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# Orchard Parkway Commercial Development Biological Resource Assessment

San Jose, California

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## **EXECUTIVE SUMMARY**

The purpose of this report is to provide an analysis of natural community and special-status species issues at the site located at 2325 Orchard Parkway (Project Area) in San José, Santa Clara County, California. On January 5, 2012, WRA, Inc. (WRA) conducted a biological resources assessment within the Project Area. WRA observed one biological community, 36 plant species, and 15 wildlife species. No special-status plant species have a moderate or high potential to occur within the Project Area. Five special-status wildlife species have a moderate potential to occur within the Project Area.



## **1.0 INTRODUCTION**

On January 5, 2012, WRA, Inc. performed an assessment of biological resources at the 13.31 acre site located at 2325 Orchard Parkway (“Project Area”) and a surrounding 100-foot wide buffer (“Study Area”) in San José, Santa Clara County, California (Figure 1). The Project Area is located in a developed commercial complex located near the confluence of Highway 101 and Interstate 880 and can be accessed from Highway 101 by traveling east on Trimble Avenue to Orchard Parkway.

The purpose of the assessment was to gather information necessary to complete a review of biological resources under the California Environmental Quality Act (CEQA). This report describes the results of the site visit, which assessed the Project Area for (1) the potential to support special-status species and (2) the presence of other sensitive biological resources protected by local, state, and federal laws and regulations. Specific findings on the habitat suitability or presence of special-status species or sensitive habitats may require that protocol-level surveys be conducted. This report also contains an evaluation of potential impacts to special-status species and sensitive biological resources that may occur as a result of any potential project, as well as potential mitigation measures to compensate for those impacts.

A biological resources assessment provides general information on the potential presence of sensitive species and habitats. The biological assessment is not an official protocol-level survey for listed species that may be required for project approval by local, state, or federal agencies. This assessment is based on information available at the time of the study and on-site conditions that were observed on the date of the site visit.

## **2.0 REGULATORY BACKGROUND**

The following sections explain the regulatory context of the biological assessment, including applicable laws and regulations that were applied to the field investigations and analysis of potential project impacts.

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

Special-status species include those plant and wildlife species that have been formally listed, are proposed as endangered or threatened, or are candidates for such listing under the Federal Endangered Species Act (ESA) or California Endangered Species Act (CESA). These acts afford protection to both listed and proposed species. In addition, California Department of Fish and Game (CDFG) Species of Special Concern, which are species that face extirpation in California if current population and habitat trends continue, U.S. Fish and Wildlife Service (USFWS) Birds of Conservation Concern, and CDFG special-status invertebrates are all considered special-status species. Although CDFG Species of Special Concern generally have no special legal status, they are given special consideration under CEQA. In addition to regulations for special-status species, most birds in the United States, including non-status species, are protected by the Migratory Bird Treaty Act of 1918. Under this legislation, destroying active nests, eggs, and young is illegal. Plant species on California Native Plant Society (CNPS) Lists 1 and 2 are also considered special-status plant species and must be considered under CEQA. California Native Plant Society List 3 plants have little or no protection under CEQA, but are included in this analysis for completeness. In addition plant and wildlife



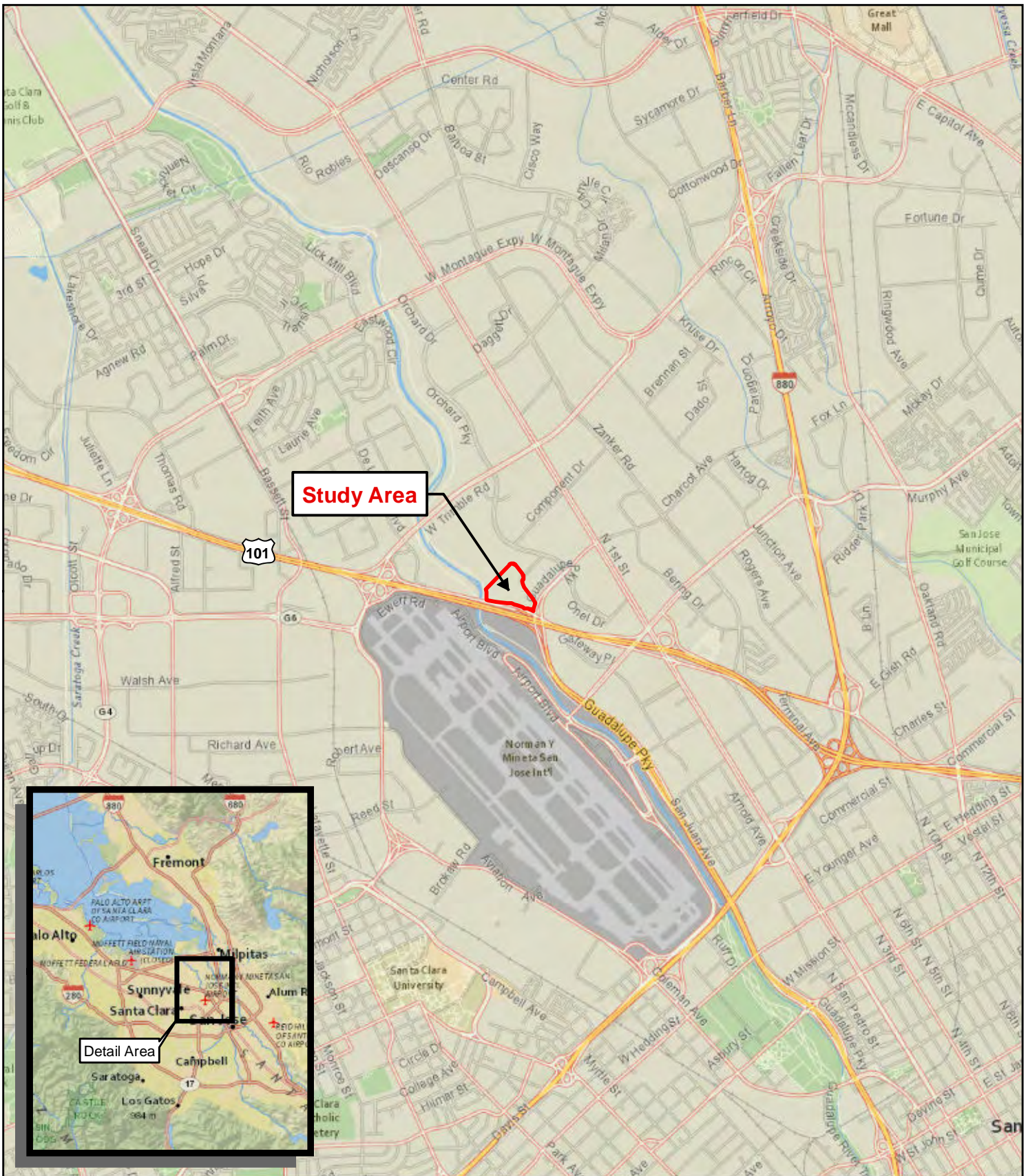
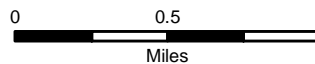


Figure 1. Study Area Location Map

Orchard Parkway  
 Commercial Development  
 San Jose, CA



Date: January 2012  
 Map By: Derek Chan  
 Base Source: ESRI



species covered by the Santa Clara Valley Habitat Conservation Plan (SCV HCP; ICF International 2010) and the Envision San José General Plan 2040 (General Plan; City of San José 2011) were also considered special-status species for the purpose of this assessment. Although not considered special-status species, trees covered by the SCV HCP, the General Plan, or the City of San José Municipal Code were also included in this assessment.

### *2.1.1 Critical Habitat*

Critical habitat is a term defined and used in the ESA as a specific geographic area that contains features essential for the conservation of a threatened or endangered species and that may require special management and protection. The ESA requires federal agencies to consult with the USFWS to conserve listed species on their lands and to ensure that any activities or projects they fund, authorize, or carry out will not jeopardize the survival of a threatened or endangered species. In consultation for those species with critical habitat, federal agencies must also ensure that their activities or projects do not adversely modify critical habitat to the point that it will no longer aid in the species' recovery. In many cases, this level of protection is similar to that already provided to species by the FESA "jeopardy standard". However, areas that are currently unoccupied by the species but which are needed for the species' recovery, are protected by the prohibition against adverse modification of critical habitat.

## **2.2 Sensitive Biological Communities**

Sensitive biological communities include habitats that fulfill special functions or have special values, such as wetlands, streams, and riparian habitat. These habitats are protected under federal regulations (such as the Clean Water Act), state regulations (such as the Porter-Cologne Act, the CDFG Streambed Alteration Program, and CEQA), or local ordinances or policies (City or County Tree Ordinances, Special Habitat Management Areas, and General Plan Elements).

### Waters of the United States

The U.S. Army Corps of Engineers (Corps) regulates "Waters of the United States" under Section 404 of the Clean Water Act. "Waters of the U.S." are defined broadly as waters susceptible to use in commerce, including interstate waters and wetlands, all other waters (intrastate waterbodies, including wetlands), and their tributaries (33 CFR 328.3). Potential wetland areas, according to the three criteria used to delineate wetlands stated in the *Corps of Engineers Wetlands Delineation Manual* (Corps Manual; Environmental Laboratory 1987) and the *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region* (Regional Supplement; Corps 2008), are identified by the presence of (1) hydrophytic vegetation, (2) hydric soils, and (3) wetland hydrology. Areas that are inundated for sufficient duration and depth to exclude growth of hydrophytic vegetation are subject to Section 404 jurisdiction as "other waters" and are often characterized by an ordinary high water mark (OHWM). Other waters, for example, generally include lakes, rivers, and streams. The placement of fill material into "Waters of the U.S." (including wetlands) generally requires an individual or nationwide permit from the Corps under Section 404 of the Clean Water Act.

### Waters of the State

The term "Waters of the State" is defined by the Porter-Cologne Act as "any surface water or groundwater, including saline waters, within the boundaries of the state." The Regional Water Quality Control Board (RWQCB) protects all waters in its regulatory scope, but has special responsibility for wetlands, riparian areas, and headwaters. These waterbodies have high

resource value, are vulnerable to filling, and are not systematically protected by other programs. RWQCB jurisdiction includes “isolated” wetlands and waters that may not be regulated by the Corps under Section 404. “Waters of the State” are regulated by the RWQCB under the State Water Quality Certification Program which regulates discharges of fill and dredged material under Section 401 of the Clean Water Act and the Porter-Cologne Water Quality Control Act. Projects that require a Corps permit, or fall under other federal jurisdiction, and have the potential to impact “Waters of the State”, are required to comply with the terms of the Water Quality Certification determination. If a proposed project does not require a federal permit, but does involve dredge or fill activities that may result in a discharge to “Waters of the State”, the RWQCB has the option to regulate the dredge and fill activities under its state authority in the form of Waste Discharge Requirements.

### Streams, Lakes, and Riparian Habitat

Streams and lakes, as habitat for fish and wildlife species, are subject to jurisdiction by CDFG under Sections 1600-1616 of California Fish and Game Code. Alterations to or work within or adjacent to streambeds or lakes generally require a 1602 Lake and Streambed Alteration Agreement. The term “stream”, which includes creeks and rivers, is defined in the California Code of Regulations (CCR) as follows: “a body of water that flows at least periodically or intermittently through a bed or channel having banks and supports fish or other aquatic life. This includes watercourses having a surface or subsurface flow that supports or has supported riparian vegetation” (14 CCR 1.72). In addition, the term “stream” can include ephemeral streams, dry washes, watercourses with subsurface flows, canals, aqueducts, irrigation ditches, and other means of water conveyance if they support aquatic life, riparian vegetation, or stream-dependent terrestrial wildlife (CDFG 1994). Riparian is defined as “on, or pertaining to, the banks of a stream”; therefore, riparian vegetation is defined as “vegetation which occurs in and/or adjacent to a stream and is dependent on, and occurs because of, the stream itself” (CDFG 1994). Removal of riparian vegetation also requires a Section 1602 Lake and Streambed Alteration Agreement from CDFG.

### Other Sensitive Biological Communities

Other sensitive biological communities not discussed above include habitats that fulfill special functions or have special values. Natural communities considered sensitive are those identified in local or regional plans, policies, regulations, or by the CDFG. CDFG ranks sensitive communities as “threatened” or “very threatened” and keeps records of their occurrences in its Natural Diversity Database (CNDDDB; CDFG 2012). Sensitive plant communities are also identified by CDFG (2003, 2007) and, more recently, the *List of Vegetation Alliances* (CDFG 2009). CNDDDB vegetation alliances are ranked 1 through 5 based on NatureServe's (2010) methodology, with those alliances ranked globally (G) or statewide (S) as 1 through 3 considered sensitive. Impacts to sensitive natural communities identified in local or regional plans, policies, regulations or by the CDFG or USFWS must be considered and evaluated under CEQA (California Code of Regulations: Title 14, Div. 6, Chap. 3, Appendix G).

Specific habitats may also be identified as sensitive in City or County General Plans or ordinances. The SCV HCP and the General Plan list a number of habitats identified for conservation including wetlands and aquatic habitats, stream and riparian habitats, native oak and conifer woodlands, native grasslands, serpentine habitats, chaparral, and scrub.

## 3.0 METHODS

On January 5, 2012, WRA biologists traversed both the Study Area on foot to determine (1) plant communities present within the Project Area, (2) if existing conditions provided suitable habitat for any special-status plant or wildlife species, and (3) if sensitive habitats are present. All plant and wildlife species encountered were recorded and are summarized in Appendix A.

### 3.1 Biological Communities

Prior to the site visit, the Natural Resources Conservation Service Web Soil Survey (USDA 2012), USFWS National Wetlands Inventory, aerial photographs, and previous reports prepared by WRA for the site were examined to determine if any unique soil types that could support sensitive plant communities and/or aquatic features were present in the Project Area. Biological communities present in the Project Area were classified based on existing plant community descriptions described in the *Preliminary Descriptions of the Terrestrial Natural Communities of California* (Holland 1986). However, in some cases it is necessary to identify variants of community types or to describe non-vegetated areas that are not described in the literature. Biological communities were classified as sensitive or non-sensitive as defined by CEQA and other applicable laws and regulations.

#### 3.1.1 Non-sensitive Biological Communities

Non-sensitive biological communities are those communities that are not afforded special protection under CEQA, and other state, federal, and local laws, regulations, and ordinances. These communities may, however, provide suitable habitat for some special-status plant or wildlife species and are identified in Section 4.1.1.

#### 3.1.2 Sensitive Biological Communities

Sensitive biological communities are defined as those communities that are given special protection under CEQA and other applicable federal, state, and local laws, regulations, and ordinances. Applicable laws and ordinances are discussed above in Section 2.0. Special methods used to identify sensitive biological communities are discussed below.

### Wetlands and Waters

The Project Area was surveyed to determine if any wetlands and waters potentially subject to jurisdiction by the Corps, RWQCB, or CDFG were present. The assessment was based primarily on the presence of wetland plant indicators, but may also include any observed indicators of wetland hydrology or wetland soils. Potential wetland areas were identified as areas dominated by plant species with a wetland indicator status<sup>1</sup> of OBL, FACW, or FAC as given on the U.S. Fish and Wildlife Service List of Plant Species that Occur in Wetlands (Reed 1988). Evidence of wetland hydrology can include direct evidence (primary indicators), such as visible inundation or saturation, algal mats, and oxidized root channels, or indirect (secondary) indicators, such as a water table within two feet of the soil surface during the dry season. Some

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<sup>1</sup> OBL = Obligate, always found in wetlands (> 99% frequency of occurrence); FACW = Facultative wetland, usually found in wetlands (67-99% frequency of occurrence); FAC = Facultative, equal occurrence in wetland or non-wetlands (34-66% frequency of occurrence).

indicators of wetland soils include dark colored soils, soils with a sulfidic odor, and soils that contain redoximorphic features as defined by the Corps Manual (Environmental Laboratory 1987), the Regional Supplement (Corps 2008), and Field Indicators of Hydric Soils in the United States (NRCS 2010).

### Other Sensitive Biological Communities

The Project Area was evaluated for the presence of other sensitive biological communities, including riparian areas and sensitive plant communities recognized by CDFG, as well as sensitive communities covered by the SCV HCP and the General Plan. Prior to the site visit, aerial photographs, local soil maps, the *List of Vegetation Alliances* (CDFG 2009), and *A Manual of California Vegetation* (Sawyer et al. 2009) were reviewed to assess the potential for sensitive biological communities to occur in the Project Area. All alliances within the Project Area with a ranking of 1 through 3 were considered sensitive biological communities and were mapped. These communities are described in Section 4.1.2.

## **3.2 Special-Status Species**

### *3.2.1 Literature Review*

The potential for occurrence of special-status species in the Project Area was evaluated by first determining which special-status species occur in the vicinity of the Project Area through a literature and database search. Database searches for known occurrences of special-status species focused on the Milpitas 7.5 minute USGS quadrangle and the eight surrounding USGS quadrangles. The following sources were reviewed to determine which special-status plant and wildlife species have been documented in the vicinity of the Project Area:

- California Natural Diversity Database (CNDDDB) records (CDFG 2012)
- USFWS quadrangle species lists (USFWS 2012)
- CNPS Electronic Inventory records (CNPS 2012)
- CDFG publication "California's Wildlife, Volumes I-III" (Zeiner et al. 1990)
- CDFG publication "Amphibians and Reptile Species of Special Concern in California" (Jennings and Hayes 1994)
- CDFG publication "California Bird Species of Special Concern" (Shuford and Gardali 2008)
- A Field Guide to Western Reptiles and Amphibians (Stebbins 2003)

### *3.2.2 Site Assessment*

A site visit was made to determine the presence of suitable habitat for special-status species. Habitat conditions observed in the Project Area and the professional expertise of the investigating biologists were used to evaluate the potential for presence of special-status species. The potential for each special-status species to occur in the Project Area was then evaluated according to the following criteria:

- No Potential. Habitat on and adjacent to the site is clearly unsuitable for the species requirements (foraging, breeding, cover, substrate, elevation, hydrology, plant community, site history, disturbance regime).

- Unlikely. Few of the habitat components meeting the species requirements are present, and/or the majority of habitat on and adjacent to the site is unsuitable or of very poor quality. The species is not likely to be found on the site.
- Moderate Potential. Some of the habitat components meeting the species requirements are present, and/or only some of the habitat on or adjacent to the site is unsuitable. The species has a moderate probability of being found on the site.
- High Potential. All of the habitat components meeting the species requirements are present and/or most of the habitat on or adjacent to the site is highly suitable. The species has a high probability of being found on the site.
- Present. Species is observed on the site or has been recorded (i.e. CNDDDB, other reports) on the site recently.

The site assessment is intended to identify the presence or absence of suitable habitat for each special-status species known to occur in the vicinity in order to determine its potential to occur in the Project Area. The site visit does not constitute a protocol-level survey and is not intended to determine the actual presence or absence of a species.

In cases where little information is known about species occurrences and habitat requirements, the species evaluation was based on best professional judgment of WRA biologists with experience working with the species and habitats in question. If necessary, recognized experts in individual species biology were contacted to obtain the most up-to-date information regarding species biology and ecology.

If a special-status species was observed during the site visit, its presence was recorded and is discussed below in Section 4.2. For some species, a site assessment at the level conducted for this report may not be sufficient to determine presence or absence of a species to the specifications of regulatory agencies. In these cases, a species may be assumed to be present or further protocol-level special-status species surveys may be necessary. Special-status species for which further protocol-level surveys may be necessary are described below in Section 5.0.

## 4.0 RESULTS

The Project Area is located in an industrial park located near the confluence of Highway 101 and Interstate 880. The site is bounded by the Guadalupe River and Highway 101 to the west; the San José International Airport is located on the opposite side of Highway 101. To the south and southeast the site is bounded by industrial development. To the north and northeast, the site is bounded by several parcels containing ruderal grassland; together, the Project Area and these parcels create a contiguous area of ruderal grassland surrounded by industrial development. The site is characterized by ruderal grassland with elevations ranging from approximately 30 to 40 feet above sea level.

The site was previously used for agriculture as evidenced by heavily disturbed conditions at the site with high levels of invasive species and scattered agricultural plants such as Swiss chard and onion. Aerial photographs indicate that the site was disced as recently as 1993, if not more recently. The Project Area was mowed at the time of the assessment, and there was evidence indicating that portions of the site have been used for disposal of landscape-related plant material, mulch, and landscape fabric (see Appendix C). Evidence of a small homeless camp was found near the dike separating the Project Area from the Guadalupe River.

The following sections present the results and discussion of the biological assessment within the Project Area. The discussion includes a description of the biological communities, plants, and wildlife observed at the site as well as the potential for occurrence of special-status species.

#### **4.1 Biological Communities**

The entire site is composed of ruderal grassland which is considered a non-sensitive biological community. A small portion of the southeast corner of the Study Area was separated by a low cement barrier and a chain-link fence. This portion of the Study Area was inaccessible, but appeared to be dominated by weedy, ruderal vegetation. A Description of the biological community is presented below and illustrated in Figure 2.

##### *4.1.1 Non-sensitive biological communities*

###### Ruderal Herbaceous Grassland

Although not described in the literature, ruderal herbaceous grassland includes areas that have been partially developed or have been used in the past for agriculture. However, these areas are not currently used for agricultural activities, and have been allowed to revert to a semi-natural condition. The Project Area is composed primarily of ruderal herbaceous grassland consisting of fields disced as recently as 1993, if not more recently. Approximately 12.46 acres of this habitat is present in the Project Area. Except for a large clump of red willow (*Salix laevigata*) located near the parking lot adjacent to the southeast edge of the Project Area and a patch of young elm trees (*Ulmus* sp.) in the southeast corner, most vegetation in the Project Area had been mowed at the time of the assessment. Plant species observed in ruderal herbaceous grassland in the Project Area comprise the majority of plants listed in Appendix A. Dominant species observed include non-native annual grasses, mustard species (*Brassica* spp.), Italian thistle (*Carduus pycnocephalus*), goosefoot (*Chenopodium* sp.), bull thistle (*Cirsium vulgare*), bristly ox-tongue (*Helminthotheca echioides*), prickly lettuce (*Lactuca serriola*), perennial pepperweed (*Lepidium latifolium*), common mallow (*Malva neglecta*), wild radish (*Raphanus sativus*), and sow thistle (*Sonchus oleraceus*). Wildlife species observed in ruderal herbaceous grassland include black-tailed jackrabbit (*Lepus californicus*), California ground squirrel (*Otospermophilus beecheyi*), and American robin (*Turdus migratorius*).

##### *4.1.2 Sensitive Biological Communities*

There were no sensitive biological communities identified within the Project Area.






Orchard Parkway  
Commercial Development

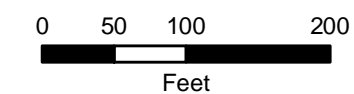
San Jose, California

Figure 2

Biological Communities  
within the Project Area

**Legend**

-  Project Area (13.31 acres)
-  Study Area
-  Ruderal herbaceous grassland (13.31 acres)



Map Date: January 2012  
Map By: Derek Chan  
Base Source: USGS 2008





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## 4.2 Special-Status Species

### 4.2.1 Plants

Forty-eight special-status plant species have been documented in the greater vicinity of the Project Area (Figure 3). Appendix B summarizes the potential for each of these species to occur in the Project Area. The Project Area has minimal to no potential to support most of these species, and none of these species were observed within the Project Area during the assessment. Most of the special-status species documented from the vicinity occur in habitats not present in the Project Area such as coastal and freshwater marsh, coastal dune and scrub, chaparral, cismontane woodland, upland broadleaf forest, and closed-cone coniferous forest. Of the species known to occur in grasslands, most are found on alkaline or serpentine soils or in vernal pools, none of which were observed in the Project Area. Given the lack of suitable habitat and the high level of disturbance (discing, mowing, invasive species), it is unlikely any special-status plants documented from the vicinity occur in the Project Area.

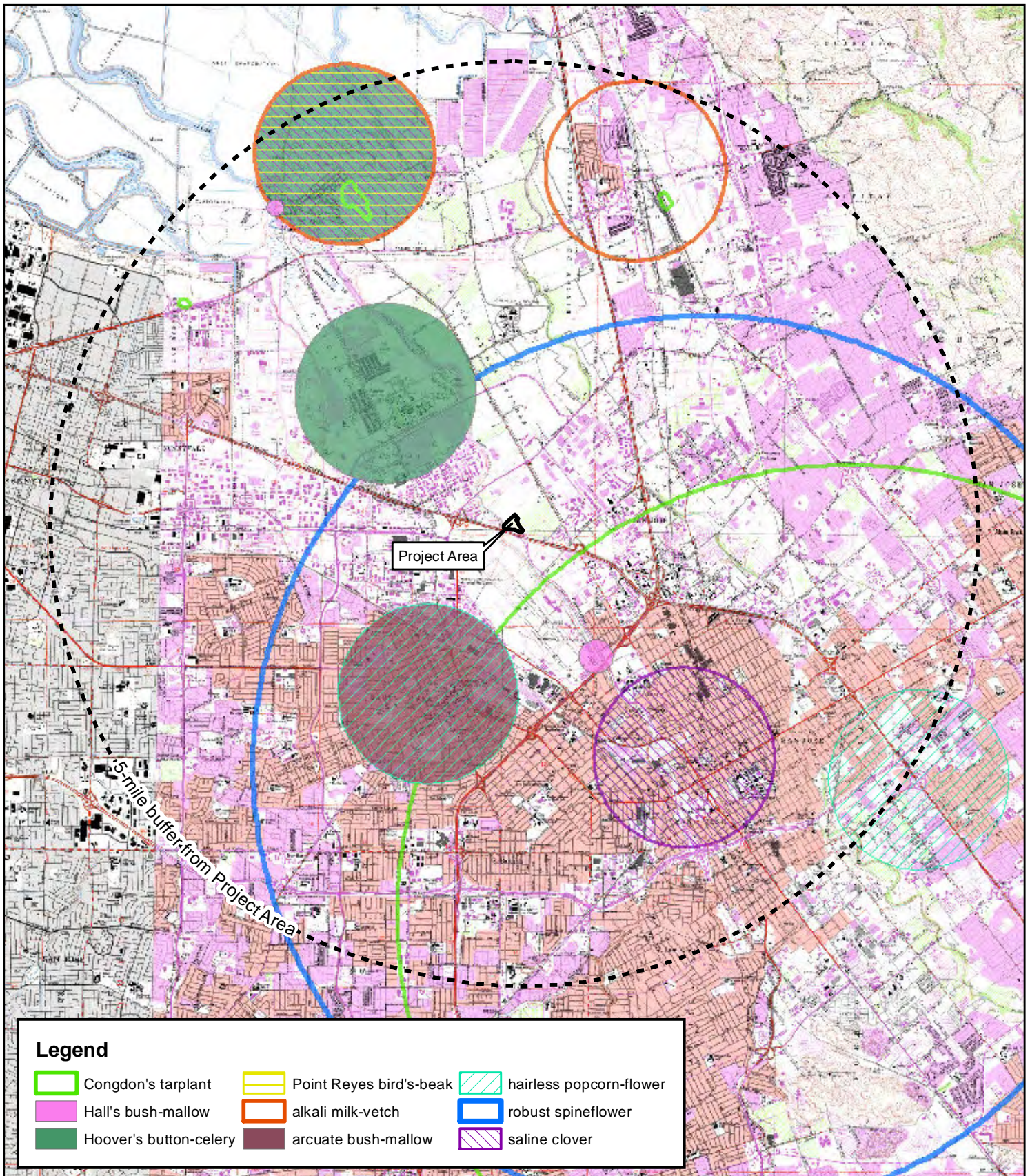
### 4.2.2 Wildlife

Thirty-eight special-status wildlife species have been recorded in the vicinity of the Project Area. Appendix B summarizes the potential for each of these species to occur in the Project Area. No special-status wildlife species were observed in the Project Area during the site assessment. No special-status wildlife species have a high potential to occur in the Project Area, and five special-status wildlife species have a moderate potential to occur in the Project Area. Special-status wildlife species that have a moderate potential to occur in the Project Area are discussed below and their occurrence in the vicinity of the Project Area are shown in Figure 4. All of the wildlife observed in the Project Area are commonly found species, and many are adapted to occupying disturbed or urban areas.

**White-tailed kite (*Elanus leucurus*); CDFG Fully Protected Species.** White-tailed kite occur in low elevation grassland, agricultural, wetland, oak woodland, and savannah habitats. Riparian zones adjacent to open areas are also used. Vegetative structure and prey availability seem to be more important than specific associations with plant species or vegetative communities. Lightly grazed or ungrazed fields generally support large prey populations and are often preferred to other habitats. White-tailed kite primarily feed on small mammals, although, birds, reptiles, amphibians, and insects are also taken. Nest trees range from single isolated trees to trees within large contiguous forests. Preferred nest trees are extremely variable, ranging from small shrubs (less than 10 feet tall), to large trees (greater than 150 feet tall). Suitable foraging habitat exists within the ruderal herbaceous grassland, but only marginal nesting habitat occurs within the Project Area as most trees and shrubs are located immediately adjacent to Highway 101 and the Guadalupe Parkway on-ramp. Overall there is moderate potential for this species to occur within the Project Area.

**American peregrine falcon (*Falco peregrinus anatum*); CDFG Fully Protected Species; USFWS Bird of Conservation Concern.** The American peregrine falcon is a Federal and State Delisted Species, California Fully Protected Species, and a USFWS Bird of Conservation Concern. Historical DDT contamination is the primary source of decline for this species. It winters throughout the Central Valley and occurs as a vagrant in a wide variety of habitats. Although there is foraging habitat in the Project Area for migrant falcons, suitable breeding habitat (cliffs, tall buildings, and bridges) is not present. Overall there is moderate potential for this species to occur in the Project Area.



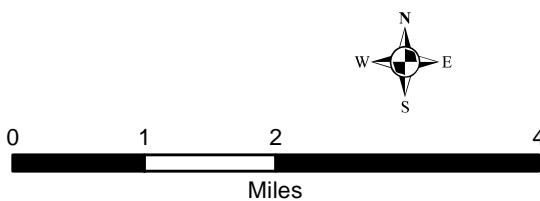


**Legend**

|                        |                         |                         |
|------------------------|-------------------------|-------------------------|
| Congdon's tarplant     | Point Reyes bird's-beak | hairless popcorn-flower |
| Hall's bush-mallow     | alkali milk-vetch       | robust spineflower      |
| Hoover's button-celery | arcuate bush-mallow     | saline clover           |

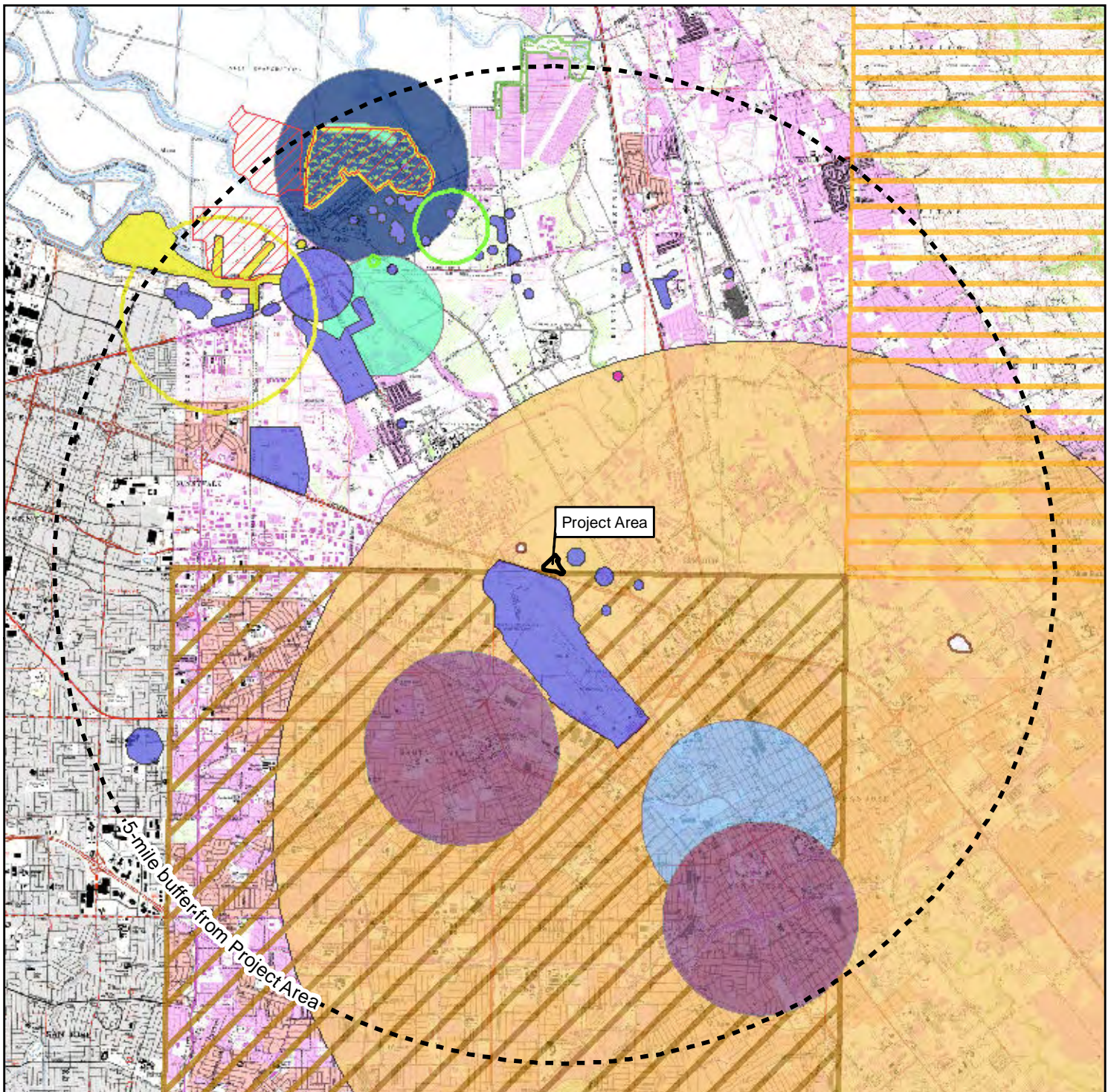
Figure 3. Special-status Plant Species Documented from the Vicinity of the Project Area

Orchard Parkway  
 Commercial Development  
 San Jose, CA



Date: January 2012  
 Map By: Derek Chan  
 Base Source: USGS





**Legend**

|                             |                            |                               |                                                 |
|-----------------------------|----------------------------|-------------------------------|-------------------------------------------------|
| Alameda song sparrow        | hoary bat                  | saltmarsh common yellowthroat | mimic tryonia (=California brackishwater snail) |
| California tiger salamander | pallid bat                 | western pond turtle           | Alameda whipsnake *                             |
| burrowing owl               | salt-marsh harvest mouse   | western snowy plover          | American peregrine falcon *                     |
| great blue heron            | salt-marsh wandering shrew | white-tailed kite             |                                                 |

\* Precise location withheld by CDFG

Figure 3. Special-status Wildlife Species Documented from the Vicinity of the Project Area

Orchard Parkway  
Commercial Development  
San Jose, CA



Date: January 2012  
Map By: Derek Chan  
Base Source: USGS



**Western burrowing owl (*Athene cunicularia hypugea*); CDFG Species of Special Concern, USFWS Bird of Conservation Concern.** Burrowing owl typically favors flat, open grassland or gentle slopes, and sparse-shrub land ecosystems. These owls prefer annual or perennial grasslands, typically with sparse or nonexistent tree or shrub canopies; however, they also colonize debris piles and old pipes. Burrowing owl exhibit high site fidelity and usually nest in abandoned burrows of ground squirrels or pocket gophers. Although no evidence of burrowing owl occupancy was observed during the site assessment, suitable burrow habitat is present. Based on recent surveys (WRA 2007-2011), the site has not been used by burrowing owl for foraging or nesting habitat. Though suitable burrows are present, no burrowing owls have been observed occupying burrows in the past five years. The nearest documented occurrences are located approximately 0.17 mile northeast and 0.39 and 0.78 miles east of the Project Area (CDFG 2012). Given the proximity of documented occurrences and the presence of suitable burrow habitat, there is moderate potential for burrowing owl to occur in the Project Area.

**Loggerhead shrike (*Lanius ludovicianus*); CDFG Species of Special Concern, USFWS Bird of Conservation Concern.** A common resident of lowlands and foothills throughout California, this species prefers open habitats with scattered trees, shrubs, posts, fences, utility lines, or other perches. Nests are usually built on a stable branch in a densely-foliaged shrub or small tree. This species is found most often in open-canopied valley foothill hardwood, conifer, pinyon-juniper, or desert riparian habitats. While this species eats mostly arthropods, they also take amphibians, small reptiles, small mammals, or birds; the species is also known to scavenge on carrion. Foraging habitat is present within the ruderal herbaceous grassland, but only marginal nesting habitat occurs on the shrub-lined eastern border of the Project Area. There is moderate potential for this species to occur within the Project Area.

**Yellow warbler (*Setophaga petechia*); CDFG Species of Special Concern.** Yellow warbler breeds most commonly in wet, deciduous thickets, especially those dominated by willow, and in disturbed and early successional habitats. This species is found between 100 and 2,700 meters elevation in California and at higher elevations along watercourses with riparian growth. Yellow warbler populations have declined due to brood parasitism by brown-headed cowbirds (*Molothrus ater*) and habitat destruction. This species' diet is primarily comprised of insects supplemented with berries. Although there is no suitable nesting habitat within the Project Area, the Guadalupe River, which is adjacent to the site, provides nesting habitat for the yellow warbler. This species has the potential to wander from the river to forage within the Project Area. Overall there is moderate potential for this species to occur within the Project Area.

## 5.0 IMPACTS AND MINIMIZATION MEASURES

The proposed project includes the development of approximately 13.31 acres over two phases. The project proposes to construct a Phase I development totaling 444,000 square foot (s.f.) of office space in two six-story (99-foot) buildings, a three-story parking structure, surrounding surface parking, and landscaping. The two office buildings would each have a rectangular, 37,000 foot footprint. One building would be oriented parallel to Atmel Way near the center of the site, and the other would be approximately perpendicular to Atmel Way at the northwestern portion of the site. The proposed parking structure would have a rectangular footprint as well and be located at the southern portion of the site (see site plans included in Appendix D).

Phase 2 of the proposed project would include a third one six-story (99-foot) 222,000 s.f. office building. The third office building would have a 30,000 foot footprint and be located at the northeastern portion of the site. Phase 2 would also include an addition to the parking structure

totaling six and a half-stories, and a one-story, 15,000 s.f. amenity building adjacent to the parking structure, providing a fitness center.

Proposed surface parking would surround the three office buildings and parking structure on the project site. Phase 1 of the project would include 980 surface parking spaces. Phase 2 would eliminate 229 surface spaces with the addition of a third office building and the expansion of the parking structure, for a total of 751 surface parking spaces. Phase 1 proposes a three-level parking structure including 496 parking spaces. Phase 2 would expand the parking structure to include an additional 1,233 spaces, totaling 1,729 parking spaces. Phase 2 of the project would also include a lot line adjustment at the southern portion of the site adjacent to the existing Atmel R&D/office building and surrounding surface parking. The property lot line adjustment would allow for additional surface parking for the proposed project site, in order for the project to maintain conformance with the City's parking requirement of 3.3 parking spaces per 1,000 square feet of space. The lot line adjustment would also allow for development of a 15,000 s.f. amenity building on the adjacent Atmel site.

Most of the Project Area is comprised of ruderal herbaceous grassland, which is not considered a sensitive habitat under CEQA. The Project Area is also surrounded by commercial development, indicating that no significant impacts to wildlife migratory corridors are likely to occur. The potential presence of sensitive species is considered low because of poor foraging habitat resulting from past and present disturbance as well as surrounding development. Recommended avoidance and minimization measures to protect biological resources are presented below.

## **5.1 Special-Status Plant and Wildlife Species**

*Would the project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?*

### **5.1.1 Special-Status Plant Species**

No special-status plant species were observed in the Project Area and it is unlikely that any of the special-status plant species documented from within the vicinity of the Project Area have potential to occur within the Project Area. No further action is recommended regarding special-status plant species.

### **5.1.2 Special-Status Wildlife Species**

Of the 38 special-status wildlife species previously documented in the vicinity, five were determined to have the potential to occur within the Project Area. Most of the species found in the review of background literature occur in habitats not found in the Project Area or the Project Area is outside of their known range. Habitat suitability for grassland-associated species in the Project Area is reduced due to habitat fragmentation, previous and existing disturbance, and adjacent development.

This assessment determined that four special-status bird species may use the Project Area for breeding. One Federal listed species (Central California Coast ESU steelhead, *Oncorhynchus mykiss*) and two SVC HCP covered species (Pacific lamprey, *Entosphenus tridentatus*; Central Valley fall-run Chinook salmon, *Oncorhynchus tshawytscha*) are known to occur in the

Guadalupe River which borders a portion of the Project Area. Although there is a levee between the Project Area and the river, best management practices should be followed to prevent sediment from entering the river.

#### Envision San José General Plan 2040 Burrowing Owl Mitigation Requirement

The General Plan states that for projects that would result in impacts to burrowing owl habitat occupied by owls in 2008 or later, mitigation shall be required for the largest number of breeding burrowing owls that have been identified nesting or foraging on a site in burrowing owl surveys since 2008. These measures are required to be implemented by individual projects unless the City develops an independent plan or participates in a regional conservation strategy (such as the Santa Clara Valley HCP) that would maintain or increase South Bay Area burrowing owl populations. The SCV HCP has not been adopted and therefore cannot be used for this analysis. Given that the Envision San José General Plan does not define the term “occupied” nor does it provide a mitigation ratio for potential impacts to burrowing owl habitat, the *Burrowing Owl Survey Protocol and Mitigation Guidelines* (CBOC 1993) were used to determine potential impacts to burrowing owls.

Burrowing owls may use a site for breeding, wintering, foraging, and/or migration stopovers. Occupancy of suitable burrowing owl habitat can be verified at a site by an observation of at least one burrowing owl, or, alternatively, its molted feathers, cast pellets, prey remains, eggshell fragments, or excrement at or near a burrow entrance. Burrowing owls exhibit high site fidelity, reusing burrows year after year. A site should be assumed occupied if at least one burrowing owl has been observed occupying a burrow there within the last three years (CBOC 1993). Based on recent surveys (WRA 2007-2011) and the definition of occupancy, the site has not been occupied by burrowing owl.

Though suitable burrows are present, no burrowing owls have been observed occupying burrows in the past five years, however given the suitable habitat present, pre-construction surveys are warranted. CDFG and the California Burrowing Owl Consortium have specific survey requirements for owls. Pre-construction surveys for migratory birds and the specific requirements for burrowing owls are described below.

#### North San José Development Policies Update

The Project Area is located within the City of José Rincon de los Esteros Redevelopment Area in the north part of the City and is subject to the North San José Development Policies Update Draft EIR (City of San José 2005). The Draft EIR states that burrowing owl forage and breed in the Rincon area. Additional measures required by the North San José Development Policies Update are included below.

#### Avoidance and Minimization Measures

- Nesting birds protected by the Migratory Bird Treaty Act and other regulations may be impacted by construction during the bird breeding season from February through August. Ideally, the clearing of vegetation and the initiation of construction can be done in the non-breeding season from September through January. If these activities cannot be done in the non-breeding season, a qualified biologist shall perform pre-construction breeding bird surveys within 14 days of the onset of construction or clearing of vegetation. The survey area should encompass the Project Area and the areas within a 100 foot buffer (red line in Figure 2). If active nests or behavior indicative of nesting are



encountered, those areas plus a 50 foot buffer for small songbirds and 250-foot buffer for larger birds (e.g., raptors) designated by the biologist shall be avoided until the nests have been vacated. If the work areas are left unattended for more than one week following the initial surveys, additional surveys shall be completed. Any trees and shrubs in or adjacent to the Project Area that are proposed for removal and that could be used as nesting sites by white-tailed kite or loggerhead shrike should be removed during the non-breeding season (September to January).

In the event that burrowing owls are observed during pre-construction surveys, implementation of the following avoidance and minimization measures is recommended:

Non-breeding season: September 1 through January 31

If ground disturbance commences within the non-breeding season, a suite of four pre-construction surveys should be performed by a qualified burrowing owl biologist (biologist) within 30 days of the start of construction. These surveys consist of traversing all areas of ground disturbance including: grading, trenching, vehicular travel on unpaved surfaces, removal of vegetation, and deposition of imported fill material.

If burrowing owls are not detected within 160 feet of the disturbance footprint during the pre-construction surveys, no additional minimization and avoidance measures are recommended.

If burrowing owls are detected during pre-construction surveys, a minimum 160-foot exclusion buffer should be established around occupied burrows. If it is not possible to maintain this buffer, appropriate minimization and avoidance measures, as outlined below, should be implemented.

Burrowing owls detected during the pre-construction surveys within the disturbance footprint or at occupied burrows where maintaining a 160-foot exclusion buffer is not possible, should be passively relocated. Passive relocation may only be performed outside the breeding season in a manner consistent with the CDFG guidelines.

Owls should be passively relocated by the biologist. If the biologist determines that occupied burrows would not be directly impacted by ground disturbance activities, and that a reduced buffer would not result in adverse impacts to burrowing owl behavior, in consultation with CDFG, the size of the buffer may be reduced. If a reduced buffer is determined to be appropriate, the biologist will monitor the owls daily within the reduced buffer during ground disturbance activities. If ground disturbance within the reduced buffer is affecting the owls, the biologist will have the authority to stop work and adjust the buffer distance appropriately.

Owls occupying burrows within the disturbance footprint or burrows where maintaining a 160-foot exclusion buffer is not possible, should be excluded by installing one-way doors at burrow entrances. The one-way doors should be left in place for at least 48 hours prior to the collapse of the burrows. The biologist should monitor the burrow daily until the owls have relocated to alternate burrows. Once the biologist has determined that the owls are using alternate burrows outside the disturbance footprint, burrows should be excavated using hand-tools. Sections of flexible plastic pipe or burlap bags should be inserted into the tunnels during excavation to maintain an escape route for any animals inside the burrow.

If owls are excluded from the project site or buffer areas, mitigation for loss of burrowing owl habitat would be required. Mitigation options are discussed below.

#### Breeding season: February 1 through August 31

If ground disturbance commences within the breeding season, a suite of four pre-construction surveys should be performed by a qualified burrowing owl biologist within 30 days of the start of construction. These surveys consist of traversing all areas of ground disturbance including: grading, trenching, vehicular travel on unpaved surfaces, removal of vegetation, and deposition of imported fill material.

If burrowing owls are not detected within 250 feet of the disturbance footprint during the pre-construction surveys, no additional minimization and avoidance measures are recommended.

If burrowing owls are detected during pre-construction surveys, ground disturbance should be kept at a minimum 250-foot buffer. If it is not possible to maintain these distances, appropriate minimization and avoidance measures, as outlined below, should be implemented.

A 250-foot exclusion buffer will be established around an occupied burrow. No construction activities would be permitted to occur within this buffer until young have fledged or owls vacate the burrow on their own accord. Following the completion of breeding (defined as the later of the following events: young fledge from the burrow or August 31), owls may then be passively relocated using the measures previously described.

If owls are excluded from the project site or buffer areas, mitigation for loss of burrowing owl habitat would be required. Mitigation options are discussed below.

#### On-site Mitigation

If passive relocation is required for burrowing owls within the project site or buffer areas, one alternate natural or artificial burrow should be provided on the site or on adjacent contiguous habitat for each excavated burrow. The project area should be monitored daily for one week to confirm owl use of alternate burrows before excavating burrows in the immediate impact zone.

On-site replacement burrows should maintain a minimum of 6.5 acres of contiguous foraging habitat for each pair of excluded burrowing owls. On-site habitat should be preserved in a conservation easement and managed to promote burrowing owl use of the site.

#### Off-site Mitigation

If passive relocation is required for burrowing owls within the project site or buffer areas and on-site mitigation is not possible, the habitat should be replaced off-site. Off-site habitat must be suitable burrowing owl habitat, as defined in the Burrowing Owl Survey Protocol, and the site approved by CDFG. Land should be purchased and/or placed in a conservation easement in perpetuity and managed to maintain suitable habitat. Off-site

mitigation should use one of the following ratios:

1. Replacement of occupied habitat with occupied habitat: 1.5 times 6.5 (9.75) acres per pair or single bird.
2. Replacement of occupied habitat with habitat contiguous to currently occupied habitat: 2 times 6.5 (13.0) acres per pair or single bird.
3. Replacement of occupied habitat with suitable unoccupied habitat: 3 times 6.5 (19.5) acres per pair or single bird.

According to the North San José Development Policies Update Draft EIR, mitigation habitat should be a minimum of 30 contiguous acres, and must meet the standards for burrowing owl habitat established by the Burrowing Owl Consortium and the CDFG. Furthermore, the North San Jose Development Policies Update Draft EIR states that mitigation habitat must be within Santa Clara County, or near the Rincon de los Esteros Redevelopment Area. Mitigation credits may be purchased at an off-site approved conservation bank capable of servicing the project site. The service area for a conservation bank is the area outside the bank property within which the bank owner may sell credits. Service areas for conservation banks are based on physical and ecological attributes such as watersheds, soil types, species recovery units, and/or species and population distributions. Banks with more than one type of credit may have different service areas designated for different credit types. At the time this assessment was prepared, burrowing owl mitigation credits were available from the Haera Wildlife Conservation Bank. The Conservation Bank Service area includes Alameda and Contra Costa counties and portions of San Joaquin and Santa Clara counties.

- The following are the types of BMPs that are recommended. Project specific BMPs are subject to review and approval by the Water Board.

Wind Erosion BMPs: Application of water or other dust palliatives to prevent or minimize dust nuisance.

Erosion Control BMPs:

- Scheduling
- Preservation of Existing Vegetation
- Hydraulic Mulch
- Hydroseeding
- Straw Mulch
- Geotextiles & Mats
- Wood Mulching
- Earth Dikes and Drainage Swales
- Velocity Dissipation Devices
- Slope Drains
- Compost Blankets
- Soil Preparation / Roughening
- Non-Vegetative Stabilization

Temporary Sediment Control BMPs:

- Silt Fence

- Sediment Basin
- Sediment Trap
- Check Dam
- Fiber Rolls
- Gravel Bag Berm
- Street Sweeping and Vacuuming
- Sandbag Barrier
- Straw Bale Barrier
- Storm Drain Inlet Protection
- Active Treatment Systems
- Temporary Silt Dike
- Compost Socks and Berms
- Biofilter Bags

Tracking Control BMPs:

- Stabilized Construction Entrance/ Exit
- Stabilized Construction Roadway
- Entrance/Outlet Tire Wash

Non-Stormwater Management BMPs:

- Water Conservation Practices
- Dewatering Operations
- Paving and Grinding Operations
- Clear Water Diversion
- Illicit Connection/Discharge
- Potable Water/Irrigation
- Vehicle and Equipment Cleaning
- Vehicle and Equipment Fueling
- Vehicle and Equipment Maintenance
- Concrete Curing
- Concrete Finishing
- Material and Equipment Use
- Demolition Adjacent to Water

Waste Management and Materials Pollution Control BMPs:

- Material Delivery and Storage
- Material Use
- Stockpile Management
- Spill Prevention and Control
- Solid Waste Management
- Hazardous Waste Management
- Contaminated Soil Management
- Concrete Waste Management
- Sanitary/ Septic Waste Management
- Liquid Waste Management

After implementation of the above described avoidance and minimization measures potentially significant impacts to sensitive species would be lessened to a ***less-than-significant*** level.

## 5.2 Riparian Areas or Other Sensitive Communities

*Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?*

The entirety of the Project Area is comprised of ruderal grassland, which is not a sensitive biological community.

Although the Guadalupe River is not included within the Project Area, the southwestern edge of the site potentially lies within 100 feet of the top of the river bank and could fall under the setback guidelines of the City of San José Riparian Corridor Policy (1999). Under this policy “Development adjacent to riparian habitats generally should be set back 100 feet from the...top of bank to reduce anticipated impacts to riparian biotic communities and hydrologic regimes.” The City policy states that “All buildings, other structures, impervious surfaces, outdoor activity areas (except for passive or intermittent activities) and ornamental landscaped areas should be separated a minimum of 100 feet from the...top of bank.” However, native landscaping is permitted in this setback zone. In the City’s policy, there are several exceptions to this 100-foot distance which are based on parcel size, adjacent property precedents, and/or potential natural improvements made to the adjacent riparian area that are more beneficial than would be the full setback. The proposed project does not include development within the setback zone. Implementation of avoidance and minimization measures included in section 5.1 would lessen potentially significant impacts to riparian and other sensitive communities to a **less-than-significant** level.

## 5.3 Federally Protected Wetlands

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

A focused evaluation of indicators of wetlands and waters was performed in the Study Area on January 22, 2012. The Study Area was evaluated for the presence or absence of indicators of the three wetland parameters described in the Corps Manual (Environmental Laboratory 1987) and Arid West Supplement (Corps 2008). The three parameters used to delineate wetlands are the presence of: (1) hydrophytic vegetation, (2) wetland hydrology, and (3) hydric soils. No areas within the Study Area met the Corps three parameters. Therefore, the proposed project would have **no impact** on protected wetlands.

## 5.4 Wildlife Migratory Corridors and Nursery Sites

*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?*

The location of the Project Area in the center of a highly developed commercial complex precludes its use as a wildlife migratory corridor. The Project Area provides marginal foraging habitat for several wildlife species; however, the high level of disturbance at the site makes it unsuitable as a nursery site. Although the Project Area is separated from the Guadalupe River

by a levee, best management practices should be implemented to avoid degrading this habitat and its use by federal-listed Central California Coast ESU steelhead, and SVC HCP covered Pacific lamprey and Central Valley fall-run Chinook salmon.

#### Avoidance and Minimization Measures

- Best management practices outlined in Section 5.1.2 should be followed to prevent impacts to Guadalupe River.

Implementation of avoidance and minimization measures would lessen potentially significant impacts to a ***less-than-significant*** level.

### **5.5 Local Policies and Ordinances**

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

The Envision San José General Plan 2040 outlines policies regarding development in or near sensitive biological communities including wetlands and aquatic habitats, stream and riparian habitats, native oak and conifer woodlands, native grasslands, serpentine habitats, chaparral, and scrub. The General Plan also outlines policies regarding special-status plant and wildlife species and the removal of trees.

Ruderal grassland constitutes the entirety of habitat in the Project Area and is not considered a sensitive biological community. In addition, there is little to no potential for occurrence of special-status plant species documented from the vicinity of the Project Area. However, the Project Area abuts the Guadalupe River which hosts federal-listed Central California Coast ESU steelhead, and SVC HCP covered Pacific lamprey and Central Valley fall-run Chinook salmon. In addition, this assessment determined that four special-status bird species may use the Project Area for breeding and that the Project Area has moderate potential to host western burrowing owl.

Any potential development within the Project Area should be consistent with policies outlined in the Envision San José General Plan 2040 and should use best management practices to avoid impacts to special-status species and sensitive communities within and adjacent to the Project Area. Measures included in the North San José Development Policies Update Draft EIR are encompassed by measures identified in the Envision San José General Plan 2040.

The proposed project is subject to following Envision San José General Plan 2040 policies:

- ER-2.2** Ensure that a 100-foot setback from riparian habitat is the standard to be achieved in all but a limited number of instances, only where no significant environmental impacts would occur.
- ER-2.3** Design new development to protect adjacent riparian corridors from encroachment of lighting, exotic landscaping, noise and toxic substances into the riparian zone.
- ER-4.4** Require that development projects incorporate mitigation measures to avoid and minimize impacts to individuals of special-status species.
- ER-4.5** Where implementation of the *Envision General Plan* would result in impacts to burrowing owl habitat occupied by breeding owls in 2008 or later, providing mitigation of equivalent value shall consist of securing, protecting and managing nesting and foraging habitat in perpetuity for burrowing owls within the South Bay Area such that

there is no reduction in the local burrowing owl population. Mitigation shall be required for the largest number of breeding burrowing owls that have been identified nesting or foraging on a site in burrowing owl surveys since 2008. These measures are required to be implemented by individual projects unless the City develops an independent plan or participates in a regional conservation strategy (such as the Santa Clara Valley HCP) that would maintain or increase South Bay Area burrowing owl populations.

- 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.
- ER-6.5** Prohibit use of invasive species, citywide, in required landscaping as part of the discretionary review of proposed development.
- ER-6.6** Encourage the use of native plants in the landscaping of developed areas adjacent to natural lands.

#### City of San José Municipal Code

For private property trees, administered by the Department of Planning, Building and Code Enforcement, a permit is required for trees 56" or larger in trunk circumference measured at 24" above the ground. The proposed project may require a tree removal permit. The proposed project is subject to the City of San José Tree Policy Manual & Recommended Best Practices.

#### Avoidance and Minimization Measures

- Best management practices outlined in section 5.1.2 should be followed to prevent impacts to Guadalupe River.
- Pre-construction breeding bird surveys as outlined in Section 5.1.2 should be implemented.
- Trees proposed for removal with potential to host nesting birds should be removed during the non-breeding season as outlined in Section 5.1.2.

Consistency with the General Plan and implementation of avoidance and minimization measures would ensure compliance with local policies and ordinances and impacts would be ***less than significant***.

#### **5.6 Local, Regional, and State Habitat Conservation Plans**

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

The Project Area falls within the scope of the Santa Clara Valley HCP (not adopted at this time) which outlines policies regarding development in or near sensitive biological communities including wetlands and aquatic habitats, stream and riparian habitats, native oak and conifer woodlands, native grasslands, serpentine habitats, chaparral, and scrub. The SCV HCP also outlines policies regarding special-status plant and wildlife species.



Ruderal grassland constitutes the entirety of habitat in the Project Area and is not considered a sensitive biological community. In addition, there is little to no potential for occurrence of special-status plant species documented from the vicinity of the Project Area. However, the Project Area abuts the Guadalupe River which hosts federal-listed Central California Coast ESU steelhead, and SVC HCP covered Pacific lamprey and Central Valley fall-run Chinook salmon. In addition, this assessment determined that four special-status bird species may use the Project Area for breeding and that the Project Area has moderate potential to host western burrowing owl.

#### Avoidance and Minimization Measures

- Best management practices outlined in section 5.1.2 should be followed to prevent impacts to Guadalupe River.
- Pre-construction breeding bird surveys outlined in Section 5.1.2 should be implemented.
- Trees proposed for removal with potential to host nesting birds should be removed during the non-breeding season as outlined in Section 5.1.2.

Consistency with the North San José Development Policies Update Draft EIR, the Envision San José General Plan, the Santa Clara Valley HCP, and implementation of avoidance and minimization measures provided in Sections 5.1 – 5.5 would ensure compliance with local, regional, and state habitat conservation plans and impacts would be ***less than significant***.

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APPENDIX A

LIST OF OBSERVED PLANT AND WILDLIFE SPECIES



Appendix A. Wildlife and plant species observed by WRA biologists during the January 5, 2012 site visit. Plant nomenclature follows Baldwin et al. 2012.

| SCIENTIFIC NAME                 | COMMON NAME                     |
|---------------------------------|---------------------------------|
| <b>Mammals</b>                  |                                 |
| <i>Otospermophilus beecheyi</i> | California ground squirrel      |
| <i>Lepus californicus</i>       | Black-tailed jack rabbit        |
| <i>Thomomys bottae</i>          | Botta's pocket gopher (burrows) |
| <b>Birds</b>                    |                                 |
| <i>Sturnus vulgaris</i>         | European starling               |
| <i>Buteo jamaicensis</i>        | Red-tailed hawk                 |
| <i>Turdus migratorius</i>       | American robin                  |
| <i>Carpodacus mexicanus</i>     | House finch                     |
| <i>Carpodacus purpureus</i>     | Purple finch                    |
| <i>Bombycilla cedrorum</i>      | Cedar waxwing                   |
| <i>Spinus tristis</i>           | American goldfinch              |
| <i>Sayornis nigricans</i>       | Black phoebe                    |
| <i>Cathartes aura</i>           | Turkey vulture                  |
| <i>Corvus brachyrhynchos</i>    | American crow                   |
| <i>Fulica americana</i>         | American coot                   |
| <i>Ardea herodias</i>           | Great blue heron                |
| <b>Plants</b>                   |                                 |
| <i>Agrostis avenacea</i>        | Pacific bent-grass              |
| <i>Allium cepa</i>              | Garden onion                    |
| <i>Avena fatua</i>              | Wild oat                        |
| <i>Baccharis pilularis</i>      | Coyote brush                    |
| <i>Beta vulgaris</i>            | Swiss chard                     |
| <i>Brassica rapa</i>            | Rape mustard                    |
| <i>Bromus diandrus</i>          | Ripgut brome                    |
| <i>Carduus pycnocephalus</i>    | Italian thistle                 |
| <i>Cercidiphyllum</i> sp.       | Katsura tree                    |
| <i>Chenopodium</i> sp.          | Goosefoot                       |
| <i>Cirsium vulgare</i>          | Bull thistle                    |
| <i>Conium maculatum</i>         | Poison hemlock                  |
| <i>Crataegus</i> sp.            | Hawthorn                        |
| <i>Datura stramonium</i>        | Jimson-weed                     |
| <i>Erodium cicutarium</i>       | Red-stemmed filaree             |
| <i>Fumaria officinalis</i>      | Fumitory                        |
| <i>Geranium molle</i>           | Dovefoot geranium               |
| <i>Helminthotheca echioides</i> | Bristly ox-tongue               |
| <i>Hordeum murinum</i>          | Mouse barley                    |
| <i>Kickxia elatine</i>          | Fluellin                        |

| <b>SCIENTIFIC NAME</b>           | <b>COMMON NAME</b>   |
|----------------------------------|----------------------|
| <i>Lactuca serriola</i>          | Prickly lettuce      |
| <i>Lepidium latifolium</i>       | Perennial pepperweed |
| <i>Malva neglecta</i>            | Common mallow        |
| <i>Platanus hybrida</i>          | London planetree     |
| <i>Pyrus communis</i>            | Pear                 |
| <i>Raphanus sativus</i>          | Wild radish          |
| <i>Rubus armeniacus</i>          | Himalayan blackberry |
| <i>Rumex crispus</i>             | Curly dock           |
| <i>Salix laevigata</i>           | Red willow           |
| <i>Salsola tragus</i>            | Russian thistle      |
| <i>Sonchus oleraceus</i>         | Sow-thistle          |
| <i>Symphotrichum subspicatum</i> | Douglas' aster       |
| <i>Ulmus</i> sp.                 | Elm                  |
| <i>Vinca major</i>               | Greater periwinkle   |
| <i>Washingtonia</i> sp.          | Fan palm             |
| <i>Xanthium spinosum</i>         | Spiny cocklebur      |



APPENDIX B

POTENTIAL FOR SPECIAL-STATUS SPECIES  
TO OCCUR IN THE PROJECT AREA



**Appendix B.** Potential for special-status plant and wildlife species to occur in the Project Area. List compiled from the U.S. Fish and Wildlife Service (USFWS) Species Lists for Santa Clara County, a search of the California Department of Fish and Game (CDFG) Natural Diversity Database (December 2011) and the California Native Plant Society (CNPS) Inventory of Rare and Endangered Plants for the Milpitas, San Jose West, Mountain View, Cupertino, Calaveras Reservoir, San Jose East, Newark, Niles, and La Costa Valley USGS 7.5' quadrangles, and a review of other CDFG lists and publications (Jennings and Hayes 1994, Zeiner et al. 1990). Except where noted, plant nomenclature follows Baldwin et al. 2012.

| SPECIES                                                       | STATUS*       | HABITAT                                                                                                                                                                                                                                                        | POTENTIAL FOR OCCURRENCE                                                                                                                                         | RECOMMENDATIONS |
|---------------------------------------------------------------|---------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|
| <b>Mammals</b>                                                |               |                                                                                                                                                                                                                                                                |                                                                                                                                                                  |                 |
| Salt-marsh wandering shrew<br><i>Sorex vagrans halicoetes</i> | SSC, GP       | Found in salt marshes of the south arm of San Francisco Bay. Prefer medium to high marsh 6-8ft above sea level where abundant driftwood is scattered among <i>Salicornia</i> .                                                                                 | <b>No Potential.</b> No suitable habitat within the Study Area.                                                                                                  | None.           |
| Pallid bat<br><i>Antrozous pallidus</i>                       | SSC, WBWG, GP | Occupies a variety of habitats at low elevation including grasslands, shrublands, woodlands, and forests. Most common in open, dry habitats with rocky areas for roosting.                                                                                     | <b>Unlikely.</b> Few roosting areas within Project Area and trees within Study Area mostly near high levels of disturbance with highway traffic and parking lot. | None.           |
| Townsend's big-eared bat<br><i>Corynorhinus townsendii</i>    | SSC, WBWG     | Primarily found in rural settings in a wide variety of habitats including oak woodlands and mixed coniferous-deciduous forest. Day roosts highly associated with caves and mines. Building roost sites must be cave like. Very sensitive to human disturbance. | <b>No Potential.</b> No suitable habitat within the Study Area.                                                                                                  | None.           |

| SPECIES                                                                 | STATUS*         | HABITAT                                                                                                                                                                                                                     | POTENTIAL FOR OCCURRENCE                                                                                                                                         | RECOMMENDATIONS |
|-------------------------------------------------------------------------|-----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|
| Western red bat<br><i>Lasiurus blossevillii</i>                         | SSC, GP         | This species is typically solitary, roosting primarily in the foliage of trees or shrubs. Day roosts are commonly in edge habitats adjacent to streams or open fields, in orchards, and sometimes in urban areas.           | <b>Unlikely.</b> Does not breed in the area. May roost in trees within the city limits, occasional migrant and winter resident.                                  | None.           |
| Hoary bat<br><i>Lasiurus cinereus</i>                                   | SSC             | Prefers open habitats or habitat mosaics, with access to trees for cover and open areas or habitat edges for feeding. Roosts in dense foliage of medium to large trees. Feeds primarily on moths. Requires water.           | <b>Unlikely.</b> Few roosting areas within Project Area and trees within Study Area mostly near high levels of disturbance with highway traffic and parking lot. | None.           |
| San Francisco dusky-footed woodrat<br><i>Neotoma fuscipes annectens</i> | SSC, GP         | Forest habitats of moderate canopy and moderate to dense understory. Also in chaparral habitats. Constructs nests of shredded grass, leaves, and other material. May be limited by availability of nest-building materials. | <b>No Potential.</b> No suitable habitat and isolated from other populations.                                                                                    | None.           |
| Salt marsh harvest mouse<br><i>Reithrodontomys raviventris</i>          | FE, SE, CFP, GP | Occurs in pickleweed habitats in tidal, muted-tidal, and diked areas.                                                                                                                                                       | <b>No Potential.</b> No suitable habitat within the Study Area.                                                                                                  | None.           |
| San Joaquin kit fox<br><i>Vulpes macrotis mutica</i>                    | FE, ST          | Annual grasslands or grassy open stages with scattered shrubby vegetation. Need loose-textured sandy soils for burrowing, and suitable prey base.                                                                           | <b>No Potential.</b> At edge of known range, and Project Area is isolated from known occurrences because of surrounding development.                             | None.           |

| SPECIES                                                             | STATUS*              | HABITAT                                                                                                                                                                                                                              | POTENTIAL FOR OCCURRENCE                                                                                                               | RECOMMENDATIONS                                         |
|---------------------------------------------------------------------|----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------|
| <b>Birds</b>                                                        |                      |                                                                                                                                                                                                                                      |                                                                                                                                        |                                                         |
| Golden eagle<br><i>Aquila chrysaetos</i>                            | CFP, BCC,<br>HCP, GP | Found in rolling foothills with open grasslands, scattered trees, and cliff-walled canyons.                                                                                                                                          | <b>Unlikely.</b> Minimal foraging habitat and no nesting habitat within Study Area.                                                    | None.                                                   |
| Northern harrier<br><i>Circus cyaneus</i>                           | SSC, GP              | Coastal salt & freshwater marsh. Nest & forage in grasslands, from saltgrass in desert sinks to mountain cienagas. Nests on ground in shrubby vegetation, usually at marsh edge; nest built of a large mound of sticks in wet areas. | <b>Unlikely.</b> No marsh habitat and marginal foraging habitat within Study Area.                                                     | None.                                                   |
| White-tailed kite<br><i>Elanus leucurus</i>                         | CFP, GP              | Year-long resident of coastal and valley lowlands; rarely found away from agricultural areas. Preys on small diurnal mammals and occasional birds, insects, reptiles, and amphibians.                                                | <b>Moderate Potential.</b> Suitable foraging habitat within the Project Area, but only marginal nesting habitat within the Study Area. | Work windows or pre-construction breeding bird surveys. |
| Prairie falcon<br><i>Falco mexicanus</i>                            | BCC                  | Inhabits dry, open terrain, either level or hilly. Breeding sites located on cliffs. Forages far afield, even to marshlands and ocean shores.                                                                                        | <b>Unlikely.</b> No suitable nesting habitat, but marginal foraging habitat.                                                           | None.                                                   |
| American peregrine falcon<br><i>Falco peregrinus anatum</i>         | FD, BCC,<br>CFP, GP  | Near wetlands, lakes, rivers, or other water; on cliffs, banks, dunes, mounds; also, man-made structures. Nest consists of a scrape on a depression or ledge in an open site.                                                        | <b>Moderate Potential.</b> Suitable foraging habitat within the Project Area, but typical nesting habitat is not present.              | None                                                    |
| California black rail<br><i>Laterallus jamaicensis coturniculus</i> | ST, CFP,<br>BCC      | Occurs in tidal salt marsh with dense stands of pickleweed as well as freshwater to brackish marshes.                                                                                                                                | <b>No Potential.</b> No salt marsh habitat is within the Study Area.                                                                   | None.                                                   |

| SPECIES                                                         | STATUS*                    | HABITAT                                                                                                                                                                                                        | POTENTIAL FOR OCCURRENCE                                                            | RECOMMENDATIONS |
|-----------------------------------------------------------------|----------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|-----------------|
| California clapper rail<br><i>Rallus longirostris obsoletus</i> | FE, SE,<br>CFP, GP         | Associated with tidal salt marsh and brackish marshes supporting emergent vegetation, upland refugia, and incised tidal channels.                                                                              | <b>No Potential.</b> No salt marsh habitat is within the Study Area.                | None.           |
| Western snowy plover<br><i>Charadrius alexandrinus nivosus</i>  | FT, SSC,<br>BCC, RP,<br>GP | Federal listing applies only to the Pacific coastal population. Found on sandy beaches, salt pond levees and shores of large alkali lakes. Requires sandy, gravelly or friable soils for nesting.              | <b>No Potential.</b> No suitable habitat within the Study Area.                     | None.           |
| Long-billed curlew<br><i>Numenius americanus</i>                | BCC                        | Breeds in upland shortgrass prairies and wet meadows in northeastern California. Gravelly soils and gently rolling terrain are favored over other habitat types.                                               | <b>No Potential.</b> No suitable habitat within the Study Area.                     | None.           |
| California least tern<br><i>Sterna antillarum browni</i>        | FE, SE,<br>CFP, GP         | Nests along the coast from San Francisco bay south to northern Baja California. Colonial breeder on bare or sparsely vegetated, flat substrates: sand beaches, alkali flats, landfills, or paved areas.        | <b>No Potential.</b> No suitable habitat within the Study Area.                     | None.           |
| Short-eared owl<br><i>Asio flammeus</i>                         | SSC                        | Found in swamp lands, both fresh and salt; lowland meadows; irrigated alfalfa fields. Tule patches/tall grass needed for nesting/daytime seclusion. Nests on dry ground in depression concealed in vegetation. | <b>No Potential.</b> No suitable habitat within the Study Area. The field is mowed. | None.           |

| SPECIES                                                            | STATUS*              | HABITAT                                                                                                                                                                                                                                   | POTENTIAL FOR OCCURRENCE                                                                                                                                                 | RECOMMENDATIONS                                         |
|--------------------------------------------------------------------|----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------|
| Western burrowing owl<br><i>Athene cunicularia hypugaea</i>        | SSC, BCC,<br>HCP, GP | Open, dry annual or perennial grasslands, deserts & scrub lands characterized by low-growing vegetation. Subterranean nester, dependent upon burrowing mammals, most notably the California ground squirrel.                              | <b>Moderate Potential.</b> Many ground squirrel and gopher burrows within Project Area and suitable foraging habitat.                                                    | Work windows or pre-construction breeding bird surveys. |
| Loggerhead shrike<br><i>Lanius ludovicianus</i>                    | BCC, SSC,<br>GP      | Found in broken woodlands, savannah, pinyon-juniper, Joshua tree and riparian woodlands, and desert oases, scrub, and washes. Prefers open country for hunting, with perches for scanning, and fairly dense shrubs and brush for nesting. | <b>Moderate Potential.</b> Suitable foraging habitat but no nesting habitat exists within the Study Area.                                                                | Work windows or pre-construction breeding bird surveys. |
| Bank swallow<br><i>Riparia riparia</i>                             | ST                   | Migrant in riparian and other lowland habitats in western California. Nests in riparian areas with vertical cliffs and banks with fine-textured or sandy soils in which to nest.                                                          | <b>Unlikely.</b> Rare migrant to area and no recent breeding records within Santa Clara County.                                                                          | None.                                                   |
| Yellow warbler<br><i>Setophaga petechia brewsteri</i>              | SSC, BCC,<br>GP      | Frequents riparian plant associations. Prefers willows, cottonwoods, aspens, sycamores and alders for nesting and foraging. Also nests in montane shrubbery in open conifer forests.                                                      | <b>Moderate Potential.</b> The Guadalupe River, in northern portion of the Study Area, provides suitable habitat, but there is marginal habitat within the Project Area. | Work windows or pre-construction breeding bird surveys. |
| Saltmarsh common yellowthroat<br><i>Geothlypis trichas sinuosa</i> | SSC, BCC,<br>GP      | Resident of the San Francisco Bay region's fresh and saltwater marshes. Requires thick, continuous cover down to water surface for foraging, and tall grasses, tule patches, willows for nesting.                                         | <b>No potential.</b> No marsh habitat is within the Study Area.                                                                                                          | None.                                                   |

| SPECIES                                                       | STATUS*             | HABITAT                                                                                                                                                                                                     | POTENTIAL FOR OCCURRENCE                                                                                                                                                                     | RECOMMENDATIONS |
|---------------------------------------------------------------|---------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|
| Alameda song sparrow<br><i>Melospiza melodia pusillula</i>    | BCC, SSC,<br>GP     | Resident of salt marshes bordering south arm of San Francisco Bay. Inhabits <i>Salicornia</i> marshes; nests low in <i>Grindelia</i> bushes (high enough to escape high tides) and in <i>Salicornia</i> .   | <b>No Potential.</b> No salt marsh habitat is within the Study Area.                                                                                                                         | None.           |
| Tricolored blackbird<br><i>Agelaius tricolor</i>              | SSC, BCC,<br>RP, GP | Usually nests over or near freshwater in dense cattails, tules, or thickets of willow, blackberry, wild rose or other tall herbs. Nesting area must be large enough to support about 50 pairs.              | <b>Unlikely.</b> The Guadalupe River, in northern portion of the Study Area, provides minimal habitat, but there is no suitable habitat within the Project Area.                             | None.           |
| <b>Reptiles and Amphibians</b>                                |                     |                                                                                                                                                                                                             |                                                                                                                                                                                              |                 |
| Pacific pond turtle<br><i>Actinemys marmorata</i>             | SSC, HCP,<br>GP     | Occurs in perennial ponds, lakes, rivers and streams with suitable basking habitat (mud banks, mats of floating vegetation, partially submerged logs) and submerged shelter.                                | <b>Unlikely.</b> There is potential for the species to occur in the Guadalupe River in the northern section of the Study Area, but the rock levee precludes dispersal into the Project Area. | None.           |
| Alameda whipsnake<br><i>Masticophis lateralis euryxanthus</i> | FT, ST              | Inhabits chaparral and foothill-hardwood habitats in the eastern Bay Area. Prefers south-facing slopes and ravines with rock outcroppings where shrubs form a vegetative mosaic with oak trees and grasses. | <b>No Potential.</b> Study Area is out of the known range.                                                                                                                                   | None.           |



| SPECIES                                                       | STATUS*                       | HABITAT                                                                                                                                                                                               | POTENTIAL FOR OCCURRENCE                                                                                         | RECOMMENDATIONS                                                                                                                                                                          |
|---------------------------------------------------------------|-------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| California tiger salamander<br><i>Ambystoma californiense</i> | FE/FT,<br>SSC, RP,<br>HCP, GP | Populations in Santa Barbara and Sonoma counties currently listed as endangered. Inhabits annual grass habitat and mammal burrows. Seasonal ponds and vernal pools crucial to breeding.               | <b>No Potential.</b> Isolated from known occurrences and presumed extinct within San Jose city limits.           | None.                                                                                                                                                                                    |
| California red-legged frog<br><i>Rana draytonii</i>           | FT, SSC,<br>RP, HCP,<br>GP    | Associated with quiet perennial to intermittent ponds, stream pools and wetlands. Prefers shorelines with extensive vegetation. Documented to disperse through upland habitats after rains.           | <b>Unlikely.</b> No occurrences within 7 miles, and habitat does not exist in the Project Area.                  | None.                                                                                                                                                                                    |
| Foothill yellow-legged frog<br><i>Rana boylei</i>             | SSC, HCP                      | Found in or near rocky streams in a variety of habitats. Feed on both aquatic and terrestrial invertebrates.                                                                                          | <b>No Potential.</b> No suitable habitat within the Study Area.                                                  | None.                                                                                                                                                                                    |
| <b>Fishes</b>                                                 |                               |                                                                                                                                                                                                       |                                                                                                                  |                                                                                                                                                                                          |
| Pacific lamprey<br><i>Entosphenus tridentatus</i>             | HCP, GP                       | Spawn between March and July in gravel bottomed streams in riffle habitat. Larvae drift downstream to areas of low velocity and fine substrates and are relatively immobile in the stream substrates. | <b>Unlikely.</b> Species is known within the Guadalupe River, but the Project Area does not encompass the river. | Implement BMPs that will prevent sediment from entering the Guadalupe River due to construction related activities. Maintain a county and city approved buffer from the Guadalupe River. |

| SPECIES                                                                    | STATUS*      | HABITAT                                                                                                                                                                                                                                                                                         | POTENTIAL FOR OCCURRENCE                                                                                              | RECOMMENDATIONS                                                                                                                                                                          |
|----------------------------------------------------------------------------|--------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Steelhead, Central California Coast ESU<br><i>Oncorhynchus mykiss</i>      | FT, NMFS, GP | Occurs from the Russian River south to Soquel Creek and Pajaro River. Also in San Francisco and San Pablo Bay Basins. Adults migrate upstream to spawn in cool, clear, well-oxygenated streams. Juveniles remain in fresh water for one or more years before migrating downstream to the ocean. | <b>Unlikely.</b> Guadalupe River is critical habitat for this ESU, but the Project Area does not encompass the river. | Implement BMPs that will prevent sediment from entering the Guadalupe River due to construction related activities. Maintain a county and city approved buffer from the Guadalupe River. |
| Chinook salmon, Central Valley fall-run<br><i>Oncorhynchus tshawytscha</i> | SSC, HCP, GP | ESU includes populations spawning in the Sacramento and San Joaquin Rivers and their tributaries. Adults migrate upstream to spawn in cool, clear, well-oxygenated streams. Juveniles remain in fresh water for 1 or more years before migrating downstream to the ocean.                       | <b>Unlikely.</b> Species is known within the Guadalupe River, but the Project Area does not encompass the river.      | Implement BMPs that will prevent sediment from entering the Guadalupe River due to construction related activities. Maintain a county and city approved buffer from the Guadalupe River. |
| <b>Invertebrates</b>                                                       |              |                                                                                                                                                                                                                                                                                                 |                                                                                                                       |                                                                                                                                                                                          |
| Vernal pool tadpole shrimp<br><i>Lepidurus packardii</i>                   | FE, RP       | Pools commonly found in grass bottomed swales of unplowed grasslands. Some pools are mud-bottomed & highly turbid.                                                                                                                                                                              | <b>No Potential.</b> Vernal pool habitat is not present within the Project Area.                                      | None.                                                                                                                                                                                    |
| California linderiella<br><i>Linderiella occidentalis</i>                  | SSI          | Seasonal pools in unplowed grasslands with alluvial soils underlain by hardpan or in sandstone depressions. Water in the pools has very low alkalinity, conductivity, and TDS.                                                                                                                  | <b>No Potential.</b> Habitat is not present within the Project Area. Field is mowed and has been disced.              | None.                                                                                                                                                                                    |

| SPECIES                                                                | STATUS*                         | HABITAT                                                                                                                                                                                                                                     | POTENTIAL FOR OCCURRENCE                                                                                                                                              | RECOMMENDATIONS |
|------------------------------------------------------------------------|---------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|
| Monarch butterfly<br><i>Danaus plexippus</i>                           | winter roosts monitored by CDFG | Winter roost sites located in wind-protected tree groves (Eucalyptus, Monterey pine, cypress), with nectar and water sources nearby.                                                                                                        | <b>No Potential.</b> No suitable roost sites within the Study Area.                                                                                                   | None.           |
| Bay checkerspot butterfly<br><i>Euphydryas editha bayensis</i>         | FT, RP, HCP, GP                 | Restricted to native grasslands on outcrops of serpentine soil in the vicinity of San Francisco Bay. <i>Plantago erecta</i> is the primary host plant; <i>Orthocarpus densiflorus</i> and <i>O. purpurascens</i> are secondary host plants. | <b>No Potential.</b> Host plant not observed during the site visit, and serpentine soils are absent. Project Area is isolated from known populations of this species. | None.           |
| <b>Plants</b>                                                          |                                 |                                                                                                                                                                                                                                             |                                                                                                                                                                       |                 |
| Franciscan onion<br><i>Allium peninsulare</i> var. <i>franciscanum</i> | List 1B, GP                     | On clay or volcanic soils, also often on serpentine soils, in cismontane woodland and valley and foothill grassland. 52-300m. Blooms May-June.                                                                                              | <b>Unlikely.</b> The Project Area may contain marginally suitable grassland habitat for this species, but past disturbance limits potential of occurrence.            | None.           |
| Bent-flowered fiddleneck<br><i>Amsinckia lunaris</i>                   | List 1B, GP                     | Coastal bluff scrub, cismontane woodland, and valley and foothill grassland. 3-500m. Blooms March-June.                                                                                                                                     | <b>Unlikely.</b> The Project Area may contain marginally suitable grassland habitat for this species, but past disturbance limits potential of occurrence.            | None.           |
| Anderson's manzanita<br><i>Arctostaphylos andersonii</i>               | List 1B                         | Broadleaf upland forest, chaparral, openings and edges in North Coast coniferous forests. 60- 730 m. Blooms November-April.                                                                                                                 | <b>No Potential.</b> The Project Area does not contain forest or chaparral habitat.                                                                                   | None.           |

| SPECIES                                                                          | STATUS*     | HABITAT                                                                                                                                                        | POTENTIAL FOR OCCURRENCE                                                                                                                                   | RECOMMENDATIONS |
|----------------------------------------------------------------------------------|-------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|
| Alkali milk-vetch<br><i>Astragalus tener</i> var. <i>tener</i>                   | List 1B, GP | Alkali playa, valley and foothill grassland, vernal pools. Low ground, alkali flats, and flooded lands. 1-170m. Blooms March-June.                             | <b>Unlikely.</b> The Project Area may contain marginally suitable habitat for this species, but past disturbance limits potential of occurrence.           | None.           |
| Brittlescale<br><i>Atriplex depressa</i>                                         | List 1B, GP | Usually in alkali scalds or alkali clay in meadows or annual grassland; rarely associated with riparian, marshes, or vernal pools. 1-320m. Blooms May-October. | <b>Unlikely.</b> The Project Area may contain marginally suitable habitat for this species, but past disturbance limits potential of occurrence.           | None.           |
| San Joaquin spearscale<br><i>Atriplex joaquiniana</i>                            | List 1B, GP | Chenopod scrub, alkali meadow, valley and foothill grassland. In seasonal alkali wetlands or alkali sink scrub. 1-250m. Blooms April-October.                  | <b>No Potential.</b> The Project Area does not contain suitable habitat for this species.                                                                  | None.           |
| Lesser saltscale<br><i>Atriplex minuscula</i>                                    | List 1B     | Alkaline, sandy soils in chenopod scrub, playas, and valley and foothill grassland. 15-200m. Blooms May-October.                                               | <b>No Potential.</b> The Project Area does not contain suitable habitat for this species.                                                                  | None.           |
| Big-scale balsamroot<br><i>Balsamorhiza macrolepis</i> var. <i>macrolepis</i> ** | List 1B, GP | Valley and foothill grassland, cismontane woodland. Sometimes on serpentine. 35-1000m. Blooms March-June.                                                      | <b>Unlikely.</b> The Project Area may contain marginally suitable grassland habitat for this species, but past disturbance limits potential of occurrence. | None.           |

| SPECIES                                                                 | STATUS*              | HABITAT                                                                                                                                             | POTENTIAL FOR OCCURRENCE                                                                                                                                   | RECOMMENDATIONS |
|-------------------------------------------------------------------------|----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|
| Round-leaved filaree<br><i>California macrophylla</i>                   | List 1B              | Valley and foothill grassland, cismontane woodland. Clay soils. 15-1200m. Blooms March-May.                                                         | <b>Unlikely.</b> The Project Area may contain marginally suitable grassland habitat for this species, but past disturbance limits potential of occurrence. | None.           |
| Tiburon paintbrush<br><i>Castilleja affinis</i> ssp. <i>neglecta</i>    | FE, List 1B, HCP, GP | On serpentine soils in valley and foothill grassland. 60-400m. Blooms April-June.                                                                   | <b>No Potential.</b> The Project Area does not contain suitable serpentine habitat and is not in the elevation range for this species.                     | None.           |
| Pink creamsacs<br><i>Castilleja rubicundula</i> ssp. <i>rubicundula</i> | List 1B, GP          | On serpentine soils in chaparral (openings), cismontane woodland, meadows and seeps, and valley and foothill grassland. 20-910m. Blooms April-June. | <b>No Potential.</b> The Project Area does not contain suitable serpentine habitat for this species.                                                       | None.           |
| Chaparral harebell<br><i>Campanula exigua</i>                           | List 1B              | Rocky sites, usually on serpentine in chaparral. 300-1250m. Blooms May-June.                                                                        | <b>No Potential.</b> The Project Area does not contain chaparral habitat and is not in the elevation range for this species.                               | None.           |
| Coyote ceanothus<br><i>Ceanothus ferrisiae</i>                          | FE, List 1B, HCP, GP | Serpentine soils in chaparral, coastal scrub, and valley and foothill grassland. 12-460m. Blooms January-May.                                       | <b>No Potential.</b> The Project Area does not contain suitable serpentine habitat for this species.                                                       | None.           |
| Congdon's tarplant<br><i>Centromadia parryi</i> ssp. <i>congdonii</i>   | List 1B, GP          | Valley and foothill grassland (alkaline). 1-230m. Blooms June-November.                                                                             | <b>No Potential.</b> The Project Area does not contain suitable alkaline grassland habitat for this species.                                               | None.           |

| SPECIES                                                                                                                                               | STATUS*                 | HABITAT                                                                                                                                                                                           | POTENTIAL FOR OCCURRENCE                                                                                                                   | RECOMMENDATIONS |
|-------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|-----------------|
| Point Reyes bird's-beak<br><i>Chloropyron maritimum</i> ssp.<br><i>palustre</i> (syn. <i>Cordylanthus</i><br><i>maritimus</i> ssp. <i>palustris</i> ) | List 1B                 | Coastal salt marshes and swamps.<br>1- 10m. Blooms June- October.                                                                                                                                 | <b>No Potential.</b> The Project Area does not contain suitable marsh or swamp habitat and is not in the elevation range for this species. | None.           |
| Robust spineflower<br><i>Chorizanthe robusta</i> var.<br><i>robusta</i>                                                                               | FE, List 1B             | Maritime chaparral, coastal dunes, coastal scrub, openings in cismontane woodland; sandy or gravelly soils. 3- 300m. Blooms April- September.                                                     | <b>No Potential.</b> The Project Area does not contain chaparral, coastal dune, coastal scrub, or woodland habitat.                        | None.           |
| Mt. Hamilton fountain thistle<br><i>Cirsium fontinale</i> var. <i>campylon</i>                                                                        | List 1B,<br>HCP, GP     | Chaparral, cismontane woodland, valley and foothill grassland; serpentine seeps. 100- 890 m. Blooms April- October; uncommonly in February.                                                       | <b>No Potential.</b> The Project Area does not contain serpentine seeps.                                                                   | None.           |
| San Francisco collinsia<br><i>Collinsia multicolor</i>                                                                                                | List 1B,<br>HCP         | Closed-cone coniferous forest, coastal scrub; sometimes serpentine soils. 30- 250m. Blooms March- May.                                                                                            | <b>No Potential.</b> The Project Area does not contain forest or coastal scrub habitat.                                                    | None.           |
| Western leatherwood<br><i>Dirca occidentalis</i>                                                                                                      | List 1B                 | Broadleaf upland forest, closed-cone coniferous forest, chaparral, cismontane woodland, North Coast coniferous forest, riparian forest, riparian woodland/mesic. 50-395m. Blooms January - April. | <b>No Potential.</b> The Project Area does not contain forest, chaparral, or woodland habitat.                                             | None.           |
| Santa Clara Valley dudleya<br><i>Dudleya abramsii</i> ssp. <i>setchellii</i><br>(syn. <i>Dudleya setchellii</i> )                                     | FE, List 1B,<br>HCP, GP | Cismontane woodland, valley and foothill grassland; serpentine and rocky soils. 60- 455 m. Blooms April- October.                                                                                 | <b>No Potential.</b> The Project Area does not contain serpentine soils.                                                                   | None.           |

| SPECIES                                                                      | STATUS*         | HABITAT                                                                                                                                                                       | POTENTIAL FOR OCCURRENCE                                                                                                                                    | RECOMMENDATIONS |
|------------------------------------------------------------------------------|-----------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|
| Ben Lomond buckwheat<br><i>Eriogonum nudum</i> var.<br><i>decurrens</i>      | List 1B         | Occurs on sandy soils in chaparral and cismontane woodland, and in maritime ponderosa pine sandhills soils in lower montane coniferous forest. 50- 800m. Blooms June-October. | <b>No Potential.</b> The Project Area does not contain chaparral, woodland, or forest habitat.                                                              | None.           |
| San Mateo woolly sunflower<br><i>Eriophyllum latilobum</i>                   | FE, List 1B     | Cismontane woodland; often on serpentine and roadcuts. 45-150m. Blooms May-June.                                                                                              | <b>No Potential.</b> The Project Area does not contain cismontane woodland.                                                                                 | None.           |
| Hoover's button-celery<br><i>Eryngium aristulatum</i> var.<br><i>hooveri</i> | List 1B         | Vernal pools. 3- 45m. Blooms in July.                                                                                                                                         | <b>No Potential.</b> There is no vernal pool habitat in the Project Area.                                                                                   | None.           |
| Fragrant fritillary<br><i>Fritillaria liliacea</i>                           | List 1B,<br>HCP | Coastal scrub, valley and foothill grassland, coastal prairie. Often on serpentine; various soils reported though usually clay, in grassland. 3-410m. Blooms February-April.  | <b>Unlikely.</b> The Project Area may contain marginally suitable grassland habitat for this species, but past disturbance limits potential for occurrence. | None.           |
| Diablo helianthella<br><i>Helianthella castanea</i>                          | List 1B         | Broadleaf upland forest, chaparral, cismontane woodland, coastal scrub, riparian woodland, valley and foothill grassland. 60-1300m. Blooms March-June.                        | <b>Unlikely.</b> The Project Area may contain marginally suitable grassland habitat for this species, but past disturbance limits potential for occurrence. | None.           |
| Loma Prieta hoita<br><i>Hoita strobilina</i>                                 | List 1B,<br>HCP | Chaparral, cismontane woodland, riparian woodland; usually serpentine, mesic soils. 30- 860 m. Blooms May- July; uncommonly August- October.                                  | <b>No Potential.</b> The Project Area does not contain chaparral or woodland habitat.                                                                       | None.           |

| SPECIES                                                                 | STATUS*             | HABITAT                                                                                                                                                           | POTENTIAL FOR OCCURRENCE                                                                                                                                    | RECOMMENDATIONS |
|-------------------------------------------------------------------------|---------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|
| Contra Costa goldfields<br><i>Lasthenia conjugens</i>                   | FE, List 1B,<br>GP  | Cismontane woodland, alkaline playas, valley and foothill grassland, and vernal pools; often on mesic soils. 0-470m. Blooms March-June.                           | <b>Unlikely.</b> The Project Area may contain marginally suitable grassland habitat for this species, but past disturbance limits potential for occurrence. | None.           |
| Woolly-headed lessingia<br><i>Lessingia hololeuca</i>                   | List 3              | Broadleaf upland forest, coastal scrub, lower montane coniferous forest, valley and foothill grassland; clay and serpentine soils. 15- 305m. Blooms June-October. | <b>Unlikely.</b> The Project Area may contain marginally suitable grassland habitat for this species, but past disturbance limits potential for occurrence. | None.           |
| Smooth lessingia<br><i>Lessingia micradenia</i> var.<br><i>glabrata</i> | List 1B,<br>HCP, GP | On serpentine soils in chaparral and cismontane woodland; often along roadsides. 120-420m. Blooms July-November.                                                  | <b>No Potential.</b> The Project Area does not contain serpentine soils.                                                                                    | None.           |
| Indian Valley bush-mallow<br><i>Malacothamnus aboriginum</i>            | List 1B             | Rocky, granitic, soils in chaparral and cismontane woodland; often in recently burned areas. 150-1700m. Blooms April-October                                      | <b>No Potential.</b> The Project Area does not contain chaparral or cismontane woodland.                                                                    | None.           |
| Arcuate bush-mallow<br><i>Malacothamnus arcuatus</i> **                 | List 1B, GP         | Chaparral and cismontane woodland. 15- 355m. Blooms April-September.                                                                                              | <b>No Potential.</b> The Project Area does not contain chaparral or woodland habitat.                                                                       | None.           |
| Davidson's bush-mallow<br><i>Malacothamnus davidsonii</i>               | List 1B, GP         | Chaparral, cismontane woodland, coastal scrub, and riparian woodland. 85-855m. Blooms June-January.                                                               | <b>No Potential.</b> The Project Area does not contain chaparral, woodland, or coastal scrub habitat.                                                       | None.           |



| SPECIES                                                                            | STATUS*     | HABITAT                                                                                                                                                                                        | POTENTIAL FOR OCCURRENCE                                                                                                                                    | RECOMMENDATIONS |
|------------------------------------------------------------------------------------|-------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|
| Hall's bush-mallow<br><i>Malacothamnus hallii</i>                                  | List 1B, GP | Chaparral and coastal scrub. 10-760 m. Blooms May-September; uncommonly in October.                                                                                                            | <b>No Potential.</b> The Project Area does not contain chaparral or coastal scrub habitat.                                                                  | None.           |
| Mt. Diablo cottonweed<br><i>Micropus amphibolus</i>                                | List 3, GP  | Broadleaf upland forest, chaparral, cismontane woodland, valley and foothill grassland; rocky soils. 45-825 m. Blooms March-May.                                                               | <b>Unlikely.</b> The Project Area may contain marginally suitable grassland habitat for this species, but past disturbance limits potential for occurrence. | None.           |
| San Antonio Hills monardella<br><i>Monardella antonina</i> ssp. <i>antonina</i> ** | List 3      | Chaparral, cismontane woodland. 500-1000m. Blooms June-August.                                                                                                                                 | <b>No Potential.</b> The Project Area does not contain chaparral or woodland habitat, and is not in the species' elevation range.                           | None.           |
| Robust monardella<br><i>Monardella villosa</i> ssp. <i>globosa</i> **              | List 1B, GP | Openings in broadleaf upland forest and chaparral. Also in cismontane woodland, coastal scrub, and valley and foothill grassland. 100- 915m. Blooms June-July; uncommonly in August.           | <b>No Potential.</b> The Project Area does not contain suitable habitat for this species, and is not in the species' elevation range.                       | None.           |
| Woodland woollythreads<br><i>Monolopia gracilens</i>                               | List 1B     | On serpentine soils in openings in broadleaf upland forest, chaparral, cismontane woodland, North Coast coniferous forest, and valley and foothill grassland. 100-1200m. Blooms February-July. | <b>No Potential.</b> No serpentine soils occur in the Project Area.                                                                                         | None.           |

| SPECIES                                                                              | STATUS*              | HABITAT                                                                                                                                               | POTENTIAL FOR OCCURRENCE                                                                                                                                    | RECOMMENDATIONS |
|--------------------------------------------------------------------------------------|----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|
| Prostrate navarretia<br><i>Navarretia prostrata</i>                                  | List 1B              | Coastal scrub, meadows and seeps, alkaline valley and foothill grassland, vernal pools; mesic soils. 15- 700 m. Blooms April- July.                   | <b>Unlikely.</b> The Project Area may contain marginally suitable grassland habitat for this species, but past disturbance limits potential for occurrence. | None.           |
| Hairless popcorn-flower<br><i>Plagiobothrys glaber</i>                               | List 1A              | Alkaline meadows and seeps and coastal salt marshes and swamps. 15- 180m. Blooms March- May.                                                          | <b>No Potential.</b> The Project Area does not contain suitable habitat for this species, and this species is presumed extinct.                             | None.           |
| Calistoga popcorn flower<br><i>Plagiobothrys strictus</i>                            | FE, List 1B          | Alkaline areas near thermal springs in meadows and seeps, valley and foothill grassland, and vernal pools. 90-160m. Blooms March-June.                | <b>No Potential.</b> The Project Area does not contain suitable habitat for this species.                                                                   | None.           |
| Rayless ragwort<br><i>Senecio aphanactis</i>                                         | List 2               | Chaparral, cismontane woodland, coastal scrub. Drying alkaline flats. 15- 800m. Blooms January-April.                                                 | <b>No Potential.</b> The Project Area does not contain chaparral, woodland, or coastal scrub habitat.                                                       | None.           |
| Metcalf Canyon jewel-flower<br><i>Streptanthus albidus</i> ssp. <i>albidus</i> **    | FE, List 1B, HCP, GP | Valley and foothill grassland; serpentine soils. 45- 800 m. Blooms April -July.                                                                       | <b>No Potential.</b> The Project Area does not contain serpentine soils.                                                                                    | None.           |
| Most beautiful jewel-flower<br><i>Streptanthus albidus</i> ssp. <i>peramoenus</i> ** | List 1B, HCP, GP     | Chaparral, cismontane woodland, valley and foothill grassland; serpentine soils. 94- 1000m. Blooms April- September; uncommonly in March and October. | <b>No Potential.</b> The Project Area does not contain serpentine soils.                                                                                    | None.           |

| SPECIES                                                                                         | STATUS*         | HABITAT                                                                                                            | POTENTIAL FOR OCCURRENCE                                                                                                                                    | RECOMMENDATIONS |
|-------------------------------------------------------------------------------------------------|-----------------|--------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|
| Slender-leaved pondweed<br><i>Stuckenia filiformis</i><br>(syn. <i>Potamogeton filiformis</i> ) | List 2          | Assorted shallow freshwater marshes and swamps. 300- 2150 m. Blooms May- July.                                     | <b>No Potential.</b> The Project Area does not contain suitable habitat and is not in the elevation range for this species.                                 | None.           |
| California seablite<br><i>Suaeda californica</i>                                                | FE, List 1B     | Coastal salt marshes and swamps found along rocky shorelines exposed to wave energy. 0- 15m. Blooms July- October. | <b>No Potential.</b> The Project Area does not contain suitable rocky shoreline habitat.                                                                    | None.           |
| Showy Indian clover<br><i>Trifolium amoenum</i>                                                 | FE, List 1B, GP | Coastal bluff scrub and valley and foothill grassland (sometimes on serpentine soils). 5-415m. Blooms April-June.  | <b>Unlikely.</b> The Project Area may contain marginally suitable grassland habitat for this species, but past disturbance limits potential for occurrence. | None.           |
| Saline clover<br><i>Trifolium hydrophilum</i>                                                   | List 1B         | Marshes and swamps, valley and foothill grassland (mesic, alkaline), and vernal pools. 0-300m. Blooms April-June.  | <b>Unlikely.</b> The Project Area may contain marginally suitable grassland habitat for this species, but past disturbance limits potential for occurrence. | None.           |
| Caper-fruited tropidocarpum<br><i>Tropidocarpum capparideum</i>                                 | List 1B         | Alkaline hills in valley and foothill grassland. 1-455m. Blooms March-April.                                       | <b>Unlikely.</b> The Project Area may contain marginally suitable grassland habitat for this species, but past disturbance limits potential for occurrence. | None.           |

**\* Key to status codes:**

|         |                                                                                              |
|---------|----------------------------------------------------------------------------------------------|
| FE      | Federal Endangered                                                                           |
| FT      | Federal Threatened                                                                           |
| FD      | Federal Delisted                                                                             |
| FC      | Federal Candidate                                                                            |
| BCC     | USFWS Birds of Conservation Concern                                                          |
| SE      | State Endangered                                                                             |
| ST      | State Threatened                                                                             |
| SR      | State Rare                                                                                   |
| SSC     | CDFG Species of Special Concern                                                              |
| CFP     | CDFG Fully Protected Animal                                                                  |
| WBWG    | Western Bat Working Group High Priority species                                              |
| RP      | Species included in a USFWS Recovery Plan or Draft Recovery Plan                             |
| NMFS    | Species under jurisdiction of NMFS                                                           |
| HCP     | Species covered by the Santa Clara Valley Habitat Conservation Plan                          |
| GP      | Species covered by the San José General Plan                                                 |
| List 1B | CNPS List 1B: Plants rare, threatened or endangered in California and elsewhere              |
| List 2  | CNPS List 2: Plants rare, threatened, or endangered in California, but more common elsewhere |
| List 3  | CNPS List 3: Plants about which CNPS needs more information (a review list)                  |

**\*\* Nomenclature follows Hickman et al. (1993)**

APPENDIX C  
SITE PHOTOGRAPHS





**Appendix C. Site Photographs**

Ruderal grassland in the Project Area; taken from the center of the site facing NW (top) and SE (bottom). Photographs taken January 5, 2012.





**Appendix C. Site Photographs**

Individual willow and ruderal grassland in the Project Area. Photographs taken January 5, 2012.







**Appendix C. Site Photographs**

Stand of elm trees bordering the Project Area (top). Concrete barrier and fence dividing southeast corner of the Project Area (bottom). Photographs taken January 5, 2012.





**Appendix C. Site Photographs**

Photographs of inaccessible portions of Project Area located behind chain-link fence, facing SE (top) and SW (bottom) Photographs taken January 5, 2012.







**Appendix C. Site Photographs**

Ground squirrel burrow (top) and ground squirrel activity (bottom) in Project Area.  
Photographs taken January 5, 2012.





**Appendix C. Site Photographs**

Landscape-related materials dumped in the Project Area. Photographs taken January 5, 2012.



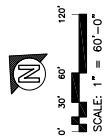
APPENDIX D

SITE PLANS



**PHASE 1 - Site Data**

Lot Area: 12.833 acres / 563,361 SF  
 FAR: 0.79  
 Building Area:  
 Building 1 222,000 SF  
 Building 2 222,000 SF  
 Total 444,000 SF  
 Building Height: 6-story - 99'-0" to top of roof screen  
 Building Use: Office/R&D  
 Proposed Construction Type: Type II A  
 Parking provided, (initial @ 3.881,000 SF on net building area=86% of gross)  
 Surface 980 stalls  
 Parking Structure (surface + 3.5 elevated decks) 496 stalls  
 Total 1476 stalls

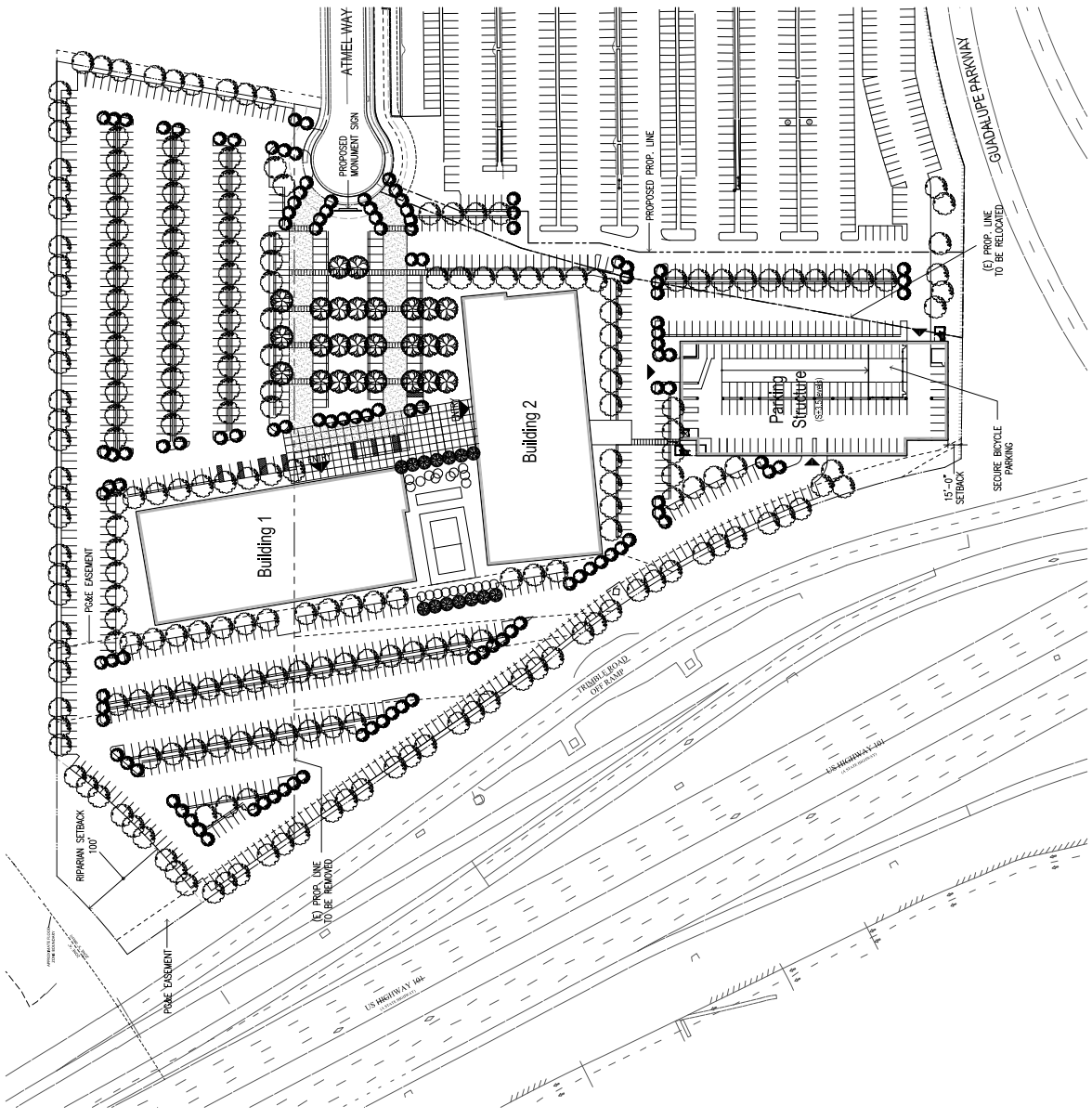


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# 1

**PHASE 1 SITE PLAN**  
 COMPREHENSIVE PRELIMINARY REVIEW 12.8.2011  
 REVISED 01.02.2012

**101 TECH**  
 San Jose, California.  
 Ellis Partners LLC.  
 Project Number: 9885.002





**PHASE 2 - Site Data**

Lot Area: 13.91 acres / 606,128 SF

FAR: 1.10

Building Area:  
 Building 1 222,000 SF  
 Building 2 222,000 SF  
 Building 3 222,000 SF  
 Total 666,000 SF

Amenity Building 15,000 SF (fitness center)

Building Height: 6-story - 99'-0" to top of roof screen  
 Buildings 1, 2 & 3

Building Use: Office/R&D

Proposed Construction Type: Type II A

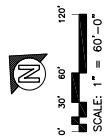
~~Parking provided: @ 3,881,000 SF on net building (85% of gross) = 2,356 stalls~~

Surface 751 stalls

Parking Structure 1,729 stalls (surface + 6.5 elevated decks)

Total 2,480 stalls

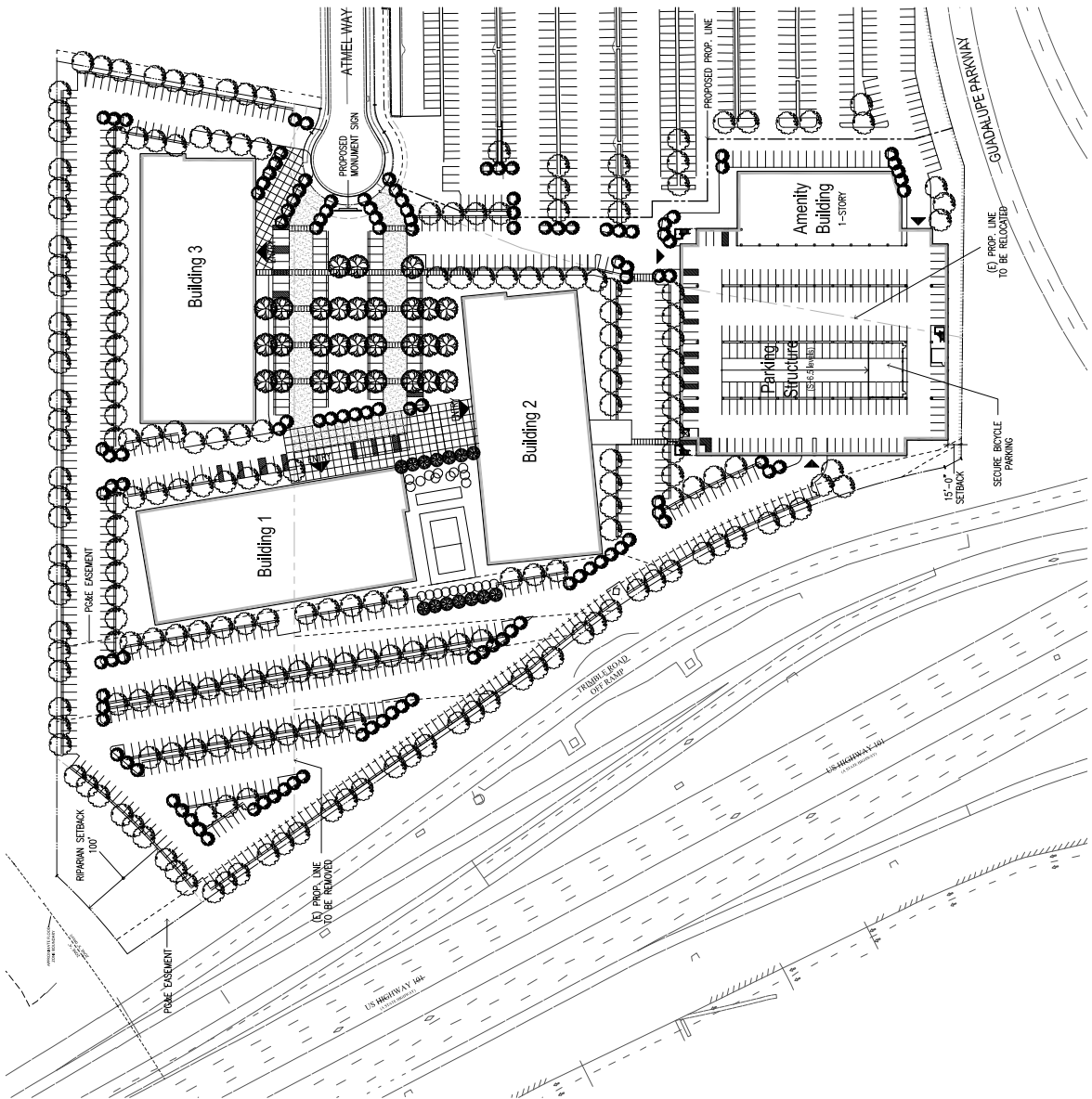
\*\* additional stalls in parking structure provided for adjacent site to replace stalls lost for construction of parking structure and amenities building



# 2

**PHASE 2 SITE PLAN**  
 COMPREHENSIVE PRELIMINARY REVIEW 12.8.2011  
 REVISED 01.12.2012

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**101 TECH**  
 San Jose, California.  
 Ellis Partners LLC.  
 Project Number: 9885.002