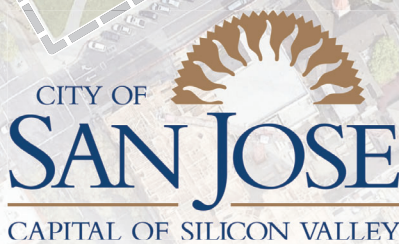


Draft Environmental Impact Report

# St. James Park Capital Vision and Performing Arts Pavilion Project

SCH# 2016052074

Prepared by the



In Consultation with



May 2020

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## SUMMARY

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The City of San José, as the Lead Agency, has prepared this Draft Environmental Impact Report (EIR) for the St. James Park Capital Vision and Performing Arts Pavilion project in compliance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines.

As the CEQA Lead Agency for this project, the City of San José is required to consider the information in this EIR along with any other available information in deciding whether to approve the project. The basic requirements for an EIR include discussions of the environmental setting, significant environmental impacts including growth-inducing impacts, cumulative impacts, mitigation measures, and alternatives. It is not the intent of an EIR to recommend either approval or denial of a project.

### Summary of the Project

St. James Park is located in downtown San José. The approximately 7.5-acre park is square shaped and bounded by East St. James Street to the north, East St. John Street to the south, North 1<sup>st</sup> Street to the west, and North 3<sup>rd</sup> Street to the east. North 2<sup>nd</sup> Street bisects the park.

The project proposes to renovate and revitalize St. James Park by implementing both physical and programmatic changes. The project would result in the demolition and removal of most of the existing improvements at the park, with the exception of the monuments and heritage trees. The physical improvements proposed include:

- Performing Arts Pavilion
- Café and Restroom Building
- Picnic Pavilion and Naglee Picnic Grove
- Dog Parks
- Monument Walk
- McKinley Meadow
- Plaza
- Playground
- Fountain
- Park Office
- Security Lighting
- Landscaping
- Perimeter Garden Fencing
- Transportation Network Modifications
- Utility Improvements

The project proposes to maintain the existing park use (passive park uses and events) and have additional programmatic elements, including events at the performing arts pavilion. The performing arts pavilion would be capable of accommodating a variety of events, such as film festivals, concerts, and dance and theatre performances. It is assumed that 50 to 300 events (with up to 72 large concerts/events) would be held annually at the performing arts pavilion, with 20 to 5,000 attendees. In addition, the project proposes to allow commercial uses (i.e., the proposed café, food and beverage vendors associated with events at the performing arts pavilion, and merchandise vendors associated with events at the performing arts pavilion), street performers, and a farmers market, which may require an event or development permit.

## Summary of Significant Impacts and Mitigation Measures

The following table is a brief summary of the significant environmental impacts of the project identified and discussed in the EIR, and the mitigation measures proposed to avoid or reduce those impacts. Refer to the main body of the EIR for detailed discussions of the existing setting, impacts, and mitigation measures.

Impact	Mitigation Measure
<b>Aesthetics</b>	
<b>Impact AES-1:</b> Implementation of the proposed project would impact the visual character of the site because the design is not fully consistent with the Secretary of the Interior's Standards for Rehabilitation. <b>(Significant Unavoidable Impact)</b>	See MM CUL-1.1 through MM CUL-1.5.
<b>Air Quality</b>	
<b>Impact AIR-1:</b> The project would expose sensitive receptors to substantial pollutant concentrations. <b>(Less than Significant Impact with Mitigation Incorporated)</b>	<b>MM AIR-1.1:</b> The project proponent shall retain a qualified consultant to develop a construction operations plan demonstrating that the off-road equipment used on-site to construct the project would achieve a fleet-wide average 72 percent reduction in diesel particulate matter (DPM) exhaust emissions or greater. To achieve the reduction on the project one or a combination of the following measures could be implemented: <ul style="list-style-type: none"> <li>• All diesel-powered off-road equipment, larger than 25 horsepower, operating on the site for more than two days continuously shall, at a minimum, meet EPA particulate matter emissions standards for Tier 3 engines that include CARB-certified Level 3 Diesel Particulate Filters or equivalent.</li> <li>• Equipment that meets EPA Tier 4 standards for particulate matter</li> <li>• Use of equipment that is electrically powered or uses non-diesel fuels.</li> </ul> The project proponent shall submit the construction operations plan and records to achieve a fleet-wide average 72 percent reduction to the Director of Planning or Director's designee prior to the start of any construction or ground-disturbance activities.
<b>Impact AIR-C:</b> The project would not result in a cumulatively considerable contribution to a significant air quality impact. <b>(Less than Significant Cumulative Impact with Mitigation Incorporated)</b>	
<b>Biological Resources</b>	
<b>Impact BIO-1:</b> The project would not have a substantial adverse effect, either directly or through habitat modifications, on any species	<b>MM BIO-1.1:</b> Tree removal and construction activities shall be scheduled to avoid the nesting season. The nesting season for most birds, including



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identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS. **(Less than Significant Impact with Mitigation Incorporated)**

**Impact BIO-C:** The project would not result in a cumulatively considerable contribution to a significant biological resources impact. **(Less than Significant Cumulative Impact with Mitigation Incorporated)**

most raptors in the San Francisco Bay area, extends from February 1<sup>st</sup> through August 31<sup>st</sup>, inclusive.

If tree removals and construction cannot be scheduled outside of nesting season, a qualified ornithologist shall complete pre-construction surveys to identify active raptor nests that may be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of ground-disturbance activities during the early part of the breeding season (February 1<sup>st</sup> through April 30<sup>th</sup>, inclusive) and no more than 30 days prior to the initiation of these ground-disturbance activities during the late part of the breeding season (May 1<sup>st</sup> through August 31<sup>st</sup>, inclusive).

During this survey, the qualified ornithologist will inspect all trees and other possible nesting habitats in and immediately adjacent to the construction areas for nests. If an active nest is found in an area that would be disturbed by construction, the ornithologist shall designate a construction-free buffer zone (typically 250 feet) to be established around the nest, in consultation with California Department of Fish and Wildlife (CDFW). The buffer would ensure that raptor or migratory bird nests will not be disturbed during project construction.

The project proponent shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning or Director's designee prior, prior to the start of any construction or ground-disturbance activities (e.g., tree removal).

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### Cultural Resources

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**Impact CUL-1:** The project would cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5. **(Significant and Unavoidable Impact)**

**MM CUL-1.1:** Prior to the start of construction, a qualified arborist shall undertake a detailed assessment of the row of heritage palm trees (along North 1<sup>st</sup> Street) and other heritage trees to establish the baseline condition of the trees. The documentation shall take the form of detailed written descriptions and visual illustrations and/or photos, including physical characteristics. The documentation shall be submitted for review and approval by the City of San José's Historic

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Preservation Officer and the Director of Planning or Director's designee.

**MM CUL-1.2:** Prior to construction, a qualified historic architect (who meets the Secretary of Interior's Professional Qualifications Standards) shall formalize the existing conditions visual study of the historic resources on-site, which would include preparation of preconstruction documentation of the historic resources that could be at risk from construction of the project, including the McKinley Statue and Monument, Kennedy Podium, and Naglee Monument. The purpose of the study is to establish the baseline condition of the resources prior to construction. The documentation shall take the form of detailed written descriptions and visual illustrations and/or photos, including physical characteristics of each resource that convey its historic significance and justify its eligibility as a contributing feature of the site. The documentation shall be reviewed and approved by the City of San José's Historic Preservation Officer prior to issuance of grading permits.

**MM CUL-1.3:** The historic architect shall prepare and implement a Historic Resources Protection Plan to protect the historic resources determined to be at risk from direct or indirect impacts during construction activities (i.e., due to damage from operation of construction equipment, staging, and material storage). The project proponent shall ensure the contractor follows the Historic Resources Protection Plan while working near these historic resources. At a minimum, the Historic Resources Protection Plan shall include:

- Guidelines for operation of construction equipment adjacent to historical resources;
- Requirements for monitoring and documenting compliance with the plan; and
- Education/training of construction workers about the significance of the historical resources around which they would be working.

The Historic Resources Protection Plan must be reviewed and approved by the City's Historic Preservation Officer prior to issuance of any ground disturbance activities.

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**MM CUL-1.4:** Utilizing the visual study in MM CUL-1.3, the historic architect shall make periodic site visits to monitor the condition of the historic resources identified in the Historical Resources Protection Plan. The timing of the visits shall be specified in the Historic Resources Protection Plan.

**MM CUL-1.5:** In the event of damage to contributing features during construction, repair work would be completed in full compliance with the Secretary of the Interior's Standards for the Treatment of Historic Properties and would restore the character-defining features of the park. Documentation illustrating how the repair work would be completed would be done in consultation with the City of San José's Historic Preservation Officer.

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**Impact CUL-2:** The project would cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5. **(Less than Significant Cumulative Impact with Mitigation Incorporated)**

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**MM CUL-2.1:** Prior to any ground disturbance, the project shall implement the following measures:

- A qualified archaeologist shall be on-site to monitor the initial excavation. After monitoring the initial excavation, the archaeologist shall make recommendations for further monitoring if it is determined that the site has cultural resources. If the archaeologist determines that no resources are likely to be found on site, no additional monitoring shall be required. If no resources are discovered, the consulting archaeologist shall submit a report to the City's Environmental Principal Planner verifying that the required monitoring occurred and that no further mitigation is necessary.
- If evidence of any archaeological, cultural, and/or historical deposits is found, hand excavation and/or mechanical excavation will proceed to evaluate the deposits for determination of significance as defined by CEQA guidelines. In the event that human remains are found, the project shall comply with the procedures set forth by Health and Safety Code § 7050.5 and Public Resources Code § 5097.94 of the State of California.
- The archaeologist shall submit a report(s) describing the testing program and subsequent results, to the satisfaction of the City's Environmental Principal Planner. The report(s) shall identify any program mitigation that the



	<p>City shall complete in order to mitigate archaeological impacts (including resource recovery and/or avoidance testing and analysis, removal, reburial, and curation of archaeological resources).</p> <ul style="list-style-type: none"> <li>• A final report verifying completion of the mitigation program shall be submitted to the City's Supervising Environmental Planner for review and approval prior to release of the project acceptance. This report shall contain a description of the mitigation programs and results of the mitigation, including a description of the monitoring and testing program, a list of the resources found, a summary of the resources analysis methodology and conclusions, and a description of the disposition/curation of the resources.</li> </ul>
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#### Noise

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<p><b>Impact NOI-1:</b> The project would result in generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies. <b>(Significant and Unavoidable Impact with Mitigation Incorporated)</b></p>	<p><b>MM NOI-1.1:</b> Amplified music events at the performing arts pavilion shall end by 10:00 PM.</p>
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#### Recreation

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<p><b>Impact REC-1:</b> The proposed changes to St. James Park would result impact the visual character and historic integrity of the park and would also result in an operational noise impact. <b>(Significant and Unavoidable Impact with Mitigation Incorporated)</b></p>	<p>See all mitigation measures listed above</p>
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### Summary of Project Alternatives

CEQA requires that an EIR identify alternatives to a project as it is proposed. The CEQA Guidelines Section 15126.6 specify that the EIR should identify alternatives which “would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project.”

#### Alternatives Considered but Rejected

The following alternatives were considered but rejected and described in detail in Section 8.4.1 Alternatives Considered but Rejected:

- Alternative Pavilion Orientation/Location On-Site

- Plaza de Cesar Chavez Location Alternative

### Analyzed Alternatives

The following were evaluated as alternatives to the project and described in detail in Section 8.5 Project Alternatives:

- No Project Alternative as required by CEQA,
- Enclosed Pavilion Alternatives,
- Pavilion with No Concerts Alternative, and
- Discovery Meadow Alternative Pavilion Location.

The CEQA Guidelines state that an EIR shall identify an environmentally superior alternative. The environmentally superior alternative to the proposed project is the No Project Alternative and the Discovery Meadow Alternative Location.

### **Areas of Concern**

During the scoping and EIR preparation phase, environmental concerns from local residents, property owners, organizations, and/or agencies about the project related to impacts to:

- |  |  |
|--|--|
| • Alternative locations to the project | • Transportation infrastructure and facilities |
| • Historic resources                   | • Trees  |
| • Light                                | • Utility and service systems                  |
| • Noise                                | • Visual/aesthetics                            |

## **SECTION 1.0 INTRODUCTION**

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### **1.1 PURPOSE OF THE ENVIRONMENTAL IMPACT REPORT**

The City of San José, as the Lead Agency, has prepared this Draft Environmental Impact Report (Draft EIR) for the St. James Park Capital Vision and Performing Arts Pavilion project in compliance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines.

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

### **1.2 EIR PROCESS**

#### **1.2.1 Notice of Preparation and Scoping**

In accordance with Section 15082 of the CEQA Guidelines, the City of San José prepared a Notice of Preparation (NOP) for this Draft EIR. The NOP was circulated to local, state, and federal agencies on May 26, 2016. The standard 30-day comment period concluded on June 24, 2016. The NOP provided a general description of the proposed project and identified possible environmental impacts that could result from implementation of the project. The City of San José also held a public scoping meeting on June 15, 2016 to discuss the project and solicit public input as to the scope and contents of this Draft EIR. The meeting was held at the San José First United Methodist Church at 24 North 5<sup>th</sup> Street.

Since the circulation of the NOP in 2016, the regulatory framework has changed, and the project has been refined. A revised NOP was circulated April 8, 2019 through May 8, 2019 to reflect the current regulatory setting (specifically the City's recent adoption of the Downtown Strategy 2040 and City Council Policy 5-1 Transportation Analysis Policy) and clarify the project description.

Appendix A of this Draft EIR includes the NOPs and comments received on the NOPs.

#### **1.2.2 Draft EIR Public Review and Comment Period**

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



Thai-Chau Le, Planner IV  
City of San José  
Department of Planning, Building, and Code Enforcement  
200 East Santa Clara Street, Tower 3  
San José, CA 95112  
[Thai-Chau.Le@sanjoseca.gov](mailto:Thai-Chau.Le@sanjoseca.gov)

### **1.3 FINAL EIR/RESPONSES TO COMMENTS**

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

- Revisions to the Draft EIR text, as necessary;
- List of individuals and agencies commenting on the Draft EIR;
- Responses to comments received on the Draft EIR, in accordance with the CEQA Guidelines (Section 15088);
- Copies of letters received on the Draft EIR.

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

#### **1.3.1 Notice of Determination**

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

## SECTION 2.0 PROJECT INFORMATION AND DESCRIPTION

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### 2.1 PROJECT LOCATION

The project site is St. James Park in downtown San José. The approximately 7.5-acre park is square shaped and consists of two parcels (Assessor's Parcel Numbers [APNs] 467-21-001 and 467-21-014). The park is bounded by East St. James Street to the north, East St. John Street to the south, North 1<sup>st</sup> Street to the west, and North 3<sup>rd</sup> Street to the east. North 2<sup>nd</sup> Street bisects the park. The surrounding area is urban and developed. Regional, vicinity, and aerial maps of the project site are shown in Figure 2.3-1, Figure 2.3-2, and Figure 2.3-3.

### 2.2 BACKGROUND INFORMATION

St. James Park is an existing public park that primarily consists of landscaping, including lawn areas and mature landscape trees. Existing park features include paved walkways, seating areas, an 840-square foot fitness parcourse, 2,750-square foot dog park, 17,556-square foot playground, restrooms, memorials (i.e., Naglee Memorial, McKinley Memorial, and Robert F. Kennedy Podium), wood stage, and fountain. As stated above, North 2<sup>nd</sup> Street bisects the park and within the park, includes a Santa Clara Valley Transportation Authority (VTA) light rail and local bus stops.

St. James Park currently hosts a variety of events. Between 2013 and 2018, a total of 125 events (or an average of 21 events per year) were held at the park.<sup>1</sup> The types of events vary and have included concerts, festivals, cinema nights, performances, yoga, and games. Previous events at the park ranged in attendance from less than 10 to 7,500 people.

The project is located in the St. James Square City Landmark Historic District. Multiple master plans have been prepared for the park over the years, the most recent of which was the 1985 Master Plan and the 2002 Master Plan Update prepared for the San José Redevelopment Agency. The site has a General Plan land use designation of Open Space, Parklands and Habitat and a zoning designation of DC- Downtown Primary Commercial District. The Open Space, Parklands and Habitat land use designation is intended for low intensity uses, including open space, parks, recreation areas, trails, habitat buffers, nature preserves, and other permanent open space areas.

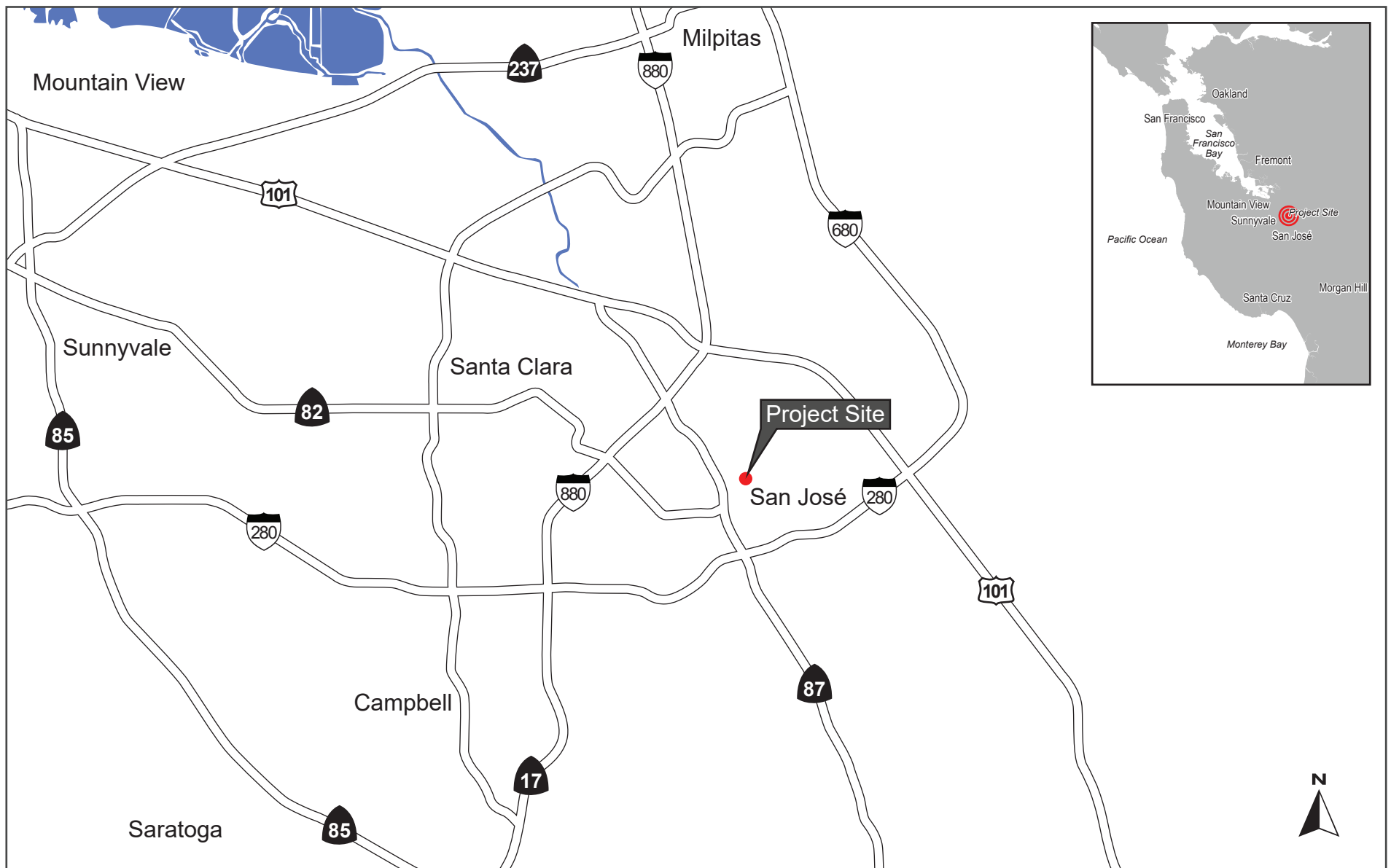
### 2.3 PROJECT DESCRIPTION

The project proposes to renovate and revitalize St. James Park by implementing both physical and programmatic changes. The project centers around the following three design concepts:

- **Historic Edge** – The historic edge would maintain the established heritage trees (including the palm street trees) and would include a planting scheme around the edge of the park to recall the history of the park's development from initial dense and assorted tree planting to the Victorian-era gardens. The edge would act as a buffer, shielding the park core from

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<sup>1</sup> Data on past events at Saint James Park was provided by City of San José Parks, Recreation, and Neighborhood Services Department (City of San José Parks, Recreation, and Neighborhood Services, Special Park Use. Personal Communication. January 15, 2019 and February 12, 2019.)



REGIONAL MAP

FIGURE 2.2-1

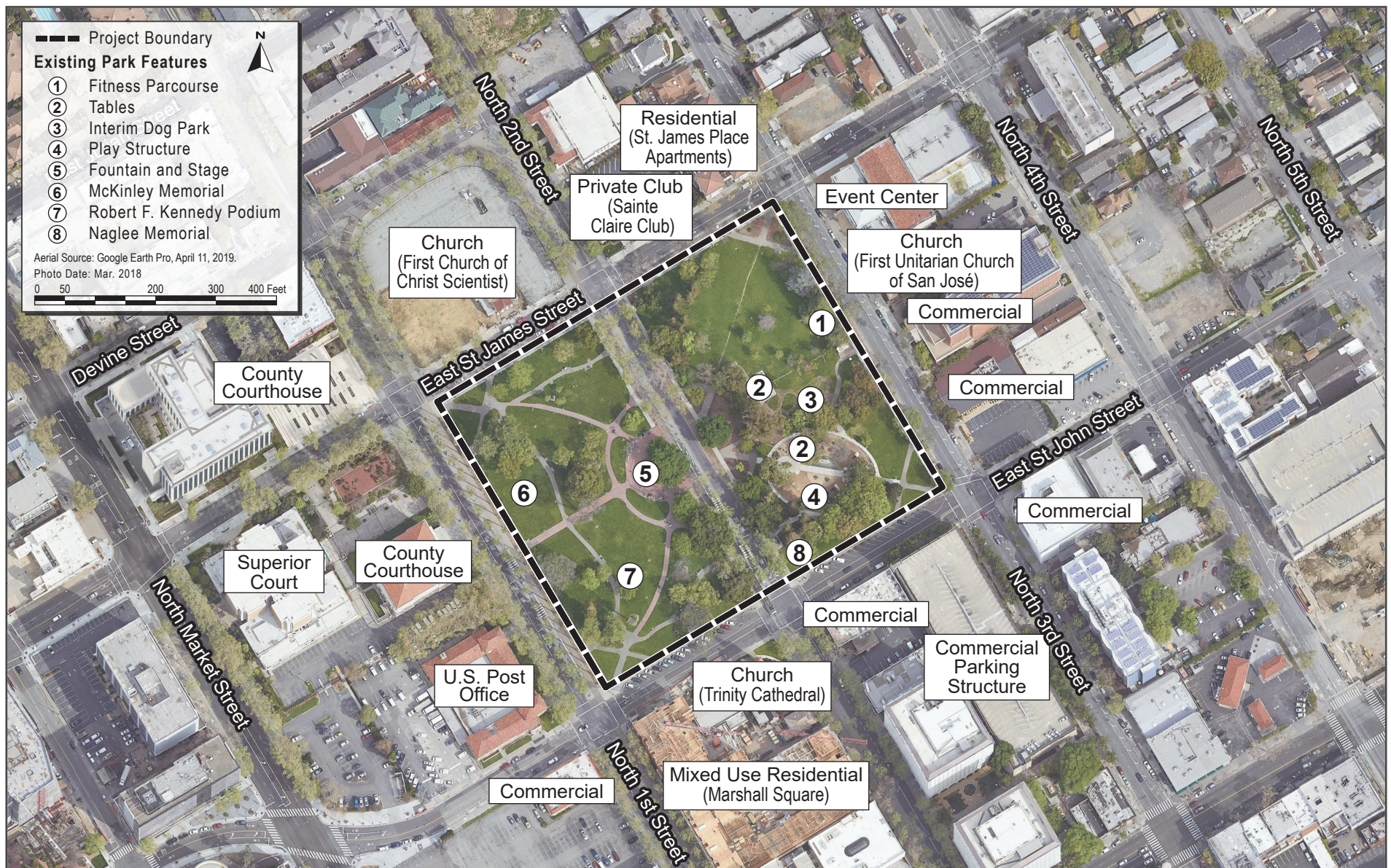




VICINITY MAP

FIGURE 2.2-2





AERIAL PHOTOGRAPH AND SURROUNDING LAND USES

FIGURE 2.2-3



surrounding streets. Two heritage bur oaks trees, one near the fountain and one in the garden walk, would also be maintained.

- **Contemporary Core** – The contemporary core would include passive and active uses, including a playground, picnic grove, café, two dog parks, and performing arts pavilion.
- **Monument Walk** – The monument walk would include meandering paths connecting existing historic monuments within the park with the proposed performing arts pavilion. The path would organize the layout of the park by connecting and integrating the contemporary core with the historic edge, as well as providing access throughout the park.

The historic edge, contemporary core, and monument walk would integrate all of the proposed park elements. The project's physical and programmatic park elements are described further below. A conceptual site plan of the project is shown in Figure 2.3-4.

### **2.3.1      Physical Improvements**

Implementation of the proposed project would result in the demolition and removal of most of the existing improvements at the park, with the exception of the monuments and heritage trees. The existing landscaping, including non-heritage trees, would be preserved to the extent possible. Materials from existing features, such as the benches, fences, and playground, would be salvaged and reused on- or off-site, as feasible. As part of the project, the City intends to engage a local artist to create and incorporate public art in the park.

#### **2.3.1.1      *Performing Arts Pavilion***

A performing arts pavilion is proposed at the northeast corner of the park and would include an approximately 4,000-square foot stage and an approximately 1,800-square foot, single-story (up to 12 feet tall) support building. The support building would include an office, dressing rooms, bathrooms, and storage areas. A large open lawn area for the audience would also be included. The performing arts pavilion would include a permanent canopy with triangular panels that would cover the stage area and extend along the northern perimeter of the audience lawn area. The canopy would be 18 to 35 feet tall, with the tallest point above the stage.

The performing arts pavilion would be designed as a 5,000-spectator outdoor music and performance venue with lighting and sound amplification.<sup>2</sup> Lighting for the performing arts pavilion (including the stage) would be supported by the canopy structure and lighting towers within the audience area. The sound system would include arrays of loudspeakers from the stage and distributed loudspeakers throughout and/or around the audience lawn area.

#### **2.3.1.2      *Café and Restroom Building***

A one-story (up to 15 feet tall), approximately 1,250-square foot building consisting of a café and public restrooms is proposed west of the performing arts pavilion in the northeast quadrant of the park. An outdoor seating area for the café is also proposed.

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<sup>2</sup> The seating area for the performing arts pavilion would be designed to hold a maximum occupancy of 5,000 attendees, though the average attendance of similar pavilions in other cities is typically between 1,000 to 2,500 people per concert. The City would not schedule concurrent events in the park during a pavilion concert.



#### **2.3.1.3      *Picnic Pavilion and Naglee Picnic Grove***

A picnic pavilion and grove are proposed south of the performing arts pavilion audience lawn. The picnic pavilion would consist of an open-air structure with a large shade canopy and an approximately 2,250-square foot structure with Americans with Disabilities Act (ADA) accessible restrooms and storage areas. A grill station with multiple outdoor grills is proposed between the picnic pavilion and picnic grove. The Naglee Picnic Grove would consist of picnic tables. The picnic pavilion and grove area would total approximately 2,150 square feet.

#### **2.3.1.4      *Dog Parks***

Two dog parks totaling approximately 7,900 square feet are proposed to the west and south of the picnic pavilion and Naglee Picnic Grove, in the southeast quadrant of the park. The dog parks would be enclosed by fencing.

#### **2.3.1.5      *Monument Walk***

The Monument Walk would consist of a paved walkway along the entire edge of the park connecting the three existing historic monuments in the park. The General Naglee Memorial would be repaired and relocated from its current location along the southern edge of the park approximately 400 feet toward the eastern side of the park. The Robert F. Kennedy Podium would also be repaired and relocated from its current location in the southwest quadrant of the park approximately 120 feet to the east, still within the southwest quadrant. New concrete bases would be provided for both the General Naglee Memorial and Robert F. Kennedy Podium. The William McKinley Memorial would remain in its current location. All monuments would be repaired to the Secretary of Interior's Standard. The Monument Walk would include space for future memorials.

#### **2.3.1.6      *McKinley Meadow***

McKinley Meadow would be a multi-use, open grass field in the northwest quadrant of the park, west of the performing arts pavilion and VTA light rail tracks. McKinley Meadow would operate as passive open space and would also accommodate small and large group gatherings and informal games.

#### **2.3.1.7      *Plaza***

A plaza area is proposed south of McKinley Meadow on the west side of the park, west of the VTA light rail tracks. The plaza would extend from the southern edge of McKinley Meadow, lead to the proposed playground, surround the proposed fountain, and terminate at the proposed park docent office.

#### **2.3.1.8      *Playground***

A playground is proposed south of McKinley Meadow and west of the proposed fountain in the southwest quadrant of the park. It is anticipated that the playground would include play areas for multiple age groups.

### **2.3.1.9      *Fountain***

The project would install a new fountain located southwest of the park center, with a greater distance between the fountain and the VTA light-rail transit tracks (LRT), as compared to the existing fountain, for the safety of park visitors and in accordance with VTA requirements. The fountain would include a splash pad providing recreational opportunities to park attendees.

### **2.3.1.10      *Park Office***

A one-story (up to 13-foot tall), approximately 1,750-square foot building is proposed south of the fountain and would include a park docent office, public restrooms, park maintenance storage, and would serve as the park information center.

### **2.3.1.11      *Security Lighting***

The project includes security lighting primarily along the perimeter of the park and pedestrian pathways. The security lighting would consist of light poles that would be approximately 12 to 20 feet tall and tree-mounted lights that would be approximately 12 to 20 feet above the ground. In addition, approximately 30-foot tall light poles are proposed along the perimeter of the performing arts pavilion audience lawn. The proposed lighting would comply with the City's Downtown Streetlight Guide and include the following best management practices:

- Limiting any unnecessary light pollution where possible,
- Designing the lighting for the performing arts pavilion and decorative lighting for the fountain to control glare and prevent spill light, and
- Shielding and directing nighttime security lighting downwards.

### **2.3.1.12      *Landscaping***

There are 248 existing trees within the park, 23 of which are heritage trees. The project proposes to preserve 152 trees on-site, including the heritage trees, and plant a minimum of 196 new trees on-site. Existing trees removed as a result of project improvements shall be replaced per City requirements (see discussion in Section 3.4 Biological Resources). In addition to new trees, the project would also include new landscaping throughout the park.

### **2.3.1.13      *Perimeter Garden Fencing***

The project also includes an approximately 18-inch tall decorative garden fence along the perimeter of the park. The fence would have openings for pedestrian access. The project would maintain the existing pedestrian access points at the corners of the park and add new pedestrian pathways on East St. James Street, East St. John Street, North 3<sup>rd</sup> Street, and North 1<sup>st</sup> Street.

### **2.3.1.14      *Transportation Network Modifications***

#### **Closure of North 2<sup>nd</sup> Street Bisecting the Site to Vehicles and Rerouting Buses**

North 2<sup>nd</sup> Street is a north-south roadway that currently bisects the site and is accessible to vehicles and the LRT. As part of the project, North 2<sup>nd</sup> Street would be closed to all vehicles and bus lines 72

and 73 would be rerouted. The existing bus stops for bus lines 72 and 73 on North 2<sup>nd</sup> Street and North 1<sup>st</sup> Street would no longer be used. Currently, the VTA anticipated that bus routes 72 and 73 would be rerouted to Almaden Boulevard, Woz Way, and East San Carlos Street and would utilize existing bus stops. Conceptual routes for bus lines 72 and 73 are shown in Figure 2.3-5.

The rerouting of bus lines 72 and 73 would require the extension of existing red curbs and bus pads and trimming of trees. Regardless of the final rerouting plan, VTA has confirmed that no new bus stops would be required, and no new bus stops are proposed by the project.

### **Light Rail Improvements**

LRT on North 2<sup>nd</sup> Street would remain unchanged under the proposed project. As part of the project, permits from VTA and the California Public Utilities Commission (CPUC) would be obtained to coordinate and determine the logistics of how riders would access the light-rail system during and post-project construction.

Improvements to the existing VTA LRT platform would be implemented for greater safety and pedestrian circulation during park events. Improvements would include buffering the rail line with a new, minimum of five foot wide shrub planting and installing a new fence along the LRT tracks to limit crossing points. The City of San José would coordinate with VTA to appropriately identify and implement safety measures.

### **Replacement of Parking on East St. James Street with Loading/Passenger Drop-off/Pick-up**

Currently, on-street parking is available along the park frontages on East St. James Street, North 3<sup>rd</sup> Street, and East St. John Street. There is currently no parking on North 1<sup>st</sup> Street and no new parking is proposed. On East St. James Street, the project would replace 12 of the existing parking spaces (on the east side of the park) with a designated loading zone for events and passenger drop-off/pick up during non-event days. On East St. John Street, the project would shift the parking to be parallel stalls.

The project, therefore, would result in a loss of 12 parking spaces along the project site frontages. A total of 69 bicycle racks (with the capacity for 138 bicycles) would be provided on-site.

### **Pedestrian Improvements**

The project would construct a new mid-block pedestrian crosswalk on North 3<sup>rd</sup> Street. The mid-block crosswalk would include ADA compliant ramps with pavement markings and truncated domes.<sup>3</sup> Enhanced pedestrian warning devices would be included in the crosswalk design. The two existing crossing locations in the park would also receive these physical and audible treatments to enhance safety.

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<sup>3</sup> Truncated domes are ground surface treatments designed to assist and warn pedestrians who are blind or visually impaired.



FIGURE 2.3-2



intersection. The bulb-outs would shorten the crossing distances on St. James Street and St. John Street and enhance pedestrian visibility.

### **2.3.2      Utility Improvements**

The project would require new lateral connections from the project site to the existing utility systems (sanitary sewer, water, storm drain, cable, and electricity) located in the existing public right-of-way.

### **2.3.3      Programmatic Changes**

The project proposes to maintain the existing park use (passive park uses and events) and have additional programmatic elements, including events at the performing arts pavilion. The performing arts pavilion would be capable of accommodating a variety of events, such as film festivals, concerts, and dance and theatre performances. The City is collaborating with a non-profit partner to provide family friendly events. The performing arts pavilion could also host other City-sponsored events and concerts. While there is no schedule of events for the proposed performing arts pavilion at this point in time, for the purposes of this EIR, it is assumed that the project would host between 50 and 300 events (with up to 72 large concerts/events) annually at the performing arts pavilion ranging in scale from 20 to 5,000 attendees.

In addition, the project proposes to allow commercial uses (i.e., the proposed café, food and beverage vendors associated with events at the performing arts pavilion, and merchandise vendors associated with events at the performing arts pavilion), street performers, and a farmers market, which require special use permits.

### **2.3.4      Construction**

Construction is anticipated to last between 12 to 24 months and would be completed in one phase. The project would not require substantial grading or excavation. Staging for project construction would occur within the park. The City would coordinate with VTA regarding the temporary closure of the platform within the park, as required, to ensure the safety of passengers. The VTA platform would remain open for the majority of construction, closing when necessary upgrades to the platform itself are required. When the platform is closed, the nearest platform is located within two blocks, approximately 1,000 feet from the St. James platform.

## **2.4      PROJECT OBJECTIVES**

The City's objectives for the project are:

1. Increase everyday use and enjoyment of St. James Park by making it a prime destination spot for downtown residents and the larger community;
2. Make the park a safe, fun, and family friendly destination that compliments the surrounding historic district;
3. Incorporate the historic monuments in the park to celebrate and respect San José's history and future;
4. Work in partnership with non-profits and other organizations to construct a performing arts pavilion and build upon these private-public partnerships to ensure quality park stewardship;

5. Develop a cultural asset conducive to creating a thriving destination and building community through music;
6. Improve maintenance, operations, security services, and other public services in order to ensure a well maintained, clean and safe facility;
7. Transform an underutilized neighborhood park into a prime destination where music concerts and other activities invigorate community life;
8. Integrate arts and culture into the community to spark economic growth, drive community engagement, and enhance overall quality of life;
9. Provide infrastructure to support and facilitate music concerts, community festivals, and other park programs;
10. Provide vibrant play spaces that are engaging, all-inclusive, and accessible;
11. Encourage, engage, and enable the community to participate in the visioning and implementation process; and
12. Reinforce a vibrant, dynamic downtown by building on existing assets including previous plans and proposals based on community input.

## **2.5 USES OF THE EIR**

The EIR provides decision makers in the City with environmental information to use in considering the proposed project. It is intended that this Draft EIR be used for the discretionary approvals necessary to implement the project, as proposed. These discretionary actions include, but are not limited to, the following:

### **City of San José**

- Historic Preservation Permit
- Construction Bid and Contracts
- Construction Utility Permit
- Street Vacation

### **Santa Clara Valley Transportation Authority (VTA)**

- Encroachment Permit
- Construction Access and Restricted Access Permits

### **California Public Utilities Commission (CPUC)**

- California Public Utilities Commission Safety Certification

## SECTION 3.0 ENVIRONMENTAL SETTING, IMPACTS, AND MITIGATION

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

3.1	Aesthetics	3.11	Land Use and Planning
3.2	Agriculture and Forestry Resources	3.12	Mineral Resources
3.3	Air Quality	3.13	Noise
3.4	Biological Resources	3.14	Population and Housing
3.5	Cultural Resources	3.15	Public Services
3.6	Energy	3.16	Recreation
3.7	Geology and Soils	3.17	Transportation
3.8	Greenhouse Gas Emissions	3.18	Tribal Cultural Resources
3.9	Hazards and Hazardous Materials	3.19	Utilities and Service Systems
3.10	Hydrology and Water Quality	3.20	Wildfire

The discussion for each environmental subject includes the following subsections:

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

**Impact Discussion** – This subsection includes the recommended checklist questions from Appendix G of the CEQA Guidelines to assess impacts.

- **Project Impacts** – This subsection discusses the project’s impact on the environmental subject as related to the checklist questions. For significant impacts, feasible mitigation measures are identified. “Mitigation measures” are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guidelines Section 15370). Each impact is numbered to correspond to the checklist question being answered. For example, Impact BIO-1 answers the first checklist question in the Biological Resources section. Mitigation measures are also numbered to correspond to the impact they address. For example, MM BIO-1.3 refers to the third mitigation measure for the first impact in the Biological Resources section.
- **Cumulative Impacts** – This subsection discusses the project’s cumulative impact on the environmental subject. Cumulative impacts, as defined by CEQA, refer to two or more individual effects, which when combined, compound or increase other environmental impacts. Cumulative impacts may result from individually minor, but collectively significant effects taking place over a period of time. CEQA Guideline Section 15130 states that an EIR should discuss cumulative impacts “when the project’s incremental effect is cumulatively considerable.” The discussion does not need to be in as great detail as is necessary for project impacts, but is to be “guided by the standards of practicality and reasonableness.” The purpose of the cumulative analysis is to allow decision makers to better understand the

impacts that might result from approval of past, present, and reasonably foreseeable future projects, in conjunction with the proposed project addressed in this Draft EIR.

The CEQA Guidelines advise that a discussion of cumulative impacts should reflect both their severity and the likelihood of their occurrence. CEQA Guidelines Section 15130(b). To accomplish these two objectives, the analysis should include either a list of past, present, and probable future projects or a summary of projections from an adopted general plan or similar document. CEQA Guidelines Section 15130(b)(1). This Draft EIR uses the list of projects approach.

The analysis must determine whether the project's contribution to any cumulatively significant impact is cumulatively considerable, as defined by CEQA Guideline Section 15065(a)(3). The cumulative impacts discussion for each environmental issue accordingly addresses the following issues: 1) would the effects of all of past, present, and probable future (pending) development result in a significant cumulative impact on the resource in question; and, if that cumulative impact is likely to be significant, 2) would the contribution from the proposed project to that significant cumulative impact be cumulatively considerable?

Table 3.0-1 identifies the approved (but not yet constructed or occupied) and pending projects in the project vicinity that are evaluated in the cumulative analysis. These projects are within a 1,000-foot radius of the project site. A map of the location of these cumulative projects in respect to the project site is shown in Figure 3.0-1.

<b>Table 3.0-1: Cumulative Projects List</b>		
<b>Project Name</b>	<b>Location</b>	<b>Description</b>
<b>Approved But Not Yet Constructed/Occupied</b>		
1. North San Pedro Townhomes	150 Bassett Street	43 single-family residences
2. North San Pedro Townhomes	188 West Julian Street	21 single-family residences
3. North San Pedro Townhomes	183 West St. James Street	14 single-family residences
4. Villas on the Park	280 North 2 <sup>nd</sup> Street	83 unit homeless housing
5. Park View Towers	230 North 1 <sup>st</sup> Street and 42 East St. James Street	154 unit residential tower and 62 unit residential tower with 5 townhouses
6. 4 <sup>th</sup> and Julian Street	298 North 4 <sup>th</sup> Street	12 residential units and 1,403 square feet commercial
7. North 6 <sup>th</sup> Street Residential Project	61, 73, 81, 87 and 99 North 6 <sup>th</sup> Street	206 residential units and 2,188 square feet commercial

<b>Table 3.0-1: Cumulative Projects List</b>		
<b>Project Name</b>	<b>Location</b>	<b>Description</b>
8. Miro	167 East Santa Clara Street	630 residential units, 21,000 square feet retail and 47,000 amenity space
9. Marshall Squares	50, 52, 60, 66, 80 and 90 North 1 <sup>st</sup> Street, and 65 North 2 <sup>nd</sup> Street	195 residential units and 9,737 square feet residential
10. Silvery Towers	188 West St. James Street	700 residential units and 20,000 square feet retail.
<b>Pending</b>		
11. 27 West	27 South 1 <sup>st</sup> Street	342 residential units

For each environmental issue, cumulative impacts may occur within different geographic areas. For example, the project effects on air quality would combine with the effects of projects in the entire air basin, whereas noise impacts would primarily be localized to the surrounding area.





CUMULATIVE PROJECTS

FIGURE 3.0-1



**3.1 AESTHETICS**  
**3.1.1 Environmental Setting**  
**3.1.1.1 *Regulatory Framework***

**State**

**Scenic Highways Program**

The California Scenic Highway Program is managed by the California Department of Transportation (Caltrans). The program is intended to protect and enhance the natural scenic beauty of California highways and adjacent corridors through special conservation treatment. State laws governing the Scenic Highway Program are found in the Streets and Highway Code, Sections 260 through 263. There are no state-designated scenic highways in San José. Interstate 280 from the San Mateo County line to State Route (SR) 17, which includes segments in San José, is an eligible, but not officially designated, State Scenic Highway.<sup>4</sup>

In Santa Clara County, the one state-designated scenic highway is SR 9 from the Santa Cruz County line to the Los Gatos City Limit. Eligible State Scenic Highways (not officially designated) include: SR 17 from the Santa Cruz County line to SR 9, SR 35 from Santa Cruz County line to SR 9, Interstate 280 from the San Mateo County line to SR 17, and the entire length of SR 152 within the County.

**Local**

**Envision San José 2040 General Plan**

The Envision San José 2040 General Plan (General Plan) includes strategies, goals, land use policies, and actions to achieve a desired vision of the City in 2040. Major Strategy #9 – Destination Downtown, recognizes the City’s downtown area as the symbolic, economic, and cultural center of San José. The policies below are specific to aesthetics and are applicable to the proposed project.

<b>Policy</b>	<b>Description</b>
<b>Community Design</b>	
CD-1.1	Require the highest standards of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.
CD-1.2	Install and maintain attractive, durable, and fiscally- and environmentally sustainable urban infrastructure to promote the enjoyment of space developed for public use. Include attractive landscaping, public art, lighting, civic landmarks, sidewalk cafés, gateways, water features, interpretive/way-finding signage, farmers markets, festivals, outdoor entertainment, pocket parks,

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<sup>4</sup> California Department of Transportation. "California Scenic Highway Mapping System. Santa Clara County" Accessed April 9, 2019. [http://www.dot.ca.gov/hq/LandArch/16\\_livability/scenic\\_highways/index.htm](http://www.dot.ca.gov/hq/LandArch/16_livability/scenic_highways/index.htm).

<b>Policy</b>	<b>Description</b>
<b>Community Design</b>	
	street furniture, plazas, squares, or other amenities in spaces for public use. When resources are available, seek to enliven the public right-of-way with attractive street furniture, art, landscaping and other amenities.
CD-1.8	Create an attractive street presence with pedestrian-scaled building and landscaping elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity throughout the City.
CD-1.9	Give the greatest priority to developing high-quality pedestrian facilities in areas that will most promote transit use and bicycle and pedestrian activity. In pedestrian-oriented areas such as Downtown, Villages, Corridors, or along Main Streets, commercial and mixed-use building frontages should be placed at or near the street-facing property line with entrances directly to the public sidewalk. In these areas, strongly discourage parking areas located between the front of buildings and the street to promote a safe and attractive street façade and pedestrian access to buildings.
CD-1.26	Apply the Historic Preservation Goals and Policies of this Plan to proposals that modify historic resources or include development near historic resources.
CD-5.6	Design lighting locations and levels to enhance the public realm, promote safety and comfort, and create engaging public spaces. Seek to balance minimum energy use of outdoor lighting with goal of providing safe and pleasing well-lit spaces. Consider the City’s outdoor lighting policies in development review processes.
CD-6.4	Design quality publicly-accessible open spaces at appropriate locations that enhance the pedestrian experience and attract people to the Downtown. Use appropriate design, scale, and edge treatment to define, and create publicly-accessible spaces that positively contribute to the character of the area and provide public access to community gathering, recreational, artistic, cultural, or natural amenities.
CD-6.11	Design public sidewalks with ample width to be shared by large volumes of pedestrians and bicyclists, and plant and maintain street trees to provide a tree canopy for shade to enhance the visitor experience.
<b>Vibrant Neighborhoods</b>	
VN-1.2	Maintain existing and develop new community services and gathering spaces that allow for increased social interaction of neighbors, (i.e., parks, community centers and gardens, libraries, schools, commercial areas, churches, and other gathering spaces).

### **City Council Policy 4-2 Public Streetlights**

Council Policy 4-2 Public Streetlights requires dimmable, programmable lighting for new streetlights, which would control the amount and color of light shining on streets and sidewalks.



Light is to be directed downward and outward. New and replacement streetlights should also offer the ability to change the color of the light from full spectrum (appearing white or near white) in the early evening to a monochromatic light in the later hours of the night and early morning. At a minimum, full-spectrum lights should be able to be dimmed by at least 50 percent in late night hours.

### **3.1.1.2      *Existing Conditions***

#### **Project Site**

The project site is an existing park which covers two city blocks and is approximately 7.5 acres in size. The park is bisected by North 2<sup>nd</sup> Street. The west side of the park is developed with turf, pedestrian paths, a fountain and wooden platform, and three historical monuments. The east side of the park is currently developed with turf, paths, and a historical monument. There are seating areas, a fitness parcourse, a temporary storage unit, a temporary dog park on North 3<sup>rd</sup> Street between East St. James and East St. John Street, and a fenced playground on the corner of North 3<sup>rd</sup> Street and East St. John Street (refer to Photos 1-4).

The lawn areas are interspersed with an informal planting pattern of mature trees. There are 21 palm trees along North 1<sup>st</sup> Street, which are designated heritage trees (refer to Photo 3). Views of the park are partially obstructed by the mature tree canopies located throughout the site. The visual character changes within the central area of the park where North 2<sup>nd</sup> Street and the LRT/VTA bus station are located. The LRT/VTA bus station is a distinctive feature within the park with large, modern light standards which are also used to support the electric cable for the LRT. In addition, there are two large, sloped, metal canopies over the waiting areas, and metal hand railing for the ramps and stairs that access the platform.

There are three memorials within the park. The McKinley Memorial is a life-size stone statue of President McKinley set on a large stone podium atop multiple stacked stone bases of varying sizes. The monument faces North 1<sup>st</sup> Street and is a prominent feature of the park. The Naglee Memorial is a carved stone relief of Henry Morris Naglee atop a large stone base, which is intended to be a bench. This monument faces E. St. John Street, and is a prominent feature as it is located directly adjacent to the sidewalk. The Robert F. Kennedy Memorial is a large stone representation of a speaker's podium located near the North 1<sup>st</sup> Street/East St. John Street intersection. Unlike the other two memorials, the Kennedy Memorial faces into the park, not towards the street.

#### **Surrounding Area**

There are four one-way roadways surrounding the project site. These roadways are separated from the park by approximately five- and seven-foot wide sidewalks and large parking strips with street trees. The park is the center of the St. James Square City Landmark Historic District and is surrounded by historic structures and modern buildings. The surrounding buildings are a mix of churches (including the historic First Church of Christ Scientist and Trinity Cathedral), civic buildings, modern office and apartment buildings, and a parking garage (refer to Photos 5 and 6). Because of the range of ages of the buildings, the architecture varies from the neo-classical style with ornate columns atop wide stone staircases, elaborate carving details, and decorative rooflines, to traditional wood frame and brick buildings and modern structures with limited architectural details.



**Photo 1:** View of the project site from the corner of North 3rd Street and East St. James Street looking northwest.



**Photo 2:** View of 2nd Street bisecting the project site from East St. John Street through North 2nd Street looking west.





**Photo 3:** View of the project site from the corner of North 1st Street and East St. James Street looking southeast.



**Photo 4:** View of project site from North 1st Street and East St. James Street looking southeast.





**Photo 5:** View of residential building at the corner of East St. James Street and North 3rd Street, north of the project site.



**Photo 6:** View of surrounding land uses on North 3rd Street, east of the project site.

## Scenic Vistas and Resources

The City of San José is located in the Santa Clara Valley, bounded by the foothills of the Santa Cruz Mountains to the west, the Santa Teresa Hills to the south, and the Diablo Mountain Range to the east. The project site is located on the downtown central edge of the City. Scenic vistas are located in the southern and western portions of the City. Public views of scenic resources are limited from the project site due to the topography of the downtown area being flat and trees and buildings obscuring the view.

Interstate 280 (I-280), which is approximately 2.0 miles west of the project site, is an eligible state-designated scenic highway in San José, however, it is not officially designated.<sup>5</sup>

### Light and Glare

The project site includes lighting primarily along the perimeter of the park and walking paths. The walking path lighting consist of metal acorn light poles, pole lights on the VTA light rail corridors, and wall mounted metal halide fixtures in the light rail shelters.

Glare can be caused by sunlight or artificial light reflecting from finished surfaces. The existing lights are directed downwards and do not reflect off the surrounding buildings; therefore, the existing lights do not generate substantial glare.

#### 3.1.2 Impact Discussion

For the purpose of determining the significance of the project's impact on aesthetics, would the project:

- 1) Have a substantial adverse effect on a scenic vista?
- 2) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?
- 3) Substantially degrade the existing visual character or quality of public views<sup>6</sup> of the site and its surroundings? If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?
- 4) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

##### 3.1.2.1 *Project Impacts*

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Would the project have a substantial adverse effect on a scenic vista?

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The topography of the downtown area is relatively flat and prominent viewpoints of the mountains are limited, as buildings, trees, and infrastructure (e.g., utility lines, elevated roadways, etc.) obscure

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<sup>5</sup> California Department of Transportation. "California Scenic Highway Mapping System. Santa Clara County" Accessed April 9, 2019. [http://www.dot.ca.gov/hq/LandArch/16\\_livability/scenic\\_highways/index.htm](http://www.dot.ca.gov/hq/LandArch/16_livability/scenic_highways/index.htm).

<sup>6</sup> Public views are those that are experienced from publicly accessible vantage points.

viewpoints. Views of the mountains are only available where roadways provide a break in the built environment or are elevated. Scenic vistas in the City are not located near the project site. Furthermore, the project site is not located near any City designated scenic corridors. Implementation of the project through the renovation and revitalization of the existing St. James Park, therefore, would not impact a scenic vista. **(Less than Significant Impact)**

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Would the project substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

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As discussed in Section 3.1.1.2, the project site is not near a state scenic highway. Impacts to trees and historic buildings outside a state scenic highway are discussed in Section 3.4 Biological Resources and Section 3.5 Cultural Resources, respectively. The project would not damage scenic resources within a designated state scenic highway. **(Less than Significant Impact)**

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Would the project substantially degrade the existing visual character or quality of public views of the site and its surroundings or conflict with applicable zoning and other regulations governing scenic quality.

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The current character of the downtown area is largely built-up with single- and multi-story buildings and has few recreational and landscaped areas. As described in Section 3.1.1.2 Existing Conditions, the project site is an existing park with mature trees located throughout. As discussed in Section 3.5 Cultural Resources, the project site is part of the St. James Square Historic District. The district includes a mix of historic and modern buildings. Implementation of the project would renovate the existing park and include new buildings and a performing arts pavilion. The project would also result in the removal of existing trees and planting of new trees and landscaping on-site. Implementation of the project would change the visual character of the site and the buildings and, as designed, would be constructed in a manner that would impact the historic significance of the park and the St. James Historic District (refer to Section 3.5 Cultural Resources).

**Impact AES-1:** Implementation of the proposed project would impact the visual character of the site because the design is not fully consistent with the Secretary of the Interior's Standards for Rehabilitation. **(Significant Impact)**

The project includes mitigation measures (MM CUL-1.1 through CUL-1.5, Section 3.5 Cultural Resource) to protect existing historic elements of the park from being damaged from operation of construction equipment, staging, and material storage. Specifically, trees, monuments, and other remaining character-defining features not proposed for removal or restoration. Nevertheless, absent a redesign of the project that would be fully consistent with the Secretary of the Interior's Standards for Rehabilitation, there are no feasible mitigation measures that would reduce the visual character impact to a less than significant level. **(Significant Unavoidable Impact)**

The City's Zoning Ordinance does not include regulations pertaining to scenic quality. The project would be compatible with existing General Plan policies in Section 3.1.1.1 by:

- Constructing the project in a manner to not significantly impact the historic significance of the park or historic district,
- Enhancing the park by renovating it and constructing a performing arts pavilion,
- Creating a more pedestrian friendly environment by prohibiting buses and vehicles on North 2<sup>nd</sup> Street through the park,
- Conforming street lighting to City Council Policy 4-2, and
- Planting replacement trees and new trees that would provide shade. (

### **(Less than Significant Impact)**

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Would the project create a new source of substantial light or glare which would adversely affect day or nighttime views in the area.

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The project site currently includes lighting fixtures throughout the park for nighttime security. The project would redevelop the site and include similar sources of light for nighttime security. In addition, the monuments would include up-lighting that would be directed at the monuments and approximately 30-foot tall light poles are proposed along the perimeter of the performing arts pavilion audience lawn and stage. The pavilion lawn and stage lights would only be used during events. The lighting for the performing arts pavilion would be a new source of light in the immediate vicinity during events. The lighting would be angled down towards the audience and stage, and not towards the surrounding streets or buildings, to control glare and prevent spill light. Given the downward direction and focus of the pavilion lighting, proposed improvements and new landscaping, and the existing mature trees to be preserved, drivers, bicyclists, and pedestrians on adjacent streets would only experience this lighting intermittently during pavilion events. As a result, the pavilion lighting would be a less than significant impact. Furthermore, the project would adhere to Council Policy 4-2 and the General Plan policies to reduce light pollution, spill light, and glare. **(Less than Significant Impact)**

### **3.1.2.2 Cumulative Impacts**

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The project would not result in a cumulatively considerable contribution to a significant cumulative aesthetics impact?

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The geographic area for cumulative aesthetic impacts is the immediate project vicinity and St. James Historic District.

### **Scenic Vista**

There are two cumulative projects in Table 3.0-1 Cumulative Projects List that are in the immediate project vicinity: 1) Park View Towers and 2) Marshall Squares. These two projects and the proposed project are located in the downtown area. As discussed under Impact AES-1, scenic vistas are not located near the project site (or the two cumulative project sites). The project and the two cumulative projects are not located near any City designated scenic corridor. For these reasons, the cumulative projects (including the proposed project) would not significantly impact a scenic vista. **(Less than Significant Cumulative Impact)**



## Scenic Resources

The project would have no impact on scenic resources within a state scenic highway. For this reason, the project would not contribute to a significant cumulative impact to scenic resources within a state scenic highway. **(No Cumulative Impact)**

### Visual Character or Quality, Consistency with Applicable Zoning or Other Regulations Governing Scenic Quality

The project, Park View Towers, and Marshall Squares would cumulatively change the visual character of the immediate area. There is a mix of historic and modern buildings in the area and the cumulative projects' (Park View Towers and Marshall Squares) have been found to be consistent with the Municipal Code and guidelines regarding historic preservation (e.g., Historic Preservation Ordinance, St. James Historic District Design Guidelines, and draft Downtown Historic Design Guidelines) as applicable. While the cumulative projects would not substantially degrade the visual character or quality of public views, the proposed project would have a significant unavoidable impact on the visual character of St. James Park and the St. James Historic District. Even with the significant unavoidable impact of the project, the combined effect of the three projects (two of which have a less than significant impact on the historic district and the park) would not be cumulatively considerable. **(Less than Significant Cumulative Impact)**

As discussed above, the project would be consistent with applicable General Plan policies governing scenic quality, therefore, the project would not contribute to a significant cumulative conflict with applicable regulations governing scenic quality. **(No Cumulative Impact)**

## Light and Glare

The cumulative projects in the project site vicinity would create new sources of light for nighttime security, and for events at the performing arts pavilion. The new sources of light would not, however, create substantial light or glare because all the cumulative projects (including the proposed project) are required to comply with Council Policy 4-2 to provide dimmable, programmable lighting to control the amount and color of light shining on streets and sidewalks. Furthermore, private cumulative development projects (such as Park View Towers and Marshalls Square), would be required to comply with Council Policy 4-3 Outdoor Lighting on Private Developments to reduce light pollution and sky glow. The project would design the lighting for the performing arts pavilion to be directed downwards to control glare and prevent spill light. For these reasons, the cumulative projects would not result in a significant cumulative light or glare impact. **(Less than Significant Cumulative Impact)**



## 3.2 AGRICULTURE AND FORESTRY RESOURCES

### 3.2.1 Environmental Setting

#### 3.2.1.1 *Regulatory Framework*

##### State

##### Farmland Mapping and Monitoring Program

The California Department of Conservation's Farmland Mapping and Monitoring Program (FMMP) assesses the location, quality, and quantity of agricultural land and conversion of these lands over time. Agricultural land is rated according to soil quality and irrigation status. The best quality land is called Prime Farmland. In CEQA analyses, the FMMP classifications and published county maps are used, in part, to identify whether agricultural resources that could be affected are present on-site or in the project area.<sup>7</sup>

##### California Land Conservation Act

The California Land Conservation Act (Williamson Act) enables local governments to enter into contracts with private landowners to restrict parcels of land to agricultural or related open space uses. In return, landowners receive lower property tax assessments. In CEQA analyses, identification of properties that are under a Williamson Act contract is used to also identify sites that may contain agricultural resources or are zoned for agricultural uses.<sup>8</sup>

##### Forest Land, Timberland, and Timberland Production

The California Department of Forestry and Fire Protection (Cal Fire) identifies forest land, timberland, and lands zoned for timberland production that can (or do) support forestry resources.<sup>9</sup> Programs such as Cal Fire's Fire and Resource Assessment Program (FRAP) are used to identify whether forest land, timberland, or timberland production areas that could be effected are located on or adjacent to a project site.<sup>10</sup>

#### 3.2.1.2 *Existing Conditions*

The project site is not currently used for agricultural purposes and is located within an existing developed, urban area of San José. The site is designated by the California Department of Conservation as Urban and Built-up Land, which is defined as land with at least one unit to a 1.5-

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<sup>7</sup> California Department of Conservation. "Farmland Mapping and Monitoring Program." Accessed July 30, 2019. <http://www.conservation.ca.gov/dlrp/fmmp/Pages/Index.aspx>.

<sup>8</sup> California Department of Conservation. "Williamson Act." Accessed July 30, 2019. <http://www.conservation.ca.gov/dlrp/lca>.

<sup>9</sup> *Forest land* is land that can support 10 percent native tree cover and allows for management of one or more forest resources, including timber, fish, wildlife, and biodiversity (California Public Resources Code Section 12220(g)); *Timberland* is land not owned by the federal government or designated as experimental forest land that is available for, and capable of, growing a crop of trees used to produce lumber and other forest products, including Christmas trees (California Public Resources Code Section 4526); and *Timberland Production* is land devoted to and used for growing and harvesting timber and other compatible uses (Government Code Section 51104(g)).

<sup>10</sup> Cal Fire. "FRAP." Accessed July 30, 2019. <http://frap.fire.ca.gov/>

acre parcel (or approximately six structures to a 10-acre parcel).<sup>11</sup> The project site is not designated as farmland of any type and is not subject to a Williamson Act contract. Further, no land adjacent to the project site is designated or used as farmland or timberland.

### 3.2.2 Impact Discussion

For the purpose of determining the significance of the project's impact on agriculture and forestry resources, would the project:

- 1) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?
- 2) Conflict with existing zoning for agricultural use, or a Williamson Act contract?
- 3) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?
- 4) Result in a loss of forest land or conversion of forest land to non-forest use?
- 5) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?

#### 3.2.2.1 *Project Impacts*

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

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As discussed previously, the project site is not designated as farmland pursuant to the Farmland Mapping and Monitoring Program. The project site and surrounding properties are designated and developed with urban uses. For these reasons, the project would not convert designated farmland to non-agricultural use. **(No Impact)**

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Would the project conflict with existing zoning for agricultural use, or a Williamson Act contract?

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The project site is not zoned for agricultural use, nor is it subject of a Williamson Act contract. The project, therefore, would not conflict with zoning for agricultural use or a Williamson Act contract. **(No Impact)**

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Would the project conflict with existing zoning for, or cause rezoning of, forest land, timberland, or timberland zoned Timberland Production?

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<sup>11</sup> California Department of Conservation. *Santa Clara County Important Farmland 2016 Map*. September 2018.

The project site and surrounding properties are not zoned for forest land or timberland. For this reason, the project would not conflict with existing zoning for, or cause rezoning of, forest land, timberland, or timberland zoned Timberland Production. **(No Impact)**

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Would the project result in a loss of forest land or conversion of forest land to non-forest use?

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The project site and surrounding properties are developed with urban uses, not forest land. For this reason, the development of the project would not result in the loss of forest land or conversion of forest land to non-forest use. **(No Impact)**

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Would the project involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use.

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The project site is not designated agricultural or forest land and is located within a developed urban area with no agricultural or forestry land nearby. As a result, the development of the project would not result in the conversion of farmland to non-agricultural use or forest land to non-forest uses. **(No Impact)**

### **3.2.2.2**            *Cumulative Impacts*

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Would the project result in a cumulatively considerable contribution to a significant agricultural and forestry resources impact?

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As discussed under Impacts AG-1 through AG-5, the project would have no impact on agricultural or forestry resources. The project, therefore, would not contribute to a significant cumulative impact on agricultural or forestry resources. **(No Cumulative Impact)**

### 3.3 AIR QUALITY

The following discussion is based in part on an Air Quality and Greenhouse Gas Assessment prepared by Illingworth & Rodkin, Inc. dated July 29, 2019. A copy of this report is included in Appendix B.

#### 3.3.1 Environmental Setting

##### 3.3.1.1 *Background Information*

#### **Criteria Pollutants**

Air quality in the Bay Area is assessed related to six common air pollutants (referred to as criteria pollutants), including ground-level ozone (O<sub>3</sub>), nitrogen oxides (NO<sub>x</sub>), particulate matter (PM), carbon monoxide (CO), sulfur oxides (SO<sub>x</sub>), and lead.<sup>12</sup> Criteria pollutants are regulated because they result in health effects. An overview of the sources of criteria pollutants and their associated health are summarized in Table 3.3-1. The most commonly regulated criteria pollutants in the Bay Area are discussed further below.

<b>Table 3.3-1: Health Effects of Air Pollutants</b>		
<b>Pollutants</b>	<b>Sources</b>	<b>Primary Effects</b>
Ozone (O <sub>3</sub> )	Atmospheric reaction of organic gases with nitrogen oxides in sunlight	<ul style="list-style-type: none"><li>• Aggravation of respiratory and cardiovascular diseases</li><li>• Irritation of eyes</li><li>• Cardiopulmonary function impairment</li></ul>
Nitrogen Dioxide (NO <sub>2</sub> )	Motor vehicle exhaust, high temperature stationary combustion, atmospheric reactions	<ul style="list-style-type: none"><li>• Aggravation of respiratory illness</li><li>• Reduced visibility</li></ul>
Fine Particulate Matter (PM <sub>2.5</sub> ) and Coarse Particulate Matter (PM <sub>10</sub> )	Stationary combustion of solid fuels, construction activities, industrial processes, atmospheric chemical reactions	<ul style="list-style-type: none"><li>• Reduced lung function, especially in children</li><li>• Aggravation of respiratory and cardiorespiratory diseases</li><li>• Increased cough and chest discomfort</li><li>• Reduced visibility</li></ul>
Toxic Air Contaminants (TACs)	Cars and trucks, especially diesel-fueled; industrial sources, such as chrome platers; dry cleaners and service stations; building materials and products	<ul style="list-style-type: none"><li>• Cancer</li><li>• Chronic eye, lung, or skin irritation</li><li>• Neurological and reproductive disorders</li></ul>
Source: Bay Area Air Quality Management District. <i>California Environmental Quality Act Air Quality Guideline</i> . May 2017. Table C.2, Page C-15.		

<sup>12</sup> The area has attained both state and federal ambient air quality standards for CO. The project does not include substantial new emissions of sulfur dioxide or lead. These criteria pollutants are not discussed further.

High O<sub>3</sub> levels are caused by the cumulative emissions of reactive organic gases (ROG) and NO<sub>x</sub>. These precursor pollutants react under certain meteorological conditions to form high O<sub>3</sub> levels. Controlling the emissions of these precursor pollutants is the focus of the Bay Area's attempts to reduce O<sub>3</sub> levels. The highest O<sub>3</sub> levels in the Bay Area occur in the eastern and southern inland valleys that are downwind of air pollutant sources.

PM is a problematic air pollutant of the Bay Area. PM is assessed and measured in terms of respirable particulate matter or particles that have a diameter of 10 micrometers or less (PM<sub>10</sub>) and fine particulate matter where particles have a diameter of 2.5 micrometers or less (PM<sub>2.5</sub>). Elevated concentrations of PM<sub>10</sub> and PM<sub>2.5</sub> are the result of both region-wide emissions and localized emissions.

### **Toxic Air Contaminants**

TACs are a broad class of compounds known to have health effects. They include but are not limited to criteria pollutants. TACs are found in ambient air, especially in urban areas, and are caused by industry, agriculture, diesel fuel combustion, and commercial operations (e.g., dry cleaners). TACs are typically found in low concentrations, even near their source (e.g., diesel particulate matter [DPM] near a freeway).

Diesel exhaust is the predominant TAC in urban air and is estimated to represent about three-quarters of the cancer risk from TACs. Diesel exhaust is a complex mixture of gases, vapors, and fine particles. Medium- and heavy-duty diesel trucks represent the bulk of DPM emissions from California highways. The majority of DPM is small enough to be inhaled into the lungs. Most inhaled particles are subsequently exhaled, but some deposit on the lung surface or are deposited in the deepest regions of the lungs (most susceptible to injury).<sup>13</sup> Chemicals in diesel exhaust, such as benzene and formaldehyde, have been previously identified as TACs by the California Air Resources Board (CARB).

### **Sensitive Receptors**

Some groups of people are more affected by air pollution than others. CARB has identified the following persons who are most likely to be affected by air pollution: children under 16, the elderly over 65, and people with cardiovascular and chronic respiratory diseases. These groups are classified as sensitive receptors. Locations that may contain a high concentration of these sensitive population groups include residential areas, hospitals, daycare facilities, elder care facilities, and elementary schools.

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<sup>13</sup> California Air Resources Board. "Overview: Diesel Exhaust and Health." Accessed July 29, 2019. <https://www.arb.ca.gov/research/diesel/diesel-health.htm>.

### 3.3.1.2 *Regulatory Framework*

#### **Federal and State**

##### Clean Air Act

At the federal level, the United States Environmental Protection Agency (EPA) is responsible for overseeing implementation of the Clean Air Act and its subsequent amendments. The federal Clean Air Act requires the EPA to set national ambient air quality standards for the six common criteria pollutants (discussed previously), including PM, O<sub>3</sub>, CO, SO<sub>x</sub>, NO<sub>x</sub>, and lead.

CARB is the state agency that regulates mobile sources throughout the state and oversees implementation of the state air quality laws and regulations, including the California Clean Air Act. The EPA and the CARB have adopted ambient air quality standards establishing permissible levels of these pollutants to protect public health and the climate. Violations of ambient air quality standards are based on air pollutant monitoring data and are determined for each air pollutant. Attainment status for a pollutant means that a given air district meets the standard set by the EPA and/or CARB.

##### Risk Reduction Plan

To address the issue of diesel emissions in the state, CARB developed the Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel-Fueled Engines and Vehicles. In addition to requiring more stringent emission standards for new on-road and off-road mobile sources and stationary diesel-fueled engines to reduce particulate matter emissions by 90 percent, the plan involves application of emission control strategies to existing diesel vehicles and equipment to reduce DPM (in addition to other pollutants). Implementation of this plan, in conjunction with stringent federal and CARB-adopted emission limits for diesel fueled vehicles and equipment (including off-road equipment), will significantly reduce emissions of DPM and NO<sub>x</sub>.

#### **Regional**

##### 2017 Clean Air Plan

The Bay Area Air Quality Management District (BAAQMD) is the agency primarily responsible for assuring that the federal and state ambient air quality standards are maintained in the San Francisco Bay Area. Regional air quality management districts, such as BAAQMD, must prepare air quality plans specifying how state and federal air quality standards will be met. BAAQMD's most recently adopted plan is the Bay Area 2017 Clean Air Plan (2017 CAP). The 2017 CAP focuses on two related BAAQMD goals: protecting public health and protecting the climate. To protect public health, the 2017 CAP describes how BAAQMD will continue its progress toward attaining state and federal air quality standards and eliminating health risk disparities from exposure to air pollution among Bay Area communities. To protect the climate, the 2017 CAP includes control measures designed to reduce emissions of methane and other super-greenhouse gases (GHGs) that are potent climate pollutants in the near-term, and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.<sup>14</sup>

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<sup>14</sup> BAAQMD. *Final 2017 Clean Air Plan*. April 19, 2017.

## BAAQMD CEQA Air Quality Guidelines

The BAAQMD CEQA Air Quality Guidelines are intended to serve as a guide for those who prepare or evaluate air quality impact analyses for projects and plans in the San Francisco Bay Area. Jurisdictions in the San Francisco Bay Area Air Basin utilize the thresholds and methodology for assessing air quality impacts developed by BAAQMD within their CEQA Air Quality Guidelines. The guidelines include information on legal requirements, BAAQMD rules, methods of analyzing impacts, and recommended mitigation measures.

## San José Envision 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts from planned development in the City. The policies below are specific to air quality and are applicable to the proposed project.

<b>Policy</b>	<b>Description</b>
<b>Air Pollutant Emissions Reduction</b>	
MS-10.1	Assess projected air emissions from new development in conformance with the Bay Area Air Quality Management District (BAAQMD) CEQA Guidelines and relative to state and federal standards. Identify and implement feasible air emission reduction measures.
MS-10.2	Consider the cumulative air quality impacts from proposed developments for proposed land use designation changes and new development, consistent with the region's Clean Air Plan and State law.
<b>Toxic Air Contaminants</b>	
MS-11.1	Require completion of air quality modeling for sensitive land uses such as new residential developments that are located near sources of pollution such as freeways and industrial uses. Require new residential development projects and projects categorized as sensitive receptors to incorporate effective mitigation into project designs or be located an adequate distance from sources of TACs to avoid significant risks to health and safety.
MS-11.2	For projects that emit toxic air contaminants, require project proponents to prepare health risk assessments in accordance with BAAQMD-recommended procedures as part of environmental review and employ effective mitigation to reduce possible health risks to a less than significant level. Alternatively, require new projects (such as, but not limited to, industrial, manufacturing, and processing facilities) that are sources of TACs to be located an adequate distance from residential areas and other sensitive receptors.
<b>Construction Air Emissions</b>	
MS-13.1	Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.

### 3.3.1.3 *Existing Conditions*

The project is located in Santa Clara County, which is in the San Francisco Bay Area Air Basin. Ambient air quality standards have been established at both the state and federal level. The San Francisco Bay Area Air Basin is currently designated as a non-attainment area for state and national standards for O<sub>3</sub> and PM<sub>2.5</sub>, and state standards for PM<sub>10</sub>. The project area is considered attainment or unclassified for all other pollutants. The closest sensitive receptors to the project site are the multi-family residences in a five-story apartment building near the corner of East St. James Street and North 3<sup>rd</sup> Street, and the residences in a six-story mixed-use building across East St. John Street near North 1<sup>st</sup> Street.

### 3.3.2 Impact Discussion

For the purpose of determining the significance of the project's impact on air quality, would the project:

- 1) Conflict with or obstruct implementation of the applicable air quality plan?
- 2) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?
- 3) Expose sensitive receptors to substantial pollutant concentrations?
- 4) Result in substantial emissions (such as odors) adversely affecting a substantial number of people?

As discussed in CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for judgment on the part of the lead agency and must be based to the extent possible on scientific and factual data. The City has considered the air quality thresholds updated by BAAQMD in May 2017 and regards these thresholds to be based on the best information available for the San Francisco Bay Area Air Basin and conservative in terms of the assessment of health effects associated with TACs and PM<sub>2.5</sub>. The BAAQMD CEQA Air Quality thresholds used in this analysis are identified in Table 3.3-2.

<b>Table 3.3-2: BAAQMD Air Quality Significance Thresholds</b>			
<b>Pollutant</b>	<b>Construction Thresholds</b>	<b>Operation Thresholds</b>	
	<b>Average Daily Emissions</b> (pounds/day)	<b>Annual Daily Emissions</b> (pounds/year)	<b>Annual Average Emissions</b> (tons/year)
<b>Criteria Air Pollutants</b>			
ROG, NO <sub>x</sub>	54	54	10
PM <sub>10</sub>	82 (exhaust)	82	15



Table 3.3-2: BAAQMD Air Quality Significance Thresholds			
Pollutant	Construction Thresholds	Operation Thresholds	
	Average Daily Emissions (pounds/day)	Annual Daily Emissions (pounds/year)	Annual Average Emissions (tons/year)
PM <sub>2.5</sub>	54 (exhaust)	54	10
CO	Not Applicable	9.0 ppm (eight-hour) or 20.0 ppm (one-hour)	
Fugitive Dust	Dust-Control Measures/Best Management Practices	Not Applicable	
Health Risks and Hazards for New Sources (within a 1,000-foot Zone of Influence)			
Health Hazard	Single Source	Combined Cumulative Sources	
Excess Cancer Risk	>10.0 per one million	>100 per one million	
Hazard Index	>1.0	>10.0	
Incremental Annual PM <sub>2.5</sub>	>0.3 µg/m <sup>3</sup>	>0.8 µg/m <sup>3</sup>	
Notes: ROG = reactive organic gases, NO <sub>x</sub> = nitrogen oxides, PM <sub>10</sub> = course particulate matter with a diameter of 10 micrometers (µm) or less, and PM <sub>2.5</sub> = fine particulate matter with a diameter of 2.5 µm or less.			

### 3.3.2.1 *Project Impacts*

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Would the project conflict with or obstruct implementation of the applicable air quality plan?

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A project is considered consistent with the 2017 CAP if, a) the plan supports the primary goals of the 2017 CAP; b) includes relevant control measures; and c) does not interfere with implementation of 2017 CAP control measures.<sup>15</sup>

As discussed in Section 3.3.1.2 Regulatory Framework, the primary goals of the 2017 CAP are to protect public health by attaining state and federal air quality standards and to protect the climate by reducing GHG emissions and reducing fossil fuel combustion. The 2017 CAP provides control measures pertaining to stationary sources, transportation, energy, building, water, natural and working lands, waste, and water. None of the control measures are applicable to the project.<sup>16</sup>

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<sup>15</sup> Bay Area Air Quality Management District. *California Environmental Quality Act Air Quality Guidelines*. May 2017. Pages 9-2 and 9-3.

<sup>16</sup> No stationary sources are proposed as part of the project, therefore, the CAP stationary source control measures are not applicable to the project. Transportation control measures are appropriate for regulatory agencies with the ability to master plan bicycle and pedestrian facilities and establish parking policies, and employment uses that can implement transportation demand management measures and incentivize employees to carpool. The transportation

Because the project would not exceed the BAAQMD screening criteria (refer to the discussion under Impact AIR-2), it would not result in the generation of operational-related criteria air pollutants and/or precursors that exceed the thresholds shown in Table 3.3-2. In addition, as discussed in Section 3.8 Greenhouse Gas Emissions, the project would not result in significant GHG emissions. The project reduces GHG emissions and fossil fuel combustion by being proposed in an urban location well served by existing bicycle, pedestrian, and transit facilities.

The park would remain in its existing location, which is an urban area, it is located near bike paths and transit with regional connections. Further, implementation of the project would not inhibit BAAQMD or partner agencies from continuing progress toward attaining state and federal air quality standards and eliminating health-risk disparities from exposure to air pollution among Bay Area communities, as described in the 2017 CAP. **(Less than Significant Impact)**

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

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As discussed in Section 3.3.13 Existing Conditions, the San Francisco Bay Area Air Basin is currently designated as a non-attainment area for O<sub>3</sub>, PM<sub>2.5</sub>, and PM<sub>10</sub>.

The BAAQMD CEQA Air Quality Guidelines contain screening criteria sizes for land use types and development. The screening levels were developed to provide a conservative indication of whether a proposed project could result in potentially significant air quality impacts. If a project is below the screening criteria, a detailed air quality assessment of the project's air pollutant emissions is not required, and the project's air quality impacts are considered less than significant. The BAAQMD screening criteria for a "City Park" is 2,613 acres for operational criteria air pollutants and 67 acres

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control measures, therefore, are not applicable to the proposed project as the project is not planning bicycle or pedestrian facilities and would not have regular employees.

The energy control measures are appropriate for local governments and promote adoption of energy efficient policies and programs. While the project is proposed by the City of San José, it is not within the scope of the project to propose energy-efficient policies and programs. For this reason, the energy control measures are not applicable to the project. The building control measures include incorporating renewable energy systems in school districts, implementing CALGreen effectively by the local agency, funding energy-related projects, decarbonizing buildings, and adopting an ordinance for cool surface treatments for new parking facilities. These building control measures are not applicable to the project or outside of the scope of the project.

The natural and working lands measures include developing a municipal tree planting ordinance, which is not applicable to the project as it is outside the scope of the project. The waste management control measures include developing policies to reduce green waste going to landfills and developing ordinances on community-wide zero waste goals and recycling. Developing policies and ordinances is outside the scope of this project and, therefore, the waste management control measures are not applicable to the project. The water control measures include developing and incorporating water conservation best management practices into the local planning guidance. This is outside the scope of this project and, therefore, not applicable to the project. Based on the above discussion, the control measures are not applicable to the project or outside the scope of the project. As a result, the project would not interfere with the implementation of the control measures.

for construction criteria air pollutants.<sup>17</sup> The project site at 7.5 acres would be below the applicable screening criteria and, therefore, would have a less than significant emissions of criteria air pollutants during construction and operation.<sup>18</sup> **(Less than Significant Impact)**

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Would the project expose sensitive receptors to substantial pollutant concentrations?

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As discussed in Section 3.3.1.3 Existing Conditions, the nearest sensitive receptors to the project site are residences located near the corner of East St. James Street and North 3<sup>rd</sup> Street and across E. St. John Street near N. 1<sup>st</sup> Street.

### **Construction Criteria Air Pollutants**

As discussed under Impact AIR-2, the project is below the screening criteria for significant construction criteria air pollutants. As a result, the project would have less than significant emissions of criteria air pollutants during construction. **(Less than Significant Impact)**

### **Dust Emissions**

Construction activities, particularly during site preparation and grading, would generate fugitive dust in the form of PM<sub>10</sub> and PM<sub>2.5</sub>. Sources of fugitive dust would include disturbed soils at the construction site and trucks carrying uncovered loads of soils. Unless properly controlled, vehicles leaving the site would deposit mud on local streets, which could be an additional source of airborne dust after it dries. The BAAQMD CEQA Air Quality Guidelines consider these impacts to be less than significant if Best Management Practices (BMPs), which are listed below as project conditions, are implemented to reduce these emissions.

#### **Project Conditions:**

- Water active construction areas at least twice daily or as often as needed to control dust emissions.
- Cover trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.

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<sup>17</sup> Bay Area Air Quality Management District. *California Environmental Quality Act Air Quality Guidelines*. May 2017. Table 3-1, page 3-2.

<sup>18</sup> In a 2018 decision (*Sierra Club v. County of Fresno*), the Supreme Court of California determined that CEQA requires that the potential for the project's emissions to affect human health in the air basin must be disclosed when a project's criteria air pollutant emissions would exceed applicable thresholds and contribute a considerably to a significant cumulative impact. State and federal ambient air quality standards are health-based standards and exceedances of those standards result in continued unhealthy levels of air pollutants. As stated in the BAAQMD CEQA Air Quality Guidelines, air pollution by its nature is largely a cumulative impact. No single project is sufficient in size to result in nonattainment of ambient air quality standards. Instead, a project's individual emissions contribute to existing cumulatively significant adverse air quality impacts. In developing thresholds of significance for air pollutants, BAAQMD considered the emission levels for which a project's individual emissions would be cumulatively considerable. If a project has a less than significant impact for criteria pollutants, it is assumed not to have an adverse health effect. The project would have a less than significant impact for criteria pollutants and, therefore, would not have an adverse health effect.

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

These BMPs will be incorporated on all the construction documents, contracts, and project plans. The project, with the implementation of the above project conditions, would not result in expose sensitive receptors to substantial dust emissions. **(Less than Significant Impact)**

### **Construction Toxic Air Contaminant Emissions**

Project impacts related to increased community risk can occur by introducing a new source of TACs with the potential to adversely affect existing sensitive receptors in the project vicinity. Project construction activity would generate dust and equipment exhaust on a temporary basis that could affect nearby sensitive receptors. A health risk assessment (Appendix B) was prepared to address project construction impacts on the surrounding off-site sensitive receptors. Community risk impacts are addressed by predicting increased lifetime cancer risk, the increase in annual PM<sub>2.5</sub> concentrations, and computing the Hazard Index (HI) for non-cancer health risks.

Construction equipment and associated heavy-duty truck traffic generates diesel exhaust, which is a known TAC. These exhaust air pollutant emissions would not be considered to contribute substantially to existing or projected air quality violations. Construction exhaust emissions may, however, still pose health risks for nearby sensitive receptors.

The maximally exposed individual (MEI) receptors were located on the second floor of the mixed-use residential building south of the site across East St. John Street (i.e., Marshall Squares). The results of the community health risk assessment is summarized in Table 3.3-3 (refer to Appendix B for additional details).

<b>Table 3.3-3: Project Construction Community Risk at the Residential Maximally Exposed Individual</b>			
<b>Source</b>	<b>Maximum Cancer Risk (per million)</b>	<b>PM<sub>2.5</sub> concentration (µg/m<sup>3</sup>)</b>	<b>Hazard Index</b>
Project Construction	<b>35.5 (infant)</b>	0.24	0.02
<i>BAAQMD Threshold – Single Source</i>	<i>&gt;10.0</i>	<i>&gt;0.3</i>	<i>&gt;1.0</i>
<b>Exceed Threshold?</b>	<b>Yes</b>	<b>No</b>	<b>No</b>

The maximum modeled annual PM<sub>2.5</sub> concentration, which is based on combined exhaust and fugitive dust emissions, would be 0.24 µg/m<sup>3</sup> at the residential MEI. The maximum annual PM<sub>2.5</sub> concentrations would not exceed the BAAQMD significance threshold of 0.3 µg/m<sup>3</sup>. The maximum computed HI based on the DPM concentration would be 0.02 at the residential MEI, which is below the BAAQMD significance criterion of an HI greater than 1.0.

The results of the assessment show the maximum incremental residential infant cancer risk at the MEI would be 35.5 in one million, which exceeds the BAAQMD significance threshold of 10 in one million (refer to Appendix B for a map showing the MEI).

**Impact AIR-1:** Construction of the proposed project would result in toxic air contaminant emissions in excess of BAAQMD thresholds. **(Significant Impact)**

**Mitigation Measure:**

The following mitigation measure shall be implemented by the project to reduce health risk impacts from project construction activities.

**MM AIR-1.1:** The project proponent shall retain a qualified consultant to develop a construction operations plan demonstrating that the off-road equipment used on-site to construct the project would achieve a fleet-wide average 72 percent reduction in diesel particulate matter (DPM) exhaust emissions or greater. To achieve the reduction on the project one or a combination of the following measures will be implemented:

- All diesel-powered off-road equipment, larger than 25 horsepower, operating on the site for more than two days continuously shall, at a minimum, meet EPA particulate matter emissions standards for Tier 3 engines that include CARB-certified Level 3 Diesel Particulate Filters<sup>19</sup> or equivalent.
- Equipment that meets EPA Tier 4 standards for particulate matter
- Use of equipment that is electrically powered or uses non-diesel fuels.

<sup>19</sup> California Air Resources Board. "Verification Procedure-Currently Verified." Accessed April 11, 2019. <http://www.arb.ca.gov/diesel/verdev/vt/cvt.htm>

The project proponent shall submit the construction operations plan and records to achieve a fleet-wide average 72 percent reduction to the Director of Planning or Director's designee prior to the start of any construction or ground-disturbance activities.

With implementation of MM AIR-3.1 and the project conditions for dust, the computed maximum increased lifetime residential cancer risk at the MEI from construction would be 3.9 in one million and be below the BAAQMD significance threshold of 10 in one million. Additionally, the maximum annual PM<sub>2.5</sub> concentration would be 0.03 µg/m<sup>3</sup>, and the Hazard Index would be <0.01. As a result, impacts would be reduced to less than significant with respect to community risk caused by construction activities. **(Less than Significant Impact with Mitigation Incorporated)**

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Would the project result in substantial emissions (such as odors) adversely affecting a substantial number of people?

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Examples of land uses that generate considerable odors include wastewater treatment plants, landfills, and chemical plants. These significant sources of odor are not proposed as part of the project. The project proposes public and community uses on-site. The proposed uses are similar to the existing uses on-site; however, a café and food and beverage vendors on-site may create emissions leading to objectionable odors. Although, the proposed café and vendors on-site may generate odors, the odors would not result in substantial emission odors compared to those of wastewater treatment plants, landfills, and chemical plants. **(Less than Significant Impact)**

### **3.3.2.2      *Cumulative Impacts***

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Would the project result in a cumulatively considerable contribution to a significant air quality impact.

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By its very nature, air pollution is largely a cumulative impact. The geographic area for cumulative air quality impacts is the San Francisco Bay Area Air Basin. Past, present, and future development projects (including the cumulative projects) contribute to the region's adverse air quality impacts. No single project is sufficient in size, by itself, to result in nonattainment of ambient air quality standards. Instead, a project's individual emissions contribute to existing cumulatively significant adverse air quality impacts.

### **Cumulative Exposure of Sensitive Receptors**

Community health risk assessments typically look at all substantial sources of TACs located within 1,000 feet of project site. These sources include highways, busy surface streets, and stationary sources identified by BAAQMD. A review of the area surrounding the project site identified several stationary sources and roadways that would be sources of TACs. Traffic on East Santa Clara Street and North Market Street both have average daily traffic that is over 10,000 vehicles. Other nearby streets all have ADTs less than 10,000 vehicles per day and are not considered sources of TACs. Three stationary sources were identified using the BAAQMD stationary source tool. Additionally,

construction from a nearby projects would also have a risk impact.

Table 3.3-4 shows both the project and cumulative community risk impacts at the construction MEI. As shown in Table 3.3-4, the combined effect of all TAC sources in the project area (including the project with the implementation of the project conditions and mitigation measure MM AIR-1.1 identified under Impact AIR-1) would be less than significant.

<b>Table 3.3-4: Cumulative Community Risk at the Residential Maximally Exposed Individual</b>			
<b>Sources</b>	<b>Maximum Cancer Risk (per million)</b>	<b>PM<sub>2.5</sub> Concentration (µg/m<sup>3</sup>)</b>	<b>Hazard Index</b>
Project Construction (with project conditions and mitigation measure MM AIR-1.1 identified under Impact AIR-1)	3.9	0.03	<0.01
Plant #20324 at 161 North First Street (diesel generator) at 400 feet	2.6	<0.01	<0.01
Plant #20835 at 75 East Santa Clara Street (diesel generator) at 500 feet	0.6	<0.01	<0.01
Plant #104124 at 147 East Santa Clara Street (GDF) at 800 feet	0.3	-	<0.01
Roadway – East Santa Clara Street (13,540 ADT) at 500 feet	1.2	0.03	<0.03
Roadway – North Market Street (17,900 ADT) at 600 feet	1.3	0.04	<0.03
Construction – Park View Towers at 230 North First Street	8.5	0.05	0.01
Construction – 27 West at 27 South First Street (Mitigated)	<2.4	<0.05	<0.01
Combined Sources	20.8	0.22	0.12
<i>BAAQMD Threshold – Combined Sources</i>	<i>&gt;100</i>	<i>&gt;0.8</i>	<i>&gt;10.0</i>
<b>Exceed Threshold?</b>	<b>No</b>	<b>No</b>	<b>No</b>

The combined annual cancer risk, PM<sub>2.5</sub> concentration, and hazard risk values would not exceed the cumulative threshold of significance; therefore, the project with the implementation of project conditions and mitigation measure MM AIR-1.1 identified under Impact AIR-1 would not have a cumulatively considerable impact. **(Less than Significant Cumulative Impact with Mitigation Incorporated)**

### **Cumulative Emissions Leading to Odors**

There are no existing significant sources of odors (e.g., wastewater treatment plants, landfills, and chemical plants) in the project vicinity; therefore, there would be no significant cumulative odor impact. The odor impacts from the project is discussed under Impact AIR-4. **(Less than Significant Cumulative Impact)**



### 3.4 BIOLOGICAL RESOURCES

The following discussion is based in part on a certified arborist report completed for the project site by HMM on July 10, 2017. A copy of this report is included in Appendix C.

#### 3.4.1 Environmental Setting

##### 3.4.1.1 *Regulatory Framework*

#### **Federal and State**

##### Endangered Species Act

Individual plant and animal species listed as rare, threatened, or endangered under state and federal Endangered Species Acts are considered special-status species. Federal and state endangered species legislation has provided the United States Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife (CDFW) with a mechanism for conserving and protecting plant and animal species of limited distribution and/or low or declining populations. Permits may be required from both the USFWS and CDFW if activities associated with a proposed project would result in the take of a species listed as threatened or endangered. To “take” a listed species, as defined by the State of California, is “to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill” these species. Take is more broadly defined by the federal Endangered Species Act to include harm of a listed species.

In addition to species listed under state and federal Endangered Species Acts, Sections 15380(b) and (c) of the CEQA Guidelines provide that all potential rare or sensitive species, or habitats capable of supporting rare species, must be considered as part of the environmental review process. These may include plant species listed by the California Native Plant Society and CDFW-listed Species of Special Concern.

##### Migratory Bird Treaty Act

The federal Migratory Bird Treaty Act (MBTA) prohibits killing, capture, possession, or trade of migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. Hunting and poaching are also prohibited. The taking and killing of birds resulting from an activity is not prohibited by the MBTA when the underlying purpose of that activity is not to take birds.<sup>20</sup> Nesting birds are considered special-status species and are protected by the USFWS. The CDFW also protects migratory and nesting birds under California Fish and Game Code Sections 3503, 3503.5, and 3800. The CDFW defines taking as causing abandonment and/or loss of reproductive efforts through disturbance.

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<sup>20</sup> United States Department of the Interior. “Memorandum M-37050. The Migratory Bird Treaty Act Does Not Prohibit Incidental Take.” Accessed March 28, 2019. <https://www.doi.gov/sites/doi.gov/files/uploads/m-37050.pdf>.

### Sensitive Habitat Regulations

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

### Fish and Game Code Section 1602

Streambeds and banks, as well as associated riparian habitat, are regulated by the CDFW per Section 1602 of the Fish and Game Code. Work within the bed or banks of a stream or the adjacent riparian habitat requires a Streambed Alteration Agreement from the CDFW.

## **Regional and Local**

### Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

The Santa Clara Valley Habitat Plan/Natural Community Conservation Plan (Habitat Plan) covers approximately 520,000 acres, or approximately 62 percent of Santa Clara County. It was developed and adopted through a partnership between Santa Clara County, the Cities of San José, Morgan Hill, and Gilroy, Santa Clara Valley Water District (Valley Water), Santa Clara Valley Transportation Authority (VTA), USFWS, and CDFW. The Habitat Plan is intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in southern Santa Clara County. The Santa Clara Valley Habitat Agency is responsible for implementing the plan.

### Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts from planned development in the City. The policies below are specific to biological resources and are applicable to the proposed project.

<b>Policy</b>	<b>Description</b>
<hr/>	
City Design	
CD-1.23	Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.
CD-1.24	Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Avoid any adverse effect on the health and longevity of such trees through design measures, construction, and best maintenance practices. When tree preservation is not feasible, include replacements or alternative mitigation measures in the project to maintain and enhance our Community Forest.

<b>Policy</b>	<b>Description</b>
<b>Environmental Resources</b>	
ER-5.1	Avoid implementing activities that result in the loss of active native birds' nests, including both direct loss and indirect loss through abandonment, of native birds. Avoidance of activities that could result in impacts to nests during the breeding season or maintenance of buffers between such activities and active nests would avoid such impacts.
ER-5.2	Require that development projects incorporate measures to avoid impacts to nesting migratory birds.
ER-6.5	Require that development projects incorporate measures to avoid impacts to nesting migratory birds.
<b>Measurable Environmental Sustainability</b>	
MS-21.3	Ensure that San José's Community Forest is comprised of species that have low water requirements and are well adapted to its Mediterranean climate. Select and plant diverse species to prevent monocultures that are vulnerable to pest invasions. Furthermore, consider the appropriate placement of tree species and their lifespan to ensure the perpetuation of the Community Forest.
MS-21.4	Encourage the maintenance of mature trees, especially natives, on public and private property as an integral part of the community forest. Prior to allowing the removal of any mature tree, pursue all reasonable measures to preserve it.
MS-21.5	As part of the development review process, preserve protected trees (as defined by the Municipal Code), and other significant trees. Avoid any adverse effect on the health and longevity of protected or other significant trees through appropriate design measures and construction practices. Special priority should be given to the preservation of native oaks and native sycamores. When tree preservation is not feasible, include appropriate tree replacement, both in number and spread of canopy.
MS-21.6	As a condition of new development, require, where appropriate, the planting and maintenance of both street trees and trees on private property to achieve a level of tree coverage in compliance with and that implements City laws, policies or guidelines.
MS-21.8	For Capital Improvement Plan or other public development projects, or through the entitlement process for private development projects, require landscaping including the selection and planting of new trees to achieve the following goals: <ol style="list-style-type: none"> <li>1. Avoid conflicts with nearby power lines.</li> <li>2. Avoid potential conflicts between tree roots and developed areas.</li> <li>3. Avoid use of invasive, non-native trees.</li> <li>4. Remove existing invasive, non-native trees.</li> <li>5. Incorporate native trees into urban plantings in order to provide food and cover for native wildlife species.</li> <li>6. Plant native oak trees and native sycamores on sites which have adequately sized landscape areas and which historically supported these species.</li> </ol>

<b>Policy</b>	<b>Description</b>
Parks, Open Space, and Recreation	
PR-6.5	Design and maintain park and recreational facilities to minimize water, energy and chemical (e.g., pesticides and fertilizer) use. Incorporate native and/or drought-resistant vegetation and ground cover where appropriate.

### City of San José Tree Ordinance

Ordinance-sized trees, heritage trees, and street trees make up the urban forest and are protected under the City of San José Tree Ordinance. The City of San José Tree Removal Controls (San José City Code, Sections 13.31.010 to 13.32.100) protect all trees having a trunk that measures 38 inches or more in circumference (12.1 inches in diameter) at the height of 4.5 inches above the natural grade. The ordinance protects both native and non-native species. A tree removal permit is required from the City for the removal of ordinance-size trees.

In addition, any tree found by the City Council to have special significance due to history, girth, height, species, or unique quality can be designated as a Heritage Tree due to its size, history, unusual species, or unique quality. It is illegal to prune or remove a heritage tree without first consulting the City Arborist and obtaining a permit.

#### **3.4.1.2      *Existing Conditions***

##### **Habitat and Special Status Species**

The only sensitive natural communities in the vicinity of the downtown area are the riparian forest and aquatic habitats within the corridors of Los Gatos Creek and the Guadalupe River. Guadalupe River is located approximately 0.5 miles west of the site.

The project site is currently developed with a city park and is located in an urbanized area. There are no sensitive habitats (including wetlands) on-site, therefore, no special-status animal or plant species are on-site.<sup>21</sup> The main biological resources on-site are trees.

The site is located within the Habitat Plan area and has a land cover designation of Golf Courses/Urban Parks.

##### **Trees**

Trees (both native and non-native) are valuable to the human environment for the benefits they provide including resistance to global climate change (i.e., carbon dioxide absorption), protection from weather, nesting and foraging habitat for raptors and other migratory birds, and as a visual enhancement to the urban environment. Because redevelopment is proposed, a tree survey was completed to document and evaluate the site's existing trees.

<sup>21</sup> City of San José. *Integrated Final EIR for the Downtown Strategy 2040*. SCH #2003042127. December 2018. Page 72.

There are 248 existing trees on the project site, as shown below in Table 3.4-1. Primary tree species include London plane, Chinese hackberry, and California fan palm. All 21 of the California fan palms and two of the bur oaks on-site are designated by the City as Heritage Trees. There are a total of 30 native trees and 153 ordinance-sized trees.

Based on the tree survey, 60 trees are in poor/bad health or have significant structural defects that cannot be abated. A total of 142 trees are in moderate health, are in somewhat declining health and/or exhibit structural defects that might be mitigated with treatment. In addition, 46 trees are considered to be in good/best health. The location of the trees can be found in Appendix C.

<b>Table 3.4-1: Tree Survey Summary by Species</b>			
<b>Species</b>	<b>Diameter</b>		<b>Total Number of Trees</b>
	<b>12.0 inches or less</b>	<b>12.1 inches or greater (Ordinance Size)</b>	
American Elm	1	0	1
Ash	0	11	11
Atlas Cedar	0	1	1
Black Acacia	0	1	1
Brachychiton	0	5	5
Bur Oak*	0	3	3
California Buckeye	0	1	1
California Fan Palm*	0	21	21
California Sycamore <sup>†</sup>	0	3	3
Canary Island Date Palm	0	1	1
Chinese Hackberry	9	28	37
Coast Live Oak	0	10	10
Coastal Redwood	0	13	13
Common Hackberry	2	4	6
English Elm	3	10	13
English Oak	3	3	6
English Yew	0	2	2
Eucalyptus	0	1	1
European Birch	3	0	3
Flowering Cherry	6	0	6
Flowering Pear	9	0	9
Ginkgo	3	0	3
Japanese Maple	7	1	8
Juniper	2	0	2
Lebanon Cedar	0	2	2
Live Oak	0	5	5
London Plane Tree	41	13	54
Maple	0	1	1

<b>Table 3.4-1: Tree Survey Summary by Species</b>			
<b>Species</b>	<b>Diameter</b>		<b>Total Number of Trees</b>
	<b>12.0 inches or less</b>	<b>12.1 inches or greater (Ordinance Size)</b>	
Mayten	0	3	3
Mexican Fan Palm	0	5	5
Monterey Pine <sup>◇</sup>	0	1	1
Sawtooth Elm	0	1	1
Southern Magnolia	0	1	1
Tillia	3	0	3
Tulip Tree	0	1	1
Valley Oak	3	1	4
<b>Total</b>	<b>95</b>	<b>153</b>	<b>248</b>
* All 21 California fan palm trees and two of the bur oak trees are City designated Heritage Trees			
◇ Native trees to California			

### 3.4.2 Impact Discussion

For the purpose of determining the significance of the project's impact on biological resources, would the project:

- 1) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW) or United States Fish and Wildlife Service (USFWS)?
- 2) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the CDFW or USFWS?
- 3) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?
- 4) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?
- 5) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?
- 6) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?



### 3.4.2.1 *Project Impacts*

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Would the project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS?

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As discussed under Section 3.4.1.2 Existing Conditions, given the urbanized nature of the project site and surrounding area, there are no sensitive habitats or special-status animal or plant species on or adjacent to the project site.

The nearest sensitive habitat communities to the project site that could include candidate, sensitive or special status species are the riparian and aquatic habitats within the Guadalupe River corridor, which is approximately 0.5 miles from the site. Given the distance between the Guadalupe River and the project site, development of the project would not have a substantial adverse effect on the community.

The project site, however, includes trees which could be used by nesting birds (including migratory birds and raptors). Nesting birds are protected under the MBTA and by the California Fish and Game Code 3503, 3503.5, and 2800. Tree removals and construction disturbance during the breeding season could result in incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. Disturbance that causes abandonment and/or loss of reproductive effort is considered a taking by CDFW.

**Impact BIO-1:** Construction activities could result in the loss of fertile eggs, nesting raptors, or nest abandonment. **(Significant Impact)**

#### **Mitigation Measure:**

The following mitigation measure shall be implemented by the project to reduce biological impacts from project construction activities.

**MM BIO-1.1:** Tree removal and construction activities shall be scheduled to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1<sup>st</sup> through August 31<sup>st</sup>, inclusive.

If tree removals and construction cannot be scheduled outside of nesting season, a qualified ornithologist shall complete pre-construction surveys to identify active raptor nests that may be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of ground-disturbance activities during the early part of the breeding season (February 1<sup>st</sup> through April 30<sup>th</sup>, inclusive) and no more than 30 days prior to the initiation of these ground-disturbance activities during the late part of the breeding season (May 1<sup>st</sup> through August 31<sup>st</sup>, inclusive).

During this survey, the qualified ornithologist will inspect all trees and other possible nesting habitats in and immediately adjacent to the construction areas for nests. If an active nest is found in an area that would be disturbed by construction, the ornithologist shall designate a construction-free buffer zone (typically 250 feet) to be established around the nest, in consultation with California Department of Fish and Wildlife (CDFW). The buffer would ensure that raptor or migratory bird nests will not be disturbed during project construction.

The project proponent shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning or Director's designee prior, prior to the start of any construction or ground-disturbance activities (e.g., tree removal).

The project, with implementation of the above mitigation measure, would reduce impacts to nesting birds by avoiding construction during nesting bird season or completing pre-construction nesting bird surveys. **(Less than Significant Impact with Mitigation Incorporated)**

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Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the CDFW or USFWS?

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As discussed in Section 3.4.1.2 Existing Conditions and under Impact BIO-1, the project site is developed and located in an urbanized area. There are no riparian habitats located within or adjacent to the project site, and the project site does not support other sensitive natural communities. For these reasons, the project would not have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulation or by the CDFW or USFWS. **(No Impact)**

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Would the project have a substantial adverse effect on state or federally protected wetlands through direct removal, filling, hydrological interruption, or other means?

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The project site is developed and located in an urbanized area. The project site does not contain state or federally protected wetlands. **(No Impact)**

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Would the project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors or impede the use of native wildlife nursery sites?

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The project site is developed and surrounded by urban development. There are no sensitive habitats or waterways on or adjacent to the site and no native wildlife nursery sites in the vicinity. The project site does not facilitate substantial wildlife movement. In addition, the proposed structures would not be constructed primarily of glass or reflective materials which are materials that disorient birds and cause accidental collisions. Therefore, implementation of the proposed project would not interfere

substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors or impede the use of native wildlife nursery sites. **(No Impact)**

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

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As discussed in Section 3.4.1.2 Existing Conditions, there are a total of 248 trees on-site, 23 of which are designated as Heritage Trees (21 California fan palms and two bur oaks). Implementation of the project would result in the preservation of 146 trees in place (including all the Heritage Trees), the removal of 97 trees, and the transplantation of five trees within the park.

### **Tree Preservation and Protection**

As described previously in Section 3.4.1.1 Regulatory Framework, Chapter 13 of the San José Municipal Code sets forth policies designed to protect street trees and ordinance trees, the latter defined as trees measuring 38 inches or greater in circumference on private property.

It is estimated that the project would result in the removal of 97 trees, 42 of which are ordinance sized. Table 3.4-2 below summarizes the native and non-native trees on-site, by size, to be removed.

<b>Table 3.4-2: Summary of Native and Non-Native Trees On-Site, by Size, to be Removed</b>		
<b>Diameter of Tree to Be Removed</b>	<b>Number of Trees to be Removed</b>	
	Native	Non-Native
18 inches or greater	2	17
12-18 inches	0	25
Less than 12 inches	0	53

Refer to the tree report in Appendix C of this EIR for the details regarding the location and species of the trees to be removed. In accordance with the provisions of the San José Municipal Code, the project conditions listed below would be implemented by the project.

#### **Project Conditions:**

- The project is required to meet the City's tree replacement ratios in accordance with all applicable laws, policies, and guidelines (Chapter 13 of the San José Municipal Code and General Plan policies MS-21.4, MS-21.5, MS-21.6, and CD-1.24), as outlined in Table 3.4-2 below.

Table 3.4-2: City of San José Standard Tree Replacement Ratios				
Circumference of Tree to Be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
38 inches or greater	5:1	4:1	3:1	15-gallon
19 up to 38 inches	3:1	2:1	none	15-gallon
Less than 19 inches	1:1	1:1	none	15-gallon
<p>x:x = tree replacement to tree loss ratio</p> <p>Note: Trees greater than or equal to 38-inch circumference shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For Multi-Family residential, Commercial and Industrial properties, a permit is required for removal of trees of any size.</p> <p>A 38-inch tree equals 12.1 inches in diameter.</p> <p>A 24-inch box tree = two 15-gallon trees</p> <p>Single Family and Two-dwelling properties may be mitigated at a 1:1 ratio.</p>				

In the event the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement, at the development permit stage:

- The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees to be planted on the project site.
- Pay Off-Site Tree Replacement Fee(s) prior to the issuance of Public Works grading permit(s), in accordance to the City Council approved Fee Resolution. The City will use the off-site tree replacement fee(s) to plant trees at alternative sites.

As discussed above and summarized in Table 3.4-2, the project would result in the removal of 97 existing trees. Based on the City's standard tree replacement ratios, the project would be required to plant 181 replacement trees. The project would plant a total of 196 new trees and, therefore, exceed the required amount of replacement trees.

The arborist report prepared for the project site (Appendix C) outlined specific tree protection measures to be implemented during construction to protect existing trees on-site. The tree protection measures are detailed in the project conditions below:

#### **Project Conditions:**

- **Site Preparation:** All existing trees to be retained shall be fenced off 10 feet beyond the outside of the drip line of the tree. If not feasible, then fenced to the dripline of the tree. Where fencing is not possible, the trunk shall be protected with straw waddle and orange snow fencing.
  - The fence should be a minimum of six feet high, made of pig wire fencing with steel stakes or any material superior in quality, such as cyclone fencing.

- A tree protection zone sign shall be affixed to fencing at appropriate intervals as determined by the certified arborist on-site. If the fence is within the drip line of the trees, the foliar fringe shall be raised to offset the chance of limb breakage from construction equipment encroaching within the drip line.
- All contractors, subcontractors and other personnel shall be warned that encroachment within the fenced area is forbidden without the consent of the certified arborist. This includes, but is not limited to, storage of lumber and other materials, disposal of paints, solvents or other noxious materials, parked cars, grading equipment or other heavy equipment. Penalties, based on the cost of remedial repairs and the evaluation guide published by the International Society of Arboriculture, shall be assessed for damages to the trees.
- **Grading/Excavating:** Grading plans shall specify grading within the drip line of a tree. The plans shall be reviewed by the certified arborist. The certified arborist shall outline provisions for aeration, drainage, and pruning, tunneling beneath roots, root pruning, or other necessary actions to protect the trees.
  - Trenching that is within the drip line shall be done by hand labor and dug directly beneath the trunk of the tree. All roots 2 inches or larger shall be tunneled under and other roots shall be cut smoothly to the trunk side of the trench. The trunk side should be draped immediately with two layers of untreated burlap to a depth of three feet from the surface. The burlap shall be soaked nightly and left in place until the trench is back filled to the original level. The certified arborist shall examine the trench prior to back filling to ascertain the number and size of roots cut to determine the necessary remedial repairs.
- **Remedial Repairs:** The certified arborist shall observe on-going activities that may affect the trees and prescribe necessary remedial work to ensure the health and stability of the trees.
  - Pruning, as outlined in the "pruning standards" of the western chapter of the International Society of Arboriculture, shall be prescribed as necessary.
  - Fertilizing, aeration, irrigation, pest control and other activities shall be prescribed according to the tree needs, local site requirements, and state agricultural pest control laws.
  - All specifications shall be in writing.
- **Final Inspection:** The certified arborist, upon completion of the project, shall review all work undertaken that may have impacted the existing trees, with special attention to cuts and fills, compacting, drainage, pruning and future remedial work. The certified arborist shall submit a final report outlining the need for any on-going remedial care following the final inspection to the project proponent and City Arborist.

The project proponent would coordinate tree removal with the City Arborist, exceed the amount of required replacement trees to be planted, and implement tree protection measures. The project, therefore, would not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance. **(Less than Significant Impact)**

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

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The proposed project is within the Habitat Plan Area and is consistent with a covered activity as described in Section 2.3.2 of the Habitat Plan. Specifically, the project site has a land cover designation of Golf Courses/Urban Parks and is not located in a survey area for any special-status plant or wildlife species. Consistent with the Habitat Plan, the project proponent shall implement the following project condition.

**Project Condition:**

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

The proposed project would implement the above project condition to comply with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. **(Less than Significant Impact)**

**3.4.2.2 Cumulative Impacts**

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Would the project result in a cumulatively considerable contribution to a significant biological resources impact?

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The geographic area for cumulative biological resources impacts includes the project site and adjacent parcels.

**Special-Status Species**

Construction of the cumulative projects, including the proposed project, could result in a significant cumulative impact on nesting birds. Each cumulative project is subject to federal, state, and local regulations (including the MBTA, Fish and Game Code, and CEQA), which would avoid and/or minimize impacts to nesting birds.

The project, with the implementation of mitigation measure MM BIO-1.1 to comply with the MBTA and Fish and Game Code, would not have a cumulatively considerable contribution to a significant cumulative impact to nesting birds. **(Less than Significant Cumulative Impact with Mitigation Incorporated)**

**Riparian Habitat, Other Sensitive Natural Community, Wetlands, Species Movement,  
Native Wildlife Nursery Use**

As discussed under Impacts BIO-2, BIO-3, and BIO-4, the project would have no impact on riparian habitat, other sensitive natural community, wetlands, species movement, or native wildlife nursery site use. For this reason, the project would not contribute to cumulative impacts to those biological resources. **(No Cumulative Impact)**

### **Tree Preservation and Protection**

All the cumulative projects (including the proposed project) would be required to comply with the City's Tree Preservation Ordinance. **(Less than Significant Cumulative Impact)**

### 3.5 CULTURAL RESOURCES

The following discussion is based on a Historic Resource Evaluation Update and a Rehabilitation Project Assessment completed for the project by Archives & Architecture dated September 12, 2019 and December 11, 2019, respectively. Copies of these reports are included in Appendix D.

#### 3.5.1 Environmental Setting

##### 3.5.1.1 *Regulatory Framework*

#### **Federal and State**

##### National Historic Preservation Act

Federal protection is legislated by the National Historic Preservation Act (NHPA) of 1966 and the Archaeological Resource Protection Act of 1979. These laws maintain processes for determination of the effects on historical properties eligible for listing in the National Register of Historic Places (NRHP). Section 106 of the NHPA and related regulations (36 Code of Federal Regulations Part 800) constitute the primary federal regulatory framework guiding cultural resources investigations and require consideration of effects on properties that are listed or eligible for listing in the NRHP. Impacts to properties listed in the NRHP must be evaluated under CEQA.

The NRHP is the nation's master inventory of historic resources that are considered significant at the national, state, or local level. The minimum criteria for determining NRHP eligibility follow:

- The property is at least 50 years old (properties under 50 years of age that are of exceptional importance or are contributors to a district can also be included in the NRHP);
- It retains integrity of location, design, setting, materials, workmanship, feeling, and associations; and
- It possesses at least one of the following characteristics:
  - Association with events that have made a significant contribution to the broad patterns of history.
  - Association with the lives of persons significant in the past.
  - Distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant, distinguishable entity whose components may lack individual distinction.
  - Has yielded, or may yield, information important to prehistory or history.

##### California Register of Historical Resources

The California Register of Historical Resources (CRHR) is administered by the State Office of Historic Preservation and encourages protection of resources of architectural, historical, archeological, and cultural significance. The CRHR identifies historic resources for state and local

planning purposes and affords protections under CEQA. Under Public Resources Code Section 5024.1(c), a resource may be eligible for listing in the CRHR if it meets any of the NRHP criteria.<sup>22</sup>

Historical resources eligible for listing in the CRHR must meet the significance criteria described previously and retain enough of their historic character or appearance to be recognizable as historical resources and to convey the reasons for their significance. A resource that has lost its historic character or appearance may still have sufficient integrity for the CRHR if it maintains the potential to yield significant scientific or historical information or specific data.

The concept of integrity is essential to identifying the important physical characteristics of historical resources and hence; in evaluating adverse changes to them. Integrity is defined as “the authenticity of an historical resource’s physical identity evidenced by the survival of characteristics that existed during the resource’s period of significance.” The process of determining integrity is similar for both the CRHR and NRHP and use the same seven variables or aspects to define integrity that are used to evaluate a resource’s eligibility for listing. These seven characteristics include 1) location, 2) design, 3) setting, 4) materials, 5) workmanship, 6) feeling, and 7) association.

#### Secretary of the Interior’s Standards for the Treatment of Historic Properties

The 1995 United States Secretary of Interior’s Standards for the Treatment of Historic Properties outlines specific standards and guidelines for the preservation, rehabilitation, restoration, and reconstruction of historic properties. Each set of standards provides specific recommendations for the proper treatment of specific building materials, as well as parts of building construction. CEQA references these standards relative to consideration of the significance of project impacts, or lack therefore, on historic resources.

#### California Public Resources Code, California Code of Regulations, and California Health and Safety Code

Archaeological, and historical sites are protected by a number of state policies and regulations under the California Public Resources Code, California Code of Regulations (Title 14 Section 1427), and California Health and Safety Code. California Public Resources Code Sections 5097.9-5097.991 require notification of discoveries of Native American remains and provides for the treatment and disposition of human remains and associated grave goods. Section 15064.5 of the CEQA Guidelines specifies procedures to be used in the event of an unexpected discovery of Native American human remains to protect them from disturbance, vandalism, and inadvertent destruction.

Both state law and County of Santa Clara County Code (Sections B6-19 and B6-20) require that the Santa Clara County Coroner be notified if cultural remains are found on a site. If the Coroner determines the remains are those of Native Americans, the Native American Heritage Commission and a “most likely descendant” must also be notified.

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<sup>22</sup> CEQA Guidelines Section 15064.5(a)(3) and California Office of Historic Preservation Technical Assistance Series #6. March 14, 2006.

California Code of Regulations Section 4852(c) addresses the issue of “integrity” which is necessary for eligibility for the CRHR. Integrity is defined as “the authenticity of an historical resource’s physical identity evidenced by the survival of characteristics that existed during the resource’s period of significance.” Section 4852(c) provides that historical resources eligible for listing in the CRHR must meet one of the criteria for significance defined by 4852(b)(1 through 4), and retain enough of their historic character of appearance to be recognizable as historical resources and to convey the reasons for their significance. Integrity is evaluated with regard to the retention of seven criteria: location, design, setting, materials, workmanship, feeling, and association. It must also be judged with reference to the particular criterion under which a resource is proposed for eligibility. Alterations over time to a resource or historic changes in its use may themselves have historical, cultural, or architectural significance. A project that impacts the integrity of a historic resource is a project that impacts the resource. A project that preserves the historic integrity of a resource is a project without impacts.

## **Local**

### Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts from planned development in the City. The policies below are specific to cultural resources and are applicable to the proposed project.

<b>Policy</b>	<b>Description</b>
<b>Environmental Resources</b>	
ER-10.1	For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.
ER-10.3	Ensure that City, state, and federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.
ER-9.2	Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon their discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced.
<b>Land Use</b>	
LU-13.1	Preserve the integrity and fabric of candidate or designated Historic Districts.
LU-13.2	Preserve candidate or designated landmark buildings, structures and historic objects, with first priority given to preserving and rehabilitating them for their historic use, second to preserving and rehabilitating them for a new use, or third to rehabilitation and relocation on-site. If the City concurs that no other option is feasible, candidate



<b>Policy</b>	<b>Description</b>
	or designated landmark structures should be rehabilitated and relocated to a new site in an appropriate setting.
LU-13.3	For landmark structures located within new development areas, incorporate the landmark structures within the new development as a means to create a sense of place, contribute to a vibrant economy, provide a connection to the past, and make more attractive employment, shopping, and residential areas.
LU-13.4	Require public and private development projects to conform to the adopted City Council Policy on the Preservation of Historic Landmarks.
LU-13.6	Ensure modifications to candidate or designated landmark buildings or structures conform to the Secretary of the Interior's Standards for Treatment of Historic Properties and/or appropriate State of California requirements regarding historic buildings and/or structures, including the California Historical Building Code.
LU-13.7	Design new development, alterations, and rehabilitation/remodels within a designated or candidate Historic District to be compatible with the character of the Historic District and conform to the Secretary of the Interior's Standards for the Treatment of Historic Properties, appropriate State of California requirements regarding historic buildings and/or structures (including the California Historic Building Code) and to applicable historic design guidelines adopted by the City Council.
LU-13.8	Require that new development, alterations, and rehabilitation/remodels adjacent to a designated or candidate landmark or Historic District be designed to be sensitive to its character.
LU-13.10	Ensure City public works projects (street lights, street tree plantings, sidewalk design, etc.) promote, preserve, or enhance the historic character of Historic Districts.
LU-13.15	Implement City, state, and federal historic preservation laws, regulations, and codes to ensure the adequate protection of historic resources.
LU-14.1	Preserve the integrity and enhance the fabric of areas or neighborhoods with a cohesive historic character as a means to maintain a connection between the various structures in the area.
LU-14.3	Design new development, alterations, and rehabilitation/remodels in conservation areas to be compatible with the character of the Conservation Area. In particular, projects should respect character defining elements of the area that give the area its identity. These defining characteristics could vary from area to area and could include density, scale, architectural consistency, architectural variety, landscape, etc.
<b>Community Design</b>	
CD-6.7	Recognize Downtown's unique character as the oldest part, the heart of the City, and leverage historic resources to create a unique urban environment there. Respect and respond to on-site and surrounding historic character in proposals for development.

### City of San José Historic Preservation Ordinance

The City of San José Historic Preservation Ordinance (Chapter 13.48 of the Municipal Code) is designed to identify, protect, and encourage the preservation of significant resources and foster civic pride in the City's cultural resources. The Historic Preservation Ordinance requires the City to establish a Historic Landmarks Commission, maintain a Historic Resources Inventory, preserve historic properties using a Landmark Designation process, require Historic Preservation Permits for alterations of properties designated as a Landmark or within a City historic district, and provide financial incentives through a Mills Act Historical Property Contract.

### City of San José Development Policy on the Preservation of Historic Landmarks

The City Council's Development Policy on the Preservation of Historic Landmarks (as amended May 23, 2006) calls for preservation of candidate or designated landmark structures, sites, or districts wherever possible. The City also has various historic design guidelines that suggest various methods for the restoration or rehabilitation of older/historic structures and establish a general framework for the evaluation of applications involving historic preservation issues. The City offers a number of historic preservation incentives, including use of the State Historic Building Code, Mills Act/Historical Property Contracts, and various land use and zoning incentives.

### 1989 St. James Square Historic District Design Guidelines

The goals of the *St. James Square Historic District Design Guidelines* are the preservation of the historically significant structures in the St. James Square Historic District and the compatible integration of existing and new buildings on properties include within the area of historic sensitivity. The objectives of the guidelines are to: ensure that all development in and immediate vicinity of the St. James Square Historic District is designed to enhance the character of the historic resources; ensure all development is consistent with the goals and policies of the General Plan; establish a framework to promote fair, consistent, and objective decisions related to development; and inform property owners of the criteria upon which development applications will be evaluated. The guidelines are divided into three primary components: Existing Common Elements, Rehabilitation Guidelines for Existing Structures, and New Building Guidelines.

The New Building Guidelines are written to be used for infill buildings at the perimeter of the park; however, the intent of these guidelines is applicable to all buildings, including those proposed for inside the park. The introduction to the New Building Guidelines section is as follows:

Although the architecture of St. James Square is stylistically varied, the existing historic buildings share characteristics which, when abstracted and applied as design criteria, will ensure architectural cohesiveness and strengthen the perception of the historic district.”<sup>23</sup>

The New Building Guidelines continue by defining the general character, the site layout/setbacks, the building form and scale, and the surface treatment of proposed new buildings.

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<sup>23</sup> City of San José. *St. James Square Historic District Design Guidelines*. Adopted October 17, 1989. Page 22.

## 2004 Draft San José Downtown Historic Design Guidelines

The 2004 *Draft San José Downtown Historic Design Guidelines* provide relevant criteria for addressing new construction adjacent to historic landmarks. The *Draft San José Downtown Historic Design Guidelines* are applicable to the project site, as it is within the downtown core area and adjacent to an historic landmark building. The *Draft San José Downtown Historic Design Guidelines* identify eight contextual elements for new construction adjacent to historic resources. These elements are: lot patterns; massing; facades; corner elements; rear facades; entries; exterior materials, and vehicular and pedestrian access.

### **3.5.1.2        *Existing Conditions***

The current landscape design of St. James Park is derived from some early plantings and a renovation from approximately 30 years ago that was based on a 1985 Master Plan. The layout from the Master Plan design has been subsequently modified by more recent improvements, including removal of the Senior Center Pavilion and installation of an exercise area, playground, temporary dog park, and a temporary storage structure.

The site is primarily planted as a large, flat lawn area cut through with paths and bisected by North 2<sup>nd</sup> Street. Most of the paths are asphalt, but some paths are paved with brick or concrete pavers that were installed as a part of the 1985 Master Plan renovation. The paths cut the outer corners and have diagonal and slightly curved routes through the park. There is a concrete-paved patio area with built-in tables and benches (picnic area) on the east side of the park which was a recent addition to the park.

The lawn areas are punctuated with an informal planting pattern of trees with large canopies that provide shade. The predominant shade trees include both evergreen and deciduous species. Of note is the row of 21 palm trees along North First Street, which are designated heritage trees. Two oak bur trees east of the palm trees are also designated heritage trees. Refer to Section 3.4 Biological Resources for a discussion of these trees.

There are three memorials within the park. The McKinley Memorial is a tall statue atop a stepped square base. The Naglee Memorial is a bas-relief wall on a stepped rectangular platform. The Kennedy Podium is a modern curved wall element with a permanent podium. This memorial is placed on a raised circular platform. There is a modern fountain within the western half of the park near the VTA light rail station. The base of the fountain has recently been covered with a platform and the upper tiers have been planted with flowers.

Within the larger grass areas and along the paths are streetlights with traditional acorn caps, as well as some modernized fixtures. In the southeast corner of the park is a fenced playground created in the early 2000s. Near the center of the eastern boundary is a grouping of exercise equipment. At the VTA LRT station are curved-roof canopies, overhead trolley cables, and nearby is a prefabricated public restroom facility installed in the 1990s. There are a variety of trash enclosures and storage elements that do not have a permanent design presence.

## Historic Resources

In 1979, St. James Square was listed on the NRHP as a historic district. The park was included in the listing as a contributor to the district, being identified as a key feature of the square surrounded by historically significant civic, religious, and private structures. In 1984, the San José City Council designated St. James Square (including the park) as a City Landmark District. Both the square (as a designated National and local historic district) and the park individually are historic resources being evaluated and analyzed.

The park as it exists today has lost many of the features associated with the period of significance (discussed below) that were identified in the NRHP and City Landmark listings. Changes including the construction (and subsequent removal) of the community center which resulted in a loss of trees and pathways, the addition of the exercise area, playground, dog park, picnic area, and storage structure, as well as the extension of North 2<sup>nd</sup> Street through the park in 1955 has contributed to the loss of historic features and spatial relationships and has changed the original geometry, planting design, and continuity. In addition, loss of the dense tree canopy and removal of most of the granite curbs further diminished the historic features of the park.

While historic features of the park have been lost or reduced over time and new features have been added since the 1980s, St. James Park continues to be a contributor to the NRHP St. James Square Historic District and a contributor to the St. James Square City Landmark District.

The park, a key feature of St. James Square, was found to be individually eligible as a City Landmark (Candidate City Landmark) qualifying under the local Municipal Code criteria: (1) It has character, interest and value as part of the local, regional, state or national history, heritage and culture; (2) It is in a location as a site of significant historic events; and (4) It exemplifies the cultural, social and historic heritage of the city of San Jose. Although the park has lost integrity in materials and design, it has retained sufficient integrity in location, setting, feeling, and association to qualify as a local City Landmark. However, the park would not qualify individually for the National Register of Historic Places or the California Register of Historical Resources due to substantial loss of the landscape design quality and planting materials from the period of significance.

### Areas of Significance

The documentation for the National Register nomination of St. James Square (which includes the park and buildings surrounding the park) identified four areas of significance:

1. Architecture,
2. Community Planning,
3. Exploration and Settlement, and
4. Landscape Architecture.

Of these four areas of significance, Community Planning, Exploration and Settlement, and Landscape Architecture are applicable to St. James Park. Architecture is specific to the public, religious, and private structures that surround the park. Although not checked within the nomination application, sculpture may also be applicable as well as politics/government, although these areas are

of a commemorative nature and their significance does not strictly apply to the NRHR nomination criteria. A park monument that is primarily commemorative in intent may meet the criteria under NRHR Special Consideration F if the design, age, tradition, or symbolic value has invested it with its own historical significance. As the three monuments in the park have become integral parts of the St. James Square City Landmark Historic District over time, they could be considered contributing elements to the historic district. The park, and its identification as a public square that preceded it, was an innovative planning initiative for its time, and in combination with Washington Square and the Plaza were the first in California when platted in 1847. This period is considered part of the era of exploration and settlement of the West during the Early American Period associated with the United States (subsequent to Spain and Mexico's jurisdiction over the providence) and is an important remnant of that time.

The original design is consistent with and exemplifies landscape design concepts during the 1860s and 1870s promulgated by important American landscape designers such as Frederick Law Olmsted, and aspects of that design remain today in the meandering walkways and naturalist placement of landscaping elements.

The landscape setting is enhanced by the cultural associations that it has gained over time. The use of this square and park over its period of significance as a center of public life and leisure, a forum for political discourse, events of community importance, and as a site of commemoration, makes it one of San José's most important historic places. The park provides a cultural and social reference point for San José's past within the city center, as downtown San José modernizes and continues to evolve into a metropolitan center.

### Period of Significance

The City of San José determined the period of significance for the square as a historic district to be the 1860s to 1930s during the landmark process. The historic consultant determined that since that time, more recent events and features of the park have gained historic significance.

The historic consultant determined the period of significance to be defined as the first century of the park's development, 1867-1968. This range is inclusive of the first public improvements to the square through to the last major local historic event in the park, a presidential campaign speech by Robert F. Kennedy in 1968.

The City's Historic Preservation Officer (HPO) concluded that the park, as a separate and individual resource, was found to have a period of significance of 1867 to 1955. This period begins with the earliest landscape design by William O'Donnand, and includes the Victorian garden design of Rudolph Ulrich. The period ended when South Second Street was extended, bisecting the single park into two sections and causing a disruption in design, pedestrian pathways, and formation of tree locations and canopies.

For the purposes of this analysis, the period of significance used is 1867 to 1968.

### Character-Defining Features

Character-defining features are prominent or distinctive recurring elements, aspects, qualities, or characteristics of an historic resource type, style or period that contribute significantly to its physical character and appearance dating to the resource's period of significance. These features should be retained in order to ensure continued eligibility as a historic resource. Based on the NRHP nomination form, the historic consultant identified the seven character defining features of the park as follows:

1. North/south, east/west axis paths,
2. Diagonal cross axis paths,
3. Circular features at the four corners,
4. An undulating path around the perimeter connecting the circular features,
5. Random placement of statuary and monuments,
6. Flat ground plan with a lack of topographic variation, and
7. An informal planting scheme.

The City's HPO further determined that based on prior evaluations of the park's characteristics from the 1970s to today, the key character-defining features include:

Natural Landscaping Features and Topography: Informal arrangement of large trees combined with open grassy lawns on a flat ground plan.

Physical Shape, Orientation, Location, and Geometry: Large and expansive green public open space in the middle of an urban environment and spatially relating to and connecting with surrounding urban and civic uses.

Pathways: A system of pedestrian walkways and paths in various linear and curvilinear forms that connect various sections and features of the park to each other, and to uses surrounding the park.

### Significance as an Individual Historic Resource

St. James Park itself is a significance individual historic resource. Although listed on the NRHP as a contributor to the St. James Square City Landmark Historic District, it is the central and key component of that district of which without the district would lose its essence. As noted above, the park has lost historic integrity over time. Nevertheless, the park has individual local significance even with a reduced level of historic integrity. Based on a site-specific historic analysis (Appendix D), St. James Park appears to be individually eligible for listing as a City Landmark as outlined below.

Under the City's Historic Preservation Ordinance, St. James Park would qualify as an individual City Landmark Site under the applicable criteria:

1. It has character, interest and value as part of the local, regional, state or national history, heritage and culture;
2. It is a location as a site of a significant historic event;



3. It exemplifies the cultural, social and historic heritage of the City of San José;

The park would not qualify as an individual historic resource under the NRHP or the CRHR. Refer to Appendix D for additional details regarding the background and historic context.

### **Archaeological Resources**

Archaeological resources are the physical remains of past human activities that can be either prehistoric or historic. While there are no recorded archaeological resources on-site or in the vicinity, the project site is located in an archaeologically sensitive area.<sup>24</sup>

#### **3.5.2 Impact Discussion**

For the purpose of determining the significance of the project's impact on cultural resources, would the project:

- 1) Cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5?
- 2) Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5?
- 3) Disturb any human remains, including those interred outside of dedicated cemeteries?

##### **3.5.2.1 *Project Impacts***

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Would the project cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5?

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To determine potential impacts on historic resources, the project's effects were analyzed for any potential to change the historic status and eligibility of the resources, any potential loss of character-defining features, any potential reduction of significance, or any potential loss of integrity. The proposed project was also assessed for consistency with the City's St. James Square Historic District Design Guidelines and the San José Downtown Historic Design Guidelines. These guidelines have been used in the planning process to provide a framework for analysis of the proposed design. The Secretary of Interior's Standards (Rehabilitation) were used to evaluate the project's consistency with the standards and the Secretary of the Interior's Guidelines for Cultural Landscapes was considered. Project effects were analyzed for any impact the proposed project would have on the park as a Candidate City Landmark and contributor to the City Landmark District and the National Register District and the local and National historic district as a whole under CEQA.

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<sup>24</sup> Sources: 1) City of San José. *City of San José Historic Resources Inventory, Landmarks, Districts, and Architectural and Archaeological Resources*. December 2010. 2) City of San José. *Integrated Final Environmental Impact Report for the Downtown Strategy 2040*. SCH #2003042127. December 2018.

## St. James Square Historic District Guidelines

A summary of the project's consistency with the St. James Square Historic District Guidelines New Building Guidelines prepared by the City's historic consultant is provided in Table 3.5-1. A detailed analysis of the project's consistency with the guidelines is provided in Appendix D.

<b>Table 3.5-1: Summary of Project Consistency with St. James Square Historic District Guidelines</b>	
<b>Design Guideline</b>	<b>Summary of Project Consistency</b>
<b>General Character</b> – Buildings should be large in bulk and scale. Buildings should be frontally symmetrical. Building features should have massive proportions.	<b>Consistent</b> – The park landscape-design elements generally meet the General Character Guideline; however, the support buildings do not. The proposed support buildings are low in form and relatively delicate in detailing. They include slender unadorned posts and simple eave fascias. <sup>25</sup> The walls are designed as concrete; however, the concrete is designed to be planar, rather than massive. The buildings are currently designed to be crisp modernist structures without a strong relationship to the historic buildings and park. The general character of the buildings does not utilize the scale of materials of the surrounding historic buildings, nor do they use the palette of the park design and become purely landscaping elements. The support buildings are not in keeping with this guideline.
<b>Site Layout/Setbacks</b>	<b>Not applicable</b> – These guidelines are not applicable, as they refer only to the front-yard setbacks along the surrounding streetscapes.
<b>Building Form and Scale</b>	<b>Not applicable</b> – The five Building Form and Scale sub-guidelines are not applicable, as they compare proposed building heights to the heights of immediately adjacent historic buildings.
<b>Surface Treatment</b> <b>Fenestration</b> – There should be a greater proportion of wall than window. Windows should reinforce the building design through placement, size, style and overall plan. Individual windows should be rectangular in shape and oriented vertically and be recessed from the wall. Blank monolithic facades should be avoided. Facades facing the park should be articulated so that shadows will be cast by individual facade	<b>Consistent</b> – The modernist influences in the support buildings are not consistent with the sub-guidelines that describe the recommended wall-to-window proportions, require the vertical orientation and setback of windows within walls, and proscribe blank walls. The proposed park buildings feature wall planes and glazed curtain walls that are not compatible with the traditional historic fenestration in the historic district. The

<sup>25</sup> Fascias are wooden boards or other flat pieces of material such as that covering the ends of rafters.

**Table 3.5-1: Summary of Project Consistency with St. James Square Historic District Guidelines**

Design Guideline	Summary of Project Consistency
<p>components. This can be accomplished by using wall elements such as windows, columns, and spandrels. All-glass and mirrored buildings are inappropriate. Avoid intensely colored glass and dark windows. Windows in at least the first floors of buildings should be clear glass in order to allow pedestrians to see interior activity.</p> <p><u>Materials</u> – Building materials should be appropriate to the architecture and style for which they are used and compatible to those used in the historic buildings. Building materials in the historic district are listed in the “Existing Common Elements – Contributing Structures” section of the St. James Guidelines. These materials are as follows: Brick &amp; Plaster; Wood &amp; Plaster; Stone; Wood; Terra Cotta; Clay Roof Tiles; Asphalt Shingles.</p> <p><u>Detailing</u> – Architectural definition of buildings on their lower levels (within the field of vision of a pedestrian) is encouraged to provide visual interest and human scale. The detailing of new construction should incorporate typical detailing of historic structures as appropriate. Delineate openings with surrounds and frames. Utilize vertical elements such as pilasters or columns.</p>	<p>buildings do not meet the letter of this guideline. Nevertheless, with the design intent for the buildings to service as background support elements, the buildings, as revised, are consistently 21<sup>st</sup> Century designs and would be subordinate to the historic district contributors.</p> <p><b>Consistent</b> – The park structures and the proposed support buildings are not fully compatible with the materials guidelines. The landscape structures, such as the performing arts pavilion canopy, playground equipment, and transit covers, generally do not use any of the materials within this list. The four support buildings include some wood elements and trim; however, much of their exterior surfaces consist of cast-concrete and metal support elements. Although these materials are appropriate to the architecture and style for which they are used, they are not on the list or compatible to those used in the historic buildings.</p> <p>The historic designs clearly utilized metal objects, such as within the fountain and for decorative fencing at the planting beds, so the use of metals within the park could possibly be an oversight of the guideline, rather than a failure of the park design to comply with an architectural materials list. The landscape elements and support buildings are not fully compatible with the St. James Square Materials Guidelines; however, the repetitive scale of the textures and materials, the shapes and sizes of the structures/buildings, are compatible with the informal landscaping style.</p> <p><b>Inconsistent</b> – The park structures are generally consistent with this guideline though the monument walk is more linear than the historic perimeter path. The building detailing is not consistent. As modernist designs, they are not fully compatible with the guidelines that say, “The detailing of new construction should incorporate typical detailing of historic structures</p>

**Table 3.5-1: Summary of Project Consistency with St. James Square Historic District Guidelines**

Design Guideline	Summary of Project Consistency
<p>Utilize strong cornice<sup>26</sup> lines. All roof-mounted equipment should be incorporated within penthouses.</p> <p><u>Colors</u> – Building colors should [complement] the building architecture, if not strengthen it, while being compatible to other buildings within the district, so as not to be contrary or a visual nuisance to the district.</p>	<p>as appropriate.” The openings are not “delineated with surrounds and frames.” The designs do not “utilize vertical elements such as pilasters or columns...” or “strong cornice lines.” The proposed design is not fully in keeping with this guideline, but the landscaping structures and features are generally compatible, and the buildings are purposefully not in keeping with the guidelines.</p> <p><b>Inconsistent</b> – Some elements need refinement in their color palette, depending primarily on their visibility from the surrounding streets. Even though one of the colors listed as found on the historic contributing buildings is white, the rendered white color of the proposed performing arts pavilion may not relate to the colors of the historic architecture around it because of its potentially glossier metal structure.</p> <p>The renderings of the project show the paving surfaces in the dog park and playground as strongly colored, but the colors are not specified in the paving or surface schedule. The color of the fountain as rendered is compatible with the color palette of the historic surrounding architecture.</p> <p>The support buildings also are proposed with a new set of colors that do not relate fully to either the landscaping palette or the historic district list. They are illustrated and rendered with raw concrete walls, white-painted metal posts, and dark-brown and bronze windows and doors. The glossy bright white elements would not be compatible.</p> <p>The proposed design is generally in keeping with the color guideline; however, further clarification (e.g., cut sheets and color boards) continues to be recommended.</p>

<sup>26</sup> Cornice is an ornamental molding around the wall of a room just below the ceiling.

<b>Table 3.5-1: Summary of Project Consistency with St. James Square Historic District Guidelines</b>	
<b>Design Guideline</b>	<b>Summary of Project Consistency</b>
<p><u>Signs</u></p> <p><u>Landscaping</u> – Setback areas should be landscaped. Landscape unity within the District should be sought by repetition of plant materials and in keeping with the character found in the Park or that of the sites with contributing structures. St. James Park is the focus of the District with the transition of the park to surrounding properties created by the existing planting strip with street trees and existing lawn areas and planting within the setbacks.</p>	<p><b>Not applicable</b> – No signs are proposed.</p> <p><b>Consistent</b> – The park is preserved as the central focus of the St. James Square City Landmark Historic District. The proposed park design includes a landscaped border that provides a similar function to the required setback landscaping. The built support elements are generally kept away from the perimeter of the park.</p> <p>The diagonal pathways and rich plantings continue to maintain the park as the focus of the historic district and provide continuity for repetitive plant materials. The pathways are not, however fully preserved in the proposed design. The focal pieces—the fountain and historic monuments—are proposed to be preserved or reinterpreted. The buildings, although not in keeping with other historic district guidelines, are background elements and do not disturb the park’s prominence in the center of the square.</p> <p>The proposed design is generally in keeping with this Guideline; however, the alterations to the pathways are not yet fully compatible.</p>

As discussed in Table 3.5-1, the City’s historic consultant concluded that the project is not in substantial conformance with the general character and surface treatment (specifically fenestration, materials, detailing, and color) guidelines.

### **Secretary of Interior’s Standards (Rehabilitation)**

A summary of the project’s consistency with the Secretary of the Interior’s Standards for the Treatment of Historic Properties 10 Rehabilitation Standards prepared by the City’s historic consultant is provided in Table 3.5-2. A detailed analysis of the project’s consistency with the standards is provided in Appendix D.

**Table 3.5-2: Summary of Project Consistency with Secretary of the Interior’s Standards for the Treatment of Historic Properties Rehabilitation Standards**

Rehabilitation Standard	Summary of Project Consistency
1. A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.	<b>Consistent</b> – The use of the property as a park and central focal point of the historic district are consistent with the overall use and historic qualities of St. James Park.
2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.	<b>Partially Consistent</b> – While many character-defining features (trees, monuments, spatial presence) would be preserved or reinterpreted, the proposed design would impact or not fully restore the pathways which are a character-defining feature. The landscape character, including preservation and enhancement of the tree canopy, and spatial understanding of the park, as a focal point of the district would be preserved.
3. Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other historic properties, will not be undertaken.	<b>Consistent</b> – The project is consistent as the institutional design of the proposed park buildings would convey their period of construction and would not promote a false sense of historical development. The building design includes materials and detailing that accentuate the palette and vocabulary of park support elements. .
4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.	<b>Substantially Consistent</b> – The project proposes alterations that meet this Standard with regard to the monuments that have attained historic significance in their own right. While the relocation of the Kennedy monument is not ideal all the monuments would be repaired and preserved, and relocation of the Kennedy monument would not impact the integrity of the park or district.
5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.	<b>Substantially Consistent</b> – There are few materials or examples of artisanship extant to be preserved, so this standard applies only to the heritage trees and granite curbs. The heritage trees represent original materials and would be preserved. The remaining granite curbs are original character-defining features and are proposed for retention.
6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible,	<b>Partially Consistent</b> – There are few original historic features extant in the park. Many missing features are proposed to be replaced with interpretative features, rather than restored and/or preserved. The monuments, however, are proposed for repair. Refer to Standard 4 for the existing monuments.



<b>Table 3.5-2: Summary of Project Consistency with Secretary of the Interior's Standards for the Treatment of Historic Properties Rehabilitation Standards</b>	
<b>Rehabilitation Standard</b>	<b>Summary of Project Consistency</b>
materials. Replacement of missing features will be substantiated by documentary and physical evidence.	
7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.	<b>Not applicable</b> – The project is not expected to require chemical or physical treatments that might directly affect the historic park or district. Standard 7 is not applicable.
8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.	<b>Consistent</b> – See the Standard Measures under Impact CUL-2 and Impact CUL-3.
9. New additions, exterior alterations or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.	<b>Consistent</b> – The proposed project is respectful of the historic design and surrounding district. The replacement elements and new elements are mostly compatible and differentiated. The proposed design of the monument walk would alter the historic spatial relationships and only partially reconstruct the historic use pattern. The loss of the diagonal paths is problematic for the park and district. Relocation of the Kennedy monument is not ideal. The new buildings are visibly parklike and compatible with the historic district.
10. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.	<b>Substantially Consistent</b> – The proposed project would preserve the essential form and integrity of the park and district's history. The loss of the meandering path would impair the integrity of the historic park design, but most other alterations would be reversible.

The historic consultant concluded that the project is not in substantial conformance with the Secretary of the Interior's Standards (Rehabilitation) regarding the proposed structures and overall design. Pursuant to CEQA Guidelines Section 15064.5(b)(3), generally a project that follows the Secretary of the Interior's Standards is considered to have a less than significant impact on a historical resource. Furthermore, analysis of the proposed project concluded that if additional character-defining features of the park are lost, the park would no longer qualify under the NRHP as a contributing property. Because the project would not reduce the significance, change eligibility, remove character-defining features, or compromise integrity, the project would have a significant impact on the historic integrity of the park and the district.

The HPO also completed an assessment of the project based on district guidelines, significance, eligibility, character-defining features, and integrity of the park and the square. Based on the analysis, the project would be more appropriate to be analyzed under the Secretary of the Interior's Standards for Rehabilitation. Furthermore, the HPO concluded that the project would not reduce the significance, change eligibility, remove character-defining features, or compromise the integrity of the park and, therefore, the project would not have a significant impact on historic resources including the park and the district. The project would be fully consistent with the Secretary of the Interior's Standards for Rehabilitation and the Saint James Square Historic District Design Guidelines.

The City's historic consultant and HPO have a difference in expert opinion on the impact of the project on the integrity of St. James Park as a historic resource and as a contributor to the historic district. Consistent with the findings of the historic consultant, the City has concluded that the project, as designed could result in substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5.

**Impact CUL-1:** Implementation of the proposed project would impact the historic integrity of St. James Park and the St. James Park Historic District. **(Significant Impact)**

Absent a redesign of the project that would be fully consistent with the Secretary of the Interior's Standards for Rehabilitation, there are no feasible mitigation measures that would reduce the impact to a less than significant level. Redesign is considered as an alternative to this EIR and further discussion is provided in Section 7.0. **(Significant and Unavoidable Impact)**

### **Construction Impacts**

Construction of the proposed project could result in existing historic elements of the park being damaged from operation of construction equipment, staging, and material storage. Specifically, trees, monuments, and other remaining character-defining features not proposed for removal or restoration.

### **Mitigation Measures:**

**MM CUL-1.1:** Prior to the start of construction, a qualified arborist shall undertake a detailed assessment of the row of heritage palm trees (along North 1<sup>st</sup> Street) and other heritage trees to establish the baseline condition of the trees. The documentation shall take the form of detailed written descriptions and visual illustrations and/or photos, including physical characteristics. The documentation shall be submitted for review and approval by the City of San José's Historic Preservation Officer and the Director of Planning or Director's designee.

**MM CUL-1.2:** Prior to the start of construction, the project proponent shall retain a qualified historic architect who meets the Secretary of Interior's Professional Qualifications Standards. The qualified historic architect shall formalize the existing conditions through a visual study of the historic resources on-site, which would include preparation of preconstruction documentation of the historic resources that could be at risk from construction of the project, including the

McKinley Statue and Monument, Kennedy Podium, and Naglee Monument. The purpose of the study is to establish the baseline condition of the resources prior to construction. The documentation shall take the form of detailed written descriptions and visual illustrations and/or photos, including physical characteristics of each resource that convey its historic significance and justify its eligibility as a contributing feature of the site. The documentation shall be reviewed and approved by the City of San José's Historic Preservation Officer prior to issuance of grading permits.

- MM CUL-1.3:** The historic architect shall prepare and implement a Historic Resources Protection Plan to protect the historic resources determined to be at risk from direct or indirect impacts during construction activities (i.e., due to damage from operation of construction equipment, staging, and material storage). The project proponent shall ensure the contractor follows the Historic Resources Protection Plan while working near these historic resources. At a minimum, the Historic Resources Protection Plan shall include:
- Guidelines for operation of construction equipment adjacent to historical resources;
  - Requirements for monitoring and documenting compliance with the plan; and
  - Education/training of construction workers about the significance of the historical resources around which they would be working.

The Historic Resources Protection Plan must be reviewed and approved by the City's Historic Preservation Officer prior to issuance of any ground disturbance activities.

- MM CUL-1.4:** Utilizing the visual study in MM CUL-1.3, the historic architect shall make periodic site visits to monitor the condition of the historic resources identified in the Historical Resources Protection Plan. The timing of the visits shall be specified in the Historic Resources Protection Plan.

- MM CUL-1.5:** In the event of damage to contributing features during construction, repair work would be completed in full compliance with the Secretary of the Interior's Standards for the Treatment of Historic Properties and would restore the character-defining features of the park. Documentation illustrating how the repair work would be completed would be done in consultation with the City of San José's Historic Preservation Officer.

The project's implementation of mitigation measures MM CUL-1.1 through MM CUL-1.5 would document preconstruction conditions of historic resources on-site (e.g., the heritage trees and monuments), preparing and implementing a plan to protect historic resources during construction, monitoring historic resources during construction, and repairing any damage during construction to restore the character-defining features of the resource. **(Less than Significant Impact with Mitigation Incorporated)**

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Would the project cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5?

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While there are no known archaeological resources on-site, the project site is located in an archaeologically sensitive area and unknown archaeological resources could be encountered during construction.

**Impact CUL-2:** Construction of the proposed project could disturb as yet unrecorded subsurface cultural resources. **(Significant Impact)**

**Mitigation Measures:**

Consistent with the Downtown Strategy 2040 Final EIR (FEIR) and as part of City Standard Specifications pursuant to the Municipal Code, the project shall implement the following measures to reduce and/or avoid impact to archaeological resources to a less than significant level.

**MM CUL-2.1:** Prior to any ground disturbance, the project shall implement the following measures:

- A qualified archaeologist shall be on-site to monitor the initial excavation. After monitoring the initial excavation, the archaeologist shall make recommendations for further monitoring if it is determined that the site has cultural resources. If the archaeologist determines that no resources are likely to be found on site, no additional monitoring shall be required. If no resources are discovered, the consulting archaeologist shall submit a report to the City's Environmental Principal Planner verifying that the required monitoring occurred and that no further mitigation is necessary.
- If evidence of any archaeological, cultural, and/or historical deposits is found, hand excavation and/or mechanical excavation will proceed to evaluate the deposits for determination of significance as defined by CEQA guidelines. In the event that human remains are found, the project shall comply with the procedures set forth by Health and Safety Code § 7050.5 and Public Resources Code § 5097.94 of the State of California.
- The archaeologist shall submit a report(s) describing the testing program and subsequent results, to the satisfaction of the City's Environmental Principal Planner. The report(s) shall identify any program mitigation that the City shall complete in order to mitigate archaeological impacts (including resource recovery and/or avoidance testing and analysis, removal, reburial, and curation of archaeological resources).
- A final report verifying completion of the mitigation program shall be submitted to the City's Supervising Environmental Planner for review and approval prior to release of the project acceptance. This report shall contain a description of the mitigation programs and results of the mitigation, including a description of the monitoring and testing program, a list of the resources found, a summary of the resources analysis methodology and conclusions, and a description of the disposition/curation of the resources.<sup>27</sup>

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<sup>27</sup> City of San José. *Integrated Final Environmental Impact Report for the Downtown Strategy 2040*. SCH #2003042127. December 2018. Page 108.

The project, with implementation of the above measures, would reduce impacts to archaeological resources by monitoring for unknown resources during construction, evaluating resources found (if any) to determine significance, and implementing the program mitigation to reduce impacts to subsurface resources to a less than significant level. **(Less than Significant Impact)**

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Would the project disturb any human remains, including those interred outside of dedicated cemeteries?

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Consistent with the Downtown Strategy 2040 FEIR, if human remains are found on-site, the project is required to implement the following measure:

- **Human Remains.** If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:
  - The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 48 hours after being given access to the site.
  - The MLD identified fails to make a recommendation; or
  - The landowner or his authorized representative rejects the recommendation of the MLD, and mediation by the NAHC fails to provide measures acceptable to the landowner.

With implementation of the above measure, the project would have a less than significant impact on human remains. **(Less than Significant Impact)**

### **3.5.2.2**      *Cumulative Impacts*

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Would the project result in a cumulatively considerable contribution to a significant cultural resources impact?

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## Historic Resources

The geographic area for historic resources is the St. James Square City Landmark Historic District boundaries. As discussed under Impact CUL-1, the park is a historic resource. No other cumulative project within the downtown historic district would impact the park and, therefore, would not cumulatively impact the district. For this reason, the project would not contribute to a significant cumulative impact on historic resources. **(Less than Significant Cumulative Impact)**

## Archaeological Resources

The geographic area for archaeological resources is the Downtown Strategy plan area. The cumulative projects (including the proposed project) located within the Downtown Strategy plan area are required to implement the measures from the Downtown Strategy 2040 FEIR listed under Impact CUL-2 to reduce impacts to archaeological resources to a less than significant level. As concluded in the Downtown Strategy 2040 FEIR, future development implementing the measures listed under Impact CUL-2, would not result in significant cumulative impacts to archaeological resources.<sup>28</sup> Because all cumulative projects would be required to mitigate for subsurface resources, the proposed project would not have a cumulative considerable contribution to a cumulatively impact. **(Less than Significant Cumulative Impact)**

## Human Remains

The geographic area for human remains is the Downtown Strategy plan area. The cumulative projects (including the proposed project) located downtown are required to implement the measure from the Downtown Strategy 2040 FEIR listed under Impact CUL-3 to reduce impacts to human remains (if encountered) to a less than significant level. As concluded in the Downtown Strategy 2040 FEIR, future development implementing the measures listed under Impact CUL-2, would not result in significant cumulative impacts to human remains.<sup>29</sup> Because all cumulative projects would be required to mitigate for human remains, the proposed project would not have a cumulative considerable contribution to a cumulatively impact. **(Less than Significant Cumulative Impact)**

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<sup>28</sup> City of San José. *Integrated Final Environmental Impact Report for the Downtown Strategy 2040*. SCH #2003042127. December 2018. Pages 93-118.

<sup>29</sup> City of San José. *Integrated Final Environmental Impact Report for the Downtown Strategy 2040*. SCH #2003042127. December 2018. Pages 93-118.

## **3.6 ENERGY**

### **3.6.1 Environmental Setting**

#### **3.6.1.1 *Regulatory Framework***

##### **Federal and State**

##### **Energy Star and Fuel Efficiency**

At the federal level, energy standards set by the EPA apply to numerous consumer products and appliances (e.g., the EnergyStar™ program). The EPA also sets fuel efficiency standards for automobiles and other modes of transportation.

##### **Renewables Portfolio Standard Program**

In 2002, California established its Renewables Portfolio Standard Program, with the goal of increasing the percentage of renewable energy in the state's electricity mix to 20 percent of retail sales by 2010. In 2008, Executive Order S-14-08 was signed into law, requiring retail sellers of electricity serve 33 percent of their load with renewable energy by 2020. In October 2015, Governor Brown signed SB 350 to codify California's climate and clean energy goals. A key provision of SB 350 requires retail sellers and publicly owned utilities to procure 50 percent of their electricity from renewable sources by 2030. SB 100, passed in 2018, requires 100 percent of electricity in California to be provided by 100 percent renewable and carbon-free sources by 2045.

##### **California Building Standards Code**

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

##### **California Green Building Standards Code**

CALGreen establishes mandatory green building standards for buildings in California. CALGreen was developed to reduce GHG emissions from buildings, promote environmentally responsible and healthier places to live and work, reduce energy and water consumption, and respond to state environmental directives. The most recent update to CALGreen went into effect on January 1, 2017, and covers five categories: planning and design, energy efficiency, water efficiency and conservation, material and resource efficiency, and indoor environmental quality.

##### **Advanced Clean Cars Program**

CARB adopted the Advanced Clean Cars program in 2012 in coordination with the EPA and National Highway Traffic Safety Administration. The program combines the control of smog-causing pollutants and GHG emissions into a single coordinated set of requirements for vehicle



model years 2015 through 2025. The program promotes development of environmentally superior passenger cars and other vehicles, as well as saving the consumer money through fuel savings.<sup>30</sup>

## Local

### Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts from planned development in the City. The policies below are specific to energy and are applicable to the proposed project.

Policy	Description
Transportation	
TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute toward transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.
Measurable Environmental Sustainability	
MS-2.3	Utilize solar orientation, (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
MS-2.11	Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g. design to maximize cross ventilation and interior daylight) and through site design techniques (e.g. orienting buildings on sites to maximize the effectiveness of passive solar design).
MS-5.5	Maximize recycling and composting from all residents, businesses, and institutions in the City
MS-6.5	Reduce the amount of waste disposed in landfills through waste prevention, reuse, and recycling of materials at venues, facilities, and special events.
MS-6.8	Maximize reuse, recycling, and composting citywide.
MS-18.6	Achieve by 2040, 50 million gallons per day of water conservation savings in San José, by reducing water use and increasing water use efficiency.

### Climate Smart San José

Approved by the City Council in February 2018, Climate Smart San José utilizes a people-focused approach, encouraging the entire San José community to join an ambitious campaign to reduce

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<sup>30</sup> California Air Resources Board. "The Advanced Clean Cars Program." Accessed April 6, 2018. <https://www.arb.ca.gov/msprog/acc/acc.htm>.

greenhouse gas emissions, save water and improve quality of life. The adoption of Climate Smart San José made San José one of the first United States cities to chart a path to achieving the greenhouse gas emissions reductions contained in the international Paris Agreement on climate change. Climate Smart San José focuses on three areas: energy, mobility, and water. Climate Smart San José encompasses nine overarching strategies:

- Transition to a renewable energy future
- Embrace our California climate
- Density our city to accommodate our future neighbors
- Make homes efficient and affordable for families
- Create clean, personalized mobility choices
- Develop integrated, accessible public transport infrastructure
- Create local jobs in our city to reduce vehicle miles traveled
- Improve our commercial building stock
- Make commercial goods movement clean and efficient

### Sustainable City Strategy

The Sustainable City Strategy is a statement of the City's commitment to becoming an environmentally and economically sustainable city by ensuring development is designed and built in a manner consistent with the efficient use of resources and environmental protection. Programs promoted under this strategy include recycling, waste disposal, water conservation, transportation demand management, and energy efficiency.

#### **3.6.1.2      *Existing Conditions***

Total energy usage in California was approximately 7,830 trillion British thermal units (Btu) in the year 2016, the most recent year for which this data was available.<sup>31</sup> Out of the 50 states, California is ranked second in total energy consumption and 48<sup>th</sup> in energy consumption per capita. The breakdown by sector was approximately 18 percent (1,384 trillion Btu) for residential uses, 19 percent (1,477 trillion Btu) for commercial uses, 24 percent (1,853 trillion Btu) for industrial uses, and 40 percent (3,116 trillion Btu) for transportation.<sup>32</sup> This energy is primarily supplied in the form of natural gas, petroleum, nuclear electric power, and hydroelectric power.

### **Electricity**

Electricity in Santa Clara County in 2017 was consumed primarily by the commercial sector (76 percent), followed by the residential sector consuming 24 percent. In 2017, a total of approximately 17,190 GWh of electricity was consumed in Santa Clara County.<sup>33</sup>

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<sup>31</sup> United States Energy Information Administration. "State Profile and Energy Estimates, 2016." Accessed April 12, 2019. <https://www.eia.gov/state/?sid=CA#tabs-2>.

<sup>32</sup> Ibid.

<sup>33</sup> CEC. Energy Consumption Data Management System. "Electricity Consumption by County." Accessed March 15, 2019. <http://ecdms.energy.ca.gov/elecbycounty.aspx>.

San José Clean Energy (SJCE) is the electricity provider for residents and businesses in the City of San José. SJCE sources the electricity and the Pacific Gas and Electric Company delivers it to customers over their existing utility lines. SJCE customers are automatically enrolled in the GreenSource program, which provides 80 percent GHG emission-free electricity. Customers can choose to enroll in SJCE's TotalGreen program at any time to receive 100 percent GHG emission-free electricity from entirely renewable sources. A minimal amount of electricity is used on-site for nighttime security lighting.

### **Natural Gas**

PG&E provides natural gas services within Santa Clara County. In 2017, approximately 1.4 percent of California's natural gas supply came from in-state production, while the remaining supply was imported from other western states and Canada.<sup>34</sup> In 2016, residential and commercial customers in California used 29 percent, power plants used 32 percent, and the industrial sector used 37 percent. Transportation accounted for one percent of natural gas use in California. In 2017, Santa Clara County used approximately 3.5 percent of the state's total consumption of natural gas.<sup>35</sup> However, the existing project site does not use natural gas.

### **Fuel for Motor Vehicles**

In 2018, 15 billion gallons of gasoline were sold in California.<sup>36</sup> The average fuel economy for light-duty vehicles (autos, pickups, vans, and sport utility vehicles) in the United States has steadily increased from about 13.1 miles per gallon (mpg) in the mid-1970s to 24.9 mpg in 2018.<sup>37</sup> Federal fuel economy standards have changed substantially since the Energy Independence and Security Act was passed in 2007. That standard, which originally mandated a national fuel economy standard of 35 miles per gallon by the year 2020, was subsequently revised to apply to cars and light trucks model years 2011 through 2020.<sup>38,39</sup> The existing project vehicle miles traveled (VMT) is estimated to be 67,862.<sup>40</sup> Assuming a 24.9 mpg, project site trips use 2,725 gallons of fuel per year.

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<sup>34</sup> California Gas and Electric Utilities. 2018 California Gas Report. Accessed March 15, 2019.

[https://www.socalgas.com/regulatory/documents/cgr/2018\\_California\\_Gas\\_Report.pdf](https://www.socalgas.com/regulatory/documents/cgr/2018_California_Gas_Report.pdf).

<sup>35</sup> CEC. "Natural Gas Consumption by County." Accessed April 12, 2019.

<http://ecdms.energy.ca.gov/gasbycounty.aspx>.

<sup>36</sup> California Department of Tax and Fee Administration. "Net Taxable Gasoline Gallons." Accessed July 29, 2019.

<https://www.cdtfa.ca.gov/taxes-and-fees/spftrpts.htm>.

<sup>37</sup> United States Environmental Protection Agency. "The 2018 EPA Automotive Trends Report: Greenhouse Gas Emissions, Fuel Economy, and Technology since 1975." March 2019.

<sup>38</sup> United States Department of Energy. *Energy Independence & Security Act of 2007*. Accessed July 29, 2019.

<http://www.afdc.energy.gov/laws/eisa>.

<sup>39</sup> Public Law 110-140—December 19, 2007. *Energy Independence & Security Act of 2007*. December 19, 2007.

<sup>40</sup> California Estimator Emissions Model Version 2016.3.2. *CalEEMod St. James Existing Conditions VMT*. July 30, 2019.

### 3.6.2 Impact Discussion

For the purpose of determining the significance of the project's impact on energy, would the project:

- 1) Result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy, or wasteful use of energy resources, during project construction or operation?
- 2) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?

#### 3.6.2.1 *Project Impacts*

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Would the project result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy, or wasteful use of energy resources, during project construction or operation?

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#### **Construction**

Construction of the project would require energy for the manufacture and transportation of building materials, site preparation and grading, and construction of the performing arts pavilion, café and restroom building, restroom and storage building, and office. Construction processes are generally designed to be efficient in order to avoid excess monetary costs. That is, equipment and fuel are not typically used wastefully on the site because of the added expense associated with renting the equipment, as well as maintenance and fuel. In addition, as discussed in Section 3.3 Air Quality, the project would implement project conditions discussed under Impact AIR-3 to minimize the idling of construction equipment thus reducing the potential for energy waste. For these reasons, the construction of the project would not use energy in a wasteful manner. **(Less than Significant Impact)**

#### **Operational**

The operation of the park would continue as it does today, with the exception of the addition of the proposed performing arts pavilion. The operation of the performing arts pavilion would result in a net increase in energy use on-site. Operation of the project would consume energy for multiple purposes including, but not limited to, building heating and cooling, lighting for the proposed buildings and performing arts pavilion, and operation of appliances and electronics. Energy would also be consumed during each vehicle trip generated by visitors. The project's estimated net increase in energy demand is summarized in Table 3.6-1.

<b>Table 3.6-1: Estimated Annual Net Project Energy Demand</b>			
	<b>Net Electricity (kWh)</b>	<b>Net Natural Gas (kBtu)</b>	<b>Net Gasoline* (gallons)</b>
Project	127,088	372,814	324,941
Note: *Gasoline demand was calculated by dividing the project's estimated VMT by 24.9 mpg (Source: Illingworth & Rodkin, Inc. <i>St. James Park Renovation/Revitalization Project Air Quality &amp; Greenhouse Gas Assessment</i> . Attachment 2: CalEEMod Modeling Output. July 29, 2019.)			

The project would comply with Title 24 and CALGreen energy efficiency measures. The project also encourages alternatives to single-vehicle occupancy trips by being proximate to transit and being on a site adequately served by pedestrian and bicycle facilities. For these reasons, operation of the project would not use energy in a wasteful manner. **(Less than Significant Impact)**

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Would the project conflict with or obstruct a state or local plan for renewable energy or energy efficiency?

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The project would be consistent with the regulations described in Section 3.6.1.1 (including General Plan policies) by:

- Complying with Title 24 and CALGreen,
- Complying with the Sustainable City Strategy
- Complying with Climate Smart San José

The project, therefore, would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency. **(Less than Significant Impact)**

### **3.6.2.2            *Cumulative Impacts***

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Would the project result in a cumulatively considerable contribution to a significant energy impact?

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By its nature, energy is a cumulative resource. The geographic area for cumulative energy impacts is the State of California. Past, present, and future development projects contribute to the state's energy impacts. If the project is determined to have a significant energy impact, it is concluded that the impact is cumulatively considerable. As discussed under Impact EN-1 and EN-2, the project would not result in significant energy impacts. Therefore, the project would not have a cumulatively considerable contribution to a significant cumulative energy impact. **(Less than Significant Cumulative Impact)**

### **3.7 GEOLOGY AND SOILS**

#### **3.7.1 Environmental Setting**

##### **3.7.1.1 *Regulatory Framework***

#### **State**

##### **Alquist-Priolo Earthquake Fault Zoning Act**

The Alquist-Priolo Earthquake Fault Zoning Act was passed following the 1971 San Fernando earthquake. The act regulates development in California near known active faults due to hazards associated with surface fault ruptures. Alquist-Priolo maps are distributed to affected cities, counties, and state agencies for their use in planning and controlling new construction. Areas within an Alquist-Priolo Earthquake Fault Zone require special studies to evaluate the potential for surface rupture to ensure that no structures intended for human occupancy are constructed across an active fault.

##### **Seismic Hazards Mapping Act**

The Seismic Hazards Mapping Act (SHMA) was passed in 1990 following the 1989 Loma Prieta earthquake. The SHMA directs the California Geological Survey (CGS) to identify and map areas prone to liquefaction, earthquake-induced landslides, and amplified ground shaking. CGS has completed seismic hazard mapping for the portions of California most susceptible to liquefaction, landslides, and ground shaking, including the central San Francisco Bay Area. The SHMA requires that agencies only approve projects in seismic hazard zones following site-specific geotechnical investigations to determine if the seismic hazard is present and identify measures to reduce earthquake-related hazards.

##### **California Building Standards Code**

The CBC prescribes standards for constructing safe buildings. The CBC contains provisions for earthquake safety based on factors including occupancy type, soil and rock profile, ground strength, and distance to seismic sources. The CBC requires that a site-specific geotechnical investigation report be prepared for most development projects to evaluate seismic and geologic conditions such as surface fault ruptures, ground shaking, liquefaction, differential settlement, lateral spreading, expansive soils, and slope stability. The CBC is updated every three years; the current version is the 2016 CBC.

##### **California Division of Occupational Safety and Health Regulations**

Excavation, shoring, and trenching activities during construction are subject to occupational safety standards for stabilization by the California Department of Industrial Relations, Division of Occupational Safety and Health (Cal/OSHA) under Title 8 of the California Code of Regulations and Excavation Rules. These regulations minimize the potential for instability and collapse that could injure construction workers on the site.

## Public Resources Code Section 5097.5

Paleontological resources are the fossilized remains of organisms from prehistoric environments found in geologic strata. They range from mammoth and dinosaur bones to impressions of ancient animals and plants, trace remains, and microfossils. These are valued for the information they yield about the history of the earth and its past ecological settings. California Public Resources Code Section 5097.5 specifies that unauthorized removal of a paleontological resource is a misdemeanor. Under the CEQA Guidelines, a project would have a significant impact on paleontological resources if it would disturb or destroy a unique paleontological resource or site or unique geologic feature.

### **Local**

#### Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts from planned development in the City. The policies below are specific to geology and soils and are applicable to the proposed project.

<b>Policy</b>	<b>Description</b>
<hr/> Environmental Considerations/Hazards	
EC-3.2	Within seismic hazard zones identified under the Alquist-Priolo Fault Zoning Act, California Seismic Hazards Mapping Act and/or by the City of San José, complete geotechnical and geological investigations and approve development proposals only when the severity of seismic hazards have been evaluated and appropriate mitigation measures are provided as reviewed and approved by the City of San José Geologist. State guidelines for evaluating and mitigating seismic hazards and the City-adopted California Building Code will be followed.
EC-4.2	Approve development in areas subject to soils and geologic hazards, including unengineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. The City of San José Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process.
EC-4.4	Require all new development to conform to the City of San José's Geologic Hazard Ordinance.
EC-4.5	Ensure that any development activity that requires grading does not impact adjacent properties, local creeks, and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have a soil disturbance of one acre or more, adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 15 and April 15.
EC-4.7	Consistent with the San José Geologic Hazard Ordinance, prepare geotechnical and geological investigation reports for projects in areas of known concern to address the



<b>Policy</b>	<b>Description</b>
	implications of irrigated landscaping to slope stability and to determine if hazards can be adequately mitigated.
EC-4.9	Permit development only in those areas where potential danger to health, safety, and welfare of the persons in that area can be mitigated to an acceptable level.

### City of San José Municipal Code

Title 24 of the San José Municipal Code includes the current California Building, Plumbing, Mechanical, Electrical, Existing Building, and Historical Building Codes. Requirements for building safety and earthquake hazard reduction are also addressed in Chapter 17.40 (Dangerous Buildings) and Chapter 17.10 (Geologic Hazards Regulations) of the Municipal Code. Requirements for grading, excavation, and erosion control are included in Chapter 17.10 (Building Code, Part 6 Excavation and Grading).

### **3.7.1.2      *Existing Conditions***

#### **Regional Geology**

The project site is located in the Santa Clara Valley, an alluvial basin, bounded by the Santa Cruz Mountains to the west, the Hamilton/Diablo Range to the east, and the San Francisco Bay to the north. The Santa Clara Valley was formed when sediments derived from the Santa Cruz Mountains and the Hamilton/Diablo Range were exposed by the continued tectonic uplift and regression of the inland sea that had previously inundated the area. Sediments of the Santa Clara Valley are composed of water-bearing Plio-Pleistocene and Upper Quaternary sediments, which are underlain by older non-water bearing rocks. The Upper Quaternary sediments consist of up to 1,000 feet of poorly sorted gravel, sand and clay, which were deposited in alluvial fan (triangular-shaped deposits of water-transported material) and deltaic (delta) depositional environments.

#### **Site Geology**

#### Soils

The project site is underlain by soils of the Urbanland-Elpaloalto complex of zero to two percent slopes.<sup>41</sup> These soils are clay alluvium soils derived from metamorphic or sedimentary rock. Urbanland-Elpaloalto complex soils are well drained, and exhibit moderate shrink-swell behavior (i.e., expansive behavior). Expansive soils shrink and swell as a result of moisture changes. These changes can cause heaving and cracking of slabs-on-grade, pavement, and structures found on shallow foundations. There are no unique geologic features on or adjacent to the project site. Due to the flat topography of the project site, the potential for erosion or landslide on or adjacent to the site is low.

<sup>41</sup> USDA. *Custom Soil Resource Report for Santa Clara Area, California, Western Part*. April 16, 2019.

## Groundwater

The project site is located within the Santa Clara Groundwater Sub-basin made up of two aquifers. Regionally, groundwater flow is estimated to generally flow to the north, towards San Francisco Bay. Groundwater in the region's deep aquifer begins between 95 to 250 feet below ground surface (bgs).<sup>42</sup> Groundwater in the region's shallow aquifer occurs between five to 30 feet bgs.<sup>43</sup>

## Seismicity

The San Francisco Bay Area is classified as the most seismically active region in the United States. The significant earthquakes that occur in the Bay Area are generally associated with crustal movement along well defined active fault zones of the San Andreas Fault System, which regionally trends in a northwesterly direction. The United States Geological Survey (USGS) estimates that there is a 72 percent chance of at least one magnitude 6.7 earthquake occurring in the Bay Area by 2043.<sup>44</sup> The Hayward Fault is the most likely to generate an earthquake of this magnitude in the next 30 years.

The site is not located within a designated Alquist-Priolo Earthquake Fault Zone<sup>45</sup> or in a Santa Clara County Fault Hazard Zone<sup>46</sup> and no active faults have been mapped on-site. Therefore, the risk of fault rupture at the site is low. Faults in the region are, however, capable of generating earthquakes of magnitude 7.0 or higher and strong to very strong ground shaking would be expected to occur at the project site during a major earthquake on one of the nearby faults. The distance between the site and these nearby faults is summarized in Table 3.7-1.

<b>Table 3.7-1: Nearby Faults</b>	
<b>Fault</b>	<b>Distance from Site</b>
San Andreas	12 miles southwest
San Gregorio	27 miles southwest
Hayward	10 miles north
Calaveras	8 miles northeast

## Liquefaction

Liquefaction is the result of seismic activity and is characterized as the transformation of loose water-saturated soils from a solid state to a liquid state during ground shaking. During ground shaking, such as during earthquakes, cyclically induced stresses may cause increased pore water pressures within

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<sup>42</sup> City of San José. *Phase I Environmental Site Assessment St. James Park*. June 24, 2019.

<sup>43</sup> SCVWD. *Revised Final Groundwater Vulnerability Study Santa Clara County, California*. October 2010. Page 120.

<sup>44</sup> USGS. "Earthquake Outlook for the San Francisco Bay Region 2014 – 2043." August 2016. Accessed January 21, 2019. <https://pubs.usgs.gov/fs/2016/3020/fs20163020.pdf>.

<sup>45</sup> California Department of Conservation. "CGS Information Warehouse." Accessed January 11, 2019. <http://www.quake.ca.gov/gmaps/WH/regulatorymaps.htm>.

<sup>46</sup> Santa Clara County. *Santa Clara County Geologic Hazard Zones*. Map. October 26, 2012.

the soil voids, resulting in liquefaction. The project site is located within a state-designated and Santa Clara County liquefaction hazard zone.<sup>47,48</sup>

### Lateral Spreading

Lateral spreading is a type of ground failure related to liquefaction. It consists of the horizontal displacement of flat-lying alluvial material toward an open area, such as the steep bank of a stream channel. The project site is relatively flat and is not adjacent to a creek or any other unsupported face. For these reasons, the potential for lateral spreading is low.

### **Paleontological Resources**

Geologic units of Holocene age are generally not considered sensitive for paleontological resources, because biological remains younger than 10,000 years are not usually considered fossils; however, mammoth remains were found along the nearby Guadalupe River in San José in 2005. These sediments have low potential to yield fossil resources or to contain significant nonrenewable paleontological resources. These recent sediments, however, may overlie older Pleistocene sediments with high potential to contain paleontological resources. These older sediments, often found at depths of greater than 10 feet below the ground surface, have yielded the fossil remains of plants and extinct terrestrial Pleistocene vertebrates. Based on the underlying geologic formation of the project site, the Downtown Strategy 2040 FEIR found the project site to have a high sensitivity (at depth) for paleontological resources.<sup>49</sup>

### **3.7.2      Impact Discussion**

For the purpose of determining the significance of the project's impact on geology and soils, would the project:

- 1) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:
  - Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault (refer to Division of Mines and Geology Special Publication 42)?
  - Strong seismic ground shaking?
  - Seismic-related ground failure, including liquefaction?
  - Landslides?
- 2) Result in substantial soil erosion or the loss of topsoil?

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<sup>47</sup> California Department of Conservation. "Earthquake Zones of Required Investigation." Accessed January 21, 2019. <https://maps.conservation.ca.gov/cgs/EOZApp/app/>.

<sup>48</sup> Santa Clara County. "Geologic Hazard Zones." Accessed January 21, 2019. <https://sccplanning.maps.arcgis.com/apps/webappviewer/index.html?id=5ef8100336234fbdafc5769494cfe373>.

<sup>49</sup> City of San José. *Integrated Final Environmental Impact Report for the Downtown Strategy 2040*. SCH #2003042127. December 2018. Page 107.

- 3) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?
- 4) Be located on expansive soil, as defined in Section 1803.5.3 of the California Building Code (2016), creating substantial direct or indirect risks to life or property?
- 5) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?
- 6) Directly or indirectly destroy a unique paleontological resource or site or unique geological feature?

### **3.7.2.1      *Project Impacts***

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Would the project directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault; strong seismic ground shaking; seismic-related ground failure, including liquefaction; or landslides?

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The proposed project is located within a State of California Liquefaction Hazard Zone and near existing active faults that can cause substantial ground shaking. The project would be required to implement the below project condition, consistent with the General Plan and current standard practices in the City of San José, to ensure substantial adverse impacts would not occur.

#### **Project Condition:**

- The project shall be constructed in conformance with the recommendation of the design-level geotechnical investigation, which shall be reviewed and approved by the City Geologist. The project would be built using standard engineering and seismic safety design techniques and shall meet the requirements of the 2019 California Building Standards Code, or subsequent adopted codes. The project shall be designed to withstand soil hazards identified on the site and the project shall be designed to reduce the risk of life or property to the extent feasible and in compliance with the Building Code.

With implementation of the above project condition, seismic and seismic-related impacts would be less than significant and the project would not exacerbate existing geologic conditions on adjacent sites. **(Less than Significant Impact)**

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Would the project result in substantial erosion or the loss of topsoil?

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Ground disturbance would be required for site preparation, removal of existing improvements, and on-site improvements. Ground disturbance would expose soils and increase the potential for wind or water related erosion and sedimentation at the site until construction is complete.

The City's National Pollutant Discharge Elimination System (NPDES) Municipal Permit, urban runoff policies, and the Municipal Code are the primary means of enforcing erosion control measures through the grading and building permit process. The Downtown Strategy 2040 FEIR concluded that with the regulatory programs currently in place, the possible impacts of accelerated erosion during construction would be less than significant.<sup>50</sup> The project is required to comply with applicable City regulatory programs pertaining to construction-related erosion. Because the project would comply with the regulations identified in the Downtown Strategy 2040 FEIR, it would have a less than significant soil erosion impact. Further, the project would be required to implement the project conditions below during construction.

**Project Conditions:**

- Schedule all excavation and grading work in dry weather months or weatherize construction sites.
- Cover stockpiles and excavated soils with secured tarps or plastic sheeting.
- Install ditches to divert runoff around excavations and graded areas if necessary.
- Construct the project in accordance with standard engineering practices in the California Building Code, as adopted by the City of San José. Obtain a grading permit from the Department of Public Works prior to the issuance of a Public Works clearance. These standard practices would ensure that the future building on the site is designed to properly account for soils-related hazards on the site.

With implementation of the above project conditions, and compliance with applicable regulations and City policies, construction of the proposed project would have a less than significant impact due to erosion. **(Less than Significant Impact)**

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

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The project site is located in an area of moderate expansion potential and very strong ground shaking during an earthquake. As discussed in Impact GEO-1, the proposed project would be constructed in compliance with the CBC to address soil instability and development of the project site would not change or exacerbate the geologic conditions of the project area and would not result in a significant geology hazards impact. **(Less than Significant Impact)**

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Would the project be located on expansive soil, as defined in Section 1803.5.3 of the California Building Code (2016), creating substantial direct or indirect risks to life or property?

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The project site is located on expansive soil as defined in Section 1803.5.3 of the CBC. Development of the proposed project, however, would be required to implement the project condition, in

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<sup>50</sup> City of San José. *Integrated Final Environmental Impact Report for the Downtown Strategy 2040*. SCH #2003042127. December 2018. Page 187-189.

conformance with the General Plan and current practices in the City of San José, below to lessen impacts from expansive soils to a less than significant level.

**Project Condition:**

- The project shall retain a qualified professional to prepare a design-level geotechnical investigation for the project and submit to the City of San José Public Works Department for review and approval. The project shall implement the recommendations in the investigation to minimize impacts from expansive soils. Options to address these conditions may range from removal of the problematic soils and replacement, as needed, with properly conditioned and compacted fill, lime treat soils, and to design and construct improvements to withstand the forces exerted during the expected shrink-swell cycles and settlements.

With implementation of the above project condition, the proposed project would result in a less than significant impact due to expansive soils. **(Less than Significant Impact)**

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Would the project have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of waste water?

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The project site is located within an urbanized area of San José where sewers are available to dispose of wastewater from the project site. The site would not need to support septic tanks or alternative wastewater disposal systems. **(No Impact)**

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Would the project directly or indirectly destroy a unique paleontological resource or site or unique geological feature?

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Excavation on-site would be less than five feet below grade, and would not expose Pleistocene sediments. As a result, paleontological resources would not be discovered because of the shallow ground disturbance and because no paleontological resources have been discovered in this area of San José. The project would implement the project conditions below to reduce potential impacts to paleontological resources.

**Project Conditions:**

- The City shall ensure all construction personnel receive paleontological awareness training that includes information on the possibility of encountering fossils during construction, the types of fossils likely to be seen, based on past finds in the project area and proper procedures in the event fossils are encountered. Worker training shall be prepared and presented by a qualified paleontologist.
- If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee shall be notified, and a qualified professional paleontologist shall assess the nature and importance of the find and recommend appropriate treatment. Treatment may

include, but is not limited to, preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The project applicant shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of PBCE or the Director's designee.

With implementation of the above project conditions, potential impacts to paleontological resources would be reduced to a less than significant level. **(Less than Significant Impact)**

### **3.7.2.2 Cumulative Impacts**

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Would the project result in a cumulatively considerable contribution to a significant geology and soils impact?

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The cumulative projects in the project vicinity would be subject to similar geology, soils, and seismicity conditions as the proposed project. All cumulative projects occurring within San José, would implement standard permit conditions related to geologic hazards and would be constructed consistent with the CBC and design-level geotechnical recommendations in order to avoid impacts from seismicity, and geologic and soils hazards, and/or reduce them to a less than significant level. The cumulative projects would also be subject to similar CEQA requirements and standard permit conditions as the proposed project with regard to avoidance and lessening of paleontological impacts. For these reasons, the cumulative projects, combined with the proposed project, would not result in significant cumulative geology and soils impacts. **(Less than Significant Cumulative Impact)**

### **3.7.3 Non-CEQA Effects**

Per *California Building Industry Association v. Bay Area Air Quality Management District*, 62 Cal. 4th 369 (BIA v. BAAQMD), effects of the environment on the project are not considered CEQA impacts. The following discussion is included for informational purposes only because the City of San José has policies that address existing geology and soils conditions affecting a proposed project.

General Plan Policy EC-4.2 states that development is allowed in areas subject to soils and geologic hazards, including unengineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. To ensure this, the policy requires the City of San José Geologist to review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process. In addition, Policy EC-4.4 requires all new development to conform to the Geologic Hazard Ordinance.

Geologic conditions in the project area would require that the proposed structures be designed and built in conformance with the requirements of the CBC. The Downtown Strategy 2040 FEIR



concluded that adherence to the CBC would reduce seismic-related impacts to a less than significant level.<sup>51</sup>

Because the proposed project would be required to comply with the geotechnical report and geological investigation report, CBC, and regulations identified in the Downtown Strategy 2040 FEIR that ensure geologic hazards are adequately addressed, the project would comply with General Plan policies EC-4.2 and EC-4.4.<sup>52</sup>

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<sup>51</sup> City of San José. *Integrated Final Environmental Impact Report for the Downtown Strategy 2040*. SCH #2003042127. December 2018. Page 140.

<sup>52</sup> City of San José. *Integrated Final Environmental Impact Report for the Downtown Strategy 2040*. SCH #2003042127. December 2018. Pages 132-141.

### 3.8 GREENHOUSE GAS EMISSIONS

The following discussion is based in part on a greenhouse gas assessment prepared by Illingworth & Rodkin, Inc. dated July 29, 2019. A copy of this report is included in Appendix B.

#### 3.8.1 Environmental Setting

##### 3.8.1.1 *Background Information*

Gases that trap heat in the atmosphere, referred to as GHGs, regulate the earth's temperature. This phenomenon, known as the greenhouse effect, is responsible for maintaining a habitable climate. The most common GHGs are carbon dioxide (CO<sub>2</sub>) and water vapor but there are several others, most importantly methane (CH<sub>4</sub>), nitrous oxide (N<sub>2</sub>O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF<sub>6</sub>). These are released into the earth's atmosphere through a variety of natural processes and human activities. Sources of GHGs are generally as follows:

- CO<sub>2</sub> and N<sub>2</sub>O are byproducts of fossil fuel combustion.
- N<sub>2</sub>O is associated with agricultural operations such as fertilization of crops.
- CH<sub>4</sub> is commonly created by off-gassing from agricultural practices (e.g., keeping livestock) and landfill operations.
- Chlorofluorocarbons (CFCs) were widely used as refrigerants, propellants, and cleaning solvents but their production has been stopped by international treaty.
- HFCs are now used as a substitute for CFCs in refrigeration and cooling.
- PFCs and SF<sub>6</sub> emissions are commonly created by industries such as aluminum production and semi-conductor manufacturing.

Each GHG has its own potency and effect upon the earth's energy balance. This is expressed in terms of a global warming potential (GWP), with CO<sub>2</sub> being assigned a value of one and SF<sub>6</sub> being several orders of magnitude stronger. In GHG emission inventories, the weight of each gas is multiplied by its GWP and is measured in units of CO<sub>2</sub> equivalents (CO<sub>2</sub>e).

An expanding body of scientific research supports the theory that global climate change is currently affecting changes in weather patterns, average sea level, ocean acidification, chemical reaction rates, and precipitation rates, and that it will increasingly do so in the future. The climate and several naturally occurring resources within California are adversely affected by the global warming trend. Increased precipitation and sea level rise will increase coastal flooding, saltwater intrusion, and degradation of wetlands. Mass migration and/or loss of plant and animal species could also occur. Potential effects of global climate change that could adversely affect human health include more extreme heat waves and heat-related stress; an increase in climate-sensitive diseases; more frequent and intense natural disasters such as flooding, hurricanes and drought; and increased levels of air pollution.

### **3.8.1.2      *Regulatory Framework***

#### **State**

##### **Assembly Bill 32**

Under the California Global Warming Solutions Act, also known as AB 32, CARB established a statewide GHG emissions cap for 2020, adopted mandatory reporting rules for significant sources of GHGs, and adopted a comprehensive plan, known as the Climate Change Scoping Plan, identifying how emission reductions would be achieved from significant GHG sources.

In 2016, SB 32 was signed into law, amending the California Global Warming Solution Act. SB 32, and accompanying Executive Order B-30-15, require CARB to ensure that statewide GHG emissions are reduced to 40 percent below the 1990 level by 2030. CARB updated its Climate Change Scoping Plan in December of 2017 to express the 2030 statewide target in terms of million metric tons of CO<sub>2</sub>E (MMTCO<sub>2</sub>e). Based on the emissions reductions directed by SB 32, the annual 2030 statewide target emissions level for California is 260 MMTCO<sub>2</sub>e.

##### **Senate Bill 375**

SB 375, known as the Sustainable Communities Strategy and Climate Protection Act, was signed into law in September 2008. SB 375 builds upon AB 32 by requiring CARB to develop regional GHG reduction targets for automobile and light truck sectors for 2020 and 2035. The per-capita GHG emissions reduction targets for passenger vehicles in the San Francisco Bay Area include a seven percent reduction by 2020 and a 15 percent reduction by 2035.

Consistent with the requirements of SB 375, the Metropolitan Transportation Commission (MTC) partnered with the Association of Bay Area Governments (ABAG), BAAQMD, and the Bay Conservation and Development Commission to prepare the region's Sustainable Communities Strategy (SCS) as part of the Regional Transportation Plan process. The SCS is referred to as Plan Bay Area 2040. Plan Bay Area 2040 establishes a course for reducing per-capita GHG emissions through the promotion of compact, high-density, mixed-use neighborhoods near transit, particularly within identified Priority Development Areas (PDAs).

#### **Regional and Local**

##### **2017 Clean Air Plan**

To protect the climate, the 2017 CAP (prepared by BAAQMD) includes control measures designed to reduce emissions of methane and other super-GHGs that are potent climate pollutants in the near-term, and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.

##### **BAAQMD CEQA Air Quality Guidelines**

The BAAQMD CEQA Air Quality Guidelines are intended to serve as a guide for those who prepare or evaluate air quality impact analyses for projects and plans in the San Francisco Bay Area. The jurisdictions in the San Francisco Bay Area Air Basin utilize the thresholds and methodology for assessing GHG impacts developed by BAAQMD within the CEQA Air Quality Guidelines. The

guidelines include information on legal requirements, BAAQMD rules, methods of analyzing impacts, and recommended mitigation measures.

#### Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts from planned development in the City. The policies below are specific to GHG emissions and are applicable to the proposed project.

<b>Policy</b>	<b>Description</b>
<b>Transportation</b>	
TR-2.8	Require new development to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
TR-2.18	Provide bicycle storage facilities as identified in the Bicycle Master Plan.
TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute toward transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.
TR-3.9	Ensure that all street improvements allow for easier and more efficient bus operations and improved passenger access and safety, while maintaining overall pedestrian and bicycle safety and convenience.
<b>Measurable Environmental Sustainability</b>	
MS-1.1	Continue to demonstrate leadership in the development and implementation of green building policies and practices. Ensure that all projects are consistent with and/or exceed the City's Green Building Ordinance and City Council Policies as well as State or regional policies which require that projects incorporate various green building principles into their design and construction.
MS-1.2	Continually increase the number and proportion of buildings within San José that make use of green building practices by incorporating those practices into both new construction and retrofit of existing structures.
MS-2.3	Utilize solar orientation, (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
MS-2.11	Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g. design to maximize cross ventilation and interior daylight) and through site design techniques (e.g. orienting buildings on sites to maximize the effectiveness of passive solar design).

<b>Policy</b>	<b>Description</b>
MS-5.5	Maximize recycling and composting from all residents, businesses, and institutions in the City
MS-6.5	Reduce the amount of waste disposed in landfills through waste prevention, reuse, and recycling of materials at venues, facilities, and special events.
MS-6.8	Maximize reuse, recycling, and composting citywide.
MS-14.4	Implement the City's Green Building Policies so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.
MS-17.2	Ensure that development within San José is planned and built in a manner consistent with sustainable use of current and future water supplies by encouraging sustainable development practices, including low-impact development, water-efficient development and green building techniques. Support the location of new development within the vicinity of the recycled water system and promote expansion of the SBWR system to areas planned for new development. Residential development outside of the Urban Service Area will only be approved at minimal levels and only allowed to use non-recycled water at urban intensities. For residential development outside of the Urban Service Area, restrict water usage to well water, rainwater collection or other similar sustainable practice. Non-residential development may use the same sources and potentially make use of recycled water, provided that its use will not result in conflicts with other General Plan policies, including geologic or habitat impacts. To maximize the efficient and environmentally beneficial use of water, outside of the Urban Service Area, limit water consumption for new development so that it does not diminish the water supply available for projected development within San José's urbanized areas.
MS-21.1	Manage the Community Forest to achieve San José environmental goals for water and energy conservation, wildlife habitat preservation, stormwater retention, heat reduction in urban areas, energy conservation, and the removal of carbon dioxide from the atmosphere.
MS-21.3	Ensure that San José's Community Forest is comprised of species that have low water requirements and are well adapted to its Mediterranean climate. Select and plant diverse species to prevent monocultures that are vulnerable to pest invasions. Furthermore, consider the appropriate placement of tree species and their lifespan to ensure the perpetuation of the Community Forest.
<b>Compact Development</b>	
CD-2.1	<p>Promote the Circulation Goals and Policies in this Plan. Create streets that promote pedestrian and bicycle transportation by following applicable goals and policies in the Circulation section of this Plan.</p> <p>a) Design the street network for its safe shared use by pedestrians, bicyclists, and vehicles. Include elements that increase driver awareness.</p>

<b>Policy</b>	<b>Description</b>
	<p>b) Create a comfortable and safe pedestrian environment by implementing wider sidewalks, shade structures, attractive street furniture, street trees, reduced traffic speeds, pedestrian-oriented lighting, mid-block pedestrian crossings, pedestrian-activated crossing lights, bulb-outs and curb extensions at intersections, and on-street parking that buffers pedestrians from vehicles.</p> <p>c) Consider support for reduced parking requirements, alternative parking arrangements, and Transportation Demand Management strategies to reduce area dedicated to parking and increase area dedicated to employment, housing, parks, public art, or other amenities. Encourage de-coupled parking to ensure that the value and cost of parking are considered in real estate and business transactions.</p>
CD-2.5	Integrate Green Building Goals and Policies of this Plan into site design to create healthful environments. Consider factors such as shaded parking areas, pedestrian connections, minimization of impervious surfaces, incorporation of stormwater treatment measures, appropriate building orientations, etc.
CD-3.3	Within new development, create a pedestrian friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities and by requiring pedestrian connections between building entrances and other site features and adjacent public streets.
CD-5.1	Design areas to promote pedestrian and bicycle movements and to facilitate interaction between community members and to strengthen the sense of community.

### GHG Reduction Strategy

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

The primary test for consistency with the City's GHG Reduction Strategy is conformance with the General Plan Land Use/Transportation Diagram and supporting policies. CEQA clearance for development proposals are required to address the consistency of individual projects with the goals and policies in the General Plan designed to reduce GHG emissions. Compliance with the mandatory measures and voluntary measures (if required by the City) would ensure an individual project's consistency with the GHG Reduction Strategy. Projects that are consistent with the GHG Reduction Strategy would have a less than significant impact related to GHG emissions through 2020 and would not conflict with targets in the currently adopted Climate Change Scoping Plan through 2020.

The environmental impacts of the GHG Reduction Strategy were analyzed in the Integrated Final Program Environmental Impact Report for the Envision San José 2040 General Plan (General Plan IFEIR), and as supplemented.<sup>53</sup> Beyond 2020, the emission reductions in the GHG Reduction

<sup>53</sup> City of San José. *Integrated Final Program Environmental Impact Report for the Envision San José 2040 General Plan*. SCH# 2009072096. September 2011.

Strategy are not large enough to meet the City’s identified 3.04 metric tons (MT) CO<sub>2</sub>e/SP efficiency metric for 2035. An additional reduction of 5,392,000 MT CO<sub>2</sub>e per year would be required for the projected service population to meet the City’s target for 2035.<sup>54</sup>

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

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

Applicable GHG Reduction Strategy measures, which correlate to General Plan policies (which are detailed above), for municipal projects are listed below.

<b>Measure Type</b>	<b>General Plan Policy</b>
Built Environment	
Energy Efficiency and Green Building Practices	MS-1.1, MS-1.2, MS-2.11, MS-14.4
Water Use	MS-17.2, MS-21.3
Recycling and Waste	
Recycling and Waste	MS-6.5
Transportation and Land Use	
Bicycle and Pedestrian Facilities, Facilitating Transit, Compact Development	CD-2.1, CD-2.5, CD-3.3, CD-5.1, TR-2.8, TR-2.18, TR-3.3, TR-3.9

<sup>54</sup> As described in General Plan IFEIR, the 2035 efficiency target above reflects a straight-line 40 percent emissions reduction compared to the projected citywide emissions (10.90 MT CO<sub>2</sub>e) for San José in 2020. It was developed prior to issuance of Executive Order S-30-15 in April 2015, which calls for a statewide reduction target of 40 percent by 2030 (five years earlier) to keep on track with the more aggressive target of 80 percent reduction by 2050.

### **3.8.1.3      *Existing Conditions***

Unlike emissions of criteria and toxic air pollutants, which have regional and local impacts, emissions of GHGs have a broader, global impact. Global warming is a process whereby GHGs accumulating in the upper atmosphere contribute to an increase in the temperature of the earth and changes in weather patterns. The principal GHGs contributing to global warming include CO<sub>2</sub>, methane, nitrous oxide, and fluorinated compounds. Emissions of GHGs contributing to global climate change are attributable in large part to human activities associated with the transportation, manufacturing, utility, and agricultural sectors.

The project site currently generates GHG emissions from vehicles traveling to and from the site.

### **3.8.2      Impact Discussion**

For the purpose of determining the significance of the project's impact on greenhouse gas emissions, would the project:

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

As described previously, BAAQMD adopted GHG emissions thresholds of significance to assist in the review of projects under CEQA. These thresholds were designed to establish the level at which BAAQMD has determined that GHG emissions would cause significant environmental impacts. The GHG emissions thresholds identified by BAAQMD are 1,100 metric tons (MT) of CO<sub>2</sub>e per year or 4.6 MT CO<sub>2</sub>e per service population per year. A project that is in compliance with the City's Climate Action Plan (a qualified GHG Reduction Strategy) is considered to have a less than significant GHG impact regardless of its emissions.

The numeric thresholds set by BAAQMD and included within the City's Climate Action Plan were calculated to achieve the state's 2020 target for GHG emissions levels (and not the SB 32 specified target of 40 percent below the 1990 GHG emissions level). The project would be constructed in one phase over a period of two years. The project, therefore, would not be fully constructed and in use until after December 31, 2020. Because the project would be completed in the post-2020 timeframe, the project would not be covered under the City's Climate Action Plan.

CARB has completed a Scoping Plan, which will be utilized by BAAQMD to establish the 2030 GHG efficiency threshold. BAAQMD has yet to publish a quantified GHG efficiency threshold for 2030. For the purposes of this analysis, a bright-line threshold of 660 MT CO<sub>2</sub>e/year has been calculated for 2030 based on the GHG reduction goals of SB 32 and Executive Order B-30-15, taking into account the 1990 inventory and the projected 2030 statewide population and employment levels.



### 3.8.2.1 *Project Impacts*

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Would the project generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment?

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GHG emissions associated with development of the project would occur over the short-term from construction activities, consisting primarily of emissions from equipment exhaust and worker and vendor trips. There would also be long-term operational emissions associated with vehicular traffic to and from the project site, energy and water usage, and solid waste disposal. Emissions for the project are discussed below and were analyzed using the methodology recommended in the BAAQMD CEQA Air Quality Guidelines.

#### **Construction Emissions**

GHG emissions associated with construction were computed to be 664 MT of CO<sub>2</sub>e. These are the emissions from on-site operation of construction equipment, vendor and hauling truck trips, and worker trips. Neither the City nor BAAQMD have an adopted threshold of significance for construction-related GHG emissions, though BAAQMD recommends quantifying emissions and disclosing that GHG emissions would occur during construction. **(Less than Significant Impact)**

#### **Operational Emissions**

The CalEEMod model, along with the net project vehicle trip generation rates, was used to estimate net daily emissions associated with operation of the project. Operation of the project is estimated to generate a net increase of 830 MT of CO<sub>2</sub>e for operational year 2021 and 655 MT of CO<sub>2</sub>e for the year 2030, as outlined in Table 3.8-1 below.<sup>55</sup>

<b>Table 3.8-1: Estimated Annual Net Project GHG Emissions</b>		
<b>Source Category</b>	<b>Proposed Project in Operational Year 2021</b>	<b>Proposed Project in Year 2030</b>
	MT CO <sub>2</sub> e/year	
Area	<1	<1
Energy Consumption	37	37
Mobile Adjusted	611	475
Solid Waste Generation	<1	<1
Water Usage	4	4
Total	654	518
<i>Significance Threshold</i>	660	
<i>Significant (Exceeds thresholds)?</i>	<i>No</i>	<i>No</i>

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<sup>55</sup> Operation of the project assumes a maximum of 93 large events/concerts per year.

As shown in Table 3.8-1, the project would not exceed the significance threshold in operational year 2021 or in 2030. The project, therefore, would not result in significant GHG emissions impact. **(Less than Significant Impact)**

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Would the project conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of GHGs?

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### **2017 Climate Action Plan**

As discussed in detail in Section 3.3.2 Air Quality, the project is consistent with the 2017 CAP because it supports the primary goals of the 2017 CAP and does not interfere with the implementation of the CAP control measures. **(Less than Significant Impact)**

### **Envision San José 2040 General Plan**

The project is consistent with the General Plan policies identified in Section 3.8.1.2 Regulatory Framework to reduce GHG emissions by:

- Constructing in accordance with CALGreen and Title 24
- Planting trees for shade
- Planting trees and landscaping that is appropriate for this climate
- Providing recycling collection bins on-site
- Creating a pedestrian friendly environment within the park with shade trees, pedestrian pathways, and amenities
- Providing bicycle parking on-site
- Continuing to accommodate LRT service through the site
- Installing a new mid-block pedestrian crosswalk on North 3<sup>rd</sup> Street

In addition, the project site is served by existing pedestrian facilities, and existing bicycle and transit facilities with regional connections. The automobile-alternative modes of transportation available at the project site promotes alternatives to single-occupancy vehicle trips, thus reducing GHG emissions. In addition, there is limited parking spaces available adjacent to the site, which encourages the use of public transportation, carpooling, and other alternatives to single-occupancy vehicle trips to and from the site. **(Less than Significant Impact)**

### **GHG Reduction Strategy**

The GHG Reduction Strategy is based on the General Plan land use assumptions and the project is consistent with the General Plan land use assumptions. The project is also consistent with the applicable GHG Reduction measures and their associated General Plan policies listed in Section 3.8.1.2 by:

- Constructing in accordance with CALGreen and Title 24
- Planting trees and landscaping that is appropriate for this climate
- Providing recycling collection bins on-site

- Creating a pedestrian friendly environment within the park with shade trees, pedestrian pathways, and amenities
- Providing bicycle parking on-site
- Continuing to accommodate LRT service through the site
- Installing a new mid-block pedestrian crosswalk on North 3<sup>rd</sup> Street

The project, therefore, would be consistent with the City's GHG Reduction Strategy. **(Less Than Significant Impact)**

### 3.8.2.2 *Cumulative Impacts*

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Would the project result in a cumulatively considerable contribution to a significant GHG emissions impact?

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Past, present, and future development projects (including the cumulative projects) worldwide contribute to global climate change. No single project is sufficient in size to, by itself, change the global average temperature. Therefore, due to the nature of GHG impacts, a significant project impact is a significant cumulative impact. As discussed under Impacts GHG-1 and GHG-2, the project would not result in significant GHG impact. The project, therefore, would not result in a cumulatively considerable contribution to a significant cumulative GHG impact. **(Less than Significant Cumulative Impact)**

## **3.9 HAZARDS AND HAZARDOUS MATERIALS**

The following discussion is based on a Phase I Environmental Site Assessment completed for the project by the City of San José Environmental Services Department dated June 19, 2019. A copy of this report is included in Appendix E.

### **3.9.1 Environmental Setting**

#### **3.9.1.1 *Regulatory Framework***

##### **Overview**

The storage, use, generation, transport, and disposal of hazardous materials and waste are highly regulated under federal and state laws. Federal regulations and policies related to development include the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund, and the Resource Conservation and Recovery Act (RCRA). In California, the EPA has granted most enforcement authority over federal hazardous materials regulations to the California Environmental Protection Agency (CalEPA). In turn, local agencies have been granted responsibility for implementation and enforcement of many hazardous materials regulations under the Certified Unified Program Agency (CUPA) program.

Worker health and safety and public safety are key issues when dealing with hazardous materials. Proper handling and disposal of hazardous material is vital if it is disturbed during project construction. Cal/OSHA enforces state worker health and safety regulations related to construction activities. Regulations include exposure limits, requirements for protective clothing, and training requirements to prevent exposure to hazardous materials. Cal/OSHA also enforces occupational health and safety regulations specific to lead and asbestos investigations and abatement.

##### **Federal and State**

#### **Federal Aviation Regulations Part 77**

Federal Aviation Regulations, Part 77 Objects Affecting Navigable Airspace (FAR Part 77) sets forth standards and review requirements for protecting the airspace for safe aircraft operation, particularly by restricting the height of potential structures and minimizing other potential hazards (such as reflective surfaces, flashing lights, and electronic interference) to aircraft in flight. These regulations require that the Federal Aviation Administration (FAA) be notified of certain proposed construction projects located within an extended zone defined by an imaginary slope radiating outward for several miles from an airport's runways, or which would otherwise stand at least 200 feet in height above the ground.

#### **Government Code Section 65962.5**

Section 65962.5 of the Government Code requires CalEPA to develop and update a list of hazardous waste and substances sites, known as the Cortese List. The Cortese List is used by state and local agencies and developers to comply with CEQA requirements. The Cortese List includes hazardous substance release sites identified by the Department of Toxic Substances Control (DTSC), State Water Resources Control Board (SWRCB), and Santa Clara County.

## California Accidental Release Prevention Program

The California Accidental Release Prevention (CalARP) Program aims to prevent accidental releases of regulated hazardous materials that represent a potential hazard beyond the boundaries of property. Facilities that are required to participate in the CalARP program use or store specified quantities of toxic and flammable substances (hazardous materials) that can have off-site consequences if accidentally released. The County of Santa Clara Department of Environmental Health reviews CalARP risk management plans as the CUPA.

## Asbestos-Containing Materials

Friable asbestos is any asbestos containing material (ACM) that, when dry, can easily be crumbled or pulverized to a powder by hand, allowing the asbestos particles to become airborne. Common examples of products that have been found to contain friable asbestos include acoustical ceilings, plaster, wallboard, and thermal insulation for water heaters and pipes. Common examples of non-friable ACMs are asphalt roofing shingles, vinyl floor tiles, and transite siding made with cement. The EPA phased out use of friable asbestos products between 1973 and 1978. National Emission Standards for Hazardous Air Pollutants guidelines require that potentially friable ACMs be removed prior to building demolition or remodeling that may disturb the ACMs.

## CCR Title 8, Section 1532.1

The United States Consumer Product Safety Commission banned the use of lead-based paint in 1978. Removal of older structures with lead-based paint is subject to requirements outlined by Cal/OSHA Lead in Construction Standard, CCR Title 8, Section 1532.1 during demolition activities. Requirements include employee training, employee air monitoring, and dust control. If lead-based paint is peeling, flaking, or blistered, it is required to be removed prior to demolition.

## Municipal Regional Permit Provision C.12.f

Polychlorinated biphenyls (PCBs) were produced in the United States between 1955 and 1978 and used in hundreds of industrial and commercial applications, including building and structure materials such as plasticizers, paints, sealants, caulk, and wood floor finishes. In 1979, the EPA banned the production and use of PCBs due to their potential harmful health effects and persistence in the environment. PCBs can still be released to the environment today during demolition of buildings that contain legacy caulks, sealants, or other PCB-containing materials.

With the adoption of the San Francisco Bay Region Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) Permit (MRP) by the San Francisco Bay Regional Water Quality Control Board on November 19, 2015, Provision C.12.f requires that permittees develop an assessment protocol methodology for managing materials with PCBs in applicable structures planned for demolition to ensure PCBs do not enter municipal storm drain systems.<sup>56</sup> Municipalities throughout the Bay Area are currently modifying demolition permit processes and implementing PCB screening protocols to comply with Provision C.12.f (see Section 3.10 Hydrology

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<sup>56</sup> California Regional Water Quality Control Board. *San Francisco Bay Region Municipal Regional Stormwater NPDES Permit*. November 2015.

and Water Quality). As of July 1, 2019, buildings constructed between 1955 and 1978 that are proposed for demolition must be screened for the presence of PCBs prior to the issuance of a demolition permit.

## **Regional and Local**

### Norman Y. Mineta San José International Airport Comprehensive Land Use Plan

The Norman Y. Mineta San José International Airport (Airport) Comprehensive Land Use Plan (CLUP) is intended to safeguard the general welfare of the inhabitants within the vicinity of the Airport and aircraft occupants. The CLUP establishes an airport land use planning area, referred to as the Airport Influence Area (AIA). The AIA is a composite of areas surrounding the Airport that are affected by noise, height, and safety considerations. The CLUP includes land use compatibility guidelines, with topics such as noise and building height, to ensure that surrounding land uses and development do not interfere with the Airport's continuing operations.

### Envision San José 2040 General Plan

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

<b>Policy</b>	<b>Description</b>
<b>Environmental Contamination</b>	
EC-7.1	For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment.
EC-7.2	Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, state and federal laws, regulations, guidelines and standards.
EC-7.8	Where an environmental review process identifies the presence of hazardous materials on a proposed development site, the City will ensure that feasible mitigation measures that will satisfactorily reduce impacts to human health and safety and to the environment are required of or incorporated into the projects. This applies to hazardous materials found in the soil, groundwater, soil vapor, or in existing structures.
<b>Transportation</b>	
TR-14.2	Regulate development in the vicinity of airports in accordance with Federal Aviation Administration regulations to maintain the airspace required for the safe operation of these facilities and avoid potential hazards to navigation.

<b>Policy</b>	<b>Description</b>
TR-14.3	For development in the Airport Influence Area overlays, ensure that land uses and development are consistent with the height, safety and noise policies identified in the Santa Clara County Airport Land Use Commission (ALUC) comprehensive land use plans for Mineta San José International and Reid Hillview airports, or find, by a two-thirds vote of the governing body, that the proposed action is consistent with the purposes of Article 3.5 of Chapter 4 of the State Aeronautics Act, Public Utilities Code Section 21670 et seq.
Community Health, Safety, and Wellness	
CD-5.8	Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.

### San José Emergency Operations and Evacuation Plans

The City of San José's Emergency Operations Plan includes standard operating procedures for flood events, heat waves, off-airport aviation accidents, power outages, terrorism, and urban/wildland interface fires. The Citywide Emergency Evacuation Plan sets forth the responsibilities of City personnel and coordination with other agencies to ensure the safety of San José citizens in the event of a fire, geologic, or other hazardous occurrence.

#### **3.9.1.2      *Existing Conditions***

Development of the park on-site was completed in 1868-1869 with the construction of paths, fences, and vegetation. Since 1880, the general use of the project site to present day has been for recreational park use.<sup>57</sup> The project site is relatively flat with open grassy lawn areas and mature trees. The vegetation on-site is well maintained. The surrounding properties are and have historically been primarily commercial office buildings, places of worship, and government buildings and these uses and their operations do not pose an environmental concern. Based on the analysis completed for the Phase I Environmental Site Assessment for the site, there are no recognized environmental concerns (RECs), historical RECs, or de minimis conditions in connection with the project site.

The project site is located approximately 1.5 miles southeast of the Airport. The site is not located within the AIA for the Airport.<sup>58</sup> The project site is not located within a Fire Hazard Severity Zone.<sup>59</sup>

### **Database Search**

A review of federal, state, and local regulatory agency databases was completed to evaluate the likelihood of contamination incidents at and near the project site. The project site is not identified on

<sup>57</sup> City of San José, Environmental Service Department. *Phase I Environmental Site Assessment*. June 24, 2019. Page ii.

<sup>58</sup> Walter B. Windus. *Norman Y. Mineta San José International Airport Comprehensive Land Use Plan Santa Clara County*. May 25, 2011. Page 3-18.

<sup>59</sup> Sources: 1) State of California Department of Forestry and Fire Protection. *Santa Clara County, Fire Hazard Severity Zones in SRA*. Adopted November 7, 2007. 2) State of California Department of Forestry and Fire Protection. *Santa Clara County, Very High Fire Hazard Severity Zones in LRA*. Adopted October 8, 2008.

any of the regulatory databases and is not on the Cortese list.<sup>60</sup> Several nearby sites were identified in the database search. None of the surrounding database listings pose a significant environmental risk to the project site given that remediation has been completed, properties were issued closed case status or required no further action, and/or a workplan is in order to remediate contamination.<sup>61</sup>

### **3.9.2            Impact Discussion**

For the purpose of determining the significance of the project's impact on hazards and hazardous materials, would the project:

- 1) Create a significant hazard to the public or the environment through routine transport, use, or disposal of hazardous materials?
- 2) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?
- 3) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?
- 4) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?
- 5) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, result in a safety hazard or excessive noise for people residing or working in the project area?
- 6) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?
- 7) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?

#### **3.9.2.1            *Project Impacts***

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Would the project create a significant hazard to the public or the environment through routine transport, use, or disposal of hazardous materials?

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The project does not propose any on-site use of hazardous materials other than small quantities of cleaning supplies, and herbicides and pesticides for landscaping maintenance. The use, storage, transportation, and disposal of maintenance chemicals would be managed in accordance with existing laws and regulations (including California Code of Regulations, Division 6, Chapter 3, Subchapter 2, Article 4 Storage, Transportation and Disposal) that ensure herbicide and pesticide storage, transportation, and disposal would result in a less than significant impact. No other routine use,

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<sup>60</sup> City of San José, Environmental Service Department. *Phase I Environmental Site Assessment*. June 24, 2019. Page 12.

<sup>61</sup> City of San José, Environmental Service Department. *Phase I Environmental Site Assessment*. June 24, 2019. Pages 11-13.



storage, transportation, or disposal of hazardous materials is anticipated as part of the project. **(Less than Significant Impact)**

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Would the project create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

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As discussed in Section 3.9.1.2, the project site does not have any recorded contamination on-site including RECs, historical RECs, and de minimis conditions. Furthermore, none of the current or previous site history is expected to have included the storage or use of hazardous substances or petroleum products. In addition, no nearby threats posed by other properties with environmental liabilities were identified. The project, therefore, would not create a hazard to the public or the environment involving the release of hazardous materials. **(Less than Significant Impact)**

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Would the project emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

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The closest school to the project site is Horace Mann Elementary School, which is located approximately 0.25 miles southeast of the site. The project does not propose the use of substantial hazardous materials on-site as discussed under Impact HAZ-1 and the project site does not have any known contamination on-site as discussed under Impact HAZ-2. For these reasons, the project would not emit hazardous emissions or handle hazardous materials that would impact the nearby school. **(Less than Significant Impact)**

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Would the project be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, create a significant hazard to the public or the environment?

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The project is not listed on a hazardous materials database or on the Cortese List.<sup>62</sup> **(No Impact)**

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Would the project be located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport. The project would not result in a safety hazard or excessive noise for people residing or working in the project area?

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The project site is not located within the Airport AIA and, therefore, is not subject to the policies in the CLUP. Furthermore, the heights of the proposed project improvements would not require airspace safety review by the FAA under FAR Part 77. As a result, the project would not result in a safety hazard or excessive noise due to Airport operations. **(No Impact)**

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<sup>62</sup> City of San José, Environmental Service Department. *Phase I Environmental Site Assessment*. May 20, 2016. Page 11.

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Would the project impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

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Built structures proposed by the project (i.e., performing arts pavilion, café and restroom building, restroom and storage building, and park office) would be constructed in accordance with current building and fire codes to ensure structural stability and safety in the event of a seismic or seismic-related hazard. In addition, the San José Fire Department (SJFD) would review the site development plans to ensure fire protection design features are incorporated and adequate emergency access is provided. For these reasons, the proposed project would not impair implementation of or physically interfere with the City's San José Emergency Operations and Evacuation Plans. **(Less than Significant Impact)**

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Would the project expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?

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As discussed in Section 3.9.1.2, the project site is not located within a Fire Hazard Severity Zone as designated by the State of California Department of Forestry and Fire Protection. **(No Impact)**

### **3.9.2.2            *Cumulative Impacts***

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Would the project result in a cumulatively considerable contribution to a significant hazards and hazardous materials impact?

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The geographic area for cumulative hazards and hazardous materials impacts is the project site and within an approximate one mile radius of the project site. The project site vicinity is located in the downtown San José area, including the community of Autumn-Montgomery to the west, Japantown to the north, Horace Mann to the east, and the continuation of downtown San José to the south. As discussed under Impact HAZ-1, the project would include the use of small quantities of cleaning supplies, and herbicides and pesticides on-site and will comply with existing regulations to ensure safe use, storage, and disposal. For these reasons, the project would not result in hazards and hazardous materials impacts that would not have a cumulatively considerable contribution to significant cumulative hazards and hazardous materials impacts. **(Less than Significant Cumulative Impact)**

### **3.10 HYDROLOGY AND WATER QUALITY**

#### **3.10.1 Environmental Setting**

##### **3.10.1.1 *Regulatory Framework***

#### **Overview**

The federal Clean Water Act and California's Porter-Cologne Water Quality Control Act are the primary laws related to water quality. Regulations set forth by the EPA and the SWRCB have been developed to fulfill the requirements of this legislation. EPA regulations include the NPDES permit program, which controls sources that discharge pollutants into the waters of the United States (e.g., streams, lakes, bays, etc.). These regulations are implemented at the regional level by the water quality control boards. The project site is within the jurisdiction of the San Francisco Bay RWQCB.

#### **Federal and State**

##### **National Flood Insurance Program**

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

##### **Statewide Construction General Permit**

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

#### **Regional and Local**

##### **San Francisco Bay Basin Plan**

The San Francisco Bay RWQCB regulates water quality in accordance with the Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan). The Basin Plan lists the beneficial uses that the San Francisco Bay RWQCB has identified for local aquifers, streams, marshes, rivers, and the San Francisco Bay, as well as the water quality objectives and criteria that must be met to protect these uses. The San Francisco Bay RWQCB implements the Basin Plan by issuing and enforcing waste discharge requirements, including permits for nonpoint sources such as the urban runoff

discharged by a City's stormwater drainage system. The Basin Plan also describes watershed management programs and water quality attainment strategies.

### Municipal Regional Permit Provision C.3.

The San Francisco Bay RWQCB issued an MRP to regulate stormwater discharges from municipalities and local agencies (co-permittees) in Alameda, Contra Costa, San Mateo, and Santa Clara Counties, and the cities of Fairfield, Suisun City, and Vallejo.<sup>63</sup> Under Provision C.3 of the 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.

In addition to water quality controls, the MRP requires new development and redevelopment projects that create or replace one acre or more of impervious surface to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation, or other impacts to local rivers, streams, and creeks. Projects may be deemed exempt from these requirements if they do not meet the size threshold, drain into tidally influenced areas or directly into the Bay, or drain into hardened channels, or if they are infill projects in subwatersheds or catchment areas that are greater than or equal to 65 percent impervious.

### Municipal Regional Permit Provision C.12.f

Provision C.12.f of the MRP requires co-permittee agencies to implement a control program for PCBs that reduces PCB loads by a specified amount during the term of the permit, thereby making substantial progress toward achieving the urban runoff PCBs wasteload allocation in the Basin Plan by March 2030.<sup>64</sup> Programs must include focused implementation of PCB control measures, such as source control, treatment control, and pollution prevention strategies. Municipalities throughout the Bay Area are updating their demolition permit processes to incorporate the management of PCBs in demolition building materials to ensure PCBs are not discharged to storm drains during demolition. As of July 1, 2019, buildings constructed between 1955 and 1978 that are proposed for demolition must be screened for the presence of PCBs prior to the issuance of a demolition permit.

### Water Resources Protection Ordinance and District Well Ordinance

Valley Water operates as the flood control agency for Santa Clara County. 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

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<sup>63</sup> MRP Number CAS612008

<sup>64</sup> San Francisco Bay Regional Water Quality Control Board. *Municipal Regional Stormwater Permit, Provision C.12*. November 19, 2015.

within Valley Water property or easements are required under Valley Water’s Water Resources Protection Ordinance and District Well Ordinance.

### Dam Safety

Dam failure is the uncontrolled release of impounded water behind a dam. Flooding, earthquakes, blockages, landslides, lack of maintenance, improper operation, poor construction, vandalism, and terrorism can all cause a dam to fail.<sup>65</sup> Because dam failure that results in downstream flooding may affect life and property, dam safety is regulated at both the federal and state level. In accordance with the state Dam Safety Act, dams are inspected regularly and detailed evacuation procedures have been prepared for each dam.

As part of its comprehensive dam safety program, Valley Water routinely monitors and studies the condition of each of its 10 dams. Valley Water also has its own Emergency Operations Center and a response team that inspects dams after significant earthquakes. These regulatory inspection programs reduce the potential for dam failure.

### Envision San José 2040 General Plan

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

<b>Policy</b>	<b>Description</b>
<b>Infrastructure</b>	
IN-3.7	Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.
<b>Environmental Resources</b>	
ER-8.1	Manage stormwater runoff in compliance with the City’s Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.
ER-8.5	Ensure that all development projects in San José maximize opportunities to filter, infiltrate, store and reuse or evaporate stormwater runoff onsite.
EC-4.1	Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and storm water controls.
EC-5.7	Allow new urban development only when mitigation measures are incorporated into the project design to ensure that new urban runoff does not increase flood risks elsewhere.

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<sup>65</sup> State of California. 2013. *2013 State Hazards Mitigation Plan*. Accessed January 23, 2019. [http://hazardmitigation.calema.ca.gov/plan/state\\_multi-hazard\\_mitigation\\_plan\\_shmp](http://hazardmitigation.calema.ca.gov/plan/state_multi-hazard_mitigation_plan_shmp).

<b>Policy</b>	<b>Description</b>
EC-5.16	Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.

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

The City of San José's Council Policy 6-29 implements the stormwater treatment requirements of Provision C.3 of the MRP. Council Policy 6-29 requires all new development and redevelopment projects to implement post-construction Best Management Practices (BMP) and Treatment Control Measures (TCM). This policy also established specific design standards for post-construction TCM for projects that create, add, or replace 10,000 square feet or more of impervious surfaces.

#### Post-Construction Hydromodification Management (Council Policy 8-14)

The City of San José's Council Policy 8-14 implements the hydromodification management requirements of Provision C.3 of the MRP. Council Policy 8-14 requires all new and redevelopment projects that create or replace one acre or more of impervious surface to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation or other impacts to beneficial uses of local rivers, streams, and creeks. The policy requires these projects to be designed to control project-related hydromodification through a Hydromodification Management Plan (HMP).

### **3.10.1.2      *Existing Conditions***

#### **Flooding**

Based on the FEMA Flood Insurance Rate Maps (Map Panel 06085C0234H), the project site is located in Flood Zone D.<sup>66</sup> Zone D is an area of undetermined but possible flood hazard. There are no floodplain requirements for Zone D.

#### **Dam Failure**

Based on the SCVWD dam failure inundation hazard maps, the project site is not within the Lexington Reservoir inundation hazard zone, but is within the Anderson Dam failure inundation hazard zone.<sup>67,68</sup>

#### **Seiches, Tsunamis, and Mudflows**

There are no landlocked bodies of water near the project site that would affect the site in the event of a seiche. There are no bodies of water near the project site that would affect the site in the event of a tsunami.<sup>69</sup> The site is located on the nearly flat valley floor topography and is not subject to the risk of mudflows.

<sup>66</sup> FEMA. "FEMA Flood Map Service Center." Accessed March 12, 2019. <https://msc.fema.gov/portal/home>.

<sup>67</sup> SCVWD. *Leroy Anderson Dam Flood Inundation Maps*. Map. April 2016.

<sup>68</sup> SCVWD. *Lenihan (Lexington) Dam Flood Inundation Maps*. Map. April 2016.

<sup>69</sup> Association of Bay Area Governments. *Tsunami Inundation Emergency Planning Map for the San Francisco Bay Region*. Accessed March 12, 2019. <http://quake.abag.ca.gov/tsunamis>.

## **Storm Drainage System**

The City of San José Public Works Department operates and maintains the storm drainage system that serves the project site. Currently, the project site is 34 percent impervious. There are existing 15-inch and 21-inch diameter storm drain lines in East St. James Street; 18-inch and 21-inch diameter storm drain lines in East St. John Street, and a 12-inch diameter storm drain line in North 1<sup>st</sup> Street that serve the project site.

## **Water Quality**

The water quality of streams, creeks, ponds, and other surface water bodies can be greatly affected by pollution carried in contaminated surface runoff. Pollutants from unidentified sources, known as non-point source pollutants, are washed from streets, construction sites, parking lots, and other exposed surfaces into storm drains. Urban stormwater runoff often contains contaminants such as oil and grease, plant and animal debris (e.g., leaves, dust, animal feces, etc.), pesticides, litter, and heavy metals. In sufficient concentration, these pollutants have been found to adversely affect the aquatic habitats to which they drain. The nearest waterway to the project site is the Guadalupe River, located approximately 0.5 miles west of the project site. While the project is subject to the MRP, it is not subject to HMP requirements.<sup>70</sup>

## **Groundwater**

The project site is located within the Santa Clara Groundwater Sub-basin made up of two aquifers. Regionally, groundwater flow is estimated to generally flow to the north, towards San Francisco Bay. Groundwater in the region's deep aquifer begins between 95 to 250 feet bgs.<sup>71</sup> Groundwater in the region's shallow aquifer occurs between five to 30 feet bgs.<sup>72</sup> Groundwater levels would fluctuate seasonally depending on the variations in rainfall, irrigation from landscaping, and other factors. Valley Water manages the groundwater basin and uses local and imported surface water to replenish groundwater through direct recharge facilities, including ponds and creeks.<sup>73</sup> The project site does not contain ponds or creeks or other recharge facilities. The project site is approximately 34 percent impervious, and is mostly surrounded by impervious surfaces and does not contribute to the recharging of the groundwater aquifer.

### **3.10.2 Impact Discussion**

For the purpose of determining the significance of the project's impact on hydrology and water quality, would the project:

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

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<sup>70</sup> Santa Clara Valley Urban Runoff Pollution Prevention Program. "Hydromodification Management Applicability Maps." July 2011. Accessed March 28, 2019. [http://www.scvurppp-w2k.com/hmp\\_maps.htm](http://www.scvurppp-w2k.com/hmp_maps.htm).

<sup>71</sup> City of San José. *Phase I Environmental Site Assessment St. James Park*. June 19, 2019.

<sup>72</sup> SCVWD. *Revised Final Groundwater Vulnerability Study Santa Clara County, California*. October 2010. Page 120.

<sup>73</sup> SCVWD. *Groundwater Supply*. Accessed July 18, 2019. <https://www.valleywater.org/your-water/where-your-water-comes-from/groundwater/groundwater-supply>

- 2) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?
- 3) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:
  - result in substantial erosion or siltation on- or off-site;
  - substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;
  - create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or
  - impede or redirect flood flows?
- 4) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?
- 5) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?

### **3.10.2.1      *Project Impacts***

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Would the project violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?

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#### **Construction**

Construction activities could result in a temporary increase in stormwater pollutants during ground disturbing activities. Construction of the proposed project would disturb more than 1.0 acre; therefore, compliance with the Construction General Permit (including submitting a NOI to the RWQCB and development of a SWPPP to control discharge associated with construction activities) is required. The project shall comply with the requirements of the City of San José Grading Ordinance, including implementation of erosion and dust control during site preparation, and the City's Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction. These requirements are included in the project conditions listed below.

#### **Project Conditions:**

- Install burlap bags filled with drain rock around storm drains to route sediment and other debris away from the drains.
- Suspend earthmoving or other dust-producing activities during periods of high winds.
- Water all exposed or disturbed soil surfaces at least twice daily to control dust as necessary.
- Water or cover stockpiles of soil or other materials that can be blown by the wind.
- Cover all trucks hauling soil, sand, and other loose materials and maintain at least two feet of freeboard on all trucks.



- Sweep all paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites daily (with water sweepers).
- Replant vegetation in disturbed areas as quickly as possible.
- Fill with rock all unpaved entrances to the site to remove mud from tires prior to entering City streets. Install a tire wash system if requested by the City.
- Comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City's Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.

With implementation of the above project conditions, the proposed project would have a less than significant construction-related water quality impact. **(Less than Significant Impact)**

### **Post-Construction**

The project would increase the amount of impervious surfaces on the project site by approximately 95,166 square feet, thereby increasing stormwater runoff and potential pollutant levels. Under Provision C.3 of the RWQCB's MRP, redevelopment projects that add and/or replace more than 10,000 square feet of impervious surface are required to design and construct stormwater treatment controls to treat post-construction stormwater runoff. Amendments to the MRP require that all post-construction runoff be treated by using LID treatment controls (e.g., biotreatment facilities). The project would be required to comply with Provision C.3 of the MRP to reduce potential post-construction water quality impacts.

To comply with MRP requirements, the project proposes to install numerically sized bioretention areas throughout the project site that would treat, retain, and release stormwater. Details of specific site design, pollutant source control, and stormwater treatment control measures demonstrating compliance with the aforementioned policies shall be included in the project design. **(Less than Significant Impact)**

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Would the project substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?

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The proposed project does not include installation of new groundwater wells and would not deplete groundwater supplies. The project site is located within the Santa Clara Plain Recharge area of the Santa Clara Valley Basin where groundwater occurs under unconfined conditions. The site is not, however, within or adjacent to a SCVWD groundwater recharge facility. The proposed project would be required to treat post-construction runoff using LID treatment controls (e.g., bioretention facilities) in compliance with the MRP; therefore, while the proposed project would result in an increase in impervious surfaces on the site, the project's design would allow for runoff to be directed toward areas that support groundwater recharge and impacts related to groundwater would be less than significant. **(Less than Significant Impact)**

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Would the project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would result in substantial erosion or siltation on- or off-site; substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site; create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or impede or redirect flood flows?

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The project would increase the amount of impervious surfaces on-site by 95,166 square feet. The project would be required to implement construction-related standard permit conditions to minimize erosion, as well as post-construction requirements to minimize and treat stormwater runoff (per the requirements of Provision C.3 of the RWQCB's MRP and Council Policy 6-29). Thus, the project would not substantially alter the existing drainage pattern of the site such that erosion or siltation would occur, nor would the project result in a substantial increase in the rate or amount of surface runoff. In addition, the City has confirmed the existing storm drain system serving the site has adequate capacity to accommodate the increase in runoff from the site resulting from the project.<sup>74</sup>  
**(Less than Significant Impact)**

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Would the project risk release of pollutants due to project inundation in flood hazard, tsunami, or seiche zones?

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The project site is not subject to inundation by tsunami or seiche; therefore, there would be no risk of release of pollutants at the project site due to tsunamis or seiches. **(No Impact)**

In the event of a flood or inundation from Anderson Dam at the site, the project would not risk release of pollutants because the small quantities of cleaning supplies, herbicides, and pesticides stored on-site would be managed in accordance with existing laws and regulations that ensure proper containment. **(Less than Significant Impact)**

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Would the project conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?

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As discussed in Impact HYD-1 and HYD-2, the proposed project would implement identified project conditions, would be required to comply with the NPDES MRP, and would not impact groundwater recharge consistent with the Basin Plan. For these reasons, the project would not conflict with implementation of a water quality or groundwater management plan. **(Less than Significant Impact)**

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<sup>74</sup> Hiraski, Casey. Department of Public Works, City of San José. Personal Communications. December 31, 2018.

### 3.10.2.2 *Cumulative Impacts*

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Would the project result in a cumulatively considerable contribution to a significant hydrology and water quality impact?

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The geographic area for cumulative hydrology and water quality impacts is the Guadalupe River watershed. Cumulative developments near the project site would be subject to similar hydrological and urban runoff conditions. All cumulative projects occurring within San José would be required to implement the same project conditions related to construction water quality as the proposed project (including preparation of a SWPPP if disturbance if greater than one acre). In addition, all cumulative projects would be required to meet applicable MRP, City Council Policy 6-24, and City Council Policy 8-14 requirements on a project-specific basis. For these reasons, the cumulative projects, including the proposed project, would not result in significant cumulative hydrology or water quality impacts. **(Less than Significant Cumulative Impact)**

### 3.11 LAND USE AND PLANNING

#### 3.11.1 Environmental Setting

##### 3.11.1.1 *Regulatory Framework*

#### Local

##### Envision San José 2040 General Plan

To implement the vision, goals, and policies of the General Plan, land use designations are included on the Land Use/Transportation Diagram. The Land Use/Transportation Diagram includes a limited number of discrete designations applied to locations that clearly reinforce the General Plan goals. The General Plan has a total of 29 land use designations, including five overlay designations. These land use designations provide significant flexibility and opportunity for the development of employment uses in both mixed-use and standard configurations. Specifically, the land use designations identify allowed uses, densities, floor area ratios (FARs), and height (i.e., number of stories) ranges.

The General Plan includes policies for the purpose of avoiding or mitigating impacts from planned development in the City. The policies below are specific to land use and are applicable to the proposed project.

Policy	Description
Transportation	
TR-14.3	For development in the Airport Influence Area overlays, ensure that land uses and development are consistent with the height, safety and noise policies identified in the Santa Clara County Airport Land Use Commission (ALUC) comprehensive land use plans for Mineta San José International and Reid-Hillview airports, or find, by a two-thirds vote of the governing body, that the proposed action is consistent with the purposes of Article 3.5 of Chapter 4 of the State Aeronautics Act, Public Utilities Code Section 21670 et seq.
Land Use	
LU-1.3	Create safe, attractive, and accessible pedestrian connections between developments and to adjacent public streets to minimize vehicular miles traveled.
LU-3.1	Provide maximum flexibility in mixing uses throughout the Downtown area. Support intensive employment, entertainment, cultural, public/quasi-public, and residential uses in compact, intensive forms to maximize social interaction; to serve as a focal point for residents, businesses, and visitors; and to further the Vision of the Envision General Plan.
Implementation	
IP-1.3	Ensure that proposals for redevelopment or significant intensification of existing land uses on a property conform to the Land Use / Transportation Diagram. Because the Diagram designation identifies the City's long-term planned and use for a property, non-conforming uses should transition to the planned use over the timeframe of the Envision General Plan. Allow improvements or minor expansions of existing, non-conforming land

Policy	Description
IP-1.9	uses provided that such development will contribute to San José’s employment growth goals or advance a significant number of other Envision General Plan goals.  Consider and address potential land use compatibility issues, the form of surrounding development, and the availability and timing of infrastructure to support the proposed land use when reviewing rezoning or prezoning proposals.

### San José Zoning Ordinance

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

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

#### **3.11.1.2      *Existing Conditions***

The project site is currently developed and used as a public park. St. James Park primarily consists of landscaping, including lawn areas and mature landscape trees. Existing park features include paved walkways, seating areas, a fitness parcourse, a temporary dog park, a playground, restrooms, memorials (i.e., Naglee Memorial, McKinley Memorial, and Robert F. Kennedy Podium), a wood stage, and a fountain. North 2<sup>nd</sup> Street and LRT tracks bisect the park. As described in Section 2.2 Background Information, St. James Park currently hosts a variety of events including concerts, festivals, cinema nights, performances, yoga, and games.

As shown in Figure 2.3-3, the project site is surrounded by roadways and a mix of residential, commercial, public/quasi-public (i.e., churches, post office, and courthouse), and office uses.

The project site has a General Plan land use designation of Open Space, Parklands and Habitat, which is intended for low intensity uses, including open space, parks, recreation areas, trails, habitat buffers, nature preserves and other permanent open space areas. Development of public facilities such as restrooms, playgrounds, educational/visitors’ centers, or parking areas can be an inherent part of City or County park properties and are appropriate for Open Space, Parklands and Habitat designated properties both within and outside of the Greenline/Urban Growth Boundary. Within the Greenline/Urban Growth Boundary, community centers, public golf courses, and other amenities open to the public would also be allowed within publicly-owned properties in this designation.

Furthermore, the project site is within the Downtown Growth Area that is defined on the General Plan Planned Growth Area Diagram, which has an identified job and housing growth capacity.

The project site is in the DC – Downtown Primary Commercial Zoning District. Permitted uses in the DC zoning district include offices and financial services, small farmers markets, retail, education and training, entertainment and recreation, food services, health and veterinary services, public uses, quasi-public uses, and vehicle-related uses.

The project site is located in the St. James Square City Landmark Historic District (refer to Section 3.5 Cultural Resources for additional discussion about the historic district). Multiple master plans have been prepared for the park over the years, the most recent of which was the 1985 Master Plan and the 2002 Master Plan Update prepared for the San José Redevelopment Agency. Additionally, in 1989 the associated St. James Square City Landmark Historic District Design Guidelines were adopted for the historic district.

### **3.11.2      Impact Discussion**

For the purpose of determining the significance of the project's impact on land use and planning, would the project:

- 1) Physically divide an established community?
- 2) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

#### **3.11.2.1      *Project Impacts***

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Would the project physically divide an established community?

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The project site is an existing park surrounded by a mix of residential buildings, churches, offices, and civic land uses. The proposed project would renovate the park within its existing boundaries. Because the park was originally planned as a centralized public space within the neighborhood and would remain within the existing footprint, the project would not physically divide an established community. **(No Impact)**

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

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Currently, the project site is used as a park and venue for a variety of events throughout the year. Under the proposed project, the project site would continue functioning as a park and venue for events.

The park, performing arts pavilion, and ancillary commercial uses proposed would be open to the public and are consistent with the existing General Plan land use designation of Open Space, Parklands and Habitat on the site. The proposed project complies with the land use designation and

General Plan land use policies. The project is consistent with General Plan policies regarding parks, open space, and recreation uses as renovation of the park would facilitate improved livability and social and environmental quality of the downtown area. Furthermore, the project site is within the boundaries of the Downtown Growth Area and consistent with its purpose to further support the growth and maturation of the downtown as a great place to live, work or visit.

The project proposes to maintain the existing park use (passive park uses and events) and have additional programmatic elements, including events at the performing arts pavilion. In the Zoning Ordinance, park uses are permitted under the existing DC – Downtown Primary Commercial Zoning District on-site. In addition, the project proposes to allow commercial uses, street performers, and a farmers market, which may require an event or development permit.

In addition, as discussed in Section 3.9, the project site is not located within the Airport AIA; therefore, the project is not subject to the policies in the CLUP. Analysis for compliance with the St. James Square City Landmark Historic District and associated design guidelines are under Section 3.5 Cultural Resources. Based on above discussion, the project would not cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation. **(Less than Significant Impact)**

#### **3.11.2.2      *Cumulative Impacts***

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Would the project result in a cumulatively considerable contribution to a significant land use and planning impact?

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The geographic area for cumulative land use impacts is the downtown area. As discussed under Impact LU-1 and LU-2, the project would not divide an established community and is consistent with the General Plan land use designation, applicable General Plan policies, and zoning designation for the site. For this reason, the project would not have a cumulatively considerable contribution to a significant cumulative land use and planning impact. **(Less than Significant Cumulative Impact)**

## **3.12 MINERAL RESOURCES**

### **3.12.1 Environmental Setting**

#### **3.12.1.1 *Regulatory Framework***

##### **Surface Mining and Reclamation Act**

The Surface Mining and Reclamation Act (SMARA) was enacted by the California Legislature in 1975 to address the need for a continuing supply of mineral resources, and to prevent or minimize the negative impacts of surface mining to public health, property and the environment. As mandated under SMARA, the State Geologist has designated mineral land classifications in order to help identify and protect mineral resources in areas within the state subject to urban expansion or other irreversible land uses which would preclude mineral extraction. SMARA also allowed the State Mining and Geology Board, after receiving classification information from the State Geologist, to designate lands containing mineral deposits of regional or statewide significance. The only area in the City of San José that is designated by the SMARA as containing mineral deposits which are of regional significance is Communications Hill.

#### **3.12.1.2 *Existing Conditions***

The project site is located in Mineral Resource Zone One, which is defined as areas where adequate information indicates no significant mineral deposits are present or where it is judged that little likelihood exists for their presence.<sup>75</sup> There are no known mineral resources located on or adjacent to the project site.

### **3.12.2 Impact Discussion**

For the purpose of determining the significance of the project's impact on mineral resources, would the project:

- 1) Result in the loss of availability of a known mineral resource that would be of value to the region and residents of the state?
- 2) Result in the loss of availability of locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?

#### **3.12.2.1 *Project Impacts***

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Would the project result in the loss of availability of a known mineral resource that would be of value to the region and residents of the state?

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The project site does not contain any known or designated mineral resources. The only area designated by the SMARA as containing mineral deposits which are of regional significance is

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<sup>75</sup> California Department of Conservation. *Generalized Mineral Land Classification Map of the South San Francisco Bay Production-Consumption Region*. 1996.



Communications Hill, which is located over two miles southeast of the project site. The project, therefore, would not result in the loss of availability of a known mineral resource that would be of value to the region and residents of the state. **(No Impact)**

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Would the project result in the loss of availability of locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?

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The project site is not delineated in the General Plan or other land use plan as a locally important mineral resource recovery site. For this reason, the project would not result in the loss of availability of locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan. **(No Impact)**

### **3.12.2.2      *Cumulative Impacts***

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Would the project result in a cumulatively considerable contribution to a significant mineral resources impact?

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Since the project would not result in impacts to mineral resources, the project would not contribute to a cumulative impact to mineral resources. **(No Cumulative Impact)**

### 3.13 NOISE

The discussion in this section is based on a noise and vibration assessment prepared for the project by Bollard Acoustical Consultants, Inc. dated July 30, 2019. A copy of this report is included in Appendix F.

#### 3.13.1 Environmental Setting

##### 3.13.1.1 *Background Information*

#### **Noise Overview**

Noise is measured on a “decibel” scale which serves as an index of loudness. The zero on the decibel scale is based on the lowest sound level that the healthy, unimpaired human ear can detect. Each 10 decibel increase in sound level is perceived as approximately a doubling of loudness over a fairly wide range of intensities. Because the human ear cannot hear all pitches or frequencies, sound levels are frequently adjusted or weighted to correspond to human hearing. This adjusted unit is known as the A-weighted decibel, or dBA.

Since excessive noise levels can adversely affect human activities and human health, federal, state, and local governmental agencies have set forth criteria or planning goals to minimize or avoid these effects. Noise guidelines are almost always expressed using one of several noise averaging methods, such as  $L_{eq}$ , DNL, or CNEL.<sup>76</sup> Using one of these descriptors is a way for a location’s overall noise exposure to be measured, given that there are specific moments when noise levels are higher (e.g., when a jet is taking off from an airport or when a leaf blower is operating) and specific moments when noise levels are lower (e.g., during lulls in traffic flows on freeways or in the middle of the night).  $L_{max}$  is the maximum A-weighted noise level during a measurement period.

#### **Vibration Overview**

Ground vibration consists of rapidly fluctuating motions or waves with an average motion of zero. Vibration amplitude can be quantified using Peak Particle Velocity (PPV), which is defined as the maximum instantaneous positive or negative peak of the vibration wave. Because of the impulsive nature of construction activities, the use of the PPV descriptor has been routinely used to measure and assess ground-borne vibration. Studies have shown that the threshold of perception for average persons is in the range of 0.008 to 0.012 in/sec PPV.

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<sup>76</sup>  $L_{eq}$  is a measurement of average energy level intensity of noise over a given period of time. Day-Night Level (DNL) is a 24-hour average of noise levels, with a 10 dB penalty applied to noise occurring between 10:00 PM and 7:00 AM. Community Noise Equivalent Level (CNEL) is similar to the DNL except that there is an additional five dB penalty applied to noise occurring between 7:00 PM and 10:00 PM. Where traffic noise predominates, the CNEL and DNL are typically within two dBA of the peak-hour  $L_{eq}$ .

### 3.13.1.2 *Regulatory Framework*

#### **Federal**

##### Federal Transit Administration Vibration Limits

The Federal Transit Administration (FTA) has developed vibration impact assessment criteria for evaluating vibration impacts associated with transit projects. The FTA has proposed vibration impact criteria based on maximum overall levels for a single event. The impact criteria for groundborne vibration are shown in Table 3.13-1 below. There are established criteria for frequent events (more than 70 events of the same source per day), occasional events (30 to 70 vibration events of the same source per day), and infrequent events (less than 30 vibration events of the same source per day). These criteria can be applied to development projects in jurisdictions that lack vibration impact standards.

<b>Table 3.13-1: Groundborne Vibration Impact Criteria</b>			
<b>Land Use Category</b>	<b>Groundborne Vibration Impact Levels (VdB inch/sec)</b>		
	<b>Frequent Event</b>	<b>Occasional Events</b>	<b>Infrequent Events</b>
<b>Category 1:</b> Buildings where vibration would interfere with interior operations	65	65	65
<b>Category 2:</b> Residences and buildings where people normally sleep	72	75	80
<b>Category 3:</b> Institutional land uses with primarily daytime use	75	78	83
Source: Federal Transit Administration. <i>Transit Noise and Vibration Assessment Manual</i> . September 2018.			




#### **State and Local**

##### California Building Standards Code

CALGreen requires that wall and roof-ceiling assemblies exposed to the adjacent roadways have a composite Sound Transmission Class (STC) rating of at least 50 or a composite Outdoor-Indoor Transmission Class (OITC) rating of no less than 40, with exterior windows of a minimum STC of 40 or OITC of 30 when the commercial property falls within the 65 dBA DNL noise contour for a freeway or expressway, railroad, industrial source or fixed-guideway noise source. The state also requires interior noise levels to be maintained at 50 dBA  $L_{eq(1-hr)}$  or less during hours of operation at a proposed office building.

##### Envision San José 2040 General Plan

The General Plan includes noise compatibility guidelines for various land uses. For reference, these guidelines are provided in Table 3.13-2 below.

Table 3.13-2: General Plan Land Use Compatibility Guidelines (GP Table EC-1)						
Land Use Category	Exterior DNL Value in Decibels					
	55	60	65	70	75	80
1. Residential, Hotels and Motels, Hospitals and Residential Care						
2. Outdoor Sports and Recreation, Neighborhood Parks and Playgrounds						
3. Schools, Libraries, Museums, Meeting Halls, and Churches						
4. Office Buildings, Business Commercial, and Professional Offices						
5. Sports Arena, Outdoor Spectator Sports						
6. Public and Quasi-Public Auditoriums, Concert Halls, and Amphitheaters						
<p> <b>Normally Acceptable:</b> Specified land use is satisfactory, based upon the assumption that any buildings involved are of normal conventional construction, without any special noise insulation requirements.</p> <p> <b>Conditionally Acceptable:</b> Specified land use may be permitted only after detailed analysis of the noise reduction requirements and noise mitigation features included in the design.</p> <p> <b>Unacceptable:</b> New construction or development should generally not be undertaken because mitigation is usually not feasible to comply with noise element policies. Development will only be considered when technically feasible mitigation is identified that is also compatible with relevant design guidelines.</p>						

In addition, various policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to noise, as listed in the table below.

Policy	Description
Environmental Considerations/Hazards	
EC-1.1	<p>Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, state and City noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José include:</p> <p><u>Interior Noise Levels</u></p> <ul style="list-style-type: none"> <li>The City's standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meet this standard. For sites with exterior noise levels of 60 dBA DNL or more, an acoustical analysis following protocols in the City-adopted California Building Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected 2040 General Plan traffic volumes to ensure land use compatibility and 2040 General Plan consistency over the life of this plan.</li> </ul> <p><u>Exterior Noise Levels</u></p>

Policy	Description
	<ul style="list-style-type: none"> <li>The City’s acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses (Table EC-1). The acceptable exterior noise level objective is established for the City, except in the environs of the Norman Y. Mineta San José International Airport, the Downtown Core Area, and along major roadways. For the remaining areas of the City, the following standards apply: <ul style="list-style-type: none"> <li>For new multi-family residential projects and for the residential component of mixed-use development, use a standard of 60 dBA DNL in usable outdoor activity areas, excluding balconies and residential stoops and porches facing existing roadways. There will be common use areas available to all residents that meet the 60 dBA exterior standard. Use noise attenuation techniques such as shielding by buildings and structures for outdoor common use areas.</li> </ul> </li> </ul> <p>For single-family residential uses, use a standard of 60 dBA DNL for exterior noise in private usable outdoor activity areas, such as back yards.</p>
EC-1.2	<p>Minimize the noise impacts of new development on land uses sensitive to increased noise levels (Categories 1, 2, 3 and 6) by limiting noise generation and by requiring use of noise attenuation measures such as acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would:</p> <ul style="list-style-type: none"> <li>Cause the DNL at noise sensitive receptors to increase by five dBA DNL or more where the noise levels would remain “Normally Acceptable”; or</li> <li>Cause the DNL at noise sensitive receptors to increase by three dBA DNL or more where noise levels would equal or exceed the “Normally Acceptable” level.</li> </ul>
EC-1.3	<p>New nonresidential land uses will mitigate noise generation to 55 dBA DNL at the property line when located adjacent to existing or planned noise sensitive residential and public/quasi-public land uses.</p>
EC-1.7	<p>Require construction operations within San José to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City’s Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would:</p> <ul style="list-style-type: none"> <li>Involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months.</li> </ul> <p>For such large or complex projects, a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.</p>
EC-1.9	<p>Noise studies are required for land use proposals where known or suspected loud intermittent noise sources occur which may impact adjacent existing or planned land uses. For new residential development affected by noise from heavy rail, light rail, BART or other single-event noise sources, mitigation will be implemented so that</p>

<b>Policy</b>	<b>Description</b>
	recurring maximum instantaneous noise levels do not exceed 50 dBA Lmax in bedrooms and 55 dBA Lmax in other rooms.
EC-2.1	Near light and heavy rail lines or other sources of ground-borne vibration, minimize vibration impacts on people, residences, and businesses through the use of setbacks and/or structural design features that reduce vibration to levels at or below the guidelines of the Federal Transit Administration. Require new development within 100 feet of rail lines to demonstrate prior to project approval that vibration experienced by residents and vibration sensitive uses would not exceed these guidelines.
EC-2.3	Require new development to minimize continuous vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, including ruins and ancient monuments or buildings that are documented to be structurally weakened, a continuous vibration limit of 0.08 in/sec PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. A continuous vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction. Avoid use of impact pile drivers within 125 feet of any buildings, and within 300 feet of a historical building, or building in poor condition. On a project-specific basis, this distance of 300 feet may be reduced where warranted by a technical study by a qualified professional that verifies that there will be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction.

### City of San José Municipal Code

The City's Municipal Code Chapter 20.100 restricts construction hours within 500 feet of a residential unit to 7:00 AM to 7:00 PM Monday through Friday, unless otherwise expressly allowed in a Development Permit or other planning approval.<sup>77</sup> The proposed project is within 500 feet of a residential unit and is therefore subject to this requirement. The City's Zoning Ordinance also limits commercial and industrial noise levels at any abutting residential property line to 55 dBA, as shown in the following Table 3.13-3.

<b>Table 3.13-3: City of San José Zoning Ordinance Noise Standards</b>	
<b>Land Use Types</b>	<b>Maximum Noise Levels at Property Line (dBA)</b>
Residential, open space, industrial or commercial uses adjacent to a property used or zoned for residential purposes	55
Open space, commercial, or industrial use adjacent to a property used for zoned for commercial purposes or other non-residential uses	60
Industrial use adjacent to a property used or zoned for industrial use or other use other than commercial or residential purposes	70

<sup>77</sup> The Municipal Code does not establish quantitative noise limits for demolition or construction activities occurring in the City.

Municipal Code Chapters 6.60, 10.16, and 13.14 pertain to outdoor events, loudspeakers and sound amplifiers, and event permits. The project would be exempt from obtaining a public entertainment business permit as it is located on outdoor public property owned or controlled by the City.<sup>78</sup> However, each individual event that takes place at the park would be required to obtain a special event permit from the director of the Department of Parks, Recreation, and Neighborhood Services. The Director of Parks, Recreation, and Neighborhood Services may condition the permit with reasonable requirements including, but not limited to, the timing and length of the event, and the use of and amount of noise generated by sound amplification equipment.

### **3.13.1.3      *Existing Conditions***

The primary noise source in the project area is traffic from the surrounding roadways. Noise from the VTA LRT and use of St. James Park also contribute to the local noise environment. The Airport is located approximately 1.5 miles northwest of the project site; however, the site is located outside the airport's 65 CNEL noise contour.

Trinity Cathedral, Marshall Squares apartments, and St. James Place apartments are the nearest noise-sensitive receptors. Trinity Cathedral and the Marshall Squares apartments are located approximately 90 feet south of the project site, across East St. John Street. St. James Place apartments is located approximately 100 feet north of the project site, across East St. James Street.

Two long-term ambient noise measurements (A and B) were performed and five short-term noise level monitoring measurements (one through five) were taken. The noise monitoring locations are shown in Figure 3.13-1. The average day-night (DNL) noise level measured during the long-term ambient noise monitoring survey was 65 dBA DNL along East St. James Street and 67 dBA DNL along East St. John Street. Overall noise levels measured at the short-term environmental noise monitoring locations ranged from approximately 59 to 65 dBA  $L_{eq}$  (equivalent average noise level).

### **3.13.2      Impact Discussion**

For the purpose of determining the significance of the project's impact on noise, would the project result in:

- 1) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?
- 2) Generation of excessive groundborne vibration or groundborne noise levels?
- 3) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

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<sup>78</sup> San José Municipal Code Chapter 6.60.050.



### **Continuous Monitoring Sites**

A – St. Claire Club

B – Trinity Episcopal Cathedral

### **Short-Term Monitoring Sites**

1 – NE Corner of Park

2 – SE Corner of Park

3 – SW Corner of Park

4 – North Central Park

5 – NW Corner of Park



Source: Bollard Acoustical Consultants, Inc.



As discussed in CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for judgment on the part of the lead agency and must be based to the extent possible on scientific and factual data. For the purposes of this analysis, the City of San José relies on the following as CEQA thresholds of significance:

- Construction Noise – For temporary construction-related noise to be considered significant, construction noise levels would have to exceed ambient noise levels by five dBA  $L_{eq}$  or more and exceed the normally acceptable levels of 60 dBA  $L_{eq}$  at the nearest noise-sensitive land uses or 70 dBA  $L_{eq}$  at office or commercial land uses for a period of more than 12 months.<sup>79</sup>
- Operational Noise – Based on General Plan Policy EC-1.2, a significant noise impact would occur where existing noise sensitive land uses would be subject to permanent noise level increases of three dBA DNL or more where noise levels would equal or exceed the “Normally Acceptable” level, or five dBA DNL or more where noise levels would remain “Normally Acceptable,” as shown previously in Table 3.13-2.
- Construction Vibration – Based on General Plan Policy EC-2.3, significant vibration impacts would occur if the project generates a continuous vibration limit of 0.2 inches/sec (5.0 mm/sec) PPV for buildings of normal conventional construction, and a continuous vibration limit of 0.08 inches/sec (2.0 mm/sec) PPV for buildings that are historic or documented to be structurally weakened.

### 3.13.2.1 *Project Impacts*

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Would the project result in generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?

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#### **Construction Noise**

Construction of the proposed project would include removal of existing structures (such as the bathroom, playground equipment, etc.), minimal excavation and grading, and construction of new buildings. The majority of construction noise would be generated from operation of equipment and heavy machinery, such as bull dozers and backhoes. According to the Federal Highway Administration, this type of construction equipment could generate noise ranging from 70 to 90 dBA at a distance of 50 feet away.

The nearest sensitive receptors to the major project construction area (the northeast corner of the site where the performing arts pavilion is proposed) are residential apartments located approximately 100 feet north of the project site. Based on the noise impact assessment prepared for the project (Appendix F), construction noise levels within the interior of these apartments would be 60 dBA with the apartment windows closed and 70 dBA with the windows open. As described above, the ambient noise levels at the exterior of these apartments is approximately 65 dBA. Construction of the project, therefore, would increase noise levels by five dBA at the nearby apartments (assuming windows are

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<sup>79</sup> City of San José. *Envision San Jose 2040 General Plan Integrated Final Program Environmental Impact Report*. September 2011. Page 325.

open). In addition, as described in Section 2.3.4 Construction, the project construction activities are anticipate to last between 12 to 24 months. The project would be required to implement the project conditions listed below to reduce construction noise levels to less than significant.

**Project Conditions:**

- Pile-driving shall be prohibited.
- Limit construction hours to between 7:00 a.m. and 7:00 p.m., Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence.
- Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Prohibit unnecessary idling of internal combustion engines.
- Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
- Utilize “quiet” air compressors and other stationary noise sources where technology exists.
- Control noise from construction workers’ radios to a point where they are not audible at existing residences bordering the project site.
- Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of “noisy” construction activities to the adjacent land uses and nearby residences.
- If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.
- Designate a “disturbance coordinator” who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.
- Limit construction to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific “construction noise mitigation plan” and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.

With implementation of the above project conditions, the proposed project would reduce construction noise impacts to a less than significant level by restricting the hours of construction activities and implementing best management practices available to reduce noise to sensitive receptors. **(Less than Significant Impact)**

## Operational Noise

### Traffic Noise

As discussed further in Section 3.17 Transportation, implementation of the proposed project would result in an increase in traffic during park events (i.e., concerts) and redistribute existing traffic to other surface streets in the project area, due to the closure of North 2<sup>nd</sup> Street. Based on these traffic changes, the project is estimated to result in a maximum noise level increase of 1.7 dBA DNL, which is below the three dBA DNL impact threshold based on General Plan Policy EC-1.2. As a result, the traffic noise generated by the proposed project would have a less than significant impact. **(Less than Significant Impact)**

### Recreation Areas

The proposed project includes active recreation areas such as a playground and dog parks, all of which are located on the southern half of the project site. Playgrounds are estimated to generate noise levels of about 50 dBA  $L_{eq}$  and dog parks about 50 to 55 dBA  $L_{eq}$  at a distance of 100 feet.

The nearest sensitive noise-sensitive receptors to the playground are Trinity Cathedral and Marshall Squares apartments, which are approximately 250 feet south of the proposed playground. It is estimated that the exterior noise level at the Marshall Squares apartments and Trinity Cathedral from the proposed playground would be approximately 42 dBA  $L_{eq}$ . The St. James Place Apartments are located approximately 600 feet northeast of the proposed playground. At the exterior façade of the St. James Place Apartments, noise generated from the proposed playground is estimated to be 34 dBA  $L_{eq}$ .

The nearest use to the proposed dog parks is the office building located approximately 150 feet to the south. It is estimated the exterior noise level at the office building from the dog parks would be 51 dBA  $L_{eq}$ . The nearest noise-sensitive receptors to the dog parks are Trinity Cathedral, St. James Place Apartments, and St. James Place Apartments, which are located approximately 250, 350, and 500 feet from the proposed dog parks, respectively. At the Trinity Cathedral, Marshall Squares apartments, and St. James Place Apartments, the predicted noise level from the dog parks would be 47, 44, and 41 dBA  $L_{eq}$ , respectively.

General Plan Policy EC-1.3 requires that the noise generation of new non-residential land uses be mitigated to 55 dBA DNL at the property line when located adjacent to existing or planned noise sensitive residential and public/quasi-public land uses. If the active recreation areas were in full use during the entire daytime period, the average day/night noise level (DNL) at the nearby receptors from the recreation areas would be approximately equal to the hourly average levels ( $L_{eq}$ ). As a result, the estimated noise level from the proposed playground and dog parks at nearby sensitive receptors (34 to 47 dBA  $L_{eq}$ ), as well as the nearby office building (51 dBA  $L_{eq}$ ), would be below the City's 55 dBA DNL standard. The proposed recreational areas, therefore, would not result in a significant noise impact. **(Less than Significant Impact)**

## Performing Arts Pavilion

The proposed project would construct a performing arts pavilion in the northwest corner of the project site. A schedule of events for the performing arts pavilion is unavailable at this time. For the purposes of this Draft EIR, it is assumed that the project would host between 50 and 300 events annually. Noise generation from the performing arts pavilion would vary significantly depending on the nature of the event, sound amplification needs, and the size of the crowd. In addition, reactions from nearby residents would vary depending on the time of day, duration of the event, and frequency of events.

Based on previous noise studies for the City's Dia de los Muertos Festival in St. James Park (see Appendix F and standard of 45 dBA DNL. Therefore, the project would have a significant noise impact during use of the pavilion for music event.

**Impact NOI-1:** Operation of the proposed performing arts pavilion would result in interior noise levels above the City's residential interior noise standard. **(Significant Impact)**

### Project Conditions:

The project would implement the project conditions noted below to better manage the noise from the performing arts pavilion and a mitigation measure to reduce the noise impact.

- The performing arts pavilion sound system design shall maximize the use of state-of-the-art technology to focus sound system output in the crowd areas and limit spillover of music into the community.
- The first two large concerts (in excess of 1,000 people) held at the performing arts pavilion shall be completed by 8:00 PM to provide an opportunity to evaluate facility noise generation, including crowd noise, at the nearest residences and other sensitive receptors.
- To the maximum extent feasible, sound system output shall be limited to an average of 85 dBA  $L_{eq}$  averaged over a five-minute period at a position located 100 feet from the amphitheater stage. This level could be increased if it can be demonstrated through noise level measurements that the design of the sound system can maintain exterior sound levels at the facades of the nearest sensitive receptors of 70 dBA or less.

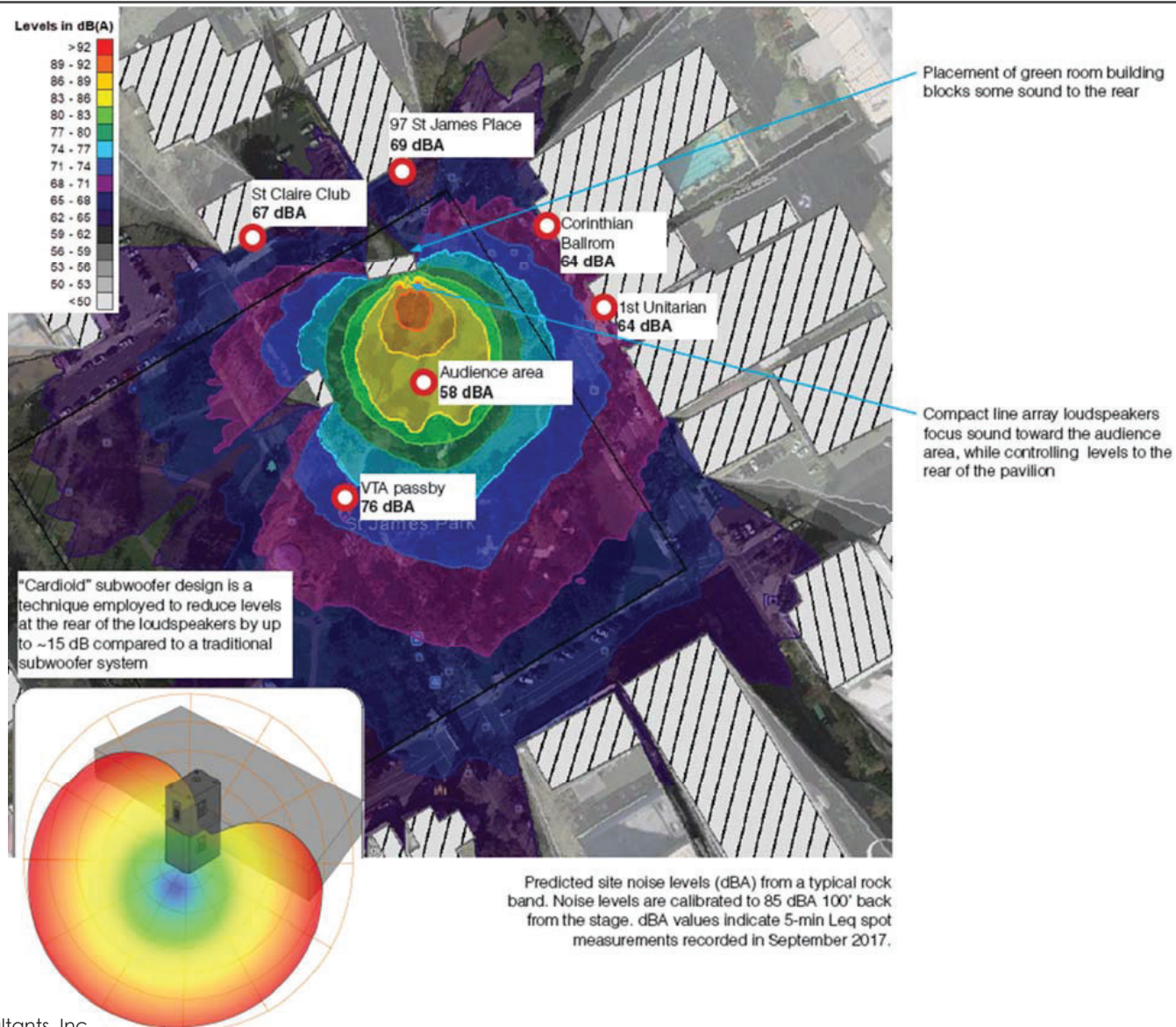
Figure 3.13-2), a reference noise level of 85 dBA at 100 feet from the stage of the performing arts pavilion was used to simulate a music event. St. James Place, located behind the performing arts pavilion across East St. James Street, is the nearest sensitive-receptor. While St. James Place would be within 100 feet of the performing arts pavilion, due to the directionality of the speakers, the estimated interior noise level during a music event simulation would be approximately 45 to 50 dBA. Conversely, Trinity Cathedral is located about 600 feet from the performing arts pavilion, but since the speakers would be facing towards the cathedral, interior noise levels are expected to also be approximately 45 to 50 dBA during a music event. With no music, locations have existing interior noise levels of 40 to 45 dBA. The proposed project would result in an increase of up to five dBA DNL above existing levels, which would exceed the City's residential interior noise standard of 45 dBA DNL. Therefore, the project would have a significant noise impact during use of the pavilion for music event.

**Impact NOI-1:** Operation of the proposed performing arts pavilion would result in interior noise levels above the City's residential interior noise standard. **(Significant Impact)**

**Project Conditions:**

The project would implement the project conditions noted below to better manage the noise from the performing arts pavilion and a mitigation measure to reduce the noise impact.

- The performing arts pavilion sound system design shall maximize the use of state-of-the-art technology to focus sound system output in the crowd areas and limit spillover of music into the community.
- The first two large concerts (in excess of 1,000 people) held at the performing arts pavilion shall be completed by 8:00 PM to provide an opportunity to evaluate facility noise generation, including crowd noise, at the nearest residences and other sensitive receptors.
- To the maximum extent feasible, sound system output shall be limited to an average of 85 dBA  $L_{eq}$  averaged over a five-minute period at a position located 100 feet from the amphitheater stage. This level could be increased if it can be demonstrated through noise level measurements that the design of the sound system can maintain exterior sound levels at the facades of the nearest sensitive receptors of 70 dBA or less.



Source: Bollard Acoustical Consultants, Inc.

- To control low-frequency sound in the surrounding neighborhood, C-weighted sound levels shall be limited to 95 dBA  $L_{eq}$  averaged over a five-minute period at a position located 100 feet from the amphitheater stage.
- During all amplified music events with over 500 persons in attendance noise levels shall be monitored and logged in five minutes intervals by the project proponent. The monitoring should be conducted continuously from the sound stage using a logging sound level meter meeting ANSI Type 1 or 2 specifications. The meter shall be calibrated before and after each music event. The logs shall be kept on file with City of San José and made available upon request.
- The amphitheater operator shall inform event producers of the sound level limits in effect as they are considerably lower than levels generated by typical large concerts. Suitable measures shall be developed and implemented to both ensure the limits are maintained and penalties established if producers fail to comply with the noise level limits.
- During larger events, amplified music would likely be audible within the nearest sensitive receptors. The amphitheater operator shall designate a noise contact to respond to resident concerns and complaints regarding sound levels during the events so that appropriate investigation of those concerns can be accommodated.
- Due to the likely difficulty of providing additional acoustical isolation to the interior space of the Trinity Church, the designated noise contact shall work with the Church representatives to minimize interference with church functions to the maximum extent possible.
- The Department of Parks, Recreation, and Neighborhood Services shall contact local law enforcement agencies following the concerts to determine if any noise complaints were registered during the concerts. Legitimate complaints shall be investigated, and additional sound controls evaluated and implemented as appropriate.

### **Mitigation Measure:**

**MM NOI-1.1:** Amplified music events at the performing arts pavilion shall end by 10:00 PM.

Implementation of the project conditions and mitigation measure MM NOI-1.1 would help reduce music event noise in the project area; however, it does not ensure that the project would not result in a substantial increase in ambient noise levels at the nearest noise-sensitive receptors. While not all events at the performing arts pavilion would generate significant noise levels, it is reasonable to conclude that multiple events a year would generate significant noise levels given the proximity of residences and other sensitive land uses to the pavilion. As a result, noise impacts resulting from music events at the proposed performing arts pavilion would be significant and unavoidable.

### **(Significant and Unavoidable Impact with Mitigation Incorporated)**

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Would the project result in generation of excessive groundborne vibration or groundborne noise levels?

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The proposed project would require limited excavation and grading during construction. No pile driving is required. The nearest structures to the project site are about 80 feet away, located across

the surrounding surface streets. Estimated vibration levels for equipment that could be used during construction are shown in Table 3.13-4.

<b>Table 3.13-4: Vibration Source Levels for Construction Equipment</b>					
<b>Equipment Type</b>	<b>Maximum PPV (inches/second)</b>				
	<b>At 25 feet</b>	<b>At 50 feet</b>	<b>At 75 feet</b>	<b>At 100 feet</b>	<b>At 175 feet</b>
Vibratory roller	0.210	0.0742	0.0404	0.0263	0.0113
Large bulldozer	0.089	0.0315	0.0171	0.0111	0.0048
Caisson drilling	0.089	0.0315	0.0171	0.0111	0.0048
Loaded trucks	0.076	0.0269	0.0146	0.0095	0.0041
Jackhammer	0.035	0.0124	0.0067	0.0044	0.0019
Small bulldozer	0.003	0.0011	0.0006	0.0004	0.0002
Source: Federal Transit Administration, Transit Noise and Vibration Impact Assessment. 2006.					

As shown in Table 3.13-4, project construction would not generate vibration levels in excess 0.08 inches/sec PPV at 50 feet, which is the most conservative limit. As shown in Table 3.13-4, construction vibration dissipates rapidly, such that vibration levels would not exceed limits even if several pieces of equipment were operated concurrently on the project site. For this reason, the project would have a less than significant vibration impact. **(Less than Significant Impact)**

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

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The Airport is located approximately 1.5 miles northwest of the project site; however, the site is located outside the airport's 65 CNEL noise contour and AIA. For these reasons, the project would not expose people to excessive airport noise. **(Less than Significant Impact)**

### **3.13.2.2 Cumulative Impacts**

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Would the project result in a cumulatively considerable contribution to a significant noise impact?

---

### **Construction**

There are 12 cumulative projects within 1,000 feet of the project, two of which border the project site (refer to Figure 3.0-1). While cumulative projects could be constructed at the same time as the proposed project and result in a temporary construction noise increase, all projects in the City would be required to implement the construction noise project conditions identified in Impact NOI-1. Nevertheless, if the proposed project's construction schedule were to overlap one or more of the



cumulative projects' construction schedules for a consecutive 12 months or more, the project would have a cumulatively considerable contribution to a cumulative construction noise impact.

**(Significant and Unavoidable Cumulative Impact)**

### **Operation**

Once operational, the proposed project would have a significant noise impact during music events (see Impact NOI-1). The implementation of mitigation measure MM NOI-1.1 would help reduce the noise impact, but not to a less than significant level. While the project would increase ambient noise levels in the project area, the increase is not permanent and is limited to the hours of operation of the pavilion. No other cumulative projects would contribute to the same periodic noise level increase as the project. As a result, the project does not contribute to a cumulative operational noise impact. **(No Cumulative Impact)**

### **3.14 POPULATION AND HOUSING**

#### **3.14.1 Environmental Setting**

##### **3.14.1.1 *Regulatory Framework***

#### **State**

In order to attain the state housing goal, cities must make sufficient suitable land available for residential development, as documented in an inventory, to accommodate their share of regional housing needs. California's Housing Element Law requires all cities to: 1) zone adequate lands to accommodate its Regional Housing Needs Allocation (RHNA); 2) produce an inventory of sites that can accommodate its share of the RHNA; 3) identify governmental and non-governmental constraints to residential development; 4) develop strategies and work plan to mitigate or eliminate those constraints; and 5) adopt a housing element and update it on a regular basis.<sup>80</sup> The City of San José Housing Element and related land use policies were last updated in January 2015.<sup>81</sup>

#### **Regional**

The Association of Bay Area Governments (ABAG) allocates regional housing needs to each city and county within the nine-county Bay Area, based on statewide goals. ABAG also develops forecasts for population, households, and economic activity in the Bay Area. ABAG, Metropolitan Transportation Commission, and local jurisdiction planning staff created the Regional Forecast of Jobs, Population and Housing (upon which Plan Bay Area 2040 is based), which is an integrated land use and transportation plan looking out to the year 2040 for the nine-county San Francisco Bay Area.

Plan Bay Area 2040 is a state-mandated, integrated long-range transportation, land-use and housing plan intended support a growing economy, provide more housing and transportation choices, and reduce transportation-related pollution and GHG emissions in the Bay Area. Plan Bay Area promotes compact, mixed-use residential and commercial neighborhoods near transit, particularly within identified Priority Development Areas (PDAs). The project site is located within a PDA.<sup>82</sup>

##### **3.14.1.2 *Existing Conditions***

The population of San José was estimated to be approximately 1,051,316 in January 2018 with an average of 3.20 persons per household.<sup>83</sup> The City currently has approximately 335,164 housing units and, by 2040, the City's population is projected to reach 1,445,000 with 472,000 households.<sup>84</sup> There are no housing units on the project site and it is in a developed area with infrastructure and roads.

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<sup>80</sup> "Regional Housing Needs Allocation and Housing Elements" Accessed April 11, 2019. <http://hcd.ca.gov/community-development/housing-element/index.shtml>.

<sup>81</sup> City of San José. *City of San José 2014-2023 Housing Element*. January 27, 2015.

<sup>82</sup> Metropolitan Transportation Commission. "Priority Development Areas." December 19, 2018. Accessed March 12, 2019. <https://mtc.maps.arcgis.com/home/item.html?id=36dd7a36576f42d4a3d6b0708e3982f4>.

<sup>83</sup> State of California, Department of Finance. "E-5 Population and Housing Estimates for Cities, Counties, and the State, 2011-2018." Accessed March 22, 2019. <http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-5/>.

<sup>84</sup> Center for the Continuing Study of the California Economy. "Projections of Jobs, Populations, and Households for the City of San José." August 2008.

### 3.14.2 Impact Discussion

For the purpose of determining the significance of the project's impact on population and housing, would the project:

- 1) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?
- 2) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?

#### 3.14.2.1 *Project Impacts*

---

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

---

The project would not add new land uses or population in the City. The proposed project would serve the City's existing and planned population growth. As a result, the project would not induce substantial unplanned population growth in the project area, either directly or indirectly. **(No Impact)**

---

Would the project displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?

---

The project site does not include residents or housing units and, therefore, the project would not displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere. **(No Impact)**

#### 3.14.2.2 *Cumulative Impacts*

---

Would the project result in a cumulatively considerable contribution to a significant population and housing impact?

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The geographic area for cumulative population and housing impacts is the City's boundaries. As discussed under Impact POP-1 and Impact POP-2, the project would serve the existing and planned growth in the City, does not propose new uses that would directly or indirectly induce unplanned population growth, and would not displace residents or housing. For these reasons, the project would not have a cumulatively considerable contribution to a significant cumulative population and housing impact. **(No Cumulative Impact)**

**3.15 PUBLIC SERVICES**  
**3.15.1 Environmental Setting**  
**3.15.1.1 *Regulatory Framework***

**State**

Government Code Section 66477

The Quimby Act (included within Government Code Section 66477) requires local governments to set aside parkland and open space for recreational purposes. It provides provisions for the dedication of parkland and/or payment of fees in lieu of parkland dedication to help mitigate the impacts from new residential developments. The Quimby Act authorizes local governments to establish ordinances requiring developers of new residential subdivisions to dedicate parks, pay a fee in lieu of parkland dedication, or perform a combination of the two.

Government Code Section 65995 through 65998

California Government Code Section 65996 specifies that an acceptable method of offsetting a project's effect on the adequacy of school facilities is the payment of a school impact fee prior to the issuance of a building permit. Government Code Sections 65995 through 65998 set forth provisions for the payment of school impact fees by new development by "mitigating impacts on school facilities that occur (as a result of the planning, use, or development of real property" (Section 65996[a]). The legislation states that the payment of school impact fees "are hereby deemed to provide full and complete school facilities mitigation" under CEQA (Section 65996[b]).

Developers are required to pay a school impact fee to the school district to offset the increased demands on school facilities caused by the proposed residential development project. The school district is responsible for implementing the specific methods for mitigating school impacts under the Government Code.

**Local**

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts from planned development in the City. The policies below are specific to public services and are applicable to the proposed project.

<b>Policy</b>	<b>Description</b>
<hr/>	
Education and Service	
ES-3.1	Provide rapid and timely Level of Service response time to all emergencies: 1. For police protection, achieve a response time of six minutes or less for 60 percent of all Priority 1 calls, and of eleven minutes or less for 60 percent of all Priority 2 calls. 2. For fire protection, achieve a total response time (reflex) of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents.

<b>Policy</b>	<b>Description</b>
	<p>3. Enhance service delivery through the adoption and effective use of innovative, emerging techniques, technologies and operating models.</p> <p>4. Measure service delivery to identify the degree to which services are meeting the needs of San José's community.</p> <p>5. Ensure that development of police and fire service facilities and delivery of services keeps pace with development and growth in the city.</p>
ES-3.9	Implement urban design techniques that promote public and property safety in new development through safe, durable construction and publicly-visible and accessible spaces.
ES-3.11	Ensure that adequate water supplies are available for fire-suppression throughout the City. Require development to construct and include all fire suppression infrastructure and equipment needed for their projects.
ES-3.15	Apply demand management principles to control hazards through enforcement of fire and life safety codes, ordinances, permits and field inspections.
ES-3.19	Remove excessive/overgrown vegetation (e.g., trees, shrubs, weeds) and rubbish from City-owned property to prevent and minimize fire risks to surrounding properties.
<b>Parks, Open Space, and Recreation</b>	
PR-1.6	Where appropriate and feasible, develop parks and recreational facilities that are flexible and can adapt to the changing needs of their surrounding community.
PR-1.7	Design vibrant urban public spaces and parklands that function as community gathering and local focal points, providing opportunities for activities such as community events, festivals, and/or farmers markets as well as opportunities for passive and, where possible, active recreation.
PR-1.8	Enhance existing parks and recreation facilities in built-out areas through new amenities and other improvements to ensure that residents' needs are being met.

### **3.15.1.2      *Existing Conditions***

#### **Fire Department**

Fire protection services for the project site are provided by San José Fire Department (SJFD). SJFD currently consists of 33 active stations serving an area of 205 square miles and over one million residents. SJFD responds to all fires, hazardous materials spills, and medical emergencies (including injury accidents) in the project area.

The nearest fire station to the project site is Station No. 1, located at 225 North Market Street, approximately 800 feet west of the site. Based on the most recent data available from the SJFD, the average travel time for medical calls from Station 1 in 2017 was 5:56 minutes and in 2018 (January through October) was 10:29 minutes. For fire and other calls, the average response time in 2017 was 4:39 and in 2018 was 13:57. Medical call response times in 2018 were influenced by significant travel time in the month of June (15:29) and average fire and other calls response times in 2018 were influenced by significant travel times in the months of January (25:54), April (26:49), June (24:29),

August (32:38), and September (24:50).<sup>85</sup> The SJFD has the ability to preempt traffic signals to speed response times.

### **Police Department**

Police protection services for the project site are provided by the San José Police Department (SJPD). SJPD is authorized to employ approximately 1,400 employees, including both sworn and non-sworn officers. Patrolling officers are dispatched via police headquarters, which is at 201 West Mission Street, approximately 1.1 miles northeast of the project site.

### **Schools**

The project site is located within the San José Unified School District. Students in the project area attend Horace Mann Elementary School (K-5<sup>th</sup> grade), Burnett Middle School (6<sup>th</sup> and 8<sup>th</sup> grade), and San José High School. The closest school to the project site is Horace Mann Elementary School located at 55 North 7<sup>th</sup> Street, approximately 0.25 mile west.

### **Parks**

The City of San José manages a total of 3,534 acres of regional and neighborhoods/community serving parkland.<sup>86</sup> Other recreational facilities within the City include community centers, senior centers, youth centers, skate parks, and trails. The proposed project site is St. James Park, one of the primary parks in downtown San José.

### **Libraries**

The Dr. Martin Luther King Jr. Library, located at 150 East San Fernando Street approximately 0.4 miles southeast of the site, is the closest library to the project site. There are 22 additional branch libraries located throughout San José.

### **3.15.2 Impact Discussion**

For the purpose of determining the significance of the project's impact on public services, would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

- 1) Fire protection?
- 2) Police protection?

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<sup>85</sup> City of San José Fire Department. "Fire Station Response Metrics." January 14, 2019. Accessed March 12, 2019. <http://www.sanJoseca.gov/DocumentCenter/View/36886>.

<sup>86</sup> Only existing parks are included in the above acreage. Secured or potential parks, which total approximately 118 acres, are not included in the acreage total. Source: City of San José. *Greenprint 2009 Update for Parks, Recreation Facilities and Trails*. December 2009.

- 3) Schools?
- 4) Parks?
- 5) Other public facilities?

### 3.15.2.1 *Project Impacts*

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Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for fire protection services?

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The General Plan IFEIR concluded that, with the build out of the City specified within the General Plan, additional fire staff and equipment may be required to adequately serve a larger population but no new fire stations would be required other than those already planned.<sup>87</sup>

The project proposes to renovate the park with uses similar to existing conditions and consistent with the General Plan. Implementation of the proposed project would intensify the use of the project site compared to existing conditions and could incrementally increase the demand for fire protection services on the project site. Physical improvements to the project site (i.e., structures and buildings) would, however, be constructed in conformance with current building and fire codes, and SJFD would review project plans to ensure appropriate safety features are incorporated to reduce fire hazards. While SJFD showed increase response times in 2018, given the proximity of the project site to Station 1, the proposed project would not significantly increase overall response times over existing conditions. In addition, Chapter 13.14 of the City's Municipal Code requires the project to obtain a special event permit for public events and provide security and traffic control personnel/plans. As part of the special event permit approval, Municipal Code Section 13.14.310 requires that the "special event will not require the diversion of public safety or other city employees from their normal duties so as to unreasonably reduce adequate levels of service to any other portion of the city." For these reasons, the project would not require new or expanded fire protection facilities (the construction of which could cause significant environmental impacts) in order to maintain acceptable service ratios, response times or other performance objectives for fire protection services. **(Less than Significant Impact)**

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Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for police protection services?

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<sup>87</sup> City of San José. *Integrated Final Program Environmental Impact Report for the Envision San José 2040 General Plan*. SCH# 2009072096. September 2011. Pages 626-629.

The project site is currently served by SJPD. Like with fire protection services, the proposed renovation of the park could incrementally increase the demand for police protection services to the site.

The incremental increase in police protection services would not require new or expanded police protection facilities (the construction of which could cause significant environmental impacts) in order to maintain acceptable service ratios, response times or other performance objectives for police protection services. As discussed in Impact PS-1, the project would be required to obtain a special event permit, and include security and traffic personnel/plans. In addition, SJPD would review the final site design, including proposed landscaping, access, and lighting, to ensure that the project provides adequate safety and security measures. **(Less than Significant Impact)**

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Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for schools?

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The project proposes public and community uses, which would serve the existing and planned population in the City. The project does not propose housing units or other uses that would generate new students and impact school facilities. The project, therefore, would not require new or expanded school facilities, the construction of which could cause significant environmental impacts. **(No Impact)**

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Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for parks?

---

New residents increase demand for parks. The proposed project would not generate new residents and, therefore, would not generate demand for parks. The project would renovate and improve St. James Park to serve the existing and planned population in the City. More analysis on recreational impact is addressed in Section 3.16 Recreation. **(Less than Significant Impact)**

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Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for other public facilities?

---

New residents increase demand on library facilities. The proposed project would not generate new residents and, therefore, would not generate demand for libraries. The project, therefore, would not



require new or expanded library facilities, the construction of which could cause significant environmental impacts. **(No Impact)**

### **3.15.2.2**      *Cumulative Impacts*

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Would the project result in a cumulatively considerable contribution to a significant public services impact?

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The cumulative projects in San José may require the provision of public services, including, increased fire and police services, schools, and recreational facilities. All of the cumulative projects would implement conditions of approval or mitigation measures that would reduce impacts to public services. These projects would also be subject to state, county, and City codes regulating public services (such as payment of park fees). The proposed project does not include any residential development and would not contribute considerably to cumulative impacts as a result of new schools or libraries because none would be needed to support the proposed project. **(Less than Significant Cumulative Impact)**

### **3.16 RECREATION**

#### **3.16.1 Environmental Setting**

##### **3.16.1.1 *Regulatory Framework***

#### **State**

##### Government Code Section 66477

The Quimby Act (included within Government Code Section 66477) requires local governments to set aside parkland and open space for recreational purposes. It provides provisions for the dedication of parkland and/or payment of fees in lieu of parkland dedication to help mitigate the impacts from new residential developments. The Quimby Act authorizes local governments to establish ordinances requiring developers of new residential subdivisions to dedicate parks, pay a fee in lieu of parkland dedication, or perform a combination of the two at the discretion of the City of San José.

#### **Local**

##### Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts from planned development in the City. The policies below are specific to recreation and are applicable to the proposed project.

<b>Policy</b>	<b>Description</b>
<hr/>	
Parks, Open Space, and Recreation	
PR-1.2	Provide 7.5 acres per 1,000 population of citywide/regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.
PR-1.6	Where appropriate and feasible, develop parks and recreational facilities that are flexible and can adapt to the changing needs of their surrounding community.
PR-1.7	Design vibrant urban public spaces and parklands that function as community gathering and local focal points, providing opportunities for activities such as community events, festivals, and/or farmers markets as well as opportunities for passive and, where possible, active recreation.
PR-1.8	Enhance existing parks and recreation facilities in built-out areas through new amenities and other improvements to ensure that residents' needs are being met.
PR-6.5	Design and maintain park and recreation facilities to minimize water, energy and chemical (e.g., pesticides and fertilizer) use. Incorporate native and/or drought-resistant vegetation and ground cover where appropriate.
<hr/>	

## City of San José Greenprint 2009 Update

In December 2009, the City Council adopted the City of San José Greenprint 2009 Update (Greenprint), which is the City's 20-year strategic plan for parks, recreational facilities, and programs. As part of the Greenprint and Green Vision, the City has identified two goals related to the trail network: 1) complete 100 miles of interconnected trails by 2022, and 2) complete 130 miles of the network by 2035.

The Greenprint identifies the Central/Downtown Planning Area as having a parkland deficit, with a projected need for roughly 300 additional acres of neighborhood/community-serving parkland to meet the City's service objective by 2020.<sup>88</sup> Given its population density, the most practical strategy for increasing recreation amenities would be the development of privately owned pocket parks, plazas, and other small scale recreation facilities; however, completion of planned park facilities such as North San Pedro and Bassett parks, restoration of Pellier Park, and build-out of the Guadalupe River Park Master Plan will help offset the acreage needed.<sup>89</sup>

According to the Greenprint, there are no areas in the Central/Downtown Planning area that are underserved by community centers, based on a three-mile radius from residential uses. The City is working on a major update of its existing Greenprint, called Activate San José, expected to be complete in later this year.

### **3.16.1.2      *Existing Conditions***

The project site is St. James Park located in downtown San José. As described in Section 3.15 Public Services, the City of San José manages a total of 3,534 acres of regional and neighborhoods/community serving parkland, including community centers, senior centers, youth centers, skate parks, and trails (including St. James Park).

### **3.16.2      Impact Discussion**

For the purpose of determining the significance of the project's impact on recreation, would the project:

- 1) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?
- 2) Include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

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<sup>88</sup> Given that the General Plan allows for additional growth in downtown compared to the 2020 General Plan, the current need exceeds the previous estimates for parkland acreage identified in the Greenprint.

<sup>89</sup> City of San José. *Greenprint 2009 Update for Parks, Recreation Facilities and Trails*. 2009.

### 3.16.2.1 *Project Impacts*

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

---

As discussed in Section 3.15 Public Services under Impact PS-4, the proposed project would not generate new residents and, therefore, would not increase demand for parks or other recreational facilities. The project would improve St. James Park by renovating and improving existing public and community facilities and constructing a new performing arts pavilion. The proposed renovated, improved, and new facilities would serve the existing and planned population in the City.

Implementation of the proposed project would intensify the use of the project site compared to existing conditions with the addition of the performing arts pavilion and could cause an accelerated deterioration of the park and proposed facilities. The project would not, however, result in substantial adverse physical impacts to the park given the improvements would accommodate the increased uses proposed. For these reasons, substantial physical deterioration of the facility would not occur or be accelerated. **(Less than Significant Impact)**

---

Would the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

---

The project is the redevelopment of St. James Park to construct a new performing arts pavilion, café, and various supporting facilities. The significant environmental impacts of the project are analyzed throughout this Draft EIR. While most identified physical and operational impacts would be less than significant, the project would have a significant unavoidable impact on the visual character of the park (Section 3.1, Aesthetics) and the historic integrity of the park (Section 3.5, Cultural Resources). In addition, the proposed performing arts pavilion would have a significant and unavoidable operational noise impact (Section 3.13, Noise).

**Impact REC-1:** The proposed changes to St. James Park would result impact the visual character and historic integrity of the park and would also result in an operational noise impact. **(Significant Impact)**

As discussed in Sections 3.1, 3.5, and 3.13 of this document, even with the implementation of identified mitigation, the visual, cultural, and noise impacts resulting from the project would be significant and unavoidable. **(Significant and Unavoidable Impact with Mitigation Incorporated)**

### 3.16.2.2 *Cumulative Impacts*

---

Would the project result in a cumulatively considerable contribution to a significant recreation impact?

---

The geographic area for cumulative recreation impacts is the City's boundaries. Cumulative projects generating new residents are required to comply with the City's requirements for parkland dedication, provisions of public space, and/or payment of in-lieu fees to minimize impacts of new residents on existing park and recreation facilities. As discussed under Impact REC-1, the project would not generate new residents. The project, therefore, would not have a considerable contribution to a cumulative increase in the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated. No other cumulative projects would contribute to the project's significant and unavoidable operational noise impact (refer to Section 3.13 Noise for the complete analysis of the project's operational noise impact and cumulative noise impacts). For these reasons, the project would not have a cumulatively considerable contribution to a significant cumulative recreation impact. **(Less than Significant Cumulative Impact)**

### 3.17 TRANSPORTATION

The following discussion is based upon a Transportation Analysis prepared by Hexagon Transportation Consultants, Inc. on July 30, 2019. A copy of this report is included in Appendix G of this document.

#### 3.17.1 Environmental Setting

##### 3.17.1.1 *Regulatory Framework*

#### State

##### Regional Transportation Planning

The Metropolitan Transportation Commission (MTC) is the transportation planning, coordinating, and financing agency for the nine-county San Francisco Bay Area, including Santa Clara County. MTC is charged with regularly updating the Regional Transportation Plan, a comprehensive blueprint for the development of mass transit, highway, airport, seaport, railroad, bicycle, and pedestrian facilities in the region. MTC and ABAG adopted Plan Bay Area 2040 in July 2017, which includes the region's Sustainable Communities Strategy and Regional Transportation Plan (including a regional transportation investment strategy for revenues from federal, state, regional and local sources over the next 24 years).

##### Senate Bill 743

SB 743, which became effective September 2013, initiated reforms to the CEQA Guidelines to establish new criteria for determining the significance of transportation impacts that “promote the reduction of GHG emissions, the development of multimodal transportation networks, and a diversity of land uses.” Specifically, SB 743 directs the Governor’s Office of Planning and Research (OPR) to update the CEQA Guidelines to replace automobile delay—as described solely by level of service (LOS) or similar measures of vehicular capacity or traffic congestion—with vehicle miles traveled (VMT) as the recommended metric for determining the significance of transportation impacts. OPR has approved the CEQA Guidelines implementing SB 743. SB 743 did not authorize OPR to set specific VMT impact thresholds, but it did direct OPR to develop guidelines for jurisdictions to utilize.

##### Congestion Management Program

The VTA oversees the Congestion Management Program (CMP), which is aimed at reducing regional traffic congestion. The relevant state legislation requires that all urbanized counties in California prepare a CMP in order to obtain each county’s share of gas tax revenues. State legislation requires that each CMP define traffic LOS standards, transit service standards, a trip reduction and transportation demand management, a land use impact analysis program, and a capital improvement element. VTA has review responsibility for proposed development projects that are expected to affect CMP designated intersections.

## Local

### Envision San José 2040 General Plan

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

<b>Policy</b>	<b>Description</b>
Transportation	
TR-1.1	Accommodate and encourage use of non-automobile transportation modes to achieve San José’s mobility goals and reduce vehicle trip generation and VMT.
TR-1.2	Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects.
TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute towards transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.
TR-9.1	Enhance, expand and maintain facilities for walking and bicycling, particularly to connect with and ensure access to transit and to provide a safe and complete alternative transportation network that facilitates non-automobile trips.

### City Council Policy 5-1

As established in City Council Policy 5-1 “Transportation Analysis Policy,” the City of San José uses VMT as the metric to assess transportation impacts from new development. If a project’s VMT does not meet the established VMT thresholds, mitigation measures would be required, where feasible. The policy also requires preparation of a Local Transportation Analysis to analyze non-CEQA transportation issues, including local transportation operations, intersection LOS, site access and circulation, neighborhood transportation issues such as pedestrian and bicycle access, and recommend needed transportation improvements.

Screening criteria have been established to determine which projects require a detailed VMT analysis. If a project meets the relevant screening criteria, it is considered to have a less than significant VMT impact.

### San José Bike Plan 2020

The San José Bike Plan 2020 establishes goals, policies, and actions to facilitate bicycling as a daily part of life in San José. The plan includes and describes designated bike lanes along many City streets, as well as designated bike corridors. In order to further the goals of the City, pedestrian and bicycle facilities are encouraged with new development projects.

## Better Bikeways SJ

The City of San José is redesigning several streets to make it safer, more convenient, and more comfortable to bike. The City is focusing on providing calm, comfortable, and connected bicycling routes with design changes like protected bike lanes on wide streets, protected intersections at busy crossings, and traffic diverters on small streets.

### **3.17.1.2      *Existing Conditions***

#### **VMT of Existing Land Uses in the Project Area**

Based on the City of San Jose's VMT Evaluation Tool ("sketch tool") and the project site, the existing VMT for residential uses in the project vicinity is 7.86 per capita and the existing VMT for employment uses in the project vicinity is 9.79 per employee. The current citywide average VMT for residential uses is 11.91 per capita and the regional average VMT for employment uses is 14.37 per employee. Thus, the VMT levels of existing residential uses in the project vicinity are well below the citywide average VMT levels and the VMT levels of existing employment uses in the project vicinity are well below the regional average VMT levels.

#### **Existing Roadway Network**

Roadway access to the project area and nearby parking garages is described below and shown in Figure 3.17-1.

*State Route (SR) 87* is a north-south freeway providing regional access to the project via a full interchange at Julian Street and a northbound SR 87 off-ramp to Santa Clara Street. SR 87 is oriented in a northwest/southwest direction with four mixed-flow lanes and two high-occupancy vehicle (HOV) lanes in the vicinity of the site.

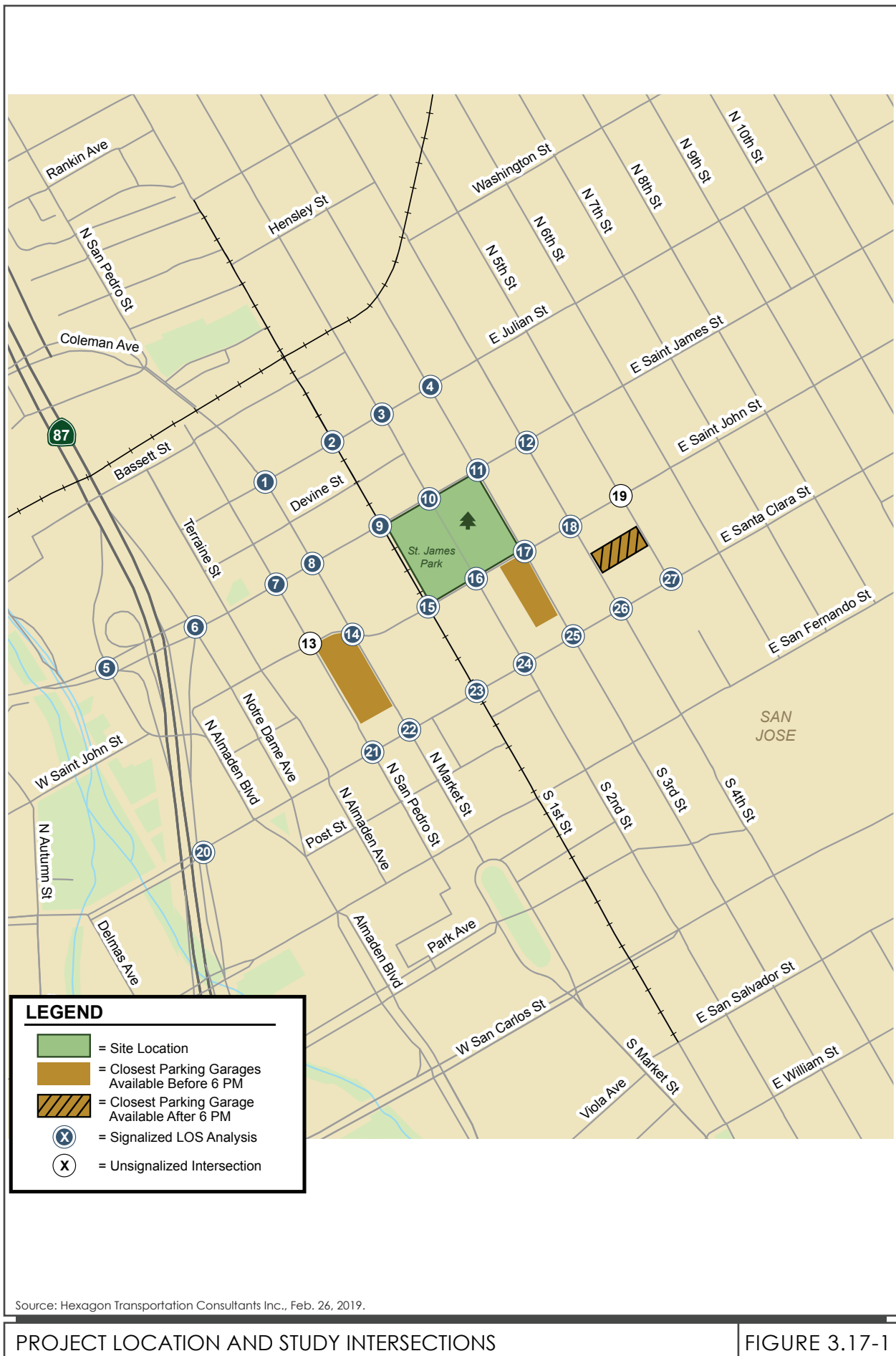
*Interstate (I-)280* is generally an east-west oriented eight-lane freeway in the vicinity of downtown San José, which has six mixed-flow lanes and two HOV lanes. Connections from I-280 to downtown San José are provided via full or partial interchanges at Bird Avenue, Seventh Street, Almaden Boulevard/Vine Street, First Street, and Fourth Street.

*San Pedro Street* is a north-south two-lane street beginning at Bassett Street and extending south where it terminates at San Fernando Street. San Pedro Street provides direct access to the Market Street Garage.

*Market Street* is a north-south, four-lane street that provides access to the study area. Market Street transitions into Coleman Avenue to the north and First Street to the south. Market Street provides direct access to the Market Street Garage.

*First Street* is a one-way street in the northbound direction that serves as the western boundary of St. James Park. First Street has one mixed-flow lane and one bus-only lane. South of Devine Street, First Street is two lanes wide. First Street transitions into a two- to four-lane arterial with a raised center median south of San Carlos Street. The VTA's Light Rail Transit LRT operates on North First Street (northbound trains).





PROJECT LOCATION AND STUDY INTERSECTIONS

FIGURE 3.17-1

*Second Street* is a one-way street in the southbound direction and bisects St. James Park. Second Street is one lane wide between St. James Street and St. John Street. South of St. John Street, Second Street is two lanes wide with one mixed-flow lane and one bus only lane. VTA's LRT operates on North Second Street (southbound trains). Second Street is a designated bike route and includes a sharrow.<sup>90</sup>

*Third Street* is a one-way street with two northbound lanes and buffered bike lanes between Humboldt Street and Julian Street. Third Street is a two-way, two-lane street with bike lanes between Julian Street and Jackson Street to the north. Third Street provides direct access to the Third Street Garage.

*Fourth Street* is a one-way street with two southbound lanes and buffered bike lanes between Reed Street and St. James Street. Fourth Street is a two-way two-lane street with unprotected bike lanes between St. James Street and Jackson Street to the north. Fourth Street provides direct access to the Fourth/St. John Street Garage.

*Fifth Street* is a north-south two-lane residential street that extends from Santa Clara Street northward where it terminates just south of I-880. Fifth Street provides direct access to the Fourth/St. John Street Garage.

*Julian Street* is primarily a one-way two-lane westbound local connector street within the downtown core. Julian Street extends east from The Alameda through the downtown core to United States Highway (US 101), where it becomes McKee Road.

*St. James Street* is a two-way two-lane street, west of Market Street. East of Market Street, St. James Street is a two-lane one-way street in the eastbound direction, transitioning back into a two-way, two-lane street at North Fourth Street.

*St. John Street* is an east-west two-lane street that serves as the southern boundary of the project site. St. John Street is a designated bike route containing a mix of buffered bike lanes and sharrows. St. John Street provides access to the Guadalupe River trail system.

*Santa Clara Street* is an east-west four-lane Grand Boulevard that runs through the center of downtown San José. As defined in the General Plan, Grand Boulevards serve as major transportation corridors for primary routes for VTA light-rail, bus rapid transit, standard or community busses, and other public transit vehicles—with priority given to public transit.

### **Pedestrian Facilities**

Crosswalks with pedestrian signal heads are located at all the signalized intersections in the project area. Crosswalks are also provided at some of the nearby unsignalized intersections. The existing pedestrian facilities provide good connectivity between St. James Park and the surrounding land uses and transit stops in the downtown area.

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<sup>90</sup> A sharrow is defined as a shared-lane marking

## **Bicycle Facilities**

Bicycle facilities are divided into three classes. Class I bikeways are bike paths that are physically separated from motor vehicles and offer two-way bicycle travel. Class II bikeways are striped bike lanes marked by signage and/or sharrows. Class III bikeways are bike routes and only have signs and/or sharrows. As part of the City's Better Bikeway network (BBN), modifications to the existing bicycle facilities along St. John Street were recently completed to add Class II bikeways and parallel parking. Existing bicycle facilities in the project vicinity are shown in Figure 3.17-2.

### **Guadalupe River Park Trail**

The Guadalupe River/Los Alamitos Creek multi-use pedestrian and bicycle trail system (Class I bikeway) runs along the Guadalupe River and separates bicyclists from motor vehicle traffic. The Guadalupe River Trail is a continuous Class I bikeway (paved path). This trail system runs adjacent to SR 87 in the project vicinity, with trail access provided approximately 0.5 mile west of the project site.

### **Bike Share**

The City of San José participates in the Bay Area Ford GoBike bike share program, which allows users to rent and return bicycles at various locations in and around the downtown core. Electric bikes were recently introduced to the GoBike system of downtown stations. An existing Ford GoBike station is located on the east side of Third Street across from St. James Park. In addition, LimeBike and Bird provide dockless bike and scooter rentals throughout the downtown core.

## **Transit Facilities**

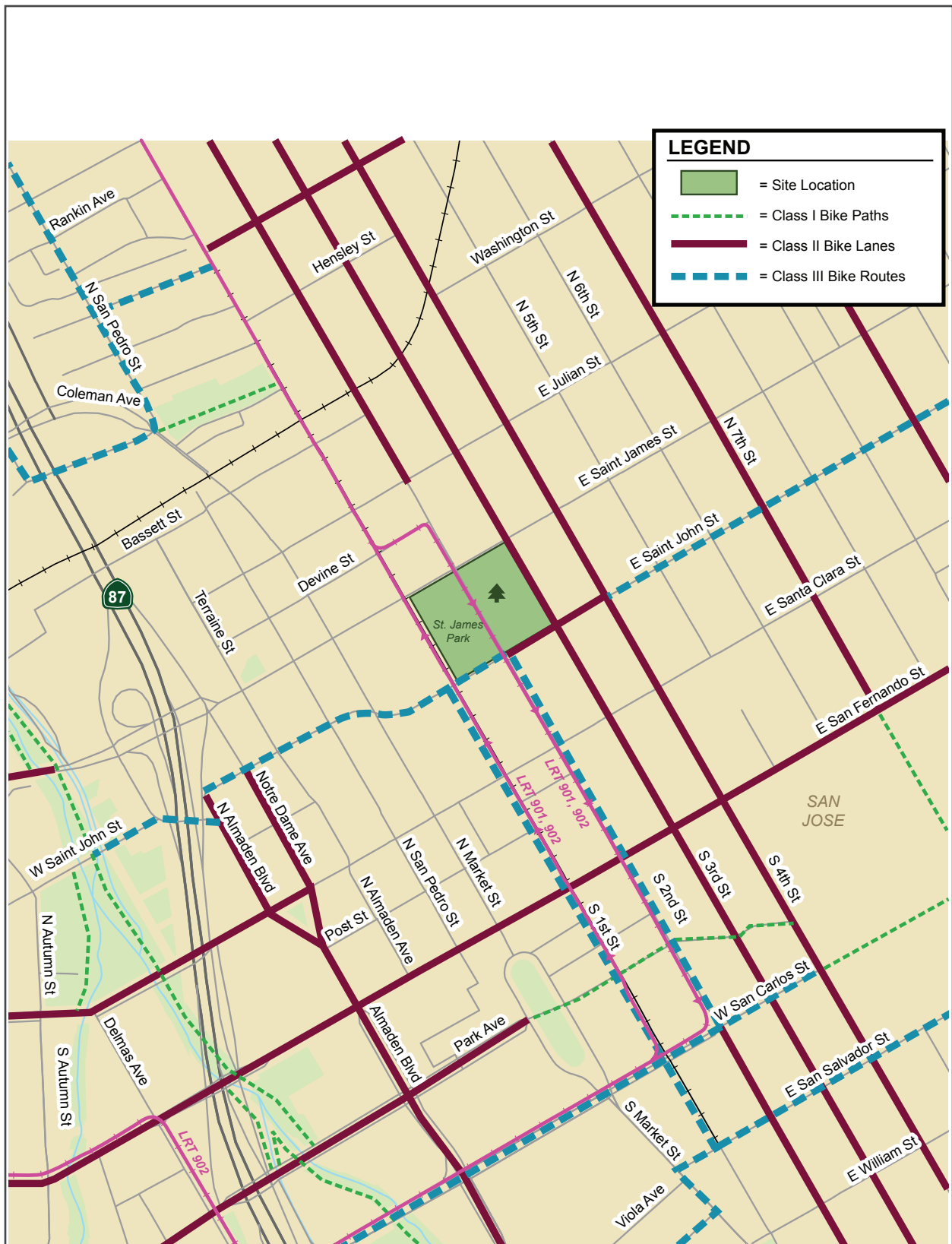
Existing transit services near the project site are provided by VTA and Caltrain and are shown in Figure 3.17-3.

### **VTA Light Rail Transit System**

The VTA currently operates the 42.2-mile LRT system extending from south San José through downtown to the northern areas of San José, Santa Clara, Milpitas, Mountain View and Sunnyvale. The service operates nearly 24 hours a day with 15-minute headways during much of the day. The St. James Park LRT stations are served by the Santa Teresa-Alum Rock LRT Line (Line 901) and Mountain View-Winchester Line (Line 902). Northbound LRT trains stop on First Street and southbound trains stop on Second Street.

### **VTA Bus Service**

Area bus routes are shown in Figure 3.17-3 and described below in Table 3.17-1.



Source: Hexagon Transportation Consultants Inc., Feb. 26, 2019.



<b>Table 3.17-1: Existing Bus Service Near the Project</b>			
<b>Bus Route</b>	<b>Route Description</b>	<b>Closest Stop and Distance to Project</b>	<b>Peak Hour Headway</b>
Local Bus 22	Palo Alto Transit Center to Eastridge Transit Center via El Camino	4th Street/Santa Clara, 1,200 feet	15 min
Local Bus 23	De Anza College to Alum Rock Transit Center via Stevens Creek	4th Street/ Santa Clara, 1,200 feet	12 min
Local Bus 63	Almaden Expwy. & Camden to San José State University	3rd Street/San Fernando, 1,900 feet	30-35 min
Local Bus 64	Almaden LRT Station to McKee & White via Downtown San José	3rd Street/San Fernando, 1,900 feet	15-20 min
Local Bus 66	Kaiser San José to Milpitas /Dixon Road via Downtown San José	2nd Street/St. John; 300 feet	15 min
Local Bus 68	Gilroy Transit Center to San José Diridon Transit Center	2nd Street/Santa Clara; 1,400 feet	15 min
Local Bus 72	Senter and Monterey to Downtown San José	2nd Street/St. John; 300 feet	15 min
Local Bus 73	Snell/Capitol to Downtown San José	2nd Street/St. John; 300 feet	15 min
Local Bus 81	Moffett Field/Ames Center - San José State University	3rd Street/San Fernando; 1,900 feet	25-35 min
Local Bus 82	Westgate to Downtown San José	2nd Street/St. John; 300 feet	30 min
Express Bus 181	Fremont BART Station to San José Diridon Transit Center	2nd Street/St. John; 300 feet	15 min
DASH Shuttle 201	Downtown Core	2nd Street/San Fernando; 2,000 feet	15 min
Limited Stop Bus 323	Downtown San José to De Anza College	2nd Street/St. John; 300 feet	15-20 min
Rapid 522	Palo Alto Transit Center to Eastridge Transit Center	1st Street/Santa Clara; 1,200 feet	12 min
Light Rail 901	Santa Teresa, Downtown San José, to Alum Rock	St. James Station; 300 feet	6-15 min
Light Rail 902	Mountain View, Downtown San José, to Winchester in Campbell	St. James Station; 300 feet	15 min

## Train Services

The Diridon Station is served by Caltrain, Altamont Commuter Express (ACE), and Amtrak. Caltrain provides frequent commuter rail service between San Francisco and Gilroy seven days a week. ACE trains provide commuter passenger train service across the Altamont Pass between Stockton and San José on weekdays. Amtrak provides daily commuter passenger train service along the 170-mile Capitol Corridor between the Sacramento region and the Bay Area. Diridon Station is located approximately one mile southwest of the project site.

### **3.17.2            Impact Discussion**

For the purpose of determining the significance of the project's impact on transportation, would the project:

- 1) Conflict with a program plan, ordinance or policy addressing the circulation system, including transit, roadways, bicycle lanes and pedestrian facilities?
- 2) For a land use project, conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?
- 3) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses (e.g., farm equipment)?
- 4) Result in inadequate emergency access?

#### **3.17.2.1            *Project Impacts***

---

Would the project conflict with a program plan, ordinance or policy addressing the circulation system, including transit, roadways, bicycle lanes and pedestrian facilities?

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The project site would continue to be accessible via the surrounding roadways, pedestrian facilities, bicycle facilities, and transit facilities described in Section 3.17.1.2 Existing Conditions. As discussed under Section 2.3 Project Description, the project would close the segment of North 2<sup>nd</sup> Street that bisects the site to all vehicles and buses. Visitors driving to the project site would be able to park along the public streets and in public parking garages in the project site vicinity. Public parking garages closest to the project site include the Market Street Garage, 3<sup>rd</sup> Street Garage, 4<sup>th</sup>/St. John Street Garage (see Figure 3.17-1).

New development projects in San José should encourage multi-modal travel, consistent with the goals and policies of the City's General Plan to reduce vehicle trip generation and VMT. In addition, the adopted San José Bike Plan 2020 establishes goals, policies, and actions to facilitate bicycling and designates bike lanes along many City streets. The project's consistency with these plans is described below.

## Transit

### Effects of Second Street Closure on Transit Services

Second Street would be permanently closed to traffic between St. James Street and St. John Street as part of the project. Traffic currently utilizing this one-way segment, including VTA buses, would need to find an alternative southbound route. Currently, bus routes 66, 72, 73, 82, 181, 304 and 323 operate along this segment of Second Street; however, these routes will be reduced to only two (routes 72 and 73) in the fall of 2019.

Figure 2.3-5 shows VTA's preliminary rerouting plan for these two routes, which would utilize existing bus stops and no new bus stops would be required.<sup>91</sup>

The LRT stations would be affected only by the project only during construction. To ensure impacts are limited, the project would be required to obtain a Construction Access Permit and Restricted Access Permit from VTA, as well as regulatory permits from the California Public Utilities Commission. These permits would specify an access logistic plan for riders utilizing the LRT system during construction. Following construction of the project, the St. James LRT stations would reopen in their current locations on First Street and Second Street and the LRT system would continue to operate with the same frequency upon project completion. Thus, the impact is less than significant. **(Less than Significant Impact)**

### Increase in Transit Demand

Transit demand would increase during the weekday PM commute period of traffic as the result of a weekday evening concert at the performing arts pavilion. Approximately 10 percent of concert goers (500 people), would utilize public transit (LRT or bus service) during the PM peak commute period.

The average weekday LRT ridership peaked in 2014 at approximately 35,000 daily riders. Based on 2017 data, average weekday LRT ridership is approximately 29,250 riders, which is 5,750 fewer daily riders (or 16 percent lower than in 2014). Bus ridership was also down in 2017, with approximately 94,750 daily riders compared to 106,000 in 2014 (down 11,250 daily riders or 11 percent). For these reasons, increased transit demand generated by a weekday evening concert event at the performing arts pavilion could be accommodated by the current available ridership capacities of area LRT and buses. Thus, the project would not conflict with plans or policies and the impact is less than significant. **(Less than Significant Impact)**

## Bicycles

The St. James Park area has multiple bicycle facilities and the Guadalupe River Park and Gardens multi-use trail system is 0.5 mile from the project. Project construction and operation would not impede existing bicycle access or designated facilities. Additionally, bikes would be allowed within the park. The project would provide 69 bike racks with 138 bicycle parking spaces. Bicycles are allowed on LRT trains and buses can accommodate bikes as well.

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<sup>91</sup> The VTA-provided figure is for illustrative purposes only and is subject to change.



The project would widen the sidewalk on the St. John Street frontage to provide a consistent curb line with the existing blocks to the east and west while retaining the on-street parallel parking, which would cause the existing westbound Class II bicycle lane to be converted to a Class III bicycle route with sharrows. While the project would change the bicycle lane type and classification on St. John Street along the project site frontage, St. John would continue to accommodate bicyclists under the proposed project. The project would not substantially conflict with plans or policies supporting bicycles or bicycle facilities. **(Less than Significant Impact)**

### **Pedestrian Facilities**

The project would construct a new mid-block pedestrian crosswalk on 3<sup>rd</sup> Street. The mid-block crosswalk would include ADA compliant ramps with standard pavement markings and truncated domes, which enable people with visual disabilities to determine the boundary between the sidewalk and the street. Due to the high number of pedestrian crossings expected to occur at the new mid-block crosswalk during weekday evening concert events at the performing arts pavilion, enhanced pedestrian warning devices, such as Rapid Rectangular Flashing Beacons, would be included in the crosswalk design. The project would also include barriers and plantings to shield the LRT tracks within the park.

Once the project is complete, there would be a total of three locations to cross the LRT tracks. The existing crossings would be clearly marked with signage and special pavement markings and/or treatments, as well as shielding (where appropriate). Similar to the new crossing, appropriate visible and and/or audible warning signals would be provided at the existing crossings to alert people of the presence of LRT trains. The City of San José would coordinate with VTA to appropriately identify, further design, and implement safety measures. For these reasons, the project would not conflict with plans or policies and the impact is less than significant. **(Less than Significant Impact)**

### **Congestion Management Program – Freeways**

Since the project would add more than 100 net new peak-hour vehicle trips to the roadway network, a CMP freeway analysis was completed. The following freeway segments were evaluated for LOS:

- SR 87, between Alma Avenue and I-280,
- SR 87, between I-280 and Julian Street,
- SR 87, between Julian Street and Coleman Avenue,
- SR 87, between Coleman Avenue and Taylor Street,
- I-280, between Bird Avenue and SR 87,
- I-280, between SR 87 and 10<sup>th</sup> Street, and
- I-280, between 10<sup>th</sup> Street and McLaughlin Avenue.

The CMP defines an acceptable level of service for freeway segments as LOS E or better. The project would not cause substantial increases in traffic volumes (one percent or more of freeway capacity) on any of the study freeway segments currently operating at an unacceptable LOS F, and none of the study freeway segments currently operating at an acceptable LOS E or better would

degrade to LOS F as a result of the project. Therefore, there is no policy conflict and the impact is less than significant. **(Less than Significant Impact)**

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Would the project conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?

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The project proposes to renovate and improve the existing St. James Park and construct a new performing arts pavilion. St. James Park is a local-serving park in the downtown core area of San Jose. The project would provide local residents and employees with improved recreational opportunities and community-based activities.

Due to the project's downtown location, an established transit-rich area of San José with lower VMT than other areas of the City, the project is effectively part of a large-scale mixed-use development in a pedestrian- and bike-friendly environment with a significant share of trips internal to the downtown area. Although the project does include a performing arts pavilion that would hold various concerts throughout the year, the primary purpose of the project is to better serve the needs of the local community. The result is primarily short vehicle trips and a high level of multi-modal travel, consistent with the goals and policies of the City's General Plan.

To further support the General Plan, the project would provide enhanced pedestrian facilities in and around the park and bicycle parking to promote non-automobile travel. For these reasons, and because the downtown core is a very low VMT area (as described in Section 3.17.1.2 Existing Conditions), the project would not result in a significant VMT impact. **(Less than Significant Impact)**

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

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The project would obtain the necessary City, VTA and CPUC permits during construction (as described under Impact TRN-1). As part of the review process, construction logistics would be reviewed to ensure hazards are not created. In addition, the project shall comply with the Department of Public Works standard inspection process to ensure safe pedestrian and bicycle access at the project site and in the project site vicinity during construction activities.

As described previously, the project would construct a new mid-block pedestrian crosswalk on Third Street. The mid-block crosswalk would include ADA compliant ramps with pavement markings and truncated domes. Enhanced pedestrian warning devices would be included in the crosswalk design. The project would also include barriers and plantings to shield the LRT tracks. The two existing crossing locations in the park would also receive these physical and audible treatments to enhance safety. The City of San José would coordinate with VTA to appropriately identify and implement safety measures. For these reasons, the project would not substantially increase hazards. **(Less than Significant Impact)**

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Would the project result in inadequate emergency access?

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The project would obtain the necessary City, VTA, and CPUC construction logistics permits. Emergency access would be maintained for the period of construction of the project. The project would be required to comply with relevant building and fire codes that would ensure free and clear accessways are maintained for emergency situations during operation of the project. Thus, the project would not result in inadequate emergency access and the impact is less than significant. **(Less than Significant Impact)**

### 3.17.2.2 *Cumulative Impacts*

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Would the project result in a cumulatively considerable contribution to a significant transportation impact?

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As discussed under Impact TRN-2, the project would have a less than significant VMT impact. The proposed uses are consistent with the General Plan land use designation for the site and does not require an amendment to the General Plan. For these reasons, the project would not have a cumulatively considerable contribution to a significant cumulative VMT impact. The project would not result in significant multi-modal transportation impacts, would not create dangerous conditions, and would not impede emergency access. No other cumulative projects in the area would contribute to the same less than significant transportation network impacts as the proposed project. **(Less than Significant Cumulative Impact)**

### 3.17.3 Non-CEQA Effects

Per *California Building Industry Association v. Bay Area Air Quality Management District*, 62 Cal. 4th 369 (BIA v. BAAQMD), effects of the environment on the project are not considered CEQA impacts. The following discussion is included for informational purposes only because the City of San José has policies that address existing transportation conditions.

#### **Local Transportation Analysis**

As stated previously, San José City Council Policy 5-1 establishes the thresholds for transportation impacts under CEQA based on VMT instead of LOS. Therefore, the following discussion from the Local Transportation Analysis (LTA), in Appendix G, is provided for informational purposes only. The LTA was completed for the project to identifying potential adverse operational effects that may result. As part of the LTA, a project is required to conduct an intersection operations analysis if the project is expected to add 10 or more vehicle trips per hour per lane to a signalized intersection that is located within 0.50 mile of the project site and is currently operating at LOS D or worse.

#### Trip Generation

Although the events are not expected to start during the PM peak commute period (between 4:00 PM and 6:00 PM), it is expected that a portion of the concert-related traffic would occur during the PM peak period of traffic. Approximately 1,895 total vehicle trips would be generated by a 5,000-person weekday evening concert event, 550 vehicle trips are expected to occur during the PM peak hour of traffic. Approximately 477 of these trips would be inbound trips while 73 trips would be outbound

(attributable to drop-offs from taxis, Uber, etc.). Approximately 1,400 private autos would need to find parking during a typical 5,000-person event.

### Intersections

Traffic conditions at the study intersections were evaluated using level of service (LOS), to address the closure of N. 2<sup>nd</sup> Street and the operation of local intersections around the project site with increased park usage under background plus project conditions in the PM Peak Hour.<sup>92 93</sup> The traffic study assumed large event attendees driving to the park would utilize the Market Street Garage, Third Street Garage, and Fourth/St. John Street Garage in addition to street parking.

LOS is a qualitative description of operating conditions ranging from LOS A, or free-flowing conditions with little or no delay, to LOS F, or jammed conditions with excessive delays. The correlation between average delay and LOS is shown in Table 3.17-2.

Based on City of San José LOS policies, a project would affect a signalized intersection if the additional project traffic causes one of the following:

- Cause the LOS at any local intersection to degrade from an acceptable LOS D or better under background conditions to an unacceptable LOS E or F under background plus project conditions; or
- Degrade from of LOS an acceptable LOS D or better under background conditions to an unacceptable LOS E or F under existing plus project or background plus project conditions; or
- At any local intersection that is already an unacceptable LOS E or F under existing or background conditions, cause the critical-movement delay at the intersection to increase by four or more seconds and the demand-to-capacity ratio (V/C) to increase by .01 or more.

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<sup>92</sup> Background conditions are the existing traffic conditions plus traffic from approved but not yet constructed or occupied developments.

<sup>93</sup> The LTA only addressed the PM Peak Hour because the proposed pavilion would only generate trips in the PM Peak Hour (a start time of 7:00 PM is estimated) and other proposed park improvements are unlikely to generate trips in the AM Peak Hour.

<b>Table 3.17-2: Intersection Level of Service Definitions Based on Delay</b>		
<b>Level of Service</b>	<b>Description</b>	<b>Average Control Delay per Vehicle<sup>94</sup></b>
A	Operations with very low delay occurring with favorable progression and/or short cycle lengths.	10.0 or less
B	Operations with low delay occurring with good progression and/or short cycle lengths.	10.1 to 12.0 12.1 to 18.0 18.1 to 20.0
C	Operations with average delays resulting from fair progression and/or longer cycle lengths. Individual cycle failures begin to appear.	20.1 to 23.0 23.1 to 32.0 32.1 to 35.0
D	Operations with longer delays due to a combination of unfavorable progression, long cycle lengths, or high V/C ratios. Many vehicles stop and individual cycle failures are noticeable.	35.1 to 39.0 39.1 to 51.0 51.1 to 55.0
E	Operations with high delay indicating poor progression, long cycle lengths, and high V/C ratios. Individual cycle failures are frequent occurrences. This is considered to be the limit of acceptable delay.	55.1 to 60.0 60.1 to 75.0 75.1 to 80.0
F	Operation with delays unacceptable to most drivers occurring due to over saturation, poor progression, or very long cycle lengths.	Greater than 80.0

As shown in Table 3.17-3, all signalized study intersections currently operate at LOS D or better during the PM peak hour of traffic. Under background conditions, the North 4<sup>th</sup> Street/East St. James Street intersection would operate at LOS E. All other signalized intersections would operate at LOS D or better under background conditions.

<b>Table 3.17-3: PM Peak Hour Intersection LOS Summary</b>								
<b>Intersection</b>	<b>Existing</b>		<b>Background</b>		<b>Background Plus Project</b>			
	<b>Avg. Delay (sec)</b>	<b>LOS</b>	<b>Avg. Delay (sec)</b>	<b>LOS</b>	<b>Avg. Delay (sec)</b>	<b>LOS</b>	<b>Incr. In Crit. Del.</b>	<b>Incr. In Crit. V/C</b>
1. Market St. and Julian St.	32.4	C	38.8	D	47.0	D	12.2	0.084
2. First St. and Julian St.	21.3	C	21.8	C	22.5	C	-0.1	0.076
3. Second St. and Julian St.	8.7	A	8.8	A	9.4	A	0.8	0.061
4. Third St. and Julian St.	22.1	C	28.9	C	29.2	C	0.6	0.014
5. SR-87 and Julian St. (West)*	10.6	B	15.5	B	16.4	B	1.1	0.018
6. SR-87 and Julian St. (East)*	44.5	D	46.3	D	46.8	D	0.9	0.018

<sup>94</sup> Measured in seconds.

Table 3.17-3: PM Peak Hour Intersection LOS Summary								
Intersection	Existing		Background		Background Plus Project			
	Avg. Delay (sec)	LOS	Avg. Delay (sec)	LOS	Avg. Delay (sec)	LOS	Incr. In Crit. Del.	Incr. In Crit. V/C
7. San Pedro St. and St. James St.	6.2	A	6.0	A	5.8	A	-0.2	0.033
8. Market St. and St. James St.	37.8	D	41.4	D	45.7	D	5.5	0.097
9. First St. and St. James St.	6.3	A	7.5	A	7.6	A	0.1	-0.021
10. Second St. and St. James St.	10.5	B	12.7	B	9.9	A	-2.8	-0.143
11. Third St. and St. James St.	9.2	A	11.6	B	15.8	B	4.6	0.141
12. Fourth St. and St. James St.	29.4	C	<b>59.6</b>	<b>E</b>	<b>114.1</b>	<b>F</b>	<b>60.5</b>	<b>0.167</b>
13. Market St. and St. John St.	26.6	C	26.2	C	21.4	C	-6.0	0.054
14. First St. and St. John St.	9.5	A	9.5	A	9.2	A	0.3	0.028
15. Second St. and St. John St.	9.6	A	9.7	A	0.5	A	-8.5	-0.170
16. Third St. and St. John St.	9.1	A	9.6	A	9.7	A	-0.5	0.000
17. Fourth St and St. John St.	17.3	B	17.7	B	16.5	B	-1.8	0.044
18. SR-87 and Santa Clara St. *	17.2	B	17.5	B	18.2	B	0.8	0.045
19. San Pedro St. and Santa Clara St.	18.3	B	18.2	B	20.1	C	10.7	0.083
20. Market St. and Santa Clara St.	29.8	C	31.4	C	32.9	C	1.9	0.073
21. First St. and Santa Clara St.	17.3	B	17.4	B	17.2	B	-0.2	0.005
22. Second St. and Santa Clara St.	19.8	B	21.3	C	14.4	B	-7.5	-0.074
23. Third St. and Santa Clara St.	20.5	C	21.0	C	23.6	C	4.9	0.130
24. Fourth St. and Santa Clara St.	23.5	C	24.8	C	25.4	C	0.3	0.041
25. Fifth St. and Santa Clara St.	6.3	A	6.2	A	6.1	A	0.0	0.001
Notes: * Denotes VTA Congestion Management Program intersection.								
<b>Bold</b> indicates a substandard LOS; <b>Shading</b> indicates the project would have an adverse effect at this intersection.								

The intersection of North 4<sup>th</sup> Street and East St. James Street would degrade from LOS E to LOS F with implementation of the proposed project. As a result, the project would have an adverse effect on the operations of this intersection. The following intersection improvement, included as a condition of approval for the project, would improve the intersection operations to LOS D under background plus project conditions.

### **Project Condition:**

- The project shall convert the southbound left-turn lane on North 4<sup>th</sup> Street to a shared through/left-turn lane. The southbound left-turn lane is currently aligned with the existing inside southbound lane on Second Street. This improvement would require minor signal modifications and restriping.

Implementation of the above project condition would not result in a significant physical impact on the environment due to restriping the lanes.

### **Parking Analysis**

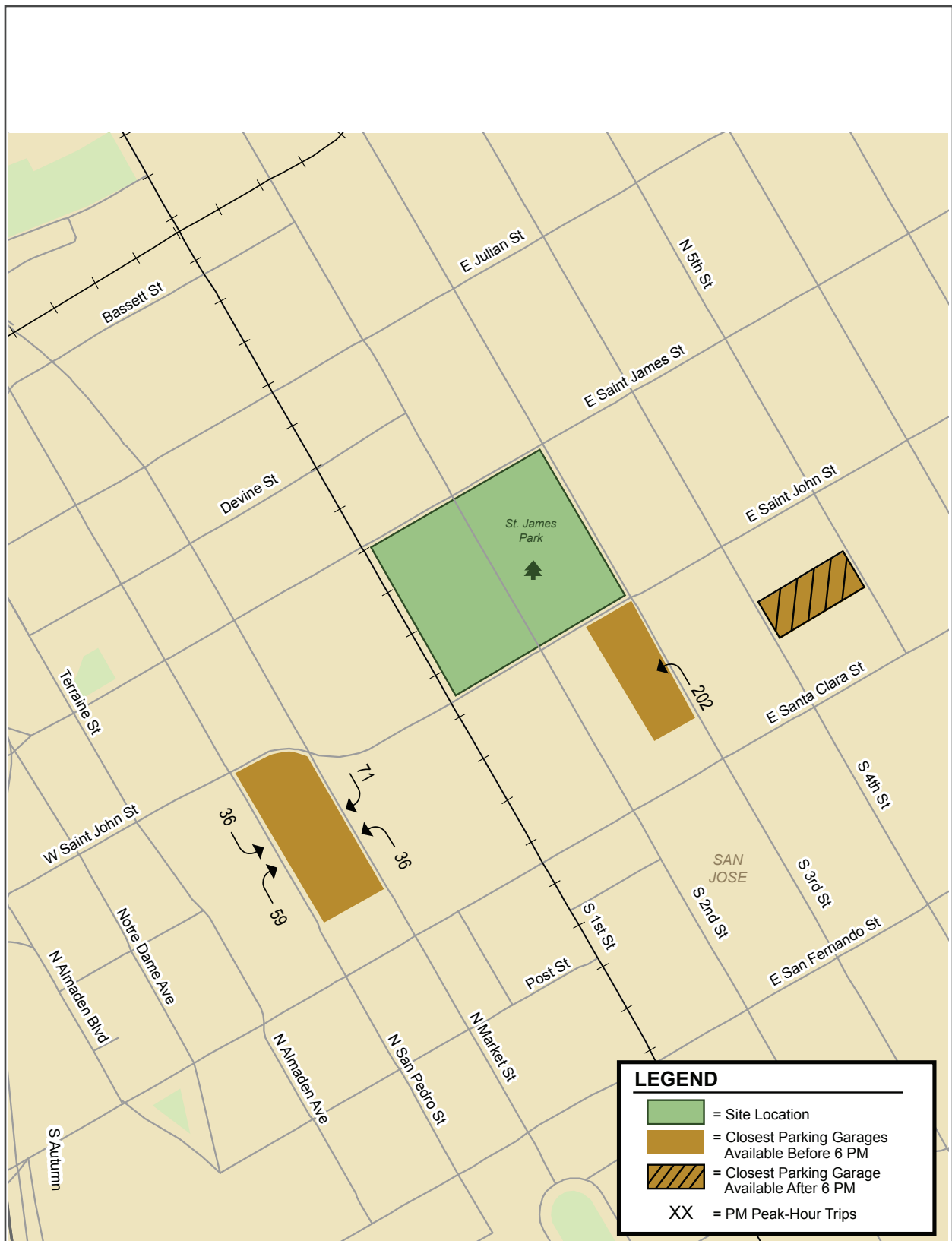
Based on the project trip generation calculations, approximately 1,400 vehicles would need to find parking for a concert event. Vehicles are expected to arrive at area parking garages (as shown in Figure 3.17-4) by the start of concert events. Parking occupancy data for the Market Street Garage (1,335 total parking stalls) and 3<sup>rd</sup> Street Garage (725 total stalls) show that they would have approximately 1,200 parking spaces available between the two parking garages at 7:00 PM. Thus, approximately 200 vehicles would need to find parking elsewhere.

The 4<sup>th</sup>/St. John Street Garage (the City of San José employee parking garage) is open to the public after 6:00 PM, it is located one block from St. James Park and parking there is free. This garage contains over 1,000 parking stalls and is only about 20 percent occupied at 6:00 PM – meaning there would be approximately 800 parking stalls available on event nights. The Market Street, 3<sup>rd</sup> Street, and 4<sup>th</sup>/St. John Street garages together would provide adequate parking to serve vehicles expected to require a parking space for a weekday concert event at performing arts pavilion, assuming no other major downtown events would occur at the same time. If there were overlap on major events in the park and elsewhere downtown, the project would not have adequate parking.

### **Traffic Operations at the 3<sup>rd</sup> Street and Market Street Garages**

Half of the project-generated trips are expected to utilize the 3<sup>rd</sup> Street Garage and half are expected to use the Market Street Garage to park one to two hours before a 7:00 PM weekday concert event at the performing arts pavilion (refer to Figure 3.17-4). It is estimated that the approximately 202 inbound trips during these hours would be split between the four entrance lanes at the Market Street Garage and no operational issues are expected to occur.

The 3<sup>rd</sup> Street Garage, however, has only one entrance lane with access provided via northbound Third Street. Vehicle queuing and delay along 3<sup>rd</sup> Street is expected to occur at the garage entrance due to vehicles that spill back into the northbound through lane on 3<sup>rd</sup> Street. It is estimated that the maximum vehicle queue that would develop at the 3<sup>rd</sup> Street Garage would be nine vehicles, with seven vehicles spilling into the inside travel lane on 3<sup>rd</sup> Street. This equates to a queue length of approximately 175 feet on 3<sup>rd</sup> Street (assuming each vehicle to be 25 feet). Since there is a second northbound travel lane on 3<sup>rd</sup> Street and 350 feet of distance between the 3<sup>rd</sup> Street Garage entrance and Santa Clara Street, the queuing estimated to occur along 3<sup>rd</sup> Street as a result of the project would not cause any significant operational issues along 3<sup>rd</sup> Street.



Source: Hexagon Transportation Consultants, Inc., Feb. 26, 2019.



### **Passenger Loading for Events**

The project would convert 12 existing parallel parking spaces located along St. James Street adjacent to the park to a designated freight loading zone for events at the performing arts pavilion. Passenger loading would be allowed within the loading zone on non-event days. On days with events at the performing arts pavilion, however, passenger loading (e.g., taxi, Uber, etc.) would be spread throughout the park area without a designated passenger loading zone. The following condition of approval would improve operations for ride sharing

#### **Project Condition:**

- A temporary passenger loading and unloading, and ride share drop-off area along 3<sup>rd</sup> Street adjacent to St. James Park shall be provided for use when concert events occur at the performing arts pavilion.

### **3.18 TRIBAL CULTURAL RESOURCES**

#### **3.18.1 Environmental Setting**

##### **3.18.1.1 *Regulatory Framework***

###### **State**

###### **Assembly Bill 52**

AB 52, effective July of 2015, established a new category of resources for consideration by public agencies when approving discretionary projects under CEQA, called Tribal Cultural Resources (TCRs). AB 52 requires lead agencies to provide notice of projects to tribes that are traditionally and culturally affiliated with the geographic area if they have requested to be notified. Where a project may have a significant impact on a tribal cultural resource, consultation is required until the parties agree to measures to mitigate or avoid a significant effect on a tribal cultural resource or when it is concluded that mutual agreement cannot be reached.

Under AB 52, a TCRs are defined as follows:

- Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are also either:
  - Included or determined to be eligible for inclusion in the California Register of Historic Resources<sup>95</sup>
  - Included in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)
- A resource determined by the lead agency to be a TCR.

##### **3.18.1.2 *Existing Conditions***

The project site is located approximately three miles west of the Guadalupe River and approximately 2.2 miles east of Saratoga Creek, which are considered highly sensitive areas for prehistoric and archaeological deposits, including tribal cultural objects. No tribal cultural features, including sites, features, places, cultural landscapes or sacred places have been identified based on available information.<sup>96</sup> In addition, any prehistoric surface features or landscapes have been modified due to development of the project site and area.

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<sup>95</sup> See Public Resources Code section 5024.1. The State Historical Resources Commission oversees the administration of the CRHR and is a nine-member state review board that is appointed by the Governor, with responsibilities for the identification, registration, and preservation of California's cultural heritage. The CRHR “shall include historical resources determined by the commission, according adopted procedures, to be significant and to meet the criteria in subdivision (c) (Public Resources Code, Section 5024.1 (a)(b)).

<sup>96</sup> City of San José. *Integrated Final Environmental Impact Report for the Downtown Strategy 2040*. SCH #2003042127. December 2018. Page 113.

### 3.18.2 Impact Discussion

For the purpose of determining the significance of the project's impact on TRCs, would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

- 1) Listed or eligible for listing in the CRHR, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?
- 2) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying this criteria, the significance of the resource to a California Native American tribe shall be considered.

#### 3.18.2.1 *Project Impacts*

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Would the project cause a substantial adverse change in the significance of a tribal cultural resource that is listed or eligible for listing in the CRHR, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?

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AB 52 requires lead agencies to conduct formal consultations with California Native American tribes during the CEQA process to identify tribal cultural resources that may be significantly impacted by a project. Where a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document must discuss the impact and whether feasible alternatives or mitigation measures could avoid or substantially lessen the impact. This consultation requirement applies only if the tribes have sent written requests for notification of projects to the lead agency.

On July 9, 2018, Andrew Galvan, a representative of the Ohlone Indian Tribe, Inc., requested notification of projects in accordance with Public Resources Code Section 21080.3.1 subd (b). In response to a more specific verbal request in a meeting with City staff and Mr. Galvan on July 12, 2018, clarification was received that such notification be sent only for projects in the City of San José that involve ground-disturbing activities, and that such requests may be sent via e-mail only for future projects that require a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report. On April 8, 2019, Mr. Galvan was notified via e-mail and certified mail of the proposed project and received a copy of the revised NOP. At the time of the preparation of this Draft EIR, no response was received and it is presumed the consultation request has been declined. In addition, as discussed in Section 3.18.1.2 Existing Conditions, there are no known TRCs on-site.

While there is the potential for unknown Native American artifacts or human remains to be present in the project area, impacts would be less than significant with implementation of the City's project conditions related to discovery of archaeological resources or human remains (described in detail in Section 3.5 Cultural Resources). **(Less than Significant Impact)**

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Would the project cause a substantial adverse change in the significance of a tribal cultural resource that is determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1?

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See discussion under Impact TCR-1. **(Less than Significant Impact)**

### **3.18.2.2**      *Cumulative Impacts*

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Would the project result in a cumulatively considerable contribution to a significant tribal cultural resources impact?

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The cumulative projects in San José analyzed in this Draft EIR may require excavation and grading or other activities that may affect tribal cultural resources. No tribal cultural resources were identified in the project area. For this reason, the proposed project in combination with the cumulative projects would not result a significant tribal cultural resources impact. **(Less than Significant Cumulative Impact)**

### **3.19 UTILITIES AND SERVICE SYSTEMS**

#### **3.19.1 Environmental Setting**

##### **3.19.1.1 *Regulatory Framework***

#### **State and Regional**

##### **Urban Water Management Plan**

Pursuant to the State Water Code, water suppliers providing water for municipal purposes to more than 3,000 customers or supplying more than 3,000 acre-feet (approximately 980 million gallons) of water annually must prepare and adopt an urban water management plan (UWMP) and update it every five years. As part of a UWMP, water agencies are required to evaluate and describe their water resource supplies and projected needs over a 20-year planning horizon, water conservation, water service reliability, water recycling, and opportunities for water transfers, and contingency plans for drought events. The City of San José adopted its most recent UWMP in June 2015.

##### **Wastewater**

The San Francisco Bay Regional Water Quality Board (RWQCB) includes regulatory requirements that each wastewater collection system agency shall, at a minimum, develop goals for the City's Sewer System Management Plan to provide adequate capacity to convey peak flows.

##### **Assembly Bill 939**

The California Integrated Waste Management Act of 1989, or AB 939, established the Integrated Waste Management Board, required the implementation of integrated waste management plans, and mandated that local jurisdictions divert at least 50 percent of solid waste generated (from 1990 levels), beginning January 1, 2000, and divert at least 75 percent by 2010. Projects that would have an adverse effect on waste diversion goals are required to include waste diversion mitigation measures.

##### **Assembly Bill 341**

AB 341 sets forth the requirements of the statewide mandatory commercial recycling program in the Public Resources Code. All businesses that generate four or more cubic yards of garbage per week and multi-family dwellings with five or more units in California are required to recycle. AB 341 sets a statewide goal for 75 percent disposal reduction by the year 2020.

##### **Senate Bill 1383**

SB 1383 establishes targets to achieve a 50 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75 percent reduction by 2025. The bill grants CalRecycle the regulatory authority required to achieve the organic waste disposal reduction targets and establishes an additional target that not less than 20 percent of currently disposed edible food is recovered for human consumption by 2025.

## Local

### Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts from planned development in the City. The policies below are specific to utilities and service systems and are applicable to the proposed project.

<b>Policy</b>	<b>Description</b>
<b>Measurable Environmental Sustainability</b>	
MS-3.1	Require water-efficient landscaping, which conforms to the State’s Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions.
MS-19.4	Require the use of recycled water wherever feasible and cost-effective to serve existing and new development.
<b>Infrastructure</b>	
IN-1.5	Require new development to provide adequate facilities or pay its fair share of the cost for facilities needed to provide services to accommodate growth without adversely impacting current service levels.

### San José Zero Waste Strategic Plan/Green Vision

The Zero Waste Strategic Plan outlines policies to help the City of San José foster a healthier community. The Green Vision provides a comprehensive approach to achieve sustainability through new technology and innovation, including 75 percent waste diversion by 2013 and zero waste by 2022. The Green Vision also includes ambitious goals for economic growth, environmental sustainability and an enhanced quality of life for San José residents and businesses.

#### **3.19.1.2      *Existing Conditions***

##### **Water Service**

Potable water service to the project site is provided by the San José Water Company. The water provided comes from a mix of imported surface water and groundwater. It is estimated that the existing park uses approximately 16,158 gallons per day (gpd) of water.<sup>97</sup>

##### **Sanitary Sewer/Wastewater Treatment**

Sanitary sewer lines in the area are owned and maintained by the City of San José. Wastewater from the project area is treated at the San José/Santa Clara Regional Wastewater Facility (the Facility) in Alviso. The Facility has capacity to treat 167 million gallons per day (mgd) of sewage during dry

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<sup>97</sup> CalEEMod. “Table 9.1 Water Use Rates.” 2013. City Park land use sub type.

weather flow.<sup>98</sup> The City's share of the Facility's treatment capacity is approximately 108.6 mgd. Based on the average dry weather flows from sources in San José (approximately 69.8 mgd), the City current has approximately 38.8 mgd of available treatment capacity at the Facility.<sup>99</sup> The resulting fresh water from the Facility is discharged to the South San Francisco Bay or delivered to the South Bay Water Recycling Project for distribution.

The project site contains one public restroom that generates minimal wastewater.

### **Storm Drainage System**

The City of San José Public Works Department operates and maintains the storm drainage system that serves the project site. Currently, the project site is 34 percent impervious. Runoff from the site flows into 15-inch and 21-inch diameter storm drain lines in East St. James Street, 18-inch and 21-inch diameter storm drain lines in East St. John Street, and a 12-inch diameter storm drain line in North 1<sup>st</sup> Street.

### **Solid Waste**

The total permitted landfill capacity of the five operating landfills in the City is approximately 5.3 million tons per year and all have adequate disposal capacity (i.e., greater than 15 years).<sup>100,101</sup> It is estimated that the existing park produces about 4.5 pounds of solid waste per day.<sup>102</sup>

#### **3.19.2 Impact Discussion**

For the purpose of determining the significance of the project's impact on utilities and service systems, would the project:

- 1) Require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?
- 2) Have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?
- 3) Result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?
- 4) Generate solid waste in excess of state or local standards or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?
- 5) Negatively impact the provision of solid waste services or impair the attainment of solid waste reduction goals?

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<sup>98</sup> City of San José. Water Pollution Control Capital Program 2016-2020 - Adopted Capital Improvement Program. Accessed March 27, 2019. <http://www.sanJoseca.gov/DocumentCenter/View/46177>.

<sup>99</sup> City of San José. *General Plan FPEIR*. September 2011. Page 648.

<sup>100</sup> City of San José. *Assessment of Infrastructure for the Integrated Waste Management Zero Waste Strategic Plan Development*. 2008.

<sup>101</sup> Santa Clara County. *Five-Year CIWMP/RAIWMP Review Report*. June 22, 2016.

<sup>102</sup> CalEEMod. "Table 10.1 Solid Waste Disposal Rates." 2016. City park land use sub type.

- 6) Be noncompliant with federal, state, and local management and reduction statutes and regulations related to solid waste?

### 3.19.2.1 *Project Impacts*

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Would the project require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?

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The proposed project would connect to the City's existing stormwater, electric, natural gas, telecommunications, waste, and wastewater system infrastructure. The proposed project would incrementally increase the demand on existing facilities in the City of San José. The analysis in the following sections discusses the potential impacts of the project on existing facilities. Based on the following analysis, no relocation of existing or construction of new facilities are needed to serve the proposed project; therefore, there would be no impact. **(No Impact)**

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Would the project have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?

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As discussed under Section 3.19.1.2 Existing Conditions, the project site uses approximately 16,158 gpd for landscape irrigation.<sup>103</sup> The proposed project would decrease the amount of landscaped area by 101,901 square feet, resulting in a reduction in water demand of approximately 7,639 gpd. It is estimated that the new buildings proposed on-site would have a water demand of approximately 5,112 gpd.<sup>104</sup> As a result, the proposed project would use less water compared to existing conditions.

In addition, according to the Water Supply Assessment (which was based on the City's current 2015 UWMP) prepared for the Downtown Strategy 2040 FEIR, existing and planned development in the downtown area would increase water demand but not exceed supplies with implementation of General Plan policies. For these reasons, there would be adequate water supplies to meet the project's demand. **(Less than Significant Impact)**

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Would the project result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

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The existing restroom on-site would be replaced with new restrooms. The new buildings proposed on-site (including restrooms) would generate approximately 5,112 gpd of wastewater.<sup>105</sup>

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<sup>103</sup> CalEEMod. "Table 9.1 Water Use Rates." 2013. City Park land use sub type.

<sup>104</sup> CalEEMod. "Table 9.1 Water Use Rates." 2013. Arena, city park, government office, and high turnover (sit down restaurant) land use sub types.

<sup>105</sup> CalEEMod. "Table 9.1 Water Use Rates." 2013. Arena, city park, government office, and high turnover (sit down restaurant) land use sub types.



Given the City's available treatment capacity at the Facility (38.8 mgd) and the project's estimated sewage generation (5,112 gpd or 0.005112 mgd), the Facility has adequate capacity to serve the project. **(Less than Significant Impact)**

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Would the project generate solid waste in excess of state or local standards or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?

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Additional solid waste would be generated at the project site as the result of the proposed performing arts pavilion and support building, café, picnic area, and park office. It is estimated that these new uses would generate an additional 100 pounds (or 0.05 tons) of solid waste per day at the project site.<sup>106</sup>

There is sufficient landfill capacity to serve the build out of Downtown Strategy 2040 FEIR, as well as the General Plan.<sup>107</sup> Given the available permitted capacity of the landfills in San José (5.3 million tons), the estimated solid waste that would be generated from build out of the General Plan (which includes the downtown) of approximately 709,000 tons per year<sup>108</sup>, and the project's estimated solid waste generation (0.05 tons per day or 18 tons per year), there is sufficient landfill capacity to serve the project. **(Less than Significant Impact)**

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Would the project negatively impact the provision of solid waste services or impair the attainment of solid waste reduction goals?

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The proposed project would not negatively impact the provision of solid waste services and would comply with the Construction and Demolition Diversion program, ensuring that at least 75 percent of the waste is recovered and diverted from landfills. Future uses would be required to direct and recycle waste consistent with federal, state, and local requirements. Thus, the project would not impair the attainment of solid waste reduction goals. **(Less than Significant Impact)**

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Would the project be noncompliant with federal, state, and local management and reduction statutes and regulations related to solid waste?

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See discussion under Impact UTL-5, the project would comply with regulations related to solid waste. **(No Impact)**

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<sup>106</sup> CalEEMod. "Table 10.1 Solid Waste Disposal Rates." 2016. Arena, city park, government office, and high turnover (sit down restaurant) land use sub types land use sub type.

<sup>107</sup> City of San José. *Integrated Final Environmental Impact Report for the Downtown Strategy 2040*. SCH #2003042127. December 2018. Pages 335-336).

<sup>108</sup> City of San José. *Integrated Final Program Environmental Impact Report for the Envision San José 2040 General Plan*. SCH# 2009072096. September 2011. Pages 651 and 681.

### 3.19.2.2 *Cumulative Impacts*

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Would the project result in a cumulatively considerable contribution to a significant utilities and service systems impact?

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The geographic area for cumulative utility and service systems is the City boundaries.

#### **Water Supply**

As discussed in Impact UTL-2, the proposed project would result in no increase in overall water usage compared to existing conditions; thus, the project would not make a contribution to a cumulative water supply impact. **(Less than Significant Impact)**

#### **Wastewater Treatment/Sanitary Sewer System**

The City has approximately 38.8 mgd of available treatment capacity at the Facility. It is estimated that the buildout of the General Plan would increase sewage generation citywide by 30.8 mgd.<sup>109</sup> As a result, the City's available treatment capacity at the Facility would decrease to 8.0 mgd. Given the future remaining available capacity of 8.0 mgd, there would be sufficient capacity at the Facility to treat the project's net increase of 0.0076 mgd of wastewater. For this reason, the proposed project would not contribute considerably to a significant cumulative wastewater impact. **(Less than Significant Cumulative Impact)**

#### **Solid Waste**

As discussed under Impact UTL-4, there is sufficient permitted landfill capacity to accommodate the anticipated solid waste generation from the build out of the General Plan and the proposed project. For this reason, the proposed project would not contribute considerably to a significant cumulative solid waste impact. **(Less than Significant Cumulative Impact)**

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<sup>109</sup> City of San José. *Integrated Final Program Environmental Impact Report for the Envision San José 2040 General Plan*. SCH# 2009072096. September 2011. Page 674.

## 3.20 WILDFIRE

### 3.20.1 Environmental Setting

The project site is not located in or near state responsibility areas or lands classified as very high fire hazard severity zones.<sup>110</sup>

### 3.20.2 Impact Discussion

For the purpose of determining the significance of the project's impact on wildfire, if located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:

- 1) Substantially impair an adopted emergency response plan or emergency evacuation plan?
- 2) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?
- 3) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?
- 4) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?

#### 3.20.2.1 *Project Impacts*

The project site is not located in or near state responsibility areas or lands classified as very high fire hazard severity zones; therefore, the project would not result in wildfire impacts. **(No Impact)**

#### 3.20.2.2 *Cumulative Impacts*

The project site is not located in or near state responsibility areas or lands classified as very high fire hazard severity zones; therefore, the project would not result in cumulative wildfire impacts. **(No Cumulative Impact)**

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<sup>110</sup> Sources: 1) State of California Department of Forestry and Fire Protection. *Santa Clara County Fire Hazard Severity Zones in SRA*. Adopted November 7, 2007. and 2) State of California Department of Forestry and Fire Protection. *San José City Very High Fire Hazard Severity Zones in LRA As Recommended by CAL FIRE*. Adopted October 8, 2008.

## SECTION 4.0 GROWTH-INDUCING IMPACTS

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Would the project foster or stimulate significant economic or population growth in the surrounding environment?

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The CEQA Guidelines require that an EIR identify the likelihood that a proposed project could “foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment” (Section 15126.2[d]). This section of the Draft EIR is intended to evaluate the impacts of such growth in the surrounding environment. Examples of projects likely to have significant growth-inducing impacts include removing obstacle to population growth, for example by extending or expanding infrastructure beyond what is needed to serve the project. Other examples of growth inducement include increases in population that may tax existing community service facilities, requiring construction of new facilities that could cause significant environmental effects.

The project would renovate and improve an existing park with new facilities, including a performing arts pavilion. The project would not change the site’s current use (i.e., park space). The intent of the project is to serve the existing and planned growth in the City. The proposed closure of the segment of North 2<sup>nd</sup> Street that bisects the park to vehicular traffic fosters safer pedestrian through the park, and does not foster growth. As discussed in Section 3.19 Utilities and Service Systems, expansion of the existing utility infrastructure is not proposed or required. As discussed in Section 3.14 Population and Housing, the project would not induce unplanned population growth or require the construction of replacement housing. For these reasons, the project would not foster or stimulate substantial economic growth or population growth, or the construction of additional housing in the surrounding environment. **(Less than Significant Impact)**

## **SECTION 5.0      SIGNIFICANT AND IRREVERSIBLE ENVIRONMENTAL CHANGES**

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This section was prepared pursuant to CEQA Guidelines Section 15126.2(c), which requires a discussion of the significant irreversible changes that would result from the implementation of a proposed project. Significant irreversible changes include the use of nonrenewable resources, the commitment of future generations to similar use, irreversible damage resulting from environmental accidents associated with the project, and irretrievable commitments of resources.

### **5.1              USE OF NONRENEWABLE RESOURCES**

During construction and operation, the project would require the use and consumption of nonrenewable resources. Unlike renewable resources, nonrenewable resources cannot be regenerated over time. Nonrenewable resources include fossil fuels and metals. Renewable resources, such as lumber and other wood byproducts, could also be used.

Energy, as discussed in more detail in Section 3.6, would be consumed during both the construction and operational phases of the project. The construction phase would require the use of nonrenewable construction material, such as concrete, metals, and plastics, and glass. Nonrenewable resources and energy would also be consumed during the manufacturing and transportation of building materials, preparation of the site, and construction of the buildings. The operational phase would consume energy for multiple purposes including building heating and cooling, lighting, appliances, and electronics. Energy, in the form of fossil fuels, would be used to fuel vehicles traveling to and from the project site.

The project would result in an increase in demand for nonrenewable resources. The project, however, is subject to the standard California Code of Regulations Title 24 Part 6 and CALGreen energy efficiency requirements. As discussed in Section 3.8 Greenhouse Gas Emissions, the project would be consistent with the City's GHG Reduction Strategy by reducing energy consumption and GHG emissions by:

- Planting trees and landscaping that is appropriate for this climate
- Providing recycling collection bins on-site
- Creating a pedestrian friendly environment within the park with shade trees, pedestrian pathways, and amenities
- Providing bicycle parking on-site
- Continuing to accommodate LRT service through the site
- Installing a new mid-block pedestrian crosswalk on North 3<sup>rd</sup> Street

In addition, as discussed in Section 3.6 Energy, the electricity for the project would be provided by SJCE from sources that are 80 percent GHG emission-free.

## **5.2 COMMITMENT OF FUTURE GENERATIONS TO SIMILAR USE**

The project would be developed on a site that is already fully developed for public recreational uses. Development of the project would commit resources to prepare the site, construct the buildings, and operate the facilities, but it would not result in development of a previously undeveloped area.

## **5.3 IRREVERSIBLE DAMAGE RESULTING FROM ENVIRONMENTAL ACCIDENTS ASSOCIATED WITH THE PROJECT**

The project does not propose any new or uniquely hazardous uses and, consistent with the current operation of St. James Park, its operation would not cause environmental accidents that would impact other areas. As discussed in Section 3.9 Hazards and Hazardous Materials, there would be no significant hazards and hazardous materials conditions on-site or off-site that would substantially affect the public and surrounding environment. There would be no significant geology and soils impacts from implementation of the project. For these reasons, the project would not result in irreversible damage that may result from environmental accidents.

## SECTION 6.0      SIGNIFICANT AND UNAVOIDABLE IMPACTS

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The project would result in the follow significant unavoidable impacts.

- **Impact AES-1:** Implementation of the proposed project would impact the visual character of the site because the design is not fully consistent with the Secretary of the Interior's Standards for Rehabilitation.
- **Impact CUL-1:** The project would cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5.
- **Impact NOI-1:** The project would result in generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies.
- **Impact REC-1:** The proposed changes to St. James Park would result impact the visual character and historic integrity of the park and would also result in an operational noise impact.

The project would not result in significant and unavoidable impacts to other environmental resources.

## **SECTION 7.0      ALTERNATIVES**

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CEQA requires that an EIR identify alternatives to a project as it is proposed. The CEQA Guidelines Section 15126.6 specify that the EIR should identify alternatives which “would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project.” The purpose of this section is to determine whether there are alternatives of design, scope, or location which would substantially lessen the significant impacts, even if those alternatives “impede to some degree the attainment of the project objectives” or are more expensive.

In order to comply with the purpose of CEQA, it is important to not only identify alternatives that reduce the significant impacts which are anticipated to occur if the project is implemented, but to try to meet as many of the project’s objectives as possible. The Guidelines emphasize a common sense approach – the alternatives should be reasonable, “foster informed decision making and public participation,” and focus on alternatives that avoid or substantially lessen the significant impacts. The range of alternatives selected for analysis is governed by the “rule of reason” which requires the EIR to discuss only those alternatives necessary to permit a reasoned choice.

The three critical factors to consider in selecting and evaluating alternatives are, therefore: 1) the significant impacts from the proposed project which could be reduced or avoided by an alternative, 2) the project’s objectives, and 3) the feasibility of the alternatives available. Each of these factors is discussed below.

### **7.1                      SIGNIFICANT IMPACTS OF THE PROJECT**

As mentioned above, the CEQA Guidelines advise that the alternatives analysis in an EIR should be limited to alternatives that would avoid or substantially lessen any of the significant effects of the project and would achieve most of the project objectives. The project has one significant unavoidable impact related to noise (interior noise levels at adjacent uses during music events).

Alternatives may also be considered if they would further reduce impacts that are already less than significant because the project is proposing mitigation. Impacts that would be significant but would be reduced by mitigation include impacts to nesting birds and cultural resources. The alternatives discussion does not focus on project impacts that are less than significant.

### **7.2                      PROJECT OBJECTIVES**

While CEQA does not require that alternatives must be capable of meeting all of the project objectives, their ability to meet most of the objectives is considered relevant to their consideration.

As identified in Section 2.5, the City’s objectives for the project are as follows:

1. Increase everyday use and enjoyment of St. James Park by making it a prime destination spot for downtown residents and the larger community;
2. Make the park a safe, fun, and family friendly destination that compliments the surrounding historic district;



3. Incorporate the historic monuments in the park to celebrate and respect San José's history and future;
4. Work in partnership with non-profits and other organizations to construct a performing arts pavilion and build upon these private-public partnerships to ensure quality park stewardship;
5. Develop a cultural asset conducive to creating a thriving destination and building community through music;
6. Improve maintenance, operations, security services, and other public services in order to ensure a well maintained, clean and safe facility;
7. Transform an underutilized neighborhood park into a prime destination where music concerts and other activities invigorate community life;
8. Integrate arts and culture into the community to spark economic growth, drive community engagement, and enhance overall quality of life;
9. Provide infrastructure to support and facilitate music concerts, community festivals, and other park programs;
10. Provide vibrant play spaces that are engaging, all-inclusive, and accessible;
11. Encourage, engage, and enable the community to participate in the visioning and implementation process; and
12. Reinforce a vibrant, dynamic downtown by building on existing assets including previous plans and proposals based on community input.

### **7.3 FEASIBILITY OF ALTERNATIVES**

CEQA, the CEQA Guidelines, and the case law on the subject have found that feasibility can be based on a wide range of factors and influences. The CEQA Guidelines advise that such factors *can* include (but are not necessarily limited to) the suitability of an alternate site, economic viability, availability of infrastructure, consistency with a general plan or with other plans or regulatory limitations, jurisdictional boundaries, and whether the project proponent can “reasonably acquire, control or otherwise have access to the alternative site (Section 15126.6[f][1]).”

### **7.4 SELECTION OF ALTERNATIVES**

#### **7.4.1 Alternatives Considered But Rejected**

##### **7.4.1.1 *Alternative Pavilion Orientation/Location On-Site***

Noise modeling completed for amplified music events at the proposed pavilion showed reduce noise levels at the rear of the pavilion. There are residential land uses to the north and south of the park. Because of the location of the noise sensitive land uses, there is no location within the park to locate the pavilion that would avoid a significant noise impact on one or more of the residential buildings. Furthermore, reorientation of the pavilion in its current location could increase noise levels from the venue at the residences to the north. For this reason, alternative pavilion orientations/locations on-site to minimize noise impacts to sensitive receptors were considered but rejected.

##### **7.4.1.2 *Plaza de Cesar Chavez Location Alternative***

The City considered an alternative location for the proposed project that would lessen or avoid the project's nesting bird, cultural resources, and/or operational noise impacts. The alternative location

needed to be located in the downtown area, could accommodate a pavilion hosting 5,000 attendees (approximately two to four acres), and be a City-owned park. Plaza de Cesar Chavez located downtown at 1 Paseo de San Antonio is approximately two acres in size and was considered as an alternative location for the proposed pavilion. Consideration was given primarily because the park is not designated as a historic resource, and while some historic structures are in proximity to the park, the park is not part of a historic district. Given the existing high volume of events and programming at Plaza de Cesar Chavez, however, it is unlikely Plaza de Cesar Chavez could accommodate a pavilion hosting 50 to 300 additional events. In addition, Plaza de Cesar Chavez would have the same nesting bird impacts as the proposed project. For these reasons, an alternative location at Plaza de Cesar Chavez was considered but rejected as infeasible.

An alternative location at Discovery Meadow Park is discussed in Section 7.5.4 below.

#### **7.4.2      Analyzed Alternatives**

In addition to a “No Project” Alternative, the CEQA Guidelines advise that the range of alternatives discussed in the EIR should be limited to those that “would avoid or substantially lessen any of the significant effects of the project” (Section 15126.6[f]). The discussion below addresses alternatives which could reduce project impacts and are feasible from a physical land use and infrastructure perspective. This Draft EIR does not evaluate the financial or economic feasibility.

The following evaluation of possible alternatives to the project as it is proposed includes:

- No Project Alternative as required by CEQA,
- Enclosed Pavilion Alternatives,
- Pavilion with No Concerts Alternative, and
- Discovery Meadow Alternative Pavilion Location.
- Design Alternative

The components of these alternatives are described below, followed by a discussion of their impacts and how they would differ from those of the proposed project. A summary of the environmental impacts of the proposed project and the analyzed project alternatives are provided at the end of this section in Table 7.5-1.

### **7.5              PROJECT ALTERNATIVES**

#### **7.5.1      No Project Alternative**

The CEQA Guidelines specifically require consideration of a “No Project” Alternative. The purpose of including a No Project Alternative is to allow decision makers to compare the impacts of approving the project with the impacts of not approving the project. The Guidelines specifically advise that the No Project Alternative is “what would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services.” The Guidelines emphasize that an EIR should take a practical approach, and not “...create and analyze a set of artificial assumptions that would be required to preserve the existing physical environment (Section 15126.6[e][3][B]).”

CEQA encourages consideration of an alternative site when impacts of the project might be avoided or substantially lessened. Only locations that would avoid or substantially lessen any of the impacts of the project and meet most of the project objectives need to be considered for inclusion in the EIR. The No Project Alternative assumes that the project site would remain as it is today; open space and park land.

#### **7.5.1.1      *Comparison of Environmental Impacts***

The No Project Alternative would avoid all of the project's environmental impacts.

#### **7.5.1.2      *Relationship to Project Objectives***

The No Project Alternative would not meet most of the project objectives as no changes would be made to the park under this alternative that would increase the use of the park (objective 1), construct a performing arts pavilion (objectives 4, 5, 7, and 9), improve operations and other public services at the park (objective 6), integrate arts and culture at the park (objective 8), provide all-inclusive and accessible play spaces (objective 10), or implement community plans and visions for the site (objectives 11 and 12).

This alternative could be considered consistent with project objective 2 of having a park that is fun, safe, and family friendly and objective 3 of incorporating the historic monuments.

#### **7.5.1.3      *Conclusion***

Because the No Project Alternative would not result in any new development on the site, this alternative would avoid all environmental impacts of the project. This alternative would not, however, meet most of the City's project objectives.

### **7.5.2      Enclosed Pavilion Alternatives**

The purpose of the Enclosed Pavilion Alternatives is to avoid the project's significant and unavoidable operational noise impact. As discussed in Section 3.13 Noise and Vibration, the project would result in significant, unavoidable noise impacts to adjacent sensitive receptors during music events at the performing art pavilion. To avoid this impact, exterior noise levels during a music event must be lowered by five dBA at St. James Place Apartments and Trinity Cathedral relative to the estimated maximum event noise level. A five dBA reduction would put interior noise levels at both locations at 45 dBA DNL or less, which meets the City's residential interior noise standard, and the project would not result in a significant noise impact consistent with General Plan Policy EC-1.2. Enclosing the proposed pavilion completely inside a building would achieve this five dBA reduction. Standard building construction with no operable windows results in 25 dBA of noise attenuation.<sup>111</sup> After accounting for building attenuation and using the reference noise level of 85 dBA at 100 feet from the stage, a music event would generate a noise level of 60 dBA if the pavilion is fully enclosed. As discussed in Section 3.13, the existing ambient noise level is 66 dBA DNL. Since the

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<sup>111</sup> Bollard Acoustical Consultants. *Noise and Vibration Impact Analysis Saint James Park Revitalization Project*. July 30, 2019.

Enclosed Pavilion Alternatives would reduce music event noise levels by more than five dBA, neither option would result in an operational noise impact at nearby sensitive receptors.

An Enclosed Pavilion Alternative for 5,000 attendees, as well as an Enclosed Pavilion Alternative with Project Footprint, is evaluated below.

#### **7.5.2.1      *Enclosed Pavilion Alternative for 5,000 Attendees***

The size of an enclosed pavilion for 5,000 attendees would likely require most of the eastern half of the park. The Enclosed Pavilion Alternative for 5,000 Attendees, therefore, assumes most of the eastern half of the park would be developed with the enclosed pavilion. As a result, this alternative would preclude other project improvements (including the proposed dog parks and Naglee Picnic Grove) on the eastern portion of the site and could result in the removal of a substantial number of trees.

### **Comparison of Environmental Impacts**

As discussed above, the Enclosed Pavilion Alternative for 5,000 Attendees would avoid the project's significant and unavoidable operational noise impact.

Under the Enclosed Pavilion Alternative for 5,000 Attendees, the pavilion would be taller and more massive than the proposed open air pavilion. The development of a large enclosed structure at the park would have a greater visual impact than the proposed project. In addition, this alternative would have a greater impact to the historic integrity of the park and district.

Construction of a fully enclosed performing arts pavilion would require additional foundation work and supports (as well as additional construction equipment), compared to the proposed open-air pavilion, and could result in an increased construction timeline. As a result, development of the Enclosed Pavilion Alternative for 5,000 Attendees would increase the exposure of area receptors to construction-related air pollutants and noise.

This alternative would require more energy use to light the fully enclosed performing arts pavilion and run mechanical equipment (i.e., HVAC) compared to the proposed project. Increased energy usage would occur, as would an increase in GHG emissions compared to the proposed project. The enclosure of the pavilion would result in similar less than significant hydrology and water quality impacts as the proposed project, though this alternative would result in greater impervious surfaces (and surface runoff) compared to the proposed project.

The Enclosed Pavilion Alternative for 5,000 Attendees would result in greater impacts to parks and recreational facilities than the proposed project as it would eliminate most of the eastern half of the park from use and would relocate and minimize (or eliminate altogether) the size of the proposed dog parks and picnic grove currently proposed in the southeastern quadrant of the site to the western half of the site.

The Enclosed Pavilion Alternative for 5,000 Attendees would result in the same or similar impacts to agricultural and forestry resources, biological resources, geology and soils, hazards and hazardous

materials, mineral resources, and wildfire as the proposed project due to the same or similar area of impacts to those resource. Given the land uses and the intensity of the land uses under this alternative are the similar the proposed project, impacts related to transportation, land use, population and housing, public services, and utilities and service systems would be comparable to the proposed project.

### **Relationship to Project Objectives**

The Enclosed Pavilion Alternative for 5,000 Attendees would be able to meet most of the project objectives by renovating and improving St. James Park and constructing a performing arts pavilion. This alternative would not fully meet project objective 1 of increasing everyday use of the park during days and times when the park is open but the enclosed pavilion is not in use. If there was no event at the pavilion, the building would be closed and the area the building occupies would not be available to the public. In addition, the Enclosed Pavilion Alternative would not meet project objective 2 of creating a destination that compliments the surrounding historic district as the construction of a large, enclosed pavilion would impact the historic integrity of the park and district.

### **Conclusion**

The Enclosed Pavilion Alternative for 5,000 Attendees would avoid the project's significant and unavoidable noise impact. The alternative would result in greater impacts to aesthetics, air quality, historic resources, energy, GHG, parks, and recreational facilities. The alternative would result in the same or similar impacts as the proposed project to all other environmental resources. The Enclosed Pavilion Alternative for 5,000 Attendees would meet all of the project objectives except for objectives 1 and 2 of increasing daily use specifically when the pavilion (including the space it occupies on the park) is not in use and complimenting the historic district.

#### **7.5.2.2      *Enclosed Pavilion Alternative with Project Footprint***

Under the Enclosed Pavilion Alternative with Project Footprint, the footprint of the enclosed pavilion would be limited to the footprint of the proposed pavilion and lawn seating area. An Enclosed Pavilion Alternative with Project Footprint, given the area needed for the enclosure, would not be able to accommodate 5,000 attendees.

### **Comparison of Environmental Impacts**

The environmental impacts of this alternative would be the same as described above under Section 7.5.2.1 for the Enclosed Pavilion Alternative for 5,000 Attendees except this alternative would result in lesser impacts to parks and recreational facilities because the footprint of the enclosed pavilion under this alternative would not be as expansive as the footprint of the enclosed pavilion under the Enclosed Pavilion Alternative for 5,000 Attendees.

### **Relationship to Project Objectives**

The relationship of the Enclosed Pavilion Alternative with Project Footprint to the project objectives would be the same as described in Section 7.5.2.1 for the Enclosed Pavilion Alternative for 5,000 Attendees. This alternative would meet all project objectives except for objectives 1 and 2 of

increasing daily park use and creating a destination that compliments the surrounding historic district as the construction of a large, enclosed pavilion (and the space it occupies on the park) would not be accessible to the public when closed and would impact the historic integrity of the park and district.

### **Conclusion**

The Enclosed Pavilion Alternative with Project Footprint would avoid the project's significant and unavoidable noise impact. The alternative would result in greater impacts to aesthetics, air quality, historic resources, energy, GHG, parks, and recreational facilities. The alternative would result in the same or similar impacts as the proposed project to all other environmental resources. The Enclosed Pavilion Alternative with Project Footprint would meet all of the project objectives except for objectives 1 and 2 of increasing daily use specifically when the pavilion (including the space it occupies on the park) is not in use and complimenting the historic district.

#### **7.5.3 Pavilion with No Concerts Alternative**

Hosting music concerts at the proposed pavilion would result in significant and unavoidable noise impacts. The Pavilion with No Concerts Alternative is the project as proposed except no music concerts or other events producing noise levels similar to that of concerts would be allowed.

### **Comparison of Environmental Impacts**

The Pavilion with No Concert Alternative would result in the same impacts as the proposed project except it would avoid the project's significant and unavoidable noise impact.

### **Relationship to Project Objectives**

The Pavilion with No Concerts Alternative would meet most of the project objectives by renovating and improving St. James Park and constructing a performing arts pavilion. This alternative would not fully meet project objectives 5, 7, 9, and 12 of hosting music concerts at the park.

### **Conclusion**

The Pavilion with No Concerts Alternative would result in the same impacts as the proposed project except it would avoid the project's significant and unavoidable noise impact. This alternative would meet most of the project objectives except for objectives 5, 7, 9, and 12 of hosting music concerts at the park.

#### **7.5.4 Discovery Meadow Alternative Pavilion Location**

Discovery Meadow is an approximately six-acre public park located downtown at the southeast corner of Woz Way and Park Avenue, north of the Children's Discovery Museum. Discover Meadow has large open lawn areas and currently hosts a variety of events. There are no sensitive receptors located near Discover Meadow.

The Discovery Meadow Alternative Pavilion Location would implement the project as proposed except construct the performing arts pavilion at Discovery Meadow instead of the project site.

### **Comparison of Environmental Impacts**

Because there are no sensitive receptors located near Discover Meadow, this alternative would avoid the project's significant and unavoidable operational noise impact. Because Discovery Meadow is not located within a historic district or designated a historic resource,<sup>112</sup> the development of the project at this alternative location would avoid the project's (less than significant with mitigation incorporated) impact to historic resources.

Give the proximity of Discovery Meadow to Guadalupe River, careful design and orientation of the pavilion would be required to avoid significant light and noise impacts to biological resources. For example, the pavilion lights and sound system would be designed and oriented to be directed away from the Guadalupe River and its riparian habitat.

This alternative location is in a similar urban, developed location served by transit at the project site. Therefore, the development of the pavilion at Discovery Meadow would result in similar or same agricultural and forestry, air quality, archaeological, energy, geology and soils, GHG emissions, hazards and hazardous materials<sup>113</sup>, hydrology and water quality, land use, population and housing, public services, recreation, transportation, and utilities and service systems impacts as the proposed project.

### **Relationship to Project Objectives**

The Discovery Meadow Alternative Location would meet all of the project objectives (by revitalizing St. James Park and providing a performing arts pavilion), except objective 7 that specifies transforming an underutilized neighborhood park into a prime destination where music concerts occur. Discovery Meadow is not underutilized.

### **Conclusion**

The Discovery Meadow Alternative Location would avoid the project's impacts from operational noise and to historic resources. This alternative would result in similar or same impacts to all other environmental resources. The Discovery Meadow Alternative Location would meet all of the project objectives except for objective 7 of transforming an underutilized neighborhood park into a prime destination where music concerts occur.

#### **7.5.5 Design Alternative**

Based on the NRHP nomination form, the historic consultant identified the following character defining features of the park:

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<sup>112</sup> City of San José. *Integrated Final Environmental Impact Report for the Downtown Strategy 2040*. SCH #2003042127. December 2018. Pages 93-118.

<sup>113</sup> The Discovery Meadow site is not listed on the Cortese List and, therefore, there is no known hazards or hazardous materials contamination on the site (CalEPA. "Cortese List Data Resources." Accessed April 22, 2019. <https://calepa.ca.gov/sitecleanup/corteselist/>).

1. North/south, east/west axis paths,
2. Diagonal cross axis paths,
3. Circular features at the four corners,
4. An undulating path around the perimeter connecting the circular features,
5. Random placement of statuary and monuments,
6. Flat ground plan with a lack of topographic variation, and
7. An informal planting scheme.

In addition, the park is a contributor to the St. James Square Historic District. The park was included in the listing as a contributor to the district, being identified as a key feature of the square surrounded by historically significant civic, religious, and private structures with distinctive and similarly themed architectural features. Both the square (as a designated National and local historic district) and the park individually are historic resources.

The proposed project was assessed for consistency with the St. James Square Historic District Guidelines and the Secretary of the Interior Standards. Per the St. James Square Historic District Guidelines, the assessment found the monument walk to be inconsistent with the layout of the original perimeter path, the proposed park structures are too modern in design and would have an incompatible color palette, and the diagonal paths are not fully preserved. Per the Secretary of the Interior Standards, the assessment found the project to be inconsistent due to the loss of the diagonal paths and the reinterpretation of the perimeter path. While the incompatibility of the building design is a factor in the loss of integrity, the primary issue is the diagonal and perimeter pathways which are key character-defining features of the park.

The proposed project's significant unavoidable cultural resources impact is a result of inconsistency with applicable design buildings and the Secretary of the Interior Standards, which harms the integrity of the resource. The purpose of this design alternative is to reduce the cultural resources impacts to a less than significant level. In order to reduce the impact of the proposed project, the design of the park would need to be modified to allow for a complete reintroduction of the diagonal paths and reorientation of the perimeter path to be more consistent with the original pathway. A redesign of the new park buildings would also be needed to meet the design standards.

To allow for the diagonal paths, the pavilion would need to be removed from the project plan as there would be no space to accommodate the pavilion with the diagonal paths. In addition, the large lawn area in the northwest quadrant would have to be segmented or removed. Amenity spaces within the southeast quadrant would need to be redesigned to allow for an uninterrupted pathway through the quadrant. The southwest quadrant would remain as is. Realignment of the perimeter path would likely require changes to the placement of proposed amenity spaces and existing memorials proposed for preservation within the park.

### **Comparison of Environmental Impacts**

Being of similar size as the proposed project, the project would likely to result in similar impacts under air quality, noise, and biological impacts. The Redesign Alternative could potentially result in lesser impacts to the historic impacts.



## **Relationship to Project Objectives**

Removal of the pavilion from the park design is in direct conflict with several of the City's objectives for the project. Specifically, this alternative would be inconsistent with objective 4, 5, 7, 8, and 9:

- Work in partnership with non-profits and other organizations to construct a performing arts pavilion and build upon these private-public partnerships to ensure quality park stewardship;
- Develop a cultural asset conducive to creating a thriving destination and building community through music;
- Transform an underutilized neighborhood park into a prime destination where music concerts and other activities invigorate community life;
- Integrate arts and culture into the community to spark economic growth, drive community engagement, and enhance overall quality of life;
- Provide infrastructure to support and facilitate music concerts, community festivals, and other park programs.

## **Conclusion**

The Design Alternative would avoid the project's significant and unavoidable cultural and historic impacts. The alternative would result in the same or similar impacts as the proposed project to all other environmental resources. The Design Alternative would not meet all the objectives as highlighted above.

### **7.5.6 Environmentally Superior Alternative**

The CEQA Guidelines state that an EIR shall identify an environmentally superior alternative. Based on the above discussion, the environmentally superior alternative to the proposed project is the No Project Alternative because all of the project's significant environmental impacts would be avoided. However, Section 15126.6(e)(2) states that "if the environmentally superior alternative is the No Project Alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives." In addition to the No Project, the Discovery Meadow Alternative Location would avoid the project's operational noise and historic resources impacts.

<b>Table 7.5-1: Summary of Project and Project Alternative Impacts</b>							
<b>Impacts</b>	<b>Proposed Project</b>	<b>No Project Alternative</b>	<b>Enclosed Pavilion Alternatives</b>		<b>Pavilion with No Concerts</b>	<b>Discovery Meadow Alternative Location</b>	<b>Design Alternative</b>
			<b>For 5,000 Attendees</b>	<b>With Project Footprint</b>			
Aesthetics	LTS	NI	LTS	LTS	LTS	LTS	LTS
Agricultural and Forestry Resources	NI	NI	NI	NI	NI	NI	NI
Air Quality	LTS	NI	LTS	LTS	LTS	LTS	LTS
Biological Resources (nesting birds)	SM	NI	SM	SM	SM	SM	SM
Cultural Resources	SU	NI	SU	SM	SM	LTS	LTS
Energy	LTS	NI	LTS	LTS	LTS	LTS	LTS
Geology and Soils	LTS	NI	LTS	LTS	LTS	LTS	LTS
Greenhouse Gas Emissions	LTS	NI	LTS	LTS	LTS	LTS	LTS
Hazards and Hazardous Materials	LTS	NI	LTS	LTS	LTS	LTS	LTS
Hydrology and Water Quality	LTS	NI	LTS	LTS	LTS	LTS	LTS
Land Use	LTS	NI	LTS	LTS	LTS	LTS	LTS
Mineral Resources	NI	NI	NI	NI	NI	NI	NI
Noise (operational noise)	SU	NI	LTS	LTS	LTS	LTS	LTS
Population and Housing	LTS	NI	LTS	LTS	LTS	LTS	LTS
Public Services	LTS	NI	LTS	LTS	LTS	LTS	LTS
Recreation	LTS	NI	LTS	LTS	LTS	LTS	LTS
Transportation/Traffic	LTS	NI	LTS	LTS	LTS	LTS	LTS
Tribal Cultural Resources	LTS	NI	LTS	LTS	LTS	LTS	LTS

Table 7.5-1: Summary of Project and Project Alternative Impacts							
Impacts	Proposed Project	No Project Alternative	Enclosed Pavilion Alternatives		Pavilion with No Concerts	Discovery Meadow Alternative Location	Design Alternative
			For 5,000 Attendees	With Project Footprint			
Utilities and Service Systems	LTS	<b>NI</b>	LTS	LTS	LTS	LTS	LTS
Wildfire	NI	NI	NI	NI	NI	LTS	LTS
Meets City's Objectives?	Yes	Partially	Partially	Partially	Partially	Partially	Partially
	Notes: SU = Significant unavoidable impact; SM = Significant impact, but can be mitigated to a less than significant level; LTS = Less than significant impact; and NI = No impact. <b>Bold</b> text indicates being environmentally superior to the proposed project.						

## SECTION 8.0 REFERENCES

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- Casey Hiraski, City of San José Department of Public Works
- Katy Martin, City of San José Department of Public Works
- Rebekah Ross, City of San José Department of Parks, Recreation, and Neighborhood Services



## **SECTION 9.0 LEAD AGENCY AND CONSULTANTS**

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### **9.1 LEAD AGENCY**

#### **City of San José**

Department of Planning, Building and Code Enforcement

Rosalynn Hughey, Director of Planning, Building and Code Enforcement

Thai-Chau Le, Planner IV

### **9.2 CONSULTANTS**

#### **David J. Powers & Associates, Inc.**

Environmental Consultants and Planners

Shannon George, Principal Project Manager

Kristy Weis, Senior Project Manager

Alejandra Sanchez, Assistant Project Manager

Desiree Dei Rossi, Researcher

Zach Dill, Graphic Artist

#### **Archives & Architecture, LLC**

Historic Consultants

Franklin Maggi, Architectural Historian

Leslie A.G. Dill, Architect and Architectural Historian

Charlene Duval, Public Historian

#### **Bollard Acoustical Consultants, Inc.**

Acoustical Consultants

Paul Bollard, President

#### **Hexagon Transportation Consultants**

Transportation Consultants

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#### **HMH**

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#### **Illingworth & Rodkin, Inc.**

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James Reyff, Principal

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## SECTION 10.0 ACRONYMS AND ABBREVIATIONS

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<b><u>Acronym/Abbreviation</u></b>	<b><u>Definition</u></b>
AB	Assembly Bill
ABAG	Association of Bay Area Governments
ACM	Asbestos containing material
ADA	Americans with Disabilities Act
AIA	Airport Influence Area
Airport	Norman Y. Mineta San José International Airport
ALUC	Santa Clara County Airport Land Use Commission
APN	Assessor's Parcel Number
BAAQMD	Bay Area Air Quality Management District
Bgs	Below ground surface
BMP	Best management practices
BTU	British thermal unit
CalARP	California Accidental Release Prevention
CalEPA	California Environmental Protection Agency
CALGreen	California Green Building Standards Code
Cal Fire	California Department of Forestry and Fire Protection
Cal/OSHA	California Division of Occupational Safety and Health
Caltrans	California Department of Transportation
CAP	Clean Air Plan
CARB	California Air Resource Board
CBC	California Building Standards Code
CCR	California Code of Regulations
CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality Act
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CH <sub>4</sub>	Methane
CLUP	Comprehensive Land Use Plan
CNEL	Community Noise Equivalent Level
CO	Carbon monoxide

<b><u>Acronym/Abbreviation</u></b>	<b><u>Definition</u></b>
CO <sub>2</sub>	Carbon dioxide
CO <sub>2</sub> e	CO <sub>2</sub> equivalents
Construction General Permit	NPDES General Construction Permit for the State of California
CPUC	California Public Utilities Commission
CRHR	California Register of Historical Resources
CUPA	Certified Unified Program Agency
dBA	A-weighted decibel
DNL	Day-Night Level
DPM	Diesel particulate matter
Draft EIR	Draft Environmental Impact Report
DTSC	Department of Toxic Substances Control
EIFS	Exterior insulating finish surface/synthetic stucco
EIR	Environmental Impact Report
EPA	Environmental Protection Agency
FAA	Federal Aviation Administration
(the) Facility	San José/Santa Clara Regional Wastewater Facility
FAR Part 77	Federal Aviation Regulations, Part 77 Objects Affecting Navigable Airspace
FEIR	Final Environmental Impact Report
FEMA	Federal Emergency Management Agency
FIRM	Flood Insurance Rate Maps
FMMP	Farmland Mapping and Monitoring Program
FRAP	Fire and Resource Assessment Program
General Plan	Envision San José 2040 General Plan
General Plan IFEIR	Integrated Final Program Environmental Impact Report for the Envision San José 2040 General Plan
GFRC	Glass fiber reinforced concrete
GHG	Greenhouse gasses
GWP	Global warming potential
Habitat Plan	Santa Clara Valley Habitat Plan/ Natural Community Conservation Plan

<b><u>Acronym/Abbreviation</u></b>	<b><u>Definition</u></b>
HFC	Hydrofluorocarbons
HI	Hazard Index
IFEIR	Integrated Final EIR
I-280	Interstate 280
LID	Low impact development
LRT	Light-rail transit
MBTA	Migratory Bird Treaty Act
MEI	Maximally exposed individual
MMT	Million metric tons of carbon dioxide equivalent
MND	Mitigated Negative Declaration
MRP	San Francisco Bay Region Municipal Regional Stormwater National Pollutant Discharge Elimination System Permit
MTC	Metropolitan Transportation Commission
NAHC	Native American Heritage Commission
NESHAP	National Emission Standards for Hazardous Air Pollutants
NFIP	National Flood Insurance Program
NHPA	National Historic Preservation Act
NOD	Notice of Determination
NOI	Notice of Intent
NOP	Notice of Preparation
NO <sub>x</sub>	Nitrogen oxides
N <sub>2</sub> O	Nitrous oxide
NPDES	National Pollutant Discharge Elimination System
NRHP	National Register of Historic Places
OITC	Outdoor-Indoor Transmission Class
O <sub>3</sub>	Ground level oxygen
PCBs	Polychlorinated biphenyls
PDA	Priority Development Areas
PFCs	Perfluorocarbons
PM	Particulate matter
PM <sub>2.5</sub>	Fine particulate matter

<b><u>Acronym/Abbreviation</u></b>	<b><u>Definition</u></b>
PM <sub>10</sub>	Respirable particulate matter
PPM	Parts per million
PPV	Peak Particle Velocity
RCRA	Resource Conservation and Recovery Act
ROG	Reactive Organic Gases
RPS	Renewable Portfolio Standard
RWQCB	Regional Water Quality Control Board
SB	Senate Bill
SCS	Sustainable Communities Strategy
SFHA	Special Flood Hazard Areas
SF <sub>6</sub>	Sulfur hexafluoride
SHMA	Seismic Hazards Mapping Act
SJCE	San José Clean Energy
SJFD	San José Fire Department
SMARA	Surface Mining and Reclamation Act
SR	State Route
STC	Sound Transmission Class
SWPPP	Storm Water Pollution Prevention Plan
SWRCB	State Water Resource Control Board
TAC	Toxic Air Contaminants
TCM	Treatment Control Measures
Title 24	California Code of Regulations
USACE	US Army Corps of Engineers
USFWS	United States Fish and Wildlife Service
USGS	United States Geological Survey
Valley Water	Santa Clara Valley Water District
VTA	Santa Clara Valley Transportation Authority
Williamson Act	California Land Conservation Act
µg/m <sup>3</sup>	Micrograms per cubic meter
2017 CAP	Bay Area 2017 Clean Air Plan