CUPERTINO

PUBLIC WORKS DEPARTMENT
Roger Lee, Director

CITY HALL
10300 TORRE AVENUE ~ CUPERTINO, CA 95014-3266
(408) 777-3354 ~ FAX (408) 777-3333

FINAL
CITY OF CUPERTINO
MITIGATED NEGATIVE DECLARATION

As provided by the Environmental Assessment Procedure adopted by the City Council of the City of Cupertino on May 27, 1973, and amended on March 4, 1974, January 17, 1977, May 1, 1978, and July 7, 1980, the City of Cupertino City Council has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project implementation. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affect by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance (CEQA Guidelines Section 15382).

PROJECT INFORMATION AND LOCATION

Project Name:	Regnart Creek Trail
Applicant:	City of Cupertino
Location:	City of Cupertino

PROJECT DESCRIPTION

The project proposes to construct a 0.8-mile shared-use trail extending from Torre Avenue to East Estates Drive in the City of Cupertino. The project location is shown on regional, vicinity, and aerial maps on Figures 2.2-1, 2.2-2, and 2.2-3, respectively, in the attached Initial Study. The proposed trail would provide a connection from the Cupertino Civic Center complex to the west with Wilson and Creekside Parks to the east. For most of its reach, the trail would be constructed on the existing Valley Water maintenance road along Regnart Creek. The trail would be 10 feet wide and surfaced with decomposed granite. The project would relocate the existing concrete Valley Water maintenance ramp located along the proposed trail alignment to the north side of the creek. Various ancillary trail components and features are proposed along the trail alignment at specific locations, including curb and gutter improvements, fence replacements, chain link gates at trail access points, removable railings, chain link fencing, and a

pedestrian bridge at Wilson Park. Additionally, the project includes pedestrian and bicycle improvements on the surrounding roadways to provide better access to and from the proposed trail.

FINDINGS OF DECISIONMAKING BODY

The City Council finds the project described is consistent with the General Plan and will not have a significant effect on the environment based on the analysis completed in the attached Initial Study. The City, before the public release of this draft Mitigated Negative Declaration (MND), has agreed to make project revisions that mitigate the project's effects to a less than significant level. The City agrees to implement the mitigation measures identified in the attached Initial Study and summarized below.

Biological Resources

MM BIO-1.1: A qualified biologist shall conduct a preconstruction survey of the work area for pond turtles within 48 hours prior to the start of work activities. If a western pond turtle is observed within the work area at any time before or during proposed construction activities, all activities shall cease until such time that either: (1) the pond turtle leaves the area, or; (2) the qualified biologist can capture and relocate the animal to suitable habitat away from project activities.

MM BIO-1.2: A qualified wildlife ecologist shall conduct a preconstruction survey for active nests of San Francisco dusky-footed woodrats within the project construction area within 30 days prior to the start of construction within non-developed habitats on the project site. If active woodrat nests are determined to be present in, or within 10 feet of, project work areas, Mitigation Measures MM BIO-1.3 and BIO-1.4 below will be implemented, as appropriate.

MM BIO-1.3: Active woodrat nests that are detected within project construction areas shall be avoided to the extent feasible. A minimum 10-foot buffer shall be maintained between project construction activities and woodrat nests to avoid disturbance. In some situations, a smaller buffer may be allowed if, in the opinion of a qualified biologist, nest relocation (Measure MM BIO-1.4 below) would represent a greater disturbance to the woodrats than the adjacent work activities.

MM BIO-1.4: If avoidance of active woodrat nests within and immediately adjacent to (within 10 feet of) the construction areas is not feasible, then nest materials will be relocated to suitable habitat as close to the project site as possible (ideally, within or immediately adjacent to the site). One or both of the following two relocation measures will be implemented, depending on whether existing woodrat nest sites are connected by suitable dispersal habitat to the nest relocation sites.

- If the woodrat nest site and the proposed relocation area are connected by suitable dispersal habitat for the woodrat, as determined by a qualified biologist, the following relocation methodology shall be used. Prior to the start of construction activities, a qualified biologist will disturb the woodrat nest to the degree that all woodrats leave the nest and seek refuge outside of the construction area. Relocation efforts shall avoid the peak nesting season (February–July) to the maximum extent feasible. Disturbance of the woodrat nest shall be initiated no earlier than one hour before dusk to minimize the exposure of woodrats to diurnal predators. Subsequently, the biologist will dismantle and relocate the nest material by hand. During the deconstruction process, the biologist will attempt to assess if there are juveniles in the nest. If immobile juveniles are observed, the deconstruction process shall be discontinued until a time when the biologist believes the juveniles will be capable of independent survival (typically after 2 to 3 weeks). A no-disturbance buffer shall be established around the nest until the juveniles are mobile. The nest may be dismantled once the biologist has determined that adverse impacts on the juveniles would not occur.

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woodrats will be returned to the nest, and the nest will be left alone for 2 to 3 weeks, after which time the nest would be rechecked to verify that the young are capable of independent survival, as determined by the biologist, before proceeding with nest dismantling.

MM BIO-2.1: To minimize impacts to riparian habitat, soil disturbance shall be kept to the minimum footprint necessary to abandon the existing ramp and install the proposed ramp. The ramp relocation has been designed to minimize the area of disturbance to riparian ruderal grassland habitat in the existing ramp location. In addition, the proposed ramp location has been designed to have as minimal a footprint as possible.

MM BIO-2.2: The proposed maintenance ramp relocation work shall occur between May 15 and October 31 when the channel bed is dry. This will prevent unintended sediment runoff into creek waters and will ensure that there are no adverse effects to any aquatic life that may be seasonally present in the intermittent creek. Work shall halt if there is an out-of-season storm that deposits more than 0.5 inches of rain in 24 hours until the site has dried.

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prepared (decompacted and scarified) soil surface and then lightly raked to maximize seed/soil contact. The seed mix shall consist of the California native grasses and forbs and application rates as shown in the following table, or native species and application rates as otherwise acceptable to involved agencies.

Scientific Name[1]	Common Name	Application Rate (pounds PLS/acre)[2]
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MM BIO-2.6: The City shall monitor the reseeded riparian bank areas annually for two years to ensure that the percent vegetation cover reaches at least 75 percent of the cover in the adjacent undisturbed reaches, and shall control any infestations of Cal-IPC rated moderate or high weeds comprising greater than five percent of the total cover in the recovering areas. If after two years, these success criteria have not been met, the City shall implement remedial measures, such as re-seeding the area and monitoring for an additional two years.

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MM BIO-4.2: If it is not possible to schedule demolition and construction between September 1st and January 31st, pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests will be disturbed during project implementation. These surveys shall be completed no more than seven days prior to the initiation of construction activities. During this survey, the ornithologist shall inspect all trees and other potential nesting habitats (e.g., trees, shrubs, grasslands, buildings) in and immediately adjacent to the impact areas for nests.

MM BIO-4.3: If an active nest is found sufficiently close to work areas to be disturbed by these activities, the ornithologist shall determine the extent of a construction-free buffer zone to be established around the nest (typically 300 feet for raptors and 100 feet for other species), to ensure that no nests of species protected by the MBTA and California Fish and Game Code will be disturbed during project implementation.

MM BIO-4.4: If construction activities will not be initiated until after the start of nesting season, all potential nesting substrates (e.g., bushes, trees, grasses, and other vegetation) that are scheduled to be removed by the project may be removed prior to the start of the nesting season (e.g., prior to February 1st). This will preclude the initiation of nests in this vegetation, and prevent the potential delay of the project due to the presence of active nests in these substrates.

Cultural Resources and Tribal Cultural Resources

MM CUL-2.1: Prior to any project-related construction or ground disturbing activities, a qualified archaeologist shall complete mechanical coring to explore for archaeological resources. Coring shall be completed near the proposed eastern terminus and in specific locations that will be impacted by the proposed improvements, such as the proposed new maintenance ramp and bridge abutment locations. The results of the mechanical coring activities shall be submitted to the Director of Public Works or his or her designee for review and acceptance prior to issuance of any Notice to Proceed for construction. If archaeological resources are discovered during the mechanical coring investigation, an archaeological resources treatment plan (as described in MM CUL-2.2) shall be prepared by a qualified archaeologist.

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MM HAZ-2.3: If contaminated soils are found in concentrations above established thresholds, a Site Management Plan (SMP) shall be prepared and implemented to manage the cleanup of potential contamination. The SMP shall be prepared prior to construction to reduce or eliminate exposure risk to human health and the environment, specifically, potential risks associated with the presence of contaminated soils. Contaminated soil removed from the site shall be hauled off-site and disposed at a licensed hazardous materials disposal site in accordance with applicable regulations.

The SMP shall be submitted to the SCCDEH (or other appropriate agency) for review and acceptance. A copy of the accepted SMP shall be submitted to the City of Cupertino Public Works Department and shall be implemented prior to the commencement of grading activities on the site.

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MM NOI-2.1: The following measures shall be implemented where vibration levels due to construction activities would exceed 0.3 inch per second PPV at nearby sensitive uses:

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- Prohibit the use of heavy vibration-generating construction equipment within 20 feet of the structures located along the project corridor.
- The contractor shall alert heavy equipment operators in close proximity of the adjacent structures so they can exercise extra care.

PUBLIC REVIEW PERIOD

The public circulation period for the Initial Study and draft MND began on February 7, 2020 and ended on March 9, 2020.

Roger Lee
Director of Public Works

CERTIFICATE OF THE CITY CLERK

This is to certify that the above Mitigated Negative Declaration was filed in the Office of the City Clerk of the City of Cupertino on May 21, 2020

City Clerk

Initial Study/ Mitigated Negative Declaration

Regnart Creek Trail

Prepared by

CUPERTINO

In Consultation with

DAVID J. POWERS & ASSOCIATES, INC.
ENVIRONMENTAL CONSULTANTS & PLANNERS

Februrary 2020

PUBLIC WORKS DEPARTMENT
Roger Lee, Director

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DRAFT
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- Prohibit the use of heavy vibration-generating construction equipment within 20 feet of the structures located along the project corridor.
- The contractor shall alert heavy equipment operators in close proximity of the adjacent structures so they can exercise extra care.

PUBLIC REVIEW PERIOD

The 30-day public circulation period for the Initial Study and draft MND began on February 7, 2020 and ended on March 8, 2020.

_____

Roger Lee
Director of Public Works

CERTIFICATE OF THE CITY CLERK

This is to certify that the above Mitigated Negative Declaration was filed in the Office of the City Clerk of the City of Cupertino on _____

_____

City Clerk

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Appendices

SECTION 1.0 INTRODUCTION AND PURPOSE

1.1 PURPOSE OF THE INITIAL STUDY

The City of Cupertino, as the Lead Agency, has prepared this Initial Study for the Regnart Creek Trail in compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines (California Code of Regulations §15000 et. seq.) and the regulations and policies of the City of Cupertino, California.

The project proposes to construct an approximately 0.8-mile shared-use trail along Regnart Creek, between Torre Avenue and East Estates Drive, in the City of Cupertino. This Initial Study evaluates the environmental impacts that might reasonably be anticipated to result from implementation of the proposed project.

1.2 PUBLIC REVIEW PERIOD

Publication of this Initial Study marks the beginning of a 30-day public review and comment period. During this period, the Initial Study will be available to local, state, and federal agencies and to interested organizations and individuals for review. Written comments concerning the environmental review contained in this Initial Study during the 30-day public review period should be sent to:

City of Cupertino
Department of Public Works
10300 Torre Avenue
Cupertino, CA 95014
Contact: David Stillman, Transportation Manager
408-777-3249; DavidS@cupertino.org

1.3 CONSIDERATION OF THE INITIAL STUDY AND PROJECT

Following the conclusion of the public review period, the City of Cupertino will consider the adoption of the Initial Study/Mitigated Negative Declaration (MND) for the project at a regularly scheduled meeting. The City shall consider the Initial Study/MND together with any comments received during the public review process. Upon adoption of the MND, the City may proceed with project approval actions.

1.4 NOTICE OF DETERMINATION

If the project is approved, the City of Cupertino will file a Notice of Determination (NOD), which will be available for public inspection at the County Clerk's Office and State Clearinghouse for 30 days. The filing of the NOD starts a 30-day statute of limitations on court challenges to the approval under CEQA (CEQA Guidelines Section 15075(g)).

SECTION 2.0 PROJECT INFORMATION

2.1 PROJECT TITLE

Regnart Creek Trail

2.2 PROJECT LOCATION

The approximately 0.8-mile trail would be located in the City of Cupertino between Torre Avenue and East Estates Drive. As shown on the regional, vicinity and aerial maps (Figures 2.2-1 through 2.2-3), the proposed trail would connect the Cupertino Civic Center complex (Cupertino Library, Community Hall, City Hall, and Library Field) to the west with Wilson and Creekside Parks to the east. For most of its reach, the trail would be located on the existing Santa Clara Valley Water District (Valley Water) maintenance road adjacent to Regnart Creek.

2.3 LEAD AGENCY CONTACT

David Stillman, Transportation Manager
City of Cupertino Department of Public Works
10300 Torre Avenue
Cupertino, CA 95014
408-777-3249
DavidS@cupertino.org

2.4 BACKGROUND INFORMATION

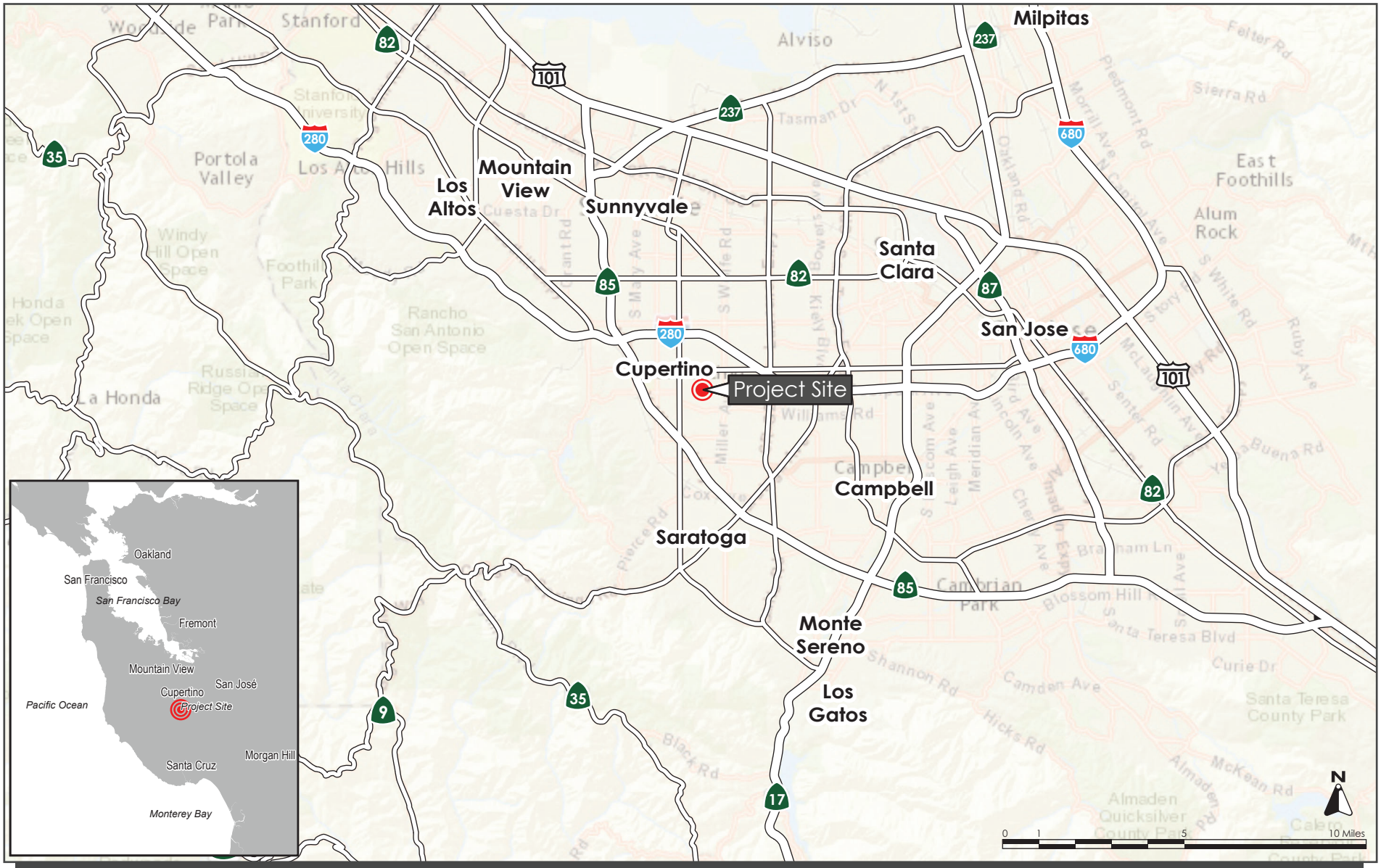
2.4.1 Bicycle Transportation Plan

In June 2016, the Cupertino City Council adopted the 2016 Bicycle Transportation Plan. The Bicycle Transportation Plan consisted of an evaluation of existing bicycle facilities in the City and an analysis of the needs for bicycling-related improvements. Goals of the Bicycle Transportation Plan included: 1) increase awareness and value of bicycling; 2) improve bicyclist safety; and 3) increase and improve bicycle access to community destinations.

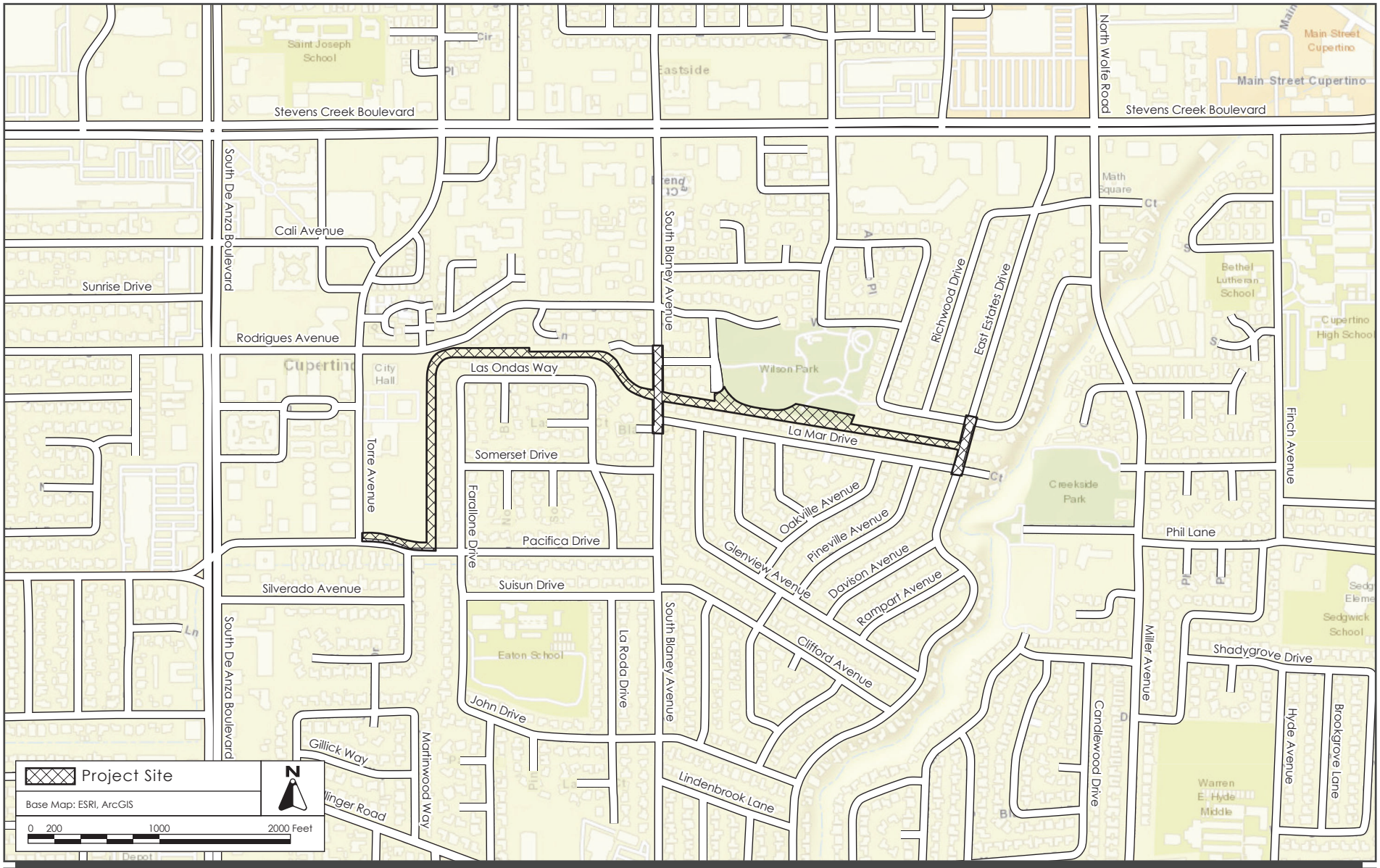
The Bicycle Transportation Plan recommended a feasibility study for a Class I bicycle path along Regnart Creek, between Pacifica Drive and East Estates Drive, as part of the future Cupertino Loop Trail. The City identified this route as a vital connector between neighborhood destinations, including the Civic Center, Cupertino Library, and City parks, while also serving as a link to nearby schools.

2.4.2 Regnart Creek Trail Feasibility Study

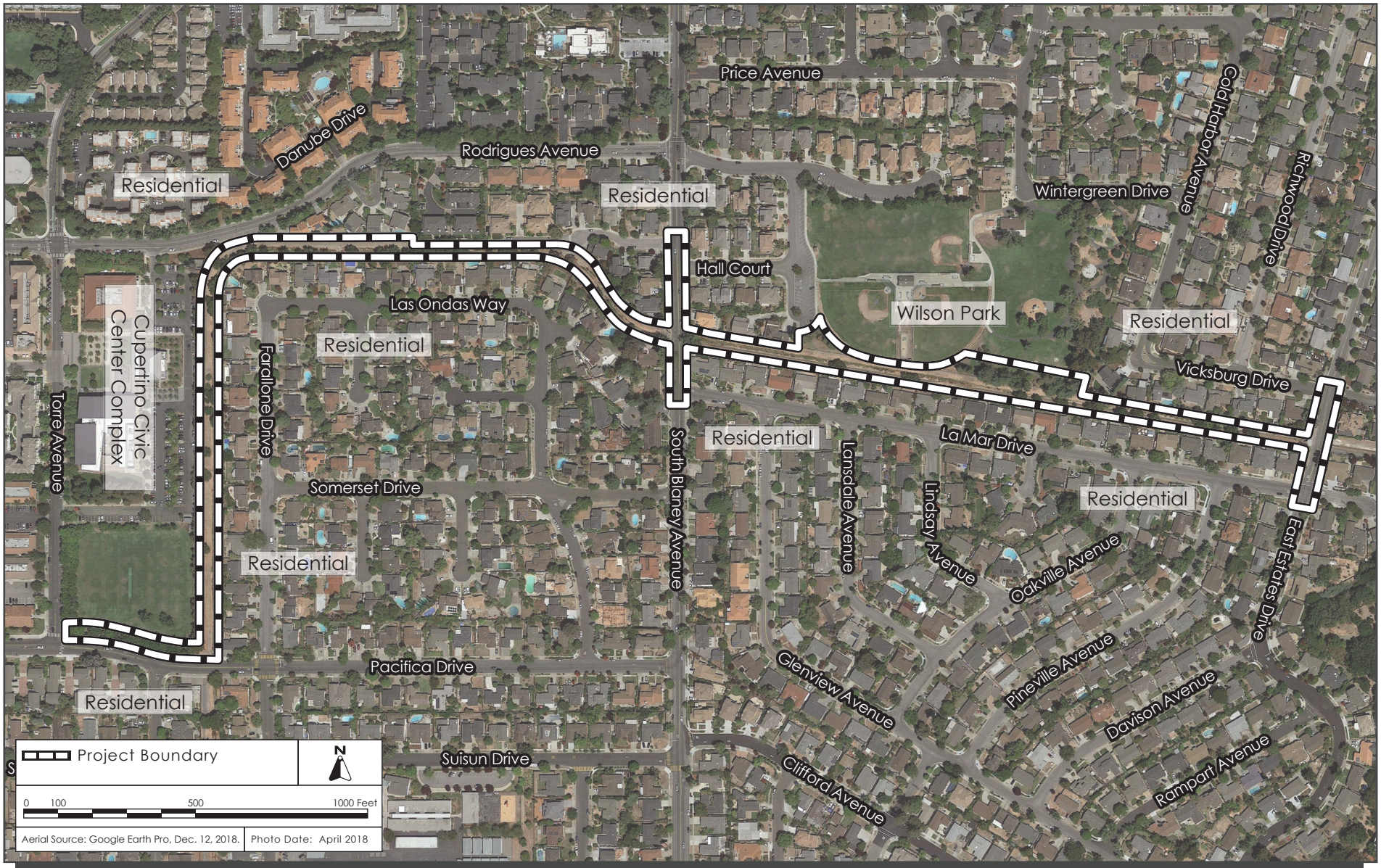
The Regnart Creek Trail Feasibility Study was prepared in 2018 to evaluate an off-street bicycle and pedestrian facility parallel to Regnart Creek, providing a connection between Torre Avenue/Pacifica Drive and the existing trail entrance to Creekside Park at East Estates Drive. The feasibility study was adopted by the Cupertino City Council in August 2018 (Resolution No. 18-081).



REGIONAL MAP | FIGURE 2.2-1



VICINITY MAP | FIGURE 2.2-2



AERIAL PHOTOGRAPH AND SURROUNDING LAND USES | FIGURE 2.2-3

2.4.3 Pedestrian Transportation Plan

In February 2018, the Cupertino City Council adopted the 2018 Pedestrian Transportation Plan as a companion document to the Bicycle Transportation Plan. The Pedestrian Transportation Plan includes policies, programs, and infrastructures to achieve the following goals: 1) improve pedestrian safety and reduce pedestrian-related collisions; 2) increase and improve pedestrian access to community destinations; and 3) continue to develop a connected pedestrian network.

SECTION 3.0 PROJECT DESCRIPTION

3.1 PROJECT DESCRIPTION

3.1.1 Project Overview

The proposed 0.8-mile trail would extend from Torre Avenue to East Estates Drive. The purpose of the Regnart Creek Trail project is to construct a trail connecting the Cupertino Civic Center complex (Cupertino Library, Community Hall, City Hall, and Library Field) to the west with Wilson and Creekside Parks to the east.

Regnart Creek is managed and maintained by Valley Water. For most of its reach, the trail would be constructed on the existing Valley Water maintenance road located along Regnart Creek. The proposed trail would be 10 feet wide and surfaced with decomposed granite. A minimum width of 12 feet would be kept clear of obstructions to allow for Valley Water maintenance vehicle access. Within the project limits, Regnart Creek is an engineered earthen channel with concrete reinforcement at various locations. The existing concrete Valley Water maintenance ramp located along the proposed trail alignment, across the creek from Wilson Park, would be relocated by the project. The proposed trail would be closed during Valley Water maintenance activities.

Various ancillary trail components and features are proposed along the trail alignment at specific locations, including curb and gutter improvements, fence replacements, chain link gates at trail access points, removable railings, chain link fencing, and a pedestrian bridge at Wilson Park.

In addition to the trail improvements described above, the project also includes pedestrian and bicycle improvements on the surrounding roadways to provide better access to and from the proposed trail. Each of the proposed project components is described in further detail below.

3.1.2 Trail Improvements

The following description of the specific trail improvements is broken down into four trail alignment segments: 1) Torre Avenue to Regnart Creek at Pacifica Drive, 2) Pacifica Drive to Rodrigues Avenue, 3) Rodrigues Avenue to South Blaney Avenue, and 4) South Blaney Avenue to East Estates Drive. Refer to Figure 3.1-1 for the project extent map.

3.1.2.1 *Torre Avenue to Regnart Creek at Pacifica Drive*

Between Torre Avenue and Regnart Creek, the existing sidewalk along the north side of Pacifica Drive would be widened and trailheads would be installed at Torre Avenue/Pacifica Drive and Regnart Creek/Pacifica Drive.

3.1.2.2 *Pacifica Drive and Rodrigues Avenue*

The proposed north-south trail reach, between Pacifica Drive and Rodrigues Avenue, would be located along the west side of Regnart Creek on the existing Valley Water dirt-surfaced maintenance road. Trailheads would connect to the Cupertino Civic Center complex and Rodrigues Avenue.

*** PROPOSED CLASS III BIKE ROUTES**

PROJECT EXTENT MAP | FIGURE 3.1-1

3.1.2.3 *Rodrigues Avenue to South Blaney Avenue*

From Rodrigues Avenue to South Blaney Avenue, the trail would be constructed along the north side of Regnart Creek on the Valley Water gravel-surfaced maintenance road and De Palma Lane. Trailheads would be located on the east and west sides of South Blaney Avenue at La Mar Drive. A high visibility pedestrian crosswalk with Rectangular Rapid Flash Beacons (RRFBs) and Americans with Disabilities Act (ADA) ramp and curb improvements would be constructed at the South Blaney Avenue trail crossing.

3.1.2.4 *South Blaney Avenue and East Estates Drive*

Between South Blaney Avenue and East Estates Drive, the trail would be constructed along the existing Valley Water maintenance road along the south side of Regnart Creek. A trailhead and raised pedestrian crossing with a ramped speed table, crosswalk markings, and RRFBs would be constructed at the East Estates Drive trail crossing.

Valley Water Maintenance Ramp

An existing Valley Water maintenance ramp is located along the Valley Water maintenance road across from Wilson Park. The project would relocate the maintenance ramp to the north side of the creek. A gravel road onto Parkside Lane would provide access to the relocated maintenance ramp and an equipment staging area for future creek maintenance activities. The slope and maintenance road at the existing ramp would be reconstructed, allowing for the proposed trail to continue to the intersection with East Estates Drive to the east.

Pedestrian Bridge

A removable truss bridge over Regnart Creek, connecting the proposed trail to Wilson Park, would be constructed at the location of the existing Valley Water maintenance ramp. The bridge would measure approximately 12 feet wide by approximately 44 feet long and would connect to a new spur trail and trailhead in Wilson Park.

3.1.3 Pedestrian and Bicycle Street Improvements

In addition to the trail improvements described above, the proposed project includes construction/installation of the following pedestrian and bicycle improvements to provide better trail access from the surrounding roadway network:

- Bulb outs at Pacifica Drive/South Blaney Avenue, La Mar Drive/South Blaney Avenue, La Mar Drive/East Estates Drive, and Vicksburg Drive/East Estates Drive intersections.
- ADA ramp and curb improvements at the La Mar Drive/South Blaney Avenue, Pacifica Drive/South Blaney Avenue, and La Mar Drive/East Estates Drive intersections.
- Class III Bike Route signage along Pacifica Drive, from Torre Avenue to the intersection of South Blaney Avenue.
- Class III Bike Route signage along La Mar Drive from South Blaney Avenue to East Estates Drive.

These additional improvements will not affect or require relocation of existing electrical/utility poles.

3.2 CONSTRUCTION METHODS

Construction of the proposed project is anticipated to take approximately 10 months to complete. All project construction activities would be completed under the oversight of the City Arborist to ensure existing trees within and adjacent to the proposed project are not harmed, except the one landscape tree to be removed by the project. The construction methods for the various project components are described below.

3.2.1 Trail

Trail construction would require the use of construction equipment, such as backhoes and hauling trucks, that would be used for grading as well as for import and export of material such as earth, debris, and demolished items. Small vehicles, such as pickup trucks, would also be used for general construction needs. Once the rough grading is complete, paving operations would proceed, consisting of placement of decomposed granite.

Railings would be installed between the trail and the creek between South Blaney Avenue and East Estates Drive, and at select locations elsewhere. The railing is proposed as a safety feature and would be removable to allow creek maintenance access and operations. The railings would be constructed behind the top of bank and would be 3.5 feet tall. To minimize ground disturbance at locations near the top of bank, tubular steel posts would be pressed or driven into the soil to a depth suitable to provide railing stability.

3.2.2 Pedestrian Bridge

The proposed pedestrian bridge connecting the trail to Wilson Park would be a single-span structure supported on concrete abutments to be located outside the top of bank. The bridge would have timber decks and safety rails. A crane would lift the bridge structure onto the abutments from a location outside the top of bank. After construction, the bridge could be temporarily removed, as required, to provide creek access to Valley Water.

3.2.3 Utilities

Underground utilities, such as storm drain pipes and electrical conduit for the RRFBs, would be constructed and/or relocated, as necessary, to accommodate the proposed trail.

3.2.4 Finishing

Finishing construction activities would include landscaping, soil stabilizing with replanting, and signage installation at appropriate locations.

3.2.5 Staging

Construction staging areas are proposed to be located at the Library Field, Wilson Park, and on City streets near the project alignment. The staging areas would be used for a portable construction trailer as well as for the storage of vehicles, equipment, and materials.

3.3.6 Maintenance Ramp Relocation

The project includes the relocation of an existing Valley Water maintenance ramp, currently located on the south side of the Regnart Creek channel opposite Wilson Park. The existing ramp will be removed and covered with soil on the bank, and a strip of new concrete will be placed along the channel at the bottom of the slope, replacing the existing concrete. The replacement ramp will be located west of the existing ramp on the north side of the creek, and will be constructed of soil and concrete or other slope stabilization material (see Figure 4.4-2).

3.3 CUPERTINO STANDARD DESIGN AND CONSTRUCTION MEASURES

The proposed trail is located adjacent to the ecologically sensitive Regnart Creek riparian corridor. Within the project limits, there are areas of riparian habitat along the creek, including large trees. A key objective of the City's trail design team was to formulate a design that avoids and minimizes impacts to this habitat. As examples, during trail design, impact avoidance and minimization was implemented by placing the bridge away from trees, narrowing the trail width at certain locations, switching from one side of the creek to the other, and utilizing the existing Valley Water access road.

The proposed trail and bicycle and pedestrian improvements would be implemented consistent with all relevant federal, state, regional, and local regulations aimed at preventing or reducing environmental impacts. Table 3.3-1 lists standard measures that would be implemented during project construction.

Table 3.3-1: City of Cupertino Standard Design and Construction Measures

Resource	Standard Design and Construction Measure
Air Quality	**Fugitive Dust -** To reduce potential fugitive dust that may be generated by project construction activities, the City of Cupertino will implement the most current version of the BAAQMD Basic Construction Measures when ground disturbing activities have the potential to generate fugitive dust. The current Basic Construction Measures are provided below: • All active construction areas will be watered twice daily or more often if necessary. Increased watering frequency will be required whenever wind speeds exceed 15 miles-per-hour. • Cover stockpiles of debris, soil, sand, and any other materials that can be windblown. Trucks transporting these materials will be covered. • All visible mud or dirt track-out onto adjacent public roads will be removed using wet power vacuum street sweepers at least once per day or as often as necessary to keep them free of dust and debris associated with site construction. The use of dry power sweeping is prohibited. Subsequent to clearing, grading, or excavating, exposed portions of the site will be watered, landscaped, treated with soil stabilizers, or covered as soon as possible. Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas and previously graded areas inactive for 10 days or more.

	• Installation of sandbags or other erosion control measures to prevent silt runoff to public roadways. • Replanting of vegetation in disturbed areas as soon as possible after completion of construction. • Idling times will be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes. Clear signage will be provided for construction workers at all access points. • All construction equipment will be maintained and properly tuned in accordance with manufacturer's specifications. All equipment will be checked by a certified mechanic and determined to be running in proper condition prior to operation. • Post a publicly visible sign with the telephone number and person to contact at the City of Cupertino regarding dust complaints. This person will respond and take corrective action within 48 hours. The BAAQMD's phone number will also be visible to ensure compliance with applicable regulations
Air Quality	**Construction Emission Reduction/Energy Efficiency Best Management Practices -** To reduce construction equipment related fuel consumption and emissions of criteria air pollutants, toxic air contaminants, and GHGs, the City shall implement the following best management practices: • Where possible, electrical service shall be provided to construction work areas to avoid the need to power equipment with generators.
Water Quality	**Erosion Control -** Park projects will be designed in accordance with the most current Chapter 9.18 Stormwater Pollution Prevention and Watershed Protection of the Municipal Code, as applicable, and the most current Municipal Regional Stormwater NPDES permit. Projects will be constructed in accordance with the most current version of Section 7.20 Storm Water Pollution Control of the General Conditions of the City's Public Works contract documents. Construction plans will include the City of Cupertino, Public Works Department "Construction Best Management Practices" plan sheet. **Green Stormwater Infrastructure -** The project will be designed consistent with the City's Green Stormwater Infrastructure (GSI) Plan (adopted Sep. 2019).
Noise	**Construction Noise -** Construction projects will be carried out in conformance with the most current version of Chapter 10.48 of the Municipal Code, Community Noise Control. The current language is provided below. • Section 10.48.051, Landscape Maintenance Activities, states that the use of motorized equipment for landscape maintenance activities for public schools, public and private golf courses, and public facilities

	is limited to the hours of 7 AM to 8 PM on weekdays and 7 AM to 6 PM on weekends and holidays. • Section 10.48.053, Grading, Construction, and Demolition sets forth standards for construction-related noise: 1. Grading, construction and demolition activities shall be allowed to exceed the noise limits of Section 10.48.040 during daytime hours (7 AM to 8 PM on weekdays and 9 AM to 6 PM on weekends) provided that the equipment utilized has high-quality noise muffler and abatement devices installed and in good condition, and the activity meets one of the following two criteria: 1) No individual device produces a noise level more than 87 dBA at a distance of 25 feet; or 2) The noise level on any nearby property does not exceed 80 dBA. 2. Grading, street construction, demolition, and underground utility work are prohibited within 750 feet of a residential area on weekends, holidays, and during the nighttime period (8 PM to 7 AM on weekdays and 6 PM to 9 AM on weekends). This restriction does not apply to emergency work activities as defined by Section 10.48.030 of the Municipal Code. 3. Construction, other than street construction (and certain emergency work activities), is prohibited on holidays. 4. Construction, other than street construction (and certain emergency work activities) is prohibited during nighttime periods unless it meets the nighttime standards in Section 10.48.040. **Park Usage Noise -** Chapter 13.04, Parks Section 13.04.190, Closing Hours – Prohibitions, states that no person shall remain, stay, or loiter in any public park between the hours of 10 PM and 6 AM, unless otherwise posted at the public park.
Transportation	**Traffic Control -** For all construction projects affecting vehicle, bicycle, or pedestrian circulation patterns, the contractor will provide vehicle traffic control measures to ensure safety and vehicle flow during construction, and which ensure public safety and provide for adequate access to public rights-of-way during construction. All construction projects will require the construction contractor to comply with the most current version of Section 7.21 Traffic Control and Public Safety of the General Conditions of the City's Public Works contract documents which require contractors to give adequate warning to the public of construction and to maintain access to public rights-of-way during construction.

In addition to the measures listed in Table 3.3-1, the City uses several documents to specify standard measures for City sponsored construction projects. These standard measures are specified in City construction contracts and serve to eliminate or reduce environmental impacts associated with construction projects, some of which are intended to ensure the City complies with state and federal laws regarding air emissions, storm water pollution prevention, and hazardous materials handling and storage at construction sites. These measures are found in the documents listed below.

The current City documents containing standard measures consist of:

- Department of Public Works Construction Best Management Practices (BMPs) for Stormwater Pollution Prevention and Water Course Protection (pursuant to City Municipal Code Chapter 9.18) (dated September 1, 2016)
- City of Cupertino Public Works Department, Standard Details for Construction within City right-of-way. Undated.
- City of Cupertino Public Works Contract Documents, General Conditions ofProject Manual (standard construction contract language)

These documents can be found at: www.cupertino.org/our-city/departments/public-works/engineering-standards-policies-procedures.

SECTION 4.0 ENVIRONMENTAL SETTING, CHECKLIST, AND IMPACT DISCUSSION

This section presents the discussion of impacts related to the following environmental subjects in their respective subsections:

4.1	Aesthetics	4.12	Mineral Resources
4.2	Agriculture and Forestry Resources	4.13	Noise
4.3	Air Quality	4.14	Population and Housing
4.4	Biological Resources	4.15	Public Services
4.5	Cultural Resources	4.16	Recreation
4.6	Energy	4.17	Transportation
4.7	Geology and Soils	4.18	Tribal Cultural Resources
4.8	Greenhouse Gas Emissions	4.19	Utilities and Service Systems
4.9	Hazards and Hazardous Materials	4.20	Wildfire
4.10	Hydrology and Water Quality	4.21	Mandatory Findings of Significance
4.11	Land Use and Planning		

The discussion for each environmental subject includes the following subsections:

- **Environmental Setting** – This subsection 1) provides a brief overview of relevant plans, policies, and regulations that compose the regulatory framework for the project and 2) describes the existing, physical environmental conditions at the project site and in the surrounding area, as relevant.
- **Impact Discussion** – This subsection 1) includes the recommended checklist questions from Appendix G of the CEQA Guidelines to assess impacts and 2) discusses the project's impact on the environmental subject as related to the checklist questions. For potentially significant impacts, feasible mitigation measures are identified. "Mitigation measures" are measures that will minimize, avoid, or eliminate a potentially significant impact (CEQA Guidelines Section 15370). Each impact is numbered to correspond to the checklist question being answered. For example, Impact BIO-1 answers the first checklist question in the Biological Resources section. Mitigation measures are also numbered to correspond to the impact they address. For example, MM BIO-1.3 refers to the third mitigation measure for the first impact in the Biological Resources section.

4.1 AESTHETICS

4.1.1 Environmental Setting

4.1.1.1 *Regulatory Framework*

State

Streets and Highway Code Sections 260 through 263

The California Scenic Highway Program (Streets and Highway Code, Sections 260 through 263) is managed by the California Department of Transportation (Caltrans). The program is intended to protect and enhance the natural scenic beauty of California highways and adjacent corridors through special conservation treatment. There are no state-designated scenic highways in Cupertino. Interstate 280 from the San Mateo County line to State Route (SR) 17, which includes segments in Cupertino, is an eligible, but not officially designated, State Scenic Highway.[1]

In Santa Clara County, the one state-designated scenic highway is SR 9 from the Santa Cruz County line to the Los Gatos City Limit. Eligible State Scenic Highways (not officially designated) include: SR 17 from the Santa Cruz County line to SR 9, SR 35 from Santa Cruz County line to SR 9, Interstate 280 from the San Mateo County line to SR 17, and the entire length of SR 152 within the County.

4.1.1.2 *Existing Conditions*

The project alignment is approximately 0.8 mile in length and extends from Torre Avenue to East Estates Drive in the City of Cupertino. As a whole, the visual character of the project area is a residential neighborhood consisting of newer and older, one- and two-story, single-family residences. The trail alignment is located behind the rear and side fences of existing residences and in front of some existing residences located on a private street. The Cupertino Civic Center complex (Cupertino City Hall, Community Hall, Library, and Library Field) is located along the western reach of the trail alignment. Wilson Park and Creekside Park are located at the eastern reach of the trail alignment.

The trail would follow Regnart Creek along an existing Valley Water access road located adjacent to the creek. In the project area, Regnart Creek is an engineered channel lacking consistent, mature riparian vegetation. The creek banks are engineered with sacked and conventional concrete armoring for much of the alignment, as shown in Photos 1, 3, and 4. Mature trees are located within the backyards of some of the residences and along the outside of the proposed trail alignment, as shown in Photos 1-10.

The topography of the trail alignment is relatively flat, ranging from 205 to 235 feet above mean sea level (msl). Due to the flat topography, existing development limits views of the alignment to the immediate area. There are no formally designated scenic views or resources within the project area.

[1] California Department of Transportation. ”Scenic Highways.”. Accessed April 26, 2019. http://www.dot.ca.gov/design/lap/livability/scenic-highways/index.html.

Photo 1 View of the Valley Water maintenance road, on which the trail is proposed to be placed, looking north with residences located on the east side of the creek (to the right). The Cupertino City Hall Complex is located to the left (west).

Photo 2 View of trail site looking east near Rodrigues Avenue (left).

PHOTOS 1 & 2

Photo 3 Sacked concrete stabilization of south side of the creek, south of Rodrigues Avenue.

Photo 4 View of creek facing west on the north side of the creek. The trail would be placed on the existing maintenance road shown. Sacked concrete and mature oak trees can be seen within the banks of the creek.

PHOTOS 3 & 4

Photo 5 View looking east in front of the residences located on the existing pathway west of De Palma Lane.

Photo 6 View looking east from the existing private street towards De Palma Lane.

PHOTOS 5 & 6

Photo 7 Facing east at the future trail's intersection with South Blaney Drive. New crosswalks would be constructed at this intersection.

Photo 8 View of the proposed trail alignment, east of South Blaney Drive. The trail would continue to be located on the south side of the creek behind the rear yard fences of existing residences. A crosswalk would be constructed at this intersection.

PHOTOS 7 & 8

Photo 9 The existing Valley Water maintenance road on the south side of the creek as it passes Wilson Park looking west. Under the proposed project, the existing creek access ramp shown in the foreground would be relocated to the north side of the creek and a bridge connection to Wilson Park would be constructed.

Photo 10 View of existing trail at its intersection with East Estates Drive, looking east. New crosswalks would be constructed at this intersection.

PHOTOS 9 & 10

4.1.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☒
2) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒
3) In non-urbanized areas, substantially degrade the existing visual character or quality of public views[2] of the site and its surroundings? If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	☐	☐	☐	☒
4) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☒	☐

Note: Certain projects within transit priority areas need not evaluate aesthetics (Public Resources Code Section 21099).

Impact AES-1: The project would not have a substantial adverse effect on a scenic vista. (No Impact)

The project alignment is located within an urbanized area that has no designated scenic resources. **(No Impact)**

Impact AES-2: The project would not substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway. (No Impact)

There are no designated scenic highways within the City of Cupertino, and the project would not damage scenic resources. **(No Impact)**

Impact AES-3: The project would not conflict with applicable zoning and other regulations governing scenic quality. (No Impact)

The proposed trail alignment is located in an urbanized area. There are no regulations governing scenic quality applicable to the proposed trail project. Therefore, the proposed project would not conflict with applicable regulations governing scenic quality. **(No Impact)**

[2] Public views are those that are experienced from publicly accessible vantage points.

Impact AES-4:	**The project would not create a new source of substantial light or glare which would adversely affect day or nighttime views in the area. (Less than Significant Impact)**

The proposed project would include installation of RRFB signals at road crossings to improve pedestrian safety. The signals would include flashing light emitting diode (LED) lights activated by pedestrians using push buttons. The signals are shielded on all sides to direct the flashing light towards the roadway. For these reasons, the RRFB signals would not create a new source of substantial light or glare. No other light sources are proposed by the project. **(Less than Significant Impact)**

4.2 AGRICULTURE AND FORESTRY RESOURCES

4.2.1 Environmental Setting

4.2.1.1 *Regulatory Framework*

State

Farmland Mapping and Monitoring Program

The California Department of Conservation's Farmland Mapping and Monitoring Program (FMMP) assesses the location, quality, and quantity of agricultural land and conversion of these lands over time. Agricultural land is rated according to soil quality and irrigation status. The best quality land is called Prime Farmland. In CEQA analyses, the FMMP classifications and published county maps are used, in part, to identify whether agricultural resources that could be affected are present on-site or in the project area.[3]

California Land Conservation Act

The California Land Conservation Act (Williamson Act) enables local governments to enter into contracts with private landowners to restrict parcels of land to agricultural or related open space uses. In return, landowners receive lower property tax assessments. In CEQA analyses, identification of properties that are under a Williamson Act contract is used to also identify sites that may contain agricultural resources or are zoned for agricultural uses.[4]

Fire and Resource Assessment Program

The California Department of Forestry and Fire Protection (CAL FIRE) identifies forest land, timberland, and lands zoned for timberland production that can (or do) support forestry resources.[5] Programs such as CAL FIRE's Fire and Resource Assessment Program are used to identify whether forest land, timberland, or timberland production areas that could be affected are located on or adjacent to a project site.[6]

4.2.1.2 *Existing Conditions*

The Santa Clara County Important Farmland 2016 map designates the project area as Urban and Built-Up Land. Urban and Built-Up Land is defined as land that is occupied by structures with a building density of at least six structures per 10-acre parcel. There are no areas designated as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance in the project vicinity.

[3] California Department of Conservation. "Farmland Mapping and Monitoring Program." Accessed April 26, 2019. http://www.conservation.ca.gov/dlrp/fmmp/Pages/Index.aspx.
[4] California Department of Conservation. "Williamson Act." http://www.conservation.ca.gov/dlrp/lca.
[5] Forest Land is land that can support 10 percent native tree cover and allows for management of forest resources (California Public Resources Code Section 12220(g)); Timberland is land not owned by the federal government or designated as experimental forest land that is available for, and capable of, growing trees to produce lumber and other products, including Christmas trees (California Public Resources Code Section 4526); and Timberland Production is land used for growing and harvesting timber and compatible uses (Government Code Section 51104(g)).
[6] California Department of Forestry and Fire Protection. "Fire and Resource Assessment Program." Accessed April 26, 2019. http://frap.fire.ca.gov/.

The project area is not currently used for agricultural purposes. Existing uses in the project area include residential, recreational, and public facilities. The project area is not part of a Williamson Act contract.

4.2.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☒
2) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒
3) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?	☐	☐	☐	☒
4) Result in a loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒
5) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☐	☒

Impact AG-1: The project would not convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use. (No Impact)

The area within and adjacent to the project alignment is designated as Urban and Built-Up Land on the Santa Clara County Important Farmland 2016 map. There are no lands designated as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance in the project area. **(No Impact)**

Impact AG-2: The project would not conflict with existing zoning for agricultural use, or a Williamson Act contract. (No Impact)

The area within and adjacent to the project alignment is not zoned for agricultural use and is not the subject of a Williamson Act contract. **(No Impact)**

Impact AG-3:	**The project would not conflict with existing zoning for, or cause rezoning of, forest land, timberland, or timberland zoned Timberland Production. (No Impact)**

The project alignment is not considered forest land or timberland and is not zoned Timberland Production. There are no forest resources in the vicinity of the project. **(No Impact)**

Impact AG-4:	**The project would not result in a loss of forest land or conversion of forest land to non-forest use. (No Impact)**

The project alignment is located in an urban area and is not forest land. The project would not result in a loss or conversion of forest land. **(No Impact)**

Impact AG-5:	**The project would not involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use. (No Impact)**

The project alignment is not zoned or used as farmland or forest land. The project would not involve changes to the existing environment that could result in conversion of farmland or forest land. **(No Impact)**

4.3 AIR QUALITY

4.3.1 Environmental Setting

4.3.1.1 *Background Information*

Criteria Pollutants

Air quality in the Bay Area is assessed related to six common air pollutants (referred to as criteria pollutants), which are ground-level ozone (O_3), nitrogen oxides (NO_x), particulate matter (PM), carbon monoxide (CO), sulfur oxides (SO_x), and lead.[7] Criteria pollutants are regulated because they result in health effects. An overview of the sources of criteria pollutants and their associated health are summarized in Table 4.3-1. The most commonly regulated criteria pollutants in the Bay Area are discussed further below.

Table 4.3-1: Health Effects of Air Pollutants

Pollutants	Sources	Primary Effects
O_3	Atmospheric reaction of organic gases with nitrogen oxides in sunlight	• Aggravation of respiratory and cardiovascular diseases • Irritation of eyes • Cardiopulmonary function impairment
Nitrogen Dioxide (NO_2)	Motor vehicle exhaust, high temperature stationary combustion, atmospheric reactions	• Aggravation of respiratory illness • Reduced visibility
Fine Particulate Matter ($PM_{2.5}$) and Coarse Particulate Matter (PM_{10})	Stationary combustion of solid fuels, construction activities, industrial processes, atmospheric chemical reactions	• Reduced lung function, especially in children • Aggravation of respiratory and cardiorespiratory diseases • Increased cough and chest discomfort • Reduced visibility
Toxic Air Contaminants (TACs)	Cars and trucks, especially diesel-fueled; industrial sources, such as chrome platers; dry cleaners and service stations; building materials and products	• Cancer • Chronic eye, lung, or skin irritation • Neurological and reproductive disorders

High O_3 levels are caused by the cumulative emissions of reactive organic gases (ROG) and NO_x. These precursor pollutants react under certain meteorological conditions to form high O_3 levels. Controlling the emissions of these precursor pollutants is the focus of the Bay Area's attempts to reduce O_3 levels. The highest O_3 levels in the Bay Area occur in the eastern and southern inland valleys that are downwind of air pollutant sources.

[7] The area has attained both state and federal ambient air quality standards for CO. The project does not include substantial new emissions of sulfur dioxide or lead. These criteria pollutants are not discussed further.

PM is a problematic air pollutant of the Bay Area. PM is assessed and measured in terms of respirable particulate matter or particles that have a diameter of 10 micrometers or less (PM_{10}) and fine particulate matter where particles have a diameter of 2.5 micrometers or less ($PM_{2.5}$). Elevated concentrations of PM_{10} and $PM_{2.5}$ are the result of both region-wide emissions and localized emissions.

Toxic Air Contaminants

TACs are a broad class of compounds known to have health effects. They include but are not limited to criteria pollutants. TACs are found in ambient air, especially in urban areas, and are caused by industry, agriculture, diesel fuel combustion, and commercial operations (e.g., dry cleaners). TACs are typically found in low concentrations, even near their source (e.g., diesel particulate matter [DPM] near a freeway).

Diesel exhaust is the predominant TAC in urban air and is estimated to represent about three-quarters of the cancer risk from TACs. Diesel exhaust is a complex mixture of gases, vapors, and fine particles. Medium- and heavy-duty diesel trucks represent the bulk of DPM emissions from California highways. The majority of DPM is small enough to be inhaled into the lungs. Most inhaled particles are subsequently exhaled, but some deposit on the lung surface or are deposited in the deepest regions of the lungs (most susceptible to injury).[8] Chemicals in diesel exhaust, such as benzene and formaldehyde, have been previously identified as TACs by the California Air Resources Board (CARB).

Sensitive Receptors

Some groups of people are more affected by air pollution than others. CARB has identified the following persons who are most likely to be affected by air pollution: children under 16, the elderly over 65, athletes, and people with cardiovascular and chronic respiratory diseases. These groups are classified as sensitive receptors. Locations that may contain a high concentration of these sensitive population groups include residential areas, hospitals, daycare facilities, elder care facilities, and elementary schools. The closest sensitive receptors to the project alignment are the single-family residences located adjacent to the Regnart Creek corridor.

4.3.1.2 *Regulatory Framework*

Federal and State

Clean Air Act

At the federal level, the United States Environmental Protection Agency (EPA) is responsible for overseeing implementation of the Clean Air Act and its subsequent amendments. The federal Clean Air Act requires the EPA to set national ambient air quality standards for the six common criteria pollutants (discussed previously), including PM, O_3, CO, SO_x, NO_x, and lead.

CARB is the state agency that regulates mobile sources throughout the state and oversees implementation of the state air quality laws and regulations, including the California Clean Air Act.

[8] California Air Resources Board. "Overview: Diesel Exhaust and Health." Accessed June 16, 2018. https://www.arb.ca.gov/research/diesel/diesel-health.htm.

The EPA and the CARB have adopted ambient air quality standards establishing permissible levels of these pollutants to protect public health and the climate. Violations of ambient air quality standards are based on air pollutant monitoring data and are determined for each air pollutant. Attainment status for a pollutant means that a given air district meets the standard set by the EPA and/or CARB.

Risk Reduction Plan

To address the issue of diesel emissions in the state, CARB developed the Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel-Fueled Engines and Vehicles. In addition to requiring more stringent emission standards for new on-road and off-road mobile sources and stationary diesel-fueled engines to reduce particulate matter emissions by 90 percent, the plan involves application of emission control strategies to existing diesel vehicles and equipment to reduce DPM (in additional to other pollutants). Implementation of this plan, in conjunction with stringent federal and CARB-adopted emission limits for diesel fueled vehicles and equipment (including off-road equipment), will significantly reduce emissions of DPM and NO_X.

Regional and Local

2017 Clean Air Plan

The Bay Area Air Quality Management District (BAAQMD) is the agency primarily responsible for assuring that the federal and state ambient air quality standards are maintained in the San Francisco Bay Area. Regional air quality management districts, such as BAAQMD, must prepare air quality plans specifying how state and federal air quality standards will be met. BAAQMD's most recently adopted plan is the Bay Area 2017 Clean Air Plan (2017 CAP). The 2017 CAP focuses on two related BAAQMD goals: protecting public health and protecting the climate. To protect public health, the 2017 CAP describes how BAAQMD will continue its progress toward attaining state and federal air quality standards and eliminating health risk disparities from exposure to air pollution among Bay Area communities. To protect the climate, the 2017 CAP includes control measures designed to reduce emissions of methane and other super-greenhouse gases (GHGs) that are potent climate pollutants in the near-term, and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.[9]

CEQA Air Quality Guidelines

The BAAQMD CEQA Air Quality Guidelines are intended to serve as a guide for those who prepare or evaluate air quality impact analyses for projects and plans in the San Francisco Bay Area. Jurisdictions in the San Francisco Bay Area Air Basin utilize the thresholds and methodology for assessing air quality impacts developed by BAAQMD within their CEQA Air Quality Guidelines. The guidelines include information on legal requirements, BAAQMD rules, methods of analyzing impacts, and recommended mitigation measures.

[9] BAAQMD. *Final 2017 Clean Air Plan.* April 19, 2017. http://www.baaqmd.gov/plans-and-climate/air-quality-plans/current-plans.

4.3.1.3 *Existing Conditions*

The Bay Area is considered a non-attainment area for ground-level O_3 and $PM_{2.5}$ under both the federal Clean Air Act and state Clean Air Act. The area is also considered nonattainment for PM_{10} under the state act, but not the federal act. The area has attained both state and federal ambient air quality standards for CO. As part of an effort to attain and maintain ambient air quality standards for O_3 and PM_{10}, BAAQMD has established thresholds of significance for these air pollutants and their precursors. These thresholds are for O_3 precursor pollutants (ROG and NO_X), PM_{10}, and $PM_{2.5}$, and apply to both construction period and operational period impacts.

4.3.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☒	☐
2) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?	☐	☐	☒	☐
3) Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☒	☐
4) Result in substantial emissions (such as odors) adversely affecting a substantial number of people?	☐	☐	☐	☒

Impact AIR-1: The project would not conflict with or obstruct implementation of the applicable air quality plan. (Less than Significant Impact)

The adopted Bay Area 2017 Clean Air Plan contains policies and strategies that have the goal of reducing the emissions of air pollutants and bringing the region into compliance with the Clean Air Act. Such policies and strategies include the construction of facilities that promote bicycle and pedestrian usage, thereby reducing trips made by motor vehicles. The proposed trail project is consistent with the CAP's transportation control measures (TCMs) because it would facilitate pedestrian and bicycle travel. **(Less than Significant Impact)**

Impact AIR-2: The project would not result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard. (Less than Significant Impact)

Operational Emissions

The proposed project is a pedestrian and bicycle trail project that would connect local neighborhoods to parks and the Cupertino Civic Center complex. Once completed, the trail would serve to accommodate and facilitate non-motorized transportation and would not generate substantial vehicle trips that would emit criteria pollutants. As an alternative mode of transportation that results in fewer motorized vehicles on the roadway, operation of the proposed trail would not result in a cumulatively considerable net increase of criteria pollutants. **(Less than Significant Impact)**

Construction Emissions

Construction activities would temporarily affect local air quality. Construction activities such as excavation and grading, construction vehicle traffic, and wind blowing over exposed earth would generate exhaust emissions and fugitive particulate matter emissions that affect local and regional air quality. Construction activities are also a source of organic gas emissions. Solvents in adhesives, non-water-based paints, thinners, and some caulking materials evaporate into the atmosphere and participate in the photochemical reaction that creates urban ozone. Construction activities would temporarily affect local air quality; however, construction of the proposed trail would not require significant grading and thus would not result in a significant criteria pollutant air quality impact.

Standard Permit Condition: The project would implement the following BAAQMD Basic Construction Measures[10] during all phases of construction to control dust and exhaust at the project alignment.

- All active construction areas will be watered twice daily or more often if necessary. Increased watering frequency will be required whenever wind speeds exceed 15 miles-per-hour.
- Cover stockpiles of debris, soil, sand, and any other materials that can be windblown. Trucks transporting these materials will be covered.
- All visible mud or dirt track-out onto adjacent public roads will be removed using wet power vacuum street sweepers at least once per day or as often as necessary to keep them free of dust and debris associated with site construction. The use of dry power sweeping is prohibited.
- Subsequent to clearing, grading, or excavating, exposed portions of the site will be watered, landscaped, treated with soil stabilizers, or covered as soon as possible. Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas and previously graded areas inactive for 10 days or more.
- Installation of sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Replanting of vegetation in disturbed areas as soon as possible after completion of construction.
- Idling times will be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes. Clear signage will be provided for construction workers at all access points.

[10] Bay Area Air Quality Management District, *California Environmental Quality Act Air Quality Guidelines.* May 2017.

- All construction equipment will be maintained and properly tuned in accordance with manufacturer's specifications. All equipment will be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- Post a publicly visible sign with the telephone number and person to contact at the City of Cupertino regarding dust complaints. This person will respond and take corrective action within 48 hours. The BAAQMD's phone number will also be visible to ensure compliance with applicable regulations.

With implementation of the Standard Permit Conditions listed above, criteria pollutant emissions during project construction would be less than significant. **(Less than Significant Impact)**

Impact AIR-3:	**The project would not expose sensitive receptors to substantial pollutant concentrations. (Less than Significant Impact)**

Project Operation

The closest sensitive receptors to the project alignment are the single-family residences located adjacent to the Regnart Creek corridor. With the implementation of the project, trail use would be limited to pedestrian and bicycle use as well as occasional emergency and/or maintenance vehicles, as currently occurs under existing conditions. It is anticipated that most trail users would access the trail via walking or bicycling to trail access points. This limited use would not generate harmful emissions that would impact sensitive receptors adjacent to the trail. **(Less than Significant Impact)**

Project Construction

Construction equipment and heavy-duty truck traffic generates diesel exhaust, which is a known TAC. Diesel exhaust can pose health risks to nearby receptors. The proposed trail alignment would be constructed over an anticipated period of approximately 10 months. Because of the linear nature of the proposed project, no particular receptor would be exposed to construction over the entire duration of the project. Given that construction of the proposed project would not require substantial demolition, grading, or excavation activities and would be completed relatively quickly, construction TACs would not result in human health risks. **(Less than Significant Impact)**

Impact AIR-4:	**The project would not result in substantial emissions (such as odors) adversely affecting a substantial number of people. (No Impact)**

Common sources of odors include wastewater treatment plants, transfer stations, coffee roasters, painting/coating operations, etc. The trail project would not introduce permanent new sources of odor. **(No Impact)**

4.4 BIOLOGICAL RESOURCES

The discussion in this section is based in part on the Biological Resources Report prepared by H. T. Harvey & Associates, dated January 27, 2020. The report is included in this Initial Study as Appendix A.

4.4.1 Environmental Setting

4.4.1.1 *Regulatory Framework*

Federal and State

Endangered Species Act

Individual plant and animal species listed as rare, threatened, or endangered under state and federal Endangered Species Acts are considered special-status species. Federal and state endangered species legislation has provided the United States Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife (CDFW) with a mechanism for conserving and protecting plant and animal species of limited distribution and/or low or declining populations. Permits may be required from both the USFWS and CDFW if project activities would result in the take of a species listed as threatened or endangered. To "take" a listed species, as defined by the State of California, is "to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill" these species. Take is more broadly defined by the federal Endangered Species Act to include harm of a listed species.

In addition to species listed under state and federal Endangered Species Acts, Sections 15380(b) and (c) of the CEQA Guidelines provide that all potential rare or sensitive species, or habitats capable of supporting rare species, must be considered as part of the environmental review process. These may include plant species listed by the California Native Plant Society and CDFW-listed Species of Special Concern.

Migratory Bird Treaty Act

The federal Migratory Bird Treaty Act (MBTA) prohibits killing, capture, possession, or trade of migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. Hunting and poaching are also prohibited. The taking and killing of birds resulting from an activity is not prohibited by the MBTA when the underlying purpose of that activity is not to take birds.[11] Nesting birds are considered special-status species and are protected by the USFWS. The CDFW also protects migratory and nesting birds under California Fish and Game Code Sections 3503, 3503.5, and 3800. The CDFW defines taking as causing abandonment and/or loss of reproductive efforts through disturbance.

Sensitive Habitat Regulations

Wetland and riparian habitats are considered sensitive habitats under CEQA. They are also afforded protection under applicable federal, state, and local regulations, and are generally subject to regulation by the United States Army Corps of Engineers (USACE), Regional Water Quality Control

[11] United States Department of the Interior. "Memorandum M-37050. The Migratory Bird Treaty Act Does Not Prohibit Incidental Take." Accessed March 28, 2019. https://www.doi.gov/sites/doi.gov/files/uploads/m-37050.pdf.

Board (RWQCB), CDFW, and/or the USFWS under provisions of the federal Clean Water Act (e.g., Sections 303, 304, 404) and State of California Porter-Cologne Water Quality Control Act.

Fish and Game Code Section 1602

Streambeds and banks, as well as associated riparian habitat, are regulated by the CDFW per Section 1602 of the Fish and Game Code. Work within the bed or banks of a stream or the adjacent riparian habitat requires a Streambed Alteration Agreement from the CDFW.

Regional and Local

City of Cupertino Municipal Code

Cupertino Municipal Code Chapter 14.18 includes provisions for preservation of "protected trees" on private and public property and the protection of all trees during construction and requires a permit prior to tree removal. Pursuant to Municipal Code Chapter 14.18.050, protected trees include:

- Heritage trees in all zoning districts. Heritage trees are defined by the City as any tree or grove of trees which, because of factors including, but not limited to, historic value, unique quality, girth, height, or species, has been found by the Architectural and Site Approval Committee to have a special significance to the community.

- Specimen trees are trees of the following species that have a minimum single-trunk diameter of 10 inches (31 inches in circumference) or minimum multi-trunk diameter of 20 inches (63 inches in circumference) measured at 4.5 feet from natural grade: oak (coast live oak, valley oak, black oak, blue oak, and interior live oak), California buckeye, big leaf maple, deodar cedar, blue atlas cedar, bay laurel or California bay, and western sycamore.

- Any tree required to be planted or retained as part of an approved development application, building permit, tree removal permit, or code enforcement action in all zoning districts.

- Approved privacy protection planting in R-1 zoning districts.

Municipal Code Chapter 14.18.030 prohibits the removal of any protected tree in any zoning district without first obtaining a tree removal permit. Replacement trees, of a size and species as designated by the approval authority and consistent with the replacement value of each tree to be removed, shall be planted on the subject property on which the tree(s) are to be removed.

4.4.1.2 *Existing Conditions*

Biotic Habitats

In preparation of the Biological Resources Report, a reconnaissance-level biological survey identified four habitat/land use types along the 15-acre alignment: coast live oak woodland (1.3 acres), riparian ruderal grassland (1.9 acres), intermittent creek (0.8 acre), and developed/landscaped (11.2 acres). These habitats are described below.

Riparian Ruderal Grassland

The riparian ruderal grassland habitat on the project alignment is entirely found on the banks of Regnart Creek in those areas where the banks are not composed of concrete slopes or wall, or in openings of the coast live oak woodland. The vegetation in this habitat type is dominated by non-native annual grass species. The "ruderal" qualifier is used to distinguish the degraded quality of the grassland within the project alignment, owing to regular disturbance from mowing. The vegetation is subject to routine maintenance by Valley Water as part of its Stream Maintenance Program.

Wildlife use of this habitat is limited by the narrow nature of the habitat, its isolation from more extensive grasslands, and interspersion of concrete and sakrete (concrete-filled sacks) lined sections of the channel banks. Common ground-nesting bird species that are associated with urbanized areas can potentially nest in grasslands on the site. However, the majority of the bird species using the ruderal grassland habitat on the site during the breeding season nest in adjacent/overhanging coast live oak woodland or adjacent developed/landscaped areas and use the grassland habitat only for foraging. Reptiles, amphibians, and small and medium-sized mammals likely occur here as well.

Coast Live Oak Woodland

Coast live oak woodland biotic habitat occurs along the creek where individual or linear clumps of coast live oak are rooted on the banks of Regnart Creek below the top of bank. Where they occur, the coast live oaks form a dense and continuous canopy. The understory vegetation consists of either the grassland habitat described above, or other understory species such as English ivy or passionflower vine, growing as a dense ground cover. Coast live oak woodland habitat within the project alignment is considered a riparian habitat. Coast live oaks along the creek and at the top of the banks are regularly pruned by Valley Water crews to maintain clearance along the maintenance road.

Despite the linear and fragmented nature of the coast live oak woodland habitat within the alignment, it supports many of the common woodland-associated species that occur in the urbanized project region. Songbirds and small mammals nest and forage in this habitat, and the reptiles and amphibians found in the riparian ruderal grassland also forage here. A few of the mature trees provide potential nesting sites for raptors; however, raptors have likely not nested within the alignment in recent years, as evidenced by the lack of old or existing nests observed during the field reconnaissance. Small numbers of individual bats may roost in trees within the alignment.

Developed/Landscaped

The developed/landscaped habitat on the project alignment consists of paved and hardscaped areas associated with City streets and residential lots, as well as landscaped areas consisting of commonly planted ornamental trees, shrubs, and lawns associated with City parks and residences. The dirt and graveled maintenance road on the top of the levee (maintained to be free of vegetation) is contained within this land cover type.

The developed/landscaped habitat is of relatively low value to wildlife but provides nesting and foraging opportunities for some urban-adapted species of birds. Common urban-adapted mammal species and reptiles may also occur within developed/landscaped areas of the project alignment.

Intermittent Creek

The channel bottom of Regnart Creek below the ordinary high water marks is mapped as intermittent creek. Regnart Creek is an engineered, straightened, and trapezoidal (i.e., with steep, engineered banks) channel that is maintained to convey stormwater flows. The channel bottom is predominantly sand and gravel, with short sections that have a concrete bottom or vegetated bottom. Overall, although some reaches support areas meeting the technical definition of vegetated wetland, the channel bottom is largely lacking perennial, permanent wetland vegetation. The channel bottom is routinely cleared of vegetation by Valley Water. In addition, the channel is scoured by high flow during storm events in winter.

The disturbed nature of the creek, coupled with the intermittent and seasonal flow, limits its value to wildlife species. When it contains water, the creek provides foraging habitat for some urban-adapted species associated with aquatic habitats. In addition, small mammals may forage for aquatic invertebrate prey and larvae along the creek during winter and spring, and aerial foragers will forage for insects over the creek. Amphibians may utilize the creek habitat for foraging, and several pools along the stream likely hold water into the spring and provide opportunities for breeding by these species. During the dry months, the creek provides minimal foraging opportunities for wildlife species due to its dry condition and the presence of limited vegetation in the channel.

Special-Status Species

Special-Status Plant Species

A list of 75 special-status plants with some potential for occurrence in the project vicinity was compiled using California Native Plant Society (CNPS) lists and California Natural Diversity Database (CNDDB) records and reviewed for their potential to occur within the project alignment. Based on an analysis of the documented habitat requirements and occurrence records associated with these species, all of these 75 species were determined to be absent from the project alignment due to at least one of the following reasons: 1) lack of suitable habitat types; 2) absence of specific microhabitat or edaphic requirements, such as serpentine soils; 3) the species is presumed extirpated or is not expected to occur in the project vicinity due to range; and/or 4) the site is too disturbed to be expected to support the species.

Special-Status Animal Species

Several special-status animal species are known to occur in the project vicinity. However, these species were determined to be absent from the project alignment in January 2019 because it lacks suitable habitat, is outside the known range of the species, and/or is isolated from the nearest known extant populations by development or otherwise unsuitable habitat. Further discussions of two such species, western pond turtle and San Francisco dusky-footed woodrat, which occur in the general region, are provided in the following paragraphs.

Low-quality dispersal habitat for the western pond turtle, a California species of special concern, is present on the project site within Regnart Creek when it contains water. Dispersal habitat refers to habitat that is used by an organism to move from one location to another, in this case to more suitable habitat for foraging or breeding. No basking structures (such as logs) are present along this section of the creek, and the creek does not pond sufficient water to provide foraging habitat for this species.

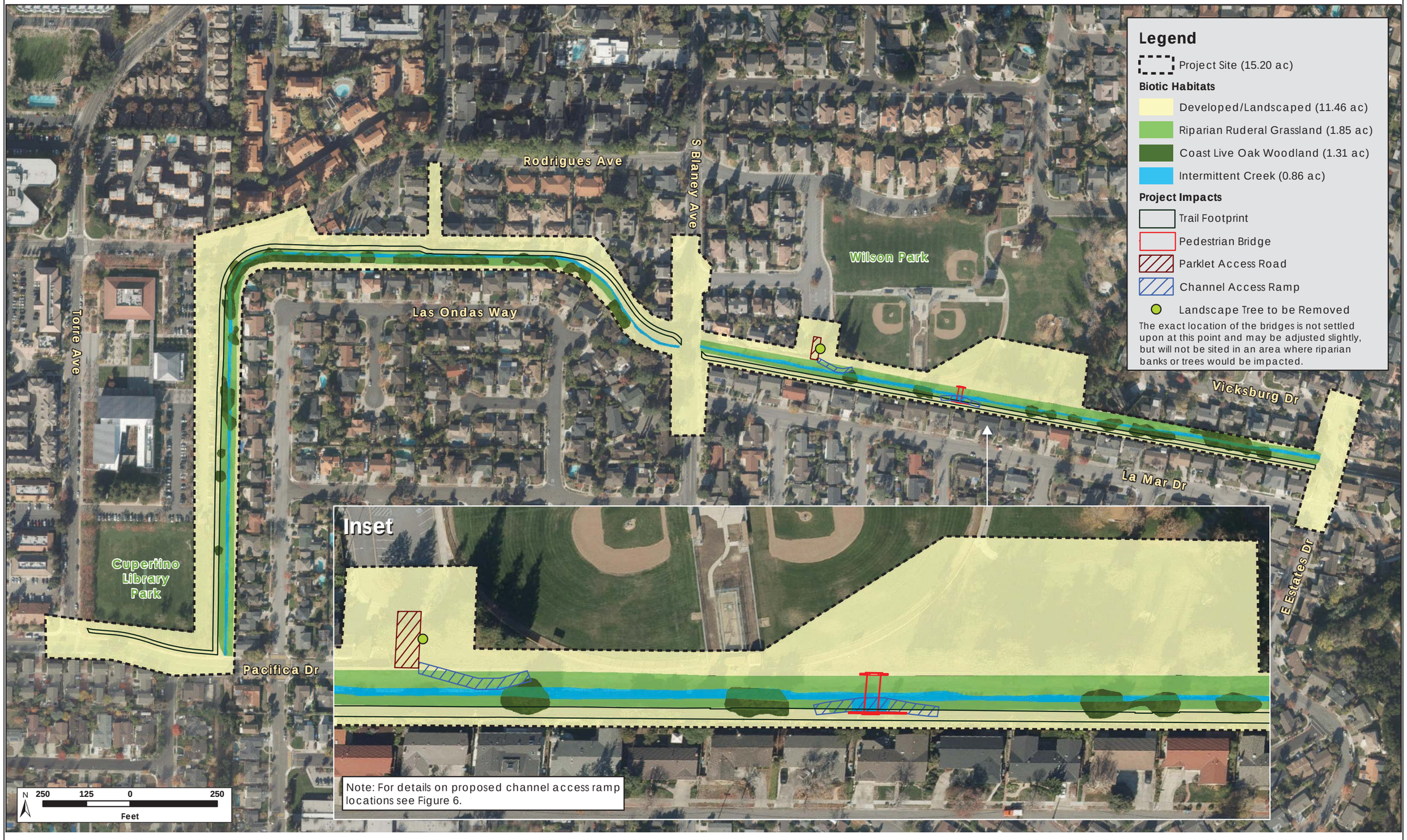
Pond turtles are not known to occur in Regnart Creek or in the site vicinity, and the nearest record of the species is approximately 6.0 miles southeast of the site at Vasona Reservoir. Pond turtles have been observed infrequently along Stevens Creek, however they are not expected to occur on the site due to the 6.0-mile distance separating the site from the nearest recorded occurrence of the species, 1.3-mile distance separating the site from Stevens Creek, and the intervening high-intensity development and multi-lane roadways that individuals would have to cross from these locations to access the site. However, there is a remote possibility that an individual could occasionally disperse (move) from Stevens Creek upstream to the project site.

The San Francisco dusky-footed woodrat, a California species of special concern, occurs in a variety of woodland and scrub habitats throughout the South Bay and the adjacent Central Coast Range, south to the Pajaro River in Monterey County (Hall 1981, Zeiner et al. 1990b). It prefers riparian and oak woodland forests with dense understory cover, or thick chaparral habitat (Lee and Tietje 2005). Woodrats also are very adept at making use of human-made structures, and can nest in electrical boxes, pipes, wooden pallets, and even portable storage containers. Although suitable habitat for this species is present within the coast live oak woodland areas on the project site, a focused survey of the site found that no San Francisco dusky-footed woodrat nests are currently present within the project boundary. Therefore, this species is not expected to occur on the project site. However, based on the presence of ostensibly suitable habitat, there is a remote possibility that woodrats may occasionally disperse to the site between the January 2019 site visit and project construction.

Sensitive Natural Communities

Based on its direct hydrologic connectivity with Calabazas Creek, approximately 320 feet east of the project alignment, the intermittent stream channel of Regnart Creek are considered waters of the U.S./state. Additionally, the RWQCB considers riparian habitat below top of bank to be an important buffer to waters in the creek channel and may regulate impacts to these areas.

The banks of Regnart Creek, between ordinary high-water marks and the top of bank and consisting of riparian ruderal grassland and coast live oak woodland habitats rooted within or at top of bank, would be considered jurisdictional riparian habitat by the CDFW. As discussed above, the RWQCB also considers these areas important buffers that are regulated. Riparian habitat extends to the outer edge of the canopy of trees rooted below top of bank of the channel. Figure 4.4-1 shows the locations of the existing habitat areas within the project boundaries.



BIOTIC HABITATS AND IMPACTS | FIGURE 4.4-1

4.4.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW) or United States Fish and Wildlife Service (USFWS)?	☐	☒	☐	☐
2) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the CDFW or USFWS?	☐	☒	☐	☐
3) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☒	☐	☐
4) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, impede the use of native wildlife nursery sites?	☐	☒	☐	☐
5) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☒	☐
6) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☐	☒

Impact BIO-1: The project would not have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS. (Less than Significant Impact with Mitigation Incorporated)

Western Pond Turtle

According to the biological resources report, the project site does not provide important or extensive habitat that is used regularly or by large numbers of western pond turtles, and is not relied upon by

breeding individuals of this species. Therefore, the project would not result in impacts to any habitat that is useful to western pond turtles as nesting, foraging, or dispersal habitat. However, the report determined that there is at least a remote possibility that an individual could disperse to the site from more suitable habitat in Stevens Creek far downstream. In the unlikely event that a western pond turtle is present on the project site during construction activities, injury or mortality of the individual turtle could potentially result from worker foot traffic, equipment use, or vehicle traffic. Petrochemicals, hydraulic fluids, and solvents that are spilled or leaked from construction vehicles or equipment may kill individuals. Additionally, increases in human presence and activity in the vicinity of suitable habitat during construction may result in an increase in native and non-native predators that would be attracted to trash left at the work site. For example, raccoons, American crows, and common ravens are attracted to trash and may prey opportunistically on western pond turtles.

Due to the regional rarity of this species, project impacts on individual western pond turtles would be considered significant under CEQA.

Mitigation Measures

MM BIO-1.1: A qualified biologist shall conduct a preconstruction survey of the work area for pond turtles within 48 hours prior to the start of work activities. If a western pond turtle is observed within the work area at any time before or during proposed construction activities, all activities shall cease until such time that either: (1) the pond turtle leaves the area, or; (2) the qualified biologist can capture and relocate the animal to suitable habitat away from project activities.

The implementation of Mitigation Measure BIO-1.1 will reduce potential impacts on western pond turtles to less than significant levels. **(Less than Significant with Mitigation Incorporated)**

San Francisco Dusky-Footed Woodrat

The report also determined that the project site is unsuitable for maintenance of a viable woodrat population, although there is a very remote possibility that an individual could disperse to the site from more suitable habitat elsewhere. If one or more nests of San Francisco dusky-footed woodrats becomes established on the project site prior to the start of construction, injury or mortality of individual dusky-footed woodrats could result from clearing and grading, construction vehicle traffic, equipment use, and worker foot traffic, particularly if disturbance occurs when woodrats are taking refuge in their stick nests. San Francisco dusky-footed woodrat movements within individual home ranges could be temporarily affected during construction activities as a result of the disturbance of habitat, and project-related disturbances may cause woodrats to flee their nests, exposing them to a greater risk of predation. Additionally, displacement of woodrats into adjacent habitats as a result of project construction-related disturbance could result in indirect impacts as a result of increased intraspecific competition (resulting from individuals in disturbed habitat moving to areas that are already occupied) and pressure on available resources. However, project impacts are expected to result in only minimal indirect disturbance of this species, as dusky-footed woodrats are tolerant of proximate activities (especially diurnal activities) that do not directly disturb their nest structures.

Project construction could also result in the temporary disturbance of suitable breeding and foraging habitat for woodrats. However, given the extent of suitable habitat available in the project region, disturbance to and loss of regionally common natural habitats as a result of project implementation is considered a less-than-significant impact on habitat for the San Francisco dusky-footed woodrat.

San Francisco dusky-footed woodrats are ecologically important because they serve as prey for a variety of predatory birds and mammals, and because their nests may provide structure and refugia for other animals. Therefore, impacts on woodrat nests would be significant.

Mitigation Measures

MM BIO-1.2: A qualified wildlife ecologist shall conduct a preconstruction survey for active nests of San Francisco dusky-footed woodrats within the project construction area within 30 days prior to the start of construction within non-developed habitats on the project site. If active woodrat nests are determined to be present in, or within 10 feet of, project work areas, Mitigation Measures BIO-3 and BIO-4 below will be implemented, as appropriate.

MM BIO-1.3: Active woodrat nests that are detected within project construction areas shall be avoided to the extent feasible. A minimum 10-foot buffer shall be maintained between project construction activities and woodrat nests to avoid disturbance. In some situations, a smaller buffer may be allowed if, in the opinion of a qualified biologist, nest relocation (Measure BIO-4 below) would represent a greater disturbance to the woodrats than the adjacent work activities.

MM BIO-1.4: If avoidance of active woodrat nests within and immediately adjacent to (within 10 feet of) the construction areas is not feasible, then nest materials will be relocated to suitable habitat as close to the project site as possible (ideally, within or immediately adjacent to the site). One or both of the following two relocation measures will be implemented, depending on whether existing woodrat nest sites are connected by suitable dispersal habitat to the nest relocation sites.

- If the woodrat nest site and the proposed relocation area are connected by suitable dispersal habitat for the woodrat, as determined by a qualified biologist, the following relocation methodology shall be used. Prior to the start of construction activities, a qualified biologist will disturb the woodrat nest to the degree that all woodrats leave the nest and seek refuge outside of the construction area. Relocation efforts shall avoid the peak nesting season (February–July) to the maximum extent feasible. Disturbance of the woodrat nest shall be initiated no earlier than one hour before dusk to minimize the exposure of woodrats to diurnal predators. Subsequently, the biologist will dismantle and relocate the nest material by hand. During the deconstruction process, the biologist will attempt to assess if there are juveniles in the nest. If immobile juveniles are observed, the deconstruction process shall be discontinued until a time when the

biologist believes the juveniles will be capable of independent survival (typically after 2 to 3 weeks). A no-disturbance buffer shall be established around the nest until the juveniles are mobile. The nest may be dismantled once the biologist has determined that adverse impacts on the juveniles would not occur.

- If a qualified biologist determines that the woodrat relocation area is separated from the nest site by major impediments, or a complete barrier, to woodrat movement, trapping for woodrats shall be conducted prior to relocation of nest material. Prior to the start of nest relocation activities, artificial pine box shelters will be placed at each of the sites selected for relocation of nest materials. The dimensions of the artificial shelters will be approximately 8-inch long by 8-inch wide by 6-inch high. Each shelter will include two interior chambers connected by an opening. At the relocation sites, the artificial pine box shelters will provide basement structures for the relocated woodrat nest materials, allowing woodrats to enter, use, and modify the relocated nests.

  A qualified biologist will set two traps around each of the woodrat nests to be relocated. Traps will be set within one hour prior to sunset, and baited with a mixture of peanut butter, oats, and apples. Traps will also be equipped with cotton bedding and covered with cardboard. The traps will be checked the following morning, within one-and-a-half hours of sunrise. If a woodrat is captured it will be placed in a quiet area while its nest material is relocated; the animal will then be released at the relocated nest. If no woodrats are captured after the first night, the biologist will set the traps for one additional evening to increase the probability of capturing an animal and ensuring a safe relocation. If no woodrats are captured at a given location after two nights, it will be assumed that the nest is not currently occupied.

  Trapping shall only be conducted outside the peak breeding season, which is from February through the end of July. If a litter of young is found or suspected while dismantling a nest for relocation, the nest material will be replaced, any trapped woodrats will be returned to the nest, and the nest will be left alone for 2 to 3 weeks, after which time the nest would be rechecked to verify that the young are capable of independent survival, as determined by the biologist, before proceeding with nest dismantling.

Implementation of Mitigation Measures Bio-2, 3, and 4 to avoid and minimize direct impacts on woodrats and their nests will reduce impacts on this species to less than significant levels. **(Less than Significant with Mitigation Incorporated)**

No other special-status species potentially occur within or immediately adjacent to the project alignment.

Impact BIO-2:	The project would not have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the CDFW or USFWS. (Less than Significant Impact with Mitigation Incorporated)

Though limited in acreage throughout the county, riparian communities serve important ecological function in the landscape given their position as a linkage between terrestrial and aquatic communities. Riparian habitat serves various ecological functions for many species by providing foraging opportunities and diverse habitat structure for cover and nesting opportunities. Statewide, riparian communities are particularly threatened by development activities given their limited distribution and sensitivity to disturbance.

The project alignment contains a single waterway, Regnart Creek, which meets the physical criteria of waters of the U.S./state (i.e., jurisdictional waters). Due to its connectivity to Calabazas Creek, this intermittent drainage would likely be claimed as waters of the U.S. by the USACE and as waters of the state by the RWQCB. The ordinary high-water mark of Regnart Creek was mapped in the field with a submeter GPS unit based on field observations and is shown on Figure 4.4-1 corresponding with the boundary of the intermittent creek habitat. In addition, it is expected this channel would be subject to jurisdiction by CDFW under Section 1600 of the California Fish and Game Code. The top of bank of Regnart Creek corresponds to the outer edge of the riparian ruderal grassland as shown on Figure 4.4-1 or the outer edge of the coast live oak woodland where it extends beyond that edge and was mapped in the field based on the distinct break (i.e. change) in slope.

Because riparian habitats are limited in extent in the state, are considered sensitive habitats, and provide a wide range of biological functions for wildlife, such as nesting habitat for birds, and provide important water quality buffering functions, any loss in riparian habitat may be considered significant. The project has been designed to avoid all impacts to riparian habitats including the coast live oak habitat and riparian ruderal grassland habitat occurring on the banks of Regnart Creek to the greatest extent possible. The pedestrian bridge over Regnart Creek will be installed so that all disturbance for bridge footings is situated outside the top of bank of the creek, and no in channel access will be required to place the clear-span bridge decks on the abutments. No coast live oak trees will be removed as part of the project implementation, and abutments would not be placed within the driplines of any riparian trees. Where the proposed trail alignment is close to the top of bank, particularly in the stretch of trail alignment east of South Blaney Avenue, the jurisdictional habitat will be shown clearly and marked for avoidance on plan sets, and temporary Environmental Sensitive Area (ESA) fencing will be used during construction to protect adjacent bank areas that are not proposed to be disturbed. ESA fencing is orange-colored plastic construction fencing that is typically used to delineate environmentally-sensitive areas.

The project will comply with state requirements to control the discharge of stormwater pollutants under the National Pollutant Discharge Elimination System (NPDES) Construction General Permit. The project will implement all measures outlined in Chapter 9.18 “Stormwater Pollution Prevention and Watershed Protection” of the City of Cupertino Municipal Code, as applicable, and the most current Municipal Regional Stormwater NPDES permit (see discussion of Municipal Regional Permit in Section 4.10 Hydrology and Water Quality). The project will also be constructed in conformance with Valley Water’s “Guidelines and Standards for Land Use Near Streams” user

manual. Finally, construction plans will include the City of Cupertino, Public Works Department "Construction Best Management Practices" plan sheet.

Valley Water Maintenance Ramp

The proposed Valley Water maintenance ramp components of the project (as detailed on Figure 4.4-2) will involve reconfiguration of an existing maintenance ramp that is currently largely situated below the top of bank and within the ordinary water mark of Regnart Creek, as well as the establishment of a new channel maintenance access ramp on the opposite (north) side of the channel and approximately 400 feet to the west. As shown on Figure 4.4-2 and in Tables 4.4-1 and 4.4-2, the replacement access ramp has been designed so that there will be no net loss of jurisdictional area (either area below top of bank and subject to jurisdiction by the RWQCB and CDFW, or area below the OHWM and subject to jurisdiction by the USACE). There will be an increase in area below OHWM and subject to jurisdiction by the USACE (an increase of approximately 0.001 acres below OHWM), as well as an increase in riparian grassland habitat as a result of laying back the north bank, with approximately 0.014 acres of additional riparian bank habitat created between OHWM and the top of bank over the existing condition.

Table 4.4-1 lists the acreage of jurisdictional areas within the footprint of the two ramp locations in the existing condition compared to the post construction condition. Table 4.4-2 shows the amount of concrete below the OHWM or within riparian ruderal grassland habitat in the existing condition compared to the amount that will be present within these jurisdictions following construction. Figure 4.4-2 shows the location and extent of the proposed and existing ramps with respect to the channel banks and intermittent creek channel bottom. The final design for the proposed ramp has not been finalized, and there may be an opportunity for some of the proposed concrete area shown in Figure 4.4-2 to be rip-rap, gravel fines, or other such surface material that is more pervious than concrete. The amount of concrete in the proposed maintenance ramp configuration will not be any greater than that shown in Figure 4.4-2 and conveyed in Table 4.4-2.

Table 4.4-1: Pre- and Post-Construction Jurisdictional Areas[1]

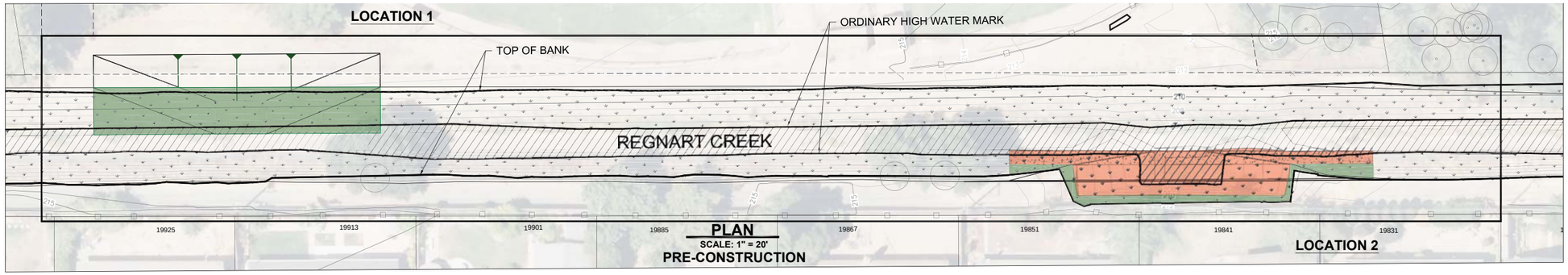
Jurisdictional Area	***Pre-Construction***	***Post-Construction***
USACE	0.152 acres	0.153 acres
RWQCB/CDFW	0.312 acres	0.326 acres
Non-jurisdictional Area	0.466 acres	0.451 acres
Total	0.930 acres	0.930 acres

[1] *The area evaluated in these calculations include the work area encompassing the existing and proposed ramps as shown on Figure 4.4-2.*

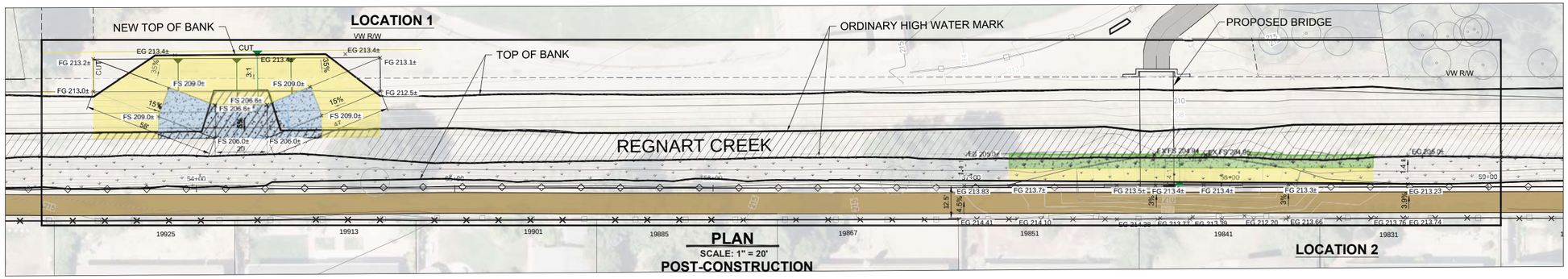
Table 4.4-2: Pre- and Post-Construction Concrete and Native Soil within Jurisdictional Areas[1]

Jurisdictional area	***Pre-Construction***	***Post-Construction***
USACE **(Concrete)**	599 sf	674 sf
RWQCB/CDFW **(Concrete)**	1,166 sf	1,017 sf
USACE **(Native Soil)**	312 sf	256 sf
RWQCB/CDFW**(Native Soil)**	2,006 sf	2,800 sf

[1]*The area of groundcover type in these calculations only includes the work areas as shown on Figure 4.4-2.*



PLAN
SCALE: 1" = 20'
PRE-CONSTRUCTION



PLAN
SCALE: 1" = 20'
POST-CONSTRUCTION

DISTURBED NATIVE SOIL

EXISTING CONCRETE

USACE 404 (BELOW OHWM)

RWQCB 401/CDFW (BELOW TOB)

PROPOSED NATIVE SOIL

PROPOSED CONCRETE*

PROPOSED CONCRETE TO REPLACE EXISTING CONCRETE

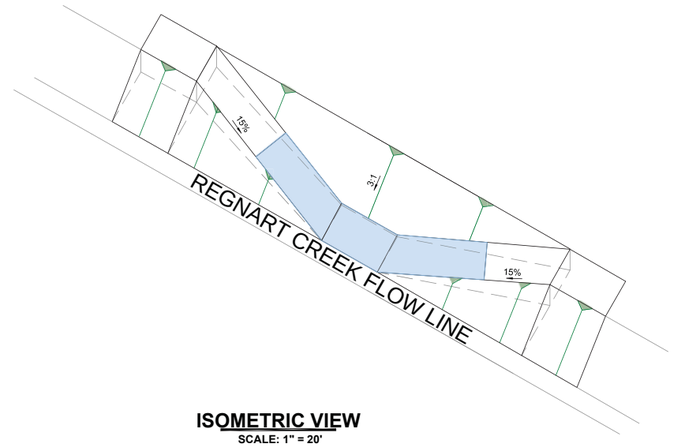
*CONCRETE CAN BE REPLACED WITH DIFFERENT SLOPE STABILIZATION MATERIAL

TABLE 1

JURISDICTIONAL AREA	PRE-CONSTRUCTION CONDITION (AC)	POST-CONSTRUCTION CONDITION (AC)
USACE 404 (BELOW OHWM)	0.152	0.153
RWQCB 401/CDFW (BELOW TOB)	0.312	0.326
NON-JURISDICTIONAL AREA	0.466	0.451
TOTAL	0.930	0.930
NOTE: THE AREA EVALUATED IN THESE CALCULATIONS INCLUDES THE WORK AREA ENCOMPASSING THE EXISTING AND PROPOSED RAMPS AS SHOWN ABOVE		

TABLE 2: AREA OF CONCRETE AND NATIVE SOIL IN JURISDICTIONAL AREAS IN THE PRE- AND POST-CONSTRUCTION

	PRE-CONSTRUCTION (SF)	POST-CONSTRUCTION (SF)
AREA OF CONCRETE BELOW OHWM	599	674
AREA OF CONCRETE BELOW TOB	1166	1017
AREA OF NATIVE SOIL BELOW OHWM	312	256
AREA OF NATIVE SOIL BELOW TOB	2006	2800
NOTE: THE AREA OF GROUNDCOVER TYPE IN THESE CALCULATIONS ONLY INCLUDES THE WORK AREA		



ISOMETRIC VIEW
SCALE: 1" = 20'

0 10 20 40
1 INCH = 20 FEET

RAMP RELOCATION IMPACTS

FIGURE 4.4-2

In the location of the existing maintenance ramp, some of the existing concrete will be removed, the existing ramp area will be back-filled with native soil, and the bank will be re-contoured to match the existing slope upstream and downstream of the ramp. The existing concrete skirt that is present along the south edge of the channel bed and bank on either side of the existing ramp will be tied together in the same configuration. In the process of abandoning and re-contouring the existing ramp and constructing the proposed ramp on the opposite side of Regnart Creek there will be temporary impacts to the riparian ruderal grassland habitat. With the increase in riparian habitat of 0.018 acres and implementation of the following mitigation measures, the significance of these temporary impacts would be reduced to a less than significant level. In addition, the project will comply with all regulatory permitting requirements, which are expected to include obtaining the following permits; a Section 404 permit from the USACE, a Section 401 Water Quality Certification/Waste Discharge Requirement from RWQCB, and a Lake and Streambed Alteration Agreement from CDFW.

Mitigation Measures

MM BIO-2.1: To minimize impacts to riparian habitat, soil disturbance shall be kept to the minimum footprint necessary to abandon the existing ramp and install the proposed ramp. The ramp relocation has been designed to minimize the area of disturbance to riparian ruderal grassland habitat in the existing ramp location. In addition, the proposed ramp location has been designed to have as minimal a footprint as possible.

MM BIO-2.2: The proposed maintenance ramp relocation work shall occur between May 15 and October 31 when the channel bed is dry. This will prevent unintended sediment runoff into creek waters and will ensure that there are no adverse effects to any aquatic life that may be seasonally present in the intermittent creek. Work shall halt if there is an out-of-season storm that deposits more than 0.5 inches of rain in 24 hours until the site has dried.

MM BIO-2.3: To protect on-site vegetation and water quality, the staging area for the ramp relocation shall be located on the access road to the north of the channel in Wilson Park, at least 100 feet outside the top of bank, in an area that currently supports either hardscape, landscaping, or ruderal vegetation. Similarly, all equipment and materials (e.g., road rock and project spoil) shall be contained within existing disturbed areas outside of the riparian zone in a pre-determined staging area. Erosion control measures shall be installed around the staging area to prevent runoff from the staging areas to enter the Regnart Creek channel. Any landscape areas that are affected by staging shall be restored. No staging shall occur within driplines of trees to remain.

MM BIO-2.4: The ramp relocation shall be fully designed to prevent bank failure. Following construction and to further prevent potential downstream erosion impacts, the site design shall provide proactive protection of vulnerable areas within the reach of the worksite. Such measures could include, but are not limited to, appropriately keyed-in coir logs, strategic placement of rock, and flow deflectors. Bank stabilization shall include transition designs upstream and downstream of the work site to prevent potential erosion impacts.

MM BIO-2.5: Following ramp relocation all non-hardscaped areas that have exposed soil shall be stabilized to prevent erosion. These areas shall be seeded with native species seed down to the OHWM as soon as is appropriate following completion of the project. Grassland revegetation will be most effective if the seed is applied in the fall (after September 1 and before December 1), Until that time, the area shall achieve erosion control through use of temporary measures, which are BMPs such as jute netting, fiber rolls, or other equally effective measures. These BMPs shall be removed prior to seeding. The seed mix will be broadcast seeded onto prepared (decompacted and scarified) soil surface and then lightly raked to maximize seed/soil contact. The seed mix shall consist of the California native grasses and forbs and application rates as shown in the following table, or native species and application rates as otherwise acceptable to involved agencies.

Scientific Name[1]	**Common Name**	**Application Rate** (pounds PLS/acre)[2]
Elymus glaucus	Blue wildrye	4.0
Eschscholzia californica	California poppy	1.0
Festuca microstachys	Small fescue	6.0
Hordeum brachyantherum	Meadow barley	10.0
Lupinus bicolor	Annual lupine	1.0

[1] Names derived from The Jepson Manual (Baldwin et al. 2012).
[2] PLS (pure live seed) = the proportion of total seed that is pure and viable. To find the total weight of raw seed needed to achieve the application rate in the table, find %PLS as follows: [(% purity of seed lot) (% germination rate of species)/100]. Then divide the application rate in the table (pounds) by the %PLS (expressed as a decimal) to find total weight of raw seed applied per acre for each species.

MM BIO-2.6: The City shall monitor the reseeded riparian bank areas annually for two years to ensure that the percent vegetation cover reaches at least 75 percent of the cover in the adjacent undisturbed reaches, and shall control any infestations of Cal-IPC rated moderate or high weeds comprising greater than five percent of the total cover in the recovering areas. If after two years, these success criteria have not been met, the City shall implement remedial measures, such as re-seeding the area and monitoring for an additional two years.

The project has been designed to avoid all impacts to riparian habitats including the coast live oak habitat and riparian ruderal grassland habitat occurring on the banks of Regnart Creek to the greatest extent possible. No coast live oak trees would be removed as part of the project implementation, and the pedestrian bridge over Regnart Creek would be installed so that all disturbances for bridge foundations are confined to areas outside the top of bank of the creek. With the implementation of mitigation measures MM BIO-2.1 through MM BIO-2.6 above, temporary impacts on riparian habitat from the relocation of the Valley Water maintenance ramp will be less than significant. **(Less than Significant Impact with Mitigation Incorporated)**

Impact BIO-3:	The project would not have a substantial adverse effect on state or federally protected wetlands through direct removal, filling, hydrological interruption, or other means. (Less than Significant Impact with Mitigation Incorporated)

Regnart Creek would be considered a waters of the U.S./state based on its intermittent flow and its direct hydrologic connectivity to Calabazas Creek. The OHWM of Regnart Creek was mapped in the field based on observations of the following indicators of high flow; water staining on the concrete, erosional shelving, change in vegetation, and sediment deposits. The Regnart Creek channel in this stretch of the project is a straightened, trapezoidal channel; therefore, the OHWMs are relatively straight-line features bounding an aquatic channel approximately seven feet wide. No wetlands were observed within this stretch of the channel bed. This is likely due to the straightened nature of the channel and the fact that majority of the flow in the channel consists of high velocity, scouring flows following storm events in the winter months. The project has been largely designed to avoid direct impacts to the bed or banks of Regnart Creek. As described above, however, the relocation of the Valley Water maintenance ramp will result in temporary impacts to waters of the U.S. The OHWM at the existing maintenance ramp includes a portion of the ramp that is at a lower elevation (see Figure 4.4-2). This area will be temporarily removed when the existing ramp is abandoned and the bank is re-configured. However, an equivalent area will be gained in the location of the proposed maintenance ramp on the opposite side of the channel.

Wetlands and waters serve a variety of important functions, such as sediment stabilization, sediment/toxicant retention, nutrient removal/transformation, and aquatic and terrestrial wildlife species habitat. Nutrient (nitrogen and phosphorus) removal through a combination of physical, chemical, and biological processes that occur in wetlands is beneficial because it reduces aquatic eutrophication. If these functions were impacted as a result of project activities, this would be considered a significant impact. With implementation of Mitigation Measures MM BIO-2.1 through MM BIO-2.6 described above, temporary impacts on waters of the U.S. will be less than significant.

Reductions in ambient light levels in wetland habitat can lead to a decrease in the amount of aquatic vegetation present, which results in a reduction in primary production, as well as the amount of cover and herbaceous food available in the wetland habitat. The proposed pedestrian bridge over Regnart Creek would result in a new source of shading in the form of a 12-foot wide span across the creek. Thus, the project has the potential to affect vegetation directly under the span or within its shadow due to changes in ambient lighting (i.e., shading). However, there is presently no wetland vegetation within the intermittent channel bed of Regnart Creek underneath the proposed pedestrian bridge location. Therefore, this impact would not be considered significant.

In addition, construction of the trail has the potential to cause indirect impacts to Regnart Creek and its associated riparian habitat based on site runoff patterns. As discussed in Section 4.10 Hydrology and Water Quality of this Initial Study, the project would develop and maintain a Stormwater Pollution Prevention Plan, implement best management practices (included as Standard Permit Conditions and listed under Impact HYD-2 of this Initial Study) to prevent stormwater pollution and minimize potential sedimentation during and after project construction, and comply with the NPDES Construction General and Municipal Regional Permits. Best management practices implemented

during and after project construction would prevent any indirect impacts to water quality in Regnart Creek. **(Less than Significant Impact with Mitigation Incorporated)**

Impact BIO-4:	**The project would not interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors or impede the use of native wildlife nursery sites. (Less than Significant Impact with Mitigation Incorporated)**

Wildlife Movement

The grassland, oak woodland, and intermittent creek habitats along Regnart Creek serve as a movement pathway for terrestrial species, providing vegetative cover and foraging opportunities. Common, urban-adapted species such as raccoons and skunks may use the vegetation along Regnart Creek to move east and west through the Cupertino area. Small mammals, such as mice and shrews, will also use this vegetation to move between habitats. The removal of a portion of this habitat during bridge construction and relocation of the Valley Water maintenance ramp would create a gap of open, developed habitat along this corridor, which any species traveling along the corridor must cross in order to traverse the project area. However, this habitat is already patchy within the project alignment, and the creation of a new gap in this habitat is not expected to isolate contiguous, high-quality areas of these habitats or substantially inhibit the movement of wildlife species. Rather, terrestrial species such as mammals and reptiles that move along the creek are likely to move under the bridge. Because the many terrestrial wildlife species that use this habitat are acclimated to high levels of disturbance and existing fragmented habitats in the Cupertino area, this is not expected to result in significant impact to the movements of individuals.

Similarly, the habitats along Regnart Creek provide a movement pathway for birds through urban areas of Cupertino. However, the oak woodland habitat on the project alignment is of limited extent, as ongoing alignment use and activities have reduced and fragmented this habitat. Thus, the proposed bridge crossing would affect a segment of Regnart Creek with only limited, low-quality habitat for birds. Although the project would result in some habitat loss that would affect bird use along Regnart Creek, due to the low quality of the habitat that would be affected, the lack of tree removal within the creek corridor, and because ample riparian habitat would remain elsewhere along Regnart Creek, the overall, larger reach of the creek would still be valuable to breeding and migratory birds following project construction. The proposed construction of the new Valley Water maintenance ramp on the north side of the creek would result in the removal of one landscape tree that is located within the proposed access road area outside of the top of bank. However, for the same reasons previously stated, the loss of this tree is not expected to create a significant impact to breeding and migratory birds.

Project construction could temporarily disrupt wildlife movement pathways through the Regnart Creek corridor. Increased human activity during construction could deter terrestrial and aquatic wildlife from moving through the construction area. However, these common wildlife species would continue to use the area during the night and other non-working hours of the day. In addition, the Regnart Creek vicinity is already frequented daily by pedestrians, bicyclists, and vehicles traveling along adjacent roadways, and wildlife species in the corridor are habituated to this human presence. Therefore, the addition of the proposed bridge crossing and relocation of the Valley Water

maintenance ramp would not result in a substantial increase in interruption of use of the creek by aquatic wildlife or upland reptiles and mammals. **(Less than Significant Impact)**

Increased human activity along the trail following construction, including pedestrians walking dogs, could affect the movements and activities of terrestrial wildlife species and birds on the site over the long-term. However, the common terrestrial wildlife and bird species that occur on site are expected to continue to use the area during the night and other hours of the day when human activity is relatively low, such as early mornings and evenings. Any increase in pedestrians, dogs, and bicyclists along the trail over the long term is not expected to exceed these species' tolerance for disturbance; woodland habitats with immediately adjacent trails in the larger region are regularly used by the common terrestrial wildlife species and birds that occur on the project site. Further, the common species of birds that nest along the creek are highly tolerant of human disturbance, and are expected to habituate to any increase in disturbance due to pedestrians, dogs, and bicycles along the trail and continue to nest and forage along the creek following project construction. Therefore, the project, including the addition of the proposed bridge crossing and relocation of the Valley Water maintenance ramp, would not result in substantial adverse effects to wildlife using the creek **(Less than Significant Impact)**

Nesting Birds

Construction disturbance during the avian breeding season (February 1 through August 31, for most species) could result in the incidental loss of eggs or nestlings, either directly through the destruction or disturbance of active nests or indirectly by causing the abandonment of nests on or near the project alignment. However, the habitats within the project alignment represent a very small proportion of the habitats that support these species regionally and are relatively degraded due to the level of surrounding human disturbance. All species of birds currently using the project alignment are expected to continue to nest and forage on the site after project construction is completed. In addition, the project includes the following mitigation measures to avoid impacts to nesting birds prior to and during construction.

Mitigation Measures

MM BIO-4.1: Construction activities (or at least the commencement of such activities) shall be scheduled to avoid the nesting season. If construction activities are scheduled to take place outside the nesting season, all impacts on nesting birds protected under the MBTA and California Fish and Game Code will be avoided. The nesting season for most birds in Santa Clara County extends from February 1st through August 31st.

MM BIO-4.2: If it is not possible to schedule demolition and construction between September 1st and January 31st, pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests will be disturbed during project implementation. These surveys shall be completed no more than seven days prior to the initiation of construction activities. During this survey, the ornithologist shall inspect all trees and other potential nesting habitats (e.g., trees, shrubs, grasslands, buildings) in and immediately adjacent to the impact areas for nests.

MM BIO-4.3: If an active nest is found sufficiently close to work areas to be disturbed by these activities, the ornithologist shall determine the extent of a construction-free buffer zone to be established around the nest (typically 300 feet for raptors and 100 feet for other species), to ensure that no nests of species protected by the MBTA and California Fish and Game Code will be disturbed during project implementation.

MM BIO-4.4: If construction activities will not be initiated until after the start of nesting season, all potential nesting substrates (e.g., bushes, trees, grasses, and other vegetation) that are scheduled to be removed by the project may be removed prior to the start of the nesting season (e.g., prior to February 1st). This will preclude the initiation of nests in this vegetation, and prevent the potential delay of the project due to the presence of active nests in these substrates.

Implementation of mitigation measures MM BIO-4.1 through MM BIO-4.4 above would reduce potential impacts to migratory birds and raptors to a less than significant level. The project would not result in a significant impact to native or migratory fish or wildlife species. **(Less than Significant Impact with Mitigation Incorporated)**

Impact BIO-5:	**The project would not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance. (No Impact)**

The City of Cupertino recognizes the substantial economic, environmental, and aesthetic importance of its tree population. The City finds that the preservation of "protected trees" on private and public property, and the protection of all trees during construction, is necessary for the best interests of the City and of the citizens and public (Municipal Code Chapter 14.18). The City's Municipal Code calls for protection of "protected" trees and requires a permit prior to their removal. Pursuant to Municipal Code Chapter 14.18.050, protected trees include:

- Heritage trees in all zoning districts. Heritage trees are defined by the City as any tree or grove of trees which, because of factors including, but not limited to, its historic value, unique quality, girth, height, or species, has been found by the Architectural and Site Approval Committee to have a special significance to the community;
- Specimen trees are all trees of the following species that have a minimum single-trunk diameter of 10-inches (31-inches in circumference) or minimum multi-truck diameter of 20-inches (63-inches in circumference) measured at 4.5 feet from natural grade: oak (including coast live oak, valley oak, black oak, blue oak, and interior live oak), California buckeye, big leaf maple, deodar cedar, blue atlas cedar, bay laurel or California bay, and western sycamore;
- Any tree required to be planted or retained as part of an approved development application, building permit, tree removal permit, or code enforcement action in all zoning districts; and
- Approved privacy protection planting in R-1 zoning districts.

Any protected tree in any zoning district cannot be removed without first obtaining a tree removal permit (Municipal Code Chapter 14.18.030). Replacement trees, of a species and size as designated

by the approval authority and consistent with the replacement value of each tree to be removed, must be planted on the subject property on which the tree(s) are to be removed. If a replacement tree for the removal of a non-heritage tree or tree with trunk size equal to or less than 36-inches cannot be reasonably planted on the subject property, an in-lieu tree replacement fee must be paid to the City's tree fund to add or replace trees on public property in the vicinity of the subject property or add trees or landscaping on City property (Municipal Code Chapter 14.18.190).

The project will require the removal of one tree for construction of the trail and the access road in Wilson Park (see Figure 4.4-1). The tree that would be removed is a landscaping tree (non-protected redwood) and is not situated within the riparian corridor of Regnart Creek (i.e. the tree is not considered a riparian tree). The removal or damage of trees protected by the City municipal code would be considered potentially significant under CEQA. However, the project will comply with the City's municipal code, including obtaining a permit from the City and replacing any regulated trees removed as required by the municipal code. In addition to compliance with the City's tree removal permit requirements, project construction would be completed under the oversight of the City Arborist to ensure existing trees within and adjacent to the proposed project are not harmed. There are no other local policies or ordinances protecting biological resources that are applicable to the proposed project. For these reasons, the proposed project would not conflict with local policies or ordinances protecting biological resources. **(No Impact)**

Impact BIO-6:	**The project would not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. (No Impact)**

The project alignment is not located within an area covered by an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. **(No Impact)**

4.5 CULTURAL RESOURCES

The discussion in this section is based on the CEQA Archaeological Survey completed for the project by Holman & Associates on January 30, 2019. The report is on file at the City of Cupertino and can be viewed by qualified individuals during normal business hours.

4.5.1 Environmental Setting

4.5.1.1 *Regulatory Framework*

Federal and State

National Historic Preservation Act

Federal protection is legislated by the National Historic Preservation Act of 1966 (NHPA) and the Archaeological Resource Protection Act of 1979. These laws maintain processes for determination of the effects on historical properties eligible for listing in the National Register of Historic Places (NRHP). Section 106 of the NHPA and related regulations (36 Code of Federal Regulations [CFR] Part 800) constitute the primary federal regulatory framework guiding cultural resources investigations and require consideration of effects on properties that are listed or eligible for listing in the NRHP. Impacts to properties listed in the NRHP must be evaluated under CEQA.

California Register of Historical Resources

The California Register of Historical Resources (CRHR) is administered by the State Office of Historic Preservation and encourages protection of resources of architectural, historical, archeological, and cultural significance. The CRHR identifies historic resources for state and local planning purposes and affords protections under CEQA. Under Public Resources Code Section 5024.1(c), a resource may be eligible for listing in the CRHR if it meets any of the NRHP criteria.[12]

Historical resources eligible for listing in the CRHR must meet the significance criteria described previously and retain enough of their historic character or appearance to be recognizable as historical resources and to convey the reasons for their significance. A resource that has lost its historic character or appearance may still have sufficient integrity for the CRHR if it maintains the potential to yield significant scientific or historical information or specific data.

The concept of integrity is essential to identifying the important physical characteristics of historical resources and, therefore, in evaluating adverse changes to them. Integrity is defined as "the authenticity of a historical resource's physical identity evidenced by the survival of characteristics that existed during the resource's period of significance." The processes of determining integrity are similar for both the CRHR and NRHP and use the same seven variables or aspects to define integrity that are used to evaluate a resource's eligibility for listing. These seven characteristics include 1) location, 2) design, 3) setting, 4) materials, 5) workmanship, 6) feeling, and 7) association.

[12] California Office of Historic Preservation. "CEQA Guidelines Section 15064.5(a)(3) and California Office of Historic Preservation Technical Assistance Series #6." March 14, 2006.

California Native American Historical, Cultural, and Sacred Sites Act

The California Native American Historical, Cultural, and Sacred Sites Act applies to both state and private lands. The act requires that upon discovery of human remains, construction or excavation activity must cease and the county coroner be notified.

Public Resources Code Sections 5097 and 5097.98

Section 15064.5 of the CEQA Guidelines specifies procedures to be used in the event of an unexpected discovery of Native American human remains on non-federal land. These procedures are outlined in Public Resources Code Sections 5097 and 5097.98. These codes protect such remains from disturbance, vandalism, and inadvertent destruction, establish procedures to be implemented if Native American skeletal remains are discovered during construction of a project, and establish the Native American Heritage Commission (NAHC) as the authority to resolve disputes regarding disposition of such remains.

Pursuant to Public Resources Code Section 5097.98, in the event of human remains discovery, no further disturbance is allowed until the county coroner has made the necessary findings regarding the origin and disposition of the remains. If the remains are of a Native American, the county coroner must notify the NAHC. The NAHC then notifies those persons most likely to be related to the Native American remains. The code section also stipulates the procedures that the descendants may follow for treating or disposing of the remains and associated grave goods.

4.5.1.2 *Existing Conditions*

Archaeological Resources

The proposed trail alignment is located on both sides of Regnart Creek near its confluence with Calabazas Creek. The Archaeological Survey included a records search at the Northwest Information Center of the California Historical Resources Information System (CHRIS). No known archaeological resources are located within or adjacent to the trail alignment, and no archaeological resource studies have been previously completed for the project alignment. The nearest recorded Native American resource is located approximately one mile from the project site.

In this area of Santa Clara County, Native American sites have been identified adjacent to springs and major creeks. Other sensitive locations include the base of hills near waterways, at the original bayshore, and on terraces adjacent to naturally flowing waterways, especially near the confluences with other creeks. For these reasons, the potential for accidental discovery of archaeological materials at the project site is considered moderate to high.

Historic-era maps of the project area were also examined during completion of the Archaeological Survey. Based upon a review of historical land use patterns, there is a low potential for historic archaeological deposits within the project area.

Historic Resources

The proposed trail alignment and adjacent properties do not appear on any local, state, or federal list of historic or architecturally significant structures and/or sites, landmarks, or points of interest. There are no historic resources/structures located within the proposed trail alignment.

4.5.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5?	☐	☐	☐	☒
2) Cause a substantial adverse change in the significance of an archaeological resource as pursuant to CEQA Guidelines Section 15064.5?	☐	☒	☐	☐
3) Disturb any human remains, including those interred outside of dedicated cemeteries?	☐	☐	☒	☐

Impact CUL-1: The project would not cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5. (No Impact)

The proposed trail alignment and adjacent properties do not appear on any local, state, or federal list of historic or architecturally significant structures and/or sites, landmarks, or points of interest. A review of historic-era maps did not indicate buildings or structures have ever existed on the trail alignment. For these reasons, construction of the proposed trail would not impact historic resources. **(No Impact)**

Impact CUL-2: The project would not cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5. (Less than Significant Impact with Mitigation Incorporated)

Although there are no known archaeological sites within or adjacent to the proposed trail alignment, the alignment is located along Regnart Creek within an area of moderate to high archaeological sensitivity. There is potential for accidental discovery of archaeological materials due to the site's proximity to a waterway. The project would implement the following mitigation measures to reduce and avoid impacts to unknown archaeological resources.

Mitigation Measures

MM CUL-2.1: Prior to any project-related construction or ground disturbing activities, a qualified archaeologist shall complete mechanical coring to explore for archaeological resources. Coring shall be completed near the proposed eastern terminus and in specific locations that will be impacted by the proposed improvements, such as the proposed new maintenance ramp and bridge abutment locations. The results of the mechanical coring activities shall be submitted to the Director of Public Works or his or her designee for review and acceptance prior to issuance of any Notice to Proceed for construction. If archaeological resources are discovered during the mechanical coring investigation, an archaeological resources treatment plan (as described in MM CUL-2.2) shall be prepared by a qualified archaeologist.

MM CUL-2.2: If archaeological resources are discovered during the mechanical coring investigation, the project shall retain a qualified archaeologist to prepare a treatment plan that reflects the project details pertaining to depths and locations of all ground disturbing activities. The treatment plan shall be prepared and submitted to the Director of Public Works for review/approval and shall be implemented prior to proceeding with any grading work for the project. The plan may require archaeological data recovery excavations to address treatment of the resource along with subsequent laboratory processing and analysis. If appropriate, the archaeologist may conduct archaeological monitoring on all or part of the site. An archaeological report shall be written detailing all archaeological finds and submitted to the City and the Northwest Information Center.

MM CUL-2.3 If archaeological resources are not discovered during the mechanical coring investigation, project construction shall proceed under the presumption that upon discovery of possible buried prehistoric or historic cultural materials, work within 25 feet of the find must be halted and mitigation measure MM CUL-2.2 shall be implemented.

Implementation of mitigation measures MM CUL-2.1 and MM CUL-2.2 would ensure that the project would not have a significant impact on buried archaeological resources. **(Less than Significant Impact with Mitigation Incorporated)**

Impact CUL-3:	**The project would not disturb any human remains, including those interred outside of dedicated cemeteries. (Less than Significant Impact)**

The proposed trail alignment is not located on or near a known archaeological site or cemetery. Although the likelihood of encountering human remains is low, the disturbance of these remains, if they are encountered during construction, could result in an impact. The project would implement the following Standard Permit Condition as a condition of approval.

Standard Permit Condition: The following measures shall be applied to the project to reduce and/or avoid impacts to human remains:

- If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The City shall immediately notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or their authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:

    1) The NAHC is unable to identify an MLD or the MLD failed to make a recommendation within 48 hours after being given access to the site;
    2) The MLD identified fails to make a recommendation; or
    3) The landowner or their authorized representative rejects the recommendation of the MLD, and the mediation by the NAHC fails to provide measures acceptable to the landowner.

Implementation of the above Standard Permit Condition would reduce and/or avoid impacts to unknown human remains to a less than significant level. **(Less than Significant Impact)**

4.6 ENERGY

4.6.1 Environmental Setting

4.6.1.1 *Existing Conditions*

Total energy usage in California was approximately 7,830 trillion British thermal units (Btu) in the year 2016, the most recent year for which this data was available. Out of the 50 states, California is ranked second in total energy consumption and 48th in energy consumption per capita. The breakdown by sector was approximately 18 percent (1,384 trillion Btu) for residential uses, 19 percent (1,477 trillion Btu) for commercial uses, 24 percent (1,853 trillion Btu) for industrial uses, and 40 percent (3,116 trillion Btu) for transportation.[13] This energy is primarily supplied in the form of natural gas, petroleum, nuclear electric power, and hydroelectric power.

Electricity

Electricity in Santa Clara County in 2017 was consumed primarily by the commercial sector (76 percent), followed by the residential sector consuming 24 percent. In 2017, a total of approximately 17,190 gigawatt hours (GWh) of electricity was consumed in Santa Clara County.[14]

The community-owned Silicon Valley Clean Energy (SVCE) is the electricity provider for the City of Cupertino.[15] SVCE sources the electricity and the Pacific Gas and Electric Company (PG&E) delivers it to customers over their existing utility lines. Customers are automatically enrolled in the GreenStart plan and can upgrade to the GreenPrime plan. Both options are considered 100 percent GHG-emission free.

Natural Gas

PG&E provides natural gas services within Santa Clara County. In 2017, approximately 1.4 percent of California's natural gas supply came from in-state production, while the remaining supply was imported from other western states and Canada.[16] In 2016, residential and commercial customers in California used 29 percent of the state's natural gas, power plants used 32 percent, and the industrial sector used 37 percent. Transportation accounted for one percent of natural gas use in California. In 2017, Santa Clara County used approximately 3.5 percent of the state's total consumption of natural gas.[17]

[13] United States Energy Information Administration. *State Profile and Energy Estimates, 2016.* Accessed September 6, 2018. https://www.eia.gov/state/?sid=CA#tabs-2.
[14] California Energy Commission. Energy Consumption Data Management System. "Electricity Consumption by County." Accessed March 15, 2019. http://ecdms.energy.ca.gov/elecbycounty.aspx.
[15] Silicon Valley Clean Energy. "Frequently Asked Questions." Accessed October 9, 2017. https://www.svcleanenergy.org/faqs.
[16] California Gas and Electric Utilities. 2018 *California Gas Report.* Accessed March 15, 2019. https://www.socalgas.com/regulatory/documents/cgr/2018_California_Gas_Report.pdf.
[17] California Energy Commission. "Natural Gas Consumption by County." Accessed February 21, 2019. http://ecdms.energy.ca.gov/gasbycounty.aspx.

4.6.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy, or wasteful use of energy resources, during project construction or operation?	☐	☐	☒	☐
2) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	☐	☐	☐	☒

Impact EN-1: The project would not result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy, or wasteful use of energy resources, during project construction or operation. (Less than Significant Impact)

Construction and operation of the proposed trail would consume a relatively small amount of energy. Trail construction would require energy for the manufacture and transportation of building materials, site preparation, and trail construction. Energy consumption during trail operation would be the result of maintenance activities and use of the RRFB crosswalk signals. The RRFB signals would be manually activated by pedestrians and powered by solar photovoltaic (PV) panels installed at the crosswalks.

The proposed trail would reduce vehicle trips and associated energy use by providing a bicycle and pedestrian connection between local residential, recreational, and public facility uses. For these reasons, construction and operation of the proposed trail would not result in a significant environmental impact due to the wasteful, inefficient, or unnecessary consumption of energy. **(Less than Significant Impact)**

Impact EN-2: The project would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency. (No Impact)

The proposed trail would reduce vehicle trips and associated energy use by providing a bicycle and pedestrian connection between residential, recreational, and public facility uses. Therefore, the project would not conflict with a state or local plan for renewable energy or energy efficiency. **(No Impact)**

4.7 GEOLOGY AND SOILS

The discussion in this section is based in part on the Foundation Report prepared by Parikh Consultants, Inc. on May 20, 2019. The report is included in this Initial Study as Appendix B.

4.7.1 Environmental Setting

4.7.1.1 *Regulatory Framework*

State

Alquist-Priolo Earthquake Fault Zoning Act

The Alquist-Priolo Earthquake Fault Zoning Act was passed following the 1971 San Fernando earthquake. The act regulates development in California near known active faults due to hazards associated with surface fault ruptures. Alquist-Priolo maps are distributed to affected cities, counties, and state agencies for their use in planning and controlling new construction. Areas within an Alquist-Priolo Earthquake Fault Zone require special studies to evaluate the potential for surface rupture to ensure that no structures intended for human occupancy are constructed across an active fault.

Seismic Hazards Mapping Act

The Seismic Hazards Mapping Act (SHMA) was passed in 1990 following the 1989 Loma Prieta earthquake. The SHMA directs the California Geological Survey (CGS) to identify and map areas prone to liquefaction, earthquake-induced landslides, and amplified ground shaking. CGS has completed seismic hazard mapping for the portions of California most susceptible to liquefaction, landslides, and ground shaking, including the central San Francisco Bay Area. The SHMA requires that agencies only approve projects in seismic hazard zones following site-specific geotechnical investigations to determine if the seismic hazard is present and identify measures to reduce earthquake-related hazards.

California Building Standards Code

The California Building Standards Code (CBC) prescribes standards for constructing safe buildings. The CBC contains provisions for earthquake safety based on factors including occupancy type, soil and rock profile, ground strength, and distance to seismic sources. The CBC requires that a site-specific geotechnical investigation report be prepared for most development projects to evaluate seismic and geologic conditions such as surface fault ruptures, ground shaking, liquefaction, differential settlement, lateral spreading, expansive soils, and slope stability. The CBC is updated approximately every three years; the current version is the 2019 CBC.

California Division of Occupational Safety and Health Regulations

Excavation, shoring, and trenching activities during construction are subject to occupational safety standards for stabilization by the California Department of Industrial Relations, Division of Occupational Safety and Health (Cal/OSHA) under Title 8 of the California Code of Regulations and Excavation Rules. These regulations minimize the potential for instability and collapse that could injure construction workers on the site.

Public Resources Code Section 5097.5

Paleontological resources are the fossilized remains of organisms from prehistoric environments found in geologic strata. They range from mammoth and dinosaur bones to impressions of ancient animals and plants, trace remains, and microfossils. These are valued for the information they yield about the history of the earth and its past ecological settings. California Public Resources Code Section 5097.5 specifies that unauthorized removal of a paleontological resource is a misdemeanor. Under the CEQA Guidelines, a project would have a significant impact on paleontological resources if it would disturb or destroy a unique paleontological resource or site or unique geologic feature.

4.7.1.2 *Existing Conditions*

Regional Geology

The City of Cupertino is located in the eastern portion of the Santa Clara Valley. The Santa Clara Valley, an alluvial basin, is oriented northwest to southeast and is bounded by the Santa Cruz Mountains to the west and the Hamilton/Diablo Range to the east. The Santa Clara Valley was formed when sediments derived from the Santa Cruz Mountains and the Hamilton/Diablo Range were exposed by continued tectonic uplift and regression of the inland sea that had previously inundated this area. Bedrock in this area is made up of the Franciscan Complex, a diverse group of igneous, sedimentary, and metamorphic rocks of Late Jurassic to Cretaceous age (70 to 140 million years old). Overlaying the bedrock at substantial depths are marine and terrestrial sedimentary rocks of Tertiary and Quaternary age.

Project Alignment

The project alignment is located in a general area of alluvial fan deposits of the late Pleistocene period, characterized by alluvial sand, fine-grained silt, and gravel. A subsurface investigation, including four soil borings with maximum depths ranging from 26.5 to 61 feet below grade, was completed in March 2019. Results of the subsurface investigation are included in the Foundation Report. Stiff to hard clay was encountered to a depth of seven to eight feet below grade. The clay is underlain by dense sand with some gravel to the maximum depth explored in each boring. No surface water was observed in the creek, and groundwater was not encountered in the soil borings.

The results of a corrosion evaluation (see Appendix B) showed that the project alignment is not considered corrosive to structural elements.

Seismicity and Seismic Hazards

The project alignment is located within the seismically active San Francisco Bay region. The faults in this region are capable of generating earthquakes of magnitude 7.0 or higher. Major faults in the area include the San Andreas Fault to the west and the Hayward and Calaveras Faults to the east. During an earthquake, very strong ground shaking could occur at the project alignment.

The project alignment is not located within an Alquist-Priolo Special Studies Zone.[18] There are no known faults along the proposed trail alignment.

[18] California Geological Survey. *Earthquake Zones of Required Investigation*. Accessed May 28, 2019. Available at: https://maps.conservation.ca.gov/cgs/EQZApp/.

Liquefaction and Lateral Spreading

Liquefaction is a seismic hazard and is characterized as the temporary transformation of soils to a liquid state during ground shaking. Lateral spreading, typically associated with liquefaction, is horizontal ground movement of flat-lying soil deposits toward a free face such as an excavation, channel, or open body of water. Types of soils usually susceptible to liquefaction include submerged cohesionless sands and silts of low density. Clays are generally not susceptible to liquefaction.

According to the California Geological Survey, the project alignment is not located within a State of California Seismic Hazard Zone for liquefaction. There is no known history of liquefaction-induced damage at the site. The project alignment is located adjacent to Regnart Creek, which is an engineered channel that runs generally east-west in the project area. The Foundation Report concluded that the project alignment, which has a groundwater depth exceeding 60 feet below existing grade and is underlain by dense sands and gravels, is not susceptible to liquefaction.

Landslides

The project alignment is located within the relatively flat Santa Clara Valley. According to the California Geological Survey, the project alignment is not located within a State of California Seismic Hazard Zone for earthquake-induced landslides.

4.7.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:				
– Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault (refer to Division of Mines and Geology Special Publication 42)?	☐	☐	☐	☒
– Strong seismic ground shaking?	☐	☐	☐	☒
– Seismic-related ground failure, including liquefaction?	☐	☐	☐	☒
– Landslides?	☐	☐	☐	☒
2) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☒	☐
3) Be located on a geologic unit or soil that is unstable, or that will become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☐	☒

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
4) Be located on expansive soil, as defined in Section 1803.5.3 of the California Building Code (2016), creating substantial direct or indirect risks to life or property?	☐	☐	☐	☒
5) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	☐	☐	☐	☒
6) Directly or indirectly destroy a unique paleontological resource or site or unique geological feature?	☐	☐	☒	☐

Impact GEO-1: The project would not directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault; strong seismic ground shaking; seismic-related ground failure, including liquefaction or landslides. (No Impact)

The project alignment is not located within an earthquake fault zone, liquefaction zone, or landslide zone. Thus, the likelihood of damage to the trail alignment, bridge, or relocated maintenance ramp is considered remote. In the event of a major earthquake on one of the region's active faults, strong ground shaking at the project alignment would likely occur, but no new structures or facilities designed for human occupancy are included in the project. Further, the bridge structure would be designed in compliance with current seismic safety standards and codes, including the 2012 Caltrans Fault Database and Acceleration Response Spectrum (ARS) tool. Therefore, there would be no substantial risk of loss of life or property expected from seismic ground shaking at the site. The project would not exacerbate any hazardous seismic conditions. **(No Impact)**

Impact GEO-2: The project would not result in substantial erosion or the loss of topsoil. (Less than Significant Impact)

Construction of the project would disturb the ground and expose soils, thereby increasing the potential for wind- and water-related erosion and sedimentation at the site until the completion of construction and ground disturbance is stabilized. As disclosed in Section 4.10 Hydrology and Water Quality of this Initial Study, the proposed project would implement erosion control measures during and after construction consistent with the National Pollutant Discharge Elimination System (NPDES) Construction General Permit and Municipal Regional Permit.

Between South Blaney Avenue and East Estates Drive and at isolated locations elsewhere, removable railings would be installed between the trail edge and top of bank. The railings would be constructed

behind the top of bank. To minimize ground disturbance at locations near the creek top of bank, tubular steel posts would be pressed or driven into the soil to a depth suitable for railing stability, rather than excavating post hole foundations.

Through adherence to the erosion control requirements of the NPDES Construction General Permit (see Section 4.9 Hydrology and Water Quality) and MRP during and after project construction and avoidance of excavating post hole foundations for railings, as described, the project would not result in substantial soil erosion or loss of topsoil. **(Less than Significant Impact)**

Impact GEO-3:	**The project would not be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse. (Less than Significant Impact)**

As discussed under GEO-1 above, the proposed trail alignment is not located within a landslide hazard zone and is not in the vicinity of a slope that could be affected by a landslide. The project alignment is not located within a liquefaction hazard zone, and the soils underlying the alignment are generally not susceptible to liquefaction. Therefore, the project would not result in on- or off-site landslide, subsidence, liquefaction, or collapse.

The project alignment is located adjacent to Regnart Creek. Creek banks can be susceptible to lateral spreading. In the vicinity of the project alignment, however, Regnart Creek is an engineered channel, and portions of the creek adjacent to the project alignment have concrete or sacked concrete banks. Engineered and reinforced banks reduce the potential for lateral spreading along the project alignment. Because of the low susceptibility to liquefaction and the engineered banks of the creek, the project would not result in lateral spreading risks. **(Less than Significant Impact)**

Impact GEO-4:	**The project would not be located on expansive soil, as defined in Section 1803.5.3 of the California Building Code (2016), creating substantial direct or indirect risks to life or property. (Less than Significant Impact)**

Expansive soils are common in the San Francisco Bay Area. The project proposes to construct a pedestrian bridge with foundations in stiff clay underlain by dense sand. The Foundation Report prepared for the project included design and construction recommendations based upon the soils encountered at the bridge location. These recommendations include adherence to Caltrans specifications for cast-in-drilled-hole (CIDH) concrete piling, education of contractors regarding soil conditions, and use of temporary casing.

With the recommendations of the Foundation Report incorporated into the project design and construction, expansive soil would not negatively impact the project. The proposed project would not exacerbate impacts related to expansive soil. **(Less than Significant Impact)**

Impact GEO-5:	**The project would not have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater. (No Impact)**

The project proposes construction of a bicycle and pedestrian trail. No septic systems would be constructed or used; therefore, no impacts related to septic systems would occur. **(No Impact)**

Impact GEO-6:	**The project would not directly or indirectly destroy a unique paleontological resource or site or unique geological feature. (Less than Significant Impact)**

Soil on the project alignment has been previously disturbed during construction along the Regnart Creek channel and grading of the Valley Water maintenance road. There are no known paleontological sites or unique geological features in the project area. Because project construction would generally be limited to the upper four feet or less of soil, the risk of encountering paleontological resources during construction is considered low.

Although the likelihood of encountering paleontological resources during project construction activities is low, they could be encountered. The project would implement the following Standard Permit Condition as a condition of approval for the project.

Standard Permit Condition: The following measures shall be applied to development of the project site to reduce and/or avoid impacts to paleontological resources:

- If vertebrate fossils or other paleontological resources are discovered during construction, all work on the site shall stop immediately until a qualified professional paleontologist can assess the nature and importance of the find and recommend appropriate treatment. Treatment may include preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection, and may also include preparation of a report for publication describing the finds. The City of Cupertino's Project Manager or other suitable representative shall be responsible for submitting the paleontologist's report to the Director of Public Works, and implementing the recommendations of the qualified professional paleontologist. The representative shall submit a report to the Director of Public Works indicating how the paleontologist's recommendations were complied with as soon as all measures have been incorporated into the project.

Implementation of the above Standard Permit Condition would ensure that the proposed project would not significantly impact paleontological resources. **(Less than Significant Impact)**

4.8 GREENHOUSE GAS EMISSIONS

4.8.1 Environmental Setting

4.8.1.1 *Background Information*

Gases that trap heat in the atmosphere, GHGs, regulate the earth's temperature. This phenomenon, known as the greenhouse effect, is responsible for maintaining a habitable climate. In GHG emission inventories, the weight of each gas is multiplied by its Global Warming Potential (GWP) and is measured in units of carbon dioxide (CO_2) equivalents (CO_2e). GWP is a measure of how much heat a greenhouse gas traps in the atmosphere up to a specific time horizon, relative to CO_2. The most common GHGs are CO_2 and water vapor but there are also several others, most importantly methane (CH_4), nitrous oxide (N_2O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF_6). These are released into the earth's atmosphere through a variety of natural processes and human activities. Sources of GHGs are generally as follows:

- CO_2 and N_2O are byproducts of fossil fuel combustion.
- N_2O is associated with agricultural operations such as fertilization of crops.
- CH_4 is commonly created by off-gassing from agricultural practices (e.g., keeping livestock) and landfill operations.
- Chlorofluorocarbons (CFCs) were widely used as refrigerants, propellants, and cleaning solvents, but their production has been stopped by international treaty.
- HFCs are now used as a substitute for CFCs in refrigeration and cooling.
- PFCs and SF_6 emissions are commonly created by industries such as aluminum production and semiconductor manufacturing.

An expanding body of scientific research supports the theory that global climate change is currently causing changes in weather patterns, average sea level, ocean acidification, chemical reaction rates, and precipitation rates, and that it will increasingly do so in the future. The climate and several naturally occurring resources within California are adversely affected by the global warming trend. Increased precipitation and sea level rise will increase coastal flooding, saltwater intrusion, and degradation of wetlands. Mass migration and/or loss of plant and animal species could also occur. Potential effects of global climate change that could adversely affect human health include more extreme heat waves and heat-related stress; an increase in climate-sensitive diseases; more frequent and intense natural disasters such as flooding, hurricanes and drought; and increased levels of air pollution.

4.8.1.2 *Regulatory Framework*

State

Assembly Bill 32

Under the California Global Warming Solutions Act of 2006, also known as Assembly Bill (AB) 32, CARB established a statewide GHG emissions cap for 2020, adopted mandatory reporting rules for significant sources of GHGs, and adopted a comprehensive plan, known as the Climate Change Scoping Plan, identifying how emission reductions would be achieved from significant GHG sources.

In 2016, Senate Bill (SB) 32 was signed into law, amending the California Global Warming Solutions Act. SB 32, and accompanying Executive Order B-30-15, require CARB to ensure that statewide GHG emissions are reduced to 40 percent below the 1990 level by 2030. CARB updated its Climate Change Scoping Plan in December of 2017 to express the 2030 statewide target in terms of million metric tons of CO_2e ($MMTCO_2e$). Based on the emissions reductions directed by SB 32, the annual 2030 statewide target emissions level for California is 260 $MMTCO_2e$.

Senate Bill 375

SB 375, known as the Sustainable Communities Strategy and Climate Protection Act, was signed into law in September 2008. SB 375 builds upon AB 32 by requiring CARB to develop regional GHG reduction targets for automobile and light truck sectors for 2020 and 2035. The per-capita GHG emissions reduction targets for passenger vehicles in the San Francisco Bay Area include a seven percent reduction by 2020 and a 15 percent reduction by 2035.

Consistent with the requirements of SB 375, the Metropolitan Transportation Commission (MTC) partnered with the Association of Bay Area Governments (ABAG), BAAQMD, and the Bay Conservation and Development Commission to prepare the region's Sustainable Communities Strategy (SCS) as part of the Regional Transportation Plan process. The SCS is referred to as Plan Bay Area 2040. Plan Bay Area 2040 establishes a course of action for reducing per-capita GHG emissions through the promotion of compact, high-density, mixed-use neighborhoods near transit, particularly within identified Priority Development Areas (PDAs).

Regional and Local

2017 Clean Air Plan (CAP)

To protect the climate, the 2017 CAP (prepared by BAAQMD) includes control measures designed to reduce emissions of methane and other super-GHGs that are potent climate pollutants in the near-term, and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.

CEQA Air Quality Guidelines

The BAAQMD CEQA Air Quality Guidelines are intended to serve as a guide for those who prepare or evaluate air quality impact analyses for projects and plans in the San Francisco Bay Area. The jurisdictions in the San Francisco Bay Area Air Basin utilize the thresholds and methodology for assessing GHG impacts developed by BAAQMD within the CEQA Air Quality Guidelines. The guidelines include information on legal requirements, BAAQMD rules, methods of analyzing impacts, and recommended mitigation measures.

Cupertino General Plan

The Cupertino General Plan includes an Environmental Resources/Sustainability Section, with policies that call for energy efficiency, alternative transportation planning, and green building. These policies and the City's Green Building and Green Business Programs include measures designed to reduce energy and water use and associated direct and indirect greenhouse gas emissions.

The City also has adopted a construction and debris (C&D) recycling program ordinance that requires applicants seeking building or demolition permits for projects greater than 3,000 square feet to recycle at least 60 percent of project discards. Recycling can indirectly reduce greenhouse gas emissions by reducing the need to manufacture or mine new products or materials.

Cupertino Climate Action Plan

The City of Cupertino Climate Action Plan was adopted in 2015 to quantify the City's share of statewide GHG emissions and establish steps toward achieving a local emissions reduction target. The City's overarching goals include reducing energy use, encouraging alternative transportation, conserving potable water, reducing solid waste, and expanding green infrastructure.

4.8.1.3 *Existing Conditions*

Unlike emissions of criteria and toxic air pollutants, which have regional and local impacts, emissions of GHGs have a broader, global impact. Global warming is a process whereby GHGs accumulating in the upper atmosphere contribute to an increase in the temperature of the earth and changes in weather patterns.

4.8.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Generate greenhouse gas (GHG) emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☒	☐
2) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of GHGs?	☐	☐	☐	☒

Impact GHG-1: The project would not generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment. (Less than Significant Impact)

Operational Emissions

Use of the proposed trail by pedestrians and bicyclists would not generate GHG emission. The proposed trail would reduce vehicle trips and associated GHG emissions by providing a bicycle and pedestrian connection between local residential, recreational, and public facility uses. Therefore, operation of the proposed trail would not generate GHG emissions that may have a significant impact on the environment. **(No Impact)**

Construction Emissions

There are no established thresholds of significance for construction GHG emissions. BAAQMD does, however, encourage the analysis of GHG construction emissions when possible.

Construction of the proposed trail would generate GHG emissions during construction due to the operation of construction equipment and worker trips to and from the project alignment. The proposed trail would not require substantial grading or excavation or the import/export of large soil volumes or building materials; therefore, GHG emissions during construction would be relatively low and short in duration. For these reasons, construction of the proposed trail would not generate GHG emissions that may have a significant impact on the environment. **(Less Than Significant Impact)**

Impact GHG-2:	**The project would not conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of GHGs. (No Impact)**

As discussed under GHG-1 above, project construction would not generate substantial GHG emissions. Consistent with the City's Climate Action Plan, operation of the proposed trail would reduce vehicle trips and associated GHG emissions by providing a bicycle and pedestrian connection between local residential, recreational, and public facility uses. For these reasons, the proposed project would not conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing GHG emissions. **(No Impact)**

4.9 HAZARDS AND HAZARDOUS MATERIALS

4.9.1 Environmental Setting

4.9.1.1 *Regulatory Framework*

Overview

The storage, use, generation, transport, and disposal of hazardous materials and waste are highly regulated under federal and state laws. Federal regulations and policies related to development include the Comprehensive Environmental Response, Compensation, and Liability Act, commonly known as Superfund, and the Resource Conservation and Recovery Act. In California, the EPA has granted most enforcement authority over federal hazardous materials regulations to the California Environmental Protection Agency (CalEPA). In turn, local agencies have been granted responsibility for implementation and enforcement of many hazardous materials regulations under the Certified Unified Program Agency (CUPA) program.

Worker health and safety and public safety are key issues when dealing with hazardous materials. Proper handling and disposal of hazardous material is vital if it is disturbed during project construction. Cal/OSHA enforces state worker health and safety regulations related to construction activities. Regulations include exposure limits, requirements for protective clothing, and training requirements to prevent exposure to hazardous materials. Cal/OSHA also enforces occupational health and safety regulations specific to lead and asbestos investigations and abatement.

State

Government Code Section 65962.5

Section 65962.5 of the Government Code requires CalEPA to develop and update a list of hazardous waste and substances sites, known as the Cortese List. The Cortese List is used by state and local agencies and developers to comply with CEQA requirements. The Cortese List includes hazardous substance release sites identified by the Department of Toxic Substances Control (DTSC), State Water Resources Control Board (SWRCB), and Santa Clara County. The project alignment is not on the Cortese List.[19]

California Accidental Release Prevention Program

The California Accidental Release Prevention (CalARP) Program aims to prevent accidental releases of regulated hazardous materials that represent a potential hazard beyond the boundaries of a property. Facilities that are required to participate in the CalARP Program use or store specified quantities of toxic and flammable substances (hazardous materials) that can have off-site consequences if accidentally released. The Santa Clara County Department of Environmental Health (SCCDEH) reviews CalARP risk management plans as the CUPA.

[19] California Environmental Protection Agency. "Cortese List Data Resources." Accessed May 16, 2019. https://calepa.ca.gov/sitecleanup/corteselist.

4.9.1.2 *Existing Conditions*

The project alignment is located adjacent to the portion of Regnart Creek between Torre Avenue and East Estates Drive. The vicinity was historically used as agricultural land prior to the development of residential uses, beginning in the 1950s. The area's parks were added and Cupertino City Hall and Library were constructed thereafter. Due to the historic agricultural operations in the project area, it is possible that residual contamination from pesticides, herbicides, and fertilizers may be found in the soils of the project area.

A review of readily available regulatory databases did not identify active or closed hazardous materials cleanup cases within the proposed trail alignment. One open hazardous materials cleanup case was identified within 0.25 mile of the project alignment. McClellan Square Cleaners, located at 10477 South De Anza Boulevard 0.2 mile west of the project alignment, was the subject of a 2010 Phase I Environmental Site Assessment (ESA). The Phase I ESA identified perchloroethylene (PCE) and volatile organic compounds (VOCs) at depths of 15 feet below ground surface that exceeded regulatory screening levels. Subsequent investigations estimated the horizontal extent of contamination to be 60 feet north, 60 feet south, and 80 feet east of the contamination site. This contamination is not expected to extend within the project alignment, which is located approximately 1,000 feet east of McClellan Square Cleaners. The maximum depth of excavation for the project would be nine feet below ground surface for the installation of foundations for the proposed removable split rail fence posts.

4.9.2 **Impact Discussion**

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☒	☐
2) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☒	☐	☐
3) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☒	☐
4) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, will it create a significant hazard to the public or the environment?	☐	☐	☐	☒

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
5) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, result in a safety hazard or excessive noise for people residing or working in the project area?	☐	☐	☐	☒
6) Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	☐	☐	☒	☐
7) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?	☐	☐	☐	☒

Impact HAZ-1: The project would not create a significant hazard to the public or the environment through routine transport, use, or disposal of hazardous materials. (Less than Significant Impact)

Construction, operation, and maintenance of the proposed trail would not result in hazardous materials routinely being transported, used, or disposed of in quantities that would result in a significant hazard to the public. Project construction would use hazardous materials, including fuels, oils, solvents, paints, and other building materials. During construction, these materials would be stored and used in relatively small quantities in compliance with local and state safety requirements. Operation of the proposed trail may include the use of maintenance and landscaping chemicals in small quantities. The limited use of hazardous materials under the proposed project would not pose a significant risk to the public or environment. **(Less than Significant Impact)**

Impact HAZ-2: The project would not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. (Less than Significant Impact with Mitigation Incorporated)

Operation

The project proposes construction of a trail that would use small quantities of hazardous materials, primarily in the form of landscaping and cleaning supplies. Such use as part of the project operation would not cause a hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. **(Less than Significant Impact)**

Construction

Project construction would use hazardous materials, including fuels, oils, solvents, paints, and other building materials. These materials would be stored and used in relatively small quantities, in compliance with local and state safety requirements. Therefore, project construction would not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. **(Less than Significant Impact)**

Pesticides

As described above, the project vicinity was previously used for agricultural purposes prior to development of the existing uses. Because of the past agricultural uses, it is reasonable to assume that pesticides and other agricultural chemicals were used as part of the normal agricultural operations. It is common to find arsenic, lead, and dichlorodiphenyltrichloroethane (DDT) residue in the soils in Santa Clara County from historic farming operations.

Construction of the proposed trail would require soil grading and excavation. If pesticides and chemicals from historic agricultural operations have persisted on-site, soil disturbing activities during construction could expose workers and the environment to these hazardous materials. The project would implement the following mitigation measures to reduce and/or avoid hazards related to the potential upset of hazardous materials during project construction activities.

Mitigation Measures

MM HAZ-2.1: Prior to excavation, shallow soil samples shall be taken along the proposed trial alignment and other areas of disturbance to determine if contaminated soil is located on-site with concentrations above established construction/trench worker thresholds.

MM HAZ-2.2: Once soil sampling is complete, a report of findings shall be provided to the SCCDEH (or other appropriate agency) for review. If no contaminants are found above established thresholds, no further action is required.

MM HAZ-2.3: If contaminated soils are found in concentrations above established thresholds, a Site Management Plan (SMP) shall be prepared and implemented to manage the cleanup of potential contamination. The SMP shall be prepared prior to construction to reduce or eliminate exposure risk to human health and the environment, specifically, potential risks associated with the presence of contaminated soils. Contaminated soil removed from the site shall be hauled off-site and disposed at a licensed hazardous materials disposal site in accordance with applicable regulations.

The SMP shall be submitted to the SCCDEH (or equivalent agency) for review and acceptance. A copy of the accepted SMP shall be submitted to the

City of Cupertino Public Works Department, and shall be implemented prior to the commencement of grading activities on the site.

With implementation of mitigation measure MM HAZ-2.1 through MM HAZ-2.3, the proposed project would not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. **(Less than Significant Impact with Mitigation Incorporated)**

Impact HAZ-3:	**The project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school. (Less than Significant Impact)**

The nearest school to the proposed trail, C. B. Eaton Elementary School, is located approximately 400 feet south. The proposed trail would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste. **(Less than Significant Impact)**

Impact HAZ-4:	**The project would not be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, create a significant hazard to the public or the environment. (No Impact)**

The project alignment is not located on the California Environmental Protection Agency Cortese List, compiled pursuant to Government Code Section 65962.5. **(No Impact)**

Impact HAZ-5:	**The project would not be located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport. The project would not result in a safety hazard or excessive noise for people residing or working in the project area. (No Impact)**

The project alignment is not located near a public airport or private air strip. The nearest airport is the San José International Airport, approximately 5.4 miles northeast of the project alignment. Therefore, implementation of the proposed project would not result in safety hazard impacts related to airport activities. **(No Impact)**

Impact HAZ-6:	**The project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. (Less than Significant Impact)**

During construction of the proposed trail, construction equipment and trucks would utilize the Valley Water maintenance road to access the construction area. Road crossing areas for construction equipment would also be established on South Blaney Avenue and East Estates Drive, temporarily restricting vehicle access on these roads. However, flaggers will be employed to maintain traffic on these roads throughout the construction period. .These roads are not major thoroughfares and are not designated evacuation routes. For these reasons, construction and operation of the proposed trail

alignment would not physically interfere with an adopted emergency response or evacuation plan. **(Less than Significant Impact)**

Impact HAZ-7:	**The project would not expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires. (No Impact)**

The proposed trail alignment is located in an urban area. There are no wildland areas located in the project area. Therefore, the proposed trail project would not expose people or structures to wildland fires. **(No Impact)**

4.10 HYDROLOGY AND WATER QUALITY

4.10.1 Environmental Setting

4.10.1.1 *Regulatory Framework*

Overview

The federal Clean Water Act and California's Porter-Cologne Water Quality Control Act are the primary laws related to water quality in California. Regulations set forth by the EPA and the SWRCB have been developed to fulfill the requirements of this legislation. EPA regulations include the NPDES permit program, which controls sources that discharge pollutants into the waters of the United States (e.g., streams, lakes, bays, etc.). These regulations are implemented at the regional level by the RWQCBs. The project alignment is within the jurisdiction of the San Francisco Bay RWQCB. Wetland and riparian habitats are considered sensitive habitats under CEQA. They are also afforded protection under applicable federal, state, and local regulations, and are generally subject to regulation by the United States Army Corps of Engineers (USACE), Regional Water Quality Control Board (RWQCB), CDFW, and/or the USFWS under provisions of the federal Clean Water Act (e.g., Sections 303, 304, 404) and State of California Porter-Cologne Water Quality Control Act.

Federal and State

National Flood Insurance Program

The Federal Emergency Management Agency (FEMA) established the National Flood Insurance Program (NFIP) to reduce impacts of flooding on private and public properties. The program provides subsidized flood insurance to communities that comply with FEMA regulations protecting development in floodplains. As part of the program, FEMA publishes Flood Insurance Rate Maps (FIRMs) that identify Special Flood Hazard Areas (SFHAs). An SFHA is an area that would be inundated by the one-percent annual chance flood, which is also referred to as the base flood or 100-year flood.

USACE

The U.S. Army Corps of Engineers has permitting authority over activities affecting waters of the United States. Waters of the United States include surface waters such as navigable waters and their tributaries, all interstate waters and their tributaries, natural lakes, all wetlands adjacent to other waters, and all impoundments of these waters.

USACE jurisdiction over navigable waterways and adjacent wetlands is mandated by federal statutes, including Section 404 of the Clean Water Act, which applies to all waters of the United States including wetlands that have sufficient nexus to interstate commerce. USACE permits are required for any work, including construction and dredging, within its jurisdictional waters.

CDFW

State Fish and Game Code Section 1602 requires any person, state or local governmental agency, or public utility to notify CDFW prior to beginning any activity that may do one or more of the following:

- Divert or obstruct the natural flow of any river, stream, or lake;
- Change the bed, channel, or bank of any river, stream, or lake;
- Use material from any river, stream, or lake; or
- Deposit or dispose of material into any river, stream, or lake.

This applies to water bodies that are dry for periods of time as well as those that flow year-round. CDFW requires a Lake and Streambed Alteration (LSA) Agreement when a project activity may substantially adversely affect fish and wildlife resources.[20]

Statewide Construction General Permit

The SWRCB has implemented a NPDES Construction General Permit for the State of California (Construction General Permit). For projects disturbing one acre or more of soil, a Notice of Intent (NOI) and Storm Water Pollution Prevention Plan (SWPPP) must be prepared by a qualified professional prior to commencement of construction. The Construction General Permit includes requirements for training, inspections, record keeping, and, for projects of certain risk levels, monitoring. The general purpose of the requirements is to minimize the discharge of pollutants and to protect beneficial uses and receiving waters from the adverse effects of construction-related storm water discharges.

Regional and Local

RWQCB

The RWQCB regulates discharges of fill and dredged material under the federal Clean Water Act Section 401 and the state Porter-Cologne Water Quality Control Act. The 401 Water Quality Certification and Wetlands Program protects all waters within its regulatory scope, but has special responsibility for wetlands, riparian areas, and headwaters because these waterbodies have high resource value, are vulnerable to filling, and are not systematically protected by other programs.[21] Although RWQCB involvement includes protection of special-status species and regulation of hydromodification impacts, issuing Water Quality Certification for discharges requiring USACE permits for fill and dredge discharges is a core responsibility.

The RWQCB regulates water quality in accordance with the Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan). The Basin Plan lists the beneficial uses that the San Francisco Bay RWQCB has identified for local aquifers, streams, marshes, rivers, and the San Francisco Bay, as well as the water quality objectives and criteria that must be met to protect these uses. The San Francisco Bay RWQCB implements the Basin Plan by issuing and enforcing waste discharge requirements, including permits for nonpoint sources such as the urban runoff discharged by a City's stormwater drainage system. The Basin Plan also describes watershed management programs and water quality attainment strategies.

[20] California Department of Fish and Game website. *https://wildlife.ca.gov/Conservation/LSA*. Accessed January 24, 2020.
[21] California Water Boards website. *https://www.waterboards.ca.gov/water_issues/programs/cwa401/*. Accessed January 24, 2020.

Municipal Regional Permit Provision C.3

The San Francisco Bay RWQCB issued a Municipal Regional Permit (MRP) to regulate stormwater discharges from municipalities and local agencies (co-permittees) in Alameda, Contra Costa, San Mateo, and Santa Clara Counties, and the cities of Fairfield, Suisun City, and Vallejo.[22] Under Provision C.3 of the MRP, new and redevelopment projects that create or replace 10,000 square feet or more of impervious surface area are required to implement site design, source control, and Low Impact Development (LID)-based stormwater treatment controls to treat post-construction stormwater runoff. LID-based treatment controls are intended to maintain or restore the site's natural hydrologic functions, maximizing opportunities for infiltration and evapotranspiration, and using stormwater as a resource (e.g. rainwater harvesting for non-potable uses). The MRP also requires that stormwater treatment measures are properly installed, operated, and maintained.

In addition to water quality controls, the MRP requires new development and redevelopment projects that create or replace one acre or more of impervious surface to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation, or other impacts to local rivers, streams, and creeks. Projects may be deemed exempt from these requirements if they do not meet the size threshold, drain into tidally influenced areas or directly into the Bay, or drain into hardened channels, or if they are infill projects in subwatersheds or catchment areas that are greater than or equal to 65 percent impervious.

Water Resources Protection Ordinance

Valley Water provides comprehensive water resource management to the County of Santa Clara through its flood protection, stream stewardship and water supply activities. Valley Water's Water Resources Protection Ordinance requires that any entity who proposes to modify a Valley Water facility must first obtain an encroachment permit. This project will obtain a Water Resources Protection Ordinance encroachment permit prior to start of construction. Additionally, prior to issuance of the encroachment permit, Valley Water's Board of Directors must first approve the joint use of its lands for public recreational use.

City of Cupertino Municipal Code

Chapter 16.52 of the Cupertino Municipal Code contains floodplain management regulations for the City, which apply to all areas of special flood hazards within the City's jurisdiction, based on such areas as identified by the Federal Emergency Management Agency (FEMA). Chapter 16.52 includes regulations regarding construction materials and methods, elevation and floodproofing, standards for utilities, subdivisions and other development, floodways, and conditions for variances.

4.10.1.2 *Existing Conditions*

Hydrology and Drainage

Most of the project alignment is unpaved and functions as a Valley Water maintenance road. The project alignment is located in the West Valley watershed. The West Valley watershed is an 85-

[22] MRP Number CAS612008

square-mile area of multiple small-creek watersheds. The West Valley watershed is characterized by channelized creeks on the valley floor and more natural streams in the hillsides. Runoff from the project alignment outfalls to Regnart Creek, located adjacent to the alignment.

Flooding and Other Hazards

The project trail alignment is located outside of the limits of the 100-year floodplain. 100-year flood flows in the project area are contained within the Regnart Creek channel, which is designated as being within a Special Flood Hazard Area, Zone A. The proposed trail itself is not within a Special Flood Hazard area, but is designated as being within Zone X (0.2 percent Annual chance Flood Hazard). Zone X is the area determined to be outside the 500-year flood and protected by levee from 100-year flood and is considered to be a moderate to low risk area. The existing Valley Water maintenance ramp and proposed relocated ramp are within Zone A, however, and will be subject to compliance with the applicable provisions of Municipal Code Chapter 16.52 for any work performed during the proposed removal and reconstruction processes.

The project trail alignment is not located within a Valley Water-designated dam failure inundation area, which is an area that may be flooded in the event of a complete dam failure.

Due to the project alignment's inland location and distance from large bodies of water (i.e., the San Francisco Bay), it is not subject to seiche or tsunami hazards, or sea level rise. The project alignment is located on the valley floor and not subject to mudflows.

Water Quality

The water quality of streams, creeks, ponds, and other surface water bodies can be greatly affected by pollution carried in contaminated surface runoff. Pollutants from unidentified sources, known as "non-point" source pollutants, are washed from streets, construction sites, parking lots, and other exposed surfaces into storm drains. Surface runoff from the project alignment and surrounding area drains into Regnart Creek. The runoff may contain contaminants such as oil and grease, plant and animal debris (e.g., leaves, dust, and animal feces), pesticides, litter, and heavy metals. In sufficient concentration, these pollutants have been found to adversely affect the aquatic habitats to which they drain.

4.10.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?	☐	☐	☒	☐

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
2) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	☐	☐	☒	☐
3) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:	☐	☐	☒	☐
– result in substantial erosion or siltation on- or off-site;	☐	☐	☒	☐
– substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;	☐	☐	☒	☐
– create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or	☐	☐	☒	☐
– impede or redirect flood flows?	☐	☐	☒	☐
4) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	☐	☐	☒	☐
5) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	☐	☐	☒	☐

Impact HYD-1: The project would not violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality. (Less than Significant Impact)

The project alignment is located in an urban area. Runoff from the site vicinity may contain sediment, metals, trash, oils, and grease from paved areas. Runoff from the project vicinity currently flows directly into the City's storm drainage system and Regnart Creek, and is not treated for the removal of pollutants.

Construction activities may result in temporary impacts to surface water quality. When disturbance to underlying soils occurs, the surface runoff that flows across the site may contain sediments that are ultimately discharged into the storm drainage system. Construction of the proposed project would disturb approximately 1.2 acres of land area. Because more than one acre of land area would be disturbed, the project would be required to comply with the NPDES Construction General Permit (CGP). In compliance with the CGP, prior to the start of construction/demolition, a Notice of Intent

to comply with the CGP would be filed with the RWQCB, and the project would develop and implement a SWPPP. In compliance with the SWPPP and the City of Cupertino Standard Permit Conditions listed below, project would incorporate best management practices to reduce and avoid water quality impacts during construction.

Standard Permit Conditions: Best management practices to prevent stormwater pollution and minimize potential sedimentation shall be applied to project construction, including but not limited to the following:

- Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
- Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
- All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.
- Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
- All trucks hauling soil, sand, and other loose materials shall be covered and all trucks shall maintain at least two feet of freeboard.
- All paved access roads, parking areas, staging areas, and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).
- Vegetation in disturbed areas shall be replanted as quickly as possible.
- All unpaved entrances to the site shall be filled with rock to remove mud from tires prior to entering City streets. A tire wash system shall be installed if requested by the City.

The removal of the existing maintenance ramp and construction of the relocated ramp will require permits from the USACE, CDFW and RWQCB (see discussion in Section 4.4 Biological Resources). In addition to compliance with CGP requirements and the implementation of construction BMPs, the project must comply with the conditions and regulations pertaining to the protection of surface water quality contained in these regulatory agency permits obtained for the project.

Construction of the proposed project, with implementation of the Standard Conditions and consistent with the CGP, would not result in significant construction-related water quality impacts. **(Less than Significant Impact)**

Impact HYD-2:	**The project would not substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin. (Less than Significant Impact)**

The project alignment is located adjacent to Regnart Creek within a groundwater recharge zone. The proposed trail is composed of pervious decomposed granite, which would allow infiltration and minimize runoff, however, the trail would also be graded to slope away from the creek in some locations, redirecting stormwater to vegetated drainage swale.

Groundwater along the project alignment was not encountered above 60 feet below grade, the maximum depth explored.[23] Excavation for trail and curb and gutter improvements would be limited to two feet below grade, localized drainage improvements (new surface inlets and connections to outfalls) would be limited to six feet below grade, and pile foundation work would be limited to 30 feet below grade. Therefore, groundwater is not expected to be encountered during construction or operation of the project. Development of the proposed trail alignment would not result in the need to pump groundwater from the site and would not interfere with groundwater recharge. **(Less than Significant Impact)**

Impact HYD-3:	**The project would not substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would result in substantial erosion or siltation on- or off-site; substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site; create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or impede or redirect flood flows. (Less than Significant Impact)**

Construction of the proposed trail alignment would not substantially alter the drainage pattern of the site or surrounding area. The trail would be constructed using decomposed granite, but the project also includes additional impervious hardscape improvements (expanded sidewalks, new curb ramps, new embankment concrete, etc.) that would result in an overall increase in impervious surface area for the project of approximately 1,760 square feet. The removal and relocation of the Valley Water maintenance ramp would result in a slight decrease in impervious surface area (approximately 84 square feet). For these reasons, the project would not substantially alter the existing drainage pattern of the site or area.

The MRP requires that all post-construction runoff be treated by using LID treatment controls, such as bioretention areas, where feasible. The MRP includes specific exclusions for trails constructed with permeable surfaces. The portions of the trail adjacent to Regnart Creek would be surfaced with decomposed granite and excluded from MRP requirements. Project design features including decomposed granite and drainage to existing outfalls would ensure that the project would not result in substantial erosion or siltation, flooding, or polluted runoff.

The MRP also includes exclusions for impervious trails built to direct stormwater runoff to adjacent vegetated areas, or other non-erodible permeable areas, preferably away from creeks or toward the outbound side of levees. Because the trail will be constructed with decomposed granite and would direct stormwater runoff to adjacent vegetated areas or other non-erodible permeable areas, the project would not be considered a C.3 Regulated Project. **(Less than Significant Impact)**

Impact HYD-4:	**The project would not risk release of pollutants due to project inundation in flood hazard, tsunami, or seiche zones. (Less than Significant Impact)**

[23] Parikh Consultants, Inc., *Draft Foundation Report Regnart Creek Trail Bridges City of Cupertino, California.* May 20, 2019.

The project is not located within a dam inundation, tsunami, or seiche zone. The site is not proximate to a large body of water.

Based on a site-specific flood analysis completed for the project, the proposed trail is not located in a 100-year flood hazard area; all flood flows are contained within the Regnart Creek channel. The proposed relocation of the Valley Water maintenance ramp would require work within the channel and would involve concrete curing and the use of construction equipment, which could result in the release of pollutants into the channel. As discussed under Impact HYD-1, the project would be subject to the permitting requirements of the USACE, RWQCB, CDFW and CGP, which would reduce the potential for the release of pollutants to a less than significant level.

In compliance with the requirements of Valley Water, the proposed bridge would maintain one foot of freeboard over 100-year flood flows. **(Less than Significant Impact)**

Impact HYD-5:	**The project would not conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan. (Less than Significant Impact)**

As discussed under HYD-1 above, the proposed project would comply with the NPDES Construction General Permit, implement best management practices to reduce and avoid water quality impacts during construction, and include design features to ensure project operation would not result in substantial erosion, siltation, flooding, or polluted runoff. The project does not propose groundwater pumping or excavation below the groundwater table. For these reasons, the project would not conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan. **(Less than Significant Impact)**

4.11 LAND USE AND PLANNING

4.11.1 Environmental Setting

4.11.1.1 *Regulatory Framework*

City of Cupertino

2016 Bicycle Transportation Plan

In June 2016, the Cupertino City Council adopted the 2016 Bicycle Transportation Plan. The Bicycle Transportation Plan consisted of an evaluation of existing bicycle facilities in the City and an analysis of the needs for bicycling-related improvements. Goals of the Bicycle Transportation Plan included: 1) increase awareness and value of bicycling; 2) improve bicyclist safety; and 3) increase and improve bicycle access to community destinations.

The Bicycle Transportation Plan recommended a feasibility study for a Class I bicycle path along Regnart Creek, between Pacifica Drive and East Estates Drive, as part of the future Cupertino Loop Trail. The City identified this route as an important connector between neighborhood destinations, including the Civic Center and City parks, while also serving as a link to nearby schools.

The Regnart Creek Trail Feasibility Study was prepared in 2018 to evaluate an off-site bicycle and pedestrian facility parallel to Regnart Creek, providing a connection between Torre Avenue/Pacifica Drive and East Estates Drive, where it would connect to the existing trail into Creekside Park. The feasibility study was adopted by the Cupertino City Council in August 2018 (Resolution No. 18-081).

2018 Pedestrian Transportation Plan

In February 2018, the Cupertino City Council adopted the 2018 Pedestrian Transportation Plan as a companion document to the Bicycle Transportation Plan. The Pedestrian Transportation included the following goals: 1) improve pedestrian safety and reduce pedestrian-related collisions; 2) increase and improve pedestrian access to community destinations; and 3) continue to develop a connected pedestrian network. The Pedestrian Transportation Plan included policies, programs, and infrastructures to achieve the goals above.

4.11.1.2 *Existing Conditions*

The project alignment is located in central Cupertino. The western extent of the alignment is adjacent to the Cupertino Civic Center complex along the southern edge of Cupertino Library Field. The Cupertino Civic Center complex includes Cupertino City Hall, Community Hall, and Library, a public plaza, an approximately three-acre turf field (Library Field), and surface parking. A large portion of the project alignment is located along the Regnart Creek channel on the existing Valley Water maintenance road. In the project area, Regnart Creek is an engineered channel that generally runs in an east-west direction in the project area. The project also includes road crossings at South Blaney Avenue and East Estates Drive and a trail segment in Wilson Park. The eastern extent of the alignment would connect to Creekside Park via the existing trail.

4.11.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Physically divide an established community?	☐	☐	☐	☒
2) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☐	☒

Impact LU-1: The project would not physically divide an established community. (No Impact)

Examples of projects that have the potential to physically divide an established community include new freeways and highways, major arterial streets, and railroad lines. The project, which proposes to construct a trail connecting local parks, neighborhoods, and the Cupertino Civic Center complex, would not physically divide an established community. **(No Impact)**

Impact LU-2: The project would not cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. (No Impact)

The proposed trail alignment is identified in the City's 2018 Pedestrian Transportation Plan and 2016 Bicycle Transportation Plan, and was preliminarily evaluated in the Regnart Creek Trail Feasibility Study, which was adopted by the Cupertino City Council in August 2018. The project alignment would be consistent with the goals and policies of the Pedestrian Transportation Plan and Bicycle Transportation Plan, because the design process would take into account accessibility, safety, and connectivity within the existing network of bicycle and pedestrian facilities to encourage trail use as an alternative mode of transportation.

Project consistency with other plans and policies is discussed in the respective sections of this Initial Study. For example, project consistency with City of Cupertino General Plan policies adopted for the purpose of avoiding noise impacts is discussed in Section 4.13 Noise. For these reasons, the proposed trail connection would not cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. **(No Impact)**

4.12 MINERAL RESOURCES

4.12.1 Environmental Setting

4.12.1.1 *Regulatory Framework*

State

Surface Mining and Reclamation Act

The Surface Mining and Reclamation Act (SMARA) was enacted by the California legislature in 1975 to address the need for a continuing supply of mineral resources, and to prevent or minimize the negative impacts of surface mining to public health, property, and the environment. As mandated under SMARA, the State Geologist has designated mineral land classifications in order to help identify and protect mineral resources in areas within the state subject to urban expansion or other irreversible land uses which would preclude mineral extraction. SMARA also allowed the State Mining and Geology Board (SMGB), after receiving classification information from the State Geologist, to designate lands containing mineral deposits of regional or statewide significance.

4.12.1.2 *Existing Conditions*

There are several sites in the City of Cupertino that are designated by SMARA as containing mineral deposits which are of regional significance; however, the City of Cupertino General Plan indicates that these areas are either depleted or unavailable due to existing development. The project site is not within an area designated as containing mineral deposits of importance.

4.12.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Result in the loss of availability of a known mineral resource that will be of value to the region and the residents of the state?	☐	☐	☐	☒
2) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	☐	☐	☐	☒

Impact MIN-1: The project would not result in the loss of availability of a known mineral resource that would be of value to the region and residents of the state. (No Impact)

The project area is not designated as containing mineral deposits of regional significance; therefore, the project would not result in the loss of availability of a known mineral resource. **(No Impact)**

Impact MIN-2:	**The project would not result in the loss of availability of locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan. (No Impact)**

The project alignment is not located in an area of Santa Clara County with known mineral resources. Therefore, the project would not result in the loss of availability of a known mineral resource. **(No Impact)**

4.13 NOISE

The discussion in this section is based, in part, on the Noise and Vibration Assessment prepared by Illingworth & Rodkin, Inc. on January 30, 2020. The report is included in this Initial Study as Appendix C.

4.13.1 Environmental Setting

4.13.1.1 *Background Information*

Noise

Factors that influence sound as it is perceived by the human ear, include the actual level of sound, period of exposure, frequencies involved, and fluctuation in the noise level during exposure. Noise is measured on a decibel (dB) scale, which serves as an index of loudness. The zero on the decibel scale is based on the lowest sound level that the healthy, unimpaired human ear can detect. Each 10 decibel increase in sound level is perceived as approximately a doubling of loudness. Because the human ear cannot hear all pitches or frequencies, sound levels are frequently adjusted or weighted to correspond to human hearing. This adjusted unit is known as the A-weighted decibel, or dBA.

Since excessive noise levels can adversely affect human activities and human health, federal, state, and local governmental agencies have set forth criteria or planning goals to minimize or avoid these effects. Noise guidelines are generally expressed using one of several noise averaging methods, including L_{eq}, DNL, or CNEL.[24] These descriptors are used to measure a location's overall noise exposure, given that there are times when noise levels are higher (e.g., when a jet is taking off from an airport or when a leaf blower is operating) and times when noise levels are lower (e.g., during lulls in traffic flows on freeways or in the middle of the night). L_{max} is the maximum A-weighted noise level during a measurement period.

Vibration

Ground vibration consists of rapidly fluctuating motions or waves with an average motion of zero. Vibration amplitude can be quantified using Peak Particle Velocity (PPV), which is defined as the maximum instantaneous positive or negative peak of the vibration wave. PPV has been routinely used to measure and assess ground-borne construction vibration. Studies have shown that the threshold of perception for average persons is in the range of 0.008 to 0.012 inch per second PPV.

4.13.1.2 *Regulatory Framework*

Federal Transit Administration Vibration Limits

The Federal Transit Administration (FTA) has developed vibration impact assessment criteria for evaluating vibration impacts associated with transit projects. The FTA has proposed vibration impact criteria based on maximum overall levels for a single event. The impact criteria for groundborne

[24] L_{eq} is a measurement of average energy level intensity of noise over a given period of time. Day-Night Level (DNL) is a 24-hour average of noise levels, with a 10 dB penalty applied to noise occurring between 10:00 p.m. and 7:00 a.m. Community Noise Equivalent Level (CNEL) includes an additional five dB applied to noise occurring between 7:00 p.m. and 10:00 p.m. Where traffic noise predominates, the CNEL and DNL are typically within two dBA of the peak-hour L_{eq}.

vibration are shown in Table 4.13-1 below. There are established criteria for frequent events (more than 70 events of the same source per day), occasional events (30 to 70 vibration events of the same source per day), and infrequent events (less than 30 vibration events of the same source per day). These criteria can be applied to development projects in jurisdictions that lack vibration impact standards.

Table 4.13-1: Groundborne Vibration Impact Criteria

Land Use Category	Groundborne Vibration Impact Levels (VdB inch/sec)		
	Frequent Event	Occasional Events	Infrequent Events
Category 1: Buildings where vibration would interfere with interior operations	65	65	65
Category 2: Residences and buildings where people normally sleep	72	75	80
Category 3: Institutional land uses with primarily daytime use	75	78	83

Source: Federal Transit Administration. *Transit Noise and Vibration Assessment Manual.* September 2018.
VdB: vibration velocity level.

City of Cupertino General Plan

The Health and Safety Chapter of the City of Cupertino General Plan includes policies related to noise control in the City. The following policies are applicable to the proposed project:

Policy 6-60: Noise Control Techniques. Require analysis and implementation of techniques to control the effects of noise from industrial equipment and processes for projects near homes.

Policy 6-61: Hours of Construction. Restrict non-emergency building construction work near homes during evening, early morning, and weekends by enforcing the noise regulations in the Municipal Code.

Policy 6-62: Construction and Maintenance Activities. Regulate construction and maintenance activities. Establish and enforce reasonable periods of the day, for weekdays, weekends and holidays for construction activities. Require construction contractors to use only construction equipment incorporating the best available noise technology.

Policy 6-63: Sound Wall Requirements. Exercise discretion in requiring sound walls to be sure that all other measures of noise control have been explored and that the sound wall blends with the neighborhood. Sound walls should be landscaped.

City of Cupertino Municipal Code

The City's Municipal Code contains a Zoning Ordinance that limits noise levels at adjacent properties. The following sections establish applicable limits.

10.48.040 Daytime and Nighttime Maximum Noise Levels

Individual noise sources, or the combination of noise sources located on the same property, shall not produce a noise level exceeding those specified on property zoned as follows, unless specifically provided in another section of this chapter.

Land Use at Point of Origin	**Maximum Noise Level at Complaint Site of Receiving Property**	
	Nighttime	***Daytime***
Residential	50 dBA	60 dBA
Nonresidential	55 dBA	65 dBA

10.48.050 Brief Daytime Incidents

A. During the daytime period only, brief noise incidents exceeding limits in other sections of this chapter are allowed; providing, that the sum of the noise duration in minutes plus the excess noise level does not exceed twenty in a two-hour period.

B. For multi-family dwelling interior noise, the sum of excess noise level and duration in minutes of a brief daytime incident shall not exceed ten in any two-hour period, measured at the receiving location.

C. Section 10.48.050A does not apply to motor vehicle idling.

10.48.051 Landscape Maintenance Activities

The use of motorized equipment for landscape maintenance activities shall be limited to the hours of 8:00 a.m. to 8:00 p.m. on weekdays, and 9:00 a.m. to 6:00 p.m. on weekends and holidays, with the exception of landscape maintenance activities for public schools, public and private golf courses, and public facilities, which are allowed to begin at 7:00 a.m. The use of motorized equipment for landscape maintenance activities during these hours is exempted from the limits of Section 10.48.040; provided, that reasonable efforts are made by the user to minimize the disturbances to nearby residents by, for example, installation of appropriate mufflers or noise baffles, running equipment only the minimum period necessary, and locating equipment so as to generate minimum noise levels on adjoining properties.

10.48.053 Grading, Construction and Demolition

A. Grading, construction and demolition activities shall be allowed to exceed the noise limits of Section 10.48.040 during daytime hours; provided, that the equipment utilized has high-quality noise muffler and abatement devices installed and in good condition, and the activity meets one of the following two criteria:

1. No individual device produces a noise level more than 87 dBA at a distance of 25 feet (7.5 meters); or
2. The noise level on any nearby property does not exceed 80 dBA.

B. Notwithstanding Section 10.48.053A, it is a violation of this chapter to engage in any grading, street construction, demolition or underground utility work within 750 feet of a residential area on Saturdays, Sundays and holidays, and during the nighttime period, except as provided in Section 10.48.030.

C. Construction, other than street construction, is prohibited on holidays, except as provided in Sections 10.48.029 and 10.48.030.

D. Construction, other than street construction, is prohibited during nighttime periods unless it meets the nighttime standards of Section 10.48.040.

E. The use of helicopters as a part of a construction and/or demolition activity shall be restricted to between the hours of 9:00 a.m. and 6:30 p.m. Monday through Friday only, and prohibited on the weekends and holidays. The notice shall be given at least 24 hours in advance of said usage. In cases of emergency, the 24 hour period may be waived.

10.48.060 Noise Disturbances

No person shall unreasonably make, continue, or cause to be made or continued, any noise disturbance as defined in Section 10.48.010. “Noise disturbance” means any sound which:

1. Endangers or injures the safety or health of humans or animals; or
2. Annoys or disturbs a reasonable person of normal sensitivities; or
3. Endangers or damages personal or real property.

4.13.1.3 *Existing Conditions*

The proposed trail would be located along Regnart Creek between Torre Avenue and East Estates Drive in the City of Cupertino. The trail would be adjacent to single-family residences. Other surrounding land uses would include Wilson Park and the Cupertino Civic Center complex.

A noise monitoring survey was completed at the site on January 2, 2019 through January 4, 2019. The survey included two long-term (LT-1 and LT-2) and two short-term (ST-1 and ST-2) noise measurements. Based on the survey, the community noise equivalent level along the proposed trail alignment ranges from 52 to 54 dBA CNEL. The noise environment in the project vicinity is dominated by traffic noise along the local roadways that run parallel to or cross the proposed trail alignment (e.g., Pacifica Drive and South Blaney Avenue) and local neighborhood activities. Detailed information pertaining to the noise monitoring survey is provided in Appendix C of this Initial Study, including the specific locations of the noise measurements.

4.13.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project result in:				
1) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☐	☒	☐
2) Generation of excessive groundborne vibration or groundborne noise levels?	☐	☒	☐	☐
3) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒

4.13.2.1 *Thresholds of Significance*

The following criteria were used in the Noise and Vibration Assessment to evaluate the significance of environmental noise and vibration resulting from the project:

- A significant noise impact would be identified if the project would generate a substantial temporary or permanent noise level increase over ambient noise levels at existing noise-sensitive receptors surrounding the project site and that would exceed applicable noise standards presented in the General Plan or Municipal Code at existing noise-sensitive receptors surrounding the project site.
    - Hourly average noise levels during construction that would exceed 60 dBA L_{eq} at residential land uses or exceed 70 dBA L_{eq} at public buildings and exceed the ambient noise environment by at least 5 dBA L_{eq} for a period of more than one year would constitute a significant temporary noise increase in the project vicinity.
    - A significant permanent noise level increase would occur if project operations would result in: a) a noise level increase of 5 dBA CNEL or greater, with a future noise level of less than 60 dBA CNEL, or b) a noise level increase of 3 dBA CNEL or greater, with a future noise level of 60 dBA CNEL or greater.
    - A significant noise impact would be identified if the project would expose persons to or generate noise levels that would exceed applicable noise standards presented in the General Plan or Municipal Code.

- A significant impact would be identified if the construction of the project would generate excessive vibration levels to surrounding receptors. Groundborne vibration levels exceeding 0.3 in/sec PPV would have the potential to result in cosmetic damage to normal buildings.

- A significant noise impact would be identified if the project would expose people residing or working in the project area to excessive noise levels.

Impact NOI-1:	**The project would not result in generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies. (Less than Significant Impact)**

Construction Noise

Section 10.48.053 of the City's Municipal Code exempts construction noise from the noise limits defined in Section 10.48.040 if activities occur on weekdays during daytime hours (7:00 a.m. to 8:00 p.m.), provided that the equipment utilized has high-quality noise muffler and abatement devices installed and are in good condition. The construction activities also need to meet the following two criteria: 1) no individual device shall produce noise levels exceeding 87 dBA at a distance of 25 feet; and 2) the noise level measured at any nearby property shall not exceed 80 dBA. Construction activities are prohibited on weekends, holidays, and during nighttime hours at sites within 750 feet of a residential land use.

The noise level threshold for speech interference indoors is 45 dBA. Assuming a 15 dBA exterior-to-interior reduction for standard residential construction and a 25 dBA exterior-to-interior reduction for standard commercial/public building construction, this would correlate to an exterior threshold of 60 dBA L_{eq} at residential land uses and 70 dBA L_{eq} at public buildings. Additionally, temporary construction would be annoying to surrounding land uses if the ambient noise environment increased by at least five dBA L_{eq} for an extended period of time. Therefore, the temporary construction noise impact would be considered significant if project construction activities exceeded 60 dBA L_{eq} at nearby residences or 70 dBA L_{eq} at nearby public buildings and exceeded the ambient noise environment by five dBA L_{eq} or more for a period longer than one year.[25]

The existing residential receptors located along the proposed trail between Pacifica Drive and Torre Avenue are exposed to ambient noise from the Cupertino Civic Center Complex and local traffic. Based on the noise monitoring survey completed for the project, ambient noise levels at these residences and the public buildings range from 48 to 57 dBA L_{eq} during the daytime hours. The residences located between Rodrigues Avenue and East Estates Drive are exposed to ambient noise levels from Wilson Park and surrounding traffic noise, ranging from 44 to 57 dBA L_{eq} during daytime hours.

A detailed list of equipment expected to be used for the proposed project construction and phasing information was provided for the noise analysis (see Appendix C). The equipment expected for each phase of construction were assumed to be operating simultaneously for the construction noise level

[25] Illingworth & Rodkin, Inc., *Regnart Creek Trail Project Noise and Vibration Assessment,* June 6, 2019.

calculations, which represents a worst-case scenario at nearby receptors. Construction noise levels were estimated from the center of the trail to the nearest property line of the receptor. No one receptor, however, would be exposed to construction over the entire duration of the project due to the length of the project corridor and the fact that construction activities would advance along the corridor. This would reduce the cumulative amount of time that individual receptors would be exposed to elevated construction noise levels.

The backyard of each of the residences along the trail typically has a solid wooden fence that is expected to remain or be reconstructed under project conditions. The fence, which is about five to six feet tall, would provide up to five dBA of noise reduction. For receptors in second-story rooms, however, the fence would not provide acoustical shielding. Additionally, backyard receptors may still have direct line-of-sight to pieces of equipment that are taller than the fence. Conservatively, noise levels were estimated without reductions due to intervening buildings or the existing fence.

Table 4.13-2: Estimated Construction Noise Levels at Nearby Land Uses

Phase	Hourly Average Noise Levels at Nearest Property Line (dBA)			
	Pacifica Dr. to Rodrigues Ave.		Rodrigues Ave. to East Estates Dr.	
	Residential (35ft)	Public (25ft)	Residential (25ft)	Park (65ft)
Demolition	92	95	95	87
Site Preparation	92	95	95	87
Grading/Excavation	93-97	96-100	96-100	88-92
Trenching	88	91	91	82
Structure	84	87	87	78
Paving	93-94	96-97	96-97	88-89

As shown in Table 4.13-2, noise from construction of the proposed project could exceed the 87 dBA threshold for a single piece of equipment at a distance of 25 feet and hourly average noise levels estimated during worst-case scenario conditions would potentially exceed the 80 dBA L_{eq} threshold at nearby properties. Further, noise levels at times would exceed 60 dBA L_{eq} at residential land uses and 70 dBA L_{eq} at public buildings, and ambient levels would potentially be exceeded by five dBA L_{eq} or more.

The proposed project is expected to be constructed in approximately 10 months, which would be less than the one-year threshold that defines a temporary noise increase. No particular receptor would be exposed to construction over the entire duration of the project.

Reasonable regulation of the hours of construction, as well as regulation of the arrival and operation of heavy equipment and the delivery of construction materials, are necessary to protect the health and safety of persons, promote the general welfare of the community, and maintain the quality of life.

Construction activities would be completed in accordance with the provisions of the City's Municipal Code, which limits temporary construction work to daytime hours, Monday through Friday. Construction is prohibited on weekends and holidays. Further, the City requires that all equipment have high-quality noise muffler and abatement devices installed and are in good condition.

Additionally, the construction crew shall adhere to the following best management practices to reduce construction noise levels emanating from the site and minimize disruption and annoyance at existing noise-sensitive receptors in the project vicinity.

Standard Permit Conditions: The project shall develop a construction noise control plan, including, but not limited to, the following available controls:

- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment;
- Unnecessary idling of internal combustion engines should be strictly prohibited;
- Locate stationary noise-generating equipment, such as air compressors or portable power generators, as far as possible from sensitive receptors as feasible. If they must be located near receptors, adequate muffling (with enclosures where feasible and appropriate) shall be used to reduce noise levels at the adjacent sensitive receptors. Any enclosure opening or venting shall face away from sensitive receptors;
- Utilize "quiet" air compressors and other stationary noise sources where technology exists.
- Construction staging areas shall be established at locations that will create the greatest distance between the construction-related noise sources and noise-sensitive receptors nearest the project site during all project construction;
- Locate material stockpiles, as well as maintenance/equipment staging and parking areas, as far as feasible from residential receptors;
- Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site;
- A detailed construction schedule for major noise-generating construction activities shall be prepared that identifies a procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance;
- Designate a "disturbance coordinator" who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.

The implementation of the controls outlined above would reduce construction noise levels emanating from the site in order to minimize disruption and annoyance. With the implementation of these controls and recognizing that construction duration would be less than the one-year duration that defines a temporary noise increase and no particular receptor would be exposed to construction over the entire duration of the project, the increase in ambient noise levels due to project construction would be less than significant. **(Less than Significant Impact)**

Operational Noise

When the source of noise originates from nonresidential land uses, Section 10.48.040 of the City's Municipal Code limits noise levels received on any nearby land use to 65 dBA L_{eq} during daytime hours (7:00 a.m. to 10:00 p.m.) and to 55 dBA L_{eq} at night (10:00 p.m. to 7:00 a.m.). Additionally, Section 10.48.050 provides further noise limitations during daytime hours for sources that occur for

brief periods of time. For a five-minute noise duration occurring within a two-hour period, the noise limits mentioned above would increase by 15 dBA (80 dBA during daytime hours and 70 dBA during nighttime hours). For a one-minute noise duration occurring within a two-hour period, the noise limits mentioned above would increase by 19 dBA (84 dBA during daytime hours and 74 dBA during nighttime hours).

Activities expected along the proposed trail would include bicycling, walking, and jogging. Noise levels generated by activity along the trail would be minimal. Typical noise levels generated by people talking or laughing would range from 50 to 55 dBA at 20 feet. The loudest noise sources would include warning whistles or bells from bicycles or a person shouting, which would typically range from 65 to 70 dBA at 20 feet. Typical hourly average noise levels for trails are less than 45 dBA L_{eq} at 20 feet.

The nearest residential property line would be approximately six feet from the center of the trail. While most of the adjacent residences have a five- to six-foot wooden fence along the edge of the property lines that would provide five dBA reduction, residences along Lozano Lane and De Palma Lane would have direct line-of-sight to the proposed trail. At a distance of six feet from the property line of the front and rear yards, talking or laughing would generate noise levels of 61 to 66 dBA assuming no attenuation from fencing. Whistles, bells, or shouting would generate unattenuated noise levels of 76 to 81 dBA at the nearest property line. The hourly average noise level at these residential properties would be 56 dBA L_{eq}. For residences with fences, hourly average noise levels at a distance of six feet would be 51 dBA L_{eq}.

Due to the nature of the activities on the trail, including the proposed bridge, the length of time nearby residences would be exposed to potential noise from these activities would be short in duration, as the trail occupants would normally be moving along the trail. Typical talking or laughing would be below the daytime and nighttime thresholds for sources lasting less than one minute and five minutes during any two-hour period. Additionally, whistles, bells, and shouting would result in noise levels below the one-minute and five-minute thresholds during both daytime and nighttime hours. With hourly average noise levels of up to 56 dBA L_{eq}, operational noise from the proposed project would meet daytime and nighttime thresholds at property lines of the residential uses. **(Less than Significant Impact)**

Maintenance and Landscaping

The City's Municipal Code limits landscaping maintenance activities to between 8:00 a.m. and 8:00 p.m. on weekdays and between 9:00 a.m. and 6:00 p.m. on weekends and holidays. During these hours, maintenance activities are exempt from the above noise limits, provided reasonable efforts are made to minimize noise disturbance. It is assumed that all maintenance and landscaping activities would occur during the City's allowable hours. **(Less than Significant Impact)**

Permanent Noise Level Increase

A significant impact would occur if the permanent noise level increase due to the project were three dBA CNEL or greater for future ambient noise levels exceeding 60 dBA CNEL, or five dBA CNEL or greater for future ambient noise levels at or below 60 dBA CNEL. Based on the City's General Plan, and the results of the ambient noise survey and the expected noise levels noted above, the

residences adjoining the proposed trail would be exposed to future noise levels below 60 dBA CNEL.

To determine the effect of the project-generated noise level increase, the hourly average noise levels due to project operation, which as stated above would be less than 45 dBA L_{eq}, is conservatively assumed to occur every hour within a 24-hour period. Under this assumption, the estimated community noise equivalent level would be below 52 dBA CNEL. With ambient noise levels of 52 to 54 dBA CNEL, the proposed project would increase noise levels by up to three dBA CNEL (assuming activities 24 hours per day) and would not result in a permanent noise level increase of five dBA CNEL or more. **(Less than Significant Impact)**

Impact NOI-2:	**The project would not result in generation of, excessive groundborne vibration or groundborne noise levels. (Less than Significant Impact with Mitigation Incorporated)**

Construction of the proposed project may generate vibration when heavy equipment or impact tools (e.g. jackhammers, hoe rams) are used. Construction activities would include earthwork (grading, excavation, and trenching), bridge foundation work, and paving. According to the list of construction equipment provided for the project, pile driving, which can cause excessive vibration, would not be required.

For structural damage, the California Department of Transportation recommends a vibration limit of 0.5 inch per second peak particle velocity for buildings structurally sound and designed to modern engineering standards, 0.3 inch per second PPV for buildings that are found to be structurally sound but where structural damage is a major concern, and a conservative limit of 0.08 inch per second PPV for buildings that are documented to be structurally weakened. No ancient buildings or buildings that are documented to be structurally weakened adjoin the project alignment. Conservatively, groundborne vibration levels exceeding 0.3 inch per second PPV would have the potential to result in a significant vibration impact.

Residences are located along the proposed trail on either side of the project corridor. Each of these residences adjoins the edge of the project alignment, and the nearest building facades could be as close as five to 30 feet from the nearest construction equipment. At 30 feet, vibration levels from construction of the proposed project, including ramp relocation and bridge construction, would be up to 0.17 inch per second PPV; however, for construction activities five feet from the nearest building façade, vibration levels would potentially be up to 1.23 inches per second PPV, which would potentially exceed the 0.3 inch per second PPV threshold. As shown in Table 4.13-3, the construction equipment vibration levels would be below the 0.3 inch per second PPV threshold at a distance of 20 feet.

Table 4.13-3: Vibration Source Levels for Construction Equipment

Equipment		PPV at 25 ft. (in/sec)	PPV at 20 ft. (in/sec)	*Vibration Levels at Nearest Facades (in/sec PPV)*	
				PPV at 5 ft. (in/sec)	*PPV at 30 ft. (in/sec)*
Clam shovel drop		0.202	0.258	1.186	0.165
Hydromill (slurry wall)	in soil	0.008	0.010	0.047	0.007
	in rock	0.017	0.022	0.100	0.014
Vibratory roller		0.210	0.268	1.233	0.172
Hoe ram		0.089	0.114	0.523	0.073
Large bulldozer		0.089	0.114	0.523	0.073
Caisson drilling		0.089	0.114	0.523	0.073
Loaded trucks		0.076	0.097	0.446	0.062
Jackhammer		0.035	0.045	0.206	0.029
Small bulldozer		0.003	0.004	0.018	0.002

Source: Transit Noise and Vibration Impact Assessment, United States Det. Of Transportation, Office of Planning and Environment, Federal Transit Administration, May 2006, as modified by Illingworth & Rodkin, Inc., January 2020.

MM NOI-2.1: The following measures shall be implemented where vibration levels due to construction activities would exceed 0.3 inch per second PPV at nearby sensitive uses:

- Comply with the construction noise ordinance to limit hours of exposure. The City's Municipal Code allows construction activities during daytime hours, Monday through Friday. Construction is prohibited on weekends and all holidays.
- Prohibit the use of heavy vibration-generating construction equipment within 20 feet of the structures located along the project corridor.
- The contractor shall alert heavy equipment operators in close proximity of the adjacent structures so they can exercise extra care.

With implementation of MM NOI-2.1, the project's groundborne vibration impacts would be reduced to a less than significant level. **(Less than Significant Impact with Mitigation Incorporated)**

Impact NOI-3: The project would not be located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport. The project would not expose people residing or working in the project area to excessive noise levels. (No Impact)

The City of Cupertino has no commercial, military, or general aviation airports. San José International Airport, located approximately 5.4 miles northeast of the project alignment, is the closest airport to the site. The project alignment lies outside the area of influence for this airport.

Noise from aircraft would not substantially increase ambient noise levels at the project alignment and would have no impact on the proposed project. **(No Impact)**

4.14 POPULATION AND HOUSING

4.14.1 Environmental Setting

4.14.1.1 *Regulatory Framework*

State

Housing-Element Law

State requirements mandating that housing be included as an element of each jurisdiction's general plan is known as housing-element law. The Regional Housing Need Allocation (RHNA) is the state-mandated process to identify the total number of housing units (by affordability level) that each jurisdiction must accommodate in its housing element. California housing-element law requires cities to: 1) zone adequate lands to accommodate its RHNA; 2) produce an inventory of sites that can accommodate its share of the RHNA; 3) identify governmental and non-governmental constraints to residential development; 4) develop strategies and a work plan to mitigate or eliminate those constraints; and 5) adopt a housing element and update it on a regular basis.[26]

Regional and Local

Plan Bay Area 2040

Plan Bay Area 2040 is a long-range transportation, land-use, and housing plan intended support a growing economy, provide more housing and transportation choices, and reduce transportation-related pollution and GHG emissions in the Bay Area. Plan Bay Area 2040 promotes compact, mixed-use residential and commercial neighborhoods near transit, particularly within identified PDAs.[27]

ABAG allocates regional housing needs to each city and county within the nine-county San Francisco Bay Area, based on statewide goals. ABAG also develops forecasts for population, households, and economic activity in the Bay Area. ABAG, MTC, and local jurisdiction planning staff created the Regional Forecast of Jobs, Population, and Housing, which is an integrated land use and transportation plan through the year 2040 (upon which Plan Bay Area 2040 is based).

4.14.1.2 *Existing Conditions*

Based on information from the U.S. Census Bureau, the City of Cupertino population was estimated to be approximately 60,170 in 2018.[28] The average number of persons per household in Cupertino in 2017 was 2.91.

[26] California Department of Housing and Community Development. "Regional Housing Needs Allocation and Housing Elements" Accessed April 26, 2019. http://hcd.ca.gov/community-development/housing-element/index.shtml.
[27] Association of Bay Area Governments and Metropolitan Transportation Commission. "Project Mapper." http://projectmapper.planbayarea.org/.
[28] United States Census Bureau. "State and County QuickFacts: Cupertino (city), California." Accessed June 1, 2019. Available at: https://www.census.gov/quickfacts/fact/table/cupertinocitycalifornia,US.

Approximately 24,490 jobs were provided within the City of Cupertino in 2010, and ABAG Projections 2040 shows a projected increase to 37,980 jobs by the year 2040.

4.14.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☐	☒
2) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒

Impact POP-1:	**The project would not induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure). (No Impact)**

The proposed project would serve as a public trail for pedestrians and bicyclists. The project does not include facilities which would directly or indirectly result in job or population growth. **(No Impact)**

Impact POP-2:	**The project would not displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere. (No Impact)**

For most of its reach, the proposed trail would be constructed on an existing Valley Water maintenance road adjacent to Regnart Creek. The project would not displace people or housing. **(No Impact)**

4.15 PUBLIC SERVICES

4.15.1 Environmental Setting

4.15.1.1 *Regulatory Framework*

State

Government Code Section 66477

The Quimby Act (included within Government Code Section 66477) requires local governments to set aside parkland and open space for recreational purposes. It provides provisions for the dedication of parkland and/or payment of fees in lieu of parkland dedication to help mitigate the impacts from new residential developments. The Quimby Act authorizes local governments to establish ordinances requiring developers of new residential subdivisions to dedicate parks, pay a fee in lieu of parkland dedication, or perform a combination of the two.

Government Code Section 65995 through 65998

California Government Code Section 65996 specifies that an acceptable method of offsetting a project's effect on the adequacy of school facilities is the payment of a school impact fee prior to the issuance of a building permit. Government Code Sections 65995 through 65998 set forth provisions for the payment of school impact fees by new development by "mitigating impacts on school facilities that occur (as a result of the planning, use, or development of real property" (Section 65996[a]). The legislation states that the payment of school impact fees "are hereby deemed to provide full and complete school facilities mitigation" under CEQA (Section 65996[b]).

Developers are required to pay a school impact fee to the school district to offset the increased demands on school facilities caused by the proposed residential development project. The school district is responsible for implementing the specific methods for mitigating school impacts under the Government Code.

Regional and Local

Countywide Trails Master Plan

The Santa Clara County Trails Master Plan Update is a regional trails plan approved by the Santa Clara County Board of Supervisors. It provides a framework for implementing the County's vision of providing a contiguous trail network that connects cities to one another, cities to the county's regional open space resources, County parks to other County parks, and the northern and southern urbanized regions of the County. The plan identifies regional trail routes, sub-regional trail routes, connector trail routes, and historic trails.

4.15.1.2 *Existing Conditions*

Fire Protection Services

Fire protection services for the project area are provided by the Santa Clara County Fire Department. The Santa Clara County Fire Department provides fire suppression, emergency medical and fire marshal services, hazardous materials regulation and response, rescue and extrication, public

education, and fire investigation services in the City of Cupertino. The closest station to the project alignment is Cupertino Fire Station #1, located approximately 0.25 mile north of the alignment.

Police Protection Services

Police protection services for the project area are provided by the Santa Clara County Sheriff's Office, West Valley Division, located at 1601 South De Anza Boulevard. The West Valley Division provides routine law enforcement and community-oriented services to the City of Cupertino. There are 28 deputies allocated to the City of Cupertino.

Schools

The project area is located in the Cupertino Union School District. The school district operates 21 elementary schools and seven middle schools. The site is also within the Fremont Union High School District, which operates five high schools.

Parks

The City of Cupertino operates 33 parks and recreation facilities which include neighborhood and community parks, recreation facilities, trails and school field sites. The City's Public Works Department is responsible for the operation of park and recreation facilities. The Public Works Department also is responsible for the development and maintenance of park and recreation facilities. The project alignment would connect to two neighborhood parks, Wilson Park and Creekside Park Wilson Park is a 9.9-acre park with a recreation building, picnic areas, baseball field, and play equipment. Creekside Park is a 13-acre park with picnic areas, basketball hoops, play equipment, soccer fields, and a recreation building.

Cupertino Civic Center Complex

The Cupertino Civic Center complex (Cupertino Library, Community Hall, City Hall, and Library Field) is located adjacent to the project alignment.

4.15.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
1) Fire Protection?	☐	☐	☒	☐
2) Police Protection?	☐	☐	☒	☐
3) Schools?	☐	☐	☐	☒
4) Parks?	☐	☐	☒	☐
5) Other Public Facilities?	☐	☐	☒	☐

Impact PS-1:	**The project would not result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for fire protection services. (Less than Significant Impact)**

The proposed trail would be constructed in conformance with current fire codes, including adequate emergency vehicle access. The project could result in a small incremental increase in the need for emergency services, including fire protection services. The project would not change the physical characteristics of the site in a way that would substantially increase fire risk. No new fire protection facilities would be required as a result of the project; therefore, the project would have a less than significant impact on fire protection services. **(Less than Significant Impact)**

Impact PS-2:	**The project would not result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for police protection services. (Less than Significant Impact)**

The proposed trail could result in a small incremental increase in the need for emergency services, including police protection services. The introduction of individuals using the trail may increase calls for emergency services in the project area. Any reported incidents would be similar to those that occur on existing roadways and at neighborhood parks in the City. Use of the trail as a result of project implementation would not require the construction of additional police facilities; therefore,

the project would have a less than significant impact on police protection services. **(Less than Significant Impact)**

Impact PS-3:	**The project would not result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for schools. (No Impact)**

The project would not increase the population of the City of Cupertino and, therefore, would not increase the demand for schools. **(No Impact)**

Impact PS-4:	**The project would not result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for parks. (Less than Significant Impact)**

The proposed project may increase use of community parks and amenities due to improved access to these facilities. It is not anticipated that the increase in use would exceed the capacity of the existing facilities such that new facilities would need to be constructed. Therefore, the project would not result in a significant impact to parks. **(Less than Significant Impact)**

Impact PS-5:	**The project would not result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for other public facilities. (Less than Significant Impact)**

The proposed project may increase the use of public facilities, including those at the Cupertino Civic Center Complex, due to improved access to these facilities. It is not anticipated that the increase in use would exceed the capacity of the existing facilities such that new facilities would need to be constructed. Therefore, the project would not result in a significant impact to other public facilities. **(Less than Significant Impact)**

4.16 RECREATION

4.16.1 Environmental Setting

4.16.1.1 *Regulatory Framework*

State

Government Code Section 66477

The Quimby Act (included within Government Code Section 66477) requires local governments to set aside parkland and open space for recreational purposes. It provides provisions for the dedication of parkland and/or payment of fees in lieu of parkland dedication to help mitigate the impacts from new residential developments. The Quimby Act authorizes local governments to establish ordinances requiring developers of new residential subdivisions to dedicate parks, pay a fee in lieu of parkland dedication, or perform a combination of the two.

4.16.1.2 *Existing Conditions*

The City of Cupertino operates 33 park and recreation facilities, including neighborhood and community parks. Recreation facilities, trails and school field sites. The City's Public Works Department is responsible for the operation of park and recreation facilities. The City's Public Works Departmentalso is responsible for the development and maintenance of park and recreation facilities. The project alignment would connect to two neighborhood parks. Wilson Park is a 9.9-acre park with a recreation building, picnic areas, baseball field, and play equipment. Creekside Park is a 13-acre park with picnic areas, basketball hoops, play equipment, soccer fields, and a recreation building.

4.16.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
1) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility will occur or be accelerated?	☐	☐	☒	☐
2) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	☐	☒

Impact REC-1: The project would not increase in the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated. (Less than Significant Impact)

The project proposes to construct a trail alignment connecting Wilson Park and Creekside Park to the Cupertino Civic Center complex and local neighborhoods. The project would improve pedestrian and

bicycle access to parks and community amenities in the areas of the City adjacent to the proposed trail alignment. This may result in an increase in the use of parks and recreational facilities. The incremental increase in use of these parks and recreational facilities would not result in substantial or accelerated physical deterioration of these facilities. **(Less than Significant Impact)**

Impact REC-2:	**The project would not include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment. (No Impact)**

The proposed alignment would connect to existing recreational facilities in the project area, and would not include construction or expansion of recreational facilities. **(No Impact)**

4.17 TRANSPORTATION

4.17.1 Environmental Setting

4.17.1.1 *Regulatory Framework*

State

Regional Transportation Plan

MTC is the transportation planning, coordinating, and financing agency for the nine-county San Francisco Bay Area, including Santa Clara County. MTC is charged with regularly updating the Regional Transportation Plan, a comprehensive blueprint for the development of mass transit, highway, airport, seaport, railroad, bicycle, and pedestrian facilities in the region. MTC and ABAG adopted Plan Bay Area 2040 in July 2017, which includes a Regional Transportation Plan to guide regional transportation investment for revenues from federal, state, regional and local sources through 2040.

Senate Bill 743

SB 743 establishes criteria for determining the significance of transportation impacts using a vehicle miles traveled (VMT) metric intended to promote the reduction of GHG emissions, the development of multimodal transportation networks, and a diversity of land uses. Specifically, SB 743 requires the replacement of automobile delay—described solely by level of service (LOS) or similar measures of vehicular capacity or traffic congestion—with VMT as the recommended metric for determining the significance of transportation impacts. The Governor's Office of Planning and Research (OPR) approved the CEQA Guidelines implementing SB 743 on December 28, 2018. Local jurisdictions are required to implement a VMT policy by July 1, 2020.

Regional and Local

Congestion Management Program

VTA oversees the Congestion Management Program (CMP), which is aimed at reducing regional traffic congestion. The relevant state legislation requires that urbanized counties in California prepare a CMP in order to obtain each county's share of gas tax revenues. State legislation requires that each CMP define traffic LOS standards, transit service standards, a trip reduction and transportation demand management plan, a land use impact analysis program, and a capital improvement element. VTA has review responsibility for proposed development projects that are expected to affect CMP-designated intersections.

4.17.1.2 *Existing Conditions*

Roadway Network

Regional access to the project alignment is provided by Interstate 280 and SR 85. Interstate 280 is an eight-lane freeway aligned in an east-west direction in the vicinity of the site. Site access to and from Interstate 280 is provided via the North Wolfe Road interchange. SR 85 is a six-lane freeway aligned in a north-south direction in the vicinity of the site. Site access to and from SR 85 is provided via the South De Anza Boulevard exchange.

Local access to the site is provided via South Blaney Avenue, Rodrigues Avenue, Pacifica Drive, Miller Avenue, Torre Avenue, and East Estates Drive. The project alignment is generally aligned in an east-west direction between Torre Avenue and East Estates Drive.

Pedestrian and Bicycle Facilities

Pedestrian facilities in the project area consist primarily of sidewalks along streets. Some roads in the project area, including South Blaney Avenue, Rodrigues Avenue, and Torre Avenue, have marked bicycle lanes. There is an existing bicycle and pedestrian path located east of East Estates Drive that leads into Creekside Park.

Transit Services

Transit service in the project area is provided by VTA. Several bus stops are located within 0.5 mile of the project alignment, along Stevens Creek Boulevard, Torre Avenue, and Miller Avenue. Bus routes in the area include buses 23, 25, 26, 53, and 55.

4.17.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Conflict with a program plan, ordinance or policy addressing the circulation system, including transit, roadways, bicycle lanes and pedestrian facilities?	☐	☐	☐	☒
2) Would the project conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?	☐	☐	☒	☐
3) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses (e.g., farm equipment)?	☐	☐	☒	☐
4) Result in inadequate emergency access?	☐	☐	☒	☐

Impact TRN-1: The project would not conflict with a program plan, ordinance or policy addressing the circulation system, including transit, roadways, bicycle lanes and pedestrian facilities. (No Impact)

The proposed project is a pedestrian and bicycle trail included in and consistent with the City's Pedestrian Transportation Plan and Bicycle Transportation Plan. The proposed trail would reduce vehicle trips by providing a bicycle and pedestrian connection between local residential, recreational, and public facility uses. The proposed project also includes pedestrian and bicycle improvements to provide better trail access from the surrounding public street network. For these reasons, the project would not conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadways, bicycle lanes, and pedestrian facilities. **(No Impact)**

Impact TRN-2:	The project would not conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b). (Less than Significant Impact)

CEQA Guidelines Section 15064.3(b) states that transportation projects that reduce, or have no impact on, vehicle miles traveled should be presumed to cause a less than significant transportation impact. The project consists of the construction of a trail that would connect to other bicycle and pedestrian routes, and would be expected to increase bicycle commuting and travel within the project area, reducing vehicle miles traveled. Therefore, the project would not conflict or be inconsistent with CEQA Guidelines Section 15064.3(b). **(Less than Significant Impact)**

Impact TRN-3:	The project would not substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment). (Less than Significant Impact)

Portions of the trail are proposed on the Valley Water maintenance road, which provides service vehicle access to Regnart Creek. The trail would be closed to pedestrians and bicyclists during Valley Water maintenance operations.

The project includes safety features such as railings and high visibility roadway crossings to improve safety for trail users. As previously described, the project would install RRFBs at major roadway crossings (South Blaney Avenue and East Estates Drive), which would improve pedestrian visibility within the proposed crosswalks. The project would include Americans with Disabilities Act (ADA) ramp and curb improvements at the South Blaney Avenue/La Mar Drive, South Blaney Avenue/Pacifica Drive, and East Estates Drive/La Mar Drive intersections. A raised crosswalk is proposed at the trail's intersection with East Estates Drive. **(Less than Significant Impact)**

Impact TRN-4:	The project would not result in inadequate emergency access. (Less than Significant Impact)

As described in Section 4.9 Hazards and Hazardous Materials, the proposed project would not interfere with emergency response access in the project area. During construction of the proposed trail, access would be temporarily restricted on South Blaney Avenue and East Estates Drive. However, construction of the project would not prevent emergency vehicles from accessing the project area. **(Less than Significant Impact)**

4.18 TRIBAL CULTURAL RESOURCES

The discussion in this section is based on the results of an Archaeological Survey prepared by Holman & Associates on January 30, 2019. This report is on file at the City of Cupertino.

4.18.1 Environmental Setting

4.18.1.1 *Regulatory Framework*

State

Assembly Bill 52

AB 52, effective July 2015, established a new category of resources for consideration by public agencies called Tribal Cultural Resources (TCRs). AB 52 requires lead agencies to provide notice of projects to tribes that are traditionally and culturally affiliated with the geographic area if they have requested to be notified. Where a project may have a significant impact on a tribal cultural resource, consultation is required until the parties agree to measures to mitigate or avoid a significant effect on a tribal cultural resource or until it is concluded that mutual agreement cannot be reached.

Under AB 52, TCRs are defined as follows:

- Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are also either:
    - Included or determined to be eligible for inclusion in the California Register of Historic Resources, or
    - Included in a local register of historical resources as defined in Public Resources Code Section 5020.1(k).
- A resource determined by the lead agency to be a TCR.

4.18.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:				
1) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?	☐	☒	☐	☐

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

Impact TCR-1:	**The project would not cause a substantial adverse change in the significance of a tribal cultural resource that is listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k). (Less than Significant Impact with Mitigation Incorporated)**

No tribes have contacted the City of Cupertino requesting to be notified pursuant to AB 52. As part of the archaeological resources survey completed for the proposed project (refer to Section 4.5 Cultural Resources of this Initial Study) the Native American Heritage Commission (NAHC) was contacted to request a review of the Sacred Lands File (SLF) for evidence of cultural resources or traditional properties of potential concern that might be known on lands within or adjacent to the proposed trail alignment. NAHC review of the SLF did not identify Native American resources within the alignment. As discussed in Section 4.5 Cultural Resources, the proposed trail alignment is located in a sensitive area for archaeological resources due to its location along a waterway and near the confluence of two waterways. Therefore, there is a potential for unknown cultural resources (e.g., possible tribal resources) to be uncovered during project construction earthwork activities. Implementation of MM CUL-2.1 and MM CUL-2.2 would reduce and/or avoid impacts to tribal cultural resources to a less than significant level. **(Less than Significant Impact with Mitigation Incorporated)**

Impact TCR-2:	**The project would not cause a substantial adverse change in the significance of a tribal cultural resource that is determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. (Less than Significant Impact with Mitigation Incorporated)**

As part of the archaeological resources survey completed for the proposed project (refer to Section 4.5 Cultural Resources), the NAHC provided a contact list of six Native American individuals/organizations who may know of cultural resources in this area or have specific concerns about the project.

After outreach (phone calls and emails) to the individuals/organizations was completed, two tribal spokespeople, one from the Amah Mutsun Tribal Band and the other from the Ohlone Tribe, agreed that mechanical coring under the direction of a qualified archaeologist (MM CUL-2.1) would be their recommended approach. With implementation of MM CUL-2.1 and MM CUL-2.2, the project would

reduce and/or avoid impacts to tribal cultural resources to a less than significant level. **(Less than Significant Impact with Mitigation Incorporated)**

4.19 UTILITIES AND SERVICE SYSTEMS

4.19.1 Environmental Setting

4.19.1.1 *Regulatory Framework*

State

State Water Code

Pursuant to the State Water Code, water suppliers providing water for municipal purposes to more than 3,000 customers or supplying more than 3,000 acre-feet (approximately 980 million gallons) of water annually must prepare and adopt an urban water management plan (UWMP) and update it every five years. As part of a UWMP, water agencies are required to evaluate and describe their water resource supplies and projected needs over a 20-year planning horizon, water conservation, water service reliability, water recycling, opportunities for water transfers, and contingency plans for drought events.

Assembly Bill 939

The California Integrated Waste Management Act of 1989, or AB 939, established the Integrated Waste Management Board, required the implementation of integrated waste management plans, and mandated that local jurisdictions divert at least 50 percent of solid waste generated (from 1990 levels), beginning January 1, 2000, and divert at least 75 percent by 2010. Projects that would have an adverse effect on waste diversion goals are required to include waste diversion mitigation measures.

Assembly Bill 341

AB 341 sets forth the requirements of the statewide mandatory commercial recycling program Businesses that generate four or more cubic yards of garbage per week and multi-family dwellings with five or more units in California are required to recycle. AB 341 sets a statewide goal for 75 percent disposal reduction by the year 2020.

Senate Bill 1383

SB 1383 establishes targets to achieve a 50 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75 percent reduction by 2025. The bill grants CalRecycle the regulatory authority required to achieve the organic waste disposal reduction targets and establishes an additional target that at least 20 percent of currently disposed edible food is recovered for human consumption by 2025.

4.19.1.2 *Existing Conditions*

Water Service

Water service to the project area is supplied primarily by the San José Water Company (SJWC) and the California Water Service Company, which also maintains the water system.

The project alignment does not currently generate a demand for water services.

Storm Drainage

There are no structures or buildings within the project alignment. Stormwater runoff from the site either percolates into the ground or sheet flows toward Regnart Creek.

Wastewater/Sanitary Sewer System

The Cupertino Sanitary District provides sanitary sewer service to the project area. The Cupertino Sanitary District collects and transports wastewater to the San José/Santa Clara Regional Wastewater Facility (RWF) located in north San José. The Cupertino Sanitary District purchases 7.85 million gallons per day of water treatment capacity from the RWF.[29] Approximately five million gallons of wastewater a day is generated within the Cupertino Sanitary District and conveyed to the RWF.[30]

The project alignment does not currently generate wastewater.

Solid Waste

Garbage and recycling collection services in the City of Cupertino are provided by Recology. Solid waste collected from the City is delivered to Newby Island Sanitary Landfill (NISL).

The project alignment does not currently generate solid waste.

4.19.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	☐	☐	☒	☐
2) Have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	☐	☐	☒	☐
3) Result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☐	☒

[29] City of Milpitas. *Agreement for Treatment Plant Capacity Transfer*. 2009. Available at: http://www.ci.milpitas.ca.gov/_pdfs/council/2009/010609/item_17.pdf.
[30] Cupertino Sanitary District. *2015 Annual Report.* 2015.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
4) Generate solid waste in excess of state or local standards or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	☐	☐	☐	☒
5) Negatively impact the provision of solid waste services or impair the attainment of solid waste reduction goals?	☐	☐	☐	☒
6) Be noncompliant with federal, state, and local management and reduction statutes and regulations related to solid waste?	☐	☐	☐	☒

Impact UTL-1: The project would not require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects. (Less than Significant Impact)

The project, which is limited to the construction of a trail and pedestrian and bicycle improvements, would not use water except for construction and for short-term irrigation of native plant landscaping during their initial establishment period. The project would include decomposed granite on the portions of the alignment located adjacent to Regnart Creek but would incrementally increase stormwater runoff (refer to Section 4.10 Hydrology and Water Quality). Local drainage improvements include new storm drain inlets that would connect to existing outfalls into the creek. The project would not generate wastewater or use electric power, natural gas, or telecommunications facilities. The project would not require or result in the relocation or construction of new or expanded facilities. **(Less than Significant Impact)**

Impact UTL-2: The project would not have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years. (Less than Significant Impact)

The project would not include features that would require water or water services over the long term. The proposed landscaping would be native species that are adapted to the local climate and would require a minimal amount of irrigation water until becoming established. The project would not result in insufficient water supplies available during normal, dry, and multiple dry years. **(Less than Significant Impact)**

Impact UTL-3:	**The project would not result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments. (No Impact)**

The proposed project would not generate wastewater. **(No Impact)**

Impact UTL-4:	**The project would not generate solid waste in excess of state or local standards or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals. (No Impact)**

The proposed project would generate construction debris, and following construction would generate solid waste from trail cleaning and maintenance activities (trash collection). The solid waste generated would be disposed in accordance with City requirements and not be expected to exceed the capacity of local infrastructure or impair the attainment of solid waste reduction goals. **(No Impact)**

Impact UTL-5:	**The project would not negatively impact the provision of solid waste services or impair the attainment of solid waste reduction goals. (No Impact)**

The proposed project would not impact the provision of solid waste services. **(No Impact)**

Impact UTL-6:	**The project would not be noncompliant with federal, state, and local management and reduction statutes and regulations related to solid waste. (No Impact)**

The proposed project would not generate solid waste, and would not conflict with federal, state, or local statutes. **(No Impact)**

4.20 WILDFIRE

The proposed trail would be located in an urbanized area of the City of Cupertino. According to CAL FIRE, the proposed trail alignment is not located within or near an area of moderate, high, or very high fire hazard severity zone.

4.20.1 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:				
1) Impair an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒
2) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	☐	☐	☐	☒
3) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	☐	☐	☐	☒
4) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	☐	☐	☐	☒

The project alignment is not located in or near state responsibility areas or lands classified as very high fire hazard severity zones; therefore, the project would not result in wildfire impacts. **(No Impact)**

4.21 MANDATORY FINDINGS OF SIGNIFICANCE

4.21.1 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
1) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?	☐	☒	☐	☐
2) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☐	☒	☐	☐
3) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☒	☐	☐

Impact MFS-1: The project does not have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory. (Less than Significant Impact with Mitigation Incorporated)

As discussed in the previous sections of this Initial Study, the proposed project would not degrade the quality of the environment with the implementation of the identified mitigation measures and Standard Permit Conditions. As discussed in Section 4.4 Biological Resources, with implementation of the identified mitigation measures (MM BIO-2.1 through MM BIO-2.6) and Standard Permit Conditions, the project would not significantly impact sensitive habitats or species. As discussed in Section 4.5 Cultural Resources and Section 4.7 Geology and Soils, with implementation of the identified mitigation measures (MM CUL-2.1 and MM CUL-2.2) and Standard Permit Conditions, the project would result in a less than significant impact on archaeological, historic, and paleontological resources. **(Less than Significant Impact with Mitigation Incorporated)**

Impact MFS-2:	The project does not have impacts that are individually limited, but cumulatively considerable. (Less than Significant Impact with Mitigation Incorporated)

Under Section 15065(a)(3) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has potential environmental effects "that are individually limited, but cumulatively considerable." As defined in Section 15065(a)(3) of the CEQA Guidelines, cumulatively considerable means "that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects." Using this definition, a project that has no impact in a given impact category cannot have a cumulatively considerable contribution because its contribution is zero.

The project evaluated in this Initial Study is limited to the construction of an off-street 0.8-mile trail and bicycle and pedestrian improvements. Due to the nature of this proposed project, many types of impacts that are frequently associated with development projects (e.g., housing, offices, commercial uses, etc.) would not occur. For example, as described in Section 4 of this Initial Study, operation of the trail and bicycle and pedestrian improvements would have no adverse impacts on agriculture and forestry resources, land use, mineral resources, population and housing, and wildfire.

There are no other projects proposed or that would be under construction in the same general area as the proposed project. Therefore, short-term, construction related impacts of the project (e.g., dust, potential soil contamination, noise and vibration, nesting bird disturbance, and water quality) would not combine with the impacts of other projects and would not be cumulatively considerable Furthermore, mitigation measures and/or Standard Permit Conditions are included in the project to reduce construction-related impacts to a less than significant level.

As described in Section 4.13 Noise, the project would have minimal noise impacts associated with conversations between people biking and walking on the trail. Because noises would be localized, intermittent, and at low levels that would not significantly affect many nearby residences, they would not be cumulatively considerable.

As described in Section 4.4 Biological Resources, the project could affect sensitive biological resources in both the short- and long-term. These impacts, however, would not result in a cumulatively significant loss of such resources, because there are no other proposed projects or projects that would be under construction in the same general area as the proposed project . In addition, the project would implement a number of measures to reduce impacts on both common and special-status species, as described in Section 4.4. Therefore, the project would not contribute to cumulative impacts on biological resources.

The project would increase the number of bicyclists and pedestrians using local bicycle and pedestrian facilities, which could increase the inherent risk due to more people on the street at any given time. However, the improvements proposed as part of the project, including improvements at road crossings and construction of a trail, would reduce the risks associated with traditional bicycle and pedestrian use.

There are no planned or proposed developments in the project area that could contribute to cumulative aesthetic, air quality, hydrology and water quality, public services, recreation, or utilities and service systems impacts. The project's archaeological and biological resources and geology and soils impacts are specific to the project alignment and would not contribute to cumulative impacts elsewhere.

The project's cumulative impacts to GHG emissions are discussed in Section 4.8, and it was concluded that the project would have a less than significant (cumulative) impact on GHG emissions.

Based on the discussion above, the project would not result in cumulatively considerable impacts. **(Less than Significant Impact with Mitigation Incorporated)**

Impact MFS-3:	**The project does not have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly. (Less than Significant Impact with Mitigation Incorporated)**

Consistent with Section 15065(a)(4) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has the potential to cause substantial adverse effects on human beings, either directly or indirectly. Under this standard, a change to the physical environment that might otherwise be minor must be treated as significant if people would be significantly affected. This factor relates to adverse changes to the environment of human beings generally, and not to effects on particular individuals. While changes to the environment that could indirectly affect human beings would be represented by all of the designated CEQA issue areas, those that could directly affect human beings include construction-related air quality, hazardous materials, and noise. Implementation of mitigation measures identified in Section 4, however, would reduce these impacts to a less than significant level. No other direct or indirect adverse effects on human beings have been identified. **(Less than Significant Impact with Mitigation Incorporated)**

SECTION 5.0 REFERENCES

The analysis in this Initial Study is based on the professional judgement and expertise of the environmental specialists preparing this document, based upon review of the site, surrounding conditions, site plans, and the following references:

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SECTION 6.0 LEAD AGENCY AND CONSULTANTS

6.1 LEAD AGENCY

City of Cupertino
Department of Public Works
David Stillman, Transportation Manager
Jennifer Chu, Associate Engineer

6.2 CONSULTANTS

David J. Powers & Associates, Inc.
Environmental Consultants and Planners

Demetri Loukas, Principal Project Manager
Mike Campbell, AICP, Project Manager
Zachary Dill, Graphic Artist

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Biological Consultants

Holman & Associates
Archaeological Consultants

Illingworth & Rodkin, Inc.
Acoustical Consultants

Parikh Consultants, Inc.
Geotechnical Engineers

SECTION 7.0 ACRONYMS AND ABBREVIATIONS

AB	Assembly Bill
ABAG	Association of Bay Area Governments
ACM	asbestos-containing material
ADA	Americans with Disabilities Act
ARS	Accelerated Response System
BAAQMD	Bay Area Air Quality Management District
Btu	British thermal unit
CalARP	California Accidental Release Program
CalEPA	California Environmental Protection Agency
CAL FIRE	California Department of Forestry and Fire Protection
CALGreen	California Green Building Standards Code
Cal/OSHA	California Division of Occupational Safety and Health
Caltrans	California Department of Transportation
CAP	Clean Air Plan
CARB	California Air Resources Board
CBC	California Building Standards Code
CCR	California Code of Regulations
C&D	construction and debris
CDFW	California Department of Fish and Wildlife
CEC	California Energy Commission
CEQA	California Environmental Quality Act
CFC	chlorofluorocarbon
CFR	Code of Federal Regulations
CGS	California Geological Survey
CH_4	methane
CIDH	cast-in-drilled-hole
CMP	Congestion Management Program
CNDDB	California Natural Diversity Database
CNEL	Community Noise Equivalent Level
CNPS	California Native Plant Society
CO	carbon monoxide
CO_2	carbon dioxide
CO_2e	carbon dioxide equivalent

CRHR	California Register of Historical Resources
CUPA	Certified Unified Program Agency
dB	decibel
dBA	A-weighted sound level
DDT	dichlorodiphenyltrichloroethane
DNL	Day-Night Level
DPM	diesel particulate matter
DTSC	Department of Toxic Substances Control
EPA	United States Environmental Protection Agency
ESA	Environmental Site Assessment
FAA	Federal Aviation Administration
FAR	Federal Aviation Regulations
FEMA	Federal Emergency Management Agency
FIRM	Flood Insurance Rate Map
FMMP	Farmland Mapping and Monitoring Program
FTA	Federal Transit Administration
GHG	greenhouse gas
GWh	gigawatt hour
Habitat Plan	Santa Clara Valley Habitat Plan
HDPE	high-density polyethylene
HFC	hydrofluorocarbon
HSP	health and safety plan
LED	light emitting diode
L_{eq}	Noise Equivalent Level
LID	Low Impact Development
L_{max}	Maximum Sound Level
LOS	Level of Service
MBTA	Migratory Bird Treaty Act
MLD	Most Likely Descendant
$MMTCO_2e$	million metric tons of carbon dioxide equivalent
MND	Mitigated Negative Declaration
MRP	Municipal Regional Permit
msl	mean sea level
MTC	Metropolitan Transportation Commission
NAHC	Native American Heritage Commission

NFIP	National Flood Insurance Program
NHPA	National Historic Preservation Act
NISL	Newby Island Sanitary Landfill
N_2O	nitrous oxide
NO_2	nitrogen dioxide
NOD	Notice of Determination
NOI	Notice of Intent
NO_x	nitrogen oxide
NPDES	National Pollutant Discharge Elimination System
NRHP	National Register of Historic Places
O_3	ozone
OGFC	open-graded friction course
OPR	Office of Planning and Research
PCE	perchloroethylene
PDA	Priority Development Area
PFC	perfluorocarbon
PG&E	Pacific Gas and Electric Company
PM	particulate matter
PM_{10}	coarse particulate matter
$PM_{2.5}$	fine particulate matter
PPV	peak particle velocity
PV	photovoltaic
RHNA	Regional Housing Need Allocation
ROG	reactive organic gas
RRFB	rectangular rapid flash beacon
RWF	Regional Wastewater Facility
RWQCB	Regional Water Quality Control Board
SB	Senate Bill
SCCDEH	Santa Clara County Department of Environmental Health
SCS	Sustainable Communities Strategy
SF_6	sulfur hexafluoride
SFHA	Special Flood Hazard Area
SHMA	Seismic Hazards Mapping Act
SLF	Sacred Land Files
SMARA	Surface Mining and Reclamation Act

SMGB	State Mining and Geology Board
SMP	Site Management Plan
SO_x	sulfur oxide
SR	State Route
SVCE	Silicon Valley Clean Energy
SWPPP	Stormwater Pollution Prevention Plan
SWRCB	State Water Resources Control Board
TAC	toxic air contaminant
TCM	transportation control measure
TCR	Tribal Cultural Resource
USACE	United States Army Corps of Engineers
USFWS	United States Fish and Wildlife Service
UWMP	urban water management plan
Valley Water	Santa Clara Valley Water District
VdB	vibration velocity level
VMT	vehicle miles traveled
VOC	volatile organic compound
VTA	Santa Clara Valley Transit Authority