Public Review Draft

555 BAILEY AVENUE WATER LINE AND PUMP HOUSE

File No. PDA74-043-02

Initial Study / Mitigated Negative Declaration

Prepared by
City of San José in consultation with
Environmental Science Associates

June 2021

MITIGATED NEGATIVE DECLARATION

The Planning Director has reviewed the proposed project described below to determine whether it could have a significant effect on the environment because of project completion. "Significant effect on the environment" means a substantial or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

PROJECT NAME: 555 Bailey Avenue Water Line and Pump House

PROJECT FILE NUMBER: PDA74-043-02

PROJECT DESCRIPTION: Planned Development Permit Amendment (PDA) to construct a 40 ft. long by 15 ft. wide, with an unknown height/depth, extension of a water line, and installation of a domestic water connection. The project also includes a new fire pump house located to the southwest of the main entrance of the road of the IBM campus, with the water line extending through the existing orchard trees. Materials and colors of the pump house are not described in the plan set. Grading and excavation quantities and areas are not described in the plan set. The General Plan Land Use designation for the site is Industrial Park (IP) and the Zoning is Planned Development Zoning District (A(PD)) established per Planned Development Zoning PDC74-061.

PROJECT LOCATION: The project is located at 555 Bailey Avenue, west of US 101, in the southern portion of the City of San José.

ASSESSORS PARCEL NO.: 708-32-006

APPLICANT: Andrea LaPerle, HITT Contracting Inc., 469 El Camino Real Suite 230, Santa Clara, California, 95050

FINDING

The Planning Director finds the project described above will not have a significant effect on the environment if certain mitigation measures are incorporated into the project. The attached Initial Study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this Mitigated Negative Declaration (MND), has made or agrees to make project revisions that will clearly mitigate the potentially significant effects to a less than significant level.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

A. **AESTHETICS—**The project would not have a significant impact on aesthetics, therefore no mitigation is required.

B. AGRICULTURAL AND FORESTRY RESOURCES—The project would not have a significant impact on agricultural and forestry resources, therefore no mitigation is required.

C. AIR QUALITY—The project would not have a significant impact on air quality and forestry resources, therefore no mitigation is required.

D. BIOLOGICAL RESOURCES

Impact BIO-1: Project construction could impact nesting bird and roosting bat habitats, and cause temporary indirect impacts to wetlands on or near the project site.

MM BIO-1: Nesting birds and their nests shall be protected during construction by use of the following measures:

1. The project applicant shall conduct initial vegetation removal, tree trimming and removal, ground disturbance, and demolition of the existing abandoned agricultural pump outside the bird nesting season (February 1 to August 31, inclusive).
2. If vegetation removal, tree trimming and removal, ground disturbance, and demolition of the existing abandoned agricultural pump cannot occur outside the nesting season, a qualified biologist shall conduct pre-construction nesting surveys within 7 days prior to the start of such activities or after any construction breaks of 14 days or more. Surveys shall be performed for the project sites, vehicle and equipment staging areas, and suitable habitat within 250 feet in order to locate any active passerine (perching bird) nests and within 500 feet of these individual sites to locate any active raptor (birds of prey) nests. The project applicant shall send proof of executed contract with a qualified biologist to perform pre-construction surveys to the City prior to issuance of permits for construction activities.
3. If active nests are located during the pre-construction nesting bird surveys, the qualified biologist shall evaluate if the schedule of construction activities could affect the active nests and the following measures shall be implemented based on their determination:
    a. If construction is not likely to affect the active nest, construction may proceed without restriction; however, a qualified biologist shall regularly monitor the nest at a frequency determined appropriate for the surrounding construction activity to confirm there is no adverse effect.

Spot-check monitoring frequency would be determined on a nest-by-nest basis considering the particular construction activity, duration, proximity to the nest, and physical barriers which may screen activity from the nest. The qualified biologist may revise his/her determination at any time during the nesting season in coordination with the City.

b. If it is determined that construction may affect the active nest, the qualified biologist shall establish a no-disturbance buffer around the nest(s) and all project work would halt within the buffer until a qualified biologist determines the nest is no longer in use. Typically, these buffer distances are 250 feet for passerines and 500 feet for raptors; however, the buffers may be adjusted if an obstruction, such as a building, is within line-of- sight between the nest and construction.

c. Modifying nest buffer distances, allowing certain construction activities within the buffer, and/or modifying construction methods in proximity to active nests shall be done at the discretion of the qualified biologist and in coordination with the City, who would notify the California Department of Fish and Wildlife (CDFW). Necessary actions to remove or relocate an active nest(s) shall be coordinated with the City and CDFW.

d. Any work that must occur within established no-disturbance buffers around active nests shall be monitored by a qualified biologist. If adverse effects in response to project work within the buffer are observed and could compromise the nest, work within the no-disturbance buffer(s) shall halt until the nest occupants have fledge.

4. Any birds that begin nesting within the project site and survey buffers amid construction activities shall be assumed to be habituated to construction-related or similar noise and disturbance levels and no work exclusion zones shall be established around active nests in these cases; however, should birds nesting nearby begin to show disturbance associated with construction activities, no disturbance buffers shall be established as determined by the qualified biologist.
5. The project applicant shall submit pre-construction survey documentation to the City prior to the start of construction activities. If active nests are found, the project applicant shall submit all monitoring reports and a final report to the Director of

Planning, Building and Code Enforcement or Director's designee within 14 days of the end of construction.

MM BIO-2: A qualified biologist (as defined by CDFW[1]) who is experienced with bat surveying techniques (including auditory sampling methods), behavior, roosting habitat, and identification of local bat species shall be consulted by the project applicant prior to initiation of construction activities to conduct a pre-construction habitat assessment of trees within the study area, developed and landscaped, and the mixed riparian woodland south and east of the project site to characterize potential bat habitat and identify potentially active roost sites. The project applicant shall send proof of executed contract with a qualified biologist to perform a pre-construction assessment to the City. No further action is required should the pre-construction habitat assessment not identify bat habitat or signs of potentially active bat roosts within the study area (e.g., guano, urine staining, dead bats, etc.).

The project applicant shall implement the following measures if potential roosting habitat or potentially active bat roosts are identified during the habitat assessment within or in the immediate vicinity of the study area, including trees that could be trimmed or removed under the project:

1. In areas identified as potential roosting habitat during the habitat assessment, initial building demolition, relocation, and any tree work (trimming or removal) shall occur when bats are active, approximately between the periods of March 1 to April 15 and August 15 to October 15. These dates avoid the bat maternity roosting season and period of winter torpor.[2]
2. Depending on temporal guidance as defined below, the qualified biologist shall conduct pre-construction surveys of potential bat roost sites identified during the initial habitat assessment no more than 14 days prior to building demolition or relocation, or any tree trimming or removal.
3. If active bat roosts or evidence of roosting is identified during pre-construction surveys, the qualified biologist shall determine, if possible, the type of roost and species. A no-disturbance buffer shall be established around roost sites until the qualified biologist determines they are no longer active. The size of the no-disturbance buffer would be determined by the qualified biologist and would

[1] CDFW defines credentials of a "qualified biologist" within permits or authorizations issued for a project. Typical qualifications include a minimum of five years of academic training and professional experience in biological sciences and related resource management activities, and a minimum of two years of experience conducting surveys for each species that may be present within the project area.

[2] Torpor refers to a state of decreased physiological activity with reduced body temperature and metabolic rate.

depend on the species present, roost type, existing screening around the roost site (such as dense vegetation or a building), as well as the type of construction activity that would occur around the roost site.

4. If special-status bat species or maternity or hibernation roosts are detected during these surveys, appropriate species- and roost-specific avoidance and protection measures shall be developed by the qualified biologist in coordination with CDFW. Such measures may include postponing the removal of buildings or structures, establishing exclusionary work buffers while the roost is active (e.g., 100-foot no-disturbance buffer), or other compensatory mitigation.
5. The qualified biologist shall be present during building demolition, relocation, or tree work if potential bat roosting habitat or active bat roosts are present. Buildings and trees with active roosts shall be disturbed only under clear weather conditions when precipitation is not forecast for three days and when daytime temperatures are at least 50 degrees Fahrenheit.
6. The demolition or relocation of buildings containing or suspected to contain bat roosting habitat or active bat roosts shall be done under the supervision of the qualified biologist. When appropriate, buildings shall be partially dismantled to significantly change the roost conditions, causing bats to abandon and not return to the roost, likely in the evening and after bats have emerged from the roost to forage. Under no circumstances shall active maternity roosts be disturbed until the roost disbands at the completion of the maternity roosting season or otherwise becomes inactive, as determined by the qualified biologist.
7. Trimming or removal of existing trees with potential bat roosting habitat or active (non-maternity or hibernation) bat roost sites shall follow a two-step removal process (which shall occur during the time of year when bats are active, according to 1) above, and depending on the type of roost and species present, according to 3) above).
    a. On the first day and under supervision of the qualified biologist, tree branches and limbs not containing cavities or fissures in which bats could roost shall be cut using chainsaws.
    b. On the following day and under the supervision of the qualified biologist, the remainder of the tree may be trimmed or removed, either using chainsaws or other equipment (e.g., excavator or backhoe).
    c. All felled trees shall remain on the ground for at least 24 hours prior to chipping, off-site removal, or other processing to allow any bats to escape, or be inspected once felled by the qualified

biologist to ensure no bats remain within the tree and/or branches.

Within 14 days of end of construction, the project applicant shall submit survey documentation, as well as all monitoring reports and a final report to the Director of Planning, Building and Code Enforcement or Director's designee.

MM BIO-3: Access roads, work areas, and infrastructure (i.e., pipeline alignments and the fire pump house) shall be sited to avoid and minimize impacts to the drainage channel, wetlands, and riparian areas to the extent feasible. Where work will occur on the project adjacent to the drainage channel, wetlands, riparian areas, protection measures shall be applied to protect these features. These measures shall include the following:

1. No work shall occur in drainage channels, wetlands, or riparian areas. Where work is located adjacent to these resources, the minimum area of disturbance necessary for construction shall be identified, and the area outside of that shall be avoided.
2. Stabilize disturbed areas immediately upon completion of construction activities.
3. During construction, implement measures to catch trimmed tree limbs, shrubs, debris, soils, and other construction materials created by or used in vegetation removal before such materials can enter the drainage channel. Such materials shall be placed either in soil stockpiles or an appropriately managed waste collection container until the materials can be properly disposed of.
4. A protective barrier (such as silt fencing) shall be erected around the drainage channel valley freshwater marsh, and mixed riparian woodland adjacent to the project footprint to isolate them from construction and reduce the potential for incidental fill, erosion, or other disturbance;
5. Signage shall be installed on the fencing to identify sensitive habitat areas and restrict construction activities beyond fenced limits;
6. No equipment mobilization, grading, clearing, storage of equipment or machinery, or similar activity shall occur at the project site until a representative of the City has inspected and approved the protective fencing (e.g. silt fencing);
7. The project applicant and its contractor shall ensure that the temporary protective fencing is continuously maintained until all remediation is completed;
8. Drip pans and/or liners shall be stationed beneath all equipment staged nearby jurisdictional features overnight to minimize spill of deleterious

materials into jurisdictional waters. Equipment maintenance and refueling in support of project implementation shall be performed in designated upland staging areas and work areas, and spill kits shall be available on-site. Maintenance activity and fueling must occur at least 50 feet from jurisdictional wetlands and other waters or farther as specified in the project permits and authorizations.

Prior to issuance of any grading, demolition, or building permits, the project applicant shall provide copies of the protection measures to the Director of Planning, Building and Code Enforcement for review and approval.

E. CULTURAL RESOURCES

Impact CUL-1: Project construction could impact cultural resources and tribal cultural resources.

MM CUL-1: Prior to issuance of any grading or building permits, a Secretary of the Interior (SOIS)-qualified archaeologist shall conduct a training program for all construction and field personnel involved in ground disturbance. On-site personnel shall attend a mandatory pre-project training that shall outline the general archaeological sensitivity of the area and the procedures to follow in the event an archaeological resource and/or human remains are inadvertently discovered. A training program shall be established for new project personnel before they begin project work. The project applicant shall submit a copy of the training documents to the Director of Planning Building and Code Enforcement or the Director's designee for review and approval prior to the issuance of any grading or building permits. Documentation confirming the training sessions conducted shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee prior start of construction activities.

MM CUL-2: The project applicant shall have a qualified archaeologist monitor present during ground-disturbing activities in previously undisturbed soils within 60 meters (200 feet) of a previously recorded archaeological resource. An Archaeological Monitoring Plan (AMP) shall be prepared to guide the monitor. The monitoring shall be conducted by an archaeologist meeting or under the supervision of an archaeologist meeting the SOIS for Archeology. A report shall be prepared summarizing the results of the archaeological monitoring. The project applicant shall submit the AMP to the Director of Planning, Building and Code Enforcement or the Director's designee, prior to issuance of any grading permits for review

and approval. A copy of the final summary report shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee within 14 days of completion of construction activities. Should archaeological resources be inadvertently discovered during project construction activities, the procedures outlined in SCA CUL-1: Subsurface Cultural Resources shall be implemented.

F. ENERGY RESOURCES—The project would not have a significant impact on energy resources, therefore no mitigation is required.

G. GEOLOGY AND SOILS—The project would not have a significant impact on geology and soils, therefore no mitigation is required.

H. GREENHOUSE GAS EMISSIONS—The project would not have a significant impact on geology and soils, therefore no mitigation is required.

I. HAZARDS AND HAZARDOUS MATERIALS

Impact HAZ-1: Potentially contaminated soil could be encountered during project construction.

MM HAZ-1: Prior to the commencement of construction activities, the project applicant shall conduct on-site soil sampling to determine if residual pesticide concentrations are present in soils to be disturbed on the project site.

If pesticide contaminated soils are found in concentrations above regulatory environmental screening levels for construction worker safety and/or commercial/industrial standards, a Soil Management Plan (SMP), Removal Action Plan (RAP), or equivalent document must be prepared by a qualified hazardous materials consultant. The plan must establish remedial measures and/or soil management practices to ensure construction worker safety and the health of future workers and visitors. The project applicant shall obtain regulatory oversight from the Santa Clara County Department of Environmental Health (SCCDEH) or the California Department of Toxic Substances Control (DTSC) under their Voluntary Cleanup Program. The Plan and evidence of regulatory oversight shall be provided to the Supervising Environmental Planner of the City of San José Planning, Building, and Code Enforcement, and the Environmental Compliance Officer in the City of San José's Environmental Services Department prior to the issuance of a grading permit.

Additionally, potentially contaminated soil shall be segregated and stockpiled at a designated, plastic-lined stockpile area for subsequent testing and laboratory analyses to determine if the soil can be reused on-

site or if it is required to be disposed off-site at a permitted facility. A protocol and procedures for the reuse and disposal of potentially contaminated soil during construction shall be included in the SMP, RAP, or equivalent document prepared by the qualified hazardous materials consultant.

J. HYDROLOGY AND WATER QUALITY—The project would not have a significant impact on hydrology and water quality, therefore no mitigation is required.

K. LAND USE AND PLANNING—The project would not have a significant impact on land use and planning, therefore no mitigation is required

L. MINERAL RESOURCES—The project would not have a significant impact on mineral resources, therefore no mitigation is required.

M. NOISE AND VIBRATION—The project would not have a significant impact on noise, therefore no mitigation is required.

N. POPULATION AND HOUSING—The project would not have a significant impact on population and housing, therefore no mitigation is required.

O. PUBLIC SERVICES—The project would not have a significant impact on public services, therefore no mitigation is required.

P. RECREATION—The project would not have a significant impact on recreation, therefore no mitigation is required.

Q. TRANSPORTATION/TRAFFIC—The project would not have a significant impact on transportation/traffic, therefore no mitigation is required.

R. TRIBAL CULTURAL RESOURCES—The project would not have a significant impact on tribal cultural resources, therefore no mitigation is required.

S. UTIILTIES AND SERVICE SYSTEMS—The project would not have a significant impact on utilities and service systems, therefore no mitigation is required.

T. WILDFIRE—The project would not have a significant impact on wildfire, therefore no mitigation is required.

U. MANDATORY FINDINGS OF SIGNIFICANCE

With implementation of the mitigation measures identified above, and the standard permit conditions identified in the Initial Study, the project would not degrade the quality

of the environment, substantially affect biological resources, or eliminate important examples of California history or prehistory. The mitigation measures and standard permit conditions would also ensure that the project's contribution to cumulative impacts would not be cumulatively considerable, and the project would not cause substantial adverse effects on human beings, either directly or indirectly.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. Thursday, June 24, 2021 any person may:

1. Review the Draft MND as an informational document only; or

2. Submit written comments regarding the information and analysis in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND.

Chu Chang, Acting Director

Planning, Building, and Code Enforcement

5/26/21 _____

Date Deputy

Circulation period: Friday June 4, 2021, and ends on Thursday, June 24, 2021.

Environmental Project Manager: Adam Petersen

Public Review Draft

555 BAILEY AVENUE WATER LINE AND PUMP HOUSE

File No. PDA74-043-02

Initial Study / Mitigated Negative Declaration

Prepared by:

City of San José
Planning, Building and Code Enforcement Department
200 East Santa Clara Street, Room 300
San José, California 95113

Prepared with the assistance of:

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June 2021

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ACRONYMS AND ABBREVIATIONS

AB	Assembly Bill
AB 32	California Global Warming Solutions Act
AMP	Archaeological Monitoring Plan
BAAQMD	Bay Area Air Quality Management District
Basin Plan	San Francisco Bay Basin Plan
Bay Area Air Basin	San Francisco Bay Area Air Basin
BMPs	best management practices
C&D	construction and demolition
CAAQS	California Ambient Air Quality Standards
CAL FIRE	California Department of Forestry and Fire Protection
CalGreen	California Green Building Standards Code
CalRecycle	California Integrated Waste Management Board
Caltrans	California Department of Transportation
CAP	2017 Clean Air Plan
CARB	California Air Resources Board
CBC	California Building Code
CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality Act
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CFR	Code of Federal Regulations
CGS	California Geological Survey
City	City of San José
CNDDB	California Natural Diversity Database inventory of rare plants and animals
CNEL	Community Noise Equivalent Level
CNPS	California Native Plant Society
CO_2	carbon dioxide
CO_2e	carbon dioxide equivalent
dBA	A-weighted decibel
DBH	diameter-at-breast height
DNL	day-night noise level

DOC	California Department of Conservation
DTSC	California Department of Toxic Substances Control
EIR	Environmental Impact Report
ESA	Environmental Science Associates
FEMA	Federal Emergency Management Agency
FHSZ	Fire Hazard Severity Zones
General Plan	Envision San José 2040 General Plan
GHGs	Greenhouse gases
Habitat Plan	Santa Clara Valley Habitat Plan
IBM campus	IBM Silicon Valley Lab campus
IP	Industrial Park
JARA	James A Roberts Associates
L_{eq}	equivalent continuous sound level
L_{max}	maximum noise level
LID	Low Impact Development
LOS	level of service
MBTA	Migratory Bird Treaty Act
MLD	Most Likely Descendant
MND	Mitigated Negative Declaration
MRP	Municipal Regional Stormwater NPDES Permit
NAAQS	National Ambient Air Quality Standards
NAHC	California Native American Heritage Commission
NOD	Notice of Determination
NOx	nitrogen oxide
N_2O	nitrous oxide
NPDES	National Pollutant Discharge Elimination System
NWIC	Northwest Information Center of the California Historical Resources Information System
PBCE	Planning, Building and Code Enforcement
PDA	Planned Development Permit Amendment
PG&E	Pacific Gas and Electric Company
Phase I ESA	Phase I Environmental Site Assessment
$PM_{2.5}$	particulate matter of 2.5 microns in diameter or less
PM_{10}	particulate matter of 10 microns in diameter or less
PPV	peak particle velocity

PRC	California Public Resources Code
PRNS	San José Parks, Recreation, and Neighborhood Services Department
RAP	Removal Action Plan
ROG	reactive organic gases
RPS	Renewables Portfolio Standard
RWQCB	Regional Water Quality Control Board
SB	Senate Bill
SCAs	Standard Conditions for Approval
SCCDEH	Santa Clara County Department of Environmental Health
SCVHA	Santa Clara Valley Habitat Agency
SCVURPPP	Santa Clara Valley Urban Runoff Pollution Prevention Program
SFHA	Special Flood Hazard Areas
SJC	Norman Y. Mineta International Airport
SJCE	San José Clean Energy
SJFD	San José Fire Department
SJMWS	San José Municipal Water System
SJPD	San José Police Department
SLF	Sacred Lands File
SMARA	Surface Mining and Reclamation Act
SMP	Soil Management Plan
SOIS	Secretary of the Interior
SRA	State Responsibility Area
SWPPP	Stormwater Pollution Prevention Plan
SWRCB	State Water Resources Control Board
TACs	toxic air contaminants
Title 24	Title 24, Part 6, of the California Code of Regulations
U.S. 101	U.S. Highway 101
USACE	United States Army Corps of Engineers
USDA	United States Department of Agriculture
USEPA	United States Environmental Protection Agency
USFWS	United States Fish and Wildlife Service
USGS	U.S. Geological Survey
VdBs	vibration decibels
VHFHSZ	Very High Fire Hazard Severity Zone
VMT	vehicle miles traveled

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CHAPTER 1
Introduction and Purpose

1.1 Purpose of the Initial Study

The City of San José (City), serving as Lead Agency under the California Environmental Quality Act (CEQA), is completing the required environmental review for the 555 Bailey Avenue Water Line and Pump House Project pursuant to CEQA Guidelines (California Code of Regulations Section 15000 et. seq.) and the regulations and policies of the City of San José, California. This Initial Study provides the necessary information to inform the City decision-makers, other responsible agencies, and the public of the nature of the project and its potential effect on the environment.

The project applicant, IBM, proposes to install new water supply lines and a new fire pump house to connect the IBM Silicon Valley Lab campus with the San José Municipal Water System in Bailey Avenue in the City. Existing water lines serving the project site would be capped and abandoned in place. This Initial Study evaluates the environmental impacts that might reasonably be anticipated to result from implementing the proposed project.

1.2 Public Review Period

Publication of this Initial Study marks the beginning of a 20-day public review and comment period. During this period, the Initial Study will be available to local, regional, and state agencies and interested organizations and individuals for review. Written comments concerning the environmental review contained in this Initial Study during the 20-day public review period should be sent to:

Adam Petersen, Environmental Project Manager
City of San José
Department of Planning, Building, and Code Enforcement
200 East Santa Clara Street, Third Floor
San José, CA 95113
(408) 535-1241
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David Keyon, Principal Planner
City of San José
Department of Planning, Building, and Code Enforcement
200 East Santa Clara Street, Third Floor
San José, CA 95113
(408) 535-1241
David.Keyon@sanjoseca.gov

1.3 Consideration of the Initial Study and Project

Following the conclusion of the public review period, the City Council will consider the adoption of the Initial Study/Mitigated Negative Declaration (MND) for the project at a publicly noticed regularly scheduled meeting. The City shall consider the Initial Study/MND together with any comments received during the public review process. Upon adoption of the MND, the City may proceed with project approval actions.

1.4 Notice of Determination

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

CHAPTER 2
Project Information

1. Project Title:	555 Bailey Avenue Water Line and Pump House
2. Lead Agency Name and Address:	David Keyon, Principal Planner City of San José Department of Planning, Building, and Code Enforcement 200 East Santa Clara Street, Third Floor San José, CA 95113 (408) 535-7659 David.Keyon@sanjoseca.gov Adam Petersen, Environmental Project Manager City of San José Department of Planning, Building, and Code Enforcement 200 East Santa Clara Street, Third Floor San José, CA 95113 (408) 535-1241 Adam.Petersen@sanjoseca.gov
3. Project Applicant:	Jim Bell Project Delivery Manager, Design & Construction IBM Global Real Estate 1-408-515-6847 jbell@us.ibm.com
4. Project Location:	555 Bailey Avenue San José, CA 95151
5. Assessor's Parcel Number:	708-32-006
6. General Plan Designation(s):	Industrial Park (IP)
7. Zoning:	Planned Development (A(PD) PDC74-061)

8. Project Description Summary:

The project applicant, IBM, proposes to install new water supply lines and a new fire pump house, including fire pump generators, to connect the IBM Silicon Valley Lab campus, with the San José Municipal Water System in Bailey Avenue.

The General Plan Land Use designation for the site is Industrial Park (IP) and the Zoning is Planned Development Zoning District (A(PD) PDC74-061), the applicant has applied for a Planned Development Permit Amendment (PDA) to permit this proposed use.

9. Surrounding Land Uses.

The IBM Silicon Valley Lab is located is the southern portion of San José, on the northwest side of Bailey Avenue, between Santa Teresa Boulevard and McKean Road, southwest of U.S. Route 101 (U.S. 101). The surrounding area comprises of low to medium density residential, agriculture, and open space uses.

The project site is located within the IBM Silicon Valley Lab campus, generally south and west of the four-story cruciform research buildings that occupy the heart of the campus. The project site is relatively flat with a subtle slope to the southeast, and contains IBM campus access roads, parking lots, landscaping, and remnant orchard trees. The IBM campus, located at the northern end of Coyote Valley, is bounded to the south by Bailey Avenue and active farmland beyond; to the west by vacant fallow land; and to the north and east by the Santa Teresa Hills, which separate Coyote Valley from most of the City of San José.

The project site is located approximately 1.5 miles southeast of the Santa Teresa County Park, 1.1 miles northeast of the Calero Reservoir, nearly 14 miles south of the Norman Y. Mineta International Airport (SJC) property boundary and 11 miles north of the San Martin Airport, in San Martin.

10. Other public agencies whose approval is required:

No other agency approvals are required.

11. Have California Native American tribes traditionally and culturally affiliated with the project area requested consultation pursuant to Public Resources Code section 21080.3.1? 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.?

In 2017, the City sent a letter to tribal representatives in the area to welcome participation in consultation process for all ongoing, proposed, or future projects within the City's Sphere of Influence or specific areas of the City. These letters served as the formal notification for the proposed project as required under CEQA, specifically Public Resources Code § 21080.3.1 and Chapter 532 Statutes of 2014 (i.e. Assembly Bill (AB) 52). No tribes have sent written requests for notification of projects to the City of San José. Furthermore, at the time of preparation of this Initial Study, the City of San José had yet to receive any requests for consultation from tribes.

CHAPTER 3
Project Description

The project applicant, IBM, proposes to install new water supply lines and a new fire pump house to connect the IBM Silicon Valley Lab campus with the San José Municipal Water System in Bailey Avenue. Existing water lines serving the project site would be capped and abandoned in place. This chapter describes the 555 Bailey Avenue Water Line and Pump House Project (proposed project or project) evaluated in this Initial Study, and specifically describes the project site location and general existing characteristics; proposed project components and construction details; and required approvals for the proposed project.

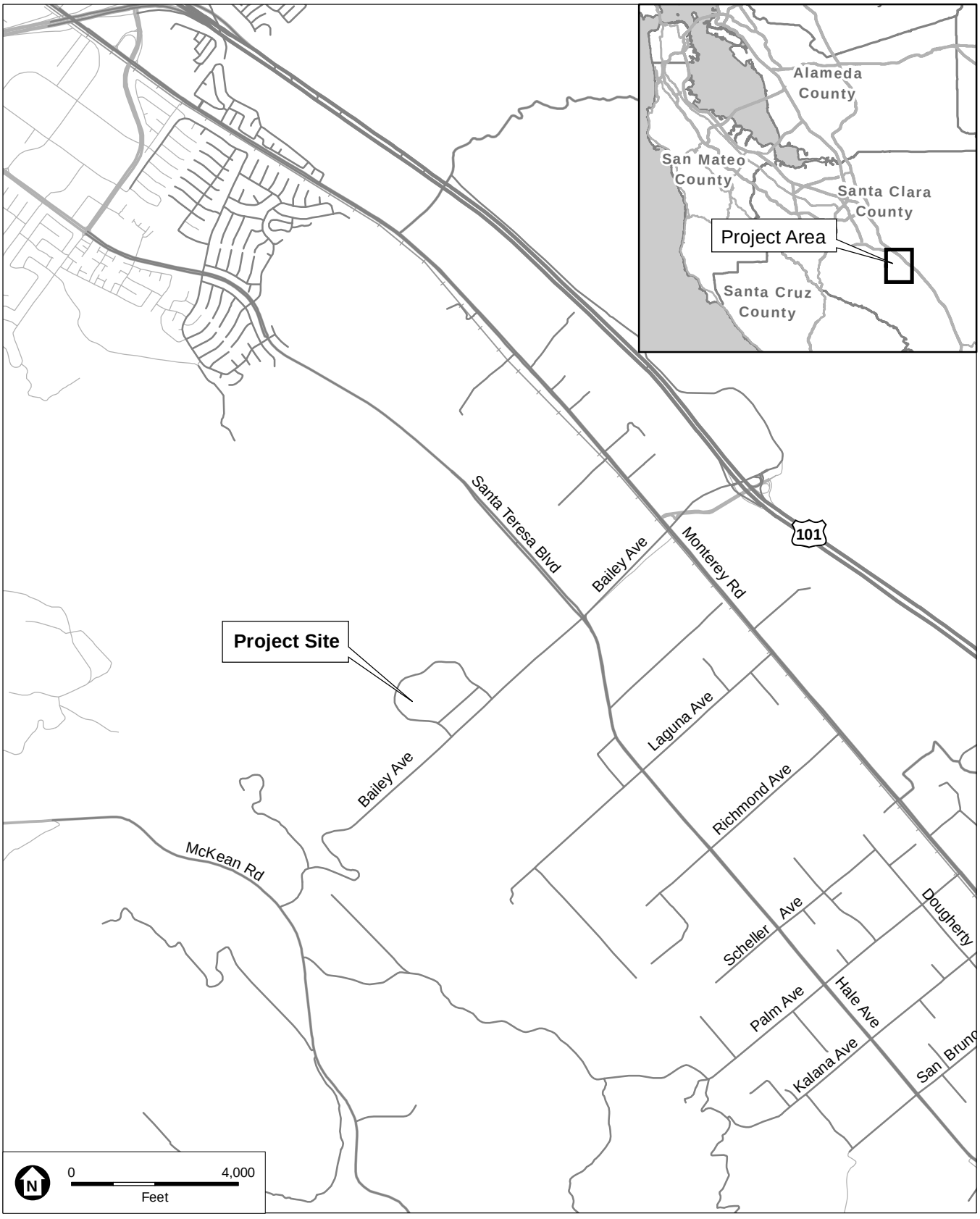
3.1 Project Location

The proposed project would occur on the western area of the approximately 200.12-acre IBM Silicon Valley Lab campus located at 555 Bailey Avenue; see **Figure 1** for the project location. The IBM campus is located at the northern end of Coyote Valley, in the southern portion of San José, on the northwest side of Bailey Avenue, between Santa Teresa Boulevard and McKean Road, southwest of U.S. Highway 101 (U.S. 101). The surrounding area comprises relatively low density residential, agriculture, and open space uses. The campus is located approximately 1.5 miles southeast of the Santa Teresa County Park, 1.1 miles north east of the Calero Reservoir, and nearly 14 miles south of the Norman Y. Mineta International Airport (SJC). Regional access to the campus within the City of San José is provided primarily by U.S. 101, which generally traverses northwest-southeast through the center of the City. The General Plan Land Use designation for the site is Industrial Park (IP) and the Zoning is Planned Development Zoning District (A(PD) PDC74-061).

The areas of disturbance as a result of the proposed project on the campus would include areas adjacent to the proposed water line alignments and the pump house building footprint, collectively described as the project site in this document. The project site currently consists of paved access roadways, a parking lot, landscaped areas, and undeveloped land occupied by orchards.

3.2 Project Components

The campus is currently served by an on-site water system that includes two storage tanks on the hill above the site to the north and pipes connecting the tanks to the campus (see **Figure 2**). The tanks themselves are supplied by Great Oaks Water Company, a private water supplier. The proposed project would abandon in place the tanks and their existing connecting pipes and



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SOURCE: ESA, 2020

555 Bailey Avenue Water Line

Figure 1
Project Location

ESA

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SOURCE: DLB Associates, 2020

555 Bailey Avenue Water Line

Figure 2
Existing Campus and Utility Connection

ESA

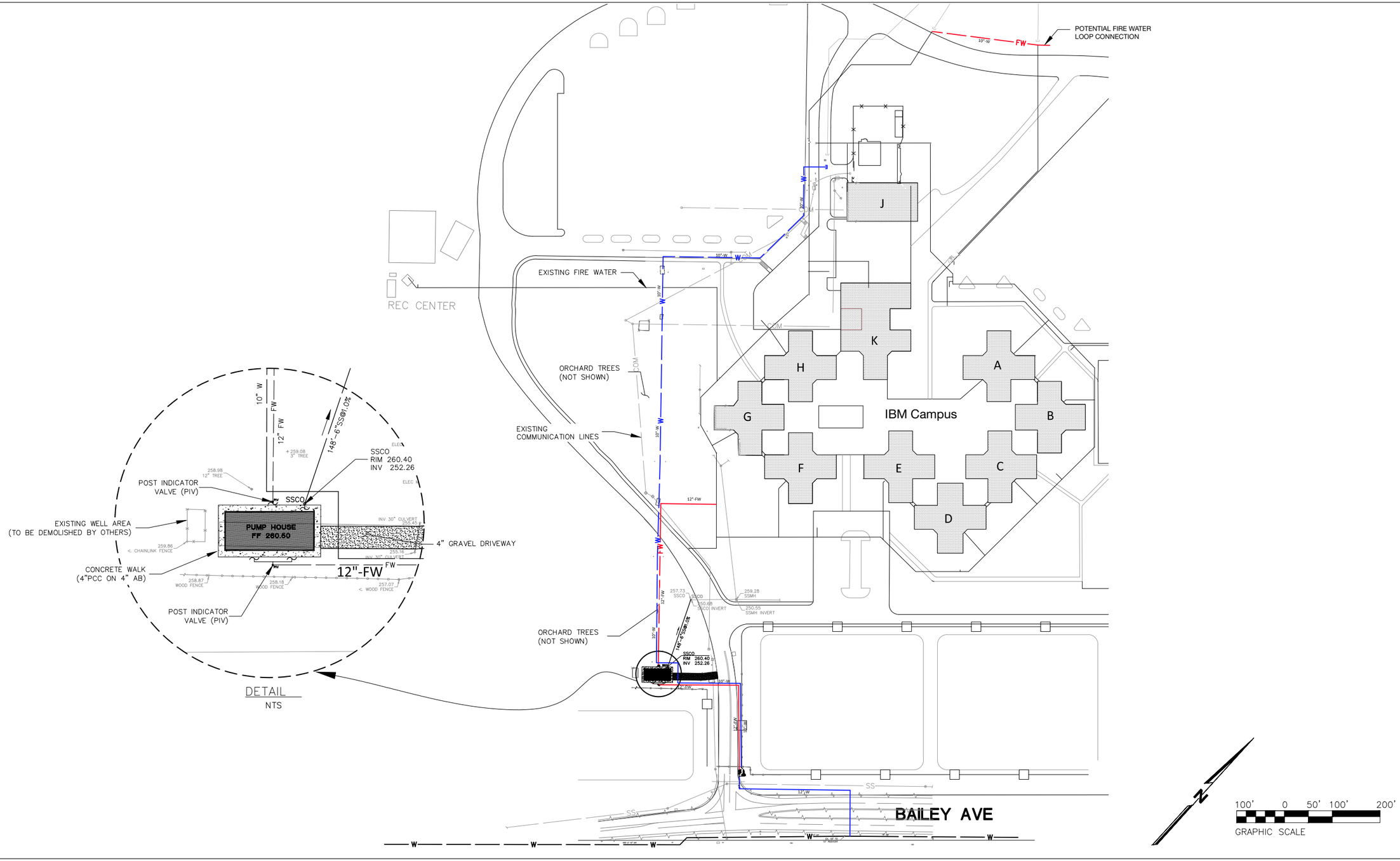
construct approximately 3,250 linear feet of new domestic water and fire water supply pipelines to connect the campus to the San José Municipal Water System to the south in Bailey Avenue. The project would also include an optional fire water loop connection on the northern side of the campus. The new water supply pipelines would replace the existing source of water for the campus and would not involve the expansion of any other facilities on the project site.

The proposed project would construct a new 18-inch water line that would connect to the existing San José Municipal Water 12-inch line in Bailey Avenue and travel parallel to Bailey Avenue to the westerly project entrance road, where it would branch into a new 12-inch firefighting water line and new 10-inch domestic water line.

Both the new water pipeline and the fire water pipeline would be installed at a minimum of 4 feet deep and generally buried in the same trench (approximately 12 inches apart from each other) primarily northwest to the intersection of the pipeline alignment at western campus roadway, with a southeasterly jog to the proposed new pump house (discussed below); the firefighting water supply line would enter the pump house to be increased in pressure, while the domestic line would bypass the pump house. Approximately 15 feet north of the western campus roadway, the domestic water pipeline and fire water pipeline alignments would diverge, requiring two trenches, with each trench being smaller in width than the southern trench segment. The fire line would turn northeast and extend to a new connection with the existing campus firefighting water supply loop. The domestic line would continue northwest and north to the rear of the campus to a new connection with the campus domestic water system. Additionally, a potential fire water loop connection pipeline is proposed on the north side of the campus that would eliminate dead ends between fire hydrants and loop the system. This analysis conservatively assumes this additional connection will be included. The proposed pipeline alignment and connection points are illustrated in **Figure 3**. All other interior and outdoor fire and domestic water distribution and infrastructure on the campus would remain. Existing pipelines from the existing water tanks would be disconnected, both at the campus and at the tanks, the lines abandoned in place, and the tanks drained and abandoned in place.

The proposed project would also include the construction of a new approximately 600-square foot fire pump house to house two new enclosed diesel fire pumps[1] on a new concrete pad near the western entrance of the campus near Bailey Avenue. The new pump house would be constructed to supply the campus with 4,500 gallons per minutes as required by the San José Fire Department Fire Flow and Hydrant Policy. The pump house dimensions would be approximately 50 feet long, 12 feet wide, and 12 feet high. Materials used for the pump house would include steel roof and wall panels that would be painted a grey color on the exterior (see **Figure 4**). The new pump house would be accessible via non-paved (gravel) access road off of the internal campus road. The pump house would contain exterior lighting above the entrances, and interior operating and emergency lights located inside the pump house. The pump house would also contain exterior security cameras and a card reader system for entry. In order to prevent freezing, electric unit heaters will also be included to maintain a minimum indoor air temperature of 40°F.

[1] The fire pumps are assumed to be 125-175 horsepower and each operate 1 hour per month for testing, and a total, between both pumps, of up to 32 hours per year for routine testing and maintenance.



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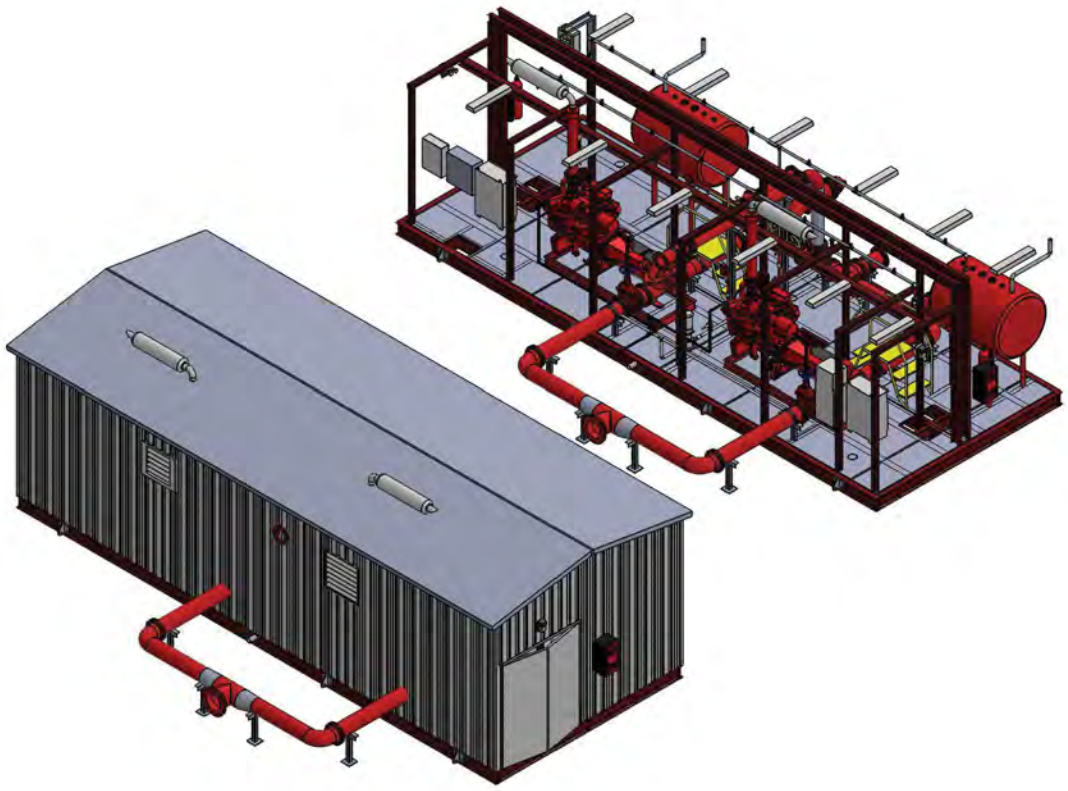
SOURCE: DLB Associates, 2020

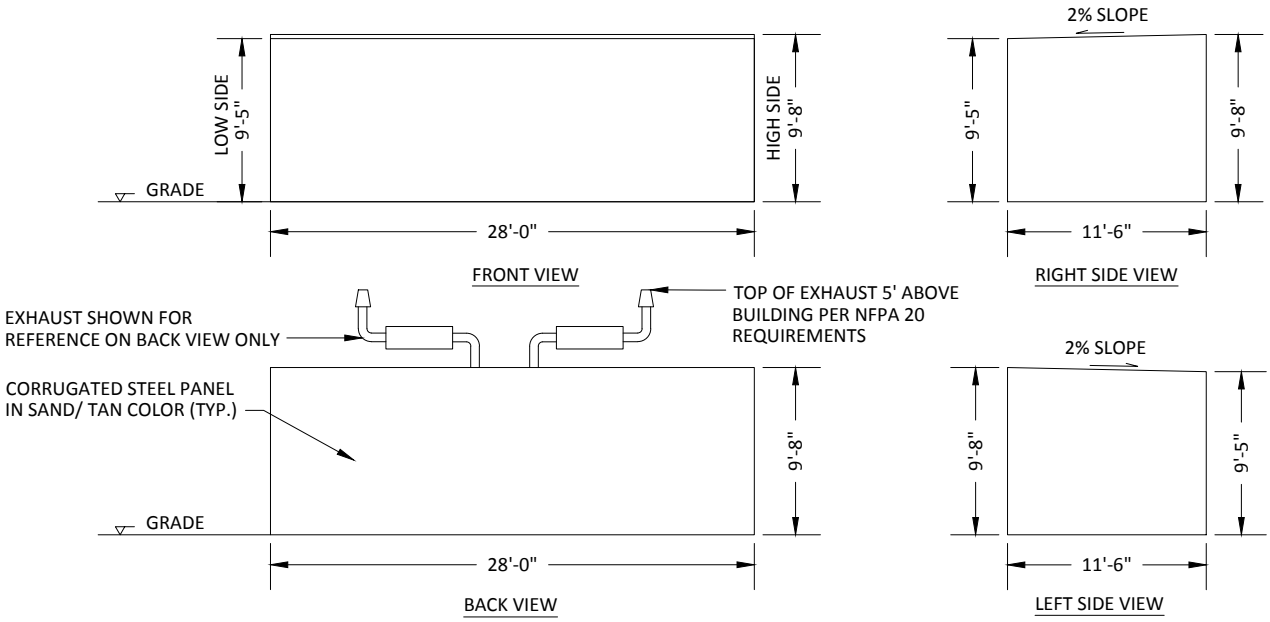
555 Bailey Avenue Water Line

Figure 3
Proposed Project Infrastructure

ESA



NOTE:
Renderings Are For Illustration Purposes Only. Exact Arrangement Of The Pump House May Vary Per Manufacturer Recommendations.



SOURCE: DLB Associates, 2020

555 Bailey Avenue Water Line

Figure 4
Proposed Pump House Elevations and Rendering

The pump house would also include a sanitary sewer connection for any potential water discharge from the fire pumps that would extend northeast from the pump house and connect to the existing campus system at the campus access road. An existing abandoned, fenced irrigation pump site, including a water supply well, would be demolished in order to construct the new pump house. Existing electrical infrastructure for the abandoned irrigation pump may be reused for the new pump house.

The proposed project alignment would avoid existing trees on the project site to the extent feasible. Tree removal is not proposed, and no landscaping would be added.

3.3 Construction

The proposed project would require three (3) months for construction, beginning in the second half of 2021. Construction activities would include grading, trenching, pump house construction, and paving. Heavy-duty equipment required for construction would include concrete/industrial saws, tractors/loaders/backhoes, and rollers. Staging areas for the proposed project would be located in the existing paved parking lot of the campus in the vicinity of the project site.

Ground disturbance activities would occur approximately 50 feet around the abandoned irrigation pump site and proposed new pump house. Trenching would occur up to a maximum depth of approximately 5 feet. Approximately 20 feet on either side of the proposed pipeline trenches would be exposed to ground disturbance activities, to allow room for truck and equipment access and for trench spoils. Existing trees would be avoided and protected consistent with City of San José requirements. No tree removal is proposed.

3.4 Project Approvals

- Planned Development Permit Amendment (PDA)
- Public Works Clearance: grading permits, encroachment permits, etc.

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CHAPTER 4

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

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CHAPTER 5
Environmental Checklist

General note on this Initial Study

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

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

The CEQA Guidelines and the courts are clear that a CEQA document can include information of interest even if such information is not an "environmental impact" as defined by CEQA. Therefore, where applicable, in addition to describing the impacts of the project on the environment, this Initial Study discusses effects on the project as they relate to policies pertaining to existing conditions. Such examples include, but are not limited to, locating a project near sources of air emissions that can pose a health risk, in a floodplain, in a geologic hazard zone, in a high noise environment, or on/adjacent to sites involving hazardous substances.

5.1 Aesthetics

Issues (and Supporting Information Sources):		Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
I.	**AESTHETICS — Except as provided in Public Resources Code Section 21099, would the project:**				
a)	Have a substantial adverse effect on a scenic vista?	☐	☐	☒	☐
b)	Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☒	☐
c)	In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (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?	☐	☐	☒	☐
d)	Create a new source of substantial light or glare which would adversely affect daytime or nighttime views in the area?	☐	☐	☒	☐

Environmental Setting

The proposed project is located on the western area of the existing IBM Silicon Valley Lab campus. The IBM campus is located at the northern end of Coyote Valley, in the southern portion of San José, on the northwest side of Bailey Avenue, between Santa Teresa Boulevard and McKean Road, southwest of U.S. 101. The surrounding area comprises low-density residential, agriculture and open space uses. Access to the campus within the City of San José is provided primarily by U.S. 101, which generally traverses northwest-southeast through the center of the City.

The areas of disturbance as a result of the proposed project on the campus would include areas adjacent to the proposed water line alignments and the pump house building footprint, collectively described as the project site in this document. The project site currently consists of paved access roadways, a parking lot, landscaped areas, and undeveloped land occupied by orchards.

Regulatory Framework

State

State Scenic Highways Program

The State Scenic Highways Program is designed to protect and enhance the natural scenic beauty of California highways and adjacent corridors through special conservation treatment. The proposed project site is not located near any scenic highways.

Local

Council Policy 4-3 Outdoor Lighting Policy

The City of San José's Outdoor Lighting Policy (City Council Policy 4-3) promotes energy efficient outdoor lighting on private development to provide adequate light for nighttime activities while benefiting the continued enjoyment of the night sky and continuing operation of the Lick Observatory by reducing light pollution and sky glow.

General Plan Policies

The Envision 2040 San José General Plan (General Plan) defines scenic vistas in the City of San José as views of and from the Santa Clara Valley, surrounding hillsides, and urban skyline. Scenic urban corridors, such as segments of major highways that provide gateways into the City, can also be defined as scenic resources by the City. The designation of a scenic route applies to routes affording especially aesthetically pleasing views. According to the General Plan and the Scenic Corridor Diagram, Bailey Avenue is considered a "Rural Scenic Corridor."

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating aesthetic impacts from development projects. The following policies are applicable to the proposed project.

Envision San José 2040 Policies Relevant to Aesthetics	
Policy CD-1.1	Require the highest standards of architecture and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.
Policy CD-1.8	Create an attractive street presence with pedestrian-scaled building and landscaping elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity throughout the City.
Policy CD-1.18	Encourage the placement of loading docks and other utility uses within parking structures or at other locations that minimize their visibility and reduce their potential to detract from pedestrian activity.
Policy CD-1.24	Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.
Policy CD-1.25	Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Avoid any adverse effect on the health and longevity of such trees through design measures, construction, and best maintenance practices. When tree preservation is not feasible, include replacements or alternative mitigation measures in the project to maintain and enhance our Community Forest.
Policy CD-1.28	Locate utilities to be as visually unobtrusive as possible, by placing them underground or within buildings. When above-ground or outside placement is necessary, screen utilities with art or landscaping.
Policy CD-1.29	When approving new construction, require the undergrounding of distribution utility lines serving the development. Encourage programs for undergrounding existing overhead distribution lines. Overhead lines providing electrical power to light rail transit vehicles and high tension electrical transmission lines are exempt from this policy.
Policy CD-8.1	Ensure new development is consistent with specific height limits established within the City's Zoning Ordinance and applied through the zoning designationfor properties throughout the City. Land use designations in the Land Use/ Transportation Diagram provide an indication of the typical number of stories.
Goal CD-9	*Access to Scenic Resources*. Preserve and enhance the visual access to scenic resources of San José and its environs through a system of scenic routes.

Envision San José 2040 Policies Relevant to Aesthetics	
CD-9.1	Ensure that development within the designated Rural Scenic Corridors is designed to preserve and enhance attractive natural and man-made vistas.
CD-9.2	Preserve the natural character of Rural Scenic Corridors by incorporating mature strands of trees, rock outcroppings, streams, lakes and reservoirs and other such natural features into project designs.
CD-9.3	Ensure that development along designated Rural Scenic Corridors preserves significant views of the Valley and mountains, especially in, or adjacent to, Coyote Valley, the Diablo Range, the Silver Creek Hills, the Santa Teresa Ridge and the Santa Cruz Mountains.
CD-9.4	Consider the potential for providing access to public facilities such as parks, recreation areas, bike trails and cultural attractions when planning Rural Scenic Corridors.
CD-9.5	Minimize negative impacts on native flora and natural topographic features when designing roadways on Rural Scenic Routes.
CD-9.6	Prohibit billboards adjacent to all Rural Scenic Routes.

Discussion

a, b) **Less that Significant.** As identified in the *Environmental Setting above*, U.S. 101 provides regional access to the project site. However, no segment of U.S. 101 within the City is officially designated as scenic highway by the California Department of Transportation (Caltrans, 2019). Therefore, the project would not have the potential to affect a state scenic highway.

While the project site is not located along a designated scenic highway, the City of San José has many scenic resources; these include the broad sweep of the Santa Clara Valley, the hills and mountains that frame the Valley, the baylands, and the urban skyline itself. The Envision San José 2040 General Plan (General Plan) identifies the citywide importance to preserve public thoroughfares that provide visual access to these scenic resources and establishes a number of classifications to preserve these resources. Specifically, the City's designation of a scenic route applies to routes that afford especially aesthetic views, these are identified in the City's Scenic Corridor Diagram (San José, 2016). According to the General Plan and the Scenic Corridor Diagram, Bailey Avenue is considered a Rural Scenic Corridor. Therefore, goals and policies within the City's General Plan that apply to the project include Goal CD-9 and Policies CD-9.1-9.6 identified above under, *Regulatory Framework*.

Due to the project site's location on the valley floor and within the larger 200-acre IBM campus, public views of the site are limited to those from Bailey Avenue. The proposed water supply pipelines would be below-grade and thus, would not affect scenic resources. The new approximately 12-foot-tall pump house would be set back approximately 275 feet from Bailey Avenue, and would largely be shielded from view by existing trees and vegetation on the IBM campus. For these reasons, the development of the project would not directly affect a scenic vista or scenic resource, and this impact would be less than significant.

c) **Less than Significant.** The project site is located adjacent to a Rural Scenic Corridor with surrounding views of Coyote Valley, the Diablo Range, the Santa Teresa Ridge, and the Santa Cruz Mountains. As described above under a, b) above, views of the proposed new pump house would be largely shielded from Bailey Avenue, a City designated Rural Scenic Corridor. These views would be limited due to the project's distance from the road, and the flat nature of the valley. In addition, distant views of the project site may be visible from County View Drive, and/or trails within Santa Teresa County Park. However, distance, vegetation, and topography would obscure possible public views of the project that could occur from these locations. Therefore, the project would be minimally visible from scenic roads or scenic vistas and would constitute a minor component of the overall viewshed. Therefore, this impact would be less than significant.

d) **Less than Significant.** Light pollution includes all forms of unwanted light in the night sky, including glare, light trespass, sky glow and over-lighting. The project site is located at the edge of an urbanized area with existing sources of light and glare, including the nighttime security lighting at the IBM campus, nearby housing, and lighting from a limited number of streetlights on Bailey Avenue. Vehicle headlights also contribute to the existing light and glare conditions. The pump house would contain exterior lighting above the entrances, for security purposes, that would be directed downward consistent with the City of San José's Outdoor Lighting Policy. New lighting would be typical of the exiting nighttime security lighting on the IBM campus. Therefore, the proposed project would not create a new source of substantial light or glare that would adversely affect day or nighttime views in the area.

References

City of San José, *Envision San José 2040 General Plan,* Adopted November 1, 2011 As Amended on March 16, 2020.

City of San José, Department of Planning, Building, and Code Enforcement, *Envision San José 2040 General Plan, Scenic Corridors Diagram,* June 6, 2016.

Caltrans, *Scenic Highways*, Updated July 2019. Available at: https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability/lap-liv-i-scenic-highways. Accessed August 27, 2020.

5.2 Agriculture and Forestry Resources

Issues (and Supporting Information Sources):	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
II. AGRICULTURE AND FORESTRY RESOURCES — In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. **Would the project:**				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☒	☐
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	☐	☐	☐	☒
d) Result in the loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☒	☐

Environmental Setting

CEQA requires the evaluation of agricultural and forest/timber resources where they are present. The project site is part of the existing IBM campus and does not provide any agricultural uses. Remnant fruit trees from the IBM campus site's history as an orchard remain on the project site, but these trees are no longer in agricultural production. The project site does not contain any forest/timber resources.

Regulatory Framework

State

In California, agricultural land is given consideration under CEQA. According to Public Resources Code §21060.1, "agricultural land" is identified as prime farmland, farmland of statewide importance, or unique farmland, as defined by the U.S. Department of Agriculture land inventory and monitoring criteria, as modified for California. The project site is designated as "Prime Farmland," "Urban and Built-Up Land," and "Grazing Land" and is surrounded by "Farmland of Local Importance" by the California Department of Conservation (DOC, 2016).

CEQA also requires consideration of impacts on lands that are under Williamson Act contracts. None are present on the project site.

The site does not contain any forest land as defined in Public Resources Code section 12220(g), timberland as defined by Public Resources Code section 4526, or property zoned for Timberland Production as defined by Government Code section 51104(g).

Local

General Plan Policies

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating agricultural impacts from development projects. The following policies are applicable to the proposed project.

Envision San José 2040 Policies Relevant to Agricultural Resources	
Policy LU-12.3	Protect and preserve the remaining farmlands within San José's sphere of influence that are not planned for urbanization in the timeframe of the Envision General Plan through the following means: • Limit residential uses in agricultural areas to those which are incidental to agriculture. • Restrict and discourage subdivision of agricultural lands. Encourage contractual protection for agricultural lands, such as Williamson Act contracts, agricultural conservation easements, and transfers of development rights. • Prohibit land uses within or adjacent to agricultural lands that would compromise the viability of these lands for agricultural uses. • Strictly maintain the Urban Growth Boundary in accordance with other goals and policies in this Plan.
Policy LU-12.4	Preserve agricultural lands and prime soils in non-urban areas in order to retain the aquifer recharge capacity of these lands.

Discussion

a) **Less than Significant.** The project site is designated as "Prime Farmland," "Urban and Built-Up Land," and "Grazing Land" and is surrounded by "Farmland of Local Importance" by the California Department of Conservation (DOC, 2016). Although the project site is located on areas of "Prime Farmland," it is part of the existing IBM campus and does not provide any agricultural uses. Remnant fruit trees from the IBM campus site's history as an orchard remain on the project site, but these trees are no longer in agricultural production. Therefore, the project would not convert farmland to non-agricultural uses and impacts would be less than significant.

b) **No Impact.** While the project site vicinity is zoned for agricultural uses, the project site itself has a General Plan Land Use designation of Industrial Park (IP) and the Zoning is Planned Development Zoning District (A(PD) PDC74-061). Further, the site is not located on land under a Williamson Act contract. As a result, the project would not conflict with existing zoning for agricultural uses or a Williamson Act contract.

c) **No Impact.** The project would not result in the rezoning of forest land as defined in Public Resources Code section 12220(g), timberland as defined by Public Resources Code section 4526 or Government Code section 51104(f), or timberland production zones as defined by Government Code section 51104(g), as the project site does not contain any of these lands.

d) **No Impact.** The project site does not contain any forest land, timberland, or timberland production zones. As such, the project will not impact forest resources.

e) **Less than Significant.** As discussed above, the project site does not contain any or forest land. While a portion of the project site is designated as "Prime Farmland," it does not provide any agricultural uses. Therefore, the project would not involve other changes in the existing environment which, due to their location or nature, could result in conversion of the developed site to non-agricultural or non-forest uses. Impacts would be less than significant.

References

California Department of Conservation (DOC), *Santa Clara County Important Farmland 2016*.

County of Santa Clara, Bureau of Land Management, *Williamson Act Properties*. Available at: https://www.sccgov.org/sites/dpd/Programs/WA/Pages/WA.aspx. Accessed August 27, 2020.

5.3 Air Quality

Issues (and Supporting Information Sources):	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
III. AIR QUALITY — Where available, the significance criteria established by the applicable air quality management district or air pollution control district may be relied upon to make the following determinations. **Would the project:**				
a) Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☒	☐
b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?	☐	☐	☒	☐
c) Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☒	☐
d) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?	☐	☐	☒	☐

As addressed as an introduction to this Environmental Checklist, the *California Building Industry Association v. Bay Area Air Quality Management District* case decided in 2015, the California Supreme Court held that CEQA does not generally require lead agencies to consider how existing environmental conditions might impact a project's users or residents, except where the proposed project would significantly exacerbate an existing environmental condition. Based on this decision, any analysis below of the impacts of the environment on the project is provided for informational purposes only.

Environmental Setting

The project site is located in the San Francisco Bay Area Air Basin (Bay Area Air Basin).

Sensitive Receptors

For the purposes of this air quality analysis, sensitive receptors are defined as facilities and land uses that include members of the population that are particularly sensitive to the effects of air pollutants, such as children, the elderly, and people with illnesses. Examples of these types of uses include schools, hospitals, and daycare centers. Residential areas are also considered sensitive to poor air quality because people usually stay home for extended periods of time, which results in greater exposure to ambient air quality.

The area surrounding the project site consists of the remainder of the IBM campus and its parking lots, vacant fallow land, and agricultural land; the nearest school is over 2 miles northwest of the project, while the nearest childcare center is more than 2.5 miles away. The closest hospital is 4 miles away, while the nearest residences are approximately 0.90 miles southeast and southwest of the site. To determine the potential impacts of the project this air quality analysis uses thresholds of the Bay Area Air Quality Management District (BAAQMD)2017 *CEQA Air Quality Guidelines* (BAAQMD, 2017b).

Regulatory Framework

Federal

Federal Clean Air Act and United States Environmental Protection Agency (USEPA)

The Clean Air Act authorized the establishment of federal air quality standards and set deadlines for their attainment. The Clean Air Act identifies specific emission reduction goals, requires both a demonstration of reasonable further progress towards attainment, and incorporates more stringent sanctions for failure to meet interim milestones.

The U.S. EPA is the federal agency charged with administering Clean Air Act and other air quality-related legislation. The USEPA sets and enforces the National Ambient Air Quality Standards (NAAQS) under the Clean Air Act. Violations of NAAQS are determined based on air pollutant monitoring data and judged for each air pollutant. Areas that do not violate ambient air quality standards are considered to have attained the standard. The Bay Area Air Basin is currently designated as a non-attainment area for the national 8-hour ozone standard and the federal $PM_{2.5}$ (24-hour) standard. The Bay Area Air Basin has met the CO standards for over a decade and is classified as an attainment area by the USEPA. The USEPA has deemed the area as attainment/unclassified for all other air pollutants, which include PM_{10}.

State

California Clean Air Act

California has established its own ambient air quality standards (California Ambient Air Quality Standards, or CAAQS) that tend to be at least as protective as NAAQS and are often more stringent. In 1988, California passed the California Clean Air Act (California Health and Safety Code Sections 39600 et seq.), which, like its federal counterpart, called for the designation of areas as attainment or non-attainment, but based on state ambient air quality standards rather than the federal standards. Similar to the federal requirements, the California Clean Air Act requires each air district in which state air quality standards are exceeded to prepare a plan that documents reasonable progress towards attainment. If an air basin (or portion thereof) exceeds the CAAQS for a particular criteria air pollutant, it is considered to be non-attainment of that criteria air pollutant until the area can demonstrate compliance. The Bay Area Air Basin is currently designated as a non-attainment area for state standard and state particulate matter (PM_{10} and $PM_{2.5}$) standards.

Regional and Local

Bay Area Air Quality Management District

BAAQMD is the regional air quality authority in the project area). In April 2017, the BAAQMD adopted the *2017 Clean Air Plan* (BAAQMD, 2017a). The plan's primary goals are to protect public health and protect the climate. The plan includes a wide range of proposed control measures, which consist of actions to reduce combustion-related activities, decrease fossil fuel combustion, improve energy efficiency, and decrease emissions of potent GHGs.

The *2017 Clean Air Plan* contains 85 measures to address reduction of several pollutants: ozone precursors, particulate matter, air toxics, and/or GHGs. These control strategies can be grouped into the following categories:

- Stationary source measures;
- Transportation control measures;
- Energy Control Measures;
- Building Control Measures;
- Agricultural Control Measures;
- Natural and Working Lands Control Measures;
- Waste Management Control Measures;
- Water Control Measures; and
- Super GHG Control Measures

Envision San José 2040 General Plan

Policies included in the Envision San José 2040 General Plan (General Plan) have been adopted for the purpose of avoiding or mitigating air quality impacts from development projects. The following policies are applicable to the proposed project.

Envision San José 2040 Policies Relevant to Air Quality	
Policy MS-2.6	Promote roofing design and surface treatments that reduce the heat island effect of new and existing development and support reduced energy use, reduced air pollution, and a healthy urban forest. Connect businesses and residents with cool roof rebate programs through City outreach efforts.
Policy MS-10.1	Assess projected air emissions from new development in conformance with the BAAQMD CEQA Guidelines and relative to state and federal standards. Identify and implement air emissions reduction measures.
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
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.
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.
Policy MS-13.2	Construction and/or demolition projects that have the potential to disturb asbestos (from soil or building material) shall comply with all the requirements of the California Air Resources Board's air toxics control measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.

City of San José Standard Conditions for Approval

The following condition of approval in the City's Standard Conditions for Approval (SCAs) is applicable to the proposed project:

SCA AIR-1: Construction Air Quality.

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

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

Discussion

a) **Less than Significant.** The most recently adopted air quality plan in the Bay Area is the BAAQMD's *2017 Clean Air Plan* (CAP) (BAAQMD, 2017a). BAAQMD guidance states that "if approval of a project would not result in significant and unavoidable air quality impacts, after the application of all feasible mitigation, the project would be considered consistent with the CAP." As indicated in the discussion of criteria "b" and "c" below, the project would not result in significant air quality impacts. Therefore, this impact would less than significant.

b) **Less than Significant.**

Construction

Construction activities would result in emissions of criteria pollutants including ozone precursors such as reactive organic gases (ROG) and nitrogen oxides (NOx) as well as particulate matter (PM_{10} and $PM_{2.5}$). These pollutants are called "criteria" air pollutants

because standards have been established for each of them to meet specific public health and welfare criteria. Criteria pollutant emissions would be generated by construction equipment exhaust, on-road vehicle trips of haul trucks for delivering construction material, water trucks for site dust control, and construction worker commutes to and from the project site.

Construction-related criteria air pollutant emissions for the proposed project were estimated using CalEEMod (version 2016.3.2) and modeling output files are included in **Appendix A**. Project specific data for construction phasing schedule and equipment fleet provided by the project applicant was used in the model to estimate emissions over the 3-month construction period. The total uncontrolled emissions generated over the duration of construction was divided by the number of construction days (estimated 90 days) to determine average daily emissions from construction which are presented in **Table 5.3-1**. As shown in the table, emissions of ROG, NOx, PM_{10}, and $PM_{2.5}$ would all be below their respective significance thresholds which for construction have been established by BAAQMD in terms of average daily emissions. Therefore, the proposed project would not have a significant impact related to construction criteria air pollutant emissions.

TABLE 5.3-1
AVERAGE DAILY CONSTRUCTION-RELATED CRITERIA POLLUTANT EMISSIONS (POUNDS PER DAY) WITHOUT MITIGATION

	ROG	NO_x	Exhaust PM_{10}	Exhaust $PM_{2.5}$
Project Construction Emissions	0.67	6.64	0.33	0.30
BAAQMD Threshold for Significant Construction Impacts	54	54	82	54
Potential Significant Impact?	No	No	No	No

SOURCE: ESA (Appendix A)

Additionally, the proposed project would be required to implement the measures of SCA AIR-1, which would control dust and exhaust during construction at the project site. Therefore, impacts from construction emissions would be less than significant.

Operations

Criteria pollutant emissions during operations would be generated by the diesel fire pumps and electricity consumed by the pump house lighting and heating, and the pump house security system. Criteria pollutant emissions were calculated conservatively using demand factors for a general heavy industry type building, as CalEEMod does not provide demand factors specifically for pump houses. The fire pumps are assumed to be 125-175 horsepower and each operate 1 hour per month for testing, and a total, between both pumps, of up to 32 hours per year for routine testing and maintenance (see Appendix A for calculation details).[2] Average daily operational-related emissions are presented in **Table 5.3-2** below. As shown in the table, emissions of ROG, NOx, PM_{10}, and $PM_{2.5}$

[2] To present a more conservatively analysis, an additional 20 hours of operation for each pump was included in the model as a safety margin, incase weekly testing is needed.

would all be below their respective significance thresholds for project operations which have been established by BAAQMD in terms of average daily emissions. Therefore, the proposed project would not have a significant impact related to operational criteria air pollutant emissions.

TABLE 5.3-2
AVERAGE DAILY OPERATIONAL-RELATED CRITERIA POLLUTANT EMISSIONS
(POUNDS PER DAY) WITHOUT MITIGATION

	ROG	NO_x	Exhaust PM_{10}	Exhaust $PM_{2.5}$
Project Operational Emissions	0.03	0.04	<0.01	<0.01
BAAQMD Threshold for Significant Operational Impacts	54	54	82	54
Potential Significant Impact?	No	No	No	No

SOURCE: ESA (Appendix A)

c) **Less than Significant.** Regarding construction TACs emissions, BAAQMD recommends that a Health Risk Assessment be conducted when sensitive receptors are located within 1,000 feet of project construction activities. There are no sensitive receptors located within this threshold.[3] Therefore, potential impacts of the project regarding exposure of existing receptors to construction related health risks would be less than significant.

The proposed project would also introduce a new source of TAC and $PM_{2.5}$ emissions due to the installation of two diesel fire pumps within the new pump house. BAAQMD recommends that any proposed project that includes the siting of a new source of air pollution assess associated impacts within 1,000 feet. The closest sensitive receptors are located approximately 4,650 feet (0.90 miles) to the southeast and southwest of the project site. Accordingly, the project is located beyond the BAAQMD distance assessment recommendation. Further, installation and operation of the diesel generator would also require a permit from the BAAQMD, which would involve an evaluation of emissions based on size. Therefore, potential impacts of the project regarding exposure of existing receptors to operational-related health risks associated with the diesel fire pumps would be less than significant.

d) **Less than Significant**. Typical odor sources of concern include wastewater treatment plants, sanitary landfills, transfer stations, composting facilities, petroleum refineries, asphalt batch plants, chemical manufacturing facilities, fiberglass manufacturing facilities, auto body shops, and rendering plants. The proposed project would not introduce significant sources of new odors in the vicinity as the proposed project includes water supply infrastructure. Therefore, odor impacts from the proposed project would be less than significant.

[3] Note that the IBM office complex is located adjacent to the project boundary; however, this is not considered a sensitive receptor.

References

Bay Area Air Quality Management District (BAAQMD), 2017a. *Draft 2017 Clean Air Plan, Spare the Air, Cool the Climate*, Available at: www.baaqmd.gov/~/media/files/planning-and-research/plans/2017-clean-air-plan/baaqmd_2017_cap_draft_122816-pdf.pdf?utm_campaign=CAP+2017+Draft&utm_medium=email&utm_content=article3_link1. Accessed August 28, 2020.

BAAQMD, 2017b. *BAAQMD CEQA Guidelines, California Environmental Quality Act Air Quality Guidelines.* Available at: http://www.baaqmd.gov/~/media/files/planning-and-research/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en. Accessed August 28, 2020.

5.4 Biological Resources

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

Environmental Setting

This section describes the existing biological resources for the study area, herein defined as the project site and immediate surrounding areas (**Figure 5.4-1**), and evaluates project-related impacts on those resources. Information used in preparation of this section includes database queries from the California Department of Fish and Wildlife (CDFW) California Natural Diversity Database (CNDDB) (CDFW, 2020), California Native Plant Society (CNPS) Electronic Inventory (CNPS, 2020),[4] and the U.S. Fish and Wildlife Service (USFWS, 2020a). ESA also reviewed current and historical Google Earth aerial imagery of the study area and EBird hotspot *Coyote Valley--Bailey Ave. Pond* in Santa Clara County, California (EBird, 2020).

[4] ESA queried CNDDB and CNPS records for the following USGS 7.5-minute quadrangles: Mt. Sizer, Morgan Hill, Loma Prieta, Mt. Madonna, San José East, Lick Observatory, Isabel Valley, Gilroy, and Santa Teresa Hills U.S. Geographical Survey (USGS) 7.5-minute topographic quadrangles.

SOURCE: ESRI, 2021; ESA, 2021

555 Bailey Avenue Water Line

Figure 5.4-1
Biological Study Area

ESA

An ESA biologist performed a reconnaissance-level survey of the study area on June 17, 2020. The survey was conducted to observe and characterize vegetation communities and potentially jurisdictional features in the Study Area and to assess habitat quality and potential for common and special-status wildlife species. A review of habitat conditions and findings of the database queries were used to compile the list of special-status species that may occur within the project study area and to characterize the local project setting, described below. Habitat quality and species distribution were considered in evaluating the likelihood of suitable special-status species occurrences in the project's study area. The list of special-status plant and animal species that have the potential to occur in the project study area is included in Table BIO-1 and BIO-2 in **Appendix B**. ESA reviewed and incorporated applicable information from the IBM West Coast Programming Development Center Draft Environmental Impact Report (James A Roberts Associates (JARA), 1974), IBM Synthetic Turf Athletic Field Improvements Geotechnical Report (Wallace Kuhl and Associates, 2018), IBM Synthetic Turf Athletic Field Improvements Initial Study Mitigated Negative Declaration (ESA, 2019), and 555 Bailey Avenue Water Line Project Tree Report (ESA, 2020) into this analysis.

Vegetation Communities and Wildlife Habitats

Past and ongoing development and other human activities have altered natural vegetation communities in the project study area. The project footprint consists of non-native grassland, agricultural orchard, and portions of grassland located within oak woodland habitat. The site is one of the only developed parcels located in the northern end of Coyote Valley, which has been identified as an area of priority open space by Santa Clara County Open Space Authority. This is in part due to its position as a critical wildlife linkage area between the Santa Cruz Mountains and the Diablo Range.

The study area lies within a watershed tributary to Fisher Creek that drains into Coyote Creek (outside of the project study area), which eventually flows into south San Francisco Bay. Notable nearby habitat features include agricultural stock ponds located approximately 0.3 miles west and 0.1 miles south of the study area, and the 4,471-acre Calero Reservoir is located approximately 1.3 miles west of the study area. Although these communities generally support higher quality vegetation communities and wildlife habitats, they are considered outside of the study area due to the distance away from the project site. The following habitats are included in the project's study area.

Orchard

The orchard community on the project site reflects historical agricultural activity and comprises the majority of the proposed construction footprint. This community extends from an existing parking lot, to the southern boundary of the proposed construction footprint, adjacent to the mixed riparian woodland. (In the northernmost portion of the construction footprint, the domestic water line would be installed primarily around the edge of the parking lot and beneath a paved access road/service lot.) Non-native grasslands occupy the orchard floor, access road fringes, and area surrounding the existing abandoned agricultural pump and proposed pump house of this community. Trees found in the orchard include, almond and plum species (*Prunus* sp.), and northern California black walnut (*Juglans nigra*). Non-native grass and forb species, including

smilo grass (*Stipa miliacea*), slender oat (*Avena barbata*), Italian rye grass (*Festuca perennis*), ripgut brome (*Bromus murinum*), foxtail barley (*Hordeum jubatum*), bull mallow (*Malva nicaeensis*), and red-stem filaree (*Erodium cicutarium*), were observed or are common to this community. California ground squirrel (*Otospermophilus beecheyi*), gopher snake (*Pituophis catenifer catenifer*), and jack rabbit (*Lepus californicus*) were observed near burrows or migrating through this community during the reconnaissance survey.

Other species observed during the reconnaissance survey and/or common to this habitat in the region include, California quail (*Callipepla californica*), barn owl (*Tyto alba*), tree swallow (*Tachycineta bicolor*), northern mockingbird (*Minimus polyglottos*), turkey vulture (*Cathartes aura*), California scrub jay (*Aphelocoma californica*), California towhee (*Pipilo crissalis*), house finch (*Haemorhous mexicanus*), Anna's hummingbird (*Calypte anna*), and Brewer's blackbird (*Euphagus cyanocephalus*), all of which have the potential to nest in orchard trees within the study area. Bird species common to grassland environments of the region, including western burrowing owl (*Athene cunicularia*) and killdeer (*Charadrius vociferus*), could forage or breed in grasslands of the study area.

The majority of the trees observed during the reconnaissance survey were orchard trees planted for agricultural purposes and have been exposed to some level of maintenance. Of the total 105 total trees inventoried within the project vicinity, 66 trees would be located within the disturbance area of the project. Of the 66 trees located within the disturbance area, 25 are ordinance-size. See *Regulatory Framework* for details regarding "ordinance-sized trees" and "non-ordinance sized" trees observed on the project site.

Mixed Riparian Woodland

Mixed riparian woodland community is found outside of proposed construction footprint but within the study area. This community is located in and along the margins of the drainage channel located south of the proposed construction footprint and north of Bailey Avenue. The patch of riparian habitat in the study area is isolated in nature, with little to no riparian habitat found outside of the study area in the immediate vicinity. No single species dominates the riparian woodland canopy, which includes California sycamore (*Platanus racemosa*), valley oak (*Quercus lobata*), coast live oak (*Quercus agrifolia*), California bay (*Umbellularia californica*), northern California black walnut (*Juglans hindsii*), California buckeye (*Aesculus californica*), Fremont cottonwood (*Populus fremontii*), big leaf maple (*Acer macrophyllum*), blue elderberry (*Sambucus nigra* ssp. *cerulea*), coyote brush (*Baccharis pilularis*), and willow species (*Salix* spp.). Non-native invasive species that were observed in this community include giant reed (*Arundo donax*) and Himalayan blackberry (*Rubus armeniacus*). Raptors, including Swainson's hawk (*Buteo swainsoni*), red-tailed hawk (*Buteo jamaicensis*), white-tailed kite (*Elanus leucurus*), great horned owl (*Bubo virginianus*) could nest in mature trees found in this community, in addition to great blue heron (*Ardea herodias*) and species discussed above in the Orchard community. Bats, such as Yuma myotis (*Myotis yumanensis*), could also roost in riparian trees. California red-legged frog (*Rana draytonii*) and western pond turtle (*Emys marmorata*) originating from nearby stock ponds could use the riparian woodland community as a movement corridor.

Freshwater Marsh

Freshwater marsh is found outside the proposed construction footprint, east of the western campus driveway, but within the study area. This community is dominated by emergent herbaceous plants with either intermittent flooded or perennially saturated soils partially supported by surface runoff. The freshwater marsh found in the study area features shallow water with dense masses of vegetation. A drainage channel borders the southern portion of the freshwater marsh and appears to have been constructed to collect stormwater runoff from the adjacent roadway. Plant species observed in and common to freshwater marsh consist of willows, cattails (*Typha* spp.), bulrushes (*Schoenoplectus* spp.), sedges (*Carex* spp.), rushes (*Juncus* spp.), perennial peppergrass (*Lepidium latifolium*) and rabbitsfoot grass (*Polypogon* sp.). Tricolored blackbird (*Agelaius tricolor*) could nest in the cattails found in this community.

Valley Oak Woodland

The scattered oak and other mature trees populating the hillside approximately immediately north of the potential fire loop portion of the proposed project footprint, could support nesting raptors such as red-tailed hawk, white-tailed kite, bald eagle (*Haliaeetus leucocephalus*), golden eagle (*Aquila chrysaetos*), and Swainson's hawk. Valley oak woodland and blue oak woodland habitat are considered by CDFW to be sensitive biotic communities. There is evidence that the valley oak woodland was once one of the dominant land cover types on the floor of the Santa Clara Valley, but it has been largely removed by urban and agricultural development. These communities can provide important foraging or movement habitat for several native species covered by the Habitat Plan, including California red-legged frog. A portion of the proposed water line would be constructed within grassland in the vicinity of valley oak woodland habitat, as designated by the Santa Clara Valley Habitat Plan (SCVHA, 2012).

Developed and Landscaped

This community is included to describe the areas built and landscaped in the study area, mostly consisting of paved roadways, parking lots, and sidewalks. Common trees found in this community include gum (*Eucalyptus* sp.), coast redwood (*Sequoia sempervirens*), and deodar cedar (*Cedrus deodara*). Ruderal vegetation species sparsely grow along the borders of the developed areas surrounding the proposed construction footprint. Ruderal vegetation describes an assemblage of opportunistic and weedy species, typically non-native to California or considered invasive, which provide minimal habitat value, such as non-native, invasive species stinkwort (*Dittrichia graveolens*), and non-native bristly ox-tongue (*Helminthotheca echioides*), black mustard (*Brassica nigra*) and wild radish (*Raphanus sativus*). Passerine species (perching birds, including songbirds), such as northern mockingbird, western bluebird (*Sialia mexicana*), oak titmouse (*Baeolophus inornatus*), American crow (*Corvus brachyrhynchos*), and raptor species have the potential to nest in mature trees in the developed and landscaped communities.

Wetlands and Other Waters

Wetlands are ecologically complex habitats that support a variety of both plant and animal life. The federal government defines and regulates "waters of the United States," including wetlands, in Section 404 of the Clean Water Act. Similarly, the Regional Water Quality Control Board (RWQCB) regulates waters of the state under the Porter-Cologne Water Quality Control Act.

Wetlands are "areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support (and do support, under normal circumstances) a prevalence of vegetation typically adapted for life in saturated soil conditions" (33 CFR 328.3[b] and 40 CFR 230.3). No evidence of wetland vegetation or field indicators of wetland hydrology were observed within the proposed construction footprint; however, a drainage channel, mixed riparian woodland, and freshwater marsh are adjacent to areas where construction is proposed.

Wildlife Movement Corridors

Wildlife movement corridors link together areas of suitable wildlife habitat that are otherwise separated by rugged terrain, changes in vegetation, or by areas of human disturbance or urban development. Topography and other natural factors in combination with urbanization have fragmented or separated large open-space areas. The fragmentation of natural habitat can create isolated "islands" of habitat that may not provide sufficient area to accommodate sustainable populations and can adversely affect genetic and species diversity. Movement corridors mitigate the effects of this fragmentation by allowing animals to move between remaining habitat patches, which in turn allows depleted populations to be replenished and promotes genetic exchange between separate populations. The project site's size relative to the surrounding oak woodlands, non-native grasslands, agricultural fields, and adjacent office development would not create a barrier to wildlife movement between any separated open space areas. Further, the patch of riparian habitat in the study area is isolated in nature, and no direct impacts to this community would result from the proposed project.

Special-Status Species

Federal and state endangered species legislation provides the USFWS and CDFW with a mechanism for conserving and protecting plant and animal species of limited distribution and/or low or declining populations.

The potential for the study area to support special-status plant or animal species was assessed using database results, previous studies of biological resources in the regional vicinity, and an understanding of existing site conditions and available habitat. Special-status species distribution information was obtained from the CNDDB (CDFW, 2020), USFWS (2020a), and CNPS (2020) for the regional project vicinity. Tables BIO-1 and BIO-2 in Appendix B identifies regionally-occurring special-status plants and animals, their preferred habitats and plant blooming periods, and their potential to occur in the study area.

To support the biological resources impact discussion, the above data were examined to create a focused list of special-status species that could possibly be encountered in the study area, and on the project site. Each species was determined to have a low, moderate, or high potential for occurrence in the study area based on previous location data, species' range, and current site conditions. Species with a moderate or high potential for occurrence are discussed in detail below. Several species that require specialized habitat not found within the study area, including tidal marsh or coastal scrubland, were eliminated from further discussion.

Special-Status Plants

Several special-status plant species are documented in the regional vicinity of the proposed project; however, none was determined to have at least a moderate potential to occur in the project study area. This is generally due to the history of site disturbance, including routine mowing activities, and the lack of suitable supportive habitat and documented local occurrences in the project study area.

Special-Status Animals

Special Status Birds. Nesting habitat for western burrowing owl, a CDFW Species of Special Concern, occurs throughout the non-native grasslands in the western portion of the study area, where squirrel burrows are located, although is unlikely present within the project's limits of disturbance due to the tree massing and routinely disked topsoil. The nearest documented occurrence of western burrowing owl is located approximately 0.90-miles southeast of the study area in 2015 as an overwintering site (CDFW, 2020).

Nesting habitat for tricolored blackbird, a California Threatened species and CDFW Species of Special Concern, white-tailed kite, a CDFW Fully Protected species, Swainson's hawk, a California Threatened species and USFWS Bird of Conservation Concern, is located in the riparian and freshwater marsh habitat directly north of Bailey Avenue, in the southern portion of the study area. The nearest documented occurrence of tricolored blackbird is located approximately 1.2-miles west of the study area in 2014 near the Calero Reservoir (CDFW, 2020). The nearest documented occurrence of white-tailed kite is approximately 2 miles southeast of the project study area near the Coyote Creek parkway (CNDDB). The nearest documented nesting occurrence of Swainson's hawk is 1.3 miles east of study area along Coyote Creek in 2016.

Nesting habitat for golden eagle, CDFW Fully Protected and Watch List species and USFWS Bird of Conservation Concern, and Swainson's hawk, is present in the oak woodlands 0.15 miles north of the study area. The nearest documented occurrence of golden eagle is located approximately 1.6 miles south of the study area in 2015 as an overwintering site in an open space preserve near agricultural fields (CDFW, 2020). Bald eagles have also been documented in the region but are unlikely to nest within the study area due to the lack of habitat nesting requirements present.

Other Breeding and Migratory Birds. The nearest suitable nesting habitat for common tree-nesting raptors, protected by state and federal regulations, occurs in the immediate vicinity of the proposed construction footprint in mature trees found in the riparian woodland and developed and landscaped communities, and further away in the oak woodland. Trees, shrubs, and emergent vegetation in the riparian woodland and freshwater marsh communities, provide nesting and foraging habitat for a variety of resident and migratory birds protected by state and federal regulations.

Roosting Bats. Suitable bat roosting habitat occurs in the riparian vegetation along the southern boundary of the study area and in mature trees throughout the developed and landscaped community. Bats, their maternity roosts and hibernation roosts, and other non-game mammals are

protected under California Fish and Game Code Section 4150. The loss of any active roost must be avoided under federal and California law.

California Red-Legged Frog. Suitable, yet isolated aquatic habitat for the California red-legged frog, a California Threatened species, is present in the riparian woodland and the freshwater marsh habitat along the southern boundary of the study area, outside of the proposed construction footprint. Stock ponds in the vicinity of the study area also provide suitable breeding habitat for the species; however, bullfrogs and other predators are known to also occur in these ponds. The nearest stock pond is approximately 50 feet southwest of the study area. California red-legged individuals, especially juveniles, can disperse into poor quality habitats several kilometers from breeding ponds (Scott and Rathbun, 2009). The nearest documented occurrence of California red-legged frog is located approximately 1.5 miles east of the study area in 2012 in channel pools of a canal (CDFW, 2020).

Western Pond Turtle. The riparian woodland and freshwater marsh in the southern portion of the study area, outside of the proposed construction footprint, provide suitable habitat for the western pond turtle, a CDFW Species of Special Concern. The grassy, open space uplands of the project footprint, could provide suitable habitat for egg laying. The nearest documented occurrence of western pond turtle is located approximately 0.25 miles southwest of the study area in 1996 in a pond (CDFW, 2020).

American Badger. Dry, friable soils within and adjacent to the orchard community in the study area provide suitable, low quality habitat for American badger, a CDFW Species of Special Concern. The study area supports an abundance of prey for this species, including California squirrels and other rodents. The nearest documented occurrence of American badger is located approximately 1.75 miles east of the study area in 2010 near the Bailey Avenue overpass of Highway 101 (CDFW, 2020).

Sensitive Natural Communities

A sensitive natural community is a biological community that is regionally rare, provides important habitat opportunities for wildlife, is structurally complex, or is in other ways of special concern to local, state, or federal agencies. The CNDDB reports several sensitive natural communities within the regional project area; however, these communities are not found within the study area.

Critical Habitat

Critical habitat is defined as the specific areas that are essential to the conservation of a federally listed species and that may require special management consideration or protection. There is no federally designated critical habitat within the study area.

Regulatory Framework

Federal and State Special-Status Species

Individual plant and animal species listed as rare, threatened or endangered under state and federal Endangered Species Acts are considered “special-status species.” Federal and state

"endangered species" legislation has provided the USFWS and the CDFW with a mechanism for conserving and protecting plant and animal species of limited distribution and/or low or declining populations. Permits may be required from both the USFWS and CDFW if activities associated with a proposed project will result in the "take" of a species listed as threatened or endangered. To "take" a listed species, as defined by the State of California, is "to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture or kill" said species. "Take" is more broadly defined by the federal Endangered Species Act to include "harm" of a listed species.

In addition to species listed under state and federal Endangered Species Acts, Section 15380(b) and (c) of the CEQA Guidelines provided that all potential rare or sensitive species, or habitats capable of supporting rare species, are considered for environmental review per the CEQA Guidelines. These may include plant species of concern in California listed by the California Native Plant Society and CDFW listed "Species of Special Concern."

Migratory Bird and Birds of Prey Protection

The federal Migratory Bird Treaty Act (MBTA) prohibits killing, possessing, or trading in migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. This act encompasses whole birds, parts of birds, and bird nests and eggs. Construction disturbances during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment, a violation of the MBTA. The CDFW also protects migratory and nesting birds under California Fish and Game Code Sections 3503, 3503.5, and 3800. The CDFW defines take as causing abandonment and/or loss of reproductive efforts through disturbance.

Sensitive Habitats

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

Regional and Local

Santa Clara Valley Habitat Plan

The project site is located within the boundaries of the Santa Clara Valley Habitat Plan (Habitat Plan). The Habitat Plan is both a habitat conservation plan intended to fulfill the requirements of the federal Endangered Species Act and a natural community conservation plan to fulfill the requirements of the California Natural Community Conservation Planning Act. The Habitat Plan was developed through a partnership between Santa Clara County, the Cities of San José, Morgan Hill, and Gilroy, Santa Clara Valley Water District, Santa Clara Valley Transportation Authority, USFWS, and CDFW. The Habitat Plan is intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in approximately 500,000 acres of southern Santa Clara County. The majority of the project site

located on the IBM campus is designated as a Private Development Covered Activity in the Habitat Plan.

City of San José Tree Ordinance

The San José Municipal Code includes tree protection measures (Municipal Code Title 13, Chapters 13.28 [Street Trees, Hedges and Shrubs] and 13.32 [Tree Removal Controls]) that regulate the removal of trees. An "ordinance-sized tree" on private property is defined as any tree having a main stem or trunk 12 inches in diameter (38 inches or more in circumference) at a height measured 54 inches (4.5 feet) above ground. For multi-trunk trees, the circumference is measured as the sum of the circumferences of all trunks at 54 inches above grade. On single-family or duplex lots, a permit is required to remove ordinance-sized trees, even if they are unhealthy or dead. On multi-family, commercial, or industrial lots, a permit is required to remove a tree of any size.

The Code also defines a "heritage tree" as any tree that because of factors including but not limited to its history, girth, height, species or unique quality, has been found by the City Council to have a special significance to the community; and "street trees," trees located in the public right-of-way between the curb and sidewalk. No heritage trees or street trees are documented within the project site.

Of the total 105 total trees inventoried during the tree report, forty (40) trees would meet the City's ordinance-sized criteria of being over 38 inches in circumference (or approximately 12.1 inches DBH) and sixty-five (65) trees would be considered "non-ordinance trees" and are smaller than 38 inches in circumference (ESA, 2020).

General Plan Policies

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating biological resource impacts from development projects. The following policies are applicable to the proposed project.

Envision San José 2040 Policies Relevant to Biological Resources	
Policy CD-1.24	Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Avoid any adverse effect on the health and longevity of such trees through design measures, construction, and best maintenance practices. When tree preservation is not feasible, include replacements or alternative mitigation measures in the project to maintain and enhance our Community Forest.
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.
Policy ER-6.5	Prohibit use of invasive species, citywide, in required landscaping as part of the discretionary review of proposed development.
Policy MS-21.4	Encourage the maintenance of mature trees, especially natives, on public and private property as an integral part of the community forest. Prior to allowing the removal of any mature tree, pursue all reasonable measures to preserve it.

Policy MS-21.5	As part of the development review process, preserve protected trees (as defined by the Municipal Code), and other significant trees. Avoid any adverse effect on the health and longevity of protected or other significant trees through appropriate design measures and construction practices. Special priority should be given to the preservation of native oaks and native sycamores. When tree preservation is not feasible, include appropriate tree replacement, both in number and spread of canopy.
Policy MS-21.8	For Capital Improvement Plan or other public development projects, or through the entitlement process for private development projects, require landscaping including the selection and planting of new trees to achieve the following goals: • Avoid conflicts with nearby power lines. • Avoid potential conflicts between tree roots and developed areas. • Avoid use of invasive, non-native trees. • Remove existing invasive, non-native trees. • Incorporate native trees into urban plantings in order to provide food and cover for native wildlife species. • Plant native oak trees and native sycamores on sites which have adequately sized landscape areas and which historically supported these species.

City of San José Environmental Standard Conditions for Approval

The following condition of approval in the City's Standard Conditions for Approval (SCAs) is applicable to the proposed project:

SCA BIO-1: Tree Replacement.

Any removed trees would be replaced according to tree replacement ratios required by the City, as provided in Table 5.4-1 below, as amended.

TABLE 5.4-1
TREE REPLACEMENT RATIOS

Circumference of Tree to be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
38 inches or more	5:1	4:1	3:1	15-gallon
19 up to 38 inches	3:1	2:1	none	15-gallon
Less than 19 inches	1:1	1:1	none	15-gallon

x:x = tree replacement to loss ratio

Note: Trees greater than or equal to 38-inch circumference shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For Multi-Family residential, Commercial, and Industrial properties, a permit is required for removal of trees of any size.

A 38-inch tree equals 12.1 inches in diameter

A 24-inch box tree = two 15-gallon trees

Single-Family and Two-dwelling properties may be mitigated at a 1:1 ratio.

Discussion

Impact Analysis

The analysis below addresses each of the CEQA checklist categories under Biological Resources.

a) **Less than Significant with Mitigation Incorporated.**

Special Status Plants

All special-status plant species with potential to occur in the regional project area were determined to have either a low potential to occur or determined to be absent from the study area, generally due to the site history of disturbance and the related lack of suitable habitat, and the lack of local species occurrences. Therefore, the proposed project would not adversely affect any special-status plants.

Special Status Animals

***Special-Status and Migratory Birds, and Roosting Bats*.** Common and special status birds, such as tricolored blackbird, white-tailed kite, Swainson's hawk, and golden eagle, and roosting bats, could migrate through and nest in mature trees found in the riparian, developed and landscaped, or the oak woodland communities of the study area. Common nesting birds and roosting bats could also use the orchard's trees or nest boxes.

Construction activities associated with excavation and grading, and a general increase in noise and visual disturbance near the proposed construction footprint, may adversely affect roosting bats and nesting passerine birds within 250 feet of the project site during the nesting season (February 1 – August 15). The disruption of nesting migratory or native birds is not permitted under the Migratory Bird Species Act, Bald and Golden Eagle Protection Act, California Fish and Game Code, and/or the California Endangered Species Act as it could constitute unauthorized take. Bats, their maternity roosts and hibernation roosts, and other non-game mammals are also protected under the California Fish and Game Code. The loss of any active nest or roost by, for example, trench excavation, tree removal, or increased noise or visual disturbance, must be avoided under federal and California law.

Direct impacts to common tree nesting passerines could occur if trees supporting active nests are removed by the project. However, no trees are proposed to be removed as part of the project. Indirect impacts to common and special status passerine and raptor nests could occur if breeding is disrupted from exposure to visual or noise originating from the construction of the pump house or trenching. Ground nesting birds such as killdeer and western burrowing owl could use the grasslands in the study area for nesting habitat. The loss of available grasslands for common ground nesting birds and western burrowing owl, whether it be temporary (i.e., due to trenching activities) or permanent (i.e., within the footprint of the pump house), is considered less than significant due to the project area's small size and available grasslands adjacent to the study area, further away from human disturbance. Although unlikely, direct impacts to ground nesting birds could occur if active bird nests were present and destroyed during ground disturbing activities.

Indirect impacts to ground nesting birds could occur if breeding activities are disrupted from the exposure to visual or noise disturbance resulting from the pump house construction or water pipeline trenching and construction.

The loss of an active nest occupied by a bird species protected by the federal Migratory Bird Species Act or California Fish and Game Code would be considered a significant impact under CEQA. Potential nest abandonment, mortality to eggs and chicks, as well as stress from loss of foraging areas would also be considered potentially significant impacts. Moreover, disruption of nesting migratory or native birds is not permitted under the federal Migratory Bird Species Act or California Fish and Game Code, as it could constitute unauthorized take. Thus, the loss of any active nest by, for example, removing a tree shrub containing an active nest or causing visual or noise disturbance which leads to nest abandonment, must be avoided under federal and California law.

Implementation of **Mitigation Measure BIO-1: Nesting Bird Protection Measures,** would reduce potential impacts on nesting birds to a less-than-significant level by limiting removal of vegetation to periods outside of the bird nesting season, to the extent feasible, conducting preconstruction nesting surveys, and establishing no work buffer zones around active nests identified on or near the project sites. Implementation of **Mitigation Measure BIO-2: Avoidance and Minimization Measures for Bats,** would reduce potential impacts on roosting bats to a less- than-significant level by increasing worker education regarding the potential presence and sensitivities of these species, requiring pre-construction surveys, and implementing avoidance measures if potential roosting habitat or active roosts are located.

California Red-legged Frog and Western Pond Turtle. California red-legged frogs are known to travel overland from breeding habitats to other sources of water, such as riparian areas and freshwater marsh, and upland terrestrial habitats. Western pond turtles use upland grassy habitat, such as that found in the proposed project footprint to lay eggs. Proposed project activities, such as trenching and construction of the new pump house, could affect California red-legged frog and western pond turtle individuals, if present. This would be considered a significant impact. No operational impacts are expected to occur once project construction is complete.

Potential impacts on California red-legged frog and western pond turtle would be mitigated to less-than-significant levels through implementation of **Mitigation Measure BIO-3: Wetland and Riparian Habitat Avoidance and Protection**, presented below in discussion (c). Mitigation Measure BIO-3 would require exclusion fence installation around the riparian and freshwater marsh communities bordering the project site, deterring California red-legged frog and western pond turtle, if present, from entering the project work area. As such, potential project impacts on California red-legged frog and western pond turtle would be less-than-significant.

American Badger. Although there is a vast range of suitable open habitat and rodent burrows within the study area, it is unlikely American badger would be present in the

orchard community of the project site given the temporary nature of construction activities, and the project's small size and high exposure to nearby vehicle traffic and human activity on the campus. As such, potential project impacts on American badger would be less-than-significant.

Mitigation

Mitigation Measure BIO-1: Nesting Bird Protection Measures.

Nesting birds and their nests shall be protected during construction by use of the following measures:

1. The project applicant shall conduct initial vegetation removal, tree trimming and removal, ground disturbance, and demolition of the existing abandoned agricultural pump outside the bird nesting season (February 1 to August 31, inclusive).

2. If vegetation removal, tree trimming and removal, ground disturbance, and demolition of the existing abandoned agricultural pump cannot occur outside the nesting season, a qualified biologist shall conduct pre-construction nesting surveys within 7 days prior to the start of such activities or after any construction breaks of 14 days or more. Surveys shall be performed for the project sites, vehicle and equipment staging areas, and suitable habitat within 250 feet in order to locate any active passerine (perching bird) nests and within 500 feet of these individual sites to locate any active raptor (birds of prey) nests. The project applicant shall send proof of executed contract with a qualified biologist to perform pre-construction surveys to the City prior to issuance of permits for construction activities.

3. If active nests are located during the pre-construction nesting bird surveys, the qualified biologist shall evaluate if the schedule of construction activities could affect the active nests and the following measures shall be implemented based on their determination:

> a. If construction is not likely to affect the active nest, construction may proceed without restriction; however, a qualified biologist shall regularly monitor the nest at a frequency determined appropriate for the surrounding construction activity to confirm there is no adverse effect. Spot-check monitoring frequency would be determined on a nest-by-nest basis considering the particular construction activity, duration, proximity to the nest, and physical barriers which may screen activity from the nest. The qualified biologist may revise his/her determination at any time during the nesting season in coordination with the City.
>
> b. If it is determined that construction may affect the active nest, the qualified biologist shall establish a no-disturbance buffer around the nest(s) and all project work would halt within the buffer until a qualified biologist determines the nest is no longer in use. Typically, these buffer distances are 250 feet for passerines

and 500 feet for raptors; however, the buffers may be adjusted if an obstruction, such as a building, is within line-of-sight between the nest and construction.

c. Modifying nest buffer distances, allowing certain construction activities within the buffer, and/or modifying construction methods in proximity to active nests shall be done at the discretion of the qualified biologist and in coordination with the City, who would notify the California Department of Fish and Wildlife (CDFW). Necessary actions to remove or relocate an active nest(s) shall be coordinated with the City and CDFW.

d. Any work that must occur within established no-disturbance buffers around active nests shall be monitored by a qualified biologist. If adverse effects in response to project work within the buffer are observed and could compromise the nest, work within the no-disturbance buffer(s) shall halt until the nest occupants have fledged.

4. Any birds that begin nesting within the project site and survey buffers amid construction activities shall be assumed to be habituated to construction-related or similar noise and disturbance levels and no work exclusion zones shall be established around active nests in these cases; however, should birds nesting nearby begin to show disturbance associated with construction activities, no disturbance buffers shall be established as determined by the qualified biologist.

5. The project applicant shall submit pre-construction survey documentation to the City prior to the start of construction activities. If active nests are found, the project applicant shall submit all monitoring reports and a final report to the Director of Planning, Building and Code Enforcement or Director's designee within 14 days of the end of construction.

Mitigation Measure BIO-2: Avoidance and Minimization Measures for Bats.

A qualified biologist (as defined by CDFW[5]) who is experienced with bat surveying techniques (including auditory sampling methods), behavior, roosting habitat, and identification of local bat species shall be consulted by the project applicant prior to initiation of construction activities to conduct a pre-construction habitat assessment of trees within the study area, developed and landscaped, and the mixed riparian woodland south and east of the project site to characterize potential bat habitat and identify potentially active roost sites. The project applicant shall send proof of executed contract with a qualified biologist to perform a pre-construction assessment to the City. No further action is required should the pre-construction habitat assessment not identify bat habitat or signs of potentially active bat roosts within the study area (e.g., guano, urine staining, dead bats, etc.).

[5] CDFW defines credentials of a "qualified biologist" within permits or authorizations issued for a project. Typical qualifications include a minimum of five years of academic training and professional experience in biological sciences and related resource management activities, and a minimum of two years of experience conducting surveys for each species that may be present within the project area.

The project applicant shall f implement the following measures if potential roosting habitat or potentially active bat roosts are identified during the habitat assessment within or in the immediate vicinity of the study area, including trees that could be trimmed or removed under the project:

1. In areas identified as potential roosting habitat during the habitat assessment, initial building demolition, relocation, and any tree work (trimming or removal) shall occur when bats are active, approximately between the periods of March 1 to April 15 and August 15 to October 15. These dates avoid the bat maternity roosting season and period of winter torpor.[6]

2. Depending on temporal guidance as defined below, the qualified biologist shall conduct pre-construction surveys of potential bat roost sites identified during the initial habitat assessment no more than 14 days prior to building demolition or relocation, or any tree trimming or removal.

3. If active bat roosts or evidence of roosting is identified during pre-construction surveys, the qualified biologist shall determine, if possible, the type of roost and species. A no-disturbance buffer shall be established around roost sites until the qualified biologist determines they are no longer active. The size of the no-disturbance buffer would be determined by the qualified biologist and would depend on the species present, roost type, existing screening around the roost site (such as dense vegetation or a building), as well as the type of construction activity that would occur around the roost site.

4. If special-status bat species or maternity or hibernation roosts are detected during these surveys, appropriate species- and roost-specific avoidance and protection measures shall be developed by the qualified biologist in coordination with CDFW. Such measures may include postponing the removal of buildings or structures, establishing exclusionary work buffers while the roost is active (e.g., 100-foot no-disturbance buffer), or other compensatory mitigation.

5. The qualified biologist shall be present during building demolition, relocation, or tree work if potential bat roosting habitat or active bat roosts are present. Buildings and trees with active roosts shall be disturbed only under clear weather conditions when precipitation is not forecast for three days and when daytime temperatures are at least 50 degrees Fahrenheit.

6. The demolition or relocation of buildings containing or suspected to contain bat roosting habitat or active bat roosts shall be done under the supervision of the qualified biologist. When appropriate, buildings shall be partially dismantled to significantly change the roost conditions, causing bats to abandon and not return to the roost, likely in the evening and after bats have emerged from the roost to forage. Under no circumstances shall active maternity roosts be disturbed until the roost disbands at the

[6] Torpor refers to a state of decreased physiological activity with reduced body temperature and metabolic rate.

completion of the maternity roosting season or otherwise becomes inactive, as determined by the qualified biologist.

7. Trimming or removal of existing trees with potential bat roosting habitat or active (non-maternity or hibernation) bat roost sites shall follow a two-step removal process (which shall occur during the time of year when bats are active, according to 1) above, and depending on the type of roost and species present, according to 3) above).

a) On the first day and under supervision of the qualified biologist, tree branches and limbs not containing cavities or fissures in which bats could roost shall be cut using chainsaws.

b) On the following day and under the supervision of the qualified biologist, the remainder of the tree may be trimmed or removed, either using chainsaws or other equipment (e.g., excavator or backhoe).

c) All felled trees shall remain on the ground for at least 24 hours prior to chipping, off-site removal, or other processing to allow any bats to escape, or be inspected once felled by the qualified biologist to ensure no bats remain within the tree and/or branches.

Within 14 days of end of construction, the project applicant shall submit survey documentation, as well as all monitoring reports and a final report to the Director of Planning, Building and Code Enforcement or Director's designee.

Mitigation Measure BIO-3: Wetland and Riparian Habitat Avoidance and Protection. (see criterion [c] below)

b) **Less than Significant with Mitigation Incorporated.** Mixed riparian woodland habitat occurs within the southern portion of the study area, outside the limits of the proposed project activities. Please refer to discussion (a) for analysis on how the proposed project could potentially impact sensitive species, and their habitat, found within the mixed riparian woodland habitat of the study area; and discussion (c) for how the project could potentially impact habitat functionality of freshwater marsh and mixed riparian woodland communities likely considered jurisdictional by federal and/or state regulatory agencies. No other sensitive natural communities identified in local or regional plans, policies, regulations or by the CDFW or USFWS occur within the proposed construction footprint. Based on the analysis and impact discussions provided in discussion (a) and (c), the proposed project would result in a less-than-significant with mitigation impact on riparian habitat.

Mitigation

Mitigation Measure BIO-3: Wetland and Riparian Habitat Avoidance and Protection. (see criterion [c] below)

c) **Less than Significant with Mitigation Incorporated.** There are no potentially jurisdictional wetlands or other waters of the U.S. or waters of the state within the proposed project footprint (USFWS, 2020b). However, a drainage channel, freshwater emergent wetland, and mixed riparian woodland features are located north of Bailey Avenue, adjacent to the project footprint, and could be considered jurisdictional by federal and or state regulatory agencies. Wetland and riparian habitats provide critical habitat for a variety of wildlife and are considered ecologically important features. These resources would not be directly impacted by the project; however, they could be temporarily and indirectly affected by excavation and trenching for the water lines. Excavation and trenching activities could result in the erosion of loose soil affecting water quality or habitat conditions of the drainage channel, freshwater marsh, or riparian corridor. An accidental release of deleterious materials from construction equipment could indirectly impact water quality in these features. These impacts would be significant. In general, project activities resulting in the discharge of fill or other disturbance to jurisdictional wetlands and other waters require permit approval from the USACE and a water quality certification and/or waste discharge requirements from the RWQCB. Additionally, CDFW has jurisdiction over riparian habitat associated with these features, as discussed above under discussion (b).

In order to avoid fill of wetlands and indirect impacts related to state or federally protected waters and riparian areas, **Mitigation Measure BIO-3: Wetland and Riparian Habitat Avoidance and Protection** would be implemented to reduce impacts on these resources to less-than-significant.

Mitigation

Mitigation Measure BIO-3: Wetland and Riparian Habitat Avoidance and Protection.

Access roads, work areas, and infrastructure (i.e., pipeline alignments and the fire pump house) shall be sited to avoid and minimize impacts to the drainage channel, wetlands, riparian areas to the extent feasible. Where work will occur on the project adjacent to the drainage channel, wetlands, riparian areas, protection measures shall be applied to protect these features. These measures shall include the following:

1) No work shall occur in drainage channels, wetlands, or riparian areas. Where work is located adjacent to these resources, the minimum area of disturbance necessary for construction shall be identified, and the area outside of that shall be avoided;

2) Stabilize disturbed areas immediately upon completion of construction activities;

3) During construction, implement measures to catch trimmed tree limbs, shrubs, debris, soils, and other construction materials created by or used in vegetation removal before such materials can enter the drainage channel. Such materials shall be placed either in soil stockpiles or an appropriately managed waste collection container until the materials can be properly disposed of;

4) A protective barrier (such as silt fencing) shall be erected around the drainage channel, valley freshwater marsh, and mixed riparian woodland adjacent to the project footprint to isolate them from construction and reduce the potential for incidental fill, erosion, or other disturbance;

5) Signage shall be installed on the fencing to identify sensitive habitat areas and restrict construction activities beyond fenced limits;

6) No equipment mobilization, grading, clearing, storage of equipment or machinery, or similar activity shall occur at the project site until a representative of the City has inspected and approved the protective fencing (e.g., silt fencing);

7) The project applicant and its contractor shall ensure that the temporary protective fencing is continuously maintained until all remediation is completed;

8) Drip pans and/or liners shall be stationed beneath all equipment staged nearby jurisdictional features overnight to minimize spill of deleterious materials into jurisdictional waters. Equipment maintenance and refueling in support of project implementation shall be performed in designated upland staging areas and work areas, and spill kits shall be available on-site. Maintenance activity and fueling must occur at least 50 feet from jurisdictional wetlands and other waters or farther as specified in the project permits and authorizations.

Prior to issuance of any grading, demolition, or building permits, the project applicant shall provide copies of the protection measures to the Director of Planning, Building and Code Enforcement for review and approval.

d) **No Impact.** Coyote Valley is an important wildlife corridor for many animals, and provides important habitat for many resident and migratory birds (Vonshak, M., et al., 2016). Given the small size of the project site and nearby built environment, including an office development and roadways, the proposed project does not have the potential to significantly interfere with the movement of native resident or migratory avian and mammal species or impede use of wildlife nursery sites. Since the majority of the proposed project site is either developed or is an orchard, it is not considered to serve as a wildlife movement corridor or native wildlife nursery site. As such, development of the proposed project would not result in an impact related to wildlife movement or nursery sites.

e) **Less than Significant.** Chapter 13.32 of the San José Municipal Code states that it shall be unlawful for any person to remove, or cause to be removed, any live tree from any private parcel of land in the City unless a development permit that allows the removal of the tree has been issued and accepted by the permit applicant. However, no tree removal is anticipated for the project, therefore, no tree removal permit is required.

The City of San Jose defines ordinance-size trees on private property as a single trunk, 38 inches or more in circumference at 4½ feet above ground; or multi-trunk, the combined measurements of each trunk circumference (at 4½ feet above ground) add up to

38 inches or more. A 38-inch circumference of a tree is equivalent to approximately 12.1-inches diameter-at-breast height (DBH). DBH is an arboriculture industry standard unit of measurement for the size of a tree and was the method used during the project's tree survey (ESA, 2020). Of the 105 trees surveyed, approximately 66 trees are located within the construction disturbance area. Of those 66 trees, 25 are ordinance-size trees and the remaining 41 are non-ordinance size trees. During the City's permitting process, the Planning Division would determine whether ordinance-size trees on Industrial Park zoned property require replacement. The Department of Planning, Building, and Code Enforcement uses the tree replacement ratios identified in Table 5.4-1 above, per SCA BIO-1: Tree Replacement.

As stated above, the project applicant does not propose to remove any trees. However, as also described above, 66 trees are located within the proposed limits of disturbance and may be subject to damage during construction. Use of excavation or trenching equipment could cause inadvertent limb removal or damage to the critical root zone; long-term storage of equipment could also cause compaction damage to the critical root zone. All of these impacts could lead to the decline or potential mortality of the affected tree. However, the proposed project would comply with Municipal Code Section 13.32.130, Safeguarding Trees During Construction, which provides for protective measures such as installation of fencing outside the canopy of the tree to the dripline to prevent injury to trees, making them susceptible to disease causing organisms; taking appropriate measures to prevent exposed soil from drying out and causing damage to tree roots; and prohibiting storage, parking, or standing by construction equipment, vehicles or materials within the tree dripline. In the event of tree mortality due to disturbance or damage during construction, the project proponent would be responsible for tree replacement per the ratios outlined in Table 5.4-1. The proposed project would result in a less-than-significant impact on ordinance-size trees due to compliance with City Ordinances and therefore not conflict with the City's tree protection policies (City of San José, 2013).

f) **Less than Significant with Mitigation Incorporated.** The proposed project is located in an area identified as "Urban Service Area" and is consistent with the covered activities described in Section 2.3.2 of the Habitat Plan (SCVHA, 2012).

Please refer to discussion (a) for details on the project's adherence to Condition 1. Avoid Direct Impacts on Legally Protected Plant and Wildlife Species, Condition 15. Western Burrowing Owl, and Condition 17. Tricolored blackbird. In summary, Habitat Plan-covered species with potential to occur in and/or have habitat in the study area would be protected through the implementation of **Mitigation Measure BIO-1: Nesting Bird Protection Measures,** and **Mitigation Measure BIO-3: Wetland and Riparian Habitat Avoidance and Protection**.

The proposed project is located within the City of San José Coyote Valley Urban Reserve System Interface Zone as defined by the Habitat Plan,[7] and therefore would be subject to

[7] The Urban-Reserve System interface is defined as the zone between existing and future urban development and the Reserve System.

Condition 2, Incorporate Urban-Reserve System Interface Design Requirements. This condition sets design standards for urban development adjacent to existing Habitat Plan reserves or areas eligible for future acquisition into the Reserve System. Urban buildout adjacent to reserves has the potential to directly or indirectly adversely affect covered species and natural communities within the Reserve System. The project's proposed pump house would require minimal energy for lighting and operation. In addition, the pump house is designed at a relatively minimal height and massing given the structure is located in the vicinity of a large office complex. These project elements would remain consistent with the Urban Reserve System Interface design requirements.

The potential fire water loop connection pipeline is located on the north side of campus within grassland habitat. The construction footprint of this underground project element is in the vicinity of oak trees protected by Condition 14. Valley Oak and Blue Oak Woodland, of the Habitat Plan.[8] Valley oak or blue oak trees in this area are part of a larger oak woodland considered to be a sensitive biotic community. Although no trees are proposed for removal in this location, retained oak trees potentially exposed to construction disturbance would be protected by measures within Condition 14, such as buffer zones at a distance equal to or greater than the root protection zone; avoidance of irrigating in and around oak trees; alteration of natural grade through fill or other means within the root protection zone of oak trees will be minimized; and ensuring temporary project access points will be constructed as close as possible to the work area to minimize necessity for tree removal. Therefore, the project would not conflict with Condition 14, Valley Oak and Blue Oak Woodland of the Habitat Plan. Further, several trees within the designated Valley Oak and Blue Oak land cover type protection area of the Habitat Plan appear to be Eucalyptus (Eucalyptus spp.), a species not subject to Condition 14.

The majority of the proposed project site is located in Habitat Plan Fee Zone B (Agricultural and Valley Floor Land) in the Urban Service Area. The potential fire water loop connection pipeline would be located in Habitat Plan Fee Zone A (Ranchlands and Natural Lands). The proposed project site is not located in a Specialty Fee Zone. The project would comply with the appropriate Habitat Plan permanent and temporary impact fee requirements.

Given the above discussion, the proposed project would not conflict with the Habitat Plan.

Mitigation Measure BIO-1: Nesting Bird Protection Measures. (see criterion [a] above)

Mitigation Measure BIO-3: Wetland and Riparian Habitat Avoidance and Protection. (see criterion [c] above)

[8] Valley oak woodland and blue oak woodland are considered by CDFG to be sensitive biotic communities (SCVHA, 2012)

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5.5 Cultural Resources

Issues (and Supporting Information Sources):		Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
V.	**CULTURAL RESOURCES — Would the project:**				
a)	Cause a substantial adverse change in the significance of a historical resource pursuant to §15064.5?	☐	☐	☐	☒
b)	Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	☐	☒	☐	☐
c)	Disturb any human remains, including those interred outside of formal cemeteries?	☐	☐	☒	☐

Environmental Setting

Architectural Resources

Through a records search, background research, and field surveys, no historical resources were identified in the project site. As such, there are no architectural or structural resources in the project site that qualify as historical resources, as defined in CEQA Guidelines Section 15064.5.

Archaeological Resources

ESA completed a records search at the Northwest Information Center (NWIC) of the California Historical Resources Information System on May 10, 2019 (File No. 18-2185). The review included the project site and a 0.25-mile radius. Previous surveys, studies, and site records were accessed. Records were also reviewed in the Built Environment Resources Directory for Santa Clara County, which contains information on places of recognized historical significance including those evaluated for listing in the *National Register of Historic Places*, the *California Register of Historical Resources*, the *California Inventory of Historical Resources*, *California Historical Landmarks*, and *California Points of Historical Interest*. The purpose of the records search was to (1) determine whether known cultural resources have been recorded within the project vicinity; (2) assess the likelihood for unrecorded cultural resources to be present based on historical references and the distribution of nearby sites; and (3) develop a context for the identification and preliminary evaluation of cultural resources.

Results of the records search indicate that no cultural resources have been previously recorded in the project site. Two resources (P-43-000079 and P-43-000221) with an archaeological component have been recorded within ¼-mile of the project site. No historic-era cultural resources were identified either within the project site or the vicinity.

> P-43-000079 is a large habitation and burial site first recorded by S. Wilson in 1974. Wilson recorded chert flake waste, obsidian nodules, and midden soils. In 1998, Ohlone Families Consulting Services identified eight human burials within the site. These remains, along with other cultural material identified during the recovery, were collected, studied, and reburied in an unrecorded location within the site boundary. Ohlone Families note that it is likely that there are additional burials within the site boundary.

P-43-000221 is a midden deposit that was likely destroyed by construction, recorded by Katherine Flynn in 1976.

Archaeological Consulting and Research Services surveyed the entirety of the 200-acre IBM campus for cultural resources in 1977. Many other cultural resources studies have been completed within 0.5-mile of the IBM campus; most were conducted to the east in the direction of U.S. Highway 101 (Wilson, 1975; Archaeological Consulting and Research Services, 1977; Garaventa, 1983; Holman, 1985; Loveland et al., 1986; Ohlone Families Consulting Services, 1998; Hill et al.; 2006). These studies included record searches, surveys, excavation reports, and technical studies to support CEQA documentation.

On June 23, 2020, ESA archaeologist Ashleigh Sims M.A., RPA, conducted a surface survey of the proposed water line connecting the existing San José Municipal Water 12-inch line in Bailey Avenue into a new 12-inch firefighting water line and new 10-inch domestic water line, west and south of the IBM campus buildings. A large portion of the site was developed, and was located across and along the edge of a parking lot and paved roads. On March 12, ESA archaeologist Ashleigh Sims conducted a survey of the fire loop connection on the north side of the campus. During both surveys, areas where soil was visible were intuitively surveyed for cultural material. Specific attention was paid to the southwestern portion of the project site. The current surveys did not identify any cultural material within the project site. No prehistoric or historic-era resources were identified during the field surveys.

Regulatory Framework

National Register of Historic Places

The National Historic Preservation Act of 1966, as amended (U.S. Code Title 54, Section 306108), and its implementing regulations established the National Register of Historic Places (National Register) as a comprehensive inventory of known historic resources throughout the United States. The National Register is administered by the National Park Service under the direction of the Secretary of the Interior. It includes buildings, structures, sites, objects, and districts that possess historic, architectural, archaeological, engineering, or cultural significance. A property is considered significant if it meets the criteria for listing in the National Register at Code of Federal Regulations Title 36, Section 60.4 (36 CFR 60.4).

California Register of Historical Resources

The California Register is “an authoritative listing and guide to be used by state and local agencies, private groups, and citizens in identifying the existing historical resources of the state and to indicate which resources deserve to be protected, to the extent prudent and feasible, from substantial adverse change” (PRC Section 5024.1(a)). Certain resources are determined by law to be automatically included in the California Register, including California properties formally determined eligible for, or listed in, the National Register.

Native American Heritage Commission

The Native American Heritage Commission (NAHC) was created by statute in 1976, is a nine-member body appointed by the Governor to identify and catalog cultural resources (i.e., places of special religious or social significance to Native Americans, and known graves and cemeteries of Native Americans on private lands) in California. The Commission is responsible for preserving and ensuring accessibility of sacred sites and burials, the disposition of Native American human remains and burial items, maintaining an inventory of Native American sacred sites located on public lands, and reviewing current administrative and statutory protections related to these sacred sites.

California Public Resources Code Sections 5097.98 and 5097.99

PRC Section 5097.98 (reiterated in CEQA Guidelines Section 15064.5(e)) identifies steps to follow in the event of the accidental discovery or recognition of any human remains in any location other than a dedicated cemetery. PRC Section 5097.99 prohibits obtaining or possessing any Native American artifacts or human remains that are taken from a Native American grave or cairn (stone burial mound).

California Health and Safety Code Section 7050.5

California Health and Safety Code Section 7050.5 protects human remains by prohibiting the disinterment, disturbance, or removal of human remains from any location other than a dedicated cemetery.

City of San José Policies and Historic Preservation Ordinance

The City of San José Historic Preservation Ordinance (Municipal Code Chapter 13.48) is designed to identify, protect, and encourage the preservation of significant resources as a means to stabilize neighborhoods, enhance property values, carry out the goals of the General Plan, foster civic pride in the city's cultural resources, and celebrate the unique historical identity of San José.

Envision San José 2040 General Plan

General Plan Policies

The General Plan includes numerous policies to promote reduction or avoidance of impacts on historic and cultural resources. The policies listed below are relevant to the proposed project:

Envision San José 2040 Policies Relevant to Cultural Resources	
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

City of San José Standard Conditions for Approval

The following conditions of approval in the City's Standard Conditions for Approval (SCAs) are applicable to the proposed project:

SCA CUL-1: Subsurface Cultural Resources.

If prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the City's Historic Preservation Officer shall be notified, and a qualified archaeologist shall examine the find. The archaeologist shall 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery shall be submitted to Director of PBCE or the Director's designee and the City's Historic Preservation Officer and the Northwest Information Center (if applicable). Project personnel shall not collect or move any cultural materials.

SCA CUL-2: Human Remains.

If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Director of Planning, Building and Code Enforcement (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 Native American Heritage Commission (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:

a. 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.

b. The MLD identified fails to make a recommendation; or

c. 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.

d. If prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius

Discussion

To support the following discussion ESA prepared a cultural resources technical memo, which is included as **Appendix C** to this Initial Study.

a) **No Impact.** CEQA Guidelines Section 15064.5 requires the lead agency to consider the effects of a project on historical resources. An historical resource is defined as any building, structure, site, or object listed in or determined to be eligible for listing in the California Register, or determined by a lead agency to be significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, or cultural annals of California. The following discussion focuses on architectural and structural resources. Archaeological resources, including archaeological resources that are potentially historical resources according to CEQA Guidelines Section 15064.5, are addressed under impact b, below.

Through a records search, background research, and field surveys, no historical resources were identified in the project site. As such, there are no architectural or structural resources in the project site that qualify as historical resources, as defined in CEQA Guidelines Section 15064.5; therefore, the project is not anticipated to impact any historical resources and no mitigation is required.

b) **Less than Significant with Mitigation Incorporated.** This section discusses archaeological resources, both as historical resources according to CEQA Guidelines Section 15064.5, as well as unique archaeological resources, as defined in California Public Resources (PRC) (CEQA) Section 21083.2(g). A significant impact would occur if the project would cause a substantial adverse change to an archaeological resource through physical demolition, destruction, relocation, or alteration of the resource.

Based on the results of the records search, background research, and surface surveys, one archaeological resource has been identified in the vicinity of the project site and the project site has a high potential to uncover buried archaeological resources. As such, the proposed project may impact archaeological resources pursuant to CEQA Guidelines Section 15064.5.

The previous cultural resources study that included the project site (Archaeological Consulting and Research, 1977) identified an indigenous resource with human remains in the vicinity, though the remains were not near the project site. The EIR prepared for the original entitlements, in 1974, recommended that a thorough archaeological investigation, including excavation, may be necessary if work were to occur within 30 meters of the site

boundaries. While no evidence of the resource was identified on the surface during the current field surveys, Ohlone Families note that they collected and reburied surface material.

The project involves ground disturbing activities, which may have had the potential to disturb archaeological resources. Accordingly, the project shall implement **Mitigation Measure CUL-1: Cultural Resources Awareness Training,** and **Mitigation Measure CUL-2: Archaeological Monitoring,** in addition to **SCA CUL-1: Subsurface Cultural Resources** to determine, mitigate, and reduce any potential significant impacts. If any previously unrecorded archaeological resources are identified during project ground disturbing activities and were found to qualify as a historical resource per CEQA Guidelines Section 15064.5 or a unique archaeological resource, as defined in PRC (CEQA) Section 21083.2(g), any impacts to the resource resulting from the project could be potentially significant. Any such potential significant impacts would be reduced to a less than significant level with implementation of **Mitigation Measure CUL-1**, **Mitigation Measure CUL-2,** and **SCA CUL-1**.

Mitigation

Mitigation Measure CUL-1: Cultural Resources Awareness Training.

Prior to issuance of any grading or building permits, a Secretary of the Interior (SOIS)-qualified archaeologist shall conduct a training program for all construction and field personnel involved in ground disturbance. On-site personnel shall attend a mandatory pre-project training that shall outline the general archaeological sensitivity of the area and the procedures to follow in the event an archaeological resource and/or human remains are inadvertently discovered. A training program shall be established for new project personnel before they begin project work. The project applicant shall submit a copy of the training documents to the Director of Planning Building and Code Enforcement or the Director's designee for review and approval prior to the issuance of any grading or building permits. Documentation confirming the training sessions conducted shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee prior start of construction activities.

Mitigation Measure CUL-2: Archaeological Monitoring.

The project applicant shall have a qualified archaeologist monitor present during ground-disturbing activities in previously undisturbed soils within 60 meters (200 feet) of a previously recorded archaeological resource. An Archaeological Monitoring Plan (AMP) shall be prepared to guide the monitor. The monitoring shall be conducted by an archaeologist meeting or under the supervision of an archaeologist meeting the SOIS for Archeology. A report shall be prepared summarizing the results of the archaeological monitoring. The project applicant shall submit the AMP to the Director of Planning, Building and Code Enforcement or the Director's designee, prior to issuance of any grading permits for review and approval. A copy of the final summary report shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee within 14 days of completion of construction activities. Should archaeological resources be inadvertently discovered during project construction

activities, the procedures outlined in SCA CUL-1: Subsurface Cultural Resources shall be implemented.

c) **Less than Significant.** Based on the records search and survey results, no human remains are known to exist within the project site, although human remains have been identified near the project site. It is possible that human remains would be encountered during construction of the proposed project. Therefore, the possibility of inadvertent discovery cannot be entirely discounted. In the event of the discovery of human remains during project construction activities, implementation of **SCA CUL-2: Human Remains**, would reduce potential impacts to human remains.

References

Archaeological Consulting & Research Services, *Report of the Archaeological Reconnaissance of the Proposed IBM West Coast Programming Development Center, San José, Santa Clara County, California.* On file (S-4365), NWIC, 1977.

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Hill, Ward, Woodruff C. Minor, Denise Bradley, and Charlene Duvall, *Cultural Resources Technical Report in Support of the Environmental Impact Report (EIR), Coyote Valley Specific Plan (CVSP), Including Bailey Over the Hill Initial Study (with McKean Road Corridor), City of San José and Unincorporated Santa Clara County, California.* Prepared by Basin Research Associates, Inc. On file (S-39009), NWIC, 2006.

Holman, Miley Paul, Matthew Clark, and Randy Wiberg, *A Preliminary Report of Findings at the Proposed Apple Development Area, San José, California.* Prepared by Holman and Associates. On file (S-7521), NWIC, 1985.

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Northwest Information Center (NWIC), File No. 18-2185. California Historical Resources Information System at Sonoma State University, Rohnert Park. On file at ESA, May 10, 2019.

Ohlone Families Consulting Services, *The IBM Santa Teresa Laboratory Project: Burial Recovery Program at CA-SCL-62*. Prepared by Rosemary Cambra, Norma Sanchez, Viviana Bellifemine, and Susan Morley. On file (S-25382), NWIC, 1998.

Wilson, Steven, *Supervision of the Grading Activities near the Archaeologically Sensitive Area in the Southeastern Portion of the IBM West Coast Programming Center Job Site*. Prepared by Archaeological Consulting and Research Services. On file (S-4397), NWIC, 1975.

5.6 Energy

Issues (and Supporting Information Sources):	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
VI. ENERGY — 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?	☐	☐	☒	☐
b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	☐	☐	☒	☐

Environmental Setting

San José Clean Energy (SJCE) is the electricity provider for most residents and businesses in the City of San José. SJCE sources electricity, and the Pacific Gas and Electric Company (PG&E) delivers it to customers using existing PG&E utility lines. SJCE buys its power from a number of suppliers. Sources of renewable and carbon-free power include California wind, solar, and geothermal; Colorado wind; and hydroelectric power from the Pacific Northwest. SJCE customers are automatically enrolled in the GreenSource program, which provides 80 percent greenhouse gas (GHG) emission-free electricity. Customers can enroll in the TotalGreen program through SJCE and receive 100 percent GHG free electricity from entirely renewable resources. The IBM campus is supplied with electricity directly by PG&E because it requires higher than typical voltage.

Regulatory Framework

Many federal, State, and local statutes and policies address energy conservation. At the federal level, energy standards set by the USEPA apply to numerous consumer and commercial products.

State

California Renewable Energy Standards

In 2002, California established its Renewables Portfolio Standard (RPS) Program, with the goal of increasing the percentage of renewable energy in the State's electricity mix to 20 percent of retail sales by 2010. In 2006, California's 20 percent by 2010 RPS goal was codified under Senate Bill (SB) 107. Under the provisions of SB 107 (signed into law in 2006), investor-owned utilities were required to generate 20 percent of their retail electricity using qualified renewable energy technologies by the end of 2010. In 2008, Executive Order S-14-08 was signed into law and requires that retail sellers of electricity serve 33 percent of their load with renewable energy by 2020.

In October 2015, Governor Brown signed SB 350 to codify California's climate and clean energy goals. A key provision of SB 350 for retail sellers and publicly owned utilities, requires them to procure 50 percent of the State's electricity from renewable sources by 2030.

California Building Codes

At the State level, the Energy Efficiency Standards for Residential and Nonresidential Buildings, as specified in Title 24, Part 6, of the California Code of Regulations (Title 24), was established in 1978 in response to a legislative mandate to reduce California's energy consumption. Title 24 is updated approximately every three years. Compliance with Title 24 is mandatory at the time new building permits are issued by city and county governments (California Energy Commission, 2020).[9]

The California Green Building Standards Code (CalGreen) establishes mandatory green building standards for all buildings in California. The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resource efficiency, and indoor environmental quality.

Local

General Plan Policies

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating energy impacts from development projects. Policies applicable to the proposed project are presented below.

Envision San José 2040 Policies Relevant to Energy

Policy MS-1.6	Recognize the interconnected nature of green building systems, and, in the implementation of Green Building Policies, give priority to green building options that provide environmental benefit by reducing water and/or energy use and solid waste.
Policy MS-2.1	Develop and maintain policies, zoning regulations, and guidelines that require energy conservation and use of renewable energy sources
Policy MS-2.4	Promote energy efficient construction industry practices.
Policy 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).
Policy MS-3.1	Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions.
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.

Discussion

a, b) **Less than Significant.** Construction and operation of the proposed project would require energy consumption. Construction of the project would increase consumption of energy

[9] California Energy Commission. 2019 Building Energy Efficiency Standards for Residential and Nonresidential Buildings. 2018. https://ww2.energy.ca.gov/2018publications/CEC-400-2018-020/CEC-400-2018-020-CMF.pdf.

in the forms of electricity and fossil fuels (e.g., gasoline and diesel) during proposed construction activities. The primary construction-related energy demands would be construction equipment, worker vehicles, and material delivery trucks. The project does not have unusual characteristics that would require construction equipment that would be less energy-efficient than at comparable construction sites in other parts of the County. Therefore, it is expected that construction fuel consumption associated with the proposed project would not be any more inefficient, wasteful, or unnecessary than at other construction.

During project operation, diesel fuel would be consumed by the diesel fire pumps, and electricity would be consumed by the pump house lighting, and the pump house security system. However, use of the fire pumps would be intermittent, occurring only during routine testing activities and when the fire water supply is used, and the pump house lighting, heating, and security system would consume minimal amounts of electricity. Therefore, it is expected that fuel consumption and electricity associated with the proposed project would not be inefficient, wasteful, or unnecessary.

Climate Smart San José outlines a path to achieving the Paris Agreement's greenhouse gas emission reduction targets. In addition, the City's General Plan contains several goals and polices to address energy conservation, renewable energy use, and water conservation and quality (Goal MS-2, Policies MS-2.1 through 2.12, and Goal MS-3, and Policies MS-3.1 through 3.9). The project's consistency with the Greenhouse Gas Reduction Strategy is addressed under Section 5.8, *Green House Gas Emissions*. Water consumption and water efficiency is addressed under Section 5.10, *Hydrology and Water Quality* and Section 5.19, *Utilities and Service Systems*.

Considering the information presented above, the proposed project's construction and operational-related energy consumption would not result in inefficient, wasteful, or unnecessary use of energy, as such the project would also comply with state and local energy efficiency requirements, and impacts would be less than significant.

References

City of San José, *Envision San José 2040 General Plan,* Adopted November 1, 2011. Amended on March 16, 2020.

5.7 Geology and Soils

Issues (and Supporting Information Sources):	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
VII. GEOLOGY AND SOILS — 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.	☐	☐	☒	☐
ii) Strong seismic ground shaking?	☐	☐	☒	☐
iii) Seismic-related ground failure, including liquefaction?	☐	☐	☒	☐
iv) Landslides?	☐	☐	☒	☐
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☒	☐
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?	☐	☐	☒	☐
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?	☐	☐	☒	☐
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?	☐	☐	☐	☒
f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	☐	☐	☒	☐

As described previously under *Air Quality*, in the *California Building Industry Association v. Bay Area Air Quality Management District* case decided in 2015, the California Supreme Court held that CEQA does not generally require lead agencies to consider how existing environmental conditions might impact a project's users or residents, except where the proposed project would significantly exacerbate an existing environmental condition. Thus, with respect to seismic hazards, this Initial Study is not required to consider the effects of bringing a new population into an area where such hazards exist because the project would not increase or otherwise affect the conditions that create those risks. Furthermore, the identified significance criteria related to locating development on unstable geologic units and soils are valid only to extent that the project would significantly exacerbate those risks. Thus, potential seismic and geologic hazards, and applicable regulatory mechanisms that address these effects, are disclosed in this section, for informational purposes.

Environmental Setting

Topographically, the site is essentially flat. The site is located within the Santa Clara Valley, an alluvial basin that lies between the Santa Cruz Mountains to the southwest and the Diablo Range to the northeast.

The project site is located within the seismically active San Francisco Bay Area. Santa Clara Valley is located between the active San Andreas Fault to the west, and the active Hayward and Calaveras faults to the east. Surface fault rupture tends to occur along existing fault traces. The California Geological Survey (formerly Division of Mines and Geology) has produced maps showing Alquist-Priolo Earthquake Fault Zones along faults that pose a potential surface faulting hazard. The major active faults, nearest to the project site are the Monte Vista (0.25 miles west) Hayward (5 miles northeast), Calaveras (6 miles east) and San Andreas fault (10 miles southwest) (CGS, 2010).

The project site is located in a Liquefaction Seismic Hazard Zone, and is located near the foot of the Santa Teresa Hills and near a Landslide Seismic Hazard Zone (CGS, 2004).

The project site is identified as having a "high sensitivity at depth" to yield significant fossil; that is, the project site it is not likely to yield resources at the surface but may contain resources at depth (City of San José, 2011).

Regulatory Framework

State

California Building Code

The 2019 California Building Standards Code (CBC) was published on July 1, 2019 and took effect on January 1, 2020. The 2019 CBC is a compilation of three types of building criteria from three different origins:

- Building standards that have been adopted by state agencies without change from building standards contained in national model codes;
- Building standards that have been adopted and adapted from the national model code standards to meet California conditions; and
- Building standards, authorized by the California legislature, that constitute extensive additions not covered by the model codes that have been adopted to address particular California concerns.

The CBC identifies acceptable design criteria for construction that addresses seismic design and load- bearing capacity, including specific requirements for seismic safety; excavation, foundation and retaining wall design, site demolition, excavation, and construction, and drainage and erosion control.

Changes in the 2019 provide enhanced clarity and consistency in application. The basis for the majority of these changes resulted from California amendments to the 2018 model building codes. Some of the most significant change include the following:

- Aligns engineering requirements in the building code with major revisions to national standards for structural steel and masonry construction, minor revisions to standards for wood construction, and support and anchorage requirements of solar panels in accordance with industry standards;
- Clarifies requirements for testing and special inspection of selected building materials during construction; and
- Recognizes and clarifies design requirements for buildings within tsunami inundation zones.

Paleontological Resources Regulations - California Public Resources Code

Paleontological resources are the fossilized remains of organisms from prehistoric environments found in geologic strata. They range from mammoth and dinosaur bones to impressions of ancient animals and plants, trace remains, and microfossils. California Public Resources Code (Section 5097.5) stipulates that the unauthorized removal of a paleontological resource is a misdemeanor. Under the CEQA Guidelines, a project would have a significant impact on paleontological resources if it would disturb or destroy a unique paleontological resource or site or unique geologic feature.

Local

General Plan Policies

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating geology and soils impacts from development projects. Policies applicable to the proposed project are presented below.

Envision San José 2040 Policies Relevant to Geology and Soils	
Policy EC-3.1	Design all new or remodeled habitable structures in accordance with the most recent California Building Code and California Fire Code as amended locally and adopted by the City of San José, including provisions regarding lateral forces.
Policy EC-4.1	Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and storm water controls.
Policy EC-4.2	Development in areas subject to soils and geologic hazards, including unengineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. The City of San José Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process. [The City Geologist will issue a Geologic Clearance for approved geotechnical reports.]
Policy EC-4.4	Require all new development to conform to the City of San José's Geologic Hazard Ordinance.

Envision San José 2040 Policies Relevant to Geology and Soils	
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, adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 1 and April 30.
Action EC-4.11	Require the preparation of geotechnical and geological investigation reports for projects within areas subject to soils and geologic hazards, and require review and implementation of mitigation measures as part of the project approval process.
Action EC-4.12	Require review and approval of grading plans and erosion control plans prior to issuance of grading permits by the Director of Public Works.
Policy ES-4.9	Permit development only in those areas where potential danger to health, safety, and welfare of the persons in that area can be mitigated to an acceptable level.
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.

San José Standard Conditions for Approval

The City's Standard Conditions for Approval (SCAs) relevant to the proposed project's geology, soils, and paleontological resources impacts are presented below. If the proposed project is approved by the City, all applicable SCAs would be adopted as conditions of approval; the project applicant would be required, as applicable, to implement the SCAs during project construction and operation to address impacts related to geology, soils, and paleontological resources. The SCAs are incorporated and required as part of the project, so they are not listed as mitigation measures.

SCA GEO-1: Seismic Damage

The project applicant shall implement the following conditions:

- To avoid or minimize potential damage from seismic shaking, project construction shall use standard engineering and seismic safety design techniques. Complete building design and construction at the site in conformance with the recommendations of an approved geotechnical investigation. The geotechnical investigation report shall be reviewed and approved by the Department of Public Works as part of the building permit review and entitlement process. The buildings 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.

- Schedule all excavation and grading work in dry weather months or weatherize construction sites.

- Cover stockpiles and excavated soils with secured tarps or plastic sheeting.

- Install ditches to divert runoff around excavations and graded areas if necessary.

- The project shall be constructed in accordance with the standard engineering practices in the California Building Code, as adopted by the City of San José. A grading permit from the San José Department of Public Works shall be obtained prior to the issuance of a Public Works clearance. These standard practices would ensure that the future building on the site is designed to properly account for soils-related hazards on the site.

SCA GEO-2: Paleontological Resources

If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee 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 PBCE or the Director's designee.

Discussion

a.i) **Less than Significant.** The project site not located in an Alquist-Priolo Earthquake Fault Zone nor is it located on or immediately adjacent to an active or potentially active fault. [10] The major active faults, nearest to the project site are the Monte Vista (0.25 miles west) Hayward (5 miles northeast), Calaveras (6 miles east) and San Andreas fault (10 miles southwest) (CGS, 2010). As the site is not located in an Alquist-Priolo Earthquake Fault Zone nor located on an active fault, fault rupture hazards associated with the proposed project is considered low and there would be a less than significant impact.

a.ii, iii) **Less than Significant.** The project site is located in a seismically active region. Recent studies by the United States Geological Survey (USGS) indicate there is a 72 percent likelihood of a Richter magnitude 6.7 or higher earthquake occurring in the Bay Area in the next 30 years (USGS, 2015). The project site could experience a range of ground shaking effects during an earthquake on one of the Bay Area regional active faults. An earthquake on the nearby faults could result in very strong ground shaking intensities.[11]

[10] An active fault is defined by the State of California is a fault that has had surface displacement within Holocene time (approximately the last 10,000 years). A potentially active fault is defined as a fault that has shown evidence of surface displacement during the Quaternary (last 1.6 million years), unless direct geologic evidence demonstrates inactivity for all of the Holocene or longer. This definition does not, of course, mean that faults lacking evidence of surface displacement are necessarily inactive. Sufficiently active is also used to describe a fault if there is some evidence that Holocene displacement occurred on one or more of its segments or branches (Hart, 1997).

[11] Shaking intensity is a measure of ground shaking effects at a particular location, and can vary depending on the overall magnitude of the earthquake, distance to the fault, focus of earthquake energy, and type of underlying geologic material. The Modified Mercalli (MM) intensity scale is commonly used to measure earthquake effects due to ground shaking. The MM values for intensity range from I (earthquake not felt) to XII (damage nearly total).

Such seismic shaking can also trigger ground failures caused by liquefaction, potentially resulting in foundation damage, disruption of utility service and roadway damage.[12]

The project site is located in a Liquefaction Seismic Hazard Zone (CGS, 2004). SCA GEO-1 requires that the project implement recommendations identified in an approved geotechnical engineering report, which would include design and construction recommendations to avoid and reduce liquefaction hazards. Implementation of these recommendations along with adherence to these design and construction recommendations along with seismic provisions in the California Building Code (CBC), included as SCA GEO-1**,** would reduce potential impacts from ground shaking and liquefaction to less than significant.

a.iv) **Less than Significant.** The project site is relatively level and is not located in a Landslide Seismic Hazard Zone. The project site is located near the foot of the Santa Teresa Hills and near a Landslide Seismic Hazard Zone (CGS, 2004). While the site is near a Landslide Seismic Hazard Zone the site itself does not present a hazard or require mitigation according to the Seismic Hazards Mapping Act (Specifically Public Resources Code Section 2693(c)), The proposed project would not exacerbate the existing risk of landslides. Impacts would be less than significant.

b) **Less than Significant.** Implementation of the proposed project would include earthwork activities such as grading and trenching. If not conducted appropriately, these activities could potentially expose underlying materials to the effects of erosion. Construction on the site would disturb more than one acre of the site and therefore, the project would be subject to the National Pollutant Discharge Elimination System (NPDES) requirements under the General Construction Permit which includes erosion control requirements (refer to Section 5.10, *Hydrology and Water Quality* below). To comply with the permit, the project applicant would be required to develop, submit and implement a site-specific stormwater pollution prevention program (SWPPP) with construction best management practices (BMPs). These erosion control BMPs that could include use of straw bales, storm drain inlet protections, silt fences, and covering excavation stockpiles. Sediment control measures during construction are also required by SCA HYD-1. Because the contractor would be required to develop and implement BMPs to minimize potential erosion and subsequent sedimentation of stormwater runoff in accordance with the SWPPP, NPDES General Construction Permit, and SCA HYD-1, the potential impact or erosion or loss of topsoil would be less than significant.

c) **Less than Significant.** The project site would be located on soil with a low potential for instability related to lateral spreading, liquefaction, subsidence or collapse. As addressed under a.ii, iii), above, while the project site is subject to a low potential for liquefaction, it would implement standard permit conditions to comply with the CBC. This requires that the project implement recommendations identified in an approved geotechnical

[12] Liquefaction is the process by which saturated, loose, fine-grained, granular, soil, like sand, behaves like a dense fluid when subjected to prolonged shaking during an earthquake.

engineering report, which would include design and construction recommendations to avoid and reduce liquefaction hazards.

Land subsidence is a settling of the earth's surface due to the compaction of subsurface materials. The Santa Clara Valley Groundwater Basin, which extends as far north as San Francisco and includes the project site, has historically experienced subsidence resulting from excessive withdrawal of groundwater. However, the project site is not identified as an area within the Santa Clara Valley that has experienced subsidence (USGS, 2020). Operation of the proposed project would not involve the withdrawal of groundwater and there is no physical or historical evidence of subsidence at the project site.

In accordance with SCA GEO-1, the proposed project would be designed and constructed consistent with the recommendations of an approved geotechnical investigation. It would also be subject to seismic provisions in the CBC, which would include incorporation of site preparation measures to ensure site stability. Therefore, while the project would be located on a geologic unit or soil that is potentially unstable, project characteristics and the building code requirements would ensure it does not exacerbate on- or off-site conditions.

d) **Less than Significant.** Soils found on the project site include Zamora loam, Vallecitos rocky loam, Pacheco clay loam, Los Robles clay loam, and Clear Lake clay (USDA, 2020). Expansive soils typically include excessive swelling clay minerals, which may be present in on-site soil. In order to address the project site's expansion potential, the project would need to implement recommendations an approved geotechnical report prepared for the project that would design and engineering measures to avoid and reduce adverse effects of expansive soil on the proposed project. Implementation of SCA GEO-1 and adherence to existing building code requirements would reduce the potential impact from expansive soils to less than significant.

e) **No Impact.** The project would not include any septic tanks or waste water systems. There would be no impact.

f) **Less than Significant**. The project site is identified as having a "high sensitivity at depth" to yield significant fossil; that is, the project site it is not likely to yield resources at the surface but may contain resources at depth (City of San José, 2011). The project footprint has previously been modified by agricultural practices and development of the IBM campus and thus all soil at the project site is previously disturbed. Trenching for the proposed project would occur up to a maximum depth of approximately 5 feet. While the proposed project construction is not expected to encounter paleontological resources, it has the potential to impact paleontological resources. Consistent with General Plan Policy ER-10.3, SCA GEO-2 would be implemented by the project to reduce or avoid impacts to paleontological resources to a less than significant level.

References

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5.8 Greenhouse Gas Emissions

Issues (and Supporting Information Sources):	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
VIII. GREENHOUSE GAS EMISSIONS — Would the project:				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☒	☐
b) Conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	☒	☐

Environmental Setting

Certain gases in the earth's atmosphere, greenhouse gases (GHGs), are important in regulating the earth's surface temperature. As solar radiation enters the atmosphere from space, some of the radiation is absorbed by the earth's surface. Radiation is emitted back toward space; however, greenhouse gases in the atmosphere absorb this radiation, resulting in a warming of the atmosphere. Carbon dioxide (CO_2), methane, ozone, water vapor, nitrous oxide, and chlorofluorocarbons are the most prominent greenhouse gases. The emission of these gases is excess of natural ambient concentrations has led to an enhanced greenhouse effect and accelerated warming of the atmosphere. In California, the transportation and industrial sectors result in the largest emission of GHGs (CARB, 2018).

Regulatory Framework

State and Regional

The California Global Warming Solutions Act (Assembly Bill [AB] 32, 2006), as amended, sets statewide GHG emissions caps. California Air Resources Board (CARB) established the Climate Change Scoping Plan, which outlined a framework for achieving the emission reduction goals set in the California Global Warming Solutions Act. Senate Bill (SB) 375 requires CARB to develop regional GHG reduction goals for the automobile and light truck sectors. The *Plan Bay Area* is a plan to achieve regional GHG reduction goal by improving transportation access, maintaining the region's infrastructure, and enhancing resilience to climate change through strategies such as fostering open space. There are a number of other laws in California intended to reduce GHG emissions through the regulation of construction standards, growth, and municipal operations.

Within the Bay Area, the BAAQMD developed the 2017 Clean Air Plan, which lays the groundwork for the Bay Area to reduce reach regional GHG reduction goals (BAAQMD 2017a). Additionally, the BAAQMD CEQA Air Quality Guidelines provides thresholds and guidance for greenhouse gas emissions for CEQA. The guidelines include a threshold of 10,000 metric tons per year (MT/yr) of CO_2 equivalent (CO_2e) for stationary-source projects that include land uses that would accommodate processes and equipment that emit GHG emissions and would require an Air District permit to operate. The threshold for general land use development is 1,100 MT/yr

of CO_2e (BAAQMD, 2017b). BAAQMD has established no construction-related emission thresholds.

Local

The Envision San José 2040 General Plan includes many strategies, policies, and action items, which, along with the City's GHG Reduction Strategy are intended to reduce GHG emissions (City of San José, 2020). The City has completed its Greenhouse Gas Reduction Strategy, which was developed along with the General Plan. The updated GHG Reduction Strategy will serve as the City's Climate Action Plan. The City's existing GHG Reduction Strategy identifies GHG reduction measures to be implemented by developments (City of San José, 2015). In 2008, the City of San José adopted the Private Sector Green Building Policy (6-32) which established green building standards for private sector new construction (City of San José, 2011). A GHG Reduction Strategy Compliance Checklist was prepared for the proposed project and is included as **Appendix D**.

General Plan

The City of San Jose adopted the Envision San Jose 2040 General Plan for the purpose of avoiding or mitigating greenhouse gas emissions impacts from development projects. Policies applicable to the proposed project are presented below.

Envision San José 2040 Policies Relevant to Greenhouse Gas Emissions	
Policy MS-1.2	Continually increase the number and proportion of buildings within San José that make use of green building practices by incorporating those practices into both new construction and retrofit of existing structures.
Policy MS-2.2	Encourage maximized use of on-site generation of renewable energy for all new and existing buildings.
Policy MS-2.3	Encourage consideration of solar orientation, including building placement, landscaping, design, and construction techniques for new construction to minimize energy consumption.
Policy 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-3.1	Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial and developer-installed residential development unless for recreation needs or other area functions.
Goal MS-3.2	Promote the use of green building technology or techniques that can help reduce the depletion of the City's potable water supply, as building codes permit. For example, promote the use of captured rainwater, graywater, or recycled water as the preferred source for non-potable water needs such as irrigation and building cooling, consistent with Building Codes or other regulations.
Policy MS-14.4	Implement the City's Green Building Policies so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.
Policy MS-19.4	Require the use of recycled water wherever feasible and cost-effective to serve existing and new development.

Policy MS-21.3	Ensure that San José's Community Forest is comprised of species that have low water requirements and are well adapted to its Mediterranean climate. Select and plant diverse species to prevent monocultures that are vulnerable to pest invasions. Furthermore, consider the appropriate placement of tree species and their lifespan to ensure the perpetuation of the Community Forest.
Policy MS-21.6	As a condition of new development, require the planting and maintenance of both street trees and trees on private property to achieve a level of tree coverage in compliance with and that implements City laws, policies or guidelines.
Policy ER-8.7	Encourage stormwater reuse for beneficial uses in existing infrastructure and future development through the installation of rain barrels, cisterns, or other water storage and reuse facilities.

Discussion

a) **Less than Significant.** Construction of the proposed project would result in the generation of GHG emissions from the use of off-road construction equipment, and on-road worker and vendor vehicles. Construction-related GHG emissions for the proposed project were estimated using CalEEMod (version 2016.3.2). Approximately 55.58 MT of CO_2e would be generated during project construction. However, construction activities would occur over a limited period and GHG emission from construction would not contribute meaningfully to statewide emissions.

During project operations, sources of GHG emissions would include the diesel fire pumps and electricity consumed by the pump house lighting, and the pump house security system. As discussed in Section 5.17, *Transportation*, the project, by installing water supply infrastructure, does not involve long-term trip-generating uses and would not result in mobile-related GHG emissions during operation. Operational-related GHG emissions for the proposed project were estimated using CalEEMod. Fire pump specifications were provided by the project applicant, and electricity usage was conservatively estimated using CalEEMod default factors for a general heavy industrial type building.

As shown in **Table 5.8-1**, estimated annual project-generated GHG emissions would be approximately 8.26 MT CO_2e per year as a result of proposed project operation. Therefore, the total annual project-related GHG emissions would not exceed the BAAQMD GHG significance threshold of 1,100 MT CO_2e per year for land use projects, nor would it exceed the threshold of 10,000 MT CO_2e per year for stationary-source projects. Impacts would be less than significant.

TABLE 5.8-1
ESTIMATED GHG EMISSIONS GENERATED BY THE PROPOSED PROJECT

Emission Source	Total Emissions (MT/Year)			
	CO_2	CH_4	N_2O	Total CO_2e
Energy Sources	2.29	<0.01	<0.01	2.30
Stationary Sources – Diesel Fire Pumps	5.94	<0.01	<0.01	5.96
Operation Total	**8.23**	**<0.01**	**<0.01**	**8.26**
BAAQMD Annual Emissions Threshold				1,100/10,000
Exceeds Significance Threshold?				**No**

NOTE: Columns may not total precisely due to rounding, and due to the influence of minimal amounts of less common GHGs not represented in the table.

SOURCE: ESA (Appendix A)

b) **Less than Significant.** As described above, the City of San José has established policies to reduce GHG emissions in its General Plan, its GHG Reduction Strategy, its Municipal Code, and its Private Sector Green Building Policy. Overall, the proposed project would be consistent with GHG Reduction Strategy Measures, as it would be required to comply with the Green Building Ordinance. Additionally, the project would support the GHG Reduction Strategy and General Plan water conservation goals as the proposed project would not require irrigation. The project would not result in operational emissions above BAAQMD thresholds and would result in minimal, temporary emissions resulting from construction. Additionally, the project would be in conformance with the City of San José 2030 Greenhouse Gas Reduction Strategy as shown in the GHG Reduction Strategy Compliance Checklist prepared for the project (see Appendix D).

Given that the project will be consistent with the GHG reduction strategies identified above, and its GHG emissions would be less than BAAQMD thresholds, the proposed project would not conflict with implementation of recommended actions in plans adopted to reduce GHGs including the AB 32 Climate Change Scoping Plan and the City of San José Greenhouse Gas Reduction Strategy. Therefore, the proposed project would not conflict with an applicable plan, policy, or regulation adopted for reducing the emissions of GHGs, and the project would have a less than significant impact.

References

Bay Area Air Quality Management District (BAAQMD), 2017a. *Final 2017 Clean Air Plan*, April 2017.

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5.9 Hazards and Hazardous Materials

Issues (and Supporting Information Sources):		*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
IX.	**HAZARDS AND HAZARDOUS MATERIALS — Would the project:**				
a)	Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☒	☐	☐
b)	Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☒	☐	☐
c)	Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☒
d)	Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☐	☐	☐	☒
e)	For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?	☐	☐	☐	☒
f)	Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☒	☐
g)	Expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires?	☐	☐	☒	☐

As described previously under *Air Quality*, in the *California Building Industry Association v. Bay Area Air Quality Management District* case decided in 2015, the California Supreme Court held that CEQA does not generally require lead agencies to consider how existing environmental conditions might impact a project's users or residents, except where the proposed project would significantly exacerbate an existing environmental condition. The identified significance criteria related to locating development on a site, which is included on a list of hazardous materials sites; projects within an airport land use plan or in the vicinity of a private airstrip; locating development and population in a wildland fire risk area, are valid only to extent that the project would significantly exacerbate those risks. Nonetheless, all potential applicable project impacts associated with hazards and hazardous materials, and applicable regulatory mechanisms that address these effects, are disclosed in this section, for informational purposes.

Environmental Setting

Site information is based on the results of a Phase I Environmental Site Assessment (ESA) prepared for the project site in July 2020 by Cornerstone Earth Group.

Site History

Historical photographs and topographic maps of the project site from 1939 through 1974 show the project site as orchard farmland. Photographs and maps from 1980 until 2016 show development of the IMB campus, with on-site access roads, parking lots, and remaining orchard trees located on the project site (Cornerstone Earth Group, 2020).

Existing Conditions

On-Site Sources of Contamination

The Department of Toxic Substances Control (DTSC) publishes the Hazardous Waste and Substances Sites (Cortese) List, which identifies known hazardous materials sites. The list is a planning document used by several agencies and developers to comply with CEQA requirements. The project site is not included on the Cortese List (DTSC, 2020a). The Phase I ESA indicated that project site was used for agricultural use until at least the early 1970's. Therefore, there is a possibility that pesticides may have been applied to crops in the normal course of farming operations on the project site, and residual pesticide concentrations may remain in on-site soil which is considered a recognized environmental condition (Cornerstone Earth Group, 2020).

Off-Site Sources of Contamination

The DTSC EnviroStor and the State Water Resources Control Board (SWRCB) GeoTracker databases were consulted to identify any hazardous materials sites in the Project area. No hazardous material sites were identified within 1,000 feet of the Project site (Cornerstone Earth Group, 2020; DTSC, 2020b; SWRCB 2020).

Regulatory Background

Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

CERCLA, commonly known as Superfund, was enacted by Congress in 1980. This law provided broad Federal authority to respond directly to releases or threatened releases of hazardous substances that may endanger public health or the environment. CERCLA established prohibitions and requirements concerning closed and abandoned hazardous waste sites; provided for liability of persons responsible for releases of hazardous wastes at these sites; and established a trust fund to provide for cleanup when no responsible party could be identified. CERCLA was amended by the Superfund Amendments and Reauthorization Act on October 17, 1986. The EPA maintains the National Priorities List of Superfund sites.

State Water Resources Control Board (SWRCB)

The SWRCB was created by the Porter-Cologne Act (1967) and is responsible for the oversight of water rights, water pollution and water quality functions. The state is divided into nine regions, each with a Regional Water Quality Control Board (RWQCB). These agencies are authorized to adopt regional water quality control plans, prescribe waste discharge requirements, and perform other functions concerning water quality control within their respective regions. The City of San José is located in Region 2 (San Francisco Bay).

The San Francisco Bay RWQCB oversees the unauthorized releases of pollutants to soils and ground water but in some cases also to surface waters or sediments. Sites that are managed by the San Francisco Bay Regional Water Quality Control Board include sites with pollution from recent or historical surface spills, subsurface releases (e.g., pipelines, sumps, etc.), and other unauthorized discharges that pollute or threaten to pollute surface and groundwater. The State Water Code provides authority for the RWQCB to require investigation and cleanup of sites with unauthorized pollutant releases. The Water Code Section 13304 also authorizes the RWQCB to require technical reports from suspected dischargers, issue "cleanup and abatement" orders to dischargers, and recover costs for oversight of site cleanup. State Water Board Resolution No. 92-49, "Policies and Procedures for Investigation, Cleanup and Abatement of Discharges Under Water Code Section 13304;" No. 68-16, "Statement of Policy with Respect to Maintaining High Quality of Waters in California;" and No. 88-63, "Sources of Drinking Water," contain the policies and procedures that all Regional Water Quality Control Boards shall follow to oversee and regulate investigations and cleanup and abatement activities resulting from all types of discharge or threat of discharge subject to Water Code Section 13304. The RWQCB provides guidance on required cleanup at low risk fuel sites.

The RWQCB also oversees the discharge of storm water/urban runoff to the South San Francisco Bay. In 2009 it issued a Regional Municipal Stormwater NPDES for the entire Bay Area based in large part on an earlier joint NPDES Permit to Santa Clara County, the Santa Clara Valley Water District, and 13 of the cities within the County, including San José. This collection of municipalities and agencies formed an association called the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) to meet National Pollutant Discharge Elimination System (NPDES) permit regulations by sharing resources and collaborating on projects of mutual benefit. Program participants share a common permit to discharge storm water to South San Francisco Bay. To reduce pollution in urban runoff to the "maximum extent practicable", the program incorporates regulatory monitoring, "Industrial/Commercial Discharger Control" (referred to as "IND") inspections, and outreach measures aimed at improving the water quality of South San Francisco Bay and the streams of the Santa Clara Valley

Local Hazardous Materials Ordinances

In addition to the programs listed above, the San José Fire Department administers a local Hazardous Materials Storage Ordinance (San José Municipal Code Chapter 17.68) and Toxic Gas Ordinance (San José Municipal Code Chapter 17.78). The Storage Ordinance and the Toxic Gas Ordinance are standalone ordinances developed to address specific safety needs in San José that were not adequately covered in previous state codes. The Storage Ordinance was first adopted in 1983, and the Toxic Gas Ordinance in 1990. At the time, they were the first attempt in the nation at providing some framework for regulation. Since then, a high percentage of the requirements in those ordinances have been adopted in national model codes and the International Fire Code.

San José 2040 General Plan

The following policies from the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to hazards and hazardous materials:

Envision San José 2040 Policies Relevant to Hazards and Hazardous Materials	
Policy EC-7.1	Ensure that development within the designated Rural Scenic Corridors is designed to preserve and enhance attractive natural and man-made vistas. 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-7.5	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.
Policy 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.
Policy 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.
Policy 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.
Policy EC-7.11	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.

Discussion

a) **Less than Significant with Mitigation Incorporated.** The construction of the proposed project would require the use of heavy equipment for construction activities as well as the use of other common hazardous materials including fuels, oils, solvents, glues and others. If not managed appropriately, construction activities could potentially expose construction workers or the environment to hazardous materials through inappropriate use, storage, handling, or disposal. However, current industry practices and construction BMPs that would be required under the NPDES General Construction Permit (see further discussion in Section 5.10, *Hydrology and Water Quality*) would include protection measures (e.g., dedicated areas for storage of hazardous materials and conformance with manufacturers handling recommendations) to minimize exposure to any hazardous materials used during construction.

Additionally, due to the former agricultural uses on the project site, the Phase I ESA prepared for the proposed project identified that residual pesticide concentrations may be present on the project site. **Mitigation Measure HAZ-1: Soil Sampling and Soil Management Plan,** would require soil sampling on-site to determine if residual pesticide concentrations are present. If residual pesticides are detected in on-site soil, preparation

of a Soil Management Plan (SMP), Removal Action Plan (RAP), or equivalent document must be prepared by a qualified hazardous materials consultant would be required to identify procedures for employee protection. Additionally, Mitigation Measure HAZ-1 would require potentially contaminated soil to be segregated and stockpiled for subsequent testing and laboratory analyses to determine if the soil can be reused on-site or if it is required to be disposed off-site at a permitted facility.

Once construction is completed, only common household hazards such as cleaning products, would likely be present, and would present no undue hazards to the public. Therefore, with implementation of Mitigation Measure HAZ-1, the proposed project would generate a less-than-significant impact from the transport, use, or disposal of hazardous materials.

Mitigation

Mitigation Measure HAZ-1: Soil Sampling and Soil Management Plan.

Prior to the commencement of construction activities, the project applicant shall conduct on-site soil sampling to determine if residual pesticide concentrations are present in soils to be disturbed on the project site.

If pesticide contaminated soils are found in concentrations above regulatory environmental screening levels for construction worker safety and/or commercial/industrial standards, a Soil Management Plan (SMP), Removal Action Plan (RAP), or equivalent document must be prepared by a qualified hazardous materials consultant. The plan must establish remedial measures and/or soil management practices to ensure construction worker safety and the health of future workers and visitors. The project applicant shall obtain regulatory oversight from the Santa Clara County Department of Environmental Health (SCCDEH) or the California Department of Toxic Substances Control (DTSC) under their Voluntary Cleanup Program. The Plan and evidence of regulatory oversight shall be provided to the Supervising Environmental Planner of the City of San José Planning, Building, and Code Enforcement, and the Environmental Compliance Officer in the City of San José's Environmental Services Department prior to the issuance of a grading permit.

Additionally, potentially contaminated soil shall be segregated and stockpiled at a designated, plastic-lined stockpile area for subsequent testing and laboratory analyses to determine if the soil can be reused on-site or if it is required to be disposed off-site at a permitted facility. A protocol and procedures for the reuse and disposal of potentially contaminated soil during construction shall be included in the SMP, RAP, or equivalent document prepared by the qualified hazardous materials consultant

b) **Less than Significant with Mitigation Incorporated.** Construction activities would not involve building demolition, and could involve minor quantities of paints, solvents, oil and grease, and petroleum hydrocarbons as also discussed in Section 5.10, *Hydrology and Water Quality*. Compliance with hazardous materials BMPs, as identified in a Stormwater Pollution Prevention Plan (SWPPP), in accordance with the NPDES General Construction

Activities permit would reduce potential impacts from spills or leaks associated with construction hazardous materials to a less-than-significant level (see additional discussion under Section 5.10, *Hydrology and Water Quality*).

Since the project site was formerly used for agricultural purposes until at least the early 1970's, residual pesticide contamination could be present on the project site that could be disturbed through proposed project earthwork activities. Mitigation Measure HAZ-1 would require soil sampling on-site to determine if soil contamination is present. If residual pesticides are detected in on-site soil, preparation of a SMP, RAP, or equivalent document would be required to identify procedures for employee protection. Additionally, Mitigation Measure HAZ-1 would require potentially contaminated soil to be segregated and stockpiled for subsequent testing and laboratory analyses to determine if the soil can be reused on-site or if it is required to be disposed off-site at a permitted facility.

Following construction, the proposed project would not introduce hazardous materials because, only common household hazards such as cleaning products, would likely be present, and would present no undue hazards to the public. Therefore, with implementation of Mitigation Measure HAZ-1, potential impacts from upset or accidental releases during or after project construction would be considered less than significant.

Mitigation

Mitigation Measure HAZ-1: Soil Sampling and Soil Management Plan. (see criterion [a] above)

c) **No Impact.** There are no schools located within a quarter mile of the project site. The closest school to the project site is the Charter School of Morgan Hill, which is approximately 1.4 miles from the proposed project. As described above, the proposed project would not emit any substantive quantities of hazardous emissions or handle acutely hazardous materials, substances, or waste in quantities that could affect existing or future students or other off-site receptors. There would be no impact.

d) **No Impact.** As described above, the DTSC and SWRCB databases and the Cortese list were consulted to identify any hazardous materials sites in the Project area. No hazardous materials sites were identified within 1,000 feet of the project site. There would be no impact.

e) **No Impact.** The project site is not located within an airport land use plan and is not located within two miles of a public airport. There would be no impact.

f) **Less than Significant.** The proposed project would construct water supply pipelines and a fire pump house on the exiting IBM campus. The proposed project would not increase the residential population in the project vicinity and would not increase the number vehicle trips to the project site. Construction employees and delivery trucks would result in a minor increase in vehicle trips in the project vicinity during project construction.

Construction of the proposed project would result in the temporary closure of lanes on Bailey Avenue for construction and connection of the water supply line into the existing water main in Bailey Avenue, and closure of lanes for internal IBM campus roads. However, these closures would be temporary and would not result in the obstruction of any emergency response or evacuation plans. Therefore, the impact would be considered less than significant.

g) **Less than Significant.** The site is not located in a very high fire-hazard-severity-zone (CAL FIRE, 2008). The proposed project would not include residential development. Construction of the proposed project would result in a minor increase in the risk of fire due to the limited presence of construction equipment, which could result in sparks. However, due to the limited duration of construction (three months), the small amount of equipment required for construction, and the fact that the project site is not located in a very high fire-hazard-severity-zone impacts from construction would be less than significant. Operation of the proposed project would not increase the risk of wildland fires, and would ensure that adequate fire flow is available from the new fire pump house to the existing IBM campus. Impacts would be less than significant.

References

California Department of Forestry and Fire Protection (CAL FIRE) 2008. *Santa Clara County, Very High Fire Hazard Zones in LRA*, as Recommended by CAL FIRE October 8, 2008, Available at: https://osfm.fire.ca.gov/media/6764/fhszl_map43.pdf. Accessed August 25, 2020.

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Department of Toxic Substance Control (DTSC), 2020a. Hazardous Waste and Substances Site List (CORTESE). Available at: www.envirostor.dtsc.ca.gov/public/search?cmd=search&reporttype=CORTESE&site_type=CSITES,FUDS&status=ACT,BKLG,COM&reporttitle=HAZARDOUS+WASTE+AND+SUBSTANCES+SITE+LIST+%28CORTESE%29. Accessed August 25, 2020.

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State Water Resources Control Board (SWRCB) 2020. GeoTracker Database. Available at: https://geotracker.waterboards.ca.gov/map/?CMD=runreport&myaddress=555+bailey+avenue%2C+san+jose Accessed August 25, 2020.

5.10 Hydrology and Water Quality

Issues (and Supporting Information Sources):	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
X. HYDROLOGY AND WATER QUALITY — Would the project:				
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?	☐	☒	☐	☐
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	☐	☐	☒	☐
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of imperious surfaces, in a manner which would:	☐	☐	☒	☐
i) result in substantial erosion or siltation on- or off-site;	☐	☐	☒	☐
ii) substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite;	☐	☐	☒	☐
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	☐	☐	☒	☐
iv) impede or redirect flood flows?	☐	☐	☒	☐
d) In flood hazard, tsunami, or seiche zones, risk or release of pollutants due to project inundation?	☐	☐	☒	☐
e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	☐	☒	☐	☐

As described previously under *Air Quality*, in the *California Building Industry Association v. Bay Area Air Quality Management District* case decided in 2015, the California Supreme Court held that CEQA does not generally require lead agencies to consider how existing environmental conditions might impact a project's users or residents, except where the proposed project would significantly exacerbate an existing environmental condition. Accordingly, the identified significance criteria related to placement of structures within a flood hazard area, or exposure of people or structures to risks from failure of levee or dam, are valid only to the extent that the project would significantly exacerbate the potential for flooding or for failure of a levee or dam. Nonetheless, potential flooding hazards, and applicable regulatory mechanisms that address these effects, are disclosed in this section, for informational purposes.

Environmental Setting

The project site lies within a watershed tributary to Fisher Creek that drains into Coyote Creek (outside of the project study area), which eventually flows into south San Francisco Bay. Notable nearby habitat features include agricultural stock ponds located approximately 0.12 miles west and 0.25 miles southeast of the project site, and the 4,471-acre Calero Reservoir is located

approximately 1.15 miles west of the project site. There are no waterways present on the project site. The project is located in a Federal Emergency Management Agency (FEMA) area of undetermined flood hazard. A regulatory floodway is located approximately 600 feet southeast of the project site south of Bailey Avenue, and approximately 0.5-mile northeast of the project site (FEMA, 2020). The project site is located in the Coyote Watershed. The project site is relatively flat with a subtle slope to the southeast, and contains IBM campus access roads, parking lots, landscaping, and orchard trees (Cornerstone, 2020).

Regulatory Framework

Federal and State

National Flood Insurance Program

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

Porter-Cologne Water Quality Act

The Porter-Cologne Act delegates authority to the State Water Resources Control Board (SWRCB)to establish regional water quality control boards. The San Francisco Bay Area RWQCB has authority to use planning, permitting, and enforcement to protect beneficial uses of water resources in the project region. Under the Porter-Cologne Water Quality Control Act (California Water Code Sections 13000- 14290), the RWQCB is authorized to regulate the discharge of waste that could affect the quality of the state's waters, including projects that do not require a federal permit through the USACE. To meet RWQCB 401 Certification standards, all hydrologic issues related to a project must be addressed, including the following:

- Wetlands
- Watershed hydrograph modification
- Proposed creek or riverine related modifications
- Long-term post-construction water quality

Statewide Construction General Permit

The SWRCB has implemented a NPDES Construction General Permit for the State of California. For projects disturbing one acre or more, a Notice of Intent and Storm Water Pollution Prevention Plan (SWPPP) must be prepared by a qualified professional prior to commencement of construction. The Construction General Permit includes requirements for training, inspection, record keeping, and for projects of certain risk levels, monitoring. The general purpose of the requirements is to minimize the discharge of pollutants and to protect beneficial uses and receiving waters from the adverse effects of construction-related storm water discharges.

Regional and Local

San Francisco Bay Basin Plan

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

Municipal Regional Stormwater Permit

The San Francisco Bay RWQCB has issued a Municipal Regional Stormwater NPDES Permit (MRP) to regulate stormwater discharges from municipalities and local agencies (co-permittees) in Alameda, Contra Costa, San Mateo, and Santa Clara Counties, and the cities of Fairfield, Suisun City, and Vallejo. The City of San José is required to operate under the MRP to discharge stormwater from the City's storm drain system to surface waters. The MRP mandates that the City of San José use its planning and development review authority to require that stormwater management measures are included in new and redevelopment projects to minimize and properly treat stormwater runoff. Provision C.3 of the MRP regulates the following types of development projects:

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

The MRP requires regulated projects to include Low Impact Development (LID) practices. These include site design features to reduce the amount of runoff requiring treatment and maintain or restore the site's natural hydrologic functions, source control measures to prevent stormwater from pollution, and stormwater treatment features to clean polluted stormwater runoff prior to discharge into the storm drain system. The MRP requires that stormwater treatment measures are properly installed, operated, and maintained.

City of San José Post-Construction Urban Runoff Management (Policy 6-29)

The City of San José's Policy 6-29 implements the stormwater treatment requirements of Provision C.3 of the Municipal Regional Stormwater NPDES Permit. The City of San José's Policy 6-29 requires all new development and redevelopment projects to implement post-construction BMPs and Treatment Control Measures (TCMs).

General Plan Policies

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating hydrology and water quality impacts from development projects. Policies applicable to the proposed project are presented below.

Envision San José 2040 Policies Relevant to Hydrology and Water Quality	
Policy IN-3.7	Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.
Policy IN-3.9	Require developers to prepare drainage plans for proposed developments that define needed drainage improvements per City standards.
Policy MS-3.4	Promote the use of green roofs (i.e., roofs with vegetated cover), landscape-based treatment measures, pervious materials for hardscape, and other stormwater management practices to reduce water pollution.
Policy ER-8.1	Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.
Policy ER-8.3	Ensure that private development in San José includes adequate measures to treat stormwater runoff.
Policy EC-4.1	Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and stormwater controls.
Policy EC-5.7	Allow new urban development only when mitigation measures are incorporated into the project design to ensure that new urban runoff does not increase flood risks elsewhere.

City of San José Standard Conditions for Approval

The following condition of approval in the City's Standard Conditions for Approval (SCAs) is applicable to the proposed project:

SCA HYD-1 Construction-related Water Quality.

The project applicant shall implement the following conditions:

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

Discussion

a) **Less than Significant with Mitigation Incorporated.** The project site contains a mix of pervious and impervious surfaces, including IBM campus access roads, parking lots, landscaping, and orchard trees. Due to ground disturbing activities, construction of the project could potentially affect water quality from sediment erosion in stormwater runoff. However, because construction would require disturbance of more than one acre it would be required to apply for coverage under the State General Construction Permit to comply with Federal National Pollutant Discharge Elimination System (NPDES) regulations. To comply with the permit, the project applicant would be required to develop and submit a site-specific SWPPP. The SWPPP would include a description of appropriate BMPs that are proven effective in minimizing the discharge of pollutants from the construction site. Construction contractors are responsible for implementation of the SWPPP, which includes maintenance, inspection, and repair of erosion and sediment control measures and water quality BMPs throughout the construction period; and they are responsible for the maintenance of all protective devices to ensure they remain in good and effective condition. Sediment control measures are also required by SCA HYD-1. The development and implementation of the SWPPP and measures required by SCA HYD-1 would reduce water quality impacts during construction to a less than significant level.

To ensure that contaminants would not be released into groundwater during construction and trenching activities, the proposed project would implement Mitigation Measure HAZ-1: Soil Sampling and Soil Management Plan, as described in Section 5.9, *Hazards and Hazardous Materials*. Mitigation Measure HAZ-1 requires development of a plan to provide for the safe handling, transport, and disposal of potentially hazardous materials, if encountered in site soils.

With implementation of Mitigation Measure HAZ-1 and compliance with regulatory requirements, including measures required by the SWPPP, and SCA HYD-1, impacts on water quality would be less than significant with mitigation incorporated.

Mitigation Measure HAZ-1: Soil Sampling and Soil Management Plan. (see Section 5.9, *Hazards and Hazardous Materials*, above)

b) **Less than Significant.** The proposed project would replace its exiting water connection supplied by Great Oaks Water Company and connect to the San José Municipal Water System. Great Oaks Water Company's sole source of water is groundwater produced from the Santa Clara Valley Groundwater Basin, Santa Clara Subbasin (Great Oaks Water Company, 2016). The IBM campus is located within the San José Municipal Water System's Coyote Valley service area which is supplied with groundwater from the Santa Clara Groundwater Basin and recycled water from the South Bay Water Recycling Program (SJMWS, 2016). Therefore, the proposed project would not involve the extraction of additional water from a groundwater basin. The proposed project would not involve groundwater extraction, nor the alteration of a stream or river. Therefore, the proposed project would not lower the groundwater table due to groundwater extraction,

or substantively reduce groundwater recharge, or conflict or obstruct and water quality control plan or management plan. Impacts would be less than significant.

c.i - iii) **Less than Significant.** The proposed project would not alter any stream or river but would alter the existing drainage patterns through the addition of impervious surfaces associated with the new pump house on the project site. However, altered drainage patterns would not have the potential to cause substantial erosion, flooding, or runoff more than existing capacity on the project site because precipitation and runoff would continue to flow to existing stormwater drainage facilities and culverts on the campus. Therefore, the potential impact of altered drainage causing erosion or siltation, offsite or onsite flooding, or substantial additional sources of polluted runoff would be less than significant.

c.iv) **Less than significant.** As described above, while the project would alter existing drainage patterns onsite, the project would not impede or redirect the flow of any existing water body. Any runoff created by the added impervious surface of the project would continue to flow to existing stormwater drainage facilities and culverts on the campus. The project would not impede or redirect flood flows and impacts would be less than significant.

d) **Less than Significant.** The project is not located in a tsunami or seiche zone. As discussed above, the project site is not located within a flood hazard zone (FEMA, 2020). During project operations diesel fuel for the diesel-powered fire pumps would be stored within the proposed pump house. Therefore, if the project site were to be inundated it would not lead to the release of pollutants. Impacts would be less than significant.

e) **Less than Significant with Mitigation Incorporated.** As described above, the project would not involve groundwater extraction and would not alter the course of any stream or river. During construction, the proposed project would implement a SWPPP and measures required by SCA HYD-1 to reduce water quality impacts. Additionally, Mitigation Measure HAZ-1 would ensure that any potentially contaminated soil would be handled, transported, and disposed of in a manner consistent with public health and safety and applicable regulations, as described in Section 5.9, *Hazards and Hazardous Materials*.

The project would be generally consistent with the objectives for sustainable management of groundwater resources, which include managing groundwater to optimize water supply reliability and minimize land subsidence and protecting against groundwater contamination. Therefore, the proposed project would not conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan. With implementation of Mitigation Measure HAZ-1, impacts would be less than significant.

Mitigation

Mitigation Measure HAZ-1: Soil Sampling and Soil Management Plan. (see Section 5.9, *Hazards and Hazardous Materials*, above)

References

Federal Emergency Management Agency (FEMA, 2020). FEMA Flood Map Service Center. Available at: https://msc.fema.gov/portal/search?AddressQuery=555 bailey avenue%2C San José ca#searchresultsanchor. Accessed August 27, 2020.

Great Oaks Water Company, 2016. Great Oaks Water Company Urban Water Management Plan 2015. Available at: https://www.greatoakswater.com/OtherPDFs/2015UrbanWaterManagementPlan.pdf. Accessed August 26, 2020.

San José Municipal Water System (SJMWS), 2016. 2015 Urban Water Management Plan, San Jose Municipal Water System, June 2016. Available at: https://www.sanjoseca.gov/home/showdocument?id=422. Accessed August 26, 2020.

5.11 Land Use and Planning

Issues (and Supporting Information Sources):		*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
XI.	**LAND USE AND PLANNING — Would the project:**				
a)	Physically divide an established community?	☐	☐	☒	☐
b)	Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☒	☐

Environmental Setting

The proposed project is located on the western area of the existing IBM Silicon Valley Lab campus. The IBM campus is located at the northern end of Coyote Valley, in the southern portion of San José, on the northwest side of Bailey Avenue, between Santa Teresa Boulevard and McKean Road, southwest of U.S. 101. The surrounding area is comprised of low-density residential, agriculture and open space uses.

The areas of disturbance as a result of the proposed project on the campus would include areas adjacent to the proposed water line alignments and the pump house building footprint, collectively described as the project site in this document. The project site currently consists of paved access roadways, a parking lot, landscaped areas, and undeveloped land occupied by orchards. The General Plan Land Use designation for the site is Industrial Park (IP) and the Zoning is Planned Development Zoning District (A(PD) PDC74-061).

Regulatory Framework

Local

General Plan Policies

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating land use impacts from development projects. Policies applicable to the proposed project are presented below.

Envision San José 2040 Policies Relevant to Land Use	
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.
Policy IN-1.10	Require undergrounding of all new publicly owned utility lines. Encourage undergrounding of all privately owned utility lines in new developments. Work with electricity and telecommunications providers to underground existing overhead lines.
Policy IN-1.11	Locate and design utilities to avoid or minimize impacts to environmentally sensitive areas and habitats.

San José Zoning Ordinance

The Zoning Ordinance (Title 20 of the San José Municipal Code) is a set of regulations that promote and protect the public peace, health, and general welfare by:

- Guiding, controlling, and regulating future growth and development in the City in a sound and orderly manner, and promoting the achievement of the goals and purposes of the General Plan;
- Protecting the character and economic and social stability of agricultural, residential, commercial, industrial, and other areas in the City;
- Providing light, air, and privacy to property;
- Preserving and providing open space and preventing overcrowding of the land;
- Appropriately regulating the concentration of population;
- Providing access to property and preventing undue interference with and hazards to traffic on public rights-of-way; and
- Preventing unwarranted deterioration of the environment and promoting a balanced ecology.

Discussion

a) **Less than Significant.** The proposed project would construct below-grade water supply pipelines and a new fire pump house structure on the existing IBM campus. Following construction, the project would not include any physical barriers or obstacles to circulation that would restrict existing patterns of movement between the project site and the adjacent campus and open spaces. The proposed project would be built out within the confines of the parcel, and it would not impede movement across public rights-of-way. Therefore, the operation of the proposed project would not physically divide an established community.

b) **Less than Significant.** The General Plan land use designation of the site is Industrial Park and the proposed project proposes a Planned Development Permit Amendment (PDA) to install new utility infrastructure. The surrounding area is designated Open Hillside and Industrial Park. The proposed project would construct utility infrastructure to support the existing IBM campus. The proposed project would involve a water supply infrastructure to facilitate a change in water supplier, and the new pump house would constitute a new structure on the parcel, necessitating an amendment to the campus development permit. As discussed in Section 5.1, *Aesthetics*, the new approximately 12-foot tall pump house would be set back approximately 275 from Bailey Avenue and would largely be shielded from view by existing trees and vegetation on the IBM campus. Therefore, the proposed project is consistent and compatible with surrounding development and is generally consistent with the goals and policies of the City's General Plan, including Policies IN-1.9, IN-1.10, and IN-1.11.

Physical effects that would ensue from development of the proposed water supply pipelines and fire pump house are analyzed in this Initial Study under the applicable topics. As concluded herein, the project would not result in any significant effects that

could not be mitigated to a less-than-significant level. Accordingly, no additional mitigation is required.

References

City of San José, *Envision San José 2040 General Plan*, Adopted November 1, 2011 As Amended on March 16, 2020.

5.12 Mineral Resources

Issues (and Supporting Information Sources):		*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
XII.	**MINERAL RESOURCES — Would the project:**				
a)	Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☒
b)	Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?	☐	☐	☐	☒

Environmental Setting

Under the Surface Mining and Reclamation Act of 1975 (SMARA), the State Mining and Geology Board has designated only the Communications Hill Area of San José as containing mineral deposits of regional significance for aggregate (Sector EE). There are no mineral resources in the project area. Neither the State Geologist nor the State Mining and Geology Board has classified any other areas in San José as containing mineral deposits that are of statewide significance or for which the significance requires further evaluation. Other than the Communications Hill area cited above, San José does not have mineral deposits subject to SMARA.

Discussion

a) **No Impact.** The Communications Hill Area is the only area in San José that contains mineral deposits subject to the Surface Mining and Reclamation Act of 1975 (SMARA) (City of San José, 2020). The Communications Hill Area is located approximately 8 miles from the project site; as a result, construction of the project would not result in the loss of availability of known mineral resources classified as regional or statewide significance.

b) **No Impact.** The only locally important mineral resource recovery site delineated in the City of San José 2040 General Plan or other land use plan is the Communications Hill Area, as discussed above. Given the distance of the Communications Hill Area from the project site, the project would not result in the loss of availability of a locally-important mineral resource recovery site.

References

City of San José, *Envision San José 2040 General Plan,* Adopted November 1, 2011 As Amended on March 16, 2020.

5.13 Noise

Issues (and Supporting Information Sources):	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XIII. NOISE — Would the project result in:				
a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☐	☒	☐
b) Generation of excessive groundborne vibration or groundborne noise levels?	☐	☐	☒	☐
c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☒	☐

As described previously under *Air Quality*, in the *California Building Industry Association v. Bay Area Air Quality Management District* case decided in 2015, the California Supreme Court held that CEQA does not generally require lead agencies to consider how existing environmental conditions might affect a project's users or residents, except where the proposed project would exacerbate the existing environmental condition. Accordingly, the identified significance criteria related to exposure of people, including sensitive receptors, to excessive noise levels or vibration are valid only to the extent that the Project significantly contributes to those worsened noise conditions. The analysis in this section with respect to noise exposure of future project occupants, therefore, is provided for informational purposes.

Environmental Setting

Noise Exposure and Community Noise

Noise levels rarely persist consistently over a long period. Rather, noise levels at any one location vary with time. Specifically, community noise is the result of many distant noise sources that constitute a relatively stable background noise exposure where the individual contributors are unidentifiable. Throughout the day, short duration single-event noise sources (e.g., aircraft flyovers, motor vehicles, sirens) that are readily identifiable to the individual add to the existing background noise level. The combination of the slowly changing background noise and the single-event noise events give rise to a constantly changing community noise environment.

To characterize a community noise environment and evaluate cumulative noise impacts, community noise levels must be measured over an extended period of time. This time-varying characteristic of environmental noise is described using statistical noise descriptors, including the following:

L_{eq}: The equivalent sound level is used to describe noise over a specified period of time, typically one hour, in terms of a single numerical value. The L_{eq} is the constant sound level that would contain the same acoustic energy as the varying sound level, during the same time period (i.e., the average noise exposure level for the given time period).

L_{max}: The instantaneous maximum noise level measured during the measurement period of interest.

DNL: The day-night average sound level (DNL) is the energy average of the A-weighted sound levels occurring during a 24-hour period, accounting for the greater sensitivity of most people to nighttime noise by weighting ("penalizing") nighttime noise levels by adding 10 dBA to noise between 10:00 p.m. and 7:00 a.m.

CNEL: Similar to the DNL, the Community Noise Equivalent Level (CNEL) adds a 5-dBA "penalty" for the evening hours between 7:00 p.m. and 10:00 p.m. in addition to the 10-dBA penalty between the hours of 10:00 p.m. and 7:00 a.m.

In general, the more a new noise exceeds the previously existing ambient noise level, the less acceptable the new noise would be judged by those hearing it. With regard to increases in A-weighted noise level, the following relationships occur:

- except in carefully controlled laboratory experiments, a change of 1 dBA cannot be perceived;
- outside of the laboratory, a 3-dBA change is considered a just-perceivable difference;
- a change in level of at least 5 dBA is required before any noticeable change in human response would be expected; and
- a 10-dBA change is subjectively heard as approximately a doubling in loudness, and can cause adverse response.

These relationships occur in part because of the logarithmic nature of the decibel system. Because the decibel scale is based on logarithms, two noise sources do not combine in a simple additive fashion, but rather logarithmically. For example, if two identical noise sources produce noise levels of 50 dBA, the combined sound level would be 53 dBA, not 100 dBA.

Vibration Background

Vibration is an oscillatory motion through a solid medium in which the motion's amplitude can be described in terms of displacement, velocity, or acceleration. Several different methods are used to quantify vibration. The peak particle velocity (PPV) is defined as the maximum instantaneous peak of the vibration signal. The PPV is most frequently used to describe physical vibration impacts on buildings. Typical groundborne vibration generated by human activities attenuates rapidly with distance from the source of the vibration. Sensitive receptors to vibration include people (especially residents, the elderly, and sick people), structures (especially older masonry structures), and vibration-sensitive equipment.

Another useful vibration descriptor is known as vibration decibels or VdBs. VdBs are generally used when evaluating human response to vibration, as opposed to structural damage (for which PPV is the more commonly used descriptor). Vibration decibels are established relative to a reference quantity, typically 1×10^{-6} inches per second.[13]

[13] Federal Transit Administration, Transit Noise and Vibration Impact Assessment, 2006.

There are no major sources of vibration in the project site vicinity. Most motor vehicles and trucks have independent suspension systems that substantially reduce if not eliminate vibration generation, barring discontinuities in the roadway.

Existing Noise Environment - Sensitive Receptors

The noise element of the current General Plan identifies residential uses, hotels, hospitals, schools libraries, museums and meeting halls as noise-sensitive land uses, with a normally acceptable exterior noise level of 60 DNL (City of San José, 2020). The area surrounding the project site consists of unused open space; recreational facilities and parking that serve the IBM employees and the IBM campus offices. The nearest sensitive receptors include a school over 2 miles northwest of the project, a childcare center more than 2.5 miles away, a hospital is 4 miles away, and two residences, one approximately 0.90 miles southwest of the site and one approximately 0.90 miles southeast of the site.

Regulatory Framework

State

California Building Code

The current 2019 version of the California Building Code (CBC) requires interior noise levels attributable to exterior environmental noise sources to be limited to a level not exceeding 45 dBA DNL/CNEL in any habitable room. The State of California established exterior sound transmission control standards for new non-residential buildings as set forth in the 2016 California Green Building Standards Code (Section 5.507.4.1 and 5.507.4.2). These sections identify the standards (e.g., STC rating) that building materials and assemblies need to be in compliance with based on the noise environment.

Local

San José General Plan Noise Compatibility Guidelines

The City's General Plan includes goals and policies pertaining to noise and vibration. Community Noise Levels and Land Use Compatibility (commonly referred to as the Noise Element) of the General Plan utilizes the DNL descriptor and identifies interior and exterior noise standards for residential uses. The General Plan includes the following criteria for land use compatibility and acceptable exterior noise levels in the City based on land use types.

TABLE 5.13-1
LAND USE COMPATIBILITY GUIDELINES FOR COMMUNITY NOISE IN SAN JOSÉ
(Exterior Noise Exposure [DNL in Decibels DBA] From the General Plan)

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

☐	**Normally Acceptable:** Specified land use is satisfactory, based upon the assumption that any buildings involved are of normal conventional construction, without any special noise insulation requirements.
▒	**Conditionally Acceptable:** Specified land use may be permitted only after detailed analysis of the noise reduction requirements and noise mitigation features included in the design.
■	**Unacceptable:** New construction or development should generally not be undertaken because mitigation is usually not feasible to comply with noise element policies. (Development will only be considered when technically feasible mitigation is identified that is also compatible with relevant design guidelines.)

Additionally, policies in the General Plan have been adopted for the purpose of avoiding or mitigating noise and vibration impacts from development projects. Policies applicable to the proposed project are presented below.

Envision San José 2040 Policies Relevant to Noise and Vibration	
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 (refer to Table EC-1 in the General Plan. Residential uses are considered "normally acceptable" with exterior noise exposures of up to 60 dBA DNL and "conditionally compatible" where the exterior noise exposure is between 60 and 75 dBA DNL such that the specified land use may be permitted only after detailed analysis of the noise reduction requirements and needed noise insulation features are included in the design.

Policy EC-1.2	Minimize the noise impacts of new development on land uses sensitive to increased noise levels (Land Use Categories 1, 2, 3 and 6 in Table EC-1 in the General Plan 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-1.7	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.
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 buildings that are documented to be structurally weakened, a continuous vibration limit of 0.08 in/sec PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. A continuous vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction. Avoid use of impact pile drivers within 125 feet of any buildings, and within 300 feet of a historical building, or building 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.

San José Municipal Code

Per the San José Municipal Code Title 20 (Zoning Ordinance) Noise Performance Standards, the sound pressure level generated by any use or combination of uses on a property shall not exceed the decibel levels indicated in the table below at any property line, except upon issuance and in compliance with a Special Use permit as provided in Chapter 20.100.

TABLE 5.13-2
SAN JOSÉ ZONING ORDINANCE NOISE STANDARDS

Land Use Types	Maximum Noise Levels in Decibels at Property Line
Residential, open space, industrial or commercial uses adjacent to a property used or zoned for residential purposes	55
Open space, commercial, or industrial use adjacent to a property used for zoned for commercial purposes or other non-residential uses	60
Industrial use adjacent to a property used or zoned for industrial use or other use other than commercial or residential purposes	70

Chapter 20.100.450 of the Municipal Code establishes allowable hours of construction within 500 feet of a residential unit between 7:00 AM and 7:00 PM, Monday through Friday, unless

permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence.

City of San José Standard Conditions of Approval

The following City SCA regarding noise generation are applicable to the proposed project.

SCA NOI-1: Construction-Related Noise.

The project applicant shall implement noise minimization measures that include, but are not limited to, the following:

- Limit construction hours to between 7 a.m. and 7 p.m., Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence.
- Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.
- Equip all internal combustion–driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Prohibit unnecessary idling of internal combustion engines.
- 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 noise-sensitive land uses.
- Utilize "quiet" air compressors and other stationary noise sources where technology exists.
- Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
- Notify all adjacent businesses, residences, and other noise-sensitive land uses of the construction schedule in writing and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences.
- 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.
- Designate a "disturbance coordinator" who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.
- Limit construction hours to 7 a.m. to 7 p.m., Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific "construction noise mitigation plan" and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses. Because it is anticipated that certain construction

activities (such as continuous pours of concrete foundations) may require work outside normally permitted construction hours (e.g., overnight), the project's Planned Development Permit would allow for such construction activities, subject to conditions of approval, including performance standards, imposed by the City to limit noise impacts.

Discussion

a) **Less than Significant.** Construction of the project, while it would involve ground disturbing activity and heavy machinery would be temporary, lasting a total of three months. Additionally, the proposed project would be required to comply with SCA NOI-1, which would reduce construction-related noise at the IBM campus research facilities. The San José General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from development projects with the City, including Policy EC-1.2 to "minimize the noise impacts of new development on land uses sensitive to increased noise levels." Land uses that are considered sensitive to noise impacts include those in Categories 1, 2, 3 and 6 in General Plan Table EC-1. These land uses are located approximately 0.90 mile from and more than one-mile from the project site, and the distance would reduce any noise from use of the new fire pumps. As identified above the project is not located within 500 feet of residential and would occur over a three-month period. Therefore, construction noise generated would not require suppression devices as prescribed by General Plan Policy EC-1.7.

As addressed under Section 5.17, Transportation the proposed project would not contribute to increased traffic volumes on local roadways. During operation, the fire pumps would introduce new stationary sources of noise on the project site. However, use of the fire pumps would be intermittent, occurring only during routine testing activities and when the fire water supply is used. The fire pumps would also be located in the new pump house, which would reduce the amount of noise from these sources. The closest sensitive land uses are located approximately 0.90-mile southeast and southwest of the project site, at a distance that would not be impacted by these stationary noise sources. Accordingly, the project would be consistent with City of San Jose General Policy EC-1.3 because the property line of the project is not adjacent to existing or planned noise sensitive residential and public/quasi-public land uses. Therefore, the project would have a less than significant impact on noise generation.

b) **Less than Significant.** Project construction is expected require three months. Construction contractors would be required to limit standard construction activities to the requirements of the City of San José. In addition, noise sensitive land uses are not located tangential to the project boundaries or in the vicinity because fields, athletic surfaces, roads, and office uses encompass the site. Lastly, the project would be consistent with General Plan Policy EC-1.7 because construction would last less than 12 months. Therefore, the project would not generate a significant vibration related impact.

c) **Less than Significant.** The proposed project site is approximately 11 miles north of the nearest runway of the San Martin Airport, and 14 miles south of San José's Mineta International Airport (SJC). According to the 2022 Future Noise Contours developed as

part of the Master Plan for the San Martin Airport, the 60 CNEL contour for aircraft noise is located approximately 10.2 miles southeast of the project site (SCC, July 2006). According to the 2022 Aircraft Noise Contours developed as part of the Comprehensive Land Use Plan for airport operations, the 65 CNEL contour for aircraft noise is located approximately 11.5-miles northwest of the project site (SCCALUC, 2016). Consequently, the proposed project would have a less than significant impact with respect to exposure of people residing or working in the project area to excessive airport noise levels.

References

City of San José, *Envision San José 2040 General Plan*, Adopted November 1, 2011 As Amended on March 16, 2020.

Caltrans, *Transportation and Construction-Induced Vibration Guidance Manual*, June 2004.

Santa Clara County, South County Airport Master Plan Report, County of Santa Clara, San Martin, California, July 2006. Available at: https://www.sccgov.org/sites/air/resources/Documents/BBP18/BOS-meeting-docs-120717/E16%20Masterplan.pdf.

Santa Clara County Airport Land Use Commission (SCCALUC), 2016. Comprehensive Land Use Plan for the Santa Clara County Norman Y. Mineta San José International Airport. Available at: https://www.sccgov.org/sites/dpd/DocsForms/Documents/ALUC_SJC_CLUP.pdf. Amended November 16, 2016.

U.S. Department of Transportation, Federal Transit Administration, Transit Noise and Vibration Impact Assessment, April, 2018.

U.S. Department of Transportation, Federal Highway Administration, *FHWA Highway Noise Construction Handbook*, August 2006.

5.14 Population and Housing

Issues (and Supporting Information Sources):	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XIV. POPULATION AND HOUSING — Would the project:				
a) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☐	☒
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒

Environmental Setting

Based on information from the Department of Finance, the City of San José's population was estimated to be 1,049,187 in January 2020 (CA Department of Finance, 2019). As of December 2020, employment in the City was approximately 515,400 (CA Employment Development Department, 2021).

A project can induce substantial population growth by: 1) proposing new housing beyond projected or planned development levels, 2) generating demand for housing as a result of new businesses, 3) extending roads or other infrastructure to previously undeveloped areas, or 4) removing obstacles to population growth (e.g., expanding capacity of a wastewater treatment plant beyond that necessary to serve planned growth).

Discussion

a) **No Impact.** The proposed project would construct water supply pipelines and a fire pump house on the existing IBM campus. The proposed Project would not create any new housing or businesses and would not extend any roads or infrastructure. As a result, the project would not result in either direct or indirect unplanned growth.

b) **No Impact.** The project site, located within the IBM campus, does not contain any residential structures. Therefore, the project would not demolish or otherwise remove any existing housing units or displace any people.

References

California Department of Finance, *E-1 Population Estimates for Cities, Counties and the State with Annual Percent Change — January 1, 2019 and 2020.* Sacramento, California, May 2019.

California Employment Development Department, *Monthly Labor Force Data for Cities and Census Designated Places (CDP), December 2020 – Preliminary*, January 22, 2021.

5.15 Public Services

Issues (and Supporting Information Sources):	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
XV. PUBLIC SERVICES — 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:				
i) Fire protection?	☐	☐	☐	☒
ii) Police protection?	☐	☐	☐	☒
iii) Schools?	☐	☐	☐	☒
iv) Parks?	☐	☐	☐	☒
v) Other public facilities?	☐	☐	☐	☒

Environmental Setting

Fire Protection: Fire protection services are provided to the project site by the San José Fire Department (SJFD). The closest fire stations to the project site are Station 27, located at 6027 San Ignacio Road, about 2.7 miles from the project site, and Station 28, located at 19911 McKean Road, approximately 3.8 miles from the project site.

Police Protection: Police protection services are provided to the project site by the San José Police Department (SJPD) headquartered at 201 West Mission Street. The City has four patrol divisions and 16 patrol districts. Patrols are dispatched from police headquarters and the patrol districts consist of 83 patrol beats, which include 357 patrol beat building blocks.

Parks: The San José Parks, Recreation, and Neighborhood Services Department (PRNS) operates the City's regional and neighborhood parks. PRNS also operates community and recreation centers and provides various recreation, community service, and other programs for children, youth, teens, adults, seniors, and people with disabilities.

Schools: The project site is within the Morgan Hill Unified School District, which serves approximately 8,500 students in Morgan Hill, San Martin and a small portion of South San José.

Libraries: The City of San José is served by the San José Public Library System. The San José Public Library System consists of one main library (Dr. Martin Luther King Jr.) and 22 branch libraries.

Regulatory Framework

Local

General Plan Policies

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating public service impacts from development projects. Policies applicable to the proposed project are presented below.

Envision San José 2040 Policies Relevant to Public Services	
Policy CD-5.5	Include design elements during the development review process that address security, aesthetics and safety. Safety issues include, but are not limited to, minimum clearances around buildings, fire protection measures such as peak load water requirements, construction techniques, and minimum standards for vehicular and pedestrian facilities and other standards set forth in local, state, and federal regulations.
Policy ES-3.1	Provide rapid and timely Level of Service (LOS) response time to all emergencies: 1. For police protection, use as a goal a response time of six minutes or less for 60 percent of all Priority 1 calls, and of eleven minutes or less for 60 percent of all Priority 2 calls. 2. For fire protection, use as a goal a total response time (reflex) of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents.
Policy ES-3.9	Implement urban design techniques that promote public and property safety in new development through safe, durable construction and publicly-visible and accessible spaces.
Policy ES-3.11	Ensure that adequate water supplies are available for fire-suppression throughout the City. Require development to construct and include all fire suppression infrastructure and equipment needed for their projects. PR-1.1 Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.

Discussion

a.i-v) **No Impact.** The project would construct new water supply pipelines and fire pump house on the IBM campus. As identified under Section 5.14 *Population,* the project would not result in a change to existing employment, residential, or visitor use of the project site. As identified under Section 5.17 *Transportation*, the project would not result in an increase in vehicle trips or an impact to the transportation network. In addition, as addressed under Section 5.20 *Wildfire*, the project would not result in new fire hazard risk. The project would not alter demand of existing fire protection, police protection, schools, parks or other public facility services. Therefore, the project would not result in an impact to public services.

5.16 Recreation

Issues (and Supporting Information Sources):	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
XVI. RECREATION:				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☐	☒
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	☐	☒

Environmental Setting

San José has more than 3,537 acres of parkland, consisting of 1,225 acres of neighborhood/community parkland, 548 acres of regional parkland, 321 acres of land on three public golf courses, and 1,443 acres of open space and undeveloped land. PRNS operates 206 parks throughout the city: 197 neighborhood parks and 9 regional serving parks. The IBM campus also contains private recreational facilities including an outdoor multi-purpose field and basketball courts.

Discussion

a, b) **No Impact.** The proposed project would construct water supply pipelines and a fire pump house on the existing IBM campus. As discussed in Section 5.14, *Population and Housing*, the project would not result in population growth and, as a result, would not increase the use of existing neighborhood regional parks or other recreational facilities. Therefore, no impact would occur in this regard.

5.17 Transportation

Issues (and Supporting Information Sources):	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
XVII. TRANSPORTATION — Would the project:				
a) Conflict with a program plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?	☐	☐	☐	☒
b) Would the project conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b)?	☐	☐	☐	☒
c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☐	☒
d) Result in inadequate emergency access?	☐	☐	☐	☒

Environmental Setting

The IBM campus is located at the northern end of Coyote Valley, in the southern portion of San José, on the northwest side of Bailey Avenue, between Santa Teresa Boulevard and McKean Road, southwest of U.S. 101. Regional access to the campus within the City of San José is provided primarily by U.S. 101, which generally traverses northwest-southeast through the center of the City. Campus driveways are located off of Bailey Avenue.

Regulatory Framework

Local

Council Policy 5-1 Transportation Analysis

In alignment with SB 743 and the City's goals in the Envision San José 2040 General Plan, the City has adopted a Transportation Analysis Policy (Council Policy 5-1) to replace the former Transportation Level of Service Policy (Council Policy 5-3). The new policy establishes the thresholds for transportation impacts under CEQA based on vehicle miles traveled (VMT) rather than intersection level of service (LOS). VMT is the total miles of travel by personal motorized vehicles from a project in a day. The intent of this change in policy is to shift the focus of transportation analysis under CEQA from vehicle delay and roadway capacity to a reduction in vehicle emissions and the creation of multimodal networks that support integrated land uses.[14]

General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating transportation impacts from development projects. Policies applicable to the project are presented below.

[14] The new policy took effect on March 29, 2018.

Envision San José 2040 Policies Relevant to Transportation	
Policy TR-1.1	Accommodate and encourage use of non-automobile transportation modes to achieve San José's mobility goals and reduce vehicle trip generation and vehicle miles traveled (VMT).
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-1.3	Increase substantially the proportion of commute travel using modes other than the single-occupant vehicle in order to meet the City's mode split targets for San Jose residents and Workers.
Policy TR-1.4	Through the entitlement process for new development, fund needed transportation improvements for all transportation modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand.
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.
Policy TR-1.6	Require that public street improvements provide safe access for motorists and pedestrians along development frontages per current City design standards.
Policy TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute towards transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.
Policy TR-8.1	Promote transit-oriented development with reduced parking requirements and promote amenities around appropriate transit hubs and stations to facilitate the use of available transit services.
Policy TR-8.3	Support using parking supply limitations and pricing as strategies to encourage the use of non-automobile modes.
Policy TR-8.4	Discourage, as part of the entitlement process, the provision of parking spaces significantly above the number of spaces required by code for a given use.

Discussion

a) **No Impact.** The proposed project would construct new water supply infrastructure to serve the IBM campus. The project would not generate new employees or visitation at the project site. The project would neither directly nor indirectly eliminate existing or planned alternative transportation corridors or facilities (e.g., bike paths, lanes, etc.), including changes in polices or programs that support alternative transportation, nor construct facilities in locations in which future alternative transportation facilities may be planned. The project would not conflict with adopted polices, plans and programs supporting alternative transportation. In addition, the project would not generate traffic volume increases that would affect traffic flow on area roadways. Therefore, the performance of public transit, bicycle and pedestrian facilities in the area would not be impacted by the proposed project.

b) **No Impact.** On December 28, 2018, the California Natural Resources Agency certified CEQA Guidelines Section 15064.3(b), which required, among other things, that by July 2020, all public agencies must base the determination of transportation impacts under

CEQA on VMT rather than level of service.[15] On February 27, 2018, the City Council for the City of San José adopted the VMT metric for determining level of significance (Council Policy 5-1). While the project site is located in what the City has identified as an "Immitigable VMT Area," the project, by installing water supply infrastructure does not involve any long-term or permanent trip-generating uses (San José, 2018). Therefore, the project would not generate an impact related to VMT.

c) **No Impact.** The project proposes no alterations to existing vehicular site access, therefore it would not impact hazards related to road design.

d) **No Impact.** The project would not alter the physical configuration of the surrounding road network (i.e., would not affect the routes emergency service vehicles currently take). Emergency vehicles would continue to access the project site via the existing IBM driveways. As described in Criterion "a," the project would not alter traffic volume increases that would affect traffic flow on area roadways (including that by emergency vehicles). Firetrucks would travel through the parking area in their current configuration. For these reasons, the proposed project would have a no impact on emergency access.

References

City of San José, 2018. VMT Per Capita Map. Available at: http://www.sanjoseca.gov/vmt.

[15] VMT measures the amount and distance people drive by personal vehicle to a destination. VMT is measured by multiplying the total vehicle trips by the average distance of those trips. Level of service, by contrast, measures the operating conditions of an individual facility (intersection or roadway) in terms of average vehicle delay (intersection) or measures such as average speed (roadway).

5.18 Tribal Cultural Resources

Issues (and Supporting Information Sources):	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
XVIII. TRIBAL CULTURAL RESOURCES — 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	☐	☒	☐	☐
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.	☐	☒	☐	☐

Environmental Setting

ESA contacted the California State Native American Heritage Commission (NAHC) on July 26, 2020, to request a search of the NAHC's Sacred Lands File and a list of Native American representatives who may have knowledge of tribal cultural resources in the project site, or interest in the project. The NAHC replied to ESA by email on July 17, 2020, with the statement that the Sacred Lands File has no record of any sacred sites within the project site. The NAHC response included a list of six Native American representatives from six tribes who may have knowledge of tribal cultural resources in the project site, or be interested in the project.

See Section 5.5, *Cultural Resources,* above for a summary of ESA's NWIC records search and field survey.

Regulatory Framework

Native American Heritage Commission

NAHC was created by statute in 1976, is a nine-member body appointed by the Governor to identify and catalog cultural resources (i.e., places of special religious or social significance to Native Americans, and known graves and cemeteries of Native Americans on private lands) in California. The Commission is responsible for preserving and ensuring accessibility of sacred sites and burials, the disposition of Native American human remains and burial items, maintaining an inventory of Native American sacred sites located on public lands, and reviewing current administrative and statutory protections related to these sacred sites.

California Public Resources Code and Tribal Cultural Resources

In 2014, the California Legislature enacted Assembly Bill (AB) 52, which added provisions to the Public Resources Code regarding the evaluation of impacts on tribal cultural resources under CEQA, and requirements to consult with California Native American tribes. In particular, AB 52 requires lead agencies to analyze project impacts on tribal cultural resources separately from archaeological resources (PRC Sections 21074 and 21083.09). AB 52 defines "tribal cultural resources" in PRC Section 21074 and requires lead agencies to engage in additional consultation procedures with respect to California Native American tribes (PRC Sections 21080.3.1, 21080.3.2, and 21082.3).

A *tribal cultural resource* is defined in PRC Section 21074 as either a site, feature, place, or 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:

1) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in PRC Section 5020.1(k); or

2) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in PRC Section 5024.1(c). In applying the criteria set forth in PRC Section 5024.1(c), the lead agency shall consider the significance of the resource to a California Native American tribe.

California Public Resources Code Sections 5097.98 and 5097.99

PRC Section 5097.98 (reiterated in CEQA Guidelines Section 15064.5(e)) identifies steps to follow in the event of the accidental discovery or recognition of any human remains in any location other than a dedicated cemetery. PRC Section 5097.99 prohibits obtaining or possessing any Native American artifacts or human remains that are taken from a Native American grave or cairn (stone burial mound).

Discussion

a.i, ii) **Less than Significant with Mitigation Incorporated**. CEQA requires the lead agency to consider the effects of a project on tribal cultural resources. As defined in PRC Section 21074, tribal cultural resources are sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are listed, or determined to be eligible for listing, on the national, state, or local register of historical resources.

In 2017, the City had sent a letter to tribal representatives in the area to welcome participation in consultation process for all ongoing, proposed, or future projects within the City's Sphere of Influence or specific areas of the City. No tribes have sent written requests for notification of projects to the City of San José. Furthermore, at the time of preparation of this Initial Study, the City of San José had yet to receive any requests for consultation from tribes.

Based on the NWIC records search and the NAHC SLF negative search results, there are no known tribal cultural resources listed or determined eligible for listing in the California Register of Historical Resources, or included in a local register of historical resources as defined in PRC Section 5020.1(k), pursuant to PRC Section 21074(a)(1), would be affected by the project. To date, no new tribal cultural resources have been identified by Native American representatives, and surface survey of the project site identified no potential tribal cultural resources. In addition, the City of San José did not determine any resource that could potentially be affected by the project to be a significant tribal cultural resource pursuant to criteria set forth in PRC Section 5024.1(c). However, if any previously unrecorded archaeological resource were identified during project implementation, particularly ground-disturbing construction activities, and were found to qualify as a tribal cultural resource pursuant to PRC Section 21074(a)(2) (determined by the lead agency to be significant pursuant to criteria set forth in PRC Section 5024.1[c]), any impacts to the resource resulting from the project could be potentially significant. Any such potential significant impacts would be reduced to a less than significant level by implementing **Mitigation Measure CUL-2: Archaeological Monitoring** and **SCA CUL-2: Human Remains,** which require an archaeological monitor to be present during ground-disturbing activities within the vicinity of the known archaeological resource in the project site, and outline a protocol if human remains are inadvertently discovered during construction activities.

Mitigation

Mitigation Measure CUL-2: Archaeological Monitoring. (see Section 5.5, *Cultural Resources*, above)

References

Northwest Information Center (NWIC), File No. 18-2185. California Historical Resources Information System at Sonoma State University, Rohnert Park. On file at ESA, May 10, 2019.

5.19 Utilities and Service Systems

Issues (and Supporting Information Sources):	*Potentially Significant Impact*	*Less Than Significant with Mitigation Incorporated*	*Less Than Significant Impact*	*No Impact*
XIX. UTILITIES AND SERVICE SYSTEMS — 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?	☐	☒	☐	☐
b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	☐	☐	☒	☐
c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☐	☒
d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	☐	☐	☒	☐
e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?	☐	☐	☒	☐

Environmental Setting

Utilities and services are furnished to the project site by the following providers:

- Wastewater Treatment: treatment and disposal provided by the San José/Santa Clara Water Regional Wastewater Facility; sanitary sewer lines maintained by the City of San José.
- Water Service: on-site water system that includes two storage tanks with water supplied by Great Oaks Water Company
- Storm Drainage: City of San José
- Solid Waste: City of San José
- Natural Gas & Electricity: PG&E

Regulatory Framework

State

Assembly Bill 939

California AB 939 established the California Integrated Waste Management Board (CalRecycle), which required all California counties to prepare Integrated Waste Management Plans. In addition, AB 939 required all municipalities to divert 50 percent of their waste stream by the year 2000.

California Green Building Standards Code

The California Green Building Standards Code ("CalGreen") establishes mandatory green building standards for new and remodeled structures in California. These standards include a mandatory set of guidelines and more stringent voluntary measures for new construction projects, in order to achieve specific green building performance including recycling and/or salvage of 65 percent of nonhazardous construction and demolition debris.

Local

San José Zero Waste Strategic Plan/Green Vision

The City's Green Vision provides a comprehensive approach to achieving sustainability through technology and innovation. The Zero Waste Strategic Plan outlines policies to help the City of San José facilitate a healthier community and achieve its Green Vision goals, including 75 percent waste diversion by 2013, which has been achieved, and zero waste by 2022.

General Plan Policies

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating utilities and service system impacts from development projects. Policies applicable to the proposed project are presented below.

Envision San José 2040 Policies Relevant to Utilities & Service Systems

Policy MS-3.2	Promote use of green building technology or techniques that can help to reduce the depletion of the City's potable water supply as building codes permit.
Policy MS-3.3	Promote the use of drought tolerant plants and landscaping materials for nonresidential and residential uses.
Action EC-5.16	Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.
Policy IN-3.3	Meet the water supply, sanitary sewer and storm drainage level of service objectives through an orderly process of ensuring that, before development occurs, there is adequate capacity. Coordinate with water and sewer providers to prioritize service needs for approved affordable housing projects.
Policy IN-3.7	Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.
Policy IN-3.9	Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.
Policy IN-3.10	Incorporate appropriate stormwater treatment measures in development projects to achieve stormwater quality and quantity standards and objectives in compliance with the City's National Pollutant Discharge Elimination System (NPDES) permit.

Discussion

a) **Less than Significant with Mitigation Incorporated.** As described under Chapter 3, the proposed project includes the construction of water supply infrastructure. To the extent construction of this new infrastructure, including required electrical connections, as part of the proposed project could potentially result in significant environmental effects, such effects are analyzed throughout this Initial Study. Mitigation measures are included to reduce construction-related impacts to biological resources, cultural resources, hazards

and hazardous materials, and tribal cultural resources to less than significant levels. These include Mitigation Measures BIO-1: Nesting Bird Protection Measures; BIO-2: Avoidance and Minimization Measures for Bats; BIO-3: Wetland and Riparian Habitat Avoidance and Protection; CUL-1: Cultural Resources Awareness Training; CUL-2: Archaeological Monitoring; CUL-3: Inadvertent Discovery of Human Remains; and HAZ-1: Soil Sampling and Soil Management Plan.

The proposed project would install infrastructure in order to connect to the San José Municipal Water System, replacing the existing campus connection that includes two storage tanks on the hill above the campus to the north and pipes connecting the tanks to the campus, with water supplied by a private provider. The proposed project would abandon in place the tanks and their existing connecting pipes. The new water supply pipelines would replace the existing source of water for the campus, and would not result in an increase in water demand. Therefore, the proposed project would not require the relocation or construction of additional utility infrastructure which might have significant environmental impacts, beyond those proposed as part of the project and analyzed in this Initial Study. Therefore, the impacts regarding the effects of constructing the new water infrastructure would be less than significant with mitigation incorporated.

Mitigation

Mitigation Measure BIO-1: Nesting Bird Protection Measures. (see Section 5.4, *Biological Resources*, above)

Mitigation Measure BIO-2: Avoidance and Minimization Measures for Bats. (see Section 5.4, *Biological Resources*, above)

Mitigation Measure BIO-3: Wetland and Riparian Habitat Avoidance and Protection. (see Section 5.4, *Biological Resources*, above)

Mitigation Measure CUL-1: Cultural Resources Awareness Training. (see Section 5.5, *Cultural Resources*, above)

Mitigation Measure CUL-2: Archaeological Monitoring. (see Section 5.5, *Cultural Resources*, above)

Mitigation Measure HAZ-1: Soil Sampling and Soil Management Plan. (see Section 5.9, *Hazards and Hazardous Materials*, above)

b) **Less than Significant.** As described in Chapter 3, *Project Description*, the new water supply pipelines would replace the existing source of water for the campus, and would not result in an increase in water demand. During construction, water would be required for watering the project site for dust control purposes, which would require a minimal amount of non-potable water. Potable water for construction workers would be provided by the construction contractors, as needed based on the number of construction workers each day. The small increase in potable water demand during construction would not be

substantial. Therefore, the proposed project would have a less than significant impact with regard to water supply and availability.

c) **No Impact.** As described in Chapter 3, *Project Description*, the new water supply pipelines would replace the existing source of water for the campus, and would not result in an increase in water demand. Therefore, the proposed project would not result in increased wastewater generation. The project would have no impact with regard to the capacity of wastewater treatment providers.

d, e) **Less than Significant.** During construction, the project would generate construction-related debris. Chapter 9.10, Part 15 of the San José Municipal Code establishes the City's Construction and Demolition Diversion Deposit Program, which uses financial incentives to encourage the recycling of C&D material and requires projects to divert at least 50 percent of the total projected waste (City of San José, 2020). Operation of the fire pump house would generate minimal amounts of waste through operation and maintenance activities; therefore, the project would have no effect on existing generation of solid waste or compliance with waste diversion regulations. Impacts would be less than significant.

References

City of San José, 2020. Construction and Demolition Diversion Program. Available at: https://www.sanjoseca.gov/your-government/environment/recycling-garbage/construction-demolition-debris. Accessed August 26, 2020.

5.20 Wildfire

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

Environmental Setting

The project site is located in a Local Responsibility Area that is not designated as a Very High Fire Hazard Severity Zone (VHFHSZ). The project site is approximately 2 miles northeast from both local and state responsibility areas that have been designated as VHFHSZs (CAL FIRE, 2008). The project site is located in an area designated as a wildland-urban interface (SJFD, 2017). The project site is relatively flat and is located near the foot of the Santa Teresa Hills, which contain annual grasses, chaparral, and oak woodlands. The project site is located within the existing IBM campus containing on-site access roads, parking lots, and remaining orchard trees.

Regulatory Framework

State

Public Resources Code Section 4201 – 4204

Sections 4201 through 4204 of the California Public Resources Code direct the California Department of Forestry and Fire Protection (CAL FIRE) to map Fire Hazard Severity Zones (FHSZ) within State Responsibility Areas (SRA), based on relevant factors such as fuels, terrain, and weather. Mitigation strategies and building code requirements to reduce wildland fire risks to buildings within SRAs are based on these zone designations.

Government Code Section 51175 – 51189

Sections 51175 through 51189 of the California Government Code directs CAL FIRE to recommend FHSZs within Local Responsibility Areas (LRA). Local agencies are required to designate VHFHSZs in their jurisdiction within 120 days of receiving recommendations from CAL FIRE, and may include additional areas not identified by CAL FIRE as VHFHSZs.

California Fire Code

The California Fire Code (Chapter 49) establishes the requirements for development within wildland-urban interface areas, including regulations for wildfire protection building construction, hazardous vegetation and fuel management, and defensible space maintained around buildings and structures.

Local

General Plan Policies

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating agricultural impacts from development projects. The following policies are applicable to the proposed project.

Envision San José 2040 Policies Relevant to Wildfire	
Policy EC-8.3	For development proposed on parcels located within a very high fire hazard severity zone or wildland-urban interface area, implement requirements for building materials and assemblies to provide a reasonable level of exterior wildfire exposure protection in accordance with City-adopted requirements in the California Building Code.
Policy LU-8.4	Require use of defensible space vegetation management best practices to protect structures at and near the urban/wildland interface.

Discussion

a) **Less than Significant.** As described in Section 5.10, *Hazards and Hazardous Materials*, the proposed project would not increase the residential population in the project vicinity. Although the project would temporarily increase the number of employees on site during construction and construction of the proposed project would result in the temporary closure of lanes on Bailey Avenue for installation of connections to existing water mains and internal IBM campus roads for pipeline installation, these closures would be short-term and would not result in the obstruction of any emergency response or evacuation plans. Therefore, impacts would be less than significant.

b) **Less than Significant.** The project would not include any residential structures and therefore, would not have any permanent occupants. Due to the surrounding hills with annual grasses, chaparral, and oak woodlands, the fire risk in the project area is relatively high due physical characteristics surrounding the project site.

Project construction would require the presence of some vehicles and heavy equipment for grading, trenching, and other activities. The presence of vehicles and equipment onsite could lead to minor increase in the risk of ignition as vehicles and equipment can result in a spark which can lead to the ignition of a fire in an area with highly flammable vegetation. However, during construction, the risk of igniting a fire would be low because the project would be required to comply with the City of San José Standard Conditions of Approval related to air quality, which require that active construction areas be watered at least twice daily. Thus, the risk of ignition would be reduced significantly. Additionally, due to the short duration of construction (three months), the risk of wildfire introduced by

construction would be temporary. Operation of the proposed project would not increase the risk of wildfires, and the new infrastructure would ensure that adequate fire flow is available from the new fire pump house to the existing IBM campus. As a result, the change in wildfire risk introduced by the proposed project would be less than significant.

c) **Less than Significant.** As discussed in Chapter 3, the proposed project would install a fire water pipeline and a new fire pump house (with an access road) on the existing IBM campus. As discussed above, the proposed would not contribute significantly to the wildfire risk on the project site. The proposed project would ensure that adequate fire flow is available to serve the IBM campus. While the fire pump house would include a diesel fire pumps and associated diesel fuel storage, the fire pumps would be required to undergo monthly testing at a minimum to ensure the fire pumps are functioning properly, and security features would be installed in the new pump house to ensure a swift response if an accidental fire did occur. As a result, the proposed project would not exacerbate fire risk and impacts would be less than significant.

d) **No Impact.** As discussed under criteria b), the project would not significantly impact or elevate the risk of wildfire onsite. The project site is relatively level, but is located near the foot of the Santa Teresa hills. There are no residences near the project site, which are downstream or downslope of the project site. As discussed in Section 5.10, *Hydrology and Water Quality*, the proposed project would not substantially alter the existing drainage pattern of the site or area. The project would not significantly impact the wildfire risk in the area and; therefore, would not expose people or structures to significant risks such as downslope or downstream flooding. Therefore, no impact would occur.

References

California Department of Forestry and Fire Protection (CAL FIRE) 2008. *Santa Clara County, Very High Fire Hazard Zones in LRA*, as Recommended by CAL FIRE October 8, 2008, Available at: https://osfm.fire.ca.gov/media/6764/fhszl_map43.pdf. Accessed August 25, 2020.

City of San José Fire Department (SJFD), 2017. San José Fire Department Wildland-Urban Interface (WUI) Fire Conformance Policy. Available at: https://www.sanjoseca.gov/Home/ShowDocument?id=9345. Accessed January 13, 2021.

5.21 Mandatory Findings of Significance

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

Discussion

a) **Less than Significant with Mitigation.** Based upon background research, site visits, and the analysis contained herein, with implementation of mitigation measures identified in this Initial Study, the project does not have the potential to 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, 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. Any potential short-term increases in potential effects to the environment during construction, and long-term effects on the environment during project operation, are mitigated to a less-than-significant level, as described throughout the Initial Study.

Mitigation

Mitigation Measure BIO-1: Nesting Bird Protection Measures. (see Section 5.4, *Biological Resources*, above)

Mitigation Measure BIO-2: Avoidance and Minimization Measures for Bats. (see Section 5.4, *Biological Resources*, above)

Mitigation Measure BIO-3: Wetland and Riparian Habitat Avoidance and Protection. (see Section 5.4, *Biological Resources*, above)

Mitigation Measure CUL-1: Cultural Resources Awareness Training. (see Section 5.5, *Cultural Resources*, above)

Mitigation Measure CUL-2: Archaeological Monitoring. (see Section 5.5, *Cultural Resources*, above)

b) **Less than Significant with Mitigation.** In accordance with CEQA Guidelines Section 15183, the environmental analysis in this Initial Study was conducted to determine if there were any project-specific effects that are peculiar to the project or its site. In addition to this requirement, Section 15065(a)(3) states that a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has potential environmental effects "that are individually limited, but cumulatively considerable."[16] If cumulative impacts could occur, cumulative analysis asks whether the project's contribution to the significant cumulative impact would be cumulatively considerable.

Based on the above discussion, the project would not result in cumulatively considerable contributions to significant cumulative impacts. The project would not result in impacts to agricultural and forestry resources, mineral resources, population and housing, transportation, public services and recreation; therefore, the project would not contribute to cumulative impacts to these resources. The project's impacts to geology and soils and hazards and hazardous materials are site specific and, therefore, would not contribute to a significant cumulative impact to those resources. There are no cumulative projects in the vicinity of the project site that the project would contribute cumulatively to for aesthetics, noise, or utility and service system impacts. With implementation of the identified mitigation measures and SCAs, the project would not result in cumulatively considerable contributions to significant biological resources hydrology and water quality, or cultural resources.

The project's cumulative impact on land use was determined to be less than significant, as the project would not alter land use in a manner that would modify the existing service population. Implementation of the project would marginally contribute to criteria pollutants and global GHG emissions. As discussed in Section 5.3 *Air Quality*, and Section 5.8 *Greenhouse Gas Emissions*, the project's individual criteria pollutant and GHG emissions was below the BAAQMD threshold criteria; it would thus have a less than significant cumulative impact. The project would not result in significant emissions of criteria air pollutants or GHGs and, therefore, would not result in a cumulatively considerable impact.

Based on the above discussion, the project would not have cumulatively considerable contributions to significant cumulative impacts.

[16] *Cumulatively considerable* is defined in Section 15065(a)(3) of the CEQA Guidelines as "the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects."

Mitigation

Mitigation Measure BIO-1: Nesting Bird Protection Measures. (see Section 5.4, *Biological Resources*, above)

Mitigation Measure BIO-2: Avoidance and Minimization Measures for Bats. (see Section 5.4, *Biological Resources*, above)

Mitigation Measure BIO-3: Wetland and Riparian Habitat Avoidance and Protection. (see Section 5.4, *Biological Resources*, above)

Mitigation Measure CUL-1: Cultural Resources Awareness Training. (see Section 5.5, *Cultural Resources*, above)

Mitigation Measure CUL-2: Archaeological Monitoring. (see Section 5.5, *Cultural Resources*, above)

Mitigation Measure HAZ-1: Soil Sampling and Soil Management Plan. (see Section 5.9, *Hazards and Hazardous Materials*, above)

c) **Less than Significant.** Project construction and operation is not anticipated to result in any direct or indirect adverse effects on human beings.

CHAPTER 6
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