

DOCKETED

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M e m o r a n d u m

To: Commissioner Karen Douglas, Presiding Member
Chair David Hochschild, Associate Member

Date: August 18, 2021

From: California Energy Commission
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Subject: ADDENDUM TO THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE GREAT OAKS SOUTH BACKUP GENERATING FACILITY SMALL POWER PLANT EXEMPTION PROCEEDING (20-SPPE-01)

In accordance with the *Notice of Prehearing Conference, Evidentiary Hearing, Scheduling Order, and Further Orders* filed on June 24, 2021 (TN 238471), California Energy Commission staff hereby submits an addendum to the Final Environmental Impact Report (FEIR) for the Great Oaks South Backup Generating Facility making minor modifications to **MM GHG-1**. These edits clarify, amplify, and make insignificant modifications requested by the City of San Jose to assist their implementation of the Mitigation Monitoring and Reporting Program (MMRP). Also included is an MMRP for the proposed project (attached), which has been reviewed and approved by the City of San Jose.

This addendum makes edits to the text presented in **Sections 1.0 Summary, Table 1-1, and 4.8 Greenhouse Gas Emissions** in the FEIR, as shown below. Deletions are shown as ~~strikethrough~~ and additions are shown as underline text.

MM GHG-1: The project owner shall 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 ~~negotiate enter into~~ an electricity contract with ~~San Jose Clean Energy~~ SJCE or participate in a clean energy program that accomplishes the same goals of 100% carbon-free electricity as the SJCE Total Green Level.

This minor change does not change any of the conclusions in the FEIR that, with the proposed mitigation, the project would not result in any significant adverse impacts to the environment. The City of San Jose has reviewed the edits in **MM GHG-1** and agree that they meet the requirements for the City of San Jose 2030 Greenhouse Gas Reduction Strategy.

ATTACHMENT

MITIGATION MONITORING AND REPORTING PROGRAM

Great Oaks South Backup Generating Facility

20-SPPE-01

SPA15-031-01

August 2021

PREFACE

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

The Final Environmental Impact Report prepared for the Great Oaks South Backup Generating Facility project concluded that the implementation of the project would not result in significant effects on the environment with the incorporation of mitigation measures. This MMRP addresses those measures in terms of how and when they will be implemented.

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

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

Project Applicant's Signature _____

Date _____

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
AIR QUALITY					
Impact 4.3-b Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?					
<p>PD AQ-1: To ensure that fugitive dust impacts are less than significant, the project will implement the BAAQMD's recommended BMPs [best management practices] during the construction phase. These BMPs are incorporated into the design of the project and will include:</p> <ul style="list-style-type: none"> • All exposed surfaces (soil piles, graded areas, and unpaved access roads) shall be watered at least two times per day. • All haul trucks transporting material offsite shall be covered. • All track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. • All vehicle speeds on onsite unpaved surfaces shall be limited to 5 miles per hour. • All roadways, driveways, and sidewalks shall be paved as soon as possible. Building pads shall be completed as soon as possible after grading unless seeding or soil binders are used. • Equipment idling times shall be minimized to 5 minutes per the Air Toxics Control Measure (ATCM). Idling time signage shall be provided for construction workers at all access points. • All construction equipment shall be maintained and properly tuned in 	Implement the BAAQMD's recommended BMPs to control fugitive dust	During construction phase	Director of City of San Jose Department of Planning, Building, and Code Enforcement (PBCE) or Director's designee.	Receive and approve the fugitive dust control measures during construction	Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest).

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<p>accordance with manufacturer specifications. All equipment shall be checked by a certified visible emissions evaluator.</p> <ul style="list-style-type: none"> Information on who to contact, contact phone number, and how to initiate complaints about fugitive dust problems will be posted at the site. 					
<p>MMAQ-1: To minimize the exhaust emissions during construction, the project owner shall implement the following measures:</p> <ul style="list-style-type: none"> Use diesel construction equipment that meets US EPA Tier 4 interim or Tier 4 final emission standards if commercially available. If Tier 4 engines are not available, all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall meet US EPA emission standards for Tier 3 engines. If such are not available, Tier 2 or lower Tier engines using retrofit controls verified by ARB or US EPA can be used. Provide line power, if available, to the site to minimize the use of diesel-powered stationary equipment, such as generators. 	<p>Use Tier 4 interim or Tier 4 final diesel construction equipment if commercially available; if not, use Tier 3 or Tier 2 or lower Tier engines with retrofit controls; provide line power to generators, if available.</p>	<p>During construction phase</p>	<p>Director of PBCE or Director's designee.</p>	<p>Receive and approve the construction equipment list showing emissions control tier levels</p>	<p>Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest).</p>

BIOLOGICAL RESOURCES

Impact 4.4-a Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?

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<p>Updated PD BIO-3: The following measure will be implemented to reduce impacts to nesting birds:</p> <ul style="list-style-type: none"> • If possible, construction should be scheduled between September and January (inclusive) to avoid the nesting season. If this is not possible, pre- construction surveys for nesting raptors and other migratory breeding birds shall be conducted by a qualified ornithologist to identify active nests that may be disturbed during project implementation onsite and within 250 feet of the site. Between February 1 and August 31 pre-construction surveys shall be conducted no more than 14 days prior to construction activities or tree relocation or removal. The surveying ornithologist shall inspect all trees in and immediately adjacent to the construction area for nests. • If an active nest is found in or close enough to the construction area to be disturbed by these activities, the ornithologist shall, in consultation with the California Department of Fish and Wildlife (CDFW), designate a construction free buffer zone (typically 250 feet for raptors and 100 feet for other birds) around the nest, which shall be maintained until after the breeding season has ended and/or a qualified ornithologist has determined that the young birds have fledged. • The applicant shall submit a report indicating the results of the survey and any 	<p>Avoidance of construction activities during nesting season. If avoidance of construction activities during nesting season is not feasible, a pre-construction nesting bird survey shall be conducted by a qualified ornithologist and in consultation with the California Department of Fish and Wildlife, and a construction-free buffer zone shall be designed around any discovered nest.</p> <p>The ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the City's Director of Planning, Building and Code Enforcement or Director's designee, of the San Jose Department of Planning, Building and Code Enforcement.</p>	<p>Prior to issuance of any tree removal, grading, demolition, and/or building permit or activities.</p> <p>Prior to issuance of any tree removal, grading, demolition, and/or building permit or activities.</p>	<p>Director of PBCE or Director's designee.</p> <p>Director of PBCE or Director's designee.</p>	<p>Confirm that construction activities are scheduled outside of the nesting season.</p> <p>Review report indicating the results of the survey (or any other environmental investigation reports, if applicable) and any designated buffer zones.</p> <p>Confirm that construction activities are scheduled outside of the nesting season.</p> <p>Review report indicating the results of the survey (or any other environmental investigation</p>	<p>Prior to issuance of any tree removal, grading, demolition, and/or building permit or activities.</p> <p>Prior to issuance of any tree removal, grading, demolition, and/or building permit or activities.</p>

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designated buffer zones to the satisfaction of the Director of Planning, Building and Code Enforcement or Director's designee prior to the issuance of any grading or building permit.				reports, if applicable) and any designated buffer zones.	
MM BIO-1: Additional Nitrogen Deposition Fee for Point Source Emissions. <ul style="list-style-type: none"> Complete and submit an Application for Nitrogen Deposition-Only Projects to the city of San Jose and reference the original data center project. Pay the additional one-time nitrogen deposition fee of \$864.01 to the city of San Jose. 	Payment of Additional Nitrogen Deposition Fee for Point Source Emissions.	Prior to issuance of any tree removal, grading, demolition, and/or building permit or activities.	Director of PBCE or Director's designee.	Confirm receipt of Application for Nitrogen Deposition-Only Projects and payment of the Additional Nitrogen Deposition Fee.	Prior to issuance of any tree removal, grading, demolition, and/or building permit or activities.
Impact 4.4-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 Wildlife or U.S. Fish and Wildlife Service?					
MM BIO-1 (see Impact 4.4.a)					
Impact 4.4-e Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?					

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Updated PD BIO-1: Tree Replacement. The removed trees would be replaced according to tree replacement ratios required by the City, as provided in Updated Table PD BIO-1 below, as amended.		Trees removed will be replaced based on Updated Table PD BIO-1. If there is not sufficient area to plant the 4 required replacement trees, a 15-gallon tree may be increased to 24-inch box and count as two replacement trees or pay off-site tree replacement fee(s) to the City.	Prior to issuance of any tree removal, grading, demolition, and/or building permit or activities. Prior to issuance of Public Works grading permit(s).	Director of PBCE or Director's designee. City Arborist and the Director of PBCE or Director's designee.	Confirm proper ratio and species for replacement trees. Confirm Off-Site Tree Replacement Fee(s).	Prior to issuance of any tree removal, grading, demolition, and/or building permit or activities. Development permit stage.		
UPDATED TABLE PD BIO-1: Tree Replacement Ratios								
Circumference of Tree to be Removed	Type of Tree to be Removed							
	Native						Non-Native	Orchard
38 inches or more	5:1						4:1	3:1
19 up to 38 inches	3:1						2:1	none
Less than 19 inches	1:1	1:1	none					
x:x = tree replacement to tree loss ratio Note: Trees greater than or equal to 38-inch circumference shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For Multi-Family residential, Commercial and Industrial properties, a permit is required for removal of trees of any size. A 38-inch tree equals 12.1 inches in diameter. A 24-inch box tree = two 15-gallon trees Single Family and Two-dwelling properties may be mitigated at a 1:1 ratio.								
• Since one (1) onsite ordinance trees would be removed, the one tree would be replaced at a 3:1 ratio. The total number of								

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<p>replacement trees required to be planted would be four (4) trees. The species of trees to be planted would be determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement or Director's designee.</p> <ul style="list-style-type: none"> • In the event the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement or Director's designee, at the development permit stage: <ul style="list-style-type: none"> ○ 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, at the development permit stage. ○ Pay Off-Site Tree Replacement Fee(s) to the City, prior to the issuance of Public Works grading permit(s), in accordance to the City Council approved Fee Resolution. The City will use the offsite tree replacement fee(s) to plant trees at alternative sites. 					

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<p>PD BIO-2: In accordance with guidelines established by the International Society for Arboriculture, the following tree protection measures will be implemented to reduce impacts to the Heritage Tree:</p> <ul style="list-style-type: none"> Establish an area surrounding the Heritage Tree to be protected during construction as defined by a circle concentric with each tree with a radius 1-1/2 times the diameter of the tree canopy drip line. This "tree protection zone" is established to protect the tree trunk, canopy and root system from damage during construction activities and to ensure the long-term survival of the protected trees. The tree protection zone shall: (1) ensure that no structures or buildings, that might restrict sunlight relative to the existing conditions, will be constructed in close proximity to the trees; and (2) that no improvements are constructed on the ground around the tree within the tree protection zone, thus ensuring that there is sufficient undisturbed native soil surrounding the tree to provide adequate moisture, soil nutrients and oxygen for healthy root growth. Protect tree root systems from damage caused by (a) runoff or spillage of noxious materials while mixing, placing, or storing construction materials and (b) ponding, eroding, or excessive wetting caused by 	<p>Follow guidelines established by the International Society for Arboriculture for the protection of heritage tree.</p> <p>Follow the latest editions of the American National Standards for tree work (Z133 and A300) and International Society of Arboriculture Best Management Practices, Pruning.</p> <p>Monitoring tree protection measures.</p>	<p>Prior to issuance of any tree removal, grading, demolition, and/or building permit or activities.</p> <p>Prior to issuance of any tree removal, grading, demolition, and/or building permit or activities.</p> <p>During construction.</p>	<p>Consulting or City Arborist and the Director of PBCE or Director's designee.</p> <p>City Arborist and Director of PBCE or Director's designee.</p> <p>Consulting or City Arborist and Director of PBCE or Director's designee.</p>	<p>Confirm protection measures have been implemented.</p> <p>Confirm all pruning will be completed by an ISA Certified Arborist or Tree Worker.</p> <p>Confirm tree protection measures are being followed during construction.</p>	<p>Prior to issuance of any tree removal, grading, demolition, and/or building permit or activities.</p> <p>Prior to issuance of any tree removal, grading, demolition, and/or building permit or activities.</p> <p>During construction.</p>

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<p>incident rainfall through use of the following measures during excavation and grading:</p> <ul style="list-style-type: none"> ○ Excavation: Do not trench inside tree protection zones. Hand excavate under or around tree roots to a depth of three feet. Do not cut main lateral tree roots or taproots. Protect exposed roots from drying out before placing permanent backfill. ○ Grading: Maintain existing grades within tree protection zones. Where existing grade is two inches or less below elevation of finish grade, backfill with topsoil or native soil from the project site. Place fill soil in a single un-compacted layer and hand grade to required finish elevation. ○ Apply six-inch average thickness of wood bark mulch inside tree protection zones. Keep mulch six inches from tree trunks. ● Provide 48-inch tall orange plastic construction fencing fastened to steel T-posts, minimum six feet in length, using heavyweight plastic ratchet ties. Install fence along edges of tree protection zones before materials or equipment are brought on site and construction operations begin. Maintain fence in place until construction operations are completed and equipment has been removed from site. ● Provide temporary irrigation to all trees in protection zones using a temporary on-grade drip or bubbler irrigation system 					

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<p>sufficient to wet the soil within tree protection zones to a depth of 30 inches per bi-weekly irrigation event.</p> <p>Heritage Tree Design Recommendations</p> <ul style="list-style-type: none"> • Establish the horizontal and vertical elevation of the Heritage Tree. Include the trunk location and tag number on all plans. • Design finish grades so that no water accumulates around the base of the trunk of the Heritage Tree. • Allow the Consulting Arborist to review all future project submittals including grading, utility, drainage, irrigation, and landscape plans. • Maintain the tree protection zone around the Heritage Tree as depicted on the Grading and Drainage Plan prepared by Ruth and Going. The tree protection zone shall be the limit of work. • Route underground services including utilities, sub-drains, water or sewer around the tree protection zone. Where encroachment cannot be avoided, special construction techniques such as hand digging or tunneling under roots shall be employed where necessary to minimize root injury. • Use only herbicides safe for use around trees and labeled for that use, even below pavement. 					

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<ul style="list-style-type: none"> • Design the landscape around the Heritage Tree to be compatible with the cultural requirements of native oak trees. • Any irrigation system must be designed so that no trenching will occur within the dripline of the Heritage Tree. <p>Pre-construction and demolition treatments and recommendations</p> <ul style="list-style-type: none"> • The demolition contractor shall meet with the Consulting Arborist before beginning work to discuss work procedures and tree protection. • Install protection at the tree protection zone prior to demolition, grubbing, or grading. • No entry is permitted into a tree protection zone without permission of the project superintendent. • The Heritage Tree should be pruned to reduce the length and weight of long, horizontal branches. Remove stubs only when there is well-developed woundwood present at the attachment. Do not remove the large stub in the center of the crown. All pruning shall be completed by an ISA Certified Arborist or Tree Worker and adhere to the latest editions of the American National Standards for tree work (Z133 and A300) and International Society of Arboriculture Best Management Practices, Pruning. • The Heritage Tree should also be evaluated for installation of new cables to support heavy horizontal limbs. 					

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<p>Tree protection during construction</p> <ul style="list-style-type: none"> Any grading, construction, demolition or other work that occurs within the tree protection zone should be monitored by the Consulting Arborist. If injury occurs to any tree during construction, it should be evaluated as soon as possible by the Consulting Arborist so that appropriate treatments can be applied. Fences are to remain until all site work has been completed. Fences may not be relocated or removed without permission of the project superintendent. Construction trailers, traffic and storage areas must remain outside fenced areas at all times. No materials, equipment, soil, waste, or wash-out water may be deposited, stored, or parked within the tree protection zone (fenced area). Any tree pruning needed for clearance during construction must be performed by a qualified arborist and not by construction personnel. Any roots damaged during grading or construction shall be exposed to sound tissue and cut cleanly with a saw. 					
Impact 4.4-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?					
MM BIO 1 See Impact 4.4a					

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CULTURAL RESOURCES					
Impact 4.5-a Cause a substantial adverse change in the significance of a historical resource pursuant to §15064.5?					
<p>PD CUL-2: The following project-specific measures shall be implemented during construction to avoid significant impacts to unknown subsurface cultural resources:</p> <ul style="list-style-type: none"> • In the event that human remains are discovered during on-site construction activities, all activity within a 50-foot radius of the find shall be stopped. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are of Native American origin or whether an investigation into the cause of death is required. If the remains are determined to be Native American, the Coroner shall notify the Native American Heritage Commission. All actions taken under this mitigation measure shall comply with Health and Human Safety Code § 7050.5(b). 	<p>The contractor shall stop work within a 50-foot radius of the find and notify the Santa Clara County Coroner and the Director of Planning or Director's designee of the City of San Jose Department of Planning, Building and Code Enforcement</p>	<p>Immediately upon discovery of human remains</p>	<p>Director of PBCE or Director's designee.</p>	<p>The Coroner shall contact the Native American Heritage Commission if humans are found and are believed to be Native American</p>	<p>Upon discovery of human remains</p>
<p>MM CUL-1: An archaeologist qualified in local historical and prehistory archaeology shall augment the applicant's subsurface presence/absence program by excavating additional backhoe trenches in the archaeological PAA prior to construction. The purpose of excavating the trenches is to determine whether any intact archaeological deposits are present on-site. Based on the archaeological site dimensions presented in Table 5.5-2, a trenching interval with a</p>	<p>The qualified archaeologist shall complete subsurface testing</p> <p>Should any archaeological features or deposits be identified and the qualified archaeologist shall prepare a focused</p>	<p>Prior to any ground disturbing activities</p>	<p>Director of PBCE or Director's designee.</p>	<p>Receive copy of report of findings documenting any data recovery</p> <p>Review and approve preconstruction documentation</p>	<p>Prior to any ground disturbing activities</p>

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<p>reasonable chance of finding buried archaeological resources (if present) would be about 150 feet (the median value of site dimensions in Table 5.5-2 is 153 feet). Should any archaeological features or deposits be identified, a focused research design and treatment plan shall be prepared to address any potential resources exposed during construction activities followed by archaeological excavation of these features. The applicant will secure the services of a Secretary of the Interior-qualified archaeologist and a Native American monitor to observe grading of native soil once all pavement is removed from the project site. The applicant shall submit the name and qualifications of the selected archaeologist and Native American Monitor to the Director of Community Development prior to the issuance of a grading permit. Preference in selecting Native American monitors shall be given to Native Americans with:</p> <ol style="list-style-type: none"> 1. Traditional ties to the area being monitored. 2. Knowledge of local historic and prehistoric Native American village sites. 3. Knowledge and understanding of Health and Safety Code, section 7050.5, and Public Resources Code, section 5097.9 et seq. 4. Ability to effectively communicate the requirements of Health and Safety Code, section 7050.5, and Public Resources Code, section 5097.9 et seq. 	<p>archaeological research design and treatment plan</p> <p>The applicant will obtain the services of a qualified archaeologist and Native American Monitor and submit the name and qualifications of the selected archaeologist and Native American Monitor to the Director of PBCE or Director's designee for approval</p>				

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<p>5. Ability to work with law enforcement officials and the Native American Heritage Commission to ensure the return of all associated grave goods taken from a Native American grave during excavation.</p> <p>6. Ability to travel to project sites within traditional tribal territory.</p> <p>7. Knowledge and understanding of Title 14, California Code of Regulations, section 15064.5.</p> <p>8. Ability to advocate for the preservation in place of Native American cultural features through knowledge and understanding CEQA mitigation provisions.</p> <p>9. Ability to read a topographical map and be able to locate site and reburial locations for future inclusions in the Native American Heritage Commission's Sacred Lands Inventory.</p> <p>10. Knowledge and understanding of archaeological practices, including the phases of archaeological investigation.</p>					
<p>MM CUL-2: Prior to and for the duration of ground disturbance, the project owner shall provide Worker Environmental Awareness Program training to all existing and any new employees. This training should include: a discussion of applicable laws and penalties under the laws; samples or visual aids of artifacts that could be encountered in the project vicinity, including what those artifacts may look like partially buried, or wholly buried</p>	<p>The project owner shall provide the cultural resources WEAP training program draft text and/or training video, graphics, and the informational brochure, to the City for review and approval.</p>	<p>At least 30 days prior to the beginning of ground disturbance</p>	<p>Director of PBCE or Director's designee.</p>	<p>Review and approve WEAP documentation.</p>	<p>At least 30 days prior to the beginning of ground disturbance.</p>

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and freshly exposed; and instructions to halt work in the vicinity of any potential cultural resources discovery, and notify the city-approved archaeologist and Native American cultural resources monitor. The applicant shall contract with qualified cultural resources specialists to prepare the training materials.					
MM CUL-3: If prehistoric, archaeological, and/or historic resources are encountered during construction, all activity within a 50-foot radius of the find will be stopped and the archaeologist and Native American monitor will examine the find and record the site, including field notes, measurements, and photography for a Department of Parks and Recreation 523 Primary Record form. The archaeologist will provide recommendations regarding eligibility for the California Register of Historical Resources, data recovery, curation, or other appropriate mitigation. Ground disturbance within the 50-foot radius can resume once these steps are taken and the Director of Planning, Building and Code Enforcement or Director's designee has concurred with the recommendations.	<p>If prehistoric, archaeological, and/or historic resources are encountered during construction, all activity within a 50-foot radius of the find shall be stopped.</p> <p>The archaeologist and Native American Monitor shall examine the find and record the site on Department of Parks and Recreation 523 Primary Record forms</p> <p>The archaeologist will provide recommendations regarding eligibility for the California Register of Historical Resources, data recovery, curation, or</p>	Immediately upon discovery of prehistoric, archaeological, or historic resources	Director of PBCE or Director's designee.	Review and approve DPR forms	Upon concurrence with mitigation measures

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	other appropriate mitigation				
MM CUL-4: Within 30 days of the completion of construction, the applicant shall have the archaeologist/Native American monitor prepare a report of findings. The report shall document the archaeological/Native American resource finds, if any, recommendations, data recovery efforts, and other pertinent information gleaned during construction. The report shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee for review and approval. The applicant shall submit the final report to the Northwest Information Center of the California Historical Resources Information System.	<p>A report of findings shall be prepared upon completion of construction</p> <p>All prehistoric, archaeological, and historic-era features identified during construction shall be cataloged and the appropriate forms and the report of findings shall be completed and filed with the Northwest Information Center of the California Archaeological Inventory at Sonoma State University</p>	Within 30 days of the completion of construction	Director of PBCE or Director's designee.	Review and approve final report of findings	Upon completion of the final report of findings
Impact 4.5-b Cause a substantial adverse change in the significance of a unique archaeological resource pursuant to §15064.5?					
PD CUL-2, and MM CUL-1 through MM CUL-4 . See impact 4.5-a.					
Impact 4.5-c Disturb any human remains, including those interred outside of formal cemeteries?					
PD CUL-2, and MM CUL-1 through MM CUL-4 . See impact 4.5-a.					

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
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	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
Impact 4.5-e A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe?					
PD CUL-2, and MM CUL-1 through MM CUL-4 . See impact 4.5-a.					
GEOLOGY AND SOILS (PALEONTOLOGY)					
Impact 4.7-c Be located on geologic units or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?					
<p>Updated PD GEO-1: In order to ensure the project design conforms to the requirements of a final geotechnical engineering investigation and California and local building standards and codes, the following is proposed as mitigation incorporated into the project. Incorporation will ensure seismic hazards are reduced to less than significant levels.</p> <ul style="list-style-type: none"> The project shall be constructed in conformance with the recommendations of the design-level geotechnical investigation prepared for the project, as well as at the 2019 California Building Code, or subsequent adopted codes. Prior to issuance of any site-specific grading or building permits, a design-level geotechnical investigation shall be prepared and submitted to the City of San Jose Public Works Department for review and approval. The project shall implement the recommendations in the investigation to minimize impacts from expansive soils and undocumented fill. Options to address these conditions may range from the use of deep 	The project owner shall conduct a design-level geotechnical investigation and ensure the project is constructed in conformance with the recommendation of that report.	Prior to any ground disturbing activities	Director of PBCE and Director of the City of San Jose Department of Public Works (DPW).	<p>Receive copy of final geotechnical report.</p> <p>Review and approve final geotechnical report and ensure the findings of the report are integrated into the final design.</p>	Prior to any ground disturbing activities

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foundations and/or removal of the problematic soils and replacement, as needed, with properly conditioned and compacted fill, to design and construction improvements to withstand the forces exerted during the expected shrink-swell cycles and settlements.					
Impact 4.7-f Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?					
<p>MM GEO-1: To ensure impacts to paleontological resources are less than significant:</p> <ul style="list-style-type: none"> • Prior to the start of any subsurface excavations that would extend beyond previously disturbed soils, all construction forepersons and field supervisors shall receive training by a qualified professional paleontologist, as defined by the Society of Vertebrate Paleontology, who is experienced in teaching non-specialists, to ensure they can recognize fossil materials and shall follow proper notification procedures in the event any are uncovered during construction. Procedures to be conveyed to workers include halting construction within 50 feet of any potential fossil find and notifying a qualified paleontologist, who shall evaluate its significance. • If a fossil is found and determined by the qualified paleontologist to be significant and avoidance is not feasible, the paleontologist shall develop and implement an excavation and salvage plan in accordance with Society of Vertebrate Paleontology standards. 	<p>The project owner shall provide the paleontological resources WEAP training program draft text and/or training video, graphics, and the informational brochure, to the City for review and approval. The paleontological and cultural resources WEAP training is typically combined.</p> <p>The contractor shall stop work within a 50-foot radius of the find and notify the project paleontologist so they may evaluate the significance of the find. Should the qualified paleontologist determine the find is significant, an excavation and salvage</p>	<p>Prior to any ground disturbing activities</p> <p>Immediately upon discovery of a fossil</p>	<p>Director of PBCE or Director's designee.</p> <p>Director of PBCE or Director's designee.</p>	<p>Review and approve WEAP documentation.</p> <p>Review and approve salvage plan.</p> <p>Review and approve final Paleontological Mitigation Plan Report, including final disposition of any significant paleontological finds.</p>	<p>Prior to any ground disturbing activities</p> <p>Upon submission of salvage plan</p> <p>Upon submission of final report.</p>

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<p>Construction work in these areas shall be halted or diverted to allow recovery of fossil remains in a timely manner. Fossil remains collected during the monitoring and salvage portion of the mitigation program shall be cleaned, repaired, sorted, and cataloged. Prepared fossils, along with copies of all pertinent field notes, photos, and maps, shall then be deposited in a scientific institution with paleontological collections. A final Paleontological Mitigation Plan Report shall be prepared that outlines the results of the mitigation program. The Director of Planning, Building and Code Enforcement or Director's designee shall be responsible for ensuring that the paleontologist's recommendations regarding treatment and reporting are implemented.</p>	<p>plan shall be developed and implemented. After the fossil remains have been salvaged the project paleontologist shall prepare a final Paleontological Mitigation Plan Report that includes the results of investigation and permanent disposition of the fossil find.</p>				

GREENHOUSE GAS EMISSIONS

Impact 4.8-b Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

<p>MM GHG-1: The project owner shall 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 or participate in a clean energy program that accomplishes the same goals of 100% carbon-free electricity as the SJCE Total Green Level.</p>	<p>Provide documentation of enrollment in the SJCE Total Green level. If not enrolled in SJCE Total Green level, provide documentation confirming alternative measures that achieve the same 100% carbon free electricity as the SJCE Total Green level, with verification by a qualified third-party</p>	<p>During the operational phase</p>	<p>Director of PBCE or Director's designee.</p>	<p>Review confirmation of enrollment in SJCE Total Green level or documentation confirming enrollment in SJCE or implementation of alternative measures that achieve the same 100% carbon free</p>	<p>During the entire project operational phase.</p>
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MITIGATIONS	MONITORING AND REPORTING PROGRAM				
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	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
	<p>auditor specializing in greenhouse gas emissions.</p> <p>During operation, submit annual reports documenting either continued participation in SJCE at the Total Green level or documentation that alternative measures continue to provide 100% carbon-free electricity, as verified by an independent third-party auditor.</p>			<p>electricity as the SJCE Total Green level, with verification by a qualified third-party auditor specializing in greenhouse gas emissions.</p> <p>During operation, review annual reports documenting either continued participation in SJCE at the Total Green level or documentation that alternative measures continue to provide 100% carbon-free electricity, as verified by an independent third-party auditor.</p>	

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
Hazards and Hazardous Materials					
Impact 4.9-c Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?					
<p>PD HAZ-1: The project proposes to implement the following measures which will reduce the potential for tracking of impacted soil from the adjacent parcel to the project site.</p> <ul style="list-style-type: none"> • During construction activities (e.g. grading, vehicle travel, movement of equipment or materials, etc.), adjacent to APN 706-02-058, the project contractor shall fence the southwesterly adjacent parcel (APN 706-02-058) separately from the rest of the site. 	<p>The project owner shall fence the southwesterly adjacent parcel (APN 706-02-058) separately from the project site. Installation of the fence eliminates the potential to track contaminated soil to the project site from the adjacent parcel.</p>	<p>15 days prior to any ground disturbing activities such as grading, vehicle travel, or movement of the equipment or materials.</p>	<p>Director of PBCE or Director's designee.</p>	<p>Confirm fencing has been installed separating the southwesterly adjacent parcel (APN 706-02-058) from the project site.</p>	<p>15 days prior to any ground disturbing activities such as grading, vehicle travel, or movement of the equipment or materials.</p>
Hydrology and Water Quality					
Impact 4.10-a Violate water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?					
<p>PD HYD-1: The project will incorporate the following into the design and these measures should be treated as mitigation incorporated into the project. The following will reduce construction-related water quality impacts:</p> <ul style="list-style-type: none"> • Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains. • Earthmoving or other dust-producing activities shall be suspended during periods of high winds. 	<p>Implement the measures Listed and the BMPs Included in the SWPPP to control quality of runoff from site.</p>	<p>During construction phase and during operation for post-construction the hydro-modification elements.</p>	<p>San Francisco Regional Water Quality Control Board (SF RWQCB) and Director of PBCE or Director's designee.</p>	<p>Receive copy of Storm Water Pollution Prevention Plan (SWPPP) and approve the water quality control measures during construction, in addition to post-construction LID (Low Impact Development) measures.</p>	<p>Prior to the issuance of any demolition, grading, and/ or building permits and during the construction phase.</p>

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<ul style="list-style-type: none"> • All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary. • Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered. • All trucks hauling soil, sand, and other loose materials shall be required to be covered trucks or maintain at least two feet of freeboard. • All paved access roads, parking areas, staging areas and residential streets adjacent to the construction site shall be swept daily (with water sweepers). • Vegetation in disturbed areas shall be replanted as quickly as possible. • All unpaved entrances to the site shall be filled with rock to knock mud from truck tires prior to entering City streets. A tire wash system may also be employed at the request of the City. • The project proponent shall comply with the City of San Jose Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San Jose Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction. • A Storm Water Permit shall be administered by the SWRCB. Prior to construction grading for the proposed land uses, the project proponents will file an NOI to comply with the General Permit and 	File a Notice of Intent with the State Water Resources Control Board (SWRCB) and submit a copy of the Construction General Permit/SWPPP to the City of San Jose.	Prior to construction.			During lifetime of project to monitor operation of the LID measures implemented.

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
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<p>prepare a SWPPP which addresses measures that will be included in the project to minimize and control construction and post-construction runoff. Measures will include, but are not limited to, the aforementioned RWQCB Best Management Practices.</p> <ul style="list-style-type: none"> • The SWPPP shall be posted at the project site and shall be updated to reflect current site conditions. • When construction is complete, a Notice of Termination for the General Permit for Construction shall be filed with the SWRCB. The Notice of Termination shall document that all elements of the SWPPP have been executed, construction materials and waste have been properly disposed of, and a post-construction stormwater management plan is in place as described in the SWPPP for the site. 					

NOISE

Impact 4.13-a Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?

<p>Updated PD NOI-1: The project proposes to implement the following measures to reduce temporary construction noise to less than significant levels.</p> <ul style="list-style-type: none"> • Construction activities within 200 feet of commercial uses shall be limited to the hours between 7:00 AM and 7:00 PM, Monday through Friday. • Equip all internal combustion engine-driven equipment with intake and exhaust 	<p>Implement the City's Municipal codes and measures to reduce noise levels. Use best available noise attenuating technologies.</p> <p>Notify all adjacent business and other noise-sensitive land uses of the</p>	<p>During construction phase</p>	<p>Director of PBCE or Director's designee.</p>	<p>Confirm codes and measures have been implemented. Review and approve notices of construction schedule documentation.</p>	<p>During the entire project construction phase.</p>
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MITIGATIONS	MONITORING AND REPORTING PROGRAM				
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	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
<p>mufflers that are in good condition and appropriate for the equipment.</p> <ul style="list-style-type: none"> • Prohibit all unnecessary idling of internal combustion engines. Equipment shall be turned off when not in use and the maximum idling time shall be limited to five minutes. • Locate staging areas and construction material areas at least 200 feet from adjacent office and commercial land uses to the greatest extent feasible. • Locate stationary noise-generating equipment such as air compressors or portable power generators at least 200 feet from adjacent office and commercial uses, unless doing so creates a risk to the safety of the worker(s) or makes the project work impossible to accomplish. If such equipment cannot be located at least 200 feet away, "quiet" equipment shall be used where technology exists. • Utilize "quiet" air compressors and other stationary noise sources, where technology exists. A letter from a qualified acoustic specialist shall be attached to the noise logistics plan along with a list of proposed construction equipment, including air compressors and other stationary noise sources, certifying that the proposed construction equipment includes the best available noise attenuating technologies. Notify all adjacent business and other noise-sensitive land uses of the 	<p>construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses.</p>				

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
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	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
construction schedule, in writing, and provide a written schedule of “noisy” construction activities to the adjacent land uses.					
<p>Updated PD NOI-2: The project applicant shall prepare a noise logistics plan, which shall be submitted for review and approval by the Director of Planning, Building, and Code Enforcement or Director’s designee prior to issuance of grading and building permits. This plan shall include, at a minimum, the following measures to reduce the exposure of adjacent office buildings to construction noise:</p> <ul style="list-style-type: none"> • All internal combustion engine-driven equipment shall use best available noise control practices and equipment (including mufflers, intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds). A letter from a qualified acoustic specialist shall be attached to the noise logistics plan along with a list of proposed construction equipment, certifying that the proposed construction equipment includes the best available noise attenuating technologies. • The contractor will prepare a detailed construction plan identifying a schedule of major noise generating construction activities. This plan shall identify a noise control “disturbance coordinator” and procedure for coordination with the adjacent noise sensitive 	Implement best available technologies and noise logistics plan to reduce noise levels.	During construction phase	Director of PBCE or Director’s designee.	Receive noise logistics plan which shall be printed on all approved plans for grading and building permits	During the entire project construction phase.

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<p>facilities so that construction activities can be scheduled to minimize noise disturbance. This plan shall be made publicly available for interested community members. The disturbance coordinator will be responsible for responding to any local complaints about construction noise. The disturbance coordinator will determine the case of the noise complaint (e.g. starting too early, bad muffler, etc.) and will require that reasonable measures warranted to correct the problem be implemented. The telephone number for the disturbance coordinator construction site shall be posted on the construction site and included in a notice sent to adjacent commercial businesses regarding the construction schedule.</p> <ul style="list-style-type: none"> • All measures in the approved noise logistics plan shall be printed on all approved plans for grading and building permits. 					
<p>MMNOI-1: The project shall implement the following measures to reduce temporary construction noise to less than significant levels.</p> <ul style="list-style-type: none"> • Notify the residents south of the project site immediately across Santa Teresa Boulevard of the construction schedule, in writing, and provide a written schedule of “noisy” construction activities to the adjacent land uses. 	<p>Notify and provide residents, in writing, of construction schedule and provide telephone number for disturbance coordinator.</p>	<p>During construction phase</p>	<p>Designated disturbance coordinator</p>	<p>Review and approve construction schedule documentation with telephone number of disturbance coordinator.</p>	<p>During the entire project construction phase.</p>

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	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
<ul style="list-style-type: none"> • Include the telephone number for the disturbance coordinator construction site in a notice regarding the construction schedule sent to residents south of the project site immediately across Santa Teresa Boulevard. 					

TRANSPORTATION

Impact 4.17-b Conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b)?

<p>PD TRA-1: Prior to the issuance of any Public Works clearances, the project shall implement the following Transportation Demand Management (TDM) measures:</p> <ul style="list-style-type: none"> • Expand the Reach of Bike Access with Investment in Infrastructure (Tier 2- Bike Access Improvements): Implement bicycle facilities that close gaps in the bicycle network and/or improve the existing bicycle network (e.g. construct barrier or buffer for an existing bike lane). Improving bike access to the project promotes biking as an alternative to driving and reduces vehicle miles travelled (VMT). The San Jose Better Bike Plan 2025 identifies Class II bike lanes along Via Del Oro between Bernal Road and Raleigh Road. Additionally, the existing Class II bike lanes along Great Oaks Boulevard, San Ignacio Avenue, and Santa Teresa Boulevard in the project vicinity are planned to be converted to Class IV protected bike lanes. The project would be required to implement Class II bike lanes along Via Del Oro on the opposing side 	<p>Construct a Class II bike lane along Via Del Oro on the opposing side of the project frontage between San Ignacio Avenue and Great Oaks Boulevard.</p> <p>Removal of two pork chop islands on the north leg (Great Oaks Boulevard) at the Santa Teresa Boulevard/Great Oaks Boulevard intersection.</p> <p>Implement a signal modification at the northeast and northwest corners of Santa Teresa Boulevard/Via Del Oro</p>	<p>Prior to the issuance of Public Works clearances/ permits.</p>	<p>Director of PBCE or Director's designee and Director of DPW or Director's designee.</p>	<p>Receive and approve the Traffic Signal Plan and the Public Street Improvement Plan; confirm receipt of verification letter.</p>	<p>Prior to the issuance of Public Works clearances/ permits.</p>
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MITIGATIONS	MONITORING AND REPORTING PROGRAM				
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	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
<p>of the project frontage between San Ignacio Avenue and Great Oaks Boulevard. AND</p> <ul style="list-style-type: none"> • Provide Pedestrian Network Improvements for Active Transportation (Tier 2- Pedestrian Access improvements): Implement pedestrian improvements both on-site and in the surrounding area. Improving pedestrian connections encourages people to walk instead of drive and reduces VMT. The project would be required to remove each of the pork chop islands on the north leg (Great Oaks Boulevard) at the Santa Teresa Boulevard/Great Oaks Boulevard intersection to improve pedestrian safety and access. A signal modification will be needed for the implementation of the pork-chop island removal at the northeast and northwest corners of Santa Teresa Boulevard/Via Del Oro intersection. In-lieu of the installed ADA curb ramps at Great Oaks Boulevard/Via Del Oro intersection, the project will be required to provide contribution towards the signal improvements including pan, tilt, zoom (PTZ) cameras at the Via Del Oro/San Ignacio Avenue and Via Del Oro/ Great Oaks Boulevard intersections to improve the pedestrian network in the project vicinity. 	<p>intersection upon implementation of pork chop removal.</p> <p>Contribute payment for signal improvements, including pan, tilt, zoom (PTZ) cameras, at the Via Del Oro/San Ignacio Avenue and Via Del Oro/ Great Oaks Boulevard intersections.</p>				

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MANDATORY FINDINGS OF SIGNIFICANCE					
Impact 4.20-a Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?					
MM BIO-1, MM CUL-1 through MM-CUL-4 . See impact 4.4-a and 4.5-a.					
Impact 4.20-b Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)					
MM AQ-1, MM BIO-1, MM CUL-1 through MM-CUL-4, MM GEO-1, MM GHG-1 , and MM NOI-1 . See impact 4.3.b, 4.4.a, 4.5.a, 4.7-f, and 4.13-a.					
4.20-c Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?					
MM AQ-1, MM GHG-1 , and MM NOI-1 . See impact 4.3.b, 4.8.b, and 4.13-a.					

Source: California Energy Commission. Final Environmental Impact Report for Great Oaks South Backup Generating Facility. July 2021.