annual samples from the site's groundwater monitoring wells and leachate piezometers are collected in the first and third quarters of each year. The last five-year COC monitoring event took place in the third quarter of 2019. The next COC monitoring event will be completed in the third quarter of 2024. There are currently eight groundwater monitoring wells (groundwater monitoring well G-6R was decommissioned) and approximately seven piezometers associated with the wells throughout the site. The locations of the groundwater monitoring wells and piezometers are shown in Figure 4.9-1.

Groundwater beneath the ZMPF is monitored in the uppermost water-bearing zone and generally flows toward the southwest. Volatile organic compounds (VOCs), predominantly trichloroethene (TCE), have been identified to be present in groundwater near well G-4, which is located at the proposed NW basin location. The source of the VOCs is likely an area to the east of well G-4, outside of the landfill boundaries as described in the Hydrogeologic Review prepared by WSP (refer to Appendix D). No other sources of contamination or hazards were identified at the other seven groundwater monitoring wells.

[53] California Regional Water Quality Control Board San Francisco Bay Region. "Order No. R2-2016-0010 Updated Waste Discharge Requirements and Recission Of Order No. 98-123 for Zanker Road Resource Management, Ltd. Zanker Material Processing Facility San Jose, Santa Clara County." 2016. Accessed July 12, 2023. https://www.waterboards.ca.gov/sanfranciscobay/board_decisions/adopted_orders/2016/R2-2016-0010.pdf.
[54] Department of Toxic Substances Control Board. "Owens Corning Fiberglass Landfill Site Screening Form." January 2, 2002. Accessed July 12, 2023. https://www.envirostor.dtsc.ca.gov/getfile?filename=/public%2Fdeliverable_documents%2F9056516349%2Fowen_site_screening.pdf.



Source: WSP Golder, September 14, 2022.

GROUNDWATER MONITORING WELLS AND PIEZOMETERS | FIGURE 4.9-1

Within the ZMPF, there are four leachate monitoring wells, four piezometers for the leachate monitoring wells, a leachate extraction test pit sump, plus an interior and a perimeter leachate collection and recovery system collection trench on-site. Leachate is pumped from the site to reduce site-wide leachate levels and is trucked to the nearby San José-Santa Clara Regional Wastewater Facility for treatment. The leachate monitoring wells and piezometers are used to monitor leachate levels within the landfill and evaluate the effectiveness of the leachate extraction system.

Landfill gas migration monitoring of the ZMPF perimeter and on-site structures is currently conducted twice per year; monitoring would continue upon implementation of the planned phased development of the ZMPF. The results of the monitoring are provided to the City of San José Local Enforcement Agency (LEA), CalRecycle, and BAAQMD.[55]

Cortese List

The project site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.[56] The SW Basin area is located approximately 700 feet northwest of a historic Leaking Underground Storage Tank (LUST) clean-up site at the RWF at 700 Los Esteros Road.[57] The nearby site has a clean-up status of completed, and the case has been closed since 1990.

Airports

The project site is located approximately four miles north of the Norman Y. Mineta San José International Airport. The site is not located within the AIA for the airport and is located outside of the 60 CNEL contours for the airport.[58,59] The project site is not located within the vicinity of a private airstrip.

Wildland Fires

The project site is not located within an identified Very High Fire Hazard Severity Zone in a State Responsibility Area (SRA) or a Local Responsibility (LRA).[60,61] The project site is not adjacent to any wildlands that could present a fire hazard.

[55] City of San José. *Zanker Material Processing Facility Rezoning Addendum.* April 2013.
[56] CalEPA. "Cortese List Data Resources." Accessed November 6, 2019. https://calepa.ca.gov/sitecleanup/corteselist.
[57] State Water Resources Control Board. "GeoTracker." https://geotracker.waterboards.ca.gov/. Accessed November 6, 2019.
[58] Santa Clara County Airport Land Use Commission. *Comprehensive Land Use Plan.* Figure 8. November 16, 2016.
[59] San José International. "2027 CNEL Contours". https://www.flysanjose.com/node/2206. Accessed November 6, 2019.
[60] CAL FIRE. *Santa Clara County Fire Hazard Safety Zone Map – State Responsibility Area*. November 2007.
[61] CAL FIRE. *Santa Clara County Fire Hazard Safety Zone Map – Local Responsibility Area.* October 2008.

4.9.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:					
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☐	☒	☐
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☒	☐	☐	☐
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☒	☐
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☐	☐	☐	☒	☐
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, result in a safety hazard or excessive noise for people residing or working in the project area?	☐	☐	☐	☒	☐
f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒	☐
g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires?	☐	☐	☐	☒	☐

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

The project proposes to construct two stormwater basins to capture, retain, and treat stormwater runoff resulting from the planned expansion of the ZMPF. The project would not involve the routine transport, use, or disposal of hazardous materials which could present a hazard to the public or the environment. **[Same Impact as Approved Project (No Impact)]**

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

Project Construction

The project would utilize existing clean soils at the ZMPF to construct the proposed basins. Excavation or disturbance of materials previously landfilled at the ZMPF would not occur. The project would not interfere with landfill gas monitoring or landfill post closure requirements. The areas proposed for construction of the basins are not listed as hazardous on any regulatory databases and are not located adjacent to any contaminated sites. **[Same Impact as Approved Project (Less than Significant Impact)]**

Project Operation

As described in Section 4.9.1.2 Existing Conditions, the ZMPF is required to implement a Self-Monitoring Program, which includes groundwater, surface water, and leachate monitoring programs. Additionally, there is required landfill gas migration monitoring of the ZMPF twice per year. These programs are required to identify sources of contamination and then subsequently implement measures to reduce the contamination. Neither the Limited Phase I Environmental Site Assessment nor the Hydrogeologic Review identified hazards or contamination sources in the surface water, leachate, or landfill gas. However, VOCs, predominantly TCE, have been identified in groundwater near well G-4, which is located within the boundaries of the proposed NW basin location. The source of the VOCs is likely an area to the east of well G-4, outside of the landfill boundaries. No sources of groundwater contamination or hazardous materials were identified in proximity to the SW basin location.

Groundwater Contamination

A Limited Phase I Environmental Site Assessment and Hydrogeologic Review were completed for the project to determine whether the operation of the proposed NW Basin, which is located in the area where VOC contamination has been identified in groundwater monitoring well G-4, could increase mobilization of VOC-impacted groundwater if stormwater infiltrates through the basin into the contaminated groundwater. The technical assessment and review determined that the operation of the NW stormwater basin would not affect groundwater flow direction or cause additional mobilization of VOC-impacted groundwater due to the separation between the basin and groundwater, and characteristics of the soil separating the basin from the groundwater. The soil within the proposed NW Basin footprint is primarily composed of low-permeability Bay Mud clays and silty sands. The NW Basin would not extend into a water-bearing sand layer. At least seven feet

of low permeable silts and clay would separate the bottom of the NW stormwater basin and the top of the uppermost water-bearing sand layer. Furthermore, the hydraulic connectivity (a measure of how easily water passes through soil) of the Bay Mud clays and silty sands is low, which indicates a slow rate of infiltration. The low permeability of the soil and slow rate of filtration would prevent stormwater from the NW Basin from infiltrating the contaminated groundwater. The NW Basin, therefore, would not exacerbate the mobilization of VOC-impacted groundwater.

As stated above, no contaminated soil or groundwater was identified near or within the boundaries of the SW Basin. Operation of the SW Basin would not result in the accidental release or exposure of hazardous materials to the public or environment.

For these reasons, the operation of both the NW Basin and SW Basin would not exacerbate existing hazardous materials impacts nor would either proposed basin create or release significant hazards to the public or environment. **(New Impact [Less than Significant Impact])**

Possible Relocation of Groundwater Monitoring Wells and Associated Equipment

The construction of the NW Basin and SW Basin would result in the relocation of groundwater monitoring wells G-4 and G-10, respectively, as well as proximate piezometers. The destruction and construction of groundwater monitoring wells is required to be completed in accordance with the Valley Water Ordinance 90-1. Additionally, the replacement and relocation of groundwater monitoring wells on the site would be completed in consultation with the RWQCB, who is the agency overseeing the existing groundwater monitoring, to ensure that the project does not disrupt existing monitoring efforts.

Impact HAZ-1: The project would result in the replacement and relocation of groundwater monitoring wells which could pose a hazard to construction workers if they are exposed to hazardous materials present in contaminated groundwater. Additionally, the destruction of groundwater monitoring wells, if not replaced appropriately, could disrupt ongoing groundwater monitoring on-site related to the existing contaminated groundwater.

Mitigation Measure:

MM HAZ-1.1: **Obtain a Valley Water Well Destruction Permit and Well Construction Permit.** The deconstruction of existing wells and construction of new wells shall be completed in accordance with Valley Water Ordinance 90-1 under the oversight of Valley Water and the RWQCB. The project applicant shall provide proof of obtaining a Well Destruction Permit and Well Construction Permit from Valley Water to the Director of Planning, Building and Code Enforcement or the Director's designee for review prior to issuance of any grading permits.

MM HAZ-1.2: **Develop a Health and Safety Plan.** All contractors and subcontractors for the project shall develop a Health and Safety Plan (HSP) specific to their scope of work and based upon the known environmental conditions. Components of the HSP shall include, but shall not be limited to, the following elements, as applicable:

- Provisions for personal protection and monitoring exposure to construction workers;
- Procedures to be undertaken in the event that contamination is identified above action levels or previously unknown contamination is discovered;
- Procedures for the safe storage, stockpiling, and disposal of contaminated soils, should they be encountered;
- Provisions for the on-site management and/or treatment of contaminated groundwater that may be encountered during well destruction and construction activities; and
- Emergency procedures and responsible personnel.

The HSP(s) shall be submitted to the Director of Planning, Building and Code Enforcement, or the Director's designee, for review and approval prior to issuance of grading permit.

MM HAZ-1.1 would ensure that project consult with the RWQCB to avoid disruption of the existing groundwater monitoring under Order Number R2-2016-0100. The locations of new groundwater monitoring wells and associated equipment would be approved by the RWQCB. MM HAZ-1.2 would ensure that construction workers are not exposed to hazardous materials in contaminated groundwater during construction activities. Furthermore, conformance with the Valley Water's Ordinance 90-1 would prevent contamination of groundwater and limit the chances of construction workers being exposed to contaminated water by requiring all work be completed in accordance with Valley Water's Well Standards and the Department of Water Resources Bulletin 74-81. Both agencies include specific instructions on how to properly construct new wells (e.g., seal thickness and allowable sealing materials) and deconstruct existing wells (e.g., drilling methods of removal and backfill). Impacts associated with the destruction or construction of groundwater monitoring wells would be reduced to a less than significant level with implementation of MM HAZ-1.1 and MM HAZ-1.2. [**New Impact (Less than Significant Impact with Mitigation Incorporated)]**

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

The project site is not located within one-quarter mile of an existing or proposed school. The nearest school to the project site is George Mayne Elementary School, located approximately 0.6-mile southwest of the project site. **[Same Impact as Approved Project (No Impact)]**

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

As described in Section 4.9.1.2 Existing Conditions, the project site is not on the Cortese List compiled pursuant to Government Code Section 65962.5. Thus, there would be no impact. **[Same Impact as Approved Project (No Impact)]**

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

The project site is not located within the AIA for Norman Y. Mineta San José International Airport. The maximum height of the proposed stormwater basins is 14 feet above ground, which is below the elevation that would require review by the FAA under FAR Part 77. In addition, the project site is not located within an ALUC-defined safety zone and is located outside of the 60 CNEL noise contours. The project, therefore, would not result in increased exposure of people living and working in the vicinity of the site to airport safety hazards or excessive noise. **[Same Impact as Approved Project (No Impact)]**

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

The proposed project would not modify the existing roadway network. Existing site access to the ZMPF from Los Esteros Road would remain under the proposed project. The project would not impede emergency vehicle access to the ZMPF or any of the surrounding areas. Therefore, the project would not impair or interfere with the implementation of an adopted City of San José or County of Santa Clara emergency response plan or emergency evacuation plan. **[Same Impact as Approved Project (No Impact)]**

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

As discussed in Section 4.9.1.2 Existing Conditions, the project site is not subject to wildfire risks; therefore, the project would not expose people or structures to wildfire. **[Same Impact as Approved Project (No Impact)]**

4.10 HYDROLOGY AND WATER QUALITY

The following discussion is based, in part, on a Section 404 Wetlands Delineation dated September 2020 prepared for the project by WRA, Inc. This report is included as Appendix A-2 of this Initial Study.

4.10.1 Environmental Setting

4.10.1.1 *Regulatory Framework*

Federal and State

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

Under Section 303(d) of the federal Clean Water Act, the SWRCB and RWQCBs are required to identify impaired surface water bodies that do not meet water quality standards and develop total maximum daily loads (TMDLs) for contaminants of concern. The list of the state's identified impaired surface water bodies, known as the "303(d) list" can be found on the on the SWRCB's website.[62]

National Flood Insurance Program

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

Statewide Construction General Permit

The SWRCB has implemented an NPDES General Construction Permit for the State of California (Construction General Permit). For projects disturbing one acre or more of soil, a Notice of Intent (NOI) must be filed with the RWQCB by the project sponsor, and a SWPPP must be prepared by a qualified professional prior to commencement of construction and filed with the RWQCB by the project sponsor. The Construction General Permit includes requirements for training, inspections,

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

record keeping, and, for projects of certain risk levels, monitoring. The general purpose of the requirements is to minimize the discharge of pollutants and to protect beneficial uses and receiving waters from the adverse effects of construction-related storm water discharges.

Regional and Local

San Francisco Bay Basin Plan

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

Municipal Regional Permit Provision C.3

The San Francisco Bay RWQCB re-issued the Municipal Regional Stormwater NPDES Permit (MRP) in May 2022 to regulate stormwater discharges from municipalities and local agencies (co-permittees) in Alameda, Contra Costa, San Mateo, and Santa Clara Counties, and the cities of Fairfield, Suisun City, and Vallejo.[63] Under Provision C.3 of the MRP, new and redevelopment projects that create or replace 5,000 square feet or more of impervious surface area are required to implement site design, source control, and Low Impact Development (LID)-based stormwater treatment controls to treat post-construction stormwater runoff. LID-based treatment controls are intended to maintain or restore the site's natural hydrologic functions, maximizing opportunities for infiltration and evapotranspiration, and using stormwater as a resource (e.g., rainwater harvesting for non-potable uses). The MRP also requires that stormwater treatment measures are properly installed, operated, and maintained.

In addition to water quality controls, the MRP requires new development and redevelopment projects that create or replace one acre or more of impervious surface to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation, or other impacts to local rivers, streams, and creeks. Projects may be deemed exempt from these requirements if: (1) the post-project impervious surface area is less than, or the same as, the pre-project impervious surface area; (2) the project is located in a catchment that drains to a hardened (e.g., continuously lined with concrete) engineered channel or channels or enclosed pipes, which extend continuously to the Bay, Delta, or 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).[64]

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

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

Water Resources Protection Ordinance and District Well Ordinance

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

South San Francisco Bay Shoreline Project

Valley Water is currently undertaking the South San Francisco Bay Shoreline Project, which is a four-mile coastal flood risk levee. The project broke ground on April 18, 2022 to commemorate the start of the first phase of the project. When the project is complete 5,500 residents, commuters, and businesses within the vicinity of Alviso, including the San Jose-Santa Clara Regional Wastewater Facility and the Silicon Valley Advanced Water Purification Center, would at a reduced coastal flood risk.[65]

2021 Groundwater Management Plan

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

Local groundwater resources make up the foundation of the county's water supply, but they need to be augmented by the District's comprehensive water supply management activities to reliably meet the county's needs. These include the managed recharge of imported and local surface water and in-lieu groundwater recharge through the provision of treated surface water and raw water, acquisition of supplemental water supplies, and water conservation and recycling.[66]

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

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

[65] Valley Water. "Press Release: Valley Water Breaks Ground on South San Francisco Bay Shoreline Project." Accessed October 10, 2022. https://www.valleywater.org/news-events/news-releases/press-release-valley-water-breaks-ground-south-san-francisco-bay

[66] Valley Water. *2021 Groundwater Management Plan, Santa Clara and Llagas Subbasins. November* 2021.

construction TCMs for projects that create or replace 10,000 square feet or more of impervious surfaces.

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

The City of San José's Policy No.8-14 implements the hydromodification management requirements of Provision C.3 of the MRP. Policy No. 8-14 requires new development and redevelopment projects that create or replace one acre or more of impervious surface area, and are located within a subwatershed that is less than 65 percent impervious, to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt generation, or other impacts to local rivers, streams, and creeks. The policy requires these projects to be designed to control project-related hydromodification through a Hydromodification Management Plan (HMP). Projects that do not meet the minimum size threshold, drain into tidally influenced areas or directly into the Bay, or are infill projects in subwatersheds or catchment areas that are greater than or equal to 65 percent impervious would not be subject to the HMP requirement.

Construction Dewatering Waste Discharge Requirements

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

Envision San José 2040 General Plan

The Envision San José 2040 General Plan includes the following policies that are specific to hydrology and water quality and applicable to development projects in San José:

Policy	Description
IN-3.7	Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.
IN-3.9	Require developers to prepare drainage plans for proposed developments that define needed drainage improvements per City standards.
MS-3.4	Promote the use of green roofs (i.e., roofs with vegetated cover), landscape-based treatment measures, pervious materials for hardscape, and other stormwater management practices to reduce water pollution.
ER-8.1	Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.
ER-8.3	Ensure that private development in San José includes adequate measures to treat stormwater runoff.
EC-5.16	Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.

City of San José Grading Ordinance

The City of San José's Grading Ordinance is intended to establish uniform standards to safeguard life, limb, property, water quality and natural resources, and to promote the public welfare by regulating grading. The purpose of the ordinance is to ensure that private property is graded so that it will not drain improperly, impact adjacent properties, or create erosion problems.

4.10.1.2 *Existing Conditions*

The project site consists of two undeveloped areas adjacent to the earthen perimeter levee surrounding the ZMPF. Adjacent areas to the project site include low-lying marsh and mud flats. The Guadalupe River, Alviso Slough, Guadalupe Slough, New Chicago Marsh, Grey Goose Slough, Artesian Slough, and Coyote Creek are within two miles of the sites. The New Chicago Marsh is comprised of the marsh habitat located just north of the NW Basin area, opposite Grand Boulevard. Coyote Creek and the RWF outfall channel are located approximately 150 feet to the east of the NW Basin site.

Hydrology and Drainage

The project site is located in the Guadalupe River Watershed.[67] The Guadalupe River Watershed drains approximately 171 square miles, beginning on the Santa Clara Valley floor at the confluence of Alamitos Creek and Guadalupe Creek and flowing until its discharge point at the Lower South San Francisco Bay.[68]

Surface water and groundwater at the project site drain directly into the San Francisco Bay and the areas surrounding the ZMPF. Runoff from the western top portion of the landfill drains into the PG&E easement area, downslope of the northern end of the site, and eventually to the New Chicago Marsh across Grand Boulevard. Runoff from the southern portion of the landfill drains into an existing drainage ditch along Los Esteros Road, which in turn drains into the wetland areas west of the ZMPF. Runoff from northeastern/eastern portions of the ZMPF drain into ditches along the access road on the eastern property line. These ditches direct runoff to the seasonal wetland area in the southeastern corner of the site, which overflows into a stormwater channel and ultimately flows into the RWF outfall channel along the eastern property line.

The ZMPF is currently configured with three sedimentation basins (drainage sumps), which are regularly used for stormwater collection and re-use at the facility, and one external media filter basin located outside of the resource recovery area, near Los Esteros Road, that is only used in extreme emergency situations to prevent flooding of the site's processing area. To prevent flooding in extreme wet weather conditions, the ZMPF pumps out the drainage sumps to the external basin when the water level threatens to inundate the processing areas, allowing additional capacity in the drainage sumps for capture of this runoff in the processing areas. With the proposed future expansion of the ZMPF, the drainage sumps would be eliminated, permeable areas would be reduced, and the capacity of the exterior sedimentation basin would be reduced or eliminated.

[67] City of San José. *Envision San José 2040 General Plan FEIR.* Figure 3.7-1. Page 540. September 2011.
[68] Santa Clara Valley Urban Runoff Pollution Prevention Program. "Guadalupe Watershed." Accessed November 7, 2019. http://www.scvurppp-w2k.com/ws_guadalupe.shtml

Flooding and Other Hazards

The project site is within the tidal flood zone and the Guadalupe River flood zone. According to FEMA Flood Insurance Rate Maps, the project site is located within Flood Zone AE with a flood elevation of 12 feet MSL.[69] Zone AE is an area of the 100-year flood where base flood elevations and flood hazards have been determined. The perimeter levee surrounding the ZMPF protects against washout of the landfill slopes and inundation from off-site stormwater. To provide adequate flood protection, the height of the perimeter levee is maintained at least 11.5 feet MSL.

A tsunami is a large tidal wave caused by an underwater earthquake or volcanic eruption. According to maps prepared by ABAG, the project site is not within the inundation or evacuation area for tsunamis.[70]

A seiche is defined as a standing wave generated by rapid displacement of water within an enclosed body of water (such as a reservoir, lake, or bay) due to an earthquake that triggers land movement within the water body or landsliding into or beneath the water body. The project site is located on the edge of the San Francisco Bay and would potentially be vulnerable to seiches in the event of an earthquake.

As described in Section 4.10.1.1 Environmental Settings, the South San Francisco Bay Shoreline Project would construct flood protection levees, restore habitat, and provide increased public access in the area between Alviso Slough and Coyote Creek.

Water Quality

As it exists, the ZMPF includes approximately 122,591 square feet of impervious surfaces, including building rooftops, paved driveways and parking areas, processing equipment/machinery, and storage containers.

The water quality of streams, creeks, ponds, and other surface water bodies can be greatly affected by pollution carried in contaminated surface runoff. Pollutants from unidentified sources, known as "non-point" source pollutants, are washed from streets, construction sites, parking lots, and other exposed surfaces into storm drains. Surface runoff from the ZMPF is treated and discharged to the surrounding areas or to the San Francisco Bay. Potential sources of pollutants in stormwater discharges from the ZMPF include construction and demolition materials and oil products. The ZMPF performs annual monitoring of stormwater discharges and provides an annual report to the RWQCB under conditions of the facility's Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities (Order No. 97-03-DWQ).[71]

[69] FEMA. "FEMA Flood Map Service Center." Flood Insurance Map Community Panel 06085C0055H. May 18, 2009. Accessed November 7, 2019.
[70] ABAG Resilience Program. "Tsunami Inundation Map for Coastal Evacuation." CAlEMA, CGS, and USC, 2009. http://resilience.abag.ca.gov/tsunamis/. Accessed November 7, 2019.
[71] City of San José. *Zanker Material Processing Facility Rezoning Addendum.* April 2013.

The nearest surface waterway to the project site is Coyote Creek. Coyote Creek is currently listed as an impaired water body on the 303(d) list for diazinon, toxicity, and trash.[72]

Groundwater

The project site is located within the Santa Clara Plain groundwater basin, one of two groundwater basins located within the City of San José Urban Growth Boundaries. The sites are not located on or adjacent to one of the Valley Water's 18 major groundwater recharge systems.[73] The preliminary geotechnical investigation of the sites encountered groundwater at depths between six to eight feet bgs. Groundwater levels are expected to vary considerably depending on tidal and rainfall conditions.

4.10.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project
Would the project:					
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?	☐	☐	☐	☒	☐
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	☐	☐	☐	☒	☐
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:	☐	☐	☐	☒	☐
– result in substantial erosion or siltation on- or off-site;	☐	☐	☐	☒	☐
– substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;	☐	☐	☐	☒	☐
– create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or	☐	☐	☐	☒	☐

[72] The Clean Water Act (CWA), Section 303, establishes water quality standards and Total Maximum Daily Load (TMDL) programs. The 303(d) list is a list of impaired water bodies.
[73] Santa Clara Valley Water District. *2021 Groundwater Management Plan*. Figures 2-1 and 3-1. November 2021.

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project
Would the project:					
– impede or redirect flood flows?	☐	☐	☐	☒	☐
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	☐	☐	☐	☒	☐
e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	☐	☐	☐	☒	☐

As described below, the proposed project would not result in new or greater hydrology and water quality impacts than were previously disclosed in the 2008 FEIR, 2009 IS/MND, and 2013 Addendum.

a) Would the project violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?

Construction-Related Impacts

Construction activities, such as grading and site preparation, have the potential to result in temporary impacts to surface water quality in local waterways. The proposed project would disturb more than one acre of soil during construction and would be required to conform to the Construction General Permit. In addition, the project would be required to comply with the City's Grading Ordinance, which requires the use of erosion and sediment controls to protect water quality while a site is under construction. An Erosion Control Plan would be prepared for the project due to the disturbance of over one acre of soil [refer to Question b) in Section 4.7 Geology and Soils]. The Erosion Control Plan will detail the BMPs that would be implemented during construction to prevent the discharge of stormwater pollutants and minimize erosion.

Standard Permit Conditions:

Construction-related water quality. Best management practices to prevent stormwater pollution and minimize potential sedimentation shall be applied to project construction, including but not limited to the following:

- Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
- Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
- All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.

- Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
- All trucks hauling soil, sand, and other loose materials shall be covered and all trucks shall maintain at least two feet of freeboard.
- All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).
- Vegetation in disturbed areas shall be replanted as quickly as possible.
- All unpaved entrances to the site shall be filled with rock to remove mud from tires prior to entering City streets. A tire wash system shall be installed if requested by the City.
- The project applicant shall comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.

Therefore, construction of the proposed project, with implementation of the Construction General Permit requirements and the above standard permit conditions in accordance with the City's General Plan and Municipal Code, would not result in significant construction-related water quality impacts because dust, debris, and other loose materials would be properly controlled and prevented from leaving the site. **[Same Impact as Approved Project (Less Than Significant Impact)]**

The project would also implement best management practices to prevent discharge of any project-related materials such as fuel, engine lubricants or sediment into potentially jurisdictional wetlands and water features pursuant with MM BIO-7.4 (refer to Section 4.4 Biological Resources).

Post-Construction Impacts

Upon planned expansion of the ZMPF, the impervious surfaces at the ZMPF would increase by approximately 489,280 square feet, from approximately 122,590 square feet to 611,870 square feet. Pervious surfaces would cover approximately 1,556,245 square feet of the site's approximately XX total square footage. The proposed stormwater basins would be sized to treat stormwater runoff from the increased impervious surface area resulting from approved expansion of the ZMPF. The stormwater basins would be required to meet Provision C.3 of the MRP and would function to reduce the rates, volumes, and pollutant loads of runoff resulting from the approved ZMPF expansion. The proposed project shall comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of BMPs that include site design measures, source controls, and stormwater treatment controls to minimize stormwater pollutant discharges. Post-construction treatment control measures shall meet the numeric sizing design criteria specified in City Policy 6-29. The project's Stormwater Control Plan and numeric sizing calculations shall be in conformance with City Policy 6-29. Final inspection and maintenance information on the post-construction treatment control measures shall be submitted prior to issuance of Public Works Clearance.

The proposed stormwater basin project would not result in significant post-construction water quality impacts because it would not add impervious surfaces, would comply with Policy 6-29, and is a LID-based stormwater treatment project. Therefore, the project would have a less than significant impact on post-construction water quality. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

Groundwater was encountered at the project site at depths of approximately six to eight feet bgs. The proposed project does not include substantial excavation (a maximum of three feet) and is unlikely to encounter groundwater during construction due to shallow depth of excavation. Once operational, the proposed basins would not extract groundwater. Stormwater runoff would be retained and treated on-site by the basins and allowed to naturally infiltrate into the soil, which could potentially supplement regional groundwater supplies. The project site is not located on or adjacent to any of Valley Water's 18 major groundwater recharge systems and would not interfere with efforts to sustainably manage groundwater in the Santa Clara Plain subbasin. For these reasons, the project would have a less than significant impact on groundwater supplies and would not impede sustainable groundwater management. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

The proposed project would not add any impervious surfaces or alter the course of a stream or river. The project would redirect stormwater runoff from the ZMPF that currently flows to three existing basins to the two proposed basins thus altering the existing drainage patterns. The proposed basins would be sized to adequately accommodate existing and future runoff including flows during multiple 100-year, 24-hour flood events from the planned expansion of the ZMPF. The project would manage erosion during construction in compliance with an Erosion Control Plan and a SWPPP per the Construction General Permit. Prior to each wet weather season, regular inspections and maintenance of the proposed stormwater basins would be conducted to prevent erosion and sedimentation of the perimeter soil berms. The project would not place a new demand on the City's drainage system. For these reasons, the project would not result in a significant drainage impact. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

As discussed under Section 4.10.1.2 Existing Conditions, the project site is not subject to inundation from tsunamis and are potentially subject to seiches. The project site is located within a 100-year flood zone. The purpose of the project, however, is to adequately accommodate and manage stormwater runoff flows from the ZMPF and prevent the risk of on- and off-site flooding from extreme wet weather conditions. In addition, the project does not include the use, storage, or generation of hazardous pollutants. For these reasons, the project would not risk release of pollutants due to inundation. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

The RWQCB updates its Basin Plan triennially to reflect current conditions and track progress towards meeting water quality objectives. The proposed project would comply with the Construction General Permit and construction BMPs during construction and MRP requirements post-construction during operation as discussed in this section, thereby ensuring construction-period and post-construction water quality impacts are minimized. By adhering to existing regulations, the proposed project would not prevent the RWQCB from attaining the water quality objectives set forth in the Basin Plan.

The Santa Clara subbasin has not been identified as a groundwater basin in a state of overdraft in the Valley Water 2021 Groundwater Management Plan. Implementation of the proposed project would not interfere with any actions set forth by Valley Water in the 2021 Groundwater Management Plan regarding groundwater recharge, transport of groundwater, and/or groundwater quality. Therefore, the proposed project would not preclude the implementation of the GMP. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.11 LAND USE AND PLANNING

4.11.1 Environmental Setting

4.11.1.1 *Regulatory Framework*

Federal

Federal Aviation Regulations Part 77

FAR Part 77 sets forth standards and review requirements for protecting the airspace for safe aircraft operation, particularly by restricting the height of potential structures and minimizing other potential hazards (such as reflective surfaces, flashing lights, and electronic interference) to aircraft in flight. These regulations require that the FAA be notified of certain proposed construction projects located within an extended zone defined by an imaginary slope radiating outward for several miles from an airport's runways, or which would otherwise stand at least 200 feet in height above the ground.

Regional

Norman Y. Mineta San José International Airport CLUP

Development within the AIA of the Norman Y. Mineta San José International Airport can be subject to hazards from aircraft and also pose hazards to aircraft traveling to and from the airport. The ALUC adopted the CLUP in October of 2010, amended November 16, 2016, to address these potential hazards and establish review procedures for potentially incompatible land uses.

The AIA is a composite of areas surrounding the airport that are affected by noise, height and safety considerations. These hazards are addressed in federal and state regulations as well as in land use regulations and policies in the CLUP. The CLUP set standards focused on three areas of ALUC responsibility: noise, objects in navigable airspace, and the safety of persons on the ground and in aircraft. Projects within the AIA are subject to an additional level of review by the City to determine how policies established in the CLUP may impact the proposed development.

Local

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigation impacts resulting from planned development projects in the City. The proposed project would be subject to the land use policies of the City's General Plan, including the following:

Policies	Description
CD-5.8	Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.
IP-1.6	Ensure that proposals to rezone and prezone properties conform to the Land Use/Transportation Diagram and advance General Plan Vision, goals and policies and benefit community welfare.

TR-14.2	Regulate development in the vicinity of airports in accordance with Federal Aviation Administration regulations to maintain the airspace required for the safe operation of these facilities and avoid potential hazards to navigation.
TR-14.3	For development in the Airport Influence Area overlays, ensure that land uses and development are consistent with the height, safety and noise policies identified in the ALUC comprehensive land use plans for Mineta San José International and Reid-Hillview airports, or find, by a two-thirds vote of the governing body, that the proposed action is consistent with the purposes of Article 3.5 of Chapter 4 of the State Aeronautics Act, Public Utilities Code Section 21670 et seq.

Alviso Master Plan

The Alviso Master Plan was adopted in December 1998 and sets forth a vision for the community of Alviso. The Master Plan is incorporated into the Envision San José 2040 General Plan as the Alviso Planned Community. The purpose of the Master Plan is to protect and enhance the small town quality of Alviso by guiding appropriate new development, community facilities, infrastructure, and beautification. The Specific Plan establishes specific goals, policies, and implementation measures to resolve the issues of zoning and General Plan inconsistencies, incompatible land uses, insufficient services and facilities, flooding, hazardous materials, vegetation and wildlife, soils and geology, cultural resources, truck traffic, air quality, noise from airplanes, economic development and code enforcement.[74] The Alviso planning area is approximately 10,730 acres and includes all properties within the City of San José north of Route 237, between Coyote Creek and Guadalupe River.

4.11.1.2 *Existing Conditions*

Project Site

General Plan and Zoning Designations

The project site is located within the Alviso Master Plan and have a General Plan land use designation of Open Space, Parklands and Habitat (SW Basin site) and Light Industrial (NW Basin site). These land use designations are described below.

The Open Space, Parklands and Habitat land use designation is intended for low intensity-uses. Lands in this designation are typically devoted to open space, parks, recreation areas, trails, habitat buffers, nature preserves and other permanent open space areas. New development on lands within this designation should be limited to minimize potential environmental and visual impacts. Privately-owned lands in this designation are to be used for low intensity, open space activities. Appropriate uses for privately-owned lands in this category include cemeteries, salt ponds, and private buffer lands such as riparian setbacks. Privately-owned lands may also be considered for low-intensity agricultural uses provided that such uses do not involve the addition of buildings or other structures or use of irrigation in significant portions of the site.

The Light Industrial land use designation is intended for a wide variety of industrial uses and excludes uses with unmitigated hazardous or nuisance effects. Warehousing, wholesaling, and light

[74] City of San José. *Alviso Master Plan: A Specific Plan for the Alviso Community*. December 1998.

manufacturing are examples of typical uses in this designation. Light Industrial designated properties may also contain service establishments that serve only employees of businesses located in the immediate industrial area. Office and higher-end industrial uses, such as research and development, are discouraged on lands with this designation.

The project site is zoned A(PD) Planned Development. The A(PD) Planned Development district provides specific development standards and design guidelines for individual development projects. The project site's A(PD) Planned Development designation allows for operation of the ZMPF in its current configuration, as well as the tonnage and landfill height limitations. The NW Basin is located within the existing A(PD) zoning boundaries. The SW Basin is located just outside of the A(PD) zoning boundaries established for previously approved expansions of the ZMPF.

Existing Land Use

The project site is both currently undeveloped and in a natural state. Both basin sites are part of a larger property owned by ZRRML, who operates the ZMPF.

Surrounding Uses

The surrounding land uses to the ZMPF include a mix of industrial, open space, and public/quasi-public uses. The surrounding land uses to the ZMPF are shown on Figure 2.4-3. The ZMPF and project site is separated from other existing development by a roadway (i.e., Los Esteros Road) or other features (i.e., landscaping, drainage ditches, and waterways).

4.11.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:					
a) Physically divide an established community?	☐	☐	☐	☒	☐
b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☐	☒	☐

As described below, the proposed project would not result in new or greater land use impacts than were previously disclosed in the 2008 FEIR, 2009 IS/MND, and 2013 Addendum.

a) Would the project physically divide an established community?

The project proposes to construct two basins to manage stormwater runoff from the existing and planned expansion of the ZMPF. The NW Basin site is within the existing PD Zoning boundary of the ZMPF. The SW Basin site is located adjacent to the ZMPF but is owned by ZRRML, who owns

and operates the ZMPF. The project would expand the PD Zoning boundary to include the adjacent SW Basin site. There are no established communities adjacent to the project site or ZMPF that would be physically divided as a result of the project. The project proposes no subdivision of existing land for future development, or the construction of dividing infrastructure like highways, freeways, or major arterial streets. Thus, the project would not physically divide an established community. **[Same Impact as Approved Project (No Impact)]**

b) Would the project cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

As described in Section 4.11.1.2 Existing Conditions, the Open Space, Parklands and Habitat land use designation is intended for low intensity-uses and for privately-owned lands. Appropriate land uses under this designation include cemeteries, salt ponds, and private buffer lands such as riparian setbacks. The project proposes to construct two separate stormwater basins (which the City considers low intensity-uses) on privately-owned lands, which would be consistent with the land use designation. The Planned Development permit would also restrict the portion of the project located on APN 015-30-106 to only allow for stormwater basin infrastructure and no additional development would be allowed. Additionally, the project would not be in conflict with any of the objectives or policies in the Alviso Master Plan or any airport-related land use policies. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.12 MINERAL RESOURCES

4.12.1 Environmental Setting

4.12.1.1 *Regulatory Framework*

State

Surface Mining and Reclamation Act

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

4.12.1.2 *Existing Conditions*

Pursuant to SMARA, the SMGB has designated an area of Communications Hill in Central San José, bounded by the Union Pacific Railroad, Curtner Avenue, State Route 87, and Hillsdale Avenue, as a regional source of construction aggregate materials. The project is not located within the Communications Hill area. Other than this area, San José does not have known mineral deposits subject to SMARA.

4.12.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:					
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☒	☐
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?	☐	☐	☐	☒	☐

As described below, the proposed project would not result in new or greater impacts to mineral resources than were previously disclosed in the 2008 FEIR, 2009 IS/MND, and 2013 Addendum.

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

The project site is not located in an area of San José that is known to contain mineral resources. Implementation of the project, therefore, would not result in the loss of availability of locally important mineral resources. **[Same Impact as Approved Project (No Impact)]**

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

Implementation of the project would not result in the loss of an identified mineral resource recovery site, as discussed under Question a). **[Same Impact as Approved Project (No Impact)]**

4.13 NOISE AND VIBRATION

4.13.1 Environmental Setting

4.13.1.1 *Background Information*

Noise

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

Since excessive noise levels can adversely affect human activities and human health, federal, state, and local governmental agencies have set forth criteria or planning goals to minimize or avoid these effects. Noise guidelines are generally expressed using one of several noise averaging methods, including L_{eq}, DNL, or CNEL.[75] These descriptors are used to measure a location's overall noise exposure, given that there are times when noise levels are higher (e.g., when a jet is taking off from an airport or when a leaf blower is operating) and times when noise levels are lower (e.g., during lulls in traffic flows on freeways or in the middle of the night). L_{max} is the maximum A-weighted noise level during a measurement period.

Vibration

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

4.13.1.2 *Regulatory Framework*

Local

Envision San José 2040 General Plan

The Envision San José 2040 General Plan includes the following policies that are specific to noise and applicable to development projects in San José:

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

Policy	Description
EC-1.2	Minimize the noise impacts of new development on land uses sensitive to increased noise levels (Categories 1, 2, 3, and 6) by limiting noise generation and by requiring use of noise attenuation measures such as acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would: Cause the DNL at noise sensitive receptors to increase by five dBA DNL or more where the noise levels would remain "Normally Acceptable"; or Cause the DNL at noise sensitive receptors to increase by three dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level.
EC-1.7	Require construction operations within San José to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City's Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would: Involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months. For such large or complex projects, a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.
EC-2.3	Require new development to minimize continuous vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, including ruins and ancient monuments or buildings that are documented to be structurally weakened, a continuous vibration limit of 0.08 in/sec PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. A continuous vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction. Avoid use of impact pile drivers within 25 feet of any buildings, and within 100 feet of a historical building, or building in poor condition. On a project-specific basis, this distance of 100 feet may be reduced to 50 feet where warranted by a technical study by a qualified professional that verifies that there will be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction.

4.13.1.3 *Existing Conditions*

The project site is located directly adjacent to the ZMPF in an area of the city with mixed industrial, open space, and public/quasi-public land uses. The NW Basin site is located south of Grand Boulevard and the SW Basin site is located north of Los Esteros Road. The existing ambient noise environment at the project site is characterized primarily by vehicle travel on adjacent roadways (including heavy truck deliveries to the ZMPF), material processing operations at the ZMPF, and industrial activities at nearby facilities, such as the RWF and Zanker Road Resource Recovery Operations and Landfill (ZRRROL). Passing trains along the Union Pacific Railroad and airplane flyovers from Norman Y. Mineta San José International Airport also contribute to noise levels at the site. According to noise measurements completed for the General Plan EIR, the project site would be exposed to noise levels of approximately 72 dBA DNL.[76] The project site located outside of the 60 CNEL noise contours for the Norman Y. Mineta San José International Airport.[77]

The nearest noise sensitive receptors to the project site include visitors to the Don Edwards National Wildlife Refuge Education Center (approximately 0.3-mile north) and residents in the residential area of Alviso (approximately 0.4-mile west).

4.13.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project result in:					
a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☐	☐	☒	☐
b) Generation of excessive groundborne vibration or groundborne noise levels?	☐	☐	☐	☒	☐
c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒	☐

As described below, the proposed project would not result in new or greater noise impacts than were previously disclosed in the 2008 FEIR, 2009 IS/MND, and 2013 Addendum.

[76] City of San José. *Envision San José General Plan Final Program EIR SCH Number 2009072096.* Page 312. September 2011.
[77] San José International. "2027 CNEL Contours". https://www.flysanjose.com/node/2206. Accessed November 6, 2019.

a) Would the project result in generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?

Construction Noise

The project would temporarily increase noise levels in the area due to construction activities such as site preparation and soil transport. The significance of noise impacts during construction depends on the noise generated by various pieces of construction equipment, the timing and duration of noise generating activities, and the distance between construction noise sources and sensitive receptors. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would involve substantial noise generating activities continuing for more than 12 months. The closest residential or commercial/office uses to the project site are located over 2,000 feet to the west and construction of the project would take approximately five months. Additionally, the construction noise impacts would be temporary and would not disturb wildlife species in the surrounding areas more so than the existing auditory disturbance sources including operations at ZMPF and vehicular traffic noise on Los Esteros Road, which are described in Section 4.4 Biological Resources. The project, therefore, would not meet the City's significance criteria, and would not result in a substantial temporary increase in ambient noise levels. **[Same Impact as Approved Project (Less than Significant Impact)]**

Operational Noise

Once operational, the stormwater basins would not generate perceptible noise and the noise from maintenance vehicles inspecting the basins would be infrequent and consistent with existing ambient noise levels. For these reasons, operation of the basins would not substantially contribute to or result in a significant increase in ambient noise levels. **[Same Impact as Approved Project (Less than Significant Impact)]**

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

Per General Plan Policy EC-2.3, a significant impact would be identified if the project would result in vibration levels of 0.2 in/sec PPV or greater at nearby structures. The project does not propose impact pile driving or other construction techniques which generate a substantial amount of groundborne vibration. The nearest structure to the project site is located approximately 230 feet northeast of the SW Basin site (within the ZMPF). At this distance, construction vibration levels would not exceed 0.2 in/sec PPV. The project is not located adjacent to any historic structures which are especially vulnerable to vibration impacts. Due to the distance from nearby structures and the extent of construction activities, the proposed project would not result in excessive groundborne vibration or groundborne noise levels. **[Same Impact as Approved Project (Less than Significant Impact)]**

c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

As discussed previously in Section 4.9.1.2 Existing Conditions, the project site is not located within the AIA of the Norman Y. Mineta San José International Airport and there are no private airstrips in its vicinity. The project site is located outside of the 60 CNEL noise contours of the Norman Y. Mineta San José International Airport. Thus, the project would not expose people residing or working the project area to excessive noise levels. **[Same Impact as Approved Project (No Impact)]**

4.14 POPULATION AND HOUSING

4.14.1 Environmental Setting

4.14.1.1 *Regulatory Framework*

State

Housing-Element Law

State requirements mandating that housing be included as an element of each jurisdiction's general plan is known as housing-element law. The Regional Housing Need Allocation (RHNA) is the state-mandated process to identify the total number of housing units (by affordability level) that each jurisdiction must accommodate in its housing element. California housing-element law requires cities to: 1) zone adequate lands to accommodate its RHNA; 2) produce an inventory of sites that can accommodate its share of the RHNA; 3) identify governmental and non-governmental constraints to residential development; 4) develop strategies and a work plan to mitigate or eliminate those constraints; and 5) adopt a housing element and update it on a regular basis.[78] The City of San José Housing Element and related land use policies were last updated in January 27, 2015.

Regional and Local

Plan Bay Area 2050

Plan Bay Area 2050 is a long-range plan for the nine-county San Francisco Bay Area that provides strategies that increase the availability of affordable housing, support a more equitable and efficient economy, improve the transportation network, and enhance the region's environmental resilience. Plan Bay Area 2050 promotes the development of a variety of housing types and densities within identified Priority Development Areas (PDAs). PDAs are areas generally near existing job centers or frequent transit that are locally identified for housing and job growth.[79]

ABAG allocates regional housing needs to each city and county within the San Francisco Bay Area, based on statewide goals. These allocations are designed to lay the foundation for Plan Bay Area 2050's long-term envisioned growth pattern for the region. ABAG also develops a series of forecasts and models to project the growth of population, housing units, and jobs in the Bay Area. ABAG, MTC, and local jurisdiction planning staff created the Forecasting and Modeling Report, which is a technical overview of the of the growth forecasts and land use models upon which Plan Bay Area 2050 is based.

[78] California Department of Housing and Community Development. "Regional Housing Needs Allocation and Housing Elements" Accessed October 20, 2022. http://hcd.ca.gov/community-development/housing-element/index.shtml.

[79] Association of Bay Area Governments and Metropolitan Transportation Commission. *Plan Bay Area 2050*. October 21, 2021. Page 20.

4.14.1.2 *Existing Conditions*

The population of San José was estimated to be approximately 969,491 in January 2024.[80] Per the Plan Bay Area 2050, the household and jobs population in Santa Clara County is expected to grow to 1,075,000 residents and 1,610,000 jobs by 2050, respectively.[81]

The project site is currently undeveloped and does not provide housing.

4.14.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:					
a) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☐	☒	☐
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒	☐

As described below, the proposed project would not result in new or greater population and housing impacts than were previously disclosed in the 2008 FEIR, 2009 IS/MND, and 2013 Addendum.

a) Would the project induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

The project proposes to construct two basins to manage existing and planned stormwater runoff from the ZMPF. No housing would be provided by the project. The stormwater basins would not increase the capacity of the ZMPF or remove any other obstacles to population growth. Therefore, the project would not induce substantial unplanned growth. **[Same Impact as Approved Project (No Impact)]**

[80] State of California, Department of Finance. "E-5 Population and Housing Estimates for Cities, Counties, and the State, January 2021-2024 with 2020 Benchmark." Accessed August 23, 2024. https://dof.ca.gov/forecasting/demographics/estimates/e-5-population-and-housing-estimates-for-cities-counties-and-the-state-2020-2024/.

[81] ABAG and MTC. "Projected Household and Job Growth, By County." Updated January 21, 2021. Accessed October 13, 2022. https://www.planbayarea.org/sites/default/files/FinalBlueprintRelease_December2020_GrowthPattern_Jan2021Update.pdf

b) Would the project displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?

As discussed under Section 4.14.1.2 Existing Conditions, the project site does not contain any housing. No housing would be removed upon project implementation; therefore, the project would not displace people or housing. **[Same Impact as Approved Project (No Impact)]**

4.15 PUBLIC SERVICES

4.15.1 Environmental Setting

4.15.1.1 *Regulatory Framework*

State

Government Code Section 66477

The Quimby Act (included within Government Code Section 66477) requires local governments to set aside parkland and open space for recreational purposes. It provides provisions for the dedication of parkland and/or payment of fees in lieu of parkland dedication to help mitigate the impacts from new residential developments. The Quimby Act authorizes local governments to establish ordinances requiring developers of new residential subdivisions to dedicate parks, pay a fee in lieu of parkland dedication, or perform a combination of the two.

Government Code Section 65995 through 65998

California Government Code Section 65996 specifies that an acceptable method of offsetting a project's effect on the adequacy of school facilities is the payment of a school impact fee prior to the issuance of a building permit. Government Code Sections 65995 through 65998 set forth provisions for the payment of school impact fees by new development by "mitigating impacts on school facilities that occur (as a result of the planning, use, or development of real property" (Section 65996[a]). The legislation states that the payment of school impact fees "are hereby deemed to provide full and complete school facilities mitigation" under CEQA (Section 65996[b]).

Developers are required to pay a school impact fee to the school district to offset the increased demands on school facilities caused by the proposed residential development project. The school district is responsible for implementing the specific methods for mitigating school impacts under the Government Code.

4.15.1.2 *Existing Conditions*

Fire Protection Services

Fire protection services in San José are provided by the San José Fire Department (SJFD). The SJFD protects 206 square miles and approximately 1.2 million residents in both City and county areas. There are 33 fire stations that service the residents of San José.

The closest fire station to the project site is Station 25, located approximately 0.6-mile southwest of the sites at 5125 Wilson Way.

Police Protection Services

Police protection services for the City are provided by the San José Police Department (SJPD), which is headquartered at 201 West Mission Street.

Parks

The closest local park to the project site is Alviso Park located approximately 1.5 miles southwest of the site.

Schools

The project site is located within the Santa Clara Unified School District (SCUSD). The closest school is George Mayne Elementary School, located approximately 0.6-mile southwest of the project site.

Libraries and Community Centers

The City of San José is served by the San José Public Library System. The San José Public Library System consists of one main library (Dr. Martin Luther King Jr.) and 23 branch libraries.[82] The closest library to the project site is the Alviso Branch Library, located approximately 0.8-mile east of the site.

The City of San José operates 48 community centers within the City limits. The closest community center to the site is the Alviso Youth Center, approximately 1.5 miles southwest of the site.

4.15.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services:					
a) Fire Protection?	☐	☐	☐	☒	☐
b) Police Protection?	☐	☐	☐	☒	☐
c) Schools?	☐	☐	☐	☒	☐
d) Parks?	☐	☐	☐	☒	☐
e) Other Public Facilities?	☐	☐	☐	☒	☐

As described below, the proposed project would not result in new or greater public services than were previously disclosed in the 2008 FEIR, 2009 IS/MND, and 2013 Addendum.

[82] City of San José Public Library. https://www.sjpl.org/facts. Accessed December 12, 2019.

a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for fire protection services?

The project site is within the existing service area of the SJFD. The proposed basins would not increase the demand for fire protection services in the City as the project would not increase population at the site. The proposed basins would not require new or expanded fire protection. **[Same Impact as Approved Project (No Impact)]**

b) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for police protection services?

The project site is within the existing service area of the SJPD. The project would not increase the demand for police protection services in the City as the project would not increase population at the site. The proposed basins would not require new or expanded police protection. **[Same Impact as Approved Project (No Impact)]**

c) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for schools?

The project site is located within the SCUSD. The proposed project does not include new housing units that would generate students. For this reason, the project would not result in increased demand for school facilities. Therefore, no adverse physical impacts to existing schools would occur. **[Same Impact as Approved Project (No Impact)]**

d) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for parks?

The proposed project would not increase the local population or bring new jobs to the area. The proposed stormwater basins would not provide recreational benefits or increase the use of nearby recreational trails or the Don Edwards National Wildlife Refuge. Therefore, there would be no additional impact on local or regional parks as a result of the project. **[Same Impact as Approved Project (No Impact)]**

e) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for other public facilities?

The proposed project would not increase the local population or bring new jobs to the area. Therefore, no additional use of other public facilities, such as libraries or community centers, would occur. **[Same Impact as Approved Project (No Impact)]**

4.16 RECREATION

4.16.1 Environmental Setting

4.16.1.1 *Regulatory Framework*

Regional

Countywide Trails Master Plan

The Santa Clara County Trails Master Plan Update is a regional trails plan approved by the Santa Clara County Board of Supervisors. It provides a framework for implementing the County's vision of providing a contiguous trail network that connects cities to one another, cities to the county's regional open space resources, County parks to other County parks, and the northern and southern urbanized regions of the County. The plan identifies regional trail routes, sub-regional trail routes, connector trail routes, and historic trails. Several of the trails referenced in the Plan Update are located in the general vicinity of the project site.

4.16.1.2 *Existing Conditions*

The project site is currently undeveloped and inaccessible to the public. Nearby recreational facilities include the Don Edwards National Wildlife Refuge and Marsh View Trail, which travels north from the parking area adjacent to the site on Grand Boulevard to the Environmental Education Center. Other nearby connecting trails include the New Chicago Marsh Trail and the Mallard Slough Trail. Regional trails, including the Bay Trail, Guadalupe Trail, and Coyote Trail are located to the north, west, and east of the sites, respectively. The nearest local park to the project site is Alviso Park located approximately 1.5 miles southwest of the site.

4.16.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☐	☒	☐
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	☐	☒	☐

As described below, the proposed project would not result in new or greater recreation impacts than were previously disclosed in the 2008 FEIR, 2009 IS/MND, and 2013 Addendum.

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

The proposed project would not bring any new residents or visitors to the area or otherwise increase the use of existing parks and recreational facilities. Therefore, no physical deterioration of existing facilities would occur. **[Same Impact as Approved Project (No Impact)]**

b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

As mentioned under Question a), the project does not include recreational facilities. In addition, the project would not place a new demand on recreational facilities. **[Same Impact as Approved Project (No Impact)]**

4.17 TRANSPORTATION

4.17.1 Environmental Setting

4.17.1.1 *Regulatory Framework*

State

Senate Bill 743

SB 743 establishes criteria for determining the significance of transportation impacts using a vehicle miles traveled (VMT) metric intended to promote the reduction of GHG emissions, the development of multimodal transportation networks, and a diversity of land uses. Specifically, SB 743 requires the replacement of automobile delay—described solely by level of service (LOS) or similar measures of vehicular capacity or traffic congestion—with VMT as the recommended metric for determining the significance of transportation impacts. The Governor's Office of Planning and Research (OPR) approved the CEQA Guidelines implementing SB 743 on December 28, 2018. Local jurisdictions are required to implement a VMT policy by July 1, 2020.

SB 743 did not authorize OPR to set specific VMT impact thresholds, but it did direct OPR to develop guidelines for jurisdictions to utilize. CEQA Guidelines Section 15064.3(b)(1) describes factors that might indicate whether a development project's VMT may be significant. Notably, projects located within 0.50 mile of transit should be considered to have a less than significant transportation impact based on OPR guidance.

Regional and Local

Regional Transportation Plan

MTC is the transportation planning, coordinating, and financing agency for the nine-county San Francisco Bay Area, including Santa Clara County. MTC is charged with regularly updating the Regional Transportation Plan, a comprehensive blueprint for the development of mass transit, highway, airport, seaport, railroad, bicycle, and pedestrian facilities in the region. MTC and ABAG adopted Plan Bay Area 2040 in July 2017, which includes a Regional Transportation Plan to guide regional transportation investment for revenues from federal, state, regional and local sources through 2040.

Congestion Management Program

VTA oversees the Congestion Management Program (CMP), which is aimed at reducing regional traffic congestion. The relevant state legislation requires that urbanized counties in California prepare a CMP in order to obtain each county's share of gas tax revenues. State legislation requires that each CMP define traffic LOS standards, transit service standards, a trip reduction and transportation demand management plan, a land use impact analysis program, and a capital improvement element. VTA has review responsibility for proposed development projects that are expected to affect CMP-designated intersections.

Transportation Analysis Policy (City Council Policy 5-1)

As established in City Council Policy 5-1, Transportation Analysis Policy, the City of San José uses VMT as the metric to assess transportation impacts from new development. According to the policy, an employment (e.g., office or research and development) or residential project's transportation impact would be less than significant if the project VMT is 15 percent or more below the existing average regional VMT per employee or the existing average citywide VMT per capita, respectively. For industrial projects (e.g., warehouse, manufacturing, distribution), the impact would be less than significant if the project VMT is equal to or less than existing average regional VMT per employee. The threshold for a retail project is whether it generates net new regional VMT, as new retail typically redistributes existing trips and miles traveled as opposed to inducing new travel. Screening criteria have been established to determine which projects require a detailed VMT analysis. If a project meets the relevant screening criteria, it is considered to a have a less than significant VMT impact.

If a project's VMT does not meet the established thresholds, mitigation measures would be required, where feasible. The policy also requires preparation of a Local Transportation Analysis to analyze non-CEQA transportation issues, including local transportation operations, intersection level of service, site access and circulation, and neighborhood transportation issues such as pedestrian and bicycle access and recommend transportation improvements. The VMT policy does not negate Area Development policies and Transportation Development policies approved prior to adoption of Policy 5-1; however, it does negate the City's Protected Intersection policy as defined in Policy 5-3.

4.17.1.2 *Existing Conditions*

Existing Roadway Network

Regional Facilities

Regional access to the project site is provided via State Route (SR) 237 and Interstate-880 (I-880). These facilities are described below.

SR 237 is a six-lane freeway, oriented in an east/west alignment, which provides access to US 101 and I-880. Two of the six lanes (one in each direction) are designated as high occupancy vehicle (HOV) lanes. There is a full-access interchange with Zanker Road, which provides freeway access for the ZMPF and project site.

I-880 is a north/south freeway providing regional access from East Bay cities to San José, where it becomes SR 17 and extends into Santa Cruz. South of SR 237, I-880 is primarily a six-lane freeway. North of SR 237, I-880 is eight lanes.

Local Facilities

Local access to the project site is provided by Zanker Road, Los Esteros Road, and Grand Boulevard. These roadways are described below.

Zanker Road is a two-lane north-south roadway that provides direct access to the ZMPF and project site from SR 237 and all of the major arterials south of SR 237. Zanker Road is a two-lane, undivided

roadway north of Brokaw Road. Near the project site, Zanker Road changes designation to Los Esteros Road.

Los Esteros Road is a two-lane, undivided road that connects the community of Alviso to Zanker Road and SR 237. Los Esteros Road changes designation to Zanker Road east of the ZMPF. The SW Basin area fronts Los Esteros Road.

Grand Boulevard is a two-lane, undivided road that provides access to the Don Edwards National Wildlife Refuge from the community of Alviso. Grand Boulevard terminates to the north at the Don Edwards Environmental Education Center and to the west at its intersection with Los Esteros Road, at which point its name becomes Disk Drive. The NW Basin area fronts Grand Boulevard.

Existing Bicycle, Pedestrian and Transit Facilities

Bicycle facilities are divided into three classes. Class I bikeways are bike paths that are physically separated from motor vehicles and offer two-way bicycle travel on a separate path. Class II bikeways are striped bike lanes on roadways that are marked by signage and pavement markings. Class III bikeways are bike routes and only have signs to help guide bicyclists on recommended routes to certain locations. There are no designated bikeways along Los Esteros Road or Grand Boulevard in the immediate vicinity of the project site. Zanker Road provides Class II bike lanes south of the project site which extend from SR 237 to Old Bayshore Highway to the south. Disk Drive provides Class II bike lanes west of the project site from Grand Boulevard to Nortech Parkway.

Within the project vicinity, Zanker Road and Los Esteros Road do not have sidewalks. There are no sidewalks along the entire length of Grand Boulevard.

The closest bus stop to the project site is located at North First Street and Grand Street in Alviso, approximately one mile west of the sites. There is no passenger train service in the project area.

4.17.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:					
a) Conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadways, bicycle lanes, and pedestrian facilities?	☐	☐	☐	☒	☐
b) Conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?	☐	☐	☐	☒	☐

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:					
c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☐	☒	☐
d) Result in inadequate emergency access?	☐	☐	☐	☒	☐

As described below, the proposed project would not result in new or greater transportation impacts than were previously disclosed in the 2008 FEIR, 2009 IS/MND, and 2013 Addendum.

a) Would the project conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadways, bicycle lanes, and pedestrian facilities?

The proposed stormwater basins would be developed on private, undeveloped land to manage stormwater runoff from ZMPF. The proposed basins would be accessible only from the interior of the ZMPF site and would not alter circulation patterns in the project area. The proposed basins would not remove or inhibit existing transit, roadway, bicycle, or pedestrian facilities in the area. There are a number of planned improvements to the circulation system in the project area, including a Class II bicycle lane on Los Esteros Road and a Class III bicycle route on Grand Boulevard.[83] The proposed stormwater basins would not interfere with any of the planned improvements to the circulation system set forth in the General Plan, including planned bicycle facilities. For these reasons, the project would not conflict with a program, plan ordinance, or policy addressing the circulation system. **[Same Impact as Approved Project (Less than Significant Impact)]**

b) Would the project conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?

CEQA Guidelines Section 15064.3 describes specific considerations for evaluating a project's transportation impacts, including using the VMT metric. The proposed stormwater basins would not generate new trips to the site and, therefore, the project would not result in a net increase in VMT. The project would not conflict or be inconsistent with CEQA Guidelines Section 15064.3. **[Same Impact as Approved Project (Less than Significant Impact)]**

[83] City of San José. *Envision San Jose 2040 General Plan Integrated Final Program EIR SCH Number 2009072096* . Figure 3.2-9. September 2011.

c) Would the project substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

During construction, all trucks and vehicles accessing the site would travel westward on Los Esteros Road via Zanker Road. All vehicles exiting the site would travel eastward on Los Esteros Road to connect with Zanker Road, which then connects to State Route 237. Construction vehicles would not travel through residential areas in the vicinity of the project site.

The project proposes to construct stormwater basins on private property on sites inaccessible to the public. For these reasons, the project would not alter the circulation patterns of the surrounding roadways, nor would it modify ingress/egress to the ZMPF. The proposed stormwater basins would be compatible with the nearby open space and industrial land uses. Therefore, the proposed project would not increase hazards due to a design feature or incompatible use. **[Same Impact as Approved Project (Less than Significant Impact)]**

d) Would the project result in inadequate emergency access?

As mentioned under Question c), implementation of the project would not modify the existing emergency access route to ZMPF. The proposed project would not alter circulation patterns in a manner which would inhibit emergency access to the ZMPF or surrounding uses. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.18 TRIBAL CULTURAL RESOURCES

4.18.1 Environmental Setting

4.18.1.1 *Regulatory Framework*

State

Assembly Bill 52

Assembly Bill (AB) 52, effective July of 2015, established a new category of resources for consideration by public agencies when approving discretionary projects under CEQA, called Tribal Cultural Resources (TCRs). AB 52 requires lead agencies to provide notice of projects to tribes that are traditionally and culturally affiliated with the geographic area if they have requested to be notified. Where a project may have a significant impact on a tribal cultural resource, consultation is required until the parties agree to measures to mitigate or avoid a significant effect on a tribal cultural resource or when it is concluded that mutual agreement cannot be reached.

Under AB 52, a TCRs are defined as follows:

- Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are also either:
    - Included or determined to be eligible for inclusion in the California Register of Historic Resources[84]
    - Included in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)
- A resource determined by the lead agency to be a TCR.

Local

Envision San José 2040 General Plan

The Envision San José 2040 General Plan includes the following policies that are specific to tribal cultural resources and applicable to development projects in San José:

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

[84] See Public Resources Code section 5024.1. The State Historical Resources Commission oversees the administration of the CRHR and is a nine-member state review board that is appointed by the Governor, with responsibilities for the identification, registration, and preservation of California's cultural heritage. The CRHR "shall include historical resources determined by the commission, according adopted procedures, to be significant and to meet the criteria in subdivision (c) (Public Resources Code, Section 5024.1 (a)(b)).

4.18.1.2 *Existing Conditions*

Native Americans have occupied Santa Clara Valley and the greater Bay Area for more than 5,000 years. The exact time period of the Ohlone (originally referred to as Costanoan) migration into the Bay Area is debated by scholars. Dates of the migration range between 3000 B.C. and 500 A.D. Regardless of the actual time frame of their initial occupation of the Bay Area and, in particular, Santa Clara Valley, it is known that the Ohlone had a well-established population of approximately 7,000 to 11,000 people with a territory that ranged from the San Francisco Peninsula and the East Bay, south through the Santa Clara Valley and down to San Juan Bautista and Monterey.

The Ohlone people were hunter/gatherers focused on hunting, fishing, and collecting seasonal plant and animal resources, including tidal and marine resources from San Francisco Bay. The customary way of living, or lifeway, of the Ohlone people disappeared by about 1810 due to disruption by introduced diseases, a declining birth rate, and the impact of the California mission system established in the area in 1777 by the Spanish.

A Sacred Lands File (SLF) request was submitted to the Native American Heritage Commission on July 29, 2022. The Native American Heritage Commission responded to the Sacred Lands File request on August 31, 2022 noting that the results of the request were positive. Because the specific sacred lands identified in the search are confidential, the nature of the TCR and its specific location within the search area is unknown to the applicant and City staff. As a result, it is unknown if sacred lands are located on or adjacent to the site, but it can be assumed that there is potential for TCRs to be on-site.

4.18.2 **Impact Discussion**

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:					
a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?	☐	☒	☐	☐	☐

b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	☐	☒	☐	☐	☐

a) Would the project cause a substantial adverse change in the significance of a tribal cultural resource that is listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?

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

As described in Section 4.18.1.2, Existing Conditions, the results of the Sacred Lands File request were positive. Therefore, there is potential for TCRs to be discovered on-site. In accordance with AB 52, the City reached out to representatives of culturally-affiliated tribes to determine potential effects the projects may have on a tribal cultural resource. On March 24, 2022, representatives of the Tamien Nation Tribe and of the Indian Canyon Mutsun Band of Costanoan Ohlone People were notified via certified mail and email about the proposed project. The City did not receive a response from Tamien Nation or Indian Canyon Mutsun Band of Costanoan Ohlone People Tribes to consult on this Project. The City did have a follow-up phone conversation with a representative of the Tamien Nation on April 14, 2022, and on this call the representative recommended cultural sensitivity training be provided for all new workers on the site, and that a qualified Native American monitor be on-site during ground disturbing activities. In response to the feedback received from Tamien Nation and the positive SLF results, the following mitigation measures would be imposed:

Impact TCR-1: Development of the proposed project could potentially result in impacts to undiscovered tribal cultural resources.

Mitigation Measures:

MM TCR-1.1: **Cultural Sensitivity Training.** A qualified Native American Tribal representative who is traditionally and culturally affiliated with the geographic area as determined by the Native American Heritage Commission, shall provide cultural sensitivity training to all construction personnel

involved with ground disturbing work prior to the initial ground-breaking activities. Prior to the issuance of any grading permit, written evidence that the cultural sensitivity training has been provided to all construction personnel working on ground disturbing activities shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's Designee.

MM TCR-1.2: **Tribal Monitoring.** A qualified Native American Tribal monitor who is traditionally and culturally affiliated with the geographic area as determined by the Native American Heritage Commission, shall be present during all applicable earthmoving activities such as, but not limited to, trenching, initial or full grading, lifting of foundation, or boring on site. Evidence of a Tribal monitoring agreement shall be provided to the Director of Planning, Building and Code Enforcement or the Director's Designee, prior to the issuance of any grading permit.

Implementation of MM TCR-1.1 and MM TCR-1.2 would ensure that construction workers are trained to recognize potential tribal cultural resources and a qualified monitor is present during all earthmoving activities. This would ensure that any undiscovered subsurface tribal cultural resources within the subsurface area of effect would be identified and subsequently protected in accordance with the standard permit conditions described in Section 4.5 Cultural Resources. Any Native American human remains present on-site would be protected through implementation of the standard permit conditions identified under checklist question c) in Section 4.5. Collectively, implementation of MM TCR-1.1, MM TCR-1.2, and the City's standard permit conditions would ensure that the project would not cause a substantial adverse change in the significance of a tribal cultural resource that is listed or eligible for listing in the CRHR or the local register of historical resources. [**New Impact (Less than Significant Impact with Mitigation Incorporated)]**

b) Would the project cause a substantial adverse change in the significance of a tribal cultural resource that is determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1?

Refer to the discussion under Question a). [**New Impact (Less than Significant Impact with Mitigation Incorporated)]**

4.19 UTILITIES AND SERVICE SYSTEMS

4.19.1 Environmental Setting

4.19.1.1 *Regulatory Framework*

State

State Water Code

Pursuant to the State Water Code, water suppliers providing water for municipal purposes to more than 3,000 customers or supplying more than 3,000 acre-feet (approximately 980 million gallons) of water annually must prepare and adopt an urban water management plan (UWMP) and update it every five years. As part of a UWMP, water agencies are required to evaluate and describe their water resource supplies and projected needs over a 20-year planning horizon, water conservation, water service reliability, water recycling, opportunities for water transfers, and contingency plans for drought events. The City of San José adopted its most recent UWMP in June 2021.

Assembly Bill 939

The California Integrated Waste Management Act of 1989, or AB 939, established the Integrated Waste Management Board, required the implementation of integrated waste management plans, and mandated that local jurisdictions divert from the landfill at least 50 percent of solid waste generated beginning January 1, 2000.

Assembly Bill 341

AB 341 sets forth the requirements of the statewide mandatory commercial recycling program. Businesses that generate four or more cubic yards of garbage per week and multi-family dwellings with five or more units in California are required to recycle. AB 341 sets a statewide goal for 75 percent disposal reduction by the year 2020.

Senate Bill 610

SB 610 amended state law, effective January 1, 2002, to improve the link between information on water supply availability and certain land use decisions made by cities and counties. SB 610 requires preparation of a WSA containing detailed information regarding water availability to be provided to the decision-makers prior to approval of specified large development projects that also require a General Plan Amendment. This WSA must be included in the administrative record that serves as the evidentiary basis for an approval action by the city or county on such projects. Under SB 610, WSAs must be furnished to local governments for inclusion in any environmental documentation for certain projects subject to CEQA. Pursuant to the California Water Code (Section 10912[a]), projects that require a WSA include any of the following:

- A proposed residential development of more than 500 dwelling units;
- A proposed shopping center or business establishment employing more than 1,000 persons or having more than 500,000 square feet of floor space;
- A proposed commercial office building employing more than 1,000 persons or having more than 250,000 square feet of floor space;

- A proposed hotel or motel, or both, having more than 500 rooms;
- A proposed industrial, manufacturing, or processing plant, or industrial park planned to house more than 1,000 persons, occupying more than 40 acres of land, or having more than 650,000 square feet of floor area;
- A mixed-use project that includes one or more of the projects identified in this list; or
- A project that would demand an amount of water equivalent to, or greater than, the amount of water required by a 500 dwelling unit project.

Senate Bill 1383

SB 1383 establishes targets to achieve a 50 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75 percent reduction by 2025. The bill grants CalRecycle the regulatory authority required to achieve the organic waste disposal reduction targets and establishes an additional target that at least 20 percent of currently disposed edible food is recovered for human consumption by 2025.

California Green Building Standards Code

In January 2010, the State of California adopted the California Green Building Standards Code, establishing mandatory green building standards for all buildings in California. The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resources efficiency, and indoor environmental quality. These standards include the following mandatory set of measures, as well as more rigorous voluntary guidelines, for new construction projects to achieve specific green building performance levels:

- Reducing indoor water use by 20 percent;
- Reducing wastewater by 20 percent;
- Recycling and/or salvaging 50 percent of nonhazardous construction and demolition debris; and
- Providing readily accessible areas for recycling by occupants.

Local

Envision San José 2040 General Plan

The Envision San José 2040 General Plan includes the following policies that are specific to utilities and service systems and applicable to development projects in San José:

Policy	Description
IN-3.10	Incorporate appropriate stormwater treatment measures in development projects to achieve stormwater quality and quantity standards and objectives in compliance with the City's National Pollutant Discharge Elimination System (NPDES) permit.

In addition to the above-listed San José General Plan policies, new development in San José is also required to comply with programs that mandate the use of water-conserving features and appliances

and the Santa Clara County Integrated Watershed Management (IWM) Program, which minimizes solid waste.

San José Zero Waste Strategic Plan/Climate Smart San José

The Climate Smart San Jose provides a comprehensive approach to achieving sustainability through new technology and innovation. The Zero Waste Strategic Plan outlines policies to help the City of San José foster a healthier community and achieve its Climate Smart San Jose goals, including 75 percent diversion of waste by 2013 and zero waste by 2022. Climate Smart San Jose also includes ambitious goals for economic growth, environmental sustainability, and enhanced quality of life for San José residents and businesses.

San José Sewer System Management Plan

The purpose of the Sewer System Management Plan (SSMP) is to provide guidance to the City in the operation, maintenance, and rehabilitation of the sewer assets of the City of San José. The SSMP includes construction standards and specifications for the installation and repair of the collection system and its associated infrastructure.

Private Sector Green Building Policy

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

4.19.1.2 *Existing Conditions*

The project site is currently undeveloped and does not place any demand on utility systems, including water, wastewater treatment, stormwater drainage, electricity, natural gas, or telecommunications.

4.19.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
Would the project:					
a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	☐	☒	☐	☐	☐
b) Have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	☐	☐	☐	☒	☐
c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☐	☒	☐
d) Generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	☐	☐	☐	☒	☐
e) Be noncompliant with federal, state, or local management and reduction statutes and regulations related to solid waste?	☐	☐	☐	☒	☐

As described below, the proposed project would result in one new impact to utilities and service systems that was not previously disclosed in the 2008 FEIR, 2009 IS/MND, and 2013 Addendum. As described in Section 4.4 Biological Resources, the proposed construction of two stormwater basins to treat runoff from expanded operations of the ZMPF would result in significant environmental impacts to special-status plant and wildlife species, nesting birds, and sensitive wetland habitat.

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

The proposed stormwater basins would not require utility service and would not result in the relocation of existing utility lines. The project itself is the construction of new stormwater facilities, the environmental impacts of which are analyzed throughout this Initial Study. As described in Section 4.4 Biological Resources, the construction of the project would result in significant impacts to special-status plant and wildlife species, nesting birds, and sensitive wetland habitat.

Impact UTL-1: The construction of the stormwater basins would result in significant impacts to special-status plant and wildlife species, nesting birds, and sensitive wetland habitat.

Mitigation Measures: See mitigation measures MM BIO-1.1, -1.2, -2.1, -2.2, -3.1, -3.2, -4.1, -4.2, -5.1, -7.1, -7.2, -7.3, -7.4, and -7.5

The project, with the implementation of the above mitigation measures, would reduce significant impacts to special-status plant and wildlife species, nesting birds, and sensitive wetland habitat where are discussed in detail in Section 4.4 Biological Resources. **[New Impact (Less than Significant Impact with Mitigation Incorporated)]**

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

The proposed project would not create a demand for water. Therefore, there would be no impact to water supplies. **[Same Impact as Approved Project (No Impact)]**

c) Would the project result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

The proposed project would not generate wastewater. Therefore, there would be no impact to the capacity of the RWF. **[Same Impact as Approved Project (No Impact)]**

d) Would the project generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?

The proposed project would not generate solid waste. Therefore, the project would not impact the capacity of local infrastructure or impair the attainment of solid waste reduction goals. **[Same Impact as Approved Project (No Impact)]**

e) Would the project be noncompliant with federal, state, or local management and reduction statutes and regulations related to solid waste?

As described above, the project would not generate solid waste. Thus, it would not conflict with federal, state, and local solid waste regulations. **[Same Impact as Approved Project (No Impact)]**

4.20 WILDFIRE

4.20.1 Environmental Setting

4.20.1.1 *Existing Conditions*

The project site is not designated as a very high fire hazard severity zone on CalFire maps.[85]

4.20.2 Impact Discussion

	New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:					
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒	☐
b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	☐	☐	☐	☒	☐
c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines, or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	☐	☐	☐	☒	☐
d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	☐	☐	☐	☒	☐

The project site is not located in or near state responsibility areas or lands classified as very high fire hazard severity zones; therefore, the project would not result in wildfire impacts. **[Same Impact as Approved Project (No Impact)]**

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4.21 MANDATORY FINDINGS OF SIGNIFICANCE

		New Potentially Significant Impact	New Less than Significant with Mitigation Incorporated	New Less than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"
a)	Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?	☐	☒	☐	☐	☐
b)	Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)	☐	☒	☐	☐	☐
c)	Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☐	☒	☐

a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?

As discussed previously in this Initial Study, the proposed project would not degrade the quality of the environment, substantially affect biological resources or eliminate important examples of California history or prehistory with implementation of the identified standard permit conditions and mitigation measures. As discussed in Section 4.3 Air Quality, implementation of standard measures for dust control would reduce air quality impacts from fugitive dust to a less than significant level. As discussed in Section 4.4 Biological Resources, implementation of mitigation measures MM BIO-1.1, -1.2, -2.1, -2.2, -3.1, -3.2, -4.1, -4.2, -5.1, -7.1, -7.2, -7.3, -7.4, and -7.5 would reduce impacts to

wetlands, special-status species, and non-wetland waters to less than significant. As discussed in Section 4.5 Cultural Resources and in Section 4.18 Tribal Cultural Resources, implementation of standard permit conditions along with MM CUL-1.1, MM TCR-1.1 and MM TCR-1.2 would reduce impacts to archaeological resources (including tribal cultural resources) to a less than significant level. **[New Impact (Less than Significant Impact with Mitigation Incorporated)]**

b) Does the project have impacts that are individually limited, but cumulatively considerable?

Under Section 15065(a)(3) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has potential environmental effects "that are individually limited, but cumulatively considerable." As defined in Section 15065(a)(3) of the CEQA Guidelines, cumulatively considerable means "that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects."

The project would not have any impact on agriculture and forestry resources, mineral resources, population and housing, public services, recreation, tribal cultural resources, existing utilities and service systems, and wildfire. As a result, the project would not contribute to a cumulative impact on these resources. The project's less than significant with incorporation of the City's standard permit condition for geology and soils, which require a project-level geotechnical report to ensure the project would be constructed in accordance with standard engineering practice. For hazards and hazardous waste impacts are site specific and would be reduced to less than significant impacts with implementation of MM HAZ-1.1 and MM HAZ-1.2; therefore, the project's impacts would not contribute to a significant, cumulative geology and soils impact.

BAAQMD considers the air pollutant and greenhouse gas emissions for a project's individual emissions as cumulatively considerable; therefore, if a project results in a significant project-level air quality or greenhouse gas impact, the project would also result in a significant cumulative impact. As discussed in Section 4.3 Air Quality and Section 4.8 Greenhouse Gas Emissions, the project would not result in significant (project-level or cumulative) impacts.

Cumulative projects, including the proposed project and the approved, planned expansion of ZMPF, are required to comply with existing regulations and implement MM CUL-1.1 to avoid and minimize impacts unknown buried cultural resources (including tribal cultural resources) and hydrology and water quality to a less than significant level. For this reason, the cumulative projects would not result in significant, cumulative impacts buried cultural resources or hydrology and water quality (refer to MM CUL-1.1 in Section 4.5 Cultural Resources and Section 4.10 Hydrology and Water Quality).

The geographic area for cumulative biological resources impacts is generally confined to the project site and the immediate surrounding areas because localized development would affect the same group of biological resources. As discussed in Section 4.4 Biological Resources, the project would result in less than significant impacts to seasonal wetlands, special-status plant species, special-status animal species, and nesting birds with the implementation of mitigation measures. Although less than significant at a project level, the project's impact on these biological resources may contribute to

cumulative impacts to these resources. The biological resources which would be impacted by project development in conjunction with other cumulative projects are generally present throughout the Don Edwards National Wildlife Refuge and marshes along the greater San Francisco Bay, San Pablo Bay, and Suisun Bay areas. The mitigation measures described in Section 4.4 Biological Resources (MM BIO-1.1, -1.2, -2.1, -2.2, -3.1, -3.2, -4.1, -4.2, -5.1, -7.1, -7.2, -7.3, -7.4, and -7.5) would reduce the project's potential cumulative impacts to these resources because the mitigation measures require either avoidance or replacement actions. Additionally, consultation with the regulatory agencies may require implementation of additional avoidance or minimization measures that would further reduce project impacts related to biological resources. Cumulative projects in proximity to the project site with the potential to impact biological resources would be subject to similar mitigation measures described in Section 4.4 Biological Resources along with similar overlapping regulatory oversight. With implementation of mitigation measures required under CEQA, in addition to measures required as part of the regulatory oversight and permitting process, impacts of the cumulative projects to biological resources would be reduced to less than significant levels. Therefore, the effects of the project would not combine with impacts from other projects in the vicinity to result in a significant cumulative impact. **[New Impact (Less than Significant Impact with Mitigation Incorporated)]**

c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

Consistent with Section 15065(a)(4) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has the potential to cause substantial adverse effects on human beings, either directly or indirectly. Under this standard, a change to the physical environment that might otherwise be minor must be treated as significant if people would be significantly affected. This factor relates to adverse changes to the environment of human beings generally, and not to effects on particular individuals. While changes to the environment that could indirectly affect human beings would be represented by all of the designated CEQA issue areas, those that could directly affect human beings include air quality, geology and soils, hazards and hazardous materials, and noise. As discussed in Section 4.7 Geology and Soils and Section 4.13 Noise, the project would not result in significant impacts to humans regarding those resource areas. As described in Section 4.9 Hazards and Hazardous Materials, impacts related to the destruction and construction of groundwater monitoring wells would be reduced to less than significant levels with implementation of MM HAZ-1.1 and MM HAZ-1.2. As discussed in Section 4.3 Air Quality, the project would adhere to standard permit conditions reflective of BAAQMD dust control measures to reduce air pollutant emissions to a less than significant level. For these reasons, the proposed project would not have environmental effects which will cause substantial adverse effects on human beings. **[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]**

SECTION 5.0 REFERENCES

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SECTION 6.0 LEAD AGENCY AND CONSULTANTS

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