First Amendment to the Draft Environmental Impact Report

550 E Brokaw Development

State Clearinghouse No.: 2021060414

File Nos.: H21-005/T21-005/ER21-018

Prepared by

CITY OF SAN JOSE

CAPITAL OF SILICON VALLEY

In Consultation with

50 YEARS EST. 1972

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ENVIRONMENTAL CONSULTANTS & PLANNERS

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SECTION 1.0 INTRODUCTION

This First Amendment, together with the Draft Environmental Impact Report (Draft EIR), constitutes the Final Environmental Impact Report (Final EIR) for the 550 East Brokaw Road project.

1.1 PURPOSE OF THE FINAL EIR

In conformance with the California Environmental Quality Act (CEQA) and CEQA Guidelines, this Final EIR provides objective information regarding the environmental consequences of the proposed project. The Final EIR also examines mitigation measures and alternatives to the project intended to reduce or eliminate significant environmental impacts. The Final EIR is intended to be used by the City of San José and the California Department of Transportation (Caltrans) in making decisions regarding the project.

Pursuant to CEQA Guidelines Section 15090(a), prior to approving a project, the lead agency shall certify that:

(1) The Final EIR has been completed in compliance with CEQA;
(2) The Final EIR was presented to the decision-making body of the lead agency, and that the decision-making body reviewed and considered the information contained in the final EIR prior to approving the project; and
(3) The Final EIR reflects the lead agency's independent judgment and analysis.

1.2 CONTENTS OF THE FINAL EIR

CEQA Guidelines Section 15132 specify that the Final EIR shall consist of:

a) The Draft EIR or a revision of the Draft;
b) Comments and recommendations received on the Draft EIR either verbatim or in summary;
c) A list of persons, organizations, and public agencies commenting on the Draft EIR;
d) The Lead Agency's responses to significant environmental points raised in the review and consultation process; and
e) Any other information added by the Lead Agency.

1.3 PUBLIC REVIEW

In accordance with CEQA and the CEQA Guidelines (Public Resources Code Section 21092.5[a] and CEQA Guidelines Section 15088[b]), the City shall provide a written response to a public agency on comments made by that public agency at least 10 days prior to certifying the EIR. The Final EIR and all documents referenced in the Final EIR are available for public review at Dr. Martin Luther King Jr. Library located at 150 E. San Fernando Street, San José, CA 95112 or by appointment at the San José City Hall Permit Center located at 200 E Santa Clara St, San José, CA 95113. Should you wish to review a hard copy by appointment, please contact Cassandra van der Zweep by email Cassandra.vanderZweep@sanjoseca.gov. The Final EIR is also available for review on the City's website.

SECTION 2.0 DRAFT EIR PUBLIC REVIEW SUMMARY

The Draft EIR for the 550 East Brokaw Road project, dated May 2022, was circulated to affected public agencies and interested parties for a 45-day review period from May 11, 2022, through June 24, 2022. The City undertook the following actions to inform the public of the availability of the Draft EIR:

- A Notice of Availability (NOA) of the Draft EIR and Draft EIR were published on the City's Active EIRs website;
- The NOA of the Draft EIR was published on the City's News Stories webpage, and in the San José Mercury News on May 11, 2022;
- The NOA of the Draft EIR was emailed on May 11, 2022 to various governmental agencies, organizations, businesses, and members of the public who had indicated interest in the project;
- The NOA of the Draft EIR and Draft EIR was delivered to the State Clearinghouse on May 11, 2022,
- The NOA of the Draft EIR was mailed on May 11, 2022 to various governmental agencies, organizations, businesses, and individuals (see Section 3.0 for a list of agencies, organizations, businesses, and individuals that received the Draft EIR); and
- Hard copies of the Draft EIR were made available at City Hall, the Dr. Martin Luther King, Jr. Library, and Joyce Ellington Branch Library.

SECTION 3.0 DRAFT EIR RECIPIENTS

CEQA Guidelines Section 15086 requires that a local lead agency consult with and request comments on the Draft EIR prepared for a project of this type from responsible agencies (government agencies that must approve or permit some aspect of the project), trustee agencies for resources affected by the project, adjacent cities and counties, and transportation planning agencies.

The following agencies received a copy of the Draft EIR from the City or via the State Clearinghouse:

- California Air Resources Board
- California Department of Fish and Wildlife, Bay Delta Region 3
- California Department of Parks and Recreation
- California Department of Transportation, District 4
- California Department of Transportation, Division of Aeronautics
- California Department of Transportation, Division of Transportation Planning
- California Department of Water Resources
- California Highway Patrol
- California Native American Heritage Commission
- California Natural Resources Agency
- California Public Utilities Commission
- California Regional Water Quality Control Board San Francisco Bay Region 2
- California Department of Toxic Substances Control
- California Office of Historic Preservation
- State Water Resources Control Board, Division of Drinking Water

Copies of the NOA for the Draft EIR were sent by email to the following adjacent jurisdictions, organizations, businesses, and individuals who expressed interest in the project:

- Ada Marquez, San José State University
- Alan Leventhal, San José State University
- Amanda Brown Stevens, Greenbelt Alliance
- Anath Prasad, Santa Clara County Roads
- Andre Luthard, Preservation Action Council of San José
- Andrew Crabtree, City of Santa Clara
- Andrew Galvan, The Ohlone Indian Tribe
- Anne Christie, SPUR
- Ann-Marie Sayers, Indian Canyon
- Audobon Society
- Bay Area Air Quality District
- Ben Aghegnehu, Santa Clara County
- Ben Leech, Preservation Action Council of San José
- Bill Tuttle, San José Water Company
- Brian Schmidt, Greenbelt Alliance
- California Air Resources Board

- California Native Plant Society
- Charlene Nijmeh, Muwekma Ohlone Tribe
- City of Campbell
- City of Cupertino
- City of Fremont
- City of Los Gatos
- City of Milpitas
- City of Mountain View
- City of Morgan Hill
- City of Palo Alto
- City of Santa Clara
- City of Saratoga
- City of Sunnyvale
- Colleen Hagerty, Santa Clara Valley Water District
- Corrina Gould, Confederated Villages of Lisjan
- Debbie Pedro, City of Saratoga
- Dee Dee Manzanares Ybarra, Rumšen Am:a Tur:ataj Ohlone
- Dorothy Talbo, Santa Clara County
- Ed Ketchum
- Elizabeth Bugarin, Metropolitan Transportation Commission
- Ellen Talbo, Santa Clara County Roads
- Frances Reed, City of Saratoga
- Greenbelt Alliance
- Hannah Hughes, Lozeau Drury LLP
- Henry Hilken, Bay Area Air Quality Management District (BAAQMD)
- Jack Broadbent, BAAQMD
- Jake Walsh, San Jose Water Company
- Jakki Kehl
- Janet Laurain, Adams Broadwell Joseph &Cardozo
- JBhlaw
- Jean Dresden
- Jonathan Lockhart, Pacific Gas & Electric Company
- Josephine Fong, BAAQMD
- Julie Schaer
- Kanyon Sayers Rood, Costanoan Ohlone-Mutsun and Chumash
- Katherine Perez, North Valley Yokuts Tribe
- Kathy Sunderland
- Kelly Gibson, Santa Clara County Parks and Recreation Department
- Kenneth Woodrow, Wuksache Indian Tribe/Eshom Valley Band
- Komalpreet Toor
- Kristin Garrison, California Department of Fish and Wildlife
- Larry Ames
- Laura Tolkoff, SPUR
- Leo Camacho, Santa Clara County Roads

- Menaka Mohan, SPUR
- Michael Lozeau, Lozeau Drury LLP
- Molly Greene, Lozeau Drury LLP
- Monica Arrellano, Muwekma Ohlone Tribe
- PG&E
- Philip Crimmins, California Department of Transportation
- Preservation Action Council of San José
- Quirina Luna Geary, Tamien Nation
- Richard Drury, Lozeau Drury LLP
- Santa Clara Valley Open Space Authority
- Santa Clara Valley Transportation Authority
- Scott Knies, San José Downtown Association
- Shani Kleinhaus, Santa Clara Valley Audubon Society
- Sierra Club
- Sophie Roberts, Lozeau Drury LLP
- Thien Pham, Santa Clara County Roads
- Thomas Law Group
- Timothy Perez, North Valley Yokuts Tribe
- Valentin Lopez, Amah Mutsun Tribal Band
- Wally Charles, Association of Bay Area Governments
- WT Brooks

SECTION 4.0 RESPONSES TO DRAFT EIR COMMENTS

In accordance with CEQA Guidelines Section 15088, this document includes written responses to comments received by the City of San José on the Draft EIR. None of the comments raised represents new significant information that would warrant recirculation of the Draft EIR pursuant to CEQA Guidelines Section 15088.5(a).

Comments are organized under headings containing the source of the letter and its date. The specific comments from each of the letters and/or emails are presented with each response to that specific comment directly following. Copies of the letters and emails received by the City of San José are included in their entirety in Appendix A of this Final EIR. Comments received on the Draft EIR are listed below.

Comment Letter and Commenter **Page of Response**

FEDERAL AND STATE AGENCIES

A. Department of Toxic Substances Control (dated June 24, 2022)

Comment A.1: The Department of Toxic Substances Control (DTSC) received a Notice of Availability of a Draft Environmental Impact Report (DEIR) for the 550 E Brokaw Development Project (Project). The Lead Agency is receiving this notice from DTSC because the Project includes one or more of the following: groundbreaking activities, work in close proximity to a roadway, presence of site buildings that may require demolition or modifications, importation of backfill soil, and/or work on or in close proximity to an agricultural or former agricultural site.

DTSC recommends that the following issues be evaluated in the Hazards and Hazardous Materials section of the DEIR:

1. Refiners in the United States started adding lead compounds to gasoline in the 1920s in order to boost octane levels and improve engine performance.
   This practice did not officially end until 1992 when lead was banned as a fuel additive in California. Tailpipe emissions from automobiles using leaded gasoline contained lead and resulted in aerially deposited lead (ADL) being deposited in and along roadways throughout the state. ADL-contaminated soils still exist along roadsides and medians and can also be found underneath some existing road surfaces due to past construction activities. Due to the potential for ADL-contaminated soil, DTSC recommends collecting soil samples in the vicinity of roadways for lead analysis prior to performing any intrusive activities for the project described in the DEIR.

   Response A.1: The Phase I Environmental Site Assessment (Appendix F of the Draft EIR) did not identify any concerns related to aerially deposited lead (ADL). However, given the project site's proximity to Interstate 880 (I-880), a project condition of approval to the Site Development Permit has been added (page 125 of the Draft EIR) to require soil sampling within 20 feet of I-880 for lead prior to any grading activities to reduce any potential exposure of construction workers, adjacent properties, and future site workers to aerially deposited lead contamination. The Draft EIR has been revised to reflect this project Condition of Approval (refer to Section 5.0 Draft EIR Text Revisions).

   This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft EIR.

Comment A.2: 2. If buildings or other structures are to be demolished on any project sites included in the proposed project, surveys should be conducted for the presence of lead-based paints or products, mercury, asbestos containing materials, and polychlorinated biphenyl caulk. Removal, demolition and disposal of any of the above-mentioned chemicals should be conducted in compliance with California environmental regulations and policies. In addition, sampling near current and/or former buildings should be conducted in accordance with DTSC's 2006 *Interim Guidance Evaluation of School Sites with Potential Contamination from Lead Based Paint, Termiticides, and Electrical Transformers.*

Response A.2: As described on pages 124-125 of the Draft EIR, the project would be required to implement San José's standard permit conditions for asbestos containing materials (ACMs) and lead-based paint. Implementation of the City's standard permit conditions would result in all ACMs and lead-based paint being properly identified and removed prior to demolition, thus preventing the exposure of these materials to construction workers, nearby sensitive receptors, and the environment.

As described on page 121 of the Draft EIR, the Phase I Environmental Site Assessment (Appendix F of the Draft EIR) did not identify any past or present use of polychlorinated biphenyls (PCBs) at the project site. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft EIR.

Comment A.3: 3. If any projects initiated as part of the proposed project require the importation of soil to backfill any excavated areas, proper sampling should be conducted to ensure that the imported soil is free of contamination. DTSC recommends the imported materials be characterized according to DTSC's 2001 Information Advisory Clean Imported Fill Material.

Response A.3: The project does not require the importation of soil. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft EIR.

Comment A.4: 4. If any sites included as part of the proposed project have been used for agricultural, weed abatement or related activities, proper investigation for organochlorinated pesticides should be discussed in the DEIR. DTSC recommends the current and former agricultural lands be evaluated in accordance with DTSC's 2008 Interim Guidance for Sampling Agricultural Properties (Third Revision).

Response A.4: As described on page 120 and 123 of the Draft EIR, the project site was historically used for agricultural purposes up until the 1960s. Due to the agricultural history, there is a potential that the shallow soil contains residual organochlorine pesticides and/or pesticide-based metals arsenic and lead from historic pesticide application. The project would be required to implement mitigation measure MM HAZ-1.1, which requires that contaminated soils on-site be properly identified, characterized, removed and disposed of properly prior to ground-disturbing activities, thus preventing exposure of construction workers, adjacent uses, and the environment to soil contaminants from construction of the project. MM HAZ-1.1 would be implemented in accordance with DTSC's 2008 Interim Guidance for Sampling Agricultural Properties, note that this detail has been clarified in Section 5.0 Draft EIR Text Revisions. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft EIR.

Comment A.5: DTSC appreciates the opportunity to comment on the DEIR. Should you need any assistance with an environmental investigation, please visit DTSC's Site Mitigation and Restoration Program page to apply for lead agency oversight. Additional information regarding voluntary agreements with DTSC can be found at DTSC's Brownfield website.

If you have any questions, please contact me at (916) 255-3582 or via email at Brian.McAloon@dtsc.ca.gov.

Response A.5: The comment is a general statement and does not raise any specific issues about the adequacy of the EIR; therefore, no further response is required.

REGIONAL AND LOCAL AGENCIES

B. City of Santa Clara (dated June 24, 2022)

Comment B.1: Thank you for including the City of Santa Clara (Santa Clara) in the environmental review process for the 550 E Brokaw Road project (Project). Santa Clara appreciates the opportunity to offer comments on the Draft Environmental Impact Report (EIR) prepared by the City of San José (San José). We understand that the Project includes demolition of an existing 293,906- square foot office and electronics superstore building and construction of seven new eight-story office towers that would consist of 1,912,215 square feet of office space and be up to 135 feet high, plus two parking garages providing 5,385 parking spaces.

As discussed further below, Santa Clara has concerns about the analysis of transportation impacts and requests that the following be addressed before Project approval.

Application of the North San José Area Development Plan

As of May 17, 2022, San José has amended the North San Jose Area Development Plan (NSJADP) to no longer require payment of the transportation impact fee (TIF) for projects not already entitled. We understand that San José plans to revise the analysis to remove reference to the TIF in the First Amendment to the EIR. Thus, the Project will not pay the $30 million relied upon in the Draft EIR to fund transportation improvements and offset its impacts. This loss of funding will significantly affect the extent to which the Project's transportation impacts are offset. The Draft EIR must be revised to conclude that the Project will not pay the TIF and evaluate the Project's transportation impacts without the use of the NSJADP.

Response B.1: As noted in the comment, following circulation of the Draft EIR, on May 17, 2022, the San José City Council approved a series of amendments to the North San José Area Development Policy (NSJADP) that effectively retired the 2005 policy with respect to future development, while still requiring past projects entitled under the NSJADP to fulfill their requirements including mitigation and payment of traffic impact fees in accordance with the policy. As a result of the above-mentioned City Council action in May 2022, the North San José Traffic Impact Fee, which is based upon the evaluation of level of service (LOS) impacts, no longer applies to future development in North San José (including the project). Traffic impacts associated with future development in North San José will be evaluated using vehicle miles travelled (VMT) analysis in accordance with the California Environmental Quality Act (CEQA).

The project's transportation impacts are discussed in Section 3.17 Transportation on pages 182 through 208 of the Draft EIR and Appendix H. Pursuant to Senate Bill (SB) 743 and CEQA Guidelines Section 15064.3, the CEQA metric for transportation impacts is Vehicle Miles Traveled (VMT). The VMT analysis in the Draft EIR was based on the transportation Analysis (TA) completed for the project in accordance with Council Policy 5-1 and included in Appendix H of the Draft EIR.

While not an impact under CEQA, the project's effect on level of service (LOS) was evaluated, consistent with the City's General Plan Policy IN-3.5, and disclosed in the Draft EIR (see pages 202 through 208). As described in Section 3.17.3 of the Draft EIR, the results of the Level of Services (LOS) analysis show that, measured against applicable municipal and Congestion Management Program (CMP) LOS standards, the trips added as a result of the proposed project would result in an adverse effect on intersection operations under background plus project conditions at four intersections. However as discussed above this would not be a significant impact under CEQA (pursuant to SB 743). The Draft EIR identified that the project would provide appropriate contributions toward the implementation of improvements at these four intersections, which could include payment of the NSJADP TIF to implement multi-modal improvements in the North San José area. In light of the recent retirement of the NSJADP, the Draft EIR has been revised to remove references to the retired North San José Development Policy and Fee Plan (refer to Section 5.0 Draft EIR Text Revisions).

The removal of the NSJADP TIF fee would not impact CEQA's VMT analysis in the Draft EIR and Appendix H. Additionally, the project would be required to pay a VMT impact fee of $3,507 per unmitigable VMT per employee or $2,104,200 (refer to page 198 of the Draft EIR and Appendix H). The City would use the VMT override fees towards additional multimodal improvements that could alleviate the impacted intersections. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft EIR.

Comment B.2: ***Local Transportation Analysis***

Santa Clara appreciates the opportunity to review the Local Transportation Analysis (LTA). Page 32 of the LTA states that existing trip credits related to project trip generation were given to the existing land uses of office and electronics superstore. It is typical to consider existing trips from a prior use that has been vacant for less than two years. If the electronics superstore has been vacant for longer than that period, it would not warrant taking trip credits. Thus, the traffic analysis may be underestimating adverse project effects, especially at study intersections. The trip generation should be updated to reflect existing project traffic for only the office component. One possible way to remedy this would be to take actual traffic counts at the project driveways to determine existing trips at the project site.

Response B.2: CEQA Guidelines Section 15125 defines the baseline as normally the physical conditions in existence at the time the Notice of Preparation (NOP) is published. This environmental setting constitutes the baseline physical conditions by which a lead agency determines whether an impact is significant (CEQA Guidelines Section 15125(a)). The NOP for the proposed project was circulated on June 18, 2021 for a standard 30-day comment period, which concluded on July 19, 2021. The EIR generally uses the conditions that existed when the City issued the NOP as the baseline.

The former Fry's Electronics operated at the project site from 2002 until February 2021 (refer to page 119 of the Draft EIR). At the time the NOP was published, the

former electronics superstore had been vacant for approximately five months, which is well within the typical two-year time frame noted by the commenter. Therefore, the Local Transportation Analysis (LTA) appropriately subtracted the estimated trips associated with the former retail use. There is nothing in CEQA that requires or limits use of a baseline for a building that has been vacant for more than two years, rather, a vacant building can be appropriately assumed to be occupied as the baseline provided it is reasonable to conclude that the building would be reoccupied in the future, should the current proposed project not be approved/implemented. In this case, should the proposed office project not be approved/implemented, it is reasonable to expect the existing retail building would be re-occupied and therefore the trips from that occupancy are correctly assumed as part of the baseline conditions. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft EIR.

Comment B.3: Project trips that would originate in Santa Clara would most likely travel along Lafayette, Central Expressway, El Camino Real, De La Cruz, Trimble Road, Coleman Avenue, and I-880 to the project site. Study intersections that meet the 10-trip rule should be analyzed along these corridors as suggested in our NOP letter. In addition, the LTA states on page 34, that study intersection are selected that are "Outside the City limits with the potential to be affected by the project, per the transportation standards of the corresponding external jurisdiction." The LTA does not study any of the intersections along these roadways and therefore should be included in the traffic analysis.

Response B.3: As stated on page 34 of the LTA (Appendix H of the Draft EIR), study intersections were selected if the project was expected to add 10 vehicle trips per lane, in accordance with the City's Transportation Analysis Handbook. The project trip generation, distribution, and assignment indicate less than 10 peak hour trips per lane into Santa Clara in the vicinity of the comment's identified intersections. This comment pertains to vehicle delay and does not provide new information that would change the analysis or conclusions disclosed in the Draft EIR.

Comment B.4: The trip distribution on Figure 13 of the LTA, should be revised as it seems that more project trips would also use Trimble and then Central Expressway to access the site. Currently there is only 1 percent of traffic using Trimble Rd to access the site, which seems quite low. The adverse project effects may be understated within Santa Clara based on the project trip distribution within the LTA.

Response B.4: The project trip distribution was prepared by a traffic engineer and reviewed and approved for use in the LTA by the Director of the Department of Transportation. The trip distribution is consistent with that used for other similar employment-based uses in North San José. This comment pertains to vehicle delay and does not provide new information that would change the analysis or conclusions disclosed in the Draft EIR.

Comment B.5: The traffic analysis for the project only analyzes existing, background, and background plus project. The traffic analysis should also include analysis of future and future plus

project conditions as required by the VTA TIA guidelines. This analysis should also include any intersections analyzed within the City of Santa Clara.

> **Response B.5:** Pursuant to state and local regulations, a project's effect on automobile delay is no longer considered an impact under CEQA (see page 182 regarding SB 743, page 184 regarding City Council Policy 5-1, and page 202 under non-CEQA level of service effects). While not an impact under CEQA, the project's effect on LOS was evaluated, consistent with the City's General Plan Policy IN-3.5, and disclosed in the Draft EIR (see pages 202 and 208 through 247). The LTA (Appendix H of the Draft EIR) was prepared in accordance with the City of San José's Transportation Analysis Handbook. The VTA TIA guideline is not an adopted guideline or policy of the City. City Council Policy 5-1 and the Transportation Analysis Handbook do not require the analysis of future conditions for development projects therefore it was not studied. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft EIR.

Comment B.6: ***Proposed VMT Mitigation***

The Draft EIR discloses that the Project will have a potentially significant impact on transportation due to its exceedance of San José's applicable VMT threshold. (DEIR, p. 196.) Three mitigation measures are adopted purporting to reduce VMT per employee. (DEIR, pp. 196-198.) However, the impacts would remain significant and unavoidable following implementation of mitigation.

> **Response B.6:** This comment accurately summarizes the findings of the Draft EIR (page 198). This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft EIR.

Comment B.7: MM TRN-1.1 suggests that some improvements will be required beyond construction of bike lanes and intersection improvements. (DEIR, p. 196 ["The project applicant shall implement bicycle facilities that close gaps in the bicycle network and/or improve the existing bicycle network"].) But the additional improvements are not identified and should be.

> **Response B.7:** This comment inaccurately describes MM TRN-1.1 As discussed on page 196 of the Draft EIR, the project applicant shall be required to implement protected/buffered bicycle lanes along Brokaw Road and Junction Avenue on the opposing side of or beyond the project frontages. At the intersection of Brokaw Road and Junction Avenue, the project applicant shall complete protected intersection signal modifications that include striped bike lanes adjacent to all crosswalks and installation of corner islands in addition to the removal of the pork chop islands. Completion of these improvements would close gaps in the bicycle network and improve the existing bicycle network. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft EIR.

Comment B.8: The purported increases in transit accessibility to improve last-mile transit connections under MM TRN-1.1 are attributable to moving a single bus stop 600 feet, half a block northeast.

However, there is no commitment to increasing service levels to be able to capture a meaningful percentage of the trips that will otherwise be taken by the Project's 6,404 employees. It appears that the Draft EIR's Transportation Analysis assumes that movement of this bus stop will reduce the average travel distance of employees by .67 mile. (DEIR, Appendix H, 26.) However, there is no evidence to support the reasonableness of this assumption.

Response B.8: As discussed on page 196 of the Draft EIR, mitigation measure MM TRN-1.1 would require the relocation of the existing Route 60 bus stop from its current location east of Rogers Avenue to just west of Junction Avenue (on the far side of westbound Brokaw Road). By relocating the bus stop, the walking distance to the bus stop from the project site would be reduced by 375 feet. Implementation of the Tier 2 and 3 measures contained in MM TRN-1.1 (including the relocation of the bus stop) would reduce project-generated VMT to 13.27 VMT per employee (or a reduction of 11.5 percent), which would still exceed the City's significance threshold (refer to page 197 of the Draft EIR).

The measures identified in mitigation measure MM TRN-1.1 were selected using the City's VMT Evaluation Tool, which includes a suite of VMT reduction measures that can be applied to a project to reduce VMT. There are four VMT reduction tiers: 1) project characteristics, 2) multimodal improvements, 3) parking, and 4) Transportation Demand Management (TDM) Program to reduce a project's VMT. The VMT reductions achieved by these measures are automated in the City's VMT Evaluation Tool and are based on real-world data and published studies.

As disclosed on page 198 of the Draft EIR, even with implementation of MM TRN-1.1 through MM TRN-1.3, the project's VMT (12.30 VMT per employee) would still exceed the City's significance threshold of 12.21 VMT per employee, this constitutes a significant and unavoidable impact.

This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft EIR.

Comment B.9: The last provision of MM TRN-1.1 requires bicycle parking "that meets or exceeds the City's requirements" as well as on-site shower facilities with lockers. While these features could facilitate cycling, if the inclusion of bicycle parking is already independently required of the project, as it appears (San José City Code, § 20.90.060), then the effect of including the bicycle parking would appear to already be included in the Draft EIR's estimation of the Project's unmitigated VMT. To include it again as mitigation double counts its effect. Further, if relying on any of these features, including the shower facilities and lockers, the Draft EIR must state how many will be required.

Response B.9: The comment inaccurately concludes that mitigation measures have been doubled counted. As described on page 197 of the Draft EIR, mitigation measure MM TRN-1.1 includes Tier 3 VMT reduction measures that would provide bike parking and end of trip bike facilities. The measures identified in mitigation measure MM TRN-1.1 were selected using the City's VMT Evaluation Tool, which automates a project's VMT reduction based on the selected reduction measures and

does not double county mitigation (refer to Response B.7 for additional details on the City's VMT Evaluation Tool).

As discussed on page 10 and 208 of the Draft EIR, the project would provide 410 bicycle parking spaces in designated "bike parking" rooms located on the ground floor of the proposed office towers and additional outdoor bicycle parking spaces. As explained on page 208 of the Draft EIR, the 410 bicycle parking spaces would exceed the 409 spaces required by the City's Municipal Code. Page 10 of the Draft EIR states that the project would be required to provide 32 "bike showers" and accompanying changing rooms. Therefore, the Draft EIR does clearly state how many bicycle parking spaces would be required (and provided). This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft EIR.

Comment B.10: MM TRN-1.2 also requires at least 20% of employees to participate in a free shuttle service and 15% to participate in a 100%-subsidized vanpool. Assuming participation in such programs at these rates for a project of this magnitude appears infeasible, as it would require more than 2,200 employees per day to use either the shuttle or a vanpool. There is no substantial evidence supporting that this is possible at all, or explaining how this level of participation would be achieved.

Response B.10: As discussed on page 197 of the Draft EIR, mitigation measure TRN-1.2 would require that the applicant submit and implement a Transportation Demand Management (TDM) plan. The TDM plan shall include implementation of one of the following measures listed under mitigation measure MM TRN-1.2, which may include operation of a free direct shuttle, subsidized vanpool or telecommuting and alternative work schedules. The TDM plan would not need to include implementation of all of these measures. However, all of the measures that would be required by the TDM plan would need to be included in any subsequent lease agreements with future occupants of the project. As described on page 198 of the Draft EIR, the TDM Plan would also include a trip cap for VMT monitoring purposes. If the project is not in conformance with the trip cap, the project applicant shall implement additional TDM measures to meet the trip cap. As stated in the Draft EIR, annual trip monitoring reports would be submitted to the Director of Public Works (or the Director's designee) to demonstrate that the project VMT is below the threshold (i.e., that the project meets or is below the trip cap). In the event the annual monitoring reports find that the project is exceeding the established trip cap, the project applicant shall be required to submit a follow-up report that demonstrates compliance with the trip cap requirements within a grace period, which typically would not exceed six months. Pursuant to Council Policy 5-1, if the project's trip cap is not met following the six-month grace period, fees will be assessed based on the City's VMT fees. This fee is established based on the value of constructing or funding improvements ($2,300 per residential VMT not mitigated and $3,200 per employment VMT not mitigated). The monetary fees would be used to construct improvements within the vicinity of the project to help reduce VMT. The Draft EIR appropriately includes quantitative performance criteria (i.e., trip cap) and specific deadlines for completion of the TDM plans (prior to the issuance of occupancy

permits), as well as feasible measures to accomplish the trip reductions and a monitoring program to ensure the measures' effectiveness.

This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft EIR.

Comment B.11: Lastly, MM TRN-1.3 requires a "trip cap" which does not actually cap trips. (DEIR, p. 198.) The measure requires trips to be monitored by the applicant, though it does not explain how this can feasibly be accomplished. If the monitoring shows that the project is not "in conformance with the trip cap" – which appears to mean "within 10%" of the cap and not within the cap itself – then the applicant must implement additional measures. (Ibid.) Pursuant to San José Council Policy 5-1, which this mitigation provision implements in part, if the trip cap is still not satisfied by the "additional measures" which are left up to the applicant, then the applicant must pay fees. (Council Policy 5-1, Appendix B, ¶ C.) But these are only 1/5 what they should be when, as here, a project's VMT is found to be significant and unavoidable. (Ibid.) Nor do such fees ensure that the "cap" on trips will actually operate as a cap, particularly given to the discount.

Response B.11: As described on page 198 of the Draft EIR, the project would be required to meet a trip cap of 1,841 AM peak-hour trips and 1,825 PM peak hour trips or 15,463 daily trips. Refer to Response B.10 for details about annual trip monitoring and requirements for demonstrating compliance with the trip cap. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft EIR.

Comment B.12: In sum, the Draft EIR's quantitative assumptions about the mitigation's efficacy are unsupported and appear to be inflated beyond what the measures could feasibly achieve.

Thank you for the opportunity to comment on the EIR for the 550 East Brokaw Project. Santa Clara looks forward to San José's responses.

Response B.12: The VMT analysis in the Draft EIR was based on the TA completed for the project in accordance with Council Policy 5-1 and included in Appendix H of the Draft EIR. The effectiveness of the VMT mitigation identified in the Draft EIR was evaluated pursuant to the established methodology in the City's adopted Council Policy 5-1. Refer to Responses B.6 through B.11 above for details about the effectiveness of the proposed VMT mitigation. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft EIR.

C. Pacific Gas & Electric Company (dated May 17, 2022)

Comment C.1: Thank you for submitting the 550 E Brokaw Road Project plans for our review. PG&E will review the submitted plans in relationship to any existing Gas and Electric facilities within the project area. If the proposed project is adjacent/or within PG&E owned property and/or easements, we will be working with you to ensure compatible uses and activities near our facilities.

Attached you will find information and requirements as it relates to Gas facilities (Attachment 1) and Electric facilities (Attachment 2). Please review these in detail, as it is critical to ensure your safety and to protect PG&E's facilities and its existing rights.

Below is additional information for your review:

1. This plan review process does not replace the application process for PG&E gas or electric service your project may require. For these requests, please continue to work with PG&E Service Planning: https://www.pge.com/en_US/business/services/building- and-renovation/overview/overview.page.

2. If the project being submitted is part of a larger project, please include the entire scope of your project, and not just a portion of it. PG&E's facilities are to be incorporated within any CEQA document. PG&E needs to verify that the CEQA document will identify any required future PG&E services.

3. An engineering deposit may be required to review plans for a project depending on the size, scope, and location of the project and as it relates to any rearrangement or new installation of PG&E facilities.

Any proposed uses within the PG&E fee strip and/or easement, may include a California Public Utility Commission (CPUC) Section 851 filing. This requires the CPUC to render approval for a conveyance of rights for specific uses on PG&E's fee strip or easement. PG&E will advise if the necessity to incorporate a CPUC Section 851filing is required.

This letter does not constitute PG&E's consent to use any portion of its easement for any purpose not previously conveyed. PG&E will provide a project specific response as required.

> **Response C.1:** There are existing PG&E easements located on the project site. The applicant will coordinate with PG&E to remove any existing easements on-site and will complete necessary applications and provide deposits, as necessary. The comment does not raise any issues about the adequacy of the EIR, therefore, no further response is required.

D. Santa Clara Valley Transportation Authority (dated June 24, 2022)

Comment D.1: VTA appreciates the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the 550 East Brokaw Development Project. VTA has reviewed the DEIR and has the following comments:

Project Location and Land Use

The DEIR notes that the project is located in an area with relatively high Employment VMT, which results in a significant and unavoidable Transportation impact from project-generated VMT. VTA acknowledges that the project's location is challenging, but VTA notes that the opening of the BART extension to Milpitas and Berryessa in 2020, the introduction of VTA Route 60 bus service along Brokaw Road in 2019, and planned pedestrian and bicycle improvements have the potential to shift travel patterns over time. Developing the site in a dense, compact way with strong Transportation

Demand Management (TDM) measures and reduced parking ratios, as proposed, is one of the best ways to ensure that the project takes advantage of the new multimodal travel options in the area.

> **Response D.1:** The comment is a general statement and does not raise any specific issues about the adequacy of the EIR; therefore, a general response is provided. As discussed on pages 197-198 of the Draft EIR, the project would be required to implement mitigation measure MM TRN-1.2, which requires submittal and implementation of a TDM plan. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft EIR.

Comment D.2: Bus Stop Access and Safety improvements

VTA has an existing bus stop along the project's Brokaw frontage serving VTA's frequent bus Route 60. Route 60 operates on 15-minute headways during weekday AM peak, midday and PM peak periods, and provides direct service to the Milpitas BART station, Metro/Airport light rail station, San Jose Mineta Airport, Santa Clara Caltrain/ACE/Capitol Corridor station, Valley Fair Mall, and Campbell. VTA started providing transit service on Brokaw on December 2019 and recommends pedestrian upgrades to make transit more accessible in this area. VTA has the following recommendations:

- VTA supports the improvements listed in mitigation measure MM TRN-1.1 to connect the sidewalk on westbound Brokaw and relocate VTA's bus stop closer to the Brokaw / Junction intersection. The proposed relocated bus stop has a driveway nearby, so VTA requests that the City coordinate closely with VTA regarding the placement and design of this stop.

> **Response D.2:** This comment acknowledges VTA's support of mitigation measure MM TRN-1.1 (described on pages 196-197 of the Draft EIR), and specifically, mitigation related to increasing transit accessibility to improve last-mile transit connections (Tier 2), which includes the relocation of the VTA Route 60 bus stop. As a condition of the project, the applicant will be required to relocate the existing Route 60 bus stop from the current location east of Rogers Avenue to west of Junction Avenue and the applicant will be required to coordinate directly with VTA to determine the bus stop improvements and location as required by VTA standards. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft EIR.

Comment D.3:

- With the construction of the protected bike lanes along the project frontage on Brokaw, VTA recommends that any bus boarding islands be built to VTA standards. VTA's Bus Boarding Islands memo with specifications is attached; Figure 7.8a and 7.8c is a bulb out design that closely matches past discussions between VTA and City staff.

> **Response D.3:** The City acknowledges receipt of VTA's Bus Boarding Islands memo. As discussed in Response D.2 above the project applicant is required under MM TRN-1-1 to coordinate the design of the bus stop including the bus boarding

island with VTA. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft EIR.

Comment D.4:

- Please include on the construction plans the location of the bus stop and a note to contact VTA at Bus.Stop@vta.org or 403-321-5800 at least 72 business hours prior to any construction that may impact bus operations. This ensures the safety of pedestrians attempting to catch the bus at this stop during construction.

Response D.4: The project's Public Improvement plan set will identify the location of the bus stop and will include the above note. This comment is not an issue under CEQA and does not provide new information that would change the analysis or conclusions disclosed in the Draft EIR.

Comment D.5:

- VTA recommends that given the size of this development and its significant and unavoidable VMT impact, the project should be required to improve pedestrian access further west along Brokaw by filling in the sidewalk gaps at the Brokaw and Zanker intersection.

Response D.5: The City's standard practice is to only have projects construct new sidewalks/fill in sidewalk gaps that are located along the project's frontage. As identified in the Draft EIR (pages 194-195), the project includes numerous pedestrian network improvements including: constructing a sidewalk between the relocated bus stop and the existing sidewalk on the north side of Brokaw Road, removing each of the pork chop islands at the East Brokaw Road/Junction Avenue intersection, and modifying the signal phasing of the intersection. As future development occurs in the City, the City will review development applications and identify where there are sidewalk deficiencies along project frontages. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft EIR.

Comment D.6: VTA would like the opportunity to review updated site plans to ensure that the placement of driveways, landscaping and any other features do not conflict with bus operations. VTA's Transit Passenger Environment Plan provides design guidelines for bus stops. This document can be downloaded at https://www.vta.org/projects/transit-passenger-environment-plan. VTA also has a Bus Stop Placement, Closures and Relocations Policy, available at https://www.vta.org/sites/default/files/2022- 02/Bus%20Stop%20Policy.pdf.

Response D.6: Please see Response D.3 above. Prior to the issuance of grading permits, the applicant, pursuant to mitigation measure MM TRN-1.1, will coordinate the design of the bus stop with VTA. The City of San José will continue to coordinate with VTA regarding the site plans for the project. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft EIR.

Comment D.7: Measures to Address Transit Delay

The DEIR and TA Report state that the project would not conflict with any policies, plans, or ordinances relating to transit facilities (DEIR p. 193). However, neither the DEIR nor the TA Report include an analysis of the effect of project-generated trips on transit delay. Such an analysis is required per VTA's 2014 Congestion Management Program Transportation impact Analysis Guidelines. Furthermore, in 2018 VTA's Board of Directors adopted a Transit Speed Policy that directs staff to work with cities and agencies to reduce delay to VTA transit services. VTA requests that the FEIR include such an analysis and identify off-setting measures for increases in delay that are found due to this project.

Transit riders are more likely to be people of color and lower income; they may be disproportionately impacted by slower and unreliable transit times, exacerbating transportation inequities throughout the County. Seventy-six percent of VTA riders are non-white or Hispanic/Latinx compared to 68% of Santa Clara County's population. Additionally, 30% of VTA riders live below the poverty level compared to 19% of all Santa Clara County residents, and 27% of riders come from car-free homes. Conducting a transit delay analysis would help identify and correct potential harm to historically underrepresented users of this corridor and lead to better outcomes that allow everyone to thrive in Santa Clara County.

VTA's Route 60 has experienced significant schedule delays due to automobile congestion along Brokaw between Zanker Road, the I-880 ramps and Oakland Road since it began serving this portion of Brokaw at the end of December 2019. These delays have often caused missed connections to Milpitas BART trains, adversely affecting passengers. It is likely that the additional vehicular trips generated by the 550 E Brokaw project will further delay Route 60 buses. VTA recommends that the City pursue design treatments that can potentially prioritize transit on the street like queue jumps and in-lane boarding.

VTA would appreciate the opportunity to work with city staff to identify where queue jump treatments would be possible and effective as there are external factors involved and many potential designs to integrate queue jump treatments into the local context.

Response D.7: The City does not currently have established policies or significance criteria related to transit vehicle delay and Transportation Analysis is conducted in accordance with CEQA, SB743, and City Council Policy 5-1 for the City of San José. The City does not utilize the VTA's 2014 Congestion Management Program Transportation Impact Analysis Guidelines for purposes of CEQA impact analysis. Furthermore, the use of delay to determine the effects of project traffic along the Brokaw Road corridor which currently experiences significant operation issues (refer to page 205 of the Draft EIR and page 49-54 of Appendix H) would not provide a meaningful evaluation since the use of delay is limited to only the evaluation of roadway capacity and vehicular demand and cannot reflect the identified non-vehicular capacity improvement benefits to transit service. The project applicant is required under MM TRN-1.1 to implement multi-modal improvements at the Junction Avenue and Brokaw Road intersection as well as close the median along Brokaw Road just east of Junction Avenue (refer to pages 10-11 and 196-197 of the Draft EIR). In addition, MM TRN-1.1 requires the project applicant to implement

new protected/buffered bicycle lanes along Brokaw Road and Junction Avenue on the opposing side of or beyond the project frontages, and to complete protected intersection signal modifications that include striped bike lanes adjacent to all crosswalks. However, the City will continue to coordinate with VTA to determine whether transit service improvements can be incorporated as part of a larger multi-modal improvement plan for the Brokaw Road corridor. With the closure of the North San José Policy, the City is considering developing Multi Modal Transportation Improvement (MTIP) Plans for certain roadways in North San Jose in coordination with VTA and other jurisdictions. The City will engage and coordinate with VTA as those plans develop in the future. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft EIR.

Comment D.8: Bicycle Accommodations

VTA has the following comments regarding mitigation measure MM TRN-1.1 related to bicycle accommodations:

- VTA supports this multi-modal mitigation measure, and we look forward to working with the City and applicant to coordinate bicycle improvements and bus stops along this corridor. VTA should be given the opportunity to review any design documents created by the applicant or City at all stages beginning with 35% design. Please submit designs to plan.review@vta.org for conformance review.

Response D.8: Currently, the City's approved the Better Bike Plan 2025 outlines new bikeways, enhancing existing bikeways, and implementing supportive programs to make bicycling safer and convenient for all ages and abilities in all parts of the City. The City of San José will continue to coordinate with VTA regarding the site plans for the project. The project will be subject to a permit condition to coordinate with VTA on the implementation of bus stop improvements along Brokaw Road project frontage and to have the project's improvement plans referred to VTA. In addition, with the closure of the North San José Policy, the City is considering developing Multi Modal Transportation Improvement (MTIP) Plans for certain roadways in North San Jose in coordination with VTA and other jurisdictions. The City will engage and coordinate with VTA as those plans develop in the future. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft EIR.

Comment D.9:

- The FEIR should clarify how far the project applicant will be required to expand protected/buffered bike lanes on Brokaw Road and Junction Avenue, including whether the project will construct a protected bicycle lane in only the eastbound direction, or in both directions on Brokaw. As we noted in our comments on the TA scoping in 2020, VTA recommends extending any offsite improvements to provide a connection with the Coyote Creek Trail. This connection could enhance options for bike travel to the site.

Response D.9: The City does not typically require projects to construct new bicycle lanes that are not located along the project's frontage. The project will be required to construct Class IV protected lanes along the project frontages only along Junction

Avenue and Brokaw Road per San José Better Bike Plan 2025. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft EIR.

Comment D.10:

- VTA recommends that the MM-TRN 1.1 mitigations be tied to the permit for Phase 1 as presented in Figure 2.2-6 of the DEIR. Section 2.27 – Construction states that, "…it is assumed that the off-site improvements, including streetlights, would be constructed during Phase One." This is not a specific enough measure for the CEQA document and should be clarified in the FEIR.

Response D.10: As stated on page 196 of the Draft EIR and the MMRP, the applicant is required to implement the multi-modal improvements identified in MM TRN-1.1 prior to the issuance of any occupancy permit. Therefore, at the time any Certificate of Occupancy permits are requested for Phase 1 of the project, the applicant must demonstrate that those improvements have been implemented. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft EIR.

Comment D.11: The TA Report mentions that reconfiguration of the I-880 / Old Bayshore Highway area and addition of Class 2 bike lanes to Queens Lane and Rogers Avenue are planned and recommends that the City should work with the applicant to determine an appropriate contribution towards implementation of these improvements. VTA notes that there is a freight rail track that runs along the east side of Queens Lane, and recommends pavement markings to show the train's dynamic envelope and embedded track gap fillers to prevent bicycle wheels from getting stuck in the gaps.

Response D.11: The comment refers to making roadway and bike lane improvements beyond the project's frontage. The applicant is not required to implement pavement markings at this time since the improvement would be beyond the project's frontage. This comment does not identify any CEQA issues nor provide new information that would change the analysis or conclusions disclosed in the Draft EIR.

Comment D.12: In addition, each building should be equipped with short-term and long-term bike parking. Clear wayfinding should be developed for cyclists to access the interior of the site from either Brokaw Road or Junction Avenue. Please consult VTA's recently updated Bicycle Technical Guidelines Chapter 10 for bike parking options, placement, and standards. The applicant should consider a range of options, racks, lockers, and centralized storage, and make the location of the bike parking convenient and accessible.

Response D.12: The comment is a general statement and does not raise any specific issues about the adequacy of the EIR. As discussed on page of the Draft EIR, the project would provide 410 bicycle parking spaces in designated "bike parking" rooms located on the ground floor of the proposed office towers and additional outdoor bicycle parking spaces. The City reviews the planning permit application to ensure

bicycle parking is located in accordance with the San José Municipal Code requirements.

Comment D.13: Vehicle Miles Traveled (VMT) and Transportation Demand Management (TDM)

The DEIR notes that the project would generate 15.0 VMT per employee, which would exceed the City's significance threshold of 12.21 VMT per employee (DEIR p. 196). Given this expected impact, it will be critical for Mitigation Measures MM TR-1.2 (TDM Plan) and MM TR-1.3 (On-site Coordinator and Annual Monitoring) to be as robust as possible. VTA has the following specific comments:

- VTA supports the identified trip cap of 1,841 a.m. peak hour trips and 1,825 p.m. peak hour trips, and the requirement that the applicant shall implement additional TDM measures if monitoring shows that the trip cap is not being met. To further strengthen this measure, VTA recommends that the traffic engineer that prepares the annual monitoring should be an independent third-party hired by the City, with the cost borne by the applicant.

Response D.13: This comment accurately describes the project's VMT impact and supports the project's identified trip cap. The annual monitoring report is prepared by a traffic engineer hired by the applicant and reviewed and approved by the City. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft EIR.

Comment D.14:

- If a free project shuttle is implemented by the applicant as one of the project's TDM measures, this shuttle should serve BART and light rail stations, and the schedule should be coordinated with BART and light rail schedules. Connecting the Milpitas and/or Berryessa Transit Centers would offer multiple public transit opportunities including BART and VTA bus routes.

Response D.14: As stated in Section 3.17 Transportation of the Draft EIR the TDM measure to provide shuttle service would require that direct shuttle service be provided from the project site to areas with high concentrations of employees and requires at least 20 percent participation by employees. As part of the TDM plan, the project applicant is required to perform employee surveys to determine the location where the greatest number of employees can participate to meet the mitigation measure's VMT reduction. Depending on the results of the survey, the shuttle schedules would be coordinated accordingly. This comment does not offer new information that would change the analysis or conclusions presented in the DEIR.

Comment D.15: Congestion Management Program (CMP) System Effects and Offsetting Improvements

VTA has the following comments on operational analysis of Congestion Management Program (CMP) roadway facilities in the TA Report:

- Although the transportation analysis shows an LOS D with an average delay over 30 seconds per vehicle for the two Brokaw Road ramp terminus intersections, these optimistic reported

results are attributed to the throttled traffic flow on the Brokaw Road-Murphy Avenue approaches, where demand exceeds the available capacity and causes cycle failures. A cycle failure occurs when one or more queued vehicles are unable to depart due to insufficient capacity during a traffic signal cycle. Prior to the pandemic, VTA staff have experienced delays as high as 15 minutes traveling on Brokaw Road-Murphy Avenue between Old Oakland Road and Junction Avenue, including Route 60 operators who are often faced with a situation to turn around a bus due to failures to meet schedule. This reinforces the importance of analyzing transit delay and identifying offsetting measures (noted above).

Response D.15: Refer to Response D.7 above for a discussion of transit vehicle delay. As disclosed on page 6 of Appendix H of the Draft EIR, existing traffic volumes at all study intersections were obtained from the City of San José, the 2018 CMP Annual Monitoring Report, and available manual turning-movement counts collected in 2018 and 2019 (refer to Appendix H of the Draft EIR). The collection of new turning movement counts was not possible due to the unprecedented traffic conditions caused by COVID-19 and the order to shelter in place issued by the Santa Clara County Department of Public Health. Therefore, a one percent compounded annual growth factor was applied to counts that are older than two years to estimate traffic conditions in 2020. Therefore, traffic volumes described in the TA Report (Appendix H of the Draft EIR) account for pre-pandemic levels plus one percent growth.

Page 205-206 of the Draft EIR presents the findings of the project's Freeway Ramp Analysis. The Freeway Ramp Analysis found that project-generated traffic would not lengthen the projected 15-minute interval queue lengths at the freeway ramps located within the project vicinity under background plus project conditions. The freeway on-ramp queuing calculations are included in Appendix H of the Draft EIR.

This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft EIR.

Comment D.16:

- The TA Report shows queues on a few on-ramps exceeding the available storage capacity under the project conditions. Although the transportation analysis acknowledges these impacts, the report's findings are highly dependent upon effective TDM measures to reduce the possible impacts. This reinforces the importance of a robust TDM and monitoring program (noted above).

Response D.16: As discussed on page 76 of Appendix H of the Draft EIR, the project is projected to increase the maximum queue length at two freeway off-ramps that could potentially provide inadequate queue storage capacity. Evaluation of the project's effect on freeway ramps is not required by the City's Transportation Analysis Handbook and is included solely for informational purposes. This clarification has been added to Section 3.17.3 Non-CEQA Effects of the Draft EIR (refer to Section 5.0 Draft EIR Text Revisions).

The comment acknowledges the importance of implementing a TDM plan. As stated on pages 197-198 of the Draft EIR, the project applicant would implement mitigation measure MM TRN-1.2, which requires implementation of a TDM plan. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft EIR.

Comment D.17:

Given that the project will have a significant and unavoidable VMT impact and will likely exacerbate transit delays on VTA Route 60, in addition to the measures discussed earlier in this letter VTA recommends that the City work with the applicant on these additional measures:

- A potential voluntary contribution to one or more of the following freeway improvement projects listed in Valley Transportation Plan (VTP): I-880 Express Lanes from Alameda County line to US 101 (H7), US 101/ Zanker Rd. / Skyport Dr. / Fourth St. Interchange Improvements (H30), and I-880/ Montague Expressway interchange improvement (H36)
- A potential voluntary contribution to one or more non-motorized mode projects from VTP such as Charcot Avenue bikeway from Orchard Parkway to O'Toole Ave./I- 880 (B20), and Coyote Creek Trail from Montague Expwy. to Oakland Road (B100); VTA recommends the City consult with VTA staff on specific projects.

Response D.17: As disclosed on page 198 of the Draft EIR, even with implementation of MM TRN-1.1 through MM TRN-1.3, the project's VMT (12.30 VMT per employee) would still exceed the City's significance threshold of 12.21 VMT per employee, this constitutes a significant and unavoidable impact. Thus, in addition to the mitigation measures described above, the project applicant is required to pay a VMT impact fee for the proposed 2,000,000 square feet of office (or approximately 6,667 employees) prior to issuance of building permits to address the project's unmitigable VMT impact. The current 2022 fee is $3,693 per unmitigated VMT per employee and is subject to annual escalation consistent with the Engineering News-Record Construction Cost Index (ENR CCI). The City would use the VMT override fees towards additional multimodal improvements and can work with VTA to potentially help fund the identified projects. The suggested voluntary contribution to one or more freeway improvement projects would not address the project's VMT impacts. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft EIR.

Comment D.18: Other

The DEIR section on existing transit services in Section 3.17.1.2 contains out-of-date information on the headways of VTA transit services near the project site. The text should be corrected to note that VTA Routes 60 and 66 now operate at 15-minute headways during weekday AM peak, midday and PM peak periods, and the VTA light rail Blue and Green Lines operate at 20-minute headways during weekday AM peak, midday and PM peak periods.

Response D.18: Page 191 of the Draft EIR presents headway information for VTA transit services based on information that was publicly available at the time the Draft EIR was prepared. Section 3.17.1.2 of the Draft EIR has been revised to reflect the

current headways (which are now generally more frequent) for VTA transit services (refer to Section 5.0 Draft EIR Text Revisions).

This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft EIR.

Comment D.19: Section 2.4 states that the "Valley Transit Authority" is tasked with oversight of discretionary permits. This should be corrected in the FEIR to read "Valley Transportation Authority."

Thank you again for the opportunity to review this project. Please do not hesitate to contact me at 408-321-5949 or Robert.swierk@vta.org if you have any questions on this letter.

Response D.19: The last paragraph of Section 2.4 on page 15 of the Draft EIR has been revised to correct the name of Valley Transportation Authority. This correction has been included in Section 5.0 Draft EIR Text Revisions. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft EIR.

E. Santa Clara Valley Water District (dated June 16, 2022)

Comment E.1: The Santa Clara Valley Water District (Valley Water) has reviewed the Draft Environmental Impact Report (DEIR) for the proposed 550 E Brokaw Development Project, received by Valley Water on May 11, 2022.

The proposed development is not located adjacent or within any Valley Water facilities or right-of-way; therefore, in accordance with Valley Water's Water Resources Protection Ordinance, a Valley Water encroachment permit is not required for this project.

Valley Water has the following comments regarding the project:

1. The document states that groundwater in the project area is known to be between 7 and 12 feet below ground surface but is typically 60 feet below ground surface year-round. However, Valley Water records indicate the first depth to groundwater is approximately 0 to 10 feet below ground surface at the subject site. Please refer to Figure 2-16 on page 2-17 of the Valley Water 2016 Groundwater Management Plan and revise Section 3.7.1.2 on page 95, Section 3.10.1.2 on page 135, and Part b of Section 3.10.2.1 on page 137 accordingly.

    Response E.1: As stated on page 95 of the Draft EIR, groundwater levels can fluctuate temporarily due to a variety of factors, including seasonal variations in precipitation and temperature, and rates of groundwater extraction in the surrounding area. Based on a site-specific preliminary geotechnical investigation prepared for the project site by Rockridge Geotechnical, dated August 12, 2020 (refer to Appendix E of the Draft EIR), groundwater depths range between seven and 12 feet below ground surface (bgs). As stated in Appendix E of the Draft EIR, groundwater data was obtained from the State of California Water Resources Control Board GeoTracker website, which included a review of groundwater monitoring well readings from

1992 to 2010 at 524 E. Brokaw Road (located approximately 75 feet west of the project site). According to the Phase I Environmental Assessment prepared for the project by Farallon Consulting, dated January 24, 2020 (refer to Appendix F of the Draft EIR), groundwater depths in the project area are encountered at depths between 10 and 15 feet bgs. Given that groundwater levels can fluctuate, it is possible that groundwater could be encountered at depths as high as zero feet bgs, as noted by the comment, or as low as 15 feet bgs, as stated in the Appendix F of the Draft EIR. This additional detail about groundwater depths has been added to Section 3.7.1.2 and 3.10.1.2 of the Draft EIR (refer to Section 5.0 Draft EIR Text Revisions).

This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft EIR.

Comment E.2: 2. In Section 3.10.1.1 on page 130, please note the Municipal Regional Stormwater NPDES Permit (MRP) was just adopted by the Regional Water Quality Control Board (RWQCB).

Response E.2: This clarification has been added to Section 3.10.1.1 of the Draft EIR (refer to Section 5.0 Draft EIR Text Revisions). This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft EIR.

Comment E.3: 3. In the Water Resources Protection Ordinance and District Well Ordinance discussion of Section 3.10.1.1 on page 131, the text should be revised as follows: "Valley Water operates as the flood protection agency for Santa Clara County. Valley Water also provides stream stewardship and is the wholesale water supplier throughout the county, which includes the groundwater recharge program. Well construction and deconstruction permits, including borings 45 feet or deeper, are required under Valley Water's Well Ordinance 90-1. Under Valley Water's Water Resources Protection Ordinance, projects within Valley Water property or easements are required to obtain encroachment permits."

Response E.3: Page 131 of the Draft EIR recognizes Valley Water's permit authority for well construction and deconstruction work. In the event that project would involve work on land owned by or land subject to an easement of Valley Water, the City and project applicant will coordinate with Valley Water to obtain an encroachment permit. This additional information about Valley Water's groundwater recharge program has been added to the EIR (refer to Section 5.0 Draft EIR Text Revisions).

This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft EIR.

Comment E.4: 4. In the Hydrology and Drainage discussion of Section 3.10.1.2 on page 134 and the Storm Drainage discussion of Section 3.19.1.2 on page 218, "San Francisco Bay Area" should be corrected to "San Francisco Bay."

Response E.4: Page 218 of the Draft EIR has been revised accordingly (refer to Section 5.0 Draft EIR Text Revisions).

This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft EIR.

Comment E.5: 5. Section 3.10.1.2 on page 135 and Part d of Section 3.10.1.2 on page 139 define Zone X as having "a 0.2 percent annual chance of flooding." While this is one of the official FEMA definitions of Flood Zone X, Flood Zone X can be further designated as either shaded or unshaded. These sections should specify that half of the project site is located within Zone X (unshaded), representing areas outside of the 0.2 percent annual chance floodplain.

Response E.5: Page 135 of the Draft EIR states that Flood Zone X is defined as an area having 0.2 percent annual change of flooding. As noted by the commenter, Zone X flood zones are either designated as "shaded" or "unshaded." Zone X (unshaded) is an area determined by FEMA to have minimal flood hazard. Text has been added to page 135 of the Draft EIR to clarify that the project site is in Zone X (unshaded). Refer to Section 5.0 Draft EIR Text Revisions for clarification.

This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft EIR.

Comment E.6: 6. Part b of Section 3.10.2.1 on page 137 assumes that because major excavation is not proposed, the project would not access groundwater and would therefore not affect groundwater supplies. However, shallow groundwater (i.e., 0 to 10 feet) occurs in the project location. This text should be revised to reflect that since shallow groundwater occurs in the project location, proposed excavation and grading work could encounter groundwater, requiring dewatering during construction.

Response E.6: Refer to Response D.1 for clarification on groundwater depths in the project area. As stated on page 137 of the Draft EIR, because the project does not involve any excavation below ground beyond what is required to install utilities, the project would not encounter groundwater or require dewatering of subsurface groundwater. Nonetheless, the text of the Draft EIR has been revised to acknowledge the possibility that groundwater could be encountered, which would require dewatering (refer to Section 5.0 Draft EIR Text Revisions).

This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft EIR.

Comment E.7: 7. Part b of Section 3.10.2.1 on page 137 states that Valley Water has 18 major groundwater recharge systems. While Valley Water has a complex and interconnected network of groundwater recharge facilities, the reference to the number of systems should be removed as Valley Water does not categorize groundwater facilities by major or minor and therefore it is not clear how it was determined that there are 18 major systems.

Response E.7: Figure 1-3 of the 2016 Groundwater Management Plan identifies Valley Water District recharge ponds. Figure 1-3 identifies 16 recharge ponds (note that the text in the Draft EIR had stated 18). This reference has been revised in the Draft EIR, accordingly (refer to Section 5.0 Draft EIR Text Revisions). This

comment does not provide new information that would change the analysis or conclusions disclosed in the Draft EIR.

Comment E.8: 8. Section 3.10.2.2 on page 141 states that "the project site is not within a 100-year floodplain." The eastern half of the site is designated as Zone D, which is not a Special Flood Hazard Area (SFHA), but also is not necessarily outside the 100-year floodplain. This should be revised to state that the project site is not located within a SFHA, since flood risks are undetermined, but possible in this area.

Response E.8: Page 141 of the Draft EIR correctly states that the project site is not within a 100-year floodplain, which the Federal Emergency Management Agency (FEMA) defines as an area with a one percent annual change of flooding. Areas within the 100-year floodplain are labeled as Zone A, Zone AO, Zone AH, Zones A1-A30, Zone AE, Zone A99, Zone AR, Zone AR/AE, Zone AR/AO, Zone AR/A1-A30, Zone AR/A, Zone V, Zone VE, and Zones V1-V30.1 While Zone D indicates there are possible but undetermined flood hazards, no analysis of flood hazards has been conducted in these areas. The statement in the Draft EIR is correct and accurate and does not require revision as requested in the comment. Nonetheless, text was added to page 141 of the Draft EIR to clarify that flood risks are undetermined in Zone D (refer to Section 5.0 Draft EIR Text Revisions for clarification). This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft EIR.

Comment E.9: Please note a portion of the site is in the Anderson Dam failure inundation zone.

Response E.9: Appendix G of the CEQA Guidelines was amended in 2018 to remove the checklist question regarding dam failure. The comment does not raise any issues about the adequacy of the EIR, therefore, no further response is required.

Comment E.10: Valley Water records show that there is one abandoned well on the subject site (APN: 237-08- 079). Please keep in mind it is always possible that a well exists that is not in Valley Water records. Abandoned or unused wells can provide a vertical conduit for contaminants to pollute groundwater. To avoid impacts to groundwater quality, any wells found on-site, including the abandoned well, that will not be used must be properly destroyed in accordance with Ordinance 90-1, which requires issuance of a well destruction permit or registered with Valley Water and protected during construction. Property owners or their representatives should call the Wells and Water Measurement Unit at (408) 630-2660 for more information regarding well permits and registration for the destruction of wells.

Thank you for the opportunity to review the DEIR. If you have any questions, or need further information, you can reach me at (408) 596-4364, or by e-mail at JAlvarado@valleywater.org. Please reference Valley Water File No. 34715 on future correspondence regarding this project.

[1] FEMA. Flood Zones. Site accessed on June 20, 2022. https://www.fema.gov/glossary/flood-zones

Response E.10: Refer to Response E.3 for information about well deconstruction permits. The comment does not raise any issues about the adequacy of the EIR, therefore, no further response is required.

SECTION 5.0 DRAFT EIR TEXT REVISIONS

This section contains revisions to the text of the 550 East Brokaw Road Draft EIR dated May 2022. Revised or new language is underlined. All deletions are shown with a ~~line through the text~~.

Page 15 Section 2.4 Uses of the EIR: REVISE the last paragraph as follows:

Additionally, both the Valley ~~Transit~~ Transportation Authority (VTA) and California Department of Transportation (Caltrans) are tasked with the oversight and approval of discretionary permits in connection with the proposed bus stop relocation and restriping of the I-880 and Old Bayshore Highway intersection, respectively (refer to Section 2.2.4).

Page 95 Section 3.7.1.2 Existing Conditions (under Groundwater): REVISE the first paragraph as follows:

Groundwater has been documented to flow northwest at depths between zero ~~7~~ and ~~12~~ 15 feet below ground surface (bgs) within the project vicinity.[2,3,4] Groundwater levels can fluctuate temporally due to a variety of factors, including seasonal variations in precipitation and temperature, and rates of groundwater extraction in the surrounding area.

Page 123 Section 3.9.2 Impact Discussion (under checklist question b): REVISE MM HAZ-1.1 as follows:

MM HAZ-1.1: Prior to issuance of any demolition or grading permits, the project applicant shall take shallow soil samples in the near surface soil in the proposed project area and tested for organochlorine pesticides and pesticide-based metals arsenic, and lead to determine if contaminants from previous agricultural operations or lead derived from nearby traffic occur at concentrations above established construction worker safety and commercial/industrial regulatory environmental screening levels or if special handling or disposal is necessary. Agricultural sampling would be conducted in accordance with DTSC's 2008 Interim Guidance for Sampling Agricultural Properties (Third Revision). The result of soil sampling and testing shall be provided to the Director of Planning Building and Code Enforcement or director's designee and Municipal Compliance Officer.

If pesticide-contaminated soils are found in concentrations above the appropriate regulatory environmental screening levels for the proposed project, the project applicant shall obtain regulatory oversight from the Santa Clara County Department of Environmental Health (or Department of Toxic Substances

[2] Rockridge Geotechnical. *Preliminary Geotechnical Paper Study for Proposed Office Development at 550 E Brokaw Road*. August 12, 2020.
[3] Farallon Consulting, LLC. Phase I Environmental Site Assessment Report. 550 East Brokaw Road. January 24, 2020.
[4] Santa Clara Valley Water District. *2016 Groundwater Management Plan for Santa Clara and Llagas Subbasins*.. Figure 2-16. November 2016.

Control) under their Site Cleanup Program. A Site 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 Plan and evidence of regulatory oversight shall be provided to the Director of Planning Building and Code Enforcement or Director's designee, and the Municipal Compliance Officer in the City of San José's Environmental Services Department.

Page 125 Section 3.9.2 Impact Discussion (under checklist question b): REVISE Standard Permit Conditions as follows:

- Prior to commencement of demolition activities, a building survey, including sampling and testing, shall be completed to identify and quantify building materials containing lead-based paint.
- During demolition activities, all building materials containing lead-based paint shall be removed in accordance with the California Division of Occupational Safety and Health Lead in Construction Standard, Title 8, California Code of Regulations, Section 1532.1, including employee training, employee air monitoring and dust control.
- Prior to the issuance of any grading permits, the project applicant shall take shallow soil samples in the near surface soil in the proposed project area within 20 feet of Interstate 880 and test the samples for aerially deposited lead.
- In the event contaminated soil is detected during sampling, a SMP shall be prepared [under the oversight of the DTSC] to reduce or eliminate exposure risk to human health and the environment. The SMP shall be developed to establish management practices for handling contaminated soil or other materials if encountered during construction activities. The SMP shall be reviewed and approved by the City of San José prior to commencing construction activities.
- Excavated soils will be characterized prior to off-site disposal or reuse onsite. Appropriate soil characterization, storage, transportation, and disposal procedures shall be followed (under the oversight of Santa Clara County Department of Environmental Health or DTSC). Contaminated soils shall be disposed of at a licensed facility in accordance with all appropriate local, state, and federal regulations.

Page 130 Section 3.10.1.1 Regulatory Framework (under Municipal Regional Permit Provisions C.3): REVISE the first paragraph as follows:

The San Francisco Bay RWQCB re-issued the Municipal Regional Stormwater NPDES Permit (MRP) in ~~2015~~ 2022 (Order No. R2-2022-0018) 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.[5] Under Provision C.3 of the

[5] MRP Number CAS612008

MRP, new and redevelopment projects that create or replace 10,000 square feet or more of impervious surface area are required to implement site design, source control, and Low Impact Development (LID)-based stormwater treatment controls to treat post-construction stormwater runoff. LID-based treatment controls are intended to maintain or restore the site's natural hydrologic functions, maximizing opportunities for infiltration and evapotranspiration, and using stormwater as a resource (e.g. rainwater harvesting for non-potable uses). The MRP also requires that stormwater treatment measures are properly installed, operated, and maintained.

Page 131 Section 3.10.1.2 Existing Conditions (under Water Resources Protection Ordinance and District Well Ordinance): REVISE the paragraph as follows:

Valley Water operates as the flood control agency for Santa Clara County. Valley Water also provides stream stewardship and is the wholesale water supplier throughout the county, which includes the groundwater recharge program. ~~Their stewardship also includes creek restoration, pollution prevention efforts, and groundwater recharge. Permits for well construction and destruction work, most exploratory boring for groundwater exploration, and projects within Valley Water property or easements are required under Valley Water's Water Resources Protection Ordinance and District Well Ordinance.~~ Well construction and deconstruction permits, including borings 45 feet or deeper, are required under Valley Water's Well Ordinance 90-1. Under Valley Water's Water Resources Protection Ordinance, projects within Valley Water property or easements are required to obtain encroachment permits.

Page 135 Section 3.10.1.2 Existing Conditions (under Groundwater): REVISE the first paragraph as follows:

The project site is located in the Santa Clara Plain subbasin, which covers 280 square miles extending from the southern San Francisco Bay to the Coyote Narrows near Metcalf Road. Groundwater has been documented to flow northwest at depths between zero ~~7~~ and ~~12~~ 15 feet bgs within the project vicinity, but groundwater elevations within the project vicinity are typically 60 feet bgs year-round.[6,7] Groundwater levels at the site may fluctuate with time due to seasonal conditions, rainfall, and irrigation practices.

Page 135 Section 3.10.1.2 Existing Conditions (under Flooding and Other Hazards): REVISE the first paragraph as follows:

The western portion of the project site is designated as Flood Zone X (unshaded) according to FEMA Flood Insurance Rate Maps. Areas within Flood Zone X (unshaded) have a 0.2 percent annual chance of flooding, with average depths of less than one foot or with drainage areas less than one square mile. The eastern portion of the project site is designated as Flood Zone D, which is used for areas

[6] Rockridge Geotechnical. *Preliminary Geotechnical Paper Study for Proposed Office Development at 550 E Brokaw Road*. August 12, 2020.
[7] Santa Clara Valley Water District. *2016 Groundwater Management Plan for Santa Clara and Llagas Subbasins*. Figure -16. November 2016.

where there are possible but undetermined flood hazards, as no analysis of flood hazards has been conducted.[8]

Page 137 Section 3.10.2 Impact Discussion, checklist question b): REVISE the first and second paragraph as follows:

As discussed under Section 3.10.1.2, groundwater within the project vicinity has been documented to flow northwest at depths as high as ~~7~~ zero and ~~12~~ 15 feet bgs, but is typically 60 feet bgs year-round. Groundwater levels at the site may fluctuate with time due to seasonal conditions, rainfall, and irrigation practices. As the project does not involve any excavation below ground beyond what is required to install utilities, the project would not likely encounter groundwater or require dewatering of subsurface groundwater. Any dewatering during construction would be conducted in accordance with the City's Watershed Protection discharge requirements.

The project would rely on existing sources of water and the City's existing water delivery system. Although the project would increase the demand for water within the City, this increase would not result in a substantial depletion of aquifers relied upon for local water supplies (see discussion under checklist question b) in Section 4.19 Utilities and Service Systems). The project site is not located on or adjacent to one of the SCVWD's ~~18 major~~ groundwater recharge systems. In addition, as discussed below under checklist question c), project implementation would result in a decrease in impervious surfaces in comparison with existing conditions. A decrease in impervious surfaces results in a corresponding decrease in surface runoff, thus resulting in an increase in infiltration on the project site. For these reasons, the project would not establish groundwater wells to supply the site, deplete groundwater supply, or interfere with groundwater recharge.

Page 141 Section 3.10.2.2 Cumulative Impacts: REVISE the first paragraph as follows:

regulations regarding the use, storage, transport, and disposal of hazardous materials, as well as requirements of the Post-Construction Urban Runoff Policy 6-29 and Provision C.3 of the RWQCB Municipal Regional NPDES Permit. The project would store its hazardous materials in compliance with existing regulations, and the project site is not within a 100-year floodplain[9] or subject to tsunamis and seiches. Thus, the project would not result in a cumulatively significant risk of pollutant release due to inundation.

Page 145 Section 3.11.2.1 (under checklist question b): REVISE the third paragraph as follows:

~~North San José Area Development Policy~~

~~The NSJADP allows for a net total of 26.7 million square feet of new industrial/office/R&D development within the North San José area. The project would result in a maximum of 1,921,215~~

[8] Federal Emergency Management Agency. *Unmapped Areas on Flood Hazard Maps: Understanding Zone D.* August 2011.

[9] Areas within the 100-year floodplain are labeled as Zone A, Zone AO, Zone AH, Zones A1-A30, Zone AE, Zone A99, Zone AR, Zone AR/AE, Zone AR/AO, Zone AR/A1-A30, Zone AR/A, Zone V, Zone VE, and Zones V1-V30. Source: FEMA. Flood Zones. Site accessed on June 20, 2022. https://www.fema.gov/glossary/flood-zones

~~square feet of office development and would not exceed the development capacity allocated for office uses in the area. The proposed project would be required to pay relevant impact fees to fund measures needed to meet future traffic conditions resulting from development in the North San José area. Traffic Impact Fees will be collected at the time of building permit issuance.[10] Therefore, the proposed project would not conflict with the provisions of the NSJADP adopted to prevent or mitigate environmental impacts.~~

Page 185 Section 3.17.1.1 Existing Conditions: REVISE the North San José Traffic Impact Fee Plan discussions as follows:

~~North San José Traffic Impact Fee Plan~~

~~The North San José Traffic Impact Fee establishes a mechanism to fund and implement the identified transportation improvements that will be needed to serve all of the anticipated development growth in North San José. Improvements to serve the projected growth were identified as part of the North San José Development Policy traffic study prepared in 2005 and amended in 2009. Development in North San José is required to contribute to improvements to the transportation system to serve increases in traffic volumes and transit use.[11]~~

Page 191 Section 3.17.1.2 Existing Conditions (under Transit Facilities): REVISE the VTA Bus Service discussion as follows:

Bus service near the project site is provided by bus routes 60 and 66 which operate along East Brokaw Road and Oakland Road, respectively.

Route 60, which provides service between the Winchester Transit Center and the Milpitas Transit Center with approximately 15~~20~~-minute headways during the commute periods, provides direct service to the project site. The nearest eastbound route 60 bus stop is located along the project's frontage on East Brokaw Road, just east of Junction Avenue. The nearest westbound route 60 bus stop is located on the opposite side of East Brokaw Road, 600 feet southwest of the project site near Rogers Avenue.

Route 66 provides service between North Milpitas and Kaiser San José Medical Center with approximately 15 ~~20- to 30~~-minute headways during the commute periods. The nearest route 66 bus stops to the project site are located near the intersection of Oakland Road and East Brokaw Road.

Page 191 Section 3.17.1.2 Existing Conditions (under Transit Facilities): REVISE the VTA Light Rail Transit Service discussion as follows:

VTA currently operates the 42.2-mile VTA light rail line system extending from south San José through downtown to the northern areas of San José, Santa Clara, Milpitas, Mountain View, and

[10] City of San José. *North San José Traffic Impact Fee Plan.* June 2005.
[11] City of San José. "North San José Area Development Policy – Policy Documents." Accessed September 2, 2021. https://www.sanJoséca.gov/your-government/departments/planning-building-code-enforcement/planning-division/citywide-planning/area-plans/north-san-jos-area-development-policy/policy-documents

Sunnyvale. The Green (Old Ironsides – Winchester) and Blue (Baypointe – Santa Teresa) LRT lines operate along First Street. The Green and Blue LRT lines operate from 5:00 AM to 1:00 AM with approximately 20- ~~to 30-~~minute headways during the commute periods. The Karina Court LRT station platforms on First Street are located approximately 0.75 mile west of the project site

Page 204, 205 Section 3.17.3 Non-CEQA Effects (under Level of Service): REVISE the second paragraph as follows:

As described in Section 3.17.3 Non-CEQA Effects, the freeway segment analysis shows that the addition of traffic generated by the project would not result in the degradation of levels of service of any freeway segments to unacceptable LOS F. The project would not conflict with any planned or ongoing roadway improvements throughout the North San José area. The proposed project would be required to pay ~~relevant impact fees to fund measures needed to meet future traffic conditions resulting from development in the North San José area, in accordance with the North San José Traffic Impact Fee Plan and~~ the US-101/Oakland/Mabury Transportation Development Policy Traffic Impact Fee Plan. Traffic Impact Fees will be collected at the time of building permit issuance. Therefore, the proposed project would not conflict with any program, plan, ordinance or policy addressing roadways.

~~Conditions of Approval:~~

- **~~I-880 and Old Bayshore Highway (W) Improvements:~~** ~~The applicant shall implement restriping the southbound through lane to a shared through and left-turn lane at the I-880 southbound off ramp. The project applicant shall provide an appropriate contribution towards implementation of possible pedestrian improvements at the I-880 and Old Bayshore Highway intersections that create a comfortable environment for people who walk and bike, consistent with the multi-modal transportation goals and policies outlined in the Envision San José 2040 General Plan. The payment of the NSJADP TIF described below may be used to implement multi-modal improvements in the North San José area.~~
- **~~Junction Avenue and Charcot Avenue Improvements:~~** ~~The project shall provide an appropriate contribution towards implementation of possible pedestrian improvements, such as curb ramps at the northeast, southeast, and southwest corners, at the Junction Avenue and Charcot Avenue intersection that creates a comfortable environment for people who walk and bike. The improvement of pedestrian and bicycle facilities at the intersection would be consistent with the multi-modal transportation goals and policies outlined in the Envision San José 2040 General Plan that are intended to improve multi-modal accessibility to all land uses and encourage the use of non-automobile transportation modes to minimize vehicle trip generation and reduce VMT. The payment of the NSJADP TIF described below may be used to implement multi-modal improvements in the North San José area.~~
- **~~Trade Zone Boulevard/McCandless Drive/Montague Expressway * Improvements:~~** ~~The project shall provide an appropriate contribution towards implementation of multi-modal improvements to the transportation system in the area surrounding the Trade Zone and Montague Expressway intersection. The improvement of pedestrian and bicycle facilities in the area would be consistent with the multi-modal transportation goals and policies outlined in the Envision San José 2040 General Plan that are intended to improve multi-modal accessibility to all land uses and encourage the use of non-automobile transportation modes~~

~~to minimize vehicle trip generation and reduce VMT. The payment of the NSJADP TIF may be used to implement multi-modal improvements in the North San José area.~~

- ~~**Commercial Street and Berryessa Road Improvements:** The project shall provide an appropriate contribution towards the implementation of possible pedestrian improvements, such as providing the missing sidewalks and protected bike lanes on Commercial Street and Berryessa Road, that create a comfortable environment for people who walk and bike. The improvement of pedestrian and bicycle facilities at the intersection would be consistent with the multimodal transportation goals and policies outlined in the Envision San José 2040 General Plan that are intended to improve multi-modal accessibility to all land uses and encourage the use of non-automobile transportation modes to minimize vehicle trip generation and reduce VMT.~~ The payment of the US-101/Oakland/Mabury TIF may be used to implement multi-modal improvements in the US- 101/Oakland/Mabury area.

Page 205 Section 3.17.3 Non-CEQA Effects (under Freeway Ramp Analysis): REVISE discussion as follows:

An analysis of metered freeway ramps providing access to the project site was performed to identify the effect of the addition of project traffic on the queues at metered study freeway on- and off-ramps. Freeway ramps in the vicinity of the project include:

- I-880 southbound on- and off-ramp from Brokaw Road
- I-880 northbound on- and off-ramp from Brokaw Road
- I-880 southbound on- and off-ramp from Old Bayshore Highway
- US 101 northbound on- and off-ramp from Brokaw Road
- US 101 southbound off-ramp to Brokaw Road

Evaluation of the project's effect on freeway ramps is not required by the City's Transportation Analysis Handbook and is included solely for informational purposes. The Freeway Ramp Analysis found that project-generated traffic would not lengthen the projected 15-minute interval queue lengths at the freeway on-ramps located within the project vicinity under background plus project conditions. Short vehicle queues of less than 15 vehicles currently occur at the ramps; however, the queues dissipate during the 15-minute intervals because the demand volume is less than the service rate of the freeway ramp meters. The freeway on-ramp queuing calculations are included in Appendix H.

The results of the analysis showed that the 95th percentile queue lengths at two freeway off-ramps (US 101 southbound off ramp to Brokaw Road and I-880 southbound off-ramp to Brokaw Road) are projected to exceed the existing storage capacity during the AM peak hour under background plus project conditions.

Page 218 Section 3.19.1.2 Existing Conditions (under Storm Drainage): REVISE third paragraph as follows:

Surface runoff from the site currently flows untreated into either 27-inch RCP storm drains on Junction Avenue, or 12-, 18-, 36-, and 42-inch RCP storm drains on East Brokaw Road. Runoff in

the area is collected by storm drain manholes and inlets in the adjacent parking lots and streets, where it is then conveyed to the Charcot drainage system, which serves 430 acres and drains to Coyote Creek through a flap gate.[12,13] The City's Storm Sewer Master Plan has proposed a pump station and additional storm drain improvements for the Charcot system.[14] Flows from Coyote Creek are ultimately discharged into the San Francisco Bay ~~Area~~.

[12] City of San José, Spatial Team. "Public GIS Viewer". Accessed September 2, 2021. https://www.arcgis.com/apps/webappviewer/index.html?id=3c5516412b594e79bd25c49f10fc672f
[13] City of San José. *North San José Development Policies Update Program EIR*. March 2005.
[14] City of San José. *Storm Sewer System 2019-2023 Capital Improvement Program*. 2018.

Appendix A: Draft EIR Comment Letters

Department of Toxic Substances Control

Meredith Williams, Ph.D., Director
8800 Cal Center Drive
Sacramento, California 95826-3200

Jared Blumenfeld
Secretary for
Environmental Protection

Gavin Newsom
Governor

SENT VIA ELECTRONIC MAIL

June 24, 2022

Ms. Cassandra van der Zweep
Department of Planning, Building, and Code Enforcement
200 East Santa Clara Street, 3rd Floor
San José, CA 95113
Cassandra.vanderZweep@sanjoseca.gov

NOTICE OF AVAILABILITY OF A DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE 550 E BROKAW ROAD DEVELOPMENT PROJECT – DATED MAY 2022 (STATE CLEARINGHOUSE NUMBER: 2021060414)

Dear Ms. van der Zweep:

The Department of Toxic Substances Control (DTSC) received a Notice of Availability of a Draft Environmental Impact Report (DEIR) for the 550 E Brokaw Development Project (Project). The Lead Agency is receiving this notice from DTSC because the Project includes one or more of the following: groundbreaking activities, work in close proximity to a roadway, presence of site buildings that may require demolition or modifications, importation of backfill soil, and/or work on or in close proximity to an agricultural or former agricultural site.

DTSC recommends that the following issues be evaluated in the Hazards and Hazardous Materials section of the DEIR:

1. Refiners in the United States started adding lead compounds to gasoline in the 1920s in order to boost octane levels and improve engine performance. This practice did not officially end until 1992 when lead was banned as a fuel additive in California. Tailpipe emissions from automobiles using leaded gasoline contained lead and resulted in aerially deposited lead (ADL) being deposited in and along roadways throughout the state. ADL-contaminated soils still exist along roadsides and medians and can also be found underneath some existing road surfaces due to past construction activities. Due to the potential for ADL-contaminated soil, DTSC recommends collecting soil samples in the vicinity

of roadways for lead analysis prior to performing any intrusive activities for the project described in the DEIR.

2. If buildings or other structures are to be demolished on any project sites included in the proposed project, surveys should be conducted for the presence of lead-based paints or products, mercury, asbestos containing materials, and polychlorinated biphenyl caulk. Removal, demolition and disposal of any of the above-mentioned chemicals should be conducted in compliance with California environmental regulations and policies. In addition, sampling near current and/or former buildings should be conducted in accordance with DTSC's 2006 *Interim Guidance Evaluation of School Sites with Potential Contamination from Lead Based Paint, Termiticides, and Electrical Transformers*.

3. If any projects initiated as part of the proposed project require the importation of soil to backfill any excavated areas, proper sampling should be conducted to ensure that the imported soil is free of contamination. DTSC recommends the imported materials be characterized according to *DTSC's 2001 Information Advisory Clean Imported Fill Material*.

4. If any sites included as part of the proposed project have been used for agricultural, weed abatement or related activities, proper investigation for organochlorinated pesticides should be discussed in the DEIR. DTSC recommends the current and former agricultural lands be evaluated in accordance with DTSC's 2008 *Interim Guidance for Sampling Agricultural Properties (Third Revision)*.

DTSC appreciates the opportunity to comment on the DEIR. Should you need any assistance with an environmental investigation, please visit DTSC's Site Mitigation and Restoration Program page to apply for lead agency oversight. Additional information regarding voluntary agreements with DTSC can be found at DTSC's Brownfield website.

If you have any questions, please contact me at (916) 255-3582 or via email at Brian.McAloon@dtsc.ca.gov.

Sincerely,

Brian McAloon
Project Manager
Site Evaluation and Remediation Unit
Site Mitigation and Restoration Program
Department of Toxic Substances Control

cc: (via email)

Governor's Office of Planning and Research
State Clearinghouse
State.Clearinghouse@opr.ca.gov

Mr. Dave Kereazis
Office of Planning & Environmental Analysis
Department of Toxic Substances Control
Dave.Kereazis@dtsc.ca.gov

City of Santa Clara
The Center of What's Possible

Community Development

June 24, 2022

San José Department of Planning, Building, and Code Enforcement
Attn: Cassandra van der Zweep
200 East Santa Clara St., 3rd Floor
San José, CA 95113

Sent via email: Cassandra.VanDerZweep@sanjoseca.gov

RE: Comments on 550 E Brokaw Road Project Draft Environmental Impact Report (File Nos. File Nos. H21-005/ER21-018)

Dear Ms. van der Zweep:

Thank you for including the City of Santa Clara (Santa Clara) in the environmental review process for the 550 E Brokaw Road project (Project). Santa Clara appreciates the opportunity to offer comments on the Draft Environmental Impact Report (EIR) prepared by the City of San José (San José). We understand that the Project includes demolition of an existing 293,906-square foot office and electronics superstore building and construction of seven new eight-story office towers that would consist of 1,912,215 square feet of office space and be up to 135 feet high, plus two parking garages providing 5,385 parking spaces.

As discussed further below, Santa Clara has concerns about the analysis of transportation impacts and requests that the following be addressed before Project approval.

Application of the North San José Area Development Plan

As of May 17, 2022, San José has amended the North San Jose Area Development Plan (NSJADP) to no longer require payment of the transportation impact fee (TIF) for projects not already entitled. We understand that San José plans to revise the analysis to remove reference to the TIF in the First Amendment to the EIR. Thus, the Project will *not* pay the $30 million relied upon in the Draft EIR to fund transportation improvements and offset its impacts. This loss of funding will significantly affect the extent to which the Project's transportation impacts are offset. The Draft EIR must be revised to conclude that the Project will not pay the TIF and evaluate the Project's transportation impacts without the use of the NSJADP.

Local Transportation Analysis

Santa Clara appreciates the opportunity to review the Local Transportation Analysis (LTA). Page 32 of the LTA states that existing trip credits related to project trip generation were given to the existing land uses of office and electronics superstore. It is typical to consider existing trips from a prior use that has been vacant for less than two years. If the electronics superstore has been vacant for longer than that period, it would not warrant taking trip credits. Thus, the traffic analysis may be underestimating adverse project effects, especially at study intersections. The trip generation should be updated to reflect existing project traffic for only the office component. One possible way to remedy this would be to take actual traffic counts at the project driveways to determine existing trips at the project site.

Pacific Gas and Electric Company

Plan Review Team
Land Management

PGEPlanReview@pge.com

May 17, 2022

Cassandra van der Zweep
City of San José
200 East Santa Clara Street
San José, CA 95113

Ref: Gas and Electric Transmission and Distribution

Dear Cassandra,

Thank you for submitting the 550 E Brokaw Road Project plans for our review. PG&E will review the submitted plans in relationship to any existing Gas and Electric facilities within the project area. If the proposed project is adjacent/or within PG&E owned property and/or easements, we will be working with you to ensure compatible uses and activities near our facilities.

Attached you will find information and requirements as it relates to Gas facilities (Attachment 1) and Electric facilities (Attachment 2). Please review these in detail, as it is critical to ensure your safety and to protect PG&E's facilities and its existing rights.

Below is additional information for your review:

1. This plan review process does not replace the application process for PG&E gas or electric service your project may require. For these requests, please continue to work with PG&E Service Planning: https://www.pge.com/en_US/business/services/building-and-renovation/overview/overview.page.

2. If the project being submitted is part of a larger project, please include the entire scope of your project, and not just a portion of it. PG&E's facilities are to be incorporated within any CEQA document. PG&E needs to verify that the CEQA document will identify any required future PG&E services.

3. An engineering deposit may be required to review plans for a project depending on the size, scope, and location of the project and as it relates to any rearrangement or new installation of PG&E facilities.

Any proposed uses within the PG&E fee strip and/or easement, may include a California Public Utility Commission (CPUC) Section 851 filing. This requires the CPUC to render approval for a conveyance of rights for specific uses on PG&E's fee strip or easement. PG&E will advise if the necessity to incorporate a CPUC Section 851filing is required.

This letter does not constitute PG&E's consent to use any portion of its easement for any purpose not previously conveyed. PG&E will provide a project specific response as required.

Sincerely,

Plan Review Team
Land Management

Attachment 1 – Gas Facilities

There could be gas transmission pipelines in this area which would be considered critical facilities for PG&E and a high priority subsurface installation under California law. Care must be taken to ensure safety and accessibility. So, please ensure that if PG&E approves work near gas transmission pipelines it is done in adherence with the below stipulations. Additionally, the following link provides additional information regarding legal requirements under California excavation laws: https://www.usanorth811.org/images/pdfs/CA-LAW-2018.pdf

1. Standby Inspection: A PG&E Gas Transmission Standby Inspector must be present during any demolition or construction activity that comes within 10 feet of the gas pipeline. This includes all grading, trenching, substructure depth verifications (potholes), asphalt or concrete demolition/removal, removal of trees, signs, light poles, etc. This inspection can be coordinated through the Underground Service Alert (USA) service at 811. A minimum notice of 48 hours is required. Ensure the USA markings and notifications are maintained throughout the duration of your work.

2. Access: At any time, PG&E may need to access, excavate, and perform work on the gas pipeline. Any construction equipment, materials, or spoils may need to be removed upon notice. Any temporary construction fencing installed within PG&E's easement would also need to be capable of being removed at any time upon notice. Any plans to cut temporary slopes exceeding a 1:4 grade within 10 feet of a gas transmission pipeline need to be approved by PG&E Pipeline Services in writing PRIOR to performing the work.

3. Wheel Loads: To prevent damage to the buried gas pipeline, there are weight limits that must be enforced whenever any equipment gets within 10 feet of traversing the pipe.

Ensure a list of the axle weights of all equipment being used is available for PG&E's Standby Inspector. To confirm the depth of cover, the pipeline may need to be potholed by hand in a few areas.

Due to the complex variability of tracked equipment, vibratory compaction equipment, and cranes, PG&E must evaluate those items on a case-by-case basis prior to use over the gas pipeline (provide a list of any proposed equipment of this type noting model numbers and specific attachments).

No equipment may be set up over the gas pipeline while operating. Ensure crane outriggers are at least 10 feet from the centerline of the gas pipeline. Transport trucks must not be parked over the gas pipeline while being loaded or unloaded.

4. Grading: PG&E requires a minimum of 36 inches of cover over gas pipelines (or existing grade if less) and a maximum of 7 feet of cover at all locations. The graded surface cannot exceed a cross slope of 1:4.

5. Excavating: Any digging within 2 feet of a gas pipeline must be dug by hand. Note that while the minimum clearance is only 12 inches, any excavation work within 24 inches of the edge of a pipeline must be done with hand tools. So to avoid having to dig a trench entirely with hand tools, the edge of the trench must be over 24 inches away. (Doing the math for a 24 inch

wide trench being dug along a 36 inch pipeline, the centerline of the trench would need to be at least 54 inches [24/2 + 24 + 36/2 = 54] away, or be entirely dug by hand.)

Water jetting to assist vacuum excavating must be limited to 1000 psig and directed at a 40° angle to the pipe. All pile driving must be kept a minimum of 3 feet away.

Any plans to expose and support a PG&E gas transmission pipeline across an open excavation need to be approved by PG&E Pipeline Services in writing PRIOR to performing the work.

6. Boring/Trenchless Installations: PG&E Pipeline Services must review and approve all plans to bore across or parallel to (within 10 feet) a gas transmission pipeline. There are stringent criteria to pothole the gas transmission facility at regular intervals for all parallel bore installations.

For bore paths that cross gas transmission pipelines perpendicularly, the pipeline must be potholed a minimum of 2 feet in the horizontal direction of the bore path and a minimum of 12 inches in the vertical direction from the bottom of the pipe with minimum clearances measured from the edge of the pipe in both directions. Standby personnel must watch the locator trace (and every ream pass) the path of the bore as it approaches the pipeline and visually monitor the pothole (with the exposed transmission pipe) as the bore traverses the pipeline to ensure adequate clearance with the pipeline. The pothole width must account for the inaccuracy of the locating equipment.

7. Substructures: All utility crossings of a gas pipeline should be made as close to perpendicular as feasible (90° +/- 15°). All utility lines crossing the gas pipeline must have a minimum of 12 inches of separation from the gas pipeline. Parallel utilities, pole bases, water line ‘kicker blocks’, storm drain inlets, water meters, valves, back pressure devices or other utility substructures are not allowed in the PG&E gas pipeline easement.

If previously retired PG&E facilities are in conflict with proposed substructures, PG&E must verify they are safe prior to removal. This includes verification testing of the contents of the facilities, as well as environmental testing of the coating and internal surfaces. Timelines for PG&E completion of this verification will vary depending on the type and location of facilities in conflict.

8. Structures: No structures are to be built within the PG&E gas pipeline easement. This includes buildings, retaining walls, fences, decks, patios, carports, septic tanks, storage sheds, tanks, loading ramps, or any structure that could limit PG&E’s ability to access its facilities.

9. Fencing: Permanent fencing is not allowed within PG&E easements except for perpendicular crossings which must include a 16 foot wide gate for vehicular access. Gates will be secured with PG&E corporation locks.

10. Landscaping: Landscaping must be designed to allow PG&E to access the pipeline for maintenance and not interfere with pipeline coatings or other cathodic protection systems. No trees, shrubs, brush, vines, and other vegetation may be planted within the easement area. Only those plants, ground covers, grasses, flowers, and low-growing plants that grow unsupported to a maximum of four feet (4’) in height at maturity may be planted within the easement area.

11. Cathodic Protection: PG&E pipelines are protected from corrosion with an “Impressed Current” cathodic protection system. Any proposed facilities, such as metal conduit, pipes, service lines, ground rods, anodes, wires, etc. that might affect the pipeline cathodic protection system must be reviewed and approved by PG&E Corrosion Engineering.

12. Pipeline Marker Signs: PG&E needs to maintain pipeline marker signs for gas transmission pipelines in order to ensure public awareness of the presence of the pipelines. With prior written approval from PG&E Pipeline Services, an existing PG&E pipeline marker sign that is in direct conflict with proposed developments may be temporarily relocated to accommodate construction work. The pipeline marker must be moved back once construction is complete.

13. PG&E is also the provider of distribution facilities throughout many of the areas within the state of California. Therefore, any plans that impact PG&E’s facilities must be reviewed and approved by PG&E to ensure that no impact occurs which may endanger the safe operation of its facilities.

Attachment 2 – Electric Facilities

It is PG&E's policy to permit certain uses on a case by case basis within its electric transmission fee strip(s) and/or easement(s) provided such uses and manner in which they are exercised, will not interfere with PG&E's rights or endanger its facilities. Some examples/restrictions are as follows:

1. Buildings and Other Structures: No buildings or other structures including the foot print and eave of any buildings, swimming pools, wells or similar structures will be permitted within fee strip(s) and/or easement(s) areas. PG&E's transmission easement shall be designated on subdivision/parcel maps as "**RESTRICTED USE AREA – NO BUILDING."**

2. Grading: Cuts, trenches or excavations may not be made within 25 feet of our towers. Developers must submit grading plans and site development plans (including geotechnical reports if applicable), signed and dated, for PG&E's review. PG&E engineers must review grade changes in the vicinity of our towers. No fills will be allowed which would impair ground-to-conductor clearances. Towers shall not be left on mounds without adequate road access to base of tower or structure.

3. Fences: Walls, fences, and other structures must be installed at locations that do not affect the safe operation of PG&'s facilities. Heavy equipment access to our facilities must be maintained at all times. Metal fences are to be grounded to PG&E specifications. No wall, fence or other like structure is to be installed within 10 feet of tower footings and unrestricted access must be maintained from a tower structure to the nearest street. Walls, fences and other structures proposed along or within the fee strip(s) and/or easement(s) will require PG&E review; submit plans to PG&E Centralized Review Team for review and comment.

4. Landscaping: Vegetation may be allowed; subject to review of plans. On overhead electric transmission fee strip(s) and/or easement(s), trees and shrubs are limited to those varieties that do not exceed 10 feet in height at maturity. PG&E must have access to its facilities at all times, including access by heavy equipment. No planting is to occur within the footprint of the tower legs. Greenbelts are encouraged.

5. Reservoirs, Sumps, Drainage Basins, and Ponds: Prohibited within PG&E's fee strip(s) and/or easement(s) for electric transmission lines.

6. Automobile Parking: Short term parking of movable passenger vehicles and light trucks (pickups, vans, etc.) is allowed. The lighting within these parking areas will need to be reviewed by PG&E; approval will be on a case by case basis. Heavy equipment access to PG&E facilities is to be maintained at all times. Parking is to clear PG&E structures by at least 10 feet. Protection of PG&E facilities from vehicular traffic is to be provided at developer's expense AND to PG&E specifications. Blocked-up vehicles are not allowed. Carports, canopies, or awnings are not allowed.

7. Storage of Flammable, Explosive or Corrosive Materials: There shall be no storage of fuel or combustibles and no fueling of vehicles within PG&E's easement. No trash bins or incinerators are allowed.

8. Streets and Roads: Access to facilities must be maintained at all times. Street lights may be allowed in the fee strip(s) and/or easement(s) but in all cases must be reviewed by PG&E for proper clearance. Roads and utilities should cross the transmission easement as nearly at right angles as possible. Road intersections will not be allowed within the transmission easement.

9. Pipelines: Pipelines may be allowed provided crossings are held to a minimum and to be as nearly perpendicular as possible. Pipelines within 25 feet of PG&E structures require review by PG&E. Sprinklers systems may be allowed; subject to review. Leach fields and septic tanks are not allowed. Construction plans must be submitted to PG&E for review and approval prior to the commencement of any construction.

10. Signs: Signs are not allowed except in rare cases subject to individual review by PG&E.

11. Recreation Areas: Playgrounds, parks, tennis courts, basketball courts, barbecue and light trucks (pickups, vans, etc.) may be allowed; subject to review of plans. Heavy equipment access to PG&E facilities is to be maintained at all times. Parking is to clear PG&E structures by at least 10 feet. Protection of PG&E facilities from vehicular traffic is to be provided at developer's expense AND to PG&E specifications.

12. Construction Activity: Since construction activity will take place near PG&E's overhead electric lines, please be advised it is the contractor's responsibility to be aware of, and observe the minimum clearances for both workers and equipment operating near high voltage electric lines set out in the High-Voltage Electrical Safety Orders of the California Division of Industrial Safety (https://www.dir.ca.gov/Title8/sb5g2.html), as well as any other safety regulations. Contractors shall comply with California Public Utilities Commission General Order 95 (http://www.cpuc.ca.gov/gos/GO95/go_95_startup_page.html) and all other safety rules. No construction may occur within 25 feet of PG&E's towers. All excavation activities may only commence after 811 protocols has been followed.

Contractor shall ensure the protection of PG&E's towers and poles from vehicular damage by (installing protective barriers) Plans for protection barriers must be approved by PG&E prior to construction.

13. PG&E is also the owner of distribution facilities throughout many of the areas within the state of California. Therefore, any plans that impact PG&E's facilities must be reviewed and approved by PG&E to ensure that no impact occurs that may endanger the safe and reliable operation of its facilities.

Project trips that would originate in Santa Clara would most likely travel along Lafayette, Central Expressway, El Camino Real, De La Cruz, Trimble Road, Coleman Avenue, and I-880 to the project site. Study intersections that meet the 10-trip rule should be analyzed along these corridors as suggested in our NOP letter. In addition, the LTA states on page 34, that study intersection are selected that are "Outside the City limits with the potential to be affected by the project, per the transportation standards of the corresponding external jurisdiction." The LTA does not study any of the intersections along these roadways and therefore should be included in the traffic analysis.

The trip distribution on Figure 13 of the LTA, should be revised as it seems that more project trips would also use Trimble and then Central Expressway to access the site. Currently there is only 1 percent of traffic using Trimble Rd to access the site, which seems quite low. The adverse project effects may be understated within Santa Clara based on the project trip distribution within the LTA.

The traffic analysis for the project only analyzes existing, background, and background plus project. The traffic analysis should also include analysis of future and future plus project conditions as required by the VTA TIA guidelines. This analysis should also include any intersections analyzed within the City of Santa Clara.

Proposed VMT Mitigation

The Draft EIR discloses that the Project will have a potentially significant impact on transportation due to its exceedance of San José's applicable VMT threshold. (DEIR, p. 196.) Three mitigation measures are adopted purporting to reduce VMT per employee. (DEIR, pp. 196-198.) However, the impacts would remain significant and unavoidable following implementation of mitigation.

MM TRN-1.1 suggests that some improvements will be required beyond construction of bike lanes and intersection improvements. (DEIR, p. 196 ["The project applicant shall implement bicycle facilities that close gaps in the bicycle network and/or improve the existing bicycle network"].) But the additional improvements are not identified and should be.

The purported increases in transit accessibility to improve last-mile transit connections under MM TRN-1.1 are attributable to moving a single bus stop 600 feet, half a block northeast. However, there is no commitment to increasing service levels to be able to capture a meaningful percentage of the trips that will otherwise be taken by the Project's 6,404 employees. It appears that the Draft EIR's Transportation Analysis assumes that movement of this bus stop will reduce the average travel distance of employees by .67 mile. (DEIR, Appendix H, 26.) However, there is no evidence to support the reasonableness of this assumption.

The last provision of MM TRN-1.1 requires bicycle parking "that meets or exceeds the City's requirements" as well as on-site shower facilities with lockers. While these features could facilitate cycling, if the inclusion of bicycle parking is already independently required of the project, as it appears (San José City Code, § 20.90.060), then the effect of including the bicycle parking would appear to already be included in the Draft EIR's estimation of the Project's unmitigated VMT. To include it again as mitigation double counts its effect. Further, if relying on any of these features, including the shower facilities and lockers, the Draft EIR must state how many will be required.

MM TRN-1.2 also requires at least 20% of employees to participate in a free shuttle service and 15% to participate in a 100%-subsidized vanpool. Assuming participation in such programs at

these rates for a project of this magnitude appears infeasible, as it would require more than 2,200 employees per day to use either the shuttle or a vanpool. There is no substantial evidence supporting that this is possible at all, or explaining how this level of participation would be achieved.

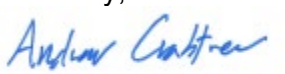
Lastly, MM TRN-1.3 requires a "trip cap" which does not actually cap trips. (DEIR, p. 198.) The measure requires trips to be monitored by the applicant, though it does not explain how this can feasibly be accomplished. If the monitoring shows that the project is not "in conformance with the trip cap" – which appears to mean "within 10%" of the cap and not within the cap itself – then the applicant must implement additional measures. (*Ibid*.) Pursuant to San José Council Policy 5-1, which this mitigation provision implements in part, if the trip cap is still not satisfied by the "additional measures" which are left up to the applicant, then the applicant must pay fees. (Council Policy 5-1, Appendix B, ¶ C.) But these are only 1/5 what they should be when, as here, a project's VMT is found to be significant and unavoidable. (*Ibid*.) Nor do such fees ensure that the "cap" on trips will actually operate as a cap, particularly given to the discount.

In sum, the Draft EIR's quantitative assumptions about the mitigation's efficacy are unsupported and appear to be inflated beyond what the measures could feasibly achieve.

* * * * *

Thank you for the opportunity to comment on the EIR for the 550 East Brokaw Project. Santa Clara looks forward to San José's responses.

Sincerely,



Andrew Crabtree
Director of Community Development

cc: Manuel Pineda, Assistant City Manager
Michael Liw, Assistant Director of Public Works
Reena Brilliot, Assistant Director of Community Development

Santa Clara Valley Transportation Authority

June 24, 2022

City of San José
Department of Planning, Building, and Code Enforcement
200 East Santa Clara St., 3rd Floor
San José, CA 95113

Attention: Cassandra van der Zweep
Via email: Cassandra.vanderZweep@sanjoseca.gov

Subject: 550 East Brokaw Draft Environmental Impact Report [File Nos. H21-005/ER21-018]

Dear Cassandra,

VTA appreciates the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the 550 East Brokaw Development Project. VTA has reviewed the DEIR and has the following comments:

Project Location and Land Use

The DEIR notes that the project is located in an area with relatively high Employment VMT, which results in a significant and unavoidable Transportation impact from project-generated VMT. VTA acknowledges that the project's location is challenging, but VTA notes that the opening of the BART extension to Milpitas and Berryessa in 2020, the introduction of VTA Route 60 bus service along Brokaw Road in 2019, and planned pedestrian and bicycle improvements have the potential to shift travel patterns over time. Developing the site in a dense, compact way with strong Transportation Demand Management (TDM) measures and reduced parking ratios, as proposed, is one of the best ways to ensure that the project takes advantage of the new multimodal travel options in the area.

Bus Stop Access and Safety improvements

VTA has an existing bus stop along the project's Brokaw frontage serving VTA's frequent bus Route 60. Route 60 operates on 15-minute headways during weekday AM peak, midday and PM peak periods, and provides direct service to the Milpitas BART station, Metro/Airport light rail station, San Jose Mineta Airport, Santa Clara Caltrain/ACE/Capitol Corridor station, Valley Fair Mall, and Campbell. VTA started providing transit service on Brokaw on December 2019 and recommends pedestrian upgrades to make transit more accessible in this area. VTA has the following recommendations:

- VTA supports the improvements listed in mitigation measure MM TRN-1.1 to connect the sidewalk on westbound Brokaw and relocate VTA's bus stop closer to the Brokaw / Junction intersection. The proposed relocated bus stop has a driveway nearby, so VTA requests that the City coordinate closely with VTA regarding the placement and design of this stop.
- With the construction of the protected bike lanes along the project frontage on Brokaw, VTA recommends that any bus boarding islands be built to VTA standards. VTA's Bus Boarding Islands memo with specifications is attached; Figure 7.8a and 7.8c is a bulb out design that closely

matches past discussions between VTA and City staff.

- Please include on the construction plans the location of the bus stop and a note to contact VTA at Bus.Stop@vta.org or 403-321-5800 at least 72 business hours prior to any construction that may impact bus operations. This ensures the safety of pedestrians attempting to catch the bus at this stop during construction.
- VTA recommends that given the size of this development and its significant and unavoidable VMT impact, the project should be required to improve pedestrian access further west along Brokaw by filling in the sidewalk gaps at the Brokaw and Zanker intersection.

VTA would like the opportunity to review updated site plans to ensure that the placement of driveways, landscaping and any other features do not conflict with bus operations. VTA's Transit Passenger Environment Plan provides design guidelines for bus stops. This document can be downloaded at https://www.vta.org/projects/transit-passenger-environment-plan. VTA also has a Bus Stop Placement, Closures and Relocations Policy, available at https://www.vta.org/sites/default/files/2022-02/Bus%20Stop%20Policy.pdf.

Measures to Address Transit Delay

The DEIR and TA Report state that the project would not conflict with any policies, plans, or ordinances relating to transit facilities (DEIR p. 193). However, neither the DEIR nor the TA Report include an analysis of the effect of project-generated trips on transit delay. Such an analysis is required per VTA's 2014 Congestion Management Program *Transportation impact Analysis Guidelines*. Furthermore, in 2018 VTA's Board of Directors adopted a Transit Speed Policy that directs staff to work with cities and agencies to reduce delay to VTA transit services. VTA requests that the FEIR include such an analysis and identify off-setting measures for increases in delay that are found due to this project.

Transit riders are more likely to be people of color and lower income; they may be disproportionately impacted by slower and unreliable transit times, exacerbating transportation inequities throughout the County. Seventy-six percent of VTA riders are non-white or Hispanic/Latinx compared to 68% of Santa Clara County's population. Additionally, 30% of VTA riders live below the poverty level compared to 19% of all Santa Clara County residents, and 27% of riders come from car-free homes. Conducting a transit delay analysis would help identify and correct potential harm to historically underrepresented users of this corridor and lead to better outcomes that allow everyone to thrive in Santa Clara County.

VTA's Route 60 has experienced significant schedule delays due to automobile congestion along Brokaw between Zanker Road, the I-880 ramps and Oakland Road since it began serving this portion of Brokaw at the end of December 2019. These delays have often caused missed connections to Milpitas BART trains, adversely affecting passengers. It is likely that the additional vehicular trips generated by the 550 E Brokaw project will further delay Route 60 buses. VTA recommends that the City pursue design treatments that can potentially prioritize transit on the street like queue jumps and in-lane boarding. VTA would appreciate the opportunity to work with city staff to identify where queue jump treatments would be possible and effective as there are external factors involved and many potential designs to integrate queue jump treatments into the local context.

Bicycle Accommodations

VTA has the following comments regarding mitigation measure MM TRN-1.1 related to bicycle accommodations:

- VTA supports this multi-modal mitigation measure, and we look forward to working with the City and applicant to coordinate bicycle improvements and bus stops along this corridor. VTA should be given the opportunity to review any design documents created by the applicant or City at all stages beginning with 35% design. Please submit designs to plan.review@vta.org for conformance review.
- The FEIR should clarify how far the project applicant will be required to expand protected/buffered bike lanes on Brokaw Road and Junction Avenue, including whether the project will construct a protected bicycle lane in only the eastbound direction, or in both directions on Brokaw. As we noted in our comments on the TA scoping in 2020, VTA recommends extending any offsite improvements to provide a connection with the Coyote Creek Trail. This connection could enhance options for bike travel to the site.
- VTA recommends that the MM-TRN1.1 mitigations be tied to the permit for Phase 1 as presented in Figure 2.2-6 of the DEIR. Section 2.27 – Construction states that, "...it is assumed that the off-site improvements, including streetlights, would be constructed during Phase One." This is not a specific enough measure for the CEQA document and should be clarified in the FEIR.

The TA Report mentions that reconfiguration of the I-880 / Old Bayshore Highway area and addition of Class 2 bike lanes to Queens Lane and Rogers Avenue are planned and recommends that the City should work with the applicant to determine an appropriate contribution towards implementation of these improvements. VTA notes that there is a freight rail track that runs along the east side of Queens Lane, and recommends pavement markings to show the train's dynamic envelope and embedded track gap fillers to prevent bicycle wheels from getting stuck in the gaps.

In addition, each building should be equipped with short-term and long-term bike parking. Clear wayfinding should be developed for cyclists to access the interior of the site from either Brokaw Road or Junction Avenue. Please consult VTA's recently updated Bicycle Technical Guidelines Chapter 10 for bike parking options, placement, and standards. The applicant should consider a range of options, racks, lockers, and centralized storage, and make the location of the bike parking convenient and accessible.

Vehicle Miles Traveled (VMT) and Transportation Demand Management (TDM)

The DEIR notes that the project would generate 15.0 VMT per employee, which would exceed the City's significance threshold of 12.21 VMT per employee (DEIR p. 196). Given this expected impact, it will be critical for Mitigation Measures MM TR-1.2 (TDM Plan) and MM TR-1.3 (On-site Coordinator and Annual Monitoring) to be as robust as possible. VTA has the following specific comments:

- VTA supports the identified trip cap of 1,841 a.m. peak hour trips and 1,825 p.m. peak hour trips, and the requirement that the applicant shall implement additional TDM measures if monitoring shows that the trip cap is not being met. To further strengthen this measure, VTA recommends that the traffic engineer that prepares the annual monitoring should be an independent third-party hired by the City, with the cost borne by the applicant.

- If a free project shuttle is implemented by the applicant as one of the project's TDM measures, this shuttle should serve BART and light rail stations, and the schedule should be coordinated with BART and light rail schedules. Connecting the Milpitas and/or Berryessa Transit Centers would offer multiple public transit opportunities including BART and VTA bus routes.

Congestion Management Program (CMP) System Effects and Offsetting Improvements

VTA has the following comments on operational analysis of Congestion Management Program (CMP) roadway facilities in the TA Report:

- Although the transportation analysis shows an LOS D with an average delay over 30 seconds per vehicle for the two Brokaw Road ramp terminus intersections, these optimistic reported results are attributed to the throttled traffic flow on the Brokaw Road-Murphy Avenue approaches, where demand exceeds the available capacity and causes cycle failures. A cycle failure occurs when one or more queued vehicles are unable to depart due to insufficient capacity during a traffic signal cycle. Prior to the pandemic, VTA staff have experienced delays as high as 15 minutes traveling on Brokaw Road-Murphy Avenue between Old Oakland Road and Junction Avenue, including Route 60 operators who are often faced with a situation to turn around a bus due to failures to meet schedule. This reinforces the importance of analyzing transit delay and identifying offsetting measures (noted above).
- The TA Report shows queues on a few on-ramps exceeding the available storage capacity under the project conditions. Although the transportation analysis acknowledges these impacts, the report's findings are highly dependent upon effective TDM measures to reduce the possible impacts. This reinforces the importance of a robust TDM and monitoring program (noted above).

Given that the project will have a significant and unavoidable VMT impact and will likely exacerbate transit delays on VTA Route 60, in addition to the measures discussed earlier in this letter VTA recommends that the City work with the applicant on these additional measures:

- A potential voluntary contribution to one or more of the following freeway improvement projects listed in Valley Transportation Plan (VTP): I-880 Express Lanes from Alameda County line to US 101 (H7), US 101/ Zanker Rd. / Skyport Dr. / Fourth St. Interchange Improvements (H30), and I-880/ Montague Expressway interchange improvement (H36)
- A potential voluntary contribution to one or more non-motorized mode projects from VTP such as Charcot Avenue bikeway from Orchard Parkway to O'Toole Ave./I- 880 (B20), and Coyote Creek Trail from Montague Expwy. to Oakland Road (B100); VTA recommends the City consult with VTA staff on specific projects.

Other

The DEIR section on existing transit services in Section 3.17.1.2 contains out-of-date information on the headways of VTA transit services near the project site. The text should be corrected to note that VTA Routes 60 and 66 now operate at 15-minute headways during weekday AM peak, midday and PM peak periods, and the VTA light rail Blue and Green Lines operate at 20-minute headways during weekday AM peak, midday and PM peak periods.

Section 2.4 states that the "Valley Transit Authority" is tasked with oversight of discretionary permits. This should be corrected in the FEIR to read "Valley Transportation Authority."

Thank you again for the opportunity to review this project. Please do not hesitate to contact me at 408-321-5949 or robert.swierk@vta.org if you have any questions on this letter.

Sincerely,

Robert Swierk

Robert Swierk, AICP
Principal Transportation Planner

Section 7 Bikeways at Bus Stops

7.1 Introduction

These standards were developed using California Manual of Uniform Traffic Control Devices (CA MUTCD 2014, Revision 5), Caltrans Design Information Bulletin 89, Public Right-Of-Way Access Guidelines (PROWAG), FHWA Separated Bike Lane Planning and Design Guide, and NACTO's Urban Bikeway Design and Transit Street Design Guides as well as informed by lessons learned from on-the- ground, early implementation of quick-build projects in Santa Clara County.

Early in the implementation process, Member Agency staff are encouraged to notify VTA of any possible conflicts between bikeway facility installation and bus stops by emailing bus.stop@vta.org. VTA staff will work with you to determine the best design for your facility to reduce conflicts between roadway users.

7.2 General Guidance

California Vehicle Code permits bus operators to cross over a bike lane, including buffered bike lanes, to service a coach stop. Operators must pull over to the curb when it is safe to do so. Bicyclists must yield to buses once they are at the curb.

It is important that people using the bike lane have the expectation that there may be a conflict at a bus stop. This is particularly true for enhanced bike lane treatments like green bike lanes and buffered bike lanes, as people riding on these bikeways feel more separated from motor vehicle traffic.

Dashing a bike lane adjacent to a bus stop provides that expectation and is supported by state and national design guidance.

7.3 Bike Lane Striping

VTA recommends the following practices for bicycle lanes through bus stop areas

- Dash bike lanes at bus stops. Dashed area should include the bus stop area and 50-foot merging area.
- If room is available to provide a six-foot bike lane, stripe a dashed bike lane outside of the 10' bus pad.
- If no room is available, stripe dashed bike lane through the bus pad.
- If green colored pavement is used in the bike lane, dash it at bus stops.
- If the bike lane includes a painted buffer, two options are recommended

- Dash the buffer boundary at the bus stop or
- Eliminate the painted buffer in advance of the bus stop and treat as for a standard bike lane.

- When making bike lanes through a bus pad, select materials that will adhere to and hold up well on Portland cement.

The figures 7.3a through 7.3d illustrate examples of bicycle lane marking at bus stops.

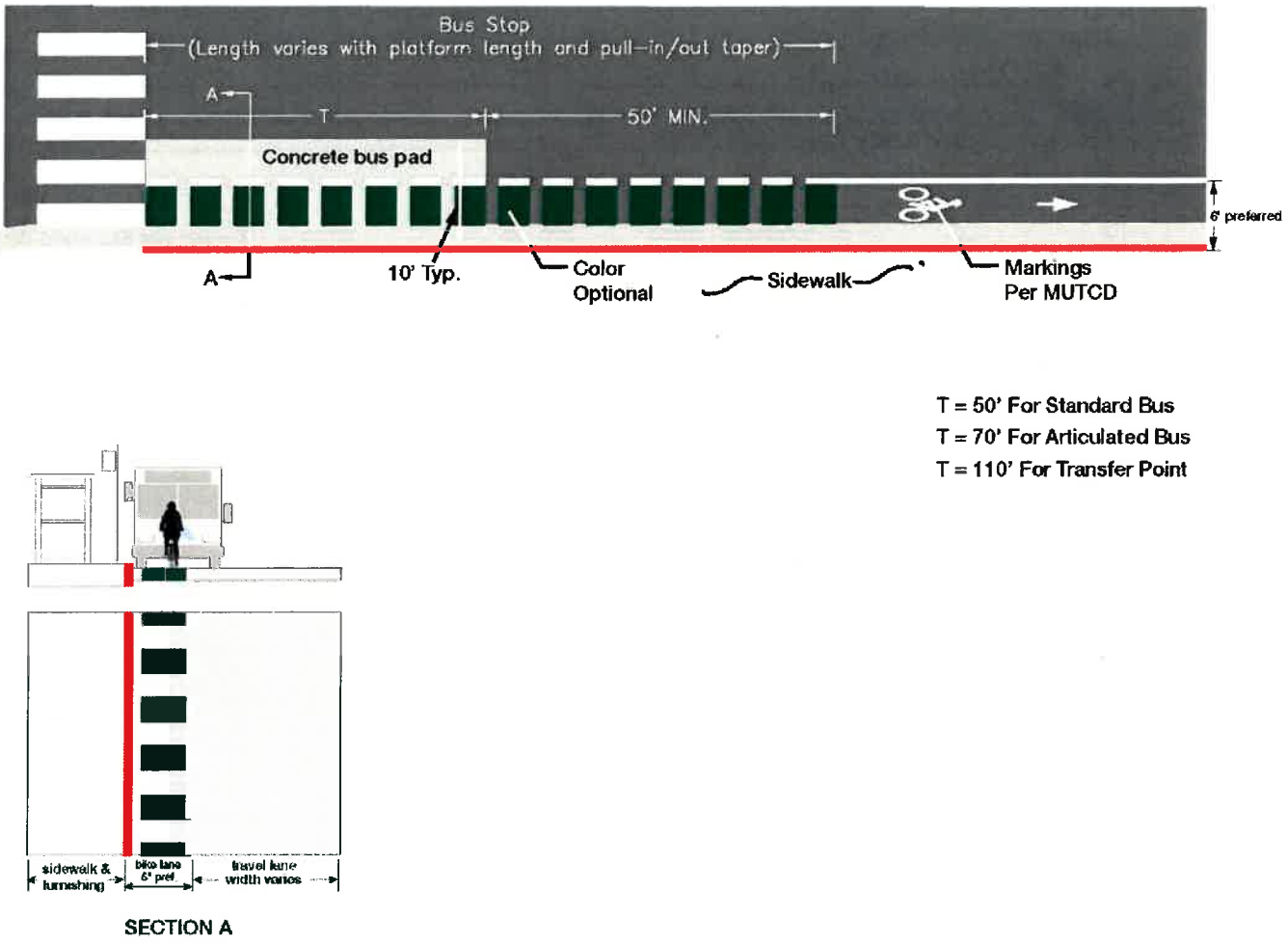


Figure 7.3a - Bus stop in standard bike lane, no parking

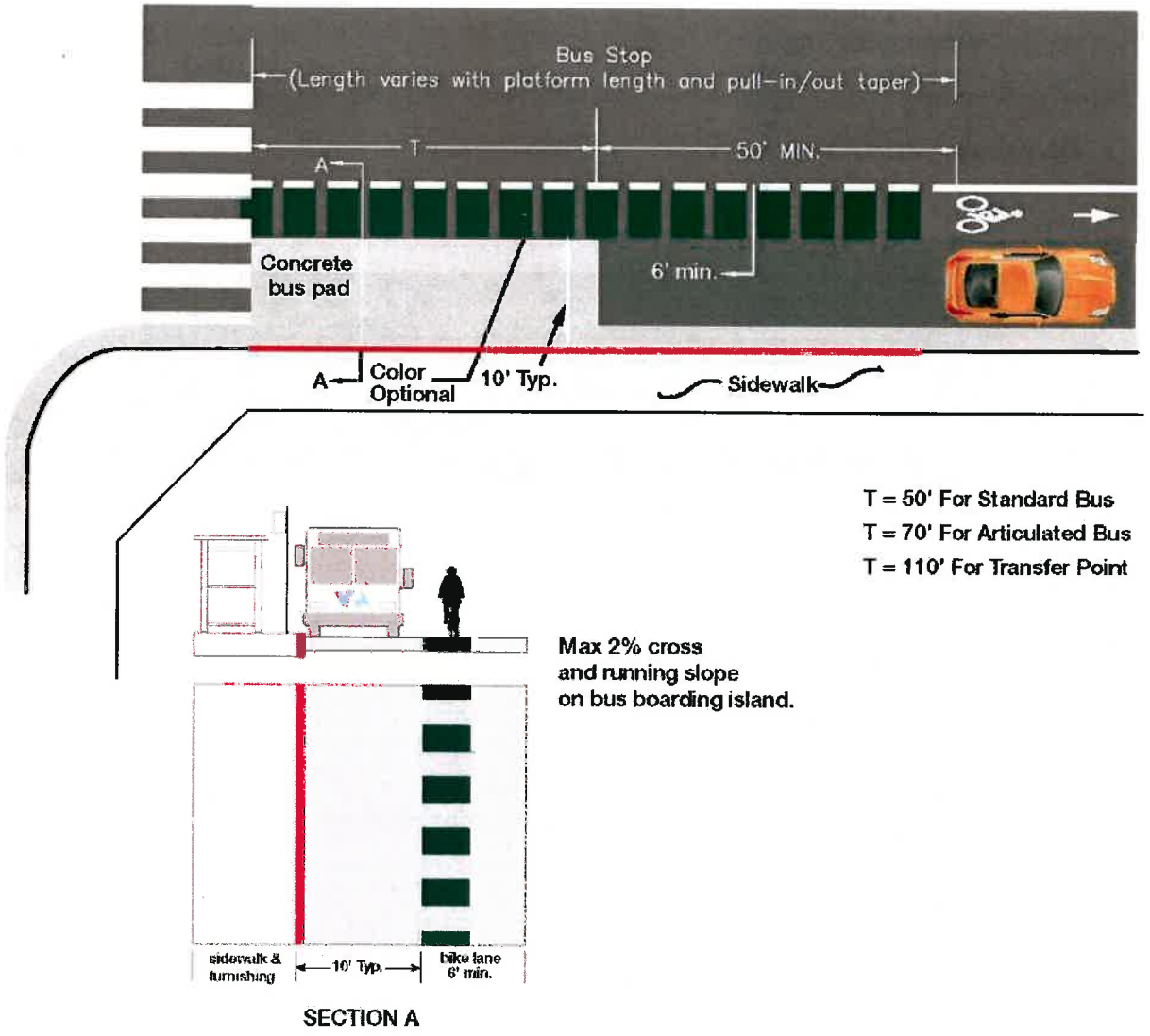


Figure 7.3b - Bus stop in parking lane with standard bike lane

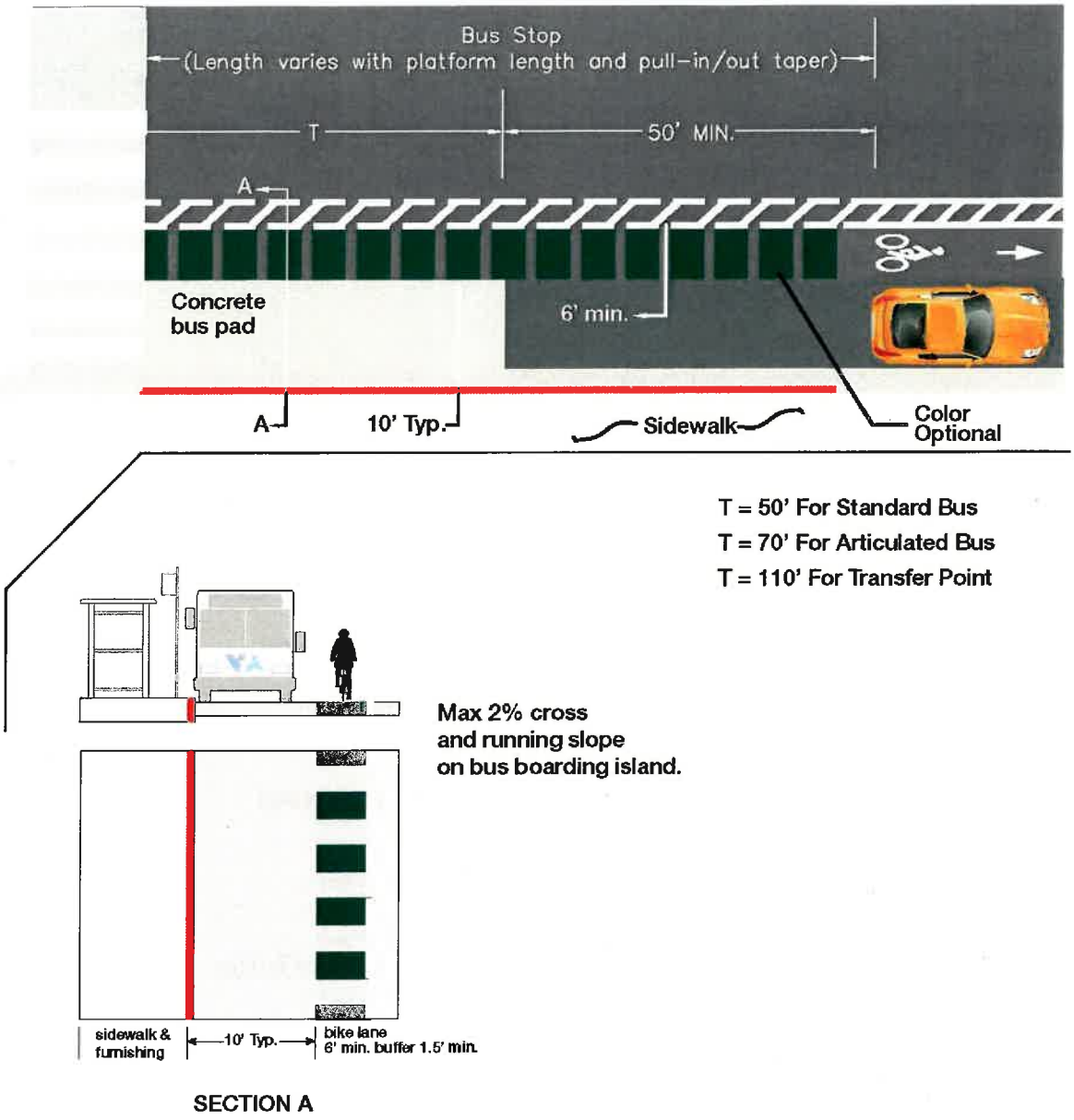


Figure 7.3c - Bus stop in parking lane with buffered bike lane

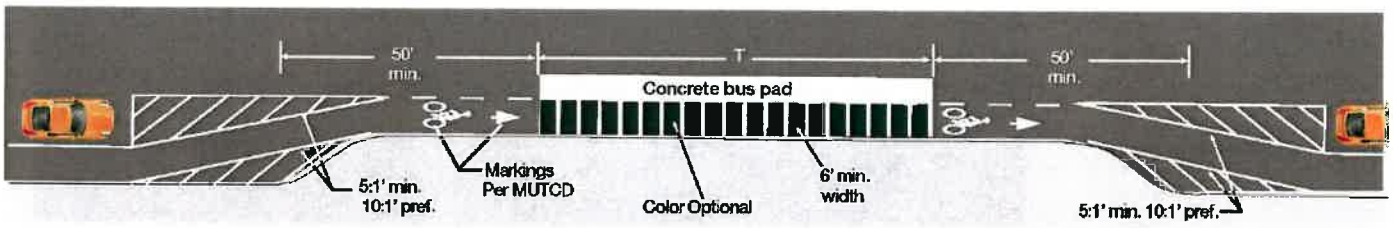


Figure 7.3d - Bus stop where bikeway is shifted into bus stop

7.4 Bikeway Widths

VTA recommends the following bikeway widths through bus stop areas:

Traditional Bike Lane, per VTA Bicycle Technical Guidelines (2012)

- 6 ft wide minimum
- 8 ft wide on streets with posted speeds 45 mph or greater

Buffered bike lane

- 6 ft wide bike lane minimum, with minimum 1.5-foot buffer

Cycle track

- One way: 7 foot preferred
- Two-way: 10 feet minimum, 12 feet preferred

7.5 Bus Boarding Islands General Requirements

Bus boarding islands must meet all ADA requirements for bus stops.

VTA requires:

- Bus boarding island must provide a clear, dedicated boarding area 8 feet deep by 5 feet wide. The boarding area may not be shared by bicyclists.

- Boarding island depth 8 foot (min) to 10 ft (preferred). Length is determined by number of lines and length of buses using the stop. Minimum depth to accommodate a railing on the bus boarding island is 9 ft. Minimum depth to accommodate a shelter on the bus boarding island is 10 ft.
- Cross slope and running slope no greater than 2% for entire platform.
- 4 foot wide (minimum) continuous, clear pedestrian access route between the bus boarding island and the sidewalk.
- Railing or other vertical separation element at back edge of platform if the cycle-track is at street level or if it is a two-way cycle-track.
- Provide directional indicators from sidewalk to bus boarding island to indicate to visually impaired pedestrians the path of travel.
- Install bus stop sign at back of bus boarding island.
- Vertical elements (signs, railings, etc..) must be at least 24" away from the street edge of the bus boarding island.

7.6 Pedestrian Crossing at Bus Boarding Island

Bicyclists must yield to pedestrians at the bus boarding island. The bikeway and pedestrian crossing should be designed to indicate this responsibility to bicyclists. Treatments to slow bicyclists and improve yielding should be installed as appropriate or needed. For new installations, consider temporary signage clarifying right-of-way.

People with visual, mobility, auditory and other impairments travel by bus. The bus boarding island and access routes to the island from the sidewalk must meet ADA requirements.

VTA recommends:

- If not integrated into an existing street crossing, the pedestrian crossing should be at the same level as the sidewalk and bus boarding island.
- Provide designated crossing(s) for pedestrians across the bikeway. Preferably, one crossing at the front door and one crossing at the rear door.
- Crossings should be striped with high visibility markings.
- Minimum 10' wide crossing width (perpendicular to pedestrian movement).
- Provide detectable warning surfaces (truncated domes) at either end of the crosswalk.

- Provide directional indicators from sidewalk to bus boarding island to indicate to visually impaired pedestrians the path of travel.
- Maintain unobstructed sight lines between pedestrians and bicyclists. Pay particular attention to vertical separation elements, or bus shelters on the bus boarding island.

7.7 Signage at Bus Boarding Islands

Signs indicate to transit customers, including visually impaired customers, and indicate to bus operators where to stop the bus

- Two signs required. One at the sidewalk adjacent to the pedestrian crossing. A second one on the bus boarding island.
- Directional indicators should lead from the sidewalk sign to the boarding area on the bus boarding island.

7.8 One-Way Cycletrack at Bus Boarding Islands

Bicyclists must yield to pedestrians at the bus boarding island. Treatments to slow bicyclists and improve yielding should be installed as appropriate or needed.

Where the bikeway is at the level of the roadbed (Figure 7.8a and 7.8d)

- Raise the pedestrian crossing to be at the same grade as the sidewalk and bus boarding platform. If this is not feasible, provide ADA-accessible curb ramps at either end of the pedestrian crossing and ensure that there is at least a four-foot-wide accessible path on the platform adjacent to the curb ramp.

- Install a guardrail or similar vertical separation on the bus boarding island. Provide a minimum 6-inch shy distance between the edge of the vertical separation and the bikeway. Maintain a minimum 8-foot depth clear space on the bus boarding island between the vertical element and the road edge of the boarding island. Vertical elements must not block sightlines between pedestrians and bicyclists.

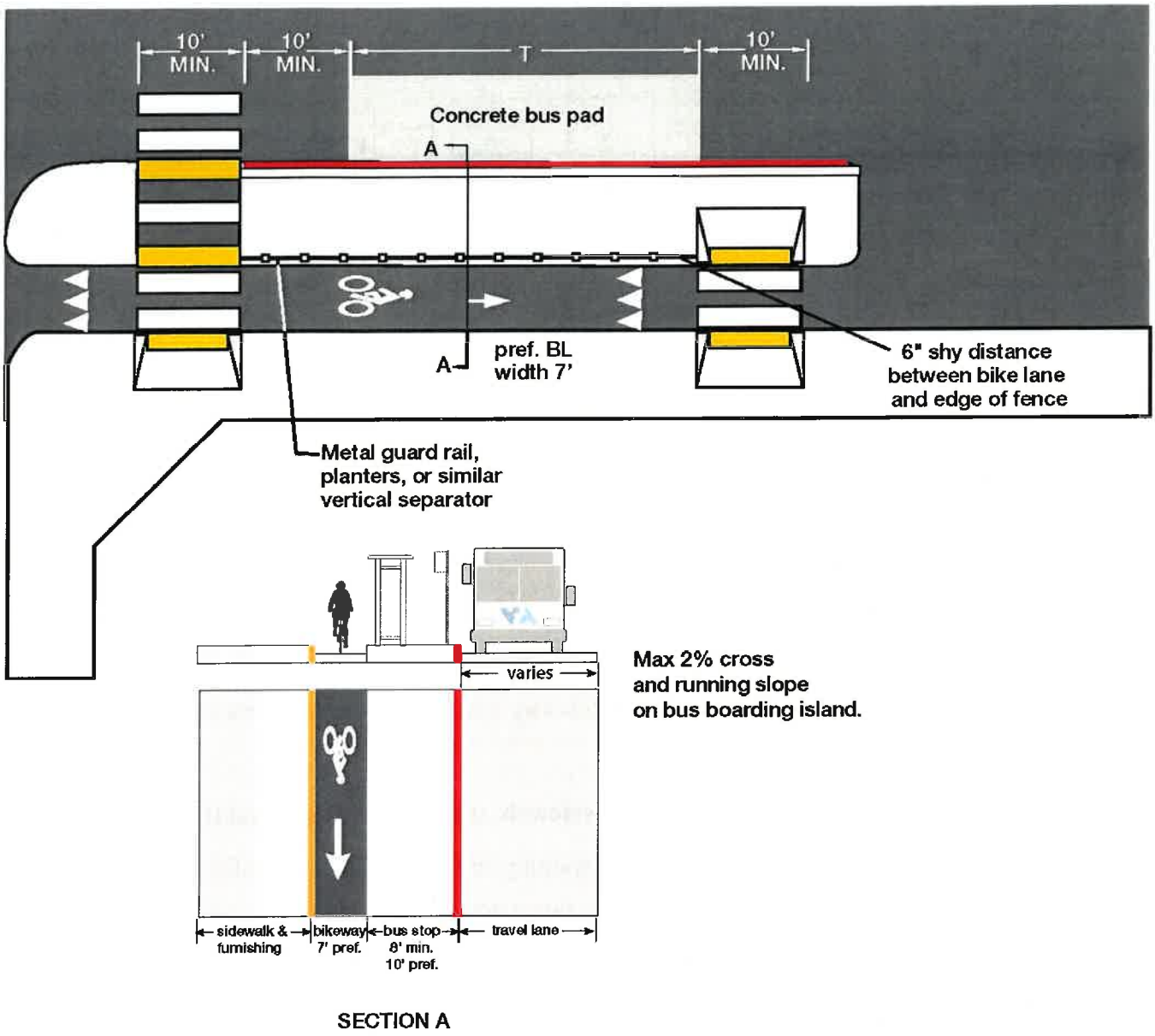


Figure 7.8a - Bus stop where bikeway is at the same level as the roadway

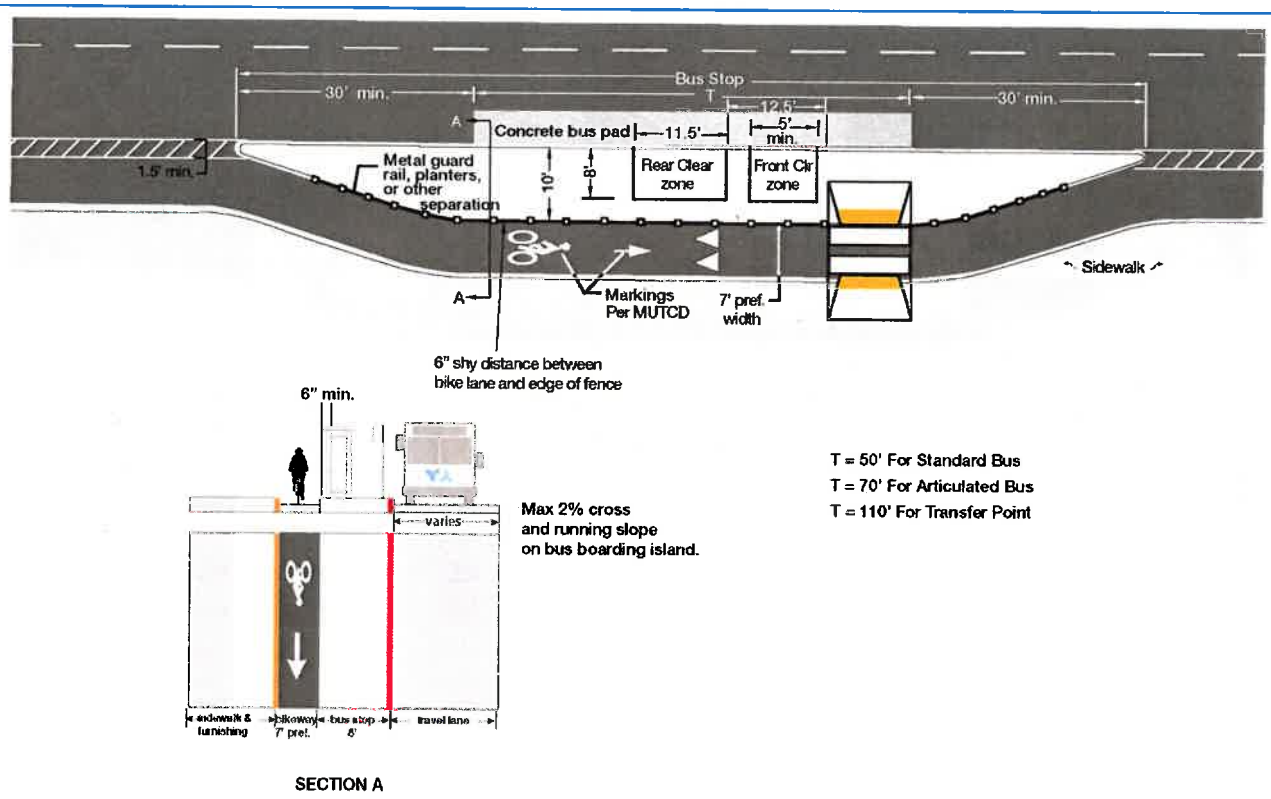


Figure 7.8b - Bus stop where bikeway is at the same level as the roadway

Where the bikeway is raised to the level of the sidewalk and bus boarding island (Figure 7.8c & 7.8d)

- Provide a detectable edge or detectable warning surface on either side of the bikeway so that pedestrians with visual impairments can detect the bikeway. Adjoining surfaces must differ from one another in visual contrast (light beside dark), as well as texture. See Caltrans Design Information Bulletin 89-01, FHWA's Accessible Shared Streets (FHWA-HEP-17-096, October 2017), and U.S. Access Board's Proposed Guidelines for Pedestrian Facilities in the Public Right-of-Way (2011) for design recommendations.
- Provide designated crossings for pedestrians across the bikeway.
- Optimally, the bikeway is in a contrasting color to the sidewalk. (e.g. asphalt bikeway, concrete sidewalk)

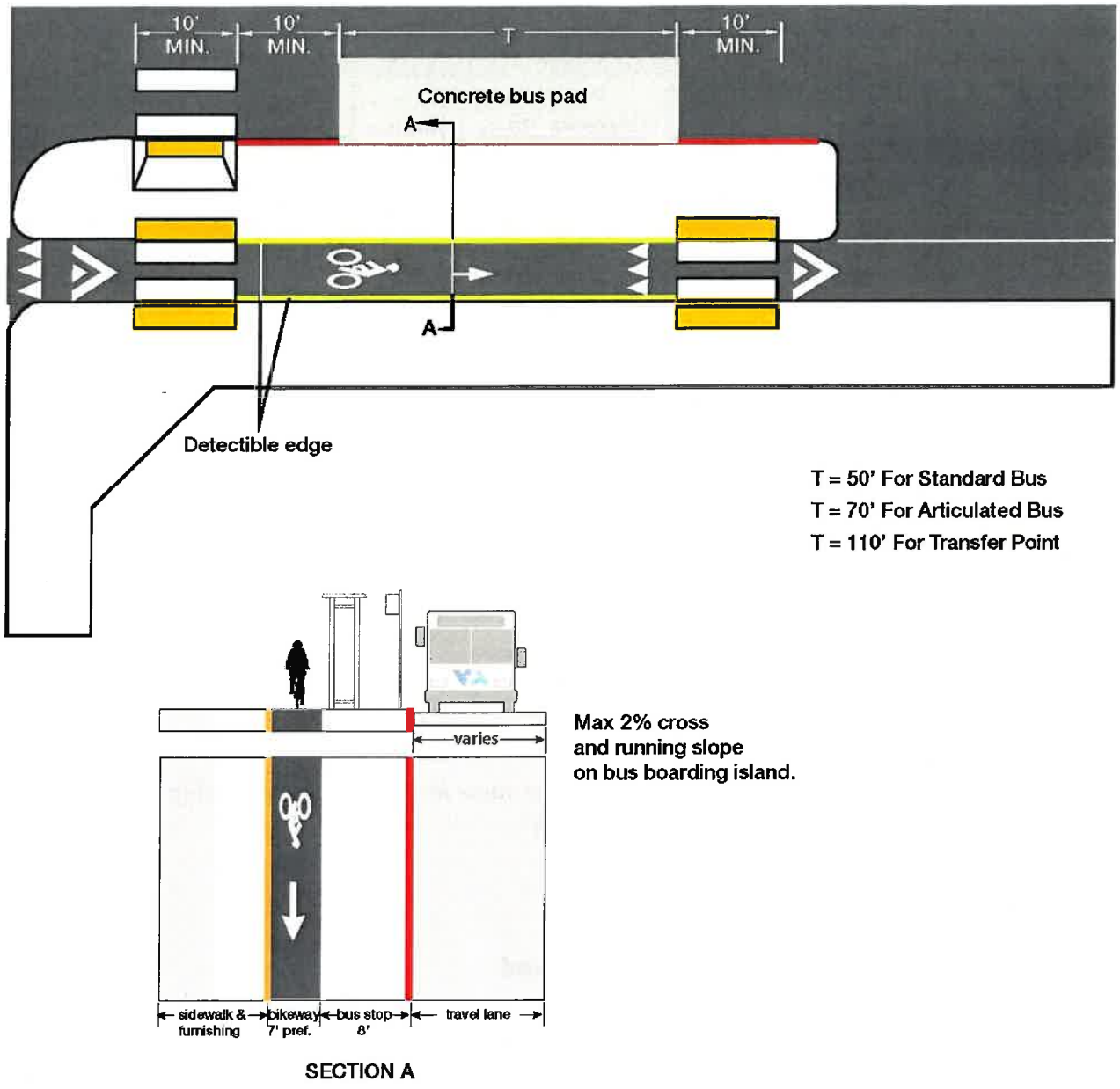


Figure 7.8c - Bus stop where bikeway is raised to the same level as the bus boarding island and the sidewalk

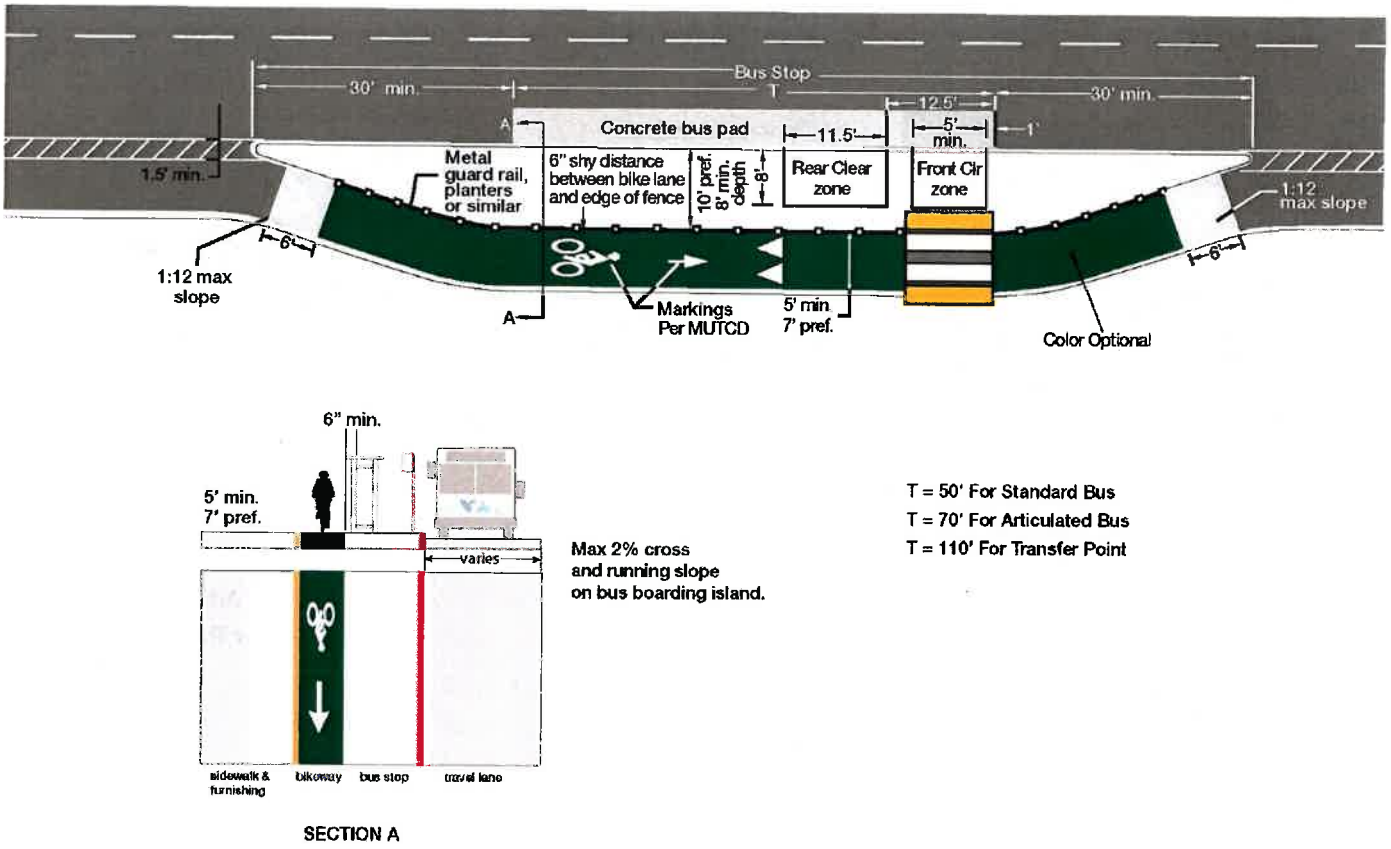


Figure 7.8d - Bus stop where bikeway is raised to the same level as the bus boarding island and sidewalk

7.9 Two-Way Cycletrack at Bus Boarding Island

Bicyclists must yield to pedestrians at the bus boarding island. Treatments to slow bicyclists and improve yielding should be installed as appropriate or needed. This is especially important at two-way cycle-tracks where pedestrians may not realize bicyclists could be approaching from both directions.

Where the bikeway is at the level of the roadbed (Figure 7.9a):

- Treat as for a one-way cycletrack.

Where the bikeway is raised to the level of the sidewalk and the bus boarding island (Figure 7.9b):

- Treat as for a one-way cycletrack but provide a guardrail or other vertical separation on the bus boarding island.

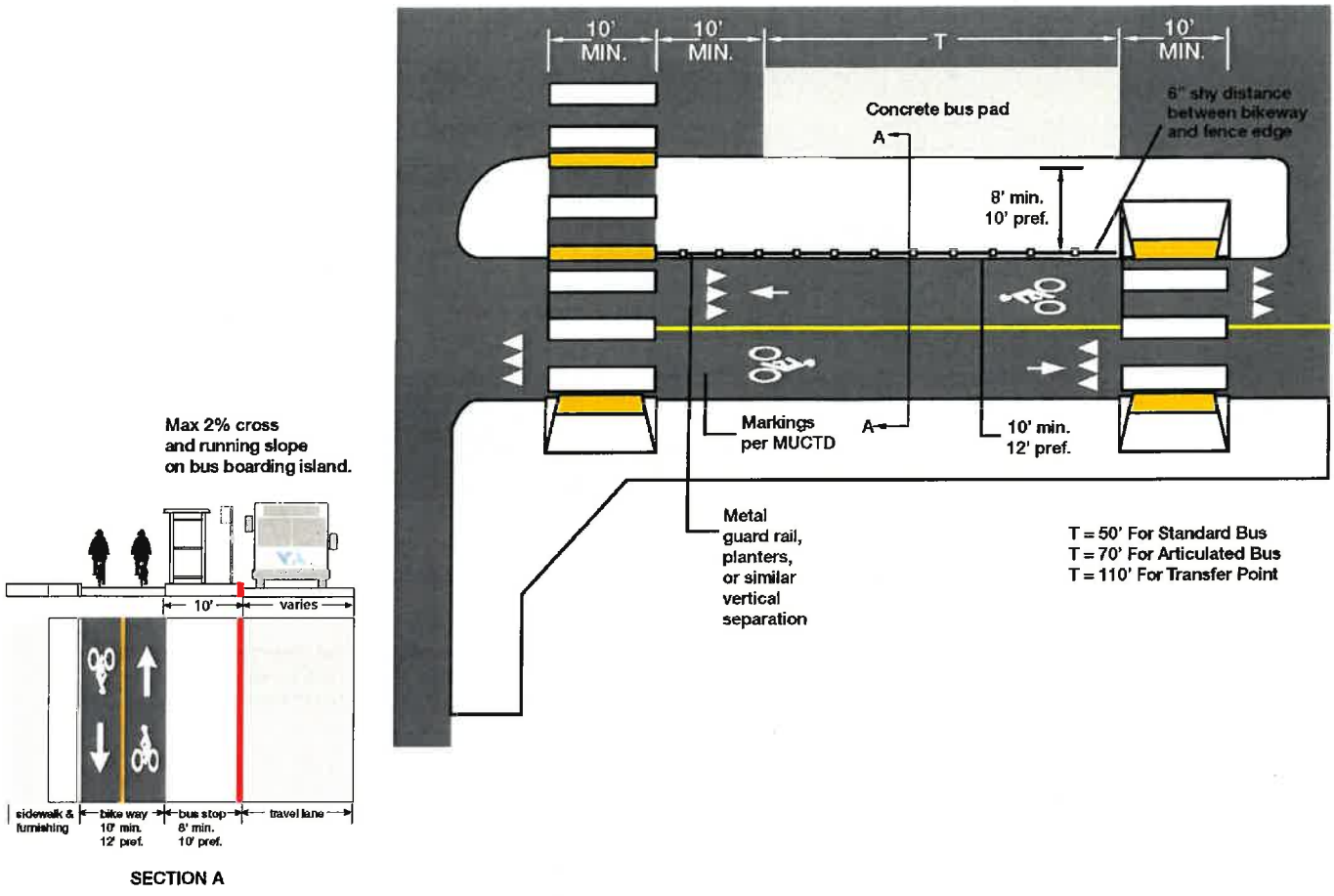


Figure 7.9a - Bus stop where two-way bikeway is the same level as roadway

Where the bikeway is raised to the level of the sidewalk and the bus boarding island, treat as for a one-way cycletrack but provide a guardrail or other vertical separation on the bus boarding island (Figure 7.9b).

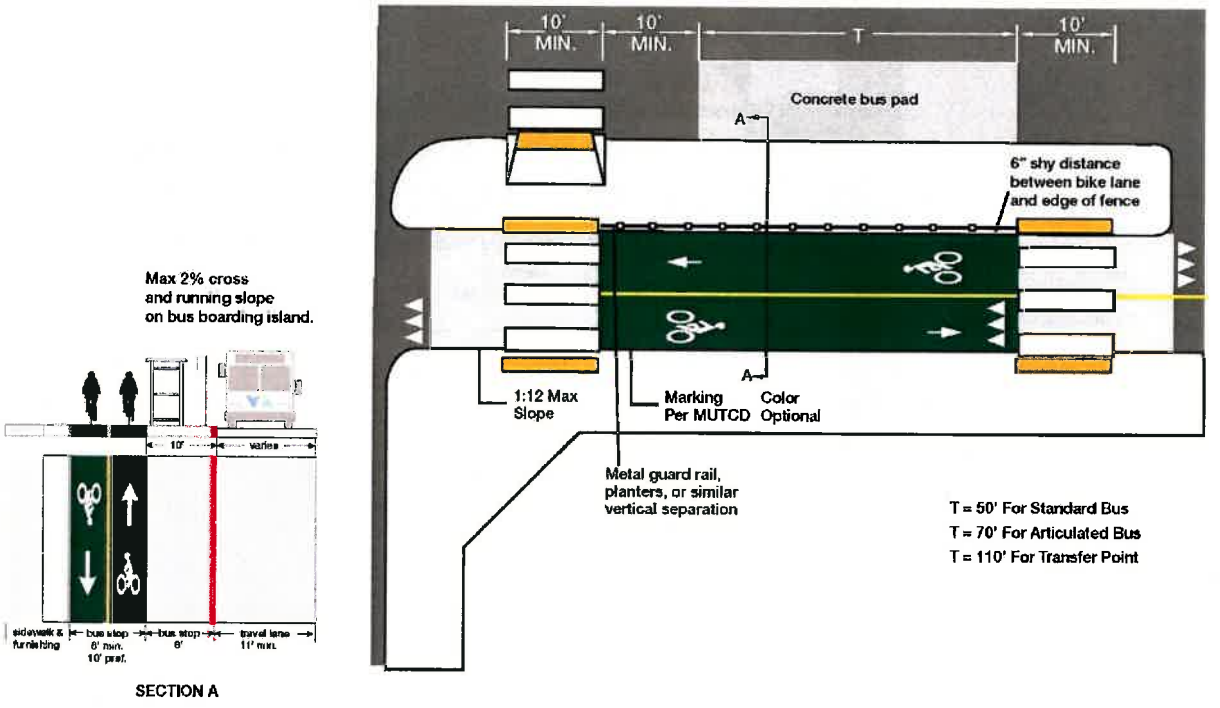


Figure 7.9b - Bus stop where two-way bikeway is at the same level as the bus boarding island and the sidewalk

7.10 Bus Boarding Island Treatments Not Accepted by VTA

VTA requires a dedicated boarding area five feet wide by eight feet deep. This area must not be shared by bicyclists. Other jurisdictions in California have experimented with shared bikeway/boarding areas in constrained conditions. VTA does not permit this treatment. Customers getting off the bus may not expect or see approaching bicyclists, and bicyclists approaching a stopped bus may not expect the wheelchair ramp to deploy in their path.

This manual has been prepared by VTA staff with support and review from the following:

- Ken Ronsse, VTA Engineering & Program Development
- Ziad Dweiri, Mott MacDonald Consultants
- Michael Catangay, VTA Operations Passenger Facilities
- Ed Evangelista, VTA Engineering & Program Development
- Lauren Ledbetter, VTA Planning

From: Van Der Zweep, Cassandra
To: Natalie Noyes
Subject: Fw: Public Notice of Availability of Draft EIR for 550 E Brokaw Road Project
Date: Thursday, June 16, 2022 2:29:36 PM
Attachments: image001.png

Hi Natalie,

Please see the forwarded comment letter from Valley Water.

Thanks,

Cassandra van der Zweep
Supervising Planner | Planning, Building & Code Enforcement
City of San José | 200 East Santa Clara Street
Email: cassandra.vanderzweep@sanjoseca.gov | Phone: (408)-535-7659

From: Jourdan Alvarado <JAlvarado@valleywater.org>
Sent: Thursday, June 16, 2022 2:25 PM
To: Van Der Zweep, Cassandra <Cassandra.VanDerZweep@sanjoseca.gov>
Cc: Colleen Haggerty <chaggerty@valleywater.org>
Subject: RE: Public Notice of Availability of Draft EIR for 550 E Brokaw Road Project

Dear Cassandra van der Zweep:

The Santa Clara Valley Water District (Valley Water) has reviewed the Draft Environmental Impact Report (DEIR) for the proposed 550 E Brokaw Development Project, received by Valley Water on May 11, 2022.

The proposed development is not located adjacent or within any Valley Water facilities or right-of-way; therefore, in accordance with Valley Water's Water Resources Protection Ordinance, a Valley Water encroachment permit is not required for this project.

Valley Water has the following comments regarding the project:

1. The document states that groundwater in the project area is known to be between 7 and 12 feet below ground surface but is typically 60 feet below ground surface year-round. However, Valley Water records indicate the first depth to groundwater is approximately 0 to 10 feet below ground surface at the subject site. Please refer to Figure 2-16 on page 2-17 of the Valley Water 2016 Groundwater Management Plan and revise **Section 3.7.1.2** on page 95, **Section 3.10.1.2** on page 135, and **Part b of Section 3.10.2.1** on page 137 accordingly.
2. In **Section 3.10.1.1** on page 130, please note the Municipal Regional Stormwater NPDES

Permit (MRP) was just adopted by the Regional Water Quality Control Board (RWQCB).

3. In the Water Resources Protection Ordinance and District Well Ordinance discussion of **Section 3.10.1.1** on page 131, the text should be revised as follows: "Valley Water operates as the flood protection agency for Santa Clara County. Valley Water also provides stream stewardship and is the wholesale water supplier throughout the county, which includes the groundwater recharge program. Well construction and deconstruction permits, including borings 45 feet or deeper, are required under Valley Water's Well Ordinance 90-1. Under Valley Water's Water Resources Protection Ordinance, projects within Valley Water property or easements are required to obtain encroachment permits."
4. In the Hydrology and Drainage discussion of **Section 3.10.1.2** on page 134 and the Storm Drainage discussion of **Section 3.19.1.2** on page 218, "San Francisco Bay Area" should be corrected to "San Francisco Bay."
5. **Section 3.10.1.2** on page 135 and Part d of **Section 3.10.1.2** on page 139 define Zone X as having "a 0.2 percent annual chance of flooding." While this is one of the official FEMA definitions of Flood Zone X, Flood Zone X can be further designated as either shaded or unshaded. These sections should specify that half of the project site is located within Zone X (unshaded), representing areas outside of the 0.2 percent annual chance floodplain.
6. Part b of **Section 3.10.2.1** on page 137 assumes that because major excavation is not proposed, the project would not access groundwater and would therefore not affect groundwater supplies. However, shallow groundwater (i.e., 0 to 10 feet) occurs in the project location. This text should be revised to reflect that since shallow groundwater occurs in the project location, proposed excavation and grading work could encounter groundwater, requiring dewatering during construction.
7. Part b of **Section 3.10.2.1** on page 137 states that Valley Water has 18 major groundwater recharge systems. While Valley Water has a complex and interconnected network of groundwater recharge facilities, the reference to the number of systems should be removed as Valley Water does not categorize groundwater facilities by major or minor and therefore it is not clear how it was determined that there are 18 major systems.
8. **Section 3.10.2.2** on page 141 states that "the project site is not within a 100-year floodplain." The eastern half of the site is designated as Zone D, which is not a Special Flood Hazard Area (SFHA), but also is not necessarily outside the 100-year floodplain. This should be revised to state that the project site is not located within a SFHA, since flood risks are undetermined, but possible in this area.
9. Please note a portion of the site is in the Anderson Dam failure inundation zone.
10. Valley Water records show that there is one abandoned well on the subject site (APN: 237-08-079). Please keep in mind it is always possible that a well exists that is not in Valley Water records. Abandoned or unused wells can provide a vertical conduit for contaminants to pollute groundwater. To avoid impacts to groundwater quality, any wells found on-site, including the abandoned well, that will not be used must be properly destroyed in accordance with Ordinance 90-1, which requires issuance of a well destruction permit or registered with Valley Water and protected during construction. Property owners or their representatives should call the Wells and Water Measurement Unit at (408) 630-2660 for more information regarding well permits and registration for the destruction of wells.

Thank you for the opportunity to review the DEIR. If you have any questions, or need further information, you can reach me at (408) 596-4364, or by e-mail at JAlvarado@valleywater.org. Please reference Valley Water File No. 34715 on future correspondence regarding this project.

Sincerely,

JOURDAN ALVARADO, CFM
ASSISTANT ENGINEER II – CIVIL (TEMP)
Community Projects Review Unit
jalvarado@valleywater.org
Tel. (408) 596-4364 CPRU Hotline (408) 630-2650

SANTA CLARA VALLEY WATER DISTRICT
5750 Almaden Expressway, San Jose CA 95118
www.valleywater.org

Clean Water • Healthy Environment • Flood Protection

From: Van Der Zweep, Cassandra <Cassandra.VanDerZweep@sanjoseca.gov>
Sent: Wednesday, May 11, 2022 3:47 PM
Subject: Public Notice of Availability of Draft EIR for 550 E Brokaw Road Project

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

A Draft Environmental Impact Report (DEIR) for the 550 E Brokaw Development Project is available for public comment.

Project Description: The 19.70 gross acres site is developed with a 293,906-square foot office and electronics superstore building and surface parking lot. The project would demolish the existing building and construct seven new eight-story office towers in a campus design. The office towers would consist of 1,921,215 square feet of office space and be up to 135 feet high with a floor area ratio of 4.16. The towers would be configured around a central pedestrian walkway and open space area and the development would include two parking garages (one nine-story and one ten-story garage) providing 5,385 parking spaces.

Location: 550 East Brokaw Road, San José, CA 95112 (irregular shaped site bounded by East Brokaw Road to the northwest, Junction Avenue to the southwest, Interstate 880 to the east).
APN: 237-08-079.
Council District: 3

File Nos.: H21-005/T21-005/ER21-018

The proposed project will have potentially significant environmental effects with regard to biological, cultural, hazardous materials, noise and vibration, transportation, and tribal cultural resources. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present at the project location. The project location is not contained in the Cortese List of

toxic sites.

The Draft EIR and documents referenced in the Draft EIR are available for review online at the City of San José's "Active EIRs" website at www.sanjoseca.gov/activeeirs and are also available at the following locations:

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

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

- Joyce Ellington Library
- 491 E. Empire Street, San José, CA 95112
- (408) 808-3043

The public review period for this Draft EIR begins on **May 11, 2022 and ends on June 24, 2022.** Written comments must be received at the Planning Department by 5:00 p.m. on June 24, 2022, in order to be addressed as part of the formal EIR review process. Comments and questions should be referred to Cassandra van der Zweep in the Department of Planning, Building and Code Enforcement at 408-535-7659, via e-mail: Cassandra.vanderZweep@sanjoseca.gov, or by regular mail at the mailing address listed for the Department of Planning, Building, and Code Enforcement, above (send to the attention of Cassandra van der Zweep). Written comments are preferred. For the official record, when submitting your written comment letters, please reference File Nos. H21-005/ER21-018.

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

Thank you,

Cassandra van der Zweep
Supervising Planner | Planning, Building & Code Enforcement
City of San José | 200 East Santa Clara Street
Email: cassandra.vanderzweep@sanjoseca.gov | Phone: (408)-535-7659