Chapter 4
Revisions to the Draft EIR

This chapter includes revisions to the Willow Village Master Plan Project (Proposed Project) Draft Environmental Impact Report (Draft EIR) by errata, as allowed by the California Environmental Quality Act (CEQA) (CEQA Guidelines Section 15132). The revisions are presented in the order they appear in the Draft EIR, with the relevant page number(s). New or revised text is shown with underline for additions and ~~strike-out~~ for deletions.

All text revisions are to provide clarification or additional detail. After considering all comments received on the Draft EIR, the Lead Agency has determined that the changes do not result in a need to recirculate the Draft EIR. Under the CEQA Guidelines, recirculation is required when new significant information identifies at least one of the following:

- A new significant environmental impact resulting from the project or from a new mitigation measure proposed to be implemented.
- A substantial increase in the severity of an environmental impact, unless mitigation measures are adopted that reduce the impact to a level of insignificance.
- A feasible project alternative or mitigation measure considerably different from others that were previously analyzed that would clearly lessen the significant environmental impacts of the project, but the project's proponents decline to adopt.
- The Draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded (CEQA Guidelines Section 15088.6[a]).

Recirculation of a Draft EIR is not required when new information merely clarifies, amplifies, or makes minor modifications to an adequate EIR (CEQA Guidelines Section 15088[b]). The information provided below meets those criteria.

Executive Summary

The Executive Summary has been revised to indicate that the Willow Road Tunnel may be developed at the discretion of the applicant. Page ES-2 has been revised as follows:

> The Proposed Project could include~~s~~ an undercrossing (Willow Road Tunnel) to provide tram and pedestrian/bicyclist access to the neighboring Meta campuses from the Campus District.

The summary of the Reduced Intensity Alternative has been corrected on page ES-8 as follows to be consistent with the description of the alternative in Chapter 6, *Alternatives Analysis*:

- **Reduced Intensity Alternative.** The Reduced Intensity Alternative would consist of the Proposed Project, developed utilizing the bonus level development provisions of the Zoning Ordinance, but developed at a lesser intensity. Both the total residential and non-residential square footage would be reduced compared to the Proposed Project. Under this alternative approximately 1,225,000 sf of office uses, ~~80,000~~87,690 sf of non-office commercial/retail uses, 172,000 sf of hotel uses, and ~~1,482,222~~1,499,909 sf of residential uses would be provided.

Table ES-1, beginning on page ES-12 of the Draft EIR, has been revised to update mitigation measures and reflect revisions made to certain measures. The specific revisions match those shown for Mitigation Measures CULT-2a (Modified Connect Menlo EIR), BIO-2.1, BIO-3.1, BIO-3.3, BIO-5.3, NOI-1.2, and TRA-2. later in this chapter. In addition, Mitigation Measure BIO-5.3 has been revised to remove text that was not included in the mitigation measure as it appears in Section 3.9, *Biological Resources*. The following revision was made on page ES-57:

- ~~Exterior lighting shall be minimized (i.e., total outdoor lighting lumens shall be reduced by at least 30 percent or extinguished, consistent with recommendations from the International Dark Sky Association [2011]) from midnight until sunrise, except as needed for safety and compliance with Menlo Park Municipal Code.~~

Introduction

The Introduction has been revised to indicate that the Willow Road Tunnel may be developed at the discretion of the applicant. Page 1-2 has been revised as follows:

> It ~~would~~could also include an undercrossing (i.e., Willow Road Tunnel) to facilitate tram, bicycle, and pedestrian access to the neighboring Meta campuses as well as bicycle and pedestrian access to the regional San Francisco Bay Trail.

Chapter 2, Project Description

The Project Description has been revised to indicate that the Willow Road Tunnel may be developed at the discretion of the applicant. Page 2-1 has been revised as follows:

> The Proposed Project ~~would~~could also include an undercrossing (Willow Road Tunnel) to provide tram and bicyclist/pedestrian access to the neighboring Meta campuses from the Campus District

The location of the proposed pump station on page 2-2 of the Draft EIR is revised as follows, based on revised site plans received from the Project Sponsor:

> The main Project Site would be bisected by a new north–south street (Main Street) as well as an east–west street that would provide access to all three districts. The Proposed Project would include a circulation network for vehicles, bicycles, and pedestrians, inclusive of both public rights-of-way and private streets that would be generally aligned to an east-to-west and a north-to-south grid. The Proposed Project would also alter parcels west of the main Project Site, across Willow Road, on both the north and south sides of Hamilton Avenue (Hamilton Avenue Parcels North and South) to support realignment of the Hamilton Avenue right-of-way and provide access to the new Elevated Park. The realignment of Hamilton Avenue would require demolition and reconstruction of an existing Chevron gas station (with a potential increase in area of approximately 1,000 sf) at Hamilton Avenue Parcel South and enable the potential addition of up to 6,700 sf of retail uses at the existing neighborhood shopping center (Belle Haven Retail Center) on Hamilton Avenue Parcel North. In addition, offsite transportation and utility improvements would be constructed to serve the Proposed Project. These include various intersection improvements, which may be required to bring intersection congestion back to pre-Project conditions per the City's transportation impact analysis guidelines; expansion of the Pacific Gas and Electric Company (PG&E) Ravenswood substation; and installation of a new conduit to connect the Ravenswood substation to the main Project Site. The Proposed Project would also result in the~~;~~ construction of a sanitary sewer force main and recycled waterline in the same trench in Hamilton Avenue~~,~~ and an extension of ~~to~~ the sanitary sewer line in Willow Road from O'Brien

Drive to the proposed sanitary sewer pump station, should it be sited near the intersection of Willow Road and Park Street within the Community Park. In the event the pump station is sited within the Dog Park, the extension of the sanitary sewer line would divert flows from the existing sanitary sewer line within O'Brien Drive into either a new line located within Main Street, originating at the intersection of Main Street and O'Brien Drive, to Park Street, feeding into the sanitary sewer pump station or a new line that bisects the SFPUC Hetch Hetchy right of way and directly feeds into the proposed pump station. ~~southwest sanitary sewer pump station~~.

Page 2-12 has been revised as follows to indicate that the Willow Road Tunnel may be developed at the discretion of the applicant:

The undercrossing (Willow Road Tunnel), if constructed, would provide tram and bicycle/pedestrian access to the neighboring Bayfront Area Meta Campuses.

The location of the proposed pump station on page 2-13 of the Draft EIR is revised as follows based on revised site plans received from the Project Sponsor:

Offsite utility improvements to serve the Proposed Project include expansion of the PG&E Ravenswood substation~~,~~ and installation of new conduits to connect the Ravenswood substation to the main Project Site. The Proposed Project would also result in the~~;~~ construction of a sanitary sewer force main and recycled waterline in the same trench in Hamilton Avenue ~~,~~ and an extension of ~~to~~ the sanitary sewer line in Willow Road from O'Brien Drive to the proposed sanitary sewer pump station should it be sited near the intersection of Willow Road and Park Street within the Community Park. In the event the pump station is sited within the Dog Park, the extension of the sanitary sewer line would divert flows from the existing sanitary sewer line within O'Brien Drive into either a new line located within Main Street, originating at the intersection of Main Street and O'Brien Drive, to Park Street, feeding into the sanitary sewer pump station or a new line that bisects the SFPUC Hetch Hetchy right of way and directly feeds into the proposed pump station. ~~southwest sanitary sewer pump station~~.

The amount of development allowed on the main Project Site under City of Menlo Park Zoning District regulations, as presented in Table 2-3, *Allowable and Proposed Development for the Main Project Site*, pages 2-15 and 2-16 of the Draft EIR, is revised as follows, based on refinements to the Proposed Project, including the land area to be dedicated as right-of-way:

Table 2-3. Allowable and Proposed Development for the Main Project Site

Zoning District	Development Regulations per Zoning District[i]	Proposed Development[a,b,c,d,g]
Maximum Square Footage		
O-B Zoning		
Office	1,591,391~~1,586,313~~ sf	1,600,000 sf
Non-Office Commercial/Retail	397,848~~396,578~~ sf	200,000 sf
Hotel	2,783,413 ~~2,776,048~~ sf	172,000 sf
R-MU-B Zoning		
Residential	1,701,405~~1,695,976~~ sf	1,696,406~~1,695,976~~ sf
Non-Residential/Retail	189,045~~188,442~~ sf	—

Zoning District	Development Regulations per Zoning District[i]	Proposed Development[a,b,c,d,g]
Maximum Building Height[e,f]		
O-B Zoning	110 feet	120 feet
R-MU-B Zoning	70 feet	80 feet, 85 feet for the parcel bounded by Center, West, and Main Street (Building RS 3)
Building Height (average)[e,f]		
O-B Zoning	77.5 feet	70 feet
R-MU-B Zoning	62.5 feet	62.5 feet
Minimum Open Space at Full Buildout[h]		
O-B Zoning	477,417~~475,894~~ sf (30%)	487,000 sf
R-MU-B Zoning	189,045 ~~188,442~~ sf (25%)	370,000 sf
Total Open Space	666,463~~664,336~~ sf	857,000 sf
Minimum Publicly Accessible Open Space		
O-B Zoning	238,709~~237,947~~ sf (50%)	200,000 sf
R-MU-B Zoning	47,261~~47,110~~ sf (25%)	160,000 sf
Total Public Open Space	285,970~~285,057~~ sf	360,000 sf

Source: Peninsula Innovation Partners, LLC, 2021.

Notes:

a. Although the proposed hotel has a FAR of 1.75, the number of rooms (193) is a more useful metric for this analysis.

b. The Proposed Project would be developed at up to the maximum density for residential units, after accounting for rounding the maximum number of units down to the nearest whole unit; therefore, the Proposed Project would be permitted up to 225 percent FAR, as identified in this table.

c. The Proposed Project includes the nonresidential FAR permitted under R-MU zoning area, which allows for office uses.

d. The Proposed Project would include up to 1.6 million sf of office space and accessory uses, consisting of up to 1.25 million sf of office space, with the balance (i.e., 350,000 sf of meeting/collaboration and accessory uses if office space is maximized) in multiple buildings. Accessory uses could occur in the following types of spaces: meeting/collaboration space, orientation space, training space, event space, incubator space, a business partner center, an event building (including pre-function space, collaboration areas, and meeting/event rooms), a visitor center, product demonstration areas, a film studio, gathering terraces and private gardens, and space for other Meta accessory uses.

e. Properties within the flood zone or subject to flooding and sea-level rise are allowed a 10-foot increase in average height and maximum height. The height increase to 85 feet applies only to the parcel bounded by Center Street, West Street, and Main Street (Parcel 3) on the main Project Site.

f. Height is defined as the average height of all buildings on one site where a maximum height cannot be exceeded. Maximum height does not include roof-mounted equipment and utilities.

g. The difference between the amount of office permitted by the zoning district and the amount of office proposed by the Proposed Project comes from the "Non-Office Commercial/Retail" category. The 200,000 sf of Non-Residential/Retail proposed by the Proposed Project is utilizing the bonus-level commercial development from the Office District, not the R-MU district.

h. Private garden space is proposed within a sun-shaded, rain protected area that is included in the calculation of FAR, per the City's Zoning Ordinance.

i. The 189,045 ~~188,442~~ sf of Non-Residential Commercial/Retail is included in the estimated 1,600,000 sf of office because the R-MU zoning district allows for office uses.

The text on page 2-20 of the Draft EIR has been revised to reflect that, since publication of the Draft EIR, the BMR unit count has increased to 312 units, or approximately 18 percent of the total residential units proposed:

> Of the proposed units, at least 15 percent (260 of the 1,730 units), and possibly up to ~~17.8~~18 percent (~~308~~312 of the 1,730 units), would be below-market-rate rental units, which would be located throughout the district.

Page 2-26 has been revised as follows to indicate that the Willow Road Tunnel may be developed at the discretion of the applicant:

> At that point, the road would transition to the west, becoming North Loop Road along the northern property boundary, and align with the West Street extension to provide direct access to the Willow Road Tunnel lanes (if the tunnel is constructed) and intersect with Main Street. East Loop Road and North Loop Road would accommodate vehicles and provide access for bicyclists and pedestrians in the adjacent proposed multi-use pathway.

Page 2-28 has been revised as follows to indicate that the Willow Road Tunnel may be developed at the discretion of the applicant:

> At the northern portion of Main Street, bicyclists and pedestrians would be guided through the Town Square to a ~~proposed~~ potential below-grade crossing at Willow Road. Willow Road Tunnel, if the applicant elects to construct it and obtains all necessary approvals from other agencies, would provide direct access to the existing Meta West Campus and a connection to the existing undercrossing below Bayfront Expressway that links with the San Francisco Bay Trail (Bay Trail) and the Meta East and West Campuses. The ~~proposed~~ potential grade-separated Willow Road Tunnel, running between the main Project Site and the West Campus, would be open to the public, providing a below-grade crossing at Willow Road for bicyclists and pedestrians. Vehicle usage would be limited to Meta trams, Meta ride-share vehicles, and smaller emergency vehicles.

The Draft EIR has been revised on page 2-29 to clarify the level of Leadership in Energy and Environmental Design (LEED) under the Proposed Project:

> ~~All buildings within the main Project Site (all three districts) would be designed for Leadership in Energy and Environmental Design (LEED) Gold (Residential/Shopping District and Campus District) and Silver (Town Square District) certification. Buildings that are less than 10,000 sf in size (e.g., the south pavilion and park restroom building) would not be certified under LEED. Those~~ Buildings of more than 25,000 square feet in the Residential/Shopping District and Campus District would be designed for LEED Gold certification, while buildings in the Town Square District between 10,000 and 25,000 square feet would be designed for LEED Silver certification. Other buildings would comply with other zoning ordinance requirements, green and sustainability building requirements, and the California Green Building Standards (CALGreen) code, as appropriate.

The number of onsite trees and proposed landscaping information included on page 2-30 of the Draft EIR is revised as follows, based on updated arborist reports (Appendix 4) received from the Project Sponsor and to include off-site trees along O'Brien Drive planned for removal:

> The main Project Site currently includes 805 ~~784~~ trees, which are planted mainly in parkways and pavement cutouts adjacent to buildings, parking lots, and streets. Of the existing trees, 284 ~~274~~ qualify as "heritage trees," per the City's Heritage Tree Ordinance. Per the most recent Proposed Project plans, Proposed Project arborist report, and heritage tree removal permits, 781~~760~~ existing trees (276 ~~266~~ heritage trees and 505 ~~494~~ non-heritage trees) would be removed for construction

of the Proposed Project, including the grading required to raise the main Project Site above the floodplain elevation. Eight heritage trees and 16 non-heritage trees would remain in place. In addition, to protect the existing trees that remain, the Proposed Project would comply with Menlo Park Municipal Code Section 13.24.030, Maintenance and Preservation of Heritage Trees. Current site plans for all parcels, except 4 and 5, include planting approximately 1,780 ~~822~~ new trees. Heritage tree replacements would meet the City's replacement value requirements, based on the valuation of the existing heritage trees proposed to be removed. The main Project Site would include both native and adapted trees.

Hamilton Avenue Parcels North and South contain 141 trees, with 18 qualifying as heritage trees. The 18 heritage trees comprise two species: 13 coast redwoods (*Sequoia sempervirens*) ~~coast redwoods~~ and five coast live oaks (*Quercus agrifolia*) ~~coast live oaks~~. The most numerous tree species on Hamilton Avenue Parcels North and South are Chinese pistache (*Pistacia chinensis*) (39 ~~32~~ trees, ~~including~~ of which 23 are City street trees) and red maple (*Acer rubrum*) (19 trees).[1] At Hamilton Avenue Parcels North and South, approximately 61 trees, including 58 non-heritage trees ~~street trees~~ and three heritage trees, would be removed to accommodate proposed changes. New planting medians with trees would be provided along the realigned Hamilton Avenue. ~~; new landscaping would be provided along street frontages.~~

The Proposed Project would include street improvements along O'Brien Drive, including a new four-legged roundabout. At 1305 O'Brien Drive there are 17 trees, at 1330 O'Brien there are six trees, and 14 trees in the O'Brien Drive right-of-way. Of the total 37 trees along O'Brien Drive, 25 trees are heritage trees. The trees consist of a variety of species including Canary Island pine (*Pinus canariensis*), Jerusalem pine (*Pinus halepensis*), Callery pear (*Pyrus calleryana*), Australian blackwood (*Acacia melanoxylon*), and wilga (*Geigera parviflora).* A total of 16 heritage trees and seven non-heritage trees would be removed along O'Brien Drive to accommodate Proposed Project improvements.

Page 2-31 has been revised as follows to indicate that the Willow Road Tunnel may be developed at the discretion of the applicant:

- ~~C~~Potential construction of Willow Road Tunnel from the main Project Site to the West Campus.

Page 2-33 has been revised as follows to indicate that the Willow Road Tunnel may be developed at the discretion of the applicant:

- The East Loop Road network would accommodate multi-modal transportation options, including private vehicle access for office workers as well as shuttles and trams for workers traveling to the ~~proposed~~ potential Willow Road Tunnel in the northwest portion of the main Project Site. . . .

- As shown in the conceptual tram routes in Figure 2-11, Conceptual Tram Route and Stops on Main Project Site, tram access to the main Project Site ~~w~~could be provided from the West Campus via a tunnel under Willow Road. The tram is anticipated to access the main Project Site via the Willow Road Tunnel if it is constructed….

Page 2-37 has been revised as follows to indicate that the Willow Road Tunnel may be developed at the discretion of the applicant:

[1] SBCA Tree Consulting. 2021. *Tree Survey.* April 1.

Willow Road Tunnel

The Project Sponsor may elect to construct the Willow Road Tunnel if the Project Sponsor is able to obtain the necessary permits from agencies with jurisdiction. This section describes the potential design of the Willow Road Tunnel if it is constructed. Willow Road Tunnel would be an approximately 18-foot-tall by 42-foot-wide tunnel, running under the existing Dumbarton Cutoff at Willow Road, to facilitate tram, service vehicle, bicycle, and pedestrian traffic between the main Project Site and the West Campus.

Page 2-40 has been revised as follows to indicate that the Willow Road Tunnel may be developed at the discretion of the applicant:

- In the Town Square District, bicyclists and pedestrians would be guided from Main Street through the Town Square District to the Willow Road Tunnel, which ~~would~~ could connect the main Project Site to the Bay Trail and Meta's East and West Campuses.

Page 2-48 has been revised to reflect City Zoning Ordinance requirements related to unbundled parking:

- Unbundled residential parking ~~for market-rate units~~ for a separate lease of a parking space

The Draft EIR has been revised on page 2-49 to clarify the level of LEED under the Proposed Project (footnote omitted):

The Project Sponsor would design the buildings associated with the Residential/Shopping District and the Campus District that are ~~10,000~~25,000 square feet or larger to LEED Gold standards, while buildings in the Town Square District between 10,000 and 25,000 square feet would be designed for LEED Silver certification. Buildings on the Project Site of less than 10,000 sf (e.g., the south pavilion building and park restroom building) would not be certified under LEED. The LEED approach to the Proposed Project would meet or exceed City Zoning Ordinance requirements. The Proposed Project would also comply with the City's applicable Reach Codes[33] and include strategies to optimize energy performance as well as environmental and health benefits for building inhabitants.

Residential/Shopping District and Town Square District

The Residential/Shopping District and the Town Square District would be designed per the City's Reach Code, General Plan, Zoning Ordinance, and LEED Gold (buildings of more than 25,000 square feet in the Residential/Shopping District) and Silver (buildings between 10,000 and 25,000 square feet in the Town Square District) requirements.

The location of the proposed pump station on page 2-53 of the Draft EIR is revised as follows based on revised site plans received from the Project Sponsor:

The Proposed Project's wastewater improvements would include one new West Bay Sanitary District onsite pump station in the Residential/Shopping District. The proposed pump station would be located near the southwest corner of Willow Road and Park Street, adjacent to the public parking area within the Community Park or within a small portion of the proposed Dog Park as an alternative location. If the pump station is located near the southwest corner of Willow Road and Park Street, construction of a sanitary sewer force main and recycled waterline in the same trench in Hamilton Avenue and an extension of to the sanitary sewer line in Willow Road from O'Brien Drive to the proposed sanitary sewer pump station would be necessary In the event the pump station is sited within the Dog Park, the extension of the sanitary sewer line would divert flows from the existing sanitary sewer line within O'Brien Drive into either: 1) a new line located within Main Street, originating at the intersection of Main Street and O'Brien Drive, to Park Street, feeding into the sanitary sewer pump station or 2) a new line

that bisects the SFPUC Hetch Hetchy right of way, directly feeding into the proposed pump station~~., and one new private station in the Campus District.~~ Most new sewer lines would either be gravity lines or sewer force mains. ~~To support increased wastewater flows from the main Project Site, the Proposed Project would install a sanitary sewer force main from the Main Project Site to the existing wastewater pipeline in Chilco Street. This improvement would use the Hamilton Avenue right-of-way.~~

Page 2-59 has also been revised as follows to indicate that the Willow Road Tunnel may be developed at the discretion of the applicant:

Phase 2 construction would encompass the balance of the Residential/Shopping District, provide 686 residential units, and construct Willow Road Tunnel (if the applicant elects to construct it).

The discussion of tree removal on page 2-64 is revised as follows, based on an updated arborist report (Appendix 4) received from the Project Sponsor:

- **Tree Removal Permits.** A tree removal permit would be required for each heritage tree proposed for removal, per Menlo Park Municipal Code Section 13.24.040. Approximately ~~266~~ 276 heritage trees on the main Project Site are currently proposed to be removed; three of the heritage trees on Hamilton Avenue Parcels North and South would be removed. Tree removal permits would be approved by the City Arborist, unless appealed to the Environmental Quality Control Commission. The City Arborist would take action on the trees in advance of the Planning Commission and City Council public hearings on the Proposed Project. This conditional action would precede City Council action on other permits and approvals. If the Proposed Project is approved by the City Council (and the heritage tree permit actions are not appealed to the Environmental Quality Control Commission), then the heritage tree removal permits would become active.

The City of Menlo Park (City) analyses and approvals on page 2-65 is revised as follows after the bullet describing the "Use Permit":

- **Waivers to Bird-Friendly Design Requirements**: Waivers to bird-friendly design requirements would be necessary for certain Proposed Project features pursuant to Menlo Park Municipal Code Sections 16.43.140(6) and 16.45.130(6).

The California Department of Transportation (Caltrans) bullet subheading *Reviews/Approvals by Responsible and Other Potentially Interested Agencies* on page 2-65 of the Draft EIR is revised as follows:

- California Department of Transportation (Caltrans) – Consultation on potential traffic improvements that may affect state highway facilities, ramps, and intersections; encroachment permits for Willow Road, the Willow Road Tunnel, and the Elevated Park; ~~and~~ approval for modifications to Willow Road~~.~~; and, review of stormwater plans for Proposed Project facilities that drain to the Caltrans Ravenswood Pump Station.

The San Francisco Public Utilities Commission (SFPUC) bullet subheading *Reviews/Approvals by Responsible and Other Potentially Interested Agencies* on page 2-66 of the Draft EIR is revised as follows:

- San Francisco Public Utilities Commission (SFPUC) – Review and approval of access to the Hetch Hetchy right-of-way (for offsite access and circulation to/from the main Project Site) through a license or other agreement (project review) as determined by the SFPUC per its requirements.

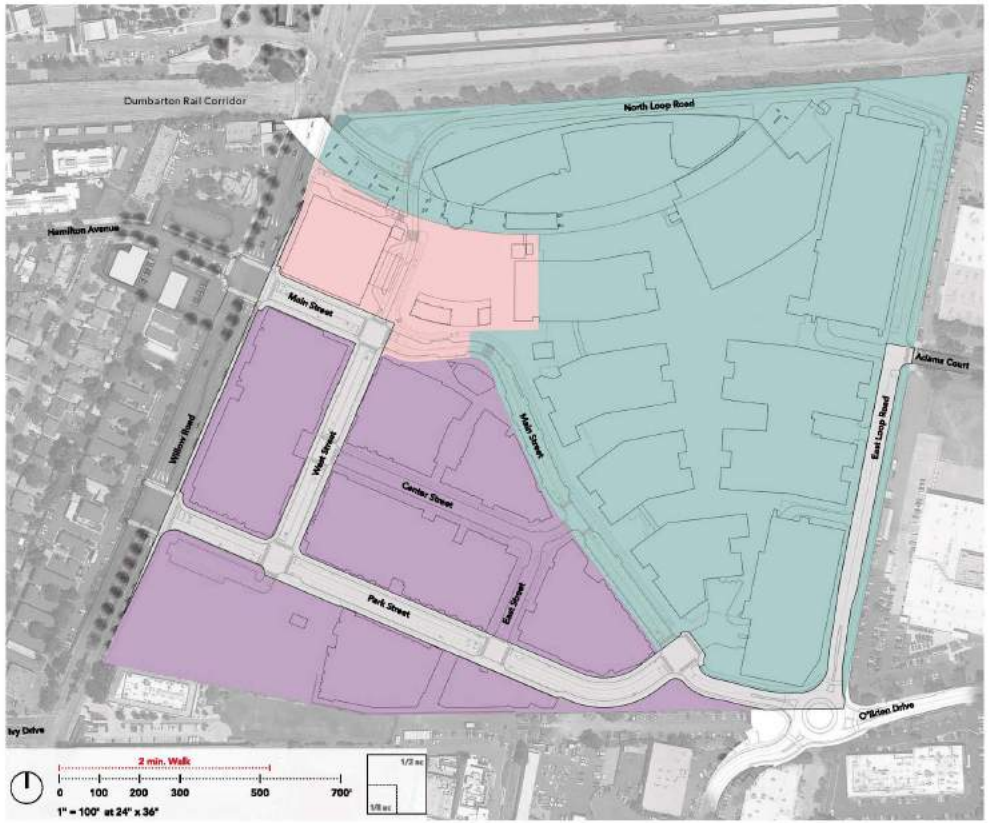
Figures 2-4, 2-5, 2-6, 2-7, 2-8, 2-9, 2-10, 2-11, 2-12, 2-13, 2-14, and 2-15 in Chapter 2, *Project Description*, have been updated to reflect updated site plans submitted in September 2022.

LEGEND	
1	Town Square
2	Grocery Store on Ground Level
3	Publicly Accessible Park
4	Publicly Accessible Dog Park
5	Elevated Park Access (Elevator and Stairs)
6	Elevated Park
7	Hotel
8	Mixed-Use Block
9	Residential Block
10a	Office Campus
10b	Meeting & Collaboration Space
11	Parking Garage with Transit Hub on Ground Level
12	Proposed Multi-use Pathway
13	Willow Road Tunnel
14	Realigned Hamilton Avenue
15	Hamilton Avenue Parcel North
16	Hamilton Avenue Parcel South

Note: Willow Road improvements are subject to Caltrans approval.

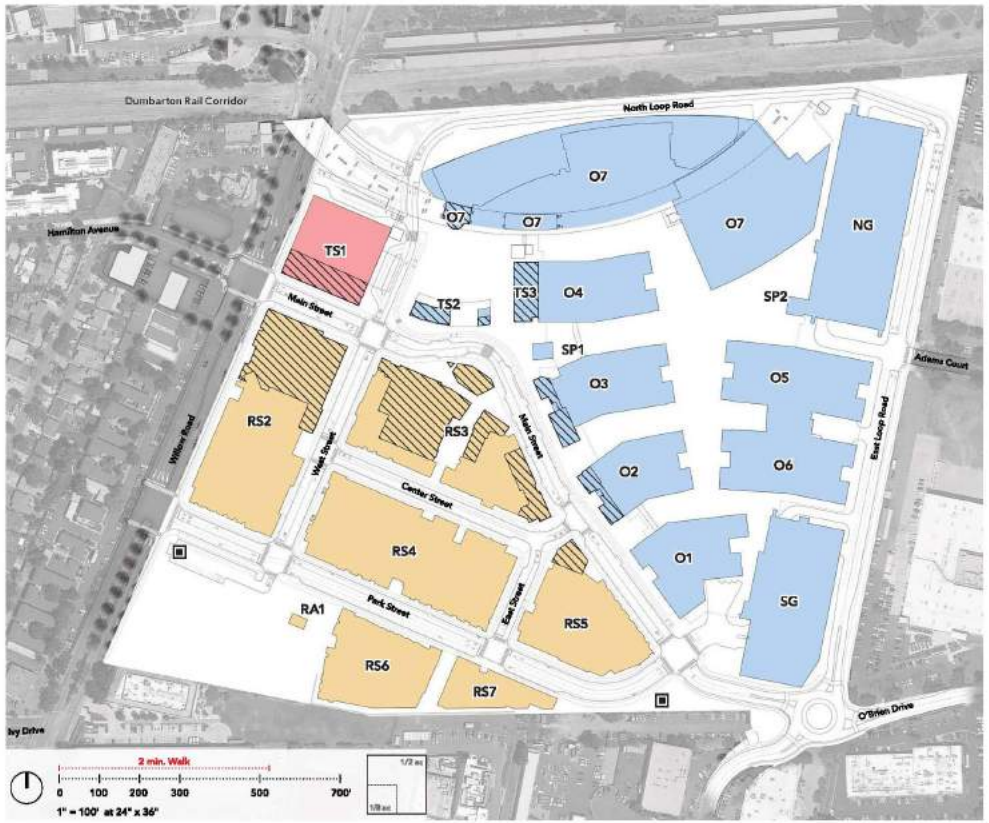
Source: Peninsula Innovation Partners, 2022.

Figure 2-4
Conceptual Master Plan



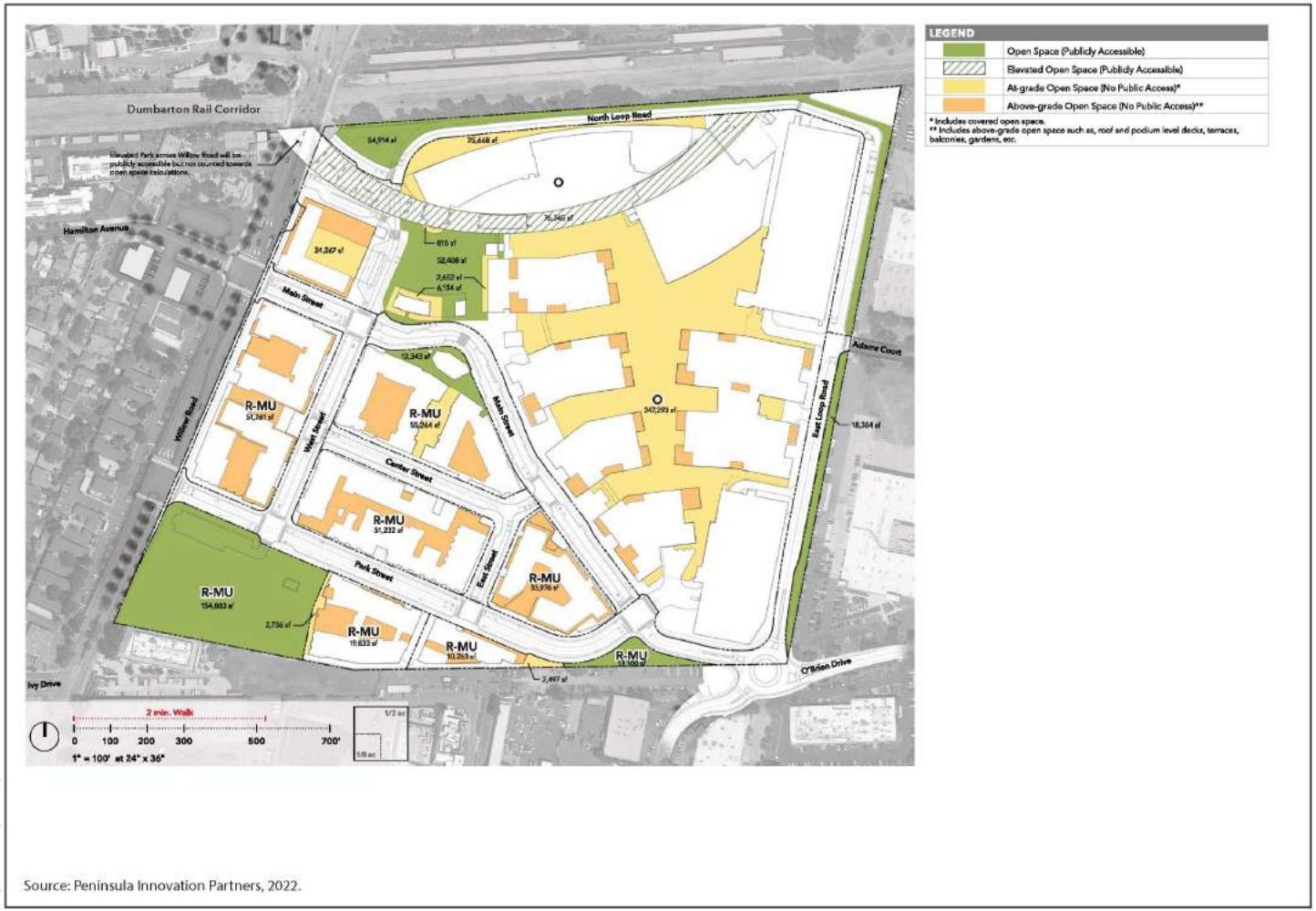
Source: Peninsula Innovation Partners, 2022.

Figure 2-5
Conceptual District Plan on Main Project Site



Source: Peninsula Innovation Partners, 2022.

Figure 2-6
Illustrative Building Locations on Main Project Site



Source: Peninsula Innovation Partners, 2022.

Figure 2-7
Illustrative Open Space Plan on Main Project Site

Source: Peninsula Innovation Partners, 2022.

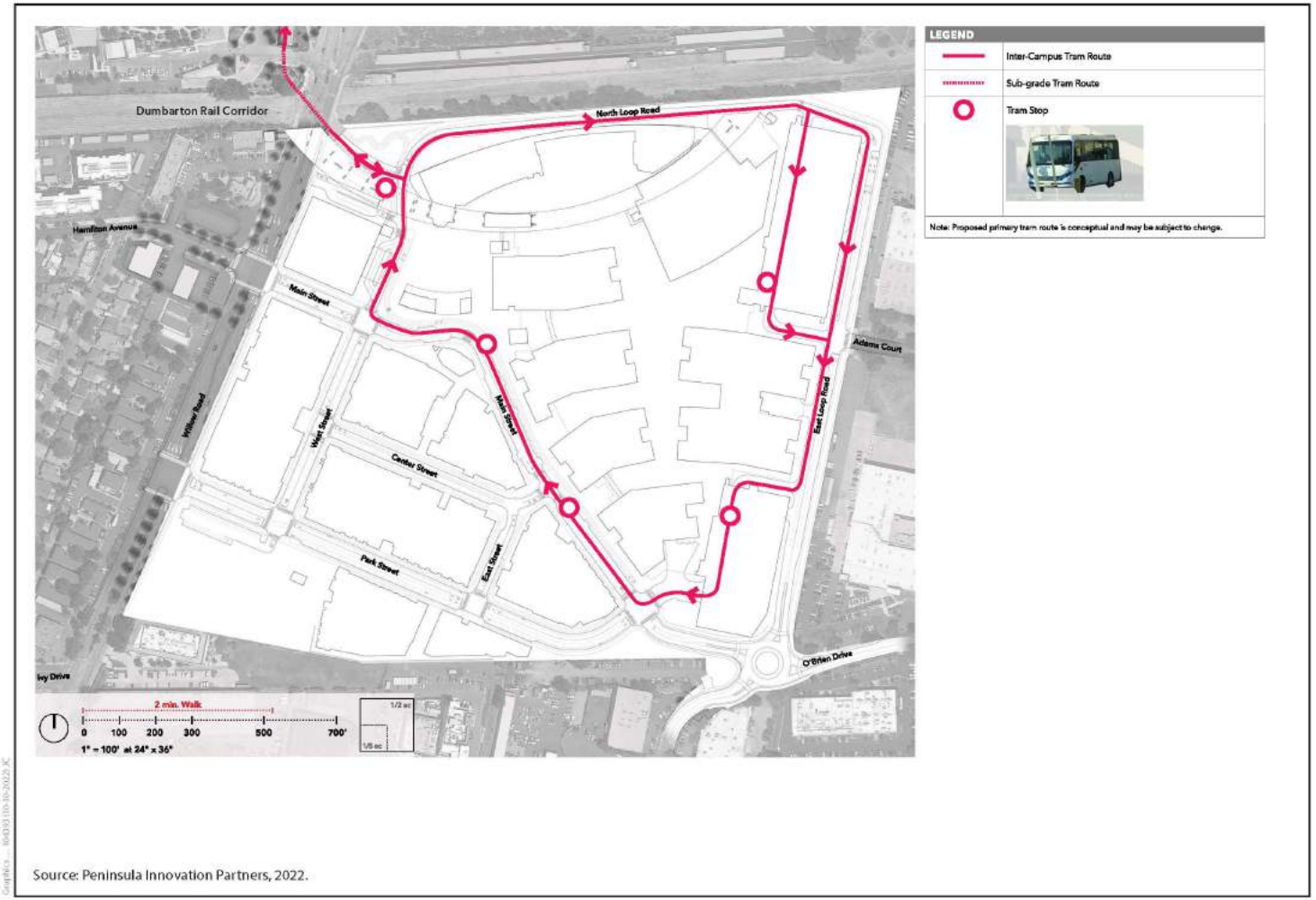
Figure 2-8
Conceptual Vehicular Circulation Plan on Project Site

Source: Peninsula Innovation Partners, 2022.

Figure 2-9
Conceptual Shuttle and Public Bus Route on Main Project Site

Source: Peninsula Innovation Partners, 2022.

Figure 2-10
Conceptual Inter-Campus Tram Route



Source: Peninsula Innovation Partners, 2022.

Figure 2-11
Conceptual Tram Route and Stops on Main Project Site

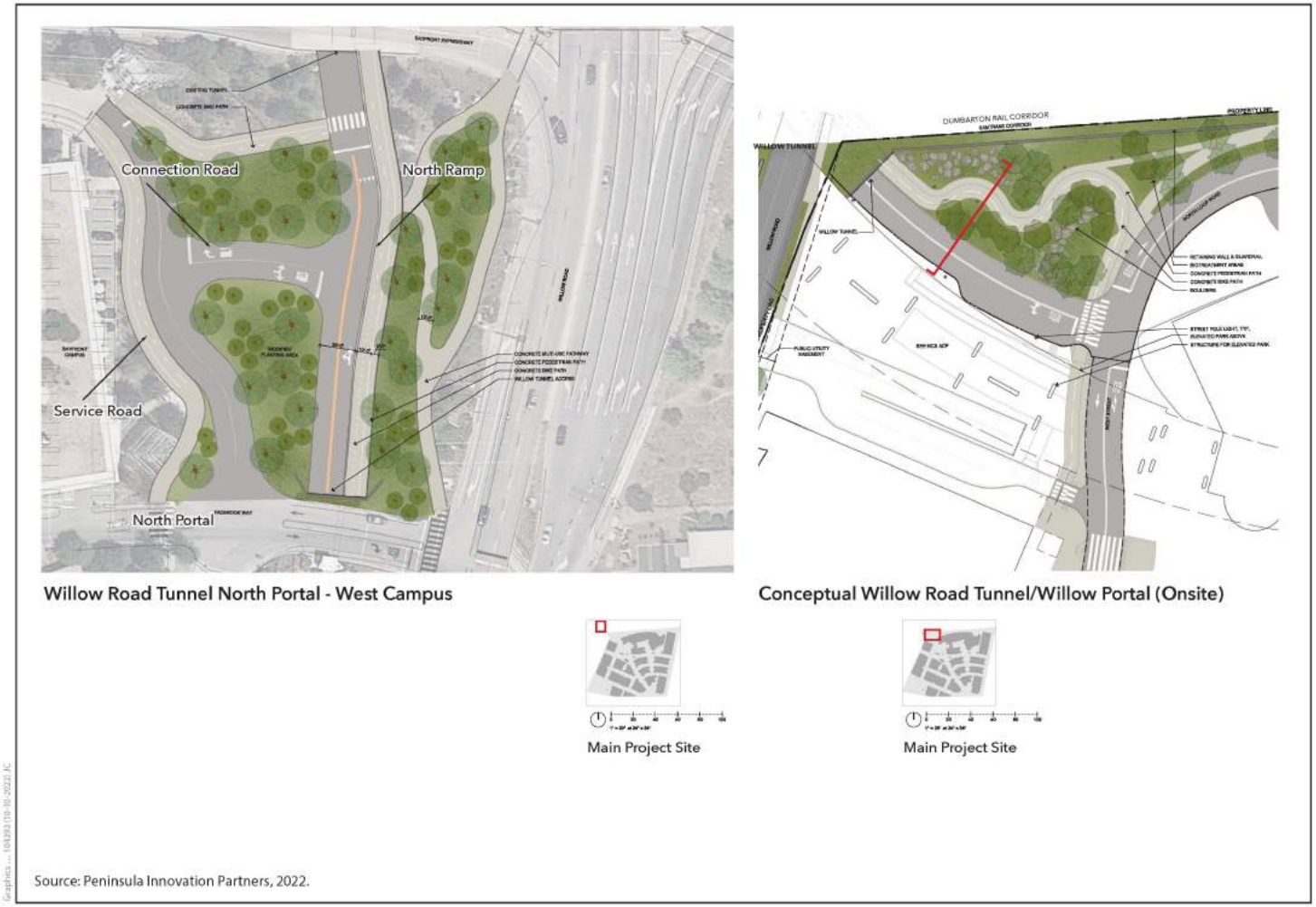
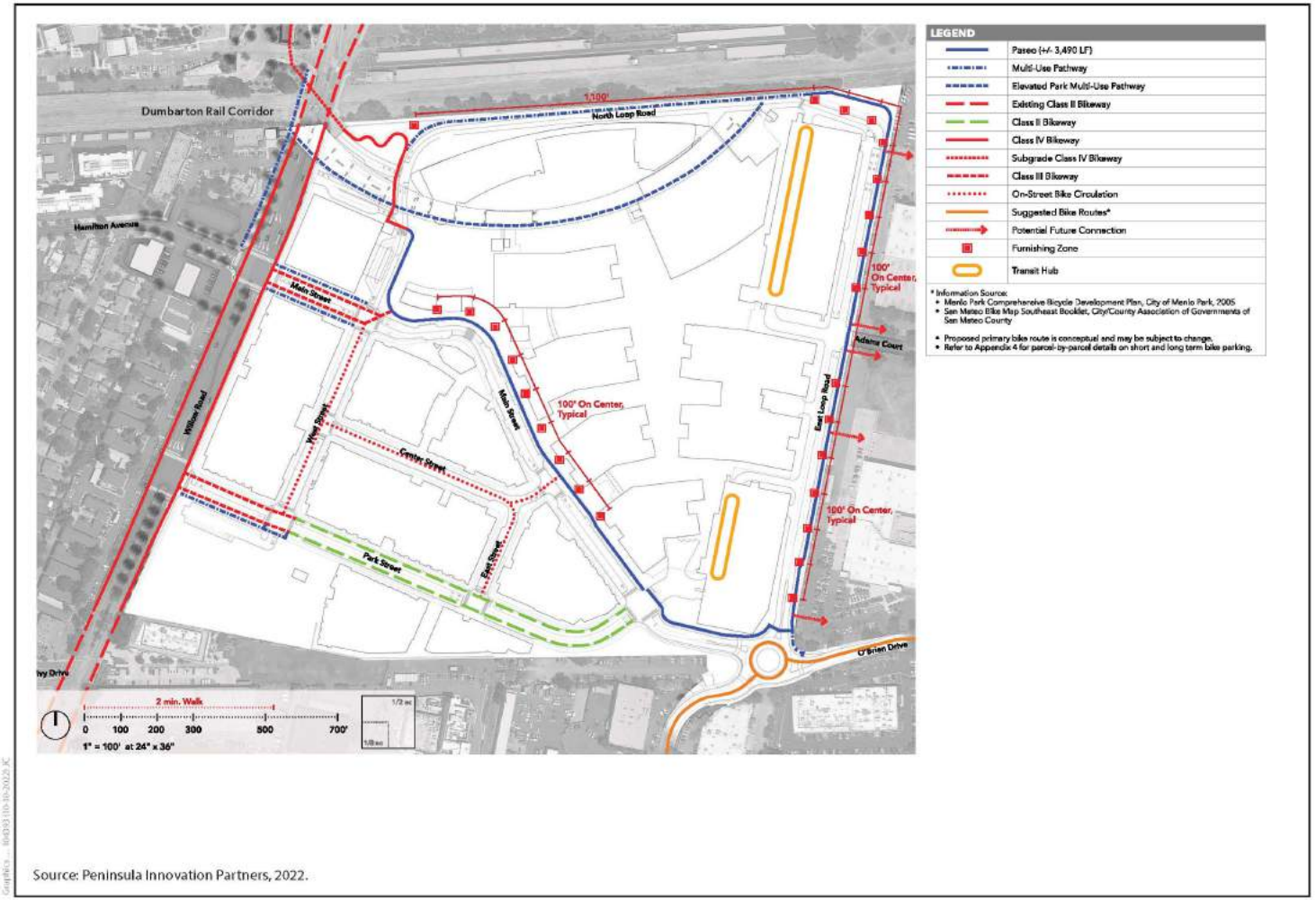
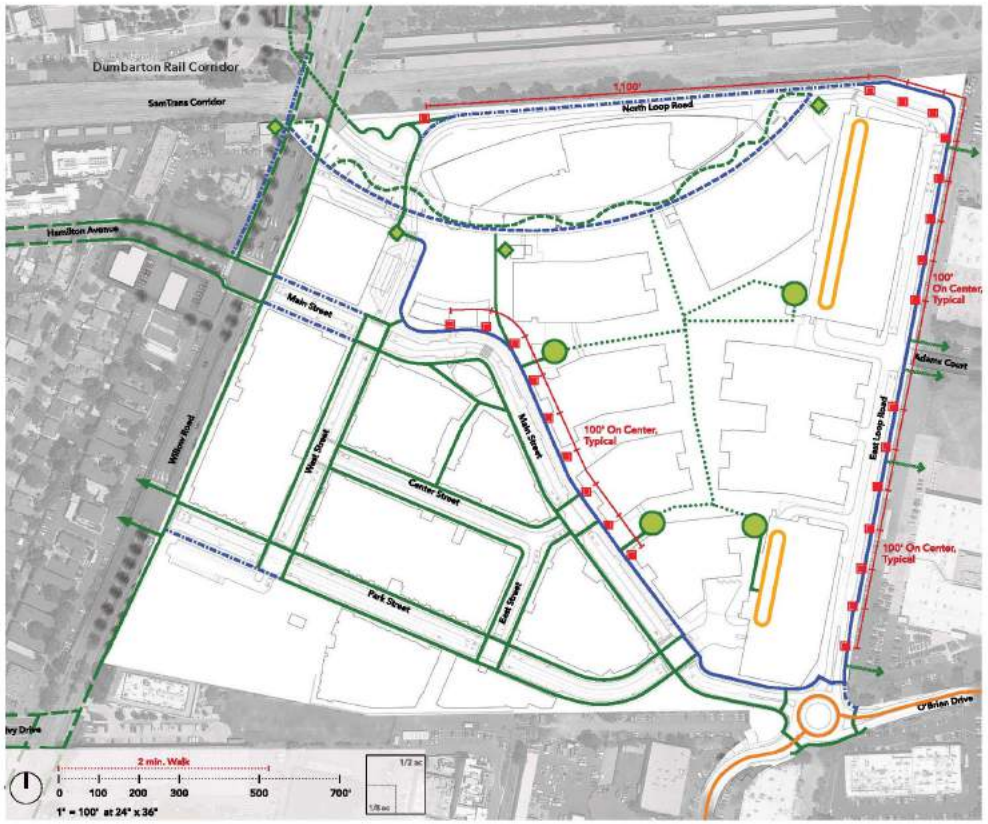


Figure 2-12
Conceptual Willow Road Tunnel



Source: Peninsula Innovation Partners, 2022.

Figure 2-13
Conceptual Bicycle Circulation Plan on Project Site



Source: Peninsula Innovation Partners, 2022.

Figure 2-14
Conceptual Pedestrian Circulation Plan on Project Site

Source: Peninsula Innovation Partners, 2022.

Figure 2-15
Conceptual Parking Plan on Main Project Site

Chapter 3, Environmental Impact Analysis

Chapter 3 has been revised to indicate that the Willow Road Tunnel may be developed at the discretion of the applicant and explain that its impacts are nonetheless evaluated in Chapter 3. Page 3-2 has been revised as follows:

> On December 29, 2016, the City of East Palo Alto filed suit to challenge certification of the ConnectMenlo Final EIR. To resolve the litigation, the City of Menlo Park and the City of East Palo Alto entered into a settlement agreement. This EIR was prepared in accordance with the terms of the 2017 settlement agreement, which allows simplification in accordance with CEQA Guidelines Section 15168 for all topic areas, except housing and transportation.
>
> Additionally, as indicated in Chapter 2, Project Description, the Project Sponsor may elect to construct the Willow Road Tunnel if the Project Sponsor is able to obtain the necessary permits from agencies with jurisdiction. Therefore, to be conservative in the approach to environmental analysis, this EIR evaluates the impacts of constructing the Willow Road Tunnel.

Table 3.0-2, *Cumulative Projects – East Palo Alto*, on page 3-11 of the Draft EIR, has been revised as follows:

Table 3.0-2. Cumulative Projects – East Palo Alto

ID	Address	Land Use (net change) and Unit						Status
		Office (sf)	Retail/ Commercial (sf)	R&D/Light Industrial (sf)[a]	Other (sf)	Hotel (rooms)	Residential (du)	
A	1039 and 1063 Garden Street (KIPP School)	—	—	—	—	—	—	Approved
B	1960 Tate Street (Woodland Park Euclid Improvements)	—	—	—	—	—	444	Proposed
C	1893 Woodland Avenue (Glory Mobile Home Park Conversion Impact Report)	—	—	—	—	—	-30	Approved
D	717 Donohoe Street	—	—	—	—	—	14	Proposed
E	2340 Cooley Avenue	—	—	—	—	—	6	Proposed
F	1201 Runnymede Street	—	—	—	—	—	32	Approved
G	760 Weeks Street	—	—	—	—	—	10	Approved
H	990 Garden Street	—	—	—	—	—	7	Proposed
I	2519 Pulgas Avenue (The Sobrato Office Project)	65,000	—	—	—	—	—	Proposed
J	2535 Pulgas Avenue (JobTrain Office Project)	102,478	—	-4,500	—	—	—	Proposed
K	2050 University Avenue (University Circle Phase II)	180,00	—	—	—	—	—	Proposed
L	151 Tara Street/264 Tara Street/230 Demeter Street/ 350 Demeter Street/391 Demeter Street (East Palo Alto Waterfront Project)	750,000	50,000	550,000	40,000	—	260	Proposed
M	1990 Bay Road/1175 Weeks Street/ 1250 Weeks Street (The Landing at EPA – Harvest Properties)	879,979	23,521	-15,000	23,500	—	—	Proposed
N	1675 Bay Road (Four Corners)	—	40,000	500,000	—	—	180	Proposed
O	2020 Bay Road	1,381,460	3,500		18,000			Proposed
P	1804 Bay Road	—	1,903	—	5,936	—	75	Approved

ID	Address	Land Use (net change) and Unit						Status
		Office (sf)	Retail/ Commercial (sf)	R&D/Light Industrial (sf)[a]	Other (sf)	Hotel (rooms)	Residential (du)	
Q	2331 University/573 Runnymede Street (Clarum University Corner Project)	—	2,500	—	—	—	33	Approved
R	2111 University Avenue (University Plaza Phase II Project)	231,883	—	—	—	—	—	Under Review[a]
Total		~~3,178,917~~ 3,410,800	~~118,924~~ 121,424	1,035,000	87,436	0	~~998~~ 1,031	

sf = square feet; du = dwelling unit

a. The University Plaza Phase II Project appears to have been under review as of December 2020. However, as of September 2022, the University Plaza Phase II Project is not listed on the City's pipeline of projects that are under review, approved, under construction, or completed.[2]

[2] City of East Palo Alto. 2022. "Projects." Available: <https://www.cityofepa.org/projects>. Accessed: September 22, 2022.

Figure 3.0-1, Cumulative Projects, referenced on page 3-7 of the Draft EIR, was inadvertently omitted from the Draft EIR. It is included here and revised to include the additional project in Table 3.0-1 of the Draft EIR.

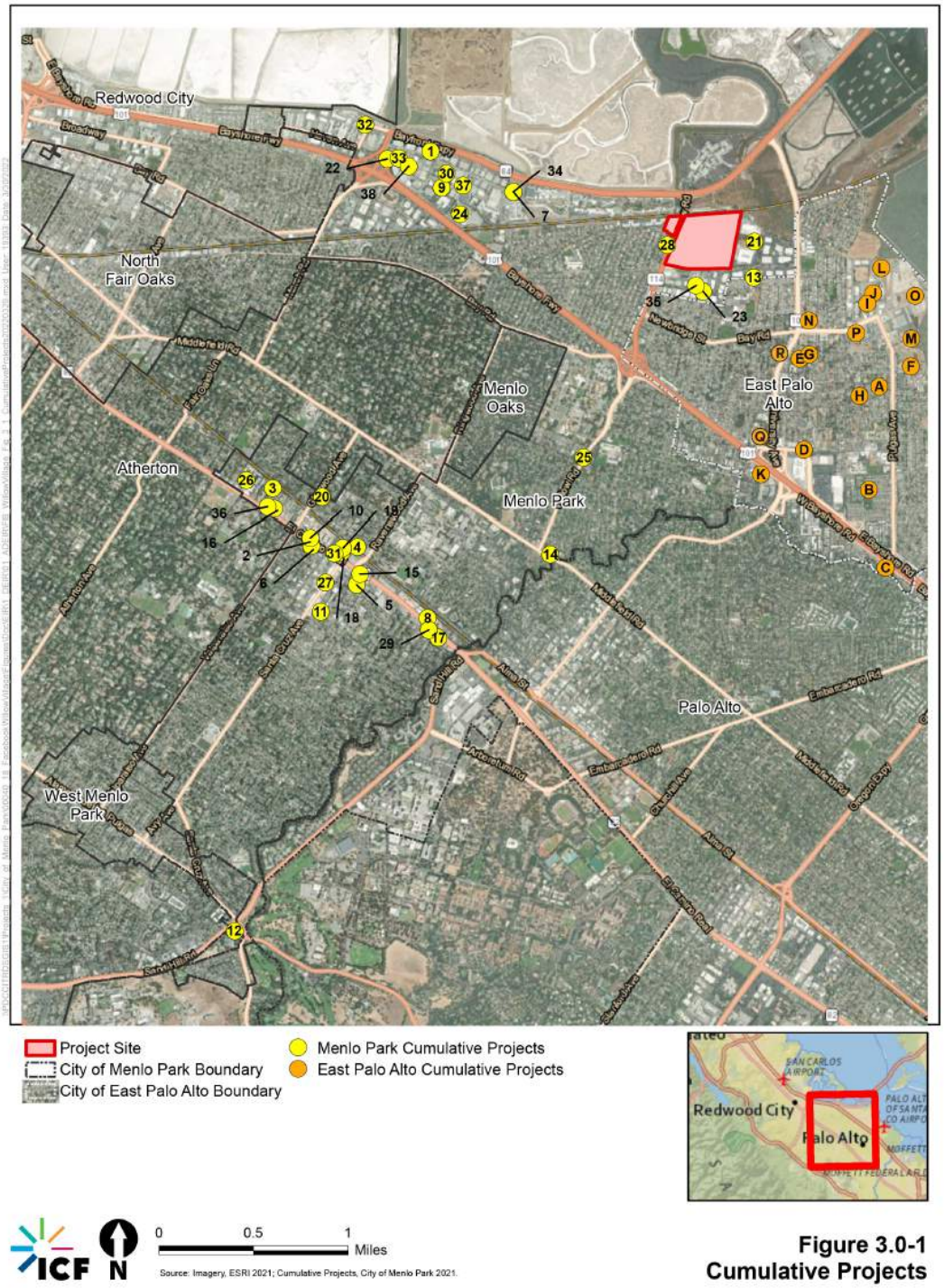


Figure 3.0-1
Cumulative Projects

Section 3.1, Land Use

The text under subheading *SFPUC Right-of-Way Encroachment Policy* on page 3.1-5 of the Draft EIR is revised as follows (footnote omitted):

As discussed in Section 3.1, above, the SFPUC requested that the Proposed Project consider consistency with their plans and policies in the Draft EIR; the applicable SFPUC polices to the Proposed Project include the SFPUC Interim Water Pipeline Right-of-Way Use Policy for San Mateo, Santa Clara, and Alameda Counties (Approved January 13, 2015) and the Amendment to the Right-of-Way Integrated Vegetation Management Policy (Approved January 13, 2015) ~~Right-of-Way Encroachment Policy~~. As part of its utility system, the SFPUC operates and maintains approximately 1,600 miles of water pipelines and tunnels, 160 miles of electrical transmission lines, and 900 miles of sewer lines and related appurtenances that run through real property located in San Francisco, San Mateo, Santa Clara, Alameda, Tuolumne, Stanislaus and San Joaquin Counties. To support management of these lines, the SFPUC adopted the SFPUC Interim Water Pipeline Right-of-Way Use ~~Encroachment~~ Policy for San Mateo, Santa Clara, and Alameda Counties and the Amendment to the Right-of-Way Integrated Vegetation Management Policy in 2015~~ 2007~~. The SFPUC's priority is to maintain the safety and security of the pipelines that run underneath the right-of-way. Through SFPUC's formal Project Review and Land Use Application process, the SFPUC may permit a secondary use on the right-of-way if it benefits the SFPUC, is consistent with SFPUC's mission and policies, and does not in any way interfere with, endanger, or damage the SFPUC's current or future operations, security, or facilities. No secondary use of SFPUC land is permitted without the SFPUC's consent.[7] Pursuant to the above-referenced SFPUC right-of-way policies, the SFPUC does not allow third-parties to use SFPUC lands to fulfill any third-party development requirements or to use SFPUC lands to mitigate third-party project impacts. If the use of the SFPUC right-of-way were to be approved for the Proposed Project, the authorization would be through a license or other agreement. ~~Increased urbanization and development around a water transmission line right-of-way in particular led to an increase in the number of encroachments onto the right-of-way. Because of limited resources and the variation in safety and other threats posed by different encroachments, the SFPUC continuously prioritizes known encroachments. Prioritization is conducted to ensure that encroachments that pose the greatest threat to pipeline access, construction, safety, and security are addressed first, along with encroachments that can be easily removed. Depending on the nature of the encroachment, at the sole discretion of the SFPUC, response options may include:~~

- ~~Immediate removal,~~
- ~~Removal within a specified period of time,~~
- ~~Possible modifications to the encroachment, and/or~~
- ~~Development of a permit agreement with provisions acceptable to the SFPUC.~~

~~With respect to possible modifications to an encroachment and development of a permit agreement, the SFPUC's policy is that ancillary uses and encroachments in the right-of-way are permitted only when the uses provide identifiable benefits for the SFPUC, as determined by the SFPUC Water Enterprise and Real Estate Services personnel. Approval of permitted uses shall be consistent with existing SFPUC policy and be processed by Real Estate Services. In specific cases, the SFPUC will allow use of the right-of-way by third parties to enhance maintenance efforts and reduce maintenance costs for the SFPUC. For example, the SFPUC provides for the leasing or~~

~~permitting of portions of rights-of-way with nominal revenue-generating potential to property owners whose land was bisected by the SFPUC as well as neighborhood associations, municipal governmental entities, non-profit groups, and similar entities at little or no cost, provided they agree to maintain the surface of the right-of-way in a good and safe condition acceptable to the SFPUC and indemnify the SFPUC for any injury or loss related to such third-party use.~~

[7] San Francisco Public Utilities Commission. 2015. *SFPUC Interim Water Pipeline Right-of-Way Use Policy for San Mateo, Santa Clara, and Alameda Counties.* Available: https://sfpuc.org/ sites/default/files/about-us/policies-reports/SFPUC%20Interim%20Right%20of%20 Way%20Policy.pdf. Accessed: May 30, 2022; San Francisco Public Utilities Commission. 2015. *Amendment to the Right-of-Way Integrated Vegetation Management Policy*. Available: https://sfpuc.org/sites/default/files/construction-and-contracts/ROW-IntegratedVegetationMgmtPolicy_2015.pdf. Accessed: May 30, 2022.

The text under subheading *Consistency with SFPUC Right-of-Way Encroachment Policy* on page 3.1-12 of the Draft EIR is revised as follows (footnote omitted):

As discussed under Section 3.1, *Regulatory Setting,* the SFPUC requested that the Proposed Project be analyzed for consistency with relevant plans ~~at~~ and policies; the SFPUC ~~Right-of-Way Encroachment Policy~~ Interim Water Pipeline Right-of-Way Use Policy for San Mateo, Santa Clara, and Alameda Counties and the Amendment to the Right-of-Way Integrated Vegetation Management Policy apply ~~applies~~ to the Project Site. At the southeast corner of the main Project Site, the Proposed Project would create a new four-legged roundabout at O'Brien Drive to accommodate site access and area circulation. This would require realignment of O'Brien Drive where it passes through the roundabout. The southern half of the roundabout would then overlay the SFPUC Hetch Hetchy right-of-way. Because of this overlay, the Project Sponsor would be required to obtain approval to access the SFPUC Hetch Hetchy right-of-way through a process called "Project Review." Through adherence to this approval process, the Proposed Project would be consistent with applicable SFPUC ~~polices~~policies~~'s Right-of-Way Encroachment Policy~~ and result in a less-than-significant impact.

The discussion of tree planting on page 3.1-24 is revised as follows, based on an updated arborist report (Appendix 4) received from the Project Sponsor:

CONSISTENT. The Proposed Project would plant approximately 1,780 ~~822~~ trees, thereby meeting the heritage tree replacement requirements. Landscaping at the Project Site would include a combination of native, drought-tolerant, and adapted species and comply with the Menlo Park Water-Efficient Landscaping Ordinance.

The discussion of sustainability on page 3.1-24 is revised as follows to clarify the level of LEED under the Proposed Project:

The Proposed Project would be Leadership in Energy and Environmental Design (LEED) ~~Gold~~ certified for certain buildings~~for buildings 10,000 square feet or larger~~. Buildings of more than 25,000 square feet in the Residential/Shopping District and Campus District would be designed for LEED Gold certification, while buildings in the Town Square District between 10,000 and 25,000 square feet would be designed for LEED Silver certification.

The discussion of consistency with ConnectMenlo is revised as follows to reflect the City Zoning Ordinance regarding unbundled parking:

> CONSISTENT. The Proposed Project would provide a minimum of 5,960 and a maximum of 6,516 parking spaces on the main Project Site, 93 spaces on Hamilton Avenue Parcel North, and 13 spaces on Hamilton Avenue Parcel South (i.e., a total of 106 spaces on the Hamilton Avenue Parcels); this proposed parking would meet minimum City parking requirements and would not exceed City parking maximums. This would require review by the City's transportation manager and approval by the City Council as part of requested land use entitlements. In addition, the TDM programs would encourage workers to use alternative modes of transportation, thereby reducing the number of vehicles traveling to/from the Project Site. The Proposed Project would provide unbundled parking for ~~the market-rate~~ rental units and include electric-car charging stations and car-sharing spaces.

The discussion of tree planting on page 3.1-26 is revised as follows, based on an updated arborist report (Appendix 4) received from the Project Sponsor:

> CONSISTENT. As part of landscaping plans, the Proposed Project would plant approximately 1,780 ~~822~~ trees throughout the Project Site, thereby meeting heritage tree replacement requirements. Landscaping would include a combination of native, drought-tolerant, and adapted species and comply with the Menlo Park Water-Efficient Landscaping Ordinance.

The text on page 3.1-27 of the Draft EIR has been revised to reflect that, since publication of the Draft EIR, the BMR unit count has increased to 312 units, or approximately 18 percent of the total residential units proposed:

> Of the proposed units, at least 15 percent (260 if the maximum number of units [1,730] is constructed), and possibly up to ~~17.8~~18 percent (~~308~~312 if the maximum number of units [1,730] is constructed), would be below-market-rate rental units. The ~~308~~312 units would be inclusive of the inclusionary requirement as well as the commercial linkage fee/unit requirement.

The text on page 3.1-28 of the Draft EIR has been revised to reflect that, since publication of the Draft EIR, the BMR unit count has increased to 312 units, or approximately 18 percent of the total residential units proposed:

> Of the proposed units, at least 15 percent (260 if the maximum number of units [1,730] is constructed), and possibly up to ~~17.8~~18 percent (~~308~~312 if the maximum number of units [1,730] is constructed), would be below-market-rate rental units. The ~~308~~312 units would be inclusive of the inclusionary requirement as well as the commercial linkage fee/unit requirement.

Section 3.2, Aesthetics

The discussion of tree quantities on page 3.2-4 is revised as follows, based on an updated arborist report (Appendix 4) received from the Project Sponsor (footnotes omitted):

> The arborist report prepared for the main Project Site identified 805 ~~784~~ trees, consisting of 40 different species. Of the total number of onsite trees, 284 ~~274~~ are considered heritage trees, according to Chapter 13.24 of the Menlo Park Municipal Code.[6] The heritage trees consist almost entirely of nonnative ornamental species, such as Canary Island pine (Pinus canariensis), shamel ash (Fraxinus uhdei), raywood ash, (Fraxinus oxycarpa "Raywood"), deodar cedar (Cedrus deodara), Tasmanian blue gum (Eucalyptus globulus), Peruvian pepper (Schinus mole), and purple leaf plum (Prunus cerasifera

"Krauter Vesuvius"). Native but planted, and therefore considered ornamental, heritage trees on the main Project Site include two coast live oaks (Quercus agrifolia) and five coast redwoods (Sequoia sempervirens).

Hamilton Avenue Parcels North and South are landscaped with trees and ornamental shrubs. Street trees line the public right-of-way surrounding the parcels. According to the arborist report, Hamilton Avenue Parcels North and South contain 141 trees, consisting of 10 different species. Of the trees surveyed, 18 are considered heritage. The 18 heritage trees comprise two species, coast redwoods and coast live oaks. The most numerous tree species on Hamilton Avenue Parcels North and South are Chinese pistache (Pistacia chinensis) (39~~32~~ trees, ~~including 16~~ of which 23 are City street trees) and red maple (Acer rubrum) (19 trees).

The discussion of tree removal on page 3.2-21 is revised as follows, based on an updated arborist report (Appendix 4) received from the Project Sponsor:

The main Project Site and Hamilton Avenue Parcels North and South currently include 946~~925~~ trees, which are planted mainly in parkways and pavement cutouts adjacent to buildings, parking lots, and streets. Of the existing onsite trees, 842~~821~~ trees are proposed for removal, 279~~269~~ of which qualify as heritage trees, per the City's Heritage Tree Ordinance (Chapter 13.24). Additionally, 16 heritage trees and 7 non-heritage trees would be removed for the O'Brien Drive roundabout and other improvements. Consistent with Chapter 13.24 of the Menlo Park Municipal Code, the Proposed Project would obtain a permit to remove protected trees and pay applicable fees. Furthermore, the proposed landscape plan for the main Project Site includes approximately 1,780~~822~~ new trees, which is more that the number of trees proposed for removal. Heritage tree replacements would meet the City's replacement value requirements, based on the valuation of the existing heritage trees proposed for removal. Therefore, the Proposed Project would comply with requirements set forth in Chapter 13.24 of the Menlo Park Municipal Code.

Section 3.3, Transportation

The third paragraph under subheading *Menlo Park Municipal Code* on page 3.3-15 is revised to include the first listed bullet as follows:

The Transportation Demand Management program guidelines provide options for the City to mitigate the traffic impacts of new developments. The guidelines include an extensive list of TDM measures, accompanied with the number of trips credited to each measure and the rationale for each measure. The list of recommended measures and the associated trip credit are maintained by C/CAG as part of the San Mateo County CMP. Pursuant to the City Zoning Ordinance, eligible TDM measures may include, but are not limited to, those listed below.

- ~~Pursuant to the City's Zoning Ordinance, eligible TDM measures may include but are not limited to those listed below.~~

The second-to-last bullet under the same subheading (*Menlo Park Municipal Code*) on page 3.3-15 is revised in format so as not to be included as a bullet as follows:

Pursuant to the City Zoning Ordinance, measures receiving TDM credit shall be:

- ~~Pursuant to the City's Zoning Ordinance, measures receiving TDM credit shall be:~~

The following figures were revised and replaced to include the Hamilton Avenue Parcels. These figures are also included in Appendix 3 of this Final EIR:

- Figure 3.3-1, Existing Bicycle Facilities, on page 3.3-6
- Figure 3.3-2, Existing Transit Services, on page 3.3-8
- Figure 3.3-4, Existing Locations of Comparable Hotels Land Use, on page 3.3-39
- Figure 3.3-5, Locations of Comparable Retail Land Use, on page 3.3-42
- Figure 3.3-7, Near-Term (2025) Plus-Project Intersection Level-of-Service Summary, on page 3.3-59
- Figure 3.3-8, Cumulative (2040) Plus-Project Intersection Level-of-Service Summary, on page 3.3-76

Mitigation Measure TRA-2, as provided on page 3.3-37 of the Draft EIR, is revised as follows to reflect the gross trip reduction requirement:

> **Mitigation Measure TRA-2:** The residential land use of the Project Site will be required to implement a TDM Plan achieving ~~19% active TDM trip reduction from~~a 36% reduction from gross ITE trip generation rates (for the Proposed Project, this reduction equals ~~equivalent to~~ 6,023 daily trips). Should a different number of residential units be built, the total daily trips will be adjusted accordingly. The required residential TDM Plan will include annual monitoring and reporting requirements on the effectiveness of the TDM program. The Project applicant will be required to work with City staff to identify the details of the TDM plan. If the annual monitoring finds that the TDM reduction is not met (i.e. the Proposed Project exceeds 6,023 daily trips from the residential land use), the TDM coordinator will be required to work with City staff to detail next steps to achieve the TDM reduction.

Willow Village EIR – Transportation Chapter

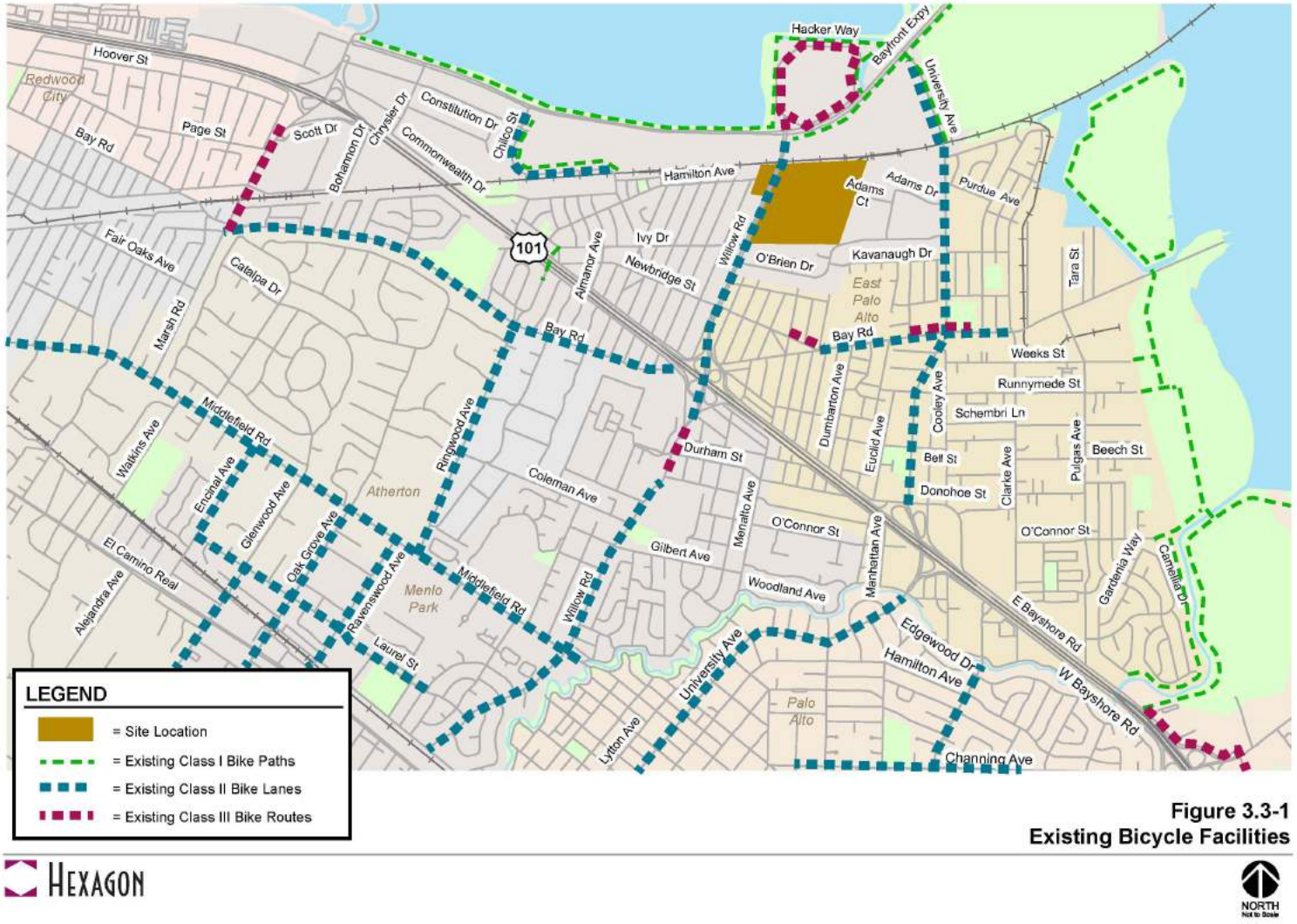


Figure 3.3-1
Existing Bicycle Facilities

HEXAGON

Willow Village EIR – Transportation Chapter

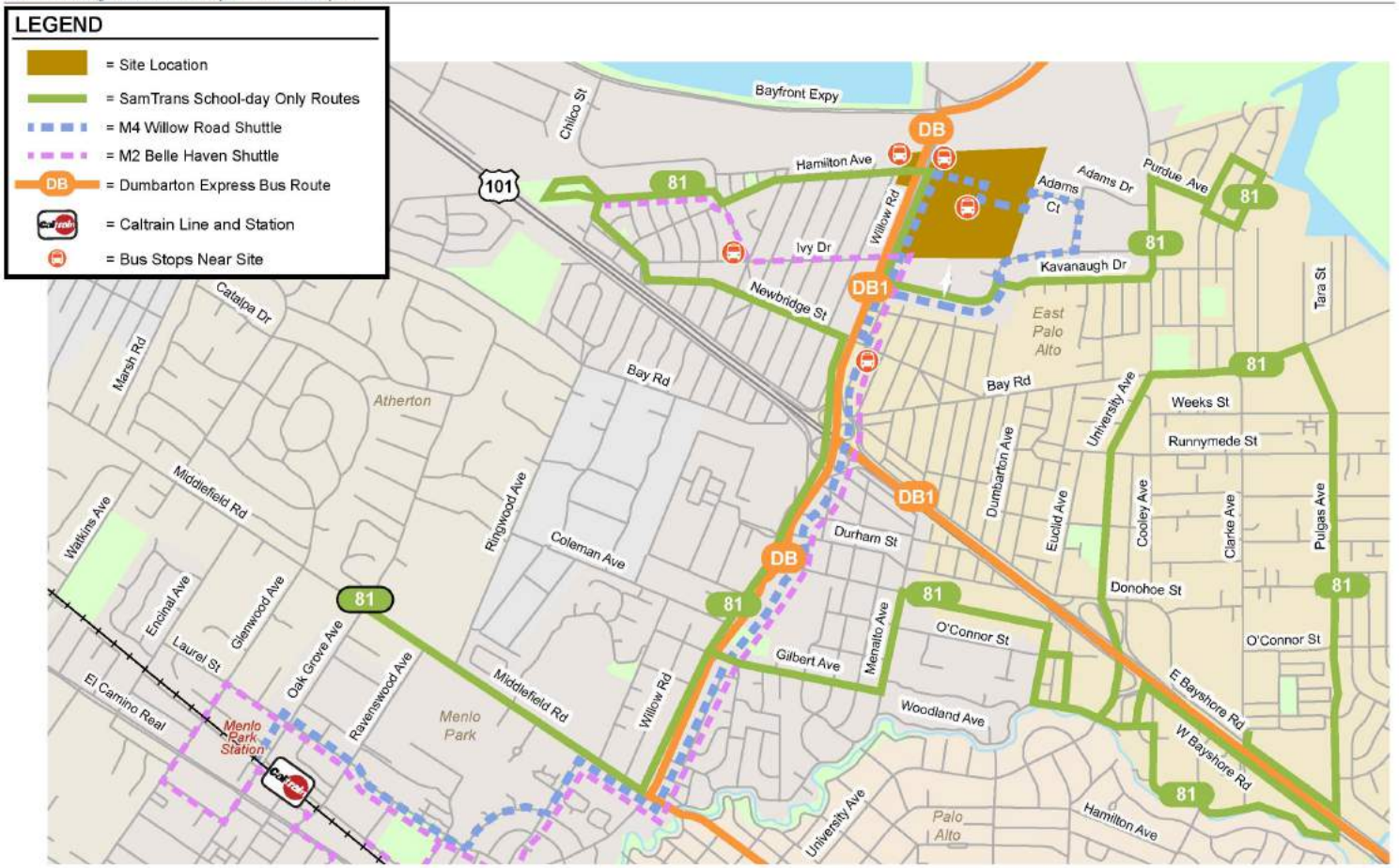


Figure 3.3-2
Existing Transit Services

HEXAGON

Willow Village EIR – Transportation Chapter

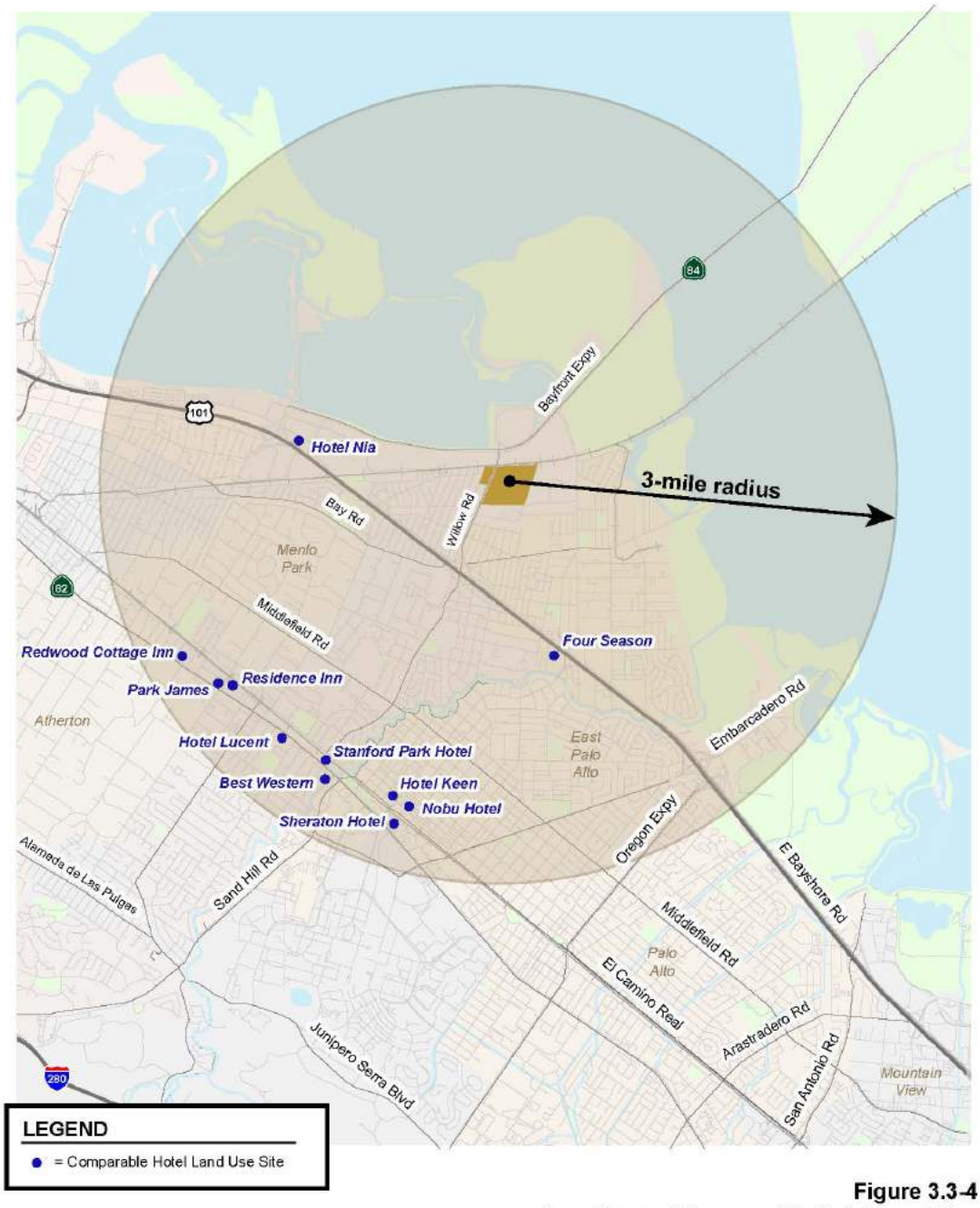


Figure 3.3-4
Locations of Comparable Hotel Land Use

HEXAGON

NORTH
Not to Scale

Willow Village EIR – Transportation Chapter

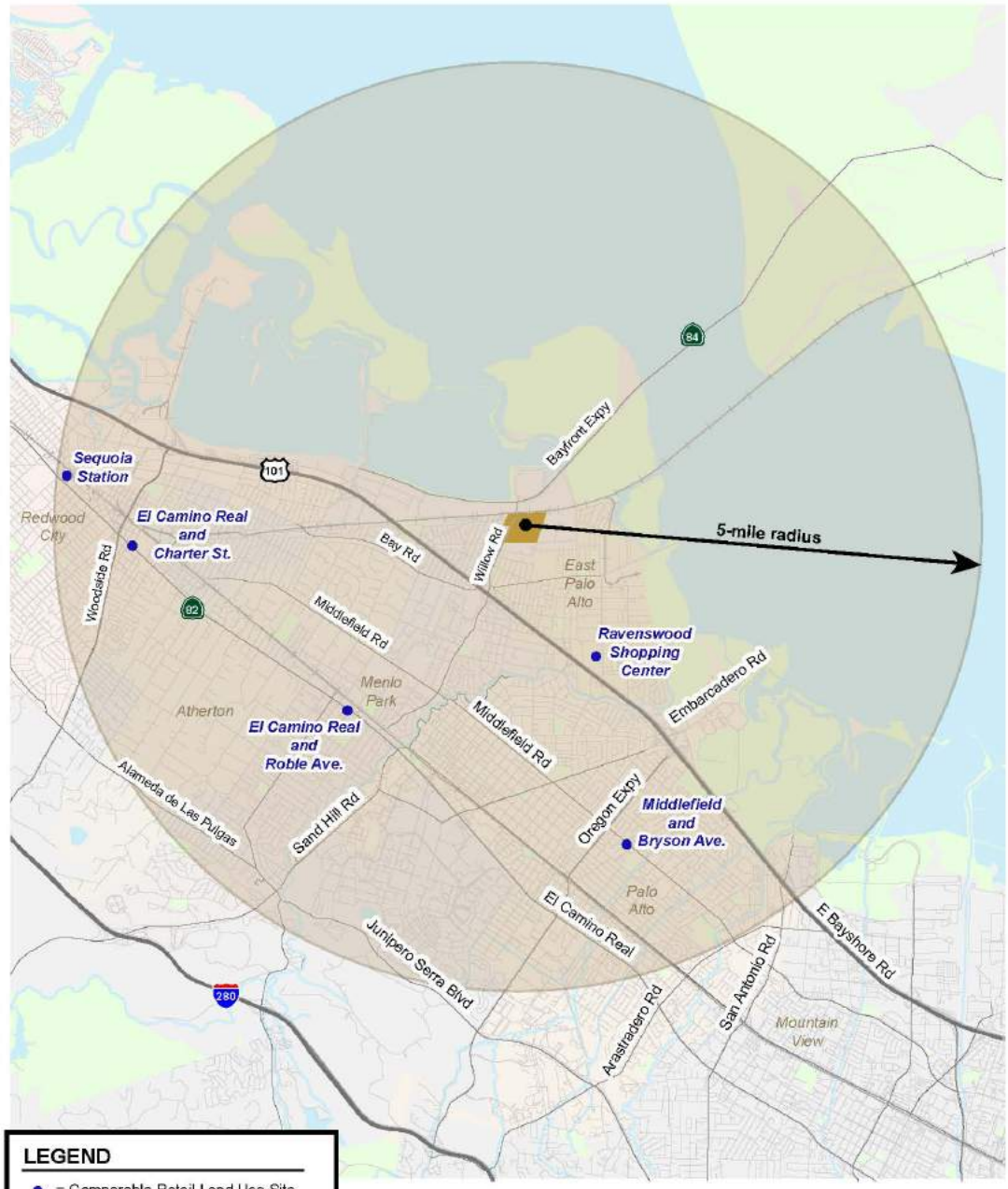


Figure 3.3-5
Locations of Comparable Retail Land Use

HEXAGON

Willow Village EIR – Transportation Chapter

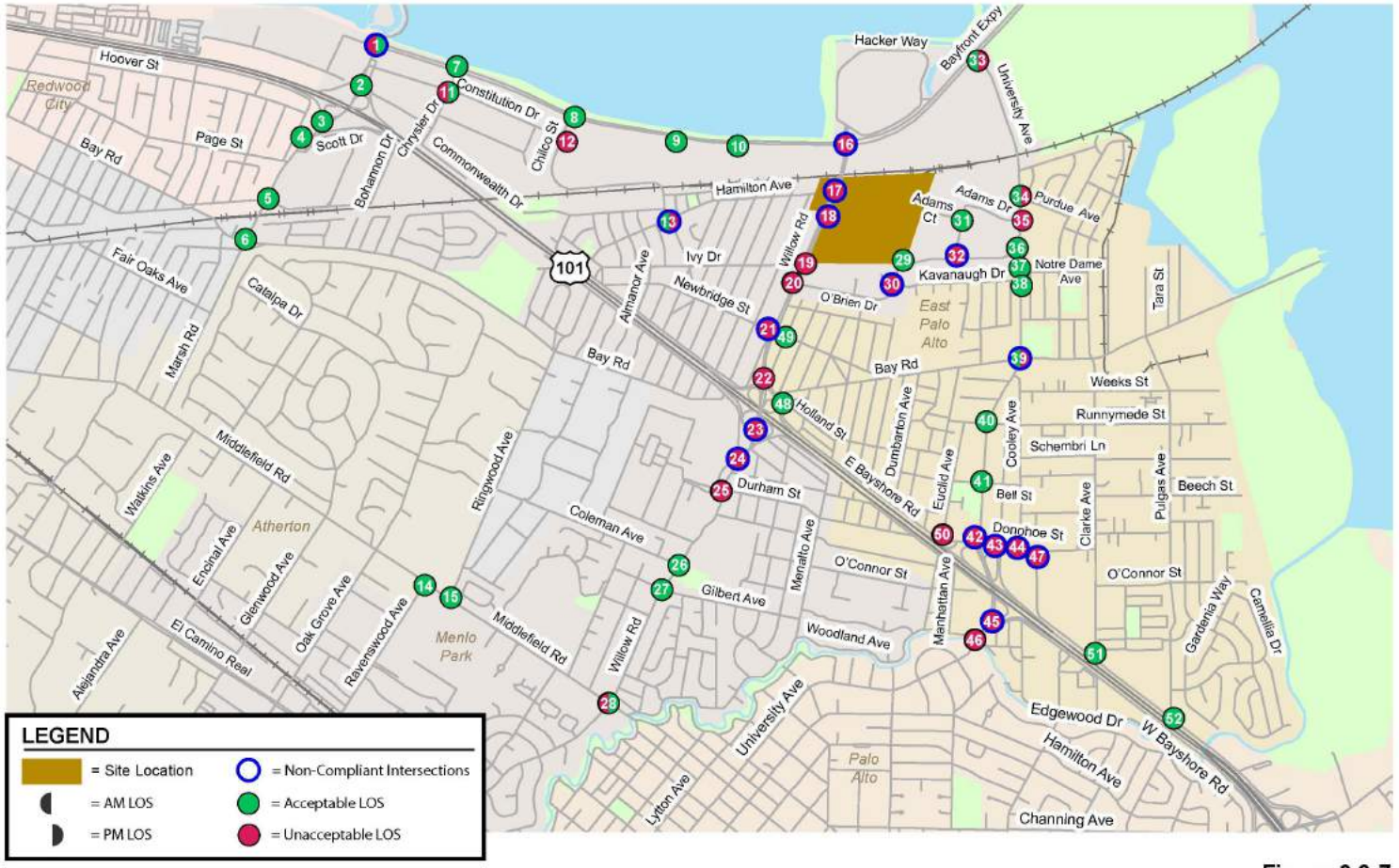


Figure 3.3-7
Near-Term (2025) Plus Project Intersection Level of Service Summary

HEXAGON

Willow Village EIR – Transportation Chapter

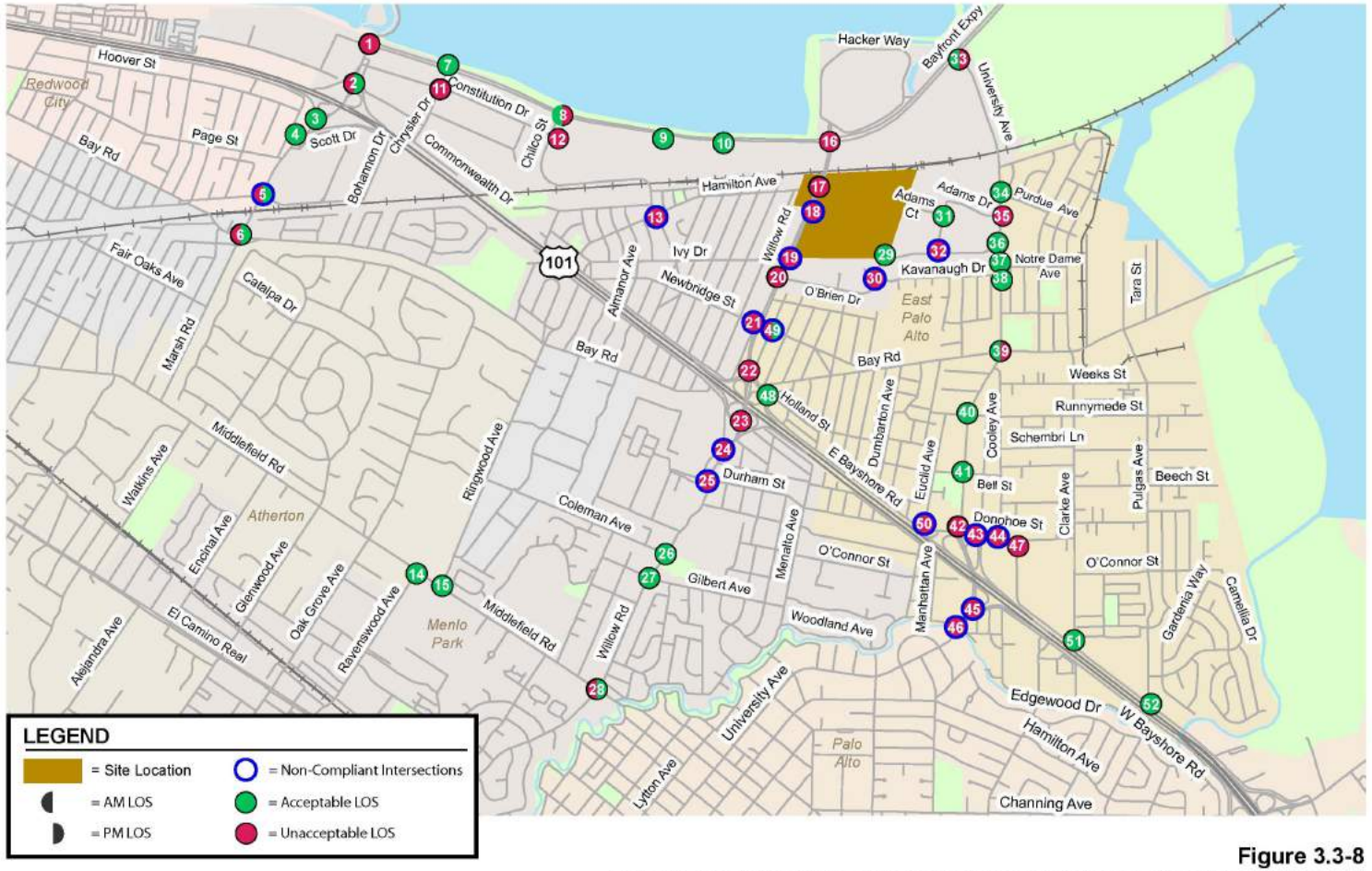


Figure 3.3-8
Cumulative (2040) Plus Project Intersection Level of Service Summary

HEXAGON

NORTH
Not to Scale

Section 3.4, Air Quality

Page 3.4-31 of the Draft EIR has been revised to clarify the level of LEED under the Proposed Project:

> In addition, the Proposed Project would be designed to achieve Leadership in Energy and Environmental Design (LEED) ~~Gold~~ certification for certain buildings. ~~building design and construction, with the exception of buildings with an area of less than 10,000 square feet, which would not be certified.~~ Buildings of more than 25,000 square feet in the Residential/Shopping District and Campus District would be designed for LEED Gold certification, while buildings in the Town Square District between 10,000 and 25,000 square feet would be designed for LEED Silver certification.

The first paragraph under Impact AQ-3 on page 3.4-39 is revised as follows:

> Sensitive land uses are generally considered to include those uses where exposure to pollutants could result in health-related risks for sensitive individuals, including children and the elderly. Per BAAQMD, typical sensitive receptors are residences, hospitals, and schools. Parks and playgrounds where sensitive receptors (e.g., children and seniors) are present would also be considered sensitive receptors.[49] The nearest offsite sensitive land uses are the Mid-Peninsula High School, Wund3rSCHOOL, and Open Mind School and residences generally south of the Project Site. Onsite residential receptors would occupy Proposed Project buildings as they are completed. The existing onsite Dialysis Center, which would temporarily remain onsite during construction, was also included as a sensitive receptor. The maximum health risks associated with the Dialysis Center are the same or less than the health risks presented in Tables 3.4-15 and 3.4-16 under Scenarios 1, 2, and 3: Construction plus Operations. See Appendix 3.4-3 for the Dialysis Center health risk memorandum.

The analysis under Impact AQ-3 on page 3.4-41 of the Draft EIR is revised to include a discussion of the estimated health effects attributable to the potential formation of ozone from Proposed Project-related emissions as follows:

> As the formation of ozone is due to complex reactions between ROG and NO_X emissions in the presence of sunlight, the process of determining impacts is computationally intensive. The BenMAP-CE is an open source model from the EPA that estimates health impacts resulting from changes in air quality—specifically, ground-level ozone and fine particles. BenMAP relies on reported air quality information and health literature and is used by the EPA to inform the process for setting the National Ambient Air Quality Standards at levels protective of human health. The BenMAP health endpoints for ozone that are typically used in national rulemaking include mortality, emergency room visits (respiratory), and hospital admissions (respiratory). There are assumptions associated with several of the BenMAP inputs, including exposure estimates and health statistics, which can add to the uncertainty in the BenMAP results. Also, because BenMAP relies on epidemiological studies that are not necessarily specific to the Study Area and local populations, there is some uncertainty regarding the generalizability of the epidemiological results. Accordingly, there are limitations related to determining the precise health effect caused by a project's addition of air pollutants to an air basin on any individual. Instead, modeling is most useful to provide how health outcomes for a general population are correlated to air quality.

A photochemical grid model (CAMx) was used to estimate the incremental increase in ambient air concentrations as a result of Proposed Project-related emissions.[50] The model evaluated the potential formation of ozone due to Proposed Project-related emissions and conservatively evaluated the potential incremental change in $PM_{2.5}$ concentrations due to Proposed Project-related emissions because ROG emissions can contribute to the formation of secondary $PM_{2.5}$.

BenMAP was used to estimate the potential health effects due to the Proposed Project's contribution to ozone and $PM_{2.5}$ concentrations. In addition to the health effects noted for ozone above, the health endpoints evaluated for $PM_{2.5}$ included mortality (all causes), hospital admissions (respiratory, asthma, cardiovascular), emergency room visits (asthma, cardiovascular), and acute myocardial infarction (non-fatal).

The estimated change in health effects from ozone and $PM_{2.5}$ associated with the Proposed Project's additional emissions is minimal relative to background incidences. For all health endpoints evaluated, the number of estimated incidences is less than one annually and less than 0.00048 percent of the background health incidence. The "background health incidence" is an estimate of the average number of people who suffer from some adverse health effect in a given population over a given period of time, in the absence of additional emissions from the Proposed Project. Please refer to Appendix 5 for detailed methodology and the results of the health risk analysis.

Ozone-related health outcomes attributed to the Proposed Project include respiratory-related hospital admissions (0.016 incidence per year), respiratory-related mortality (0.067 incidence per year), and asthma-related emergency room visits (0.19 incidence per year for ages 0–17 and 0.11 incidence per year for ages 18–99). $PM_{2.5}$-related health outcomes attributed to the Proposed Project include asthma-related emergency room visits (0.092 incidence per year); cardiovascular-related emergency room visits (0.041 incidence per year); asthma-related hospital admissions (0.0066 incidence per year); all cardiovascular-related hospital admissions, (0.023 incidence per year); all respiratory-related hospital admissions (0.0028 incidence per year); mortality (0.22 incidence per year); and nonfatal acute myocardial infarctions (0.014 incidence per year). As noted above, the estimated increases in these health effect incidences are quite minor compared to the background health incidence.

Estimated Proposed Project-related health effects are conservative and associated with a level of uncertainty. For example, health effects were estimated using mitigated incremental emissions without inclusion of reductions from EV charging or reductions associated with reduced natural gas usage, and all $PM_{2.5}$ was assumed to be of equal toxicity. Results presented are meant to represent an upper bound of potential impacts, and the actual effects may be zero. Further, there is a degree of uncertainty in these results from a combination of the uncertainty in the emissions themselves, the change in concentration resulting from the photochemical grid model (PGM), and the uncertainty of the application of the C-R functions.[3] All simulations of physical processes, whether ambient air concentrations or health effects from air pollution, have a level of uncertainty associated with them due to simplifying assumptions. The overall uncertainty is a combination of the uncertainty associated with each piece of the modeling study, in this case, the emissions quantification, the emissions model, the PGM, and BenMAP. Although these results reflect a level of uncertainty, regulatory agencies, including the USEPA have judged that, even with the uncertainty, they provide sufficient information to the public to allow them to understand the potential health effects of increases or decreases in air pollution.

[3] C-R functions are estimates of the relationship between changes in ambient pollutant concentrations and incidences of specific health end points.

~~Results from assessments completed for other similarly-sized projects in the SFBAAB have shown that health impacts from exceedances of BAAQMD's ROG and NO_x thresholds would be minimal. As noted above, while only Project operational ROG emissions would exceed thresholds of significance, emissions of both NO_x and ROG are presented for three project analyses in the Bay Area for comparison to the Proposed Project as these are the primary precursors to ozone. For example, for three projects in the Bay Area with ROG and NO_x emissions that ranged from 79–458 lbs/day and 125–153 lbs/day, respectively, potential health effects were far below background incidence rates for all health endpoints.[50]~~

~~As summarized above, the Proposed Project is estimated to generate 21 lbs/day of NO_x and 80 lbs/day of ROG, which is similar to or below the emission levels of the projects referenced above. We thus anticipate that health impacts would be similarly de minimis.~~

50 Ramboll US Corporation. 2022. *CEQA Air Quality, Greenhouse Gas and Health Risk Assessment Technical Report*. February. Accessed: February 21, 2022. Proposed Project -related emissions were derived from the CEQA Air Quality, Greenhouse Gas, and Health Risk Assessment Technical Report (Ramboll 2022).

The second paragraph and Table 3.4-15 on page 3.4-42 are revised as follows:

Table 3.4-15 presents the maximum unmitigated health risks for all sensitive receptor types ~~for sensitive receptors~~ near the Project Site. The evaluation of cancer risk was based on a total exposure duration, based on the receptor population, as discussed in Appendix 3.4-1 of the Draft EIR ~~of 30 years~~. The health impacts associated with Proposed Project construction and operation at onsite sensitive receptors is also presented. As shown in Table 3.4-15, the unmitigated health risk results would not exceed BAAQMD's recommended health risk thresholds for the non-cancer hazard index; however, the Proposed Project would exceed BAAQMD's cancer risk and annual PM2.5 concentration thresholds. The maximum health risks associated with the Dialysis Center are the same or less than the health risks presented in Tables 3.4-15 and 3.4-16 under *Scenarios 1, 2, and 3: Construction plus Operations.* See Appendix 3.4-3 for the Dialysis Center health risk memorandum. See Appendix 5 of the Final EIR for the revised CEQA Air Quality, Greenhouse Gas and Health Risk Assessment Technical Report. Revisions to the CEQA Air Quality, Greenhouse Gas and Health Risk Assessment Technical Report were made between draft and final EIR to account for the revised location of the pump station generator and refined analysis of the construction sequencing. Therefore, impacts would be potentially significant without mitigation.

Table 3.4-15. Estimated Unmitigated Project-Level Health Risk Results from Construction plus Operations

Scenario	Cancer Risk (cases per million)[a]	Non-Cancer Chronic Risk[b]	Annual $PM_{2.5}$ Concentrations ($\mu g/m^3$)[b]
Construction plus Operations (offsite)	59~~58~~	0.11	0.56
Construction plus Operations (onsite)	86~~172~~	0.23	1.1
BAAQMD Significance Threshold	10.0	1.0	0.3
Exceeds Threshold?	Yes	No	Yes

See Appendix 3.4-2 for detailed modeling files.

$\mu g/m^3$ = micrograms per cubic meter; $PM_{2.5}$ = particulate matter with an aerodynamic diameter of 2.5 or less

a. Maximum cancer risk for the onsite Maximally Exposed Individual Receptor (MEIR) is associated with Scenario 3. Maximum cancer risk for the offsite MEIR is associated with Scenario 2.

b. Maximum chronic risk and $PM_{2.5}$ concentration for the onsite MEIR is associated with Scenario 3. Maximum chronic risk and $PM_{2.5}$ concentration for the offsite MEIR is associated with Scenario 1.

Table 3.4-16 on page 3.4-43 of the Draft EIR is revised as follows:

Table 3.4-16. Estimated Mitigated Project-Level Health Risk Results from Construction plus Operations

Scenario	Cancer Risk (cases per million)[a]	Non-Cancer Chronic Risk[b]	Annual $PM_{2.5}$ Concentrations ($\mu g/m^3$)[b]
Construction plus Operations (offsite)	9.5~~9.2~~	0.02~~0.01~~	0.18
Construction plus Operations (onsite)	7.5~~9.8~~	0.01	0.13
BAAQMD Significance Threshold	10.0	1.0	0.3
Exceeds Threshold?	No	No	No

See Appendix 3.4-2 for detailed modeling files.

Notes:

$\mu g/m^3$ = micrograms per cubic meter; $PM_{2.5}$ = particulate matter no more than 2.5 microns in diameter

a. Maximum cancer risk for the onsite MEIR is associated with Scenario 3. Maximum cancer risk for the offsite MEIR is associated with Scenario 2.

b. Maximum chronic risk and $PM_{2.5}$ concentration for the onsite MEIR is associated with Scenario 3. Maximum chronic risk and $PM_{2.5}$ concentration for the offsite MEIR is associated with Scenario 1.

Tables 3.4-18 and 3.4-19 on pages 3.4-47 and 3.4-48 are revised as follows:

Table 3.4-18. Maximum Mitigated Cumulative Health Risks (onsite)

	Maximum Affected Onsite Receptor		
Source	Cancer Risk (per million)[a]	Non-Cancer Chronic Hazard Index[b]	Annual $PM_{2.5}$ Concentration ($\mu g/m^3$)
Contribution from Existing Sources			
Stationary	0.1	< 0.01	0.03
Roadways	0.04~~0.2~~	< 0.01	0.01
Highways	8.9~~9.1~~	—	0.19
Major Streets	3.5~~3.9~~	—	0.08
Rail	2.4	—	< 0.01
Existing Total	14.9~~15.7~~	< 0.01	0.31
Contribution from Proposed Project			
Proposed Project Construction	0.0~~7.2~~	0.01	0.04
Proposed Project Operations	7.5~~2.5~~	< 0.01	0.09
Existing + Construction + Operations	**22~~25~~**	**0.02**	**0.44**
BAAQMD Cumulative Thresholds	100	10.0	0.8
Exceeds Thresholds?	**No**	**No**	**No**

See Appendix 3.4-2 for detailed modeling files.

Totals may not add up because of rounding.

Notes:

$\mu g/m^3$ = micrograms per cubic meter; $PM_{2.5}$ = particulate matter with an aerodynamic diameter of 2.5 or less

a. Maximum cumulative cancer risk.

b. Data were not available for chronic values for roadway and rail sources.

Table 3.4-19. Maximum Mitigated Cumulative Health Risks (offsite)

Source	Maximum Affected Offsite Receptor		
	Cancer Risk (per million)[a]	Non-Cancer Chronic Hazard Index[b]	Annual $PM_{2.5}$ Concentration ($\mu g/m^3$)
Contribution from Existing Sources			
Stationary	0.01	< 0.01	< 0.01
Roadways	1.3	< 0.01	0.20
Highways	8.0	—	0.21
Major Streets	2.1	—	0.09
Rail	2.5	—	< 0.01
Existing Total	13.9	< 0.01	0.50
Contribution from Proposed Project			
Proposed Project Construction	7.6	0.01	0.06
Proposed Project Operations	1.9~~1.5~~	< 0.01	0.12
Existing + Construction + Operations	**23**	**0.02~~0.01~~**	**0.69~~0.68~~**
BAAQMD Cumulative Thresholds	100	10.0	0.8
Exceeds Thresholds?	**No**	**No**	**No**

See Appendix 3.4-2 for detailed modeling files.
Totals may not add up because of rounding.
Notes:
$\mu g/m^3$ = micrograms per cubic meter; $PM_{2.5}$ = particulate matter with an aerodynamic diameter of 2.5 or less
[a] Maximum cumulative cancer risk.
[b] Data were not available for chronic values for roadway and rail sources.

The discussion of Scenarios 1, 2, and 3 on page 3.4-42 is revised as follows:

To mitigate the cancer risk and $PM_{2.5}$ concentration exceedances, Mitigation Measure AQ-1.1 and Mitigation Measures AQ-2b1 and AQ-2b2 from the ConnectMenlo EIR would be implemented. The Proposed Project would trigger the requirement for ConnectMenlo EIR Mitigation Measure AQ-3b and would ~~be consistent~~ comply with the measure. ConnectMenlo EIR Mitigation Measure AQ-3a would not apply to the Proposed Project. As shown in Table 3.4-16, with implementation of Mitigation Measure AQ-1.1 and Mitigation Measures AQ-2b1 and AQ-2b2 from the ConnectMenlo EIR, the incremental increase in health risks from all sensitive receptor types would be less than all BAAQMD-recommended health risk thresholds. Therefore, mitigated construction and operational emissions would not expose sensitive receptors to substantial pollutant concentrations and associated health risks. Impacts would be ***less than significant with mitigation.***

The discussion of Scenario 4 on page 3.4-43 is revised as follows:

Table 3.4-17 presents the maximum unmitigated health risks from all sensitive receptor types near the Project Site ~~incremental increase in health risks for maximally affected residential receptors~~ with respect to operational emissions only. As shown in Table 3.4-17, the unmitigated health risk from operations would be less than all BAAQMD-recommended health risk thresholds. The Proposed Project would trigger the requirement for ConnectMenlo EIR Mitigation Measure AQ-3b; the Proposed Project would ~~be consistent~~ comply with Mitigation Measure AQ-3b. In addition, ConnectMenlo EIR Mitigation Measure AQ-3a would not apply to the Proposed Project. Therefore, unmitigated operational emissions would not expose sensitive receptors to substantial pollutant concentrations, and impacts would be ***less than significant.***

Section 3.5, Energy

Page 3.5-16 of the Draft EIR has been revised to clarify the level of LEED under the Proposed Project:

> The Proposed Project would implement a number of programs to reduce energy consumption (e.g., buildings of more than 25,000 square feet in the Residential/Shopping District and Campus District would be designed for LEED Gold certification, while buildings in the Town Square District between 10,000 and 25,000 square feet would be designed for LEED Silver certification~~meeting LEED Gold status, except buildings of less than 10,000 square feet~~; complying with increasingly stringent Title 24 Building Energy Efficiency and Green Building standards, and complying with the Menlo Park Municipal Code and reach codes.

Page 3.5-17 of the Draft EIR has been revised to clarify the level of LEED under the Proposed Project:

> ~~All individual buildings greater than 10,000 sf within the main Project Site would qualify for United States Green Building Council LEED Gold certification.~~ Buildings of more than 25,000 square feet in the Residential/Shopping District and Campus District would be designed for LEED Gold certification, while buildings in the Town Square District between 10,000 and 25,000 square feet would be designed for LEED Silver certification.

Page 3.5-18 of the Draft EIR has been revised to clarify the level of LEED under the Proposed Project:

> ~~The Proposed Project on the main Project Site would meet United States Green Building Council LEED Gold certification, with the exception of buildings of less than 10,000 square feet.~~ Buildings of more than 25,000 square feet in the Residential/Shopping District and Campus District would be designed for LEED Gold certification, while buildings in the Town Square District between 10,000 and 25,000 square feet would be designed for LEED Silver certification.

Section 3.6, Greenhouse Gases

Text in Section 3.6, *Greenhouse Gases*, is revised as follows to correct the numbering of the mitigation measure referred to in the section. The text under subheading *Operational GHG Emissions from Mobile Sources* on page 3.6-28 of the Draft EIR is revised as follows:

> The Proposed Project would develop and implement TDM programs with trip reduction measures that would reduce vehicle traffic in and around the Project Site. Together, the TDM measures and Mitigation Measure TRA-2~~1~~ would meet the City's trip and VMT reduction targets. The Proposed Project would implement TDM programs for the Residential/Shopping District, the Town Square District, and the Campus District. These may include, but would not be limited to, the following measures:

The text following Table 3.6-6 on page 3.6-29 of the Draft EIR is revised as follows:

> As noted above, the Proposed Project would develop and implement TDM programs with trip reduction measures to reduce vehicle traffic in and around the Project Site. Because the Proposed Project would implement TDM measures and Mitigation Measure TRA-2~~1~~ to meet the City's trip and VMT reduction targets, implementation of the Proposed Project would not contribute a significant amount of operational mobile-source GHG emissions to existing significant cumulative emissions. Accordingly, this impact would *be* ***less than cumulatively considerable with mitigation.***

The text under the subheading *Conclusion* on page 3.6-29 of the Draft EIR is revised as follows:

> Mitigation Measure TRA-2~~1~~, presented in Section 3.3, *Transportation*, would ensure that operation of the Proposed Project would achieve the City's VMT thresholds, thereby reducing associated operational mobile-source GHG emissions. In addition, because the Proposed Project would not result in an increase in operational non-mobile-source GHG emissions, the Proposed Project's operational GHG emissions would not constitute a cumulatively considerable contribution to significant cumulative climate change impacts. Therefore, this impact would be ***less than cumulatively considerable with mitigation***.

The text in Table 3.6-7 on page 3.6-31 of the Draft EIR is revised as follows:

Mobile-Source Strategy (Cleaner Technologies and Fuels Scenario)	Reduce GHGs and other pollutants from the transportation sector through a transition to zero- and low-emission vehicles, cleaner transit systems, and reductions in VMT.	**Consistent.** This is a state program that requires no action at the local or project level. The Proposed Project would incorporate TDM measures and Mitigation Measure TRA-2~~1~~ to reduce the number of vehicle trips. The Proposed Project would comply with the City's amendments to the CALGreen electric vehicle (EV) charger requirements.

The text following the bulleted list on page 3.6-32 of the Draft EIR is revised as follows:

> The Proposed Project would demolish existing office, industrial, and warehouse buildings on the main Project Site and develop a new mixed-use neighborhood with up to 1,730 residential units, neighborhood-serving retail uses, office space, a hotel, new bicycle and pedestrian connections, and open space (including a Publicly Accessible Park, Dog Park, Elevated Park, and Town Square District) near existing residential and commercial uses, thereby reducing the demand for travel by single-occupancy vehicles. Furthermore, the Proposed Project would develop and implement TDM programs with trip reduction measures that would reduce vehicle traffic in and around the Project Site. Together, the TDM measures and Mitigation Measure TRA-2~~1~~ would meet the City's trip and VMT reduction targets. The Proposed Project's bicycle and pedestrian facilities would also help reduce the demand for travel in single-occupancy vehicles. Through consistency with Plan Bay Area 2040 and 2050, the Proposed Project would fulfill one of the strategies identified in the 2017 Scoping Plan related to reducing GHG emissions from passenger vehicles.

The text in Table 3.6-8 on page 3.6-33 of the Draft EIR is revised as follows:

4. Reduce vehicle miles traveled by 25 percent or an amount recommended by the Complete Streets Commission	**Consistent.** As discussed in Section 3.3, Transportation, the Proposed Project would comply with the complete streets policy requirements of Caltrans and MTC. In addition, as discussed in Section 3.4, Air Quality, the Proposed Project would incorporate TDM measures and Mitigation Measure TRA-2~~1~~ to reduce the number of trips and VMT. The Project's TDM program may include, but are not limited to, the following measures: • Improved biking/walking network • Bicycle amenities • Improved public transit service • Car-share program • Tram service • Commuter shuttles • Parking management • Emergency ride-home program • Carpool and vanpool programs • Commute assistance center • Onsite housing The TDM program would meet City of Menlo Park Municipal Code TDM requirements. The Project would also add new retail and a grocery store to an area that lacks these resources.

The text under the subheading *Mitigation Measures and Summary* on page 3.6-35 of the Draft EIR is revised as follows:

> No mitigation measures are required to achieve net-zero non-mobile-source operational emissions. Implementation of Mitigation Measure TRA-2~~1~~, which is presented in Section 3.3, *Transportation*, would ensure that operation of the Proposed Project would achieve the City's VMT thresholds, thereby reducing associated operational mobile-source GHG emissions.
>
> Construction and operation of the buildings associated with Proposed Project would be consistent with all applicable plans, policies, and regulations adopted for the purpose of reducing GHG emissions. The buildings would meet a net-zero operational GHG threshold. Implementation of Mitigation Measure TRA-2~~1~~ would ensure that operation of the Proposed Project would result in a level of VMT that would meet the City's VMT thresholds. For these reasons, implementation of Mitigation Measure TRA-2~~1~~ would result in the Proposed Project being consistent with all applicable plans, policies, and regulations adopted for the purpose of reducing GHG emissions, thereby reducing this impact to ***less than cumulatively considerable with mitigation***.

Section 3.7, Noise

The text under subheading *Emergency Generator Noise* on page 3.7-17 of the Draft EIR is revised as follows:

A total of 13 emergency generators are proposed to be installed with Proposed Project implementation. Although operating noise from generators is typically exempt in the case of an emergency, periodic testing of generators is not considered to be exempt. During testing, generator noise must meet the allowable noise levels as established in the City Municipal Code. In general, ~~F~~final equipment makes and models for the Proposed Project have not yet been selected; as a result, this analysis is based on noise levels from representative generator models that are the same size as those proposed under the Proposed Project. In some cases, the generator type and model, and the corresponding attenuation features are known, and noise levels corresponding to those models and attenuation are used to evaluate impacts. Estimated generator locations were provided by the Proposed Project applicant.

Specific details about generator shielding and attenuation features for Proposed Project generators are not known for all generators at this time. Therefore, this analysis conservatively presents unattenuated noise levels from emergency generator testing. In some cases, the type of attenuation for specific generators is known and used to evaluate the noise impacts.

The summary of the analysis in the Connect Menlo EIR is revised on page 3.7-19 is revised to include this text following the bulleted list:

- Aircraft noise from public use airports and private airstrips was discussed in the ConnectMenlo EIR as Impact NOISE-5 (page 4.10-38) and Impact NOISE-6 (page 4.10-38). It was determined that impacts regarding excessive aircraft noise levels would be less than significant and there would be no impact related to public airports or private airstrips.

Since adopting ConnectMenlo, the City has implemented a construction noise threshold under CEQA that is more stringent than the threshold used to evaluate construction noise in the ConnectMenlo EIR.

Mitigation Measure NOI-1.2 on page 3.7-41 of the Draft EIR is revised as follows:

Project Mitigation Measure NOI-1.2: Construction of Temporary Noise Barrier along Project Perimeter

The Project contractor(s) shall install an 8-foot-high temporary noise barrier along the complete length of the western and southern perimeter (e.g., areas near residential and school land uses), and along the southernmost 500 feet of the eastern perimeter of the main Project Site. As project buildout occurs, removal and/or adjustment in the location of the perimeter noise barrier may occur because either the construction of project buildings (completion of core and shell) or streets requires barrier realignment, or ~~in alignment with said perimeter barrier and therefore~~ the perimeter barrier is not needed, as shown by ~~or~~ preparation of an acoustical analysis that indicates the balance of the construction activities will not result in construction noise that exceeds the allowable limits.

Regarding the Hamilton Avenue Parcel South, a similar noise barrier shall be installed around the complete length of the southern, western and northern perimeters as well as the southernmost 100 feet of the eastern perimeter of the Hamilton Avenue Parcel South, unless the Project Sponsor can demonstrate, through an acoustical analysis, that construction noise at this site would not exceed

the allowable limits. The decision regarding the necessity of this barrier and location(s) shall be subject to review and approval of the City based on evidence and analyses providing by the applicant team.

Regarding the Hamilton Avenue Parcel North, a similar noise barrier shall also be constructed along the complete length of the southern and western perimeters, along with the eastern most 100 feet of the northern perimeter of the Hamilton Avenue Parcel North, unless the Project Sponsor can demonstrate, through an acoustical analysis, that construction noise at this site would not exceed the allowable limits. The decision regarding the necessity of this barrier and location(s) shall be subject to review and approval of the City based on evidence and analyses providing by the applicant team.

The barriers shall be constructed of material that has an acoustical rating of at least 26 STC (Sound Transmission Class). This can include a temporary barrier constructed with plywood supported on a wood frame, sound curtains supported on a frame, or other comparable material.

The second paragraph on page 3.7-54 of the Draft EIR is revised as follows:

Final equipment makes and models for all the Proposed Project generators have not yet been selected, so this analysis is partially based on noise levels from generators of the same size as proposed for the Proposed Project and based on estimated generator locations (noting that these may change slightly prior to Proposed Project implementation). Specific details about generator shielding and attenuation features for all Proposed Project generators are not known at this time. Since the type and sound rating of future generator attenuation features is unknown, this analysis conservatively presents unattenuated noise levels from emergency generator testing. In some cases, the type of attenuation for specific generators is known and used to evaluate the noise impacts.

The text on page 3.7-55 of the Draft EIR is revised as follows:

North Garage Generators

Two 750 kW generators are proposed in the North Garage. ~~Although the exact make and model of the proposed North Garage generators are not known at this time~~, ~~n~~Noise levels from ~~an example 750 kW~~these generators are anticipated to be accurately represented by ~~(~~a Cummins 750DQCB 750 kW generator, which is~~)~~ ~~are~~ used in this analysis. These generators would be located inside the North Garage, approximately 220 feet northwest of Adams Court. With noise control features that would be added to the generators, known as level 2 attenuation, t~~T~~hese generators would individually produce an estimated noise level of ~~100.7~~68 dBA at 50 feet[25] (combined exhaust and engine noise)~~without accounting for attenuation associated with mufflers or weather/sound enclosures~~. Although it is unlikely that generators would be tested at the same time, combined noise levels from the simultaneous testing of these generators would be approximately 3 dB louder.

The nearest sensitive receptor to the North Garage is the Open Mind School, along the west side of O'Brien Drive and is located approximately 1,100 feet from the proposed generator location. At a distance of 1,100 feet, noise from the testing of one of the 750 kW generators would be approximately 41~~74~~ dBA. Note that there would be multiple intervening buildings (e.g., two office buildings and the South Garage) located between the north garage and the Open Mind School once the Project Site has been developed. It is unlikely that generator testing from the North Garage generators would be audible at the school, especially considering ~~With~~ the presence of the intervening buildings located between these generators and the nearby Open Mind School~~, it is~~

~~unlikely that generator testing from the north garage generators would be audible at the school. However, as described previously, because the precise reduction in noise cannot be quantified at this time, unattenuated noise levels are compared to the applicable local thresholds.~~

~~Because n~~Noise from generator testing would not exceed the City's criterion of 60 dBA at the nearest sensitive receptor during daytime hours, and ~~because~~ generator noise at a distance of 50 feet would not exceed the 85 dBA threshold for powered equipment~~,~~ Consequently, noise impacts from the testing of the North Garage generators would be considered **less than significant**.

[25] This noise level is based on the noise level at 50 feet cited in the specification sheet for the generator, with level 2 attenuation – 75 dBA at 7 meters (23 feet).

South Garage Generators

According to the Proposed Project applicant, the South Garage will include two 1,750 kW generators. ~~Although the exact make and model of the proposed South Garage generators are not known at this time, n~~Noise levels from these ~~example 1,750 kW~~ generators are anticipated to be accurately represented by ~~(~~a Cummins ~~750DQCB~~ DQKAA 1750 kW generator, which is ~~s) are~~ used in this analysis. These generators individually produce an estimated noise level of ~~96.9~~68 dBA at 50 feet (combined exhaust and engine noise) ~~without accounting for attenuation associated with mufflers or weather/sound enclosures~~. Although it is unlikely that generators would be tested at the same time, combined noise levels from the simultaneous testing of these generators would be approximately 3 dB louder.

The nearest sensitive receptor to the South Garage is the Open Mind School, located along the west side of O'Brien Drive. This receptor is located approximately 210 feet from the proposed generator location. At a distance of 210 feet, noise from testing one of the generators would be reduced to approximately 56~~84~~ dBA.

Because noise from generator testing would not exceed the City's criterion of 60 dBA at the nearest sensitive receptor during daytime hours, and because generator noise at a distance of 50 feet would not exceed the 85 dBA threshold for powered equipment, noise impacts from the testing of the South Garage generators would be considered **less than significant**.

The text on page 3.7-57 of the Draft EIR is revised as follows:

~~*Southwestern Public Park*~~ *Generator ~~(for~~at the West Bay District Sanitary Pump Station~~)~~*

With Proposed Project implementation, a 500-kW generator would be installed either at the proposed Dog Park near the southwest corner of the Project Site or southeast corner of the Project ~~s~~Site near the Willow Road and Park Street intersection, to serve the West Bay District Sanitary Pump Station. ~~Although the make and model have not yet been selected, i~~It is ~~assumed~~ anticipated that this generator is accurately represented by ~~would to be similar to~~ a ~~Cummins 500DFEK~~ GENERAC SD500 500 kW generator ~~for the purposes of this analysis~~. With level 2 attenuation that would be installed, ~~This~~the generator produces an estimated noise level of ~~101.5~~68 dBA at 50 feet (combined exhaust and engine noise) ~~without accounting for attenuation associated with mufflers or weather/sound enclosures~~.

If located near the Willow Road and Park Street Intersection, t~~T~~he 500-kW generator would be located approximately ~~25 to 50~~300 feet from the ~~nearby~~ Mid-Peninsula High School, and approximately 200 feet from the nearest residential land uses located west of Willow Road. At a distance of approximately ~~25~~ 300 feet, unattenuated generator noise could be up to approximately ~~108~~ 52 dBA L_{eq}. At 200 feet,

unattenuated generator noise could be up to approximately 56~~90~~ dBA L_{eq}. Because noise from the testing of this generator would not exceed the City's criterion of 60 dBA at the nearest sensitive receptors during daytime hours, and because generator noise at a distance of 50 feet would not exceed the 85 dBA threshold for powered equipment, noise impacts from the testing of this generator in the southwest location would be considered **less than significant**.

If located at the Dog Park, the 500-kW generator would be approximately 100 feet from the Open Mind School. At a distance of 100 feet, unattenuated generator noise could be up to approximately 62 dBA L_{eq}. Because noise from the testing of this generator would exceed the City's criterion of 60 dBA at the nearest sensitive receptors during daytime hours, noise impacts from the testing of this generator in the southeast section would be considered **significant**.

Section 3.8, Cultural Resources

Tribal cultural resources information and analysis were removed from Chapter 3.8 of the Draft EIR and is now its own new section: 3.16, *Tribal Cultural Resources*. Revised Chapter 3.8 is provided at the end of this chapter, behind a slipsheet.

Mitigation Measure CULT-2a (Modified ConnectMenlo EIR) on page 3.8-29 of the Draft EIR is revised as follows:

CULT-2a (Modified ConnectMenlo EIR) Stop Work if Archaeological Material or Features Are Encountered during Ground-Disturbing Activities.

- If a potentially significant subsurface cultural resource is encountered during ground-disturbing activities on any parcel in the city, all construction activities within a 100-foot radius of the find shall cease until a qualified archeologist determines whether the resource requires further study. In addition, if a potentially significant subsurface cultural resource is encountered during ground-disturbing activities within the California Department of Transportation (Caltrans) right-of-way, the Caltrans District 4 Office of Cultural Studies shall be immediately contacted at [510] 847-1977). All developers in the Study Area shall include a standard inadvertent discovery clause in every construction contract to inform contractors of ~~this~~ these requirements. Any previously undiscovered resources found during construction activities shall be recorded on appropriate DPR forms and evaluated for significance in terms of CEQA criteria by a qualified archeologist in accordance with Project Mitigation Measure ~~CR-2.2~~TCR-1.2.

To avoid repetition, ConnectMenlo Mitigation Measure CULT-4 has been deleted from page 3.8-30 of the Draft EIR and referenced instead to Section 3.16, *Tribal Cultural Resources*. The following edits have been made to pages 3.8-29 to 3.8-30 of the Draft EIR.

MITIGATION MEASURES. The Proposed Project would implement ConnectMenlo EIR Mitigation Measure CULT-4, as modified, based on the Project's cultural resources assessment report, if human remains are encountered at the Project Site during ground-disturbing activities. The Project Sponsor would also implement Mitigation Measures ~~CR 2.1 and CR 2.2~~ TCR 1.1 and TCR 1.2 within the main Project Site, given the presence of CA-SMA-160/H, ~~and Mitigation Measure CR 2.2 within Hamilton Avenue Parcels North and South and the Willow Road Tunnel site.~~ Mitigation Measures ~~CR 2.1 and CR 2.2~~ TCR 1.1 and TCR 1.2 include measures to avoid or minimize ground-disturbing excavation near CA-SMA-160/H, to the extent feasible, and preparation of a monitoring and treatment plan ~~n AMP and ATP~~ that details the appropriate procedure if remains are

encountered. Mitigation Measure TCR-2.1 requires avoidance and preservation in place of existing known reburials. Therefore, the Proposed ~~Project~~ Project's impact on human remains would be ***less than significant with mitigation***.

TCR 1.1. Avoidance and Mitigation of Impacts (see Chapter 3.16, Tribal Cultural Resources)

TCR 1.2 Archaeological and Tribal Cultural Resource Monitoring and Treatment Protocol and Plan Impacts (see Chapter 3.16, Tribal Cultural Resources)

~~*CR-2.1. Avoidance, Monitoring, and Treatment.*~~

~~*CR 2.2. Train Workers to Respond to Discovery of Cultural Resources and Prepare an Archeological Monitoring Plan and Archaeological Treatment Plan.*~~

CULT-4: (Modified ConnectMenlo EIR) Comply with State Regulations Regarding the Discovery of Human Remains at the Project Site. Refer to Section 3.16, *Tribal Cultural Resources*, for the text of this mitigation measure.

~~Procedures of conduct following the discovery of human remains citywide have been mandated by Health and Safety Code Section 7050.5, PRC Section 5097.98, and the California Code of Regulations Section 15064.5(e) (CEQA). According to the provisions in CEQA, if human remains are encountered at the site, all work in the immediate vicinity of the discovery shall cease and necessary steps to ensure the integrity of the immediate area shall be taken. The San Mateo County Coroner shall be notified immediately. The coroner shall then determine whether the remains are Native American. If the coroner determines the remains are Native American, the coroner shall notify the NAHC within 24 hours, which will, in turn, notify the person the NAHC identifies as the MLD in connection with any human remains. Further actions shall be determined, in part, by the desires of the MLD. The Project Sponsor, the Project archaeologist, and the MLD shall make all reasonable efforts to develop an agreement for the treatment, with appropriate dignity, of human remains and associated or unassociated funerary objects, including those associated with known and unknown Native American burial locations (CEQA Guidelines Section 15064.5[d]). The agreement should take into consideration the appropriate excavation, removal, recordation, analysis, custodianship, curation, and final disposition of the human remains and associated or unassociated funerary objects. The MLD will have 48 hours to make recommendations regarding the disposition of the remains following notification from the NAHC of the discovery. If the MLD does not make recommendations within 48 hours, or the owner does not accept the recommendation of the MLD in accordance with Public Resources Code 5097.98(e), the owner shall, with appropriate dignity, reinter the remains in an area of the property secure from further disturbance. Alternatively, if the owner does not accept the MLD's recommendations, the owner or the descendent may request mediation by the NAHC.~~

Section 3.9, Biological Resources

Mitigation Measure BIO-2.1 on pages 3.9-30 and 3.9-31 of the Draft EIR is revised as follows:

BIO-2.1: Feral Cat Management Program.

The Project Sponsor shall implement a feral cat management program, similar to the program developed in conjunction with the Peninsula Humane Society and the Society for the Prevention of Cruelty to Animals for the East Campus in 2013. Prior to the program being implemented, the program developer shall coordinate with local humane societies

and animal service centers to identify facilities able to take cats. The program coordinator shall coordinate with facilities receiving cats to ensure that efforts are made to attempt to reunite any inadvertently trapped pet cat with its owners.

For one week every 3 months (i.e., each quarter), three live trap cages, designed to trap domestic cats, shall be placed around the perimeter of the main Project Site in locations where feral cats are likely to prey upon native wildlife species. The traps shall be deployed and maintained by a qualified trapping professional (such as an animal management company or other trained and experienced animal or wildlife professional). The duration of traps shall be coordinated with the specified intake facility so that the facility is prepared and open to receive trapped cats.

Each trap cage shall be monitored and maintained on a daily basis during the week when traps have been set to determine whether a ~~feral~~ cat has been caught and whether the trap has inadvertently captured a non-target species~~.~~ (e.g., pet cat or wildlife). Traps shall not be deployed during extreme weather (e.g., heat, cold, rain). Traps shall contain water and be at least partially covered where feasible to attempt to reduce stress of trapped animals.

If a ~~feral~~ cat is caught, the qualified professional ~~a representative from a pest control operator (or a similar service organization/company) shall be contacted and dispatched to~~ shall transport the trapped cat as soon as practicable to ~~Humane Society of San Mateo County, a local cat shelter, a local cat rescue facility, or other local facility~~ the local humane society or animal service center that accepts ~~feral~~ trapped cats. If an animal other than a feral cat is caught in one of the traps, such as a suspected pet cat (e.g., cat with a collar) or wildlife, it shall be released immediately at the trap location.

Because there are residences within and adjacent to the Project Site and the area where the Feral Cat Management Program will take place, efforts will be taken to ensure that residences are aware of the program to avoid inadvertent trapping and removal of pet cats. Visible signage shall be installed a week in advance of trapping and shall remain installed for the duration of trapping. The signs will have contact information should residents have questions or concerns.

Mitigation Measure BIO-3.1 on page 3.9-32 of the Draft EIR is revised as follows:

BIO-3.1: Avoid and Minimize Impacts on Riparian Habitat and Other Sensitive Natural Communities.

To the extent feasible, construction activities should avoid or minimize the removal of wetland vegetation or the placement of fill in the wetlands immediately north and northeast of the Project Site. If all direct impacts on wetlands (i.e., vegetation removal, loss, and fill) are avoided, Mitigation Measures BIO-3.2 and BIO-3.3 would not need to be implemented. However, if any wetland vegetation needs to be removed from the wetlands, or any fill needs to be placed in the wetlands, or post-construction conditions result in vegetation loss, Mitigation Measure BIO-3.2 (and Mitigation Measure BIO-3.3 if permanent impacts would occur) shall be implemented.

The first sentence under Mitigation Measure BIO-3.3 on page 3.9-33 of the Draft EIR is revised as follows:

BIO-3.3: Provide Compensatory Mitigation.

If any permanent fill or permanent loss of the isolated forested wetland or the herbaceous seasonal wetlands occurs, the Project Sponsor shall provide new wetland habitat of the same type (either forested or herbaceous seasonal) to offset this impact, either through the creation, enhancement, or restoration of wetlands in an appropriate location or through the purchase of mitigation credits from a USACE- or RWQCB-approved wetland mitigation bank.

The maximum height of buildings was corrected on page 3.9-35:

The Proposed Project would increase the maximum height of buildings on the main Project Site from approximately 34 feet to ~~110~~120 feet.

Mitigation Measure BIO-5.3 on page 3.9-43 is revised as follows:

BIO-5.3: Lighting Design Requirements.

The Project Sponsor shall prepare a lighting design plan that incorporates and implements the following measures to reduce lighting impacts on migratory birds. Prior to implementation of the lighting design plan, a qualified biologist shall review the final lighting design plan to confirm that the required measures are incorporated:

- To the maximum extent feasible, up-lighting (i.e., lighting that projects upward above the fixture) shall be avoided in the Project design. All lighting shall be fully shielded to prevent illumination from shining upward above the fixture. If up-lighting cannot be avoided in the Project design, up-lights shall be shielded and/or directed such that no luminance projects above/beyond the objects at which they are directed (e.g., trees and buildings) and no light shines directly into the eyes of a bird flying above the object. If the objects themselves can be used to shield the lights from the sky beyond, no substantial adverse effects on migrating birds are anticipated.
- All lighting shall be fully shielded to prevent it from shining outward and toward Bay habitats to the north. No light trespass shall be permitted more than 80 feet beyond the Project Site's northern property line (i.e., beyond the Dumbarton Rail Corridor).
- With respect to exterior lighting in the northern portion of the Project Site (i.e., areas north of Main Street and Office Buildings 03 and 05 surrounding the hotel, Town Square retail pavilion, Office Building 04, event building, and North Garage), and with respect to interior portions of the atrium, ~~E~~exterior lighting shall be minimized (i.e., outdoor lumens shall be reduced by at least 30 percent, or extinguished, consistent with recommendations from the International Dark-Sky Association [2011]) from 10:00 p.m. until sunrise, except as needed for safety and compliance with Menlo Park Municipal Code. With respect to Office Buildings 01, 02, 03, 05, and 06, South Garage, and the residential/mixed-use buildings, exterior lighting shall be minimized (i.e., total outdoor lighting lumens shall be reduced by at least 30 percent or extinguished, consistent with recommendations from the International Dark-Sky Association [2011]) from midnight until sunrise, except as needed for safety and City code compliance.

- Temporary lighting that exceeds minimal site lighting requirements may be used for nighttime social events. This lighting shall be switched off no later than midnight. No exterior up-lighting (i.e., lighting that projects upward above the fixture, including spotlights) shall be used during events.
- Lights shall be shielded and directed so as not to spill outward from the elevator/stair towers and into adjacent areas.
- Interior or exterior blinds shall be programmed to close on north-facing windows of buildings within the atrium from 10:00 p.m. to sunrise to prevent light from spilling outward.
- Accent lighting within the atrium shall not be used to illuminate trees or vegetation. Alternatively, the applicant shall provide documentation to the satisfaction of a qualified biologist that the illumination of vegetation and/or structures within the atrium by accent lighting and/or up-lighting will not make these features more conspicuous to the human eye from any elevation outside the atrium compared to ambient conditions within the atrium. The biologist shall submit a report to the City following completion of the lighting design, documenting compliance with this requirement.

The number of onsite trees and proposed landscaping information included on pages 3.9-43 and 3.9-44 of the Draft EIR is revised as follows, based on an updated arborist report (Appendix 4) received from the Project Sponsor:

Municipal Code Chapter 13.24, Heritage Trees. There are a total of 983 trees on the Project Site collectively, including the main Project Site, Hamilton Avenue Parcels North and South, and along O'Brien Drive. Of the 983 on the Project Site, 865 trees, including 295 heritage trees and 563 non-heritage trees, are proposed for removal.

On the main Project Site t~~T~~here are currently 805 ~~784~~ trees ~~on the main Project Site~~, including 284 ~~274~~ trees that qualify as heritage trees under the City's Heritage Tree Ordinance.[4] The 805 ~~784~~ trees consist of 41 ~~40~~ different tree species, the most numerous of which are Canary Island pine (*Pinus canariensis*) and crepe myrtle (*Lagerstroemia* spp.) Five native (but planted and, therefore, also ornamental) tree species on the Project Site include Monterey cypress (*Hesperocyparis macrocarpa*), Monterey pine (*Pinus radiata*), coast live oak (*Quercus agrifolia*), valley oak (*Quercus lobata*), and coast redwood (Sequoia sempervirens).[5] Under the City's Heritage Tree Ordinance, heritage oak trees are regulated differently from other species of heritage trees (refer to the *Local* regulatory section, above). Per the most recent Proposed Project plans, Project arborist report, and heritage tree removal permits, 781 ~~760~~ trees, including 276 2~~66~~ heritage trees and 505 ~~494~~ non-heritage trees, would be removed for construction of the Proposed Project on the main Project Site. Eight heritage trees and 16 non-heritage trees would remain in place.

On Hamilton Avenue Parcels North and South, there are currently 141 trees, including 18 that qualify as heritage trees under the City's Heritage Tree Ordinance. The street trees along the south side of Hamilton Avenue were not surveyed and are not included in the total number of trees. The 18

[4] SCBA Tree Consulting. 2020. *Tree Survey and Valuation of Heritage Trees*. Prepared for Signature Development Group. August 27.

[5] Ibid.

heritage trees comprise two species: 13 coast redwoods (*Sequoia sempervirens*) ~~coast redwoods~~ and five coast live oaks (*Quercus agrifolia*) ~~coast live oaks~~. The most numerous tree species on Hamilton Avenue Parcels North and South are Chinese pistache (*Pistacia chinensis*) (39 ~~32~~ trees, ~~including~~ of which 23 ~~16~~ are City street trees) and red maple (*Acer rubrum*) (19 trees).[6] At Hamilton Avenue Parcels North and South, approximately 61 trees, including 58 non-heritage trees ~~street trees~~ and three heritage trees, would be removed to accommodate proposed changes. New planting medians with trees would be provided along the realigned Hamilton Avenue.~~; new landscaping would be provided along street frontages.~~

The Proposed Project includes street improvements along O'Brien Drive, including a new four-legged roundabout. At 1305 O'Brien Drive there are 17 trees, 1330 O'Brien there are six trees, and 14 trees in the O'Brien Drive right-of-way. Of the total 37 trees along O'Brien Drive, 25 trees are heritage trees. The trees consist of a variety of species including Canary Island pine (*Pinus canariensis*), Jerusalem pine (*Pinus halepensis*), Callery pear (*Pyrus calleryana*), Australian blackwood (*Acacia melanoxylon*), and wilga (*Geigera parviflora).* A total of 16 heritage trees and seven non-heritage trees would be removed along O'Brien Drive to accommodate Proposed Project improvements.

Per Menlo Park Municipal Code Section 13.24, Heritage Trees, permits from the City's Director of Public Works, or his or her designee, and payment of a fee are required for the removal of any tree that meets the definition of *heritage tree*. The Proposed Project would comply with the City's Heritage Tree Ordinance by obtaining a permit from the City to remove protected trees and paying any applicable fee. The Proposed Project would provide approximately 1,780 ~~822~~ replacement trees ~~on the main Project Site for the heritage trees~~; therefore, a greater number of trees would be planted than removed. The replacement trees would be required to meet the minimum valuation requirements for replacement trees. Impacts related to conflicts with local policies or ordinances that protect heritage trees would be ***less than significant***.

Chapter 3.13, Population and Housing

The text on page 3.13-18 of the Draft EIR has been revised to reflect that, since publication of the Draft EIR, the BMR unit count has increased to 312 units, or approximately 18 percent of the total residential units proposed:

At full buildout of the proposed units, at least 15 percent (260 of the 1,730 units), and possibly up to ~~17.8~~18 percent (~~308~~312 of the 1,730 units) would be BMR rental units, which would be located throughout the Residential/Shopping District of the main Project Site.

Chapter 3.15, Utilities and Service Systems

The discussion of wastewater on page 3.15-26 is revised as follows:

The Proposed Project would include gravity main lines on-site within public rights of way or private streets and easements, two on-site pump stations, one with an easement for WBSD and one that is anticipated to be private ~~within easements dedicated to WBSD,~~ and force mains on-site and off-site to properly convey wastewater from the site to the 36-inch gravity main in Chilco Street. A~~The~~ pump station proposed ~~at the southwest corner of the~~ within the main Project Site will be sized to handle all flow from the Proposed Project, as well as wastewater diverted from the existing Willow Road pump

[6] SBCA Tree Consulting. 2021. *Tree Survey.* April 1.

station. Two potential locations are under consideration; one potential site is located near the southeast corner of the Willow Road and Park Street adjacent to the park public parking area within the publicly accessible park, and a small portion of the proposed Dog Park serves as an alternative location. The original pump station location is no longer being considered. Because the Proposed Project would install new pipes within the main Project Site, infiltration and inflow amounts would be reduced to negligible.

Chapter 3.16, Tribal Cultural Resources

Tribal cultural resources was removed from Chapter 3.8 of the Draft EIR and is now its own new chapter, included at the end of this Chapter behind a slipsheet.

Chapter 4, Other CEQA Considerations

The discussion of tree removal on page 4-4 of the Draft EIR is revised as follows, based on an updated arborist report (Appendix 4) received from the Project Sponsor:

Of the 946~~925~~ trees on the Project Site, inclusive of Hamilton Avenue Parcels North and South, 842~~821~~ are proposed for removal, 279~~269~~ of which qualify as heritage trees.

Chapter 5, Variants

The criteria air pollutants discussion under Impact AQ-3 for Variant 1 on page 5-13 of the Draft EIR is revised as follows:

Criteria Air Pollutants

As discussed above under Impact AQ-2, construction emissions as a result of Variant 1 would be below the BAAQMD thresholds of significance. Operational emissions as a result of the variant would be below BAAQMD thresholds of significance for all pollutants, excluding ROG, as summarized above under Impact AQ-2. Results from the assessment~~s~~ completed for the Proposed Project ~~other similarly sized projects in the SFBAAB have shown~~ indicate that potential health ~~impacts~~ effects from Proposed Project operational emissions ~~exceedances of BAAQMD's ROG and NO_X thresholds~~ would be minimal in a developed environment and relative to background incidences, even if exceeding BAAQMD's ROG threshold of significance. ~~As noted above, although only Variant 1 operational ROG emissions would exceed thresholds of significance, emissions of both NO_X and ROG are presented for three projects in the Bay Area for comparison to Variant 1 because NO_X and ROG are the primary precursors to ozone. For example, for the three projects in the Bay Area with ROG and NO_X emissions that ranged from 79 to 458 lbs/day and 125 to 153 lbs/day, respectively, potential health effects were far below background incidence rates for all health endpoints.[1]~~ Variant 1 is estimated to generate reduced amounts of NO_X, ~~and~~ ROG, and $PM_{2.5}$ compared to the Proposed Project; ~~. H~~ however, the change in emissions would be minimal ~~and would not be reduced to a level that would change the impact determination~~. Therefore, similar to the Proposed Project, potential health ~~impacts~~ effects would be ~~de minimis~~ minimal in a developed environment. Please refer to Appendix 5 of the Final EIR for detailed discussion.

~~1. Ramboll US Corporation. 2022. *CEQA Air Quality, Greenhouse Gas and Health Risk Assessment Technical Report*. February. Accessed: February 21, 2022.~~

The criteria air pollutants discussion under Impact AQ-3 for Variant 2 on page 5-43 of the Draft EIR is revised as follows:

Criteria Air Pollutants

As discussed above under Impact AQ-2, mitigated construction emissions as a result of Variant 2 would be below the BAAQMD thresholds of significance. Operational emissions as a result of Variant 2 would also be below BAAQMD thresholds of significance for all pollutants, excluding ROG, as summarized above under Impact AQ-2. Results from the assessments completed for the Proposed Project other similarly sized projects in the SFBAAB have shown indicate that potential health effects impacts from Proposed Project operational emissions exceedances of BAAQMD's ROG and NO_x thresholds would be minimal in a developed environment and relative to background incidences, even if exceeding BAAQMD's ROG threshold of significance. As noted above, although only Variant 2's operational ROG emissions would exceed the thresholds of significance, emissions of both NO_x and ROG from three projects in the Bay Area are presented for comparison because NO_x and ROG are the primary precursors to ozone. For example, for the three projects in the Bay Area with ROG and NO_x emissions that ranged from 79 to 458 pounds per day (lbs/day) and 125 to 153 lbs/day, respectively, potential health effects were far below background incidence rates for all health endpoints. Variant 2 is estimated to generate 23 lbs/day of NO_X, and 86 lbs/day of ROG, and 7.4 lbs/day of $PM_{2.5}$ (see Table 5-16), which is similar to or below the emission levels of the Proposed Project the referenced projects. It is thus anticipated that potential health effects impacts would be minimal in a developed environmentsimilarly de minimis. Please refer to Appendix 5 of the Final EIR for detailed discussion.

The discussion of health impacts associated with construction plus operations under Variant 2, following Table 5-17 on page 5-44 of the Draft EIR, is revised as follows:

To mitigate the cancer risk and exceedances of the $PM_{2.5}$ concentration, Project Mitigation Measure AQ-1.1 and Mitigation Measures AQ-2b1 and AQ-2b2 from the ConnectMenlo EIR would be implemented. Similar to the Proposed Project, Variant 2 would comply be consistent with Mitigation Measure AQ-3b, and ConnectMenlo Mitigation Measure AQ-3a would not apply. As described in Appendix 5.1 section 6.3 of the Final EIR, the construction schedule was used to determine which phases of construction a specific residential building was exposed to. If construction of another building was complete before a residential building became operational, any exposure to construction of the complete building was not included in the revised exposure assessment. As shown in Table 5-18, with implementation of Project Mitigation Measures AQ-1.1 and Mitigation Measures AQ-2b1, and AQ-2b2 from the ConnectMenlo EIR would reduce the maximum cancer risk to 9.5 in 1 million for all receptor types, which is below the BAAQMD threshold., the maximum cancer risk of 10.6 in 1 million for new onsite residents would continue to exceed the BAAQMD threshold. Onsite residential units would be equipped with Minimum Efficiency Reporting Value (MERV) filtration systems which are expected to reduce concentrations of diesel particulate matter.[7] However, there is still a possibility that onsite residents would be exposed to substantial pollutant concentrations and associated health risks. The impacts would be ***significant and unavoidable.*** Therefore, mitigated construction and operational emissions would not expose sensitive receptors to substantial pollutant concentrations, and impacts would continue to be ***less than significant with mitigation***.

[7] W.J. Fisk, D. Faulkner, J. Palonen, O. Seppanen. 2002. Performance and costs of particle air filtration technologies. Indoor Air 2002: 12: 223-234.

Table 5-18 on page 5-44 of the Draft EIR is revised as follows:

Table 5-18. Variant 2 Estimated Mitigated Project-Level Health Risk Results from Construction plus Operations

Scenario	Cancer Risk (cases per million)[a]	Non-Cancer Chronic Risk[b]	Annual $PM_{2.5}$ Concentrations ($\mu g/m^3$)[b]
Construction plus Operations (offsite)	9.5~~9.2~~	0.02~~0.01~~	0.20~~0.18~~
Construction plus Operations (onsite)	7.7~~10.6~~	0.01	0.15~~0.13~~
BAAQMD Significance Threshold	10.0	1.0	0.3
Exceeds Threshold?	**~~Yes~~ No**	**No**	**No**

Source: Tables 59V, 60V, and 61V included in the AQ Project Variants Analysis.

Notes:

$\mu g/m^3$ = micrograms per cubic meter; $PM_{2.5}$ = particulate matter no more than 2.5 microns in diameter

[a] Maximum cancer risk for the onsite MEIR is associated with Scenario 3. Maximum cancer risk for the offsite MEIR is associated with Scenario 2.

[b] Maximum chronic risk and $PM_{2.5}$ concentration for the onsite MEIR is associated with Scenario 3. Maximum chronic risk and $PM_{2.5}$ concentration for the offsite MEIR is associated with Scenario 1.

The criteria air pollutants discussion under Impact AQ-3 for Variant 3 on page 5-74 of the Draft EIR is revised as follows:

Criteria Air Pollutants

As discussed above under Impact AQ-2, construction emissions as a result of Variant 3 would be below the BAAQMD thresholds of significance. Operational emissions as a result of the variant would be below BAAQMD thresholds of significance for all pollutants, excluding ROG, as summarized above under Impact AQ-2. Results from the assessment~~s~~ completed for the Proposed Project ~~other similarly sized projects in the SFBAAB have shown~~ indicate that potential health impacts from Proposed Project operational emissions ~~exceedances of BAAQMD's ROG and NO_x thresholds~~ would be minimal in a developed environment and relative to background incidences, even if exceeding BAAQMD's ROG threshold of significance~~. As noted above, although only Variant 3 operational ROG emissions would exceed thresholds of significance, emissions of both NO_x and ROG are presented for three projects in the Bay Area for comparison to Variant 3 because NO_x and ROG are the primary precursors to ozone. For example, for the three projects in the Bay Area with ROG and NO_x emissions that ranged from 79 to 458 lbs/day and 125 to 153 lbs/day, respectively, potential health effects were far below background incidence rates for all health endpoints.~~ Variant 3 is estimated to generate reduced amounts of NO_x, ~~and~~ ROG, and $PM_{2.5}$ compared to the Proposed Project~~; .H~~ however, the change in emissions would be minimal ~~and would not be reduced to a level that would change the impact determination~~. Therefore, similar to the Proposed Project, health effects ~~impacts~~ would be minimal in a developed environment~~similarly de minimis~~. Please refer to Appendix 5 of the Final EIR for detailed discussion.

The criteria air pollutants discussion under Impact AQ-3 for Variant 4 on page 5-89 of the Draft EIR is revised as follows:

Criteria Air Pollutants

As discussed above under Impact AQ-2, construction emissions as a result of Variant 4 would be below the BAAQMD thresholds of significance. Variant 4 estimated NO_X and ROG emissions are not expected to change compared to the Proposed Project. Therefore, Variant 4 would not change the potential health effects ~~impact determination and health impacts~~ and would be similarly minimal in a developed environment. ~~de minimis.~~ Please refer to Appendix 5 of the Final EIR for detailed discussion.

Chapter 6, Alternatives Analysis

The alternatives analysis was revised as follows to separate out the discussions of tribal cultural resources from cultural resources, consistent with the creation of a separate tribal cultural resources section (Section 3.16). The following revisions have been made to the Draft EIR:

- Page 6-15

Cultural Resources

Under the No Project Alternative, there would be no construction. Impacts to the Dumbarton Cutoff Line would not occur because the Willow Road Tunnel would not be constructed (Impact CR-1). Impacts to archaeological deposits~~, and~~ burials~~, and tribal cultural resources~~ would not occur because there would be no ground disturbance (Impact CR-2, Impact CR-3~~, Impact CR-4~~). Impacts would be reduced compared to the Proposed Project's impacts (NI). As a result, the No Project Alternative would not contribute to any cumulative cultural resources impact (Impact C-CR-1; NI).

- Page 6-17

Tribal Cultural Resources

Under the No Project Alternative, there would be no construction. Impacts to tribal cultural resources would not occur because there would be no ground disturbance (Impact TCR-1, Impact TCR-2). Impacts would be reduced compared to the Proposed Project's impacts (NI). As a result, the No Project Alternative would not contribute to any cumulative cultural resources impact (Impact C-TCR-1; NI).

- Page 6-19

Cultural Resources

Impacts to the Dumbarton Cutoff Line would not occur because the Willow Road Tunnel would not be constructed under this alternative, substantially reducing this significant impact when compared to the proposed project (Impact CR-1). There are no known archaeological deposits~~,~~ or burials~~, or tribal cultural resources~~ at the Willow Road Tunnel site, so impacts to known archaeological deposits would be the same as the Proposed Project. The No Willow Road Tunnel Alternative has less potential to disturb unknown archaeological deposits and burials because there would be less ground disturbance and excavation (Impact CR-2, Impact CR-3~~, Impact CR-4~~). Impacts would be reduced compared to the Proposed Project but could still be significant. The same mitigation would apply as for the Proposed Project for Impact CR-2, and Impact CR-3~~, and Impact CR-4~~ (LTS/M). As a result, cumulative cultural impacts would also be slightly reduced (Impact C-CR-1; LTS).

- Page 6-21

Tribal Cultural Resources

Impacts to tribal cultural resources would be similar to the Proposed Project because similar activities would occur that would affect the tribal cultural resource (Impact TCR-1). The No Willow Road Tunnel Alternative has less potential to disturb burials because there would be less ground disturbance and excavation (Impact TCR-2). Impacts would be slightly reduced compared to the Proposed Project but could still be significant. The same mitigation would apply as for the Proposed Project for Impact TCR-1 and Impact TCR-2 (LTS/M). As a result, cumulative tribal cultural resources impacts would also be slightly reduced (Impact C-TCR-1; LTS).

- Pages 6-26 and 6-27

Cultural Resources

Impacts to the Dumbarton Cutoff Line would be the same as the Proposed Project because the Willow Road Tunnel would be constructed under this alternative (Impact CR-1). Impacts to known archaeological deposits would be the similar to the Proposed Project. The Base Level Development Alternative has less potential to disturb unknown archeological deposits and burials because there would be less ground disturbance and excavation due to the reduced size of the alternative when compared to the Proposed Project (Impact CR-2, Impact CR-3~~, Impact CR-4~~). Impacts would be reduced compared to the Proposed Project but could still be significant. The same mitigation would apply as for the Proposed Project for all impacts (LTS/M). As a result, cumulative cultural impacts would also be slightly reduced (Impact C-CR-1; LTS).

- Page 6-28

Tribal Cultural Resources

Impacts to tribal cultural resources would be similar to the Proposed Project because similar activities would occur that would affect the tribal cultural resource (Impact TCR-1). The Base Level Development Alternative has less potential to disturb burials because there would be less ground disturbance and excavation due to the reduced size of the alternative when compared to the Proposed Project (Impact TCR-2). Impacts would be reduced compared to the Proposed Project but could still be significant. The same mitigation would apply as for the Proposed Project for all impacts (LTS/M). As a result, cumulative tribal cultural resources impacts would also be slightly reduced (Impact C-TCR-1; LTS).

- Page 6-34

Cultural Resources

Impacts to the Dumbarton Cutoff Line would be the same as the Proposed Project because the Willow Road Tunnel would be constructed under this alternative (Impact CR-1). Impacts to known archaeological deposits would be the similar to the Proposed Project. The Reduced Intensity Alternative has less potential to disturb unknown archeological deposits and burials because there would be less ground disturbance and excavation due to the reduced size of the alternative when compared to the Proposed Project (Impact CR-2, Impact CR-3~~, Impact CR-4~~). Impacts would be reduced compared to the Proposed Project but could still be significant. The same mitigation would apply as for the Proposed Project for all impacts (LTS/M). As a result, cumulative cultural impacts would also be slightly reduced (Impact C-CR-1; LTS).

- Page 6-36

Tribal Cultural Resources

Impacts to tribal cultural resources would be similar to the Proposed Project because similar activities would occur that would affect the tribal cultural resource (Impact TCR-1). The Reduced Intensity Alternative has less potential to disturb burials because there would be less ground disturbance and excavation due to the reduced size of the alternative when compared to the Proposed Project (Impact TCR-2). Impacts would be reduced compared to the Proposed Project but could still be significant. The same mitigation would apply as for the Proposed Project for all impacts (LTS/M). As a result, tribal cultural resources impacts would also be slightly reduced (Impact C-TCR-1; LTS).

- Page 6-38

Cultural Resources					
Impact CR-1	LTS/M	NI (less)	NI (less)	LTS/M (less)	LTS/M (less)
Impact CR-2	LTS/M	NI (less)	LTS/M (less)	LTS/M (less)	LTS/M (less)
Impact CR-3	LTS/M	NI (less)	LTS/M (less)	LTS/M (less)	LTS/M (less)
~~Impact CR-4~~	~~LTS/M~~	~~NI (less)~~	~~LTS/M (less)~~	~~LTS/M (less)~~	~~LTS/M (less)~~
Impact C-CR-1	LTS	NI (less)	LTS (less)	LTS (less)	LTS (less)

- Page 6-40

Tribal Cultural Resources					
Impact TCR-1	LTS/M	NI (less)	LTS/M (same)	LTS/M (same)	LTS/M (same)
Impact TCR-2	LTS/M	NI (less)	LTS/M (less)	LTS/M (less)	LTS/M (less)
Impact C-TCR-1	LTS	NI (less)	LTS (less)	LTS (less)	LTS (less)

Section 3.8 Cultural Resources

3.8 Cultural ~~and Tribal Cultural~~ Resources

This section describes the affected environment and regulatory setting for ~~cultural and tribal~~ cultural resources. The term "cultural resources" refers to built-environment resources (e.g., buildings, structures, objects, districts), archaeological resources, and human remains. Tribal cultural resources are discussed in Section 3.16, Tribal Cultural Resources. ~~can include cultural resources and sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe.~~

Included in this section are brief descriptions of the environmental, pre-European contact, ethnographic, and historic setting of the Project Site. Applicable state and local regulations are identified, followed by impact analyses and mitigation measures to reduce the impacts to less-than-significant levels.

This section relies on information from a records search at the Northwest Information Center (NWIC) of the California Historical Resources Information System, and studies provided by the Project Sponsor, as peer reviewed by ICF. The studies include the following:

- *Menlo Science and Technology Park, Department of Parks and Recreation Forms 523A, 523B, 523L*, by JRP Historical Consulting, LLC (2019, revised 2021);
- *Expanded Study Area for the Willow Village Project*, by JRP Historical Consulting, LLC (2020);
- *Historic Evaluation of Two Additional Built Resources Adjacent to the Expanded Study Area for the Willow Village Project, Menlo Park, California*, by JRP Historical Consulting, LLC (2021);
- *Request for Determination of Eligibility*, by P.S. Preservation Services (1996);
- *Southern Pacific Railroad, Dumbarton Cutoff Linear Historic District*, by JRP Historical Consulting, LLC (2008);
- *Dumbarton Cutoff, Department of Parks and Recreation Form 523L*, by JRP Historical Consulting, LLC (2017); and
- *Cultural Resources Assessment Report for Meta Willow Campus Project, City of Menlo Park, San Mateo County*, by Basin Research Associates (Basin) (2019, revised 2022).[1]

Issues identified in response to the Notice of Preparation (Appendix 1) were considered during preparation of this analysis. The applicable issues pertain to documentation of an archaeological records search ~~and Native American consultation pursuant to Assembly Bill (AB) 52 and Senate Bill (SB) 18~~.

Existing Conditions

The setting for the Proposed Project considers existing as well as relevant historical conditions within the Study Area. The Study Area for cultural resources comprises the main Project Site, Hamilton Avenue Parcels North and South, and Willow Road Tunnel site as well as all adjoining parcels. The Study Area was

[1] This report contains confidential information regarding the location of archaeological resources. Such resources are nonrenewable, and their scientific, cultural, and aesthetic values can be significantly impaired by disturbance. To deter vandalism, artifact hunting, and other activities that can damage such resources, this study is not included in Appendix 3.8. The legal authority to restrict cultural resources information is in Section 304 of the National Historic Preservation Act of 1966, as amended. Furthermore, California Government Section Code 6254.10 exempts archaeological sites from the California Public Records Act, which requires that public records be open to public inspection.

delineated to consider potential impacts on built-environment, archaeological, ~~tribal~~, and other cultural resources caused by Project activities, including ground disturbance, alteration, relocation, and building and/or structure demolition, which could result in a substantial adverse change in the significance of such resources. The inclusion of adjacent parcels in the Study Area acknowledges the potential for Project activities to diminish setting characteristics that may contribute to the historical integrity of nearby significant built-environment resources.

This section provides 1) a brief overview of the environmental, pre-European contact, and historical setting of the Project Site and surrounding area; 2) describes the methods used to establish baseline conditions for cultural ~~and tribal cultural~~ resources at the Project Site; and 3) describes the cultural resources identified on the Project Site and in the vicinity as well as their significance under the California Environmental Quality Act (CEQA).

Information pertaining to archeological resources is based on the *Cultural Resources Assessment Report for Meta Willow Campus Project, City of Menlo Park, San Mateo County,* herein referred to as the Cultural Resources Assessment Report, prepared by Basin on behalf of Pacific Innovation Partners, LLC (Project Sponsor) in 2019 (revised in 2022).

Environmental Setting

The Project Site is located along the southwest edge of San Francisco Bay. Natural habitats on the San Francisco Peninsula prior to historic development included grasslands and pockets of oak woodland that were populated by a variety of mammals, shorebirds and marine invertebrates, including the native California oyster (*Ostrea lurida*), bay mussel (*Mytilus edulis*), and bent-nosed clam (*Macoma nasuta*), among others.[2] The Project Site and vicinity would have included small freshwater marshes, tidal sloughs, and salt marshes along the bay margin.

The local climate is characterized as Mediterranean, with mild, rainy winters and dry, warm summers. The cold water of the bay creates fog, and relative humidity is high year-round.[3]

The past or current presence of moist grasslands and riparian forest/willow groves, coupled with tidal marshes in association with existing and former stream channels, appears to be a key element for predicting pre-European contact sites. Researchers have noted that pre-contact archaeological resources are often within 0.25 mile of flowing water in the Bay Area.

Pre-European Contact Setting

Human occupation in Northern California extends back at least 9,000 to 11,500 years, with Native occupation and use of the Bay Area extending back more than 5,000 to 8,000 years and possibly longer. Rising sea levels about 5,000 to 7,000 years ago and marshland infilling along estuary margins from about 7,000 years ago onward have obscured evidence of early occupation. The extent of shorelines and the locations of marshlands and creeks within the Project area have changed over the past 6,000 years because of both natural factors and urban development, particularly flood control.

[2] Broughton, J.M. 1999. Resource Depression and Intensification during the Late Holocene, San Francisco Bay: Evidence from the Emeryville Shellmound Vertebrate Fauna. In *Anthropological Records* 32:22.

[3] META Willow Village Project. 2022. Cultural Resources Assessment Report. Prepared for Pacific Innovation Partners, LLC. Schoenherr, Allan A. 1992. *A Natural History of California*. University of California Press, Berkeley, CA, p. 627.

Archaeological research in the Bay Area has been interpreted with use of several chronological schemes, based on stratigraphic differences and cultural traits. The initial classification sequence used three horizons, Early, Middle and Late, to designate both chronological periods and social change, based on stratigraphic patterns and an analysis of grave goods to explain local and regional cultural change from about 4,500 years ago to European contact. This classification scheme has been revised, although the prior nomenclature (Early, Middle, and Late Horizon) is still in common use. [4] Moratto suggests that the Early Horizon dates from circa 3,000/3,500 to 4,500 years ago, the Middle Horizon dates from circa 1,500 to 3,500 years ago, and the Late Horizon dates from circa 250 to 1,500 years ago.[5]

Hylkema has presented a four-period chronological framework for the northern Santa Clara Valley/southern Bay Area and provided details regarding the environment and chronology for selected archaeological sites from the southern Bay Area and peninsula.[6]

Early Native American use of the Study Area was heavily influenced by the presence of various seasonal creeks and marshlands around San Francisco Bay as well as the foothills to the east. Creeks provided a year-round source of freshwater and riparian resources, while the foothills provided access to nuts, seeds, game, tool stones, and other resources. San Francisco Bay and seasonal bodies of water would have been sources of fish, waterfowl and riparian vegetation. More information regarding Native American use of the Study Area and tribal cultural resources can be found in Section 3.16.

Pre-European contact archaeological sites in the general vicinity represent habitation sites, including villages; temporary campsites; stone tool and other manufacturing areas; quarries for stone procurement; cemeteries, typically associated with large villages; isolated burial sites; rock art locations; bedrock mortars or other milling feature sites; and trails. Sites in the general area appear to have been selected for relative accessibility, protection from seasonal flooding, and proximity to a diversified resource base. Most of the prehistoric shellmounds and associated sites in the area are situated at the ecotone (boundary) between salt marsh and alluvial plain ecozones.

Archaeological information suggests a gradual steady increase in the population over time, with a growing focus on large permanent settlements in later periods. The transition from hunter-collectors to villages with a greater sedentary lifestyle was due to more efficient resource procurement as well as a focus on the exploitation food staples, greater ability to store food at village locations, and development of increasing complex social and political systems, including long-distance trade networks. A detailed discussion of the lifeways and history of the Native American community is provided in the Ethnographic Setting in Section 3.16 , Tribal Cultural Resources.

~~Ethnographic Setting~~

~~Menlo Park is situated within territory once occupied by the Costanoan, also commonly referred to as Ohlone. Eight Ohlone languages were spoken in the area, from the southern edge of the Carquinez Strait to portions of the Big Sur and Salinas Rivers south of Monterey Bay as well as areas approximately 50 miles inland from the coast. Menlo Park lies on the approximate ethnolinguistic boundary between the Tamyen and Ramaytush~~

[4] Fredrickson, D.A. 1994. Spatial and Cultural Units in Central California Archaeology. In *Toward a New Taxonomic Framework for Central California Archaeology: Essays by James A. Bennyhoff and David A. Fredrickson*. Richard E. Hughes (ed.), pp. 25–47. Contributions of the University of California Archaeological Research Facility 52.

[5] Moratto, Michael J. 1984. *California Archaeology*. Academic Press, New York, NY.

[6] Hylkema, Mark G. 2002. Tidal Marsh, Oak Woodlands, and Cultural Florescence in the Southern San Francisco Bay Region. In *Catalysts to Complexity: Late Holocene Societies of the California Coast*. J.M. Erlandson and T.L. Jones, (eds.) Perspectives in California Archaeology 6:233–262.

~~languages. Tamyen, or Santa Clara Costanoan, was spoken around the south end of San Francisco Bay and in the lower Santa Clara Valley; it seems to have had about 1,200 speakers. Ramaytush, or San Francisco Costanoan, was spoken by about 1,400 people in San Mateo and San Francisco Counties.[7]~~

~~Ohlone territories were composed of one or more land-holding groups that anthropologists refer to as *tribelets*. The tribelet consisted of a principal village that was occupied year-round; smaller hamlets and resource gathering and processing locations were occupied intermittently or seasonally.[8] The Puichon tribelet was on the western shore of San Francisco Bay, between lower San Francisquito Creek and lower Stevens Creek, now the areas where Menlo Park, Palo Alto, and Mountain View are located.[9]~~

~~Seven Spanish missions were founded in Ohlone territory between 1776 and 1797. While living within the mission system, the Ohlone commingled with other groups, including the Yokuts, Miwok, and Patwin. Members of the Puichon tribelet went to Mission San Francisco between 1781 and 1794 and Mission Santa Clara from 1781 to as late as 1805. Mission life was devastating to the Ohlone population.[10] When the first mission was established in Ohlone territory in 1776, the Ohlone population was estimated to be 10,000. By 1832, the Ohlone numbered less than 2,000 as a result of introduced disease, harsh living conditions, and reduced birth rates.[11,12,13]~~

~~Ohlone recognition and assertion began to move to the forefront during the early 20th century. This movement was enforced by legal suits brought against the United States government by the Indians of California (1928–1964) for reparation due to them for the loss of traditional lands. The Ohlone participated in the formation of political advocacy groups, which brought attention to the community and resulted in a re-evaluation of the rights due to its members.[14] In recent years, the Ohlone have become increasingly organized as a political unit and developed an active interest in preserving their ancestral heritage. Many Ohlone are active in maintaining their traditions and advocating for Native American issues.~~

Historic-Era Development

Spanish Period

The Spanish Period in the San Francisco Bay Area began in 1769 with initial historic exploration of the region and ended in 1821 when the area became part of newly independent Mexico. Between 1769 and 1776, several Spanish expeditions passed through Ohlone territory in the region, including the Fages (1770 and 1772) and Juan Bautista de Anza (1775/1776) expeditions. The route of Anza's 1776 exploration followed the baylands from San Francisquito Creek north to San Mateo Creek, passing through

~~[7] Levy, R. 1978. Costanoan. In *Handbook of North American Indians*, Chapter 8, California, pp. 398–413. W.C. Sturtevant (ed.). Smithsonian Institution, Washington, DC.~~

~~[8] Kroeber, A.L. 1955. Nature of the Land-Holding Group. In *Ethnohistory* 2:303–314.~~

~~[9] Milliken, R. 1995. *A Time of Little Choice: The Disintegration of Tribal Culture in the San Francisco Bay Area 1769–1810.* (Ballena Press Anthropological Papers No. 43.) Ballena Press, Novato, CA.~~

~~[10] Ibid.~~

~~[11] Cook, S.F. 1943a. The Conflict between the California Indians and White Civilization, I: The Indian Versus the Spanish Mission. In *Ibero-Americana* 21. Berkeley, CA.~~

~~[12] Cook, S.F. 1943b. The Conflict between the California Indians and White Civilization, II: The Physical and Demographic Reaction of the Non-Mission Indians in Colonial and Provincial California. In *Ibero-Americana* 22. Berkeley, CA.~~

~~[13] Levy, R. 1978. Costanoan. In *Handbook of North American Indians*, Chapter 8, California, pp. 398–413. W.C. Sturtevant (ed.). Smithsonian Institution, Washington, DC.~~

~~[14] Bean, L.J. 1994. *The Ohlone Past and Present: Native Americans of the San Francisco Bay Region*. Ballena Press, Menlo Park, CA.~~

four Ohlone villages in the general vicinity of the Proposed Project.[15] A village with about 25 huts was noted on the banks of San Francisquito Creek, to the south [*Ssiputca*], near present-day Middlefield Road.[16] Government policy in northwestern New Spain focused on the establishment of *presidios* (forts), missions, and *pueblos* (secular towns). No known Spanish Period structures or features are known to have been present in or adjacent to the Project Site.[17]

Mexican Period

The Mexican Period in the San Francisco Bay Area began in 1822 when Mexico gained control of the region from Spain and ended in 1848 with the conclusion of the Mexican-American War. During the Mexican Period, the present location of Menlo Park was within the former Rancho Los Cochintos, or *Cachanigtac*, later known as Rancho Las Pulgas. Rancho Las Pulgas was granted to José D. Arguello by Governor Diego de Borica in 1820 as well as Governor Pablo Vincente Sola in 1820 or 1821. On November 27, 1835, a formal grant was made to Luis Antonia Arguello, son of the presidio commandante, by Governor José Castro. On October 2, 1857, Arguello patented Rancho Las Pulgas to his second wife, Maria de la Soledad, et. al. In the intervening years, the property expanded from the original 17,754 acres (4 square leagues) to approximately 35,240.47 acres. It was bounded by San Mateo Creek on the north and San Francisquito Creek on the south. No known Mexican Period structures or features are known to have been present in or adjacent to the Project Site.[18]

American Period

California became a United States territory following the conclusion of the Mexican American War in 1848 and the Treaty of Guadalupe Hidalgo. California was admitted as a state in 1850. The gold rush, beginning in 1848, brought a massive influx of immigrants to California, with the estimated population of the territory increasing from less than 14,000 (exclusive of Native populations) to 224,000 between 1848 and 1852. San Mateo County was created in 1856 from the southern portion of San Francisco County. The county was expanded in 1868 through annexation of part of Santa Cruz County.

In the periods following the initial gold rush and later completion of the transcontinental railroad in 1869, many migrant laborers settled in California as farmers and ranchers, creating a new domestic market for agricultural products. This agricultural market was later broadened through railroad construction and development of the refrigerator railroad car in the 1880s.

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[15] A designated a National Historic Trail (National Park Service 1995).

[16] META Willow Village Project. 2022. Cultural Resources Assessment Report. Prepared for Pacific Innovation Partners, LLC. Bolton, H. 1930. *Anza's California Expeditions. Volume IV: Font's Complete Diary of the Second Anza Expedition*. University of California, Berkeley, CA, pp. 325 and 326; Hoover, M.B., H.E. Rensch, and E.G. Rensch. 1966. *Historic Sports in California*. Third edition. Revised by William N. Abeloe. Stanford University Press, Stanford, CA; Milliken, R.T. 1983. *The Spatial Organization of Human Population on Central California's San Francisco Peninsula at the Spanish Arrival*. Unpublished M.A. thesis, Department of Inter-Disciplinary Studies, Sonoma State University, Rohnert Park, CA; A.K. 1973–1974. Indians of San Mateo County. In *La Peninsula: Journal of San Mateo County Historical Association* 17(4).

[17] META Willow Village Project. 2022. Cultural Resources Assessment Report. Prepared for Pacific Innovation Partners, LLC. Hendry, G.W., and J.N. Bowman. 1940. *The Spanish and Mexican Adobe and Other Buildings in the Nine San Francisco Bay Counties, 1776 to about 1850.* MS on file, Bancroft Library, University of California, Berkeley, CA; Hoover et al. 1966. *Historic Sports in California*; Beck, W.A., and Y.D. Haase. 1974. *Historical Atlas of California.* Third printing. University of Oklahoma Press, Norman, OK.

[18] META Willow Village Project. 2022. Cultural Resources Assessment Report. Prepared for Pacific Innovation Partners, LLC. Hendry and Bowman. 1940. *The Spanish and Mexican Adobe and Other Buildings in the Nine San Francisco Bay Counties, 1776 to about 1850*; Hoover et al. 1966. *Historic Sports in California*; Beck and Haase. 1974. *Historical Atlas of California.* Third printing.

Construction of the San Francisco & San José Railroad (SF&SJRR) between 1861 and 1864 was a significant impetus to the development of towns on the San Mateo Peninsula. The SF&SJRR reached Redwood City in September 1863 and began regular service between San Francisco and Mayfield (now Palo Alto) on October 18, 1863. Service was extended to San José in January 1864. In 1869, SF&SJRR was consolidated into the Southern Pacific Railroad, which was acquired by the Central Pacific in 1870. The Caltrain commuter route, located southwest of the Project Site in downtown Menlo Park, follows the alignment of the original SF&SJRR line.

Increased settlement in the Bay Area led to construction and expansion of local and regional transportation systems during the latter 19th and early 20th centuries. These connected San Francisco to towns in San Mateo County. Notable transportation routes and systems in the Study Area included El Camino Real, former tolls roads, the San Francisco Railroad (1863) (later Southern Pacific Railroad [1906–1907]), the electric streetcar service in 1903, and the Bayshore Highway. [19]

City of Menlo Park

In the 1850s, Irish immigrants Dennis Oliver and Daniel McGlynn bought 1,700 acres along County Road, known today as El Camino Real, on the San Francisco Peninsula, approximately 20 miles south of current-day San Francisco. Oliver and McGlynn gave Menlo Park its name when they established "Menlough," a series of local farms named after their ancestral community. A few years later, Menlo Park became a desirable vacation destination for San Francisco's upper class. Palatial houses were constructed on large parcels in the burgeoning community. El Camino Real served as a major thoroughfare. Historic downtown Menlo Park ultimately developed along this route. Completion of the Southern Pacific Railroad (SPRR) through Menlo Park in 1863, and its connection to San José one year later, exponentially increased Menlo Park's accessibility to city dwellers who were seeking leisure in a rural environment. By 1874, Menlo Park incorporated in response to its rapid growth and infrastructure challenges.[20]

Through the late 19th and early 20th centuries, Menlo Park underwent several transformative events. Stanford University opened in 1891 south of Menlo Park, which strengthened the local economy. From 1907 to 1910, the SPRR constructed the Dumbarton Cutoff Line through northern Menlo Park, which provided a 16.4-mile freight connection from the SPRR San Francisco Peninsula mainline to the Alameda County mainline. A bridge built to carry the Dumbarton Cutoff across San Francisco Bay was the earliest structure to span the Bay. Furthermore, Menlo Park was chosen as the location for Camp Fremont, a World War I–era military training ground that brought in thousands of temporary inhabitants; Menlo Park's population of approximately 2,000 increased to approximately 40,000 during World War I. Numerous new businesses opened, and city improvements were undertaken during camp operations. These improvements remained to serve the growing city after the camp closed.[21]

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[19] Hoover et al. 1966. *Historic Sports in California*; Fickewirth, A.A. 1992. *California Railroads: An Encyclopedia of Cable Car, Common Carrier, Horsecar, Industrial Interurban, Logging, Monorail, Motor Road, Short Lines, Streetcar, Switching and Terminal Railroad in California (1851–1992)*. Golden West Books, San Marino, CA; Hart, J.D. 1987. *A Companion to California.* Revised and expanded. Oxford University Press, New York, NY.

[20] Placeworks. 2016. *ConnectMenlo: General Plan Land Use and Circulation Elements and M-2 Area Zoning Update.* June 1. Public review Draft EIR. Prepared for City of Menlo Park, CA.

[21] Placeworks. 2016. *ConnectMenlo*; P.S. Preservation Services. 1996. *Request for Determination of Eligibility for Inclusion in the National Register of Historic Places, Southern Pacific Railroad Dumbarton Cutoff, Southern Pacific Railroad Dumbarton Bridge, and Southern Pacific Railroad Newark Slough Bridge.* December. Sacramento, CA. Prepared for U.S. Coast Guard.

During the subsequent decades, Menlo Park developed from a small town to an important part of the increasingly urbanized San Francisco Peninsula region. Menlo Park's population rose from 2,414 residents in 1930 to 26,836 by 1970. In the 1920s and 1930s, Menlo Park's transportation infrastructure began to expand outward from downtown with the growth of its residential neighborhoods. By the late 1930s, El Camino Real expanded to four lanes, which resulted in the demolition, relocation, or closure of several Menlo Park structures and businesses. Simultaneously, the Belle Haven neighborhood, approximately 4 miles north of downtown Menlo Park and adjacent to San Francisco Bay, was developed by David D. Bohannon, with two-bedroom homes selling for as little as $2,950.[22]

Development of the entire San Francisco Peninsula continued during the mid-20th century, and Menlo Park became a de facto suburb of San Francisco. During this period, Menlo Park became a major technology hub, both regionally and globally. The Stanford Research Institute was established in 1946. By 1970, it was known as SRI International; it remains headquartered in Menlo Park. By the late 1950s, a white-collar industrial development market sprouted in Menlo Park, as in many of the nation's suburbs. Beginning in the 1980s, the rapid expansion of the technology sector increased Menlo Park's popularity. Menlo Park remains a highly sought-after residential community today. Meta Platforms, Inc. (Meta) continues to expand as a major economic presence in the city, while Silicon Valley, the region that includes northwest Santa Clara County and the southern portions of the San Francisco Peninsula, houses numerous major employers in the information technology industry.[23]

As presented previously, the Study Area for cultural resources comprises the main Project Site, Hamilton Avenue Parcels North and South, Willow Road Tunnel site, and all adjacent parcels. The following sections describe historical development patterns that took place specifically within the Study Area, as organized by subarea.

Main Project Site

The area immediately surrounding the main Project Site was settled first in the American Period by Irish immigrant Samuel Carnduff, who arrived in Ravenswood, California, in 1862 with his second wife and children. Carnduff first leased and later purchased 50 acres of the former Rancho Las Pulgas in 1865. Carnduff farmed wheat and hay and operated a dairy. Together with neighbor Samuel Nash, Carnduff also leased land and farmed additional crops. When Samuel Carnduff died in 1884, the property passed to his widow Anne and son William. In 1905, Anne Carnduff deeded a lineal easement for the Hetch-Hetchy aqueduct along part of the southern edge of the main Project Site to the Spring Valley Water Company.[24]

Anne Carnduff died in September 1917. Most of her estate, including the Carnduff farm, was transferred to William Carnduff. The Carnduff farm was sold to the United Helicopter Corporation (later Hiller Helicopters [currently Hiller Aircraft]) in 1947.

Hiller Aircraft began to construct facilities east of Menlo Park's Belle Haven neighborhood during the mid-1940s. After construction of its primary plant, Hiller Aircraft produced helicopters for the consumer market and, in the early 1950s, was one of a number of helicopter manufacturers that provided aircraft to the United States military for use in the Korean War. Later in the decade, the company placed greater emphasis on research and development and expanded its campus through construction of the Advanced Research Division

[22] Placeworks. 2016. *ConnectMenlo*.

[23] Ibid.

[24] The Spring Valley Water Company was later purchased by the City and County of San Francisco; it evolved into a municipal agency, the San Francisco Public Utilities Commission.

facility at 1390 Willow Road.[25] Hiller Aircraft continued to build new facilities for various support purposes during the 1950s and 1960s, accounting for the construction of the five additional buildings within the Menlo Science and Technology Park. By the late 1960s, ownership of Hiller Aircraft passed to larger companies. Several research- and industry-related tenants subsequently leased space within the development.[26]

From the late 1950s to the late 1960s, Lockheed Corporation, as a contractor to the U.S. Central Intelligence Agency, oversaw development of the CORONA surveillance satellite program within three leased buildings at Hiller Aircraft's Menlo Park campus. The program's primary aim was to develop a satellite that could be used for photographic reconnaissance over the Soviet Union. The Hiller Aircraft campus housed all aspects of the program, including technology development, assembly, and testing. The first successful launch of a satellite developed in Hiller Aircraft facilities took place in 1960; CORONA satellite deployment continued through the following decade. Lockheed relocated its CORONA development facilities to nearby Sunnyvale in 1969, and the program was discontinued in 1971.[27] More details on the history of Hiller Aircraft and the CORONA satellite program are available in the California Department of Parks and Recreation (DPR) form set for the Menlo Science and Technology Park included in Appendix 3.8-1, *Historical Resource Evaluations*.

In 1964, the Maryland-based Fairchild Stratos Corporation (Fairchild) purchased the main Project Site, with the intention of continuing helicopter manufacturing operations. However, by 1974, Fairchild ceased making helicopters and began leasing properties to various tenants. In 1979, Lincoln Properties purchased the site and began to redevelop it as the Lincoln Willow Business Park. In the following years, former Hiller helicopter buildings were demolished, and new buildings were constructed. By 1991, Hamilton Avenue and Hamilton Court extended to the main Project Site.[28] In 1998, AMB Property Corporation purchased the main Project Site from Lincoln and renamed it the Menlo Science and Technology Park. In 2015, Peninsula Innovation Partners, LLC (a subsidiary of Meta), purchased the main Project Site. Since then, the main Project Site has been used primarily as office space for Meta; several tenants with existing uses have continued to operate onsite.[29]

Hamilton Avenue Parcels North and South

Hamilton Avenue Parcel North previously consisted of undeveloped land that was used for hay cultivation, cattle grazing, and other agricultural operations. This site was developed with residential uses in the 1940s. By the 1960s, the site included a contractor's storage yard and commercial buildings. The Lefholz Construction Company occupied the site from at least 1969 to 1971. The Menlo Park City Housing Department occupied Hamilton Avenue Parcel North from 1973 to 1977. A Youth Service Center was located at the site from 1976 to 1980. The Big Six Domino Club was located at the site from 1988 to 1996.[30,31] In 2000, Hamilton Avenue Parcel North was developed with approximately 16,000 square feet of retail space, which currently includes the Belle Haven Retail Center and a Jack in the Box restaurant.

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25 U.S. Geological Survey. 1953. *Palo Alto, California-Nevada.* Map, 1:24000, 15-minute series. Denver, CO.

26 JRP Historical Consulting, LLC. 2019. *Menlo Science and Technology Park*. Department of Parks and Recreation forms 523A, 523B, 523L, March 27.

27 JRP Historical Consulting, LLC. 2019. *Menlo Science and Technology Park*.

28 U.S. Geological Survey. 1991. *Palo Alto, California-Nevada.* Map, 1:24000, 15-minute series. Denver, CO.

29 Cornerstone Earth Group. 2019. *Phase I Environmental Site Assessment, Menlo Science and Technology Park, Willow Road, Hamilton Avenue, and Hamilton Court, Menlo Park, California*. August 16.

30 Cornerstone Earth Group. 2019. *Phase I Environmental Site Assessment, Belle Haven Retail Center, 871–899 Hamilton Avenue, Menlo Park, California*. June 16.

31 Cornerstone Earth Group. 2018. *Phase I Environmental Site Assessment, 1401 Willow Road, Menlo Park, California*. April 23.

Hamilton Avenue Parcel South previously consisted of undeveloped land that was used for hay cultivation, cattle grazing, and other agricultural operations. The site was developed by the late 1930s with several small structures, providing church, retail, grocery, restaurant, and residential uses in the following decades. By 1991, the prior structures were removed; the site remained undeveloped until 2000.[32] At that time, a service station was constructed, including approximately 4,500 square feet of retail space and a car wash.

Willow Road Tunnel Site

Willow Road, adjacent to the west side of the main Project Site, was a private road by 1857 or 1858. By 1864, it was known as "Willow Road," a descriptor of the willows at the edge of the marsh.[33] In 1889, Willow Road proceeded a short distance east to the Carnduff farmstead. The Dumbarton Cutoff Line was completed in 1909 along the northern edge of the main Project Site; it was bisected by the Carnduff farm and Willow Road.[34] Willow Road was reportedly under construction when Dumbarton Bridge, the first automobile crossing on San Francisco Bay, approximately 1.75 miles northeast of the main Project Site, opened on January 15, 1927.[35] Upon the bridge's construction, Willow Road served as the primary automobile link to the west end of the bay crossing until the Bayfront Expressway was completed during final decades of the twentieth century. Historic aerial photographs indicate Willow Road has had an at-grade crossing with the Dumbarton Cutoff Line since the rail line was built.[36]

Built-Environment Resources

The following section presents details regarding built-environment resources within and adjacent to the Project Site with the potential to qualify as historical resources under CEQA. A property is considered a historical resource under CEQA if it is listed in or formally determined eligible for listing in the California Register of Historical Resources (California Register), included in an adopted local register, identified as significant in a qualifying historical resource survey, or otherwise determined by the CEQA lead agency to be historically significant. Table 3.8-1 summarizes the built-environment resources within the Study Area, their associated assessor's parcel numbers (as applicable), dates of construction, and a determination as to whether each resource qualifies as a significant historical resource under CEQA, based on previous evaluations.

[32] Cornerstone Earth Group. 2020. *Phase I Environmental Site Assessment, 1399 Willow Road, Menlo Park, California*. October 13.

[33] META Willow Village Project. 2022. Cultural Resources Assessment Report. Prepared for Pacific Innovation Partners, LLC. Brown, A.K. 1975. *Place Names of San Mateo County*. San Mateo County Historical Association, College of San Mateo Campus, San Mateo, CA (see Sowers, J. 2005. *Creek and Watershed Map of Palo Alto and Vicinity.* Oakland Museum of California, Oakland, CA).

[34] META Willow Village Project. 2022. Cultural Resources Assessment Report. Prepared for Pacific Innovation Partners, LLC. William Self Associates. 2009. *Final Archaeological Research Design and Evaluation Plan: Bay Division Pipeline Reliability Upgrade Project*. Prepared on behalf of ENTRIX-Ward JV for U.S. Army Corps of Engineers and San Francisco Public Utilities Commission:2-27.

[35] META Willow Village Project. 2022. Cultural Resources Assessment Report. Prepared for Pacific Innovation Partners, LLC. Svanevik, Michael, and Shirley Burgett. 2000. *Menlo Park California: Beyond the Gate.* Second facsimile edition. Menlo Park Historical Association, Menlo Park, CA, p. 119.

[36] Nationwide Environmental Title Research, LLC. 1948, 1956, 1982, 1991. *Aerial Photograph of Willow Road, Menlo Park, California*. Available: https://www.historicaerials.com. Accessed: March 7, 2022.

Table 3.8-1. Historic-Aged Built-Environment Resources within the Study Area

Address/Name	APN	Date Constructed	Evaluation	CEQA Historical Resource
Main Project Site				
Main Project Site (all buildings evaluated collectively as a potential historic district)	Numerous	1956–1962	Not eligible for listing	No
1205–1275 Hamilton Court	055-440-010	1979	N/A (not of historic age)	No
1200–1240 Hamilton Court	055-440-020	1979	N/A (not of historic age)	No
1105–1195 Hamilton Court	055-440-030	1980	N/A (not of historic age)	No
1100–1190 Hamilton Court	055-440-040	1980	N/A (not of historic age)	No
1003–1005 Hamilton Avenue	055-440-050	1996	N/A (not of historic age)	No
927–953 Hamilton Avenue	055-440-090	1988	N/A (not of historic age)	No
959–967 Hamilton Avenue	055-440-090	1988	N/A (not of historic age)	No
1374–1376 Willow Road	055-440-110	1959–1962	Not eligible for listing	No
1390 Willow Road	055-440-130	1956	Not eligible for listing	No
925 Hamilton Avenue	055-440-190	1988	N/A (not of historic age)	No
1370 Willow Road	055-440-210	1962	Not eligible for listing	No
940 Hamilton Avenue	055-440-230	1962	Not eligible for listing	No
960 Hamilton Avenue	055-440-230	1982	Not eligible for listing*	No
980 Hamilton Avenue	055-440-260	1962	Not eligible for listing	No
1380 Willow Road	055-440-300	1982	N/A (not of historic age)	No
1010–1042 Hamilton Avenue	055-440-310	1981	N/A (not of historic age)	No
1050–1098 Hamilton Avenue	055-440-320	1981	N/A (not of historic age)	No
990–998 Hamilton Avenue	055-440-330	1982	N/A (not of historic age)	No
1360 Willow Road	055-440-340	1982	N/A (not of historic age)	No
1350 Willow Road	055-440-350	1985	N/A (not of historic age)	No
Hamilton Avenue Parcels North and South				
871–883 Hamilton Avenue	055-398-270	2000	N/A (not of historic age)	No
1401 Willow Road	055-398-280	2000	N/A (not of historic age)	No
1399 Willow Road	055-395-090	2000	N/A (not of historic age)	No
Offsite Parcels				
1385 Willow Road	055-383-560	1953	Not eligible for listing	No
1396 Carlton Avenue	055-395-060	1952	Not eligible for listing	No
777 Hamilton Avenue	055-398-290	2017	N/A (not of historic age)	No
1340 Willow Road	055-432-150	c. 1980–1982	N/A (not of historic age)	No
1305 O'Brien Drive/ 1350 Adams Court	055-472-030	1988/2016	N/A (not of historic age)	No
1355/1365 Adams Court	055-471-050	1985	N/A (not of historic age)	No
Dumbarton Cutoff Linear Historic District (containing the contributing Dumbarton Cutoff Line)	N/A	1907–1910	Eligible for National Register of Historic Places listing	**Yes**

Address/Name	APN	Date Constructed	Evaluation	CEQA Historical Resource

Sources: JRP Historical Consulting, LLC. 2021. *1385 Willow Road, Menlo Park, California*. June 2. Department of Parks and Recreation forms 523A, 523B, 523L; JRP Historical Consulting, LLC. 2021. *1396 Carlton Avenue, Menlo Park, California*. June 2. Department of Parks and Recreation forms 523A, 523B, 523L; JRP Historical Consulting, LLC. 2017, *Dumbarton Cutoff*. February 1. Department of Parks and Recreation form 523L; JRP Historical Consulting, LLC. 2021. *Menlo Science and Technology Park, Menlo Park, California.* Department of Parks and Recreation forms 523A, 523B, 523L; Nationwide Environmental Title Research, LLC. 1980, 1982*. Aerial Photograph of 1340 Willow Road, Menlo Park, California*. Available: https://www.historicaerials.com. Accessed: February 19, 2021; ParcelQuest. 2021. *Property Detail Report, 828 Hamilton Avenue, 777 Hamilton Avenue, and 1355 Adams Court, Menlo Park, CA.* Available: http://www.parcelquest.com. Accessed: February 19 and May 21, 2021; Peninsula Innovation Partners, LLC. 2020.

"*" denotes a resource that is not of historic age, based on City of Menlo Park property data, but the resource received a National Register of Historic Places and California Register of Historical Resources evaluation in JRP Historical Consulting, LLC, 2021, *Menlo Science and Technology Park, Menlo Park, California,* DPR forms 523A, 523B, 523L.

Main Project Site

The main Project Site is developed with 20 buildings, of which five are historic-aged buildings (i.e., more than 50 years old, the age above which built-environment resources generally have the potential to become eligible for listing in the California Register and therefore qualify as CEQA historical resources). The remaining 15 buildings have construction dates of 1979 or later, which is 50 years prior to the date the NOP was released.

Between 2019 and 2021, JRP Historical Consulting, LLC (JRP), prepared a DPR form set for the main Project Site to document evaluation of historic-aged buildings as well as the property as a whole. JRP's evaluation found that three buildings—1390 Willow Road, 940 Hamilton Avenue, and 960 Hamilton Avenue[37]—met the significance requirements of National Register of Historic Places (National Register)/California Register Criteria A/1 (i.e., significant events) for their associations with the CORONA surveillance satellite program. The remaining three historic-aged buildings within the main Project Site were not associated historically with the CORONA program, and no other tenants on the site (including Hiller Aircraft) appear to have made significant contributions to local, regional/state, or national history to the extent necessary to support Criteria A/1 significance.

Although the three buildings used for the CORONA program appear to have historical significance, JRP evaluated the buildings' integrity relative to their proposed period of significance, 1958–1969, and found that 1390 Willow Road, 940 Hamilton Avenue, 960 Hamilton Avenue, as well as their immediate environment, have been altered to such a degree that the buildings have diminished integrity of setting, design, materials, workmanship, feeling, and association. Because of these diminished aspects of integrity, JRP found that the overall integrity of the resources has been compromised and that they no longer reflect their character from the time when they were used for the CORONA program. As a result, the JRP evaluation concluded that the three buildings do not convey their historical significance and are not eligible for listing in the National Register or California Register. Furthermore, JRP determined that none of the historic-aged buildings in the Menlo Science and Technology Park, nor the property as a

[37] Note that JRP also evaluated 960 Hamilton Avenue, despite the fact that the City of Menlo Park property data indicate that the building was constructed in 1982 and therefore was not yet 50 years old when the NOP was released.

whole, meets the significance thresholds established by National Register/California Register Criteria B/2 (i.e., significant persons), C/3 (i.e., significant architecture, design, engineering), and D/4 (i.e., significant information potential).[38] The DPR form set documenting JRP's evaluation of the Menlo Science and Technology Park is available in Appendix 3.8, *Historical Resource Evaluations*.

Hamilton Avenue Parcels

The buildings on Hamilton Avenue Parcels North and South are not of historic age.

Offsite Parcels

The main Project Site and Hamilton Avenue Parcels North and South lie adjacent to several residential, commercial, and institutional buildings. None of the buildings adjacent to the main Project Site appear to be more than 50 years old; however, two residential buildings adjacent to Hamilton Avenue Parcels North and South were constructed during the early 1950s. These two buildings, 1385 Willow Road and 1396 Carlton Avenue, received National Register/California Register evaluations, as documented on DPR form sets, in 2021 to establish their historical resource status. The 2021 evaluations found that neither building meets the eligibility requirements of the National Register or California Register and neither qualifies as a CEQA historical resource.[39, 40]

Offsite Improvements

Offsite improvement locations include the roundabout at the Hetch-Hetchy right-of-way; areas along Hamilton Avenue, Bayfront Expressway, and a portion of Willow Road and University Avenue for underground utility lines; the Pacific Gas and Electric Company Ravenswood substation and associated utility line locations; and various intersections. All locations are within urbanized areas that have been previously disturbed and do not contain built-environment resources (e.g., buildings, structures, objects, districts) that would qualify as historical resources. In addition, Willow Road Tunnel, proposed as part of the Project, would extend northward from the main Project Site under the Dumbarton Cutoff Line at Willow Road. Originally constructed from 1907 to 1910, the Dumbarton Cutoff Line consists of tracks that were first recorded by P.S. Preservation Services on a DPR form set in 1996. According to this recordation, the 16.4-mile Dumbarton Cutoff Line, including features between Redwood City in San Mateo County to the west and Niles in Alameda County to the east, contributes to the Dumbarton Cutoff Linear Historic District.

The 1996 P.S. Preservation Services study found the district eligible for listing in the National Register under Criterion A and identified 1909–1945 as its period of significance. JRP subsequently updated the district documentation in 2008 through a DPR update sheet that, in addition to confirming the Dumbarton Cutoff Linear Historic District's eligibility for listing in the National Register, added three contributing culverts. JRP again updated the district's documentation in 2017 by reiterating its National Register eligibility and clarifying information regarding the historic property boundary and character-defining features of the resource. In 2019, the California State Historic Preservation Officer (SHPO) concurred with the findings of the 2017 DPR recordation through the Section 106 process. As a result of SHPO concurrence, the Dumbarton

[38] JRP Historical Consulting, LLC. 2021. *Menlo Science and Technology Park*.

[39] JRP Historical Consulting, LLC. 2021. *1385 Willow Road, Menlo Park, California*. June 2. Department of Parks and Recreation forms 523A, 523B, 523L; JRP Historical Consulting, LLC. 2021. *1396 Carlton Avenue, Menlo Park, California*. June 2. Department of Parks and Recreation forms 523A, 523B, 523L.

[40] The properties at 1385 Willow Road and 1396 Carlton Avenue were evaluated pursuant to Mitigation Measure CULT-1 of the ConnectMenlo EIR, which requires an individual project proposed on *or adjacent to* a site with a building that is more than 50 years old to prepare a site-specific evaluation of the historic-aged resources.

Cutoff Linear Historic District—inclusive of the rail corridor—is formally listed in the California Register pursuant to Public Resources Code (PRC) Section 5024.1(d)(1). Furthermore, it qualifies as a historical resource under CEQA per Section 15064.5(a)(1) of the CEQA Guidelines.

As established in the 1996, 2012, and 2017 recordations, the contributing elements of the Dumbarton Cutoff Linear Historic District are the following: Dumbarton Cutoff Line, Dumbarton Bridge, Newark Slough Bridge, Henderson Underpass, University Culvert, and Newark Culvert. Located immediately adjacent to the Project Site, the Dumbarton Cutoff Line consists of a single set of standard-gauge steel tracks on wooden ties and stone ballast along a low earthen berm; only the track is visible at the surface where the linear resource crosses Dumbarton Road. The segment of the Dumbarton Cutoff Line adjacent to the Project Site is assumed to date to the historical resource's period of significance, although appurtenant features such as crossing signals were installed at a later date.[41]

Archaeological Resources

Records Search and Literature Review

The Cultural Resources Assessment Report prepared by Basin includes archival record searches and literature reviews conducted at the Northwest Information Center (NWIC); Bancroft Library at the University of California, Berkeley; and Basin Research Associates, San Leandro, as described below.

Main Project Site and Hamilton Avenue Parcels North and South

The records search and literature review identified one previously recorded multi-component (historic and pre-European contact) archaeological resource within the Project Site, CA-SMA-160/H (P-41-000160), also referred to as the Hiller Mound. The historic component of CA-SMA-160/H consists of the remains of the Carnduff farm. Samuel Carnduff originally purchased 50 acres in 1865, then eventually expanded his holdings to 180 acres. The pre-European contact component of this resource has been subject to multiple phases of archaeological investigation since 1949. More recently, archaeological material was identified during infrastructure improvements and other development in 2012 and 2017. Discoveries encountered during construction-related ground disturbance in 2012 and 2017 were overseen by the Native American Heritage Commission– (NAHC-) appointed Most Likely Descendant (MLD).[42] The NAHC-appointed Most Likely Descendent was a member of the Amah Mutsun Band of Mission San Juan Bautista. <u>The Hiller Mound is further discussed in Section 3.16, Tribal Cultural Resources.</u>

The archeological component of the Hiller Mound has several parts, the most culturally sensitive of which is referred to as the Hiller Mound Core. Although CA-SMA-160/H has not been formally evaluated for eligibility for listing in the California Register, it has been assumed eligible under Criterion 4 for its potential to contribute to regional research questions, given its age and the significance of the data that it contains. Furthermore, it was subsequently assumed eligible for listing in the National Register under Criterion D. According to the Cultural Resources Assessment Report, the resource also appears eligible for the California Register under Criterion 1 because of its importance to Ohlone culture, as ascribed by the MLD.[43]

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41 P.S. Preservation Services. 1996. *Request for Determination of Eligibility*; JRP Historical Consulting, LLC. 2008. *Southern Pacific Railroad, Dumbarton Cutoff Linear Historic District*. Department of Parks and Recreation form 523L. June 4; JRP Historical Consulting, LLC. 2017. *Dumbarton Cutoff*. February 1. Department of Parks and Recreation form 523L.

42 Basin Research Associates, Inc. 2019, revised 2022. *Cultural Resources Assessment Report*. Meta Willow Campus Project, City of Menlo Park, San Mateo County, CA. Prepared for Pacific Innovation Partners, LLC.

43 Ibid.

An Enhanced Identification Program (EIP) was implemented by Basin in 2017 and reported in 2019. The purpose of the EIP was to identify the horizontal and vertical extent of subsurface cultural deposits associated with CA-SMA-160/H within the main Project Site. Qualified archaeologists and Native American monitors were present during all identification activities.[44]

Offsite Parcels

One additional archaeological resource was identified in the vicinity of the Project Site. This resource consists of the structural remains of Schilling's Arden Salt Works at the Ravenswood and Alviso salt ponds (P-41-002351). The site, located 0.3 mile from the Project Site, was previously evaluated for its significance and determined not eligible for listing in the National Register. This is the only offsite known archaeological resource identified in the Cultural Resources Assessment Report.

~~Assembly Bill 52 and Senate Bill 18 Consultation~~

~~To identify additional archaeologically sensitive areas and potential tribal cultural resources within the Project area, the City of Menlo Park (City) contacted seven individuals who represent five local California Native American tribes. Letters with Project details, a map, and a request for consultation were sent on December 23, 2020. The letters solicited responses from each contact, including questions, comments, or concerns regarding the Proposed Project. The letters were sent to the following local California Native American tribes:~~

- ~~Amah Mutsun Tribal Band~~
- ~~Costanoan Rumsen Carmel Tribe~~
- ~~Indian Canyon Mutsun Band of Costanoan~~
- ~~Muwekma Ohlone Indian Tribe of the San Francisco Bay Area~~
- ~~The Ohlone Indian Tribe~~

~~In July 2021, the City requested an updated AB 52 and Senate Bill (SB) 18 consultation list from the NAHC. On July 23, 2021, the City received a tribal consultation list, including nine contacts from the following California Native American tribes:~~

- ~~Amah Mutsun Tribal Band~~
- ~~Costanoan Rumsen Carmel Tribe~~
- ~~Indian Canyon Mutsun Band of Costanoan~~
- ~~Muwekma Ohlone Indian Tribe of the San Francisco Bay Area~~
- ~~The Ohlone Indian Tribe~~
- ~~Wuksache Indian Tribe/Eshom Valley Band~~
- ~~Tamien Nation~~

~~Consistent with the requirements of PRC Section 21080.3.1, the City mailed letters on December 23, 2020, to the original seven tribal contacts and on September 9, 2021, to the additional tribal contacts who were identified by the NAHC, notifying them of their opportunity to consult for the Proposed Project and identify and mitigate the Proposed Project's potential impacts on tribal cultural resources. To date, the City has received requests for consultation from the Amah Mutsun Tribal Band, Tamien Nation, and Muwekma Ohlone Tribe. Consultation efforts are ongoing.~~

[44] Ibid.

Regulatory Setting

Federal

National Historic Preservation Act, Section 106

Although the Proposed Project is not anticipated to require compliance with Section 106 of the National Historic Preservation Act, the National Register and federal guidelines related to the treatment of cultural resources are relevant for the purposes of determining whether significant cultural resources, as defined under CEQA, are present and guiding the treatment of such resources.

National Historic Preservation Act and National Register of Historic Places

Built-environment and archaeological resources are protected through the National Historic Preservation Act (16 United States Code 470f). The National Historic Preservation Act requires project review of effects on historic properties only when projects involve federal funding or permitting or occur on federal land; therefore, it is not applicable to discretionary actions at the municipal level. However, the National Historic Preservation Act establishes the National Register, which provides a framework for resource evaluation and informs the process for determining impacts on historical resources under CEQA.

The National Register is the nation's official comprehensive inventory of historic resources. Administered by the National Park Service, the National Register includes buildings, structures, sites, objects, and districts that possess historic, architectural, engineering, archaeological, or cultural significance at the national, state, or local level. Typically, a resource that is more than 50 years of age is eligible for listing in the National Register if it meets any one of the four eligibility criteria *and* retains sufficient historical integrity. A resource less than 50 years old may be eligible if it can be demonstrated that it is of "exceptional importance" or a contributor to a historic district. National Register criteria are defined in *National Register Bulletin Number 15: How to Apply the National Register Criteria for Evaluation*.

Properties that are listed in the National Register, as well as properties that are formally determined to be eligible for listing in the National Register, are automatically listed in the California Register, described below, and therefore considered historical resources under CEQA.

State

California Environmental Quality Act (other than sections added by AB 52)

CEQA, as codified in PRC Section 21000 et seq. and implemented by the CEQA Guidelines (14 California Code of Regulations Section 15000 et seq.), is the principal statute governing environmental review of projects in California. CEQA defines a historical resource as a property listed in, or eligible for listing in, the California Register; included in a qualifying local register; or determined by a lead agency to be historically significant. In order to be considered a historical resource, a property must be old enough to allow an understanding of the historic importance of the resource and obtain a scholarly perspective on the events or individuals associated with the resource, which is generally at least 50 years. Section 21084.1 of the PRC and Section 15064.5 of the CEQA Guidelines define a historical resource for purposes of CEQA as the following:

1. A resource listed in, or determined to be eligible by the State Historical Resources Commission for listing in, the California Register (PRC Section 5024.1).

2. A resource included in a local register of historical resources, as defined in PRC Section 5020.1(k), or identified as significant in a historical resource survey meeting the requirements of PRC Section 5024.1(g). Such resources will be presumed to be historically or culturally significant. Public agencies must treat such resources as significant, unless the preponderance of evidence demonstrates that they are not historically or culturally significant.

3. Any object, building, structure, site, area, place, record, or manuscript that a lead agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California may be considered a historical resource, provided the lead agency's determination is supported by substantial evidence in light of the whole record. Generally, a resource will be considered by the lead agency to be historically significant if the resource meets the criteria for listing in the California Register (PRC Section 5024.1).

4. The fact that a resource is not listed in or determined to be eligible for listing in the California Register, not included in a local register of historical resources (pursuant to PRC Section 5020.1[k]), or identified in a historical resources survey (meeting the criteria in PRC Section 5024.1[g]) does not preclude a lead agency from determining that the resource may be a historical resource, as defined in PRC Sections 5020.1(j) or 5024.1.

CEQA also requires lead agencies to consider whether projects will affect unique archaeological resources. PRC Section 21083.2(g) states that "unique archaeological resource" means an archaeological artifact, object, or site about which it can be clearly demonstrated that, without merely adding to the current body of knowledge, there is a high probability that it meets one or more of the following criteria:

1. Contains information needed to answer important scientific research questions and that there is a demonstrable public interest in that information.

2. Has a special and particular quality, such as being the oldest of its type or the best available example of its type.

3. Is directly associated with a scientifically recognized important prehistoric or historic event or person.

CEQA requires lead agencies to determine if a project would have a significant effect on historical resources or unique archaeological resources. If a resource is neither a unique archaeological resource nor a historical resource, the CEQA Guidelines note that the effects of a project on that resource shall not be considered a significant effect on the environment (CEQA Guidelines Section 15064.5[c][4]). In addition, projects that comply with the Secretary of the Interior's Standards for the Treatment of Historic Properties benefit from a regulatory presumption under CEQA that they would have a less-than-significant impact on a historical resource (14 California Code of Regulations 15126.4[b][1]). Projects that do not comply with the Secretary's standards may or may not cause a substantial adverse change in the significance of a historical resource and may be subject to further analysis to assess whether they would result in material impairment of a historical resource's significance.

Under CEQA, a substantial adverse change in the significance of a historical resource means the physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of the historical resource would be materially impaired. Actions that would materially

impair the significance of a historical resource are any actions that would demolish or adversely alter the physical characteristics that convey the property's historical significance and qualify it for inclusion in the California Register, the National Register, or in a local register or survey that meets the requirements of PRC Sections 5020.1(k) and 5024.1(g).

California Register of Historical Resources

The California Register is "an authoritative listing and guide to be used by state and local agencies, private groups, and citizens in identifying the existing historical resources of the state and indicating which resources deserve to be protected, to the extent prudent and feasible, from substantial adverse change" (PRC Section 5024.1[a]). The California Register criteria are based on the National Register criteria (PRC Section 5024.1[b]). Certain resources are determined by CEQA to be automatically included in the California Register, including California properties that were formally eligible for or listed in the National Register. To be eligible for the California Register as a historical resource, a resource must be significant at the local, state, and/or federal level under one or more of the following evaluative criteria, as defined in PRC Section 5024.1(c):

1. The resource is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage.
2. The resource is associated with the lives of persons important in our past.
3. The resource embodies the distinctive characteristics of a type, period, region, or method of construction; represents the work of an important creative individual; or possesses high artistic values.
4. The resource has yielded, or may be likely to yield, information important in prehistory or history.

As with the National Register, a significant historical resource must possess integrity in addition to meeting the significance criteria to be considered eligible for listing in the California Register. Consideration of integrity for evaluation of California Register eligibility follows the definitions and criteria from National Park Service *National Register Bulletin 15*.

~~California Native American Historic Resources Protection Act~~

~~The California Native American Historic Resources Protection Act of 2002 imposes civil penalties, including imprisonment and fines of up to $50,000 per violation, for persons who unlawfully and maliciously excavate, remove, destroy, injure, or deface a Native American historic, cultural, or sacred site that is listed or may be listed in the California Register~~.

~~Assembly Bill 52~~

~~Tribal cultural resources were originally identified as a distinct CEQA environmental category with the adoption of AB 52 in September 2014. For all projects that are subject to CEQA that received a notice of preparation, notice of negative declaration, or mitigated negative declaration on or after July 1, 2015, AB 52 requires the lead agency for a proposed project to consult with the geographically affiliated California Native American tribes. The legislation creates a broad, new category for environmental resources, "tribal cultural resources," which must be considered under CEQA. AB 52 requires a lead agency to not only consider the resource's scientific and historical value but also whether it is culturally important to a California Native American tribe.~~

~~AB 52 defines tribal cultural resources as sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are included in or determined to be eligible for inclusion in the California Register; included in a local register of historical resources, as defined in PRC Section 5020.1(k); or determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to the criteria of PRC Section 5024.1(c) (CEQA Section 21074). A cultural landscape that meets the definition of a tribal cultural resource is a tribal cultural resource to the extent that the landscape is geographically defined in terms of the size and scope of the landscape. A historical resource described in PRC Section 21084.1; a unique archaeological resource, as defined in subdivision (g) of PRC Section 21083.2; or a "nonunique archaeological resource," as defined in subdivision (h) of PRC Section 21083.2 may also be a tribal cultural resource if it conforms to the definition of a tribal cultural resource.~~

~~AB 52 also sets up an expanded consultation process. For projects initiated after July 1, 2015, lead agencies are required to provide notice of the proposed projects to any tribe that is traditionally and culturally affiliated with the geographic area that requested to be informed by the lead agency, following PRC Section 21018.3.1(b). If, within 30 days, a tribe requests consultation, the consultation process must begin before the lead agency can release a draft environmental document. Consultation with the tribe may include discussion of the type of review necessary, the significance of tribal cultural resources, the significance of a project's impacts on the tribal cultural resources, and alternatives and mitigation measures recommended by the tribe. The consultation process will be deemed concluded when either (a) the parties agree to mitigation measures or (b) any party concludes, after a good-faith effort, that an agreement cannot be reached. Any mitigation measures agreed to by the tribe and lead agency must be recommended for inclusion in the environmental document. If a tribe does not request consultation, or otherwise assist in identifying mitigation measures during the consultation process, a lead agency may still consider mitigation measures if the agency determines that a project will cause a substantial adverse change to a tribal cultural resource.~~

~~Senate Bill 18~~

~~SB 18, established in September 2004, requires local governments to consult with California Native American tribes prior to preparing or amending both general plans (as defined in California Government Code Section 65300 et seq.) and specific plans (as defined in Government Code Section 65450 et seq.). The purpose of this consultation is to include California Native American tribes early in the planning process to allow for the identification and protection of cultural resources. This process also allows cultural resources to be considered during the broad-scale local and regional planning process rather than at a project level. The following includes a sequential list of local government responsibilities:~~

- ~~Local governments must notify appropriate tribes, as identified by the NAHC, prior to the adoption or amendment of a general plan or specific plan.~~
- ~~Tribes have 90 days from the receipt of notification to request consultation (Government Code Section 65352.3).~~
- ~~Prior to the adoption or substantial amendment of a general plan or specific plan, local governments must refer the proposed action to the appropriate tribes, as identified by the NAHC, regardless of whether previous consultation has taken place.~~
- ~~Local governments must allow a 45-day comment period (Government Code Section 65352).~~
- ~~Local governments must provide notice of a public hearing to all tribes that filed a written request for such notice at least 10 days prior to the hearing (Government Code Section 65092).~~

Health and Safety Code Section 7050.5

California Health and Safety Code Section 7050.5 requires that, in the event of discovery or recognition of any human remains in any location other than a dedicated cemetery, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains until the coroner of the county in which the human remains are discovered has determined that the remains are not subject to the provisions of Section 27491 of the Government Code or any other related provisions of law concerning investigation of the circumstances, manner, and cause of any death. If the coroner determines that the remains are not subject to his or her authority and recognizes the human remains to be those of a Native American, or has reason to believe that they are those of a Native American, he or she shall contact by telephone within 24 hours the NAHC.

~~Public Resources Code Section 5097.98~~

~~Section 5097.98 of the PRC stipulates that whenever the commission receives notification of a discovery of Native American human remains from a county coroner pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, it shall immediately notify those persons it believes to be most likely descended from the deceased Native American. The decedents may, with the permission of the owner of the land, or his or her authorized representative, inspect the site of the discovery of the Native American remains and recommend to the owner or the person responsible for the excavation work means for treating or disposing of, with appropriate dignity, the human remains and any associated grave goods. The descendants shall complete their inspection and make their recommendation within 24 hours of their notification by the NAHC. The recommendation may include scientific removal and nondestructive analysis of human remains and items associated with Native American burials.~~

Local

Menlo Park General Plan

The City General Plan consists of Open Space/Conservation, Noise, and Safety Elements, adopted May 21, 2013; the 2015–2023 Housing Element, adopted by the City on April 1, 2014; and the Circulation and Land Use Elements, adopted November 29, 2016. The following goals and policies from the Land Use Element that have been adopted to avoid or mitigate environmental impacts are relevant to cultural ~~and tribal~~ resources and the Proposed Project:

Goal LU-7: Sustainable Services. Promote the implementation and maintenance of sustainable development, facilities, and services to meet the needs of Menlo Park's residents, businesses, workers, and visitors.

> **Policy LU-7.8: Cultural Resource Preservation**. Promote preservation of buildings, objects, and sites with historic and/or cultural significance.[45]

The following goals and policies from the Open Space/Conservation Element that have been adopted to avoid or mitigate environmental impacts are relevant to cultural resources and the Proposed Project:

Goal OSC-3: Protect and Enhance Historic Resources. Protect and enhance cultural and historical resources for their aesthetic, scientific, educational, and cultural values.

[45] City of Menlo Park. 2016. *ConnectMenlo: Menlo Park Land Use and Mobility Update*, *City of Menlo Park General Plan.* Adopted: November 29. Available: https://www.menlopark.org/DocumentCenter/View/15014/Land-Use-Element_adopted-112916_final_figures?bidId=. Accessed: March 17, 2022.

Policy OSC-3.1: Prehistoric or Historic Cultural Resources Investigation and Preservation. Preserve historical and cultural resources to the maximum extent practical.

Policy OSC-3.2: Prehistoric or Historic Cultural Resources Protection. Require significant historic or prehistoric artifacts to be examined by a qualified consulting archaeologist or historian for appropriate protection and preservation and to ensure compliance with local, state, and federal regulations.

Policy OSC-3.3: Archaeological or Paleontological Resources Protection. Protect prehistoric or historic cultural resources either onsite or through appropriate documentation as a condition of removal. When a development project has sufficient flexibility, require avoidance or preservation of the resources as the primary form of mitigation, unless the City identifies superior mitigation. If resources are documented, undertake coordination with descendants and/or stakeholder groups, as warranted.

Policy OSC-3.4: Prehistoric or Historic Cultural Resources Found during Construction. If cultural resources, including archaeological or paleontological resources, are uncovered during grading or other onsite excavation activities, require construction to stop until appropriate mitigation is implemented.

~~**Policy OSC-3.5: Consultation with Native American Tribes**. Consult with those Native American tribes with ancestral ties to the Menlo Park city limits regarding General Plan amendments and land use policy changes.~~

Policy OSC-3.6: Identification of Potential Historic Resources. Identify historic resources for the historic district in the Zoning Ordinance and require design review of proposals affecting historic buildings.[46]

Environmental Impacts

This section describes environmental impacts related to cultural ~~and tribal cultural~~ resources that could result from implementation of the Proposed Project. The section begins with criteria of significance that establish the thresholds for determining whether an impact would be significant. It then presents impacts associated with the Proposed Project and identifies mitigation measures to address the impacts as needed.

Thresholds of Significance

In accordance with Appendix G of the CEQA Guidelines, the Proposed Project would have a significant effect on cultural ~~or tribal cultural~~ resources if it would:

- Cause a substantial adverse change in the significance of a historical resource, pursuant to CEQA Guidelines Section 15064.5;
- Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5; or
- Disturb any human remains, including those interred outside of dedicated cemeteries~~.~~; ~~or~~
- ~~Cause a substantial adverse change in the significance of a tribal cultural resource, defined in PRC Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe and that is:~~

[46] City of Menlo Park. 2013. *Open Space/Conservation, Noise, and Safety Elements, at Home in Menlo Park*, *City of Menlo Park General Plan.* Adopted: May 21. Available: https://www.menlopark.org/DocumentCenter/View/234/Open-Space-and-Conservation-Noise-and-Safety-Elements?bidId=. Accessed: April 28, 2021.

- ~~Listed or eligible for listing in the California Register or in a local register of historical resources, as defined in PRC Section 5020.1(k), or~~
- ~~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 PRC Section 5024.1. In applying the criteria set forth in subdivision (c) of PRC Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.~~

A discussion of each of these criteria is included in the impact analysis below. If an impact on a historical~~,~~ or archaeological~~, or tribal cultural~~ resource would be significant, CEQA requires feasible measures to minimize the impact (14 California Code of Regulations Section 15126.4[a][1]).

Methods for Analysis

The following section analyzes potential impacts on built-environment and~~,~~ archaeological~~, and tribal cultural~~ resources, as well as human remains, that may be caused by the Proposed Project. Impacts of the Proposed Project are analyzed for built-environment resources within or adjacent to the Project Site that meet the definition of historical resources, as outlined in PRC Section 21084.1 and CEQA Guidelines Section 15064.5 and described in the *Environmental Setting*, above. Per CEQA Guidelines Section 15064.5(b)(2), the analysis considers the potential for Project activities to materially impair the significance of a historical resource by causing direct changes to the physical characteristics of that resource as well as by causing changes in its immediate setting. To assess the Proposed Project's potential to create a significant impact on archaeological ~~and tribal~~ resources, ICF peer reviewed the following report provided by the Project Sponsor:

- *Cultural Resources Assessment Report: Meta Willow Campus Project, City of Menlo Park, San Mateo County* by Basin (2019, revised 2022).

Summary of Analysis in the ConnectMenlo EIR

The ConnectMenlo EIR analyzed the following impacts that would result from implementing the updates to the Land Use and Circulation Elements and the M-2 Area Zoning Update.[47]

- Impacts related to historical resources were analyzed in the ConnectMenlo EIR as Impact CULT-1 (pages 4.4-12 to 4.4-15). It was determined that impacts on historical resources would be significant if they would lead to demolition or alteration with the potential to change the historic fabric or setting of historic architectural resources. Mitigation Measure CULT-1 (page 4.4-15) requires an individual project that is proposed on or adjacent to a site with a building that is more than 50 years old to prepare a site-specific evaluation to determine if the project is subject to completion of a site-specific historic resources study and, if necessary, conformance with the current Secretary of the Interior's Standards for the Treatment of Historic Properties, with Guidelines for Preserving, Rehabilitating, and Restoring Historic Buildings. The ConnectMenlo EIR did not identify any historical resources within the vicinity of the Project Site.
- Impacts related to archaeological resources were analyzed in the ConnectMenlo EIR as Impact CULT-2 (pages 4.4-16 to 4.4-18). It was determined that impacts would be less than significant with implementation of Mitigation Measures CULT-2a and CULT-2b. Mitigation Measure CULT-2a, which would be applied if archeological resources are found during construction, would require cessation of

[47] City of Menlo Park. 2016. *ConnectMenlo: General Plan Land Use and Circulation Elements and M-2 Zoning Update for the City of Menlo Park*. June 1. Prepared by Placeworks, Berkeley, CA. Menlo Park, CA. Available: https://www.menlopark.org/1013/Environmental-Impact-Report. Accessed: March 19, 2021.

proximate construction (i.e., within a 100-foot radius from the find), evaluation by a qualified archaeologist, recordation on DPR forms, preparation of an archeological data recovery plan if the resource is significant, and curation and reporting. Mitigation Measure CULT-2b requires Native American tribes to be consulted in connection with general plan amendments or land use policy changes.

- Impacts related to human remains were analyzed in the ConnectMenlo EIR as Impact CULT-4 (page 4.4-20). It was determined that impacts would be less than significant with implementation of Mitigation Measure CULT-4. This mitigation measure requires compliance with relevant state statutes and regulations if human remains are encountered during ground disturbance.
- ~~Impacts related to tribal cultural resources, as defined by PRC Section 21074, were analyzed in the ConnectMenlo EIR as Impact CULT-5 (pages 4.4-21). Impacts were determined to be less than significant with implementation of Mitigation Measures CULT-2a, CULT-2b, and CULT-4 from the ConnectMenlo EIR.~~

Impacts and Mitigation Measures

Impact CR-1. Historical Resources. The Proposed Project would cause a substantial adverse change in the significance of a historical resource, pursuant to Section 15064.5 (LTS/M).

Built-environment resources within and adjacent to the Project Site were assessed for CEQA historical resource status pursuant to ConnectMenlo Mitigation Measure CULT-1. The buildings or structures on or adjacent to the main Project Site and Hamilton Avenue Parcels North and South, as well as offsite parcel locations, do not qualify as historical resources under CEQA.

Although not part of the main Project Site, the Dumbarton Cutoff Line would be affected as part of the Proposed Project because of construction of Willow Road Tunnel. The Dumbarton Cutoff Line qualifies as a historical resource for the purposes of CEQA because it is identified as a contributor to the Dumbarton Cutoff Linear Historic District, which has previously been determined eligible for listing in the National Register, with SHPO concurrence, and is listed in the California Register. The Dumbarton Cutoff Line comprises at-grade railroad tracks on wooden ties and stone ballast in the vicinity of Willow Road. This segment of track is assumed to date to the historical resource's period of significance (1909–1945), thereby contributing to the significance of the resource.

The Proposed Project would construct a 50-foot-wide tunnel under the current Dumbarton Cutoff Line corridor at Willow Road to facilitate tram, service vehicle, bicycle, and pedestrian traffic between the main Project Site and the Meta West Campus and Bay Trail. Willow Road Tunnel would involve cut-and-cover construction, which would remove a section of Willow Road surface pavement as well as the steel tracks belonging to the Dumbarton Cutoff Line within the Willow Road right-of-way. It is anticipated that no more than 100 feet of the Dumbarton Cutoff Line (approximately the length of the segment of track currently within the Willow Road right-of-way) would be removed during construction as a result of the Proposed Project. The Proposed Project would not physically alter the track, ties, ballast, or berm surrounding Willow Road, and the track would be returned to its original location after construction.

Removal of a 100-foot-long segment of track within the Willow Road crossing/right-of-way could, if the removed rail is damaged or not returned to its original location, hinder the historical resource's ability to convey the significance of the Dumbarton Cutoff Linear Historic District; therefore, rail removal has the potential to cause a substantial adverse change in the significance of the resource. This activity would cause a break in the Dumbarton Cutoff Line, which spans 16.4 miles between Redwood City in San Mateo County and Niles in Alameda County, and may diminish the linear resource's integrity of materials, workmanship, feeling, and association when viewed from within the vicinity of Willow Road.

Regarding the resource's integrity of setting, the Project proposes construction of numerous new features immediately adjacent to the Dumbarton Cutoff Line. These include new office buildings, the Elevated Park, and public realm improvements, along with roadway reconfiguration and the Willow Road Tunnel construction described above. The tallest proposed feature immediately adjacent to the Dumbarton Cutoff Line, a glass atrium, would reach a maximum height of up to approximately 120 feet. Although this represents an increase in height compared with the one-story buildings currently at this location, the Proposed Project would not alter any features within the setting of the Dumbarton Cutoff Line that contribute to its historical significance. The Project Site has been substantially developed since the resource's period of significance, as have most areas adjacent to the Dumbarton Cutoff Line in San Mateo County. The Proposed Project represents a continuation of the development that has occurred since the immediate post–World War II period. It would not limit the Dumbarton Cutoff Linear Historic District's ability to express its era of construction or early use, its physical characteristics, or its significant transportation role as the first transbay rail link. However, as a result of the Proposed Project's temporary removal of a segment of track from the Dumbarton Cutoff Line, which currently crosses Willow Road, the resource could lose a portion of the historic material that expresses the significant historic character of the Dumbarton Cutoff Linear Historic District if the material is damaged or not properly returned to its original location. This activity could discernibly alter the resource's historical integrity and the public's ability to understand its historic character, as observed from Willow Road. Therefore, the Proposed Project could constitute material impairment of the significance of the Dumbarton Cutoff Line. The Proposed Project's impact on historical resources is considered significant.

MITIGATION MEASURE. Implementation of Project Mitigation Measure CR 1.1 would require the Project Sponsor to remove the tracks belonging to the Dumbarton Cutoff Line in a sensitive manner, store them during construction, and reinstall them in their historic location following completion of Project construction. This measure would ensure that the resource's overall physical characteristics and extant alignment would remain intact; following the Proposed Project, the Dumbarton Cutoff Line and the historic district to which it contributes would retain all aspects of historical integrity as well as the physical characteristics that support inclusion in the National Register and California Register. With implementation of Project Mitigation Measure CR 1.1, the Dumbarton Cutoff Line and the Dumbarton Cutoff Linear Historic District would still convey their historical significance and continue to qualify as historical resources for the purposes of CEQA. Impacts on built-environment resources would therefore be ***less than significant with mitigation***.

CR 1.1. Remove, Store, and Reinstall Dumbarton Cutoff Line Tracks.

> The Project Sponsor shall remove the Dumbarton Cutoff Line tracks, store them during construction of the Proposed Project, and reinstall them in their historic location without irreparable damage to their character-defining historic fabric. The Project Sponsor will prepare a preservation plan that specifies the practices to be employed to preserve the historical integrity of the tracks during their removal, storage, and reinstallation. These methods may include the following: using straps to lift rails rather than chains or other "metal on metal" methods, marking or numbering the track components so they can be replaced in their original sequence, and ensuring secure storage onsite or in a lay-down area. Following tunnel construction, the rail segments will be returned to their preconstruction location in Willow Road on new ballast and ties or other appropriate material for the rail crossing. The preservation plan shall be reviewed and approved by the City and the San Mateo County Transit District (SamTrans) prior to the issuance of demolition permits related to construction activities within Willow Road, and the Project Sponsor will incorporate the recommended protective measures into construction specifications.

Impact CR-2. Archaeological Resources. The Proposed Project would cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5 (LTS/M).

A stated above, one multi-component archaeological resource (CA-SMA-160/H) was identified within the main Project Site. CA-SMA-160/H has also been identified as a tribal cultural resource. Refer to Section 3.16, Tribal Cultural Resources, for an analysis of the Proposed Project's potential impacts on this tribal cultural resource. No archaeological resources were identified at Hamilton Avenue Parcels North and South, the Willow Road Tunnel site, or offsite parcel locations within the Study Area. CA-SMA-160/H has been subject to multiple phases of archaeological study and is assumed eligible for listing in the California Register.

A project that may cause a substantial adverse change in the significance of a historic or unique archeological resource may have a significant effect on the environment. Substantial adverse change in the significance of a cultural resource means physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of the resource would be materially impaired.

CEQA allows lead agencies to require reasonable efforts to permit any unique archeological resources to be preserved in place or left in an undisturbed state (PRC Section 21083.2[a]). Examples of treatment include, in no order of preference:

- Planning construction to avoid archeological sites;
- Deeding archeological sites into permanent conservation easements;
- Capping or covering archaeological sites with a layer of soil before building on the sites; and
- Planning parks, greenspace, or other open space so as to incorporate archeological sites (PRC Section 21083.2[b]).

Excavation as mitigation is restricted to those parts of the unique archaeological resources that would be damaged or destroyed by a project (PRC Section 21083.2[d]). According to the Office of Historic Preservation, "[a]voidance and preservation in place are the preferable forms of mitigation for archeological sites."[48]

The Proposed Project would avoid known archaeological resources in the Hiller Mound Core by means of preservation in place. Improvements on the main Project Site would include grading and filling to elevate the property above the adopted Federal Emergency Management Agency (FEMA) base flood elevation (BFE), thereby complying with the City's sea-level rise requirements of the zoning ordinance, and, outside the Hiller Mound Core, creating buildable pads and constructing a new vehicular circulation network. Once completed, the fill would establish a protective cover over the potential archeological resources at the main Project Site, thereby reducing the risk of damage from flooding, unintentional disturbance, or unauthorized excavation. In addition, the Proposed Project would incorporate the Hiller Mound Core into open space, thereby avoiding the construction of buildings or other substantial structures in this area. Collectively, these Proposed Project features would be consistent with the appropriate treatment measures established by CEQA Section 20183.2, including avoidance, capping and covering, and incorporating archaeological sites into parks, greenspace, or other open space. Nonetheless, given the relatively shallow depth of the archaeological deposits associated with CA-SMA-160/H, as well as the dispersal of deposits from past disturbance associated with natural drainage, agriculture, and construction, the Proposed Project would most likely disturb known resources. In addition, it is possible that the Proposed Project could disturb unknown deposits during construction activities, such as grading or demolition. Construction of the

[48] Office of Historic Preservation. n.d. *Technical Assistance Series #1*. Available: https://ohp.parks.ca.gov/pages/1054/files/ts01ca.pdf.

Proposed Project would require temporary erection of an estimated 40 scaffolding towers for construction of a glass atrium within the Hiller Mound Core. Geotechnical models of stresses induced by the gravity load of the proposed fill cap and the existing soil (i.e., the cumulative stress of proposed fill and existing soil) indicate that the proposed fill cap would result in uniform pressure across the underlying ~~primary midden~~ culturally affected soil and alluvial soil profile. Additional modeling suggests that the ~~temporary scaffolding, with its~~ 16-foot square base~~,~~ of the temporary scaffolding would reduce the concentrated pressure on the mound and result in a relatively minor increase in stress at the culturally affected soil ~~primary midden~~ layer due to the load transfer through the layer of new engineered fill. Project-related ground disturbance would have the potential to disturb both known and as-yet undocumented archaeological deposits associated with CA-SMA-160/H and other archeological resources. The impact would be potentially significant.

MITIGATION MEASURES. Compliance with federal, state, and local laws and regulations, including applicable ConnectMenlo EIR mitigation measures, City General Plan goals and policies, and Project-specific mitigation measures, would protect significant archaeological resources within the Project Site by providing archaeological resources sensitivity training to workers; ensuring preservation in place or, if infeasible, archaeological data recovery when significant archaeological resources are encountered and cannot be avoided; and allowing early detection of potential conflicts between development and resources. The Proposed Project has implemented ConnectMenlo EIR Mitigation Measure CULT-1 by completing the site-specific historical and archeological resource studies referenced in this Draft EIR. The Proposed Project would implement ConnectMenlo EIR Mitigation Measure CULT-2a, as modified to avoid redundancy with Project-specific mitigation, if a potentially significant subsurface cultural resource is encountered during ground-disturbing activities. In addition, the Project Sponsor would implement Project Mitigation Measures TCR 1.1~~CR-2.1~~ and TCR 1.2~~CR-2.2~~, which would reduce impacts on CA-SMA-160/H and unknown archeological resources to a less-than-significant level. These measures would be implemented on the main Project Site. ConnectMenlo EIR Mitigation Measure CULT-2a (as modified) and Mitigation Measure CR 2.2 apply to Hamilton Avenue Parcels North and South and the Willow Road Tunnel site, areas where Project-related ground disturbance would have the potential to affect elements of CA-SMA_160/H and unknown archaeological resources. Impacts on archaeological resources would be ***less than significant with mitigation***.

TCR 1.1. Avoidance and Mitigation of Impacts (See Chapter 3.16, Tribal Cultural Resources)

TCR 1.2 Archaeological and Tribal Cultural Resource Monitoring and Treatment Protocol and Plan Impacts (See Chapter 3.16, Tribal Cultural Resources)

~~*CR 2.1. Avoidance, Monitoring, and Treatment*~~

~~**Avoidance and Minimization of Ground-Disturbing Activities**~~

~~The Project Sponsor shall avoid or minimize ground-disturbing excavation in CA-SMA-160/H to the extent feasible in both the high-sensitivity area[49] (1.77 acres) and revised site boundary (7.03 acres), as detailed below. The City will review and confirm the implementation of mitigation measures with each construction phase.~~

- ~~The Project Sponsor shall note on any plans that require ground-disturbing excavation that there is potential for exposing buried cultural resources, including Native American burials. Any archaeological site information supplied to the contractor shall be considered and marked confidential.~~

~~[49] Defined here as the Hiller Mound Core.~~

- The Project Sponsor shall install a culturally sterile engineered cap to cover the archaeological deposit within the Hiller Mound Core and preserve the resource in place. The 4 to 7 feet of engineered fill will function as a protective cover for cultural deposits within the Hiller Mound Core and raise the grade to accommodate future sea-level rise above the 100-year flood elevation, consistent with surrounding areas where buildings will be constructed.
- Onsite soil material is suitable as fill material provided it is processed to remove concentrations of organic material, debris, and particles greater than 6 inches in maximum dimension; oversized particles shall either be removed from the fill or broken down to meet the requirement. Imported fill material shall meet the above requirements and have a plasticity index of less than 20. Material used for engineered fill shall meet appropriate Department of Toxic Substances Control (DTSC) Environmental Screening Levels (ESLs), as determined by the environmental engineer.

Fill Placement within the Hiller Mound Core Boundary

Construction activities shall be conducted in a manner that protects against penetration of the core area and reduces the potential for disturbance from concentrated surface loads. The following measures shall be implemented within the Hiller Mound Core during fill placement and any subsequent construction to reduce potential impacts on subsurface archaeological materials.

- An elevation contour plan shall be created to guide the surface preparation necessary to place the fill cap within the Hiller Mound Core boundaries. The plan shall show the top of the primary midden elevation, based on archaeological GeoProbe data, to establish a 6-inch-thick buffer zone above the primary midden layer, below which soil disturbance or penetration shall not be permitted.
- Tree root balls from trees removed within the Hiller Mound Core boundary that have roots extending within an area 24 inches from the primary midden layer shall be left in place. Stumps may be ground flat with the existing grade.
- Clearing of surface vegetation within the Hiller Mound Core boundary shall be performed through hand grubbing.
- Ground surface preparation prior to fill placement within the Hiller Mound Core boundary shall use a walk-behind sheepsfoot roller to densify the 6-inch-thick buffer-zone material. The use of relatively light equipment (typical equipment weight of 3,000–5,000 pounds), such as a walk-behind roller, reduces potential for densification below the buffer zone.
- A layer of geogrid reinforcement shall be placed over the prepared ground surface within the Hiller Mound Core boundary. Geogrid shall consist of a triaxial grid (e.g., TX140 or approved equivalent). A second layer of geogrid shall be placed to reinforce the engineered fill approximately 24 inches above the base geogrid layer. Geogrid shall be installed in accordance with the manufacturer's specifications.
- Once the 6-inch-thick buffer zone has been prepared and reinforcement grid placed within the Hiller Mound Core boundary, engineered fill may be placed in 8-inch lifts and compacted using a single-drum ride-on sheepsfoot roller. The roller shall not be parked or left stationary on the Hiller Mound Core overnight. If yielding subgrade is encountered in the buffer zone, the geotechnical consultant may recommend placement of additional layers of reinforcement within the engineered fill. This determination will be based on field observations during preparation of the ground surface.

- To protect the primary midden, construction vehicles and construction equipment (with the exception of the equipment necessary to place and compact the engineered fill) shall not be permitted to rest on or pass over the Hiller Mound Core boundary until after engineered fill placement is complete to provide a buffer between mound material and concentrated vehicle loads. Once fill placement is complete, the primary midden shall be protected, but construction vehicles and construction equipment within the Hiller Mound Core nonetheless shall continue to be limited to the minimum number necessary to complete construction of the Proposed Project. Vehicles shall not be left stationary or parked on the Hiller Mound Core overnight. The contractor shall ensure that vehicles and equipment will not leak fuel or other liquids when operating on the Hiller Mound Core. Leaking vehicles and equipment shall be promptly removed from the Hiller Mound Core area and repaired before use is resumed on the Hiller Mound Core.

Temporary Construction Loading – Installation of Temporary Scaffolding within the Hiller Mound Core Boundary

The following measures shall be implemented within the Hiller Mound Core boundary during scaffold erection to reduce potential impacts on subsurface archaeological materials.

- Scaffolds within the Hiller Mound Core boundary shall be installed no earlier than 3 months after the engineered fill placement related to sea-level rise.
- Scaffolds within the Hiller Mound Core boundary shall use 16-foot square bases on the engineered fill cap. Minor leveling of the fill cap shall be allowed at each scaffold installation, but excavation or other penetrations into the fill surface shall not be permitted. If equipment or the temporary auxiliary structures needed to install the atrium frame and associated glass would disturb more than 12 inches below the surface of the fill, the archeological consultant shall determine whether protective measures shall be required, including the installation of a wood or plastic mat around each scaffold.
- Scaffolds within the Hiller Mound Core boundary shall be removed promptly after installation and inspection of the framework and glass within the atrium to remove pressure from the engineered fill over the Hiller Mound Core.

CR 2.2. Train Workers to Respond to the Discovery of Cultural Resources and Prepare an Archaeological Monitoring Plan and Archeological Treatment Plan.

If avoidance or preservation in place is not possible, the following measures will be followed:

- Prior to the start of fill placement and other ground-disturbing construction, the archaeological consultant or project archaeologist shall conduct archaeological resources sensitivity training and Native American tribal representatives shall conduct tribal cultural sensitivity training for workers and construction superintendents. Training shall be required for all construction personnel participating in ground-disturbing construction to alert them to the archaeological sensitivity of the area and provide protocols to follow in the event of a discovery of archaeological materials. The principal archaeological consultant and project archaeologist shall develop and distribute, for job-site posting, a document ("ALERT SHEET") that summarizes the potential finds that could be exposed, the protocols to be followed, and the points of contact to alert in the event of a discovery. The ALERT SHEET and protocols shall be presented as part of the training. The contractor shall be responsible for ensuring that all workers requiring training are in attendance. Training shall be scheduled at the discretion of

~~the Project Sponsor in consultation with the City. Worker training shall be required for all contractors and sub-contractors and documented for each permit and/or phase of a permit that requires ground-disturbing activities onsite. For work in the Hiller Mound Core, worker training shall also be included for workers who will work on the surface or who will drive across the Hiller Mound Core.~~

- ~~The archaeological consultant shall review, identify, and evaluate cultural resources that may be inadvertently exposed during construction to determine if a discovery is a historical resource and/or unique archaeological resource under CEQA. Significant resources shall be subject to treatment/mitigation that prevents an adverse effect on the resource, in accordance with PRC Section 15064.5. Mitigation could include avoidance, preservation in place, or the scientific removal, analysis, reporting, and curation of any recovered cultural materials. If the discovery constitutes a tribal cultural resource, consultation shall be undertaken with the person the NAHC identifies as the MLD to determine appropriate treatment.~~

- ~~The Project Sponsor and archaeological consultant shall develop an Archaeological Monitoring Plan (AMP)[50] to guide archaeological and tribal monitoring of ground-disturbing construction and protect any cultural materials and tribal cultural resources exposed during construction from further damage so they can be identified and evaluated for their potential eligibility for listing in the California Register and properly treated. The AMP's monitoring plan for tribal cultural resources shall be developed in consultation with Native American tribal representatives. The AMP shall be submitted to the City of Menlo Park for review and approval prior to issuance of a building permit and/or Project implementation.~~

  ~~The AMP shall include, at a minimum:~~

  - ~~Background information and context data on the Project and cultural resource;~~
  - ~~Monitoring requirements, including worker awareness training; a discussion of specific locations and the intensity of the monitoring effort for areas with potential for the discovery of unexpected cultural materials; and anticipated personnel, including retention of local Native American tribal representative(s) from lists maintained by the NAHC;~~
  - ~~Protocols for unexpected discoveries during construction, consistent with modified ConnectMenlo EIR Mitigation Measure CULT-2a;~~
  - ~~Pre-historic research design, identifying pertinent archaeological research issues and questions; anticipated property types; and data requirements for addressing each research issue to be used for significance evaluation;~~
  - ~~Detailed procedures regarding unexpected significant discoveries made during construction, including a discussion of field and artifact analysis methods to be used.~~
  - ~~Treatment of human remains (consistent with state burial law and recommendations of the NAHC MLD and Modified ConnectMenlo EIR Mitigation Measure CULT-4);~~

[50] ~~*Archaeological monitoring r*efers to the controlled observation and regulation of construction operations on or in the vicinity of a known or potentially significant cultural resource to prevent or minimize impacts on the resource.~~

- ~~Laboratory methods, including artifact cataloging and special analyses.~~
- ~~The plan shall outline provisions for reporting (e.g., Monitoring Closure Report), artifact curation, and potential public outreach in the event of significant finds.~~
- ~~A formal Archaeological Treatment Plan (ATP), which may include data recovery, shall be prepared prior to any grading or ground-disturbing activity.~~
- ~~The ATP, similar to the AMP, shall detail the appropriate procedures, analytical methods, and reports to be completed if data recovery of significant archaeological Native American cultural materials, including Native American burials, is undertaken. Curation at an appropriate repository of recovered archaeological and Native American cultural materials shall be arranged once the extent of the collected materials is known. The ATP will be developed and implemented by the project archaeologist, with the precise treatment for identified resources determined in consultation with the City and, for tribal cultural resources, Native American tribal representatives.~~
- ~~The ATP may be included within the AMP, for a combined Archaeological Monitoring and Treatment Plan, at the discretion of the archaeological consultant.~~

CULT-2a (Modified ConnectMenlo EIR) Stop Work if Archaeological Material or Features Are Encountered during Ground-Disturbing Activities.

- If a potentially significant subsurface cultural resource is encountered during ground-disturbing activities on any parcel in the city, all construction activities within a 100-foot radius of the find shall cease until a qualified archeologist determines whether the resource requires further study. <u>In addition, if a potentially significant subsurface cultural resource is encountered during ground-disturbing activities within the California Department of Transportation (Caltrans) right-of-way, the Caltrans District 4 Office of Cultural Studies shall be immediately contacted at [510] 847-1977).</u> All developers in the Study Area shall include a standard inadvertent discovery clause in every construction contract to inform contractors of this requirement. Any previously undiscovered resources found during construction activities shall be recorded on appropriate DPR forms and evaluated for significance in terms of CEQA criteria by a qualified archeologist in accordance with Project Mitigation Measure ~~CR-2.2~~<u>TCR-1.2</u>.

Impact CR-3. Human Remains. The Proposed Project could disturb human remains, including those interred outside of dedicated cemeteries. (LTS/M)

<u>Native American human remains could be exposed and disturbed during ground-disturbing activities at the Project Site. An archaeological and tribal cultural resource (See section 3.16) was identified within the main Project Site. This resource has the potential to contain human remains interred outside of dedicated cemeteries. Excavation activities associated with the Proposed Project would not affect any known reburial locations; however, previously undocumented Native American burials could be affected by ground-disturbing construction due to their location within areas proposed for subsurface improvements. This impact would be *potentially significant.*</u> ~~Native American human remains could be exposed and disturbed during ground-disturbing activities. A Native American archaeological site (CA-SMA-160/H) was identified within the main Project Site. This resource has the potential to contain human remains interred outside of formal cemeteries. Native American burial locations within the main Project Site could be affected by ground-disturbing construction due to their location within areas proposed for subsurface improvements. Excavation activities associated with the Proposed Project~~

~~would not affect any known reburial locations. Other ground-disturbing construction activities at Hamilton Avenue Parcels North and South and the Willow Road Tunnel site could also encounter unknown deposits.~~ This impact would be ~~***potentially significant***~~.

MITIGATION MEASURES. The Proposed Project would implement ConnectMenlo EIR Mitigation Measure CULT-4, as modified, based on the Project's cultural resources assessment report, if human remains are encountered at the Project Site during ground-disturbing activities. The Project Sponsor would also implement Mitigation Measures ~~CR-2.1 and CR-2.2~~ TCR 1.1 and TCR 1.2 within the main Project Site, given the presence of CA-SMA-160/H, ~~and Mitigation Measure CR-2.2 within Hamilton Avenue Parcels North and South and the Willow Road Tunnel site.~~ Mitigation Measures ~~CR-2.1 and CR-2.2~~ TCR 1.1 and TCR 1.2 include measures to avoid or minimize ground-disturbing excavation near CA-SMA-160/H, to the extent feasible, and preparation of a monitoring and treatment plan ~~n AMP and ATP~~ that details the appropriate procedure if remains are encountered. Mitigation Measure TCR-2.1 requires avoidance and preservation in place of existing known reburials. Therefore, the Proposed ~~Project~~ Project's impact on human remains would be ***less than significant with mitigation***.

TCR 1.1. Avoidance and Mitigation of Impacts (See Chapter 3.16, Tribal Cultural Resources)

TCR 1.2 Archaeological and Tribal Cultural Resource Monitoring and Treatment Protocol and Plan Impacts (See Chapter 3.16, Tribal Cultural Resources)

~~*CR-2.1. Avoidance, Monitoring, and Treatment.*~~

~~*CR-2.2. Train Workers to Respond to Discovery of Cultural Resources and Prepare an Archeological Monitoring Plan and Archaeological Treatment Plan.*~~

CULT-4: (Modified ConnectMenlo EIR) Comply with State Regulations Regarding the Discovery of Human Remains at the Project Site. Refer to Section 3.16, Tribal Cultural Resources, for the text of this mitigation measure.

> ~~Procedures of conduct following the discovery of human remains citywide have been mandated by Health and Safety Code Section 7050.5, PRC Section 5097.98, and the California Code of Regulations Section 15064.5(e) (CEQA). According to the provisions in CEQA, if human remains are encountered at the site, all work in the immediate vicinity of the discovery shall cease and necessary steps to ensure the integrity of the immediate area shall be taken. The San Mateo County Coroner shall be notified immediately. The coroner shall then determine whether the remains are Native American. If the coroner determines the remains are Native American, the coroner shall notify the NAHC within 24 hours, which will, in turn, notify the person the NAHC identifies as the MLD in connection with any human remains. Further actions shall be determined, in part, by the desires of the MLD. The Project Sponsor, the Project archaeologist, and the MLD shall make all reasonable efforts to develop an agreement for the treatment, with appropriate dignity, of human remains and associated or unassociated funerary objects, including those associated with known and unknown Native American burial locations (CEQA Guidelines Section 15064.5[d]). The agreement should take into consideration the appropriate excavation, removal, recordation, analysis, custodianship, curation, and final disposition of the human remains and associated or unassociated funerary objects. The MLD will have 48 hours to make recommendations regarding the disposition of the remains following notification from the NAHC of the discovery. If the MLD does not make recommendations within 48 hours, or the owner does not accept the recommendation of the MLD in accordance with Public Resources Code 5097.98(e), the owner shall, with appropriate dignity, reinter the remains in an area of the property secure from further disturbance. Alternatively, if the owner does not accept the MLD's recommendations, the owner or the descendent may request mediation by the NAHC.~~

TCR-2.1: Avoid and Preserve in Place Known Reburials (See Chapter 3.16, Tribal Cultural Resources)

~~Impact CR-4. Tribal Cultural Resources. The Proposed Project could cause a substantial adverse change in the significance of a tribal cultural resource, defined in PRC Section 21074 as a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe and that is:~~

~~a) Listed or eligible for listing in the California Register or a local register of historical resources, as defined in PRC Section 5020.1(k), or~~

~~b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of PRC Section 5024.1. In applying the criteria set forth in subdivision (c) of PRC Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe. (LTS/M)~~

~~To identify tribal cultural resources within the Project Site, the City initially contacted seven individuals who represent five local California Native American tribes. Letters with Project details, a map, and a request for consultation were sent to all seven individuals on December 23, 2020. In July 2021, the City requested an updated AB 52 and SB 18 consultation list from the NAHC. On July 23, 2021, the City received the tribal consultation list, which included nine contacts. The City mailed letters on September 9, 2021, to the two additional tribal contacts who were identified by the NAHC, notifying them of their opportunity to consult for the Project and identify and mitigate the Project's potential impacts on tribal cultural resources. In response to the consultation letters, prior to publication of the Draft EIR, the City received requests for consultation from the Amah Mutsun Tribal Band, Tamien Nation and Muwekma Ohlone Tribe. Consultation efforts are ongoing.~~

~~A cultural site that can also be considered a tribal cultural resource was identified within the main Project Site (CA-SMA-160/H). Project-related ground disturbance has the potential to encounter both known and as-yet undocumented Native American deposits associated with CA-SMA-160/H. Other ground-disturbing construction activities at Hamilton Avenue Parcels North and South and the Willow Road Tunnel site could also encounter unknown Native American deposits. This impact would be potentially significant.~~

~~MITIGATION MEASURES. The Proposed Project would implement Mitigation Measure CR-2.2 and ConnectMenlo EIR Modified Mitigation Measures CULT-2a and CULT-4 if potentially significant subsurface cultural resource or human remains are encountered during ground-disturbing activities. In addition to these mitigation measures, the Project Sponsor would implement Project Mitigation Measure CR-2.1 within the main Project Site. The measures require worker training prior to construction to allow early identification of inadvertent archaeological and tribal cultural resource discoveries, as well as archeological and tribal monitoring, thereby reducing impacts on precontact archaeological resources, which have the potential to be considered tribal cultural resources. These mitigation measures also require working with the three tribes that requested consultation on the appropriate treatment when a tribal cultural resource is encountered. Therefore, impacts related to tribal cultural resources would be ***less than significant with mitigation incorporated***.~~

~~CR-2.1. Avoidance, Monitoring, and Treatment~~

~~CR-2.2. Train Workers to Respond to Discovery of Cultural Resources and Prepare an Archeological Monitoring Plan and Archaeological Treatment Plan~~

~~*CULT-2a (Modified ConnectMenlo EIR) Stop Work if Archaeological Material or Features Are Encountered during Ground-Disturbing Activities.*~~

~~*CULT-4: (Modified ConnectMenlo EIR) Comply with State Regulations Regarding the Discovery of Human Remains at the Project Site.*~~

Cumulative Impacts

Impact C-CR-1: Cumulative Impacts on Cultural ~~and Tribal Cultural~~ Resources. Cumulative development would result in a less-than-significant cumulative impact on cultural ~~and tribal cultural~~ resources, and the Proposed Project would not be a cumulatively considerable contributor to any significant cumulative impact on cultural ~~and tribal cultural~~ resources. (LTS)

Summary of Analysis in the ConnectMenlo EIR

As stated in Section 4.4, Cultural Resources, of the ConnectMenlo EIR, the geographic context for cumulative impacts associated with cultural ~~and tribal cultural~~ resources considers growth projected in the ConnectMenlo study area in combination with buildout of the City and the region.

Development of past, current, and future projects within the ConnectMenlo study area, City, and region has the potential to result in development-related impacts on cultural ~~and tribal cultural~~ resources. However, new development would be subject to existing federal, state, and local regulations as well as general plan goals, policies and programs, which would, to the maximum extent practicable, reduce cumulative development-related impacts on cultural ~~and tribal cultural~~ resources.

The ConnectMenlo EIR found that, with mitigation, development consistent with ConnectMenlo would not make a cumulatively considerable contribution to significant cumulative impacts on cultural ~~and tribal cultural~~ resources. Specifically, the ConnectMenlo EIR concluded that the potential contribution to significant cumulative impacts on historic architectural resources would be mitigated to less than cumulatively considerable with implementation of Mitigation Measure CULT-1. The ConnectMenlo EIR also concluded that potentially cumulatively considerable contributions to significant cumulative impacts on identified archaeological resources ~~and tribal cultural resources~~, as well as human remains, would be mitigated with implementation of Mitigation Measures CULT-2a, CULT-2b, and CULT-4.[51] In addition, the ConnectMenlo EIR noted that existing federal, state, and local regulations, as well as general plan goals, policies, and programs, would serve to protect cultural resources in Menlo Park. Therefore, the ConnectMenlo EIR determined that cumulative impacts associated with cultural ~~and tribal cultural~~ resources under ConnectMenlo would be ***less than significant.***

Cumulative Impacts with the Proposed Project

Consistent with the ConnectMenlo EIR, the geographic context for the cumulative impacts associated with cultural and tribal cultural resources considers growth projected by ConnectMenlo within the Study Area in combination with buildout in the city and the region.

[51] Note that the ConnectMenlo EIR analyzed cumulative impacts on paleontological resources in the cultural resources section and identified Mitigation Measure CULT-3 to reduce impacts. Paleontological resources are discussed in Section 3.10, *Geology and Soils*, of this EIR.

As noted in Chapter 3, *Environmental Impact Analysis*, of this EIR, in addition to the buildout projections considered in the ConnectMenlo EIR, the cumulative scenario for the EIR also includes the additional unrestricted units from the 123 Independence Drive and East Palo Alto projects. As with the Proposed Project, the additional unrestricted units from the 123 Independence Drive and East Palo Alto projects, as well as other projects in the vicinity, would be required to comply with existing federal, state, and local regulations as well as general plan goals, policies and programs.

The Proposed Project would not result in a substantial change in the ConnectMenlo project. Therefore, with Project-level and applicable ConnectMenlo mitigation measures, along with Project modifications, as applicable, the Proposed Project would not be a cumulatively considerable contributor to a significant cumulative impact on cultural ~~and tribal cultural~~ resources and would not cause new or substantially more severe significant impacts related to cultural ~~and tribal cultural~~ resources than those analyzed in the ConnectMenlo EIR. Therefore, consistent with the conclusions in the ConnectMenlo EIR, the Proposed Project would not make a cumulatively considerable contribution to significant cumulative impacts with respect to cultural ~~and tribal cultural~~ resources.

Section 3.16 Tribal Cultural Resources

3.16 Tribal Cultural Resources

This section describes the affected environment and regulatory setting for tribal cultural resources. The term *tribal cultural resources* refers to sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are either included in or determined eligible for inclusion in the California Register of Historical Resources (CRHR) or included in a qualifying local register of historic and other resources that have been determined by a lead agency to be significant pursuant to the criteria for listing in the CRHR.

Included in this section are brief descriptions of the ethnographic and contemporary Native American setting of the Project Site. Applicable state and local regulations are identified, followed by impact analyses and mitigation measures to reduce the impacts to less-than-significant levels.

This section relies on information from consultation between the City of Menlo Park (City) and culturally affiliated California Native American tribes. Because the tribal cultural resources described in this section meet the definitions for historical resources and unique archaeological resources (see Section 3.8, *Cultural Resources*), the analysis relies on information gathered regarding such resources. This includes record searches and cultural resources studies provided by the Project Sponsor and peer reviewed by ICF. The sources include the following:

- Tribal consultation record between the City and culturally affiliated tribes under Assembly Bill (AB) 52 and Senate Bill (SB) 18;
- The records search from the California Historical Resources Information Center dated August 4, 2020, as described in Section 3.8, *Cultural Resources*;
- Interviews of tribal experts and representatives of the Tamien Nation;[1]
- The tribal cultural resources memo prepared by ECORP Consulting, Inc.;[2]
- Numerous sources of scholarly ethnographic literature (see footnoted references within this section); and
- The *Cultural Resources Assessment Report for Meta Willow Campus Project, City of Menlo Park, San Mateo County*, by Basin Research Associates (Basin) (2019 [revised 2022]).

Issues identified in response to the Notice of Preparation (Appendix 1) were considered during preparation of this analysis. The applicable issues pertain to Native American consultation pursuant to AB 52 and SB 18.

The California Environmental Quality Act (CEQA) and CEQA Guidelines prohibit lead agencies from including any information from a California Native American tribe about tribal cultural resources (e.g., the location) in the environmental document or otherwise disclosing it without prior consent from the tribe that provided the information (Public Resources Code Section 21082.3[c] and CEQA Guidelines Section 15120[d]). Similarly, cities are required to protect the confidentiality of information concerning

[1] ECORP Consulting. September 6, 2022—personal communication between Lisa Westwood and Tamien Nation representatives Quirina Geary, Lillian Luna, Clara Luna, Susana Mesa, Susie Q. Arias, Vidal E. Luna, and Theodore "Mike" Bonillas, Sr.

[2] ECORP Consulting. 2022. *Confidential Tribal Consultation Summary for Assembly Bill 52 and Senate Bill 18 for the Willow Village Project.*

the identity, location, character, and use of places, features, and objects that are the subject of SB 18 consultation (California Government Code Section 65342.3[b]). In addition, the California Public Records Act authorizes agencies to exclude from public disclosure archaeological site information; records of Native American graves, cemeteries, and sacred places; and records of Native American places, features, and objects (California Government Code Sections 7927.000 and 7927.005.) In addition, California's open meeting laws (The Brown Act, California Government Code Section 54950 et seq.) protect the confidentiality of Native American cultural place information.

Because the disclosure of information about the location of archaeological cultural resources (many of which are also tribal cultural resources) is prohibited by the Archaeological Resources Protection Act of 1979 (16 United States Code [U.S.C.] Section 470hh) and Section 307103 of the National Historic Preservation Act (NHPA), it is exempted under Exemption 3 of the federal Freedom of Information Act (5 U.S.C. Section 552).

The Basin report (2019) contains confidential information regarding the location of archaeological resources, which are nonrenewable, and their scientific, cultural, and aesthetic values could be significantly impaired by disturbance. To deter vandalism, artifact hunting, and other activities that can damage such resources, the Basin study and certain details about tribal cultural resources discussed during tribal consultation are not included in Appendix 3.8 and are not open to public inspection.

Existing Conditions

The setting for the Proposed Project considers existing as well as relevant historical conditions within the Study Area. The Study Area for tribal cultural resources comprises the main Project Site, Hamilton Avenue Parcels North and South, and Willow Road Tunnel site as well as all adjoining parcels. The Study Area was delineated to consider potential impacts on tribal cultural resources caused by Project activities, including ground disturbance, building and/or structure demolition, and building and/or structure construction, all of which could result in a substantial adverse change in the significance of tribal cultural resources.

Today, the Study Area is already developed with approximately one million square feet of office and industrial space in twenty buildings and associated parking and landscaping. The majority of the existing development was constructed in the 1960s through the 1980s and would be demolished as part of the Project. The baseline conditions under CEQA for the Study Area would be characterized as substantial past disturbance. Understanding tribal cultural resources from a cultural perspective, however, requires considering background conditions beyond CEQA's definition of baseline. This section 1) provides a brief overview of the ethnographic and contemporary Native American setting of the Study Area and surrounding area, 2) describes the methods used to establish baseline conditions for tribal cultural resources at the Study Area, and 3) describes the tribal cultural resources and their significance under CEQA. The analysis of impacts and measures required to mitigate them, follows. Information specific to archaeological and non–Native American cultural resources is provided in Section 3.8, *Cultural Resources*, and was considered in the analysis of impacts to tribal cultural resources, where appropriate.

Ethnographic Setting

Long before contact with the Spanish, California Native Americans, including those around the San Francisco Bay, had already developed complex social, ceremonial, political, and economic institutions that were interconnected with neighboring tribal groups and regions. This development is seen in the archaeological record through the artifact assemblages, mortuary mounds, and burial patterns found throughout the region.[3]

Native Californians settled in the Menlo Park area between 14,000 and 6,000 years ago. Subsequent Penutian peoples migrated into central California around 4,500 years ago and were firmly settled around San Francisco Bay by 1,500 years ago. The people who lived between the Carquinez Strait and the Monterey area when Europeans first arrived were referred to as the *Ohlone* by ethnographers, although they are often referred to by the name of their broader linguistic group, *Costanoan*, which was the name incorrectly bestowed by the Spanish.

The word *Costanoan* comes from the Spanish word *Costanos*, meaning *coast people*, which was given to the tribes in 1770 when the first mission was established in their traditional tribal territory. The Costanoan represented a group of people who spoke eight separate languages but whose dialects were similar to those of their geographic neighbors. The languages included Karkin, Chochenyo, Ramaytush, Tamyen, Awaswas, Mutsun, Rumsen, and Chalon. Although ethnographers differentiate the tribes by language and cultural expression, the Native American populations actually consisted of numerous politically autonomous nations. Moreover, forced displacement and recombination of Native American communities has led to a change in the way cultural affiliation is described and mapped today.

Menlo Park is near the ethnolinguistic boundary between the Tamyen and Ramaytush language groups. Tamyen (also written as "Thámien" in earlier documents or, today, as "Tamien"), or the Santa Clara language group, is traditionally spoken in the area at the southern end of San Francisco Bay and within the lower Santa Clara Valley. Contemporary Tamien, however, recognize their traditional cultural affiliation as extending north to Redwood City (inclusive of Menlo Park). They descended from those who

[3] Arellano, Monica V., Alan Leventhal, Sheila Guzman-Schmidt, Gloria E. Arellano Gomez, and Charlene Nijmeh. 2021. *An Ethnohistory of Santa Clara Valley and Adjacent Regions.* Historic Ties of the Muwekma Ohlone Tribe of the San Francisco Bay Area and Tribal Stewardship over the Human Remains Recovered on the Prometheus Project located at 575 Benton Street and Affiliated with the 3rd Mission Santa Clara de Thámien Indian Neophyte Cemetery and Indian Rancheria: Clareño Muwékma Ya Túnneště Nómmo [Where the Clareño Indians Are Buried], Site CA-SCL-30/H. Available: https://www.academia.edu/67563699/An_Ethnohistory_of_Santa_Clara_Valley_and_Adjacent_Regions_Historic_Ties_of_the_Muwekma_Ohlone_Tribe_of_the_San_Francisco_Bay_Area; Bennyhoff, James A. 1977. *Ethnogeography of the Plains Miwok*. Center for Archaeological Research at Davis. Publication No. 5. University of California, Davis; Fredrickson, David A. 1973. *Early Cultures of the North Coast of the North Coast Ranges, California*. Ph.D. dissertation, Department of Anthropology, University of California, Davis; Gifford, Edward W. 1955. Central Miwok Ceremonies. In *University of California Anthropological Records* 14(4):261–318, Berkeley; Kroeber, A.L. 1932. The Patwin and Their Neighbors. In *University of California Publications in American Archaeology and Ethnology* 29(4):253–423. Berkeley, CA; Kroeber, A.L. 1939. Cultural and Natural Areas of Native North America. In *University of California Publications in American Archaeology and Ethnology* 38:1–240, Berkeley, CA; Leventhal, Alan. 1993. *A Reinterpretation of Some Bay Area Shellmound Sites: A View from the Mortuary Complex at CA-ALA-329, the Ryan Mound.* Unpublished master's thesis, Department of Social Sciences, San José State University; Moratto, M.J. 1984. *California Archaeology*. Orlando, FL: Academic Press, Inc. (Harcourt, Brace, Jovanovich, Publishers).

resided at Mission Santa Clara, Mission Santa Cruz, and Mission San Juan Bautista. Contemporary Tamien are direct descendants of Chief Tulum and Yaayaye and others who were taken to Mission Santa Clara. Having recently exercised their self-determination, they recognize that they have always been Tamien.[4] In 1770, there were approximately 1,200 speakers of the Tamyen language.[5] Today, the language is being actively revitalized and documented by tribal language expert Quirina Geary.[6]

The neighboring language to the north, Ramaytush, or the San Francisco language group, is spoken traditionally in San Francisco and San Mateo Counties.[7] In 1770, there were 1,400 speakers. There is only one lineage within the Ramaytush tribe today that is known to have produced living descendants, most of whom refer to themselves as Ohlone, along with a few Costanoan.[8]

Other contemporary groups have been organized from descendants of other Ohlone languages. The Amah Mutsun Tribal Band is composed of the direct descendants of the people whose territories fell under the influence of Mission Santa Cruz (Awaswas) and Mission San Juan Bautista (Mutsun). Amah villages were distinct from those outside the San Juan Valley because no other tribe spoke Mutsun. Today members can trace their descendance to other missions as well.[9]

The Muwekma Ohlone, also known as the Pleasanton or Verona Band of Alameda County, comprises all known surviving lineages that were ancestral to the San Francisco Bay region. These lineages trace their ancestry through Mission Dolores, Mission Santa Clara, and Mission San José. They also include members of the historic federally recognized Verona Band of Alameda County.[10] According to Arellano et al. (2021), the traditional lands include Alameda, Contra Costa, Napa, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, and Solano Counties and crosscut several major linguistic and tribal boundaries.

All of the aforementioned communities have a shared heritage that has been memorialized through oral history, ethnography, and archaeology. The description below represents a blended subset of the rich culture that has occupied the Bay Area for thousands of years. While the modern expression of traditional culture has been inhibited by Spanish occupation and the influx of Europeans, descendent communities are still recognizing, practicing, and revitalizing traditional lifeways. Variations in cultural expression exist among and between the eight language groups composing the ethnographic Ohlone.

Traditional households are generally large, consisting of approximately 15 individuals from multiple generations. Groups of households form larger districts that share a common language as well as adjacent resource gathering and processing locations. Ethnographic studies have documented approximately

4 ECORP Consulting. September 6, 2022—personal communication between Lisa Westwood and Tamien Nation representatives Quirina Geary, Lillian Luna, Clara Luna, Susana Mesa, Susie Q. Arias, Vidal E. Luna, and Theodore "Mike" Bonillas, Sr.

5 Levy, R. 1978. Costanoan. In *Handbook of North American Indians*, Chapter 8, California, pp. 398–413.

6 ECORP Consulting. September 6, 2022—personal communication between Lisa Westwood and Tamien Nation representatives Quirina Geary, Lillian Luna, Clara Luna, Susana Mesa, Susie Q. Arias, Vidal E. Luna, and Theodore "Mike" Bonillas, Sr.

7 Levy, R. 1978. Costanoan. In *Handbook of North American Indians*, Chapter 8, California, p. 485.

8 Association of Ramaytush Ohlone. 2022. *The Original Peoples of the San Francisco Peninsula*. Available: https://www.ramaytush.org/. Accessed: July 7, 2022.

9 Amah Mutsun Tribal Band. 2022. *History of the Tribe*. Available: https://amahmutsun.org/history. Accessed: July 7, 2022.

10 Muwekma Ohlone Tribe. 2022. *Welcome and History*. Available: http://www.muwekma.org/. Accessed: July 7, 2022.

40 such districts, with each one consisting of 200 to 250 people.[11] Those who occupied the modern-day Menlo Park, Mountain View, and Palo Alto were most likely associated with the Puichon district. Trade routes, including a prominent one for the Tamien along Pacheco Pass, allowed trade with the Chowchilla.[12]

The traditional villages and temporary campsites within the Menlo Park area were located near sources of fresh water adjacent to the marshlands that once bordered the San Francisco Bay. Fish were caught using A-frame nets, while clams, abalone, and kelp were harvested along the shorelines.[13] Acorns were knocked from trees with poles, then leached to remove bitter tannins before being eaten as mush or turned into bread. Other plant resources for subsistence included mushrooms, dandelion, hog weed, watercress, toyon berries, goose berries, Manzanita berries, elderberries, strawberries, buckeye, California laurel, wild carrots, wild grapes, wild onion, cattail, amole, clover, and chuchupate. Game animals included antelope, black-tailed deer, Roosevelt elk, and marine mammals as well as waterfowl, fish, mollusks, skunk, rabbit, raccoon, squirrel, and dog. Hunting was often followed by slitting the animal's eyes and placing meat in it ears and nostrils as a sign of good luck; this was also done so that the animal would not see, hear, or smell the hunters.[14]

Not only have the Bay Area's natural resources provided sustenance for thousands of years, they have also been a source of raw material for clothing, shelter, medicine, cordage, twined basketry, tools, and boats.[15] Contemporary cultures have been restricted from hunting and gathering on their traditional lands by laws and regulations related to now-private property and wildlife protection, leading to either trespassing or abandonment of the activity.[16]

Traditional medicines included the use of black-widow spider webs to close wounds and ground abalone shell or acorns to heal them without scars. Spearmint or castor oil was used to remedy an upset stomach, and a mixture of powdered hot mustard and lard was applied to the forehead to break a fever. Sore throats were treated with tea and flax seed.[17] As with all cultures, the adaptation of traditional lifeways, using more modern materials, allows for a continuation of cultural practices by contemporary people.

Among traditional practices was the creation and maintenance of shell mounds. According to contemporary Tamien experts, uneaten food (especially ceremonial food) was never discarded. It was placed onto a mound behind each residence, which, over time, led to the formation of midden soil.[18] Based on archaeological evidence alone, between 2,500 and 1,000 years ago, many of the bay shore midden sites grew into mounds. These were used until the Spanish arrived and legal or physical access to the sites was prevented. These midden mounds are often associated with villages and burials. Flexed burials, with the

11 Kroeber, A.L. 1955. Nature of the Land-Holding Group. In *Ethnohistory* 2:303–314.

12 ECORP Consulting. September 6, 2022—personal communication between Lisa Westwood and Tamien Nation representatives Quirina Geary, Lillian Luna, Clara Luna, Susana Mesa, Susie Q. Arias, Vidal E. Luna, and Theodore "Mike" Bonillas, Sr.; Tamien Nation. 2022. *Tribal Territories*. Available: https://www.tamien.org/tribal-territories. Accessed: June 23, 2022.

13 Ibid.

14 Ibid.

15 Levy, R. 1978. Costanoan. In *Handbook of North American Indians*, Chapter 8, California, pp. 491–493.

16 ECORP Consulting. September 6, 2022—personal communication between Lisa Westwood and Tamien Nation representatives Quirina Geary, Lillian Luna, Clara Luna, Susana Mesa, Susie Q. Arias, Vidal E. Luna, and Theodore "Mike" Bonillas, Sr.

17 Ibid.

18 Ibid.

occasional cremation, were the main interment custom during this time period.[19] Approximately 1,500 years ago, a shift in village and burial practices occurred as burials were placed away from the main village site. There were more frequent seasonal shifts between villages during this time, as well.[20]

Midden mounds have been used for religious ceremonies, some of which are tied to creation stories. According to the Tamien Nation, "our sacred sites are vital spaces for Tamien people. Like our baskets, they are an interweaving of our land, stories, culture, religion, language, and overall identity that ties us to thousands of years of being."[21] History, religion, and traditional ecological knowledge, among other aspects of culture, are passed from generation to generation through oral histories.

Oral histories throughout west-central California regarding the nature and creation of the universe share a common overarching theme.[22] They relay how modern events and places in nature occurred through the actions of a prehuman race of supernatural beings from a former mythological age. The specific narratives state that each group is linked to its local landscape, which served as a charter, establishing that group's origins and provided them with rights of ownership to their particular territory. Other stories discuss how flooding or wildfires were a consequence of rule-breaking or greed.[23] For the Tamien, Mt. Umunhum (Dove Mountain) is the physical foundation of their oral narrative of the Great Flood. It is considered the Tamien Nation's most sacred landscape.[24]

One of the traditions of public ritual activity within native California identified by Kroeber (1925) is the "secret society and Kuksu dances" practiced from north-central California south to the Salinan language territory (Salinas Valley), including the San Francisco Bay Penutian-speaking Ohlone.[25] This set of dances covers several well-described ceremonial dance traditions, including the northern Ohlone/Costanoan

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19 Fredrickson, David A. 1973. *Early Cultures of the North Coast of the North Coast Ranges, California*. Ph.D. dissertation, Department of Anthropology, University of California, Davis.

20 Bennyhoff, James A. 1994. Variation within the Meganos Culture. In *Toward a New Taxonomic Framework for Central California Archaeology*, Richard Hughes (ed.), pp. 81–89. Contributions of University of California Archaeological Research Facility No. 52. Berkeley, CA.

21 Tamien Nation. 2022. *Sacred and Cultural Landscapes*. Available: https://www.tamien.org/cultural-resources. Accessed: July 18, 2022.

22 Barrett, Samuel. 1933. Pomo Myths. In *Bulletin of the Public Museum of the City of Milwaukee*, Volume 15, pp. 466–482. Milwaukee, WI; Gayton, Anna H. 1935. Areal Affiliations of California Folktales. In *American Anthropologist* 37(4):588–591; Milliken, Randall T., Laurence H. Shoup, and Beverly R. Ortiz. 2009. *Ohlone/Costanoan Indians of the San Francisco Peninsula and their Neighbors, Yesterday and Today.* Prepared for National Park Service Golden Gate National Recreation Area, San Francisco, CA. On file at California State University, Monterey Bay.

23 Barrett, Samuel. 1933. Pomo Myths. In *Bulletin of the Public Museum of the City of Milwaukee*; Gayton, Anna H. 1935. Areal Affiliations of California Folktales. In *American Anthropologist* 37(4), pp. 582–599; Kelly, Isabel. 1978. Coast Miwok. In *Handbook of North American Indians*, Chapter 8, California. Robert F. Heizer (ed.), pp. 414–425. Smithsonian Institution, Washington, D.C.; Merriam, C. Hart. 1910. *The Dawn of the World: Myths and Weird Tales Told by the Mewan Indians of California*. Arthur H. Clark (ed.), Cleveland, OH; Radin, Paul. 1924. Wappo Texts: First Series. In *University of California Publications in American Archaeology and Ethnology* 19(1):1–147, Berkeley, CA.

24 Tamien Nation. 2022. *Sacred and Cultural Landscapes*.

25 Arellano, Monica V., Alan Leventhal, Sheila Guzman-Schmidt, Gloria E. Arellano Gomez, and Charlene Nijmeh. 2021. *An Ethnohistory of Santa Clara Valley and Adjacent Regions*; Milliken, Randall T., Laurence H. Shoup, and Beverly R. Ortiz. 2009. *Ohlone/Costanoan Indians of the San Francisco Peninsula and their Neighbors, Yesterday and Today*, pp. 69 and 70; Kroeber, A.L. 1925. *Handbook of the Indians of California*. Bureau of American Ethnology. Bulletin 78, Washington, pp. 855–859.

group at Mission San José (variations include the Kuksi among the Tamien).[26] However, it is not known if these dances occurred prior to the Mission period.[27] The Kusku worshipers are the only ones in California who developed a fair number of distinctive disguises and paraphernalia to impersonate spirts and mythic characters. This feature likely evolved within the region as there are no examples in the southwestern or northern Pacific coast areas.[28] Archaeologically, the use of Kuksu "Big Head" (or "N series") abalone shell effigy pendants first appeared around 1,000 years ago and suggests inclusion in the greater ceremonial interaction sphere of the Kuksu religion.[29]

Accounts from the Tamien Nation, and specifically from Josefa Velasquez (b. 1833), are that Kuksui had a large headdress of condor wingtip feathers. The dance was performed in Santa Cruz County near Watsonville, were large headed abalone pendants were found. It is unknown, however, if the pendants are directly associated with Kuksui. According to Tamien Nation Chairwoman Geary, to the Tamien, "Kuksui is a deity, dance, and healing ceremony and does not umbrella over other ceremonies. Each ceremony and dance is separate and can be performed independently. The Kuksui, Kilaki, Sunwele, Tura, Lolei koimei etc. are different ceremonies often erroneously grouped under Kuksui… Kuksui is a deity with both physical and spiritual forms. He also performs healing rituals. He can even bring a person back to life."

Based on Late-period mortuary sites, including CA-SCL-128, the Thámien Rúmmeytak site in downtown San José, the Santa Clara Valley Ohlone tribal groups likely performed world renewal dance ceremonies and paid great attention to funerary and morning rituals.[30] CA-SCL-128 contains more than 100 ancestral burials and represents a large ancient burial ground. Dancing enabled the participants to open doors between the conscious world and travel to an ongoing supernatural world where the creators resided and enacted mythic dramas. The regalia worn by dancers imbued them with the power of the rituals. Certain natural locations, such as rock formations and springs, were marked nodal points that acted as shrines,

[26] Harrington, John P. 1942. Culture Element Distributions: XIX, Central California Coast. In *Anthropological Records* Volume 7, No. 1, University of California Press, Berkeley, CA.

[27] Milliken, Randall T. 1995. *A Time of Little Choice: The Disintegration of Tribal Culture in the San Francisco Bay Region, 1769–1810.* Ballena Press, Menlo Park, CA.

[28] Milliken, Randall T., Laurence H. Shoup, and Beverly R. Ortiz. 2009. *Ohlone/Costanoan Indians of the San Francisco Peninsula and their Neighbors, Yesterday and Today*, p. 69; Kroeber A. L.. 1922. Elements of Culture in Native California. In *American Archaeology and Ethnology*. Volume 13, No. 8, pp. 259–328. University of California Press, Berkeley, CA, p.305.

[29] Arellano, Monica V., Alan Leventhal, Sheila Guzman-Schmidt, Gloria E. Arellano Gomez, and Charlene Nijmeh. 2021. *An Ethnohistory of Santa Clara Valley and Adjacent Regions*; Leventhal, Alan. 1993. *A Reinterpretation of Some Bay Area Shellmound Sites: A View from the Mortuary Complex at CA-ALA-329, the Ryan Mound.* Unpublished master's thesis, Department of Social Sciences, San José State University; Kroeber, A.L. 1925. *Handbook of the Indians of California*. Bureau of American Ethnology. Bulletin 78, Washington.

[30] Leventhal, Alan, Rosemary Cambra, Monica Arellano, and Emily McDaniel. 2015. *Final Report on the Burial and Archaeological Data Recovery Program Conducted on a Portion of Thámien Rúmmeytak [Guadalupe River Site], (CA-SCL-128/Hyatta Place Hotel) Located in Downtown San Jose, Santa Clara County, California*. Unpublished paper. San José State University.

areas where ritual performances were particularly effective.[31] The placement of offerings and sharing of food among families at a time of mourning continues to be a common practice among descendent communities, albeit modified and adapted to today's circumstances.[32]

The village Siputca from the Contact period is approximately two miles southeast of the Project Site. This village is within Puichon territory, along lower San Francisquito Creek and near San Francisco Bay.[33] This is likely one of the larger villages that early explorers visited, with 250 inhabitants at San Francisquito Creek.[34]

The arrival of Spanish missionaries and, later, Europeans in general was culturally and otherwise disastrous for traditional Ohlone communities. Seven Spanish missions were founded in Ohlone territory alone between 1776 and 1797. While living within the mission system, the Ohlone commingled with other groups, including the Yokuts, Miwok, and Patwin. Members of the Puichon tribelet went to Mission San Francisco between 1781 and 1794 and Mission Santa Clara from 1781 to as late as 1805.

Mission life was devastating to the tribal population.[35] When the first mission was established in the region in 1776, the Ohlone population (inclusive of all eight language groups) was estimated to be 10,000. By 1832, they numbered less than 2,000 as a result of introduced disease, harsh living conditions, and reduced birth rates.[36] The Mexican government began to earnestly secularize the mission lands in 1834 and divide the former mission land among loyal Mexican subjects. Those who opted to remain in their ancestral territory were branded as squatters. Others fled in the interest of survival. As one example, the Tamien were forced to relocate to Madera, Hollister, Gilroy, Los Banos, and San José. Because ceremonies and lifeways are dependent on the traditional spatial organization and proximity of households, as well as the reliance on the family as the sole support system, it has been difficult for many dispersed contemporary groups to maintain their cultural identity and language.[37]

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31 Bean, L.J. 1975. Power and Its Applications in Native California. In *Journal of California Anthropology* 2(1):25–33; Bean, Lowell J., and Sylvia B. Vane. 1978. Cults and Their Transformations. In *Handbook of North American Indians*, pp 37–57, Chapter 8, California, Robert F. Heizer (ed.), Smithsonian Institution, Washington D.C.; Arellano, Monica V., Alan Leventhal, Sheila Guzman-Schmidt, Gloria E. Arellano Gomez, and Charlene Nijmeh. 2021. *An Ethnohistory of Santa Clara Valley and Adjacent Regions*.

32 ECORP Consulting. September 6, 2022—personal communication between Lisa Westwood and Tamien Nation representatives Quirina Geary, Lillian Luna, Clara Luna, Susana Mesa, Susie Q. Arias, Vidal E. Luna, and Theodore "Mike" Bonillas, Sr.

33 Bocek, Barbara. 1992. Subsistence, Settlement, and Tribelet Territories on the Eastern San Francisco Peninsula. In *Proceedings of the Society for California Archaeology* 5; Milliken, Randall T. 1983. *The Spatial Organization of Human Populations on Central California's San Francisco Peninsula at the Spanish Arrival*. Unpublished master's thesis, Department of Anthropology, Sonoma State University, Rohnert Park, CA.

34 Font [1776] in Bolton, Herbert E. (ed.). 1930. *Anza's California Expeditions*. Berkeley, CA: University of California Press; Milliken, Randall T., Laurence H. Shoup, and Beverly R. Ortiz. 2009. *Ohlone/Costanoan Indians of the San Francisco Peninsula and Their Neighbors,* p. 67; Crespí [1769] in Stanger, Frank M., and Alan K. Brown. 1969. *Who Discovered the Golden Gate?* San Mateo County Historical Association, San Mateo, CA.

35 Milliken, Randall T. 1995. *A Time of Little Choice: The Disintegration of Tribal Culture in the San Francisco Bay Region, 1769–1810.* Ballena Press, Menlo Park, CA.

36 Cook, S.F. 1943. The Conflict between the California Indians and White Civilization, I: The Indian Versus the Spanish Mission. In *Ibero-Americana* 21. Berkeley, CA.; Cook, S.F. 1943. The Conflict between the California Indians and White Civilization, II: The Physical and Demographic Reaction of the Non-Mission Indians in Colonial and Provincial California. In *Ibero-Americana* 22. Berkeley, CA; Levy, R. 1978. Costanoan. In *Handbook of North American Indians*, Chapter 8, California, p. 486.

37 ECORP Consulting. September 6, 2022—personal communication between Lisa Westwood and Tamien Nation representatives Quirina Geary, Lillian Luna, Clara Luna, Susana Mesa, Susie Q. Arias, Vidal E. Luna, and Theodore "Mike" Bonillas, Sr.

Mission life also forced Catholic baptism upon Native Americans, who were prohibited (either directly or indirectly, in the interest of survival) from practicing traditional religion. The Tamien, for example, could no longer practice roundhouse religion, and ceremonies had to be moved to other, less appropriate locations.[38]

Formal recognition, assertion, and self-determination began to move to the forefront during the early 20th century. This movement was enforced by legal suits brought by the Indians of California against the United States government (1928–1964) for reparation due to them for the loss of traditional lands. Tribally led political advocacy groups brought attention to the community and resulted in a re-evaluation of Native American rights.[39]

Tribal Cultural Resources

CEQA defines a tribal cultural resource as a site, feature, place, cultural landscape, sacred place, or object with cultural value to a California Native American tribe that is either included in or determined eligible for inclusion in the CRHR or a qualifying local historical register or determined by the lead agency to be significant pursuant to the criteria for listing in the CRHR, based on substantial evidence (Public Resources Code Section 20174[a]). A cultural landscape that meets this definition is a tribal cultural resource to the extent that the landscape is geographically defined in terms of size and scope (Section 20174[b]). A historical resource or archeological resource that meets this definition may also be a tribal cultural resource (Section 20174[c]).

Information about tribal cultural resources under AB 52 and tribal cultural places under SB 18 was drawn from multiple sources, including the tribal consultation, as summarized below; record searches and literature reviews with the California Historical Resources Information System (CHRIS); a review of existing ethnographic information; interviews with Tamien tribal experts;[40] an ethnographic overview;[41] and a cultural resources study (Basin 2022) that included an analysis to determine if the potential for buried sites exists (refer to Section 3.8, *Cultural Resources*).

Basin Research Associates (2022)[42] included archival record searches and literature reviews conducted at the Northwest Information Center (NWIC); Bancroft Library at the University of California, Berkeley; and Basin Research Associates, San Leandro. The review identified one previously recorded multi-component (historic and pre-European contact) archaeological resource within the Project area: CA-SMA-160/H (P-41- 000160), also referred to as the Hiller Mound.[43] The Tamien have identified this site as the potential village site of Puichon, although linguistic research is ongoing by

38 Ibid.

39 Bean, L.J. 1994. *The Ohlone Past and Present: Native Americans of the San Francisco Bay Region*. Ballena Press, Menlo Park, CA.

40 ECORP Consulting. September 6, 2022—personal communication between Lisa Westwood and Tamien Nation representatives Quirina Geary, Lillian Luna, Clara Luna, Susana Mesa, Susie Q. Arias, Vidal E. Luna, and Theodore "Mike" Bonillas, Sr.

41 ECORP Consulting. 2022. *Confidential Tribal Consultation Summary for Assembly Bill 52 and Senate Bill 18 for the Willow Village Project.*

42 Basin Research Associates, Inc. 2019 (revised 2022). *Cultural Resources Assessment Report*. Meta Willow Campus Project, City of Menlo Park, San Mateo County, CA. Prepared for Pacific Innovation Partners, LLC.

43 During consultation with the Tamien Nation, the City learned that the Tamien Nation is considering other names for the Hiller Mound. As of publication of the EIR, the Tamien Nation has not communicated with the City and provided a preferred name for the resource. Therefore, in the EIR, the resource is still referred to as the Hiller Mound.

language experts to confirm the traditional name, which has long since been lost because of forced dispersals and the resulting loss of culture.[44] The historic (non-Native American) component of CA-SMA-160/H consists of the remains of the Carnduff farm, which was established in 1865.

The pre-contact (Native American) archeological component of the Hiller Mound has several parts. The central portion, consisting of approximately 1.77 acres, is the most archaeologically intact portion of the archeological site. It is referred to herein as the Core. According to Basin, the Core has been studied over the past 40 years by various researchers and determined to be the center of prehistoric occupation. Discoveries encountered during construction-related ground disturbance in 2012 and 2017 were overseen by the Native American Heritage Commission– (NAHC-) appointed Most Likely Descendant (MLD). The NAHC-appointed MLD was a member of the Amah Mutsun Band of Mission San Juan Bautista.

According to Basin (2022), the alluvial midden present around the perimeter of the Core area reflects erosion and slope wash displacement of cultural sediment from the former low-elevation mound or the midden that was displaced from the leveling of the Core that predated the existing development. According to Basin, this perimeter, which consists of approximately 5.26 acres (excluding the Core), is not in its original context; it is referred to herein as the Perimeter. The Core and Perimeter collectively form the recorded site, CA-SMA-160/H, referred to herein as the Hiller Mound.

According to Basin (2022:25), the archival review and analysis, coupled with an enhanced archaeological identification program involving subsurface probing (see Chapter 3.8, *Cultural Resources*), support a determination that the Hiller Mound is eligible for the CRHR under Criterion 1 for its importance to the Ohlone people because of Native American burials and Criterion 4 for its potential to yield information important in prehistory and history because of the presence of intact subsurface cultural deposits.

The importance of the entire Hiller Mound to the descendant communities was expressed to the City during tribal consultation under AB 52. In letters to the City on May 22 and August 5, 2022, the Tamien Nation asserted that the site is sacred to the tribe and that members of the tribe use the natural setting of the Hiller Mound to conduct ongoing tribal cultural practices. In several meetings with the Tamien Nation, and the May 22 and August 5 correspondence, representatives of the tribe stated that the mound site is a tribal cultural landscape. According to the National Park Service's *Bulletin 38: Guidelines for Evaluating and Documenting Traditional Cultural Properties*, a cultural landscape is recognized as a geographic area that includes both cultural and natural resources and exhibits cultural values. An ethnographic landscape is a type of cultural landscape that can range from contemporary settlements to religious sacred sites or geological landforms that exhibit importance to the culture. The Tamien Nation recognizes the various mounds across the Bay Area region as an ethnographic landscape. Therefore, the entire site, including the Core, Perimeter, and an associated zone referred to as an area of *High Sensitivity*, is a tribal cultural resource for the purposes of CEQA and a tribal cultural place under SB 18.

Assembly Bill 52 and Senate Bill 18 Consultation

CEQA, as amended in 2014 by Assembly Bill 52, requires that the City to consult with any California Native American tribe that is traditionally and culturally affiliated with the geographic area of a proposed project if the California Native American tribe has requested notice of projects in the area traditionally and culturally affiliated with the tribe and responded to the notice within 30 days of receipt with a request for consultation (Public Resources Code Section 20180.3.1). CEQA defines California Native American tribes

[44] ECORP Consulting. September 6, 2022—personal communication between Lisa Westwood and Tamien Nation representatives Quirina Geary, Lillian Luna, Clara Luna, Susana Mesa, Susie Q. Arias, Vidal E. Luna, and Theodore "Mike" Bonillas, Sr.

as "a Native American tribe located in California that is on the contact list maintained by the California Native American Heritage Commission for the purposes of Chapter 905 of the Statutes of 2004" (Section 20173.) This includes both federally and non-federally recognized tribes.

SB 18 requires cities, prior to the adoption of any general plan amendment, to conduct consultations with Native American tribes that are on the lists maintained by the NAHC for the purpose of preserving or mitigating impacts on places, features, and objects described in Public Resources Code Section 5097.9 (Native American sanctified cemeteries, places of worship, religious or ceremonial sites, or sacred shrines located on public property) or Section 5097.993 (Native American historic, cultural, or sacred sites listed or eligible for listing in the CRHR, including any historic or prehistoric ruins, any burial ground, any archaeological or historic site, any inscriptions made by Native Americans at such a site, any archaeological or historic Native American rock art, or any archaeological or historic feature of a Native American historic, cultural, or sacred site) (California Government Code Section 65352.3).

The City's AB 52 and SB 18 consultation for the Proposed Project initially included the following tribes that were included on the NAHC's list of tribes:

- Amah Mutsun Tribal Band;
- Costanoan Rumsen Carmel Tribe;
- Indian Canyon Mutsun Band of Costanoan;
- Muwekma Ohlone Indian Tribe of the San Francisco Bay Area; and
- Ohlone Indian Tribe.

The City contacted seven individuals who represent the five local California Native American tribes above. Letters with Project details, a map, and a request for consultation were sent on December 21, 2020. The letters solicited responses from each contact, including questions, comments, or concerns regarding the Proposed Project. The statutory response window under AB 52 closed on January 22, 2021, and under SB 18 on March 23, 2021. Consulting tribes were required to respond to the City within those timeframes.

The City did not receive a response from the Costanoan Rumsen Carmel Tribe, the Indian Canyon Mutsun Band of Costanoan, or the Ohlone Indian Tribe. Therefore, no tribal consultation was carried out with the tribes, and none was required.

The City received requests for consultation from the Amah Mutsun Tribal Band and Muwekma Ohlone Indian Tribe of the San Francisco Bay Area in response to the initial notices. The Project proponent received correspondence from the Ramaytush Ohlone following publication of the draft EIR.

In July 2021, because the Project description had changed to include the proposed Willow Road Tunnel, the City requested an updated AB 52 and SB 18 consultation list from the NAHC. On July 23, 2021, the City received a tribal consultation list. The list included the five tribes noted above plus two additional tribes:

- Wuksache Indian Tribe/Eshom Valley Band; and
- Tamien Nation.

The City mailed letters on September 9, 2021, to the additional tribal contacts who were identified by the NAHC, notifying them of their opportunity to consult for the Proposed Project and identify potential impacts on tribal cultural resources and proposed mitigation measures. The statutory response window under AB 52 closed on October 9, 2021, and under SB 18 on December 8, 2021. Consulting tribes were required to respond to the City within those timeframes.

The City did not receive a response from the Wuksache Indian Tribe/Eshom Valley Band. Therefore, no tribal consultation was carried out with the tribe, and none was required.

The City received requests for consultation from the Tamien Nation.

A summary of the consultation that occurred with the Amah Mutsun Tribal Band, Muwekma Ohlone Tribe, and Tamien Nation follows.

Amah Mutsun Tribal Band

On December 16, 2021, the City received a response from the Amah Mutsun Tribal Band with an undated formal letter requesting consultation under AB 52. Although this response did not occur within the 30-day statutory timeframe for AB 52, the City considered the request and carried out consultation. A summary of the consultation follows.

- January 13, 2022: The City confirmed receipt of the request and requested an introductory meeting to begin the consultation process.
- January 27, 2022: The City sent a follow-up email to the tribe.
- February 28, 2022: The City sent a follow-up email to the tribe.
- March 3, 2022: City planning personnel reached out by email to confirm that the City would send draft mitigation measures for the Proposed Project to the Amah Mutsun Tribal Band in the near future and set up a consultation meeting with the City and the applicant team.
- March 9, 2022: City planning personnel, the applicant, and the Amah Mutsun Tribal Band met to discuss the Proposed Project and recommended draft mitigation measures.
- March 17, 2022: The City sent draft mitigation measures to the Amah Mutsun Tribal Band for review and comment.
- April 1, 2022: The City sent three exhibits from the cultural resources report identifying the known cultural and tribal resources in the Project area.
- June 23, 2022: The City received a letter from the Amah Mutsun Tribal Band dated June 1, stating that the tribe was first designated Most Likely Descendant of discovered human remains by the Native American Heritage Commission in 2015, and that the tribe has been engaged in consultation for many years on this project. The letter also expressed support of the project and the DEIR, including the mitigation measures proposed therein.
- August 17, 2022: City planning personnel sent a revised draft ethnographic context for the Proposed Project[45] to the tribe for its review and input and requested a response by September 1, 2022.

Although the tribe did not provide specific information about tribal cultural resources, the previous discovery of human remains, for which the tribe was named MLD, is being treated as a tribal cultural resource for the purpose of CEQA. Therefore, pursuant to Public Resources Code Sections 21080.3.2(b)(1) and 21082.3(d)(1), the City concluded consultation under AB 52 in agreement with the Amah Mutsun Tribal Band. Similarly, pursuant to the 2005 Supplement to the General Plan Guidelines, the City concluded consultation under SB 18 in agreement with the tribe. In accordance with Government Code

[45] ECORP. 2022. *Revised Draft Ethnographic Context Statement for the Willow Village Project.* Unpublished manuscript on file with City of Menlo Park.

Sections 65352(a)(11) and 65092, the tribe will be provided referral notices 45 days and 10 days prior to the public hearing, and any further comments will be taken into consideration. The thresholds for certification of the EIR and amendment of the general plan have been met. The City will continue to engage with the tribe as part of implementing the approved mitigation measures.

Muwekma Ohlone Indian Tribe

On December 8, 2021, the City received an email request for consultation under AB 52 from the Muwekma Ohlone Indian Tribe that included a formal letter (dated November 15, 2021); an ethnographic history of the tribe titled *Ethnohistory, Historic Ties, and Tribal Stewardship of Sunol/Pleasanton, Santa Clara Valley, and Adjacent Areas*; a report prepared for the Ronald McDonald House in Palo Alto; a court order regarding the Muwekma Ohlone Indian Tribe's federal status; various letters of support for federal recognition; and court documents. A summary of consultation follows.

- **January 13, 2022:** The City confirmed receipt of the request and requested an introductory meeting to begin the consultation process.
- **January 24, 2022:** The City and the Muwekma Ohlone Indian Tribe held an introductory meeting.
- **February 7, 2022:** City planning personnel reached out to the Muwekma Ohlone Indian Tribe to schedule a second consultation meeting with the City, applicant team, and City's environmental consultant (ICF).
- **February 18–March 11, 2022:** City planning personnel reached out to the Muwekma Ohlone Indian Tribe on several more occasions by email, phone, and certified mail to schedule a second consultation meeting.
- **March 14, 2022:** The Muwekma Ohlone Indian Tribe contacted the City to schedule a consultation meeting.
- **March 16, 2022:** City personnel and the applicant team met with the Muwekma Ohlone Indian Tribe to discuss the Proposed Project and recommended draft mitigation measures.
- **March 17, 2022:** The City sent draft mitigation measures to the Muwekma Ohlone Indian Tribe for review and comment.
- **April 1, 2022:** The City sent three exhibits from the cultural resources report identifying the known cultural and tribal resources in the Project area.
- **June 21, 2022:** The City received a letter from the tribe, expressing support for the mitigation measures proposed in the DEIR. No information about tribal cultural resources was provided to the City.
- **August 17, 2022:** City planning personnel sent a revised draft ethnographic context for the Proposed Project [46] to the tribe for its review and input and requested a response by September 1, 2022.

Therefore, pursuant to Public Resources Code Sections 21080.3.2(b)(1) and 21082.3(d)(1), the City concluded consultation under AB 52 in agreement with the Muwekma Ohlone Indian Tribe. Similarly, pursuant to the 2005 Supplement to the General Plan Guidelines, the City concluded consultation under SB 18 in agreement with the tribe. In accordance with Government Code Sections 65352(a)(11) and 65092, the tribe will be provided referral notices 45 days and 10 days prior to the public hearing, and any

[46] ECORP. 2022. *Revised Draft Ethnographic Context Statement.*

further comments will be taken into consideration. The thresholds for certification of the EIR and amendment of the general plan have been met. The City will continue to engage with the tribe as part of implementing the approved mitigation measures.

Tamien Nation

On October 16, 2021, the City received a response from the Tamien Nation, requesting consultation. The City confirmed receipt of the request on October 18, 2021, and committed to scheduling a consultation meeting. City planning staff met with Tamien Nation Chairwoman Geary on December 3, 2021. Subsequently, the City and Tamien Nation met and exchanged information on numerous occasions, as summarized below.

- **December 8, 2021:** As part of a separate planning matter unrelated to this Project, Chairwoman Geary informed the City of the presence of a tribal cultural resource in the Project area and expressed concerns about reburials.
- **February 15, 2022:** The City and applicant met with the Tamien Nation to discuss the Draft EIR analysis and potential mitigation measures.
- **March 17, 2022:** The City sent draft mitigation measures to the Tamien Nation for review and comment.
- **March 19, 2022:** The Tamien Nation replied with a request for the CHRIS reports and biological resources mitigation measures.
- **March 22, 2022:** The City provided the biological resources mitigation measures and informed the Tamien Nation that the City would not be able to provide the CHRIS reports because of confidentiality issues.
- **March 24, 2022:** The Tamien Nation requested a meeting with the City and the Project archaeologist (Basin) to discuss the mitigation measures for the Proposed Project and asked for a map with Project details, including human burials and other known tribal cultural resources.
- **March 31, 2022:** The City, ICF, the applicant, and Basin met with the Tamien Nation. The meeting included a discussion of mitigation measures and resulted in agreement to revise the tribal cultural resources mitigation measures to include cultural and tribal sensitivity training for construction workers, requiring that the archeological monitoring plan be developed in consultation with the consulting tribes. During the meeting, the Tamien Nation requested a map of the tribal cultural resource.
- **April 1, 2022:** The City sent three exhibits from the cultural resources teport identifying the known cultural and tribal resources in the Project area.
- **April 4, 2022:** The City contacted the Tamien Nation to confirm whether or not the Tamien Nation had any additional feedback on the draft mitigation measures.
- **April 8, 2022:** The Tamien Nation replied to the City, stating that it had no further comments on the mitigation measures at that time. Chairwoman Geary stated that the Tamien Nation would continue to consult with the City on the Proposed Project and that the City could move forward with the Draft EIR release but that further consultation would continue and need to be concluded before the Final EIR. The chairwoman stated that "we do not foresee any major recommendations with the [mitigation measures], we just have an internal review process we are working on."

- **May 23, 2022:** The City received a formal Draft EIR comment letter from the Tamien Nation that expressed concern about environmental impacts and the inadequacy of mitigation measures, the adequacy of the analysis of cumulative impacts, and the need for repatriation to the Tamien Nation.
- **June 30, 2022:** The City, applicant team, ICF, and legal counsel met with the Tamien Nation. The tribe provided an overview of the Tamien Nation and their connection to the Project area and the tribal cultural resource present therein. The meeting included a discussion of the Draft EIR comment letter, concerns with the Project's impacts on tribal cultural resources, and potential options for addressing those impacts.
- **July 2, 2022:** The City sent the cultural resources report to the Tamien Nation.
- **August 5, 2022:** The City received another letter from the Tamien Nation, documenting the oral testimony from tribal cultural practitioners as substantial evidence and stating that there is a tribal cultural resource present in the Project area, the Tamien Nation uses the tribal cultural landscape that includes the Project area to this day, and asserting that the tribal cultural resource is a sacred site and avoidance is the preferred option.

Pursuant to Public Resources Code Sections 21080.3.2(b)(1) and 21082.3(d)(1), the City concluded consultation under AB 52 in agreement with the Tamien Nation. Similarly, pursuant to the 2005 Supplement to the General Plan Guidelines, the City concluded consultation under SB 18 in agreement with the tribe. In accordance with Government Code Sections 65352(a)(11) and 65092, the tribe will be provided referral notices 45 days and 10 days prior to the public hearing, and any further comments will be taken into consideration. The thresholds for certification of the EIR and amendment of the general plan have been met. The City will continue to engage with the tribe as part of implementing the approved mitigation measures.

Regulatory Setting

Federal

Native American Graves Protection and Repatriation Act

The Native American Graves Protection and Repatriation Act (NAGPRA) requires federal agencies and institutions that receive federal funds, including museums, universities, state agencies, and local governments, to repatriate or transfer Native American human remains and other cultural items to the appropriate parties upon request of a culturally affiliated lineal descendant, Indian tribe, or Native Hawaiian organization (43 Code of Federal Regulations [CFR] Section 10.10). Federal NAGPRA regulations (43 CFR Part 10) provide the process for determining the rights of culturally affiliated lineal descendants, Native American tribes, and Native Hawaiian organizations to certain Native American human remains, funerary objects, sacred objects, or objects of cultural patrimony, which are indigenous to Alaska, Hawaii, and the continental United States but not to territories of the United States, that are (i) in federal possession or control, (ii) in the possession or control of any institution or state or local government receiving federal funds, or (iii) excavated intentionally or discovered inadvertently on federal or tribal lands.

National Historic Preservation Act, Section 106

The NHPA (54 U.S.C. Section 300101 et seq.) created the NRHP and the list of National Historic Landmarks. Section 106 of the NHPA requires federal agencies to consider the impact of their actions on historic and archeological properties and provide the Advisory Council on Historic Preservation with an opportunity to comment on projects before implementation (Section 306108). The NRHP and federal

guidelines related to the treatment of traditional cultural properties are relevant for the purposes of determining whether significant tribal cultural resources, as defined under CEQA, are present and guiding the treatment of such resources.

State

CalNAGPRA

The California Native American Graves Protection and Repatriation Act of 2001 (CalNAGPRA), as amended, requires all state agencies and state-funded museums that have possession or control over collections of California Native American human remains or cultural items to provide a process for the identification, inventory, and repatriation of these items to the appropriate tribes. Lineal descendants of human remains or cultural items may file a claim for the return of the materials by demonstrating the relationship between the lineal descendent and the materials.

California Native American Historic Resources Protection Act

The California Native American Historic Resources Protection Act of 2002 imposes civil penalties, including imprisonment and fines of up to $50,000 per violation, for persons who unlawfully and maliciously excavate, remove, destroy, injure, or deface a Native American historic, cultural, or sacred site that is listed in or may be listed in the CRHR.

Assembly Bill 52

CEQA, as amended in 2014 by AB 52, requires cities to consult with any California Native American tribe that is traditionally and culturally affiliated with the geographic area of a proposed project if the California Native American tribe has requested notice of projects in the area traditionally and culturally affiliated with the tribe and has responded to the notice within 30 days of receipt with a request for consultation. CEQA defines *tribal cultural resources* as either of the following:

(1) Sites, features, places, cultural landscapes (geographically defined in terms of the size and scope), sacred places, and objects with cultural value to a California Native American tribe that are:

   a) Included in or determined to be eligible for inclusion in the CRHR, and/or

   b) Included in a local register of historical resources, as defined in subdivision (k) of Section 5020.1; and/or

(2) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Section 5024.1. In applying the criteria set forth in subdivision (c) of Section 5024.1, for the purposes of this paragraph, the lead agency shall consider the significance of the resource to a California Native American tribe (California Public Resources Code Section 21074[a]).

A cultural landscape that meets the above criteria to be a tribal cultural resource is one to the extent that the landscape is geographically defined in terms of the size and scope of the landscape (Section 21074[b]). In addition, a historical resource, as described in Section 21084.1; a unique archaeological resource, as defined in subdivision (g) of Section 21083.2; or a "nonunique archaeological resource," as defined in subdivision (h) of Section 21083.2, may also be a tribal cultural resource if it conforms with the criteria listed above to be a tribal cultural resource (Section 21074[c]).

CEQA requires that the City initiate consultation with culturally affiliated tribes at the commencement of the CEQA process to identify tribal cultural resources (Section 20180.3.1). As a part of the consultation, the parties may propose mitigation measures, including, but not limited to, those recommended in Public Resources Code Section 21084.3, to avoid or substantially lessen potential significant impacts on a tribal cultural resource or may propose alternatives to avoid significant impacts on a tribal cultural resource (Section 20180.3.2[a]). If the California Native American tribe requests consultation regarding alternatives to a project, recommended mitigation measures, or significant effects, the consultation must include those topics. The consultation may include a discussion concerning the type of environmental review necessary, the significance of tribal cultural resources, the significance of a project's impacts on tribal cultural resources, and, if necessary, project alternatives or appropriate measures for preservation or mitigation that the California Native American tribe may recommend to the lead agency. The consultation is considered concluded when either of the following occurs: (1) the parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource or (2) a party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached (Section 20180.3.2[b]).

A California Native American tribe or the public can submit information to the lead agency regarding the significance of tribal cultural resources, the significance of a project's impact on tribal cultural resources, or any appropriate measures to mitigate the impact outside the consultation process as well.

Senate Bill 18

SB 18 was signed into law in September 2004 and became effective in 2005. SB 18 (Burton, Chapter 905, Statutes of 2004) requires city and county governments to consult with California Native American tribes that were on the NAHC contact list prior to the adoption or amendment of general plans, with the intent of protecting traditional tribal cultural places (California Government Code Section 65352.3) Resources subject to this requirement include any of the following (California Government Code Section 65352.3.):

- A Native American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine (California Public Resources Code Section 5097.9); and/or
- A Native American historic, cultural, or sacred site that is listed or may be eligible for listing in the CRHR pursuant to Section 5024.1, including any historic or prehistoric ruins, any burial ground, any archaeological or historic site, any inscriptions made by Native Americans at such a site, any archaeological or historic Native American rock art, or any archaeological or historic feature of a Native American historic, cultural, or sacred site (California Public Resources Code Section 5097.993).

The purpose of involving tribes at the early stage of planning efforts is to allow consideration of tribal cultural places in the context of broad local land use policy before project-level land use decisions are made by a local government. The process by which consultation must occur in these cases was published by the Governor's Office of Planning and Research through its *Tribal Consultation Guidelines: Supplement to General Plan Guidelines* (November 14, 2005). Although SB 18 is not a CEQA issue, consultation regarding tribal cultural places can, and, in this case, did, overlap with AB 52 consultation; therefore, a summary of SB 18 consultation is included herein.

Health and Safety Code Section 7050.5

In the event of the discovery or recognition of human remains in any location other than a dedicated cemetery, Health and Safety Code Section 7050.5 requires no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie the remains until the coroner of the county in which

the human remains were discovered has determined that they are not subject to the provisions of Section 27491 of the Government Code or any other related provisions of the law concerning an investigation of the circumstances, manner, and cause of death. If the coroner determines that the remains are not subject to his or her authority but recognizes them to be those of a Native American, or has reason to believe that they are those of a Native American, he or she shall contact the NAHC by telephone within 24 hours.

Public Resources Code Section 5097.98

Section 5097.98 of the Public Resources Code stipulates that whenever the NAHC receives notification of a discovery of Native American human remains from a county coroner, pursuant to subdivision (c) of Section 7050.5 of the California Health and Safety Code, it shall immediately notify those persons it believes to be most likely descended from the deceased Native American. The decedents may, with the permission of the owner of the land, or his or her authorized representative, inspect the site of the discovery of the Native American remains and recommend to the owner or the person responsible for the excavation work means for treating or disposing of, with appropriate dignity, the human remains and any associated grave goods. The descendants shall complete their inspection and make their recommendation within 48 hours of being granted access to the site. The recommendation may include scientific removal and nondestructive analysis of the human remains and items associated with Native American burials.

Whenever the NAHC is unable to identify a descendant, or the identified descendant fails to make a recommendation; the landowner or his or her authorized representative rejects the recommendation of the descendant; or the mediation provided for in subdivision (k) of Section 5097.94, if invoked, fails to provide measures that would be acceptable to the landowner, the landowner or his or her authorized representative shall reinter on the property the human remains and associated items with appropriate dignity at a location that will not be subject to further and future subsurface disturbance.

Upon the discovery of multiple Native American human remains during a ground disturbing land development activity, the landowner may agree that additional consultation with the descendants is necessary to consider culturally appropriate treatment of the remains. Culturally appropriate treatment of the discovery may be ascertained from a review of the site using cultural and archaeological standards. Where the parties are unable to agree on appropriate treatment measures, the human remains and associated items shall be reinterred with appropriate dignity.

Local

Menlo Park General Plan

The City General Plan consists of Open Space/Conservation, Noise, and Safety Elements, adopted May 21, 2013; the 2015–2023 Housing Element, adopted April 1, 2014; and the Circulation and Land Use Elements, adopted November 29, 2016. The following goals and policies from the Land Use Element that have been adopted to avoid or mitigate environmental impacts relevant to cultural and tribal resources and the Proposed Project:

- **Goal LU-7:** Sustainable Services. Promote the implementation and maintenance of sustainable development, facilities, and services to meet the needs of Menlo Park's residents, businesses, workers, and visitors.
- **Policy LU-7.8:** Cultural Resource Preservation. Promote preservation of buildings, objects, and sites with historic and/or cultural significance.

The following goals and policies from the Open Space/Conservation Element that have been adopted to avoid or mitigate environmental impacts, are relevant to cultural resources and the Proposed Project:

- **Goal OSC-3:** Protect and Enhance Historic Resources. Protect and enhance cultural and historical resources for their aesthetic, scientific, educational, and cultural values.
- **Policy OSC-3.1:** Prehistoric or Historic Cultural Resources Investigation and Preservation. Preserve historical and cultural resources to the maximum extent practical.
- **Policy OSC-3.2:** Prehistoric or Historic Cultural Resources Protection. Require significant historic or prehistoric artifacts to be examined by a qualified consulting archaeologist or historian for appropriate protection and preservation and ensure compliance with local, state, and federal regulations.
- **Policy OSC-3.3:** Archaeological or Paleontological Resources Protection. Protect prehistoric or historic cultural resources either onsite or through appropriate documentation as a condition of removal. When a development project has sufficient flexibility, require avoidance or preservation of the resources as the primary form of mitigation, unless the City identifies superior mitigation. If resources are documented, undertake coordination with descendants and/or stakeholder groups, as warranted.
- **Policy OSC-3.4:** Prehistoric or Historic Cultural Resources Found during Construction. If cultural resources, including archaeological or paleontological resources, are uncovered during grading or other onsite excavation activities, require construction to stop until appropriate mitigation is implemented.
- **Policy OSC-3.5:** Consultation with Native American Tribes. Consult with those Native American tribes with ancestral ties to the Menlo Park city limits regarding City General Plan amendments and land use policy changes.

Environmental Impacts

This section describes environmental impacts related to tribal cultural resources that could result from implementation of the Proposed Project. The section begins with the criteria of significance that establish the thresholds for determining whether an impact would be significant. It then presents impacts associated with the Proposed Project and identifies mitigation measures to address the impacts as needed.

Thresholds of Significance

A project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment (California Public Resources Code Section 21084.2). In accordance with Appendix G of the CEQA Guidelines, the Proposed Project would have a significant effect on tribal cultural resources if it would:

- Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as a site, feature, place, or cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe and:
    - Listed in or eligible for listing in the CRHR or a local register of historical resources, as defined in Public Resources Code Section 5020.1(k), or

- A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource (California Public Resources Code Section 21084.3[a]). If the lead agency determines that a project may cause a substantial adverse change in a tribal cultural resource, and measures are not otherwise identified in the consultation process provided in Section 21080.3.2, state law provides mitigation measures that, if feasible, may be considered to avoid or minimize the significant adverse impacts (Section 21084.3[b]). These measures include avoidance and preservation in place, including incorporation of the resource into open spaces, parks, or green spaces; treating the resource with appropriate dignity, including protecting the cultural character and integrity of the resource, protecting the traditional use of the resource, and protecting the confidentiality of the resource; establishing conservation easements or other interests in real property with culturally appropriate management criteria for purposes of preserving or utilizing the resource in place; or otherwise protecting the resource.

A discussion of each the criteria is included in the impact analysis below. If an impact on a tribal cultural resource would be significant, CEQA requires feasible measures to minimize the impact (CEQA Guidelines Section 15126.4[a][1]).

Methods for Analysis

The following section analyzes potential impacts on tribal cultural resources that may be caused by the Proposed Project. In accordance with CEQA section 21084.2, the analysis considers the potential for Project activities to cause a substantial adverse change in the significance of a tribal cultural resource. To assess the Proposed Project's potential to create a significant adverse change in tribal cultural resources, the City considered information provided by representatives from consulting tribes as well as the analysis provided in the General Plan and M-2 Area Zoning Update (ConnectMenlo) EIR.

As described above, for purposes of this analysis, the entire Hiller Mound (CA-SMA-160/H) is considered to be a tribal cultural resource. The central Core of the Hiller Mound, consisting of approximately 1.77 acres, is the most archaeologically intact portion of the archeological site. According to Basin, the Perimeter of the Hiller Mound, consisting of approximately 5.26 acres (excluding the Core) within the Project Site, contains alluvial midden, reflecting erosion and slope wash displacement of cultural sediment from the former low-elevation mound that was displaced from the leveling of the Core that predated the existing development. Basin also identifies a High Sensitivity Area (described below), which is partially within the Core and partially within the Perimeter that is deemed likely based on past discoveries to contain cultural resources. The specific locations of these three areas cannot be disclosed in a public document, and the amount of project detail for each area is limited in this EIR, accordingly.

Summary of Analysis in the ConnectMenlo EIR

The ConnectMenlo EIR analyzed the following impacts that would result from implementing the updates to the Land Use and Circulation Elements and the M-2 Area Zoning Update. The Proposed Project is within the development envelope considered in the ConnectMenlo EIR impact analysis.

Impacts related to tribal cultural resources, as defined by Public Resources Code Section 21074, were analyzed in the ConnectMenlo EIR as Impact CULT-5 (ConnectMenlo EIR, p. 4.4-21) and cumulatively as Impact CULT-6 (ConnectMenlo EIR, p. 4.4-22). The ConnectMenlo EIR concluded that compliance with existing federal, state, and local laws and regulations, as well as the City General Plan goals and policies listed under CULT-2, would protect tribal cultural resources by providing for early detection of potential conflicts between development and resource protection and preventing or minimizing material impairment of the ability of archaeological deposits to convey their significance through excavation or preservation. The ConnectMenlo EIR further found that implementation of Mitigation Measures CULT-2a, CULT-2b, and CULT-4 would reduce any impacts to tribal cultural resources in Menlo Park as a result of future development under buildout of the City General Plan to a less-than-significant level. Mitigation Measure CULT-2a mitigates impacts to subsurface cultural resources. This mitigation measure requires all construction activity within 100 feet of such a find to cease until a qualified archeologist determines whether the resource requires further study and requires project proponents to include an "inadvertent discovery" clause in every construction contract to inform contractors of this requirement. In addition, Mitigation Measure CULT-2a specifies that, when previously undiscovered resources are found, they must be recorded on appropriate California Department of Parks and Recreation (DPR) forms and evaluated for significance in terms of the CEQA criteria by a qualified archeologist. Furthermore, if the resource is determined significant under CEQA, the qualified archaeologist must prepare and implement a research design and archaeological data recovery plan that captures those categories of data for which the site is significant. Mitigation Measure CULT-2a also requires the archaeologist to perform appropriate technical analyses; prepare a comprehensive report complete with methods, results, and recommendations; and provide for the permanent curation of the recovered resources. If required by law, the report must be submitted to the City of Menlo Park, NWIC, and State Historic Preservation Office.

Mitigation Measure CULT-2b requires tribal consultation. Mitigation Measure CULT-2b states that, as part of the City's application approval process and prior to project approval, the City must consult with those Native American tribes with ancestral ties to the Menlo Park city limits regarding City General Plan amendments and land use policy changes. In addition, upon receipt of an application for a project that requires a general plan amendment or a land use policy change, the City must submit a request for a list of Native American tribes to be contacted about the proposed project to the NAHC. After the list is received, the City must submit a letter to each tribe on the list, requesting consultation about the proposed project and using a method that allows the City to confirm receipt of the request.

Mitigation Measure CULT-4 mitigates impacts related to the discovery of human remains. This mitigation measure notes that procedures of conduct following the discovery of human remains have been mandated by California Health and Safety Code Section 7050.5, Public Resources Code Section 5097.98, and California Code of Regulations Section 15064.5(e). Mitigation Measure CULT-4 states that, according to the provisions in CEQA, if human remains are encountered at a site, all work in the immediate vicinity of the discovery shall cease and necessary steps to ensure the integrity of the immediate area shall be taken. Under this mitigation measure, if human remains are encountered, the San Mateo County Coroner must be notified immediately. The coroner then determines whether the remains are Native American. If the coroner determines the remains are Native American, he or she notifies the NAHC within twenty-four hours and the NAHC notifies the person it identifies as the MLD of the discovered remains. This mitigation measure notes that, under applicable state laws, the MLD has forty-eight hours to make recommendations regarding the disposition of the remains following notification from the NAHC of the discovery. If the MLD does not make recommendations within forty-eight hours, the owner shall, with appropriate dignity, reinter the remains in an area of the property secure from further disturbance. Alternatively, if the owner does not accept the MLD's recommendations, the owner or the descendent may request mediation by the NAHC.

Finally, the ConnectMenlo EIR concluded that general plan buildout, when combined with past, present, and reasonably foreseeable future development, would not result in a significant cumulative impact on tribal cultural resources with implementation of the project-level mitigation measures. In addition, the ConnectMenlo EIR found that future development set to occur under the general plan would not create or contribute to a cumulative impact on known cultural resources, including tribal cultural resources.

Impacts and Mitigation Measures

Impact TCR-1: The Proposed Project could cause a substantial adverse change in the significance of a tribal cultural resource, as defined in PRC Section 21074. (LTS/M)

To identify tribal cultural resources within the Project Site, the City contacted California Native American tribes and received requests for consultation from the Amah Mutsun Tribal Band, Tamien Nation, and Muwekma Ohlone Indian Tribe.

An archaeological site that can also be considered a tribal cultural resource was identified within the main Project Site (Hiller Mound). Project-related ground disturbance has the potential to encounter both known and as-yet undocumented Native American deposits associated with the Hiller Mound. This impact would be potentially significant.

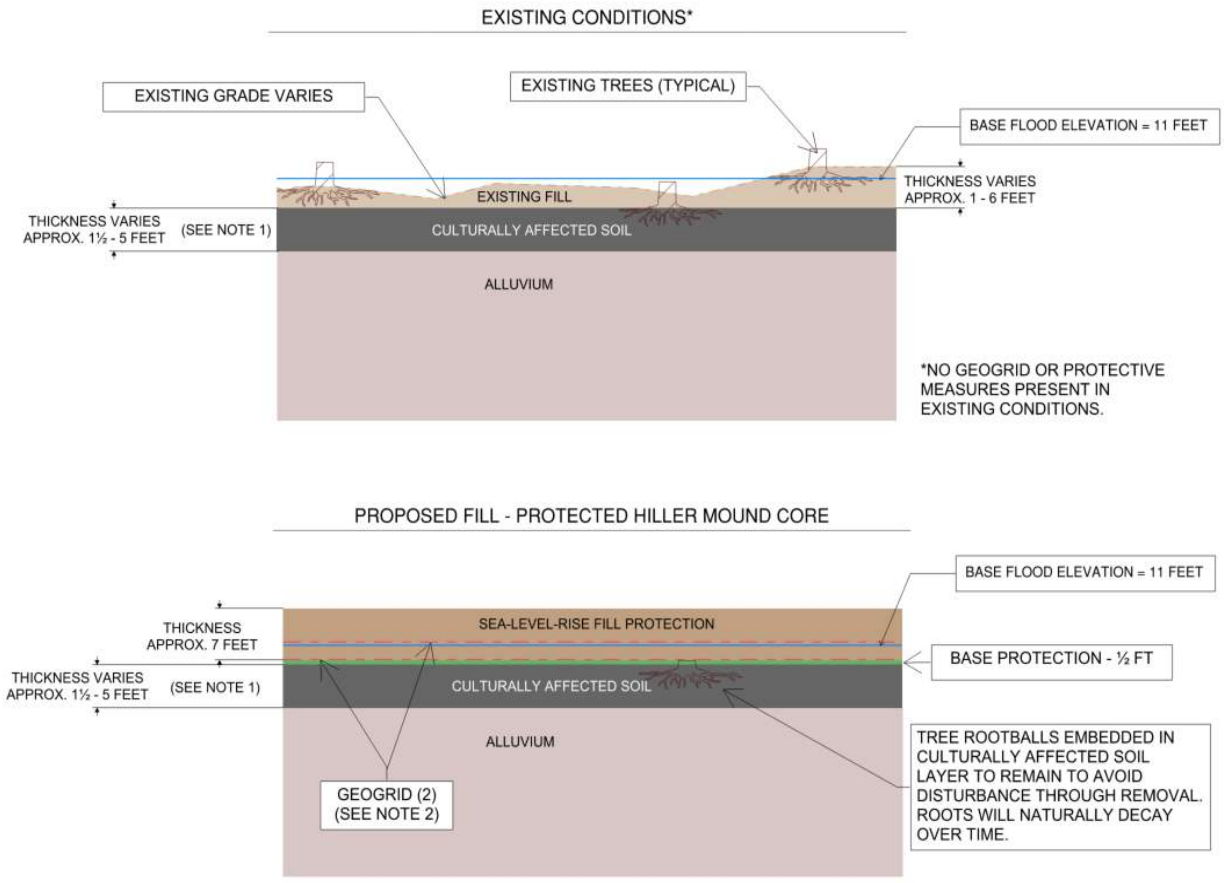
The Proposed Project would avoid and minimize known archaeological expressions of the tribal cultural resource through a combination of avoidance through design strategies, preservation in place, capping to protect the resource, planning green space to incorporate the resource with culturally appropriate protection and management criteria, and the specifications of the contractor's means and methods. Collectively, these Proposed Project features and measures would be consistent with the appropriate treatment measures established by CEQA Sections 20183.2 and 21084.3.

The entire main Project Site, not just the portions with a tribal cultural resource, requires the placement of four to seven feet of engineered fill to raise the site grade and accommodate future sea-level rise. The engineered fill capping would double as in-place protection for the Core. The portion of the Core that requires protection is the subsurface layer of culturally affected soil, which is composed of a cultural midden.

To accommodate the protective fill and minimize damage to near-surface artifacts during fill placement in the Core, hand grubbing and the placement of two layers of geogrid or geotextile reinforcement prior to the use of mechanical construction equipment would be implemented in the Core. During vegetation clearing, the root balls of trees and would be left in place so that removal would not cause disturbance of the culturally affected soil.

The thickness of the protective soil layer over the Core has been engineered to avoid significant adverse impacts to tribal cultural resources within the Core. The fill would create a vertical separation of between four and seven feet for the entire Project Site. The soil cover would also provide a protective layer over culturally affected soils in the Core. The geogrid-enhanced engineered fill would amount to less than five pounds per square inch (psi) of uniform pressure on the culturally affected soil within the Core. Geotechnical modeling of the effect of this amount of pressure on the culturally affected soil was conducted by ENGEO (2022). The effect was found to be negligible and comparable to the amount of pressure that the atmosphere applies to humans.

Project construction activities, including temporary scaffolding for construction purposes, would occur only in the new engineered fill material and would not penetrate the upper layer of geogrid above the culturally affected soil within the Core.



The Proposed Project is designed such that all building structural loads would be carried off of the Core. All building structural loads would span the Core through a structural truss or bridge design or cantilever. Tree root balls from the trees removed within the Core boundary that have roots extending within an area 24 inches from the culturally affected soil layer would be left in place. Stumps may be ground flat with the existing grade. The only permanent structural elements that would contact the surface of the protective fill on top of the Core would be walkways, landscape courtyards, planter walls, and connection points between glass walls and the ground. Limited permanent improvements would be located within the engineered fill above the Core but, in all cases, above the top layer of the geogrid. These elements would be designed to avoid additional structural loads on the culturally affected soil of the Core. No excavation into the culturally affected soil of the Core is proposed.

The Perimeter Area, like other areas of the main Project Site, would require the placement of engineered fill to accommodate future sea-level rise. Site preparation within the Perimeter Area would include compaction of the upper eight inches below the existing ground surface, placement of a layer of geogrid reinforcement to distribute loads uniformly, and the addition of four to five feet of engineered fill. Future improvements would include buildings, a portion of a road, emergency vehicle paths, circulation paths, landscape planters, water and irrigation improvements, drainage improvements, and utility improvements. Some buildings would include basement access for mechanical equipment and vehicle parking. In these cases, the basement parking excavation would penetrate the engineered fill and into existing ground surface. Protocols for addressing culturally affected soil encountered during excavation are described below.

A portion of the main Project Site that partially overlaps the Core and Perimeter has been designated as a High Sensitivity Area, which has a higher likelihood for the discovery of culturally affected soils and materials associated with the tribal cultural resource, including human remains. Portions of the High Sensitivity Area are already obscured by existing buildings, structures, and surface improvements from previous development of the main Project Site. As with all areas of the main Project Site, the High Sensitivity Area would require placement of engineered fill to accommodate future sea-level rise. Within the High Sensitivity Area, the Project proposes improvements such as emergency vehicle paths, circulation paths, landscape planters, water and irrigation improvements, drainage improvements, utility improvements, and non-building improvements. In addition, a portion of one proposed building is sited at the location of an existing building within the High Sensitivity Area.

Three construction protocols are proposed within the High Sensitivity Area. First, after demolition of existing site improvements, the existing soil within the High Sensitivity Area would be left in place. The ground surface preparation would include preparation of the upper eight inches of the existing soil by grading loose material and then compacting with a sheepsfoot roller. Second, building protocols within the High Sensitivity Area would include implementation of ground improvement measures to reduce potential long-term settlement of the new building foundation. After the ground surface has been prepared, as described above, the ground improvement supports would be identified. Each location of ground improvement support would be manually excavated to the bottom of the culturally affected soil. It is anticipated that manual excavation could extend to depths of seven feet. Following the excavation, the ground improvement supports would be installed at the pre-excavated locations. Finally, a layer of protective geogrid reinforcement would be placed over the prepared ground surface, then engineered fill ranging from four to five feet in depth would be placed over the layer of geogrid to accommodate future sea-level rise. Nonetheless, given the relatively shallow depth of the archaeological deposits associated with the Hiller Mound, as well as the dispersal of deposits from past disturbance associated with natural drainage, agriculture, and construction, the Proposed Project could encounter culturally affected soil in the Hiller Mound during construction activities, such as grading, demolition, construction of underground improvements, and the placement of construction equipment. Project-related ground disturbance would have the potential to disturb both known and as-yet undocumented cultural deposits associated with the tribal cultural resource. Furthermore, in its consultation with the City, the Tamien Nation has asserted that the entire site of Hiller Mound is a tribal cultural resource and sacred site that the Tamien Nation uses to this day, even though legal access does not currently extend to tribal members. The Tamien Nation has stated that building around a sacred site is not avoidance because the use of the site would be impacted and that construction within a tribal cultural landscape is an impact on a larger county-wide tribal cultural landscape. However, avoidance and preservation in place for the Core as well as existing known reburials, coupled with modifications to construction means and methods in the Hiller Mound, would ensure that tribal cultural resources, if encountered, would be treated with care and in a culturally appropriate manner. In addition, permanent use restrictions with respect to the Core, the existing known reburial area, and the future reburial area, as well as an access agreement with respect to the future reburial area, would preserve and protect the tribal cultural resource.

The Proposed Project would implement ConnectMenlo EIR Modified Mitigation Measures CULT-2a and CULT-4 (see Section 3.8, *Cultural Resources*) if potentially significant subsurface cultural resources or human remains are encountered during ground-disturbing activities. In addition to these mitigation measures, the Project Sponsor would implement Project Mitigation Measures TCR 1.1 through 1.3. These measures require preservation in place of known tribal cultural resources (the Core and existing reburials), worker training prior to construction to allow early identification of discoveries, and tribal monitoring, thereby reducing impacts on tribal cultural resources. These mitigation measures also

require consultation regarding the appropriate response when a tribal cultural resource is encountered. Implementation of enforceable mitigation measures to ensure these measures is sufficient to reduce impacts to tribal cultural resources to ***less than significant with mitigation***.

MM TCR 1.1. Avoidance and Mitigation of Impacts

Plan Check

Prior to issuance of grading permits, the City shall ensure that the applicable grading plans that require ground-disturbing excavation clearly indicate:

- that there is potential for exposing buried cultural resources, including tribal cultural resources ("TCRs") and Native American burials; and
- that excavations associated with soil remediation, removal of below grade utilities, and initial mass grading at the main Project site and all ground disturbing activities within the Core and Perimeter (including the High Sensitivity Area) require the presence of an archaeological monitor and tribal monitor in accordance with the Archaeological and Tribal Cultural Resources Monitoring and Treatment Protocol and Plan ("ATMTPP"), as defined in Mitigation Measure TCR-1.2; and
- that all ground disturbing activities require compliance with the ATMTPP.

All archaeological site information supplied to the contractor shall be considered and marked confidential. Any no-disturbance zones shall be labelled as environmentally sensitive areas.

Prior to issuance of grading permits for the Project, Applicant and City shall, with input from the tribes that engaged in consultation with the City on the Proposed Project pursuant to Assembly Bill 52 ("Consulting Tribes"), develop a non-confidential field manual summarizing the approved TCR mitigation measures and the approved ATMTPP requirements. This list shall be provided to all relevant personnel implementing TCR mitigation measures.

Archeological and tribal monitors shall be invited to attend all Tailgate Safety meetings at which safety concerns and other pertinent information regarding current construction activities are presented.

Measures for the Core

The Project Sponsor shall avoid or mitigate ground-disturbing excavation in the Core as detailed below.

- Ground disturbance into the existing culturally affected soil of the Core is prohibited. The following performance standards for capping, minimizing construction loading, and preservation in place of the Core shall apply.

Capping of Core

- The Project Sponsor shall install a culturally sterile engineered cap of four to seven feet to cover the cultural deposits within the Core and preserve the Core in place. Tribal monitoring shall be required during the installation of the fill cap on the Core.
- Onsite soil material is suitable as fill material provided that it is processed to remove concentrations of organic material, debris, and particles greater than six inches in maximum dimension; oversized particles shall either be removed from the fill or broken down to meet

the requirement. Imported fill material shall meet the above requirements and have a plasticity index of less than 20. Material used for engineered fill shall not contain or introduce contaminants in excess of applicable Department of Toxic Substances Control ("DTSC") Environmental Screening Levels ("ESLs"). Any TCR materials within the soil matrix that are identified as TCRs by a tribal monitor shall be treated in accordance with the ATMTPP and shall not be broken down or used in fill.

- Construction activities shall be conducted in a manner that protects against penetration of the culturally affected soil within the Core and reduces the potential for disturbance from concentrated surface loads. The following measures shall be implemented within the Core during fill placement and any subsequent construction to reduce potential impacts on subsurface archaeological and cultural materials.
    - An elevation contour plan shall be created to guide the surface preparation necessary to place the fill cap within the Core boundaries. The plan shall show the top of the culturally affected soil elevation to establish a six-inch-thick protection layer above the culturally affected soil layer, below which soil excavation or penetration shall not be permitted.
    - Tree root balls from trees removed within the Core boundary that have roots extending within an area 24 inches from the culturally affected soil layer shall be left in place. Stumps may be ground flat with the existing grade.
    - Clearing of surface vegetation within the Core boundary shall be performed through hand grubbing.
    - Ground surface preparation prior to fill placement within the Core boundary shall use relatively light equipment (3,000 to 5,000 pounds), such as a walk-behind roller, to densify the six-inch-thick protection material. The use of relatively light equipment reduces potential for densification below the buffer zone.
    - A layer of geogrid reinforcement shall be placed over the prepared ground surface within the Core boundary. Geogrid shall consist of a triaxial grid (e.g., TX140 or approved equivalent). A second layer of geogrid shall be placed to reinforce the engineered fill approximately 24 inches above the base geogrid layer. Geogrid shall be installed in accordance with the manufacturer's specifications. After placement of the geogrid, there shall be no soil disturbance in the Core below the top layer of geogrid.
    - Once the six-inch-thick protection layer has been prepared and the base reinforcement grid placed within the Core boundary, engineered fill may be placed in eight-inch lifts and compacted using a single-drum ride-on sheepsfoot roller. The roller shall not be parked or left stationary on the Core overnight. If yielding subgrade is encountered in the base protection layer, the geotechnical consultant may recommend placement of additional layers of reinforcement within the engineered fill. This determination will be based on field observations during preparation of the ground surface.

      To protect the culturally affected soil in the Core, construction and other transitory vehicle traffic (with the exception of the equipment necessary to place and compact the engineered fill) shall not be permitted over the Core until after engineered fill placement is complete to provide a buffer between mound material and concentrated vehicle loads. Once fill placement is complete, the culturally affected soil will be protected, but construction vehicles and construction equipment directly on the Core nonetheless shall continue to be limited to the minimum number necessary to complete construction of the

Proposed Project. Vehicles shall not be left stationary or parked on the Core overnight. The contractor shall ensure that vehicles and equipment will not leak fuel or other liquids when operating on the Core. Leaking vehicles and equipment shall be promptly removed from the Core area and repaired before use is resumed on the Core.

Temporary Construction Loading at Core

The following measures shall be implemented within the Core during scaffold erection to reduce potential impacts on subsurface cultural materials:

- Scaffolds placed on the Core shall be installed no earlier than three months after the engineered fill placement related to sea-level rise.
- Scaffolds shall use 16-foot square bases on top of the engineered fill cap. Minor leveling of the fill cap shall be allowed at each scaffold installation, but excavation or other penetrations into the fill surface shall not be permitted except for equipment or the temporary auxiliary structures needed to install the atrium frame and associated glass. There shall be no soil disturbance in the Core below the top layer of geogrid.
- Scaffolds shall be removed promptly after installation and inspection of the framework and glass within the atrium to remove pressure from the engineered fill over the Core.

Post-Construction Preservation in Place at the Core

- Post-construction, there shall be no soil disturbance in the Core below the top layer of geogrid. Any surface structural elements, irrigation, utilities, and infrastructure shall be located only upon/within the engineered fill and shall not penetrate the top layer of geogrid.
- Comply with Mitigation Measure TCR-1.3, *Post-Construction Preservation in Place.*

Measures for the Perimeter

The Project Sponsor shall avoid or mitigate ground-disturbing excavation in the Perimeter Area as follows:

- The Project Sponsor shall install a culturally sterile engineered cap of four to seven feet to cover the cultural deposits within the Perimeter.
- Excavation through the cap shall follow the procedures in Mitigation Measure TCR-1.2.
- Tribal monitoring shall be required during all ground disturbing site work in the Perimeter; provided that, once culturally affected soil has been removed, stockpiled, and treated in accordance with the ATMTPP, no additional tribal monitoring of ground disturbance is required in the area where such soil was removed.

Measures for the High Sensitivity Area

The Project Sponsor shall avoid or mitigate ground-disturbing excavation in the High Sensitivity Area as follows:

- For portions of the High Sensitivity Area located within the Core, the Project Sponsor shall comply with the mitigation measures for the Core identified above, including but not limited to the tribal monitoring provisions.

- For portions of the High Sensitivity Area located within the Perimeter, the Project Sponsor shall comply with the mitigation measures for the Perimeter identified above, including but not limited to the tribal monitoring provisions.

Measures for Existing Known Reburials

- Existing known reburials shall be preserved in place.
- Existing known reburials will be protected by a layer of geogrid prior to the placement of engineered fill.
- Tribal monitoring in the vicinity of existing known reburials shall be required in accordance with the ATMTPP.

MM TCR-1.2: Archaeological and Tribal Cultural Resource Monitoring and Treatment Protocol and Plan

The Project Sponsor and archaeological consultant, in consultation with Consulting Tribes, shall develop an Archaeological and Tribal Cultural Resource Monitoring and Treatment Protocol and Plan ("ATMTPP") to guide archaeological and tribal cultural resource monitoring of ground-disturbing site work and provide for appropriate treatment of any archeological materials and tribal cultural resources exposed during construction, as described below. The ATMTPP will apply to the entire Project Site and all off-site Project improvements. In addition, specific protocols that pertain to the Core, Perimeter, and High Sensitivity Area will be distinguished from general unanticipated discovery response procedures that apply in other areas. Tribal monitoring refers to the controlled observation and regulation of construction operations on or in the vicinity of a known or potentially significant tribal cultural resource to avoid, preserve in place, or mitigate impacts on the resource. The ATMTPP shall be developed in consultation with the Consulting Tribes and submitted to the City for review and approval prior to issuance of the first grading permit and any physical ground disturbing site work being allowed on the Project Site or for off-site Project improvements. The ATMTPP shall include, at a minimum:

- Background information and context data on the Project Site, archeological resources, and tribal cultural resources.
- Tribal monitoring requirements, including worker awareness training as specified below; a discussion of specific locations and the intensity of the monitoring effort for areas with potential for the discovery of archeological and tribal cultural materials; and anticipated personnel, including retention of California Native American tribal representative(s) from Consulting Tribes.
- A requirement that tribal monitors from each Consulting Tribe be afforded the opportunity to be present at each location of ground disturbing site work that requires tribal monitoring pursuant to the Project mitigation measures and the ATMTPP, for the duration of such work, unless a Consulting Tribe agrees in writing that tribal monitoring is not needed by that tribe in that instance, or unless a Consulting Tribe fails to provide a monitor at the scheduled time, provided that adequate notice of the schedule was provided and documented.
- Specific parameters for tribal monitoring, including the number of monitors from each Consulting Tribe based on number of simultaneous excavation locations, activities subject to monitoring (consisting of all excavations associated with soil remediation, removal of

below grade utilities, and initial mass grading at the main Project Site and all ground disturbing activities within the Core), and activities not subject to monitoring (including all grading outside the Core subsequent to initial mass grading in areas that have been monitored by the Consulting Tribes and found to no longer contain tribal cultural resources, all foundation and building demolition, and all above ground or vertical build construction).

- Identification of a tribal monitoring coordinator, whose responsibility is to ensure that communication between the construction team and monitors is clear, that schedules for monitoring are conveyed, and that monitoring tribes have a single point of contact, prior to the commencement of ground disturbing activities.
- Protocols for discoveries during construction, consistent with modified ConnectMenlo EIR Mitigation Measure CULT-2a (see Section 3.8, Cultural Resources), including a requirement that any DPR forms required pursuant to ConnectMenlo EIR Mitigation Measure CULT-2a to be submitted to the Northwest Information Center to document a find of TCR, cultural resources, historical resources, or archaeological resources shall be completed and submitted no later than 120 days after completion of the Project.
- Prehistoric era research design, including sampling level, study method documentation, and provisions, such as staffing and scheduling, for bringing the proposed research to fruition.
- Detailed procedures regarding how to address significant discoveries made during construction, including a discussion of field and artifact analysis methods to be used.
- Treatment of Native American human remains consistent with state law and recommendations of the NAHC-appointed Most Likely Descendant ("MLD") and Modified ConnectMenlo EIR Mitigation Measure CULT-4.
- Laboratory methods, including artifact cataloging and special analyses.
- Thresholds for decision making if there is a conflict among tribal or archeological monitors regarding the identification or treatment of TCRs. Specifically, if there is a conflict between the archeological monitor and the tribal monitors, deference shall be given to the preferences of the tribal monitors, subject to applicable law in the event of the discovery of Native American human remains, provided that those preferences do not require Project redesign or result in unreasonable construction delay. If there is a conflict among the tribal monitors, the soil containing the potential TCR will be evaluated in accordance with applicable law and, if appropriate, shall be stockpiled in accordance with the soil protocol in the ATMTPP while the disagreement is being resolved.
- Provisions for reporting (e.g., Tribal Monitoring Closure Report) and artifact treatment in consultation with the Consulting Tribes in the event of significant finds.
- Pre-designated confidential reburial area(s) that will serve to reinter any Native American human remains encountered during construction (excluding existing, known reburial sites, which shall be preserved in place pursuant to Mitigation Measure TCR-1.1) with appropriate level of privacy for visitation by the Consulting Tribes, in an area not open to the public.

- Treatment protocols that detail the appropriate procedures, methods, and reports to be completed if significant archaeological or tribal cultural materials, including Native American burials, are encountered. The archeological significance of a resource shall not be determinative of whether the resource is a TCR, the level of impact to a TCR, or the significance of a TCR.
- Soil treatment protocols that preserve cultural soil onsite where feasible, including:
    - Subject to the requirements of DTSC or other agencies with jurisdiction and the reasonable preferences of the MLD in accordance with applicable law, prohibiting the removal of cultural soil from the main Project site. The determination of which soils are cultural soils shall be made by the tribal monitors.
    - Requiring only clean, engineered fill to be used on the main Project site. Under no circumstances should soil from another culturally significant area be used on this Project site.
    - The tribal monitors shall have the right to request that any cultural soils excavated from native soil on the main Project site be relocated to an area on the main Project site located away from the construction zone, where the tribal monitors shall be given the opportunity during active construction work hours to sift the cultural soil to identify and remove any tribal cultural items and Native American human remains, which tribal cultural items and Native American human remains shall be treated in accordance with the ATMTPP. Any tribal cultural resources obtained from sifting shall be reburied in the reburial area, subject to the reasonable preferences of the MLD in accordance with Public Resources Code Section 5097.98 and other applicable law. Any tribal monitors performing this work (1) must have the requisite training or experience to do so, including training or experience with regard to work in environmentally impacted soil (which shall include at a minimum HAZWOPR certification), and (2) shall be paid at the rate specified for this work in the applicable Tribal Monitoring Agreement. Following sifting and removal of TCRs, the soil can be reused at the same or a different location within the main Project Site.
- Specifications for archeological and tribal cultural resources sensitivity training for construction workers and superintendents that meet the following standards:
    - Occurs prior to the start of any ground-disturbing activity or site work on the Project Site or for off-site improvements.
    - Training shall be required for all construction personnel participating in ground-disturbing construction to alert them to the archaeological and tribal cultural sensitivity of the area and provide protocols to follow in the event of a discovery of archaeological materials or tribal cultural resources. Training shall be provided en masse to such personnel at the start of construction of the Project, and training shall be repeated when new personnel participating in ground-disturbing site work start work.
    - Includes, for job site posting, a document ("ALERT SHEET") that summarizes the potential finds that could be exposed, the protocols to be followed, and the points of contact to alert in the event of a discovery that is presented as part of the training.
    - Requires the contractor to ensure that all workers requiring training are in attendance.

- Requires training for all contractors and sub-contractors that is documented for each permit and/or phase of a permit that requires ground-disturbing activities onsite.
- For work in the Core and the existing known reburial area, additional worker training shall also be required for workers who will work on the surface or who will drive directly over the Core or work in the existing known reburial area.

- Work plan for the use of ground penetrating radar (GPR) and forensic canine detection (FCD) that meets the following standards:
  - Upon conclusion of building demolition and the removal of surface improvements within the Perimeter, the Project Sponsor shall retain a qualified team of FCD survey providers and a GPR operator to perform a survey of the Perimeter before grading, trenching, or other earthwork commences.

    A minimum of seven calendar days prior to the FCD or GPR survey, the Project Sponsor or their designee shall notify the Consulting Tribes of the schedule to afford sufficient time to be present during the survey. Should the Consulting Tribe(s) choose not to attend, the FCD or GPR survey may continue as scheduled. Where the FCD or GPR survey will occur within 100 feet of known burials or reburials (which know reburials shall remain in place in accordance with Mitigation Measure TCR-1.1), use of the FCD or GPR and presence of tribal monitors shall be dictated by the MLD for those prior discoveries.
  - The results of the FCD and GPR surveys shall be provided to the Consulting Tribes within fourteen calendar days after completion of the survey reports. Measures to protect TCRs identified as a result of the surveys shall be implemented in accordance with the Project mitigation measures and ATMTPP.
  - In the event of the discovery of Native American human remains other than known reburials, the procedures in Modified ConnectMenlo Mitigation Measure CULT-4 will apply.
- Procedures for the event of an inadvertent discovery during construction, which require the archaeological and tribal monitors to review, identify, and evaluate TCRs to determine if a discovery is a historical resource and/or unique archaeological resource, or a TCR, under CEQA. These procedures shall include, at a minimum:
  - Criteria for identifying cultural soils.
  - Impose a stop work radius of 100 feet around the discovery; work can continue outside of the stop-work radius while the discovery is being addressed. If the archaeological and tribal monitors agree that the find does not constitute a TCR, work can resume immediately, and no notifications are required.
  - Notify the City, Consulting Tribes, and Project Sponsor within 24 hours of the discovery.
  - Complete a discovery form to document the location, nature, and condition of the discovery.
  - Consult on the discovery to determine appropriate treatment, which may include any combination of avoidance, preservation in place, rapid recovery and reburial, and/or documentation. In no circumstance other than the express written recommendation of the MLD shall Native American human remains be removed from the Project site. Curation and data recovery shall not be allowed, unless curation or data recovery is (i) in

compliance with the recommendation of the MLD for Native American human remains in accordance with Public Resources Code Section 5097.98 and other applicable law or, (ii) agreed upon by the tribal monitors per the protocols in the ATMTPP for TCRs that are not Native American human remains.

MM TCR 1.3: Post-Construction Preservation in Place of Tribal Cultural Resources

Prior to the issuance of the first certificate of occupancy for any occupied building within the Campus District, the Project Sponsor shall record deed restrictions over the Core, confidential locations of existing known reburials, and the pre-designated reburial area ("Project Reburial Area") to restrict development or other activities identified in the deed restrictions that would disturb TCRs or Native American human remains in the future. The area included in the deed restrictions shall be described by a licensed surveyor prior to recording. Because archaeological and tribal cultural resource site locations are restricted from public distribution, the deed restrictions shall cite an "environmentally sensitive area." A copy of the recorded deed restrictions that include the Core and any pre-designated reburial site shall be provided to the City for retention in a confidential project file. A copy of the deed restrictions shall be provided to the Northwest Information Center of the California Historical Resources Information System.

The restriction on the deed for the Core and Project Reburial Area shall prohibit the following activities directly on the Core or Project Reburial Area (excluding activities in cantilevered or spanned structural elements) after completion of construction of the Proposed Project, subject to applicable building code and life safety access requirements and necessary facilities maintenance, service, and repairs:

- Active recreational activities and structures, including, but not limited to, sports, field games, running, biking, and play equipment.
- Domesticated animals other than security/service animals.
- Vehicles.
- Surface penetrations below the upper geogrid.
- Altering the surface or general topography of the Core or Project Reburial Area except for maintenance of the engineered soil cap, landscaping, facilities, circulation, and utilities included within the cap.
- In the unlikely event that any activity needs to occur below the area of the upper geogrid in the event of an emergency, the Consulting Tribes will be immediately notified and given a reasonable opportunity (consistent with the nature of the emergency) to have a tribal monitor present.

MM TCR 1.4: Project Reburial Area Access

Within 30 days after the recording of the deed restrictions over the dedicated reburial area(s), the Project Proponent shall extend a written offer to the Consulting Tribes to execute a tribal access agreement to allow for permitted access to the Project Reburial Area for the purposes of tribal visitation, subject to the parameters below. The Project Proponent shall provide a copy of the offer letter and if accepted by the Consulting Tribe(s), the executed agreement(s), to the City for retention in a confidential Project file. This mitigation measures shall be considered satisfied upon delivery of the offer letter to the Consulting Tribes, even if the Consulting Tribe(s) declined

to enter into the agreement. The owners' association shall manage the Project Reburial Area in accordance with the terms and conditions of the deed restrictions, access agreements, Project mitigation measures, and Project conditions of approval, subject to applicable building code and life safety access requirements and necessary facilities maintenance, service, and repairs.

Access to the reburial area established for the Project will be controlled. The following conditions apply:

- Access to the Project Reburial Area will be available following completion of construction of the Proposed Project, including the Project Reburial Area, subject to notification and access requirements to be specified in an access agreement.
- Visitation shall comply with all rules applicable to publicly accessible open space within the Proposed Project except as otherwise specified in an access agreement.
- Visitation shall not obstruct or otherwise interfere with the passage of vehicles or the operation of the facility.
- Parking shall be limited to public parking spaces.
- Visitation shall not include activities or uses that conflict with the deed restriction or reasonable preferences of the Most Likely Descendent; provided that the Project Proponent shall work in good faith to ensure that all Consulting Tribes are provided access to the Project Reburial Area in accordance with the terms of the access agreement.
- Visitation shall not present a risk to human life or safety.
- Visitation shall not include abandonment of materials or objects other than ceremonial, religious, or funerary offerings specified in an access agreement.
- Visitation shall be subject to restriction as necessary to respond to any security threat, pandemic or similar health risk, or emergency condition. Visitation shall not be unreasonably restricted.

Impact TCR-2. Human Remains. The Proposed Project could disturb human remains, including those interred outside of dedicated cemeteries. (LTS/M)

Native American human remains could be exposed and disturbed during ground-disturbing activities at the Project Site. A tribal cultural resource was identified within the main Project Site. This resource has the potential to contain human remains interred outside of dedicated cemeteries. Excavation activities associated with the Proposed Project would not affect any known reburial locations; however, previously undocumented Native American burials could be affected by ground-disturbing construction due to their location within areas proposed for subsurface improvements. This impact would be potentially significant.

The Proposed Project would implement ConnectMenlo EIR Mitigation Measure CULT-4, as modified below, based on the Project's cultural resources assessment report, if human remains are encountered at the Project Site during ground-disturbing activities. The Project Sponsor would also implement Mitigation Measures TCR 1.1 and 1.2 within the main Project Site, given the presence of CA-SMA-160/H. Mitigation Measures TCR 1.1 and 1.2 include measures to avoid or mitigate ground-disturbing excavation near CA-SMA-160/H, to the extent feasible, and preparation of a monitoring and treatment plan that details the appropriate procedure if remains are encountered. Mitigation Measure TCR-2.1 requires avoidance and preservation in place of existing known reburials. Therefore, the Proposed Project's impact on human remains would be ***less than significant with mitigation***.

Mitigation Measure CULT-4: (Modified ConnectMenlo EIR) Comply with State Regulations Regarding the Discovery of Human Remains at the Project Site.

Procedures of conduct following the discovery of human remains citywide have been mandated by Health and Safety Code Section 7050.5, Public Resources Code Section 5097.98, and the California Code of Regulations Section 15064.5(e) (CEQA). According to the provisions in CEQA, if human remains are encountered at the site, all work in the immediate vicinity of the discovery shall cease and necessary steps to ensure the integrity of the immediate area shall be taken. The San Mateo County Coroner shall be notified immediately. The coroner shall then determine whether the remains are Native American. If the coroner determines that the remains are Native American, the coroner shall notify the NAHC within 24 hours. The NAHC, in turn, will notify the person the NAHC identifies as the Most Likely Descendant (MLD) in connection with any human remains. Further actions shall be determined, in part, by the desires of the MLD. The Project Sponsor, the Project archaeologist, and the MLD shall make all reasonable efforts to develop an agreement for the treatment, with appropriate dignity, of human remains and associated or unassociated funerary objects, including those associated with known and unknown Native American burial locations (CEQA Guidelines Section 15064.5[d]). The agreement should address appropriate actions for when remains are discovered, including excavation, removal, recordation, analysis, custodianship, and final disposition of the remains and associated or unassociated funerary objects. The MLD will have 48 hours to make recommendations regarding the disposition of the remains following notification from the NAHC of the discovery. If the MLD does not make recommendations within 48 hours, or the owner does not accept the recommendation of the MLD in accordance with Public Resources Code 5097.98(e), the owner shall, with appropriate dignity, reinter the remains in an area of the property secure from further disturbance. Alternatively, if the owner does not accept the MLD's recommendations, the owner or the descendent may request mediation by the NAHC.

Mitigation Measure TCR-2-1: Avoid and Preserve in Place Known Reburials

The locations of known previous reburials of Native American human remains shall be restricted from future ground disturbance, as required by Mitigation Measure TCR-1.3.

Cumulative Impacts

Impact C-TCR-1: Cumulative Impacts on Tribal Cultural Resources. Cumulative development would result in a less-than-significant cumulative impact on tribal cultural resources. The Proposed Project would not be a cumulatively considerable contributor to any significant cumulative impact on cultural and tribal cultural resources. (LTS)

Summary of Analysis in the ConnectMenlo EIR

As stated in Section 4.4, *Cultural Resources*, of the ConnectMenlo EIR, the geographic context for cumulative impacts associated with cultural and tribal cultural resources considers growth projected in the ConnectMenlo study area in combination with buildout of the city and the region.

Development of past, current, and future projects within the ConnectMenlo study area, city, and region has the potential to result in development-related impacts on tribal cultural resources. However, new development would be subject to existing federal, state, and local regulations as well as general plan goals, policies, and programs, which would, to the maximum extent practicable, reduce cumulative development-related impacts on tribal cultural resources.

The ConnectMenlo EIR found that, with mitigation, development consistent with ConnectMenlo would not make a cumulatively considerable contribution to significant cumulative impacts on tribal cultural resources. The ConnectMenlo EIR concluded that potentially cumulatively considerable contributions to significant cumulative impacts on identified tribal cultural resources, including human remains, would be mitigated with implementation of Mitigation Measures CULT-2a, CULT-2b, and CULT-4. In addition, the ConnectMenlo EIR noted that existing federal, state, and local regulations, as well as general plan goals, policies, and programs, would serve to protect cultural resources in Menlo Park. Therefore, the ConnectMenlo EIR determined that cumulative impacts associated with tribal cultural resources under ConnectMenlo would be less than significant.

The ConnectMenlo EIR examined the environmental impacts of the City of Menlo Park General Plan Land Use and Circulation Elements and the M-2 Area Zoning Update. The Proposed Project is located in a former M-2 area and consistent with the general plan policies and zoning analyzed in the ConnectMenlo EIR. The Proposed Project does not propose substantial changes that would require major revisions to the ConnectMenlo EIR, and substantial changes have not occurred with respect to the circumstances under which the Proposed Project would be undertaken. In addition, there is no new information of substantial importance related to tribal cultural resources that was not known and could not have been known with the exercise of reasonable diligence at the time the ConnectMenlo EIR was certified.

Cumulative Impacts with the Proposed Project

Consistent with the ConnectMenlo EIR, the geographic context for cumulative impacts associated with tribal cultural resources considers growth projected by ConnectMenlo within the Study Area in combination with buildout in the city and the region.

As noted in Chapter 3, *Environmental Impact Analysis*, of this EIR, in addition to the buildout projections considered in the ConnectMenlo EIR, the cumulative scenario for the EIR also includes the additional unrestricted units from the 123 Independence Drive and East Palo Alto projects. As with the Proposed Project, the additional unrestricted units from the 123 Independence Drive and East Palo Alto projects, as well as other projects in the vicinity, would be required to comply with existing federal, state, and local regulations as well as general plan goals, policies, and programs.

The Proposed Project would not result in a substantial change in the ConnectMenlo project, which considered future development at the location of the tribal cultural resource. Therefore, with project-level mitigation measures (Mitigation Measures TCR-1.1, TCR-1.2, TCR-1.3, TCR-2.1) and applicable ConnectMenlo mitigation measures, as modified herein, the Proposed Project would not be a cumulatively considerable contributor to a significant cumulative impact on tribal cultural resources and would not cause new or substantially more severe significant impacts related to tribal cultural resources than those analyzed in the ConnectMenlo EIR. Therefore, consistent with the conclusions in the ConnectMenlo EIR, the Proposed Project would not make a cumulatively considerable contribution to significant cumulative impacts with respect to tribal cultural resources.