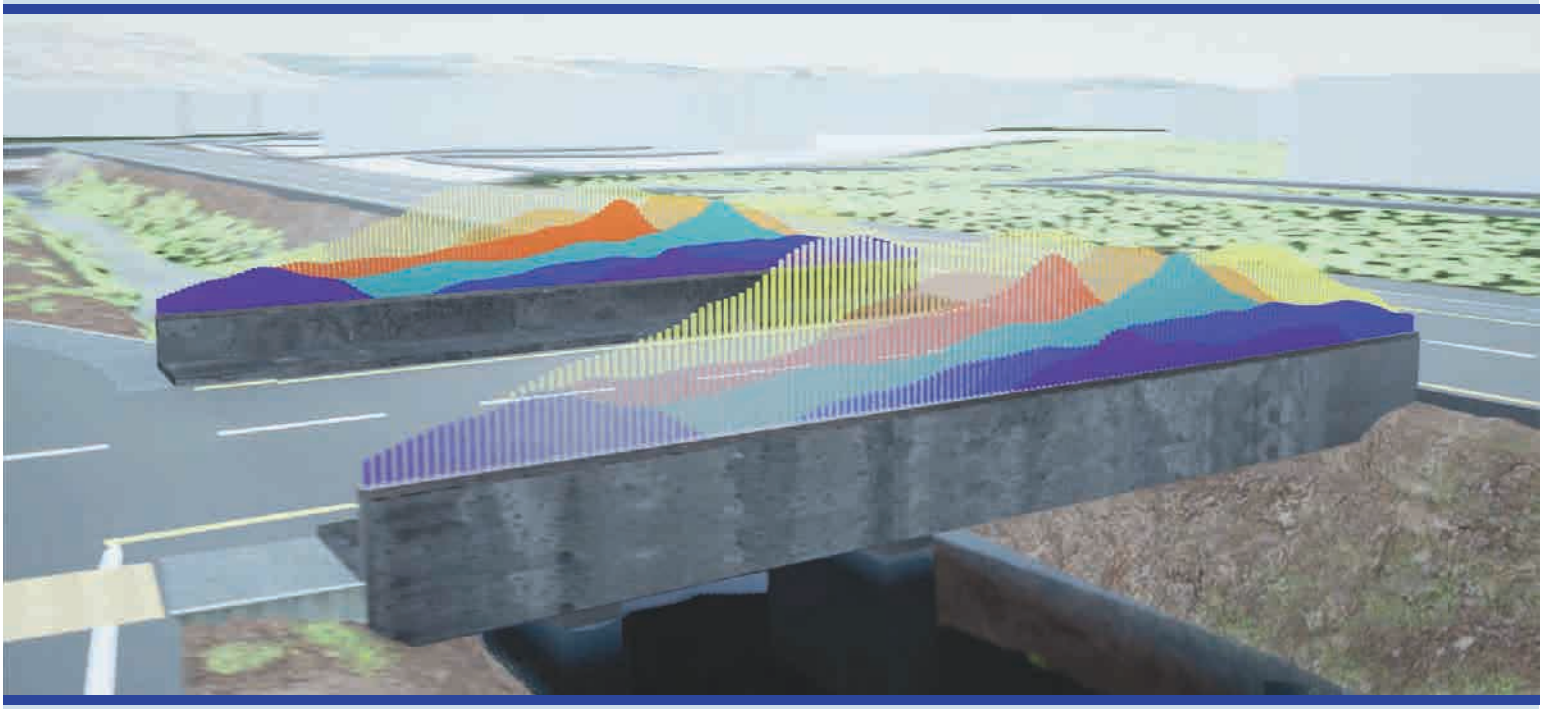
Initial Study

South Milpitas Boulevard Bridge



Prepared by

CITY OF MILPITAS
CALIFORNIA
INCORPORATED
JANUARY 26, 1954

In Consultation with

DAVID J. POWERS
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ENVIRONMENTAL CONSULTANTS & PLANNERS

February 2024

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SECTION 1.0 INTRODUCTION AND PURPOSE

1.1 PURPOSE OF THE INITIAL STUDY

The City of Milpitas, as the Lead Agency, has prepared this Initial Study for the South Milpitas Boulevard Bridge project 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 Milpitas, California.

The project proposes to construct a bridge across Penitencia East Channel. The proposed bridge would serve vehicles, pedestrians, and cyclists and would connect South Milpitas Boulevard on the north side of the channel with a new connector street to be constructed by the City between Tarob Court and Sango Court on the south side of the channel. The proposed project would require the demolition of an existing vacant office building located at 1831-1841 Tarob Court, Milpitas, CA 95035. This Initial Study evaluates the environmental impacts that might reasonably be anticipated to result from implementation of the proposed project.

1.2 BACKGROUND

1.2.1 Transit Area Specific Plan

On June 3, 2008, the City Council approved the Transit Area Specific Plan (TASP). The TASP provided for redevelopment of an approximately 437-acre area in the southern portion of the City around the new Milpitas Transit Center, which opened in June 2020 and includes regional transit connections via Bay Area Rapid Transit (BART), the Santa Clara Valley Transportation Authority (VTA) Light Rail and bus systems, and Alameda County (AC) Transit express bus service. The TASP includes development standards, goals and policies guiding development within the plan area. Because of the physical characteristics of the area, including major streets, railroads and creeks, the plan also established subdistricts with specific goals and policies to accommodate those unique characteristics.

The impacts from planned development under the TASP are evaluated in the Milpitas TASP Final Environmental Impact Report (FEIR), dated May 2008, as amended in 2011.

1.2.2 Milpitas Metro Specific Plan

On February 7, 2023, the City adopted the Milpitas Metro Specific Plan (MMSP). The MMSP is an update to and replaces the TASP, adopted in 2008 and described above. The Metro Plan increases the Plan Area from approximately 437 acres to approximately 510 gross acres and includes annexations on the east and west sides of the original Plan Area. The purpose of the MMSP is to make better and safer connections for pedestrians and cyclists, improve connectivity to nearby neighborhoods, prioritize affordable housing development, and provide commercial opportunities that will expand the City's business and job base over the next 20 years. The impacts from planned development under the MMSP are evaluated in the Milpitas Metro Specific Plan Supplemental EIR (SEIR).

1.3 PUBLIC REVIEW PERIOD

Publication of this Initial Study (and attached Mitigated Negative Declaration (MND)) marks the beginning of a 30-day public review and comment period. During this period, the Initial Study/MND 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 30-day public review period should be sent to:

Lyhak Eam, P.E., Principal Civil Engineer
City of Milpitas
455 E. Calaveras Boulevard
Milpitas, CA 95035
Leam@milpitas.gov

1.4 CONSIDERATION OF THE INITIAL STUDY AND PROJECT

Following the conclusion of the public review period, the City of Milpitas will review the comments received, evaluate and incorporate the comments as needed prior to presenting the Initial Study/Mitigated Negative Declaration (MND) to the City Council for adoption. 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.

1.5 NOTICE OF DETERMINATION

If the project is approved, the City of Milpitas 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

South Milpitas Boulevard Bridge

2.2 LEAD AGENCY CONTACT

Lyhak Eam, P.E.; Principal Civil Engineer
City of Milpitas
455 E. Calaveras Boulevard
Milpitas, CA 95035
Leam@milpitas.gov
Tel: (408) 586-3349

2.3 PROJECT APPLICANT

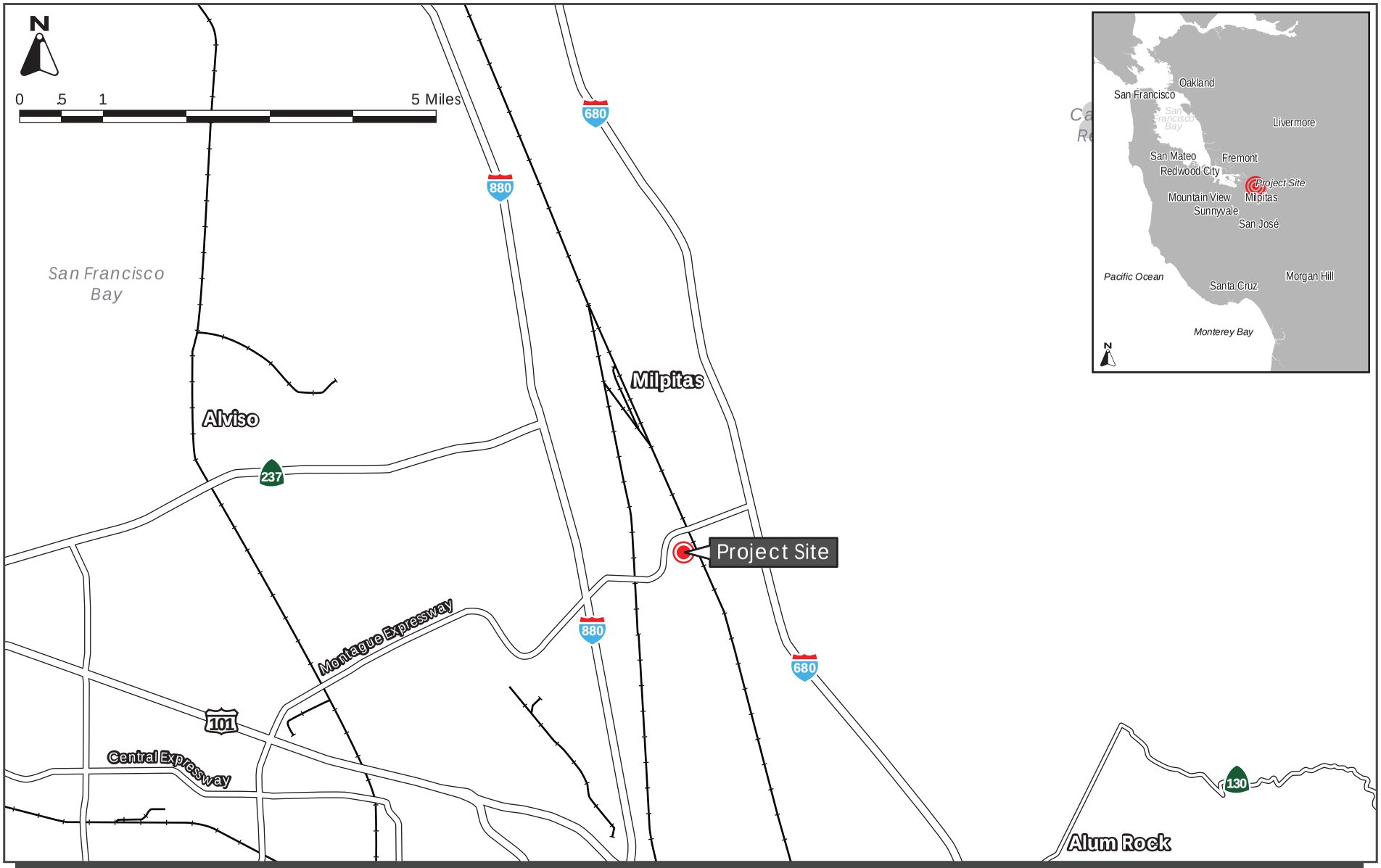
City of Milpitas
Public Works Department
455 E. Calaveras Boulevard
Milpitas, CA 95035

2.4 PROJECT LOCATION

The project is located in the City of Milpitas at the southern terminus of South Milpitas Boulevard and includes portions of Assessor's Parcel Numbers (APNs) 086-36-030, 086-36-041, 086-37-018, 086-37-039, and 086-37-040.

The project location is shown on the following figures:

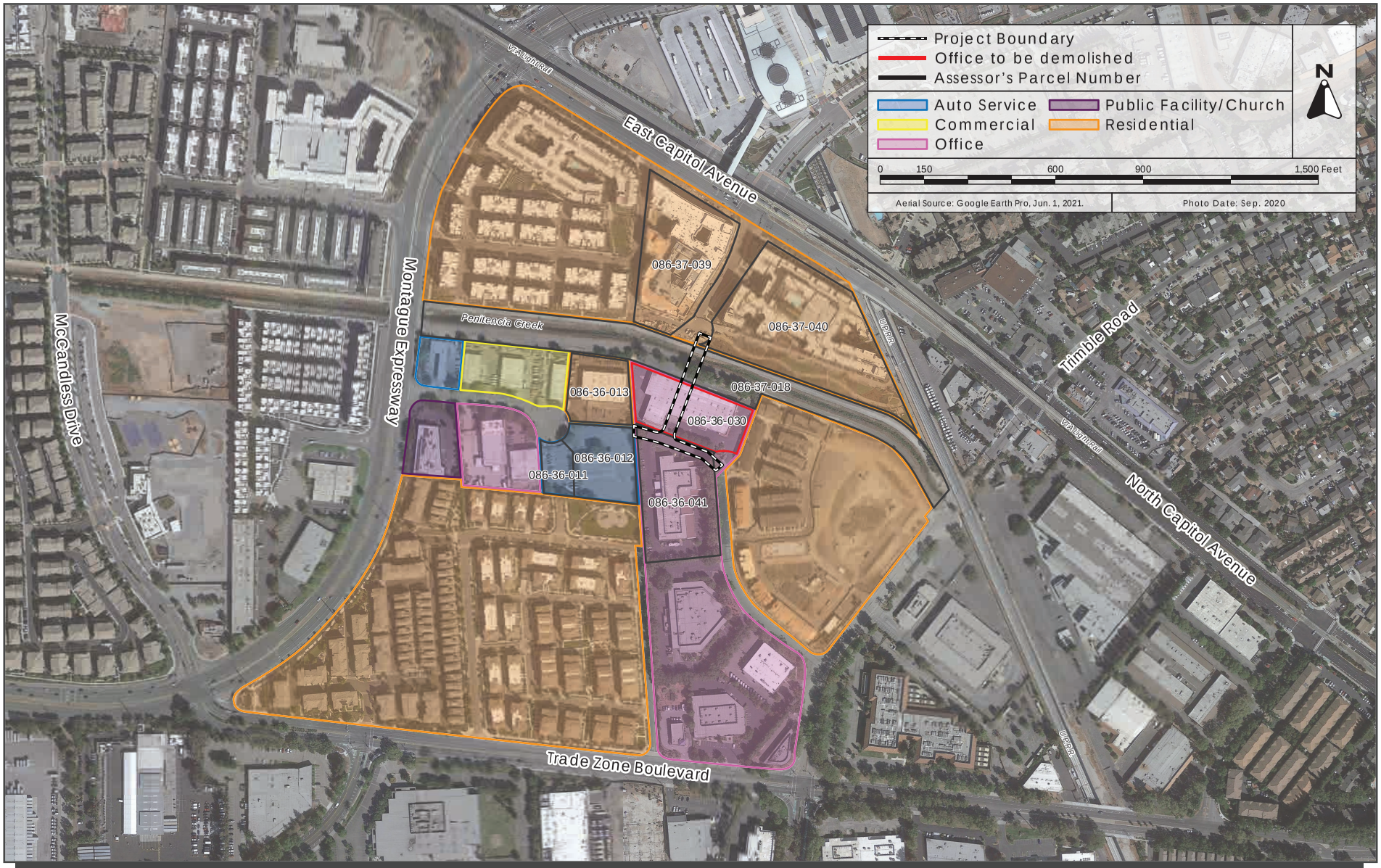
- Figure 2.4-1: Regional Map
- Figure 2.4-2: Vicinity Map
- Figure 2.4-3: Aerial Photograph and Surrounding Land Uses



REGIONAL MAP | FIGURE 2.4-1

FIGURE 2.4-2

VICINITY MAP



AERIAL PHOTOGRAPH AND SURROUNDING LAND USES | FIGURE 2.4-3

2.5 ASSESSOR'S PARCEL NUMBER

As shown on Figure 2.4-3, the proposed bridge and roadway alignment would intersect five parcels, including Assessor's Parcel Numbers (APNs), 086-36-030, 086-36-041, 086-37-018, 086-37-039, and 086-37-040.

2.6 GENERAL PLAN DESIGNATION AND ZONING DISTRICT

The parcels affected by the project have a General Plan land use designation of MMSP - Milpitas Metro Specific Plan. In the area of the proposed bridge, Penitencia East Channel (APN: 086-37-018) is zoned Park Open Space; the two parcels (APNs 086-37-039 and 086-37-040) north of the channel are zoned R5 (Urban Residential) and the parcels (APNs 086-36-030 and 086-36-041) south of the channel are respectively zoned R4 (Multi-Family-Very High Density) and R3 (Multi-Family).

2.7 PROJECT-RELATED APPROVALS, AGREEMENTS, AND PERMITS

2.7.1 Lead Agency (City of Milpitas)

- Project Approval by City Council

2.7.2 Responsible Agencies

- United States Army Corps of Engineers
    - Section 404 Permit
- California Department Fish & Wildlife:
    - Section 1600 Permit
- Regional Water Quality Control Board:
    - 401 Certification/Waste Discharge Permit
- Valley Water:
    - Encroachment permit
    - Joint Use Agreement
- South Bay Water Recycling:
    - Recycled Water Use Permit

SECTION 3.0 PROJECT DESCRIPTION

3.1 PROJECT OVERVIEW

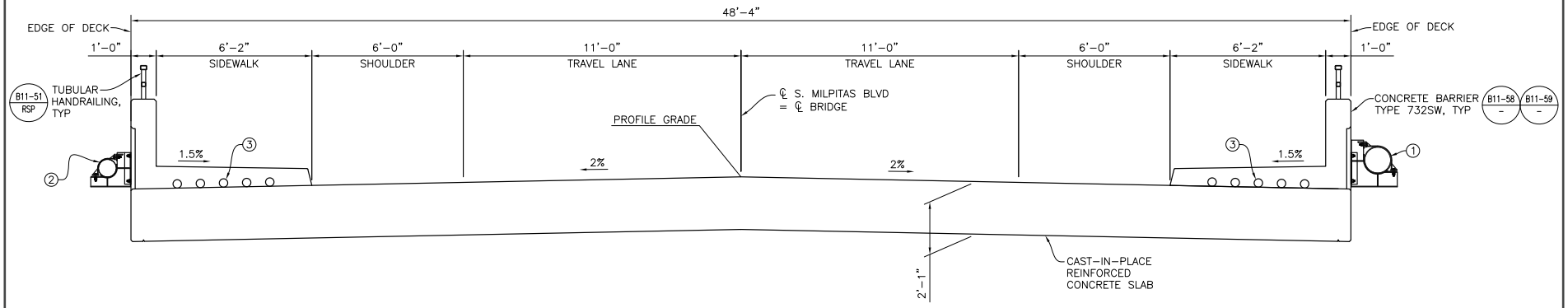
The South Milpitas Boulevard Bridge project proposes to construct a bridge across Penitencia East Channel and associated roadway connections consistent with the vision of the TASP and MMSP. The vehicular bridge and road network are part of the Metro Area Specific Plan circulation infrastructure plan to provide vehicular, bicycle, and pedestrian connectivity between Metro development, Milpitas BART Station/Milpitas Transit Station, Great Mall and surrounding residential developments. The proposed bridge would connect South Milpitas Boulevard on the north side of the channel with a new connector street to be constructed between Tarob Court and Sango Court on the south side of the channel. The proposed project would require demolition of the existing vacant office building located at 1831-1841 Tarob Court, Milpitas, CA 95035 (APN 086-36-030), which is owned by the City of Milpitas. The project also includes sidewalk, curb and gutter, bio retention and extension of existing 12-inch potable water and 8-inch recycled water lines from S. Milpitas Boulevard to Sango/Tango Court connection. The extension of these water lines would improve the water system within this area by creating a loop system. The project would be funded by TASP impact Fees.

3.2 PROJECT DESCRIPTION

3.2.1 Bridge

The proposed bridge would be approximately 40 feet long and 48 feet wide. The bridge would include an 11-foot-wide vehicle lane, a six-foot wide bicycle lane, and a six-foot wide sidewalk in each direction. The railing of the bridge would consist of vertical parallel steel plates mounted on concrete barriers. The steel plates would range in height from three to 12 feet, be illuminated from below and serve as decorative elements. Additionally, potable water and recycled water lines would be attached to the bridge. The bridge section is shown on Figure 3.2-1.

The bridge would be clear-span, meaning that no permanent structures or fill would be placed within Penitencia East Channel that is owned and maintained by Santa Clara Valley Water District. All abutments and support structures associated with the proposed bridge would occur outside the top of banks of Penitencia East Channel. The bridge would be supported by cast-in-place reinforced concrete abutments supported by cast-in-drilled-hole piers. There would be a total of 16 piers, seven for each abutment. Each of the piers would be 24 inches in diameter and would be drilled to a depth of 60 feet below the ground surface (bgs). The bridge elevation is shown on Figure 3.2-2.



LEGEND:

① 12" DIA. WATER, SEE CIVIL PLANS

② 8" DIA. RECYCLED WATER, SEE CIVIL PLANS

③ 5-4" DIA. FUTURE UTILITY OPENING

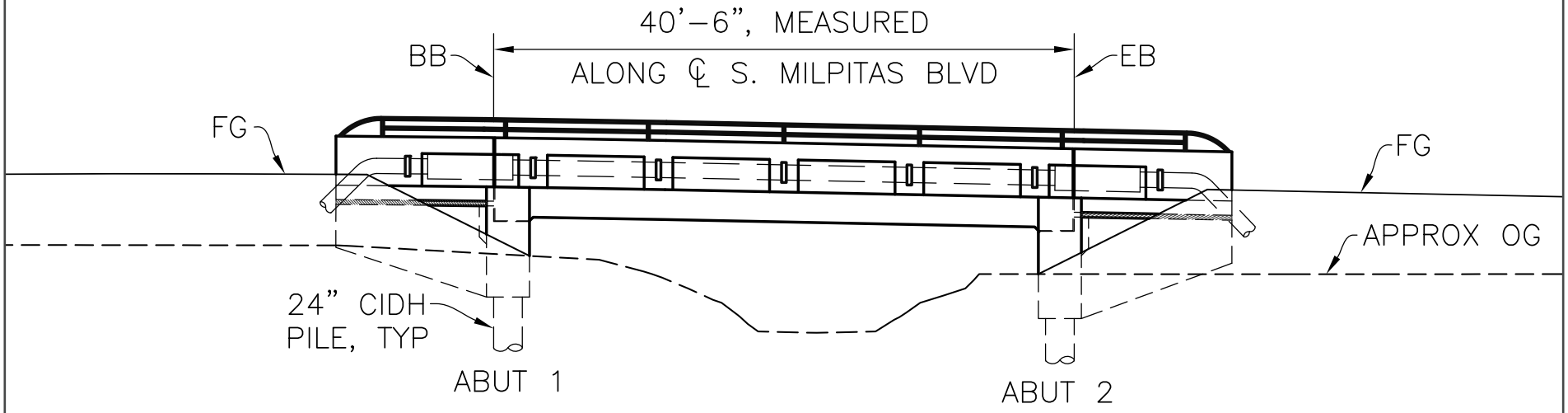
ALL FUTURE UTILITY OPENINGS SHALL CONSIST OF SCH 40 PVC AND SHALL HAVE EXPANSION JOINTS AT BOTH ABUTMENT JOINTS, SEE "UTILITY DUCT EXPANSION JOINT" ON B11-58

ALL FUTURE UTILITY OPENINGS TO BE FURNISHED AND INSTALLED BY BRIDGE CONTRACTOR, UNLESS NOTED OTHERWISE.

Source: Cornerstone Structural Engineering Group, Inc., April 1, 2020.

BRIDGE SECTION

FIGURE 3.2-1



Source: Cornerstone Structural Engineering Group, Inc., April 1, 2020.

BRIDGE ELEVATION | FIGURE 3.2-2

3.2.2 Circulation

The project would extend South Milpitas Boulevard approximately 250 feet from its current termination point to a new intersection and construct a new connector street between the termination points of Tarob Court and Sango Court (as shown on Figure 3.2-3). The connecting roadways would have a 54-foot right of way that includes 11-foot-wide travel lanes for both vehicles and bicycles going in each direction, an 8-foot-wide vehicle parking aisle on one side of the street, and 7-foot-wide planting strip and 5-foot-wide sidewalks on both sides of the street. The connecting roadways would consist of asphalt concrete surfacing.

South Milpitas Boulevard between East Capitol Avenue and the Sango Court/Tarob Court roadway connection would be a residential street with a speed limit of 25 miles per hour. Both the South Milpitas Boulevard/Tarob Court/Sango Court intersection and South Milpitas Boulevard/Vineyard Avenue intersection would be stop sign controlled.

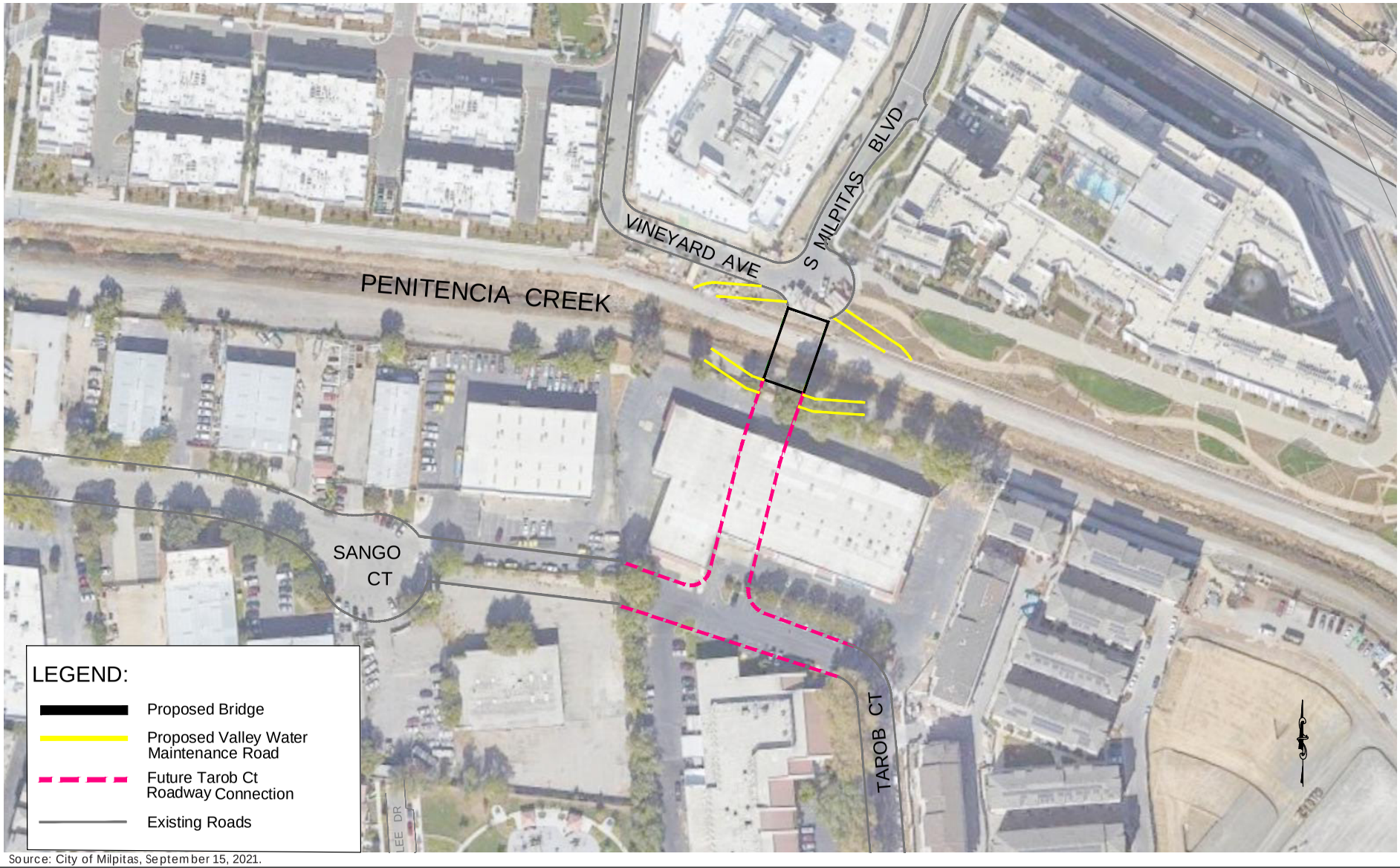
The proposed project would also construct connections to the existing Valley Water maintenance roads, which are located on both sides of Penitencia East Channel.

3.2.3 Right-of-Way and Temporary Construction Easements

The proposed bridge would require a permanent easement from Valley Water. The City of Milpitas would provide the right of way for the proposed roadway connection at the parcel located at 1831-1841 Tarob Court, Milpitas, CA 95035 (APN: 086-36-030). The City is currently in negotiations to acquire the right of way from the parcel located at 1905 Tarob Court, Milpitas, CA 95035 (APN 86-036-041).

3.2.4 Construction

In addition to construction of the proposed bridge and roadway connection, the proposed project would require demolition of the approximately 41,307-square-foot existing office building and associated site improvements (e.g., paved parking and landscaping) located at 1831-1841 Tarob Court, Milpitas, CA 95035. The project would also demolish the existing site improvements (e.g., paved parking and landscaping) located within the right of way acquired from the parcel located at 1905 Tarob Court, Milpitas, CA 95035 (APN 86-036-041). A total of approximately 20 trees would be removed during project construction. The trees removed by the project would be replaced in accordance with the Milpitas Tree Protection Ordinance (MMC Section X-2-7.01).



Source: City of Milpitas, September 15, 2021.

PROPOSED ROADWAY CONNECTION | FIGURE 3.2-3

Project construction would take approximately 18 months to complete. Temporary access into the creek channel may be necessary during bridge construction and falsework may need to be placed in the creek bed during construction, potentially requiring dewatering or diversion of the creek if water is present when construction occurs; therefore, as required by Valley Water, bridge construction would take place in a single dry season from June 15 to October 15, 2026. Demolition of the existing building and construction of the proposed roadway connection is anticipated to occur simultaneously with the bridge construction, estimated between Spring 2026 and Summer 2027. Construction work would occur between 7:00 a.m. and 7:00 p.m., Monday through Sunday, excluding holidays consistent with the City's Municipal Code Section V-213-3(b). No temporary roadway closures are anticipated during project construction. As required under the National Pollutant Discharge Elimination System (NPDES) Construction General Permit and Regional Water Quality Control Board (RWQCB) Municipal Regional Stormwater Permit (MRP), the proposed project would implement water quality control measures during and after project construction activities to protect Penitencia East Channel and other receiving waters downstream of the project site.

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*

State

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.[1]

In Santa Clara County, there is one state-designated scenic highway, State Route (SR) 9 from the Santa Cruz County line to the Los Gatos City Limit. Eligible State Scenic Highways in Santa Clara County (not officially designated) include: 1) SR 17 from the Santa Cruz County line to SR 9, 2) SR 35 from Santa Cruz County line to SR 9, 3) Interstate 280 from the San Mateo County line to SR 17, and 5) the entire length of SR 152 within the County. There are no state-designated scenic highways in Milpitas. The nearest officially designated State Scenic Highway to Milpitas is Interstate 680 (I-680), from Mission Boulevard to the Contra Costa County line.

Local

City of Milpitas General Plan 2040

Hillsides, ridges, visually significant vegetation, and other elements are crucial in shaping the City's scenic identity. Major entryways to the City (e.g., southbound I-880 at Dixon Landing Road) also shape the City's scenic identity. The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to aesthetics and are applicable to the project.

Policies	Description
Policy CD 3-3	Ensure that new development and redevelopment reinforces desirable elements of its neighborhood, district, or center, including architectural style, scale, and setback patterns.
Policy CD 3-4	Strengthen the identity of individual neighborhoods, districts, and centers through the use of entry monuments, flags, street signs, themed streets, natural features, landscaping, and lighting.

Streetscape Master Plan

The City of Milpitas Streetscape Master Plan adopted September 19, 2000, contains guidelines and recommendations for the varied streetscape conditions that exist or can be foreseen in the future and

[1] California Department of Transportation. "Scenic Highways." Accessed January 9, 2024. https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability/lap-liv-i-scenic-highways

is based on the understanding that attractive streetscapes are a benefit to the community – economically, environmentally, visually, and psychologically.

City of Milpitas Metro Specific Plan

The MMSP adopted in February 2023 has the following policies for the purpose of avoiding or mitigating aesthetic-related impacts resulting from planned development within the MMSP area, including the following:

Policies	Description
Policy SD 2.11	Amenity zones shall be located between the street and the Pedestrian Zone and provide amenities contributing to pedestrian comfort, convenience, safety and interest, and support positive social interaction.
Policy PA 3.7.2	Street trees shall be planted in the Amenity Zone at a maximum of 30 feet apart. Street trees shall be selected from Milpitas Approved Street Trees list. No more than one species shall be planted per block in planters between the street and the sidewalk. Trees should be the same species on both sides of the street on each block. Specimens may be more varied adjacent to buildings.

City of Milpitas Zoning Code (Title XI, Chapter 10, Section 54.17 – Lighting)

Exterior lighting shall be shielded or recessed so that direct glare and reflections are contained within the boundaries of the parcel, and shall be directed downward and away from adjoining properties and public rights-of-way. Fixtures shall be appropriate in terms of height, style, design, scale and wattage to the use of the property. Fixtures shall be spaced appropriately to maximize pedestrian safety.

4.1.1.2 *Existing Conditions*

Project Site

The project site is located near the BART Station/Milpitas Transit Center (located approximately 900 feet to the north of the project site) and is heavily developed with a wide range of urban uses. The proposed bridge would extend from the southern termination point of South Milpitas Boulevard (which is flanked by high-density residential buildings of modern, conventional construction) past the top of bank of the Penitencia East Channel. The proposed roadway connection would extend from the southern end of the bridge through the office development located at 1831-1841 Tarob Court, Milpitas, CA 95035, which was built in 2001 and then would branch east and west to the termination points of Tarob and Sango Court, respectively. (Figure 3.3-3)

1831-1841 Tarob Court, Milpitas, CA 95035 is developed with a one-story rectangular-shaped office building and an associated surface parking lot. The currently vacant office building has a flat roof with terra cotta roof tiles accenting portions of the building's roofline façade above large dark windows. A garage and shipping/ receiving area is located along the building's southern face.

Surrounding Area

The project site is located in an area developed with a mix of industrial, commercial, and residential buildings. The site is bordered to the north by East Capitol Avenue and the Milpitas Transit Center; to the east by new residential mid-rise buildings, townhouses, and the BART right-of-way; to the south by office buildings, townhouses, and Augustus Rathbone Park; and the west by a new high-density multi-family apartment building (currently under construction), office buildings, and light industrial warehouses.

The project area is developed with a mix of land uses and architectural styles. As a result, no single design aesthetic is dominant. Industrial buildings in the project area consist of metal warehouses and stucco buildings. Commercial buildings in the project area consist of a mix of wood siding and stucco. The multi-family buildings in the project area are of contemporary design.

Scenic Views

The City of Milpitas is located between Mission Hills to the east and baylands to the west. Mission Hills and Monument Peak form a distinctive scenic backdrop to the City and are important to community identity and character. Views of the Diablo Range are considered a prominent landmark dominating the City's eastern skyline.

The foothills and the Coyote Creek corridor provide the City of Milpitas with a scenic backdrop and visual reference points. Per the City of Milpitas General Plan, scenic resources include hillsides, ridges, visually significant vegetation, and other elements that are critical in shaping the City's scenic identity. Additionally, major entryways to the City (e.g., southbound I-880 at Dixon Landing Road) are considered important to the City's identity.

Scenic Highways

There are no officially designated State Scenic Highways in the vicinity of the City of Milpitas. The nearest officially designated State Scenic Highway is I-680 from Mission Boulevard in Fremont to Bernal Avenue near Pleasanton, located approximately 5.3 miles north of the City.[2]

Light and Glare

Sources of light and glare are abundant in the urban environment of the City of Milpitas, including but not limited to streetlights, vehicular headlights, internal/external building lights, security lights, and reflective building surfaces and windows. Areas of open space and along creeks typically have lower levels of ambient nighttime lighting and daytime glare.

[2] California Department of Transportation. *California State Scenic Highway Systems Map.* Accessed January 9, 2024. https://caltrans.maps.arcgis.com/apps/webappviewer/index.html?id=465dfd3d807c46cc8e8057116f1aacaa.

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

Impact AES-1: The project would not have a substantial adverse effect on a scenic vista. **(Less than Significant Impact)**

There are no officially designated scenic vistas in the City of Milpitas.[4] As described in Section 4.1.1.2 above, significant visual resources in the City include Mission Hills and Monument Peak. Additionally, views of the Diablo Range are considered a prominent landmark dominating the City's skyline. The project proposes to construct a bridge across Penitencia East Channel, demolish a one-story office building, construct an extension of S. Milpitas Boulevard and a new connector road, and construct new creek channel access for maintenance. The proposed bridge, including architectural enhancements would be up to approximately 15 feet in height from the finish grade. Due to the flat topography and surrounding development in the project area and the relatively small size of the proposed bridge, the proposed project would not substantially block or affect views of these visual resources. Therefore, implementation of the proposed project would not result in a substantial adverse effect on a scenic vista.

Impact AES-2: The project would not substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway. **(No Impact)**

The nearest officially designated State Scenic Highway is I-680 from SR 238 in Fremont to Bernal Avenue near Pleasanton and is located approximately 5.3 miles north of the City. The proposed

[3] Public views are those that are experienced from publicly accessible vantage points.
[4] City of Milpitas. *Milpitas General Plan Final Environmental Impact Report*. January 2020. SCH 2020070348.

bridge and roadway connections would not be visible from I-680, and therefore would not damage any scenic resources within a state scenic highway. Therefore, no impact would occur.

Impact AES-3:	The project is in an urbanized area. The project would not conflict with applicable zoning and other regulations governing scenic quality. **(Less than Significant Impact)**

The project would include 7-foot-wide planting strips on both sides of the connecting roadways consistent with MMSP Policies SD 2.11 and PA 3.7.2. Consistent with the intention of General Plan Policy CD 3-4, the railing of the bridge is designed to mimic the shape of the mountain range overlooking the City of Milpitas and would be illuminated with rainbow lights pointing upward away from the channel at nighttime, thereby strengthening the identity of the area through the use of natural features and lighting. With the implementation of the MMSP policies and General Plan Policy CD 3-4, the project would comply with all applicable zoning and other regulations related to scenic resources. Accordingly, the project would not be in conflict with regulations governing scenic quality.

Impact AES-4:	The project would not create a new source of substantial light or glare which would adversely affect day or nighttime views in the area. **(Less than Significant Impact)**

Sources of light and glare are abundant in the urban environment of the immediate project area, and include streetlights, security lights, residential lights, and reflective building surfaces and windows. The proposed bridge would include illuminated vertical parallel steel plates ranging from three to 12 feet. Bridge materials would be composed of steel and concrete. These materials would not generate glare effects. During operation, the bridge would introduce new light sources to the project area from bridge lighting and passing vehicle lights, including to the Penitencia East Channel. All new lighting for the project would comply with the City of Milpitas Zoning Code (Title XI, Chapter 10, Section 54.17 - Lighting) described above in Section 4.1.1.1 Regulatory Framework. For these reasons, the project would not create a source of substantial light or glare that would adversely affect day or nighttime views in the area.

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.[5]

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.[6]

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.[7] 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.[8]

[5] California Department of Conservation. "Farmland Mapping and Monitoring Program." Accessed January 9, 2024. http://www.conservation.ca.gov/dlrp/fmmp/Pages/Index.aspx.
[6] California Department of Conservation. "Williamson Act." http://www.conservation.ca.gov/dlrp/lca.
[7] 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)).
[8] California Department of Forestry and Fire Protection. "Fire and Resource Assessment Program." Accessed January 9, 2024. http://frap.fire.ca.gov/.

4.2.1.2 *Existing Conditions*

The Santa Clara County Important Farmland 2016 Map designates the project site as Urban and Built-Up Land.[9] Urban and Built-Up Land is defined as land occupied by structures with a building density of at least one unit per 1.5 acres, or approximately six structures to a 10-acre parcel. There is no agricultural or forest land located on or adjacent to the project site and the site is not subject to a Williamson Act contract.

4.2.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☒
2) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒
3) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?	☐	☐	☐	☒
4) Result in a loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒
5) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☐	☒

[9] California Department of Conservation. *Santa Clara County Important Farmland 2016 Map*. Accessed January 9, 2024. https://santaclaralafco.org/sites/default/files/scl16.pdf.

Impact AG-1:	The project would not 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. **(No Impact)**

The project site is designated as Urban and Built-Up Land[10], as discussed in Section 4.2.1.2 Existing Conditions, and is not designated as farmland of any type. Therefore, the project would not convert farmland to a non-agricultural use.

Impact AG-2:	The project would not conflict with existing zoning for agricultural use, or a Williamson Act contract. **(No Impact)**

The project site is not designated as farmland or zoned for agricultural use and is not the subject of a Williamson Act contract. The surrounding area is urbanized and not zoned for agricultural use or considered farmland. For these reasons, the proposed project would not conflict with zoning for agricultural uses or a Williamson Act contract.[11]

Impact AG-3:	The project would not conflict with existing zoning for, or cause rezoning of, forest land, timberland, or timberland zoned Timberland Production. **(No Impact)**

The project site and surrounding area are not zoned forest land or timberland.[12] Therefore, the proposed project would not impact timberland or forest land.

Impact AG-4:	The project would not result in a loss of forest land or conversion of forest land to non-forest use. **(No Impact)**

As discussed under Impact AG-3, The project site and surrounding area is not used or zoned for timberland or forest land.[13] Since the site is urban and built-up land surrounded by urbanized areas it could not support forest land or timberland. Therefore, the proposed project would not result in the loss of forest land or conversion of forest land to non-forest use.

[10] California Department of Conservation. *California Important Farmland Finder*. Accessed January 9, 2024. DLRP Important Farmland Finder (ca.gov)
[11] County of Santa Clara. *Interactive Map of Williamson Act Properties*. Accessed January 9, 2024. https://sccplanning.maps.arcgis.com/apps/webappviewer/index.html?id=1f39e32b4c0644b0915354c3e59778ce
[12] *Forest land* is land that can support 10 percent native tree cover and allows for management of one or more forest resources, including timber, fish, wildlife, and biodiversity (California Public Resources Code Section 12220(g)); *Timberland* is land not owned by the federal government or designated as experimental forest land that is available for, and capable of, growing a crop of trees used to produce lumber and other forest products, including Christmas trees (California Public Resources Code Section 4526); and *Timberland Production* is land devoted to and used for growing and harvesting timber and other compatible uses (Government Code Section 51104(g)).
[13] California Department of Forestry and Fire Protection. "Fire and Resource Assessment Program." Accessed January 9, 2024. http://frap.fire.ca.gov/

Impact AG-5:	The project would not involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use. **(No Impact)**

As stated in Impact AG-1 and Impact AG-4, the project site and surrounding area are not designated farmland or used for agricultural or forestry purposes. As a result, the implementation of the proposed project would not result in the conversion of farmland to non-agricultural use or forest land to non-forest uses.

4.3 AIR QUALITY

The following discussion is based, in part, on an Air Quality and Greenhouse Gas Assessment and an Update to the Air Quality Impact Analysis Memo prepared for the project by Illingworth & Rodkin, Inc. The reports, dated November 10, 2021 and November 20, 2023, are attached to this Initial Study as Appendix A.

4.3.1 Environmental Setting

4.3.1.1 *Background Information*

Criteria Pollutants

Criteria air pollutants are pollutants that have established federal or State standards for outdoor concentrations to protect public health. Pursuant with the federal and State Clean Air Acts, the United States Environmental Protection Agency (EPA) and the California Air Resources Board (CARB) have established and enforced the National Ambient Air Quality Standards (NAAQS) and California Ambient Air Quality Standards (CAAQS), respectively. The NAAQS and CAAQS address the following criteria air pollutants: ozone (O_3), nitrogen dioxide (NO_2), carbon monoxide (CO), particulate matter with a diameter of 10 microns or less (PM_{10}), particulate matter with a diameter of 2.5 micros or less ($PM_{2.5}$), sulfur dioxide (SO_2), and lead. The CAAQS also includes visibility reducing particles, sulfates, hydrogen sulfide, and vinyl chloride.

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).[14] 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, athletes, 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

[14] California Air Resources Board. "Overview: Diesel Exhaust and Health." Accessed January 9, 2024. https://ww2.arb.ca.gov/resources/overview-diesel-exhaust-and-health.

population groups include residential areas, hospitals, daycare facilities, elder care facilities, and elementary schools.

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

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.[15]

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.

Local

City of Milpitas General Plan 2040

The following policies and actions in the City's General Plan have been adopted for the purpose of avoiding or mitigating air quality impacts resulting from planned development within the City, including the following:

Policies/Actions	Description
Policy CIR 1-3	Promote interconnectivity of the transportation network in existing and new developments and actively measure the quality of conditions in neighborhoods to better understand what barriers exist in order to support use of and access to the network.
Policy CIR 1-4	Coordinate development of safe, inclusive, and health-promoting transportation infrastructure with local, county, regional, and state agencies to optimize efficiency of the transportation network for all users and increase opportunities for physical activity for all types of users.
Policy CIR 6-2	Support development of healthier communities through the use of lower- or non-polluting modes of transportation to reduce GHG vehicle emissions and local air pollution levels.
Action CIR-1j	Seek opportunities to eliminate close walking and bicycling network gaps across barriers to mobility, including I-680, I-880, SR 237, and the Union Pacific and BART tracks.
Action CIR-4q	Make improvements to roads, signs, and traffic signals as needed to improve accessible, safe, and convenient bicycle and pedestrian travel.
Policy CON 7-1	Ensure that land use and transportation plans support air quality goals through a logical development pattern that focuses growth in and around existing urbanized areas, locates new housing near places of employment, encourages alternative modes of transportation, supports efficient parking strategies, reduces vehicle miles traveled, and requires projects to mitigate significant air quality impacts.

[15] Bay Area Air Quality Management District. *2017 Clean Air Plan.* April 19, 2017.

Policies/Actions	Description
Policy CON 7-2	Minimize exposure of the public to toxic or harmful air emissions and odors through requiring an adequate buffer or setback distance between residential and other sensitive land uses and land uses that typically generate air pollutants, toxic air contaminants, or obnoxious fumes or odors, including but not limited to industrial, manufacturing, and processing facilities, high-volume roadways, and industrial rail lines. New sensitive receptors, such as residences (including residential care and assisted living facilities for the elderly), childcare centers, schools, playgrounds, churches, and medical facilities shall be located away from existing point sources of air pollution such that excessive levels of exposure do not result in unacceptable health risks. Compliance shall be verified through the preparation of a Health Risk Assessment when deemed necessary by the Planning Director.
Policy CON 7-4	Require projects to adhere to the requirements of the Bay Area Air Quality Management District (BAAQMD).
Policy CON 7-5	Use the City's development review process and the California Environmental Quality Act (CEQA) to evaluate and mitigate the local and cumulative effects of new development on air quality.
Policy CON 7-6	Coordinate with the California Air Resources Board (CARB) and the Bay Area Air Quality Management District to properly measure air quality emission sources and enforce the standards of the Clean Air Act.
Policy CON 7-7	Comply with regional, state, and federal standards and programs for control of all airborne pollutants and noxious odors, regardless of source.
Policy CON 7-8	Consider the health risks associated with Toxic Air Contaminants (TACs) when reviewing development applications.
Policy CON 7-11	Encourage improvements and design features that reduce vehicle delay such as bus turnouts, and synchronized traffic signals for new development to reduce excessive vehicle emissions caused by idling.
Policy CON 7-12	Encourage and prioritize infrastructure investments and improvements that promote safe walking, bicycling and increased transit ridership.
Action CON-7e	Require dust control measures, including those included in the Santa Clara Valley Non-point Source Pollution Control Program, and BAAQMD's Best Management Practices for fugitive dust control during construction.

Policies/Actions	Description
Action CON-7f	Use the BAAQMD "Air Quality Guidelines", as amended, or replaced, in identifying thresholds, evaluating the potential project and cumulative impacts, and determining appropriate mitigation measures. Review development, infrastructure, and planning projects for consistency with BAAQMD requirements during the CEQA review process. Require project applicants to prepare air quality analyses to address BAAQMD, and General Plan requirements, which includes analysis and identification of: • Air pollutant emissions associated with the project during construction, project operation, and cumulative conditions; • Potential exposure of sensitive receptors to toxic air contaminants; • Significant air quality impacts associated with the project for construction, project operation, and cumulative conditions; and • Mitigation measures to reduce significant impacts to less than significant or the maximum extent feasible where impacts cannot be mitigated to less than significant.
Action CON-7i	Require construction activity plans, and grading and drainage plans to include and/or provide for dust management to prevent fugitive dust from leaving the property boundaries and causing a public nuisance or a violation of an ambient air standard. Project applicants, or their assigned agents/contractors, shall be responsible for ensuring that all adequate dust control measures are implemented in a timely manner during all phases of project grading and construction.

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 in non-attainment 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 NOX), PM_{10}, and $PM_{2.5}$, and apply to both construction period and operational period impacts.

As shown in Figure 2.4-3, sensitive receptors (i.e. residences) are present to the west, east, north, and south of the project site. The nearest sensitive receptors are located immediately west and east of the project site on Sango Court (Sango Apartments) and Tarob Court (Parkside at Tarob Court), respectively.[16]

[16] Residences are also planned immediately south of the project site on Tarob Court.

4.3.2 Impact Discussion

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

4.3.2.1 *Thresholds of Significance*

An Air Quality and GHG Assessment was prepared for the project in November 2021 (refer to Appendix A). At the time, the analysis relied on the thresholds published by BAAQMD in its 2017 CEQA Guidelines. BAAQMD published updates to their 2017 CEQA Guidelines in April 2023. These updates were mostly a matter of including methods for assessing impacts that are currently practiced by most air quality specialists. To document these updates, address changes to existing conditions (i.e., recently constructed apartments), and explain why the air quality analysis completed for the proposed project is valid and additional modeling is not necessary, Illingworth & Rodkin prepared a memo in November 2023 (refer to Appendix A).

As discussed in CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for judgment on the part of the lead agency and must be based to the extent possible on scientific and factual data. The City of Milpitas has considered the air quality thresholds updated by BAAQMD in April 2023 and regards these thresholds to be based on the best information available for the San Francisco Bay Area Air Basin and conservative in terms of the assessment of health effects associated with TACs and $PM_{2.5}$. The BAAQMD CEQA Air Quality thresholds used in this analysis are identified in Table 4.3-12 below, which are consistent with BAAQMD's current (2022) CEQA Guidelines.

Table 4.3-1: BAAQMD Air Quality Significance Thresholds[17]			
Pollutant	**Construction Thresholds**	**Operation Thresholds**	
	Average Daily Emissions (pounds/day)	**Annual Daily Emissions (pounds/year)**	**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)	

Impact AIR-1: The project would not conflict with or obstruct implementation of the applicable air quality plan. **(Less than Significant Impact)**

Consistency with 2017 CAP

The 2017 CAP prepared for the Bay Area Air Basin defines an integrated, multi-pollutant control strategy to reduce emissions of particulate matter, TACs, ozone precursors, and GHGs. The proposed control strategy is designed to complement efforts to improve air quality and protect the climate that are being implemented by partner agencies at the state, regional, and local scale. The control strategy encompasses 85 individual control measures. The control measures describe specific actions to reduce emissions of air and climate pollutants from the full range of emission sources and is based on the following four key priorities (Chapter 5, page 5/35):

1. Reduce emissions of criteria air pollutants and TACs from all key sources.
2. Reduce emissions of "super-GHGs" such as methane, black carbon, and fluorinated gases.
3. Decrease demand for fossil fuels (gasoline, diesel, and natural gas).
    - Increase efficiency of energy, buildings, and transportation sectors

[17] Bay Area Air Quality Management District. 2022 *California Environmental Quality Act Air Quality Guidelines*. April 2023.

- Reduce demand for vehicle travel, and high-carbon goods and services.

4. Decarbonize our energy system.
    - Make the electricity supply carbon-free.
    - Electrify the transportation and building sectors.

As documented below, the proposed project does not exceed the BAAQMD thresholds for construction and operational criteria air pollutant emissions. The proposed project would reduce vehicle miles and vehicle hours traveled by providing a direct connection to surrounding uses and transportation facilities in the project area (refer to the discussion in Section 4.17 Transportation under Impact TRN-2), thereby, reducing criteria pollutant emissions (consistent with 2017 CAP priority #1) and demand for fossil fuels (consistent with 2017 CAP priority #3). For these reasons, the project would not preclude implementation of the 2017 CAP control measures and would not conflict with or obstruct implementation of the 2017 CAP. The project, therefore, would not result in a significant impact related to consistency with the 2017 CAP.

Construction Criteria Air Pollutants

In order to estimate emissions associated with construction of the bridge and roadway component of the project, the Air Quality Assessment (Appendix A) utilized the Sacramento Metropolitan Air Quality Management District's Road Construction Emission Model (RCEM) in accordance with BAAQMD guidance. The California Emissions Estimator Model (CalEEMod) Version 2020.4.0 was used to estimate emissions associated with demolition of the existing office building and associated surface parking lot.[18] Construction emissions were modeled based on equipment list and schedule information provided by the City. Details about the equipment list, construction schedule, modeling, data inputs, and assumptions are included in Appendix **A**. Table 4.3-23 below summarizes the annualized average daily construction emissions of ROG, NO_X, PM_{10} exhaust, and $PM_{2.5}$ exhaust during construction of the project.

Table 4.3-2: Project Construction Period Emissions

Year	ROG	NOx	PM_{10} Exhaust	$PM_{2.5}$ Exhaust
Construction Emissions Per Year (Tons)				
2023	0.11	1.15	0.05	0.04
2024	0.15	1.57	0.07	0.06
Annualized Daily Construction Emissions (pounds/day)				
2023[a]	1.69	17.36	0.75	0.66
2024[b]	1.17	11.87	0.54	0.47

[18] CalEEMod Version 2022.1 was released in May 2022 and recommended for use by BAAQMD in 2023. CalEEMod is routinely updated as newer, more accurate, information becomes available. In fact, there have been 34 updates to Version 2022.1 since its release. The primary difference between the prior and current versions of CalEEMod is that the current version uses EMFAC2021 model mobile emission factors and the prior version uses EMFAC2017 emission factors. The CalEEMod version used for the project air quality and GHG assessment was updated to use the EMFAC2021 emission factors and, therefore, is largely consistent with CalEEMod Version 2022.1 (refer to Appendix A).

BAAQMD Thresholds	*54 lbs./day*	*54 lbs./day*	*82 lbs./day*	*54 lbs./day*
Exceeds Threshold?	No	No	No	No

Source: Illingworth & Rodkin, Inc. *S. Milpitas Boulevard Vehicular Bridge Air Quality Assessment*. November 10, 2021.

Notes:

[a] Assumes 132 construction workdays

[b] Assumes 264 construction workdays

As shown in Table 4.3-23 above, the project's construction criteria pollutant emissions would not exceed BAAQMD thresholds. Additionally, implementation of MM AIR-3.1, described below under Impact AIR-3, would reduce $PM_{2.5}$ emissions associated with fugitive dust by 69 percent, and implementation of MM AIR-3.2 would reduce $PM_{2.5}$ emissions associated with construction vehicle exhaust by approximately 86 percent. Therefore, construction criteria air pollutant emissions would be less than significant.

Operation Criteria Air Pollutants

Operational air emissions from the project would be generated primarily by traffic using the new bridge and roadway connection. Emissions associated with vehicle travel depend on the year of analysis because emission control technology requirements are phased-in over time. This analysis assumed that the project would be fully built out and operating in the year 2027.[19]

Annual emissions were predicted using CARB's on-road vehicle emissions model, EMFAC2021. The emissions associated with the existing office development were subtracted from emissions associated with the project to calculate the net increase in emissions caused by the project. The modeling assumptions, data inputs, and results are described further in Appendix **A** of this Initial Study. Table 4.3-34 below shows the net average daily emissions of ROG, NO_X, total PM_{10}, and total $PM_{2.5}$ during project operation in comparison with the BAAQMD thresholds of significance identified in Table 4.3-12.

[19] The analysis of project emissions assumed an earlier build-out date than what the project now proposes (full build-out date of 2027). Since construction at a later date would produce less emissions due to improvements in vehicle efficiency, the emissions reported in Table 4.3-4 are conservative.

Table 4.3-3: Project Operational Period Emissions				
Scenario	**ROG**	**NOx**	**PM_{10}**	**$PM_{2.5}$**
Project (2024) Annual Emissions (tons/year)	0.002	0.004	0.03	0.004
Existing (2024) Annual Emissions (tons/year)	0.39	0.17	0.25	0.07
Net Annual Emissions (*tons/year*)	-0.39	-0.16	-0.22	-0.06
BAAQMD Thresholds (tons /year)	*10 tons*	*10 tons*	*15 tons*	*10 tons*
Exceeds Threshold?	No	No	No	No
Project (2024) Net Average Daily Emissions (pounds/day)[a]	0.01	0.02	0.14	0.02
BAAQMD Thresholds (pounds/day)	*54 lbs.*	*54 lbs.*	*82 lbs.*	*54 lbs.*
Exceeds Threshold?	No	No	No	No

Source: Illingworth & Rodkin, Inc. *S. Milpitas Boulevard Vehicular Bridge Air Quality Assessment*. November 10, 2021.

Notes:

[a] Assumes 365-day operation

As shown in Table 4.3-34 above, the project's operational emissions would not exceed BAAQMD significance thresholds for ROG, NOx, PM_{10}, and $PM_{2.5}$ and, therefore, operational criteria air pollutant emissions would be less than significant.

Impact AIR-2: The project would not result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard. **(Less than Significant Impact)**

As stated in the BAAQMD CEQA Air Quality Guidelines, air pollution by its nature is largely a cumulative impact. No single project is sufficient in size to, by itself, result in non-attainment of ambient air quality standards. If a project exceeds the identified significance thresholds, its emissions would be cumulatively considerable, resulting in significant adverse air quality impacts to the region's existing air quality conditions.

As described in Section 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 the California Clean Air Act. The area is also considered non-attainment for PM_{10} under the California Clean Air Act, but not the federal act. The area has attained both state and federal ambient air quality standards for carbon (CO) monoxide. As part of an effort to attain and maintain ambient air quality standards, BAAQMD

has established thresholds of significance for O_3 precursor pollutants (ROG and NOX), PM_{10}, and $PM_{2.5}$ and apply to both construction period and operational period impacts. As described above under Impact AIR-1, the project would not result in an exceedance of BAAQMD thresholds for these air pollutants during construction or operation. Therefore, the project would not result in a cumulatively considerable net increase of any criteria pollutant for which the project region is in non-attainment under any applicable federal or state ambient air quality standard.

Impact AIR-3:	The project would not expose sensitive receptors to substantial pollutant concentrations. **(Less than Significant Impact with Mitigation Incorporated)**

Fugitive Dust

Construction activities, particularly during demolition, site preparation, and grading, would temporarily generate fugitive dust in the form of PM_{10} and $PM_{2.5}$. Sources of fugitive dust would include disturbed soils at the construction site and trucks carrying uncovered loads of soils. Unless properly controlled, vehicles leaving the site would deposit mud on local streets, which could be an additional source of airborne dust after it dries. Substantial dust generation would be a significant impact.

Mitigation Measures: Implementation of the following mitigation measures would ensure that potential impacts from dust are less than significant.

MM AIR-3.1: The project shall implement the following Bay Area Air Quality Management District (BAAQMD) basic and additional construction mitigation measures during all applicable phases of construction:

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered at a frequency adequate to maintain minimum soil moisture of 12 percent (i.e., three times a day). Moisture content shall be verified by lab samples or moisture probe.
- All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph.
- The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be phased to reduce the amount of disturbed surfaces at any one time.
- Wind breaks (e.g., trees, fences) shall be installed on the windward side(s) of actively disturbed areas of construction. Wind breaks shall have at maximum 50 percent air porosity.
- Vegetative ground cover (e.g., fast-germinating native grass seed) shall be planted in disturbed areas as soon as possible and watered appropriately until vegetation is established.
- All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.

- All vehicle speeds on unpaved roads shall be limited to 15 mph.
- All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- Site accesses to a distance of 100 feet from the paved road shall be treated with a six to 12-inch compacted layer of wood chips, mulch, or gravel.
- All trucks and equipment, including their tires, shall be washed off prior to leaving the site.
- All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- Sandbags or other erosion control measures shall be installed to prevent silt runoff to public roadways from sites with a slope greater than one percent.
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to two minutes (as required by the California airborne 14 toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. BAAQMD's phone number shall also be visible to ensure compliance with applicable regulations.

With incorporation of MM AIR-3.1, which would implement both BAAQMD basic and additional construction measures, fugitive dust and other particulate matter during construction would have a less than significant air quality impact.

Community Health Risk

Project impacts related to increased community risk can occur either by introducing a new source of TACs with the potential to adversely affect existing sensitive receptors in the project vicinity or by significantly exacerbating existing cumulative TAC impacts. This project would introduce new sources of TACs during construction (i.e., on-site construction and truck hauling emissions) and operation (i.e., mobile and stationary sources). During operation, the project would generate approximately 800 daily trips consisting of mostly light-duty vehicles.[20]

[20] Hexagon Transportation Consultants, Inc. *Transportation Analysis for the Penitencia Creek Bridge Project Memorandum*. October 1, 2021.

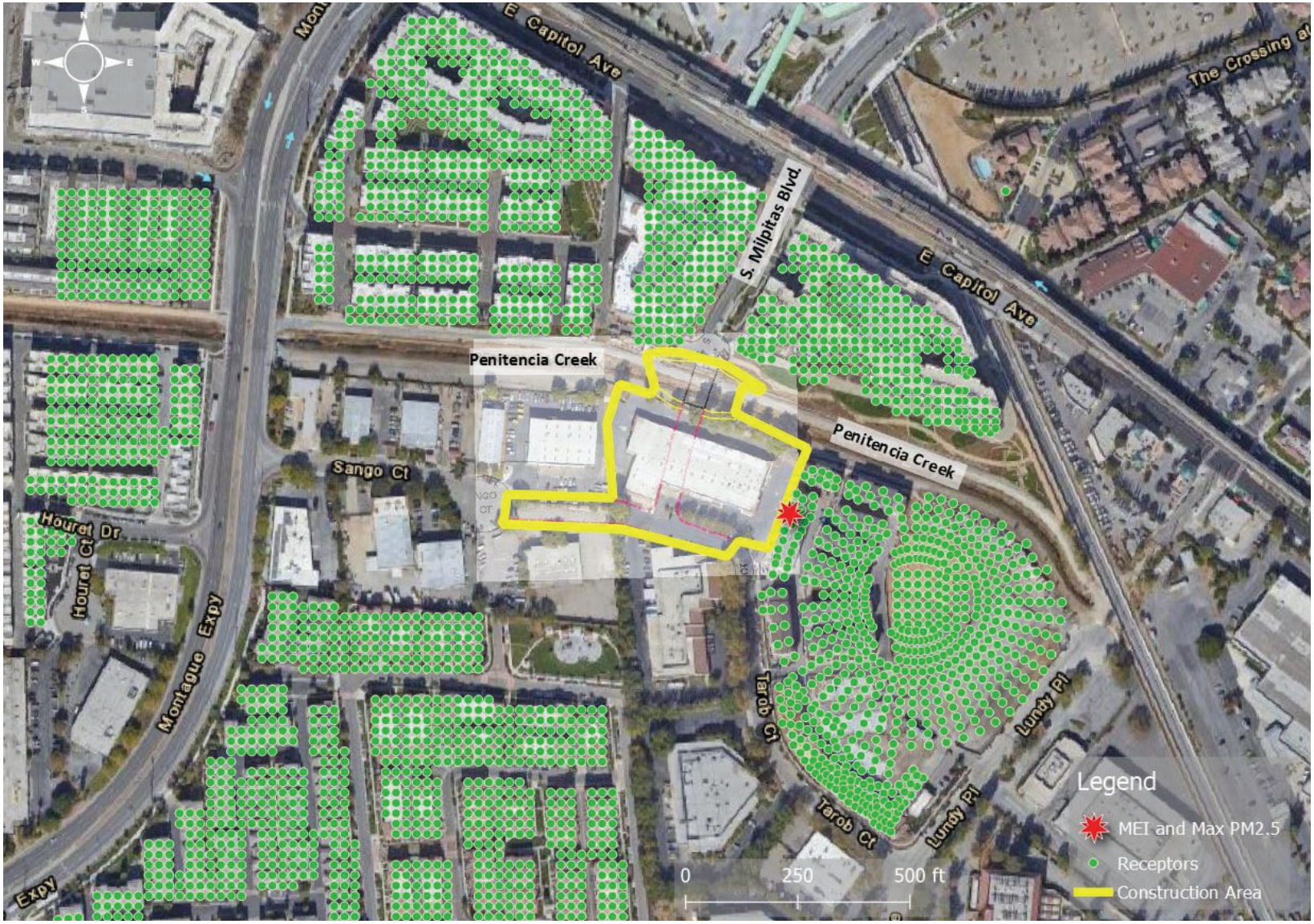
Community Health Risk from Construction Activity

Construction equipment and associated heavy-duty truck traffic generates diesel exhaust, which is a known TAC. Although construction exhaust air pollutant emissions would not contribute substantially to existing or projected air quality violations (see Impact AIR-1), construction exhaust emissions may still pose health risks for sensitive receptors such as surrounding residents. The primary community risk impact issues associated with construction emissions are cancer risk and exposure to $PM_{2.5}$. DPM poses both a potential health and nuisance impact to nearby receptors. A quantitative health risk assessment of project construction activities was conducted to evaluate the potential health effects to nearby sensitive receptors from construction emissions of DPM and $PM_{2.5}$.

As noted under Impact AIR-1, construction period emissions were modeled using RCEM and CalEEMod. These models provided total annual PM_{10} exhaust emissions (assumed to be DPM) for the off-road construction equipment and EMFAC2021 was used to estimate exhaust emissions from on-road vehicles. Total DPM emissions from the construction site was estimated to be 0.11 tons (218 pounds). The on-road emissions are a result of haul truck travel during grading activities, worker travel, and vendor deliveries during construction. Due to the small size of the project site, a trip length of a half-mile was used to represent construction vehicle travel while at or near the construction site, which is where the construction emissions that nearby sensitive receptors would be exposed to would be generated. Fugitive $PM_{2.5}$ dust emissions were estimated to be 0.11 tons (227 pounds) using the same methods and assumptions used to estimate site DPM emissions.

The U.S. EPA AERMOD dispersion model was used to predict DPM and $PM_{2.5}$ concentrations at sensitive receptors (i.e. nearby residents) in the vicinity of the project construction area. Figure 4.3-1 shows the locations of sensitive receptors near the project site and the maximally exposed individual (MEI).[21] The highest $PM_{2.5}$ concentration would occur on the first floor (approximately five feet above ground) and the maximum cancer risk would occur on the second floor (approximately 15 feet above ground) at the adjacent multi-family residence located 16 feet east of the project site. Table 4.3-4 below shows the unmitigated maximum cancer risks, $PM_{2.5}$ concentrations, and hazard indexes (HIs) for project construction activities affecting the off-site residential MEI.

[21] After completion of the project air quality impact analysis, residences were constructed immediately west of the project site (i.e., Sango Apartments) and are also planned to the south. At the time the dispersion modeling was completed, these receptors were not known. However, these new existing and planned receptors would not be expected to experience more exposure than was identified at the MEI due to the prevailing wind direction in the project area. Source: Reyff, James. Illingworth & Rodkin, Inc. Personal Communication. December 19, 2023.



Source: Illingworth & Rodkin, Inc., November 10, 2021.

OFF-SITE RECEPTORS AND MAXIMALLY EXPOSED INDIVIDUAL | FIGURE 4.3-1

Table 4.3-4: Unmitigated Construction Risk Impacts at Off-Site MEI			
Source	**Cancer Risk (per million)**	**Annual $PM_{2.5}$ ($\mu g/m^3$)**	**Hazard Index**
Project Construction (18 months)	**82.77 (infant)**	**0.87**	0.06
BAAQMD Single-Source Threshold	*10.0*	*0.3*	*1.0*
Exceeds Single-Source Threshold?	***Yes***	***Yes***	*No*
Source: Illingworth & Rodkin, Inc. *S. Milpitas Boulevard Vehicular Bridge Air Quality Assessment*. November 10, 2021. Notes: Numbers in excess of BAAQMD single-source thresholds identified in **bold.**			

As shown in Table 4.3-4 above, the unmitigated maximum increased cancer risks and maximum annual $PM_{2.5}$ concentrations from construction exceed the BAAQMD single-source thresholds of greater than 10.0 per million for cancer risk and greater than 0.3 µg/m3 for $PM_{2.5}$ concentrations, which would have a significant impact on the MEI without mitigation.

Mitigation Measures: Implementation of the following mitigation measures would ensure that potential health risk impacts are reduced to less than significant.

MM AIR-3.2: The project shall develop a plan demonstrating that the off-road equipment used on-site to construct the project would achieve a fleet-wide average 86 percent reduction in diesel particulate matter (DPM) exhaust emissions or greater.

- All diesel-powered off-road equipment, larger than 25 horsepower, operating on the site for more than two days continuously shall, at a minimum, meet U.S. Environmental Protection Agency (EPA) particulate matter emissions standards for Tier 4 Final engines.
- Where Tier 4 equipment is not available, all construction equipment larger than 25 horsepower used at the site for more than two continuous days shall meet U.S. EPA emissions standards for Tier 3 engines and include California Air Resources Board-certified Level 3 Diesel Particulate Filters or equivalent that altogether achieves a 86 percent reduction in exhaust emissions. Equipment that is electrically powered or uses non-diesel fuels would also meet this requirement.

Implementation of MM AIR-3.1 (described above under Fugitive Dust) would reduce $PM_{2.5}$ emissions associated with fugitive dust by 69 percent, and implementation of MM AIR-3.2 would reduce $PM_{2.5}$ emissions associated with construction vehicle exhaust by approximately 86 percent.

Implementation of these mitigation measures would reduce the maximum increased cancer risk to 8.28 cases and the maximum annual $PM_{2.5}$ concentration to 0.24, which is below their respective BAAQMD thresholds. Accordingly, construction of the project would not expose nearby sensitive receptors to substantial pollutant concentrations with mitigation incorporated.

Community Health Risk from Project Operations

Operation of the project would generate emissions from mobile sources (i.e., traffic). Based on the project's trip generation estimates, the project would generate a maximum of 800 new daily trips. Emissions associated with project traffic were modeled using a combination of EMFAC2021 and CT-EMFAC2017. Since the project proposes to demolish the existing office building and associated parking lot, emissions associated with operation of the existing development were estimated using CalEEMod and subtracted from project emissions. The modeling assumptions, data inputs, and results are described further in Appendix **A** of this Initial Study. Table 4.3-5 below shows the maximum cancer risks, $PM_{2.5}$ concentrations, and hazard indexes (HIs) associated with project operation.

Table 4.3-5: Operational Risk Impacts at Off-Site MEI

Source	Cancer Risk (per million)	Annual $PM_{2.5}$ ($\mu g/m^3$)	Hazard Index
Project Traffic (Years 0-30)	0.05 (infant)	0.02	<0.1
BAAQMD Single Source Threshold	*10*	*0.3*	*1.0*
Exceeds Single-Source Threshold?	No	No	No

Source: Illingworth & Rodkin, Inc. *S. Milpitas Boulevard Vehicular Bridge Air Quality Assessment*. November 10, 2021.

As shown above, operation of the project would not result in maximum cancer risks, $PM_{2.5}$ concentrations, or HIs in excess of BAAQMD thresholds. Accordingly, operation of the project (on its own) would not expose nearby sensitive receptors to substantial pollutant concentrations.

Health Effects from Criteria Pollutants

In a 2018 decision (*Sierra Club v. County of Fresno*), the state Supreme Court determined that CEQA requires that when a project's criteria air pollutant emissions would exceed applicable thresholds and make a cumulatively considerable contribution to a significant cumulative regional criteria pollutant impact, the potential for the project's emissions to affect human health in the air basin must be disclosed. State and federal ambient air quality standards are health-based standards and exceedances of those standards result in continued unhealthy levels of air pollutants. In developing thresholds of significance for air pollutants, BAAQMD considered the emission levels for which a project's individual emissions would be cumulatively considerable. If a project has a less than significant impact for criteria pollutants, it is assumed to have no adverse health affect. As described previously under Impact AIR-1, the proposed project would not exceed BAAQMD thresholds for criteria air pollutants. Therefore, the project would not result in an adverse health effect due to emissions of criteria air pollutants.

Impact AIR-4:	The project would not result in other emissions (such as those leading to odors) adversely affecting a substantial number of people. **(Less than Significant Impact)**

BAAQMD has identified a variety of land uses that produce emissions that may lead to odors and generate complaints including, but are not limited to, wastewater treatment plants, landfills, composting operations, and food manufacturing facilities.

Roadways do not typically generate objectionable odors, nor do they fall under any of the land uses identified by BAAQMD to cause objectionable odors. Localized odors, mainly resulting from diesel exhaust and construction equipment on-site, would be created during the construction phase of the project. These odors would be temporary and not likely be noticed beyond the project site's boundaries. Project-related traffic would be primarily light-duty vehicle traffic, which typically does not use diesel fuel and would not be a substantial permanent source of diesel exhaust odors. Therefore, the project would not result in other emissions that could adversely affect a substantial number of people.

4.4 BIOLOGICAL RESOURCES

The following discussion is based in part on a Biological Resources Report prepared by H.T. Harvey and Associates. The report, dated December 2023, is included in this Initial Study as Appendix B.

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. The taking and killing of birds resulting from an activity is not prohibited by the MBTA when the underlying purpose of that activity is not to take birds.[22] Nesting birds are considered special-status species and are protected by the USFWS. The CDFW also protects migratory and nesting birds under California Fish and Game Code Sections 3503, 3503.5, and 3800. The CDFW defines taking as causing abandonment and/or loss of reproductive efforts through disturbance.

Magnuson-Stevens Fishery Conservation and Management Act

The Magnuson-Stevens Fishery Conservation and Management Act governs all fishery management activities that occur in federal waters within the United States' 200-nautical-mile limit. The Act establishes eight Regional Fishery Management Councils responsible for the preparation of fishery

[22] United States Department of the Interior. *Memorandum M-37050. The Migratory Bird Treaty Act Does Not Prohibit Incidental Tak*e. January 9, 2024. https://www.doi.gov/sites/doi.gov/files/uploads/m-37050.pdf.

management plans to achieve the optimum yield from U.S. fisheries in their regions. These councils, with assistance from the National Marine Fisheries Service (NMFS), establish Essential Fish Habitat (EFH) in FMPs for all managed species. Federal agencies that fund, permit, or implement activities that may adversely affect EFH are required to consult with the NMFS regarding potential adverse effects of their actions on EFH, and respond in writing to recommendations by the NMFS.

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.

Local

City of Milpitas General Plan 2040

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to biological resources and are applicable to the project.

Policies	Description
Policy CON 2-1	Conserve existing native trees and vegetation where possible and integrate regionally native trees and plant species into development and infrastructure projects where appropriate.
Policy CON 2-3	Avoid removal of large, mature trees that provide wildlife habitat, visual screening, or contribute to the visual quality of the environment through appropriate project design and building siting. If full avoidance is not possible, prioritize planting of replacement trees on-site over off-site locations. Replacement trees for high-quality mature trees should generally be of like kind, and provide for comparable habitat functionality, where appropriate site conditions exist.
Policy CON 3-1	Preserve and enhance biological communities that contribute to Milpitas' and the region's biodiversity including, but not limited to, wetlands, riparian areas, and aquatic habitat.
Policy CON 3-2	Preserve and enhance the aesthetic and habitat value of riparian corridors including, but not limited to Coyote, Berryessa and Penitencia Creeks.
Policy CON 3-3	Limit the disturbance of natural water bodies and drainage systems in Milpitas by conserving natural open space areas, protecting channels, and minimizing the impacts and pollutants from stormwater and urban runoff.

Policies	Description
Policy CON 3-5	Work with the Santa Clara Valley Water District to preserve wetlands, riparian corridors, and buffer zones in Milpitas by continuing to require that new development follow the "Guidelines and Standards for Land Use Near Streams" to protect streams and riparian habitats. Encourage the use of Green Stormwater Infrastructure such as water quality wetlands, bioretention swales, watershed-scale retrofits, and other low-impact development techniques, etc., consistent with the City's Green Stormwater Infrastructure Plan and where such measures are likely to be effective and technically and economically feasible.

City of Milpitas Metro Specific Plan

The MMSP adopted the following policies for the purpose of avoiding or mitigating biological resources impacts resulting from planned development within the MMSP area, including the following:

Policies	Description
SC 9.1	To the extent feasible, future developers in the Metro Plan Area will conduct initial construction activities outside the nesting season between September 16 and January 14 including, but not limited to, tree trimming or tree removal, ground disturbance, demolition, site grading, and other activities that may compromise breeding birds or the success of their nests occurring within or outside the development site. If construction must occur during the migratory bird nesting season between February 1 to August 31 for small bird species, January 15 to September 15 for owls, and February 15 to September 15 for other raptors, a qualified wildlife biologist will conduct two preconstruction nesting surveys within 14 days and 48 hours prior to the start of construction or demolition. Additional surveys will be conducted 48 hours prior to the start of construction or demolition in areas that have not been previously disturbed by construction activities or after any construction breaks of 10 days or more. Typical experience requirements for a "qualified biologist" include a minimum of 4 years of academic training and professional experience in biological sciences and related resource management activities, and a minimum of 2 years of experience in biological monitoring or surveying for nesting birds. Surveys of suitable habitat will be performed in publicly accessible areas within 250 feet, 500 feet, and 1,000 feet of the construction site to locate any active passerine, small raptor (e.g., accipiters), and large raptor (e.g., buteos) nests, respectively. Surveys will be conducted at the appropriate times of day and during appropriate nesting times.
SC 9.2	If active nests are located during the preconstruction nesting bird surveys, a qualified biologist will evaluate the construction schedule and location to determine if construction activities could affect an active nest. If so, the following measures will apply, as determined by the qualified biologist: • If construction would not affect an active nest, construction may proceed without restriction; however, a qualified biologist will regularly monitor the nest at a frequency determined appropriate for the surrounding construction activity, to confirm that there would be no adverse effect. The frequency of spot check monitoring would be determined on a case by-case basis, considering the scope

Policies	Description

of the particular construction activity, duration, proximity to the nest, and any physical barriers that may screen the nest. The qualified biologist may revise the determination at any time during the nesting season.

- If it is determined that construction could affect an active nest, the qualified biologist will establish a no disturbance buffer around the nest. All construction will halt within the buffer until the qualified biologist determines that the nest is no longer active. Buffer distances will be equal to the survey distances (i.e., 50 feet for passerines and 250 feet for raptors); however, the buffer may be adjusted if an obstruction, such as a building, is within the line of sight between the nest and construction.
- Modifying nest buffer distances, allowing certain construction activities within the buffer, and/or modifying construction methods in proximity to active nests will be done at the discretion of the qualified biologist.
- Any construction that must occur within established no disturbance buffers will be monitored by a qualified biologist. If adverse effects in response to construction within the buffer are observed that could compromise the nest, construction within the no disturbance buffer will halt until the nest occupants have fledged.
- Any birds that begin nesting within the construction area and survey buffers amid construction activities are assumed to be habituated to construction related or similar noise and disturbance levels. Therefore, exclusion zones around nests may be reduced or eliminated in these cases, as determined by the qualified biologist. Construction may proceed around active nests as long as the nests and their occupants would not be directly affected.

If inactive nests are observed within or adjacent to the construction site, removal or relocation of the inactive nests will be at the discretion of the qualified biologist. Construction may proceed around inactive nests.

Tree Maintenance and Protection Ordinance

The Tree Maintenance and Protection Ordinance of the City of Milpitas (Milpitas Municipal Code, Chapter 2) serve to preserve all trees and plantings on City property, when feasible, and all protected plantings of significant size, age, and/or benefit to the community at large. Protected trees include:

- All trees which have a 56-inch or greater circumference of any trunk measured 4.5 feet from the ground and located on developed residential property; or
- All trees which have a 37-inch or greater circumference of any trunk measured 4.5 feet from the ground and located on developed commercial or industrial property; or
- All trees which have a 37-inch or greater circumference of any trunk measured 4.5 feet from the ground, when removal relates to any transaction for which zoning approval or subdivision approval is required; or
- Any tree existing at the time of a zoning or subdivision approval and was a specific subject of such approval or otherwise covered by subsection (b) above; or
- All trees which have a 37-inch or greater circumference of any trunk measured 4.5 feet from the ground and located on a vacant, undeveloped or underdeveloped property; or
- All heritage trees or groves of trees as defined in Section X 2-2.10.

A tree removal permit is required from the City of Milpitas for the removal of any street tree, protected tree, or heritage planting.

4.4.1.2 *Existing Conditions*

The project site is currently developed with office uses and open space along Penitencia East Channel in an urbanized area of Milpitas. A reconnaissance survey was completed to 1) assess the existing biotic habitat and plant and animal communities in the project vicinity, 2) assess the site for its potential to support special-status species and their habitats, and 3) identify potential jurisdictional habitats. For the purposes of this Initial Study, the "study area" includes the portion of the project site that spans Penitencia East Channel as shown on
The developed/landscaped habitat within the project footprint is of relatively low value to wildlife due to the general lack of vegetation and the predominance of non-native species where vegetation is present. In general, the habitats identified in the study area provide habitat for certain common, urban-adapted wildlife species typically associated with urban development.

Riparian Annual Grassland

This habitat type occurs between the top of bank along the edge of the Valley Water access roads and the ordinary high-water mark (OHWM). The channel banks consist entirely of ruderal grass and herb species.

Common, urban-adapted bird species found elsewhere in the study area likely also occur in the ruderal grassland levee slope, although this habitat has limited value for wildlife due to the absence of trees and shrubs and its isolation from large, contiguous tracts of other grassland. No evidence of burrowing mammals, such as California ground squirrels (*Otospermophilus beecheyi*) or valley pocket gophers (*Thomomys bottae*), was observed.

Figure 4.4-1. The study area is bounded by dense residential development to the north, east and west, and office development to the south.

Biotic Habitat

Reconnaissance-level surveys identified three habitat types or land uses in the study area: developed/landscaped; riparian annual grassland, and intermittent stream/freshwater marsh. This habitat is described in detail below, and the distribution of these habitats is shown in Figure 4.4-2.

Developed/Landscaped

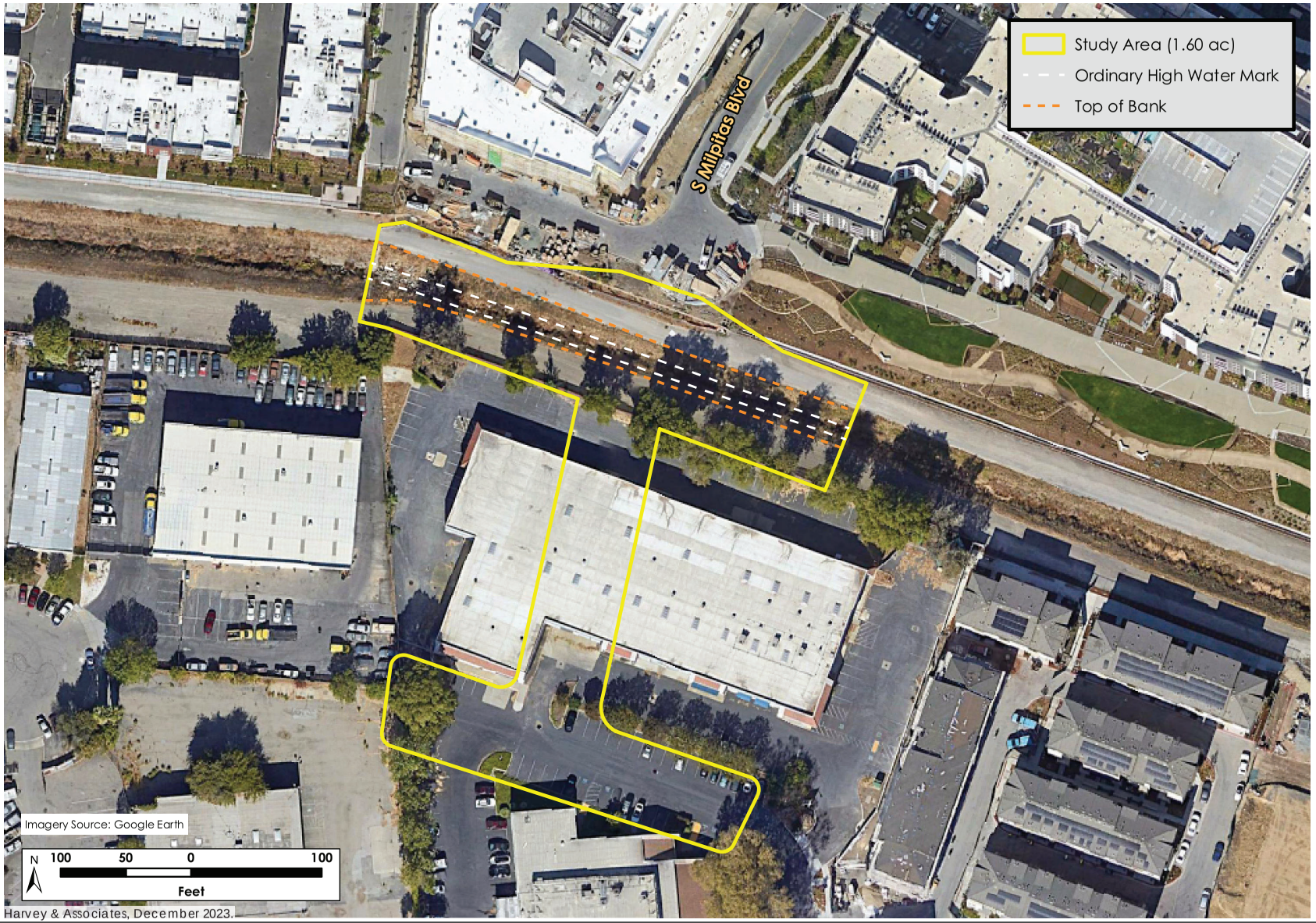
The majority of the project site consists of developed and landscaped habitat in the form of gravel and asphalt access roads, ornamental trees, and landscaping. Landscaping in the study area includes mostly mature ornamental trees along the fence line south of Penitencia East Channel and recently installed landscaping associated with the adjacent multi-family housing. Fences border the north and south boundary of the study area and include a retaining wall along the north boundary.

The developed/landscaped habitat within the project footprint is of relatively low value to wildlife due to the general lack of vegetation and the predominance of non-native species where vegetation is present. In general, the habitats identified in the study area provide habitat for certain common, urban-adapted wildlife species typically associated with urban development.

Riparian Annual Grassland

This habitat type occurs between the top of bank along the edge of the Valley Water access roads and the ordinary high-water mark (OHWM). The channel banks consist entirely of ruderal grass and herb species.

Common, urban-adapted bird species found elsewhere in the study area likely also occur in the ruderal grassland levee slope, although this habitat has limited value for wildlife due to the absence of trees and shrubs and its isolation from large, contiguous tracts of other grassland. No evidence of burrowing mammals, such as California ground squirrels (*Otospermophilus beecheyi*) or valley pocket gophers (*Thomomys bottae*), was observed.



Source: H.T. Harvey & Associates, December 2023.

STUDY AREA

FIGURE 4.4-1

Source: H.T. Harvey & Associates, December 2023.

STUDY AREA HABITATS AND IMPACTS | FIGURE 4.4-2

Intermittent Stream/Freshwater Marsh

This habitat type occurs between the OHWM and the channel bottom. This reach of the channel supports a seasonally high groundwater table and seasonal flows during the wet season. An outlet immediately downstream of the study area conveys stormwater runoff, but the channel bottom in the study area was dry during both site visits. The portion between the OHWM and the toe of the slope is a vertical face throughout the study area and supports loamy eroded soils and ruderal transitional species, such as Italian ryegrass (*Festuca perennis*) and smilo grass. The substrate on the channel bottom consists of loose coarse sand that has likely accumulated during storm events in some areas, while in other areas it consists of bare loamy soil with surface cracks and only light leaf litter scattered about. The vegetation rooted deeper than the accumulated sand substrate in the channel bottom consists almost entirely of hydrophytic species, comprising freshwater marsh habitat.[23] The channel bottom from the toe of slope to the toe of slope meets the requirements of a three-parameter wetland.[24]

The stream habitat in the project area is intermittent and dry, but turns perennial downstream to the west, outside the project boundary. Downstream of the project site provides foraging habitat for some wetland and aquatic bird species, such as mallards (*Anas platyrhynchos*), great egrets (*Ardea alba*), snowy egrets (*Egretta thula*), and black phoebes (*Sayornis nigricans*), as well as some migrants such as Wilson's snipe (*Gallinago delicata*). The perennial stream habitat may also serve as habitat for amphibians such as Pacific tree frogs (*Pseudacris regilla*) and a variety of common fish species. However, the intermittent reach of stream on the project site is much drier. Although the aforementioned species could potentially forage in the on-site reach when it conveys water, they are expected to occur only temporarily, when flow is present, and likely in low numbers.

Special-Status Species

Special-Status Plant Species

While a total of 54 special-status plant species have the potential to occur in the study area, all of these species were determined to be absent from the study area for at least one of the following reasons: (1) lack of suitable habitat types; (2) absence of specific microhabitat or edaphic requirements, such as serpentine soils; (3) the elevation range of the species is outside of the range within the study area; and/or (4) the species is considered eradicated from the site vicinity.[25,26]

Special-Status Animal Species

While not specifically identified during the site visits, three special-status species, the western pond turtle (*Actinemys marmorata*), San Francisco common yellowthroat (*Geothlypis trichas sinuosa*), and yellow warbler (*Setophaga petechia*), could occur in the project footprint as nonbreeders.

[23] Hydrophytic species are those that have adapted to grow in water.
[24] The "toe" of a slope is essentially the bottom, or baseline section, of the soil mass comprising the slope. "Three parameter" refers to the three parameters (hydrology, soil, and vegetation) that must be present in order to meet the definition of a wetland.
[25] A microhabitat is a small area which differs somehow from the surrounding habitat. Its unique conditions may be home to unique species that may not be found in the larger region. Edaphic factors affect the ability of soil to sustain biological production and diversity, regulate and partition water, filter and buffer contaminants, store and cycle nutrients, and provide plant support.
[26] H.T. Harvey & Associates. *Biological Resources Report.* December 2023. Page 24.

Sensitive Natural Communities and Habitats

Sensitive Habitats (Waters of the U.S./State)

Penitencia East Channel is considered waters of the U.S./state up to the OHWM. Jurisdictional riparian buffers for waters of the state in the study area extend up to the top of bank of the channel.

Riparian Habitat

It is reasonable to assume that CDFW would claim jurisdiction over areas at and below the top of bank on either side of Penitencia East Channel regardless of the vegetative composition of these areas. No riparian habitat (e.g., riparian trees) is present above the top of bank in the study area.

4.4.2 Impact Discussion

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

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
6) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☐	☒

Impact BIO-1:	The project would not 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. **(Less than Significant Impact with Mitigation Incorporated)**

The project site is currently developed with an office building and open space along Penitencia East Channel in an urbanized area of Milpitas. As described above in Section 4.4.1.2 Existing Conditions, the project site currently supports a number of common wildlife species, although due to its largely developed nature, the site provides relatively low-quality habitat for most species and thus supports relatively small numbers of individuals of any one species. The common wildlife species that occur on the site are regionally abundant, are present in widely available habitats in the region, and will continue to be present on the site following construction.

Special-Status Plant Species

As described above in Section 4.4.1.2 Existing Conditions, no special-status plant species are located on or adjacent to the study area. As a result, the proposed project will have no impact on special-status plant species.

Special-Status Animal Species

Three special-status species, the western pond turtle, San Francisco common yellowthroat, and yellow warbler, could occur in the project footprint as nonbreeders.

Western Pond Turtle

The western pond turtle is a California species of special concern and is protected under the California Fish and Game Code. Western pond turtles are not expected to breed or occur frequently on or near the project site due to lack of suitable habitat. As such, there is a very low probability for western pond turtles to occur on-site. Nevertheless, if water is present in the channel when work needs to occur, there is at least a low potential for northwestern pond turtles or native fish (e.g., if high winter flows allowed fish to move upstream) to be present in the work area. Dewatering could result in the loss of native fish to desiccation or turtles due to movement of vehicles and equipment. In addition, the project could result in indirect impacts on water quality in reaches of Penitencia East Channel further downstream, where western pond turtles are more likely to occur.

Mitigation Measures: Implementation of the following mitigation measures would ensure that potential impacts to special status species are less than significant.

MM BIO-1.1: **Worker Environmental Awareness Program.** All construction personnel working on the bridge will participate in a worker environmental awareness program. These personnel will be informed about the potential presence of native fish and northwestern pond turtles within and downstream from the project site. Prior to construction activities, a qualified biologist will instruct all construction personnel about (1) the description and status of these species; (2) the importance of their associated habitats; (3) a list of measures being taken to reduce impacts on these species during project construction; and (4) procedures to be followed if a northwestern pond turtle is observed by construction personnel in or near the project area during construction. If construction personnel observe any turtle in an area where it is at risk of injury or mortality due to the project, or where construction activity could prevent the turtle from returning to perennial habitat downstream from the project site, they will contact a qualified biologist immediately. All project activities that could impact the turtle will stop until the biologist has arrived at the site and determined whether the turtle is a northwestern pond turtle and (with any necessary USFWS approval) relocated the turtle to an appropriate location downstream.

MM BIO-1.2: **Preconstruction Survey and Fish Exclusion Prior to Dewatering Activities.** Prior to conducting dewatering activities, a qualified biologist will conduct a survey of the project area to look for fish and northwestern pond turtles. If any northwestern pond turtles are detected in areas where they are at risk of injury or mortality due to the project, or where construction activity could prevent the turtles from returning to perennial habitat downstream from the project site, the biologist will relocate the turtles to suitable habitat in the perennial reach of Penitencia East Channel downstream. If northwestern pond turtle has been listed by the USFWS under FESA by the time construction occurs, the biologist will handle/relocate individual turtles only with USFWS approval.

During the preconstruction survey, the biologist will determine whether there is any potential for native fish to be present in the project area based on presence/absence and depth of water. If any fish are or have the potential to be present in the on-site segment of creek channel, and if continuous flow is present from the project site downstream to the perennial reach of creek, the biologist will use block nets to exclude fish from the reach to be dewatered. A block net will be placed at the upper end of the reach to be dewatered. Subsequently, qualified biologists will walk from the upper to lower end of the reach with a seine stretched across the channel to encourage fish to move out of the construction area. When the lower end of the construction area is reached, a second block net will be installed to isolate the construction reach. This procedure will be repeated as needed until no fish remain in the construction area. If surface water is not continuous between the project site

and the perennial reach downstream, so that fish excluded from the site are unable to reach suitable habitat downstream, then the qualified biologist will capture native fish using appropriate methods and immediately release them in the perennial reach of the channel downstream.

MM BIO-1.3: **Maintenance of Flow through the Site.** In the unlikely event that fish are present within the channel when construction occurs, continuous flow will be maintained through the project site (e.g., in a temporary pipe) so that any fish upstream from the site are able to disperse downstream.

Implementation of mitigation measures MM BIO-1.1, BIO-1.2, and BIO-1.3 would reduce impacts on native fish and northwestern pond turtles to less than significant levels by ensuring that individual native fish and northwestern pond turtles are not trapped or otherwise impacted by the project.

San Francisco Common Yellowthroat and Yellow Warbler

The San Francisco common yellowthroat and yellow warbler are a California species of special concern and are protected under the California Fish and Game Code. The San Francisco common yellowthroat and yellow warbler could occur on the project site as nonbreeding migrants, transients, or foragers, but they are not known or expected to breed or occur in large numbers on or near the project site. At most, a few individuals of each of these species could occasionally forage on the project site. Proposed project activities would not result in the injury or mortality of individuals of any of these species, as they are mobile enough to avoid construction equipment. Because these species do not breed on the site, project activities would not affect breeding habitat or vulnerable young of these species. Therefore, the project would not result in the injury or mortality of individuals of these species. The project may result in the disturbance of a few foraging individuals and loss of a relatively limited amount of foraging habitat. However, this impact would be less than significant.

Wildlife Impacts from Increased Lighting

Many animals are sensitive to light cues, which influence their physiology and shape their behaviors, particularly during the breeding season. The project would construct lighting on a bridge that would increase the amount of light within and around the project site. The proposed bridge would include illuminated vertical parallel steel plates ranging from three to 12 feet. Based on the project's lighting plans, this lighting could spill into the adjacent Penitencia East Channel, resulting in an increase in lighting compared to existing conditions. Other new light sources to the project area would result from passing vehicle lights, including to Penitencia East Channel. If the lighting is excessive, or pointed upwards, nocturnal migrant birds may also be adversely affected. As a result, the species that utilize the aquatic and wetland habitats within the Penitencia East Channel could be significantly impacted by disrupting their natural behaviors. Although there is expert agreement that increases in illuminance can affect wildlife behavior, there is no agreed upon quantitative level of illuminance increase threshold for significant impacts to animals.

Mitigation Measure: Implementation of the following mitigation measures would ensure that potential impacts to wildlife from increase lighting are less than significant.

MM BIO-1.4: **Minimization and Shielding of Lighting.** All lighting for vehicular and pedestrian safety shall be minimized to the extent feasible (i.e., shall be no brighter than necessary for safety purposes), shall be oriented toward the bridge rather than outwards toward the Penitencia East Channel, and shall be fully shielded to block illumination from shining upward or outward toward the creek channel.

MM BIO-1.5: **Review of the Lighting Plan.** The lighting plan shall be reviewed by a qualified biologist prior to construction to ensure that the level of lighting would not result in adverse effects on wildlife in adjacent areas or attracting/disorienting nocturnal migrant birds.

Implementation of MM BIO-1.4 and MM BIO-1.5 would ensure shielding and minimize spillover of lighting into the Penitencia East Channel, thereby reducing impacts to wildlife from lighting to less than significant.

Nesting Birds

Nesting habitat for non-listed special-status raptor species and common nesting bird species occur on and near the project site. Many bird species utilize large ornamental trees for cover, nesting, or stop over locations during migration, especially with the availability of water from the nearby drainages. All native bird species that nest within the project area are protected under the Migratory Bird Treaty Act and California Fish and Game Code. Construction disturbance could cause nest abandonment resulting in an indirect loss to avian species.

Mitigation Measures: Implementation of the following mitigation measures would ensure that potential impacts to nesting birds are less than significant.

MM BIO-1.6: In conformance with Metro Specific Plan Policy SC 9.1 and SC 9.2 the following project-specific measures would be implemented to avoid impacts to nesting birds during construction and ensure compliance with the Migratory Bird Treaty Act (MBTA) and California Fish and Game Code:

- If feasible, construction activities shall be avoided during the nesting season (i.e., February 1 through August 31).
- Potential nesting substrate (e.g., bushes, trees, snags, grass, and suitable artificial surfaces) that would be impacted by development shall be removed during the non-breeding season (i.e., September 1 through January 31), to preclude nesting in the study area.
- If it is not feasible to schedule construction activities during the non-breeding season, preconstruction surveys for nesting birds shall be conducted by a qualified ornithologist to ensure that no nests will be disturbed during construction activities. This survey shall be conducted no more than seven days prior to the initiation of

construction activities. During this survey, the ornithologist shall inspect all trees, shrubs, and other potential nesting habitats in and immediately adjacent to the study area for nests. If an active nest is found sufficiently close to work areas to be disturbed by these activities, the ornithologist shall determine the extent of a buffer zone to be established around the nest, typically 300 feet for raptors and 100 feet for other birds, to ensure that no nests of species protected by the MBTA or the California Fish and Game Code will be disturbed during construction activities.

With implementation of MM BIO-1.6 above and consistent with MMSP Policy SC 9.1 and SC 9.2, the project would have a less than significant impact on nesting birds.

Impact BIO-2:	The project would not have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the CDFW or USFWS. **(Less than Significant Impact with Mitigation Incorporated)**

As discussed above in Section 4.4.1.2 Existing Conditions, Penitencia East Channel is considered waters of the U.S./state up to the OHWM. Jurisdictional riparian buffers for waters of the state in the study area extend up to the top of bank of the channel. CDFW would likely claim jurisdiction over areas at and below the top of bank on either side of Penitencia East Channel regardless of the vegetative composition of these areas. No riparian habitat (e.g., riparian trees) is present above the top of bank in the study area.

The majority of ground-disturbing activity (i.e., project construction) would occur outside the top of banks of the Penitencia East Channel. Because the abutments would be placed above the top of bank, no permanent loss of riparian jurisdiction would occur. No riprap or other improvements are proposed to the banks that would prevent future vegetation growth. There would, however, be permanent and temporary impacts to the riparian banks as a result of shading from the proposed bridge and a temporary work area around the bridge abutments. The bridge would permanently shade 0.02 acres of riparian annual grassland.[27] Permanently shaded vegetation would weaken, decrease in cover, or even die off leaving bare soil exposed. Nevertheless, non-native dominated annual grassland is typically able to persist with some shading. The bridge would be eight feet above the banks, allowing for some light under the deck enabling enough herbaceous growth to stabilize soils and provide similar habitat quality to the existing condition.

The temporary work area within the channel, where dewatering, creek diversion, and installation of falsework may occur is comprised of a 40-foot buffer upstream and downstream of the proposed bridge, temporarily impacting up to 0.03 acres of riparian annual grassland.[28] Such impacts would likely be greater if work took place during the rainy season, as incident rainfall softens soils and the annual grasses and herbs that dominate this habitat would be recently germinated and would not provide the same soil stabilization functions that more established annual vegetation thatch does.

[27] H.T. Harvey & Associates. *Biological Resources Report.* December 2023. Page 40.
[28] Ibid.

Temporary construction disturbance to the vegetated riparian banks could lead to temporal loss of the soil stabilization functions that the riparian grassland provides, causing erosion and sedimentation, which would be significant if not prevented. Denuded banks may also be susceptible to increased or new infestations of weeds from lack of competition or introduction of new weed propagules on equipment used in this habitat.

Mitigation Measures: Implementation of the following mitigation measures would ensure that potential impacts to riparian habitat are less than significant.

MM BIO-2.1: **Work Period.** Construction work within the stream banks shall be restricted to the period of April 15 to October 15 (or as otherwise allowed by resource agency permits). Riparian restoration work (refer to MM BIO-2.4 below) using hand tools shall be completed within the wet season the same year following completion of the project.

MM BIO-2.2: **Work Area Delineation**. Permittee shall clearly show all riparian habitat on project plan sets and place flagging around the work limits within the stream, riparian, and wetland areas to prevent inadvertent impacts to areas not proposed to be disturbed by the project. Flagging shall be removed and appropriately disposed of within five calendar days of the completion of construction work. Access paths and staging areas shall be adequately fenced or flagged during the construction period to prevent damage to adjacent stream, riparian or wetland habitat.

MM BIO-2.3: **Prevention of Spread of Invasive Plant Species.** To prevent the spread of invasive weed infestations,

- All ground disturbing equipment used within the riparian corridors shall be washed (including tracks, and undercarriages) at a legally operating equipment yard both before and after being used at the site.
- All applicable construction materials used on-site, such as straw wattles, mulch, and fill material, shall be certified weed free.
- Invasive plant species with a "high" ecosystem impact rating by the California Invasive Plant Council (Cal-IPC; http://www.cal-ipc.org/paf/) shall be actively monitored and controlled in the first three years following planting. The percent cover of "high" invasive plant species shall be maintained at less than ten percent of the total plant cover in areas disturbed by project work. A qualified ecologist shall assess the type, distribution, and abundance of invasive plant species and recommend effective control measures. Invasive plants shall be removed from the project site on an as-needed basis.

MM BIO-2.4: **Revegetation of Temporary Impact Areas.** Temporary impact areas within the bed and banks of the channel shall be restored to preconstruction conditions or better. Restoration shall include restoring the topography of temporary impact areas to preconstruction conditions to the extent feasible, bank stabilization, and re-establishment of appropriate vegetation. A habitat-

appropriate, weed-free native seed mix or propagated plants shall be applied or installed. Species such as California buckwheat (*Eriogonum fasciculatum*), California fuschia (*Epilobium canum*), coyote brush (*Baccharis pilularis*), purple needlegrass (*Stipa pulchra*), and seaside heliotrope (*Heliotropium curassavicum*) would be appropriate. The project proponent shall not plant, seed, or otherwise introduce invasive exotic plant species. Revegetation shall be completed as soon as possible after grading at the project site is completed. Seeding placed between October 15 and April 15 shall be covered with broadcast straw, jute netting, coconut fiber blanket, or similar erosion control blanket. Erosion control products with monofilament or woven plastic strands shall not be used. The revegetation will be considered successful if the vegetative cover in the temporary impact areas reaches 75% of the existing baseline cover, excluding species rated as "high" by Cal-IPC.

A qualified ecologist will monitor conditions in the temporary riparian and stream/marsh impact areas for a minimum of 3 years, or until the success criteria for vegetation cover are attained, whichever is later. Prior to commencement of construction, the ecologist will establish at least four permanent photographic documentation stations (i.e., one station near each corner of the bridge) to provide representative views of vegetation cover. The locations of the photographic documentation stations will be recorded using a GPS, and the direction of the photographs documented with a compass. The ecologist will prepare site maps with the photo-documentation points clearly marked for the project site. Prior to commencement of construction, the ecologist will photographically document the pre-project condition of the project site from each documentation station and estimate the vegetation cover at each station. Following implementation of the project, including any seeding or plant installation, a qualified ecologist will visit the site at least once in late spring to photographically document the postconstruction condition of the project site and estimate vegetation cover. The ecologist will report the results of these inspections (including the assessment of overall vegetation cover described in this measure and the assessment of invasive plants described in Mitigation Measure BIO-5) in a brief memo following each year's site visit. Monitoring and maintenance may be extended if the success criteria are not attained by year 3. Remedial measures to be considered include, but are not limited to, supplemental planting or seeding, increased maintenance frequency, increased invasive plant removal activities, or alteration of maintenance strategies.

Implementation of MM BIO-2.1 through 2.4 would ensure that construction work within the stream banks would be confined to the period of April 15 to October 15; work areas would be delineated and flagged during construction activities; and temporary impact areas would be revegetated and restored to preconstruction conditions and monitored for a period of three years. Accordingly, project impacts would be reduced to less than significant with mitigation incorporated.

Work in and near riparian corridors could be indirectly impacted by spills of equipment fuels or oil entering the channel and cause degradation and contamination of the riparian habitat. The project

would, however, be required to comply with the Construction General Permit and will have a Stormwater Pollution Prevention Plan, best management practices would be employed to prevent such spills from entering the riparian corridor (refer to discussion under Impact HYD-1 in Section 4.10 of this Initial Study).

Impact BIO-3:	The project would not have a substantial adverse effect on state or federally protected wetlands through direct removal, filling, hydrological interruption, or other means. **(Less than Significant Impact with Mitigation Incorporated)**

Wetlands and other waters of the U.S./state are present within Penitencia East Channel in the form of intermittent stream/freshwater marsh. Jurisdictional wetlands in the channel bottom are supported by intermittent flows and presumably a high groundwater table and are dominated by non-native vegetation. Installation of the bridge and temporary work around the bridge would result in permanent and temporary impacts to the channel (refer to Figure 4.4-2). The bridge has, however, been designed to avoid the permanent loss of wetland or aquatic habitat due to the abutments or other structures.

The bridge would permanently shade 0.01 acres of intermittent stream/freshwater marsh.[29] This habitat is naturally dynamic, seasonally altering its species composition, cover, and locations every year. The shading would occur in a gradient under the bridge with the sunniest area closest to the bridge edges and the shadiest area along the centerline of the bridge. These unpredictable factors would result in a shift in species composition, cover, and location. Nevertheless, the altered habitat is expected to function as an intermittent stream/freshwater marsh comparable to the existing conditions.

The temporary work area within the channel, where dewatering, creek diversion, and installation of falsework may occur, consists of a 40-foot buffer upstream and downstream of the proposed bridge, temporarily impacting up to 0.02 acres of intermittent stream/freshwater marsh .[30] Temporary construction disturbance to the wetland habitat could lead to temporal loss of the soil stabilization functions that the wetland vegetation provides, causing erosion and sedimentation, which would be significant if not prevented.

Implementation of mitigation measures MM BIO-2.1 through BIO-2.4 would reduce impacts related to BIO-3 to a less than significant level.

Work in and near wetlands could be indirectly impacted by equipment fuels or oil entering the channel and cause degradation and contamination of the wetland habitat. The project would, however, comply with the Construction General Permit and will have a Stormwater Pollution Prevention Plan, best management practices would be employed to prevent such spills from entering the riparian corridor (refer to discussion under Impact HYD-1 in Section 4.10 of this Initial Study).

[29] H.T. Harvey & Associates. *Biological Resources Report.* December 2023. Page 43.
[30] Ibid.

Impact BIO-4:	The 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)**

Environmental corridors are segments of land that provide a link between different habitats while also providing cover. Development that fragments natural habitats (i.e., breaks them into smaller, disjointed pieces) can have a twofold impact on wildlife: first, as habitat patches become smaller they are unable to support as many individuals (patch size); and second, the area between habitat patches may be unsuitable for wildlife species to traverse (connectivity).

The project site is almost entirely developed and is situated within a dense urban development. The Penitencia East Channel does not provide an important movement pathway for aquatic or terrestrial wildlife species, as the channel dead-ends at the rail line 0.2 miles upstream of the site. Any animals attempting to move along the stream in an upstream direction would encounter this dead-end, rather than being able to move through the project area to reach higher-quality habitat upstream. Similarly, there are no source populations of aquatic or terrestrial animals upstream that would be moving downstream through the project area.[31] As a result, the proposed development would not result in the fragmentation of natural habitats, and any common, urban-adapted wildlife species that currently move through the project site would still be able to do so following project construction. Thus, the project would not interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors in the site vicinity, and impacts would be less than significant.

Impact BIO-5:	The project would not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance. **(Less than Significant Impact)**

The Tree and Planting Ordinance of the City of Milpitas protects significant trees, as defined by the Ordinance, including heritage trees, throughout the City. The proposed project would remove approximately 20 trees, including a number of protected trees. All the trees in the project area are ornamental and non-native including shamel ash and eucalyptus trees, with diameters ranging from three inches to 37 inches or more. All tree removal and replacement would be completed in compliance with the City's Tree Maintenance and Protection Ordinance, which states to plant at least two (2) trees for every one (1) protected tree removed, thereby ensuring the project would offset the loss of existing trees and reduce impacts from tree removal to a less than significant level. The replacement trees shall be commensurate with the size of the tree being removed, as determined by the Director of Planning or his or her designee.

[31] In the "source-sink" ecological model, the source is a high quality habitat that allows a species' population to increase (i.e. births + immigration > deaths + emigration), leading to a surplus of the species in question.

Impact BIO-6:	The project would not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. **(No Impact)**

The project site is not located within an area covered by an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. Therefore, the project would not conflict with any such plans.

4.5 CULTURAL RESOURCES

The following discussion is based in part on an Archeological Resources Assessment prepared by PaleoWest, LLC on July 28, 2021. A copy of the Archaeological Resources Assessment is on file at the City of Milpitas Public Works Department, Engineering Division. .

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.[32]

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.

[32] California Office of Historic Preservation. *CEQA Guidelines Section 15064.5(a)(3) and California Office of Historic Preservation Technical Assistance Series #6*. January 9, 2024.https://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

City of Milpitas General Plan 2040

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to cultural resources and are applicable to the proposed project.

Policies	Description
Policy CON 4-1	Review proposed developments and work in conjunction with the California Historical Resources Information System, Northwest Information Center at Sonoma State University, to determine whether project areas contain known archaeological resources, either prehistoric and/or historic-era, or have the potential for such resources.
Policy CON 4-2	If found during construction, ensure that human remains are treated with sensitivity and dignity, and ensure compliance with the provisions of California Health and Safety Code Section 7050.5 and California Public Resources Code Section 5097.98.
Policy CON 4-3	Work with Native American representatives to identify and appropriately address, through avoidance or mitigation, impacts to Native American cultural resources and sacred sites during the development review process
Policy CON 4-4	Consistent with State, local, and tribal intergovernmental consultation requirements such as SB 18 and AB 52, the City shall consult as necessary with

Policies	Description
	Native American tribes that may be interested in proposed new development and land use policy changes.
Policy CON 5-1	Protect significant historic resources and use these resources to promote a sense of place and history in Milpitas through implementation of the Milpitas Cultural Resources Preservation Program (Municipal Code, Title XI, Chapter 4), the Conceptual Historic Resources Master Plan, the conservation and preservation of the City's historical collection at the Milpitas Community Museum, and other applicable codes, regulations, and area plans.

City of Milpitas Metro Area Specific Plan

The MMSP adopted the following policies for the purpose of avoiding or mitigating cultural resource impacts resulting from planned development within the MMSP area, including the following:

Policies	Description
SC 7	Any future ground-disturbing activities, including grading, in the Metro Plan Area shall be monitored by a qualified archaeologist to ensure that the accidental discovery of significant archaeological materials and/or human remains is handled according to State CEQA Guidelines Section 15064.5 regarding discovery of archaeological sites and burial sites, and State CEQA Guidelines Section 15126.4(b) identifying mitigation measures for impacts on historic and cultural resources (reference CEQA Sections 21083.2 and 21084.1). A Native American monitor will also be present during future ground disturbing activities due to the high potential for inadvertent discoveries of archaeological materials and/or human remains. Prior to commencement of ground-disturbing activities, the City shall ensure that the general contractor and those conducting ground-disturbing activities are given cultural sensitivity training. Cultural sensitivity training will ensure that any cultural material encountered during ground-disturbing activities due to the high potential for inadvertent discoveries of archaeological materials and/or human remains. Prior to commencement of ground-disturbing activities, the City shall ensure that the general contractor and those conducting ground-disturbing activities are given cultural sensitivity training. Cultural sensitivity training will ensure that any cultural material encountered during ground-disturbing activities is protected and treated with culturally appropriate dignity. This training will be administered by a Native American monitor and a qualified archaeologist. In the event that buried cultural materials are encountered, construction will be temporarily halted until a mitigation plan can be developed. In the event that human remains are encountered, the developer shall halt work in the immediate area and contact the Santa Clara County coroner and the City of Milpitas. The coroner will then contact the Native American Heritage Commission (NAHC), which will in turn contact the appropriate Most Likely Descendant (MLD). The MLD will then have the opportunity to make a recommendation for the respectful treatment of the Native American remains and related burial goods.

4.5.1.2 *Existing Conditions*

Prehistoric Subsurface Resources

Native Americans occupied Santa Clara Valley and the greater Bay Area for more than 5,000 years. The exact time period of the Ohlone (originally referred to as Costanoan) migration into the Bay Area is debated by scholars. Dates of the migration range between 3,000 B.C. and 500 A.D. Regardless of the actual time frame of their initial occupation of the Bay Area and, in particular, Santa Clara Valley, it is known that the Ohlone had a well-established population of approximately 7,000 to 11,000 people with a territory that ranged from the San Francisco Peninsula and the East Bay south through the Santa Clara Valley and down to Monterey and San Juan Bautista.

Mission Period

Spanish explorers began coming to Santa Clara Valley in 1769. From 1769 to 1776 several expeditions were made to the area during which time the explorers encountered the Native American tribes who had occupied the area since prehistoric times. Expeditions in the Bay Area and throughout California lead to the establishment of the California Missions and, in 1777, the Pueblo de San José de Guadalupe was established.

Post-Mission Period to Mid-20th Century

The town of Milpitas was founded in the mid-1800's. Prior to 1856, the lands were used for agricultural purposes. By the 1880s, the town of Milpitas' population had increased to 200 people and a railroad line was extended through the region in 1869. By 1922, the town's population increased to 800 and the Western Pacific rail line was also completed. By 1953, Ford Motor Company purchased a 160-acre tract in the City which was used for automobile assembly. Due to the increase in jobs, the town of Milpitas was incorporated in 1954.

Historically, the project site was located in an undeveloped portion of Rancho Milpitas and was surrounded by farms of cultivated crops and orchards. Farms ranged in size from approximately 40 to 250 acres and included a rural residence. The project site remained undeveloped until it was used for agricultural production as row crops between 1931 and 1968. Between 1975 and 1982, north and south of Penitencia East Channel developed with light industrial commercial buildings. In 2018, a warehouse was demolished north of the project site to accommodate construction of multi-family residential buildings.

Historical and Archaeological Resources

Areas within the City may contain known historical or unknown historical and archaeological resources which have not yet identified. The existing office building planned for demolition was built in 1980 and is not considered a historic resource under CEQA. No other known previously recorded cultural resources have been identified on the project site or in the immediate vicinity.

4.5.2 Impact Discussion

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

Impact CUL-1: The project would not cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5. **(No Impact)**

There are no historical resources present on the project site pursuant to CEQA Guidelines Section 15064.5. Therefore, the proposed project would not affect historic resources.

Impact CUL-2: The 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 with Mitigation Incorporated)**

An archaeological literature search at the Northwest Information Center of the California Historical Resources Information System (CHRIS) database was completed for the project site and surrounding area. Based on the results of the literature search and the site's proximity to Penitencia East Channel, the project site has a moderate to high sensitivity for buried archaeological resources because Native American populations occupied areas around waterways. Project construction would require approximately 280 cubic yards of soil to be excavated to a maximum depth of 60 feet and exported off-site. Grading and other excavation activities on the site could potentially damage unrecorded subsurface resources.

Mitigation Measures: Implementation of the following mitigation measures would ensure that potential impacts to subsurface archaeological resources are less than significant.

MM CUL-2.1: Prior to the issuance of any grading permits, the project applicant shall retain a qualified archaeologist and engage a Native American monitor approved by Tamien Nation to be present at the site during all ground disturbing activities. Submit a copy of the agreement to the Director of Engineering or the Director's designee.

MM CUL-2.2: Pursuant to CEQA Guidelines 15064.5 (f), if potentially significant cultural resources are discovered during ground-disturbing activities associated with project preparation, construction, or completion, work shall halt in that area until a qualified archaeologist can assess the significance of the find, and, if necessary, develop appropriate treatment measures in consultation with Santa Clara County, Tamien Nation, and other appropriate agencies and interested parties. If such resources are found to be Native American, the treatment measures shall obtain approval from Tamien Nation. A qualified archaeologist shall follow accepted professional standards in recording any find including submittal of the standard Department of Parks and Recreation (DPR) Primary Record forms (Form DPR 523) and locational information to the California Historical Resources Information Center office (Northwest Information Center). The consulting archaeologist shall also evaluate such resources for significance per California Register of Historical Resources eligibility criteria (Public Resources Code Section 5024.1; Title 14 CCR Section 4852). If the archaeologist determines that the find does not meet the CEQA standards of significance, construction shall proceed. In the event the archaeologist determines that further information is needed to evaluate significance, the Engineering Department staff shall be notified and a data recovery plan shall be prepared. If such resources are found to be Native American, a Tamien Nation Tribal representative shall be engaged for evaluation and the data recovery plan shall be prepared in consultation with Tamien Nation..

With implementation of MM CUL-2.1 and 2.2, any unknown culturally significant archaeological resources encountered during construction would be identified, evaluated and appropriately treated in accordance with the recommendations of a qualified archaeologist. Accordingly, the project would not cause a substantial adverse change in the significant of an archaeological resource.

Impact CUL-3: The project would not disturb any human remains, including those interred outside of dedicated cemeteries. **(Less than Significant Impact with Mitigation Incorporated)**

Human graves are most often associated with prehistoric occupation sites. Although unlikely, it is possible that project construction activities, such as excavation and grading, could disturb as-yet undiscovered human remains at the project sites. If human remains were unearthed during project construction, damage to or destruction of culturally significant human remains would be a potentially significant impact.

Mitigation Measure: Implementation of the following mitigation measures would ensure that potential impacts to undiscovered human remains is at a less than significant level.

MM CUL-3.1: In the event that human remains are encountered, the City shall halt work in the immediate area and contact 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) which will designate the Most Likely Descendants (MLD). The MLD will inspect the remains and make a recommendation for the respectful treatment of the remains and related burial goods.

Implementation of MM CUL-3.1 would ensure that any human remains encountered during ground-disturbing activities are appropriately identified and treated and the impact reduced to a less than significant level.

4.6 ENERGY

The following discussion is based, in part, on an Air Quality and Greenhouse Gas Assessment prepared for the project by Illingworth & Rodkin, Inc. The report, dated November 10, 2021, is attached to this Initial Study as Appendix A.

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.[33] Compliance with Title 24 is mandatory at the time new building permits are issued by city and county governments.[34]

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.[35]

Local

City of Milpitas General Plan 2040

The following policies in the City's General Plan have been adopted for the purpose of avoiding or mitigating impacts to energy supplies resulting from planned development within the City, including the following:

Policies	Description
Policy CIR 2.1	Promote multimodal transportation options by developing an interconnected system of streets, roads, bridges, and highways that provides continuous, efficient, safe and convenient travel for all users regardless of mode, age or ability and encourage users to walk, ride a bicycle, or use transit for shorter, local trips.
Policy PROS 1-15	Design and maintain park and recreation facilities to minimize water, energy and chemical (e.g., pesticides and fertilizer) use. Incorporate the use of recycled water, native and/ or drought-resistant vegetation and ground cover where appropriate. Pursue opportunities for multi-beneficial park developments that incorporate flood control facilities, stormwater management and groundwater recharge areas.

[33] California Building Standards Commission. "California Building Standards Code." Accessed January 9, 2024. https://www.dgs.ca.gov/BSC/Codes#@ViewBag.JumpTo.
[34] California Energy Commission (CEC). "2022 Building Energy Efficiency Standards." Accessed January 9, 2024. https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2019-building-energy-efficiency.
[35] California Air Resources Board. "The Advanced Clean Cars Program." Accessed January 9, 2024. https://ww2.arb.ca.gov/our-work/programs/advanced-clean-cars-program.

Policies	Description
Policy CON 1-2	Ensure all development projects comply with the mandatory energy efficiency requirements of the California Green Building Standards Code (CALGreen).
Policy CON 1-3	Support innovative green building best management practices including, but not limited to, LEED certification, and encourage project applicants to exceed the most current "green" development standards in the California Code of Regulations (CCR), Title 24, as feasible.
Policy CON 1-9	Encourage site planning and building techniques that promote energy conservation. Where feasible, encourage projects to take advantage of shade, prevailing winds, landscaping, sunscreens, building orientations, and material choices that reduce energy use.
Policy UCS 5-3	Reduce municipal waste generation by increasing recycling, on-site composting, and mulching, where feasible, at municipal facilities, as well as using resource efficient landscaping techniques in new or renovated medians and parks.

City of Milpitas Climate Action Plan

The City of Milpitas' adopted the Climate Action Plan (CAP) Update in2022. It is designed to streamline environmental review of future development projects in the City of Milpitas consistent with the CEQA Guidelines Section 15183.5(b) and the BAAQMD Air Quality Guidelines. The CAP identifies a strategy, GHG reduction measures, and implementation strategies to comply with AB 32 and SB 375. To that end, the CAP includes the following policies which are intended to conserve energy and promote alternative modes of transportation:

Measures	Description
TR-1.1	Reduce VMT from new development in compliance with SB 743.
TR-3.2	Increase transit ridership.

4.6.1.2 *Existing Conditions*

Total energy usage in California was approximately 6,279 trillion British thermal units (Btu) in the year 2021, the most recent year for which this data was available.[36] Out of the 50 states, California is ranked second in total energy consumption and 49^{h} in energy consumption per capita. The breakdown by sector was approximately 18 percent (1,229 trillion Btu) for residential uses, 17 percent (1,157 trillion Btu) for commercial uses, 24 percent (1,596 trillion Btu) for industrial uses, and 41 percent (2,784 trillion Btu) for transportation.[37] This energy is primarily supplied in the form of natural gas, petroleum, nuclear electric power, and hydroelectric power.

[36] United States Energy Information Administration. "State Profile and Energy Estimates, 2021." Accessed January 9, 2024. https://www.eia.gov/state/?sid=CA#tabs-2.
[37] Ibid.

Electricity

Electricity in Santa Clara County in 2022 was consumed primarily by the commercial sector (75 percent), followed by the residential sector consuming 25 percent. In 2022, a total of approximately 17,102 gigawatt hours (GWh) of electricity was consumed in Santa Clara County.[38]

The community-owned Silicon Valley Clean Energy (SVCE) is the electricity provider for the City of Milpitas.[39] SVCE sources the electricity and the Pacific Gas and Electric Company (PG&E) delivers it to customers over their existing utility lines. PG&E generates or buys electricity from hydroelectric, nuclear, renewable, natural gas, and coal facilities.

Natural Gas

PG&E also provides natural gas services within Milpitas. In 2018, approximately one percent of California's natural gas supply came from in-state production, while the remaining supply was imported from other western states and Canada.[40] In 2021, natural gas facilities provided seven percent of PG&E's electricity delivered to retail customers; nuclear plants provided 39 percent; hydroelectric operations provided four percent; renewable energy facilities including solar, geothermal, and biomass provided 50 percent.[41] Transportation accounted for one percent of natural gas use in California.

Fuel for Motor Vehicles

In 2022, California produced 124 million barrels of crude oil and in 2019, 11.7 billion gallons of gasoline were sold in California. [42], [43] 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 2021.[44] 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

[38] California Energy Commission. Energy Consumption Data Management System. "Electricity Consumption by County." January 9, 2024. http://ecdms.energy.ca.gov/elecbycounty.aspx.
[39] Silicon Valley Clean Energy. "Frequently Asked Questions." January 9, 2024. https://www.svcleanenergy.org/faqs.
[40] California Gas and Electric Utilities. 2019 *California Gas Report.* January 9, 2024. https://www.socalgas.com/regulatory/documents/cgr/2019_CGR_Supplement_7-1-19.pdf.
[41] Pacific Gas and Electric Company. "Exploring Clean Energy Solutions." Accessed January 10, 2024. https://www.pge.com/en_US/about-pge/environment/what-we-are-doing/clean-energy-solutions/clean-energy-solutions.page?WT.mc_id=Vanity_cleanenergy.
[42] U.S. Energy Information Administration. "Petroleum & Other Liquids, California Field Production of Crude Oil." January 10, 2024. https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=pet&s=mcrfpca1&f=a
[43] California Department of Tax and Fee Administration. "Net Taxable Gasoline Gallons." Accessed January 10, 2024. https://www.cdtfa.ca.gov/dataportal/dataset.htm?url=VehicleTaxableFuelDist.
[44] United States Environmental Protection Agency. "The 2022 EPA Automotive Trends Report: Greenhouse Gas Emissions, Fuel Economy, and Technology since 1975." December 2022.

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. [45,46]

Energy Use of Existing Development

The project site is currently developed with an approximately 41,307 square foot office building and associated surface parking lot. Energy (in the form of electricity and natural gas) is used by the existing development primarily for heating and cooling, lighting, and water heating. The existing development uses approximately 669,173 kilo British thermal units (kBtu)[47] of natural gas per year and 758,539 kilowatt-hours (kWh)[48] of electricity per year.[49] Traffic associated with the existing development generates 727,801 vehicle miles traveled annually. Assuming an annual fuel economy of 24.9 miles per gallon (mpg), the existing development uses approximately 29,230 gallons of gasoline per year.

4.6.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?	☐	☐	☒	☐
2) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	☐	☐	☒	☐

Impact EN-1: The project would not result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation. **(Less than Significant Impact)**

Energy would be consumed during the construction and operational phases of the project, as discussed below.

[45] United States Department of Energy. *Energy Independence & Security Act of 2007.* Accessed January 10, 2024. http://www.afdc.energy.gov/laws/eisa.

[46] United States Department of Transportation. "USDOT Announces New Vehicle Fuel Economy Standards for Model Year 2024-2026." Accessed January 10, 2024. https://www.nhtsa.gov/press-releases/usdot-announces-new-vehicle-fuel-economy-standards-model-year-2024-2026

[47] The Btu is a unit of heat defined as the amount of heat required to raise the temperature of one pound of water by one degree Fahrenheit.

[48] The kilowatt-hour is a unit of energy equal to 3600 kilojoules.

[49] Illingworth & Rodkin, Inc. *S. Milpitas Boulevard Vehicular Bridge Air Quality Assessment*. November 10, 2021.

Energy Use During Construction

Construction equipment would consume energy during the demolition of the existing office building and associated surface parking lot and during construction of the proposed bridge and roadway connection. Petroleum-based fuels such as diesel fuel and gasoline would be the primary sources of energy for these tasks except as described below.

Construction of the project would require demolition, site preparation, grading, excavation, trenching, paving, and bridge assembly. The overall construction schedule and process is designed to be efficient in order to avoid excess monetary costs. That is, equipment and fuel would not be used wastefully on the project site because of the added expense associated with renting the equipment, maintaining it, and fueling it. Further, construction of the project would occur in an urbanized area in proximity to roadways, construction supplies, and workers, making it more efficient than construction occurring in outlying, undeveloped areas. For these reasons, the construction process for the project is efficient. Additionally, energy would not be wasted or used inefficiently by construction equipment as the proposed project shall implement BAAQMD's basic control measures (MM AIR-3.1), which would reduce vehicle idling times and ensure equipment is operating properly, and MM AIR-3.2, which would require the project to select construction equipment that would minimize emissions by 86 percent. For these reasons, project construction would not use energy in a wasteful manner and would have a less than significant impact.

Energy Use During Project Operation

Vehicle trips associated with operation of the proposed bridge and roadway connection would consume gasoline, and illumination of the bridge would consume electricity. No natural gas would be utilized by the proposed project. As documented in Section 4.17 Transportation under Impact TRN-2, the project would reduce vehicle miles traveled (VMT) and, therefore, would reduce the amount of gasoline consumed in comparison with existing conditions. Further, illumination of the bridge would consume less electricity than the existing office building and associated surface parking lot, which requires electricity for building heating and cooling, lighting, appliance use, and parking lot illumination. Therefore, since the proposed project would result in a decrease in gasoline, electricity, and natural gas consumption compared to the existing development, operation of the project would have no impact due to wasteful, inefficient, or unnecessary consumption of energy resources.

Impact EN-2:	The project would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency. **(Less than Significant Impact)**

As discussed under Impact EN-1, the project would result in decreased consfumption of electricity, gasoline, and natural gas in comparison with existing conditions. Further, as required by General Plan Policy CON 1-2, the project would comply with Title 24 and CALGreen requirements. All project landscaping would be required by General Plan policies PROS 1-15 and UCS 5-3 to be resource efficient by minimizing water and chemical (e.g., pesticides and fertilizer) use, and by incorporating the use of recycled water, native and/ or drought-resistant vegetation and ground cover where appropriate. Lastly, the proposed bridge and roadway connection would improve bicycle and pedestrian connectivity and would reduce VMT (refer to the discussion under Section 4.17 Transportation under Impact TRN-2). For these reasons, the project would not conflict with or

obstruct a state or local plan for renewable energy or energy efficiency and would have a less than significant impact.

4.7 GEOLOGY AND SOILS

The following discussion is based in part on a Bridge Design Geotechnical report prepared by ENGEO. The report, dated January 5, 2017, is included in this Initial Study as Appendix **C**.

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; the 2022 CBC went into effect on January 1, 2023.

Caltrans Seismic Design Criteria

The California Department of Transportation (Caltrans) has Seismic Design Criteria (SDC) which describes new and currently practiced seismic design and analysis methodologies for the design of new bridges in California. The SDC adopts a performance-based approach specifying minimum levels of structural system performance, component performance, analysis, and design practices for ordinary standard bridges. The SDC has been developed with input from the Caltrans Offices of

Structure Design, Earthquake Engineering and Design Support, and Materials and Foundations. Memo 20-1 Seismic Design Methodology (Caltrans 1999) outlines the bridge category and classification, seismic performance criteria, seismic design philosophy and approach, seismic demands and capacities on structural components, and seismic design practices that collectively make up Caltrans' seismic design.

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.

Local

City of Milpitas General Plan 2040

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to geologic and seismic hazards and are applicable to the project.

Policies/Actions	Description
Policy SA 1-1	Require development to reduce risks to life and property associated with earthquakes, liquefaction, erosion, landslides, and unstable soil conditions.
Policy SA 1-2	Ensure that all new development and construction is in conformance with all applicable building standards related to geologic and seismic safety.
Policy SA 1-3	Require geotechnical investigations to be completed prior to approval of any public safety or other critical facilities, in order to ensure that these facilities are constructed in a way that mitigates site-specific seismic and/or geologic hazards.
Policy SA 1-4	Development in areas subject to unstable soil and/or geologic conditions shall be reviewed by qualified engineers and or geologists prior to development in order to ensure the safety and stability of all new construction.
Policy SA 1-5	Require an erosion and sediment control plan prepared by a civil engineer, or other professional who is qualified to prepare such a plan, as part of any grading permit application for new development. The erosion and sediment control plan shall

	delineate measures to appropriately and effectively minimize soil erosion and sedimentation.
Policy SA 1-6	All structures and building foundations requiring a building permit located within areas containing expansive soils, or other soils conditions which, if not corrected, would lead to structural defects, or unsafe conditions, shall be reviewed by a qualified engineer, who shall recommend corrective actions as appropriate to remedy onsite soil conditions.
Policy SA 1-7	All structures and additions requiring a building permit shall be designed and engineered to comply with the most current version of the California Code of Regulations (CCR), Title 24.
Action CON 4b	Require all development, infrastructure, and other ground-disturbing projects to comply with the following conditions in the event of an inadvertent discovery of cultural resources or human remains: • If construction or grading activities result in the discovery of significant historic or prehistoric archaeological artifacts or unique paleontological resources, all work within 100 feet of the discovery shall cease, the Planning Department shall be notified, the resources shall be examined by a qualified archaeologist, paleontologist, or historian for appropriate protection and preservation measures; and work may only resume when appropriate protections are in place and have been approved by the Planning Department.

City of Milpitas Municipal Code

Title II, Chapter 13 of the Milpitas Municipal Code sets forth rules, regulations and controls on grading, excavation, paving, and earth work construction to ensure that that the design, scope and location of grading and related activities cause minimum disturbance to terrain and natural features, to provide erosion control and to prevent sedimentation or damage to off-site property.

4.7.1.2 *Existing Conditions*

Regional Geologic Conditions

The City of Milpitas is located within the northeastern Santa Clara Valley, a broad alluvial basin underlain by sedimentary and metamorphic rocks of the Franciscan Complex. The Santa Clara Valley is bounded by the Diablo Range to the east and the Santa Cruz Mountains to the west. The Valley was formed when sediments derived from both mountain ranges were exposed by tectonic uplift and regression of the inland sea which previously inundated this area.

On-Site Geologic Conditions

Soils

Based on the test bores drilled as part of a geotechnical report (Appendix C) , subsurface soils on the project site are categorized as younger Holocene-era alluvial fan deposits. The predominant soils underlying the project site consist of a surficial layer of stiff to very stiff lean clay and fat clay deposits that extend to the maximum depth of 61.5 feet bgs. Soils encountered during these borings had a Plasticity Index (PI) greater than 15 and were characterized as having a moderate to high expansion potential.

Seismicity

The project site is located within the seismically active San Francisco Bay Area. The San Francisco Bay Area contains several faults that are capable of generating earthquakes of magnitude 7.0 or higher. Active faults closest to the project site are listed below in Table 4.7-1.

Table 4.7-1 Faults Nearest to Project Site

Fault Name	Approximate Distance (mi)	Orientation from Site
Silver Creek	1.9	Southwest
Hayward – Southeast Extension	2.4	Northeast
Hayward Fault – Main Trace	5.5	South/Southwest
Calaveras	5.9	East

Source: United States Geologic Survey. "Quaternary Fault and Fold Database of the United States." Accessed January 10, 2024. https://www.usgs.gov/natural-hazards/earthquake-hazards/faults?qt-science_support_page_related_con=4#qt-science_support_page_related_con

The project site is not located within an Earthquake Fault Zone as delineated on the most recent Alquist-Priolo Map.[50]

Liquefaction and Lateral Spreading

Soil liquefaction occurs when a cohesionless saturated or partially saturated soil substantially loses strength and stiffness in response to an applied stress, such as shaking during an earthquake or other sudden change in stress conditions, in which soil material that is ordinarily a solid behaves like a liquid. It is associated with loose, low-plasticity soils and near-surface groundwater levels. Soil qualities highly prone to liquefaction include clean, loose, saturated, uniformly graded, fine-grained sands. Soil characteristics moderately prone to liquefaction are loose to medium dense gravels, silty sands, low-plasticity silts, and some low-plasticity clays. The project site is in a Liquefaction Hazard Zone according to the State Hazard Zones map.[51] However, based upon the boring samples collected

[50] California Geological Survey. "Earthquake Zones of Required Investigation". Map. January 9, 2024. https://maps.conservation.ca.gov/cgs/EQZApp/App/.
[51] Ibid.

which exhibited moderately to highly expansive stiff to very stiff cohesive materials, the risk of liquefaction is low.

Lateral spreading typically occurs as a form of horizontal displacement of relatively flat-lying soil toward an open or "free" face such as an open body of water, channel, or excavation. This movement is often associated with liquefaction and commonly occurs on gentle slopes in seismically active regions. Lateral spread presents a significant hazard to the integrity of buildings and other structures. The project site crosses over the Penitencia East Channel, which exhibits a steep slope on either side of the stream bank that may act as a free face for lateral spreading should subsurface soils liquefy during a seismic event.

Landslides

Landslides occur when slopes become unstable, and masses of earth material move downslope. Landslides are generally considered to be rapid events, often triggered during periods of rainfall or by earthquakes. Hilly or slope areas have a tendency to fail and result in landslides. The project site is not located in Landslide Hazard Zone.[52]

Groundwater

Groundwater was encountered in the test bores on-site at 11 feet bgs (Appendix C). Groundwater levels can fluctuate for a variety of factors, including seasonal precipitation, extraction from wells, and recharge due to irrigation or other methods.

Paleontological Resources

Paleontological resources are the mineralized (fossilized) remains of organisms, exclusive of human remains or artifacts, from prehistoric environments. The project site is situated on younger alluvial fan deposits of Holocene age that are considered sensitive for vertebrate fossils, which are considered a significant paleontological resource. There are no unique geologic features (i.e. bedrock, rock outcroppings) or known paleontological resources present on-site, and the nearest fossil recovery site is located 2.5 miles to the east.[53]

[52] California Geological Survey. *Earthquake Zones of Required Investigation*. Accessed January 10, 2024. https://maps.conservation.ca.gov/cgs/eqzapp/app/.
[53] Macrostrat. *Geologic Map*. January 9, 2024. https://macrostrat.org/map/#/z=14.0/x=-121.8809/y=37.4069/bedrock/lines/satellite/fossils/columns/

4.7.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:				
- Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault (refer to Division of Mines and Geology Special Publication 42)?	☐	☐	☒	☐
- Strong seismic ground shaking?	☐	☐	☒	☐
- Seismic-related ground failure, including liquefaction?	☐	☐	☒	☐
- Landslides?	☐	☐	☒	☐
2) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☒	☐
3) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?	☐	☐	☒	☐
4) Be located on expansive soil, as defined in the current California Building Code, creating substantial direct or indirect risks to life or property?	☐	☐	☒	☐
5) 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?	☐	☐	☐	☒
6) Directly or indirectly destroy a unique paleontological resource or site or unique geological feature?	☐	☒	☐	☐

Impact GEO-1:	The project would not 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. **(Less than Significant Impact)**

Fault Rupture

The project site is not located within an Alquist-Priolo Earthquake Fault Zone; accordingly, the probability of fault rupture at the site is low. Therefore, the risk of a known earthquake fault rupture causing substantial adverse effects, including loss, injury, or death as a result of the project would be less than significant.

Seismic Ground Shaking

The project site is located within the seismically active San Francisco Bay Area. The faults in this region are capable of generating earthquakes of magnitude 7.0 or higher. During an earthquake, very strong ground shaking could occur at the project site. The proposed bridge would be constructed in compliance with the Caltrans Seismic Design Criteria, American Association of State Highway and Transportation Officials (AASHTO) Bridge Design Specifications, the soil investigation requirements of the City of Milpitas Municipal Code and Seismic Hazards Mapping Act, and applicable General Plan policies (Policies SA 1-1 through 1.7). The bridge abutments supporting the bridge span would be constructed to resist lateral pressures from the ground and from vehicles above. Additionally, back drains would be installed behind the bridge abutments to relieve hydrostatic pressure pushing against the abutments. Consistent with General Plan Policy SA 1-3, the project has completed a geotechnical investigation to ensure the project is constructed to mitigate seismic hazards. Adherence to the Caltrans Seismic Design Criteria, AASHTO Bridge Design Specifications, City's General Plan and Municipal Code, and the recommendations of a design-level geotechnical report would ensure that the proposed structures would not result in seismic hazards. As such, the existing seismic hazards on the project site would not be exacerbated, and therefore the risk of seismic ground shaking causing substantial adverse effects, including loss, injury, or death as a result of the project would be less than significant.

Liquefaction and Lateral Spreading

As discussed under Section 4.7.1.2, the proposed project site is located within a Liquefaction Hazard Zone, however the geotechnical investigation determined that there is low risk of liquefaction due to the stiff to very stiff cohesive soil material present. The proposed bridge foundations would be built above and outside of the creek's upper banks and would not interfere with the stream channel and existing floodway design.

The steep slopes on either side of the East Penitencia Channel are potentially at risk of lateral spreading, should liquefaction of soils located upslope occur. However, as previously noted, soils within the project site are stiff to very stiff, and therefore not at risk of liquefaction. Accordingly, the likelihood of lateral spreading occurring on either side of the East Penitencia Channel is low.

Furthermore, adherence to the Caltrans Seismic Design Criteria, AASHTO Bridge Design Specifications, City's General Plan and Municipal Code, and the recommendations of the geotechnical investigation would ensure that the risk of liquefaction and associated lateral spreading causing substantial adverse effects, including loss, injury, or death as a result of the project would be less than significant.

Landslides

The project is not located in a Landslide Hazard Zone.[54] The project would not change the topography of the site and surrounding area such that the likelihood of landslides occurring would increase. Accordingly, the risk of landslides causing substantial adverse effects, including loss, injury, or death as a result of the project would be less than significant.

Impact GEO-2:	The project would not result in substantial soil erosion or the loss of topsoil. **(Less than Significant Impact)**

Construction activities (e.g., grading and excavation) could temporarily increase sedimentation and erosion by exposing on-site soils to wind and runoff. The project would be required to comply with General Plan Policy SA 1-5, which requires preparation of an erosion and sediment control plan. The report must address site soil conditions, including measures to effectively minimize soil erosion and sedimentation. Additionally, the project would be required to comply with General Plan Policies UCS 4-2, UCS 4-4, AND UCS-4.14, which would require the project to comply with the NPDES Construction General Permit requirements, including preparation of a Storm Water Pollution Prevention Plan (SWPPP) and implementation of best management practices to minimize pollutant discharge during construction. By implementing standard grading and best management practices as required by Title II, Chapter 13 of the Milpitas Municipal Code and the recommendations of the erosion and sediment control plan, erosion and sedimentation impacts would be less than significant.

Impact GEO-3:	The project would not be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse. **(Less than Significant Impact)**

As discussed under Section 4.7.1.2 and Impact GEO-1, the project site is located within a state-designated Liquefaction Hazard Zone; however, there is low risk of liquefaction due to the stiff to very still cohesive soil material present. By conforming with applicable regulations and the recommendations of a design-level geotechnical report, the project would not result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse and would have a less than significant impact.

[54] California Geological Survey. *Earthquake Zones of Required Investigation*. Accessed January 10, 2024. https://maps.conservation.ca.gov/cgs/eqzapp/app/

Impact GEO-4:	The project would not be located on expansive soil, as defined in the current California Building Code, creating substantial direct or indirect risks to life or property. **(Less than Significant Impact)**

Pursuant to the CBC, soils with a plasticity index (PI) of 15 or less are not considered expansive. As documented in Section 4.7.1.2 Existing Conditions, soils on-site have a PI in excess of 15 and are moderately to highly expansive. Although expansive soils can be a hazard, it is generally mitigated through adherence with standard engineering and building practices as well as the applicable elements of City building and fire codes. As discussed in Impact GEO-1, the project would be constructed in conformance with the Caltrans Seismic Design Criteria, AASHTO Bridge Design Specifications, City's General Plan and Municipal Code, and the recommendations of a design-level geotechnical report, which would reduce impacts related to expansive soils to less than significant.

Impact GEO-5:	The project would not 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. **(No Impact)**

The project site is located within an urbanized area of Milpitas where sewers are available to dispose wastewater. The proposed bridge and roadway connections would not require the use of septic tanks or alternative wastewater disposal systems.

Impact GEO-6:	The project would not directly or indirectly destroy a unique paleontological resource or site or unique geological feature. **(Less than Significant Impact with Mitigation Incorporated)**

There are no known paleontological resources and no unique geologic features on the project site. However, construction of the project would require excavations up to 60 feet bgs for each of the bridge piers. Additionally, the project site is underlain by younger Holocene-era alluvial fan deposits where the potential to discover vertebrate fossils exists. Therefore, construction-related ground disturbing activities could significantly impact unknown subsurface paleontological resources, if encountered.

Mitigation Measure: Implementation of the following mitigation would ensure impacts to paleontological resources or geologic features are less than significant:

MM GEO-6.1: A qualified paleontologist shall attend a preconstruction meeting to ensure construction workers are able to identify potential paleontological resources. In the event fossils are encountered, construction shall be temporarily halted. The City's Engineering Department shall be notified immediately, a qualified paleontologist shall evaluate the fossils, and steps needed to photo document and recover the fossils shall be taken.

With implementation of MM GEO-6.1, the project would identify and preserve any undiscovered paleontological resources encountered during construction and ensure that impacts to paleontological resources would be less than significant.

4.8 GREENHOUSE GAS EMISSIONS

The following discussion is based, in part, on an Air Quality and Greenhouse Gas Assessment and an Update to the Air Quality Impact Analysis Memo prepared for the project by Illingworth & Rodkin, Inc. The reports, dated November 10, 2021 and November 20, 2023, are attached to this Initial Study as Appendix A.

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*

Federal

Clean Air Act

The EPA is the federal agency responsible for implementing the Clean Air Act. The U.S. Supreme Court in its 2007 decision in Massachusetts et al. v. Environmental Protection Agency et al., ruled that CO2 is an air pollutant as defined under the Clean Air Act, and that EPA has the authority to regulate emissions of GHGs. Following the court decision, EPA has taken actions to regulate, monitor, and potentially reduce GHG emissions (primarily mobile emissions).

State

Assembly Bill 32

Under the California Global Warming Solutions Act, also known as Assembly Bill (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, Senate Bill (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 2040. Plan Bay Area 2040 establishes a course for reducing per capita GHG emissions through the promotion of compact, high-density, mixed-use neighborhoods near transit, particularly within identified Priority Development Areas (PDAs).

Regional

2017 Clean Air Plan

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

BAAQMD CEQA Air Quality Guidelines

In April 2022, the BAAQMD Board of Directors adopted the Justification Report: CEQA Thresholds for Evaluating the Significance of Climate Impacts from Land Use Projects and Plans. The report includes BAAQMD's thresholds of significance for use in determining whether a proposed project or plan will have a significant impact on climate change and provides substantial evidence to support these thresholds. The April 2022 GHG thresholds replace the GHG thresholds set forth in the May 2017 BAAQMD CEQA Air Quality Guidelines and represent what is required of new land use development projects and plans to achieve California's long-term climate goal of carbon neutrality by 2045.

Local

City of Milpitas General Plan 2040

The following policies and actions in the City's General Plan have been adopted for the purpose of avoiding or mitigating greenhouse gas emission impacts resulting from planned development within the City, including the following:

Policies/Actions	Description
Policy CIR 1-3	Promote interconnectivity of the transportation network in existing and new developments and actively measure the quality of conditions in neighborhoods to better understand what barriers exist in order to support use of and access to the network.
Policy CIR 1-4	Coordinate development of safe, inclusive, and health-promoting transportation infrastructure with local, county, regional, and state agencies to optimize efficiency of the transportation network for all users and increase opportunities for physical activity for all types of users.
Policy CIR 6-2	Support development of healthier communities through the use of lower- or non-polluting modes of transportation to reduce GHG vehicle emissions and local air pollution levels.
Action CIR-1j	Seek opportunities to eliminate close walking and bicycling network gaps across barriers to mobility, including I-680, I-880, SR 237, and the Union Pacific and BART tracks.
Action CIR-4q	Make improvements to roads, signs, and traffic signals as needed to improve accessible, safe, and convenient bicycle and pedestrian travel.

Policies/Actions	Description
Policy CON 7-1	Ensure that land use and transportation plans support air quality goals through a logical development pattern that focuses growth in and around existing urbanized areas, locates new housing near places of employment, encourages alternative modes of transportation, supports efficient parking strategies, reduces vehicle miles traveled, and requires projects to mitigate significant air quality impacts.
Policy CON 7-4	Require projects to adhere to the requirements of the Bay Area Air Quality Management District (BAAQMD).
Policy CON 7-5	Use the City's development review process and the California Environmental Quality Act (CEQA) to evaluate and mitigate the local and cumulative effects of new development on air quality.
Policy CON 7-7	Comply with regional, state, and federal standards and programs for control of all airborne pollutants and noxious odors, regardless of source.
Policy CON 7-11	Encourage improvements and design features that reduce vehicle delay such as bus turnouts, and synchronized traffic signals for new development to reduce excessive vehicle emissions caused by idling.
Policy CON 7-12	Encourage and prioritize infrastructure investments and improvements that promote safe walking, bicycling and increased transit ridership.
Action CON-7f	Use the BAAQMD "Air Quality Guidelines", as amended, or replaced, in identifying thresholds, evaluating the potential project and cumulative impacts, and determining appropriate mitigation measures. Review development, infrastructure, and planning projects for consistency with BAAQMD requirements during the CEQA review process. Require project applicants to prepare air quality analyses to address BAAQMD, and General Plan requirements, which includes analysis and identification of: • Air pollutant emissions associated with the project during construction, project operation, and cumulative conditions; • Potential exposure of sensitive receptors to toxic air contaminants; • Significant air quality impacts associated with the project for construction, project operation, and cumulative conditions; and • Mitigation measures to reduce significant impacts to less than significant or the maximum extent feasible where impacts cannot be mitigated to less than significant.

City of Milpitas Climate Action Plan

The City of Milpitas' Climate Action Plan (CAP) Update was adopted in 2022. It is designed to streamline environmental review of future development projects in the City of Milpitas consistent with the CEQA Guidelines Section 15183.5(b) and the BAAQMD Air Quality Guidelines. The CAP identifies a strategy, reduction measures, and implementation strategies to comply with AB 32 and SB 375. The CAP establishes a local GHG reduction target of 36 percent below 2019 levels by 2030; 79 percent below 2019 levels by 2040; and carbon neutrality by 2045. The city's 2030 target requires GHG emissions to be reduced to 283,817 $MTCO_2e$ in 2030. The 2040 target, which the City has set based upon the trajectory necessary to meet the 2045 goal, requires community emissions to be

reduced to 94,606 $MTCO_2e$ in 2040. The 2040 goal is intended to align with the General Plan 2040 horizon year. To that end, the CAP includes the following policies which are intended to conserve energy and promote alternative modes of transportation:

Measures	Description
TR-1.1	Reduce VMT from new development in compliance with SB 743.
TR-3.2	Increase transit ridership.

City of Milpitas Metro Specific Plan

The MMSP adopted the following policies for the purpose of avoiding or mitigating greenhouse gas emissions impacts resulting from planned development within the MMSP area, including the following:

Policies	Description
M 8	Establish and implement a travel demand management (TDM) program with the non-compulsory goal of reducing VMT by 15 percent or more below the regional baseline per employee or resident and efficiently provides parking that meet the needs of residents, employees, and visitors. TDM measures should be incorporated into all new development and may be implemented by individual uses or through Transportation Management Association (TMA) oversight.
M 8.1	The TMA is responsible for monitoring trip reduction, VMT targets, and services within the planning area. Participation in the TMA is required of all new development and optional for existing uses.
M 5.1	Create a complete pedestrian and bicycle network that connects trails and pathways and includes continuous sidewalks and safe bike travel routes throughout the entire Milpitas Metro Area.

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 the weather patterns.

The project site is currently developed with an approximately 41,307 square foot vacant office building and associated surface parking lot. The existing development generates GHGs through building heating and cooling, electricity use, solid waste disposal, and vehicle travel to and from the site, including freight deliveries.

4.8.2 Impact Discussion

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

4.8.2.1 *Thresholds of Significance*

Pursuant with BAAQMD, for land use projects to result in a less than significant GHG emissions impact, the land use project would need to comply with threshold A or B below.

A. Projects must include, at a minimum, the following project design elements:
   1. Buildings
      a. The project will not include natural gas appliances or natural gas plumbing (in both residential and nonresidential development).
      b. The project will not result in any wasteful, inefficient, or unnecessary energy usage as determined by the analysis required under CEQA Section 21100(b)(3) and Section 15126.2(b) of the State CEQA Guidelines.
   2. Transportation
      c. Achieve a reduction in project-generated vehicle miles traveled (VMT) below the regional average consistent with the current version of the California Climate Change Scoping Plan (currently 15 percent) or meet a locally adopted Senate Bill 743 VMT target, reflecting the recommendations provided in the Governor's Office of Planning and Research's Technical Advisory on Evaluating Transportation Impacts in CEQA:
         i. Residential projects: 15 percent below the existing VMT per capita
         ii. Office projects: 15 percent below the existing VMT per employee
         iii. Retail projects: no net increase in existing VMT
         iv. Achieve compliance with off-street electric vehicle requirements in the most recently adopted version of CALGreen Tier 2.

B. Be consistent with a local GHG reduction strategy that meets the criteria under State CEQA Guidelines Section 15183.5(b)

At the time the Air Quality and GH Assessment was prepared, the City did not have a qualified CAP and BAAQMD was still using quantified emissions thresholds. Therefore, the Air Quality and GHG Assessment uses a bright-line threshold of 660 MT CO_{2e}/year based on the GHG reduction goals of EO B-30-15. The 2030 bright-line threshold of 660 MT CO_{2e}/year is a 40 percent reduction of the 2020 1,100 MT CO_{2e}/year threshold, which coincides with the 40 percent reduction in 1990 GHG emissions by 2030 per SB 32.

Impact GHG-1:	The project would not generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment. **(Less than Significant Impact)**

Construction Emissions

Short-term GHG emissions from the construction phase of the project would consist primarily of heavy equipment exhaust, worker travel, materials delivery, and solid waste disposal. Neither the City of Milpitas nor BAAQMD have an adopted threshold of significance for construction-related GHG emissions; however, BAAQMD recommends disclosing that GHG emissions would occur during construction. BAAQMD also encourages the incorporation of best management practices to reduce GHG emissions during construction where feasible and applicable. Because construction would be temporary (approximately 18 months) and would not result in a permanent increase in emissions, the project would not interfere with the implementation of AB 32 or SB 32.

Operational Emissions

The project would generate GHG emissions in the form of vehicle exhaust associated with project-generated traffic. GHG emissions generated by the project were estimated using a combination of RCEM and CalEEMod in accordance with the guidance provided in the BAAQMD CEQA Air Quality Guidelines. The GHG emissions associated with the existing office development were estimated using CalEEMod and subtracted from GHG emissions associated with the project to calculate the net increase in GHG emissions. The modeling assumptions and methodology, data inputs, and results are described further in Appendix **A** of this Initial Study. Table 4.8-1 below shows the annual GHG emissions resulting from operation of the proposed project.

Table 4.8-1: Calculated GHG Emissions of Existing Development and Proposed Project

Source Category	Existing Use	Proposed Project
Area	0.0	N/A
Energy Consumption	106.8	N/A
Mobile	227.5	10.3
Solid Waste Generation	19.3	N/A
Water Usage	9.7	N/A
Total GHG Emissions (MT CO_{2e}/yr)	363.3	10.3
Net GHG Emissions (MTCO_{2e}/yr)	-353.1	
Bright-Line Significance Threshold	*660 MT CO_{2e}/yr.*	
Exceed Threshold?	No	

Source: Illingworth & Rodkin, Inc. *S. Milpitas Boulevard Vehicular Bridge Air Quality Assessment.* November 10, 2021.

As shown in Table 4.8-1, the proposed project would result in a net reduction in GHG emissions of 353.1 MT CO_{2e} per year, which would not exceed the bright-line threshold of 660 MT CO_{2e}/yr.

Therefore, the project would not generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment.

In addition, the City's Climate Action Plan Update is a qualified GHG reduction strategy that is designed to meet statewide GHG reduction targets for 2030 set by SB 32. Projects that comply with the policies and strategies outlined in the City's CAP would have less than significant GHG impacts under CEQA. The proposed bridge and roadway connection would improve bicycle and pedestrian connectivity and would reduce VMT (refer to the discussion under Section 4.17 Transportation under Impact TRN-2). For these reasons, the project would be consistent with the City's CAP and would result in less than significant GHG impacts.

Impact GHG-2:	The project would not conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs. **(No Impact)**

As discussed under Impact GHG-1, the project would result in a net reduction in GHG emissions in comparison with the existing development. Accordingly, the project would not generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment, and would not conflict with AB 32, SB 32, the BAAQMD CEQA Air Quality Guidelines, or the 2022 City of Milpitas Climate Action Plan Update.

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.[55]

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.[56]

Government Code Section 65962.5 (Cortese List)

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).[57]

[55] United States Environmental Protection Agency. "Superfund: CERCLA Overview." Accessed January 9, 2024. https://www.epa.gov/superfund/superfund-cercla-overview.
[56] United States Environmental Protection Agency. "Summary of the Resource Conservation and Recovery Act." Accessed January 9, 2024. https://www.epa.gov/laws-regulations/summary-resource-conservation-and-recovery-act.
[57] California Environmental Protection Agency. "Cortese List Data Resources." Accessed January 9, 2024. https://calepa.ca.gov/sitecleanup/corteselist/.

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.

Asbestos-Containing Materials

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

Lead Based Paint

In 1978, the U.S. Consumer Product Safety Commission lowered the permissible levels of lead contained in paints and banned consumer uses of lead-based paint. Lead paint is still present in millions of buildings, sometimes under layers of newer paint. If the paint is in good shape, the lead paint is usually not a problem. Deteriorating lead-based paint (peeling, chipping, chalking, cracking, damaged, or damp) is a hazard and needs immediate attention. Exposure to lead can result in deleterious effects to adults, including cardiovascular effects, increased blood pressure and incidence of hypertension, decreased kidney function, and reproductive problems (in both men and women), as well as developmental issues in children.[58]

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.

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

[58] United States Environmental Protection Agency. “Learn about Lead”. Accessed January 9, 2024. https://www.epa.gov/lead/learn-about-lead.

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.[59] Municipalities throughout the Bay Area are 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.

City of Milpitas General Plan 2040

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to hazards and hazardous materials and are applicable to the project.

Policies	Description
Policy SA 5.1	Require hazardous waste generated within Milpitas to be disposed of in a safe manner, consistent with all applicable local, state, and federal laws.
Policy SA 5.2	Hazardous materials shall be stored in a safe manner, consistent with all applicable local, state, and federal laws.
Policy SA 5.4	Use the environmental review process to comment on Hazardous Waste Transportation, Storage and Disposal (TSD) Facilities proposed in the Milpitas Planning Area and throughout the County to request a risk assessment and ensure that potentially significant, widespread, and long-term impacts on public health and safety of these facilities are identified and mitigated, as such impacts do not respect jurisdictional boundaries.
Policy SA 5.5	As feasible, minimize the use of toxic cleaning supplies and products in civic facilities, and minimize the City's use of pesticides, herbicides and fertilizers during landscaping and outdoor municipal operations.

4.9.1.2 *Existing Conditions*

Site History

Historically, the project site was located in an undeveloped portion of Rancho Milpitas and was surrounded by farms of cultivated crops and orchards.[60] Farms ranged in size from approximately 40 to 250 acres and included a rural residence. The project site remained undeveloped until it was used for agricultural production as row crops between 1931 and 1968. Based on historic aerials of the

[59] California Regional Water Quality Control Board. *San Francisco Bay Region Municipal Regional Stormwater NPDES Permit.* November 2015.
[60] PaleoWest, LLC. *Archaeological Resources Assessment*. July 28, 2021.

project site, the existing office development on-site was constructed by 1980, when the areas to the north and south of Penitencia East Channel were developed with light industrial commercial buildings.

On-Site Sources of Contamination

The project site is on a list of hazardous material sites compiled pursuant to Government Code Section 65962.5 (Cortese List). According to GeoTracker, the parcel at 1831-1841 Tarob Court, Milpitas, CA 95035 has been identified as an Open Cleanup Site as a result of soil and groundwater contamination from past activities associated with circuit board manufacturing from 1979 to 2015.[61] These activities included the use of a clarifier that is the probable source of the primary volatile organic compounds (VOC) release, trichloroethylene (TCE) and dichloroethane (DCE).

In 2019, approximately 75.0 cubic yards of contaminated soil was excavated at the project site along a storm drain line where secondary source TCE risk-based thresholds were exceeded. An additional 64.8 cubic yards were removed with an associated sump pump.[62] In 2020, a Risk Management Plan was established identifying contamination locations, soil and groundwater management requirements for future earthwork, and requirements for future development projects. A deed restriction was applied to the property to limit uses as a roadway or open-air park due to the presence of contaminated soil, soil vapors, and groundwater. The RWQCB concluded that with the completed remediation activities and limitation of future land uses, the subject parcel does not require further active remediation.[63] However, the parcel's status remains open.[64]

Off-Site Sources of Contamination

Based on soil vapor testing conducted between 2017 and 2020, the project site has not been contaminated by any hazardous materials (including those that can be attributed to off-site sources) beyond those described above under On-Site Sources of Contamination.[65]

Airport Hazards

The nearest airport is the Norman Y. Mineta San José International Airport, which is located approximately three miles southwest of the City of Milpitas. According to the Norman Y. Mineta San José International Airport Comprehensive Land Use Plan, the City of Milpitas is not located within an airport safety zone.

[61] California State Water Resources Control Board. "GeoTracker, 1841 Tarob Court." January 9, 2024. https://geotracker.waterboards.ca.gov/case_summary?global_id=T10000008880.
[62] Montgomery, Michael. Executive Officer, San Francisco Bay Regional Water Quality Control Board. Personal Communication. March 26, 2020.
[63] San Francisco Bay Regional Water Quality Control Board. *No Further Remedial Action Required – former Dynamic Circuits Sites, 1831 Tarob Court, Milpitas, Santa Clara County*. August 10, 2020.
[64] West, Kimberlee. Engineer, San Francisco Bay Regional Water Quality Control Board. Personal Communication. August 13, 2020.
[65] McCloskey Consultants. *Site Plan-Soil Vapor Sampling Results for 355 Sango Court including 1831 Tarob Court*. Attachment to Kimberlee West Personal Communication. August 18, 2020

Wildfire Hazards

The project site is not located in a designated Wildland Fire Hazard or Wildland/Urban Interface Hazard Area.[66]

4.9.2 Impact Discussion

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

[66] CAL FIRE. *Fire Hazard Severity Zone Viewer*. Accessed January 9, 2024. https://egis.fire.ca.gov/FHSZ/

Impact HAZ-1:	The project would not create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials. **(Less than Significant Impact)**

Construction of the project would involve the use of potentially hazardous materials, including vehicle fuels, oils, and fluids. All hazardous materials would be transported, contained, stored, used, and disposed of in accordance with manufacturers' instructions and would be handled in compliance with all applicable standards and regulations. Construction-related hazardous materials use would be temporary, and would not constitute routine transport, use, or disposal.

The proposed project would demolish the existing office building at 1831-1841 Tarob Court, Milpitas, CA 95035. According to the Milpitas Building & Safety E-Permit Center, the office building was constructed in 1980 and may include materials that contain PCBs. PCBs in building materials could be released and thereby exposed to stormwater runoff from the project site during rain events. To address this risk, the City must submit a PCB Screening Assessment Form to the San Francisco Bay Regional Water Quality Control Board.[67] The form is designed to ascertain whether or not the building targeted for demolition is subject to the PCB Screening Assessment. If the on-site building does contain PCBs that exceed threshold limits, the City must follow applicable federal and state laws, including complying with the reporting requirements of the EPA, RWQCB, and DTSC, and additional sampling and abatement of PCBs if determined necessary by the oversight agency. Adherence to this process would result in a less than significant impact related to PCBs.

Small quantities of maintenance chemicals and herbicides and pesticides used in landscaping would be used in operation of the proposed project. No hazardous materials would be stored on-site. These materials would be managed in accordance with existing laws and regulations that ensure that the routine transport, storage, use, and disposal of these materials would not result in a significant hazard to the public or environment. As a result, the project would have a less than significant impact.

Impact HAZ-2:	The project would not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. **(Less than Significant Impact with Mitigation Incorporated)**

Soil and Groundwater Contamination

As described in Section 4.9.1.2 Existing Conditions, the project site has been the subject of remediation activities due to soil and groundwater contamination (VOC, TCE, and DCE). A deed restriction was applied to the property to limit uses as a roadway or open-air park due the presence of contaminated soil, soil vapors, and groundwater. When soil disturbance occurs, these contaminants can become airborne and pose a health hazard to construction workers, nearby sensitive receptors, and the environment.

[67] City of Milpitas. *Polychlorinated Biphenyls (PCBs) Screening Assessment Application Package*. May 2019.

Mitigation Measures: Consistent with General Plan Action SA-5a, the following mitigation measure would be required to reduce risks to construction workers, nearby sensitive receptors, and the environment.

MM HAZ-2.1: Prior to demolition and grading, a Risk Management Plan (RMP) shall be prepared to protect the health and safety of construction workers and site users adjacent to construction activities. The RMP shall be implemented during all phases of construction and shall include engineering controls, monitoring, and security measures to prevent unauthorized entry to the construction site and to reduce hazards outside of the construction site. The RMP shall address the possibility of encountering subsurface hazards and include procedures to protect workers and the public. The RMP shall also include procedures for managing soils and groundwater removed from the site to ensure that any excavated soils and/or dewatered groundwater with contaminants are stored, managed, and disposed of in accordance with applicable regulations and permits. Protocols for the handling, transport, and disposal of both known and previously unidentified hazardous materials that may be encountered during project development shall be specified. If prescribed exposure levels are exceeded, personal protective equipment shall be required for workers in accordance with Occupational Safety and Health Administration (OSHA) regulations. Finally, the RMP shall also include procedures for the use, storage, disposal, of hazardous materials used during construction activities to prevent the accidental release of these materials into the environment during construction.

With implementation of mitigation measure MM HAZ-2.1 above, contaminated soils on-site would be properly identified, characterized, removed and disposed of prior to ground-disturbing activities, thus preventing exposure of construction workers, nearby sensitive receptors, and the environment to soil contaminants from construction of the project.

Asbestos-Containing Materials and Lead Based Paint

The project proposes to demolish the existing office building and associated surface parking lot located at 1831-1841 Tarob Court, Milpitas, CA 95035, which was constructed by 1980 and may contain ACMs and surfaces coated with lead based paint. Demolition of the existing office development could result in the release of ACMs and lead-based paint to the environment, if appropriate control measures are not implemented.

Mitigation Measures: Consistent with General Plan Action SA-5a, the following mitigation measure would be required to reduce risks to construction workers, nearby sensitive receptors, and the environment.

MM HAZ-2.2: To reduce the potential for construction workers and nearby sensitive receptor to be exposed to hazardous materials (asbestos containing materials [ACMs] and lead-based paint), the following measures shall be incorporated at all times during the construction of the project.

- In conformance with state and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be conducted prior to the demolition of on-site building(s) to determine the presence of asbestos-containing materials and/or lead-based paints.
- Prior to demolition, all building materials containing lead-based paint shall be removed in accordance with the California Division of Occupational Safety and Health Lead in Title 8, California Code of Regulations, Section 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of lead being disposed.
- All potentially friable asbestos-containing materials shall be removed in accordance with National Emission Standards for Hazardous Air Pollutants guidelines prior to demolition or renovation activities that may disturb asbestos-containing materials. All demolition activities shall be undertaken in accordance with the California Division of Occupational Safety and Health standards contained in Title 8, California Code of Regulations, Section 1529, to protect workers from asbestos exposure.
- A registered asbestos abatement contractor shall be retained to remove and dispose of asbestos-containing materials identified in the asbestos survey performed for the site in accordance with the standards stated above.
- Materials containing more than one-percent asbestos are also subject to Bay Area Air Quality Management District regulations. Removal of materials containing more than one-percent asbestos shall be completed in accordance with Bay Area Air Quality Management District requirements and notifications.
- Based on California Division of Occupational Safety and Health rules and regulations, the following conditions are required to limit impacts to construction workers.
    - Prior to commencement of demolition activities, a building survey, including sampling and testing, shall be completed to identify and quantify building materials containing lead-based paint.
    - During demolition activities, all building materials containing lead-based paint shall be removed in accordance with the California Division of Occupational Safety and Health Lead in Construction Standard, Title 8, California Code of Regulations, Section 1532.1, including employee training, employee air monitoring and dust control.
    - Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of waste being disposed.

Implementation of MM HAZ-2.2 would result in all ACMs and lead-based paint being properly identified and removed prior to demolition, thus preventing the exposure of these materials to construction workers, nearby sensitive receptors, and the environment. Impacts would be less than significant with mitigation incorporated.

Impact HAZ-3:	The project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school. **(Less than Significant Impact with Mitigation Incorporated)**

There is one existing school, Stratford Elementary School, within one-quarter mile of the project site. Hazardous materials used in construction and operation of the proposed project would be managed in accordance with existing laws and regulations that ensure these materials do not pose a significant hazard to the public or environment. Hazardous emissions related to airborne contaminated soil particulates would be reduced to less than significant levels through the mitigation measures outlined under Impact HAZ-2.

Impact HAZ-4:	The project would not be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, create a significant hazard to the public or the environment. **(Less than Significant Impact with Mitigation Incorporated)**

As discussed above in Section 4.9.1.2 Existing Conditions, the project site is listed as an Open Cleanup Program Site on the Cortese List. A deed restriction was applied to the property to limit uses as a roadway or open-air park due the presence of contaminated soil, soil vapors, and groundwater. The RWQCB concluded that with the completed remediation activities and limitation of future land uses, the subject parcel does not require further active remediation.[68] As discussed under Impact HAZ-2, with implementation of MM HAZ-2.1, the contaminated soil on-site would not pose a substantial hazard to construction workers or nearby sensitive receptors. For these reasons, the project would not create a significant hazard to the public or environment.

Impact HAZ-5:	The project would not be located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport. The project would not result in a safety hazard or excessive noise for people residing or working in the project area. **(No Impact)**

The project site is located approximately three miles northeast of the Mineta San José International Airport and is not located within the Airport Influence Area as defined by the Comprehensive Land Use Plan.[69] Therefore, the project would not result in a safety hazard or excessive noise for people residing or working in the project area.

[68] San Francisco Bay Regional Water Quality Control Board. *No Further Remedial Action Required – former Dynamic Circuits Sites, 1831 Tarob Court, Milpitas, Santa Clara County*. August 10, 2020.
[69] Santa Clara County Airport Land Use Commission. *Comprehensive Land Use Plan Norman Y. Mineta San JOSE International Airport*. November 2016. Figure 8.

Impact HAZ-6:	The project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. **(Less than Significant Impact)**

Development of the proposed project would not physically interfere with an adopted emergency response or evacuation plan. The project would improve access across the Penitencia East Channel to and from the Milpitas BART Station/Milpitas Transit Station and surrounding neighborhoods. The project does not contain characteristics that would impair the performance of the 2021 City's Emergency Management Program Assessment and Implementation Plan. For these reasons, the proposed project would not impair implementation or physically interfere with emergency plans and would have a less than significant impact.

Impact HAZ-7:	The project would not expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires. **(No Impact)**

As discussed under Section 4.9.1.2 Existing Conditions, the project site is not within a Wildland Fire Hazard or Wildland/Urban Interface Area; therefore, the project would not expose people or structures, either directly or indirectly, to an increased significant risk of loss, injury, or death involving wildland fires.

4.10 HYDROLOGY AND WATER QUALITY

The following discussion is based, in part, on an East Penitencia Creek Bridge Crossing Hydraulic Analysis prepared by Schaaf & Wheeler Consulting Civil Engineers on September 4, 2020. The report is included in this Initial Study as Appendix E.

4.10.1 Environmental Setting

4.10.1.1 *Regulatory Framework*

Federal and State

The federal Clean Water Act (CWA) and California's Porter-Cologne Water Quality Control Act are the primary laws related to water quality in California. The Clean Water Act (CWA), Section 303, establishes water quality standards and Total Maximum Daily Load (TMDL) programs. The 303(d) list is a list of impaired water bodies.

Regulations set forth by the EPA and the SWRCB have been developed to fulfill the requirements of this legislation. EPA regulations include the NPDES permit program, which controls sources that discharge pollutants into the waters of the U.S. (e.g., streams, lakes, bays, etc.). These regulations are implemented at the regional level by the RWQCBs. The project site is within the jurisdiction of the San Francisco Bay RWQCB.

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 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 storm water discharges.

Regional

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 2015 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.[70] Under Provision C.3 of the MRP, new and redevelopment projects that create or replace 10,000 square feet or more of impervious surface area are required to implement site design, source control, and Low Impact Development (LID)-based stormwater treatment controls to treat post-construction stormwater runoff. LID-based treatment controls are intended to maintain or restore the site's natural hydrologic functions, maximizing opportunities for infiltration and evapotranspiration, and using stormwater as a resource (e.g. rainwater harvesting for non-potable uses). The MRP also requires that stormwater treatment measures are properly installed, operated, and maintained.

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

Municipal Regional Permit Provision C.12.f

Provision C.12.f of the MRP requires co-permittee agencies to implement a control program for PCBs that reduces PCB loads by a specified amount during the term of the permit, thereby making substantial progress toward achieving the urban runoff PCBs wasteload allocation in the Basin Plan by March 2030.[71] 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

[70] MRP Number CAS612008

[71] San Francisco Bay Regional Water Quality Control Board. *Municipal Regional Stormwater Permit, Provision C.12.* November 19, 2015.

demolition building materials to ensure PCBs are not discharged to storm drains during demolition. Buildings constructed between 1955 and 1978 that are proposed for demolition must be screened for the presence of PCBs prior to the issuance of a demolition permit.

Water Resources Protection Ordinance and District Well Ordinance

Valley Water operates as the flood control agency for Santa Clara County. Their stewardship also includes creek restoration, pollution prevention efforts, and groundwater recharge. Permits for well construction and destruction work, most exploratory boring for groundwater exploration, and projects within Valley Water property or easements are required under Valley Water's Water Resources Protection Ordinance and District Well Ordinance.

2021Groundwater Management Plan

The 2021 Groundwater Management Plan (GWMP) describes the 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 District'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 the District'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 recharge through the provision of treated surface water, acquisition of supplemental water supplies, and water conservation and recycling.[72]

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.

Local

City of Milpitas General Plan 2040

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to hydrology and water quality and are applicable to the project.

[72] Santa Clara Valley Water District. *2021 Groundwater Management Plan for the Santa Clara and Llagas Subbasins*. November 2021.

Policies	Description
Policy SA 2-3	Require all development projects to demonstrate how storm water runoff will be detained or retained on-site, treated, and/or conveyed to the nearest drainage facility as part of the development review process. Project applicants shall demonstrate that project implementation would not result in increases in the peak flow runoff to adjacent lands or drainage facilities that would exceed the design capacity of the drainage facility or result in an increased potential for offsite flooding.
Policy SA 2-5	Unless otherwise mitigated, require new structures to be located outside of the 100- year floodplain. All new development within an identified Flood Hazard Area shall be built according to Federal Emergency Management Agency standards and comply with the provisions for flood hazard reduction criteria (Milpitas Municipal Code Section XI-15-5).
Policy UCS 1-2	Require development and long-term planning projects to be consistent with all applicable City infrastructure plans, including the Water Master Plan, Urban Water Management Plan (UWMP), the Sewer Master Plan, the Sewer System Management Plan, the Green Infrastructure Plan, and the Capital Improvement Program.
Policy UCS 1-3	Require all future development projects to analyze their infrastructure and service impacts and either demonstrate that the City's existing infrastructure, public services, and utilities can accommodate the increased demand for services, and that service levels for existing users will not be diminished or impaired, or make the necessary improvements to mitigate all potential impacts.
Policy UCS 4-2	Require all development projects to demonstrate how storm water runoff will be detained or retained on-site and/or conveyed to the nearest drainage facility as part of the development review process and as required by the San Francisco Bay Region Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) Permit.
Policy UCS 4-3	Require all future development projects to analyze their drainage and stormwater conveyance impacts and either demonstrate that the City's existing infrastructure can accommodate increased stormwater flows, or make the necessary improvements to mitigate all potential impact
Policy UCS 4-4	Applicable projects shall incorporate Best Management Practices (BMPs) and Low Impact Development measures (LID) to treat stormwater before discharge from the site. The facilities shall be sized to meet regulatory requirements.
Policy UCS 4-6	Applicable projects shall minimize directly connected impervious areas by limiting the overall coverage of paving and roofs, directing runoff from impervious areas to adjacent pervious areas, and selecting permeable pavements and surface treatments.
Policy UCS 4-14	Construction sites shall incorporate measures to control erosion, sedimentation, and the generation of runoff pollutants to the maximum extent practicable. The design, scope and location of grading and related activities shall be designed to cause minimum disturbance to terrain and natural features. (Title II, Chapter 13 of the Municipal Code).

Policies	Description
Policy UCS 4-15	Minimize the use of pesticides that may affect water quality.

City of Milpitas Stormwater Regulations

To comply with Provision C.3 of the MRP, projects are required to submit a Stormwater Management Plan (SWMP) with building plans, to be reviewed and approved by the City of Milpitas's Engineering Department. The SWMP must be prepared under the direction of and certified by a licensed and qualified professional, which includes civil engineers, architects, or landscape architects. Conditions of approval for development projects include the installation and maintenance of Best Management Practices (BMPs) for site design and stormwater treatment, which must be designed per approved numeric sizing criteria.

City of Milpitas Municipal Code

Chapter 15 of the City's Municipal Code includes regulations to minimize public and private losses due to flood hazard areas of the City being subject to inundation. Chapter 16 of the City's Municipal Code ensures consistency with federal and state law requirements related to stormwater and urban runoff pollution control.

City of Milpitas Metro Specific Plan

The MMSP adopted the following policies for the purpose of avoiding or mitigating hydrology and water quality impacts resulting from planned development within the MMSP area, including the following:

Policies	Description
ICS 1.2	Ensure that runoff in storm drains does not lower water quality within or outside of the Plan Area by implementing Best Management Practices (BMPs) in new developments within the Metro Area.
ICS 2.1	Minimize damage associated with flooding events and comply with regulations stipulated by FEMA and the National Flood Insurance Program.
ICS 2.2	New development within a FEMA-designated flood hazard zone must follow the City's construction standards for such areas, as currently laid out in Section XI-15 'Floodplain Management Regulations' of the Milpitas Municipal Code.

4.10.1.2 *Existing Conditions*

Hydrology and Drainage

The project site is located in the Lower Penitencia Creek-Frontal San Francisco Bay Estuaries watershed. This watershed is a 30.5-square mile area that drains Penitencia Creek, Berryessa Creek Arroyo De Los Coches, and Calera Creek from the City's eastern foothills to the valley floor. The project is located on the Penitencia East Channel, which originates as an open creek channel approximately 715 feet to the east. Valley Water owns and manages the project site's creek channel

for flood protection. Penitencia East Channel flows west and north where it joins Lower Penitencia Creek and then Coyote Creek which flows into the San Francisco Bay.
Stormwater runoff from the City is collected in a system of storm drains ranging from 3- to 96-inches in diameter that drain into the City's waterways and ultimately to the San Francisco Bay.

Water Quality

As discussed above under Hydrology and Drainage, surface runoff from the project site is collected by storm drains and discharged to Lower Penitencia Creek which joins Coyote Creek, where it later flows into the San Francisco Bay. The runoff often contains contaminants such as oil and grease, plant and animal debris (e.g., leaves, dust, and animal feces), pesticides, litter, and heavy metals. In sufficient concentrations, these pollutants can adversely affect the aquatic habitats to which they drain. Within Milpitas, Coyote Creek is the only water body listed on the Section 303(d) list of impaired water.[73]

Groundwater

The project site lies within the Santa Clara Groundwater Basin which extends from the southern edge of San Francisco Bay through the Coyote Valley.[74] According to the geotechnical report completed for the project(refer to Appendix C), groundwater was encountered in the test bores on-site at 11 feet bgs. Historical high groundwater was estimated between five and ten feet bgs, based on measurements published by the California Geological Survey in 2002. Groundwater levels can fluctuate for a variety of factors, including seasonal precipitation, extraction from wells, and recharge due to irrigation or other methods.

Flooding

According to the City's General Plan, areas prone to flooding include Calera Creek, Los Coches Creek, Lower Penitencia Creek, Berryessa Creek, Wrigley Creek, Ford Creek, and Coyote Creek. The project site is located in the 100-year floodplain. According to FEMA, the creek and a small portion of the southern embankment is designated as Zone A, with the remaining portion designated as Zone AO.[75] Zone A is defined as areas with a one percent annual chance of flooding where no base flood elevation has been measured. Zone AO is defined as river or stream flood hazard areas and areas with a one percent annual chance of shallow flooding each year, with an average depth of one to three feet.

Dam Failure

The City is located within the Anderson Dam, Coyote Dam, and Sandy Wool Lake Dam failure inundation hazard zones, which are the areas that may be flooded in the event of a complete dam

[73] California State Water Resources Control Board. 2*020-2022 California Integrated Report (Clean Water Act Section 303(d) List and 305(b) Report).* May 11, 2022. Accessed February 6, 2023. https://www.waterboards.ca.gov/water_issues/programs/water_quality_assessment/2020_2022_integrated_report.html.
[74] City of Milpitas. *Milpitas General Plan Final Environmental Impact Report*. January 2020. SCH 2020070348. Page 3.9-4.
[75] Federal Emergency Management Agency. *Flood Insurance Rate Map Santa Clara County, California. Map No. 06085C0067J*. February 19, 2014.

failure. According to the Milpitas General Plan FEIR, the project site is not located in a dam failure inundation area.[76]

Seiches and Tsunamis

A seiche is defined as a standing wave generated by rapid displacement of water within an enclosed body of water (such as a lake or the San Francisco Bay) due to an earthquake that triggers land movement within the water body or landslides into or beneath the water body. There are no large bodies of water within the vicinity of the project sites; therefore, the project sites are not subject to seiches.[77]

A tsunami is a large tidal wave caused by an underwater earthquake or volcanic eruption. Tsunamis affecting the Bay Area can result from offshore earthquakes within the Bay Area. The project site is not within a tsunami inundation area.[78]

4.10.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?	☐	☐	☒	☐
2) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	☐	☐	☒	☐
3) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:	☐	☐	☒	☐
- result in substantial erosion or siltation on- or off-site;	☐	☐	☒	☐
- substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;	☐	☐	☒	☐

[76] City of Milpitas. *Milpitas General Plan Final Environmental Impact Report*. January 2020. SCH 2020070348. Page 3.9-8.
[77] City of Milpitas. *Milpitas General Plan Final Environmental Impact Report*. January 2020. SCH 2020070348. Page 3.6-16.
[78] City of Milpitas. *Milpitas General Plan Final Environmental Impact Report*. January 2020. SCH 2020070348. Page 3.6-16.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
- create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or	☐	☐	☒	☐
- impede or redirect flood flows?	☐	☐	☒	☐
4) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	☐	☐	☒	☐
5) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	☐	☐	☒	☐

Impact HYD-1: The 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)**

The water quality of streams, creeks, ponds, and other surface water bodies can be greatly affected by pollution carried in contaminated surface runoff. Pollutants from unidentified sources, known as non-point source pollutants, are washed from streets, construction sites, parking lots, and other exposed surfaces into storm drains. Urban stormwater runoff often contains contaminants such as oil and grease, plant and animal debris (e.g., leaves, dust, animal feces, etc.), pesticides, litter, and heavy metals. In sufficient concentration, these pollutants have been found to adversely affect the aquatic habitats to which they drain.

Construction

Construction activities (e.g., grading and excavation) on the site may result in temporary impacts to surface water quality. When disturbance to underlying soils occurs, the surface runoff that flows across the site may contain sediments that are ultimately discharged into the storm drainage system. The proposed project would be required to obtain a NPDES Construction General Permit. As such, a Notice of Intent must be submitted to the RWQCB and a SWPPP must be developed to establish methods for controlling discharge associated with construction activities.

In addition to the Construction General Permit, the project would be required to comply with General Plan Policies UCS 4-4, UCS 4-6, and UCS-4.14 , which would require the project to implement best management practices that minimizes pollutant discharge during construction. Compliance with the requirements of the Construction General Permit and standard grading and best management practices as required by Title II, Chapter 13 of the Milpitas Municipal Code would ensure that soil and construction byproducts do not substantially degrade surface or ground water quality. Therefore, construction of the project would have a less than significant impact on water quality.

Post-Construction

The project would replace more than 10,000 square feet of impervious surfaces at the project site; therefore, it would be subject to Provision C.3 of the MRP. Therefore, the project would be required to incorporate site design, source control and runoff treatment controls to reduce the rates, volumes and pollutant loads of runoff from the project. The project would install bioswale basins to treat stormwater associated with the roads behind the flow line of the gutter. In addition to the requirements of Provision C.3, the project would be required to comply with General Plan Policies UCS 4-2, UCS 4-3, UCS 4-4, and UCS 4-6 to further reduce and treat surface runoff in accordance with state and local standards, thus preventing substantial degradation of surface or ground water quality. Therefore, construction of the proposed project in accordance with the City's Municipal Code and General Plan policies would not result in significant construction-related water quality impacts.

Impact HYD-2:	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)**

The project site is located in an urban area and is not within a designated groundwater recharge zone for the groundwater basin. The proposed project would demolish an existing office building in order to develop a new public right-of-way that includes the construction of a bridge over Penitencia East Channel and development of a new roadway on an existing impervious surface. The proposed bridge would be constructed completely outside the channel and overbank areas. The operation of the proposed bridge and roadway would not require the use of water and, therefore, not require the extraction of groundwater resources. Therefore, the project would have less than significant impact on groundwater resources.

Impact HYD-3:	The project would not 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. **(Less than Significant Impact)**

Runoff from the project site currently flows overland and either drains directly into the creek or enters the storm drainage system untreated and unimpeded. The project proposes to demolish the existing office building and associated surface parking lot, and construct 7-foot wide bioswale basins on either side of the proposed roadways, which would decrease the amount of impervious surface by approximately 9 percent, thereby decreasing the amount of surface runoff. Because the project would result in reduced runoff volumes compared to the existing conditions, the project would not negatively impact the capacity of the existing storm drain system or cause off-site flooding.

The proposed bridge would be clear-span, meaning that no permanent structures or fill would be placed within the Penitencia East Channel; therefore, the bridge would not impede flood flows and would avoid impacts within the bank or channel. While ground-disturbing activities during project construction could release sediment into the channel, any erosion associated with construction of the project would be managed in accordance with the City's Municipal Code and General Plan Policies (refer to Impact GEO-2 and HYD-1).

As discussed above under Impact HYD-1, the project would be required to adhere to the requirements of Provision C.3 of the MRP, Construction General Permit, and General Plan Policies UCS 4-2, UCS 4-3, UCS 4-4 and UCS 4-14; therefore, the project would improve the quality of stormwater runoff leaving the site and entering the City's storm drainage system. Finally, the project would be required to manage erosion and sedimentation during construction in accordance with the City's Municipal Code and the Construction General Permit. For these reasons, the project would not substantially alter the drainage pattern of the site or area in a manner which would result in on or off-site erosion, flooding, or runoff impacts.

Impact HYD-4:	The project would not risk release of pollutants due to project inundation in flood hazard, tsunami, or seiche zones. **(Less than Significant Impact)**

The project site and surrounding areas are within a FEMA Special Flood Hazard Area Zone AO and Zone A.[79] A site-specific floodplain analysis (Appendix E) indicated base flood elevations in the vicinity of the project site range from 39.73 feet to 45 feet NAVD.[80]

The proposed project would increase the base flood elevation by a maximum of 0.34 feet, downstream of the proposed bridge. Penitencia East Channel meets the NFIP definition of a regulatory floodway, which is the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. This designated height is one foot for most NFIP communities, including Milpitas. Accordingly, the proposed project would result in less than one-foot of cumulative impact in the floodplain. Further, the proposed bridge deck would be 2.29 feet above the 100-year water surface elevation, consistent with MMSP Policies ISC 2.1 and ICS 2.2, and therefore would not be at risk of inundation.

As discussed above in Section 4.10.1.2, the project site has low susceptibility to tsunami, seiches, and mudflow events. According to the Association of Bay Area Government's interactive tsunami mapping, areas near the bay are not considered susceptible to tsunami inundation. There are no inland water bodies in the project vicinity that are susceptible to seiches, thereby precluding the possibility of a seiche inundating the project site. The surrounding vicinity does not contain any steep slopes that would produce a mudflow.

Consistent with MMSP Policies ICS 2.1 and ICS 2.2 and for the reasons stated above, the project would not risk release of pollutants due to project inundation in flood hazard, tsunami, or seiche zones.

[79] Federal Emergency Management Agency. *Flood Insurance Rate Map Santa Clara County, California. Map No. 06085C0067J*. February 19, 2014.
[80] North American Vertical Datum of 1988.

Impact HYD-5:	The project would not conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan. **(Less than Significant Impact)**

As stated under Impact HYD-2, the project site is located in an urban area and is not within a designated groundwater recharge zone for the groundwater basin. Thus, the project would not conflict with a sustainable groundwater management plan. 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. As discussed above, the project would be required to comply with General Plan Policy UCS 4-2 and would implement Best Management Practices to ensure that construction water quality impacts are minimized during project construction. The project would comply with the NPDES Construction General Permit and the MRP to ensure compliance with all applicable water quality regulations. By adhering to these policies and regulations the proposed project would not prevent the RWQCB from attaining the water quality objectives set forth in the Basin Plan and would have a less than significant impact.

4.11 LAND USE AND PLANNING

4.11.1 Environmental Setting

4.11.1.1 *Regulatory Framework*

Regional

Plan Bay Area 2050

Plan Bay Area 2050 is a long-range transportation, land-use, and housing plan intended to support a growing economy, provide more housing and transportation choices, and reduce transportation-related pollution and GHG emissions in the Bay Area. Plan Bay Area 2040 promotes compact, mixed-use residential and commercial neighborhoods near transit, particularly within identified Priority Development Areas (PDAs). Plan Bay Area is coordinated and led by the Metropolitan Planning Commission (MTC) and Association of Bay Area Governments (ABAG). The project site is recognized by the MTC and ABAG as within the City-designated PDA called Transit Area Specific Plan.[81]

Local

City of Milpitas General Plan 2040

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to land use and are applicable to the project.

Policies	Description
Policy LU 1-8	Maintain equitable land use patterns to ensure that all residents in neighborhoods have access to community amenities and transportation choices, and have safe places to walk and bike.
Policy LU 2-1	Utilize Specific Plans to guide development within Milpitas's special planning areas. Properties located within Specific Plan areas shall conform to the underlying Specific Plan's land uses, zoning, and development standards.
Policy LU 3-1	Support regional efforts that promote higher densities near major transit and travel facilities, and reduce regional vehicle miles traveled by supporting active modes of transportation including walking, biking, and public transit. Support local and regional land use decisions that promote safe access to and the use of alternatives to auto transit.
Policy LU 4-2	Emphasize efforts to reduce regional vehicle miles traveled by supporting land use patterns and site designs that promote active modes of transportation, including walking, biking, and public transit.

[81] MTC GIS Data Catalog. *Priority Development Areas (Plan Bay Area 2050)*. Accessed January 9, 2024. https://opendata.mtc.ca.gov/datasets/4df9cb38d77346a289252ced4ffa0ca0/explore.

City of Milpitas Zoning Ordinance

The Zoning Ordinance serves as an implementing tool for the General Plan by establishing detailed, parcel-specific development regulations and standards. The Zoning Ordinance divides the City of Milpitas into zoning districts to guide future land uses.

4.11.1.2 *Existing Conditions*

The project site is located south of East Capitol Avenue at the convergence of South Milpitas Boulevard and the Penitencia East Channel. The project site includes an open stream channel and developed offices uses. Surrounding land uses include residential uses to the northeast, northwest, and southeast; office, residential (currently under construction), and light industrial uses are located to the south and southwest.

The project site has a General Plan designation of MMSP - Milpitas Metro Specific Plan. In the area of the proposed bridge, Penitencia East Channel (APN: 086-37-018) is zoned Park Open Space; the two parcels (APNs 086-37-039 and 086-37-040) north of the channel are zoned R5 (Urban Residential) and the parcels (APNs 086-36-030 and 086-36-041) south of the channel are respectively zoned R4 (Multi-Family-Very High Density) and R3 (Multi-Family).

4.11.2 Impact Discussion

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

Impact LU-1: The project would not physically divide an established community. **(No Impact)**

Impacts to an established community can occur if the project physically divides a community. Examples of projects that could physically divide an established community include the construction of a physical feature (such as freeway, railway, or aqueducts) or the removal of a means of access (such as a local roadway or bridge). The project site is located in central Milpitas in an area developed with residential, light industrial, and commercial uses, and open space. The layout and design of the proposed project does not include any features that would physically divide the surrounding community. The proposed bridge across Penitencia East Channel and roadways connecting Sango Court and Tarob Court would enhance connectivity within the project area and provide direct access to the new Milpitas Transit Center for pedestrians and bicyclists in the existing and emerging residential neighborhoods located south of Penitencia East Channel. For these reasons, the project would not physically divide an established community.

Impact LU-2:	The project would not 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. **(Less than Significant Impact)**

The project proposes to construct a bridge and roadway connections consistent with the planned street network identified in the MMSP. The project would extend South Milpitas Boulevard across the Penitencia East Channel, thereby connecting the neighborhoods north and south of the channel. The proposed project would improve vehicular, bicycle, and pedestrian connectivity consistent with the goals and policies identified in the MMSP. For these reasons, the proposed project would not conflict with land use plans, policies, or regulations adopted for the purpose of avoiding or mitigating an environmental effect and would result in a 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.

4.12.1.2 *Existing Conditions*

There are no designated mineral resource areas within the City of Milpitas.[82]

4.12.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☒
2) 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?	☐	☐	☐	☒

Impact MIN-1: The project would not result in the loss of availability of a known mineral resource that would be of value to the region and residents of the state. **(No Impact)**

The project site is located in central Milpitas in an area developed with residential, light industrial, and commercial uses. There are no known mineral resources within the project area; therefore, project implementation would not result in the loss of availability of a known mineral resource that would be of value to the region and residents of the state and no impact would occur.

[82] City of Milpitas. *Milpitas General Plan Final Environmental Impact Report*. January 2020. SCH 2020070348. Page 3.11-2.

Impact MIN-2:	The project would not result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan. **(No Impact)**

The project site is located in central Milpitas in an area developed with residential, light industrial, and commercial uses. The project area is not delineated in the General Plan, any Specific Plan, or other land use plan as a mineral resource recovery site. For these reasons, the project would not result in the loss of availability of a mineral resource recovery site and no impact would occur.

4.13 NOISE

The following discussion is based, in part, on a Noise & Vibration Assessment prepared for the project by Illingworth & Rodkin, Inc. The report, dated November 5, 2021, is attached to this Initial Study as Appendix E.

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}, L_{dn}, or CNEL.[83] 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.

[83] L_{eq} is a measurement of average energy level intensity of noise over a given period of time. Day-Night Level (L_{dn}) 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 L_{dn} are typically within two dBA of the peak-hour L_{eq}.

4.13.1.2 *Regulatory Framework*

Federal

Federal Transit Administration Vibration Limits

The Federal Transit Administration (FTA) has developed vibration impact assessment criteria for evaluating vibration impacts associated with transit projects. The FTA has proposed vibration impact criteria based on maximum overall levels for a single event. The impact criteria for groundborne vibration are shown in Table 4.13-1 below. These criteria can be applied to development projects in jurisdictions that lack vibration impact standards.

Table 4.13-1: Groundborne Vibration Impact Criteria

Land Use Category	Groundborne Vibration Impact Levels (VdB[1] inch/sec)		
	Frequent Event	Occasional Events	Infrequent Events
Category 1: Buildings where vibration would interfere with interior operations	65	65	65
Category 2: Residences and buildings where people normally sleep	72	75	80
Category 3: Institutional land uses with primarily daytime use	75	78	83

Source: Federal Transit Administration. *Transit Noise and Vibration Assessment Manual.* September 2018.
[1] Vibration Velocity Decibels

Local

City of Milpitas General Plan 2040

The following policies and actions in the City's General Plan have been adopted for the purpose of avoiding or mitigating noise and vibration impacts resulting from planned development within the City, including the following:

Policies/Actions	Description
Policy N 1-1	Consider the noise compatibility of existing and future development when making land use planning decisions. Require development and infrastructure projects to be consistent with the land use compatibility standards contained in Tables N-1 and N-2 to ensure acceptable noise exposure levels for existing and future development.

Policies/Actions	Description
Policy N 1-2	Require new development to mitigate excessive noise to the standards indicated in Tables N-1 and N-2 through best practices, including building location and orientation, building design features, placement of noise-generating equipment away from sensitive receptors, shielding of noise-generating equipment, placement of noise-tolerant features between noise sources and sensitive receptors, and use of noise-minimizing materials.
Policy N 1-3	Use sound walls for sound attenuation only when other measures are not practical, or when recommended by an acoustical expert as part of a mitigation measure. Sound walls shall be designed to be aesthetically pleasing, and should incorporate features such as vegetation, variations in color and texture, artwork, and other features deemed appropriate by the City.
Policy N 1-5	Require acoustical studies for new discretionary developments and transportation improvements that have the potential to affect existing noise-sensitive uses such as schools, hospitals, libraries, care facilities, and residential areas; and for projects that would introduce new noise-sensitive uses into an area where existing noise levels may exceed the thresholds identified in this element.
Policy N 1-6	For projects that are required to prepare an acoustical study to analyze noise impacts, the following criteria shall be used to determine the significance of those impacts: • Where existing traffic noise levels are 60 dB Ldn or less at the outdoor activity areas of noise-sensitive uses, a +5 dB Ldn increase in roadway noise levels will be considered significant; • Where existing traffic noise levels are greater than 60 dB Ldn and up to 65 dB Ldn at the outdoor activity areas of noise-sensitive uses, a +3 dB Ldn increase in roadway noise levels will be considered significant; and • Where existing traffic noise levels are greater than 65 dB Ldn at the outdoor activity areas of noise-sensitive uses, a + 1.5 dB Ldn increase in roadway noise levels will be considered significant.
Policy N 1-8	Require construction activities to comply with standard best practices to reduce noise exposure to adjacent sensitive receptors (see Action N-1d).
Policy N 1-9	Implement a range of traffic control measures, including but not limited to, light timing, asphalt alternatives (such as rubberized asphalt), and speed reduction measures to reduce roadway noise.
Action N-1a	Require that new development projects are reviewed for compliance with the noise requirements established in this element, including the standards established in Tables N-1 and N-2, prior to project approval.
Action N-1b	Require acoustical studies for new development projects which have the potential to generate noise impacts which exceed the standards identified in this element. The studies shall include representative noise measurements, estimates of existing and projected noise levels, and mitigation measures necessary to ensure compliance with the noise standards included in this element. Studies shall be conducted by a qualified acoustical professional.

Policies/Actions	Description
Action N-1c	Require developers to prepare a construction management/noise mitigation plan that defines best management practices to reduce construction noise, and includes proposed truck routes (that comply with Section 12 V-100-12.05 - Truck Routes of the Milpitas Municipal Code) as part of the entitlement process.
Action N-1d	During the environmental review process, determine if proposed construction will constitute a significant impact on nearby sensitive receptors and, if necessary, require mitigation measures in addition to the standard best practice controls. Suggested best practices for control of construction noise include: • Noise-generating construction activities, including truck traffic coming to and from the construction site for any purpose, shall be limited to between the hours of 7:00 am and 7:00 pm. No construction shall occur on National holidays. • All equipment driven by internal combustion engines shall be equipped with mufflers, which are in good condition and appropriate for the equipment. • The construction contractor shall utilize "quiet" models of air compressors and other stationary noise sources where technology exists. • At all times during project grading and construction, stationary noise-generating equipment shall be located as far as practicable from sensitive receptors and placed so that emitted noise is directed away from residences. • Unnecessary idling of internal combustion engines shall be prohibited for a duration of longer than five minutes. • Construction staging areas shall be established at locations that will create the greatest distance between the construction-related noise sources and noise-sensitive receptors nearest the project site during all project construction activities, to the extent feasible. • Neighbors located adjacent to the construction site shall be notified of the construction schedule in writing. • The construction contractor shall designate a "noise disturbance coordinator" who will be responsible for responding to any local complaints about construction noise. The disturbance coordinator shall be responsible for determining the cause of the noise complaint (e.g., starting too early, poor muffler, etc.) and instituting reasonable measures as warranted to correct the problem. A telephone number for the disturbance coordinator shall be conspicuously posted at the construction site.
Action N-1f	Petition State and Regional agencies to install "quiet pavement" materials during roadway improvement and resurfacing activities. Utilize quiet pavement materials on City-owned streets to the greatest extent feasible.

Table 4.13-2: Land Use Compatibility Guidelines for Community Noise						
Land Use Category	**Exterior Noise Exposure (L_{dn})**					
	55	**60**	**65**	**70**	**75**	**80**
Single-Family Residential						
Multi-Family Residential, Hotels, and Motels						
Outdoor Sports and Recreation, Neighborhood Parks and Playgrounds						
Schools, Libraries, Museums, Hospitals, Personal Care, Public Assembly						
Office Buildings, Business Commercial, and Professional Offices						
Industrial						

Note: Residential components of Mixed-Use developments are subject to the Multi-Family Residential Noise Standards unless otherwise allowed in conjunction with Policy N 2-2.

Normally Acceptable:
Specified land use is satisfactory, based upon the assumption that any buildings involved are of normal conventional construction, without any special insulation requirements.

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

Unacceptable:
New construction or development should generally not be undertaken because mitigation was found to be infeasible to comply with noise element policies.

City of Milpitas Municipal Code

Chapter 213 of the City's Municipal Code includes a Noise Abatement Section that limits noise levels at adjacent properties. Code Section V-213-3 limits construction operations to between the hours of 7:00 am and 7:00 pm on weekdays and weekends. Construction activities are not permitted on holidays.

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

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

4.13.1.3 *Existing Conditions*

The project site, which is located in south Milpitas, extends from the southern termination point of South Milpitas Boulevard across the Penitencia East Channel and the commercial property south of the channel before branching west and east to the termination points of Sango Court and Tarob Court, respectively. As shown in Figure 2.4-3, existing residential uses are present immediately north and east of the project site, with additional residences located further to the southwest.[84] The nearest sensitive receptors are located immediately west of the project site on Sango Court (Sango Apartments) and east of the project site (Parkside at Tarob Court).[85] Office uses are present at the site and to the south, and office, auto service, and commercial uses are located to the west. The nearest existing commercial receptor is located approximately 180 feet to the west.[86] Additionally, there is a church located approximately 400 west of the project site's western termination point (end of Sango Court).

The Norman Y. Mineta San José International Airport is located approximately three miles southwest of the project site.

Existing and Future Noise Levels

The primary noise sources at the project site are from vehicular traffic along Sango Court, Tarob Court, South Milpitas Boulevard, East Capitol Avenue, and Montague Expressway, and from commercial-related activities at businesses located along Sango Court and Tarob Court. The existing noise environment was quantified through two short-term (ST-1 and ST-2) and two long-term noise measurements (LT-1 and LT-2) conducted between Tuesday, October 12, 2021, and Thursday, October 14, 2021. The location of the noise measurement locations is shown on Figure 4.13-1. Based on these noise measurements, the typical hourly average noise level ranges between 42 to 60 dBA, with a day-night average noise level between 56 to 65 dBA L_{dn}.[87]

[84] Residences are also planned immediately south of the project site on Tarob Court.
[85] Ibid.
[86] Ibid.
[87] The day-night average noise level is higher than the typical hourly average noise level because a 10 dBA penalty is applied to noise that occurs between 10 p.m. and 7 a.m.

NOISE MEASUREMENT LOCATIONS | FIGURE 4.13-1

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:				
1) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☐	☒	☐
2) Generation of excessive groundborne vibration or groundborne noise levels?	☐	☐	☒	☐
3) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☒	☐

4.13.2.1 *Thresholds of Significance*

The CEQA Guidelines state that a project would normally be considered to have a significant impact if noise levels conflict with adopted environmental standards or plans, or if noise levels generated by the project will substantially increase existing noise levels at noise-sensitive receivers on a permanent or temporary basis. CEQA does not define what noise level increase would be substantial. As discussed in CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for judgment on the part of the lead agency and must be based to the extent possible on scientific and factual data. For the purposes of this analysis, the City of Milpitas relies on the following as CEQA thresholds of significance:

- Construction Noise – Temporary construction-related noise would only be considered significant if it occurred outside of the permitted hours identified in the City's Municipal Code (7:00 a.m. to 7:00 p.m.) or on a holiday.
- Operational Noise: Permanent noise increases associated with operation of the project would only be considered significant if:
    - Project-generated traffic would result in a noise level increase of more than 5 dBA L_{dn} where existing traffic noise levels are 60 dBA L_{dn} or less.
    - Project-generated traffic would result in a noise level increase of more than 3 dBA L_{dn} where existing traffic noise levels are greater than 60 dBA L_{dn} and up to 65 dBA L_{dn}.
    - Project-generated traffic would result in a noise level increase of more than 1.5 dBA Ldn where existing traffic noise levels are greater than 65 dBA L_{dn}.

- Operation of the project would expose persons to or generate noise levels that would exceed applicable noise standards presented in the General Plan or Municipal Code (refer to Table 4.13-2 above).

- Construction Vibration: Vibration associated with project construction would only be considered significant if it would generate groundborne vibration levels in excess of 0.3 in/sec PPV.

Impact NOI-1:	The project would not 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. **(Less than Significant Impact)**

Construction Noise

Noise impacts resulting from construction depend upon the noise generated by various pieces of construction equipment, the timing and duration of noise-generating activities, and the distance between construction noise sources and noise-sensitive areas. Construction noise impacts primarily result when construction activities occur during noise-sensitive times of the day (e.g., early morning, evening, or nighttime hours), the construction occurs in areas immediately adjoining noise-sensitive land uses, or when construction lasts over extended periods of time.

Construction activities would generate considerable amounts of noise, especially during earth-moving activities when heavy equipment is used. During each stage of construction, there would be a different mix of equipment operating, and noise levels would vary by stage and vary within stages, based on the amount of equipment in operation and the location at which the equipment is operating.

As described in Section 3.3.4, construction of the project is expected to occur over a period of 18 months between 2023 and 2024. Consistent with Section V-213-3(b) of the City's Municipal Code, construction activities would occur between 7:00 a.m. and 7:00 p.m., Monday through Sunday, excluding holidays. Equipment used during construction activities is expected to include, but is not limited to, graders, scrapers, dozers, backhoes, excavators, lo-drills, haul trucks, concrete pump trucks, concrete mixing trucks, telehandlers, cranes, manlifts, and pickup trucks.

The Federal Highway Administration's Roadway Construction Noise Model was used to calculate the hourly average noise levels for each stage of construction, assuming every piece of equipment would operate simultaneously, which would represent the worst-case scenario. Table 4.13-3 below shows the calculated construction noise levels at the surrounding land uses shown in Figure 2.4-3. Additional information on the methodology and assumptions used to estimate the project's construction noise levels is available in Appendix **E**.

Table 4.13-3: Calculated Construction Noise Levels at Surrounding Land Uses[1]			
Stage of Construction	**Hourly Average Noise Levels (dBA L_{eq})**		
	Future Multi-Family Residential[2] (180 feet west)	**Multi-Family Residential (200 feet north)**	**Single-Family Residential (300 feet east and south)**
Demolition	75	74	70
Site Preparation	74	73	69
Grading/Excavation	75	74	70
Paving	73	72	68
Bridge Construction	74	73	69

Source: Illingworth & Rodkin, Inc. *South Milpitas Boulevard Bridge Noise and Vibration Assessment*. November 5, 2021.

Notes:

[1] Since surrounding land uses would be subject to the collective noise generated by all equipment operating on-site, distances and noise levels are calculated from the geometrical center of the project site.

[2] At the time the Noise and Vibration Assessment was prepared, commercial uses were located 180 feet west. Multi-family residential is currently under construction.

As shown in Table 4.13-3, noise levels generated during construction would not exceed 77.5 dBA Leq at the nearest existing commercial use, 75 dBA L_{dn} at the nearest existing and future multi-family residential uses, or 70 dBA Leq at the nearest single-family residential use; therefore, project construction would not generate noise in excess of community noise compatibility guidelines (refer to Table 4.13-2). As noted above, project construction would comply with the restrictions placed on construction by Municipal Code Section V-213-3(b).[88] Additionally, noise generated by project construction would be further reduced through implementation of the following best practices for construction noise control required by General Plan Policy N 1-8.

- Noise-generating construction activities, including truck traffic coming to and from the construction site for any purpose, shall be limited to between the hours of 7:00 am and 7:00 pm. No construction shall occur on National holidays.
- All equipment driven by internal combustion engines shall be equipped with mufflers, which are in good condition and appropriate for the equipment.
- The construction contractor shall utilize "quiet" models of air compressors and other stationary noise sources where technology exists.
- At all times during project grading and construction, stationary noise-generating equipment shall be located as far as practicable from sensitive receptors and placed so that emitted noise is directed away from residences.
- Unnecessary idling of internal combustion engines shall be prohibited for a duration of longer than five minutes.

[88] Municipal Code Section V-213-3(b) restricts construction activities to the hours of 7 a.m. to 7 p.m., Monday through Sunday. No construction activities are permitted on holidays.

- Construction staging areas shall be established at locations that will create the greatest distance between the construction-related noise sources and noise-sensitive receptors nearest the project site during all project construction activities, to the extent feasible.
- Neighbors located adjacent to the construction site shall be notified of the construction schedule in writing.
- The construction contractor shall designate a "noise disturbance coordinator" who will be responsible for responding to any local complaints about construction noise. The disturbance coordinator shall be responsible for determining the cause of the noise complaint (e.g., starting too early, poor muffler, etc.) and instituting reasonable measures as warranted to correct the problem. A telephone number for the disturbance coordinator shall be conspicuously posted at the construction site.

Implementation of the above construction noise controls required by General Plan Policy N 1-8 would further reduce noise generated by project construction activities below the exterior noise exposure thresholds identified in Table 4.13-2; accordingly, project construction would not generate a substantial temporary increase in ambient noise levels in the project vicinity in excess of standards established by the City's General Plan and Municipal Code. As a result, the project would have a less than significant construction noise impact.

Operational Noise

As documented in Existing and Future Noise Levels, the existing noise level within the project vicinity ranges between 56 to 65 dBA L_{dn}; therefore, a significant operational noise impact would occur if the project would permanently increase ambient noise levels by up to three dBA (refer to 4.13.2.1). The project, which proposes to construct a bridge and roadway connection between Sango Court and Tarob Court, could increase ambient noise levels in the project vicinity from increased traffic volumes along roadway segments adjacent to nearby sensitive receptors (i.e. residences).

Based on a review of the Transportation Analysis prepared for the project (refer to Appendix F), the project would not double existing traffic volumes (which is the threshold where traffic would result in a three dBA noise increase), and would result in a noise level increase of one dBA L_{dn} along roadway segments within the project vicinity. Since operation of the project would not result in a permanent three dBA L_{dn} increase in ambient noise levels, the project would not generate a substantial permanent increase in ambient noise levels in the project vicinity in excess of standards established by the City's General Plan and Municipal Code. As a result, the project would have a less than significant operational noise impact.

Impact NOI-2:	The project would not result in generation of excessive groundborne vibration or groundborne noise levels. **(Less than Significant Impact)**

Construction of the project may generate perceptible vibration when heavy equipment or impact tools (e.g. jackhammers, hoe rams) are used in the vicinity of nearby sensitive land uses. As discussed under Impact NOI-1, construction activities would include building demolition, site preparation work, foundation work, and bridge construction. Impact pile driving (which generates substantial vibration) is not proposed as a method of construction.

According to the NRHP[89], CRHP[90], and City of Milpitas Cultural Resources Register, there are no historic buildings within the vicinity of the project site.[91] There would be no risk of damage to any historic buildings resulting from project construction.

Based on typical vibration levels generated by construction equipment, the vibration levels from project construction were estimated from the boundary of the project site, which would represent the nearest location for use of vibration generating equipment, at the nearest building facades (refer to Appendix E for more information on the methodology used to calculate vibration levels). The 0.5 in/sec PPV threshold would apply to the recently constructed Anton Apartments to the north and the Tarob Court Apartments to the east, which are located approximately 25 to 50 feet from the boundary of the project site. The 0.3 in/sec PPV threshold would apply to the commercial and industrial buildings to the south and west, which are located between 25 and 50 feet from the boundary of the project site. Table 4.13-4 below summarizes the vibration levels from construction levels at distances representing buildings in the project vicinity.

Table 4.13-4: Vibration Source Levels for Construction Equipment at Representative Distances

Equipment		**PPV at 25 feet (in/sec)**	**PPV at 50 feet (in/sec)**	**PPV at 75 feet (in/sec)**	**PPV at 100 feet (in/sec)**	**PPV at 125 feet (in/sec)**
Clam shovel drop		0.202	0.094	0.060	0.044	0.034
Hydromill (slurry wall)	In soil	0.008	0.004	0.002	0.002	0.001
	In rock	0.017	0.008	0.005	0.004	0.003
Vibratory Roller		0.210	0.098	0.063	0.046	0.036
Hoe Ram		0.089	0.042	0.027	0.019	0.015
Large bulldozer		0.089	0.042	0.027	0.019	0.015
Caisson drilling		0.089	0.042	0.027	0.019	0.015
Loaded trucks		0.076	0.035	0.023	0.017	0.013
Jackhammer		0.035	0.016	0.010	0.008	0.006
Small bulldozer		0.003	0.001	0.001	0.001	0.001

Source: Illingworth & Rodkin, Inc. *South Milpitas Boulevard Bridge Noise and Vibration Assessment*. November 5, 2021.

As shown in Table 4.13-4, vibration levels at 25 feet, which represents the distance between the boundary of the project site and the nearest buildings in all directions, would not exceed 0.3 PPV in/sec. Accordingly, the project would have a less than significant impact from generation of groundborne vibration or groundborne noise levels.

[89] National Register of Historic Places. "National Register Database and Research." Accessed January 9, 2024. https://www.nps.gov/subjects/nationalregister/database-research.htm
[90] California Register of Historic Places. "California Historical Resources." Accessed January 9, 2024. https://ohp.parks.ca.gov/listedresources/
[91] City of Milpitas. *Cultural Resources Register*.

Impact NOI-3:	The project would not be located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport. The project would not expose people residing or working in the project area to excessive noise levels. **(Less than Significant Impact)**

The project site is outside of the AIA of the nearest airport, the Norman Y. Mineta San José International Airport, which is a public use airport located approximately to the three miles southwest. The project, which proposes to construct a bridge and roadway connection between Sango Court and Tarob Court, would not introduce any new residents to the project area. The project site is outside of the 60 dBA CNEL contour[92] delineated in the San José Airport CLUP, therefore, construction workers would not be exposed to excessive noise levels associated with aircraft operations.

[92] Santa Clara County Airport Land Use Commission. *San José International Airport 2022 Aircraft Noise Contours*. Figure 5.

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, known as Housing Opportunity 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.[93] The City of Milpitas Housing Element and related land use policies were last updated in 2023 with the Housing Element remaining in effect through 2031.[94]

Regional

Plan Bay Area 2050

As discussed in 4.11.1.1, Plan Bay Area 2050 provides a regional growth strategy that integrates housing development into other key issue areas including transportation, land-use, economic growth, and climate change. The growth strategy focuses new housing and commercial development within Priority Development Areas that provide access to existing transit choices to new residents, workers, and visitors in the area.[95]

ABAG allocates regional housing needs to each city and county within the nine-county San Francisco Bay Area, based on statewide goals. ABAG also develops forecasts for population, households, and economic activity in the Bay Area. ABAG, MTC, and local jurisdiction planning staff created the Regional Forecast of Jobs, Population, and Housing, which is an integrated land use and transportation plan through the year 2050 (upon which Plan Bay Area 2050 is based).

[93] California Department of Housing and Community Development. "Regional Housing Needs Allocation and Housing Elements." Accessed January 9, 2024. http://hcd.ca.gov/community-development/housing-element/index.shtml.
[94] City of Milpitas. "Housing Policy & Plans". Accessed January 9, 2024. https://www.milpitas.gov/487/Housing-Policy-Plans.
[95] Metropolitan Transportation Commission. "Priority Development Areas (PDAs)" Accessed January 9, 2024. https://mtc.ca.gov/planning/land-use/priority-development-areas-pdas.

4.14.1.2 *Existing Conditions*

The total population of Milpitas was estimated to be approximately 81,067 people and 25,769 housing units in January 2023[96]. Milpitas is expected to increase its population to 103,970 people and 30,430 housing units by 2040.[97]

The project site includes an open stream channel and developed offices uses. The project site does not provide any housing.

4.14.2 Impact Discussion

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

Impact POP-1: The project would not 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). **(Less than Significant Impact)**

The proposed project would not involve the construction of new housing, nor would it generate any long-term employment opportunities that would cause substantial population growth. The construction workers needed for the project would be relatively few and these jobs would likely be filled by the local work force.

The project site is located with an area designated by the City to accommodate new housing and commercial development around the Milpitas Transit Center. The project would support the City's goal of developing housing in close proximity to existing transit by creating a new access point to the Milpitas Transit Center. The project would not induce unplanned population growth; therefore, the project would have a less than significant impact.

[96] State of California, Department of Finance. "E-5 Population and Housing Estimates for Cities, Counties, and the State, 2021-2023, with 2020 Benchmark." Accessed January 10, 2024. https://dof.ca.gov/forecasting/demographics/estimates/e-5-population-and-housing-estimates-for-cities-counties-and-the-state-2020-2023/.

[97] Association Of Bay Area Governments and Metropolitan Transportation Commission. "Projections 2040: Forecasts for Population, Household and Employment for the Nine County San Francisco Bay Area Region." 2017. Accessed January 10, 2024. http://projections.planbayarea.org/data.

Impact POP-2:	The project would not displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere. **(No Impact)**

The project site is currently developed with office uses and does not contain housing. Therefore, project implementation would not result in the displacement of substantial numbers of existing people or housing and no impact would occur.

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.

Local

City of Milpitas General Plan 2040

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to public services.

Policies	Description
Policy SA 4-9	Ensure that fire and emergency medical services meet existing and future demand by maintaining a response time of four minutes or less for all urban service areas.

Measure K

Measure K, passed in November 2016, prevents areas in the City designated as parks and open space from being developed as residential, commercial, or industrial unless first approved by a two-thirds vote of residents.

City of Milpitas Metro Specific Plan

The MMSP adopted the following policies for the purpose of avoiding or mitigating public service related impacts resulting from planned development within the MMSP area, including the following:

Policies	Description
Policy M 5.1	Create a complete pedestrian and bicycle network that connects trails and pathways and includes continuous sidewalks and safe bike travel routes throughout the entire Milpitas Metro Area.
Policy PPS 3.1	Use the Recreational Value System to guide existing and future park improvements to ensure all parks provide a diversity of active, contemplative, and social gathering experiences.
Policy PPS 2.3	If a public utility easement (such as the one existing between Capitol Avenue and Penitencia Creek East Channel) is developed as a publicly-accessible pathway or linear park that connects two public streets, it can be counted toward a development's park dedication requirement
Policy ICS 8.1	Conduct a "standards of cover" analysis to determine the Metro Plan's precise impact on the Fire Department's staffing and equipment, and any required facility needs. Identify and evaluate potential sites for an expanded or new fire station near the Plan Area if the standards of cover analysis determines it is warranted.
Policy ICS 8.6	Update the City's emergency and disaster response plans to take the location and type of new development, and future traffic levels, into account.
Policy ICS 9.1	Hire additional police staff and purchase equipment provide an adequate level of service—as determined by City Council—for the residents, workers, and visitors of the Metro Area as well as surrounding areas. New equipment shall be funded by the Community Facilities District fee and new staff paid from the City's General Fund.

4.15.1.2 *Existing Conditions*

Fire Protection

The City of Milpitas Fire Department (MFD) provides fire protection services, medical emergency services, and public safety services. The MFD has four fire stations. The closest fire station to the project is Station 1, located at 777 South Main Street, approximately one mile northwest of the project site.

Police Services

Police services are provided by the City of Milpitas Police Department (MPD). Police protection services are operated from one central station located at 1275 North Milpitas Boulevard, which is approximately three miles north of the project site.

Schools

The project site is located within the Milpitas Unified School District (MUSD), Berryessa Union School District (BUSD), and East Side Union High School District (ESUHSD). The nearest schools to the project site include Stratford Elementary School (located 0.25 miles to the northwest) and Mabel Mattos Elementary School (located 0.3 miles to the west).

Parks

The City of Milpitas manages approximately 177 acres of developed city parkland and recreation facilities. In addition, Ed Levin County Park is partially within the City boundary and provides 1,544 acres of regional parkland.[98] The nearest park to the project site is Augustus Rathbone Park, located approximately 250 feet south of the project site. A publicly accessible privately owned linear park extends from the project's northwest corner on the northern side of Penitencia East Channel and extends southwest along the channel to the BART right-of-way.

Libraries

The Santa Clara County Library System operates nine libraries and one bookmobile. The Milpitas Library provides book lending services, offers a community room and meeting rooms, and is located approximately 1.9 miles northwest of the project site at 160 North Main Street.

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, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services:				
1) Fire Protection?	☐	☐	☒	☐
2) Police Protection?	☐	☐	☒	☐
3) Schools?	☐	☐	☐	☒
4) Parks?	☐	☐	☐	☒
5) Other Public Facilities?	☐	☐	☐	☒

[98] City of Milpitas. *Milpitas General Plan Final Environmental Impact Report*. January 2020. SCH 2020070348

Impact PS-1:	The 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, in order to maintain acceptable service ratios, response times, or other performance objectives for fire protection services. **(Less than Significant Impact)**

The project would construct a bridge over Penitencia East Channel, connecting South Milpitas Boulevard on the north side of the channel with Tarob Court and Sango Court on the south side of the channel. Construction of the proposed bridge would increase access to the surrounding area and would not result in an increase in the demand for fire protection services as the project does not introduce new residential units that would increase demand on fire protection services. The Metro Specific Plan SEIR concluded that there is the potential for additional fire protection staffing, equipment, and facilities to be needed to meet the demands of the additional buildout from the Metro Plan. New public facilities, including those for fire protection services, are subject to CEQA; thus, CEQA review would be conducted if and when such new facilities are advanced. Therefore, the proposed project would not result in a significant impact associated with new or physically altered government facilities and would improve the ability of fire services to maintain acceptable service ratios and response times.

Impact PS-2:	The 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, in order to maintain acceptable service ratios, response times, or other performance objectives for police protection services. **(Less than Significant Impact)**

As discussed under Impact PS-1, the project would construct a bridge over Penitencia East Channel, connecting South Milpitas Boulevard on the north side of the channel with Tarob Court and Sango Court on the south side of the channel, thereby increasing access to the surrounding area. The proposed bridge and roadway connections would not increase demand on police protection services as the project does not introduce new residential units that would increase demand on police protection services. The Metro Specific Plan SEIR concluded that implementation of the Plan may require the construction of new police facilities. New public facilities, including those for police protection services, are subject to CEQA; thus, CEQA review would be conducted if and when such new facilities are advanced. Further, police protection services would be maintained at acceptable levels of service consistent with MMSP Policy ICS 9.1, which requires adequate hiring of police staff and equipment purchasing. Therefore, the project would not necessitate the construction or expansion of police protection facilities and would not result in substantial adverse physical impacts associated with the construction of new or expanded police protection services.

Impact PS-3:	The 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, in order to maintain

	acceptable service ratios, response times, or other performance objectives for schools. **(No Impact)**

The proposed bridge and roadway connections would not generate new students as it does not propose new residential units to generate additional student demand to school facilities. Therefore, the proposed project would not increase the demand for new school facilities, nor would it require the construction or expansion of new school facilities and no impact would occur.

Impact PS-4:	The 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, in order to maintain acceptable service ratios, response times, or other performance objectives for parks. **(No Impact)**

The proposed project would construct a bridge and roadway connections and would not increase demand on local park facilities. The project proposes 6-foot-wide Class II bicycle lanes along the proposed bridge. Additionally, the proposed roadway connections would include Class III shared lane bikeways. Consistent with MMSP Policy PPS 2.3, the proposed project would count towards the MMSP park dedication requirement and would facilitate the MMSP goal of developing public park space (MMSP Policy PPS 3.1). In addition, the project would not construct any land uses which would directly increase the resident population of the City. Therefore, the proposed project would have no impact on demand for local parks.

Impact PS-5:	The 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, in order to maintain acceptable service ratios, response times, or other performance objectives for other public facilities. **(No Impact)**

As discussed above under Impact PS-1 through PS-4, the proposed project would construct a bridge and roadway connections and would not generate any new residents as no residential component is included. Therefore, the project would not increase demand for other public facilities such as libraries or community centers and no impact would occur.

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.

Regional

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.

Local

City of Milpitas General Plan 2040

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to recreation.

Policies	Description
Policy PROS 1-1	Provide a park and recreation system that is equitably distributed, safe, accessible, and designed to serve the needs of all residents of the community.
Policy PROS 1-2	Develop and maintain a high-quality system of parks, trails, and recreation facilities to create diverse opportunities for passive and organized recreation.
Policy PROS 1-8	Expand, renovate, and maintain high quality recreation facilities, programs, and services to accommodate existing and future needs; encourage traditional and non-traditional recreation; and support active and passive recreation, wellness, historic assets, cultural arts, environmental education, conservation, accessibility, inclusion, diversity, safety, and new technology that equitably serves the most vulnerable populations of the community.
Policy PROS 1-13	Require new development to provide direct pedestrian connections, such as sidewalks, trails, wayfinding measures and other rights-of-way and infrastructure

Policies	Description
	improvements to the existing and planned network of parks and trails wherever feasible.
Policy PROS 1-15	Design and maintain park and recreation facilities to minimize water, energy and chemical (e.g., pesticides and fertilizer) use. Incorporate the use of recycled water, native and/or drought-resistant vegetation and ground cover where appropriate. Pursue opportunities for multi-beneficial park developments that incorporate flood control facilities, stormwater management and groundwater recharge areas.

2022 Trail, Pedestrian, and Bicycle Master Plan

The Trail, Pedestrian, and Bicycle Master Plan provides a vision and action plan for the City to create a complete and connected network of bicycle and pedestrian facilities to support residents and visitors of all ages and abilities. The 2022 Plan serves as an update to the previously adopted Trail Master Plan (1997) and Bikeway Master Plan Update (2009) and focuses on supporting safer travel in and around Milpitas while maintaining and expanding connections with neighboring jurisdictions. The plan was adopted by the City in May 2022 and specifically acknowledges that the planned extension of Milpitas Boulevard to Tarob Court (i.e., the proposed project) would improve connections to the BART station/Milpitas Transit Station for all travel modes.

4.16.1.2 *Existing Conditions*

Parks, trails, and recreational facilities in the City are managed by the Recreation and Community Services Department and maintained by the Public Works Department. The City park system currently consists of over 30 parks, and five community service buildings including the Milpitas Community Center, Barbara Lee Senior Center, Milpitas Sports Center, Sal Cracolice Recreation Building, and Jose Higuera Adobe Building .[99,100] The nearest park to the project site is the Augustus Rathbone Park which includes a two playground structures, swings and, benches, located 225 feet south of the project site.

4.16.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
1) 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?	☐	☐	☒	☐

[99] City of Milpitas. "Parks & Facilities." Accessed January 10, 2024. https://ca-milpitas.civicplus.com/503/Parks-Facilities.
[100] City of Milpitas. "Parks." Accessed January 10, 2024. https://ca-milpitas.civicplus.com/831/Parks.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
2) 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?	☐	☐	☐	☒

Impact REC-1:	The 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)**

As discussed under Impact PS-4 in Section 4.15 Public Services, the project would not increase the demand on local park or recreational facilities. The project would construct a bridge to improve access across the Penitencia East Channel to and from the Milpitas BART Station/Milpitas Transit Station and surrounding neighborhoods.

The proposed project would increase accessibility to nearby parks. The project would not increase the service population as no new residential units are proposed, which otherwise could increase demand on parks and recreational facilities. Therefore, a less than significant impact to parks or recreational facilities would occur as a result of the proposed project.

Impact REC-2:	The project does not include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment. **(No Impact)**

The proposed project does not propose or require the construction or expansion of existing recreational facilities that could have an adverse effect on the physical environment. Therefore, no impact would occur.

4.17 TRANSPORTATION

The following discussion is based, in part, on a Transportation Analysis prepared for the project by Hexagon Transportation Consultants, Inc. The report, dated October 1, 2021, is attached to this Initial Study as Appendix G.

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. Specifically, CEQA Guidelines Section 15064.3(b)(2) provides that projects that reduce VMT, such as pedestrian, bicycle, and transit projects, would have a less than significant impact. This section further provides that lead agencies have discretion to evaluate roadway capacity projects (including highways), provided that any such analysis is consistent with the requirements of CEQA. Recognizing that roadway capacity projects may be analyzed at a programmatic level, subdivision (b)(2) states that lead agencies may be able to tier from a programmatic analysis that adequately addresses the effects of roadway capacity projects.

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 level of service (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.

City Milpitas General Plan 2040

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to transportation and are applicable to the project.

Policies	Description
Policy CIR 2-1	Promote multimodal transportation options by developing an interconnected system of streets, roads, bridges, and highways that provides continuous, efficient, safe and convenient travel for all users regardless of mode, age or ability and encourage users to walk, ride a bicycle, or use transit for shorter, local trips.
Policy CIR 2-7	Provide inclusive and diverse wayfinding measures to provide directional guidance for pedestrians, bicyclists, and transit riders.
Policy CIR 4-2	Link and expand City pedestrian and bicycle circulation facilities to existing and planned local and regional networks, with an emphasis on expanding infrastructure options near transit.
Policy CIR 4-3	Encourage walking, biking and transit use by prioritizing and implementing "first-mile/last mile" improvements, wayfinding and educational efforts in the vicinity of the Great Mall transit center, light rail stations, the BART station/Milpitas Transit Station, and heavily used bus stops.
Policy CIR 4-5	Support building bridges or under-crossings across creek channels, railroad lines and roadways in a manner that will enhance safety, improve network connectivity, and facilitate bicycling and walking between high density residential developments, retail centers, civic buildings, and recreational centers.
Policy CIR 4-7	Work collaboratively with the community to discover and develop connections between the multi-use paths and the on-street bicycle system to support development of a comprehensive network, with an emphasis on areas with limited access and/or higher health disparities.

Transportation Analysis Policy (City Council Resolution No. 9070)

As established in City Council Resolution No. 9070, the City of Milpitas uses vehicle miles traveled (VMT) as the metric to assess transportation impacts from new development. According to the policy, projects are presumed to have a less than significant impact if they generate 110 daily trips or less, are local serving retail projects under 100,000 sf or less, city facilities, or certain types of affordable housing, are projects meeting the transit screening requirements, or are transportation project that maintain or reduce VMT. 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 Transportation Operational Analysis to analyze other potentially adverse project impacts including LOS impacts, Santa Clara County CMP conformance, multimodal analysis of pedestrian, bicycle and transit facilities, traffic signal warrant, site access and circulation, neighborhood traffic issues, and other transportation related analysis as deemed necessary by the "City Engineer".

The VMT thresholds of significance are established based on the countywide average VMT. Project impacts would be considered significant for both residential and employment projects if they fall below 15 percent of the countywide average.

City of Milpitas Metro Specific Plan

The MMSP adopted the following policies for the purpose of avoiding or mitigating transportation impacts resulting from planned development within the MMSP area, including the following:

Policies	Description
M 1.5	Review individual development applications to ensure that adequate street right-of-way, bicycle facilities, pedestrian facilities and landscaping are provided and are consistent with the policies and standards in Chapter 3: Site and Building Design Standards and Guidelines [of the Metro Plan].
M 5.1	Create a complete pedestrian and bicycle network that connects trails and pathways and includes continuous sidewalks and safe bike travel routes throughout the entire Milpitas Metro Area.

2022 Trail, Pedestrian, and Bicycle Master Plan

The Trail, Pedestrian, and Bicycle Master Plan provides a vision and action plan for the City to create a complete and connected network of bicycle and pedestrian facilities to support residents and visitors of all ages and abilities. The Plan serves as an update to the previously adopted Trail Master Plan (1997) and Bikeway Master Plan Update (2009) and focuses on supporting safer travel in and around Milpitas while maintaining and expanding connections with neighboring jurisdictions. The plan was adopted by the City in May 2022 and specifically acknowledges that the planned extension of Milpitas Boulevard to Tarob Court (i.e., the proposed project) would improve connections to the BART Station/Milpitas Transit Station for all travel modes.

4.17.1.2 *Existing Conditions*

Roadway Network

Regional access to the project site is provided by I-880 and I-680. Local access to the project site is provided via Montague Expressway, Capitol Avenue, and Trade Zone Boulevard. Within the project vicinity, primary public streets include Sango Court, Tarob Court, South Milpitas Boulevard, and East Capitol Avenue. The freeways and local roadways are described below.

I-880 connects from the highway interchange I-280 and State Route (SR) 17 in San Jose to I-580 in Oakland. It is generally an eight-lane freeway through Milpitas. The section of I-880 at the Montague Expressway overcrossing has eight mixed-flow lanes. Access to the project site is provided via a full interchange at Montague Expressway.

I-680 connects from US 101 in San Jose to I-80 in Fairfield. It is generally an eight-lane freeway through Milpitas. The section of I-680 at the Montague Expressway overcrossing has eight mixed-flow lanes. Access to the project site is provided via a full interchange at Montague Expressway and North Capitol Avenue.

Montague Expressway is an east-west roadway that starts at the intersection of Scott Boulevard and San Tomas Expressway in the west and ends at the intersection of South Park Victoria Drive/Morrill Avenue and Landess Avenue in the east. It is primarily a six to eight lane expressway and connects to the following freeways: US 101, I-880, and I-680.

Capitol Avenue is a north-south, six-lane divided arterial roadway in the project vicinity extending from Montague Expressway in the north, where it becomes Great Mall Parkway, to San José in the south. It provides direct access to the project area and the Milpitas Transit Center via its intersection with Milpitas Boulevard.

Trade Zone Boulevard is an east-west, four-lane roadway, extending from Montague Expressway in the west to Capitol Avenue in the east. It provides access to the project vicinity via Lundy Place and several local residential streets within the MMSP.

Milpitas Boulevard is a two-lane, north-south roadway south of Capitol Avenue, and a four lane east-west, roadway serving the Milpitas Transit Center north of Capitol Avenue. South of Capitol Avenue, it currently terminates at Penitencia Creek.

Tarob Court is a two-lane roadway extending west from Lundy Place. It provides access to the office/industrial buildings located to the west of Lundy Place and terminates in a cul-de-sac approximately 800 feet west of Lundy Place. Tarob Court provides direct access to the project site via a single driveway.

Sango Court is a two-lane roadway extending east from Montague Expressway. It provides access to existing office/industrial buildings and terminates in a cul-de-sac approximately 500 feet east of Montague Expressway.

Lundy Place is a north-south, two-lane roadway extending from the Union Pacific Railroad tracks in the north to Trade Zone Boulevard in the south, where it becomes Lundy Avenue. Lundy Place terminates in a cul-de-sac approximately 650 feet north of Tarob Court.

Bicycle Facilities

Existing bicycle access to the project vicinity is provided primarily via a network of Class II bike lanes and Class III bike routes which are shared with vehicular traffic. Class I bicycle facilities (off-street paths) are provided along Penitencia East Channel, from Montague Expressway to Lower Penitencia Creek. Buffered Class II bike lanes are provided along Trade Zone Boulevard. Conventional Class II bike lanes are present on Lundy Avenue south of Trade Zone Boulevard, McCandless Drive, and Capitol Avenue. Existing Class III bike routes are present on Montague Expressway.

An existing approximately 12-foot-wide multi-use trail runs from the project site at South Milpitas Boulevard to the southeast along the Penitencia East Channel and ends at the BART right-of-way.

Pedestrian Facilities

The signalized intersections serving the project vicinity generally provide crosswalks and the majority of streets in the project vicinity provide sidewalks, with the exception of Trade Zone Boulevard, the west side of Lundy Avenue north of Trade Zone Boulevard, both sides of Sango Court, and the west side of Tarob Court.

Transit Facilities

Existing transit services in the project vicinity are provided by AC Transit and VTA buses, VTA light rail (LRT), and BART at the Milpitas Transit Center and surrounding roadways including Montague Expressway, East Capitol Avenue, and Trade Zone Boulevard. The Milpitas Transit Center services include the Milpitas BART station/Milpitas Transit Station, VTA's Montague LRT station, several bus routes at a bus transfer facility, and a park-and-ride lot. BART provides regional service to the East Bay and San Francisco and AC Transit serves western Alameda County, while VTA bus and light rail serve Santa Clara County which include connections to Caltrain and Downtown San José.

Bus Service

The project site is primarily served by six local bus lines and three frequent bus lines. All bus lines are accessible at the Milpitas Transit Center's bus transfer facility approximately 800 feet north of the project site. VTA buses service the Milpitas BART Station/Milpitas Transit Station which include:

- Frequent Route 60 providing service between Milpitas BART and Winchester LRT Station via San José International Airport;
- Frequent Route 66 providing service between Milpitas BART and Kaiser San José;
- Frequent Route 77 providing service between Milpitas BART and Eastridge via King Road;
- Local Route 20 providing service between Milpitas BART and Sunnyvale Transit Center;
- Local Route 44 providing service between Milpitas BART and McCarthy Ranch via East Tasman Drive and Alder Drive;
- Local Route 47 providing service between Milpitas BART and McCarthy Ranch via Park Victoria;
- Local Route 70 providing service between Milpitas BART and Eastridge via North Jackson Avenue;
- Local Route 71 providing service between Milpitas BART and Capitol LRT Station.

AC Transit Line 217 provides service between Milpitas BART and Fremont BART.

VTA Light Rail Transit Service

The project is located in close proximity to the Milpitas Transit Center and is served by the Mountain View–Alum Rock LRT line.

BART Service

The project site is located approximately 800 feet south of the Milpitas Transit Center, which includes regional BART service. The two lines run service between North San José and Daly City

and North San José and Daly City separately with connections to San Francisco International Airport and Oakland International Airport.

4.17.2 Impact Discussion

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

Impact TRN-1: The project would not conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadways, bicycle lanes, and pedestrian facilities. **(Less than Significant Impact)**

Pedestrian Facilities

The project would install 6-foot wide sidewalks on each side of the proposed bridge and 5-foot wide sidewalks on both sides of Sango Court and Tarob Court. The proposed changes would improve pedestrian connectivity and safe routes to the surrounding destinations consistent with General Plan Policy CIR 4-5. The sidewalk width is based upon MMSP standards for new local neighborhood streets (Figure 4-13 of the MMSP). The 2022 Trail, Pedestrian, and Bicycle Master Plan specifically acknowledges that the proposed project would improve connections to the BART station/Milpitas Transit Station for all travel modes. Therefore, the project would not conflict with a program, plan, ordinance, or policy regarding pedestrian facilities and impacts would be less than significant.

Bicycle Facilities

The project proposes 6-foot-wide Class II bicycle lanes along the proposed bridge. Additionally, the proposed roadway connections would include Class III shared lane bikeways. The 2022 Trail, Pedestrian, and Bicycle Master Plan specifically acknowledges that the proposed project would improve connections to the BART station/Milpitas Transit Station for all travel modes. The proposed bikeways would improve bicycle facilities in the project area; therefore, the project would not conflict with a program, plan, ordinance, or policy regarding bicycle facilities and impacts would be less than significant.

Transit Facilities

The project site is adequately served by the Milpitas Transit Center. The project would improve vehicular, bicycle, and pedestrian connectivity in the project vicinity consistent with the goals and policies identified in the MMSP. The project would not preclude, modify, or otherwise affect existing or proposed transit projects or policies identified by the VTA. The project would not increase transit delay but could reduce bus delays on surrounding streets by shortening the length of roadway trips in the project vicinity (refer to discussion under Impact TRN-2). Overall, the project would increase transit accessibility by providing a more convenient bike and pedestrian link to the surrounding transit uses. Therefore, the project would not conflict with a program, plan, ordinance, or policy regarding transit facilities and impacts would be less than significant.

Roadway Facilities

The project would create a roadway network that establishes alternative routes via South Milpitas Boulevard for travelers both north and south of the Penitencia East Channel to access community resources, including the Milpitas Transit Center and industrial areas south of Trade Zone Boulevard. The current route across Penitencia East Channel follows through the intersections of Montague Expressway/Capitol Avenue and Trade Zone Boulevard/Montague Expressway, which are congested intersections during peak commute periods (see Table 4.17-2 below). Therefore, the project would not conflict with a program, plan, ordinance, or policy regarding roadway facilities and impacts would be less than significant.

Impact TRN-2:	The project would not conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b). **(Less than Significant Impact)**

This question pertains specifically to VMT as the means of analyzing the transportation impacts of a project. As described in Section 4.17.1.1 Regulatory Framework, the City's adopted Transportation Analysis Policy (City Council Resolution No. 9070) sets forth the thresholds of significance and methodology for analyzing the VMT impacts of development projects.

The City's Transportation Analysis Policy establishes screening criteria to determine which projects require a detailed VMT analysis. If a project meets the relevant screening criteria, it is considered to a have a less than significant VMT impact. The City's guidelines state that several types of roadway projects are exempt from quantitative VMT analysis, including projects that result in the:

- Addition of roadway capacity on local or collector streets provided the project also substantially improves conditions for pedestrians, cyclists, and, if applicable, transit.

The project proposes to construct a bridge across Penitencia East Channel. The proposed bridge would serve vehicles, pedestrians, and cyclists and would connect South Milpitas Boulevard on the north side of the channel with Tarob Court and Sango Court on the south side of the channel. The proposed bridge would include 11-foot vehicle lanes, six-foot bicycle lanes, and six-foot sidewalks in each direction. The connecting roadways (Tarob Court to Sango Court) would include 11-foot-wide travel lanes for both vehicles and bicycles in each direction and five-foot wide sidewalks on both

sides of the street. The project would link land uses within the MMSP area to the surrounding roadway network, resulting in the overall shortening of trips through the area. Based on the project's design and proximity to the Milpitas Transit Center, the project's VMT impacts would be considered less than significant, according to the City's Transportation Analysis Policy.

The Milpitas Travel Demand Forecast (TDF) Model was utilized to determine if the project would reduce VMT.[101] The results are shown in Table 4.17-1.

Table 4.17-1: VMT Within the Project Vicinity

Scenario	Daily Vehicle Miles Traveled			Daily Vehicle Hours Traveled		
	No Bridge	w/ Bridge	Difference	No Bridge	w/ Bridge	Difference
Near-Term	83,658	83,373	-285	2,087	2,078	-9.8
2040	83,042	82,697	-345	2,272	2,261	-11.0

Note: The 2040 VMT is slightly less in year 2040 compared to the near-term, even though there is more development assumed in the TSAP area in year 2040. The reduction in VMT is caused by:

(1) higher development densities in the TSAP area which increases nonmotorized travel and transit use;

(2) increased congestion of the roadway system making transit more attractive; and

(3) Phase II BART extension to San Jose and Santa Clara, which includes four new BART stations and BART trains running on more frequent headways.

As shown in Table 4.17-1, the project would reduce the daily VMT in the area by 285 in the near term and by 345 by year 2040. Similarly, daily vehicle-hours of travel would also decrease, by 9.8 hours and 11.0 hours in the near-term and year 2040, respectively. The reduction in VMT is due to higher development densities in the TSAP area which increases nonmotorized travel and transit use; increased congestion of the roadway system making transit more attractive; and the Phase II BART extension to San José and Santa Clara, which includes four new BART stations and BART trains running on more frequent headways. For these reasons, the project would result in a less than significant VMT impact.

Impact TRN-3: The project would not substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment). **(Less than Significant Impact)**

The project proposes to construct a bridge extending South Milpitas Boulevard across Penitencia East Channel connecting to Tarob Court and Sango Court on the south side of the channel. The proposed bridge and roadway connections would comply with the design guidelines specified in the MMSP.

Adequate sight distance is required at the project intersections in accordance with the AASHTO standards to avoid collisions and provide drivers with the ability to turn safely. Posted speed limits for new local streets would be 25 to 35 miles per hour. The AASHTO stopping sight distance for a

[101] The Milpitas TDF model is an approved tool for estimating VMT within the City of Milpitas. The tool was updated and refined during General Plan update (2021) and is based upon the VTA countywide TDF model.

roadway with a posted speed limit of 25 mph is 200 feet midblock and 125 feet from a corner. Following the demolition of the office building, post-construction conditions would not include buildings or vegetation (i.e., trees with wide trunks and low canopies) that would impede the sight distance for turning drivers at the sign-controlled intersection of Tarob Court, Sango Court, and South Milpitas Boulevard. Based on the above discussion, the project would have less than significant impacts related to hazards due to geometric design.

The project does not propose a use that is incompatible with the existing mix of uses in the project area or propose a use that would bring unusual equipment on the roadways (e.g., farm equipment). Thus, the project would not result in a significant impact due to incompatible uses.

Impact TRN-4:	The project would not result in inadequate emergency access. **(Less than Significant Impact)**

The proposed project would improve access across the Penitencia East Channel to and from the Milpitas BART Station/Milpitas Transit Station and surrounding neighborhoods. The bridge would be designed to accommodate emergency vehicle access. The design of the bridge and roadway connections would be reviewed for consistency with applicable Milpitas Fire Department standards. The project does not contain inadequate emergency access characteristics that would impair the performance of the 2021 City's Emergency Management Program Assessment and Implementation Plan. For these reasons, the proposed project would not result in inadequate emergency access and would comply with City guidelines for emergency access and impacts would be less than significant.

4.17.3 Non-CEQA Effects

While the evaluation of project CEQA impacts on the transportation system is based on VMT, in accordance with the City of Milpitas Transportation Analysis Policy (City Council Resolution No. 9070), the following discussion is included for informational purposes because Resolution No. 9070 requires preparation of a Transportation Operational Analysis to analyze non-CEQA transportation issues, including local transportation operations, intersection level of service, CMP conformance, site access and circulation, and neighborhood transportation issues such as pedestrian and bicycle access, and transportation improvements.

Intersection Level of Service

A level of service (LOS) analysis was conducted to determine the effects of the project on intersection delays. The analysis evaluated LOS at the following major intersections:

1. East Capitol Avenue and Milpitas Boulevard
2. Trade Zone Boulevard and Lundy Avenue
3. Montague Expressway and Trade Zone Boulevard
4. Montague Expressway and Great Mall Parkway
5. Montague Expressway and Sango Court

The five intersections were evaluated under near-term conditions (existing conditions plus approved projects) and year 2040 conditions during the AM (7:00 a.m. to 9:00 a.m.) and PM (4:00 a.m.to 6:00 p.m.) peak commuting periods. The results of the analysis are shown in Table 4.17-2.

The results of the LOS analysis show the project would increase the amount of traffic and delays at the intersection of Capitol Avenue and Milpitas Boulevard, as residents south of the proposed bridge access Capitol Avenue. In addition, the proposed bridge would decrease or maintain the delays along Montague Expressway, with the largest delay decreases occurring at the intersection of Montague Expressway and Trade Zone Boulevard.

Table 4.17-2: Study Intersections Level of Service Summary														
No.	**Intersection (Traffic Control)**	**Peak Hour**	**Existing**		**Near Term**					**Year 2040**				
					No Project		**With Project**			**No Project**		**With Project**		
			Avg. Delay[1]	**LOS**	**Avg. Delay[1]**	**LOS**	**Avg. Delay[1]**	**LOS**	**Change in Delay**	**Avg. Delay[1]**	**LOS**	**Avg. Delay[1]**	**LOS**	**Change in Delay**
1	Capitol Avenue and Milpitas Boulevard (Signal)	AM PM	19.7 15.5	B B	26.5 18.7	C B	26.8 20.6	C C	0.3 1.9	114.3 135.7	F F	114.3 139.1	F F	0.0 3.4
2	Lundy Avenue and Trade Zone Boulevard (Signal)	AM PM	30.3 41.8	C D	31.9 49.7	C D	31.9 49.8	C D	0.0 0.1	87.1 77.8	F E	87.9 77.7	F E	0.8 -0.1
3	Montague Expressway and Trade Zone Boulevard (Signal)	AM PM	97.5 65.9	F E	135.3 83.4	F F	134.3 79.9	F E	-1.0 -3.5	230.9 90.5	F F	225.9 89.4	F F	-5.0 -1.1
4	Montague Expressway and Capitol Avenue (Signal)	AM PM	42.4 69.6	D E	45.1 72.7	D E	45.1 73.8	D E	0.0 1.1	56.8 187.3	E F	56.7 187.3	E F	-0.1 1.1
5	Montague Expressway and Sango Court (SSSC)[2]	AM PM	0.2/9.9 0.2/14.5	A/A A/B	0.9/10.7 0.5/17.3	A/B A/C	0.9/10.7 0.5/17.1	A/B A/B	0.0/0.0 0.0/-0.2	0.8/14.8 0.9/36.5	A/B A/E	0.9/14.9 0.8/34.9	A/B A/D	0.1/1.0 -0.1/1.6

[1] Signalized intersection level of service is based on the Highway Capacity Manual (HCM) methodology, using average control delay f or the entire intersection. For unsignalized intersection at Montague/Sango, average intersection delay/approach with highest delay based on HCM methodology are shown.
[2] SSSC = Side street stop control

4.18 TRIBAL CULTURAL RESOURCES

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.

Local

City of Milpitas General Plan 2040

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to tribal cultural resources and are applicable to the proposed project.

Policies	Description
Policy CON 4-1	Review proposed developments and work in conjunction with the California Historical Resources Information System, Northwest Information Center at Sonoma State University, to determine whether project areas contain known archaeological resources, either prehistoric and/or historic-era, or have the potential for such resources.
Policy CON 4-2	If found during construction, ensure that human remains are treated with sensitivity and dignity, and ensure compliance with the provisions of California Health and Safety Code Section 7050.5 and California Public Resources Code Section 5097.98.

Policies	Description
Policy CON 4-3	Work with Native American representatives to identify and appropriately address, through avoidance or mitigation, impacts to Native American cultural resources and sacred sites during the development review process
Policy CON 4-4	Consistent with State, local, and tribal intergovernmental consultation requirements such as SB 18 and AB 52, the City shall consult as necessary with Native American tribes that may be interested in proposed new development and land use policy changes.
Policy CON 5-1	Protect significant historic resources and use these resources to promote a sense of place and history in Milpitas through implementation of the Milpitas Cultural Resources Preservation Program (Municipal Code, Title XI, Chapter 4), the Conceptual Historic Resources Master Plan, the conservation and preservation of the City's historical collection at the Milpitas Community Museum, and other applicable codes, regulations, and area plans.

4.18.1.2 *Existing Conditions*

According to the General Plan, no specific resources have been identified through consultation with affiliated Native American tribes. Unknown tribal cultural resources, however, could be present within the City.

On June 14, 2021, Tamien Nation sent a written request for notification of projects citywide to the City of Milpitas. The City of Milpitas notified Tamien Nation of the project on March 1, 2022 per the representative's request. On May 4, 2022, the City met with Tamien Nation Chairwoman Quirina Geary and concluded consultation on September 13, 2022.[102]

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:				
1) 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)?	☐	☒	☐	☐

[102] City of Milpitas. *Leon Taing, PE to Tamien Nation, Chairwomen Quirina Luna Geary*. September 13, 2022.

2) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying 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.	☐	☒	☐	☐

Impact TCR-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 California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k). **(Less than Significant Impact with Mitigation Incorporated)**

Assembly Bill 52 requires lead agencies to complete formal consultations with California Native American tribes during the CEQA process to identify tribal cultural resources that may be subject to significant impacts by a project. Where a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document must discuss the impact and whether feasible alternatives or mitigation measures could avoid or substantially lessen the impact. This consultation requirement applies only if the tribes have sent written requests for notification of projects to the Lead Agency. On June 14, 2021, Tamien Nation sent a written request for notification of projects citywide to the City of Milpitas. The City of Milpitas notified Tamien Nation of the project on March 1, 2022, per the representative's request. On May 4, 2022, the City met with Tamien Nation Chairwoman Quirina Geary and concluded consultation on September 13, 2022. The project site is considered to have a high sensitivity for unknown tribal cultural resources. Therefore, as described in Section 4.5 Cultural Resources, the project will be required to have a Tribal Monitor present during ground disturbing activities (MM CUL-2.1). In addition, the project would implement MM CUL-2.2 and MM CUL-3.1 under Impact CUL-2 and Impact CUL-3 in Section 4.5 Cultural Resources to reduce the potential for adverse impacts to buried cultural resources (including TCRs) to a less than significant level.

Impact TCR-2:	The project would not 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. **(Less than Significant Impact with Mitigation Incorporated)**

Refer to the discussion above under Impact TCR-1. As described in Section 4.5 Cultural Resources, the project will be required to have a Tribal Monitor present during ground disturbing activities (MM CUL-2.1). In addition, the project would implement MM CUL-2.2 and MM CUL-3.1 under Impact CUL-2 and Impact CUL-3 in Section 4.5 Cultural Resources to reduce the potential for adverse impacts to buried cultural resources (including TCRs) to a less than significant level.

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 Milpitas 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, and divert at least 75 percent by 2010. Projects that would have an adverse effect on waste diversion goals are required to include waste diversion mitigation measures.

Assembly Bill 341

AB 341 sets forth the requirements of the statewide mandatory commercial recycling program. Businesses that generate four or more cubic yards of garbage per week and multi-family dwellings with five or more units in California are required to recycle. AB 341 sets a statewide goal for 75 percent disposal reduction by the year 2020.

Senate Bill 1383

SB 1383 establishes targets to achieve a 50 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75 percent reduction by 2025. The bill grants CalRecycle the regulatory authority required to achieve the organic waste disposal reduction targets and establishes an additional target that at least 20 percent of currently disposed edible food is recovered for human consumption by 2025.

California Green Building Standards Code

CalGreen establishes mandatory green building standards for all buildings in California. The code is updated every three years.[103] CalGreen covers five categories: planning and design, energy

[103] California Building Standards Commission. "California Building Standards Code." Accessed February 6, 2024. https://www.dgs.ca.gov/BSC/Codes#@ViewBag.JumpTo.

efficiency, water efficiency and conservation, material conservation and resources efficiency, and indoor environmental 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; and
- Providing readily accessible areas for recycling by occupants.

Local

City of Milpitas General Plan 2040

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to utilities and service systems and are applicable to the project.

Policies	Description
Policy UCS 4-2	Require all development projects to demonstrate how storm water runoff will be detained or retained on-site and/or conveyed to the nearest drainage facility as part of the development review process and as required by the San Francisco Bay Region Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) Permit.
Policy UCS 4-3	Require all future development projects to analyze their drainage and stormwater conveyance impacts and either demonstrate that the City's existing infrastructure can accommodate increased stormwater flows, or make the necessary improvements to mitigate all potential impacts.
Policy UCS 4-4	Applicable projects shall incorporate Best Management Practices (BMPs) and Low Impact Development measures (LID) to treat stormwater before discharge from the site. The facilities shall be sized to meet regulatory requirements.
Policy UCS 4-5	Applicable projects shall control peak flows and duration of runoff to prevent accelerated erosion of downstream watercourses.
Policy UCS 4-8	Coordinate directly with the Santa Clara Valley Water District to incorporate recreational trails and parkway vegetation design into open stormwater facilities and creek corridors to the greatest extent feasible.
Policy UCS 4-10	Where feasible, conform developments to natural landforms, avoid excessive grading and disturbance of vegetation and soils, retain native vegetation and trees, and maintain natural drainage patterns
Policy UCS 4-12	Projects accommodating outdoor activities, including work areas, storage areas or other areas that are potential sources of stormwater pollutants, shall incorporate measures to control those pollutant sources to the maximum extent practicable.

Policies	Description
Policy UCS 4-14	Construction sites shall incorporate measures to control erosion, sedimentation, and the generation of runoff pollutants to the maximum extent practicable. The design, scope and location of grading and related activities shall be designed to cause minimum disturbance to terrain and natural features. (Title II, Chapter 13 of the Municipal Code).
Policy UCS 4-15	Minimize the use of pesticides that may affect water quality.
Policy UCS 5-2	Implement and enforce the provisions of the City's Source Reduction and Recycling Program and update the program as necessary to meet or exceed the State waste diversion requirements.
Policy UCS 5-3	Reduce municipal waste generation by increasing recycling, on-site composting, and mulching, where feasible, at municipal facilities, as well as using resource efficient landscaping techniques in new or renovated medians and parks.

City of Milpitas Metro Specific Plan

The MMSP adopted the following policies for the purpose of avoiding or mitigating impacts to utilities and service systems resulting from planned development within the MMSP area, including the following:

Policies	Description
Policy ICS 3.1	Provide water supply for the Milpitas Metro Area from the City's portfolio of water supplies, including potable water from Valley Water District and San Francisco Public Utilities and groundwater and recycled water from South Bay Water Recycling, per the Water Master Plan. No development is entitled to municipal water until a building permit is issued by the City. Policy ICS 3.10.
Policy ICS 3.6	Require that recycled water be used for all irrigation, including parks, plazas, community facilities, linear parks, landscaped front yards, buffer zones, vegetated setbacks, and private common areas. Policy ICS 3.7. Require, where reasonable and feasible, that commercial uses, schools, and non-residential mixed-use developments include dual plumbing to enable indoor recycled water use for nonpotable uses to the extent feasible.
Policy ICS 3.7	Require, where reasonable and feasible, that commercial uses, schools, and non-residential mixed-use developments include dual plumbing to enable indoor recycled water use for nonpotable uses to the extent feasible.
Policy ICS 3.10	Recycled water mains shall be installed up to and across the frontage of parcels that do not have access to recycled water. The cost of extending recycled water mains, excluding the length across the frontage, shall be funded through the TADIF.
Policy CB 7.6	Building construction and operations shall incorporate measures to screen waste areas from view, reduce waste generation and maximize waste diversion from landfills and reuse.
Policy CB 7.6.2	All construction and demolition projects shall achieve a 75 percent diversion waste rate.

Policies	Description
Policy CB 7.6.3	Organic Waste Collection for Residential. All multifamily residential buildings shall provide organic waste collection services for tenants and employees.
Policy CB 7.6.4	All nonresidential buildings shall provide collection containers for organic waste and recyclables in all areas where disposal containers are provided, except in restrooms.

City of Milpitas Storm Drain Master Plan

The City's 2021 Storm Drain Master Plan identifies the capital improvements needed to maintain recommended levels of protection against storm water runoff, and the need for a revenue stream that would allow the necessary capital improvements to be made, and the storm drain system kept in working order into the future. The Master Plan contains drainage standards, summarizes the major drainage facilities in the area, evaluates the storm drain collection system and pump stations, analyzes storm drain impacts from new development, identifies capital improvements, outlines the operations, maintenance, and replacement methods, and identifies funding requirements.

Green Stormwater Infrastructure Plan

The City adopted the Green Stormwater Infrastructure Plan (GSI Plan) on November 3, 2019 per the requirements of MRP Order R2-2015-0049 to create a long range plan for integrating LID measures into private development and City capital projects. The GSI Plan would be coordinated with the implementation of the Milpitas General Plan.[104]

4.19.1.2 *Existing Conditions*

Water Service and Supply

Water service is provided by the City of Milpitas through its municipal water system. The City purchases domestic water from two water suppliers, the San Francisco Public Utilities Commission (SFPUC) and Valley Water. In 2019, approximately 60 percent of the City's total water was from SFPUC and 30 percent from Valley Water. The remaining 10 percent of water was from recycled water supplies discussed below. The City's agreement with SFPUC provides the City with the right to purchase up to 9.23 million gallons per day (mgd) of treated potable water unless SFPUC has a water shortage. In 2019, the SFPUC supplied 6,146 acre-feet of water to the City of Milpitas.[105]

The City has a three-year contracted delivery schedule with Valley Water. In 2019, the City water supplies totaled 3,182 acre-feet water delivery. The City's monthly "supply guarantee" is at least 15 percent of the annual schedule for that year, meaning that in any month, the City can purchase up to 15 percent of the year's total delivery schedule water.

Using the water demand rate for a "General Office Building", the water demand of the 41,307 square foot existing office development is approximately 11,841,396 gallons of water per year.[106]

[104] City of Milpitas. *Green Stormwater Infrastructure Plan*. November 2019.
[105] City of Milpitas. *The City of Milpitas 2020 Urban Water Management Plan*. July 1, 2021.
[106] California Emissions Estimator Model (CalEEMod). Table 9.1 Water Use Rates. Version 2020.4.0.

Recycled Water

Recycled Water services are provided to the City by South Bay Water Recycling Program. Recycled water is produced at the San José-Santa Clara Regional Wastewater Facility (Facility) and delivered to the City via SWBR's recycled water system. In 2019, the City used approximately 1,049 acre-feet of recycled water for irrigation and industrial uses.[107] This represents approximately 10 percent of the City's total water use in 2019.

Sanitary Sewer/Wastewater Treatment

The City of Milpitas collects, but does not treat, wastewater within the service area. Wastewater from the City is treated at the Facility. The Facility treats an average of 110 mgd. The City's total contracted peak week flow capacity at the plant is 14.25 mgd.[108]

Storm Drainage

Stormwater runoff is collected in a system of storm drain pipelines ranging from three-inches to 96-inches in diameter with outfalls and pumping stations along the City's major waterways that ultimately drain to the San Francisco Bay. Milpitas owns and operates 13 storm water pumping stations, but Valley Water manages most of the natural and urbanized waterways into which the City discharges stormwater.[109]

Solid Waste

Republic Services (formerly Allied Waste) provides solid waste and recycling collection services for the City of Milpitas. Waste from the City is hauled to the Newby Island Sanitary Landfill (NISL). The estimated closure date for NISL is 2041.[110] The City has an annual disposal allocation for 395,000 tons per year. As of April 2021, NISL had approximately 13.7 million cubic yards of capacity remaining.[111]

4.19.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	☐	☐	☒	☐

[107] City of Milpitas. *The City of Milpitas 2020 Urban Water Management Plan*. July 1, 2021.
[108] City of Milpitas. *Milpitas General Plan Final Environmental Impact Report*. January 2020. SCH 2020070348.
[109] Ibid.
[110] Ibid.
[111] North, Daniel. General Manager, Republic Services. Personal Communication. April 9, 2021.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
2) Have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	☐	☐	☐	☒
3) Result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☐	☒
4) Generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	☐	☐	☒	☐
5) Be noncompliant with federal, state, or local management and reduction statutes and regulations related to solid waste?	☐	☐	☒	☐

Impact UTL-1: The 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 telecommunications facilities, the construction or relocation of which could cause significant environmental effects. **(Less than Significant Impact)**

Water

Operation of the bridge and roadway connections would have no demand for potable water. The project would extend new utility lines to improve the interconnectivity of the City's water network, including potable water and recycled water lines, across Penitencia East Channel. The potable water and recycled water utility pipes would be constructed on the downstream side or western face of the bridge across the Penitencia East Channel to minimize potential utility pipe impacts as a result of flood debris during a flooding event. Therefore, the project would not result in significant environmental effects due to construction or relocation of water utilities.

Sanitary Sewer/Wastewater Treatment

The project does not include a component that would generate wastewater. Therefore, the project would have no impact on wastewater treatment facilities.

Storm Drainage Facilities

The project would replace more than 10,000 square feet of impervious surface at the project site; therefore, it would be subject to Provision C.3 of the MRP. This requires the project to incorporate

site design, source control and runoff treatment controls to reduce the rate, volume, and pollutant load of runoff from the project site. The project would install bioswale basins to treat stormwater associated with the roads behind the flow line of the gutter. The project's stormwater treatment system would reduce the rate of stormwater runoff entering the City's storm drainage system. As discussed in Section 4.10 Hydrology and Water Quality, compliance with Provision C.3 of the MRP, Construction General Permit, and General Plan Policies UCS 4-2, UCS 4-3, and UCS 4-4, the project would improve the quality of stormwater runoff leaving the sites and entering the City's storm drainage system. Therefore, implementation of the proposed project would have a less than significant impact on the City's storm drainage system such that no new or expanded facilities would be required.

Electric Power, Natural Gas, & Telecommunication Facilities

The construction and operation of the bridge would not require the construction or expansion of electric power, natural gas, or telecommunications facilities. Future utility openings would be built into the bridge platform to provide future connections for dry utility services. Construction of the future connections would occur at the time future projects would be constructed and would be assessed by the project-level environmental review completed for each project. Therefore, implementation of the proposed project would not, by itself cause a significant environmental impact.

As discussed above, the project would not result in significant impacts from construction or relocation of new or expanded utilities.

Impact UTL-2:	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. **(No Impact)**

The project would construct a bridge over Penitencia East Channel, connecting South Milpitas Boulevard on the north side of the channel with Tarob Court and Sango Court on the south side of the channel. The project would not require the provision of water supplies. As discussed above in Impact UTL-1, the new utility lines would increase the service area of the recycled water network and improve the redundancy and resilience of the water network for continued service delivery in case of water line disruptions. Therefore, the proposed project would not impact water supplies and no impact would occur.

Impact UTL-3:	The project would not 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. **(No Impact)**

The project would construct a bridge and roadway connections. The project would not require the treatment of wastewater and there would be no impact on wastewater treatment facilities.

Impact UTL-4:	The project would not generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals. **(Less than Significant Impact)**

Demolition of the existing office building and construction of the project would generate waste during construction activities. Construction waste would be recycled in compliance with the City's Municipal Code Chapter 200 and Demolition Recycling Report Process.[112] As discussed in Section 4.9 Hazards and Hazardous Materials, the project site has been the subject of remediation activities due to soil and groundwater contamination (VOC, TCE, and DCE). In the event that contaminated soils are encountered during ground disturbing activities, MM HAZ-2.1 would require that contaminated soils be removed and disposed of properly at a landfill that meets acceptance criteria for the type of waste being disposed.

For these reasons, the project would not 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. Impacts would be less than significant.

Impact UTL-5:	The project would not be noncompliant with federal, state, or local management and reduction statutes and regulations related to solid waste. **(Less than Significant Impact)**

As described in UTL-4, the construction waste would be recycled in compliance with the City's Municipal Code Chapter 200 and Demolition Recycling Report Process ensuring that at least 65 percent of the waste is recovered and diverted from landfills. During operation, the project would not generate solid waste. Therefore, the project would have a less than significant impact on solid waste reduction regulations.

[112] City of Milpitas. *Demolition Recycling Report Process.* August 29, 2022. Accessed January 10, 2024. https://www.milpitas.gov/DocumentCenter/View/232/Demolition-Recycling-Report-Process-PDF?bidId=.

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.

Local

City of Milpitas Municipal Code

Chapter 300 of the City's Municipal Code includes the adoption of the 2022 California Fire Code and the adoption of additional amendments. Chapter 300 requires compliance with the California Fire Code. The California Fire Code regulates and governs the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises in the City of Milpitas.

4.20.1.2 *Existing Conditions*

The project site is not located in or near state responsibility areas or lands classified as very high fire hazard severity zones.[113]

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:				
1) Substantially impair an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒

[113] City of Milpitas. *Milpitas General Plan Final Environmental Impact Report*. January 2020. SCH 2020070348. Figure 3.8-1.

	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:				
2) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	☐	☐	☐	☒
3) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines, or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	☐	☐	☐	☒
4) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	☐	☐	☐	☒

The project site is not located in or near state responsibility areas or lands classified as very high fire hazard severity zones; therefore, the project would not result in wildfire impacts.[114] **(No Impact)**

[114] City of Milpitas. *Milpitas General Plan Final Environmental Impact Report*. January 2020. SCH 2020070348. Figure 3.8-1.

4.21 MANDATORY FINDINGS OF SIGNIFICANCE

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
1)	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?	☐	☒	☐	☐
2)	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.)	☐	☒	☐	☐
3)	Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☒	☐	☐

Impact MFS-1: The project does not have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory. **(Less than Significant Impact with Mitigation Incorporated)**

As discussed in prior sections of this Initial Study, the proposed project would not significantly degrade the quality of the environment, substantially affect biological resources, or eliminate important examples of California history or prehistory with implementation of the mitigation measures identified throughout this document.

As discussed in Section 4.3 Air Quality, implementation of MM AIR-3.1 and MM AIR-3.2 would reduce potentially significant impacts from fugitive dust and toxic air contaminants to a less than significant level.

Implementation of MM BIO-1.4 through MM BIO-1.5 (refer to Section 4.3 Biological Resources) would reduce the potentially significant impacts of bridge illumination on fish and wildlife species to a less than significant level. Implementation of MM BIO-1.6 would ensure that no taking of nesting birds and raptors, including fertile bird eggs, occurs during construction. Implementation of MM BIO-2.1 through MM BIO-2.4 would reduce potentially significant effects from construction on the existing riparian habitat to a less than significant level by ensuring that construction work within the stream banks would be confined to the period of April 15 to October 15; work areas would be delineated and flagged during construction activities; and temporary impact areas would be revegetated and restored to preconstruction conditions and monitored for a period of three years.

As discussed in Section 4.5 Cultural Resources, implementation of MM CUL-2.1, MM CUL-2.2, and MM CUL-3.1 would reduce potentially significant impacts on undiscovered subsurface archaeological resources (Impact CUL-2), tribal cultural resources (Impact TCR-1 and -2), and human remains (Impact CUL-3) (if encountered during construction) to a less than significant level. Similarly, implementation of MM GEO-1.1 (refer to Section 4.7 Geology and Soils) would reduce potentially significant impacts on undiscovered subsurface paleontological resources (if encountered during construction) to a less than significant level. Implementation of MM HAZ-2.1 (refer to Section 4.9 Hazards and Hazardous Materials) would reduce potentially significant impacts from soil and groundwater contamination to a less than significant level.

Based on the above, with the implementation of mitigation measures, the 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. All significant project-level impacts can be mitigated to a less than significant level.

Impact MFS-2:	The project does not have impacts that are individually limited, but cumulatively considerable. **(Less than Significant Impact with Mitigation Incorporated)**

Under Section 15065(a)(3) 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 potential environmental effects “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 effects of other current projects, and the effects of probable future projects.” In addition, under Section 15152(f) of the CEQA Guidelines, where a lead agency has determined that a cumulative effect has been adequately addressed in a prior EIR, the effect is not treated as significant for purposes of later environmental review and need not be discussed in detail.

The project would not impact agricultural, forestry, or mineral resources; therefore, the project would have no contribution to cumulative impacts to these resources. Nor would the project contribute to

any cumulative impacts associated with wildfire risk, as the project site is not located in or near a state responsibility area or lands classified as very high fire hazard severity zones.

The project would result in less than significant impacts to aesthetics, hydrology and water quality, land use and planning, noise and vibration, population and housing, public services, recreation, and utilities and service systems. As noted in Section 4.17 Transportation, the project would reduce both daily VMT and daily vehicle hours traveled and, therefore, would not contribute to cumulative VMT impacts. Furthermore, potential impacts associated with these resource areas are accounted for in the EIRs prepared for the Milpitas General Plan 2040, TASP and MMSP.

The proposed project would result in highly localized and temporary air quality, biological, cultural, geology and soils, and hazards and hazardous material impacts during construction. As discussed under Impact MFS-1, these impacts would be less than significant with mitigation incorporated. Furthermore, the area surrounding the project is fully developed, and no other projects are anticipated to be constructed within the project vicinity at the same time as the proposed project that in combination with the proposed project would result in a cumulative impact. Additionally, future projects would undergo environmental review in accordance with CEQA, and held to the same state and federal standards protecting the exposure of sensitive receptors to TACs and $PM_{2.5}$ (BAAQMD 2017 CAP, CEQA Guidelines) or contaminated soil (Toxic Substances Control Act, CalARP); fish, wildlife, nesting birds, and associated habitats including riparian (California Fish and Game Code, CDFW and USACE regulations, Migratory Bird Treaty Act); undiscovered subsurface archaeological and tribal cultural resources (National Historic Preservation Act, California Native American Historical, Cultural, and Sacred Sites Act, Assembly Bill 52) fossils (Public Resources Code Section 5097.5), and human remains (Public Resources Code Sections 5097 and 5097.98). Future projects would also be subject to the policies and actions identified in the City's General Plan, Municipal Code, and MMSP designed to protect the environment as relates to air quality, biological, cultural and tribal cultural resources, geology and soils, and hazards and hazardous materials. For these reasons, with implementation of the mitigation measures identified in this Initial Study, construction-level impacts would be mitigated to a less than significant level and would not be considered cumulatively considerable.

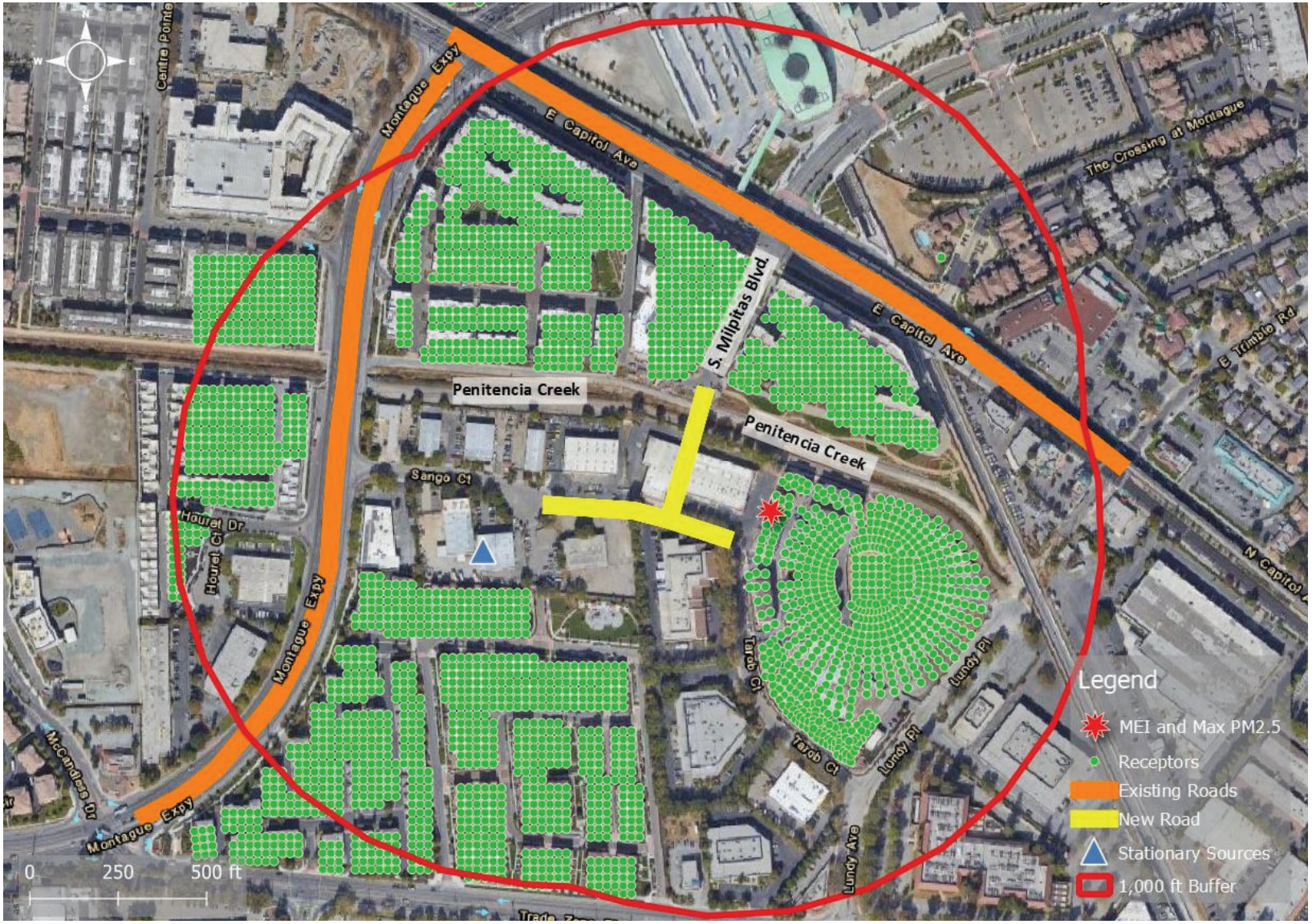
Lastly, illumination of the proposed bridge would have a less than significant impact on fish and wildlife present in the vicinity of the bridge location with implementation of the shielding and spillover light reduction measures outlined in MM BIO-1.4 and MM BIO-1.5. As previously noted, the surrounding area is fully developed, and future redevelopment occurring in the project vicinity is not anticipated to substantially increase the exposure of fish and wildlife species to nighttime lighting in comparison with existing conditions. Further, any future redevelopment would be subject to CDFW and USACE regulations protecting these species from nighttime light exposure. Accordingly, with implementation of MM BIO-1.4 and MM BIO-1.5 identified in this Initial Study, operation-level impacts would be mitigated to a less than significant level and would not be considered cumulatively considerable.

Because criteria air pollutant and GHG emissions would contribute to regional and global emissions of such pollutants, the identified thresholds developed by BAAQMD and used by the City of Milpitas were developed such that a project-level impact would also be a cumulative impact. As discussed in Section 4.3 Air Quality and Section 4.8 Greenhouse Gas Emissions, the project would

not result in significant criteria air pollutants or GHG emissions; therefore, the project would not make a cumulatively considerable contribution to cumulative air quality or GHG emissions impacts. The discussion of project criteria pollutant impacts presented in Section 4.3 also reflects cumulative conditions, and the project would not contribute to significant cumulative impacts. The project's contribution to cumulative climate change impacts was presented in Section 4.8 as less than cumulatively considerable. The discussion of the project's energy impact also reflects cumulative conditions, since the project's consumption of electricity, natural gas, and gasoline would decrease in comparison with the existing development, and therefore the availability of energy supplies at the state and county level would be unaffected. For these reasons, the proposed project would not make a cumulatively considerable contribution to cumulative air quality, energy, or GHG emissions impacts.

The project's cumulative community health risk impacts are a combination of project construction-related emissions, operation-related emissions associated with vehicles traveling along the new roadway connection, and all substantial sources of TACs that can affect sensitive receptors within 1,000 feet of the project site. Figure 4.21-1 shows the existing TAC sources with the potential to affect the off-site MEI.[115]

[115] After completion of the project air quality impact analysis, residences were constructed immediately west of the project site (i.e., Sango Apartments) and are also planned to the south. At the time the dispersion modeling was completed, these receptors were not known. However, these new existing and planned receptors would not be expected to experience more exposure than was identified at the MEI due to the prevailing wind direction in the project area. Source: Reyff, James. Illingworth & Rodkin, Inc. Personal Communication. December 19, 2023.



Source: Illingworth & Rodkin, Inc., November 10, 2021.

PROJECT SITE AND NEARBY TAC AND $PM_{2.5}$ SOURCES | FIGURE 4.21-1

Modeling was completed to calculate the community health risk from the cumulative sources at the project MEI. Refer to Appendix **A** for details about the cumulative health risk modeling, including the models used (CT-EMFAC2017, EMFAC, and U.S. EPA AERMOD models), model inputs, and assumptions. Table 4.21-1 reports the cumulative community risk impacts from project construction and operation and other cumulative sources at the MEI.

Table 4.21-1: Cumulative Community Risk Impacts at Off-Site MEI

Source	Cancer Risk (per million)	Annual $PM_{2.5}$ ($\mu g/m^3$)	Hazard Index
Project (Construction and Operation)	8.30 (infant)	0.24	<0.01
Montague Expressway	0.61	0.03	<0.01
E. Capitol Avenue	0.13	<0.01	<0.01
Facility #17576 (Auto Body Coating Operation)	N/A	N/A	<0.01
Cumulative Totals	9.04	0.28	<0.04
BAAQMD Cumulative Source Threshold	*100*	*0.8*	*10.0*
Exceed Cumulative Source Threshold?	No	No	No

Source: Illingworth & Rodkin, Inc. *S. Milpitas Boulevard Vehicular Bridge Air Quality Assessment*. November 10, 2021.

Notes:

Numbers in excess of BAAQMD cumulative source thresholds identified in **bold**.

***** Mitigation Measures AIR-3.1 and AIR-3.2 include BAAQMD recommended fugitive dust and construction equipment controls, use of Tier 4 equipment or equipment with CARB-certified Level 3 Diesel Particulate Filters or equivalent.

As shown in Table 4.21-1 above, with implementation of MM AIR-3.1 and MM AIR-3.2, the project would not exceed either the single-source cancer risk or annual $PM_{2.5}$ concentration thresholds or the cumulative source annual $PM_{2.5}$ threshold. Therefore, the cumulative impact of the project and off-site TAC sources would not be cumulatively considerable.

Given the above discussion, the proposed project would not result in cumulatively considerable contributions to significant cumulative impacts with mitigation incorporated.

Impact MFS-3:	The project does not have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly. **(Less than Significant Impact with Mitigation Incorporated)**

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. Implementation of the proposed project's mitigation measures identified in this document and adherence to the City's General Plan, Municipal Code, and MMSP and state and federal regulations described in this Initial Study, would avoid significant and unavoidable impacts. No other direct or indirect adverse effects on human beings have been identified.

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 Milpitas

Public Works Department
Michael Silveira – *Public Works Division Manager- Engineering*
Lyhak Eam – *Principal Civil Engineer,*
Michale Runchey*, Assistant Engineer*

Planning Department
Jay Lee, *Planning Director*
Kristina Phung, *Associate Planner*

City Attorney's Office
Michael Mutalipassi, *City Attorney*

6.2 CONSULTANTS

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Demetri Loukas, Principal
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Matthew Moore, *Associate Project Manager*
Adam Garcia, *Assistant Project Manager*
Ryan Osako, *Draftsperson/Graphic Artist*

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Casey Divine, *Consultant*
Jay Witt, *Consultant*

H.T. Harvey & Associates
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Katie Gallagher, MS – *Senior Ecologist*

PaleoWest, LLC

Archaeological Resource Consultant

Garret Root, *Principal and Senior Architectural Historian*

ENGEO Incorporated
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Schaaf & Wheeler
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Emily Straley, PE – *Senior Engineer*

Hexagon Transportation Consultants, Inc.
Transportation Consultants

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Eric Tse, TE – *Associate*

SECTION 7.0 ACRONYMS AND ABBREVIATIONS

AASHTO	American Association of State Highway and Transportation Officials
AB	Assembly Bill
ABAG	Association of Bay Area Governments
ADA	Americans with Disabilities Act
APN	Assessor's Parcel Number
BART	Bay Area Rapid Transit
BAAQMD	Bay Area Air Quality Management District
BGS	Below Ground Surface
BMP	Best Management Practice
BUSD	Berryessa Union School District
CalARP	California Accidental Release Prevention
CalEPA	California Environmental Protection Agency
CAL FIRE	California Department of Forestry and Fire Protection
Cal/OSHA	California Department of Industrial Relations, Division of Occupational Safety and Health
Caltrans	California Department of Transportation
CAP	Clean Air Plan
CARB	California Air Resources Board
CCR	California Code of Regulations
CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality Act
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CFC	Chlorofluorocarbons
CFR	Code of Federal Regulations
CHRIS	California Historical Resources Information System
CMP	Congestion Management Program
CNEL	Community Noise Equivalent Level
CRHR	California Register of Historical Resources
CUPA	Certified Unified Program Agency
dBA	A-weighted decibel
DPM	Diesel Particulate Matter

DPR	Department of Parks and Recreation
DSOD	Division of Safety of Dams
DTSC	Department of Toxic Substances Control
EIR	Environmental Impact Report
EPA	Environmental Protection Agency
ESUHSD	East Side Union High School District
FEIR	Final Environmental Impact Report
FEMA	Federal Emergency Management Agency
FIRM	Flood Insurance Rate Map
FHSZ	Fire Hazard Severity Zone
FTA	Federal Transit Administration
GHG	Greenhouse Gas
GSI	Green Stormwater Infrastructure
GWMP	Groundwater Management Plan
GWP	Global Warming Potential
HFC	Hydrofluorocarbons
HHRA	Human Health Risk Assessment
HSWA	Federal Hazardous and Solid Waste Amendments
HVAC	Heating, Venting, and Air Conditioning
I-	Interstate
LID	Low Impact Development
L_{dn}	Day-Night Level
LOS	Level of Service
LRA	Local Responsibility Area
MBTA	Migratory Bird Treaty Act
MFD	Milpitas Fire Department
MMSP	Milpitas Metro Specific Plan
MND	Mitigated Negative Declaration
MPD	Milpitas Police Department
MUSD	Milpitas Unified School District
MTC	Metropolitan Transportation Commission
MRP	Municipal Regional Stormwater Permit

NFIP	National Flood Insurance Program
NRHP	National Historic Preservation Act
NRHP	National Register of Historic Places
NOD	Notice of Determination
NOI	Notic of Intent
NPDES	National Pollutant Discharge Elimination System
LID	Low Impact Development
OPR	Governor's Office of Planning and Research
PCB	Polychlorinated Biphenyl
PDA	Priority Development Area
PFC	Perfluorocarbon
PM	Particulate Matter
RCRA	Resource Conservation and Recovery Act
RHNA	Regional Housing Need Allocation
ROG	Reactive Organic Gases
RMP	Risk Management Plan
RWQCB	Regional Water Quality Control Board
SB	Senate Bill
SCCDEH	Santa Clara County Department of Environmental Health
SCS	Sustainable Communities Strategy
SFHA	Special Flood Hazard Area
SFPUC	San Francisco Public Utilities Commission
SMARA	Surface Mining and Reclamation Act
SMGP	State Mining and Geology Board
SR	State Route
SRA	State Responsibility Area
SWMP	Stormwater Management Plan
SWRCB	State Water Resources Control Board
SCVWD	Santa Clara Valley Water District
TASP	Transit Area Specific Plan
TAC	Toxic Air Contaminant
TOD	Transit Oriented Development

TCR	Tribal Cultural Resource
TSCA	Toxic Substances Control Act
TSD	Transportation, Storage and Disposal
USFWS	United States Fish and Wildlife Service
UWMP	Urban Water Management Plan
VdB	Vibration Velocity Decibels
VMT	Vehicle Miles Traveled
VOC	Volatile Organic Compound
VTA	Santa Clara Valley Transportation Authority