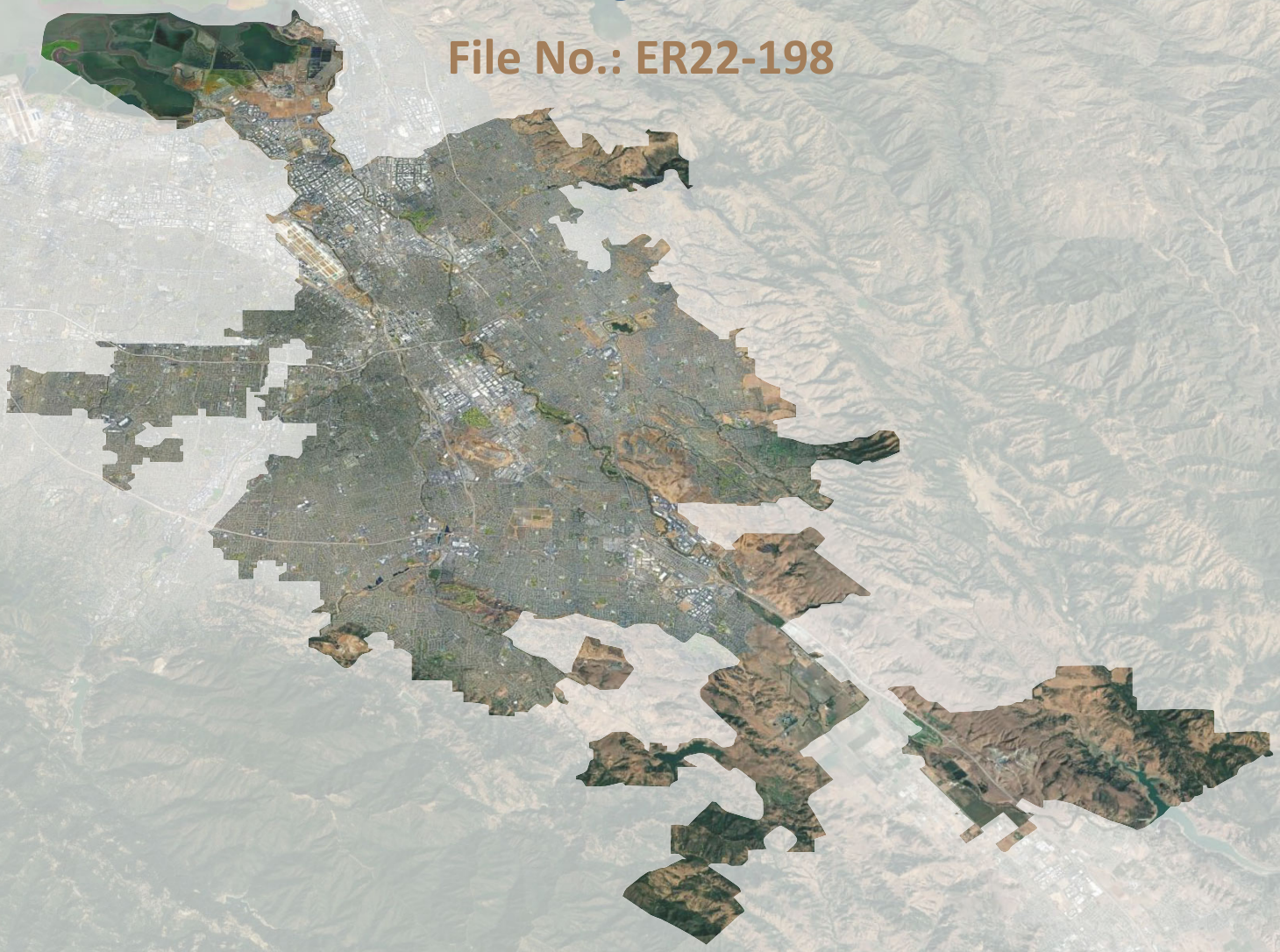
Initial Study

Emergency Interim Housing Programs

File No.: ER22-198



Prepared by

CITY OF SAN JOSE

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ENVIRONMENTAL CONSULTANTS & PLANNERS

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All appendices are incorporated herein by reference.

Section 1.0 Introduction and Purpose

1.1 Purpose of the Initial Study

The City of San José, as the Lead Agency, has prepared this Initial Study for the Emergency Interim Housing Programs (EIHs) in compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines (California Code of Regulations §15000 et seq.) and the regulations and policies of the City of San José, California.

The project is the City's EIH Programs (hereinafter referred to as "project"), which encompasses various programs to provide temporary housing and supportive services for individuals, couples, and families experiencing homelessness. This Initial Study evaluates the environmental impacts that might reasonably be anticipated to result from implementation of the proposed project. The purpose of this Initial Study is to provide a programmatic analysis of EIH projects to allow for streamlining future projects as they are identified and developed.

1.2 Public Review Period

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

Reema Mahamood
Planner III
Planning, Building & Code Enforcement
City of San José
200 E. Santa Clara St., T-3
San José, CA 95113
reema.mahamood@sanjoseca.gov

1.3 Consideration of the Initial Study and Project

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

1.4 Notice of Determination

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

Section 2.0 Project Information

2.1 Project Title

Emergency Interim Housing Programs (File Number: ER22-198)

2.2 Lead Agency Contact

Reema Mahamood
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2.3 Project Applicant

City of San José
200 E. Santa Clara Street
San José, CA 95113

2.4 Project Location

City-owned or City-leased sites Citywide. Individual sites will be selected based on guidelines established in accordance with requirements set forth by the State law and City Ordinance No. 30199. See Section 3.0, Project Description, below, or a discussion of the site selection parameters.

Section 3.0 Project Description

3.1 Background Information

In September 2016, the State of California passed Assembly Bill (AB) 2176, allowing the City of San José to declare a shelter crisis and create emergency Bridge Housing Communities (BHCs).[1] This law allows San José to develop communities of small sleeping cabins, along with common buildings, which could include meeting space, showers, and laundry facilities. The law also allows San José to adopt local standards in lieu of state and local building codes and requirements that may hinder or delay development of BHCs. Potential BHC sites must be either City-owned or leased. AB 2176 describes an "emergency sleeping cabin" as a relocatable hard-sided structure that may be used for occupancy, with a raised floor area of at least 120 square feet of interior space for two occupants and a minimum of 70 square feet of interior space for one occupant, with no plumbing or gas service. Additionally, AB 2176 requires emergency sleeping cabins to provide light, heat, and ventilation, and to comply with minimum emergency bridge housing design standards.

The January 2022 sunset date of AB 2176 was extended to January 1, 2025 by AB 1745, thus allowing BHC sites to operate through 2024.[2] Under the authority of AB 2176 and AB 1745, on January 8, 2019, the City adopted Ordinance No. 30199 which amended the City's Municipal Code Section 5.09 to include standards for construction and operation of emergency bridge housing. There are currently five operational BHC sites within the City of San José. The currently operating sites are located at 6066 Monterey Road, 5898 Rue Ferrari, Mabury Road near the Berryessa Bay Area Rapid Transit (BART) station, the Caltrans right-of-way at the end of Felipe Avenue, and 2078 Evans Lane. The City Council approved development of four additional sites. Locations for two of the sites have been identified as expansions of the approved 5898 Rue Ferrari and the 702 Guadalupe Parkway sites. Locations for the other two sites are yet to be identified. Pursuant to AB 1745, the City shall provide supportive services for all BHCs, and match each resident of a BHC to a permanent affordable housing unit prior to the bill expiring, which is currently scheduled for January 1, 2025.

3.2 Project Location and Site Selection Guidelines

Potential EIH sites would be selected based on guidelines established in accordance with requirements set forth by the State law and City Ordinance No. 30199. The following site-specific guidelines have been established:

[1] Legislative Information. "Assembly Bill No. 2176." Accessed May 3, 2023. http://www.leginfo.ca.gov/pub/15-16/bill/asm/ab_2151-2200/ab_2176_bill_20160927_chaptered.htm.
[2] OpenStates. Accessed May 3, 2023. "AB 1745: Shelter crisis: emergency bridge housing community: City of San José." https://openstates.org/ca/bills/20192020/AB1745/.

1. **Feasibility:** This step determines site characteristics to meet minimum requirements for an adequate community, which is 60 to 100 units or beds.
    - **Size:** Sites must be a minimum of one acre – one acre is the minimum size to accommodate an approximate 40-unit EIH with limited parking and support services. Sites of two or more acres are better suited to build a more adequate number of sleeping units (e.g., 60 to 100), and the necessary support/shared facilities (e.g., parking, kitchen, laundry facilities).
    - **Site Access:** Sites must be accessible to the City street system to enable access for people staying and working at the site, as well as to enable access for emergency response personnel and vehicles. Landlocked sites with little or no vehicular access are not feasible.
    - **Grades and Slopes:** Sites must be fairly flat (approximately 10 percent slope) in the developable area of the site. As "Quick-Build" interim facilities, the goal is to efficiently develop sites (e.g., control cost, rapid construction) to quickly shelter people living on the streets, and avoid more expensive, permanent site mitigations. Steeper slopes result in higher costs and longer development timeframes to accommodate grading and utility installation challenges.
    - **Environmental:** Environmental factors would vary by site location. Prior to selection, factors such as flood zone designation, riparian corridors, and previous land uses (e.g., dump sites) would be evaluated for potential impacts both to the environment and to the residents. EIH sites would not be located on or within 200 feet of City landmarks.
    - **Lot Shape:** Sites need suitable shapes to effectively configure an EIH. For example, some sites may meet the minimum acreages, but the site may not be able to support all required facilities and achieve required setbacks from adjacent uses.
    - **Access to Basic Services:** Sites need to have access to public transit within half a mile or less. However, in lieu of public transit, the City and its Site Operators may consider other transportation options.

2. **Viability:** In the viability phase, sites must pass through a more detailed field and property characteristic investigation.
    - **Location in the City:** The City Council directed that at least one EIH site be developed in each of the 10 City Council Districts. The City currently has EIH projects in four of the 10 City Council Districts (e.g., Districts 2, 3, 6, and 7) and is pursuing sites and projects in the remaining six Districts (e.g., Districts 1, 4, 5, 8, 9, and 10) to ensure shared responsibility for sites across the entire City and provide multiple access locations. The City Council, at their discretion, could approve exceptions and change direction as needed.
    - **Access to Utilities:** Sites need to have access to utilities including power, water, sewer, and stormwater systems.
    - **Site Configuration and Capacity:** Sites are evaluated for how they may be configured and the potential capacity for development such as open flat areas that enable sufficient layout for access and circulation, site control/security, and buildings.

- **Environmental Constraints:** Sites are screened for various environmental constraints commonly encountered at development sites in San José such as:
    - Hazardous materials/contaminants
    - Geologic hazards (landslides, liquefaction zones)
    - Flooding
    - Sensitive habitat (riparian corridors, burrowing owl habitat)
    - Noise exposure (airport, heavily traveled roadways, highways)
    - Exposure to criteria air pollutants and toxic air contaminants (i.e., from adjacent roadways)
    - Historical and/or cultural resources
- **Site Restrictions:** Research is conducted to understand potential land or use restrictions such as deed restrictions, recorded covenants, or certain land use designations.
- **Ownership/Ability to Control:** To build and operate EIH, the City must legally own or control the property through a lease as required by the enabling legislation. With limited funding available and the urgent need to develop EIH communities to shelter people on the street, using City owned land is usually the most practical and efficient path to developing these communities. The City may partner with other public agencies to use their land (e.g., Santa Clara Valley Transportation Authority [VTA], Caltrans, County of Santa Clara, Santa Clara Valley Water District [Valley Water]).

3.2.1 Potential Site Locations

The City is evaluating a list of approximately 150 sites using the guidelines above. The sites on this list are being evaluated for feasibility and viability based on the guidelines. Additional sites may be selected and evaluated pursuant to the performance standards of the policy.

3.3 Project Description

Under the EIH program, the City would initially select up to 15 EIH/BHC sites in order to provide temporary housing and supportive services for individuals, couples, and families experiencing homelessness. Additional sites may be considered at a future date. The project includes the construction of transitional housing units on EIH/BHC sites. The market for transitional housing units is rapidly developing and the form of the actual units may change over time. To date, the City has utilized a variety of housing options including tiny homes, portable trailers, tents, and residential modular models containing three to five beds per unit. All units must be approved by the California Department of Housing and Community Development (HCD) prior to being used.[3]

For purposes of this project analysis, the City has assumed the option with the greatest massing for a conservative analysis of project impacts. The project would construct two-story, modular buildings, each containing up to six units. Each unit would include a bed and bathroom. Each site

[3] California Factory-Built Housing Law, California Health and Safety Code Section 19960 (2021).

would accommodate up to 12 modular buildings per acre, maintaining the 40-unit minimum for one-acre sites per the Siting Guidelines, and a maximum of 72 units per acre. Additionally, each EIH site would include three one-story common use buildings per acre, which would include shared facilities such as a kitchen, dining area, laundry facilities, office area, private case management rooms, storage units, and recreational spaces. The entire site would be surrounded by solid board fencing.

The City would hire a Site Operator to manage and maintain each EIH site. Site Operators must be a 501(c)(3) nonprofit corporation with experience in managing similar facilities and providing supportive services to the target populations. In some instances, two or more Site Operators would work collaboratively to provide all the required services. EIH sites would be gated, and the Site Operator would be responsible for controlling ingress and egress.

Depending upon the need and the urgency with which these EIH developments need to be in operation, the City may not provide services other than shelter, safety, and security. Additional services may be provided on a phased schedule after people are housed. The City would engage the Site Operator or another Site Operator to provide services such as individualized housing plans, life skills, resources to increase income, financial literacy, and behavioral and physical health care referrals to the residents during their stay in the EIH. These services would be conducted by qualified case managers who would be on site during the day. The Site Operator would also have Residential Service Coordinators (RSCs) who would coordinate food, toiletries, and basic necessities; resolve site-related issues; and provide staff coverage during hours when case managers are not on site. The RSCs would work in three shifts (dayshift, mid-shift, and swing-shift) to cover all 24 hours. Depending upon the size and makeup of the community at each individual site, the number of case managers and RSCs would vary.

For purposes of this project analysis, the City has assumed that the Site Operator would have up to five case managers during the work day; and up to five RSCs on-site 24 hours a day, seven days a week.

Residents who come into the EIH site are expected to transition into permanent housing. Depending on the individual situations, transition time to permanent housing would vary. The average time to transition is anticipated to be approximately nine months. As participants transition into permanent housing, new participants would be brought into the EIH development.

3.3.1 Parking

Each EIH site would contain on-site parking for residents and staff. Approximately 0.5 parking space would be provided per resident, and one parking space per Site Operator employee.

3.3.2 Landscaping and Site Improvements

The project would include minor landscaping and site improvements throughout each EIH site, which could include internal gravel roads, parking spaces, outdoor picnic/gathering areas, dog

parks, and/or playground areas. Irrigation would not be included. Where feasible, any mature trees on the project sites would be incorporated into the site configuration.

3.3.3 Utilities

EIH sites would include power, sanitary sewer, and potable water for all buildings. The project would include trenching for utilities from the public right-of-way to each of the modular buildings. New site lighting would be installed if a site does not already have adequate existing lighting. A fenced trash enclosure would be provided at each site. No natural gas would be included as part of the project.

3.3.4 Construction

Construction activities would vary by site. Some sites may be vacant land, while others might be a paved parking lot. If there are existing structures on the site, demolition of those structures may occur. As much as possible, site layouts would be designed around existing mature trees on a site. In some instances, mature trees may need to be felled, and would be replaced in accordance with the City's policies for tree replacement.

All proposed structures would be prefabricated off-site and delivered to the site via truck. In some instances, modular buildings may be craned into place at the EIH sites. Structures would be supported by temporary foundations such as seismic piers[4], helical piers[5], or other approved supports. No permanent building foundations would be utilized. Surface grading and utility trenching would occur at each EIH site. Surface grading would be dependent upon the site, but it is anticipated that most sites would be fairly level, and grading would not be more than six inches. For sites that have a steeper slope, more grading may be required. Utility trenching would be a maximum of three feet in depth and one and one-half feet in width, with the length varying depending on the site and the distance to existing utilities connections.

Construction would last approximately 12 months per site.

3.3.5 Typical Site Layout

Site layouts for future sites will vary based on the size, shape, and physical characteristics of the individual parcels. Generally, each site would include the following:

- Residential Units
- Administration Building
- Laundry Building

[4] A seismic pier is a foundation pier for supporting a movable dwelling.
[5] A helical pier is a manufactured foundation pin that is driven into the soil.

- Security Office
- Case Management Building(s)
- Storage Shed
- Storage Buildings (tuff shed, etc.)
- Gathering/Picnic Area
- Playground (if families)
- Trash Facilities
- Dog Park
- Smoking area
- Perimeter fencing

Appendix A includes site layouts of the currently operating sites. Wherever possible, the site layouts and the types of structures would be the same or similar to the existing sites.

3.3.6 Operation

The project would serve individuals, couples, and families. An average EIH site size is typically two to three acres with a service population of approximately 50 to 200 individuals. The estimated average service population per site is expected to be 100 individuals.

Based on the parameters outlined for site size and number of buildings per acre, a 10-acre site could potentially have a maximum of 720 units.[6] While it is unlikely that any site would have 720 units due to the estimated average service population of 200 persons, the maximum of 720 units on a 10-acre site was conservatively used for the purposes of this project analysis.

The expected minimum stay is four months with a maximum stay of 12 months. As described above, each site would have a Site Operator who would have employees on-site daily. These employees would provide project participants with individualized supportive services, housing plans, and amenities as needed. They would also handle any disturbances or behaviors through mediation and conflict management, as well as engage law enforcement if an issue is out of their control. Site Operators or their property management designees would be responsible for ensuring that all shared facilities are maintained and functioning. Maintenance oversight would be provided the City's Housing Inspectors and Public Works staff. They would also be responsible for working with the participants to ensure private sleeping rooms and bathrooms are maintained and functioning. While some participants may have full-time jobs, or more than one part-time job, those who need job placement would be offered on-site guidance. If participants are unable to work, Site Operators would assist with increasing income to which they are eligible to receive. The site would

[6] The 15 future EIH sites would range between 1.5 and 10 acres in size and would accommodate up to 12 modular buildings per acre, with each modular building containing three to six units. Thus, for a 10-acre site, the project could have a maximum of 720 units (10 acres x 12 buildings/acre x 6 units/building = 720 units/site).

be staffed with at least two and up to five staff members 24 hours a day, seven days a week, and ingress and egress would be strictly monitored.

For the purposes of this programmatic analysis, it is assumed that the current law would be extended beyond 2024 and the project and associated sites would operate for a minimum of 10 to a maximum of 15 years. At the end of project operation, sites would be decommissioned, and all structures and infrastructure would be removed, and the sites would be restored to their original condition to the extent feasible.

3.3.7 General Plan and Zoning

The City's General Plan and Zoning requirements are suspended for the duration of the City's Shelter Crisis Declaration under state legislation AB 1745 which allows BHC and EIH development and operation in the City of San José.[7] However, a prototypical site, as previously explained in the Site Selection Guidelines ("Siting Guidelines"), must be suitable for residential development on an interim basis.

3.3.8 Site Acquisition

Based on the City's Municipal Code Section 5.09.210 and the state legislation authorizing EIH projects, sites are required to be owned or leased by the City of San José. City owned sites that meet the established Project Location and Siting Guidelines are preferred to non-City owned sites. When City owned sites are not available or do not meet the Feasible, Viable, and Practical thresholds of the Siting Guidelines, the City will evaluate other publicly owned land with partner agencies such as Caltrans, VTA, and Valley Water where market-rate or below market-rate leases may be obtained. When City or partner owned land is not available for EIH development or does not meet the Siting Guidelines, the City may consider acquisition of land. Whether acquiring privately or publicly owned land, the proposed land must meet the established Siting Guidelines and must be acquired at or below the market rate value of the property. The San José City Council is required to approve all site selection, site acquisition, and/or funding recommendations for EIH development.

[7] OpenStates. "AB 1745: Shelter crisis: emergency bridge housing community: City of San José." Accessed May 3, 2023. https://openstates.org/ca/bills/20192020/AB1745/.

Section 4.0 Environmental Setting, Checklist, and Impact Discussion

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

4.1	Aesthetics	4.12	Mineral Resources
4.2	Agriculture and Forestry Resources	4.13	Noise
4.3	Air Quality	4.14	Population and Housing
4.4	Biological Resources	4.15	Public Services
4.5	Cultural Resources	4.16	Recreation
4.6	Energy	4.17	Transportation
4.7	Geology and Soils	4.18	Tribal Cultural Resources
4.8	Greenhouse Gas Emissions	4.19	Utilities and Service Systems
4.9	Hazards and Hazardous Materials	4.20	Wildfire
4.10	Hydrology and Water Quality	4.21	Mandatory Findings of Significance
4.11	Land Use and Planning		

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 1) includes the recommended checklist questions from Appendix G of the CEQA Guidelines to assess impacts and 2) 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.

4.1 Aesthetics

4.1.1 Environmental Setting

4.1.1.1 *Regulatory Framework*

4.1.1.2 *Existing Conditions*

State

Senate Bill 743

Senate Bill (SB) 743 was adopted in 2013 and requires lead agencies to use alternatives to level of service (LOS) for evaluating transportation impacts, specifically vehicle miles traveled (VMT). SB 743 also included changes to CEQA that apply to transit-oriented developments, as related to aesthetics and parking impacts. Under SB 743, a project's aesthetic impacts will no longer be considered significant impacts on the environment if:

- The project is a residential or mixed-use residential project, and
- The project is located on an infill site within a transit priority area.[8]

SB 743 also clarifies that local governments retain their ability to regulate a project's aesthetics impacts outside of the CEQA process.

Streets and Highway Code Sections 260 through 263

The California Scenic Highway Program (Streets and Highway Code, Sections 260 through 263) 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. There are no State-designated scenic highways in San José.

[8] An "infill site" is defined as "a lot located within an urban area that has been previously developed, or on a vacant site where at least 75 percent of the perimeter of the site adjoins or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses." A "transit priority area" is defined as "an area within 0.5 mile of a major transit stop that is existing or planned, if the planned stop is scheduled to be completed within the planning horizon included in a Transportation Improvement Program or applicable regional transportation plan." A "major transit stop" means "a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods." Source: Office of Planning and Research. "CEQA Review of Housing Projects Technical Advisory." Accessed March 1, 2023. https://opr.ca.gov/docs/20190208-TechAdvisory-Review_of_Housing_Exemptions.pdf.

Interstate (I-) 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.[9]

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, I-280 from the San Mateo County line to SR 17, and the entire length of SR 152 within the County.

California Building Code Sections 1205.2 and 1205.3

Section 1205 of the California Building Code (CBC) sets forth lighting requirements for every space intended for human occupancy. Section 1205.2 requires natural lighting be provided in adjoining spaces and exterior openings. Section 1205.3 requires artificial light to be provided that is adequate to provide an average illumination of 10 foot-candles over the area of the room at a height of 30 inches above floor level.

Local

San José Municipal Code

In accordance with the City's BHC Ordinance (refer to Appendix B), Section 5.09 of the City's Municipal Code includes standards for construction and operation of emergency bridge housing. Section 5.09 requires that buildings or structures used for emergency housing be provided with natural light by means of exterior glazed openings in accordance with Section 1205.2 of the CBC, or be provided with artificial light in accordance with Section 1205.3 of the CBC. All other General Plan and Zoning requirements are suspended.

4.1.1.3 *Existing Conditions*

Scenic Resources and Views

According to the General Plan, scenic resources within the City include the broad sweep of the Santa Clara Valley, the hills and mountains, the Baylands, and the urban skyline, particularly high-rise development.

Designated Scenic Roads

The City has designated Scenic Gateways as locations which announce to a visitor or resident that they are entering the City, or a unique neighborhood. Scenic Gateways include Coleman Avenue at I-880, 13th Street at US Highway (US) 101, and US 101 in the vicinity of the SR 85 Interchange. The

[9] California Department of Transportation. "Scenic Highways." Accessed March 1, 2023. https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability/lap-liv-i-scenic-highways.

General Plan identifies two types of scenic routes: Urban Throughways and Rural Scenic Corridors. Urban Throughways include I-680, I-880, SR 237, and SR 87. Rural Scenic Corridors include several roadways along the western and southern boundaries of the City such as San Felipe Road, Mount Hamilton Road, McKean Road, and segments of US 101.

As previously discussed, there are no designated State Scenic Highways in San José.

4.1.2 Impact Discussion

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

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

As discussed in Section 4.1.1.2 Existing Conditions, the General Plan defines scenic vistas in the City as views from the Santa Clara Valley of the surrounding hillsides. These scenic vistas can be viewed from Communications Hill, extensions of the Silver Creek Hills, and the Santa Teresa Hills. The General Plan also defines scenic urban corridors such as segments of major highways that provide gateways into the City.

Future EIH projects would be located on sites that are generally flat within urbanized areas of San José. While EIH projects would construct one- to two-story modular buildings, these structures would have a minimal impact on the views of scenic vistas from public vantage points and would not directly impact any scenic vistas. Therefore, implementation of the project would not have a substantial adverse effect on a scenic vista. **(Less than Significant Impact)**

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

As previously discussed, there are no designated State Scenic Highways in San José. Therefore, implementation of future EIH projects would not substantially damage scenic resources within a State Scenic Highway. **(No Impact)**

c) In non-urbanized areas, would the project substantially degrade the existing visual character or quality of public views 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?

Future EIH projects would be located on sites that are vacant and may be undeveloped or minimally developed such as with surface parking lots or lightly landscaped. An EIH project on the site would thus represent a change to the visual character of the project sites and surrounding areas. It is expected that most sites would be located within urbanized areas; however, given the restrictions of the Siting Guidelines, it is possible some sites would be in less urbanized areas, but all sites would be within the City's urban growth boundary.

Per AB 1745, EIH projects are not required to comply with General Plan and Zoning policies. However, EIH projects would be required to be consistent with zoning requirements related to aesthetics, including maximum height, setbacks, and size. As discussed under checklist question a) above, EIH sites would be developed with one- to two-story modular community buildings. The density and style of EIH projects would not degrade the existing visual character of any area or the quality of public views. Further, pursuant to the BHC Ordinance and Section 5.09 of the City's Municipal Code, future EIH projects proposing tree removal would comply with standard permit conditions for tree replacement (refer to discussion in Section 4.4 Biological Resources). Therefore, implementation of future EIH projects would not substantially degrade the existing visual character or quality of public views of the sites and surrounding properties in non-urbanized areas, nor would it conflict with zoning and other regulations in urbanized areas. **(Less than Significant Impact)**

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

Sources of nighttime lighting associated with future EIH projects would include interior lighting and exterior security lighting on buildings, along driveways and entrance areas, and within parking areas. Lighting would be comparable to surrounding development and consistent with Section

20.75.360 of the City's Municipal Code.[10] Projects would also use low glare building materials so as not to introduce new sources of glare consistent with Municipal Code Section 20.55.103. Therefore, implementation of the project would not create a new source of substantial light or glare which would adversely affect day or nighttime views. **(Less than Significant Impact)**

[10] Section 20.75.360 of the City's Municipal Code requires lighting to be directed away from any residential uses.

4.2 Agriculture and Forestry Resources

4.2.1 Environmental Setting

4.2.1.1 *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 identified as 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.[11]

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.[12]

Fire and Resource Assessment Program

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.[13] Programs such as CAL FIRE's Fire and Resource Assessment Program and are used to identify whether forest land, timberland, or timberland production areas that could be affected are located on or adjacent to a project site.[14]

[11] California Department of Conservation. "Farmland Mapping and Monitoring Program." Accessed December 22, 2022. http://www.conservation.ca.gov/dlrp/fmmp/Pages/Index.aspx.
[12] California Department of Conservation. "Williamson Act." http://www.conservation.ca.gov/dlrp/lca.
[13] Forest Land is land that can support 10 percent native tree cover and allows for management of forest resources (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 trees to produce lumber and other products, including Christmas trees (California Public Resources Code Section 4526); and Timberland Production is land used for growing and harvesting timber and compatible uses (Government Code Section 51104(g)).
[14] California Department of Forestry and Fire Protection. "Fire and Resource Assessment Program." Accessed March 1, 2023. http://frap.fire.ca.gov/.

4.2.1.2 *Existing Conditions*

Farmland

The largest remaining area of farmland in San José is located in the Coyote Planning Area. In the remainder of the City, development covers much of the floor of the Santa Clara Valley; however, several remnant parcels remain in agricultural production and are scattered throughout the City. According to the General Plan FEIR, there are approximately 957 acres of Prime Farmland in North Coyote Valley.[15]

Forest Land

There is no land within the City of San José that meets the State of California definition of forest land or that is zoned for forestry uses.[16]

4.2.2 Impact Discussion

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:					
a)	Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☒	☐
b)	Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☒	☐
c)	Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?	☐	☐	☐	☒
d)	Result in a loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒

[15] City of San José. 2040 General Plan Four Year Review Environmental Impact Report Addendum. October 2021.
[16] Ibid.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☒	☐

a) 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?

The majority of San José is Urban and Built-Up Land.[17] The City's Siting Guidelines for EIH projects would preclude sites from being established on agricultural land. If a site is considered that does not meet these criteria and a future EIH project is proposed on a site designated for agricultural use, the individual project would be subject to site-specific environmental review pursuant to CEQA. **(Less than Significant Impact)**

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

As discussed under checklist question a) above, the majority of San José is Urban and Built-Up Land.[18] The City's Siting Guidelines for EIH projects would preclude sites from being established on agricultural land or land under a Williamson Act contract. If a site is considered that does not meet these criteria and a future EIH project is proposed on a site designated for agricultural use, the individual project would be subject to site-specific environmental review pursuant to CEQA. **(Less than Significant Impact)**

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

As previously discussed, there is no timberland or sites zoned for timberland uses within the City of San José. Therefore, there is no potential for future development under the proposed project to conflict with existing zoning for, or cause rezoning of forest land, timberland, or timberland zoned Timberland Production. **(No Impact)**

[17] California Department of Conservation. "Farmland Mapping and Monitoring Program." Accessed December 22, 2022. https://www.conservation.ca.gov/dlrp/fmmp/Pages/Index.aspx
[18] Ibid.

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

As previously discussed, there is no forest land or sites zoned for forestry uses within the City of San José. Therefore, there is no potential for future development under the proposed project to result in a loss of forest land or conversion of forest land to non-forest use. **(No Impact)**

e) 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?

Reasonably foreseeable changes that would result from implementation of the EIH projects would occur in urban areas within the City's urban growth boundary. EIH projects would be subject to the Siting Guidelines which preclude projects from being established on agricultural land. As discussed in the discussion under checklist question a) above, if a site is considered that does not meet these criteria and a future EIH project is proposed on a site designated for agricultural use, the project would be subject to site-specific environmental review. Additionally, as noted in the discussion under checklist question d) above, there is no forest land within San José. Therefore, the proposed project would not result in changes to the existing environment that could result in conversion of farmland to non-agricultural use or conversion of forest land to non-forest use. **(Less than Significant Impact)**

4.3 Air Quality

The following discussion is based, in part, on an Air Quality Report, dated March 3, 2023, prepared for the project by Illingworth & Rodkin, Inc. The Air Quality Report is attached as Appendix **C** to this Initial Study.

4.3.1 Environmental Setting

4.3.1.1 *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_3), nitrogen oxides (NO_x), particulate matter (PM), carbon monoxide (CO), sulfur oxides (SO_x), and lead. 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. 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 4.3-1. The most commonly regulated criteria pollutants in the Bay Area are discussed further below.

Table 4.3-1: Health Effects of Air Pollutants

Pollutants	Sources	Primary Effects
O_3	Atmospheric reaction of organic gases with nitrogen oxides in sunlight	• Aggravation of respiratory and cardiovascular diseases • Irritation of eyes • Cardiopulmonary function impairment
Nitrogen Dioxide (NO_2)	Motor vehicle exhaust, high temperature stationary combustion, atmospheric reactions	• Aggravation of respiratory illness • Reduced visibility
Fine Particulate Matter ($PM_{2.5}$) and Coarse Particulate Matter (PM_{10})	Stationary combustion of solid fuels, construction activities, industrial processes, atmospheric chemical reactions	• Reduced lung function, especially in children • Aggravation of respiratory and cardiorespiratory diseases • Increased cough and chest discomfort • Reduced visibility
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	• Cancer • Chronic eye, lung, or skin irritation • Neurological and reproductive disorders

High O_3 levels are caused by the cumulative emissions of reactive organic gases (ROG) and NO_x. These precursor pollutants react under certain meteorological conditions to form high O_3 levels. Controlling the emissions of these precursor pollutants is the focus of the Bay Area's attempts to reduce O_3 levels. The highest O_3 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_{10}) and fine particulate matter where particles have a diameter of 2.5 micrometers or less ($PM_{2.5}$). Elevated concentrations of PM_{10} and $PM_{2.5}$ are the result of both region-wide emissions and localized emissions.

Toxic Air Contaminants

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).[19] 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.

[19] California Air Resources Board. "Overview: Diesel Exhaust and Health." Accessed March 3, 2023. https://ww2.arb.ca.gov/resources/overview-diesel-exhaust-and-health.

4.3.1.2 *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_3, CO, SO_x, NO_x, 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 additional 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_X.

Regional and Local

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.[20]

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 Municipal Code

In accordance with the City's BHC Ordinance (refer to Appendix B), Section 5.09 of the City's Municipal Code includes standards for construction and operation of emergency bridge housing. Section 5.09 requires that EIH sites comply with the CEQA BAAQMD guidelines dated May 2017. All other General Plan and Zoning requirements are suspended.

4.3.1.3 *Existing Conditions*

The Bay Area is considered a non-attainment area for ground-level O_3 and $PM_{2.5}$ under both the federal Clean Air Act and state Clean Air Act. The area is also considered nonattainment for PM_{10} under the state act, but not the federal act. The area has attained both state and federal ambient air quality standards for CO. As part of an effort to attain and maintain ambient air quality standards for O_3 and PM_{10}, BAAQMD has established thresholds of significance for these air pollutants and their precursors. These thresholds are for O_3 precursor pollutants (ROG and NO_X), PM_{10}, and $PM_{2.5}$, and apply to both construction period and operational period impacts.

4.3.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☒	☐

[20] BAAQMD. *Final 2017 Clean Air Plan.* April 19, 2017. http://www.baaqmd.gov/plans-and-climate/air-quality-plans/current-plans.

b)	Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?	☐	☐	☒	☐
c)	Expose sensitive receptors to substantial pollutant concentrations?	☐	☒	☐	☐
d)	Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?	☐	☐	☒	☐

Note: Where available, the significance criteria established by the applicable air quality management district or air pollution control district may be relied upon to make the determinations.

Table 4.3-2: BAAQMD Air Quality Significance Thresholds

Pollutant	**Construction Thresholds**	**Operation Thresholds**	
	Average Daily Emissions (pounds/day)	**Average Daily Emissions (pounds/day)**	**Annual Average Emissions (tons/year)**
Criteria Air Pollutants			
ROG, NO_x	54	54	10
PM_{10}	82 (exhaust)	82	15
$PM_{2.5}$	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 per one million	100 per one million	
Hazard Index	1.0	10.0	
Incremental Annual $PM_{2.5}$	0.3 µg/m^3	0.8 µg/m^3 (average)	

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

Construction Criteria Pollutant Emissions

The BAAQMD CEQA Air Quality Guidelines do not identify quantified plan level thresholds for construction emissions. There are project-level thresholds of 54 pounds per average day for NOx, ROG and $PM_{2.5}$ exhaust and 82 pounds per average day for PM_{10} exhaust, as shown in Table 4.3-3

above. Unless controlled, the combination of temporary dust from activities and diesel exhaust from construction equipment and related traffic could be a nuisance to nearby receptors or exceed project-level thresholds.

Construction activities for future EIH projects would include light grading in the areas where the structures would be placed, as well as trenching for utilities, which would generate dust and other particulate matter. Trenching for utilities would be minimal and would extend from existing sources within sites to the areas where residential units and communal, security, and supportive services buildings would be placed. Because the residential units and accompanying buildings would be fabricated off-site, any grading done would be minimal.

The California Emissions Estimator Model (CalEEEMod) was used to provide a worst-case assessment of emissions from individual EIH project sites at maximum built out. The CalEEMod model assumes 15 EIH sites at the maximum size of 10 acres and fully built out at 720 dwelling units per site. As previously stated, construction of each site would take a maximum of 12 months. The most comparable CalEEMod category for these projects would be low-rise apartments that have a screening size of 240 dwelling units due to the potential emissions from ROG associated with architectural coatings. However, because construction of future EIH projects would include modular buildings that are fabricated off-site, ROG emissions associated with this type of construction would be low.

The maximum construction emissions results for max build out of one site are shown in Table 4.3-3 below.

Table 4.3-3: Maximum Construction Emissions Per Site

Scenario	ROG	NOx	PM_{10}	$PM_{2.5}$
Total Construction (one year, tons)[1]	0.33	1.92	0.07[2]	0.06[2]
Average Daily (pounds)	3	15	1[2,3]	<1[2,3]
BAAQMD Thresholds (pounds per day)	*54*	*54*	*82*	*54*
Exceed Threshold?	No	No	No	No

Notes:

[1] Emission calculations are based on the largest possible project size of 720 dwelling units.

[2] Exhaust portion of construction emissions.

[3] Assumes 365-day operation.

Source: Illingworth & Rodkin, Inc. *San José Emergency Interim Housing Program Air Quality Assessment.* March 3, 2023.

As shown in Table 4.3-3, individual future EIH projects constructed under the worst-case scenario would be well below BAAQMD thresholds. Pursuant to the BHC Ordinance and Section 5.09 of the Municipal Code, future EIH projects would comply with the following standard permit conditions required for CEQA compliance to minimize air quality emissions during construction.

Standard Permit Conditions:

Construction Emissions:

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

- Water active construction areas at least twice daily or as often as needed to control dust emissions.
- Cover trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
- Remove visible mud or dirt track-out onto adjacent public roads 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.
- Limit all vehicle speeds on unpaved roads to 15 mph.
- 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. A certified mechanic shall check all equipment prior to operation to determine that equipment is in proper operating condition.
- Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints.

The standard permit conditions listed above are consistent with BAAQMD-recommended best management practices for reducing fugitive PM. With implementation of these conditions, future EIH projects would achieve greater than 50 percent reductions in on-site fugitive $PM_{2.5}$ emissions. Therefore, the project would not conflict with BAAQMD CEQA Air Quality Guidelines for construction emissions or conflict with or obstruct implementation of the Clean Air Plan.

Operational Criteria Pollutant Emissions

Future EIH projects would have operational emissions in the form of traffic and area source emissions from consumer products and paints. CalEEMod was used to provide a worst-case assessment of emissions from future EIH projects. As discussed under Construction Criteria

Pollutant Emissions above, the model inputs were 720 low-rise apartments on a 10-acre site. Since no traffic data is available at this time, the CalEEMod default rates for low-rise apartments were used. Future development under the proposed project would not increase traffic in San José as it would serve an existing resident population in the City. Thus, the modeled emissions are considered a conservative estimation of future emissions. The maximum operational emissions results per site are shown in Table 4.3-4 below.

Table 4.3-4: Maximum Operational Emissions Per Site

Scenario	ROG	NOx	PM_{10}	$PM_{2.5}$
Annual Operational Emissions (tons)[1]	3.5	1.88	1.48	0.28
BAAQMD Thresholds (tons per year)	*10*	*10*	*15*	*10*
Average Daily Operational Emissions (pounds)[1,2]	19	10	8	2
BAAQMD Thresholds (pounds per day)	*54*	*54*	*82*	*54*
Exceed Threshold?	No	No	No	No

Notes:

[1] Emission calculations are based on the largest possible project size of 720 dwelling units.

[2] Assumes 365-day operation.

Source: Illingworth & Rodkin, Inc. *San José Emergency Interim Housing Program Air Quality Assessment.* March 3, 2023.

As shown in Table 4.3-4, individual future EIH projects developed under the worst-case scenario would not exceed BAAQMD thresholds. Therefore, the project would not conflict with BAAQMD CEQA Air Quality Guidelines for operational emissions or conflict with or obstruct implementation of the Clean Air Plan.

Consistency with Clean Air Plan

As discussed in Section 4.3.1.2 Regulatory Framework, the 2017 CAP includes control measures that are intended to reduce air pollutant emissions in the Bay Area either directly or indirectly. Plan-level projects are required to show consistency with the control measures listed within the CAP. The project would not conflict with the latest CAP planning efforts, since 1) individual future EIH projects would have construction and operational emissions below the BAAQMD thresholds (as discussed above), 2) projects would be located within the City's urban growth area and considered urban infill, and 3) projects would be located near transit with regional connections.

For the reasons described above, implementation of the proposed project would not conflict with or obstruct implementation of the Clean Air Plan. **(Less than Significant Impact)**

b) 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?

As discussed previously, the Bay Area is considered a non-attainment area for ground-level O_3, $PM_{2.5}$, and PM_{10} under the state and/or federal standards. High O_3 levels are caused by cumulative emissions of ROG and NO_X. Controlling the emissions of these precursor pollutants would reduce O_3 levels. As discussed in further detail under checklist question a) above, the implementation of the proposed project would not result in substantial criteria pollutant emissions; therefore, the project would not result in a cumulatively considerable net increase of ground-level O_3, $PM_{2.5}$, and PM_{10}. **(Less than Significant Impact)**

c) Would the project expose sensitive receptors to substantial pollutant concentrations?

Construction Toxic Air Contaminants

Implementation of future EIH projects would include short-term construction sources of TACs. Construction equipment and associated heavy-duty truck traffic generates diesel exhaust, which is a known TAC. The construction exhaust emissions may pose community risks for sensitive receptors such as nearby residents. The primary community risk impact associated with construction emissions are cancer risk and exposure to $PM_{2.5}$. Diesel exhaust poses both a potential health and nuisance impact to nearby receptors.

Because all EIH sites have not been identified yet, it is not possible to quantify the health risk impacts resulting from future construction from an individual project. However, based on the parameters of the typical EIH project and type of construction, the likelihood of significant health risks is low because many project sites will be small in size, units would be prefabricated modular construction, construction grading would be minimal as sites will be flat (with slopes of 10 percent or less), and the construction timeline would be less than one year. In addition, future EIH projects would implement the standard permit conditions described under checklist question a) that would minimize on-site $PM_{2.5}$ emissions by at least 50 percent.

There may, however, be sensitive receptors within 1,000 feet of future EIH project construction, areas that could be exposed to construction TACs during construction activity.

Impact AIR-1: Future projects located within 1,000 feet of existing sensitive receptors could result in a significant health risk impact from toxic air contaminants during construction.

Mitigation Measures: The following mitigation measures would be implemented by all future EIH projects (when applicable) to reduce health risk impacts from toxic air contaminants emissions during construction activities to a less than significant level.

MM AIR-1.1: Emergency Interim Housing (EIH) projects proposing development within 1,000 feet of existing sensitive receptors as defined by the Bay Area Air Quality Management District (BAAQMD) shall have a qualified air quality consultant prepare a site-specific construction and operational health risk assessment (HRA). If the HRA demonstrates that the health risk exposures for adjacent sensitive receptors will be less than the BAAQMD project-level thresholds, no additional mitigation is necessary.

MM AIR-1.2: If the HRA demonstrates that the health risk exposures for adjacent receptors will be above BAAQMD project-level thresholds, projects shall implement the following measures during all phases of construction:

- Use Tier 4 engines for all off-road equipment greater than 50 horsepower and operating for more than 20 total hours over the entire duration of construction activities.
- Implement fugitive dust best management practices (as outlined in the Standard Permit Conditions) and, if necessary, enhanced dust control measures recommended by BAAQMD. The need for enhanced measures shall be determined by the findings in the HRA.
- Use portable electrical equipment where commercially available and practicable to complete construction. Construction contractors shall utilize electrical grid power instead of diesel generators when (1) grid power is available at the construction site; (2) when construction of temporary power lines is not necessary to provide power to portions of the site distant from existing utility lines; and (3) when use of portable extension lines is practicable given construction safety and operational limitations.

With implementation of the standard permit conditions listed under checklist question a) and mitigation measures MM AIR-1.1 and MM AIR-1.2 above, future EIH projects would have a less than significant TAC impact from construction activities. **(Less than Significant Impact with Mitigation Incorporated)**

d) Would the project result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?

Construction of future EIH projects could result in odorous emissions from diesel exhaust associated with construction equipment. Because of the temporary nature of these emissions and diffusive properties of diesel exhaust, exposure of sensitive receptors to these emissions would be limited. Additionally, operation of future EIH projects would not include land uses that result in odorous emissions. Therefore, the proposed project would not result in other emissions (such as those leading to odors) that would adversely affect a substantial number of people. **(Less than Significant Impact)**

4.3.3 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 with regard to air quality. The following discussion is included for informational purposes only because the City of San José has policies (i.e., General Plan policy MS-11.1 requiring completion of air quality modeling for sensitive land uses such as new residential developments that are located near sources of pollution) that address existing air quality conditions affecting a proposed project.

The project would result in new sensitive receptors on each of the EIH project sites. Substantial sources of air pollution (e.g., highways, local roadways, rail lines with diesel locomotives, and stationary sources) can adversely affect sensitive receptors. Future EIH projects proposed near these types of sources would require a health risk assessment.

The project does not propose development on any particular site; therefore, specific sources of TACs and $PM_{2.5}$ that could affect sensitive receptors occupying future EIH sites cannot be assessed at this time. Individual projects would be required to implement the following conditions of approval.

Conditions of Approval:

- **Require future sensitive receptor projects located within 1,000 feet of existing toxic air contaminant (TAC) sources to perform a health risk assessment (HRA).**
    - As part of the HRA required under mitigation measure AIR-1.1, the air quality consultant will identify all existing sources of TACs within 1,000 feet of the project site.
    - If any future EIH project site is determined to be located within 1,000 feet of existing TAC sources as defined by the BAAQMD (i.e., highways, local roadways, rail lines, stationary sources), the site-specific HRA (as outlined in mitigation measure AIR -1.1) will quantify the health risk for future project site occupants. If the HRA demonstrates that the health risk exposures for on-site sensitive receptors will be less than BAAQMD project-level thresholds, then no additional action would be required. However, if the HRA demonstrates that health risks would exceed BAAQMD project level thresholds, on-site design features shall be identified to reduce risks below the BAAQMD thresholds.
- **Design features to reduce project receptor exposure.**
    - If the HRA demonstrates that health risks would exceed BAAQMD project level thresholds, filtration in ventilation systems at the EIH sites would be required to reduce the level of TAC pollutants to below the significant thresholds. The project could include the following measures to minimize long-term increased cancer risk exposure for future project occupants:
        - Install air filtration and fresh air ventilation system intakes for all residential units. Air filtration devices shall be rated MERV13 or higher. To ensure

adequate health protection to sensitive receptors, this ventilation system, whether mechanical or passive, shall filter all fresh air that would be circulated into the dwelling units.

- The ventilation system shall be designed to keep the building at positive pressure when doors and windows are closed to reduce the intrusion of unfiltered outside air into the building.
- As part of implementing this measure, an ongoing maintenance plan for the buildings' heating, ventilation, and air conditioning (HVAC) air filtration system shall be required that includes regular filter replacement.
- The use agreement and other property documents shall: (1) require cleaning, maintenance, and monitoring of the affected buildings for air flow leaks, and (2) include assurance that new owners or tenants are provided information on the ventilation system.

With adherence to the above conditions of approval and consistency with General Plan Policy MS-11.1, existing sources TACs would not have adverse effects on the residents of future EIH projects.

4.4 Biological Resources

4.4.1 Environmental Setting

4.4.1.1 *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. This includes direct and indirect acts, except for harassment and habitat modification, which are not included unless they result in direct loss of birds, nests, or eggs. 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.

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.

San José Municipal Code

In accordance with the City's BHC Ordinance (refer to Appendix B), Section 5.09 of the City's Municipal Code includes standards for construction and operation of emergency bridge housing. Section 5.09 requires EIH sites to comply with the MBTA and City of San José habitat conservation plan to the extent applicable. All other General Plan and Zoning requirements are suspended.

San José Council Policy 6-34

The City's Riparian Corridor Protection and Bird-Safe Design Policy (Council Policy 6-34), effective August 2016, provides guidance consistent with the General Plan for protecting, preserving, or restoring riparian habitat; limiting the creation of new impervious surface within riparian corridor setbacks to minimize flooding from urban runoff and control erosion; and encouraging bird-safe design in baylands and riparian habitats of lower Coyote Creek. Council Policy 6-34 supplements the regulations for riparian corridor protection in the Habitat Plan, Chapter 18.40 of the City's Municipal Code, and Title 20 of the City's Municipal Code.

4.4.1.2 *Existing Conditions*

According to the City's General Plan, 68 percent of the land within the City limits is covered by developed land uses such as urban, suburban, and rural residential areas, golf courses, urban parks, landfills, and the San José/Santa Clara Regional Wastewater Facility (the Facility) in Alviso. These human-altered landscapes contain large amounts of paved surfaces and/or landscaped gardens with ornamental and/or weedy species. Developed or landscaped habitats typically support a variety of relatively common wildlife species that have adapted to urban settings.

4.4.2 Impact Discussion

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

a) 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?

The City's Siting Guidelines for EIH sites would preclude sites from being established on sensitive habitat. If a future EIH project is proposed within 200 feet of sensitive habitats, consistent with Habitat Plan requirements, the project would be subject to site-specific environmental review, which would identify impacts and mitigation measures and/or site design features that would avoid or reduce the impacts to a less than significant level. If the biological impacts could not be reduced

to a less than significant level through implementation of site-specific mitigation measures and/or site design, EIH project development would not be allowed to proceed on that site.

Future EIH sites could contain trees which could result in impacts to raptors or other protected birds. Nesting birds are protected by the MBTA regulations. Pursuant to the BHC Ordinance and Section 5.09 of the Municipal Code, future EIH projects would be required to comply with the following Standard Permit Conditions required for CEQA compliance.

Standard Permit Conditions:

- **Nesting Birds:**
    - Construction shall be scheduled to avoid the nesting season (February 1 to August 31). If it is not feasible to schedule construction between September 1 and January 31, pre-construction nesting bird surveys shall be completed prior to tree removal or construction activities in order to avoid impacts to nesting birds. Surveys shall be completed by a qualified biologist no more than 14 days before demolition or construction activities begin. During this survey, the biologist or ornithologist shall inspect all trees and other 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 an adequate buffer zone to be established around the nest, in consultation with the California Department of Fish and Wildlife (CDFW). The buffer would ensure that nests shall not be disturbed during project construction. The no-disturbance buffer shall remain in place until the biologist determines the nest is no longer active or the nesting season ends. If construction ceases for seven days or more and then resumes again during the nesting season, an additional survey would be necessary to avoid impacts on active bird nests that may be present.
    - The applicant shall submit a report indicating the results of the survey and any designated buffer zones to the Director of Planning, Building and Code Enforcement prior to construction.

With adherence to the above Standard Permit Conditions, future development of EIH projects would avoid or minimize impacts to nesting birds during construction. No sites with sensitive habitats would be developed, and site-specific analyses would be required for sites in proximity to sensitive habitats. Therefore, the proposed project would not have a substantial adverse effect on candidate, sensitive, or special-status species. **(Less than Significant Impact)**

b) 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?

The City's Siting Guidelines for EIH sites preclude projects from being established on sites that contain riparian habitat. If a future EIH site is within 100 feet of riparian habitat, consistent with Habitat Plan and Council Policy 6-34, requirements for riparian setbacks, the project would be subject to site-specific environmental review and evaluation of applicability Habitat Plan and Council Policy 6-34 exceptions, which would identify impacts and mitigation measures and/or site design features that would avoid or reduce the impacts to a less than significant level. If the biological impacts cannot be reduced to a less than significant levels through implementation of site-specific mitigation measures and/or site design, EIH project development would not be allowed to proceed on that site. Therefore, the proposed project would not have a substantial adverse effect on any riparian habitat or other sensitive natural communities. **(Less than Significant Impact)**

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

The City's Siting Guidelines for EIH sites preclude projects from being established on wetlands. If a future EIH site is within 50 feet of State or federally protected wetlands, consistent with Habitat Plan requirements for wetlands, the project would be subject to site-specific environmental review, which would identify impacts and mitigation measures and/or site design features that would avoid or reduce the impacts to a less than significant level. If the wetland impacts could not be reduced to a less than significant level through implementation of site-specific mitigation measures or site design, EIH project development would not be allowed to proceed on that site. Therefore, the proposed project would not have a substantial adverse effect on any State or federally protected wetlands. **(Less than Significant Impact)**

d) 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?

Future EIH projects would be located within urbanized areas of the City. However, the sites under consideration are vacant and could be utilized for wildlife movement depending on location relative to existing natural habitats such as riparian corridors. This usage would, however, likely be limited. Nevertheless, development of future EIH sites would be required to comply with the HCP and would not significantly impact primary movement corridors.

As discussed under checklist questions b) and c), future EIH projects would not be located within 100 feet of a riparian habitat and would therefore have no impact on migratory fish. Though some EIH projects could be located on sites containing trees that could be used for nesting, compliance with the Standard Permit Conditions under checklist question a) above would avoid or minimize any

potential impacts to nesting migratory birds. Therefore, 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. **(Less than Significant Impact)**

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

Pursuant to the BHC Ordinance and Section 5.09 of the Municipal Code, if a future EIH project proposes tree removal, the project would comply with the following Standard Permit Conditions required for CEQA compliance.

Standard Permit Conditions:

Tree Replacement. Trees removed for the project shall be replaced at ratios required by the City, as stated in Table 4.4-1 below, as amended:

Table 4.4-1: Tree Replacement Ratios

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

*x:x = tree replacement to tree loss ratio

Note: Trees greater than or equal to 38-inch circumference measured at 54 inches above natural grade shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For Multi-Family residential, Commercial and Industrial properties, a permit is required for removal of trees of any size.

A 38-inch tree equals 12.1 inches in diameter.

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

Single family and two-dwelling properties may replace trees at a ratio of 1:1.

- In the event the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures would be implemented:
  - Replacement tree plantings may be accommodated at an alternative site(s). An alternative site may include local parks or schools, or an adjacent property where such plantings may be utilized for screening purposes.

With adherence to the above Standard Permit Conditions, future development would not conflict with any local policies or ordinances protecting biological resources. **(Less than Significant Impact)**

f) 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?

Pursuant to the BHC Ordinance and Section 5.09 of the Municipal Code, development of EIH sites must comply with the Habitat Plan to the extent applicable. Future development under the proposed project would be screened for location within Habitat Plan fee zones and could be subject to Habitat Plan conditions and fees, as applicable. Pursuant to the BHC Ordinance and Section 5.09 of the Municipal Code, individual EIH projects would comply with the following Standard Permit Condition required for CEQA compliance.

Standard Permit Condition:

> **Santa Clara Valley Habitat Plan.** The project may be subject to applicable Habitat Plan conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The project applicant shall submit the Santa Clara Valley Habitat Plan Coverage Screening Form ((https://www.scv-habitatagency.org/DocumentCenter/View/151/Coverage-Screening-Form?bidId=) to the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee for approval and payment of all applicable fees prior to the issuance of a grading permit. The Habitat Plan and supporting materials can be viewed at https://scv-habitatagency.org/178/Santa-Clara-Valley-Habitat-Plan.

With adherence to the above Standard Permit Condition, future development would not conflict with the provisions of a local, regional, or state habitat conservation plan. **(Less than Significant Impact)**

4.5 Cultural Resources

4.5.1 Environmental Setting

4.5.1.1 *Regulatory Framework*

Federal and State

National Historic Preservation Act

Federal protection is legislated by the National Historic Preservation Act of 1966 (NHPA) 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 [CFR] 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.

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.[21]

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, therefore, in evaluating adverse changes to them. Integrity is defined as "the authenticity of a historical resource's physical identity evidenced by the survival of characteristics that existed during the resource's period of significance." The processes of determining integrity are 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.

[21] California Office of Historic Preservation. "CEQA Guidelines Section 15064.5(a)(3) and California Office of Historic Preservation Technical Assistance Series #6." Accessed March 9, 2023. http://www.ohp.parks.ca.gov/pages/1069/files/technical%20assistance%20bulletin%206%202011%20update.pdf.

California Native American Historical, Cultural, and Sacred Sites Act

The California Native American Historical, Cultural, and Sacred Sites Act applies to both State and private lands. The act requires that upon discovery of human remains, construction or excavation activity must cease, and the County coroner be notified.

Public Resources Code Sections 5097 and 5097.98

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

Pursuant to Public Resources Code Section 5097.98, in the event of human remains discovery, no further disturbance is allowed until the county coroner has made the necessary findings regarding the origin and disposition of the remains. If the remains are of a Native American, the county coroner must notify the NAHC. The NAHC then notifies those persons most likely to be related to the Native American remains. The code section also stipulates the procedures that the descendants may follow for treating or disposing of the remains and associated grave goods.

Local

San José Municipal Code

In accordance with the City's BHC Ordinance (refer to Appendix B), Section 5.09 of the City's Municipal Code includes standards for construction and operation of emergency bridge housing. Section 5.09 requires EIH sites to obtain a Historic Resources Assessment report, and if that report identifies historic resources, an impacts and analysis study would be required. All other General Plan and Zoning requirements are suspended.

4.5.1.2 *Existing Conditions*

Archaeological Resources

The City of San José is located in the Santa Clara Valley, which was originally inhabited by a Native American group known as the Costanoan or Ohlone over a period of 5,000 to 8,000 years prior to Spanish exploration and colonization of the region. Prehistoric sites recorded in the Santa Clara Valley include villages, temporary campsites, and non-habitation sites including stone tool and other manufacturing areas, quarries for tool stone procurement, cemeteries usually associated with large villages, isolated burial locations, rock art sites, bedrock mortars or other milling feature sites, and Native American trails. Historic archaeological resources are usually associated with former

areas of historic occupation and presently developed areas such as the downtown. A total of 357 archaeological resources are present in the downtown area (273 prehistoric sites, 51 historic archaeological sites, and 33 multi-component sites).

Historic Resources

There are approximately 4,000 listed properties on the City's Historic Resources Inventory and 21 Historic Districts/Conservation Areas located in the City of San José. These Districts/Conservation areas include buildings and sites listed on the National Register of Historic Places, State Historic Landmarks, State Points of Historical Interest by the State of California, the City of San José, and/or by the County of Santa Clara. In addition, there are eight National Register Districts or contributors to National Register districts within the City including the Hensley Historic District, New Almaden Historic District and Mines, Port of Alviso, San José Downtown Historic District, Southern Pacific Depot, and Saint James Square District.

4.5.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5?	☐	☐	☒	☐
b) Cause a substantial adverse change in the significance of an archaeological resource as pursuant to CEQA Guidelines Section 15064.5?	☐	☐	☒	☐
c) Disturb any human remains, including those interred outside of dedicated cemeteries?	☐	☐	☒	☐

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

Based on the Siting Guidelines described in Section 3.2 Project Location and Site Selection Criteria, future EIH sites would be screened for the presence of historical resources. The Siting Guidelines preclude EIH sites from being located on or within 200 feet of sites with eligible or listed historic structures. If a future EIH site is considered that does not meet these criteria and a project is proposed on a site with an existing historical resource, the project would be subject to site-specific environmental review, which would address historical resource impacts at that time. Therefore, the project would not cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5. **(Less than Significant Impact)**

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

As discussed in Section 4.5.1.2 Existing Conditions, the City of San José contains prehistoric and historic archaeological sites throughout the City. Based on the City's Siting Guidelines, future EIH sites would be screened for the presence of cultural resources. If a considered site contains recorded archaeological resources, it would not be used for development of EIH projects.

Ground disturbing activities required for construction of EIH projects would be minimal. All proposed structures would be prefabricated off-site and trucked or craned into place. Structures would be supported by temporary foundations. Site preparation for future EIH locations would include minimal surface grading and utility trenching, which could damage unrecorded subsurface resources. Given San José's long history of human settlement and the large number of known archaeological sites throughout the City, it is possible that future development associated with the project could encounter previously undiscovered archaeological resources. The likelihood of such a discovery would vary from site to site and be dependent on the archaeological sensitivity of the project-specific location. Pursuant to the BHC Ordinance and Section 5.09 of the Municipal Code, future EIH projects would comply with the following Standard Permit Condition required for CEQA compliance to minimize or avoid impacts to subsurface cultural resources.

Standard Permit Condition:

> **Subsurface Cultural Resources.** If prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the City's Historic Preservation Officer shall be notified, and a qualified archaeologist in consultation with a Native American Tribal representative registered with the Native American Heritage Commission for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3 shall examine the find. The archaeologist in consultation with the Tribal representative shall 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery shall be submitted to the Director of PBCE or the Director's designee, the City's Historic Preservation Officer and the Northwest Information Center (if applicable). Project personnel shall not collect or move any cultural materials.

With adherence to the above Standard Permit Condition, future development of EIH projects would avoid or minimize impacts to subsurface cultural resources. Therefore, the proposed project would not cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5. **(Less than Significant Impact)**

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

As discussed under checklist question b), site preparation for future EIH locations would include surface grading and utility trenching, which could potentially damage unrecorded subsurface areas. Pursuant to the BHC Ordinance and Section 5.09 of the Municipal Code, in the event human remains are found during site preparation activities, future projects would comply with the following Standard Permit Condition required for CEQA compliance.

Standard Permit Condition:

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 adherence to the Standard Permit Condition set forth in the BHC Ordinance, future development of EIH projects would avoid or minimize impacts to human remains. Therefore, the proposed project would result in less than significant impacts to the disturbance of human remains. **(Less than Significant Impact)**

4.6 Energy

4.6.1 Environmental Setting

4.6.1.1 *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. Governor Schwarzenegger issued Executive Order (EO) S-3-05, requiring statewide emissions reductions to 80 percent below 1990 levels by 2050. In 2008, EO 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.

Executive Order B-55-18 To Achieve Carbon Neutrality

In September 2018, Governor Brown issued an executive order, EO-B-55-18 To Achieve Carbon Neutrality, setting a statewide goal "to achieve carbon neutrality as soon as possible, and no later than 2045, and achieve and maintain net negative emissions thereafter." The executive order requires CARB to "ensure future Scoping Plans identify and recommend measures to achieve the carbon neutrality goal." EO-B-55-18 supplements EO S-3-05 by requiring not only emissions reductions, but also that, by no later than 2045, the remaining emissions be offset by equivalent net removals of CO_2 from the atmosphere through sequestration.

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.[22] Compliance with Title 24 is mandatory at the time new building permits are issued by city and county governments.[23]

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. CALGreen 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.[24]

Regional and Local

Climate Smart San José

Climate Smart San José is a plan to reduce air pollution, save water, and create a stronger and healthier community. The City approved goals and milestones in February 2018 to ensure the City can substantially reduce GHG emissions through reaching the following goals and milestones:

- All new residential buildings will be Zero Net Energy (ZNE) by 2020 and all new commercial buildings will be ZNE by 2030 (Note that ZNE buildings would be all electric with a carbon-free electricity source).
- San José Clean Energy (SJCE) will provide 100-percent carbon-free base power by 2021.
- One gigawatt of solar power will be installed in San Jose by 2040.
- 61 percent of passenger vehicles will be powered by electricity by 2030.

[22] California Building Standards Commission. "California Building Standards Code." Accessed March 3, 2023. https://www.dgs.ca.gov/BSC/Codes#@ViewBag.JumpTo.
[23] California Energy Commission (CEC). "2019 Building Energy Efficiency Standards." Accessed March 3, 2023. https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2019-building-energy-efficiency.
[24] California Air Resources Board. "The Advanced Clean Cars Program." Accessed March 3, 2023. https://www.arb.ca.gov/msprog/acc/acc.htm.

San José Municipal Code

In accordance with the City's BHC Ordinance (refer to Appendix B), Section 5.09 of the City's Municipal Code includes standards for construction and operation of emergency bridge housing. Section 5.09 does not set direct requirements for energy efficiency; however, it does require that EIH sites comply with the CEQA BAAQMD guidelines dated May 2017 and with the State GHG reporting rules, as applicable. All other General Plan and Zoning requirements are suspended.

4.6.1.2 *Existing Conditions*

Total energy usage in California was approximately 6,956.6 trillion British thermal units (Btu) in the year 2020, the most recent year for which this data was available.[25] Out of the 50 states, California is ranked second in total energy consumption and 49th in energy consumption per capita. The breakdown by sector was approximately 21.8 percent (1,507.7 trillion Btu) for residential uses, 19.6 percent (1,358.3 trillion Btu) for commercial uses, 24.6 percent (1,701.2 trillion Btu) for industrial uses, and 34 percent (2,355.5 trillion Btu) for transportation.[26] 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 2020 was consumed primarily by the non-residential sector (73 percent), followed by the residential sector consuming 24 percent. In 2020, a total of approximately 16,435 gigawatt hours (GWh) of electricity was consumed in Santa Clara County.[27]

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 (PG&E) 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 form entirely renewable sources.

Natural Gas

PG&E provides natural gas services within the City of San José. In 2020, approximately two percent of California's natural gas supply came from in-state production, while the remaining supply was

[25] United States Energy Information Administration. "State Profile and Energy Estimates, 2020." Accessed March 3, 2023. https://www.eia.gov/state/?sid=CA#tabs-2.
[26] United States Energy Information Administration. "State Profile and Energy Estimates, 2020." Accessed March 3, 2023. https://www.eia.gov/state/?sid=CA#tabs-2.
[27] California Energy Commission. Energy Consumption Data Management System. "Electricity Consumption by County." Accessed March 3, 2023. http://ecdms.energy.ca.gov/elecbycounty.aspx.

imported from other western states and Canada.[28] In 2021 residential and commercial customers in California used 33 percent of the state's natural gas, power plants used 0.01 percent, the industrial sector used 33 percent.[29] In 2020, Santa Clara County used less than one percent of the state's total consumption of natural gas.[30]

Fuel for Motor Vehicles

In 2020, California produced 144.2 million barrels of crude oil and in 2019, 19.2 billion gallons of gasoline were sold in California. [31] [32] 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 25.4 mpg in 2020.[33] 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 updated in April 2022 to require all cars and light duty trucks achieve an overall industry average fuel economy of 49 mpg by model year 2026. [34,35]

4.6.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?	☐	☐	☒	☐

[28] California Gas and Electric Utilities. 2020 *California Gas Report.* Accessed March 3, 2023. https://www.socalgas.com/sites/default/files/2020-10/2020_California_Gas_Report_Joint_Utility_Biennial_Comprehensive_Filing.pdf.

[29] United States Energy Information Administration. "Natural Gas Consumption by End Use. 2021." Accessed March 3, 2023. https://www.eia.gov/state/?sid=CA#tabs-2.

[30] California Energy Commission. "Natural Gas Consumption by County." Accessed March 3, 2023. http://ecdms.energy.ca.gov/gasbycounty.aspx.

[31] United States Energy Information Administration. "Petroleum & Other Liquids, California Field Production of Crude Oil." September 30, 2020. https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=pet&s=mcrfpca1&f=a

[32] California Department of Tax and Fee Administration. "Net Taxable Gasoline Gallons." Accessed March 3, 2023. https://www.cdtfa.ca.gov/dataportal/dataset.htm?url=VehicleTaxableFuelDist.

[33] United States Environmental Protection Agency. "The 2021 EPA Automotive Trends Report: Greenhouse Gas Emissions, Fuel Economy, and Technology since 1975." November 2021. https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P1010U68.pdf

[34] United States Department of Energy. *Energy Independence & Security Act of 2007.* Accessed March 3, 2023. http://www.afdc.energy.gov/laws/eisa.

[35] United States Department of Transportation. USDOT Announces New Vehicle Fuel Economy Standards for Model Year 2024-2026." Accessed March 3, 2023. https://www.nhtsa.gov/press-releases/usdot-announces-new-vehicle-fuel-economy-standards-model-year-2024-2026

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	☐	☐	☒	☐

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

Construction and operation of future EIH projects would result in the consumption of energy, as described below.

Energy Use During Construction

Construction of future EIH projects is anticipated to take no more than 12 months. Energy is consumed during the construction process from activities such as demolition, site preparation, grading and excavation, utility trenching, and paving. Current construction processes are generally designed to be efficient in order to avoid excess monetary costs associated with unnecessary fuel consumption, equipment rental, or equipment maintenance. Proposed structures for EIH projects would be assembled off-site and delivered via truck and craned into place. Compliance with the BHC Ordinance, which requires the implementation of measures to lessen potential impacts from dust and particulate matter during construction, would also ensure energy would not be wasted or used inefficiently during project construction.

Operational Impacts

The operation of future EIH projects would consume energy in the form of electricity for building heating and cooling, lighting, and water heating. In addition, future EIH projects would consume gasoline for vehicle trips to and from the site. Given the prefabricated units and small resident population compared to more traditional, permanent housing developments, future EIH projects are expected to have a lower energy demand from building energy, lighting, and water usage, solid waste disposal, and vehicle travel.

For the reasons described above, implementation of the project would not result in a significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources during project construction or operation. **(Less than Significant Impact)**

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

Per AB 1746, compliance with the GHGRS is waived for EIH projects. Additionally, as discussed under impact checklist question a) above, future EIH projects would consume minimal energy. Thus, projects would not conflict with or obstruct State or local plans for renewable energy or energy efficiency and would have a less than significant impact. **(Less than Significant Impact)**

4.7 Geology and Soils

4.7.1 Environmental Setting

4.7.1.1 *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.

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 materials 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.

California Building Industry Association v. Bay Area Air Quality Management District

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. However, *BIA v. BAAQMD* includes exceptions to this general rule, requiring analysis of existing environmental conditions on future project users for specific types of projects to be included in CEQA documents. These exceptions apply to affordable housing projects constructing more than 100 units for low-income households and includes geology and soils.[36,37]

Local

San José Municipal Code

In accordance with the City's BHC Ordinance (refer to Appendix B), Section 5.09 of the City's Municipal Code includes standards for construction and operation of emergency bridge housing. Section 5.09 requires development of EIH sites to comply with the requirements of the City's NPDES permits to the extent applicable. All other General Plan and Zoning requirements are suspended.

4.7.1.2 *Existing Conditions*

Geology and Soils

The City of San José is located in the northeastern portion of the Santa Clara Valley. The topography of the Santa Clara Valley rises from sea level at the south end of the San Francisco Bay to elevations of more than 2,000 feet to the east.[38] The average grade of the valley floor ranges from nearly

[36] *California Building Industry Association v. Bay Area Air Quality Management District*. December 17, 2015.
[37] Easy Law Lookup. "California Laws – Public Resources Code – Article 6. Special Review of Housing Projects (21159.20-21159.28). Accessed May 3, 2023. https://www.easylawlookup.com/California-Law/Public-Resources-Code/par-14084/_easylookup.blp?GO=Prepare&site=easy&print=&data=resources&p_start=587&p_end=590&p_para=14084&p_epara=14181&par=14084&displayer=YES.
[38] City of San José. *Envision San José 2040 General Plan Integrated Final Program Environmental Impact Report.* September 2011. SCH# 2009072096. Page 497.

horizontal to approximately two percent generally down to the northwest. Grades are steeper on the surrounding hillsides.

Soil types in the area include clay in the low-lying central areas, loam and gravelly loam in the upper portions of the valley and eroded rocky clay loam in the foothills.[39] Expansive soils have a high shrink-swell potential and occur where a sufficient percentage of certain clay materials are present in the soil. Such soil conditions can impact the structural integrity of buildings and other structures. Much of the soil in San José are moderately to highly expansive. Moderately to highly expansive soils are found both on the valley floor and in hillside areas. Expansive soils on sloping hillsides are subject to soil creep, which can induce lateral forces on foundations and retaining walls.[40]

Seismicity and Seismic Hazards

The San Francisco Bay Area is recognized by geologists and seismologists as one of the most seismically active regions in the United States. Significant earthquakes occurring in the Bay Area are generally associated with crustal movement along well-defined, active fault zones of the San Andreas Fault system, which spans the Coast Ranges from the Pacific Ocean to the San Joaquin Valley.[41]

While there are no active major faults located within San José's City limits, two major active faults are located within the City's Sphere of Influence, the Hayward Fault, located to the north, and the Calaveras Fault, located in the hills to the east. These two fault zones merge in the hills between Mission Peak and Mount Hamilton. Because there are no active major faults within the City limits, there are no Alquist-Priolo Earthquake zones, however Alquist-Priolo Earthquake Zones associated with the Hayward and Calaveras Faults are located within the City's Sphere of Influence.[42]

Due to the topography and soil conditions present within San José, much of the City on the valley floor is subject to liquefaction hazards while steeper sloped sites located on the east side of the City are generally more susceptible to landslide hazards.[43] Liquefaction occurs during seismic ground shaking when saturated soil experiences increased pore water pressure and loses its cohesion, transforming previously solid ground to a near-liquid state. Land deformation may result, as well as ground settlement. Lateral spreading is lateral ground movement of relatively flat-lying soil deposits towards a free face such as an excavation, channel, or open body of water.

[39] Ibid.
[40] City of San José. *Envision San José 2040 General Plan Integrated Final Program Environmental Impact Report.* September 2011. SCH# 2009072096. Page 498.
[41] City of San José. *Envision San José 2040 General Plan Integrated Final Program Environmental Impact Report.* September 2011. SCH# 2009072096. Page 503.
[42] Ibid.
[43] City of San José. *Envision San José 2040 General Plan Integrated Final Program Environmental Impact Report.* September 2011. SCH# 2009072096. Page 518-519.

Paleontological Resources

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. While San José is generally not considered sensitive to paleontological resources, remains of a Rancholabrean Columbian mammoth (Mammuthus columbri) were found along the Guadalupe River[44], indicating that there may be some paleontological resources in the City.

4.7.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:				
– 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?	☐	☐	☒	☐
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☒	☐
c) Be located on a geologic unit or soil that is unstable, or that will become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☒	☐

[44] University of California Museum of Paleontology. "Mammoth Discovery in San Jose–bones found near Guadalupe River levee, north of airport – June 9, 2005". Accessed March 2, 2023. Available at: http://www.ucmp.berkeley.edu/mammal/mammoth/index.html.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
d) Be located on expansive soil, as defined in the current California Building Code, creating substantial direct or indirect risks to life or property?	☐	☐	☒	☐
e) 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 wastewater?	☐	☐	☐	☒
f) Directly or indirectly destroy a unique paleontological resource or site or unique geological feature?	☐	☐	☒	☐

a) 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?

As discussed in Section 4.7.1.1 Regulatory Framework, per *BIA v. BAAQMD*, future EIH projects constructing more than 100 affordable housing units are required to determine the effects of the existing environment on future residents as a CEQA impact, in addition to the impacts of the project on the environment. The discussion below addresses both in relation to seismic and landslide hazards.

Any future EIH project sites within the City would be located within a seismically active region. Thus, strong ground shaking could be expected during the lifetime of a future EIH projects. Per the City's Siting Guidelines for EIH sites, future projects would not be developed on landslide or liquefaction zones. Additionally, projects would be located on fairly flat sites that reduce the risk of landsliding and lateral spreading. Individual projects would be evaluated to determine whether the site is located in a liquefaction zone. Individual projects would also be evaluated for soil stability through a preliminary assessment on the United State Department of Agriculture's Web Soil Survey website, which provides soil maps and descriptions for areas of interest. If preliminary review shows an individual site has expansive soils, a site-specific geotechnical analysis would be prepared to determine what measures would be required to ensure a less than significant impact. This is consistent with General Plan policies EC-4.2 and EC-4.11 requiring the preparation of geotechnical and geological investigation reports for projects within areas subject to soils and geologic hazards.

Therefore, the proposed project would not directly or indirectly cause potential substantial adverse effects including the risk of loss, injury, or death involving the rupture of a known earthquake fault; strong seismic ground shaking; seismic-related ground failure; or landslides. Additionally, existing

geologic hazards would have less than significant impact on the residents of future EIH projects. **(Less than Significant Impact)**

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

Exposure and/or loosening of soil during construction of future EIH projects could result in increased soil erosion or loss of topsoil on the development sites. Pursuant to the BHC Ordinance and Section 5.09 of the Municipal Code, future EIH projects would comply with the following Standard Permit Conditions required for CEQA compliance relating to soil erosion and loss of topsoil.

Standard Permit Conditions:

- **Soil Erosion/Loss of Topsoil:**
  - All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.
  - Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.
  - Ditches shall be installed, if necessary, to divert runoff around excavations and graded areas.

With adherence to the above Standard Permit Conditions, future development of EIH projects would avoid or minimize impacts related to soil erosion and loss of topsoil would result in a less than significant impact. **(Less than Significant Impact)**

c) 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?

As discussed under checklist question a), future projects complying with the Siting Guidelines would not be developed on landslide or liquefaction zones and would be evaluated to assess soils on-site. Therefore, the proposed project would not be located on a geologic unit or soil that is unstable, or that would become unstable as a result of project implementation. **(Less than Significant Impact)**

d) Would the project be located on expansive soil, as defined in the current California Building Code, creating substantial direct or indirect risks to life or property?

As discussed under checklist question a), future projects would be evaluated to assess soils on-site. Should future EIH projects be located on sites containing expansive soils, those individual projects would be subject to site-specific environmental review pursuant to CEQA and would be required to document impacts and incorporate mitigation measures to avoid or minimize impacts, if necessary.

Therefore, the proposed project would not be located on a geologic unit or soil that is unstable, or that would become unstable as a result of project implementation. **(Less than Significant Impact)**

e) 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 wastewater?

Future EIH projects would be located within urbanized areas of San José where sewers are available to dispose of wastewater from the project sites. Future EIH projects would not need to support septic tanks or alternative wastewater disposal systems. Therefore, the project would have no impact. **(No Impact)**

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

Paleontological resources are the fossilized remains of organisms from prehistoric environments found in geologic strata. Most of the City is situated on alluvial fan deposits of Holocene age that have a low potential to contain significant nonrenewable paleontological resources; however, older Pleistocene sediments present at or near the ground surface at some locations have high potential to contain these resources. These older sediments, often found at depths greater than 10 feet below the ground surface (bgs), have yielded the fossil remains of plants and extinct terrestrial Pleistocene vertebrates.

The future EIH sites would have minor ground disturbance for grading and trenching, but excavation to depths of approximately 10 feet bgs or more would not occur. Therefore, the probability of encountering paleontological resources is low. Nevertheless, depending on the location of future EIH sites, resources could be uncovered at depths of less than 10 feet bgs. All future EIH projects would comply with the following Standard Permit Condition for avoiding and reducing construction-related paleontological resources impacts.

Standard Permit Condition:

> If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement shall be notified, and a qualified professional paleontologist shall assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, but is not limited to, preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The project applicant shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement.

With implementation of the identified Standard Permit Condition, the future EIR projects would have a less than significant paleontological resources impact. **(Less than Significant Impact)**

4.8 Greenhouse Gas Emissions

4.8.1 Environmental Setting

4.8.1.1 *Background Information*

Gases that trap heat in the atmosphere, GHGs, regulate the earth's temperature. This phenomenon, known as the greenhouse effect, is responsible for maintaining a habitable climate. In GHG emission inventories, the weight of each gas is multiplied by its global warming potential (GWP) and is measured in units of CO_2 equivalents (CO_2e). The most common GHGs are carbon dioxide (CO_2) and water vapor but there are also several others, most importantly methane (CH_4), nitrous oxide (N_2O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF_6). 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_2 and N_2O are byproducts of fossil fuel combustion.
- N_2O is associated with agricultural operations such as fertilization of crops.
- CH_4 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_6 emissions are commonly created by industries such as aluminum production and semiconductor manufacturing.

An expanding body of scientific research supports the theory that global climate change is currently causing 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.

4.8.1.2 *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_2e ($MMTCO_2e$). Based on the emissions reductions directed by SB 32, the annual 2030 statewide target emissions level for California is 260 $MMTCO_2e$.

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 2050. Plan Bay Area 2050 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.

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.

Climate Smart San José

Climate Smart San José is a plan to reduce air pollution, save water, and create a stronger and healthier community. The City approved goals and milestones in February 2018 to ensure the City can substantially reduce GHG emissions through reaching the following goals and milestones:

- All new residential buildings will be ZNE by 2020 and all new commercial buildings will be ZNE by 2030 (Note that ZNE buildings would be all electric with a carbon-free electricity source).
- SJCE will provide 100-percent carbon-free base power by 2021.
- One gigawatt of solar power will be installed in San Jose by 2040.
- 61 percent of passenger vehicles will be powered by electricity by 2030.

Reach Building Code

In 2019, the San José City Council approved Ordinance No. 30311 and adopted Reach Code Ordinance (Reach Code) to reduce energy-related GHG emissions consistent with the goals of Climate Smart San José. The Reach Code applies to new construction projects in San Jose. It requires new residential construction to be outfitted with entirely electric fixtures. Mixed-fuel buildings (i.e., use of natural gas) are required to demonstrate increased energy efficiency through higher Energy Design Ratings and be electrification ready. In addition, the Reach Code requires EV charging infrastructure for all building types (above current CALGreen requirements), and solar readiness for non-residential buildings.

San José 2030 Greenhouse Gas Reduction Strategy

The 2030 Greenhouse Gas Reduction Strategy (GHGRS) is the latest update to the City's GHGRS and is designed to meet statewide GHG reduction targets for 2030 set by Senate Bill 32. As a qualified Climate Action Plan, the 2030 GHGRS allows for tiering and streamlining of GHG analyses under CEQA. The GHGRS identifies General Plan policies and strategies to be implemented by development projects in the areas of green building/energy use, multimodal transportation, water conservation, and solid waste reduction. Projects that comply with the policies and strategies outlined in the 2030 GHGRS, would have less than significant GHG impacts under CEQA.[45]

[45] City of San José. Greenhouse Gas Reduction Strategy. November 2020. https://www.sanjoseca.gov/your-government/department-directory/planning-building-code-enforcement/planning-division/environmental-planning/greenhouse-gas-reduction-strategy.

Santa Clara Climate Action Plan 2022

The City of Santa Clara Climate Action Plan 2022 (2022 CAP) is the latest update to the City's CAP and is designed to meet the statewide GHG reduction targets for 2030 set by Senate Bill 32. As a Qualified Climate Action Plan, the 2022 CAP allows for tiering and streamlining of GHG analyses under CEQA. The 2022 CAP identifies existing City policies and regulations as well as new measures to be implemented by development projects in the areas of building/energy use, transportation & land use, materials & consumption, natural resources & water resources, and community resilience & wellbeing. Projects that comply with the policies and strategies outlined in the 2022 CAP would have a less than significant GHG impact.

San José Municipal Code

In accordance with the City's BHC Ordinance (refer to Appendix B), Section 5.09 of the City's Municipal Code includes standards for construction and operation of emergency bridge housing. Section 5.09 does not set direct requirements for energy efficiency; however, it does require that EIH sites comply with the State GHG reporting rules, to the extent applicable. All other General Plan and Zoning requirements are suspended.

4.8.1.3 *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. Possible EIH sites would be vacant and, therefore, do not generate GHGs.

4.8.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Generate greenhouse gas (GHG) emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☒	☐
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of GHGs?	☐	☐	☒	☐

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

Construction Emissions

Construction of EIH projects would result in temporary increases in GHG emissions associated with construction activities, including operation of construction equipment and emissions from construction workers' personal vehicles traveling to and from the project site. Because project construction would be a temporary condition lasting no longer than twelve months and would not result in a permanent increase in emissions, the increase in emissions would be less than significant.

Operational Emissions

Following construction of each EIH project, operational GHG emission sources over the project lifetime would be vehicle travel, building energy and water usage, and solid waste disposal. Per AB 1745, compliance with the City's GHGRS would be waived for future EIH projects.

The type of housing proposed by the project is not traditional, such as single-family residences or apartment buildings. The individual living units are small compared to traditional housing units, and would typically include a bed, desk, chair, light fixture, trash receptacle, smoke detector, wall outlet and electricity for small appliances (e.g., phone charger), air conditioner/heater unit, and a storage bin. With no individual kitchens included in the units, and due to the overall small sizes of the units, the proposed units would require minimal electricity compared to traditional residential units. Additionally, as discussed under Section 4.6 Energy, the project is expected to have a lower energy demand for lighting, water usage, and solid waste disposal than traditional housing units. Furthermore, it is expected that future residents of each EIH project would utilize nearby public transit (discussed further in Section 4.17 Transportation); thus, the residents of the proposed project would generate minimal vehicle emissions.

For the reasons described above, the proposed project would not generate GHG emissions, either directly or indirectly, that would preclude the State from meeting established GHG reduction targets and would not have a significant impact on the environment. **(Less than Significant Impact)**

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

As described under checklist question b) above, compliance with the GHGRS would be waived for future EIH projects, and future projects would not be substantial sources of GHG emissions. Therefore, the proposed project would not conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing GHG emissions. **(Less than Significant Impact)**

4.9 Hazards and Hazardous Materials

4.9.1 Environmental Setting

4.9.1.1 *Regulatory Framework*

Overview

The storage, use, generation, transport, and disposal of hazardous materials and waste are highly regulated under federal and state laws. 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.

Comprehensive Environmental Response, Compensation, and Liability Act

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund, was enacted by Congress on December 11, 1980. This law created a tax on the chemical and petroleum industries and provided broad federal authority to respond directly to releases or threatened releases of hazardous substances that may endanger public health or the environment. Over five years, $1.6 billion was collected and the tax went to a trust fund for cleaning up abandoned or uncontrolled hazardous waste sites. CERCLA accomplished the following objectives:

- Established prohibitions and requirements concerning closed and abandoned hazardous waste sites;
- Provided for liability of persons responsible for releases of hazardous waste at these sites; and
- Established a trust fund to provide for cleanup when no responsible party could be identified.

The law authorizes two kinds of response actions:

- Short-term removals, where actions may be taken to address releases or threatened releases requiring prompt response; and
- Long-term remedial response actions that permanently and significantly reduce the dangers associated with releases or threats of releases of hazardous substances that are serious, but not immediately life-threatening. These actions can be completed only at sites listed on the EPA's National Priorities List.

CERCLA also enabled the revision of the National Contingency Plan (NCP). The NCP provided the guidelines and procedures needed to respond to releases and threatened releases of hazardous substances, pollutants, or contaminants. The NCP also established the National Priorities List. CERCLA was amended by the Superfund Amendments and Reauthorization Act on October 17, 1986.[46]

Resource Conservation and Recovery Act

The Resource Conservation and Recovery Act (RCRA), enacted in 1976, is the principal federal law in the United States governing the disposal of solid waste and hazardous waste. RCRA gives the EPA the authority to control hazardous waste from the "cradle to the grave." This includes the generation, transportation, treatment, storage, and disposal of hazardous waste. RCRA also sets forth a framework for the management of non-hazardous solid wastes.

The federal Hazardous and Solid Waste Amendments (HSWA) are the 1984 amendments to RCRA that focused on waste minimization, phasing out land disposal of hazardous waste, and corrective action for releases. Some of the other mandates of this law include increased enforcement authority for the EPA, more stringent hazardous waste management standards, and a comprehensive underground storage tank program.[47]

[46] United States Environmental Protection Agency. "Superfund: CERCLA Overview." Accessed March 3, 2023. https://www.epa.gov/superfund/superfund-cercla-overview.
[47] United States Environmental Protection Agency. "Summary of the Resource Conservation and Recovery Act." Accessed March 3, 2023. https://www.epa.gov/laws-regulations/summary-resource-conservation-and-recovery-act.

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) and State Water Resources Control Board (SWRCB).[48]

Toxic Substances Control Act

The Toxic Substances Control Act (TSCA) of 1976 provides the EPA with authority to require reporting, record-keeping and testing requirements, and restrictions relating to chemical substances and/or mixtures. Certain substances are generally excluded from TSCA, including, among others, food, drugs, cosmetics, and pesticides. The TSCA addresses the production, importation, use, and disposal of specific chemicals including polychlorinated biphenyls (PCBs), asbestos, radon, and lead-based paint.

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 a 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 Santa Clara County 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 began phasing out use of friable asbestos products in 1973 and issued a ban in 1978 on manufacture, import, processing, and distribution of some asbestos-containing products and new uses of asbestos products.[49] The EPA is currently considering a proposed ban on on-going use of asbestos.[50] National Emission Standards for Hazardous Air Pollutants (NESHAP) guidelines require

[48] California Environmental Protection Agency. "Cortese List Data Resources." Accessed March 3, 2023. https://calepa.ca.gov/sitecleanup/corteselist/.
[49] United States Environmental Protection Agency. "EPA Actions to Protect the Public from Exposure to Asbestos." Accessed March 3, 2023. https://www.epa.gov/asbestos/epa-actions-protect-public-exposure-asbestos
[50] Ibid.

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 the 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.

California Building Industry Association v. Bay Area Air Quality Management District

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. However, *BIA v. BAAQMD* includes exceptions to this general rule, requiring analysis of existing environmental conditions on future project users for specific types of projects to be included in CEQA documents. These exceptions apply to affordable housing projects constructing more than 100 units for low-income households and includes hazardous materials.[51,52]

Regional and Local

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 methodology for applicable structures planned for demolition to ensure PCBs do not enter municipal storm drain systems.[53] Municipalities throughout the Bay Area are

[51] *California Building Industry Association v. Bay Area Air Quality Management District*. December 17, 2015.
[52] Easy Law Lookup. "California Laws – Public Resources Code – Article 6. Special Review of Housing Projects (21159.20-21159.28). Accessed May 3, 2023. https://www.easylawlookup.com/California-Law/Public-Resources-Code/par-14084/_easylookup.blp?GO=Prepare&site=easy&print=&data=resources&p_start=587&p_end=590&p_para=14084&p_epara=14181&par=14084&displayer=YES.
[53] California Regional Water Quality Control Board. *San Francisco Bay Region Municipal Regional Stormwater NPDES Permit.* November 2015.

currently modifying demolition permit processes and implementing PCB screening protocols to comply with Provision C.12.f. Buildings constructed between 1950 and 1980 that are proposed for demolition must be screened for the presence of PCBs prior to the issuance of a demolition permit. Single family homes and wood-frame structures are exempt from these requirements.

San José Municipal Code

In accordance with the City's BHC Ordinance (refer to Appendix B), Section 5.09 of the City's Municipal Code includes standards for construction and operation of emergency bridge housing. Section 5.09 does not set direct requirements for hazards and hazardous materials; however, pursuant to Section 5.09, development of EIH communities is subject to review under CEQA. In addition, Section 5.09 requires EIH sites to prepare an Emergency Response Plan in consultation with the San José Fire Department (SJFD) prior to occupancy.

4.9.1.2 *Existing Conditions*

Hazardous Materials Use, Storage, and Transport

Hazardous materials are used and stored by businesses operating within a wide range of industries including maintenance, manufacturing, construction, agricultural, transportation, dry cleaning, automotive, medical and electronics, among others. Many products containing hazardous chemicals also are routinely used and stored in residences. Hazardous materials in various forms can cause death, serious injury, long-lasting health effects and damage to the environment. Major transportation routes used to transport hazardous materials within San José include I-880, US 101, SR 85, and Union Pacific Railroad (UPRR) lines. Local roadways are also used to transport materials from these major routes to various businesses and institutions.

Existing Contamination

Much of San José was previously used for agricultural purposes. As a result, contamination of soils with residual pesticides is common throughout the City. In addition, other industrial and commercial uses both recent and historic have contributed to the contamination of groundwater and soils throughout the City as a result of spills, leaks, and accidents involving hazardous materials. Sites with known sources of current and historic contamination in San José include leaking underground storage tank (LUST), voluntary clean up, and federal superfund sites. Per the General Plan, there are 1,238 leaking underground storage tank (LUST) sites within the City.[54]

[54] California Department of Forestry and Fire Protection. "Very High Fire Hazard Severity Zones in LRA – San José." Map. October 8, 2008. Accessed March 3, 2023. https://osfm.fire.ca.gov/media/5935/san_jose.pdf.

Wildfire

CAL FIRE is responsible for the identification of very high fire hazard severity zones and transmission of these maps to local government agencies. The City of San José's Local Responsibility Area (LRA) contains parcels that are located within these zones. These very high fire hazard severity zones within the City limits include lands in the Berryessa, Alum Rock, Evergreen, and Calero areas.[55]

Airport Hazards

There are two airports in San José: the Norman Y. Mineta San José International Airport (SJC) and Reid-Hillview Airport. SJC is owned and operated by the City of San José and is located one mile northwest of downtown, while Reid-Hillview Airport is a general aviation facility owned and operated by the County of Santa Clara and is located on Cunningham Avenue in the southeastern portion of the City.

4.9.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☒	☐
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☒	☐
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☒	☐
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, will it create a significant hazard to the public or the environment?	☐	☐	☒	☐

[55] City of San José. *Envision San José 2040 General Plan Integrated Final Program Environmental Impact Report.* September 2011. SCH# 2009072096. Page 587.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, result in a safety hazard or excessive noise for people residing or working in the project area?	☐	☐	☒	☐
f) Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	☐	☐	☒	☐
g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?	☐	☐	☒	☐

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

Future EIH projects would use limited amounts of cleaning materials and landscape chemicals for general site maintenance, comparable to other residential developments. Materials would be stored and used in compliance with product recommendations and State and federal requirements. The use of these products would not generate substantial hazardous emissions or result in accidental chemical releases from their use, storage, or transport. Therefore, implementation of the project would not create a significant hazard to the public or to the environment through the routine transport, use, or disposal of hazardous materials. **(Less than Significant Impact)**

b) 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?

Future EIH projects would not demolish or occupy existing buildings; therefore, implementation of the project would not create a significant hazard risk associated with ACMs or LBPs. However, due to San José's citywide historical agricultural, industrial, and commercial uses, future development of EIH sites could occur on sites with contaminated soils, groundwater, or soil vapor. Grading and excavation on such sites could expose construction workers to hazardous materials. Future projects would comply with the following Condition of Approval.

Condition of Approval:

Individual projects shall undergo site-specific environmental review pursuant to CEQA and would be required to prepare Phase I Environmental Site Assessments (ESAs) or equivalent

document to identify Recognized Environmental Conditions, evaluate the site history, and establish if the site is likely to have been impacted by chemical releases. If warranted, based on the results of the Phase I ESA, subsequent soil, soil vapor, and/or groundwater quality studies would be prepared to evaluate whether remedial measures are needed to protect the health and safety of site occupants.

Future development would document hazardous materials impacts and incorporate site-specific mitigation measures to avoid or minimize these impacts below applicable exposure thresholds for construction workers and future residents. Therefore, implementation of the project would not create a significant hazard to the public or the environment through the release of hazardous materials into the environment. **(Less than Significant Impact)**

c) 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?

As discussed under checklist question a), the operation of future EIH projects would use and store cleaning materials and landscape chemicals. Hazardous materials would not be used or stored in sufficient quantities that would pose a health risk to any nearby schools. Additionally, future EIH projects would be required to conform with federal, state, and local laws pertaining to the safe handling of such materials. Therefore, implementation of the proposed project would not emit hazardous emissions or handle hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school. **(Less than Significant Impact)**

d) 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, would it create a significant hazard to the public or the environment?

Based on the City's Siting Guidelines, future EIH projects would be precluded from being located on active hazardous waste sites as listed pursuant to Section 65962.5 of the California Government Code. In addition, as discussed under checklist question b) above, individual projects would be subject to site-specific environmental review and would be required to prepare Phase I ESAs and subsequent studies, if warranted, to document hazardous materials impacts and incorporate mitigation measures to avoid or minimize such impacts. Therefore, implementation of the project would not create a significant hazard to the public or the environment by being located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5. **(Less than Significant Impact)**

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

It is possible that future EIH sites could be located within two miles of SJC or Reid-Hillview Airport. Any new building construction within the AIAs of either airport would be subject to the policies contained within the respective CLUP of that airport as well as building height restrictions and other restrictions under FAR Part 77. In some cases, the FAA may need to be notified of proposed development. Because any EIH site that is located within an AIA would be required to comply with the applicable development regulations, the project would have a less than significant public safety impact. **(Less than Significant Impact)**

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

Future EIH sites would be reviewed for consistency with applicable City and County emergency response plans and emergency evacuation plans during the Development Permit/Use Permit review process. In addition, in compliance with the BHC Ordinance Code and Section 5.09 of the Municipal Code, Site Operators shall work with the City and SJFD to prepare an Emergency Response Plan prior to occupancy of the EIH site. Therefore, the proposed project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. **(Less than Significant Impact)**

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

Future EIH sites could be in areas susceptible to wildfires. However, there are only a few areas of the City that are considered very high fire hazard severity zones by CAL Fire, whereas the majority of San José is urban and built up and thus not susceptible to wildfires. Most of the high fire hazard severity zones are in the hillside areas. As the City's site-specific criteria for EIH sites would require future development to be located on flat lands (less than 10 percent slopes) within reasonable proximity to retail and transit, it can be expected that future EIH projects would be located within urbanized areas of San José and would not be in hillside areas subject to increased risk of wildfires.

As discussed under checklist question f) above, in compliance with the BHC Ordinance Code and Section 5.09 of the Municipal Code, Site Operators shall work with the City and SJFD to prepare an Emergency Response Plan prior to occupancy of the EIH site. Furthermore, new development would be required to comply with the California Fire Code, the CBC, and California Public Resources Code Section 4442 through 4431 to ensure that construction and operation of new buildings would incorporate safety measures to limit fire risk. Therefore, the project would not expose people or

structures to a significant risk of loss, injury, or death involving wildland fires. **(Less than Significant Impact)**

4.10 Hydrology and Water Quality

4.10.1 Environmental Setting

4.10.1.1 *Regulatory Framework*

Federal and State

The federal Clean Water Act and California's Porter-Cologne Water Quality Control Act are the primary laws related to water quality in California. Regulations set forth by the Environmental Protection Agency (EPA) and the State Water Resources Control Board (SWRCB) have been developed to fulfill the requirements of this legislation. EPA regulations include the National Pollutant Discharge Elimination System (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 Regional Water Quality Control Boards (RWQCBs). The project site is within the jurisdiction of the San Francisco Bay RWQCB.

Under Section 303(d) of the federal Clean Water Act, the SWRCB and RWQCBs are required to identify impaired surface water bodies that do not meet water quality standards and develop total maximum daily loads (TMDLs) for contaminants of concern. The list of the state's identified impaired surface water bodies, known as the "303(d) list" can be found on the on the SWRCB's website.[56]

National Flood Insurance Program

The Federal Emergency Management Agency (FEMA) established the National Flood Insurance Program (NFIP) 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 (FIRMs) that identify Special Flood Hazard Areas (SFHAs). 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 an 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) must be filed with the RWQCB by the project sponsor, and a Storm Water Pollution

[56] California State Water Resources Control Board. "2020-2022 California Integrated Report (Clean Water Act Section 303(d) List and 305(b) Report)." May 11, 2022. Accessed March 4, 2023. https://www.waterboards.ca.gov/water_issues/programs/water_quality_assessment/2020_2022_integrated_report.html.

Prevention Plan (SWPPP) must be prepared by a qualified professional prior to commencement of construction and filed with the RWQCB by the project sponsor. 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 stormwater discharges.

California Building Industry Association v. Bay Area Air Quality Management District

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. However, *BIA v. BAAQMD* includes exceptions to this general rule, requiring analysis of existing environmental conditions on future project users for specific types of projects to be included in CEQA documents. These exceptions apply to affordable housing projects constructing more than 100 units for low-income households and includes flood hazards.[57,58]

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 re-issued the Municipal Regional Stormwater NPDES Permit (MRP) in May 2022 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.[59] Under Provision C.3 of the MRP, new and redevelopment projects that create or replace 5,000 square feet or more of impervious surface area are required to implement site

[57] *California Building Industry Association v. Bay Area Air Quality Management District*. December 17, 2015.
[58] Easy Law Lookup. "California Laws – Public Resources Code – Article 6. Special Review of Housing Projects (21159.20-21159.28). Accessed May 3, 2023. https://www.easylawlookup.com/California-Law/Public-Resources-Code/par-14084/_easylookup.blp?GO=Prepare&site=easy&print=&data=resources&p_start=587&p_end=590&p_para=14084&p_epara=14181&par=14084&displayer=YES.
[59] California Regional Water Quality Control Board San Francisco Region. *Municipal Regional Stormwater NPDES Permit, Order No. R2-2022-0018, NPDES Permit No. CAS612008*. May 11, 2022

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: (1) the post-project impervious surface area is less than, or the same as, the pre-project impervious surface area; (2) the project is located in a catchment that drains to a hardened (e.g., continuously lined with concrete) engineered channel or channels or enclosed pipes, which extend continuously to the Bay, Delta, or flowcontrolled reservoir, or, in a catchment that drains to channels that are tidally influenced; or (3) the project is located in a catchment or subwatershed that is highly developed (i.e., that is 70 percent or more impervious).[60]

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.[61] 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. Buildings constructed between 1950 and 1980 that are proposed for demolition must be screened for the presence of PCBs prior to the issuance of a demolition permit. Single-family residential and wood frame structures are exempt.

Water Resources Protection Ordinance and District Well Ordinance

Valley Water operates as the flood control agency for Santa Clara County. Valley Water also provides stream stewardship and is the wholesale water supplier throughout the county, which includes the groundwater recharge program. Well construction and deconstruction permits,

[60] The Hydromodification Applicability Maps developed the permittees under Order No. R2-2009-0074 were prepared using this standard, adjusted to 65 percent imperviousness to account for the presence of vegetation on the photographic references used to determine imperviousness. Thus, the maps for Order No. R2-2009-0074 are accepted as meeting the 70 percent requirement.

[61] California Regional Water Quality Control Board San Francisco Region. *Municipal Regional Stormwater NPDES Permit, Order No. R2-2022-0018, NPDES Permit No. CAS612008*. May 11, 2022

including borings 45 feet or deeper, are required under Valley Water's Well Ordinance 90-1. Under Valley Water's Water Resources Protection Ordinance, projects within Valley Water property or easements are required to obtain encroachment permits.

2021 Groundwater Management Plan

The 2021 Groundwater Management Plan (GWMP) describes Valley Water's comprehensive groundwater management framework, including existing and potential actions to achieve basin sustainability goals and ensure continued sustainable groundwater management. The GWMP covers the Santa Clara and Llagas subbasins, which are located entirely in Santa Clara County. Valley Water manages a diverse water supply portfolio, with sources including groundwater, local surface water, imported water, and recycled water. About half of the county's water supply comes from local sources and the other half comes from imported sources. Imported water includes the Valley Water's State Water Project and Central Valley contract supplies and supplies delivered by the San Francisco Public Utilities Commission (SFPUC) to cities in northern Santa Clara County. Local sources include natural groundwater recharge and surface water supplies. A small portion of the County's water supply is recycled water.

Local groundwater resources make up the foundation of the County's water supply, but they need to be augmented by Valley Water's comprehensive water supply management activities to reliably meet the county's needs. These include the managed recharge of imported and local surface water and in-lieu groundwater recharge through the provision of treated surface water and raw water, acquisition of supplemental water supplies, and water conservation and recycling.[62]

Post-Construction Urban Runoff Management (City Council Policy No. 6-29)

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

Post-Construction Hydromodification Management (City Council Policy No. 8-14)

The City of San José's Policy No.8-14 implements the hydromodification management requirements of Provision C.3 of the MRP. Policy No. 8-14 requires new development and redevelopment projects that create or replace one acre or more of impervious surface area and are located within a subwatershed that is less than 65 percent impervious, to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt generation, or other impacts to local rivers, streams, and creeks. The policy requires

[62] Valley Water. *2021 Groundwater Management Plan, Santa Clara and Llagas Subbasins*. November 2021.

these projects to be designed to control project-related hydromodification through a Hydromodification Management Plan (HMP). Projects that do not meet the minimum size threshold, drain into tidally influenced areas or directly into the Bay, or are infill projects in subwatersheds or catchment areas that are greater than or equal to 65 percent impervious would not be subject to the HMP requirement.

Construction Dewatering Waste Discharge Requirements

Each of the RWQCBs regulate construction dewatering discharges to storm drains or surface waters within its Region under the NPDES program and Waste Discharge Requirements.

San José Municipal Code

In accordance with the City's BHC Ordinance (refer to Appendix B), Section 5.09 of the City's Municipal Code includes standards for construction and operation of emergency bridge housing. Section 5.09 requires development of EIH sites to comply with the requirements of the City's NPDPES permits and any California Department of Transportation permits, to the extent applicable. In addition, Section 5.09 states that EIH communities shall not include more than 10,000 square feet of impervious surfaces. All other General Plan and Zoning requirements are suspended.

4.10.1.2 *Existing Conditions*

Local watersheds within San José include the San Tomas, Guadalupe, and Coyote watersheds which all flow in a northward direction towards the San Francisco Bay.

Reservoirs

There are several surface water reservoirs that directly affect the watersheds and streams of San José. Anderson Reservoir and the Almaden, Calero, Guadalupe and Vasona Reservoirs store water used for groundwater recharge downstream of the reservoirs. Nearly all of the reservoirs in the immediate vicinity of San José serve as municipal and domestic water supply for community, or individual water supply systems. Reservoirs also have an incidental flood management function as floodwaters from upland portions of their respective drainage basins may be held back by the reservoirs until high flows in the downstream creeks and channels have receded.

Stormwater

Stormwater runoff within the urbanized areas of the City is discharged into local storm drains, which, in turn, flow into local creeks and the Bay. The City of San José owns and maintains municipal storm drainage facilities throughout the City. Storm drain lines are inspected and maintained by the Department of Transportation and are installed, rehabilitated, or replaced by the Department of Public Works.

Flooding

Areas of San José subject to increased flood risk are designated as Zone AE, A, AH, or AO on the FEMA flood maps. These special flood zones are primarily located adjacent to existing surface water bodies such as creeks, rivers, and the San Francisco Bay shoreline. The largest portion of the City subject to increased flood risk is located in North San José and Alviso where the ground elevation is lowest and multiple creeks and rivers converge with the San Francisco Bay.

4.10.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?	☐	☐	☒	☐
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	☐	☐	☒	☐
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of 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?	☐	☐	☒	☐
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	☐	☒	☐	☐
e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	☐	☐	☒	☐

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

Construction Impacts

All construction activity that results in land disturbance equal to or greater than one acre must obtain coverage under NPDES General Permit for Construction Activities, which is administered by the State Water Resources Control Board (SWRCB). Per the City's Siting Guidelines, future EIH sites will be a minimum of one acre in size. In addition, pursuant to the BHC Ordinance and Section 5.09 of the Municipal Code, future EIH projects would comply with the following Standard Permit Conditions required for CEQA compliance.

Standard Permit Conditions:

Construction-related water quality.

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

Post-construction Impacts

Pursuant to the BHC Ordinance (refer to Appendix B), EIH sites shall not include more than 10,000 square feet of impervious surfaces and would not require coverage under the NPDES General Permit for Construction Activities. However, due to the size variations in potential EIH sites, it is

possible that some future EIH projects would have more than 10,000 square feet of impervious surfaces and would require coverage under the permit.

Amendments to the MRP require that all post-construction runoff be treated by using Low Impact Development (LID) treatment controls (e.g., biotreatment facilities). Pursuant to the BHC Ordinance and Section 5.09 of the Municipal Code, future EIH projects would comply with the following Standard Permit Condition required for CEQA compliance, which is consistent with MRP post-construction runoff requirements.

Standard Permit Condition:

Post-construction impacts.

- The project shall design and construct low-impact development (LID) stormwater treatment control measures to treat runoff from impervious surfaces.

With adherence to the conditions set forth in the BHC Ordinance and the NPDES Construction General Permit as applicable, future development of EIH projects would not substantially degrade water quality during construction or operation of the project. For these reasons, the proposed project would not violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality. **(Less than Significant Impact)**

b) 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?

Groundwater levels vary by location and annual rainfall rates. The shallowest groundwater is found near waterways. Future EIH project would not construct below-grade floors or levels but may trench for utilities. Given the Siting Guidelines related to development near riparian and wetland zones and the limited subsurface trenching for future EIH sites, groundwater would not likely be encountered during construction or only minimally so. Future EIH sites would be in urbanized areas of San José, and on designated groundwater recharge parcels, and would rely on existing sources of water and the City's existing water delivery system. Therefore, implementation of the project would not substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin. **(Less than Significant Impact)**

c) 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?

Future EIH projects would be graded to convey stormwater runoff to the storm drain system and would comply with Standard Permit Conditions required for post-construction operation of the sites, as discussed under checklist question a) above. Projects would increase the amount of impervious surface on the EIH sites but would include stormwater treatment control measures that would treat runoff. Implementation of projects would not substantially alter the existing drainage pattern of a site or area through the alteration of any waterway. Therefore, the project would not substantially increase erosion or siltation. Therefore, implementation of the proposed project would not substantially alter the existing drainage pattern of the site or area. **(Less than Significant Impact)**

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

As discussed in Section 4.10.1.1 Regulatory Framework, per *BIA v. BAAQMD*, future EIH projects constructing more than 100 affordable residential units are required to determine the effects of the existing environment on future residents as a CEQA impact, in addition to the impacts of the project on the environment. The discussion below addresses both types of impacts in relation to flood hazards.

Per the City's Siting Guidelines, future EIH projects would not be located within a Special Flood Hazard Area. However, future EIH projects could be located near waterway which would increase the potential risk of project inundation due to flood hazards. EIH structures are typically elevated due to their prefabricated nature, which would reduce potential flooding-related impacts.

Impact HYD-1: Construction of Emergency Interim Housing (EIH) projects within Special Flood Hazard Areas or in proximity to waterways could increase the risk of project inundation.

Mitigation Measure: EIH projects would implement the following mitigation measure to ensure residential structures are raised above the base flood elevation.

MM HYD-1.1: Emergency Interim Housing (EIH) projects located within 100-year and 500-year floodplains (Federal Emergency Management Agency [FEMA] Zone AE, A, AH, or AO) shall have the first finished floor of all proposed structures raised above the base flood elevation consistent with the requirements of the Municipal Code (Floodplain Ordinance 17.08) and General Plan policies EC-5.1 and IN-3.7.

With implementation of MM HYD-1.1 described above, the proposed project would not risk release of pollutants due to project inundation in flood hazard, tsunami, or seiche zones, and potential flooding impacts to future residents would be reduced to a less than significant level. **(Less than Significant Impact with Mitigation Incorporated)**

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

Future EIH projects would comply with the BHC Ordinance, which requires conformity with the requirements of all NPDES permits (see Appendix B). Therefore, the proposed project would not conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan. **(Less than Significant Impact)**

4.11 Land Use and Planning

4.11.1 Environmental Setting

4.11.1.1 *Regulatory Framework*

State

Assembly Bill 2176 and 1745

In September 2016, the State of California passed AB 2176, allowing the City of San José to declare a shelter crisis and create emergency BHCs.[63] This law allows San José to develop communities of small sleeping cabins, along with common buildings, which could include meeting space, showers, and laundry facilities. AB 2176 allows San José to adopt local standards in lieu of state and local building codes and requirements that may hinder or delay development of BHCs.

In September 2019, AB 1745 extended the January 2022 sunset date of AB 2176 January 1, 2025.[64]

Regional and Local

Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

The Habitat Plan is a conservation program intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in approximately 500,000 acres of southern Santa Clara County. As discussed in Section 4.4 Biological Resources, the project site is located within the Santa Clara Valley Habitat Plan (Habitat Plan) Permit area. The site is within a designated urban area that is not subject to special fees or survey requirements.

San José Municipal Code

In accordance with the City's BHC Ordinance (refer to Appendix B), Section 5.09 of the City's Municipal Code includes standards for construction and operation of emergency bridge housing. Section 5.09 requires development of EIH sites to comply with the Habitat Plan as applicable. All other General Plan and Zoning requirements are suspended.

[63] Legislative Information. "Assembly Bill No. 2176." Accessed May 3, 2023. http://www.leginfo.ca.gov/pub/15-16/bill/asm/ab_2151-2200/ab_2176_bill_20160927_chaptered.htm.
[64] OpenStates. Accessed May 3, 2023. "AB 1745: Shelter crisis: emergency bridge housing community: City of San José." https://openstates.org/ca/bills/20192020/AB1745/.

4.11.1.2 *Existing Conditions*

San José is a mature urban community with a variety of land uses ranging from low density residential uses in the outlying portions of the City to high density mixed-use and commercial high-rise buildings in downtown. Approximately 68 percent of the City is comprised of urbanized/built up land.

4.11.2 Impact Discussion

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

a) Would the project physically divide an established community?

A physical division of an established community typically refers to the construction of a physical feature (such as a wall, roadway, or railroad line) or the removal of a means of access (such as a roadway or bridge) that would impair mobility within an existing community or between communities. Future development of EIH sites would be located on established parcels, and would not construct roads (other than internal gravel roads to access parking areas) or other type of infrastructure that would constitute a barrier that would physically divide a community. Therefore, implementation of the proposed project would not physically divide an existing community. **(No Impact)**

b) Would the project 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?

As discussed in Section 3.0 Project Description, the City's General Plan and Zoning requirements are suspended for the duration of the City's Shelter Crisis Declaration under the state legislation that allows BHC and EIH development and operation in the City of San José. Pursuant to the BHC Ordinance and Section 5.09 of the Municipal Code, development of EIH sites must comply with the Habitat Plan to the extent applicable. Future development under the proposed project would be screened for location within Habitat Plan fee zones and could subject to Habitat Plan conditions and fees, as applicable. Therefore, implementation of the proposed project would not conflict with any land use plan, policy, or regulation. **(Less than Significant Impact)**

4.12 Mineral Resources

4.12.1 Environmental Setting

4.12.1.1 *Regulatory Framework*

State

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 (SMGB), after receiving classification information from the State Geologist, to designate lands containing mineral deposits of regional or statewide significance.

Local

San José Municipal Code

In accordance with the City's BHC Ordinance (refer to Appendix B), Section 5.09 of the City's Municipal Code includes standards for construction and operation of emergency bridge housing. Section 5.09 does not set forth requirements for mineral resources. All other General Plan and Zoning requirements are suspended.

4.12.1.2 *Existing Conditions*

The Communications Hill area in central San José is the only area within the City of San José that is designated by the SMGB as containing mineral deposits of regional significance. The Communications Hill area is generally bounded by the Southern Pacific Railroad, Curtner Avenue, SR 87, and Hillsdale Avenue.

4.12.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Result in the loss of availability of a known mineral resource that will be of value to the region and the residents of the state?	☐	☐	☐	☒

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	☐	☐	☐	☒

a) 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?

Based on the site-specific criteria established for EIH sites, future EIH sites would not be located in the Communications Hill area because the area contains steep slopes. Future development outside of the Communications Hill area would have no impact on mineral resources. Therefore, the project would not result in the loss of availability of a known mineral resource. **(No Impact)**

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

The proposed project would not result in any direct physical impacts on the environment. As explained under impact checklist question a) above, future EIH sites would not be located in the Communications Hill area because the area contains steep slopes. Future development outside of the Communications Hill area would not have an impact on mineral resources. Therefore, the project would not result in the loss of availability of a known mineral resource recovery site. **(No Impact)**

4.13 Noise and Vibration

4.13.1 Environmental Setting

4.13.1.1 *Background Information*

Noise

Factors that influence sound as it is perceived by the human ear, include the actual level of sound, period of exposure, frequencies involved, and fluctuation in the noise level during exposure. 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. 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 generally expressed using one of several noise averaging methods, including L_{eq}, DNL, or CNEL.[65] These descriptors are used to measure a location's overall noise exposure, given that there are times when noise levels are higher (e.g., when a jet is taking off from an airport or when a leaf blower is operating) and times 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

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. PPV has been routinely used to measure and assess ground-borne construction vibration. Studies have shown that the threshold of perception for average persons is in the range of 0.008 to 0.012 inches/second (in/sec) PPV.

[65] 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) includes an additional five dB 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}.

4.13.1.2 *Regulatory Framework*

State and Local

California Building Standards Code

The CBC establishes uniform minimum noise insulation performance standards to protect persons within new buildings housing people, including hotels, motels, dormitories, apartments, and dwellings other than single-family residences. Title 24 mandates that interior noise levels attributable to exterior sources not exceed 45 L_{dn}/CNEL in any habitable room. Exterior windows must have a minimum Sound Transmission Class (STC) of 40 or Outdoor-Indoor Transmission Class (OITC) of 30 when the property falls within the 65 dBA DNL noise contour for a freeway or expressway, railroad, or industrial source.

San José Municipal Code

In accordance with the City's BHC Ordinance (refer to Appendix B), Section 5.09 of the City's Municipal Code includes standards for construction and operation of emergency bridge housing. Section 5.09 requires that EIH projects be located on sites with exterior noise levels not exceeding 70 dBA (24 hour L_{eq}) in the sleeping cabin areas or as determined by the authority having jurisdiction. Pursuant to Section 5.09, interior noise levels shall be further limited as determined by the authority having jurisdiction. All other General Plan and Zoning requirements are suspended.

4.13.1.3 *Existing Conditions*

The ambient noise environment in San José is predominantly the result of transportation-related noise sources. US 101, I-280, I-680, and I-880, and State Routes 17, 82, 85, 87, and 237 are the most significant sources of traffic noise throughout the community. In areas that are more distant from highways, local streets and collector roadways are the primary noise sources at nearby land uses.

Other mobile sources of noise in San José include aircraft operations at SJC and Reid-Hillview Airports as well as rail operations along BART/VTA rights of-way and along UPRR rights-of-way. Near primary flight paths and the airports, these operations are substantial contributors to ambient noise levels. In portions of the City away from the airports and flight paths, aircraft generate noise levels that are audible at times. Stationary sources of noise include industrial and commercial operations as well as construction activities.

Stationary industrial and commercial uses are often located in primarily commercial and industrial areas and are isolated from noise sensitive land uses such as residences while construction noise can occur throughout the City, even in generally quiet residential neighborhoods.

4.13.2 Impact Discussion

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

a) 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?

Construction Noise

The construction of each future EIH project would not involve substantial noise generating activities for more than 12 months because units would be constructed off-site, and sites would be located in flat areas (with 10 percent slope or less) that would require minimal grading/site preparation. Construction activity would be subject to the Municipal Code regulations on construction hours for construction sites within 500 feet of residential uses to 7:00 AM to 7:00 PM Monday through Friday. Thus, the proposed project would have a less than significant construction noise impact.

Operational Noise

Typically, on a project-level basis, an increase of 3 dBA at noise-sensitive receptors would result in a noticeable increase in the ambient noise levels and constitute a significant noise impact. A 3 dBA increase is equivalent to the doubling of traffic on the surrounding roadways. None of the future EIH projects would be of sufficient size to double traffic volumes on any roadway. Although future EIH projects would increase the number of vehicle trips to and from the site, it is expected that most future residents would not have personal vehicles and would use existing public transit services. Future EIH projects would include HVAC in the modular housing units, but the HVAC units

would be enclosed within the buildings and would not generate substantial noise. Future EIH projects would not include emergency generators.

The project would introduce residents on sites where residential uses do not currently exist, and would marginally increase the amount of noise coming from these sites. Noise could include people talking or slamming car doors, which are typical of residential uses and would not be significant generators of noise. Thus, the proposed project would have a less than significant operational noise impact.

For the reasons described above, the proposed project would not result in the generation of a substantial temporary or permanent increase in ambient noise levels in excess of standards established in the General Plan, noise ordinance, or other applicable standards. **(Less than Significant Impact)**

b) Would the project result in generation of excessive groundborne vibration or groundborne noise levels?

Construction of the future EIH projects would involve minimal work requiring vibration generating activities. Surface grading and utility trenching would occur at each EIH site and would not involve heavy equipment that would generate excessive vibration levels. All structures would be prefabricated off-site, trucked to the site, and craned into place at the EIH sites. Structures would be supported by temporary foundations such as seismic piers, helical piers, or other approved supports that are installed through drilling. Construction activities would not include pile driving but could include drilling, use of jackhammers (approximately 0.035 in/sec PPV at 25 feet), rock drills and other vibratory tools (approximately 0.09 in/sec PPV at 25 feet), and rolling stock equipment such as tracked vehicles, compactors, etc. (approximately 0.89 in/sec PPV at 25 feet) and may generate substantial vibration in the immediate site vicinity. The City requires a vibration limit of 0.20 in/sec PPV to minimize the potential for cosmetic damage at buildings of normal conventional construction and a limit of 0.08 in/sec to minimize damage to historic structures. Excavation is not expected to exceed three feet in depth. No permanent building foundations would be utilized. Therefore, the proposed project would not result in generation of excessive groundborne vibration or groundborne noise levels. **(Less than Significant Impact)**

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

It is possible that future EIH projects could be located within two miles of SJC or Reid-Hillview Airport and that residents could be exposed to noise from the airports. Future residents would spend a maximum of two years at the project sites, during which time they would receive assistance in finding permanent housing, and would not be permanently impacted. However, future projects proposed within two miles of an airport would be subject to site-specific environmental review

pursuant to CEQA to identify impacts and mitigation measures that would avoid or reduce potential impacts to a less than significant level. Therefore, the proposed project would not permanently expose people working or residing in the project area to excessive noise levels due to proximity to an airport. **(Less than Significant Impact)**

4.13.3 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 with regard to noise. The following discussion is included for informational purposes only because the City of San José has policies that address existing noise conditions affecting a proposed project (i.e., General Plan Policy EC-1.1 which requires new development to be located in areas where noise levels are appropriate for the proposed uses in consideration with federal, state, and City standards and guidelines).

Per the City's Siting Guidelines for future EIH projects, sites would be screened for noise exposure associated with heavily traveled roadways and highways. In addition, future EIH projects would be developed in accordance with the City's BHC Ordinance and Section 5.09 of the Municipal Code, which requires that EIH projects be located on sites with exterior noise levels not exceeding 70 dBA (24 hour L_{eq}) in the sleeping cabin areas. Therefore, existing noise sources would not have adverse effects on the residents of future EIH projects.

4.14 Population and Housing

4.14.1 Environmental Setting

4.14.1.1 *Regulatory Framework*

State

Housing-Element Law

State requirements mandating that housing be included as an element of each jurisdiction's general plan is known as housing-element law. The Regional Housing Need Allocation (RHNA) is the state-mandated process to identify the total number of housing units (by affordability level) that each jurisdiction must accommodate in its housing element. California housing-element law requires cities to: 1) zone adequate lands to accommodate its 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 a work plan to mitigate or eliminate those constraints; and 5) adopt a housing element and update it on a regular basis.[66] The City of San José Housing Element and related land use policies were last updated in 2023.

Regional and Local

Plan Bay Area 2050

Plan Bay Area 2050 is a long-range plan for the nine-county San Francisco Bay Area that provides strategies that increase the availability of affordable housing, support a more equitable and efficient economy, improve the transportation network, and enhance the region's environmental resilience. Plan Bay Area 2050 promotes the development of a variety of housing types and densities within identified Priority Development Areas (PDAs). PDAs are areas generally near existing job centers or frequent transit that are locally identified for housing and job growth.[67]

ABAG allocates regional housing needs to each city and county within the San Francisco Bay Area, based on statewide goals. These allocations are designed to lay the foundation for Plan Bay Area 2050's long-term envisioned growth pattern for the region. ABAG also develops a series of forecasts and models to project the growth of population, housing units, and jobs in the Bay Area. ABAG, MTC, and local jurisdiction planning staff created the Forecasting and Modeling Report, which is a technical overview of the of the growth forecasts and land use models upon which Plan Bay Area 2050 is based.

[66] California Department of Housing and Community Development. "Regional Housing Needs Allocation and Housing Elements" Accessed March 4, 2023. http://hcd.ca.gov/community-development/housing-element/index.shtml.

[67] Association of Bay Area Governments and Metropolitan Transportation Commission. *Plan Bay Area 2050*. October 21, 2021. Page 20.

4.14.1.2 *Existing Conditions*

The population of San José was estimated to be approximately 959,256 in January 2023 with an average of 2.86 persons per household.[68] Full build out of the General Plan (as amended) is expected to result in a City population of over 1.3 million people by 2035.

The General Plan assumptions envision a jobs/employee resident ratio of 1.1/1 or 382,000 new jobs by 2040. To meet the current and projected housing needs in the City, the General Plan identifies areas for mixed-use and residential development to accommodate 120,000 new dwelling units by 2040.

The jobs/housing balance is the relationship between the number of housing units required as a result of local jobs and the number of dwelling units available in the City. This relationship is quantified by the jobs/employed resident ratio. When the ratio reaches 1.0, a balance is struck between the supply of local housing and local jobs. The jobs/employed resident ratio is determined by dividing the number of local jobs by the number of employed residents that can be housed in local housing.

At the time of preparation of the General Plan FEIR, San José had a higher number of employed residents per jobs (approximately 0.8 jobs per employed resident) but this trend is projected to reverse with full build out under the current General Plan.

4.14.2 Impact Discussion

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

[68] California Department of Finance. "E-5 Population and Housing Estimates for Cities, Counties, and the State, January 2021-2023, with 2020 Benchmark." Accessed May 9, 2023. https://dof.ca.gov/forecasting/demographics/estimates/e-5-population-and-housing-estimates-for-cities-counties-and-the-state-2020-2023/

a) 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)?

As discussed in Section 3.3.6 Operation, future EIH projects developed under the proposed project are expected to house an average of 200 people per site, but sites could contain a maximum of 720 units. The residents would come from the City's existing population. Residents would be employed or employment-ready single adults, or families with employed or employment-ready adults and their children. Furthermore, EIH projects would provide a temporary form of housing and would not permanently induce unplanned population growth or require expansion of existing infrastructure to any area which already receives services. Therefore, the proposed project would not induce substantial unplanned population growth in the area, either directly or indirectly. **(Less than Significant Impact)**

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

Future EIH projects under the proposed project would be typically developed on vacant sites and would not demolish existing housing. The City would not demolish existing housing units, but may purchase or acquire properties that have a single-family house or commercial building on it. If there are any residents on the site, the City would relocate the residents to comparable housing elsewhere in the vicinity of the site. Additionally, the purpose of the project is to lessen impacts of displacement by providing housing for currently unhoused people. Therefore, the project would not displace substantial numbers of existing people or housing. **(Less than Significant Impact)**

4.15 Public Services

4.15.1 Environmental Setting

4.15.1.1 *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.

Regional and Local

Countywide Trails Master Plan

The Santa Clara County Trails Master Plan Update is a regional trails plan approved by the Santa Clara County Board of Supervisors. It provides a framework for implementing the County's vision of providing a contiguous trail network that connects cities to one another, cities to the county's regional open space resources, County parks to other County parks, and the northern and southern urbanized regions of the County. The plan identifies regional trail routes, sub-regional trail routes, connector trail routes, and historic trails.

4.15.1.2 *Existing Conditions*

Police and Fire Protection Services

Public services within the City of San José include police stations, fire stations, schools, libraries, parks and community centers. The City of San José Police Department (SJPD) operates one main police station located at 201 West Mission Street.[69] San José Fire Department (SJFD) operates 33 fire stations across the City.[70]

Schools

The San José Unified School District (SJUSD) is the biggest public school district in the City.[71] SJUSD operates 41 schools (26 elementary, one K-8 school, six middle schools, six high schools, and two alternative education programs), serving over 30,000 students citywide.[72] Other public school districts in San José include East Side Union High School District, Alum Rock Union Elementary School District, Evergreen Elementary School District, and several more.

Parks and Recreation Facilities

The City of San José contains 210 regional and City parks and gardens and over 63 miles of trails citywide.[73]

Libraries and Community Centers

The City of San José is served by the San José Public Library System. The San José Public Library System consists of one main library (Dr. Martin Luther King Jr.) and 25 branch libraries.[74] The City is currently meeting its service level objective of providing at least 0.59 square feet of library space per capita.[75] The City operates 41 community/neighborhood centers within the City limits. The City is currently meeting its service level objective of providing 500 square feet of community center space per 1,000 population.

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[69] City of San José. "Inside San José Police Department – Department Information." Accessed March 4, 2023. https://www.sjpd.org/about-us/inside-sjpd/department-information

[70] City of San José. "About San José Fire Department." Accessed March 4, 2023. https://www.sanjoseca.gov/your-government/departments-offices/fire-department/about-sjfd

[71] Great Schools. "Public School Districts in San José". Accessed March 4, 2023. https://www.greatschools.org/california/san-jose/#districts

[72] San José Unified School District. "Find Your School." Accessed March 4, 2023. https://www.sjusd.org/ourschools/schools/

[73] City of San José. "Annual Report on City Services Fiscal Year 2021-22 – Parks, Recreation and Neighborhood Services." Accessed March 4, 2023. https://www.sanjoseca.gov/home/showpublisheddocument/93666/638092142761830000.

[74] City of San José Public Library. Accessed January 6, 2023. https://www.sjpl.org/facts.

[75] City of San José. *2022-2026 Proposed Capital Improvement Program*. Accessed March 4, 2023. https://www.sanjoseca.gov/home/showpublisheddocument/71881/637551361294119830.

4.15.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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:				
a) Fire Protection?	☐	☐	☒	☐
b) Police Protection?	☐	☐	☒	☐
c) Schools?	☐	☐	☒	☐
d) Parks?	☐	☐	☒	☐
e) Other Public Facilities?	☐	☐	☒	☐

a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for fire protection services?

Future EIH projects developed under the proposed project would require fire protection services. However, projects would generally be located within urbanized areas already served by SJFD. Measurable reductions in the homeless population of San José resulting from implementation of the project would likely result in a reduction in medical and other fire related calls, as residents would have access to food, medical services, and shelter. For these reasons, implementation of the project would not require new or expanded facilities to maintain performance objectives for fire protection services.

Additionally, future EIH projects would be constructed in accordance with current building codes and would be subject to review by the SJFD to ensure that adequate safety measures are incorporated. Therefore, the proposed project would not result in adverse physical impacts associated with the provision of new or physically altered facilities or cause significant environmental impacts to maintain acceptable service ratios, response times, or other performance objectives for fire and police protection services. **(Less than Significant Impact)**

b) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for police protection services?

Future EIH projects developed under the proposed project would require police protection services. However, EIH projects would generally be located within urbanized areas already served by SJPD. SJPD is already responding to calls for service for the unhoused population elsewhere in the City. The proposed project would include supportive services such as case management, drug and alcohol services, counseling, and conflict resolution to minimize the amount of police calls. Staff would be on site to de-escalate conflicts whenever possible. For these reasons, implementation of the project would not require new or expanded facilities to maintain performance objectives for police protection services.

Furthermore, future EIH projects would be subject to review by the SJPD to ensure that adequate safety measures are incorporated. Therefore, the proposed project would not result in adverse physical impacts associated with the provision of new or physically altered facilities or cause significant environmental impacts to maintain acceptable service ratios, response times, or other performance objectives for police protection services. **(Less than Significant Impact)**

c) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for schools?

Future EIH projects are conservatively assumed to house families consisting of children and employed or employment-ready adults. However, the project would not result in an increase in the permanent resident population of San José, as it is intended to serve the existing population. Therefore, the proposed project would not result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts to maintain acceptable service ratios, response times, or other performance objectives for schools. **(Less than Significant Impact)**

d) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for parks?

Future residents of EIH sites may utilize existing recreational facilities and incrementally increase the use of existing recreational facilities in the project area. However, many of the employed or employment-ready adults who would reside at EIH facilities are already using park facilities in the City. Because the project would serve existing residents of San José, implementation of the project would not increase the permanent resident population of the City. Therefore, the proposed project would not result in substantial adverse physical impacts associated with the need for new parks of the expansion of existing parks, the construction of which could cause significant environmental impacts to maintain acceptable service ratios, response times, or other performance objectives for parks. **(Less than Significant Impact)**

e) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for other public facilities?

Future residents of EIH may utilize existing library facilities. However, many of the employed or employment-ready adults who would reside at EIH facilities are already using library facilities in the City. Because the project would serve existing residents of San José, implementation of the project would not increase the permanent resident population of the City. Therefore, the proposed project would not result in substantial adverse physical impacts associated with the need for new or expanded libraries, the construction of which could cause significant environmental impacts to maintain acceptable service ratios, response times, or other performance objectives for libraries. **(Less than Significant Impact)**

4.16 Recreation

4.16.1 Environmental Setting

4.16.1.1 *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.

4.16.1.2 *Existing Conditions*

Parks and Recreation Facilities

The City of San José contains 210 regional and City parks and gardens and over 63 miles of trails citywide.[76]

4.16.2 Impact Discussion

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

[76] City of San José. "Annual Report on City Services Fiscal Year 2021-22 – Parks, Recreation and Neighborhood Services." Accessed March 4, 2023. https://www.sanjoseca.gov/home/showpublisheddocument/93666/638092142761830000.

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

Future residents of EIH sites may utilize existing recreational facilities and incrementally increase the use of existing recreational facilities in the project area. However, many of the employed or employment-ready adults who would reside at EIH facilities are already using park facilities in the City. Because the project would serve existing residents of San José, implementation of the project would not increase the permanent resident population of the City. In addition, EIH projects would contain some communal open space (e.g., picnic area, playground, or dog park) within the project site, which may offset the use of public parks and other recreational facilities. Therefore, the proposed project would not 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. **(Less than Significant Impact)**

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

Future EIH projects would have a limited life span (10 to 15 years) and would not increase the permanent resident population of the City because the project would serve existing residents of San José. The incremental increase in usage of local recreational facilities would not require the construction of new parks, community centers, or other recreational facilities or extensive maintenance of existing facilities to meet City service goals. Therefore, the proposed project would not result in any physical environmental impacts from construction of recreational facilities. **(Less than Significant Impact)**

4.17 Transportation

4.17.1 Environmental Setting

4.17.1.1 *Regulatory Framework*

State

Regional Transportation Plan

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 a Regional Transportation Plan to guide regional transportation investment for revenues from federal, state, regional and local sources through 2040.

Senate Bill 743

SB 743 establishes criteria for determining the significance of transportation impacts using a vehicle miles traveled (VMT) metric intended to promote the reduction of GHG emissions, the development of multimodal transportation networks, and a diversity of land uses. Specifically, SB 743 requires analysis of VMT in determining the significance of transportation impacts. Local jurisdictions were required by Governor's Office of Planning and Research (OPR) to implement a VMT policy by July 1, 2020.

SB 743 did not authorize OPR to set specific VMT impact thresholds, but it did direct OPR to develop guidelines for jurisdictions to utilize. CEQA Guidelines Section 15064.3(b)(1) describes factors that might indicate whether a development project's VMT may be significant. Notably, projects located within 0.50 mile of transit should be considered to have a less than significant transportation impact based on OPR guidance.

Regional and Local

Congestion Management Program

VTA oversees the Congestion Management Program (CMP), which is aimed at reducing regional traffic congestion. The relevant state legislation requires that 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 plan, 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.

Transportation Analysis Policy (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. According to the policy, an employment (e.g., office or research and development) or residential project's transportation impact would be less than significant if the project VMT is 15 percent or more below the existing average regional VMT per employee or the existing average citywide VMT per capita, respectively. 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.

If a project's VMT does not meet the established thresholds, mitigation measures would be required, where feasible. The policy also requires preparation of a Local Transportation Analysis to analyze non-CEQA transportation issues, including local transportation operations, intersection level of service, site access and circulation, and neighborhood transportation issues such as pedestrian and bicycle access and recommend transportation improvements. The VMT policy does not negate Area Development policies and Transportation Development policies approved prior to adoption of Policy 5-1; however, it does negate the City's Protected Intersection policy as defined in Policy 5-3.

San José Better Bike Plan 2025

The San José Better Bike Plan 2025, adopted in 2020, contains policies for guiding the creation of safe, direct, and connected citywide bike network within San José. This includes an assessment of the current biking environment and the network connections, projects, bikeway designs, and policies needed to improve biking in San José. In 2020, the City completed buildout of the 400-mile basic bike network identified in its previous bike plan, Bike Plan 2020, which was approved by the city Council in 2009.

San José Municipal Code

In accordance with the City's BHC Ordinance (refer to Appendix B), Section 5.09 of the City's Municipal Code includes standards for construction and operation of emergency bridge housing. Section 5.09 requires that EIH projects comply with the requirements of any California Department of Transportation permits as applicable. All other General Plan and Zoning requirements are suspended.

4.17.1.2 *Existing Conditions*

The City of San José is traversed by a network of roadways, transit systems, bicycle, pedestrian, and aviation facilities. This extensive transportation network provides circulation and mobility that allows for local and regional connectivity. Streets with the highest average daily traffic volumes are those that provide north/south and east/west connections across the freeways and railroads or serve as parallel routes to the freeways.

4.17.2 Impact Discussion

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

a) Would the project conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadways, bicycle lanes, and pedestrian facilities?

Per the City's Siting Guidelines for EIH sites, EIH projects are required to be within proximity to public transit services. Generally, future EIH projects would be located within 0.5 mile of high-quality transit. However, it is possible some future EIH projects would be located outside of a transit-oriented area. In these cases, the Site Operator will provide alternate means of transport such as shuttles and pick-up services in lieu of transit access. Given future EIH projects would be located within the urban growth area of San José, residents would have adequate access to bicycle and pedestrian facilities. For these reasons, the proposed project would not conflict with a program, plan, ordinance, or policy addressing the circulation system. **(Less than Significant Impact)**

b) Would the project conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?

This question pertains specifically to VMT as the means of analyzing transportation impacts of a project. Future EIH projects would be exempt under the City of San José's Council Policy 5-1 and would not be required to perform a VMT analysis. Projects would be exempt under the "restricted affordable, transit supportive residential projects" screening criteria, which consists of the following requirements:

a) Provide 100% restricted affordable units, excluding unrestricted manager units, at or below income levels as defined in General Plan Policy IP-5.12. Affordability restrictions must be

recorded and extended for a minimum of 55 years for rental homes or 45 years for for-sale homes.

b) Located within a Planned Growth Area as defined in the General Plan.
c) Located within 0.5-mile of an existing major transit stop or a stop along high-quality transit corridor.
d) A minimum of 35 dwelling units per acre
    a. If the Project is in a Planned Growth Area that has a maximum density below 35 dwelling units per acre, the Project must meet the maximum density allowed in that Planned Growth Area.
    b. Projects that are proposed in areas where VMT is above the CEQA Threshold for Determination of Significant Transportation Impact must include a Transportation Demand Management (TDM) plan approved by the Public Workers Director as part of their LTA.
e) Provides a minimal amount of parking:
    a. Propose no greater than the minimum number of parking spaces required by Title 20 of the San José Municipal Code (the Zoning Code).
    b. For Projects in Urban Villages or Downtown
        i. The number of parking spaces proposed must be adjusted to the lowest number allowed by City code. For example, a street parking reduction of 50 percent is allowed in Urban Villages by Municipal Code Section 20.90.220, if a Project meets certain geographic and transportation demand management criteria.
        ii. The proposed number of parking spaces can be up to the general zoned minimum without the further reduction to Urban Villages, Downtown or other areas, if the parking provided is shared and publicly available and/or "unbundled" as defined in Chapter 20.200 of the Zoning Code.
f) Does not adversely affect pedestrian, bike, or transit infrastructure. For example, sidewalk widths cannot be reduced below the City's Complete Streets standard; bike lanes cannot be altered to reduce their accessibility or size beyond the City's Complete Streets standard.

The proposed residential units would be used by employed or employment-ready San José residents for the lifetime of each project site. As discussed under checklist question a), most EIH projects would be located within 0.5 mile of existing transit stops, or otherwise provide alternative means of transport to residents. The project would provide up to one parking space per Site Operator employee and up to 0.5 parking spaces per resident. For all these reasons, the proposed project does not require VMT analysis, and would not conflict with City Council Policy 5-1. **(Less than Significant Impact)**

c) 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)?

Per the City's Siting Guidelines for EIH sites, sites would be evaluated for possible configurations to enable sufficient layout for access and circulation. Once individual projects are proposed,

conceptual designs would be reviewed and approved by the City's Public Works Department and SJFD to ensure the project would not introduce or increase hazards due to a geometric design feature. Individual project designs would use minimum setbacks depending on the zoning, and driveway cuts would be installed taking into consideration safety distances and traffic patterns. Additionally, future EIH projects would not introduce incompatible uses such as farm equipment. Therefore, the proposed project would not substantially increase hazards due to a geometric design feature or incompatible uses. **(Less than Significant Impact)**

d) Would the project result in inadequate emergency access?

The project does not propose development on any particular site and does not propose a specific site layout. As stated under checklist question c) above, once individual projects are proposed, conceptual designs would be reviewed and approved by the City's Public Works Department and SJFD to ensure the project would provide adequate emergency access. Per the BHC Ordinance, site Operators shall work with the City and SJFD to prepare an Emergency Response Plan prior to occupancy of the EIH site. Therefore, the proposed project would not result in inadequate emergency access. **(Less than Significant Impact)**

4.18 Tribal Cultural Resources

The following discussion is based, in part, on an AB 52 Notification Letter, dated May 25, 2023, received for the project from Tamien Nation tribal representatives. The letter is attached as Appendix D to this Initial Study.

4.18.1 Environmental Setting

4.18.1.1 *Regulatory Framework*

State

Assembly Bill 52

AB 52, effective July 2015, established a new category of resources for consideration by public agencies 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 until it is concluded that mutual agreement cannot be reached.

Under AB 52, 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, or
    - 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.

4.18.1.2 *Existing Conditions*

As noted in Section 4.5 Cultural Resources, San José has a long history of human occupation and Native American habitation. As a result, recorded Native American archaeological resources are present citywide with areas of high sensitivity for prehistoric and historic deposits, including tribal cultural objects primarily located near surface water bodies such as creeks, rivers and the San Francisco Bay.

During a meeting with the City on May 18, 2023, Tamien Nation requested notification for all EIH projects (refer to Appendix D).

4.18.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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:				
a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?	☐	☒	☐	☐
b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	☐	☒	☐	☐

a) 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 California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?

As described in Section 4.18.1.1 Regulatory Framework, California 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 subject to significant impacts as a result of the project. Once EIH sites are chosen, future projects would be subject to AB 52 noticing requirements. As discussed in Section 4.5 Cultural Resources, EIH projects would be unlikely to uncover tribal cultural resources because project construction involves minor site preparation including surface grading and trenching for utilities. In the event any resources are discovered, the project would comply with the City's Standard Permit Conditions required for EIH projects, and with the following mitigation measure developed based on consultation with Tamien Nation.

Impact TCR-1: Construction of Emergency Interim Housing (EIH) projects within one mile of a creek, or 1,000 feet of a known Tribal cultural Resource, could result in significant impacts to unknown Tribal Cultural Resources from ground disturbing activities.

Mitigation Measures: The following mitigation measures would be implemented by all future EIH projects (when applicable) to reduce impacts to known Tribal Cultural Resources from ground disturbing to less than significant levels.

MM TCR-1.1: Upon identification of an EIH site, the City shall notify Tribal Representatives of Tribes with a traditional or cultural affiliation in the City of San José who have requested consultation under AB 52. Notification shall be made via electronic mail, and such notification shall include a site address, Assessor's Parcel Number(s), a location map, and conceptual site plan (if available). The notification shall also include information on proposed grading and trenching.

Tribal Representatives will have 30 days from the date of the notice to respond and request consultation and/or additional mitigation measures depending on the characteristics of the site and the project. Additional mitigation measures may include, but are not limited to, the following:

- Conducting a cultural sensitivity training for construction workers in coordination with a Native American Tribal representative from a Tribe with a traditional or cultural affiliation in the City of San José and registered with the Native American Heritage Commission (NAHC).
- Engagement of a Native American Tribal Monitor from a Tribe with a traditional or cultural affiliation in the City of San José and registered with the NAHC to be present during ground disturbing activities.
- Engagement of an archaeological monitor to be present during ground disturbing activities.
- Preparation of an Archaeological Research Treatment Plan (ARTP), which will include guidelines if resources are discovered during site construction.

The Tribal and archaeological monitors shall report any findings to the Director of Planning, Building and Code Enforcement or the Director's designee immediately upon discovery.

With compliance with the Standard Permit Conditions in Section 4.5 and MM TCR-1.1, the project would not cause a substantial adverse change in the significance of a tribal cultural resource that is listed or eligible for listing in the CRHR or local register of historical resources. **(Less than Significant Impact with Mitigation Incorporated)**

b) 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?

See response to checklist question a) above. **(Less than Significant Impact with Mitigation Incorporated)**

4.19 Utilities and Service Systems

4.19.1 Environmental Setting

4.19.1.1 *Regulatory Framework*

State

State Water Code

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, opportunities for water transfers, and contingency plans for drought events. The City of San José adopted its most recent UWMP in June 2021.

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. 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. 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 610

SB 610 amended state law, effective January 1, 2002, to improve the link between information on water supply availability and certain land use decisions made by cities and counties. SB 610 requires preparation of a WSA containing detailed information regarding water availability to be provided to the decision-makers prior to approval of specified large development projects that also require a General Plan Amendment. This WSA must be included in the administrative record that serves as the evidentiary basis for an approval action by the city or county on such projects. Under SB 610, WSAs must be furnished to local governments for inclusion in any environmental documentation for certain projects subject to CEQA. Pursuant to the California Water Code (Section 10912[a]), projects that require a WSA include any of the following:

- A proposed residential development of more than 500 dwelling units;
- A proposed shopping center or business establishment employing more than 1,000 persons or having more than 500,000 square feet of floor space;
- A proposed commercial office building employing more than 1,000 persons or having more than 250,000 square feet of floor space;
- A proposed hotel or motel, or both, having more than 500 rooms;
- A proposed industrial, manufacturing, or processing plant, or industrial park planned to house more than 1,000 persons, occupying more than 40 acres of land, or having more than 650,000 square feet of floor area;
- A mixed-use project that includes one or more of the projects identified in this list; or
- A project that would demand an amount of water equivalent to, or greater than, the amount of water required by a 500 dwelling unit project.

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 at least 20 percent of currently disposed edible food is recovered for human consumption by 2025. CalRecycle released an analysis titled "Analysis of the Progress Toward the SB 1383 Organic Wase Reduction Goals" in August of 2020, which recommended maintaining the disposal reduction targets set forth in SB 1383.[77]

Assembly Bill 1826

AB 1826 sets forth the requirements of the statewide mandatory commercial organics recycling program for businesses and multi-family dwellings with five or more units that generate two or more cubic yards of commercial solid waste per week. AB 1826 sets a statewide goal for 50 percent reduction in organic waste disposal by the year 2020.

California Green Building Standards Code Compliance for Construction, Waste Reduction, Disposal and Recycling

In January 2010, California adopted the most recent version of the California Green Building Standards Code (CALGreen), establishing mandatory green building standards for all buildings in California. The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resources efficiency, and indoor environmental

[77] CalRecycle. Analysis of the Progress Toward the SB 1383 Organic Wase Reduction Goals. August 18, 2020. https://www2.calrecycle.ca.gov/Publications/Details/1693#:~:text=Analysis%20of%20the%20Progress%20Toward,(DRRR%2D2020%2D1693)&text=SB%201383%20establishes%20targets%20to,75%20percent%20reduction%20by%202025.

quality. These standards include the following mandatory set of measures, as well as more rigorous voluntary guidelines, for new construction projects to achieve specific green building performance levels:

- Reducing indoor water use by 20 percent;
- Reducing wastewater by 20 percent;
- Recycling and/or salvaging 65 percent of nonhazardous construction and demolition debris, or meeting the local construction and demolition waste management ordinance, whichever is more stringent (see San José specific CALGreen building code requirements in the Local section below); and
- Providing readily accessible areas for recycling by occupants.

Local

San José Zero Waste Strategic Plan/Climate Smart San José

Climate Smart San José provides a comprehensive approach to achieving sustainability through new technology and innovation. The Zero Waste Strategic Plan outlines policies to help the City of San José foster a healthier community and achieve its Climate Smart San Jose goals, including 75 percent waste diversion by 2013 and zero waste by 2022. The Climate Smart San Jose also includes ambitious goals for economic growth, environmental sustainability, and enhanced quality of life for San José residents and businesses.

San José Sewer System Management Plan

The purpose of the Sewer System Management Plan (SSMP) is to provide guidance to the City in the operation, maintenance, and rehabilitation of the sewer assets of the City of San José. The SSMP includes construction standards and specifications for the installation and repair of the collection system and its associated infrastructure.

Private Sector Green Building Policy

The City of San José's Green Building Policy for new private sector construction encourages building owners, architects, developers, and contractors to incorporate meaningful sustainable building goals early in the design process. This policy establishes baseline green building standards for private sector construction and provides a framework for the implementation of these standards. It is also intended to enhance the public health, safety, and welfare of San José residents, workers, and visitors by fostering practices in the design, construction, and maintenance of buildings that will minimize the use and waste of energy, water, and other resources.

San José Municipal Code

In accordance with the City's BHC Ordinance (refer to Appendix B), Section 5.09 of the City's Municipal Code includes standards for construction and operation of emergency bridge housing. Section 5.09 requires that EIH projects comply with the requirements of the NPDES system permits

and any California Department of Transportation permits as applicable. All other General Plan and Zoning requirements are suspended.

Construction and Demolition Diversion Deposit Program

The Construction and Demolition Diversion Deposit Program (CDDD) requires projects to divert at least 50 percent of total projected project waste to be refunded the deposit. Permit holders pay this fully refundable deposit upon application for the construction permit with the City if the project is a demolition, alteration, renovation, or a certain type of tenant improvement. The deposit is fully refundable if C&D materials were reused, donated, or recycled at a City-certified processing facility. Reuse and donation require acceptable documentation, such as photos, estimated weight quantities, and receipts from donation centers stating materials and quantities.

California Green Building Standards Code of Compliance for Construction, Waste Reduction, Disposal and Recycling

The City of San José requires 75 percent diversion of nonhazardous construction and demolition debris for projects that qualify under CALGreen, which is more stringent than the state requirement of 65 percent (San José Municipal Code Section 9.10.2480).

4.19.1.2 *Existing Conditions*

Water Service

Water service is provided to the City of San José by three water retailers. The San José Water Company (SJWC) is the largest water retailer in San José. The City of San José Municipal Water system (SJMWS) provides water to North San José, Evergreen, and parts of Edenvale and Coyote Valley. The Great Oaks Water Company (Great Oaks) serves areas of southern San José including Blossom Valley, Santa Teresa, and parts of Edenvale, Coyote Valley, and Almaden Valley. The SCVWD manages water resources and wholesales treated water to the 13 water retailers in Santa Clara County.[78]

Sanitary Sewer/Wastewater Treatment

Wastewater from the City is treated at the San José/Santa Clara Water Pollution Control Plant (The Facility) which is administered and operated by the City's Environmental Services Department. The Facility provides primary, secondary, and tertiary treatment of wastewater. The Facility has the capacity to treat 167 million gallons of wastewater per day (mgd) during dry weather flow, with the City allocated approximately 110 mgd of existing capacity.[79] The City of San José currently generates

[78] City of San José. *Envision San José 2040 General Plan Integrated Final Program Environmental Impact Report.* September 2011. SCH# 2009072096. Page 624.
[79] San José-Santa Clara Regional Wastewater Facility, 2017. Accessed March 4, 2023. https://www.sanjoseca.gov/yourgovernment/environment/water-utilities/regional-wastewater-facility.

approximately 69.8 mgd of average dry weather flow (ADWF), leaving 38.8 mgd of excess treatment capacity at the Facility for the City's wastewater treatment demands.[80]

Solid Waste

Santa Clara County's IWMP was approved by the California Integrated Waste Management Board in 1996 and reviewed in 2004, 2007, 2011, and 2016. Each jurisdiction in the County has a landfill diversion requirement of 50 percent per year. According to the IWMP, the County has adequate disposal capacity beyond 2030.[81] Solid waste generated within the County is transported to Guadalupe Mines, Kirby Canyon, Newby Island, and Zanker Road landfills.

4.19.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	☐	☐	☒	☐
b) Have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	☐	☐	☒	☐
c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☒	☐
d) Generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	☐	☐	☒	☐
e) Be noncompliant with federal, state, and local management and reduction statutes and regulations related to solid waste?	☐	☐	☒	☐

[80] City of San José. *Envision San José 2040 General Plan Integrated Final Program Environmental Impact Report.* September 2011. SCH# 2009072096. Page 648.
[81] Santa Clara County. *Five-Year County IWMP/RAIWMP Review Report.* June 2016.

a) 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?

Future EIH projects would require the use of all standard residential utilities. Per the City's Siting Guidelines, sites need to have existing access to utilities including water, wastewater, stormwater systems, and electric power.

Water Supply

Depending on the sites chosen, future EIH projects would be served by SJWC, SJMWS, or Great Oaks. These water retailers estimated that the total water demand for their respective service areas could reach approximately 45,605 million gallons, 40,965 million gallons, and 2,045 million gallons by 2045.[82,83,84] Under the worst-case scenario build out conditions of 720 units on a 10-acre site, an individual future EIH project would use approximately 26 million gallons of water per year (71,540 gpd) which would be limited to indoor use.[85] Build out of all 15 future projects under the worst-case scenario would result in a water demand of 390 million gallons per year (1.07 million gpd), which would be less than one percent of any of the three water retailers' expected demand. Furthermore, the EIH housing would be removed after 15 years so the citywide increase in water use would not be permanent as it would with traditional housing projects. Thus, the project would not require or result in the relocation or construction of new or expanded water systems.

Wastewater

As discussed in Section 4.19.1.2 Existing Conditions, the City of San José is served by the Facility, which has the capacity to treat 167 million gallons per day during dry weather flow, with the City allocated 110 mgd of existing capacity. The City of San José currently generates approximately 69.8 mgd of average dry weather flow (ADWF), leaving 38.8 mgd of excess treatment capacity at the Facility for the City's wastewater treatment demands. Under worst-case scenario build out conditions, an individual future EIH project would generate approximately 71,540 gpd of wastewater, which is below the remaining treatment capacity for the City. Furthermore, the EIH housing would be removed after 15 years so the citywide increase in wastewater generation would not be permanent as it would with traditional housing projects. Thus, the project would not require or result in the relocation or construction of new or expanded wastewater treatment systems.

[82] San José Water Company. *2020 Urban Water Management Plan*. June 2021. Page 4-8.
[83] City of San José. *2020 Urban Water Management Plan.* June 2021. Page ES-2.
[84] Great Oaks Water Company. *2020 Urban Water Management Plan.* July 2021. Page 17.
[85] Illingworth & Rodkin, Inc. *San José Emergency Interim Housing Program Air Quality Assessment.* March 3, 2023.

Stormwater Systems

As discussed in Section 4.10 Hydrology and Water Quality, future EIH projects would comply with the Standard Permit Conditions of Section 5.09 of the Municipal Code which require dust control and erosion control measures to minimize construction-related water quality impacts and LID stormwater treatment control measures to treat post-construction stormwater runoff. With adherence to these Standard Permit Conditions, future EIH projects would minimize any potential construction-related or post-construction water quality impacts. Thus, the project would not require or result in the relocation or construction of new or expanded stormwater systems.

Electric Power and Telecommunication Facilities

Per the City's Siting Guidelines, sites chosen for future EIH projects would need to have existing connections to power and telecommunication systems. PG&E is the main electricity provider for the City and would continue to provide services for future EIH projects. Telecommunications would continue to be provided by AT&T, Comcast, Viasat, Frontier, and Spectrum, depending on the site location. Thus, the project would not require or result in the relocation or construction of new or expanded electric power or telecommunication facilities. The City's Reach Code precludes natural gas usage in new residential development, so no natural gas infrastructure would be required.

For the reasons listed above, the proposed project would not require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunication facilities. **(Less than Significant Impact)**

b) Would the project have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?

As discussed under checklist question a) above, future EIH projects would be served by SJWC, SJMWS, or Great Oaks, depending on their site locations. Build out of one future project under the worst-case scenario would result in a water demand of 26 million gallons of water per year (71,540 gpd), while build out of all 15 future projects under the worst-case scenario would result in a water demand of 390 million gallons per year (1.07 million gpd), which would be less than one percent of any of the three water retailers' expected demand. This is a conservative assumption and future EIH projects would likely be smaller than the worst-case scenario, and have water demands below 71,540 gpd. Therefore, the project would not have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry, and multiple dry years. **(Less than Significant Impact)**

c) 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?

As discussed under checklist question a) above, the Facility has 38.8 mgd of excess treatment capacity for the City's wastewater treatment demands. Under worst-case scenario build out conditions, an individual future EIH project would generate approximately 71,540 gpd of wastewater, while build out of all 15 future projects would result in a wastewater demand of 1.07 million gpd. This increase in wastewater would be less than one percent of the treatment capacity. Additionally, this is a conservative assumption and future EIH projects would likely be smaller than the worst-case scenario, and generate less than 71,540 gpd of wastewater. Therefore, the project would not result in a determination by the Facility that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments. **(Less than Significant Impact)**

d) 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?

Under worst-case scenario build out conditions, an individual future EIH project would generate approximately 178 tons per year (975 pounds per day) of solid waste.[86] The solid waste generated by future EIH projects would be disposed at the Newby Island Landfill, which has an estimated remaining capacity to operate through 2041.[87] Typically, homeless encampments generate trash in areas with no proper trash or recycling facilities that require frequent cleanups. The proposed project would move that trash into a development with readily available waste collections facilities (i.e., trash cans, dumpsters, recycling bins) and subsequently disposed of in a landfill instead of the environment. Furthermore, each EIH project will have a maximum lifespan of 15 years and all the projects would be shut down and the housing removed prior to 2041. Therefore, the increase in solid waste generated by the project would be accommodated by a landfill with sufficient permitted capacity. **(Less than Significant Impact)**

e) Would the project be noncompliant with federal, state, or local management and reduction statutes and regulations related to solid waste?

Per AB 1745, the City has waived compliance with the CALGreen Code and the City's Zero Waste Strategic Plan. Therefore, future proposed EIH projects would not be required to develop a

[86] Illingworth & Rodkin, Inc. *San José Emergency Interim Housing Program Air Quality Assessment.* March 3, 2023.
[87] CalRecycle. "SWIS Facility/Site Activity Details: Newby Island Sanitary Landfill (43-AN-0003)." Accessed March 7, 2023. https://www2.calrecycle.ca.gov/SolidWaste/SiteActivity/Details/1362?siteID=3388.

construction waste management plan, salvage at least 50 percent of non-hazardous construction/demolition debris, and other waste reduction measures as outlined in the CALGreen Code. Construction of future EIH projects does not involve demolition of structures and would have minimal construction debris. Recycling collection containers would be provided on the project sites to reduce waste entering the landfill. For these reasons, the proposed project would not conflict with any federal, state, or local statutes and regulations related to solid waste. **(Less than Significant Impact)**

4.20 Wildfire

4.20.1 Environmental Setting

4.20.1.1 *Regulatory Framework*

State

Fire Hazard Severity Zones

CAL FIRE is required by law to map areas of significant fire hazards based on fuels, terrain, weather, and other relevant factors. Referred to as Fire Hazard Severity Zones (FHSZs), these maps influence how people construct buildings and protect property to reduce risk associated with wildland fires. FHSZs are divided into areas where the state has financial responsibility for wildland fire protection, known as state responsibility areas (SRAs), and areas where local governments have financial responsibility for wildland fire protection, known as local responsibility areas (LRAs). Homeowners living in an SRA are responsible for ensuring that their property is in compliance with California's building and fire codes. Only lands zoned for very high fire hazard are identified within LRAs.

California Fire Code Chapter 47

Chapter 47 of the California Fire Code sets requirements for wildland-urban interface fire areas that increase the ability of buildings to resist the intrusion of flame or burning embers being projected by a vegetation fire, in addition to systematically reducing conflagration losses through the use of performance and prescriptive requirements.

California Public Resources Code Section 4442 through 4431

The California Public Resources Code includes fire safety regulations that restrict the use of equipment that may produce a spark, flame, or fire; require the use of spark arrestors on construction equipment that uses an internal combustion engine; specify requirements for the safe use of gasoline-powered tools on forest-covered land, brush-covered land, or grass-covered land; and specify fire suppression equipment that must be provided onsite for various types of work in fire-prone areas. These regulations include the following:

- Earthmoving and portable equipment with internal combustion engines would be equipped with a spark arrestor to reduce the potential for igniting a wildland fire (Public Resources Code Section 4442);
- Appropriate fire suppression equipment would be maintained during the highest fire danger period, from April 1 to December 1 (Public Resources Code Section4428);
- On days when a burning permit is required, flammable materials would be removed to a distance of 10 feet from any equipment that could produce a spark, fire, or flame, and the construction contractor would maintain appropriate fire suppression equipment (Public Resources Code Section 4427); and

- On days when a burning permit is required, portable tools powered by gasoline-fueled internal combustion engines would not be used within 25 feet of any flammable materials (Public Resources Code Section 4431).

California Code of Regulations Title 14

The California Board of Forestry and Fire Protection has adopted regulations, known as SRA Fire Safe Regulations, which apply basic wildland fire protection standards for building, construction, and development occurring in a SRA. The future design and construction of structures, subdivisions and developments in SRAs are required to provide for the basic emergency access and perimeter wildfire protection measures discussed in Title 14.

Fire Management Plans

CAL FIRE has developed an individual Unit Fire Management Plan for each of its 21 units and six contract counties. CAL FIRE has developed a strategic fire management plan for the San José Unit, which covers the project area and addresses citizen and firefighter safety, watersheds and water, timber, wildlife and habitat (including rare and endangered species), unique areas (scenic, cultural, and historic), recreation, range, structures, and air quality. The plan includes stakeholder contributions and priorities and identifies strategic areas for pre-fire planning and fuel treatment as defined by the people who live and work with the local fire issues.

California Building Industry Association v. Bay Area Air Quality Management District

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. However, *BIA v. BAAQMD* includes exceptions to this general rule, requiring analysis of existing environmental conditions on future project users for specific types of projects to be included in CEQA documents. These exceptions apply to affordable housing projects constructing more than 100 units for low-income households and includes wildfire.[88,89]

[88] *California Building Industry Association v. Bay Area Air Quality Management District*. December 17, 2015.
[89] Easy Law Lookup. "California Laws – Public Resources Code – Article 6. Special Review of Housing Projects (21159.20-21159.28). Accessed May 3, 2023. https://www.easylawlookup.com/California-Law/Public-Resources-Code/par-14084/_easylookup.blp?GO=Prepare&site=easy&print=&data=resources&p_start=587&p_end=590&p_para=14084&p_epara=14181&par=14084&displayer=YES.

Local

San José Fire Department Wildland-Urban Interface Fire Conformance Policy

Buildings proposed to be built within the SJFD WUI shall comply with all WUI materials and construction methods per CBC Chapter 7A and CRC Section R337.[90] The applicant shall, prior to construction, provide sufficient detail to demonstrate that the building proposed to be built complies with this policy. Building Permit Plans are also to be approved by the SJFD.

4.20.1.2 *Existing Conditions*

CAL FIRE is responsible for the identification of very high fire hazard severity zones and transmission of these maps to local government agencies. The City of San José's LRA contains parcels that are located within these zones. These very high fire hazard severity zones within the City limits include lands in the Berryessa, Alum Rock, Evergreen and Calero areas.[91]

4.20.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:				
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?	☐	☐	☒	☐
b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	☐	☐	☒	☐
c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	☐	☐	☒	☐

[90] San José Fire Department. *Wildland-Urban Interface (WUI) Fire Conformance Policy.* January 1, 2017. https://www.sanjoseca.gov/Home/ShowDocument?id=9345

[91] City of San José. *Envision San José 2040 General Plan Integrated Final Program Environmental Impact Report.* September 2011. SCH# 2009072096. Page 587.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:				
d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	☐	☐	☒	☐

a) Would the project substantially impair an adopted emergency response plan or emergency evacuation plan?

As discussed under checklist question f) in Section 4.9 Hazards and Hazardous Materials, future EIH projects could be located in areas susceptible to wildfires. However, most of the high fire hazard severity zones are in the hillside areas of the City. Future EIH projects would be reviewed for consistency with applicable City and County emergency response plans and emergency evacuation plans during the Development Permit/Use Permit review process. In compliance with the BHC Ordinance Code and Section 5.09 of the Municipal Code, Site Operators shall work with the City and SJFD to prepare an Emergency Response Plan prior to occupancy of the EIH site. Therefore, the proposed project would not impair an adopted emergency response plan or emergency evacuation plan. **(Less than Significant Impact)**

b) Would the project, 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?

Based on the City's Siting Guidelines, future EIH projects would be located on fairly flat (approximately 10 percent slope) sites within the urban growth boundaries of San José. Therefore, the proposed project would not exacerbate wildfire risks due to slope, prevailing winds, and other factors. Additionally, due to the locations of EIH projects, existing environmental conditions related to wildfire would not impact future residents. **(Less than Significant Impact)**

c) Would the project 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?

Construction and operation of future EIH projects would not include the installation or maintenance of associated infrastructure such as roads, fuel breaks, emergency water sources, power lines, or other utilities. Therefore, the proposed project would not require installation or maintenance of infrastructure that may exacerbate fire risk or result in temporary or ongoing impacts to the environment. **(Less than Significant Impact)**

d) Would the project 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?

Based on the City's Siting Guidelines, future EIH projects would be located on fairly flat (approximately 10 percent slope) sites within the urban growth boundaries of San José. Therefore, the proposed project would not expose people or structures to significant risks such as downslope or downstream flooding or landslides as a result of runoff, post-fire slope instability, or drainage changes. **(Less than Significant Impact)**

4.21 Mandatory Findings of Significance

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

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

Future EIH projects developed under the proposed project could result in the removal of trees and impacts to migratory birds if present in trees located on or immediately adjacent to the project sites. Projects could also result in impacts to buried cultural resources, should they be discovered on-site. With implementation of the Standard Permit Conditions required by the BHC Ordinance and Section 5.09 of the City's Municipal Code, and mitigation measure MM TCR-1.1, future projects would reduce or minimize impacts to migratory birds and cultural resources. Therefore, the proposed project would not substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important

examples of the major periods of California history or prehistory. **(Less than Significant Impact with Mitigation Incorporated)**

b) Does the project have impacts that are individually limited, but cumulatively considerable?

As defined in Section 15065(a)(3) of the CEQA Guidelines, cumulatively considerable means "that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the efforts of other current projects, and the effects of probable future projects."

Future EIH projects developed under the proposed project would not impact agricultural and forestry resources, mineral resources, or population and housing. Therefore, the project would not contribute to cumulative impacts to these resources.

Future EIH projects could result in temporary air quality, biological, cultural, geology and soils, hydrology and water quality, and noise impacts during construction. With implementation of the Standard Permit Conditions required by the BHC Ordinance and Section 5.09 of the City's Municipal Code, the construction impacts would be less than significant. Furthermore, individual EIH sites would not be within 1,000 feet of each other, so there would be no overlap of construction emissions from multiple EIH projects on any individual sensitive receptors. Because the nature of the identified impacts is temporary and projects would abide by the measures in the BHC Ordinance and Municipal Code, these impacts would not be considered cumulatively considerable.

As discussed in the respective sections, the proposed project would have a less than significant impact on aesthetics, GHG emissions, hazardous materials, land use, public services, recreation, transportation, and utility and service systems. The project would have less than significant impacts related to aesthetics and land use because structures would not damage scenic resources or degrade existing visual character or public views and would be consistent with the BHC Ordinance; Sections 5.09, 20.75.360, and 20.55.103 of the Municipal Code; and the Habitat Plan. The project's hazardous materials impacts would be less than significant, are specific to the project sites, and would not contribute to cumulative impacts elsewhere. The project's utilities, public services, and population and housing impacts would be less than significant because the project would not permanently increase the residential population of San José. In addition, the traffic, GHG emissions, and use of recreation facilities generated by the proposed project would be minimal given the size of the project and the intended project demographics. Thus, the project would not have a cumulatively considerable impact on these resource areas.

The operation of future EIH projects would not significantly contribute to a cumulative air quality impact, given individual projects would generate emissions below the established BAAQMD cumulative impact thresholds.

Other approved projects in the vicinity of future EIH projects would be required to incorporate similar measures in accordance with the City's General Plan and Municipal Code. The project would not result in cumulatively considerable environmental impacts. **(Less than Significant Impact)**

c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

Consistent with Section 15065(a)(4) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has the potential to cause substantial adverse effects on human beings, either directly or indirectly. Under this standard, a change to the physical environment that might otherwise be minor must be treated as significant if people would be significantly affected. This factor relates to adverse changes to the environment of human beings generally, and not to effects on particular individuals. While changes to the environment that could indirectly affect human beings would be represented by all of the designated CEQA issue areas, those that could directly affect human beings include construction air quality and noise. However, adherence to the measures in the BHC Ordinance and mitigation measures MM AIR-1 and MM AIR-2 would reduce these impacts to a less than significant level at future project sites. No other direct or indirect adverse effects on human beings have been identified. **(Less than Significant Impact with Mitigation Incorporated)**

Section 5.0 References

The analysis in this Initial Study is based on the professional judgement and expertise of the environmental specialists preparing this document, based upon review of the site, surrounding conditions, site plans, and the following references:

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Section 6.0 Lead Agency and Consultants

6.1 Lead Agency

City of San José
Planning, Building and Code Enforcement
David Keyon, Principal Planner
Cassandra van der Zweep, Supervising Planner
Reema Mahamood, Planner III

6.2 Consultants

David J. Powers & Associates, Inc.
Environmental Consultants and Planners
Shannon George, Principal Project Manager
Maria Kisyova, Project Manager
Ryan Osako, Graphics Artist

Illingworth & Rodkin, Inc.
Air Quality Consultants
James Reyff, Principal
Casey Divine, Consultant
Jordyn Bauer, Consultant

Section 7.0 Acronyms and Abbreviations

AB	Assembly Bill
ABAG	Association of Bay Area Governments
ACM	asbestos-containing material
ALUC	Airport Land Use Commission
APN	Assessor's Parcel Number
ATCM	Asbestos Airborne Toxic Control Measure
BAAQMD	Bay Area Air Quality Management District
Bay Area	San Francisco Bay Area
bgs	below the ground surface
Btu	British thermal unit(s)
CAAQS	California Ambient Air Quality Standard
CAL FIRE	California Department of Forestry and Fire Protection
Cal/OSHA	California Department of Industrial Relations, Division of Occupational Safety and Health
CalARP	California Accidental Release Prevention
CalEPA	California Environmental Protection Agency
CALGreen	California Green Building Standards
Caltrans	California Department of Transportation
CARB	California Air Resources Board
CBC	California Building Standards Code
CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality Act
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CFC	chlorofluorocarbon
CFR	Code of Federal Regulations
CGS	California Geological Survey
CH_4	methane
CLUP	Comprehensive Land Use Plan
CNEL	Community Noise Equivalent Level
CO	carbon monoxide
CO_2	carbon dioxide

CO_2e	carbon dioxide equivalents
CRHR	California Register of Historical Resources
CUPA	Certified Unified Program Agency
dBA	A-weighted decibel(s)
DNL	Day/Night Average Sound Level
DPM	diesel particulate matter
DTSC	Department of Toxic Substances Control
EIH	Emergency Interim Housing
EIR	Environmental Impact Report
EO	Executive Order
EPA	Environmental Protection Agency
ESA	Environmental Site Assessment
FAA	Federal Aviation Administration
FAR	Federal Aviation Regulations
FHSZ	Fire Hazard Severity Zone
FMMP	Farmland Mapping and Monitoring Program
GHG	Greenhouse Gases
GHGRS	Greenhouse Gas Reduction Strategy
GWh	gigawatt hour(s)
GWP	Global Warming Potential
Habitat Plan	Santa Clara Valley Habitat Plan
HSWA	Hazardous and Solid Waste Amendments
L_{eq}	Energy-Equivalent Sound/Noise Descriptor
L_{max}	Maximum A-weighted noise level during a measurement period
LOS	Level of Service
LRA	Local Responsibility Area
MBTA	Migratory Bird Treaty Act
$MMTCO_2e$	Million Metric Tons of Carbon Dioxide Equivalent
MND	Mitigated Negative Declaration
mpg	mile(s) per gallon
MSL	mean sea level
MTC	Metropolitan Transportation Commission

N_2O	nitrous oxide
NAAQS	National Ambient Air Quality Standard
NAHC	Native American Heritage Commission
NCP	National Contingency Plan
NESHAP	National Emission Standards for Hazardous Air Pollutants
NO_2	nitrogen dioxide
NOA	Naturally Occurring Asbestos
NOD	Notice of Determination
NO_x	nitrogen oxide(s)
NRHP	National Register of Historic Places
O_3	ozone
PCB	polychlorinated biphenyls
PCF	perfluorocarbon
PDA	Priority Development Areas
PG&E	Pacific Gas and Electric Company
PM	particulate matter
PM_{10}	Particulate matter with a diameter of 10 microns or less
$PM_{2.5}$	Particulate matter with a diameter of 2.5 microns or less
PPV	peak particle velocity
R&D	Research and Development
RAP	Removal Action Plan
RCRA	Resource Conservation and Recovery Act
ROG	reactive organic gases
RTP	Regional Transportation Plan
RWQCB	Regional Water Quality Control Board
SB	State Bill
SCS	Sustainable Communities Strategy
SF_6	sulfur hexafluoride
SHMA	Seismic Hazards Mapping Act
SMARA	Surface Mining and Reclamation Act
SMGB	State Mining and Geology Board
SMP	Site Management Plan

SO_x	sulfur oxides
SR	State Route
SRA	State Responsibility Area
SWRCB	State Water Resources Control Board
TAC	Toxic Air Contaminants
Title 24	Title 24, Part 6 of the California Code of Regulations
TSCA	Toxic Substances Control Act
USACE	United States Army Corps of Engineers
USFWS	United States Fish and Wildlife Service
VMT	Vehicle Miles Traveled
Williamson Act	California Land Conservation Act
WUI	Wildland-Urban Interface
ZNE	Zero Net Energy