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APPENDIX H

Biological Resources Technical Reports











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H. T. HARVEY & ASSOCIATES
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Charcot Avenue Data Center and Backup Generating Facility
Biological Resources Report

Project #5066-01

Prepared for:

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June 8, 2026

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Section 1. Introduction

This report describes the biological resources present on the Charcot Avenue Data Center and Backup Generating Facility project site, as well as the potential biological impacts of proposed site redevelopment and measures necessary to reduce these impacts to less-than-significant levels under the California Environmental Quality Act (CEQA). This assessment is based on the project maps and description provided to H. T. Harvey & Associates by David J. Powers & Associates through May 2026.

1.1 Project Location

The project site is located at 326 Charcot Avenue in San José, California, east of the Charcot Avenue and Zanker Road intersection (Figures 1 and 2). The 14.3-acre site consists of two developed parcels, and surrounding areas consist of commercial development to the north, south, east, and west (Figure 2). The project site is located on the *Milpitas*, *California* 7.5-minute United States Geological Survey (USGS) quadrangle.

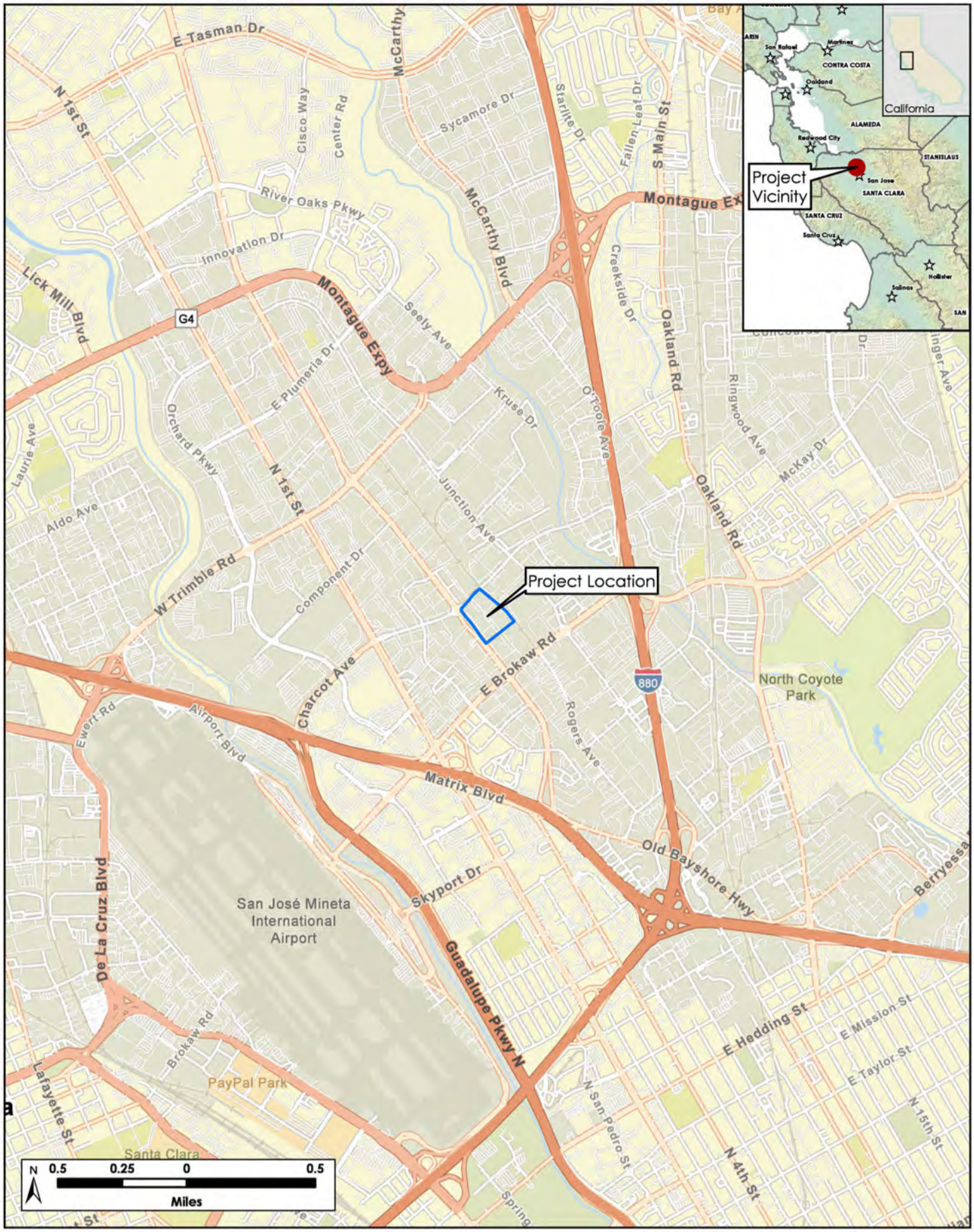
The project site is located within the Santa Clara Valley Habitat Plan (VHP) permit area, and the proposed project is a *covered project* under the VHP (ICF International 2012). As a result, the proposed project is required to implement conservation measures specified by VHP conditions. Thus, all applicable VHP conditions (see Section 6.1) are considered part of the proposed project description rather than as mitigation measures.

1.2 Project Description

The components of the project include the following.

- a three-story, approximately 514,161 square-foot data center building;
- a project substation;
- a backup generating facility;
- site access and surface parking;
- landscaping;
- stormwater controls and features; and
- utility pipeline interconnections

The expansion of the existing Pacific Gas & Electric (PG&E) Trimble Substation to include switchgear as well as the construction of new transmission lines connecting the CADC to the Trimble Substation will be addressed in a separate analysis.



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Figure 1. Vicinity Map
Charcot Avenue Data Center and Backup Generating Facility (5066-01)
June 2026



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Figure 2. Project Site
Charcot Avenue Data Center and
Backup Generating Facility (5066-01)
June 2026

1.2.1 Charcot Avenue Backup Generating Facility

The Charcot Avenue Backup Generating Facility (CABGF) will be an emergency backup generating facility with a generation capacity of up to 99 megawatts (MW) to support the need for the Charcot Avenue Data Center (CADC) to provide uninterruptible power supply for its tenant's servers. The CABGF will consist of 44 diesel-fired emergency generators arranged in a generation yard located on the west side of the CADC. Of the 44 emergency generators, 42 of the generators (with each having a 3-MW capacity) would be dedicated to replacing the electricity needs of the data center, and the remaining two emergency generators (with each having a 1.5-MW capacity) would be used to support general office loads, network loads, and building and life safety services in the case of a loss of utility power.

1.2.1.1 General Site Arrangement and Layout

The 44 emergency backup generators (two emergency generators for administrative purposes [house generators] and 42 emergency generators for the data center suites) will be located on the project site in a generation yard adjacent to the west side of the CADC building. The generation yard will be electrically connected to the CADC building through aboveground or in-trenched cable bus to a location within the building that houses electrical distribution equipment.

1.2.1.2 Backup Electrical System Design

There will be six data center suites in the CADC. Each data center suite will be designed to handle 11.53 MW of Information Technology (IT) equipment load, which includes the IT equipment load, mechanical equipment to cool the IT equipment load, lighting, and data center monitoring equipment. The sum of the six center suites will result in 69.2 MW of critical IT equipment load and 99 MW of total electrical load.

There will be 42 electrical lineups supporting the data center suites. Each electrical lineup will have an electrical capacity of three MW (3,000 kilowatts [kW]) of total power. An electrical lineup consists of one 3,000-kW generator; one 3,360-kilovolt-ampere (kVA), 34.5-kV–480-volt medium voltage transformer; one 4,000-ampere, 480-volt service switchboard; two 1,000-kW uninterruptible power supply (UPS) systems, and a downstream distribution method. Each electrical system will be designed to serve the suites in groups. A data center suite will be served by a group of seven 3-MW emergency generators. Each group of seven 3-MW emergency generators will be designed for redundancy with the assumption that one electrical lineup could be taken out of service at any moment in time. This redundancy is called the *seven-to-make-six* system. The seven-to-make-six system is being designed as a Block Redundant design. This means, of the seven-to-make-six electrical systems, six emergency generators will be designed to be the primary power source and support all the IT equipment load in the data center suite they serve. The seventh emergency generator will act as a reserve system and will provide power any time one of the six primary electrical lineups is either scheduled to be out-of-service for maintenance or becomes unavailable due to equipment failure. Therefore, the 14 MW of total power equipment capacity installed for each seven-to-make-six system effectively provides only 12 MW of total power. During a utility outage, all seven 3-MW generators will start.

The electrical load on each electrical capacity group is monitored by the building automation system. When any of the electrical capacity groups reach 72% loaded (based on 90% of the 80% maximum loading under normal operation), an alarm is activated in the engineering office. The operations staff will work with the tenants to ensure that the facility power levels are not exceeded.

The consequence of electrical capacity groups exceeding 80% load could lead to dropping IT equipment when coupled with a capacity group failure event. If all the capacity groups serving a data center suite (six capacity groups) are loaded over 80% and an electrical capacity group fails, the resulting load transferring to the five available capacity group would exceed the rating of the capacity groups and would lead to over-current protection devices tripping open due to the overload condition. Therefore, it is vital to the reliability of the data center to make sure that all capacity groups remain below the 80% threshold.

Utility-to-Generator Transfer Control Components and Logic. In a switchboard located next to the generator alternator, there will be a load disconnect breaker that is normally closed while the emergency generator is both in and out of operation. From that load disconnect, power will be brought into the data center facility terminating on a dedicated main generator input breaker on the lineup main switchboard.

This generator main breaker will be electrically interlocked with an adjacent utility transformer main breaker to allow only one of the breakers to be closed at any time. Upon the loss of utility power, the programmable logic controllers transfer controller will send a start signal to the generator, followed by the utility breaker opening, followed by a confirmation that the generator has started leading to the generator main breaker being closed.

Once the generator main breaker is closed, the power created from the individual generator will then then be transmitted to the IT equipment via a 2-MW (2,000-kW) UPS system and to mechanical equipment designed to cool the IT equipment load served by the UPS. This load is the same load that the dedicated utility transformer was supplying power to prior to the utility interruption. Power from this individual generator cannot be transferred to any other load or system, or anywhere outside the facility.

The UPS system will include back-up batteries sized for 5 minutes of battery back-up time. During the time between a transfer between utility and generator power, the UPS system will continue to support the IT equipment load without interruption. During a utility-to-generator transfer, the duration of the power outage between the sources will typically be around 15 seconds since it takes around 10 seconds to get the generator started and up to voltage. During a generator-to-utility transfer, the duration of the power outage between the sources will typically be around 5 seconds. During this period, the IT loads will be supplied by the UPS.

Uninterruptible Power Supply System. The UPS System and Batteries are part of the CADC and are not part of the CABGF; however, the following description is provided to describe how the UPS system is intended to operate. The UPS will protect the load against surges, sags, under voltage, and voltage fluctuation. The UPS will have built-in protection against permanent damage to itself and the connected load for all predictable types of malfunctions. The load will be automatically transferred to the bypass line without interruption in the event

of an internal UPS malfunction. The status of protective devices will be indicated on an Liquid Crystal Display graphic display screen on the front of the UPS. The UPS will operate in the following modes:

- **Normal** – Insulated Gate Bipolar Transistor rectifier will convert alternating current (AC) input power to direct current (DC) power for the inverter and for charging the batteries. The Insulated Gate Bipolar Transistor inverter will supply clean and stable AC power continuously to the critical load while regulating power factor and minimizing total harmonic distortion. The UPS Inverter output will be synchronized to the bypass AC source when the bypass source is within the AC input voltage and frequency specifications.
- **Loss of Main Powe**r – When main power is lost, the battery system will automatically feed the inverter so there is no interruption of AC power to the critical load.
- **Return of Main Power or Generator Power** – The system will recover to the normal operating mode and will cause no disturbance to the critical load while simultaneously recharging the backup battery.
- **Transfer to Bypass AC source** – If the UPS becomes overloaded, or an internal fault is detected, the UPS controls will automatically transfer the critical load from the inverter output to the bypass AC source without interruption. When the overload or internal warning condition is removed, after a preset "hold" period, the UPS will automatically re-transfer the critical load from the bypass to the inverter output without interruption of power to the critical load.
- **Maintenance Bypass** – A manual make-before-break maintenance bypass panel will be provided to electrically isolate the UPS for repair, maintenance, or test without affecting the operation of critical load.

The UPS system batteries will have tab washers mounted on front terminal posts capable of accepting the wiring components of a battery monitoring system. Batteries will have an expected life of 10 years. Each battery bank will provide a minimum of 5 minutes of backup at 100% rated inverter load of 2000 kW at 77 degrees Fahrenheit (25 degrees Celsius), 1.67 end volts per cell, end of life.

1.2.1.3 Generator System Description

Each of the 42 large generators will be Caterpillar Model 3516E standby emergency diesel-fired generators. The two smaller house generators will be Caterpillar Model 3512C standby emergency diesel-fired generators. Both the larger and smaller generators will be equipped with selective catalytic reduction equipment and a diesel particulate filter to comply with Tier 4 emissions standards.

The maximum peak generating capacity of each large generator is 3 MW, and 1.5 MW for each small generator for standby applications (short duration operation). Under normal operation when all generators are active, the maximum load on each generator is designed to be 80% of the peak capacity.

Each individual generator will be provided with its own package system. Within that package, the prime mover and alternator will be automatically turned on and off by a utility-generator programmable logic controller transfer controller located in the 480-volt main switchboard located within the CADC. Each generator will be

controlled by a separate, independent transfer controller. The generator will be turned on if the electrical utility power becomes unavailable and will be turned off after utility power has been restored and the transfer controller has returned the utility to the active source of power serving the computer and mechanical loads within the CADC.

The generator package will integrate an selective catalytic reduction and Diesel Exhaust Fluid tank. The generators will be constructed in a stacked configuration. The bottom generators will be placed on a concrete slab, and the upper generators will be supported on a raised structural steel platform. The Cat 3516E generators enclosures will be approximately 13 feet wide, 50 feet long, and 24 feet high. The Cat 3512C generator enclosures will be approximately 10 feet wide, 43 feet long, and 12 feet high. Each pair of generators will be horizontally spaced approximately seven feet apart. Generators will have stack heights approximately 63 feet above ground level. Each pair of generators will be spaced approximately 7 feet apart horizontally.

1.2.1.4 Fuel System

The backup generators will use renewable diesel as their primary fuel when feasible, and ultra-low sulfur diesel as fuel (less than 15 parts per million sulfur by weight) when renewable diesel is not readily available. The bottom generator of each stacked pair will have an approximately 10,400-gallon diesel fuel storage tank to serve both generators. The upper generator in the stacked configuration will have a day tank with a storage capacity of approximately 500 gallons. Approximately 9,700 gallons for a stacked pair of generators are required for 24-hour operation. The generators would have a combined diesel fuel storage capacity of approximately 368,600 gallons, which is sufficient to provide more than 24 hours of emergency generation at full electrical worst-case demand of the CADC.

1.2.1.5 Cooling System

Each generator will be air-cooled independently as part of its integrated package and therefore there is no common cooling system for the CABGF.

1.2.1.6 Water Supply and Use

The CABGF will not require any consumption of water.

1.2.1.7 Waste Management

The CABGF will not create any waste materials other than minor amounts of solid waste created during construction and maintenance activities.

1.2.1.8 Hazardous Materials Management

The CABGF will prepare a Spill Prevention, Control and Countermeasure Plan to address the storage, use, and delivery of diesel fuel for the generators.

Each generator unit and its integrated fuel tanks have been designed with double walls. The interstitial space between the walls of each tank is continuously monitored electronically for the existence of liquids. Additionally, the standby generator units are housed within a self-sheltering enclosure that prevents the intrusion of storm water.

Diesel fuel will be delivered on an as-needed basis in a compartmentalized tanker truck with maximum capacity of approximately 17,500 gallons. The tanker truck parks on the access road to the west of the generator yard and extends the fuel fill hose through one of multiple hinged openings in the security fence surrounding the generator equipment yard or via a centralized fueling station located on the exterior of the security fence.

There are no loading/unloading racks or containment for re-fueling events; however, a spill catch basin is located at each fill port for the generators. To prevent a release from entering the storm drain system, storm drains will be temporarily blocked off by the truck driver and/or facility staff during fueling events. Rubber pads or similar devices will be kept in the generation yard to allow quick blockage of the storm sewer drains during fueling events.

To further minimize the potential for diesel fuel to come into contact with stormwater, to the extent feasible, fueling operations will be scheduled at times when storm events are improbable.

Warning signs and/or wheel chocks will be used in the loading and/or unloading areas to prevent vehicles from departing before complete disconnection of flexible or fixed transfer lines. An emergency pump shut off will be utilized if a pump hose breaks while fueling the tanks. Tanker truck loading and unloading procedures will be posted at the loading and unloading areas.

Diesel exhaust fluid is used as part of the diesel engine combustion process to meet the emissions requirements. Each enclosure will have a 550-gallon diesel exhaust fluid tank.

1.2.1.9 Generating Facility Operation

The backup generators will be run for short periods for testing and maintenance purposes and otherwise will not operate unless there is a disturbance or interruption of the utility supply. The Bay Area Air District's Authority to Construct and the California Air Resources Board's Airborne Toxic Control Measures limit each engine to no more than 50 hours annually for reliability purposes (i.e., testing and maintenance). Maintenance and testing of each of the generators are anticipated to be once a month. Each generator will be tested individually during monthly and annual testing. Generators will only be run simultaneously during an emergency utility outage.

1.2.2 Charcot Avenue Data Center

1.2.2.1 Data Center Building

The project's main component will be a three-story, approximately 514,161 square-foot data center building that will house computer servers for private clients in a secure and environmentally controlled structure and would be designed to provide 69.2 MW of power to critical IT equipment.

The data center building will consist of two main components: (1) the data center suites that will house client servers, and (2) the administrative facilities. The data center suite components will consist of three levels of data center space. Each level will contain two data center suites and corresponding electrical/UPS rooms. The data center is being designed with an average rack power rating of 7 kW. The administrative facilities will include support facilities such as the building lobby, restrooms, conference rooms, landlord office space, customer office space, loading dock and storage.

The data center is expected to have between 30 and 45 employees and 12–15 visitors (including deliveries) at the site per day.

Massing, Heights, and Setbacks. The three-story data center building will be composed of administrative, data hall, and loading dock masses. The administrative portion will encompass approximately 29,433 square feet and will be located on the north side of the building. The administrative portion will be clad with glass and metal panel systems. The data hall portion will be clad primarily in insulated metal panels and/or exterior insulation and finish systems. The top of the roof will be 75 feet and the top of the parapet of the administrative and data hall will be 82 feet. A rooftop dunnage platform will be provided at 87 feet for mechanical equipment. Access to the platform will be provided by a freight elevator and staircases in the building. The top of the elevator parapet will be 95 feet.

The building will be located in the eastern portion of the site, orientating its longer axis north to south, and will be approximately 0.80 mile from the nearest residential property to the east. The CADC building will be set back a minimum of 326 feet from the property line to the west, a minimum of 50 feet from the property line to the east, a minimum of 42 feet from the property line to the south, and a minimum of 63 feet from the property line to the north.

Cooling Technology. Air-cooled chillers will be used to remove the heat generated in the data center. They will be sized to be able to carry the full heat load without any water requirement. The air-cooled chillers will not evaporate any water. Conditioned air will cool the IT equipment rejecting heat to Hot Aisle Containment and then will migrate into the return air plenum above the ceiling. The heat above the ceiling will be drawn back to the gallery and conditioned by the fan wall units before being distributed back to the data hall. The office and storage areas will be conditioned via variable air volume systems consisting of Roof Top Units connected to interior variable air volume boxes.

1.2.2.2 Project Substation

The project would construct a new 100-mega-volt-ampere (MVA) electrical substation (Project Substation) adjacent to the west side of the data center building. The two-bay Project Substation (two 100-MVA, 115–34.5 kV, step-down transformers and primary distribution switchgear) will be designed to allow one of the two transformers to be taken out of service, effectively providing 100 MVA of total power (a two-to-make-one design).

The Project Substation will have an all-weather drivable surface. An 8-foot-high chain-like fence will surround all sides of the substation. An oil containment pit surrounding each transformer will capture unintended oil leaks.

The Project Substation will be capable of delivering electricity to the CADC from PG&E's new Trimble Substation Expansion, but will not allow any electricity generated from the CABGF to be delivered to the transmission grid. Availability of Project Substation control systems will be ensured through a redundant DC battery backup system.

The Project Substation will use two 123-kV, 63-kA-rated sulfur hexafluoride (SF_6) gas-insulated high-voltage breakers. These would be procured prior to the January 1, 2028, phase-out date and arrive on-site within 24 months of purchase date as required for this class of gas-insulated equipment.

1.2.2.3 Site Access and Parking

The entire project site will be secured with an 8-foot-high steel security perimeter fence. Access to the project site would be provided by two driveways. Primary access to the site would be located on Zanker Road, with a secondary driveway located on Charcot Avenue near the intersection of Zanker Road for emergency access and PG&E access to the on-site substation. The main driveway on Zanker Road would be equipped with an automatic gate, 24/7 guardhouse, and electronic access control. This main entrance would provide access for employees, visitors, and delivery trucks. Secured pedestrian access to the site would be located on Zanker Road as well, adjacent to the secure vehicle entrance. The secondary entrance would be gated but would not be guarded. The gate will be equipped with a Knox Box that will allow emergency vehicle access 24/7.

A surface parking lot would be provided on the eastern portion of the project site. The project would provide a total of 72 parking spaces. Sixty-seven would be standard spaces, and five would be accessible spaces. Of the sixty 67 standard spaces, four spaces would be equipped for electric vehicle charging, and an additional seven spaces would be electric vehicle-capable spaces. Of the five accessible spaces, two would be electric vehicle charging accessible spaces. The proposed parking plan conforms to City Code and Cal Green Standards. Additionally, the project would provide up to 16 bicycle parking spaces, four of which would be covered and secured. A truck loading area would be located on the northwest side of the administrative office building.

1.2.2.4 Landscaping

There are a total of 72 existing trees on the project site. Of the 72 trees, 22 trees will be removed (19 are ordinance-size). A tree removal permit from the City of San José would be required to remove ordinance size trees from the project site.

1.2.2.5 Stormwater Controls and Features

The San Francisco Bay Regional Water Quality Control Board (RWQCB) has issued the Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) permit to regulate stormwater discharges from municipalities and local agencies. Under Provision C.3 of the NPDES permit, new and redevelopment projects that create or replace 5,000 square feet or more of impervious surface area are required to implement site design, source control, and Low Impact Development (LID)-based stormwater treatment controls to treat post-construction stormwater runoff. LID-based treatment controls are intended to maintain or restore the site's natural hydrologic functions, maximizing opportunities for infiltration and evapotranspiration, and using stormwater as a resource (e.g., rainwater harvesting for non-potable uses). Examples of C.3 LID measures include bioretention areas, flow-through planters, and subsurface infiltration systems.

The project proposes to construct stormwater treatment areas consisting of LID bioretention areas totaling approximately 15,300 square feet, based on preliminary impervious calculations, sized according to the requirements of the NPDES permit. The stormwater treatment areas will be located around the perimeter of the site, and adjacent to paved parking areas.

The existing site is fully developed land with two storm drain laterals along Charcot Avenue that serve the existing site. There is also a 42-inch diameter public storm drain line that crosses west-east through the site within a 15-foot-wide storm drain easement. That public storm drain line will be relocated around the proposed substation and building. The proposed on-site storm drain system will connect to the existing laterals along Charcot Avenue as well as the relocated 42-inch public storm drain line. Building roof drainage and pavement runoff will be conveyed to bioretention areas through curb and gutter, valley gutters, and curb notches. The bioretention planters will include perforated underdrains and overflow structures that connect to the on-site storm drain system.

1.2.2.6 Utility Interconnections

As part of the construction of the new building, domestic water, fire water, irrigation water, sanitary sewer, electrical, and fiber connections will be made to existing utilities present in adjacent public streets, as described below.

Domestic, Fire and Irrigation Water Infrastructure. The site is served by existing water mains in Charcot Avenue and Zanker Road, and an existing recycled water main in Charcot Avenue. The site will connect to the existing water main on Charcot Avenue with a 2-inch domestic water lateral for potable water services. Two

fire services will connect to the water mains on Charcot Avenue with 12-inch laterals. One irrigation service will connect to the recycled water main in Charcot Avenue.

Sanitary Sewer Infrastructure. The on-site sanitary sewer, including the building sewer, will connect to an existing 8-inch sewer lateral that connects to the sewer main in Charcot Avenue. Sewer service for the new guard shack at the main vehicular entry will be directed to a public sewer main in Zanker Road. The existing sewer main in Charcot Avenue is fifteen inches. There are multiple sewer mains in Zanker Road; the one the project would tie into is 8 inches in diameter. In accordance with City of San Jose standards, the truck dock and trash enclosure will also connect to this on-site sewer.

1.2.3 Construction

Site grading, excavation, and construction are anticipated to begin in July 2027 and proceed for a total of approximately 16 months. The peak construction workforce will be approximately 150 workers per month with an average of approximately 100 workers per month.

The proposed site grading will involve cut-and-fill operations utilizing cut material as engineered fill, including grindings from existing asphalt and concrete surfaces. Based on preliminary grading designs, it is anticipated approximately 1,100 cubic yards of material will be imported to the site. Maximum cut depths are estimated to be 10 feet below existing grade, particularly for gravity utilities. As recommended in the preliminary geotechnical engineering report, the foundation system for the data center building could be an auger cast in place concrete pier system extending at approximately 50–80 feet into underlying formational material or a single mat foundation up to 5 feet deep. Shallow foundations placed on engineered fill or stable underlying formational material may be used for ancillary support features. The maximum depth below existing grade for any of the drainage facilities (bioretention areas) will be approximately 9 feet below existing grade. Utility pipeline trenches are not expected to exceed 10 feet in depth.

The only construction activities for the CABGF would involve construction of the generation yard. This will include construction of concrete slabs, fencing, installation of underground and aboveground conduit and electrical cabling to interconnect to the CADC building switchgear, and placement and securing of the generators. The generators themselves will be assembled off-site and delivered to the site by truck. Each generator will be placed within the generation yard by a crane.

Construction of the generation yard and placement of the generators is expected to take six months and is included in the overall construction schedule for the CADC. Construction personnel for the CABGF are estimated to range from 10 to 15 workers including one crane operator.

Section 2. Methods

2.1 Background Review

Prior to conducting field work, H. T. Harvey & Associates ecologists reviewed the project description, plans, and maps provided by David J. Powers & Associates; aerial images (Google LLC 2026); a USGS topographic map; the California Department of Fish and Wildlife's (CDFW's) California Natural Diversity Database (CNDDB) (2026); the City of San José's General Plan *Envision San José 2040* (City of San José 2026); habitat and species information from the VHP (ICF International 2012); and other relevant reports, scientific literature, and technical databases. For the purposes of this report, the *project vicinity* is defined as the area within a 10-mile radius surrounding the project site.

In addition, for plants, we reviewed all species on current California Native Plant Society (CNPS) California Rare Plant Rank (CRPR) 1A, 1B, 2A, 2B, 3, and 4 lists occurring in the project region, which is defined as the *Milpitas, California* USGS 7.5-minute quadrangles and surrounding eight quadrangles (*Niles*, *La Costa Valley*, *Calaveras Reservoir*, *San Jose West*, *Cupertino*, *Mountain View*, and *San Jose East*). In addition, we queried the CNDDB (2026) for natural communities of special concern that occur on the project site, and we perused records of birds reported in nearby areas, such as along the Coyote Creek Trail, on eBird (Cornell Lab of Ornithology 2026) and on the South-Bay-Birds List Serve (2026).

2.2 Site Visits

H. T. Harvey & Associates wildlife ecologist Lauren Salazar, B.A., and plant and wetland ecologist Katherine Marlin, M.S., conducted reconnaissance-level surveys of the project site on April 1 and 3, 2026, respectively. The purpose of the surveys was to provide an impact assessment specific to the proposed construction of the project, as described above. Specifically, the survey was conducted to (1) assess existing biotic habitats and plant and animal communities on the project site, (2) assess the project site for its potential to support special-status species and their habitats and (3) identify potential jurisdictional and sensitive habitats, such as waters of the U.S./state and riparian habitat. L. Salazar also conducted a focused survey for potential bat roosting habitat on the site.

Because the proposed project is a covered project under the approved VHP (ICF International 2012), VHP mapping of land cover types was field-verified and modified as necessary based upon site conditions observed during the surveys.

Per California Energy Commission (CEC) requirements, K. Marlin also mapped the approximate boundaries of potentially sensitive and regulated habitats, such as wetlands, other waters of the U.S./state, and riparian habitat within 250 feet of the project site. Also per CEC requirements, a list of all plant and animal species observed on the site during the surveys is provided in Appendix A.

Section 3. Regulatory Setting

Biological resources on the project site are regulated by a number of federal, state, and local laws and ordinances, as described below.

3.1 Federal Regulations

3.1.1 Clean Water Act

The Clean Water Act (CWA) functions to maintain and restore the physical, chemical, and biological integrity of waters of the U.S., which include, but are not limited to, tributaries to traditionally navigable waters currently or historically used for interstate or foreign commerce, and adjacent wetlands. Historically, in non-tidal waters, U.S. Army Corps of Engineers (USACE) jurisdiction extends to the ordinary high water (OHW) mark, which is defined in Title 33, Code of Federal Regulations, Part 328.3. If there are wetlands adjacent to channelized features, the limits of USACE jurisdiction extend beyond the OHW mark to the outer edges of the wetlands. Wetlands that are not adjacent to waters of the U.S. are termed "isolated wetlands" and, depending on the circumstances, may be subject to USACE jurisdiction. In tidal waters, USACE jurisdiction extends to the landward extent of vegetation associated with salt or brackish water or the high tide line. The high tide line is defined in 33 Code of Federal Regulations Part 328.3 as "the line of intersection of the land with the water's surface at the maximum height reached by a rising tide." If there are wetlands adjacent to channelized features, the limits of USACE jurisdiction extend beyond the OHW mark or high tide line to the outer edges of the wetlands.

A May 25, 2023, U.S. Supreme Court decision in *Sackett v. Environmental Protection Agency* limited the definition of jurisdictional wetlands that are considered waters of the U.S. to those wetlands having a continuous surface connection with traditional navigable waters. In September 2023, the Environmental Protection Agency released the current definition of waters of the U.S., called the conforming rule. The San Francisco District of the USACE has not yet issued specific guidance regarding exactly how these *Sackett* limitations affect the identification of jurisdictional wetlands for sites such as the project site.

Construction activities within jurisdictional waters are regulated by the USACE. The placement of fill into such waters must comply with permit requirements of the USACE. No USACE permit will be effective in the absence of Section 401 Water Quality Certification. The State Water Resources Control Board (SWRCB) is the state agency (together with the RWQCBs) charged with implementing water quality certification in California.

Project Applicability: The project site and adjacent areas do not support wetland or aquatic habitats. A permit from the USACE would not be required for the project.

3.1.2 Rivers and Harbors Act

Section 10 of the Rivers and Harbors Act of 1899 prohibits the creation of any obstruction to the navigable capacity of waters of the U.S., including discharge of fill and the building of any wharfs, piers, jetties, and other structures without Congressional approval or authorization by the Chief of Engineers and Secretary of the Army (33 U.S.C. 403).

Navigable waters of the U.S., which are defined in 33 CFR, Part 329.4, include all waters subject to the ebb and flow of the tide, and/or those which are presently or have historically been used to transport commerce. The shoreward jurisdictional limit of tidal waters is further defined in 33 CFR, Part 329.12 as "the line on the shore reached by the plane of the mean (average) high water." It is important to understand that the USACE does not regulate wetlands under Section 10, only the aquatic or open waters component of bay habitat, and that there is overlap between Section 10 jurisdiction and Section 404 jurisdiction. According to 33 CFR, Part 329.9, a waterbody that was once navigable in its natural or improved state retains its character as "navigable in law" even though it is not presently used for commerce as a result of changed conditions and/or the presence of obstructions. Historical Section 10 waters may occur behind levees in areas that are not currently exposed to tidal or muted-tidal influence, and meet the following criteria: (1) the area is presently at or below the mean high water line; (2) the area was historically at or below mean high water in its "unobstructed, natural state"; and (3) there is no evidence that the area was ever above mean high water.

As mentioned above, Section 404 of the CWA authorizes the USACE to issue permits to regulate the discharge of dredged or fill material into waters of the U.S. If a project also proposes to discharge dredged or fill material and/or introduce other potential obstructions in navigable waters of the U.S., a Letter of Permission authorizing these impacts must be obtained from the USACE under Section 10 of the Rivers and Harbors Act.

Project Applicability: No current or historical Section 10 Waters are present on or close to the project site. Therefore, a Letter of Permission from the USACE is not required.

3.1.3 Federal Endangered Species Act

The Federal Endangered Species Act (FESA) protects federally listed wildlife species from harm or *take*, which is broadly defined as "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or attempt to engage in any such conduct." *Take* can also include habitat modification or degradation that directly results in death or injury of a listed wildlife species. An activity can be defined as *take* even if it is unintentional or accidental. Listed plant species are provided less protection than listed wildlife species. Listed plant species are legally protected from take under the FESA only if they occur on federal lands.

The U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS) have jurisdiction over federally listed, threatened, and endangered species under FESA. The USFWS also maintains lists of proposed and candidate species. Species on these lists are not legally protected under FESA but may become listed in the near future and are often included in their review of a project.

Project Applicability: No federally listed or candidate plant or animal species occur on the project site.

3.1.4 Magnuson-Stevens Fishery Conservation and Management Act

The Magnuson-Stevens Fishery Conservation and Management Act governs all fishery management activities that occur in federal waters within the United States' 200-nautical-mile limit. The Act establishes eight Regional Fishery Management Councils responsible for the preparation of fishery management plans (FMPs) to achieve the optimum yield from U.S. fisheries in their regions. These councils, with assistance from NMFS, establish Essential Fish Habitat (EFH) in FMPs for all managed species. Federal agencies that fund, permit, or implement activities that may adversely affect EFH are required to consult with NMFS regarding potential adverse effects of their actions on EFH and respond in writing to recommendations by NMFS.

Project Applicability: The Pacific Fisheries Management Council has designated EFH for the Pacific Coast Salmon FMP within Coyote Creek 0.4 mile northeast of the project site due to the presence of the Chinook salmon (*Oncorhynchus tshawytscha*). However, due to intervening distance between the site and the creek, project activities are not expected to directly or indirectly affect this species or its associated EFH.

3.1.5 Federal Migratory Bird Treaty Act

The federal Migratory Bird Treaty Act (MBTA), 16 U.S.C. Section 703, prohibits killing, possessing, or trading of migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. The MBTA protects whole birds, parts of birds, and bird eggs and nests, and it prohibits the possession of all nests of protected bird species whether they are active or inactive. An *active nest* is defined as having eggs or young, as described by the USFWS in its June 14, 2018 memorandum "Destruction and Relocation of Migratory Bird Nest Contents". Nest starts (nests that are under construction and do not yet contain eggs) and inactive nests are not protected from destruction.

Project Applicability: Most native bird species that occur on the project site are protected under the MBTA.

3.2 State Regulations

3.2.1 Porter-Cologne Water Quality Control Act

The SWRCB works in coordination with the nine RWQCBs to preserve, protect, enhance, and restore water quality. Each RWQCB makes decisions related to water quality for its region, and may approve, with or without conditions, or deny projects that could affect waters of the state. Their authority comes from the CWA and the Porter-Cologne Water Quality Control Act (Porter-Cologne). Porter-Cologne broadly defines waters of the state as "any surface water or groundwater, including saline waters, within the boundaries of the state." Because Porter-Cologne applies to any water, whereas the CWA applies only to certain waters, California's jurisdictional reach overlaps and may exceed the boundaries of waters of the U.S. For example, Water Quality Order No. 2004-0004-DWQ states that "shallow" waters of the state include headwaters, wetlands, and riparian areas.

Moreover, the San Francisco Bay Region RWQCB's Assistant Executive Director has stated that, in practice, the RWQCBs claim jurisdiction over riparian areas. Where riparian habitat is not present, such as may be the case at headwaters, jurisdiction is taken to the top of bank.

On April 2, 2019, the SWRCB adopted the *State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State*. In these new guidelines, riparian habitats are not specifically described as waters of the state but instead as important buffer habitats to streams that do conform to the State Wetland Definition. The *Procedures* describe riparian habitat buffers as important resources that may both be included in required mitigation packages for permits for impacts to waters of the state, as well as areas requiring permit authorization from the RWQCBs to impact.

Pursuant to the CWA, projects that are regulated by the USACE must also obtain a Section 401 Water Quality Certification permit from the RWQCB. This certification ensures that a proposed project will uphold state water quality standards. Because California's jurisdiction to regulate its water resources is much broader than that of the federal government, proposed impacts on waters of the state require Water Quality Certification even if the area occurs outside of USACE jurisdiction. Moreover, the RWQCB may impose mitigation requirements even if the USACE does not. Under the Porter-Cologne, the SWRCB and the nine regional boards also have the responsibility of granting CWA NPDES permits and Waste Discharge Requirements for certain point-source and non-point discharges to waters. These regulations limit impacts on aquatic and riparian habitats from a variety of urban sources.

Project Applicability: No waters of the state or riparian habitat occur on the project site. Therefore, a Section 401 permit or Waste Discharge Requirement from the RWQCB would not be required.

3.2.2 California Endangered Species Act

The California Endangered Species Act (CESA) (California Fish and Game Code, Chapter 1.5, Sections 2050-2116) prohibits the take of any plant or animal listed or proposed for listing as rare (plants only), threatened, or endangered. In accordance with CESA, the CDFW has jurisdiction over state-listed species (Fish and Game Code 2070). The CDFW regulates activities that may result in *take* of individuals (i.e., "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill"). Habitat degradation or modification is not expressly included in the definition of *take* under the California Fish and Game Code. The CDFW, however, has interpreted *take* to include the "killing of a member of a species which is the proximate result of habitat modification."

Project Applicability: No state-listed plant or animal species are reasonably expected to occur on or near the project site.

3.2.3 California Environmental Quality Act

CEQA is a state law that requires state and local agencies to document and consider the environmental implications of their actions and to refrain from approving projects with significant environmental effects if there are feasible alternatives or mitigation measures that can substantially lessen or avoid those effects. CEQA requires the full disclosure of the environmental effects of agency actions, such as approval of a general plan update or the projects covered by that plan, on resources such as air quality, water quality, cultural resources, and biological resources. The State Resources Agency promulgated guidelines for implementing CEQA known as the State CEQA Guidelines.

Section 15380(b) of the State CEQA Guidelines provides that a species not listed on the federal or state lists of protected species may be considered rare if the species can be shown to meet certain specified criteria. These criteria have been modeled after the definitions in the FESA and the CESA and the section of the California Fish and Game Code dealing with rare or endangered plants and animals. This section was included in the guidelines primarily to deal with situations in which a public agency is reviewing a project that may have a significant effect on a species that has not yet been listed by either the USFWS or CDFW or species that are locally or regionally rare.

The CDFW has produced three lists (amphibians and reptiles, birds, and mammals) of "species of special concern" that serve as "watch lists". Species on these lists are of limited distribution or the extent of their habitats has been reduced substantially, such that threat to their populations may be imminent. Thus, their populations should be monitored. They may receive special attention during environmental review as potential rare species, but do not have specific statutory protection. All potentially rare or sensitive species, or habitats capable of supporting rare species, are considered for environmental review per the CEQA Section 15380(b).

The CNPS, a non-governmental conservation organization, has developed CRPRs for plant species of concern in California in the CNPS Inventory of Rare and Endangered Plants. The CRPRs include lichens, vascular, and non-vascular plants, and are defined as follows:

- CRPR 1A Plants considered extinct.
- CRPR 1B Plants rare, threatened, or endangered in California and elsewhere.
- CRPR 2A Plants considered extinct in California but more common elsewhere.
- CRPR 2B Plants rare, threatened, or endangered in California but more common elsewhere.
- CRPR 3 Plants about which more information is needed - review list.
- CRPR 4 Plants of limited distribution-watch list.

The CRPRs are further described by the following threat code extensions:

- .1—seriously endangered in California;

- .2—fairly endangered in California;
- .3—not very endangered in California.

Although the CNPS is not a regulatory agency and plants on these lists have no formal regulatory protection, plants appearing as CRPR 1B or 2 are, in general, considered to meet CEQA's Section 15380 criteria, and adverse effects to these species may be considered significant. Impacts on plants that are listed by the CNPS on CRPR 3 or 4 are also considered during CEQA review, although because these species are typically not as rare as those of CRPR 1B or 2, impacts on them are less frequently considered significant.

Compliance with CEQA Guidelines Section 15065(a) requires consideration of natural communities of special concern, in addition to plant and wildlife species. Vegetation types of "special concern" are tracked in Rarefind (CNDDB 2026). Further, the CDFW ranks sensitive vegetation alliances based on their global (G) and state (S) rankings analogous to those provided in the CNDDB. Global rankings (G1–G5) of natural communities reflect the overall condition (rarity and endangerment) of a habitat throughout its range, whereas S rankings are a reflection of the condition of a habitat within California. If an alliance is marked as a G1–G3, all of the associations within it would also be of high priority. The CDFW provides the Vegetation Classification and Mapping Program's (VegCAMP's) currently accepted list of vegetation alliances and associations (CDFW 2026).

Project Applicability: All potential impacts on biological resources will be considered during CEQA review of the project in the context of this biological resources report. Project impacts are discussed in Section 6 below.

3.2.4 California Fish and Game Code

Ephemeral and intermittent streams, rivers, creeks, dry washes, sloughs, blue line streams on USGS maps, and watercourses with subsurface flows fall under CDFW jurisdiction. Canals, aqueducts, irrigation ditches, and other means of water conveyance may also be considered streams if they support aquatic life, riparian vegetation, or stream-dependent terrestrial wildlife. A *stream* is defined in Title 14, California Code of Regulations Section 1.72, as "a body of water that follows at least periodically or intermittently through a bed or channel having banks and that supports fish and other aquatic life. This includes watercourses having surface or subsurface flow that supports or has supported riparian vegetation." Using this definition, CDFW extends its jurisdiction to encompass riparian habitats that function as a part of a watercourse. California Fish and Game Code Section 2786 defines *riparian habitat* as "lands which contain habitat which grows close to and which depends upon soil moisture from a nearby freshwater source." The lateral extent of a stream and associated riparian habitat that would fall under the jurisdiction of CDFW can be measured in several ways, depending on the particular situation and the type of fish or wildlife at risk. At minimum, CDFW would claim jurisdiction over a stream's bed and bank. Where riparian habitat is present, the outer edge of riparian vegetation is generally used as the line of demarcation between riparian and upland habitats.

Pursuant to California Fish and Game Code Section 1603, CDFW regulates any project proposed by any person that will "substantially divert or obstruct the natural flow or substantially change the bed, channel, or bank of any river, stream, or lake designated by the department, or use any material from the streambeds." California Fish and Game Code Section 1602 requires an entity to notify CDFW of any proposed activity that may modify a river, stream, or lake. If CDFW determines that proposed activities may substantially adversely affect fish and wildlife resources, a Lake and Streambed Alteration Agreement (LSAA) must be prepared. The LSAA sets reasonable conditions necessary to protect fish and wildlife, and must comply with CEQA. The applicant may then proceed with the activity in accordance with the final LSAA.

Certain sections of the California Fish and Game Code describe regulations pertaining to protection of certain wildlife species. For example, Code Section 2000 prohibits take of any bird, mammal, fish, reptile, or amphibian except as provided by other sections of the code.

The California Fish and Game Code Sections 3503, 3513, and 3800 (and other sections and subsections) protect native birds, including their nests and eggs, from all forms of take. Disturbance that causes nest abandonment and/or loss of reproductive effort is considered *take* by the CDFW. Raptors (e.g., eagles, hawks, and owls) and their nests are specifically protected in California under Code Section 3503.5. Section 3503.5 states that it is "unlawful to take, possess, or destroy any birds in the order Falconiformes or Strigiformes (birds of prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by this code or any regulation adopted pursuant thereto."

Bats and other non-game mammals are protected by California Fish and Game Code Section 4150, which states that all non-game mammals or parts thereof may not be taken or possessed except as provided otherwise in the code or in accordance with regulations adopted by the commission. Activities resulting in mortality of non-game mammals (e.g., destruction of an occupied nonbreeding bat roost, resulting in the death of bats), or disturbance that causes the loss of a maternity colony of bats (resulting in the death of young), may be considered *take* by the CDFW.

Project Applicability: No CDFW jurisdictional habitats occur on or adjacent to the project site. Therefore, a CDFW LSAA would not be required for the project.

Most native bird, mammal, and other wildlife species that occur on the project site and in the immediate vicinity are protected under the California Fish and Game Code. Project impacts on these species are discussed in Section 6.

3.2.5 State Water Resources Control Board Stormwater Regulation

Construction Phase. Construction projects in California causing land disturbances that are equal to 1 acre or greater must comply with state requirements to control the discharge of stormwater pollutants under the NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Construction General Permit; Water Board Order No. 2009-0009-DWQ, as amended and

administratively extended). Prior to the start of construction/demolition, a Notice of Intent must be filed with the SWRCB describing the project. A Storm Water Pollution Prevention Plan must be developed and maintained during the project, and it must include the use of best management practices (BMPs) to protect water quality until the site is stabilized.

Standard permit conditions under the Construction General Permit require that the applicant utilize various measures including: on-site sediment control BMPs, damp street sweeping, temporary cover of disturbed land surfaces to control erosion during construction, and utilization of stabilized construction entrances and/or wash racks, among other factors. Additionally, the Construction General Permit does not extend coverage to projects if stormwater discharge-related activities are likely to jeopardize the continued existence or result in take of any federally listed endangered or threatened species.

Post-Construction Phase. In many Bay Area counties, including Santa Clara County, projects must also comply with the California RWQCB, San Francisco Bay Region, Municipal Regional Stormwater NPDES Permit (Water Board Order No. R2-2015-0049, as amended). This permit requires that all projects implement BMPs and incorporate LID practices into the design that prevent stormwater runoff pollution, promote infiltration, and hold/slow down the volume of water coming from a site. In order to meet these permit and policy requirements, projects must incorporate the use of green roofs, impervious surfaces, tree planters, grassy swales, bioretention and/or detention basins, among other factors.

Project Applicability. The project will comply with the requirements of the NPDES Statewide Storm Water Permit and Statewide General Construction Permit. Therefore, construction-phase activities would not result in detrimental water quality effects on biological or regulated resources.

3.3 Local Regulations

3.3.1 City of San José Tree Ordinance

The City of San José promotes the health, safety, and welfare of the city by regulating the planting, removal, and maintenance of trees in the city. The City provides tree protection under the Municipal Code Section 13.28 (street trees, hedges, and shrubs), 13.32 (tree removal controls), and 13.44.220 (damaging park property). The Municipal Code details permit requirements for tree related work, including removal, pruning, and planting. Removal of trees within the street right-of-way are subject to tree removal permitting by the City of San José. Street trees are located in the public right-of-way between the curb and the sidewalk. Pruning or removal of street trees is illegal without a permit issued by the City. Replacement trees are required for the removal of ordinance-size street trees. A single trunk tree qualifies as an ordinance-size tree if it measures 38 inches or more in circumference at 4.5 feet above ground (approximately 12 inches diameter at breast height). A multi-trunk tree qualifies as ordinance-size if the combined measurement of each trunk circumference (at 4.5 feet above ground) adds up to 38 inches or more. As part of the permit application, it is required to contact the planning division with regard to the replacement of ordinance-size trees.

Removal of trees on private property, commercial, and industrial properties are also subject to tree removal permitting by the City of San José. A permit is required to remove a tree of "any size" from a commercial and industrial property. A separate "permit adjustment application" is required to be filed for non-ordinance-sized trees that will be removed from commercial and industrial properties. As part of the permit application, it is required to contact the City's planning division with regard to the replacement of trees on private, commercial and industrial properties.

Project Applicability: Ordinance-sized trees are present on the project site, and 19 ordinance-sized trees will be removed to support the project. The project will comply with the City of San José's tree replacement guidelines and policies for any trees that need to be removed.

3.3.2 Santa Clara Valley Habitat Plan

The VHP (ICF International 2012) provides a framework for promoting the protection and recovery of natural resources, including endangered and threatened species, while streamlining the permitting process for planned development, infrastructure, and maintenance activities. The VHP allows the County of Santa Clara, Valley Water, the Santa Clara Valley Transportation Authority, and the cities of Gilroy, Morgan Hill, and San José (collectively, the Local Partners or Permittees) to receive endangered species permits for activities and projects they conduct and those under their jurisdiction. The Santa Clara Valley Open Space Authority also contributed to VHP preparation. The VHP will protect, enhance, and restore natural resources in specific areas of Santa Clara County and contribute to the recovery of endangered species. Rather than separately permitting and mitigating individual projects, the VHP evaluates natural-resource impacts and mitigation requirements comprehensively in a way that is more efficient and effective for at-risk species and their essential habitats.

The VHP was developed in association with the USFWS and CDFW and in consultation with stakeholder groups and the general public. The USFWS has issued the Permittees a 50-year permit that authorizes incidental take of listed species under FESA, while CDFW has issued a 50-year permit that authorizes take of all covered species under the Natural Community Conservation Planning Act. This approach allows the Permittees to streamline future mitigation requirements into one comprehensive program. In addition to obtaining take authorization for each participating agency's respective activities, the cities and County will be able to extend take authorization to project applicants under their jurisdiction.

The USFWS and CDFW will also provide assurances to the Permittees that no further commitments of funds, land, or water will be required to address impacts on covered species beyond that described in the VHP to address changed circumstances. In addition to strengthening local control over land use and species protection, the VHP provides a more efficient process for protecting natural resources by creating new habitat reserves that will be larger in scale, more ecologically valuable, and easier to manage than the individual mitigation sites created under the current approach.

The VHP and associated documents are approved and adopted by the six Local Partners (Cities of Gilroy, Morgan Hill and San José, County of Santa Clara, Santa Clara Valley Transportation Authority, and Valley Water).

Project Applicability. The project site is located within the VHP permit area. Therefore, project activities are considered covered under the VHP and are required to comply with applicable VHP conditions (ICF International 2012). VHP conditions that apply to the project are discussed in detail in Section 6.1 below.

Section 4. Environmental Setting

4.1 General Project Area Description

The project site is located in San José in Santa Clara County, California (Figure 1). The climate in the project vicinity is coastal Mediterranean, with most rain falling in the winter and spring. Mild cool temperatures are common in the winter. Hot-to-mild temperatures are common in the summer. Climate conditions in the vicinity include a 30-year average of approximately 14.13 inches of annual precipitation with a monthly average temperature range from 50.3°F to 69.1°F (PRISM Climate Group 2026). Elevations on the project site range from 33 to 44 feet above mean sea level (Google LLC 2026). The Natural Resources Conservation Service has mapped two soil units on the project site: (1) Urbanland-Campbell complex, 0–2% slopes, protected; and (2) Urbanland-Elder complex, 0–2% slopes, protected. Both of these complexes occur on alluvial plains and fans, consist largely of urban land formed from disturbed and human-transported materials, and are generally well to moderately well drained with low runoff (Natural Resources Conservation Service 2026)

4.2 Land Cover

As described above, biotic habitats on the project site were classified according to the land cover classification system described in the VHP (ICF International 2012), with modifications based upon site conditions verified during the 2026 field survey. The reconnaissance-level survey identified three land cover types on the project site: urban-suburban, California annual grassland, and ornamental woodland (Figure 3). These land cover types are described in detail below. Plant and animal species observed during the reconnaissance-level survey are listed in Appendix A.

4.2.1 Urban-Suburban

Vegetation. The majority of the project site (12.8 acres) is developed with buildings, parking areas, and pedestrian walkways (Photos 1 and 2 in Appendix B). Landscaped vegetation within these areas is limited in extent, predominantly nonnative, and regularly maintained. Tree species include cherry plum (*Prunus cerasifolia*) along the edges of the buildings, and one large silver dollar gum (*Eucalyptus polyanthemos*) in the middle of the project site. Common shrubs and herbaceous species include nonnative trailing lantana (*Lantana montevidensis*), Sydney golden wattle (*Acacia longifolia*), slender myoporum (*Myoporum parvifolium*), cherry laurel (*Prunus laurocerasus*), spiny-headed mat-rush (*Lomandra longifolia*), ornamental rose (*Rosa* sp.), star jasmine (*Trachelospermum jasminoides*), Indian hawthorn (*Rhaphiolepis indica*), common oleander (*Nerium oleander*), and English ivy (*Hedera helix*).

Wildlife. The urban-suburban areas of the project site serve as wildlife habitat only in a very limited capacity, and most wildlife species that occur in these areas are tolerant of frequent human disturbances. Species that use these areas include the nonnative European starling (*Sturnus vulgaris*), rock pigeon (*Columba livia*), house mouse (*Mus musculus*), and Norway rat (*Rattus norvegicus*), as well as the native raccoon (*Procyon lotor*) and striped skunk



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Ecological Consultants

Figure 3. Land Cover Map
Charcot Avenue Data Center and
Backup Generating Facility (5066-01)
June 2026

(*Mephitis mephitis*). Western fence lizards (*Sceloporus occidentalis*) commonly occur in urban-suburban areas, and may bask on road or parking lot surfaces in order to raise their body temperature. Bird species including the native American crow (*Corvus brachyrhynchos*), house finch (*Haemorhous mexicanus*), lesser goldfinch (*Spinus psaltria*), Anna's hummingbird (*Calypte anna*), California towhee (*Melozone crissalis*), bushtit (*Psaltriparus minimus*), dark-eyed junco (*Junco hyemalis*), and mourning dove (*Zenaida macroura*) will nest and forage in landscape vegetation. Large trees adjacent to the project site provide potential nesting sites for raptors, such as red-shouldered hawks (*Buteo lineatus*) and Cooper's hawks (*Astur cooperii*). One old, inactive raptor nest was observed in a tree adjacent to the project site, indicating that raptors have nested near the site in a previous year. No suitable habitat for roosting bats was observed in urban-suburban areas of the site.

4.2.2 Ornamental Woodland

Vegetation. Ornamental woodland comprises 1.0 acre of the project site along Charcot Avenue and Zanker Road (Photos 3 and 4 in Appendix B). These areas were mapped as ornamental woodland (rather than urban-suburban) due to the continuous tree canopy. Species composition within this woodland includes a mix of native and nonnative ornamental trees. Dominant species include nonnative shamel ash (*Fraxinus uhdei*) and locally nonnative coast redwood (*Sequoia sempervirens*). Other species include nonnative narrow leaved ash (*Fraxinus angustifolium*) and London plane tree (*Platanus* × *hispanica*) as well as native coast live oak (*Quercus agrifolia*).

Wildlife. The ornamental woodland habitat on the project site provides limited habitat for wildlife species due to its limited extent and the predominantly nonnative tree species present. Wildlife species that breed and forage in this habitat are similar to the species that breed and occur in adjacent urban-suburban areas of the site, discussed above. Raptors can potentially use larger trees within this habitat for nesting, although no existing nests of raptors were observed in these areas during the 2026 site visit. Although several small cavities are present in these trees, no high-quality habitat for roosting bats was observed.

4.2.3 California Annual Grassland

Vegetation. California annual grassland occupies 0.5 acre of the project site in open, disturbed areas with full sun exposure and minimal shrub or tree cover along the railroad tracks on the site's northeastern boundary (Photos 5 and 6 in Appendix B). This habitat is dominated by nonnative annual grasses and forbs that are periodically maintained by mowing—a dense herbaceous layer approximately 1 foot tall was present at the time of the April 2026 survey. Common species include nonnative ripgut brome (*Bromus diandrus*), oat (*Avena* spp.), black mustard (*Brassica nigra*), shortpod mustard (*Hirschfeldia incana*), redstem filaree (*Erodium cicutarium*), fennel (*Foeniculum vulgare*), Russian thistle (*Salsola tragus*), Bermuda grass (*Cynodon dactylon*), poison hemlock (*Conium maculatum*), and Himalayan blackberry (*Rubus armeniacus*).

Wildlife. Wildlife use of the California annual grassland on the project site is extremely limited due to the limited extent of this habitat, its isolation from natural areas in the region, and high levels of human disturbances (e.g., from mowing as well as adjacent vehicle and pedestrian traffic). The wildlife species that occur in this habitat primarily inhabit adjacent urban-suburban areas and use this grassland for foraging. Such species include

the house finch, bushtit, and lesser goldfinch, which forage on seeds in grassland areas, as well as the black phoebe (*Sayornis nigricans*), which forages aerially over grassland habitats for insects.

No small mammal burrows were detected in the California annual grassland on the project site. Common rodent species that can potentially occur in this habitat include the native California vole (*Microtus californicus*) and deer mouse (*Peromyscus californicus*), as well as the nonnative house mouse and Norway rat. Other common, urban-adapted mammals such as the native striped skunk and raccoon as well as the nonnative Virginia opossum and feral cat (*Felis catus*) may travel through the site and forage in the grassland habitat. Common reptile species, such as the western fence lizard, will also occur here.

4.3 Wildlife Movement

Wildlife movement on and in the vicinity of the project site takes many forms and is different for the various suites of species associated with these lands. Bird and bat species move readily over the landscape in the project vicinity, foraging over and within both natural lands and landscaped areas. Mammals of different species move within their home ranges, but also disperse between patches of habitat. Generally, reptiles and amphibians similarly settle within home ranges, sometimes moving to central breeding areas, upland refugia, or hibernacula in a predictable manner, but also dispersing to new areas. Some species, especially among the birds and bats, are migratory, moving into or through the project vicinity during specific seasons. Aside from bats, there are no other mammal species in the vicinity of the site that are truly migratory. However, the young of many mammal species disperse from their natal home ranges, sometimes moving over relatively long distances in search of new areas in which to establish.

Movement corridors are segments of habitat that provide linkages for wildlife through the mosaic of suitable and unsuitable habitat types found within a landscape while also providing cover. On a broader level, corridors also function as paths along which wide-ranging animals can travel, populations can move in response to environmental changes and natural disasters, and genetic interchange can occur. In California, environmental corridors often consist of riparian areas along streams, rivers, or other natural features.

Due to the presence of development on all sides of the project site and the lack of continuous, well-vegetated pathways through the project site and nearby urban areas, there are currently no well-defined or important movement corridors for animals on or through the project site. Urban-adapted wildlife such as birds, raccoons, striped skunks, and western fence lizards that reside in the urban landscape habitats may move through the project site using cover and refugia as they find them available. Although roads, fences, and buildings constrain such movements, these urban-adapted species are able to move within and throughout the majority of the project vicinity, either during longer dispersal events or over time and generations.

In summary, the project site is not a particularly important area for movement by wildlife, and it does not contain any high-quality corridors allowing dispersal of animals.

Section 5. Special-Status Species and Sensitive Habitats

CEQA requires assessment of the effects of a project on species that are protected by state, federal, or local governments as "threatened, rare, or endangered"; such species are typically described as "special-status species". For the purpose of the environmental review of the project, special-status species have been defined as described below. Impacts on these species are regulated by some of the federal, state, and local laws and ordinances described in Section 3 above.

For purposes of this analysis, "special-status" plants are considered plant species that meet one or more of the following criteria:

- Listed under FESA as threatened, endangered, proposed threatened, proposed endangered, or a candidate species.
- Listed under CESA as threatened, endangered, rare, or a candidate species.
- Listed by the CNPS as CRPR 1A, 1B, 2, 3, or 4.

For purposes of this analysis, "special-status" animals are considered animal species that meet one or more of the following criteria:

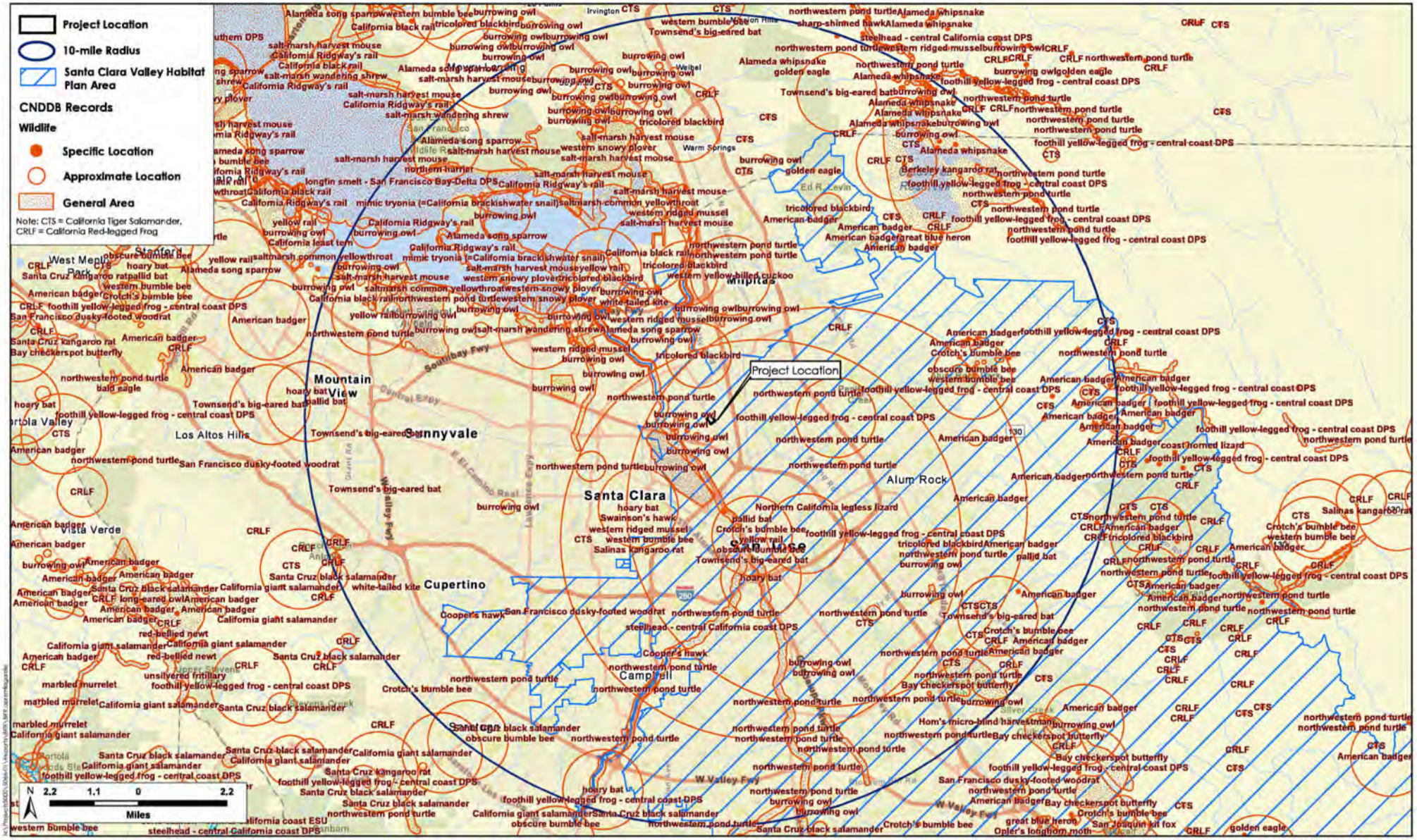
- Listed under FESA as threatened, endangered, proposed threatened, proposed endangered, or a candidate species.
- Listed under CESA as threatened, endangered, or a candidate threatened or endangered species.
- Designated by the CDFW as a California species of special concern.
- Listed in the California Fish and Game Code as fully protected species (fully protected birds are provided in Section 3511, mammals in Section 4700, reptiles and amphibians in Section 5050, and fish in Section 5515).

Information concerning threatened, endangered, and other special-status species that potentially occur on the project site was collected from several sources and reviewed by H. T. Harvey & Associates biologists as described in Section 2.1 above. Figure 4 depicts CNDDB records of special-status plant species in the general vicinity of the project site and Figure 5 depicts CNDDB records of special-status animal species. These generalized maps show areas where special-status species are known to occur or have occurred historically. Per CEC requirements, these maps include CNDDB records within 10 miles of the project site and the boundaries of applicable local Habitat Conservation Plans (i.e., the VHP permit area). No wildlife nursery sites (e.g., egret rookeries) are present near the project site (San Francisco Bay Bird Observatory 2026).



H. T. HARVEY & ASSOCIATES
Ecological Consultants

Figure 4. CNDDB-Mapped Records of Special-Status Plants
Charcot Avenue Data Center and Backup Generating Facility (5066-01)
June 2026



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Ecological Consultants

Figure 5. CNDDB-Mapped Records of Special-Status Animals
Charcot Avenue Data Center and Backup Generating Facility (5066-01)
June 2026

5.1 Special-Status Plant Species

The CNPS (2026) and CNDDB (2026) identify 53 special-status plant species as potentially occurring in at least one of the nine USGS 7.5-minute quadrangles containing or surrounding the project site (for CNPS), or within 10 miles of the project site (for CNDDB), and the VHP covers an additional two species that occur within its permit area. Of these 55 potentially occurring special-status plant species, all were determined to be absent from the project site for at least one of the following reasons: (1) absence of suitable habitat types; (2) lack of specific microhabitat or edaphic requirements, such as serpentine soils; (3) the elevation range of the species is outside of the range of the project site; and/or (4) the species is presumed extirpated from the project region (Appendix C). Many species are known to occur in marsh habitat associated with the San Francisco Bay to the northwest, or serpentine and alkaline soils associated with the Diablo Range to the east where outcrops of serpentine geology and soils are present. However, marsh habitats and serpentine soils do not occur on or adjacent the project site, and project activities will be restricted to California annual grassland habitat that has been previously disturbed.

Ostensibly suitable habitat is present on the project site for Congdon's tarplant (*Centromadia parryi* ssp. *congdonii*), which has been documented by the CNDDB in the project vicinity (Figure 4) and can persist in disturbed grasslands. However, this species was determined to be absent from the site due to a lack of suitable habitat and edaphic conditions. An expanded discussion of this species and justification for its absence from the site is provided below.

Congdon's tarplant (*Centromadia parryi* ssp. *congdonii*). Federal Listing Status: None; State Listing Status: None; CRPR: 1B.1. Congdon's tarplant is an annual herb in the composite family (Asteraceae) that is endemic to California. It has a variable blooming period extending from approximately May through November. Congdon's tarplant occurs in valley and foothill grassland habitat, floodplains, and swales, particularly those with alkaline substrates; and in disturbed areas with nonnative grasses such as wild oats, ripgut brome, Italian rye grass (*Festuca perennis*), and seaside barley (*Hordeum marinum*) (Baldwin et al. 2012, CNDDB 2026, CNPS 2026). Congdon's tarplant occurs in Alameda, Contra Costa, Monterey, San Luis Obispo, San Mateo, Santa Clara, Santa Cruz, and Solano Counties (CNDDB 2026). In Santa Clara County, populations occur in ruderal grassland at Moffett Federal Airfield, in ruderal grassland and seasonal wetland habitats within Sunnyvale Baylands Park, in annually disked ruderal grassland in Alviso north of Highway 237 and east of North First Street, and in ruderal grassland along railroad tracks in Milpitas.

The closest location of Congdon's tarplant to the project site is 3 miles to the north in Milpitas (CNDDB 2026). Although the April 2026 survey conducted by Katherine Marlin, M.S., did not coincide with the species' blooming period, site conditions are inconsistent with the habitat requirements of this species. Congdon's tarplant is typically associated with alkaline soils and seasonally saturated conditions; however, the project site soils are not alkaline, and no evidence of seasonal ponding or hydrology was observed during the field visit. In addition, the California annual grassland habitat on the site is mostly gravelly or populated with dense, tall, vegetation, which further reduces habitat suitability. Given the absence of key edaphic and hydrologic

characteristics, along with ongoing disturbance, the habitat is considered unsuitable for Congdon's tarplant (CNPS 2026). Based on these factors, the species is determined to be absent from the project site.

5.2 Special-Status Animal Species

The legal status and likelihood of occurrence on the project site of special-status animal species known to occur, or potentially occurring, in the surrounding region are presented in Table 1. Most of the special-status species listed in Table 1 are not expected to occur on the project site because it lacks suitable habitat, is outside the known range of the species, and/or is isolated from the nearest known extant populations by development or otherwise unsuitable habitat.

The following special-status species that are present in less urbanized settings in the South Bay, or in specialized habitats in the South Bay, are absent from the project site due to a lack of suitable habitat and/or isolation of the site from populations by urbanization: the Bay checkerspot butterfly (*Euphydryas editha bayensis*), monarch butterfly (*Danaus plexippus*), Crotch's bumble bee (*Bombus crotchii*), California tiger salamander (*Ambystoma californiense*), California red-legged frog (*Rana draytonii*), foothill yellow-legged frog (*Rana boylii*), northwestern pond turtle (*Actinemys marmorata*), burrowing owl (*Athene cunicularia*), bald eagle (*Haliaeetus leucocephalus*), loggerhead shrike (*Lanius ludovicianus*), least Bell's vireo (*Vireo bellii pusillus*), grasshopper sparrow (*Ammodramus savannarum*), Bryant's savannah sparrow (*Passerculus sandwichensis alaudinus*), tricolored blackbird (*Agelaius tricolor*), American badger (*Taxidea taxus*), San Joaquin kit fox (*Vulpes macrotis mutica*), mountain lion (*Puma concolor*), Townsend's big-eared bat (*Corynorhinus townsendii*), and pallid bat (*Antrozous pallidus*). While golden eagles (*Aquila chrysaetos*) and white-tailed kites (*Elanus leucurus*) may fly over the project site at times, none are expected to nest in, or make regular/heavy use of, any resources on the project site. The western bumble bee (*Bombus occidentalis*) occurred historically in the South Bay but no longer occurs in the region due to range contractions.

No aquatic habitats to support special-status fish species are present on or adjacent to the project site. The site is located 0.4 mile southwest of Coyote Creek, which supports the Central California Coast steelhead (*Oncorhynchus mykiss*), Central Valley fall-run Chinook salmon (*Oncorhynchus tshawytscha*), Pacific lamprey (*Entosphenus tridentatus*), Sacramento hitch (*Lavinia exilicauda exilicauda*), and Central California roach (*Lavinia symmetricus symmetricus*). The riffle sculpin (*Cottus gulosus*) is known to occur farther upstream in Coyote Creek, but unlikely to be present in the reach of the creek east of the project site. These special-status species will not be directly or indirectly affected by project activities due to the intervening distance and developed habitat between Coyote Creek and the project site. As a result, these species are not discussed further in this report.

The yellow warbler (*Setophaga petechia*), a California species of special concern when nesting, is an abundant migrant that can potentially forage on the project site. However, no suitable nesting habitat occurs on or near the project site. As a result, this species is not considered "special-status" when it occurs on the site.

In summary, no special-status species are expected to occur on or adjacent to the project site.

Table 1. Special-status Animal Species, Their Status, and Potential Occurrence on the Project Site

Name	*Status	Habitat	Potential for Occurrence on the Project Site
Federal or State Endangered, Threatened, or Candidate Species			
Bay checkerspot butterfly (*Euphydryas editha bayensis*)	FT, VHP	Native grasslands on serpentine soils. Larval host plants are *Plantago erecta* and/or *Castilleja exserta* or *C. densiflora*.	**Absent.** No suitable native grasslands or serpentine soils are present on the project site to support this species, and the VHP does not map suitable habitat on the project site (ICF International 2012). Determined to be absent.
Monarch butterfly (*Danaus plexippus*)	FC	Requires milkweeds for egg-laying and larval development, but adults obtain nectar from a wide variety of flowering plants in many habitats. Individuals congregate in winter roosts, primarily in Mexico and in widely scattered locations on the central and southern California coast.	**Absent.** The monarch butterfly occurs throughout the region primarily as a migrant. No larval host plants were observed on the project site during the April 2026 survey, when milkweeds, if present, would have been detectable. Therefore, no suitable breeding habitat for monarchs occurs on the project site. While individuals may occur in the project vicinity as occasional migrants, this species is not expected to forage on the project site due to the low quality of the landscape vegetation and the site's highly urbanized surroundings. No suitably dense groves of trees are present on the project site to provide overwintering habitat for monarchs, and no current or historical overwintering sites are known as far inland as the project site; the nearest known overwintering location is 4.8 miles to the northwest at Sunnyvale Baylands Park (Xerces Society 2026).
Crotch's bumble bee (*Bombus crotchii*)	SC	Open grassland and scrub habitats.	**Absent.** Although the species was historically found throughout much of central and northern California (CDFW 2019), including the project vicinity, it is not expected to occur on the project site due to recent range contractions and lack of suitable habitat. Determined to be absent.
Western bumble bee (*Bombus occidentalis*)	SC	Meadows and grasslands with abundant floral resources.	**Absent.** Although the species was historically found throughout much of central and northern California, including the project vicinity, it is not expected to occur on the site due to recent range contractions. Determined to be absent.
Central California Coast steelhead (*Oncorhynchus mykiss*)	FT	Cool streams with suitable spawning habitat and conditions allowing migration between spawning and marine habitats.	**Absent.** No aquatic habitats are present on or adjacent to the project site to provide suitable habitat for steelhead. This species is determined to be absent.

Name	*Status	Habitat	Potential for Occurrence on the Project Site
California tiger salamander (*Ambystoma californiense*)	FT, ST, VHP	Vernal or temporary pools in annual grasslands or open woodlands.	**Absent.** Populations located on the Santa Clara Valley floor have been extirpated due to habitat loss, and the species is now considered absent from the majority of the Valley floor, including the project site (H. T. Harvey & Associates 1999a and 2012, Valley Water 2011). No recent records of California tiger salamanders are located anywhere in the project vicinity (CNDDB 2026). Determined to be absent.
California red-legged frog (*Rana draytonii*)	FT, CSSC, VHP	Streams, freshwater pools, and ponds with emergent or overhanging vegetation.	**Absent.** No aquatic habitat to support this species occurs on or adjacent to the project site. The VHP maps Coyote Creek 0.4 mile to the northeast as breeding habitat for California red-legged frogs (ICF International 2012). However, this species has been extirpated from the majority of the project region, including the entire urbanized Santa Clara Valley floor, due to development, the alteration of hydrology of its aquatic habitats, and the introduction of nonnative predators such as nonnative fishes and bullfrogs (H. T. Harvey & Associates 1997, Valley Water 2011). Determined to be absent.
Foothill yellow-legged frog (*Rana boylii*)	FPT, SE, VHP	Partially shaded shallow streams and riffles with a rocky substrate. Occurs in a variety of habitats in coast ranges.	**Absent.** No aquatic habitat to support this species occurs on or adjacent to the project site. The VHP maps Coyote Creek 0.4 mile to the northeast as secondary habitat for foothill yellow-legged frogs (ICF International 2012). However, this species has been extirpated from valley floor areas of Santa Clara County, and is no longer known to occur along the County's streams below major reservoirs, including Calero and Almaden Reservoirs which are located upstream of the project (H. T. Harvey & Associates 1999b). Determined to be absent.
Northwestern pond turtle (*Actinemys marmorata*)	CSSC, VHP, FPT	Permanent or nearly permanent water in a variety of habitats.	**Absent.** No suitable aquatic habitat is present on or adjacent to the project site, and breeding populations of northwestern pond turtles have been extirpated from most urbanized areas in the region. However, individuals of this long-lived species still occur in urban streams and ponds in the Santa Clara Valley (CNDDB 2026) and the species is known to occur along Coyote Creek 0.4 mile to the northeast. No suitable nesting habitat for northwestern pond turtles is present on the project site, and due to the presence of 0.4 mile of urban development between the site and Coyote Creek, individuals are not expected to travel from Coyote Creek to reach the project site. Determined to be absent.

Name	*Status	Habitat	Potential for Occurrence on the Project Site
Burrowing owl (*Athene cunicularia*)	CSSC, VHP, SC	Nests and roosts in open grasslands and ruderal habitats with suitable burrows, usually those made by California ground squirrels.	**Absent.** Burrowing owls are not known to occur on the project site, and no individuals were observed during the April 2026 site visit. No suitable habitat for this species occurs on the project site; the California annual grassland habitat on the site is extremely marginal and highly disturbed, without suitable burrows to support roosting and nesting. Further, due to the low quality of this habitat, the lack of connectivity with larger grasslands in the region, as well as high levels of human disturbance, burrowing owls are not expected to forage in grasslands on the site. Determined to be absent.
Bald eagle (*Haliaeetus leucocephalus*)	SE, SP	Occurs mainly along seacoasts, rivers, and lakes; nests in tall trees or in cliffs, occasionally on electrical towers. Feeds mostly on fish.	**Absent.** Nests and forages in the region primarily at inland reservoirs. No suitable nesting or foraging habitat is present on the project site.
Least Bell's vireo (*Vireo bellii pusillus*)	FE, SE, VHP	Nests in heterogeneous riparian habitat, often dominated by cottonwoods and willows.	**Absent.** The only breeding records in Santa Clara County are from Llagas Creek southeast of Gilroy in 1997 and the Pajaro River south of Gilroy in 1932 (Rottenborn 2007a). Otherwise, records in the County of potential least Bell's vireos include 1–2 singing males along lower Llagas Creek in May 2001 (CNDDB 2026), a singing male in June 2006 along Coyote Creek near the Coyote Creek Golf Club (H. T. Harvey & Associates 2007; not seen, so subspecies not confirmed), and a singing male on May 23, 2016 in Alviso (Jeffers, pers. comm.). The VHP does not map suitable habitat for this species as occurring within or adjacent to the project site (ICF International 2012). Determined to be absent.
Tricolored blackbird (*Agelaius tricolor*)	ST, VHP	Nests near fresh water in dense emergent vegetation.	**Absent.** In Santa Clara County, has bred in only a few scattered locations, and is absent from, or occurs only as a nonbreeder in, most of the County (Rottenborn 2007b). Typically nests in extensive stands of tall emergent herbaceous vegetation in non-tidal freshwater marshes and ponds. No suitable nesting habitat is present on or near the project site. Thus, this species is determined to be absent.

Name	*Status	Habitat	Potential for Occurrence on the Project Site
San Joaquin kit fox (*Vulpes macrotis mutica*)	FE, ST, VHP	Annual grassland or mixed shrub and grassland habitats throughout low, rolling hills and in valleys.	**Absent.** This species has not been recorded in the site vicinity, and is not expected to occur on the project site. The closest area of potential occurrence (based on VHP mapping) is more than 30 miles southeast of the project site in the vicinity of Pacheco Creek and the uppermost reaches of the Pajaro River, where it may occur infrequently and in low numbers during dispersal (ICF International 2012). Determined to be absent.
Mountain lion (*Puma concolor*) Southern California/Central Coast ESU	SE	Has a large home range size and occurs in a variety of habitats. Natal dens are typically located in remote, rugged terrain far from human activity. May occasionally occur in areas near human development, especially during dispersal.	**Absent.** In the project region, mountain lions occur primarily in the Santa Cruz Mountains and the Diablo Range. This species is not expected to occur on the project site owing to high levels of human activity and the project's location in urbanized San José. Determined to be absent.
California Species of Special Concern			
Central Valley fall-run Chinook salmon (*Oncorhynchus tshawytscha*)	CSSC	Cool rivers and large streams that reach the ocean and that have shallow, partly shaded pools, riffles, and runs.	**Absent.** No aquatic habitats are present on or adjacent to the project site to support Chinook salmon, and this species is absent from the project site.
Pacific lamprey (*Entosphenus tridentatus*)	CSSC	Medium- and large-sized, low-gradient cold rivers and streams, with a wide range of habitats (e.g., gravel, low-gradient riffles).	**Absent.** No aquatic habitats are present on or adjacent to the project site to provide suitable habitat for Pacific lamprey, and this species is absent from the project site.
Central California roach (*Lavinia symmetricus symmetricus*)	CSSC	Generally found in small streams, they are well adapted to intermittent watercourses (e.g., tolerant of high temperatures and low oxygen levels).	**Absent.** No aquatic habitats are present on or adjacent to the project site to provide suitable habitat for Central California roach, and this species is absent from the project site.
Sacramento hitch (*Lavinia exilicauda exilicauda*)	CSSC	Warm, lowland, waters including clear streams, turbid sloughs, lakes, and reservoirs. Has a high tolerance for varying stream conditions and water temperature.	**Absent.** No aquatic habitats are present on or adjacent to the project site to provide suitable habitat for Sacramento hitch, and this species is absent from the project site.

Name	*Status	Habitat	Potential for Occurrence on the Project Site
Riffle sculpin (Cottus gulosus)	CSSC	Permanent, cool, headwater streams with an abundance of riffles and rocky substrates.	**Absent.** No aquatic habitats are present on or adjacent to the project site to provide suitable habitat for riffle sculpin. This species is absent from the project site.
Loggerhead shrike (*Lanius ludovicianus*)	CSSC (nesting)	Nests in tall shrubs and dense trees; forages in grasslands, marshes, and ruderal habitats.	**Absent.** Nests (or at least formerly nested) in a number of locations around the South Bay where open grassland, ruderal, or agricultural habitat with scattered brush, chaparral, or trees provides perches and nesting sites (Bousman 2007), though populations have declined in recent years as suitable habitat has been increasingly developed. Suitably extensive grasslands to support this species are not present on the project site, and the site is isolated from suitably extensive grasslands in the foothills to the east by high-density urban development. Determined to be absent.
Yellow warbler (*Setophaga petechia*)	CSSC (nesting)	Nests in riparian woodlands.	**Absent as Breeder.** No suitable riparian nesting habitat for yellow warblers is present on or near the project site. The species is an abundant migrant throughout the project region during the spring and fall, when nonbreeding individuals may forage in trees and shrubs throughout the project site.
Grasshopper sparrow (*Ammodramus savannarum*)	CSSC (nesting)	Nests and forages in grasslands, meadows, fallow fields, and pastures.	**Absent.** Known to occur in the region primarily in extensive grasslands and less frequently disturbed agricultural habitats, mostly in the foothills. This species does not breed in grasslands on the Santa Clara Valley floor, suitably extensive grasslands or agricultural habitats to support this species are not present on the project site, and the site is isolated from suitably extensive grasslands in the foothills to the east by high-density urban development. Determined to be absent.
Bryant's savannah sparrow (*Passerculus sandwichensis alaudinus*)	CSSC	Nests in pickleweed dominant salt marsh and adjacent ruderal habitat.	**Absent.** In the South San Francisco Bay, nests primarily in short pickleweed-dominated portions of diked/muted tidal salt marsh habitat and in adjacent ruderal habitats (Rottenborn 2007c). No suitable habitat occurs on the project site, and this species is determined to be absent.

Name	*Status	Habitat	Potential for Occurrence on the Project Site
Pallid bat (*Antrozous pallidus*)	CSSC	Forages over many habitats; roosts in caves, rock outcrops, buildings, and hollow trees.	**Absent.** No suitable roosting or foraging habitat is present on the project site. Historically, pallid bats were likely present in a number of locations throughout the project region, but their populations have declined in recent decades. This species has been extirpated as a breeder from urban areas close to the Bay, as is the case in the project site. No known maternity colonies of this species are present within or adjacent to the project site, and there is a low probability that the species occurs in the site vicinity at all due to urbanization.
Townsend's big-eared bat (*Corynorhinus townsendii*)	CSSC	Roosts in caves and mine tunnels, and occasionally in deep crevices in trees such as redwoods or in abandoned buildings, in a variety of habitats.	**Absent.** No known extant populations of the Townsend's big-eared bat occur on the Santa Clara Valley floor. Suitable breeding habitat is not present on the project site, and no colonies are known from the site vicinity. Determined to be absent.
American badger (*Taxidea taxus*)	CSSC	Burrows in grasslands and occasionally in infrequently disked agricultural areas.	**Absent.** Known to occur in the project region primarily in extensive grasslands and agricultural habitats, mostly in the foothills of the Diablo Range to the east. Suitably extensive grasslands or agricultural habitats to support this species are not present on the project site, and the site is isolated from suitably extensive grasslands in the foothills to the east by high-density urban development. Determined to be absent.
State Fully Protected Species			
Golden eagle (*Aquila chrysaetos*)	SP	Breeds on cliffs or in large trees (rarely on electrical towers); forages in open areas.	**Absent.** No suitable nesting or foraging habitat is present on or adjacent to the project site. The species may occasionally fly over the project site, but it is not expected to nest or forage there. Determined to be absent.
White-tailed kite (*Elanus leucurus*)	SP	Nests in tall shrubs and trees; forages in grasslands, marshes, and ruderal habitats.	**Absent.** Suitable nesting or foraging habitat is present in trees on and adjacent to the project site. However, this species is not known to nest or occur regularly in the project vicinity (Cornell Lab of Ornithology 2026). This species may occasionally fly over the project site, but it is not expected to nest or forage there. Determined to be absent.

Key to Abbreviations:

Status: Federally Endangered (FE); Federally Threatened (FT); Federal Candidate for Listing (FC); Federally Proposed as Threatened (FPT); State Endangered (SE); State Threatened (ST); State Candidate (SC); State Fully Protected (SP); California Species of Special Concern (CSSC); Santa Clara Valley Habitat Plan Covered Species (VHP).

5.3 Sensitive Natural Communities, Vegetation Alliances, and Habitats

Natural communities have been considered part of the Natural Heritage Conservation triad, along with plants and animals of conservation significance, since the state inception of the Natural Heritage Program in 1979. The CDFW determines the level of rarity and imperilment of vegetation types and tracks sensitive communities in its Rarefind database (CNDDB 2026). Global rankings (G) of natural communities reflect the overall condition (rarity and endangerment) of a habitat throughout its range, whereas state (S) rankings are a reflection of the condition of a habitat within California. Natural communities are defined using NatureServe's standard heritage program methodology as follows (Faber-Langendoen et al. 2012):

G1/S1: Critically imperiled

G2/S2: Imperiled

G3/S3: Vulnerable.

G4/S4: Apparently secure

G5/S4: Secure

In addition to tracking sensitive natural communities, the CDFW also ranks vegetation alliances, defined by repeating patterns of plants across a landscape that reflect climate, soil, water, disturbance, and other environmental factors (Sawyer et al. 2009). If an alliance is marked G1-G3, all of the vegetation associations within it will also be of high priority (CDFW 2026). The CDFW provides VegCAMP's currently accepted list of vegetation alliances and associations (CDFW 2026).

Impacts on CDFW sensitive natural communities, vegetation alliances/associations, or any such community identified in local or regional plans, policies, and regulations, must be considered and evaluated under CEQA (Title 14, Division 6, Chapter 3, Appendix G of the California Code of Regulations). Furthermore, aquatic, wetland and riparian habitats are also protected under applicable federal, state, or local regulations, and are generally subject to regulation, protection, or consideration by the USACE, RWQCB, CDFW, and/or the USFWS.

5.3.1 Sensitive Natural Communities

A query of sensitive habitats in the CNDDB (2026) identified two sensitive natural communities as occurring within the nine 7.5-minute USGS quadrangles containing or surrounding the project site: (1) sycamore alluvial woodland (Rank G1/S1.1), and (2) northern coastal salt marsh (Rank G3/S3.2). Sycamore alluvial woodland is characterized by Holland (1986) as being open to moderately closed, winter-deciduous broadleaved riparian woodland overwhelmingly dominated by well-spaced western sycamores (*Platanus racemosa*). Western sycamores are not present on the project site, therefore sycamore alluvial woodland is absent. Northern coastal salt marsh is characterized by Holland (1986) as a low, dense, perennial halophytic community occurring along protected

bays, estuaries, and coastal lagoons subject to regular tidal inundation. Salt marsh vegetation such as pickleweed (*Salicornia pacifica*) is not present on the project site, therefore northern coastal salt marsh is absent.

5.3.2 Sensitive Vegetation Alliances

The only natural community present on the project site is California annual grassland, which is dominated by wild oats and ripgut brome. This community corresponds to the "Wild oats and annual brome grasslands (*Avena* spp. – *Bromus* spp.)" alliance (CDFW 2026). Although this alliance does not have a global or state ranking, it is characterized by nonnative species dominance and is not considered sensitive by VegCAMP. Therefore, no sensitive vegetation alliances occur on the project site.

5.3.3 CDFW Riparian Habitat

No riparian habitat occurs on or adjacent to the project site.

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

No waters or wetlands of the U.S./state occur on or adjacent to the project site.

5.3.5 Nonnative and Invasive Species

Seventeen nonnative, invasive plant species occur on the project site (Appendix A). Two species, Sydney golden wattle and red-hot poker (*Kniphofia uvaria*), are listed by the California Invasive Plant Council (Cal-IPC) as *watch* species, which are plants that are not currently ranked as invasive but are monitored due to their potential to spread and become invasive in California.

The following species have a rating of *limited* invasiveness (considered invasive but their ecological impacts are minor on a statewide level and their reproductive biology and other attributes result in low to moderate rates of invasiveness) according to the Cal-IPC (2026): bristly ox-tongue (*Helminthotheca echioides*), wild radish (*Raphanus sativus*), redstem filaree, cherry plum, European olive (*Olea europaea*), Russian thistle, and smilo grass (*Stipa milacea*).

The following species have a *moderate* rating, indicating that they have substantial and apparent—but generally not severe—ecological impacts on physical processes, plant and animal communities, and vegetation structure, and that their reproductive biology and other attributes are conducive to moderate to high rates of dispersal, though establishment would be generally dependent upon ecological disturbance: poison hemlock, fennel, black mustard, shortpod mustard, Bermuda grass, and ripgut brome.

Species with a *high* invasive rating by the Cal-IPC have the potential to cause severe ecological impacts on physical processes, plant and animal communities, and vegetation structure. Their reproductive biology and other attributes are conducive to moderate-to-high rates of dispersal and establishment, and most are widely distributed ecologically (Cal-IPC 2026). Two species with a *high* invasive rating were observed on the project site: English ivy and Himalayan blackberry. Due to their ubiquity in the region, and the fact that proposed

project activities are expected to clear and develop all areas where populations of invasive species are located, project activities are not expected to result in the spread of nonnative and invasive plant species.

Section 6. Impacts and Mitigation Measures

CEQA and the State CEQA Guidelines provide guidance in evaluating impacts of projects on biological resources and determining which impacts will be significant. The Act defines "significant effect on the environment" as "a substantial adverse change in the physical conditions which exist in the area affected by the proposed project."

Appendix G of State CEQA Guidelines provides a checklist of other potential impacts to consider when analyzing the significance of project effects. The impacts listed in Appendix G (Chapter IV) may or may not be significant, depending on the level of the impact. For biological resources, these impacts include whether the project would:

A. "have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service"

B. "have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service"

C. "Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means"

D. "interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites"

E. "conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance"

F. "conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan"

Potential impacts on biological resources as a result of the proposed project were systematically evaluated at the project level based on the project plans, description, and impact area provided to us by David J. Powers & Associates through May 2026. Based on this information, it is our understanding that all project impacts, including grading, construction, staging, and access, will occur within the limits of the project site, and that all project impacts within this boundary will be permanent.

6.1 Santa Clara Valley Habitat Plan

The proposed project is classified as an *Urban Development* project, which is a *covered project* under the VHP (ICF International 2012). Urban Development projects include private development projects within the planning limits of urban growth in San José. The Santa Clara Valley Habitat Agency (SCVHA) leads the implementation of the VHP, which is a regional partnership between the CDFW, the USFWS, and six local partners, including Valley Water, the County of Santa Clara, the Santa Clara Valley Transportation Authority, and the Cities of San José, Gilroy, and Morgan Hill. The VHP was adopted in 2013 by all local participating agencies, and permits were issued from the USFWS and CDFW. The VHP is both a habitat conservation plan and natural community conservation plan. The planning document helps private and public entities plan and conduct projects and activities in ways that lessen impacts on natural resources, including specific threatened and endangered species. The VHP identifies regional lands (called reserves) to be preserved or restored to the benefit of at-risk species and describes how reserves will be managed and monitored to ensure that they benefit those species. In providing a long-term, coordinated planning for habitat restoration and conservation, the VHP aims to enhance the viability of threatened and endangered species throughout the Santa Clara Valley.

The VHP defines measures to avoid, minimize, and mitigate impacts on covered species and their habitats while allowing for the implementation of certain covered projects. Chapter 6 of the VHP includes detailed and comprehensive conditions to avoid and minimize impacts on the 18 "covered species" (nine animal species and nine plant species) included in the plan area, which consists of 519,506 acres, or approximately 62% of Santa Clara County. These conditions are designed to achieve the following objectives:

- provide avoidance of certain covered species during implementation of covered activities throughout the project site;
- prevent take of individuals of certain covered species from covered activities as prohibited by law (e.g., take of fully protected species);
- minimize impacts on natural communities and covered species where conservation actions will take place; and
- avoid and minimize impacts on jurisdictional wetlands and waters throughout the study area to facilitate project-by-project wetland permitting.

In conformance with the VHP, project proponents are required to pay impact fees in accordance with the types and acreage of habitat or "land cover" impacted, and to implement conservation measures specified by the VHP. Land cover impacts are used because it is the best predictor of potential species habitat, and is applicable to all of the covered species (with the exception of the burrowing owl). The SCVHA has mapped the following three fee zones in the VHP area: (1) ranchland and natural lands, (2), agricultural and valley floor lands, and (3) small vacant sites (SCVHA 2026). The following areas are exempt from land cover fees:

- all development that occurs on land mapped by the VHP as urban-suburban, landfill, reservoir (excluding dams), or agriculture developed land cover types;
- urban development in Fee Zones A–C on parcels less than 0.5 acre;
- additions to structures within 50 feet of an existing structure that result in less than 5,000 feet of impervious surface so long as there is no effect on wetland or serpentine land cover types; and
- construction of recreational facilities within the reserve system.

Additional fees in-lieu of providing compensatory mitigation are imposed for projects that impact serpentine habitat, wetlands, and burrowing owls, and for certain projects that result in atmospheric nitrogen emissions, although in some cases, project proponents may provide land to restore or create habitats protected by the VHP in lieu of payment of fees.

The project is located within the VHP Urban Service Area for the City of San José (Figure 6). In regards to the VHP's land cover fee zones, the project site falls entirely within Urban Areas (no land cover fees) (Figure 6). The project will also engender an anticipated 351 daily vehicle trips per month by personnel visiting the facilities and may therefore be required to pay fees for nitrogen emissions.

The impact assessment in Section 6.2 below summarizes the types of applicable fees and conservation measures that are required by the VHP. VHP conditions that apply to the proposed project are as follows:

Condition 1. Avoid Direct Impacts on Legally Protected Plant and Wildlife Species

Several wildlife species that occur in the project vicinity are protected under state and federal laws. Further, all native bird species and their nests are protected under the MBTA and California Fish and Game Code. Actions conducted under the VHP must comply with the provisions of the MBTA and California Fish and Game Code.

Condition 3. Maintain Hydrologic Conditions and Protect Water Quality

Condition 3 applies to all projects and identifies a set of programmatic BMPs, performance standards, and control measures to minimize increases of peak discharge of storm water and to reduce runoff of pollutants to protect water quality, including during project construction. These requirements include preconstruction, construction site, and post-construction actions. Preconstruction conditions are site design planning approaches that protect water quality by preventing and reducing the adverse impacts of stormwater pollutants and increases in peak runoff rate and volume. They include hydrologic source control measures that focus on the protection of natural resources. Construction site conditions include source and treatment control measure to prevent pollutants from leaving the construction site and minimizing site erosion and local stream sedimentation during construction. Post-construction conditions include measures for stormwater treatment and flow control.



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Ecological Consultants

Figure 6. VHP Urban Service Area, Development Areas, and Fee Zones
Charcot Avenue Data Center and Backup Generating Facility (5066-01)
June 2026

6.2 Impacts on Special-Status Species: Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS (Less than Significant with Mitigation)

6.2.1 Impacts on California Annual Grassland and Ornamental Woodland Habitats and Associated Common Plant and Wildlife Species (Less than Significant)

Proposed project activities would result in permanent impacts to 0.5 acre of California annual grassland and 1.0 acre of ornamental woodland on the project site. These impacts would reduce the extent of vegetation of these habitats within the impact area and result in a reduction in the abundance of some of the common plant and wildlife species that occur there. However, the areas of California annual grassland and ornamental woodland on the site occur in a location in San José that has been subject to disturbance and fragmentation in the past and is embedded within a highly developed urban area, such that this area does not provide regionally rare or especially high-value habitat for native vegetation or wildlife, or special-status species. In addition, California annual grassland and ornamental woodland are abundant and widespread regionally and are not particularly sensitive, and these habitats on the project site are not especially valuable (from the perspective of providing important plant or wildlife habitat or an exemplary occurrence of this habitat type). Therefore, impacts on these habitats are considered less than significant. Further, because the number of individuals of any common plant or animal species within these habitats, and the proportion of these species' regional populations that could be disturbed, is very small, the project's impacts would not substantially reduce regional populations of these species. Thus, these impacts do not meet the CEQA standard of having a *substantial* adverse effect, and would not be considered significant under CEQA.

6.2.2 Impacts on Water Quality and Special-Status Fish (Less than Significant)

No aquatic habitats are present on or immediately adjacent to the project site, and the project will have no direct impacts on aquatic habitats. No special-status fish species occur on the project site.

Coyote Creek, located 0.4 mile northeast of the project site, supports aquatic habitats and special-status fish species including the Central California Coast steelhead and Central Valley fall-run Chinook salmon. Due to the distance between the project site and Coyote Creek, the project will have no indirect impacts on special-status fish species their habitats.

Additionally, the project shall comply with all VHP conditions, including Condition 3, which requires implementation of design phase, construction phase, and post-construction phase measures, including programmatic BMPs, performance standards, and control measures, to minimize increases of peak discharge of storm water and to reduce runoff of pollutants to protect water quality, including during construction. Construction projects in California causing land disturbances that are equal to 1 acre or greater must comply with state requirements to control the discharge of storm water pollutants under the NPDES *General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities* (Construction General Permit;

Water Board Order No. 2009-0009-DWQ, as amended and administratively extended). Prior to the start of construction/demolition, a Notice of Intent must be filed with the SWRCB describing the project. A Storm Water Pollution Prevention Plan must be developed and maintained during the project and it must include the use of best management practices to protect water quality until the site is stabilized. Standard permit conditions under the Construction General Permit require that the applicant utilize various measures including: on-site sediment control best management practices, damp street sweeping, temporary cover of disturbed land surfaces to control erosion during construction, and utilization of stabilized construction entrances and/or wash racks, among other factors.

In many Bay Area counties, including Santa Clara County, projects must also comply with the California RWQCB, San Francisco Bay Region, Municipal Regional Stormwater NPDES Permit (Water Board Order No. R2-2015-0049). This permit requires that all projects implement BMPs and incorporate LID practices into the design to prevent stormwater runoff pollution, promote infiltration, and hold/slow down the volume of water coming from a site after construction has been completed. In order to meet these permit and policy requirements, projects must incorporate the use of green roofs, impervious surfaces, tree planters, grassy swales, bioretention and/or detention basins, among other factors.

Therefore, project activities are not expected to result in substantial adverse effects on water quality and special-status fish, and such impacts would be less than significant.

6.2.3 Impacts due to Bird Collisions (Less than Significant)

As discussed above, under existing conditions, terrestrial land uses and habitat conditions on the project site and in surrounding areas of San José consist primarily of developed areas such as commercial buildings, parking lots, and roads. Vegetation in these developed areas is limited in extent and consists primarily of nonnative landscape trees and shrubs. Nonnative vegetation supports fewer of the resources required by native birds than native vegetation, and the structural simplicity of the vegetation (without well-developed ground cover, understory, and canopy layers) further limits resources available to birds (Anderson et al. 1977, Mills et al. 1989). Thus, although some bird species will regularly use the vegetation on the project site and in surrounding developed areas, they typically do so in low numbers. As a result, the number of individual landbirds that inhabit and regularly use vegetation on the project site at any given time is low under existing conditions.

Under proposed conditions, the project site will provide habitat of marginally greater value to landbirds compared to existing conditions. The project will remove approximately 22 trees from the site and plant approximately 135 new landscape trees. The new landscape trees will consist of native bigleaf maple (*Acer macrophyllum*), western redbud (*Cercis occidentalis*), and California bay (*Ubellularia californica*), as well as nonnative black elderberry (*Sambucus nigra*). Shrubs and ground cover will include native coffeeberry (*Frangula californica*), toyon (*Heteromeles arbutifolia*), giant wildrye (*Leymus condensatus*), silver lupine (*Lupinus albifrons*), sticky monkey-flower (*Mimulus aurantiacus*), coyote brush (*Baccharis pilularis*), Carmel ceanothus (*Ceanothus griseus*), spreading rush (*Juncus patens*), deergrass (*Muhlenbergia rigens*), and purple sage (*Salvia leucophylla*) as well as nonnative basket grass (*Lomandra longifolia*). Based on the project's planting plan, the future landscape vegetation that will be planted

on the site is expected to provide marginally greater habitat structure and foraging opportunities for landbirds compared to the existing landscape vegetation due to the addition of native bigleaf maple and California bay trees, the greater number of trees that will be present on the site, and the incorporation of native shrubs and ground cover. However, due to the limited extent and open structure of landscape vegetation that would be planted on the site (i.e., compared to natural habitats in the region with dense native understory and overstory vegetation, such as oak woodlands or riparian areas), in combination with the highly urbanized surrounding context, the quality of the nesting, foraging, and resting opportunities on the site for birds following project construction will be relatively low. As a result, any increase in the number of songbirds that regularly use and occur on the site following construction is expected to be negligible.

Coyote Creek, located 0.4 mile to the northeast, is an important movement corridor for songbirds that migrate along the Pacific Flyway, and many migrant songbird species disperse and forage along Coyote Creek in relatively large numbers. However, due to the intervening distance between the project site and the creek as well as the lack of high-quality habitat for migrant birds (e.g., riparian and oak woodland habitat with dense canopy and understory layers) on or adjacent to the site, large numbers of migrant birds associated with Coyote Creek are not expected to occur on the site. Further, the project site is not situated in a landscape position in between two high-quality habitat areas such that large numbers of birds would be flying past the site over the long term. As a result, collisions by large numbers of migrant birds are not expected with the proposed data center building.

It has been well documented that glass windows and building façades can result in injury or mortality of birds due to birds' collisions with these surfaces (Klem 2009, Sheppard and Phillips 2015). Because birds do not perceive glass as an obstruction the way humans do, they may collide with glass when the sky or vegetation is reflected in glass (e.g., they see the glass as sky or vegetated areas); when transparent windows allow birds to perceive an unobstructed flight route through the glass (such as at corners); and when the combination of transparent glass and interior vegetation (such as in planted atria) results in attempts by birds to fly through glass to reach that vegetation. The greatest risk of avian collisions with buildings occurs in the area within 40–60 feet of the ground because this is the area in which most bird activity occurs (San Francisco Planning Department 2011, Sheppard and Phillips 2015). Very tall buildings (e.g., buildings 500 feet or more high) may pose a threat to birds that are migrating through the area, particularly to nocturnal migrants that may not see the buildings or that may be attracted to lights on the buildings (San Francisco Planning Department 2011).

The proposed data center buildings includes glazing at the northwest corner; all remaining facades of the building will be composed of opaque insulated metal panels (Figure 7). There is some potential for birds using the site to collide with this glazing for the following reasons:

- The site plan indicates that landscape vegetation will be planted along and adjacent to the proposed building. Such vegetation is expected to attract birds, drawing them towards the glass on the building. Further, vegetation would reflect in the glass of the building's facades, potentially causing birds to attempt

to fly in to the reflected "vegetation" and strike the glass. As a result, some birds that are attracted to the trees and other landscaping that are adjacent to the glass façades are expected to collide with the glass.

- Night lighting associated with the project has some potential to disorient birds, especially during inclement weather when night migrating birds descend to lower altitudes. As a result, some birds moving past the project site at night may be disoriented by night lighting and potentially collide with glass on the building.

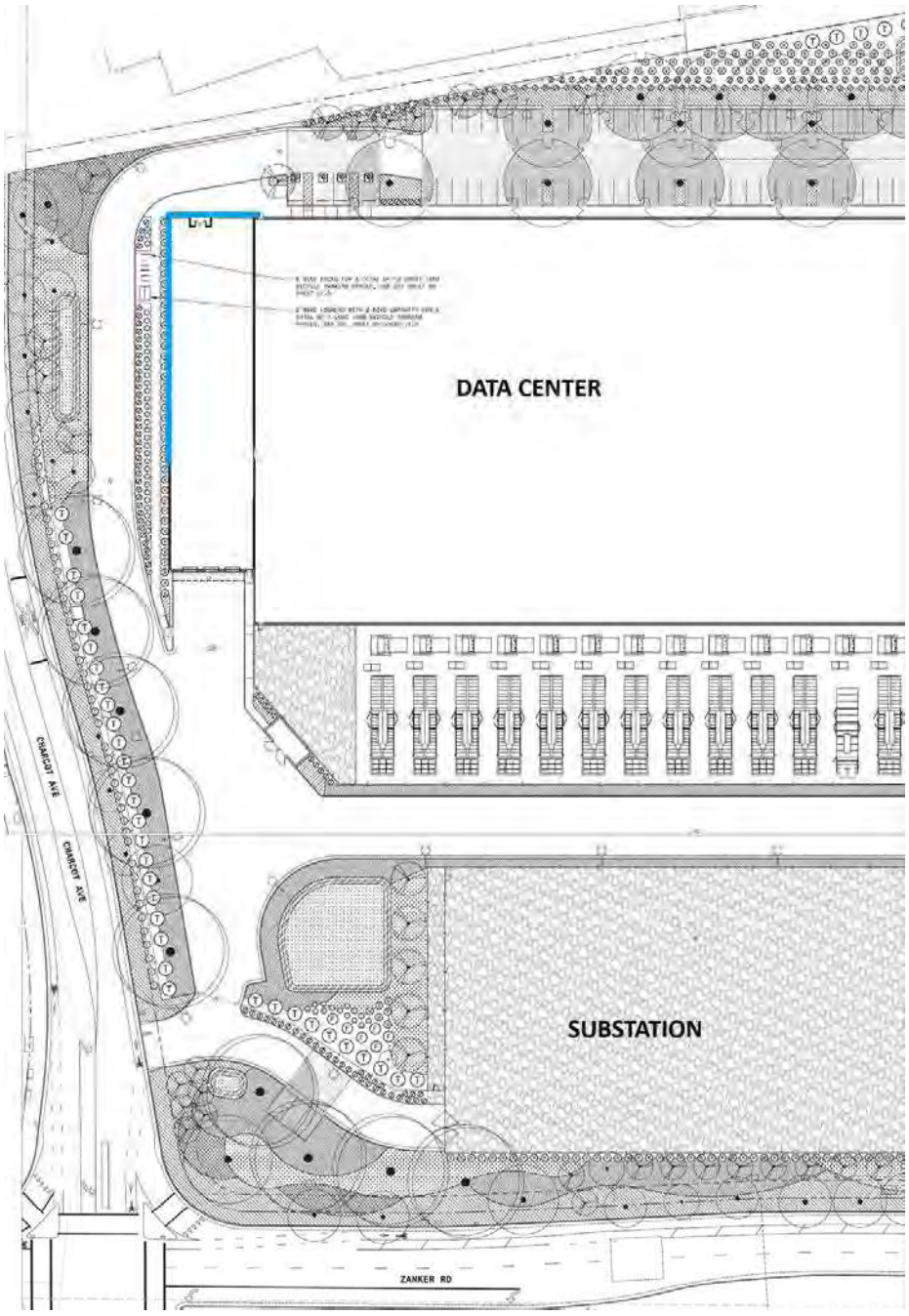


Figure 7. Landscape Plan Showing the Proposed Extent of Landscape Vegetation Adjacent to Glazed Facades on the Data Center. Facades with proposed glazing are indicated in blue.

Buildings are estimated to result in the mortality of an estimated 365 to 988 million birds per year, or 2–9% of all North American birds, with low-rise buildings such as the proposed project accounting for the mortality of an estimated 62–664 million birds (median 246 million) each year (Loss et al. 2014). Most birds that are vulnerable to collisions with low-rise buildings are migrants that move through during the spring and fall (Loss et al. 2014). Certain groups of birds are also more vulnerable to collisions, including hummingbirds, swifts, waxwings, warblers, nuthatches, tits, and creepers (Loss et al. 2014), all of which occur on the project site either as migrants or year-round residents. However, as discussed above, only low numbers of resident birds use the site, and due to the intervening distance between the site and Coyote Creek, few migrant birds would be attracted to the site over the long term. As a result, construction of the project would not result in the mortality of large numbers of birds relative to the size of regional population, and this impact is considered less than significant under CEQA.

The effects of night lighting on birds are provided separately in Section 6.2.4 below.

6.2.4 Impacts due to Increased Lighting (Less than Significant)

Many animals are sensitive to light cues, which influence their physiology and shape their behaviors, particularly during the breeding season (Ringer 1972, de Molenaar et al. 2006). Artificial light has been used as a means of manipulating breeding behavior and productivity in captive birds for decades (de Molenaar et al. 2006), and has been shown to influence the territorial singing behavior of wild birds (Longcore and Rich 2004, Miller 2006, de Molenaar et al. 2006). While it is difficult to extrapolate results of experiments on captive birds to wild populations, it is known that photoperiod (the relative amount of light and dark in a 24-hour period) is an essential cue triggering physiological processes as diverse as growth, metabolism, development, breeding behavior, and molting (de Molenaar et al. 2006). This holds true for birds, mammals (Beier 2006), and other taxa as well, suggesting that increases in ambient light may interfere with these processes across a wide range of species, resulting in impacts on wildlife populations.

Artificial lighting may indirectly impact mammals and birds by increasing the nocturnal activity of predators like owls, hawks, and mammalian predators (Negro et al. 2000, Longcore and Rich 2004, DeCandido and Allen 2006, Beier 2006). The presence of artificial light may also influence habitat use by rodents (Beier 2006) and by breeding birds (Rogers et al. 2006, de Molenaar et al. 2006), by causing avoidance of well-lit areas, resulting in a net loss of habitat availability and quality.

The project will result in the construction of buildings and other features (e.g., driveways, roads, and pedestrian walkways) that could increase the amount of lighting on and around the project site. Lighting from the project would be the result of light fixtures illuminating buildings, building architectural lighting, driveway/road lighting, and pedestrian lighting. Depending on the location, direction, and intensity of exterior lighting, without protective measures, this lighting can potentially spill into adjacent natural areas, thereby resulting in an increase in lighting compared to existing conditions. However, areas surrounding the project site are developed urban habitats that do not support sensitive species that might be significantly impacted by illuminance from the project, and lighting from the project is not expected to spill past surrounding buildings to illuminate riparian

habitats along Coyote Creek 0.4 mile to the northeast. The wildlife species inhabiting the developed areas around the project site are already habituated to the existing artificial illuminance from a variety of urban and natural light sources that are found nearby. Due to the absence of sensitive species and habitats on and surrounding the project site and the existing artificial light produced by existing structures, the impacts from increased lighting would be less than significant under CEQA.

6.2.5 Impacts due to Increased Noise Levels (Less than Significant)

There is some potential for wildlife inhabiting areas near the project site to vacate habitats due to increased noise levels during or following construction. If noise from the project is perceived at Coyote Creek 0.4 mile to the northeast, such species could include the Central California Coast steelhead, northwestern pond turtle, as well as many species of resident and migratory birds. Wildlife individuals that move away from the site due to disturbance from project-related noise may be exposed to increased competition from conspecifics already occupying the area to which they are displaced and/or increased levels of predation because of unfamiliarity with the new area or lack of sufficient cover. If wildlife consistently avoid an area of suitable habitat along Coyote Creek due to increased noise levels, the project would effectively result in the loss of suitable habitat.

According to the project's noise study, existing measured ambient noise levels surrounding the project site range from an hourly average of 52–67 decibels (dBA), with occasional peaks up to an hourly average of 76 dBA (Illingworth & Rodkin Inc. 2026). The dominant noise sources are regular vehicle traffic on adjacent roads as well as occasional aircraft, wind gusts, and trash pickup.

Anticipated noise levels during construction, estimated as worst-case hourly averages, range from 75–84 dBA at 50 feet from the site (Illingworth & Rodkin Inc. 2026). Thus, noise levels in surrounding areas would increase to regular or sustained levels of approximately 75–84 dBA (e.g., similar to an appliance such as an air conditioner or dishwasher) during construction. Construction activities would occur for a period of 581 working days over 16 months.

Daily operational noise levels following construction are anticipated to be an hourly average of 54–52 dBA during normal operating conditions, and 55–69 dBA when the generators are running (Illingworth & Rodkin Inc. 2026).

Although the noise study did not provide existing ambient noise levels along Coyote Creek, noise from daily project operations is expected to influence hourly noise levels as far east as Coyote Creek, resulting in an increase in noise levels of approximately 5 dBA (hourly average) regardless of whether the generators are running (Illingworth & Rodkin Inc. 2026).

Wildlife that occur on and near the project site, including along Coyote Creek, are acclimated to existing noise levels in surrounding urban areas of San José. During construction and post-construction data center operation, noise levels in surrounding areas, including along Coyote Creek, would increase. However, based on measured ambient noise levels in the surrounding area (an hourly average of 52–67 dBA with occasional peaks of up to

76 dBA), the proposed noise from data center operations (an hourly average of 54–69 dBA) is similar to the range of current ambient noise levels experienced by wildlife in the surrounding area. Further, construction activities would be limited to the hours of 7:00 a.m. to 7:00 p.m., those activities would implement standard measures to minimize noise, and shielding by buildings often results in lower construction noise levels at distant receptors (Illingworth and Rodkin 2026). Due to the general high levels of disturbance in the immediately surrounding areas (e.g., related to surrounding development and busy roadways), the anticipated future noise levels along Coyote Creek represent only a marginal increase over existing noise levels. As a result, impacts due to noise from construction activities on the site as well as from future data center operations would be less than significant under CEQA.

6.2.6 Nitrogen Deposition Impacts (Less than Significant)

Several special-status plant and animal species that are absent from the project site and its vicinity occur on serpentine substrates in hills on either side of the Santa Clara Valley. These species include the Bay checkerspot butterfly and a number of rare plants, including the VHP-covered Tiburon Indian paintbrush (*Castilleja affinis* var. *neglecta*), coyote ceanothus (*Ceanothus ferrisiae*), Mount Hamilton thistle (*Cirsium fontinale* var. *campylon*), Santa Clara Valley dudleya (*Dudleya abramsii* ssp. *setchellii*), fragrant fritillary (*Fritillaria liliacea*), Loma Prieta hoita (*Hoita strobilina*), smooth lessingia (*Lessingia micradenia* var. *glabrata*), Metcalf Canyon jewelflower (*Streptanthus albidus* ssp. *albidus*), and most beautiful jewelflower (*Streptanthus albidus* ssp. *peramoenus*).

The USFWS has identified critical habitat for the federally threatened Bay checkerspot butterfly (73 FR 50406) approximately 9 miles southeast of the project site (USFWS 2008). The conservation of critical habitat is considered essential for the conservation of the Bay checkerspot butterfly, and this serpentine habitat also supports serpentine-associated rare plant species (including the VHP-covered species listed above). Nonnative grasses have been reported to increase in these habitats, crowding out native rare plants as well the native larval host plants needed by the Bay checkerspot butterfly, due to increased nitrogen deposition from human sources throughout San José and the greater Bay Area.

Nitrogen deposition contribution estimates in Santa Clara County were made as a part of the development of the VHP (ICF International 2012). About 46% of nitrogen deposition on habitat areas of concern for the base years (2005–2007) was estimated to come from existing development and traffic generated locally within the VHP study area, which includes all of San José. The remainder of Santa Clara County was estimated to contribute a substantially smaller amount (17% of the nitrogen deposition) while the other eight Bay Area counties account for about 11%. Nitrogen deposition modeling completed for future years (2035 and 2060) as a part of the VHP process assumed that urban and rural development in the County and broader San Francisco Bay Area is expected to increase air pollutant emissions due to an increase in passenger and commercial vehicle trips and other new industrial and nonindustrial sources.

Construction of the project will result in an estimated 351 new operational vehicle trips per day to the project site. Providing new office space in San José (which is housing rich) may reduce some vehicle trips currently occurring to other cities in the region and thus reduce NOx emissions to some extent. Nevertheless, these new

vehicle trips will result in an increase in NOx emissions, which in turn will contribute to the effects of nitrogen deposition on the serpentine grassland ecosystem. To mitigate this impact, a conservation strategy in the VHP includes collection of fees within the VHP area based upon the generation of new vehicle trips to fund acquisition and management of serpentine grasslands in the Coyote Ridge area and elsewhere in the foothills along the Santa Clara Valley. The goal of this strategy is to improve the viability of existing populations of the Bay checkerspot butterfly and rare plants, increase the number of populations, and expand the geographic distribution to ensure the long-term persistence of serpentine-associated species in the VHP area.

A nexus study was completed for the VHP to assist with identifying appropriate fees to fund measures in the VHP. The nitrogen deposition fee was calculated and adopted based on VHP costs related to mitigating the impacts of airborne nitrogen deposition from covered activities in the VHP area. The amount of the fee is based on the number of new daily vehicle trips generated by a covered activity. The fee-per-vehicle-trip is a surrogate that captures the overall effects of a project, recognizing that vehicle trips are not the only source of a project's NOx emissions. Due to an increase in NOx emissions under CEQA, the project shall be required to pay nitrogen deposition fees, which will then be used to fund the acquisition and management of habitat for the serpentine-associated species potentially impacted by nitrogen deposition. As a result, the project's nitrogen deposition impacts will be less than significant under CEQA.

6.3 **Impacts on Sensitive Communities**: Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the CDFW or USFWS (No Impact)

6.3.1 Impacts on Riparian Habitat or Other Sensitive Natural Communities (No Impact)

The CDFW defines sensitive natural communities and vegetation alliances using NatureServe's standard heritage program methodology (CDFW 2026), as described above in Section 5.3. Aquatic, wetland, and riparian habitats are also protected under applicable federal, state, or local regulations, and are generally subject to regulation, protection, or consideration by the USACE, RWQCB, CDFW, and/or the USFWS (see Section 6.4 below). Project impacts on sensitive natural communities, vegetation alliances/associations, or any such community identified in local or regional plans, policies, and regulations, were considered and evaluated.

Riparian habitat along Coyote Creek is located approximately 0.4 mile northeast of the project site. The entirety of ground-disturbing project impacts will occur outside of this habitat. Thus, the proposed project will have no direct permanent or temporary impacts on riparian habitat.

6.4 **Impacts on Wetlands**: Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means (No Impact)

Wetlands and other waters of the U.S./state are present approximately 0.4 mile northeast of the project site along Coyote Creek. The project design avoids all direct and indirect impacts on state and federally protected wetlands and aquatic habitats. Thus, no wetland habitat will be impacted directly or indirectly by the project.

6.5 **Impacts on Wildlife Movement**: Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites (Less than Significant)

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

As discussed in Section 4.3, the project site does not provide well-defined movement pathways for animals on or through the project site due to the density of development in the project region and the lack of continuous, well-vegetated pathways through the nearby urban areas. Wildlife species may move through the area using cover and refugia as they find them available. However, the project site is not a particularly important area for movement by non-flying wildlife, and it does not contain any high-quality corridors allowing dispersal of such animals. For these reasons, the project will not result in a significant impact on wildlife movement corridors.

6.6 **Impacts due to Conflicts with Local Policies**: Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance (Less than Significant)

6.6.1 Impacts Due to the Removal of Ordinance-Sized Trees (Less than Significant)

The project proposes to remove approximately 22 existing trees on the site, 19 of which would be considered ordinance-sized trees as defined by the City of San José, and the project proponent will submit a permit application for tree removal. In accordance with the provisions of the San José Municipal Code, the Standard Permit Conditions listed below would be implemented by the project.

Standard Permit Conditions

Trees impacted by the project will be replaced in accordance with all applicable laws, policies or guidelines, including Chapter 13 of the San José Municipal Code, General Plan policies MS-21.4, MS-21.5, MS-21.6, and CD-1.24, and City tree replacement ratios outlined in Table 2 below. Following the removal of trees on the site, a greater number of trees will be planted on the project site following construction.

Where applicable, the project proponent will implement a Tree Protection Plan and include measures to implement during project construction to minimize impacts to trees to remain. The measures include marking trees to remain in place in project plans and have tree protection zones established around the canopy drip line zone to avoid serious injury or loss.

Table 2 shows tree replacement ratios required by the project proponent. The species of trees to be planted shall be determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement.

Table 2. City of San José Standard Tree Replacement Ratios

Diameter of Tree to Be Removed	Type of Tree to be Removed[1]			Minimum Size of Each Replacement Tree
	Native	Nonnative	Orchard	
38 inches or greater	5:1	4:1	3:1	15-gallon container
19 up to 38 inches	3:1	2:1	none	15-gallon container
Less than 19 inches	1:1	1:1	none	15-gallon container

[1]x:x = tree replacement to tree loss ratio; Trees greater than 38" diameter shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees.

In the event the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures would be implemented during the final design phase of the project, to the satisfaction of the City Arborist and the Director of Planning, Building and Code Enforcement:

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

With the incorporation of the above measures to ensure compliance with the City of San José tree ordinance, any potential impacts related to conflict with local policies or ordinances protecting trees would be less than significant.

6.7 Impact due to Conflicts with an Adopted Habitat Conservation Plan: Conflict with the provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan (Less Than Significant)

The City of San José is a signatory to the VHP, which is a Habitat Conservation Plan and Natural Community Conservation Plan. As described in Section 6.1, the project is considered a *covered project* under the VHP. All VHP-covered species that may be affected by the proposed project are discussed in this report. Similarly, impacts on sensitive habitats for which the VHP requires specific impact fees (the project will have no impacts on such habitats) are discussed in this report. The project will apply for VHP coverage and will adhere to all applicable VHP Conditions during project implementation. Conditions applicable to the proposed project include Conditions 1 (avoid direct impacts to legally protected plant and wildlife species) and 3 (maintain hydrologic conditions and protect water quality). Therefore, the proposed project would not be in conflict with the VHP.

The proposed project would not be in conflict with any other adopted habitat conservation plans or natural community conservation plans, or with any other approved local, regional, or state habitat conservation plans or natural community conservation plans. Thus, impacts associated with conflicts between the proposed project and any adopted habitat conservation plan or natural community conservation plan are less than significant.

Construction disturbance and project tree removal during the avian breeding season (February 1 through August 31 inclusive, for most species) could result in the incidental loss of eggs or nestlings, either directly through the destruction or disturbance of active nests or indirectly by causing the abandonment of nests. Because such an impact would conflict with Condition 1 of the VHP, it would be considered a significant impact under CEQA. Mitigation Measures BIO-1 and BIO-2 would be implemented to reduce impacts due to conflicts with Condition 1 of the VHP to a less-than-significant level.

Mitigation Measure BIO-1. Nesting-Season Avoidance. To the extent feasible, commencement of construction activities should be scheduled to avoid the nesting season. If construction activities are scheduled to commence outside the nesting season, all impacts to nesting birds protected under the MBTA and California Fish and Game Code would be avoided. The nesting season for most birds in Santa Clara County extends from February 1 through August 31, inclusive.

Mitigation Measure BIO-2. Preconstruction/Pre-disturbance Surveys and Buffers. If it is not possible to schedule commencement of construction activities and/or tree removal between September 1 and January 31, preconstruction surveys for nesting birds shall be conducted by a qualified ornithologist to ensure that no nests shall be disturbed during project implementation. These surveys shall be conducted no more than seven days prior to the initiation of demolition or construction activities, including tree removal and pruning. 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 shall 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 shall be disturbed during project implementation.

6.8 Cumulative Impacts (Less than Significant with Mitigation)

Cumulative impacts arise due to the linking of impacts from past, current, and reasonably foreseeable future projects in the region. Future development activities in the City of San José and development activities covered by the VHP will result in impacts on the same habitat types and species that will be affected by the proposed project. The proposed project, in combination with other projects in the area and other activities that impact the species that are affected under the project, could contribute to cumulative effects on special-status species. Other projects in the area include both development and maintenance projects that could adversely affect these species and restoration projects that will benefit these species.

The cumulative impact on biological resources resulting from the project in combination with other projects in the region would be dependent on the relative magnitude of adverse effects of these projects on biological resources compared to the relative benefit of impact avoidance and minimization efforts prescribed by planning documents, CEQA mitigation measures, and permit requirements for each project; compensatory mitigation and proactive conservation measures associated with each project, and the benefits to biological resources accruing from the VHP. In the absence of such avoidance, minimization, compensatory mitigation, and conservation measures, cumulatively significant impacts on biological resources would occur.

However, the San José General Plan contains conservation measures that would benefit biological resources, as well as measures to avoid, minimize, and mitigate impacts on these resources and the VHP includes numerous conservation measures to offset adverse effects on covered activities. Many projects in the region that impact resources similar to those impacted by the proposed project will be covered activities under the VHP and will mitigate impacts on sensitive habitats and many special-status species through that program, which will require payment of fees for habitat restoration. Further, the project would implement a number of BMPs and mitigation measures to reduce impacts on both common and special-status species, as described above. Thus, the project will not contribute to substantial cumulative effects on biological resources.

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Appendix A. Plants and Animals Observed

Table A-1. Plant Species Observed

Family	Common Name	Species	Cal-IPC Rank
Agavaceae – Agave Family	Parry's agave	*Agave parryi*	
Amaranthaceae – Amaranth Family	society garlic	*Tulbaghia violacea*	
Apiaceae – Carrot Family	fennel	*Foeniculum vulgare*	Moderate
	poison hemlock	*Conium maculatum*	Moderate
Apocynaceae – Dogbane Family	common oleander	*Nerium oleander*	
	star jasmine	*Trachelospermum jasminoides*	
Araliaceae – Ginseng Family	English ivy	*Hedera helix*	High
Asparagaceae – Asparagus Family	asparagus fern	*Asparagus densiflorus*	
	spiny-headed mat rush	*Lomandra longifolia*	
Asphodelaceae – Asphodel Family	red-hot poker	*Kniphofia uvaria*	Watch
Asteraceae – Sunflower Family	bristly ox-tongue	*Helminthotheca echioides*	Limited
	common sow thistle	*Sonchus oleraceus*	
	prickly lettuce	*Lactuca serriola*	
	white lamb cudweed	*Pseudognaphalium luteoalbum*	
Brassicaceae – Mustard Family	black mustard	*Brassica nigra*	Moderate
	shortpod mustard	*Hirschfeldia incana*	Moderate
	wild radish	*Raphanus sativus*	Limited
Caryophyllaceae – Pink Family	four-leaved allseed	*Polycarpon tetraphyllum*	
Chenopodiaceae – Goosefoot Family	Russian thistle	*Salsola tragus*	Limited
Cupressaceae – Cypress Family	coast redwood	*Sequoia sempervirens**	
Cyperaceae – Sedge Family	gray sedge	*Carex divulsa*	
Euphorbiaceae – Spurge Family	matted sandmat	*Euphorbia serpens*	
Fabaceae – Legume Family	Sydney golden wattle	*Acacia longifolia*	Watch
Fagaceae – Oak Family	coast live oak	*Quercus agrifolia**	
Geraniaceae – Geranium Family	redstem filaree	*Erodium cicutarium*	Limited
Lamiaceae – Mint Family	white sage	*Salvia apiana**	
Malvaceae – Mallow Family	bull mallow	*Malva nicaeensis*	
Myrtaceae – Myrtle Family	crimson bottlebrush	*Melaleuca citrina*	

	silver dollar gum	*Eucalyptus polyanthemos*	
Oleaceae – Olive Family	narrow leaved ash	*Fraxinus angustifolium*	
	European olive	*Olea europaea*	Limited
	shamel ash	*Fraxinus uhdei*	
Papaveraceae – Poppy Family	fumitory	*Fumaria muralis*	
Pinaceae – Pine Family	Atlas cedar	*Cedrus atlantica*	
Platanaceae – Sycamore Family	London plane tree	*Platanus × hispanica*	
Poaceae – Grass Family	Bermuda grass	*Cynodon dactylon*	Moderate
	Bushy ryegrass	*Cenchrus orientalis*	
	oat	*Avena sp.*	
	ripgut brome	*Bromus diandrus*	Moderate
	smilo grass	*Stipa miliacea*	Limited
Proteaceae – Protea Family	pincushion	*Leucospermum cordifolium*	
Rosaceae – Rose Family	cherry laurel	*Prunus laurocerasus*	
	cherry plum	*Prunus cerasifera*	Limited
	Himalayan blackberry	*Rubus armeniacus*	High
	Indian hawthorn	*Rhaphiolepis indica*	
	rose	*Rosa sp.*	
Rubiaceae – Coffee Family	goose grass	*Galium aparine*	
Rutaceae – Citrus Family	coleonema	*Coleonema pulchellum*	
Scrophulariaceae – Figwort Family	slender myoporum	*Myoporum parvifolium*	
Ulmaceae – Elm Family	Chinese hackberry	*Celtis sinesis*	
Verbenaceae – Vervain Family	trailing lantana	*Lantana montevidensis*	

[1]Cal-IPC Status (Cal-IPC 2026):

Watch List – These species are not currently invasive in California, but are a high risk for becoming invasive in the future.

Limited - These species are invasive but their ecological impacts are minor on a statewide level or there was not enough information to justify a higher score.

Moderate - These species have substantial and apparent-but generally not severe-ecological impacts on physical processes, plant and animal communities, and vegetation structure.

High - These species have severe ecological impacts on physical processes, plant and animal communities, and vegetation structure across large areas of California.

*Native

Table A-2. Animal Species Observed

Common Name	Scientific Name
Cedar waxwing	*Bombycilla cedrorum*
Lesser goldfinch	*Spinus psaltria*
Bushtit	*Psaltriparus minimus*
Dark-eyed junco	*Junco hyemalis*
Black phoebe	*Sayornis nigricans*
Bewick's wren	*Thryomanes bewickii*
White-breasted nuthatch	*Sitta carolinensis*
Yellow-rumped warbler	*Setophaga coronata*
House finch	*Haemorhous mexicanus*
California towhee	*Melozone crissalis*
Brown-headed cowbird	*Molothrus ater*
California gull	*Larus californicus*
European starling*	*Sternus vulgaris*

*Nonnative

Appendix B. Photographs of the Survey Area



Photo 1. Representative photo of urban-suburban habitat on the project site.



Photo 2. Representative photo of urban-suburban habitat on the project site.



Photo 3. Representative photo of ornamental woodland on the project site.



Photo 4. Representative photo of ornamental woodland on the project site.



Photo 5. Representative photo of California annual grassland on the project site.



Photo 6. Representative photo of California annual grassland on the project site.

Appendix C. Special-Status Plants Considered but Rejected

Common Name	Scientific Name	Outside Geographic Range	No Suitable Habitat	Edaphic Conditions Absent	Outside Elevation Range
alkali milk-vetch	*Astragalus tener* var. *tener*	X	X		
arcuate bushmallow	*Malacothamnus arcuatus* var. *arcuatus*		X		
bay buckwheat	*Eriogonum umbellatum* var. *bahiiforme*		X	X	X
big-scale balsamroot	*Balsamorhiza macrolepis*			X	X
Brewer's calandrinia	*Calandrinia breweri*		X		
brittlescale	*Atriplex depressa*		X		
California alkali grass	*Puccinellia simplex*			X	
California androsace	*Androsace elongata* ssp. *acuta*				X
California seablite	*Suaeda californica*		X		
chaparral harebell	*Ravenella exigua*		X		X
chaparral ragwort	*Senecio aphanactis*	X	X		
clay buckwheat	*Eriogonum argillosum*	X	X		X
clustered lady's-slipper	*Cypripedium fasciculatum*	X	X	X	X
coast iris	*Iris longipetala*		X		
Congdon's tarplant	*Centromadia parryi* ssp. *congdonii*			X	
Contra Costa goldfields	*Lasthenia conjugens*			X	
coyote ceanothus	*Ceanothus ferrisiae*			X	
elongate copper moss	*Mielichhoferia elongata*	X	X	X	
fragrant fritillary	*Fritillaria liliacea*			X	
hairless popcornflower	*Plagiobothrys glaber*		X		
Hall's bushmallow	*Malacothamnus hallii*		X		
Hoover's button-celery	*Eryngium aristulatum* var. *hooveri*		X		
Hospital Canyon larkspur	*Delphinium californicum* ssp. *interius*		X		X
Jepson's woolly sunflower	*Eriophyllum jepsonii*		X	X	X
large-flowered leptosiphon	*Leptosiphon grandiflorus*			X	
lesser saltscale	*Atriplex minuscula*	X		X	
Lewis' clarkia	*Clarkia lewisii*	X	X		X
Loma Prieta hoita	*Hoita strobilina*		X		X

long-styled sand-spurrey	*Spergularia macrotheca* var. *longistyla*	X	X		
maple-leaved checkerbloom	*Sidalcea malachroides*		X		
Metcalf Canyon jewelflower	*Streptanthus albidus* ssp. *albidus*		X		X
most beautiful jewelflower	*Streptanthus albidus ssp. peramoenus*			X	X
Mt. Hamilton thistle	*Cirsium fontinale* var. *campylon*			X	X
northern slender pondweed	*Stuckenia filiformis* ssp. *alpina*	X	X		X
phlox-leaf serpentine bedstraw	*Galium andrewsii* ssp. *gatense*		X		X
Point Reyes salty bird's-beak	*Chloropyron maritimum* ssp. *palustre*	X	X		
prostrate vernal pool navarretia	*Navarretia prostrata*		X	X	
robust spineflower	*Chorizanthe robusta* var. *robusta*		X		
saline clover	*Trifolium hydrophilum*		X		
San Francisco collinsia	*Collinsia multicolor*		X	X	X
San Joaquin spearscale	*Extriplex joaquinana*			X	
Santa Clara red ribbons	*Clarkia concinna* ssp. *automixa*		X		X
Santa Clara thorn-mint	*Acanthomintha lanceolata*		X	X	X
Santa Clara Valley dudleya	*Dudleya abramsii* ssp. *setchellii*			X	X
Satan's goldenbush	*Isocoma menziesii* var. *diabolica*		X		
serpentine leptosiphon	*Leptosiphon ambiguus*			X	X
small spikerush	*Eleocharis parvula*		X		
small-flowered morning-glory	*Convolvulus simulans*	X		X	X
smooth lessingia	*Lessingia micradenia* var. *glabrata*			X	X
spring lessingia	*Lessingia tenuis*		X		X
Stinkbells	*Fritillaria agrestis*	X		X	
Tiburon paintbrush	*Castilleja affinis* var. *neglecta*			X	
western leatherwood	*Dirca occidentalis*		X	X	X
woodland woollythreads	*Monolopia gracilens*			X	X
woolly-headed lessingia	*Lessingia hololeuca*			X	











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Expanded Trimble Substation and Charcot Data Center Power Lines Biological Resources Report

Project #5066-01

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Section 1. Introduction

This report describes the biological resources present on the Expanded Trimble Substation project site and along three potential alignments for the Charcot Data Center (CDC) power lines, the potential impacts of proposed site development and transmission line installation on biological resources, and measures necessary to reduce these impacts to less-than-significant levels under the California Environmental Quality Act (CEQA). This assessment is based on the project maps and description provided to H. T. Harvey & Associates[1] by David J. Powers & Associates through June 2026.

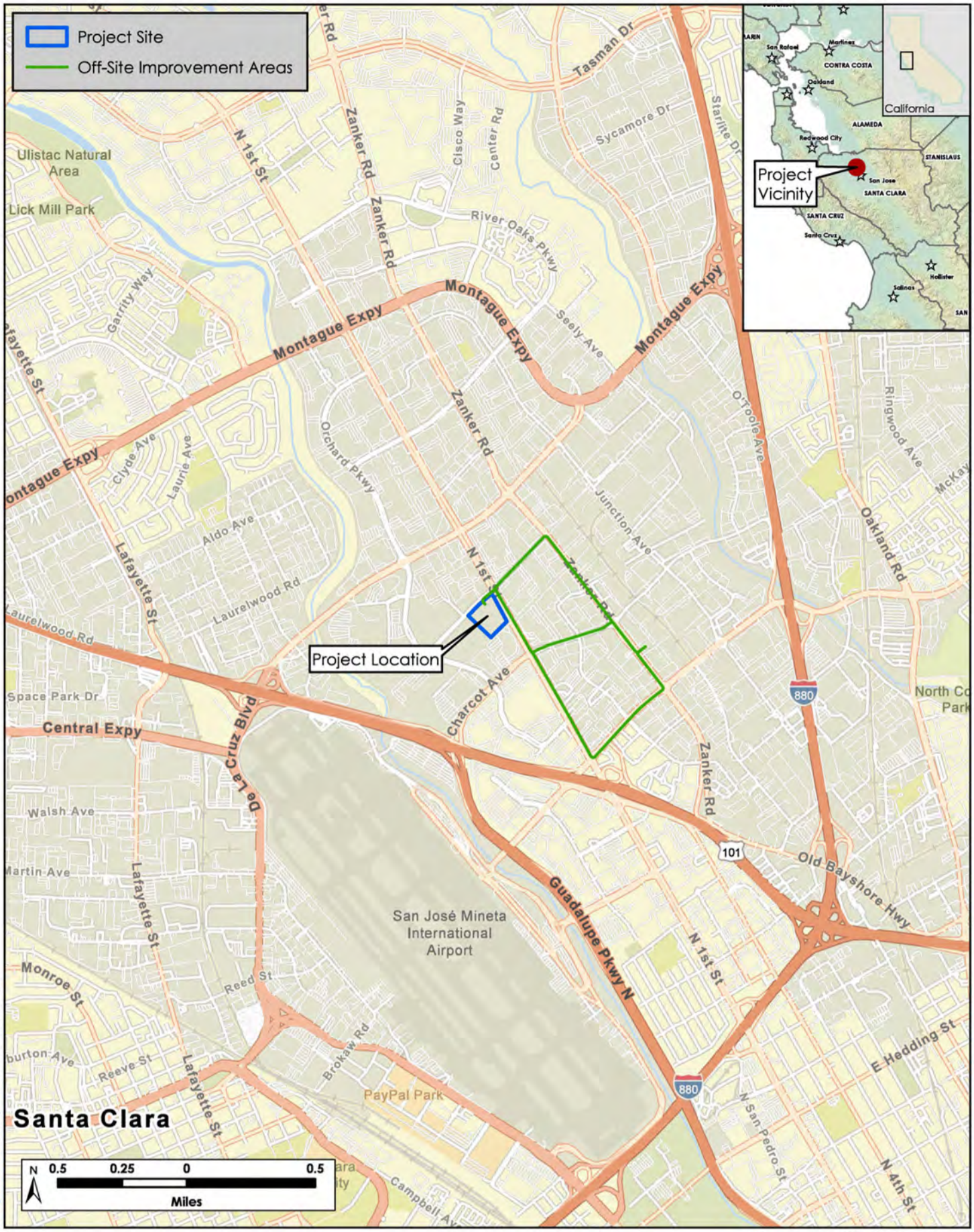
1.1 Project Location

The site where the Expanded Trimble Substation will be constructed is located at 44467 Component Drive in San José, California (Figures 1 and 2). Additional off-site improvements to be constructed by Pacific Gas & Electric Company (PG&E) include a new transmission line connecting the Expanded Trimble Substation with the nearby CDC at 309 East Brokaw Road (Figure 2). For the purpose of this report, the Expanded Trimble Substation site is referred to as the *substation site*, the off-site areas where PG&E will conduct transmission line improvements (which include three design alternatives) are the *off-site improvement areas*, and all of these areas are referred to together as the *project site*. The substation site is undeveloped and predominantly consists of natural grassland areas, whereas the off-site improvement areas are located entirely along developed roadways (Figure 2). Areas surrounding the substation site include commercial development to the northwest, east, and southeast, and undeveloped parcels to the west and southwest (Figure 2). Areas surrounding the off-site improvement areas predominantly consist of commercial development (Figure 2). The project site is located on the *Milpitas*, *California* 7.5-minute U.S. Geological Survey (USGS) quadrangle.

The project site is located within the Santa Clara Valley Habitat Plan (VHP) permit area. For the purposes of this report and per direction from David J. Powers & Associates, we have assumed that proposed improvements on the substation site will be considered a *covered project* under the VHP (ICF International 2012). As a result, the proposed project is required to implement conservation measures specified by VHP conditions, and all applicable VHP conditions (see Section 6.1) are considered part of the proposed project description, rather than as mitigation measures. VHP conditions are not applicable to PG&E activities within the off-site improvement areas.

The project site is also located within the Plan Area for the PG&E Bay Area Operations & Maintenance Habitat Conservation Plan (Bay Area HCP) (ICF 2017), which PG&E began implementing in 2017. For the purposes of this report and per direction from David J. Powers & Associates, we have assumed that the off-site transmission line improvements will be considered a *covered activity* under the Bay Area HCP. All applicable Bay

[1] Now partnered with Integral Consulting Inc., effective August 1, 2026.



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Figure 1. Vicinity Map
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Figure 2. Project Site
Expanded Trimble Substation and Charcot Data Center
Power Lines Biological Resources Report (5066-01)
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Area HCP conditions (discussed in Section 6.2.1 below) are considered part of the project description as applicant-proposed measures (APMs) rather than as mitigation measures. Bay Area HCP conditions will apply only to the off-site improvements and are not applicable to project activities on the substation site.

1.2 Project Description

To serve the CDC at 309 East Brokaw Road with the requested electrical load, PG&E will expand the existing Trimble Substation located on the substation site at 44467 Component Drive in San José and then construct new electrical power lines from the Expanded Trimble Substation within the off-site improvement areas to serve the CDC.

1.2.1 Expanded Trimble Substation

To ensure safety and security, the Expanded Trimble Substation will be enclosed by an approximately 10- to 20-foot-tall security wall with a guard topper. The total area enclosed by the wall will be approximately 665 feet by 605 feet (8.2 acres).

PG&E will install new substation facilities at the Expanded Trimble Substation in two gas-insulated switchgear (GIS) enclosures. Both will be constructed in breaker-and-a-half configuration for enhanced reliability. A 115-kilovolt (kV) GIS enclosure will be approximately 290 feet long and 80 feet wide (20,500 square feet) and approximately 50 feet tall.

A 230-kV bus will be constructed in a second GIS enclosure, approximately 120 feet long and 105 feet wide (12,000 square feet) and approximately 35 tall. The switchgear will be 230 kV with internal high voltage breakers. The 230 kV GIS enclosure will accommodate the extension and looping of the Northern Receiving Station-San José B 230-kV transmission line to the Expanded Trimble Substation with two 230-kV/115-kV transformers, two 230-kV bays, two 115-kV bays with three breakers, and protection upgrades at remote ends inside the existing non-PG&E Northern Receiving Station Substation and PG&E San José B Substation. The Expanded Trimble Substation will also accommodate the connection of 230-kV transmission lines from PG&E's existing Tesla Substation and Metcalf Substation.

Control systems in the Expanded Trimble Substation will be powered by a redundant alternating current system provided by two distribution service connections and station service transformers initially, and then by tertiary connected sources from the future 230-/115-kV transformers. A direct current battery backup system will also power the critical station controls and monitoring systems.

PG&E will loop in and extend the existing Montague-Trimble 115-kV circuit power line into the Expanded Trimble Substation to energize the 115-kV GIS, and the remaining 115-kV transmission lines will be reconfigured to tie into the new 115-kV GIS. The line extension will be approximately 150 feet and require adding approximately two tubular steel pole (TSP) structures ranging in height from approximately 90 to 100 feet tall.

To support the Expanded Trimble Substation and service lines to the CDC, existing communication and control equipment inside PG&E's existing Trimble Substation and Montague Substation would be upgraded. This work will include replacing existing breakers, relays, switches, communication equipment, and control enclosures.

1.2.2 Off-Site PG&E Improvements

In the off-site improvement areas, PG&E will construct 1) a new transmission line and 2) new information technology (IT) communication lines connecting the Expanded Trimble Substation with the nearby CDC at 309 East Brokaw Road to the east (Figure 2). These project components are described below.

1.2.2.1 Transmission Line Connection to Charcot Data Center

PG&E has identified three potential new power line routes from the Expanded Trimble Substation to the CDC site. The routes will be either overhead or underground power lines from the Expanded Trimble Substation to the CDC site. The routes being considered run along paved city streets in public right-of-way within PG&E's existing franchise rights. All three routes exit the north side of the Expanded Trimble Substation on Component Drive and run east approximately 300 feet to the intersection with North First Street. The routes terminate at a new substation to be constructed at the CDC site at 309 East Brokaw Road. The routes are shown in Figure 2.

The three alternate route descriptions are as follows:

- From Component Drive at North First Street, Route 1 continues east on Component Drive approximately 1,560 feet, goes south along Zanker Road for approximately 3,000 feet, and then turns east into the CDC site. Route 1 is approximately 5,100 feet long (0.97 mile).
- Route 2 runs south along North First Street for approximately 1,500 feet, goes east along Charcot Avenue for approximately 1,800 feet, and then turns south on Zanker Road for approximately 825 feet before turning east into the CDC site. Route 2 is approximately 4,600 feet long (0.87 mile).
- Route 3 runs south along North First Street for approximately 4,000 feet, goes east on East Brokaw Road for approximately 2,050 feet, and then runs approximately 900 feet north on Zanker Road before turning east into the CDC site. Route 3 is approximately 7,500 feet long (1.4 miles).

Underground power lines will be installed in two parallel trenches, one for each circuit, at least 15 feet apart and approximately 5–6 feet deep. Each duct bank will consist of installing four 6-inch polyvinyl chloride (PVC) conduits for power cables, two 4-inch PVC conduits for communication, and one 2-inch PVC conduit for the ground continuity conductor. The conduit system will be encased with thermal concrete. The proposed underground power line cable will be per PG&E standard cable sizes, a 115-kV, 2,500-kilo circular mil copper conductor cross-linked polyethylene cable.

If constructed as an overhead line, conductors and fiber-optic communication lines will be supported by wood poles, light-duty steel poles, or TSPs ranging in height from 70 to 120 feet tall. Structures will average approximately 400–600 feet apart, and depending on which route is built, will consist of 12–18 structures. Wood poles and light-duty steel poles are direct-buried structures installed with an auger to excavate a hole generally 24–36 inches in diameter and 10–16 feet deep. The structures are set with a bucket truck or small crane, and framing hardware is installed either while the structure is on the ground or after it is set while working from a bucket truck. Conductors and communication lines are pulled through the structures using reels and pulling equipment and then attached to framing hardware on the structures.

TSPs are set on drilled pier concrete foundations reinforced with rebar cages. Foundations range in size from 4 to 10 feet in diameter and 20 to 50 feet deep. A small crane is used to set TSPs on steel mounting plates on top of the concrete foundations. Framing hardware is installed either while the TSP is on the ground or after it is set using a small crane or bucket truck. Conductors and communication lines are pulled through the structures using reels and pulling equipment and then attached to framing hardware.

1.2.2.2 PG&E IT Communication Line Routes

Two redundant IT communication lines will be needed between the Expanded Trimble Substation and the CDC site.

If an independent IT communication route is needed to obtain redundancy, the route will follow the path of the existing PG&E underground distribution routes between the Expanded Trimble Substation to the CDC site, as described above, to the greatest extent possible. Limited construction activities may be required, including installation of short conduit connections between existing vaults and/or replacement of degraded or non-functional conduit segments.

If existing PG&E underground distribution routes are not compatible, a new standalone underground IT communication route will be needed to obtain redundancy. Depending on the PG&E power line route, the IT communication routes will be installed either overhead on the power line structures or underground in the parallel trenches described in the above. The IT communication route will follow the chosen power line route (1, 2, or 3) as described above.

Trenching will be approximately 24–36 inches deep and 18 inches wide. The IT communication line will be placed within a 4-inch PVC conduit installed within the trench, followed by backfilling and surface restoration in accordance with applicable standards. Boring will be approximately 36–48 inches deep with a 6-inch bore hole to accommodate a 4-inch high-density polyethylene conduit.

Section 2. Methods

2.1 Background Review

Prior to conducting field work, H. T. Harvey & Associates ecologists reviewed the project description, plans, and maps provided by David J. Powers & Associates; aerial images (Google, LLC 2026); a USGS topographic map; the California Department of Fish and Wildlife's (CDFW's) California Natural Diversity Database (CNDDB) (2026); habitat and species information from the VHP (ICF International 2012) and Bay Area HCP (ICF 2017); the PG&E Bay Area Operations and Maintenance Incidental Take Permit Final Environmental Impact Report (Bay Area O&M FEIR) (ICF 2020); the PG&E Nesting Bird Management Plan (PG&E et al. 2015) and Avian Protection Plan (PG&E 2017); and other relevant reports, scientific literature, and technical databases. For the purposes of this report, the *project vicinity* is defined as the area within a 10-mile radius surrounding the project site.

In addition, for plants, we reviewed all species on current California Native Plant Society (CNPS) California Rare Plant Rank (CRPR) 1A, 1B, 2A, 2B, 3, and 4 lists occurring in the project region, which is defined as the *Milpitas, California* USGS 7.5-minute quadrangles and surrounding eight quadrangles (*Niles, La Costa Valley, Calaveras Reservoir, San Jose East, San Jose West, Cupertino, Mountain View, and Newark*). In addition, we queried the CNDDB (2026) for natural communities of special concern that occur on the project site, and we perused records of birds reported in nearby areas, such as along the Guadalupe River Trail, on eBird (Cornell Lab of Ornithology 2026) and on the South-Bay-Birds List Serve (2026).

2.2 Site Visits

H. T. Harvey & Associates plant and wetland ecologist Vanessa Morales, B.A., conducted a reconnaissance-level survey of the project site on June 18, 2026, and H. T. Harvey & Associates wildlife ecologist Zachary Hampson, B.A., conducted a reconnaissance-level survey of the project site on June 18, 2026. The purpose of the surveys was to provide an impact assessment specific to the proposed construction of the project, as described above. Specifically, these surveys were conducted to 1) assess existing biotic habitats and plant and animal communities on the project site, 2) assess the project site for its potential to support special-status species and their habitats, and 3) identify potential jurisdictional and sensitive habitats, such as waters of the U.S./state and riparian habitat. V. Morales also conducted a focused survey for special-status plant species that were blooming or otherwise detectable at the time of the site visit, and Z. Hampson conducted a focused survey for 1) burrowing owls and suitable burrowing owl roosting and nesting habitat (i.e., burrows of California ground squirrels [*Otospermophilus beecheyi*]) on and within 250 feet of the site, (2) evidence of previous raptor nesting activity (i.e., large stick nests) on and immediately adjacent to the site, (3) potential bat roosting habitat on the site, and 4) northwestern pond turtles (*Actinemys marmorata*) and suitable habitat for this species on and adjacent to the site.

In addition, H. T. Harvey & Associates has a long history of performing burrowing owl surveys on and in the immediate vicinity of the substation site. Since the late 1990s, and continuing to the present, we have performed burrowing owl surveys for various owners of the substation site and adjacent properties along Orchard Parkway and Component Drive. Thus, we incorporated the results of our previous burrowing owl surveys of adjacent properties to inform our assessment.

Because the majority of the project's impact area is covered under the approved VHP (ICF International 2012), VHP mapping of land cover types was field-verified and modified as necessary based upon site conditions observed during the surveys.

Per California Energy Commission (CEC) requirements, V. Morales also mapped the approximate boundaries of potentially sensitive and regulated habitats, such as wetlands, other waters of the U.S./state, and riparian habitat within 250 feet of the substation site. Biotic habitats on the substation site, and sensitive and regulated habitats within 250 feet of this area, are shown on Figure 3.

Because the three alternative transmission line routes between the Expanded Trimble Substation site and the CDC are located entirely along developed roadways, per the direction of David J. Powers & Associates to support the analysis in this report, H. T. Harvey & Associates ecologists conducted a brief drive-by survey of these areas during their reconnaissance-level surveys to confirm that no sensitive habitats are present, and did not map potentially sensitive and regulated habitats within 250 feet of these routes.



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Figure 3. Land Cover Map
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Section 3. Regulatory Setting

Biological resources on the project site are regulated by a number of federal, state, and local laws and ordinances, as described below.

3.1 Federal Regulations

3.1.1 Clean Water Act

The Clean Water Act (CWA) functions to maintain and restore the physical, chemical, and biological integrity of waters of the U.S., which include, but are not limited to, tributaries to traditionally navigable waters currently or historically used for interstate or foreign commerce, and adjacent wetlands. Historically, in non-tidal waters, U.S. Army Corps of Engineers (USACE) jurisdiction extends to the ordinary high water (OHW) mark, which is defined in Title 33, Code of Federal Regulations (CFR), Part 328.3. If there are wetlands adjacent to channelized features, the limits of USACE jurisdiction extend beyond the OHW mark to the outer edges of the wetlands. Wetlands that are not adjacent to waters of the U.S. are termed "isolated wetlands" and, depending on the circumstances, may be subject to USACE jurisdiction. In tidal waters, USACE jurisdiction extends to the landward extent of vegetation associated with salt or brackish water or the high tide line. The high tide line is defined in 33 CFR Part 328.3 as "the line of intersection of the land with the water's surface at the maximum height reached by a rising tide." If there are wetlands adjacent to channelized features, the limits of USACE jurisdiction extend beyond the OHW mark or high tide line to the outer edges of the wetlands.

A May 25, 2023, U.S. Supreme Court decision in *Sackett v. Environmental Protection Agency* limited the definition of jurisdictional wetlands that are considered waters of the U.S. to those wetlands having a continuous surface connection with traditional navigable waters, and limited the definition of other waters that are considered waters of the U.S. to those that are relatively permanent. In September 2023, the U.S. Environmental Protection Agency released the current definition of waters of the U.S., called the conforming rule.

Construction activities within jurisdictional waters are regulated by USACE. The placement of fill into such waters must comply with permit requirements of USACE. No USACE permit will be effective in the absence of Section 401 Water Quality Certification. The State Water Resources Control Board (SWRCB) is the state agency (together with the Regional Water Quality Control Boards [RWQCBs]) charged with implementing water quality certification in California.

Project Applicability: The project site and adjacent areas do not support wetland or aquatic habitats. As a result, the project will avoid direct and indirect impacts to wetlands or waters subject to the CWA, and a permit from the USACE would not be required.

3.1.2 Rivers and Harbors Act

Section 10 of the Rivers and Harbors Act of 1899 prohibits the creation of any obstruction to the navigable capacity of waters of the U.S., including discharge of fill and the building of any wharfs, piers, jetties, and other structures without Congressional approval or authorization by the Chief of Engineers and Secretary of the Army (33 United States Code 403).

Navigable waters of the U.S., which are defined in 33 CFR, Part 329.4, include all waters subject to the ebb and flow of the tide, and/or those which are presently or have historically been used to transport commerce. The shoreward jurisdictional limit of tidal waters is further defined in 33 CFR, Part 329.12 as "the line on the shore reached by the plane of the mean (average) high water." It is important to understand that USACE does not regulate wetlands under Section 10, only the aquatic or open waters component of bay habitat, and that there is overlap between Section 10 jurisdiction and Section 404 jurisdiction. According to 33 CFR, Part 329.9, a water body that was once navigable in its natural or improved state retains its character as "navigable in law" even though it is not presently used for commerce as a result of changed conditions and/or the presence of obstructions. Historical Section 10 waters may occur behind levees in areas that are not currently exposed to tidal or muted-tidal influence, and meet the following criteria: 1) the area is presently at or below the mean high water line; 2) the area was historically at or below mean high water in its "unobstructed, natural state"; and 3) there is no evidence that the area was ever above mean high water.

As mentioned above, Section 404 of the CWA authorizes USACE to issue permits to regulate the discharge of dredged or fill material into waters of the U.S. If a project also proposes to discharge dredged or fill material and/or introduce other potential obstructions in navigable waters of the U.S., a Letter of Permission authorizing these impacts must be obtained from the USACE under Section 10 of the Rivers and Harbors Act.

Project Applicability: No current or historical Section 10 waters are present on or close to the project site; therefore, a Letter of Permission from USACE is not necessary.

3.1.3 Federal Endangered Species Act

The Federal Endangered Species Act (FESA) protects federally listed wildlife species from harm or *take*, which is broadly defined as "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or attempt to engage in any such conduct." In 1975, the U.S. Fish and Wildlife Service (USFWS) published a definition of *harm* that expanded the definition of *take* to include habitat modification or degradation that directly results in death or injury of a listed wildlife species. However, this definition of *harm* was subsequently rescinded by USFWS in 2026 and USFWS does not propose to publish a revised definition. An activity can be defined as *take* even if it is unintentional or accidental. Listed plant species are provided less protection than listed wildlife species. Listed plant species are legally protected from take under FESA only if they occur on federal lands.

USFWS and the National Marine Fisheries Service (NMFS) have jurisdiction over federally listed, threatened, and endangered species under FESA. USFWS also maintains lists of proposed and candidate species. Species

on these lists are not legally protected under FESA but may become listed in the near future and are often included in their review of a project.

Project Applicability: No federally listed or candidate plant species occur on the project site.

The monarch butterfly (*Danaus plexippus*), which is proposed for listing under FESA, may occur on the project site as an occasional nonbreeding forager or dispersant, but no suitable breeding or overwintering habitat is present. No additional federally listed or candidate animal species occur on the project site.

3.1.4 Magnuson-Stevens Fishery Conservation and Management Act

The Magnuson-Stevens Fishery Conservation and Management Act governs all fishery management activities that occur in federal waters within the United States' 200-nautical-mile limit. The act establishes eight Regional Fishery Management Councils responsible for the preparation of fishery management plans (FMPs) to achieve the optimum yield from U.S. fisheries in their regions. These councils, with assistance from NMFS, establish Essential Fish Habitat (EFH) in FMPs for all managed species. Federal agencies that fund, permit, or implement activities that may adversely affect EFH are required to consult with NMFS regarding potential adverse effects of their actions on EFH, and respond in writing to recommendations by NMFS.

Project Applicability: The Pacific Fisheries Management Council has designated EFH for the Pacific Coast Salmon FMP within the Guadalupe River 0.5 mile southwest of the substation site and within Coyote Creek approximately 0.5 mile east of the off-site improvement areas due to the presence of the Chinook salmon (*Oncorhynchus tshawytscha*). However, due to intervening distance between these areas and the river, project activities are not expected to directly or indirectly affect this species or its associated EFH.

3.1.5 Federal Migratory Bird Treaty Act

The federal Migratory Bird Treaty Act (MBTA), 16 United States Code Section 703, prohibits killing, possessing, or trading of migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. The MBTA protects whole birds, parts of birds, and bird eggs and nests, and it prohibits the possession of all nests of protected bird species whether they are active or inactive. An *active* nest is defined as having eggs or young, as described by USFWS in its June 14, 2018, memorandum "Destruction and Relocation of Migratory Bird Nest Contents". Nest starts (nests that are under construction and do not yet contain eggs) and inactive nests are not protected from destruction.

Project Applicability: The majority of native bird species that occur on the project site are protected under the MBTA, and native birds nest widely throughout the project area.

3.2 State Regulations

3.2.1 Porter-Cologne Water Quality Control Act

The SWRCB works in coordination with the nine RWQCBs to preserve, protect, enhance, and restore water quality. Each RWQCB makes decisions related to water quality for its region, and may approve, with or without conditions, or deny projects that could affect waters of the state. Their authority comes from the CWA and the Porter-Cologne Water Quality Control Act (Porter-Cologne). Porter-Cologne broadly defines waters of the state as "any surface water or groundwater, including saline waters, within the boundaries of the state." Because Porter-Cologne applies to any water, whereas the CWA applies only to certain waters, California's jurisdictional reach overlaps and may exceed the boundaries of waters of the U.S. For example, Water Quality Order No. 2004-0004-DWQ states that "shallow" waters of the state include headwaters, wetlands, and riparian areas. Moreover, the San Francisco Bay Region RWQCB's Assistant Executive Director has stated that, in practice, the RWQCBs claim jurisdiction over riparian areas. Where riparian habitat is not present, such as may be the case at headwaters, jurisdiction is taken to the top of bank.

On April 2, 2019, the SWRCB adopted the *State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State*. In these new guidelines, riparian habitats are not specifically described as waters of the state but instead as important buffer habitats to streams that do conform to the State Wetland Definition. The *Procedures* describe riparian habitat buffers as important resources that may both be included in required mitigation packages for permits for impacts to waters of the state, as well as areas requiring permit authorization from the RWQCBs to impact.

Pursuant to the CWA, projects that are regulated by the USACE must also obtain a Section 401 Water Quality Certification permit from the RWQCB. This certification ensures that a proposed project will uphold state water quality standards. Because California's jurisdiction to regulate its water resources is much broader than that of the federal government, proposed impacts on waters of the state require Water Quality Certification even if the area occurs outside of USACE jurisdiction. Moreover, the RWQCB may impose mitigation requirements even if the USACE does not. Under Porter-Cologne, the SWRCB and the nine regional boards also have the responsibility of granting CWA National Pollutant Discharge Elimination System (NPDES) permits and Waste Discharge Requirements for certain point-source and non-point discharges to waters. These regulations limit impacts on aquatic and riparian habitats from a variety of urban sources.

Project Applicability: No waters of the state or riparian habitat occur on or adjacent to the project site. Therefore, a Section 401 permit or Waste Discharge Requirement from the RWQCB would not be required.

3.2.2 California Endangered Species Act

The California Endangered Species Act (CESA) (California Fish and Game Code, Chapter 1.5, Sections 2050-2116) prohibits the take of any plant or animal listed or proposed for listing as rare (plants only), threatened, or endangered. In accordance with CESA, the CDFW has jurisdiction over state-listed species (Fish and Game

Code 2070). The CDFW regulates activities that may result in *take* of individuals (i.e., "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill"). Habitat degradation or modification is not expressly included in the definition of *take* under the California Fish and Game Code. The CDFW, however, has interpreted *take* to include the "killing of a member of a species which is the proximate result of habitat modification."

Project Applicability. The state threatened tricolored blackbird (*Agelaius tricolor*) may occasionally occur on the site as a nonbreeder but is not expected to use the site regularly or breed there. Crotch's bumble bee (*Bombus crotchii*), a candidate for listing under CESA and proposed for coverage by the VHP under an amendment currently in process, may occur on the substation site in small numbers and could potentially nest there. The burrowing owl, also a candidate for listing under CESA and a species covered by the VHP, can potentially nest or roost in burrows on the substation site in small numbers and forage throughout the substation site. No suitable habitat for additional state-listed or candidate plant or animal species occurs on or near the project site. If any take of state listed or candidate species were to occur during project implementation, incidental take authorization from CDFW would be necessary (either on a project-specific level or through the VHP).

3.2.3 California Environmental Quality Act

CEQA is a state law that requires state and local agencies to document and consider the environmental implications of their actions and to refrain from approving projects with significant environmental effects if there are feasible alternatives or mitigation measures that can substantially lessen or avoid those effects. CEQA requires the full disclosure of the environmental effects of agency actions, such as approval of a general plan update or the projects covered by that plan, on resources such as air quality, water quality, cultural resources, and biological resources. The State Resources Agency promulgated guidelines for implementing CEQA known as the State CEQA Guidelines.

Section 15380(b) of the State CEQA Guidelines provides that a species not listed on the federal or state lists of protected species may be considered rare if the species can be shown to meet certain specified criteria. These criteria have been modeled after the definitions in the FESA and the CESA and the section of the California Fish and Game Code dealing with rare or endangered plants and animals. This section was included in the guidelines primarily to deal with situations in which a public agency is reviewing a project that may have a significant effect on a species that has not yet been listed by either the USFWS or CDFW or species that are locally or regionally rare.

CDFW has produced three lists (amphibians and reptiles, birds, and mammals) of "species of special concern" that serve as "watch lists." Species on these lists are of limited distribution or the extent of their habitats has been reduced substantially, such that threat to their populations may be imminent. Thus, their populations should be monitored. They may receive special attention during environmental review as potential rare species, but do not have specific statutory protection. All potentially rare or sensitive species, or habitats capable of supporting rare species, are considered for environmental review per CEQA Section 15380(b).

The CNPS, a non-governmental conservation organization, has developed CRPRs for plant species of concern in California in the CNPS Inventory of Rare and Endangered Plants. The CRPRs include lichens, vascular, and nonvascular plants, and are defined as follows:

- CRPR 1A Plants considered extinct
- CRPR 1B Plants rare, threatened, or endangered in California and elsewhere
- CRPR 2A Plants considered extinct in California but more common elsewhere
- CRPR 2B Plants rare, threatened, or endangered in California but more common elsewhere
- CRPR 3 Plants about which more information is needed—review list
- CRPR 4 Plants of limited distribution—watch list.

The CRPRs are further described by the following threat code extensions:

- .1—seriously endangered in California
- .2—fairly endangered in California
- .3—not very endangered in California.

Although the CNPS is not a regulatory agency and plants on these lists have no formal regulatory protection, plants appearing as CRPR 1B or 2 are, in general, considered to meet CEQA's Section 15380 criteria, and adverse effects to these species may be considered significant. Impacts on plants that are listed by the CNPS on CRPR 3 or 4 are also considered during CEQA review, although because these species are typically not as rare as those of CRPR 1B or 2, impacts on them are less frequently considered significant.

Compliance with CEQA Guidelines Section 15065(a) requires consideration of natural communities of special concern, in addition to plant and wildlife species. Vegetation types of "special concern" are tracked in Rarefind (CNDDB 2026). Further, CDFW ranks sensitive vegetation alliances based on their global (G) and state (S) rankings analogous to those provided in the CNDDB. Global rankings (G1–G5) of natural communities reflect the overall condition (rarity and endangerment) of a habitat throughout its range, whereas S rankings are a reflection of the condition of a habitat within California. If an alliance is marked as a G1–G3, all of the associations within it would also be of high priority. The CDFW provides the Vegetation Classification and Mapping Program's (VegCAMP's) currently accepted list of vegetation alliances and associations (CDFW 2026).

Project Applicability: All potential impacts on biological resources will be considered during CEQA review of the project in the context of this biological resources report. Project impacts are discussed in Section 6 below.

The Bay Area O&M FEIR for CDFW's 2022 PG&E Bay Area Incidental Take Permit (ITP) (#2081-2015-031-03) covers PG&E's Bay Area operations and maintenance and minor new construction activities, and

establishes a comprehensive approach to avoid, minimize, and fully mitigate impacts on species and habitat, including common and special-status species that are not covered under the Bay Area HCP (ICF 2020). Applicable measures from the Bay Area O&M FEIR that will reduce impacts of project activities within the off-site improvement areas under CEQA are provided in Section 6.2.2 below.

3.2.4 California Fish and Game Code

Ephemeral and intermittent streams, rivers, creeks, dry washes, sloughs, blue line streams on USGS maps, and watercourses with subsurface flows fall under CDFW jurisdiction. Canals, aqueducts, irrigation ditches, and other means of water conveyance may also be considered streams if they support aquatic life, riparian vegetation, or stream-dependent terrestrial wildlife. A *stream* is defined in Title 14, California Code of Regulations Section 1.72, as "a body of water that follows at least periodically or intermittently through a bed or channel having banks and that supports fish and other aquatic life. This includes watercourses having surface or subsurface flow that supports or has supported riparian vegetation." Using this definition, CDFW extends its jurisdiction to encompass riparian habitats that function as a part of a watercourse. California Fish and Game Code Section 2786 defines *riparian habitat* as "lands which contain habitat which grows close to and which depends upon soil moisture from a nearby freshwater source." The lateral extent of a stream and associated riparian habitat that would fall under the jurisdiction of CDFW can be measured in several ways, depending on the particular situation and the type of fish or wildlife at risk. At minimum, CDFW would claim jurisdiction over a stream's bed and bank. Where riparian habitat is present, the outer edge of riparian vegetation is generally used as the line of demarcation between riparian and upland habitats.

Pursuant to California Fish and Game Code Section 1603, CDFW regulates any project proposed by any person that will "substantially divert or obstruct the natural flow or substantially change the bed, channel, or bank of any river, stream, or lake designated by the department, or use any material from the streambeds." California Fish and Game Code Section 1602 requires an entity to notify CDFW of any proposed activity that may modify a river, stream, or lake. If CDFW determines that proposed activities may substantially adversely affect fish and wildlife resources, a Lake and Streambed Alteration Agreement (LSAA) must be prepared. The LSAA sets reasonable conditions necessary to protect fish and wildlife and must comply with CEQA. The applicant may then proceed with the activity in accordance with the final LSAA.

Certain sections of the California Fish and Game Code describe regulations pertaining to protection of certain wildlife species. For example, Code Section 2000 prohibits take of any bird, mammal, fish, reptile, or amphibian except as provided by other sections of the code.

The California Fish and Game Code Sections 3503, 3513, and 3800 (and other sections and subsections) protect native birds, including their nests and eggs, from all forms of take. Disturbance that causes nest abandonment and/or loss of reproductive effort is considered *take* by the CDFW. Raptors (e.g., eagles, hawks, and owls) and their nests are specifically protected in California under Code Section 3503.5. Section 3503.5 states that it is "unlawful to take, possess, or destroy any birds in the order Falconiformes or Strigiformes (birds of prey) or to

take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by this code or any regulation adopted pursuant thereto."

Bats and other non-game mammals are protected by California Fish and Game Code Section 4150, which states that all non-game mammals or parts thereof may not be taken or possessed except as provided otherwise in the code or in accordance with regulations adopted by the commission. Activities resulting in mortality of non-game mammals (e.g., destruction of an occupied nonbreeding bat roost, resulting in the death of bats), or disturbance that causes the loss of a maternity colony of bats (resulting in the death of young), may be considered *take* by CDFW.

Project Applicability: No CDFW jurisdictional habitats occur on or adjacent to the project site. Therefore, a CDFW LSAA would not be required for the project.

Most native bird, mammal, and other wildlife species that occur on the project site and in the immediate vicinity are protected under the California Fish and Game Code. Project impacts on these species are discussed in Section 6.

3.2.5 State Water Resources Control Board Stormwater Regulation

Construction Phase. Construction projects in California causing land disturbances that are equal to 1 acre or greater must comply with state requirements to control the discharge of stormwater pollutants under the NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Construction General Permit; Water Board Order No. 2009-0009-DWQ, as amended and administratively extended). Prior to the start of construction/demolition, a Notice of Intent must be filed with the SWRCB describing the project. A Storm Water Pollution Prevention Plan must be developed and maintained during the project, and it must include the use best management practices (BMPs) to protect water quality until the site is stabilized.

Standard permit conditions under the Construction General Permit require that the applicant utilize various measures including: on-site sediment control BMPs, damp street sweeping, temporary cover of disturbed land surfaces to control erosion during construction, and utilization of stabilized construction entrances and/or wash racks, among other factors. In addition, the Construction General Permit does not extend coverage to projects if stormwater discharge-related activities are likely to jeopardize the continued existence or result in take of any federally listed endangered or threatened species.

Post-Construction Phase. In many Bay Area counties, including Santa Clara County, projects must also comply with the California RWQCB, San Francisco Bay Region, Municipal Regional Stormwater NPDES Permit (Water Board Order No. R2-2015-0049, as amended). This permit requires that all projects implement BMPs and incorporate Low Impact Development practices into the design that prevent stormwater runoff pollution, promote infiltration, and hold/slow down the volume of water coming from a site. To meet these

permit and policy requirements, projects must incorporate the use of green roofs, impervious surfaces, tree planters, grassy swales, bioretention and/or detention basins, among other factors.

Project Applicability. The project will comply with the requirements of the NPDES Statewide Storm Water Permit and Statewide General Construction Permit. Therefore, construction-phase activities would not result in detrimental water quality effects on biological or regulated resources.

3.3 Local Regulations

3.3.1 City of San José Tree Ordinance

The City of San José promotes the health, safety, and welfare of the city by regulating the planting, removal, and maintenance of trees in the city. The City provides tree protection under the Municipal Code Section 13.28 (street trees, hedges, and shrubs), 13.32 (tree removal controls), and 13.44.220 (damaging park property). The Municipal Code details permit requirements for tree related work, including removal, pruning, and planting. Removal of trees within the street right-of-way are subject to tree removal permitting by the City of San José. Street trees are located in the public right-of-way between the curb and the sidewalk. Pruning or removal of street trees is illegal without a permit issued by the City. Replacement trees are required for the removal of ordinance-size street trees. A single trunk tree qualifies as an ordinance-size tree if it measures 38 inches or more in circumference at 4.5 feet above ground (approximately 12 inches diameter at breast height). A multi-trunk tree qualifies as ordinance-size if the combined measurement of each trunk circumference (at 4.5 feet above ground) adds up to 38 inches or more. As part of the permit application, it is required to contact the planning division with regard to the replacement of ordinance-size trees.

Removal of trees on private property, commercial, and industrial properties are also subject to tree removal permitting by the City of San José. A permit is required to remove a tree of "any size" from a commercial and industrial property. A separate "permit adjustment application" is required to be filed for non-ordinance-sized trees that will be removed from commercial and industrial properties. As part of the permit application, it is required to contact the City's planning division with regard to the replacement of trees on private, commercial and industrial properties.

Project Applicability: One potentially ordinance-sized tree is present on the substation site, and a number of ordinance-sized trees are present in the off-site improvement areas. Trimming or removal of some of these trees may be necessary to support the project.

The project will comply with the City of San José's tree replacement guidelines and policies for any trees that need to be removed from the substation site.

Although PG&E is not subject to local laws and regulations such as this tree ordinance, the project owner intends to comply with applicable provisions of the City's tree ordinance for trees that need to be removed along the off-site improvement areas. Therefore, it is anticipated that the project owner will perform a tree

survey for the off-site improvement areas to 1) identify any trees that may potentially need to be trimmed or removed for some portion of project implementation, and 2) confirm measures that will be incorporated as BMPs to feasibly minimize tree impacts. The project owner would then comply with the City of San José's tree replacement guidelines and policies for any trees that need to be removed or trimmed.

3.3.2 Santa Clara Valley Habitat Plan

The VHP (ICF International 2012) provides a framework for promoting the protection and recovery of natural resources, including endangered and threatened species, while streamlining the permitting process for planned development, infrastructure, and maintenance activities. The VHP allows the County of Santa Clara, Valley Water, the Santa Clara Valley Transportation Authority, and the cities of Gilroy, Morgan Hill, and San José (collectively, the Local Partners or Permittees) to receive endangered species permits for activities and projects they conduct and those under their jurisdiction. The Santa Clara Valley Open Space Authority also contributed to VHP preparation. The VHP will protect, enhance, and restore natural resources in specific areas of Santa Clara County and contribute to the recovery of endangered species. Rather than separately permitting and mitigating individual projects, the VHP evaluates natural-resource impacts and mitigation requirements comprehensively in a way that is more efficient and effective for at-risk species and their essential habitats.

The VHP was developed in association with the USFWS and CDFW and in consultation with stakeholder groups and the general public. USFWS has issued the Permittees a 50-year permit that authorizes incidental take of listed species under FESA, while CDFW has issued a 50-year permit that authorizes take of all covered species under the Natural Community Conservation Planning Act. This approach allows the Permittees to streamline future mitigation requirements into one comprehensive program. In addition to obtaining take authorization for each participating agency's respective activities, the cities and County will be able to extend take authorization to project applicants under their jurisdiction.

USFWS and CDFW will also provide assurances to the Permittees that no further commitments of funds, land, or water will be required to address impacts on covered species beyond that described in the VHP to address changed circumstances. In addition to strengthening local control over land use and species protection, the VHP provides a more efficient process for protecting natural resources by creating new habitat reserves that will be larger in scale, more ecologically valuable, and easier to manage than the individual mitigation sites created under the current approach.

The VHP and associated documents are approved and adopted by the six Local Partners (cities of Gilroy, Morgan Hill and San José, County of Santa Clara, Santa Clara Valley Transportation Authority, and Valley Water).

Project Applicability. The project site is located within the VHP permit area. Project activities located on the substation site are considered covered under the VHP and are required to comply with applicable VHP conditions (ICF International 2012). VHP conditions that apply to the project are discussed in detail in

Section 6.1 below. Project activities located along the off-site improvement areas are not covered under the VHP (rather, these activities are considered to be covered under the PG&E Bay Area HCP).

Section 4. Environmental Setting

4.1 General Project Area Description

The project site is located in San José in Santa Clara County, California (Figure 1). The climate in the project vicinity is coastal Mediterranean, with most rain falling in the winter and spring. Mild cool temperatures are common in the winter. Hot-to-mild temperatures are common in the summer. Climate conditions in the vicinity include a 30-year average of 14.3 inches of annual precipitation with a monthly average temperature range from 49.9ºF to 79.3ºF (PRISM Climate Group 2026). Elevations on the project site range from 29 to 33 feet above mean sea level (Google, LLC 2026). The Natural Resources Conservation Service has mapped two soil units on the project site: 1) Urbanland-Campbell complex, 0–2 percent slopes, protected; and 2) Campbell silt loam, 0–2 percent slopes, protected. These soils are both considered moderately well-drained, and are composed of alluvium derived from metamorphic and sedimentary rock and/or alluvium derived from metavolcanics (Natural Resources Conservation Service 2026).

4.2 Land Cover

As described above, biotic habitats on the project site were classified according to the land cover classification system described in the VHP (ICF International 2012), with modifications based on site conditions verified during the 2026 field surveys. The reconnaissance-level surveys identified two land cover types on the project site (Figure 3)[2]: California annual grassland and urban-suburban. These land cover types are described in detail in the sections below. Per CEC requirements, a list of all plant and animal species observed on the project site during the surveys is provided in Appendix A.

4.2.1 California Annual Grassland

Vegetation. California annual grassland occupies 8.3 acres of the substation site (Figure 3) (Photos 1 and 2). This habitat is dominated by nonnative grasses including wild oat, smilo grass (*Stipa miliacea* var. *miliacea*), wall barley, Harding grass (*Phalaris aquatica*), and Italian rye grass. Some areas of California annual grassland on the substation site support native grasses including purple needle grass (*Stipa pulchra*), western wild rye (*Elymus glaucus*) and short-antlered barley (*Hordeum brachyantherum*). Dominant forbs include milk thistle (*Silybum marianum*), prickly lettuce (*Lactuca serriola*), cheeseweed (*Malva parviflora*), crowded dock (*Rumex conglomeratus*), wild radish (*Raphanus sativus*), field bindweed (*Convolvulus arvensis*), grayish shortpod mustard (*Hirschfeldia incana*), white horse-nettle (*Solanum elaeagnifolium*), heart-podded hoary cress (*Lepidium draba*), California poppy (*Eschscholzia californica*), yellow sweetclover (*Melilotus officinalis*), and bird's foot trefoil (*Lotus corniculatus*). Observed tree and shrub species include one native Fremont cottonwood (*Populus fremontii*) sapling, native coyote brush (*Baccharis pilularis*), and a nonnative tree-of-heaven (*Ailanthus altissima*) sapling.

[2] Habitat mapping for this CEQA evaluation does not supersede modeled habitat for covered species as defined by the USFWS in PG&E's Bay Area HCP.




Photos 1 and 2. Representative photos of California annual grassland habitat on the substation site.

The grassland habitat on the substation site is regularly maintained by mowing; the regime typically consists of fire breaks mowing fire breaks, but it is our understanding that the site was mown in its entirety following the June 2026 site visit.

Wildlife. Wildlife use of grasslands on the project site is limited by human disturbance (e.g., due to mowing), the limited extent of the grassland areas, and the isolation of this habitat from more extensive grasslands in the region (i.e., in the Diablo Range to the east). As a result, some of the wildlife species associated with extensive grasslands in the South Bay are absent from the grasslands on the project site. Many of the wildlife species that occur in this grassland area occur primarily in adjacent developed or riparian areas and use the grasslands on the project site for foraging. Such species include the house finch (*Haemorhous mexicanus*), bushtit (*Psaltriparus minimus*), and lesser goldfinch (*Spinus psaltria*), which forage on seeds in grassland areas, and the black phoebe (*Sayornis nigricans*), cliff swallow (*Petrochelidon pyrrhonota*), and Mexican free-tailed bat (*Tadarida brasiliensis*), which forage aerially over grassland habitats for insects. Terrestrial mammals associated with nearby urban areas such as the native striped skunk (*Mephitis mephitis*) and raccoon (*Procyon lotor*) as well as the nonnative Virginia opossum (*Didelphis virginiana*) and feral cat (*Felis catus*) will also use the grassland habitats on the site for foraging.

Burrows of California ground squirrels are present in grasslands throughout the substation site. Additional common rodent species that can occur include the California vole (*Microtus californicus*), Botta's pocket gopher (*Thomomys bottae*), and deer mouse (*Peromyscus maniculatus*). Diurnal raptors such as red-tailed hawks (*Buteo jamaicensis*) will forage for small mammals within these grasslands. Several reptile species can also occur in this grassland, including the western fence lizard (*Sceloporus occidentalis*), gopher snake (*Pituophis catenifer*), and southern alligator lizard (*Elgaria multicarinata*).

4.2.2 Urban-Suburban

Vegetation. A small, 0.4-acre area of urban-suburban land cover is present along Component Drive on the substation site (Figure 3). This land cover consists primarily of paved areas with limited vegetation. Patches of

the nonnative grasses and forbs described for California annual grassland habitat above, such as wild oat and Italian thistle, grow in pavement cracks within this area.

As discussed in Section 2.2 above, land cover was not mapped along the transmission line routes connecting the substation site with the nearby CDC. Our site visits confirmed that these routes are located entirely along developed roadways, which would be considered urban-suburban.

Wildlife. The urban-suburban area on the project site are limited in extent, and serve as wildlife habitat only in a very limited capacity. Wildlife that occurs in urban-suburban areas on the substation site primarily consist of species that are associated with the more extensive surrounding grassland habitats, and such individuals would primarily be transiting this area en route between surrounding habitats. Western fence lizards commonly bask on paved surfaces and bare ground to raise their body temperature, and may make more frequent use of this area. In contrast, wildlife that occur in the off-site improvement areas primarily consists of species that are associated with the extensive surrounding urban areas. These include birds such as the American crow (*Corvus brachyrhynchos*), house finch, bushtit, and lesser goldfinch, which nest and forage in landscape vegetation. Mammals such as the striped skunk and Virginia opossum may traverse these areas and forage there, and reptiles such as the western fence lizard will inhabit landscaped areas and bask on paved sidewalks and roadways. All are common urban-adapted species that are acclimated to high levels of human disturbance.

4.3 Wildlife Movement

Wildlife movement on and in the vicinity of the project site takes many forms and is different for the various suites of species associated with these lands. Bird and bat species move readily over the landscape in the project vicinity, foraging over and within both natural lands and landscaped areas. Mammals of different species move within their home ranges, but also disperse between patches of habitat. Generally, reptiles and amphibians similarly settle within home ranges, sometimes moving to central breeding areas, upland refugia, or hibernacula in a predictable manner, but also dispersing to new areas. Some species, especially among the birds and bats, are migratory, moving into or through the project vicinity during specific seasons. Aside from bats, there are no other mammal species in the vicinity of the substation site and off-site improvement areas that are truly migratory. However, the young of many mammal species disperse from their natal home ranges, sometimes moving over relatively long distances in search of new areas in which to establish.

Movement corridors are segments of habitat that provide linkages for wildlife through the mosaic of suitable and unsuitable habitat types found within a landscape while also providing cover. On a broader level, corridors also function as paths along which wide-ranging animals can travel, populations can move in response to environmental changes and natural disasters, and genetic interchange can occur. In California, environmental corridors often consist of riparian areas along streams, rivers, or other natural features.

Due to the density of development surrounding the substation site, there are currently no well-defined or important movement corridors for animals on or through the substation site. Wildlife species may move

through the substation site using cover and refugia as they find them available. Most dispersal by wildlife species in the region likely occurs along higher-quality habitats, such as the Guadalupe River corridor to the southwest, and along the edge of the Bay to the north.

In summary, the project site is not a particularly important area for movement by wildlife, and it does not contain any high-quality corridors allowing dispersal of animals through the City.

Section 5. Special-Status Species and Sensitive Habitats

CEQA requires assessment of the effects of a project on species that are protected by state, federal, or local governments as "threatened, rare, or endangered"; such species are typically described as "special-status species." For the purpose of the environmental review of the project, special-status species have been defined as described below. Impacts on these species are regulated by some of the federal, state, and local laws and ordinances described in Section 3 above.

For purposes of this analysis, "special-status" plants are considered plant species that meet one or more of the following criteria:

- Listed under FESA as threatened, endangered, proposed threatened, proposed endangered, or a candidate species
- Listed under CESA as threatened, endangered, rare, or a candidate species
- Listed by the CNPS as CRPR 1A, 1B, 2, 3, or 4.

For purposes of this analysis, "special-status" animals are considered animal species that meet one or more of the following criteria:

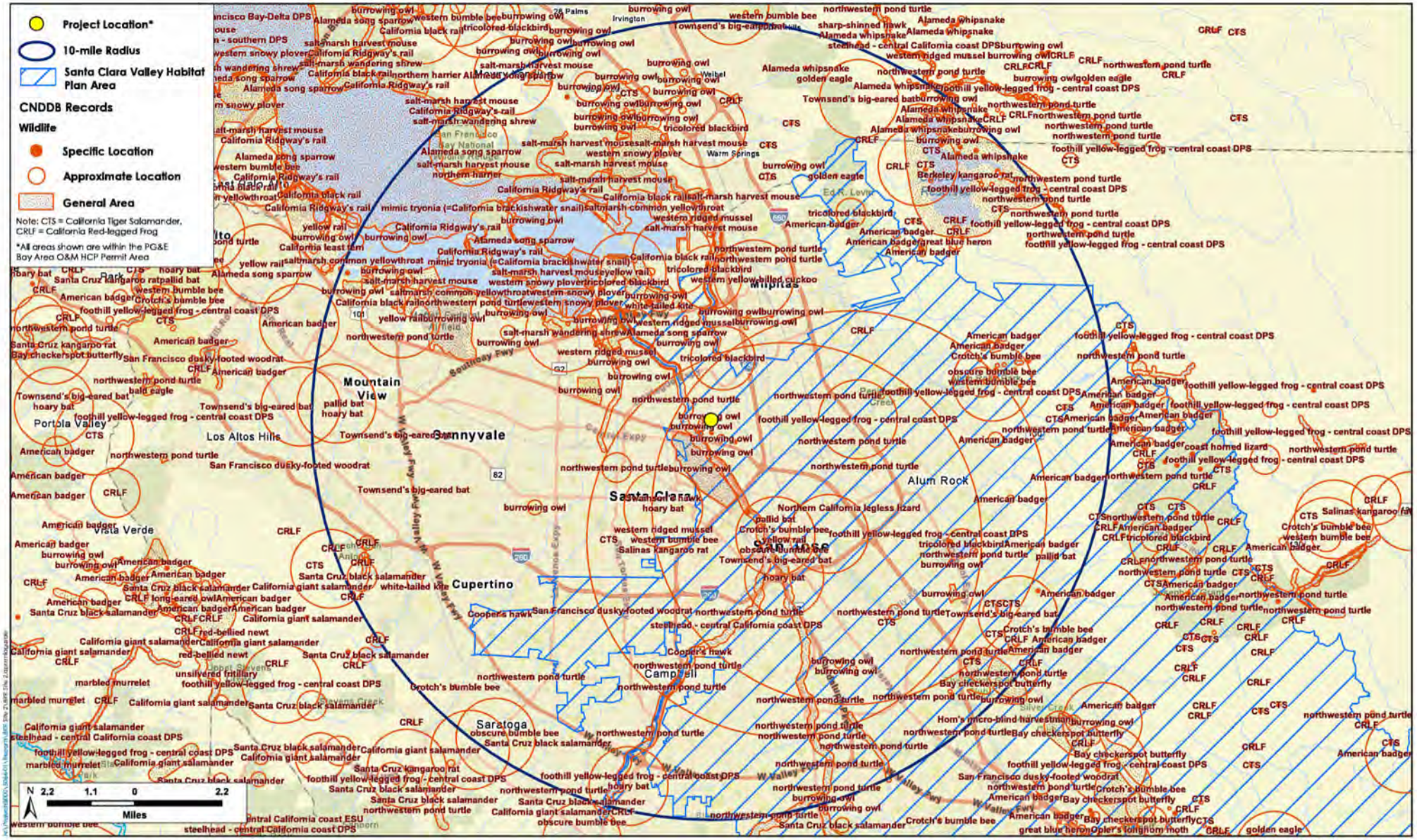
- Listed under FESA as threatened, endangered, proposed threatened, proposed endangered, or a candidate species
- Listed under CESA as threatened, endangered, or a candidate threatened or endangered species
- Designated by the CDFW as a California species of special concern
- Listed in the California Fish and Game Code as fully protected species (fully protected birds are provided in Section 3511, mammals in Section 4700, reptiles and amphibians in Section 5050, and fish in Section 5515).

Information concerning threatened, endangered, and other special-status species that potentially occur on the project site was collected from several sources and reviewed by H. T. Harvey & Associates biologists as described in Section 2.1 above. Figure 4 depicts CNDDB records of special-status plant species in the general vicinity of the project site, and Figure 5 depicts CNDDB records of special-status animal species. These generalized maps show areas where special-status species are known to occur or have occurred historically. Per CEC requirements, these maps include CNDDB records within 10 miles of the project site as well as the boundaries of applicable local Habitat Conservation Plans (i.e., the VHP and Bay Area HCP permit areas). No wildlife nursery sites (e.g., egret rookeries) are present near the project site (San Francisco Bay Bird Observatory 2026).



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Ecological Consultants

Figure 4. CNDDB-Mapped Records of Special-Status Plants
Expanded Trimble Substation and Charcot Data Center
Power Lines Biological Resources Report (5066-01)
August 2026



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Ecological Consultants

Figure 5. CNDDB-Mapped Records of Special-Status Animals
Expanded Trimble Substation and Charcot Data Center
Power Lines Biological Resources Report (5066-01)
August 2026

5.1 Special-Status Plant Species

CNPS (2026) and CNDDB (2026) identify 52 special-status plant species as potentially occurring in at least one of the nine USGS 7.5-minute quadrangles containing or surrounding the project site (for CNPS) or within 10 miles of the site (for CNDDB). Of the 52 potentially occurring special-status plant species, all but one were determined to be absent from the project site for at least one of the following reasons: 1) absence of suitable habitat types; 2) lack of specific microhabitat or edaphic requirements, such as serpentine soils; 3) the elevation range of the species is outside of the range of the project site; and/or 4) the species is presumed extirpated from the project region (Appendix B). Many species are known to occur in marsh habitat associated with the San Francisco Bay to the northwest, or serpentine and alkaline soils associated with the Diablo Range to the east where outcrops of serpentine geology and soils are present. Serpentine soils do not occur on or adjacent the project site.

Suitable habitat, edaphic requirements, and elevation range are present on the project site for only one special-status plant species, Congdon's tarplant (*Centromadia parryi* ssp. *congdonii*). Congdon's tarplant has been documented by the CNDDB in the project vicinity (Figure 4) and can persist in disturbed grasslands. An expanded discussion of this species is provided below.

Congdon's tarplant (*Centromadia parryi* ssp. *congdonii*). Federal Listing Status: None; State Listing Status: None; CRPR: 1B.1. Congdon's tarplant is an annual herb in the composite family (Asteraceae) that is endemic to California. It has a variable blooming period extending from approximately May through November. Congdon's tarplant occurs in valley and foothill grassland habitat, floodplains, and swales, particularly those with alkaline substrates; and in disturbed areas with nonnative grasses such as wild oats, ripgut brome (*Bromus rubens*), Italian rye grass, and seaside barley (*Hordeum marinum*) (Baldwin et al. 2012; CNDDB 2026; CNPS 2026). Congdon's tarplant occurs in Alameda, Contra Costa, Monterey, San Luis Obispo, San Mateo, Santa Clara, Santa Cruz, and Solano Counties (CNDDB 2026). In Santa Clara County, populations occur in ruderal grassland at Moffett Federal Airfield; in ruderal grassland and seasonal wetland habitats within Sunnyvale Baylands Park; in annually disked ruderal grassland in Alviso, north of Highway 237 and east of North First Street; and in ruderal grassland along railroad tracks in Milpitas.

The closest location of Congdon's tarplant to the project site is 3.2 miles to the north in Alviso (CNDDB 2026). The California annual grassland habitat on the project site provides some suitable habitat for Congdon's tarplant, though the soils on the site are not alkaline, which Congdon's tarplant prefers. Due to the lack of alkaline soils and regular disturbance from mowing, the habitat on the project site is considered only marginally suitable for this species (CNPS 2026). During the survey performed in June 2026, which was conducted during the period when vegetative tarplant individuals would be detectable, V. Morales conducted a focused survey for any tarplant species within areas of suitable habitat (i.e., areas of California annual grassland) throughout the project site as well as a 50-foot surrounding buffer. No individuals of any tarplant species were observed during the survey, and no additional special-status plant species were detected. Therefore, Congdon's tarplant is determined to be absent from the project site.

5.2 Special-Status Animal Species

The legal status and likelihood of occurrence on the project site of special-status animal species known to occur, or potentially occurring, in the surrounding region are presented in Table 1. Most of the special-status species listed in Table 1 are not expected to occur on the project site because it lacks suitable habitat, is outside the known range of the species, and/or is isolated from the nearest known extant populations by development or otherwise unsuitable habitat.

The following special-status species (which include all species covered by the VHP and Bay Area HCP as well as species known to occur in the project vicinity) that are present in less urbanized settings, or in specialized habitats, are absent from the project site due to a lack of suitable habitat and/or isolation of the site from populations by urbanization: the California freshwater shrimp (*Syncaris pacifica*), conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), vernal pool fairy shrimp (*Branchinecta lynchi*), vernal pool tadpole shrimp (*Lepidurus packardi*), Delta green ground beetle (*Elaphrus viridis*), Bay checkerspot butterfly (*Euphydryas editha bayensis*), Callippe silverspot butterfly (*Speyeria callippe callippe*), Lange's metalmark butterfly (*Apodemia mormo langei*), Mission blue butterfly (*Icaricia icarioides missionensis*), San Bruno elfin butterfly (*Callophrys mossii bayensis*), California tiger salamander (*Ambystoma californiense*), California red-legged frog (*Rana draytonii*), foothill yellow-legged frog (*Rana boylii*), Alameda whipsnake (*Masticophis lateralis euryxanthus*), San Francisco garter snake (*Thamnophis sirtalis tetrataenia*), California Ridgway's rail (*Rallus obsoletus obsoletus*), least Bell's vireo (*Vireo bellii pusillus*), San Francisco common yellowthroat (*Geothlypis trichas sinuosa*), logger head shrike (*Lanius ludovicianus*), salt marsh harvest mouse (*Reithrodontomys raviventris*), San Joaquin kit fox (*Vulpes macrotis mutica*), mountain lion (*Puma concolor*), American badger (*Taxidea taxus*), and Townsend's big-eared bat (*Corynorhinus townsendii*). While bald eagles (*Haliaeetus leucocephalus*) may fly over the project site at times, they are expected to nest or forage on the project site. The western bumble bee (*Bombus occidentalis*) occurred historically in the South Bay but no longer occurs in the region due to range contractions. The northwestern pond turtle occurs along the Guadalupe River 0.5 mile to the southwest, but due to the intervening distance between the river and the site as well as the presence of barriers in between the site and the creek, the species is determined to be absent.

A number of special-status species can occasionally occur on the project site as nonbreeding foragers (i.e., they do not nest or breed on the site). These are the monarch butterfly, golden eagle (*Aquila chrysaetos*), yellow warbler (*Setophaga petechia*), grasshopper sparrow (*Ammodramus savannarum*), tricolored blackbird, and Bryant's savannah sparrow (*Passerculus sandwichensis alaudinus*). The pallid bat (*Antrozous pallidus*), which is a California species of special concern, may also forage on the project site. As discussed in Table 1, these species are not expected to nest, roost, or breed in or immediately adjacent to the project site due to a lack of suitable nesting, roosting, or breeding habitat, and will be affected very little, if at all, by the proposed project.

The Crotch's bumble bee, white-tailed kite, and burrowing owl can potentially breed or occur on or immediately adjacent to the project site and/or may be significantly impacted by project construction (see Section 6, "Impacts and Mitigation Measures," below).

Table 1. Special-Status Animal Species, Their Status, and Potential Occurrence on the Project Site

Name	Status	Habitat	Potential for Occurrence on the Project Site
Federal or State Endangered, Threatened, or Candidate Species			
California freshwater shrimp (*Syncaris pacifica*)	FE, SE, BAHCP, ITP	Low elevation, perennial freshwater streams within Marin, Sonoma, and Napa counties	**Absent.** The project site is outside of the species' range, and no suitable habitat is present on the project site.
Conservancy fairy shrimp (*Branchinecta conservatio*)	FE, BAHCP	Large deep vernal pools in annual grasslands	**Absent.** The project site is outside of the species' range, and no suitable habitat is present on the project site.
Longhorn fairy shrimp (*Branchinecta longiantenna*)	FE, BAHCP	Vernal pools in grasslands and rock outcrops	**Absent.** The project site is outside of the species' range, and no suitable habitat is present on the project site.
Vernal pool fairy shrimp (*Branchinecta lynchi*)	FT, BAHCP	Vernal pools and ephemeral stock ponds	**Absent.** The project site is outside of the species' range, and no suitable habitat is present on the project site.
Vernal pool tadpole shrimp (*Lepidurus packardi*)	FE, BAHCP	Vernal pools and swales containing clear to highly turbid water	**Absent.** The project site is outside of the species' range, and no suitable habitat is present on the project site.
Delta green ground beetle (*Elaphrus viridis*)	FT, BAHCP	Sparsely vegetated edges of vernal lakes and pools, occurring up to 250 feet from pools	**Absent.** The project site is outside of the species' range; this species has not been detected outside of the Jepson Prairie region of Solano County, approximately 60 miles from the project site.
Bay checkerspot butterfly (*Euphydryas editha bayensis*)	FT, BAHCP, VHP	Native grasslands on serpentine soils. Larval host plants are *Plantago erecta* and/or *Castilleja exserta* or *C. densiflora*.	**Absent.** No suitable native grasslands on serpentine soils are present on the project site to support this species, and the VHP does not map suitable habitat on the project site (ICF International 2012). Determined to be absent.
Callippe silverspot butterfly (*Speyeria callippe callippe*)	FE, BAHCP	Grasslands; closely associated with California golden violet (*Viola pedunculata*)	**Absent.** The project site is outside of the species' range, which is approximately 32 miles from the project site, and no suitable habitat is present on the project site.
Lange's metalmark butterfly (*Apodemia mormo langei*)	FE, BAHCP	Larval host plant is naked buckwheat *Eriogonum nudum* var. *auriculatum*, and adults obtain nectar from a variety of flowering plants	**Absent.** The project site is outside of the species' range. The only known population of Lange's metalmark butterfly is located outside of the project site in the Antioch Dunes area of northern Contra Costa County.

Name	Status	Habitat	Potential for Occurrence on the Project Site
Mission blue butterfly (*Icaricia icarioides missionensis*)	FE, BAHCP	Found in coastal prairie grasslands in Southern Marin, San Francisco, and San Mateo Counties where at least one of the following host plants are present: silver lupine (*Lupinus albifrons* var. *collinus*), many-colored lupine (*L. variicolor*), and summer lupine (*L. formosus* var. *formosus*)	**Absent.** The project site is outside of the species' range, and no suitable habitat is present on the project site.
San Bruno elfin butterfly (*Callophrys mossii bayensis*)	FE, BAHCP	Requires steep, northern-facing slopes in coastal chaparral within the fog belt. Larval host plant is the stonecrop (*Sedum spathulifolium*), but adults may forage on a variety of floral resources	**Absent.** The project site is outside of the species' range in San Mateo County. Further, there is no suitable habitat on the project site.
Monarch butterfly (*Danaus plexippus*)	FC	Requires milkweeds for egg-laying and larval development, but adults obtain nectar from a wide variety of flowering plants in many habitats. Individuals congregate in winter roosts, primarily in Mexico and in widely scattered locations on the central and southern California coast.	**May Be Present as Nonbreeder.** The monarch butterfly occurs throughout the region primarily as a migrant. No larval host plants were observed on the project site during the June 18, 2026 survey, when milkweeds, if present, would have been detectable. Therefore, no suitable breeding habitat for monarchs occurs on the project site. Small numbers of individuals may forage throughout the project site, especially during spring and fall migration. However, the site does not provide high-quality foraging habitat for this species. No suitably dense groves of trees are present on the project site to provide overwintering habitat for monarchs, and no current or historical overwintering sites are known as far inland as the project site; the nearest known overwintering location is approximately 4.4 miles to the northwest at Sunnyvale Baylands Park (Xerces Society 2026).
Western bumble bee (*Bombus occidentalis*)	SC	Meadows and grasslands with abundant floral resources.	**Absent.** Although the species was historically found throughout much of central and northern California, including in the project vicinity, it is not expected to occur on the site due to recent range contractions. Determined to be absent.

Name	Status	Habitat	Potential for Occurrence on the Project Site
Crotch's bumble bee (*Bombus crotchii*)	SC	Open grassland and scrub habitats.	**May be Present.** Concern over possible population declines and range contractions led CDFW (2019) to consider this species a candidate for listing under CESA. However, since 2019, there have been documented occurrences of more than 100 individuals from 25+ locations in Santa Clara County (Bumble Bee Watch 2026; iNaturalist 2026; S. Rottenborn, pers. obs.), indicating that the species is still extant, and fairly widespread (albeit in low numbers in most locations) in the county. No individuals were observed on the site during the June 18, 2026 survey, and the project site does not provide high-quality habitat for this species, as few flowering plants are present. However, individuals may occur occasionally and in small numbers as foragers, and the possibility that nesting could occur on the site (e.g., in a ground squirrel burrow) cannot be ruled out.
California tiger salamander (*Ambystoma californiense*)	FT, ST, ITP, VHP	Vernal or temporary pools in annual grasslands or open woodlands.	**Absent.** Populations located on the Santa Clara Valley floor have been extirpated due to habitat loss, and the species is now considered absent from the majority of the Valley floor, including the project site (H. T. Harvey & Associates 1999a, 2012; Valley Water 2011). No recent records of California tiger salamanders are located anywhere in the project vicinity (CNDDB 2026). Determined to be absent.
California red-legged frog (*Rana draytonii*)	FT, CSSC, BAHCP, VHP	Streams, freshwater pools, and ponds with emergent or overhanging vegetation.	**Absent.** Populations of this species have been extirpated from the majority of the project region, including the entire urbanized Santa Clara Valley floor, due to development, the alteration of hydrology of its aquatic habitats, and the introduction of nonnative predators such as nonnative fishes and bullfrogs (H. T. Harvey & Associates 1997; Valley Water 2011). Determined to be absent.
Foothill yellow-legged frog (*Rana boylii*)	FPT, SE, VHP	Partially shaded shallow streams and riffles with a rocky substrate. Occurs in a variety of habitats in coast ranges.	**Absent.** This species has been extirpated from Valley floor areas of Santa Clara County and is no longer known to occur along the County's streams below major reservoirs, including Calero and Almaden reservoirs, which are located upstream of the project (H. T. Harvey & Associates 1999b). Determined to be absent.

Name	Status	Habitat	Potential for Occurrence on the Project Site
Northwestern pond turtle (*Actinemys pallida*)	CSSC,VHP, FPT	Permanent or nearly permanent water in a variety of habitats.	**Absent.** No suitable aquatic habitat is present on the project site. Breeding populations of northwestern pond turtles have been extirpated from most urbanized areas in the region. However, individuals of this long-lived species still occur in urban streams and ponds in the Santa Clara Valley, including along the Guadalupe River 0.5 mile to the southwest and Coyote Creek 0.5 mile to the east (CNDDB 2026). Due to the intervening distance between the site and these waterbodies, as well as the presence of barriers to the species' dispersal including multiple fences toed into the ground, curbs, and busy roadways, individuals would not be able to travel from the Guadalupe River or Coyote Creek to the project site. As a result, this species is determined to be absent.
Alameda whipsnake (*Masticophis lateralis euryxanthus*)	FT, ST, BAHCP, ITP	Primarily associated with scrub and chaparral, but may also occur in grasslands, especially those with rock outcrops	**Absent.** The southern edge of this subspecies' range is located at the northern edge of eastern Santa Clara County (USFWS 2025). The most recent extant CNDDB occurrences (from 2014 to 2018) are located 9.0 miles northeast of the project site, north of Calaveras Reservoir (CNDDB 2026). No suitable habitat for this species is present on the project site. Determined to be absent.
San Francisco garter snake (*Thamnophis sirtalis tetrataenia*)	FE, SE, BAHCP	Prefer densely vegetated freshwater habitats. May use upland burrows for aestivation	**Absent.** The project site is outside of this subspecies' range.
California Ridgway's rail (*Rallus obsoletus obsoletus*)	FE, SE, SP, BAHCP	Tidal salt marsh dominated by cordgrass and pickleweed; occasionally occurs in brackish marshes as well	**Absent.** The project site is outside of the species' range, and no suitable habitat is present on the site.
Burrowing owl (*Athene cunicularia*)	CSSC, VHP, SC	Nests and roosts in open grasslands and ruderal habitats with suitable burrows, usually those made by California ground squirrels.	**May be Present.** Burrowing owls have been known to occur on the substation site and adjacent undeveloped properties along Component Drive and Orchard Parkway (CNDDB 2026; Cornell Lab of Ornithology 2026). H. T. Harvey & Associates biologists detected a burrowing owl on the substation site during pre-mowing surveys on February 28, March 3, and March 10, 2025; however, subsequent surveys on March 25, April 1, April 8, and April 15, 2025 did not detect any burrowing owls on the properties. Because the owl was not observed after March 10, only one owl (as opposed to a pair of owls) was ever observed, and no signs of owl occupation at any burrows on the site were observed from March 25 through April 21, it was determined

Name	Status	Habitat	Potential for Occurrence on the Project Site
			that burrowing owls did not nest on the site in 2025. Rather, the owl that was observed on the site in late February and early March likely dispersed elsewhere for breeding. One additional recent record of a wintering owl is known from the contiguous undeveloped property to the southwest, detected by a Santa Clara Valley Habitat Agency biologist on December 4, 2015. The most recent record of a pair of nesting burrowing owls near the site was detected by H. T. Harvey & Associates staff at the PG&E substation on Component Drive approximately 200 feet to the northwest on June 2, 2015. In addition, owls have been known to nest, roost, and forage southwest of the substation site on the Airport airfield for decades (Albion Environmental, Inc. 1997), but in recent years the population has declined to the point that only one burrowing owl was observed at the Airport in 2023 (U.S. Department of Agriculture 2024). No owls were detected on or within 250 feet of the site during the June 2026 site visit. However, suitable nesting and roosting habitat is present in these areas where burrows of California ground squirrels are present, and suitable foraging habitat is present throughout this area. The locations of breeding burrowing owls in the VHP permit area are mapped annually, and due to the distance between the site and the nearest known owl nesting locations, the site is not currently considered to provide foraging habitat for any known breeding pairs of this species (Santa Clara Valley Habitat Agency 2026). However, based on the presence of suitable habitat and the occasional use of the site by burrowing owls over the years, burrowing owls can potentially nest, roost, and/or forage on and adjacent to the substation site in the future.
Bald eagle (*Haliaeetus leucocephalus*)	SE, SP	Occurs mainly along seacoasts, rivers, and lakes; nests in tall trees or in cliffs, occasionally on electrical towers. Feeds mostly on fish.	**Absent.** Nests and forages in the region primarily at inland reservoirs. No suitable nesting or foraging habitat is present on the project site.
Least Bell's vireo (*Vireo bellii pusillus*)	FE, SE, VHP	Nests in heterogeneous riparian habitat, often dominated by cottonwoods and willows.	**Absent.** No suitable habitat to support this species is present on or adjacent to the project site. This species has not been recorded nesting along the Guadalupe River, which does not provide high-quality nesting habitat, or anywhere in the project vicinity. The only breeding records in Santa Clara County are from Llagas Creek southeast of Gilroy in 1997 and the Pajaro

Name	Status	Habitat	Potential for Occurrence on the Project Site
			River south of Gilroy in 1932 (Rottenborn 2007a). Otherwise, records in the County of potential least Bell's vireos include one or two singing males along lower Llagas Creek in May 2001 (CNDDB 2026), a singing male in June 2006 along Coyote Creek near the Coyote Creek Golf Club (H. T. Harvey & Associates 2007; not seen, so subspecies not confirmed), and a singing male on May 23, 2016, in Alviso (Jeffers, pers. comm.). The VHP does not map suitable habitat for this species as occurring on or adjacent to the project site (ICF International 2012). Although the abundance and distribution of this species may increase as core populations increase, it is unlikely to be more than a rare and very locally occurring breeder along southern Santa Clara County streams (south of the project site). Determined to be absent.
Tricolored blackbird (*Agelaius tricolor*)	ST, VHP	Nests near fresh water in dense emergent vegetation.	**Absent as Breeder.** In Santa Clara County, has bred in only a few scattered locations, and is absent from, or occurs only as a nonbreeder in, most of the County (Rottenborn 2007b). Typically nests in extensive stands of tall emergent herbaceous vegetation in non-tidal freshwater marshes and ponds. No suitable nesting habitat is present on or adjacent to the project site; this species (whose colonies are loud and conspicuous) has never been recorded nesting within or adjacent to the project site, and high levels of adjacent disturbance likely preclude nesting by this species. Individuals can occasionally occur on the site in low numbers as nonbreeding foragers.
Salt marsh harvest mouse (*Reithrodontomys raviventris*)	FE, SE, BAHCP	Tidal salt marsh and brackish marsh, including tidal and diked/non-tidal marshes, dominated by pickleweed (*Salicornia* spp.) and occasionally in mature and heavily thatched alkali bulrush (*Bolboschoenus maritimus*) dominated habitat	**Absent.** The project site is outside of the species' range, and no suitable habitat is present.

Name	Status	Habitat	Potential for Occurrence on the Project Site
San Joaquin kit fox (*Vulpes macrotis mutica*)	FE, ST, BAHCP, VHP	Annual grassland or mixed shrub and grassland habitats throughout low, rolling hills and in valleys.	**Absent.** This species has not been recorded in the site vicinity and is not expected to occur on the project site. The closest area of potential occurrence (based on VHP mapping) is approximately 29 miles southeast of the project site, where it may occur infrequently and in low numbers during dispersal (ICF International 2012). Determined to be absent.
Mountain lion (*Puma concolor*) Southern California/Central Coast ESU	SE	Has a large home range and occurs in a variety of habitats. Natal dens are typically located in remote, rugged terrain far from human activity. May occasionally occur in areas near human development, especially during dispersal.	**Absent.** In the project region, mountain lions occur primarily in the Santa Cruz Mountains and the Diablo Range. This species is not expected to occur on the project site owing to high levels of human activity and the project's location in urbanized San José. Determined to be absent.
California Species of Special Concern			
Loggerhead shrike (*Lanius ludovicianus*)	CSSC (nesting)	Nests in tall shrubs and dense trees; forages in grasslands, marshes, and ruderal habitats.	**Absent.** Nests (or at least formerly nested) in a number of locations around the South Bay where open grassland, ruderal, or agricultural habitat with scattered brush, chaparral, or trees provides perches and nesting sites (Bousman 2007), though populations have declined in recent years as suitable habitat has been increasingly developed. Potentially suitable nesting habitat for loggerhead shrikes is present in dense shrubs and trees on the switching station site, and adjacent grasslands provide ostensibly suitable foraging habitat. However, this species has disappeared from much of the urban valley floor, and is not expected to occur on the switching station site due to its location in urban San José. Rather, loggerhead shrikes that occur in the region are expected to occur in higher-quality habitat on Coyote Ridge to the east. Determined to be absent.
Yellow warbler (*Setophaga petechia*)	CSSC (nesting)	Nests in riparian woodlands.	**Absent as Breeder.** No suitable nesting habitat for yellow warblers is present on or adjacent to the project site. This species is an abundant migrant throughout the project region during the spring and fall, when nonbreeding individuals may forage in trees and shrubs throughout the project site.

Name	Status	Habitat	Potential for Occurrence on the Project Site
San Francisco common yellowthroat (*Geothlypis trichas sinuosa*)	CSSC	Nests in herbaceous vegetation, usually in wetlands or moist floodplains.	**Absent.** No suitable habitat for common yellowthroats is present on or adjacent the project site. Determined to be absent.
Grasshopper sparrow (*Ammodramus savannarum*)	CSSC (nesting)	Nests and forages in grasslands, meadows, fallow fields, and pastures.	**Absent as Breeder.** Known to occur in the region primarily in grasslands and less frequently in disturbed agricultural habitats, mostly in the foothills. This species does not breed on grassland on the Santa Clara Valley floor. Small numbers of individuals may forage in grasslands on the substation site during migration.
Bryant's savannah sparrow (*Passerculus sandwichensis alaudinus*)	CSSC	Nests in pickleweed dominant salt marsh and adjacent ruderal habitat.	**Absent as Breeder.** In the South San Francisco Bay, nests primarily in short pickleweed-dominated portions of diked/muted tidal salt marsh habitat and in adjacent ruderal habitats (Rottenborn 2007c). No suitable nesting habitat occurs on the project site. Individuals of several savannah sparrow subspecies, including *alaudinus*, may forage on the project site during migration and winter.
Pallid bat (*Antrozous pallidus*)	CSSC	Forages over many habitats; roosts in caves, rock outcrops, buildings, and hollow trees.	**Absent as Breeder.** Historically, pallid bats were likely present in a number of locations throughout the project region, but their populations have declined in recent decades. This species has been extirpated as a breeder from urban areas close to the Bay, as is the case in the project site. No suitable roosting habitat is present on the project site, and no known maternity colonies of this species are present on or adjacent to the project site. There is a low probability that the species occurs in the site vicinity at all due to urbanization; however, individuals from more remote colonies could potentially forage on the project site on rare occasions.
Townsend's big-eared bat (*Corynorhinus townsendii*)	CSSC	Roosts in caves and mine tunnels, and occasionally in deep crevices in trees such as redwoods or in abandoned buildings, in a variety of habitats.	**Absent.** No known extant populations of the Townsend's big-eared bat occur on the Santa Clara Valley floor. Suitable breeding habitat is not present on the project site, and no colonies are known from the site vicinity. Determined to be absent.

Name	Status	Habitat	Potential for Occurrence on the Project Site
American badger (*Taxidea taxus*)	CSSC	Burrows in grasslands and occasionally in infrequently disked agricultural areas.	**Absent.** Known to occur in the project region primarily in extensive grasslands and agricultural habitats, mostly in the foothills. Suitably extensive grasslands or agricultural habitats are not present on or near the project site, and the grasslands on the substation site are isolated from more extensive grasslands in the foothills to the east and the mountains to the northwest by high-density urban development. Determined to be absent.
State Fully Protected Species			
Golden eagle (*Aquila chrysaetos*)	SP	Breeds on cliffs or in large trees (rarely on electrical towers); forages in open areas.	**Absent as Breeder.** No suitable nesting habitat for golden eagles is present on the project site. Nevertheless, this species may occur on the project site as an occasional forager.
White-tailed kite (*Elanus leucurus*)	SP	Nests in tall shrubs and trees; forages in grasslands, marshes, and ruderal habitats.	**May be Present in Adjacent Areas.** Potentially suitable nesting habitat for this species is present in trees on and adjacent to the project site, and suitable foraging habitat is present in grasslands on the project site. Up to one pair of white-tailed kites may nest on or adjacent to the site, and occasional individuals may forage on the site year-round.

Key to Abbreviations:

Status: Federally Endangered (FE); Federally Threatened (FT); Federal Candidate for Listing (FC); Federally Proposed as Threatened (FPT); State Endangered (SE); State Threatened (ST); State Candidate (SC); State Fully Protected (SP); California Species of Special Concern (CSSC); Covered by PG&E's Bay Area HCP (BAHCP); Covered by PG&E's CDFW ITP (ITP); Santa Clara Valley Habitat Plan Covered Species (VHP).

5.3 Sensitive Natural Communities, Vegetation Alliances, and Habitats

Natural communities have been considered part of the Natural Heritage Conservation triad, along with plants and animals of conservation significance, since the state inception of the Natural Heritage Program in 1979. The CDFW determines the level of rarity and imperilment of vegetation types and tracks sensitive communities in its Rarefind database (CNDDB 2026). Global rankings (G) of natural communities reflect the overall condition (rarity and endangerment) of a habitat throughout its range, whereas state (S) rankings are a reflection of the condition of a habitat within California. Natural communities are defined using NatureServe's standard heritage program methodology as follows (Faber-Langendoen et al. 2012):

G1/S1: Critically imperiled
G2/S2: Imperiled
G3/S3: Vulnerable.
G4/S4: Apparently secure
G5/S4: Secure

In addition to tracking sensitive natural communities, CDFW also ranks vegetation alliances, defined by repeating patterns of plants across a landscape that reflect climate, soil, water, disturbance, and other environmental factors (Sawyer et al. 2009). If an alliance is marked G1–G3, all of the vegetation associations within it will also be of high priority (CDFW 2026). CDFW provides VegCAMP's currently accepted list of vegetation alliances and associations (CDFW 2026).

Impacts on CDFW sensitive natural communities, vegetation alliances/associations, or any such community identified in local or regional plans, policies, and regulations, must be considered and evaluated under CEQA (Title 14, Division 6, Chapter 3, Appendix G of the California Code of Regulations). Furthermore, aquatic, wetland and riparian habitats are also protected under applicable federal, state, or local regulations, and are generally subject to regulation, protection, or consideration by USACE, RWQCB, CDFW, and/or USFWS.

5.3.1 Sensitive Natural Communities

A query of sensitive habitats in the CNDDB (2026) identified one sensitive natural community as occurring within the nine 7.5-minute USGS quadrangles containing or surrounding the project site: northern coastal salt marsh (Rank G3/S3.2). However, no marsh habitat occurs on or adjacent to the project site. Therefore, sensitive natural communities are absent from the project site and adjacent areas.

5.3.2 Sensitive Vegetation Alliances

The California annual grassland habitat on the project site is dominated by wild oats and *Bromus* sp. and would be considered "Wild oats and annual brome grasslands (*Avena* spp. – *Bromus* spp.)" alliance (CDFW 2026). This

alliance does not have a global or state ranking, but because it is defined by dominance of nonnative species, is not considered sensitive by VegCAMP. Therefore, no sensitive vegetation alliances occur on the project site.

5.3.3 CDFW Riparian Habitat

Due to its rarity and disproportionately high habitat values and functions to wildlife, CDFW considers riparian habitat to be sensitive. No riparian habitat occurs on or adjacent to the project site, and no riparian habitat will be directly or indirectly impacted by project activities.

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

No waters or wetlands of the U.S./state occur on or adjacent to the project site.

5.3.5 Nonnative and Invasive Species

Several nonnative, invasive plant species occur on the project site (Appendix A). Of these, the following have a rating of "limited" invasiveness (considered invasive but their ecological impacts are minor on a statewide level and their reproductive biology and other attributes result in low to moderate rates of invasiveness) according to the California Invasive Plant Council (Cal-IPC) (2026): milk thistle, wild radish, variable burclover (*Medicago polymorpha*), soft chess (*Bromus hordeaceus*), and smilo grass. The following species have a "moderate" rating, indicating that they have substantial and apparent, but generally not severe-ecological impacts on physical processes, plant and animal communities, and vegetation structure, and that their reproductive biology and other attributes are conducive to moderate to high rates of dispersal, though establishment would be generally dependent upon ecological disturbance: Italian thistle, grayish shortpod mustard, heart-podded hoary cress (*Lepidium draba*), tree-of-heaven (*Ailanthus altissima*), wild oat, ripgut brome, Bermuda grass, Italian rye grass, wall barley, and Harding grass. Species with a "high" invasive rating by Cal-IPC have the potential to cause severe ecological impacts on physical processes, plant and animal communities, and vegetation structure. Their reproductive biology and other attributes are conducive to moderate to high rates of dispersal and establishment, and most are widely distributed ecologically (Cal-IPC 2026). On the project site, one species with a "high" rating was observed, red brome (*Bromus rubens*). Due to their ubiquity in the region, and the fact that proposed project activities are expected to clear and develop all areas where populations of invasive species are located, project activities are not expected to result in the spread of nonnative and invasive plant species.

Section 6. Impacts and Mitigation Measures

CEQA and the State CEQA Guidelines provide guidance on evaluating impacts of projects on biological resources and determining which impacts will be significant. CEQA defines "significant effect on the environment" as "a substantial adverse change in the physical conditions which exist in the area affected by the proposed project."

Appendix G of State CEQA Guidelines provides a checklist of other potential impacts to consider when analyzing the significance of project effects. The impacts listed in Appendix G (Chapter IV) may or may not be significant, depending on the level of the impact. For biological resources, these impacts include whether the project would:

A. "have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service"

B. "have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service"

C. "Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means"

D. "interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites"

E. "conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance"

F. "conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan"

Potential impacts on biological resources as a result of the proposed project were systematically evaluated at the project level based on the project plans, description, and impact area provided to us by David J. Powers & Associates through June 2026. Based on this information, it is our understanding that all project impacts, including grading, construction, staging, and access, will occur within the limits of the project site, and that all project impacts will be permanent.

6.1 Santa Clara Valley Habitat Plan

The proposed improvements on the substation site are classified as an *Urban Development* project, which is a *covered project* under the VHP (ICF International 2012). Urban Development projects include private development projects within the planning limits of urban growth in San José. The Santa Clara Valley Habitat Agency (SCVHA) leads the implementation of the VHP, which is a regional partnership between the CDFW, the USFWS, and six local partners, including Valley Water, the County of Santa Clara, the Santa Clara Valley Transportation Authority, and the cities of San José, Gilroy, and Morgan Hill. The VHP was adopted in 2013 by all local participating agencies, and permits were issued by USFWS and CDFW. The VHP is both a habitat conservation plan and natural community conservation plan. The planning document helps private and public entities plan and conduct projects and activities in ways that lessen impacts on natural resources, including specific threatened and endangered species. The VHP identifies regional lands (called reserves) to be preserved or restored to the benefit of at-risk species and describes how reserves will be managed and monitored to ensure that they benefit those species. In providing a long-term, coordinated planning for habitat restoration and conservation, the VHP aims to enhance the viability of threatened and endangered species throughout the Santa Clara Valley.

The VHP defines measures to avoid, minimize, and mitigate impacts on covered species and their habitats while allowing for the implementation of certain covered projects. Chapter 6 of the VHP includes detailed and comprehensive conditions to avoid and minimize impacts on the 18 "covered species" (nine animal species and nine plant species) included in the plan area, which consists of 519,506 acres, or approximately 62 percent of Santa Clara County. These conditions are designed to achieve the following objectives:

- Provide avoidance of certain covered species during implementation of covered activities
- Prevent take of individuals of certain covered species from covered activities as prohibited by law (e.g., take of fully protected species)
- Minimize impacts on natural communities and covered species where conservation actions will take place
- Avoid and minimize impacts on jurisdictional wetlands and waters to facilitate project-by-project wetland permitting.

In conformance with the VHP, project proponents are required to pay impact fees in accordance with the types and acreage of habitat or "land cover" impacted, and to implement conservation measures specified by the VHP. Land cover impacts are used because it is the best predictor of potential species habitat and is applicable to all of the covered species (with the exception of the burrowing owl). The SCVHA has mapped the following three fee zones in the VHP area: 1) ranchland and natural lands, 2), agricultural and valley floor lands, and 3) small vacant sites (SCVHA 2026). The following areas are exempt from land cover fees:

- All development that occurs on land mapped by the VHP as urban-suburban, landfill, reservoir (excluding dams), or agriculture developed land cover types

- Urban development in Fee Zones A–C on parcels less than 0.5 acre
- Additions to structures within 50 feet of an existing structure that result in less than 5,000 feet of impervious surface so long as there is no effect on wetland or serpentine land cover types
- Construction of recreational facilities within the reserve system.

Additional fees in lieu of providing compensatory mitigation are imposed for projects that impact serpentine habitat, wetlands, and burrowing owls, and for certain projects that result in atmospheric nitrogen emissions, although in some cases, project proponents may provide land to restore or create habitats protected by the VHP in lieu of payment of fees.

The project site is located within the VHP Urban Service Area for the City of San José (Figure 6). With regard to the VHP's land cover fee zones, the project site falls entirely within Urban Areas (No Land Cover Fee) (Figure 6). The project site also does not include lands mapped as occupied burrowing owl nesting habitat, and no burrowing owl fee applies (this is discussed in greater detail under Section 6.3.4 below). The project will not result in additional vehicle trips and, therefore, will not be required to pay fees for nitrogen emissions.

The impact assessment in Section 6.3 to 6.9 below summarizes the types of applicable fees and conservation measures that are required by the VHP. VHP conditions that apply to the proposed project on the substation site are discussed below.

Condition 1. Avoid Direct Impacts on Legally Protected Plant and Wildlife Species

Several wildlife species that occur in the project vicinity are protected under state and federal laws. Some of these animal species are listed as fully protected under the California Fish and Game Code (e.g., the white-tailed kite), and eagles are protected under the Bald and Golden Eagle Protection Act. Further, all native bird species and their nests are protected under the MBTA and California Fish and Game Code. Actions conducted under the VHP must comply with the provisions of the MBTA and California Fish and Game Code.

Condition 3. Maintain Hydrologic Conditions and Protect Water Quality

Condition 3 applies to all projects and identifies a set of programmatic BMPs, performance standards, and control measures to minimize increases of peak discharge of storm water and to reduce runoff of pollutants to protect water quality, including during project construction. These requirements include preconstruction, construction site, and post-construction actions. Preconstruction conditions are site design planning approaches that protect water quality by preventing and reducing the adverse impacts of stormwater pollutants and increases in peak runoff rate and volume. They include hydrologic source control measures that focus on the protection of natural resources. Construction site conditions include source and treatment control measure to prevent pollutants from leaving the construction site and minimizing site erosion and local stream



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H. T. HARVEY & ASSOCIATES
Ecological Consultants

Figure 6. VHP Urban Service Area, Development Areas, and Fee Zones
Expanded Trimble Substation and Charcot Data Center
Power Lines Biological Resources Report (5066-01)
August 2026

sedimentation during construction. Post-construction conditions include measures for stormwater treatment and flow control.

Condition 15. Western Burrowing Owl/Burrowing Owl Mitigation Agreement

Condition 15 requires the implementation of measures to avoid and minimize direct impacts on burrowing owls, including pre-construction surveys, establishment of 250-foot non-disturbance buffers around active nests during the breeding season (February 1 through August 31), establishment of 250-foot non-disturbance buffers around occupied burrows during the nonbreeding season, and construction monitoring. Pre-construction surveys for burrowing owls are required by the VHP in areas mapped as breeding habitat. As mentioned above, additional fees in lieu of providing compensatory mitigation are imposed for VHP covered projects that impact burrowing owls.

Agilent Technologies, Inc., a former owner of the project property, entered into a mitigation agreement with CDFW (Ref. No. 1802-2000-073-03) in 2001 that provided for the purchase of off-site burrowing owl habitat in other, less developed and protected areas in the region to offset the loss of habitat on the property (inclusive of all areas of the project site). A copy of the mitigation agreement is provided in Appendix C. The area covered by Agilent's mitigation agreement, which includes the project site and adjacent properties to the southwest, was formerly occupied by two pairs of nesting burrowing owls and one resident adult burrowing owl. Portions of this area have since been developed, and portions remain undeveloped. The purpose of the mitigation agreement was to offset the loss of burrowing owl habitat and provide for survival of the species in other areas. Agilent Technologies, Inc. provided mitigation at a ratio of 6.5 acres of burrowing owl habitat for each pair and single burrowing owl displaced from the area in conformance with CDFW (then the California Department of Fish and Game) mitigation requirements at that time, for a total of 19.5 acres.

Provisions within Chapters 6 and 9 of the VHP exempt a project proponent from its conditions and/or fees provided the proponent provides to the Implementing Agency (here, the City of San José) written confirmation from the CDFW and USFWS, as applicable, that specifically refers to the activity and states that such activity is not likely to result in take of any state or federally listed species, and will not preclude the successful implementation of the conservation strategy of all covered species (ICF International 2012). In a letter dated November 15, 2012, to the City of San José, the CDFW confirmed that the terms of the mitigation agreement have been fulfilled and, per the terms of the agreement, that CDFW requires no additional mitigation for impacts on burrowing owls on the project site. According to the CDFW, "any determination by the City regarding the property that was formerly the Agilent project area will not affect the City's ability to successfully implement the conservation strategy for the western burrowing owl described in the VHP and will not change the strategy." A copy of the letter is provided in Appendix C. The project proponent is not required to provide a letter from USFWS, as the burrowing owl is not a federally listed species.

Exhibit A: Corrections, Clarifications, and Updates to the Santa Clara Valley Habitat Plan (HCP/NCCP), dated April 4, 2013, Section 1.2 Errata, 1.2.3, states that the implementation of the VHP will not add or remove any of the

rights and obligations to any development agreement between the Implementing Agency (here, the City of San José) and a private applicant. The provision applies to any mitigation agreement that was entered into and adopted prior to the operative date of the VHP and remains consistent with the City of San José's land use approvals for the project. The valid Mitigation Agreement for the property was adopted in 2004, prior to the 2013 operative date of the VHP. For this reason, the 2012 VHP did not map the project site within a Burrowing Owl Fee Zone (ICF International 2012). Both the mitigation agreement and the letter from CDFW provide sufficient documentation to the City of San José that the proposed development of the project site, in conformance with the mitigation agreement, will not preclude the successful implementation of the conservation strategy for the burrowing owl. Therefore, the project is not subject to the fees or requirements of Condition 15. Nevertheless, should it be determined that the project would impact occupied burrowing owl nesting habitat (i.e., suitable grassland habitat within 0.5 mile of a nest burrow that has been active in the prior 3 years), the project will pay VHP burrowing owl specialty fees, consistent with the SCVHA's Voluntary Fee Payments Policy, as mitigation to offset cumulative impacts under CEQA (this is discussed in greater detail in Section 6.3.4, "Impacts on the Burrowing Owl," below).

The mitigation agreement states that the take of individual owls is prohibited per the California Fish and Game Code (Section 3503.3), and that no burrowing owls would be evicted from burrows during the nesting season (defined as February 1 to August 31). The eviction of burrowing owls outside the nesting season may be permitted as a means to avoid take, pending evaluation of eviction plans and receipt of formal written approval from the CDFW authorizing the eviction. The project will adhere to these requirements to avoid and minimize impacts on burrowing owls during project construction. Because the burrowing owl is now a candidate for listing under CESA, an ITP from CDFW would be needed to authorize the eviction of owls from burrows.

6.2 PG&E Compliance with Existing Operations & Maintenance Activity Permits, Approvals, and CEQA Documents

PG&E will be performing proposed project activities along the off-site transmission line routes, and will comply with the avoidance and minimization measures (AMMs), BMPs, and conditions set forth in previously approved documents, including:

- Bay Area HCP (ICF 2017)
- Bay Area O&M FEIR (ICF 2020).

As described in Section 3 above, USACE Regional General Permit (RGP) 40 does not apply to the project because no habitats considered jurisdictional by the USACE occur on the project site, and PG&E's Water Quality Order No. WQ 2023-0022-DWQ Waste Discharge Requirements and CWA Section 401 Water Quality Certification WDID # SB21039IN (SWRCB 2023) do not apply to the project because no waters of the state regulated by the RWQCB occur on the project site. The USFWS Biological Opinion on RGP 40-authorized activities (USFWS 2021), NMFS Biological Opinion for RGP 40 (NMFS 2023), and CDFW ITP (CDFW 2022)

do not apply to the project due to the absence of state and federally listed species on the project site, or close enough to the site to be directly affected by the project.

The measures from the Bay Area HCP and Bay Area O&M FEIR that apply to (and will be implemented during) project activities along the off-site transmission line routes are described in the following sections.

6.2.1 PG&E's Bay Area HCP

The portion of the project located within the off-site improvement areas is considered a covered activity under PG&E's Bay Area HCP. Therefore, all applicable Bay Area HCP conditions are considered part of the project description as APMs rather than as mitigation measures. In accordance with the Bay Area HCP, PG&E will implement a number of field protocols and AMMs to reduce impacts on sensitive habitats and special-status species. Bay Area HCP AMMs that are relevant to the project are described in Table 2.

Table 2. Applicable Bay Area HCP Avoidance and Minimization Measures

HCP Code	Description of Measure
FP-01	Hold annual training on habitat conservation plan requirements for employees and contractors performing covered activities in the Plan Area that are applicable to their job duties and work.
FP-02	Park vehicles and equipment on pavement, existing roads, or other disturbed or designated areas (barren, gravel, compacted dirt).
FP-06	Minimize potential for covered species to seek refuge or shelter in pipes and culverts. Inspect pipes and culverts, of diameter wide enough to be entered by a covered species that could inhabit the area where pipes are stored, for wildlife species prior to moving pipes and culverts. Immediately contact a biologist if a covered species is suspected or discovered.
FP-08	Prohibit trash dumping, firearms, open fires (such as barbecues), hunting, and pets (except for safety in remote locations) at work sites.
FP-10	Minimize the activity footprint and minimize the amount of time spent at a work location to reduce the potential for take of species.
FP-11	Utilize standard erosion and sediment control BMPs (pursuant to the most current version of PG&E's *Stormwater Field Manual for Construction Best Management Practices*) to prevent construction site runoff into waterways.
FP-12	Stockpile soil within established work area boundaries and locate stockpiles so as not to enter water bodies, stormwater inlets, or other standing bodies of water. Cover stockpiled soil prior to precipitation events.
FP-13	Fit open trenches or steep-walled holes with escape ramps of plywood boards or sloped earthen ramps at each end if left open overnight. Field crews will search open trenches or steep-walled holes every morning prior to initiating daily activities to ensure wildlife are not trapped. If any wildlife are found, a biologist will be notified and will relocate the species to adjacent habitat or the species will be allowed to naturally disperse, as determined by a biologist.

HCP Code	Description of Measure
FP-17	Directionally fell trees away from an exclusion zone, if an exclusion zone has been defined. If this is not possible, remove the tree in sections. Avoid damage to adjacent trees to the extent possible. Avoid removal of snags and conifers with basal hollows, crown deformities, and/or limbs larger than 6 in. in diameter.
FP-18	Nests with eggs and/or chicks will be avoided: contact a biologist, land planner or the Avian Protection Program manager for further guidance.
Minor New-1	For minor new construction activities under 2 miles in length, excluding upgrades and replacements, (G15, E12, E13, and E15), PG&E will notify USFWS of the anticipated project and provide a summary of the activity. The summary will include information on HCP measures to avoid, minimize and mitigate the effects of the project on covered species, confirm there is adequate take authorization remaining for the covered species, and confirm that activity does not have a reasonably certain likelihood of take of listed noncovered species. If USFWS has concerns about the work, they will notify PG&E within 5 business days and resolve the concerns within 10 days.

Notes: FP = Field Protocol

PG&E will also follow the process and procedures outlined in PG&E's Avian Protection Plan (PG&E 2017) and Nesting Bird Management Plan (PG&E et al. 2015) to protect nesting birds during vegetation removal work, which include pre-activity surveys and measures to protect active nests (e.g., rescheduling the work or maintaining a buffer around the active nest).

6.2.2 PG&E's Bay Area Operations and Maintenance Final Environmental Impact Report

Project activities within the off-site improvement areas are considered a covered activity under PG&E's Bay Area O&M FEIR. The Bay Area O&M FEIR provides coverage for PG&E's Bay Area Operation and Maintenance Program, including activities related to natural gas pipelines and electric transmission distribution, minor new construction, and habitat conservation and enhancement. In accordance with Bay Area O&M FEIR, PG&E will implement a number of APMs to reduce impacts on biological resources. Therefore, all applicable Bay Area O&M FEIR measures relating to minimization of impacts to biological resources and their habitats are considered part of the project description as APMs rather than as mitigation measures. Bay Area O&M FEIR measures that are relevant to the project are described in Table 3.

Table 3. Applicant-Proposed Measures from the PG&E Bay Area Operations & Maintenance Final Environmental Impact Report

Applicant-Proposed Measure	Description of Measure
APM BIO-1: Prevent or minimize spread of invasive weeds	The following will be implemented on E9a (Reconductoring), G9 (Pipeline Lowering), G11 (Pipeline Replacement), and minor new construction to prevent the spread of invasive weeds during all phases of covered activities, as appropriate: • During covered activities involving ground disturbance, mud and/or accumulated soils will be removed from equipment and vehicles, to the extent feasible. Vehicles and equipment will be cleaned or washed before entering a new work site. A log will be kept for each job site and would be completed to document each

	cleaning or washing of vehicles or equipment before entering each new work site. • Vehicles will be staged and stored on paved or cleared areas whenever feasible. • Certified weed-free mulch, straw, hay bales, or equivalent materials will be used where necessary for covered activities.
APM BIO-2: Protect special-status wildlife encountered while performing covered activities and report covered wildlife observations	Any special-status wildlife species encountered during the course of a covered activity will be allowed to leave the area unharmed, and work activities that could disturb or harm the individual will halt until the wildlife has left the area. Encounters with a special-status species will be reported to a qualified biologist and PG&E environmental staff. PG&E will maintain records of all covered wildlife species encountered during permitted activities. Encounters with covered wildlife species will be documented and provided to CDFW in an annual report as required by the ITP. If a covered wildlife species is encountered during the course of operations, the following information will be reported for each species: • The locations (i.e., narrative, vegetation type, and maps) and dates of observations, including occurrences observed during any required surveys. • The general condition of individual health (e.g., apparent injuries). • If the species is moved, the location where the species was captured and the location where it was released. • The locations, dates, and species and behaviors observed during covered wildlife monitoring. When conducting covered activities E9a (Reconductoring), G9 (Pipeline Lowering), G11 (Pipeline Replacement), and minor new construction PG&E will document encounters with special status species to the same level of detail as required for covered species. During PG&E's environmental screening process, PG&E will also apply this measure to other covered activities to protect special status species and habitats based on recommendations from qualified biologists. This data will be provided in ITP annual reports.
APM BIO-3a: Minimize spread of invasive plant and plant pathogens in minor new construction	When conducting minor new construction activities, PG&E will avoid or minimize the spread of invasive species by taking the following actions: 1. Prior to commencement of activities located on or adjacent to non-paved surfaces, a qualified biologist will flag known populations of noxious weeds and invasive plants in the work areas. Invasive plant species include those listed as invasive by the California Invasive Plant Council (Cal IPC). 2. PG&E will stage work in areas not infested with weeds or treat for weed removal prior to using an infested area. 3. Prior to ground disturbance in areas containing species susceptible to Sudden Oak Death, a qualified professional (e.g., biologist, arborist, botanist familiar with Sudden Oak Death and the vegetation communities in the area) will assess the risk of activities and will identify and implement measures to reduce or avoid the risk of Sudden Oak Death spread. These measures will include but will not be limited to the following, and will be further developed and updated based on the best available science and site-specific conditions: a. Designate quarantine areas and implement proper measures for disposal of infested materials (e.g., branches, split wood, wood chips),

b. Sanitize shoes, pruning gear, and other equipment with sanitizing materials (e.g., chlorine bleach, Clorox Clean-up, Lysol, scrub brush, boot brush) before and after ground-disturbing and vegetation removal activities are implemented,

4. Clothing, footwear, and equipment used during minor new construction will be cleaned of soil, seeds, vegetation, or other debris or seed-bearing material before entering a work site or when leaving an area with infestations of invasive plants and noxious weeds.
5. Heavy equipment and other machinery used in areas with infestations of invasive plant species or Sudden Oak Death will be inspected for the presence of invasive species before use on the project site and will be cleaned before entering the site, to reduce the risk of introducing invasive plant species or plant pathogens.
6. To minimize the introduction and spread of noxious weeds and invasive plants, PG&E will avoid moving weed-infested gravel, rock, and other fill materials to relatively weed-free locations. In areas where invasive plants are removed during minor new construction or vegetation removal activities, PG&E will dispose of invasive plant biomass offsite at an appropriate waste collection facility or treat biomass onsite to eliminate seeds and propagules and prevent reestablishment; if moved off-site, PG&E will transport invasive plant material in a closed container or bag to prevent the spread of propagules during transport. PG&E will use certified weed-free straw and mulch for erosion-control projects. PG&E will maintain stockpiled, uninfested material in a weed-free condition.
7. Areas where ground disturbance has resulted in exposed soil as a result of minor new construction shall be seeded with compatible California annual species, as determined by a qualified biologist or botanist familiar with the native vegetation in the area and experienced in revegetation techniques. Revegetation will occur prior to the onset of winter rains within the year initial impacts take place. If work cannot feasibly be scheduled outside the rainy season, revegetation may occur as directed by the qualified biologist and no later than the onset of the next winter rains.
8. To ensure a successful revegetation effort, onsite vegetation shall meet the following success criteria:
    a. PG&E shall perform pre-activity surveys to record baseline vegetative ground cover conditions and composition by a qualified biologist prior to covered activities as follows. The biologist will record the following:
        i. Absolute percent ground cover for the entire work area.
        ii. Relative percentages of ground cover within the work area by herbaceous plants, shrubs, trees, and noxious/invasive plants.
        iii. Develop a catalog of all invasive species present within the work area, including an estimate of percent composition by species.
    b. PG&E will conduct post-activity monitoring of work areas in the spring following completion of minor new construction.
        i. A qualified biologist will record any new invasive species that may have inadvertently been introduced to the work area. The biologist shall

	make special note of any new invasive plant species rated as "high" by the Cal IPC. ii. A qualified biologist will record whether there was an increase in relative cover of invasive species from baseline that may have resulted from the covered activity. iii. If relative cover of invasive plant species has increased within the work area, PG&E shall remove and/or dispose of invasive plants in an appropriate manner, as recommended by a qualified biologist and/or a Pest Control Advisor.5 If any new invasive plants rated by Cal IPC as "high" are found within the work area, they will be removed in an appropriate manner, as recommended by a qualified biologist and/or a Pest Control Advisor. iv. If the relative ground cover of invasive plants exceeds baseline by 100 percent or more, PG&E will reseed the areas where invasive plants are removed and monitor for one additional year.
APM BIO-6: Protect nesting birds	All vegetation clearing and ground-disturbing activities will be conducted outside of the nesting season (generally March 1–August 31) to the extent feasible. If this is not feasible, a biologist or qualified7 individual will determine if pre-construction activity surveys, nest buffers, and/or monitoring are needed in accordance with PG&E's Nesting Bird Management Plan. Nesting bird surveys will be scheduled to occur within a timeframe prior to construction the activity that is suitable for the detection of recently established nests. If active nests containing eggs or young are found, the qualified biologist or individual will establish an appropriate nest buffer in accordance with the species-specific buffers in PG&E's Nesting Bird Management Plan. Nest buffers under the Plan will be species-specific and can range from 15 to 100 feet for passerines, 50 to 300 feet for raptors, or larger if necessary, depending on the planned activity's level of disturbance, site conditions, and the observed bird behavior. Covered activities will not commence within the established buffer areas until the qualified biologist or individual determines that the young have fledged or the nest is no longer active. Active nests will be periodically monitored until the young have fledged or the activity all construction is finished. If birds with active nests are observed showing behavioral signs of agitation (e.g., standing up from a brooding position, flying off the nest) during covered activities, the buffer will be increased to a distance in which the behavioral signs of agitation cease, in accordance with PG&E's Nesting Bird Management Plan. As part of the ITP annual report, PG&E will provide a summary of covered activities where the Nesting Bird Management Plan was implemented; the summary will include the location, dates, species (if known), and nest buffers applied to the covered activity including buffer efficacy. (The Nesting Bird Management Plan is intended to maintain compliance with federal and state bird protection regulations through a standardized approach to avoiding and minimizing disturbance to nesting birds, including burrowing owl [see APM BIO-6a].)
APM BIO-6a: Western burrowing owl avoidance	If burrowing owls are observed during any covered activities, a qualified biologist will be contacted immediately. The qualified biologist will determine measures to avoid impacts burrowing owls. For ground disturbing activities greater than 0.1 acre in suitable burrowing owl

	habitat, a qualified biologist will conduct a survey at least 14 days prior and again 24 hours prior to the activity to determine the presence/absence of active burrowing owl nesting or wintering burrows within 250 feet of a work area. If owls or sign are detected and work needs to occur within 250 feet, PG&E will implement measures to avoid nest abandonment such as rescheduling the work, screening work areas, minimizing pedestrian access within 250 feet, and evaluating owl's tolerance to disturbance, and report results to CDFW annually.

6.3 Impacts on Special-Status Species: Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS (Less than Significant with Mitigation)

6.3.1 Impacts on California Annual Grassland and Associated Common Plant and Wildlife Species (Less than Significant)

Proposed project activities would result in permanent impacts to 8.3 acres of California annual grassland habitat. These impacts would reduce the extent of vegetation within the impact area and result in a reduction in abundance of some of the common plant and wildlife species that occur there. However, the areas of California annual grassland to be impacted by the project on the substation site occur in a location in San José that has been subject to disturbance and fragmentation in the past and is embedded within a highly developed urban area, such that this area does not provide regionally rare or especially high-value habitat for native vegetation or wildlife, or special-status species. California annual grassland is abundant and widespread regionally and is not particularly sensitive, and the habitat on the project site is not especially valuable (from the perspective of providing important plant or wildlife habitat or an exemplary occurrence of this habitat type). Therefore, impacts on these habitats are considered less than significant. Further, because the number of individuals of any common plant or animal species within these habitats, and the proportion of these species' regional populations that could be disturbed, is very small, the project's impacts would not substantially reduce regional populations of these species. Thus, these impacts do not meet the CEQA standard of having a *substantial* adverse effect and would not be considered significant under CEQA.

6.3.2 Impacts on Water Quality and Special-Status Fish (Less than Significant)

No aquatic habitats are present on or immediately adjacent to the project site, and the project will have no direct impacts on aquatic habitats. No special-status fish species occur on the project site.

The Guadalupe River is located 0.5 mile to the southwest, and Coyote Creek is located 0.5 mile to the east. No direct impacts will occur within the bed and banks of the Guadalupe River or Coyote Creek, and due to the intervening distance between the site and these streams, there would be no indirect impacts on the Guadalupe River, Coyote Creek, water quality within these channels, or fish species inhabiting these streams.

Construction projects in California causing land disturbances that are equal to 1 acre or greater must comply with state requirements to control the discharge of storm water pollutants under the NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Construction General Permit; Water Board Order No. 2009-0009-DWQ, as amended and administratively extended). Prior to the start of construction/demolition, a Notice of Intent must be filed with SWRCB describing the project. A Storm Water Pollution Prevention Plan must be developed and maintained during the project, and it must include the use of BMPs to protect water quality until the site is stabilized. Standard permit conditions under the Construction General Permit require that the applicant utilize various measures including on-site sediment control BMPs, damp street sweeping, temporary cover of disturbed land surfaces to control erosion during construction, and utilization of stabilized construction entrances and/or wash racks, among other factors.

In many Bay Area counties, including Santa Clara County, projects must also comply with the California RWQCB, San Francisco Bay Region, Municipal Regional Stormwater National Pollutant Discharge Elimination System Permit (Water Board Order No. R2-2015-0049). This permit requires that all projects implement BMPs and incorporate Low Impact Development practices into the design to prevent stormwater runoff pollution, promote infiltration, and hold/slow down the volume of water coming from a site after construction has been completed. To meet these permit and policy requirements, projects must incorporate the use of green roofs, impervious surfaces, tree planters, grassy swales, bioretention and/or detention basins, among other factors.

6.3.3 Impacts on the Crotch's Bumble Bee (Less than Significant)

Crotch's bumble bee is not expected to occur within the off-site improvement areas due to a lack of suitable habitat. The California annual grassland habitat on the substation site provide only low-quality habitat for this species, as the area supports limited floral resources and is regularly maintained by mowing. Given the low quality of the habitat on the substation site, as well as the sparse nature of this species' occurrence in the South Bay (with widely scattered records but no high concentrations known to occur in lowland areas such as the project site), few, if any, Crotch's bumble bee individuals are expected to be present on the substation site when work occurs.

Nevertheless, should small numbers of individuals be present, construction activities would result in the loss of foraging habitat for Crotch's bumble bees, and potentially the loss of individuals due to crushing by construction personnel or equipment, vegetation removal, excavations, and placement of soil stockpiles. In addition, the project could potentially impact a nest of this species (e.g., in a ground squirrel burrow).

If the project impacts Crotch's bumble bee at all, given that the substation site supports only a very small proportion of the species' regionally available habitat (i.e., grassland, scrub, and woodland throughout the South San Francisco Bay area), it would impact only a small number of individuals/nests representing a very small proportion of the species' regional population. The areas of the substation site that would be impacted by the project do not support high-quality foraging habitat for this species. Thus, due to the abundance of suitable foraging habitat in the project region (i.e., east and southeast of the project site in the foothills of the Diablo Range and along Coyote Ridge), the project is not expected to result in a *substantial* impact on regional Crotch's

bumble bee populations or nesting and foraging habitat for this species. Therefore, these impacts would not constitute a significant impact on this species or its habitat under CEQA, which specifies that a project should have a "substantial adverse effect" for impacts to be significant.

Crotch's bumble bee is not currently a covered species under the VHP, though it is proposed for addition as a covered species via the VHP amendment currently in progress. Nevertheless, compliance with VHP conditions will help reduce project impacts on this species by reducing impacts to biological resources in general. Further, Crotch's bumble bee will benefit from the VHP conservation program (i.e., the preservation, enhancement, and management of numerous habitat types throughout the VHP Reserve System) to which the project applicant would contribute via payment of VHP impact fees. As discussed in Section 6.1 above and in the EIR for the VHP (USFWS et al. 2012), as a Natural Community Conservation Plan the VHP's reserve system will benefit whole communities of plant and animal species in Santa Clara County, including many common and rare animal species. The reserve system will benefit Crotch's bumble bee based on the wide distribution of this species' habitats in Santa Clara County, the known occurrence of the species on some existing reserves, and its expected occurrence on future acquisitions, given the locations of recent occurrences in Santa Clara County. Therefore, the payment of VHP fees and compliance with the VHP's conditions is expected to have a net benefit on the conservation of this species.

If Crotch's bumble bee is still a candidate or is listed under CESA and not covered by the VHP at the time impacts occur, the applicant might consider implementing take avoidance surveys to avoid take under CESA. However, because the project would not result in a substantial impact on regional populations or nesting and foraging habitat for this species, take avoidance surveys are not necessary to reduce project impacts to less-than-significant levels under CEQA, in our opinion.

6.3.4 Impacts on the Burrowing Owl (Less than Significant with Mitigation)

The project may impact burrowing owls as a result of the permanent removal of nesting, roosting, and foraging habitat on the substation site, as well as disturbance of individuals during construction due to the disturbance of nesting, roosting, and foraging individuals on or adjacent to the substation site. No suitable habitat for this species occurs within the off-site improvement areas.

The June 2026 site visit did not detect burrowing owls or signs of burrowing owl presence on or within 250 feet of the substation site. However, as discussed in Section 5.2 above, H. T. Harvey & Associates biologists detected a burrowing owl on the substation site during pre-mowing surveys on February 28, March 3, and March 10, 2025. Subsequent surveys on March 25, April 1, April 8, and April 15, 2025 did not detect any burrowing owls on the property. Because the owl was not observed after March 10, only one owl (as opposed to a pair of owls) was ever observed, and no signs of owl occupation at any burrows on the site were observed from March 25 through April 21, it was determined that burrowing owls did not nest on the site in 2025. Rather, the owl that was observed on the site in late February and early March likely dispersed elsewhere for breeding. One additional recent record of a wintering owl near the switching station site consists of a single owl detected on the contiguous undeveloped property to the southwest by a Santa Clara Valley Habitat Agency biologist on

December 4, 2015. The most recent record of a pair of nesting burrowing owls near the site was detected by H. T. Harvey & Associates staff at the PG&E substation on Component Drive approximately 200 feet to the northwest on June 2, 2015.

In addition to these occurrences, owls have been known to nest, roost, and forage southwest of the switching station site on the Airport airfield for decades (Albion Environmental, Inc. 1997), but in recent years the population has declined to the point that only one burrowing owl was observed at the Airport in 2023 (U.S. Department of Agriculture 2024). No owls were detected on or within 250 feet of the site during the June 2026 site visit. However, suitable foraging habitat for burrowing owls is present throughout the switching station site, and suitable nesting and roosting habitat is present where burrows of California ground squirrels are present. The locations of breeding burrowing owls in the VHP permit area are mapped annually, and due to the distance between the site and the nearest known owl nesting locations, the site is not currently considered to provide foraging habitat for any known breeding pairs of this species (Santa Clara Valley Habitat Agency 2026). However, based on the presence of suitable habitat and the occasional use of the site by burrowing owls over the years, burrowing owls can potentially nest, roost, and/or forage on and adjacent to the switching station site in the future.

Impacts on Individual Burrowing Owls. Individual burrowing owls may be affected during construction activities, if present on or very close to the substation site. Should burrowing owls be nesting or roosting underground in burrows on the site when construction occurs, there is some possibility that the direct loss of individual burrowing owls could occur due to project construction (e.g., due to trampling or compaction of burrows by construction personnel or equipment). The loss of individual burrowing owls would be considered significant under CEQA due to the low and declining regional population of the species.

Construction activities might also result in a temporary direct impact through the alteration of foraging patterns (e.g., avoidance of work sites because of increased noise and activity levels during maintenance activities). However, such disturbance would not result in the direct loss of individuals, as individuals of this species that are foraging on the site would fly away from any construction areas or equipment before they could be injured or killed. Such an impact would not be considered significant under CEQA.

In addition, construction activities that occur in close proximity to active burrows located on the site or on adjacent properties may disturb owls, potentially to the point of abandoning their burrows. Burrowing owls that are flushed from their burrows, which provide refugia from predators, would be subject to increased risk of mortality due to predation. In addition, should burrowing owls abandon an active nest burrow, the project could result in the incidental loss of eggs or nestlings due to abandonment. The loss of individual burrowing owls that are flushed from their burrows (e.g., due to predation) and the loss of eggs or young in nests due to abandonment would be considered significant under CEQA due to the low and declining regional populations of the species.

The project would adhere to the requirements of the mitigation agreement described under "Condition 15. Western Burrowing Owl and Burrowing Owl Mitigation Agreement" in Section 6.1 above, which will help to reduce project impacts on burrowing owls and their habitat. Applicable measures from the mitigation agreement are as follows:

- No burrowing owls shall be evicted from burrows during the nesting season (February 1 through August 31). Eviction outside the nesting season may be permitted as a means to avoid take, pending evaluation of eviction plans and receipt of formal written approval from the CDFW authorizing the eviction[3].
- A protected area 250 feet in radius, within which no new activity shall be permissible, shall be maintained between project activities and nesting burrowing owls or individual resident burrowing owls. This protected area shall remain in effect between February 1 and August 31, or, at CDFW's discretion and based upon monitoring evidence, until any young owls are foraging independently. In the non-nesting season (September 1 through January 31), a protected area 165 feet in radius, within which no new activity shall be permissible, shall be maintained between project activities and burrows occupied by burrowing owls. Any development within these protected radii shall be approved beforehand in a Memorandum of Understanding or Mitigation agreement with the CDFW. Notwithstanding anything to the contrary in this paragraph, the CDFW has the discretion to contract the nesting season period based on evidence the CDFW deems satisfactory.
- If accidental take occurs, the applicant shall contact the CDFW immediately.

To support compliance with these measures, the project will implement the preconstruction surveys, construction avoidance measures, and construction monitoring measures in Condition 15 of the VHP to protect individual burrowing owls prior to and during construction, as follows (provided verbatim from the VHP):

- **Preconstruction Surveys.** Prior to any ground disturbance related to covered activities, a qualified biologist will conduct preconstruction surveys in all suitable habitat areas on the substation site. The purpose of the preconstruction survey is to document the presence or absence of burrowing owls on the site, particularly in areas within 250 feet of construction activity.

  To maximize the likelihood of detecting owls, the preconstruction survey will last a minimum of 3 hours. The survey will begin 1 hour before sunrise and continue until 2 hours after sunrise (for 3 hours total) or begin 2 hours before sunset and continue until 1 hour after sunset. Additional time may be required for large project sites. A minimum of two surveys will be conducted (if owls are detected on the first survey, a second survey is not needed). All owls observed will be counted and their locations will be mapped.

  Surveys will conclude no more than 2 calendar days prior to construction. Therefore, the project proponent must begin surveys no more than 4 days prior to construction (2 days of surveying plus up to 2 days

[3] Because the burrowing owl is now a candidate for listing under CESA, a CDFW Incidental Take Permit would be needed to authorize the eviction of owls from burrows.

between surveys and construction). To avoid last-minute changes in schedule or contracting that may occur if burrowing owls are found, the project proponent 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 2 calendar days in advance of construction.

- **Avoidance Measures During Construction – Breeding Season.** If evidence of burrowing owls is found during the breeding season (February 1–August 31), the project proponent will avoid all nest sites that could be disturbed by project construction during the remainder of the breeding season or while the nest is occupied by adults or young (occupation includes individuals or family groups foraging on or near the site following fledging). Avoidance will include establishment of a 250-foot non-disturbance buffer zone around nests. Construction may occur outside of the 250-foot non-disturbance buffer zone. Construction may occur inside of the 250-foot non-disturbance buffer during the breeding season if:
    - The nest is not disturbed, and
    - The project proponent develops an avoidance, minimization, and monitoring plan that will be reviewed by the Habitat Agency and the Wildlife Agencies prior to project construction based on the following criteria.
        - The Habitat Agency and the Wildlife Agencies approve of the avoidance and minimization plan provided by the project proponent.
        - A qualified biologist monitors the owls for at least 3 days prior to construction to determine baseline nesting and foraging behavior (i.e., behavior without construction).
        - The same qualified biologist monitors the owls during construction and finds no change in owl nesting and foraging behavior in response to construction activities.
        - If there is any change in owl nesting and foraging behavior as a result of construction activities, these activities will cease within the 250-foot buffer. Construction cannot resume within the 250-foot buffer until the adults and juveniles from the occupied burrows have moved out of the project site.
        - If monitoring indicates that the nest is abandoned prior to the end of nesting season and the burrow is no longer in use by owls, the non-disturbance buffer zone may be removed. The biologist will excavate the burrow to prevent reoccupation after receiving approval from the Wildlife Agencies.

  The Habitat Agency and the Wildlife Agencies have 21 calendar days to respond to a request from the project proponent to review the proposed avoidance, minimization, and monitoring plan. If these parties do not respond within 21 calendar days, it will be presumed that they concur with the proposal and work can commence.

- **Avoidance Measures During Construction – Nonbreeding Season.** During the non-breeding season (September 1–January 31), the project proponent will establish a 250-foot non-disturbance buffer around occupied burrows as determined by a qualified biologist. Construction activities outside of this 250-foot

buffer are allowed. Construction activities within the non-disturbance buffer are allowed if the following criteria are met in order to prevent owls from abandoning important overwintering sites.

  - A qualified biologist monitors the owls for at least 3 days prior to construction to determine baseline foraging behavior (i.e., behavior without construction).
  - The same qualified biologist monitors the owls during construction and finds no change in owl foraging behavior in response to construction activities.
  - If there is any change in owl foraging behavior as a result of construction activities, these activities will cease within the 250-foot buffer.
  - If the owls are gone for at least 1 week, the project proponent may request approval from the Habitat Agency that a qualified biologist excavate usable burrows to prevent owls from reoccupying the site. After all usable burrows are excavated, the buffer zone will be removed and construction may continue.

  Monitoring must continue as described above for the non-breeding season as long as the burrow remains active.

- **Construction Monitoring.** Based on the avoidance, minimization, and monitoring plan developed (as required under Step 4), during construction, the non-disturbance buffer zones will be established and maintained as applicable. A qualified biologist will monitor the site consistent with the requirements described above to ensure that buffers are enforced and owls are not disturbed. The biological monitor will also conduct training of construction personnel on avoidance procedures, buffer zones, and protocols in the event that a burrowing owl enters an active construction zone.

Impacts on Burrowing Owl Habitat. Project activities would result in a reduction in available foraging habitat for migrant burrowing owls due to the permanent loss of 8.3 acres of grasslands on the substation site. However, these grasslands likely receive very limited use by burrowing owls as foraging habitat given that only two individuals have been observed on the site and adjacent properties during relatively intensive surveys over the past 10 years. In addition, burrowing owls are known to occur more widely in the South San Francisco Bay region in winter than they do during the nesting season, using habitats within Coyote Valley and adjacent foothills that are not used for nesting by birds within the South Bay nesting population (ICF International 2012). Given the vast extent of grassland and ruderal habitat within the foothills of the Diablo Range and Santa Cruz Mountains (and to some extent on the valley floor in southern Santa Clara County) that provide suitable migrant and wintering habitat for owls, the loss of 8.3 acres of grassland habitat on the project site, which is likely used only by nonbreeding owls if it is used at all, is not expected to have a substantial impact on populations of burrowing owls that migrate and winter in the South Bay but nest outside the region.

The loss of 8.3 acres of grassland habitat on the site would also result in the loss of suitable foraging habitat that could be used by nesting burrowing owls, should burrowing owls nest within 0.5 mile of the site in the

future[4]. As the availability of grassland habitat used for nesting in the South San Francisco Bay area continues to dwindle because of development, the South Bay nesting population of burrowing owls faces extirpation caused by lack of sufficient suitable nesting habitat and nesting-season foraging habitat, isolation from other populations and habitat areas, and demographic effects (such as difficulty in finding mates and inbreeding) resulting from low population sizes. However, there is no evidence that nesting burrowing owls currently occupy suitable habitat within 0.5 mile of the site, as nesting burrowing owls have not been detected in these areas since 2015. Therefore, the probability that the project would result in the removal of occupied burrowing owl nesting habitat (i.e., foraging habitat that supports a nesting pair) is extremely low. Nevertheless, should an owl nest within 0.5 mile of the site within any of the three years immediately prior to project implementation, the loss of nearby grassland habitat on the site could be considered significant under CEQA, because the nesting owls are expected to rely on this habitat to support their nest.

As discussed under "Condition 15. Western Burrowing Owl and Burrowing Owl Mitigation Agreement" in Section 6.1 above and documented in a mitigation agreement with the CDFW (Ref. No. 1802-2000-073-03) (Appendix C), the loss of burrowing owl habitat on the substation site has been mitigated previously via the purchase of off-site burrowing owl habitat in other, less developed and protected areas in the region. In a letter dated November 15, 2012, to the City of San José, the CDFW confirmed that the terms of the 1802 burrowing owl agreement have been fulfilled and, per the terms of the agreement, that CDFW requires no additional mitigation for impacts on burrowing owls on the property (inclusive of the project site). However, should an owl nest within 0.5 mile of the site within any of the three years immediately prior to project implementation, the loss of grassland habitat on the site located within 0.5 mile of burrowing owl a nest could be considered biologically significant to owls in the South Bay region.

Feasible mitigation for the loss of occupied burrowing owl nesting habitat on the site that will directly benefit the South Bay burrowing owl population has been made available since the mitigation agreement was finalized due to the adoption of the VHP, to which the City of San José is signatory. The VHP's vast conservation program conserves numerous habitats, including grasslands and other habitats, which provide roosting and foraging habitat for burrowing owls in the project region. Therefore, payment of the VHP burrowing owl specialty fee would contribute to a conservation program that benefits the burrowing owl, and would reduce potential project impacts on occupied burrowing owl nesting habitat to less-than-significant levels.

If nesting burrowing owls are absent from areas within 0.5 mile of the site for the three years immediately prior to project implementation (as mapped by the SCVHA and based on the results of the project's pre-activity surveys as well as other surveys regularly performed in the area), project impacts due to the loss of local burrowing owl habitat on the site would be less than significant. However, if a burrowing owl is detected nesting within 0.5 mile of the project site prior to project construction, the project would implement Mitigation Measure BIO-1 below to pay burrowing owl specialty fees to offset the loss of occupied nesting habitat. With the

[4] Suitable habitat is considered by the SCVHA to be occupied by nesting burrowing owls if it is located within 0.5 mile of any burrows that have been used for nesting by owls within the prior three years.

implementation of Mitigation Measure BIO-1, potential project impacts due to the loss of occupied burrowing owl nesting habitat would be less than significant under CEQA.

Impacts on Burrowing Owls from New Structures and Trees. The project would construct new structures on the substation site, and trees may be planted within and around this area as well. This would provide new structures on the site from which predatory raptors, such as red-tailed hawks, can perch and potentially prey upon burrowing owls inhabiting adjacent undeveloped habitats to the southwest. This reduces the quality of the adjacent habitat for burrowing owls, and could potentially increase the potential for the loss of individual burrowing owls occupying these areas due to predation. Any increase in mortality of individual burrowing owls due to predation would be considered significant under CEQA due to the low and declining regional population of the species.

A number of existing features adjacent to the suitable burrowing owl habitat southeast of the substation site provide perches for predatory raptors. These include the following:

- PG&E transmission line poles, approximately 80 feet tall or greater, located along Component Drive.
- Approximately 20-foot-tall pole lights along Component Drive and Orchard Parkway.
- An approximately 10-foot-tall fence surrounding the property.
- Approximately 15–50-foot-tall trees along Orchard Parkway and the adjacent commercial development to the southeast.

The proposed new trees and structures on the substation site would add potential perching sites for predatory raptors adjacent to this habitat. However, the features listed above provide existing potential perching sites for predatory raptors on all sides of the property. Due to the presence of these existing perches, construction of the new structures and planting of new trees on the project site is not expected to result in increased predation of any burrowing owls using this area. Therefore, this impact is less than significant.

Impacts on Burrowing Owls from Increased Lighting. The project will result in an increase in the amount of lighting on and around the substation site. No new lighting is proposed in the off-site improvement areas.

Lighting from the project would be the result of light fixtures illuminating the substation site. Depending on the location, direction, and intensity of lighting, this lighting can potentially spill into adjacent areas, thereby resulting in an increase in lighting compared to existing conditions. Areas to the northwest, northeast, and southeast are primarily developed urban habitats that do not support sensitive species that might be significantly impacted by illuminance from the project. Due to the intervening distance between the site and the river, lighting from the project is not expected to illuminate riparian habitats along the Guadalupe River corridor 0.5 mile to the southwest. However, lighting from the project would illuminate grassland habitats that provide suitable habitat for burrowing owls located immediately southwest of the substation site.

Many animals are sensitive to light cues, which influence their physiology and shape their behaviors, particularly during the breeding season (Ringer 1972, de Molenaar et al. 2006). Artificial light has been used as a means of manipulating breeding behavior and productivity in captive birds for decades (de Molenaar et al. 2006), and has been shown to influence the territorial singing behavior of wild birds (Longcore and Rich 2004, Miller 2006, de Molenaar et al. 2006). While it is difficult to extrapolate results of experiments on captive birds to wild populations, it is known that photoperiod (the relative amount of light and dark in a 24-hour period) is an essential cue triggering physiological processes as diverse as growth, metabolism, development, breeding behavior, and molting (de Molenaar et al. 2006). This holds true for birds, mammals (Beier 2006), and other taxa as well, suggesting that increases in ambient light may interfere with these processes across a wide range of species, resulting in impacts on wildlife populations.

Artificial lighting may indirectly impact birds by increasing the nocturnal activity of predators like owls, hawks, and mammalian predators (Negro et al 2000, Longcore and Rich 2004, DeCandido and Allen 2006, Beier 2006). The presence of artificial light may also influence habitat use by rodents (Beier 2006) and by breeding birds (Rogers et al. 2006, de Molenaar et al. 2006), by causing avoidance of well-lit areas, resulting in a net loss of habitat availability and quality.

As a result, if lighting from the substation site substantially increases the level of ambient lighting within the adjacent grasslands, this could reduce the quality of the adjacent habitat for burrowing owls and/or result in increased predation of burrowing owls occupying this area. Based on the lack of breeding burrowing owls present on or adjacent to the site in more than 10 years, as well as the infrequent use of this habitat by only small numbers of nonbreeding burrowing owls since 2015, such impacts are expected to occur infrequently. Further, a number of existing lights are present immediately adjacent to the grassland habitat. These include the following:

- Approximately 15-foot-tall pole lights along the parking lot to the southeast. These lights are directed downwards.
- Approximately 20-foot-tall pole lights along Component Drive and Orchard Parkway. These lights are directed downwards.

These lights provide relatively high levels of existing ambient lighting on all sides of the grassland habitat southwest of the substation site, and spill some lighting into the adjacent grassland habitat. Due to the relatively high levels of existing ambient lighting, construction of new lights on the substation site is unlikely to result in a substantial increase in ambient lighting within the adjacent grassland habitat. Nevertheless, because the project's lighting design is still being developed, the possibility that intense lighting may spill or be directed onto burrowing owl habitat in adjacent areas cannot be ruled out.

As discussed under "Impacts on Burrowing Owl Habitat" above, a loss or reduction in quality of overwintering habitat for burrowing owls is not expected to have a substantial impact on populations of this species. However, if the adjacent habitat is occupied by a pair of breeding burrowing owls in the future (i.e., if a pair of owls nests

within 0.5 mile of this area), lighting from the project can potentially reduce the quality of habitat that is relied upon by breeding burrowing owls. Because the South Bay nesting population of burrowing owls faces extirpation caused by lack of sufficient suitable nesting habitat and nesting-season foraging habitat, among other factors, this impact would be considered significant under CEQA. Further, if lighting from the project is sufficiently intense to increase the rate of predation on burrowing owls occupying the adjacent habitat, such an impact would be significant under CEQA. Mitigation Measure BIO-2 below would ensure that lighting on the project site is sufficiently minimized, shielded, and directed to reduce this impact to less-than-significant levels.

Mitigation Measure BIO-1. Pay VHP Burrowing Owl Fees for Impacts on Occupied Nesting Habitat. The project will pay applicable VHP burrowing owl fees for the areas of California annual grassland on the site that are permanently lost and located within 0.5 mile of a burrow that has been used for nesting within the three years prior to the start of construction, as mapped in the SCVHA's burrowing owl fee zone or based on the results of the project's pre-activity surveys and other surveys regularly performed in the area.

Even though the project is not subject to compliance with VHP Condition 15 due to the project's inclusion in the Agilent mitigation agreement with CDFW, payment of VHP burrowing owl fees would be appropriate to reduce the project's contribution to cumulative impacts on burrowing owls to less-than-significant levels under CEQA if a burrowing owl nest is detected within 0.5 mile of the project site's grassland because these fees would directly benefit burrowing owls in the South Bay region. This mitigation approach is consistent with the SCVHA's Voluntary Fee Payments Policy, which states that such voluntary burrowing owl fees paid as mitigation "will be applied toward burrowing owl management agreements, burrowing owl habitat management and monitoring, as well as burrowing owl habitat restoration and land acquisition." The SCVHA will be able to use these voluntary fees, in conjunction with fees from other projects, to successfully conserve South Bay burrowing owl populations. Thus, VHP fees are appropriate to compensate for direct, indirect, and cumulative impacts on burrowing owls as a result of the project.

Mitigation Measure BIO-2. Minimize Project Lighting. The project will implement the following measures to minimize effects of project lighting on burrowing owls occupying adjacent areas.

- Through a combination of proper fixture selection, low mounting height, glare shielding, and orientation/aiming of light fixtures, the design team shall actively control undesirable spill light towards sensitive habitat areas. All exterior lighting shall be fully shielded to block illumination from shining outward towards undeveloped habitats to the southwest, and to prevent the lit portions of these fixtures (i.e., the lamps) from being directed towards these areas.
- Outdoor lighting fixtures shall incorporate lamps with a Correlated Color Temperature of 2700 Kelvin or less.
- The allowed total initial luminaire lumens for the project site is 2.5 lumens per square foot of hardscape.
- The maximum allowed luminaire lumens (i.e., the initial lamp lumens for a lamp, multiplied by the number of lamps in the luminaire) for individual fixtures is limited as follows:

- Unshielded luminaires at one entry per residence: 420 lumens
- Fully shielded luminaires: 1,260 lumens
- Unshielded luminaires other than those at main residential entries: 315 lumens
- Landscape luminaires: 1,050 lumens

- No shielded directional flood lighting is permitted.
- The BUG backlight and glare ratings of individual project fixtures shall comply with lighting zone LZ-1, Moderate Ambient, as follows:
  - BUG Backlight Rating: B3 more than two mounting heights from the southwest property line, B2 from one to less than two mounting heights from the property line and ideally oriented[5], B1 from 0.5–1 mounting heights from the property line and ideally oriented, and B0 less than 0.5 mounting height to the property line and ideally oriented.
  - BUG Glare Ratings: G1, or G0 for any luminaire that is not mounted with its backlight perpendicular to any property line within twice the mounting height of the luminaire location.

6.3.5 Impacts on Nonbreeding Special-Status Invertebrates, Birds, and Mammals (Less than Significant)

Several special-status invertebrate, bird, and mammal species may occur on the project site as nonbreeding migrants, transients, dispersants, or foragers, but they are not known or expected to breed, occur regularly, or occur in large numbers on or near the project site. These are the monarch butterfly, golden eagle, Bryant's savannah sparrow, grasshopper sparrow, tricolored blackbird, yellow warbler, and pallid bat. Project activities would have some potential to impact foraging habitats and/or disturb individuals of these species.

The potential for each species to occur on the project site is as follows:

- The monarch butterfly (a federal candidate) may forage in the site vicinity, especially during spring and fall migration, but is not expected to breed or overwinter on the project site due to a lack of suitable habitat.
- The golden eagle (a state fully protected species) is not expected to breed on or close enough to the site to be disturbed by project activities due to a lack of suitable habitat, though individuals may occasionally forage on the substation site in small numbers.
- The Bryant's savannah sparrow (a California species of special concern) breeds in marshes along the San Francisco Bay to the north, and individuals may forage in grasslands on the substation site during the nonbreeding season.

[5] To be considered ideally oriented, the luminaire must be mounted with the backlight portion of the light output oriented perpendicular and towards the property line of concern.

- The grasshopper sparrow (a California species of special concern) breeds in expansive grassland habitats in the foothills, and individuals may occasionally forage in grasslands on the substation site during migration.
- The tricolored blackbird (a state threatened species and covered under the VHP) is not expected to occur on or close to the project site as a breeder due to the absence of suitable habitat, but individuals may occur on the substation site occasionally as foragers during the nonbreeding season.
- The yellow warbler (a California species of special concern) nests in riparian habitat in the region, such as along the Guadalupe River to the southwest, and individuals may forage throughout the project site during migration.
- The pallid bat (a California species of special concern) may occur on the substation site as an occasional forager, but is not expected to breed on the site due to a lack of suitable habitat, and there are no known maternity colonies on or adjacent to the project site. Nevertheless, individuals from more remote colonies could potentially forage over the project site on rare occasions.

Project activities would have some potential to impact foraging habitats and/or disturb individuals of these species. Construction activities might result in a temporary direct impact through the alteration of foraging patterns (e.g., avoidance of work sites because of increased noise and activity levels during maintenance activities) but would not result in the loss of individuals, as individuals of these species would move away from any construction areas or equipment before they could be injured or killed. Further, the project site does not provide important foraging habitat used regularly or by large numbers of individuals of any of these species. As a result, impacts of the project will have little impact on these species' foraging habitat and no substantive impact on regional populations of these species. Therefore, impacts on nonbreeding special-status species would be less than significant.

6.3.6 Impacts on the White-Tailed Kite (Less than Significant)

The white-tailed kite (a state fully protected species) can potentially nest in trees or shrubs on and adjacent to the substation site. This species is not expected to nest within the off-site improvement areas due to a lack of suitable habitat. Based on site observations, the areal extent of suitable habitats on and adjacent to the project site, and known nesting densities of this species, no more than one pair of white-tailed kites could potentially nest on or immediately adjacent to the substation site. The project would result in the permanent loss of suitable nesting and foraging habitat for this species. In addition, activities that occur during the nesting season and cause a substantial increase in noise or human activity near active nests may result in the abandonment of active nests (i.e., nests with eggs or young). Heavy ground disturbance, noise, and vibrations caused by project activities could potentially disturb nesting and foraging individuals and cause them to move away from work areas.

Given the abundance of this species in the region, project impacts on one pair of white-tailed kites would represent a marginal impact on their regional populations. Therefore, neither the potential loss of individual

white-tailed kites, nor the disturbance of nesting and foraging habitat, would rise to the CEQA standard of having a substantial adverse effect, and these impacts would thus not constitute a significant impact on this species or its habitat under CEQA.

All native bird species are protected from direct take by federal and/or state statutes, and the project shall comply with VHP Condition 1 either by restricting work to the non-nesting season (September 1 through January 31) or by conducting preconstruction surveys prior to project activities and maintaining appropriate buffers around active nests of protected birds.

6.3.7 Impacts due to Bird Collisions and Electrocutions (Less than Significant)

The proposed project may include the installation of new overhead transmission lines that would extend from the substation site to the CDC site within the off-site improvement areas. Depending on the transmission line alignment used, between 4,600 feet and 7,500 feet of new transmission lines would connect the substation site to the CDC site. Projects involving overhead power lines have the potential to impact birds by increasing bird collisions with the lines and increasing the risk of electrocutions, leading to injury or mortality of the birds in question. Evaluation of these impacts is particularly important in sensitive habitat areas that support large numbers of birds.

The proposed overhead transmission lines would be located entirely within developed areas. No sensitive habitats (e.g., riparian areas, oak woodlands, wetlands, or other natural lands) are present along or adjacent to these proposed transmission line routes. The Guadalupe River, located 0.5 mile to the southwest, and Coyote Creek, located 0.5 mile to the northeast, are important movement corridors for songbirds that migrate along the Pacific Flyway, and many migrant songbird species disperse and forage along and adjacent to these streams in relatively large numbers. However, due to the intervening distance between the project site and these streams, as well as the lack of high-quality habitat for migrant birds along or adjacent to the transmission line routes, large numbers of migrant birds associated with the Guadalupe River and/or Coyote Creek are not expected to occur along the off-site improvement areas, where they may be subject to increased collisions. Further, the project site is not situated in a landscape position such that large numbers of birds would be flying past transmission line routes over the long term. As a result, collisions by large numbers of migrant birds are not expected to occur with the proposed transmission lines.

Similarly, increased electrocution risk is not expected to increase as a result of the project. PG&E performs work activities according to its Avian Protection Plan (PG&E 2017), which is implemented to comply with state and federal laws protecting birds and reduce the risk of electrocution of raptors and other birds through corrective and preventive actions. As a result, no components of the project would increase the risk of electrocution for birds that perch or nest on poles, towers, or lines.

Therefore, impacts of the project due to collisions and electrocutions would be less than significant.

6.3.8 Nitrogen Deposition Impacts (No Impact)

Several special-status plant and animal species that are absent from the project site and its vicinity occur on serpentine substrates in hills on either side of the Santa Clara Valley. These species include the Bay checkerspot butterfly and a number of rare plants, including the VHP-covered Tiburon Indian paintbrush (*Castilleja affinis* var. *neglecta*), coyote ceanothus (*Ceanothus ferrisiae*), Mount Hamilton thistle (*Cirsium fontinale* var. *campylon*), Santa Clara Valley dudleya (*Dudleya abramsii* ssp. *setchellii*), fragrant fritillary (*Fritillaria liliacea*), Loma Prieta hoita (*Hoita strobilina*), smooth lessingia (*Lessingia micradenia* var. *glabrata*), Metcalf Canyon jewelflower (*Streptanthus albidus* ssp. *albidus*), and most beautiful jewelflower (*Streptanthus albidus* ssp. *peramoenus*).

USFWS has identified critical habitat for the federally threatened Bay checkerspot butterfly (73 FR 50406) east of U.S. Route 101 and south of Yerba Buena Road in San José, approximately 8.7 miles southeast of the project site (Unit 5) (USFWS 2008). The conservation of critical habitat is considered essential for the protection of the Bay checkerspot butterfly, and this serpentine habitat also supports serpentine-associated rare plant species (including the VHP-covered species listed above). Nonnative grasses have been reported to increase in these habitats, crowding out native rare plants as well the native larval host plants needed by the Bay checkerspot butterfly, due to increased nitrogen deposition from human sources throughout San José and the greater Bay Area.

Nitrogen deposition contribution estimates in Santa Clara County were made as a part of the development of the VHP (ICF International 2012). About 46 percent of nitrogen deposition on habitat areas of concern for the base years (2005–2007) was estimated to come from existing development and traffic generated locally within the VHP study area, which includes all of San José. The remainder of Santa Clara County was estimated to contribute a substantially smaller amount (17 percent of the nitrogen deposition) while the other eight Bay Area counties account for about 11 percent. Nitrogen deposition modeling completed for future years (2035 and 2060) as a part of the VHP process assumed that urban and rural development in the County and broader San Francisco Bay Area is expected to increase air pollutant emissions due to an increase in passenger and commercial vehicle trips and other new industrial and nonindustrial sources.

Construction of the project will not result in an increase in new operational vehicle trips to the project site because the stie will not be staffed and only provides housing for electrical equipment. Therefore, the project will not result in an increase in emissions of nitrogen oxides or subsequent effects of nitrogen deposition on the serpentine grassland ecosystem.

6.4 **Impacts on Sensitive Communities**: Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the CDFW or USFWS (No Impact)

The CDFW defines sensitive natural communities and vegetation alliances using NatureServe's standard heritage program methodology (CDFW 2026), as described above in Section 5.3. Aquatic, wetland, and riparian

habitats are also protected under applicable federal, state, or local regulations, and are generally subject to regulation, protection, or consideration by USACE, RWQCB, CDFW, and/or USFWS (see Section 6.5 below). Project impacts on sensitive natural communities, vegetation alliances/associations, or any such community identified in local or regional plans, policies, and regulations, were considered and evaluated.

6.4.1 Impacts on Riparian Habitat or Other Sensitive Natural Communities (No Impact)

Riparian habitat along the Guadalupe River is located approximately 0.5 mile southwest of the project site, and riparian habitat along Coyote Creek is located approximately 0.5 mile east of the project site. The entirety of ground-disturbing project impacts will occur outside of these habitats. Thus, the proposed project will have no direct or indirect permanent or temporary impacts on riparian habitat.

6.5 **Impacts on Wetlands**: Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means (No Impact)

Wetlands and other waters of the U.S./state are present approximately 0.5 mile southwest of the project site along the Guadalupe River, and approximately 0.5 mile east of the project site along Coyote Creek. The project design avoids all direct and indirect impacts on state and federally protected wetlands and aquatic habitats. Thus, no wetland habitat will be impacted directly or indirectly by the project.

6.6 **Impacts on Wildlife Movement**: Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites (Less than Significant)

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

Due to the presence of development surrounding the substation site, there are currently no well-defined or regionally important movement corridors for wildlife on or through the substation site. Development of the substation site would not interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, and this impact is less than significant.

Similarly, the off-site improvement areas are located entirely within developed areas and there are no well-defined or regionally important movement corridors for wildlife on or through these areas. The construction

of transmission lines within the off-site improvement areas would not interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, and this impact is less than significant.

The project will not impact any wildlife nursery sites.

6.7 Impacts due to Conflicts with Local Policies: Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance (Less than Significant)

6.7.1 Impacts Due to the Removal of Ordinance-Sized Trees (Less than Significant)

Substation Site

The project proposes to remove existing trees on the site, at least one of which would likely be considered ordinance-sized as defined by the City of San José. The project proponent will submit a permit application for tree removal, and in accordance with the provisions of the San José Municipal Code, the Standard Permit Conditions listed below would be implemented by the project.

Off-Site Improvement Areas

PG&E may remove existing trees along the off-site improvement areas, including ordinance-sized trees. It is our understanding that utility projects under California Public Utilities Commission jurisdiction are not subject to local ordinances such as tree ordinances. Under the California Constitution and the California Public Utilities Commission General Order 131-D, local jurisdictions acting pursuant to local authority are preempted from regulating public utility facilities subject to the Commission's jurisdiction. (See Cal. Const., art. XII, §§ 5, 8; General Order 131-D, § XIV.) For this reason, public utilities are not subject to local land use or local discretionary permit requirements. (See, e.g., *Town of Woodside v. PG&E* [1978] 83 Cal.P.U.C. 418 [distribution project not subject to local ordinances]; *San Diego Gas & Electric Co. v. City of Carlsbad* [1998] 64 Cal.App.4th 785 [floodplain ordinance does not apply to public utility; there is no concurrent discretionary jurisdiction]). Although PG&E is not subject to local tree ordinances, it will generally replace trees consistent with the local ordinance where feasible.

Project impacts related to conflicts with local policies involving tree ordinances will be less than significant, either because PG&E is not obligated to comply with such ordinances or because the project owner will comply with the Standard Permit Conditions listed below as necessary. We recommend that the project owner implement the following "Recommended Measure BIO-A" to comply with the intent of this ordinance, whether or not an actual tree removal permit is required.

Recommended Measure BIO-A. Compliance with San José Tree Ordinance. Prior to the initiation of activities involving trimming or removal of trees, the project owner shall have a tree survey performed in areas where trees could potentially be impacted by project activities. The survey will identify trees subject to the tree

protection ordinances of the City of San José. The project owner will work with PG&E, as appropriate, to ensure that impacts to ordinance-sized trees are minimized to the extent feasible. If trees meeting the criteria for ordinance-sized trees would be impacted, in accordance with the provisions of the San José Municipal Code, the Standard Permit Conditions listed below would be implemented by the project.

Standard Permit Conditions

Trees impacted by the project will be replaced in accordance with all applicable laws, policies or guidelines, including Chapter 13 of the San José Municipal Code, General Plan policies MS-21.4, MS-21.5, MS-21.6, and CD-1.24, and City tree replacement ratios outlined in Table 4 below. Following the removal of trees on the project site, a greater number of trees will be planted on the project site following construction.

Where applicable, the project proponent will implement a Tree Protection Plan and include measures to implement during project construction to minimize impacts to trees to remain. The measures include marking trees to remain in place in project plans and have tree protection zones established around the canopy drip line zone to avoid serious injury or loss.

Table 4 shows tree replacement ratios required by the project proponent. The species of trees to be planted shall be determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement.

Table 4. City of San José Standard Tree Replacement Ratios

Diameter of Tree to Be Removed	Type of Tree to be Removed[a]			Minimum Size of Each Replacement Tree
	Native	Nonnative	Orchard	
38 in. or greater	5:1	4:1	3:1	15-gallon container
19 up to 38 in.	3:1	2:1	none	15-gallon container
Less than 19 in.	1:1	1:1	none	15-gallon container

[a] x:x = tree replacement to tree loss ratio; Trees greater than 38 in. diameter shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees.

In the event the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures would be implemented during the final design phase of the project, to the satisfaction of the City Arborist and the Director of Planning, Building and Code Enforcement:

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

6.8 Impact due to Conflicts with an Adopted Habitat Conservation Plan: Conflict with the provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan (Less Than Significant with Mitigation)

Substation Site

The City of San José is a signatory to the VHP, which is a Habitat Conservation Plan and Natural Community Conservation Plan. As described in Section 6.1, project activities on the substation site are considered a *covered project* under the VHP. All VHP-covered species that may be affected by activities on the substation site are discussed in this report. Similarly, impacts on sensitive serpentine habitats for which the VHP requires specific impact fees are discussed in this report. The project will apply for VHP coverage and will adhere to all applicable VHP conditions during project implementation. Conditions applicable to the proposed project include Condition 1 (avoid direct impacts to legally protected plant and wildlife species) and Condition 3 (maintain hydrologic conditions and protect water quality) Therefore, the proposed project would not be in conflict with the VHP.

The proposed project would not be in conflict with any other adopted habitat conservation plans or natural community conservation plans, or with any other approved local, regional, or state habitat conservation plans or natural community conservation plans. Thus, impacts associated with conflicts between the proposed project and any adopted habitat conservation plan or natural community conservation plan are less than significant.

Construction disturbance and vegetation removal during the avian breeding season (February 1 through August 31 inclusive, for most species) could result in the incidental loss of eggs or nestlings, either directly through the destruction or disturbance of active nests or indirectly by causing the abandonment of nests. Because such an impact would conflict with Condition 1 of the VHP, it would be considered a significant impact under CEQA. Mitigation Measures BIO-2, BIO-3, and BIO-4 would be implemented to reduce impacts due to conflicts with Condition 1 of the VHP to a less-than-significant level.

Mitigation Measure BIO-3. Nesting-Season Avoidance. To the extent feasible, commencement of construction activities should be scheduled to avoid the nesting season. If construction activities are scheduled to commence outside the nesting season, all impacts to nesting birds protected under the MBTA and California Fish and Game Code would be avoided. The nesting season for most birds in Santa Clara County extends from February 1 through August 31, inclusive.

Mitigation Measure BIO-4. Preconstruction/Pre-disturbance Surveys and Buffers. If it is not possible to schedule commencement of construction activities and/or tree removal between September 1 and January 31, preconstruction surveys for nesting birds will be conducted by a qualified ornithologist to ensure that no nests are disturbed during project implementation. These surveys will be conducted no more than 7 days prior to the initiation of demolition or construction activities, including tree removal and pruning. 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 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 are disturbed during project implementation.

Off-Site Improvement Areas

Project activities within the off-site improvement areas are subject to PG&E's Bay Area HCP. Because the project would be considered a covered activity under that HCP, PG&E would implement all applicable AMMs, follow all applicable conditions, and provide mitigation in accordance with the HCP. Therefore, the project would not be in conflict with the Bay Area HCP.

The off-site improvement areas are located within the VHP permit area. However, because project activities within this area are not considered a covered project under the VHP, PG&E is not obligated to comply with VHP permit conditions, and the project would not be in conflict with the VHP.

6.9 Cumulative Impacts (Less than Significant)

Cumulative impacts arise due to the linking of impacts from past, current, and reasonably foreseeable future projects in the region. Future development activities in the project vicinity, including activities covered by the VHP and other PG&E operations and maintenance activities covered under the Bay Area HCP, will result in impacts on the same habitat types and species that will be affected by the project. The project, in combination with other cumulative projects in the area and other activities that impact the species that are affected under the project, could contribute to cumulative effects on special-status species. Other projects in the area include both development and maintenance projects that could adversely affect these species and restoration projects that will benefit these species.

The cumulative impact on biological resources resulting from the project in combination with other relevant cumulative projects in the region would be dependent on the relative magnitude of adverse effects of these projects on biological resources compared to the relative benefit of impact avoidance and minimization efforts prescribed by planning documents, CEQA mitigation measures, and permit requirements for each project; compensatory mitigation and proactive conservation measures associated with each project; and the benefits to biological resources accruing from implementation of conservation measures in the agency approvals PG&E has obtained for its operations and maintenance program as well as in the VHP. In the absence of such avoidance, minimization, compensatory mitigation, and conservation measures, cumulatively significant impacts on biological resources would occur.

However, the San José General Plan contains conservation measures that would benefit biological resources, as well as measures to avoid, minimize, and mitigate impacts on these resources. The agency approvals PG&E

has obtained for its operations and maintenance program include measures to avoid, minimize, and compensate for impacts of covered activities on selected species and sensitive habitats, and the VHP also includes numerous conservation measures to offset effects on selected species and sensitive habitats. Many projects in the region that impact resources similar to those impacted by the proposed project will be covered activities under the VHP or Bay Area HCP and will mitigate impacts on sensitive habitats and many special-status species through those programs, which will require payment of fees for habitat restoration (for the VHP) or compensatory mitigation (for PG&E approvals). Further, the project will implement a number of measures to reduce impacts on both common and special-status species, as described above. Thus, the project will not have a cumulatively considerable contribution to any substantial cumulative effects on biological resources.

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Appendix A. Plants and Animals Observed

Table A-1. Plant Species Observed on the Project Site

Family	Common Name	Scientific Name	Cal-IPC Status[a]
ANACARDIACEAE – SUMAC FAMILY	poison oak	*Toxicodendron diversilobum*[b]	
ASTERACEAE – SUNFLOWER FAMILY	coyote brush	*Baccharis pilularis*[b]	
	Italian thistle	*Carduus pycnocephalus* ssp. *pycnocephalus*	Moderate
	prickly lettuce	*Lactuca serriola*	
	milk thistle	*Silybum marianum*	Limited
BRASSICACEAE – MUSTARD FAMILY	grayish shortpod mustard	*Hirschfeldia incana*	Moderate
	heart-podded hoary cress	*Lepidium draba*	Moderate
	wild radish	*Raphanus sativus*	Limited
CONVOLVULACEAE – MORNING–GLORY FAMILY	field bindweed	*Convolvulus arvensis*	
FABACEAE – LEGUME FAMILY	bird's foot trefoil	*Lotus corniculatus*	
	variable burclover	*Medicago polymorpha*	Limited
	yellow sweetclover	*Melilotus officinalis*	
MALVACEAE – MALLOW FAMILY	cheeseweed	*Malva parviflora*	
PAPAVERACEAE – POPPY FAMILY	California poppy	*Eschscholzia californica*[b]	
POLYGONACEAE – BUCKWHEAT FAMILY	crowded dock	*Rumex conglomeratus*	
SALICACEAE – WILLOW FAMILY	Fremont cottonwood	*Populus fremontii* ssp. *fremontii*[b]	

Family	Common Name	Scientific Name	Cal-IPC Status[a]
SIMAROUBACEAE – SIMAROUBA FAMILY	tree of heaven	*Ailanthus altissima*	Moderate
SOLANACEAE – NIGHTSHADE FAMILY	white horse-nettle	*Solanum elaeagnifolium*	
POACEAE – GRASS FAMILY	wild oat	*Avena fatua*	Moderate
	ripgut brome	*Bromus diandrus*	Moderate
	soft chess	*Bromus hordeaceus*	Limited
	red brome	*Bromus rubens*	High
	Bermuda grass	*Cynodon dactylon*[b]	Moderate
	western wild rye	*Elymus glaucus*[b]	
	Italian rye grass	*Festuca perennis*	Moderate
	short-antlered barley	*Hordeum brachyantherum*[b]	
	wall barley	*Hordeum murinum*[b]	Moderate
	Harding grass	*Phalaris aquatica*	Moderate
	smilo grass	*Stipa miliacea* var. *miliacea*	Limited
	purple needle grass	*Stipa pulchra*	

Notes:

[a]Cal-IPC Status (Cal-IPC 2026):

Limited = These species are invasive, but their ecological impacts are minor on a statewide level or there was not enough information to justify a higher score.

Moderate = These species have substantial and apparent—but generally not severe—ecological impacts on physical processes, plant and animal communities, and vegetation structure.

High = These species have severe ecological impacts on physical processes, plant and animal communities, and vegetation structure across large areas of California.

[b]Native

Table A-2. Animal Species Observed on the Project Site

Common Name	Scientific Name
Turkey vulture	*Cathartes aura*
American crow	*Corvus brachyrhynchos*
House finch	*Haemorhous mexicanus*
Lesser goldfinch	*Spinus psaltria*
Cliff swallow	*Petrochelidon pyrrhonota*
Barn swallow	*Hirundo rustica*
White-throated swift	*Aeronautes saxatalis*

Appendix B. Special-Status Plants Considered but Rejected

Common Name	Scientific Name	Outside Geographic Range	No Suitable Habitat	Edaphic Conditions Absent	Outside Elevation Range
alkali milk-vetch	*Astragalus tener* var. *tener*	X	X		
arcuate bushmallow	*Malacothamnus arcuatus* var. *arcuatus*				X
bay buckwheat	*Eriogonum umbellatum* var. *bahiiforme*		X	X	X
big-scale balsamroot	*Balsamorhiza macrolepis*		X	X	X
Brewer's calandrinia	*Calandrinia breweri*		X	X	X
brittlescale	*Atriplex depressa*		X	X	
California alkali grass	*Puccinellia simplex*		X	X	
California androsace	*Androsace elongata* ssp. *acuta*				X
California seablite	*Suaeda californica*	X	X	X	
chaparral harebell	*Ravenella exigua*		X	X	X
chaparral ragwort	*Senecio aphanactis*		X	X	X
clustered lady's-slipper	*Cyperipedium fasciculatum*		X	X	X
coast iris	*Iris longipetala*	X	X	X	
Contra Costa goldfields	*Lasthenia conjugens*		X	X	
elongate copper moss	*Mielichhoferia elongata*		X	X	
fragrant fritillary	*Fritillaria liliacea*			X	
hairless popcornflower	*Plagiobothrys glaber*		X	X	X
Hoover's button-celery	*Eryngium aristulatum* var. *hooveri*	X	X	X	
Jepson's woolly sunflower	*Eriophyllum jepsonii*		X	X	X
large-flowered leptosiphon	*Leptosiphon grandiflorus*		X	X	
lesser saltscale	*Atriplex minuscula*		X	X	X
Lewis' clarkia	*Clarkia lewisii*		X		X
Loma Prieta hoita	*Hoita strobilina*		X	X	X
maple-leaved checkerbloom	*Sidalcea malachroides*	X	X		
Metcalf Canyon jewelflower	*Streptanthus albidus* ssp. *albidus*		X	X	X
most beautiful jewelflower	*Streptanthus albidus* ssp. *peramoenus*			X	X

Common Name	Scientific Name	Outside Geographic Range	No Suitable Habitat	Edaphic Conditions Absent	Outside Elevation Range
Mt. Hamilton thistle	*Cirsium fontinale var. campylon*			X	X
Northern slender pondweed	*Stuckenia filiformis* ssp. *alpina*		X		X
phlox-leaf serpentine bedstraw	*Galium andrewsii ssp. gatense*		X	X	X
Point Reyes salty bird's-beak	*Chloropyron maritimum* ssp. *palustre*	X	X		
prostrate vernal pool navarretia	*Navarretia prostrata*	X	X		
robust spineflower	*Chorizanthe robusta* var. *robusta*	X	X	X	
saline clover	*Trifolium hydrophilum*	X	X		
San Francisco collinsia	*Collinsia multicolor*		X	X	X
San Joaquin spearscale	*Extriplex joaquinana*		X	X	
Santa Clara red ribbons	*Clarkia concinna ssp. automixa*		X		X
Santa Clara thorn-mint	*Acanthomintha lanceolata*		X	X	X
Santa Clara Valley dudleya	*Dudleya abramsii* ssp. *setchellii*			X	X
Satan's goldenbush	*Isocoma menziesii* var. *diabolica*	X	X		X
serpentine leptosiphon	*Leptosiphon ambiguus*			X	X
small spikerush	*Eleocharis parvula*	X	X		
small-flowered morning-glory	*Convolvulus simulans*			X	X
smooth lessingia	*Lessingia micradenia var. glabrata*			X	X
spring lessingia	*Lessingia tenuis*		X	X	X
stinkbells	*Fritillaria agrestis*			X	X
western leatherwood	*Dirca occidentalis*		X	X	X
woodland woollythreads	*Monolopia gracilens*			X	X
woolly-headed lessingia	*Lessingia hololeuca*			X	X

Appendix C. Burrowing Owl Mitigation Agreement

MITIGATION AGREEMENT

between

AGILENT TECHNOLOGIES, INC.

and the

CALIFORNIA DEPARTMENT OF FISH AND GAME

Ref. No. **1802-2000-073-3**

This Mitigation Agreement ("Agreement") is made and entered into by and between Agilent Technologies, Inc. ("Agilent") and the California Department of Fish and Game (the "Department"), a Department of the State of California, collectively "the Parties."

The purpose of this Agreement is to mitigate significant environmental impacts to the Western burrowing owl (*Athene cunicularia*), caused by development at property owned by Agilent (Exhibit B) at 350 Trimble Road, San Jose, California (the "Project"). The Western burrowing owl is a State designated Species-of-Special-Concern.

RECITALS

A. WHEREAS, Agilent proposes to engage in development of a site occupied by 2 nesting pairs of burrowing owls and one resident adult burrowing owl. Agilent proposes to mitigate for impacts to burrowing owls and habitat essential for their survival which occurs on the parcel proposed for development; and

B. WHEREAS, Agilent has agreed that significant environmental impacts to Western burrowing owl habitat may occur as a result of development; and whereas the Department is a responsible agency under the California Environmental Quality Act (CEQA); and

C. WHEREAS, Agilent and the Department have reached agreement on acceptable ways to mitigate the significant environmental impacts to Western burrowing owl habitat; and

D. WHEREAS, Agilent will mitigate Western burrowing owl habitat at a ratio of 6.5 acres of owl habitat for every pair of burrowing owls or single burrowing owl displaced from the project area; and

E. WHEREAS, the Department is trustee for the fish and wildlife resources of the State of California and has jurisdiction over the conservation and protection of fish, wildlife, and native plants, and the habitat necessary for biologically sustainable populations thereof pursuant to California Fish and Game Code Section 1802; and

F. WHEREAS, Western burrowing owls and/or their habitat occurs on the parcel identified

for development; and

G. WHEREAS, Agilent's proposed development may result in permanent impacts to habitat occupied by two nesting pairs of burrowing owls and one adult burrowing owl; and

H. WHEREAS, the Department desires, consistent with the policies of California Fish and Game Code Section 1802, that there is permanent protection for burrowing owls and their habitat to assure the conservation, restoration, and long-term survival of this species; and

I. WHEREAS, Agilent agrees to undertake the mitigation measures set forth in this Agreement to offset the adverse impacts to burrowing owls caused by the Project; and

J. WHEREAS, the Project will not be allowed to result in the take of individual burrowing owls, which is prohibited by Fish and Game Code Section 3503.5, and whereas measures will be implemented to assure that no take will occur through the eviction of burrowing owls from the proposed development site during the non-nesting season (September 1 to January 31),

NOW THEREFORE, the Parties agree as follows:

1. NOTIFICATION.

Agilent intends to pursue development opportunities upon execution of this Agreement. This Agreement serves as notification that Agilent intends to commence development activities at its facility in San Jose, California.

2. RESPONSIBLE PARTY.

By execution of this Agreement, Agilent is notifying the Department that Ms. Barrie Simpson, Agilent Technologies, Inc.,350 Trimble Road, San Jose, CA 95131, TEL:(408) 435-4183, or his/her designee, is responsible for overseeing compliance with this Agreement.

3. EVICTION OF OWLS, BUFFER ZONES AND REPORTING OF TAKE

Agilent agrees to comply with the following restrictions during development of the Project:

A. No burrowing owls will be evicted from burrows during the nesting season (February 1 through August 31). Eviction outside the nesting season may be permitted as a means to avoid take, pending evaluation of eviction plans and receipt of formal written approval from the Department authorizing the eviction.

B. A protected area 75 meters (250-foot) in radius, within which no new activity will be permissible, will be maintained between Project activities and nesting burrowing owls or individual resident burrowing owls. This protected area will remain in effect between February 1 and August 31, or, at the Department's

discretion and based upon monitoring evidence, until any young owls are foraging independently. In the non-nesting season (September 1 through January 31), a protected area 50 m (165 feet) in radius, within which no new activity will be permissible, will be maintained between Project activities and burrows occupied by burrowing owls. Any development within these protected radii will be approved beforehand in a Memorandum of Understanding or Mitigation agreement with the Department. Notwithstanding anything to the contrary in this paragraph, the Department has the discretion to contract the nesting season period based on evidence the Department deems satisfactory.

C. If accidental take occurs, Agilent will contact the Department immediately.

4. ACQUISITION OF HABITAT LANDS.

A. Agilent agrees to acquire and preserve an area of 19.5 acres of existing burrowing owl foraging and breeding Habitat Management (HM) lands. Alternatively, 19.5 acres of suitable habitat not currently sustaining a burrowing owl population but that (at Agilent's expense, and pending approval by the Department) can be suitably modified to become HM lands may be provided. This acreage is based on 6.5 acres of habitat for each of the two pairs of burrowing owls and one single burrowing owl resident in the project area during the year 2000.

B. HM lands acquired by Agilent shall be transferred to the Department in fee title, or preserved through a conservation easement or a declaration of deed restriction that is approved by the Department. In lieu of transfer to the Department, the HM lands may be transferred to a non-profit corporation or public entity approved by the Department under terms approved by the Department. Agilent agrees to obtain the Department's approval of the HM lands for their biological suitability prior to approval under this agreement or any transfer.

C. In lieu of HM lands acquired directly by Agilent as mitigation for project impacts, acquisition of HM lands through a Department-approved mitigation bank, and in an acreage amount acceptable to the Department, will serve as approved mitigation.

5. LAND RATIO REQUIREMENT.

The required HM lands acreage is based upon the agreement between Agilent and the Department that the development site is utilized for foraging and/or breeding habitat by two pairs of burrowing owls and one single adult burrowing owl, and that one acceptable method of mitigating impacts to burrowing owls and their habitat is off-site preservation of existing burrowing owl habitat in an amount sufficient to sustain the displaced birds or an equivalent population of burrowing owls.

6. CONDITIONS OF HABITAT ENHANCEMENT.

A. The HM lands must comprise existing burrowing owl habitat, or Agilent must undertake habitat enhancement measures. Enhancement measures intended to fulfill suitability requirements for HM lands must be reviewed and approved by the Department. Agilent agrees

to demonstrate that the HM lands are suitable for burrowing owl mitigation by providing information that shows burrowing owl distribution on the proposed HM lands or in the vicinity. The total acreage of HM lands protected through this Agreement may exceed the 19.5 acres required, because areas of the HM lands that are not suitable for burrowing owls will not be applied to the total mitigation requirement. Any HM lands protected for the purposes of this Agreement must include areas on-site where burrowing owls can breed successfully. Agilent will be responsible for creating breeding habitat (artificial burrows) on the HM lands if it is determined to be necessary by the Department. Agilent agrees to provide the Department a recent preliminary title report and Level I environmental report for the HM lands. All documents conveying HM lands and all conditions of title are subject to the approval of the Department, the Department of General Services and, if applicable, the Fish and Game Commission.

B. Agilent agrees to acquire 19.5 acres of HM lands within 18 months of the full execution of this Agreement. This requirement will forever mitigate impacts to burrowing owl habitat caused by development activities from Agilent's Project.

C. If Agilent fails to complete the acquisition of 19.5 acres of HM lands within 18 months, or fails to perform other duties identified in this Agreement within the time periods specified, the Department, at its option, may demand that Agilent cure its breach forthwith. The Department may draw upon the security to complete the required acquisition, enhancement and management of HM lands and may pursue other remedies if Agilent fails to cure its breach upon demand.

7. FUNDING REQUIREMENTS FOR MITIGATION LANDS.

A. Agilent shall enhance burrowing owl habitat on the HM lands if the species is not already found on the HM lands, and if the Department approves proposed enhancements as a means of fulfilling suitability requirements on lands not presently suitable. In addition, Agilent shall be responsible for initial protection and enhancement measures on the HM lands; these measures may include but are not limited to fencing, trash clean-up, artificial burrow creation, grazing or mowing, and any habitat restoration deemed necessary by the Department. Alternatively, as its exclusive obligation to enhance owl habitat on HM lands, Agilent may fund the Department's initial protection and enhancement activities on the HM lands by providing the Department a check in the amount of $20,000 drawn from a banking institution located with California. Any unobligated funds for initial protection and enhancement of the HM lands shall be returned to Agilent upon completion of all such activities.

B. Agilent agrees to provide the Department (or non-profit corporation or other public entity, as applicable) with a check in the amount of $40,000 to establish an endowment for the long-term management of the HM lands. Agilent shall transfer these funds to the Department, or its designee, upon the Department's approval of the biological suitability of the HM lands, exceptions and conditions of title, and acquisition by the Department or an agent approved by the Department of HM lands as provided herein. The funds shall be in the form of a check drawn from a banking institution located within California. Such funding shall be used as principal for a permanent capital endowment. Interest from this amount shall be available for operations, management and protection of the HM lands acquired pursuant to this Agreement.

Operation, management and protection activities may include reasonable administrative overhead, biological monitoring, improvements to biological carrying capacity, law enforcement measures, and any other actions designed to protect or improve the habitat values of the HM lands. Money received by the Department pursuant to this provision shall be deposited in a special account established pursuant to Government Code Section 16370. The Department may pool the endowment with other endowments for the operation, management and protection of HM lands for local populations of the Western burrowing owl.

C. Agilent agrees to reimburse the Department for reasonable expenses incurred as a result of the approval and implementation of this Agreement, including costs of title and documentation review, expenses incurred from other state agency reviews and reasonable overhead directly related to this agreement. The Parties estimate that this Agreement will create an additional cost to the Department of up to $3,000 per HM lands acquisition transaction processed regardless of the number of acres in each transaction.

D. Agilent plans to proceed with the Project prior to fully performing the mitigation described in this Agreement. Agilent therefore agrees to secure the performance of its mitigation duties by providing the Department with security in the amount of $414,000, by depositing the same in a Department-approved escrow account at Chase Manhattan Bank in San Francisco within 10 working, days from the date of full execution of this Agreement. If Agilent has not fully performed its duties and obligations under this agreement within 18 months of the execution of this Agreement, Agilent shall pay the Department the estimated cost of performing any unperformed obligation. In the event that Agilent does not pay such a sum to the Department within 10 days' written notice of such an amount being due, the Department may draw upon the deposit provided pursuant to this Agreement and use such funds to acquire, protect, enhance and manage HM lands. Agilent agrees to provide security in the amount of $414,000, including: (1) $20,000 for initial protection and enhancement of the HM lands, (2) $351,000 (19.5 acres at an estimated $18,000 an acre) for the acquisition and/or preservation of the HM lands, (3) $40,000 for an endowment for the long-term management of the HM lands, and (4) $3,000 for transaction processing, if required.

E. The parties estimate that Agilent's costs for the acquisition and transfer of suitable HM lands totaling 19.5 acres of burrowing owl habitat will be $351,000, at an estimated cost of $18,000 an acre. Notwithstanding the above estimate, in the event that acquisition costs exceed the projected amount, Agilent shall not be released from performance of the requirements unless the Department and Agilent agree to modify this Agreement to provide for alternate effective burrowing owl mitigation measures acceptable to the Department. In the event that acquisition costs are less than estimated, Agilent's obligation shall be the actual acquisition cost and associated expenses described in the Agreement.

F. Once Agilent locates the required acreage of suitable HM lands, and demonstrates to the Department's satisfaction that the land is acceptable for mitigation purposes and that the proposed HM lands will be acquired, within ten (10) working days after written request by Agilent, the Department shall authorize for expenditure or return the acquisition funds to Agilent in the amount of $351,000 for purchase of HM lands.

OTHER PROVISIONS

8. The Department, its designee or successor shall hold title to and protect all HM lands conveyed in fee title under this Agreement solely for the purposes of conservation, protection, restoration, and enhancement of the Western burrowing owl and/or its habitats. This covenant shall remain in effect with the land and no use of such land shall be permitted by the Department or any subsequent title holder or assignee which is in conflict with the stated conservation purposes of this Agreement. The Department, its designee or successor may allow some limited grazing on the HM lands if said uses or the management of said uses do not conflict in any way with the Department's conservation goals for burrowing owls.

9. The Department, its designee or successor shall record on each deed a statement that the HM lands described in the deed of record have been conveyed to the Department, its designee or successor for purposes of conservation, protection, restoration and enhancement of the burrowing owl and its habitat.

10. In the event Agilent defaults on any of its material obligations under this Agreement, the Department shall have all rights with respect to any cash security and all remedies available at law or in equity, including specific performance injunction, and without limitation all rights of a secured party pursuant to the California Uniform Commercial Code.

11. All notices and other communications required or permitted under this Agreement shall be in writing and addressed to the parties at the following addresses, or at substitute addresses subsequently provided to any of the parties:

AGILENT TECHNOLOGIES, INCORPORATED:

Barrie Simpson
SPG Environmental Regional Manager
Agilent Technologies, Inc.
350 Trimble Road
San Jose, CA 95131
(408) 435-4183

AND

Environmental Counsel
Agilent Technologies, Inc.
395 Page Mill Rd.
Palo Alto, CA 94306
(650) 752-5000

DEPARTMENT:

General Counsel
Legal Affairs Division
Department of Fish and Game
1416 Ninth Street, Twelfth Floor
Sacramento, CA 95814
(916) 654-5295

AND

Mr. Scott Wilson
Region 3
California Department of Fish and Game
P.O. Box 47
Yountville, CA 94599
(707) 944-5529

12. Any sale or assignment of this Agreement or any of the rights or obligations thereunder is void absent the written consent of the Parties; provided, however, that no consent shall be required for assignment or pledge made by Agilent (a) to any entity that shall succeed by purchase, merger or consolidation to the properties of Agilent; (b) as security for a debt under the provision of any mortgage, deed of trust, indenture, bank credit agreement, or similar instrument; or (c) to any purchaser of any portion of the San Jose property as further described in Exhibit B attached hereto and incorporated herein.

13. This Agreement comprises the entire agreement and understanding between the Parties concerning the project, and the mitigation of significant environmental impacts regarding western burrowing owls and their habitat. This Agreement supersedes all prior and contemporaneous agreements, representations or understandings, whether oral or written.

14. This Agreement shall be governed by the laws of the State of California. Actual or threatened breach of this Agreement may be prohibited or restrained by a court of competent jurisdiction.

15. This Agreement is solely for the benefit of the People of the State of California, by and through the Department or its designated representative, and Agilent and its successors.

16. From time to time, the Parties shall by mutual agreement execute such instruments and other documents, and take such other actions, as may be reasonably necessary to carry out the terms of this Agreement. This Agreement cannot be amended or modified in any way except by a written instrument duly executed by the Parties or their successors. In any action requiring the agreement or approval of either of the Parties, such agreement or approval shall not be unreasonably denied or withheld, so long as it does not substantially alter the Agreements, duties and remedies of the Parties.

17. It is acknowledged that the purpose of this Agreement is to set forth the obligations and rights of the Parties with respect to the Project and the mitigation of significant environmental impacts on the western burrowing owl and its habitat. The Department will not seek further mitigation or compensation for the western burrowing owl or its habitat from Agilent for impacts within the Project area.

18. This Agreement shall be immediately effective upon execution by the Parties.

19. This Agreement includes and incorporates the following:

EXHIBIT A – Certificate of Public Purpose
EXHIBIT B – Project Description

The Parties acknowledge and accept the terms and conditions of this Agreement as evidenced by the following signatures of their duly authorized representatives. It is the intent of the Parties that this Agreement shall become operative on the last date written below.

AGILENT TECHNOLOGIES, INCORPORATED:

Jim Schnur
Global Real Estate Manager

Date: 1/3/01

CALIFORNIA DEPARTMENT OF FISH AND GAME

Robert W. Floerke
Regional Manager, Region 3

Date: 1/5/01

EXHIBIT A

CERTIFICATE OF PUBLIC PURPOSE

This is to certify that the interest in real property conveyed by the deed or grant of the following property _____
_____
_____, dated _____,
from _____, to the California Department of Fish and Game (the "Department"), grantee, a governmental agency (under section 27281 of the Government Code) is hereby accepted by the undersigned officer on behalf of the Department, pursuant to authority conferred upon him by resolution of the _____ on _____.

The public purpose of this real property conveyance and the recordation hereof is being accomplished pursuant to the terms and conditions of the Mitigation Agreement ("Agreement") entered into on _____ by and between_____ and the Department.

The Agreement, among other terms and conditions not relevant here, provides at paragraph 8:

> "The Department, its designee or successor shall hold title to and protect all HM lands conveyed in fee title under this Agreement solely for the purposes of conservation, protection, restoration, and enhancement of the western burrowing owl. This covenant shall run with the land and no use of such land shall be permitted by the Department or any subsequent title holder or assignee which is in conflict with the stated conservation purposes of this Agreement. The Department, its designee or successor may allow some limited grazing on the HM lands if said uses or the management of said uses do not conflict in any way with the conservation goals for burrowing owls."

A copy of this Agreement in its entirety may be obtained by interested parties by sending a request to the Director of the Department at the address below.

DEPARTMENT OF FISH AND GAME
OF THE STATE OF CALIFORNIA
1416 Ninth Street
Sacramento, California 95814

By:_____
Title:_____
Authorized Representative
Date:_____

EXHIBIT B

LEGAL DESCRIPTION

All that certain Real Property in the City of San Jose, County of Santa Clara, State of California, as described as follows:

Parcel One:

Parcel "D" as shown on that Parcel Map filed for record in the Office of the Recorder of the County of Santa Clara, State of California on March 28, 1979, in Book 415 of Maps at Pages 40 and 41.

Together with that portion of Parcel "A" as Parcel "A" is shown on said Parcel Map filed for record in Book 415 of Maps at Pages 40 and 41, Santa Clara County Records, described as follows:

Beginning at the most Westerly corner of Parcel "A" as shown on said Parcel Map, said corner being a point in the general Northeasterly boundary of said Parcel "D"; thence along said boundary of Parcel "D" the following two (2) courses; South 30° 45' 42" East 34.57 feet; thence along a tangent curve to the left having a radius of 167.00 feet, through a central angle of 56° 05' 54", an arc distance of 163.51 feet to the True Point of Beginning; thence continuing along said general Northeasterly boundary of said Parcel "D" following two (2) courses: continuing along the last said tangent curve to the left having a radius of 167.00 feet, through a central angle of 4° 54' 33", an arc distant of 14.31 feet; thence North 88° 13' 51" East 372.44 feet; thence leaving said boundary along the Northwesterly prolongation of the boundary line labeled with "North 46° 46' 09" West 233.00" on said Parcel Map, North 46° 46' 09" West 192.19 feet; thence South 59° 53' 26" West 284.99 feet to said True Point of Beginning.

Excepting therefrom that portion of Parcel "D" as Parcel "D" is shown on said Parcel Map filed for record in Book 415 of Maps at Pages 40 and 41, Santa Clara County Records, described as follows:

Beginning at the most Northerly corner of said Parcel "D", said corner being on the Southwesterly line of Trimble Road; thence along the Easterly line of said Parcel "D" the following three courses: South 29° 48' 03" 159.30 feet; thence South 4° 14' 18" West 189.49 feet; thence South 45° 45' 42" East 70.32 feet to the True Point of Beginning; thence continuing along said Easterly line, South 45° 45' 42" East 266.06 feet; thence South 30° 45' 42" East recorded 62.48 feet thence leaving said Easterly line South 59° 14' 18" West 86.11 feet; thence along a tangent curve to the right having a radius of 246.00 feet, through a central angel of 38° 25' 29", an arc length of 164.98 feet; thence North 82° 20' 13" West 4.00 feet, thence along a tangent curve to the left having a radius of 28.00 feet through a central angle of 90° 00' 00" for an arc length of 43.98 feet; thence North 7° 39' 47" East 327.99 feet; thence along a tangent curve to the left having a radius of 650.00 feet through a central angel of 1° 15' 37" for an arc length of 14.30 feet to the True Point of Beginning.

Excepting therefrom all oil, gas, other hydrocarbon substances, minerals, and naturally created hot water and steam in and under said real property and lying below a plane which is 500 feet

below the surface of the ground; provided, however, that any exploration for or removal of any such oil, gas, other hydrocarbon substances, minerals, and naturally created hot water and steam shall be by means of slant drill or other kinds of drilling coming from said real property and shall be performed so as not to endanger said surface or any structure which shall be erected or constructed thereon, as reserved by Pacific Gas and Electric Company, a California Corporation By Deed recorded March 31, 1978 in Book D 564, Page 495, Official Records of Santa Clara County.

Parcel Two:

Commencing at a 3" x 4" post marked B.1 standing on the Westerly line of the San Jose and Alviso County Road, from which an iron rod in the center of said road bears North 43 deg. 24' East distant 40.20 feet; thence running along the Westerly line of the San Jose and Alviso County Road, South 30 deg. 45' East 10.50 chains to a 3" x 4" stake marked 1 and 2; thence South 44 deg. 23' West along the line between Lots 1 and 2 of the Horn Subdivision, 32.93 chains to a 3" x 4" post marked 4 and 2; thence North 43 deg. 24' East and along the line between lands of W. H. Dawson and the Horn Subdivision, 33.85 chains to the place of commencement.

And being Lot 2 of the Horn Subdivision of B. Bardue Tract, Santa Clara County, California

NOTE: There is no Map of Record of the Horn Subdivision hereinabove referred to.

Excepting therefrom, that portion thereof, as conveyed to City of San Jose, A Municipal Corporation by Deed Recorded August 26, 1985 in Book J438, Page 330 of Official Records, described as follows:

Being a portion of Lot 2 of the Horn Subdivision of B. Bardue Tract (unrecorded) and also being a portion of that certain 33.939 acres parcel of land shown on Sheet 5 of 5 of that certain Record of Survey filed in Book 381 of Maps at Pages 19 through 23, Records of Santa Clara County, California and more particularly described as follows:

Beginning at the point of intersection of the Southwesterly line of North First street (40.00 feet half-sheet) with the dividing line between the said 33.939 acres parcel of land and that certain 34.903 acres parcel of land as said parcels and Street are shown on said Record of Survey, thence Northwesterly along the said Southwesterly line of North First Street North 29 deg. 59' 11" West 718.81 feet to the Northeasterly corner of said 33.939 acres parcel of land South 44 deg. 00' 22" West 28.49 feet to a point that is 77.00 feet Southwesterly at right angles to the centerline of North First Street; thence Southerly South 5 deg. 37' 02" East 52.93 feet to a point on a curve; thence Easterly and Southeasterly along said curve from a tangent that bears North 84 deg. 22' 58" East with a radius of 52.50 feet through a central angle of 62 deg. 21' 24" and an arc length of 57.14 feet; thence Southeasterly the following described courses: South 33 deg. 15' 39" East 54.02 feet, South 29 deg. 59' 11" East 48.00 feet, South 40 deg. 36' 22" East 28.49 feet, South 29 deg. 59' 11" East 118.50 feet, South 31 deg. 37' 23" East 96.29 feet, South 29 deg. 59' 11" East 74.99 feet to the said dividing line between the 33.939 acres parcel and 34.903 acre parcel; thence Northeasterly along the said dividing line North 43 deg. 07' 44" East 17.59 feet to the point of beginning.

Also Excepting therefrom

All that certain Parcel of land situate in the City of San Jose, County of Santa Clara, State of California, and being a portion of Lot 2 of the Horn Subdivision of B. Bardue Tract (unrecorded) and also being a portion of that certain 33.939 acres parcel of land shown on Sheet 5 of 5 of that certain Record of Survey Map filed in Book 381 of Maps at Pages 19 through 23, Records of Santa Clara County, California, and more particularly described as follows:

Beginning at the Southwesterly corner of that certain parcel of land described in that Grant Deed filed in Book J438, Page 330, Official Records of Santa Clara County, California, thence Northwesterly along the Southwesterly lines of the said Parcel of land above referenced the following four (4) described coursed:

1.) North 29 deg. 59' 11" West 274.99 feet,
2.) North 31 deg. 37' 23" West 96.29 feet,
3.) North 29 deg. 59' 11" West 118.50 feet,
4.) North 40 deg. 36' 22" West 28.49 feet to a point of cusp with a line that is parallel to and distant 65.00 feet Southwesterly and measured at right angle to the centerline of North First Street as said Street is shown on said Record of Survey; thence Southeasterly along the said parallel line South 29 deg. 59' 11" East 519.98 feet to the Southeasterly line of the said 33.939 acre parcel of land; thence Northeasterly along the said Southeasterly line North 45 deg. 07' 44" East 8.28 feet to the Point of Beginning.

Parcel Three:

Commencing at a 3" x 4" post marked 4 and 2 standing on the line between the lands of W. H. Dawson, and the Horn Subdivision; and running thence South 43 deg. 24' West 14.49 chains to a 3" x 4" post marked B.14; standing on the Easterly bank of the Guadalupe River, from which a leaning Live Oak Tree 3 feet in diameter marked B.T.B.14 bears North 14 deg. 20' West 4 links, running thence along Easterly bank of the said Guadalupe River on the following courses and distances: South 14 deg. 20' East 1.03 chains to a point marked B.13, South 5 deg. 54' East 2.97 chains to a post marked B.12; South 13 deg. 14' West 1.84 chains to a 2" x 4" marked Lots 3 and 4; leaving said river and running North 44 deg. 58' East along a line between Lots 3 and 4 of the Horn Subdivision 16.90 chains to a 3" x 4" post marked 3-4 & 2 standing on the Westerly line of Lot 2 of the Horn Subdivision; thence along the Westerly line of said Lot 2, North 34 deg. 54' West 5.24 chains to the place of commencement.

Being Lot 4 of the Horn Subdivision of the B. Bardue Tract, Santa Clara County, California, Course True. Magnetic Variation 16 deg. East.

NOTE: There is no map of record of the Horn Subdivision hereinabove referred to. Excepting therefrom that certain 1.529 acre tract of land described in the Deed from Martimer A. French, et al., to the Santa Clara County Flood Control and Water Conservation District, State of California, Dated October 26, 1960 recorded December 6, 1960 in Book 5003 of Official Records, at Page 141, Santa Clara County Records, described as follows:

Beginning at a point in the Southeasterly line of the 95.97 acre parcel of land conveyed to Clementine R. Goscila recorded in Book 1644 of Official Records, at Page 427 in the Office of

the Recorder of the County of Santa Clara, State of California, (said point being a 3" x 4" post marked 4 and 2 standing on the line between lands of W. H. Dawson and the Horn Subdivisions) said point being distant along said Southeasterly line of said 95.97 acre parcel of land South 44 deg. 02' 24" West 2281.90 feet from the point of intersection of said Southeasterly line with the center line of the San Jose-Alviso Road; thence from said point continuing along said Southeasterly line South 44 deg. 02' 24" West 791.60 feet to the True Point of Beginning of this description; thence from said point of beginning from a tangent bearing South 33 deg. 24' 25" East on a curve to the right with a radius of 650 feet through an angle of 31 deg. 51' 18" for a distance of 361.38 feet to a point in the line between Lots 3 and 4 of said Horn Subdivision; thence Southwesterly along said line being the present Southeasterly line of Alden French, et al., to a point in the Westerly line of said lands of French; thence Northerly along said Westerly line of said lands of French said point bearing South 44 deg. 02' 24" West from the point of beginning; thence North 44 deg. 02' 24" East along said line last mentioned to the True Point of Beginning of this description, being a part of Lot 4 of the Horn Subdivision of the B. Bardue Tract containing 1.529 acres of land more or less, and being all that parcel of the lands of French Northeasterly adjacent to the Guadalupe River lying within the bounds of the proposed 300 foot realignment channel of the Guadalupe River 1959 Project C-1-3.

Parcel Four:

An easement for ingress and egress as conveyed to Hewlett-Packard Company, a California Corporation by that certain grant Deed executed by Watkins-Johnson Company and recorded August 23, 1978 in Book D906, Page 357, Official Records, being more particularly described as follows:

All that certain Real Property situate in the City of San Jose, County of Santa Clara, State of California, being a portion of that certain parcel of land shown as Parcel "B" on that certain Parcel Map recorded in Book 415 of Maps at Pages 40 and 41 Santa Clara County Records.

Beginning at the most Westerly corner of said parcel, said corner lying on the Southeasterly line of Trimble Road, as said Road is shown on said Map; thence along said Southeasterly line, being common with the Northwesterly line of said parcel, North 60 deg. 11' 57" East 65.37 feet; thence leaving said common line, in a Southerly direction along a nontangent curve to the left having a radius of 60.00 feet, concave to the East, whose radius point bears South 65 deg. 02' 54" East through a central angle of 54 deg. 45' 09" an arc length of 57.34 feet to a point in a line that is parallel with and 40.00 feet Northeasterly measured at right angles from the most Northerly course in the general Southwesterly line of said parcel; thence along said parallel line South 29 deg. 48' 03" East 50.00 feet; thence along a tangent curve to the right having a radius of 186.00 feet through a central angle of 35 deg. 40' 26" an arc length of 114.81 feet to the point of reverse curvature; thence along a tangent curve to the left, having a radius of 150.00 feet, through a central angel of 51 deg. 38' 05" an arc length of 135.18 feet; thence South 45 deg. 45' 42" East 169.47 feet; thence along a tangent curve to the left having a radius of 100.00 feet through a central angle of 60 deg. 04' 00", an arc length of 104.84 feet; thence South 30 deg. 45' 42" East 55.38 feet; thence South 59 deg. 14' 18" West 10.98 feet; thence along a tangent curve to the left having a radius of 50.00 feet, through a central angle of 32 deg. 14' 18", an arc length off 28.13 feet to a point of reverse curvature; thence along a tangent curve to the right, having a radius of 50.00 feet, through a central angle of 143 deg. 32' 50" an arc length of 125.27 feet to a point of reverse curvature; thence along a tangent curve to the left, having a radius of 50.00 feet,

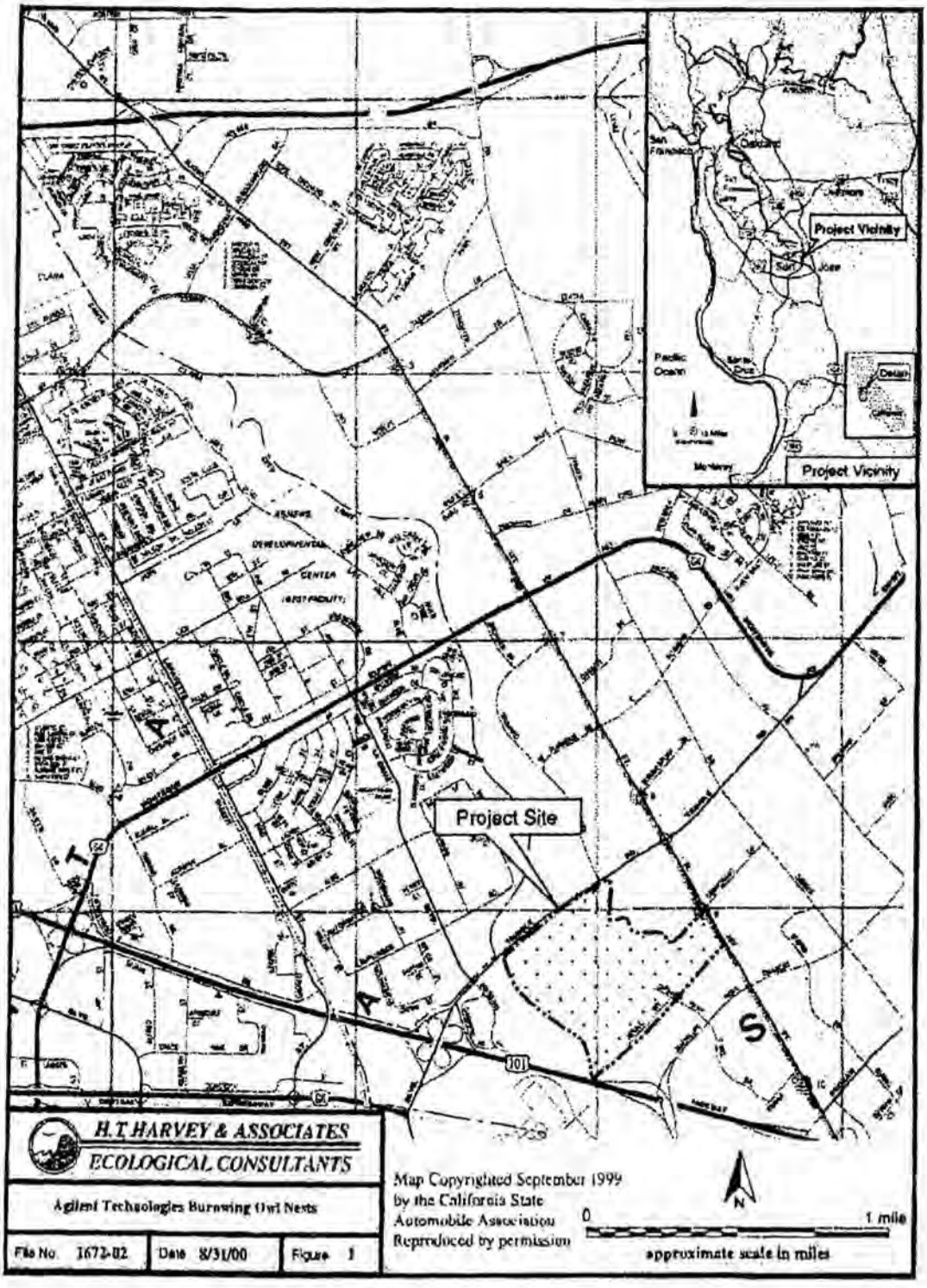
through a central angle of 36 deg. 18' 32" an arc length of 31.69 feet; thence North 45 deg. 45' 42" West 265.51 feet; thence along a tangent curve to the left having a radius of 25.00 feet through a central angel of 10 deg. 58' 11", an arc length of 4.79 feet to a point in the general Northwesterly line of said Parcel B; thence along said generally Southwesterly line the following courses; thence North 4 deg. 14' 18" East 148.43 feet; thence North 29 deg. 48' 03" West 159.30 feet to the Point of Beginning.

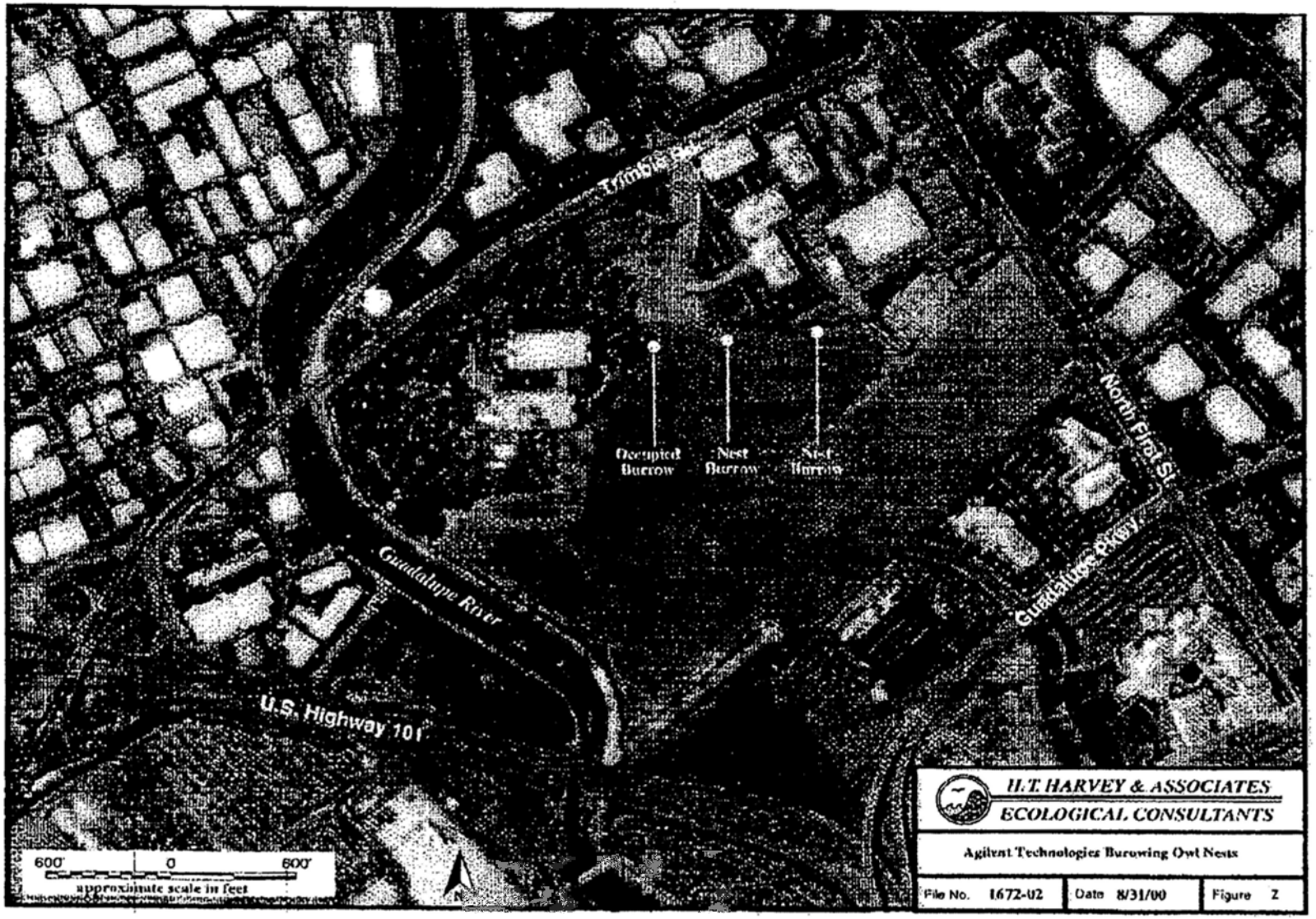
Excepted therefrom that portion thereof vacated by that certain Quitclaim Deed recorded June 17, 1998 as Instrument No. 13742915, Official Records.

Parcel Five

All that certain real property situated in the City of San Jose, County of Santa Clara, State of California, being a portion of that certain Parcel of Land shown as containing 7.802 acres, more or les, on Sheet 4 of that certain Record of Survey, recorded in Book 381 of Maps at Pages 19 through 23, Santa Clara County Records and being more particularly described as follows:

Commencing at the most Easterly corner of said parcel, said corner being also a point on the centerline of North First Street, as said street is shown on said map; thence leaving said centerline, South 48 deg. 52' 01" West 78.28 feet to the Point of Beginning lying on a line that is parallel with, and 77.00 feet Southwesterly, measured at right angles, from said centerline; thence leaving said parallel line, continuing South 48 deg. 52' 01" West 279.77 feet; thence along a tangent curve to the left having a radius of 1,000.00 feet, through a central angel of 4 deg. 38' 10" an arc length of 98.37 feet to a point in a line that is parallel with and 40.00 feet Northwesterly, measured at right angles, from the Southeasterly line of said 7.802 acre parcel; thence along said parcel line South 43 deg. 13' 51" West 420.78 feet; thence leaving said parallel line North 46 deg. 46' 09" West 40.00 feet to a point in the general Northwesterly line of said parcel, said point of being also the most Southerly corner of that certain parcel of land shown as Parcel 1, on that certain Parcel Map recorded in Book 390 of Maps, at Pages 25 and 26, Santa Clara County Records; thence along said Parcel 1, North 43 deg. 13' 51" East 110.00 feet to an angle point in said common general line; thence leaving said common general line, continuing North 43 deg. 13' 51" East 310.78 feet; thence along a tangent curve to the right, having a radius of 1,040.00 feet, through a central angle of 5 deg. 38' 10" an arc length of 102.30 feet; thence North 48 deg. 52' 01" East 242.07 feet; thence along a tangent curve to the left, having a radius of 54.00 feet, through a central angle of 68 deg. 97' 59" an arc length of 64.21 feet to a point on said common general line; thence along said common general line, North 43 deg.13' 51" East 1.13 feet to a point on a line that is parallel with, and 77.00 feet Southwesterly, measured at right angles, from said center line of North First Street; thence leaving said common general line along said parallel line South 30 deg. 45' 42" East 75.23 feet to the Point of Beginning.


Project Vicinity
Project Vicinity
Project Site
H.T HARVEY & ASSOCIATES
ECOLOGICAL CONSULTANTS
Agilent Technologies Burrowing Owl Nests
File No. 1672-02
Date 8/31/00
Figure 1
Map Copyrighted September 1999
by the California State
Automobile Association
Reproduced by permission
0
1 mile
approximate scale in miles


Trimble Rd.
Occupied Burrow
Nest Burrow
Nest Burrow
North First St.
Guadalupe Pkwy
Guadalupe River
U.S. Highway 101
600' 0 600'
approximate scale in feet
N
H.T. HARVEY & ASSOCIATES
ECOLOGICAL CONSULTANTS
Agilent Technologies Burrowing Owl Nests
File No. 1672-02
Date 8/31/00
Figure 2

State of California – The Natural Resources Agency
DEPARTMENT OF FISH AND GAME
Bay Delta Region
7329 Silverado Trail
Napa, CA 94558
(707) 944-5500
www.dfg.ca.gov

EDMUND G. BROWN JR., *Governor*
CHARLTON H. BONHAM, *Director*

November 15, 2012

Ms. Vera Todorov
Sr. Deputy City Attorney
200 East Santa Clara Street, 16th Floor Tower
San Jose, CA 95113-1905

Dear Ms. Todorov:

Subject: Santa Clara Valley Habitat Plan – Mitigation Agreement Between Agilent Technologies, Inc. and California Department of Fish and Game (Ref. No. 1802-2000-073-03)

The California Department of Fish and Game (DFG) has reviewed your letter dated November 2, 2012 requesting the status of the above referenced Agreement. DFG confirms that the terms of the Agreement have been fulfilled and per the terms of the Agreement, DFG requires no additional mitigation.

From your letter and conversations between City of San Jose (City) staff and DFG, it is our understanding that any determination by the City regarding the property that was formerly the Agilent project area will not affect the City's ability to successfully implement the conservation strategy for the western burrowing owl described in the Santa Clara Valley Habitat Plan and will not change that strategy.

If you have any questions, please feel free to contact me at (707) 944-5517.

Sincerely,

Scott Wilson

Scott Wilson
Acting Regional Manager
Bay Delta Region

APPENDIX I

Preliminary Geotechnical Report

17 April 2026

Ms. Claudia Tarpin
Director, Development
Prologis
2141 Rosecrans Avenue, Suite 1151
El Segundo, California 90245

SUBJECT: Preliminary Geotechnical Study
309 East Brokaw Road – Substation
San Jose, California
Langan Project No. 770724601

Dear Ms. Tarpin:

This letter presents the results of our preliminary geotechnical study for the proposed new substation at 309 East Brokaw Road in San Jose, California. The project area is bound to the south by East Brokaw Road, to the west by Zanker Road, to the east by Southern Pacific Company railroad right-of-way, and to the north by Charcot Avenue.

We drilled six borings and performed six cone penetration tests (CPTs) in March and Aprill 2026 as part of our geotechnical investigation for the substation and the adjacent data center building. The soil samples from our borings have been reviewed and have been submitted to the laboratory for testing. Where available, the preliminary results of our recent field investigation for the borings drilled and CPTs performed at and near the substation have been used to prepare this study. The logs of borings, corresponding laboratory tests, and CPT results will be presented in the design-level geotechnical investigation report.

SUBSURFACE CONDITIONS

The proposed substation would be constructed on the northern end of Santa Clara County assessor's parcels 237-29-029 and 237-29-030 and is currently occupied with two warehouse buildings. Ground surface elevations range from approximately Elevation 31 to Elevation 38 feet[1], rising to the east.

Based on the preliminary results of our recent field investigation, the site is underlain by alluvial deposits generally consisting of medium stiff to hard clay with varying amounts of sand with

[1] Elevations referenced to North American Vertical Datum of 1988 (NAVD88) and estimated from plan titled "Site Plan of Brokaw Site for Prologis, San Jose, California" by Kier and Wright, dated 14 March 2026.

interbedded layers of medium dense to very dense sand and gravel with varying amounts and types of fines. The near surface clay is anticipated to be moderately to highly expansive[2].

During our field investigation, groundwater was encountered at depths ranging from about 8½ to 10 feet below the existing ground surface (bgs), corresponding to approximately Elevation 24 feet to Elevation 25.5 feet. The pore pressure dissipation tests performed in the cone penetration tests (CPTs) indicate piezometric elevations of approximately Elevation 25.1 to Elevation 33.6 feet. Groundwater levels are expected to fluctuate as a result of rainfall and seasonal variations.

The historic high groundwater level based on the California Geological Survey (CGS) Seismic Hazard Zone Report for the Milpitas Quadrangle is approximately between 5 and 10 feet bgs.

REGIONAL SEISMICITY

The project site is in a seismically active region. Numerous earthquakes have been recorded in the region in the past, and moderate to large earthquakes should be anticipated during the service life of the proposed development. The Hayward, Calaveras, Monte Vista-Shannon, and San Andreas faults are the major faults closest to the site. For each of these faults, as well as other active faults within about 50 kilometers (km) of the site, the distance from the site and estimated mean Moment magnitude [3] [2014 Working Group on California Earthquake Probabilities (WGCEP) and Uniform California Earthquake Rupture Forecast Version 3 (UCERF3) as detailed in the United States Geological Survey Open File Report 2013-1165] are summarized in Table 1. The mean moment magnitude presented on Table 1 was computed assuming full rupture of the segment using Hanks and Bakun relationship.

[2] Moderately expansive soil undergoes moderate volume changes with changes in moisture content. Highly expansive soil undergoes large volume changes with changes in moisture content.

[3] Moment magnitude is an energy-based scale and provides a physically meaningful measure of the size of a faulting event. Moment magnitude is directly related to average slip and fault rupture area.

TABLE 1
Regional Faults and Seismicity

Fault Segment	Approx. Distance from Fault (km)	Direction from Site	Mean Moment Magnitude
Silver Creek 2011 CFM	0.3	East	6.7
Hayward (So) 2011 CFM	8.3	Northeast	6.9
Total Hayward-Rodgers Creek Healdsburg	8.3	Northeast	7.6
Hayward (So) extension 2011 CFM	10.0	East	6.1
Calaveras (Central) 2011 CFM	11.7	East	6.7
Total Calavares	11.7	East	7.5
Calaveras (No) 2011 CFM	12.2	Northeast	6.8
Mission (connected) 2011 CFM	12.2	Northeast	6.1
Monte Vista - Shannon 2011 CFM	14.3	Southwest	7.0
San Andreas (Peninsula) 2011 CFM	20.8	Southwest	7.2
San Andreas 1906 event	20.8	Southwest	8.1
Pilarcitos 2011 CFM	23.2	West	6.7
San Andreas (Santa Cruz Mts) 2011 CFM	23.9	Southwest	7.0
Butano 2011 CFM	25.0	Southwest	6.7
Sargent 2011 CFM	26.8	South	6.8
Las Positas	27.0	Northeast	6.3
Zayante-Vergeles 2011 CFM	31.7	South	7.1
Zayante-Vergeles	32.7	South	6.9
Greenville (No) 2011 CFM	35.8	East	6.9
Greenville (So) 2011 CFM	35.8	East	6.5
Mount Diablo Thrust	40.0	North	6.6
Mount Diablo Thrust South	40.1	Northeast	6.2
San Gregorio (North) 2011 CFM	42.4	West	7.3
Mount Diablo Thrust North CFM	44.0	North	6.4
Calaveras (So) 2011 CFM	50.2	Southeast	6.4

Note:
1. The table above is a summary and does not include all the fault segmentation, alternate traces or low activity faults included in the UCERF3 model.

Since 1800, four major earthquakes have been recorded on the San Andreas Fault. In 1836 an earthquake with an estimated maximum intensity of VII on the Modified Mercalli (MM) scale occurred east of Monterey Bay on the San Andreas Fault. The estimated Moment magnitude, $M_{w,}$ for this earthquake is about 6.25. In 1838, an earthquake occurred with an estimated intensity of about VIII-IX (MM), corresponding to an M_w of about 7.5. The San Francisco Earthquake of 1906 caused the most significant damage in the history of the Bay Area in terms of loss of lives and property damage. This earthquake created a surface rupture along the San Andreas Fault from Shelter Cove to San Juan Bautista approximately 470 kilometers in length. It had a maximum intensity of XI (MM), an M_w of about 7.9, and was felt 560 kilometers away in Oregon,

Nevada, and Los Angeles. The Loma Prieta Earthquake occurred on 17 October 1989 in the Santa Cruz Mountains with an M_w of 6.9, the epicenter of which is approximately 38 km from the site.

In 1868 an earthquake with an estimated maximum intensity of X on the MM scale occurred on the southern segment (between San Leandro and Fremont) of the Hayward fault. The estimated M_w for the earthquake is 7.0. In 1861, an earthquake of unknown magnitude (probably an M_w of about 6.5) was reported on the Calaveras fault. The most recent significant earthquake on this fault was the 1984 Morgan Hill earthquake (M_w = 6.2).

Two poorly located magnitude 6 earthquakes occurred in 1903 in the vicinity of the Silver Creek fault. There is evidence of Quaternary movement along this fault; however, there is lack of evidence of Holocene movement, and the fault is not generating abundant earthquakes. If the 1903 earthquakes did occur on the Silver Creek fault then they would have greatly reduced the short-term future potential for large earthquakes on the fault (Wentworth, C. M. et al. 2010).

The 2016 U.S. Geologic Survey (USGS) predicted a 72 percent chance of a magnitude 6.7 or greater earthquake occurring in the San Francisco Bay Area in 30 years. More specific estimates of the probabilities for different faults in the Bay Area are presented in Table 2.

TABLE 2
Estimates of 30-Year Probability (2014 to 2043) of a Magnitude 6.7 or Greater Earthquake

Fault	Probability (percent)
Hayward-Rodgers Creek	33
Calaveras	26
N. San Andreas	22
San Gregorio	16
Mount Diablo Thrust	16
Greenville	6

DISCUSSION AND PRELIMINARY CONCLUSIONS AND RECOMMENDATIONS

The primary geotechnical issues that should be addressed during design development are potential geologic and seismic hazards, presence of expansive near surface soil, settlement behavior of the moderately compressible clay and adequate foundation support. Below is a summary of preliminary geotechnical conclusions and recommendations for the project. It should be noted that design-level conclusions and recommendations are still being developed from the data collected during our recent investigation and that this information could change.

Geologic and Seismic Hazards

The site is in a seismically active area and will be subject to very strong shaking during a major earthquake. Strong ground shaking during an earthquake can result in ground failure such as that associated with soil liquefaction[4], lateral spreading[5], and seismic densification[6]. Each of these conditions has been preliminarily evaluated based on our literature review. A more detailed study of the geologic hazards should be performed and presented in our design-level geotechnical investigation report for the project.

Liquefaction

The site is located within a seismic hazard zone for liquefaction as designated by a report titled *Seismic Hazard Zone Report for the Milpitas 7.5-Minute Quadrangle, Alameda and Santa Clara Counties, California, Seismic Hazard Zone Report 051* (California Geological Survey (CGS), 2001). Soil liquefaction is a phenomenon in which saturated soil with little to no cohesion liquefies during a major earthquake; it experiences a temporary loss of shear strength as a result of a transient rise in excess pore water pressure generated by strong ground motion. Flow failure, lateral spreading, differential settlement, loss of bearing, ground fissures, and sand boils are evidence of excess pore pressure generation and liquefaction.

We used the CPT data to evaluate free-field, volumetric liquefaction potential. We used a design groundwater level of six feet bgs for our liquefaction analyses. Layers of very loose to loose, saturated sands with varying amounts of fines, with a thickness of up to about 8 feet, were encountered up to depths of about 55 feet bgs. We used the Boulanger and Idriss liquefaction triggering analysis method and a peak ground acceleration (PGA_M) of 0.57g to compute earthquake-induced cyclic stress ratios. We estimate that liquefaction-induced free-field settlement on the order of ½ inch could occur below the substation. These settlements are expected to be erratic and vary across the site. Our analyses will be updated at the completion of the current geotechnical investigation and laboratory testing.

Seismic Densification

Seismic densification refers to seismically induced differential compaction of non-saturated granular material (sand and gravel above the groundwater table) caused by earthquake vibrations. The explorations at the substation generally encountered cohesive soil above the estimated groundwater level. Therefore, we preliminarily conclude the potential for seismic densification

---

[4] Liquefaction is a transformation of soil from a solid to a liquefied state during which saturated soil temporally loses strength resulting from the buildup of excess pore water pressure, especially during earthquake-induced cyclic loading. Soil susceptible to liquefaction includes loose to medium dense sand and gravel, low-plasticity silt, and some low-plasticity clay deposits.

[5] Lateral spreading is a phenomenon in which surficial soil displaces along a shear zone that has formed within an underlying liquefied layer. Upon reaching mobilization, the surficial blocks are transported downslope or in the direction of a free face by earthquake and gravitational forces.

[6] Seismic densification is a phenomenon in which non-saturated, cohesionless soil is compacted by earthquake vibrations, causing ground surface settlement.

will be low. Our analyses will be updated at the completion of the current geotechnical investigation and laboratory testing.

Lateral Spreading

Lateral spreading is a phenomenon in which a surficial soil displaces along a shear zone that has formed within an underlying liquefied layer. The surficial blocks are transported downslope or in the direction of a free face, such as a channel, by earthquake and gravitational forces. Lateral spreading is generally the most pervasive and damaging type of liquefaction-induced ground failure generated by earthquakes.

Although potentially liquefiable sand lenses may be present, there are no nearby free faces, therefore we preliminarily conclude the potential for lateral spreading is low. Our analyses will be updated at the completion of the current geotechnical investigation and laboratory testing.

Fault Rupture

We evaluated the risk of surface faulting at the site associated with active or potentially active fault traces. Historically, ground surface ruptures closely follow the traces of geologically young faults. The site is not within an Earthquake Fault Zone, as defined by the Alquist Priolo Earthquake Fault Zoning Act. The Siler Creek fault is located approximately 0.3 km east of the site; however, as previously noted in in the Regional Seismicity section, there is lack of evidence of Holocene movement, and the fault is not generating abundant earthquakes. Therefore, we conclude the risk of surface faulting and consequent secondary ground failure is low. However, in a seismically active area, the remote possibility exists for future faulting in areas where no faults previously existed.

Tsunami and Flood Zone

A published map titled "Tsunami Hazard Area Map" (California Geological Survey, 2022) indicates the project site is not within a tsunami hazard zone; therefore, we preliminarily conclude the potential risk of inundation from tsunami within the project site is low. The project civil engineer should evaluate the potential risk of inundation from a tsunami, including the impact of sea level rise.

The northeastern half of the property is located within Federal Emergency Management Agency (FEMA) Flood Zone X, designated as "areas of minimal flood hazard," and the southwestern half of the property is located within Flood Zone X, designated as "0.2-percent annual chance flood hazard, areas of 1-percent annual chance flood with average depth less than one foot or with drainage areas of less than one square mile" (FEMA, 2014). The project civil engineer should further evaluate the future effects of sea level rise and the potential for flooding at the project site.

Expansive Near Surface Soil

The existing near-surface soil likely has moderate to high expansion potential. Moisture fluctuations in near-surface expansive soil could cause the soil to expand or contract resulting in movement and potential damage to improvements that overlie them. Potential causes of

moisture fluctuations include drying during construction, and subsequent wetting from rain, capillary rise, landscape irrigation, and type of plant selection.

The volume changes from expansive soil can cause cracking of foundations, floor slabs, and exterior flatwork. Any proposed new foundations, exterior slabs and concrete flatwork should be designed and constructed to reduce the effects of the expansive soil. These effects can be reduced by moisture conditioning the expansive soil, providing select, non-expansive fill below flatwork and other at-grade improvements, and providing additional reinforcing steel. In addition, expansive soils tend to be weaker than moderately to non-expansive soil and typically reduces the lifespan of pavements. Expansive soil can cause cracking of the pavement which allows water to infiltrate into the underlying baserock and subgrade and potentially saturates these materials. This may further reduce the pavement lifespan. Placing select fill, if grades will be raised, or lime treating the existing soil may be considered to improve the native expansive soil.

Settlement and Foundation

Primary considerations in selecting appropriate foundation systems for the proposed substation structures include structural and equipment loads; anticipated settlements associated with consolidation of moderately compressible soil and potential for liquefaction-induced settlements.

At this time, the proposed substation layout, as well as structural and equipment loads, have not yet been provided. However, based on our previous experience with similar facilities, we anticipate the substation structures will impose moderately to relatively high foundation loads. The substation structures may be supported on shallow foundation systems, such as spread footings or mat foundations, provided that anticipated static and seismically induced settlements are acceptable. If the estimated allowable bearing capacities and settlements are not acceptable, then the substation structures can be supported on shallow foundations bearing on ground improvement elements or deep foundations.

If shallow foundations are selected, continuous footings should be at least 18 inches wide and isolated spread footings should be at least 24 inches wide. Due to the anticipated presence of moderately to highly expansive near-surface soils, we preliminarily recommend that spread footings be founded at a minimum depth of 36 inches below the lowest adjacent soil subgrade. For preliminary evaluation purposes, the footings may be designed using an allowable bearing pressure of 2,000 pounds per square foot (psf) for dead plus live loads, with a one-third increase for total loads, including wind and/or seismic loads. Static settlements under this bearing pressure are estimated to be on the order of 1½ inches. These recommendations will be finalized in the design-level geotechnical investigation report.

For an assumed 20- by 30-foot mat foundation with a bearing pressure of 1,000 pounds per square foot, we estimate static settlement of approximately one inch.

We will reevaluate the estimated settlements in our design-level geotechnical investigation report once the substation layout and structural loads are known. Also, as discussed previously, we estimate that up to ½ inch of liquefaction-induced settlement could occur in addition to the predicted consolidation static settlement. The structural engineer should confirm that the proposed structures can accommodate the anticipated seismic settlements.

Groundwater Considerations

As discussed in the Subsurface Conditions section, groundwater was encountered as high as Elevation 33.6 feet during our geotechnical investigation for the adjacent project. Based on our subsurface investigation, we judge that a preliminary design groundwater elevation of Elevation 34 feet is appropriate for the site. It may be necessary to dewater excavations for foundations, elevator pits, and utility trenches, if they extend below Elevation 34 feet.

2025 California Building Code Site Class and Seismic Design Criteria

We understand the building would be designed in accordance with the 2025 California Building Code (CBC) and ASCE 7-22. For seismic design in accordance with the provisions of 2025 CBC, we recommend the following:

- Risk-Targeted Maximum Considered Earthquake (MCE_R) S_S and S_1 of 1.65g and 0.68g, respectively.
- Site Class D.
- Maximum Considered Earthquake (MCE_R) spectral response acceleration parameters at short periods, S_{MS}, and at one-second period, S_{M1}, of 1.71g and 1.70g, respectively.
- Design Earthquake (DE) spectral response acceleration parameters at short period, S_{DS}, and at one-second period, S_{D1}, of 1.14g and 1.13g, respectively.
- PGA_M of 0.57g.

DESIGN-LEVEL GEOTECHNICAL REPORT

This preliminary geotechnical evaluation letter is not a design-level report; a design-level geotechnical investigation report will be prepared when the current investigation and laboratory testing is completed.

Sincerely,
Langan CA, Inc.



Wilson Wong, PE
Associate



Serena T. Jang, GE
Principal

APPENDIX J

City of San Jose Greenhouse Gas Reduction Strategy Checklist

DEPARTMENT OF PLANNING, BUILDING AND CODE ENFORCEMENT

Purpose of the Compliance Checklist

In 2020, the City adopted a Greenhouse Gas Reduction Strategy (GHGRS) that outlines the actions the City will undertake to achieve its proportional share of State greenhouse gas (GHG) emission reductions for the interim target year 2030. The purpose of the Greenhouse Gas Reduction Strategy Compliance Checklist (Checklist) is to:

- Implement GHG reduction strategies from the 2030 GHGRS to new development projects.
- Provide a streamlined review process for proposed new development projects that are subject to discretionary review and trigger environmental review pursuant to the California Environmental Quality Act (CEQA).

The 2030 GHGRS presents the City's comprehensive path to reduce GHG emissions to achieve the 2030 reduction target, based on SB 32, BAAQMD, and OPR. Additionally, the 2030 GHGRS leverages other important City plans and policies; including the General Plan, Climate Smart San José, and the City Municipal Code in identifying reductions strategies that achieve the City's target. CEQA Guidelines Section 15183.5 allows for public agencies to analyze and mitigate GHG emissions as part of a larger plan for the reduction of greenhouse gases. Accordingly, the City of San José's 2030 GHGRS represents San José's qualified climate action plan in compliance with CEQA.

As described in the 2030 GHGRS, these GHG reductions will occur through a combination of City initiatives in various plans and policies and will provide reductions from both existing and new developments. This Compliance Checklist specifically applies to proposed discretionary projects that require environmental review pursuant to CEQA. Therefore, the Checklist is a critical implementation tool in the City's overall strategy to reduce GHG emissions. Implementation of applicable reduction actions in new development projects will help the City achieve incremental reductions toward its target. Per the 2030 GHGRS, the City will monitor strategy implementation and make updates, as necessary, to maintain an appropriate trajectory to the 2030 GHG target.

Pursuant to CEQA Guidelines Sections 15064(h)(3), 15130(d), and 15183(b), a project's incremental contribution to a cumulative GHG emissions effect may be determined not to be cumulatively considerable if it complies with the requirements of the GHGRS.

Instructions for Compliance Checklist

Applicants shall complete the following sections to demonstrate conformance with the City of San José 2030 Greenhouse Gas Reduction Strategy for the proposed project. All projects must complete Section A. General Plan Policy Conformance and Section B. Greenhouse Gas Reduction Strategies. Projects that propose alternative GHG mitigation measures must also complete Section C. Alternative Project Measures and Additional GHG Reductions.

A. General Plan Policy Compliance

Projects need to demonstrate consistency with the Envision San José 2040 General Plan's relevant policies for Land Use & Design, Transportation, Green Building, and Water Conservation, enumerated in Table A. All applicants shall complete the following steps.

1. Complete Table A, Item #1 to demonstrate the project's consistency with the General Plan Land Use and Circulation Diagram.

2. Complete Table A, Items #2 through #4 to demonstrate the project's consistency with General Plan policies[1] related to green building; pedestrian, bicycle & transit site design; and water conservation and urban forestry, as applicable. For each policy listed, mark the relevant yes/no check boxes to indicate project consistency, and provide a qualitative description of how the policy is implemented in the proposed project or why the policy is not applicable to the proposed project. Qualitative descriptions can be included in Table A or provided as separate attachments. This explanation will provide the basis for analysis in the CEQA document.

B. Greenhouse Gas Reduction Strategies

Table B identifies the GHGRS strategies and recommended consistency options. Projects need to demonstrate consistency with the GHGRS reduction strategies listed in Table B or document why the strategies are not applicable or are infeasible. The corresponding GHGRS strategies are indicated in the table to provide additional context, with the full text of the strategies preceding Table B.

Residential projects must complete Table B, Part 1 and 2; Non-residential projects must complete Table B, Part 2 only. All applicants shall complete the following steps for Table B.

1. Review the project consistency options described in the column titled 'GHGRS Strategy and Consistency Options'.

2. Use the check boxes in the column titled "Project Conformance" to indicate if the strategy is 'Proposed', 'Not Applicable', 'Not Feasible', or if there is an 'Alternative Measure Proposed'.

3. Provide a qualitative analysis of the proposed project's compliance with the GHGRS strategies in the column titled "Description of Project Measure". This will be the basis for

[1] The lists in items # 2-4 do not represent all General Plan policies but allow projects to demonstrate consistency and achievement of policies that are related to quantified reduction estimates in the 2030 GHGRS.

CEQA analysis to demonstrate compliance with the 2030 GHGRS and by extension, with SB 32. The qualitative analysis should provide:

a. A description of which consistency options are included as part of the proposed project, or

b. A description of why the strategy is not applicable to the proposed project, or

c. A description of why the consistency options are infeasible. If applicants select 'Not Feasible' or 'Alternative Measure Proposed', they must complete Table C to document what alternative project measures will be implemented to achieve a similar level of greenhouse gas reduction and how those reduction estimates were calculated.

C. Alternative Project Measures and Additional GHG Reductions

Projects that propose alternative GHG mitigation measures to those identified in Table B or propose to include additional GHG mitigation measures beyond those described in Tables A and B, shall provide a summary explanation of the proposed measures and demonstrate efficiency or greenhouse gas reductions achievable though the proposed measures. Documentation for these alternative or additional project measures shall be documented in Table C. Any applicants who select 'Not Feasible' or 'Alternative Measure Proposed' in Table B must complete the following steps for Table C.

1. In the column titled "Description of Proposed Measure" provide a qualitative description of what measure will be implemented, why it is proposed, and how it will reduce GHG emissions.

2. In the column titled "Description of GHG Reduction Estimate" demonstrate how the alternative project measure would achieve the same or greater level of greenhouse gas reductions as the GHGRS strategy it replaces. Documentation or calculation files can be attached separately.

3. In the column titled "Proposed Measure Implementation" identify how the measure will be implemented: incorporated as part of the project design or as an additional measure that is not part of the project (e.g., purchase of carbon offsets).

Compliance Checklist

Evaluation of Project Conformance with the 2030 Greenhouse Gas Reduction Strategy

Table A: General Plan Consistency

Development Type: ☐ Commercial ☐ Residential ☐ Office ☒ Other: Specify

The Silver Creek Data Center project (Project) consists of one industrial data center building and one substation.

1) Consistency with the Land Use/Transportation Diagram (Land Use and Density)	Yes	No
Is the proposed Project consistent with the Land Use/Transportation Diagram?	☒	☐
If not, and the proposed project includes a General Plan Amendment, does the proposed amendment decrease GHG emissions (in absolute terms or per capita, per employee, per service population) below the level assumed in the GHGRS based on the existing planned land use? (The project could have a higher density, mix of uses, or other features that would reduce GHG emissions compared to the planned land use).[2]	☐	☐
If not, would the proposed project and the General Plan Amendment increase GHG emissions (in absolute terms or per capita, per employee, per service population)? Project is not consistent with GHGRS and further modeling will be required to determine if additional mitigation measures are necessary.	☐	☐

Response documentation: *[Either here or as an attachment]*

The Project will result in the construction of one data center building, a substation, and other associated infrastructure to support the data center on an approximately 12.88-acre site located at 326 Charcot Avenue in San José. The data center project site is designated as Industrial Park in the Envision San José 2040 General Plan. The proposed industrial data center development will be compatible with this land use designation.

2) Implementation of Green Building Measures	Yes	No
MS-2.2*: Encourage maximized use of on-site generation of renewable energy for all new and existing buildings.*	☐	☐
Not applicable	☒	☐
Describe how the project is consistent or why the measure is not applicable. [Either here or as an attachment]		

The project owner will either participate in the San Jose Clean Energy (SJCE) at the Total Green Level (i.e., 100% carbon-free electricity) for electricity accounts associated with the project or enter into an electricity contract with SJCE. Alternatively, the project owner may also participate in a clean energy program that accomplishes the same goals of 100 percent

[2] For example, a General Plan Amendment to change use from single-family residential to multi-family residential or a General Plan Amendment to change the use from regional-serving commercial to mixed-use urban in a transit-served area might reduce travel demand, and therefore GHG emissions from mobile sources.

carbon-free electricity as the SJCE Total Green Level. As a result, on-site renewable energy generation is not needed to offset the project's emissions.

***MS-2.3**: Encourage consideration of solar orientation, including building placement, landscaping, design and construction techniques for new construction to minimize energy consumption.*	☐	☐
Not applicable	☒	☐

Describe how the project is consistent or why the measure is not applicable. [Either here or as an attachment]

The Project will not utilize solar orientation to minimize energy consumption due to the nature of a data center. To keep the interior of the data center buildings cool, which is necessary for the servers housed in the data centers, the building design includes minimal windows to reduce exposure to the data hall areas. Energy consumption associated with cooling is reduced with this type of building design.

***MS-2.7**: Encourage the installation of solar panels or other clean energy power generation sources over parking areas.*	☐	☐
Not applicable	☒	☐

Describe how the project is consistent or why the measure is not applicable. [Either here or as an attachment]

The Project will not install solar panels over the parking areas due to site constraints, which make this design option infeasible. Instead, the project owner will either participate in the SJCE at the Total Green Level (i.e., 100 percent carbon-free electricity) for electricity accounts associated with the project, enter into an electricity contract with SJCE, or participate in a clean energy program that accomplishes the same goals of 100% carbon-free electricity as the SJCE Total Green Level. As a result, on-site renewable energy generation is not needed to offset the project's emissions.

***MS-2.11**: Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g., design to maximize cross ventilation and interior daylight) and through site design techniques (e.g., orienting buildings on sites to maximize the effectiveness of passive solar design).*	☒	☐
Not applicable	☐	☐

Describe how the project is consistent or why the measure is not applicable. [Either here or as an attachment]

The proposed data center building will be constructed in accordance with the current Title 24 and California Green Building Standards (CALGreen) requirements.

***MS-16.2**: Promote neighborhood-based distributed clean/renewable energy generation to improve local energy security and to reduce the amount of energy wasted in transmitting electricity over long distances.*	☐	☐
Not applicable	☒	☐

Describe how the project is consistent or why the measure is not applicable. [Either here or as an attachment]

The project owner will either participate in the SJCE at the Total Green Level (i.e., 100 percent carbon-free electricity) for electricity accounts associated with the project or enter into an electricity contract with SJCE or participate in a clean energy program that accomplishes the same goals of 100 percent carbon-free electricity as the SJCE Total Green Level. As a result, additional renewable energy generation is not needed to offset the project's emissions.

3) Pedestrian, Bicycle & Transit Site Design Measures	**Yes**	**No**
***CD-2.1**: Promote the Circulation Goals and Policies in the Envision San José 2040 General Plan. Create streets that promote pedestrian and bicycle transportation by following applicable goals and policies in the Circulation section of the Envision San José 2040 General Plan.*		
a) Design the street network for its safe shared use by pedestrians, bicyclists, and vehicles. Include elements that increase driver awareness.	☒	☐
b) Create a comfortable and safe pedestrian environment by implementing wider sidewalks, shade structures, attractive street furniture, street trees, reduced traffic speeds, pedestrian-oriented lighting, mid-block pedestrian crossings, pedestrian-activated crossing lights, bulb-outs and curb extensions at intersections, and on-street parking that buffers pedestrians from vehicles.	☒	☐
c) Consider support for reduced parking requirements, alternative parking arrangements, and Transportation Demand Management strategies to reduce area dedicated to parking and increase area dedicated to employment, housing, parks, public art, or other amenities. Encourage de-coupled parking to ensure that the value and cost of parking are considered in real estate and business transactions.	☒	☐
Not applicable	☐	☐
Describe how the project is consistent or why the measure is not applicable. [Either here or as an attachment]		

The Project would provide 16 bicycle parking spaces (four long-term and 12 short-term spaces) for future employees and visitors. The Project would also not alter the sidewalks in the project area, as there are no existing sidewalks along the Project frontage along Charcot Avenue or Zanker Road.

In addition, the Project will prepare a Transportation Demand Management (TDM) plan in accordance with City of San José Municipal Code Chapter 20.90 Part 9. The TDM plan would reduce vehicle miles traveled. Measures that could be included in the TDM include Provide Commute Trip Reduction Marketing/Education and Rider Sharing Program. The final TDM Plan measures will be decided by the City of San José and the Project Applicant.

***CD-2.5**: Integrate Green Building Goals and Policies of the Envision San José 2040 General Plan into site design to create healthful environments. Consider factors such as shaded parking areas, pedestrian connections, minimization of impervious surfaces, incorporation of stormwater treatment measures, appropriate building orientations, etc.*	☒	☐
Not applicable	☐	☐
Describe how the project is consistent or why the measure is not applicable. [Either here or as an attachment]		

As mentioned under Response MS.-2.11, the Project will implement Title 24 and CALGreen design and construction methodologies. Integration of these design practices would reduce energy and water consumption.

	Yes	No
***CD-2.11**: Within the Downtown and Urban Village Overlay areas, consistent with the minimum density requirements of the pertaining Land Use/Transportation Diagram designation, avoid the construction of surface parking lots except as an interim use, so that long-term development of the site will result in a cohesive urban form. In these areas, whenever possible, use structured parking, rather than surface parking, to fulfill parking requirements. Encourage the incorporation of alternative uses, such as parks, above parking structures.*	☐	☐
Not applicable	☒	☐
Describe how the project is consistent or why the measure is not applicable. [Either here or as an attachment] This measure is not applicable since the Project Site is not located within the Downtown or an Urban Village Overlay area.		
***CD-3.2**: Prioritize pedestrian and bicycle connections to transit, community facilities (including schools), commercial areas, and other areas serving daily needs. Ensure that the design of new facilities can accommodate significant anticipated future increases in bicycle and pedestrian activity.*	☒	☐
Not applicable	☐	☐
Describe how the project is consistent or why the measure is not applicable. [Either here or as an attachment] The Project would provide 16 bicycle parking spaces (four long-term and 12 short-term spaces) for future employees and visitors. The Project would also not alter the sidewalks in the project area, as there are no existing sidewalks along the Project frontage along Charcot Avenue or Zanker Road.		
***CD-3.4**: Encourage pedestrian cross-access connections between adjacent properties and require pedestrian and bicycle connections to streets and other public spaces, with particular attention and priority given to providing convenient access to transit facilities. Provide pedestrian and vehicular connections with cross-access easements within and between new and existing developments to encourage walking and minimize interruptions by parking areas and curb cuts.*	☒	☐
Not applicable	☐	☐
Describe how the project is consistent or why the measure is not applicable. [Either here or as an attachment] The Project Site would include adequate pedestrian connectivity on-site such as an internal network of sidewalks and crosswalks connecting the buildings, substation, and parking lots. The Project would also not alter the sidewalks in the project area, as there are no existing sidewalks along the Project frontage along Charcot Avenue or Zanker Road.		

***LU-3.5**: Balance the need for parking to support a thriving Downtown with the need to minimize the impacts of parking upon a vibrant pedestrian and transit oriented urban environment. Provide for the needs of bicyclists and pedestrians, including adequate bicycle parking areas and design measures to promote bicyclist and pedestrian safety.*	☐	☐
Not applicable	☒	☐
Describe how the project is consistent or why the measure is not applicable. [Either here or as an attachment] This measure is not applicable since the Project Site is not located within the Downtown area.		

	Yes	No
***TR-2.8:** Require new development to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.*	☒	☐
Not applicable	☐	☐
Describe how the project is consistent or why the measure is not applicable. [Either here or as an attachment] The Project would provide 16 bicycle parking spaces (four long-term and 12 short-term spaces) for future employees and visitors.		

***TR-7.1:** Require large employers to develop TDM programs to reduce the vehicle trips and vehicle miles generated by their employees through the use of shuttles, provision for car-sharing, bicycle sharing, carpool, parking strategies, transit incentives and other measures.*	☒	☐
Not applicable	☐	☐
Describe how the project is consistent or why the measure is not applicable. [Either here or as an attachment] As mentioned above in response to General Plan Policy CD-2.1, the TDM plan will demonstrate how the project will reduce vehicle miles traveled.		
***TR-8.5:** Promote participation in car share programs to minimize the need for parking spaces in new and existing development.*	☒	☐
Not applicable	☐	☐
Describe how the project is consistent or why the measure is not applicable. [Either here or as an attachment] As mentioned above, the Project will prepare a TDM plan. Measures that could be included in the TDM include Provide Commute Trip Reduction Marketing/Education and Rider Sharing Program. The final TDM Plan measures will be decided by the City of San José and the Project Applicant.		

4) Water Conservation and Urban Forestry Measures	Yes	No
***MS-3.1**: Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial and developer-installed residential development unless for recreation needs or other area functions.*	☒	☐
Not applicable	☐	☐
Describe how the project is consistent or why the measure is not applicable. [Either here or as an attachment] The project's landscaping would conform to the State's Model Water Efficient Landscape Ordinance.		

	Yes	No
***MS-3.2**: Promote the use of green building technology or techniques that can help reduce the depletion of the City's potable water supply, as building codes permit. For example, promote the use of captured rainwater, graywater, or recycled water as the preferred source for non-potable water needs such as irrigation and building cooling, consistent with Building Codes or other regulations.*	☒	☐
Not applicable	☐	☐
Describe how the project is consistent or why the measure is not applicable. [Either here or as an attachment] To reduce water use, the proposed data center building would utilize air cooled chillers to remove the heat generated during operation. There is no water requirement for this type of cooling technology.		

***MS-19.4**: Require the use of recycled water wherever feasible and cost-effective to serve existing and new development.*	☒	☐
Not applicable	☐	☐
Describe how the project is consistent or why the measure is not applicable. [Either here or as an attachment] The Project would utlize recycled water for irrigation of landscaping thereby reducing the Project's overall potable water demand.		
***MS-21.3**: Ensure that San José's Community Forest is comprised of species that have low water requirements and are well adapted to its Mediterranean climate. Select and plant diverse species to prevent monocultures that are vulnerable to pest invasions. Furthermore, consider the appropriate placement of tree species and their lifespan to ensure the perpetuation of the Community Forest.*	☒	☐
Not applicable	☐	☐
Describe how the project is consistent or why the measure is not applicable. [Either here or as an attachment] The landscaping proposed by the project would be reviewed by the City prior to receiving building permits, which would ensure that the plant species selected would be appropriate and comply with the City's Community Forest guidelines.		

***MS-26.1**: As a condition of new development, require the planting and maintenance of both street trees and trees on private property to achieve a level of tree coverage in compliance with and that implements City laws, policies or guidelines.*	☒	☐
Not applicable	☐	☐
Describe how the project is consistent or why the measure is not applicable. [Either here or as an attachment] The project will comply with the City's laws, policies, and/or guidelines regarding the planting and maintenance of street trees or trees.		

	Yes	No
***ER-8.7**: Encourage stormwater reuse for beneficial uses in existing infrastructure and future development through the installation of rain barrels, cisterns, or other water storage and reuse facilities.*	☐	☒
Not applicable	☐	☐
Describe how the project is consistent or why the measure is not applicable. [Either here or as an attachment] Based on the low annual stormwater runoff within the San José region, the Project will not include infrastructure for water storage or reuse of runoff water.		

GHGRS Strategies

GHGRS #1: The City will implement the San José Clean Energy program to provide residents and businesses access to cleaner energy at competitive rates.

GHGRS #2: The City will implement its building reach code ordinance (adopted September 2019) and its prohibition of natural gas infrastructure ordinance (adopted October 2019) to guide the city's new construction toward zero net carbon (ZNC) buildings.

GHGRS #3: The City will expand development of rooftop solar energy through the provision of technical assistance and supportive financial incentives to make progress toward the Climate Smart San José goal of becoming a one-gigawatt solar city.

GHGRS #4: The City will support a transition to building decarbonization through increased efficiency improvements in the existing building stock and reduced use of natural gas appliances and equipment.

GHGRS #5: As an expansion to Climate Smart San José, the City will update its Zero Waste Strategic Plan and reassess zero waste strategies. Throughout the development of the update, the City will continue to divert 90 percent of waste away from landfills through source reduction, recycling, food recovery and composting, and other strategies.

GHGRS #6: The City will continue to be a partner in the Caltrain Modernization Project to enhance local transit opportunities while simultaneously improving the city's air quality.

GHGRS #7: The City will expand its water conservation efforts to achieve and sustain long-term per capita reductions that ensure a reliable water supply with a changing climate, through regional partnerships, sustainable landscape designs, green infrastructure, and water-efficient technology and systems.

Table B: 2030 Greenhouse Gas Reduction Strategy Compliance

GHGRS Strategy and Consistency Options	Description of Project Measure	Project Conformance
PART 1: RESIDENTIAL PROJECTS ONLY		
Zero Net Carbon Residential Construction 1. Achieve/exceed the City's Reach Code, and 2. Exclude natural gas infrastructure in new construction, or 3. Install on-site renewable energy systems or participate in a community solar program to offset 100% of the project's estimated energy demand, or 4. Participate in San José Clean Energy at the Total Green level (i.e., 100% carbon-free electricity) for electricity accounts associated with the project until which time SJCE achieves 100% carbon-free electricity for all accounts. **Supports Strategies**: GHGRS #1, GHGRS #2, GHGRS #3	*Describe which, if any, project consistency options from the leftmost column you are implementing.* *OR,* *Describe why this strategy is not applicable to your project.* *OR,* *Describe why such measures are infeasible.* This measure is not applicable to the Project since it applies to residential projects only. The data center building and substation are industrial developments.	☐ Proposed ☒ Not Applicable ☐ Not Feasible* ☐ Alternative Measure Proposed ** The 2030 GHGRS assumed this strategy would be feasible for 50% of residential units constructed between 2020 and 2030.*
PART 2: RESIDENTIAL AND NON-RESIDENTIAL PROJECTS		
Renewable Energy Development 1. Install solar panels, solar hot water, or other clean energy power generation sources on development sites, or 2. Participate in community solar programs to support development of renewable energy in the community, or 3. Participate in San José Clean Energy at the Total Green level (i.e., 100% carbon-free electricity) for electricity accounts associated with the project. **Supports Strategies**: GHGRS #1, GHGRS #3	*Describe which, if any, project consistency options from the leftmost column you are implementing.* *OR,* *Describe why this strategy is not applicable to your project.* *OR,* *Describe why such measures are infeasible.* The Project Owner will either participate in the SJCE at the Total Green Level (i.e., 100% carbon-free electricity) for electricity accounts associated with the project, enter into an electricity contract with SJCE, or participate in a clean energy program that accomplishes the same goals of 100% carbon-free electricity as the SJCE Total Green Level.	☐ See Part 1 (Residential projects only) ☒ Proposed ☐ Not Applicable ☐ Not Feasible ☐ Alternative Measure Proposed

GHGRS Strategy and Consistency Options	Description of Project Measure	Project Conformance
Building Retrofits – Natural Gas[3] This strategy only applies to projects that include a retrofit of an existing building. If the proposed project does not include a retrofit, select "Not Applicable" in the Project Conformance column. 1. Replace an existing natural gas appliance with an electric alternative (e.g., space heater, water heater, clothes dryer), or 2. Replace an existing natural gas appliance with a high-efficiency model **Supports Strategies:** GHGRS #4	*Describe which, if any, project consistency options from the leftmost column you are implementing.* *OR,* *Describe why this strategy is not applicable to your project.* *OR,* *Describe why such measures are infeasible.* This measure is not applicable to the Project because it does not include the retrofitting of an existing building.	☐ Proposed ☒ Not Applicable ☐ Not Feasible ☐ Alternative Measure Proposed
Zero Waste Goal 1. Provide space for organic waste (e.g., food scraps, yard waste) collection containers, and/or 2. Exceed the City's construction & demolition waste diversion requirement. **Supports Strategies:** GHGRS #5	*Describe which, if any, project consistency options from the leftmost column you are implementing.* *OR,* *Describe why this strategy is not applicable to your project.* *OR,* *Describe why such measures are infeasible.* The Project would exceed the City's construction and demolition waste diversion requirement.	☒ Proposed ☐ Not Applicable ☐ Not Feasible ☐ Alternative Measure Proposed
Caltrain Modernization 1. For projects located within ½ mile of a Caltrain station, establish a program through which to provide project tenants and/or residents with free or reduced Caltrain passes or	*Describe which, if any, project consistency options from the leftmost column you are implementing.* *OR,* *Describe why this strategy is not applicable to your project.* *OR,* *Describe why such measures are infeasible.* The project would implement a TDM plan, as required for all new development in San José, to reduce vehicle miles traveled.	☒ Proposed ☐ Not Applicable ☐ Not Feasible ☐ Alternative Measure Proposed

[3] GHGRS Strategy #4 applies to existing building retrofits and not to new construction; Strategy #2 applies to new construction to reduce natural gas related GHG emissions

GHGRS Strategy and Consistency Options	Description of Project Measure	Project Conformance
2. Develop a program that provides project tenants and/or residents with options to reduce their vehicle miles traveled (e.g., a TDM program), which could include transit passes, bike lockers and showers, or other strategies to reduce project related VMT. **Supports Strategies:** GHGRS #6		
Water Conservation 1. Install high-efficiency appliances/fixtures to reduce water use, and/or include water-sensitive landscape design, and/or 2. Provide access to reclaimed water for outdoor water use on the project site. **Supports Strategies:** GHGRS #7	*Describe which, if any, project consistency options from the leftmost column you are implementing.* *OR,* *Describe why this strategy is not applicable to your project.* *OR,* *Describe why such measures are infeasible.* The Project will install high-efficiency appliances and fixtures pursuant with Title 24 and CALGreen requirements and include a water-sensitive landscape design.	☐ Proposed ☐ Not Applicable ☐ Not Feasible ☐ Alternative Measure Proposed

Table C: Applicant Proposed Greenhouse Gas Reduction Measures

Description of Proposed Measure	Description of GHG Reduction Estimate	Proposed Measure Implementation
[Describe the proposed project measure and why it is proposed] The project owner shall participate in the SJCE at the Total Green Level (i.e., 100% carbon-free electricity) for electricity accounts associated with the project, or enter into an electricity contract with SJCE or participate in a clean energy program that accomplishes the same goals of 100% carbon-free electricity as the SJCE Total Green Level. **Supports Strategies/Sectors:** GHGRS #	*[Demonstrate the effectiveness of the proposed measure to reduce the project's GHG emissions.* *Include a description of how your measure will reduce emissions and provide supporting quantification documentation/assumptions.]* By either participating in SJCE's Total Green Level or participating in a clean energy program that accomplishes the same goals of 100% carbon-free electricity as the SJCE Total Green Level, all GHG emissions associated with the project's electricity consumption would be offset.	☒ Part of Design ☐ Additional Measure
[Describe the proposed project measure and why it is proposed] **Supports Strategies/Sectors:** GHGRS #	*[Demonstrate the effectiveness of the proposed measure to reduce the project's GHG emissions.* *Include a description of how your measure will reduce emissions and provide supporting quantification documentation/assumptions.]*	☐ Part of Design ☐ Additional Measure
[Describe the proposed project measure and why it is proposed] **Supports Strategies/Sectors:** GHGRS #	*[Demonstrate the effectiveness of the proposed measure to reduce the project's GHG emissions.* *Include a description of how your measure will reduce emissions and provide supporting quantification documentation/assumptions.]*	☐ Part of Design ☐ Additional Measure
[Describe the proposed project measure and why it is proposed] **Supports Strategies/Sectors:** GHGRS #	*[Demonstrate the effectiveness of the proposed measure to reduce the project's GHG emissions.* *Include a description of how your measure will reduce emissions and provide supporting quantification documentation/assumptions.]*	☐ Part of Design ☐ Additional Measure