CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

INITIAL STUDY/MITIGATED NEGATIVE DECLARATION

RIVER OAKS STORMWATER CAPTURE PROJECT

December 2020

Prepared for:
City of San Jose
200 E. Santa Clara St.
San Jose, CA 95113

Prepared by:
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Campbell, CA 95008
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Mitigated Negative Declaration

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COMMITMENT & INTEGRITY DRIVE RESULTS

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City of San José
December 2020

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List of Abbreviations

AB	Assembly Bill
ABAG	Association of Bay Area Governments
AMP	Archaeological Monitoring Plan
AQMP	Air Quality Management Plan
ATP	Archaeological Treatment Plan
BAAQMD	Bay Area Air Quality Management District
bgs	below ground surface
BMPs	best management practices
BOD	biological oxygen demand
CAAQS	California Ambient Air Quality Standards
CalARP	California Accidental Release Prevention Program
CalEEMod	California Emissions Estimator Model
CalEPA	California Environmental Protection Agency
CALGreen	California's Green Building Standards
CARB	California Air Resources Boards
CARE	Community Air Risk Evaluation
CASQA	California Stormwater Quality Association
CCR	California Code of Regulations
CDFW	California Department of Fish and Wildlife
CDOC	California Department of Conservation
CEC	California Energy Commission
CEQA	California Environmental Quality Act
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CESA	California Endangered Species Act
CFGC	California Fish and Game Code
CGS	California Geological Survey
CH_4	methane
CNEL	Community Noise Equivalent Level
CO	carbon monoxide
CO_2	carbon dioxide
CO_2e	CO_2 equivalent
COD	chemical oxygen demand
CRHR	California Register of Historic Resources
CWA	Clean Water Act
cy	cubic yards
dB	decibel
DNL	Day-Night Average Sound Level
DTSC	California Department of Toxic Substances Control
EFH	Essential Fish Habitat
EIR	Environmental Impact Report
EPA	U.S. Environmental Protection Agency
ESA	Endangered Species Act

FEMA	Federal Emergency Management Agency
FHWA	Federal Highway Administration
FRAP	Fire and Resource Assessment Program
FTA	Federal Transit Administration
GHG	greenhouse gas
GSI	Green Stormwater Infrastructure
GWP	Global Warming Potential
H_2S	hydrogen sulfide
HMTA	Federal Hazardous Materials Transportation Act
HMTUSA	Hazardous Materials Transportation Uniform Safety Act
IWMP	Integrated Waste Management Plan
IS/MND	Initial Study/Mitigated Negative Declaration
L_{eq}	Equivalent Sound Level
LID	low impact development
LRA	Local Responsibility Area
MLD	Most Likely Descendant
MMRP	Mitigation Monitoring and Reporting Program
MRZ	Mineral Resource Zone
MND	Mitigated Negative Declaration
MT CO_2e	metric tons of carbon dioxide equivalent
MTC	Metropolitan Transportation Commission
NAAQS	National Ambient Air Quality Standards
NAHC	Native American Heritage Commission
ND	negative declaration
NHPA	National Historic Preservation Act
NMFS	National Marine Fisheries Service
N_2O	nitrous oxide
NO_2	nitrogen dioxide
NO_X	nitrogen oxides
NPDES	National Pollutant Discharge Elimination System
O&M	operation and maintenance
O_3	Ozone
OSHA	Occupational Safety and Health Administration
Pb	Lead
PBCE	Planning, Building and Code Enforcement
PM_{10}	particulate matter 10 micrometers or less in diameter
$PM_{2.5}$	particulate matter 2.5 micrometers or less in diameter
PPV	peak particle velocity
PRC	Public Resources Code
RCRA	Resource Conservation and Recovery Act
ROG	reactive organic gases
RWQCB	Regional Water Quality Control Board
SCVHP	Santa Clara Valley Habitat Plan

SFBAAB	San Francisco Bay Area Air Basin
SGMA	Sustainable Groundwater Management Act
SJCE	San José Clean Energy
SO_2	sulfur dioxide
SO_x	sulfur oxides
SR	State Route
SWPPP	Storm Water Pollution Prevention Plan
SWRCB	State Water Resources Control Board
TAC	Toxic Air Contaminant
TMDL	Total Maximum Daily Load
TSS	total suspended solids
USACE	United States Army Corps of Engineers
USFWS	United States Fish and Wildlife Service
Valley Water	Santa Clara Valley Water District
VdB	vibration decibels
VHFHSZ	Very High Fire Hazard Severity Zone
VMT	vehicle miles traveled
VOCs	volatile organic compounds
VTA	Santa Clara Valley Transportation Authority

1. INTRODUCTION

1.1 Purpose of this Document

The City of San José (City) has prepared this Initial Study/Mitigated Negative Declaration (IS/MND) to evaluate the potential environmental impacts related to the implementation of the River Oaks Stormwater Capture Project (the "proposed Project" or "Project"), which consists of modification of an existing pump station and detention basin to provide stormwater treatment via bioretention. The City of San José is the lead agency under the California Environmental Quality Act (CEQA) for the proposed Project.

1.2 Scope of this Document

This IS/MND has been prepared in accordance with CEQA (as amended) (Public Resources Code Section 21000 et. seq.) and the State CEQA Guidelines (California Code of Regulations, Title 14, Chapter 3, Section 15000 et. seq.), as updated on December 28, 2018. CEQA Guidelines Section 15063 describes the requirements for an IS and Sections 15070–15075 describe the process for the preparation of an MND. Where appropriate, this document refers to either the CEQA Statute or State CEQA Guidelines (as amended in December 2018). This IS/MND contains the following, as required by CEQA: a project description, a description of the environmental setting, potential environmental impacts, mitigation measures for any significant effects, consistency with plans and policies, and names of preparers.

This IS/MND evaluates the potential for environmental impacts to resource areas identified in Appendix G of the State CEQA Guidelines (as amended in December 2018). The environmental resource areas analyzed in this document include:

- Aesthetics;
- Agriculture and Forestry Resources;
- Air Quality;
- Biological Resources;
- Cultural Resources;
- Energy;
- Geology and Soils;
- Greenhouse Gas Emissions;
- Hazards and Hazardous Materials;
- Hydrology and Water Quality;
- Land Use and Planning;
- Mineral Resources;
- Noise;
- Population and Housing;
- Public Services;
- Recreation;
- Transportation and Traffic;
- Tribal Cultural Resources;
- Utilities and Service Systems; and
- Wildfire Risk.

1.3 CEQA Process

In accordance with CEQA Guidelines Section 15073, this Draft IS/MND will be circulated for a 20-day public review period (***December 14, 2020 – January 8, 2021***) to local agencies, and to interested organizations and individuals who

may wish to review and comment on the report. In addition, the City will circulate a Notice of Intent to Adopt a Mitigated Negative Declaration to the Santa Clara County Clerk, responsible agencies, and interested entities. A copy of the Draft IS/MND is available for review at: www.sanjoseca.gov/negativedeclarations

Written comments can be submitted to the City by 5:00 PM on January 8, 2021 and addressed to:

Bethelhem Telahun
200 E. Santa Clara St.
San José, CA 95113
Bethelhem.telahun@sanjoseca.gov

Following the 20-day public review period, the City will evaluate written comments received on the Draft IS/MND and incorporate any substantial evidence that the proposed project could have an impact on the environment into the Final IS/MND and, as needed, update the Mitigation Monitoring and Reporting Program (MMRP).

The City will consider adopting the Final IS/MND and MMRP in compliance with CEQA at a publicly-noticed City Council meeting, which occurs weekly on Tuesdays.

2. PROJECT DESCRIPTION

2.1 Project Overview

The City of San José is subject to the requirements of the San Francisco Regional Water Quality Control Board's (RWQCB) Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) Permit (Municipal Regional Permit) (Order No. R2-2015-0049) (RWQCB, 2016). Municipal Regional Permit Provision C.3.j requires the City to develop and implement long-term Green Stormwater Infrastructure (GSI) Plans for the inclusion of low impact development (LID) drainage design into storm drain infrastructure on public and private lands.

2.2 Project Background and Development

To implement GSI into existing storm drainage systems and address Municipal Regional Permit requirements, the City is currently planning a GSI project at its existing River Oaks Pump Station and Retention Basin. The River Oaks Stormwater Capture Project (the "proposed Project" or "Project"), would capture and treat stormwater at the existing detention basin site in the City of San José prior to discharge to the Guadalupe River. The Project would modify the existing pump station configuration to provide hydromodification and runoff treatment, convert the existing detention basin to provide stormwater treatment via bioretention, and install public recreation features (which may include elements such as boardwalk viewing platform, interpretive signage, perimeter trail and/or other components). The proposed Project is intended to provide a functional multi-benefit GSI project that improves water quality in the Guadalupe River, maintains flood control benefits, adds public access to educational, recreational, and aesthetic amenities and enhances nearby habitat.

The River Oaks pump station and associated detention basin provide stormwater and flood management within the City of San José. In 2014, the City prepared a draft feasibility study to evaluate options for modifying the pump station configuration and operations to provide runoff treatment in addition to the existing flood management function. The preferred alternative from the feasibility study was further refined and assessed in a planning study completed in 2020.

The planning study developed a range of design concepts for the proposed Project. Design concepts fell into four categories: treatment (e.g., bioretention, infiltration, wetlands), recreation (e.g., boardwalk, perimeter pathway, seating area), aesthetics (e.g., interactive sculptures, mural, fountain), and education (e.g., outdoor classroom space, demonstration projects, educational signage). Each design concept was evaluated based on its appropriateness to the site, compatibility with treatment goals, and ability to meet other project goals (such as supporting water quality goals, maintaining flood control effectiveness, providing habitat). The City also solicited community input on these design concepts at a public meeting. This concept screening process resulted in a list of feasible concepts that may be included in the proposed Project.

Individual design concepts that would be viable at the site, complement treatment goals, provide added benefits, and work well together were grouped into conceptual project alternatives. The City developed three conceptual project alternatives, each of which included design concepts from all four categories (treatment, recreation, aesthetics, and education). Due to the need to ensure a variety of project benefits, regardless of the alternative selected, certain design concepts were included in each conceptual project alternative. For example, bioretention was included in every alternative because it was the only treatment concept to pass concept screening. Other foundational elements incorporated into every alternative included a perimeter trail and educational signage. Additional design concepts were included in each alternative based on their ability to complement other concepts on the site and balance the overall benefits of each alternative. Based on feedback from the community, a preferred alternative was identified and further refined. The proposed Project corresponds to this preferred alternative.

2.3 Environmental Setting

The River Oaks Stormwater Capture Project is located in the City of San José, California. The site is in the northern portion of the City, between Riverview Parkway and the Guadalupe River. Major roadways in the vicinity include Interstate 880 (I-880) (approximately two miles east of the Project site), US Route 101 (approximately 1.6 miles southwest of the Project site), and State Route 237 (SR-237) (approximately 1.2 miles north of the Project site). Major surface streets near the Project site include North 1st Street, Montague Expressway, and Tasman Drive. The San Francisco Bay is located northwest of the site, approximately 2.3 miles from the proposed Project location. **Figure 2-1** shows the Regional Location of the Project and **Figure 2-2** shows the proposed Project vicinity.

The area surrounding the Project site is built out. Land uses surrounding the site are primarily industrial park and multi-family residential. The Project site is zoned as industrial park and is adjacent to areas zoned for planned development, which are occupied by multi-family apartment buildings. An existing park, Riverview Park, is adjacent to the east. The Guadalupe River lies southwest of the Project site and is zoned as "open space, parklands, and habitat" (City of San José, n.d.a). The Guadalupe River forms the border between the City of San José (to the east) and the City of Santa Clara (to the west). Across the Guadalupe River from the Project site are single- and multi-family residential areas and a public park. These areas are zoned as medium density residential, neighborhood mixed use, and parks/open space by the City of Santa Clara (City of Santa Clara, n.d.a).

The Project site is located in the Guadalupe River Watershed and is adjacent to the Guadalupe River. The Guadalupe River flows from south to north through the City and drains to the San Francisco Bay. Various channel improvements and associated park development have been implemented along the river. In the project vicinity, the Guadalupe River is flanked by a levee embankment, constructed by the U.S. Army Corps of Engineers and maintained by the Santa Clara Valley Water District (Valley Water). The Guadalupe River Trail, a paved recreational pedestrian and bicycle path, follows the river on the east bank.

Sensitive receptors within one-quarter mile of the Project site include single- and multi-family residences, parks/open spaces, and an elementary school (Don Callejon School). There are no churches, hospitals, libraries, or day care centers within one-quarter mile of the Project site.

Figure 2-1: Regional Location

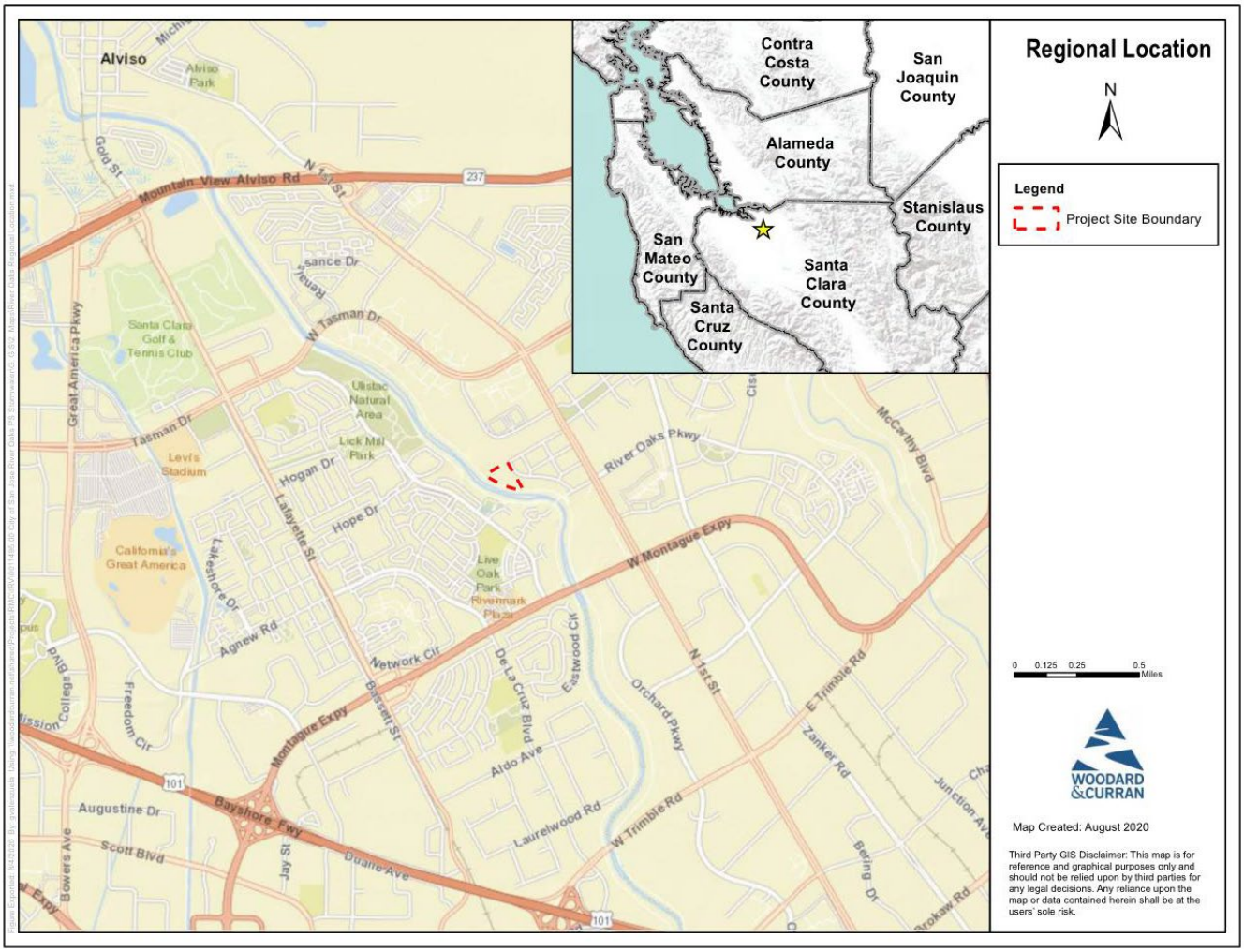
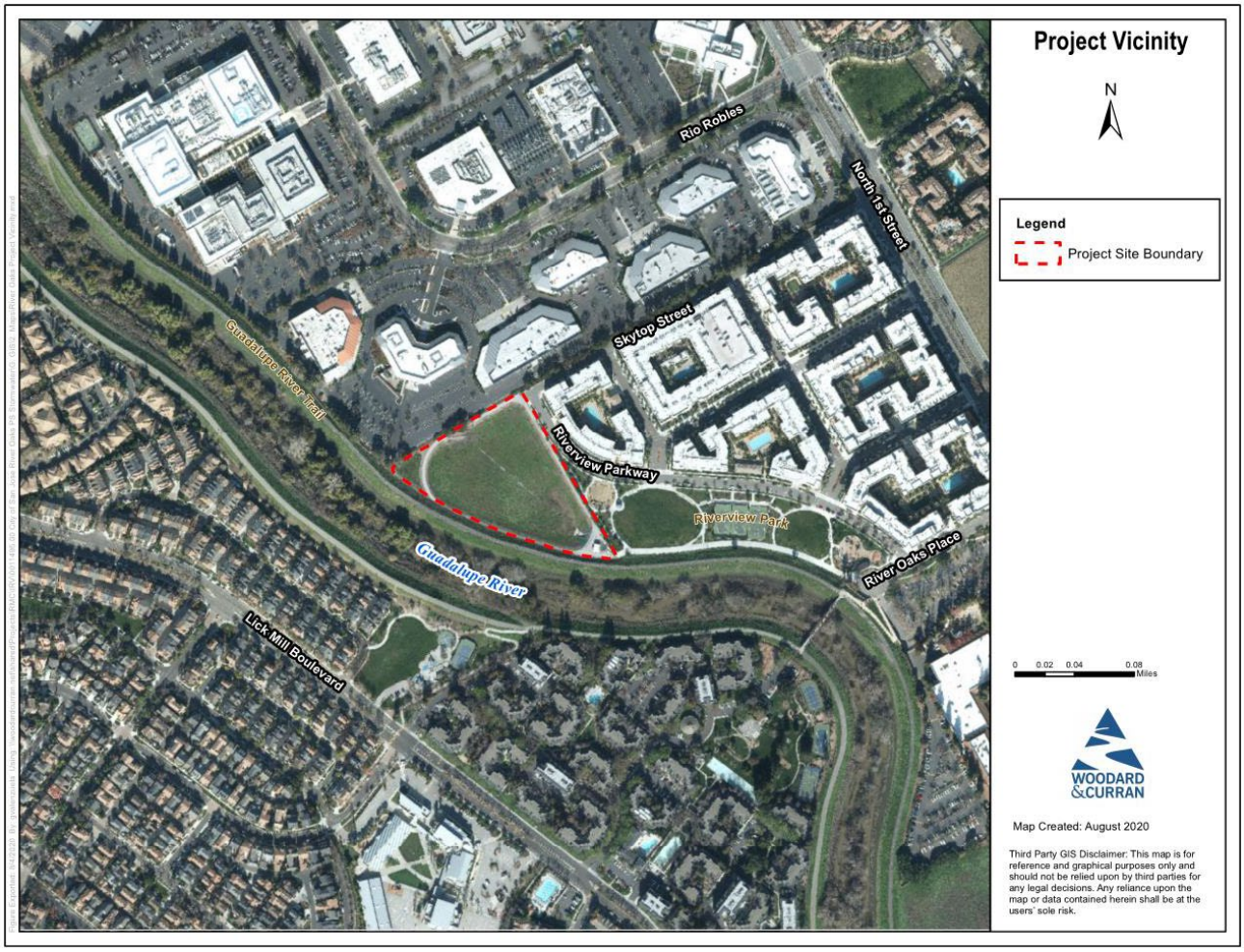


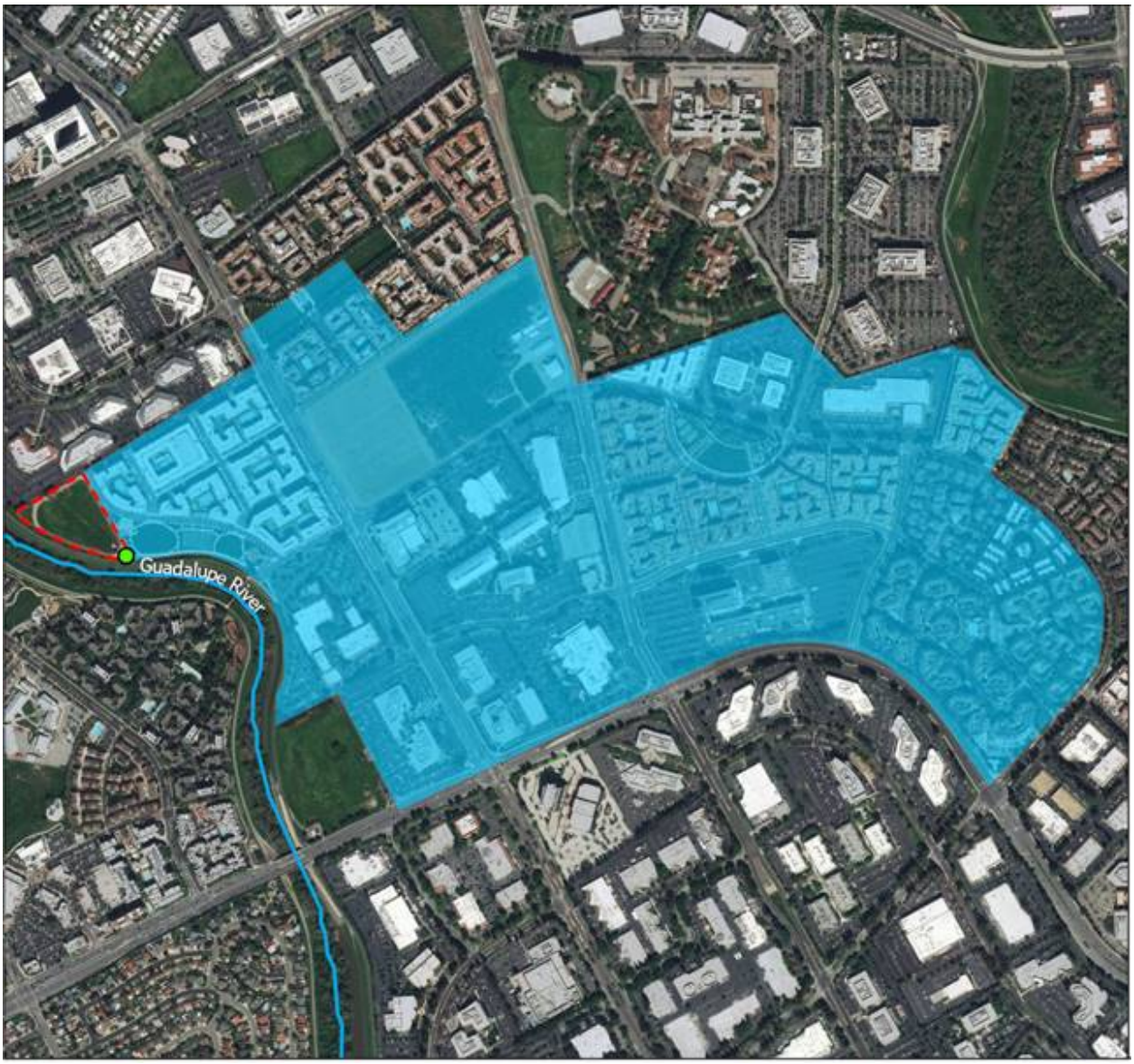
Figure 2-2: Project Vicinity



2.4 Existing Conditions

The 5.2-acre Project site, located between Riverview Parkway and the Guadalupe River, currently houses the River Oaks Pump Station and Retention Basin, installed in 1979, and consists of a pump station that discharges untreated stormwater via an outfall to the Guadalupe River and an off-line 4-acre detention basin providing flood storage capacity. Under existing conditions, runoff from the upstream 344-acre drainage area (See **Figure 2-3)** enters the pump station through an 84-inch diameter storm drain. Immediately upstream of the pump station wet well is a diversion box where trash capture occurs before entering the wet well and where there is a weir wall to accommodate high-flow storm events. As the stormwater level rises, a series of pumps turns on sequentially and discharges stormwater to the Guadalupe River. When inflow exceeds the capacity of the pumps, such as during high precipitation storm events, water overflows the weir wall at the diversion box and flows out into the detention basin. Once the storm passes, water held in the detention basin initially flows back over the weir wall. Water retained behind the weir wall is infiltrated into the detention basin, captured by underdrains, and discharged into the pump station wet well.

Figure 2-3: Drainage Area to River Oaks Detention Basin



2.5 Proposed Project Description

2.5.1 Project Design and Operation

The proposed Project would convert the existing facility to provide stormwater treatment via bioretention prior to discharge to the Guadalupe River. The proposed Project would allow for low flow water to be routed into the detention basin after trash capture and sedimentation. Water would then flow through the bioretention basin to receive bio-treatment, which occurs through various natural processes including filtration, plant uptake, adsorption, microbial degradation, decomposition, sedimentation, and volatilization. The treated stormwater would be captured by underdrains and discharged to the pump station wet well; and would then be discharged to the Guadalupe River via the 84-inch outfall.

The proposed Project would also include park-like enhancements to provide recreational, aesthetic, and educational benefits for the community. Anticipated park-like features include a walking trail around the basin composed of permeable pavement, a boardwalk and viewing platform over the detention basin, two deck overlooks with seating, exercise equipment, interpretive signage, a demonstration bioretention planter, and public art (mural on the pump station and educational sculpture). The area surrounding the detention basin would be planted with new trees, native grasses, and a pollinator garden. A concept rendering of the proposed Project is provided in **Figure 2-4.** Park facilities would be designed to meet accessibility standards of the Americans with Disabilities Act.

Reconfiguration of the Basin and Pump Station

The grade of the detention basin would be altered in order to direct stormwater to the bioswale. The basin would be excavated, and a waterproof liner would be installed to prevent stormwater from direct groundwater infiltration (due to the presence of groundwater within 10 feet below the basin bottom). Bioretention treatment media would be installed above the waterproof liner. An underdrain would be installed beneath the detention basin, which would convey bio-treated stormwater to the pump station. A sediment forebay would also be constructed in the detention basin to provide treatment of suspended solids prior to biotreatment; a retaining wall and security fence would be constructed surrounding the sediment forebay. An existing wet well with sump pump would be maintained. Additional components to be installed in the detention basin include a sump pump discharge and possible permanent dewatering well with discharge to the sediment forebay (including associated electrical controls and conduit). If it is determined that permanent dewatering is needed, water would be discharged to the sediment forebay, then travel through the basin for treatment. An active mixing system (including associated conduit, wiring, and controls) would also be installed to prevent standing water and provide vector control. Finally, new vegetation would be planted in the detention basin; plants would be selected to provide optimal treatment of stormwater. The Project site plan is provided in **Figure 2-5.**

The existing pump station would be modified to demolish the existing weir wall, install flashboard support piers, and install flashboard (or other mechanism) to partially bypass flows during events greater than the water quality design storm and maintain flood control capacity. The existing detention basin supply/drain infrastructure (84-inch diameter) would be reconfigured to accommodate low flows and provide sedimentation treatment.

Planting Zones in the Basin

Throughout the Project site there would be several different planting conditions (e.g. slope and flood frequency). Plants would be selected and spaced based on the anticipated conditions or “zones”. **Figure 2-6** shows proposed delineation of planting zones at the Project site.

Figure 2-4: Concept Rendering of Proposed Project

River Oaks Stormwater Capture Project
August 18, 2020

Preferred Alternative

Figure 2-5: Proposed Site Plan

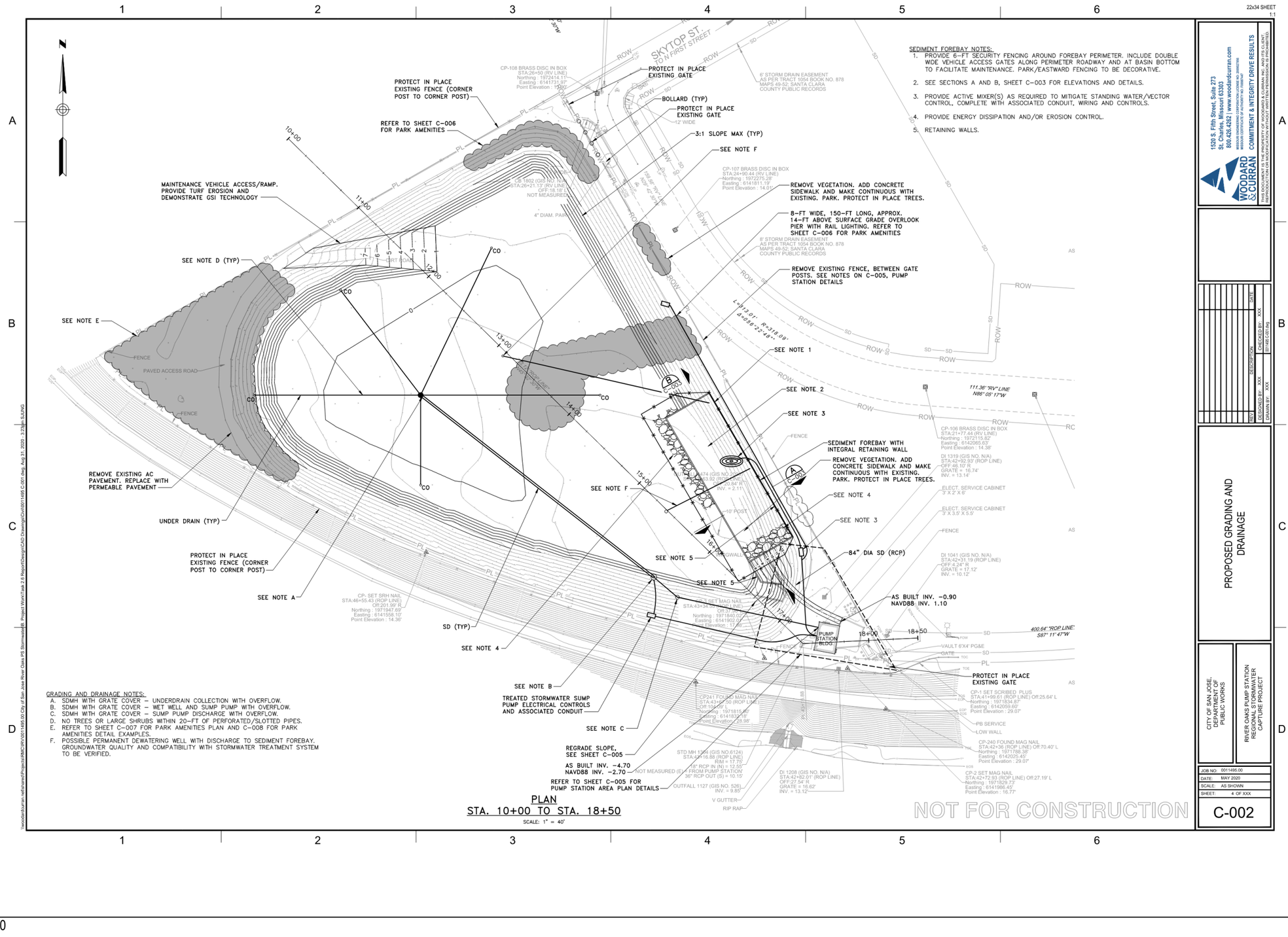


Figure 2-6: Planting Zone Delineation

A brief description of each of the planting zones is as follows:

- Bioretention – The depressed area in the basin would capture the most stormwater throughout the year. This zone consists of shrubs, perennials and grasses that can tolerate both occasional flooding and drought-like conditions.

- Wet/Dry Meadow – The open meadow in the basin would capture stormwater during heavy rainfall events while remaining dry most other times of the year. This zone consists of shrubs, perennials, grasses, and wildflowers that can tolerate both drought-like and occasionally wet conditions.

- Upland Edge – The sloped edges and upland areas just outside of the basin represent a local ecotone, or transition between two environments. This zone consists of native trees, shrubs, perennials and grasses of oak woodland and coastal scrub habitat.

- Pollinator Garden – This is a public area outside of the basin that showcases the ability of native plants to provide both aesthetic and ecological benefits. This zone consists of native trees, shrubs, flowering perennials and grasses that attract pollinating birds and insects.

Access and Fencing

The existing paved access road south of the basin would be replaced with permeable pavement. The existing fence would be maintained along the levee between the Project site and the Guadalupe River. Portions of the existing perimeter fence surrounding the detention basin would be removed to allow public access, and bollards may be installed in some locations to prevent unauthorized vehicle entry to the access road.

Maintenance access to the detention basin bottom would be provided via a dirt road into the detention basin, similar to the existing dirt access road. Public access into the basin would be restricted for safety reasons and to protect treatment vegetation and minimize trash accumulation. Fencing would be installed where there could be a fall risk, signage would be used to discourage entry into the basin, and plant species that are less inviting or more difficult to traverse would be used at the top of the basin.

Avoidance of Guadalupe River Levee Prism

The project would avoid impacts to the Guadalupe River levee prism. The levee prism is the portion of the levee below ground that is integral to its structural stability and is represented by a 2-foot horizontal to 1-foot vertical slope from the toe of the levee below the Project site. Any work within 15 feet of the toe of the levee would be considered an encroachment and would carry additional permitting and maintenance requirements; therefore, the proposed Project does not include any work within 15 feet of the levee. The City of San José has an existing easement that encompasses the existing pathway along the toe of the levee. The proposed Project would avoid impacts to this existing easement and within the levee prism. In order to ensure that the proposed Project does not impact the levee prism, site-appropriate plants would be selected for the proposed Project. No roots or structural foundations would be allowed to penetrate the levee prism, and the future growth of trees would be anticipated during plant selection to avoid growth into the levee prism. Other park-like components of the Project, such as sculptures, would not be placed within 15 feet of the toe of the levee.

Project Operation/Performance

Once operational, the proposed Project would treat up to 5.6 acre-feet of stormwater from a critical bacterial design storm of 0.35 inches of precipitation. The critical bacterial design storm is the volume of stormflow that needs to be captured and treated by GSI to meet the City's Fecal Indicator Bacteria target for protecting water quality (City of San José, 2019a). Bioretention treatment in the basin is expected to treat 90 percent of bacteria in runoff draining to the site from the upstream watershed, along with other runoff constituents including fertilizers (phosphorus, nitrogen), metals, and organic materials that increase chemical and biological oxygen demand (COD, BOD). The target constituent removal for the proposed Project is summarized in **Table 2-1.** Stormwater quality monitoring would be conducted at the Project site to assess water quality of discharges from the proposed Project to the Guadalupe River. Water quality sampling would be performed and incorporated into the project analyses during final design.

Table 2-1: Target Constituent Removal

Constituent	Percent Removal
Total phosphorus	30-83%
Metals (copper, zinc, lead)	40-98%
Total Kjeldahl nitrogen	30-80%
Total suspended solids (TSS)	81%
Organics (BOD, COD)	90%
Bacteria	90%

2.5.2 Project Construction Activities

Construction activities anticipated for the proposed Project include grading, shoring, concrete work, paving, drilling (for dewatering and monitoring well), electrical installation, storm/underdrain infrastructure (e.g. pipelines, cleanouts), waterproof liner installation, landscaping (both biotreatment and aesthetic), and park amenities installation (e.g. sculptures, exercise equipment). Excavation would generally occur to a depth of up to approximately seven feet below the existing bottom of the detention basin, with the exception of the potential permanent dewatering well, which would require drilling to a depth of approximately 15 feet below the existing grade. During construction, it is assumed that 100 percent of the site would be disturbed. The estimated amount of material export from the Project site is 37,000 cubic yards (cy). Approximately 27,000 cy of imported material would be required for Project construction, primarily consisting of bioretention media. Dewatering may be necessary during construction. Where the quality of groundwater recovered during construction and from potential long-term dewatering fails to meet regulatory standards for discharge to surface waters, discharge to sewer may be required. If required, this would be achieved by directly discharging to the sewer.

Construction of the proposed Project is estimated to require the construction equipment shown in **Table 2-2**.

Table 2-2: Construction Vehicles and Equipment

Equipment	Number Required
Backhoe/Loader	2
Excavator	1
Forklift	2
Concrete Pumper	1
Utility Truck	2
Water Truck	1
Compressor	1
Pumps	2
Generator	2
Crane	1
Augur Drill Rig	1
Vibratory Roller	1
Paver	1

Project construction is estimated to require an average of 6 workers per day. Assuming workers would not carpool to the site, this would result in 12 vehicle trips per day for worker transportation to and from the site throughout construction. Based on a haul truck capacity of 16 cy, 2,313 haul trips would be required for export material, and 1,688 haul trips would be required for import material, for a total of about 4,000 haul trips.

Construction Schedule

The majority of construction is expected to occur over a period of approximately seven months during one dry season, beginning in February 2022 and concluding in September 2022. Site work, basin modifications, pump station modifications, park construction, and perimeter trail work would occur during this timeframe. Installation of plantings may be seasonally dependent and would likely occur during the 2022/2023 wet season.

Equipment Staging Areas and Construction Access

It is anticipated that all storage/staging would occur on the Project site. Construction access to the site would be provided through (1) the existing access point at the intersection of Skytop Street and Riverview Parkway and (2) the existing maintenance pathway on the south side of Riverview Park to allow for one-way traffic at the site. Temporary

fencing may be erected along the pathway south of Riverview Park to prevent park users from entering the path of construction vehicles.

2.5.3 Project Operational Activities

During operation of the proposed Project, energy would be consumed for operation of the existing pumps and new treated water sump pump, mixing system, and potential dewatering well. The anticipated energy use from the new components is summarized in **Table 2-3.** Under current conditions, the existing pumps are already consuming energy and would operate similarly under the proposed Project. Therefore, these pumps would not contribute to the net increase in energy use associated with the proposed Project (and thus are not listed in **Table 2-3**).

Table 2-3: Net Increase in Operational Energy Use

Equipment	Number	Horsepower (HP)	Hours/Day (annual average for all pieces combined)	Kilowatt-hours/Day (annual average for all pieces combined)
Sump pump (treated water)	2	3	6	18
Pump (dewatering well)	2	2	8	16
Mixing system	2	0.5	8	4

Operation and maintenance activities for stormwater treatment include vehicle trips for inspections, establishment irrigation, mowing grass, pruning and replacing shrubs and trees as needed, sump pump maintenance, trash capture cleanout, sediment removal, flushing underdrain lines, and bioretention litter removal. Park maintenance would include landscaping, trash removal, park amenity inspection and period repairs, and re-coating/painting. These operation and maintenance activities would be expected to result in up to five employee vehicle trips per month.

2.6 Required Permits and Approvals

Anticipated permits are identified in **Table 2-4** and will be confirmed during project design.

Table 2-4: Permits and Approvals

City of San José	Review and approval (<or *Grading Permit*>) for reconfiguration of the basin and construction of the retaining wall
City of San José	Review and approval *(<or Encroachment Permit>)* for construction access onto Riverview Park
Santa Clara Valley Water District	Permit for any impact to the Guadalupe River levee system (including areas within the existing easement)
State Water Resources Control Board	NPDES Construction General Permit for storm water discharges associated with construction and land disturbing activities, which allows construction dewatering of uncontaminated groundwater as an authorized non-storm water discharge.

3. ENVIRONMENTAL CHECKLIST FORM

1. Project title: River Oaks Stormwater Capture Project

2. Lead agency name and address: City of San José
200 E. Santa Clara Street
San José, CA 95113

3. Contact person and information: **Bethelhem Telahun**
408-535-5624
Bethelhem.Telahun@sanjoseca.gov

4. Project location: The Project site is in the northern portion of the City, between Riverview Parkway and the Guadalupe River. Major roadways in the vicinity include Interstate 880 (I-880) (approx. two miles east of the site), US Route 101 (approx 1.6 miles southwest of the site), and State Route 237 (SR-237) (approx 1.2 miles north of the site).

5. Project sponsor's name and address: City of San José
200 E. Santa Clara St.
San José, CA 95113

6. General plan designations: Industrial Park

7. Zoning: Industrial Park

8. Description of project: The proposed Project would convert the existing flood control basin to provide stormwater treatment via bioretention prior to discharge to the Guadalupe River. The proposed Project would allow dry weather runoff and low flows from the upstream watershed to be routed into the detention basin after trash capture and sedimentation. Water would then flow through the bioretention basin to receive bio-treatment. The treated stormwater would then be captured by underdrains and discharged to the pump station wet well; the treated water would then be discharged to the Guadalupe River via the existing 84-inch outfall. The proposed Project would also include park-like enhancements to provide recreational, aesthetic, and educational benefits for the community and would retain existing flood control capacity.

9. Surrounding land uses and setting: The area surrounding the Project site is built-out. Land uses surrounding the site are primarily industrial park and multi-family residential. The Project site is zoned Industrial Park and is adjacent to areas zoned for planned development that are occupied by multi-family apartment buildings. An existing park, Riverview Park, is adjacent to the east. The Guadalupe River lies southwest of the Project site and is zoned as "Open Space, Parklands, and Habitat". Across the Guadalupe River from the Project site are single- and multi-family residential areas and a public park. These areas are zoned Medium Density Residential, Neighborhood Mixed Use, and Parks/Open Space by the City of Santa Clara.

10. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.)

- Valley Water – encroachment permit for any impacts to the Guadalupe River levee system (including areas within the existing easement)

- State Water Resources Control Board - NPDES Construction General Permit for storm water discharges associated with construction and land disturbing activities, which allows construction dewatering of uncontaminated groundwater as an authorized non-storm water discharge

11. Have California Native American tribes traditionally and culturally affiliated with the Project area requested consultation pursuant to Public Resources Code section 2180.3.1? If so, is there a plan for consultation that includes, for example, the determination of significance of impacts to tribal cultural resources, procedures regarding confidentiality, etc.?

The City of San José has conducted tribal consultation in accordance with Assembly Bill (AB 52). As part of the AB 52 process, the City has reached out to Native American tribes that have previously requested notification of all new NDs, MNDs, or EIRs in the City of San José . The City has coordinated with the consulting Native American tribes on measures to ensure any resources encountered during construction will be treated in a manner acceptable to the Native American tribes and that procedures will be undertaken to ensure the confidentially of cultural resources.

Evaluation of Environmental Impacts

The environmental evaluation herein utilizes a checklist format to make findings based on the following four criteria:

No Impact. No adverse environmental consequences have been identified for the resource or the consequences are negligible or undetectable.

Less than Significant Impact. Potential adverse environmental consequences have been identified. However, they are not adverse enough to meet the significance threshold criteria for that resource. No mitigation measures are required.

Less than Significant with Mitigation Incorporated. Adverse environmental consequences have the potential to be significant but can be reduced to less than significant levels through the application of identified mitigation strategies that have not already been incorporated into the proposed project.

Potentially Significant. Adverse environmental consequences have the potential to be significant according to the threshold criteria identified for the resource, even after mitigation strategies are applied and/or an adverse effect that could be significant and for which no mitigation has been identified. If any potentially significant impacts are identified, an EIR must be prepared to meet the requirements of CEQA.

Environmental Factors Potentially Affected

The environmental factors checked below would be potentially affected by this Project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

☐ Aesthetics	☐ Agriculture and Forestry Resources	☐ Air Quality
☒ Biological Resources	☒ Cultural Resources	☐ Energy
☐ Geology / Soils	☐ Greenhouse Gas Emissions	☒ Hazards & Hazardous Materials
☐ Hydrology / Water Quality	☐ Land Use / Planning	☐ Mineral Resources
☒ Noise	☐ Population / Housing	☐ Public Services
☐ Recreation	☐ Transportation	☒ Tribal Cultural Resources
☐ Utilities / Service Systems	☐ Wildfire	☒ Mandatory Findings of Significance

DETERMINATION: (To be completed by Lead Agency)

On the basis of this initial evaluation:

☐ I find that the proposed Project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

☒ I find that although the proposed Project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the Project have been made by or agreed to by the Project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

☐ I find that the proposed Project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

☐ I find that the proposed Project MAY have a “potentially significant impact” or “potentially significant unless mitigated” impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

☐ I find that although the proposed Project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed Project, nothing further is required.

3.1 Aesthetics

3.1.1 Setting

Environmental Setting

The City of San José is located in the Santa Clara Valley. The City is south of San Francisco Bay, and is surrounded by the Santa Cruz Mountains to the west, the Santa Teresa Hills to the south, and the Diablo Mountain Range to the east. Due to the flat topography of the City, prominent scenic viewpoints are limited. Views of the City and Santa Clara Valley are visible from roadways in the surrounding hills. From the valley floor, the primary scenic views consist of views of the hillsides bordering the City, although these views are commonly obscured by features such as buildings, trees, elevated roadways, and utility lines (City of San José, 2011). The City's General Plan discusses the importance of preserving scenic views, ensuring public access, and maintaining attractive gateways into the City along major roadways to contribute to a sense of place. The City identifies scenic corridors in its General Plan, which include gateways and rural scenic corridors (City of San José, 2020a). The nearest rural scenic corridor to the Project site is located along Penitencia Creek Road, approximately five miles southeast of the Project site. The nearest gateway identified in the General Plan is located on North 1st Street near SR-237, approximately one mile north of the Project site. Other gateways in the Project vicinity are located along Montague Expressway near I-880 (west of the Project site) and along North 1st Street south of Trimble Road (south of the Project site).

The Project site is located in a developed area and is occupied by an existing detention basin and pump station. The basin and pump station are surrounded by chain link fencing and not publicly accessible. The pump station is industrial in nature, and view of the pump station from the adjacent Riverview Park is partially shielded by trees along the border between the Project site and Riverview Park. Ground cover at the detention basin consists of ruderal vegetation. Visual features in the immediate area of the Project site include industrial and multi-family residential buildings, the levee embankment along the Guadalupe River, and Riverview Park.

Regulatory Setting

The City's General Plan focuses on ensuring that development is compatible with the surrounding area, and that the architecture and landscaping enhance aesthetics of the area. The General Plan also contains policies related to preserving scenic resources (e.g., rural scenic corridors) and appropriate lighting in natural areas. The City of San José General Plan contains the following goals and policies relevant to the proposed Project:

- Goal ER-2: – Riparian Corridors: Preserve, protect, and restore the City's riparian resources in an environmentally responsible manner to protect them for habitat value and recreational purposes.
    - Policy 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.
- Goal ER-6 – Urban Natural Interface: Minimize adverse effects of urbanization on natural lands adjacent to the City's developed areas.
    - Policy ER-6.3: Employ low-glare lighting in areas developed adjacent to natural areas, including riparian woodlands. Any high-intensity lighting used near natural areas will be placed as close to the ground as possible and directed downward or away from natural areas.
    - Policy ER-6.6: Encourage the use of native plants in the landscaping of developed areas adjacent to natural lands
- Goal IN-1 – General Provision of Infrastructure: Provide and maintain adequate water, wastewater, stormwater, water treatment, solid waste and recycling, and recycled water infrastructure to support the needs of the City's residents and businesses.

  - Policy IN-1.9: Design new public and private utility facilities to be safe, aesthetically pleasing, compatible with adjacent uses, and consistent with the Envision General Plan goals and policies for fiscal sustainability, environmental leadership, an innovative economy, and quality neighborhoods.

- Goal CD-1 – Attractive City: Create a well-designed, unique, and vibrant public realm with appropriate uses and facilities to maximize pedestrian activity; support community interaction; and attract residents, business, and visitors to San José.
  - Policy CD-1.1: Require the highest standards of architectural 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.
  - Policy CD-1.22: Include adequate, drought-tolerant landscaped areas in development and require provisions for ongoing landscape maintenance.
- Goal CD-5 – Community Health, Safety, and Wellness: Create great public places where the built environment creates attractive and vibrant spaces, provides a safe and healthful setting, fosters interaction among community members, and improves quality of life.
  - CD-5.6 Design lighting locations and levels to enhance the public realm, promote safety and comfort, and create engaging public spaces. Seek to balance minimum energy use of outdoor lighting with goal of providing safe and pleasing well-lit spaces. Consider the City's outdoor lighting policies in development review processes.

The City of San José Municipal Code contains guidelines for protection of the City's visual character, which primarily apply to open space and agricultural zoning districts. The City of San José has adopted industrial design guidelines (City of San José, 1992), which are intended to ensure visual compatibility between industrial land uses and neighboring properties. San José has also adopted design guidelines for the North San José area (City of San José, 2010), which establish standards for architecture and landscaping in the Project vicinity. In addition, the City has adopted a policy for protecting and preserving riparian habitat, which includes guidelines for lighting in riparian areas (City of San José, 2016a).

The City of San José Municipal Code Section 20.50.250 provides guidelines for lighting in areas zoned for industrial use, which includes the Project site. This Section of the Municipal Code states that light fixture heights should not exceed eight feet when adjacent to residential uses unless the setback of the fixture from the property line is twice the height of the fixture, no ground-mounted light fixture shall exceed 25 feet in height, and any lighting located adjacent to riparian areas should be directed downward and away from riparian areas. In addition, Section 20.40.540 of the City's Municipal Code stipulates that light adjacent to residential properties must be arranged and shielded such that light is reflected away from residential use and there is no glare that would cause unreasonable annoyance.

3.1.2 Findings

	Potentially Significant Impact	*Less Than Significant with Mitigation Incorporated*	*Less than Significant Impact*	*No Impact*
Except as provided in Public Resources Code Section 21099, would the Project:				
a) Have a substantial adverse effect on a scenic vista?	[ ]	[ ]	[X]	[ ]
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	[ ]	[ ]	[ ]	[X]
c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the Project is in an urbanized area, would the Project conflict with applicable zoning and other regulations governing scenic quality?	[ ]	[ ]	[X]	[ ]
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	[ ]	[ ]	[X]	[ ]

Discussion

a) Have a substantial adverse effect on a scenic vista?

Less Than Significant Impact. The primary scenic impairments associated with the Project would be temporary and would occur during the construction phase (due to the presence of construction equipment and material stockpiles). Once the Project is completed, it would not impair any existing scenic vistas (either views of the Project site, or views from the Project site). The Project site is currently industrial in nature, surrounded by a chain link fence, and has no park-like elements; the proposed Project would improve the visual character of the site. Upon Project completion, the site would be vegetated with native plants, which would provide visual appeal at the site. The Project would include additional elements that would enhance the aesthetics of the site, such as public art and interpretive signage. Upon completion of the proposed Project, the site would serve as a visual amenity for the surrounding community. The pump station, sediment forebay, and security fencing would resemble the existing structures at the site but would be surrounded by park-like landscaping. The pump station, sediment forebay and security fencing would be located within the detention basin (below publicly accessible areas) and would not obstruct a scenic view from any publicly accessible portions of the Project site. Therefore, operation of the proposed Project would not impact scenic vistas.

During construction, views near the Project site could be temporarily altered by the construction equipment, but this would not interfere with scenic views of the surrounding hillsides from the project area. Once construction is complete, the detention basin, pump station, and surrounding elements would not be of a height or location that would obstruct

scenic vistas in the Project area. Therefore, the Project would not substantially adversely impact local scenic vistas of surrounding hills, and impacts would be less than significant.

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

No Impact. The nearest State-designated scenic highway is State Route 9, approximately 11 miles southwest of the Project site (Caltrans 2019). Interstate 280, approximately six miles south of the Project site, is an eligible scenic highway, but is not designated as a State scenic highway. Interstate 680 beginning in Alameda County approximately five miles northeast of the Project site, is also an eligible scenic highway, but is not a designated State scenic highway (Caltrans 2019).

The proposed Project site is not located within the viewshed of any of these State scenic highways. Therefore, there would be no impact no scenic resources associated with a State scenic highway.

c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the Project is in an urbanized area, would the Project conflict with applicable zoning and other regulations governing scenic quality?

Less than Significant Impact. The Project site is located within an urbanized area of San José. The City's zoning and policies governing scenic quality are described under *Discussion*, above, and are intended to promote development that complements building forms, architectural styles, and landscape patterns of neighboring development. Per the City of San José General Plan, infrastructure facilities, including stormwater, should be designed to be aesthetically pleasing. New development should also be designed such that lighting and other components do not disturb natural or riparian areas. The City's Industrial Design Guidelines, North San José Area Design Guidelines, Riparian Corridor Policy, and zoning code support similar goals. The existing pump station, which is industrial in nature (as appropriate to the current site conditions and zoning) would be beautified with a mural, and interpretive signage would be installed near the pump station. The aesthetic changes to the pump station would be designed to harmonize with the surrounding park and buildings, consistent with the City's design guidelines. The fencing around the sediment forebay would be constructed with decorative elements to add to the character of the site and would not impact the visual character of the site. The proposed Project would incorporate aesthetic enhancements including public art, vegetation, and educational elements that would be designed to be visually pleasing. These elements would be designed in accordance with City policies. As discussed further under Impact (d), below, lighting would be minimal and would be designed to be consistent with City policies and municipal code requirements (i.e., it would be directed away from residential areas and riparian areas per City Municipal Code Sections 20.50.250 and 20.40.540). The proposed Project would enhance the visual character of the site, altering it from a utilitarian infrastructure site to an inviting public space. Therefore, once completed, the proposed Project would not conflict with applicable City standards.

Construction activities would temporarily impact the visual character and quality of the Project site. However, once construction is complete all construction related visual impacts would be removed. Therefore, Project the project would not conflict with applicable zoning or other regulations governing scenic quality, and the impact would be less than significant.

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

Less than Significant Impact with Mitigation Incorporated. Construction activities for the Project would occur during the day and would not require lighting. Lights may be required at night for security of the construction site. Once completed, the proposed Project would include downlighting along the boardwalk over the detention basin to illuminate handrails. All City parks are closed at night and additional lighting is not anticipated. As required by the City's Riparian Corridor Policy, lighting would be chosen to reduce glare, and light would not be directed toward riparian areas. Lighting would be angled to prevent illuminating the detention basin and sediment forebay. No up-lighting or spotlights would be used. Lighting would be designed such that it would not spill onto adjacent properties, consistent with the City's Industrial

Design Guidelines and other policies. All nighttime construction lighting would be shielded and directed downward to minimize impacts on neighboring residences and on riparian areas. Light and glare impacts would be less than significant.

Mitigation Measures: None required or recommended.

3.2 Agriculture and Forestry Resources

3.2.1 Setting

Environmental Setting

The Project area is designated as Urban and Built-Up Land by the California Department of Conservation (CDOC) Farmland Mapping and Monitoring Program (CDOC 2016) and is not designated as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance. The Project site is zoned as Industrial Park (City of San José, n.d.a) and is currently occupied by the existing River Oaks Pump Station and Detention Basin. The areas adjacent to the site include industrial/office buildings and the Guadalupe River; there are no agricultural or forested areas near the Project site.

Regulatory Setting

The Farmland Protection Policy Act requires federal agencies to evaluate the adverse effects of their programs on the preservation of farmland, consider alternative actions that could lessen adverse effects, and ensure that their programs are compatible with state and local programs and policies for the protection of farmland. State or local agencies, as appropriate, define farmland as prime or unique farmlands.

CDOC administers the Farmland Mapping and Monitoring Program, which produces maps and data for use in analyzing impacts on California's farmland. Important farmland categories identified by CDOC are: prime farmland, farmland of statewide importance, unique farmland, and farmland of local importance.

3.2.2 Findings

	Potentially Significant Impact	*Less Than Significant with Mitigation Incorporated*	*Less than Significant Impact*	*No Impact*
Would the Project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	[ ]	[ ]	[ ]	[X]
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	[ ]	[ ]	[ ]	[X]

c)	Conflict with existing zoning for, or cause rezoning of forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?	[ ]	[ ]	[ ]	[X]
d)	Result in the loss of forest land or conversion of forest land to non-forest use?	[ ]	[ ]	[ ]	[X]
e)	Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	[ ]	[ ]	[ ]	[X]

Discussion

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

No Impact. The Project site is not classified as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance. The proposed Project would not impact existing agricultural uses either at the Project site or in the surrounding areas. The proposed Project would not convert farmland to non-agricultural use; therefore, there would be no impact.

b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?

No Impact. The Project site is not located on land zoned for agricultural use and is not protected by a Williamson Act Contract Therefore, no impact would occur as a result of the proposed Project.

c) Conflict with existing zoning for, or cause rezoning of forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?

No Impact. There is no designated forest land or timberland or land zoned as forest land or timberland within the City of San José (City of San José, n.d.b). Therefore, the proposed Project would not conflict with zoning for forest land or timberland and there would be no impact.

d) Result in the loss of forest land or conversion of forest land to non-forest use?

No Impact. There is no designated forest land or timberland in the Project vicinity. The Project site currently houses a pump station and detention basin; ground cover at the site consists of seasonal grasses and bare earth. There are no forestry or timberland resources at the Project site. Therefore, the proposed Project would have no impact related to the loss of forest land or timberland.

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

No Impact. The proposed Project would improve an existing pump station and detention basin in a developed area. The Project site is not in the vicinity of any existing agricultural or forested areas. The Project would not induce other changes in the environment that would result in conversion of agricultural land to non-agricultural use (e.g., the project

would not cause new development, or make new resources available that would induce development in the Project vicinity or region). The proposed Project would have no impact.

Mitigation Measures: None required or recommended.

3.3 Air Quality

3.3.1 Setting

Environmental Setting

The Project site is located in the City of San José, in Santa Clara County. The Project area is located within the San Francisco Bay Area Air Basin (SFBAAB). The nearest air monitors to the Project site include San José – Jackson Street (five miles from the Project site) and San José – Knox Avenue (seven miles from the Project site), (BAAQMD, n.d.). The Bay Area is currently considered in attainment for State Carbon Monoxide (CO)-1 hour, CO-8 hour, sulfur dioxide (SO_2)-1 hour, SO_2-24 hour, nitrogen dioxide (NO_2) -Annual, and NO_2-1 hour requirements, and Federal CO-1 hour, CO-8 hour, fine particulate matter ($PM_{2.5}$)-Annual, SO_2-24 hour, NO_2-Annual, and lead (Pb) requirements, as summarized in **Table 3-1**.

The 2017 Clean Air Plan (BAAQMD, 2017a) assesses the attainment status of the Bay Area Air Quality Management District (BAAQMD), which is summarized in **Table 3-1.** As shown therein, the SFBAAB is in nonattainment for the State 1-Hour ozone (O_3), 8-Hour O_3, respirable particulate matter (PM_{10})-24 hour, PM_{10}-Annual, and $PM_{2.5}$-Annual requirements and the Federal 8-Hour O_3 and $PM_{2.5}$-24 hour requirements. The Clean Air Plan identifies a range of control measures, which include actions to reduce pollutant emissions. The BAAQMD develops, adopts, and enforces rules designed to reduce air pollutant emissions.

Table 3-1: Criteria Pollutant Attainment Status – SFBAAB

Criteria Pollutant	State CAAQS	Federal (NAAQS)
O_3 – 1-hour	Nonattainment (0.09 ppm)	--
O_3 – 8-hour	Nonattainment (0.070 ppm)	Nonattainment (0.070 ppm)
CO – 1-hour	Attainment (20 ppm)	Attainment (35 ppm)
CO – 8-hour	Attainment (9 ppm)	Attainment (9 ppm)
$PM_{2.5}$ – 24-hour	--	Nonattainment (35 µg/m^3)
$PM_{2.5}$ – Annual	Nonattainment (12 µg/m^3 – 3-year max)	Attainment (12 µg/m^3)
PM_{10} – 24-hour	Nonattainment (50 µg/m^3)	Unclassified (150 µg/m^3)
PM_{10} – Annual	Nonattainment (20 µg/m^3)	--
SO_2 – 1-hour	Attainment (0.25 ppm)	Unclassifiable (75 ppb)
SO_2 – 24-hour	Attainment (0.04 ppm)	Attainment (0.14 ppm)
NO_2 – Annual	Attainment (0.030 ppm)	Attainment (0.053 ppm)
NO_2 – 1-hour	Attainment (0.18 ppm)	Unclassifiable (100 ppb)
Pb	--	Attainment (0.15 µg/m^3)

Source: BAAQMD, 2017a

Regulatory Setting

Federal

The Federal Clean Air Act requires the United States Environmental Protection Agency (EPA) to set National Ambient Air Quality Standards (NAAQS) to provide public health protection, including protecting the health of sensitive populations such as asthmatics, children, and the elderly (EPA, 2019). EPA has set NAAQS for six pollutants, which are called "criteria pollutants:" CO, Pb, NO_2, O_3, particulate matter (PM_{10} and $PM_{2.5}$), and SO_2.

State

The California Clean Air Act (California Health and Safety Code Division 26) mandates achieving the health-based California Ambient Air Quality Standards (CAAQS) at the earliest practical date. In addition to the EPA standards, California Air Resources Board (CARB) has set air quality standards for the same criteria pollutants to protect the health of the most sensitive groups and are mandated by law (See CAAQS in **Table 3-1**). In addition, California regulates about 200 different chemicals, referred to as toxic air contaminants (TACs) (CARB, 2019a).

Comparison of the criteria pollutant concentrations in ambient air to the CAAQS determines State attainment status for criteria pollutants in a given region. Based on the NAAQS and CAAQS, an air basin within the State is classified as being in "attainment" (if the standard is met) or "nonattainment" (if the standard is exceeded).

CARB has jurisdiction over all air pollutant sources in the State; it has delegated to local air districts the responsibility for stationary sources and has retained authority over emissions from mobile sources. CARB, in partnership with the local air quality management districts within California, has developed a pollutant monitoring network to aid attainment of CAAQS. The network consists of numerous monitoring stations located throughout California that monitor and report various pollutants' concentrations in ambient air

Regional

The BAAQMD regulates stationary sources of air pollution in the nine Bay Area counties and conducts ambient air monitoring at over 30 stations in the SFBAAB to determine compliance with NAAQS and CAAQS. The BAAQMD also works to develop strategies to meet air quality standards if they are not currently met.

The BAAQMD provides numerical thresholds to analyze the significance of a project's construction and operational emissions on regional air quality. These thresholds are designed such that a project consistent with the thresholds would not have an individually or cumulatively significant impact on the SFBAAB's air quality. These thresholds are listed in **Table 3-2**. If a project's daily average emissions of construction related criteria air pollutants or precursors would exceed any applicable thresholds for ozone precursors (Reactive Organic Gases[1] (ROG) and NO_x), PM_{10}, or $PM_{2.5}$, a significant cumulative impact would occur. If a project's emissions do not exceed the BAAQMD significance thresholds, it can be assumed that it will not result in a cumulatively considerable net increase of a criteria pollutant for which the SFBAAB is nonattainment.

The BAAQMD thresholds of significance are designed to evaluate impacts at a project level as they relate to the CAAQS and NAAQS. The BAAQMD thresholds of significance ensure projects do not conflict with the latest adopted clean air plans, which are developed to ensure the air basin is on track to achieve compliance with the CAAQS and NAAQS. The air quality standards provide public health protection, including protecting the health of "sensitive" populations such as asthmatics, children, and the elderly. Therefore, if a project is consistent with the latest adopted clean air plan and does not exceed the BAAQMD significance thresholds, it can be assumed that it will not have a substantial adverse impact on public health. **Table 3-2** summarizes the BAAQMD significance thresholds.

[1] ROGs are ozone precursors. Ozone is not directly emitted but is formed when ROGs react with sunlight.

Table 3-2: BAAQMD Air Quality Significance Thresholds

Pollutant	Construction Thresholds (Average Daily Emissions, pounds/day)	Operation Thresholds (Average Daily Emissions, pounds/day)	Operational Thresholds (Maximum Annual Emissions, tons/year)
ROG	54	54	10
NOx	54	54	10
PM_{10}	82 (exhaust)	82	15
$PM_{2.5}$	54 (exhaust)	54	10
$PM_{10}/PM_{2.5}$ (fugitive dust)	Best Management Practices	None	None
Local CO	None	9.0 ppm (8-hour avg), 20.0 ppm (1-hour avg)	9.0 ppm (8-hour avg), 20.0 ppm (1-hour avg)
Risks and Hazards for new sources and receptors (Individual Project)	Same as Operational Thresholds	• Compliance with Qualified Community Risk Reduction Plan OR • Increased cancer risk of >10.0 in a million • Increased non-cancer risk of > 1.0 Hazard Index (Chronic or Acute) • Ambient $PM_{2.5}$ increase > 0.3 µg/m^3 annual avg Zone of influence: 1,000-foot radius from property line of source or receptor	Same as daily operation threshold.
Risks and Hazards for new sources and receptors (Cumulative Threshold)	Same as Operational Thresholds	• Compliance with Qualified Community Risk Reduction Plan OR • Increased cancer risk of > 100 in a million (form all local sources) • Increased non-cancer risk of > 10.0 Hazard Index (from all local sources) (Chronic) • Ambient $PM_{2.5}$ increase > 0.8 µg/m^3 annual avg (from all local sources) Zone of influence: 1,000-foot radius from property line of source or receptor	Same as daily operation threshold.
Accidental Release of Acutely Hazardous Air Pollutants	None	• Storage or use of acutely hazardous materials locating near receptors or new receptors locating near stored or used acutely hazardous materials considered significant	Same as daily operation threshold.
Odor	None	• 5 confirmed complaints per year averaged over three years.	Same as daily operation threshold.

Source: BAAQMD, 2017b

Local

The City of San José General Plan contains goals and policies intended to minimize air pollution and protect public health. The General Plan contains the following goals and policies which are relevant to the proposed Project:

- Goal MS-10 – Air Pollutant Emission Reduction: Minimize air pollutant emissions from new and existing development.
    - Policy MS-10.1: Assess projected air emissions from new development in conformance with the Bay Area Air Quality Management District (BAAQMD) CEQA Guidelines and relative to state and federal standards. Identify and implement feasible air emission reduction measures.
    - Policy MS-10.2: Consider the cumulative air quality impacts from proposed developments for proposed land use designation changes and new development, consistent with the region's Clean Air Plan and State law.
    - Policy MS-10.7: Encourage regional and statewide air pollutant emission reduction through energy conservation to improve air quality.
- Goal MS-11 – Toxic Air Contaminants: Minimize exposure of people to air pollution and toxic air contaminants such as ozone, carbon monoxide, lead, and particulate matter.
    - Policy MS 11.2: For projects that emit toxic air contaminants, require project proponents to prepare health risk assessments in accordance with BAAQMD-recommended procedures as part of environmental review and employ effective mitigation to reduce possible health risks to a less than significant level. Alternatively, require new projects (such as, but not limited to, industrial, manufacturing, and processing facilities) that are sources of TACs to be located an adequate distance from residential areas and other sensitive receptors.
- Goal MS-13 – Construction Air Emissions
    - Policy 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.

3.3.2 Findings

	Potentially Significant Impact	*Less Than Significant with Mitigation Incorporated*	*Less than Significant Impact*	*No Impact*
Would the Project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?	[ ]	[ ]	[X]	[ ]
b) Result in a cumulatively considerable net increase of any criteria pollutant for which the Project region is non-attainment under an applicable federal or state ambient air quality standard?	[ ]	[ ]	[X]	[ ]
c) Expose sensitive receptors to substantial pollutant concentrations?	[ ]	[ ]	[X]	[ ]
d) Result in other emissions (such as those leading to odors or adversely affecting a substantial number of people)?	[ ]	[ ]	[X]	[ ]

Discussion

a) Conflict with or obstruct implementation of the applicable air quality plan?

Less than Significant Impact. The applicable Air Quality Plan is the BAAQMD Clean Air Plan (BAAQMD, 2017a). As discussed in the Clean Air Plan, a Project would be considered to conflict with or obstruct implementation of the Clean Air Plan if it does not support the primary goals of the applicable air quality plan, does not include applicable control measures from the air quality plan, or disrupts or hinders implementation of any air quality plan control measures (BAAQMD, 2017a).

Per Section 9.1 of the Clean Air Plan, the three primary goals of the Plan are to attain air quality standards, reduce population exposure and protect public health, and reduce greenhouse gas (GHG) emissions and protect the climate. The recommended measure for determining support of these goals is consistency with BAAQMD CEQA thresholds of significance. As discussed in Impacts b), c) and d) below, the proposed Project would have a less than significant impact on air quality standards, public health, and GHG emissions. Therefore, the proposed Project would not obstruct or conflict with this Clean Air Plan requirement.

The 2017 Clean Air Plan incorporates control strategies from the 2010 Clean Air Plan (BAAQMD, 2010), which address a wide range of air emissions sources. Many of these control strategies are implemented by BAAQMD in coordination with local agencies. The Project would support applicable strategies related to energy use, water conservation, and land use because the proposed Project would comply with the City's Green Building Ordinance, use native plants to support water conservation and plant trees in a developed area

The proposed Project would modify facilities at an existing pump station and flood detention basin to treat storm water. The construction and operation of the proposed Project would not change land use, induce development, alter regulations, or result in other changes that would hinder or disrupt implementation of any air quality plan control

measures. The proposed Project would not conflict with or obstruct the applicable air quality plan, and the impact would be less than significant.

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

Less than Significant. The proposed Project would result in emissions of criteria pollutants from short-term construction activities and long-term O&M activities. Construction emissions were estimated using the California Emissions Estimator Model (CalEEMod) version 2016.3.2, which is used throughout California to quantify criteria pollutants and GHG emissions.

The CalEEMod emissions scenarios were based on Project-specific information, found in *Section 2 Project Description*. In instances where Project-specific information was not available (e.g. construction equipment horsepower, length of worker trips, soil moisture content), the analysis relied on CalEEMod default values for construction activities. As described in *Section 2 Project Description*, project construction is estimated to take seven months. However, the period during which off-road construction equipment is needed is anticipated to be significantly less, with a total duration of approximately 60 weekdays. The remainder of the construction schedule would consist of minor landscaping activities. BAAQMD recommends certain construction BMPs for all proposed Projects; these include watering exposed surfaces, reducing vehicle speeds, and minimizing vehicle idling time (BAAQMD, 2017b).

Construction Emissions

Air emissions of criteria pollutants during construction would result from the use of construction equipment with internal combustion engines, and offsite vehicles to transport workers, deliver materials to the site, and haul export material from the site. Material hauling is a primary source of emissions during project construction. Based on the volume of import and export material, approximately 4,000 hauling trips are anticipated, and estimated to occur over a two- to three-month period at a minimum. For the purposes of the air quality analysis, it was conservatively assumed that hauling trips would be spread evenly across a period of 45 working days (the site preparation, grading, and hauling phases in CalEEMod), equivalent to approximately two months. This would be the minimum amount of time to haul the volume of material. Project construction would also result in fugitive dust emissions, which would be lessened through the implementation of the Standard Project Conditions listed at the end of this section. **Table** 3-3 summarizes the average daily pollutant emissions during construction of the proposed Project. Average daily emissions were computed by dividing the total construction emissions by the number of construction days. As shown in **Table 3-3**, criteria pollutant emissions from construction of the proposed Project would not exceed the BAAQMD thresholds, and therefore construction-related air quality impacts would be less than significant.

Table 3-3: Proposed Project Average Daily Construction Emissions (pounds/day)

Emissions Source		ROG	NO_x	PM_{10} Exhaust	$PM_{2.5}$ Exhaust
Average Daily Emissions		1.02	14.20	<1	<1
BAAQMD Regional Thresholds		*54*	*54*	*82*	*54*
Threshold exceeded?		**No**	**No**	**No**	**No**

Note: In CalEEMod, environmental commitments, including measures to control fugitive dust, must be added as "mitigation measures." Therefore, these results reflect the mitigated scenario in the output tables in Appendix A.

Operations

Long-term, the proposed Project would generate indirect emissions from electricity consumption as well as a small amount of mobile and area emissions. CalEEMod only calculates direct emissions of criteria pollutants from energy sources that combust on site, such as natural gas. The proposed Project does not propose to combust natural gas on

site. The proposed Project would indirectly create emissions of criteria pollutants through electricity use. Criteria pollutant emissions from power plants are associated with the power plants themselves, which are stationary sources permitted by air districts and/or the EPA, and are subject to local, State and federal control measures. CalEEMod does not calculate or attribute emissions of criteria pollutants from electricity consumption to individual projects, as criteria pollutant emissions from power plants are associated with the power plants themselves. Electricity used by the proposed Project would be generated by permitted stationary sources and would undergo separate permitting procedures that are assumed to result in emissions below the significance thresholds.

Operational emissions of criteria pollutants from mobile and area sources associated with operations and maintenance of the proposed Project are included in **Table 3-4** (daily maximum) and **Table 3-5** (annual maximum). No BAAQMD mass daily thresholds would be exceeded by operation of the proposed Project.

Table 3-4: Maximum Daily Project Operational Emissions

Emissions Source	ROG	NO_x	PM_{10} Exhaust	$PM_{2.5}$ Exhaust
Operational Emissions (pounds/day)	<1	<1	<1	<1
BAAQMD Mass Daily Threshold (pounds/day)	54	54	82	54
Threshold Exceeded?	***No***	***No***	***No***	***No***

Table 3-5: Maximum Annual Project Operational Emissions

Emissions Source	ROG	NO_x	PM_{10} Exhaust	$PM_{2.5}$ Exhaust
Operational Emissions (tons/year)	<1	<1	<1	<1
BAAQMD Mass Daily Threshold (tons/year)	10	10	15	10
Threshold Exceeded?	***No***	***No***	***No***	***No***

Per the BAAQMD CEQA Air Quality Guidelines, CO emissions of a proposed project would be anticipated to be less than significant provided that the project is consistent with an applicable congestion management program, would not increase traffic volumes at affected intersections to more than 44,000 vehicles per hour, and would not increase traffic volumes to more than 24,000 vehicles per hour where vertical and/or horizontal mixing is substantially limited (e.g., tunnels, parking garage). The proposed Project would not create a substantial increase in traffic and associated CO emissions and would be consistent with the applicable congestion management program. Therefore, CO emissions impacts of the proposed Project would be considered less than significant.

Operation of the proposed Project would not create cumulatively considerable impacts to air quality. The Project would not create a new stationary source that would have on-site emissions (such as a generator). New equipment would consume electricity and would not result in on-site emissions. Mobile emissions would result from O&M vehicle trips to the Project site; these mobile emissions would be negligible given their limited frequency.

Construction and operation of the proposed Project would not exceed thresholds for emissions of criteria pollutants, and therefore would not result in a cumulatively considerable net increase in any criteria pollutant for which the Project region is in non-attainment. Project impacts would be less than significant.

c) Expose sensitive receptors to substantial pollutant concentrations?

Less than Significant. Sensitive receptors are typically defined as schools (preschool–12th grade), hospitals, resident care facilities, senior housing facilities, day care centers, or other facilities that may house individuals with health conditions that would be adversely impacted by changes in air quality (CARB, 2018). Sensitive receptors within 1,000 feet of the Project site, which is the radius recommended by BAAQMD for assessing community risks and hazards, include residences and a school. A multi-family, multi-story apartment complex and Riverview Park are adjacent to the Project site on the northeast. The Guadalupe River and the multi-use Guadalupe Trail border the southern edge of the Project site. Sensitive receptors across the Guadalupe River, in the City of Santa Clara, are single- and multi-family residences and a park (all approximately 280 feet from the Project site). The nearest school is Don Callejon School in Santa Clara, which is approximately 500 feet from the Project site.

As discussed under Impact b) above, the Project's construction and operational emissions, including $PM_{2.5}$ exhaust emissions, would not exceed BAAQMD thresholds, which are set at levels that protect public health. Construction emissions would be temporary, as discussed above. As described in *Section 2 Project Description*, the period during which off-road construction equipment is needed is anticipated to last 60 weekdays. The remainder of the seven-month construction schedule would consist of minor landscaping activities. The long-term operational emissions of the Project would result from limited additional vehicle trips, and emissions would be negligible.

BAAQMD recognizes $PM_{2.5}$ and TACs as being of particular concern with respect to human health (BAAQMD, 2017b). Common stationary sources of TAC and $PM_{2.5}$ emissions include gasoline stations, dry cleaners, and diesel backup generators, which are subject to BAAQMD permit requirements. The other, often more significant, common source type is on-road motor vehicles on freeways and roads such as trucks and cars, and off-road sources such as construction equipment, ships and trains (BAAQMD, 2017b). The thresholds of significance for increased cancer risk and non-cancer hazard risk index, as identified in **Table 3-2**, apply to the siting of a new source and are: Compliance with Qualified Community Risk Reduction Plan; or Increased cancer risk of >10.0 in a million; Increased non-cancer risk of > 1.0 Hazard Index (Chronic or Acute); and Ambient $PM_{2.5}$ increase > 0.3 $\mu g/m^3$ annual average. BAAQMD recommends characterizing potential health effects from exposure to $PM_{2.5}$ emissions through comparison to the applicable threshold of significance. The proposed Project would not exceed applicable thresholds for $PM_{2.5}$. Specifically, the proposed Project would result in construction $PM_{2.5}$ exhaust emissions below the applicable threshold of significance (see **Table** 3-3) and would have minimal operational $PM_{2.5}$ exhaust emissions. To address community risk from air toxics, BAAQMD initiated the Community Air Risk Evaluation (CARE) program in 2004 to identify locations with high levels of risk from TACs co-located with sensitive populations and use the information to help focus mitigation measures. BAAQMD encourages the development of a Community Risk Reduction Plan especially in communities identified under the CARE program. The proposed Project is not located within the cumulative impact area identified by the CARE program (BAAQMD, 2014). Therefore, the proposed Project would not impact communities that are identified as high-risk.

The BAAQMD has made available data on cancer risk and hazard indices for certain existing permitted, stationary sources of TAC and $PM_{2.5}$, which include dry cleaners and gas stations. The proposed Project would not introduce an activity such as a dry cleaning facility, gas station, distribution center, or new diesel backup generator that is associated with levels of TAC and/or $PM_{2.5}$ that approach the thresholds of significance for cancer risk and hazard indices. It is assumed, based on the data from existing permitted sources, that the proposed Project would have TAC and $PM_{2.5}$ emissions well below the significance thresholds.

Construction emissions associated with the proposed Project would be temporary and would be within BAAQMD thresholds. Construction would not occur within an area that is considered sensitive due to existing TACs. Operational emissions associated with the proposed Project would be negligible. The Project would not expose sensitive receptors to substantial pollutant concentrations, and the impact would be less than significant.

d) Result in other emissions (such as those leading to odors or adversely affecting a substantial number of people)?

Less than Significant Impact. The proposed Project has a limited potential to generate odors. Construction of the proposed Project would involve emissions from the use of construction equipment (i.e., fuel odors). Construction would be temporary, and emissions would dissipate within a short distance from the construction site.

Operational activities involving the use of typical on-road vehicles would not be expected to generate odors. The detention basin would be equipped with a mixing system, which would prevent standing water and associated odors. Overall, the proposed Project is not of a type that is generally associated with widespread nuisance odors (e.g., landfills, sewage treatment plants, and refineries). Impacts would be less than significant.

Standard Project Conditions

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

i. Water active construction areas at least twice daily or as often as needed to control dust emissions.

ii. Cover trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.

iii. Remove visible mud or dirt track-out onto adjacent public roads using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.

iv. Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).

v. Pave new or improved roadways, driveways, and sidewalks as soon as possible.

vi. Lay building pads as soon as possible after grading unless seeding or soil binders are used.

vii. Replant vegetation in disturbed areas as quickly as possible.

viii. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.

ix. Minimize idling times either by shutting off equipment when not in use, or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations). Provide clear signage for construction workers at all access points.

x. Maintain and property tune construction equipment in accordance with manufacturer's specifications. Check all equipment by a certified mechanic and record a determination of running in proper condition prior to operation.

xi. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints

Mitigation Measures: None required or recommended.

3.4 Biological Resources

3.4.1 Setting

Environmental Setting

A Biological Resources Technical Report for the proposed Project was prepared in July 2020 by WRA, Inc. (**Appendix B**) and is relied upon for the biological resources analysis in this IS/MND. A literature review and search of the California Natural Diversity Database and California Native Plant Society database were conducted to assess the potential for

regulated or sensitive resources to be present in the study area. Potential impacts to biological resources were analyzed based on the federal, state, regional, and local regulations, plans, policies, and laws described in the following Regulatory Setting section. Biological field assessments were conducted on September 11, 2019 and July 15, 2020 to evaluate special status plant and wildlife species, nesting birds and raptors, wildlife movement, sensitive plant communities, jurisdictional waters and wetlands, and locally protected resources (i.e. trees). During the September 11, 2019 survey, a protocol level survey for special status plants was conducted (WRA, 2020). The study area includes all areas affected by the Project including the Project site and construction footprint (Project area) plus a 250-foot buffer outside of the Project footprint.

The literature review, aerial imagery evaluation and site assessments were performed to document: (1) land cover types (e.g., terrestrial communities, aquatic resources), (2) existing conditions and to determine if suitable habitat for any special-status plant or wildlife species exists in the study area, (3) if and what type of aquatic natural communities (e.g., wetlands) are present, and (4) if special-status species are present in the study area.

The majority of the Project area is disturbed from past development; undeveloped areas consist of non-native grasslands. Two sensitive land covers (stream and riparian woodland) are present in the study area. The literature review concluded there are 60 special-status plant species and 23 special-status wildlife species within five miles of the Project area. One special-status plant species (Congdon's tarplant [*Centromadia parryi*]), two special-status bird species (white-tailed kite [*Elanus leucurus*] and burrowing owl [*Athene cunicularia*]), and two special-status bat species (pallid bat [*Antrozous pallidus*] and western red bat [*Lasiurus blossevillii*]) were determined to have potential to occur in the study area. However, no special status plant or species were observed within the study area due to the lack of suitable habitat as well as historical and existing disturbances. Out of the special-status plant and wildlife species identified, only the burrowing owl was determined to have a low potential to occur within the Project area.

Regulatory Setting

Federal

Clean Water Act Sections 401 and 404

Waters of the United States, Including Wetlands: The United States Army Corps of Engineers (USACE) regulates "Waters of the United States" under Section 404 of the Clean Water Act (CWA). Waters of the United States are defined in the Code of Federal Regulations (CFR) as including the territorial seas, and waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, such as tributaries, lakes and ponds, impoundments of waters of the U.S., and wetlands. (33 CFR 328.3). Potential wetland areas, according to the three criteria used to delineate wetlands as defined in the Corps Wetlands Delineation Manual (Environmental Laboratory 1987), are identified by the presence of (1): hydrophytic vegetation, (2) hydric soils, and (3) wetland hydrology. Unvegetated waters including lakes, rivers, and streams may also be subject to Section 404 jurisdiction and are characterized by an ordinary high water mark identified based on field indicators such as the lack of vegetation, sorting of sediments, and other indicators of flowing or standing water. The placement of fill material into Waters of the United States generally requires a permit from the USACE under Section 404 of the CWA.

Magnuson-Stevens Fishery Conservation and Management Act

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) provides for conservation and management of fishery resources in the U.S., administered by National Marine Fisheries Service (NMFS). This Act establishes a national program intended to prevent overfishing, rebuild overfished stocks, ensure conservation, and facilitate long-term protection through the establishment of Essential Fish Habitat (EFH). EFH consists of aquatic areas that contain habitat essential to the long-term survival and health of fisheries, which may include the water column, certain bottom types, vegetation (e.g. eelgrass (*Zostera spp*.)), or complex structures such as oyster beds. Any federal agency that authorizes, funds, or undertakes action that may adversely affect EFH is required to consult with NMFS.

Bald and Golden Eagle Protection Act

The federal Bald and Golden Eagle Protection Act provides relatively broad protections to both of North America's eagle species (bald [*Haliaeetus leucocephalus*] and golden eagle [*Aquila chrysaetos*)] that in some regards are similar to those provided by the federal Endangered Species Act (ESA).

Migratory Bird Treaty Act

Most native birds in the United States, including non-status species, have baseline legal protections under the Migratory Bird Treaty Act of 1918 and California Fish and Game Code (CFGC,) (sections 3503, 3503.5 and 3513). Under these laws/codes, the intentional harm or collection of adult birds as well as the intentional collection or destruction of active nests, eggs, and young is illegal. For bat species, the Western Bat Working Group designates conservation status for species of bats, and those with a high or medium-high priority are typically given special consideration under CEQA.

Federal Endangered Species Act

Specific species of plants, fish, and wildlife species may be designated as threatened or endangered by the ESA. Specific protections and permitting mechanisms for these species differ under each of these acts, and a species' designation under one law does not automatically provide protection under the other.

The ESA (16 USC 1531 et seq.) is implemented by the United States Fish and Wildlife Service (USFWS) and the NMFS. The USFWS and NMFS maintain lists of "endangered" and "threatened" plant and animal species (referred to as "listed species"). "Proposed" or "candidate" species are those that are being considered for listing and are not protected until they are formally listed as threatened or endangered. Under the ESA, authorization must be obtained from the USFWS or NMFS prior to take of any listed species. Take under the ESA is defined as "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." Take under the ESA includes direct injury or mortality to individuals, disruptions in normal behavioral patterns resulting from factors such as noise and visual disturbance and impacts to habitat for listed species. Actions that may result in "take" of an ESA-listed species may obtain a permit under ESA Section 10, or via the interagency consultation described in ESA Section 7. Federally listed plant species are only protected when take occurs on federal land.

The ESA also provides for designation of critical habitat, which are specific geographic areas containing physical or biological features "essential to the conservation of the species". Protections afforded to designated critical habitat apply only to actions that are funded, permitted, or carried out by federal agencies. Critical habitat designations do not affect activities by private landowners if there is no other federal agency involvement.

State

Porter-Cologne Water Quality Control Act

Under the Porter -Cologne Water Quality Control Act, the term Waters of the State, Including Wetlands is defined as "any surface water or groundwater, including saline waters, within the boundaries of the state." The State Water Resources Control Board (SWRCB) and nine RWQCBs protect waters within this broad regulatory scope through many different regulatory programs. Waters of the State in the context of a CEQA Biological Resources evaluation include wetlands and other surface waters protected by the State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State. The SWRCB and RWQCB issue permits for the discharge of fill material into surface waters through the State Water Quality Certification Program, which fulfills requirements of Section 401 of the CWA and the Porter-Cologne Water Quality Control Act. Projects that require a Clean Water Act permit are also required to obtain a Water Quality Certification. If a project does not require a federal permit, but does involve discharge of dredge or fill material into surface waters of the State, the SWRCB and RWQCB may issue a permit in the form of Waste Discharge Requirements.

California Fish and Game Code

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

California Endangered Species Act

The California Endangered Species Act (CESA) (CFGC 2050 et seq.) prohibits a "take" of any plant and animal species that the California Fish and Game Commission determines to be an endangered or threatened species in California. CESA regulations include take protection for threatened and endangered plants on private lands, as well as extending this protection to “candidate species” which are proposed for listing as threatened or endangered under CESA. The definition of a "take" under CESA ("hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill") only applies to direct impact to individuals, and does not extend to habitat impacts or harassment. CDFW may issue an Incidental Take Permit under CESA to authorize take if it is incidental to otherwise lawful activity and if specific criteria are met. Take of these species is also authorized if the geographic area is covered by a Natural Community Conservation Plan, as long as the Natural Community Conservation Plan covers that activity.

CFGC provides for the designation of “Fully Protected Species and Designated Rare Plant Species” even if not listed under CESA or the ESA. Fully Protected Species includes specific lists of birds, mammals, reptiles, amphibians, and fish designated in CFGC. Fully Protected Species may not be taken or possessed at any time. No licenses or permits may be issued for take of fully protected species, except for necessary scientific research and conservation purposes. The definition of "take" is the same under the CFGC and the CESA. By law, CDFW may not issue an Incidental Take Permit for Fully Protected Species.

Species of Special Concern, Movement Corridors, and Other Special Status Species under CEQA

To address additional species protections afforded under CEQA, CDFW has developed a list of special species as “a general term that refers to all of the taxa the California Natural Diversity Database is interested in tracking, regardless of their legal or protection status.” This list includes lists developed by other organizations, including for example, the Audubon Watch List Species, the Bureau of Land Management Sensitive Species, and USFWS Birds of Special Concern. Plant species on the California Native Plant Society Rare and Endangered Plant Inventory (Inventory) with California Rare Plant Ranks (Rank) of 1, 2, and 3 are also considered special-status plant species and must be considered under CEQA. Rank 4 species are typically only afforded protection under CEQA when such species are particularly unique to the locale (e.g., range limit, low abundance/low frequency, limited habitat) or are otherwise considered locally rare. Additionally, any species listed as sensitive within Santa Clara Valley Habitat Conservation Plan (SCVHCP) area, local plans, policies and ordinances are likewise considered sensitive. Movement and migratory corridors for native wildlife (including aquatic corridors) as well as wildlife nursery sites are given special consideration under CEQA.

California Native Plant Protection Act

Under the California Native Plant Protection Act, CDFW has listed 64 “rare” or “endangered” plant species, and prevents “take”, with few exceptions, of these species. CDFW may authorize take of species protected by the California

Native Plant Protection Act through the Incidental Take Permit process, or under a Natural Community Conservation Plan.

Regional

Santa Clara Valley Habitat Plan (SCVHP)

The adopted Santa Clara Valley Habitat Plan/Natural Communities Conservation Plan (SCVHP) was developed through a partnership between Santa Clara County, the cities of San José, Morgan Hill, and Gilroy, Valley Water, Santa Clara Valley Transportation Authority (VTA), USFWS, and CDFW. The SCVHP is intended to provide an effective framework to protect, enhance, and restore natural resources in specific areas of Santa Clara County, while improving and streamlining the environmental permitting process for impacts on threatened and endangered species. Projects located within the SCVHP area may obtain permits and mitigation coverage through payment of in-lieu fees. Projects receiving permits through the SCVHP must also implement avoidance and minimization measures included in the SCVHP to reduce the potential for take of covered species and potential impacts to sensitive resources. These measures are outlined in Chapter 6 of the SCVHP.

All projects within the SCVHP area are required by the City of San José to comply with the SCVHP's condition requirements prior to issuance of a grading permit. The conditions help meet regional avoidance and minimization goals by avoiding impacts at the project scale and allow for streamlining of regulatory requirements.

Local

City of San José General Plan

The City of San José General Plan includes numerous goals and policies aimed at preserving environmental resources, including natural communities and wildlife habitat. The following goals and policies are relevant to the proposed Project:

- Goal ER-2 – Riparian Corridors: Preserve, protect, and restore the City's riparian resources in an environmentally responsible manner to protect them for habitat value and recreational purposes.
    - Policy 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 Conservation Plan/ Natural Communities Conservation Plan (HCP/NCCP).
    - Policy 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.
    - Policy 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.
- Goal ER-4 – Special-Status Plants and Animals: Preserve, manage, and restore habitat suitable for special-status species, including threatened and endangered species.
    - Policy ER-4.1: Preserve and restore, to the greatest extent feasible, habitat areas that support special-status species. Avoid development in such habitats unless no feasible alternatives exist and mitigation is provided of equivalent value.
    - Policy ER-4.3: Prohibit planting of invasive non-native plant species in natural habitats that support special-status species.
    - Policy ER-4.4: Require that development projects incorporate mitigation measures to avoid and minimize impacts to individuals of special-status species.

- Goal ER-5 – Migratory Birds: Protect migratory birds from injury or mortality.
    - Policy 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.
    - Policy ER-5.2: Require that development projects incorporate measures to avoid impacts to nesting migratory birds.
- Goal ER-6 – Urban Natural Interface: Minimize adverse effects of urbanization on natural lands adjacent to the City's developed areas.
    - Policy ER-6.3: Employ low-glare lighting in areas developed adjacent to natural areas, including riparian woodlands. Any high-intensity lighting used near natural areas will be placed as close to the ground as possible and directed downward or away from natural areas.
    - Policy ER-6.5: Prohibit use of invasive species, citywide, in required landscaping as part of the discretionary review of proposed development.
    - Policy ER-6.6: Encourage the use of native plants in the landscaping of developed areas adjacent to natural lands.

The City of San José Riparian Corridor Protection and Bird-Safe Design Council Policy (City of San José, 2016a) provides guidance consistent with the goals, policies, and actions of the City's Envision San José 2040 General Plan. New buildings in existing urban infill areas are required to have a minimum 100-foot setback from riparian corridors. Additionally, new development should use materials and lighting that are designed and constructed to reduce light and glare impacts to riparian corridors and should be directed away from riparian corridors.

Bird-Safe Design Guidance includes: (1) the design of buildings and structures should avoid mirrors and large areas of reflective glass, (2) avoidance of transparent glass skyways, walkways, or entryways, (3) free-standing glass walls, and transparent building corners, (4) avoidance of funneling open space to a building façade.

Local Tree Protection Ordinance

The City of San José Municipal Code Section 13.32 controls the removal of "ordinance" trees. Ordinance trees are defined as trees over 38 inches or more in circumference, at a height of 54 inches above natural grade slope. Ordinance trees are generally mature trees that help beautify the City, slow erosion of topsoil, minimize flood hazards, and 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.

3.4.2 Findings

	Potentially Significant Impact	*Less Than Significant with Mitigation Incorporated*	*Less than Significant Impact*	*No Impact*
Would the Project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	[ ]	[X]	[ ]	[ ]
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	[ ]	[ ]	[ ]	[X]
c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	[ ]	[ ]	[ ]	[X]
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	[ ]	[ ]	[X]	[ ]
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	[ ]	[ ]	[ ]	[X]
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	[ ]	[X]	[ ]	[ ]

Discussion

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

Less than Significant Impact with Mitigation Incorporated. While no burrowing owls or white-tailed kites were observed within the study area, burrows are prevalent within the site and the site is open enough to potentially support owl or nesting bird species. Potential impacts to burrowing owls or nesting birds could occur directly through removal of burrow-like structures or vegetation or indirectly through ground-disturbing activities that may create audible, vibratory, and/or visual disturbances that cause birds to abandon an active nest. **Mitigation Measure BIO-1** would be implemented to avoid impacts to burrowing owls and **Mitigation Measure BIO-2** would be implemented to avoid impacts to nesting birds. With implementation of **Mitigation Measures BIO-1** and **BIO-2**, impacts on special status species would be less than significant.

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

No Impact. Riparian woodland was the only sensitive natural community determined to occur within the study area. However, the Project area is sited below the top of the levee within the detention basin, approximately 100-feet from the edge of the riparian woodland, and no direct or indirect impacts are expected to occur as a result of the Project. Therefore, the proposed Project would have no impact on any riparian habitat or other sensitive natural community.

c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

No Impact. The proposed Project would not be located within or near a drainage or wetland under the jurisdiction of the USACE, RWQCB and CDFW. The basin is not considered a jurisdictional feature under the current federal Waters of the United States rule and current Waters of the State rule including the new state Wetlands Policy because the basin is a man-made artificial feature created in an upland area, it controls stormwater, it allows settling of sediment, and is subject to ongoing maintenance and operation. Although a seasonal wetland is present at the bottom of the constructed detention basin, the wetland formed unintentionally at the end of a French drain designed to drain the basin and is regularly maintained. Accordingly, the seasonal wetland is classified as non-jurisdictional under the current federal and state regulations. Therefore, the construction and operation of the proposed Project would have no impact on any state or federally protected wetlands.

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

Less than Significant Impact. The Guadalupe River potentially provides habitat connectivity for aquatic species, mammals and birds that may travel along the riparian corridor. However, the Project area itself does not provide a means of wildlife transit due to its development and would not directly or indirectly result in impacts to riparian corridor or river habitat connectively. No permanent impact would occur to migratory corridors for terrestrial and aquatic species as a result of the Project. Any temporary impact that could occur would be related to construction activities such as noise or vibration and would likely be minimized due to the Project's location behind a berm that separates it from the Guadalupe River. Therefore, the proposed Project would have a less than significant impact to migratory corridors and habitat linkages.

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

No Impact. There are no other biological resources protected by local policies or ordinances within the Project area. There would be no impact.

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

Less Than Significant Impact with Mitigation Incorporated. The proposed Project site would be located in the SCVHP area. The western boundary of the Project Area is located outside the Category 1 Stream Setback and mapped as Urban Park land cover (Santa Clara County Planning Office 2020). The Project Area is over 50 feet from riparian vegetation and 100 feet from the top of bank of the Guadalupe River, separated by a levee. No development would occur within 100 feet of riparian vegetation or top of streambank. Thus, the proposed Project meets the SCVHP Condition 11 requirements.

SCVHP Condition 12 requirements do not apply to the Project as no wetlands mapped by SCVHP are present within the Study Area. Further, the seasonal wetland within the Project Area developed unintentionally and is not under USACE, RWQCB or CDFW jurisdiction. Thus, the proposed Project meets SCVHP Condition 12 requirements.

Furthermore, as determined by the biological assessment, with implementation of **Mitigation Measure BIO-1** identified above, the Project meets the SCVHP Condition 15, to minimize potential impacts to burrowing owl. Therefore, the Project would comply with requirements of the SCVHP and no conflicts with the plan would occur.

Standard Project Conditions

The Project is subject to applicable SCVHP conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The project applicant would be required to submit the Santa Clara Valley Habitat Plan Coverage Screening Form to the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee for approval and payment of the nitrogen deposition fee prior to the issuance of a grading permit. The SCVHP and supporting materials can be viewed at www.scv-habitatplan.org.

Mitigation Measures:

To mitigate possible biological resource impacts of the Project, the City shall implement **Mitigation Measures BIO-1** and **BIO-2.** With implementation of these mitigation measures, Project impacts would be less than significant.

> **BIO-1: Compliance with SCVHCP for Burrowing Owl.** Fee payments into the Santa Clara Valley Habitat Conservation Plan have been made by the City. Participation in the plan allows for participating projects to move forward without additional mitigation, though the terms of the plan must be followed, and the terms are species specific. With respect to burrowing owl, projects occurring within mapped burrowing owl breeding habitat require preconstruction surveys and subsequent measures to protect burrowing owls, if detected. However, the Project Area is not in an area mapped as burrowing owl breeding habitat and may proceed without additional mitigation.
>
> **BIO-2: Pre-construction Nesting Bird Surveys.** A survey for active bird nests shall be conducted by a qualified biologist no more than 14 days prior to the start of Project activities (vegetation removal, grading, or other initial ground-disturbing activities) if ground disturbing activities commence during the nesting season (February 1 through August 31, inclusive). The survey shall be conducted in a sufficient area around the Project Area to identify the location and status of any nests that could potentially be directly or indirectly affected by vegetation removal, or grading activities. For white-tailed kite, the survey area shall extend at least 0.25 miles from the area of potential disturbance. Based on the results of the pre-construction breeding bird survey, the following measure shall apply:

- If active nests of protected species are found within the Project Area, or close enough to the area that nesting success would be adversely affected, a work exclusion zone shall be established around each nest. Established exclusion zones shall remain in place until all young in the nest have fledged or the nest otherwise becomes inactive (e.g., due to predation). Appropriate exclusion zone sizes vary dependent upon bird species, nest location, existing visual buffers, ambient sound levels, and other factors; an exclusion zone radius may be as small as 25 feet (for common, disturbance-adapted species) or more than 250 feet (for raptors). Listed species are typically provided more extensive exclusion zones, which may be specific to the species and/or follow CDFW guidance. Exclusion zone size may also be reduced from established levels if supported with nest monitoring by a qualified biologist indicating that work activities are not adversely impacting the nest.
- A copy of the survey shall be submitted to the Director of PBCE or Director's Designee prior to any ground-disturbance activities.

3.5 Cultural Resources

3.5.1 Setting

Environmental Setting

A Cultural Resources Assessment Report for the proposed Project was prepared in July 2020 by Basin Research Associates (**Appendix C).** The report provides the results on of an archival records review conducted by the California Historical Resources Information System, Northwest Information Center, Sonoma State University, Rohnert Park; a limited literature review of materials on file with Basin Research Associates for the Project area; the results of a Native American Heritage Commission (NAHC) search of the Sacred Lands Inventory and contact with knowledgeable local Native Americans. The report identifies the potential for cultural resources to occur in the proposed Project area and analyzes potential impacts to cultural resources based on federal, state, and local regulations described in the following Regulatory Setting section.

The Guadalupe River corridor is known to be highly sensitive for archaeological resources, with previously discovered prehistoric sites in the general project area including habitation sites ranging from villages to temporary campsites, stone tool and other manufacturing areas, quarries for tool stone procurement, cemeteries usually associated with large villages, isolated burial sites, rock art locations, bedrock mortars and other milling features sites and trails. There is one prehistoric archaeological resource mapped as adjacent to the northern boundary of the Project site, and three other prehistoric or prehistoric/historic resources within 1,500 feet of the site. Previous studies of the site determined that there are no visible historic or archaeological materials within the Project site, and there are no historic built environment structures within or adjacent to the Project site.

Regulatory Setting

Federal

National Register of Historic Places

Archaeological resources are protected through the National Historic Preservation Act (NHPA) of 1966 of as amended (16 USC 470f), and its implementing regulations. Prior to implementing an "undertaking" (e.g., federal funding or issuing a permit, Section 106 of the NHPA requires federal agencies to consider the effects of the undertaking on historic properties (i.e., properties listed in or eligible for listing in the National Register of Historic Places) and to afford the Advisory Council on Historic Preservation a reasonable opportunity to comment on any undertaking that would adversely affect properties eligible for listing in the National Register of Historic Place.

State

California Environmental Quality Act

Public agencies under CEQA must consider the effects of their actions on both "historical resources" and "unique archaeological resources." Pursuant to California Public Resources Code (PRC) Section 21084.1, a "project that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment." PRC 21083.2 requires agencies to determine whether a proposed project would have an effect on "unique" archaeological resources.

California Register of Historic Resources (CRHR)

The State of California implements the NHPA of 1966, as amended, through its statewide comprehensive cultural resource surveys and preservation programs. The California Office of Historic Preservation, an office of the California Department of Parks and Recreation, implements the policies of the NHPA on a statewide level. The Office of Historic Preservation also maintains the California Historical Resources Inventory. The State Historic Preservation Officer is an appointed official who implements historic preservation programs within the state's jurisdictions.

Properties of local significance that have been designated under a local preservation ordinance (local landmarks or landmark districts) or that have been identified in a local historical resources inventory may be eligible for listing in the CRHR and are presumed to be "historical resources" for purposes of CEQA unless a preponderance of evidence indicates otherwise (PRC 5024.1 and 14 CCR 4850). Unless a resource listed in a survey has been demolished or has lost substantial integrity, or there is a preponderance of evidence indicating that it is otherwise not eligible for listing, a lead agency should consider the resource potentially eligible for the CRHR.

In addition to assessing whether historical resources potentially impacted by a proposed project are listed or have been identified in a survey process, lead agencies have a responsibility to evaluate them against the CRHR criteria prior to making a finding as to a proposed project's impacts to historical resources (PRC 21084.1 and CEQA Guidelines Section 15064.5(a)(3)).

Assembly Bill 52

Assembly Bill 52 (AB 52) provides protections for tribal cultural resources. All lead agencies as of July 1, 2015 approving projects under CEQA are required, if formally requested by a culturally affiliated California Native American Tribe, to consult with such tribe(s) regarding the impacts of a project on tribal cultural resources. Under PRC Section 21074, tribal cultural resources include site features, places, cultural landscapes, sacred places or objects that are of cultural value to a tribe that are eligible or listed on the CRHR or a local historic register or that the lead agency has determined to be a significant tribal cultural resource. Tribal consultation is to continue until mitigation measures are agreed to or either the tribe or the lead agency concludes in good faith that an agreement cannot be reached.

Other California Law and Regulations

Other state-level requirements for cultural resources management appear in the California PRC Chapter 1.7, Section 5097.5 "Archaeological, Paleontological, and Historical Sites," and Chapter 1.75 beginning at Section 5097.9 "Native American Historical, Cultural, and Sacred Sites" for lands owned by the state or a state agency.

The disposition of Native American burials is governed by Section 7050.5 of the California Health and Safety Code and PRC Sections 5097.94 and 5097.98, and falls within the jurisdiction of the NAHC.

Local

Local preservation ordinances (local landmarks or landmark districts)

The City considers the demolition of a City Landmark or structure that qualifies for the State and/or National Register to be a significant impact. The City Council's Policy on Preservation of Historic Landmarks (1998, amended 2006) and the Historic Preservation Ordinance (2008) outline procedures and requirements for planning actions involving historic properties, including those that qualify as City Landmarks, Structures of Merit, and Contributing Structures (to a Conservation Area).

City of San José Municipal Code, Chapter 13.48

The City of San José Municipal Code, Chapter 13.48, *Historic Preservation*, requires the development of the city to reflect its historical, architectural, cultural, and aesthetic value or tradition; protect and enhance the city's cultural and aesthetic heritage; and promote and encourage continued private ownership and utilization of such structures.

Envision San José 2040 General Plan

Envision San José 2040 General Plan (adopted November 1, 2011 and as Amended on March 16, 2020) provides goals for Archaeology and Paleontology (Section 3):

- Goal ER-10 – Archaeology and Paleontology: Preserve and conserve archaeologically significant structures, sites, districts and artifacts in order to promote a greater sense of historic awareness and community identity.
    - Policy 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 archeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.
    - Policy 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 their discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced.
    - Policy 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.
    - Policy ER-10.4: The City will maintain a file of archaeological and paleontological survey reports by location to make such information retrievable for research purposes over time.

3.5.2 Findings

	Potentially Significant Impact	*Less Than Significant with Mitigation Incorporated*	*Less than Significant Impact*	*No Impact*
Would the Project:				
a) Cause a substantial adverse change in the significance of a historical resource pursuant to Section 15064.5?	[ ]	[X]	[ ]	[ ]
b) Cause a substantial adverse change in the significance of a unique archaeological resource pursuant to Section 15064.5?	[ ]	[X]	[ ]	[ ]
c) Disturb any human remains, including those interred outside of dedicated cemeteries?	[ ]	[ ]	[X]	[ ]

Discussion

a) Cause a substantial adverse change in the significance of a historical resource pursuant to Section 15064.5?

Less than Significant Impact with Mitigation Incorporated. As identified in the Cultural Resources Assessment, there are historic properties within or adjacent to the Project site. No sites listed on the California Register of Historic Resources have been identified, and no potentially significant local, state or federal historic properties or landmarks have been found in or adjacent to the site. Previous construction excavations for the existing pump station and detention basin at the site disturbed the soils within at least 10 feet of the original ground surface and have removed any resources that might have been present on or near the surface. Because subsurface resources in the area are usually exposed within 5 to 7 feet of the existing surface, there is a low potential for unexpected discovery of significant subsurface historic materials during construction. Nevertheless, there is a small chance that construction could result in inadvertent exposure of buried prehistoric or historic archaeological materials. **Mitigation Measure CR-1** would be implemented to ensure that both historic and prehistoric resources are protected if encountered during construction. Potential impacts would be less than significant with the implementation of measures to protect cultural resources.

b) Cause a substantial adverse change in the significance of a unique archaeological resource pursuant to Section 15064.5?

Less than Significant Impact with Mitigation Incorporated. As noted above, under Impact a), because of previous disturbance of the Project site, there is low potential for unexpected discovery of significant subsurface archaeological materials during construction. In the unlikely event that there is an unanticipated discovery during construction, **Mitigation Measure CR-1** would be implemented to ensure that archaeological resources are protected.

c) Disturb any human remains, including those interred outside of dedicated cemeteries?

Less than Significant Impact. Although unlikely because of the extent of previous disturbance at the site, there is a possibility that previously unknown Native American human remains could be exposed during ground disturbing activities at the Project site. The City shall implement the Standard Project Conditions listed in the following section, which require that the treatment of human remains or associated funerary objects must comply with applicable state law for Native American burials. The City shall implement these Standard Project Conditions during excavation of the

Project. With implementation of these standard conditions, potential impacts on human remains would be less than significant.

Standard Project Conditions

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

i. The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 48 hours after being given access to the site.

ii. The MLD identified fails to make a recommendation; or the landowner or his authorized representative rejects the recommendation of the MLD, and mediation by the NAHC fails to provide measures acceptable to the landowner.

Mitigation Measures:

To mitigate possible cultural resource and tribal cultural resource impacts of the Project, the City shall implement **Mitigation Measure CR-1**. With this mitigation measure incorporated, Project impacts would be less than significant.

CR-1: Protection of Cultural Resources. The City shall implement the following measures:

- **Disclaimer on Documents:** The City shall note on any plans that require ground disturbing excavation that there is a potential for exposing buried cultural resources including prehistoric Native American burials. Any archaeological site information supplied to the Contractor shall be considered confidential.

- **Training Materials:** The City shall retain a Qualified Archaeologist to develop an Alert Sheet outlining the potential for the discovery of unexpected archaeological resources and protocols to deal with a discovery. The Qualified Archaeologist shall provide the Contractor's construction crew "tool box" sensitivity training to present the Alert Sheet and protocols to supervisors, foreman, project managers, and non-supervisory contractor personnel. The Contractor is responsible for ensuring that all workers requiring training are in attendance.

- **Accidental Discovery:** The City shall retain a Qualified Archaeologist on an "on-call" basis during ground disturbing construction to review, identify and evaluate cultural resources that may be inadvertently exposed during construction. If cultural resources are found, all work must be stopped until further examination and determination of the finds are made and approved. The archaeologist shall review and evaluate any discoveries to determine if they are historical resource(s) and/or unique archaeological resources under CEQA.

    - If prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building

and Code Enforcement (PBCE) or the Director's designee and the Department of Public Works shall be notified, and a qualified archaeologist shall examine the find.

- If the Qualified Archaeologist determines that any cultural resources exposed during construction constitute a historical resource and/or unique archaeological resource under CEQA, he/she shall notify the City and other appropriate parties of the evaluation and recommend mitigation measures to mitigate to a less-than significant impact in accordance with California Public Resources Code Section 15064.5. Mitigation measures may include avoidance, preservation in-place, recordation, additional archaeological testing and data recovery among other options. The completion of a formal *Archaeological Monitoring Plan* (AMP) and/or *Archaeological Treatment Plan* (ATP) that may include data recovery may be recommended by the Qualified Archaeologist if significant archaeological deposits are exposed during ground disturbing construction. Development and implementation of the AMP and ATP and treatment of significant cultural resources will be determined by City in consultation with any regulatory agencies.
- A *Monitoring Closure Report* shall be filed with the Department of PBCE and the Department of Public Works at the conclusion of ground disturbing construction if archaeological and Native American monitoring of excavation was undertaken.

3.6 Energy

3.6.1 Setting

Environmental Setting

Electricity in the City is sourced by San José Clean Energy (SJCE) and delivered by Pacific Gas and Electric over existing utility lines. The SJCE is a city department and was created in May 2017 by a vote of the San José City Council. SJCE began operating in February 2019 with the goal of providing City residents and businesses with cleaner and cheaper energy through sources like solar, wind, and hydropower (SJCE, 2020).

Construction and operation of the proposed Project would require minimal amounts of electricity. Electricity consumption during Project construction would be supplied by two on-site generators. Electricity consumption during Project operation would be supplied by SJCE. New consumption of energy required for Project operation would be attributable to the treated water sump pump, mixing system, potential dewatering well and low-level night lighting. The existing pump station and pumps would continue operating under current conditions and would not contribute to a net increase in energy usage (see **Table 2-3**). In addition, natural gas service would not be required for construction or operation of the proposed Project.

Regulatory Setting

Federal

There are no federal regulations related to energy efficiency that apply to the proposed Project.

State

Title 24 - California Energy Efficiency Standards

The Building Energy Efficiency Standards (California Code of Regulations, Title 24, Part 6) were first adopted in 1976 by the California Energy Commission (CEC) (formally titled the California Energy Resources Conservation and Development Commission) and most recently revised in 2019. The Standards contain energy and water efficiency

requirements (and indoor air quality requirements) for newly constructed buildings, additions to existing buildings, and alterations to existing buildings. The standards, which apply to all residential and nonresidential buildings, are updated periodically to allow consideration and possible incorporation of new energy efficiency technologies and methods (CEC 2018).

California's Green Building Standards (CALGreen) Code (California Code of Regulations, Title 24, Part 11) includes mandatory measures to support the goals of the State's greenhouse gas reduction and building energy efficiency programs, including planning and design for sustainable site development, energy efficiency (in excess of the Title 24, Part 6 requirements), water conservation, material conservation, and internal air contaminants. In addition to mandatory building standards, the CALGreen Code includes voluntary "reach" standards known as the Tiers, which offer model building code language for local governments. Cities and counties can adopt the Tiers or other more progressive building standards as an amendment to the CALGreen Code based on climatic, topographical, or geological conditions (CARB 2018).

Local

Envision San José 2040 General Plan

- Goal MS-14 – Reduce Consumption and Increase Efficiency: Reduce per capita energy consumption by at least 50 percent compared to 2008 levels by 2022 and maintain or reduce net aggregate energy consumption levels equivalent to the 2022 (Green Vision) level through 2040.
    - Policy MS-14.4: Implement the City's Green Building Policies (see Green Building Section) 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.
    - Policy MS-14.5: Consistent with State and Federal policies and best practices, require energy efficiency audits and retrofits prior to or at the same time as consideration of solar electric improvements.
- Goal MS-15 – Renewable Energy: Receive 100 percent of electrical power from clean renewable sources (e.g., solar, wind, hydrogen) by 2022 and to the greatest degree feasible increase generation of clean, renewable energy within the City to meet its own energy consumption needs.
    - Policy MS-15.2: Lead globally in adopting technologies that transform solid waste and biosolids (i.e., the solids that remain after wastewater treatment) into usable energy.
    - Policy MS-15.5: Showcase and apply innovative technologies within San José, including developments that achieve maximum energy efficiency or net zero energy, and renewable energy systems that generate energy equal to or greater than that consumed on site.
    - Policy MS-15.6 Utilize municipal facilities to showcase the application of outstanding, innovative, and locally developed energy efficiency and renewable energy technologies and practices, to demonstrate the effectiveness of these technologies and to highlight the City's energy leadership.

3.6.2 Findings

	Potentially Significant Impact	*Less Than Significant with Mitigation Incorporated*	*Less than Significant Impact*	*No Impact*
Would the Project:				
a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?	[ ]	[ ]	[X]	[ ]
b) Conflict with or obstruct a state or local plan or renewable energy or energy efficiency?	[ ]	[ ]	[X]	[ ]

Discussion

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

Less than Significant Impact. Construction of the proposed Project would require fossil fuel consumption from construction equipment, machinery and activities such as material hauling and worker vehicle trips. **Table 2-2** provides a summary of the proposed Project's anticipated construction vehicle fleet. As shown in **Table 2-2**, the Project would not require unusual or excessive construction equipment or activities that would result in wasteful, inefficient, or unnecessary consumption of energy. In addition, the construction fleet contracted for the proposed Project would be required to comply with the California Air Resources Board (CARB) In-Use Off Road Diesel-Fueled Fleets Regulations, which limits vehicle idling time to five minutes, restricts adding vehicles with older-tier engines to construction fleets, and establishes a schedule for retiring older, less fuel-efficient engines from construction fleets (CARB, 2016).

Construction of the proposed Project would require 12 estimated worker trips per day (assuming an average of six workers per day) and approximately 4,000 haul trips for export and import of material (see *Section 2.5.2*). Truck hauling and worker vehicle trips are based on CalEEMod and engineering estimates.

Net increase in energy consumption during project operation would be attributable to the treated water sump pump, mixing system, low level lighting, and potential dewatering well (**Table 2-3**). Operation and maintenance activities for the basin and accompanying park facilities would require approximately five additional round trip employee vehicle trips per month. (See *Section 2.5.3*). Monitoring well data collection would require approximately three additional worker vehicle trips to the Project site during the rainy season. As such, short-term construction and long-term operation of the proposed Project would not result in wasteful, inefficient, or unnecessary consumption of energy. Impacts would be less than significant.

b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?

Less than Significant Impact. Climate Smart San José was adopted as the City's climate action plan by the San José City Council in 2018. The plan refers to the *Envision San José 2040 General Plan* for specific City policies and sets energy, water, transportation, and local job goals to reduce air pollution, save water, and improve quality of life. The plan focuses on three pillars and nine key strategies (City of San José, 2018a):

Pillar 1 A Sustainable & Climate Smart City
1.1 Transition to a renewable energy future

1.2 Embrace our Californian climate

Pillar 2 A Vibrant City of Connected & Focused Growth

1.1 Densify our city to accommodate our future neighbors
1.2 Make homes efficient and affordable for our families
1.3 Create clean, personalized mobility choices
1.4 Develop integrated, accessible public transport infrastructure

Pillar 3 An Economically Inclusive City of Opportunity

1.1 Create local jobs in our city to reduce vehicle miles traveled
1.2 Improve our commercial building stock
1.3 Make commercial goods movement clean and efficient

Construction of the proposed Project would not involve land use changes that would directly or indirectly result in an increase in vehicle trips or vehicle miles travelled. Operation and maintenance of the proposed Project would require up to five employee vehicle trips per month and an additional three round trips during the rainy season to collect data from the monitoring wells. As discussed under *Section 3.6 Energy Impact a)*, the proposed Project would not involve wasteful or inefficient energy consumption. Therefore, implementation of the Project would not conflict with obstruct a state or local plan for renewable energy or energy efficiency. Impacts would be less than significant.

Mitigation Measures: None required or recommended.

3.7 Geology and Soils

3.7.1 Setting

Environmental Setting

The City of San José is located in the Santa Clara Valley within the Coast Range Geomorphic Province of Central California and is bound by the Hamilton-Diablo Mountain Range to the east and the Santa Cruz mountains to the south (City of San José, 2005). Potentially active faults near the Project site are shown in **Table 3-6.**

Table 3-6: Active Faults near the Project Site

Fault	Approximate Distance from the Project site
Hayward	7 miles northeast
Monte Vista	11 miles west
Crosley	6 miles east
San Andreas	17 miles west

Source: CDOC, 2010a

The proposed Project site would be located on marine and nonmarine (continental) sedimentary rocks, consisting of unconsolidated and consolidated alluvium, lake, playa, and terrace deposits (CDOC, 2010b). The Project is located on elder fine sandy loam with an excellent Soil Agricultural Groundwater Banking Index rating, which indicates a high rate of drainage (UC Davis, n.d). The Project would be located on relatively flat, previously disturbed land with no unique geological features.

Soil borings taken for the proposed Project by CE&G (2020) revealed approximately 1.5 to 5.5 feet of artificial fill overlies alluvium deposits in the basin. The alluvium consists of various mixtures of sand and silts, and minimal layers of lean clay with varying amounts of sand. Groundwater was encountered at approximately 1.3 feet below ground surface (bgs) at the southeast end of the basin and 10.3 feet bgs at the northwest end of the basin. The generalized depth of groundwater near the Project site ranges from approximately 0 to10 feet bgs (CE&G, 2020).

Regulatory Setting

State

Alquist-Priolo Earthquake Fault Zoning Act

The Alquist-Priolo Special Studies Zone Act, or Alquist-Priolo Earthquake Fault Zoning Act, was adopted in 1972. The Act prohibits construction of buildings used for human occupancy within an earthquake fault zone, with some exemptions. It requires local jurisdictions regulate development within an earthquake fault zone. Active faults are those that have been active within the last 11,000 years. Earthquake fault zones average 0.25 miles wide around active faults. For buildings constructed prior to 1975, this act does not apply unless the structure is changed by 50% or more, except for Section 2621.9, *Regarding Disclosure Requirements*, which is required for all structures designed for human occupancy (CGS, 2018).

Seismic Hazards Mapping Act

The Seismic Hazards Map Act of 1991 requires mapping of areas that may be at risk from the effects of ground failures such as earthquakes, liquefaction, and landslides. Geotechnical studies are required for projects located within a seismic hazard zone, and any seismic hazards must be delineated (PRC Section 7.8).

Uniform Building Code

The Uniform Building Code requires permitting to enforce seismic safety standards for buildings.

California Building Code

The California Building Standards Code, Title 24 of the California Administrative Code is updated every three years (with intermediary supplements between updates) and sets standards for safe buildings. It is a compilation of national building standards adopted by State agencies, national model codes adapted and then adopted by State agencies, and building standards authorized by the California legislature that address specific concerns in California.

Local

City of San José Ordinance – Building Code and Excavation and Grading Standards

The City of San José Building Code (Municipal Code Chapter 17.04) incorporates the Uniform Building Code and establishes uniform engineering standards and procedures for grading within the City. This ordinance outlines grading permit requirements within the City, including soil engineering report and engineering geology report requirements.

City of San José Ordinance – Development within Geologic Hazard Zones

The City of San José Municipal Code includes Geologic Hazard Regulations (Chapter 17.10). This chapter is intended to ensure an appropriate level of review of projects which are located in geologically sensitive areas in order to identify geologic hazards and impose necessary mitigation before development is permitted in such areas. Geologic hazards may include fault ruptures, landslides, mudslides and rock falls, ground failure due to earthquake shaking, erosion and sedimentation, and creeping soil. Prior to all construction and grading activities in a geologic hazard zone, a geologic evaluation be must conducted and geologic hazard clearance issued by the City in order for projects to receive a development, grading, or building permit.

Envision San José 2040 General Plan

The City of San José General Plan includes goals and policies related to land use planning and the potential impacts of geologic and soil hazards. Applicable goals and policies include the following:

- Goal EC-4 – Geologic and Soil Hazards: Minimize the risk of injury, loss of life, and property damage from soil and slope instability including landslides, differential settlement, and accelerated erosion.
    - Policy EC-4.3: Locate new public improvements and utilities outside of areas with identified soils and/or geologic hazards (e.g., deep seated landslides in the Special Geologic Hazard Study Area and former landfills) to avoid extraordinary maintenance and operating expenses. Where the location of public improvements and utilities in such areas cannot be avoided, effective mitigation measures will be implemented.
    - Policy 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, are 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 15.
    - Policy EC-4.7: Consistent with the San José Geologic Hazard Ordinance, prepare geotechnical and geological investigation reports for projects in areas of known concern to address the implications of irrigated landscaping to slope stability and to determine if hazards can be adequately mitigated.

3.7.2 Findings

	Potentially Significant Impact	*Less Than Significant with Mitigation Incorporated*	*Less than Significant Impact*	*No Impact*
Would the Project:				
a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i) 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.	[ ]	[ ]	[ ]	[X]
ii) Strong seismic ground shaking?	[ ]	[ ]	[X]	[ ]
iii) Seismic-related ground failure, including liquefaction?	[ ]	[ ]	[X]	[ ]
iv) Landslides?	[ ]	[ ]	[X]	[ ]
b) Result in substantial soil erosion or the loss of top soil?	[ ]	[ ]	[X]	[ ]

c)	Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the Project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?	[ ]	[ ]	[X]	[ ]
d)	Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?	[ ]	[ ]	[X]	[ ]
e)	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 waste water?	[ ]	[ ]	[ ]	[X]
f)	Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	[ ]	[ ]	[X]	[ ]

Discussion

a.i) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving: Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.

No Impact. The Project would not be associated with significant levels of risk of loss, injury or death from rupture of a known earthquake fault. Although the Project site is in a seismically active region, it is not within an earthquake fault zone based on the California Geological Survey's (CGS)'s Earthquake Zones of Required Investigation (CGS, 2018) or a designated Alquist-Priolo Earthquake Zone (County of Santa Clara, n.d.a). Due to the distance between the fault zone and the Project area, there is no potential for surface fault rupture.

a.ii) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving: Strong seismic ground shaking?

Less than Significant Impact. The Project site is roughly bound by the San Andreas Fault Zone approximately 17 miles west and the Hayward Fault Zone located approximately seven miles northeast. Ground shaking potential for the Project area is relatively high due to the proximity to the Monte Vista and Crosley Faults and the Hayward and San Andreas Fault Zones (CDOC, 2019a).

As with many seismically active areas in California, the Project would likely be subject to varying magnitudes of seismic ground shaking. To avoid or minimize potential damage from large seismic events, the Project shall be designed and constructed in accordance with a site-specific geotechnical engineering report that would be prepared for the Project, the City of San José Engineering Standard Specifications and applicable American Water Works Association standards. The Project would also incorporate standard engineering and seismic safety design techniques identified in guidelines published by the Public Works Standards Incorporated, the International Building Code, and the California Building Code, which is based on the International Building Code with amendments to reflect conditions specific to California. Because the proposed Project would comply with applicable building and construction codes, the Project would not exacerbate a risk of damage related to strong seismic ground shaking. Impacts would be less than significant.

a.iii) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving: Seismic-related ground failure, including liquefaction?

Less than Significant Impact. Liquefaction occurs when loosely packed sediments at or near the ground surface temporarily lose cohesion and strength during severe ground shaking and turn into a fluid state. The Project site is located within a liquefaction zone due to its proximity to potentially active faults and the San Francisco Bay (CDOC, 2019b).

Prior to construction, a site-specific geotechnical engineering report would be prepared for the Project by a California licensed geotechnical engineer to evaluate various geotechnical conditions of the site, determine the Project site's liquefaction risk, and provide recommendations for design and materials. The Project shall be built in conformance with the geotechnical report as well as applicable City of San José, American Water Works Association, Public Works Standards Incorporated, International Building Code, and California Building Code requirements. As a result, implementation of the proposed Project would not exacerbate a risk of damage related to liquefaction. Impacts would be less than significant.

a.iv) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving: Landslides?

Less than Significant Impact. Landslide risk is typically associated with high slopes and unstable soils. The Project site does not fall within the City of San José's known areas of slope instability, which occur along the eastern foothills and the Santa Teresa Hills (Cornerstone Earth Group, 2010). Therefore, there is a low probability that the Project could be impacted by or exacerbate impacts related to landslides. In addition, the proposed Project would be designed and constructed in accordance with applicable City of San José, American Water Works Association, Public Works Standards Incorporated, International Building Code, and California Building Code requirements. Therefore, impacts would be less than significant.

b) Result in substantial soil erosion or the loss of top soil?

Less than Significant Impact. Construction of the Project would result in ground disturbing activities such as excavation, grading, and drilling (for wet well and/or dewatering well) that would expose soil to potential erosion from strong winds or heavy rains. Since construction activities would disturb one acre or more in total, the Project would require coverage under the Statewide NPDES Construction General Permit. A SWPPP would be prepared and implemented in compliance with the Construction General Permit and would identify BMPs to control and reduce sediment and pollutant discharges associated with construction activities. Once construction is completed, disturbed areas would be replaced with a permeable (asphalt, decomposed granite, wooden deck) or impermeable (concrete) surface or covered with vegetation to reduce potential soil erosion. A sediment forebay would be constructed in the detention basin to provide treatment of suspended solids prior to discharge to the Guadalupe River. To ensure proper procedures are in place to prevent substantial soil erosion or the loss of top soil, the City's Standard Project Conditions shall be implemented during all construction phases of the Project. With implementation of these conditions, potential impacts to soil erosion would be less than significant.

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

Less than Significant Impact. Soils at the Project site are fine sandy loam soils, which are well drained and have moderate permeability. The Project site is not located within Santa Clara County fault rupture, landslide, or compressible soil hazard zones (County of Santa Clara, n.d.b). Improved groundwater management in the City of San José has stopped or greatly slowed regional subsidence (Cornerstone Earth Group, 2010). Therefore, the proposed Project would not result in on- or off-site landslide, subsidence, or collapse.

Although the Project site is not located within a landslide hazard zone, the site is located within the Santa Clara County and State liquefaction hazard zone. Liquefaction and lateral spreading (earthquake-induced liquefaction) risk are a

result of the Project sites well-drained, clay-free soils and shallow groundwater levels. However, construction of the detention basin would require the basin to be excavated and a waterproof liner to be installed below the fill soil to prevent infiltration of storm flows. In addition, a permanent dewatering well may potentially be installed in the basin to prevent shallow groundwater from seeping into the basin. The Project shall be built in conformance with a site-specific geotechnical engineering report as well as applicable City of San José, American Water Works Association, Public Works Standards Incorporated, International Building Code, and California Building Code requirements. As a result, implementation of the proposed Project would not exacerbate a risk of damage related to liquefaction or lateral spreading. Impacts would be less than significant.

d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?

Less than Significant Impact. Expansive soils can change their volume (shrink/swell) and crack rigid infrastructure as a result of changes in soil moisture. Typically, expansive soils contain a high to very high percentage (60 percent or more) of clay. Soils of the Project site are not expansive; they consist of alluvium composed of mostly sands and silts, overlain by artificial fill. Modification of the basin would require removal of soil and placement of an impermeable liner and bioretention soil media following recommendations in the project-specific engineering design and geotechnical reports as well as applicable City of San José, American Water Works Association, Public Works Standards Incorporated, International Building Code, and California Building Code requirements. As a result, implementation of the proposed Project would not exacerbate a risk of damage related to expansive soils. Impacts would be less than significant.

e) 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 waste water?

No Impact. The Project does not propose the construction or use of septic tanks or alternative wastewater disposal systems. Therefore, there would be no impact.

f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

Less than Significant Impact. Fossils are valuable and nonrenewable resources of remains of ancient, commonly extinct organisms that help us understand the evolutionary history of life on earth. No single data repository for fossil localities throughout the state or county exists. The institution that conserves data about paleontological resources in the vicinity of San José is the University of California Museum of Paleontology in Berkeley (City of San José, 2009).

The majority of the area directly underlying the City of San José is composed of marine and nonmarine sedimentary deposits of Quaternary (Pleistocene and Holocene) age. All of the areas of the City where underlying deposits are mapped as Pleistocene and Holocene in age are considered to have high sensitivity for paleontological resources, and it is assumed that construction in these areas could impact significant vertebrate fossils (CDOC, 2010b).

Although the Project site is previously disturbed, construction of the proposed Project would require ground disturbing activities such as grading and excavation that would reach a maximum of seven feet below the existing bottom of the detention basin and may disturb native soils. Fossiliferous deposits typically have the potential to occur at depths below the depth of ground disturbance required for the proposed Project. Therefore, the potential for encountering fossils is considered low, and no adverse impacts on paleontological resources are anticipated. To ensure proper procedures are in place in the event of an unanticipated fossil discovery, the City's Standard Project Conditions related to paleontological resources shall be implemented during excavation of the Project and would ensure that any unanticipated fossil discovered on site would be preserved. With implementation of this standard condition, potential impacts on paleontological resources would be less than significant.

Standard Project Conditions

Geotechnical, Seismic Hazards, Soils

i. To avoid or minimize potential damage from seismic shaking, the project shall be constructed using standard engineering and seismic safety design techniques. Building design and construction at the site shall be completed in conformance with the recommendations of an approved geotechnical investigation. The report shall be reviewed and approved by the City of San José Department of Public Works. Project facilities shall meet the requirements of applicable Building and Fire Codes as adopted or updated by the City. The project shall be designed to withstand soil hazards identified on the site and the project shall be designed to reduce the risk to life or property on site and off site to the extent feasible and in compliance with the Building Code.

ii. All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.

iii. Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.

iv. Ditches shall be installed to divert runoff around excavations and graded areas if necessary.

The project shall be constructed in accordance with the standard engineering practices in the California Building Code, as adopted by the City of San José. These standard practices would ensure that project facilities on the site are designed to properly account for soils-related hazards on the site.

Paleontological Resources

If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement (PBCE) shall be notified, and a qualified professional paleontologist shall assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, but is not limited to, 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 applicant shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of Planning or Director's designee of the PBCE.

3.8 Greenhouse Gas Emissions

3.8.1 Setting

Environmental Setting

Greenhouse gases (GHGs) are pollutants that add to global climate change impacts by increasing the greenhouse effect in the earth's atmosphere. Several pollutants have been identified as GHGs. As defined by the State in Section 38505(g) of the Health and Safety Code, GHGs are carbon dioxide (CO_2), methane (CH_4), nitrous oxide (N_2O), hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. Water vapor also acts as a GHG; however, it is short-lived, and concentrations are largely determined by natural processes such as evaporation. Other GHGs such as fluorinated gases are created and emitted through anthropogenic sources. The most common anthropogenic sources of GHGs are CO_2, CH_4, and N_2O.

The potential of various gases to warm the atmosphere is measured using Global Warming Potential (GWP), which measures how much energy the emissions of one ton of a gas will absorb over a given period of time relative to the emissions of one ton of CO_2. CO_2 has a 100-year GWP of one; CH_4 has a GWP of 25; and N_2O has a GWP of 298. GWP is expressed as CO_2 equivalent (CO_2e), which is the amount of GHG emitted multiplied by its GWP.

Regulatory Setting

Federal

In 2005, Executive Order (EO) S-3-05 set the following GHG emission reduction targets:

- 2010 should have 2000 emission levels;
- 2020 should have 1990 emission levels; and
- GHG emissions should be 80 percent below 1990 levels by 2050.

State

Assembly Bill 32 (AB 32), the California Global Warming Solutions Act of 2006, laid the foundation for California's response to climate change. AB 32 codified the mid-term GHG reduction target established in EO S-3-05 (reduce GHG emissions to 1990 levels by 2020). AB 32 directed the California Air Resources Board (CARB) to develop discrete early actions to reduce GHG emissions by 2007, and to adopt regulations to implement early action measures by January 1, 2010.

In 2008, CARB adopted its first Climate Change Scoping Plan, which included measures to address GHG emission reduction strategies. The first update to the Climate Change Scoping Plan was approved in 2014 and included new emission reduction strategies. In 2017, CARB adopted the second update to the Climate Change Scoping Plan. The 2017 Climate Change Scoping Plan reflects SB 32 statewide GHG emissions target (CARB, 2017). The plan defines CARB's climate change priorities and groundwork to reach post-2020 statewide goals. The update includes information on California's progress toward meeting the 2020 GHG emission reduction goals. It also identifies how the State can reach the AB 32 target of reducing emissions 40 percent below 1990 levels by 2030, and the target set by EO S-3-05 to reduce GHG emissions to 80 percent below 1990 levels by 2050. The Climate Change Scoping Plan recommends that lead agencies "prioritize onsite design features that reduce emissions, especially from vehicle miles travelled (VMT), and direct investments in GHG reductions within the proposed Project's region that contribute potential air quality, health, and economic co-benefits locally."

Regional

Regionally, the Metropolitan Transportation Commission (MTC) acts as the transportation coordinating, planning, and financing agency for the nine Bay Area counties. In 2017, MTC and Association of Bay Area Governments (ABAG) adopted Plan Bay Area 2040, which includes the Regional Transportation Plan and Sustainable Communities Strategy (MTC, 2017). Plan Bay Area includes strategies for target areas including reducing GHG emissions, improving transportation access, and enhancing resilience to climate change.

BAAQMD regulates sources of air pollution in the region. BAAQMD's 2017 Clean Air Plan includes a climate and air pollution control strategy. Key priorities of the Clean Air Plan include reducing criteria air pollutants and TACs, reducing demand for fossil fuels, and reducing emissions of "super-GHGs" (which have a greater warming impact). The Clean Air Plan establishes specific control strategies in different economic sectors, such as transportation, energy, buildings, and water.

BAAQMD has also published the CEQA Air Quality Guidelines, which include information on BAAQMD rules, procedures, and methods for analyzing GHG estimates. Per BAAQMD CEQA Air Quality Guidelines, a project's operational GHG emissions would be considered to have a less than significant effect on the State's progress towards its 2020 GHG reduction goals if they are below 1,100 metric tons per year (MT/year) of CO_2e, or if a project complies with a qualified GHG reduction strategy. BAAQMD has not yet published a quantified threshold for 2030 (to comply with SB 32 and EO B-30-15 targets for 2030 to reduce Statewide GHG emissions by 40% below 1990 levels). The City of San José uses a numerical threshold of 660 MT/year of CO_2e; GHG emissions from an individual project, and below this level project emissions would be considered less than significant in terms of the State achieving substantial

progress towards its 2030 goal. This threshold is based on the State's reduction targets described in EO B-30-15 and SB 32 to reduce GHG emissions Statewide by 40% below 1990 levels by 2030, and the 2020 BAAQMD numerical threshold of 1,100 MT/year of CO_2e. Neither BAAQMD nor the City of San José have an adopted threshold of significance for construction related GHG emissions, however, per the CEQA Air Quality Guidelines, the lead agency should quantify and disclose GHG emissions that would occur during construction.

Local

The City of San José General Plan includes goals and policies that address GHG emissions. The General Plan focuses on GHG impacts of vehicle use and new housing or other land use developments. The following goals and policies are relevant to the proposed Project:

- Goal PR-6 – Sustainable Parks and Recreation: Provide environmentally sustainable programs, facilities, and infrastructure assets, accompanied by a network of trails and pathways throughout the City to provide an alternate means of transportation.
    - Policy PR-6.5: Design and maintain park and recreation facilities to minimize water, energy and chemical (e.g., pesticides and fertilizer) use. Incorporate native and/or drought-resistant vegetation and ground cover where appropriate.
- Goal MS-2 – Energy Conservation and Renewable Energy Use: Maximize the use of green building practices in new and existing development to maximize energy efficiency and conservation and to maximize the use of renewable energy sources.
    - Action 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).
- Goal MS-14 – Reduce Consumption and Increase Efficiency: Reduce per capita energy consumption by at least 50% compared to 2008 levels by 2022 and maintain or reduce net aggregate energy consumption levels equivalent to the 2022 (Green Vision) level through 2040.
    - Policy MS-14.4: Implement the City's Green Building Policies (see Green Building Section) 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.
- Goal CD-3 – Connections: Maintain a network of publicly accessible streets and pathways that are safe and convenient for walking and bicycling and minimize automobile use; that encourage social interaction; and that increase pedestrian activity, multi-modal transit use, environmental sustainability, economic growth, and public health.
    - Policy CD-3.8: Provide direct access from developments to adjacent parks or open spaces and encourage residential development to provide common open space contiguous to such areas.

The City of San José has prepared a climate action plan, known as Climate Smart San José, which outlines a framework for meeting State climate goals and reducing carbon emissions (City of San José, 2018a). The document provides a large-scale vision for actions such as increasing density, improving alternative transport, and creating local jobs to reduce VMT. Climate Smart San José refers to the San José General Plan for specific related City policies.

The City of San José has also prepared a GHG Reduction Strategy, which incorporates policies from the City's General Plan. The last update to the GHG Reduction Strategy was completed in August 2020. The GHG Reduction Strategy was prepared in accordance with BAAQMD CEQA Air Quality Guidelines and CEQA Guidelines Section 15183.5, which addresses GHG Reduction Plans. The GHG Reduction Strategy includes strategies to be implemented to reduce GHG emissions in the City. Certain strategies apply to City operations, and others apply to development projects. The GHG Reduction Strategy ensures that relevant General Plan policies are implemented as part of development review for residential, commercial, industrial, institutional, and municipal projects. The City's 2030 GHG Reduction Strategy aligns the City with the Statewide GHG reduction targets set in SB 32 and AB 32, as well as the long-term State target of carbon neutrality by 2045. It builds on the City's Envision San José 2040 General Plan and Climate Smart San José.

City ordinances related to GHG emissions include the Green Building Ordinance (Chapter 17.84 of the Municipal Code), which regulates private development, and the Water Efficient Landscape Standards for New and Rehabilitated Landscaping (Chapter 15.10), which outlines acceptable irrigation procedures and other measures.

3.8.2 Findings

	Potentially Significant Impact	*Less Than Significant with Mitigation Incorporated*	*Less than Significant Impact*	*No Impact*
Would the Project:				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	[ ]	[ ]	[X]	[ ]
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	[ ]	[ ]	[X]	[ ]

Discussion

a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?

Less Than Significant Impact. The Project would emit GHGs during both construction and operation. Construction impacts would include emissions associated with site preparation, demolition, grading, facility construction, and planting installation. Operational emissions would occur from use of pumps and aeration system, routine pump station operation and maintenance, and from landscaping and maintenance activities of the site. Further details can be found in *Section 2 Project Description*.

Modeling of air emissions from construction and operation was completed in CalEEMod version 2016.3.2. Details on construction, including timing, duration, equipment, and worker trips can be found in *Section 2 Project Description*. Operational emissions would result from pumps that would be added to the site, aeration system, and O&M trips (approximately five trips per month for operation and maintenance of the pump station, periodic monitoring, and regular landscaping). Other Project details necessary for GHG emission modeling were obtained from CalEEMod and engineer estimates (e.g., equipment horsepower, load factors, fleet mix, and vehicle emissions factors).

As explained above, the City of San José has set a threshold of 660 MT CO_2e; below this threshold, GHG emission impacts would be considered less than significant and would not require mitigation. The results of the inventory for

GHG emissions, as shown in the CalEEMod output tables in **Appendix A**, are presented in **Table 3-7** along with the significance threshold. The operational emissions associated with the proposed Project would be below the threshold, and the Project would have a less than significant impact

Table 3-7: Proposed Project Operational GHG Emissions per Year ($MTCO_2e$/year)

Source	$MTCO_2e$
Area	<1
Energy	1.97
Mobile	26.23
Waste	<1
Water	1.35
Total	29.74
Threshold	660
Exceed Threshold?	*No*

Per BAAQMD CEQA Air Quality Guidelines, construction emissions do not constitute a significant impact, but should be disclosed and discussed by lead agencies. During construction, the proposed Project would emit a total of 252 MT CO_2e. The Project would adhere to existing energy efficiency requirements during construction, including CARB's In-Use Off-Road Diesel-Fueled Fleets Regulations that limit vehicle idling time to five minutes, restrict adding vehicles to construction fleets that have lower than Tier 3 engines, and establish a schedule for retiring older and less fuel-efficient engines (CARB, 2019b).

b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

Less than Significant Impact. California's 2017 Climate Change Scoping Plan is the key State plan governing GHG emissions. The Scoping Plan focuses on reducing energy demand and GHG emissions that result from mobile sources and land use development. The proposed Project would not create a considerable increase in new vehicle trips or alter land use such that vehicle trips would increase. A limited number of vehicle trips would be associated with operation and maintenance of the proposed Project. The proposed Project would have minimal operational energy use, associated with new pumps, potential dewatering well, aeration system and limited low-level lighting. Indirect GHG emissions would primarily be associated with water use for landscape irrigation; however, plantings would be selected to minimize irrigation needs.

The proposed Project would not interfere with existing City or regional programs intended to reduce energy use and GHG emissions. It would not result in emissions higher than the BAAQMD significance screening thresholds. The Project would be designed in accordance with City standards and would follow City ordinances related to water use efficiency, which would minimize indirect GHG emissions. The proposed Project would support the City of San José General Plan by incorporating native and drought-tolerant vegetation, planting trees, and increasing connectivity of pedestrian pathways. Therefore, the proposed Project would not conflict with or obstruct a State or local plan for renewable energy or energy efficiency, and impacts would be less than significant.

Mitigation Measures: None required or recommended.

3.9 Hazards and Hazardous Materials

3.9.1 Setting

Environmental Setting

The Project site is in an urbanized area bordering the Guadalupe River and is designated as a non-very high fire hazard severity zone (VHFHSZ) within the San José Local Responsibility Area (LRA) (Cal Fire, 2008). The proposed Project site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 (Cortese List) (CalEPA, 2020). Additionally, the Project site is not listed in the State Water Resources Control Board (SWRCB) GeoTracker database (SWRCB, 2020) as a site that has impacted or has the potential to impact water quality and groundwater, nor is it listed in the California Department of Toxic Substances Control (DTSC) EnviroStor database (DTSC, 2020) that track sites with known contamination undergoing investigation and cleanup.

Regulatory Setting

During construction of the proposed Project, the City would be required to comply with all applicable federal, state, and local regulations to minimize the risks of exposure to hazardous materials from routine use or accidents. Applicable regulations are summarized below.

Federal

Comprehensive Environmental Response, Compensation, and Liability Act

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) was enacted in 1980 to fund the cleanup of abandoned or uncontrolled sites contaminated with hazardous materials. In addition to cleanup of hazardous waste at contaminated sites, CERCLA updated the National Oil and Hazardous Substances Contingency Plan, which provides guidelines and procedures for responding to hazardous waste threats.

Resource Conservation and Recovery Act

The Resource Conservation and Recovery Act (RCRA) regulates handling and disposal of solid waste, hazardous materials, and underground storage tanks for petroleum or other chemicals of concern. RCRA requires hazardous waste generators to obtain a permit for storage of hazardous waste over 90 days, and treatment for hazardous wastes prior to disposal. RCRA also restricts which facilities can receive hazardous wastes. For solvents, electroplating wastes, heavy metals, and acids, waste generators must coordinate with treatment, storage, and disposal facilities to ensure proper handling of materials. Construction projects similar to the proposed CAPP typically generate solid waste and may generate hazardous waste (waste that is ignitable, corrosive, or reactive) depending on the construction techniques and materials used. These wastes are regulated by RCRA.

Federal Hazardous Materials Transportation

Transportation of hazardous materials is regulated by the Federal Hazardous Materials Transportation Act (HMTA) of 1974 and the Hazardous Materials Transportation Uniform Safety Act (HMTUSA) of 1990. The HMTA was established to provide adequate protection against the risks to life and property inherent in the transportation of hazardous materials. The HMTA sets extensive guidelines for carriers of hazardous materials including the requirements to classify, package, and label materials appropriately, use specific hazardous materials placards for shipments, and have suitable shipping papers at all times. Carriers of hazardous materials must follow Department of Transportation rules, maintain rapid response plans for emergencies, and undergo safety trainings. The HMTUSA was enacted by Congress to clarify conflicting federal, state, and local regulations related to the safe transport of hazardous materials in intrastate, interstate, and foreign commerce.

Occupational Safety and Health Standards

The Occupational Safety and Health Act of 1970 established that employers are responsible for providing a safe work environment for employees. The Occupational Safety and Health Administration (OSHA) regulates workplace safety though establishing and enforcing industry standards for health and safety, and providing training, outreach, and assistance to industries to promote workplace safety. The Occupational Safety and Health Act covers most private employers, but does not cover state or local government employers, nor does it cover hazards regulated by other federal agencies. The Occupational Safety and Health Act does apply to state and local governments in California through Cal/OSHA, an OSHA-approved State program.

Emergency Planning and Community Right-To-Know Act

The Emergency Planning and Community Right-To-Know Act requires federal, state, and local governments to create chemical emergency response plans to release of hazardous substances. Hazardous and toxic chemical reporting for facilities is required in order to increase awareness and access to information by the public. Facilities must publicly report accidental releases of certain chemicals and hazardous substances and create and make available Material Safety Data Sheets that describe the chemicals in question and health effects associated with them.

National Fire Protection Association Standard Section 704

National Fire Protection Association Standard Section 704, Standard System for the Identification of the Hazards of Materials for Emergency Response provides standards for assessing the hazards of exposure to materials in the event of a fire, spill, or other emergency. It assesses safety based on four criteria: health, instability, flammability, and related hazards (currently limited to unusual reactivity to water or to indicate material is an oxidizer).

Uniform Fire Code

The Uniform Fire Code regulated the use, handling, and storage requirements for hazardous materials at facilities. In combination with the Uniform Building Code, it classifies hazards and determines appropriate protective measures. The Uniform Fire Code uses permits to regulated hazardous materials based on these classifications.

State

California Health and Safety Code

California Health and Safety Code Division 20, Chapter 6.5, section 25100 et seq. mandates that facilities that handle, store, use, treat, dispose of, or generate hazardous materials create hazardous-waste management programs. Facilities that generate hazardous wastes in excess of 26,400 pounds per year or extremely hazardous wastes in excess of 26.4 pounds per year must adhere to California Health and Safety Code Section 25244.12 et seq. These facilities must characterize and quantify generated wastes and identify ways to reduce waste generation. They must also develop written documentation that addresses waste reduction, develop a source-reduction evaluation review and plan, and prepare a plan summary and hazardous waste management report and a report summary.

Hazardous materials handling, reporting requirements, and local agency surveillance programs are regulated under the California Health and Safety Code Section 25500 et seq. General regulations regarding fire and fire protection are included in California Health and Safety Code Division 12.

Hazardous Waste and Substances Sites List (Cortese List)

Per California Government Code Section 65962.5, the Hazardous Waste and Substances Sites List (Cortese List) is compiled and maintained by the DTSC under the California EPA (CalEPA), and is a list of all sites identified as having hazardous waste releases

.

Title 22 and 23 of the California Code of Regulations

Hazardous materials and wastes are defined, categorized, and listed in Title 22 of the CCR. Title 22, Division 4, Chapter 3 governs the production and use of recycled water, sets standards for recycled water quality for designated uses, and regulates requirements of use sites, conveyance systems, and operational requirements.

Cal/OSHA

The Division of Occupational Safety and Health (Cal/OSHA) is a division of the California Department of Industrial Relations. Cal/OSHA is the OSHA-approved state program for California, and is responsible for regulating workplace health and safety in California. Cal/OSHA issues permits for activities such as construction of trenches or excavations deeper than five feet into which a worker must descend, construction of buildings or structures more than three stories or 36 feet high, demolition of such structures, and erection or dismantling of vertical shoring systems more than 36 feet or three stories high. Cal/OSHA oversees workplace health and safety in almost all workplaces throughout the State, including the public sector, in contrast to Federal OSHA.

Local

Envision San José 2040 General Plan

- Goal EC-6 – Hazardous Materials: Protect the community from the risks inherent in the transport, distribution, use, storage, and disposal of hazardous materials.
    - Action EC-6.8: The City will use information on file with the County of Santa Clara Department of Environmental Health under the California Accidental Release Prevention (CalARP) Program as part of accepted Risk Management Plans to determine whether new residential, recreational, school, day care, church, hospital, seniors or medical facility developments could be exposed to substantial hazards from accidental release of airborne toxic materials from CalARP facilities.
- Goal EC-7 – Environmental Contamination: Protect the community and environment from exposure to hazardous soil, soil vapor, groundwater, and indoor air contamination and hazardous building materials in existing and proposed structures and developments and on public properties, such as parks and trails.
    - Policy 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.
    - Policy 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.
    - Policy EC-7.4: On redevelopment sites, determine the presence of hazardous building materials during the environmental review process or prior to project approval. Mitigation and remediation of hazardous building materials, such as lead-paint and asbestos-containing materials, shall be implemented in accordance with state and federal laws and regulations.
    - Policy EC-7.5: On development and redevelopment sites, require all sources of imported fill to have adequate documentation that it is clean and free of contamination and/ or acceptable for the

proposed land use considering appropriate environmental screening levels for contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and state requirements.

- Action EC-7.8: Where an environmental review process identifies the presence of hazardous materials on a proposed development site, the City will ensure that feasible mitigation measures that will satisfactorily reduce impacts to human health and safety and to the environment are required of or incorporated into the projects. This applies to hazardous materials found in the soil, groundwater, soil vapor, or in existing structures.
- Action 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.
- Action 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.
- Action EC7.11: Require sampling for residual agricultural chemicals, based on the history of land use, on sites to be used for any new development or redevelopment to account for worker and community safety during construction. Mitigation to meet appropriate end use such as residential or commercial/industrial shall be provided.

3.9.2 Findings

	Potentially Significant Impact	*Less Than Significant with Mitigation Incorporated*	*Less than Significant Impact*	*No Impact*
Would the Project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	[ ]	[ ]	[X]	[ ]
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	[ ]	[X]	[ ]	[ ]
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	[ ]	[ ]	[X]	[ ]

d)	Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	[ ]	[ ]	[ ]	[X]
e)	For a Project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the Project result in a safety hazard or excessive noise for people residing or working in the Project area?	[ ]	[ ]	[ ]	[X]
f)	Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	[ ]	[ ]	[X]	[ ]
g)	Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?	[ ]	[ ]	[ ]	[X]

Discussion

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

Less than Significant Impact. Vehicles and equipment required for construction of the proposed Project are shown in **Table 2-2**. Potential exposure to hazardous materials may occur through a leak of petroleum products (gasoline, diesel) or automotive fluids from this equipment during routine transportation, use, and storage. Additional chemicals such as paints, adhesives, and solvents may be required during construction of the park amenities and pump station modifications. However, the routine transportation and use of chemicals would only occur during temporary construction activities and no chemicals would be used or stored on the Project site during operation.

Compliance with the regulations described under the Regulatory Setting section would include protective measures such as preparation and implementation of a SWPPP to identify BMPs to control and reduce sediment and pollutant discharges associated with construction activities. While site-specific BMPs would be determined during development of the SWPPP, they would include standard industry measures and guidelines contained in the NPDES Construction General Permit. As discussed in *Section 2.5.1*, if it is determined that permanent dewatering is needed, the water would be passed through the sediment forebay and the biotreatment basin before discharge into the Guadalupe River. Therefore, impacts from construction of the proposed Project would be less than significant with compliance with existing regulations. No mitigation would be required.

Once operational, potential risks of exposure to hazardous materials would be minimal and limited to maintenance activities at the park that could use fertilizers, paint, cleaners as well as maintenance of the basin, pump station, and sump pump that could use limited quantities of hazardous and non-hazardous material such as lubricants and degreasers. However, transport, storage, use and disposal of these materials would be conducted in accordance with applicable regulations and manufacturers specifications. Potential risk of exposure would be minimal. Therefore, impacts from operation of the proposed Project would be less than significant. No mitigation is required.

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

Less than Significant Impact with Mitigation Incorporated. There is the potential for accidental release of hazardous materials such as petroleum products or automotive fluids during construction of the proposed Project. Implementation of **Mitigation Measure HAZ-1** would minimize the risk of hazardous material exposure by requiring the City and its construction contractor to develop a Hazardous Materials Management and Spill Prevention and Control Plan to ensure project-specific contingencies are in place. Impacts from hazardous materials exposure of the public or environment from potential accidents during construction would be less than significant with implementation of **Mitigation Measure HAZ-1**.

There is low potential for accidental release of hazardous materials such as petroleum products or automotive fluids during operation of the proposed Project. Operation of the basin or pump station facilities would not require the transportation, use, storage, or disposal of chemicals. Compliance with existing regulations identified in Impact a) above, would minimize the risk of hazardous material exposure. In addition, the City and its construction contractor would be required to prepare and implement a Hazardous Materials Business Plan, Emergency Response Plan, and Risk Management Plan based on the State of California's Accidental Release Prevention (CalARP) Program requirements. CalARP is the Federal Risk Management Plan Program modified with additional state requirements, including an additional list of regulated substances and thresholds. CalARP directs owners and operators of stationary sources to identify hazards that may result from accidental releases and minimize the consequences of releases when they occur (Cal OES, 2014). Safety protocols and training would be developed for site workers to ensure proper sampling and spill procedures. Impacts from hazardous materials exposure to the public or environment from potential accidents during operation would be less than significant with implementation of **Mitigation Measure HAZ-1**.

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

Less than Significant Impact. The Don Callejon School is the only school within one-quarter mile of the proposed Project site. Because of the school's location on the opposite side of the Guadalupe River, the primary potential exposure to toxic pollutants exists through automobile exhaust and diesel particulate emissions released during construction activities. However, construction emissions would be below BAAQMD maximum daily construction emissions thresholds (see *Section 3.3 Air Quality).* Therefore. impacts would be less than significant.

As explained in Impact b), above, there is a low risk of accidental release of hazardous materials during project operation and maintenance activities. In addition, operation emissions would be below BAAQMD maximum daily and annual operational emissions thresholds. Therefore, impacts would be less than significant.

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

No Impact. The proposed Project site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 Government Code Section 65962.5 (Cortese List) (CalEPA, 2020). Additionally, the Project site is not listed in the SWRCB's GeoTracker database (SWRCB, 2020) as a site that has impacted or has the potential to impact water quality and groundwater, nor is it listed in the DTSC EnviroStor database (DTSC, 2020) that track sites with known contamination undergoing investigation and cleanup. Therefore, the proposed Project would not create a hazard to the public or environment from exposure of a contaminated site. No impact would occur.

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

No Impact. The proposed Project site is within two miles of the Norman Y. Mineta San José International Airport but is not located within an established airport influence area (ALUC, 2011). However, the Project would not include tall

structures that could interfere with airport safety measures or expose residences or workers to excessive aircraft noise (see *Section 3.13 Noise*). Therefore, no impact would occur.

f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

Less than Significant Impact. The City of San José Emergency Operations Plan provides an overview of the City's approach to emergency operations. While the Plan is a preparedness document and is designed to be read, understood, and exercised prior to an emergency, the document is evolving and dynamic. The City of San José Office of Emergency Management is responsible for updating the document through coordination with the City of San José's Emergency Operations Center, Department Operations Centers, Disaster District Offices, field responders, community partners, and City residents and visitors (City of San José, 2019b).

The Santa Clara County Operational Area Hazard Mitigation Plan was developed to reduce risks from natural disasters in the incorporated and unincorporated Santa Clara County. The document's guiding principle was that actions identified for potential implementation should "carefully plan for the maintenance and enhancement of a disaster-resistant Operational Area by reducing the current and future potential loss of life, property damage, and environmental degradation from various hazards, while accelerating economic recovery from those hazards" (OEM, 2017).

As discussed in *Section 2.5.2*, it is anticipated that all construction activities and equipment storage/staging would occur on the Project site. Construction of the proposed Project is not expected to require any lane closures along Skytop Street or Riverview Parkway, and is not expected to interfere with an adopted emergency response plan. However, as part of Standard Project Conditions, the City requires the contractor to prepare and implement a Traffic Control Plan during construction, and would coordinate with emergency services (police, fire, and others) to identify roadways and access points for emergency services during construction. Therefore, impacts related to emergency response would be less than significant.

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

No Impact. The Project site is in an urbanized area bordering the Guadalupe River and is designated as a non-VHFHSZ within the San José LRA (Cal Fire, 2008). Construction and operation of the Project would not involve the installation or maintenance of infrastructure that would exposure people or structures to increased wildland fire risk (see additional discussion *Section 3.20*). In addition, implementation of the Project would comply with the policies and actions identified in Goal EC-8 Wildlands and Urban Fire Hazards" from the *Envision San José 2040 General Plan*. The purpose of Goal EC-8 is to protect lives and property from risks associated with fire-related emergencies at the urban/wildland interface (City of San José, 2020a). Therefore, the Project would not expose people or structures to risk from wildland fires. No impact would occur

Standard Project Conditions

Traffic Control Plan (*See Section 3.17 Transportation*)

Mitigation Measures:

To mitigate possible hazardous materials impacts, the City shall implement **Mitigation Measure HAZ-1.** With implementation of this mitigation measure, Project impacts would be less than significant.

> **Mitigation Measure HAZ-1: Hazardous Materials Management and Spill Prevention and Control Plan**
> Before construction begins, the City shall prepare a Hazardous Materials Management and Spill Prevention and Control Plan that includes a project-specific contingency plan for hazardous materials and water operations. The Plan shall be applicable to construction activities and shall establish policies and procedures according to applicable codes and regulations, including but not limited to the California building and fire codes, and federal

and California Occupational Safety and Health Administration regulations. The Plan shall include, but is not limited to the following procedures:

- A discussion of hazardous materials management, including delineation of access and egress routes, waterways, emergency assembly areas, and hazardous material disposal;
- Notification and documentation of procedures; and
- Spill control and countermeasures, including employee spill prevention/response training.

3.10 Hydrology and Water Quality

3.10.1 Setting

Environmental Setting

Surface Water

The Project site is located in the Guadalupe River Watershed and is adjacent to the Guadalupe River in the City of San José. The Guadalupe River flows from south to north through the City of San José and drains to the San Francisco Bay. Tributaries to the Guadalupe River upstream of the Project site include Los Gatos Creek, Canoas Creek, Guadalupe Creek, and Alamitos Creek. Downstream of the Project site, the Guadalupe River drains into the South San Francisco Bay. In the project vicinity, the Guadalupe River is flanked by a levee embankment, constructed by the USACE and maintained by the Santa Clara Valley Water District (Valley Water).

Groundwater

The Project is located within the Santa Clara Plain portion of the Santa Clara Groundwater Subbasin of the Santa Clara Valley Groundwater Basin (DWR Basin #2-9). The Santa Clara Subbasin (DWR Basin #2-9.02) underlies a relatively flat valley and consists of unconsolidated alluvial sediments. Groundwater occurs at varied depths in the unconfined aquifer throughout the subbasin, and under artesian conditions in the Santa Clara Plain confined aquifer. The Project is located in the confined area. Regional groundwater elevations are typically highest near the margins, with elevations decreasing in the subbasin interior. Several large cones of depression are present within the confined area of the Santa Clara Subbasin due to concentrated pumping (Valley Water, 2016). Groundwater in the Project area ranges from 0 to 10 feet bgs (CE&G, 2020). Groundwater quality in the Santa Clara Subbasin is typically good. Calcium, magnesium and bicarbonate are the dominant dissolved constituents in the Santa Clara Plain (Valley Water, 2016).

Flood Hazards

The Project site is a flood control basin. According to the Federal Emergency Management Agency's (FEMA)'s Flood Hazard Zone Mapping, areas adjacent to the Project site on the north, are classified as Flood Zone AO (a river or stream flood hazard areas, and areas with a 1 percent or greater chance of shallow flooding each year, usually in the form of sheet flow, with an average depth ranging from 1 to 3 feet. A significant portion of the area around the Guadalupe River is classified as Flood Zone X, determined to be outside the 500-year flood and protected by levee from 100-year flood (City of San José, n.d.c.) In the Project vicinity, the Guadalupe River is flanked by a levee embankment, constructed by the USACE and maintained by Valley Water, the local agency responsible for flood protection in Santa Clara County.

Regulatory Setting

Federal

Clean Water Act

The federal CWA is the primary surface water protection legislation throughout the country and aims to restore and maintain the chemical, physical, and biological integrity of surface waters to support "the protection and propagation of fish, shellfish, and wildlife and recreation in and on the water." The CWA regulates both the pollutant content of point-source discharges, as well as addressing polluted runoff (nonpoint-sources).

The proposed Project is subject to regulations governing discharge from point sources and "wet-weather point sources," such as urban storm sewer systems and construction sites, as defined in Sections 1311 to 1330 of the CWA (33 U.S.C. 26, Subchapter III). In conjunction, the proposed Project may be subject to a number of CWA permit requirements, including NPDES permits, Section 303 (d), Construction Activities Storm Water permits, as well as Sections 401 and 404 permit(s) which were discussed previously in *Section 3.4, Biological Resources*.

Section 303(d)

The Total Maximum Daily Load (TMDL) program originates under Section 303(d) of the CWA. A TMDL represents the quantity of pollutants that a water body can receive without resulting in impacts to the designated beneficial uses of that water body. Under the current program, if a water body is designated "impaired" by the EPA (as delegated to SWRCB and RWQCBs), then a TMDL must be developed and implemented for the specific pollutant to address the impairment. Several water bodies within the Guadalupe River watershed are listed on the SWRCB's 2014/2016 303(d) list of impaired waterbodies. The Guadalupe River is listed as impaired for diazinon, mercury and trash (SWRCB, 2016), and these impairments are being addressed by the Municipal Regional Permit (discussed below), TMDLs or other actions including those related to compliance with the SWRCB's Trash Amendment.

Section 401

CWA Section 401 requires that state water quality standards be met and that construction, dredging, and disposal activities not cause concentrations of chemicals in the water column that exceed state standards. CWA Section 401 requires a water quality certification from the SWRCB (as delegated to RWQCBs) for issuance of a Section 404 permit.

Section 402

CWA Section 402 states that discharge of pollutants to "waters of the U.S." is unlawful unless the discharge is authorized and in compliance with an NPDES permit. The USEPA has granted the State primacy in administering and enforcing the provisions of the CWA and the NPDES Program. The San Francisco RWQCB issued the Municipal Regional Permit to the municipal agencies in the San Francisco Bay Region including City of San José (RWQCB, 2016). The Municipal Regional Permit requires implementation of BMPs to reduce to the maximum extent practicable the discharge of pollutants in urban stormwater from the municipal agencies to support attainment of water quality standards (Order No. R2-2015-0049, NPDES No. CAS612008, and amended by Order No. R2-2019-0004).

As part of Section 402 of the Clean Water Act, the SWRCB established NPDES regulations to control storm water discharges from construction activities. Projects that result in one or more acres of soil disturbance are required to obtain coverage under the SWRCB's NPDES General Permit for Discharges of Storm Water Associated with Construction Activity - Construction General Permit Order 2009-0009-DWQ (General Construction Permit) by submitting a Notice of Intent (NOI) and preparing and implementing a Storm Water Pollution Prevention Plan (SWPPP) and monitoring program. The SWPPP must contain BMPs to prevent sediment and other construction-related materials from entering storm water discharges. Such BMPs include but are not limited to erosion and sediment controls, general housekeeping practices, containment of building materials, inspection for leaks and spills from construction vehicles and training of construction site workers.

National Flood Insurance Program

FEMA's National Flood Insurance Program includes a flood hazard mapping program, in which FEMA identifies flood hazards and assesses flood risks. Under this program, FEMA produces Flood Insurance Rate Maps which delineate flood risk areas and risk levels. Areas identified as at risk for flooding on the Flood Insurance Rate Maps referred to as Special Flood Hazard Areas, which are those areas at risk of the 100-year flood (1% annual chance of flooding). It also delineates areas that are in moderate flood hazard areas, or those areas between a 0.2% annual chance of flooding (500-year flood) and 1.0% chance of flooding (a Special Flood Hazard Area). Special Flood Hazard Areas are further divided into zones, which provide information on the degree of flooding within the risk area, including average depth of flooding.

State

Porter-Cologne Water Quality Control Act

The Porter-Cologne Act (California Water Code section 13000 et seq.) is the principal law governing water quality regulation in California. It establishes a comprehensive program to protect water quality and the beneficial uses of water. The Porter-Cologne Act applies to surface waters, wetlands, groundwater, and to both point and nonpoint sources of pollution. Pursuant to the Porter-Cologne Act, the policy of the State is as follows:

- That the quality of all the waters of the State shall be protected,
- That all activities and factors affecting the quality of water shall be regulated to attain the highest water quality within reason, and
- That the State must be prepared to exercise its full power and jurisdiction to protect the quality of water in the State from degradation.

The Porter-Cologne Act established nine RWQCBs (based on hydrogeologic barriers) and the SWRCB, who are charged with implementing its provisions, have primary responsibility for protecting water quality in California.

Water Quality Control Plan for the San Francisco Bay Basin

The Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan) (RWQCB, 2019) sets water quality standards for the Guadalupe River through designation of beneficial uses and the establishment of narrative and numeric water quality objectives to help meet the beneficial uses. The Basin Plan establishes specific beneficial uses and water quality objectives for waterbodies in the Guadalupe River watershed. Beneficial uses of the Guadalupe River include: groundwater recharge (GWR), cold freshwater habitat (COLD), fish migration (MIGR), preservation of rare and endangered species (RARE), fish spawning (SPWN), warm freshwater habitat (WARM), wildlife habitat (WILD), water contact recreation (REC-1), and noncontact water recreation (REC-2). The Bains Plan also includes existing beneficial uses of the Santa Clara Subbasin which include municipal and domestic supply (MUN), industrial process supply (PRO), industrial service supply (IND), and agricultural supply (AGR).

3.10.2 Findings

	Potentially Significant Impact	*Less Than Significant with Mitigation Incorporated*	*Less than Significant Impact*	*No Impact*
Would the Project:				
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?	[ ]	[ ]	[X]	[ ]
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the Project may impede sustainable groundwater management of the basin?	[ ]	[ ]	[X]	[ ]
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:				
i) result in substantial erosion or siltation on- or off-site;	[ ]	[ ]	[X]	[ ]
ii) substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;	[ ]	[ ]	[X]	[ ]
iii) create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or	[ ]	[ ]	[X]	[ ]
iv) impede or redirect flood flows?	[ ]	[ ]	[X]	[ ]
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to Project inundation?	[ ]	[ ]	[X]	[ ]
e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	[ ]	[ ]	[X]	[ ]

Discussion

a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?

Surface Water

Less Than Significant Impact. Construction of the Project would exceed one acre and require coverage under the SWRCB's NPDES Construction General Permit for storm water discharges associated with construction and land disturbing activities. The Construction General Permit requires submittal of a Notice of Intent and implementation of a SWPPP and associated construction site monitoring program. Stormwater discharges from the Project site during construction would not be expected to violate existing water quality standards or waste discharge requirements set by the RWQCB. With implementation of the SWPPP and other compliance requirements of the Construction General Permit, as well as the City of San José Standard Project Conditions listed at the end of this section, impacts to water quality of the Guadalupe River during construction would be less than significant.

The Project site is located in an area of high groundwater levels. It is expected that during excavation some dewatering would be required. If permanent dewatering is required, a permanent dewatering well would be installed and would discharge to the sediment forebay, and then travel through the basin for treatment. If the quality of groundwater recovered during construction and from potential long-term dewatering fails to meet regulatory standards for discharge to surface waters, discharge to sewer may be required. If required, this would be achieved by directly discharging to the sewer, or by utilizing a temporary on-site holding tank that would be pumped to the sewer. Because groundwater encountered during construction and operation would be discharged in accordance with applicable RWQCB permits or to the City sewer system, impacts to surface water would be less than significant.

The construction and operation of the Project would support the City's efforts to control pollutants of concern in surface waters and help achieve TMDL Waste Load Allocations of the Guadalupe River. The City of San José is subject to the Municipal Regional Permit. Provision C.3.j of the Municipal Regional Permit requires the City to develop and implement long-term GSI Plans for the inclusion of low impact development drainage design into storm drain infrastructure on public and private lands. The Project is included in the City's GSI Plan as a regional multi-benefit GSI project that would address the Municipal Regional Permit requirements to help improve water quality of the Guadalupe River.

The Project is considered a regional treatment control BMP and would help control pollutants in stormwater runoff including trash, to the maximum extent practicable as required by the Municipal Regional Permit. The proposed Project would convert the existing detention basin to provide stormwater treatment via bioretention prior to discharge to the Guadalupe River. The proposed Project would allow for low flow water to be routed into the detention basin after trash capture and sedimentation. Water would then flow through the bioretention basin to receive bio-treatment, which occurs through various natural processes including filtration, plant uptake, adsorption, microbial activity, decomposition, sedimentation, and volatilization. This type of treatment can remove suspended solids, nutrients, metals, hydrocarbons, and bacteria from runoff. **Table 2-1** in *Section 2.5.1 Project Design and Operation*, shows the targeted pollutant removal estimates for the various constituents. The treated stormwater would be captured by underdrains and discharged to the pump station wet well; the treated water would then be discharged to the Guadalupe River. The Project would not violate any water quality standards or waste discharge requirements; instead the Project would help attain water quality standards of the Guadalupe River and help achieve TMDL goals. Therefore, the Project would have a long-term beneficial effect to water quality of the Guadalupe River and ultimately to South San Francisco Bay.

Groundwater

Less Than Significant Impact. As documented in the River Oaks Stormwater Capture Project Planning Study, soils at the Project site consist primarily of sand, gravel, silt, and minor clay with infiltration rates of 1.3 to 2.9 inches per hour. Groundwater is found at depths ranging from 1.3 feet below surface grade to 10.3 feet below surface grade. Due to groundwater within 10 feet of the basin bottom, documented by CE&G (CE&G, 2020), the bioretention basin design

does not incorporate infiltration and requires a physical separation between the treatment system and the groundwater table.

Dewatering wells would be installed to facilitate construction. Depending on final excavation depth and liner selection, permanent dewatering may be considered. Groundwater monitoring wells would be installed prior to construction and, at a minimum, maintained throughout construction. If permanent dewatering is required, permanent groundwater dewatering wells would be considered, with discharge to the sediment forebay prior to travel through the basin for treatment. Project construction and operation would have less than significant impacts on surface and groundwater quality.

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

Less Than Significant Impact. Because groundwater levels at the Project site are within 10 feet of the basin bottom, infiltration for treatment would not be implemented. The basin would be excavated and a waterproof liner installed in order to prevent stormwater from direct groundwater infiltration in the basin.

Dewatering during construction is not anticipated to adversely impact groundwater levels of the Santa Clara subbasin affecting municipal supply. Dewatering would occur seasonally with groundwater levels lowered two to three feet to ensure proper function of the basin for flood control and storm water treatment. Groundwater in this location is within a confined portion of the subbasin and considered hydraulically connected to the Guadalupe River where the dewatered groundwater would be discharged. No additional changes in impervious surface area are anticipated. Thus, less than significant impacts to groundwater supplies and recharge are anticipated from the construction and long-term operation of the Project.

c i) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would: result in substantial erosion or siltation on- or off-site?

Less Than Significant Impact. The proposed Project would maintain the existing flood protection capacity of the detention basin. The Project is not anticipated to significantly alter the drainage pattern of the site. The existing detention basin supply/drain infrastructure (84-inch diameter) would be reconfigured to accommodate low flows and provide sedimentation treatment. Trails would be installed as part of the Project but would consist of pervious materials.

Through the Construction General Permit, the Project requires implementation of a construction SWPPP and BMPs for control of erosion and sedimentation during construction. Therefore, impacts related to erosion and siltation during construction would be less than significant.

The Municipal Regional Permit Provision C.3.g, Hydromodification Management, limits increases in runoff peak flow, duration and volume from new development, where such increases may cause increased erosion of creek beds and banks, silt pollutant generation, or other impacts to beneficial uses of the downstream receiving water bodies. Regional hydromodification controls, such as the River Oaks regional detention facility, are flow duration control structures that collect stormwater runoff from multiple upstream projects or developments. The proposed conversion of the basin would help to reduce sediment in discharges from the basin during long-term operation, which would help reduce potential hydromodification to the Guadalupe River, and result in a long-term beneficial impact.

c.ii) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would: substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?

Less Than Significant Impact. The Project does not include significant changes in impervious surface area or alteration of drainage to the Guadalupe River that would generate an increase the amount of surface runoff, causing flooding. Runoff from the upstream watershed would continue to flow to the detention basin. However, the proposed Project

would detain flows in the bioretention area to provide stormwater treatment prior to discharge to the Guadalupe River. The Project would help slow and decrease surface runoff through detention of stormwater. The proposed Project would also allow dry weather and low flows to be routed into the detention basin after trash capture and sedimentation, and flood control capacity would be maintained. The proposed Project would not create an increase in the rate or amount of surface runoff. Potential surface runoff impacts would be less than significant.

c.iii) *Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would: 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?*

Less Than Significant Impact. Construction and implementation of the proposed Project would not alter the drainage pattern of the site or area in a manner that would significantly create or contribute runoff water that would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff. The pump station currently pumps untreated stormwater into the Guadalupe River, which drains into the San Francisco Bay. The proposed Project would treat up to 5.6 acre-feet of stormwater from a critical bacterial design storm of 0.35 inches of precipitation. The pump station diversion structure would be sized to divert all dry weather flows and low-flow events to the bioretention basin. During significant rain events, the diversion structure would begin to overflow and as a result, a portion of the influent stormwater would bypass the bioretention treatment basin. The Project is designed to meet "full trash capture" requirements (RWQCB, 2016) by capturing particles larger than 5 millimeters in size from either a one-year one-hour storm or the capacity of the storm drain system without overflowing. The proposed Project would provide runoff treatment and improve water quality of discharges to the Guadalupe River, and maintain flood control capacity. Stormwater quality monitoring would be conducted at the Project site to assess contaminant discharges from the site into the Guadalupe River. It is expected that water quality sampling would be performed and incorporated into the Project analyses during final design. The proposed Project would not be a new source of polluted runoff.

Additionally, construction activities such as excavation would expose sediment. However, the Project is required to implement a construction SWPPP and BMPs for control of sediment and other construction materials from being discharged off-site in stormwater discharges during construction. Overall, drainage and runoff-related impacts would be less than significant.

c.iv) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would: impede or redirect flood flows?

Less Than Significant Impact. Construction and implementation of the proposed Project would not alter the drainage pattern of the site or area in a manner that would significantly impede or redirect flood flows. The existing detention basin is used to capture and detain 100-year flood events and discharge to the Guadalupe River. Alterations to the basin would provide water quality treatment to the captured stormwater and low flows while maintaining flood control capacity. A diversion structure would be installed as a part of the pump station to allow stormwater runoff to enter the bioretention area at the beginning of a storm event as opposed to only providing flood control at the peak of a storm event. Rerouting stormwater runoff to the bioretention area would allow it to be slowed and treated thereby reducing peak flow rates and volumes to the Guadalupe River, and resulting in an overall increase in flood storage capacity above the current 100-year standard. Project impacts related to drainage patterns and flood flows would be less than significant.

d) *In flood hazard, tsunami, or seiche zones, risk release of pollutants due to Project inundation?*

Less Than Significant Impact. The existing basin provides off-line flood storage for the 100-year storm event. The proposed Project would, at a minimum, maintain the existing flood control storage for the 10-year and 100-year, 24-hour storms. All infrastructure and structures (e.g., sculptures) within the basin would be designed to resist floatation

during the 100-year, 24-hour event and suitable to be submerged for up to 72-hours. The proposed Project is a water quality improvement project designed to provide bioretention, trash reduction, and sediment removal at the existing flood control facility. However, the basin, which provides overflow capacity to detain stormwater during a 100-year storm, would be unchanged with the proposed Project modifications.

A seiche or tsunami could impact water levels in the San Francisco Bay but would have limited impacts at the Project site. Levees at the San Francisco Bay margins would dampen the effects of a seiche and substantial effects to the Project site would be avoided. Tsunami inundation maps for Santa Clara County provided by the California Geologic Survey identify the extent of tsunami inundation in the San Francisco Bay area (CDOC, 2019c). Near the City of San José, tsunami inundation is limited to the Guadalupe Slough at the San Francisco Bay margins and would not reach the Project site along the Guadalupe River. Impacts associated with flooding, seiches and mudflows would be less than significant.

e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?

Less Than Significant Impact. The proposed Project would not conflict with the Basin Plan. The proposed Project is a water quality improvement project that supports implementation of the Municipal Regional Permit, which helps achieve and maintain water quality standards in the Basin Plan. Municipal Regional Permit Provision C.3.j requires the City to develop and implement long-term GSI Plans for the inclusion of LID drainage design into storm drain infrastructure. The River Oaks Stormwater Capture Project was identified in the GSI Plan as a regional project to help the City meet its water quality improvement requirements. Additionally, the proposed Project would comply with the Construction General Permit to control pollutants in construction site runoff and further support the attainment of water quality standards.

The proposed Project would also not conflict with groundwater sustainability planning for the Santa Clara Valley Groundwater Subbasin. The Santa Clara Valley Groundwater Basin is classified as a high priority basin under the Sustainable Groundwater Management Act (SGMA). SGMA defines sustainable management as operating a basin within its sustainable yield without causing undesirable results such as subsidence, seawater intrusion or degraded water quality. Prioritization of the basin is based on factors such as population, irrigated acreage, number of wells, groundwater use in the basin. Under SGMA, Valley Water became the Groundwater Sustainability Agency for the Santa Clara subbasin in 2016. Valley Water developed a Groundwater Management Plan or the Santa Clara and Llagas Subbasins in 2016 that was submitted to the Department of Water Resources as an Alternative to a Groundwater Sustainability Plan.

The Groundwater Management Plan describes the groundwater sustainability goals, and the strategies, programs, and activities that support those goals. The Project would involve temporary dewatering during construction and potentially a permanent dewatering well, if identified as necessary due to high groundwater levels of the confined aquifer in the Project area. See discussion under impact b) above. Dewatering during construction and operation would not conflict with the Groundwater Management Plan because dewatering of the basin would take place only seasonally for a relatively small area (4-acre flood detention basin), and the groundwater in this area is considered hydraulically connected to the Guadalupe River. Therefore, construction and long-term seasonal dewatering is not expected to impact sustainable use of the Santa Clara Subbasin. Overall, the proposed Project would not be expected to conflict or obstruct implementation of a water quality control plan or sustainable groundwater management plan. Impacts would be less than significant.

Standard Project Conditions

Construction-Related Water Quality:

i. Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.

ii. Earthmoving or other dust-producing activities shall be suspended during periods of high winds.

iii. All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.

iv. Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.

v. All trucks hauling soil, sand, and other loose materials shall be covered and all trucks shall maintain at least two feet of freeboard.

vi. All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).

vii. Vegetation in disturbed areas shall be replanted as quickly as possible.

viii. All unpaved entrances to the site shall be filled with rock to remove mud from tires prior to entering City streets. A tire wash system shall be installed if requested by the City.

ix. The contractor 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.

Mitigation Measures: None required or recommended.

3.11 Land Use and Planning

3.11.1 Setting

Environmental Setting

The 5.2-acre Project site is currently used for the River Oaks Pump Station and Retention Basin which was originally installed in 1979. The area surrounding the Project site is built out. Land uses surrounding the site are primarily industrial park and multi-family residential. The Project site is zoned as industrial park and is adjacent to areas zoned for planned development, which are occupied by multi-family apartment buildings. The existing Riverview Park is adjacent to the east. The Guadalupe River lies southwest of the Project site and is zoned as "open space, parklands, and habitat" (City of San José, n.d.a). The Guadalupe River forms the border between the City of San José (to the east) and the City of Santa Clara (to the west). Across the Guadalupe River from the Project site are single- and multi-family residential areas and a public park. These areas are zoned as medium density residential, neighborhood mixed use, and parks/open space by the City of Santa Clara (City of Santa Clara, n.d.a).

Regulatory Setting

Land use in the City is governed by the zoning designations established in the General Plan and by the municipal zoning ordinance that outline acceptable uses in each zone. According to the City's Land Use and Zoning Map, the Project site is designated as Industrial Park (City of San José, n.d.b). All components of the proposed Project would be located at this site.

The Industrial Park designation is intended for a wide variety of industrial users such as research and development, manufacturing, assembly, testing, and offices. Utility facilities may be located in locations zoned for industrial park with a conditional use permit. However, according to California Government Code Section 53091(d) and (e), building and zoning ordinances of a county or city do not apply to the location or construction of facilities for the production, generation, storage, treatment, or transmission of water.

The City of San José General Plan contains the following land use goals and policies relevant to the proposed Project:

- Goal LU-1 – General Land Use: Establish a land use pattern that fosters a more fiscally and environmentally sustainable, safe, and livable city.
    - Policy LU-1.2: Encourage Walking. Create safe, attractive, and accessible pedestrian connections between developments and to adjacent public streets to minimize vehicular miles traveled.
- Goal LU-6 – Industrial Preservation: Preserve and protect industrial uses to sustain and develop the city's economy and fiscal sustainability.
    - Policy LU-6.1: Prohibit conversion of lands designated for light and heavy industrial uses to non-industrial uses. Prohibit lands designated for industrial uses and mixed industrial-commercial uses to be converted to non-employment uses. Lands that have been acquired by the City for public parks, public trails, or public open space may be re-designated from industrial or mixed-industrial lands to non-employment uses.
    - Policy LU-6.2: Prohibit encroachment of incompatible uses into industrial lands, and prohibit non-industrial uses which would result in the imposition of additional operational restrictions and/or mitigation requirements on industrial users due to land use incompatibility issues.
- Goal IN-1 – General Provision of Infrastructure: Provide and maintain adequate water, wastewater, stormwater, water treatment, solid waste and recycling, and recycled water infrastructure to support the needs of the City's residents and businesses.
    - Policy IN-1.9: Design new public and private utility facilities to be safe, aesthetically pleasing, compatible with adjacent uses, and consistent with the Envision General Plan goals and policies for fiscal sustainability, environmental leadership, an innovative economy, and quality neighborhoods.

3.11.2 Findings

	Potentially Significant Impact	*Less Than Significant with Mitigation Incorporated*	*Less than Significant Impact*	*No Impact*
Would the Project:				
a) Physically divide an established community?	[ ]	[ ]	[ ]	[X]
b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?	[ ]	[ ]	[ ]	[X]

Discussion

a) Physically divide an established community?

No Impact. The proposed Project facilities would be constructed at a single parcel that is located adjacent to office/industrial uses, multi-family residences, and the Guadalupe River. The Project is the conversion of an existing flood detention basin to incorporate stormwater treatment and recreational and aesthetic amenities.

The proposed Project site is currently surrounded by security fencing. With implementation of the proposed Project, the site would be accessible to the public for passive recreation activities. The proposed Project would not remove existing roadway or pedestrian pathways in the surrounding area. The perimeter trail to be constructed as part of the proposed Project may help increase connectivity among surrounding communities. The proposed Project would not permanently interfere with the pedestrian, bicycle or vehicle circulation of the neighborhoods or community. The proposed Project would not physically divide an established community and no impact would occur.

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

No Impact. The proposed Project would modify the existing detention basin and pump station at the Project site to provide storm water treatment as well as recreational and aesthetic amenities. However, the Project would not alter the overall land use of the site as a municipal flood control facility. Per the City of San José zoning ordinance, utility facilities such as stormwater facilities are allowed in areas zoned for Industrial Park with a conditional use permit; therefore, the proposed Project would not conflict with existing zoning. The proposed Project would maintain and improve existing utility infrastructure at the site; it would not alter the land use. No other land use would be constructed at the site in the future.

The proposed Project would support City of San José General Plan goals noted above. The Project would not convert industrial lands away from industrial use or encroach on surrounding industrial uses. The proposed Project would encourage pedestrian use of the area, incorporate sustainable development practices (e.g., biological treatment of stormwater, use of native plants), enhance recreational opportunities, and maintain adequate stormwater infrastructure. Therefore, the proposed Project would not conflict with the City of San José's zoning policies or General Plan. The proposed Project would have no impact.

Mitigation Measures: None required or recommended.

3.12 Mineral Resources

3.12.1 Setting

Environmental Setting

The project site is not located in a Mineral Resource Zone (MRZ) as identified by the CGS. The site has been operating as a flood control detention basin since 1979.

Regulatory Setting

Federal

The Surface Mining and Reclamation Act of 1975 mandates a process for classification and designation of lands containing potentially important mineral deposits. Classification is carried out by the CGS State Geologist and designation is a function of the CGS State Mining and Geology Board. Lands are given a priority listing through classification into MRZs. These MRZs are based on geological appraisals, which include the use of literature, geological

maps, and publications and data from the CDOC Division of Mines and Geology, USGS, the former U.S. Bureau of Mines, and the U.S. Bureau of Land Management. Appraisals also include site investigations that determine the chemical and physical components of the area. An area can be classified as:

- MRZ-1: Areas where adequate information indicates that no significant mineral deposits are present or where it is judged that little likelihood exists for their presence.
- MRZ-2: Areas where adequate information indicates significant mineral deposits are present or where it is judged that a high likelihood exists for their presence.
- MRZ-3: Areas containing mineral deposits, the significance of which cannot be evaluated from available data.
- MRZ-4: Areas where available information is inadequate for assignment to any other MRZ

State

Neither the State Geologist nor the State Mining and Geology Board has classified the Project site area as containing mineral deposits that are either of statewide significance or the significance of which requires further evaluation (City of San José, 2020a).

3.12.2 Findings

	Potentially Significant Impact	*Less Than Significant with Mitigation Incorporated*	*Less than Significant Impact*	*No Impact*
Would the Project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	[ ]	[ ]	[ ]	[X]
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	[ ]	[ ]	[ ]	[X]

Discussion

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

No Impact. The Project site does not contain any mineral resources that are considered valuable locally, to the region, or to the residents of the State (San José, City of, 2020a). The Project area is not currently used as a mineral resource recovery site and the proposed Project would not involve mining or the production of mineral resources. No impact on the availability of a known mineral resource or the availability of a locally important mineral resource recovery site would occur as a result of construction or operation of the proposed Project.

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

No Impact. The Project site is not delineated as a locally-important mineral resource recovery site on any local land use plan. No impacts to any mineral resources would occur.

Mitigation Measures: None required or recommended.

3.13 Noise

3.13.1 Setting

Environmental Setting

Noise is generally defined as unwanted sound. Noise can cause hearing impairment for humans, and may also disrupt everyday activities such as sleep, speech, and activities requiring concentration. Noise can also interfere with the activities of wildlife, especially nesting birds. Noise-sensitive land uses are generally those where excess noise would disrupt how humans and/or wildlife use the land. Land uses such as schools, churches, and hospitals would typically be considered noise sensitive. Noise may be generated by mobile (i.e., line) sources (for example, cars, trains, and aircraft) or stationary (i.e., point) sources (for example, machinery, airports, and construction sites).

Noise is described using specific terminology, as summarized below. The following explanations are adapted from the U.S. Department of Transportation Federal Highway Administration (FHWA) *Construction Noise Handbook* (FHWA 2006) and the U.S. Department of Transportation Federal Transit Administration (FTA) *Transit Noise and Vibration Impact Assessment Manual* (FTA, 2018):

- **A-Weighting.** A method used to account for changes in level sensitivity as a function of frequency. A-weighting de-emphasizes the high (6.3 kilohertz [kHz] and above) and low (below 1 kHz) frequencies and emphasizes the frequencies between 1 kHz and 6.3 kHz, in an effort to simulate the relative response of the human ear.
- **Community Noise Equivalent Level (CNEL).** A 24-hour time-averaged sound exposure level adjusted for average-day sound source operations. The adjustment includes a 5-dB penalty for noise occurring between 7:00 p.m. and 10:00 p.m., and a 10-decibel (dB) penalty for those occurring between 10:00 p.m. and 7:00 a.m., to adjust for the increased impact of nighttime noise on human activities.
- **Day-Night Average Sound Level (DNL, denoted by the symbol, L_{dn}).** L_{dn} describes a receiver's cumulative noise exposure from all events over 24 hours. Events between 10:00 p.m. and 7:00 a.m. are increased by 10 dB to account for humans' greater nighttime sensitivity to noise.
- **Decibel (dB).** A unit of measure of sound level. dB is calculated by comparing sound pressure to a sound pressure reference (the threshold of human hearing) and are measured using a logarithmic scale. A-weighted decibels are expressed as dBA or dB(A).
- **Equivalent Sound Level (L_{eq}).** The equivalent sound level describes a receiver's cumulative noise exposure from all events over a specified period of time.
- **Noise Barrier.** The structure, or structure together with other material, that potentially alters the noise at a site.
- **Point Source.** A source that radiates sound spherically. Sound levels measured from a point source decrease at a rate of 6 dB per doubling of distance.

Groundborne vibration may occur when heavy equipment or vehicles create vibrations in the ground, which can then propagate through the ground to buildings, creating a low-frequency sound. Groundborne vibrations can be a source of annoyance to humans due to a "rumbling" effect, and such vibrations may also cause damage to buildings. Groundborne vibration is discussed in terms of these impacts on humans and structures. The annoyance potential of

groundborne noise is typically characterized with the A-weighted sound level. Due to its low frequency, groundborne noise sounds louder than airborne noise at the same noise level; therefore, the impact thresholds for groundborne noise are typically lower than those for airborne noise. The following vibration terminology have been adapted from the FTA's *Transit Noise and Vibration Impact Assessment Manual* (FTA, 2018):

- **Vibration Decibels (VdB)**. The vibration velocity level in decibel scale.
- **Peak Particle Velocity (PPV)**. The peak signal value (maximum positive or negative peak) of the vibration signal. PPV is often used in monitoring of construction vibration (such as blasting) because it is related to the stresses that are experienced by buildings and is not used to evaluate human response. PPV is usually expressed in inches/second in the United States.

Transportation is the major source of noise in the City of San José (City of San José, 2011). Roadways are the primary source of transportation noise, with highways being the most significant source (including highways in the Project vicinity such as US 101, I-880, and SR-237). Other noise sources include stationary sources (such as commercial and industrial activities) and temporary noise sources (such as construction noise).

The Project is located in a developed area containing multi-family residential, office, and industrial land uses. Noise-sensitive receptors adjacent to or in the vicinity of the Project site include residences and a school. The northwest edge of the Project site borders a surface parking lot and industrial buildings. Buildings are located across the parking lot from the Project site, with distance between the Project site and buildings ranging from approximately 60 to 340 feet. The northeast border of the Project site is adjacent to a multi-family, multi-story apartment complex, with buildings approximately 60 feet from the Project site. Just south of the apartment complex is an existing park, which is adjacent to the Project site. Along the southern edge of the Project site is the Guadalupe Trail, a multi-use trail, and the Guadalupe River. Across the Guadalupe River, in the City of Santa Clara, are single- and multi-family residences and a park (approximately 280 feet from the Project site). The nearest school is Don Callejon School in Santa Clara, which is approximately 500 feet from the Project site.

Regulatory Setting

The proposed Project would be located entirely within the City of San José. The noise standards for the City are summarized herein. Per the City's General Plan (Policy EC-1.7), a significant construction noise impact is considered 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. The City's General Plan also sets noise standards that would apply to noise from Project operation.

The City of San José General Plan (City of San José, 2020a) has several goals and policies related to minimizing noise impacts in the land use planning process.

- Goal EC-1 – Community Noise Levels and Land Use Compatibility: Minimize the impact of noise on people through noise reduction and suppression techniques, and through appropriate land use policies.
    - Policy 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 (Table EC-1). The acceptable exterior noise level objective is established for the City, except in the environs of the San José International Airport and the Downtown, as described below:
    - For new multi-family residential projects and for the residential component of mixed-use development, use a standard of 60 dBA DNL in usable outdoor activity areas, excluding balconies and residential stoops and porches facing existing roadways. Some common use areas that meet the 60 dBA DNL exterior standard will be available to all residents. Use noise attenuation techniques such as shielding by buildings and structures for outdoor common use areas. On sites subject to aircraft overflights or adjacent to elevated roadways, use noise attenuation techniques to achieve the 60 dBA DNL standard for noise from sources other than aircraft and elevated roadway segments.
    - For single family residential uses, use a standard of 60 dBA DNL for exterior noise in private usable outdoor activity areas, such as backyards.

- Policy EC-1.2: Minimize the noise impacts of new development on land uses sensitive to increased noise levels (Categories 1, 2, 3 and 6) by limiting noise generation and by requiring use of noise attenuation measures such as acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would:
    - Cause the DNL at noise sensitive receptors to increase by five dBA DNL or more where the noise levels would remain "Normally Acceptable"; or
    - Cause the DNL at noise sensitive receptors to increase by three dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level.

- Policy EC-1.3: Mitigate noise generation of new nonresidential land uses to 55 dBA DNL at the property line when located adjacent to existing or planned noise sensitive residential and public/quasi-public land uses.

- Policy EC-1.6: Regulate the effects of operational noise from existing and new industrial and commercial development on adjacent uses through noise standards in the City's Municipal Code.

- Policy 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.

- Goal EC-2 – Vibration: Minimize vibration impacts on people, residences, and business operations.

- Policy EC-2.3: Require new development to minimize continuous vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, including ruins and ancient monuments or building that are documented to be structurally weakened, a continuous vibration limit of 0.08 in/sec PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. A continuous vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction. Equipment or activities typical of generating continuous vibration include but are not limited to: excavation equipment; static compaction equipment; vibratory pile drivers; pile-extraction equipment; and vibratory compaction equipment. Avoid use of impact pile drivers within 125 feet of any buildings, and within 300 feet of historical buildings, or buildings in poor condition. On a project-specific basis, this distance of 300 feet may be reduced where warranted by a technical study by a qualified professional that verifies that there will be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction. Transient vibration impacts may exceed a vibration limit of 0.08 in/sec PPV only when and where warranted by a technical study by a qualified professional that verifies that there will be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction.

- Goal ER-2 – Riparian Corridors: Preserve, protect, and restore the City's riparian resources in an environmentally responsible manner to protect them for habitat value and recreational purposes.
    - Policy 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.

The City of San José General Plan specifies the sound levels for land use compatibility as summarized in **Table 3-8** (City of San José, 2020a). These standards are intended to be used for the siting of new land uses.

Table 3-8: City of San José Sound Levels for Land Use Compatibility

Land Use Category	Exterior Noise Exposure Normally Acceptable (DNL in dBA)	Exterior Noise Exposure Conditionally Acceptable (DNL in dBA)
Residential, hotels and motels, hospitals and residential care	50-60	60-75
Outdoor sports and recreation, neighborhood parks and playgrounds	50-65	65-80
Schools, libraries, museums, meeting halls, churches	50-60	60-75
Office buildings, business commercial, and professional offices	50-70	70-80
Sports area, outdoor spectator sports	50-70	70-80
Public and quasi-public auditoriums, concert halls, amphitheaters	50-70	70 and above

Note: "Conditionally Acceptable" means that specified land use may be permitted only after detailed analysis of the noise reduction requirements and needed noise insulation features included in the design.

The State of California Department of Health Services also establishes community noise exposure compatibility levels, which are comparable to the City of San José land use compatibility noise standards (OPR, 2017).

3.13.2 Findings

	Potentially Significant Impact	*Less Than Significant with Mitigation Incorporated*	*Less than Significant Impact*	*No Impact*
Would the Project result in:				
a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the Project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	[ ]	[X]	[ ]	[ ]
b) Generation of excessive groundborne vibration or groundborne noise levels?	[ ]	[X]	[ ]	[ ]
c) For a Project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the Project expose people residing or working in the Project area to excessive noise levels?	[ ]	[ ]	[ ]	[X]

Discussion

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

Construction Phase

Less than Significant with Mitigation Incorporated. Construction of the proposed Project is expected to last seven months and would involve noise-generating activities such as grading, concrete work, paving, and drilling for dewatering and monitoring wells. The construction equipment that would be used for any particular Project component can be found in *Section 2.5, Proposed Project Description*. The typical noise level of each piece of construction equipment that would be used for the Project is shown in **Table 3-9**.

Table 3-9: Typical Construction Equipment Noise Levels

Equipment	Typical Noise Levels (dBA, at 50 feet)
Backhoe/Loader	78
Compressor	78
Concrete Pumper	81
Crane	81
Drill Rig Truck	79
Excavator	81

Equipment	Typical Noise Levels (dBA, at 50 feet)
Forklift	84[1]
Generator	81
Paver	77
Pumps	81
Roller	80
Utility Truck	74[1]
Water Truck	84[1]

Source: FHWA, 2006
1. Water truck noise and forklift noise were assumed to be comparable to a tractor. Utility truck noise was assumed to be comparable to a flat-bed truck.

During Project construction, truck trips would generate noise along haul routes. Project construction would require approximately 6 round-trip worker trips per day, up to 1 one-way delivery trip per day, and peak of approximately 32 round-trip hauling trips per day for import and export of materials. Noise-sensitive land uses located along haul routes, including residences and schools, would be exposed to truck noise during construction. The amount of noise generated is affected by the vehicle speed, load, road condition, and other factors. As noted above, road noise is a major noise source in the City. Construction truck noise that occurs in noisy locations is generally less disruptive than the same noise would be in a quieter location.

Construction activities would occur on weekdays during daytime hours in accordance with City standards. Certain pieces of noisy construction equipment (crane and drill rig) would each be used for an anticipated duration of one day and would not be in operation for the entire construction period. Construction activities would not involve substantial noise generating activities that would continue for more than 12 months; therefore, the Project would be consistent with the City's General Plan Policy EC-1.7. In addition, the project would implement Standard Project Conditions, listed at the end of this section, that would minimize construction-related noise. Finally, the Project would implement **Mitigation Measure NOI-1**, which requires the construction contractor to prepare and implement a construction noise logistics plan and implement additional BMPs for noise control. Construction noise impacts would be reduced to less than significant with mitigation incorporated.

Operation Phase

Less than Significant with Mitigation Incorporated. New operational noise associated with the proposed Project would include noise from the treated water sump pump, potential dewatering well pump, and aerator in the sediment forebay. The aerator in the sediment forebay would run intermittently and is not anticipated to be a major noise source. As summarized in **Table 3-9,** a typical noise level for a pump is approximately 81 dBA at a distance of 50 feet. This measurement reflects no attenuation features. The new pumps would be located below the ground surface, which would provide significant noise attenuation.

Ambient noise level measurements were not conducted for this analysis at the proposed Project site. However, the City of San José General Plan includes ambient noise measurements for locations throughout the City. Four monitoring locations are located in the general vicinity of the proposed Project. Noise levels at these sites varied from 67-70 dBA DNL, which exceeds the General Plan "normally acceptable" exterior noise level for residential and most industrial uses of 60 dBA DNL. Therefore, per the City's General Plan policies EC-1.1 and EC-1.2, if the proposed pumps were to increase ambient noise levels by 3 dBA DNL or more, impacts would be considered potentially significant. If the pumps are located underground, it is assumed their impact on ambient noise levels would be negligible. If the pumps are sited aboveground with no attenuation features, they would increase the ambient noise levels by approximately 0.4 dBA Leq at the nearest residential property line, 180 feet away, assuming the ambient noise level at the Project site is 67 dBA Leq (i.e., long-term operation of the pumps would increase ambient noise levels from 67 dBA Leq to 67.4 dBA Leq at

a distance of 180 feet).[1] Assuming a more conservative ambient noise level at the site of 55 dBA Leq and no noise attenuation features, long-term operation of the pumps would increase ambient noise levels by more than 3 dBA Leq, resulting in a potentially significant impact. To reduce this potential impact, the City shall implement **Mitigation Measure NOI-2**, to require at least 10 dBA of noise reduction shielding for the proposed pumps if they are located aboveground. With this mitigation measure incorporated, the operational noise would not increase ambient noise levels by more than 3 dBA DNL at the nearest property line. With the incorporation of mitigation measures, the impact would be reduced to a less-than-significant level.

Other operation and maintenance of the pump station equipment would not change from existing activities; therefore, no new noise would be associated with the pump station project components. Maintenance of landscaped areas and parklike features would be typical of city parks, such as the adjacent Riverview Park. Noise generated by maintenance activities (such as vehicle noise and landscaping equipment) would not result in a noticeable increase in permanent ambient noise.

The pumps are expected to be sited below ground, but if placed above ground shall be adequately shielded via implementation of **Mitigation Measure NOI-2**; therefore, the noise resulting from operation of the proposed Project facilities would be less than significant.

b) Generation of excessive groundborne vibration or groundborne noise levels?

Less than Significant with Mitigation Incorporated. Construction activities associated with the proposed Project would have the potential to generate low levels of groundborne vibration. Groundborne vibrations propagate through the ground and decrease in intensity quickly as they move away from the source. According to Goal EC-2, Policy EC-2.3, the City requires new development to minimize continuous vibration impacts to adjacent uses during demolition and construction. A continuous vibration limit of 0.20 inches/second PPV would be used to minimize the potential for cosmetic damage at buildings of normal conventional construction, which generally applies to the structures surrounding the proposed Project, and the use of impact pile drivers shall be avoided within 125 feet of any buildings. The *Transit Noise and Vibration Impact Assessment Manual* provides average source levels for typical construction equipment that may generate groundborne vibrations; vibration source levels for construction equipment associated with the proposed Project are summarized in **Table 3-10**. Two pieces of construction equipment would exceed the PPV threshold at a distance of 25 feet. The vibratory roller has an estimated PPV of 0.21 inches/second at a distance of 25 feet and is proposed to be used as close as 30 feet from receptors. It is possible the proposed Project could implement driven piles to maintain the perimeter trail during construction and while excavating to install the sedimentation basin and liner and for the retaining wall if needed. Pile driving, if implemented, would occur along the eastern edge of the sedimentation forebay, between the forebay and the perimeter trail, and at the sump pump wet well. As required by **Mitigation Measure NOI-1**, and consistent with City Goal EC-2, Policy EC-2.3, use of impact pile drivers would not be allowed within 125 feet of the nearest buildings, which are the River View Apartments. Pile driving equipment has the potential to reach 0.734 to 1.518 inches/second PPV at a distance of 25 feet (see **Table 3-10**).

Groundborne vibration attenuates rapidly with distance. With normal propagation conditions, point source vibration levels attenuate at a rate of $PPV_{ref} \times (25/D)^{1.5}$ where D is the distance from the equipment to the receiver in feet and PPV_{ref} refers to the source reference vibration level at 25 feet. At a distance of 30 feet, PPV from a vibratory roller would attenuate to 0.16 inches/second, which is below the threshold of 0.2 inches/second PPV established in City Goal EC-2, Policy EC-2.3. Buildings adjacent to the Project site are all more than 30 feet away from the Project site, and therefore would not experience vibration in excess of the threshold for possible building damages from use of the vibratory roller. At a distance of 125 feet, PPV from impact pile driving would attenuate to 0.14 inches/second, which

[1] Leq and DNL both represent a cumulative noise exposure level. When using DNL, events between 10:00 p.m. and 7:00 a.m. are increased by 10 dB to account for humans' greater nighttime sensitivity to noise. However, in referring to a dBA increase over ambient conditions, Leq and DNL can be used interchangeably.

is below the threshold of 0.2 inches/second PPV established in City Goal EC-2, Policy EC-2.3. Furthermore, such activities would not be continuous; any impact pile driving during construction would last a maximum of one week. Therefore, with **Mitigation Measure NOI-1**, nearby buildings would not experience vibration in excess of City thresholds from pile driving activities or use of a vibratory roller during construction. Other proposed construction equipment, such as loaded trucks or drill rigs, do not have the potential to generate groundborne vibration that exceeds 0.2 inches/second PPV, as indicated in **Table 3-10** at the nearest buildings.

Table 3-10: Vibration Source Levels for Construction Equipment

Equipment	PPV at 25 feet (inches/second)
Backhoe/Loader	N/A
Compressor	N/A
Concrete Pumper	N/A
Crane	N/A
Pile Driver (impact)	1.518
Pile Driver (sonic)	0.734
Drill Rig	0.089
Excavator	N/A
Forklift	N/A
Generator	N/A
Paver	N/A
Pumps	N/A
Utility Truck	0.076[1]
Vibratory Roller	0.21
Water Truck	0.076[1]

Source: FTA 2018
Most construction equipment is not expected to generate vibration; these are denoted with "N/A."
[1] Drill rig was assumed to be similar to caisson drilling. Utility trucks and water trucks were assumed to be comparable to "loaded trucks" as listed in the Transit Noise and Vibration Impact Assessment Manual.

Riverview Park is immediately adjacent to the Project site and limited portions of the park could potentially experience occasional groundborne noise from construction, including loaded trucks moving about the site or traveling to/from the site. Exposure to groundborne vibration from loaded trucks would only occur if park users were within 30 feet of moving loaded trucks; this is anticipated to be rare because it would require vehicles to be moving near the perimeter of the site and park users to be near the perimeter of the park simultaneously. There are no Riverview Park buildings within 30 feet of the proposed Project site which have the potential to be damaged by groundborne vibration. Use of construction equipment, including loaded trucks, pile driving equipment, and vibratory rollers, would be intermittent and would only occur during a portion of construction phases. Possible exposure of park users to excessive groundborne vibration noise would be infrequent, short in duration, and temporary (only occurring during construction). Visitors in the large majority of the park would be too far away to experience vibration noise. Additionally, construction work would occur on weekdays, not on weekends when park use is typically highest. However, construction activities associated with the proposed Project have the potential to generate excessive groundborne noise. With the implementation of the Standard Project Conditions to minimize noise, and **Mitigation Measure NOI-1**, requiring a construction noise logistics plan, this impact would be reduced to less than significant.

Once operational, the proposed Project would not produce groundborne vibration noise. Operation and maintenance activities would be performed using standard vehicles (e.g., pickup trucks), which would not generate groundborne noise. The impact from operation of the proposed Project would be less than significant.

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

No Impact. The Norman Y. Mineta San José International Airport is located roughly 1.75 miles from the Project site. According to Santa Clara County's Comprehensive Land Use Plan for the Airport, the Project site is located outside the 65-CNEL noise contour for the airport, which is the boundary of the Airport noise zone (County of Santa Clara, 2016). Therefore, the Project would not expose residences or workers to excessive aircraft noise and there would be no impact.

Standard Project Conditions

Construction-Related Noise. Noise minimization measures include, but are not limited to, the following:

i. Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.

ii. Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.

iii. Prohibit unnecessary idling of internal combustion engines.

iv. Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.

v. Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.

vi. If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.

Mitigation Measures:

To mitigate possible noise impacts of the Project, the City shall implement **Mitigation Measures NOI-1** and **NOI-2**. With these mitigation measures incorporated, the Project impacts would be less than significant.

Mitigation Measure NOI-1: Construction Noise Logistics Plan

The City of San José shall require its contractor to implement the following actions relative to construction noise:

- Submit and implement a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting and notification of construction schedules, equipment to be used, and designation of a noise disturbance coordinator. The noise disturbance coordinator shall respond to neighborhood complaints and shall be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses. The noise logistic plan shall be submitted to the Director of PBCE or Director's Designee, and the Department of Public Works prior to the start of any ground disturbance activities. The logistic plan shall also include, but is not limited to, the following procedures:
    - Prior to construction, the City, in coordination with the construction contractor, shall provide written notification, to all properties within 100 feet of the proposed Project site informing occupants of the type and duration of construction activities. Notification materials shall identify a method to contact the City's project manager with noise concerns. Prior to construction commencement, the City's

project manager shall establish a noise complaint process to allow for resolution of noise problems. This process shall be clearly described in the notifications.

- Stationary noise-generating equipment shall be located as far from sensitive receptors as possible. Such equipment shall also be oriented to minimize noise that would be directed toward sensitive receptors. Whenever possible, other non-noise generating equipment (e.g., water tanks, roll-off dumpsters) shall be positioned between the noise source and sensitive receptors.
- Equipment and staging areas shall be located as far from sensitive receptors as possible. At the staging location, equipment and materials shall be kept as far from adjacent sensitive receptors as possible.
- Construction vehicles and equipment shall be maintained in the best possible working order; operated by an experienced, trained operator; and shall utilize the best available noise control techniques (including mufflers, use of intake silencers, ducts, engine enclosures and acoustically attenuating shields or shrouds).
- Unnecessary idling of internal combustion engines shall be prohibited. In practice, this would require turning off equipment if it would idle for five or more minutes.
- Electrically powered equipment shall be used instead of pneumatic or internal-combustion powered equipment, where feasible. Utilize "quiet" air compressors and other stationary noise sources where technology exists.
- The use of noise-producing signals, including horns, whistles, alarms, and bells, shall be for safety warning purposes only.
- Avoid use of impact pile drivers within 125 feet of any buildings, and within 300 feet of historical buildings, or buildings in poor condition.

Mitigation Measure NOI-2: Pump Noise Control

The proposed dewatering pumps and sump pumps are anticipated to be placed below-ground, which would reduce operational noise levels at the nearest residential property line to negligible levels. However, in the event that the pumps are located above-ground, the contractor shall install shielding around the dewatering pumps and sump pumps such that the noise generated at the nearest residential property line does not increase by more than 3 dBA DNL above ambient conditions. If the pumps are located above-ground, the contractor shall install shielding that would reduce noise levels by at least 10 dBA. Confirmation of new site plans, if appliable, with information on shielding shall be provided to the Director of PBCE or Director's Designee.

3.14 Population and Housing

3.14.1 Setting

Environmental Setting

The City was estimated to have approximately 1,049,187 people and approximately 336,507 housing units in January 2020 (State of California, 2020). The City is projected to have approximately 1,377,145 people and approximately 448,310 housing units by 2040 (ABAG, 2017).

Regulatory Setting

There are no federal, state of local population and housing-related regulations that apply to the proposed Project.

3.14.2 Findings

	Potentially Significant Impact	*Less Than Significant with Mitigation Incorporated*	*Less than Significant Impact*	*No Impact*
Would the Project:				
a) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	[ ]	[ ]	[ ]	[X]
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	[ ]	[ ]	[ ]	[X]

Discussion

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

No Impact. The proposed Project would not directly induce unplanned population growth because no new housing or businesses are proposed. The Project involves modification of an existing flood detention basin to treat storm water. Therefore, the proposed Project would not directly or indirectly induce unplanned population growth. No impact would occur.

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

No Impact. Construction and operation of the proposed Project would occur within an existing detention basin, pump station, and surrounding vacant land. Construction access and staging would use existing rights-of-ways and roads. The Project would not displace existing people or housing or require construction of replacement housing. No impact would occur.

Mitigation Measures: None required or recommended.

3.15 Public Services

3.15.1 Setting

Environmental and Regulatory Setting

Fire Protection

The San José Fire Department provides fire protection and emergency services within the City. The Fire Department operates 33 fire stations, 43 companies, and three squad units (City of San José, 2020b). The nearest fire station to the Project site is Station 29 located at 199 Innovation Drive, approximately 0.6 miles from the Project site. The *Envision*

San José 2040 General Plan identifies a fire protection goal of eight minutes for total response time and four minutes for total travel time for 80 percent of emergency calls (City of San José, 2020a).

Police Protection

The San José Police Department provides police protection and crime prevention services within the City. The Police Department headquarters is located at 201 West Mission Street, approximately 4.2 miles from the Project site. The *Envision San José 2040 General Plan* identifies a police protection goal of six minutes or less for response time for 60 percent of all Priority 1 (emergency) calls, and of 11 minutes or less for 60 percent of all Priority 2 (nonemergency) calls (City of San José, 2020a).

Schools

The Project site is located within the San José Unified School District, which operates 41 elementary schools, middle schools, K-8 schools, high schools, and alternative schools. The Don Callejon Elementary School is the only school located within one-quarter mile of the Project site.

Parks

The City of San José Department of Parks, Recreation, and Neighborhood Services maintains 206 park sites totaling approximately 3,537 acres and provides recreation activities, programs and services throughout the community. The Department also maintains approximately 61.6 miles of walking and bike trails (City of San José, 2019c).

Libraries

The City of San José Public Library system maintains one main library (Dr. Martin Luther King, Jr. Library) and 24 branch locations accessible to City residents (City of San José, 2020b). The nearest library to the Project site is the Joyce Ellington Branch Library located at 491 East Empire Street, approximately 4.8 miles from the Project site.

Hospitals

There are three emergency medical centers within the City. The nearest hospital to the Project site is the Regional Medical Center of San José located at 225 N Jackson Ave, approximately 6 miles from the Project site.

3.15.2 Findings

	Potentially Significant Impact	*Less Than Significant with Mitigation Incorporated*	*Less than Significant Impact*	*No Impact*
Would the Project:				
a) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the following public services:	[ ]	[ ]	[X]	[ ]

i)	Fire protection?	[ ]	[ ]	[X]	[ ]
ii)	Police protection?	[ ]	[ ]	[X]	[ ]
iii)	Schools?	[ ]	[ ]	[ ]	[X]
iv)	Parks?	[ ]	[ ]	[ ]	[X]
v)	Other public facilities?	[ ]	[ ]	[ ]	[X]

Discussion

a.i.) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the following public services: Fire protection?

Less than Significant Impact. The proposed Project would not require construction of new or physically altered existing fire protection facilities. Fire protection requirements during construction of the Project would be short-term and provided by existing Fire Department services and facilities. All construction activities and equipment storage/staging would occur on the Project site and would not require any street closures. Operation of the Project would not directly or indirectly induce population growth that would substantially change service ratios for fire protection services or require construction of new or altered fire departments. No additional or altered fire departments would be required to maintain response times, service ratios, or other performance objectives. Therefore, impacts on fire protection services would be less than significant.

a.ii.) *Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the following public services: Police protection?*

Less than Significant Impact. The proposed Project would not require construction new or physically altered existing police protection facilities. All construction activities and equipment storage/staging would occur on the Project site and would not require any street closures. Operation of the Project would not directly or indirectly induce population growth that would substantially change service ratios for police protection services or require construction of new or altered police stations. No additional or altered police stations would be required to maintain response times, service ratios, or other performance objectives. Therefore, impacts on police protection services would be less than significant.

a.iii.) *Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the following public services: Schools?*

No Impact. The proposed Project would not require construction of new or physically altered existing schools or increase existing demand on schools. Implementation of the Project would not directly or indirectly induce unplanned population growth that would result in an influx of students. Construction of the proposed Project does not include new housing and operation does not include new jobs that would result in population or employment growth. No additional or altered schools would be required to maintain class size ratios or other performance objectives. Therefore, no impact on schools would occur.

a.iv.) *Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause*

significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the following public services: Parks?

No Impact. The proposed Project would not increase existing demand on parks. Implementation of the Project does not include new housing or jobs and would not directly or indirectly induce unplanned population that would result in an influx of residents. In addition, construction of the Project would include park-like features such as a walking trail around the basin, a boardwalk and viewing platform over the detention basin, two deck overlooks with seating, exercise equipment, interpretive signage, a demonstration bioretention planter, and public art (mural on the pump station and educational sculpture) to provide recreational, aesthetic, and educational benefits for the community. Implementation of the proposed Project would not require the construction of new parks or recreational facilities to maintain existing acreage/resident ratios. Therefore, no impact on parks would occur.

a.v.) *Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the following public services: Other public facilities?*

No Impact. The proposed Project would not increase existing demand on other public facilities. Implementation of the Project does not include new housing or jobs and would not directly or indirectly induce unplanned population that would result in an influx of residents. Construction and operation of the proposed Project would not require the expansion of existing or construction of new public facilities such as libraries or hospitals. Therefore, no impact to other public facilities would occur.

Mitigation Measures: None required or recommended.

3.16 Recreation

3.16.1 Setting

Environmental Setting

Riverview Park is adjacent to the proposed Project site on the east. Riverview Park houses open grass fields, tennis courts, bocce ball courts, a playground, gazebo, seating, and paved walkways.

Regulatory Setting

The City of San José General Plan includes goals and policies that provide support for a wide range of recreational parkland, facilities, and programs. Goals and policies relate to issues such as facilities and recreational programs, providing an equitable park system, community identity, and sustainability. Key goals and policies related to the proposed project are included below:

- Goal PR-6 – Sustainable Parks and Recreation: Provide environmentally sustainable programs, facilities, and infrastructure assets, accompanied by a network of trails and pathways throughout the City to provide an alternate means of transportation.
    - Policy PR-6.2 Develop trails, parks and recreation facilities in an environmentally sensitive and fiscally sustainable manner.
    - Policy PR-6.5 Design and maintain park and recreation facilities to minimize water, energy and chemical (e.g., pesticides and fertilizer) use. Incorporate native and/or drought-resistant vegetation and ground cover where appropriate.

- Policy PR-6.7 In design and construction, consider the role of parks, trails, and open space in preserving, enhancing, or restoring existing ecosystems/wildlife habitat, where appropriate.

3.16.2 Findings

	Potentially Significant Impact	*Less Than Significant with Mitigation Incorporated*	*Less than Significant Impact*	*No Impact*
Would the Project:				
a) Would the Project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	[ ]	[ ]	[ ]	[X]
b) Does the Project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	[ ]	[ ]	[X]	[ ]

Discussion

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

No Impact. The proposed Project does not include new housing or employment that would increase use of existing recreation facilities in the neighborhood or region. The proposed Project would include recreational facilities, thereby increasing the amount of available park/recreation space. The proposed Project would not result in physical deterioration of Riverview Park or other recreational facilities in the area. The proposed Project would have no impact existing neighborhood and regional parks or other recreational facilities.

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

Less than Significant Impact. Implementation of the proposed Project would not require expansion of recreational facilities that could have an adverse physical impact on the environment. The proposed Project would include passive recreation facilities as described above. The major function of the proposed Project is stormwater capture and treatment; recreational components are included to enhance the Project. Construction of the recreational components would be ancillary to the detention basin and pump station modifications, and installation of minor recreational facilities (e.g., path, seating, sculpture) would not be expected to have an adverse physical effect on the environment. As a result, the impacts of the Project would be less than significant.

Mitigation Measures: None required or recommended.

3.17 Transportation

3.17.1 Setting

Environmental Setting

The Project is located in the northern portion of the City of San José, at the western end of Riverview Parkway. The major roadways that provide regional access to the Project site are: State Route 237 (SR-237), which runs east-west north of the Project site; Interstate 880 (I-880), which is located east of the proposed Project and runs north-south; and U.S. Route 101 (U.S. 101), which is located west of the Project site, and runs northwest-southeast in the Project vicinity. Local access within the Project area is provided by Zanker Road, Montague Expressway, North 1st Street, Tasman Drive, and River Oaks Parkway. Designated truck routes in the project vicinity include Zanker Road, Montague Expressway, and Tasman Drive.

Public transportation in the Project area consists of bus and light rail service provided by the VTA. A light rail line runs along North 1st Street, east of the Project site. The nearest light rail stop is located at North 1st Street and River Oaks Parkway, approximately 1,500 feet from the proposed Project site. The nearest bus stops are also located at the intersection of North 1st Street and River Oaks Parkway. Bicycle lanes and routes are present along many surface streets in the Project vicinity, including North 1st Street and Zanker Road. A bicycle/pedestrian trail is located along the Guadalupe River, southwest of the Project site.

Regulatory Setting

Regional transportation planning is undertaken by the MTC, which encompasses the nine Bay Area counties, including Santa Clara County. In 2017, MTC and the Association of Bay Area Governments (ABAG) adopted *Plan Bay Area 2040*, which includes the Regional Transportation Plan and Sustainable Communities Strategy (MTC, 2017). This document guides the development of transit throughout the region, including pedestrian, transit, automobile, and

bicycle facilities. VTA maintains the Congestion Management Plan for Santa Clara County, which was last updated in 2017. The Congestion Management Plan is intended to develop a comprehensive program to reduce traffic congestion, improve land use decision making, and improve air quality. The Congestion Management Plan generally establishes the minimum level of service for roadways in Santa Clara County as level of service (VTA, 2017).

The City of San José General Plan establishes goals, policies, and actions for transportation in the City. The General Plan goals focus on increasing bicycle, pedestrian, and transit travel, while reducing motor vehicle trips. The following General Plan transportation goals and policies are relevant to the proposed Project:

- Goal TR-1 – Balanced Transportation System: Complete and maintain a multimodal transportation system that gives priority to the mobility needs of bicyclists, pedestrians, and public transit users while also providing for the safe and efficient movement of automobiles, buses, and trucks.
    - Policy TR-1.2: Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects.
    - Policy TR-1.5: Design, construct, operate, and maintain public streets to enable safe, comfortable, and attractive access and travel for motorists and for pedestrians, bicyclists, and transit users of all ages, abilities, and preferences.
- Goal TR-6 – Goods Movement: Provide for safe and efficient movement of goods to support commerce and industry.
    - Policy TR-6.1: Minimize potential conflicts between trucks and pedestrian, bicycle, transit, and vehicle access and circulation on streets with truck travel.
    - Policy TR-6.3: Encourage through truck traffic to use freeways, highways, and County Expressways and encourage trucks having an origin or destination in San José to use Primary Truck Routes designated in the Envision General Plan.
- Goal TR-9 – Tier I Reduction of Vehicle Miles Traveled: Reduce Vehicle Miles Traveled (VMT) by 10% per service population, from 2009 levels, as an interim goal.
- Goal TR-10 – Tier II Vehicle Miles Traveled Reduction: Reduce vehicle miles traveled by an additional 10% per service population above Goal TR-9 (a 20% reduction as measured from 2009), at a later date to be determined by the City Council, based on staff analysis of the City's achieved and anticipated success in reducing VMT.

The City's Transportation Analysis Policy, enacted in 2018, sets forth policies for evaluating project impacts on vehicle miles traveled (VMT) under CEQA (City of San José, 2018b). As established in City Council Policy 5-1 "Transportation Analysis Policy" (2018), the City of San José uses VMT as the metric to assess transportation impacts from new development. According to the policy, an employment (e.g. office, R&D) or residential project's transportation impact would be less than significant if the project VMT is 15 percent or more below the existing average citywide or regional per capita VMT. For industrial projects (e.g. warehouse, manufacturing, distribution), the impact would be less than significant if the project VMT is equal to or less than existing average regional per capita VMT. The threshold for a retail project is whether it generates net new regional VMT, as new retail typically redistributes existing trips and miles traveled as opposed to inducing new travel. If a project's VMT does not meet the established thresholds, mitigation measures would be required, where feasible. The policy also requires preparation of a Local Transportation Analysis to analyze non-CEQA transportation issues, including local transportation operations, intersection level of service, and site access and circulation. The Local Transportation Analysis also addressed CEQA issues related to pedestrian, bicycle access, and transit. Screening criteria have been established to determine which projects require a detailed VMT analysis. If a project meets the relevant screening criteria, it is considered to a have a less than significant VMT

impact. Per this policy, projects that meet certain screening criteria may be assumed to have less-than-significant impacts on VMT.

3.17.2 Findings

	Potentially Significant Impact	*Less Than Significant with Mitigation Incorporated*	*Less than Significant Impact*	*No Impact*
Would the Project				
a) Conflict with a program plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?	[ ]	[ ]	[X]	[ ]
b) Conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?	[ ]	[ ]	[X]	[ ]
c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	[ ]	[ ]	[X]	[ ]
d) Result in inadequate emergency access?	[ ]	[ ]	[X]	[ ]

Discussion

a) Conflict with a program plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?

Less Than Significant Impact. Project construction is estimated to last seven months. Construction would occur on weekdays between 7:00 a.m. and 7:00 p.m., in accordance with the City of San José Municipal Code Section 20.100.450. Additional details on the construction schedule can be found in *Section 2.5.2, Construction Schedule.* Construction is estimated to generate approximately 39 round-trip trips per day, which includes trips for hauling of import and export material (peak of approximately 32 trips per day), delivery of materials (up to one trip per day), and construction worker commuting (six trips per day). All construction activities would occur within the City of San José at the proposed Project site.

Construction-related traffic would be temporary and would occur primarily at the Project site. The existing access road along the south edge of Riverview Park may be used for construction access to the site and would potentially be fenced off for pedestrian safety; however, alternate pedestrian routes are available throughout Riverview Park. Vehicle trips to and from the Project site (particularly for delivery of heavy equipment and hauling of import and export materials) would have a temporary, intermittent, and limited effect on pedestrian, bicycle, and/or automobile traffic on nearby roads. The City of San José implements Standard Project Conditions (listed below) which include preparation of a Traffic Control Plan, which shall ensure that mobility and safety are maintained. Therefore, the proposed Project would not conflict with General Plan policies governing mobility and safety noted above (e.g., Policies TR-1.2, TR-1.5, and TR-6.1), and the proposed Project would have a less-than-significant impact.

Operation of the proposed Project would not conflict with regional transportation plans or City of San José policies. The City would continue to operate the detention basin and pump station as under existing conditions; there would be no net change in vehicle trips for operation or maintenance of the detention basin and pump station. Vehicle trips for landscaping of the park-like elements at the Project site would be minimal (i.e., five trips per month). During Project operation, the site would serve as a neighborhood park. The park is not expected to attract substantial use from outside the local area, and no parking is included in the Project. It is anticipated that most visitors would walk or jog to the park from adjacent and nearby residential areas. Therefore, traffic impacts from park visitors would be minimal. The proposed Project's long-term impacts on the circulation system would therefore be less than significant.

b) Conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?

Less Than Significant Impact. CEQA Guidelines Section 15064.3, subdivision (b) outlines criteria for analyzing transportation impacts in terms of VMT for land use projects and transportation projects. VMT refers to the amount and distance of automobile travel attributable to a project. The City of San José enacted a Transportation Analysis Policy in 2018, which establishes thresholds for transportation impacts under CEQA (City of San José, 2018b). The Transportation Analysis Policy establishes a set of screening criteria for projects that are expected to result in a less-than-significant VMT impact. Projects that meet the screening criteria are not required to prepare a detailed CEQA transportation analysis. Per the Transportation Analysis Policy, local-serving public facilities, including publicly owned passive parks, meet the screening criteria and not expected to have a significant impact on VMT. The proposed Project would preserve the existing land use and site function (i.e., detention basin and pump station) and add passive recreation features. Therefore, the proposed Project would be considered a publicly owned passive park and would meet the screening criteria in the Transportation Analysis Policy. The Project would be consistent with CEQA Guidelines Section 15064.3, subdivision (b) and the impact would be less than significant.

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

Less Than Significant Impact. The proposed Project would not construct new roadways or alter existing roadways. Therefore, operation of the proposed Project would not create roadway hazards.

Project construction may require some incompatible uses on roadways in the Project area, such as transportation of heavy construction equipment. Project construction would also require approximately 32 haul trips per day (peak period) for import/export material. These uses could temporarily increase hazards near the Project site but would not permanently alter the roadway and safety conditions; therefore, the impact would be less than significant. Additionally, as part of the Standard Project Conditions**,** the contractor shall implement a Traffic Control Plan, including measures to ensure that vehicle ingress and egress from the Project site occurs safely.

d) Result in inadequate emergency access?

Less Than Significant Impact. Construction of the proposed Project may require transportation of heavy construction equipment and would generate trips associated with construction (worker travel, maul trips, and delivery of materials and equipment). Construction would not require roadway or lane closures that would impede emergency vehicle access; however, construction traffic near the Project site could have the potential to hinder access for emergency vehicles. Traffic control measures implemented during Project construction would require that emergency crews be able to access the Project site and surrounding areas. In order to prevent Project construction from interfering with emergency responders, as part of Standard Project Conditions, the City would prepare and implement a Traffic Control Plan that includes coordination of emergency access with emergency services (police, fire, etc.). Therefore, impacts would be less than significant .

Standard Project Conditions

Traffic Control Plan. The City of San José Public Works Department's standard practice requires the contractor to develop a Traffic Control Plan, which must be reviewed and approved by the City prior to the start of construction. The Traffic Control Plan shall:

- Identify staging locations within the project site to be used during construction
- Identify safe ingress and egress points from on-site staging areas
- Identify potential road closures, if any
- Establish haul routes for construction-related vehicle traffic
- Identify alternative safe routes to maintain pedestrian and bicyclist safety during construction

The Traffic Control Plan shall include provisions for traffic control measures including barricades, warning signs, cones, lights, and flag persons, to allow safe circulation of vehicle, bicycle, pedestrian, and emergency response traffic. The Traffic Control Plan shall be reviewed and approved by the City's project manager and the construction inspector prior to Project construction. The City's construction inspector shall also provide the construction schedule and Traffic Control Plan to the City for review to ensure that construction of the proposed Project does not conflict with other construction projects that may be occurring simultaneously in the Project vicinity.

The City's project manager shall notify emergency services (police, fire, and others) about the Project construction schedule and potential delays due to construction. The City shall identify roadways and access points for emergency services as part of the Traffic Control Plan and minimize disruptions to these locations.

Mitigation Measures: None required or recommended.

3.18 Tribal Cultural Resources

3.18.1 Setting

Environmental Setting

The NAHC was contacted for a search of the Sacred Lands File for the Project site, and the NAHC indicated that there are sacred lands within the project area, with information about resources in the project area being held by the North Valley Yokuts Tribe. As part of the Cultural Resources Assessment (Basin Research 2020), letters soliciting information were sent to the North Valley Yokuts Tribe and to six other Native American Groups: Aman Mutsun Tribal Band, Amah Mutsun Tribal Band of Mission San Juan Bautista, Indian Canyon Mutsun Band of Costanoan, Muwekma Ohlone Tribe of the San Francisco Bay Area, The Ohlone Indian Tribe, and The Confederated Villages of Lisjan on the NAHC list.

Katerine Erolinda Perez of the North Valley Yokuts Tribe responded to the information request and stated that she was unaware of the Project site being a sensitive area; it was requested that mitigation be included to address the potential for inadvertent discoveries. The Chairperson of the Confederated Villages of Lisjan requested additional information, which was provided, but did not make any specific requests of the City, and no further response has been received.

Regulatory Setting

See Section 3.5 Cultural Resources.

3.18.2 Findings

	Potentially Significant Impact	*Less Than Significant with Mitigation Incorporated*	*Less than Significant Impact*	*No Impact*
Would the Project:				
a) Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:				
i) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or	[ ]	[X]	[ ]	[ ]
ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	[ ]	[X]	[ ]	[ ]

Discussion

a) Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is: Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or a resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

Less Than Significant Impact with Mitigation Incorporated. Because of the extensive previous disturbance of the site, there is very little likelihood that the Project would disturb any tribal cultural resources, however, there is a slight possibility that tribal cultural resources could be encountered during ground disturbing activity. To minimize impacts to tribal cultural resources and in keeping with the request by the North Valley Yokuts Tribe that the potential for inadvertent discoveries be addressed, **Mitigation Measure CR-1** would be implemented to preserve any discoveries.

Mitigation Measures:

Refer to **Mitigation Measure CR-1** in *Section 3.5 Cultural Resources*

3.19 Utilities and Service Systems

3.19.1 Setting

Environmental and Regulatory Setting

Potable Water

Drinking water for the Project area is provided by the San José Municipal Water System, one of three drinking water purveyors in the City of San José. The Project site is located in the North San José/Alviso service area. The water supply for this service area is comprised of primarily imported surface water from the San Francisco Public Utilities Commission, supplemented by four wells owned and operated by San José Municipal Water System (City of San José, 2016b).

Wastewater and Recycled Water

Wastewater from the City of San José is collected and treated at the San José/Santa Clara Regional Wastewater Facility located at the southern end of San Francisco Bay. The facility is jointly owned by the cities of San José and Santa Clara and treats wastewater from San José, Santa Clara, Milpitas, Campbell, Cupertino, Los Gatos, Monte Sereno and Saratoga, (City of San José, 2016b).

Recycled water for the Project area is produced at the San José-Santa Clara Regional Wastewater Facility (City of San José, 2016b). South Bay Water Recycling is the regional permit holder and wholesaler of recycled water in San José, Santa Clara and Milpitas and delivers an average of 11 million gallons per day to more than 900 customers (City of San José, 2020d).

Stormwater

Storm drainage in the City consists of an above- and below-ground storm drain system with most facilities operated and maintained by the City. The River Oaks detention basin provides regional flood control detention for the 100-year storm event in the Project area.

Solid Waste

The GreenTeam of San José provides solid waste services for the proposed Project area and operates in compliance with the Santa Clara County Integrated Waste Management Plan (IWMP). According to the 2016 IWMP Five-Year Report, Santa Clara County has adequate landfill disposal capacity beyond 2030 (CalRecycle, 2016). The development, implementation, and adoption of diversion plans has helped the County to extend landfill capacity. In October 2007, the San José City Council adopted Resolution 74077, which set a goal of 75 percent waste diversion in the City of San José by 2013 and zero waste by 2022 (City of San José, 2007). This resolution then led to the adoption of additional City programs to improve waste management, such as the City of San José Environmental Services Department Integrated Waste Management Zero Waste Strategic Plan (City of San José, 2008) and Construction and Demolition Diversion Program, which ensures that at least 75 percent of construction and demolition debris is recovered and diverted from landfills (City of San José, 2020e).

Utilities

Electrical service for the Project area is sourced by SJCE and delivered by Pacific Gas and Electric over existing utility lines. Natural gas in the City of San José is provided by Pacific Gas and Electric.

3.19.2 Findings

	Potentially Significant Impact	*Less Than Significant with Mitigation Incorporated*	*Less than Significant Impact*	*No Impact*
Would the Project:				
a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	[ ]	[ ]	[X]	[ ]
b) Have sufficient water supplies available to serve the Project and reasonably foreseeable future development during normal, dry and multiple dry years?	[ ]	[ ]	[ ]	[X]
c) 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?	[ ]	[ ]	[X]	[ ]
d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	[ ]	[ ]	[X]	[ ]
e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?	[ ]	[ ]	[X]	[ ]

Discussion

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

Less than Significant Impact. The proposed Project would modify the existing River Oaks detention basin to provide stormwater treatment via bioretention prior to discharge to the Guadalupe River. Temporary dewatering could be necessary during construction, and potential permanent dewatering could be required as well. If the quality of groundwater recovered during construction and from potential long-term dewatering fails to meet regulatory standards for discharge to surface waters, discharge to the sewer may be required, but this is not expected to require expansion of wastewater treatment facilities. The proposed Project would not directly or indirectly induce unplanned population or employment growth that would require or result in the need for construction of a new or expanded water supply, wastewater treatment, stormwater drainage, electrical power, natural gas, or telecommunications facilities. Impacts would be less than significant.

b) Have sufficient water supplies available to serve the Project and reasonably foreseeable future development during normal, dry and multiple dry years?

No Impact. Construction of the Project would require a minimal water supply for purposes such as dust control and concrete mixing and would be provided by existing San José Municipal Water System sources. The Project may require a minimal amount of water for landscape irrigation in the park areas. However, operation of the Project would not directly or indirectly induce unplanned population or employment growth that would require or result in the construction of a new or expanded water infrastructure. There would be sufficient water supplies for Project implementation. No impact would occur.

c) 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?

Less than Significant Impact. Construction and operation of the proposed Project would not directly or indirectly induce unplanned population or employment growth that would require or result in the construction of a new or expanded wastewater collection infrastructure or treatment services. See discussion under impact a) above.

d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?

Less than Significant Impact. During construction it is assumed that 100 percent of the proposed Project site would be disturbed, and an estimated 37,000 cy of material would be exported during construction. In addition to local regulations, disposal of material from the Project site would adhere to State legislation. Assembly Bill 939 mandates 50 percent diversion of solid waste and A 341 mandates recycling programs to help reduce GHG emissions. According to the 2016 IWMP Five-Year Report, Santa Clara County has adequate landfill disposal capacity beyond 2030 (CalRecycle, 2016). The 37,000 cy of export material is anticipated to be within the permitted capacity of the County's five landfills (Newby Island Sanitary Landfill, Guadalupe Landfill, Kirby Canyon Landfill, Zanker Material Processing Facility, Zanker Road Landfill).

Operation of the proposed Project would generate minimal amounts of solid waste from park maintenance activities such as litter removal and landscaping as well as basin maintenance activities, which would occasionally require vegetation trimming and debris removal. However, the proposed Project would not generate solid waste in excess of local or State standards or infrastructure capacity. Therefore, impacts would be less than significant.

e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?

Less than Significant Impact. Construction and operation of the proposed Project would comply with local, State, and federal regulations related to solid waste. While operation of the proposed Project is not anticipated to generate a significant amount of long-term solid waste, construction activities would create an estimated 37,000 cy of debris that would require disposal in accordance with existing local and State reduction statutes and regulations. The City's Construction and Demolition Diversion Program would require that at least 75 percent of construction and demolition debris is recovered and diverted from landfills, with mandatory 50 percent diversion of solid waste (AB 939), and mandatory recycling programs to reduce GHG emissions (AB 341). Therefore, impacts related to compliance with local, State, and federal reduction statues and regulations would be less than significant.

Mitigation Measures: None required or recommended.

3.20 Wildfire

3.20.1 Setting

Environmental Setting

The proposed Project is located within the San José LRA and is designated as non-VHFHSZ (Cal Fire, 2008). The City does not have forests or rangeland to burn. San José is a developed city that has few remaining wildland areas. The closest fire hazard zone is approximately 6.5 miles away near the Alum Rock Park, which has been designated as a very high fire hazard zone by the State of California (Cal Fire, 2008).

Regulatory Setting

The California Department of Forestry and Fire Protection's Fire and Resource Assessment Program (FRAP) assesses the amount and extent of California's forests and rangelands, analyzes their conditions and identifies alternative management and policy guidelines (https://frap.fire.ca.gov/). FRAP maps are used to identify areas of VHFHSZ within LRAs.

3.20.2 Findings

	Potentially Significant Impact	*Less Than Significant with Mitigation Incorporated*	*Less than Significant Impact*	*No Impact*
If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the Project:				
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?	[ ]	[ ]	[ ]	[X]
b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	[ ]	[ ]	[ ]	[X]
c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	[ ]	[ ]	[ ]	[X]
d) Expose people or structures to significant risks, including downslopes or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	[ ]	[ ]	[ ]	[X]

Discussion

a-d) No Impact. Construction and operation would not occur in or near a state responsibility area or lands classified as very high fire hazard severity zones. Therefore, no impact would occur.

Mitigation Measures: No mitigation measures required or recommended.

3.21 Mandatory Findings of Significance

	Potentially Significant Impact	*Less Than Significant with Mitigation Incorporated*	*Less than Significant Impact*	*No Impact*
Does the Project:				
a) Have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	[ ]	[X]	[ ]	[ ]
b) Have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a Project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	[ ]	[ ]	[X]	[ ]
c) Have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	[ ]	[X]	[ ]	[ ]

Discussion

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

Less than Significant Impact with Mitigation Incorporated. With the implementation of mitigation measures, the proposed Project would have a less than significant impact on the environment. Potential construction impacts on burrowing owl and nesting birds would be reduced to a less than significant level through the implementation of

Mitigation Measures BIO-1 and **BIO-2**. The Project site is located approximately 100 feet from a riparian woodland area (a sensitive natural community), but the Project would not be expected to impact the riparian area. The Project would not degrade the quality of the environment, substantially reduce habitat, impact fish or wildlife populations, impact plant or animal communities, or impact the number or range of rare or endangered species.

No cultural or archaeological resources were identified within the area that would be directly impacted by Project activities; however, there is a potential for previously unknown cultural material to exist at the Project site. With the implementation of **Mitigation Measure CR-1**, potentially significant impacts on cultural resources would be reduced to less than significant. The Project site overlies marine and nonmarine sedimentary deposits of Quaternary (Pleistocene and Holocene) age, which are considered to have high paleontological sensitivity. However, impacts on paleontological resources are not anticipated because Fossiliferous deposits have the potential to occur at greater depths than the depths of anticipated Project ground disturbance, and the City implements Standard Project Conditions during all construction phases of the Project to ensure proper procedures are in place in the event of an unanticipated fossil discovery. These conditions ensure any unanticipated fossil discovered on site would be preserved, and potential impacts on paleontological resources would be less than significant.

b) Have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a Project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

Less than Significant Impact. The proposed Project is the modification of an existing City flood control basin for regional treatment of storm water from the Guadalupe River Watershed. This project is the City's first implementation of a GSI project in the City's long-term GSI Plans, which involve incorporating LID drainage design into storm drain infrastructure on public and private lands. At the present time, there are no other City GSI projects in the Guadalupe River Watershed being planned or implemented that could result in cumulative impacts together with the proposed Project. There are three wells (NSJ #6, NSJ #7 and NSJ #8) proposed within the 1.6 acre Agnews site (former site of Agnews Hospital, now proposed City park property known as the Agnews East Parkland Project) which is located approximately one mile northeast of the proposed Project site. No cumulative considerable impacts of the proposed Project together with the Agnews site wells project would be expected for the reasons described in the following paragraphs.

Operational impacts of the project would be either minimal or beneficial, capturing stormwater for treatment and improving water quality in the Guadalupe River while incorporating public recreation features. Adverse impacts of the Project occur primarily during construction, which would occur over a fairly brief seven-month period.

Air quality impacts of Project construction were evaluated against BAAQMD thresholds designed to gauge an individual project's cumulative impacts. As discussed in *Section 3.3. Air Quality,* construction and operation of the proposed Project would not exceed thresholds for emissions of criteria pollutants, and therefore would not result in a cumulatively considerable net increase in any criteria pollutant for which the Project region is in non-attainment.

The proposed Project and potential future City GSI projects, the wells project at the Agnews site, and other related projects would be constructed in various locations and at varying times. Potential short-term construction impacts of other potential related projects such as transportation, noise, hazards, biological resources, greenhouse gases, hydrology, and aesthetics would occur in individual localized areas within a discrete period of time, and potential for overlapping cumulative impacts among individual projects together with the proposed Project is minor. Additionally, the related projects would be required to comply with the same or similar regulations and mitigation measures that would minimize construction impacts and avoid or mitigate operational impacts. Therefore, implementation of the proposed Project together with existing and future related projects would not be expected to result in cumulatively considerable significant impacts. No mitigation would be needed.

c) Have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

Less than Significant Impact with Mitigation Incorporated. The proposed Project is not anticipated to exceed applicable air quality thresholds. Because thresholds are set to protect human health, the proposed Project would not have air quality impacts that would adversely impact human beings.

The proposed Project could have temporary impacts on visual character in the Project area due to construction lighting. To minimize visual impacts, nighttime construction lighting would be minimized (e.g., shielded, directed downward). Visual impacts of from the project would not constitute a substantial adverse impact to humans.

Although all existing applicable regulations would be followed by the Project, during construction, there is generally the potential for hazardous materials associated with typical construction activities to be released, either through general use or accidents. **Mitigation Measure HAZ-1** would require the City to develop a Hazardous Materials Management and Spill Prevention and Control Plan to ensure project-specific contingencies are in place to minimize the risk of hazardous material exposure.

The proposed Project may expose the community, including sensitive receptors such as residences, to noise from Project construction. **Mitigation Measure NOI-1** would ensure that construction noise is reduced using BMPs (e.g., locating noise-generating equipment as far as practicable from residences, limiting vehicle idling time, keeping equipment in good working order), and that construction occurs within daytime hours as deemed allowable by the City. The Project operational noise could result in noise levels above City thresholds due to operation of the sump pump and dewatering pump operation if installed above ground. **Mitigation Measure NOI-2** would ensure that operational noise is reduced such that thresholds are not exceeded. With implementation of **Mitigation Measures NOI-1** and **NOI-2**, the proposed Project would have a less than significant impact on human beings as a result of noise.

Construction of the proposed Project would not be anticipated to require lane or road closures. Construction would require temporary and intermittent transportation of construction equipment and hauling trips on nearby roadways. With implementation of a Traffic Control Plan as part of City Standard Project Conditions, the Project would not impede circulation, increase roadway hazards, or reduce emergency vehicle access that would cause a substantial adverse impact to humans.

The impacts of the proposed Project have been analyzed in accordance with the CEQA Guidelines; each topic has been found to have either no impact, a less than significant impact, or a less than significant impact with mitigation incorporated. Therefore, with implementation of the Standard Project Conditions and mitigation measures noted above, the proposed Project would not result in any environmental effects that would cause substantial adverse effects on human beings either directly or indirectly.

Mitigation Measures: See **Mitigation Measures BIO-1, BIO-2, CR-1, HAZ-1, NOI-1, and NOI-2.**

4. REPORT PREPARATION

This report was prepared by the City of San José, Woodard & Curran, and teaming partners. Staff from these agencies and companies that were involved include:

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APPENDIX A: AIR QUALITY MODELING RESULTS

APPENDIX B: BIOLOGICAL RESOURCES ASSESSMENT REPORT

APPENDIX C: CULTURAL RESOURCES ASSESSMENT REPORT

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