Draft Subsequent Environmental Impact Report

America Center Phase III Project

File Numbers: PDC15-058 and PD15-053
State Clearinghouse Number: 2016092066

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

June 2017

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Planning, Building and Code Enforcement

NOTICE OF AVAILABILITY OF A DRAFT SUBSEQUENT ENVIRONMENTAL IMPACT REPORT (SEIR) AND PUBLIC COMMENT PERIOD

A Draft Subsequent Environmental Impact Report (SEIR) for the **America Center Phase III Project** is available for public review and comment. The proposed project includes an increase to the allowed amount of Commercial Office/R&D area for the project site by 190,000 square feet, for the total allowed Commercial Office/R&D space to be 1,090,000 square feet. The boundaries of the General Development Plan would be modified to reflect removal of the northeastern portion of the current project area (6.7 acres) and to reflect minor lot line adjustments. The project proposes to construct an approximately 192,350 square foot six-story office building, associated amenity space, and expand the parking garage approved for the eastern portion of the site. **Location:** The project site is located north of California State Route (SR) 237 at the terminus of Great America Parkway, in the Alviso community of the City of San José (APNs: 015-45-011, -031, -032, -042, -044, -045, -046, -047, and -048). **File Nos.:** PDC15-058 & PD15-053. **Council District**: 4.

The proposed project will have a significant environmental effect with regards to aesthetics, air quality, noise, and transportation. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present at the project location. The project location is contained in the Cortese List of toxic sites.

The Draft SEIR and documents referenced in the Draft SEIR are available for review online at the City of San José's "Active EIRs" website at http://www.sanjoseca.gov/index.aspx?nid=5230 and are also available at the following locations:

Department of Planning, Building and Code Enforcement
200 East Santa Clara St., 3rd Floor
San José, CA 95113
(408) 535-3555

Dr. MLK Jr. Main Library
150 E. San Fernando St.,
San José, CA 95112
(408) 277-4822

Alviso Branch Library
5050 N. 1st St.,
San José, CA 95002
(408) 263-3626

The public review period for this Draft SEIR begins on **June 12, 2017** and ends on **July 27, 2017**. Written comments must be received at the Planning Department by **5:00 p.m. on July 27, 2017**, in order to be addressed as part of the formal EIR review process. Comments and questions should be referred to Krinjal Mathur in the Department of Planning, Building and Code Enforcement via e-mail at krinjal.mathur@sanjoseca.gov, by phone at (408) 535-7874, or by regular mail at the mailing address listed for the Department of Planning, Building and Code Enforcement. Please reference the above file number in your written comment letter.

Following the close of the public review period, the Director of Planning, Building and Code Enforcement will prepare a Final Environmental Impact Report that will include responses to comments received during the review period. At least ten days prior to the public hearing on the SEIR, the City's responses to comments received during the public review period will be available for review and will be sent to those who have commented in writing on the SEIR during the public review period.

Rosalynn Hughey, Interim Director
Planning, Building and Code Enforcement

Deputy

6/7/17
Date

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ACRONYMS AND ABBREVIATIONS

ABAG	Association of Bay Area Governments
ACE	Altamont Corridor Express
BAAQMD	Bay Area Air Quality Management District
bgs	Below ground surface
Btu	British Thermal Unit
CAA	Clean Air Act
CAAQS	California Air Quality Standards
CalEPA	California Environmental Protection Agency
Caltrans	California Department of Transportation
CAPCOA	California Air Pollution Control Officers Association
CARB	California Air Resources Board
CCR	California Code of Regulations
CEQA	California Environmental Quality Act
CDFW	California Department of Fish and Wildlife
CESA	California Endangered Species Act
CUPA	Certified Unified Program Agency
DTSC	Department of Toxic Substances Control
EIR	Environmental Impact Report
EPA	Environmental Protection Agency
FESA	Federal Endangered Species Act
GHGs	Greenhouse Gases
kwh	Kilowatt Hour
LEA	Local Enforcement Agency
LOS	Level of Service
MBTA	Migratory Bird Treaty Act
mpg	Miles per Gallon
MPO	Metropolitan Planning Organizations
msl	Mean Sea Level
NAAQS	National Ambient Air Quality Standards
NAHC	Native American Heritage Commission
NOD	Notice of Determination
NOP	Notice of Preparation
NPDES	National Pollutant Discharge Elimination System
NRHR	National Register of Historical Resources
PD	Planned Development
PM	Particulate Matter
RPS	Renewable Portfolio Standard
RWQCB	Regional Water Quality Control Board
SCVWD	Santa Clara Valley Water District
SR	State Route
TACs	Toxic Air Contaminants
TDM	Transportation Demand Management
UPRR	Union Pacific Railroad

SUMMARY

PROJECT LOCATION

The approximately 63-acre America Center project site is located in the Alviso community of the City of San José, north of California State Route 237 at the terminus of Great America Parkway. Located on the closed Highway 237 Landfill.[1] The site is bounded by San Tomas Aquino Creek to the west, San Francisco Bay and South Bay Restoration Pond A8 (former salt pond) to the north, Union Pacific Railroad tracks to the east, and State Route (SR) 237 to the south.

PROJECT OVERVIEW

Planned Development Rezoning

The project proposes to modify the original General Development Plan (approved as part of PDC99-044) for the America Center site to reflect changes to the boundaries of the land use areas and to increase the allowed building square footage in the Commercial Office/R&D area.[2] Changes to the boundaries of the land use areas covered under the PD rezoning include:

- Remove the 6.4-acre River Commercial area adjacent to the Guadalupe River/Alviso Slough which is covered under a separate PD zoning (PDC15-016), approved in February 2016; and
- Adjust the boundaries for the remaining land use areas to reflect minor lot line adjustments.

The lot area for Commercial Office/R&D and Commercial/Hotel uses would not increase under the proposed PD zoning; however, the project proposes an increase to the allowed amount of square footage allowed within the 29.8-acre Commercial Office/R&D area at America Center by 190,000 square feet for a total up to 1,090,000 square feet. The allowed building height would remain the same at 90 feet.

Planned Development (PD) Permit

The project also proposes construction of a six-story office building (Building 5), amenities, and an expanded parking garage within the Commercial/Office/R&D area of the America Center development. The building would be up to 83 feet tall at the top of roof, and would contain approximately 192,350 square feet of floor space. Overall, the project would allow for construction of up to 216,000 square feet of Office/R&D uses and associated amenity space and expansion of the parking garage approved for the eastern portion of the site.

SUMMARY OF SIGNIFICANT IMPACTS

The following table summarizes the significant impacts of the proposed project on the environment and the mitigation measures identified to reduce the effects to a less than significant level, where applicable and feasible. Significant and unavoidable impacts previously identified within the *Final Environmental Impact Report for the Legacy Terrace Development Planned Development Rezoning*

[1] The Highway 237 Landfill operated from 1962 to 1982 as a Class II-2 non-hazardous solid waste landfill (Solid Waste Information System File No. 43-AN-004).

[2] In February 2000, the City of San José certified the Final Environmental Impact Report for the Legacy Terrace Development Planned Development Rezoning and Prezoning for development at the America Center site (State Clearinghouse [SCH] Number 99082004; PDC99-044).

and Prezoning (Legacy Terrace FEIR), as well as a full discussion of impacts and mitigation measures, can be found in Section 3.0 Environmental Setting, Impacts, & Mitigation, and Section 4.0 Cumulative Impacts of this Supplemental Environmental Impact Report (SEIR).

Summary of Significant Impacts and Mitigation Measures	
Significant Impact	**Mitigation Measure**
Aesthetics	
Impact AES-1: The proposed project would contribute to impacts to views from SR 237 and from trails in the vicinity, which would represent an overall significant aesthetics impact.	No feasible mitigation was identified to reduce this aesthetic impact to a less than significant level. **Significant, Unavoidable Impact**
Air Quality	
Impact AIR-1: The project would contribute to an impact as a result of exceedance of BAAQMD standards for operational nitrogen oxide (NOx) emissions, as previously identified for the buildout of the America Center site in the Legacy Terrace Final Environmental Impact Report (FEIR).	**MM AIR-1.1**: The project applicant shall include the following updated measures from the Legacy Terrace FEIR: • Provide physical improvements, such as sidewalk improvements, landscaping and bicycle parking which would encourage pedestrian and bicycle modes of travel; • Connect site with regional bicycle/pedestrian trail system; • Provide shuttle bus service to the Tasman/Lafayette light rail and Altamont Corridor Express (ACE) rail system; and • Implement other feasible transportation demand management (TDM) program measures; including a ride-matching program, guaranteed ride home programs, coordination with regional ride-sharing organizations, and a transit incentives program. **Significant, Unavoidable Impact**
Impact AIR-2: Odors as a result of drilling holes for support piles and disposal of landfill material could impact sensitive receptors in the area.	**MM AIR-2.1:** The project applicant shall prepare and implement an odor-control plan prior to the onset of construction which includes the following odor-control elements: • Scheduling of construction phasing such that the amount of uncovered/disturbed waste at one time is minimized; • Controlling odors by covering any exposed landfill material with soil, foam, or other suitable material (including application of deodorant or other odor-control materials); • Considering seasonal weather conditions that can concentrate odors or direct odors towards sensitive receptors; and

	• Providing the Summerset Mobile Estates residents and the Department of Planning, Building and Code Enforcement, with the name and phone number of a Project Contact who shall respond to any complaints about dust, odors, or other nuisances associated with waste excavation and relocation operations. **Less than Significant Impact with Mitigation Incorporated**
Biological Resources	
Impact BIO-1: If present, construction activities could cause disturbance to birds nesting and foraging in the project area.	**MM BIO-1.1:** The project applicant shall implement the following measures to avoid impacts to nesting birds on and adjacent to the site during construction. • To the extent feasible, construction activities shall be scheduled to avoid the nesting season. If construction activities are scheduled to occur outside the nesting season, all impacts on nesting birds protected under the Migratory Bird Treaty Act (MBTA) and California Fish and Game Code shall be avoided. The nesting season for most birds in Santa Clara County extends from February 1st to August 31st. • If it is not possible to schedule construction activities between September 1st and January 31st then pre-construction surveys for nesting birds shall be conducted by a qualified ornithologist to ensure that no nests will be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1st through April 30th) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 31st). During this survey, the ornithologist shall inspect all trees and other potential nesting habitats (e.g., trees, shrubs, ruderal grasslands, buildings) in and immediately adjacent to the impact areas for nests. If an active nest is found sufficiently close to work areas to be disturbed by these activities, the ornithologist in consultation with California Department of Fish and Wildlife (CDFW), will determine the extent of a construction-free buffer zone to be established around the nest (typically 300 feet for raptors and 100 feet for other species) to ensure that no nests of species protected by the MBTA and California Fish and Game Code will be disturbed during project implementation. • A report summarizing results of the pre-construction surveys and subsequent efforts to protect nesting raptors or birds (if found to be present) shall be submitted to the City of San José Supervising Environmental Planner. **Less than Significant Impact with Mitigation Incorporated**

Impact BIO-2: If present, construction activities could cause disturbance to burrowing owls nesting and foraging in the project area.	**MM BIO-2.1:** The project applicant shall implement the following measures to avoid impacts to nesting or non-nesting burrowing owls on or immediately adjacent to the site, consistent with Condition 15 of Chapter 6 of the Santa Clara Valley Habitat Plan. • Prior to any site disturbance, staging, or construction-related activities, a qualified biologist shall conduct burrowing owl preconstruction surveys in all suitable habitat areas on the project site and within 250 feet of all construction activity. The purpose of the preconstruction surveys is to document the presence or absence of burrowing owls on the project site and within 250 feet of construction activity in order to avoid direct impacts to burrowing owls. To maximize the likelihood of detecting owls, the preconstruction survey shall last a minimum of three hours. The survey shall begin one hour before sunrise and continue until two hours after sunrise (three hours total) or begin two hours before sunset and continue until one hour after sunset. Additional time may be required for large project sites. A minimum of two surveys shall be conducted (if owls are detected on the first survey, a second survey is not needed). All owls observed shall be counted and their locations mapped. • Surveys shall conclude no more than two calendar days prior to site disturbance, staging, or construction-related activities. Therefore, the project applicant must begin surveys no more than four days prior to construction (two days of surveying plus up to two days between surveys and construction). To avoid last-minute changes in schedule or contracting that may occur if burrowing owls are found, the project applicant may also conduct a preliminary survey up to 14 days before construction. This preliminary survey may count as the first of the two required surveys as long as the second survey concludes no more than two calendar days in advance of construction. • If burrowing owls are present during the nonbreeding season (September 1st to January 31st), a 250-foot buffer zone shall be maintained around the occupied burrow(s) as determined by a qualified biologist, if feasible. If maintaining such a buffer is not feasible, then the buffer must be great enough to avoid injury or mortality of individual owls based on monitoring results. During the breeding season (generally February 1st to August 31st), a 250-foot buffer, within which no newly initiated project-related activities shall be permissible, shall be maintained between project activities and occupied burrows. Owls present between February 1st and August 31st will be assumed to be nesting, and the 250-foot protected area shall remain in effect until August 31st. If monitoring evidence indicates that the owls are no longer nesting or the young owls are foraging independently, the buffer may be reduced based on monitoring results, in consultation with the City and CDFW. • If nesting owls are determined to be present on the site, and project activities cannot feasibly avoid disturbance of the area within 250 feet of the occupied burrow during the nesting season (i.e., February 1st through August 31st) due to other seasonal constraints, a qualified biologist shall be

	present during all activities within 250 feet of the nest to monitor the owls' behavior. If, in the opinion of the qualified biologist, the owls are unduly disturbed (i.e., disturbed to the point of harm or reduced reproductive success), all work within 250 feet of the occupied burrow will cease until the nest is determined to no longer be active by a qualified biologist. **Less than Significant Impact with Mitigation Incorporated**
Geology and Soils	
Impact GEO-1: Differential settlement could result in structural damage to the proposed development.	**MM GEO-1.1:** The project applicant shall complete a design-level geotechnical investigation for the project site prior to issuance of any grading permits for individual site improvements to address the potential geologic hazards. Design-level engineering studies shall be submitted to the City's Public Works Department for review and approval. Building foundations shall be designed based on this geotechnical investigation. Building loads shall be supported on driven pile foundations as appropriate to support the building loads without significant damage due to settlement. Foundation piles shall be designed to accommodate downdrag loads caused by the subsidence of landfill materials due to the natural degradation of landfill components, and under the weight of the final cover and/or soil placed on the site for development purposes. In addition, a reinforced concrete "skirt wall" around the perimeter of each building shall be installed to resist lateral loads placed on the building during a seismic event. Settlement adjacent to the skirt wall shall be monitored and soil replaced to avoid the loss of lateral support as fill settles. Conceptual foundation installation procedures in the area include: predrilling each pile location to the full depth of the landfill (50 to 60 feet); and/or installing a cased shaft at each pile location from the ground surface to the bottom of the landfill, removing landfill materials from the cased hole, and driving the foundation piles through the casing into the supporting soil below the landfill. Alternatively, non-displacement type piles, such as steel H-piles, could be driven directly through landfill materials. Corrosion control measures to protect steel and/or concrete piles shall be included in the design-level geotechnical investigation. **MM GEO-1.2:** An updated settlement map shall be prepared based upon site monitoring and additional surveys prior to the completion of the design-level geotechnical investigation. The updated settlement map shall confirm appropriate post settlement grades on the site. The map shall be provided to the City of San José Public Works Department for review and approval.

	MM GEO-1.3: To allow for settlement between structures and the surrounding ground at building entrances, "hinged slabs" or interlocking pavers shall be used. For hinged slabs, one end of the hinged slab will be fixed to the pile-supported structure and the other end will rest in the earth fill that will settle with time. The design of the hinged slab shall be based on the maximum operation slope of the slab. For pedestrian slabs, the estimated finished grade after settlement shall be based on a maximum slope required by the Americans with Disabilities Act. For vehicular slabs, the estimated finished grade after settlement shall be based on a maximum gradient differential of 11 percent between the slab and the stationary foundation, which allow use of the parking structure entrances without scraping the bottom of vehicles. Alternatively, interlocking pavers installed at building entrances can be easily adjusted to grade after settlement has occurred. Pavers shall be monitored at more frequent intervals than hinged slabs and regraded at regular intervals to avoid tripping hazards. The design of hinged slabs or pavers shall be completed using the current settlement map for the site. **MM GEO-1.4:** Roadways and other paving systems shall utilize flexible materials such as asphaltic concrete, interlocking paving units, and avoid or limit the use of Portland cement concrete and other non-flexible materials. Where concrete is utilized, adequate expansion and spacing joints shall be used to accommodate differential settlement. Geotextile fabric or other materials shall be placed below the subgrade base section to provide bridging over localized "soft" areas determined by the geotechnical engineer during compaction of the fill material. Joints shall be adequately sealed between differing materials (i.e., asphalt and concrete curbs) to prevent water infiltration. **MM GEO-1.5:** Pavements and other surface improvements shall be designed with adequate slope so that after settlement, reversals of stormwater flow direction or adverse flattening of the roadway pavement surface does not occur. **MM GEO-1.6:** On-site utilities which operate via gravity shall be designed based upon the anticipated settlement on the site. These utilities shall be designed with adequate slope so that after settlement, reversal or flattening of the slope of utility lines does not occur. **MM GEO-1.7:** Pipe materials which can accommodate differential settlement without separation of pipe joints or leakage shall be used on the site. Piping could utilize high density polyethylene or, in some cases, dual contained polyvinyl chloride pipe. For either type of pipe system, metallic fittings, valves, and flexible connections could be housed inside vaults for corrosion protection and to aid leak detection.

	MM GEO-1.8: Under slab utilities, shall be connected to the structural slab using hangers constructed of a non-corrosive material, such as stainless steel. To counter the effect of soil in the utility trench settling and dislocating the utility line from the hanger, a non-cohesive backfill, such as pea gravel, shall be used in the trench. As the ground settles, the non-cohesive backfill shall be able to move around the pipe. Alternatively, no backfill shall be placed in the trench, with plywood or other materials being used to prevent concrete from the structural slab pour from entering the utility trench. As the surrounding ground settles, the utility pipe would be supported by hangers. **MM GEO-1.9:** To accommodate the difference in settlement between the building and surrounding ground, flexible utility connections contained within a settlement vault shall be employed. **MM GEO-1.10:** The project applicant shall prepare and implement an Operations and Maintenance Program for the building, utilities, and pavement, and shall include a site grade monitoring schedule. Site grades shall be monitored every three months for the first two years. After two years, the monitoring duration shall be reevaluated based on the settlement rates and site characteristics. The Operations and Maintenance Program shall specify the types of repairs to be made in the event that indications of localized depressions, slope changes or cracking of pavements are found. **Less than Significant Impact with Mitigation Incorporated**
Hazards and Hazardous Materials	
Impact HAZ-1: Methane gas within landfill materials could result in flammable or explosive conditions. Toxic compounds, including volatile organic compounds, and asbestos, could be present and pose health risks to construction workers and/or the public.	**MM HAZ-1.1:** The project applicant shall follow the United States Environmental Protection Agency (EPA)-approved Soil Management Plan (SMP) developed for closure, capping, maintenance, and post-capping construction activities at the Highway 237 Landfill to reduce or eliminate exposure risk to human health and the environment, specifically, potential risks associated with the presence of methane, hydrogen sulfide, and volatile organic compounds (VOCs) in soil gas and potential unknown conditions. The SMP shall be followed for any development related activities that penetrate the low-permeability layer of the landfill cap, such as pile installation or excavations. As required by the SMP, prior notification of planned activities that trigger implementation of SMP protocols shall be provided to the Department of Planning, Building and Code Enforcement, Environmental Services Department, relevant Local Enforcement Agency (LEA), and other regulatory agencies providing oversight (such as the Regional Water Quality Control Board [RWQCB] and CalRecycle) prior to issuance of a grading permit. **MM HAZ-1.2:** Contractors and subcontractors at the project site shall develop a health and safety plan specific to their scope of work and based upon the known environmental conditions for the site. Each

	health and safety plan shall be implemented under the direction of a Site Safety and Health Officer and provided to all regulatory agencies providing oversight (such as the LEA, CalRecycle, or RWQCB). **MM HAZ-1.3:** The project site is on a former landfill and shall follow environmental monitoring procedures required by CalRecycle and the San José LEA. **MM HAZ-1.4:** The project applicant shall ensure that where an irrigation system is installed for landscaping, it shall be designed to optimize watering using the most current automatic irrigation equipment and monitoring methods. To help minimize infiltration, subdrains shall be constructed for all tree planting areas. The trees shall have subdrains that discharge to the storm drain system. **MM HAZ-1.5:** Prior to issuance of any grading permit for site improvements, the project applicant shall provide the LEA, CalRecycle, and an appropriate oversight agency (such as the Department of Toxic Substances Control or RWQCB and the City's Department of Public Works) with a project-level, engineering analysis that addresses, in sufficient detail, the following elements of the final project design: • Soil gas mitigation and monitoring systems, including structure monitoring and perimeter monitoring systems; • Differential settlement; • Site surface drainage and final grading; and • Any other elements of the design as required by the LEA or Department of Public Works, including specialized analysis that may be warranted by the City. The project applicant shall bear the responsibility for providing any such specialized analysis. **MM HAZ-1.6:** The project applicant shall incorporate a landfill gas control system into all buildings constructed as a part of the project. Proposed structures shall be constructed with a sub-slab soil gas mitigation system to vent landfill gases and other soil vapor. The soil gas mitigation system may consist of perforated pipes placed in a permeable granular layer under building and garage concrete slabs. The perforated pipes shall be connected to a system that discharges vapor to the building's exterior. The system shall include a methane sensor/venting system that is capable of venting soil vapor out from beneath the building, and a low-permeable barrier layer, such as Liquid Boot, shall be installed in the buildings and certain areas in the parking garage that have the potential to accumulate landfill gas in order to prevent soil vapors from intruding into the structures. The low-permeable vapor barrier membrane shall be located above the permeable granular layer. The membrane shall be sealed around foundation piles, grade beams,

	and slab penetrations (such as utility lines). The project applicant shall also install a landfill gas venting system beneath hardscape areas near the proposed structures. The landfill gas control system for the office buildings shall include an integrated methane sensor/blower system that is capable of actively drawing soil vapor from beneath the building. Methane sensors provided at the discharge point of each soil gas mitigation system shall control the active operation of the venting system. The project applicant shall prepare and implement an Operations and Maintenance Program for the soil gas mitigation systems. The program shall include instructions for how to ensure that the system functions properly. **MM HAZ-1.7:** The project applicant shall construct site utility trenches with landfill gas cut-offs to prevent landfill gas from migrating along utility trenches. Below-grade electrical facilities shall be designed for explosive conditions, in accordance with the California Building Standards Code. **Less than Significant Impact with Mitigation Incorporated**
Noise	
Impact NOI-1: Pile driving noise generated in the eastern portion of the site could impact residents at Summerset Mobile Estates and commercial uses along Gold Street in the short-term.	**MM NOI-1.1:** Prior to the start of construction, the project applicant shall prepare and implement a noise logistics plan to reduce construction noise levels as low as practical. The noise logistics plan shall be submitted to the Supervising Environmental Planner of the Planning, Building and Code Enforcement Department for review and approval. The noise logistics plan would include, but not be limited to, the following measures: • Construction hours within 500 feet of residential uses will be limited to the hours of 7:00 a.m. and 7:00 p.m. weekdays, with no construction on weekends or holidays. Pile driving shall be limited to the hours of 8:00 a.m. to 5:00 p.m. Monday through Friday. • Utilize 'quiet' models of air compressors and other stationary noise sources where technology exists. • Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment. • Locate all stationary noise-generating equipment, such as air compressors and portable power generators, as far away as possible from adjacent land uses. • Locate staging areas and construction material areas as far away as possible from adjacent land uses.

	• Prohibit all unnecessary idling of internal combustion engines. • If impact pile driving is proposed, multiple-pile drivers shall be considered to expedite construction. Although noise levels generated by multiple pile drivers would be higher than the noise generated by a single pile driver, the total duration of pile driving activities would be reduced. • If impact pile driving is proposed, temporary noise control blanket barriers shall shroud pile drivers or be erected in a manner to shield the adjacent land uses. Such noise control blanket barriers can be rented and quickly erected. • The contractor shall prepare a detailed construction plan identifying a schedule of major noise generating construction activities. This plan shall identify a noise control disturbance coordinator and procedure for coordination with the adjacent noise sensitive facilities so that construction activities can be scheduled to minimize noise disturbance. This plan shall be made publicly available for interested community members. • The disturbance coordinator shall be responsible for responding to any local complaints about construction noise. The disturbance coordinator will determine the case of the noise complaint (e.g. starting too early, bad muffler, etc.) and will require that reasonable measures warranted to correct the problem be implemented. The telephone number for the disturbance coordinator at the construction site shall be posted and included in the notice sent to residences and commercial businesses within 100 feet regarding the construction schedule. • The project, as currently proposed, would implement measures to reduce short-term noise impacts resulting from pile driving activities in the eastern portion of the site, but not to a less than significant level. **Significant, Unavoidable Impact**
Transportation and Traffic	
Impact TRA-1: The added trips as a result of the proposed project would cause the critical-movement delay to increase by four or more seconds and the demand-to-capacity ratio to increase by 0.01 or more at the Lafayette Street and Gold Street Connector intersection during the AM peak hour.	**MM TRA-1.1:** The project applicant shall fully design, construct, and improve the Lafayette Street and Gold Street Connector intersection with the addition of a second northbound left-turn lane in a vacant area between the Gold Street Connector and SR 237. The improvement shall require widening of the Gold Street Connector and shifting of travel lanes to the south by approximately 12 feet to accommodate a second receiving lane for the second northbound left-turn lane. The roadway widening would also require the relocation of the Highway 237 Bikeway, south of the Gold Street Connector. During construction of the intersection improvement, a trail detour shall be provided and/or the Highway 237 Bikeway relocated prior to construction of the road widening. **Less than Significant Impact with Mitigation Incorporated**

Impact TRA-2: Implementation of the proposed project would have a significant impact on mixed-flow lanes and/or a high-occupancy vehicle (HOV) lane during one or both peak hours on the following four freeway segments: eastbound SR 237 between Great America Parkway and North First Street, westbound SR 237 between I-880 and McCarthy Boulevard, westbound SR 237 between I-880 and McCarthy Boulevard, westbound SR 237 between McCarthy Boulevard and Zanker Road, and the HOV lane on westbound SR 237 between I-880 and McCarthy Boulevard.	No feasible mitigation was identified to reduce these traffic impacts to a less than significant level. **Significant, Unavoidable Impact**
Cumulative Impacts	
Impact TRA(C)-1: The proposed project would result in a cumulatively considerable contribution to traffic impacts at two San José intersections (Lafayette Street and Gold Street Connector, and Great America Parkway and Eastbound SR 237) based on cumulative impact criteria.	**MM TRA (C)–1.1: Lafayette Street and Gold Street Connector** - See MM TRA-1.1 **Less than Significant Cumulative Impact with Mitigation** **MM TRA (C)–1.2: Great America Parkway and Eastbound SR 237** Prior to Public Works Clearance, the project applicant shall pay a fair share amount towards improvements to the Great America Parkway/State Route 237 intersection. Improvements would include the addition of a third left-turn lane and second right-turn lane to the westbound approach to the intersection (SR 237 off-ramp). The Director of Public Works shall determine the fair share based on the cost of the improvement at the time the payment is due and the project's contribution to the impact (typically based on a 25 percent contribution of traffic or more to the cumulative impact). The fair share amount shall be paid to the City of San Jose Public Works Depositors Fund. **Less than Significant Cumulative Impact with Mitigation**

SUMMARY OF ALTERNATIVES

The California Environmental Quality Act (CEQA) requires that an EIR identify alternatives to the project as proposed. The CEQA Guidelines state that an EIR must identify alternatives that would feasibly attain the most basic objectives of the project, but avoid or substantially lessen many of the significant environmental effects of the project, or would further reduce impacts that are considered less than significant with the incorporation of identified mitigation. The significant impacts of the project are identified in the previous table. The project alternatives are discussed in detail in Section 8.0 Alternatives.

The stated primary objectives of the project proponent are to:

- Provide a development consistent with the vision for the Alviso Community stated in the General Plan and *Alviso Master Plan: A Specific Plan for the Alviso Community*;
- To efficiently cluster large-scale development allowing for:
    - Establishment and maintenance of a permanent open space preserve and buffer between the Alviso Village and the Guadalupe River;
    - Large scale development in the Golden Triangle Area of San José with direct access to SR 237 so that surrounding streets are less impacted;
    - Efficient use of existing infrastructure (including roads, utility lines, transit, etc.); and
    - Increased cost-sharing of building and landscape maintenance costs;
- Utilize the closed Highway 237 Landfill site at an increased density with viable economic uses, which will augment the City's tax base and help reduce demand for greenfield development;
- Add approximately 800 jobs to the City of San José; and
- Create buildings sizeable enough to attract large-company tenants to the Alviso Community/San José.

No Project - No Development Alternative

Under the No Project - No Development Alternative, the buildings and parking lots existing and under construction at the site would remain. Building 5 and the parking garage extension, would not be constructed. The site would remain as zoned and approved for Buildings 1 through 4 and the parking garage.

The No Project - No Development Alternative would avoid the project's significant unavoidable aesthetic, air quality, noise, transportation, and cumulative transportation impacts. This alternative would also avoid all other significant impacts resulting from the project that would be reduced to a less than significant level with the incorporation of mitigation measures. Some but not all of the project objectives would be met under the No Project - No Development Alternative.

No Project–Develop Under Current PD Zoning Alternative

Under the current PD zoning, a 32,238 square foot office building and the parking garage extension could be constructed. A potential Building 5 under the No Project–Develop Under Current PD Zoning Alternative would likely be one story and occupy the same footprint as the proposed Building 5. The building constructed under the No Project–Develop Under Current PD Zoning Alternative would likely be minimally visible as it would be shielded on all sides by existing, much taller structures.

This alternative would avoid significant aesthetic, transportation, and cumulative transportation impacts; however, the same significant and air quality and noise impacts would occur (due to vehicle trips and pile driving activities, respectively). The less than significant with mitigation biological, cultural, geology, hazards, and hydrology impacts would not be avoided. While some of the goals would be accomplished under the No Project–Develop Under Current PD Zoning Alternative, it would not fully meet objectives related to the efficiencies of large-scale development.

Reduced Intensity Alternative

A Reduced Intensity Alternative would potentially allow for an additional 55,000 square feet of development for an approximately 87,000 square foot Building 5 (including the 32,238 previously entitled square footage). It is assumed that the building would likely be three stories tall and would have approximately the same footprint as the proposed Building 5. This alternative would avoid the significant transportation and cumulative transportation impacts. The building would likely not be visible as it would be shielded on all sides by the existing, much taller structures and would not contribute to the identified impacts to views from SR 237 and trails in the Alviso area.

While the Reduced Intensity Alternative would avoid significant aesthetic, transportation, and cumulative transportation impacts; it would not avoid significant noise and air quality impacts. Significant biological, cultural, geology, hazards, hydrology, and noise impacts would not be avoided; though they would likely be reduced to a less than significant level. Additionally, at half the square footage and height, it would not fully meet objectives related to the efficiencies of large-scale development.

ENVIRONMENTALLY SUPERIOR ALTERNATIVE

The CEQA Guidelines state than an EIR shall identify an environmentally superior alternative. If the environmentally superior alternative is the "No Project" alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives (Section 15126.6(e)(2)).
The environmentally superior alternative would be the No Project Alternative, which would avoid all project impacts. This alternative would not meet any project objectives.

The Reduced Intensity Alternative would reduce aesthetic, transportation, and cumulative transportation impacts to a less than significant level and would reduce, but not eliminate, achievement of at least some of project objectives; therefore, this alternative would be environmentally superior to the proposed project.

SECTION 1.0 INTRODUCTION

1.1 PURPOSE OF THE ENVIRONMENTAL IMPACT REPORT

The City of San José, as the Lead Agency, has prepared this Draft Subsequent Environmental Impact Report (SEIR) for the America Center Phase III Project in compliance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines.

As described in CEQA Guidelines Section 15121(a), an EIR is an informational document that assesses potential environmental impacts of a proposed project, as well as identifies mitigation measures and alternatives to the proposed project that could reduce or avoid adverse environmental impacts (CEQA Guidelines 15121(a)). As the CEQA Lead Agency for this project, the City of San José is required to consider the information in the EIR along with any other available information in deciding whether to approve the project. The basic requirements for an EIR include discussions of the environmental setting, environmental impacts, mitigation measures, cumulative impacts, alternatives, and growth-inducing impacts. It is not the intent of an EIR to recommend either approval or denial of a project.

The EIR for the America Center Phase III Project will be a Subsequent EIR (SEIR) to the previously certified *Final Environmental Impact Report for the Legacy Terrace Development Planned Development Rezoning and Prezoning* (Legacy Terrace FEIR), California State Clearinghouse Number 99082004. The Legacy Terrace FEIR was adopted by City Council Resolution No. 69392 on February 15, 2000. The proposed project is within the boundaries of the America Center[3] site and would add more office/Research and Development (R&D) square footage and an expanded parking garage. Based upon the modifications to the project description, additional transportation impacts at several intersections and freeway segments could occur. These significant environmental effects were not previously identified in the Legacy Terrace FEIR.

Greenhouse gas emissions is a subject area that was not specifically addressed in the Legacy Terrace FEIR and is an environmental issue that is now evaluated in EIRs. Greenhouse gas emissions, and measures that projects are required to implement to reduce greenhouse gas emissions, have subsequently been evaluated on a citywide basis in San José. In November 2011, the City of San José approved the *Envision San José 2040 General Plan* (General Plan) and certified the General Plan Final Program Environmental Impact Report (General Plan FPEIR) (SCH Number 2003042127; City Council Resolution 76041). The City of San José also adopted a General Plan Supplemental Final PEIR in December 2015 (City Council Resolution No. 77617) to include and update the greenhouse gas emissions analysis in the General Plan FPEIR. The intent was for the General Plan FPEIR and Final Supplemental PEIR to be a program-level analysis from which subsequent development consistent with the General Plan could tier.

Under Section 15162(a) of the CEQA Guidelines, an SEIR shall be prepared if substantial changes are proposed in a project evaluated in a previously certified EIR, and new significant environmental effects, or a substantial increase in the severity of previously identified significant effects, would result. An SEIR may also be required if substantial changes occur with respect to the circumstances

[3] The development evaluated in the Legacy Terrace FEIR was renamed America Center prior to completion of the first buildings within the development.

under which the project is undertaken or if new information of substantial importance, which was not known and could not have been known, will have one or more new significant effects or significant effects previously examined will be substantial more severe. An SEIR is given the same kind of notice and public review as a Draft EIR and may be circulated by itself, without recirculating the previous Draft or Final EIR. The previously prepared Legacy Terrace FEIR and the Final Supplemental PEIR for the *Envision San José 2040 General Plan* are available and can be reviewed online or at the Department of Planning, Building, & Code Enforcement, 200 E. Santa Clara Street, Tower 3rd Floor San José, CA 95113-1905, during normal business hours.

1.2 EIR PROCESS

1.2.1 Notice of Preparation and Scoping

In accordance with Sections 15063 and 15082 of the CEQA Guidelines, the City of San José prepared a Notice of Preparation (NOP) for this SEIR. The NOP was circulated to local, state, and federal agencies on September 29, 2016. The standard 30-day comment period concluded on October 30, 2016. The NOP provided a general description of the proposed project and identified possible environmental impacts that could result from implementation of the project. The City of San José also held a public scoping meeting on October 11, 2016, to discuss the project and solicit public input as to the scope and contents of this SEIR. The meeting was held at the Aloft Hotel at 510 America Center Court in San José, California. Appendix A of this SEIR includes the NOP and comments received on the NOP.

1.2.2 Draft SEIR Public Review and Comment Period

Publication of this Draft SEIR will mark the beginning of a 45-day public review and comment period. During this period, the Draft SEIR will be available to local, state, and federal agencies and to interested organizations and individuals for review. Notice of this Draft SEIR will be sent directly to every agency, person, and organization that commented on the NOP. Written comments concerning the environmental review contained in this Draft SEIR during the 45-day public review period should be sent to:

City of San José
Department of Planning, Building, & Code Enforcement
Krinjal Mathur, Environmental Planner
200 E. Santa Clara Street, Tower 3rd Floor
San José, CA 95113-1905
krinjal.mathur@sanjoséca.gov
408.535.7874

1.3 FINAL EIR/RESPONSES TO COMMENTS

Following the conclusion of the 45-day public review period, the City of San José will prepare a Final EIR in conformance with CEQA Guidelines Section 15132. The Final EIR will consist of:

- Revisions to the Draft SEIR text, as necessary;
- List of individuals and agencies commenting on the SEIR;

- Responses to comments received on the SEIR, in accordance with CEQA Guidelines (Section 15088);
- Copies of letters received on the SEIR.

Section 15091(a) of the CEQA Guidelines stipulates that no public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings. If the lead agency approves a project despite it resulting in significant adverse environmental impacts that cannot be mitigated to a less than significant level, the agency must state the reasons for its action in writing. This Statement of Overriding Considerations must be included in the record of project approval.

1.3.1 Notice of Determination

If the project is approved, the City of San José will file a Notice of Determination (NOD), which will be available for public inspection and posted within 24 hours of receipt at the County Clerk's Office for 30 days. The filing of the NOD starts a 30-day statute of limitations on court challenges to the approval under CEQA (CEQA Guidelines Section 15094(g)).

SECTION 2.0 PROJECT INFORMATION AND DESCRIPTION

2.1 BACKGROUND INFORMATION

The approximately 63-acre project site is located in the Alviso community of the City of San José, north of California State Route (SR) 237 at the terminus of Great America Parkway. Located on the closed Highway 237 Landfill[4], the site is bounded by San Tomas Aquino Creek to the west, San Francisco Bay and South Bay Restoration Pond A8 (former salt pond) to the north, Union Pacific Railroad tracks to the east, and SR 237 to the south. There are currently two completed office buildings on the southwest corner of the America Center site, which contain a total of 420,094 square feet of office/research and development (R&D) space. A 175-room hotel was completed in 2015 on the southern portion of the site, east of the project entrance from Great America Parkway. Two additional office buildings (totaling 431,668 square feet) and an 800-space parking garage are currently under construction at the center and western portion the site. Surface parking is available around the perimeter of the existing site. Figure 2.1-1: Regional Map, Figure 2.1-2: Vicinity Map, and Figure 2.1-3: Aerial Map show of the site location and surrounding land uses.

2.1.1 Land Use and Project Information

The 63-acre project site consists of nine parcels (Assessor's Parcel Numbers [APNs] 015-45-011, -031, -032, -042, -044, -045, -046, -047, and -048). The project site is currently designated *Combined Industrial/Commercial* and *Open Space, Parklands, and Habitat* in the *Envision San José 2040 General Plan* (General Plan), and is currently zoned *Planned Development Zoning District A(PD)*. Figure 2.1-4: shows the existing and proposed project's land use plan and boundaries. The site is not located within an area covered by the Santa Clara Valley Habitat Plan; however, it is within a designated Expanded Study Area for Burrowing Owl Conservation where conservation activities for the species may occur.

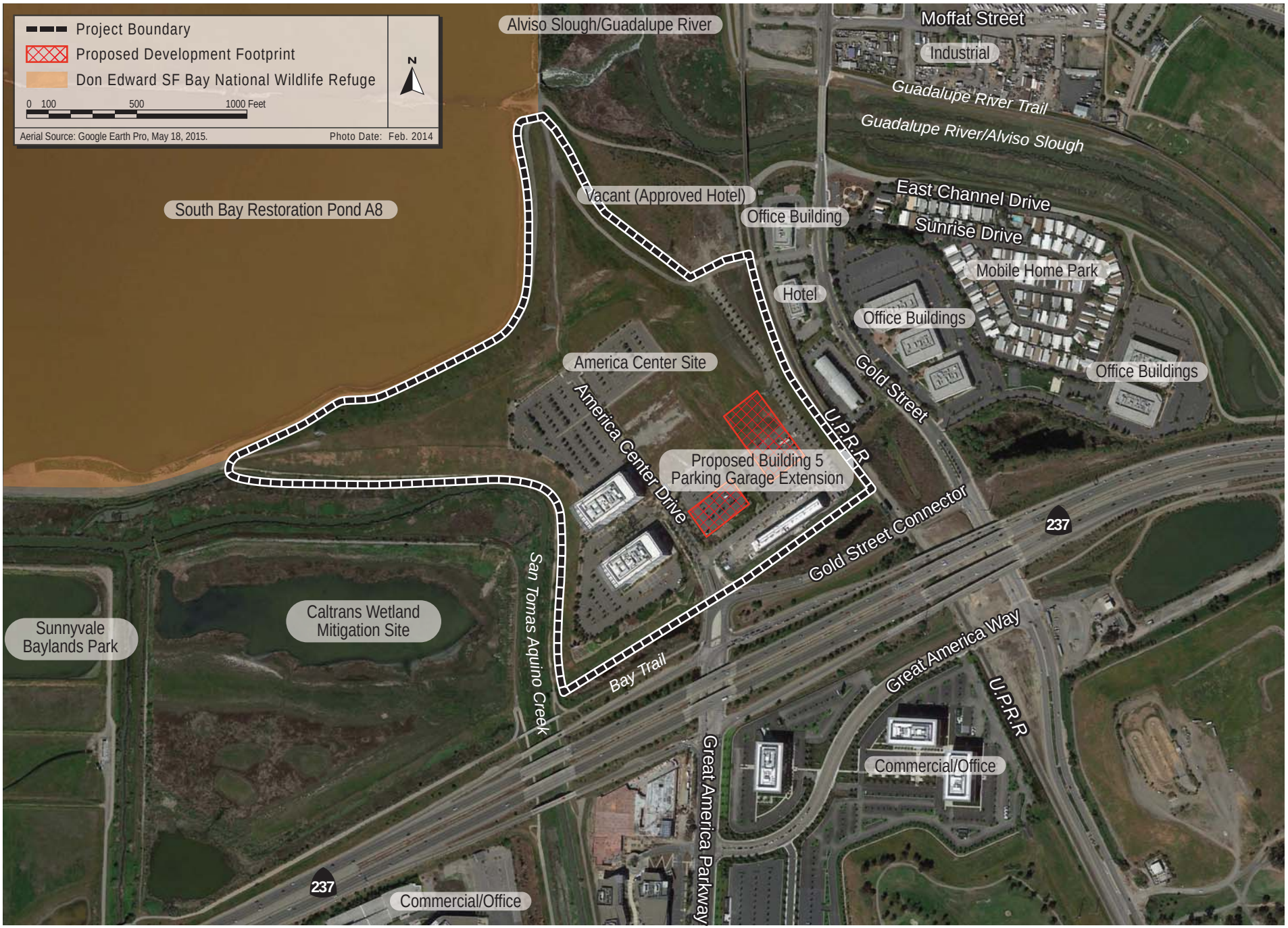
2.1.2 Previously Approved Projects

2.1.2.1 *2000 Planned Development Rezoning (PDC99-044) and Planned Development Permit (PD00-025)*

In February 2000, the City of San José certified the *Final Environmental Impact Report for the Legacy Terrace Development Planned Development Rezoning and Prezoning* (Legacy Terrace FEIR) (California State Clearinghouse Number 99082004; File Number PDC99-044) for development of approximately 45.2 acres of a 70.5-acre site. The rezoning was approved to allow development of 900,000 square feet of commercial office/R&D uses, a 175-room hotel, and 25,000 square feet of River Commercial uses. The remaining 25.3 acres of the site were to remain as open space within a designated open space preserve.

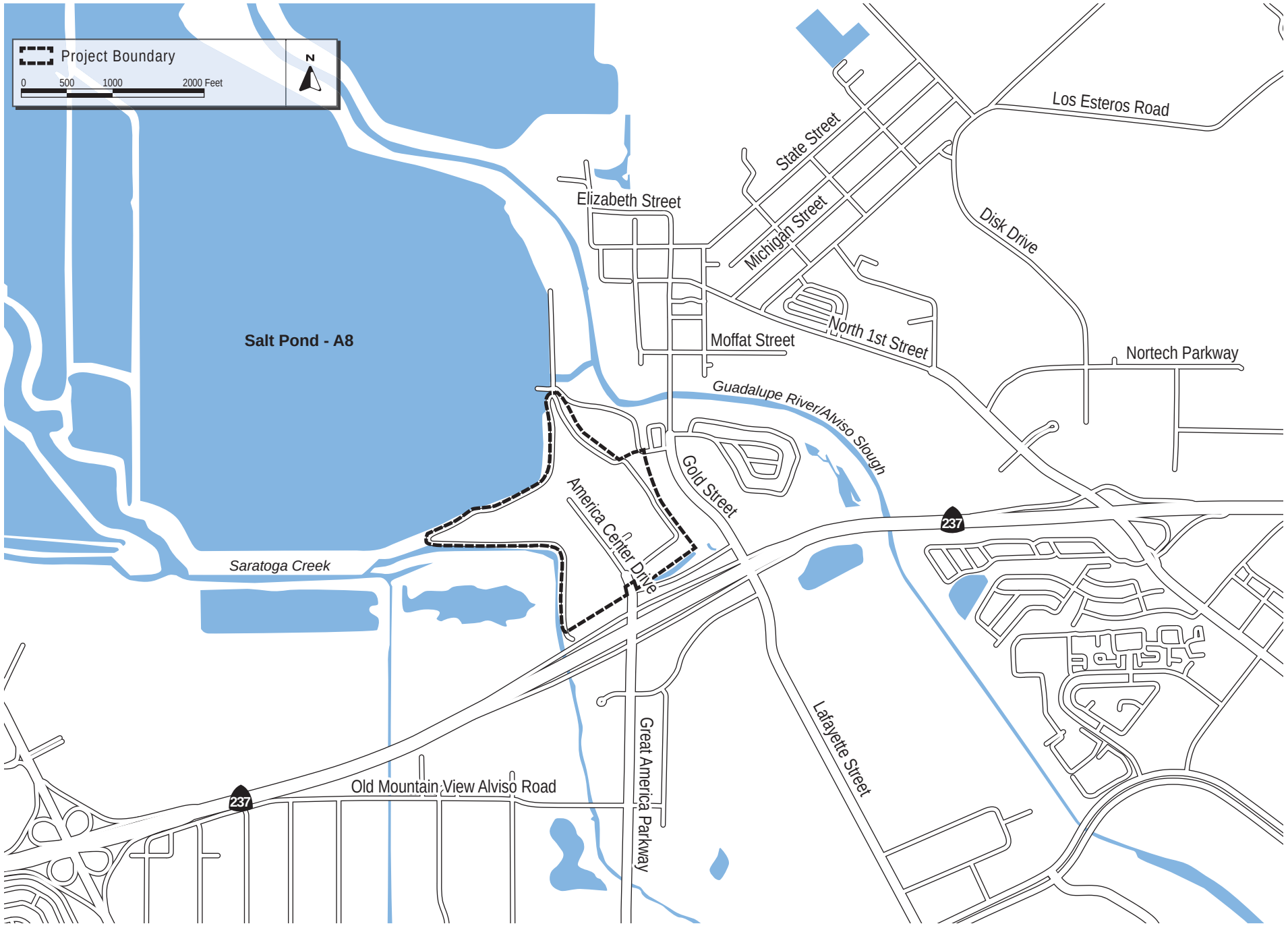
The development evaluated in the Legacy Terrace FEIR was renamed America Center prior to completion of the first buildings within the development. Two of the five office buildings and the 175-room hotel planned on the America Center site have been constructed and are in operation and two other commercial office/R&D buildings are permitted and under construction.

[4] The Highway 237 Landfill operated from 1962 to 1982 as a Class II-2 non-hazardous solid waste landfill (Solid Waste Information System File No. 43-AN-004).



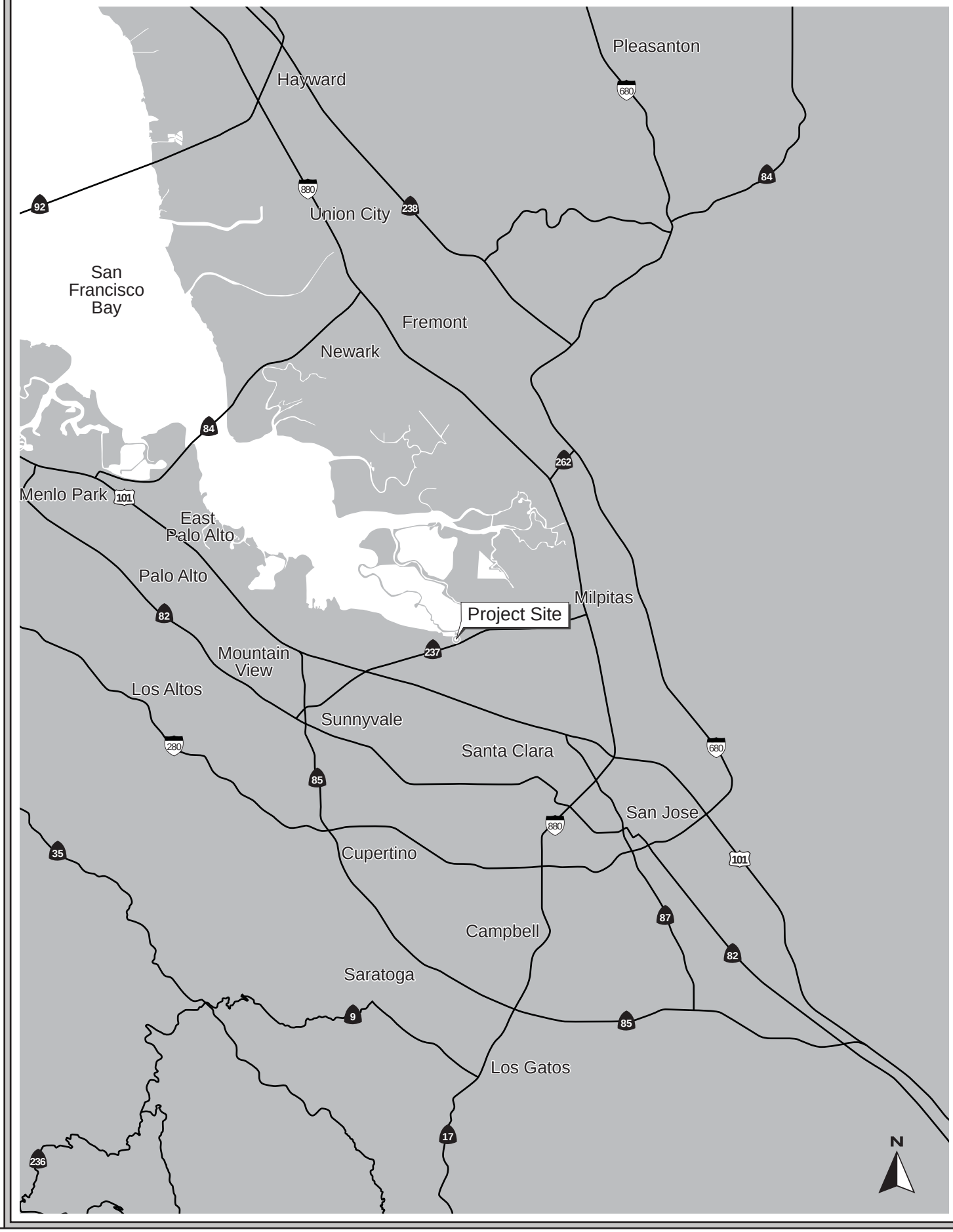
AERIAL PHOTOGRAPH AND SURROUNDING LAND USES

FIGURE 2.1-3



VICINITY MAP

FIGURE 2.1-2



REGIONAL MAP FIGURE 2.1-1

EXISTING & PROPOSED PD ZONING BOUNDARIES

FIGURE 2.1-4

The project incorporated mitigation measures to reduce environmental impacts to the extent feasible. Nevertheless, the Legacy Terrace FEIR found that implementation of the project would have significant and unavoidable environmental impacts in the following resource areas:

- **Aesthetics:** substantial alterations of scenic vistas viewed from SR 237, Alviso, the Alviso Marina County Park, and Don Edwards San Francisco Bay National Wildlife Refuge;
- **Air Quality:** carbon monoxide and particulate matter emissions (from vehicles), short-term odors from construction and relocation of waste in the former landfill;
- **Noise:** extended construction schedule and pile driving resulting in elevated noise;
- **Transportation/Traffic:** congestion impacts to three intersections and four freeway segments;
- **Cumulative:** aesthetics, air quality, biology (loss of burrowing owl habitat), and transportation impacts.

2.1.2.2 *2006 Planned Development Rezoning (PDC03-024)*

In June 2006, the City of San José approved a PD zoning (File No. PDC03-024) that increased the River Commercial uses allowed development on the northeast corner of the America Center site from 25,000 square feet to 88,233 square feet of building space to accommodate the Alviso Youth Foundation Project. This zoning also included modifications to the boundaries of PD zoning and land use areas to reflect a series of minor lot line adjustments and land trades with the State of California, Santa Clara Valley Water District, and other entities. The total area covered by the PD zoning was reduced to approximately 70 acres from 70.5 acres. The portion of the America Center site designated for River Commercial uses (listed as approximately 6.4 acres in the Legacy Terrace FEIR) was adjusted to 6.7 acres as a part of those 2006 zoning revisions.

The 2006 modifications also included an easement facilitating the location, access, construction, and maintenance of the San Francisco Bay Trail (Bay Trail). The PD rezoning also proposed an exception to the 100-foot riparian setback by allowing two decks, a maximum of 1.600 square feet each, on the north-east building to encroach in the riparian setback. All other PD zoning development standards, as outlined in the original PD zoning (PDC99-044), would remain in effect as previously approved.

Environmental impacts from this 2006 PD zoning, were evaluated in an Addendum to the Legacy Terrace FEIR (2006 EIR Addendum). The 2006 EIR Addendum did not find any new or substantially greater impacts to the environment than those originally evaluated for the site in the Legacy Terrace FEIR.

2.1.2.3 *2007 Planned Development Permit (PD07-060)*

In November 2007, the City of San José approved a PD Permit to replace the previously approved and subsequently expired PD Permit (PD00-025), which permitted 900,000 square feet of office R&D space and a 176 room hotel. The 2007 PD Permit (PD07-060) proposed 981,362 square feet of office/R&D space, spread over four six-story buildings and a 176 room hotel. An Addendum to the Legacy Terrace FEIR (2007 EIR Addendum) prepared for the PD Permit did not find any new or

substantially greater significant impacts to the environment resulting from the modifications to the approved development.

2.1.2.4 *2015 Permit Amendment (PDA07-060-01)*

In August 2015, the City of San José approved an amendment to the 2007 PD Permit (PD07-060) to permit architectural modifications to the approved, unbuilt Buildings 3 and 4 and the parking garage, increasing the provided parking by 20 stalls. The amendment also allowed construction of 19,000 square feet of amenity space attached to the parking garage, for a fitness center and café.

2.1.2.5 *2013 Planned Development Permit (PD12-048)*

In April 2013, the City of San José approved a PD permit (PD12-048) to allow an 82,000 square foot hotel consisting up to 175 rooms, as previously approved per PD07-060. The permit primarily proposed the addition of late night incidental drinking establishment, architectural modifications, and minor site modifications. The proposal did not increase impervious surfaces compared to the PD07-060 approval.

2.1.2.6 *2016 Planned Development Rezoning (PDC15-016) and Planned Development Permit (PD16-015)*

In March 2016, the City of San José approved a PD zoning (PDC15-016) that modified the zoning regulations within the approximately 6.7-acre River Commercial area evaluated in the Legacy Terrace FEIR. The PD zoning allowed development of a four-story (up to 53 feet in height), 261-unit hotel and installation of a segment of the Bay Trail adjacent to the Guadalupe River. This hotel was in addition to the 175-room hotel previously approved and constructed in the southern portion of the America Center site. The existing land use assumptions, performance standards, and environmental mitigations for the remainder (approximately 63 acres) of the America Center Development (e.g., Commercial Office/R&D, Commercial Hotel, and Open Space areas shown in Figure 2.1-4) remained the same and under the development standards in PDC03-024. In September 2016, the City of San José approved a PD permit (PD15-016) to allow the construction of a 164,112 square foot, four-story 261-room hotel.

2.2 PROJECT DESCRIPTION (PDC15-058 AND PD15-053)

2.2.1 Proposed Planned Development Zoning (PDC15-058)

The General Development Plan for the current PD zoning (PDC03-024) shows five land use areas; Commercial/R&D, Hotel, Open Space Preserve, Private/Common Open Space, and River Commercial. The project would modify the General Development Plan to reflect changes to the boundaries of the land use areas and to increase the allowed building square footage in the Commercial Office/R&D area. Changes to the boundaries of the land use areas covered under the PD rezoning include:

- Remove the approximately 6.7 acre River Commercial area adjacent to the Guadalupe River/Alviso Slough which is now covered under a separate PD zoning (PDC15-016), approved in February 2016; and
- Adjust the boundaries for the remaining land use areas to reflect minor lot line adjustments.

The proposed land use areas are shown on Figure 2.1-4 and Table 2.2-1. The total area planned for Commercial Office/R&D and Commercial/Hotel uses would be located on disturbed area previously designated for this use.

The project proposes an increase to the allowed amount of square footage allowed within the 29.8-acre Commercial Office/R&D area at America Center by 190,000 square feet and bring the total allowed Commercial Office/R&D space on the site to 1,090,000 square feet. A summary of the additional square footage proposed for the site is shown in Table 2.2-1. The allowed building height would remain the same at 90 feet. The proposed allowed office/R&D uses are approximately 190,000 square feet more than what was reviewed for the site in the Legacy Terrace FEIR.[5]

Table 2.2-1: Proposed Land Use Area and Building Size Changes

Land Use	Area (acres)		Total Allowed Building Size (square feet)	
	Existing[1]	Proposed	Existing	Proposed
Commercial Office/R&D	34.4	29.8	900,000	1,090,000
Commercial/Hotel	3.8	2.1	90,000	90,000
Open Space Preserve and Riparian Area	25.3	31.1[2]	NA	NA
River Commercial (now PDC15-016)	6.4[3]	0	NA	NA
Private/Common Open Space	0.5	NA	NA	NA
Total	70	63	990,000	1,180,000

[1] The boundaries of the land use areas are not changing substantially. The modifications to the land areas primarily reflect previous minor lot line adjustments and land trades with the State of California, Santa Clara Valley Water District and other entities and placing sloping areas not planned for development within the Open Space Preserve category.

[2] The Open Space and Riparian Area increased in size as a result of lot line adjustments within the greater America Center site.

[3] With other previous lot line adjustments, the River Commercial area under PDC15-016 is 6.7 acres.

2.2.2 Proposed Office/R&D Building (PD15-053)

The six-story office building (Building 5) proposed under PD15-053 would be up to 83 feet tall at the top of roof, and would contain approximately 192,350 square feet of floor space. A parapet wall would extend 4.5 feet above the roof and a penthouse would extend 11.5 feet above the roof. The proposed site plan and elevations are shown in Figure 2.2-1 and Figure 2.2-2, respectively.

The proposed project (PDC15-058 and PD15-053) would allow for construction of up to 216,000 square feet of Office/R&D uses and associated amenity space and expansion of the parking garage approved for the eastern portion of the site. The proposed PD zoning would allow an additional 24,000 square feet of office/R&D development beyond that proposed in Building 5.

A gas impermeable membrane would be placed under the concrete floor slab, above the gas collection layer surrounding the perforated pipes. The membrane would be sealed around foundation

[5] Totals do not include the 6.4 acre River Commercial area that was included in the original zoning, which was sold to another land owner and a project was approved on March 22, 2016 by the City of San José under a separate PD zoning (PDC15-016).

piles, beams and penetrations in the floor slab. Gas sensors for methane would also be provided in the soil gas mitigation system. An operation and maintenance plan would contain instructions and procedures on how to check that the system is operating properly. Site utility trenches would be constructed with landfill gas cut-offs to prevent landfill gas from migrating along utility trenches. All below-grade electrical facilities would be designed for "explosive conditions," in accordance with the most recent California Building Code.

Soil Gas Control System Under Building

The project site is underlain by landfill materials because it sits on top of the closed Highway 237 Landfill, as shown in Figure 2.2-3.[6] To avoid possible vapor intrusion as a result of residual landfill gases (e.g., methane) into the proposed project structures, a soil gas mitigation system would be installed under the buildings, consistent with the mitigation measures included in the Legacy Terrace FEIR. The purpose of the soil gas mitigation system is to prevent accumulation of landfill or soil gas that have toxic or flammable properties in enclosed spaces and along underground utility corridors. The soil gas mitigation system would consist of perforated pipes placed in granular material under the building foundations. The perforated pipes will discharge to the exterior of the buildings. Installation of a landfill gas venting system beneath hardscape areas around the proposed building locations is also proposed.

2.2.2.1 *Proposed Parking*

The proposed project would construct a new five-story expansion on the south side of the previously approved parking structure.[7] Upon full build-out, the entire parking garage (including the expansion) would contain 1,870 parking spaces. Total parking provided on the site would be 3,610 spaces, as summarized in the following Table 2.2-2.

Table 2.2-2: Approved and Proposed Vehicle Parking

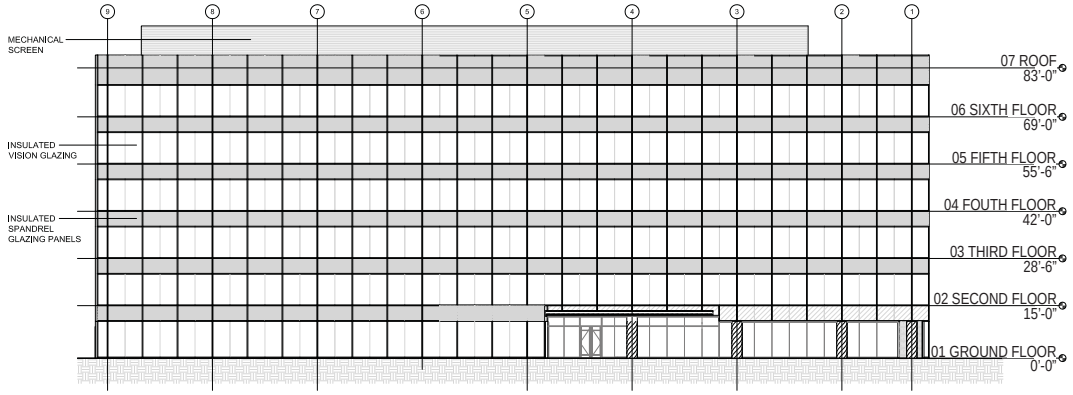
	Approved Spaces	Proposed Spaces
Surface Parking	2,124	1,740
Structured Parking	800	1,870
Total	**2,924**	**3,610**

2.2.2.2 *Site Access and Circulation*

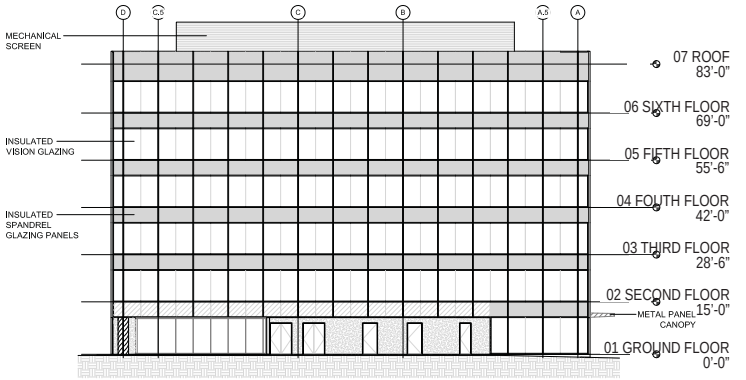
The proposed project would not involve substantial changes to the site access and circulation pattern. A single point of ingress/egress to the approximately 63-acre project site would continue to be provided at the southern end of the site, connecting to both Great America Parkway and the Gold Street Connector. There are SR 237 entrances and exits on Great America Parkway immediately south of the site, providing regional access. On-site circulation occurs via the main driveway entrance through to private roads that access the surface parking lots, parking garage, and office buildings.

[6] Landfill materials are also present on adjacent and nearby parcels to the west and south (APNs 15-45-011, -025, -27, -028, -029, and -030).

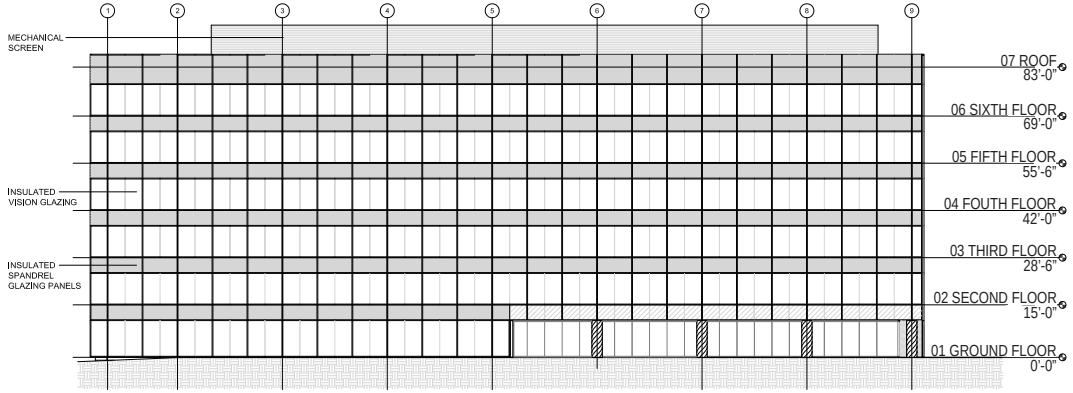
[7] A four-story, 830-space parking structure was approved for construction on the eastern portion of the site in 2007 (PD07-060). The structure design was subsequently modified in 2015 (PDA07-060-01).



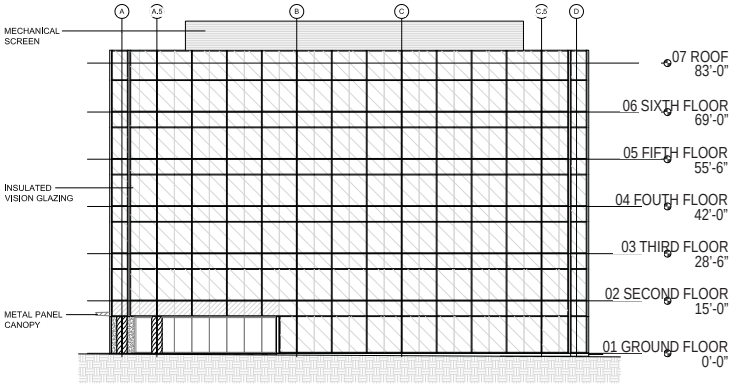
NORTH ELEVATION



EAST ELEVATION



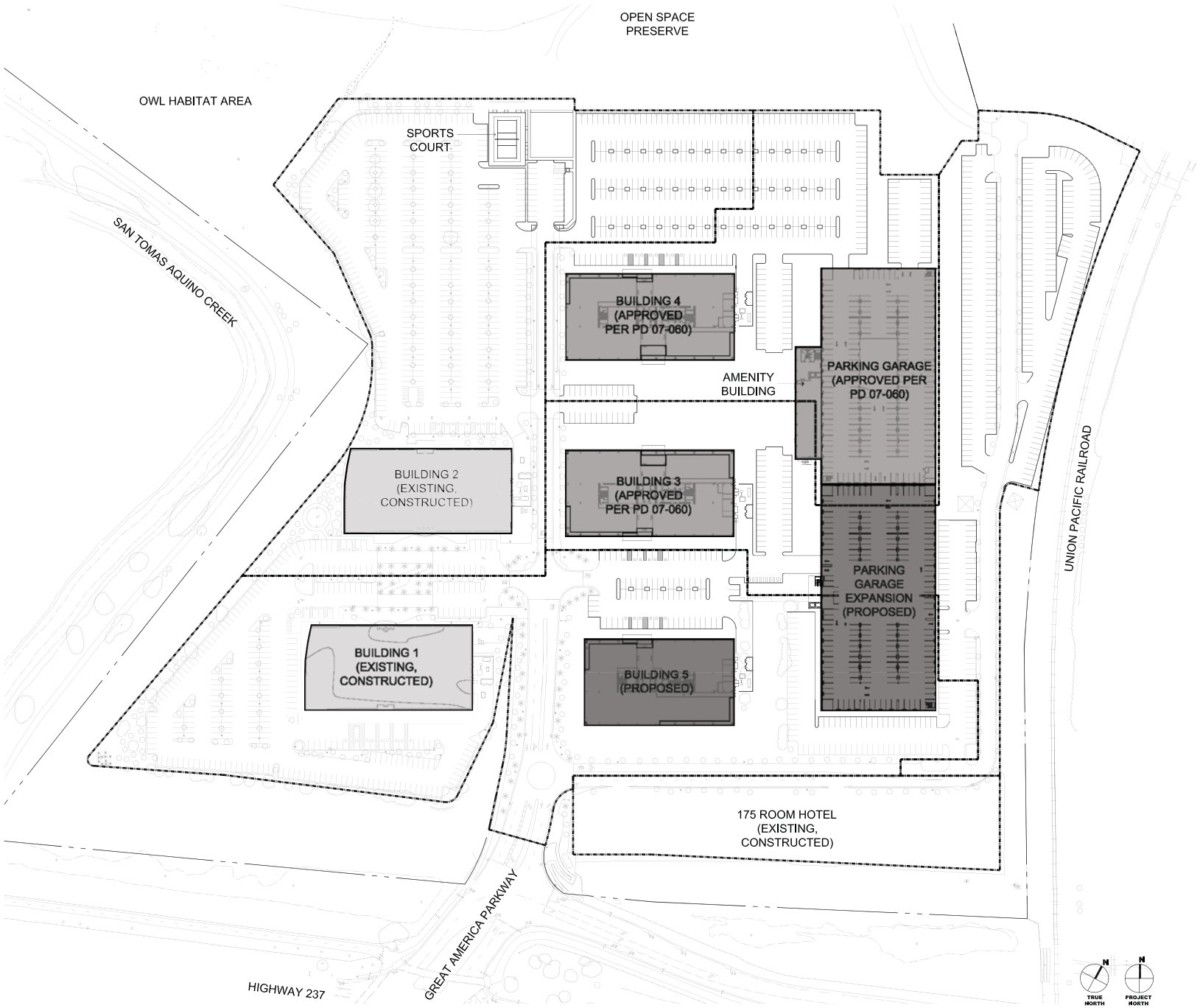
SOUTH ELEVATION



WEST ELEVATION

ELEVATIONS

FIGURE 2.2-2



PROPOSED SITE PLAN (COMMERCIAL OFFICE/R&D AREA) FIGURE 2.2-1

LOCATION OF CLOSED HIGHWAY 237 LANDFILL FIGURE 2.2-3

2.2.2.3 *Landscaping and Trees*

The project would remove 101 trees from the existing surface parking lot. The project would plant 44 24-inch box trees, including five shoestring acacia, 13 western redbud, five tupelo, and 21 coast live oak. Ground-covering landscaping would consist primarily of rushes, grasses, and mulch, with bamboo and vines planted around the proposed parking garage extension.

2.2.2.4 *Green Building Measures*

Per the San José Green Building Policy (Council Policy 6-32), the proposed Commercial Office/R&D buildings would be required to obtain, at a minimum, LEED-Silver certification. In addition, the project would be required to implement a Transportation Demand Management (TDM) program to reduce vehicle trips generated by the project. In support of the TDM program, full build-out of the proposed development would include a total of 178 bicycle parking spaces, 71 motorcycle spaces, and 284 fuel-efficient vehicle parking spaces.

2.2.2.5 *Transportation Demand Management Program*

The project will establish single-occupant auto trip-reduction measures, as part of a transportation demand management (TDM) program, which will result in the reduction of vehicular trips to the project site. The TDM program would encourage multimodal travel to the extent feasible. The project applicant/property owner would manage the TDM program to ensure tenant employee participation. The project TDM program may include, but would not be limited to, the following (or alternative) equivalent elements to reduce vehicle trips:

- Eco Pass or Clipper Card for all employees, providing free rides on Santa Clara Valley Transportation Authority (VTA) transit
- 25 perent transit subsidy for transit agencies other than the VTA, including Caltrain, ACE, Capitol Corridor, BART, MUNI, and other services
- Monthly vanpool subsidy
- Commuter tax benefits through WageWorks offering pre-tax deduction per month for transit and pre-tax deduction per month for parking
- Free “Last Mile” shuttles to local train systems (e.g. Caltrain, Amtrak, ACE)
- Internal carpool matching program utilizing zip code matching
- Regional carpool matching program through 511
- Preferred parking for carpools and vanpools located near entrances to every building
- Bicycle lockers and/or bicycle racks near entrances to every building
- Showers for cyclists and pedestrians, with amenities
- Intranet site featuring transit, bike, ridesharing and telework information
- New hire orientation presentations focusing on commute alternatives
- Centrally-located kiosks with transit schedules, bike and transit maps, and other commute alternative information
- Periodic events which connect employees with local transit agencies and transportation organizations (e.g. Spare the Air Fair and/or Bike to Work Day)

- On-site amenities that allow employees to complete errands without a car, such as bicycle repair, dry cleaning , haircuts, cafeteria, coffee bars, fitness center, mail and shipping services, ATM, small-scale retail
- Participation in the Bay Area Bike Share Program, or other similar bicycle sharing program.

2.2.2.6 *Construction Duration*

The currently proposed Building 5 and five-story parking garage extension is expected to take approximately 20 months to construct. The project would be undertaken once Buildings 3 and 4 and the northern portion of the parking garage are complete. It is anticipated that construction would start in spring 2018 and the building would be occupied in late 2019.

2.3 PROJECT OBJECTIVES

Pursuant to CEQA Guidelines Section 15124, the EIR must identify the objectives sought by the proposed project. Project objectives as proposed by the applicant include:

- Providing a development consistent with the vision for the Alviso Community stated in the General Plan and Alviso Master Plan: A Specific Plan for the Alviso Community (Alviso Master Plan);
- To efficiently cluster large-scale development allowing for:
    - Establishment and maintenance of a permanent open space preserve and buffer between the Alviso Village and the Guadalupe River;
    - Large scale development in the Golden Triangle Area of San José with direct access to SR 237 so that surrounding streets are less impacted;
    - Efficient use of existing infrastructure (including roads, utility lines, transit, etc.);
    - Increased cost-sharing of building and landscape maintenance costs;
- Utilization of the closed landfill site at an increased density with viable economic uses, which will augment the City's tax base and help reduce demand for greenfield development;
- Adding approximately 800 needed jobs to San José; and
- Creating buildings sizeable enough to attract large-company tenants to the Alviso Community/San José.

2.4 USES OF THE EIR

The City of San José is the Lead Agency under CEQA. This SEIR will be relied upon for, but not limited to, the following project-specific discretionary approvals necessary to implement the project as proposed.

City of San José

- Planned Development Zoning
- Planned Development Permit

CalRecycle, Regional Water Quality Control Board, and City of San José as the Local Enforcement Agency

- Postclosure Land Use Proposal modifications, including review of design of gas monitoring and environmental control systems

California Department of Transportation (Caltrans)

- Encroachment Permit to implement MM TRA-1.1

SECTION 3.0 ENVIRONMENTAL SETTING, IMPACTS, AND MITIGATION

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

3.1	Aesthetics	3.8	Hazards and Hazardous Materials
3.2	Air Quality	3.9	Hydrology and Water Quality
3.3	Biological Resources	3.10	Land Use and Planning
3.4	Cultural Resources	3.11	Noise and Vibration
3.5	Energy	3.12	Public Services and Recreation
3.6	Geology and Soils	3.13	Transportation
3.7	Greenhouse Gas Emissions	3.14	Utilities and Service Systems

The discussion for each environmental subject includes the following subsections:

ENVIRONMENTAL SETTING

This subsection: 1) provides a brief overview of relevant plans, policies, and regulations that compose the regulatory framework for the project and 2) describes the existing, physical environmental conditions at the project site and in the surrounding area, as relevant.

IMPACTS

This subsection: 1) includes thresholds of significance for determining impacts, 2) discusses the project's consistency with those thresholds, and 3) discusses the project's consistency with relevant plans. For significant impacts, feasible mitigation measures are identified. "Mitigation measures" are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guidelines Section 15370). Each impact is numbered using an alphanumeric system that identifies the environmental issue. For example, **Impact HAZ-1** denotes the first potentially significant impact discussed in the Hazards and Hazardous Materials section. Mitigation measures are also numbered to correspond to the impact they address. For example, **MM NOI-2.3** refers to the third mitigation measure for the second impact in the Noise section.

The project's consistency with applicable plans (such as general plans, specific plans, and regional plans) is also discussed within this subsection pursuant to CEQA Guidelines Section 15125(d). Plans relevant to implementation of the project, and references to the sections of the SEIR where they are discussed are listed in Table 3.0-1, which follows.

Table 3.0-1: Consistency with Plans Summary	
Relevant State, Regional, and Local Plans	**Section Discussed**
Envision San José 2040 General Plan, Alviso Master Plan City of San José	All sections, where appropriate
Clean Air Plan Bay Area Air Quality Management District (BAAQMD)	Section 3.2 Air Quality
Plan Bay Area Metropolitan Transportation Commission, Association of Bay Area Governments, BAAQMD	Section 3.7 Greenhouse Gas Emissions
Norman Y. Mineta San José International Airport Comprehensive Land Use Plan Santa Clara County Airport Land Use Commission	Section 3.7 Hazards and Hazardous Materials Section 3.9 Land Use and Planning Section 3.11 Noise and Vibration
Water Quality Control Plan/Basin Plan San Francisco Regional Water Quality Control Board	Section 3.8, Hydrology and Water Quality
Congestion Management Program Santa Clara County	Section 3.13, Transportation and Traffic
Bicycle Master Plan City of San José	Section 3.13, Transportation and Traffic

CONCLUSION

This subsection provides a summary of the project's impacts on the resource.

Important Note to the Reader

The California Supreme Court in a December 2015 opinion [*California Building Industry Association v. Bay Area Air Quality Management District,* 62 Cal. 4th 369 (No. S 213478)] confirmed that CEQA, with several specific exceptions, is concerned with the impacts of a project on the environment, not the effects the existing environment may have on a project. Therefore, the evaluation of the significance of project impacts under CEQA in the following sections focuses on impacts of the project on the environment, including whether a project may exacerbate existing environmental hazards.

The City of San José currently has policies that address existing conditions (e.g., air quality, noise, and hazards) affecting a proposed project, which are also addressed in this section. This is consistent with one of the primary objectives of CEQA and this document, which is to provide objective information to decision-makers and the public regarding a project as a whole. The CEQA Guidelines

and the courts are clear that a CEQA document (e.g., EIR or Initial Study) can include information of interest even if such information is not an "environmental impact" as defined by CEQA.

Therefore, where applicable, in addition to describing the impacts of the project on the environment, this chapter will discuss effects on the project related to policies pertaining to existing conditions. Such examples include, but are not limited to, locating a project near sources of air emissions that can pose a health risk, in a floodplain, in a geologic hazard zone, in a high noise environment, or on/adjacent to sites involving hazardous substances.

3.1 AESTHETICS

This section is based in part on a review of photosimulations of the project and the surrounding environment prepared for the project by *Digital Imaging Studios*, and included in this section as Figure 3.1-2, Figure 3.1-3, and Figure 3.1-4.

3.1.1 Environmental Setting

3.1.1.1 *Regulatory Framework*

State

Scenic Highways Program

The State Scenic Highways Program is under the jurisdiction of Caltrans. The program is intended to protect and enhance the natural scenic beauty of California highways and adjacent corridors through special conservation treatment. The state laws governing the Scenic Highway Program are found in the Streets and Highway Code, Sections 260 through 263. The nearest state-designated highway is Interstate 280 (I-280), approximately seven miles west of the site.

Local

Envision San José 2040 General Plan

The City's General Plan Scenic Corridors Diagram identifies Gateways and Urban Throughways where preservation and enhancement of views of the natural and man-made environment are crucial. The nearest Gateway to the project site is located on SR 237, where the North First Street overpass transects the highway approximately 0.85 mile southeast of the site. The City of San José has designated SR 237 as an Urban Throughway from the I-880 intersection to Fair Oaks Avenue in Sunnyvale. The SR 237 corridor extends east-west, and is located to the south of the project site.

The General Plan also includes the following aesthetic policies applicable specifically to development projects in San José:

Policy	Description
CD-1.1	Require the highest standards of architecture and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.
CD-1.23	Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.
CD-10.2:	Require that new public and private development adjacent to Gateways, freeways (including Highway 101 [US 101], Interstate [I]-880, I-680, I-280, SR17, SR85, SR237, and SR87), and Grand Boulevards consist of high-quality architecture, use high-quality materials, and contribute to a positive image of San José.

CD-10.3:	Require that development visible from freeways (including US 101, I-880, I-680, I-280, SR17, SR85, SR237, and SR87) be designed to preserve and enhance attractive natural and man-made vistas.

Alviso Master Plan

The Alviso Master Plan is a policy document that provides the background, vision, and purpose to guide the future of this unique area at the northern edge of San José. One of the stated purposes of the plan is to protect and enhance the small town quality of Alviso by guiding appropriate new development, community facilities, and infrastructure. The Alviso Master Plan establishes the location and intensity of land uses, the circulation pattern, and necessary infrastructure improvements to support development. The following policies are specific to aesthetics and are applicable to the proposed project.

Policy	Description
Environmental Protection Policy 3	The riparian corridors adjacent to Coyote Creek and Guadalupe River should be preserved intact. Any development adjacent to the waterways should follow the City's Riparian Corridor policies.
Landscaping Policy 3	Landscaping should be used to screen unattractive uses and soften the effect of taller buildings due to the flood protection requirements.
Landscaping Policy 4:	Landscaping should not block views of the rivers, natural riparian areas, or marshlands.

City Council Outdoor Lighting Policy

San José City Council Policy 4-3 contains guidelines for use of outdoor lighting. The purpose of this policy is to promote energy-efficient outdoor lighting on private development in the City of San José that provides adequate light for nighttime activities while benefiting the continued enjoyment of the night sky and continuing operation of the Lick Observatory by reducing light pollution and sky glow.

3.1.1.2 *Existing Conditions*

Project Site

The site includes the closed Highway 237 Landfill. The landfill mound generally slopes approximately 40 feet upward from south to north and three buildings are present on a gently sloping plateau on top of the mound. An access road bisects the southern face of the former landfill. The slopes below the developed area are generally covered with annual grasses that change from green to a golden color during the year.

San Tomas Aquino Creek, which is lined with emergent cattails and bulrushes, borders the western boundary of the site. The Gold Street Connector, linear wetlands, and the Union Pacific railroad (UPRR) tracks border the elevated areas of the site to the south and east. Open space and wetland restoration areas dominate the views to the north and west of the site. Electrical transmission towers and lines overhang the site along the eastern and northern portion of the property.

As shown in Photographs 1 through 4 (the locations of the photos are shown in Figure 3.1-1: Photo Key), there are two completed and occupied six-story office buildings on the plateau of the America Center site. These modern-style buildings have primarily glass facades with white stucco trim and flat roofs. At the center of the site, two additional six-story office buildings of similar design are under construction, as is a six-level parking garage. A five-story hotel (Aloft) is located on the southern edge of the developed area of the site, parallel to the Gold Street Connector and SR 237 beyond. The hotel is primarily white stucco with grey, yellow and blue trim. Surface parking, internal private roadways, and associated landscaping dominate the remainder of the site.

Surrounding Areas

The America Center site is located within the Alviso Planning Area in the City of San José, which is at the southerly end of the San Francisco Bay. Marshes, sloughs and other bayland areas at the urban edge border the built environment of Alviso. The project site sits adjacent to the San Francisco Bay and South Bay Restoration Pond A8 on the north, a linear wetland, the Gold Street Connector, and SR 237 are to the south. Union Pacific Railroad tracks and two- and three-story commercial office and hotels buildings and Gold Street are east of the site, and San Tomas Aquino Creek and a wetland area are to the west. On the south side of SR 237 there are three to six-story glass, steel, and stucco commercial office buildings. These adjacent uses are shown in the following photographs 4 through 8. Modern commercial office buildings, paved parking lots, and annual grasslands dominate views from the site.

Within the Alviso community to the east there are a mosaic of single-family and multi-family developments, many of which are one- to two-story wood frame structures built before 1970. Single-story, wood and stucco commercial buildings and small parking lots are found clustered in the central Alviso Village area, off Gold Street and North First Street. Industrial uses in the Alviso area include a variety of building types and densities, ranging from modern concrete and glass office buildings to localized concentrations of outdoor storage and corporation yards. There are several trails and public open space areas in the project vicinity, including: the San Francisco Bay National Wildlife Refuge, Alviso Marina County Park (gateway to the wildlife refuge), Guadalupe River Trail, San Francisco Bay Trail, and Sunnyvale Baylands Park. Gold Street, which is located east of the site, is one of the primary roadways that provide access to the Alviso Village area, Guadalupe River Trail, and recreational uses at the Alviso Marina County Park and Don Edwards San Francisco Bay National Wildlife Refuge to the north. In the distance to the east and west, are the foothills which border the Santa Clara Valley.

Scenic Vistas and Resources

The overall America Center site is visible from the Urban Throughway segment of SR 237, as it is located approximately 200 feet south. The project site is visible in the distance from the SR 237/North First Street Gateway, located 0.85 mile southeast of the project. It is also visible from segments of the Bay Trail in Alviso Marina County Park, the San Francisco Bay National Wildlife Refuge, and Sunnyvale Baylands Park, and the Guadalupe River Trail near Gold Street.

PHOTO KEY

FIGURE 3.1-1

Photograph 1: View of the completed hotel at the south side of the America Center site and the adjacent surface parking lot and electric transmission line, facing southwest

Photograph 2: View of the project site from the UPRR tracks with the hotel (Aloft) in the background, facing south

Photograph 3: Buildings 1 and 2 and designated Open Space and Riparian Area at the America Center site, facing south

Photograph 4: Completed Building 2 and the construction area for Building 3 at the America Center site, facing west

Photograph 5: View of side slope of the project site adjacent to UPRR tracks, facing south. SR 237 is visible in background

Photograph 6: The southern slope below the hotel and adjacent linear wetland, Gold Street Connector, SR 237, and buildings on the south side of SR 237, facing southwest

Photograph 7: Grassy side slopes viewed from the northwest corner of the America Center Open Space Preserve with San Tomas Aquino Creek and Caltrans Mitigation Wetland in the foreground and America Center Buildings 1 and 2 in the background on the left, facing south

Photograph 8: View of commercial buildings to the east of the America Center site, facing northeast

There are no rock outcroppings, trees, historic buildings, or other natural or man-made scenic resources on the project site. Scenic vistas visible from the vicinity of the project site include views of the Diablo Range foothills (to the east) and the Santa Cruz Mountains (to the west). The baylands of San Francisco Bay are visible from SR 237 west of the site; however they are not visible from SR 237 east of the site or in the immediate vicinity of the project site along Gold Street.

Light and Glare

Sources of light and glare are abundant in the urban environment of the immediate project area, including but not limited to street lights, parking lot lighting, security lights, vehicular headlights, internal building lights, and reflective building surfaces and windows. Along the riparian and open space areas on or adjacent to the site, lighting is limited.

3.1.2 Aesthetic Impacts

3.1.2.1 *Thresholds of Significance*

For the purposes of this EIR, an aesthetic impact is considered significant if the project would:

- Have a substantial adverse effect on a scenic vista;
- Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway;
- Substantially degrade the existing visual character or quality of the site and its surroundings; or
- Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area.

Generally, visual and aesthetic effects discussed in a CEQA document are of three types: direct impacts to scenic resources, impacts from the project's appearance and what scenic views, if any, development of a project would obscure.

3.1.2.2 *Aesthetics Impacts Identified in the Legacy Terrace FEIR*

The Legacy Terrace FEIR addressed construction of five office/R&D buildings, a 175-room hotel, development 25,000 square feet of River Commercial Uses, and establishment of 25.3 acres of Open Space/Riparian Area along the northern and western portions of the project site. The Legacy Terrace FEIR concluded that the America Center structures would significantly obscure scenic views from SR 237, the Alviso community, Alviso Marina County Park and the San Francisco Bay Wildlife Refuge. The office buildings on the top of the closed Highway 237 Landfill were identified as introducing a very different scale and blocking views of the foothills and open space from several vantage points, including SR 237. Although the project's compliance with the City's Commercial Design Guidelines reduced aesthetic/visual impacts, the project's visual impacts to scenic vistas in the area was considered significant and unavoidable.

The following discussion addresses the potential change in visual character and effects on scenic views from the proposed development of a fifth, six story building and a parking garage extension

within the Commercial Office/R&D area of America Center site along with the other allowed development.

3.1.2.3 *Scenic Resources*

The 63-acre project site contains six-story, modern office buildings and a hotel on an elevated plateau bordered by grassy slopes. While visually prominent, there are no rock outcroppings, trees, historic buildings, baylands, or other natural or man-made scenic resources on the project site. Construction of an additional office building and parking structure would not directly affect existing scenic resources in the Alviso area of San José due to the distance of separation. **(No Impact)**

3.1.2.4 *Scenic Vistas and Visual Character*

Aesthetic values are, by their nature, subjective. Opinions as to what constitutes a degradation of visual character will differ among individuals. One of the best available means for assessing what constitutes a visually acceptable standard for new buildings are the City's design standards and implementation of those standards through the City's design process. The following discussion addresses the proposed changes to the visual setting of the project area and factors that are part of the community's assessment of the aesthetic values of a project's design, consistent with the General Plan and Alviso Master Plan.

As noted above, the Legacy Terrace FEIR concluded that development of five office/R&D buildings, a 175-room hotel and then proposed River Commercial uses would significantly obscure scenic views from SR 237, the Alviso community, Alviso Marina County Park and the San Francisco Bay Wildlife Refuge. The office buildings on the top of the closed Highway 237 Landfill would introduce a very different scale and block or obscure views of the foothills and open space from several vantage points, including SR 237. The following discussion builds on the analysis in the Legacy Terrace FEIR and addresses the effect of the proposed project on visual character and views.

Views of proposed Building 5 are generally limited because it is surrounded on all sides by other previously constructed or approved buildings; however, there is still the potential for the structure and parking structure extension to be viewed from the Guadalupe River Trail, Bay Trail alignments, and portions of SR 237. Potential impacts to these views are described below.

Views from Trails

Figure 3.1-2 shows the existing setting and photo simulations of America Center from a future extension of the Guadalupe River Trail and Bay Trail, west of Gold Street. The Guadalupe River Trail was constructed up to Gold Street after completion of the Legacy Terrace FEIR and is closer to the site than trail alignments to the north in Alviso Marina County Park. Due to existing buildings and elevated areas of the former landfill, distant views of the foothills (Santa Cruz Mountains) to the southwest are somewhat limited. As disclosed in the Legacy Terrace FEIR, the mass and scale of the buildings on top of the former landfill would significantly modify views from trails in the area. However, as shown in Figure 3.1-2, views of proposed Building 5 and the parking garage expansion would be blocked by and blend in with the backdrop of Buildings 1 through 4 and the hotel previously approved as part of the Legacy Terrace FEIR and would not further degrade or substantially block views of the Santa Cruz Mountains from the trail.

Views from SR 237

Views of the greater project area have changed substantially since the Legacy Terrace FEIR was certified in 2000, in that a fair amount mid-rise office development (similar to America Center) has occurred south and east of the project site in San José and Santa Clara (as shown in Photographs 6 through 8, Figure 3.1-2, Figure 3.1-3, and Figure 3.1-4).

Figure 3.1-3 shows a view from westbound SR 237 near America Center and Figure 3.1-4 shows the view from eastbound SR 237. The proposed Building 5 and parking garage extension would be viewed against the backdrop of the existing, previously approved buildings on the site (which are similar visually in terms of height, materials, and massing). With the existing urban development and tall buildings surrounding, Building 5 and the proposed parking garage extension would not substantially increase the significant visual impacts from the approved project compared to the buildings approved as part of the Legacy Terrace FEIR, which identified impacts to views from SR 237 as a significant and unavoidable environmental impact. Due to the site's visually prominent position, the mass and scale of the existing, approved, and proposed structures on the America Center site, and the remaining buildings to be completed at the time supplemental analysis, impacts to views from SR 237 and trails in the vicinity would be significant. The impact on views from this designated Urban Throughway as a result of the additional square footage proposed as part of the rezoning project would not be substantially greater, however, the impact would remain significant.

Impact AES-1: The proposed project would contribute to impacts to views from SR 237 and from trails in the vicinity, which would represent an overall significant aesthetics impact. **(Significant Impact)**

Mitigation Measures

As disclosed in the Legacy Terrace FEIR, the project would be required to implement policies from the City's Commercial Design Guidelines and Design Guidelines for Commercial Development for Lands Outside of the Alviso Village Area to reduce the project's effects on the visual character of the area related to architectural design, use of quality materials, and landscaping.

This impact could not be reduced without introducing a reduced scale or alternative design; therefore, visual and aesthetics impacts from these vantage points would remain significant and unavoidable, as described within the Legacy Terrace FEIR. **(Significant, Unavoidable Impact)**

3.1.2.5 *Light or Glare*

There are sensitive open space areas on the north and west side of the America Center site, and former salt ponds along the edge of the San Francisco Bay are located north of America Center (beyond the Open Space Preserve). These areas provide wildlife habitat and visual open space. Building 5 and the proposed parking garage extension are surrounded by other existing buildings on the project site.

Existing

Approved (Under Construction)

Existing, Approved Development & Project

Source: Digital Imaging Studio

PHOTOSIMULATION FROM WESTBOUND SR 237 - VIEW 2 FIGURE 3.1-3

Existing

Approved (Under Construction)

Existing, Approved Development & Project

Source: Digital Imaging Studio

PHOTOSIMULATION FORM GUADALUPE RIVER TRAIL - VIEW 1 FIGURE 3.1-2

Existing

Approved (Under Construction)

Existing, Approved Development & Project

Source: Digital Imaging Studio

PHOTOSIMULATION FROM EASTBOUND SR 237 - VIEW 3 FIGURE 3.1-4

As discussed in Section 3.3, Biological Resources, light fixtures associated with the project, including nighttime lighting, would be set back a minimum of 100 feet from any open space or sensitive habitat areas and spillover of light would not occur. Further, the project would be required to conform to and City Council Lighting Policy 4-3, pertaining to how lights are directed, shielded, and the hours they should be used; which would limit light spillover and potential impacts associated with increased nighttime light levels.

Building 5 and the parking garage extension would be subject to the City's design review process and would be required to use exterior materials that don't result in daytime glare, consistent with General Plan policies and the City's Commercial Design Guidelines (also similar to previously approved buildings at the project site). As a result, the proposed project would not significantly impact adjacent land uses with daytime glare from building materials. Thus, the project impacts are not more substantial than those disclosed within the previous Legacy Terrace FEIR. (**Less than Significant Impact)**

3.1.2.6 *Consistency with Plans and Policies*

As described previously, the project would be required to implement policies from the City's Commercial Design Guidelines and Design Guidelines for Commercial Development for Lands Outside of the Alviso Village Area to reduce the project's effects on the visual character of the area related to architectural design, use of quality materials, and landscaping (consistent with General Plan Policy CD-1.1, 1.23, 10.2 and 10.3 and Alviso Master Plan Landscaping Policy 3 and 4). Consistent with Environmental Protection Policy 3, no development would occur immediately adjacent to waterways as part of the project. The project would also be reviewed for consistency with City Council Lighting Policy 4-3 during the overall design review process.

3.1.3 Conclusion

The proposed Building 5 and parking garage expansion would be consistent with the heights, massing, and materials incorporated into the finished buildings and buildings under construction at the America Center site. Views of the site from SR 237 and the trails in the Alviso area would be modified; however, the proposed development would not result in substantial new or more significant impacts to the visual character or quality of the site and its surroundings than disclosed in the Legacy Terrace FEIR. **(Significant, Unavoidable Impact)**

Development of the proposed project would also not result in substantial light and glare that would substantially effect nighttime views. **(Less than Significant Impact)**

3.2 AIR QUALITY

The discussion within this section is based, in part, on the California Emissions Estimator Model (CalEEMod) emissions calculations completed for the proposed project. The emissions calculations are provided in Appendix B.

3.2.1 Environmental Setting

Air quality is determined by the concentration of various pollutants in the atmosphere. The amount of a given pollutant in the atmosphere is determined by the amount of pollutants released within an area, transport of pollutants to and from surrounding areas, local and regional meteorological conditions, and the surrounding topography of the air basin. The major determinants of transport and dilution are wind, atmospheric stability, terrain and, for photochemical pollutants, sunlight.

3.2.1.1 *Regulatory Framework*

Federal

Federal Clean Air Act

The Federal Clean Air Act (Federal CAA) establishes pollutant thresholds for air quality in the United States. At the federal level, the Environmental Protection Agency (EPA) administers the Federal CAA. The EPA is responsible for establishing the National Ambient Air Quality Standards, which are required under the Federal CAA. The EPA regulates emission sources that are under the exclusive authority of the federal government, such as aircraft, ships, and certain types of locomotives. The agency also establishes various emission standards for vehicles sold in states other than California.

State

California Clean Air Act

In addition to being subject to federal requirements, California has its own more stringent regulations under the California Clean Air Act (California CAA).The California CAA is administered by the California Air Resources Board (CARB) at the state level under the California EPA (CalEPA). CARB is responsible for meeting the state requirements of the Federal CAA, administering the California CAA, and establishing the California Ambient Air Quality Standards (CAAQS). The California CAA requires all air districts in the state to achieve and maintain CAAQS. CARB also regulates mobile air pollution sources such as motor vehicles. CARB is responsible for setting emission standards for vehicles sold in California and for other emission sources, such as consumer products and certain off-road equipment. CARB has established passenger vehicle fuel specifications and oversees the functions of local air pollution control districts and air quality management districts, which in turn administer air quality activities at the regional and county level. CARB also conducts or supports research into the effects of air pollution on the public and develops approaches to reduce air pollutant emissions.

Regional

Clean Air Plan

The Bay Area Air Quality Management District (BAAQMD) is the regional agency primarily responsible for assuring that the federal and state ambient air quality standards are maintained in the San Francisco Bay Area. Regional air quality management districts, such as BAAQMD, must prepare air quality plans specifying how state air quality standards would be met. BAAQMD's most recently adopted air quality plan is the *Bay Area 2017 Clean Air Plan* (2017 CAP). The 2017 CAP focuses on two closely related BAAQMD goals, protecting public health and protecting the climate.

To protect public health, the 2017 CAP describes how the BAAQMD will continue its progress toward attaining state and federal air quality standards and eliminating health risk disparities from exposure to air pollution among Bay Area communities. To that end, the 2017 CAP includes a wide range of control measures designed to decrease emissions of the air pollutants that are most harmful to Bay Area residents, such as particulate matter, ozone, and toxic air contaminants. To protect the climate, the 2017 CAP includes control measures intended to reduce emissions of methane and other super-GHGs, and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.

BAAQMD also has permit authority over stationary sources, acts as the primary reviewing agency for environmental documents, and develops regulations that must be consistent with or more stringent than, federal and state air quality laws and regulations.

Local

Envision San José 2040 General Plan

The General Plan includes the following air quality-related policies applicable to development projects in San José.

Policy	Description
MS-10.1	Assess projected air emissions from new development in conformance with the BAAQMD CEQA Guidelines and relative to state and federal standards. Identify and implement air emissions reduction measures.
MS-13.1	Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.
TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
TR-7.1	Require large employers to develop and maintain Transportation Demand Management (TDM) programs to reduce the vehicle trips generated by their employees.

3.2.1.2 *Existing Conditions*

San José is located in the southern portion of the San Francisco Bay Area Air Basin. The proximity of this location to both the Pacific Ocean and San Francisco Bay has a moderating influence on the climate. Northwest and northerly winds are most common in the project area, reflecting the orientation of the Bay and the San Francisco Peninsula. Winds from these directions carry pollutants released by automobiles and factories from upwind areas of the Peninsula toward San José, particularly during the summer months. Winds are lightest on average in fall and winter. Every year in fall and winter there are periods of several days when winds are very light and local pollutants can build up.

Air quality standards for ozone are typically exceeded when relatively stagnant conditions occur for periods of several days during the warmer months of the year. Weak wind flow patterns combined with strong inversions substantially reduce normal atmospheric mixing. Key components of ground-level ozone formation are sunlight and heat. Significant ozone formation, therefore, only occurs during the months from late spring through early fall. Prevailing winds during the summer and fall can transport and trap ozone precursors in the Bay Area.

Topography can restrict horizontal dilution and mixing of pollutants by creating a barrier to air movement. The South Bay has significant terrain features that affect air quality. The Santa Cruz Mountains and Diablo Range on either side of the South Bay restrict horizontal dilution, and this alignment of the terrain also channels winds from the north to south, carrying pollution from the northern Peninsula toward San José.

The combined effects of weather and topography give San José a relatively high atmospheric potential for pollution compared to other parts of the San Francisco Bay Air Basin and provide a high potential for transport of pollutants to the east and south.

Air Pollutants of Concern (Criteria Air Pollutants)

Major criteria pollutants, listed in criteria documents by the EPA and CARB include ozone (O_3), carbon monoxide (CO), nitrogen dioxide (NO_X), sulfur dioxide (SO_2), and suspended particulate matter ($PM_{2.5}$ and PM_{10}). These pollutants can have health effect such as respiratory impairment and heart/lung disease symptoms.

High ozone levels are caused by the cumulative emissions of reactive organic gases (ROG) and NOx. These precursor pollutants react under certain meteorological conditions to form high ozone levels. Controlling the emissions of these precursor pollutants is the focus of the Bay Area's attempts to reduce ozone levels. The highest ozone levels in the Bay Area occur in the eastern and southern inland valleys that are downwind of air pollutant sources. High ozone levels aggravate respiratory and cardiovascular diseases, reduced lung function, and increase coughing and chest discomfort.

Particulate matter is another problematic air pollutant of the Bay Area. Particulate matter is assessed and measured in terms of respirable particulate matter or particles that have a diameter of 10 micrometers or less (PM_{10}) and fine particulate matter where particles have a diameter of 2.5 micrometers or less ($PM_{2.5}$). Elevated concentrations of PM_{10} and $PM_{2.5}$ are the result of both region-wide (or cumulative) emissions and localized emissions. High particulate matter levels aggravate

respiratory and cardiovascular diseases, reduce lung function, increase mortality (e.g., lung cancer), and result in reduced lung function growth in children.

Violations of ambient air quality standards are based on air pollutant monitoring data and are judged for each pollutant. The Bay Area as a whole does not meet state or federal ambient air quality standards for ground level ozone and $PM_{2.5}$, nor does it meet state standards for PM_{10}. The project area is considered attainment or unclassified for all other pollutants.

Toxic Air Contaminants

Toxic Air Contaminants (TACs) are a broad class of compounds known to cause morbidity or mortality (usually because they cause cancer). TACs are found in ambient air, especially in urban areas, and are caused by industry, agriculture, fuel combustion, and commercial operations (e.g., dry cleaners). TACs are typically found in low concentrations, even near their source (e.g., diesel particulate matter [DPM] near a freeway). Because chronic exposure can result in adverse health effects, TACs are regulated at the regional, state, and federal level.

Diesel exhaust is the predominant TAC in urban air and is estimated to represent about three-quarters of the cancer risk from TACs. According to CARB, diesel exhaust is a complex mixture of gases, vapors, and fine particles. This complexity makes the evaluation of health effects of diesel exhaust a complex scientific issue. Some of the chemicals in diesel exhaust, such as benzene and formaldehyde, have been previously identified as TACs by the CARB, and are listed as carcinogens either under the State's Proposition 65 or under the Federal Hazardous Air Pollutants programs.

CARB has adopted and implemented a number of regulations for stationary and mobile sources to reduce emissions of DPM. Several of these regulatory programs affect medium and heavy-duty diesel trucks that represent the bulk of DPM emissions from California highways. These regulations include the solid waste collection vehicle rule, in-use public and utility fleets, and the heavy-duty diesel truck and bus regulations. In 2008, CARB approved a new regulation to reduce emissions of DPM and nitrogen oxides from existing on-road heavy-duty diesel fueled vehicles.[8] The regulation requires affected vehicles to meet specific performance requirements between 2014 and 2023, with all affected diesel vehicles required to have 2010 model-year engines or equivalent by 2023. These requirements are phased in over the compliance period and depend on the model year of the vehicle.

Sensitive Receptors

Sensitive receptors are groups of people more affected by air pollution than others. CARB has identified the following persons who are most likely to be affected by air pollution: children under 16, the elderly over 65, athletes, and people with cardiovascular and chronic respiratory diseases. These groups are classified as sensitive receptors. Locations that may contain a high concentration of these sensitive population groups include residential areas, hospitals, daycare facilities, elder care facilities, elementary 64,s, and parks. The locations of the sensitive receptors in the vicinity of the project are summarized in Table 3.2-1, which follows.

[8] CARB. Truck and Bus Regulation On-Road Heavy-Duty Diesel Vehicles (In-Use). Accessed May 5, 2016. http://www.arb.ca.gov/msprog/onrdiesel/onrdiesel.htm.

Table 3.2-1: Sensitive Receptors in the Vicinity of the Project	
Sensitive Receptor	**Distance from the Project Site**
Summerset Mobile Estates	0.20 mile northeast
George Mayne Elementary School, Daycare, and Preschool	0.65 mile northeast
Saba Academy	0.95 mile southeast
Kathryn Hughes Elementary School and Preschool	1.00 mile southeast

Odors

Common sources of odors and odor complaints include wastewater treatment plants, transfer stations, coffee roasters, painting/coating operations, and landfills. The project site is located on top of a closed landfill and landfill materials are not exposed.

Site visits conducted during construction activities on other areas of the America Center site have not noted persistent, noticeable odors affecting the project site. BAAQMD staff confirmed that no odor complaints associated with ongoing construction of Building 3 and Building 4 have been noted at the site.[9]

3.2.2 Air Quality Impacts

3.2.2.1 *Thresholds of Significance*

For the purposes of this EIR, an air quality impact is considered significant if the project would:

- Conflict with or obstruct implementation of the applicable air quality plan;
- Violate any air quality standard or contribute substantially to an existing or projected air quality violation;
- Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors);
- Expose sensitive receptors to substantial pollutant concentrations; or
- Create objectionable odors affecting a substantial number of people.

3.2.2.2 *CEQA Thresholds Used in the Analysis*

As discussed in CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the Lead Agency and must be based to the extent possible on scientific and factual data. The City of San Jose has carefully the air quality impact thresholds updated by BAAQMD in May 2017 and regards these thresholds to be based on the best information available for the San Francisco Bay Area Air Basin

[9] Rochelle Reed. BAAQMD Public Records Section. Email correspondence with Amie Ashton. September 12, 2016.

and conservative in terms of the assessment of health effects associated with TACs and $PM_{2.5}$. BAAQMD's 2017 CEQA *Air Quality Guidelines* thresholds of significance for criteria air pollutants and precursors, are compared to the thresholds from 2000 when the Legacy Terrace FEIR was certified in Table 3.2-2, below.

Table 3.2-2: Thresholds of Significance Used in Air Quality Analyses

Pollutant	Thresholds Used in the 2000 Legacy Terrace FEIR		Current Thresholds	
	Daily Emissions (lbs/day)	Annual Emissions (tons/year)	Daily Emissions (lbs/day)	Annual Emissions (tons/year)
ROGs	80	15	54	10
NO_x	80	15	54	10
CO	550 (stationary)	100 (stationary)	-	-
PM_{10}	80	15	82	15
$PM_{2.5}$	-	-	54	10

ROG = reactive organic gas, a precursor to ozone
NO_x = nitrogen oxides, a precursor to ozone
CO = carbon monoxide
PM_{10} = respiratory particulate matter, <10 microns $PM_{2.5}$ = fine particulate matter, <2.5 microns

Sources: BAAQMD CEQA *Thresholds Options and Justification Report* (2009) and BAAQMD CEQA *Air Quality Guidelines* (2017).

Revisions to the thresholds of significance for criteria pollutants lowered both the daily and annual emissions thresholds for ozone precursors. The thresholds for respiratory particulate matter essentially stayed the same, carbon monoxide concentration thresholds were eliminated, and fine particulate matter thresholds were added.

3.2.2.3 *Air Quality Impacts Identified in the Legacy Terrace FEIR*

The Legacy Terrace FEIR addressed construction of 900,000 square feet of office/R&D buildings, a 175-room hotel, development 25,000 square feet of River Commercial Uses, and establishment of 25.3 acres of Open Space/Riparian Area along the northern and western portions of the project site. The Legacy Terrace FEIR concluded that operation of the structures at America Center would result in a significant and unavoidable air quality impact (primarily due to vehicle traffic emissions) because the project would exceed BAAQMD thresholds from 2000, as shown in Table 3.2-3 below. This impact was significant and unavoidable despite implementation of regional pedestrian and bike connections and implementation of a TDM program at the site. Based upon the Traffic Impact Analysis prepared for the Legacy Terrace FEIR in 1999, it can be assumed that approximately 74 percent of the operational pollutant emissions shown in the table are attributable to operation of the office/R&D portion of the development.[10]

[10] Korve Engineering, Inc. *Legacy Terrace Development Traffic Impact Analysis*. October 1999. (Hotel = 1,288 trips, River Commercial = 1157 trips, Office/R&D = 6,827 trips; 6,827/9,271 = 73.6% of trips for Office/R&D uses)

Table 3.2-3: 2000 Legacy Terrace FEIR Operational Emissions (Pounds Per Day)			
Source	**ROG**	**NO_x**	**PM_{10}**
Project Operational Emissions	167	269	88
BAAQMD Threshold (from 2000)	**80**	**80**	**80**
Significant Impact:	***Yes***	***Yes***	***Yes***
Source: Legacy Terrace FEIR.			

The Legacy Terrace FEIR also addressed a significant and unavoidable impact with regard to odors. This impact, however, was associated with excavation and relocation of waste during grading, placement of the landfill cap, and utility placement. These activities are largely complete.

The following discussion addresses the air quality impacts of buildout of the proposed project and addresses subsequent changes to air quality regulations and thresholds since certification of the Legacy Terrace FEIR.

3.2.2.4 *Consistency with Plans*

The 2017 CAP defines an integrated, multipollutant control strategy to reduce emissions of particulate matter, TACs, ozone precursors, and GHGs. The 2017 CAP includes control measures that are intended to reduce air pollutant emissions in the Bay Area, either directly or indirectly. The control measures are divided into five categories that include:

- Measures to reduce emissions from stationary and area sources;
- Mobile source measures;
- Transportation control measures;
- Land use and local impact measures; and
- Energy and climate measures.

Exposure of sensitive receptors to TACs and $PM_{2.5}$ emissions associated with the project is addressed in Section 3.2.2.5. As noted in this section, the project would result in air quality impacts that are less than significant with the incorporation of Standard Permit Conditions consistent with General Plan policies. While a significant operational impact as a result of vehicle-related NOx emissions was identified as part of the 200 Legacy Terrace FEIR (despite implementation of MM AIR-1) this exceedance would not result in a substantial increase in the severity of the previously identified significant regional air quality impact; rather, the severity of the exceedance has substantially lessened. The project would not conflict with measures in the 2017 CAP to reduce air pollutant emissions and would not affect forecasts used for 2017 CAP projections. Therefore, the project would not conflict with implementation of the 2017 CAP. **(Less than Significant Impact)**

3.2.2.5 *Air Quality Standards and Sources of Air Pollutant Emissions*

Construction Emissions

Criteria Pollutants

Building 5 and the parking structure expansion would be constructed after other construction on the America Center site is complete. The proposed building area is below screening levels for potential construction impacts, and construction emissions of criteria pollutants on a daily average basis would not exceed the identified thresholds for NOx, ROG, or particulate matter. **(Less than Significant Impact)**

Fugitive Dust

Construction activities, particularly during site preparation and grading, would temporarily generate fugitive dust in the form of PM_{10} and $PM_{2.5}$. Sources of fugitive dust would include disturbed soils at the construction site and trucks carrying uncovered loads of soil. The amount of dust generated would be highly variable, and would be dependent on the size of the area disturbed at any given time, the amount of construction activity, soil type and moisture, and meteorological conditions. Residences located in the vicinity of the project site could be adversely affected by dust generated during construction activities. The BAAQMD CEQA *Air Quality Guidelines* consider these impacts to be less than significant if best management practices (BMPs) are employed to reduce these emissions. If left uncontrolled, dust generated by construction activities could result in a significant impact. Potential impacts from construction dust would be similar to those identified in the Legacy Terrace FEIR and outlined in the Standard Permit Conditions below.

Standard Permit Conditions: Consistent with current BAAQMD standards and General Plan policies MS-10.1 and 13.1, the project shall implement the following mitigation measure during all phases of construction on the project site to reduce dustfall emissions to a less than significant level:

1) All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
2) All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
3) All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
4) All vehicle speeds on unpaved roads shall be limited to 15 mph.
5) All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible and feasible. Building pads shall be laid as soon as possible and feasible, as well, after grading unless seeding or soil binders are used.
6) Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.

7) All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.

8) Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust and air quality complaints. This person shall respond and take corrective action within 48 hours. The BAAQMD's phone number shall also be visible to ensure compliance with applicable regulations.

With the implementation of dust and idling control mitigation measures, project construction would not emit significant levels of criteria air pollutants or dust that would affect local and regional air quality or nearby off-site sensitive receptors. **(Less than Significant Impact)**

Construction TAC Health Risks

Construction equipment and associated heavy-duty truck traffic generate diesel exhaust, which is a known TAC. Construction of Building 5 and the parking structure extension are anticipated to take approximately 20 months with approximately 6 months of work for site preparation and grading. The closest sensitive receptors are residences in the Summerset Mobile Home Estates are approximately 950 feet from the eastern edge of the project site and proposed parking structure. At this distance, during temporary construction, the project is not anticipated to result in significant construction-related TAC on sensitive receptors. **(Less than Significant Impact)**

Operation

Criteria Pollutants

The operational criteria pollutant emissions modeled for the approved Legacy Terrace/America Center project exceeded all applicable BAAQMD thresholds (as shown previously in Table 3.2-3), and those thresholds have been lowered since the Legacy Terrace FEIR was certified in 2000. These significant volumes of air pollution result primarily from traffic generated by the approved development.

Since the certification of the Legacy Terrace FEIR, there have been significant changes in air quality standards and methodologies for impact calculations. Additionally, pollutant levels from auto emissions (the primary source of operational criteria pollutants) have dropped substantially due to state regulatory standards and requirements. It is anticipated that vehicle-related pollutant emissions levels will continue to drop in future years. As a result, the America Center site's operational emissions were recalculated using the California Emissions Estimator Model (CalEEMod). The results are shown below in Table 3.2-1.

Table 3.2-4: 2019 Operational Emissions – America Center Site with Project				
Description	**ROG**	**NO_x**	**PM_{10}**	**$PM_{2.5}$**
Pounds Per Day				
Existing 81,350-square-foot hotel	3	5	5	1
Approved 900,000 square feet of commercial office/R&D uses	30	60	52	14
Proposed 190,000 square feet of additional office/R&D uses	6	12	10	3
Total:	39	77	67	18
Current BAAQMD Threshold:	**54**	**54**	**82**	**54**
Significant Impact:	***No***	***Yes***	***No***	***No***
Source: CAPCOA. CalEEMod Program, Version 2013.2. Program run August 8, 2016.				

When complete in the earliest buildout year (2019), the entire America Center site (including the additional up to 190,000 square feet proposed as part of the PD zoning portion of the project), would not result in an exceedance of BAAQMD thresholds except with regard to NO_x. This exceedance would not result in a substantial increase in the severity of the previously identified significant regional air quality impact; rather, the severity of the exceedance has substantially lessened.

Impact AIR-1: The project would contribute to an impact as a result of exceedance of BAAQMD standards for operational nitrogen oxide (NO_x) emissions, as previously identified for the buildout of the America Center site in the Legacy Terrace FEIR. (**Significant Impact)**

Mitigation Measure

The following updated mitigation measures identified as mitigation in the Legacy Terrace FEIR and the existing PD zoning would reduce the identified NO_x impact.

MM AIR-1.1: The project applicant shall implement the following measures:

- Provide physical pedestrian and bicycle improvements, such as sidewalk improvements, landscaping and bicycle parking which would encourage pedestrian and bicycle modes of travel;
- Connect site with regional bicycle/pedestrian trail system;
- Provide shuttle bus service to the Tasman/Lafayette light rail and Altamont Corridor Express (ACE) rail system; and
- Implement other feasible TDM program measures; including a ride-matching program, guaranteed ride home programs, coordination with regional ride-sharing organizations, and a transit incentives program.

With the implementation of MM AIR-1.1, regional air quality impacts would be lessened and would not result in substantially greater impacts than the significant and unavoidable NO_x impact previously identified in the Legacy Terrace FEIR. **(Significant, Unavoidable Impact)**

Carbon Monoxide

The Legacy Terrace FEIR concluded that the project resulted in a significant impact to local air quality due to the increase of carbon monoxide levels along roadways used by the project. Carbon monoxide level (corresponding to 8-hour average times) projections for the Great America/ Mission College and Bowers/Central intersections were anticipated to exceed the state and federal standard for local carbon monoxide (9.0 parts per million); however, emissions and ambient concentrations of carbon monoxide have decreased dramatically in the San Francisco Bay Area Air Basin with the introduction of the catalytic converter in 1975. No exceedances of the state or national standards for carbon monoxide have been recorded at nearby monitoring stations since 1991.

Under the updated BAAQMD CEQA *Air Quality Guidelines*, the determination of the project's potential to result in significant local air pollutant emissions (i.e. carbon monoxide) is based on its consistency with the local Congestion Management Program (CMP) and its potential to add sufficient vehicle trips to one or more intersections that would cause an intersection to exceed 44,000 vehicles per hour. While the project would result in impacts to a CMP intersection and several freeway segments, the project would not contribute vehicle traffic exceeding screening thresholds (44,000 vehicles per hour) for carbon monoxide impacts at the intersections affected by the project. Therefore, the project would not result in local carbon monoxide impacts**. (Less than Significant Impact)**

Community Risk Impacts

Local community risk and hazard impacts are associated with TACs and $PM_{2.5}$ because emissions of these pollutants can have significant health impacts at the local level. The nearest sensitive receptors to the project site are residences at the Summerset Mobile Estates, located 0.20 mile (approximately 950 feet) east of the project site. Due to the distance of separation and the anticipated volume and type of vehicle traffic (e.g., limited diesel fueled vehicle traffic, such as delivery trucks), operational health impacts as a result of vehicle emissions are not anticipated. In addition, the project does not propose significant stationary sources of TACs and $PM_{2.5}$. Thus, operational emissions of TACs associated with operation of the project would not significantly impact sensitive receptors. **(Less than Significant Impact)**

3.2.2.6 *Odors*

Significant odors are not anticipated as a result of disturbance of buried landfill materials because work involving placement of the cap and cover is complete. Construction of Building 5 and the expanded parking garage would, however, involve drilling holes for the support piles that would penetrate the landfill cap. As required by MM HAZ-1.1, material excavated by the driller would be contained and disposed of at an appropriate facility. These activities could result in odor impacts at area sensitive receptors.

Impact AIR-2: Odors could occur as a result of drilling holes for support piles that penetrate the landfill cap and impact sensitive receptors in the area. **(Significant Impact)**

Mitigation Measure

In order to ensure that potential odors do not impact sensitive receptors in the area, the following measure from the Legacy Terrace FEIR will be implemented.

MM AIR-2.1: The project applicant shall prepare and implement an odor-control plan prior to the onset of construction which includes the following odor-control elements:

- Scheduling of construction phasing such that the amount of uncovered/disturbed waste at one time is minimized;
- Controlling odors by covering any exposed landfill material with soil, foam, or other suitable material (including application of deodorant or other odor-control materials);
- Considering seasonal weather conditions that can concentrate odors or direct odors towards sensitive receptors; and
- Providing the Summerset Mobile Estates residents and the Department of Planning, Building and Code Enforcement, with the name and phone number of a Project Contact who shall respond to any complaints about dust, odors, or other nuisances associated with waste excavation and relocation operations.

Implementation of MM AIR-2.1 would limit the generation of odors and resulting odor impacts to sensitive receptors. **(Less than Significant Impact with Mitigation Incorporated)**

3.2.2.7 *Consistency with Plans and Policies*

The project would implement BAAQMD BMPs and Standard Permit Conditions, as described in General Plan Policy MS-10.1 and MS-13.1. Bicycle facilities (including bicycle parking racks) would be provided on site, though new bicycle paths are not provided, as described in Policy TR-2.8. Policy TR-7.1 requires large employers to develop and maintain a TDM program. Elements of the proposed TDM program are currently being implemented at the site, as was required by the previous Legacy Terrace FEIR air quality-related mitigation measures and outlined in MM AIR-1.1.

3.2.3 Conclusion

Proposed buildout of the America Center site would result in significant NO_x emissions. **(Significant, Unavoidable Impact)**

With implementation of the identified dust control BMPs and construction of the proposed project would have a less than significant construction dust and odor impact. **(Less Than Significant with Mitigation Incorporated)**

Implementation of the required odor control plan would reduce impacts to a less than significant level. **(Less than Significant Impact with Mitigation Incorporated)**

3.3 BIOLOGICAL RESOURCES

The following discussion is based, in part, on a biological resources assessment prepared by *H.T. Harvey & Associates*. The assessment is included as Appendix C. An inventory of the trees on site was conducted by *Carducci Associates* and a summary table is included as Appendix D.

3.3.1 Environmental Setting

3.3.1.1 *Regulatory Framework*

Federal and State

Endangered Species Acts

Special-status species are those plants and animals listed under the federal and state Endangered Species Acts as threatened, endangered, proposed threatened, proposed endangered, or a candidate species. The federal Endangered Species Act (FESA) prohibits the take of any fish or wildlife species that is federally listed as threatened or endangered without prior approval. "Take" is broadly defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or attempt to engage in any such conduct. Take can also include habitat modification or degradation that directly results in death or injury of a listed wildlife species.

Special status species in California include plants or animals that are listed as threatened or endangered under the California Endangered Species Act (CESA), species identified by the California Department of Fish and Wildlife (CDFW) as California Species of Special Concern, as well as plants identified by the California Native Plant Society (CNPS)[11] as rare, threatened, or endangered. The CDFW has jurisdiction over state-listed species and regulate activities that may result in take of individuals.

Migratory Bird Treaty Act and Nesting Bird Protections

The federal Migratory Bird Treaty Act (MBTA) prohibits killing, possessing, or trading in migratory birds except in accordance with regulations prescribed by the Secretary of the Interior.[12] This act encompasses whole birds, parts of birds, and bird nests and eggs. Construction disturbance during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment, a violation of the MBTA.

Additionally, nesting birds are considered special-status species and are protected by the U.S. Fish and Wildlife Service (USFWS) and CDFW under the MBTA. Most special status animal species occurring in the Bay Area use habitats that are not present on the project site, such as salt marsh, freshwater marsh, and serpentine grassland habitats. Since the native vegetation of the area is no longer present, native wildlife species have been supplanted by species that are more compatible with an urbanized area; however, there is still the potential for nesting birds to be located in trees located on or in the area surrounding the project site.

[11] CNPS is a non-profit organization that maintains lists and a database of rare and endangered plant species in California. Plants in the CNPS "Inventory of Rare and Endangered Plants of California" are considered "Special Plants" by the CDFW Natural Diversity Database Program.
[12] MBTA. 16 USC Section 703, Supp. I, 1989.

Regional and Local

Santa Clara Valley Habitat Plan

The Santa Clara Valley Habitat Plan (Habitat Plan) is a conservation program intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in approximately 500,000 acres of central and southern Santa Clara County. The Habitat Plan is a regional partnership between six Local Partners (the County of Santa Clara, Santa Clara Valley Transportation Authority, Santa Clara Valley Water District, and the cities of San José, Gilroy, and Morgan Hill) and two Wildlife Agencies (the CDFW and USFWS). The Habitat Plan identifies and preserves land that provides important habitat for endangered and threatened species. The land preservation is intended to mitigate for the environmental impacts of planned development, public infrastructure operations, and maintenance activities, as well as to enhance the long term viability of endangered species.

The Habitat Plan covers development within most of San José with the exception of lands near San Francisco Bay. The America Center site is not located within the boundaries of the Habitat Plan, although it is within the designated Expanded Burrowing Owl Conservation Area, which includes portions of the cities of San José, Santa Clara, Mountain View, Milpitas, and Sunnyvale; in Fremont in Alameda County; and a small portion of San Mateo County. The Expanded Study Area for Burrowing Owl Conservation that falls outside of the primary Habitat Plan study area is 48,464 acres in size and includes the project area. The allowable activities covered by the Habitat Plan in this expanded study area are limited only to conservation actions for western burrowing owl.

City of San José General Plan

The General Plan includes the following policies, which are specific to biological resources and are applicable to the project.

Policy	Description
ER-2.1	Ensure that new public and private development adjacent to riparian corridors in San José are consistent with the provisions of the City's Riparian Corridor Policy Study and any adopted Santa Clara Valley Habitat Plan/ Natural Communities Conservation Plan.
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-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-7.1	In the area north of Highway 237 design and construct buildings and structures using bird-friendly design and practices to reduce the potential for bird strikes for species associated with the baylands or the riparian habitats of lower Coyote Creek.
MS-21.8	For Capital Improvement Plan or other public development projects, or through the entitlement process for private development projects, require landscaping including the selection and planting of new trees to achieve the following goals: 1. Avoid conflicts with nearby power lines. 2. Avoid potential conflicts between tree roots and developed areas. 3. Avoid use of invasive, non-native trees. 4. Remove existing invasive, non-native trees. 5. Incorporate native trees into urban plantings in order to provide food and cover for native wildlife species. 6. Plant native oak trees and native sycamores on sites which have adequately sized landscape areas and which historically supported these species.
MS-21.4	Encourage the maintenance of mature trees, especially natives, on public and private property as an integral part of the community forest. Prior to allowing the removal of any mature tree, pursue all reasonable measures to preserve it.
MS-21.6	As a condition of new development, require, where appropriate, the planting and maintenance of both street trees and trees on private property to achieve a level of tree coverage in compliance with and that implements City laws, policies or guidelines.

Alviso Master Plan

The following policies are specific to riparian, aquatic and biological resources and are applicable to the proposed project.

Policy	Description
Environmental Protection Policy 2	All new parking, circulation, loading, outdoor storage, utility, and other similar activity areas must be located on paved surfaces with proper drainage to avoid potential pollutants from entering the groundwater, Guadalupe River, Coyote Creek, or San Francisco Bay.
Environmental Protection Policy 3	The riparian corridors adjacent to Coyote Creek and Guadalupe River should be preserved intact. Any development adjacent to the waterways should follow the City's Riparian Corridor policies.
Environmental Protection Policy 5	To protect aquatic habitats that receive storm runoff, all new development must comply with adopted City Council policy entitled Post-Construction Urban Runoff Management.

City of San José Tree Ordinance

The City of San José maintains the urban landscape partly by promoting the health, safety, and welfare of the City by controlling the removal of ordinance trees on private property (San José Municipal Code Section 13.32). Ordinance trees are defined as trees over 56 inches in

circumference, or approximately 18 inches in diameter, at a height of 24 inches above natural grade. Ordinance trees are generally mature trees that help beautify the City, slow erosion of topsoil, minimize flood hazards, minimize the risk of landslides, increase property values, and improve local air quality. A tree removal permit is required from the City of San José for the removal of ordinance trees.

In addition, any tree found by the City Council to have special significance based on factors including, but not limited to, its history, girth, height, species, or unique quality, can be designated as a heritage tree (San José Municipal Code Section 13.28.330 and 13.32.090). It is unlawful to vandalize, mutilate, remove, or destroy such heritage trees. There are no heritage trees on the project site.[13]

City of San José Riparian Corridor Policy and Bird-Safe Building Council Policy 6-34

Council Policy 6-34 (adopted in August of 2016) provides guidance, consistent with the General Plan, for protecting and restoring riparian habitat; limiting the creation of new impervious surface within Riparian Corridor setbacks; and encouraging bird-safe design in Bayland and riparian habitats of lower Coyote Creek north of SR 237. This policy supplements the regulations for riparian corridor protection already contained within the Habitat Plan, Municipal Code, and other existing City policies that may provide for riparian protection and bird-safe design.

Specific guidance pertaining to setbacks, allowed activities, and materials and lighting in riparian areas are included within Council Policy 6-34. Further, bird-safe design guidelines for structures north of SR 237 advise that buildings:

- Avoid use of mirrors and large areas of reflective glass;
- Avoid use of transparent glass skyways, walkways, or entryways, free-standing glass walls, and transparent building corners;
- Avoid funneling open space to a building façade;
- Strategically place landscaping to reduce reflection and views of foliage inside or through glass;
- Avoid or minimize up-lighting and spotlights; and
- Turn non-emergency lighting off, or shield it, at night to minimize light from buildings that is visible to birds, especially during bird migration season (February through May and August through November).

3.3.1.2 *Existing Conditions*

On-Site Habitat Overview

The greater America Center site is composed of ruderal grassland habitat and developed/landscaped habitat types, as is the Building 5 and parking garage expansion area (as shown in Figure 3.3-1). The ruderal grassland in the project area provides breeding habitat for relatively few bird species due to

[13] City of San José. *Resolution No. 75974 A Resolution of the Council of the City of San José Designating Certain Trees as Heritage Trees, Placing Said Trees on the Heritage Tree List, and Deleting Certain Trees Therefrom, and Repealing Resolution No. 722274.* August 30, 2011.

the lack of structural complexity of the vegetation, and wildlife species associated with more extensive grassland habitats in the region. The wildlife most often associated with developed/landscaped areas are those that are tolerant of periodic human disturbances, including introduced species. Although numerous trees are present, they are relatively small (except for several taller ornamental palm trees). None of the trees on site provide suitable nesting habitat for raptors or are there tree cavities that might support bat colonies.

Special-Status Wildlife

As stated in the biological resources assessment contained within Appendix C, although special-status fish and possibly the salt marsh harvest mouse, may occur in wetland or aquatic habitats immediately adjacent to the study area, they are absent from the study area itself, and the proposed development footprint is well removed from suitable habitat for these species. Several other special-status species have some potential to occur in the study area only as visitors, migrants, or transients; but are not expected to reside or breed on the site, to occur in large numbers, or otherwise to make substantial use of the site. These include the northern harrier (*Circus cyaneus*), yellow warbler (*Setophaga petechia*), San Francisco common yellowthroat (*Geothlypis trichas sinuosa*), Alameda song sparrow (*Melospiza melodia pusillula*), Bryant's savannah sparrow (*Passerculus sandwichensis alaudinus*), tricolored blackbird (*Agelaius tricolor*), pallid bat (*Antrozous pallidus*), American peregrine falcon (*Falco peregrinus anatum*), golden eagle (*Aquila chrysaetos*), and white-tailed kite (*Elanus leucurus*). Additionally, the loggerhead shrike (*Lanius ludovicianus*), is known or expected to breed in areas adjacent to the project site. The loggerhead shrike is a California Species of Special Concern and may forage in grassland habitat and nest in shrubs on or adjacent to the America Center site.

Although the Legacy Terrace FEIR listed the sharp-shinned hawk (*Accipiter striatus*), Cooper's hawk (*Accipiter cooperii*), and merlin (*Falco columbarius*) as California species of special concern potentially occurring on the site, these species have since been removed from the California species of special concern list and are no longer considered to have special status. Only one special-status animal species, the burrowing owl, potentially breeds in the study area.

Burrowing Owl

The burrowing owl is listed as a California Species of Special Concern. Historically, several pairs of burrowing owls are known to have nested in the project area (California Natural Diversity Database [CNDDB] 2016, H. T. Harvey & Associates 1999a), and the Legacy Terrace FEIR permanently set aside 25.3 acres of the ruderal grasslands at the America Center site as Open Space as mitigation for impacts on habitat for the burrowing owl. In addition, 26 artificial burrows were constructed, situated around two earthen mounds approximately 4 feet in height and 150 feet in length, and a burrowing owl mitigation and management program (H. T. Harvey & Associates 2000) was implemented.

Per the management plan, burrowing owl monitoring of the mitigation site occurred for nine years (2002-2010). During the monitoring period, constructed burrows were repaired and mowing was conducted as needed. More recently, mowing has occurred on a more sporadic basis. New artificial burrows were installed in the Open Space Preserve in September of 2016.

Source: H.T. Harvey & Associates, Aug. 2016.

HABITATS AND IMPACTS MAP

FIGURE 3.3-1

Although evidence of owls was detected during monitoring visits from 2007 to 2011, no owls have been observed in the project area since 2012, and breeding has not been recorded on the site (City of San José 2014, WRA 2010 CNDDB 2016). Currently, the nearest known active breeding site is located in the buffer lands of the San José-Santa Clara Regional Wastewater Facility approximately 0.9 mile northeast of the project site.

A focused survey for suitable habitat of the burrowing owl (California species of special concern) within the proposed development footprint was conducted on July 6, 2016. The survey failed to find any burrowing owls or evidence (e.g., whitewash, cast pellets, or feathers) of burrowing owl presence. In addition, no suitable roosting or nesting habitat (i.e., ground squirrel burrows) or foraging habitat was present within the proposed development footprint, which consists entirely of developed areas.

Western Snowy Plover

The western snowy plover is federally listed as Threatened and is also a California Species of Special Concern. The Legacy Terrace FEIR disclosed that the project could have significant impacts on the western snowy plover. South Bay Restoration Pond A8, at the time the Legacy Terrace FEIR was prepared, was a nesting site for the snowy plover. Suitable habitat for this species is, however, not currently present on or adjacent to the project site. Although snowy plovers previously nested on dry berms within South Bay Restoration Pond A8 prior to its conversion from a seasonal pond to a tidally influenced open water pond, water levels in the pond are now managed high enough that suitable nesting habitat for this species is absent. For these reasons, the project would not have a significant impact on the nesting of western snowy plover.

Special-Status Plants

A survey for Congdon's tarplant was conducted at America Center in September 1998 (City of San José 2000). The species was not observed on the site. A focused survey for Congdon's tarplant was also conducted on July 6, 2016, within ruderal grassland habitat in the project's proposed development footprint. Within a week of surveying the site, a known reference population of Congdon's tarplant was visited to ensure that detection outside of the bloom period served as the reference population. Much of the Congdon's tarplant population was in-bloom and flowering during the visit to the reference population, and the plants were positively identified to subspecies at this time. Congdon's tarplant was not detected in the proposed development footprint during the July 6, 2016 survey.

Habitats in Surrounding Areas

Wetland habitat is present northeast of the project site in the Guadalupe River/Alviso Slough and along San Tomas Aquino Creek to the west. The wetland habitat along the Guadalupe River/Alviso Slough to the north is dominated by saltmarsh bulrush and California tule. Marsh, grassland, and riparian habitats are located adjacent to San Tomas Aquino Creek. South Bay Restoration Pond A8, which is a part of the San Francisco Bay National Wildlife Refuge, is a former salt pond that, to the north of the site, that was breached in 2012 and is now subject to managed tidal influence. The portion of Guadalupe River/Alviso Slough adjacent to (and to the north of) the project site represents the lower, tidal portions of the Guadalupe River system.

3.3.2 Biological Resources Impacts

3.3.2.1 *Thresholds of Significance*

For the purposes of this EIR, a biological resource impact is considered significant if the project would:

- Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS;
- Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the CDFW or USFWS;
- 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?
- 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;
- Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance; or
- Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.

3.3.2.2 *Biological Resources Impacts Identified in Legacy Terrace FEIR*

The Legacy Terrace FEIR found that construction on the site during the nesting season could result in the abandonment of active nests by western snowy plover within South Bay Restoration Pond A8, burrowing owls, or nesting raptors. Placement of the final cover on the landfill portion of the site would occur within an area that had been occupied by burrowing owls during the last three years, which was also considered a significant impact. In addition, the Legacy Terrace FEIR identified that contaminated runoff from the project site could contribute to the degradation of aquatic habitat in the Guadalupe River and/or San Tomas Aquino Creek. Mitigation measures were identified for each of these impacts that reduced impacts to biological resources to a less than significant level.

The following discussion addresses the biological resources impacts of construction of Building 5 and the proposed parking garage extension, as well as changes to the environmental setting since certification of the Legacy Terrace FEIR.

3.3.2.3 *Impacts to Special-Status Species and Their Habitats*

Construction of Building 5 and the parking lot expansion would result in temporary impacts on approximately 2.35 acres of developed/landscaped areas. Although the project would not result in the permanent loss of developed/landscaped areas, construction would alter and/or remove existing landscaping. Developed/landscaped habitat is abundant and widespread regionally, and is not particularly sensitive or valuable (from the perspective of providing important plant or wildlife habitat). Impacts on this habitat would result in effects on the common (non-special-status) plant and

animal species that occur there. These species would experience a direct loss of habitat due to the project, and the project could potentially result in the mortality, injury, disturbance, and displacement of individuals of some of these species. Additionally, loss of habitat and displacement of individuals could have indirect effects on populations and habitats outside of the project site by increasing concentrations of individuals, leading to increases in intra- and interspecific competition and increased pressure on available resources.

However, the common wildlife species that occur in the proposed development footprint are regionally abundant, are present in widely available habitats in the region, and will continue to be present on some portions of the study area following construction. Additionally, the proposed project would impact only a small proportion of their regional populations, and the number of individuals likely to be displaced by habitat disturbance and loss would be quite small with respect to the amount of suitable habitat available in the area. Thus, impacts on these common species and their habitats resulting from project activities would be less than significant. **(Less than Significant Impact)**

Special Status Bird Species

Several special-status bird species occur at the America Center site as non-breeding migrants, transients, or foragers, but they are not known or expected to breed or occur in large numbers in the project area. These species include the northern harrier, loggerhead shrike, yellow warbler, San Francisco common yellowthroat, Alameda song sparrow, Bryant's savannah sparrow, tricolored blackbird, American peregrine falcon, golden eagle, and white-tailed kite. These species are not expected to breed in the project area due to a lack of suitable nesting habitat, though they may nest in nearby areas and forage at the project site and in the larger America Center site.

The proposed project would have some potential to impact foraging habitats and/or individuals of these bird species. Construction activities associated with the project could result in a temporary direct impact through the alteration of foraging patterns (e.g., avoidance of work sites because of increased noise and activity levels) but would not result in the loss of individuals. Further, the project area specifically does not provide important foraging habitat used regularly or by large numbers of individuals of any of these species; therefore, the impact of the project on these nesting bird species would be less than significant.

Nesting Birds

Construction disturbance during the breeding season (February 1st to August 31st for most species) could result in the incidental loss of eggs or nestlings, either directly through the destruction or disturbance of active nests or indirectly by causing the abandonment of nests. This impact is not anticipated to be significant for the species that could potentially nest in trees or shrubs on or adjacent to the project site due to the local and regional abundances of these species and/or the low magnitude of the potential impact of the project on these species (i.e., the project is only expected to impact one or two individual pairs of these species, which would not result in a significant impact on their regional populations). The project would, however, comply with measures to protect nesting bird/raptors (including special status bird species) under the MBTA and California Fish and Game Code (e.g., native birds).

Impact BIO-1: If present, construction activities could cause disturbance to birds nesting and foraging in the project area. **(Significant Impact)**

Mitigation Measures

The project would implement the following updated and expanded versions of the mitigation measures that were included in the Legacy Terrace FEIR, consistent with General Plan Policy ER-5.1 and 5.2.

MM BIO-1.1: The project applicant shall implement the following measures to avoid impacts to nesting birds on and adjacent to the site during construction.

- To the extent feasible, construction activities shall be scheduled to avoid the nesting season. If construction activities are scheduled to occur outside the nesting season, all impacts on nesting birds protected under the MBTA and California Fish and Game Code shall be avoided. The nesting season for most birds in Santa Clara County extends from February 1st to August 31st.
- If it is not possible to schedule construction activities between September 1st and January 31st then pre-construction surveys for nesting birds shall be conducted by a qualified ornithologist to ensure that no nests will be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1st through April 30th) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 31st).. During this survey, the ornithologist shall inspect all trees and other potential nesting habitats (e.g., trees, shrubs, ruderal grasslands, buildings) in and immediately adjacent to the impact areas for nests. If an active nest is found sufficiently close to work areas to be disturbed by these activities, the ornithologist in consultation with California Department of Fish and Wildlife (CDFW), will determine the extent of a construction-free buffer zone to be established around the nest (typically 300 feet for raptors and 100 feet for other species) to ensure that no nests of species protected by the MBTA and California Fish and Game Code will be disturbed during project implementation.
- A report summarizing results of the pre-construction surveys and subsequent efforts to protect nesting raptors or birds (if found to be present) shall be submitted to the City of San José Supervising Environmental Planner. **(Less than Significant with Mitigation Incorporated)**

Western Snowy Plover

The Legacy Terrace FEIR disclosed that the project could have significant impacts on the western snowy plover. South Bay Restoration Pond A8, at the time the FEIR was prepared, was a nesting site for the snowy plover. Suitable habitat for this species is, however, not currently present on or

adjacent to the project site. Although snowy plovers previously nested on dry berms within South Bay Restoration A8 prior to its conversion from a seasonal pond to a tidally influenced open water pond, water levels in the pond are now managed high enough that suitable nesting habitat for this species is absent. For these reasons, the project would not have a significant impact on the nesting of western snowy plover.

Burrowing Owl

The ruderal grasslands/upland habitat on the project site could serve as suitable nesting, foraging, and roosting habitat for the burrowing owl (a California species of special concern). Historically, several pairs of burrowing owls are known to have nested in the vicinity of the site, including the grasslands to the southwest of the site and in former grasslands to the south and northwest of the site (within a five mile radius); burrowing owls nesting at these locations may forage on the project site on occasion.

The America Center project was required to implement a burrowing owl mitigation and management program and 26 artificial burrows were constructed in conjunction with the original site development. Per the program requirements, burrowing owl monitoring occurred in the Open Space Preserve area for nine years (from 2002 through 2010). During the monitoring period, constructed burrows were repaired and mowing of grasses was conducted. More recently, mowing has occurred on a more sporadic basis. Additionally, new artificial burrows were installed in the Open Space Preserve area in September of 2016. Although evidence of owls was detected during monitoring visits from 2007 to 2011, no owls have been sighted in the study area since 2012 and breeding has not been recorded on the site. Currently, the nearest known active breeding site is located in the buffer lands of the San José-Santa Clara Regional Wastewater Facility approximately 0.9 mile northeast of the project site. Burrowing owls could forage on the project site occasionally; however, they are not expected to occur on the site frequently.

There are no records of burrowing owls on the project site for Building 5 and the parking garage extension. A focused survey for suitable habitat of the burrowing owl within the proposed development footprint was conducted on July 6, 2016. The survey failed to find any burrowing owls or evidence (e.g., whitewash, cast pellets, or feathers) of burrowing owl presence. In addition, no suitable roosting or nesting habitat (i.e., ground squirrel burrows) or foraging habitat was present within the proposed development footprint, which consists entirely of developed areas. However, potentially suitable roosting and foraging habitat is present within 250 feet (the typical buffer distance recommend around active burrowing owl nests by the CDFW) of the proposed project footprint. Thus, burrowing owls could be present within 250 feet of proposed construction activities, and the potential for construction activities to result in the disturbance of an active nest cannot be ruled out. Heavy ground disturbance, noise, and vibrations caused by proposed construction could potentially disturb foraging or roosting burrowing owls and cause them to move away from work areas.

Impact BIO-2: If present, construction activities could cause disturbance to burrowing owls nesting and foraging in the project area. **(Significant Impact)**

Mitigation Measures

The project would implement the following updated and expanded versions of the mitigation measures that were included in the Legacy Terrace FEIR, consistent with General Plan Policy ER-5.1 and 5.2.

MM BIO-2.1: The project applicant shall implement the following measures to avoid impacts to nesting or non-nesting burrowing owls on or immediately adjacent to the site, consistent with Condition 15 of Chapter 6 of the Santa Clara Valley Habitat Plan.

- Prior to any site disturbance, staging, or construction-related activities, a qualified biologist shall conduct burrowing owl preconstruction surveys in all suitable habitat areas on the project site and within 250 feet of all construction activity. The purpose of the preconstruction surveys is to document the presence or absence of burrowing owls on the project site and within 250 feet of construction activity in order to avoid direct impacts to burrowing owls. To maximize the likelihood of detecting owls, the preconstruction survey shall last a minimum of three hours. The survey shall begin one hour before sunrise and continue until two hours after sunrise (three hours total) or begin two hours before sunset and continue until one hour after sunset. Additional time may be required for large project sites. A minimum of two surveys shall be conducted (if owls are detected on the first survey, a second survey is not needed). All owls observed shall be counted and their locations mapped.

  Surveys shall conclude no more than two calendar days prior to site disturbance, staging, or construction-related activities. Therefore, the project applicant must begin surveys no more than four days prior to construction (two days of surveying plus up to two days between surveys and construction). To avoid last-minute changes in schedule or contracting that may occur if burrowing owls are found, the project applicant may also conduct a preliminary survey up to 14 days before construction. This preliminary survey may count as the first of the two required surveys as long as the second survey concludes no more than two calendar days in advance of construction.

- If burrowing owls are present during the nonbreeding season (September 1st to January 31st), a 250-foot buffer zone shall be maintained around the occupied burrow(s) as determined by a qualified biologist, if feasible. If maintaining such a buffer is not feasible, then the buffer must be great enough to avoid injury or mortality of individual owls based on monitoring results. During the breeding season (generally February 1st to August 31st), a 250-foot buffer, within which no newly initiated project-related activities shall be permissible, shall be maintained between project activities and occupied burrows. Owls present between February 1st and August 31st will be assumed to be nesting, and the 250-foot protected area shall remain in effect until August 31st. If monitoring evidence indicates that the owls are no longer nesting or the young owls are foraging independently, the buffer may be reduced based on monitoring

results, in consultation with the City and the California Department of Fish and Wildlife.

- If nesting owls are determined to be present on the site, and project activities cannot feasibly avoid disturbance of the area within 250 feet of the occupied burrow during the nesting season (i.e., February 1st through August 31st) due to other seasonal constraints, a qualified biologist shall be present during all activities within 250 feet of the nest to monitor the owls' behavior. If, in the opinion of the qualified biologist, the owls are unduly disturbed (i.e., disturbed to the point of harm or reduced reproductive success), all work within 250 feet of the occupied burrow will cease until the nest is determined to no longer be active by a qualified biologist. **(Less Than Significant with Mitigation Incorporated)**

Special Status Plants

Congdon's tarplant is a special status plant that is known to occur in the project vicinity. Based on a survey completed on July 6, 2016, Congdon's tarplant is considered absent from the Commercial/ Office R&D area of the site, which the proposed project will be located. The project would not have an impact on special-status plant species. **(No Impact)**

3.3.2.4 *Impacts to Riparian Habitat or Wetlands*

Direct Impacts

The City's Riparian Corridor Policy and City Council Policy 6-34 recommend that a protective buffer be established along streams, creeks, and freshwater marshes so that these resources are not impacted by development. Development at America Center overall respects a 100-foot riparian setback from San Tomas Aquino Creek and Alviso Slough/Guadalupe River. No construction activities are proposed as part of the project within the 100-foot setback; rather, construction activities would occur approximately 700 feet from the setback and 800 feet from San Tomas Aquino Creek and over 1,100 feet from the Guadalupe River and the Alviso Slough. Thus, direct habitat impacts would not occur. **(Less than Significant Impact)**

Indirect Impacts (Including Water Quality)

As described in the Legacy Terrace FEIR, indirect impacts on wetland and aquatic habitats as a result of the project could arise from erosion or sedimentation, potentially degrading water quality. This would also result in indirect impacts on the plant and animal species that occur in these habitats. Although these species would not experience a direct loss of habitat due to the project, the proposed activities could result in the disturbance of riparian habitats or wetland areas as a result of erosion or sedimentation from the site. Therefore, as previously identified in the Legacy Terrace FEIR, project activities could result in potentially significant impacts. Indirect impacts on wetlands and aquatic habitats as a result of the project could arise from erosion or sedimentation or other contaminated runoff, potentially degrading water quality.

The project would implement the Standard Permit Conditions, which outline project-specific measures based on RWQCB BMPs, as described in Section 3.9 Hydrology and Water Quality.

These Standard Permit Conditions are an updated and expanded version of the mitigation measure included in the Legacy Terrace FEIR. Implementation of these measures will reduce impacts to water quality and off-site aquatic and wetland habitats to a less than significant level. **(Less than Significant Impact)**

3.3.2.5 *Impacts to Wildlife Movement*

Guadalupe River/Alviso Slough

Environmental corridors are segments of land that provide a link between these different habitats while also providing cover. Development that fragments natural habitats (i.e., breaks them into smaller pieces) can have a twofold impact on wildlife: first, as habitat patches become smaller they are unable to support as many individuals (patch size); and second, the area between habitat patches may be unsuitable for wildlife species to traverse (connectivity).

The footprint of the proposed development activities associated with Building 5 and the parking garage expansion are surrounded by existing, disturbed, and previously approved development areas. Therefore, the project would not result in fragmentation of natural habitats. While San Tomas Aquino Creek and the associated riparian wetland corridor provides an important movement pathway for both aquatic and terrestrial species, connecting the associated wetlands to the San Francisco Bay, this corridor is located over 800 feet west of proposed Building 5. To the east, Alviso Slough provides an important movement pathway for aquatic and terrestrial species; however, the slough is located over 1,000 feet from the Building 5 and the proposed parking structure extension. Thus, the project would not 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, and this impact is less than significant. **(Less than Significant Impact)**

Bird Movements and Bird Collisions

Once Building 5 is constructed, it would increase the risk of avian mortality due to collisions.[14] Building 5 would have glass-clad facades, which reflect the sky or surrounding vegetation and may not be detectable as collision hazards by birds, potentially resulting in injury or mortality. The majority of avian collisions with buildings occur within the first 60 feet of the ground, where birds spend the majority of their time engaged in foraging, territorial defense, nesting, and roosting activities, and where vegetation is most likely to be reflected in glazed surfaces.

<u>Impacts to Foraging, Nesting, and Roosting Birds</u>

A large portion of Building 5 is within a general Bird Collision Zone (i.e., within the first 60 feet above the ground) and could impact birds that are engaged in foraging, territorial defense, nesting, and roosting activities. However, proposed Building 5 is flanked to the west and northwest by existing Buildings 1 and 2 and to the north by Buildings 3 and 4 (currently under construction), all of which are also approximately 90 feet tall. To the south, Building 5 is bordered by an existing five-

[14] The parking garage extension would not include any glass and therefore is not expected to result in a substantial increase in bird strikes.

story, approximately 60-foot-tall hotel; and to the east it will be flanked by the 54-foot-tall parking garage extension. Thus, given that Building 5 will be surrounded on all sides by other multi-story buildings that essentially "screen" all or a majority of its 60-foot Bird Collision Zone, the project would not result in a substantial increase in bird strikes. Birds moving between Building 5 and adjacent buildings could occasionally collide with Building 5, but these would primarily be birds using the marginal-quality habitat within the developed areas around the buildings,

Migratory Birds

Very tall buildings (e.g., buildings 500 feet or more high) may pose a threat to birds that are migrating through the area, particularly to nocturnal migrants that may not see the buildings or that may be attracted to lights on the buildings. The proposed six-story office/R&D building (Building 5) would be approximately 90-feet-tall, and the maximum height of the parking structure extension would be approximately 54-feet-tall. Thus, the maximum height of both structures is much lower than the heights at which most bird migration occurs and they would not pose a substantial collision hazard to migrants flying high through the area.

Waterbirds

Although numerous waterbirds are known to congregate at the Don Edwards San Francisco Bay National Wildlife Refuge located to the north and west of the project, large numbers of bird-strike mortality at Building 5 would not occur because the area the east and south is heavily urbanized and contains no habitats of high value to waterbirds. While a Caltrans wetland mitigation site is located to the west of America Center, waterbirds flying north to south between this location and the Bay would encounter project open space but not development.

The bird species with the greatest potential to collide with Building 5 would consist primarily of the common, urban-adapted passerine species that currently use the site, as these are the species that would spend the most time in the vicinity of the new buildings. In addition, the juxtaposition of habitats (e.g., wetlands, baylands, grassland, landscaped, etc.) in the project vicinity results in large numbers of other passerine species moving through and around the project area; thus, there is potential for migrants and wintering birds to collide with Building 5 as well.

Due to the projects location, it is required to conform to the requirements of General Plan Policy ER-7.1 and City Council Policy 6-34, which require projects in the area north of Highway 237 to design and construct buildings and structures using bird-friendly design and practices. As such, the project has incorporated the following measures to minimize the potential for bird collisions:

- No vegetated, glass-walled atria are proposed.
- No glass is included in the design for the parking garage.
- Building 5 will incorporate View Dynamic Glass. Dynamic glass is a smart glass system that allows the tint of the glass to be varied, allowing the tint to be increased at night to prevent brightly lit windows, which can result in the disorientation of migrating birds at night.

Due to the spatial orientation of Building 5 relative to the surrounding buildings as described above, as well as the project's compliance with General Plan Policy ER 7.1 and City Council Policy 6-34,

implementation of the project would not result in a significant impact to bird safety due to increased mortality from bird collisions. **(Less than Significant Impact)**

3.3.2.6 *Policy or Ordinance Conflict*

General Plan and Council Policy 6-34

The project would respect the 100-foot riparian setback specified within of General Plan Policy ER-2.1, ER-2.2, ER-2.3 and Council Policy 6-34. Landscape plans would be in compliance with Policy ER-6.5. Mitigation measures MM BIO-1.1 and MM BIO-1.2would be implemented consistent with General Plan Policy ER-4.4, ER-5.1, and ER-5.2. Bird-safe design features are included in the building and are reviewed by city staff as part of the overall design review process for consistency with City Council Policy 6-34 and Policy ER-7.1.

Tree Removal Controls

As stated previously, there are a total of 99 existing trees in the area where Building 5 and the expanded parking garage will be located. Twelve of the trees will be retained and 87 will be removed. The impact to the urban forest resulting from the removal of the trees would be offset by the planning of replacement trees on-site, in conformance with General Plan Policy MS-21.4, MS-21.6, and MS 21.8. The removed trees would be replaced according to tree replacement ratios required by the City, as provided in Table 3.3-1 below.

Table 3.3-1: Tree Replacement Ratios

Diameter of Tree to be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
18 inches or more	5:1	4:1	3:1	24-inch box
12 to 18 inches	3:1	2:1	none	24-inch box
Less than 12 inches	1:1	1:1	none	15-gal. container

x:x = tree replacement to tree loss ratio

Note: Trees greater than or equal to 18-inch circumference shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees.

In the event the project site does not have sufficient area to accommodate the required tree replacements, one or more of the following measures will be implemented, to the satisfaction of the City's Environmental Supervising Planner, prior to issuance of a Planned Development permit:

- The size of a 15-gallon replacement tree can be increased to 24-inch box and count as two replacement trees.
- Identify an alternative site(s) for additional tree planting. Alternative sites may include local parks or schools or installation of trees on adjacent properties for screening purposes to the satisfaction of the Director of the Department of Planning, Building, and Code Enforcement. Contact PRNS Landscape Maintenance Manager for specific park locations in need of trees.
- Donate $300 per mitigation tree to Our City Forest for in-lieu off-site tree planting in the community. These funds will be used for tree planting and maintenance of planted trees for

approximately three years. A donation receipt for off-site tree planting shall be provided to the Planning Project Manager prior to issuance of a development permit.

The location and species of trees to be planted would be determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement. **(Less than Significant Impact)**

3.3.2.7 *Impacts on Habitat Conservation Plan/Natural Community Conservation Plan,*

The Habitat Plan went into effect in October 2013, subsequent to preparation of the Legacy Terrace FEIR. America Center (including the Building 5 and parking garage expansion area) is located outside the primary study area of the Habitat Plan. The project site is within the Expanded Study Area for Burrowing Owl Conservation, an area of the Habitat Plan limited only to conservation actions for western burrowing owl. An existing Open Space Preserve area was established as a part of the approval of the Legacy Terrace FEIR and a burrowing owl mitigation and management program is being implemented. Thus, the proposed project is not anticipated to conflict with provisions of the Habitat Plan. **(Less than Significant Impact)**

3.3.3 Conclusion

With implementation of mitigation measures and Standard Permit Conditions the proposed project would not result in significant biological impacts or plan and policy conflicts. **(Less than Significant Impact with Mitigation Incorporated)**

3.4 CULTURAL RESOURCES

3.4.1 Environmental Setting

3.4.1.1 *Regulatory Framework*

Federal

National Register of Historic Places

The National Register of Historic Places (NRHP) is the nation's most comprehensive list of historic resources and includes historic resources significant in American history, architecture, archeology, engineering and culture, at the local, state, and national level. National Register Bulletin Number 15, *How to Apply the National Register Criteria for Evaluation*, describes the Criteria for Evaluation as being composed of two factors. First, the property must be associated with an important historic context, and second, the property must retain integrity of those features necessary to convey its significance.

State

California Register of Historic Places

The California Register of Historic Places (California Register) is a guide to cultural resources that must be considered when a government agency undertakes a discretionary action subject to CEQA. The California Register helps government agencies identify, evaluate, and protect California's historical resources, and indicates which properties are to be protected from substantial adverse change (Public Resources Code, Section 5024.1(a)). The California Register is administered through the State Office of Historic Preservation, which is part of the California State Parks system.[15]

CEQA Regulations Regarding Human Remains

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

California Native American Historical, Cultural, and Sacred Sites Act

The California Native American Historical, Cultural, and Sacred Sites Act applies to both state and private lands. The Act requires that upon discovery of human remains, construction, or excavation activity must cease and the County Coroner be notified. If the remains are of Native American heritage, the coroner must notify the NAHC. The NAHC then notifies those persons the most likely descendant to be related to the Native American remains. The Act stipulates the procedures that the descendants may follow for treating or disposing of the remains and associated grave goods.

[15] California State Office of Historic Preservation. Accessed August 4, 2016. http://ohp.parks.ca.gov/.

California Health and Safety Code

California Health and Safety Code Section 7050.5 regulates the procedure to be followed in the event of human remains discovery. Pursuant to Public Resources Code Section 5097.98, in the event of human remains discovery, no further disturbance is allowed until the County Coroner has made the necessary findings regarding the origin and disposition of the remains. If the remains are determined to be of Native American heritage, the Coroner is required to contact the NAHC. The NAHC is responsible for contacting the most likely Native American descendent, who would consult with the local agency regarding how to proceed with the remains. According to Section 15064.5 of the CEQA Guidelines, all human remains are considered a significant resource.

Local

City of San José's Historic Resources Inventory

The City of San José's Historic Resources Inventory is a list of the City's historically and/or architecturally significant buildings. According to the City of San José's Historic Preservation Ordinance (Chapter 13.48 of the Municipal Code), a resource qualifies as a City Landmark if it has special historical, architectural, cultural, aesthetic or engineering interest, or value of an historic nature and is one of the following resource types:

- An individual structure or portion thereof;
- An integrated group of structures on a single lot;
- A site or portion thereof; or
- Any combination thereof.

Envision San José 2040 General Plan

The General Plan includes the following policies, which are specific to cultural resources and are applicable to the project.

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

3.4.1.2 *Existing Conditions*

Prehistoric and Historic Resources

Based on the City's Archaeologically Sensitive Areas Map in the City's General Plan, the project site is located in a highly archaeologically sensitive area. Recorded prehistoric and historic archaeological sites, such as Spanish adobe locations, are in the vicinity of the project site. A prehistoric Hispanic Adobe location has been recorded approximately 0.8 mile east of the site (adjacent to and to the west of North First Street and north of the North First Street and SR 237 intersection). Three other pre-historic Hispanic Adobe locations and Native American Village were recorded 0.5 to 0.7 mile south, adjacent to SR 237 and the Guadalupe River.

The project site is underlain by landfill materials about 42 to 57 feet in thickness, as well as an engineered fill cap of imported soil materials. Native soils that could contain cultural materials are located 50 feet or more below Building 5, though native soils could be shallower below the proposed parking garage extension. The location of the closed Highway 237 Landfill is shown in Figure 2.2-3.

Based upon a review of the City's Historic Resources Inventory, there are no existing buildings or known historic resources located on the project site.[16] A NRHP district (Port of Alviso) is located 0.6 mile north of the project site (to the north of the Guadalupe River Trail and north/east of the Guadalupe River/Alviso Slough). As a NRHP district, this district is automatically included as a California Register district. The NRHP district is composed of City Landmarks, a State Landmark, and other architectural resources.[17] A linear architectural feature (UPRR tracks) is located on the eastern border of the project site.

Paleontological Resources

Paleontological resources are fossils, the remains or traces of prehistoric life preserved in the geologic record. They range from the well-known and well-publicized (such as mammoth and dinosaur bones) to scientifically important fossils. Based on a Paleontological Evaluation Report completed for the City's General Plan, the project site is located in an area with underlying Bay mud that has a high sensitivity to paleontological resources at depth. Bay mud is located below the landfill materials historically placed at the site.

3.4.2 Cultural Resources Impacts

3.4.2.1 *Thresholds of Significance*

For the purposes of this EIR, a cultural resources impact is considered significant if the project would:

- Cause a substantial adverse change in the significance of a historical resource as defined in CEQA Guidelines Section 15064.5;

[16] City of San José. Historic Resources Inventory. Accessed September 12, 2016. https://www.sanJoséca.gov/DocumentCenter/View/35475.
[17] State Office of Historic Preservation. National Register of Historic Places. Accessed September 12, 2016. http://ohp.parks.ca.gov/?page_id=21237.

- Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5;
- Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature; or
- Disturb any human remains, including those interred outside of formal cemeteries.

3.4.2.2 *Cultural Resources Impacts Identified within the Legacy Terrace FEIR*

As described in the Legacy Terrace FEIR, development of the project site is not anticipated to result in impacts to cultural resources primarily due to the presence of a thick layer of imported fill material at the site. Mitigation measures were included in the FEIR and the project to avoid impacts to cultural resources should they be encountered during excavation into native soil materials on the site. It was determined that implementation of these mitigation measures would avoid impacts to subsurface cultural resources. The following discussion addresses the cultural resources impacts of the additional commercial office/ R&D square footage in Building 5 and the parking garage extension.

3.4.2.3 *Historic Resources Impacts*

The project site is developed with a surface parking lot and associated landscaping and would not require the demolition of historic structures or buildings. Other historic architectural resources, such as the Port of Alviso NHRP, City Landmarks, and a State Landmark are located at least 0.6 mile from the project site and individual structures would not be significantly impacted by the project. The project would also not impact the UPRR tracks along the America Center site's eastern border. (**Less than Significant Impact)**

3.4.2.4 *Archaeological Resources Impacts*

The construction of the proposed project would require the demolition of the existing surface parking lot and landscaping, some limited grading, excavation and driving the foundation piles, and installation of underground utilities. With the exception of driving foundation piles, all of this work would take place within landfill or landfill cap materials. While the Legacy Terrace FEIR concluded that development of the site is not anticipated to result in a significant impact to cultural resources, mitigation measures were included to avoid impacts to unknown buried cultural resources. The project would implement the following updated and expanded versions of the mitigation measures that were included in the Legacy Terrace FEIR, which will be included as development Standard Permit Conditions:

Standard Permit Conditions:

- In the event that any significant cultural materials (including prehistoric or historic resources or vertebrate fossils) are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement shall be notified, and an archaeologist will examine the find and make appropriate recommendations regarding the significance of the find and appropriate mitigation. Recommendations could include collection, recordation, and analysis of any

significant cultural materials. A report of findings documenting any data recovery during monitoring would be submitted to the Director of Planning, Building, and Code Enforcement.

- In the event that human remains are discovered during excavation and/or grading of the site, activities occurring within a 50-foot radius of the find shall be stopped. The Santa Clara County Coroner shall be notified and make a determination as to whether the remains are of Native American origin or whether an investigation into the cause of death is required. If the remains are determined to be Native American, the Coroner will notify the NAHC immediately. Once the NAHC identifies the most likely descendants, the descendants will make recommendations regarding proper burial, which will be implemented in accordance with Section 15064.5(e) of the CEQA Guidelines.

Implementation of these conditions would result in a less than significant impact to potential subsurface cultural resources. (**Less than Significant Impact)**

3.4.2.5 *Paleontological Resources Impacts*

The majority of proposed construction would occur on previously filled surfaces associated with operation of the closed Highway 237 Landfill. Disturbance of native soils would be limited to pushing foundation piles through native soils underlying the site fill materials. While it is unlikely that native soils would be encountered for the majority for the majority of the site, construction activities associated with implementation of the project could affect paleontological resources, if encountered. Impacts to such resources would, however, be reduced to a less than significant level with implementation of the following development Standard Permit Condition related to cultural resources:

Standard Permit Conditions: If vertebrate fossils are discovered during construction, all work on the site will stop immediately until a qualified professional paleontologist can assess the nature and importance of the find and recommend appropriate treatment. Treatment may include preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The project proponent will be responsible for implementing the recommendations of the qualified professional paleontologist. **(Less than Significant Impact)**

3.4.3 Conclusion

The proposed project, with the implementation of the above listed Standard Permit Conditions, would not result in any new or more significant impacts to cultural resources. (**Less than Significant Impact)**

3.5 ENERGY

3.5.1 Environmental Setting

3.5.1.1 *Regulatory Framework*

Many federal, state, and local statutes and policies address energy conservation. At the federal level, energy standards set by the U.S. Environmental Protection Agency (EPA) apply to numerous consumer and commercial products (e.g., the EnergyStar™ program). The EPA also sets fuel efficiency standards for automobiles and other modes of transportation.

State

Renewable Energy Standards

In 2002, California established its Renewables Portfolio Standard (RPS) Program, with the goal of increasing the percentage of renewable energy in the state's electricity mix to 20 percent of retail sales by 2010. In 2006, California's 20 percent by 2010 RPS goal was codified under Senate Bill (SB) 107. Under the provisions of SB 107, investor-owned utilities were required to generate 20 percent of their retail electricity using qualified renewable energy technologies by the end of 2010. In 2008, Executive Order S-14-08 was signed into law and requires that retail sellers of electricity serve 33 percent of their load with renewable energy by 2020. In October 2015, Governor Brown signed SB 350 to codify California's climate and clean energy goals. A key provision of SB 350 for retail sellers and publicly owned utilities, requires them to procure 50 percent of the state's electricity from renewable sources by 2030.

Building Code

At the state level, the Energy Efficiency Standards for Residential and Nonresidential Buildings, as specified in Title 24, Part 6, of the California Code of Regulations (Title 24), was established in 1978 in response to a legislative mandate to reduce California's energy consumption. Title 24 is updated approximately every three years, and the 2016 Title 24 updates went into effect on January 1, 2017.[18] Compliance with Title 24 is mandatory at the time new building permits are issued by city and county governments.[19]

In January 2010, the State of California adopted the California Green Building Standards Code (CalGreen) that establishes mandatory green building standards for all buildings in California. The code was updated as part of the California Building Code update (effective January 1, 2017). The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resource efficiency, and indoor environmental quality.

[18] California Building Standards Commission. "Welcome to the California Building Standards Commission". Accessed February 3, 2017. http://www.bsc.ca.gov/.
[19] CEC. Building Energy Efficiency Program. 2013. Accessed May 9, 2016. http://www.energy.ca.gov/title24/.

Local

At the local level, the City of San José sets green building standards for municipal development. All projects are required to submit a Leadership in Energy and Environmental Design (LEED)[20], GreenPoint[21], or Build It Green checklist with the development proposal. Private developments are required to implement green building practices if they meet the Applicable Projects criteria defined by Council Policy 6-32 and shown in Table 3.5-1 below.

Table 3.5-1: Private Sector Green Building Policy Applicable Projects

Applicable Project	Minimum Green Building Rating
Commercial/Industrial – Tier 1 (Less than 25,000 Square Feet)	LEED Applicable New Construction Checklist
Commercial/Industrial – Tier 2 (25,000 Square Feet or greater)	LEED Silver
Residential – Tier 1 (Less than 10 units)	GreenPoint or LEED Checklist
Residential – Tier 2 (10 units or greater)	GreenPoint Rated 50 points or LEED Certified
High Rise Residential (75 feet or higher)	LEED Certified

Source: City of San José. Private Sector Green Building Policy: Policy Number 6-32. October 7, 2008. http://www3.sanJoséca.gov/clerk/cp_manual/CPM_6_32.pdf.

3.5.1.2 *Existing Conditions*

Energy consumption is analyzed in an EIR because of the environmental impacts associated with its production and usage. Such impacts include the depletion of nonrenewable resources (e.g., oil, natural gas, coal, etc.) and emissions of pollutants during both the production and consumption phases of energy use.

Energy usage is typically quantified using the British thermal unit (Btu).[22] As points of reference, the approximate amount of energy contained in a gallon of gasoline, a cubic foot of natural gas, and a kilowatt hour (kWh) of electricity are 123,000 Btus, 1,000 Btus, and 3,400 Btus, respectively. Utility providers measure gas usage in therms. One therm is approximately equal to 100,000 Btus.

Electrical energy is expressed in units of kilowatts (kW) and kilowatt hour (kWh). One kW, a measurement of power (energy used over time), equals one thousand joules[23] per second. A kWh is a measurement of energy. If run for one hour, a 1,000 watt (one kW) hair dryer would use one kWh of

[20] Created by the U.S. Green Building Council, LEED is a certification system that assigns points for green building measures based on a 110-point rating scale.
[21] Created by Build It Green, GreenPoint is a certification system that assigns points for green building measures based on a 381-point scale for multi-family developments and 341-point scale for single-family developments.
[22] A Btu is the amount of energy that is required to raise the temperature of one pound of water by one degree Fahrenheit.
[23] As defined by the International Bureau of Weights and Measures, the joule is a unit of energy or work. One joule equals the work done when one unit of force (a Newton) moves through a distance of one meter in the direction of the force.

electrical energy. Other measurements of electrical energy include the megawatt (1,000 kW) and the gigawatt (1,000,000 kW).

Total energy usage in California was approximately 7,600 trillion Btus in the year 2014 (the most recent year for which this specific data was available).[24] The breakdown by sector was approximately 18 percent for residential uses, 19 percent for commercial uses, 24 percent for industrial uses, and 39 percent for transportation.[25]

Existing energy use associated with operation of the structures and uses at the project site primarily consists of fuel for vehicle trips to and from the site, electricity for lighting and cooling, and natural gas for operations within the existing buildings. Given the nature of land uses proposed as part of the project, the remainder of this discussion will focus on the three most relevant sources of energy: electricity, natural gas, and gasoline for vehicle trips.

3.5.1.3 *Electricity*

The electricity supply in California involves a complex grid of power plants and transmission lines. In 2015, California produced approximately 75 percent of the electricity it consumed; it imported the remaining 25 percent from the Pacific Northwest (generated by wind), and the Southwest (generated at coal-fired and natural gas-fired power plants, and from nuclear power plants). Electricity supplied from out-of-state coal-fired power plants has decreased since 2006 after the enactment of a state law requiring California utilities to limit new long-term financial investments to power plants that meet California emissions.[26]

The bulk of California's electricity comes from power plants. In 2015, 44 percent the state's electricity was generated by natural gas, nine percent by nuclear, five percent by large hydroelectric, and six percent by coal. Renewable sources such as rooftop photovoltaic systems, biomass power plants, and wind turbines, accounted for 22 percent of California's electricity. Fourteen percent of California's power comes from unspecified sources. California also leads the nation in electricity generation from solar, geothermal, and biomass resources.[27]

In 2015, total electrical system power for California was 282,896 gigawatt-hours (GWh), about one percent lower than 2014. California's in-state electricity production decreased by 1.5 percent at 196,195 GWh compared to 199,193 GWh from 2014 levels. Growth in annual electricity consumption declined in 2015 reflecting increased energy efficiency. Per capita drops in electrical consumption are predicted through 2025 as a result of energy efficiency gains and increased self-generation (particularly for photovoltaic systems).[28] Due to population increases, however, it is

[24] United States Energy Information Administration (EIA). California Energy Consumption Estimates 2014. December 7, 2016. http://www.eia.gov/state/?sid=CA#tabs-2.
[25] EIA. California Energy Consumption by End-Use Sector, 2014. Accessed December 7, 2016. http://www.eia.gov/beta/state/seds/data.cfm?incfile=/state/seds/sep_sum/html/sum_btu_1.html&sid=CA.
[26] EIA. California State Profile and Energy Sources. Accessed December 7, 2016. https://www.eia.gov/state/analysis.cfm?sid=CA.
[27] CEC, Energy Almanac, Total Electricity System Power. Accessed December 7, 2016. http://www.energy.ca.gov/almanac/electricity_data/total_system_power.html.
[28] CEC. *California Energy Demand 2016-2026, Revised Electricity Forecast*. Accessed December 7, 2016. http://docketpublic.energy.ca.gov/PublicDocuments/15-IEPR-03/TN207439_20160115T152221_California_Energy_Demand_20162026_Revised_Electricity_Forecast.pdf.

estimated that future demand in California for electricity will grow at approximately one percent each year through 2025, and that 320,862 GWh of electricity would be utilized in the state in 2025.[29]

Pacific Gas and Electric Company (PG&E) is the City of San José's energy utility, providing both natural gas and electricity for residential, commercial, industrial, and municipal uses. PG&E generates or buys electricity from hydroelectric, nuclear, renewable, natural gas, and coal facilities. In 2015, natural gas facilities provided 25 percent of PG&E's electricity delivered to retail customers; nuclear plants provided 23 percent; hydroelectric operations provided six percent; renewable energy facilities including solar, geothermal, and biomass provided 30 percent; and 17 percent was unspecified.[30]

Electricity usage for differing land uses varies substantially by the type of uses in a building, the type of construction materials used, and the efficiency of the electricity-consuming devices used. Electricity in Santa Clara County in 2014 was consumed primarily by the commercial sector (77 percent), the residential sector consuming 23 percent. In 2015, a total of approximately 16,812 GWh of electricity were consumed in Santa Clara County.[31]

3.5.1.4 *Natural Gas*

In 2013, approximately ten percent of California's natural gas supply came from in-state production, while 90 percent was imported from other western states and Canada.[32] In 2015, approximately 36 percent of the natural gas delivered for consumption in California was for electricity generation, 35 percent for industrial uses, 18 percent for residential uses, 10 percent for commercial uses, and less than one percent for transportation. As with electricity usage, natural gas usage depends on the type of uses in a building, the type of construction materials used, and the efficiency of gas-consuming devices. In 2015, the State of California consumed approximately 2.4 billion MBtu of natural gas (or 2.4 quadrillion Btu) of natural gas.[3334] In Santa Clara County, a total of 41 MBtu of natural gas were consumed in 2015.[35]

Overall demand for direct-service natural gas in the commercial and residential sectors in California is expected decrease by 1.1 percent between 2015 and 2026 as a result of overall energy efficiency. Demand for natural gas for at power plants for electricity generation is expected to decrease by 2.1 percent between 2015 and 2026 as a result of the implementation of state-mandated RPS targets.[36]

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[29] CEC. California Energy Demand Updated Forecast 2015-2015. Accessed December 7, 2016. http://www.energy.ca.gov/2014publications/CEC-200-2014-009/CEC-200-2014-009-SD.pdf.
[30] PG&E. Delivering Low-emission Energy. Accessed October 31, 2016. https://www.pge.com/en_US/about-pge/environment/what-we-are-doing/clean-energy-solutions/clean-energy-solutions.page.
[31] CEC. Energy Consumption Data Management System. Electricity Consumption by County. Accessed December 7, 2016. http://ecdms.energy.ca.gov/elecbycounty.aspx.
[32] CEC. Natural Gas Supply by Region. Accessed December 7, 2016. http://www.energyalmanac.ca.gov/naturalgas/natural_gas_supply.html.
[33] EIA. Natural Gas Summary. Accessed December 7, 2016. http://www.eia.gov/dnav/ng/ng_sum_lsum_dcu_SCA_a.htm.
[34] EIA. Natural Gas Conversion Calculator. Accessed December 7, 2016. https://www.eia.gov/kids/energy.cfm?page=about_energy_conversion_calculator-basics#natgascalc.
[35] CEC. Natural Gas Consumption by County. Santa Clara County 2015 Data. Accessed December 7, 2016. http://ecdms.energy.ca.gov/gasbycounty.aspx.
[36] CEC. *Electricity and Natural Gas Demand Forecast*. Accessed December 8, 2016. http://docketpublic.energy.ca.gov/PublicDocuments/15-IEPR-03/TN206501_20151103T100153_Draft_Staff_Report_2015_Natural_Gas_Outlook.pdf.

3.5.1.5 *Gasoline for Motor Vehicles*

California accounts for more than one-tenth of the United States' crude oil production and petroleum refining capacity.[37] In 2015, over 140 billion gallons of gasoline, diesel, and jet fuel were consumed in the United States and over 14 billion gallons of gasoline were consumed in California.[3839] The United States has seen low prices and high demand in the last few years due to low oil prices and a recovering economy, and this trend is expected to continue in the near term.[40]

The average fuel economy for light-duty vehicles (autos, pickups, vans, and SUVs) in the United States has steadily increased from about 13.1 miles-per-gallon (mpg) in the mid-1970s to 23.2 mpg in 2014.[41] Federal fuel economy standards have changed substantially since the Energy Independence and Security Act was passed in 2007. That standard, which originally mandated a national fuel economy standard of 35 mpg by the year 2020, applies to cars and light trucks of Model Years 2011 through 2020.[42,43] In 2012, the federal government raised the fuel economy standard to 54.5 mpg for cars and light-duty trucks by Model Year 2025.[44]

3.5.1.6 *Energy Use of Existing Development*

The electricity and natural gas used by the existing development at the project site is estimated in Table 3.5-2 based on energy demand factors used in CalEEMod.

Table 3.5-2: Estimated Annual Energy Use of Previously Approved Development

Development	Energy Demand Factors	Electricity Use (kWh)	Natural Gas Use (kBtu)
81,350-square-foot (175-room) hotel	8.96 kWh/square foot; 46.85kBtu/square foot	728,896	3,811,248
900,000 square feet of commercial office/R&D space at Buildings 1 through 4 (Buildings 3 and 4 are under construction)	20.57 kWh/square foot; 19.96 kBtu/square foot	18,513,000	17,964,000
265,412 square-foot parking garage	2.6 kWh/square foot	690,071	0
	Total:	**19,931,967**	**21,775,248**

Source: CAPCOA. *CalEEMod User's Guide, Version 2013.2*. July 2013. Appendix D, Table 8.1. Climate Zone 4.

[37] EIA. California State Energy Profile. Accessed December 7, 2016. http://www.eia.gov/beta/state/analysis.cfm?sid=CA.
[38] EIA. Frequently Asked Questions. Accessed December 7, 2016. https://www.eia.gov/tools/faqs/faq.cfm?id=23&t=10.
[39] California State Board of Equalization. Taxable Gasoline, Diesel Fuel, Jet Fuel Ten Year Reports. Accessed December 7, 2016. http://www.boe.ca.gov/sptaxprog/spftrpts.htm.
[40] EIA. Short-Term Energy and Fuels Outlook. Accessed December 7, 2016. http://www.eia.gov/forecasts/steo/report/us_oil.cfm.
[41] EPA. Table 4-23: Average Fuel Efficiency of U.S. Light Duty Vehicles. Accessed December 7, 2016. http://www.rita.dot.gov/bts/sites/rita.dot.gov.bts/files/publications/national_transportation_statistics/html/table_04_23.html.
[42] U.S. Department of Energy. Energy Independence & Security Act of 2007. Accessed December 7, 2016. http://www.afdc.energy.gov/laws/eisa.
[43] Public Law 110–140—December 19, 2007. Energy Independence & Security Act of 2007. Page 1449. Accessed December 7, 2016. http://www.gpo.gov/fdsys/pkg/PLAW-110publ140/pdf/PLAW-110publ140.pdf.
[44] National Highway Traffic Safety Administration. *Obama Administration Finalizes Historic 54.5 mpg Fuel Efficiency Standards*. Accessed December 7, 2016. http://www.nhtsa.gov/About+NHTSA/Press+Releases/2012/Obama+Administration+Finalizes+Historic+54.5+mpg+Fuel+Efficiency+Standards.

As shown in the previous table, each year the approved development consumes approximately 19,931,967 kWh of electricity and 21,775,248 kBtu of natural gas.

3.5.1.7 *Vehicle-Related Energy Use of Existing Development*

Based upon information contained within the Legacy Terrace FEIR, the previously approved commercial office and commercial hotel uses at the project site generate a total of approximately 9,271 vehicle trips daily[45]. The total annual vehicle miles traveled (VMT) is approximately 26,515,060 miles, assuming that the average trip length in Santa Clara County is 11 miles. [46] [47] Using EPA fuel economy estimates for 2014, results in the estimated average fuel economy of 23.2 miles per gallon (mpg). Thus, the approved development results in the consumption of approximately 1,142,890 gallons of gasoline per year.

3.5.2 Energy Impacts

3.5.2.1 *Thresholds of Significance*

Based on Appendix F of the CEQA Guidelines, and for the purposes of this EIR, a project will result in a significant energy impact if the project will:

- Use fuel or energy in a wasteful manner; or
- Result in a substantial increase in demand upon energy resources in relation to projected supplies.

3.5.2.2 *Energy Impacts Identified in the Legacy Terrace FEIR*

A specific evaluation of energy impacts was not included within the Legacy Terrace FEIR.

3.5.2.3 *Energy Use and Efficiency*

Construction

Building 1, Building 2, and the 175-room hotel are complete and Building 3, Building 4, and the northern portion of the parking garage are currently under construction. Therefore, the discussion of project construction-related impacts is limited to the proposed project, Building 5 and the parking garage expansion.

Construction activities at the project site associated with Building 5 and the parking garage extension would take approximately 20 months and would consist of removal of the existing surface parking lot and landscaping, site preparation, limited grading, construction of Building 5 and the parking garage expansion, and installation of landscaping.

The overall construction schedule and process is already designed to be efficient in order to avoid excess monetary costs. That is, equipment and fuel are not typically used wastefully on the site

[45] Institute of Transportation Engineers. Trip Generation Manual. 9th Edition. 2012.
[46] 9,271 daily trips (260 yearly work days) = 2,410,460 yearly trips (11 miles) = 26,515,060 VMT/23.2 mpg = 1,142,890 gallons of gasoline annually.
[47] Association of Bay Area Governments. *Plan Bay Area*. Table 2.1-5. Accessed August 5, 2016. http://planbayarea.org/pdf/Draft_EIR_Chapters/2.1_Transportation.pdf.

because of the added expense associated with renting the equipment, maintaining it, and fueling it. Therefore, the opportunities for efficiency gains during construction are limited. The proposed project does, however, include measures that will improve the efficiency of the construction process. Implementation of the BAAQMD BMPs as discussed in Section 3.2 Air Quality, would restrict excessive equipment use by reducing idling times to five minutes or less and would require the applicant to post signs on the project site reminding workers to shut off idle equipment.

There will be unavoidable energy use as a result of construction because the use of fuels and building materials are fundamental to construction of new buildings However, with implementation of the BAAQMD BMPs, short-term impacts associated with use of fuel or energy in a wasteful manner would be less than significant. **(Less than Significant Impact)**

Operation

Buildings and Built Environment

The proposed project would be required to build to the State of California's CalGreen code, which includes insulation and design provisions to minimize wasteful energy consumption. Though the proposed project does not include on-site renewable energy resources, the proposed office building would also be built to achieve LEED Silver certification consistent with Council Policy 6-32. The project proponent anticipates that LEED certification would be achieved in part by implementing the following green building measures and design features:

- Solar-ready roof;
- Salvage or recycle at least 50 percent of construction waste;
- Use of recycled and/or local building materials; and
- Water efficient landscaping and irrigation design.

Transportation

The proposed project would be required to provide 178 bicycle parking spaces, per the City of San José Municipal Code; showers for employees, which would incentivize the use of alternative methods of transportation to and from the site. The Legacy Terrace FEIR required that the project implement a transportation demand management (TDM) program to reduce single-occupancy trips. **(Less than Significant Impact)**

3.5.2.4 *Increase in Energy Demand*

The project proposes an additional 190,000 square feet of development at the America Center site, which is primarily located within the proposed Building 5. Energy would be consumed during both the construction and operational phases of the proposed project. The construction phase would require energy for the manufacture and transportation of building materials, preparation of the site (e.g., demolition and site preparation), and the actual construction of the buildings. Petroleum-based fuels such as diesel fuel and gasoline would be the primary sources of energy for these tasks. The operation of the proposed buildings would consume energy (in the form of electricity and natural gas) primarily for building heating and cooling, lighting, and water heating. Table 3.5-3 summarizes the estimated annual energy use of the additional square footage associated with the project.

Table 3.5-3: Estimated Annual Energy Use of the Proposed Project			
Proposed Project	**Energy Demand Factors**	**Electricity (kWh)**	**Natural Gas (kBtu)**
190,00 square feet of commercial office/R&D	20.57 kWh/square foot; 19.96 kBtu/square foot	3,908,300	3,792,400
332,150 parking garage expansion	2.6 kWh/square foot	863,590	0
	Total:	4,771,890	3,792,400
Source: CAPCOA. *CalEEMod User's Guide, Version 2013.2.* July 2013. Appendix D, Table 8.1			

The proposed additional 190,000 square feet of commercial office/R&D space would generate 2,141 daily trips and a total annual VMT of approximately 2,024,000 miles.[48] Based on the EPA's 2014 estimated average fuel economy of 23.2 mpg, operation of the proposed project would result in the consumption of approximately 87,241 gallons of gasoline each year.

Table 3.5-4 compares the energy use that would result from the proposed project with the energy use of the approved development.

Table 3.5-4: Annual Energy Demand Summary (Existing and Proposed)			
Development Scenario	**Electricity (kWh)**	**Natural Gas (kBtu)**	**Gasoline (gallons)**
Existing approved development (Buildings 1 and 2, 3 and 4 [under construction] and hotel)	19,931,967	21,775,248	1,142,890
Proposed project (Building 5 and garage expansion)	4,771,890	3,792,400	87,241
Total:	**24,703,857**	**25,567,648**	**1,230,131**
Source: CAPCOA. Cal *CalEEMod User's Guide, Version 2013.2.* July 2013. Appendix D, Table 8.1.			

The project would increase electricity use at the project site by approximately 4,771,890 kWh per year, natural gas usage by 3,792,400 kBtu per year, and gasoline consumption by 87,241 gallons over existing conditions. The energy use increase is likely overstated, however, because the estimates for energy use do not take into account the required Green Building Ordinance energy efficiency measures associated with LEED-Silver requirements and the required TDM program.

Electricity

As described previously, the annual 293,268 GWh electricity use in California was projected to increase by approximately one percent each year through 2025. The proposed project would increase annual electricity use at America Center by approximately 4,771,890 kWh resulting in a total energy use at the America Center site of approximately 24,703,857 kWh (or 24 GWh); therefore, the project would not result in a substantial increase in demand on electrical energy resources in relation to projected supply.

[48] Institute of Transportation Engineers. *Trip Generation Manual.* 9th Edition.

Natural Gas

California uses approximately 2.36 quadrillion Btu of natural gas each year. It is assumed that energy efficiency technology and the RPS targets are likely to reduce demand for natural gas in the state in the future. Additionally, system and drilling efficiencies will continue to enhance production and decrease the overall need for natural gas.[49] Based on the relatively small increase in natural gas demand from the project of 3,792,400 kBtu per year (resulting in 25,567,648 kBtu used at the America Center site overall), and compared to the growth trends in natural gas supply and the existing available supply in California, the proposed project would not result in a substantial increase in natural gas demand relative to projected supplies.

Gasoline

As detailed previously, the proposed project would increase annual gasoline demand by approximately 87,241 gallons per year, resulting in a total demand at the site of 1,230,131 gallons per year. Though this increase is sizable when compared to the gasoline use associated with the existing development, it would not be a substantial increase in the context of gasoline supply and demand in the City of San José and in the State of California. New automobiles purchased by future occupants of the proposed project would be subject to fuel economy and efficiency standards applied throughout the State of California, which means that over time the fuel efficiency of vehicles associated with the project site would improve.

The Great America light-rail station and Great America Amtrak/ACE train station are all located approximately one mile south of the project site and a shuttle is available at America Center to provide a connection to those facilities. Sidewalks are present to facilitate pedestrian movements between the project site and adjacent areas and trails, such as the Bay Trail. These existing facilities and services can accommodate an increase in ridership demand resulting from the proposed project, which means that many of the employees of the project site could commute to and from work without increasing transportation-related energy use. Additionally, the project will implement a TDM program to further reduce the gasoline and energy use associated with the project.

Ongoing increases in the fuel economy standards for new vehicles would result in efficiency gains for vehicles overtime. While the project would increase the VMT associated with the project site compared to the existing condition, this increase is not significant when viewed with regard to the overall America Center site's VMT. Additionally, the VMT increase is not significant in terms of increasing demand above supply. **(Less than Significant Impact)**

3.5.2.5 *Distance Between Jobs and Housing*

The project is an infill development and would create jobs in a city that currently has a higher number of employed residents than jobs (approximately 0.8 jobs per employed resident). The implications of this imbalance are that many residents leave San José five times per week to commute to and from work, typically by personal vehicle. In adding commercial office space within

[49] CEC. *2013 Natural Gas Issues Trends, and Outlook*. Accessed August 5, 2016. http://www.energy.ca.gov/2014publications/CEC-200-2014-001/CEC-200-2014-001-SF.pdf.

the City of San José, the proposed project would incrementally reduce the imbalance between jobs and employed residents.

The entire America Center site provides approximately 3,633 jobs (assuming one job per 300 square feet of office) and the additional square footage proposed as part of the project would provide approximately 633 additional jobs. Therefore, the project would not increase the distance between jobs and housing. While the project would increase the VMT associated with the project site compared to the existing condition, the project would also not result in significant energy impacts as a result of an increase in the distance between jobs and housing. **(Less than Significant Impact)**

3.5.3 Conclusion

The project would not result in significant energy impacts associated with the distance between jobs and housing and, or in the wasteful use of fuel or energy. The project would not result in a substantial increase in demand upon energy resources in relation to projected supplies. **(Less than Significant Impact)**

3.6 GEOLOGY AND SOILS

3.6.1 Environmental Setting

The City of San José is located within the Santa Clara Valley, which is a broad alluvial plain that lies between the Santa Cruz Mountains to the southwest and west, and the Diablo Range to the northeast. The San Andreas Fault system exists within the Santa Cruz Mountains, and the Hayward and Calaveras Fault systems exist within the Diablo Range.

Mineral resources found in Santa Clara County include construction aggregate deposits such as sand, gravel, and crushed stone. The only area in the City of San José that is designated by the State Mining and Geology Board under the Surface Mining and Reclamation Act of 1975 as containing mineral deposits which are of regional significance is Communications Hill, which is located over 11 miles southeast of the project site and generally bounded by the Southern Pacific Railroad, Curtner Avenue, State Route 87, and Hillsdale Avenue.[50]

3.6.1.1 *Regulatory Framework*

State

Title 27, California Code of Regulations, Section 21190

Waste disposal site post-closure land uses are overseen by various regulatory agencies (including the RWQCB, CalRecycle, etc.). The City of San José is the designated Solid Waste Local Enforcement Agency (LEA) with oversight authority over the project site's Post-Closure Land Use Plan. The plan must be prepared and reviewed pursuant to Title 27 of California Code of Regulations, Section 21190. Specific topics addressed within a Post-Closure Land Use Plan include regulatory authority, activities subject to the regulatory tiers, site boundary issues, local approvals, technical assistance documentation, and site inspection records.

Review and approval of the Post-Closure Land Use Plan at past solid waste disposal sites represents a major part of the LEA's responsibility to protect public health and safety and the environment. CalRecycle established regulations addressing post-closure land use activities in 1989 based on documented problems associated with poorly regulated development on disposal sites (*Final Statement of Reasons, Disposal Site Standards for Closure and Post-closure,* pages III-7.8 129-139).

The project site's Post-Closure Land Use Plan for the development of Phase II of the project, (Buildings 3 and 4) was approved by the City of San José as the LEA in September of 2015.[51] The City of San José will also review the Post-Closure Land Use Plan for the proposed project (Phase III) prior to the start of and grading or construction.

California Building Code

The California Building Code prescribes a standard for constructing safer buildings throughout the State of California. It contains provisions for earthquake safety based on factors including

[50] City of San José. General Plan FPEIR. 2011.

[51] City of San José. Letter to Steve Dunn. "America Center, Phase II at the Marshland Solid Waste Facility, SWIS #43-AN-0004; Post Closure Land Use Plan Application Approval". September 9, 2015.

occupancy type, soil and rock profile, strength of the ground, and distance to seismic sources. The code is renewed on a triennial basis every three years; the current version is the 2016 Building Standards Code.

Local

City of San José Municipal Code

Title 24 of the San José Municipal Code includes the State of California Building, Plumbing, Mechanical, Electrical, Existing Building, and Historical Building Codes. Requirements for building safety and earthquake hazard reduction are also addressed in Chapter 17.40 (Dangerous Buildings) and Chapter 17.10 (Geologic Hazards Regulations) of the Municipal Code. Requirements for grading, excavation, and erosion control are included in Chapter 17.10 (Building Code, Part 6 Excavation and Grading). In accordance with the Municipal Code, the Director of Public Works must issue a Certificate of Geologic Hazard Clearance prior to the issuance of grading and building permits within defined geologic hazard zones, including State Seismic Hazard Zones for Liquefaction.

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects with the City. The following policies are specific to geological resources and are applicable to the proposed project.

Policy	Description
EC-3.1	Design all new or remodeled habitable structures in accordance with the most recent California Building Code and California Fire Code as amended locally and adopted by the City of San José, including provisions regarding lateral forces.
EC-4.1	Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and stormwater controls.
EC-4.2	Approve development in areas subject to soils and geologic hazards, including unengineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. The City of San José Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process.
EC-4.4	Require all new development to conform to the City of San José's Geologic Hazard Ordinance.
EC-4.11	Require the preparation of geotechnical and geological investigation reports for projects within areas subject to soils and geologic hazards, and require review and implementation of mitigation measures as part of the project approval process.
ES-4.9	Permit development only in those areas where potential danger to health, safety, and welfare of the persons in that area can be mitigated to an acceptable level.

3.6.1.2 *Existing Conditions*

Surface and subsurface materials at the America Center site consist of an engineered landfill soil cap, landfill refuse, unengineered fill material, channel levees and underlying native soils, including Bay Mud and alluvium. The extent of the Highway 237 Landfill is shown in Figure 2.2-3.

The project site slopes downward from west to the east. Native organic rich clay and silty clay soils were identified as part of the geotechnical investigation prepared for the Legacy Terrace FEIR at the site at a varying depths below ground surface (bgs) beneath the landfilled material. These materials consists of soil and demolition debris such as wood, steel pipe and conduits, concrete, and asphalt and clay. Expansive soils that underlie landfill materials are permanently saturated as they are not near the soil surface; thus, they are not subject to fluctuations in moisture content.

Groundwater

The depth to groundwater levels in the project area vary due to the elevated topography created by the landfill and cap. Based upon the information contained within the geotechnical investigation completed for the Legacy Terrace FEIR, groundwater exists at 3 to 6 feet below mean sea level (msl) at the site. [52] Most of the landfill materials on the site are unsaturated.

Seismicity and Seismic-Related Hazards

The project site is located within the seismically active San Francisco Bay Area region. There is a 72 percent probability that one or more major earthquakes (6.7 in magnitude or greater) will occur in the region by 2044.[53] Although the site is within a seismically active region, it is not located within a designated Alquist-Priolo Earthquake Fault Zone[54] and no known active or potentially active faults exist on the site. Since no known surface active faults cross the site, fault rupture is not a significant geologic hazard on the site.

Significant active faults (which have a capability generating an earthquake with a magnitude of 6.7 or greater)[55] within the region include the Hayward Fault, Calaveras Fault, and San Andreas Fault, located six miles northeast, nine miles east, and 13 miles west of the site, respectively. Due to the proximity of the project site to these active or potentially active faults, ground shaking, ground failure, and/or liquefaction as a result of an earthquake could cause damage to structures on the site.

Liquefaction

Liquefaction is a result of seismic activity and is characterized as the transformation of loose, water-saturated soils from a solid state to a liquid state after ground shaking. There are many variables that contribute to liquefaction, including the age of the soil, soil type, soil cohesion, soil density, and

[52] Treadwell and Rollo. *Project Feasibility Geotechnical Investigation*. July 2, 1999.
[53] US Geological Survey. *UCERF3: A New Earthquake Forecast for California's Complex Fault System*. Fact Sheet 2015–3009. March 2015. Accessed August 10, 2016. http://pubs.usgs.gov/fs/2015/3009/pdf/fs2015-3009.pdf.
[54] California Geological Survey. Regional Geologic Hazards and Mapping Program. *Alquist-Priolo Map*. Accessed August 10, 2016. http://www.conservation.ca.gov/cgs/rghm/ap/Pages/index.aspx.
[55] Active faults is one that has ruptured in the last 11,000 years. California Geological Survey. Alquist-Priolo Earthquake Fault Zoning Act. Accessed August 10, 2016. http://www.conservation.ca.gov/cgs/rghm/ap/Pages/main.aspx.

groundwater level. Soil susceptible to liquefaction includes loose to medium dense sand and gravel, low-plasticity silt, and some low-plasticity clay deposits. Liquefaction can result in ground surface deformations and settlement.

Native soils in the project area are subject to liquefaction. The project site is located within a State of California Hazard Zone for liquefaction[56] and also within a County of Santa Clara Liquefaction Hazard Zone. The risk of liquefaction is low in the landfilled areas due to the thickness of the non-liquefiable material in the landfill and depth to groundwater.[57] [58]

Lateral Spreading

Liquefaction-induced lateral spreading typically occurs as a form of horizontal displacement of relatively flat-lying alluvial material within an underlying liquefied layer, toward an open or "free" face such as an open body of water, channel, or excavation. Generally, in soils this movement is due to failure along a weak plane, formed within an underlying liquefied layer. As cracks develop within the weakened material, blocks of soil displace laterally towards the free face.

The potential for liquefaction-induced lateral spreading is low at the site due to the thinness and relative isolation of liquefiable layers at the site, as stated in geotechnical investigation prepared for the Legacy Terrace FEIR.

Differential Settlement

Differential (uneven) settlement is associated with loose unsaturated sands and gravels. These soils typically settle during strong seismic shaking. Soils that are variable in nature and contain organic materials are more susceptible to differential settlement than uniform soils. The settlement of a structure is the magnitude of a foundation's downward movement.[59] Differential settlement during seismic shaking occurs when the foundation settles unevenly, which can cause one part of a structure to settle into the ground more than other which could cause damage to buildings, roadways, utilities, and hardscape improvements.

Landslides and Slope Stability

Landslides are the movement of rock, debris, or earth down a slope and typically occur in connection with other natural disasters such as earthquakes and floods. Landslides or slope failures occur when the stability of a slope changes from a stable to an unstable condition. In general, slopes steeper than approximately 15 degrees are typically most susceptible to landslides.[60] Earthquakes can induce landslides in hillside areas and along creeks.

[56] ABAG. Resilience Program. *Liquefaction: Official California Seismic Hazards Zone Map*. Accessed August 10, 2016. http://resilience.abag.ca.gov/earthquakes/.
[57] County of Santa Clara. *County Geologic Hazard Zones*. Map 11. February 2002.
[58] Treadwell and Rollo. *Project Feasibility Geotechnical Investigation*. July 2, 1999.
[59] California Geological Survey. *Note 33.* Accessed August 9, 2015. http://www.conservation.ca.gov/cgs/information/publications/cgs_notes/note_33/Pages/index.aspx.
[60] ABAG. *Landslide Maps and Information*. Accessed August 9, 2016. http://resilience.abag.ca.gov/landslides/.

The project site is not located within a California Seismic Hazard Zone[61] for landsliding or within a County of Santa Clara Landslide Hazard Zone. Shallow landfill slopes have been engineered to ensure stability as described in the Legacy Terrace FEIR; therefore, the probability of landslides occurring at the project sites during a seismic event is low.

3.6.2 Geology and Soils Impacts

3.6.2.1 *Thresholds of Significance*

For the purposes of this EIR, a geology and soils impact is considered significant if the project would:

- Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:
    - Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault (refer to Division of Mines and Geology Special Publication 42);
    - Strong seismic ground shaking;
    - Seismic-related ground failure, including liquefaction;
    - Landslides;
- Result in substantial soil erosion or the loss of topsoil;
- Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse;
- Be located on expansive soil, as defined in Section 1802.3.2 of the California Building Standards Code (2007), creating substantial risks to life or property;
- Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of wastewater.
- Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state; or
- Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan.

3.6.2.2 *Geologic Impacts Identified in the Legacy Terrace FEIR*

As described in the Legacy Terrace FEIR, development of the project site could expose structures to significant differential settlement associated with the landfill materials and occupants to significant seismic impacts, including strong ground shaking. Specific hazards identified for development on the landfill include total and differential settlement resulting in potential damage to underlying structures and access points, utilities, and pavements; and seismic effects resulting in deformation of foundation piles, channel and levee hazards, and slope instability. It was determined that implementation of mitigation measures would reduce impacts from geological conditions to a less than significant level.

[61] California Geological Survey. *State of California Seismic Hazard Zones. Milpitas Quadrangle. Official Map.* October 2004.

The Legacy Terrace FEIR did not discuss mineral resource impacts from site development.

3.6.2.3 *Geologic and Soils-Related Impacts*

Soil Expansion and Landslides (Slope Stability)

The final cover constructed over the landfill consists of a two-foot-thick foundation layer, a one-foot-thick layer of compacted soil, and a one-foot-thick layer of vegetative soil. Approximately four to six feet of additional fill was placed over the final over to construct the building pads at the site.[62] As described previously and in the Legacy Terrace FEIR, the potential for several soil-related hazards, such as expansion and landslides, to occur on the proposed project site is low because expansive materials are not present near the surface of the site and are not subject to fluctuations in moisture content. Further, slopes at the America Center site have been designed to be stable under long-term conditions, as stated previously within the Legacy Terrace FEIR.

The proposed project would involve the installation of drilled foundation piles through the former landfill. No modifications to the engineered side slopes are proposed. Additionally, standard engineering requirements and practices set forth in the California Building Standards Code and enforced by the City of San José will ensure that future development is properly designed to avoid significant structural hazards caused by on-site soil conditions. **(Less than Significant Impact)**

Differential Settlement

As described in the Legacy Terrace FEIR, settlement of unengineered fill material as a result of the consolidation and compression of the landfill and compression of native soil could affect building foundations and the operation of utility lines. Settlement could result in adverse flattening of gravity utility slopes and lead to a reversal of flow direction or inadequate velocities to prevent accumulation within pipes. Differential settlement could also cause separation of utility lines at pipe joints, resulting in leakage of interruption lines.

Differential settlement can result in structural damage to the proposed buildings, roadways and pavement of the proposed project due to the variable nature of the project site's non-engineered fill materials. Modifications to the Post-Closure Land Use Plan (which would be reviewed and approved by the City of San José as the LEA for the site) would address deferential settlement issues related to construction of Building 5 and the parking garage expansion. Mitigation measures to reduce the impacts of differential settlement on the project site were included in the Legacy Terrace FEIR for which an updated and expanded version would be included in this project.

Impact GEO-1: Differential settlement could result in structural damage to the proposed development. **(Significant Impact)**

Mitigation Measures

The project would implement the following updated and expanded versions of the mitigation measures included in the Legacy Terrace FEIR.

[62] Crawford Consulting. *Postclosure Design Summary America Center Phase II Development Highway 237 Landfill, San José, CA.* March 11, 2013.

MM GEO-1.1: The project applicant shall complete a design-level geotechnical investigation for the project site prior to issuance of any grading permits for individual site improvements to address the potential geologic hazards. Design-level engineering studies shall be submitted to the City's Public Works Department for review and approval.

Building foundations shall be designed based on this geotechnical investigation. Building loads shall be supported on driven pile foundations as appropriate to support the building loads without significant damage due to settlement. Foundation piles shall be designed to accommodate downdrag loads caused by the subsidence of landfill materials due to the natural degradation of landfill components, and under the weight of the final cover and/or soil placed on the site for development purposes. In addition, a reinforced concrete "skirt wall" around the perimeter of each building shall be installed to resist lateral loads placed on the building during a seismic event. Settlement adjacent to the skirt wall shall be monitored and soil replaced to avoid the loss of lateral support as fill settles.

Conceptual foundation installation procedures in the South Campus area include: predrilling each pile location to the full depth of the landfill (50 to 60 feet); and/or installing a cased shaft at each pile location from the ground surface to the bottom of the landfill, removing landfill materials from the cased hole, and driving the foundation piles through the casing into the supporting soil below the landfill. Alternatively, non-displacement type piles, such as steel H-piles, could be driven directly through landfill materials. Corrosion control measures to protect steel and/or concrete piles shall be included in the design-level geotechnical investigation.

MM GEO-1.2: An updated settlement map shall be prepared based upon site monitoring and additional surveys prior to the completion of the design-level geotechnical investigation. The updated settlement map shall confirm appropriate post settlement grades on the site. The map shall be provided to the City of San José Public Works Department for review and approval.

MM GEO-1.3: To allow for settlement between structures and the surrounding ground at building entrances, "hinged slabs" or interlocking pavers shall be used. For hinged slabs, one end of the hinged slab will be fixed to the pile-supported structure and the other end will rest in the earth fill that will settle with time. The design of the hinged slab shall be based on the maximum operation slope of the slab. For pedestrian slabs, the estimated finished grade after settlement shall be based on a maximum slope required by the Americans with Disabilities Act. For vehicular slabs, the estimated finished grade after settlement shall be based on a maximum gradient differential of 11 percent between the slab and the stationary foundation, which allow use of the parking structure entrances without scraping the bottom of vehicles. Alternatively, interlocking pavers installed at building entrances can be easily adjusted to grade after settlement has occurred. Pavers shall be monitored at more frequent intervals than hinged slabs and regraded at

regular intervals to avoid tripping hazards. The design of hinged slabs or pavers shall be completed using the current settlement map for the site.

MM GEO-1.4: Roadways and other paving systems shall utilize flexible materials such as asphaltic concrete, interlocking paving units, and avoid or limit the use of Portland cement concrete and other non-flexible materials. Where concrete is utilized, adequate expansion and spacing joints shall be used to accommodate differential settlement. Geotextile fabric or other materials shall be placed below the subgrade base section to provide bridging over localized "soft" areas determined by the geotechnical engineer during compaction of the fill material. Joints shall be adequately sealed between differing materials (i.e., asphalt and concrete curbs) to prevent water infiltration.

MM GEO-1.5: Pavements and other surface improvements shall be designed with adequate slope so that after settlement, reversals of stormwater flow direction or adverse flattening of the roadway pavement surface does not occur.

MM GEO-1.6: On-site utilities which operate via gravity shall be designed based upon the anticipated settlement on the site. These utilities shall be designed with adequate slope so that after settlement, reversal or flattening of the slope of utility lines does not occur.

MM GEO-1.7: Pipe materials which can accommodate differential settlement without separation of pipe joints or leakage shall be used on the site. Piping could utilize high density polyethylene or, in some cases, dual contained polyvinyl chloride pipe. For either type of pipe system, metallic fittings, valves, and flexible connections could be housed inside vaults for corrosion protection and to aid leak detection.

MM GEO-1.8: Under slab utilities, shall be connected to the structural slab using hangers constructed of a non-corrosive material, such as stainless steel. To counter the effect of soil in the utility trench settling and dislocating the utility line from the hanger, a non-cohesive backfill, such as pea gravel, shall be used in the trench. As the ground settles, the non-cohesive backfill shall be able to move around the pipe. Alternatively, no backfill shall be placed in the trench, with plywood or other materials being used to prevent concrete from the structural slab pour from entering the utility trench. As the surrounding ground settles, the utility pipe would be supported by hangers.

MM GEO-1.9: To accommodate the difference in settlement between the building and surrounding ground, flexible utility connections contained within a settlement vault shall be employed.

MM GEO-1.10: The Project applicant shall prepare and implement an Operations and Maintenance Program for the building, utilities, and pavement, and shall include a site grade monitoring schedule. Site grades shall be monitored every three months for the first two years. After two years, the monitoring duration shall be reevaluated based on the settlement rates and site characteristics. The Operations

and Maintenance Program shall specify the types of repairs to be made in the event that indications of localized depressions, slope changes or cracking of pavements are found.

With the implementation of MM GEO-1.1 through MM GEO-1.10, geology and soils impacts as a result of differential settlement and expansive soils would be reduced to a less than significant level. **(Less than Significant Impact with Mitigation Incorporated)**

Groundwater

Pre-drilling for the foundation piles, as well as the piles themselves, would extend to a depth at which groundwater would be present. The construction techniques that would be utilized for drilling and installation of the piles are described in Section 3.8.2.3 Hazardous Materials Exposure or Release. The RWQCB has adopted a policy regarding installation of foundation piles through landfills. The policy establishes technical criteria intended to preclude adverse water quality impacts that could result from inappropriate or improper construction of piles. The proposed construction techniques would be required to be reviewed by the RWQCB for consistency with the policy (as described in MM HAZ-1.1, 1.2, 1.3 and 1.5). Additionally, the final landfill cover (which would be impacted by the project frilling activities for the foundation piles) will be required by the RWQCB and LEA to be reconstructed under the supervision of a California-registered civil engineer or certified engineering geologist who will document that construction is performed consistent with applicable regulations permits and specifications. Thus, any impacts would be reduced to a less than significant level. **(Less than Significant Impact)**

Seismicity Impacts

Since no known active faults cross the site, fault rupture is not a significant geologic hazard on the site. The project would implement the following updated version of the seismic hazards mitigation measures included in the Legacy Terrace FEIR as a development Standard Permit Conditions.

Standard Permit Condition: Seismic hazards will be reduced by utilizing design and construction practices in accordance with seismic building criteria, as described in the current City of San José Building Standards Code and Fire Code. A design-level geotechnical investigation report addressing the potential hazards of liquefaction, lateral deformations for the Designed Based Earthquake, and seismic shaking shall be submitted to, reviewed and approved by the City of San José Geologist and City of San José Building Division prior to issuance of a Grading Permit or Public Works Clearance. The investigation should be consistent with the guidelines published by the State of California (California Geological Survey Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999).

City of San José (as the LEA) review and approval of the Post-Closure Land Use Plan, which would address construction of Building 5 and the parking garage extension, and implementation of the previously described Standard Permit Condition would ensure that the seismic impacts would be reduced to a less than significant level. **(Less than Significant Impact with Mitigation Incorporated)**

3.6.2.4 *Construction –Related Erosion*

Ground disturbance is required for demolition of the existing parking lot, and during grading and construction activities. Ground disturbance would expose soil materials and increase the potential for wind or water-related erosion and sedimentation at the site until construction is complete.

The City's NPDES Municipal Regional Permit, urban runoff policies, and the Municipal Code are the primary means of enforcing erosion control measures through the grading and building permit processes. The *Envision San José 2040 General Plan Final Program* EIR (General Plan FPEIR) concluded that with the regulatory programs currently in place, the possible impacts of accelerated erosion during construction would be less than significant. The City would require future development on site, including Building 5 and the parking garage extension, to comply with erosion control regulations and policies; therefore, implementation of the project would result in less than significant soil erosion impacts. **(Less than Significant Impact)**

3.6.2.5 *Wastewater Disposal Systems*

The project would not generate a need for septic tanks or alternative wastewater disposal systems. The project would connect to an existing sewer line in Gold Street. **(No Impact)**

3.6.2.6 *Mineral Resources Impacts*

The project site does not contain any known state or locally important mineral resources and is approximately 11 miles from the Communications Hill area. Therefore, implementation of the project would not impact availability of mineral resources. **(No Impact)**

3.6.2.7 *Consistency with Plans and Policies*

With the implementation of MM GEO-1.1 through MM GEO-1.10, which are consistent with General Plan Policy EC-4.2, EC-4.4, EC-4.11, and ES-4.9, impacts as a result of differential settlement and expansive soils would be reduced to a less than significant level. Implementation of MM GEO-1.1 would be consistent with General Plan Policy EC-4.2, EC-4.4, EC-4.11, and ES-4.9 and would reduce seismic impacts. The project would also be required to implement stormwater controls during construction, consistent with General Plan Policy EC-4.2.

3.6.3 Conclusion

With implementation of the above mitigation measures, geology and seismicity impacts would be reduced to a less than significant level. **(Less than Significant Impact with Mitigation Incorporated)**

Given the project site's distance from known mineral resources within the City, implementation of the project would result in no impact to the availability of mineral resources. **(No Impact)**

3.7 GREENHOUSE GAS EMISSIONS

In accordance with CEQA Section 21093 and CEQA Guidelines Section 15152, the following impacts analysis tiers from the certified 2015 *Envision San José 2040 General Plan Final Supplemental Program Environmental Impact Report* (Final Supplemental PEIR) (SCH Number 2003042127; City Council Resolution No. 77617). Updated information reflecting changes to the regulatory setting in the Final Supplemental PEIR is also incorporated in the discussion.

3.7.1 Environmental Setting

Unlike emissions of criteria and toxic air pollutants, which have regional and local impacts, emissions of greenhouse gases (GHGs) have a broader, global impact. Global warming associated with the greenhouse effect is a process whereby GHGs accumulating in the upper atmosphere contribute to an increase in the temperature of the earth's atmosphere. The principal GHGs contributing to global warming and associated climate change are carbon dioxide (CO_2), methane (CH_4), nitrous oxide (N_2O), and fluorinated compounds. Emissions of GHGs contributing to global climate change are attributable in large part to human activities associated with the transportation, industrial and manufacturing, utility, residential, commercial, and agricultural sectors.

3.7.1.1 *Regulatory Framework*

State

California Global Warming Solutions Act

Under the California Global Warming Solution Act, also known as Assembly Bill 32 (AB 32), CARB has established a statewide GHG emissions cap for 2020, adopted mandatory reporting rules for significant sources of GHG, and adopted a comprehensive plan, known as the *Climate Change Scoping Plan*, that identifies how emission reductions will be achieved from significant GHG sources via regulations, market mechanisms and other actions.

On September 8, 2016, Governor Brown signed Senate Bill (SB) 32 into law, amending the California Global Warming Solution Act. SB 32 requires the California Air Resources Board to ensure that statewide greenhouse gas emissions are reduced to 40 percent below the 1990 level by 2030. As a part of this effort, CARB is required to update the *Climate Change Scoping Plan* to express the 2030 target in terms of million metric tons of carbon dioxide equivalent. CARB has initiated the public process to update the state's *Climate Change Scoping Plan*. The updated plan will provide a framework for achieving the 2030 target and is anticipated to be completed and adopted by CARB in June of 2017.

Senate Bill 375 – Redesigning Communities to Reduce Greenhouse Gases

SB 375, known as the Sustainable Communities Strategy and Climate Protection Act, was signed into law in September 2008. It builds on AB 32 by requiring CARB to develop regional GHG reduction targets to be achieved from the automobile and light truck sectors for 2020 and 2035 when

compared to emissions in 2005. The per capita reduction targets for passenger vehicles in the San Francisco Bay Area include a seven percent reduction by 2020 and a 15 percent reduction by 2035.[63]

Consistent with the requirements of SB 375, MTC partnered with the Association of Bay Area Governments (ABAG), BAAQMD, and the Bay Conservation and Development Commission to prepare the region's Sustainable Communities Strategy (SCS) as part of the Regional Transportation Plan process. The SCS is referred to as *Plan Bay Area*.

MTC and ABAG adopted *Plan Bay Area* in July 2013 and CARB accepted the technical evaluation of the SCS in April 2014. The strategies in the plan are intended to promote compact, mixed-use development close to public transit, jobs, schools, shopping, parks, recreation, and other amenities, particularly within Priority Development Areas (PDAs) identified by local jurisdictions.

MTC and ABAG are currently updating *Plan Bay Area*. *Plan Bay Area 2040*, released in early 2017, is a limited and focused update that builds upon the growth pattern and strategies developed in the original *Plan Bay Area* but with updated planning assumptions that incorporate key economic, demographic and financial trends from the last four years. MTC and ABAG plan to revise the draft *Plan Bay Area 2040* and prepare a Final Environmental Impact Report with consideration of adoption in July 2017.

Other Implementing Laws and Regulations

There are a number laws that have been adopted as a part of the State of California's efforts to reduce GHG emissions and their contribution to climate change. State laws and regulations related to growth, development, planning and municipal operations in San José include, but are not limited to:

- California Mandatory Commercial Recycling Law (AB 341)
- California Water Conservation in Landscaping Act of 2006 (AB 1881)
- California Water Conservation Act of 2009 (SBX7-7)
- Various Diesel-Fuel Vehicle Idling regulations in Chapter 13 of the California Code of Regulations
- Building Energy Efficiency Standards (Title 24, Part 6)
- California Green Building Code (Title 24, Part 11)
- Appliance Energy Efficiency Standards (Title 20)

Implementation of the policies in the *Envision San José 2040 General Plan* as a part of the City's development permitting and other programs provides for meeting building standards for energy efficiency, recycling, and water conservation, consistent with the laws and regulations designed to reduce GHG emissions.

[63] The emission reduction targets are for those associated with land use and transportation strategies. Emission reductions due to the California Low Carbon Fuel Standards or Pavley emission control standards are not included.

Regional

2017 Bay Area Clean Air Plan

BAAQMD is the regional, government agency that regulates sources of air pollution within the nine San Francisco Bay Area counties. BAAQMD and other agencies prepare clean air plans as required under the state and federal CAAs. The *Bay Area 2017 Clean Air Plan* (2017 CAP) focuses on two closely related BAAQMD goals: protecting public health and protecting the climate. The 2017 CAP lays the groundwork for the BAAQMD's long-term effort to reduce Bay Area GHG emissions 40 percent below 1990 levels by 2030 and 80 percent below 1990 levels by 2050. The 2017 CAP includes a wide range of control measures designed to decrease emissions of methane and other super-GHGs that are potent climate pollutants in the near-term, and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.

CEQA Air Quality Guidelines

The BAAQMD CEQA *Air Quality Guidelines* are intended to serve as a guide for those who prepare or evaluate air quality impact analyses for projects and plans in the San Francisco Bay Area. As discussed in the CEQA *Air Quality Guidelines*, the determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the lead agency and must be based to the extent possible on scientific and factual data. The City of San Jose and other jurisdictions in the San Francisco Bay Area Air Basin often utilize the thresholds and methodology for greenhouse gas emissions developed by the BAAQMD. The CEQA *Air Quality Guidelines* include information on legal requirements, BAAQMD rules, plans and procedures, methods of analyzing GHG emissions, mitigation measures, and background information.

Local

Envision San José 2040 General Plan

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

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

The primary test for consistency with the City's GHG Reduction Strategy is conformance with the General Plan Land Use/Transportation Diagram and supporting policies. CEQA clearance for development proposals are required to address the consistency of individual projects with the goals

and policies in the General Plan designed to reduce GHG emissions. Compliance with the mandatory measures and voluntary measures (if required by the City) would ensure an individual project's consistency with the GHG Reduction Strategy. Projects that are consistent with the GHG Reduction Strategy would have a less than significant impact related to GHG emissions through 2020 and would not conflict with targets in the currently adopted State of California Climate Change Scoping Plan through 2020.

The environmental impacts of the GHG Reduction Strategy were analyzed in the General Plan FPEIR as supplemented. Beyond 2020, the emission reductions in the GHG Reduction Strategy are not large enough to meet the City's identified 3.04 metric tons (MT) CO_2e/SP efficiency metric for 2035. An additional reduction of 5,392,000 MT CO_2e per year would be required for the projected service population to meet the City's target for 2035.[64]

Achieving the substantial communitywide GHG emissions reductions needed beyond 2020 cannot be done alone with the measures identified in the GHG Reduction Strategy adopted by the City Council in 2015. The General Plan FPEIR disclosed that it will require an aggressive multiple-pronged approach that includes policy decisions and additional emission controls at the federal and state level, new and substantially advanced technologies, and substantial behavioral changes to reduce single occupant vehicle trips—especially to and from work places. Future policy and regulatory decisions by other agencies (such as CARB, California Public Utilities Commission, California Energy Commission, MTC, and BAAQMD) and technological advances are outside the City's control, and therefore could not be relied upon as feasible mitigation strategies at the time of the latest revisions to the GHG Reduction Strategy (e.g., when the Final Supplemental PEIR to the General Plan FPEIR was certified on December 15, 2015). Thus, the City Council adopted overriding considerations for the identified cumulative impact for the 2035 timeframe.

The General Plan includes an implementation program for monitoring, reporting progress on, and updating the GHG Reduction Strategy over time as new technologies or practical measures are identified. Implementation of future updates is called for in General Plan Policies IP-3.7 and IP-17.2 and embodied in the GHG Reduction Strategy. The City of San José recognizes that additional strategies, policies and programs, to supplement those currently identified, will ultimately be required to meet the mid-term 2030 to 2035 reduction target of 40 percent below 1990 levels in the GHG Reduction Strategy and the target of 80 percent below 1990 emission levels by 2050.

The following specific General Plan policies are related to GHG emissions and are applicable to the proposed project.

Policy	Description
MS-2.3	Encourage consideration of solar orientation, including building placement, landscaping, design, and construction techniques for new construction to minimize energy consumption.

[64] As described in General Plan FPEIR, the 2030 to 2035 efficiency target above, reflects a straight line 40 percent emissions reduction compared to the projected citywide emissions (10.90 MT CO_2e) for San José in 2020. It was developed prior to issuance of Executive Order S-30-15 in April 2015, which calls for a statewide reduction target of 40 percent by 2030 (five years earlier) to keep on track with the more aggressive target of 80 percent reduction by 2050. The necessary information to estimate a second mid-term or interim efficiency target (e.g., statewide emissions, population and employment in 2030) is being developed by CARB.

MS-2.11	Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g. design to maximize cross ventilation and interior daylight) and through site design techniques (e.g. orienting buildings on sites to maximize the effectiveness of passive solar design).
MS-14.4	Implement the City's Green Building Policies so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.
CD-2.10	Recognize that finite land area exists for development and that density supports retail vitality and transit ridership. Use land regulations to require compact, low-impact development that efficiently uses land planned for growth, particularly for residential development which tends to have a long life-span. Strongly discourage small-lot and single-family detached residential product types in growth areas.
CD-3.2:	Prioritize pedestrian and bicycle connections to transit, community facilities (including schools), commercial areas, and other areas serving daily needs. Ensure that the design of new facilities can accommodate significant anticipated future increases in bicycle and pedestrian activity.
CD-5.1	Design areas to promote pedestrian and bicycle movements and to facilitate interaction between community members and to strengthen the sense of community.
LU-5.4	Require new commercial development to facilitate pedestrian and bicycle access through techniques such as minimizing building separation from public sidewalks; providing safe, accessible, convenient, and pleasant pedestrian connections; and including secure and convenient bike storage.
TR-2.18	Provide bicycle storage facilities as identified in the Bicycle Master Plan.
TR-7.1	Require large employers to develop and maintain Transportation Demand Management (TDM) programs to reduce the vehicle trips generated by their employees.
TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute toward transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.

City of San José Municipal Code

The City's Municipal Code includes the following regulations that would reduce GHG emissions from future development:

- Green Building Ordinance (Chapter 17.84)
- Water Efficient Landscape Standards for New and Rehabilitated Landscaping (Chapter 15.10)
- Transportation Demand Programs for employers with more than 100 employees (Chapter 11.105)
- Construction and Demolition Diversion Deposit Program (Chapter 9.10)

- Wood Burning Ordinance (Chapter 9.10)

City of San José Private Sector Green Building Policy (6-32)

In October 2008, the City adopted the Private Sector Green Building Policy (6-32) that establishes baseline green building standards for private sector new construction and provides a framework for the implementation of these standards. This policy requires that applicable projects achieve minimum green building performance levels using the Council adopted standards. The proposed project would be subject to this policy. Because the proposed commercial/industrial project would be greater than 25,000 square feet, the proposed project would be required to achieve LEED Silver certification, at minimum.[65]

3.7.1.2 *Existing Conditions*

Current GHG emissions at the project site are generated by building operations (heating and cooling) and vehicle trips to and from the existing office buildings and 175-room hotel.

3.7.2 Greenhouse Gas Emissions Impacts

3.7.2.1 *Thresholds of Significance*

For the purposes of this EIR, a GHG emissions impact is considered significant if the project would:

- Generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment; or
- Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of GHGs.

3.7.2.2 *GHG Emissions Impacts Identified in the Legacy Terrace FEIR*

Evaluation of GHG emissions was not required at the time the Legacy Terrace FEIR was prepared and there was no threshold available to the City of San José to assess the significance of project GHG emissions.

3.7.2.3 *GHG Emissions and Policy or Policy Conflict*

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

Per the CEQA *Guidelines*, a lead agency may analyze and mitigate significant GHG emissions in a plan for the reduction of GHG emissions that has been adopted in a public process following

[65] City of San José. "Private Sector Green Building". Accessed February 6, 2017. https://www.sanJoséca.gov/index.aspx?NID=3284.

environmental review. The City of San José has an adopted GHG Reduction Strategy that was approved by the City Council in December 2015. The environmental impacts of the GHG Reduction Strategy were analyzed in the General Plan FPEIR and General Plan Final Supplemental PEIR. The City's projected emissions and the GHG Reduction Strategy are consistent with measures necessary to meet statewide 2020 goals established by AB 32 and addressed in the Climate Change Scoping Plan.

As noted in the Regulatory Framework discussion, the City of San José recognizes that additional strategies, policies and programs, to supplement those currently identified in its GHG Reduction Strategy, will ultimately be required to meet the City's mid-term 2030 to 2035 reduction target of 40 percent below 1990 levels in the GHG Reduction Strategy and the target of 80 percent below 1990 emission levels by 2050.

The following discussion focuses on whether project emissions represent a cumulatively considerable contribution to climate change as determined by consistency with City of San José and statewide efforts to curb GHG emissions. Projects that are consistent with the City's adopted GHG Reduction Strategy would have a less than significant impact related to GHG emissions through 2020.

San José GHG Reduction Strategy

The General Plan contains goals and policies adopted for the purpose of reducing GHG emissions, which center around five strategies: energy, waste, water, transportation, and carbon sequestration. These goals and policies are also discussed within the City's GHG Reduction Strategy. Some measures are considered mandatory for all proposed development projects, while others are voluntary. Voluntary measures can be incorporated as mitigation measures for projects at the discretion of the City. Mandatory GHG reduction criteria are detailed below.

1. Consistency with the Land Use/Transportation Diagram

2. Implementation of Green Building Measures
   - Solar Site Orientation
   - Site Design
   - Architectural Design
   - Construction Techniques
   - Consistency with City Green Building Ordinance and Policies
   - Consistency with GHG Reduction Strategy Policies: MS-2.3, MS-2.11, and MS-14.4

3. Pedestrian/Bicycle Site Design Measures
   - Consistency with Zoning Ordinance
   - Consistency with GHG Reduction Strategy Policies: CD-3.2, CD-5.1, LU-5.4, TR-2.18, TR-3.3

4. Salvage building materials and architectural elements from historic structures to be demolished to allow re-use (General Plan Policy LU-16.4), if applicable; **Not Applicable**

5. Complete an evaluation of operational energy efficiency and design measures for energy-intensive industries (e.g. data centers) (General Plan Policy MS-2.8), if applicable; **Not Applicable**

6. Preparation and implementation of the transportation demand management (TDM) program at large employers (General Plan Policy TR-7.1), if applicable; and

7. Limits on drive-through and vehicle serving uses; all new uses that serve the occupants of vehicles (e.g. drive-through windows, car washes, service stations) must not disrupt pedestrian flow. (General Plan Policy LU-3.6), if applicable. **Not Applicable**

Per Criteria 1, the proposed project is consistent with the General Plan designation for the site in the Land Use/Transportation Diagram of *Combined Industrial/Commercial*; therefore, site emissions were incorporated into the City's GHG Reduction Strategy. Per Criteria 2 and 3, the project proposes a high level of commercial office density (FAR of 0.37), which would facilitate transit shuttle ridership. New structures would be constructed in compliance with Municipal Code Chapter 17.84 (Green Building Regulations for Private Development) and CALGreen, and would be LEED-Silver certified (or equivalent). Bicycle parking would be provided consistent with San José requirements (the project will provide the required 178 bicycle parking spaces).

Criteria 4, 5, and 7 are not applicable to the proposed project because the site does not contain historic structures, the project is not an energy-intensive use, and the project does not propose vehicle-serving uses. Criteria 6 would be met by the project in that a TDM program would be prepared for the site.

Given implementation of a TDM program for the site, inclusion of green building measures, and the provision of adequate bicycle parking, the project would be consistent with the mandatory criteria described previously. Table 3.7-1 provides a summary of the voluntary criteria and describes the proposed project's compliance with each criterion.

In the event the City's GHG Reduction Strategy is updated with additional requirements subsequent to approval of the rezoning but prior to the issuance of planning permits (e.g., Planned Development Permits or Planned Development Permit Amendments), the project would be subject to requirements of the City's updated GHG Reduction Strategy at the time of application. Building permits also would be subject to the City's Green Building Ordinance and California Building Code requirements at the time of application. Any additional requirements for building design and operations related to energy efficiency will be incorporated in future building plans prior to building permit approval.

The proposed project is consistent with the existing General Plan land use designation (*Combined Industrial/Commercial*) and would comply with applicable mandatory measures of the GHG Reduction Strategy and will provide a transit shuttle for on-site employees as part of the site's TDM program. Therefore, the proposed project is consistent with the San José GHG Reduction Strategy and GHG emissions impacts from operations would be consistent with local targets and statewide targets developed based upon AB 32 and would be less than significant.

Table 3.7-1: Voluntary Greenhouse Gas Reduction Strategy Criteria		
Policies	**Description of Project Measure**	**Project Conformance/ Applicability**
BUILT ENVIRONMENT AND RECYCLING		
Installation of solar panels or other clean energy power generation sources on development sites, especially over parking areas MS-2.7, MS-15.3, MS-16.2	The project does not propose installation of solar panels or other clean energy sources on-site.	☐ Proposed ☒ Not Proposed ☐ Not Applicable
Use recycled water wherever feasible and cost-effective (including non-residential uses outside of the Urban Service Area) MS-17.2, MS-19.4	There are no recycled water lines currently available to the project and there are no large areas of landscaping (such as a playing field) that will require significant levels of irrigation. It is not currently cost-effective for the project to extend recycled water service to the site.	☐ Required/ Proposed ☐ Not Proposed ☒ Not Applicable
TRANSPORTATION AND LAND USE		
Have new residential developers build and maintain trails when development occurs adjacent to a designated trail location. PR-8.5, TN-2.7	The project is not a residential project.	☐ Proposed ☐ Not Proposed ☒ Not Applicable
Promote car share programs to minimize the need for parking spaces TR-8.5	A car share program is not currently proposed as a part of project and no spaces are proposed to be reserved in the parking lot for this use.	☐ Proposed ☒ Not Proposed ☐ Not Applicable
Parking in downtown and urban village overlay areas: avoid the construction of surface parking except as an interim use and use structured parking to fulfill parking requirements. CD-2.11	The project site is not located in Downtown or an Urban Village Overlay area.	☐ Surface Parking Proposed ☐ Surface Parking Not Proposed ☒ Not Applicable
Limit parking above code requirements TR-8.4	The proposed number of parking spaces would exceed requirements in the Municipal Code.	☐ Parked at or below Code Requirements ☒ Parked above Code Requirements ☐ Not Applicable
Consider opportunities for reducing parking spaces (including measures such as shared parking, TDM, and parking pricing to reduce demand) TR-8.12	The proposed project will be required to prepare and implement a TDM program; however it does not propose a shared parking TDM or parking pricing.	☐ Proposed ☒ Project Does Not Propose ☐ Not Applicable

Plan Bay Area

The development assumptions in *Plan Bay Area* are based on the zoning and General Plan land use designations in affect at the time *Plan Bay Area* was developed. The project site is located with the Urban Service Area of San José and is currently designated for commercial and hotel development. Because the proposed use is consistent with the City's land use assumptions, it would not be inconsistent with efforts to reduce GHG emissions contained in *Plan Bay Area*.

Alviso Master Plan

The Alviso Master Plan area, while within the Urban Service Boundaries of the City, is not within a PDA identified by the City of San José. The project's location, accessible from housing in San José, Santa Clara, and Sunnyvale, and the provision of a shuttle to an area transit station will minimize GHG emissions from vehicular travel to some extent. Because the proposed use is generally consistent with land use assumptions for the Alviso area of San José and would provide office space serving nearby residential areas, it would not be inconsistent with efforts to reduce GHG emissions from cars and light trucks contained in *Plan Bay Area*. **(Less than Significant Impact)**

3.7.3 Conclusion

The project would be consistent with San José GHG Reduction Strategy and other applicable plans, policies and regulations adopted for the purpose of reducing the emissions of GHGs. **(Less Than Significant Impact)**

3.8 HAZARDS AND HAZARDOUS MATERIALS

3.8.1 Environmental Setting

3.8.1.1 *Regulatory Framework*

Federal and State

Hazardous Materials

The storage, use, generation, transport, and disposal of hazardous materials and waste are highly regulated under federal and state laws. In California, the U.S. Environmental Protection Agency (EPA) has granted most enforcement authority over federal hazardous materials regulations to the California Environmental Protection Agency (CalEPA). Local agencies, including the Santa Clara County Department of Environmental Health (SCCDEH), have been granted responsibility for implementation and enforcement of many hazardous materials regulations under the Certified Unified Program Agency (CUPA) program. Other regional agencies are responsible for programs regulating emissions to the air, surface water, and groundwater include the BAAQMD, which has oversight over air emissions, and the Regional Water Quality Control Board (RWQCB) which regulates discharges and releases to surface and groundwater.

Oversight of investigation and remediation of sites impacted by hazardous materials releases can be performed by state agencies, such as the Department of Toxic Substances Control (DTSC); regional agencies, such as the RWQCB; or local agencies, such as SCCDEH. Other agencies that regulate hazardous materials and their transport and handling include the California Department of Transportation and California Highway Patrol, and CalEPA Division of Occupational Safety and Health (CalOSHA).

Hazardous Materials Sites (Government Code Section 65962.5)

Section 65962.5 of the Government Code requires California Environmental Protection Agency (Cal EPA) to develop and update (at least annually) a list of hazardous waste and substances sites. This list is used by the State, local agencies, and developers to comply with CEQA requirements. The list includes hazardous substance release sites identified by the Department of Toxic Substances Control (DTSC) and the State Water Resources Control Board (SWRCB).

Landfills

CalRecycle is the state regulatory agency responsible for closed landfill oversight, along with the Local Enforcement Agency (LEA) and RWQCB. The City of San José is the LEA for landfills within the city limits. A Postclosure Land Use Proposal (PLUP) prepared for the Highway 237 Landfill was included in the Legacy Terrace FEIR. The PLUP includes plans and requirements for site grading, site improvements (buildings, utilities, a landfill control system, and drainage and erosion control), a construction quality monitoring program, environmental monitoring systems, and postclosure maintenance activities on the landfill portion of the America Center site. Development on the landfill has been implemented in conformance with approved postclosure plans with continuing oversight by the LEA, CalRecycle, and RWQCB (the boundaries of the closed landfill are shown in Figure 2.2-3).

Local

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects with the City. The following policies are specific to hazards and hazardous materials and are applicable to the proposed project.

Policy	Description
EC-7.1	For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment.
EC-7.2	Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, state and federal laws, regulations, guidelines and standards.
EC-7.9	Ensure coordination with the County of Santa Clara Department of Environmental Health, Regional Water Quality Control Board, Department of Toxic Substances Control or other applicable regulatory agencies, as appropriate, on projects with contaminated soil and/or groundwater or where historical or active regulatory oversight exists.
EC-7.10	Require review and approval of grading, erosion control and dust control plans prior to issuance of a grading permit by the Director of Public Works on sites with known soil contamination. Construction operations shall be conducted to limit the creation and dispersion of dust and sediment runoff.

3.8.1.2 *Existing Conditions*

Hazardous Materials and Landfill Site

The majority of the America Center site is elevated due to its location on top of the closed Highway 237 Landfill, as shown previously in Figure 2.2-3. The landfill was a disposal site was in operation from 1962 to 1982. Materials reported in the landfill include municipal trash, soil, concrete, asphalt, wood, and other construction rubble. Four modern commercial office buildings (two of which are currently under construction), a hotel building, parking garage (also under construction), open space preserve, and parking lots are located on the former landfill.

The closed landfill generates landfill gas, including methane, which is a combustible gas. The landfill may also contain petroleum hydrocarbons and volatile organic compounds (VOCs) generated from organics from refuse and/or underlying estuary soils, plasticizers, wood preservatives in demolition debris, glue thinners and asphalt or roofing material contained within fill materials.

The closed landfill is listed as Highway 237 Landfill in the state's Geotracker database. Semi-annual groundwater monitoring for VOCs, ammonia, chemical oxygen demand, barium, and leachate (water

that has percolated through organic waste materials and leached out some of the constituents) occurs at the project site to monitor hazardous chemicals that might contaminate area groundwater.

Based on a search of the state listings of hazardous material sites (e.g., Geotracker database established by RWQB and EnviroStor established by the California Department of Substances Control), only one other off-site property (San José Fire Station Number 25 at 1590 Gold Street) within one quarter mile has been listed. A gasoline release at this property occurred in 1984, which was listed as a leaking underground storage tank (LUST) site. Site investigation and remedial action were completed at the project site and the LUST case was closed as of January 2002.

Asbestos

The America Center site is within the boundaries of the South Bay Asbestos Area, a National Priority List site. The Highway 237 Landfill has been identified by EPA as having received asbestos wastes from an asbestos cement pipe manufacturing plant that was in operation from 1953 to 1982. Other properties within the South Bay Asbestos Area may have received construction and demolition debris that contains friable asbestos during land filling activities. Soils are considered to be hazardous when more than one percent asbestos is present. Remedial action for asbestos has occurred at the site, in that the final cover (a clay cap) has been placed over the landfill material. A Soil Management Plan, for waste management and monitoring, must be reviewed and approved by the EPA if excavation activities penetrate clay cap.[66]

Other Hazards

Airports

The Norman Y. Mineta San José International Airport is located approximately 3.5 miles south of the project site. Federal Aviation Regulations, Part 77, Objects Affecting Navigable Airspace (FAR Part 77), requires that the Federal Aviation Administration (FAA) be notified of certain proposed construction projects located within an extended zone defined by an imaginary slope radiating outward for several miles from an airport's runways, or which would otherwise stand at least 200 feet in height above ground. The airport released a contour map which includes height restrictions for new developments that could be a hazard to aircraft safety and would require FAA notification under FAR Part 77. The project's maximum building height of 90 feet is substantially below the FAR Part 77 obstruction notification surface that would require airspace safety review.

Wildland Fire Hazards

The project site is located in an urban area and is not within a Very-High Fire Hazard Severity Zone for wildland fires.[67]

[66] EPA. Celebrating Success South Bay Asbestos Area, Alviso California. Accessed September 14, 2016. https://semspub.epa.gov/work/09/2400136.pdf.
[67] California Department of Forestry and Fire Protection. *Santa Clara County FHSZ Map*. November 6, 2007. Accessed August 11, 2016. http://calfire.ca.gov/fire_prevention/fhsz_maps_santaclara.php.

3.8.2 Hazards and Hazardous Materials Impacts

3.8.2.1 *Thresholds of Significance*

For the purposes of this EIR, a hazards and hazardous materials impact is considered significant if the project would:

- Create a significant hazard to the public or the environment through routine transport, use, or disposal of hazardous materials;
- Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment;
- Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school;
- Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment;
- For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area;
- For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area;
- Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan; or
- Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands.

3.8.2.2 *Hazards and Hazardous Materials Impacts Identified in the Legacy Terrace FEIR*

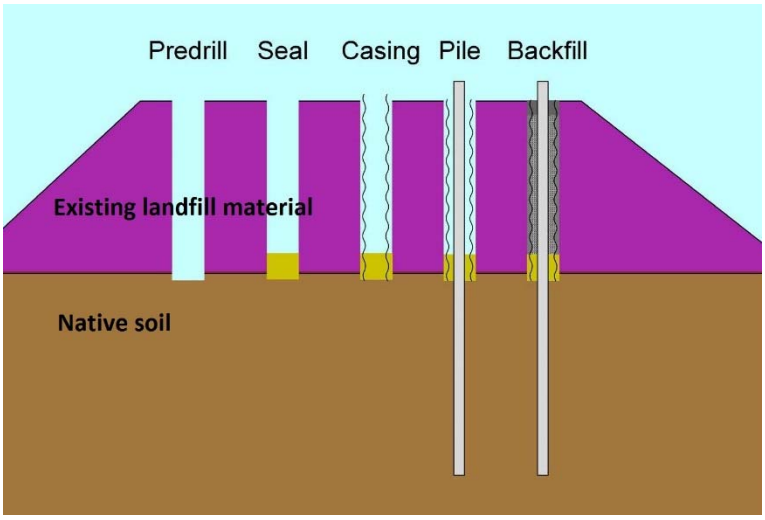
The Legacy Terrace FEIR identified significant hazardous materials impacts related to exposure of construction workers and the public to contaminated soil and groundwater, methane gas, and asbestos, as result of the project's implementation on a closed landfill. These impacts were reduced to a less than significant level through implementation of mitigation measures, including installation of landfill gas control systems under all buildings, use of automatic combustible gas sensors, landfill gas cut-offs along utility trenches, and preparation and implementation of soil management plans and health and safety plans for materials handling during construction.

3.8.2.3 *Hazardous Materials Exposure or Release*

As evaluated in the Legacy Terrace FEIR, development of the project site would expose construction workers to VOCs and methane in soil vapor/gas from the closed Highway 237 Landfill, which could result in potential hazards to workers or the environment because compounds can pose human health risks and/or explosion hazards. Methane exposure is not a human health risk. Methane gas is, however, considered to be an explosion hazard at locations where concentrations are between the lower explosive limit (five percent) and upper explosive limit (15 percent). VOCs have the potential

to migrate from soil vapor to indoor air via a vapor intrusion pathway. As disclosed in the Legacy Terrace FEIR, impacts from methane gas generated by landfill waste and volatile organic compounds could impact development on the site.

Asbestos-containing or other contaminated materials could be encountered where waste is removed as part of installation of drilled foundation piles. To avoid pushing waste ahead of the piles, holes will be drilled with an auger through the cap and existing landfill material to a depth of 50 to 60 feet (as shown in the illustration to the right). Material excavated during pre-drilling will be disposed of in a manner consistent with RWQCB requirements, as described within a required Soils Management Plan (see MM HAZ-1.1).



To prevent leachate from entering the groundwater or groundwater from entering penetrations, the bottom of the drilled holes will be sealed with a bentonite grout and the sides will be reinforced with a corrugated metal casing. The foundation pile (which is chemically compatible with landfill waste) is then set in the hole and driven into native soils below. The hole is then backfilled with pea gravel and concrete, and a concrete pile cap is placed at the ground surface.

These penetrations into the landfill waste units could expose construction workers to contaminated soil, water (landfill leachate), airborne dust, and landfill gas. Because the foundation piles will penetrate the landfill waste and the landfill is known to contain asbestos-containing materials, the project will be required to satisfy regulatory requirements for driving piles through an unlined landfill. These requirements would be outlined in the Soils Management Plan (SMP) for pile installation, landfill spoils management, waste relocation on site. The SMP would also address the prevention of the migration of leachate along building piles. The work plan would be submitted to the RWQCB, City of San José LEA, and EPA. **(Less Than Significant Impact with Mitigation)**

Impact HAZ-1: Methane gas within landfill materials could result in flammable or explosive conditions. Toxic compounds, including volatile organic compounds, and asbestos, could be present and pose health risks to construction workers and/or the public. **(Significant Impact)**

Mitigation Measures

The project would implement the following updated and expanded versions of the mitigation measures that were included in the Legacy Terrace FEIR.

MM HAZ-1.1: The project applicant shall follow the EPA-approved Soil Management Plan (SMP) developed for closure, capping, maintenance, and post-capping

construction activities at the Highway 237 Landfill to reduce or eliminate exposure risk to human health and the environment, specifically, potential risks associated with the presence of methane, hydrogen sulfide, and volatile organic compounds (VOCs) in soil gas and potential unknown conditions. The SMP shall be followed for any development related activities that penetrate the low-permeability layer of the landfill cap, such as pile installation or excavations. As required by the SMP, prior notification of planned activities that trigger implementation of SMP protocols shall be provided to the Department of Planning, Building and Code Enforcement, Environmental Services Department, LEA, and other regulatory agencies providing oversight (such as the RWQCB and CalRecycle) prior to issuance of a grading permit.

MM HAZ-1.2: Contractors and subcontractors at the project site shall develop a health and safety plan specific to their scope of work and based upon the known environmental conditions for the site. Each health and safety plan shall be implemented under the direction of a Site Safety and Health Officer and provided to all regulatory agencies providing oversight (such as the LEA, CalRecycle, or RWQCB).

MM HAZ-1.3: The project site is on a former landfill and shall follow environmental monitoring procedures required by CalRecycle and the San José LEA.

MM HAZ-1.4: The project applicant shall ensure that where an irrigation system is installed for landscaping, it shall be designed to optimize watering using the most current automatic irrigation equipment and monitoring methods. To help minimize infiltration, subdrains shall be constructed for all tree planting areas. The trees shall have subdrains that discharge to the storm drain system.

MM HAZ-1.5: Prior to issuance of any grading permit for site improvements, the project applicant shall provide the LEA, CalRecycle, and an appropriate oversight agency (such as the DTSC or RWQCB and the City's Department of Public Works) with a project-level, engineering analysis that addresses, in sufficient detail, the following elements of the final project design:

- Soil gas mitigation and monitoring systems, including structure monitoring and perimeter monitoring systems;
- Differential settlement;
- Site surface drainage and final grading; and
- Any other elements of the design as required by the LEA or Department of Public Works, including specialized analysis that may be warranted by the City. The project applicant shall bear the responsibility for providing any such specialized analysis.

MM HAZ-1.6: The project applicant shall incorporate a landfill gas control system into all buildings constructed as a part of the project. Proposed structures shall be constructed with a sub-slab soil gas mitigation system to vent landfill gases and other soil vapor. The soil gas mitigation system may consist of perforated pipes

placed in a permeable granular layer under building and garage concrete slabs. The perforated pipes shall be connected to a system that discharges vapor to the building's exterior. The system shall include a methane sensor/venting system that is capable of venting soil vapor out from beneath the building, and a low-permeable barrier layer, such as Liquid Boot, shall be installed in the buildings and certain areas in the parking garage that have the potential to accumulate landfill gas in order to prevent soil vapors from intruding into the structures. The low-permeable vapor barrier membrane shall be located above the permeable granular layer. The membrane shall be sealed around foundation piles, grade beams, and slab penetrations (such as utility lines). The project applicant shall also install a landfill gas venting system beneath hardscape areas near the proposed structures.

The landfill gas control system for the office buildings shall include an integrated methane sensor/blower system that is capable of actively drawing soil vapor from beneath the building. Methane sensors provided at the discharge point of each soil gas mitigation system shall control the active operation of the venting system.

The project applicant shall prepare and implement an Operations and Maintenance Program for the soil gas mitigation systems. The program shall include instructions for how to ensure that the system functions properly.

MM HAZ-1.7: The project applicant shall construct site utility trenches with landfill gas cut-offs to prevent landfill gas from migrating along utility trenches. Below-grade electrical facilities shall be designed for explosive conditions, in accordance with the California Building Standards Code.

Implementation of these site-specific measures are consistent with the mitigation measures approved in the Legacy Terrace with regard to expected contamination types and levels in the area. The contamination addressed by these measures does not represent a substantially more severe effect of the project. Implementation of the above mitigation measures would ensure that hazardous substances on-site would not result in a significant hazard to construction workers, future users of the site, or the environment. **(Less than Significant Impact with Mitigation Incorporated)**

3.8.2.4 *Hazardous Materials Use*

The proposed project would routinely use limited amounts of cleaning materials and would not generate substantial hazardous emissions from hazardous materials use or transport. As applicable, current regulations and programs for regulated hazardous materials use would reduce impacts to a less than significant level. **(Less than Significant Impact)**

3.8.2.5 *Airport Hazards*

The proposed project would not be an aircraft safety hazard based on FAA height restriction criteria (i.e., the proposed hotel would be below the building height that would require FAA review). The

project site is not within the vicinity of a private airstrip. For these reasons the project would not result in a significant aircraft safety hazard. **(No Impact)**

3.8.2.6 *Implementation of Safety Plans*

The proposed project involves construction at a site designated for and surrounded by commercial uses and would comply with relevant building and fire codes. Emergency access would be maintained for the period of construction of the project. Additionally, buildings are setback a minimum of 40 feet from each other to facilitate access. Further, overall access to the America Center site would not change from its existing configuration and the project would not impair or interfere with the implementation the City of San José's Emergency Access Plan, County of Santa Clara Hazard Mitigation Plan, or other emergency response or emergency evacuation plan.[68] [69] **(No Impact)**

3.8.2.7 *Wildland Fire Hazards*

The project site is not located near an urban-wildland interface and is not subject to hazards from wildland fires. Implementation of the proposed project would not expose people or structures to any risk from wildland fires. **(No Impact)**

3.8.2.8 *Consistency with Plans and Policies*

The project would address hazards and hazardous materials-related issues associated with the past landfill use at the site, consistent with General Plan Policy EC-7.1. The implementation of mitigation measures MM HAZ-1.1 through MM HAZ-1.7 are consistent with the requirements of General Plan policies EC-7.2, EC-7.9 and EC-7.10 with regard to expected contamination types and levels in the area.

3.8.3 Conclusion

The proposed project would not result in any new or more significant hazards or hazardous materials impacts than addressed in the certified Legacy Terrace FEIR. **(Less than Significant Impact with Mitigation Incorporated)**

The project would not result in hazards to aircraft and is not in the vicinity of a private airstrip. The project would not impact any adopted emergency response/evacuation plans, and is not subject to wildfire hazards. **(No Impact)**

[68] City of San José. Emergency Access Plan. Accessed September 14, 2016. https://www.sanJoséca.gov/DocumentCenter/View/47603

[69] County of Santa Clara. Santa Clara County Hazard Mitigation Plan. Accessed September 14, 2016. https://www.sccgov.org/sites/oes/SCCOAHMP20162017/abouttheproject/Pages/home.aspx

3.9 HYDROLOGY AND WATER QUALITY

3.9.1 Environmental Setting

The existing drainage and regulatory requirements regarding hydrology and water quality that have changed since certification of the Legacy Terrace FEIR are described below. Primary changes have been to the City of San José's update of its Post-Construction Urban Runoff Management (Policy 6-29) and the adoption of the Post-Construction Hydromodification Management (Policy 8-14), which are discussed below.

3.9.1.1 *Regulatory Framework*

Federal and State

Flooding

In 1968, Congress created the National Flood Insurance Program (NFIP) in response to the rising cost of taxpayer funded disaster relief for flood victims and the increasing amount of damage caused by floods. The NFIP makes federally backed flood insurance available for communities that agree to adopt and enforce floodplain management ordinances to reduce future flood damage.

The Federal Emergency Management Agency (FEMA) manages the NFIP and creates Flood Insurance Rate Maps (FIRMs) that designate 100-year floodplain zones and delineate other flood hazard areas. A 100-year floodplain zone is the area that has a one in one hundred (one percent) chance of being flooded in any one year based on historical data. The project site has been removed from the Special Flood Hazard Area by a Letter of Map Revision (LOMR). The property is now located within flood zone X, which is an area of moderate or minimal flood hazard. There are no City floodplain requirements for zone X.

Water Quality

The Federal Clean Water Act (CWA) and California's Porter-Cologne Water Quality Control Act are the primary laws related to water quality. The CWA governs discharges to the "Waters of the United States," which includes oceans, bays, rivers, streams, lakes, ponds, and wetlands. The Porter-Cologne Act established the State Water Resources Control Board (SWRCB).

Regulations set forth by the EPA and the SWRCB have been developed to fulfill the requirements of this legislation. EPA's regulations include the National Pollutant Discharge Elimination System (NPDES) permit program, which controls sources that discharge pollutants into Waters of the United States. These regulations are implemented at the regional level by water quality control boards. For the City of San José, the water board is the San Francisco Bay RWQCB. Regional Boards are responsible for developing and enforcing water quality objectives and implementation plans, known as Basin Plans.

CWA Section 303(d) lists polluted water bodies which require further attention to support future beneficial uses. San Francisco Bay and Guadalupe River are on the Section 303(d) list as an impaired water body for urban runoff/storm sewer and unpermitted discharges.

Regional

In 1988, the SWRCB adopted the Nonpoint Source Management Program in an effort to control nonpoint source pollution in California. The Nonpoint Source Management Program requires individual permits to control discharge associated with construction activities. The Nonpoint Source Program is administered by RWQCBs under the National Pollutant Discharge Elimination System (NPDES) General Permit for Construction Activities. Projects must comply with the requirements of the Nonpoint Source Program if:

- They disturb one acre or more of soil; or
- They disturb less than one acre of soil but are part of a larger development that, in total, disturbs one acre or more of soil.

The NPDES General Permit for Construction Activities requires the developer to submit a Notice of Intent (NOI) to the RWQCB and to develop a Stormwater Pollution Prevention Plan (SWPPP) to control discharge associated with construction activities.

The San Francisco Bay RWQCB also has issued a Municipal Regional Stormwater NPDES Permit (Permit Number CAS612008) (MRP). Under provisions of the NPDES Municipal Permit, redevelopment projects that add and/or replace more than 10,000 square feet of impervious surface, or 5,000 square feet of uncovered parking area, are required to design and construct stormwater treatment controls to treat post-construction stormwater runoff. Provision C.3 of the MRP regulates the following types of new development and redevelopment projects:

- Projects that create or replace 10,000 square feet or more of impervious surface;
- Special Land Use Categories that create or replace 5,000 square feet or more of impervious surface.

The MRP requires regulated projects to include Low Impact Development (LID) practices, such as pollutant source control measures and stormwater treatment features aimed to maintain or restore the site's natural hydrologic functions. The MRP also requires that stormwater treatment measures are properly installed, operated and maintained.

Local

Post-Construction Urban Runoff Management (Policy 6-29)

The City of San José's Policy No. 6-29 implements the stormwater treatment requirements of Provision C.3 of the Municipal Regional Stormwater NPDES Permit. The City of San José's Policy No. 6-29 requires all new development and redevelopment project to implement post-construction Best Management Practices (BMP) and Treatment Control Measures (TCM). This policy also established specific design standards for post-construction TCM for projects that create, add, or replace 10,000 square feet or more of impervious surfaces.

Hydromodification Management (Policy 8-14)

The City of San José's Policy No.8-14 implements the stormwater treatment requirements of Provision C.3 of the Municipal Regional Stormwater NPDES Permit. Policy No. 8-14 requires all new and redevelopment projects (with some exceptions) that create or replace one acre or more of impervious surface to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation or other impacts to beneficial uses of local rivers, streams, and creeks. The policy requires these projects to be designed to control project-related hydromodification through a Hydromodification Management Plan (HMP). The project site is, however, exempt from the NPDES hydromodification requirements related to preparation of an HMP because it is located within a tidally influenced Bayland area.

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects with the City. The following policies are specific to hydrology and water quality and are applicable to the proposed project.

Policy	Description
IN-3.7	Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.
IN-3.9	Require developers to prepare drainage plans for proposed developments that define needed drainage improvements per City standards.
MS-3.4	Promote the use of green roofs (i.e., roofs with vegetated cover), landscape-based treatment measures, pervious materials for hardscape, and other stormwater management practices to reduce water pollution.
ER-8.1	Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.
ER-8.3	Ensure that private development in San José includes adequate measures to treat stormwater runoff.
EC-4.5	Ensure that any development activity that requires grading does not impact adjacent properties, local creeks, and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have a soil disturbance of one acre or more, adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 1 and April 30.
EC-5.7	Allow new urban development only when mitigation measures are incorporated into the project design to ensure that new urban runoff does not increase flood risks elsewhere.
EC-5.16	Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.

Alviso Master Plan

The Alviso Master Plan establishes the location, intensity, and character of land uses; the circulation pattern, and necessary infrastructure improvements to support development. The following policies are specific to hydrology and water quality and are applicable to the proposed project.

Policies	Description
Storm Drainage Policy 1	All new development projects should be evaluated to determine the possible need for additional storm drainage facilities.
Storm Drainage Policy 2	All storm drainage infrastructure on the former Cargill Landfill[70] needs to be built, operated and maintained by the property owner.
Environmental Protection Policy 1	All new parking, circulation, loading, outdoor storage, utility, and other similar activity areas must be located on paved surfaces with proper drainage to avoid potential pollutants from entering the groundwater, Guadalupe River, Coyote Creek, or San Francisco Bay

3.9.1.2 *Existing Conditions*

Water Quality

The project site is located within the Guadalupe River watershed which covers a 170 square-mile area. The water quality of the river/slough can be greatly affected by pollution carried in contaminated surface runoff. Pollutants from unidentified sources, known as non-point source pollutants, are washed from streets, construction sites, parking lots, and other exposed surfaces into storm drains. Runoff often contains contaminants such as oil and grease, plant and animal debris (e.g. leaves, dust, and animal feces), pesticides, trash, and heavy metals. In sufficient concentration, these pollutants have been found to adversely affect the aquatic habitats to which they drain.

The commercial office/R&D area of the America Center site consists of buildings, parking lots, landscaped vegetation, and an active construction zone (Buildings 3 and 4, and the parking garage extension) in an area that was formerly vacant. Runoff from the site likely contains pollutants typically found in urban developed environments, including sediment, automotive fluids, and trash.

Groundwater

The project site is located in the Santa Clara Valley Groundwater Basin between the Diablo Mountains to the east and the Santa Cruz Mountains to the west. The Santa Clara Valley Groundwater Basin is filled by valley floor alluvium and the Santa Clara Formation. Groundwater at the project site can range from three to six feet below msl.[71] at this location, near the San Francisco Bay within an area where the deeper aquifer used for drinking potable water is confined, the project

[70] Also known as the Highway 237 Landfill.
[71] Treadwell and Rollo. *Project Feasibility Geotechnical Investigation*. July 2, 1999.

site does not contribute to the recharging of the County's groundwater aquifers managed by the Santa Clara Valley Water District.[72]

Storm Drainage

Runoff from the developed areas of the America Center site enters the on-site storm drainage system and is conveyed to a pump station near Gold Street, as well an outfall to San Tomas Aquino Creek and wetlands located on the south side of the America Center site. Runoff from the site is ultimately conveyed to the San Francisco Bay.

3.9.1.3 *Flooding*

The America Center site was removed from the Special Flood Hazard Area by a LOMR. Additionally, the structures and facilities on the site are elevated above the surrounding area because they are located on top of a closed landfill.

3.9.1.4 *Other Inundation Hazards*

Dam Failure

ABAG compiles the dam failure inundation hazard maps submitted to the State Office of Emergency Services by dam owners throughout the Bay Area. The project site is not located in a dam failure inundation hazard zone and, therefore, is not anticipated to be subject to inundation due to dam failure.[73]

Sea Level Rise

Among the potential implications of global climate change are rising sea levels. Sea level rise is a concern for many Bay Area residents, community leaders, and resource managers, especially along the margins of San Francisco Bay.

The National Oceanic and Atmospheric Administration (NOAA) has developed a range of sea level rise scenarios from zero to six feet, as well as potential impacts to marshes and human communities. The elevation of the project site ranges from 36 to 51 feet amsl. Based on NOAA's coastal management tool for assessing potential sea level rise effects, the project site would not be subject to sea-level rise within an elevation range of zero to six feet.[74] The elevation of the site with fill materials reduces the vulnerability to sea level rise. Some roads in the Alviso area could be affected, which could affect site access.

Earthquake-Induced Waves and Mudflow Hazards

A seiche is the oscillation of a body of water which most frequently occurs in enclosed or semi-enclosed basins such as bays, lakes, or harbor. Seiches may be triggered by strong winds, changes in atmospheric pressure, earthquakes, tsunami, or tides. A tsunami is a large tidal wave caused by an underwater earthquake, volcanic eruption or undersea landslides. A mudflow is a large rapid mass of

[72] Santa Clara Valley Water District. *2012 Groundwater Management Plan*.
[73] ABAG. *Dam Failure Inundation Hazard Map for NW San José/Milpitas/Santa Clara*. Map. October 23, 2003.
[74] National Oceanic and Atmospheric Administration. *Sea Level Rise and Coastal Flooding Impacts*. Accessed August 11, 2016. http://www.bcdc.ca.gov/slr.shtml.

mud (which can accelerate up to 50 miles per hour) formed by loose earth and water. Hillsides and slopes of unconsolidated material could be at risk to mudflows if these areas become saturated.

Based on the ABAG's Tsunami Inundation Map for Coastal Evacuation, the project site is not considered vulnerable to a tsunami. The site is not located adjacent to hillsides and, therefore, is not subject to mudflows. While the project site is adjacent to South Bay Restoration Pond A8 (which is an enclosed basin), the potential for a seiche large enough to impact the elevated portion of the America Center site where the proposed project would be located is limited.

3.9.2 Hydrology and Water Quality Impacts

3.9.2.1 *Thresholds of Significance*

For the purposes of this EIR, a hydrology and water quality impact is considered significant if the project would:

- Violate any water quality standards or waste discharge requirements;
- Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted);
- Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site;
- Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;
- Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff;
- Otherwise substantially degrade water quality;
- Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map;
- Place within a 100-year flood hazard area structures which would impeded or redirect flood flows;
- Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam; or
- Inundation by seiche, tsunami, or mudflow.

3.9.2.2 *Hydrology and Water Quality Impacts Identified in the Legacy Terrace FEIR*

The Legacy Terrace FEIR identified significant water quality impacts related to stormwater runoff from new development. The Legacy Terrace FEIR found that these impacts could be reduced to a less than significant level with implementation of mitigation measures included in the project.

Additional runoff from the site would be conveyed to an existing outfall and pump station (located near Gold Street) and would not result in significant flooding or storm drainage impacts.

3.9.2.3 *Water Quality Impacts*

Construction Impacts

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

Development of the proposed project site will increase the amount of contamination in stormwater runoff, which could adversely affect the water quality of adjacent waterways, including San Tomas Aquino Creek and the Guadalupe River/Alviso Slough. The project would implement the following updated and expanded versions of the mitigation measures that were included in the Legacy Terrace FEIR as Standard Permit Conditions.

Standard Permit Conditions: The following project-specific measures, based on RWQCB BMPs, have been included in the project to reduce construction and development-related water quality impacts. BMPs would be implemented prior to and during earthmoving activities on-site and would continue until the construction is complete, and during the post-construction period, as appropriate.

- Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
- Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
- All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.
- Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
- All trucks hauling soil, sand, and other loose materials shall be required to cover all trucks or maintain at least two feet of freeboard.
- All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).
- Vegetation in disturbed areas shall be replanted as quickly as possible.
- All unpaved entrances to the site shall be filled with rock to knock mud from truck tires prior to entering City streets. A tire wash system may also be employed at the request of the City.
- The project applicant shall comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.

- A NPDES General Construction Storm Water Permit will be administered by the RWQCB. Prior to construction grading for the proposed land uses, the project proponent will file an NOI to comply with the General Permit and prepare a SWPPP which addresses measures that would be included in the project to minimize and control construction and post-construction runoff. Measures will include, but are not limited to, the aforementioned RWQCB BMPs.
- The certified SWPPP will be posted at the project site and will be updated to reflect current site conditions. Copies of the SWPPP shall be submitted to the City of San José Department of Public Works. The following measures shall be included in the SWPPP:
- Preclude non-stormwater discharges to the stormwater system.
- Incorporate effective, site-specific BMPs for erosion and sediment control during the construction and post-construction periods.
- Cover soil, equipment, and supplies that could contribute pollution prior to rainfall events or monitor runoff.
- Perform monitoring of discharges to the stormwater system.
- When construction is complete, a Notice of Termination (NOT) for the General Permit for Construction will be filed with the SWRCB. The NOT will document that all elements of the SWPPP have been executed, construction materials and waste have been properly disposed of, and a post-construction stormwater management plan is in place as described in the SWPPP for the site.
- Provide permanent cover to stabilize the disturbed surfaces after construction has been completed.

Implementation of the RWQCB BMPs, described in the Standard Permit Conditions above, would reduce potential construction-related stormwater quality impacts to a less than significant level. **(Less than Significant Impact)**

Post-Construction Impacts

Stormwater runoff from urban uses contains metals, pesticides, herbicides, and other contaminants such as oil, grease, lead, and animal waste. Runoff from the proposed project may contain increased oil and grease from parked vehicles, as well as sediment and chemicals (i.e., fertilizers and pesticides) from landscaped areas. The existing and proposed areas of pervious and impervious surfaces are detailed in Section 3.9.2.5 Stormwater Drainage.

The project would be required to implement Low Impact Development (LID) stormwater treatment measures. Examples of LID measure include flow-through planters and green roofs. The project would be required to implement LID measures such as utilizing disconnected downspouts, vegetated treatment planters with an impermeable barrier, and/or in-ground biotreatment cells with impermeable liners. The proposed project stormwater plan would be reviewed by the City to ensure compliance with MRP requirements to reduce post-construction water quality impacts. **(Less than Significant Impact)**

3.9.2.4 *Groundwater Impacts*

During construction, rainfall and stormwater runoff could infiltrate into landfill materials. Of particular concern are locations where foundation piles would penetrate the landfill materials (as described in Section 3.8.2.3 Hazardous Materials Exposure or Release and under Impact HAZ-1. However, the project would be required to implement MM HAZ-1.1, preparation, regulatory review, and implementation of a Soil Management Plan (SMP) prior to construction to reduce or eliminate exposure risk to human health and the environment associated with pile installation. Requirements for the type and method of installation of foundation piles that satisfy (at a minimum) RWQCB criteria for driving piles through an unlined landfill, including creating a tight seal around the pile, would reduce potential impacts to groundwater to a less than significant level during construction. **(Less than Significant Impact with Mitigation Incorporated)**

The project site does not presently contribute to recharging of the groundwater aquifers used for water supply (managed by the Santa Clara Valley Water District) and this condition would not change once development is complete. As a result, implementation of the project would not interfere with groundwater recharge or cause a reduction in the overall groundwater supply. **(Less than Significant Impact)**

3.9.2.5 *Stormwater Drainage*

Development on the site is subject to the City of San José's Policy 6-29, a policy which requires that new projects replacing or adding 10,000 square feet or more of impervious surfaces include BMPs and TCMs to mitigate stormwater runoff impacts. Table 3.9-1 below shows the estimated change in impervious and pervious surfaces on the America Center site. While the Building 5 and parking garage extension sites are primarily composed of surface parking lots, the project would increase the amount of impervious surfaces on the project site for Building 5 and the parking garage extension as compared to existing conditions.

Table 3.9-1: Pervious and Impervious Surfaces for Phase III

Site Surface	Existing Conditions		Post-Construction		Difference	
	Square Feet	%	Square Feet	%	Square Feet	%
Impervious						
Building footprint and hardscape	116,392	80	121,225	83	4,833	3
Pervious						
Pervious surfaces	29,060	20	24,226	17	4,833	3

The proposed project would increase the amount of impervious surfaces on site compared to existing conditions by 4,833 square feet, an increase of 3 percent. The result of this change would be an increase in the amount of stormwater runoff generated from the project site.

Stormwater catch basins would be located in the within the project site's vegetated bioretention areas. Stormwater would be directed to new 12-inch and 24-inch storm drains which would connect to catch basins or bioretention areas, and then directed off-site to the City's stormwater system. The project, as proposed, would not require the expansion of the City's existing storm drainage facilities as an existing pump station (near Gold Street) and stormwater lines have already been sized to accommodate the project.[75] **(Less than Significant Impact)**

3.9.2.6 *Flooding and Other Inundation Hazards*

As discussed previously, the project site is located within flood zone X, which is an area of moderate or minimal flood hazard. There are no City floodplain requirements for zone X. Additionally, the project involves development of an existing, mostly paved site and is not anticipated to increase flood risks in the vicinity. **(Less than Significant Impact)**

3.9.2.7 *Other Inundation Hazards*

The project site is not subject to seiche, tsunami, sea-level rise, or mudslide hazards, and is not located in a dam failure inundation area. **(Less than Significant Impact)**

3.9.2.8 *Consistency with Plans and Policies*

The project would implement updated and expanded versions of mitigation measures that were included in the Legacy Terrace FEIR. These measures are consistent with General Plan policies EC-4.5 and EC-5.16. The project involves development of an existing, mostly paved site and is not anticipated to increase flood risks in the vicinity, consistent with General Plan Policy EC-5.7. The proposed project design includes BMPs such treatment planters to ensure compliance with MRP requirements to reduce post-construction water quality impacts, consistent with General Plan policies IN-3.9, MS-3.4, ER-8.1, ER-8.3, and EC-5.7 and in accordance with the strategies set forth in Policy 6-29. These BMPs would be designed and maintained by the America Center ownership, consistent Alviso Master Plan Storm Drainage Policy 1 and 2 and Environmental Protection Policy 1.

3.9.3 Conclusion

The proposed project, with the implementation of the above measures and compliance with the City of San José policies, would not result in significant water quality impacts. **(Less than Significant Impact)**

The impacts of the project on drainage and flooding would be less than significant. **(Less Than Significant Impact)**

[75] Brian Kangas Foulk. *Legacy Terrace Development Drainage and Flooding*. July 13, 1999.

3.10 LAND USE AND PLANNING

3.10.1 Environmental Setting

3.10.1.1 *Regulatory Framework*

Regional and Local

Envision San José 2040 General Plan

The project site is designated *Combined Industrial/Commercial* in the General Plan. This designation allows for commercial and/or low-density light industrial uses with building heights which range from one to 24 stories and densities of up to a floor area ratio (FAR)[76] of 12.

The following General Plan policies adopted for the purpose of avoiding or mitigating impacts resulting from projects with the City are specific to land use and are applicable to the proposed project.

Policies	Description
CD-4.9	For development subject to design review, ensure the design of new or remodeled structures is consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).
ER-2.1	Ensure that new public and private development adjacent to riparian corridors in San José are consistent with the provisions of the City's Riparian Corridor Policy Study and any adopted Habitat Conservation Plan/Natural Communities Conservation Plan.
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.

Alviso Master Plan

The Alviso Master Plan is a policy document that provides the background, vision, and character to guide the future of a unique area at the northern edge of San José. One of the stated purposes of the Plan is to protect and enhance the small town quality of Alviso by guiding appropriate new development, community facilities, infrastructure, and beautification. The master plan establishes the location, intensity, and character of land uses; the circulation pattern, and necessary infrastructure improvements to support development.

While the project site is located outside the boundaries of the Alviso Village, the Alviso Master Plan (adopted in 1998) designates the approximately 63-acre America Center site as *Combined Industrial/Commercial.* This designation allows commercial activities industrial uses, or a compatible mixture of the two. Appropriate uses under the *Combined Industrial/Commercial*

[76] FAR is the ratio of building area divided by site area.

designation per the Alviso Master Plan include retail, office, hotels, and other commercial establishments.

The following policies from the Alviso Master Plan are specific to land use and are applicable to the proposed project.

Policies	Description
Environmental Protection Policy 3	The riparian corridors adjacent to Coyote Creek and Guadalupe River should be preserved intact. Any development adjacent to the waterways should follow the City's Riparian Corridor policies.
Trail Circulation Policy 1	The trails that pass through Alviso should be maintained and new trails should be developed.
Development Standards for Lands Outside of the Village Area	Height. In most locations a maximum of 45 feet and two stories above flood elevation, except for properties located between the Water Pollution control Plant lands and the Guadalupe River, and on the former Cargill landfill site, buildings as tall as 90 feet may be allowed if all of the following are met: (1) The building is set back at least 500 feet from Wilson Way, Tony Pl Santos Street, and Grand Boulevard. Within this setback, 45-foot tall buildings, landscaping, and parking are allowed as well as 60 foot buildings that are set back 400 feet from Wilson Way, Tony P. Santos Street, and Grand Boulevard, Buildings taller than 45 feet are only allowed on the southern portion of the former Cargill Landfill site. (2) The building is well-designed and contributes positively to the Alviso area; and (3) Such building heights facilitate the transfer of development intensity away from the baylands and environmentally sensitive areas in the vicinity of the Alviso village to a location closer to Highway 237 in order to achieve habitat preservation or other environmental projection objectives. In other words, development can be concentrated in taller buildings closer to Highway 237 if clear environmental/ habitat buffer areas are established on the northern portions of the site.

Zoning Ordinance

The project site is currently zoned *A(PD)*. Allowed uses under this PD zoning designation include uses permitted under the *Industrial (I)* and *Commercial (C-1)*[77] districts, for which these uses will be updated to the current uses of the *Industrial Park (IP)* and *Commercial General (CG)* districts as amended, such as the existing and proposed commercial office/R&D use at the site. Also permitted are day care facilities, dining rooms, restaurants, reception facilities, and business service retail; such as the proposed amenity space within the parking garage extension. Buildings must be setback 20 feet from the east property line and there must be 40 feet of separation between each building on the site. The allowed maximum building height is 90 feet.

Up to 900,000 of commercial office/R&D development is allowed under the current PD zoning; therefore, the site is being rezoned to allow an additional 190,000 square feet of more office/R&D space (to be located within Building 5) than was reviewed for the site in the Legacy Terrace FEIR. The rezoning would also change the boundaries of the land use areas covered under the PD zoning to

[77] The *Industrial (I)* and *Commercial (C-1)* zoning districts no longer exists in the City of San José.

remove the approximately 6.4-acre River Commercial area adjacent to the Guadalupe River/Alviso Slough, which is now covered under a separate PD zoning (PDC15-016, approved in February 2016), and reconfigure the boundaries for the remaining land use areas to reflect minor lot line adjustments.

Development Guidelines for Land in Proximity to High-Pressure Natural Gas Pipelines

These 1986 guidelines address development occurring in proximity to high-pressure natural gas pipelines. The guidelines state that only buildings that have a low-density occupancy load should be allowed within 250 feet of the edge of the pipeline right-of-way. Buildings assumed to have a low-density occupancy load are defined as single and multiple family dwellings, offices, industrial buildings, hotels/motels, parking garages and retail stores not a part of a shopping mall. The guidelines state that no building of more than two stories should be allowed within 250 feet of the edge of the pipeline right-of-way. Construction of buildings that do not meet the definition of low-density occupancy load, or those proposed to be greater than two stories in height may be allowed within the 250 foot setback by working with the City Fire Department to identify and mitigate the possible risks of the development.

Santa Clara Valley Habitat Plan

As described in Section 3.3 Biological Resources, the Santa Clara Valley Habitat Plan (Habitat Plan), which encompasses a study area of 519,506 acres, was adopted by six local entities in Santa Clara County and went into effect in October 2013. The America Center site is not located within the Habitat Plan study area. The area for which development activities are covered by the Habitat Plan is located south and east of America Center.

As part of the Habitat Plan, an Expanded Study Area for Burrowing Owl Conservation was identified to the north and west in portions of the cities of San José, Santa Clara, Mountain View, Milpitas, and Sunnyvale; in Fremont in Alameda County; and a small portion of San Mateo County. The site is not located within an area covered by the Santa Clara Valley Habitat Plan; however, it is within this Expanded Study Area for Burrowing Owl Conservation where conservation activities for the species may occur.

3.10.1.2 *Existing Conditions*

Existing and Past Land Uses

Portions of the America Center site (including the footprint of proposed Building 5 and the parking garage extension) are elevated from 36 to 51 above msl feet because they sit on top of the closed Highway 237 Landfill. The northern portion of the site is a designated open space preserve, including the slopes of the closed landfill, and the western portion of the site is also designated open space within a riparian setback from San Tomas Aquino Creek. Wetlands are located at the southern end of the site along Gold Street, beyond the existing 175-room hotel. A high-voltage PG&E electrical transmission line borders the eastern edge of the America Center site and a high-pressure natural gas line is located along the southwestern boundary of the site.

The area where Building 5 and the parking garage extension are proposed to be located is currently used as a surface parking lot. Vegetation consists of ruderal grasses and 87 relatively small parking

lot trees planted within the last 10 to 15 years. Electric transmission lines overhang the eastern and northern edge of the site. Access to the site is provided via America Center Court, a private street.

Surrounding Land Uses

The America Center site sits adjacent to the San Francisco Bay and South Bay Restoration Pond A8 on the north, a linear wetland, the Gold Street Connector, and SR 237 are to the south. UPRR tracks and two- and three-story commercial office and hotel uses are east of the site, and San Tomas Aquino Creek and a wetland mitigation area are to the west. On the south side of SR 237 there are three- to six-story glass, steel, and stucco commercial office buildings.

Summerset Mobile Estates residential mobile home park is located east of Gold Street. The Alviso community is located to the east of the America Center site. Within the Alviso community to the east there are single-family and multi-family developments, as well as commercial buildings and small parking lots (in the central section of Alviso). Industrial uses are also located in the Alviso area. There are several trails and public open space areas in the project vicinity, including the San Francisco Bay National Wildlife Refuge, Alviso Marina County Park, Guadalupe River Trail, Bay Trail, and Sunnyvale Baylands Park.

3.10.2 Land Use and Planning Impacts

3.10.2.1 *Thresholds of Significance*

For the purposes of this EIR, a land use impact is considered significant if the project would:

- Physically divide an established community;
- Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect;
- Conflict with an applicable habitat conservation plan or natural community conservation plan;
- Convert prime farmland, unique farmland, or farmland of statewide importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural uses;
- Conflict with existing zoning for agricultural use, or a Williamson Act contract;
- Involve other changes in the existing environment which, due to their location or nature, could result in conversion of farmland, to non-agricultural use;
- Induce substantial population growth in an area, either directly or indirectly;
- Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere; or
- Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere.

3.10.2.2 *Land Use Impacts Identified in the Legacy Terrace FEIR*

The Legacy Terrace FEIR identified the land use and population conditions for the project site and the surrounding area. The Legacy Terrace FEIR did not identify any significant land use impacts

(including agricultural impacts) associated with incompatibility of proposed and existing uses related to development of the project site, nor would housing or population be displaced. The FEIR also disclosed that development of the project site would not create a precedent which might lead to excessive or unplanned growth outside of the existing urban service area and concluded that the project would not have significant growth inducing impacts.

3.10.2.3 *Division of Established Community*

The project proposes to rezone the project site to account for adjustments to the lot lines and allow up to 190,000 additional square feet of commercial office/R&D development, and proposes a PD Permit to construct Building 5 and a parking garage extension at the America Center site. The overall project site would continue to be accessed by Gold Street and America Center Drive (an existing private street). Existing sidewalks along the west side of America Center Drive allow for pedestrian and bicycle access to connecting trails in the area, including the Bay Trail and Highway 237 Bikeway. Construction at the proposed Building 5 and parking garage would not physically divide an established community. **(Less than Significant Impact)**

3.10.2.4 *Land Use Plans, Policies and Regulations*

Envision San José 2040 General Plan

The *Combined Industrial/Commercial* General Plan land use designation, allows commercial and/or low-density light industrial uses with building heights which range from one to 24 stories and densities of up to a FAR of 12.0. The proposed office building would be six stories tall and the parking garage extension would be five stories tall. The total America Center site FAR proposed as part of the PD Permit would be 0.37. The general design and materials would be similar to those of the immediately surrounding buildings at the America Center site, consistent with General Plan Policy CD-4.9. Thus, there is no conflict with the land use and development assumptions of the General Plan.

The America Center site is adjacent to San Tomas Aquino Creek to the west and the Guadalupe River is located approximately 600 feet east. A 100-foot riparian setback from San Tomas Aquino Creek has been retained in the America Center General Development Plan, as shown in Figure 2.1-4 and Figure 2.2-1. Proposed construction of Building 5 and the parking garage extension would occur approximately 800 feet east of San Tomas Aquino Creek and approximately 1,100 feet southwest of the Guadalupe River/Alviso Slough. The project would, therefore, meet the 100-foot riparian setback consistent with the City's Riparian Corridor Policy, City County Policy 6-34 and General Plan Policy ER-2.1, ER-2.2, and ER-2.3.

Alviso Master Plan

In accordance with the Trail Circulation Policy 1, America Center provides a pedestrian connection to the Bay Trail at the Gold Street Connector. Building, parking, and storage areas are located outside of the 100-foot riparian setback area (in accordance with the Alviso Master Plan's riparian setback development standards). In accordance with Environmental Protection Policy 3, the project would comply with the City's Riparian Corridor Policy regarding building setbacks and the location of activity areas. Buildings on the America Center site (including Building 5 and the parking garage extension) are consistent with the maximum allowable height of 90 feet and development will not

occur in environmentally sensitive areas, consistent with the Alviso Master Plan Development Standards for Lands Outside of the Village Area.

Zoning Regulations

The project site is proposed to be rezoned to allow for the construction of up to 990,000 square feet of commercial office/R&D space. The allowed height from the current PD zoning will remain the same at 90 feet, as will the required setbacks (40 feet between buildings and 20 feet from property lines). The buildings would be occupied by commercial office/R&D uses, within the proposed development standards. Thus, the project would be consistent with applicable zoning standards (once they are adopted) and there would be no conflict.

Commercial Design Guidelines

The City's Commercial Design Guidelines state that commercial structures and activities should be located and designed to avoid creating nuisances and hazards for adjoining properties and that landscaping should work with buildings and surroundings to make a positive contribution to the aesthetics and function of both the specific site and area. The proposed project would be architecturally similar to the immediately surrounding buildings. Landscape features would integrate the Building 5 and parking garage extension area with the overall America Center site, creating a uniform look and feel. The structures would house office and R&D uses, similar to uses in the immediate vicinity, and would not create hazards or nuisances for adjoining properties.

Development Guidelines for Land in Proximity to High-Pressure Natural Gas Pipelines

The completed Building 1 is located approximately 220 feet from the high-pressure natural gas pipeline right-of-way. Building 5 and the parking garage extension are propose to be located over 500 feet from the natural gas pipeline; therefore, the requirements of these development guidelines would not apply and any potential impact would be less than significant. **(Less than Significant Impact)**

3.10.2.5 *Habitat Conservation Plan/Natural Community Conservation Plan*

The Habitat Plan went into effect in October 2013, subsequent to certification of the Legacy Terrace FEIR. The proposed project is located outside the primary study area of the Santa Clara Valley Habitat Plan. It is within the Expanded Burrowing Owl Conservation Area; an expanded study area limited to conservation actions for western burrowing owl. An existing burrowing owl management area is located on the northern portion of the America Center site; however, no construction associated with the proposed project would occur within the preserve as it is over 600 feet north of the proposed Building 5 and parking garage expansion areas. Further, the project would implement MM-BIO-1.2 to avoid impacts to and burrowing owls in the vicinity of the project. Thus, conflicts with the provisions of the Habitat Plan would be less than significant. **(Less than Significant Impact)**

3.10.2.6 *Agricultural and Forestry Impacts*

The proposed project site is located within a developed urban area, is not designated as farmland or forestry land, and has not been used as farmland for more than 50 years. Because the project will not

conflict with existing agricultural zoning or a Williamson Act contract, convert or facilitate the conversion of prime farmland to non-agricultural uses, or result in the loss of forest lands, implementation of the proposed project will have no impact on farmland or forest lands. **(No Impact)**

3.10.2.7 *Population and Housing Impacts*

The City of San José population was estimated to be approximately 1,016,480 with a total of 327,650 housing units in January 2015.[78] The average number of persons per household in San José was estimated at 3.17[79] and the City has approximately 1.5 employed residents per household.[80] Based on the City's General Plan, the projected population in 2035 would be 1.3 million persons occupying 429,350 households.

The jobs/housing balance is the relationship between the number of housing units required as a result of local jobs and the number of residential units available in the City. This relationship is quantified by the jobs/employed resident ratio. When the ratio reaches 1.0, a balance is struck between the supply of local housing and local jobs. The jobs/employed resident ratio is determined by dividing the number of local jobs by the number of employed residents that can be housed in local housing. San José currently has a higher number of employed residents than jobs (approximately 0.8 jobs per employed resident) but this trend is projected to reverse with full build-out under the current General Plan.

The entire America Center site is anticipated to employ up to 3,480 employees with approximately 640 of those employees attributable to the additional square footage contained within Building 5.[81] As noted above, San José currently has a higher number of employed residents than jobs. The increase in jobs as a result of the project will incrementally decrease the overall jobs/housing imbalance within the City.

The project will develop land already planned for job growth in the General Plan. The site has not been used for residential purposes in the past; therefore, the proposed development would not displace existing housing or people. Therefore, implementation of the proposed project will have a less than significant impact on population and housing in San José. **(Less than Significant Impact)**

3.10.3 Conclusion

The proposed project would not result impacts to agriculture and forest resources. **(No Impact)**

The project would have less than significant impacts with regard to land use, population, and housing. The site is not within the primary study area of the Habitat Plan and is not anticipated to

[78] California Department of Finance. *E-5 Population and Housing Estimates for Cities, Counties, and the State, 2011-2015 with 2010 Census Benchmark*. Accessed August 18, 2016. http://www.dof.ca.gov/research/demographic/reports/estimates/e-5/2011-20/view.php.
[79] California Department of Finance. *E-5 Population and Housing Estimates for Cities, Counties, and the State, 2011-2015 with 2010 Census Benchmark*. Accessed August 18, 2016. http://www.dof.ca.gov/research/demographic/reports/estimates/e-5/2011-20/view.php.
[80] Association of Bay Area Governments. *Plan Bay Area Projections 2013*. December 2013.
[81] Using the City of San José's standard assumption of 1 job per 300 square feet of office space.

conflict with provisions related to conservation actions for western burrowing owl. **(Less than Significant Impact)**

3.11 NOISE AND VIBRATION

The following discussion is based on the noise assessment completed for the Legacy Terrace FEIR and the noise assessment completed for the General Plan FPEIR. The ambient noise conditions and regulatory requirements regarding noise, including the noise thresholds of significance, have not changed substantially since the certification of these two EIRs. Vibration criteria for trains is also addressed within policies in the General Plan.

3.11.1 Environmental Setting

3.11.1.1 *Regulatory Framework*

State

California Green Building Standards Code

The California Green Building Standards Code requires that commercial building be constructed to provide an interior noise environment of 50 dBA in occupied areas during any hour of operation. A typical commercial building envelope provides at least a 30 dBA reduction in noise.

Local

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects with the City. The following policies are specific to noise and vibration and are applicable to the proposed project.

Policies	Description
EC-1.1	Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, state and City noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José include: Interior Noise Levels • The City's standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meet this standard. For sites with exterior noise levels of 60 dBA DNL or more, an acoustical analysis following protocols in the City-adopted California Building Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected Envision General Plan traffic volumes to ensure land use compatibility and General Plan consistency over the life of this plan. Exterior Noise Levels • The City's acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses. The acceptable exterior noise level objective is established for the City, except in the environs of the San José International Airport and the Downtown.

EC-1.2 Minimize the noise impacts of new development on land uses sensitive to increased noise levels (Land Use Categories 1, 2, 3 and 6 in Table 3.11-1) by limiting noise generation and by requiring use of noise attenuation measures such as acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would:

- Cause the DNL at noise sensitive receptors to increase by five dBA DNL or more where the noise levels would remain "Normally Acceptable"; or
- Cause the DNL at noise sensitive receptors to increase by three dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level.

EC-1.7 Require construction operations within San José to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City's Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months.

For such large or complex projects, a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.

EC-2.3 Require new development to minimize vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, a vibration limit of 0.08 in/sec PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. A vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction.

EC-2.1 Near light and heavy rail lines or other sources of ground-borne vibration, minimize vibration impacts on people, residences and businesses through the use of setbacks and/or structural design features that reduce vibration to levels at or below the guidelines of the Federal Transit Administration (FTA). Require new development within 100 feet of rail lines to demonstrate prior to project approval that vibration experienced by residents and vibration sensitive uses would not exceed these guidelines.

Noise and land use compatibility guidelines set forth in the General Plan are shown below in Table 3.11-1. Based on the General Plan Noise and Land Use Compatibility Guidelines, commercial/office development is allowed in areas with ambient noise levels up to 70 dBA DNL and is conditionally acceptable in areas with noise levels up to 80 dBA DNL

Table 3.11-1: General Plan Noise and Land Use Compatibility Guidelines

Land Use Category	Exterior DNL Value in Decibels					
	55	60	65	70	75	80
1. Residential, Hotels and Motels, Hospitals and Residential Care[1]						
2. Outdoor Sports and Recreation, Neighborhood Parks and Playgrounds						
3. Schools, Libraries, Museums, Meeting Halls, and Churches						
4. Office Buildings, Business Commercial, and Professional Offices						
5. Sports Arena, Outdoor Spectator Sports						
6. Public and Quasi-Public Auditoriums, Concert Halls, and Amphitheaters						

[1]Noise mitigation to reduce interior noise levels pursuant to Policy EC-1.1 is required.

Normally Acceptable:
Specified land use is satisfactory, based upon the assumption that any buildings involved are of normal conventional construction, without any special noise insulation requirements.

Conditionally Acceptable:
Specified land use may be permitted only after detailed analysis of the noise reduction requirements and noise mitigation features included in the design.

Unacceptable:
New construction or development should generally not be undertaken because mitigation is usually not feasible to comply with noise element policies. Development will only be considered when technically feasible mitigation is identified that is also compatible with relevant design guidelines.

City of San José Municipal Code

The Municipal Code restricts construction hours within 500 feet of a residential unit to 7:00 AM to 7:00 PM Monday through Friday, unless otherwise expressly allowed in a Development Permit or other planning approval.[82] Since the proposed project would not be located within 500 feet of any residences, the project is not subject to the construction hours stated in the Municipal Code. Additionally, the Municipal Code does not establish quantitative noise limits for demolition or construction activities occurring in the City.

3.11.1.2 *Existing Conditions*

Existing Noise Conditions

The main sources of noise in the project area include vehicular traffic on SR 237 (approximately 500 feet south of the project site), railroad train operations along the UPRR tracks immediately east of the site, and aircraft from the Norman Y. Mineta San José International Airport (San José Airport), as described in the Legacy Terrace FEIR. Based on noise monitoring surveys completed for the City's General Plan, in 2009, the noise levels generated from SR 237 vehicular traffic ranged from 65 to 70 dBA DNL (day/night average sound level). The noise level estimates for the site's existing conditions disclosed in the Legacy Terrace FEIR are consistent the noise level range for the site's

[82] The Municipal Code does not establish quantitative noise limits for demolition or construction activities occurring in the City.

existing conditions provided in the General Plan. Noise generated by aircraft operations at the San José Airport (3.5 miles south of the project site) is estimated to be below 60 dBA CNEL, based on 2027 Noise Contours for the San José Airport.[83]

Based on the General Plan noise assessment, average noise levels commonly range from 65 to 75 dBA DNL at land uses adjoining a railroad right-of-way; therefore, noise levels generated from the adjacent UPRR operations are considered to be within this range at the project site. There are two to five freight trains and up to eight Amtrak trains that use the rail line each day.

The nearest noise sensitive land uses are residences within the mobile home park, approximately 950 feet east of the project site. Commercial uses (hotel and office) are approximately 150 feet east of the site (beyond the UPRR tracks). These commercial hotel and office uses east of the site were constructed subsequent to the preparation of the Legacy Terrace FEIR.

3.11.1.3 *Existing Vibration Conditions*

The UPRR heavy rail line borders the eastern boundary of the site and are approximately 250 feet from Building 5. Vibration levels near the rail corridor depends on the number, type and duration of train passby events. As mentioned previously, two to five freight trains, up to eight Amtrak trains, and up to eight ACE trains use the rail line each day.

3.11.2 Noise and Vibration Impacts

3.11.2.1 *Thresholds of Significance*

For the purposes of this EIR, a noise and vibration impact is considered significant if the project would result in:

- Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or local general plan or noise ordinance, or applicable standards of other agencies;
- Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels;
- A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project;
- A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project;
- For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels; or
- For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels.

[83] Norman Y. Mineta San José International Airport. *2027 Noise Contours for Airport Master Plan Map* (Amended 6/8/10). Accessed August 18, 2016. http://www.flysanJosé.com/fl/environmental/maps/2010_Contours.pdf.

3.11.2.2 *Noise Impacts Identified in the Legacy Terrace FEIR*

The Legacy Terrace FEIR identified significant noise impacts related to noise from construction activities. Although the FEIR included mitigation measures for short-term construction noise impacts, the FEIR concluded that construction noise impacts were significant and unavoidable due to the use of pile drivers for the installation of foundation piles at the site for the buildings and parking structure. Vibration from train passbys was not specifically addressed in the Legacy Terrace FEIR.

3.11.2.3 *Noise and Vibration Thresholds*

Appendix G of the CEQA Guidelines states that a project would normally be considered to result in significant noise impacts if noise levels conflict with adopted environmental standards or plans or if noise generated by the project would substantially increase existing noise levels at sensitive receivers on a permanent or temporary basis.

A substantial permanent noise increase would occur if the noise level increase resulting from the project (e.g., noise from project operations or project-generated traffic) is three dBA DNL or greater at noise-sensitive receptors, with an ambient noise level of 60 dBA DNL or greater. Where noise levels would remain at or below the normally acceptable noise level standard with the project, noise level increases of five dBA DNL or greater would be considered significant (General Plan Policy EC-1.2).

Temporary, construction noise impacts from the project would be significant if the project is located within 500 feet of residential uses or 200 feet of commercial/office uses and would involve substantial noise generating activities (such as grading, excavation, and pile driving, etc.) for more than one year (General Plan Policy EC-1.7).

Construction vibration impacts would be considered significant when construction activities are anticipated to generate a peak vertical particle velocity of 0.08 in/sec at sensitive historic structures and 0.20 in/sec at buildings of normal conventional construction (General Plan Policy EC-2.3). Based on a noise assessment completed for the implementation of the General Plan, heavy tracked vehicles (e.g., bulldozers or excavators) can generate distinctly perceptible groundborne vibration levels when this equipment operates within approximately 25 feet of sensitive land uses. Impact pile drivers can generate distinctly perceptible ground-borne vibration levels at distances up to approximately 100 feet, and may exceed building damage thresholds within 25 feet of any building, and within 50 to 100 feet of a historical building, or building in poor condition.

Ground vibration from conventional railroad trains passing through the project area could exceed the guidelines set forth by the Federal Transportation Administration (FTA) if new sensitive uses such as hotels and residences within approximately 100 feet of the tracks. The City's General Plan Policy EC-2.1 requires new development within 100 feet of rail lines to demonstrate this vibration criteria for residents and vibration sensitive uses can be met prior to project approval.

3.11.2.4 *Noise and Vibration Impacts*

Impacts to the Proposed Project

Construction-Related Noise

The project site is located within 200 feet of commercial/office uses (located 75 feet to the east of the site) and is approximately 950 feet from residential uses. Noise impacts resulting from construction depend on the noise generated by various pieces of construction equipment, the timing and duration of noise generating activities, and the distance between construction noise sources and noise sensitive receptors. Construction noise impacts primarily occur when construction activities occur during noise-sensitive times of the day (early morning, evening, or nighttime hours), the construction occurs in areas immediately adjoining noise sensitive land uses, or when construction durations last over extended periods of time.

As disclosed in the Legacy Terrace FEIR, pile drivers could be used during construction to install pile foundations for development on the project site. Building 5 and the parking garage extension would be completed in approximately 20 months, with heavy construction to be completed in less than 12 months. Construction noise from pile driving along the eastern boundary of the America Center could result in a significant impact to residents of the mobile home park east of Gold Street because of projected noise levels and the repetitive impulsive nature of pile driving noise, which is annoying and could interfere with indoor and outdoor activity. It could also affect commercial office or hotel uses in the vicinity.

Impact NOI-1: Pile driving noise generated in the eastern portion of the site could impact residents at Summerset Mobile Estates and commercial uses along Gold Street in the short-term. **(Significant Impact)**

Mitigation Measures

The project would implement the following updated and expanded versions of the mitigation measures that were included in the Legacy Terrace FEIR, and consistent with General Plan Policy EC-1.7.

MM NOI-1.1: Prior to the start of construction, the project applicant shall prepare and implement a noise logistics plan to reduce construction noise levels as low as practical. The noise logistics plan shall be submitted to the Supervising Environmental Planner of the Planning, Building and Code Enforcement Department for review and approval. The noise logistics plan would include, but not be limited to, the following measures:

- Construction hours within 500 feet of residential uses will be limited to the hours of 7:00 a.m. and 7:00 p.m. weekdays, with no construction on weekends or holidays. Pile driving shall be limited to the hours of 8:00 a.m. to 5:00 p.m. Monday through Friday.
- Utilize ‘quiet’ models of air compressors and other stationary noise sources where technology exists.

- Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.
- Locate all stationary noise-generating equipment, such as air compressors and portable power generators, as far away as possible from adjacent land uses.
- Locate staging areas and construction material areas as far away as possible from adjacent land uses.
- Prohibit all unnecessary idling of internal combustion engines.
- If impact pile driving is proposed, multiple-pile drivers shall be considered to expedite construction. Although noise levels generated by multiple pile drivers would be higher than the noise generated by a single pile driver, the total duration of pile driving activities would be reduced.
- If impact pile driving is proposed, temporary noise control blanket barriers shall shroud pile drivers or be erected in a manner to shield the adjacent land uses. Such noise control blanket barriers can be rented and quickly erected.
- The contractor shall prepare a detailed construction plan identifying a schedule of major noise generating construction activities. This plan shall identify a noise control disturbance coordinator and procedure for coordination with the adjacent noise sensitive facilities so that construction activities can be scheduled to minimize noise disturbance. This plan shall be made publicly available for interested community members.
- The disturbance coordinator shall be responsible for responding to any local complaints about construction noise. The disturbance coordinator will determine the case of the noise complaint (e.g. starting too early, bad muffler, etc.) and will require that reasonable measures warranted to correct the problem be implemented. The telephone number for the disturbance coordinator at the construction site shall be posted and included in the notice sent to residences and commercial businesses within 100 feet regarding the construction schedule.
- The project, as currently proposed, would implement measures to reduce short-term noise impacts resulting from pile driving activities in the eastern portion of the site, but not to a less than significant level.

Despite the implementation MM NOI-1.1, and as identified within the Legacy Terrace FEIR, construction noise-related impacts on sensitive residential receptors as a result of pile-driving activities would still be considered significant and unavoidable. **(Significant, Unavoidable Impact)**

Construction-Related Vibration

Construction activities would occur approximately 950 feet from any sensitive land uses (i.e., residences and historic buildings). Given the distance of the mobile home park (approximately 950

feet east) from the project site, vibration levels generated during project construction are not anticipated to exceed the City's thresholds for construction-related groundborne vibration. Further, vibration-related damage to adjacent structures would not occur because the nearest structure to the project site is approximately 250 feet east, which is too great of a distance for damage to occur. **(Less than Significant Impact)**

Operational Noise Impacts

Based on the size of the project, relative to traffic volumes in the project area, vehicular traffic generated by the increased square footage associated with implementing the proposed PD zoning is not anticipated to increase noise levels substantially as project traffic would make up only a small percentage of the total traffic along area roadways (i.e., traffic volumes from the project on roadways would not double). Vehicular traffic noise levels are not expected to increase noise measurably above existing levels as a result of the project and noise attenuation measures such as acoustical enclosures (per General Plan Policy EC-1.2) would not be required.

Mechanical equipment associated with the operations of the office building, such as air conditioning systems, heating and ventilation systems would not have a significant impact on residences closest to the project site given the proposed hotel's distance to the nearest residences (approximately 950 feet). The project would not result in a measurable or perceptible traffic or mechanical equipment noise increase beyond what was described in the Legacy Terrace FEIR. **(Less Than Significant Impact)**

Effects on the Project

The California Supreme Court in a December 2015 opinion (*BIA v. BAAQMD*) confirmed CEQA is concerned with the impacts of a project on the environment, not the effects the existing environment may have on a project; nevertheless the City has policies that address existing conditions (e.g. noise) affecting a proposed project, which are addressed below.

Operational Noise

Based on traffic projections for the Alviso Planning Area in the General Plan, future noise generated from vehicular traffic could range from 65 to 70 dBA DNL (which is consistent with the future noise level estimate for the site (below 68 dBA) disclosed in the Legacy Terrace FEIR. Assuming normal construction and conformance with Green Building Standards Code regulations for commercial office uses, interior noise levels would not be in excess of the applicable standard of 50 dBA DNL assuming standard construction techniques that reduce noise levels by 30 dBA. **(Less than Significant Impact)**

Vibration from Railroad Transit

Building 5 would be setback approximately 250 feet from the UPRR railroad track. At this distance, future users of the building are not anticipated to experience vibration from train passbys that would exceed the guidelines of the FTA referenced in Policy EC-2.1 of the General Plan. **(Less than Significant Impact)**

3.11.3 Conclusion

Consistent with the Legacy Terrace FEIR, the project includes mitigation measures in the event pile driving is used. Construction noise would result in a significant and unavoidable impact to neighboring uses due to pile driving activities near the eastern boundary of the site. **(Significant, Unavoidable Impact)**

The project would not result in a measurable or perceptible traffic or mechanical equipment noise increase beyond what was described in the Legacy Terrace FEIR. **(Less Than Significant Impact)**

Project buildings would not experience noise or vibration levels in excess of the applicable standards of 50 dBA DNL for commercial office uses. **(Less than Significant Impact)**

3.12 PUBLIC SERVICES AND RECREATION

3.12.1 Environmental Setting

3.12.1.1 *Existing Conditions*

Public Services

Fire Protection Services

Fire protection services for the project site are provided by the San José Fire Department (SJFD). The SJFD responds to all fires, hazardous materials spills, and medical emergencies (including injury accidents) in the City. The closest fire stations to the project site are Station No. 25 located at 5125 Wilson Way, approximately 0.6 miles northeast of the project site and Station No. 29 at 199 Innovation Drive (2.8 miles southeast of the project site).

For fire protection services, the City has a total response time goal of eight minutes and a total travel time goal of four minutes for 80 percent of emergency incidents (per General Plan Policy ES-3.1).

Police Protection Services

Police protection services for the project site are provided by the San José Police Department (SJPD), which is headquartered at 201 West Mission Street, approximately six miles southeast of the project site. SJPD is divided into four geographic divisions: Central, Western, Foothill, and Southern. The project site is directly served by the SJPD Central Division, which includes three lieutenants, four patrol officers and two crime prevention specialists.[84] For the last several years, the most frequent calls for service in the City have dealt with larceny, burglary, vehicle theft, and assault.[85]

For police protection services, SJPD has a service goal of six minutes or less for 60 percent of all Priority 1 (emergency) calls and 11 minutes or less for 60 percent of all Priority 2 (non-emergency) calls (per General Plan Policy ES-3.1) .

Schools and Libraries

The project area is served by the Santa Clara Unified School District and residences near the site are assigned to George Mayne Elementary School (located at 5030 N. First Street, San José, approximately 0.65 mile northeast of the project), Kathryn Hughes Elementary School (4949 Calle De Escuela, Santa Clara, approximately one mile southwest of the project) Preschool Don Callejon Middle School (located at 4176 Lick Mill Boulevard, Santa Clara, approximately two miles southeast of the project), and Adrian Wilcox High School (located at 3250 Monroe Street, Santa Clara, approximately four miles south of the project).[86] The nearest library to the project site is Alviso Branch Library and Community Center, located at 5050 North First Street, San José.

[84] San José Police Department. *SJPD Central Division*. Accessed August 18, 2016. http://www.sjpd.org/BFO/central.asp.
[85] San José Police Department. *Official Crime Statistics*. Accessed August 18, 2016. http://www.sjpd.org/CrimeStats/crimestats.html.
[86] Santa Clara Unified School District. *Santa Clara USD SchoolFinder. Attendance Boundary Maps*. Accessed August 18, 2016. http://www.schfinder.com/SantaClaraUSD/.

Parks and Recreational Facilities

The City of San José owns and maintains approximately 3,435 acres of parkland, including neighborhood parks, community parks, and regional parks. The City also has 54 community centers and neighborhood centers. Other recreational facilities include five public pools, six public skate parks and over 55 miles of trails.

The City's Department of Parks, Recreation, and Neighborhood Services is responsible for development, operation, and maintenance of all City park facilities. Nearby City park and recreational facilities include the existing Guadalupe River Trail (0.2 mile north of the project), and Alviso Park and Alviso Branch Library and Community Center (0.6 mile northeast of the project). Other facilities include the San Francisco Bay Trail at Sunnyvale Baylands Park (0.6 mile southwest of the project) and Alviso Marina County Park (0.5 mile north of the project).

3.12.2 Public Services and Recreation Impacts

3.12.2.1 *Thresholds of Significance*

For the purposes of this EIR, a public services impact is considered significant if the impacts are associated with:

- The provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:
    - Fire protection
    - Police protection
    - Schools
    - Parks
    - Other public facilities.
- An increase in the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated; or
- Include recreational facilities or require the construction of expansion of recreational facilities which might have an adverse physical effect on the environment.

3.12.2.2 *Public Services and Recreation Impacts Identified in the Legacy Terrace FEIR*

While implementation of the America Center project would incrementally increase the demand for public services and recreation facilities (primarily due to an increase regional park and trail use), the Legacy Terrace FEIR did not identify any significant impacts related to public services or recreation.

3.12.2.3 *Fire and Police Protection Service Impacts*

The General Plan FPEIR concluded that planned growth under the General Plan would increase calls for fire and police protection services in the City. The project would incrementally increase demand for fire and police services. This increase in demand would not result in a substantial adverse

physical impact associated with a need for new facilities in order to maintain acceptable levels of services or performance objectives.

The proposed project will be constructed in accordance with current building codes, which include features and design standards that would reduce potential fire hazards. The project design would also be reviewed by the San José Police Department to ensure that it incorporates appropriate safety features to minimize criminal activity. Given the infill location of the project site and the fact that the site is already served by the San José Police and Fire Departments, the proposed expansion would not result in significant impacts to police and fire services. **(Less than Significant Impact)**

3.12.2.4 *School and Library Impacts*

The project proposes to allow construction of commercial office/R&D uses and a parking garage and would not introduce new students or library users to the community. Therefore the proposed project would not impact school or library facilities in San José. **(No Impact)**

3.12.2.5 *Park Impacts*

Upon complete build out of the America Center site, there will be approximately 3,480 employees on site with approximately 640 of those employees attributable to the additional square footage contained within Building 5.[87] Various communal private open space areas for site employees are proposed as part of the project. The proposed project does not include residential development and would not result in a direct increase in the residential population.

A net increase in the daily employee population in the City would not result in a substantial increase in usage or need for new recreational facilities. Although future employees might use City parks or trails for outdoor exercise and recreation, weekday employees are unlikely to place a major physical burden on existing parks nor would they create a need for new parks. Thus, implementation of the project would not result in the need to physically alter area public parks or construct new recreation facilities. **(Less than Significant Impact)**

3.12.3 Conclusion

The project would not result in significant impacts to public services or recreational facilities. **(Less than Significant Impact)**

[87] Using the City of San José's standard assumption of 1 job per 300 square feet of office space.

3.13 TRANSPORTATION/TRAFFIC

The following discussion is based, in part, on a Traffic Impact Analysis completed in March 2017 by Hexagon Transportation Consultants. The report is included as Appendix E.

3.13.1 Environmental Setting

3.13.1.1 *Regulatory Framework*

Regional

Metropolitan Transportation Commission

Metropolitan Transportation Commission (MTC) is the transportation planning, coordinating, and financing agency for the nine-county San Francisco Bay Area, including Santa Clara County. MTC is charged with regularly updating the Regional Transportation Plan, a comprehensive blueprint for the development of mass transit, highway, airport, seaport, railroad, bicycle, and pedestrian facilities in the region. MTC and ABAG adopted the final *Plan Bay Area* in July 2013 which includes the region's Sustainable Communities Strategy and the most recently adopted Regional Transportation Plan.

MTC and ABAG are currently updating *Plan Bay Area*. *Plan Bay Area 2040*, released in early 2017, is a limited and focused update that builds upon the growth pattern and strategies developed in the original *Plan Bay Area* but with updated planning assumptions that incorporate key economic, demographic and financial trends from the last four years. MTC and ABAG plan to revise the draft *Plan Bay Area 2040* and prepare a Final Environmental Impact Report with consideration of adoption in July 2017.

Congestion Management Program

In accordance with California Statute, Government Code Section 65088, Santa Clara County has established a Congestion Management Program (CMP). The intent of the CMP legislation is to develop a comprehensive transportation improvement program among local jurisdictions that will reduce traffic congestion and improve land use decision-making and air quality. Santa Clara Valley Transportation Authority (VTA) serves as the Congestion Management Agency (CMA) for Santa Clara County and maintains the county's CMP.

CMAs are required by California State statute to monitor roadway traffic congestion and the impact of land use and transportation decisions on a countywide level, at least every two years. VTA conducts CMP monitoring and produces the CMP Monitoring & Conformance Report on an annual basis for freeways, rural highways and CMP-designated intersections. VTA also prepares and adopts guidelines for preparing Transportation Impact Analyses (TIAs) as well as Traffic Level of Service (LOS) Analysis Guidelines, and Local Model Consistency Guidelines.

The Santa Clara County CMP also includes Deficiency Plan Requirements. Deficiency plans, as they relate to traffic congestion management, are plans that identify offsetting measures to improve transportation conditions on the Congestion Management Program (CMP) facility in lieu of making physical traffic capacity improvements such as widening an intersection or roadway.

Local

San José Bike Plan 2020

The City of San José *Bike Plan 2020* (adopted in 2009) contains policies for guiding the development and maintenance of bicycle and trail facilities within San José, as well as the following goals for improving bicycle access and connectivity: 1) Complete 500 miles of bikeways, 2) Achieve a five percent bike mode share, 3) Reduce bike collision rates by 50 percent, 4) Add 5,000 bicycle parking spaces, and 5) Achieve Gold-Level Bicycle Friendly Community status. The Bike Plan defines a 500 mile network of bikeways that focuses on connecting off-street bikeways with on-street bikeways.

The *Bike Plan 2020* shows the Guadalupe River Trail as an existing off-street bike route. Additional off-street bike routes are planned along San Tomas Aquino Creek and the Bay Trail. An on-road bike route is shown in Santa Clara on Lafayette Street that would connect with routes on or near Gold Street.

Level of Service Standards and City Council Policy 5-3

As established in City Council Policy 5-3 Transportation Impact Policy (2005), the City of San José uses the same level of service (LOS) method for assessing transportation impacts as the CMP, although the City's standard is LOS D rather than LOS E. According to this policy and General Plan Policy TR-5.3, an intersection impact would be satisfactorily mitigated if the implementation of measures would restore level of service to existing conditions or better, unless the mitigation measures would have an unacceptable impact on the neighborhood or on other transportation facilities (such as pedestrian, bicycle, and transit facilities).[88] The City's Transportation Impact Policy (also referred to as the Level of Service Policy) protects pedestrian and bicycle facilities from undue encroachment by automobiles.

Envision San José 2040 General Plan

The Circulation Element of the General Plan contains various long-range goals and policies that are intended to:

- provide a transportation network that is safe, efficient, and sustainable (minimizes environmental, financial, and neighborhood impacts);
- improve multimodal accessibility to employment, housing, shopping, entertainment, schools, and parks;
- create a city where people are less reliant on driving to meet their daily needs; and
- increase bicycle, pedestrian, and transit travel, while reducing motor vehicle trips.

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects with the City. The following policies are specific to transportation and are applicable to the proposed project.

[88] Examples of unacceptable impacts include reducing the width of a sidewalk or bicycle lane below the city standard or creating unsafe pedestrian operating conditions.

Policy	Description
TR-1.1	Accommodate and encourage use of non-automobile transportation modes to achieve San José's mobility goals and reduce vehicle trip generation and VMT.
TR-1.2	Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects.
TR-1.6	Require that public street improvements provide safe access for motorists and pedestrians along development frontages per current City design standards.
TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
TR-9.1	Enhance, expand and maintain facilities for walking and bicycling, particularly to connect with and ensure access to transit and to provide a safe and complete alternative transportation network that facilitates non-automobile trips.
CD-3.3:	Within new development, create a pedestrian friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets.

Alviso Master Plan

The Alviso Master Plan is a policy document that provides the background, vision, and character to guide the future of a unique area at the northern edge of San José. The following policies specific to circulation are applicable to the proposed project.

Policies	Description
Bicycle Policy 3	New commercial and industrial development should accommodate safe bicycle travel by their employees and customers.
Trail Circulation Policy 1	The trails that pass through Alviso should be maintained and new trails should be developed.

3.13.1.2 *Existing Conditions*

Roadway Network

Regional access to the project site is provided by SR 237. Local access to the project site is provided via Great America Parkway, America Center Drive, Great America Way, Tasman Drive, Lafayette Street, Gold Street Connector and Gold Street. These facilities are described below and shown in Figure 3.13-1.

Source: Hexagon Transportation Consultants, Inc., Aug. 19, 2016.

TRAFFIC STUDY INTERSECTIONS FIGURE 3.13-1

SR 237 is a six-lane freeway and extends in an east/west direction between Sunnyvale and Milpitas, providing access to I-880 and US 101. Two of the six lanes (one in each direction) are designated as high occupancy vehicle (HOV) lanes between Zanker Road and US 101. There are toll lanes (one in each direction) provided between Zanker Road and I-880. Access to the project site is provided via its interchange with Great America Parkway.

Great America Parkway is a north-south thoroughfare that begins at US 101 and extends northward to SR 237. Full interchanges are located at both US 101 and SR 237. Great America Parkway is primarily a six-lane roadway, with an additional northbound lane between Tasman Drive and US 101. Great America Parkway provides access to and from the project site via America Center Drive.

America Center Drive is a two-lane north/south roadway that extends from the northern terminus of Great America Parkway into the America Center development. America Center Drive provides access to the project site via its intersection with a minor perimeter roadway that runs along the southern and eastern boundaries of the America center office surface parking lots.

Great America Way is an east/west roadway that runs between Great America Parkway and Lafayette Street. The roadway is a four-lane facility with two-way left-turn lane.

Tasman Drive is a divided four-lane east-west roadway that runs from Morse Road in Sunnyvale to SR 237 in Milpitas. The Santa Clara Valley Transportation Authority (VTA) Mountain View-Winchester Light Rail Line runs within the median of Tasman Drive between Fair Oaks Avenue in Sunnyvale and I-880 in Milpitas. Tasman Drive provides access to the project site via Lafayette Street and Great America Parkway.

Transit Service

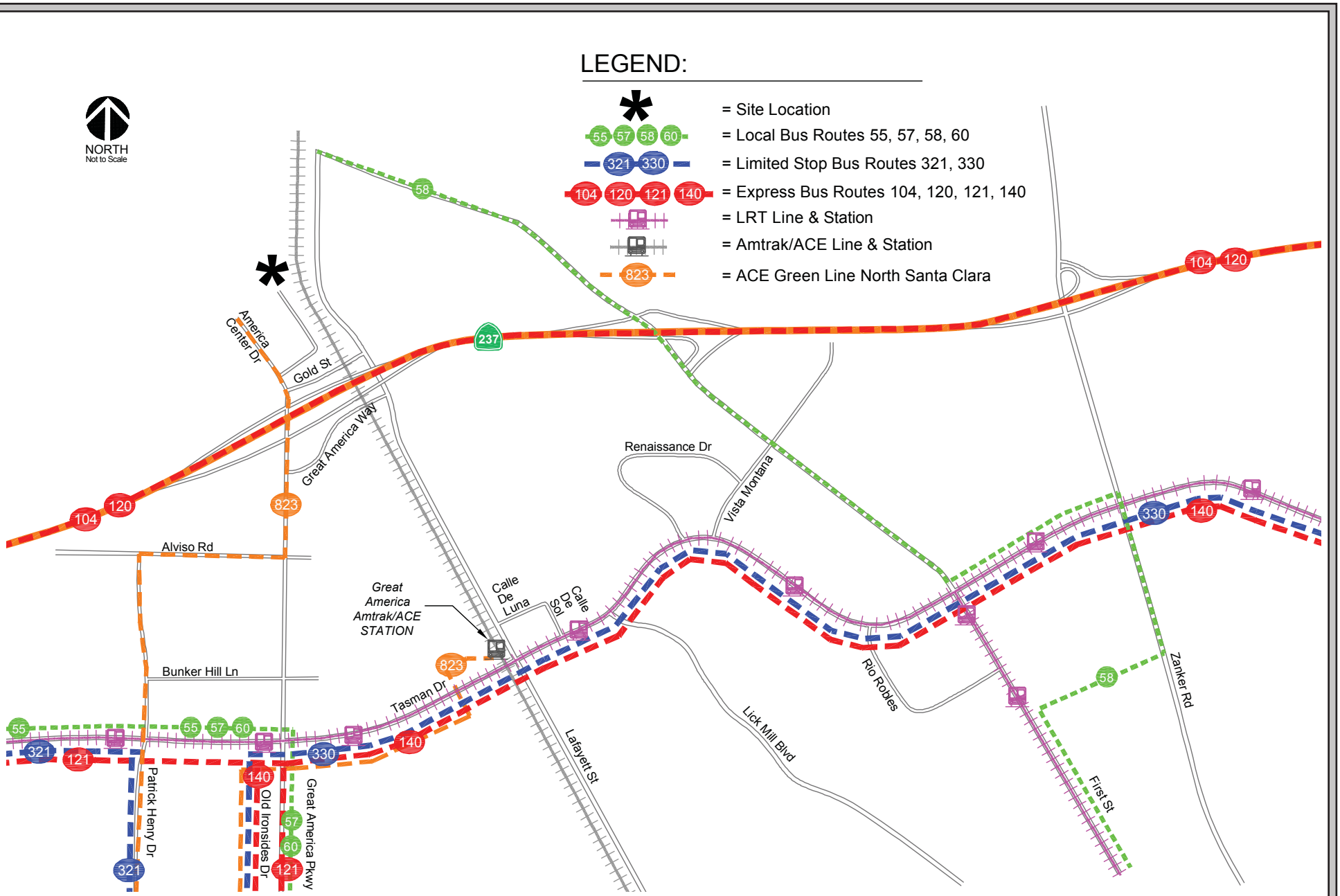
Existing transit service to the study area is provided by the VTA and Altamont Corridor Express (ACE). Regional transit is provided via Caltrain and ACE. The existing transit services are described below and shown in Figure 3.13-2.

Bus Service

Existing bus service within the project area is provided by the VTA. However, the project site is not directly served by any transit services other than the ACE Shuttle. The nearest bus stops are located along Gold Street near its intersection with Taylor Street, approximately one mile from the project site and at the intersection of Tasman Drive and Old Ironsides Drive located approximately 1.5 miles from the project site.

Local Route 55 operates on Tasman Drive in the project area. It runs between De Anza College in Cupertino and Old Ironsides Drive and Tasman Drive (Great America) in Santa Clara. Route 55 runs between 5:30 AM and 11:00 PM with 15 to 30-minute headways during the AM and PM peak hours.

Local Route 57 operates on Great America Parkway in the project area. It runs between West Valley College in Saratoga and Old Ironsides Drive and Tasman Drive (Great America) in Santa Clara. Route 57 runs between 5:45 AM and 11:00 PM with 30-minute headways during the AM and PM peak hours.



EXISTING TRANSIT SERVICE

FIGURE 3.13-2

Local Route 58 provides service between West Valley College and Alviso via North First Street. Route 58 operates between 6:00 AM and 8:15 PM along North First Street in the project study area, with 30-minute headways during the weekday peak commute hours. The nearest bus stops for Route 58 is situated near the intersection of Gold Street and Taylor Street.

Local Route 60 operates on Great America Parkway in the area. It runs between the Winchester Transit Center in Campbell and Old Ironsides Drive and Tasman Drive (Great America) in Santa Clara. Route 60 runs between 5:30 AM and 11:00 PM with 15- to 30-minute headways during the AM and PM peak hours.

Express Bus Route 121 is an express bus (limited stops) with a scheduled stop at Old Ironsides and Tasman. It runs between the Gilroy Transit Center and the Lockheed Martin Transit Center. Express Route 121 provides service on weekdays only and runs in the northbound direction in the morning (between 4:30 and 9:20 AM) and in the southbound direction in the evening (between 3:00 and 7:40 PM) with 30- to 60-minute headways.

Express Bus Route 140 is an express bus (limited stops) with a scheduled stop at Old Ironsides and Tasman. It provides service between the Fremont BART station and Mission College. Express Route 140 operates on weekdays only and runs in the southbound direction during the AM commute period (between 7:10 and 9:50 AM) and northbound during the PM commute period (between 4:20 and 7:10 PM) with approximately 50-minute headways.

Limited Stop Route 321 provides service between Great Mall/Main Transit Center in Milpitas and Lockheed Martin Moffett Industrial Park in Sunnyvale. The nearest stop is at Patrick Henry and Democracy Way. It provides service on weekdays only with one run each direction: westbound run at 8:10 AM at the Great Mall Transit Center and eastbound at 5:50 PM at the Lockheed Martin Transit Center. Route 321 observes all limited stops along its route in the study area.

Limited Stop Route 330 operates on Tasman Drive on its route between Almaden Expressway and Camden and the I-880/Milpitas Light Rail Station on Tasman Drive at Alder Drive. It operates northbound with 30-minute headways during the AM peak hours and southbound with 30 to 55 minute headways during the PM peak hours. Route 330 observes all limited stops along its route in the study area.

Altamont Corridor Express

ACE provides commuter rail service between the Central Valley and Silicon Valley. ACE serves the Great America Transit Station located along Stars and Stripes Boulevard. Four trains are in operation during weekday commuting hours. Shuttle service from the station to employment centers, including the America Center development, are provided by eight ACE shuttles.

ACE Green Shuttle (823) operates on Tasman Drive, with scheduled stops at the Convention Center and Tasman Drive, and the ACE Great America Station on its route between the Great America ACE Station and the America Center. The shuttle provides service on weekdays only with four runs in the westbound direction in the morning (between 6:00 and 9:30 AM) and four runs in the eastbound direction in the evening (between 3:30 and 6:45 PM).

Light Rail Transit Service

Light Rail Transit (LRT) service is provided in the project area by VTA. The nearest LRT station, the Old Ironsides LRT Station, is located along Tasman Drive at Old Ironsides Drive approximately 1.5 miles south of the project site, and serves one LRT line, Mountain View to Winchester. The LRT lines run during commute hours. The Mountain View – Winchester Line LRT line, operates from 5:00 AM to 12:00 AM) during peak commute and midday hours. The Mountain View – Winchester Line provides service between downtown Mountain View and Campbell/Los Gatos via downtown San José.

Bicycle Facilities

There are several bike lanes and bike paths in the vicinity of the project site. Bicycle facilities are divided into three classes of relative significance. Class I bikeways are bike paths that are physically separated from motor vehicles and offer two-way bicycle travel on a separate path. Class II bikeways are striped bike lanes on roadways that are marked by signage and pavement markings. Class III bikeways are bike routes and only have signs to help guide bicyclists on recommended routes to certain locations. Bicycle facilities in the project area consist of the following:

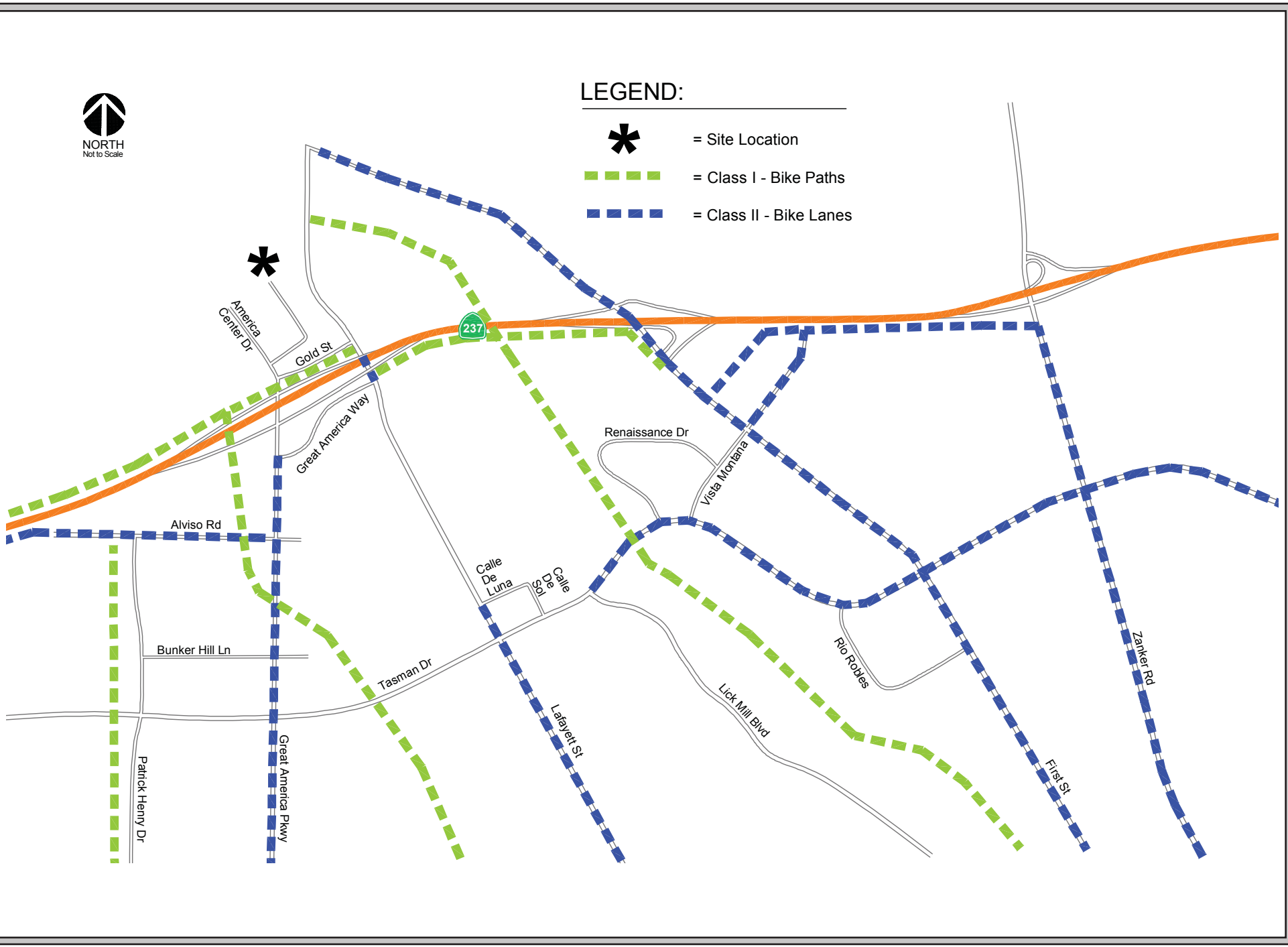
- Great America Parkway has bike lanes south of Great America Way to Chromite Drive.
- There are bike paths adjacent to the Guadalupe River and San Tomas Aquino Creek.
- The Guadalupe River Trail extends from south San José to Gold Street in Alviso.
- A bike path runs along San Tomas Aquino Creek and extends from Benton Street in Santa Clara to Great America Parkway and Sunnyvale Baylands Park.
- A bike path also is provided along the south side of SR 237 between North First Street and Lafayette Street and along north side of SR 237, Bay Trail, between Lafayette Street and East Caribbean Drive.

In addition, it is important to note California Vehicle Code Section 21200 states that a person riding a bicycle has all the rights and is subject to all the provisions applicable to motor vehicles; therefore, bicyclists are permitted on virtually all public streets. The existing bicycle facilities within the study area are shown Figure 3.13-3.

Pedestrian Facilities

There are sidewalks along virtually all previously described local roadways in the study area, with a few exceptions, as well as the aforementioned bike/pedestrian paths. Within the study area, there are no sidewalks along the following roadways:

> *America Center Drive* (private street) - There are no sidewalks on the east side of America Center Drive along the proposed Building 5 frontage, and either side of America Center Drive between the Gold Street Connector and the Building 5 frontage. Sidewalks are provided along both sides of America Center Drive north of the Building 5 frontage. There is an unpaved walkway provided along the west side of America Center Drive between the America Center office buildings and the Gold Street Connector.



EXISTING BICYCLE FACILITIES

FIGURE 3.13-3

- *America Center Court* (private street) - There are no sidewalks provided along either side of America Center Court.
- *Gold Street Connector* – Sidewalks are not located along either side of the Gold Street Connector. A bicycle path is, however, located along the south side of the Gold Street Connector between Lafayette Street and Great America Parkway.
- *Lafayette Street* – No sidewalks are present along either side of Lafayette Street between Great America Way and Calle De Luna.

Background Transportation Network

It is assumed in this analysis that the transportation network under background conditions would be the same as the existing transportation network with the exception of the following improvements. The improvements were identified as mitigation measures to be completed by the City of Santa Clara Capital Improvement Program (CIP) or as part of other approved development projects in the study area.

- *Great America Parkway and Mission College Boulevard* – Addition of a third westbound left-turn lane, fourth southbound through lane, third northbound left-turn lane, and separate westbound right-turn lane
- *Great America Parkway and Old Glory Lane* – Addition of a second northbound left-turn lane
- *Great America Parkway and Patrick Henry Drive* – Addition of a second northbound left-turn lane and eastbound free-right-turn lane, the eastbound right-turn lane includes the addition of a fourth southbound lane on Great America Parkway between Patrick Henry Drive and Mission College Boulevard

Study Intersections

The potential impacts related to the proposed rezoning and Building 5 development were evaluated following the standards and methodologies set forth by the Cities of San José and Santa Clara and VTA. VTA administers the County CMP.

The study includes an analysis of AM and PM peak-hour traffic conditions for 16 signalized intersections and two unsignalized intersections within the cities of San José and Santa Clara as well as 12 directional freeway segments. The study intersections were selected based upon the estimated number of project trips through the intersection (10 or more trips per lane per hour). Any intersections to which the project would not add 10 or more trips per lane per hour, were not studied because the addition of project traffic would not be a sufficient amount to result in the degradation of intersection levels of service. The study intersections and freeway segments are identified below. Intersections marked with an * are CMP Designated Intersections.

City of San José Study Intersections:

1. Great America Parkway and Gold Street
2. Lafayette Street and Gold Street
3. Great America Parkway and SR 237 (E)*
4. Great America Parkway and SR 237 (W)*

City of Santa Clara Study Intersections:

5. Great America Parkway and Great America Way
6. Great America Parkway and Alviso Road
7. Great America Parkway and Bunker Hill Lane
8. Great America Parkway and Tasman Drive*
9. Great America Parkway and Old Glory Lane
10. Great America Parkway and Patrick Henry Drive
11. Great America Parkway and Mission College Boulevard*
12. Great America Parkway and US 101 Northbound Ramps*
13. Bowers Avenue and US 101 Southbound Ramps*
14. Lafayette Street and Calle De Luna
15. Calle de Sol and Tasman Drive
16. Lick Mill Boulevard and Tasman Drive

Unsignalized Study Intersections:

17. America Center Drive and America Center Court (unsignalized, private street)
18. Lafayette Street and Great America Way (unsignalized)

Study Freeway Segments:

1. Eastbound SR 237 between N. Fair Oaks Avenue and Lawrence Expressway
2. Eastbound SR 237 between Lawrence Expressway and Great America Parkway
3. Eastbound SR 237 between Great America Parkway and North First Street
4. Eastbound SR 237 between North First Street and Zanker Road
5. Eastbound SR 237 between Zanker Road and McCarthy Boulevard
6. Eastbound SR 237 between McCarthy Boulevard and I-880
7. Westbound SR 237 between I-880 and McCarthy Boulevard
8. Westbound SR 237 between McCarthy Boulevard and Zanker Road
9. Westbound SR 237 between Zanker Road and North First Street
10. Westbound SR 237 between North First Street and Great America Parkway
11. Westbound SR 237 between Great America Parkway and Lawrence Expressway
12. Westbound SR 237 between Lawrence Expressway and N. Fair Oaks Avenue

Level of Service Methodology

Traffic conditions at all of the study intersections were analyzed for the weekday AM and PM peak hours. The weekday AM peak hour of traffic is generally between 7:00 and 9:00 AM and the weekday PM peak hour is typically between 4:00 and 6:00 PM. It is during these periods that the most congested traffic conditions occur on a typical weekday.

The level of service method approved by the City of San José, VTA, and Caltrans analyzes a signalized intersection's operation based on average control vehicular delay. Control delay includes initial deceleration delay, queue move-up time, stopped delay, and final acceleration delay. The average control delay for signalized intersections is calculated using TRAFFIX analysis software and correlated to a LOS designation as shown in Table 3.13-1.

Table 3.13-1: Intersection Level of Service Definitions Based on Average Delay		
Level of Service	**Description**	**Average Delay Per Vehicle (seconds)**
A	Operations with very low delay occurring with favorable progression and/or short cycle lengths.	≤ 10.0
B+	Operations with low delay occurring with good progression and/or short cycle lengths.	10.1 to 12.0
B		12.1 to 18.0
B-		18.1 to 20.0
C+	Operations with average delays resulting from fair progression and/or longer cycle lengths. Individual cycle failures begin to appear.	20.1 to 23.0
C		23.1 to 32.0
C-		32.1 to 35.0
D+	Operations with longer delays due to a combination of unfavorable progression, long cycle lengths, and high V/C ratios. Many vehicles stop and individual cycle failures are noticeable.	35.1 to 39.0
D		39.1 to 51.0
D-		51.1 to 55.0
E+	Operations with high delay values indicating poor progression, long cycle lengths, and high V/C ratios. Individual cycle failures are frequent occurrences.	55.1 to 60.0
E		60.1 to 75.0
E-		75.1 to 80.0
F	Operations with delays unacceptable to most drivers occurring due to over-saturation, poor progression, or very long cycle lengths.	> 80.0
Source: Transportation Research Board. *2000 Highway Capacity Manual* (Washington, D.C., 2000). Pages 10-16.		

Existing Intersection Levels of Service

The results of the intersection level of service analysis show that, measured against the applicable municipal and CMP standards, all of the study intersections currently operate at an acceptable LOS D or better during both the AM and PM peak hours of traffic.

Existing Freeway Levels of Service

Traffic volumes for the study freeway segments were obtained from the 2014 CMP Annual Monitoring Report, which contains the most recent data collected for freeway segments located in Santa Clara County. Seven of the 12 directional study freeway segments currently operate at unacceptable LOS F conditions during at least one peak hour of traffic and one of the directional HOV lane segments operates at unacceptable LOS F conditions during at least one of the peak hours.

Mixed-Flow Lane Freeway Segments at LOS F:

1. Eastbound SR 237 between North Fair Oaks Avenue and Lawrence Expressway (PM Peak Hour)
2. Eastbound SR 237 between Lawrence Expressway and Great America Parkway (PM Peak Hour)
3. Eastbound SR 237 between Great America Parkway and North First Street (PM Peak Hour)
4. Eastbound SR 237 between North First Street and Zanker Road (PM Peak Hour)

6. Eastbound SR 237 between McCarthy Boulevard and I-880 (PM Peak Hour)
7. Westbound SR 237 between I-880 and McCarthy Boulevard (AM Peak Hour)
8. Westbound SR 237 between McCarthy Boulevard and Zanker Road (AM & PM Peak Hours)

HOV Lane Segment at LOS F

7. Westbound SR 237 between I-880 and McCarthy Boulevard (AM Peak Hour)

3.13.2 Transportation Impacts

3.13.2.1 *Thresholds of Significance*

For the purposes of this EIR, a transportation impact is considered significant if the project would:

- Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit;
- Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways;
- Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks;
- Substantially increase hazards due to a design features (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment);
- Result in inadequate emergency access; or
- Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities or otherwise decrease the performance of safety of such facilities.

Impacts on intersections are based on the significance criteria and thresholds of the jurisdiction in which the intersection is located. For this analysis, significance criteria for impacts on intersections are based on the Cities of San José and Santa Clara Level of Service standards. Project impacts also were analyzed according to the County Congestion Management Program (CMP) methodology for the three CMP-designated intersections.

City of San José Definition of Significant Intersection Impacts

The project would result in a significant adverse impact on traffic conditions at a signalized intersection in the City of San José if for either peak hour:

1. The level of service at the intersection degrades from an acceptable LOS D or better under background conditions[89] to an unacceptable LOS E or F under background plus project conditions[90]; or
2. The level of service at the intersection is an unacceptable LOS E or F under background conditions and the addition of project trips causes both the critical-movement delay at the intersection to increase by four (4) or more seconds and the volume-to-capacity ratio (V/C) to increase by one percent (.01) or more.

An exception to this rule applies when the addition of project traffic reduces the amount of average stopped delay for critical movements (i.e., the change in average stopped delay for critical movements is negative). In this case, the threshold of significance is an increase in the critical V/C value by .01 or more.

A significant impact by City of San José standards is said to be satisfactorily mitigated when measures are implemented that would restore intersection level of service to background conditions (i.e., traffic conditions just prior to completion of the proposed project) or better.

City of Santa Clara Definition of Significant Intersection Impacts

The project would result in a significant adverse impact on traffic conditions at a non-CMP signalized intersection in the City of Santa Clara if for either peak hour:

1. The level of service at the intersection degrades from an acceptable level (LOS D or better at all city-controlled intersections and LOS E or better at all expressway intersections) under background conditions to an unacceptable level (LOS E or F at city-controlled intersections and LOS F at expressway intersections) under project conditions; or
2. The level of service at the intersection is an unacceptable level (LOS E or F at city-controlled intersections and LOS F at expressway intersections) under background conditions and the addition of project trips causes the average critical delay to increase by four (4) or more seconds and the volume-to-capacity ratio (V/C) to increase by 0.01.

An exception to this criteria applies when the addition of project traffic reduces the amount of average delay for critical movements (i.e., the change in average delay for critical movements is negative). In this case, the threshold of significance is an increase in the critical V/C value by 0.01 or more.

A significant impact by the City of Santa Clara standards is said to be satisfactorily mitigated when measures are implemented that would restore intersection level of service to an acceptable level or no worse than background conditions.

[89] Background traffic volumes are estimated by adding projected volumes from approved but not yet completed developments to existing peak hour volumes. The added traffic from approved but not yet completed developments was provided by the City of San José in the form of the Approved Trips Inventory. Traffic volumes for approved projects within the City of Santa Clara also were included. Background conditions represent the baseline conditions to which project conditions are compared for the purpose of determining project impacts.

[90] Projected peak hour traffic volumes with the project were estimated by adding the additional traffic generated by the project to background traffic volumes. Background plus project conditions are evaluated relative to background conditions in order to determine potential project impacts.

CMP Definition of Significant Intersection LOS Impacts

The definition of a significant impact at a CMP intersection is the same as for each City, except that the CMP standard for acceptable level of service at a CMP intersection is LOS E or better. A significant impact by CMP standards is said to be satisfactorily mitigated when measures are implemented that would restore intersection conditions to an acceptable level or no worse than background conditions.

CMP Definition of Significant Freeway Segment Impacts

The CMP defines an acceptable level of service for freeway segments as LOS E or better. A project is considered to create a significant impact on traffic conditions on a freeway segment if for either peak hour:

1. The level of service on the freeway segment degrades from an acceptable LOS E or better under existing conditions to an unacceptable LOS F under background plus project conditions, or
2. The level of service on the freeway segment is LOS F under background plus project conditions and the number of project trips on that segment constitutes at least one percent of capacity on that segment.

A significant impact by CMP standards is considered to be satisfactorily mitigated when measures are implemented that would restore freeway conditions to background conditions or better.

For the purposes of this transportation analysis, build-out of the up t0 1,090,000 square feet of office uses is evaluated compared to the 874,000 square feet of existing and under construction office/R&D uses in Buildings 1 through 4. It is assumed that the personal service/retail space onsite would not generate additional vehicle trips.

3.13.2.2 *Transportation Impacts Identified in the Legacy Terrace FEIR*

The Legacy Terrace FEIR identified significant transportation impacts to three intersections:

- Great America Parkway/SR 237 westbound ramps
- Great America Parkway/Mission Boulevard
- Montague Expressway/North First Street

and four freeway segments:

- SR 237 Eastbound (between Great America Parkway and North First Street exits)
- I-880 Northbound (between SR 237 interchange and Dixon Landing exit)
- US 101 Northbound (between SR 87 interchange and Trimble Road)
- US 101 Southbound (Trimble Road to SR 87 interchange)

Mitigation to reduce the project's impacts on the Great America Parkway/SR 237 westbound ramps intersection was identified that reduced impacts to less than significant level. The impacts of the

project on the remaining two intersections and four freeway segments were significant and unavoidable due to the infeasibility of improvements.

3.13.2.3 *Transportation Plan or Policy Conflict*

Existing Plus Project Analysis

Based on the Institute of Transportation Engineers (ITE) *Trip Generation*, *Ninth Edition*, 2012 trip generation rates; it is estimated that the proposed up to 216,350 square feet of office building uses allowed under the rezoning would generate 2,386 daily trips, with 338 trips (297 inbound and 41 outbound) occurring during the AM peak hour and 322 trips (55 inbound and 267 outbound) occurring during the PM peak hour. Peak hour project traffic was distributed to the transportation network based on existing travel patterns on the surrounding roadway system and the locations of complementary land uses. The peak-hour trips associated with the proposed project were then added to the transportation network.

The results of the level of service analysis show that, measured against the applicable municipal and CMP standards, all of the study intersections are projected to operate at LOS D or better during both the AM and PM peak hours under existing plus project conditions, as shown in Table 3.13-2.

Background Plus Project Analysis

Background plus project conditions were evaluated relative to background conditions in order to determine potential project impacts and describes near-term traffic conditions that most likely would occur when the project is complete. This traffic scenario represents a more congested traffic condition than the existing plus project scenario, since it includes traffic generated by approved projects in the area that are built and occupied.

To maintain consistency with the original traffic analysis prepared for the remaining entitled 32,238 square feet of R&D space on the project site, trip generation estimates as presented in the traffic analysis completed by Korve Engineering in 2004 were used for the entitled R&D space. The traffic estimated to be generated by the approved 32,238 square feet of R&D space on the project site was subtracted from the gross project trips for the proposed office space to calculate the additional traffic that would be generated by the proposed additional office space, or the net generated project trips.

Based on the ITE trip generation rates, it is estimated that the proposed office space on the project site would generate a net additional 2,141 daily trips, with 299 trips (266 inbound and 33 outbound) occurring during the AM peak hour and 288 trips (52 inbound and 236 outbound) occurring during the PM peak hour.

Intersection LOS Under Background Plus Project Conditions

The results of the intersection level of service analysis under background plus project conditions are summarized in Table 3.13-2.

Table 3.13-2: Existing and Background Plus Project Intersection Levels of Service												
Intersection	**Jurisdiction**	**Peak Hour**	**Existing**		**Existing Plus Project**		**Background**		**Background Plus Project**			
			Average Delay[1] (seconds)	**LOS[2]**	**Average Delay[1] (seconds)**	**LOS[2]**	**Average Delay[1] (seconds)**	**LOS[2]**	**Average Delay[1] (seconds)**	**LOS[2]**	**Increase in Crit. Delay[3] (seconds)**	**Increase in Crit. V/C[4]**
1. Great America Parkway/Gold Street	San José	AM	15.0	B	16.4	B	32.2	C	31.0	C	0.0	0.005
		PM	13.5	B	13.1	B	22.2	C	23.1	C	3.6	0.034
2. Lafayette Street/Gold Street Connector	San José	AM	15.0	B	15.2	B	92.2	F	**105.6**	**F**	**16.0**	**0.043**
		PM	14.5	B	14.6	B	24.9	C	27.3	C	3.5	0.035
3. Great America Parkway and SR-237(E)*	San José	AM	18.2	B	17.8	B	70.4	E	70	E	1.0	0.028
		PM	17.4	B	17.7	B	30.4	C	32.8	C	2.8	0.003
4. Great America Parkway/SR-237(W)*	San José	AM	13.3	B	14.8	B	40.6	D	46.6	D	9.5	0.023
		PM	11.9	B	14.2	B	15.0	B	19.1	B	6.7	0.061
5. Great America Parkway/Great America Way	San José	AM	21.5	C	21.8	C	30.3	C	30.4	C	0.3	0.002
		PM	18.1	B	17.9	B	18.9	B	19.8	B	5.3	0.127
6. Great America Parkway/Alviso Road	San José	AM	16.5	B	16.6	B	76.4	E	76.7	E	1.8	0.003
		PM	33.6	C	33.6	C	130.1	F	135.2	F	2.0	0.003
7. Great America Parkway/Bunker Hill Lane	San José	AM	13.4	B	13.4	B	13.2	B	13.1	B	0.0	0.002
		PM	15.1	B	14.9	B	14.7	B	14.6	B	0.1	0.016
8. Great America Parkway/Tasman Drive*	San José	AM	26.6	C	26.8	C	35.5	D	35.8	D	0.5	0.007
		PM	28.7	C	28.7	C	73.6	E	76.5	F	2.0	0.005

Table 3.13-2: Existing and Background Plus Project Intersection Levels of Service												
Intersection	**Jurisdiction**	**Peak Hour**	**Existing**		**Existing Plus Project**		**Background**		**Background Plus Project**			
			Average Delay[1] (seconds)	**LOS[2]**	**Average Delay[1] (seconds)**	**LOS[2]**	**Average Delay[1] (seconds)**	**LOS[2]**	**Average Delay[1] (seconds)**	**LOS[2]**	**Increase in Crit. Delay[3] (seconds)**	**Increase in Crit. V/C[4]**
9. Great America Parkway/Old Glory Lane	San José	AM	16.5	B	16.6	B	15.2	B	15.1	B	0.0	0.002
		PM	17.2	B	17.3	B	39.8	D	42.3	D	4.0	0.011
10. Great America Parkway/Patrick Henry Drive	Santa Clara	AM	21.2	C	21.0	C	26.6	C	26.6	C	0.1	0.001
		PM	25.5	C	25.5	C	24.3	C	25.1	C	1.2	0.008
11. Great America Parkway/Mission College Boulevard*	Santa Clara	AM	39.3	D	39.4	D	55.8	E	57.1	E	0.0	0.000
		PM	49.2	D	49.5	D	105.4	F	107.5	F	3.1	0.008
12. Great America Parkway/US 101 Northbound Ramps*	Santa Clara	AM	7.4	A	7.3	A	23.3	C	23.7	C	0.6	0.006
		PM	9.0	A	8.9	A	34.5	C	37.2	D	3.5	0.010
13. Bowers Avenue/US 101 Southbound Ramps*	Santa Clara	AM	21.2	C	21.1	C	26.6	C	26.8	C	0.3	0.005
		PM	7.3	A	7.2	A	8.0	A	8.0	A	0.0	0.005
14. Lafayette Street/Calle De Luna	Santa Clara	AM	14.8	B	16.1	B	15.5	B	17.1	B	1.8	0.025
		PM	18.8	B	19.1	B	18.2	B	18.8	B	0.2	0.011
15. Calle Del Sol/ Tasman Drive	Santa Clara	AM	15.7	B	15.6	B	14.7	B	14.7	B	0.0	0.009
		PM	18.9	B	19.5	B	18.9	B	19.6	B	0.8	0.016
16. Lick Mill Boulevard/Tasman Drive	Santa Clara	PM	32.2	C	32.1	C	40.3	D	40.4	D	0.1	0.010
		AM	28.2	C	28.2	C	56.0	E	56.4	E	0.9	0007

Table 3.13-2: Existing and Background Plus Project Intersection Levels of Service

Intersection	Jurisdiction	Peak Hour	Existing		Existing Plus Project		Background		Background Plus Project			
			Average Delay[1] (seconds)	LOS[2]	Average Delay[1] (seconds)	LOS[2]	Average Delay[1] (seconds)	LOS[2]	Average Delay[1] (seconds)	LOS[2]	Increase in Crit. Delay[3] (seconds)	Increase in Crit. V/C[4]

[1] Whole intersection weighted average control delay expressed in seconds per vehicle calculated using methods described in the *2000 HCM*, with adjusted saturation flow rates to reflect Santa Clara County Conditions. Total control delay for the worst movement is presented for side-street stop-controlled intersections. Delay for the worst approach is reported for unsignalized intersections.

[2] LOS calculations conducted using the TRAFFIX level of service analysis software package.

[3] Change in critical movement delay between Existing and Existing plus Project Conditions.

[4] Change in the critical V/C between Existing and Existing plus Project Conditions.

* Denotes a VTA CMP intersection.

Bold and shading denote a significant impact.

Source: Hexagon Transportation Consultants. *America Center Phase III Building 5 Development Traffic Impact Analysis.* March 28, 2017.

The results show that the Lafayette Street/Gold Street Connector (located within the City of San José) would be significantly impacted by the project under background plus project conditions, according to applicable municipal and CMP impact criteria.[91]

Impact TRA-1: The added trips as a result of the proposed project would cause the critical-movement delay to increase by four or more seconds and the demand-to-capacity ratio to increase by 0.01 or more at the Lafayette Street and Gold Street Connector intersection during the AM peak hour. **(Significant Impact)**

Mitigation Measure

The following mitigation measure would reduce Impact TRA-1 to a less than significant level at Lafayette Street and the Gold Street Connector.

MM TRA-1.1: The project applicant shall fully design, construct and improve the Lafayette Street and Gold Street Connector intersection with the addition of a second northbound left-turn lane in a vacant area between the Gold Street Connector and SR 237. The improvement shall require widening of the Gold Street Connector and shifting of travel lanes to the south by approximately 12 feet to accommodate a second receiving lane for the second northbound left-turn lane. The roadway widening would also require the relocation of the Highway 237 Bikeway, south of the Gold Street Connector.

During construction of the intersection improvement, a trail detour shall be provided and/or the Highway 237 Bikeway relocated prior to construction of the road widening. **(Less than Significant Impact with Mitigation Incorporated)**

The addition of a second northbound left-turn lane at the intersection also was identified as a mitigation measure for the approved City Place development in the City of Santa Clara. Traffic associated with the City Place development is included within background conditions of this study; however, the City of San José has no authority of development within other jurisdictions or their development schedules. The project, therefore, will be required to construct the improvements.

Freeway Segment LOS Analysis

Traffic volumes on the study freeway segments under background plus project conditions were estimated by adding project trips to the existing volumes obtained from the 2014 CMP Annual Monitoring Report. The results of the freeway segment analysis under background plus project conditions are summarized in Table 3.13-3. The results show that mixed-flow lanes on seven of the 12 directional freeway segments analyzed would operate at unacceptable LOS F conditions during at

[91] This is a conservative impact analysis, in that the trip reduction as part of the proposed TDM program has not been included within the calculations. Project trips would need to be reduced by approximately 70 percent to avoid the impact at the Lafayette Street and Gold Street Connector intersection. Such a large reduction would not be achievable through a reasonable TDM program.

least one peak hour. In addition, the HOV lanes on one of the study segments are projected to operate at LOS F conditions.

Impact TRA-2: Implementation of the proposed project would have a significant impact on mixed-flow lanes and/or an HOV lane during one or both peak hours on the following four freeway segments: eastbound SR 237 between Great America Parkway and North First Street, westbound SR 237 between I-880 and McCarthy Boulevard, westbound SR 237 between I-880 and McCarthy Boulevard, westbound SR 237 between McCarthy Boulevard and Zanker Road, and the HOV lane on westbound SR 237 between I-880 and McCarthy Boulevard. **(Significant Impact)**

The Legacy Terrace FEIR identified impacts to eastbound SR 237 between Great America Parkway and North First Street, but did not identify impacts on the other freeway segments. Full mitigation of significant project impacts on freeway segments would require roadway widening to construct additional through mixed-flow or HOV lanes. There are no feasible mitigation measures available to reduce impacts on local freeway study segments to a less than significant level as it is beyond the capacity of any one project to acquire right-of-way and add lanes to a state freeway. Furthermore, no comprehensive project to increase freeway capacity on SR 237 has been developed by Caltrans or VTA. Though VTA has Voluntary Mitigation Programs for impacts along 237, so there are no specifically identified improvement projects to which to pay fair share fees. The proposed TDM measures would reduce these impacts, but not a less than significant level. **(Significant, Unavoidable Impact)**

3.13.2.4 *Transit, Pedestrian and Bicycle Facilities*

Transit Facilities

The project site is not directly served by any transit services other than the ACE Green Shuttle, which stops at America Center in the morning and afternoon. The ACE Green Shuttle operates on Tasman Drive and Great America Parkway between its route from the Great America ACE Station and the America Center campus. There are scheduled stops at the Convention Center and Old Ironsides LRT Stations along Tasman Drive, which also provide connections to other VTA bus lines. The nearest bus stops are located along Gold Street near its intersection with Taylor Street (approximately one Impact mile from the project site) and at the intersection of Tasman Drive and Old Ironsides Drive located (approximately 1.5 miles from the project site).

It is assumed that only a small number of employees of Building 5 would utilize existing transit services due the long walking distance and lack of pedestrian facilities linking the project site to transit facilities. In addition, the ACE shuttle provides only four scheduled runs during the morning and evening commute hours.

Assuming the existing transit service would remain unchanged, new riders associated with the proposed project can be accommodated by the current available capacity of the transit service in the project area and improvement of the existing transit service would not be necessary.

Table 3.13-3: Existing Plus Project SR 237 Level of Service												
Intersection	**Direction**	**Peak Hour**	**Existing Plus Project**						**Project Trips**			
			Mixed-Flow Lane			**HOV Lane**			**Mixed-Flow Lane**		**HOV Lane**	
			Volume	**Density**	**LOS**	**Volume**	**Density**	**LOS**	**Volume**	**Capacity**	**Volume**	**Capacity**
1. Between N. Fair Oaks Avenue and Lawrence Expressway	EB	AM	15.0	32	D	816	12	B	33	0.75	6	0.36
	EB	PM	13.5	96	F	2,313	33	D	3	0.07	3	0.18
2. Between Lawrence Expressway and Great America Parkway	EB	AM	15.0	35	D	1,088	16	B	31	0.70	8	0.48
	EB	PM	14.5	100	F	2,323	58	E	3	0.07	3	0.18
3. Between Great America Parkway and North First Street	EB	AM	18.2	46	D	942	14	B	10	0.23	2	0.12
	EB	PM	3,221	**89**	**F**	2,235	56	E	**51**	**1.16**	35	2.12
4. Between North First Street and Zanker Road	EB	AM	4,339	46	D	1,263	19	C	9	0.20	3	0.18
	EB	PM	3,553	**77**	**F**	2,193	55	E	**53**	**1.20**	33	2.00
5. Between Zanker Road and McCarthy Boulevard	EB	AM	4,350	35	D	942	14	B	10	0.23	2	0.12
	EB	PM	4,168	55	E	2,058	29	D	58	1.32	28	1.70
6. Between McCarthy Boulevard and I-880	EB	AM	2,599	20	C	743	11	A	9	0.20	3	0.18
	EB	PM	1,950	139	F	2,216	32	D	40	0.91	46	2.79
7. Between I-880 and McCarthy Boulevard	WB	AM	1,898	**136**	**F**	1,888	**70**	**F**	**48**	**1.09**	**48**	**2.91**
	WB	PM	3,316	25	C	492	7	A	16	0.36	2	0.12
8. Between McCarthy Boulevard and Zanker Road	WB	AM	2,865	**143**	**F**	2,121	53	E	**55**	**1.25**	41	2.48
	WB	PM	5,076	59	F	492	7	A	16	0.36	2	0.12
9. Between Zanker Road and North First Street	WB	AM	4,132	56	E	2,234	37	D	62	1.41	34	2.06
	WB	PM	4,233	49	E	1,545	22	C	13	0.30	5	0.30

Table 3.13-3: Existing Plus Project SR 237 Level of Service												
Intersection	**Direction**	**Peak Hour**	**Existing Plus Project**						**Project Trips**			
			Mixed-Flow Lane			**HOV Lane**			**Mixed-Flow Lane**		**HOV Lane**	
			Volume	**Density**	**LOS**	**Volume**	**Density**	**LOS**	**Volume**	**Capacity**	**Volume**	**Capacity**
10. Between North First Street and Great America Parkway	WB	AM	4,385	49	E	2,081	33	D	65	1.48	31	1.88
	WB	PM	4,415	44	D	983	14	B	15	0.34	3	0.18
11. Between Great America Parkway and Lawrence Expressway	WB	AM	4,403	40	D	1,461	22	C	3	0.07	1	0.06
	WB	PM	4,127	32	D	1,128	16	B	27	0.61	8	0.48
12. Between Lawrence Expressway and N. Fair Oaks Avenue	WB	AM	4,193	51	E	2,151	34	D	3	0.07	1	0.06
	WB	PM	3,926	30	D	1,339	19	C	26	0.59	9	0.55

Source: Hexagon Transportation Consultants. *America Center Phase III Building 5 Development Traffic Impact Analysis.* March 28, 2017.

Bold and shading indicate a significant impact.

Pedestrian and Bicycle Facilities

There are several bike lanes and bike paths in the vicinity of the project site. In addition, the *San José Bike Plan 2020* and General Plan identify planned improvements to the bicycle network within the City and provide policies and goals that are intended to promote and encourage the use of multi-modal travel options. In the immediate project vicinity, a Class I off-street trail is planned to run generally around the perimeter of the America Center site with connections to the Bay Trail near the Lafayette Street and Gold Street intersection and along San Tomas Aquino Creek.

Pedestrian facilities in the immediate project area are limited, though General Plan Policies TR 1.1, TR 1.2, and CD 3.3 call for increased pedestrian facilities. In particular, there are no sidewalks provided along America Center Court, the east side of America Center Drive along the Building 5 frontage, and either side of America Center Drive between the Gold Street Connector and the Building 5 frontage. Sidewalks are provided along both sides of America Center Drive north of the Building 5 frontage. There is an unpaved walkway provided along the west side of America Center Drive between the America Center office buildings and the Gold Street Connector.

It is unlikely that the proposed project will result in measureable increase of pedestrians given that the nearest commercial uses and transit services are located more than one mile from the project site. Pedestrian traffic from the project site, however, could use the Bay Trail, which runs along the north side of SR 237. Access to the trail is provided at the SR 237 and Great America Parkway westbound ramps intersection. The intersection provides controlled crosswalks across Great America Parkway on its north approach and across the SR 237 westbound on-ramp. Use of the trail and crosswalks at the SR 237 and Great America westbound ramps intersection by pedestrians originating from the proposed Building 5 will require crossing America Center Drive. Because this indirect connection to the Bay Trail is provided, the project would be consistent with General Plan Policy DC-3.3 and impacts as a result of policy conflict would be less than significant. **(Less than Significant Impact)**

3.13.2.5 *Other Transportation and Site Access Considerations*

Queueing Analysis

A queuing analysis for the following three intersections was conducted to evaluate the size of the existing pockets and the number of vehicles a proposed project would generate at the existing pocket (further detail related to the queuing analysis is contained within Appendix E):

- Great America Parkway and Gold Street Connector
- Lafayette Street and Gold Street
- Great America Parkway and SR 237 (south)

For the purposes of CEQA, there are no quantitative impact thresholds specific to queuing. There is, however, a qualitative threshold stating that the project would have a significant impact if it would substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses sharing the roadway (e.g., farm equipment). If project traffic would exceed an existing turn-pocket length and spill out of the pocket, typically the resulting traffic would be more congested, resulting in additional delay but not a safety concern. Thus, there would be no safety impact.

Signal Warrant Analysis

Peak-hour traffic signal warrant checks indicate that the traffic volumes at the Lafayette Street and Great America Way intersection during the PM peak hour are projected to meet thresholds that warrant signalization under background and background with project conditions. Traffic volumes indicate that the signalization of the Lafayette Street and Great America Way intersection is not necessary until the construction of other approved development in the project area (including the City Place development) is completed. The installation of a signal at the intersection was also identified to be warranted with the City Place development. The proposed project will result in a total of 58 PM peak hour trips through the intersection. Because signalization of an intersection is dependent upon many factors and may be required regardless of the proposed project, the City of Santa Clara will decide when and if a signal should be installed and provide funding for its construction. If the City of Santa Clara determine a traffic signal will be constructed prior to issuance of building permits for the proposed project, it may be required to contribute a fair share towards the future traffic signal.

Freeway Ramp Analysis

An analysis of metered freeway ramps providing access to the project site was performed to identify the effect of the addition of project traffic on the queues at metered study freeway on-ramps. It should be noted that the evaluation of freeway ramps is not required based on the City's transportation impact analysis guidelines, nor are there adopted methodologies and impact criteria for the analysis of freeway ramps.

It is projected that the project will result in the addition of peak hour trips to two freeway interchanges: US 101 at Great America Parkway/Bowers Avenue and SR 237 at Great America Parkway. The metered freeway on-ramps were evaluated during the PM peak hour of traffic only since the majority of the proposed project traffic that is projected to be added to freeway on-ramps will occur during the PM peak hour. Both the westbound and eastbound on-ramps at SR 237 interchange are metered during the PM peak hour; however, only the southbound loop on-ramp at the US 101 interchange is metered during the PM peak hour.

US 101 at Great America Parkway/Bowers Avenue

Based on the freeway ramp analysis, the proposed project traffic will have minimal effect on delay and queues at the southbound on-ramp at the US 101/Bowers Avenue and westbound on-ramp at the SR 237/Great America Parkway interchanges. The addition of project traffic to each of the ramps will equate to a less than a three percent increase in volume and would extend the wait times by no more than six seconds during the PM peak hour. Further, the addition of project traffic would result in the extension of projected queues at each ramp by no more than one vehicle.

SR 237 Eastbound On-Ramp from Great America Parkway

The addition of project traffic to the SR 237 eastbound diagonal on-ramp from Great America Parkway will equate to an approximately 54 percent increase in the southbound left-turn volume during the PM peak hour and would extend the wait times at the ramp by approximately 34 seconds. The maximum queue lengths measured in the field and projected under project conditions would extend beyond the available storage on the on-ramp. The SR 237 eastbound diagonal on-ramp from

Great America Parkway already provides one HOV lane and two mixed-flow lanes. The ramp overcrossing of Lafayette Street, located approximately 550 feet east of Great America Boulevard, restricts the addition of storage on the ramp; therefore, additional physical improvement for the purpose of queue storage at the ramp would consist of widening Great America Parkway and possibly the overcrossing of US 101.

Widening of Great America Parkway and addition of a southbound left-turn lane would not, however, provide an operational benefit to ramp operations. The City has worked cooperatively with VTA and Caltrans to implement measures to minimize the effects of vehicular queues at freeway ramps, such as shutting off the ramp meters when vehicular queues extend back onto the arterials. The City will continue to monitor the effects of traffic growth in the area and its effects on freeway ramp operations and work with VTA and Caltrans to implement further measures when deemed necessary.

Parking

Per the City of San José Municipal Code (Chapter 20.90.060) office land uses are required to provide one vehicle parking space per 300 square feet of building space. Based on the City's parking requirements, a total of 3,480 off-street parking spaces are required for the 1,044,112 square feet of office space proposed for the America Center site as part of the PD Permit application. The General Development Standards originally approved for the project in 2000, stipulate a parking requirement of one space per 250 net square feet of office space, which was defined as 15 percent of the total square footage, and a total parking requirement of 3,550 parking spaces. The project proposes a total of 3,610 on-site parking spaces (1,870 parking spaces within the parking garage and 1,740 spaces within surface parking lots).

The City's Bicycle Parking requirements require one bicycle parking space per 4,000 square feet of office floor area. America Center is required to provide 285 bicycle parking spaces to meet the city standards and the requirements of General Plan Policy TR-1.1, TR-9.1, and CD-3.3, as well as Alviso Master Plan Bicycle Policy 3; however, the proposed PD Permit for the project includes only 178 bicycle parking spaces.

Traffic and Emergency Access

The proposed project would not modify any public roadways or access points that could result in safety issues. The project site would be accessed via America Center Court, a private road, which runs along the southern and eastern boundaries of the America Center office surface parking lots. America Center Court intersects with America Center Drive immediately north of the Gold Street Connector. America Center Court is 36 feet wide between America Center Drive and the point at which it changes to a north/south alignment. The roadway then narrows to a 26-foot-wide travel way along its north/south alignment. Two driveways at the northern terminus of the perimeter roadway would provide access to the project site. The easternmost driveway would provide access to the Bay Trail/service road (including access for emergency vehicles).

Queuing analysis at the America Center Drive and America Center Court indicates that the estimated maximum westbound left-turn vehicle would not exceed two vehicles in length (50 feet) under

background plus project conditions. For these reasons, the site plan exhibits sufficient site access and on-site circulation for motor and emergency vehicles. **(Less than Significant Impact)**

3.13.3 Conclusion

The project would not significantly impact emergency access, generate a transportation safety hazard, or result in an aircraft safety hazard. **(Less than Significant Impact)**

Impacts to the Lafayette Street and Gold Street Connector intersection would be reduced to the less than significant level with the incorporation of mitigation measure MM TRA-1.1. **(Less than Significant Impact with Mitigation Incorporated)**

Implementation of the proposed project would have a significant impact on freeway mixed-flow lanes and/or an HOV lane during one or both peak hours. Thus, these impacts would be significant and unavoidable. **(Significant, Unavoidable Impact)**

3.14 UTILITIES AND SERVICE SYSTEMS

3.14.1 Environmental Setting

3.14.1.1 *Regulatory Framework*

State

Assembly Bill 939

Assembly Bill 939 (AB 939) established the California Integrated Waste Management Board (now CalRecycle) and required all California counties to prepare integrated waste management plans. AB 939 required all municipalities to divert 50 percent of the waste stream by the year 2000.

California Green Building Standards Code

In January 2013, the State of California adopted the California Green Building Standards Code that establishes mandatory green building standards for all buildings in California. The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resource efficiency, and indoor environmental quality. These standards include a mandatory set of guidelines, as well as more rigorous voluntary measures, for new construction projects to achieve specific green building performance levels:

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

Local

San José Zero Waste Strategic Plan/Green Vision

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

Envision San José 2040 General Plan

The proposed project would be subject to the utilities and services policies of the City's General Plan, including the following:

Policy	Description
MS-3.1	Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions.
MS-3.2	Promote use of green building technology or techniques that can help to reduce the depletion of the City's potable water supply as building codes permit.
MS-3.3	Promote the use of drought tolerant plants and landscaping materials.
IN-3.3	Meet the water supply, sanitary sewer and storm drainage level of service objectives through an orderly process of ensuring that, before development occurs, there is adequate capacity. Coordinate with water and sewer providers to prioritize service needs for approved affordable housing projects.
IN-3.5	Require development which will have the potential to reduce downstream LOS to lower than "D", or development which would be served by downstream lines already operating at a LOS lower than "D", to provide mitigation measures to improve the LOS to "D" or better, either acting independently or jointly with other developments in the same area or in coordination with the City's Sanitary Sewer Capital Improvement Program.
IN-3.7	Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.
IN-3.9	Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.

Alviso Master Plan

The Alviso Master Plan is a policy document that provides the background, vision, and character to guide the future of a unique area at the northern edge of San José. One of the stated purposes of the Plan is to protect and enhance the small town quality of Alviso by guide appropriate new development, community facilities, infrastructure, and beautification. The master plan establishes the location, intensity, and character of land uses; the circulation pattern, and necessary infrastructure improvements to support development. The following policies are specific to utilities and are applicable to the proposed project.

Policies	Description
Storm Drainage Policy 1	All new development projects should be evaluated to determine the possible need for additional storm drainage facilities.
Storm Drainage Policy 2	All storm drainage infrastructure on the former Cargill landfill *(also known as the Highway 237 Landfill)* needs to be built, operated and maintained by the property owner.
Sanitary Sewer Policy 1	All sanitary sewer infrastructure on the former Cargill landfill needs to be built, operated, and maintained by the property owner.
Water Supply Policy 1	Water consumption should be reduced through water conservation measures.
Water Supply Policy 3	All water supply infrastructure on the former Cargill landfill needs to be built, operated, and maintained by the property owner or by a non-City water service provider.

3.14.1.2 *Existing Conditions*

Water Supply

Water service to the project site is provided by the San José Municipal Water System, which is owned and operated by the City of San José. Customers in Alviso and North San José receive a blend of Hetch Hetchy water and treated water purchased from San Francisco Public Utilities Commission (SFPUC). There are 12-inch water lines that run along Gold Street to the east and a 16-inch on-site water main at the terminus of America Center Court.

Recycled water lines convey recycled water from the San José/Santa Clara Regional Wastewater Facility (RWF) and the South Bay Recycling retailer on Zanker Road to a range of users. Currently, there are no recycled water lines in the immediate project area. The nearest recycled water line is just south of SR 237 on Lafayette Street and Great America Parkway.[92]

Storm Drainage

Stormwater from the developed portions of the America Center is collected and discharged directly to San Tomas Aquino Creek, to wetlands to the south of the site along SR 237, or is conveyed to a pump station and detention basin near Gold Street that discharges to the Guadalupe River. The site's drainage is discussed in detail in Section 3.9 Hydrology and Water Quality.

Wastewater

Sanitary sewer lines in the area are owned and maintained by the City of San José. Wastewater from the project area is treated at the San José/Santa Clara Regional Wastewater Facility (RWF) in Alviso. The RWF has a capacity to treat 167 million gallons per day (mgd) of sewage during dry weather flow.[93] In 2015, the RWP's average dry weather influent flow was 108 mgd.[94] The resulting fresh water from the RWP is discharged to the South San Francisco Bay or delivered to the South Bay Water Recycling Project for distribution. As stated in the General Plan FPEIR, the City's average dry weather flow is approximately 69.8 mgd. The City's share of the RWP's treatment capacity is 108.6 mgd, which leaves the City with approximately 38.8 mgd of excess treatment capacity.[95]

Solid Waste

Santa Clara County's Integrated Waste Management Plan (IWMP) was approved by the California Integrated Waste Management Board in 1996 and was reviewed in 2004, 2007, and 2011. Each jurisdiction in the County has a landfill diversion requirement of 50 percent per year. In 2014, the City of San José diverted approximately 73 percent of the waste generated in the City.[96] According to the IWMP, the County has adequate disposal capacity beyond 2022. In October 2007, the San José City Council adopted a Zero Waste Resolution which set a goal of 75 percent waste diversion by

[92] South Bay Water Recycling. *Recycled Water Pipeline System.* Map. July 28, 2011.
[93] City of San José. Water Pollution Control Capital Program 2016-2020 - Adopted Capital Improvement Program. Accessed August 22, 2016. http://www.sanJoséca.gov/DocumentCenter/View/46177.
[94] City of San José. Clean Bay Strategy Reports. Accessed August 22, 2016. http://www.sanJoséca.gov/ArchiveCenter/ViewFile/Item/1629.
[95] City of San José. General Plan FPEIR. September 2011. Page 648.
[96] City of San José. Using Diversion and Innovation to Become a Zero Waste City. Accessed June 14, 2016. https://www.sanJoséca.gov/index.aspx?NID=2950.

2013 and zero waste by 2022. The City landfills approximately 494,000 tons per year of solid waste. The total permitted landfill capacity of the five operating landfills in the City is approximately 5.3 million tons per year.

Other Utilities

Pacific Gas & Electric supplies electricity and natural gas to the project area. Electric and gas utilities are available in the project vicinity and have been extended to the America Center site. High-voltage electric transmission lines cross the America Center site along its eastern side. A high-pressure gas transmission line and easement extends along the southern boundary of the America Center site.

3.14.2 Utilities and Service Systems Impacts

3.14.2.1 *Thresholds of Significance*

For the purposes of this EIR, a utilities and service systems impact is considered significant if the project would:

- Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board;
- Require or result in the construction of new waste or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects;
- Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects;
- Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed;
- Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments;
- Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs; or
- Comply with federal, state, and local statutes and regulations related to solid waste.

3.14.2.2 *Utilities Impacts identified within the Legacy Terrace FEIR*

The Legacy Terrace FIER disclosed that development at the America Center site would increase the demand for utilities and services; however, all impacts were deemed to be less than significant.

3.14.2.3 *Exceedance of Treatment Requirements and Wastewater Capacity*

Per estimated contained within the General Plan FPEIR, sewage generation is roughly 85 percent of a commercial site's water use. Based on the project's estimated water use of 0.13 gallons per day

(gpd) per square foot, the project is estimated to generate about 23,907 gpd of sewage.[97] The project would require a connection to the existing sanitary sewer service from an existing 12-inch sanitary sewer line on America Center Court (a private street). The 12-inch line extends from Gold Street and connected to existing sanitary facilities in Lafayette Street in the City of Santa Clara. Building 5 would connect to the existing sanitary sewer system in America Center Court (a private street and private infrastructure, consistent with Sanitary Sewer Policy 1) and then connect to a 12-inch public sewer line in Gold Street. The 12-inch line extends from Gold Street and connects to existing sanitary facilities in Lafayette Street in the City of Santa Clara. Improvements of these lines are not anticipated to be required to accommodate the project. Project-related discharges to the sanitary sewer and pump system facilities in the City of Santa Clara would be subject to an existing agreement, which would accommodate the proposed project. Any additional discharge (beyond what is currently proposed by the project) or change in use would require additional negotiation and amendment of the existing agreement. As a result, any impact would be less than significant.

As stated previously, the available treatment capacity at the RWF for the City of San José is 38.8 million gallons per day (mgd). Based on a sanitary sewer hydraulic analysis prepared for the General Plan FPEIR, full build out under the General Plan would generate average dry weather flows by approximately 30.8 mgd. Since development allowed under the General Plan would not exceed the City's allocated capacity at the RWF (consistent with General Plan Policy IN-3.3), and since the proposed project is generally consistent with the development assumptions in the General Plan, implementation of the proposed project would have a less than significant impact on this wastewater treatment facility. **(Less Than Significant Impact)**

3.14.2.4 *Drainage Facilities*

As discussed in Section 3.9 Hydrology and Water Quality, the proposed project would increase the amount of impervious surfaces on site by 4,833 square feet, an increase of approximately three percent. The result of this change would be an incremental increase in the amount of stormwater runoff from the project site compared to existing conditions. **(Less Than Significant Impact)**

3.14.2.5 *Water Service and Supply*

It is estimated that the proposed project would utilize approximately 0.13 gallons of water per square foot per day, for a total of 24,700 gpd.[98] Assuming this daily rate, the project would use up to an annual total of 6,422,000 gallons per year. The project would require a connection to the existing water line in America Center Court, which is a private street. The improvements for the water connection would occur on-site and within existing right-of-way and are not anticipated to result in significant environmental impacts.

The General Plan FPEIR determined that the three water suppliers for the City could serve planned growth under the Envision 2040 General Plan until 2025. Water demand could exceed water supply with implementation of the General Plan during dry and multiple dry years after 2025. The General

[97] URS. *SFPUC Demand Study: Projected Water Usage for Bay Area Water Supply and Conservation Agency*. Technical Memo. August 2006. 0.13 gpd(216,350 square feet) = 28,126 gpd(0.85) 23,907gpd sewage generated.
[98] URS. *SFPUC Demand Study: Projected Water Usage for Bay Area Water Supply and Conservation Agency*. Technical Memo. August 2006. 0.13 gpd/square foot(190,000 square feet)=24,700 gpd/square foot(260 work days/year)=6,422,000 gallons/year.

Plan has specific policies to reduce water consumption including expansion of the recycled water system and implementation of water conservation measures. The General Plan FPEIR concluded that with implementation of existing regulations and adopted General Plan policies, full build out under the General Plan would not exceed the available water supply.

The proposed project includes 190,000 additional square feet over what was previously approved for the America Center site. The proposed project, however, will incorporate water conservation measures in the building not in place at the time of previous rezonings (consistent with General Plan Policy MS-3.2), and is generally consistent with planned growth in the Alviso area under the General Plan. Therefore, implementation of the proposed project not create the need for major new utility or water supply infrastructure and would have a less than significant impact on the City's water supply. **(Less Than Significant Impact)**

3.14.2.6 *Solid Waste*

The proposed project would incrementally increase the amount of solid waste generation from America Center, in that the proposed project would generate approximately 355,300 pounds of waste per year. Based upon Santa Clara County's IWMP and analysis in the City's General Plan FPEIR, the increase in waste generated by full buildout under the General Plan (including the proposed project) would not cause the City to exceed the capacity of existing landfills that serve the City. Significant increases in solid waste generation would be avoided with ongoing implementation of the City's Zero Waste Strategic Plan. Additionally, the total permitted landfill capacity of the five operating landfills in the City is approximately 5.3 million tons per year with disposal capacity through 2022. Thus, the project would have a less than significant impact on solid waste disposal capacity.[99] **(Less Than Significant Impact)**

3.14.2.7 *Other Utilities*

The proposed project would connect to existing natural gas and electrical lines within the America Center site. Natural gas and electrical work would occur within the project site and the existing right-of-way, and the project would implement applicable policies relating to construction stormwater runoff and dust control. Therefore, the project would not result in a significant environmental impact related to improvements for these facilities. **(Less than Significant Impact)**

3.14.2.8 *Plans and Policies Consistency*

The project would be required to comply with the NPDES MRP and applicable plans, General Plan Policy IN-3.7 and IN-3.9, Alviso Master Plan Storm Drainage Policy 1, and regulations for the treatment of stormwater, including City of San José Council Policy 6-29, which address on site treatment of stormwater at development projects. The project proposes use of privately maintained Filtera units, treatment planters, and a stormwater detention basin to comply with treatment requirements, which is consistent with Alviso Master Plan Storm Drainage Policy 2. The project would require a connection to the existing water line in America Center Court, which is a private

[99] California Integrated Waste Management Board. *Targeted Statewide Waste Characterization Study: Waste Disposal and Diversion Findings for Selected Industry Groups.* June 2006. 1.87 lbs per year(190,000 square feet) = 355,300 lbs waste/year generated.

street (consistent with Alviso Master Plan Water Supply Policy 3). The project would also be required to use water efficient plants in conformance with the City's Landscape Ordinance, General Plan Policy MS-3.1 and MS-3.3, and Alviso Master Plan Water Supply Policy 1.

3.14.3 Conclusion

Implementation of the proposed project would result in less than significant utilities and service system impacts. The proposed project would not require new off-site utility lines or facilities and would not exceed the capacity of existing utility and service systems. **(Less than Significant Impact)**

SECTION 4.0 CUMULATIVE IMPACTS

4.1 CUMULATIVE ANALYSIS

Cumulative impacts, as defined by CEQA, refer to two or more individual effects, which when combined, compound or increase other environmental impacts. Cumulative impacts may result from individually minor, but collectively significant effects taking place over a period of time. CEQA Guideline Section 15130 states that an EIR should discuss cumulative impacts "when the project's incremental effect is cumulatively considerable." The discussion does not need to be in as great detail as is necessary for project impacts, but is to be "guided by the standards of practicality and reasonableness." The purpose of the cumulative analysis is to allow decision makers to better understand the impacts that might result from approval of past, present, and reasonably foreseeable future projects, in conjunction with the proposed project addressed in this EIR.

The CEQA Guidelines advise that a discussion of cumulative impacts should reflect both their severity and the likelihood of their occurrence. To accomplish these two objectives, the analysis should include either a list of past, present, and probable future projects or a summary of projections from an adopted general plan or similar document. The analysis must then determine whether the project's contribution to any cumulatively significant impact is cumulatively considerable, as defined by CEQA Guideline Section 15065(a)(3).

4.1.1 Timeframe of Analysis

For the purpose of the cumulative impacts analysis, the proposed project is defined in terms of construction duration and post-construction operation. The project applicant anticipates that construction of the project will take approximately 20 months and would consist of demolition of the existing paving and landscaping, site preparation, pile drilling/driving, construction of Building 5 and the parking garage extension, paving, and installation of landscaping. It is anticipated that construction would start in spring 2018 and the building would be occupied in late 2019.

4.1.2 Area of Analysis

Section 15130(b)(3) of the CEQA Guidelines states that lead agencies should define the geographic scope of the area affected by the cumulative effect. It is assumed that potential cumulative impacts would not occur in conjunction with other projects beyond this distance because of the nature of the project. Neither construction nor operation will result in impacts significant enough to be cumulatively considerable, particularly if the planned projects are greater than one mile away. This is true of the cumulative analysis for the project for all resource areas except for Transportation, where the cumulative impacts could occur up to 2 miles from the project, and air quality, and GHG emissions, where the project's contribution to a cumulative impact within the City of San José, the greater air basin, and globally is discussed.

4.1.3 Cumulative Project List

For the purposes of this document, "reasonably foreseeable" refers to projects that federal, state, or local agency representatives have knowledge of from the formal application process. Table 4.1-1 lists the known projects that are within approximately two miles of the project and are large enough that a cumulative impact could occur.

Table 4.1-1: Cumulative Projects List					
Project Name	**Address**	**Distance from Project (miles)**	**Project Description**	**Estimated Construction Schedule**	
				Start	**End**
North San José Phase II	Various	0.20	8,000 residential units, 6.7 million square feet of office space, 425,000 square feet of retail/ commercial space	2017	Unknown
237 Industrial Center	Ranch Drive, San José	2.20	1,197,000 square feet of light-industrial space	Unknown	Unknown
Top Golf	4701 North First Street, San José	0.40	Golf/entertainment center including a restaurant, 200-room hotel, and 110,000 square feet of retail space	2017	2017
Residence Inn	N/A	Adjacent to the northeast	261-room hotel	2017	2019
Bay Trail Reach 9	N/A	Adjacent to the north, east, and west	13-mile portion of the San Francisco Bay Trail, including a bridge over the Alviso Slough	Unknown	Unknown
South Bay Salt Pond Restoration Project	Don Edwards San Francisco Bay National Wildlife Refuge	Adjacent to the north, east, and west; Pond A8 is immediately adjacent to the northwest	Restoration of 15,100 acres of salt ponds and adjacent habitats in south San Francisco Bay	2017	2018
Bixby Lane Office	Tasman Drive/Old Ironside Drive	0.90 mile	150,000 square foot office building	Unknown	Unknown
Great America Master Plan	4701 Great America Pkwy, Santa Clara	1.20 miles	59,050 square feet of restaurant, 8,700 square feet of retail, a theater, bowling alley, and event center	2017	2036

4.1.4 Thresholds of Significance

The discussions below address the following aspects of cumulative impacts:

- Would the effects of the proposed project, when combined with the effects of all past, present, and pending development result in a cumulatively significant impact on the resources in question?

- If a cumulative impact is likely to be significant, would the contribution of the proposed project to that impact be cumulatively considerable?

4.1.5 Potential Cumulative Impacts

This section discusses whether the proposed would result in significant short-term or long-term environmental impacts when combined with other past, present, planned, and probable future projects in the area. Short-term impacts are generally associated with construction of the project, while long-term impacts are those that result from permanent project features or operation of the project.

4.1.5.1 *Aesthetics*

Construction

Cumulative aesthetic impacts could occur as a result of the proposed project in combination with the North San José Phase II, Top Golf, Residence Inn, City Place, South Bay Salt Pond Restoration Project, and other projects in the north San José area during construction. However, North San José Phase II and City Place are located on the south side of SR 237 would not be visible within the same SR 237 viewshed as the proposed project due to the curvature of the roadway. Work at the Salt Ponds would not include large-scale equipment or disturbance that might be visible along with the project activities. Cumulative construction impacts would also be limited because the projects in the cumulative scenario are separated by distance (City Place would occur along Tasman Drive approximately 0.80 mile from the project) and the construction schedule for North San José Phase II has not yet been determined. For these reasons, a cumulative impact would not occur.

Operation

The City's General Plan also calls for substantial development in the Alviso and North San José area in the vicinity of the project site. Much of this development would include multi-story structures such as office buildings and hotels that would be similar in scale to those proposed by the project. The General Plan FPEIR concluded that build-out of the General Plan would result in a less than significant cumulative impact to visual resources, assuming General Plan policies are implemented by individual projects. The proposed project heights are consist with what is allowed under the City's General Plan. The project would be required to implement policies from the City's Commercial Design Guidelines to reduce the project's effects on the visual character of the area related to architectural design, and use of quality materials and landscaping. With implementation of relevant City policies, the project would not result in a new cumulative aesthetics impact, nor would it make a considerable contribution to an existing significant cumulative aesthetics impact. **(Less than Significant Cumulative Impact)**

4.1.5.2 *Air Quality*

Construction

Construction activities associated with all of the cumulative project shown in Table 4.1-1 would temporarily affect local air quality. Construction activities such as demolition, earthmoving, construction vehicle traffic, and wind blowing over exposed earth would generate diesel exhaust

emissions and fugitive particulate matter emissions that would affect local and regional air quality. The proposed project could be constructed at the same time as all the projects in Table 4.1-1 (except for Top Golf); thus, there is the potential for cumulative construction air quality impacts. However, the cumulative projects are scattered throughout the City of San José and neighboring City of Santa Clara and their schedules for active ground-disturbing construction would likely differ, which lessens the potential for cumulative impacts because construction-related air-quality impacts are generally localized.

Only the Residence Inn, South Bay Salt Pond Restoration Project, and Bay Trail Reach 9 would be constructed within a close enough proximity that there is a potential for a cumulative construction air quality impact to sensitive receptors as a result of TAC emissions from heavy equipment. However, the proposed project would implement MM AQ-1.1 and cumulative projects in the vicinity would also be required to implement similar measures to reduce air quality impacts. As a result, the project, along with all the other cumulative projects, would not result in a significant short-term cumulative construction air quality impact.

Operation

The San Francisco Bay Area Air Basin is currently designated as a non-attainment area for state and national ozone standards and PM ambient air quality standards. The area's nonattainment status is attributed to the region's development history. Past, present, and future development projects contribute to the region's adverse air quality impacts on a cumulative basis. By its very nature, air pollution is largely a cumulative impact. No single project is sufficient in size to, by itself, result in nonattainment of ambient air quality standards. Instead, a project's individual emissions contribute to existing cumulatively significant adverse air quality impacts. If a project's contribution to the cumulative impact is considerable, then the project's impact on air quality would be considered significant.

Thus, the proposed project would make a cumulatively considerable contribution to regional air quality impacts because the America Center development in its entirety would exceed NOx emissions thresholds established by BAAQMD. This exceedance is due primarily to vehicle-related emissions. Because air quality impacts are by their nature cumulative, this is the same impact as described under Impact AQ-1. **(Significant, Unavoidable Cumulative Impact)**

4.1.5.3 *Biological Resources*

The proposed project would not impact sensitive habitat, wetlands, or riparian areas; therefore, construction and operation of the project would not contribute to a cumulative impact for those resources. There is a potential for nesting and migratory birds or burrowing owls to occur in the proposed project area; however, the proposed project and other developments in the cumulative scenario would be required to implement conditions of approval or mitigation measures that would avoid nesting bird and burrowing owl impacts, consistent with the provisions of state and federal law, and the Habitat Plan (where applicable). Projects in San José would also be subject to Council Policy 6-34, requiring bird-safe design measures be incorporated into projects. These conditions, measures, and policies would reduce each project's contribution to cumulative impacts to nesting birds and burrowing owls to a less than significant level. For these reasons, the proposed project, would not result in significant cumulative impacts to nesting birds or burrowing owls.

The proposed project would remove 87 on-site trees, which could result in a cumulative impact as a result of the removal of trees and tree canopy in the project area. However, other projects in Table 4.1-1 are located far enough from the proposed project that cumulative impacts to the coverage of the urban tree canopy in the project area would not occur. Thus, the potential for the project to contribute to a significant loss of trees in the area is unlikely due to separation and distance and because those trees would be protected by their corresponding jurisdictions and any removal would require review and tree replacement. **(Less than Significant Cumulative Impact)**

4.1.5.4 *Cultural Resources*

Cumulative impacts to archaeological or paleontological resources could occur as a result of increased ground-disturbing activities by multiple projects. The proposed project is located primarily on a closed landfill site, and the potential for buried archaeological or paleontological resources to occur is limited to the effects of driven foundation piles that would extend into native soils or Bay Mud. Additionally, all cumulative projects would be required to implement conditions of approval or mitigation measures to avoid impacts to archaeological and paleontological resources and/or reduce them to a less than significant level, consistent with federal, state, and local laws and requirements. For these reasons, the cumulative projects, including the proposed project, would not result in significant cumulative impacts to archaeological or paleontological resources. **(Less than Significant Cumulative Impact)**

4.1.5.5 *Energy*

Cumulative energy impacts could occur as a result of the project in combination with the other projects in the cumulative scenario listed in Table 4.1-1. All projects would use energy during construction; however, the overall construction schedule and process for all projects is designed to be efficient in order to avoid excess monetary costs. Additionally, all projects would include air quality-related measures to lessen idling times of equipment and improve the efficiency during construction. As a result, any construction-related cumulative energy impact as a result of wasteful use would be less than significant.

The proposed project in conjunction with other larger cumulative developments in Table 4.1-1 could result in cumulative energy impacts during operation/occupation if energy were wasted. However, all projects in the City of San José and City of Santa Clara would be required to be constructed consistent with each city's adopted Green Building Ordinance, which require energy efficient design and use of fixtures to ensure buildings do not waste energy. Operation/occupation of all projects in the cumulative scenario would not result in a substantial increase in demand upon energy resources because their combined energy requirements would not exceed anticipated state, county, or local energy supplies; thus, the impact would be less than significant. **(Less than Significant Cumulative Impact)**

4.1.5.6 *Geology and Soils*

The proposed project site and the Residence Inn site are both located on top of fill materials from the closed SR 237 Landfill. Soil settlement and instability are an issue at both sites. However, with adherence to required building codes, mitigation measures, and geotechnical investigation recommendations, the proposed project in combination with the Residence Inn would not

significantly increase or exacerbate the risk of existing geological hazards on site. Thus, a cumulative impact for this resource area would occur. **(Less than Significant Cumulative Impact)**

4.1.5.7 *Greenhouse Gas Emissions*

Emissions of greenhouse gasses (GHGs) have a broader, global impact as they accumulate and move through the earth's atmosphere. Many of the major greenhouse gases can remain in the atmosphere for tens to hundreds of years after being released. They become globally mixed in the lower atmosphere, reflecting contributions from emissions sources worldwide. As the result of the extent of human sources of GHG worldwide, the stability of many of these compounds in the atmosphere, and the mixing that occurs in the atmosphere (and oceans), the effects of GHG emissions on climate are considered global, cumulative impacts.

The analysis of greenhouse gas emissions and global climate change is cumulative by nature. As described in Section 3.7.2 Greenhouse Gas Emissions Impacts, implementation of the proposed project is consistent with the City's GHG Reduction Strategy and GHG emissions impacts from operations would be consistent with local targets and statewide targets. **(Less Than Significant Cumulative Impact)**

4.1.5.8 *Hazards and Hazardous Materials*

Several projects included within the cumulative scenario Table 4.1-1 are located on former landfills or known contaminated sites, including North San José Phase II, Top Golf, City Place, and Residence Inn. There is a risk that exposure to contamination in soils or groundwater could be released during construction could expose construction workers and members of the public to hazardous materials during construction activities. However, the proposed project and all projects in the cumulative scenario would be required to implement Soils Management Plans or other relevant hazardous materials management plan to reduce any potential for impacts as a result of a release. Further, hazardous materials and other public health and safety issues are generally site-specific and would be unlikely to occur at the same time such that a cumulative impact would occur. For example, the proposed project would be unlikely to contribute to impacts associated with other contaminated sites in Santa Clara County. As a result, any cumulative impact would be less than significant. **(Less than Significant Cumulative Impact)**

4.1.5.9 *Hydrology and Water Quality*

The proposed project would not use groundwater or require excavation, such that cumulative hydrological impacts would result. The project would not place structures in a flood zone or alter the land topography and drainage pattern because significant grading or changes to existing grades would not occur. Thus, cumulative impacts as a result of flooding would be less than significant with adherence to applicable regulations.

Build-out of other cumulative projects in the Guadalupe and San Tomas Aquino watershed would generally involve work in paved areas that contain substantial impervious surfaces. Additionally, all projects in the cumulative scenario would be required to comply with applicable stormwater and NPDES requirements, including implementation of construction-period stormwater pollution practices, and post-construction measures to reduce water quality impacts. Further, the South Bay

Salt Pond Restoration Project is anticipated to improve water quality conditions in the vicinity of the project. The proposed project, together with other cumulative projects, would not result in significant cumulative hydrology and water quality impacts. **(Less than Significant Cumulative Impact)**

4.1.5.10 *Land Use*

Development as part of cumulative projects shown in Table 4.1-1 would result in a change of use and/or an intensification of development at each project's respective site. However, the proposed project is consistent with the planned intensity and pattern of development under the General Plan land use designation for the site. The proposed project would not result in significant contribution to land use compatibility impacts or conflict with an adopted plan. Additionally, the project would increase the number of jobs offered at the site and would not contribute to cumulative jobs/housing imbalance impacts in the City of San José. **(Less than Significant Cumulative Impact)**

4.1.5.11 *Noise and Vibration*

Construction of the proposed project and three of the projects listed in Table 4.1-1 (Residence Inn, South Bay Salt Pond Restoration Project, and Bay Trail Reach 9) may occur at the same time such that temporary cumulative construction-related noise impacts could occur. However, the South Bay Salt Pond Restoration Project and Bay Trail Reach 9 would not utilize significant noise-producing equipment during construction. Noise impacts for the proposed project are specifically related to pile-driving activities during construction of foundation structures at the project site. The Legacy Terrace FEIR disclosed that this construction noise at the project site would be a significant and unavoidable impact. Cumulative noise impacts as a result of pile-driving noise generated during construction at the Residence Inn site, along with pile-driving noise generated in the western portion of the America Center site, could temporarily impact residents of the mobilehome park and commercial uses in the vicinity. These impacts, however, would be short term and would be unlikely to occur at the same time such that a cumulative impact would occur given that pile-driving only occurs during construction of the foundation structure. Once operational, noise impacts as a result of the proposed project would be minimal as compared to the surrounding noise environment. Thus, the proposed project, in combination with cumulative projects, would not result in a significant temporary cumulative noise impact, especially given the implementation of the measures contained within MM NOI-1.1 to address project-level Impact NOI-1. **(Less Than Significant Cumulative Impact)**

4.1.5.12 *Public Services and Recreation*

The project would not contribute to residential growth in the area. While employees at the project site may require police and fire services and may use area parks, a cumulative impact would not occur because other projects in the cumulative scenario (and listed in Table 4.1-1) are separated by distance. Cumulative developments that are closest to the proposed project (Residence Inn and Top Golf) are also commercial uses that are not anticipated to result in a significant increase in the need for local public services or recreational facilities. Employees or residents of projects in the cumulative scenario would utilize other nearby services, including those within the neighboring City of Santa Clara. For these reasons, and cumulative impacts to public services would be less than significant. **(Less than Significant Cumulative Impact)**

4.1.5.13 *Transportation*

Traffic volumes under cumulative conditions were estimated by adding the trips from proposed but not yet approved (pending) development projects within the City of San José to background condition traffic volumes. Cumulative plus project conditions are the cumulative no project condition plus project generated traffic.

City of San José Cumulative Significance Threshold

As with existing plus project and background plus project, in the City of San José the proposed project would have a significant cumulative level of service (LOS) impact if it would:

- Cause the level of service at any local intersection to degrade from an acceptable LOS D or better under background conditions to an unacceptable LOS E or F under cumulative conditions;
- Cause the level of service at any Congestion Management Program (CMP)/County intersection or freeway segment to degrade from an acceptable LOS E or better under background conditions to an unacceptable LOS F under cumulative conditions; or
- For any local intersection that is already an unacceptable LOS E or F under background conditions, cause the critical-movement delay at the intersection to increase by four or more seconds and the volume-to-capacity ratio (V/C) to increase by one percent (0.01) or more[100]; or
- For any designed Protected Intersection that is already at an unacceptable LOS E or F under background conditions, cause both the critical movement delay at the intersection to increase by two or more seconds and the V/C to increase by one-half percent (0.005) or more.

A single project's contribution to a cumulative intersection impact is deemed considerable in the City of San José if the proportion of project traffic represents 25 percent or more the increase in total traffic volume from background traffic conditions to cumulative traffic conditions. A significant cumulative impact is deemed mitigated to a less than significant level by the City of San José if the measures implemented would restore the intersection LOS to background conditions or better at non-protected intersections.

City of Santa Clara Cumulative Significance Threshold

The project is said to create a significant adverse impact on traffic conditions at a signalized intersection in the City of Santa Clara if for either peak hour:

- The level of service at the intersection degrades from an acceptable level (LOS D or better at all city-controlled intersections and LOS E or better at all expressway intersections) under cumulative no project conditions to an unacceptable level (LOS E or F at city-controlled intersections and LOS F at expressway intersections) under cumulative conditions, or

[100] An exception to this threshold applies when the addition of project traffic reduces the amount of average stopped delay for critical movements (i.e., the critical movement is negative). In this case, the threshold of significance is an increase in the critical V/C of 0.01 or more.

- The level of service at the intersection is an unacceptable level (LOS E or F at city-controlled intersections and LOS F at expressway intersections) under cumulative no project conditions and the addition of project trips causes the average critical delay to increase by four or more seconds *and* the V/C to increase by one percent or more.

A significant impact by the local municipalities' standards is said to be satisfactorily mitigated when measures are implemented that would restore intersection level of service to an acceptable level or no worse than cumulative no project conditions.

Cumulative Intersection Impacts

Intersections level of service results under cumulative conditions are summarized in the following Table 4.1-2. Based on the analysis, two City of San José intersections would be cumulatively impacted during the AM peak hour.

Impact TRA(C)-1: The proposed project would result in a cumulatively considerable contribution to traffic impacts at two San José intersections (Lafayette Street and Gold Street Connector and Great America Parkway and Eastbound SR 237) based on cumulative impact criteria. **(Significant Cumulative Impact)**

Mitigation Measures

MM TRA (C)-1.1: Lafayette Street and Gold Street Connector - MM TRA-1.1, requiring improvements at the intersection of Lafayette Street and the Gold Street Connector (e.g., addition of a second northbound left-turn lane), would reduce the project and cumulative impact at this intersection to a less than significant level. **(Less than Significant Cumulative Impact with Mitigation Incorporated)**

MM TRA (C)-1.2: Great America Parkway and Eastbound SR 237 - Prior to Public Works Clearance, the project applicant shall pay a fair share amount towards improvements to the Great America Parkway/State Route 237 intersection. Improvements would include the addition of a third left-turn lane and second right-turn lane to the westbound approach to the intersection (SR 237 off-ramp). The Director of Public Works shall determine the fair share based on the cost of the improvement at the time the payment is due and the project's contribution to the impact (typically based on a 25 percent contribution of traffic or more to the cumulative impact). The fair share amount shall be paid to the City of San Jose Public Works Depositors Fund. **(Less than Significant Cumulative Impact with Mitigation)**

A determination for fair share is based on the cost of the improvement at the time the payment is due, prior to issuance of building permits, and the project's contribution to the impact. The City of San José determines cumulatively considerable based on 25 percent contribution of traffic or more to the cumulative impact.

Table 4.1-2: Cumulative Conditions Intersection Levels of Service										
Intersection	**Jurisdiction**	**Peak Hour**	**Existing**		**Cumulative**		**Cumulative Plus Project**			
			Average Delay[1] (seconds)	**LOS[2]**	**Average Delay[1] (seconds)**	**LOS[2]**	**Average Delay[1] (seconds)**	**LOS[2]**	**Increase in Delay**	**Increase in V/C**
1. Great America Parkway/Gold Street	San José	AM	32.2	C	39.1	D	37.1	D	9.5	0.014
		PM	22.2	C	27.2	C	29.2	C	11.9	0.104
2. Lafayette Street/Gold Street Connector	San José	AM	92.2	F	92.1	F	**105.5**	**F**	**19.3**	**0.061**
		PM	24.9	C	27.4	C	30.3	C	7.5	0.067
3. Great America Parkway and SR-237(E)*	San José	AM	40.6	D	81.3	F	**80.6**	**F**	**18.2**	**0.044**
		PM	15.0	B	35.2	D	38.7	D	11.9	0.067
4. Great America Parkway/SR-237(W)*	San José	AM	40.6	D	48.0	D	54.7	D	22.7	0.065
		PM	15.0	B	17.8	B	23.8	C	15.0	0.116
5. Great America Parkway/Great America Way	San José	AM	30.3	C	34.7	C	34.9	C	0.6	0.002
		PM	18.9	B	20.1	C	20.0	C	0.1	0.003
6. Great America Parkway/Alviso Road	San José	AM	76.4	E	97.3	F	97.4	F	1.8	0.003
		PM	130.1	F	144.9	F	150.8	F	2.0	0.003
7. Great America Parkway/Bunker Hill Lane	San José	AM	13.2	B	13.5	B	13.4	B	0.0	0.002
		PM	14.7	B	15.2	B	15.2	B	0.1	0.016
8. Great America Parkway/Tasman Drive*	San José	AM	35.5	D	42.5	D	42.8	D	.8	0.007
		PM	73.6	E	97.7	F	101.0	F	2.2	0.006
9. Great America Parkway/Old Glory Lane	San José	AM	15.2	B	15.3.	B	15.3	B	0.0	0.002
		PM	39.8	D	49.5	D	52.2	D	4.5	0.011

Table 4.1-2: Cumulative Conditions Intersection Levels of Service										
Intersection	**Jurisdiction**	**Peak Hour**	**Existing**		**Cumulative**		**Cumulative Plus Project**			
			Average Delay[1] (seconds)	**LOS[2]**	**Average Delay[1] (seconds)**	**LOS[2]**	**Average Delay[1] (seconds)**	**LOS[2]**	**Increase in Delay**	**Increase in V/C**
10. Great America Parkway/Patrick Henry Drive	Santa Clara	AM	26.6	C	28.3	C	28.3	C	0.2	0.001
		PM	24.3	C	29.9	C	31.5	C	2.5	0.008
11. Great America Parkway/Mission College Boulevard*	Santa Clara	AM	55.8	E	67.8	E	70.4	E	0.0	0.000
		PM	105.4	F	122.0	F	124.2	F	3.2	0.008
12. Great America Parkway/US 101 Northbound Ramps*	Santa Clara	AM	23.3	C	28.6	C	29.6	C	1.3	0.006
		PM	34.5	C	55.7	E	58.8	E	4.0	0.010
13. Bowers Avenue/US 101 Southbound Ramps*	Santa Clara	AM	26.6	C	29.9	C	30.4	C	0.8	0.006
		PM	8.0	A	8.7	A	8.8	A	0.1	0.005
14. Lafayette Street/Calle De Luna	Santa Clara	AM	15.5	B	17.4	B	18.7	B	3.1	0.089
		PM	18.2	B	19.4	B	20.0	B	0.2	0.010
15. Calle Del Sol/ Tasman Drive	Santa Clara	AM	14.7	B	15.9	B	15.9	B	0.0	0.009
		PM	18.9	B	19.0	B	19.7	B	0.8	0.016
16. Lick Mill Boulevard/Tasman Drive	Santa Clara	PM	40.3	D	40.4	D	40.5	D	0.1	0.010
		AM	56.0	E	58.7	E	59.3	E	1.2	0.007

[1] Whole intersection weighted average control delay expressed in seconds per vehicle calculated using methods described in the *2000 HCM*, with adjusted saturation flow rates to reflect Santa Clara County Conditions. Total control delay for the worst movement is presented for side-street stop-controlled intersections. Delay for the worst approach is reported for unsignalized intersections.

[2] LOS calculations conducted using the TRAFFIX level of service analysis software package.

* Denotes a VTA CMP intersection.

Bold and shading denote a significant impact.

Source: Hexagon Transportation Consultants. *America Center Phase III Building 5 Development Traffic Impact Analysis.* March 28, 2017.

4.1.5.14 *Utilities and Service Systems*

The proposed project, together with the cumulative projects listed in Table 4.1-1 would increase the generation of solid waste. However, it is anticipated landfills serving the greater project area (including many of the cumulative projects) would have adequate capacity to accommodate solid waste generation from its surrounding communities through 2022. Additionally, the proposed project and all projects in the cumulative scenario would recycle and/or salvaging 50 percent of non-hazardous construction and demolition debris, as required by the City's Green Building Ordinance. The project would represent a small cumulative contribution to the overall amount of solid waste generated. Because existing landfill capacity exists to serve development in the cumulative scenario and because the proposed project would not make a significant cumulative contribution, the impact would be less than significant. **(Less than Significant Cumulative Impact)**

SECTION 5.0 GROWTH-INDUCING IMPACTS

For the purposes of this project, a growth inducing impact is considered significant if the project would:

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

The project proposes intensification of development on an existing office campus. The site is surrounded by both existing and planned development, as well as existing infrastructure within the urban service area serves the site. Development under the proposed PD rezoning and PD Permit will not require upgrades to the existing sanitary sewer and/or storm drain lines that directly serve the project site. In addition, the project does not include expansion of the existing infrastructure that would facilitate growth in the project area or other areas of the City.

The project proposes to place new commercial office/R&D space, as well as a parking garage, in the middle of a mixed-use development with existing hotel and commercial office/R&D development. The proposed project would be compatible with the neighboring land uses and would not pressure adjacent properties to redevelop with new or different land uses, in a manner inconsistent with the existing General Plan.

Development under the proposed project would result in a net increase in jobs Citywide, but is still within the jobs assumptions in the General Plan. There is currently an abundance of housing within the City of San José compared to the number of jobs within the City. The increase in jobs will incrementally decrease the overall jobs/housing imbalance within the City. Thus, the project would not have a significant growth inducing impact.

SECTION 6.0 SIGNIFICANT AND IRREVERSIBLE ENVIRONMENTAL CHANGES

CEQA and the CEQA Guidelines require that an EIR address "significant irreversible environmental changes which would be involved in the proposed project, should it be implemented." [§15126(c)]

The proposed project would involve the use of non-renewable resources both during construction phases and future operations/use of the site. Construction would include the use of building materials, including materials such as petroleum-based products and metals that cannot reasonably be re-created. Construction also involves significant consumption of energy, usually petroleum-based fuels that deplete supplies of non-renewable resources. Upon completion of new construction on-site, occupants will use non-renewable fuels to heat and light the buildings. The proposed project would also result in the increased consumption of water on site.

The City of San José encourages the use of building materials that include recycled materials and makes information available on those building materials to developers. New buildings will be built to current codes, which require insulation and design to minimize wasteful energy consumption. The proposed development would be constructed to LEED Silver standards and would, as a result, use less energy for heat and light and less water than standard design buildings. In addition, the site is an infill location and is currently served by existing infrastructure and connections to public transportation. The site provides an expansion of job opportunities that are more reasonably proximate to existing housing and transportation networks in Santa Clara, San José, and Cupertino than housing farther away in the south county and other counties to the north. The proposed project will, therefore, facilitate a more efficient use of resources over the life time of the project.

SECTION 7.0 SIGNIFICANT AND UNAVOIDABLE IMPACTS

A significant unavoidable impact is an impact that cannot be mitigated to a less than significant level if the project is implemented as it is proposed. The Legacy Terrace Final (Legacy Terrace FEIR) identified the following significant, unavoidable impacts that would be the same or similar under the proposed project.

SIGNIFICANT UNAVOIDABLE IMPACTS

A significant unavoidable impact is an impact that cannot be mitigated to a less than significant level if the project is implemented as it is proposed. The Legacy Terrace FEIR identified the following significant, unavoidable impacts that would be the same or similar under the proposed project.

1) Aesthetics: views of from SR 237 and from trails in the vicinity
2) Air Quality: vehicle-related operational emissions of NOx
3) Noise: short-term, pile driving noise at sensitive residential receptors during construction
4) Transportation/Traffic: mixed-flow lane freeway segment traffic at SR 237 between Great America Parkway and North First Street (PM peak hour)

Implementation of the proposed project would also result in the following new or substantially more severe significant impacts, which would be considered significant and unavoidable.

5) Transportation: impacts at the following locations:

   Mixed-flow lane freeway segment impacts:

   - Eastbound SR 237 between Great America Parkway and North First Street (PM Peak Hour)
   - Eastbound SR 237 between North First Street and Zanker Road (PM peak hour)
   - Westbound SR 237 between I-880 and McCarthy Boulevard (AM peak hour)
   - Westbound SR 237 between McCarthy Boulevard and Zanker Road (AM and PM peak hours)

   HOV lane freeway segment impacts:

   - Westbound SR 237 between I-880 and McCarthy Boulevard (AM peak hour)

All other significant impacts of the proposed project would be reduced to a less than significant level with the implementation of mitigation measures identified in this EIR.

SECTION 8.0 ALTERNATIVES

8.1 INTRODUCTION

The CEQA Guidelines give extensive direction on identifying and evaluating alternatives to a proposed project (Section 15126.6). The purpose of analyzing alternatives is to identify ways to substantially lessen or avoid the significant effects that a proposed project may have on the environment. The range of alternatives selected for analysis is governed by the "rule of reason", which requires the EIR to discuss only those alternatives necessary to permit a reasoned choice. Although the alternatives do not have to meet every goal and objective set for the proposed project, they should attempt to feasibly attain most of the basic objectives.

The CEQA Guidelines do not require that all possible alternatives be evaluated, only that a range of feasible alternatives be discussed so as to encourage both meaningful public participation and informed decision making. In selecting alternatives to be evaluated, consideration may be given to their potential for reducing significant unavoidable impacts, reducing significant impacts that are mitigated to less than significant levels by the project, and further reducing less than significant impacts.

8.2 IMPACTS OF THE PROJECT

8.2.1 Less than Significant Impacts with Mitigation Incorporated

As mentioned above, the CEQA Guidelines advise that the alternatives analysis in an EIR should be limited to alternatives that would avoid or substantially lessen the significant impacts of the project and achieve most of the project objectives. The proposed project impacts listed below would be lessened to a less than significant level with mitigation incorporated into the project.

- Air Quality: construction-related dust
- Biological Resources: impacts to nesting birds and burrowing owls
- Geology and Soils: differential settlement and seismicity
- Hazards and Hazardous Materials: soil contamination and landfill gas
- Hydrology and Water Quality: contaminated stormwater runoff
- Transportation/Traffic: intersection impacts at Lafayette Street and the Gold Street Connector

8.2.2 Significant Unavoidable Impacts Identified in the Legacy Terrace FEIR

A significant unavoidable impact is an impact that cannot be mitigated to a less than significant level if the project is implemented as it is proposed. The Legacy Terrace FEIR identified the following significant, unavoidable impacts that would be the same or similar under the proposed project:

- Aesthetics: views of from SR 237 and from trails in the vicinity
- Air Quality: vehicle-related operational emissions of NOx
- Noise: short-term, pile driving noise at sensitive residential receptors during construction
- Transportation/Traffic: Mixed-flow lane freeway segment traffic impacts at SR 237 between Great America Parkway and North First Street (PM Peak Hour)

8.2.3 New Significant and Unavoidable Impacts

Implementation of the proposed project would also result in the following new or substantially more severe significant impacts, which would be considered significant and unavoidable.

- Transportation/Traffic: impacts at the following locations:

  Mixed-flow lane freeway segment impacts:

  - Eastbound SR 237 between Great America Parkway and North First Street (PM Peak Hour)
  - Eastbound SR 237 between North First Street and Zanker Road (PM peak hour)
  - Westbound SR 237 between I-880 and McCarthy Boulevard (AM peak hour)
  - Westbound SR 237 between McCarthy Boulevard and Zanker Road (AM and PM peak hours)

  HOV lane freeway segment impacts:

  - Westbound SR 237 between I-880 and McCarthy Boulevard (AM peak hour) Impact

All other significant impacts of the proposed project would be reduced to a less than significant level with the implementation of mitigation measures identified in this EIR, as well as those from the Legacy Terrace FEIR.

8.3 PROJECT OBJECTIVES

Pursuant to CEQA Guidelines Section 15124, the EIR must identify the objectives sought by the proposed project. Applicable objectives from the Legacy Terrace FEIR and as proposed by the applicant include:

- Providing a development consistent with the vision for the Alviso Community stated in the General Plan and *Alviso Master Plan: A Specific Plan for the Alviso Community* (Alviso Master Plan);
- To efficiently cluster large-scale development allowing for:
  - Establishment and maintenance of a permanent open space preserve and buffer between the Alviso Village and the Guadalupe River;
  - Large scale development in the Golden Triangle Area of San José with direct access to SR 237 so that surrounding streets are less impacted;
  - Efficient use of existing infrastructure (including roads, utility lines, transit, etc.);
  - Increased cost-sharing of building and landscape maintenance costs;
- Utilization of the closed landfill site at an increased density with viable economic uses, which will augment the City's tax base and help reduce demand for greenfield development;
- Adding approximately 800 needed jobs to San José; and
- Creating buildings sizeable enough to attract large-company tenants to the Alviso Community/San José.

8.4 ALTERNATIVES DISCUSSION

CEQA, the CEQA Guidelines, and case law on the subject have found that feasibility of an alternative can be based on a wide range of factors and influences. CEQA Guidelines Section 15364 define feasibility as "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors". The CEQA Guidelines advise that the factors to be taken into account when addressing the feasibility of alternatives can include (but are not necessarily limited to) the suitability of an alternate site, economic viability, availability of infrastructure, consistency with a general plan or with other plans or regulatory limitations, jurisdictional boundaries, and whether the project proponent can "reasonably acquire, control or otherwise have access to the alternative site" (Section 15126.6(f)(1)).

Notably, inclusion of an alternative in an EIR requires only that the alternative be "potentially feasible." The ultimate determination of "actual feasibility" can only be made by final agency decision-makers, who have the discretion under CEQA to reject as "infeasible" alternatives that embody what the decision-makers believe to be unacceptable policy tradeoffs. After weighing "economic, environmental, social, and technological factors," such decision-makers "may conclude that an alternative is impractical or undesirable from a policy standpoint and reject it as infeasible on that ground." Similarly, "an alternative 'may be found infeasible on the grounds it is inconsistent with the project objectives as long as the finding is supported by substantial evidence in the record" (*California Native Plant Society v. City of Santa Cruz* [2009] 177 Cal.App.4th 957, 1001). The following discussion addresses a location alternative that was considered but rejected.

8.4.1 Alternatives Considered But Rejected

8.4.1.1 *Location Alternative*

CEQA encourages consideration of an alternative site when significant effects of the project might be avoided or substantially lessened. Only locations that would avoid or substantially lessen any of the significant impacts of the project and meet most of the project objectives need be considered for inclusion in the EIR (CEQA Guidelines Section 15126.6(f)(2)).

Locating the proposed project at another site could potentially reduce significant impacts related to transportation and possibly air quality if the project were to be located closer to transit facilities. An alternative site would need to be able to accommodate an approximately 190,000 square foot building and associated parking. Because the overall intent of the proposed project is to provide a large tenant corporate offices and cluster development in one area along SR 237 in a campus setting, the alternative site would need to be located in the general vicinity of the proposed project and would need to be clustered with other similar office uses. In order to identify an alternative site that might reasonably be considered to "feasibly accomplish most of the basic purposes" of the project, and would also mitigate some or all of the significant impacts of the project, it is assumed that such a site would need to have the following characteristics:

- Approximately three or more acres in size;
- Located close to transit;
- Close proximity to other office development areas (such as North San José, for example);

- A zoning designation that allows office uses at a height and FAR similar to the proposed project site;
- Served by available infrastructure; and
- Immediately available.

Location alternatives for the project were considered, but rejected because of the lack of suitable sites that would meet the basic objectives of the project. Since the main objective of the project is to serve a large corporate tenant, there are very limited potential locations for office developments of similar size near the proposed project.

While there are several three-acre or larger parcels along the north side of SR 237 in the project area. These sites are not, however, General Plan designated or zoned for high-density office uses, are already entitled as part of past development approvals, or are located in biologically sensitive areas. Further, these sites would be unlikely to reduce significant traffic impacts or less than significant noise or air quality impacts, and would likely increase aesthetic impacts as a result of an exposed view of a 90-foot-tall building and associated parking garage. Therefore, these areas were eliminated from consideration as location alternatives.

As described previously, alternative sites are either not large enough to accommodate the proposed new building and garage, would require General Plan Amendments and/or rezoning actions to be able to accommodate the proposed project, or it is not known whether the applicant would be able to reasonably acquire, control, or have access to a potential alternative property because they are not listed for sale or are vacant. Further, the project involves building a fifth (though larger than originally planned) structure at a campus where there are four other very similar structures. The intent is that the buildings share amenities and parking. To place the fifth building elsewhere conflicts with the original design purpose to cluster the office space efficiently at one site. Therefore, since no feasible alternative site was identified that would meet the primary objectives of the project, an off-site location alternative was not further analyzed.

8.4.2 Selection of Alternatives

In addition to the No Project Alternative, the CEQA Guidelines advise that the range of alternatives discussed in the EIR should be limited to those that "would avoid or substantially lessen any of the significant impacts of the project" [Section15126.6(f)]. The discussion below addresses a No Project-No Development Alternative, No Project–Develop Under Current PD Zoning Alternative, and a Reduced Intensity Alternative. These three alternatives are discussed with regard to their potential impacts as compared to the proposed project and with regard to the project objectives.

8.5 PROJECT ALTERNATIVES

8.5.1 No Project - No Development Alternative

The CEQA Guidelines stipulate that an EIR specifically include a No Project Alternative. The purpose in including a No Project Alternative is to allow decision-makers to compare the impacts of approving the project with the impacts of not approving the project. The CEQA Guidelines specifically advise that the No Project Alternative is "what would be reasonably expected to occur in

the foreseeable future if the project is not approved, based on current plans and consistent with available infrastructure and community services." The CEQA Guidelines emphasize that an EIR should take a practical approach, and not "…create and analyze a set of artificial assumptions that would be required to preserve the existing physical environment [Section 15126.6(e)(3)(B)]."

8.5.1.1 *Description of Alternative*

Under the No Project - No Development Alternative, the buildings and parking lots existing and under construction at the site would remain. Building 5 would not be constructed. The site would remain as zoned and approved for Buildings 1 through 4 and the parking garage.

8.5.1.2 *Comparison of Impacts*

Under the No Project - No Development Alternative, the project site would remain as it is, and all of the environmental impacts anticipated to occur under the proposed project would be avoided.

8.5.1.3 *Relationship to Project Objectives*

The No Project - No Development Alternative would meet some of the proposed project's specific objectives to provide jobs and provide a more efficient and economically productive use at the site, in that the existing America Center buildings accomplish these goals. However, the site would provide approximately 600 fewer jobs without the additional square footage proposed as part of the project.

8.5.1.4 *Conclusion*

The No Project - No Development Alternative would avoid the project's significant unavoidable transportation and cumulative transportation impacts. This alternative would also avoid the other significant impacts resulting from the project that would be reduced to a less than significant level with the incorporation of mitigation measures. Some but not all of the project objectives would be met under the No Project - No Development Alternative.

8.5.2 No Project–Develop Under Current PD Zoning Alternative

8.5.2.1 *Description of Alternative*

The project site is currently designated *Combined/Industrial Commercial* in the City's General Plan and is located within a *Planned Development (PD)* zoning district. Under the current PD zoning (PDC99-044), 900,000 square feet of development is allowed for the Commercial Office/R&D portion of the project site. Of that total, 867,762 square feet have been constructed or is currently under construction and 32,238 square feet of entitlement remains.

Under the current PD zoning, a 32,238-square-foot office building could be constructed. A potential project under the No Project–Develop Under Current PD Zoning Alternative would likely be one story and would occupy the footprint of the proposed Building 5. The building would likely not be visible as it would be shielded on all sides by existing, much taller structures. Pile driving would still be require for a smaller Building 5 and parking garage extension.

8.5.2.2 *Comparison of Impacts*

The No Project–Develop Under Current PD Zoning Alternative would avoid significant and less than significant transportation impact; however, it would still result in the same less than significant biological, cultural, geology, hazards, hydrology, and noise (depending on the extent of pile driving needed) impacts, though these would likely be less than significant with mitigation incorporated. Aesthetically, the building would be mostly shielded by taller surrounding structures and would avoid any impacts.

8.5.2.3 *Relationship to Project Objectives*

The No Project–Develop Under Current PD Zoning Alternative would meet some of the project goals, in that it would intensify the development of the site and utilize the closed landfill area. Approximately 500 fewer jobs would be provided and it would not meet project objectives related to efficiencies of large scale development on the closed landfill site.

8.5.2.4 *Conclusion*

This alternative could potentially avoid the significant and less than significant transportation impacts; however, the less than significant biological, cultural, geology, hazards, hydrology, and noise impacts would not be avoided. While some of the goals would be accomplished under the No Project–Develop Under Current PD Zoning Alternative, building a one-story, 32,238-square-foot structure would not meet the efficiency goals of the large-scale development objective given the complexities of building on the closed Highway 237 Landfill site.

8.5.3 Reduced Intensity Alternative

8.5.3.1 *Description of Alternative*

A Reduced Intensity Alternative would potentially allow for 55,000 additional feet of development resulting in an approximately 87,000-square-foot, three-story Building 5 (assuming the same footprint as the proposed project and use of the remaining 32,238 of yet unbuilt but entitled square footage at the site).[101] The building would likely not be visible as it would be shielded on all sides by existing, much taller structures. It is unknown the extent of pile driving that might be necessary for a three-story structure.

8.5.3.2 *Comparison of Impacts*

The Reduced Intensity Alternative would avoid significant and less than significant transportation impacts; however, it would still result in the same less than significant biological, cultural, geology, hazards, hydrology, and noise impacts, though these would also likely be less than significant with mitigation incorporated. The significant, unavoidable post-2020 GHG emissions impacts from direct and indirect sources would not be avoided. Aesthetically, a three-story building would be mostly shielded by taller surrounding structures and would not substantially contribute to the identified impacts to views from SR 237 and trails in the Alviso area.

[101] Del Rio, Robert. Vice President & Principal Associate. Hexagon Transportation Consultants. Email correspondence. January 26, 2017. Intersection and freeway impacts are avoided with development of 50,000 square feet.

8.5.3.3 *Relationship to Project Objectives*

Similar to the previously discussed No Project–Develop Under Current PD Zoning Alternative, would meet some of the project goals, in that it would intensify the development of the site and utilize the closed landfill area. Approximately 400 fewer jobs would be provided as part of the 870,000-square-foot building developed under the Reduced Intensity Alternative as compared to the proposed project. At half the square footage and height of the proposed project, it would not fully meet objectives related to the efficiencies of large-scale development on a former landfill site.

8.5.3.4 *Conclusion*

The Reduced Intensity Alternative would avoid significant transportation and cumulative transportation impacts; however, significant biological, cultural, geology, hazards, hydrology, and noise impacts would not be avoided—though these impacts would likely be less than significant with mitigation (similar to the proposed project). This alternative would meet some objectives but would not fully meet all of the project objectives related to providing efficient, large-scale development on a former landfill site.

8.5.4 ENVIRONMENTALLY SUPERIOR ALTERNATIVE

The CEQA Guidelines state than an EIR shall identify an environmentally superior alternative. If the environmentally superior alternative is the "No Project" alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives (Section 15126.6(e)(2)).
The environmentally superior alternative would be the No Project Alternative, which would avoid all project impacts. This alternative would not meet any project objectives.

The Reduced Intensity Alternative would reduce transportation impacts to a less than significant level. This alternative would reduce, but not eliminate, achievement of at least some of project objectives; therefore, this alternative would environmentally superior to the proposed project.

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