

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE CERTIFYING THE AMERICA CENTER PHASE III PROJECT SUBSEQUENT ENVIRONMENTAL IMPACT REPORT TO THE LEGACY TERRACE DEVELOPMENT PLANNED DEVELOPMENT REZONING AND PREZONING ENVIRONMENTAL IMPACT REPORT (SCH #1999082004) AND MAKING CERTAIN FINDINGS CONCERNING SIGNIFICANT IMPACTS, MITIGATION MEASURES AND ALTERNATIVES, AND ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS AND A MITIGATION MONITORING AND REPORTING PROGRAM, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED

WHEREAS, the proposed America Center Phase III Project includes an increase to the allowed amount of Commercial Office/R&D area for the project site by 190,000 square feet, for the total allowed Commercial Office/R&D space to be 1,090,000 square feet (located within 5 buildings); modification of the General Development Plan boundaries to reflect removal of the northeastern portion of the current project area (6.7 acres) and to reflect minor lot line adjustments; construction of an approximately 192,350 square foot, six-story office building, associated amenity space, and expand the existing parking on the eastern portion of the site; all located on an approximately 63 gross acre site (with removal of 6.7 acres described above) north of California State Route (SR) 237 at the terminus of Great America Parkway, in the Alviso community of the City in San José, California (collectively referred to herein as the "Project"); and

WHEREAS, approval of the America Center Phase III Project would constitute a project under the provisions of the California Environmental Quality Act of 1970, together with related state and local implementation guidelines and policies promulgated thereunder, all as amended to date (collectively, "CEQA"); and

WHEREAS, the City of San José (“City”) previously prepared and completed, in accordance with CEQA the Final Environmental Impact Report for the Legacy Terrace Development Planned Development Rezoning and Prezoning (“Legacy Terrace FEIR”) (Planning File No. PDC99-05-044), which analyzed the environmental impacts of the development of office, research and development, and associated commercial uses totaling 900,000 square feet, a 175-room hotel, and approximately 25,000 square feet of Riverfront Commercial uses on approximately 45.2 acres of a 70.5 acre site; and

WHEREAS, on February 8, 2000, the Planning Commission of the City of San José certified said Legacy Terrace FEIR, which certification was not appealed; and

WHEREAS, in connection with the adoption of a resolution approving said Legacy Terrace Development Planned Development Rezoning and Prezoning (Planning File No. PDC99-05-044), the City Council adopted Resolution No. 69392 on February 15, 2000, setting forth certain findings pertaining to the Legacy Terrace FEIR and adopting a statement of overriding considerations and mitigation monitoring and reporting program, all pursuant to the provisions of CEQA; and

WHEREAS, as of the date of this Resolution, the City has approved development of 900,000 square feet of commercial office/R&D uses, a 175-room hotel, 25,000 square feet of River Commercial uses, and 25.3 acres of the site as an open space preserve under the Legacy Terrace FEIR; and two of the five office buildings and the 175-room hotel planned on the America Center site have been constructed and are in operation and two other commercial office/R&D buildings are currently under construction; and

WHEREAS, the proposed Project was evaluated and analyzed under the Legacy Terrace FEIR and it was determined a subsequent environmental report to the Legacy Terrace FEIR was required as further explained in the subsequent environmental report, as defined below, for the Project; and

WHEREAS, the City is the lead agency for the Project, and has prepared a Final Subsequent Environmental Impact Report to the Legacy Terrace FEIR for the Project pursuant to and in accordance with CEQA, which the Final Subsequent Environmental Impact Report is comprised of the Draft Subsequent Environmental Impact Report for the Project (the “Draft SEIR”), together with the First Amendment to the Draft SEIR (collectively, all of said documents are referred to herein as the “FSEIR”); and

WHEREAS, on January 10, 2018, the Planning Commission of the City of San José reviewed the FSEIR prepared for the America Center Phase III Project, and recommended to the City Council that it find the environmental clearance for the proposed Project was completed in accordance with the requirements of CEQA and further recommended the City Council adopt this Resolution; and

WHEREAS, CEQA requires that, in connection with the approval of a project for which an environmental impact report has been prepared which identifies one or more significant environmental effects of the project, the decision-making body of a public agency make certain findings regarding those effects and adopt a mitigation or monitoring program and overriding statement of consideration for any impact that may not be reduced to a less than significant level.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE:

1. That the above recitals are true and correct; and
2. That the City Council does hereby find and certify that the FSEIR has been prepared and completed in compliance with CEQA; and
3. The City Council was presented with, and has independently reviewed and analyzed, the FSEIR and other information in the record and has considered the information contained therein, including the written and oral comments received at the public hearings on the FSEIR and the Project, prior to acting upon or approving the Project, and has found that the FSEIR represents the independent judgment of the City of San José (“City”) as lead agency for the Project, and designated the

Director of Planning, Building and Code Enforcement at his office at 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113, as the custodian of documents and record of proceedings on which the decision of the City is based; and

4. That the City Council does hereby find and recognize that the FSEIR contains additions, clarifications, modifications, and other information in its response to comments on the Draft SEIR or obtained by the City after the Draft SEIR was issued and circulated for public review and does hereby find that such changes and additional information are not significant new information as that phrase is described under CEQA because such changes and additional information do not indicate that any of the following would result from approval and implementation of the Project: (i) any new significant environmental impact or substantially more severe environmental impact not already disclosed and evaluated in the Draft SEIR, (ii) any feasible mitigation measure considerably different from those analyzed in the Draft SEIR that would lessen a significant environmental impact of the Project has been proposed and would not be implemented, or (iii) any feasible alternative considerably different from those analyzed in the Draft SEIR that would lessen a significant environmental impact of the Project has been proposed and would not be implemented; and
5. That the City Council does hereby find and determine that recirculation of the FSEIR for further public review and comment is not warranted or required under the provisions of CEQA; and
6. The City Council does hereby make the following findings with respect to the significant effects of the environment of the Project, as identified in the FSEIR, with the understanding that all of the information in this Resolution is intended as a summary of the full administrative record supporting the FSEIR, which full administrative record should be consulted for the full details supporting these findings.

AMERICA CENTER PHASE III PROJECT SIGNIFICANT ENVIRONMENTAL IMPACTS

Aesthetics

Impact: **Impact AES-1:** The proposed Project would contribute to impacts to views from SR 237 and from trails in the vicinity, which would represent an overall significant aesthetics impact.

Mitigation: None.

Finding: No feasible mitigation was identified to reduce this aesthetic impact to a less than significant level. **(Significant and Unavoidable Impact)**

Facts in Support of Finding: The America Center structures would significantly obscure scenic vistas viewed from SR 237 and from public trails in the vicinity. The Legacy Terrace FEIR concluded that development of five office/R&D buildings, a 175-room hotel and then proposed River Commercial uses would significantly obscure scenic views from SR 237, the Alviso community, Alviso Marina County Park and the San Francisco Bay Wildlife Refuge. With construction of the proposed Building 5, views would be generally limited because Building 5 is surrounded on all sides by other previously constructed or approved buildings; however, there is still the potential for the structure and parking structure extension to be viewed from the Guadalupe River Trail, Bay Trail alignments, and portions of SR 237. The proposed Project would be required to implement policies from the City's Commercial Design Guidelines and Design Guidelines for Commercial Development for Lands Outside of the Alviso Village Area to reduce the Project's effects on the visual character of the area related to architectural design, use of quality materials, and landscaping. Although the Project's compliance with these policies will reduce the aesthetic/visual impacts, the Project's visual impacts from scenic vistas are in an area that is contributing to a previously considered significant and unavoidable impact, as described within the Legacy Terrace FEIR.

Air Quality

Impact: **Impact AIR-1:** The proposed Project would contribute to an impact as a result of exceedance of BAAQMD standards for operational nitrogen oxide (NOx) emissions, as previously identified for the buildout of the America Center site in the Legacy Terrace FEIR.

Mitigation: **MM AIR-1.1:** The Project applicant shall include the following updated measures from the Legacy Terrace FEIR:

- Provide physical improvements, such as sidewalk improvements, landscaping and bicycle parking which would encourage pedestrian and bicycle modes of travel;
- Connect the site to the regional bicycle/pedestrian trail system;
- Provide shuttle bus service to the Tasman/Lafayette light rail and Altamont Corridor Express (ACE) rail system; and

- Implement other feasible transportation demand management (TDM) program measures; including a ride-matching program, guaranteed ride home programs, coordination with regional ride-sharing organizations, and a transit incentives program. The Project applicant shall submit a Transportation Demand Management (TDM) Plan to the satisfaction of the Transportation Manager of the Department of Public Works and the Department of Planning, Building and Code Enforcement (PBCE) Supervising Environmental Planner prior to approval of a Planned Development Permit. The TDM Plan shall contain components or equivalent measures to result in a ten percent (10%) reduction in projected weekday mobile emissions. The Project will be required to submit an annual monitoring report to the Transportation Manager of the Department of Public Works and the PBCE Supervising Environmental Planner to measure the effectiveness of the TDM plan. Additional TDM measures may be required if the TDM measures are not effective in achieving a ten percent (10%) reduction.

Finding: With the implementation of MM AIR-1.1, regional air quality impacts would be lessened and would not result in substantially greater impacts than the significant and unavoidable nitrogen oxide (NOx) impact previously identified in the Legacy Terrace FEIR. However, these measures would not reduce NOx levels resulting from implementation of the proposed Project to a less than significant level. **(Significant and Unavoidable Impact)**

Facts in Support of Finding: The operational criteria pollutant emissions modeled in the Legacy Terrace FEIR exceeded all applicable BAAQMD thresholds. Since the certification of the Legacy Terrace FEIR, there have been significant changes in air quality standards and methodologies for impact calculations. Additionally, pollutant levels from auto emissions (the primary source of operational criteria pollutants) have dropped substantially due to state regulatory standards and requirements. It is anticipated that vehicle-related pollutant emissions levels will continue to drop in future years.

The entire America Center site, including the proposed Project, would not result in an exceedance of BAAQMD thresholds except with regard to NOx. The NOx exceedance would not result in a substantial increase in the severity of the previously identified significant regional air quality impact; rather, the severity of the exceedance has substantially lessened. With the implementation of Mitigation Measure AIR-1.1, NOx emissions from the operation of the proposed Project would be reduced but would still result in a significant and unavoidable impact, as described in the Legacy Terrace FEIR.

Impact: **Impact AIR-2:** Odors could occur as a result of drilling holes for support piles that penetrate the landfill cap and impact sensitive receptors in the area.

Mitigation: **MM AIR-2.1:** The Project applicant shall prepare and implement an odor-control plan prior to the onset of construction which includes the following odor control elements:

- Scheduling of construction phasing such that the amount of uncovered/disturbed waste at one time is minimized;
- Controlling odors by covering any exposed landfill material with soil, foam, or other suitable material (including application of deodorant or other odor control materials);
- Considering seasonal weather conditions that can concentrate odors or direct odors towards sensitive receptors; and
- Providing the residents of the nearby Summerset Mobile Estates and the Supervising Planner of PBCE with the name and phone number of a Project Contact who shall respond to any complaints about dust, odors, or other nuisances associated with waste excavation and relocation operations.

Finding: Implementation of MM AIR-2.1 would limit the generation of odors and resulting odor impacts to sensitive receptors in the area. **(Less Than Significant with Mitigation Incorporated)**

Facts in Support of Finding: As the work involving placement of the cap and cover is complete, significant odors are not anticipated as a result of disturbance to buried landfill materials. However, construction of the proposed Project, specifically Building 5 and the expanded parking garage, would involve drilling holes for the support piles that would penetrate the landfill cap. As required by Mitigation Measure MM HAZ-1.1, material excavated by the driller would be contained and disposed of at an appropriate facility. These activities could result in odor impacts at nearby sensitive receptors. The odor control plan will manage uncovered/disturbed waste and landfill materials through scheduling construction phasing, covering exposed materials or utilizing other odor control measures, and consideration of weather conditions (e.g. wind). Implementation of the odor control plan would reduce the odor impacts to neighboring sensitive receptors to a less than significant level.

Biological Resources

Impact: **Impact BIO-1:** If present, construction activities could cause disturbance to birds nesting and foraging in the project area.

Mitigation: **MM BIO-1.1:** The Project applicant shall implement the following measures to avoid impacts to nesting birds on and adjacent to the site during construction.

- Construction activities shall be scheduled to avoid the nesting season. If construction activities are scheduled to occur outside the nesting season, all impacts on nesting birds protected under the Migratory Bird Treaty Act (MBTA) and California Fish and Game Code will be avoided. The nesting season for most birds in Santa Clara County extends from February 1st to August 31st (inclusive).
- If it is not possible to schedule construction activities between September 1st and January 31st (inclusive), then pre-construction surveys for nesting birds shall be conducted by a qualified ornithologist to ensure that no nests will be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1st through April 30th, inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 31st, inclusive). During this survey, the ornithologist shall inspect all trees and other potential nesting habitats (e.g., trees, shrubs, ruderal grasslands, buildings) in and immediately adjacent to the construction areas for nests. If an active nest is found sufficiently close to work areas to be disturbed by these activities, the ornithologist in consultation with California Department of Fish and Wildlife (CDFW) will determine the extent of a construction-free buffer zone to be established around the nest (typically 300 feet for raptors and 100 feet for other species) to ensure that no nests of species protected by the MBTA and California Fish and Game Code will be disturbed during project implementation.
- A report summarizing results of the pre-construction surveys and subsequent efforts to protect nesting raptors or birds (if found to be present) shall be submitted to the City of San José Supervising Environmental Planner of PBCE.

Finding: Implementation of Mitigation Measure MM BIO-1.1 would reduce impacts to nesting raptors and other migratory birds to less than significant levels.
(Less Than Significant with Mitigation Incorporated)

Facts in Support of Finding: Conducting pre-construction surveys and implementing a construction-free buffer zone around any migratory bird nests will ensure that raptor or migratory bird nests are not disturbed during Project construction, under the MBTA and California Fish and Game Code. The size of the buffer zones will be determined by consultation between the qualified ornithologist and the California Department of Fish and Wildlife, and based on scientific evidence and best management practices. Compliance with Mitigation Measure MM BIO-1.1 will avoid impacts to nesting birds.

Impact: **Impact BIO-2:** If present, construction activities could cause disturbance to burrowing owls nesting and foraging in the Project area.

Mitigation: **MM BIO-2.1:** The Project applicant shall implement the following measures to avoid impacts to nesting or non-nesting burrowing owls on or immediately adjacent to the site, consistent with Condition 15 of Chapter 6 of the Santa Clara Valley Habitat Plan.

- Prior to any site disturbance, staging, or construction-related activities, a qualified biologist shall conduct burrowing owl preconstruction surveys in all suitable habitat areas on the Project site and within 250 feet of all construction activity. The purpose of the preconstruction surveys is to document the presence or absence of burrowing owls on the Project site and within 250 feet of construction activity in order to avoid direct impacts to burrowing owls. To maximize the likelihood of detecting owls, the preconstruction survey shall last a minimum of three hours. The survey shall begin one hour before sunrise and continue until two hours after sunrise (three hours total) or begin two hours before sunset and continue until one hour after sunset. Additional time may be required for large Project sites. A minimum of two surveys shall be conducted (if owls are detected on the first survey, a second survey is not needed). All owls observed shall be counted and their locations mapped.
- Surveys shall conclude no more than two calendar days prior to site disturbance, staging, or construction-related activities. Therefore, the Project applicant must begin surveys no more than four days prior to construction (two days of surveying plus up to two days between surveys and construction). To avoid last-minute changes in schedule

or contracting that may occur if burrowing owls are found, the Project applicant may also conduct a preliminary survey up to 14 days before construction. This preliminary survey may count as the first of the two required surveys as long as the second survey concludes no more than two calendar days in advance of construction.

- If burrowing owls are present during the nonbreeding season (September 1st to January 31st, inclusive), a 250-foot buffer zone shall be maintained around the occupied burrow(s) as determined by a qualified biologist, if feasible. If maintaining such a buffer is not feasible, then the buffer must be great enough to avoid injury or mortality of individual owls based on monitoring results. During the breeding season (generally February 1st to August 31st, inclusive), a 250-foot buffer, within which no newly initiated project-related activities shall be permissible, shall be maintained between project activities and occupied burrows. Owls present between February 1st and August 31st (inclusive) will be assumed to be nesting, and the 250-foot protected area shall remain in effect until August 31st. If monitoring evidence indicates that the owls are no longer nesting or the young owls are foraging independently, the buffer may be reduced based on monitoring results, in consultation with the City and CDFW.
- If nesting owls are determined to be present on the site, and Project activities cannot feasibly avoid disturbance of the area within 250 feet of the occupied burrow during the nesting season (i.e., February 1st through August 31st, inclusive) due to other seasonal constraints, a qualified biologist shall be present during all activities within 250 feet of the nest to monitor the owls' behavior. If, in the opinion of the qualified biologist, the owls are unduly disturbed (i.e., disturbed to the point of harm or reduced reproductive success), all work within 250 feet of the occupied burrow will cease until the nest is determined to no longer be active by a qualified biologist.

Finding: Implementation of Mitigation Measure MM BIO-2.1, which is an updated and expanded versions of the mitigation measure that was included in the Legacy Terrace FEIR and consistent with General Plan Policy ER-5.1 and 5.2, would reduce impacts to nesting or non-nesting burrowing owls to less than significant levels. **(Less Than Significant with Mitigation Incorporated)**

Facts in Support of Finding: Several pairs of burrowing owls, a California species of special concern, are historically known to have nested in the vicinity of the site and may forage on the Project site on occasion.

The larger America Center Project site was required to implement a burrowing owl mitigation and management program. There are no records of burrowing owls on the Project site for Building 5 and the parking garage expansion. A focused survey for suitable habitat of the burrowing owl within the proposed development footprint failed to find evidence of any burrowing owl presence and no suitable roosting, nesting, or foraging habitat was present. However, potentially suitable roosting and foraging habitat is present within 250 feet of the Project footprint. Heavy ground disturbance, noise, and vibrations caused by proposed construction could potentially disturb foraging or roosting burrowing owls and cause them to move away from work areas. As grading, demolition, and construction activities could impact burrowing owl habitat, conducting pre-construction surveys and the implementation of a construction-free buffer zone around nests and owl sighting locations, consistent with Condition 15 of the Santa Clara Valley Habitat Plan, will ensure that the species are not disturbed during Project earthmoving activities.

Geology and Soils

Impact: **Impact GEO-1:** Differential settlement could result in structural damage to the proposed development.

Mitigation: **MM GEO-1.1:** The Project applicant shall complete a design-level geotechnical investigation for the Project site prior to issuance of any grading permits for individual site improvements to address the potential geologic hazards. Design-level engineering studies shall be submitted to the City's Public Works Department for review and approval.

Building foundations shall be designed based on this geotechnical investigation. Building loads shall be supported on driven pile foundations as appropriate to support the building loads without significant damage due to settlement. Foundation piles shall be designed to accommodate downdrag loads caused by the subsidence of landfill materials due to the natural degradation of landfill components, and under the weight of the final cover and/or soil placed on the site for development purposes. In addition, a reinforced concrete "skirt wall" around the perimeter of each building shall be installed to resist lateral loads placed on the building during a seismic event. Settlement adjacent to the skirt wall shall be monitored and soil replaced to avoid the loss of lateral support as fill settles.

Conceptual foundation installation procedures in the area include: predrilling each pile location to the full depth of the landfill (50 to 60 feet); and/or installing a cased shaft at each pile location from the ground surface to the bottom of the landfill, removing landfill materials from the cased hole, and driving the foundation piles through the casing into the supporting soil below the landfill. Alternatively, non-displacement type piles, such as steel H-piles, could be driven directly through landfill materials. Corrosion control measures to protect steel and/or concrete piles shall be included in the design-level geotechnical investigation.

MM GEO-1.2: An updated settlement map shall be prepared based upon site monitoring and additional surveys prior to the completion of the design-level geotechnical investigation. The updated settlement map shall confirm appropriate post settlement grades on the site. The map shall be provided to the City of San José Public Works Department for review and approval.

MM GEO-1.3: To allow for settlement between structures and the surrounding ground at building entrances, "hinged slabs" or interlocking pavers shall be used. For hinged slabs, one end of the hinged slab will be fixed to the pile-supported structure and the other end will rest in the earth fill that will settle with time. The design of the hinged slab shall be based on the maximum operation slope of the slab. For pedestrian slabs, the estimated finished grade after settlement shall be based on a maximum slope required by the Americans with Disabilities Act. For vehicular slabs, the estimated finished grade after settlement shall be based on a maximum gradient differential of 11 percent between the slab and the stationary foundation, which allow use of the parking structure entrances without scraping the bottom of vehicles. Alternatively, interlocking pavers installed at building entrances can be easily adjusted to grade after settlement has occurred. Pavers shall be monitored at more frequent intervals than hinged slabs and regraded at regular intervals to avoid tripping hazards. The design of hinged slabs or pavers shall be completed using the current settlement map for the site.

MM GEO-1.4: Roadways and other paving systems shall utilize flexible materials such as asphaltic concrete, interlocking paving units, and avoid or limit the use of Portland cement concrete and other nonflexible materials. Where concrete is utilized, adequate expansion and spacing joints shall be used to accommodate differential settlement. Geotextile fabric or other materials shall be placed below the subgrade base section to provide bridging over localized "soft" areas determined by the geotechnical engineer during compaction of the fill material. Joints shall be adequately

sealed between differing materials (i.e., asphalt and concrete curbs) to prevent water infiltration.

MM GEO-1.5: Pavements and other surface improvements shall be designed with adequate slope so that after settlement, reversals of stormwater flow direction or adverse flattening of the roadway pavement surface does not occur.

MM GEO-1.6: On-site utilities which operate via gravity shall be designed based upon the anticipated settlement on the site. These utilities shall be designed with adequate slope so that after settlement, reversal or flattening of the slope of utility lines does not occur.

MM GEO-1.7: Pipe materials which can accommodate differential settlement without separation of pipe joints or leakage shall be used on the site. Piping could utilize high density polyethylene or, in some cases, dual contained polyvinyl chloride pipe. For either type of pipe system, metallic fittings, valves, and flexible connections could be housed inside vaults for corrosion protection and to aid leak detection.

MM GEO-1.8: Under slab utilities, shall be connected to the structural slab using hangers constructed of a non-corrosive material, such as stainless steel. To counter the effect of soil in the utility trench settling and dislocating the utility line from the hanger, a non-cohesive backfill, such as pea gravel, shall be used in the trench. As the ground settles, the non-cohesive backfill shall be able to move around the pipe. Alternatively, no backfill shall be placed in the trench, with plywood or other materials being used to prevent concrete from the structural slab pour from entering the utility trench. As the surrounding ground settles, the utility pipe would be supported by hangers.

MM GEO-1.9: To accommodate the difference in settlement between the building and surrounding ground, flexible utility connections contained within a settlement vault shall be employed.

MM GEO-1.10: The Project applicant shall prepare and implement an Operations and Maintenance Program for the building, utilities, and pavement, and shall include a site grade monitoring schedule. Site grades shall be monitored every three months for the first two years. After two years, the monitoring duration shall be reevaluated based on the settlement rates and site characteristics. The Operations and Maintenance Program shall specify the types of repairs to be made in the event that indications of localized depressions, slope changes or cracking of pavements are found.

Finding: With the implementation of MM GEO-1.1 through MM GEO-1.10, geology and soils impacts as a result of differential settlement and expansive soils would be reduced to a less than significant level. **(Less Than Significant with Mitigation Incorporated)**

Facts in Support of Finding: As described in the Legacy Terrace FEIR, settlement of unengineered fill material as a result of the consolidation and compression of the landfill and compression of native soil could affect building foundations and the operation of utility lines. Settlement could result in adverse flattening of gravity utility slopes and lead to a reversal of flow direction or inadequate velocities to prevent accumulation within pipes. Differential settlement could also cause separation of utility lines at pipe joints, resulting in leakage of interruption lines.

Differential settlement can result in structural damage to the proposed buildings, roadways and pavement of the proposed Project due to the variable nature of the project site's non-engineered fill materials.

Under Title 27 of the California Code of Regulations (CCR), Section 21190, waste disposal site post-closure land uses are overseen by various regulatory agencies, including the Regional Water Quality Control Board (RWQCB), CalRecycle, and others. The City of San José is the designated Solid Waste Local Enforcement Agency (LEA) with oversight authority over the project site's Post-Closure Land Use Plan. The plan must be prepared and reviewed pursuant to Section 21190 of CCR Title 27. Review and approval of the Post-Closure Land Use Plan at past solid waste disposal sites represents a major part of the LEA's responsibility to protect public health and safety and the environment. CalRecycle established regulations addressing post-closure land use activities in 1989 based on documented problems associated with poorly regulated development on disposal sites (Final Statement of Reasons, Disposal Site Standards for Closure and Post-closure, pages III-7.8 129-139). The Project site's Post-Closure Land Use Plan for the development of Phase II of the project (Buildings 3 and 4) was approved by the City of San José as the LEA in September of 2015. The City of San José will also review the Post-Closure Land Use Plan for the proposed project (Phase III) prior to the start of and grading or construction.

Modifications to the Post-Closure Land Use Plan would address differential settlement issues related to construction of Building 5 and the parking garage expansion. Mitigation Measures MM GEO-1.1 to MM GEO-1.10, were included in the Legacy Terrace FEIR for which an updated and expanded version would be included in this Project, will reduce the impacts of differential settlement on the Project site.

Hazards and Hazardous Materials

Impact: **Impact HAZ-1:** Methane gas within landfill materials could result in flammable or explosive conditions. Toxic compounds, including volatile organic compounds, and asbestos, could be present and pose health risks to construction workers and/or the public.

Mitigation: **MM HAZ-1.1:** The Project applicant shall follow the United States Environmental Protection Agency (EPA)-approved Soil Management Plan (SMP) developed for closure, capping, maintenance, and post-capping construction activities at the Highway 237 Landfill to reduce or eliminate exposure risk to human health and the environment, specifically, potential risks associated with the presence of methane, hydrogen sulfide, and volatile organic compounds (VOCs) in soil gas and potential unknown conditions. The SMP shall be followed for any development related activities that penetrate the low-permeability layer of the landfill cap, such as pile installation or excavations. As required by the SMP, prior notification of planned activities that trigger implementation of SMP protocols shall be provided to the PBCE, Environmental Services Department, the City's LEA, and other regulatory agencies providing oversight (such as the RWQCB and CalRecycle) prior to issuance of any grading permit.

MM HAZ-1.2: Contractors and subcontractors at the Project site shall develop a health and safety plan specific to their scope of work and based upon the known environmental conditions for the site. Each health and safety plan shall be implemented under the direction of a Site Safety and Health Officer and provided to all regulatory agencies providing oversight (such as the LEA, CalRecycle, or RWQCB).

MM HAZ-1.3: The Project site is on a former landfill and shall follow environmental monitoring procedures required by CalRecycle and the San José LEA.

MM HAZ-1.4: The Project applicant shall ensure that where an irrigation system is installed for landscaping, it shall be designed to optimize watering using the most current automatic irrigation equipment and monitoring methods. To help minimize infiltration, subdrains shall be constructed for all tree planting areas. The trees shall have subdrains that discharge to the storm drain system.

MM HAZ-1.5: Prior to issuance of any grading permit for site improvements, the Project applicant shall provide the LEA, CalRecycle, and an appropriate oversight agency (such as the Department of Toxic Substances Control

[DTSC] or RWQCB and the City's Department of Public Works) with a Project-level, engineering analysis that addresses, in sufficient detail, the following elements of the final project design:

- Soil gas mitigation and monitoring systems, including structure monitoring and perimeter monitoring systems;
- Differential settlement;
- Site surface drainage and final grading; and
- Any other elements of the design as required by the LEA or Department of Public Works, including specialized analysis that may be warranted by the City. The Project applicant shall bear the responsibility for providing any such specialized analysis.

MM HAZ-1.6: The Project applicant shall incorporate a landfill gas control system into all buildings constructed as a part of the Project. Proposed structures shall be constructed with a sub-slab soil gas mitigation system to vent landfill gases and other soil vapor. The soil gas mitigation system may consist of perforated pipes placed in a permeable granular layer under building and garage concrete slabs. The perforated pipes shall be connected to a system that discharges vapor to the building's exterior. The system shall include a methane sensor/venting system that is capable of venting soil vapor out from beneath the building, and a low-permeable barrier layer, such as Liquid Boot, shall be installed in the buildings and certain areas in the parking garage that have the potential to accumulate landfill gas in order to prevent soil vapors from intruding into the structures. The low-permeable vapor barrier membrane shall be located above the permeable granular layer. The membrane shall be sealed around foundation piles, grade beams, and slab penetrations (such as utility lines). The Project applicant shall also install a landfill gas venting system beneath hardscape areas near the proposed structures.

The landfill gas control system for the office buildings shall include an integrated methane sensor/blower system that is capable of actively drawing soil vapor from beneath the building. Methane sensors provided at the discharge point of each soil gas mitigation system shall control the active operation of the venting system.

The Project applicant shall prepare and implement an Operations and Maintenance Program for the soil gas mitigation systems. The program shall include instructions for how to ensure that the system functions properly.

MM HAZ-1.7: The Project applicant shall construct site utility trenches with landfill gas cut-offs to prevent landfill gas from migrating along utility trenches. Below-grade electrical facilities shall be designed for explosive conditions, in accordance with the California Building Standards Code.

Finding: Implementation of MM HAZ-1.1 to MM HAZ-1.7 would ensure that hazardous substances on-site would not result in a significant hazard to construction workers, future users of the site, or the environment. **(Less Than Significant with Mitigation Incorporated)**

Facts in Support of Finding: As described in the FSEIR, the majority of the America Center site is elevated due to its location on top of the closed Highway 237 Landfill. The landfill was a disposal site that was in operation from 1962 to 1982. Materials reported in the landfill include municipal trash, soil, concrete, asphalt, wood, and other construction rubble. Four modern commercial office buildings (two of which are currently under construction), a hotel building, parking garage (also under construction), open space preserve, and parking lots are located on the former landfill. The closed landfill generates landfill gas, including methane, which is a combustible gas. The landfill may also contain petroleum hydrocarbons and volatile organic compounds (VOCs) generated from organics from refuse and/or underlying estuary soils, plasticizers, wood preservatives in demolition debris, glue thinners and asphalt or roofing material contained within fill materials

As evaluated in the Legacy Terrace FEIR, development of the Project site would expose construction workers to VOCs and methane in soil vapor/gas from the closed Highway 237 Landfill. Methane exposure is considered to be an explosion hazard at locations at certain concentrations. Volatile organic compounds have the potential to migrate from soil vapor to indoor air via a vapor intrusion pathway. Additionally, asbestos-containing or other contaminated materials could be encountered where waste is removed as part of installation of drilled foundation piles.

The Project will comply with local and state monitoring procedures and prepare a project-level, engineering analysis. The preparation and implementation of a site management plan and a health safety plan will limit human health exposure risk to these compounds. Additionally, the irrigation system, landfill gas control system, and site utility trenches will be designed as described in the above mitigation measures to reduce the impacts of hazardous compounds infiltrating the project work areas and buildings. Mitigation Measures MM HAZ-1.1 to MM HAZ-1.7 were included in the Legacy Terrace FEIR, and the FSEIR for the Project includes updated

versions of these mitigation measures, all of which together will reduce the impacts of hazards and hazardous materials to construction workers, future users of the site, and the environment.

Noise

Impact: **Impact NOI-1:** Pile driving noise generated in the eastern portion of the site could impact residents at Summerset Mobile Estates and commercial uses along Gold Street in the short-term.

Mitigation: **MM NOI-1.1:** Prior to the start of construction, the Project applicant shall prepare and implement a noise logistics plan to reduce construction noise levels as low as practical. The noise logistics plan shall be submitted to the Supervising Environmental Planner of PBCE for review and approval. The noise logistics plan would include, but not be limited to, the following measures:

- Construction hours within 500 feet of residential uses will be limited to the hours of 7:00 a.m. and 7:00 p.m. weekdays, with no construction on weekends or holidays. Pile driving shall be limited to the hours of 8:00 a.m. to 5:00 p.m. Monday through Friday.
- Utilize 'quiet' models of air compressors and other stationary noise sources where technology exists.
- Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.
- Locate all stationary noise-generating equipment, such as air compressors and portable power generators, as far away as possible from adjacent land uses.
- Locate staging areas and construction material areas as far away as possible from adjacent land uses.
- Prohibit all unnecessary idling of internal combustion engines.
- If impact pile driving is proposed, multiple-pile drivers shall be considered to expedite construction. Although noise levels generated by multiple pile drivers would be higher than the noise generated by a single pile driver, the total duration of pile driving activities would be reduced.
- If impact pile driving is proposed, temporary noise control blanket barriers shall shroud pile drivers or be erected in a manner to shield

the adjacent land uses. Such noise control blanket barriers can be rented and quickly erected.

- The contractor shall prepare a detailed construction plan identifying a schedule of major noise generating construction activities. This plan shall identify a noise control disturbance coordinator and procedure for coordination with the adjacent noise sensitive facilities so that construction activities can be scheduled to minimize noise disturbance. This plan shall be made publicly available for interested community members.
- The disturbance coordinator shall be responsible for responding to any local complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and will require that reasonable measures warranted to correct the problem be implemented. The telephone number for the disturbance coordinator at the construction site shall be posted and included in the notice sent to residences and commercial businesses within 100 feet regarding the construction schedule.

The Project, as currently proposed, would implement measures to reduce short-term noise impacts resulting from pile driving activities in the eastern portion of the site, but not to a less than significant level.

Finding: Despite the implementation MM NOI-1.1, and as identified within the Legacy Terrace FEIR, construction noise-related impacts on sensitive residential receptors as a result of pile-driving activities would still be considered significant and unavoidable. **(Significant and Unavoidable Impact)**

Facts in Support of Finding: Commercial/office uses along Gold Street in Alviso and residential uses in the Summerset Mobile Estates Mobile Home Park are located approximately 200 feet and 950 feet east of the Project site, respectively. Additionally, a 175-room hotel (Aloft) is located on the southern portion of the site, east of the Project entrance from Great America Parkway. Construction noise along the eastern boundary of the America Center could result in a significant impact to residents of the mobile home park because of projected noise levels and the repetitive impulsive nature of pile driving noise, which could interfere with indoor and outdoor activity. It could also affect the commercial office and hotel uses in the vicinity. Construction noise impacts primarily happen when construction activities occur during noise-sensitive times of the day (early morning, evening, or nighttime hours), the construction occurs in areas immediately adjoining noise sensitive land uses, or when construction durations last over extended periods of time. The Project, specifically Building 5 and the

parking garage expansion, would be completed in approximately 20 months with heavy construction to be completed in less than 12 months. Although implementation of Mitigation Measure MM NOI-1.1 would reduce construction noise impacts to surrounding land uses, it would not effectively reduce the construction noise levels that substantially exceed ambient and background noise levels to less than significant at adjacent sensitive residential receptors. This impact is significant and unavoidable.

Transportation and Traffic

Impact: **Impact TRA-1:** The added trips as a result of the proposed Project would cause the critical movement delay to increase by four or more seconds and the demand-to-capacity ratio to increase by 0.01 or more at the Lafayette Street and Gold Street Connector intersection during the AM peak hour.

Mitigation: **MM TRA-1.1:** Prior to Public Works Clearance, the Project applicant shall pay a fair share amount towards improvements (including full cost for design, construction, etc.) to the Lafayette Street and Gold Street Connector intersection. Improvements would include the addition of a second northbound left-turn lane in a vacant area between the Gold Street Connector and SR 237. The improvement shall require widening of the Gold Street Connector and shifting of travel lanes to the south by approximately 12 feet to accommodate a second receiving lane for the second northbound left-turn lane. The roadway widening would also require the relocation of the Highway 237 Bikeway, south of the Gold Street Connector. The Director of Public Works shall determine the fair share based on the cost of the improvement at the time the payment is due and the Project's contribution to the impact (an estimated 5 percent). The fair share amount shall be paid to the City of San José Public Works Depositors Fund.

During construction of the intersection improvement, a trail detour shall be provided and/or the Highway 237 Bikeway relocated prior to construction of the road widening.

Finding: Impacts to the Lafayette Street and Gold Street Connector intersection would be reduced to the less than significant level with the incorporation of Mitigation Measure MM TRA-1.1. **(Less Than Significant with Mitigation Incorporated)**

Facts in Support of Finding: The Lafayette Street/Gold Street Connector would be significantly impacted by the Project under background plus Project

conditions based on findings from applicable municipal (Cities of San José and Santa Clara Level of Service standards) and Santa Clara County's Congestion Management Program impact criteria.

The addition of a second northbound left-turn lane at this intersection in a vacant area between the Gold Street Connector and SR 237 was also identified as a mitigation measure for the approved City Place development in the City of Santa Clara. Traffic associated with the City Place development is included within background conditions of this study; however, since the City of San José has no authority of development within other jurisdictions or their development schedules, the Project applicant will be required to contribute a fair-share amount to the City of San José Public Works Depositors Fund for the construction of this improvement. The City of Santa Clara agreed to fully construct the mitigation as a Phase I improvement with the City Place development with a fair-share contribution by this Project toward their adopted program. For this improvement, 95% of the funding will be from the City Place development and 5% of the funding will be from the Project. Mitigation Measure MM TRA-1.1, for the fair-share contribution to the improvements at the intersection of Lafayette Street and the Gold Street Connector, would reduce the impact at this intersection to a less than significant level.

Impact: **Impact TRA-2:** Implementation of the proposed Project would have a significant impact on mixed-flow lanes and/or a high occupancy vehicle (HOV) lane during one or both peak hours on the following four freeway segments: eastbound SR 237 between Great America Parkway and North First Street, westbound SR 237 between I-880 and McCarthy Boulevard, westbound SR 237 between I-880 and McCarthy Boulevard, westbound SR 237 between McCarthy Boulevard and Zanker Road, and the HOV lane on westbound SR 237 between I-880 and McCarthy Boulevard.

Mitigation: None.

Finding: No feasible mitigation was identified to reduce these traffic impacts to a less than significant level. **(Significant and Unavoidable Impact)**

Facts in Support of Finding: The Legacy Terrace FEIR identified impacts to eastbound SR 237 between Great America Parkway and North First Street, but did not identify impacts on the other freeway segments. Full mitigation of significant Project impacts on freeway segments would require roadway widening to construct additional through mixed-flow or high-occupancy vehicle (HOV) lanes. There are no feasible mitigation measures available to reduce

impacts on local freeway study segments to a less than significant level as it is beyond the capacity of any one Project to acquire right-of-way and add lanes to a state freeway. Furthermore, no comprehensive Project to increase freeway capacity on SR 237 has been developed by Caltrans or VTA. Although VTA has Voluntary Mitigation Programs for impacts along SR 237, there are no specifically identified improvement projects to which to pay fair share fees. Additionally, previous phases of the development at America Center have contributed the VTA's Voluntary Contribution Program for impacts to SR 237. The proposed TDM measures, as outlined in Mitigation Measure MM AIR-1.1, would reduce the impacts identified under Impact TRA-2, but not to a less than significant level.

Implementation of the proposed Project would have a significant impact on freeway mixed-flow lanes and/or a high-occupancy vehicle (HOV) lane during one or both peak hours. Thus, these impacts would be significant and unavoidable.

Cumulative Impacts

Impact: **Impact TRA(C)-1:** The proposed Project would result in a cumulatively considerable contribution to traffic impacts at two San José intersections (Lafayette Street and Gold Street Connector, and Great America Parkway and Eastbound SR 237) based on cumulative impact criteria.

Mitigation: **MM TRA(C)–1.1: Lafayette Street and Gold Street Connector** - See MM TRA-1.1

MM TRA(C)-1.2: Great America Parkway and Eastbound SR 237 - Improvements to the Great America Parkway/State Route 237 intersection include the addition of a third left-turn lane and second right-turn lane to the westbound approach to the intersection (SR 237 off-ramp), and would reduce the project and cumulative impact at this intersection to a less than significant level. These improvements are fully funded and will be constructed by the City of Santa Clara's City Place development, as a condition of approval.

Finding: Impacts to the Lafayette Street and Gold Street Connector intersection would be reduced to the less than significant level with the incorporation of Mitigation Measure MM TRA-1.1. **(Less than Significant Cumulative Impact with Mitigation Incorporated)**

Impacts to the Great America Parkway and Eastbound SR 237 intersection would be reduced to the less than significant level with the incorporation of Mitigation Measure MM TRA(C)-1.2. **(Less than Significant Cumulative Impact with Mitigation Incorporated)**

Facts in Support of Finding: Based on the intersection level of service analysis, two City of San José intersections would be cumulatively impacted during the AM peak hour. Mitigation Measure MM TRA-1.1, for the fair-share contribution to the improvements at the intersection of Lafayette Street and the Gold Street Connector (e.g., addition of a second northbound left-turn lane), would reduce the Project and cumulative impact at this intersection to a less than significant level.

The addition of a third left-turn lane and second right-turn lane to the westbound approach to the intersection (SR 237 off-ramp) was identified as a mitigation measure for the approved City Place development in the City of Santa Clara. Traffic associated with the City Place development is included within background conditions of this study. The City of Santa Clara will fully fund and construct the improvement with the City Place development with no required contribution from the Project. With the improvements at the intersection of Great America Parkway and Eastbound SR 237 would reduce the cumulative impact at this intersection to a less than significant level.

FINDINGS CONCERNING ALTERNATIVES

In order to comply with the purposes of CEQA, it is important to identify alternatives that reduce the significant impacts that are anticipated to occur if the project is implemented and to try to meet as many of the project's objectives as possible. The CEQA Guidelines emphasize a common sense approach -- the alternatives should be reasonable, should "foster informed decision making and public participation," and should focus on alternatives that avoid or substantially lessen the significant impacts.

The alternatives analyzed in the FSEIR were developed with the goal of being at least potentially feasible, given Project objectives and site constraints, while avoiding or reducing the Project's identified environmental effects. The following are evaluated as alternatives to the proposed project:

1. No Project – No Development Alternative
2. No Project – Develop Under Current PD Zoning Alternative
3. Reduced Intensity Alternative

1. No Project – No Development Alternative

- A. Description of Alternative:** Under the No Project – No Development Alternative, the buildings and parking lots existing and under construction at the site would remain. Building 5 would not be constructed. The site would remain as zoned and approved for Buildings 1 through 4 and the parking garage.
- B. Comparison of Environmental Impacts:** Under the No Project - No Development Alternative, the Project site would remain as it is, and all of the environmental impacts anticipated to occur under the proposed Project would be avoided.
- C. Finding:** The No Project - No Development Alternative would avoid the Project's significant unavoidable transportation and cumulative transportation impacts. This alternative would also avoid the other significant impacts resulting from the Project that would be reduced to a less than significant level with the incorporation of mitigation measures.

The No Project - No Development Alternative would meet some, but not all, of the proposed Project's specific objectives to provide jobs and provide a more efficient and economically productive use at the site, in that the existing America Center buildings accomplish these goals. However, the site would provide approximately 600 fewer jobs without the additional square footage proposed as part of the Project and the full built out under the original Legacy Terrance FEIR contemplated 5 buildings.

2. No Project – Develop Under Current PD Zoning Alternative

- A. Description of Alternative:** The Project site is currently designated *Combined/Industrial Commercial* in the City's General Plan and is located within a Planned Development (PD) zoning district. Under the current PD zoning (PDC99-044), 900,000 square feet of development is allowed for the Commercial Office/R&D portion of the project site. Of that total, 867,762 square feet have been constructed or is currently under construction and 32,238 square feet of Commercial Office/R&D entitlement remains.

Under the current PD zoning, a 32,238-square-foot office building could be constructed. A potential project under the No Project – Develop Under Current PD Zoning Alternative would likely be one story and would occupy the footprint of the proposed Building 5. The building would likely not be visible as it would be shielded on all sides by existing, much taller structures.

Pile driving would still be required for a smaller Building 5 and parking garage expansion.

- B. Comparison of Environmental Impacts:** The No Project – Develop Under Current PD Zoning Alternative would avoid the Project’s identified transportation impacts. This alternative would still result in the same impacts to biological, cultural resources, geology, hazards materials, hydrology, and construction noise as the Project. Aesthetic impacts would be less than the proposed project as the building would be mostly shielded from views from SR 237 and recreation trails by taller surrounding structures.
- C. Finding:** This alternative would avoid the Project’s transportation impacts; however, impacts to biological resources, cultural resources, geology, hazardous materials, hydrology, and noise will remain the same as the proposed Project.

The No Project–Develop Under Current PD Zoning Alternative would meet some of the Project objectives with development consistent with the General Plan and Alviso Master Plan, and would intensify the development of the site and utilize the closed landfill area. However, building a one-story 32,238-square-foot structure would not meet the efficiency goals of the large-scale development objective given the complexities of building on the closed Highway 237 Landfill site. Additionally, this alternative would result in approximately 500 fewer jobs on site than the proposed Project and would not meet project objectives related to creating buildings sizeable enough to attract large employers to the Alviso Community/San José.

3. Reduced Intensity Alternative

- A. Description of Alternative:** A Reduced Intensity Alternative would increase the amount of office/R&D allowed on the site by 55,000 square feet, resulting in the construction of a new approximately 87,000-square foot, three-story Building 5 (assuming the same footprint as the proposed Project and use of the remaining 32,238 square feet of yet unbuilt but entitled office/R&D capacity from the previous PD zoning). The building would likely not be visible from off-site as it would be shielded on all sides by existing, taller structures that are approximately six-stories in height. Pile driving may still occur with the Reduced Intensity alternative, but it is unknown the extent of pile driving that might be necessary for a three-story structure.

- B. Comparison of Environmental Impacts:** The Reduced Intensity Alternative would avoid the Project's transportation impacts, specifically the new significant and unavoidable transportation impacts which were not identified in the Legacy Terrace FEIR. However, this alternative would still result in the same impacts to biological resources, cultural resources, geology, hazardous materials, hydrology, and construction noise as the Project, though these impacts would also be less than significant with mitigation. Aesthetically, a three-story building would be mostly shielded by taller surrounding structures approximately 90 feet and six-stories in height and would not substantially contribute to the identified impacts to views from SR 237 and trails in the Alviso area.
- C. Finding:** As the environmentally superior alternative, the Reduced Intensity Alternative would avoid the Project's significant transportation and cumulative transportation impacts; however, significant impacts to biological resources, cultural resources, geology, hazardous materials, hydrology, and construction noise would not be avoided. These impacts would remain less than significant with mitigation.

The Reduced Intensity Alternative would meet some of the Project goals, in that it would provide development consistent with the General Plan and Alviso Master Plan, and intensify the development of the site and utilize the closed landfill area. However, this alternative would not fully meet all of the Project objectives related to providing efficient, large-scale development on a former landfill site. Additionally, approximately 400 fewer jobs would be provided on site compared to the proposed Project. At half the square footage and height of the proposed Project, it would not fully meet objectives related to the efficiencies of large-scale development on a former landfill site and attract large employers to the Alviso Community/San José.

MITIGATION MONITORING AND REPORTING PROGRAM

Attached to this Resolution as Exhibit "A" and incorporated and adopted as part of this Resolution herein is the Mitigation Monitoring and Reporting Program ("MMRP") for the Project required under Section 21081.6 of the CEQA Statute and Section 15097(b) of the CEQA Guidelines. The MMRP identifies impacts of the Project, corresponding mitigation, designation for responsibility for mitigation implementation and the agency responsible for the monitoring action.

STATEMENT OF OVERRIDING CONSIDERATIONS

- A. **Significant Unavoidable Impacts.** With respect to the foregoing findings and in recognition of those facts that are included in the record, the City has determined that the Project will result a significant unmitigated or unavoidable impacts, as set forth above, associated with aesthetics, air quality, noise, and transportation.
- B. **Overriding Considerations.** The City Council specifically adopts and makes this Statement of Overriding Considerations that this Project has eliminated or substantially lessened all significant effects on the environment where feasible, and finds that the remaining significant, unavoidable impacts of the Project are acceptable in light of the economic, legal, environmental, social, technological or other considerations noted below, because the benefits of the Project outweigh its significant adverse environmental impact of the Project. The City Council finds that each of the overriding considerations set forth below constitutes a separate and independent basis for finding that the benefits of the Project outweigh its significant adverse environmental impacts and is an overriding consideration warranting approval of the Project. These matters are supported by evidence in the record that includes, but is not limited to, the Envision San José 2040 General Plan, Alviso Master Plan, and the San José Commercial Design Guidelines.
- C. **Benefits of the Project.** The City Council has considered the public record of proceedings on the proposed Project and other written materials presented to the City as well as oral and written testimony at all public hearings related to the Project, and does hereby determine that implementation of the Project as specifically provided in the Project documents would result in the following substantial public benefits:
- **Increase Employment within San José.** The Project will advance goals of the Envision San José 2040 General Plan to increase the ratio of jobs/employed residents to attain fiscal sustainability for the City. The Project will support San José's stated job creation and job retention objectives by allowing for the development of an approximately 192,350 square foot office building that would accommodate approximately 600 new jobs on the site.

The Project furthers redevelopment of an inactive landfill and associated former industrial and storage yard areas to a viable economic use in an economically developing area. Specifically, the Project will enhance building floor area capacity for various employment uses and provide

near-term jobs to contribute to the City's long-term achievement of economic development and job growth goals.

- **Transportation Demand Management.** The Project has committed to implementing a Transportation Demand Management (TDM) program and making contributions toward transportation improvements, which will benefit the surrounding community in accordance with the City's policies, such as General Plan Policy TR-7.1, the Zoning Ordinance, and the Greenhouse Gas Reduction Strategy.
- **Increase Economic Development.** The Project will advance goals of the Envision San José 2040 General Plan by adding approximately 192,350 square feet of office development in the Alviso area. The Project will directly contribute to the tax base of the City through an increase in the assessed value of the Project property and will also contribute by sales tax revenues generated through businesses located on the Project site and provide economic benefits to the City.
- **General Plan Goals and Policies.** The Project supports a number of the General Plan's major strategies and encourages strategic growth by locating office development on employment lands adjacent to complementary other commercial/office facilities.
 - Major Strategy #4 Innovation/Regional Employment Center:
The Project site is located within the Combined Industrial/Commercial designation in the Envision San José 2040 General Plan. The Project proposes the construction of new office buildings that would accommodate new jobs. It will increase the ratio of jobs/employed residents and provides greater flexibility for commercial activity. The Project will support job growth within the current America Center area, which contains existing office uses.
 - Land Use and Employment Goal IE-1:
The Project will develop an approximately 192,350 square foot office building will contribute to the supply of jobs. It will contribute to a joint use of parking facilities for office, commercial and hotel uses within the America Center area. The Project will provide and enhance economic development and job growth in San José.

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- Bay and Baylands Goal ER-3:

The Project will protect the 23.5 acres of permanent open space preserve established by the FEIR in 2000 between San Tomas Aquino Creek, the Guadalupe River, and the salt evaporation ponds. The open space preserve was established as mitigation for the Legacy Terrace Center project and provides important wildlife habitat in the South Bay. The Project will provide buffer areas and avoid direct or indirect impacts on riparian habitats because building and parking areas will be set back a minimum of 100 feet from the Guadalupe River and San Tomas Aquino Creek. The Project will preserve natural characteristics of the Bay and adjacent lands maintaining a healthy regional ecosystem.

The City Council has weighed each of the above benefits of the proposed Project against its unavoidable environmental risks and adverse environmental effects identified in the Final Subsequent Environmental Impact Report and hereby determines that those benefits outweigh the risks and adverse environmental effects of the Project and, therefore, further determines that these risks and adverse environmental effects are acceptable and overridden.

LOCATION AND CUSTODIAN OF RECORDS

The documents and other materials that constitute the record of proceedings on which the City Council based the foregoing findings and approval of the Project are located at the City's Department of Planning, Building and Code Enforcement, City Hall, 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113. The City Council hereby designates the City's Director of Planning, Building, and Code Enforcement at his office at 200 East Santa Clara Street, San José California 95113, as the custodian of documents and records of proceedings on which this decision is based.

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ADOPTED this ____ day of _____, 2018, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

MITIGATION MONITORING AND REPORTING PROGRAM

America Center Phase III Project Subsequent Environmental Impact Report File No. PDC15-058 and PD15-053 December 2017



PREFACE

Section 21081.6 of the California Environmental Quality Act (CEQA) requires a Lead Agency to adopt a Mitigation Monitoring and Reporting Program whenever it approves a project for which measures have been required to mitigate or avoid significant effects on the environment. The purpose of the monitoring and reporting program is to ensure compliance with the mitigation measures during project implementation.

The Subsequent Environmental Impact Report (SEIR) prepared for the America Center Phase III Project concluded that the implementation of the project could result in significant effects on the environment and mitigation measures were incorporated into the proposed project or are required as a condition of project approval. This Mitigation Monitoring and Reporting Program addresses those measures in terms of how and when they will be implemented.

This document does *not* discuss those subjects for which the SEIR concluded that the impacts from implementation of the project would be less than significant.

I, Darren Barnes, the applicant, on the behalf of STEELWAVE LLC hereby agree to fully implement the mitigation measures described below which have been developed in conjunction with the preparation of an SEIR for my proposed project. I understand that these mitigation measures or substantially similar measures will be adopted as conditions of approval with my development permit request to avoid or significantly reduce potential environmental impacts to a less than significant level, where feasible.

Project Applicant's Signature

Darren Barnes

Date

12-21-17



Planning, Building and Code Enforcement

ROSALYNN HUGHEY, INTERIM DIRECTOR

America Center Phase III Project

File Numbers:

PDC15-058 and PD15-053

Adopted Mitigation Measures	MONITORING AND REPORTING PROGRAM					
	Documentation of Compliance (Applicant/Proponent Responsibility)			Documentation of Compliance (Lead Agency Responsibility)		
	Responsibility for Implementation	Method of Compliance or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
Air Quality						
Impact AIR-1: The project would contribute to an impact as a result of exceedance of Bay Area Air Quality Management District standards for operational nitrogen oxide (NOx) emissions, as previously identified for the buildout of the America Center site in the Legacy Terrace Final Environmental Impact Report.						
MM AIR-1.1: The project applicant shall include the following updated measures from the Legacy Terrace FEIR: <ul style="list-style-type: none"> • Provide physical improvements, such as sidewalk improvements, landscaping and bicycle parking which would encourage pedestrian and bicycle modes of travel; • Connect site with regional bicycle/pedestrian trail system; • Provide shuttle bus service to the Tasman/Lafayette light rail and Altamont Corridor Express (ACE) rail system; and • Implement other feasible transportation demand management (TDM) program measures; including a ride-matching program, guaranteed ride home programs, coordination with regional ride-sharing organizations, and a transit incentives program. The Project applicant shall submit a Transportation Demand Management (TDM) Plan to the satisfaction of the Transportation Manager of 	Project applicant	<p>Incorporate pedestrian and bicycle improvements and trails into building and landscape plans.</p> <p>Prepare and submit a TDM program that results in a 10 percent reduction in projected weekday mobile emissions. Submit annual TDM monitoring reports.</p>	<p>Prior to issuance of any building permits</p> <p>Prior to approval of a Planned Development Permit</p>	<p>Supervising Environmental Planner of the Department of Planning, Building, and Code Enforcement (PBCE)</p> <p>Transportation Manager of the Department of Public Works and the PBCE Supervising Environmental Planner</p>	<p>Review building and landscape plans</p> <p>Review proposed TDM program and annual TDM monitoring reports.</p>	<p>Prior to issuance of any building permits</p> <p>Prior to approval of a Planned Development Permit</p>

the Department of Public Works and the PBCE Supervising Environmental Planner prior to approval of a Planned Development Permit. The TDM Plan shall contain components or equivalent measures to result in a 10 percent reduction in projected weekday mobile emissions. The project will be required to submit an annual monitoring report to the Transportation Manager of the Department of Public Works and the PBCE Supervising Environmental Planner to measure the effectiveness of the TDM plan. Additional TDM measures may be required if the TDM measures are not effective.						
Impact AIR-2: Odors could occur as a result of drilling holes for support piles that penetrate the landfill cap and impact sensitive receptors in the area.						
MM AIR-2.1: The project applicant shall prepare and implement an odor-control plan prior to the onset of construction which includes the following odor-control elements: <ul style="list-style-type: none"> Scheduling of construction phasing such that the amount of uncovered/disturbed waste at one time is minimized; Controlling odors by covering any exposed landfill material with soil, foam, or other suitable material (including application of deodorant or other odor-control materials); Considering seasonal weather conditions that can concentrate odors or direct odors towards sensitive receptors; and Providing the Summerset Mobile Estates residents and the Department of Planning, Building and Code Enforcement, with the name and phone number of a Project Contact who shall respond to any complaints about dust, odors, or other nuisances associated with waste excavation and relocation operations. 	Project applicant and construction crewmembers	Preparation of an odor-control plan and implementation during construction Name and phone number of a Project Contact who shall respond to any complaints about dust, odors, or other nuisances	Prior to issuance of any building permits	City of San Jose, Local Enforcement Agency Supervising Environmental Planner of the Department of Planning, Building, and Code Enforcement	Review and approval of the odor-control plan. Coordination with Project Contact in responding to odor complaints	Prior to issuance of any building permits

Biological Resources

Impact BIO-1: If present, construction activities could cause disturbance to birds nesting and foraging in the project area.

<p>MM BIO-1.1: The project applicant shall implement the following measures to avoid impacts to nesting birds on and adjacent to the site during construction.</p> <ul style="list-style-type: none"> To the extent feasible, construction activities shall be scheduled to avoid the nesting season. If construction activities are scheduled to occur outside the nesting season, all impacts on nesting birds protected under the Migratory Bird Treaty Act (MBTA) and California Fish and Game Code shall be avoided. The nesting season for most birds in Santa Clara County extends from February 1st to August 31st. If it is not possible to schedule construction activities between September 1st and January 31st then pre-construction surveys for nesting birds shall be conducted by a qualified ornithologist to ensure that no nests will be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1st through April 30th) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 31st). During this survey, the ornithologist shall inspect all trees and other potential nesting habitats (e.g., trees, shrubs, ruderal grasslands, buildings) in and immediately adjacent to the impact areas for nests. If an active nest is found sufficiently close to work areas to be disturbed by these activities, the ornithologist in consultation with California Department of Fish and Wildlife (CDFW), will determine the extent of a construction-free 	Project applicant	<p>Avoidance of construction activities during nesting seasons</p> <p>If avoidance of construction activities during nesting seasons is not feasible, a pre-construction nesting bird survey shall be conducted by a qualified biologist and construction-free buffer zones shall be designated around any discovered nest.</p> <p>Following completion of the preconstruction survey, the project applicant shall prepare a report to document the results of the survey and any designated construction-free buffer zones.</p>	Prior to issuance of any grading, demolition, and/or building permit	Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement	<p>Confirm that demolition and construction activities are scheduled outside of the avian nesting season.</p> <p>Review the preconstruction survey report indicating the results of the survey and any designated buffer-zones.</p>	Prior to issuance of any grading, demolition, and/or building permit.
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<p>buffer zone to be established around the nest (typically 300 feet for raptors and 100 feet for other species) to ensure that no nests of species protected by the MBTA and California Fish and Game Code will be disturbed during project implementation.</p> <ul style="list-style-type: none"> A report summarizing results of the pre-construction surveys and subsequent efforts to protect nesting raptors or birds (if found to be present) shall be submitted to the City of San José Supervising Environmental Planner. 						
Impact BIO-2: If present, construction activities could cause disturbance to burrowing owls nesting and foraging in the project area.						
<p>MM BIO-2.1: The project applicant shall implement the following measures to avoid impacts to nesting or non-nesting burrowing owls on or immediately adjacent to the site, consistent with Condition 15 of Chapter 6 of the Santa Clara Valley Habitat Conservation Plan.</p> <ul style="list-style-type: none"> Prior to any site disturbance, staging, or construction-related activities, a qualified biologist shall conduct burrowing owl preconstruction surveys in all suitable habitat areas on the project site and within 250 feet of all construction activity. The purpose of the preconstruction surveys is to document the presence or absence of burrowing owls on the project site and within 250 feet of construction activity in order to avoid direct impacts to burrowing owls. To maximize the likelihood of detecting owls, the preconstruction survey shall last a minimum of three hours. The survey shall begin one hour before sunrise and continue until two hours after sunrise (three hours total) or begin two hours before sunset and continue until one hour after sunset. Additional time may be required for large project sites. A minimum of two surveys shall 	Project applicant and qualified biologist	<p>Conduct preconstruction surveys in all suitable habitat areas on the project site and within 250 feet of all construction activity</p> <p>Maintain a 250-foot buffer zone around occupied burrow(s) as determined by a qualified biologist</p>	<p>Prior to any site disturbance, staging, or construction-related activities</p> <p>Surveys shall conclude no more than two calendar days prior to site disturbance, staging, or construction-related activities.</p>	<p>Supervising Environmental Planner of the Department of Planning, Building, and Code Enforcement</p> <p>CDFW</p>	Review the preconstruction survey report indicating the results of the survey and any designated buffer-zones.	Prior to issuance of any grading, demolition, and/or building permits

<p>be conducted (if owls are detected on the first survey, a second survey is not needed). All owls observed shall be counted and their locations mapped.</p> <ul style="list-style-type: none"> • Surveys shall conclude no more than two calendar days prior to site disturbance, staging, or construction-related activities. Therefore, the project applicant must begin surveys no more than four days prior to construction (two days of surveying plus up to two days between surveys and construction). To avoid last-minute changes in schedule or contracting that may occur if burrowing owls are found, the project applicant may also conduct a preliminary survey up to 14 days before construction. This preliminary survey may count as the first of the two required surveys as long as the second survey concludes no more than two calendar days in advance of construction. • If burrowing owls are present during the nonbreeding season (September 1st to January 31st), a 250-foot buffer zone shall be maintained around the occupied burrow(s) as determined by a qualified biologist, if feasible. If maintaining such a buffer is not feasible, then the buffer must be great enough to avoid injury or mortality of individual owls based on monitoring results. During the breeding season (generally February 1st to August 31st), a 250-foot buffer, within which no newly initiated project-related activities shall be permissible, shall be maintained between project activities and occupied burrows. Owls present between February 1st and August 31st will be assumed to be nesting, and the 250-foot protected area shall remain in effect until August 31st. If monitoring evidence indicates that the owls are no longer nesting or the young owls are foraging independently, the buffer may be 						
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<p>reduced based on monitoring results, in consultation with the City and CDFW.</p> <ul style="list-style-type: none"> If nesting owls are determined to be present on the site, and project activities cannot feasibly avoid disturbance of the area within 250 feet of the occupied burrow during the nesting season (i.e., February 1st through August 31st) due to other seasonal constraints, a qualified biologist shall be present during all activities within 250 feet of the nest to monitor the owls' behavior. If, in the opinion of the qualified biologist, the owls are unduly disturbed (i.e., disturbed to the point of harm or reduced reproductive success), all work within 250 feet of the occupied burrow will cease until the nest is determined to no longer be active by a qualified biologist. 						
Geology and Soils						
Impact GEO-1: Differential settlement could result in structural damage to the proposed development.						
<p>MM GEO-1.1: The project applicant shall complete a design-level geotechnical investigation for the project site prior to issuance of any grading permits for individual site improvements to address the potential geologic hazards. Design-level engineering studies shall be submitted to the City's Public Works Department for review and approval.</p> <p>Building foundations shall be designed based on this geotechnical investigation. Building loads shall be supported on driven pile foundations as appropriate to support the building loads without significant damage due to settlement. Foundation piles shall be designed to accommodate downdrag loads caused by the subsidence of landfill materials due to the natural degradation of landfill components, and under the weight of the final cover and/or soil placed on the site for development purposes. In addition, a reinforced concrete "skirt wall" around the perimeter of each building shall be</p>	Project applicant	Preparation of a geotechnical investigation, design-level engineering studies, and a settlement map	<p>Prior to issuance of any grading permit</p> <p>Post-construction grade monitoring for settling</p>	Public Works Department	The geotechnical investigation design-level engineering studies, and updated settlement map	<p>Prior to issuance of any building permit</p> <p>Site grades shall be monitored every three months for the first two years. After two years, the monitoring duration shall be reevaluated based on the settlement rates and site characteristics.</p>

<p>installed to resist lateral loads placed on the building during a seismic event. Settlement adjacent to the skirt wall shall be monitored and soil replaced to avoid the loss of lateral support as fill settles.</p> <p>Conceptual foundation installation procedures in the South Campus area include: predrilling each pile location to the full depth of the landfill (50 to 60 feet); and/or installing a cased shaft at each pile location from the ground surface to the bottom of the landfill, removing landfill materials from the cased hole, and driving the foundation piles through the casing into the supporting soil below the landfill. Alternatively, non-displacement type piles, such as steel H-piles, could be driven directly through landfill materials. Corrosion control measures to protect steel and/or concrete piles shall be included in the design-level geotechnical investigation.</p> <p>MM GEO-1.2: An updated settlement map shall be prepared based upon site monitoring and additional surveys prior to the completion of the design-level geotechnical investigation. The updated settlement map shall confirm appropriate post settlement grades on the site. The map shall be provided to the City of San José Public Works Department for review and approval.</p> <p>MM GEO-1.3: To allow for settlement between structures and the surrounding ground at building entrances, "hinged slabs" or interlocking pavers shall be used. For hinged slabs, one end of the hinged slab will be fixed to the pile-supported structure and the other end will rest in the earth fill that will settle with time. The design of the hinged slab shall be based on the maximum operation slope of the slab. For pedestrian slabs, the estimated finished grade after settlement shall be based on a maximum slope required by the</p>						
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<p>Americans with Disabilities Act. For vehicular slabs, the estimated finished grade after settlement shall be based on a maximum gradient differential of 11 percent between the slab and the stationary foundation, which allow use of the parking structure entrances without scraping the bottom of vehicles. Alternatively, interlocking pavers installed at building entrances can be easily adjusted to grade after settlement has occurred. Pavers shall be monitored at more frequent intervals than hinged slabs and regraded at regular intervals to avoid tripping hazards. The design of hinged slabs or pavers shall be completed using the current settlement map for the site.</p> <p>MM GEO-1.4: Roadways and other paving systems shall utilize flexible materials such as asphaltic concrete, interlocking paving units, and avoid or limit the use of Portland cement concrete and other non-flexible materials. Where concrete is utilized, adequate expansion and spacing joints shall be used to accommodate differential settlement. Geotextile fabric or other materials shall be placed below the subgrade base section to provide bridging over localized “soft” areas determined by the geotechnical engineer during compaction of the fill material. Joints shall be adequately sealed between differing materials (i.e., asphalt and concrete curbs) to prevent water infiltration.</p> <p>MM GEO-1.5: Pavements and other surface improvements shall be designed with adequate slope so that after settlement, reversals of stormwater flow direction or adverse flattening of the roadway pavement surface does not occur.</p> <p>MM GEO-1.6: On-site utilities which operate via gravity shall be designed based upon the anticipated settlement on the site. These utilities shall be designed with adequate slope so that after</p>						
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<p>settlement, reversal or flattening of the slope of utility lines does not occur.</p> <p>MM GEO-1.7: Pipe materials which can accommodate differential settlement without separation of pipe joints or leakage shall be used on the site. Piping could utilize high density polyethylene or, in some cases, dual contained polyvinyl chloride pipe. For either type of pipe system, metallic fittings, valves, and flexible connections could be housed inside vaults for corrosion protection and to aid leak detection.</p> <p>MM GEO-1.8: Under slab utilities, shall be connected to the structural slab using hangers constructed of a non-corrosive material, such as stainless steel. To counter the effect of soil in the utility trench settling and dislocating the utility line from the hanger, a non-cohesive backfill, such as pea gravel, shall be used in the trench. As the ground settles, the non-cohesive backfill shall be able to move around the pipe. Alternatively, no backfill shall be placed in the trench, with plywood or other materials being used to prevent concrete from the structural slab pour from entering the utility trench. As the surrounding ground settles, the utility pipe would be supported by hangers.</p> <p>MM GEO-1.9: To accommodate the difference in settlement between the building and surrounding ground, flexible utility connections contained within a settlement vault shall be employed.</p>						
<p>MM GEO-1.10: The project applicant shall prepare and implement an Operations and Maintenance Program for the building, utilities, and pavement, and shall include a site grade monitoring schedule. Site grades shall be monitored every three months for the first two years. After two years, the monitoring duration shall be reevaluated based on the settlement rates and site</p>	Project applicant	Preparation and implementation of an Operations and Maintenance Program	Prior to issuance of any grading permit	Public Works Department	Review and approval of the Operations and Maintenance Program	Prior to issuance of any building permit

characteristics. The Operations and Maintenance Program shall specify the types of repairs to be made in the event that indications of localized depressions, slope changes or cracking of pavements are found.						
Hazards and Hazardous Materials						
Impact HAZ-1: Methane gas within landfill materials could result in flammable or explosive conditions. Toxic compounds, including volatile organic compounds, and asbestos, could be present and pose health risks to construction workers and/or the public.						
<p>MM HAZ-1.1: The project applicant shall follow the U.S. Environmental Protection Agency (EPA)-approved Soil Management Plan (SMP) developed for closure, capping, maintenance, and post-capping construction activities at the Highway 237 Landfill to reduce or eliminate exposure risk to human health and the environment, specifically, potential risks associated with the presence of methane, hydrogen sulfide, and volatile organic compounds (VOCs) in soil gas and potential unknown conditions. The SMP shall be followed for any development related activities that penetrate the low-permeability layer of the landfill cap, such as pile installation or excavations. As required by the SMP, prior notification of planned activities that trigger implementation of SMP protocols shall be provided to the Department of Planning, Building and Code Enforcement, Environmental Services Department, Local Enforcement Agency (LEA), and other regulatory agencies providing oversight (such as the Regional Water Quality Control Board [RWQCB] and CalRecycle) prior to issuance of a grading permit.</p> <p>MM HAZ-1.2: Contractors and subcontractors at the project site shall develop a Health and Safety Plan specific to their scope of work and based upon the known environmental conditions for the site.</p>	Project applicant and contractors, Site Safety and Health Officer	Implementation of the U.S. EPA-approved SMP; preparation and implementation of project Health and Safety Plan(s).	Prior to issuance of any grading permit; During construction	Supervising Environmental Planner of the Department of Planning, Building, and Code Enforcement, Environmental Services Department, LEA, RWQCB, and CalRecycle	Preparation and implementation of the SMP and Health and Safety Plan	<p>Prior to issuance of any grading permits</p> <p>As specified within the approved SMP during construction and operation</p>

Each health and safety plan shall be implemented under the direction of a Site Safety and Health Officer and provided to all regulatory agencies providing oversight (such as the LEA, CalRecycle, or RWQCB).						
MM HAZ-1.3: The project site is on a former landfill and shall follow environmental monitoring procedures required by CalRecycle and the LEA.						
MM HAZ-1.4: The project applicant shall ensure that where an irrigation system is installed for landscaping it shall be designed to optimize watering using the most current automatic irrigation equipment and monitoring methods. To help minimize infiltration, subdrains shall be constructed for all tree planting areas. The trees shall have subdrains that discharge to the storm drain system.	Project applicant	Incorporation of an irrigation system into the project landscape and utility plans	Prior to issuance of any building permits	Supervising Environmental Planner of the Department of Planning, Building, and Code Enforcement	Review of the project landscape and utility plans	Prior to issuance of any building permits
MM HAZ-1.5: Prior to issuance of any grading permit for site improvements, the project applicant shall provide the LEA, CalRecycle, and an appropriate oversight agency (such as the DTSC or RWQCB and the City's Department of Public Works) with a project-level, engineering analysis that addresses, in sufficient detail, the following elements of the final project design: <ul style="list-style-type: none"> • Soil gas mitigation and monitoring systems, including structure monitoring and perimeter monitoring systems; • Differential settlement; • Site surface drainage and final grading; and • Any other elements of the design as required by the LEA or Department of Public Works, including specialized analysis that may be warranted by the City. The project applicant shall bear the responsibility for providing any such specialized analysis. 	Project applicant	Preparation of a project-level engineering analysis, and incorporation into building permit plans	Prior to issuance of any grading permits	Supervising Environmental Planner of the Department of Planning, Building, and Code Enforcement, Environmental Services Department (as the LEA), Department of Public Works, RWQCB, and CalRecycle	Review of project-level engineering analysis and building permit plans	Prior to issuance of any grading permits

<p>MM HAZ-1.6: The project applicant shall incorporate a landfill gas control system into all buildings constructed as a part of the project. Proposed structures shall be constructed with a sub-slab soil gas mitigation system to vent landfill gases and other soil vapor. The soil gas mitigation system may consist of perforated pipes placed in a permeable granular layer under building and garage concrete slabs. The perforated pipes shall be connected to a system that discharges vapor to the building's exterior. The system shall include a methane sensor/venting system that is capable of venting soil vapor out from beneath the building, and a low-permeable barrier layer, such as Liquid Boot, shall be installed in the buildings and certain areas in the parking garage that have the potential to accumulate landfill gas in order to prevent soil vapors from intruding into the structures. The low-permeable vapor barrier membrane shall be located above the permeable granular layer. The membrane shall be sealed around foundation piles, grade beams, and slab penetrations (such as utility lines). The project applicant shall also install a landfill gas venting system beneath hardscape areas near the proposed structures.</p> <p>The landfill gas control system for the office buildings shall include an integrated methane sensor/blower system that is capable of actively drawing soil vapor from beneath the building. Methane sensors provided at the discharge point of each soil gas mitigation system shall control the active operation of the venting system.</p> <p>The project applicant shall prepare and implement an Operations and Maintenance Program for the soil gas mitigation systems. The Plan shall include</p>	Project applicant	<p>Incorporation of control systems and utility trenches into building permit plans</p> <p>Operations and Maintenance Program for the soil gas mitigation systems</p>	Prior to issuance of any building permits	Supervising Environmental Planner of the Department of Planning, Building, and Code Enforcement, Environmental Services Department (as the LEA)	Review of building permit plans and Operations and Maintenance Program	Prior to issuance of any building permits
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<p>instructions for how to ensure that the system functions properly.</p> <p>MM HAZ-1.7: The project applicant shall construct site utility trenches with landfill gas cut-offs to prevent landfill gas from migrating along utility trenches. Below-grade electrical facilities shall be designed for explosive conditions, in accordance with the California Building Standards Code.</p>						
Noise						
<p>Impact NOI-1: Pile driving noise generated in the eastern portion of the site could impact residents at Summerset Mobile Estates and commercial uses along Gold Street in the short-term.</p>						
<p>MM NOI-1.1: Prior to the start of construction, the project applicant shall prepare and implement a noise logistics plan to reduce construction noise levels as low as practical. The noise logistics plan shall be submitted to the Supervising Environmental Planner of the Planning, Building and Code Enforcement Department for review and approval. The noise logistics plan would include, but not be limited to, the following measures:</p> <ul style="list-style-type: none"> • Construction hours within 500 feet of residential uses will be limited to the hours of 7:00 a.m. and 7:00 p.m. weekdays, with no construction on weekends or holidays. Pile driving shall be limited to the hours of 8:00 a.m. to 5:00 p.m. Monday through Friday. • Utilize ‘quiet’ models of air compressors and other stationary noise sources where technology exists. • Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment. • Locate all stationary noise-generating equipment, such as air compressors and portable power generators, as far away as 	Project applicant, construction crewmembers	<p>Preparation of a noise logistics plan and implementation during construction.</p> <p>Prepare a detailed construction plan identifying a schedule of major noise generating construction activities, and identify a noise control disturbance coordinator and procedure for coordination with nearby communities.</p>	Prior to issuance of any grading permits	Supervising Environmental Planner of the Department of Planning, Building, and Code Enforcement	Review of the noise logistics plan	Prior to issuance of any grading permits

<p>possible from adjacent land uses.</p> <p>Locate staging areas and construction material areas as far away as possible from adjacent land uses.</p> <ul style="list-style-type: none"> • Prohibit all unnecessary idling of internal combustion engines. • If impact pile driving is proposed, multiple-pile drivers shall be considered to expedite construction. Although noise levels generated by multiple pile drivers would be higher than the noise generated by a single pile driver, the total duration of pile driving activities would be reduced. • If impact pile driving is proposed, temporary noise control blanket barriers shall shroud pile drivers or be erected in a manner to shield the adjacent land uses. Such noise control blanket barriers can be rented and quickly erected. • The contractor shall prepare a detailed construction plan identifying a schedule of major noise generating construction activities. This plan shall identify a noise control disturbance coordinator and procedure for coordination with the adjacent noise sensitive facilities so that construction activities can be scheduled to minimize noise disturbance. This plan shall be made publicly available for interested community members. The disturbance coordinator shall be responsible for responding to any local complaints about construction noise. The disturbance coordinator will determine the case of the noise complaint and will require that reasonable measures warranted to correct the problem be implemented. The telephone number for the disturbance coordinator at the construction site shall be posted and included in the notice sent 						
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to residences and commercial businesses within 100 feet regarding the construction schedule.						
Transportation and Traffic						
Impact TRA-1: The added trips as a result of the proposed project would cause the critical-movement delay to increase by four or more seconds and the demand-to-capacity ratio to increase by 0.01 or more at the Lafayette Street and Gold Street Connector intersection (City of San José's jurisdiction) during the AM peak hour.						
<p>MM TRA-1.1: Prior to Public Works Clearance, the project applicant shall pay a fair share amount towards improvements (including full cost for design, construction, etc.) to the Lafayette Street and Gold Street Connector intersection. Improvements would include with the addition of a second northbound left-turn lane in a vacant area between the Gold Street Connector and SR 237. The improvement shall require widening of the Gold Street Connector and shifting of travel lanes to the south by approximately 12 feet to accommodate a second receiving lane for the second northbound left-turn lane. The roadway widening would also require the relocation of the Highway 237 Bikeway, south of the Gold Street Connector. The Director of Public Works shall determine the fair share based on the cost of the improvement at the time the payment is due and the project's contribution to the impact (an estimated 5 percent). The fair share amount shall be paid to the City of San José Public Works Depositors Fund.</p> <p>During construction of the intersection improvement, a trail detour shall be provided and/or the Highway 237 Bikeway relocated prior to construction of the road widening.</p>	Project applicant	Payment of fair share amount to the City of San José Public Works Depositors Fund, as determined by City of San José and in coordination with City of Santa Clara.	Prior to issuance of Public Works Clearance	Transportation Manager of the Department of Public Works Supervising Environmental Planner of the Department of Planning, Building, and Code Enforcement	Determine fair share based on the cost of the improvement at the time the payment is due and the project's contribution to the impact. Confirm transfer to City of Santa Clara.	Prior to issuance of Public Works Clearance Transfer payment to the City of Santa Clara upon issuance of improvement plan permit.

Impact TRA(C)-1: The proposed project would result in a cumulatively considerable contribution to traffic impacts at two San José intersections (Lafayette Street and Gold Street Connector, and Great America Parkway and Eastbound SR 237) based on cumulative impact criteria.	
MM TRA (C)-1.1: Lafayette Street and Gold Street Connector - See MM TRA-1.1.	See implementation of MM TRA-1.1, above
MM TRA (C)-1.2: Great America Parkway and Eastbound State Route(SR) 237 - Improvements to the Great America Parkway/State Route 237 intersection include the addition of a third left-turn lane and second right-turn lane to the westbound approach to the intersection (SR 237 off-ramp), and would reduce the project and cumulative impact at this intersection to a less than significant level. These improvements are fully funded and will be constructed by the City of Santa Clara's City Place development, as a condition of approval.	Implemented by the City of Santa Clara's City Place development, as a condition of approval.

Source: City of San José. America Center Phase III, Subsequent Environmental Impact Report. June 2017.