

# Chapter 2

## Revisions to the Draft EIR

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### 2.1 INTRODUCTION

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This chapter summarizes the text changes to the Draft EIR. New text is indicated in underline and text to be deleted is reflected by a ~~strike through~~. Text changes are presented in the page order in which they appear in the Draft EIR.

These revisions are in response to comments made on the Draft EIR (see Chapter 4, Responses to Comments) and staff initiated and/or consultant initiated text changes based on their on-going review. The text revisions contain clarification, amplification, and corrections that have been identified since publication of the Draft EIR. Pursuant to section 15088.5 of the CEQA Guidelines, recirculation is not required due to the changes to the text because changes to the information presented in the Draft EIR do not result in any new significant impacts.

### 2.2 STAFF OR APPLICANT INITIATED TEXT CHANGES

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Only a portion of the comment letters received in response to the Notice of Preparation (NOP) were included in Appendix C of the Draft EIR. All of the comment letters received in response to the NOP are included at the end of this Final EIR in Appendix A.

### Chapter S, Summary

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The Required Approvals starting on the bottom of page S-2 are revised to read:

- **General Plan Map Amendment for the Specific Development Application.** The General Plan Land Use Map would be amended to change the designation of the Independence site and the Constitution site to Mixed-Use Commercial Business Park. ~~This~~ The GPA would require approval by the City Council.
- **Rezoning for the Specific Development Application.** The proposed project would require a rezoning of the Independence site and the Constitution site from the existing M-2 district to the new M-3 district. The GPA/ZOA Option would also involve the “X” Conditional Development overlay district that would result in a zoning classification of M-3-X. The rezoning would require approval by the City Council.
- **Architectural Control.** Architectural Control approval would be required for design review of the specific development proposed for the Independence and Constitution sites. The GPA/ZOA Option with a Conditional Development Permit would eliminate the need for Architectural Control approval.

- **Conditional Development Permit (CDP).** The GPA/ZOA Option would require City Council approval of a Conditional Development Permit to allow flexibility in regard to uses, development standards and parking requirements.
- **Heritage Tree Removal Permit.** A tree removal permit would be required for each Heritage tree proposed for removal, per Municipal Code 13.20.030.
- **Mitigation Monitoring Plan Environmental Review.** Certification of the EIR and Approval of the mitigation measures identified in the Draft EIR and the Mitigation Monitoring Plan would be required by City Council.

The last column on page S-42 the first impact on the page is revised to correct the impact significance after mitigation to read:

(D) (SU)

## **Chapter 1, Introduction**

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The following information is inserted on page 1-4 under the Draft EIR heading.

This DEIR is being distributed for a 60-day public review and comment period. Copies of the DEIR are available at City Hall, 701 Laurel Street, Menlo Park Library, 800 Alma Street, and on the City's website [www.menlopark.org](http://www.menlopark.org).

## **Chapter 2, Project Description**

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Since publication of the Draft EIR, the project sponsor has added a new option to slightly revise the proposed GPA and ZOA. The modified GPA/ZOA language is included in Appendix G at the end of this Final EIR. In addition, options to reduce the size of the parking structure footprints on both the Independence and Constitution sites are also included. The proposed options are suggestions put forth by the project sponsor to modify a specific aspect of the project. The City Council has the ability to select one or a combination of options in lieu of what the project sponsor is proposing. Appendix B includes site plans showing the new parking options and visual simulations are included for the Constitution site, as the height of the garage structures is slightly increasing. The new text describing the options, as well as other revisions to the project description, is included below.

A new paragraph is added before the discussion of the Menlo Gateway Development Application on page 2-6:

**GPA/ZOA Option.** The project sponsor is proposing an optional approach to the General Plan Amendment and Zoning Ordinance Amendment referred to as the GPA/ZOA Option. The GPA/ZOA Option, included in Appendix G, would be similar to the primary proposal in that a new General Plan Land Use Designation and a new zoning district (M-3) would be created, but the base floor area ratio (FAR) would remain at 45 percent. A maximum FAR of 137.5 percent could be achieved through approval of a Development Agreement. As part of the rezoning of the properties from M-2 to M-3, the GPA/ZOA Option would also include the

combining “X” Conditional Development overlay zoning district in order to allow flexibility in regard to uses, development standards and parking requirements, as specified in a Conditional Development Permit. These standards would be compared to the more stringent base zoning requirements of the GPA/ZOA Option, such as setbacks, height, and parking, but would be consistent with the Menlo Gateway proposal, as represented in the project plans and Draft EIR. The GPA/ZOA Option would be no more intense than the primary project or the maximum GPA/ZOA and is effectively a policy decision. Therefore, the GPA/ZOA Option is not analyzed further in this EIR.

A new paragraph is added to the end of the description of the Independence Site on page 2-7:

The project sponsor is proposing an option to reduce the building footprint for the parking structure located on the Independence site (Independence Site parking option). The amount of parking in the structure would decrease and new surface parking spaces would be created. While the maximum number of parking spaces, 1,230, would decrease, the exterior design of the parking structure would not change from what is currently proposed. The parking structure, however, would be set back more from Marsh Road and occupy a slightly smaller footprint area. Even though the number of parking spaces in the structure would decrease, the number of stories above grade would only increase by half a story or by approximately ten feet. The on-site surface parking would be designed to accommodate a total of 38 spaces, but would be designated as landscape reserve parking. Spaces in reserve would not be constructed, immediately, but rather would remain as landscaping until such time that a clear need for the spaces is identified after full occupancy of the project. Under the Independence Site parking option, the total number of parking spaces within the parking structure would decrease by 228 spaces and the total number of surface parking spaces would increase by 38 spaces, for a total of 1,040 spaces, a difference of 190 spaces from the proposed project well within the number of parking spaces the project needs to provide based upon the shared parking analysis in the Draft EIR.

A new paragraph is added to the end of the description of the Constitution Site on page 2-9:

The project sponsor is proposing an option to reduce the building footprints for the two parking structures located on the Constitution site (Constitution Site parking option). The amount of parking in the structures would decrease, but the number of surface parking spaces would increase to off-set the reduction. While the total number of parking spaces, 1,649, would remain the same as currently proposed, the exterior design of the parking structures would not change from what is currently proposed. Garage A, located on the west side of the site, would be set back more from Marsh Road and Constitution Drive and occupy a slightly smaller footprint area. The number of parking spaces in the structure would remain the same, 701, but the number of stories above grade would increase from five and a half to six stories. For Garage B, located on the east side of the site, the structure would be set back further from Bayfront Expressway and the number of parking spaces in the structure would be reduced from 803 to 704 spaces. Even though the footprint would decrease, the number of stories above grade would increase from four stories to five and a half stories. The on-site surface parking

would be designed to accommodate a total of 244 spaces, but approximately 147 spaces would be designated as landscape reserve parking. Spaces in reserve would not be constructed immediately, but rather would remain as landscaping until such time that a clear need for the spaces is identified after full occupancy of the project. Under the Constitution Site parking option, the total number of parking spaces within the parking structures would decrease by 99 spaces and the total number of surface parking spaces would increase by 99 spaces for no net change in total parking.

The second to the last sentence in the first paragraph that begins on page 2-11 is revised to read:

In addition, a 382-foot long, 12-foot high sound wall ~~is proposed~~would be constructed adjacent to US 101 to provide a visual as well as sound barrier for the proposed outdoor pool. The wall is designed to meet Caltrans standards and to blend in with the other project features. There is an additional 63-foot long wall near the office building and parking garage on the Independence site.

The first complete paragraph in the middle of page 2-11 is revised to read:

The Constitution site also includes an amphitheater. The amphitheater is intended to be a focal element between the two office buildings on the site. Functionally, the amphitheater is designed to serve the project as a space for employees to use as a small park/green space and as an informal gathering area. In addition, the amphitheater could be used for small public gatherings and events.

The fourth sentence in the first paragraph on page 2-16 is revised to read:

... In addition, the proposed project would incorporate 100% cool and green roofs for the office and hotel buildings, ~~with roof parapet mounted trellis structures that would shade the upper floor terraces while potentially supporting photovoltaic (PV) solar collectors.~~ ...

The third paragraph on page 2-16 is revised to read:

In addition to the water and energy conservation elements discussed above, a more detailed description is provided below of specific building components the project sponsor ~~is proposing~~ will include in order to attain Leadership in Energy and Environmental Design or LEED sustainable development principles, specifically LEED silver for the hotel and LEED gold for the office buildings.

The second sentence in the fourth paragraph on page 2-16 is revised to read:

The proposed project has been designed to incorporate LEED sustainable development principles. The project ~~is targeting~~ shall achieve a rating of LEED Gold for the offices and LEED Silver for the hotel and health club. ...

The first sentence following the bullets on page 2-17 is revised to read:

In addition, the project sponsor ~~is proposing~~ seeks to attain a goal of reducing potable water needs by at least 30% compared to projects of similar use and size by doing the following:

The second sentence following the bullets on page 2-17 is revised to read:

A key objective of the project is to ~~approach~~ attain a ~~minimum of 5 to 15~~ percent energy savings over that of a conventionally designed building under California's Title 24 energy code. Heating, ventilation, and air conditioning systems will meet or exceed national standards for bringing in and filtering outside air.

The third bullet in the last set of bulleted items on page 2-17 is deleted:

- ~~• Include on-site PV panels on office building roofs and parking structure roofs to meet a percentage of the project's electric power needs.~~

The last sentence on page 2-17 is revised to read:

To meet LEED requirements for energy management systems, the project applicant is ~~proposing to~~ shall include the following building design features:

The first paragraph on page 2-18 is revised to read:

In addition, to minimize waste during construction, the project applicant ~~is proposing to~~ shall do the following:

The proposed TDM measures listed on page 2-18 are revised to read and new TDM measures are included:

... The following TDM measures would be incorporated as a part of the project in order to reduce transportation-related impacts:

- Bicycle lockers and racks;
- Showers and changing rooms;
- Shuttle service to Caltrain stations;
- Subsidized public transit ~~tickets~~ passes;
- Subsidies for pedestrian/bicyclists who commute to work;
- Vanpool program;
- Preferential carpool and vanpool parking;
- Commute assistance center;
- Employee commute surveys;

- Alternative work schedules;
- Provision of on-site amenities;
- Guaranteed ride home program;
- ~~Installation and maintenance of alternative~~ transportation kiosks;
- ~~Telecommuting;~~ and
- ~~Connections for non-motorized travel~~ Improved infrastructure for walking, bicycling, and transit use.

Additional TDM Measures are included to further assist in reducing vehicle trips, if required:

- Provide Translink cards to employees who use transit;
- Establish a Commuter Check program for employees;
- Establish a car share program;
- Provide electric vehicle charging stations.

Information related to the parking options is added after the first and second sentences under Parking on page 2-19:

**Parking.** The new M-3 zoning district would permit a combination of surface and structured parking to serve development on the Constitution site with a total of approximately 1,649 spaces. The total number of spaces would not change with the proposed Constitution Site parking option. Likewise, structured parking is proposed for the Independence site accommodating 1,017 to 1,230 spaces under the proposed five-story parking scenario, as well as a potential six-story structure. Under the Independence Site parking option, the number of spaces within the parking structure would slightly decrease to 1,002 spaces in a five and a half story structure. A new surface parking area would provide an additional 38 spaces for a total of 1,040 spaces.

A new sentence is added to the end of the first paragraph under Construction Details on page 2-19:

It is anticipated that construction vehicles would access the project area via Marsh Road, Independence Drive, Constitution Drive, Chrysler Drive, and Bayfront Expressway. Based on current market conditions, the entire project (i.e., both the Independence and Constitution sites) would not be completed until 2017 at the earliest.

Two new sentences are added after the first sentence under Landscaping on page 2-20:

**Landscaping.** The Menlo Gateway project would include approximately 175,100 s.f. of landscaping within the Constitution site and 124,290 s.f. within the Independence site. Under the Constitution Site parking option, the amount of landscaped area would increase to 206,827 s.f. and under the Independence Site parking option, the amount of landscaped area would

increase to 139,263 s.f. However, if the surface parking areas currently set aside as landscape reserve parking under the parking options get utilized, the amount of landscaped area would be 164,927 s.f. on the Constitution Site and 124,263 s.f. on the Independence Site.

The Project Approvals on page 2-22 have been updated as follows:

- **General Plan Map Amendment for the Specific Development Application.** The General Plan Land Use Map would be amended to change the designation of the Independence site and the Constitution site to Mixed-Use Commercial Business Park. ~~This~~ The GPA would require approval by the City Council.
- **Rezoning for the Specific Development Application.** The proposed project would require a rezoning of the Independence site and the Constitution site from the existing M-2 district to the new M-3 district. The GPA/ZOA Option would also involve the “X” Conditional Development overlay district that would result in a zoning classification of M-3-X. The rezoning would require approval by the City Council.
- **Architectural Control.** Architectural Control approval would be required for design review of the specific development proposed for the Independence and Constitution sites. The GPA/ZOA Option with a Conditional Development Permit would eliminate the need for Architectural Control approval.
- **Conditional Development Permit (CDP).** The GPA/ZOA Option would require City Council approval of a Conditional Development Permit to allow the proposed uses, development standards, and parking requirements.
- **Heritage Tree Removal Permit.** A tree removal permit would be required for each Heritage tree proposed for removal, per Municipal Code 13.20.030.
- **~~Mitigation Monitoring Plan~~ Environmental Review.** Certification of the EIR and a Approval of the mitigation measures identified in the Draft EIR and the Mitigation Monitoring Plan would be required by City Council.

### **Section 3.1, Aesthetics**

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Figures 3.1-7 and 3.1-8 included in the Draft EIR did not reflect the most current project description included in the Draft EIR. Therefore, these figures have been replaced to reflect the correct project description. The revised figures are included at the end of this discussion.

Appendix B includes the visual simulations prepared for the proposed project depicting the Constitution Site parking option. These can be compared to the visual simulations prepared for the project included in Section 3.1 Aesthetics. New site plans that depict the Independence Site and Constitution Site parking options also are included in Appendix B. No visual simulations were prepared for the Independence Site parking option because the increase in height on the garage is approximately ten feet in the center of the structure and would be practically imperceptible from surrounding properties.

New text is added after the second complete paragraph on page 3.1-20 under Impact AE-1.

Since publication of the Draft EIR, the project sponsor has included two options for parking on both the Constitution site (Constitution Site parking option) and the Independence site (Independence Site parking option). Under the Constitution Site parking option, the building footprints for the two parking garages would be slightly reduced and more surface parking spaces added. The overall design of the parking structures would not change from what is currently proposed. However, Garage A, located on the west side of the site, would be set back slightly further from Marsh Road and would occupy a slightly smaller footprint area. The number of stories above grade would increase from five and a half to six stories. For Garage B, located on the east side of the site, the structure would also be set back substantially further from Bayfront Expressway and would occupy a substantially smaller building footprint. The number of stories above grade would increase from four stories to five and half stories. Under this option, the total number of parking spaces within the parking structures would be reduced by 99 spaces and the total number of surface parking spaces would increase by 99 spaces. The on-site surface parking would be designed to accommodate a total of 244 spaces, but approximately 147 spaces would be designated as landscape reserve parking. Spaces in reserve would not be constructed immediately, but rather would be landscaped until such time that a clear need for the spaces is identified after full occupancy of the project. The addition of this landscaped area would buffer the garage structures from traffic along Bayfront Expressway. Regarding building height, the increase in height of the parking structure for Garage A would be negligible and would not change from what is currently proposed under the project. The building height for Garage B would increase approximately twenty-one feet from what is proposed under the project. This parking option, the same as the project, would change the visual character of the area, but would not be out of character with existing development.

Under the Independence Site parking option, the building footprint for the parking structure would be slightly decreased and a small, new surface parking lot added on the north side of the parking structure adjacent to Independence Drive. Under this option, the parking structure would be set back approximately 70-feet from Independence Drive to allow for a 38-space surface parking lot. The same as the Constitution Site parking option, these spaces would be designated landscape reserve parking. Spaces in reserve would not be constructed immediately, but rather would be landscaped until such time that a clear need for the spaces is identified after full occupancy of the project. The addition of this landscaped area would buffer the garage structure from traffic along Independence Drive. In addition, the number of stories above grade would be five and a half stories, which would be slightly less than the maximum height of six stories proposed as part of the project. The addition of this additional half story would add approximately ten feet to the height of the garage. An increase of ten feet would be negligible and would not differ from the project. The Independence Site parking option would change the visual character of the area, the same as the proposed project, but would not be out of character with existing development.

The first sentence in the second paragraph on page 3.1-23 is revised to read:

The proposed project, including the Constitution Site parking option and Independence Site parking option, would comply with the City's architectural control process and landscaping standards to ensure future development would be visually compatible with the visual character of the surrounding area.



Source: DES Architects/Engineers and Dahlin Group Architecture Planning, March 2010.



**FIGURE 3.1-7**  
**Visual Simulation - 101 Southbound**

D411048.01



**FIGURE 3.1-8**  
**Visual Simulation - Marsh Road Overpass**

D411048.01

*Source:* DES Architects/Engineers and Dahlin Group Architecture Planning, March 2010.

## Section 3.2 Air Quality

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Mitigation Measure AQ-3 on page 3.2-14 is revised to read:

MITIGATION MEASURE. The TDM measures identified in Section 3.11, Traffic and Circulation, would serve to further reduce the trip generation from the proposed project and thus the mobile source emissions. However, the TDM measures would need to reduce daily trips by about 12 percent to reduce emissions for NO<sub>x</sub> and at least 36 percent to reduce emissions to below BAAQMD thresholds for PM<sub>10</sub>. If the TDM measures resulted in a 13 percent reduction of project-related trips, the net increase in project emissions of NO<sub>x</sub> would be reduced to below the BAAQMD threshold of 80 pounds per day. Even with a 13 percent reduction in project-related trips, the net increase in project emissions of PM<sub>10</sub> would exceed the BAAQMD thresholds. ~~However, to be conservative, no trip credits were taken for the proposed project as part of this analysis. Because it is unknown what level of effectiveness the proposed TDM measures would have, and because, even with TDM measures, project emissions of NO<sub>x</sub> or PM<sub>10</sub> would exceed the BAAQMD thresholds, the exceedance of the BAAQMD significance standards for these criteria pollutants~~ Implementation of Mitigation Measures TR-1.1(I) and TR-1CM.1(C) would reduce the NO<sub>x</sub> impact to a less-than-significant level, but the PM<sub>10</sub> impact would remain significant and unavoidable. (SU)

AQ-3.1 Implement Mitigation Measures TR-1.1(I) and TR-1CM.1(C).

The ninth bullet under Mitigation Measure AQ-2.1 on page 3.2-12 is revised to clarify the planting of vegetation:

- ~~Vegetation in disturbed areas shall be replanted as quickly as possible.~~ In graded areas in which construction activities will not occur for a period of more than 30 days, a temporary vegetative cover shall be planted within 5 days of completion of grading.

Mitigation Measure AQ-2.2 on page 3.2-13 is revised to add an additional component:

- Diesel-powered motors shall be equipped with a catalyzed diesel particulate filter.

Mitigation Measure AQ-3CM on page 3.2-14 is revised to read:

MITIGATION MEASURE. The TDM measures identified in Section 3.11, Traffic and Circulation, would serve to further reduce the trip generation from the proposed project and thus the mobile source emissions. This would potentially reduce impacts from project-related NO<sub>x</sub> emissions to a less-than-significant level, but not PM<sub>10</sub>. ~~Because the traffic report does not take credit for these reductions as the effectiveness of these measures is unknown, it is conservatively assumed that the TDM measures would not~~

~~reduce impacts for NO<sub>x</sub> or PM<sub>10</sub> to a less than significant level.~~—As a result, the proposed project's contribution to cumulative effects related to NO<sub>x</sub> would be reduced to less-than-significant through implementation of Mitigation Measures TR-1.1(I) and TR-1CM.1(C), but the PM<sub>10</sub> impact would remain significant and unavoidable. (SU)

AQ-3CM.1 Implement Mitigation Measures TR-1.1(I) and TR-1CM.1(C).

## **Section 3.5 Hydrology and Water Quality**

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Since publication of the Draft EIR new NPDES regulations have been adopted and the Hydrology Report (December 2009) has been updated. Pursuant to section 15088.5 of the CEQA Guidelines, the EIR does not need to be recirculated because the new regulations add more stringent requirements and do not result in new significant impacts. The text in the Regulatory Setting and throughout the section is revised accordingly based on the new NPDES regulations and the Final Hydrology Report. Four figures included in the Draft EIR were revised (Figures 3.5-1, 3.5-2, 3.5-4, and 3.5-5) based on the Final Hydrology Report and are included at the end of this hydrology discussion. The Final Hydrology Report and the entire Hydrology and Water Quality section with all the revised text included is reprinted and included in Appendix C.

The first bulleted item on page 3.5-11 is revised to read:

- California Regional Water Quality Control Board San Francisco Bay Region Municipal Regional Stormwater NPDES Permit San Mateo Countywide Municipal NPDES Permit (Municipal-Regional Stormwater NPDES Permit). The County of San Mateo and its incorporated cities form the SMCWPPP and are permitted under Phase I for municipal stormwater and urban runoff discharges under NPDES Permit No. CAS612008 CAS0029921, Order No. R2-2009-0074. One of the primary objectives of the regulations for pollutant dischargers is the reduction of pollutants in urban stormwater discharge through the use of structural and nonstructural BMPs 99-059/R2-2003-0023. The SMCWPPP-Regional Stormwater NPDES Permit requires the permittees, including the City of Menlo Park, to address six minimum eight general control measures associated with construction and operational activities, including (1) public education and outreach; (2) public participation/involvement; (3) illicit discharge detection and elimination; (4) construction site stormwater runoff control for sites greater than 1 acre; (5) post-construction stormwater management in new development and redevelopment; and (6) pollution prevention/good housekeeping for municipal operations, (7) water quality monitoring; and (8) implementation of controls to meet TMDLs. These control measures are ~~addressed by~~ implemented through the use of BMPs.

~~This NPDES stormwater permit requires development and implementation of a Stormwater Management Plan (Provision C.3). Appendix B of the SMCWPPP Stormwater Management Plan contains numeric performance standards while the C.3 provisions include numeric sizing criteria for pollutant treatment systems, operations and maintenance of treatment measures, limitations on increases in peak runoff~~

~~discharge rates when such rates would adversely impact streams and aquatic habitat conditions (subject to the Hydrograph Modification Plan requirements),<sup>23</sup> and limitations on the use of infiltration treatment practices.~~

~~One of the primary objectives of the regulations for nonpoint source discharges is the reduction of pollutants in urban stormwater discharge through the use of structural and nonstructural BMPs. New development projects, such as the proposed project Regulated Projects, as defined in the Construction General Permit (Provision C.3.b.), are required to implement certain construction and post-construction stormwater quality BMPs laid out in the SMCWPPP C.3 Stormwater Technical Guidance manual, as appropriate. San Mateo County requires permanent post construction BMPs to reduce surface runoff; landscape measures that provide on-site water quality treatment are considered the preferred approach under the program.~~

~~As of August 2006, Regulated Projects include redevelopment projects that create or replace 10,000 square feet and greater of impervious surfaces. Regulated Projects must provide permanent/post-construction treatment controls for stormwater according to specific calculations. If the redevelopment results in an alteration of more than 50 percent of the existing impervious surfaces, permanent BMPs must be implemented to treat runoff from the entire project site. The proposed project is a Regulated Project that alters more than 50 percent of the existing impervious surfaces. This means that stormwater in the project area would need to be filtered through a treatment system before being released to the public stormwater conveyance system. The amount of water that must be treated is defined by specific numeric sizing criteria based on the size and type of development. Projects are required to implement appropriate source control and site design measures and to design and implement stormwater treatment measures, to reduce the discharge of stormwater pollutants to the maximum extent practicable.~~

**Low Impact Development (LID) (C.3.c).** The goal of LID is to reduce runoff and mimic a site's predevelopment hydrology by minimizing disturbed areas and impervious cover and then infiltrating, storing, detaining, evapotranspiring, and/or biotreating stormwater runoff close to its source. LID employs principles such as preserving and recreating natural landscape features and minimizing imperviousness to create functional and appealing site drainage that treats stormwater as a resource, rather than a waste product. All Regulated Projects must comply with minimum LID requirements by the implementation date (December 1, 2011). For any private development project, such as the proposed project, for which a planning application has been deemed complete on or before the Permit effective date (December 1, 2009), the requirements of Provisions C.3.c.i. (LID required BMPs) shall not apply so long as the project applicant is diligently pursuing the project. Diligent pursuance may be demonstrated by the applicant's submittal of supplemental information to the original

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<sup>23</sup> ~~Changes in the timing, flow rate, and/or volume of runoff from a site are known as "hydrograph modification" or "hydromodification."~~

application, plans or other documents required for any necessary approvals of the project. The City of Menlo Park deemed the planning application complete in July 2009, prior to the release of the Draft EIR. As the project applicant has submitted supplemental information to the original application and plans since that time, the applicant has demonstrated diligent pursuance of the project. As a result, LID required BMPs do not apply.

**Numeric Sizing Criteria for Stormwater Treatment Systems (C.3.d).** Stormwater treatment measures must be numerically sized in accordance with criteria identified under Provision C.3.d. The permittees must also verify that infiltration devices are designed and installed such that they would not cause or contribute to the degradation of groundwater quality at project sites. An infiltration device is any structure that is deeper than wide and designed to infiltrate stormwater into the subsurface and, as designed, bypass the natural groundwater protection afforded by surface soil. Specific requirements are specified in Provision C.3.d.iv.(2).

**Hydromodification<sup>3</sup> Management (C.3.g).** A Hydromodification Management (HM) Project is a Regulated Project that creates and/or replaces one acre or more of impervious surface and is not specifically excluded within the requirements of Attachments B-F of the Construction General Permit. A project that does not increase impervious surface area over the pre-project condition is not an HM Project. The project site is located within an HM exempt area on the San Mateo County HM map and the proposed project would not increase impervious area over the pre-project condition. Therefore, the proposed project is not an HM Project subject to HM controls.

**Industrial and Commercial Site Controls (C.4).** Each Permittee is required to implement an industrial and commercial site control program at all sites which could reasonably be considered to cause or contribute to pollution of stormwater runoff, with inspections and effective follow-up and enforcement to abate actual or potential pollution sources consistent with each Permittee's respective Enforcement Response Plan (ERP), to prevent discharge of pollutants and impacts on beneficial uses of receiving waters. Inspections shall confirm implementation of appropriate and effective BMPs and other pollutant controls by industrial and commercial site operators.

**Construction Site Control (C.6).** Each Permittee is required to implement a construction site inspection and control program at all construction sites, with follow-up and enforcement consistent with each Permittee's respective Enforcement Response Plan (ERP), to prevent construction site discharges of pollutants and impacts on beneficial uses of receiving waters. Inspections shall confirm implementation of appropriate and effective erosion and other construction pollutant controls by

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<sup>3</sup> Changes in the timing, flow rate, and/or volume of runoff from a site are known as “hydrograph modification” or “hydromodification.”

construction site operators/developers; and reporting shall demonstrate the effectiveness of this inspection and problem solution activity by the Permittees.

Permittees shall review erosion control plans for consistency with local requirements, appropriateness and adequacy of proposed BMPs for each site before issuance of grading permits for projects. Permittees shall also verify that sites disturbing one acre or more of land have filed a Notice of Intent for coverage under the Construction General Permit.

Before approval and issuance of local grading permits, each Permittee shall perform the following:

- Review the site operator’s/developer’s erosion/pollution control plan or Stormwater Pollution Prevention Plan (SWPPP) to verify compliance with the Permittee’s grading ordinance and other local requirements. Also review the site operator’s/developer’s erosion/pollution control plan or SWPPP to verify that seasonally appropriate and effective BMPs for the six categories listed in C.6.c.i. are planned;
- For sites disturbing one acre or more of soil, verify that the site operators/developers have filed a Notice of Intent for permit coverage under the Construction General Permit; and
- Provide construction stormwater management educational materials to site operators/developers, as appropriate.

TMDLs. Additional BMPs required for compliance with existing and proposed TMDLs within the San Francisco Bay Region including: Pesticides Toxicity Control (C.9.), Trash Load Reduction (C.10.), Mercury Controls (C.11.), Polychlorinated Biphenyls (PCBs) Controls (C.12.), Copper Controls (C.13.), Polybrominated Diphenyl Ethers (PBDE), Legacy Pesticides and Selenium (C.14.).

~~During the development review process, local agencies apply stormwater requirements to all projects, as described below:~~

- ~~— Site design measures to maximize pervious areas.~~
- ~~— Source control measures to help keep pollutants out of stormwater.~~
- ~~— Construction BMPs.~~
- ~~— Post construction treatment measures, to the maximum extent practicable.~~
- ~~— Reporting on the amount of impervious surface created/replaced.~~

~~Requirements applicable to project based on project size/location include:~~

- ~~— Larger projects require post construction treatment measures.~~
- ~~— Projects with treatment measures require maintenance agreements.~~
- ~~— In most locations, larger projects will require hydromodification controls.~~

The first bullet on page 3.5-12 is revised to read:

- ~~NPDES General Construction Activity Stormwater Permit (Construction General Permit). The SWRCB permits all regulated construction activities under NPDES General Permit for Storm Water Discharges Associated with Construction Activity (Order No. 98-08 DWQ (1999). This Order requires that, prior to beginning any construction activities, the permit applicant must obtain coverage under the General Construction Permit by preparing and submitting a Notice of Intent (NOI) and appropriate fee to the SWRCB. Additionally, coverage would not occur until an adequate Stormwater Pollution Prevention Plan (SWPPP) has been prepared. A separate NOI shall be submitted to the SWRCB for each construction site. Pursuant to the CWA Section 402(p) and as related to the goals of the Porter-Cologne Water Quality Control Act, described below, the SWRCB has issued a statewide NPDES General Permit for Storm Water Discharges Associated with Construction Activity (Construction General Permit) (Order No. 2009-0009-DWQ, NPDES No. CAR000002), adopted September 2, 2009. Every construction project that disturbs one or more acres of land surface or that are part of a common plan of development or sale that disturbs more than one acre of land surface would require coverage under the Construction General Permit. To obtain coverage under the Construction General Permit, the landowner or other applicable entity must file Permit Registration Documents (PRDs) prior to the commencement of construction activity, which include a Notice of Intent (NOI), Storm Water Pollution Prevention Plan (SWPPP), and other documents required by the Construction General Permit. Every regulated construction project, including those covered under the previous Construction General Permit (Water Quality Order No. 98-08-DWQ), are required to seek coverage under the newly adopted Construction General Permit by July 1, 2010. Because the proposed project would disturb more than one acre, construction of the proposed project would be subject to the Construction General Permit requirements.~~

~~Construction activities subject to the to the NPDES Construction General Permit includes clearing, grading, and disturbances to the ground, such as stockpiling or excavation, that result in soil disturbances of at least one acre of total land area. ~~Any future construction under the proposed project that would cumulatively disturb more than 1 acre would be subject to these permit requirements.~~ The SWPPP has two major objectives: (1) to help identify the sources of sediment and other pollutants that affect the quality of stormwater discharges; and (2) to describe and ensure the implementation of BMPs to reduce or eliminate sediment and other pollutants in stormwater as well as non-stormwater discharges. BMPs are intended to reduce impacts to the Maximum Extent Practicable (MEP), a standard created by Congress to allow regulators the flexibility necessary to tailor programs to the site-specific nature of municipal stormwater discharges. Reducing impacts to the MEP generally relies on BMPs that emphasize pollution prevention and source control, with additional structural controls as needed.~~

The SWPPP has two major objectives: (1) to help identify the sources of sediment and other pollutants that affect the quality of stormwater discharges, and (2) to describe and ensure the implementation of BMPs to reduce or eliminate sediment and other pollutants in stormwater as well as non-stormwater discharges. The SWPPP must include BMPs that address source control, and, if necessary, must also include BMPs that address specific pollutant control. Typical construction BMPs include, but are not necessarily limited to, scheduling or limiting activities to certain times of year; prohibiting certain construction practices; implementing equipment maintenance schedules and procedures; implementing a monitoring program; implementing other management practices to prevent or reduce pollution, such as using temporary mulching, seeding, or other suitable stabilization measures to protect uncovered soils; storing materials and equipment to ensure that spills or leaks do not enter the storm drain system or surface waters; developing and implementing a spill prevention and cleanup plan; installing traps, filters, or other devices at drop inlets to prevent contaminants from entering storm drains; and using barriers, such as straw bales or plastic, to minimize the amount of uncontrolled runoff that could enter drains or surface water. Typical operational BMPs include, but are not necessarily limited to, controlling roadway and parking lot contaminants by installing oil and grease separators at storm drain inlets, cleaning parking lots on a regular basis, incorporating peak flow reduction and infiltration features (such as grass swales, infiltration trenches, and grass filter strips) into landscaping, and implementing educational programs.

- Rainfall Erosivity Waiver. The Construction General Permit allows those overseeing construction on a small site (between 1 and 5 acres) to self-certify if the rainfall erosivity value (R value) for the site, given the construction time frame, is less than or equal to 5.
- Risk-Based Permitting Approach. The Construction General Permit establishes three levels of risk possible for a construction site. Risk is calculated in two parts: 1) Project Sediment Risk, and 2) Receiving Water Risk.
- Technology-based Numeric Action Levels (NALs). The Construction General Permit includes NALs for pH and turbidity for Risk Level 2 projects.
- Technology-Based Numeric Effluent Limitations (NELs). The Construction General Permit contains NELs for pH during any construction phase where there is a high risk of pH discharge and turbidity for all discharges in Risk Level 3. The daily average NEL for turbidity is set at 500 NTU to represent the minimum technology that sites need to employ (to meet the traditional Best Available Technology Economically Achievable (BAT)/ Best Conventional Pollutant Control Technology (BCT) standard and the traditional, numeric receiving water limitations for turbidity.
- Minimum Requirements Specified. The Construction General Permit specifies more minimum BMPs and requirements that were previously only required as elements of the SWPPP or were suggested by guidance.

- Project Site Soil Characteristics Monitoring and Reporting. The Construction General Permit provides the option for dischargers to monitor and report the soil characteristics at their project location. The primary purpose of this requirement is to provide better risk determination and eventually better program evaluation.
- Effluent Monitoring and Reporting. The Construction General Permit requires effluent monitoring and reporting for pH and turbidity in stormwater discharges. The purpose of this monitoring is to be used to determine compliance with the NELs and evaluate whether NALs included in this General Permit are exceeded.
- Receiving Water Monitoring and Reporting. The Construction General Permit requires some Risk Level 3 dischargers to monitor receiving waters and conduct bioassessments.
- Post-Construction Storm Water Performance Standards. The Construction General Permit specifies runoff reduction requirements for all sites not covered by a Municipal General NPDES permit, to avoid, minimize, and/or mitigate post-construction stormwater runoff impacts.
- Rain Event Action Plan. The Construction General Permit requires certain sites to develop and implement a Rain Event Action Plan (REAP) that must be designed to protect all exposed portions of the site within 48 hours prior to any likely precipitation event.
- Annual Reporting. The Construction General Permit requires all projects that are enrolled for more than one continuous three-month period to submit information and annually certify that their site is in compliance with these requirements. The primary purpose of this requirement is to provide information needed for overall program evaluation and public information.
- Certification/Training Requirements for Key Project Personnel. The Construction General Permit requires that key personnel (e.g., SWPPP preparers, inspectors, etc.) have specific training or certifications to ensure their level of knowledge and skills are adequate to ensure their ability to design and evaluate project specifications that will comply with General Permit requirements.
- Linear Underground/Overhead Projects. The Construction General Permit includes requirements for all Linear Underground/Overhead Projects (LUPs).

Risk levels are based on a matrix of project sediment risk and receiving water risk. Sediment risk is based on estimated soil loss, as calculated by the Revised Universal Soil Loss Equation (RUSLE) where: soil loss of less than 15 tons/acre is considered low risk; soil loss between 15 and 75 is medium risk; and, Soil loss over 75 acres is considered high risk. Receiving water risk is based on whether a project drains to a sediment-sensitive waterbody. A sediment-sensitive waterbody is either on the most recent 303(d) list for waterbodies impaired for sediment; has a US EPA-approved TMDL implementation plan for sediment; or has the beneficial uses of cold freshwater habitat, fish spawning, and fish migration.

There are three levels of risk; Risk Level 1 projects are subject to minimum BMP and visual monitoring requirements; Risk Level 2 projects are subject to NALs and some additional monitoring requirements; and Risk Level 3 projects are subject to NELs and more rigorous monitoring requirements, such as receiving water monitoring and in some cases bioassessment. Discharge to a sediment-sensitive waterbody is automatically a Risk Level 2 or greater.

The project site does not discharge to a sediment-sensitive waterbody; the lower portion of the Atherton Channel and Central San Francisco Bay are not listed as impaired by sediment and do not have the beneficial uses of cold freshwater habitat, fish spawning, and fish migration. Therefore, it would not automatically be categorized as a Risk Level 3 project. Depending upon the erosivity of project site soils, the proposed project would be categorized as a Risk Level 1 or 2 project.

- *NPDES General Industrial Permit for Discharges of Storm Water Associated with Industrial Activities (Industrial General Permit).* Pursuant to the CWA Section 402(p), the SWRCB has issued a statewide permit for certain types of industrial activities (Industrial General Permit)(Order No. 97-03-DWQ). A wide range of industries is covered under the Industrial General Permit, as determined by the facility Standard Industrial Classification (SIC) code, a four-digit code that refers to the type of business conducted.

The Industrial General Permit requires control of pollutant discharges using Best Available Technology/Best Conventional Technology (BAT/BCT) to meet water quality standards. The Industrial General Permit generally requires facility operators to: 1) eliminate unauthorized non-stormwater discharges; 2) develop and implement a SWPPP; and 3) perform monitoring of stormwater discharges and authorized non-stormwater discharges.

Stormwater discharges from project site may be regulated under the Industrial General Permit, depending upon the SIC. And, depending upon the type of R&D, certain discharges from the proposed project may be regulated under the Industrial General Permit. It is possible that future tenants within the project site may include industrial facilities that would be covered under the Industrial General Permit.

The first paragraph under Impact HY-1 on page 3.5-17 is revised to read:

The pertinent NPDES permits are the Construction General Permit (General Permit for Discharges of Storm Water Associated with Construction Activity [~~Construction General Permit, Order No. 2009-0009-DWQ, NPDES No. CAR000002~~Order No. 99-08-DWQ]), and ~~Municipal Regional Stormwater NPDES Permit permits~~ (the ~~San Mateo Countywide San Francisco Bay Region Municipal Regional NPDES General Permit [Order R2-2009-0074, NPDES Permit No. CAS612008~~ Order No. 99-059, NPDES Permit No. CAS0029921]), and potentially the Industrial General Permit (NPDES General Industrial Permit for Discharges of Storm Water Associated with Industrial Activities [Order No. 97-03-DWQ]). If substantial

groundwater dewatering is required during or after construction, an individual NPDES Permit/WDR may be required. The relevant water quality standards are listed in the Basin Plan.

The last paragraph on page 3.5-17 is revised to read:

All construction activities, including installation and realignment of utilities, would be subject to existing regulatory requirements. The NPDES Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP). ~~The SWPPP must list BMPs that the discharger will use to protect stormwater runoff, including the placement and timing of those BMPs. Additionally, the SWPPP must contain a visual monitoring program; a chemical monitoring program for “non visible” pollutants to be implemented if there is a failure of BMPs; and a sediment monitoring plan if the site discharges directly to a water body listed on the 303(d) list for sediment. As mentioned above in the Regulatory Setting, the proposed project would be a Risk Level 1 or 2 project, depending upon the project site erosion potential. As such, This the SWPPP would must include, but would not necessarily be limited to, many of the following erosion control methods BMPs:~~

- Good Site Management “Housekeeping”
  1. Risk Level 1 and 2 dischargers shall implement good site management (i.e., “housekeeping”) measures for construction materials that could potentially be a threat to water quality if discharged. At a minimum, Risk Level 2 dischargers shall implement the following good housekeeping measures:
    - a. Conduct an inventory of the products used and/or expected to be used and the end products that are produced and/or expected to be produced.
    - b. Cover and berm loose stockpiled construction materials that are not actively being used (i.e. soil, spoils, aggregate, fly ash, stucco, hydrated lime, etc.).
    - c. Store chemicals in watertight containers or in a storage shed (completely enclosed), with appropriate secondary containment to prevent any spillage or leakage.
    - d. Minimize exposure of construction materials with precipitation.
    - e. Implement BMPs to prevent the off-site tracking of loose construction and landscape materials.
  2. Risk Level 1 and 2 dischargers shall implement good housekeeping measures for waste management, which, at a minimum, shall consist of the following:
    - a. Prevent disposal of any rinse or wash waters or materials on impervious or pervious site surfaces or into the storm drain system.
    - b. Ensure the containment of sanitation facilities (e.g., portable toilets) to prevent discharges of pollutants to the stormwater drainage system or receiving water.
    - c. Clean or replace sanitation facilities and inspecting them regularly for leaks and spills.

- d. Cover waste disposal containers at the end of every business day and during a rain event.
  - e. Prevent discharges from waste disposal containers to the stormwater drainage system or receiving water.
  - f. Contain and securely protect stockpiled waste material from wind and rain at all times unless actively being used.
  - g. Implement procedures that effectively address hazardous and nonhazardous spills.
  - h. Develop a spill response and implementation element of the SWPPP prior to commencement of construction activities. The SWPPP shall require that:
    - i. Equipment and materials for cleanup of spills shall be available on site and that spills and leaks shall be cleaned up immediately and disposed of properly; and
    - ii. Appropriate spill response personnel are assigned and trained.
    - iii. Ensure the containment of concrete washout areas and other washout areas that may contain additional pollutants so there is no discharge into the underlying soil and onto the surrounding areas.
3. Risk Level 1 and 2 dischargers shall implement good housekeeping for vehicle storage and maintenance, which, at a minimum, shall consist of the following:
- a. Prevent oil, grease, or fuel to leak in to the ground, storm drains, or surface waters.
  - b. Place all equipment or vehicles, which are to be fueled, maintained, and stored in a designated area fitted with appropriate BMPs.
  - c. Clean leaks immediately and disposing of leaked materials properly.
4. Risk Level 1 and 2 dischargers shall implement good housekeeping for landscape materials, which, at a minimum, shall consist of the following:
- a. Contain stockpiled materials such as mulches and topsoil when they are not actively being used.
  - b. Contain all fertilizers and other landscape materials when they are not actively being used.
  - c. Discontinue the application of any erodible landscape material within 2 days before a forecasted rain event or during periods of precipitation.
  - d. Apply erodible landscape material at quantities and application rates according to manufacture recommendations or based on written specifications by knowledgeable and experienced field personnel.
  - e. Stack erodible landscape material on pallets and covering or storing such materials when not being used or applied.
5. Risk Level 1 and 2 dischargers shall conduct an assessment and create a list of potential pollutant sources and identify any areas of the site where additional BMPs

are necessary to reduce or prevent pollutants in stormwater discharges and authorized non-stormwater discharges. This potential pollutant list shall be kept with the SWPPP and shall identify all non-visible pollutants which are known, or should be known, to occur on the construction site. At a minimum, when developing BMPs, Risk Level 1 and 2 dischargers shall do the following:

- a. Consider the quantity, physical characteristics (e.g., liquid, powder, solid), and locations of each potential pollutant source handled, produced, stored, recycled, or disposed of at the site.
  - b. Consider the degree to which pollutants associated with those materials may be exposed to and mobilized by contact with stormwater.
  - c. Consider the direct and indirect pathways that pollutants may be exposed to stormwater or authorized non-stormwater discharges. This shall include an assessment of past spills or leaks, non-stormwater discharges, and discharges from adjoining areas.
  - d. Ensure retention of sampling, visual observation, and inspection records.
  - e. Ensure effectiveness of existing BMPs to reduce or prevent pollutants in stormwater discharges and authorized non-stormwater discharges.
6. Risk Level 1 and 2 dischargers shall implement good housekeeping measures on the construction site to control the air deposition of site materials and from site operations. Such particulates can include, but are not limited to, sediment, nutrients, trash, metals, bacteria, oil and grease and organics.
7. Additional Risk Level 2 Requirement: Risk Level 2 dischargers shall document all housekeeping BMPs in the SWPPP and REAP(s)<sup>24</sup> in accordance with the nature and phase of the construction project. Construction phases at traditional land development projects include Grading and Land Development Phase, Streets and Utilities, or Vertical Construction for traditional land development projects.
- Non-Stormwater Management
    1. Risk Level 1 and 2 dischargers shall implement measures to control all non-stormwater discharges during construction.
    2. Risk Level 1 and 2 dischargers shall wash vehicles in such a manner as to prevent non-stormwater discharges to surface waters or MS4 drainage systems.
    3. Risk Level 1 and 2 dischargers shall clean streets in such a manner as to prevent non-stormwater discharges from reaching surface water or MS4 drainage systems.
  - Erosion Control
    1. Risk Level 1 and 2 dischargers shall implement effective wind erosion control.
    2. Risk Level 1 and 2 dischargers shall provide effective soil cover for inactive areas and all finished slopes, open space, utility backfill, and completed lots and shall limit the use of plastic materials when more sustainable, environmentally friendly

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<sup>24</sup> Rain Event Action Plan. See below for a description of the REAP.

alternatives exist. Where plastic materials are deemed necessary, the discharger shall consider the use of plastic materials resistant to solar degradation.

- Sediment Controls

1. Risk Level 1 and 2 dischargers shall establish and maintain effective perimeter controls and stabilize all construction entrances and exits to sufficiently control erosion and sediment discharges from the site.
2. On sites where sediment basins are to be used, Risk Level 1 and 2 dischargers shall, at minimum, design sediment basins according to the method provided in Appendix 2 of the Construction General Permit.
3. Additional Risk Level 2 Requirement: Risk Level 2 dischargers shall implement appropriate erosion control BMPs (runoff control and soil stabilization) in conjunction with sediment control BMPs for areas under active construction.
4. Additional Risk Level 2 Requirement: Risk Level 2 dischargers shall apply linear sediment controls along the toe of the slope, face of the slope, and at the grade breaks of exposed slopes to comply with sheet flow lengths in accordance specific requirements.
5. Additional Risk Level 2 Requirement: Risk Level 2 dischargers shall ensure that construction activity traffic to and from the project is limited to entrances and exits that employ effective controls to prevent offsite tracking of sediment.
6. Additional Risk Level 2 Requirement: Risk Level 2 dischargers shall ensure that all storm drain inlets and perimeter controls, runoff control BMPs, and pollutant controls at entrances and exits (e.g. tire washoff locations) are maintained and protected from activities that reduce their effectiveness.
7. Additional Risk Level 2 Requirement: Risk Level 2 dischargers shall inspect on a daily basis all immediate access roads daily. At a minimum daily (when necessary) and prior to any rain event, the discharger shall remove any sediment or other construction activity-related materials that are deposited on the roads (by vacuuming or sweeping).

- Run-on and Run-off Controls

Risk Level 1 and 2 dischargers shall evaluate the quantity and quality of run-on and runoff through observation and sampling. Risk Level 1 and 2 dischargers shall effectively manage all run-on, all runoff within the site, and all runoff that discharges off the site. Run-on from off-site shall be directed away from all disturbed areas or shall collectively be in compliance with the effluent limitations in this General Permit.

- Inspection, Maintenance, and Repair

1. Risk Level 1 and 2 dischargers shall ensure that all inspection, maintenance repair and sampling activities at the project location shall be performed or supervised by a Qualified SWPPP Practitioner (QSP) representing the discharger.
2. Risk Level 1 and 2 dischargers shall perform weekly inspections and observations, and at least once each 24-hour period during extended storm events, to identify

BMPs that need maintenance to operate effectively, that have failed, or that could fail to operate as intended. Upon identifying failures or other shortcomings, as directed by the QSP, Risk Level 1 and 2 dischargers shall begin implementing repairs or design changes to BMPs within 72 hours of identification and complete the changes as soon as possible.

3. For each inspection required, Risk Level 1 and 2 dischargers shall complete an inspection checklist, including minimum required for inspection items. The checklists shall remain onsite with the SWPPP.

- Rain Event Action Plan

1. Additional Risk Level 2 Requirement: Risk Level 2 dischargers shall develop a Rain Event Action Plan (REAP) 48 hours prior to any likely precipitation event as specified in the Construction General Permit. The discharger shall begin implementation and make the REAP available onsite no later than 24 hours prior to the likely precipitation event. Risk Level 2 dischargers shall ensure that all REAPs be prepared and certified by a QSP. A paper copy of each REAP shall be kept onsite.

2. Additional Risk Level 2 Requirement: The Risk Level 2 discharger shall develop the REAPs for all phases of construction (i.e., Grading and Land Development, Streets and Utilities, Vertical Construction, Post-Construction and include specific minimum site and construction phase information.

3. Additional Risk Level 2 Requirement: The Risk Level 2 discharger shall develop additional REAPs for project sites where construction activities are indefinitely halted or postponed (Inactive Construction). At a minimum, Inactive Construction REAPs must include specific minimum information on the site and project phase.

- Risk Level 1 and 2 Monitoring and Reporting Requirements

1. Construction Site Monitoring Program Requirements

a. Pursuant to Water Code Sections 13383 and 13267, all dischargers subject to the General Permit shall develop and implement a written site specific Construction Site Monitoring Program (CSMP) in accordance with the requirements of this Section. The CSMP shall include all monitoring procedures and instructions, location maps, forms, and checklists as required in this section. The CSMP shall be developed prior to the commencement of construction activities, and revised as necessary to reflect project revisions. The CSMP shall be a part of the Storm Water Pollution Prevention Plan (SWPPP), included as an appendix or separate SWPPP chapter.

b. When a change of ownership occurs for all or any portion of the construction site prior to completion or final stabilization, the new discharger(s) [responsible party(ies)] shall comply with these requirements as of the date the ownership change occurs.

2. Objectives

The CSMP shall be developed and implemented to address the following objectives:

- a. To demonstrate that the site is in compliance with the Discharge Prohibitions, including applicable Numeric Action Levels (NALs)/Numeric Effluent Limitations (NELs) of this General Permit for Risk Level 2 dischargers;
  - b. To determine whether non-visible pollutants are present at the construction site and are causing or contributing to exceedances of water quality objectives;
  - c. To determine whether immediate corrective actions, additional Best Management Practice (BMP) implementation, or SWPPP revisions are necessary to reduce pollutants in stormwater discharges and authorized non-stormwater discharges; and
  - d. To determine whether BMPs included in the SWPPP/Rain Event Action Plan (REAP) are effective in preventing or reducing pollutants in stormwater discharges and authorized non-stormwater discharges.
3. For Risk Level 1 and 2 projects, specific monitoring (inspection) requirements for qualifying rain events are identified in the Construction General Permit.

Risk Level 1 and 2 projects shall perform and record visual observation locations, visual observation procedures, and visual observation follow-up and tracking procedures in the CSMP.

Risk Level 2 projects shall perform quantitative water quality sampling and analysis. Specific sampling times, minimum number of samples, sample methods, and sample collection and handling are required. Samples must represent construction activity discharge from the entire project site disturbed areas. Exceptions to sampling including dangerous weather conditions and sampling outside of scheduled business hours. Samples must be analyzed for pH and turbidity and any additional parameters for which monitoring is required by the Regional Water Board.

- ~~• Keep disturbed areas (areas of grading and related activities) to the minimum necessary for demolition or construction of the project;~~
- ~~• Keep runoff away from disturbed areas during grading and related activities;~~
- ~~• Stabilize disturbed areas as quickly as possible, either by vegetative, mechanical and/or physical methods;~~
- ~~• Trap sediment before it leaves the site with such techniques as check dams, sediment ponds, or straw wattles including perimeter protection;~~
- ~~• Use dirt and sediment tracking BMPs, including stabilized construction entrances and wheel washes;~~
- ~~• Implement routine street sweeping;~~
- ~~• Cover exposed soils and material stockpiles to prevent wind erosion;~~
- ~~• Use interceptor ditches, drainage swales, or detention basins to prevent storm runoff from transporting sediment into drainage ways and to prevent sediment laden runoff from leaving any disturbed areas;~~

- ~~Use landscaping and grading methods that lower the potential for down-stream sedimentation. Modified drainage patterns, longer flow paths, encouraging infiltration into the ground, and slower storm water conveyance velocities are examples of effective methods;~~
- ~~Control landscaping activities carefully with regard to the application of fertilizers, herbicides, pesticides or other hazardous substances. Provide proper instruction to all landscaping personnel on the construction team;~~
- ~~During the installation of the erosion and sediment transport control structures, the erosion control professional must be on the site to supervise the implementation of the designs, and the maintenance of the facilities throughout the grading and construction period; and~~
- ~~Routine monitoring of erosion control facilities during construction and during/after rain events.~~

The second paragraph on page 3.5-18 is revised to read:

The City's Municipal Code and permit review process would require preparation and approval of a SWPPP and Grading and Drainage Plan. The Regional Stormwater NPDES Permit requires Construction Site Controls by the City of Menlo Park including:

- Review of the erosion control plan for consistency with local requirements, appropriateness and adequacy of proposed BMPs for each site before issuance of grading permits for projects;
- Verification that sites disturbing one acre or more of land have filed a Notice of Intent for coverage under the Construction General Permit;
- Conduction of inspections to determine compliance with local ordinances (grading and stormwater) and determine the effectiveness of the BMPs in the six categories listed in C.6.c.i.;
- Requirement of timely corrections of all actual and threatened violations of local ordinances observed.

The second complete sentence starting on page 3.5-19 is revised to read:

The WDR ~~will~~would specify the specific treatment (e.g., de-sedimentation, filtration, flocculation, and others) and discharge (e.g., maximum rate and volume of discharge) requirements, if any, necessary to ensure discharges do not cause or contribute to water quality degradation.

The first sentence in the first complete paragraph on page 3.5-19 is revised to read:

Preparation of an approved SWPPP and Grading and Drainage Plan, as required by the City, and construction site controls, as required by the Regional Stormwater NPDES Permit, would ensure that the Construction General Permit WDR is not violated.

New text under Operation on page 3.5-19 is included:

**Operation.** Development of the project site has the potential to degrade the quality of surface receiving waters through the creation or replacement of impervious surfaces that contribute to stormwater runoff and from the mobilization of pollutants in stormwater that would be generated by the proposed land uses. The proposed project would remove existing structures and result in a net reduction in impervious surfaces by about 3 percent.<sup>25</sup> This reduction in impervious surface would reduce the stormwater runoff potential and the surface area where pollutants could be deposited and easily picked up and transported in stormwater runoff to receiving waters.

Operation of the proposed project would result in a change in land use that could affect pollutants in stormwater runoff and the total amount of runoff from the project site. During the operational phase of the Menlo Gateway project, the major source of pollution in stormwater runoff would be pollutants that have accumulated on rooftops and other impervious surfaces, such as surface parking lots, driveways, and pedestrian walkways, prior to connecting to the storm drain system. Typical stormwater pollutants may include sediment, nutrients (from landscaping, gross debris, and atmospheric deposition), heavy metals, pathogens, petroleum hydrocarbons and polycyclic aromatic hydrocarbons (PAHs), pesticides and herbicides (from landscaping), and trash.

The bullets at the bottom of page 3.5-19 are revised to read:

- The permittees must also verify that infiltration devices are designed and installed such that they would not cause or contribute to the degradation of groundwater quality at project sites. An infiltration device is any structure that is deeper than wide and designed to infiltrate stormwater into the subsurface and, as designed, bypass the natural groundwater protection afforded by surface soil. Specific requirements are specified in Provision C.3.d.iv.(2).

The first sentence on page 3.5-21 is revised to read:

Treatment BMPs must be sized based on one of the following considerations (Provision C.3.d):

Item #2 on page 3.5-21 is revised to read:

2. The volume of annual runoff required to achieve 80 percent or more capture, determined in accordance with the methodology set forth in Appendix D

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<sup>25</sup> Philip Williams and Associates, *Final Hydrology Study*, 2009.

Section 5 of the California Stormwater Best Management Practices Handbook, (1993 2003), using local rainfall data.

A fourth bullet item is included on page 3.5-21:

- Treatment systems that use a combination of flow and volume capacity shall be sized to treat at least 80 percent of the total runoff over the life of the project, using local rainfall data.

A new sentence is added to the beginning of paragraph two on page 3.5-21 and additional text is inserted at the end of the paragraph:

Additional project site BMPs may be required for assuring regional compliance with existing and proposed TMDLs within the San Francisco Bay Region including BMPs for pesticides toxicity, trash load reduction, mercury, polychlorinated biphenyls (PCBs), copper, polybrominated diphenyl ethers (PBDE), legacy pesticides, and selenium. BMPs included in site designs and plans for the proposed project would be reviewed by City of Menlo Park engineering staff to assure appropriateness and adequate design capacity, prior to permit issuance. Dischargers must provide annual reports to the RWQCB to demonstrate compliance with the requirements of Provision C.3 of Water Quality Order Number R2-2003-0023 and the San Mateo County Water Pollution Prevention Program.

Additionally, any allowed industrial land uses (including certain types of R&D) with the potential to contribute to stormwater pollution (as identified in the Industrial General Permit) would be required to comply with the Industrial General Permit, including preparation and implementation of a SWPPP. In compliance with the Regional Stormwater NPDES Permit, the City of Menlo Park must implement Industrial Site Control and Commercial Site Controls including:

- Development and implement an inspection plan to serve as a prioritized inspection workplan; the City of Menlo Park is required to conduct inspections to determine compliance with its ordinances and the Regional Stormwater NPDES Permit. Inspections must include but are not limited to the following:
  - Prevention of stormwater runoff pollution or illicit discharge by implementing appropriate BMPs;
  - Visual observations for evidence of unauthorized discharges, illicit connections, and potential discharge of pollutants to stormwater;
  - Noncompliance with Permittee ordinances and other local requirements; and
  - Verification of coverage under the Industrial General Permit, if applicable.
- Development and implementation of an Enforcement Response Plan (ERP) that will serve as a reference document for inspection staff to take consistent actions to achieve timely and effective compliance from all commercial and industrial site operators.

The first bullet under **Site Planning BMPs** on page 3.5-21 is revised to read:

- Minimize directly connected impervious surfaces using site lot design, such as alternative pavement materials, providing landscaping, ~~etc and others~~.

The first paragraph on page 3.5-23 is revised to read:

The Menlo Gateway development application has incorporated site design measures to minimize impervious surfaces; the proposed development plan would reduce the amount of impervious surfaces by about ~~3-5~~ percent compared to existing conditions (reduced impervious surfaces to ~~68-66~~ percent) and includes pervious pavement, which would need to be properly maintained in perpetuity, within surface parking areas.<sup>2826</sup> Additionally, the proposed development plan would incorporate self-treating areas (e.g., landscaping), flow-through planters to treat the majority of runoff from rooftops and would incorporate vegetated swales to treat runoff from some of the parking areas.<sup>2927</sup> Tree planters would also be used to store and treat stormwater runoff from sidewalks and other areas where flow through planters and swales cannot be incorporated because of drainage and area constraints.<sup>3028</sup> Because of the high groundwater table, no infiltration BMPs are proposed.<sup>3129</sup> Where site area and drainage constraints limit the incorporation of surface water quality treatment devices, the Menlo Gateway development would incorporate subgrade (underground) stormwater quality treatment devices<sup>3230</sup> that must be approved by the City, and potentially the RWQCB during the final design phase. These features have been designed in accordance with the Regional Stormwater NPDES Permit.

The last sentence in the second paragraph on page 3.5-23 is revised to read:

Additionally, the proposed project would be required to implement stormwater quality treatment BMPs that must be approved by the City during the permit review process, and must comply with the Industrial General Permit for regulated industrial activities.

The third paragraph on page 3.5-23 is revised to read:

The SFBRWQCB has incorporated requirements in the Municipal-Regional Stormwater NPDES Permit and Industrial General Permit to be protective of water quality ~~and approved the SMCWPPP as being in compliance with the Municipal Stormwater NPDES Permit~~. The Final Hydrology Report describes project BMPs that are designed in compliance with the NPDES Permit. The City review and permitting process would ensure that the Municipal Regional Stormwater NPDES Permit WDR is not violated for either the Menlo Gateway project or any other development under the proposed GPA/ZOA. The Industrial Commercial Business Site Controls required under the Regional Stormwater NPDES Permit would ensure that the Industrial General Permit's WDR is not violated for either the Menlo Gateway project or development under the GPA/ZOA.

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<sup>2826</sup> Philip Williams and Associates, ~~Preliminary~~ Final Hydrology Report, 2009.

The first sentence in the fourth paragraph on page 3.5-23 is revised to read:

Furthermore, as mentioned above, the type and amount of pollutants in stormwater runoff without BMPs would not be expected to be substantially different than existing conditions (see Table 3.5-1).

The first and fourth sentences in the third paragraph on page 3.5-24 are revised to read:

The proposed project, as well as the Constitution Site and Independence Site parking options, would not significantly increase the amount of impervious surface area within the project area. Under existing conditions, the project area contains over 71 percent impervious surface area. Other remaining undeveloped areas have compacted fill soils and very low permeability. Therefore, existing groundwater recharge potential within the project area is minimal. The Menlo Gateway project would reduce the amount of impervious surfaces by about 3-5 percent, which would be slightly increased under the two parking options.

The first paragraph on page 3.5-25 is revised to read:

Development in accordance with the Menlo Gateway project, without planned detention, would ~~increase~~ reduce the impervious surface and decrease the amount of stormwater runoff from the project area. Flow rates without detention would increase from ~~7.6-7.2~~ 8.2-7.3 cfs at the Constitution site and 3.9 cfs to ~~6.1-5.3~~ 10.8 cfs for the Independence site for the 10-year storm event.<sup>33</sup> Flow rates would increase from ~~11.5-10.7~~ 12.3 cfs for the Constitution site and ~~5.9-5.8~~ 9.0-7.8 cfs for the Independence site for the 100-year storm event.<sup>34</sup> Modifications to the site grading, including overland flow lengths and slopes, reduces the time of concentration for the Constitution site from approximately 30 minutes to 25 minutes and from 52 minutes to 30 minutes for the Independence site. As a result of the decreased time of concentration, the calculated rainfall intensity for the site increased for both the 10-year and 100-year events and consequently the Constitution site runoff flow rates increased even though the amount of impervious surface was reduced. However, the Menlo Gateway project would ~~has incorporated detention to be required to detain the increased flow rates and reduce off-site flow to existing conditions levels or less.~~ In accordance with City requirements, about ~~800~~ 4,000 cubic feet (ft<sup>3</sup>) of underground storage ~~would be required~~ has been incorporated into the site design for the Constitution site and ~~6,335~~ 3,000 ft<sup>3</sup> of underground storage ~~would be required for~~ has been incorporated into the site design for the Independence site.<sup>35</sup> Based on the Final Hydrology Report and site design, the resulting flow rates for the 10-year storm event are 6.7 cfs for the Constitution site and 2.5 cfs for the Independence site. The resulting flow rates for the 100-year storm event are 9.6 cfs for the Constitution site and 5.1 cfs for the Independence site. The total reduction in stormwater volume for the 10-year storm event is 3,025 cubic feet (cf) for Constitution site and 3,942 cf for the Independence site. The total reduction in stormwater volume for the 100-year storm event is 4,590 cf for the Constitution site and 6,074 cf for the Independence site. Furthermore, the project area does not drain to an

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<sup>35</sup> Ibid.

area where hydrograph modification<sup>3634</sup> controls may be required; the project area drains to the Atherton Channel and San Francisco Bay.<sup>3735</sup> Therefore, drainage from the project area is not expected to cause or contribute to off-site erosion in channels or creeks. Additionally, all project area runoff would be routed through new and existing on-site storm drainage systems to existing off-site storm drains/channels, so that off-site overland erosion would not occur.

The first full paragraph under Impact HY-4 on page 3.5-26 is revised to read:

The proposed project would not alter the course of an existing stream or river, because there are no natural drainage features onsite. Changes to existing drainage patterns could increase the rate and/or amount of stormwater runoff, contributing to on- or off-site flooding; however, as addressed under Impact HY-3, implementation of the proposed project would not significantly increase the amount of ~~impervious surface cover~~ stormwater runoff from the project within the project area. Figures 3.5-4 and 3.5-5 show the proposed project drainage.

The second and third sentence in the second full paragraph under Impact HY-4 on page 3.5-26 is revised to read:

As also described under Impact HY-3, based on the Final Hydrology Report, the Menlo Gateway development plan would ~~increase~~ reduce the peak flow rates for the 10-year and 100-year storm events; flow rates would be reduced by up to 10.3 percent ~~increase by up to 8 percent~~ for the Constitution site and by up to 35.9 ~~56~~ percent for the Independence site. ~~However, the City would require detention of excess flow for the 10 year storm event, which would also somewhat reduce excess flow for the 100 year storm event.~~ Additionally, the Atherton Channel drains into the Flood Slough, which runs through the salt ponds and salt marsh flats north of Bayfront Expressway and increased 100-year flow rates would not be expected to substantially cause or contribute to flood effects within the salt marsh flats.

The first full paragraph on page 3.5-27 is revised to read:

Following buildout of the Menlo Gateway development plan, the peak runoff at the Constitution site would be reduced ~~increase~~ from ~~7.6~~ 7.2 cfs to ~~8.2~~ 6.7 cfs for a 10-year storm event and from ~~11.5~~ 10.7 cfs to ~~12.3~~ 9.6 cfs for a 100-year event.<sup>3937</sup> The peak runoff at the Independence site would ~~increase~~ be reduced from 3.9 cfs to ~~6.1~~ 2.5 cfs for a 10-year storm event and from ~~5.9~~ 5.8 cfs to ~~9.0~~ 5.1 cfs for a 100-year event.<sup>4038</sup> Although the two sites are not contiguous and separate structural BMPs would be installed at each of the two sites, both sites drain to the pump station located at the northeast corner of the Constitution site. The Menlo Gateway development plan would therefore generate a net ~~increase~~ reduction in stormwater runoff of up to ~~3.9~~ 2.6 cfs for the 100-year storm event, ~~prior to the implementation of BMPs~~. Buildout under the GPA/ZOA may also slightly increase runoff rates because it could further increase the amount of impervious surfaces by up to 2 percent and alter drainage patterns for more efficient conveyance of stormwater from the project area. The City requires detention of stormwater runoff such that discharges do not exceed existing flow rates.

The third sentence in the last partial paragraph beginning on page 3.5-27 and continuing to the top of page 3.5-28 is revised to read:

The Menlo Gateway development ~~application does~~ would not include infiltration BMPs that could result in migration of stormwater pollutants to groundwater and any proposed treatment BMPs would also require City approval.

Additional discussion is added under Impact HY-7 on page 3.5-29 at the end of the impact discussion before the Mitigation Measures:

However, potential effects of redirecting flood flows or changing the flood depth and extent, by placement of fill or structures, are primarily a concern within regulatory floodways or flood hazard areas classified as Zones V/VE (coastal areas subject to inundation by the 1-percent-annual-chance flood event with additional hazards associated with storm-induced waves). This is because fill within these areas would reduce the flood flow carrying capacity of the flood source (in this case, the flood source is the San Francisco Bay). There are no regulatory floodways or Zones V/VE located on the project sites.

Additionally, as noted in the Philip Williams & Associates Technical Memorandum<sup>41</sup> prepared for the proposed project, when considering the potential for flooding in the vicinity of the Menlo Gateway project, the potential mechanism for flooding must be considered. Examination of the FEMA FIRM indicates that the base flood elevation in the vicinity of Menlo Gateway project area is related to extreme tides in San Francisco Bay, since the base flood elevation does not change between the site vicinity and areas within San Francisco Bay including the historic salt ponds and tidal marsh nearby the Menlo Gateway sites. Flooding conditions could be generated by extreme high tides potentially including storm surge and their storm-related effects in San Francisco Bay. Under this scenario, flood waters could enter the site vicinity over low points along the Bayfront Expressway or through existing storm drain connections to drainage channels that discharge to San Francisco Bay. The flood elevations in the vicinity of the Menlo Gateway sites would be directly related and relatively similar to the extreme tidal levels in the San Francisco Bay. Water from the Bay would flow towards the project area until water levels in the vicinity of the Menlo Gateway sites achieved equilibrium with the water levels in the adjacent San Francisco Bay. As such, additional flooding of off-site areas from the 100-year flood event would only occur if the proposed project would change water levels in the San Francisco Bay.

Water levels in San Francisco Bay would not be measurably altered by the proposed grading plans at the Menlo Gateway sites, including the Constitution site. Instead, the grading proposed at the Independence and Constitution sites would reduce the inflow of tidal waters into the industrial park area by about 124,713 cubic feet and would not measurably or significantly alter water levels in the site vicinity.<sup>42</sup> Furthermore, fill within the San Francisco

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<sup>41</sup> Phillip Williams and Associates, LLC, 2009.

<sup>42</sup> Phillip Williams and Associates, LLC, 2009.

Bay would have essentially no effect on the San Francisco Bay water surface elevations during a flood event.

Fill material on the project sites could, however, contribute to redirection of stormwater runoff that could cause or contribute to off-site flooding. As shown in Figure 2 of the July 15, 2009 PWA Memorandum,<sup>43</sup> the Bayfront Expressway is at an elevation of about 6 feet along the eastern boundary of the project site. The elevation of off-site properties between the project sites is about 6 feet, with some areas slightly lower, and some areas slightly higher. The elevation of Chrysler Drive is about 8 feet near US 101 to 6 feet near the Bayfront Expressway and the elevation of Marsh Road is 10 to 8 feet. South of Chrysler Drive, the Bayfront Expressway elevation is up to 8 feet. As noted in the Final Hydrology Report, this area is essentially a low-lying area that is drained by the Chrysler Drive pump station and a few culverts under the Bayfront Expressway.

No analysis was conducted to identify flood flow paths for the 100-year storm event. However, based on this topography, stormwater runoff from the project area, in excess of the storm drain system design capacity (e.g., 100-year storm event), would pond on surfaces up to an elevation of at least 6 feet, and then flow eastward and over top the Bayfront Expressway, or flow southward and then eastward along Chrysler Drive and over the Bayfront Expressway. As such, excess runoff from areas south of the project site would flow towards Chrysler Drive and then across the Bayfront Expressway, or into the project area. In both cases, in order to flow either across the Bayfront Expressway or along or over Chrysler Drive, water surface elevations would have to reach at least 6 feet.

A 100-year 24-hour storm event has a total depth of precipitation of 4 inches.<sup>44</sup> However, runoff from up to the peak of the 10-year storm event would be conveyed through the storm drain system. The 10-year 24-hour storm event precipitation is 3 inches of rainfall.<sup>45</sup> Assuming a worst-case situation, the excess 1-inch of rainfall (difference between the 100-year and 10-year 24-hour storm events), with no impediments to flow, would pond in low spots within the project area. Runoff from the Independence site would likely flow towards the off-site area between the project sites and Chrysler Drive because its elevation is higher than those areas. Runoff from the off-site area between project sites, including the contributions from the Independence site, would likely flow towards the Constitution site, or possibly to Chrysler Drive. Fill material on the Independence site would be minimal and not be expected to contribute substantially to alterations in excess storm flow drainage patterns. According to the PWA Memorandum, there would be a net reduction in elevation on the Independence site

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<sup>43</sup> Philip Williams and Associates, Menlo Gateway - Fill Volumes and Flooding Potential Memorandum, Prepared for the City of Menlo Park, July 15, 2009.

<sup>44</sup> National Oceanic and Atmospheric Administration Hydrometeorological Design Studies Center, 1973, Western U.S. Precipitation Frequency Maps from NOAA Atlas 2 published in 1973. <http://www.wrcc.dri.edu/pcpnfreq/nca100y24.gif>, accessed November 4, 2009.

<sup>45</sup> National Oceanic and Atmospheric Administration Hydrometeorological Design Studies Center, 1973, Western U.S. Precipitation Frequency Maps from NOAA Atlas 2 published in 1973. <http://www.wrcc.dri.edu/pcpnfreq/nca10y24.gif>, accessed November 4, 2009.

(1,200 cubic yards or 32,400 cubic feet net soil removed). Fill material in the Constitution site would raise the building pads to elevations higher than the off-site area between the project sites, but would also create flow paths through cut areas that are lower than existing conditions. As such, excess runoff from the project site would still be allowed to flow into the Constitution site and Bayfront Expressway.

The area of the properties between the project sites is unknown, but assuming it is equal to the area of the project sites, the total area bounded by the at least 6 foot elevation roads would be about 15.3 acres. Assuming a worst-case scenario of the entire excess precipitation (difference between the 100-year and 10-year storm event, or 1 inch of rainfall) contributing to runoff, this would result in about 5.51 acre-feet of water that could pond on the project site.

For this amount of water to flow across the Bayfront Expressway or Chrysler Drive under existing conditions, less than 2.74 acres (8.7 percent) of the project area, including the off-site area between the project sites, must be below 6 feet in elevation and at least as low as 4 feet in elevation; or 5.51 acres of the project area are below 6 feet and at least as low as 5 feet in elevation. Based on the topography in Figure 2, it is reasonable to assume that this is the case and at least that the majority of excess stormwater runoff remains on site, stored in the low areas, and does not overtop the Bayfront Expressway or Chrysler Drive. Therefore, the effect of fill within the Constitution site would not block flood flows from the project area, but would remove storage area for runoff from the Independence site and off-site area between the project sites.

Table 1 in the PWA Memorandum indicates that the grading effect is a net fill of 1,598 cubic yards (43,146 cubic feet, about 1 acre-foot) at the Constitution site. Consequently, in the worst-case situation, about 1.65 acre-feet could pond on the off-site area between the project sites and the Constitution site. If all this water ponded on just the off-site area between the project sites, it could contribute to an additional flood depth of 1.29 inches, if spread across the entire off-site area. However, the storm drain systems would be designed to convey the peak 10-year storm event runoff and, in accordance with the Final Hydrology Report, detain runoff in excess of existing conditions for both the 10-year and 100-year storm events such that post-development runoff is not greater than existing conditions runoff. This would include 4,590 cubic feet of storage detention for the Constitution site and 6,074 cubic feet for the Independence site. The majority of rainfall intensities for the entire 100-year 24-hour storm

event would be below the storm drain system design intensity.<sup>46</sup> As such, the majority of runoff from the entire 100-year 24-hour storm event would also be conveyed or stored in the storm drain system and potential impacts of fill on the Constitution site would be less than significant.

Mitigation Measure HY-7.1 on page 3.5-29 is revised to read:

*HY-7.1 ~~Prepare and obtain a CLOMR-F from FEMA P~~prior to issuance of a the first grading or building permit submittal for each phase of construction, the project sponsor shall submit a FEMA CLOMR-F application to the Public Works Department for review and approval. In accordance with the National Flood Insurance Program (NFIP) (Code of Federal Regulations (CFR) 44 Part 65), Section 65.6 (Revision of base flood elevation determinations), the project sponsor shall prepare supporting data, including relevant hydraulic and hydrologic analyses, delineation of floodplain boundaries and all other information required by FEMA to review and evaluate the request for a CLOMR-F. The analyses shall clearly show revised and new floodplain boundaries, for the project area and adjacent areas not affected by the revision. Upon receiving City approval, the project sponsor shall submit the CLOMR-F application to FEMA. Prior to issuance of a grading or building permit, the project sponsor shall obtain a CLOMR-F from FEMA. The project sponsor shall submit an elevation certificate prior to final signoff of the foundation inspection for each structure.*

Additional language is added at the end of the mitigation discussion on page 3.5-29 before Impact HY-8:

In accordance with the Code of Federal Regulations, section 60.3 (Flood plain management criteria for flood-prone areas) floodplain development requirements, section 60.3 (e) (1) no new construction or fill material would be permitted in the project site special flood hazard area (Zone AE) unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, would not increase the

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<sup>46</sup> The 10-year storm event 5-minute rainfall intensity is 2.81 inches per hour, the 10-minute intensity is 2.07 inches per hour, and the 15-minute intensity is 1.68 inches per hour. The exact rainfall intensity used in determining peak flow rates depends on the time it takes a drop of water in the farthest reaches of the drainage area to exit the drainage area (time of concentration). It is not expected that the time of concentration will be greater than 15 minutes. Regardless, by 30 minutes into a 100-year storm event, the rainfall intensity would be 1.79 inches per hour, less than the 10-year storm event storm drain design capacity. By 2 hours into the 24-hour storm event average rainfall intensity is 0.90 inches per hour. By 12 hours into the 100-year storm event, it would be 0.33 inches per hour and the average rainfall intensity for the 24-hour storm event is 0.21 inches per hour. California Department of Water Resources, 2005, Flood and Safety, Climate Data, Climate Data and Information for California, Depth-Duration-Frequency, San Francisco Airport Station No. E70 7769 00, September 30, 2005, <ftp://ftp.water.ca.gov/users/dfmhydro/Rainfall%20Dept-Duration-Frequency/Rain%20H%20DDF%20Hourly/DDF%20H%20E60-E80/> Accessed November 4, 2009.

water surface elevation of the base flood more than one foot at any point within the community. In many areas of special flood hazard (excluding V zones and floodways), it may be feasible to elevate areas with engineered earthen fill above the base flood elevation (section 65.5 Revision to special hazard area boundaries with no change to base flood elevation determinations, (a) Data requirements for topographic changes). Scientific and technical information to support a request to gain exclusion from an area of special flood hazard of a structure or parcel of land that has been elevated by the placement of engineered earthen fill is required.

If the community cannot assure that it has complied with the appropriate minimum floodplain management requirements under section 60.3 (including section 60.3 (e) (1)), the map revision request will be deferred until the community remedies all violations to the maximum extent possible through coordination with FEMA (section 65.5 (a) (15)). If any questions or problems arise during review, FEMA will consult the Chief Executive Officer of the community (CEO), the community official designated by the CEO, and/or the requester for resolution (section 65.9 Review and response by the Administrator).

As such, Mitigation Measure HY 7-1, which requires obtaining a CLOMR-F application, would ensure FEMA review of the analysis, floodplain boundaries, and flood surface elevations are not substantially altered and that floodplain management requirements set forth in section 60.3 (e) (1) are met and substantial redirection of flood flows does not occur when the project is developed.

New text has been added after the first paragraph on page 3.5-30:

For planning purposes, the U.S. Army Corps of Engineers evaluates three scenarios of sea level rise; low risk, assuming a sea level rise of 19.7 inches (0.5 meters) by 2100; moderate risk, assuming a sea level rise of 39.4 inches (1.0 meters) by 2100; and high risk, assuming a sea level rise of 59.0 inches (1.5 meters) by 2100.<sup>47</sup> California Executive Order S-13-08 (November 14, 2008) states that all state agencies planning construction projects in areas vulnerable to future sea level rise shall consider a range of sea level rise scenarios for the years 2050 and 2100 to assess project vulnerability, and, to the extent feasible, reduce expected risks and increase resiliency to sea level rise. This Executive Order also directs the California Resources Agency, in cooperation with the Department of Water Resources and the California Energy Commission, to prepare a Sea Level Rise Assessment Report by December 1, 2010 to advise how California should plan for future sea level rise. The San Francisco Bay Conservation and Development Commission (BCDC) has prepared maps for areas inundated by 16 inches of sea level rise by 2050 and 55 inches of sea level rise by 2100.<sup>48</sup> The Governor of

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<sup>47</sup> US Army Corps of Engineers, July 1, 2009. Water Resource Policies and Authorities Incorporating Sea-Level Change Considerations in Civil Works Programs. Circular No. 1165-2-211, p. B-1 to B-13.

<sup>48</sup> San Francisco Bay Conservation and Development Commission (BCDC), April 7, 2009, Living with a Rising Bay: Vulnerability and Adaptation in San Francisco Bay and on its Shoreline, Draft Staff Report.

California's Delta Vision Blue Ribbon Task Force has adopted a sea level rise of 55 inches by 2100 for planning purposes, until issuance of an Executive Order determining otherwise.<sup>49</sup>

Therefore, it is reasonable to assume a sea level rise of 16 inches (1.33 feet) by 2050,<sup>50</sup> as predicted by BCDC, for project planning purposes. Assuming a sea level rise of 16 inches by 2050, the sea level rise by 2025 would be expected to be about 0.83 feet and the sea level rise by 2040, a 25-year planning horizon following buildout of the proposed project, would be expected to be about 1.0 foot.

The second paragraph on page 3.5-30 starting with the third sentence is revised to read:

While the project area is about 5 feet above msl and would remain above msl with a ~~1.83-foot~~ sea level rise (in year ~~2025~~ 2040), the base flood elevation would also be expected to rise by at least ~~1.83 feet~~ foot. The Menlo Gateway project ~~purposes~~ proposes to raise the occupied project structures' area-finished floor ~~by approximately two feet~~ to 8.1 feet, which is over a foot above the 7 foot base flood elevation. As such, the proposed project would be above the expected base flood elevation in the event of expected sea level rise through the 25-year planning horizon following buildout (2040). Therefore, the risks to people and structures would not be substantial.

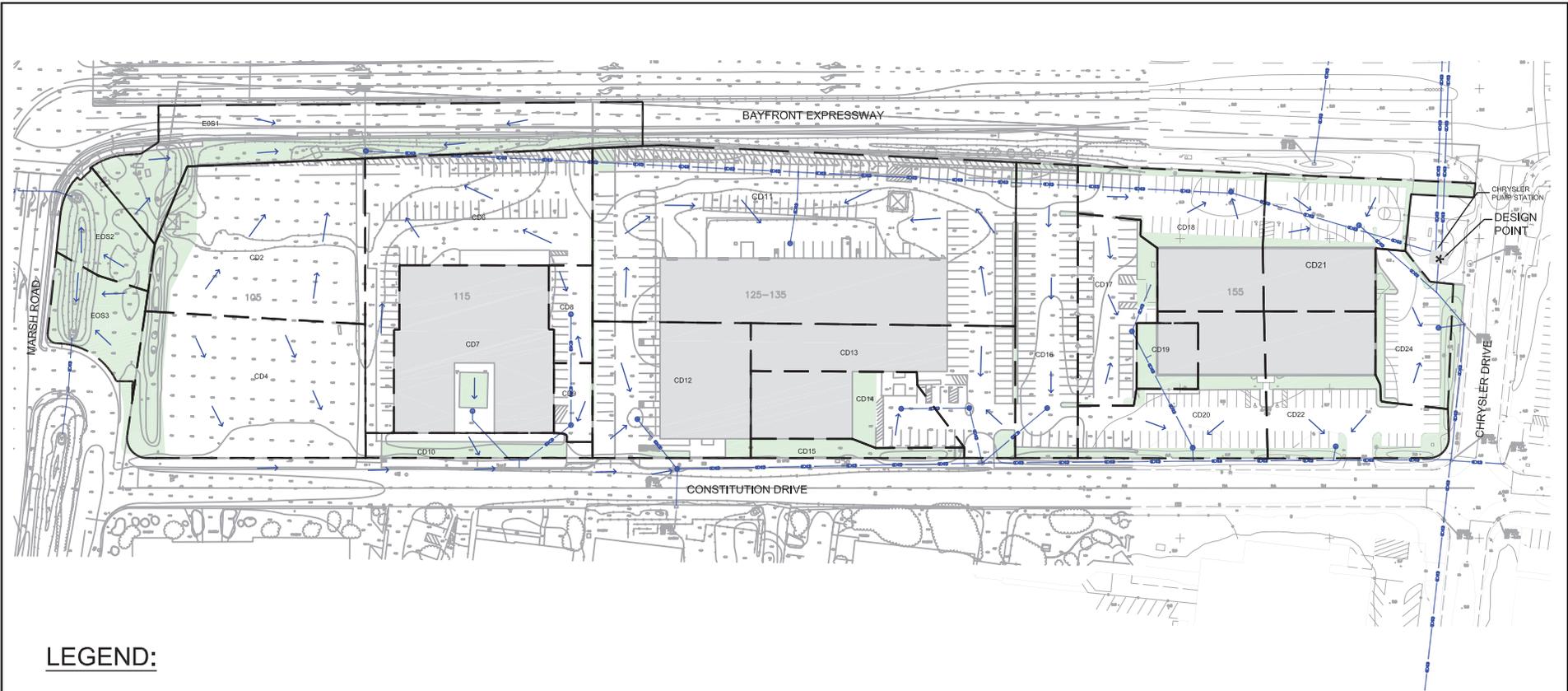
The first paragraph on page 3.5-34 starting with the second sentence is revised to read:

Furthermore, the creation of impervious surfaces would not significantly reduce groundwater recharge potential from the project area; soils within the site do not readily allow percolation of rainfall for groundwater recharge and the proposed project would reduce the amount of ~~create~~ 0.32 acres of ~~impervious surfaces~~ by about 0.8 acres within an area of the groundwater basin that is highly influenced by the San Francisco Bay.

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<sup>49</sup> Delta Vision Blue Ribbon Task Force, State of California Resources Agency, March 24, 2008, Letter to Governor Schwarzenegger, Agenda Item 2, Attachment 1.

<sup>50</sup> San Francisco Bay Conservation and Development Commission (BCDC), April 7, 2009, Living with a Rising Bay: Vulnerability and Adaptation in San Francisco Bay and on its Shoreline, Draft Staff Report.



**LEGEND:**

- LANDSCAPING
- BUILDING
- PAVING
- VACANT
- WATERSHED BOUNDARY
- CD68 WATERSHED ID
- (E) STORM DRAIN
- FLOW PATH

Source: PWA, 2009.



**FIGURE 3.5-1**  
**Constitution Site – Existing Conditions Land Use and Drainage**

D411048.01

Menlo Gateway Draft EIR





**LEGEND:**

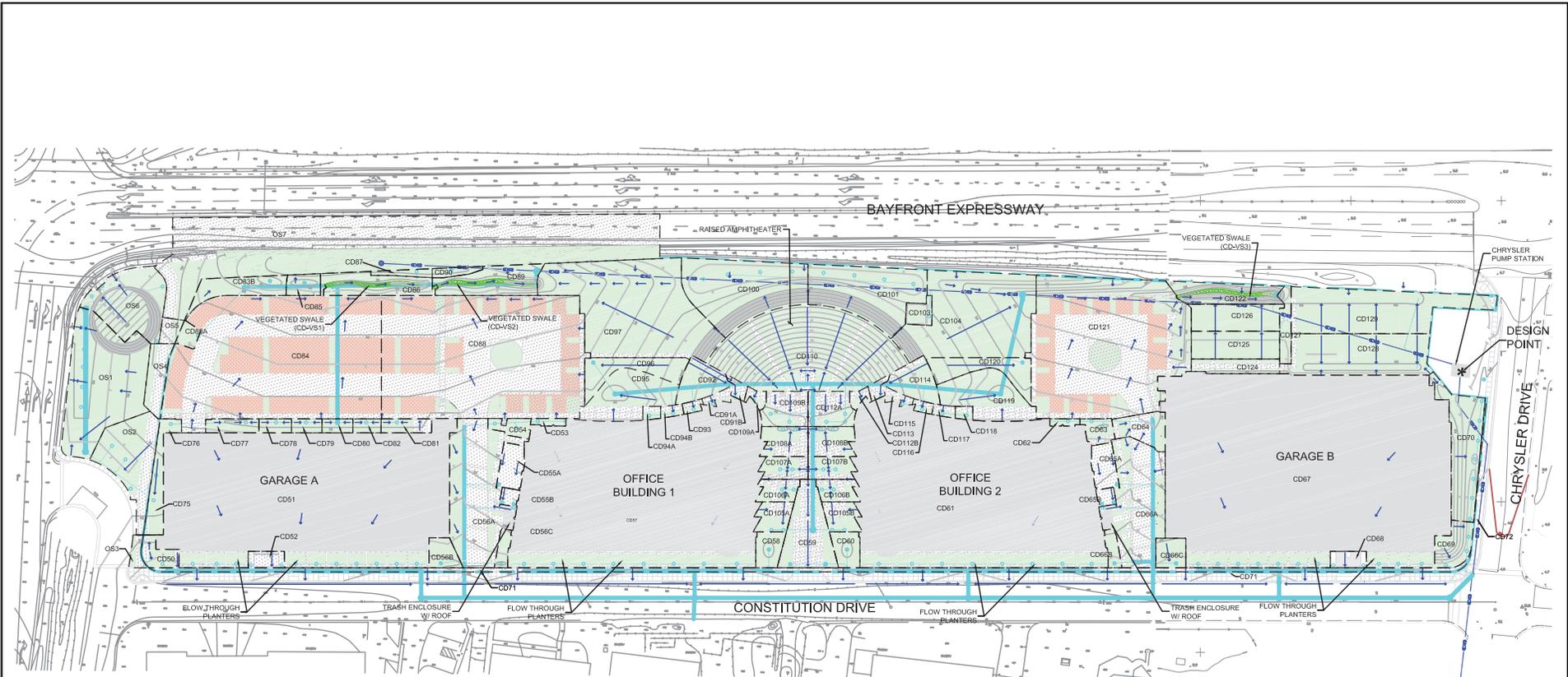
- LANDSCAPING
- BUILDING
- PAVING
- VACANT
- WATERSHED BOUNDARY
- ID68 WATERSHED ID
- (E) STORM DRAIN
- FLOW PATH

Source: PWA, 2009.

**FIGURE 3.5-2**  
**Independence Site – Existing Conditions Land Use and Drainage**

D411048.01

**NORTH**  
 SCALE IN FEET  
 0 25 50 100  
 SCALE (FEET)



**LEGEND:**

- LANDSCAPING
- BUILDING
- PAVING
- OPEN WATER
- PERMEABLE PAVING (w/ SUBDRAIN)
- WATERSHED BOUNDARY
- CD68 WATERSHED ID
- (E) STORM DRAIN
- (N) STORM DRAIN

Source: PWA, 2009.

0 25 50 100

SCALE (FEET)

**NORTH**

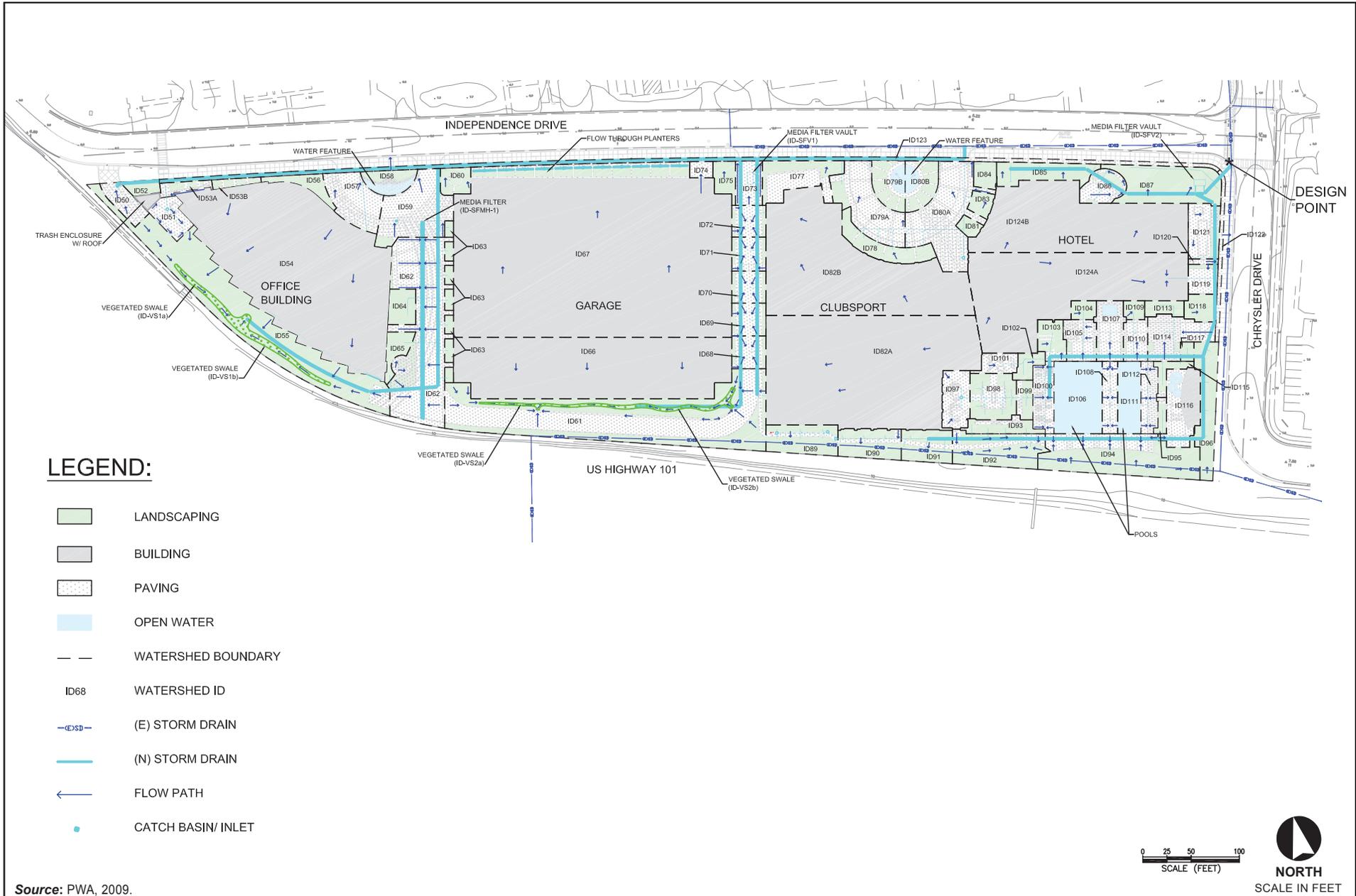
SCALE IN FEET

**FIGURE 3.5-4**  
**Constitution Drive – Proposed Conditions Land Use and Drainage**

D411048.01

Menlo Gateway Draft EIR





**FIGURE 3.5-5**  
**Independence Drive – Proposed Conditions Land Use and Drainage**

D411048.01

Menlo Gateway Draft EIR

## Section 3.6 Hazardous Materials

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Based on comments received from the San Mateo County Health System, the text has been revised including the mitigation measures. The significance of the impacts has not changed due to the inclusion of this updated information.

The first full paragraph under Project Area and Vicinity on page 3.6-2 is revised to read:

The 16-acre project area is bordered by US 101 to the south, the Marsh Road/US 101 interchange to the west, Bayfront Expressway to the north, and Chrysler Drive to the east. The project area is currently designated for Limited Industrial use under the City's General Plan and M-2 zoning. Existing uses include office buildings occupied by general office, research and development (R&D), and light industrial uses. The majority of the project area was developed in the 1970s and 1980s. Historically, the project area had been used to grow row crops and remained as open grassland when not in active agricultural use.

EFI Global completed a Phase 1 Environmental Site Assessment (ESA) for the Independence site at 100 – 190 Independence Drive in 2005, as well as for the Constitution site at 105, 115, 125, and 135 Constitution Drive. In addition, SECOR International completed a Phase I ESA in 2007 for one property located on the Constitution site, 155 Constitution Drive. Information from the three Phase 1 ESAs was used in the preparation of this section, and is reported as presented in the Phase 1 ESAs.

The second full paragraph under Project Area and Vicinity on page 3.6-2 is revised to read:

~~The project area is currently designated for Limited Industrial use under the City's General Plan and M-2 zoning. Existing uses include office buildings occupied by general office, research and development (R&D), and light industrial uses. The majority of the project area was developed in the 1970s and 1980s. Historically, the project area had been used to grow row crops and remained as open grassland when not in active agricultural use. The Regional Water Quality Control Board (RWQCB) and the San Mateo County Environmental Health Division have evaluated groundwater data and remedial efforts conducted within the project area and in the surrounding area, and determined the groundwater in the vicinity of the project area is regionally impacted with low levels of chlorinated solvents.<sup>1</sup> Previous Ray Chem facilities located at 115 and 119 Independence Drive, within the project area, are listed on the California Spills, Leaks, Investigations, and Cleanup (SLIC) database for reported low levels of solvents (TCE and PCE). These solvents may be part of a regional groundwater plume. However, direct exposure to groundwater at the project area and, hence, the elevated levels of contaminants, is not likely because groundwater is not used for domestic purposes.~~

The first sentence in the last paragraph on page 3.6-2 is revised to read:

The Phase 1 ESAs prepared for the project area included a records review of hazardous materials databases, a review of previous environmental studies, a site reconnaissance, interviews with people familiar with the various properties, as well as local and State agencies.

The second, third and fourth paragraphs on page 3.6-3 are revised to read, a new footnote 3 is added, and subsequent footnotes are renumbered Section 3.6:

*100 Independence Drive.* The office building at 100 Independence Drive was constructed in 1965 and prior tenants included John Hancock Life Insurance, Pringle Property Management, Siltec, Integrated Test Systems, Release Software, and Geocast Network Systems. The building is currently vacant with no ~~hazardous conditions~~ recognized environmental conditions (RECs)<sup>45</sup> present at the site.<sup>45</sup>

*110 Independence Drive.* The property at 115 Independence Drive is currently a vacant lot and prior research indicates that no buildings have previously been constructed on this site. No ~~hazardous conditions~~ RECs were identified on the site.<sup>56</sup>

*120 Independence Drive.* The building on this site was constructed in 1967 and has primarily been used as office space. Although previous tenants include Ampex and Ray Chem that have been known to use and store hazardous materials, this building was apparently used as office space. Accordingly, no hazardous materials were used or stored onsite. Currently the building is vacant and no ~~hazardous conditions~~ RECs were identified on the site.<sup>62</sup>

The last paragraph on page 3.6-3 and the first paragraph on page 3.6-4 are revised to read:

*150 Independence Drive.* The building at 150 Independence Drive was constructed in 1979 and has been used by Cybeq Systems and Ultra Clean Technologies. Ultra Clean Technologies is listed on the Hazardous Materials Business Plan because they use and store hazardous materials in the manufacture of subsystems for semiconductor equipment and device makers and gas and liquid delivery systems.<sup>78</sup> No spills or leaks were identified for the use and storage of hazardous materials. In addition, five ASTs are still present on the property. Two are storage of compressed gas and the remaining three contained sodium bisulfate and non-foaming agents for the water treatment system. No ~~hazardous conditions~~ RECs were identified on the site.<sup>82</sup>

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<sup>3</sup> The presence or likely presence of any hazardous substances or petroleum products on a property under conditions that indicate an existing release, a past release, or a material threat of a release of any hazardous substances or petroleum products into structures, on the property or into the ground, groundwater, or surface water of the property. The term includes hazardous substances or petroleum products even under conditions in compliance with laws. The term is not intended to include de minimis conditions that generally do not present a material risk of harm to public health or the environment and that generally would not be the subject of an enforcement action if brought to the attention of appropriate governmental agencies. Conditions determined to be de minimis are not recognized environmental conditions (ASTM E1527-05).

*190 Independence Drive.* The building at 190 Independence Drive was constructed in 1979 and has been used primarily as office space since that time. Prior tenants include Siltex, Neurex, Geocast, Ultra Clean (office space) and the law firm of Latham & Watkins. No hazardous conditions-RECs were identified as being present on the site.

A new paragraph is added after the first complete paragraph on page 3.6-4:

The Phase 1 ESA did note that, even though no RECs were present on each site evaluated, and no releases to groundwater have been reported for the properties investigated, groundwater below the properties could be adversely affected by a regional groundwater plume containing solvent contaminants from off-site sources. The Phase 1 ESA based this conclusion on Regional Water Quality Control Board (RWQCB) and the San Mateo County Environmental Health Division evaluations. These agencies indicated groundwater data and remedial efforts conducted within the project area and in the surrounding area showed that the groundwater in the vicinity of the project area is regionally impacted with low levels of chlorinated solvents. As reported in the Phase 1 ESA, the following off-site properties were specifically noted as having reported elevated concentrations of chlorinated solvents in groundwater: 120 Constitution Drive, 115 Independence Drive, and 119 Independence Drive. No groundwater testing was performed as part of the Phase 1 ESA.<sup>10</sup>

A new sentence is added to the end of the third complete paragraph on page 3.6-4:

...Based on the historical database review, all of the parcels in the Constitution site were deemed to be free of RECs.<sup>14</sup> However, as stated above, groundwater below the properties could be adversely affected by a regional groundwater plume containing solvent contaminants from off-site sources.<sup>13</sup>

The fourth complete paragraph on page 3.6-5 is revised to read:

*155 Constitution Drive.* The Phase 1 ESA prepared for 155 Constitution Drive (in 2007) addressed one two-story office building constructed in 1985. The most recent tenant was Gunderson Dettmer, a law firm. Neither hazardous substances nor petroleum products were discovered during a site reconnaissance of the property.<sup>19<sup>17</sup></sup> The property at 155 Constitution Drive, based on the historical database review, was deemed to be free of RECs.<sup>20<sup>18</sup></sup> The Phase 1 ESA for this site stated that, according to RWQCB staff, no files exist for this property or adjacent properties of concern.<sup>21</sup>

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<sup>10</sup> EFI Global, Phase 1 Environmental Site Assessment: Independence Drive Properties, May 20, 2005, pp. 24-26.

<sup>13<sup>14</sup></sup> Ibid, pp. 24-25<sup>26</sup>.

<sup>21</sup> Ibid, pp. 14-15.

A new paragraph has been added to page 3.6-5 right above the Regulatory Setting:

### **Current Status of Properties Investigated in the Phase 1 ESAs**

None of the Independence Drive and Constitution Drive properties that would be affected directly by project development are included in the DTSC Envirostor or SWRCB Geotracker online databases. Two off-site properties identified in the Phase 1 ESAs (115 Independence Drive and 120 Constitution Drive) are listed in the Geotracker database. The 115 Independence Drive site is listed as “open-inactive,” and the 120 Constitution Drive site is listed as “completed-case closed.”<sup>22</sup>

The second paragraph under Impact HM-2 on page 3.6-12 is revised to read:

The depth to groundwater in the project area is estimated at approximately 5 to 10 feet below ground level. If, during excavation and other construction activities, excavation or foundation work extended to a depth greater than five feet below the ground surface, construction workers and members of the public could be at risk for exposure to potentially hazardous solvents known to exist in the groundwater. Dewatering could also be needed during foundation construction, and improper disposal of contaminated groundwater, could pose an environmental risk. In addition, soil vapor containing chlorinated solvents could migrate into indoor building spaces during occupancy. This would be considered a potentially significant health and safety impact.

Mitigation Measure HM-2.1 on page 3.6-12 is revised to read:

MITIGATION MEASURE. ~~If excavation in the project area exceeds five feet in depth, implementation of the following mitigation measure would reduce the potential exposure of construction workers and the public to an existing soil or groundwater contamination, potential soil vapor hazards, or to previously unidentified soil contamination to a less-than-significant level. (LTS)~~

*HM-2.1 Concurrent with the first building permit submittal for each phase of construction, the project sponsor shall submit a Phase II Environmental Site Assessment (ESA) prepared by an appropriately registered professional for review by the Community Development Department. The Phase II shall include a risk analysis for future occupants of the buildings. If the Phase II for the Independence Phase indicates that the source of contamination is either on-site or upstream (i.e., the US 101 side of the site), then the project sponsor does not need to submit a Phase II for the Constitution Phase.*

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<sup>22</sup> California Department of Toxic Substances Control, EnviroStor (<http://www.envirostor.dtsc.ca.gov>), Search: Menlo Park, California; State Water Resources Control Board, GeoTracker. (<http://geotracker.swrcb.ca.gov>) Search: Menlo Park, California. 2009.

HM-2.2 Prior to, or at a minimum concurrent with the first grading or building permit submittal for each phase of construction, the project sponsor shall retain a qualified professional to prepare a work plan to implement recommendations in the Phase II Environmental Site Assessment. The project sponsor shall submit the Soil and Groundwater Management Plan (work plan) to the San Mateo County Health System (SMCHS). The work plan shall address soil, soil vapor, and/or groundwater, as appropriate. The work plan shall include specific soil removal and disposal measures, as appropriate, soil vapor management, and groundwater management, including dewatering and disposal. If a soil vapor and/or groundwater monitoring network is established through the work plan, the City shall ensure project design and construction will not adversely affect the long-term use of any monitoring network through damage of wells and related facilities, and will not adversely affect contaminant transport in groundwater as a result of soil disturbance or dewatering. Prior to issuance of a grading or building permit, the City of Menlo Park shall ensure the work plan has been approved by SMCHS and implemented.

HM-2.3 If the Phase II Environmental Site Assessment identifies potential risk to future building occupants, the project sponsor shall retain a qualified professional to prepare a soil vapor study and risk management plan for review and approval of the Regional Water Quality Control Board (RWQCB). The plan shall use institutional controls and soil vapor system design. The project sponsor shall incorporate applicable interior, exterior, and subgrade project features into the project plans, subject to review and approval of the Community Development Department. Prior to issuance of building permits, the City shall ensure subgrade features (e.g., sub-slab venting, vapor barriers) have been installed.

HM-2.14 ~~Prepare and implement health and safety plan.~~ Prior to issuance of a grading permit that involves any below grade excavation activities that may encounter groundwater, ~~t~~The project sponsor shall prepare and the project contractor shall implement a site-specific health and safety plan, prior to any below grade excavation activities that may encounter groundwater subject to review and approval of the Community Development Department. The site-specific health and safety plans shall follow California and federal Occupational Safety and Health Administration (Cal/OSHA and OSHA, respectively) standards under California Code of Regulations (CCR), Title 8, Section 5192, and 29 Code of Federal Regulations (CFR) 1910.120, respectively, and any other applicable health and safety laws, regulations and/or standards. Health and safety plans shall include, among other things, a description of health and safety training requirements for on-site construction personnel, a

description of the level of personal protective equipment to be used, and any other applicable precautions to be undertaken to minimize direct contact with contaminated soil or groundwater.

HM-2.5 Prior to issuance of a grading permit, the project sponsor shall submit plans that describe actions to be taken in the event unexpected debris, hazardous materials, or soil or groundwater contamination not previously identified is discovered. The plan shall be subject to review and approval of the Community Development Department.

## **Section 3.8, Noise**

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The Noise mitigation measures have been revised to reflect more specific language. The change to this language does not change the significance findings.

Mitigation Measure NO 2.1 and NO 2.2 on pages 3.8-13 and 3.8-14 are revised to read:

*NO-2.1* *Notify nearby businesses of construction activities that could affect vibration-sensitive equipment. The project sponsor shall provide notification to adjacent property owners and occupants within 500 feet of the construction site, prior to the start of construction, informing them of the estimated start date and duration of vibration-generating construction activities, such as would occur during site preparation, grading, and pile driving, if required. This notification shall include information warning about potential for impacts related to vibration-sensitive equipment. The project sponsor shall identify a phone number for the property owners and occupants to call if they have vibration-sensitive equipment on their site.*

*NO-2.2* *Implement construction best management practices to reduce construction vibration. If vibration-sensitive equipment is identified within ~~the project vicinity~~ 500 feet of the construction site, the project sponsor shall implement the following measures during construction of all project components:*

- To the extent feasible, construction activities that could generate high vibration levels at any identified vibration-sensitive locations, shall be scheduled during times that would have the least impact on nearby land uses. This could include restricting construction activities in the areas of potential impact to the early and late hours of the work day, such as from 8:00 am to 10:00 am or 4:00pm to 6:00 pm Monday to Friday.
- Stationary sources, such as construction staging areas and temporary generators, shall be located as far from nearby vibration-sensitive receptors as possible.

- Trucks shall be prohibited from idling along streets serving the construction site where vibration-sensitive equipment is located.

Mitigation Measure NO-3 on page 3.8-14 is revised to read:

MITIGATION MEASURE. There are no feasible mitigation measures that could reduce or eliminate the impact, other than reducing traffic. As noted in Section 3.11, Traffic and Circulation and in Chapter 2, Project Description, the proposed project includes a Transportation Demand Management (TDM) program that includes a variety of measures designed to reduce the number of daily trips. Based on a reduction in trips, noise level increases along Marsh Road as a result of the project could be minimized such that the noise level increase would be less than 1 dBA. ~~However, as noted in the traffic section, because of the uncertainty in the effectiveness of the TDM program, to be conservative, trip reductions from the TDM program were not considered in this EIR. Therefore, this impact is considered to be significant and unavoidable. The noise impact would be eliminated with a seven percentage reduction in project trips. Implementation of Mitigation Measures TR-1.1(I) and TR-1CM.1(C) would reduce the impact to a less-than-significant level. (SULTS)~~

*NO-3.1 Implement Mitigation Measures TR-1.1(I) and TR-1CM.1(C).*

The second to last bullet under Mitigation Measure NO 4.1 on page 3.8-17 is revised to read:

- ~~If required by the City, temporary plywood noise barriers shall be erected around the construction site, to shield adjacent uses. Install temporary plywood noise barriers eight feet in height around the construction site to minimize construction noise to 90 dBA as measured at the applicable property lines of the adjacent uses, unless an acoustical engineer submits documentation that confirms that the barriers are not necessary to achieve the attenuation levels.~~

### **Section 3.9, Population and Housing**

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Minor updates are provided to correct some errors in the dates provided in the Tables.

The last column in Tables 3.9-1 and 3.9-2 on pages 3.9-2 and 3.9-3 are revised to show that the period of growth reflects from year 2000 – 2025.

<b>Table 3.9-1</b> <b>Population Trends in the City of Menlo Park, San Mateo County</b> <b>and the San Francisco Bay Area, 2000-2025</b>							
	2000	2005	2010	2015	2020	2025	Growth 2005-2025
City of Menlo Park (sphere of influence)	35,254	35,200	36,200	37,700	38,800	39,600	4,346 (12.5%)
San Mateo County	707,163	721,900	741,000	772,300	800,700	823,400	116,237 (14.1%)
San Francisco Bay Area	6,783,762	7,096,100	7,412,500	7,412,500	8,069,700	8,389,600	1,605,838 (19.1%)

Source: ABAG, Projections 2007.

<b>Table 3.9-2</b> <b>Employment Trends in the City of Menlo Park, San Mateo County,</b> <b>and the San Francisco Bay Area, 2000-2025 (Total Number of Jobs)</b>							
	2000	2005	2010	2015	2020	2025	Growth (2005-2025)
City of Menlo Park	39,860	28,820	30,490	33,380	36,510	39,430	10,360 (36.8%)
San Mateo County	386,590	337,350	363,060	391,910	423,100	454,170	116,820 (34.6%)
San Francisco Bay Area	3,753,460	3,449,640	3,693,920	3,979,200	4,280,700	4,595,170	1,145,230 (33.2%)

Source: ABAG, Projections 2007.

**Section 3.10, Public Services**

In response to concerns raised by the Menlo Park Fire Protection District (MPFD), additional information has been added to the section and is shown below.

The second sentence in the first full paragraph on page 3.10-3 is revised to read:

...The MPFD responds to approximately ~~7,7~~8,000 emergencies a year within the District; about 60 percent of the emergencies are medical incidents. Last year 3,605 calls were in the City of Menlo Park.

The following information is added before the Regulatory Setting on page 3.10-3:

**Automatic Aid Agreement**

The Menlo Park Fire Protection District has an automatic aid agreement with the cities of Palo Alto and Redwood City. An automatic aid agreement provides assistance dispatched automatically by contractual agreement between two communities or fire districts. This is different from a mutual aid agreement, which is arranged on a call by call basis. The details are discussed below.

The City of Palo Alto Fire Department covers approximately 26 square miles, serves a population of 59,395, and has one ladder truck.<sup>11</sup> The City of Redwood City Fire Department covers approximately 35 square miles, serves a population of 74,060, and has one ladder truck.<sup>12</sup> As noted earlier, the District provides fire protection to the City of Menlo Park, portions of Atherton, East Palo Alto, and unincorporated San Mateo County. The District covers approximately 30 square miles, serves a population of 93,000, and has one ladder truck. The ladder truck is housed in Station #1 at 300 Middlefield Road, approximately 3.2 miles from the project site which equates to an 8 minute drive time.

### **Palo Alto Fire Department**

Palo Alto Fire Station #1 located at 301 Alma Street is 4.53 miles from the project site, which constitutes an 11 minute drive time due to the route. Fire Station #3 located at 799 Embarcadero Road is 5.79 miles from the project site but has a drive time of nine minutes. Fire Station #3 on Embarcadero Road would be the primary Palo Alto response unit to the proposed site. Both of these fire stations has an engine company that is staffed with three personnel on a constant basis. All of the three person units are staffed with a captain, apparatus-operator and firefighter. The engines (at Station #1 and Station #3) also have assigned to them either an operator/paramedic or a firefighter/paramedic. The Palo Alto Fire Station also has a ladder truck located at Fire Station #6 on the Stanford Campus at 711 Serra Street. This is eight miles from the project site.<sup>13</sup>

Palo Alto currently provides automatic aid responses from these two fire stations to the southern area of Menlo Park, which encompasses an area of approximately five square miles. Records for 2008-09 indicate that there were 45 calls for the City of Menlo Park. One was for mutual aid (this could have been and probably was an entry error) and 13 calls were at the Stanford Linear Accelerator Center (SLAC). These do not qualify as automatic aid because Palo Alto Fire provides emergency response to SLAC as part of the fire contract with Stanford. Therefore, the most accurate report would be that the Palo Alto Fire Department responded to calls in the City of Menlo Park approximately 33 times in 2009.<sup>14</sup>

### **City of Redwood City Fire Department**

Redwood City also provides automatic aid response to the City of Menlo Park. Station #9 and Station #11 are the primary responders for automatic aid. Redwood City Station #9 is located at 755 Marshall Street and is the closest station to the project site at 3.6 miles with a nine minute drive time. This station has a ladder truck that is staffed with four personnel: captain,

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<sup>11</sup> The City of Palo Alto has an automatic aid agreement that serves the southern portion of the City of Menlo Park.

<sup>12</sup> U.S. Census Bureau, 2008 Population Estimates, Census 2000, 1990 Census, <http://factfinder.census.gov/home/saff/main.html?lang=en>, accessed February 16, 2010.

<sup>13</sup> Marinaro, Nick, City of Palo Alto Fire Department, email correspondence, February 3, 2010.

<sup>14</sup> Marinaro, Nick, City of Palo Alto Fire Department, email correspondence, February 2, 2010.

firefighter/paramedic and two firefighters. The engine company is staffed with three personnel: captain, firefighter/paramedic, and one firefighter. This station also houses a battalion chief's vehicle which is staffed by one person, the battalion chief.

The first sentence in the second paragraph under Impact PS-2 on page 3.10-4 is revised to read:

The proposed project would be required to comply with all applicable MPFD codes and regulations and would be required to meet District standards related to fire hydrants, water fire flow requirements, spacing of hydrants, design of driveway turnaround and access points to accommodate fire equipment, and other fire code requirements.

The second sentence in the second paragraph under Impact PS-2 on page 3.10-4 is revised to read:

...Specifically, the Menlo Park Fire Protection District Fire Prevention Code ~~was amended to~~ requires automatic fire sprinkler protection in all new buildings over 1,000 square feet for commercial occupancies over 5,000 square feet or in which minimum water flow requirements per California Fire Code cannot be met; in any building that involves improvement to an existing 2,500 square foot building; when alteration(s) to a building exceeds 50 percent of the current square footage; and in any existing building that has a change in Building Code Occupancy Classification that would increase the fire hazard of the building.<sup>1945</sup> ...

The last paragraph Under Impact PS-2 on page 3.10-4 is revised to read:

Upon project completion, the MPFD would continue to serve the project area and respond to calls for assistance from its existing stations. Two MPFD fire stations (Station #5 at 4101 Fair Oaks Avenue and Station #77 at 1467 Chilco Street) are less than two miles from the project area and the MPFD has indicated that the response time to the project site would be within two to three minutes. In addition, the District has an automatic aid agreement with the cities of Palo Alto and Redwood City to provide back up and respond in the event of a major fire. Within an 8 to 9 minute response time, there are three stations that house aerial ladder trucks that would be available, if necessary.

### **Section 3.11, Traffic and Circulation**

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To address comments received from the adjacent communities and to clarify the phasing of the mitigation, some of the traffic mitigation measures have been revised. As noted in the Draft EIR Project Description, Phase 1 involves the buildout of the Independence site, and Phase 2 involves the buildout of the Constitution site. The traffic analysis in the Draft EIR did not account for phasing of development; the traffic analysis assumed that all buildings would be constructed at once. In order to more precisely identify the timing of when certain transportation mitigation measures would need to be implemented based on the phasing of construction of the buildings, the mitigation measures have been

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<sup>1945</sup> City of Menlo Park Staff Report (#04-005), January 13, 2004 An Ordinance to the Menlo Park Fire Protection District approving amendments to Ordinance 30, District Fire Prevention Code, Chapter 9, Fire Protection Systems, Section 1, page 4, October 20, 2009.

revised to reflect this aspect of the project. DKS Associates prepared a supplemental analysis (transportation mitigation phasing), included in Appendix E of this Final EIR. The revisions do not result in any new significant impacts.

Mitigation Measure TR-1.1(A) on page 3.11-33 is revised to read:

*TR-1.1(A) Willow Road/Newbridge Street Intersection Improvements.* ~~For impacts related to this intersection, the recommended mitigation measure is to add capacity to the southbound through movement. While this could be accomplished by restriping the southbound right lane to a through right lane, additional receiving capacity would be needed. Due to existing right of way and various signal and utility equipment, this measure would require obtaining additional right of way in order to implement significant intersection modifications, some of which are under Caltrans jurisdiction. Also, adaptive signal timing, traffic impact fees, and the transportation demand management program would serve as partial mitigation measures. Prior to building permit issuance of the first building permit of the Independence Phase, the project sponsor shall pay a fee of \$125,000 as a contribution toward adaptive signal timing improvements based on impacts to the intersections of Willow Road/Newbridge Street. If Caltrans does not approve the use of adaptive signal timing at this intersection, the City of Menlo Park may use the money for other transportation improvements in the City.~~ (SU)

Mitigation Measure TR-1.1(B) on page 3.11-33 is revised to read:

*TR-1.1(B) Bayfront Expressway/Willow Road Intersection Improvements.* ~~For impacts related to the Bayfront Expressway/Willow Road intersection, the recommended mitigation measure is to convert the existing eastbound shared left through lane into a left only lane, and add a second westbound left turn only lane. Additionally, the addition of an eastbound right turn overlap phase and a third right turn lane have been examined. This mitigation measure would substantially reduce the average delay to an acceptable LOS D. Each of these mitigation measures may be completed separately. Additionally, adaptive signal timing, traffic impact fees, and the transportation demand management program would serve as partial mitigation measures. Implementation of this mitigation measure also would require coordination with and approval by Caltrans. Prior to issuance of a building permit for the first building of the Independence Phase, the project sponsor shall submit complete plans to construct an eastbound right turn lane with a right turn overlap phase from Willow Road to Bayfront Expressway. The resulting intersection design would have a total of three eastbound right turn lanes. Complete plans shall include all necessary requirements to construct the improvements in the~~

public right-of-way, including but not limited to, grading and drainage improvements, utility relocations, signal relocations/modifications, tree protection requirements, striping modifications further west on Willow Road, and a detailed cost estimate. The plans shall be subject to review and approval of the Public Works Department prior to submittal to Caltrans. Upon obtaining approval from the Caltrans, the project sponsor shall construct the improvements prior to occupancy of the first building on the Independence Site. If Caltrans approval has not been obtained, but the project sponsor demonstrates that it has worked diligently to pursue Caltrans approval to the satisfaction of the Public Works Director prior to occupancy of the first building, the project sponsor shall submit to the City a performance bond for 100 percent of the estimated costs plus a 30 percent contingency. The project sponsor shall continue to pursue approval and construction for a period of 5 years from the date of occupancy of the first building. If the project sponsor continues to work diligently to the satisfaction of the Public Works Director, but has not yet obtained approval to construct the improvement, then the project sponsor shall be relieved of responsibility to construct the improvement and the bond shall be released by the City of Menlo Park. Construction of this improvement shall count as a credit toward payment of the Transportation Impact Fee (TIF) pursuant to the TIF Ordinance against the Constitution Site Phase. (SU)

Mitigation Measure TR-1.1(C) on page 3.11-33 is revised to read:

*TR-1.1(C) Bayfront Expressway and Chilco Street Intersection Improvements.* ~~For this intersection, an additional eastbound left turn lane would reduce the delay at this intersection to below No Project condition levels. This measure may require additional right of way and would require coordination with and approval by Caltrans. However, adaptive signal timing, traffic impact fees, and the transportation demand management program would serve as partial mitigation measures.~~ Prior to issuance of a building permit for the first building of the Constitution Phase, the project sponsor shall submit complete plans to construct an additional eastbound left turn lane from Chilco Street to Bayfront Expressway. Complete plans shall include all necessary requirements to construct the improvements in the public right-of-way, including but not limited to, grading and drainage improvements, utility relocations, signal relocations/modifications, tree protection requirements, median and striping modifications further west on Chilco Street, and a detailed cost estimate. The plans shall be subject to review and approval of the Public Works Department prior to submittal to Caltrans. Upon obtaining approval from the City of Menlo Park and Caltrans, the project sponsor shall construct the improvements prior to

occupancy of the first building on the Constitution Site. If Caltrans approval has not been obtained, but the project sponsor demonstrates that it has worked diligently to pursue Caltrans approval to the satisfaction of the Public Works Director prior to occupancy of the first building, the project sponsor shall submit to the City a performance bond for 100 percent of the estimated costs plus a 30 percent contingency. The project sponsor shall continue to pursue approval and construction for a period of 5 years from the date of occupancy of the first building. If the project sponsor continues to work diligently to the satisfaction of the Public Works Director, but has not yet obtained approval to construct the improvement, then the project sponsor shall be relieved of responsibility to construct the improvement and the bond shall be released by the City upon payment to the City in an amount equal to the cost of the improvement based on an updated cost estimate at that time plus a 30% contingency. The City of Menlo Park may use the money to either construct the improvement or for other transportation improvements located east of US 101. (SU)

Mitigation Measure TR-1.1(D) on page 3.11-33 is revised to read:

*TR-1.1(D) Bayfront Expressway and Chrysler Drive intersection Improvements.* ~~For impacts related to the Bayfront Expressway and Chrysler Drive intersection, the recommended mitigation measure is to convert the existing right turn lane to a left turn lane and add a shared left turn and right turn lane to reduce the impact to a less than significant level. This would result in an approach with two left turn only lanes and one shared left turn/right turn lane. However, this measure is under the jurisdiction of Caltrans and would require coordination with and approval by Caltrans. Additionally, adaptive signal timing, traffic impact fees, and the transportation demand management program would serve as partial mitigation measures.~~ Prior to issuance of a building permit for the first building of the Independence Phase, the project sponsor shall submit complete plans to construct an additional eastbound left turn lane from Chrysler Drive to Bayfront Expressway. Complete plans shall include all necessary requirements to construct the improvements in the public right-of-way, including but not limited to, grading and drainage improvements, utility relocations, signal relocations/modifications, tree protection requirements, striping modifications further west on Chrysler Drive, and a detailed cost estimate. The plans shall be subject to review and approval of the Public Works Department prior to submittal to Caltrans. Upon obtaining approval from the City of Menlo Park and Caltrans, the project sponsor shall construct the improvements prior to occupancy of the first building on the Independence Site. If Caltrans approval has not been

obtained, but the project sponsor demonstrates that it has worked diligently to pursue Caltrans approval to the satisfaction of the Public Works Director prior to occupancy of the first building, the project sponsor shall submit to the City a performance bond for 100 percent of the estimated costs plus a 30 percent contingency. The project sponsor shall continue to pursue approval and construction for a period of 5 years from the date of occupancy of the first building. If the project sponsor continues to work diligently to the satisfaction of the Public Works Director, but has not yet obtained approval to construct the improvement, then the project sponsor shall be relieved of responsibility to construct the improvement and the bond shall be released by the City of Menlo Park, unless the project sponsor seeks building permits for any building on the Constitution phase. Notwithstanding the foregoing, the project sponsor may not obtain building permits for any building on the Constitution phase if the project sponsor has not obtained Caltrans approval to construct the improvements prior to issuance of the first building permit of the Constitution phase, unless the project sponsor requests that the City perform a traffic study, with funds provided by the project sponsor and such study indicates that the existing infrastructure is sufficient to accommodate the projected traffic from the Constitution site or other improvements or methods can be implemented to mitigate the traffic impact or a combination thereof. The study shall be subject to review and approval by the Public Works Department. In the event the traffic study concludes other improvements or methods can mitigate the traffic impact, such methods and/or improvements shall be implemented prior to final building permit sign off for any building on the Constitution site. Construction of this improvement shall count as a credit toward payment of the Transportation Impact Fee (TIF) pursuant to the TIF Ordinance against the Constitution Site Phase. (SU)

Mitigation Measure TR-1.1(E) on page 3.11-34 is revised to read:

*TR-1.1(E) Bayfront Expressway and Haven Avenue intersection Improvements.* ~~For impacts related to the Bayfront Expressway and Haven Avenue intersection, there is no feasible mitigation within the current right of way that would significantly reduce delay. The project sponsor shall make a contribution toward installing an adaptive signal timing program to include each of the signalized intersections on Bayfront Expressway between University Avenue and Haven Avenue. This mitigation measure would improve the operation of the intersection, but would not reduce the operating conditions to a less than significant level. Additionally, traffic impact fees, and the transportation demand management program would serve as partial mitigation measures. Prior to issuance of a building~~

permit for the Independence Phase, the project sponsor shall submit plans for pedestrian improvements at the intersection of Bayfront Expressway and Haven Avenue. The improvements may include, but not be limited to items such as enhancements to the three existing crosswalks at the intersection, curb ramp replacement and/or installation at the intersection, and the installation of a curb, gutter and sidewalk along the frontage of property located at 3760 Haven Avenue adjacent to the intersection, in order to complete a missing link in the sidewalk network. Complete plans shall include all necessary requirements to construct the improvements in the public right-of-way and a detailed cost estimate. The plans shall be subject to review and approval of the Public Works Department prior to submittal to Caltrans. Upon obtaining approval from the Caltrans, the project sponsor shall construct the improvements prior to occupancy of the first building on the Independence Site. If the project sponsor has not obtained Caltrans approval but can demonstrate that it has worked diligently to pursue Caltrans approval to the satisfaction of the Public Works Director prior to occupancy of the first building, the project sponsor shall submit to the City a performance bond for 100 percent of the estimated costs plus a 30 percent contingency not to exceed \$125,000 (2010 dollars). The project sponsor shall continue to pursue approval and construction for a period of 5 years from the date of occupancy of the first building. If the project sponsor continues to work diligently to the satisfaction of the Public Works Director, but has not yet obtained approval to construct the improvement, then the project sponsor shall be relieved of responsibility to construct the improvement and the City of Menlo Park may use the money to either construct the improvement or for other traffic improvements in the City, such as adaptive signal timing.

(SU)

Mitigation Measure TR-1.1(F) on page 3.11-34 is revised to read:

*TR-1.1(F) Independence Drive/Constitution Drive intersection Improvements.* ~~For impacts related to the Independence Drive/Constitution Drive intersection, there would be less than five vehicles that would experience high delays (up to approximately 150 seconds). This impact could be mitigated by blocking access to Independence Drive from Constitution, and requiring vehicles to access Independence via Chrysler Drive, which would remove delays from this approach. However, due to the low number of vehicles experiencing high delays, re-circulating traffic for less than five vehicles would not be feasible, and these vehicles would find alternative routes on their own when conditions dictate. Additionally, traffic impact fees, and the transportation demand management program would serve as partial mitigation measures. Without the access restriction mitigation measure,~~

~~the impact remains significant and unavoidable. The project sponsor shall implement TDM measures and pay the Traffic Impact Fees as partial mitigation, per Mitigation Measure TR-1.1(H) and (I). (SU)~~

Mitigation Measure TR-1.1(G) on page 3.11-34 is revised to read:

*TR-1.1(G) Constitution Drive/Chrysler Drive intersection Improvements.* ~~This intersection is currently a stop controlled intersection for each of the approaches (four way stop). Signalization of the intersection plus modifications to the lane geometry would result in an acceptable LOS D at the intersection. The lane geometry modifications would involve restriping the southbound approach to include a dedicated left turn lane, and a shared through/right turn lane and restriping the eastbound approach from one shared left through/right lane to include two approach lanes (one shared through left and one shared through/right). This measure could require widening the current curb to curb distance and possibly obtaining additional right of way, but the impact would be less than significant. Prior to issuance of a building permit for the first building of the Independence Phase, the project sponsor shall submit complete plans to install a traffic signal at the intersection of Constitution Drive and Chrysler Drive, plus modifications to the lane geometry subject to review and approval of the Public Works Department. The lane geometry modifications shall include restriping the southbound approach to include a dedicated left-turn lane, and a shared through/right-turn lane and restriping the eastbound approach from one shared left-through/right lane to include two approach lanes (one shared through-left and one shared through/right). This measure could require widening the current curb to curb distance and possibly obtaining additional right-of way. Complete plans shall include all necessary requirements to construct the improvements, including but not limited to, grading and drainage improvements, utility relocations, tree protection requirements, driveway apron modifications for the adjacent properties, striping modifications, and a detailed cost estimate. The plans shall be subject to review and approval of the Public Works Department. Upon obtaining approval from the City of Menlo Park, the project sponsor shall construct the improvements prior to occupancy of the first building on the Independence Site. (LTS)~~

Mitigation Measure TR-1.1(H) on page 3.11-35 is revised to read:

*TR-1.1(H)* Prior to building permit issuance, the project sponsor shall pay the applicable Transportation Impact Fee (TIF), based on the type and size of the proposed land uses and the existing land uses to be replaced, to be used for various traffic improvement projects throughout the City. ~~While the fees paid would help improve traffic conditions by funding needed~~

~~transportation projects,~~ Based on preliminary estimates in 2010, the fee for each phase would be as follows:

- Independence (Hotel and Office): \$1,434,483;
- Constitution (Office): \$1,397,070.
- The fee is adjusted per the City's TIF Ordinance based on the construction cost index in the Engineering News Record. Pursuant to the TIF Ordinance, the fee is eligible for a credit for the construction of improvements associated with mitigations at the following intersections:
  - Marsh Road/Bohannon Drive;
  - Bayfront Expressway/Willow Road; and
  - Bayfront Expressway/Chrysler Drive.

~~They would not reduce the proposed project's impacts~~ would not be reduced to a less-than-significant level.

Mitigation Measure TR1.1(I) on page 3.11-35 is revised to read:

- T-1.1(I)* Upon occupancy of the first building of the proposed project, the ~~applicant project sponsor~~ shall implement a Transportation Demand Management (TDM) program consistent with the ~~preliminary TDM plan (Appendix J)~~ in the EIR. Any modifications to the specifics or phasing of the TDM measures shall be subject to review and approval of the Public Works Department City of Menlo Park and the City/County Association of Governments (C/CAG) of San Mateo County. The project sponsor shall submit annual reports describing the specific items that are being implemented and the success of the respective items in terms of reducing trips to the project. The TDM plan shall include a payment to the City, based on the City's estimated cost, to run two shuttles from the site to Caltrain (a minimum of three shuttle runs during both the AM and PM peak times as defined by the City). The shuttle may stop at other stops between the site and Caltrain. One shuttle would provide access to the Menlo Park Caltrain Station and one would provide access to the Redwood City Caltrain Station. A modification of the access points would need to be agreed to by both parties. If the City, at its full discretion, does not choose to provide the shuttle service, the project sponsor shall provide the service at its full cost including, but not limited to, expenses such as coordination among the City, shuttle providers, and business, maintenance of signs and stops, production of timetables and dissemination of information. While the effectiveness of particular TDM measures varies from development to development depending upon location and the

~~features of the surrounding transportation network, it is unlikely that the proposed TDM program would result in trip reductions substantial enough to mitigate traffic impacts to a less than significant level.~~

Mitigation Measure TR-1.1(J) on page 3.11-35 is revised to read:

*TR-1.1(J)* ~~Prior to building permit issuance, the project applicant shall pay a fee as a contribution toward adaptive signal timing improvements based on impacts to the following four intersections:~~

- ~~1. Willow Road/Newbridge Street;~~
- ~~2. Bayfront Expressway/University Avenue;~~
- ~~3. Bayfront Expressway/Haven Avenue; and~~
- ~~4. Marsh Road/US 101 NB Off Ramp.~~

Implement Mitigation Measures TR-1.1(A), TR-1.1(E) and TR-1CM.1(B).

Mitigation Measure TR-2.1(G) on page 3.11-40 is revised to read:

*TR-2.1(G)* ~~*Chilco Street between Constitution Drive and Bayfront Expressway.* There is no feasible mitigation measure to reduce this impact to less-than-significant levels, other than a reduction in traffic. The impact would be eliminated with a sixteen percent reduction of 16 percent. ~~An additional lane of travel would provide an increase in capacity but lack of sufficient right of way for the improvement does not permit this as a feasible measure. This mitigation measure would mitigate the impacts to the roadway segment; however, the mitigation is not feasible because there is a lack of sufficient available right of way to construct the improvements. Therefore, the impacts to the roadway segments would be significant and unavoidable. Implementation of Mitigation Measures TR-1.1(I) and TR-1CM.1(C) would reduce the impact to a less-than-significant level. (SULTS)~~~~

Mitigation Measure TR-3.1(C) on page 3.11-42 is revised to read:

*TR-3.1(C)* ~~*US 101 North of Marsh Road.* There is no feasible mitigation measure to reduce this impact to less than significant, other than a reduction in traffic. The impact would be eliminated with a sixteen percent reduction of 16 percent. ~~An additional travel lane would increase capacity, but adding a lane to the freeway is not a feasible mitigation measure. Adding an additional travel lane would increase capacity, but adding an additional lane to the freeway is not a feasible mitigation due to cost and because it is under the jurisdiction of another agency. Therefore, the impact is significant and unavoidable. Implementation of~~~~

Mitigation Measures TR-1.1(I) and TR-1CM.1(C) would reduce the impact to a less-than-significant level. (SULTS)

Mitigation Measure TR-1CM.1(A) on page 3.11-48 is revised to read:

*TR-1CM.1(A) Marsh Road/Bohannon Drive.*—A preliminary design has found that the addition of a westbound right turn lane of 350 feet would mitigate the impact and the addition of a right turn lane of 150 feet would alleviate some of the vehicle delay associated with this turning movement. The necessary right of way for improvements at either 150 feet or 350 feet appears to exist. The right of way is located within the City of Menlo Park, but the single family residences and driveways that front Marsh Road are located in the City of Redwood City. The 350 foot improvement would necessitate the removal of two heritage walnut trees and abuts approximately seven residences. The 150 foot improvement would necessitate the removal of one heritage walnut tree and abuts three residences, but only two driveways. Additionally, traffic impact fees and the Transportation Demand Management program, also would serve as partial mitigation measures. An option that is currently being implemented at other busy roadways in Menlo Park is the implementation of an adaptive signal timing program that would operate in real time, adjusting signal timing to accommodate changing traffic patterns. The timing programs adjust the split, offset, cycle lengths, and phase order of the signals using sensors to interpret characteristics of traffic approaching an intersection, and using mathematical and predictive algorithms, adapts the signal timings accordingly, optimizing their performance. The impact would remain significant and unavoidable with implementation of this mitigation measure due to potential tree impacts and the need for coordination with the City of Redwood City. Prior to issuance of a building permit for the first building of the Independence Phase, the project sponsor shall submit complete plans to construct a westbound right turn lane from Marsh Road to Florence Street subject to review and approval of the Public Works Department. The right turn lane shall be designed with a length of approximately 350 feet. Complete plans shall include all necessary requirements to construct the improvements in the public right-of-way, including but not limited to, grading and drainage improvements, utility relocations, signal relocations/modifications, tree protection requirements, driveway apron modifications for the adjacent single-family residences, striping modifications further east on Marsh Road, and a detailed cost estimate. Upon obtaining approval from the City of Menlo Park, the project sponsor shall construct the improvements prior to occupancy of the first building on the Independence Site. Construction of this improvement shall count as a credit toward payment

of the Transportation Impact Fee (TIF) pursuant to the TIF Ordinance. (SULTS)

Mitigation Measure TR-1CM.1(B) on page 3.11-50 is revised to read:

*TR-1CM.1(B) Bayfront Expressway/University Avenue.* ~~For this intersection, there is no feasible mitigation within the current right of way that would significantly reduce delay. An option that is currently being implemented at other busy intersections in Menlo Park is the implementation of adaptive signal timing. Any potential mitigation measure would require coordination with and approval by Caltrans. Adaptive signal timing, traffic impact fees, and the transportation demand management program would also serve as partial mitigation measures. The specified improvements to the intersection would reduce delays and improve their operation, but would not reduce cumulative impacts to less than significant levels under Cumulative plus Project conditions resulting in the project's contribution to a significant and unavoidable impact at those intersections. Prior to building permit issuance of the first building permit of the Constitution Phase, the project sponsor shall pay a fee of \$125,000 as a contribution toward adaptive signal timing improvements based on impacts to the intersection of Bayfront Expressway and University Avenue. If Caltrans does not approve the use of adaptive signal timing at this intersection, the City of Menlo Park may use the money for other transportation improvements in the City.~~ (SU)

Mitigation Measure TR-1CM.1(C) on page 3.11-50 is revised to read:

*TR-1CM.1(C) Marsh Road/US 101 NB Off-Ramp.* ~~For this intersection, there is no feasible mitigation within the current right-of-way that would significantly reduce delay of the ramp. This freeway interchange was recently modified and additional widening or construction is not envisioned at this time. Even with signal timing improvements, potential impacts at this intersection would not be reduced to a less than significant level. Adaptive signal timing, traffic impact fees, and the transportation demand management program would also serve as partial mitigation measures. Any potential mitigation measure would require coordination with Caltrans. The specified improvements to the intersection would reduce delays and improve their operation, but would not reduce cumulative impacts to less than significant levels under Cumulative plus Project conditions resulting in the project's contribution to a significant and unavoidable impact at those intersections. Upon completion of project build out in 2018 or later, total net new daily trips shall not exceed 9,242 trips. When calculating net new trips, a credit of 2,019 trips per day shall be used for the pre-project existing uses at the site.~~

After project build out, the City of Menlo Park shall perform annual traffic counts with funds provided by the project sponsor. Counts shall be taken at driveways of the project site. Daily traffic counts shall be the average of at least three weekday counts (Tuesday, Wednesday or Thursday) taken over a three week period. Counts should be performed between mid-February and late May (before the end of school year) or between Labor Day and Thanksgiving Day. Counts should avoid days immediately before or after holidays or long weekends, and should not be performed on days of inclement weather conditions. Based upon the traffic counts, if the allowable number of net new trips is exceeded, the project sponsor shall prepare a plan of additional transportation demand management measures necessary to bring the number of trips into compliance with the trip limit within 90 days of being notified by the City and shall implement said plan within 180 days. If a second, consecutive annual traffic count shows that actual trips exceed the trip limitation, the project sponsor or property owner shall pay a penalty of \$100 (adjusted annually starting in 2010 per the Consumer Price Index for All Urban Consumers in the San Francisco- Oakland-San Jose area) per excess daily trip. Revenues from the payment of penalties under this provision are due to the City within 30 days of issuance of the invoice and the City shall use the money for programs designed to reduce trips or traffic congestion within the City of Menlo Park. Additional monetary penalties shall apply for each consecutive year the trip limit is exceeded. If a subsequent annual trip count is below the annual limit, no annual penalty shall apply until at least two consecutive annual counts exceed the trip limit.(SULTS)

Mitigation Measure TR-1CM.1(D) on page 3.11-51 is revised to read:

*TR-1CM.1(D) Marsh Road/Middlefield Road (Atherton).* ~~In order to improve the operating condition for the PM peak hour to an acceptable level, a potential mitigation measure would involve adding a second southbound left turn only lane. On Middlefield Road, this measure would also require widening Middlefield Road on either side of Marsh Road. This measure would also require widening the east leg of Marsh Road to provide two receiving lanes, in order to accept the two southbound left turn lanes from Middlefield Road. This measure may require obtaining additional right-of way and coordination with and approval by the Town of Atherton. The mitigation measure described would improve average delays and reduce the potential impacts to a less than significant level. However, the implementation of this mitigation measure is under the jurisdiction of the City of Atherton, and therefore, the impact to this intersection would not be reduced to a less than significant level. The transportation demand management program would serve as a partial mitigation measure. The~~

~~specified improvements to the intersection would reduce delays and improve their operation, but would not reduce cumulative impacts to less than significant levels under Cumulative plus Project conditions resulting in the project's contribution to a significant and unavoidable impact at those intersections. Upon receipt of the first building permit for the Independence Phase of the project, the project owner shall make funds available to the Town of Atherton for qualifying traffic mitigations at the intersection of Marsh Road and Middlefield Road. Qualifying mitigations measures will include: the addition of a southbound left turn lane from Middlefield Road on to Marsh Road, or similar traffic mitigations that reduce delay at the intersection to less than significant levels as defined by the project EIR, or other improvements that substantially improve the level of service as determined by the City of Menlo Park. The amount of funds shall be a fair share contribution equal to 25.4% of the current estimated project costs of \$694,500 plus escalation costs (\$176,400 plus escalation). Escalation shall be calculated based on the Engineering News Record Construction Cost Index for the San Francisco Bay Area in 2010 and increase to the midpoint of construction. Funds will be payable to the Town of Atherton upon substantial completion of construction of the intersection improvements. Funds will remain available to the Town of Atherton for a seven year period, starting from when the funds first become available (issuance of building permits for the Independence Phase of the project).~~ (SU)

Mitigation Measure TR-2CM on page 3.11-54 is revised to read:

MITIGATION MEASURES. As previously discussed, Mitigation Measures TR-2.1(A) through (H) would mitigate the impacts to the roadway segments shown in Table 3.11-12; however, the mitigations, with the exception of TR2.1(G), are not feasible because there is a lack of sufficient available right-of-way to construct the improvements. Therefore, impacts to the roadway segments under cumulative conditions would be significant and unavoidable. (SU)

Mitigation Measure TR-3CM on page 3.11-54 is revised to read:

MITIGATION MEASURES. As previously discussed, Mitigation Measures TR-3.1(A) through (C) would mitigate the impacts to the routes of regional significance shown in Table 3.11-13; however, the mitigations, with the exception of TR2.1(C), are not feasible because of the costs associated with constructing additional freeway lanes. Therefore, impacts to the routes of regional significance under cumulative conditions would be significant and unavoidable. (SU)

### Section 3.12, Utilities and Service Systems

The water and wastewater analysis has been updated based on new baseline water assumptions that were developed by the project sponsor. A memorandum prepared by KEMA consultants, Attachment A to the Environ Memorandum, is included in Appendix D at the end of this Final EIR.

The fourth paragraph on page 3.12-1 is revised to read:

The primary resources used for this analysis include the Draft Water Supply Assessment for the Proposed Menlo Gateway Project, PBS&J (June 2009); City of Menlo Park Urban Water Management Plan (UWMP), adopted December 2005; the SFPUC UWMP (December 2005), and the SFPUC Water Supply Improvement Program, as well as communication with service and utility providers. In addition, since the release of the Draft EIR, the project sponsor has worked to refine the project's proposed water efficiency features. As a result of this effort, some baseline water demand estimates have been revised and water reduction strategies have been examined and modified where necessary. The overall water usage estimates are now more conservative, as is detailed in the KEMA Memorandum that is attached to the Environ Memorandum (Appendix D in the Final EIR). Because the revised water usage estimates are more conservative, this section is being updated to use the water usage information in the Environ Memorandum, instead of the estimates in the WSA.

Table 3.12-2 on page 3.12-5 is revised to read:

	<b>2010</b>	<b>2015</b>	<b>2020</b>	<b>2025</b>	<b>2030</b>
Wholesale (BAWSCA) Supply Assurance <sup>1</sup>	184.0	184.0	<del>197.6</del> <u>184.0</u>	<del>203.6</del> <u>184.0</u>	<del>209.4</del> <u>184.0</u>
<u>Supply Assurance Allocation</u> <sup>2</sup>	<u>4.46</u>	<u>4.46</u>	<u>4.46</u>	<u>4.46</u>	<u>4.46</u>
MPMWD <u>Annual Supply Assurance Allocation Request</u> <sup>3</sup>	4.23	4.31	4.41	4.45	<del>4.46</del> <u>4.54</u> <sup>4</sup>

*Source:* PBSJ, *Draft Water Supply Assessment for the Menlo Gateway Project*, June 2009. Appendix H.

*Notes:*

- The 2009 MSA is undergoing region-wide approval; was approved in October 2009 by the respective BAWSCA members; the 2009 MSA allocates wholesale supplies up to 184.0 mgd to 2018 during an Interim Supply Limitation imposed by the SFPUC – the 2009 MSA contract term is 25 years extending to 2034; therefore, for conservative planning purposes the Tier One supplies to BAWSCA shown are held constant to 184 mgd through 2015/2034.
- Menlo Park's Supply Assurance Allocation is a daily supply guarantee from SFPUC as established in the 2009 MSA.
- Based on letter dated June 1, 2005 from SFPUC to Menlo Park. Assumes increased supplies over time through implementation of SFPUC's Water System Improvement Plan or increased annual average diversions from the Tuolumne River under CCSF existing water rights.
- In 2030 4.54 mgd exceeds the Supply Assurance Allocation of 4.46 mgd. The 2009 MSA may not allow for this to occur. Year 2018 is a Milestone year when SFPUC and BAWSCA will re-evaluate the RWS supply availability and planning reliability.

The a sentence to the end of the first paragraph under the Public Utilities Analysis Methodology on page 3.12-12:

... In addition, the Environ Memorandum provided refined water usage estimates (Appendix D in the Final EIR).

The discussion under Demand Analysis on page 3.12-12 is revised to read:

**Demand Analysis.** Water demand for the project is based upon the WSA prepared for the EIR and the updated information provided in the Environ Memorandum. ~~According to the WSA,~~ ~~€~~The expected water use of the prospective development was determined by analyzing similar land uses and assigning a demand factor for each use. The demand analysis analyzes water use at the project-level under three different scenarios: (1) the Menlo Gateway development project; (2) General Plan Amendment and Zoning Ordinance Amendment (GPA/ZOA), which assumes the project area could be developed with a 100 percent Research and Development (R&D) uses; and (3) a split between Office (63 percent) and R&D uses (37 percent), referred to as the “Split Option.” Since release of the Draft EIR the project sponsor has revised some of the baseline water demand estimates. The overall water usage estimates are now more conservative, as is detailed in the KEMA Memorandum attached to the Environ Memorandum (Appendix D in the Final EIR). Therefore, the scenarios previously analyzed have slightly revised the assumptions for development of the “office-flex” component of the project to better reflect water demand associated with the project. The hotel, health club, restaurant and retail uses have remained the same, only the 694,669 s.f. of proposed “office flex” space has been modified.

This new demand analysis evaluates water use at the project-level under three different scenarios, all of which consider the maximum floor area development under the GPA/ZOA: (1) 100 percent Office uses in the office flex space; (2) 100 percent Research and Development (R&D) uses in the office flex space; and (3) a split between Office (90 percent) and R&D uses (10 percent), referred to as the “Split Option.” The 100 percent Office use scenario essentially captures the water demand associated with the Menlo Gateway development application. ~~The Split Option was analyzed to provide the decision makers with information that indicates how much R&D uses could be developed before significant water impacts would occur. Development under the 100 percent R&D scenario assumes the worst case or highest demand for water. Buildout in the project area is expected by 2015 2017 at the earliest.~~

The Split Option was originally analyzed to provide the decision makers with information that indicates how much R&D uses could be developed before significant water impacts would occur. Based on the new baseline information provided by KEMA, the split between R&D and Office uses needed to be modified to reduce the amount of R&D uses that could be developed. To promote responsible water usage, the analysis evaluates if water demand exceeds 10 percent of the City’s remaining water allocation.

The demand factors were formulated based on data from current and historical uses at similar facilities in ~~Northern California~~ the western U.S. Development in the project area would comply with City of Menlo Park General Plan Policies I-H-2, I-H-3, I-H-7, and Municipal Code Chapter 12.44, which requires the installation of low-water use plumbing fixtures and landscaping in new development. In addition, the project is proposing water-conserving features. It is estimated that these features could reduce demand by approximately 25 percent. ~~Compliance with these requirements could reduce demands by approximately 40 percent.~~<sup>38</sup>

The paragraph under Project Evaluation on page 3.12-13 is revised to read:

The following analysis discusses the potential impacts under the ~~GPA/ZOA, the proposed Menlo Gateway project~~ 100 percent Office scenario, the 100 percent R&D scenario, as well as the Split Option.

The second paragraph and Table 3.12-3 under Impact UT-1 on page 3.12-14 are revised to read:

Table 3.12-3 shows estimated existing annual average water demand in the project area and estimated annual average water demand for the ~~proposed Menlo Gateway project~~ 100 percent Office scenario, the maximum GPA/ZOA 100 percent R&D scenario, and the Split Option that allows R&D and office uses. To reduce water demand, the project sponsor ~~of the Menlo Gateway project~~ is proposing to install low-flow fixtures, appliances and hardware to reduce water consumption per the City's General Plan Policy I-H-2. All landscaping would be required to adhere to the City's Water Efficient Landscaping Ordinance.

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<sup>38</sup> ~~Draft Water Supply Assessment for the Menlo Gateway Project, June 2009. Appendix H.~~

<b>Table 3.12-3</b>				
<b>Summary of Existing and Estimated Water Demands</b>				
<b>Specific Development Proposed at the Independence and Constitution sites</b>				
	<b>Existing Average Daily Demand (mgd)</b>	<b>Estimated Average Daily Demand (mgd)</b>	<b>Net New Demand (mgd)</b>	<b>Percentage (%) Increase<sup>1</sup></b>
<b><del>Proposed Menlo Gateway Project</del> <u>100 Percent Office Scenario<sup>2</sup></u></b>				
Independence Site	0.013	0.05 <u>168</u>	0.03 <u>855</u>	<u>392</u> <u>523</u> %
Constitution Site	0.012	0.04 <u>425</u>	0.00 <u>213</u>	<u>56</u> <u>208</u> %
<b>TOTAL</b>	0.025	0.06 <u>593</u>	0.04 <u>068</u>	<u>260</u> <u>372</u> %
<b><del>Maximum GPA/ZOA<sup>3</sup></del> <u>100 Percent R&amp;D Scenario<sup>3</sup> (worst-case)</u></b>				
Combined Sites <sup>23</sup>	0.025	0.161	0.14 <u>037</u>	644%
<b><del>Split Option<sup>34</sup> (Office 63-90% and R&amp;D 37-10%)</del></b>				
Combined Sites <sup>34</sup>	0.025	0.1 <u>00</u>	0.07 <u>76</u>	40 <u>98</u> %
<i>Source:</i> Draft Water Supply Assessment for the Menlo Gateway Project, Tables 3-1 and 3-2. P. PBSJ, June 2009. Appendix H.				
<i>Notes:</i>				
1. Based on increase of average daily demand with project over existing demand.				
<u>2.</u> Assumes 100% Office use in the Office Flex Space of 694,669 s.f.				
<u>23.</u> Assumes 100% R&D use in the Office Flex Space of 694,669 s.f.				
<u>34.</u> Assumes <del>6390%</del> Office and <del>3710%</del> R&D use in the Office Flex Space of 694,669 s.f.				

New language that explains the scenarios analyzed is included on page 3.12-14 after Table 3.12-3:

The WSA assumed that the proposed Menlo Gateway project would use water supplied through surface water rights and entitlements from the Tuolumne River, the Peninsula and Alameda Systems. These supplies would be delivered through existing MPMWD supply facilities and new water infrastructure constructed for delivery into the project area per the requirements of the City of Menlo Park. Each development scenario is discussed below.

The discussion of the proposed Menlo Gateway Project on page 3.12-14 is revised as follows:

~~**Proposed Menlo Gateway Project**~~**100 percent Office scenario.** ~~The WSA assumed that the proposed Menlo Gateway project would use water supplied through surface water rights and entitlements from the Tuolumne River, the Peninsula and Alameda Systems. These supplies would be delivered through existing MPMWD supply facilities and new water infrastructure constructed for delivery into the project area per the requirements of the City of Menlo Park. The proposed project~~100 percent Office scenario would potentially use 73 acre-feet per year or an average demand of 65,486-93,102 gallons per day (gpd) (0.07093 mgd). The existing demand is approximately 28 acre-ft per year or an average demand of is 24,632 gpd (0.03025 mgd). The net increase in demand for the proposed project over existing conditions is approximately 46 acre-ft per year or an average demand of 40,85468,470 gpd (0.04068 mgd), which includes irrigation demands of 6.8 acre-ft per year or an annual average of

approximately ~~6,100-3,864~~ gpd (~~0.006139~~ mgd).<sup>44</sup> Irrigation demands were calculated using a demand factor of ~~one acre-foot/acre/0.6 feet per square foot per year~~.

As shown in Table 3.12-3, ~~the proposed project this scenario~~ would increase average daily water demand over existing uses. MPMWD currently uses approximately 82.5 percent of its allocation from SFPUC. Of the 0.77 mgd not utilized out of SFPUC allocations, ~~the proposed project this scenario~~ would require approximately ~~0.04068~~ mgd or about ~~5.0-8.8~~ percent of the currently unused water resources that MPMWD has from its SFPUC contract.

~~The WSA concluded~~ Under normal year conditions, ~~that~~ MPMWD would have sufficient capacity to meet the water demands of the ~~proposed project 100 percent Office scenario~~ without compromising existing demands. As previously stated, SFPUC can reliably deliver the purchase request submitted by the BAWSCA member agencies (assumes implementation of the SFPUC's Water System Improvement Plan or after year 2018, increased diversions from the Tuolumne River under CCSF existing water rights).

Water demand in Menlo Park, with the additional demand generated by the ~~proposed project 100 percent Office scenario~~, is less than MPMWD's purchase requests or its SAA and remains less than the significance threshold. Therefore, in normal years, MPMWD would have sufficient water supply to serve the ~~proposed project 100 percent Office scenario~~ and the impact is less than significant. ...

The discussion under the Split Option starting on page 3.12-15 is revised to read:

The Split Option scenario (Office ~~6390~~ percent and R&D ~~3710~~ percent) would potentially ~~use 115 acre-feet per year or have~~ an average demand of ~~102,231~~ 100,481 gpd (0.100 mgd). With ~~existing demand of approximately 28 acre-feet per year or~~ an average demand of ~~24,632~~ gpd (~~0.03025~~ mgd), the net increase in demand for this scenario would be approximately ~~87 acre-feet per year or an average demand of 77,598~~ 75,849 gpd (~~0.0776~~ mgd), including the same irrigation demands as the previous scenarios (annual average of approximately ~~6,100-3,864~~ gpd). Irrigation demands were calculated using a demand factor of ~~one acre-foot/acre/year-0.6 feet per square foot per year~~.<sup>43</sup>

As shown in Table 3.12-3, the Split Option would increase average daily water demand over existing uses. Of the remaining supply not utilized out of the SFPUC allocations, this scenario would require approximately ~~0.0776~~ mgd, or about ~~10.0-9.9~~ percent of the currently unused water resources that MPMWD has from its SFPUC contract.

~~The WSA concluded,~~ Under normal year conditions, MPMWD would have sufficient capacity to meet the water demands of the Split Option scenario without compromising existing demands. ...

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<sup>44</sup> *Draft Water Supply Assessment for the Independence/Constitution General Plan Amendment and Rezoning Project, Tables 3-1 and 3-2. PBSJ, June 2009. Appendix H.*

The discussion, beginning with the second paragraph under the Maximum GPA/ZOA on page 3.12-16 is revised to read:

**Maximum GPA/ZOA 100 Percent Research & Development. ...**

~~The Maximum GPA/ZOA~~ This scenario assumes 100 percent of office flex space would be developed with R&D (wet lab), which would have an average water demand of approximately 181 acre feet per year or an average demand of 161,251-161,188 gpd (0.1601 mgd). The existing demand, as noted above, is approximately 28 acre feet per year or an average demand of 24,632 gpd (0.03025 mgd). The net increase in demand under this scenario is approximately 153 acre feet per year or an average demand of 136,619-136,556 gpd (0.14037 mgd), which includes irrigation demands of 6.8 acre feet per year or an annual average of approximately 6,100 gpd (0.0061 mgd).<sup>45</sup> Irrigation demands were calculated using a demand factor of ~~one acre foot/acre/0.6 feet per square foot per year~~.<sup>46</sup>

As shown in Table 3.12-3, the ~~Maximum GPA/ZOA~~ 100 percent R&D scenario would substantially increase average daily water demand over existing uses and over the ~~Menlo Gateway project~~ 100 percent Office scenario. MPMWD currently uses approximately 82.5 percent of its allocation from SFPUC. Of the remaining supply not utilized out of the SFPUC allocations, the ~~Maximum GPA/ZOA~~ 100 percent R&D scenario would require approximately ~~0.14~~ 0.137 mgd or about ~~18.0~~ 17.8 percent of the currently unused water supplies that MPMWD has from its SFPUC contract.

The WSA concluded under normal year conditions that MPMWD would have sufficient capacity to meet the water demands of the ~~Maximum GPA/ZOA~~ 100 percent R&D scenario without compromising existing demands. ...

However, even though water demand in Menlo Park, with the additional demand generated by the ~~Maximum GPA/ZOA~~ 100 percent R&D scenario, is less than MPMWD's purchase requests and its SAA, the ~~Maximum GPA/ZOA~~ 100 percent R&D scenario would exceed the City's significance threshold of 10 percent of MPMWD's remaining water allocation and could result in insufficient water supplies. Therefore, a significant impact would occur.

Mitigation Measure UT-1.1 on page 3.12-17 is revised to read:

MITIGATION MEASURE. Mitigation Measure UT-1.1, to be implemented by the project sponsor, lists a water conservation method that could further reduce the ~~Maximum GPA/ZOA~~ 100 percent R&D scenario impact on water demand. Demands associated with the ~~Maximum GPA/ZOA~~ 100 percent R&D scenario were estimated at ~~0.140~~ 0.137 mgd. Implementation of Mitigation Measure UT-1.1 would have to successfully reduce this demand by approximately half in order to remain below the City's significance threshold ~~in Criterion 1~~ of 10 percent of MPMWD's remaining water allocation. ~~Because the GPA/ZOA would allow for the maximum amount of R&D uses, no amount of~~ While more efficient cooling towers and low-flow toilets, faucets, and showers would be installed in the proposed buildings regardless of the use in the

office flex space, without knowing the specific R&D uses, it is not possible at this time to determine what water savings measures could reduce demands associated with this scenario to below the City's significance threshold without drastically changing the facilities or FAR allowed under the proposed general plan and zoning amendments. Impacts related to water supply, upon successful implementation of the following mitigation measures would be reduced; however, the impacts would still remain significant and unavoidable. (SU)

*UT-1.1 Water Conservation Methods.* The project sponsor shall design and install an irrigation system with hook ups to allow for connections to a municipal reclaimed water system in the event that such a system becomes available in the future. ~~implement the following water conservation methods. These methods could include, but not be limited to, the following:~~

- ~~• On site rain gardens, cisterns, stormwater collection systems and other low impact development (LID) practices shall be installed.~~
- ~~• A dual recycled water system shall be installed, in consultation with the SFPUC, as part of project design, and to be used for toilets, irrigation of outdoor landscaping and other non-potable water supply requirements.~~

The first paragraph and table 3.12-4 under Impact UT-2 on page 3.12-18 are revised to read:

The potential water demands at the project area, depending on specific onsite development, would range from ~~0.04~~ 0.068 mgd to ~~0.140~~ 0.137 mgd above existing conditions. As shown in Table 3.12-4, water demands in MPMWD service area are expected to increase over the next 20 years and the demands at the project area would contribute to service area increases. The WSA, based on the ABAG growth projections, estimated annual increases of approximately 3 percent.

<b>Table 3.12-4 Citywide Demand Projections (mgd)</b>					
<b>Demand (mgd)</b>	<b>2010</b>	<b>2015<sup>3</sup></b>	<b>2020</b>	<b>2025</b>	<b>2030</b>
Supply Assurance Allocation <sup>1</sup>	4.46	4.46	4.46	4.46	4.46
<u>MPMWD Annual Supply Request<sup>1,2</sup></u>	4.23	4.31	4.41	4.45	4.54 <sup>3</sup>
<u>Projected Demands plus Project Demands.<sup>2,3 4,5,6</sup></u> (No <u>Regulated Conservation</u> )	3.97	4.00	4.03	4.07	4.10
<p><i>Source: Draft Water Supply Assessment for the Menlo Gateway Project, PBSJ, June 2009. Appendix H.</i></p> <p><i>Notes:</i></p> <p><u>1. Menlo Park's Supply Assurance Allocation is a daily supply guarantee from SFPUC as established in the 2009 MSA.</u></p> <p><u>2. Values from letter from SFPUC to Menlo Park dated June 1, 2005. Consistent with values from BAWSCA Annual Survey FY 2006-07 Table II B. Assumes increased supplies over time through implementation of SFPUC's Water System Improvement Plan or increased annual average diversions from the Tuolumne River under CCSF existing water rights.</u></p> <p><u>3. In 2030 4.54 mgd exceeds the Supply Assurance Allocation of 4.46 mgd. The 2009 MSA may not allow for this to occur. Year 2018 is a Milestone year when SFPUC and BAWSCA will re-evaluate the RWS supply availability and planning reliability.</u></p> <p><u>4. Based on ABAG growth rates for population (0.554 %) and jobs (0.35%) from 2000 to 2030 plus system losses of 7%</u></p> <p><u>5. Assumes full build-out of the proposed project, the GPA/ZOA 100% office or the Split Option by 2015 but not 100% R&amp;D development due to the impacts associated with this scenario. Demand based on Tables 3-1 and 3-2 from the Draft Water Supply Assessment for the Menlo Gateway Project, PBS&amp;J, June 2009. Appendix H.</u></p> <p><u>6. Citywide water demand is assumed to occur at a linear rate over the next 20 years to allow for phasing in of annual growth similar to ABAG projections and to account for phased occupancy of development projects.</u></p>					

The last sentence in the first paragraph under Impact UT-3 and Table 3.12-5 on page 3.12-19 are revised to read:

...Under the GPA/ZOA, an estimated daily flow of 0.1051 mgd would result, as shown in Table 3.12-6.

<b>Table 3.12-5</b> <b>Menlo Gateway Project</b> <b>Estimated Wastewater Generation</b>			
Use	Square Footage/Rooms	Generation Rate (gpd/unit)	Estimated Average Daily Flow
Hotel/Lodging	171,563 s.f./230 rooms	150 gpd/room <sup>1</sup>	34,500 gpd
Restaurant	4,245	300 gpd/1000 s.f. <sup>1</sup>	1,273 gpd
Health Club	68,519	300 gpd/1000 s.f. <sup>1</sup>	20,555 gpd
Office/R&D <sup>3</sup>	694,669	0.06 gpd/s.f. <sup>2</sup>	41,680 gpd
Retail/Community Facilities	7,420 <sup>4</sup>	0.06 gpd/s.f.	445 gpd
<b>Total</b>	<b>946,416 s.f.</b>	—	<b>0.098 mgd<sup>4</sup></b>

*Source: PBS&J, 2009.*

*Notes:*

1. Based on information from the City of Oakland Sewer Design Guidelines, 2004.
2. Based on generation rates provided in the 1300 El Camino Real Project DEIR, March 2009.
3. ~~No differentiation was made between office and R&D uses.~~
4. ~~The retail uses would be included in the total amount of office space so the estimated amount of wastewater is a conservative estimate for the purposes of this EIR.~~

Table 3.12-6 on page 3.12-20 is revised to read:

<b>Table 3.12-6</b> <b>GPA/ZOA</b> <b>Estimated Wastewater Generation</b>			
Use	Square Footage/Rooms	Generation Rate (gpd/unit)	Estimated Average Daily Flow
Hotel/Lodging	173,667 sf/230 rooms	131 gpd/room <sup>3</sup>	30,176 gpd
Restaurant	6,947	300 gpd/1000 s.f. <sup>1</sup>	2,084 gpd
Health Club	69,467	300 gpd/1000 s.f. <sup>1</sup>	20,842 gpd
Office/R&D	694,669	<del>0.06</del> <u>0.14</u> gpd/s.f. <sup>2,3</sup>	<del>41,684</del> <u>96,906</u> gpd
Retail/Community Facilities	10,420	0.06 gpd/s.f.	625 gpd
<b>Total</b>	<b>955,170 s.f.</b>	—	<del>10 mgd</del> <u>150,633 gpd</u> <u>(0.151 mgd)</u>

*Source: PBS&J, 2009.*

*Notes:*

1. In lieu of no City generation rates, information from the City of Oakland Sewer Design Guidelines, 2004 was referenced.
2. ~~Based on generation rates provided in the 1300 El Camino Real Project DEIR, March 2009.~~ To be more conservative 100% R&D is assumed.
3. ~~No differentiation was made between office and R&D uses because there is no generation rate specific to wet labs.~~ Design generation rates are from the KEMA memorandum (see Appendix D).

The third sentence under Table 3.12-6 is revised to read:

Under the ~~Menlo Gateway~~ GPA/ZOA project, operations in the project area would contribute a total of approximately ~~0.098~~ 0.151 mgd to the WBSD, which is about ~~1625~~ percent of remaining, currently unused entitlements that WBSD has with SBSA.

The Impact statement UT-1CM on page 3.12-23 is revised to read:

***Impact UT-1CM: The proposed project (which includes the 100 Office scenario and the Split Option), in combination with other development within the City of Menlo Park, could have insufficient water supplies available to serve the project from existing entitlements under ~~normal~~, dry and multiple dry years. Therefore, this is a significant and unavoidable cumulative impact. (SU)***

The last sentence in the first partial paragraph on page 3.12-24 is revised to read:

...Water efficiency fixtures and conservation efforts that are part of the proposed project would help to ensure that its contribution to the total City water demand remains less than cumulatively considerable.

The first and second sentences in the first complete paragraph on page 3.12-24 are revised to read:

The MPMWD, based on the ABAG growth projections, can anticipate an increase in demand of 0.13 mgd in normal years between 2010 and 2030, as shown in Table 3.12-~~47~~. However, the 2004 Demand Study assumed a broader range of growth demands would occur between MPMWD's Annual Supply Request of 4.23 mgd in 2010 and 4.54 mgd in 2030, which equates to 0.31 mgd. ...

The second full paragraph on page 3.12-24 is revised to read:

~~At full buildout of the proposed project in 2015, w~~Water demand in the project area is estimated to increase over existing conditions by ~~0.04~~ 0.068 mgd (proposed ~~Menlo Gateway project~~ 100 percent Office) to ~~0.1400~~ mgd (~~maximum GPA/ZOA~~ Split Option). ~~The Split Option scenario would increase demand by approximately 0.077 mgd. The proposed project 100 percent Office scenario represents 1.6 percent of anticipated demands in MPMWD's service area. Similarly, if either the Split Option of the maximum GPA/ZOA scenario are implemented, this would represent 2.0 percent and 3.4 percent, respectively, of MPWMD's anticipated demands. The Split Option would represent 2.3 percent of MPWMD's anticipated demands. The 100 percent R&D scenario would result in the greatest increase in water demand compared to the other two scenarios.~~

Table 3.12-9 on page 3.12-25 is revised to read:

<b>Table 3.12-9</b>										
<b>Water Supply and Demand - Comparison for Normal, Critical Dry, and Multiple Dry Years</b>										
	Normal Year		One Critical		Multiple Dry Year Event					
	Purchase Request		Dry Year		Year 1		Year 2		Year 3	
	mgd	%	mgd	%	mgd	%	mgd	%	mgd	%
<b>2010</b>										
SFPUC/BAWSCA Allocation <sup>1</sup>	184.0	100	162.8	88.5	162.8	88.5	141.5	76.9	141.5	76.9
Menlo Park Supply Request Allocation <sup>2</sup>	4.23	100	3.69	87.2	3.69	87.2	3.21	75.8	3.21	75.8
Menlo Park Demand <sup>3</sup>	3.97		3.97		3.97		3.97		3.97	
Difference	<b>0.26</b>	93.85	-0.28	-7.6	-0.28	-7.6	-0.76	-23.8	-0.76	-23.8
<b>2015</b>										
SFPUC/BAWSCA Allocation <sup>1</sup>	184.0	100	162.8	88.5	162.8	88.5	141.5	76.9	141.5	76.9
Menlo Park Supply Request Allocation <sup>2</sup>	4.31	100	3.76	87.2	3.76	87.2	3.27	75.8	3.27	75.8
Menlo Park Demand <sup>3</sup>	4.00		4.00		4.00		4.00		4.00	
Difference	<b>0.31</b>	92.81	-0.24	-6.4	-0.24	-6.4	-0.73	-22.4	-0.73	-22.4
<b>2020</b>										
SFPUC/BAWSCA Allocation <sup>1</sup>	184.0	100	162.8	88.5	162.8	88.5	141.5	76.9	141.5	76.9
Menlo Park Supply Request Allocation <sup>2</sup>	4.41	100	3.85	87.2	3.85	87.2	3.34	75.8	3.34	75.8
Menlo Park Demand <sup>3</sup>	4.03		4.03		4.03		4.03		4.03	
Difference	<b>0.38</b>	91.38	-0.18	-4.8	-0.18	-4.8	-0.69	-20.6	-0.69	-20.6
<b>2025</b>										
SFPUC/BAWSCA Allocation <sup>1</sup>	184.0	100	162.8	88.5	162.8	88.5	141.5	76.9	141.5	76.9
Menlo Park Supply Request Allocation <sup>2</sup>	4.45	100	3.88	87.2	3.88	87.2	3.37	75.8	3.37	75.8
Menlo Park Demand <sup>3</sup>	4.07		4.07		4.07		4.07		4.07	
Difference	<b>0.39</b>	91.26	-0.19	-4.7	-0.19	-4.7	-0.70	-20.4	-0.70	-20.4
<b>2030</b>										
SFPUC/BAWSCA Allocation <sup>1</sup>	184.0	100	162.8	88.5	162.8	88.5	141.5	76.9	141.5	76.9
Menlo Park Supply Request Allocation <sup>2</sup>	4.54 <sup>4</sup>	100	3.96	87.2	3.96	87.2	3.44	75.8	3.44	75.8
Menlo Park Demand <sup>3</sup>	4.10	0	4.10		4.10		4.10		4.10	
Difference	<b>0.44</b>	90.31	-0.14	-3.6	-0.14	-3.6	-0.66	-19.1	-0.66	-19.1

Source: Draft Water Supply Assessment for the Menlo Gateway Project, PBSJ, June 2009. Appendix H.

Notes:

1. BAWSCA Allocation based on the 2009 MSA was approved by all parties in interest in October 2009. Pursuant to the 2009 MSA, BAWSCA and its member agencies will receive 184 mgd. After 2018, SFPUC could obtain additional supplies from the Tuolumne River watershed; however, at this time these additional supplies are uncertain. Therefore, in order to meet potential growth now and beyond 2018 to 2030, BAWSCA and its member agencies must optimize conservation measures and pursue local water supply sources, i.e., groundwater, stormwater and recycled water. The MSA determined that the BAWSCA members are responsible for obtaining 25 mgd collectively.
2. Menlo Park Supply Request based on letter dated June 1, 2005 from SFPUC to Menlo Park ~~which~~. Assumes increased supplies over time through implementation of SFPUC's Water System Improvement Plan or increased annual average diversions from the Tuolumne River under CCSE existing water rights. Also demonstrates Menlo Park dry year reductions as 87.2% (10% system-wide reduction) and reductions 75.8% (20% system-wide reduction).
3. Menlo Park 2005 Urban Water Management Plan demand determined by estimated growth projections, ~~from~~ see Table 1-3, Base Forecasts of Accounts and Water Use, 2005, 2015, 2025, which are calculated by a constant average growth rate by account.
4. Exceeds Supply Assurance Allocation of 4.46 mgd which not be allowed under the 2009 MSA. Year 2018 is a Milestone year when SFPUC and BAWSCA will re-evaluate the RWS supply availability and planning reliability.

The discussion on page 3.12-27 starting with the second paragraph is amended to include the following information. Mitigation Measures UT-1CM.1, UT-1CM.2, and UT-1CM.3 are removed because it is something that the city and/or the project would already be required to comply with.

Therefore, MPMWD potentially would not have sufficient water supplies available to serve existing and planned uses, including the ~~proposed development (Menlo Gateway project, Split Option, or GPA/ZOA)~~ 100 Office scenario and the Split Option scenario in the project area during ~~normal~~, critical dry and multiple dry years. Therefore, the project's contribution to the under any of the scenarios listed above combined with current and planned future uses, would cause an increase in water demand that would be considerable, resulting in a significant cumulative impact. There are no mitigation measures available to reduce the severity of the impact beyond what is currently in place, as described below. In addition, under the 100 percent R&D scenario, the increase in water demand would be greater than under the 100 percent Office scenario and the Split Option scenario also resulting in a considerable contribution to the cumulative impact.

Mitigation Measures UT-1CM.1, UT-1CM.2 and UT-1CM.3, previously identified, are currently all requirements by either the City or another entity to reduce the demand for water in the event of a drought or supply cutbacks. Specifically, the City of Menlo Park has an adopted Water Shortage Contingency Plan (WSCP) and is contained in Appendix F of the 2005 UWMP. The conservation stages necessary to balance demand against supply are listed in Section 3.5 of the 2005 UWMP. Each stage of conservation presents ranges of demand reduction (5% to 35%) and requires City Council approval prior to implementation. The analysis in the WSA determined that conservation achievements of 10 and 20 percent, as shown in Figure 3.12-2, would be necessary to reduce the demand within the MPWMD service area to meet regional supply reductions imposed by SFPUC. The following items identify a number of municipal water conservation measures, programs or projects that could reduce water demand and begin to correct the supply and demand imbalance, and are provided from the

MPMWD's 2005 UWMP as current conservation practices and are presented here as informational pieces to support water use efficiencies.

~~Mitigation Measure. UT 1CM.1 The following mitigation measures identify a number of water conservation measures, programs or projects that could reduce water demand and begin to correct the supply and demand imbalance. In compliance with its Individual Contract with SFPUC and under BAWSCA's conservation provisions, MPWMD, in its efforts to reduce its contribution to regional demands, has implemented the BMPs listed below with the exception of the "Potential BMPs." Figure 3.12-2 demonstrates the levels of conservation at 10 and 20 percent that would be necessary to reduce the cumulative impact to a less-than-significant level. However, in order to reduce water demand within MPMWD service area, some of the BMPs involve other entities. While these BMPs would potentially reduce citywide demands and reduce-minimize the water supply shortfall due to the extent of regional supply cutbacks and since all BMPs are not under the City's jurisdiction, it cannot be guaranteed that each BMP would be implemented; therefore, this cumulative impact would remain significant and unavoidable for all three options. (SU)~~

~~UT 1CM.1—Conservation Measures.—The UWMP lists BMPs outlined by the California Urban Water Conservation Council (CUWCC) and other demand management programs that are currently in effect to reduce demand in the event of supply cutbacks.~~

Mitigation Measure UT-1CM.2 is removed and the text is revised to read:

~~UT 1CM.2—Alternative Supplies and Demand Offsets.—Listed below are projects or programs that MPMWD is currently investigating or considering as methods to reduce citywide demands or improve local supplies. These projects Mitigation Measures would potentially reduce citywide demands and reduce the water supply shortfall. However, it is not guaranteed that each project would be implemented; consequently, due to the extent of regional supply cutbacks and lacking the quantifiable effectiveness of each Mitigation Measure impacts would remain significant and unavoidable.~~

- Use of groundwater wells to serve irrigation needs;

~~Implementation of this mitigation measure could require project specific environmental analysis to assess if the construction or operation of new wells would have any adverse environmental consequences and would require environmental evaluation;~~

- Use of dual plumbing systems utilizing groundwater or "gray water" for irrigation and other non-potable needs; and
- Water use offsets, such as removal and replacement of existing turf with artificial turf at sports fields.

Mitigation Measure UT-1CM.3 on page 3.12-30 is removed and the text revised to read:

~~UT-1CM.3 — Capital Improvement Projects.~~ In addition, MPMWD, through implementation of its Capital Improvement Program, is taking steps to address dry year deficiencies as well as to provide continued reliable water service through the year 2030. One of MPMWD's guiding principles regarding water service is to repair, replace, and upgrade the water distribution infrastructure to ensure the system's long-term integrity. Money is appropriated to the Capital Improvement Program to accomplish this objective as illustrated in Table 3.12-10. The amount varies year to year depending on the particular projects.<sup>49</sup>

### **Section 3.13, Climate Change**

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The Climate Change section was updated in response to the CEQA Guideline Amendments addressing Greenhouse Gas Emissions that went into effect March 18, 2010, and the recent draft Bay Area Air Quality Management District's CEQA Guidelines thresholds, which were both published after the release of the Draft EIR. To reflect this new guidance on addressing greenhouse gas emissions in CEQA documents as well as the inclusion of additional energy efficiency measures in the project, the Climate Change section has been revised. Additional information is included below that explains more specific details associated with the revised language.

Included in Appendix D are the results of the new URBEMIS modeling calculations and additional supplementary material that evaluates the project's contribution to greenhouse gas emissions. For convenience, the entire Climate Change section with all the revised text included is reprinted and included in Appendix D.

The first paragraph on page 3.13-2 is revised to read:

This analysis was prepared based upon a literature review that included advice for preparing CEQA climate change analyses released by the California Office of Planning and Research (OPR)<sup>3</sup> and OPR's Draft CEQA Guideline Amendments for Greenhouse Gas Emissions,<sup>4</sup> as well as approaches prepared by a number of professional associations and agencies that have published suggested approaches and strategies for complying with CEQA's environmental disclosure requirements. Such organizations include the California Attorney General's Office (AGO), the California Air Resources Board (CARB), the California Air Pollution Control Officers Association (CAPCOA), the United Nations and World Meteorological Organization's Intergovernmental Panel on Climate Change (IPCC), ~~and~~ the Association of Environmental Professionals (AEP), and the Bay Area Air Quality Management District (BAAQMD).

Since the publication of the Draft EIR, the CEQA Guideline Amendments have been adopted and became effective on March 18, 2010. To reflect the current status of the law and the correct text of the amendments, page 3.13-14 is revised as follows:

**Senate Bill 97.** The provisions of SB 97, enacted in August 2007, direct OPR to propose CEQA Guidelines "for the mitigation of greenhouse gas emissions or the effects of greenhouse

gas emissions.” SB 97 directs OPR to develop such guidelines by July 2009, and directs the Resources Agency, the agency charged with adopting the CEQA Guidelines, to certify and adopt such guidelines by January 2010. ~~OPR released the Draft CEQA Guideline Amendments for formal adoption into law by the Resources Agency on April 13, 2009. The Resources Agency has until January 1, 2010 to adopt the CEQA Guideline Amendments into law.~~ In addition, an OPR technical advisory memorandum, titled CEQA and Climate Change, was released in July 2008. OPR released the Draft CEQA Guideline Amendments for formal adoption into law by the Resources Agency on April 13, 2009. On December 31, 2009, the Natural Resources Agency delivered the amendments to the CEQA Guidelines to the Office of Administrative Law, which then submitted them to the Secretary of State for inclusion in the California Code of Regulations. These new CEQA Guidelines became effective on March 18, 2010. ~~Both~~ All of these documents inform the analysis in this EIR.

A discussion of additional regulatory programs affecting the calculation of project GHG emissions has been added to page 3.13-14:

**Assembly Bill 1493.** California Assembly Bill 1493 (Pavley) enacted on July 22, 2002, required CARB to develop and adopt regulations that reduce GHG emitted by passenger vehicles and light duty trucks. Regulations adopted by CARB will apply to 2009 and later model year vehicles. CARB estimates that the regulation will reduce climate change emissions from the light duty passenger vehicle fleet by an estimated 20 percent in 2020<sup>42</sup> and by 27 percent in 2030.<sup>43</sup>

**Senate Bills 1078 and 107.** Established in 2002 under Senate Bill (SB) 1078 and accelerated in 2006 under SB 107, California’s Renewables Portfolio Standard (RPS) requires retail suppliers of electric services to increase procurement from eligible renewable energy resources by at least 1% of their retail sales annually, until they reach 20% by 2010. Executive Order S-14-08 (November 11, 2008) mandates retail suppliers of electric services to increase procurement from eligible renewable energy sources to 33% by 2020. Although the retail suppliers currently have not met the 2010 requirement, efforts to develop renewable energy continue to increase. The U.S. Department of Energy Loan Guarantee Program paves the way for federal support of clean energy projects that use innovative technologies, and spurs further investment in these advanced technologies. The program includes a specific solicitation aimed at developing renewable energy and projects that must commence construction by September 30, 2011. Pacific Gas & Electric, the energy provider for Menlo Park, is working towards meeting the 2010 RPS by rapidly improving its energy distribution as stated on their website, “We are aggressively adding more renewables to our power mix under California’s Renewable

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<sup>42</sup> California Air Resources Board. 2008. Comparison of Greenhouse Gas Reductions for the United States and Canada Under United States CAFE Standards and California Air Resources Board Greenhouse Gas Regulations. Table 11. Available at: <http://www.climatechange.ca.gov/publications>.

<sup>43</sup> California Air Resources Board, December 10, 2004, Fact Sheet, Climate Change Emission Control Regulations.

Portfolio Standard and now have contractual commitments to have more than 20 percent of our future deliveries come from renewable.<sup>44</sup>

Since the Draft EIR was published Amendments to the CEQA Guidelines have gone into effect and no longer are in Draft form, therefore, the language presented on pages 3.13-14 and 3.13-15 is revised to read:

**~~Draft~~ CEQA Guideline Amendments for Greenhouse Gas Emissions.** The ~~Draft~~ CEQA Guideline Amendments ~~if adopted would~~ add new text to the existing CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations) pertaining to greenhouse gas emissions. A summary of key text revisions is provided below.

*Section 15064.4. Determining the Significance of Impacts from Greenhouse Gas Emissions.* This section ~~would be added to clarify~~ies that a lead agency's ~~responsibility in assessing greenhouse gas impacts by using its careful judgment and discretion must employ careful judgment and discretion in determining the significance of greenhouse gas emissions.~~ A lead agency should make a good-faith effort, based to the extent possible on scientific and factual data, to describe, calculate or estimate the amount of greenhouse gas emissions resulting from a project. ...

*...Section 15126.4. Consideration and Discussion of Mitigation Measures Proposed to Minimize Significant Effects.* The text in this section states that lead agencies "shall consider ~~all~~ feasible means, supported by substantial evidence and subject to monitoring or reporting, of mitigating greenhouse gas emissions." ~~Feasible greenhouse gas emissions mitigation would~~ Measures to mitigate the significant effects of greenhouse gas emissions may include, but would not be limited to among others:"

- Measures in an existing plan or mitigation program for the reduction of emissions that are required as part of the lead agency's decision;
- Reductions in emissions resulting from a project through ~~the~~ implementation of project features, project design, or other measures;
- Off-site measures, including offsets that are not otherwise required, to mitigate a project's emissions;
- Measures that sequester greenhouse gases; and
- In the case of the adoption of a plan, such as a general plan, long range development plan, or plans for the reduction of greenhouse gas emissions, mitigation may include the identification of specific measures that may be implemented on a project-by-project basis. Mitigation may also include the incorporation of specific measures or policies found in an adopted ordinance or regulation that reduces the cumulative effect of emissions. ...

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<sup>44</sup> Memorandum to Justin Murphy, City of Menlo Park, from Environ, March 3, 2010, page 3. See Appendix C for the complete memorandum.

...*Revisions to CEQA Checklist Questions*. Appendix G of the CEQA Guidelines contains a sample checklist that may be used by lead agencies when considering environmental impacts. The ~~Draft includes two new checklist~~ includes two new questions for greenhouse gas emissions:

In response to comments on the Draft EIR, the draft BAAQMD CEQA Guidelines thresholds, which were published after the release of the Draft EIR, have been reviewed and are now being utilized to augment the environmental analysis in this document. To provide the reader with information regarding the draft BAAQMD standards, a summary has been added to page 3.13-17.

**Bay Area Air Quality Management District.** The Bay Area Air Quality Management District (BAAQMD) is the primary agency responsible for comprehensive action or response to air pollution in the San Francisco Bay Area Air Basin. Currently, BAAQMD does not have an adopted or recommended threshold of significance for greenhouse gas emissions. However, BAAQMD is in the process of updating its CEQA Guidelines, which include the development of recommended significance thresholds, assessment methodologies and mitigation strategies for greenhouse gas emissions. The most recent draft approach that the BAAQMD has provided for consideration is a document entitled *CEQA Draft Air Quality Guidelines*, dated December 2009. BAAQMD is currently scheduled to consider adopting the proposed thresholds in June 2010.

The BAAQMD proposed thresholds consist of a three-pronged approach presenting three different criteria that could be used for determining the significance of a mixed-use development's operational greenhouse gas emissions. The first option is compliance with a qualified Climate Action Plan that includes enforceable measures to reduce greenhouse gas emissions consistent with AB 32 goals or Executive Order S-03-05 targets. As the City of Menlo Park's Climate Action Plan applies to the City's activities and not private projects, this first tier is not applicable. The second option is a numeric "bright line" threshold of 1,100 metric tonnes of CO<sub>2</sub>e per year for operational emission sources including residential and non-residential building energy use, mobile source emissions, area source emissions, and indirect emissions associated with water usage. This screening level is intended to evaluate small or modest projects. Since the proposed project is larger than a small or modest proposal, this second tier is also not applicable. The third option is a metric based on a project's "service population" (the residential population plus the number of jobs associated with the land uses). This "efficiency-based" threshold is 4.6 tonnes CO<sub>2</sub>e per service population per year for operational emissions. Because this efficiency threshold is designed for larger projects, such as the proposed project, this is the appropriate metric utilized to augment the analysis in the Draft EIR.

Since the Draft EIR was released, the greenhouse gas emissions reduction analysis has been revisited to account for the additional project features and information that was not available at the time the Draft EIR was published. The analysis in the Draft EIR has been refined to determine the project's consistency with the BAAQMD numerical significance criteria. The report which sets forth these refined calculations provides increased transparency as to the derivation of the project's actual estimated emissions in response to several comments on the Draft EIR (see Appendix D). The Climate

Change Analysis Methodology on page 3.13-19 has been revised to include analyzing the project using the methodology provided by the BAAQMD. This information is added after the first paragraph under the Analysis Methodology on page 3.13-19.

The revised emissions assessment provides and incorporates details of certain project features and regulatory programs (e.g., Assembly Bill 1493 and Renewables Portfolio Standard). These features and programs influence the greenhouse gas emissions inventory, as well as the evaluation of the project in the context of the BAAQMD's new draft CEQA emissions "efficiency-based" threshold of 4.6 metric tonnes of CO<sub>2</sub>e per service population.

The refined operational emissions calculations were prepared using the URBEMIS 2007 emissions model. The commentary to recent amendments to the CEQA Guidelines specifically cites URBEMIS as an appropriate model for performing greenhouse gas emissions calculations. The refined greenhouse gas analysis has modified some of the inputs from the URBEMIS model to incorporate a number of site or project-specific factors, as well as existing greenhouse gas-related regulatory programs, including the following:

- 2008 California Title 24 Energy Code;
- Project-specific energy use estimates rather than generalized estimates;
- Renewable Portfolio Standards, regarding percentages of future electricity produced from renewable sources;
- Site-specific temperature and humidity for mobile source emissions;
- Vehicle trip reductions due to internal trip capture resulting from project's mix of complementary uses and from the project's C/CAG Baseline TDM program.
- Adjustment of greenhouse gas vehicular emissions in light of mandated changes to the vehicle fleet, per Pavley (AB 1493).
- Refinement of the project emissions reduction strategies listed in Table 3.13-6.

Since the publication of the Draft EIR, the project sponsor has clarified that, given the current economic situation in the financial market it is not possible to finance the proposed project at this time. Once the project has obtained financing, the basic construction times are as follows: the Independence site would be built first and the Constitution site would be built second. The project sponsor has indicated that the entire project would not be complete until 2017 or perhaps later. To clarify this revised construction timeline, the paragraph on page 3.13-20 regarding construction emissions has been revised.

**Construction Emissions.** Project construction activities would require demolition of existing buildings, grading, building construction, paving, and employee and vendor trips. Although specific construction phasing information is not available at this time, for modeling purposes it was assumed that new development proposed under the project would be constructed over a approximately 5-year period, starting in 2010 with completion in 2017 at the earliest. The

URBEMIS 2007 model was used to estimate annual construction emissions for this period. The updated model outputs are included in Appendix D (of the Final EIR).

Typically, more than 80 percent of the total energy consumption associated with development takes place during the use of buildings, and less than 20 percent is consumed during construction.<sup>45</sup> Using the URBEMIS model, it is estimated that the average daily CO<sub>2</sub> emissions associated with construction equipment exhaust for the proposed project would be approximately 1,097 metric tons CO<sub>2</sub> per year, with total emissions of 5,484 metric tons CO<sub>2</sub>. Updated mModel output sheets are included in Appendix ID (of the Final EIR).

In Table 3.13-5 on page 3.13-20, values for existing emissions and project generated emissions were added together resulting in an erroneous overstatement of the total future emissions. Because the existing on-site uses would be replaced by the project, the existing emissions should have been subtracted from the proposed project in order to calculate the net increase of emissions from the site due to the project. In addition, since publication of the Draft EIR, design of the project has progressed allowing more detailed modeling of proposed project baseline emissions. To correct the calculation error and update the analysis to reflect more precise baseline analysis of the project, the text on page 3.13-20 and Table 3.13-5 have been revised.

**Operational Emissions.** Operational emissions sources associated with proposed development include direct, indirect, vehicular, and fugitive solid waste emissions. These sources were inventoried according to the methods used to inventory the emissions associated with existing land uses in the project area (refer to Setting). The URBEMIS 2007 model also was used for these calculations. The net operational emissions associated with proposed development would be approximately ~~23,737~~ 11,805 metric tons CO<sub>2</sub>e, as presented in Table 3.13-5, below.

Source of Emissions	Emissions (metric tons CO <sub>2</sub> e)		
	Existing	Proposed <u>Baseline</u> Project	<u>Total Net Future Emissions (2020)</u>
Direct	290	<del>1,453</del> <u>1,239</u> <sup>1</sup>	<del>1,743</del> <u>949</u>
Indirect	936	<del>3,934</del> <u>2,520</u> <sup>1</sup>	<del>4,870</del> <u>1,584</u>
Vehicular	3,159	<del>16,072</del> <u>10,547</u> <sup>2</sup>	<del>19,231</del> <u>7,388</u>
Solid Waste	375	2,227	<del>2,602</del> <u>1,852</u>
Water and Wastewater	23	<del>54</del> <u>55</u> <sup>3</sup>	<del>74</del> <u>32</u>
<b>Total</b>	<b>4,783</b>	<del>23,737</del> <u>16,588</u>	<del>28,520</del> <u>11,805</u>
<p><i>Source:</i> PBS&amp;J, 2009. URBEMIS calculations provided in Appendix <u>ID</u>.</p> <p><u>Notes:</u></p> <p>1. <u>Revisions based on latest (2008) Title 24 Standards.</u></p> <p>2. <u>Revision based on recently adopted vehicle efficiency regulations (Assembly Bill 1493, see pages 2 and 3 of the Environ report).</u></p> <p>3. <u>Revision based on revised baseline water demand estimate prepared for the project by ENVIRON (see Appendix D).</u></p>			

At the time the Draft EIR was released and currently, there are no required or mandatory numeric or quantitative thresholds of significance for greenhouse gas emissions at the state, regional or local levels. Under the CEQA Guidelines, a lead agency has broad discretion to determine how to analyze and mitigate greenhouse gas emissions and should examine all feasible means of mitigation. It is on this basis that the Draft EIR's standard of significance was established. The Draft EIR utilized a qualitative approach, whereby if projects included all feasible emissions reductions strategies, then those projects would be consistent with meeting the City's, and therefore the States, GHG reduction goals. The standard of significance in the Draft EIR was consistent with the current status of the law, as the CEQA Guidelines do not currently provide numeric or quantitative thresholds of significance for greenhouse gas emissions.

Comments on the Draft EIR recommended using the draft BAAQMD thresholds of significance. The draft BAAQMD thresholds were released after the Draft EIR was published and provide a quantitative method for determining impacts of a project. The draft BAAQMD GHG threshold in effect is a refinement of the standard of significance used in the Draft EIR. While the standard of significance in the Draft EIR made it clear that it would be necessary for a project to incorporate extensive emissions reductions to adequately mitigate greenhouse gas emissions, the BAAQMD threshold refines this original approach by recognizing that a project can fall below the significance threshold without incorporating or analyzing every conceivable GHG reduction measure. The basic consistency between these two approaches, as applied to the current project, is demonstrated by the fact that the features and mitigation measures identified to reduce the impact to a less-than-significant level in the Draft EIR are virtually the same as the features and mitigations needed to reduce the project's impact to below the BAAQMD threshold.

Impact Criterion # 1 on page 3.13-21 is revised to read:

- **Impact Criterion #1:** Fail to implement all emission-reduction strategies deemed to be feasible by the City to reduce GHG emissions below the BAAQMD CEQA Draft Air Quality Guidelines "efficiency-based" threshold of 4.6 tonnes CO<sub>2</sub>e per service population per year for operational emissions.

Impact CC-1 on page 3.13-21 is revised to read:

***Impact CC-1:** Future development under the proposed project would result in a net increase in greenhouse gas emissions above the BAAQMD CEQA Draft Air Quality Guidelines "efficiency-based" threshold of 4.6 tonnes of CO<sub>2</sub>e per service population per year for operational emissions if the project is completed before 2018. Because the project has not implemented all mitigation measures deemed feasible by the City to reduce GHG emissions below that threshold, the project would have a potentially significant impact. (PS)*

As described above in revised Table 3.13-5, there were calculation errors. The first sentence in the second paragraph on page 3.13-21 under the subheading *Greenhouse Gas Emissions* has been revised to reflect the corrected numbers.

As shown in Table 3.13-5, above, future development under the proposed project would be expected to result in a net increase in greenhouse gas emissions in the project area of approximately ~~23,737~~ 11,805 metric tons CO<sub>2</sub>e, approximately ~~4.8~~ 2.4 percent of the 2005 citywide inventory.

Since the Draft EIR was released, the project sponsor has clarified the description of the emission reduction strategies included in Table 3.13-6 on page 3.13-22, and has agreed to additional project emissions reductions strategies that were not included in Table 3.13-6. Many of these additional measures, which will now be included in the project, are those that were identified in Mitigation Measure CC-1.1 of the Draft EIR. Accordingly, Table 3.13-6 has been updated and refined to identify more precisely the emissions reduction strategies the project sponsor has now committed to including in the project.

<b>Table 3.13-6 Proposed Project Emissions Reduction Strategies</b>
<b>Strategy</b>
<i>Energy Efficiency, General</i> The project sponsor <del>would seek</del> <u>shall achieve</u> <u>LEED certification gold for the office buildings and LEED silver for the hotel</u> . A key objective of the project is to <del>approach</del> <u>The project will attain</u> a minimum of <del>5 to 15</del> <u>23</u> percent energy savings over a similar, conventionally designed structure built to the standards of California's <u>2008</u> Title 24 energy code. <u>The project will include the installation of energy efficient heating and cooling systems, appliances and equipment and control systems. The project will also install light emitting diodes (LEDs) for outdoor lighting.</u>
<i>Energy Efficient Roofs and Building Design</i> The proposed project <del>would</del> <u>shall</u> incorporate <u>100%</u> cool and green roofs, <del>with roof parapet mounted trellis structures that would shade the upper floor terraces while providing the ability to support photovoltaic solar collectors for the office and hotel</del> . Between 66 and 75 percent of the roof area of proposed structures could be usable for photovoltaic panels, which could provide a portion of the project's power. This design approach would comply with the intent of this program. Exposed roof finishes <u>will</u> <del>would</del> be highly reflective. In addition, buildings <u>will</u> <del>would</del> be oriented to maximize passive heating and cooling efficiency, and natural ventilation would be used where appropriate. A high-performance building envelope and glazing, as well as shaded east, south, and west facades, will control heat gain and reduce the demand for cooling. <del>Fifty percent of the parking lot and other hard surfaces would be shaded with tree canopy cover, while remaining area would use reflective surface and grid paving techniques.</del> The proposed project would collect heat outputs from laundry and cooking machinery for reuse in building HVAC.
<i>Heat Island Effect Minimization</i> Fifty percent of the parking lot and other hard surfaces <u>will</u> <del>would</del> be shaded with tree canopy cover, while remaining area would use reflective surface and grid paving techniques. <del>The proposed project would collect heat outputs from laundry and cooking machinery for reuse in building HVAC.</del>
<i>Landscaping and Indoor Water Efficiency</i> The proposed project includes a number of water conservation features. <del>Features would be installed to capture rainwater and runoff on site, which would be used to irrigate landscaping and for water features integrated into the landscape design.</del> Landscape watering would be expected to use 50 percent less water than traditional systems as a result of water delivery system efficiencies and drought-resistant plantings. Evaporative water loss would be minimized by covering pools, adjusting fountain operating hours, and using a water treatment approach for the cooling towers that reduces the need for draw down and replacement. Indoor potable water usage would be reduced through use of low-flow <del>and waterless</del> restroom toilets, urinals, lavatories, and sinks. <del>Grey water reuse is being evaluated to</del>

**Table 3.13-6  
Proposed Project Emissions Reduction Strategies**

<p><b>Strategy</b></p> <p><del>offset potable water needs for landscape irrigation.</del> Water from the final laundry rinse cycle would be used as the first rinse cycle of the next load. <u>Though it may not be available until some time in the future, the project will install the infrastructure to deliver and use reclaimed water for landscape irrigation.</u></p>
<p><i>Construction Waste Diversion/Recycling</i></p> <p>The proposed project will include a construction waste diversion plan. Existing paving and concrete structures would be crushed and reused as a base material, and a high percentage of construction waste would be recycled or salvaged. All facilities would include labeled recycling receptacles to encourage waste diversion.</p>
<p><i>Alternative Transportation</i></p> <p>The proposed project <del>will</del> <u>would</u> implement the following <u>C/CAG Baseline</u> TDM measures to reduce transportation-related impacts:</p> <ul style="list-style-type: none"> <li>▪ Bicycle lockers and racks;</li> <li>▪ Showers and changing rooms;</li> <li>▪ Shuttle service <u>to Caltrains stations</u>;</li> <li>▪ Subsidized public transit <del>tickets</del> <u>passes</u>;</li> <li>▪ Subsidies for walking and biking to work;</li> <li>▪ Vanpool program;</li> <li>▪ Preferential carpool and vanpool parking;</li> <li>▪ Employee commute surveys;</li> <li>▪ Alternative work schedules;</li> <li>▪ <del>Install and maintain alternative</del> Transportation kiosks;</li> <li>▪ <del>Telecommuting</del>;</li> <li>▪ Commute assistance center;</li> <li>▪ Provision of on-site amenities;</li> <li>▪ Guaranteed ride home program; and</li> <li>▪ <del>Connections for non-motorized travel</del> <u>Improved infrastructure for walking, bicycling, and transit use.</u></li> </ul> <p><u>Additional TDM measures are included to further assist in reducing vehicle trips:</u></p> <ul style="list-style-type: none"> <li>▪ <u>Provide Translink cards to employees who use transit;</u></li> <li>▪ <u>Establish a Commuter Check program for employees;</u></li> <li>▪ <u>Establish a car share program;</u></li> <li>▪ <u>Provide electric vehicle charging stations.</u></li> </ul>
<p><i>Infill Development</i></p> <p>The proposed project would increase the land use intensity of the project area by developing higher intensity uses within the project area, as well as including a more pedestrian-friendly environment with sidewalks and other pedestrian amenities.</p>
<p><i>Climate Change Education</i></p> <p>During the leasing process, the project sponsor <del>shall</del> <u>will</u> inform prospective tenants about the green building practices used during construction of new structures. This information would help to raise tenant awareness of the proposed project's energy efficiency goals.</p>

<b>Table 3.13-6 Proposed Project Emissions Reduction Strategies</b>	
<b>Strategy</b>	
<u>Other</u>	
<u>The project will install charging stations for electric vehicles for employees and visitors. The project will implement a recycled content purchasing policy (e.g. prohibiting use of plastic water bottles), to be approved by the City.</u>	
<i>Source:</i> PBS&J, 2009.	

Since release of the Draft EIR, the project sponsor has incorporated additional emissions reduction strategies as part of the project. In addition, the assumptions or inputs used for the URBEMIS model have been refined to be more project specific. Therefore, based on the refined emissions reductions strategies as well as the project-specific inputs, project emissions have been adjusted slightly, except in the case of the vehicular emission reductions in which there was a math error in Table 3.17-7 of the Draft EIR and the reductions were overstated. Corrections to the emission reduction numbers in the first full paragraph on page 3.13-23 and in Table 3.13-7 on page 3.13-23 are as follows:

Implementation of these project features would result in an emissions reduction of at least ~~8,662~~ 3,005 metric tons CO<sub>2</sub>e (see Table 3.13-7). The reductions reported are conservative and do not take into account certain features for which quantitative emissions reductions data is not available (e.g., the use of recycled materials, bicycle improvements, etc.). ~~Moreover, some emissions reductions, such as those related to water consumption, were accounted for in the baseline inventory.~~ After taking into account these proposed emissions reduction strategies, the proposed project would be expected to result in total annual greenhouse gas emissions of approximately ~~15,075~~ 13,583 metric tons CO<sub>2</sub>e.

<b>Table 3.13-7 Operational Greenhouse Gas Emissions and Reductions, Proposed Project</b>			
Source of Emissions	<u>Proposed Baseline Project</u>	Reduction (metric tons CO <sub>2</sub> e)	<u>Proposed Project as Designed</u>
Direct	<u>1,239</u>	<del>218</del> <u>333</u>	<u>906</u>
Indirect	<u>2,520</u>	<del>590</del> <u>356</u>	<u>2,164</u>
Vehicular	<u>10,547</u>	<del>7,854</del> <u>2,311</u>	<u>8,236</u>
Solid Waste	<u>2,227</u>	N/A	<u>2,227</u>
Water and Wastewater	<u>55</u>	<del>N/A</del> <u>5</u>	<u>50</u>
<b>Total</b>	<b><u>16,588</u></b>	<b><del>8,662</del> <u>3,005</u></b>	<b><u>13,583</u></b>
<i>Source:</i> PBS&J, <del>2009</del> <u>2010</u> . Calculations provided in Appendix <u>D</u> , which includes the <u>Environ memorandum</u> .			

The following supplemental information and table is added under Impact CC-1 after Table 3.13-7 on page 3.13-23:

The BAAQMD methodology in comparing project generated emissions to the proposed project-level GHG threshold does not include solid waste emissions. Therefore, because the 2,227 tonnes of GHG emissions from solid waste is not included, the emissions totals in Table 3.13-8, which factor in the project’s emission reduction strategies set forth in Table 3.13-6, are not exactly comparable to the total of 13,583 tonnes CO<sub>2</sub>e, which result from the reductions in year 2020 set forth in Table 3.13-7.

<b>Table 3.13-8</b>			
<b>Total Operational Greenhouse Gas Emissions, Proposed Project as Designed</b>			
<u>Source of Emissions</u>	<u>2020 Completion</u>	<u>2018 Completion</u>	<u>2017 Completion</u>
<u>Direct</u>	<u>906</u>	<u>906</u>	<u>906</u>
<u>Indirect</u>	<u>2,164</u>	<u>2,164</u>	<u>2,164</u>
<u>Vehicular</u>	<u>8,236</u>	<u>8,657</u>	<u>8,868</u>
<u>Water and Wastewater</u>	<u>50</u>	<u>50</u>	<u>50</u>
<b>Total</b>	<b><u>11,356</u></b>	<b><u>11,777</u></b>	<b><u>11,988</u></b>
<b><u>DIVIDED BY SERVICE POPULATION</u></b>	<b><u>4.43</u></b>	<b><u>4.59</u></b>	<b><u>4.67</u></b>

Source: Environ memorandum, see Appendix D.

Notes:

1. Total emissions are expressed in terms of metric tons/year.
2. The service population is 2,566 employees as calculated Section 3.9 in the Draft EIR.

These calculations reveal that, in 2020, the project would have a project emissions inventory of 4.43 tonnes per capita per year, which is below the 4.6 threshold in the BAAQMD draft thresholds, and 4.59 in 2018. If completed in 2018 or after, the project would have a less-than-significant impact and no additional mitigation would be required in light of the project’s features (see Table 3.13-6 and Appendix D). If the project is completed before 2018, the project emissions would exceed the 4.6 tonnes per service population threshold requiring mitigation. The higher emissions in the earlier years are due to a less fuel efficient vehicle fleet, since there are a greater number of older vehicles on the road and there is less time to implement the Pavley standards. If the proposed project were completed prior to 2018, emissions reductions, such as vehicle trip reduction, would be necessary in order for the project to be below the 4.6 threshold in the BAAQMD draft thresholds. These required emissions reductions could be achieved by transportation demand management (TDM) measures, such as additional subsidies for transit users, bicyclists, and walkers. Such measures would ensure the BAAQMD draft 4.6 threshold would not be exceeded.

To remain below the BAAQMD draft thresholds should the project be completed prior to 2018, mitigation would be required to adequately reduce the number of vehicle trips. Without

consideration of internal trip capture or TDM measures, the total project trip generation is 13,132 trips per day. Trips from existing uses on-site are 2,019 per day. Net new trips are 11,113 trips per day (see Draft EIR Table 3.11-5). Daily trips can be adjusted to account for internal capture by 9.6 percent resulting in 11,869 trips per day total or 9,850 net new trips (see Appendix D, Environ Memorandum Table 8). For the calculations presented in Table 3.13-8, daily trips were further reduced by 5.1 percent due to credit for the C/CAG Baseline TDM Program, resulting in 11,261 total daily trips or 9,242 net new trips per day (see Appendix D, Environ Memorandum Table 8). With financial incentives for use of alternate modes of transportation, such as the provision of a \$3.50 per day transit pass subsidy, the TDM program reduction could increase from a 5.1 percent credit to a 7 percent credit, resulting in 11,032 total trips or 9,013 net new trips (Environ Memorandum Table 18). These are the maximum number of allowable trips to remain below the BAAQMD draft thresholds if the project is completed prior to the year 2018.

Although the proposed project would include a number of emissions reductions design features, the City has determined that additional feasible emissions reductions strategies are available to reduce emissions below the threshold if the project were completed prior to 2018. Therefore, the proposed project would have a potentially significant impact with respect to climate change if the project is completed prior to 2018.

In light of the revisions to the project and additional analysis, the section on mitigation measures has been refined. All of the mitigation measures identified in Mitigation Measure CC-1.1 on page 3.13-24 of the Draft EIR are now included as project components with the exception of developing an on-site renewable energy system. After further consideration, the City has determined that an on-site renewable energy system is not a financially feasible mitigation and it is not appropriate to require it. The City arrived at this conclusion because of the fact that, with the additional TDM measures, greenhouse gas emissions would be reduced by approximately 166 MT/year, and that would bring the project below the threshold for 2017. By way of contrast, an on-site renewable energy system would only reduce greenhouse gas emissions by approximately 100 MT/year. At an estimated cost of approximately \$500,000 (net of current federal tax credit and other subsidies) for a solar power system that would provide 2.5 percent of the project's electric power, the project sponsor has indicated that it is more effective, from both a cost and a efficiency standpoint, to add TDM measures to reduce greenhouse gas emissions, rather than to add an on-site renewable energy system to the project. Also, use of TDM measures achieves City's goal of additional trip reductions from the project. In light of this, on-site renewable energy systems are neither financially feasible nor necessary to reduce emissions below the BAAQMD "efficiency-based" threshold.

Mitigation Measure CC-1.1 on page 3.13-24 has been revised to read:

MITIGATION MEASURE. Mitigation Measures CC-1.1 would reduce potentially significant climate change impacts to a less-than-significant level if the project is completed prior to 2018. (LTS)

CC-1.1 ~~To the extent feasible and to the satisfaction of the City, the project sponsor shall incorporate the following measures into the design, construction and operation of the project, in addition to other applicable measures identified in the City of Menlo Park Climate Action Plan.~~

- ~~• Develop an On Site Renewable Energy System that consists of solar, wind, geothermal, biomass and/or bio gas strategies. This system shall reduce grid based energy purchases and provide at least 2.5 percent of the project energy cost from renewable energy. Such a strategy could include installation of photovoltaic panels and solar and tankless hot water heaters;~~
- ~~• Install light colored “cool” roofs and cool pavements;~~
- ~~• Install energy efficient heating and cooling systems, appliances and equipment, and control systems;~~
- ~~• Install light emitting diodes (LEDs) for outdoor lighting;~~
- ~~• Install the infrastructure to deliver and use reclaimed water for landscape irrigation;~~
- ~~• Install charging stations for electric vehicles for employee and visitors; and~~
- ~~• Implement a recycled content purchasing policy (e.g., prohibiting use of plastic water bottles).~~

If the project is completed in 2017, greenhouse gas emissions shall be kept below 4.6 tonnes CO<sub>2</sub>e/service population annually during 2017. To ensure this level of emissions efficiency, total net new trips to the project site shall not exceed 9,013 trips per day if the project is completed prior to 2018. When calculating net new trips a credit of 2,019 trips per day shall be used for the pre-project existing uses at the site.

- After project build out occurs in 2017, the City of Menlo Park shall perform a traffic count with funds provided by the project sponsor. Counts shall be taken at driveways of the project site. Daily traffic counts shall be the average of at least three weekday counts (Tuesday, Wednesday or Thursday) taken over a three week period. Counts shall be performed between mid-February and late May (before the end of the school year) or between Labor day and Thanksgiving day. Counts shall avoid days immediately before or after holidays or long weekends and shall not be performed on days of inclement weather conditions.
- Based upon the traffic counts, if the allowable number of net new trips is exceeded, the project sponsor shall implement a plan of additional

transportation demand management measures necessary to bring the number of trips into compliance with the trip cap within 30 days of being notified by the City. The plan shall include at a minimum a \$3.50 per person, per day transit pass subsidy (i.e., C/CAG base transit subsidy plus \$2.50). (Note: Please see Mitigation Measure TR-1.1(I) regarding the TDM strategies).

- Because the 9,013 net trip cap is only required as mitigation if the project is completed in 2017, and would not be required for 2018 or thereafter, any TDM measures, including the additional transit subsidy, that are necessary to meet the 9,013 vehicle trip cap in 2017 shall be discontinued on the later of (1) January 1, 2018 or (2) six months after the subsidy is first implemented. (Note: Please see Mitigation Measure TR-1CM.1(C) regarding trip limitation that would take effect for 2018 and thereafter).

## **Appendix F, Housing Needs Analysis**

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The second, third and fourth paragraphs on page 29 of Appendix F of the Draft EIR are revised to read.

### **Existing Relationships**

The U.S. Census reports data on place of work and place of residence and summary information on how the two relate for each jurisdiction and subarea within unincorporated portions of counties. According to the 2000 Census, 10% of those who work in Menlo Park also live in Menlo Park. The 2000 Census data are the best and most current data available on the percentage of those working in Menlo Park who also live in Menlo Park.

The existing percentage of workers commuting from other jurisdictions at 10% is attributable to a number of factors – the small supply of housing relative to the number of jobs and the high cost of housing in Menlo Park. One can safely say that the 10% does not reflect the proportion of workers who would live in Menlo Park if they could find housing and could afford it. Nevertheless, the 10% does provide a benchmark or starting place for a percentage of new housing units that could be viewed as a share for Menlo Park.

~~The percent of workers in Menlo Park who also live in the City has been decreasing over the decades with each Census survey. Workers most everywhere tend to commute more in recent years than in the past and, in addition, Menlo Park has become less affordable over time. Large employers that are newer to an area, or have a high turnover, typically have a smaller percent of workers living locally than employers who have been established locally for a long time. It remains to be seen to what extent higher transportation costs may alter these long term trends.~~

The 10% factor derived from the 2000 Census is the best and most current information available; however, the actual percentage of proposed project employees who would seek and

find housing in Menlo Park would probably be less than 10% based on the following considerations:

1. The share of Menlo Park's workforce residing locally has been declining over time. In 1980, 14% of workers in Menlo Park also lived in Menlo Park, in 1990 12%, and in 2000 10%. If the downward trend continues, the percentage of workers residing locally is probably less at the current time than it was in 2000 and would be even lower by the time the proposed project would be constructed and fully occupied.
2. Census data for Menlo Park since 1980 do not indicate a correlation between job growth in Menlo Park and the number Menlo Park workers residing in Menlo Park. The numbers of jobs in Menlo Park grew from approximately 25,300 in 1980 to 32,800 in 2000 (an increase of 7,500 jobs or 29%). During the same period, the number of people who both live and work in Menlo Park fell from 3,495 to 3,300 (a 6% decrease). An analysis of compensation levels for jobs added during the period from 1980 to 2000 was not prepared. Despite the addition of 7,500 jobs during this period, of which at least a portion were probably highly compensated, no increase in the number of workers residing locally occurred.
3. Total housing construction in Menlo Park (including all housing types, single family, condominiums, rentals, etc.) has averaged under 30 units per year over the past ten years, based on data from the Construction Industry Research Board (which is drawn from City building permit data). This period includes both boom and (recently) bust periods in housing construction regionally. Undoubtedly, there are many households who view Menlo Park as a desirable place to live. However, the ability to accommodate a net increase in households in Menlo Park is constrained by the availability of new units.
4. Large employers that are new to an area, or employers that have a high employee turnover, typically have a smaller percent of workers living locally than employers who have been established locally for a long time. One explanation for this is that employees of long-established firms are more likely to have entered the housing market years ago when it was more affordable. Another factor may be the expanding size of the Bay Area's job and housing markets combined with an increase in multiple-earner households. This has created more options for where to live and work and more households who must take into account locations of multiple jobs in selecting a residential location.
5. The proposed project site is very accessible to freeways and is arguably one of the most conducive locations in Menlo Park for commuting to/from other jurisdictions.

The 10% factor derived from the Census thus provides a conservative (upper-end) estimate of the number of new households likely to reside in Menlo Park given all of the factors described above, which suggest that the actual percentage may be lower.