



# 4150 Point Eden Way Industrial Development Project

## Draft Environmental Impact Report

*prepared by*

**City of Hayward**

777 B Street

Hayward, California 94541

Contact: Leigha Schmidt, Senior Planner

*prepared with the assistance of*

**Rincon Consultants, Inc.**

449 15th Street, Suite 303

Oakland, California 94612

**April 2021**



**RINCON CONSULTANTS, INC.**

Environmental Scientists | Planners | Engineers

[rinconconsultants.com](http://rinconconsultants.com)



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# Executive Summary

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This document is an Environmental Impact Report (EIR) analyzing the environmental effects of the proposed 4150 Point Eden Way Industrial Development Project (proposed project). This section summarizes the characteristics of the proposed project, alternatives to the proposed project, and the environmental impacts and mitigation measures associated with the proposed project.

## Project Synopsis

### Project Applicant

U-HAUL, 815 Marketing Company  
8000 San Leandro Street  
Oakland, California 94621

### Lead Agency Contact Person

Leigha Schmidt, Senior Planner  
City of Hayward  
777 B Street  
Hayward, CA 94541  
510-583-4113

### Project Description

This EIR has been prepared to examine the potential environmental effects of the 4150 Point Eden Way Industrial Development Project. The following is a summary of the full project description, which can be found in Section 2.0, *Project Description*.

The project site consists of six parcels in the City of Hayward identified as Assessor Parcel Numbers (APN) 461-0084-019-00, APN 461-0085-020-01, APN 461-0085-020-02, APN 461-0061-001-00, APN 461-0090-001-00, and APN 461-0090-002-00. A separate parcel, not included in the project site, separates APN 461-0085-019-00, 461-0085-020-01, and 461-0085-020-02 from APN 461-0061-001-00, 461-0090-001-00, and 461-0090-002-00. Therefore, the project site has an eastern component (APN 461-0085-019-00, 461-0085-020-01, and 461-0085-020-02) and a western component (APN 461-0061-001-00, 461-0090-001-00, and 461-0090-002-00), which are non-contiguous but nearly adjacent.

The eastern component is located at 4150 Point Eden Way, while the western component has no public road access. Point Eden Way roughly parallels the south side of State Route 92 in the eastern portion of Hayward. The regional location of the site is shown in Figure 2-1, the vicinity of the site is shown in Figure 2-2, and the project site boundaries are depicted in Figure 2-3.

### *Project Characteristics*

The proposed project would involve construction of a new industrial building on the eastern component of the project site and preservation of an open space/wetland preserve on the western component. The project would commence with demolition and removal of existing structures on the eastern component of the project site associated with the former Oliver Brothers Salt Works

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operations. After demolition and removal of existing structures and materials, construction of the new industrial building would begin. The proposed industrial building would be approximately 50 feet in height to finished roof. The proposed building would provide approximately 114,059 square feet of warehouse space and a 2,785-square-foot of office, for a total size of approximately 116,844 square feet. The office space would be provided at the north end of the building, facing State Route 92. During operation of the project, approximately 20 to 25 employees would be present. A conceptual site plan for the eastern component is shown in Figure 2-7, and a conceptual landscape plan is shown in Figure 2-8.

The San Francisco Bay Trail is located on the eastern edge of the eastern component of the project site, within APN 461-0085-020-01. The proposed project includes a land swap for East Bay Regional Park District to relocate the Bay Trail from the current location along the eastern property line to meander along the northern property line and then to turn south to run along the western property line of APN 461-0085-020-02, until meeting its current location on Point Eden Way, as shown in Figure 2-9. The swap would transfer ownership of APN 461-0085-020-01 to the project applicant and grant an easement to the East Bay Regional Park District for the trail to cross APN 461-0085-020-02.

The proposed project also includes establishing an approximately 32-acre preserve on the western component of the project site, within APN 461-0061-001-00, 461-0090-001-00, and 461-0090-002-00. These parcels are currently characterized by salt evaporation ponds from the former salt production operation on the project site that would remain in place. This 32-acre area (Preserve) contains six old salt ponds totaling 26 acres. The 32-acre Preserve would be preserved in perpetuity via recordation of a deed restriction or other appropriate legal mechanism, ensuring that the salt ponds are permanently preserved as open space in perpetuity. No conservation easement or conservator endowment would be provided. Because the 32-acre area would be preserved in perpetuity with a deed restriction or other appropriate legal mechanism, without management activities, no management plan or improvement plan is proposed.

*Parking and Site Access*

Ingress and egress to the industrial building would be from a new driveway on Point Eden Way. Approximately 79 parking spaces would be provided, including two spaces dedicated for electric vehicles and two accessible spaces compliant with the Americans with Disabilities Act (ADA). Two bike lockers and two bike stalls would also be provided on-site near the industrial building. Landscaping would be installed on all sides of the new building but would be concentrated on the north side of the building facing State Route 92 and along the western property line parallel to the realigned Bay Trail. Landscaping would include trees, low shrubs, grasses, and perennials. No physical changes are proposed for the western component.

*Utilities*

The proposed industrial building would require utility and drainage improvements including new sanitary sewer, storm drain, and domestic water lines. These new utilities would connect to existing utilities within the right-of-way of Point Eden Way. Bioretention areas (see Figure 2-8) would be constructed on-site to collect and treat stormwater runoff prior to discharge into the City's storm drain system.

### *Construction and Grading*

Estimated construction duration of the proposed project would be 12 to 18 months, tentatively beginning in 2021. Maximum construction depth would generally be approximately seven feet below ground surface; however, displacement piers would be used in the foundation and require drilling to depths of approximately 20 feet below ground surface. Construction would begin with demolition of existing structures on the project site. Construction would involve standard and typical equipment, such as excavators, graders, backhoes, dump trucks, and power tools. Construction would also involve site preparation, consisting primarily of grading the site to achieve desired drainage and suitable building area. Grading would require permanent placement of fill material on-site, including within jurisdictional waters of the United States (i.e., wetlands). The proposed project would generate approximately 18,200 cubic yards of fill and 6,000 cubic yards of cut material, resulting in approximately 12,200 cubic yards of material for import. Construction would not require the removal of trees.

## Project Objectives

The objectives for the proposed project are to:

- Develop an industrial building to house U-Haul corporate headquarters and warehouse.
- Locate the building at the western edge of Hayward in proximity to a regional highway and other industrial, warehousing and logistics uses to avoid land use conflicts.
- Create new employment and economic growth opportunities by redeveloping a vacant and underutilized property.
- Establish a wetland preserve adjacent to the San Francisco Bay.
- Remove a dilapidated and unsafe structure from a currently underutilized property at the gateway to the City.

## Alternatives

As required by Section 15126.6 of the *CEQA Guidelines*, this EIR examines a range of reasonable alternatives to the proposed project that would attain most of the basic project objectives (stated in Section 2.0, *Project Description*, of this EIR) but would avoid or substantially lessen the significant adverse impacts.

Included in this analysis are three alternatives, including the CEQA-required “no project” alternative, that involve changes to the project that would reduce the project-related potentially significant environmental impacts as identified in this EIR. Alternatives have been developed to provide a reasonable range of options to consider that would help decision makers and the public understand the general implications of revising or eliminating certain components of the proposed project.

The following alternatives are evaluated in this EIR:

- Alternative 1: No Project
- Alternative 2: Enterprise Avenue Alternate Site
- Alternative 3: Reduced Project

Detailed descriptions of the alternatives are included in the impact analysis for each alternative. The potential environmental impacts of each alternative are analyzed in Sections 6.2 through 6.4.

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**Alternative 1 (No Project)** The No Project Alternative assumes that the industrial building, surface parking, driveway, landscaping, and other project components associated with the proposed industrial building are not constructed. Additionally, the San Francisco Bay Trail would remain in its current location and would not be realigned. Likewise, a wetland preserve would not be established on the western component of the project site. The western component of the project site would not be preserved in perpetuity via recordation of a deed restriction or other appropriate legal mechanism; therefore, the salt ponds and other areas of the western component of the site could be utilized for flood plain and agricultural uses such as chemical extraction from baywater, crop and tree farming, dredging, farming or ranching and limited sales of materials grown on site. The project site would remain in its current unused state, and the existing structures associated with the former Oliver Brothers Salt Works operation would not be demolished.

The No Project Alternative would not fulfill any of the project objectives.

**Alternative 2 (Enterprise Avenue Alternate Site)** Under the Enterprise Avenue Alternate Site Alternative, the proposed industrial building would be constructed on an approximately 10.8-acre property located at 3636 Enterprise Avenue in Hayward. The property is identified as APN 439-0099-036-02, and is zoned as General Industrial (IG). The property is mostly vacant with the exception of several radio communication towers scattered across the property. A small structure is located at the base of one tower and is associated with the tower operations. Vegetation is present across nearly the entire property, and based on aerial photography, consists primarily of low grasses, weeds, and shrubs.

Alternative 2 assumes that the industrial building and associated surface parking lot would be approximately the same size and design as the proposed project, only located on the Enterprise Avenue property instead of the project site. However, because the Enterprise Avenue property is an upland area, Alternative 2 would not include establishing a wetland preserve on-site or off-site. Likewise, this alternative assumes the existing structures and ponds associated with the former Oliver Brothers Salt Works operation on the project site would remain unchanged from current conditions, because Alternative 2 would involve no activities or development at the project site.

The San Francisco Bay Trail is not adjacent the Enterprise Avenue property. Therefore, Alternative 2 would not involve relocation of the trail or coordination with the East Bay Regional Parks District. However, Alternative 2 would include relocating the existing radio communication towers and associated building that currently exist on the Enterprise Avenue property.

The Enterprise Avenue Alternate Site Alternative would fulfill some project objectives but not all objectives. For example, this alternative would develop an industrial building to house U-Haul corporate headquarters and a substantial warehouse at the western edge of Hayward in proximity to regional roadways. Alternative 2 would also be near other industrial and warehousing land uses and would create new employment opportunities by developing a property that is currently vacant. However, Alternative 2 would not fulfill project objectives to establish a wetland preserve adjacent to the San Francisco Bay or to remove the dilapidated Oliver Brothers Salt Works structures from the State Route 92 gateway to the City.

**Alternative 3 (Reduced Project Alternative)** The Reduced Project Alternative assumes that, like the proposed project, the industrial building, surface parking, driveway, landscaping, and other project components associated with the proposed industrial building would be constructed on the eastern component of the project site. Additionally, the San Francisco Bay Trail would be realigned to encompass the eastern component of the site, like the proposed project. Likewise, a wetland preserve would be established on the western component of the project site, consistent with the

proposed project. However, the industrial building and surface parking lot would be reduced in size by approximately 50 percent and shifted south within the eastern component of the project site in order to avoid demolition of the former Oliver Brothers Salt Works building in the northeast part of the site. The existing building would be left in place.

The Reduced Project Alternative would fulfill most but not all project objectives. For example, this alternative would involve development of an industrial building to house U-Haul corporate headquarters and a warehouse at the western edge of Hayward in proximity to regional roadways. Alternative 3 would also be near other industrial and warehousing land uses and would create new employment opportunities by developing a property that is currently unused. Additionally, Alternative 3 would also fulfill the project objective to establish a wetland preserve adjacent to the San Francisco Bay. However, Alternative 3 would not fulfill the project objective to remove the dilapidated Oliver Brothers Salt Works structures from the State Route 92 gateway to the City. In addition, this alternative would reduce the space available for the proposed project elements compared to the propose project, which would result in smaller office and warehouse spaces by approximately 50 percent.

Refer to Section 6.0, *Alternatives*, for the complete alternatives analysis.

## Areas of Known Controversy

The EIR scoping process did not identify any areas of known controversy for the proposed project. Responses to the Notice of Preparation of a Draft EIR and input received at the scoping meeting on the EIR held by the City are summarized in Section 1, *Introduction*. Comments pertained to a range of issues, but most notably biological resources, climate change and sea-level rise, hazardous materials and groundwater contamination, and tribal cultural resources.

## Issues to be Resolved

The proposed project would require site plan review and grading and building permits. In addition, construction of the project would involve fill of wetlands, which would require approval from the United States Army Corps of Engineers and the San Francisco Bay Regional Water Quality Control Board. The project would involve demolition of a historic resource, which would require the United States Army Corps of Engineers to approve a Historic Properties Treatment Plan. The East Bay Regional Park District must also consider approval of the proposed land exchange included in the project for relocation of the San Francisco Bay Trail. Issues to be resolved also include the choice among alternatives and whether or how to mitigate potentially significant effects of the project.

## Issues Not Studied in Detail in the EIR

Table 5 in Section 1.4 summarizes issues from the environmental checklist that were addressed in the Initial Study (Appendix B). As indicated in the Initial Study, there is no substantial evidence that significant impacts would occur to the following issue areas: Aesthetics, Agricultural Resources, Air Quality, Energy, Geology/Soils, Greenhouse Gas Emissions, Hydrology, Land Use and Planning, Mineral Resources, Noise, Population/Housing, Public Services, Recreation, and Utilities. Impacts to Biological Resources, Cultural Resources, Hazards and Hazardous Materials, and Transportation were found to be potentially significant and are addressed in this EIR.

## Summary of Impacts and Mitigation Measures

Table ES-1 includes a brief description of the environmental issues relative to the proposed project, the identified environmental impacts, proposed mitigation measures, and residual impacts. Impacts are categorized by significance. Significant and unavoidable adverse impacts require a statement of overriding considerations to be issued per Section 15093 of the State CEQA Guidelines if the project is approved. Significant but mitigable impacts are adverse impacts that can be feasibly mitigated to less than significant levels and which require findings to be made under Section 15091 of the State CEQA Guidelines. Less than significant impacts would not exceed significance thresholds and therefore would not require mitigation.

The Initial Study found that the proposed project would have significant but mitigable impacts on geology and soils and tribal cultural resources. The Initial Study addresses these issues and provides mitigation measures, which are summarized in Table ES-1 below. These issues, as well as those issues found to have less than significant impacts in the Initial Study, are not analyzed further in this EIR. Discussion of these impacts may be found in the Initial Study (Appendix A). Issues that were found to have potentially significant impacts in the Initial Study and therefore required additional analysis in the EIR include biological resources, cultural resources (historical resources), hazards and hazardous materials, and transportation. Table ES-1 summarizes the impacts related to these issues as well as applicable mitigation measures to reduce impacts, as identified in this EIR.

Impacts are categorized as follows:

- **Significant and Unavoidable.** An impact that cannot be reduced to below the threshold level given reasonably available and feasible mitigation measures. Such an impact requires a Statement of Overriding Considerations to be issued if the project is approved per §15093 of the CEQA Guidelines.
- **Less than Significant with Mitigation Incorporated.** An impact that can be reduced to below the threshold level given reasonably available and feasible mitigation measures. Such an impact requires findings under §15091 of the CEQA Guidelines.
- **Less than Significant.** An impact that may be adverse but does not exceed the threshold levels and does not require mitigation measures. However, mitigation measures that could further lessen the environmental effect may be suggested if readily available and easily achievable.
- **No Impact:** The proposed project would have no effect on environmental conditions or would reduce existing environmental problems or hazards.

**Table ES-1 Summary of Environmental Impacts, Mitigation Measures, and Residual Impacts**

Impact	Mitigation Measure (s)	Residual Impact
<b>Biological Resources</b>		
<b>Impact BIO-1.</b> The proposed project would have a substantial adverse effect on species identified as a candidate, sensitive, or special status, such as salt marsh harvest mouse, burrowing owl and other birds, and bats. Impacts would be less than significant with mitigation incorporated.	<b>BIO-1a SMHM and SMWS Habitat Fencing.</b> Prior to ground disturbing activities adjacent to potential SMHM and SMWS habitat, temporary exclusion barriers and/or fencing shall be installed to exclude individuals of these species from areas of active construction. The design of the exclusion barriers and fencing shall be approved by a qualified biologist and shall be installed in the presence of a qualified biological monitor. The fence will be made of a material that does not allow SMHM or SMWS to pass through, and the bottom shall be buried to a depth of a	Less than significant.

Impact	Mitigation Measure (s)	Residual Impact
	<p>minimum of four inches so that these species cannot crawl under the fence. All support for the exclusion fencing shall be placed on the inside of the project footprint. Additionally, removal of marsh or associated ruderal vegetation shall be completed using only hand tools and in the presence of a biological monitor. The barriers and/or fencing shall remain in place for the duration of construction of the project.</p> <p><b>BIO-1b Qualified Biological Monitor.</b> A qualified biological monitor shall be present during wildlife exclusion fence installation and removal, and during all vegetation clearing and initial ground disturbance which take place in marsh habitats of the former salt ponds and the vegetation adjacent to marsh habitats. The monitor will have demonstrated experience in biological construction monitoring and knowledge of the biology of the special-status species that may be found in the project site, including SMHM and SMWS. The monitor(s) shall have the authority to halt construction, if necessary, if noncompliance actions occur. If a federal or State listed species is observed at any time during construction, work shall not be initiated or shall be stopped immediately until the animal leaves the vicinity of the work area of its own volition. If the animal in question does not leave the work area, work shall not be reinitiated until the qualified biological monitor has contacted the appropriate agency to discuss on how to proceed with work activities. The biological monitor shall direct the contractor on how to proceed accordingly.</p> <p>The biological monitor(s) shall be the contact person for any employee or contractor who might inadvertently kill or injure a special-status species or anyone who finds a dead, injured, or entrapped special-status species. Following fence installation, vegetation removal in potential habitat areas, and initial ground disturbance in potential habitat areas, the biologist shall train an onsite monitor to continue to document compliance. The biologist shall conduct weekly site checks to provide guidance for fence maintenance, provide environmental sensitivity training, and document compliance with permit conditions.</p> <p><b>BIO-1c Worker Environmental Awareness Program Training.</b> The biological monitor shall provide an endangered species training program to all personnel involved in project construction. At a minimum, the employee education program shall consist of a brief presentation by persons knowledgeable about the biology of sensitive species with potential to occur in the project footprint, and about their legislative protection to explain concerns to contractors and their employees involved with implementation of the project. The program shall include a description of the species and their habitat needs, any reports of occurrences in the area; an explanation of the status of these species and their protection under State and federal legislation; and a list of</p>	

Impact	Mitigation Measure (s)	Residual Impact
	<p>measures being taken to reduce impacts to these species during construction.</p> <p><b>BIO-1d Burrowing Owl Pre-Construction Surveys and Avoidance.</b> A qualified biologist shall conduct pre-construction clearance surveys prior to ground disturbance activities within suitable natural habitats and ruderal areas throughout the eastern component of the project site to confirm the presence/absence of active burrowing owl burrows. The surveys shall be consistent with the recommended survey methodology provided by CDFW (2012). Clearance surveys shall be conducted within 30 days prior to construction and ground disturbance activities. If no burrowing owls are observed, no further actions are required. If burrowing owls are detected during the pre-construction clearance surveys, the following measures shall apply:</p> <ul style="list-style-type: none"> <li>▪ Avoidance buffers during the breeding and non-breeding season shall be implemented in accordance with the CDFW (2012) and Burrowing Owl Consortium (1993) minimization mitigation measures.</li> <li>▪ If avoidance of burrowing owls is not feasible, then additional measures such as passive relocation during the nonbreeding season and construction buffers of 200 feet during the breeding season shall be implemented, in consultation with CDFW. In addition, a Burrowing Owl Exclusion Plan and Mitigation and Monitoring Plan shall be developed by a qualified biologist in accordance with the CDFW (2012) and Burrowing Owl Consortium (1993).</li> </ul> <p><b>BIO-1e Nesting Bird Avoidance and Pre-Construction Surveys.</b> Project activities, such as vegetation removal, grading, or initial ground-disturbance, shall be conducted between September 1 and January 31 to the greatest extent feasible. If project activities must be conducted during the nesting season (February 1 to August 31), a pre-construction nesting bird survey shall be conducted by a qualified biologist no more than 14 days prior to vegetation removal or initial ground disturbance. Additional nesting surveys shall be conducted if project construction activities cease for more than 14 days during this period. The survey shall include the project site plus a 200-foot buffer around the eastern component of the project site if feasible, and a 500-foot buffer, if feasible, for California least tern, western snowy plover, and black skimmer, to identify the location and status of any nests that could potentially be affected either directly or indirectly by project activities. A survey of the western component of the project site shall be optional and not required because no ground disturbance or construction activities are proposed in the western component of the project site.</p> <p>If active nests are identified during the nesting bird survey, an appropriate avoidance buffer shall be established within which no work activity will be allowed</p>	

Impact	Mitigation Measure (s)	Residual Impact
	<p>which would impact these nests. The avoidance buffer would be established by the qualified biologist on a case-by-case basis based on the species and site conditions. In no cases shall the buffer be smaller than 50 feet for passerine bird species, 250 feet for raptor species, or 600 feet for California least tern, western snowy plover, and black skimmer. Larger buffers may be required depending upon the status of the nest and the construction activities occurring in the vicinity of the nest. Buffers shall be delineated by orange construction fencing that defines the buffer where it intersects the project site.</p> <p>If a California least tern, western snowy plover, or black skimmer nest is found within 500 feet of the project site, USFWS and CDFW will be immediately notified. USFWS and CDFW shall be consulted on appropriate avoidance and minimization methods, which would likely include work restrictions within 500 feet of the nest, biological monitoring for activity within the nest' line-of-sight, etc. The buffer area(s) shall be closed to all construction personnel and equipment until juveniles have fledged and the nest is inactive. The qualified biologist shall confirm that breeding/nesting is completed, and young have fledged the nest prior to removal of the buffer.</p> <p><b>BIO-1f Special-Status Bat Avoidance and Pre-Construction Surveys.</b> To avoid impacts to roosting special-status bats, focused surveys to determine the presence/absence of roosting bats shall be conducted prior to the initiation of demolition of buildings and removal of mature trees large enough to contain crevices and hollows that could support bat roosting. If active maternity roosts are identified, a qualified biologist shall establish avoidance buffers applicable to the species, the roost location and exposure, and the proposed construction activity in the area. If active non-maternity day or night roosts are found on the project site, measures shall be implemented to passively relocate bats from the roosts prior to the onset of construction activities. Such measures may include removal of roosting site during the time of day the roost is unoccupied or the installation of one-way doors, allowing the bats to leave the roost but not to re-enter. These measures shall be presented in a Bat Passive Relocation Plan that shall be submitted to, and approved by, CDFW.</p> <p><b>BIO-1g Trash Removal.</b> During construction of the project, all food-related trash items such as wrappers, cans, bottles, and food scraps shall be disposed of in solid, closed containers (trash cans) and removed at the end of each workday from the project site to eliminate an attraction to predators of special-status species.</p> <p><b>BIO-1h Public Access Exclusion Fencing.</b> Access by all project construction personnel into the Eden Landing Ecological Reserve shall be prohibited. Upon completion of the development project a permanent fence shall be installed on the eastern component of the project site to prevent access from the San Francisco Bay Trail relocated segment and the new industrial development into the</p>	

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Impact	Mitigation Measure (s)	Residual Impact
	adjacent salt ponds and associated marsh habitats to the west. In addition, signs shall be posted stating that public access into the salt ponds and associated marsh habitat is strictly prohibited owing to the sensitivity of the habitat and to ensure the continued use of this habitat by special-status species.	
<p><b>Impact BIO-2.</b> The proposed project would require impacts to seasonal wetlands and salt marsh on the eastern component of the project site, which are considered sensitive natural communities. Impacts would be less than significant with mitigation.</p>	<p>Implementation of Mitigation Measure BIO-1h, as described above under Impact BIO-1.</p> <p>Implementation of Mitigation Measure BIO-3, as described below under Impact BIO-3.</p>	<p>Less than significant.</p>
<p><b>Impact BIO-3.</b> The proposed project would require the permanent fill of approximately 0.28 acre of seasonal wetlands and 0.69 acre of salt marsh and associated unvegetated waters in remnant salt ponds on the eastern component of the project site. Impacts would be less than significant with mitigation.</p>	<p><b>BIO-3 Protected Wetlands Mitigation Credits.</b> To compensate for impacts to approximately 0.97 acre of waters of the U.S., the project applicant shall purchase wetland mitigation credits at a minimum of 1:1 mitigation ratio from an approved mitigation bank with a Service Area that covers the project site. The San Francisco Bay Wetland Mitigation Bank currently has "Tidal Wetland and Other Waters Creation" credits available for purchase. Either the U.S. Army Corps of Engineers or the CDFW may adjust the mitigation ratio and the applicant shall comply, but in no case shall the mitigation ratio be less than 1:1.</p>	<p>Less than significant.</p>
<p><b>Cultural Resources</b></p>		
<p><b>Impact CUL-1.</b> Demolition of the Oliver Brothers Salt Company processing plant and filling of portions of the associated salt evaporation ponds on the eastern component of the project site would adversely impact features that contribute to the significance of a historical resource. Impacts would be significant and unavoidable.</p>	<p><b>CUL-1a Building Recordation.</b> Archival documentation of as-built and as-found condition shall be prepared for the Oliver Brothers Salt Company prior to demolition. Prior to issuance of demolition permits, the City of Hayward shall ensure that documentation of the buildings and structures proposed for demolition is completed that follows the general guidelines of Historic American Building Survey (HABS)-level III documentation. The documentation shall include high resolution digital photographic recordation, a historic narrative report, and compilation of historic research. The documentation shall be completed by a qualified professional who meets the standards for history, architectural history, or architecture as set forth by the Secretary of the Interior’s Professional Qualification Standards (36 CFR, Part 61). The original archival-quality documentation shall be offered as donated material to the Hayward Library and/or Hayward Area Historical Society to make it available for current and future generations. Archival copies of the documentation shall be submitted to the City of Hayward where it shall be available to local researchers.</p> <p><b>CUL-1b Interpretive Display.</b> An interpretive display shall be developed and installed on site to commemorate the history of the Oliver Brothers Salt Company. The display may include historic photographs, drawings, and text to convey the history of the site and the significance of salt processing in Alameda County. The display shall be reviewed and approved by the City prior to installation at</p>	<p>Significant and unavoidable.</p>

Impact	Mitigation Measure (s)	Residual Impact
	a site to be chosen by the City. The installation shall occur prior to issuance of a Certificate of Occupancy.	
<p><b>Impact CUL-2.</b> Construction of the proposed project would involve ground-disturbing activities that have the potential to unearth or adversely impact previously unidentified archaeological resources within the eastern component of the project site. Impacts would be less than significant with mitigation incorporated.</p>	<p><b>CUL-2 Unanticipated Discovery of Archaeological Resources.</b> In the event that archaeological resources are unexpectedly encountered during ground-disturbing activities, work in the immediate area shall be halted and an archaeologist meeting the Secretary of the Interior’s Professional Qualifications Standards for archeology (National Park Service 1983) shall be contacted immediately to evaluate the find. If the find is prehistoric, then a Native American representative should also be contacted to participate in the evaluation of the find. If necessary, as determined by the archaeologist in consultation with the City, the evaluation may require preparation of a treatment plan and archaeological testing for California Register of Historical Resources (CRHR) eligibility. If the discovery proves to be eligible for the CRHR and cannot be avoided by the modified project, additional work, such as data recovery excavation, may be warranted to mitigate impacts to archaeological resources.</p>	<p>Less than significant.</p>
<p><b>Impact CR-3.</b> The discovery of human remains is always a possibility during ground-disturbing activities. Ground disturbance required for construction of the proposed project could disturb or damage known or unknown human remains within the eastern component of the project site. This impact would be less than significant due to mandatory adherence to existing regulations.</p>	<p>No mitigation measures are indicated.</p>	<p>Less than significant.</p>
<p><b>Geology and Soils</b></p>		
<p><b>Geology and Soils: Unstable Soils and Geology.</b> The project site is within a liquefaction zone that could result in foundation damage to the proposed industrial building during a seismic-related ground failure. Additionally, graded slopes could be susceptible to collapse during seismic events if improperly constructed or compacted. Soils on site could become unstable from the overlying weight of the proposed industrial building and surface parking lot. Collapse or failure of soils could result in substantial risk of loss, injury, or death. This impact would be potentially significant but mitigable.</p>	<p><b>GEO-1 Geotechnical Considerations.</b> The project applicant shall implement all measures and recommendations set forth in the Geotechnical Engineering Services Report prepared by Professional Services Industries, Inc., an Intertek company, in January 2018 (included as Appendix D and on file with the City of Hayward). This measure shall be implemented for development on the eastern component of the project site. Recommendations include but are not limited to the following topic areas:</p> <ul style="list-style-type: none"> <li>▪ Engineered fill material required at this site shall not contain rocks greater than 3-inches in diameter or greater than 30 percent retained on the ¾-inch sieve, and shall not contain more than 3 percent (by weight) of organic matter or other unsuitable material. The expansion index for the material shall not exceed 50.</li> <li>▪ Engineered fill shall be compacted to at least 90 percent of the maximum dry density as determined by the modified Proctor (ASTM D1557). The moisture content of engineered fill shall be maintained at approximately 2 percent</li> </ul>	<p>Less than significant.</p>

Impact	Mitigation Measure (s)	Residual Impact
	<p>above or below the material’s optimum moisture content as determined by the same index during compaction.</p> <ul style="list-style-type: none"> <li>▪ Engineered fill shall be placed in maximum lifts of 8-inches of loose material. Each lift of engineered fill shall be tested by a PSI soils technician, working under the direction of a licensed geotechnical engineer, prior to placement of subsequent lifts.</li> <li>▪ Properly compacted engineered fill shall extend horizontally outward beyond the exterior perimeter of the foundations a distance equal to the height of fill or 5 feet, whichever is greater, prior to substantial sloping.</li> <li>▪ Permanent cut or fill slopes shall not exceed 2 Horizontal to 1 Vertical (2H:1V). Excavations extending below a 1H:1V plane extending down from any adjacent footings shall be shored for safety.</li> <li>▪ Utilities trenches within the building, pavement, and sidewalk areas shall be backfilled with granular engineered fill such as sand, sand and gravel, fragmental rock, or recycled concrete of up to 2 inches maximum size with less than 5 percent passing the No. 200 sieve (washed analysis). Granular backfill shall be placed in lifts and compacted to 95 percent of the maximum dry density as determined by ASTM D 1557. Compaction by jetting or flooding shall not be permitted.</li> <li>▪ To ensure precipitation is conveyed away from structural foundation, continuous roof gutters shall be installed on the proposed industrial building. The roof drains shall be connected to a tight-line pipe leading to storm drain facilities. Pavement surfaces and open space areas shall be sloped such that surface water runoff is collected and routed to suitable discharge points. Ground surfaces adjacent the building shall be sloped to facilitate positive drainage away from the building. Landscaped or planted areas shall not be placed within 10 feet of the footings of the proposed building.</li> </ul>	

**Hazards and Hazardous Materials**

<p><b>Impact HAZ-1.</b> The project has the potential to 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 due to potential hazardous materials that may be present in the existing on-site</p>	<p><b>HAZ-1 Project Demolition Activities.</b> In conformance with State and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be conducted prior to the demolition of on-site building(s) to determine the presence of asbestos-containing materials (ACMs) and/or lead-based paint (LBP). Documentation of the survey shall be provided to the City prior to commencement of demolition activities.</p> <p>During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Title 8, California Code</p>	<p>Less than significant.</p>
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Impact	Mitigation Measure (s)	Residual Impact
<p>structures. This impact would be potentially significant but mitigable.</p>	<p>of Regulations (CCR), Section 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of lead being disposed.</p> <p>All potentially friable asbestos containing materials (ACMs) shall be removed in accordance with National Emission Standards for Air Pollution (NESHAP) guidelines prior to demolition or renovation activities that may disturb ACMs. All demolition activities shall be undertaken in accordance with Cal/OSHA standards contained in Title 8, CCR, Section 1529, to protect workers from asbestos exposure.</p> <p>A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above in this mitigation measure. Materials containing more than one-percent asbestos are also subject to Bay Area Air Quality Management District (BAAQMD) regulations. Removal of materials containing more than one-percent asbestos shall be completed in accordance with BAAQMD requirements and notifications.</p> <p>Based on Cal/OSHA rules and regulations, the following conditions shall be implemented to limit impacts to construction workers:</p> <ul style="list-style-type: none"> <li>▪ Prior to commencement of demolition activities, a building survey, including sampling and testing, shall be completed to identify and quantify building materials containing lead-based paint.</li> <li>▪ During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, CCR, Section 1532.1, including employee training, employee air monitoring and dust control.</li> <li>▪ Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of waste being disposed.</li> </ul>	
<p><b>Impact HAZ-2.</b> The project would involve development on a site that is included on a list of hazardous material sites compiled pursuant to Government Code Section 65962.5, and due to the potential to encounter residual soil and groundwater contamination on the eastern component of the project site, impacts would be potentially significant but mitigable.</p>	<p><b>HAZ-2a Implementation of the RMP.</b> The project shall implement the appropriate handling procedures and worker health and safety measures during excavating or dewatering activities, as well as the use of an engineered vapor barrier as described in the site-specific RMP developed for the project in 2014. The RMP is an appendix to the Phase I ESA. The Phase I ESA is included as Appendix E to the Initial Study, which is provided as Appendix A to this EIR. Measures included in the RMP to control potential hazardous contamination and exposure include, but are not limited to the following:</p> <ul style="list-style-type: none"> <li>▪ Construction contractors shall implement dust control mitigation measures during construction activities at the project site to minimize the</li> </ul>	<p>Less than significant.</p>

Impact	Mitigation Measure (s)	Residual Impact
	<p>generation of dust. Examples of dust control measures that shall be implemented include limiting construction vehicles speeds to 5 miles per hour when on-site; routinely applying water to exposed soils while performing excavation activities; and, covering soil stockpiles with plastic sheets at the end of each workday. Additional dust control measures shall be implemented by the selected contractor, as necessary, especially if windy conditions persist during site grading and excavation. These measures may include moisture, conditioning the soil, using dust suppressants, or covering the exposed soil and stockpiles with weighted plastic sheeting to prevent exposure of the soil.</p> <ul style="list-style-type: none"> <li>▪ To prevent or minimize construction equipment from tracking polluted spoils off the site onto roadways, construction equipment that contacts soils deeper than 5-feet below ground surface shall be decontaminated prior to leaving the site. Decontamination methods shall include brushing and/or vacuuming to remove loose dirt on vehicle exteriors and wheels. In the event that these dry decontamination methods are inadequate, methods such as steam cleaning, high pressure washing, and cleaning solutions shall be used, as necessary, to thoroughly remove accumulated dirt and other materials. Decontamination activities shall be performed in an on-site decontamination facility established by the contractor.</li> <li>▪ All project construction workers performing construction activities at depths below 5-feet below ground surface in the restricted areas shall adhere to decontamination procedures when exiting the area. Decontamination measures shall include: (a) vacuuming the surface of coveralls, head covers, and footwear to remove accumulated soil particles and changing into other clean clothes if practical; (b) vacuuming or washing small tools, hand tools, or personal equipment to remove accumulated soil particles; and, (c) placing work clothes and personal equipment in sealed plastic bags or other suitable containers for transportation or on-site storage.</li> <li>▪ In the event that disturbed soil appears to contain contaminants of potential concern (COPCs), such as odors, staining, and/or discoloration, work should halt in that area and an environmental professional (EP), such as a geologist, engineer, industrial hygienist, or environmental health specialist with expertise in these matters, shall be called to the site to oversee the work and determine safe construction and soil handling procedures.</li> </ul>	

Impact	Mitigation Measure (s)	Residual Impact
	<ul style="list-style-type: none"> <li>▪ The EP shall be present on-site during excavations greater than 5-feet below ground surface in the restricted areas to observe field conditions and measure hydrocarbon vapors using a hand held photoionization detector (PID). If PID readings are measured in a specific area showing concentrations in excess of construction worker screening levels published by the Regional Water Quality Control Board (RWQCB), construction activities in that area shall halt until appropriate risk mitigation measures are implemented. If necessary, HAZWOPER trained personnel shall be called to the site to complete the construction activities in that area.</li> <li>▪ Soil excavated from deeper than 5-feet below ground surface in the restricted area shall only be reused on-site as backfill after sampling and analysis soil proves the soil is acceptable to remain on site. Commercial ESLs shall be used as the threshold to determine if soils may remain on site or require off-site disposal. All appropriate regulatory sampling methods, holding times, and detection limits shall be followed.</li> <li>▪ A health and safety plan shall be developed and implemented for project construction that incorporates measures and procedures to minimize direct contact by construction workers with site groundwater, particularly in the restricted areas. The health and safety plan shall be approved by either the City or the RWQCB, or both as applicable, prior to excavation activities.</li> <li>▪ If groundwater is encountered within the former remediation area during construction of the project, as shown on Figure 4 of the RMP, an EP shall be called to the site to determine safe handling procedures. The groundwater shall be pumped into appropriate containers and samples shall be obtained for chemical analysis of the COPCs in accordance with a site sampling plan and the requirements of the waste disposal facility to which the material is sent. If water sample analytical results indicate the water is free of all detectable concentrations of COPCs, such water can be re-used at the site if deemed appropriate by Alameda County and the RWQCB. If water sample analytical results indicate the water contains concentrations of COPCs above appropriate RWQCB screening levels, such water shall not be re-used at the site. The contractor and the EP shall elect to: (a) treat the groundwater on-site to render it free of detectable concentrations of COPCs (e.g. by activated carbon filtration); or, (b) transport the</li> </ul>	

Impact	Mitigation Measure (s)	Residual Impact
	<p>groundwater to a local treatment or disposal facility for appropriate handling.</p> <ul style="list-style-type: none"> <li>▪ The proposed industrial building shall be constructed on top of a minimum of a 5-foot bioattenuation zone within the restricted areas. This bioattenuation zone shall consist of a minimum of 5-feet of soil above the anticipated shallowest groundwater elevation, and the soil shall not contain total petroleum hydrocarbons greater than 100 parts per million.</li> <li>▪ An engineered vapor barrier shall be employed to further protect against possible vapor intrusion of COPCs into the proposed industrial building. The vapor barrier shall be designed to meet the needs of building. Vapor barriers are generally constructed using membranes constructed with high-density polyethylene (HDPE) or other polyolefin-based resins. The vapor barrier shall be resistant to VOCs. The vapor barrier shall meet the American Society for Testing and Materials (ASTM) guideline for a vapor barrier and have a permeance rating of 0.1 perms or less. The thickness and strength of the vapor barrier shall be based on the needs for the building, but the architect and contractor shall use a material strong enough to easily withstand the building construction and other building considerations. The selected vapor barrier shall be approved by the RWQCB prior to installation.</li> </ul> <p><b>HAZ-2b Bioretention Design Coordination.</b> The project applicant shall consult with the City on location and/or design of the on-site bioretention basins to ensure protection of the groundwater basin, which may include, but is not limited to, locating the basins outside of the restricted areas or use of a liner in the detention basin. The final design and location of the on-site bioretention basins shall demonstrate that groundwater would be protected from contamination.</p> <p><b>HAZ-2c Displacement Pier Design and Construction.</b> The project applicant shall retain a geotechnical engineer to design the displacement piers for support of the building foundation. The displacement piers shall be designed in a way to prevent creating a preferential pathway between shallow groundwater at approximately 5 feet below ground surface and deeper groundwater. The displacement pier design developed by the geotechnical engineer shall be incorporated into project plans prior to commencement of construction. This mitigation measure shall apply to all displacement piers within the restricted areas or the larger area where benzene concentrations exceed ESLs, as shown in Figure 4.3-2 of the EIR. Additionally, air-jetting shall not be used to create the holes for the displacement piers within the restricted areas to avoid bringing subsurface soils to the ground surface.</p>	

Impact	Mitigation Measure (s)	Residual Impact
<b>Transportation and Traffic</b>		
<p><b>Impact TR-1.</b> The proposed project would generate 18.23 VMT per employee, which exceeds the VMT threshold of the existing regional average of 18.15 by 0.5 percent. Impacts would be potentially significant, but mitigable.</p>	<p><b>TR-1 Travel Demand Management.</b> The project applicant shall implement at least one of the measures described below:</p> <p><b>Voluntary Employer Commute Program:</b> The project applicant shall encourage alternative modes of transportation through a program that may include elements such as: a carpool or vanpool program, subsidized or discounted transit passes, bike amenities, commute trip-reduction marketing, and preferential parking permit program.</p> <p><b>Employer Carpool Program:</b> The project applicant shall encourage carpooling by providing ride matching assistance to employees, providing priority parking for carshare vehicles, and providing incentives for carpooling.</p> <p>The applicant shall provide to the City documentation that at least one of the above measures is implemented. Documentation shall be provided annually.</p>	<p>Less than significant.</p>
<b>Tribal Cultural Resources</b>		
<p><b>Tribal Cultural Resources: Damage or Destruction of Resources.</b> While no tribal cultural resources are known to occur on the project site, given its proximity to the shoreline of the San Francisco Bay, there could be unknown resources, particularly subsurface resources. Construction of the proposed project would require excavation and grading, which could damage or destroy tribal cultural resources, if present. Impacts would be potentially significant but mitigable.</p>	<p><b>TCR-1 Unanticipated Discovery of Tribal Cultural Resources.</b> In the event that cultural resources of Native American origin are identified during construction, all earth disturbing work within the vicinity of the find must be temporarily suspended or redirected until an archaeologist has evaluated the nature and significance of the find and an appropriate Native American representative, based on the nature of the find, is consulted. If the City determines that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with state guidelines and in consultation with Native American groups. The plan shall include avoidance of the resource or, if avoidance of the resource is infeasible, the plan shall outline the appropriate treatment of the resource in coordination with the archeologist and the appropriate Native American tribal representative.</p>	<p>Less than significant.</p>

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# 1 Introduction

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This document is a Draft Environmental Impact Report (EIR) for the proposed 4150 Point Eden Way Industrial Development Project (hereafter referred to as the “proposed project” or “project”) located at 4150 Point Eden Way, Hayward, California.

This section discusses (1) the project and EIR background; (2) the legal basis for preparing an EIR; (3) the scope and content of the EIR; (4) issue areas found not to be significant by the Initial Study; (5) the lead, responsible, and trustee agencies; and (6) the environmental review process required under the California Environmental Quality Act (CEQA). The proposed project is described in detail in Section 2.0, *Project Description*. The aforementioned Initial Study is included as Appendix A to this EIR.

## 1.1 Environmental Impact Report Background

The City of Hayward distributed a Notice of Preparation (NOP) of the EIR and the Initial Study for a 30-day agency and public review period starting on November 10, 2020 and ending on December 10, 2020. In addition, the City held a public EIR Scoping Meeting on November 19, 2020. The meeting, held from 4:00 PM to 5:30 PM, was aimed at providing information about the proposed project to members of public agencies, interested stakeholders and residents/community members. The meeting was held virtually through a web-based video conference. The City received letters from three agencies in response to the NOP during the public review period, as well as various verbal comments during the EIR Scoping Meeting. The NOP is provided as Appendix A of this EIR, along with the Initial Study that was prepared for the project and the NOP responses received. Table 1-1 on the following page summarizes the content of the letters and verbal comments and where the issues raised are addressed in the EIR.

## 1.2 Purpose and Legal Authority

The proposed project requires the discretionary approval of the City of Hayward; therefore, the project is subject to the environmental review requirements of CEQA. In accordance with Section 15121 of the *CEQA Guidelines* (California Code of Regulations, Title 14), the purpose of this EIR is to serve as an informational document that:

“...will inform public agency decision makers and the public generally of the significant environmental effects of a project, identify possible ways to minimize the significant effects, and describe reasonable alternatives to the project.”

This EIR has been prepared as a project EIR pursuant to Section 15161 of the *CEQA Guidelines*. A Project EIR is appropriate for a specific development project. As stated in the *CEQA Guidelines*:

“This type of EIR should focus primarily on the changes in the environment that would result from the development project. The EIR shall examine all phases of the project, including planning, construction, and operation.”

This EIR is intended to serve as an informational document for the public and City of Hayward decision makers. The process will include public hearings before the City to consider certification of a Final EIR and approval of the proposed project.

**Table 1-1 NOP Comments and EIR Response**

Commenter	Comment/Request	How and Where It Was Addressed
<b>Agency Comments</b>		
Alameda County Water District (ACWD)	Offers additional information regarding ACWD for incorporation into the DEIR.	Comment is addressed in Section 4.3, <i>Hazards and Hazardous Materials</i> .
	Requests that the EIR analyze the potential for groundwater quality impacts as a result of hazardous materials involvement on-site.	Groundwater quality is discussed in the Initial Study, included as Appendix A to this EIR. Groundwater quality as it related to hazardous materials contamination is addressed in Section 4.3, <i>Hazards and Hazardous Materials</i> .
	Requests records be uploaded to the State Water Resources Control Board GeoTracker database.	This comment does not pertain to the EIR, and therefore is not discussed further. However, this comment is noted.
	Requests that the EIR address concerns regarding the proposed bioretention areas to ensure leaching and plume migration do not occur, and that the project proponents coordinate with the Regional Water Quality Control Board (RWQCB) and ACWD on this issue prior to construction and City approval.	Comment is addressed in Section 4.3, <i>Hazards and Hazardous Materials</i> .
	Requests that the EIR evaluate potential groundwater impacts due to installation of displacement piers (and any resulting vapor intrusion impacts) and the potential for hydraulic interaction of the shallow water-bearing zone, piers, and future seal level rise, and that project proponents coordinate with the Regional Water Quality Control Board (RWQCB) and ACWD regarding the design and construction of the piers.	Comment is addressed in Section 4.3, <i>Hazards and Hazardous Materials</i> .
Citizens Committee to Complete the Refuge (CCCR)	Suggests that the project location should be evaluated for sea level rise resilience (and 100 year storm events with 2 feet of freeboard) consistent with the most current guidance from the State, and that the EIR should provide existing ground level elevations for the site in NAVD 88.	This comment does not pertain to a specific CEQA impact or threshold. Therefore, it is not addressed further in this EIR. However, potential for inundation of the project site from sea level rise is discussed in the hydrology and water quality section of the Initial Study (see Appendix A).
	States that the EIR should evaluate the effect of raising the ground level elevation to determine if impacts would arise due to displacement of flood flows, and hydraulic analyses, if available, should be incorporated into the EIR.	Potential flooding impacts are addressed in the hydrology and water quality section of the Initial Study (see Appendix A).
	States that the EIR must consider whether the project site is habitat for the salt marsh harvest mouse (SMHM) under flood conditions.	Impacts to special-status species, including salt marsh harvest mouse, are discussed in Section 4.1, <i>Biological Resources</i> .

Commenter	Comment/Request	How and Where It Was Addressed
	Recommends the EIR disclose biological impacts due to light pollution.	Potential impacts to biological resources, including lighting impacts, are discussed in Section 4.1, <i>Biological Resources</i> .
	Asks for clarification regarding who will manage the 32 acres set aside for restoration, and if there are toxic materials known to be on the site, as well as who will manage the land if CDFW will not.	The project applicant would retain ownership of the 32-acre preserve area, referred to in this EIR as the western component of the project site. No restoration activities or maintenance activities are proposed in the western component of the project site.
	Asks what the 11 special status plant species mentioned in the Initial Study are and if June and January are the times when the species would be present and identifiable.	The 11 special-status plant species mentioned in the Initial Study are described in the Biological Resources Technical Report, which is included as Appendix A to the Initial Study. The Initial Study is Appendix A to this EIR. Briefly, the 11 species include: alkali milkvetch; Congdon's tarplant; Salt-marsh birds-beak; Diabolo helianthella; Santa Cruz tarplant; Contra Costa goldfields; pincushion navarretia; hairless popcornflower; chaparral ragwort; most beautiful jewelflower; and, California seablite.
	States that the EIR should identify, analyze, and propose mitigation for the adverse impacts of long-term predator/nuisance species that may be attracted to the project site, and, if SMHM is adjacent to the site, how nuisance species would be controlled without impacts to the SMHM.	Impacts to special-status species, including salt marsh harvest mouse, are discussed in Section 4.1, <i>Biological Resources</i> .
	Asks if the Caltrans pond identified in the Initial Study has mitigation attached to it as part of a permit mitigation requirement and, if so, what the requirements are, and if the proposed trail relocation would impact the mitigation requirements.	The Caltrans pond is located between the eastern and western components of the project site and is not part of the proposed project. No activities are proposed within the parcel containing the Caltrans pond. Therefore, permit conditions and mitigation measures attached to the Caltrans pond, if any, are not discussed in this EIR.
	Asks for clarification on fencing mentioned in Mitigation Measure BIO-8 and provides input and opinion on the conflict between recreation and conservation.	Mitigation Measure BIO-8 has been renumbered as Mitigation Measure BIO-1h in this EIR, and can be found in Section 4.1, <i>Biological Resources</i> . As described in Mitigation Measure BIO-1h, the fence is specifically intended to prevent people using the San Francisco Bay Trail from leaving the trail and accessing sensitive marsh habitat to the west. Property to the west of the trail is private property and not available for recreation.
East Bay Regional Park District (EBRPD)	Provides a reminder that the proposed land swap is subject to approval by the EBRPD Board of Directors and that proposed improvements must comply with regulations set by the San Francisco Bay Conservation and Development Commission (BCDC), as well as be resilient to the sea level rise projections in the	Approvals required for the proposed project, including EBRPD approval, are described in Section 2, <i>Project Description</i> . Potential for inundation of the project site from sea level rise is discussed in the hydrology and water quality section of the Initial Study (see Appendix A).

Commenter	Comment/Request	How and Where It Was Addressed
	<p>Hayward Area Shoreline Planning Agency                      Shoreline Adaptation Master Plan.</p> <p>Expresses an opinion that the Initial Study lacks details relating to the management and funding sources of the preserve, and requests information on these topics.</p>	<p>The project applicant would retain ownership of the 32-acre preserve area, referred to in this EIR as the western component of the project site. No restoration activities, maintenance activities, or management activities are proposed in the western component of the project site. A description of the proposed preserve area is provided in Section 2, <i>Project Description</i>.</p>
<p>Native American                      Heritage Commission</p>	<p>Assembly Bill (AB) 52 consultation, and if applicable Senate Bill 18 consultation, with California Native American tribes that are traditionally or culturally affiliated with the geographic area of the proposed project should be conducted as early as possible.</p> <hr/> <p>Provides a summary of AB 52 and Senate Bill 18 requirements and protocol in context with CEQA.</p> <hr/> <p>Provides examples and recommendations for mitigation measures to avoid or minimize significant adverse impacts to tribal cultural resources.</p>	<p>Senate Bill 18 requires either cities or counties to notify the appropriate California Native American tribe(s) prior to the adoption of a general plan or specific plan or an amendment to these plans. The proposed project does not include adoption of a general plan or specific plan nor an amendment to these plans. Therefore, consultation pursuant to Senate Bill 18 is not required for the proposed project.</p> <p>As described in Section 12 on page 14 of the Initial Study (see Appendix A), the City of Hayward sent a notification letter to the Lone Band of Miwok Indians of the project and invited them to participate in consultation pursuant to AB 52. The City of Hayward prepared and mailed letters on November 9, 2020.</p> <hr/> <p>This comment does not pertain to a specific CEQA impact or threshold. However, the City has notified the applicable California Native American tribe of the project pursuant to AB 52.</p> <hr/> <p>Impacts to tribal cultural resources are analyzed in Section 18, Tribal Cultural Resources, of the Initial Study. Mitigation measures to reduce impacts to tribal cultural resources to less than significant are indicated. See Appendix A to this EIR for the Initial Study.</p>

### 1.3 Scope and Content

This EIR addresses impacts identified in the Initial Study to be potentially significant. Potentially significant impacts were identified in the following issue areas and are therefore studied in the EIR:

- Biological Resources
- Cultural Resources
- Hazards and Hazardous Materials
- Transportation

In preparing the EIR, use was made of pertinent City policies and guidelines, certified EIRs and adopted CEQA documents, and other background documents. A full reference list is contained in Section 7.0, *References*.

The alternatives section of the EIR (Section 6.0) was prepared in accordance with Section 15126.6 of the *CEQA Guidelines* and focuses on alternatives that are capable of eliminating or reducing significant adverse effects associated with the project while feasibly attaining most of the basic project objectives. In addition, the alternatives section identifies the “environmentally superior” alternative among the alternatives assessed. The alternatives evaluated include the CEQA-required “No Project” alternative and an alternate project site alternative.

The level of detail contained throughout this EIR is consistent with the requirements of CEQA and applicable court decisions. Section 15151 of the *CEQA Guidelines* provides the standard of adequacy on which this document is based. The *Guidelines* state:

“An EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of the proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The courts have looked not for perfection, but for adequacy, completeness, and a good faith effort at full disclosure.”

## 1.4 Issues Not Studied in Detail in the EIR

Table 1-2 summarizes issues from the environmental checklist that were addressed in the Initial Study (Appendix A). As indicated in the Initial Study, there is no substantial evidence that significant impacts would occur in any of these issue areas.

**Table 1-2 Issues Not Studied in the EIR**

Issue Area	Initial Study Findings
Aesthetics	<p>Because the project would be adjacent to similar development, would involve preservation of approximately 32 acres of land near the shoreline, and would include landscaping with native species, impacts on scenic vistas would be less than significant.</p> <p>Because the project site is not within a state scenic highway, the proposed project would have no impacts to state scenic highways.</p> <p>Because the proposed project would be consistent with applicable zoning regulations governing scenic quality, including building design, height and massing, as well as landscaping and trail design, impacts would be less than significant.</p> <p>Section 10-1.1607 prohibits uses that generate substantial, direct glare visible beyond the boundaries of the site where the use is located. Mandatory compliance with Section 10-1.1607 of the Hayward Municipal Code would prevent the proposed project from creating substantial glare from affecting views. Additionally, the proposed project would utilize window glazing to minimize the glare from glass surfaces on the façade of the industrial building. For these reasons, impacts would be less than significant.</p>
Agricultural and Forestry Resources	<p>The project site does not contain agricultural or forestry uses. There would be no impacts on agricultural or forestry resources.</p>
Air Quality	<p>The project would not result in exceedances of BAAQMD thresholds for criteria air pollutants and thus would not conflict with the 2017 Clean Air Plan’s goal to attain air quality standards. Furthermore, as shown in Table 4, the proposed project would include applicable control measures from the 2017 Clean Air Plan and would not disrupt or hinder implementation of such control measures. Therefore, the proposed project would result in a less than significant impact related to consistency with the 2017 Plan.</p> <p>Construction emissions would not exceed BAAQMD thresholds, and the project would be below BAAQMD screening thresholds for operational emissions. Therefore, project operation</p>

Issue Area	Initial Study Findings
	<p>would not result in a cumulatively considerable net increase of any criteria pollutant for which the project region is in non-attainment under an applicable federal or state ambient air quality standard. Impacts would be less than significant.</p> <p>The nearest sensitive receptors to the project site are schools and residences. The nearest school to the project site is California Crosspoint Academy, which is approximately 1.1 miles northeast of the site. The nearest public school to the project site is located approximately 1.5 miles northeast of the site. The nearest residences to the project site are approximately 1.2 miles to the east. Given the distance of the sensitive receptors from the project site, the proposed project would not expose sensitive receptors to substantial pollutant concentrations. Impacts would be less than significant.</p>
	<p>The proposed project would require the use of diesel equipment during construction. Additionally, some vehicles used for warehouse operations at the proposed industrial building would also operate with diesel fuel. Diesel exhaust is odorous. However, a substantial number of people, especially those sensitive to odors, do not occur in proximity to the project site. People using the San Francisco Bay Trail, around the perimeter of the project site, would be briefly exposed to odors of diesel exhaust from project equipment. However, given that warehousing would require minimal truck trips, and project construction would be temporary, impacts would be less than significant.</p>
Energy	<p>Project operation would increase energy use on the site compared to existing conditions. However, energy use would be in conformance with the latest version of CALGreen and the Building Energy Efficiency Standards. Additionally, the electricity and natural gas use would not result in a significant increase for PG&amp;E. Moreover, the project would not result in wasteful use of vehicle fuel. The proposed preserve on the western component of the project site would not require energy. Therefore, the project would not result in wasteful or unnecessary energy consumption, and impacts would be less than significant.</p> <p>The proposed project would be consistent with policies from the City's Climate Action Plan. Those policies specifically pertaining to energy efficiency include NR-4.1 through NR-4.11 and NR-4.13 through NR-4.15 relating to energy performance in new construction and energy efficient design in new development. Therefore, the proposed project would not interfere with the energy-related measures of the Climate Action Plan. The proposed project would not conflict with or obstruct the state or local plan for renewable energy or energy efficiency. Impacts would be less than significant.</p>
Geology and Soils	<p>The nearest earthquake fault zone to the project site is the Hayward Fault zone. The Hayward Fault zone is approximately 3.8 miles to the east of the project site. Given the distance between the project site and nearest known earthquake fault, the proposed project would cause no impacts related to fault ruptures. The City would ensure that the project would be designed and constructed consistent with the current California Building Code (CBC), thereby ensuring that appropriate investigations and design measures have been employed to effectively minimize or avoid potential hazards associated with redevelopment and/or new building construction. Proper engineering, including compliance with the CBC, would minimize the risk to life and property associated with potential seismic activity in the area.</p> <p>The project site is within a liquefaction zone that could result in foundation damage to the proposed industrial building during a seismic-related ground failure. Additionally, graded slopes could be susceptible to collapse during seismic events if improperly constructed or compacted. Soils on site could become unstable from the overlying weight of the proposed industrial building and surface parking lot. Collapse or failure of soils could result in substantial risk of loss, injury, or death. Mitigation Measure GEO-1 is required to reduce impacts, and with implementation of this mitigation measure, impacts would be less than significant. Mitigation measures from the Initial Study are listed in the Executive Summary of this EIR and will be included in the Mitigation Monitoring and Reporting Program.</p> <p>Landslide potential on the project site very low because there are no substantial slopes on or nearby. Project grading would create slopes only several feet high, and slopes would be no steeper than 1 foot of vertical per 2 feet of horizontal, consistent with the Hayward Municipal</p>

Issue Area	Initial Study Findings
	<p>Code. Therefore, there would be no potential for substantial adverse effects from landslides. Impacts would be less than significant.</p> <hr/> <p>Construction of the proposed project would disturb the ground surface and loosen soils, which would increase the potential for erosion. As the proposed project would disturb over one acre of land, the applicant would be required to obtain coverage under the General Permit for Discharges of Storm Water Associated with Construction Activity (Construction General Permit Order 2009-0009-DWQ) to comply with CWA NPDES requirements. Compliance with these requirements would include preparation of a Stormwater Pollution Prevention Plan (SWPPP), which would specify best management practices to prevent or reduce erosion. Following construction, the eastern component of the project site would either be landscaped or covered with impervious surfaces, such as the industrial building and asphalt parking. The wetland preserve on the western component of the project site would involve no ground disturbance. Accordingly, there would be no potential for substantial erosion or loss of topsoil. Impacts would be less than significant.</p> <hr/> <p>Soils on the project site have low expansion potential. Therefore, the project would not be located on an expansive soil. There would be no substantial direct or indirect risks to life or property as a result of expansive soils. Impacts would be less than significant.</p>
	<p>The proposed project would include connections to the City's existing wastewater treatment system. Septic tanks or alternative wastewater disposal systems would not be used. Therefore, there would be no impact in this regard.</p>
	<p>The project site is underlain by middle-aged Holocene geologic units. Late-to middle-aged Holocene geologic deposits have low potential to yield unique paleontological resources. Therefore, excavation and grading required for project construction would have low potential to destroy unique paleontological resources. Impacts would be less than significant.</p>
Greenhouse Gas Emissions	<p>The project would generate approximately 447.6MT of CO<sub>2</sub>e per year, which would not exceed the bright-line threshold of 660 MT of CO<sub>2</sub>e per year. Therefore, the proposed project would have a less than significant impact related to greenhouse gas (GHG) emissions. Overall, the proposed project would be consistent with Plan Bay Area 2040. Impacts related to GHG emissions would be less than significant.</p>
Hydrology and Water Quality	<p>Compliance with construction-related water quality and erosion control requirements, construction of the proposed project would not violate water quality standards. Impacts resulting from project construction would be less than significant.</p> <hr/> <p>Given required compliance to the provisions of NPDES Section C.3, the SWPPP, and the stormwater control plan, the proposed project would not result in adverse effects on water quality and or in the violation of water quality standards or waste discharge requirements during construction or operation. Therefore, the proposed project would have a less than significant impact on water quality. With implementation of the measures contained in these plans, excessive stormwater runoff, substantial erosion or siltation on- or off-site would not occur and the potential for the project to violate water quality standards and substantially degrade water quality would be reduced.</p> <hr/> <p>Compliance with conditions or permit requirements established by the City as well as water discharge requirements outlined by the RWQCB would ensure that wastewater discharges coming from the project site and treated by the Hayward Water Pollution Control (WPCF) system would not exceed applicable RWQCB wastewater treatment requirements. Mandatory compliance with the permit requirements would prevent stormwater runoff and effluent discharges from violating water quality standards or substantially degrading water quality. Thus, the proposed project would not conflict with or obstruct implementation of a water quality control plan. The proposed on-site bioretention areas would allow for precipitation and runoff from impervious project surfaces to infiltrate the ground surface. Therefore, although the proposed project would increase the amount of impervious area on the project site, runoff from the impervious areas would still contribute to groundwater recharge. Additionally, the proposed project does not include use of groundwater supplies. Although there is no adopted sustainable groundwater management plan for the groundwater basin underlying the project</p>

Issue Area	Initial Study Findings
	<p>site, because the proposed project would allow for infiltration and not use groundwater, it would not conflict with such a plan. Impacts would be less than significant.</p> <p>The proposed project would not alter the course of a stream or river. Jurisdictional wetlands occur on-site, but there are no streams or rivers (i.e., flowing waterways) on the project site. The addition of the proposed industrial building and associated surface parking and driveway area would increase the amount of impervious surface area on-site. However, the proposed project would include on-site bioretention areas to capture and treat runoff prior to discharge into the existing storm-drain system. The bioretention areas would slow the velocity of runoff and allow for infiltration, reducing the amount of runoff that is discharged to the storm-drain system. Therefore, because runoff would be conveyed to bioretention areas, substantial erosion on-or off-site would be avoided, as would flooding. Additionally, the proposed project includes landscaping, which would restore ground cover following construction. The establishment of groundcover would reduce erosion potential of on-site soils. The proposed preserve would not add or increase impervious surface on the project site. The wetland preserve would not alter drainage patterns as no changes to current conditions within the proposed preserve area are proposed. Therefore, the proposed preserve would not exceed the capacity of stormwater drainage systems. Impacts would be less than significant.</p> <p>A portion of the project site is mapped by the Federal Emergency Management Agency as 100-year floodplain. The proposed preserve area, new San Francisco Bay Trail alignment, and a portion of the proposed industrial building and surface parking would be within the mapped floodplain. The industrial building and surface parking area would increase the amount of impervious surface area within the floodplain. Increases in impervious area can contribute to accelerated stormwater runoff flow and larger volumes of flow. However, during a flood event, flood flows would infiltrate surrounding pervious areas, which are abundant due to marshlands to the south and east of the site. Additionally, the proposed preserve area would remain pervious and available for flood flow storage. Impacts would be less than significant.</p>
	<p>Inundation of the relocated trail segment would not occur from reasonably foreseeable sea level rise. Inundation of the proposed preserve area could occur, consistent with existing conditions, but no pollutants would be released from inundation of the preserve area because no pollutants or hazardous materials would be stored or used in the preserve area. No restoration activities or maintenance activities are proposed in the western component of the project site. More severe sea level rise in the future, include four feet of sea level rise could inundate the surface parking lot, industrial building, and relocated segment of the San Francisco Bay Trail; however, pollutants and hazardous materials would not be stored in the building or on-site. Therefore, inundation of the project would not release pollutants into the environment. Impacts would be less than significant.</p>
Land Use and Planning	<p>The project does not include linear features or road or trail closures that would limit movement or access within the surrounding neighborhood. The project would not divide an established community. There would be no impact.</p> <p>The proposed project would be potentially consistent with most General Plan policies. The proposed project would be potentially inconsistent with Policy NR-6.10 and Policy NR-6.12. Policy 6.10 <i>encourages</i> rainwater catchment for reuse indoors and for landscaping. Policy NR-6.12 <i>encourages</i> dual plumbing systems in new buildings. However, as described in Section 19, <i>Utilities and Service Systems</i>, adequate water supplies would be available for the project and other foreseeable future growth in Hayward. The absence of rainwater catchment and a dual plumbing system in the proposed industrial building would not result in significant physical environmental impacts. Inundation of the proposed preserve area could occur, consistent with existing conditions. Although the preserve area could continue to be inundated, inundation would not result in significant environmental impacts, as described in Section 10, <i>Hydrology and Water Quality</i>. Impacts would be less than significant.</p>
Mineral Resources	<p>The project site is not a known mineral resource area of regional importance, and the nearest such area is approximately 4.4 miles from the project site. No impact would occur.</p>

Issue Area	Initial Study Findings
Noise	<p>The proposed project could generate temporary noise increases during construction and long-term increases associated with project operation; however, both construction-related and operational noise would be less than significant.</p> <hr/> <p>Construction of the proposed project would intermittently generate vibration on and adjacent to the project site. There are no sensitive receptors in proximity to the project site, such as residences where people may sleep and notice vibration. Operation of the proposed project would not involve uses that generate vibration. Therefore, because construction vibrations would not exceed Caltrans criteria at the nearest neighboring structures and operation would generate no vibration, impacts would be less than significant.</p> <hr/> <p>The nearest airport to the project site is the Hayward Executive Airport, located approximately 2.5 miles north of the project site. The proposed project would not expose people within the project site to excessive noise levels associated with aircraft or airport operations. No impact would occur.</p>
Population and Housing	<p>The proposed project would involve the development of an industrial building, which would generate new business and jobs on the project site; however, the project is not of a type that would generate substantial indirect population growth and would not remove barriers to growth in the area. This impact would be less than significant.</p> <hr/> <p>There are no housing units on the project site or people residing on the project site in temporary housing. Therefore, the project would not displace existing housing units or people. No impact would occur.</p>
Public Services	<p>The proposed industrial building would be next to existing similar development to the east and would not substantially increase the geographic response area for the Hayward Fire Department. Therefore, the existing Hayward Fire Department-Fire Station 4 would be adequate for serving the project site, and the construction of new or altered fire protection facilities would not be required. The proposed wetland preserve on the western portion of the site would not result in additional demand for fire protection services as current conditions within this area would remain unchanged by the project. Impacts would be less than significant.</p> <hr/> <p>The proposed project does not include new residential development that would increase the population of Hayward. Therefore, the service population of the Hayward Police Department would not increase as a result of the proposed project. New police officers or civilian support staff would not be required as a result of the proposed project. The project site is adjacent to existing office and light industrial development that would require similar response times from the Hayward Police Department on Winton Avenue. The construction of new or altered police facilities would not be required to provide police protection services to the project. Impacts would be less than significant.</p> <hr/> <p>The proposed project does not include new residential development that would directly increase the population of Hayward. The proposed project would not result in substantial indirect increases in population through employment. Because the proposed project would not substantially induce population growth, there would be no result substantial increase in school enrollment. The construction of new or altered school facilities would not be required. There would be no impact.</p> <hr/> <p>There are no parks on the project site. The proposed project would not physically alter existing parks. Because the project would not induce substantial population growth and would be subject to applicable park impact fees, it would not result in increased use of parks or demand for parks. Impacts would be less than significant.</p> <hr/> <p>The proposed project does not include new residential development that would directly increase the population of Hayward. There would be no result substantial increase demand for public facilities, such as libraries and court services. The construction of new or altered public facilities would not be required. The proposed project would have no impact in this regard.</p>

Issue Area	Initial Study Findings
Recreation	<p>Because the project would not induce substantial population growth, it would also not result in a substantial increase in use of existing recreation facilities in the area. Additionally, the project would be subject to the City's park impact fees. Impacts would be less than significant.</p> <p>The project includes a land swap to relocate the San Francisco Bay Trail, and impacts of that relocation are analyzed throughout the Initial Study and this EIR. This impact would be less than significant.</p>
Tribal Cultural Resources	<p>While no tribal cultural resources are known to occur on the project site, given its proximity to the shoreline of the San Francisco Bay, there could be unknown resources, particularly subsurface resources. Construction of the proposed project would require excavation and grading, which could damage or destroy tribal cultural resources, if present. However, impacts from the unanticipated discovery of tribal cultural resources during project construction would be less than significant with Mitigation Measure TCR-1. Mitigation measures from the Initial Study are listed in the Executive Summary of this EIR and will be included in the Mitigation Monitoring and Reporting Program.</p>
Utilities and Service Systems	<p>The proposed project would not require the relocation of water, wastewater treatment, stormwater drainage, electric power, natural gas, or telecommunication facilities. These utilities exist within the right-of-way of Point Eden Way. The proposed project would require construction of new connections to the utilities within Point Eden Way. Additionally, new bioretention areas would be constructed on-site for stormwater treatment on the eastern component of the project site. The potential environmental impacts associated with the construction of utility connections and on-site bioretention areas evaluated throughout this document as a component of the proposed project. Impacts would be less than significant.</p> <p>As determined in the City's UWMP, there is adequate water supply available to serve anticipated growth in Hayward, as envisioned by the City's General Plan. The proposed industrial building would be located on the portion of the project site designated Industrial Technology and Innovation Center (IC). Therefore, the industrial building would be consistent with the General Plan. The relocation of the San Francisco Bay Trail and establishment of the preserve on other areas of the project site would not generate demand for water supply. Therefore, there would be sufficient potable water supply to accommodate the anticipated demand increases resulting from the proposed project. Impacts would be less than significant.</p> <p>Because the proposed project is consistent with the General Plan, and the Hayward Water Pollution Control Facility (WPCF) has capacity for growth consistent with the General Plan, there would be adequate capacity at the existing WPCF for the proposed project. Impacts would be less than significant.</p> <p>Hayward Municipal Code Chapter 5, Article 10 requires that for construction and demolition projects that generate significant debris, 100 percent of all asphalt and concrete and 50 percent of remaining materials must be recycled. Construction activities associated with the proposed project would be required to comply with this requirement. Further, the proposed project would be required to comply with regulations related to solid waste, as mandated by law. For these reasons, impacts would be less than significant.</p>
Wildfire	<p>The project site is not within or near state responsibility areas or lands classified as very high fire hazard severity zones. The nearest state responsibility area or land classified as very high fire hazard severity zone is at Garin Regional Park. Garin Regional Park is approximately 4.5 miles east-northeast of the project site. Numerous firebreaks, such as freeways and urban development without wildland fuels exist between Garin Regional Park and the project site. The project site is bound by State Route 92 to the north and mostly inundated tidal marshland to the south. Therefore, the risk of wildfire on the project site is low. There would be no impacts in this regard.</p>

## 1.5 Lead, Responsible, and Trustee Agencies

The *CEQA Guidelines* define lead, responsible and trustee agencies. The City of Hayward is the lead agency for the project because it holds principal responsibility for approving the project.

A responsible agency refers to a public agency other than the lead agency that has discretionary approval over the project. Responsible agencies include the United States Army Corps of Engineers (USACE), the San Francisco Bay Regional Water Quality Control District (RWQCD), and the East Bay Regional Parks District. The East Bay Regional Parks District submitted comments on the Initial Study, which is provided in Appendix A. The EIR will also be submitted to these agencies for review and comment.

A trustee agency refers to a state agency having jurisdiction by law over natural resources affected by a project. There are no trustee agencies for the proposed project.

## 1.6 Environmental Review Process

The environmental impact review process, as required under CEQA, is summarized below and illustrated in Figure 1-1. The steps are presented in sequential order.

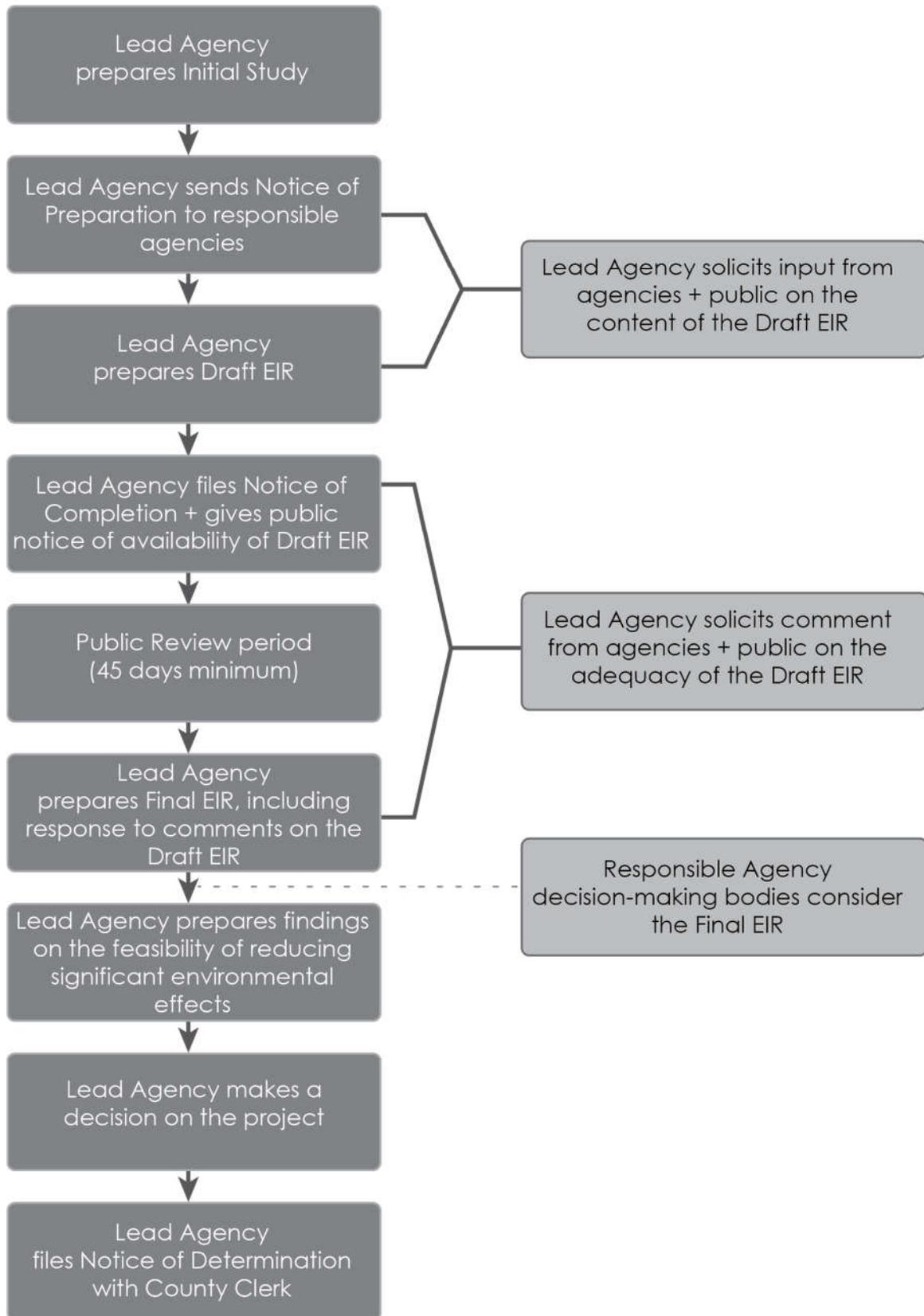
1. **Notice of Preparation (NOP) and Initial Study.** After deciding that an EIR is required, the lead agency (City of Hayward) must file a NOP soliciting input on the EIR scope to the State Clearinghouse, other concerned agencies, and parties previously requesting notice in writing (*CEQA Guidelines* Section 15082; Public Resources Code Section 21092.2). The NOP must be posted in the County Clerk's office for 30 days. The NOP may be accompanied by an Initial Study that identifies the issue areas for which the project could create significant environmental impacts.
2. **Draft EIR Prepared.** The Draft EIR must contain: a) table of contents or index; b) summary; c) project description; d) environmental setting; e) discussion of significant impacts (direct, indirect, cumulative, growth-inducing and unavoidable impacts); f) a discussion of alternatives; g) mitigation measures; and h) discussion of irreversible changes.
3. **Notice of Completion (NOC).** The lead agency must file a NOC with the State Clearinghouse when it completes a Draft EIR and prepare a Public Notice of Availability of a Draft EIR. The lead agency must place the NOC in the County Clerk's office for 30 days (Public Resources Code Section 21092) and send a copy of the NOC to anyone requesting it (*CEQA Guidelines* Section 15087). Additionally, public notice of Draft EIR availability must be given through at least one of the following procedures: a) publication in a newspaper of general circulation; b) posting on and off the project site; and c) direct mailing to owners and occupants of contiguous properties. The lead agency must solicit input from other agencies and the public and respond in writing to all comments received (Public Resources Code Sections 21104 and 21253). The minimum public review period for a Draft EIR is 30 days. When a Draft EIR is sent to the State Clearinghouse for review, the public review period must be 45 days unless the State Clearinghouse approves a shorter period (Public Resources Code 21091).
4. **Final EIR.** A Final EIR must include: a) the Draft EIR; b) copies of comments received during public review; c) list of persons and entities commenting; and d) responses to comments.
5. **Certification of Final EIR.** Prior to making a decision on a proposed project, the lead agency must certify that: a) the Final EIR has been completed in compliance with CEQA; b) the Final EIR was presented to the decision-making body of the lead agency; and c) the decision making body

**4150 Point Eden Way Industrial Development Project**

reviewed and considered the information in the Final EIR prior to approving a project (*CEQA Guidelines* Section 15090).

6. **Lead Agency Project Decision.** The lead agency may a) disapprove the project because of its significant environmental effects; b) require changes to the project to reduce or avoid significant environmental effects; or c) approve the project despite its significant environmental effects, if the proper findings and statement of overriding considerations are adopted (*CEQA Guidelines* Sections 15042 and 15043).
7. **Findings/Statement of Overriding Considerations.** For each significant impact of the project identified in the EIR, the lead agency must find, based on substantial evidence, that either: a) the project has been changed to avoid or substantially reduce the magnitude of the impact; b) changes to the project are within another agency's jurisdiction and such changes have or should be adopted; or c) specific economic, social, or other considerations make the mitigation measures or project alternatives infeasible (*CEQA Guidelines* Section 15091). If an agency approves a project with unavoidable significant environmental effects, it must prepare a written Statement of Overriding Considerations that sets forth the specific social, economic, or other reasons supporting the agency's decision.
8. **Mitigation Monitoring Reporting Program.** When the lead agency makes findings on significant effects identified in the EIR, it must adopt a reporting or monitoring program for mitigation measures that were adopted or made conditions of project approval to mitigate significant effects.
9. **Notice of Determination (NOD).** The lead agency must file a NOD after deciding to approve a project for which an EIR is prepared (*CEQA Guidelines* Section 15094). A local agency must file the NOD with the County Clerk. The NOD must be posted for 30 days and sent to anyone previously requesting notice. Posting of the NOD starts a 30-day statute of limitations on CEQA legal challenges (Public Resources Code Section 21167[c]).

**Figure 1-1 Environmental Review Process**



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## 2 Project Description

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This section describes the proposed project, including the project applicant, the project site and surrounding land uses, major project characteristics, project objectives, and discretionary actions needed for approval.

### 2.1 Project Applicant

U-HAUL, 815 Marketing Company  
8000 San Leandro Street  
Oakland, California 94621

### 2.2 Lead Agency Contact Person

Leigha Schmidt, Senior Planner  
City of Hayward  
777 B Street  
Hayward, CA 94541  
510-583-4113

### 2.3 Project Location

The project site consists of six parcels in the City of Hayward identified as Assessor Parcel Numbers (APN) 461-0084-019-00, APN 461-0085-020-01, APN 461-0085-020-02, APN 461-0061-001-00, APN 461-0090-001-00, and APN 461-0090-002-00. A separate parcel, not included in the project site, separates APN 461-0085-019-00, 461-0085-020-01, and 461-0085-020-02 from APN 461-0061-001-00, 461-0090-001-00, and 461-0090-002-00. Therefore, the project site has an eastern component (APN 461-0085-019-00, 461-0085-020-01, and 461-0085-020-02) and a western component (APN 461-0061-001-00, 461-0090-001-00, and 461-0090-002-00), which are non-contiguous but nearly adjacent. The eastern component is located at 4150 Point Eden Way, while the western component has no public road access. Point Eden Way roughly parallels the south side of State Route 92 in the eastern portion of Hayward. The regional location of the site is shown in Figure 2-1, the vicinity of the site is shown in Figure 2-2, and the project site boundaries are depicted in Figure 2-3.

City of Hayward  
4350 Point Eden Way Industrial Development Project

Figure 2-1 Regional Location



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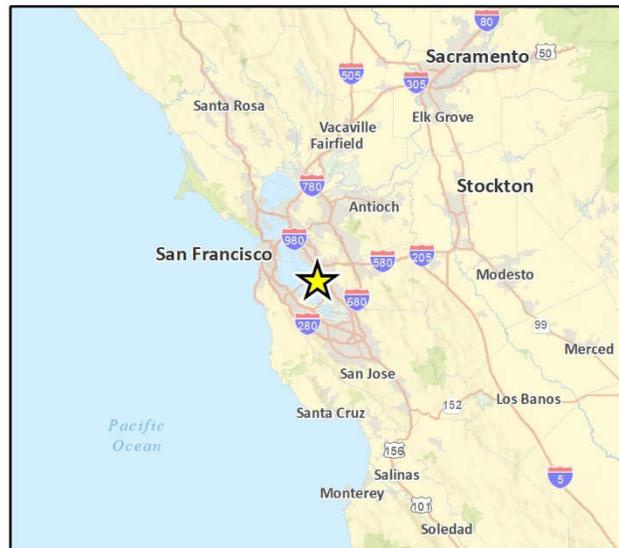


Fig 1 Regional Location

Figure 2-2 Project Vicinity Map



Imagery provided by Microsoft Bing and its licensors © 2020.

Fig 1 Project Vicinity Map

Figure 2-3 Project Site Boundary



## 2.4 Existing Site Characteristics

### 2.4.1 Existing Site Conditions

The eastern component of the project site is approximately six to eight feet in elevation above mean sea level (msl). Numerous small depressions occur throughout the eastern component of the project site as a result of remediation grading. There are two historic finishing salt ponds along the southwestern boundary of the eastern component of project site. These ponds were originally constructed as part of a salt processing plant, known as the Oliver Brothers Salt Works. Currently these salt ponds only receive water from precipitation and surface runoff from the former working surfaces of the salt plant operation area. They are not subject to tidal influence. Additionally, the eastern component of the project site contains the primary structure associated with the former Oliver Brothers Salt Works operation, as well as other components of the salt operation that have largely deteriorated over time.

There are six former salt ponds in the western component of the project site. The former use of these salt ponds as evaporation ponds for salt production is evident by the remaining salt crusts in the impounded areas. Old water control structures that used to convey water into these ponds are in poor and dilapidated condition and do not function now. Currently, each pond supports varying depths of standing water, and/or is dry over the course of the year.

Four land cover types occur within the eastern component of the project site including: developed; ruderal habitats dominated by upland vegetation; wetlands; and historic salt ponds. Remedial action measures associated with removal of contaminated soil that have been taking place for years have altered the plant communities in the eastern component of the project site. Vegetation communities and land cover types were not delineated or classified in detail for the western component of the project site because no project activities are proposed within the western component other than preservation of existing conditions. Therefore, it was unnecessary to map or delineate vegetation communities in that portion of the project site. However, some of the same plant species and communities that occur in the eastern component also occur in the western component of the project site.

### 2.4.2 Current Land Use Designation and Zoning

As shown in Figure 2-3, the project site consists of a western and eastern component. The western component of the project site has a General Plan land use designation of Baylands and is zoned Floodplain District, while the eastern component has a General Plan land use designation of Industrial Technology and Innovation Corridor, with the westernmost corner has a General Plan land use designation of Baylands. The eastern component is zoned Industrial Park. Because the 32-acre area would be preserved in perpetuity with a deed restriction or other appropriate legal mechanism, without management activities, no management plan or improvement plan is proposed.

Figure 2-4 shows the site's land use designations, and Figure 2-5 shows the zoning districts of the site.

### 2.4.3 Surrounding Land Uses

The project site is located directly south of State Route 92 and north of the CDFW Eden Landing Ecological Reserve, as shown in Figure 2-6. North of State Route 92 is open space, and east of the eastern component are office and light industrial uses.

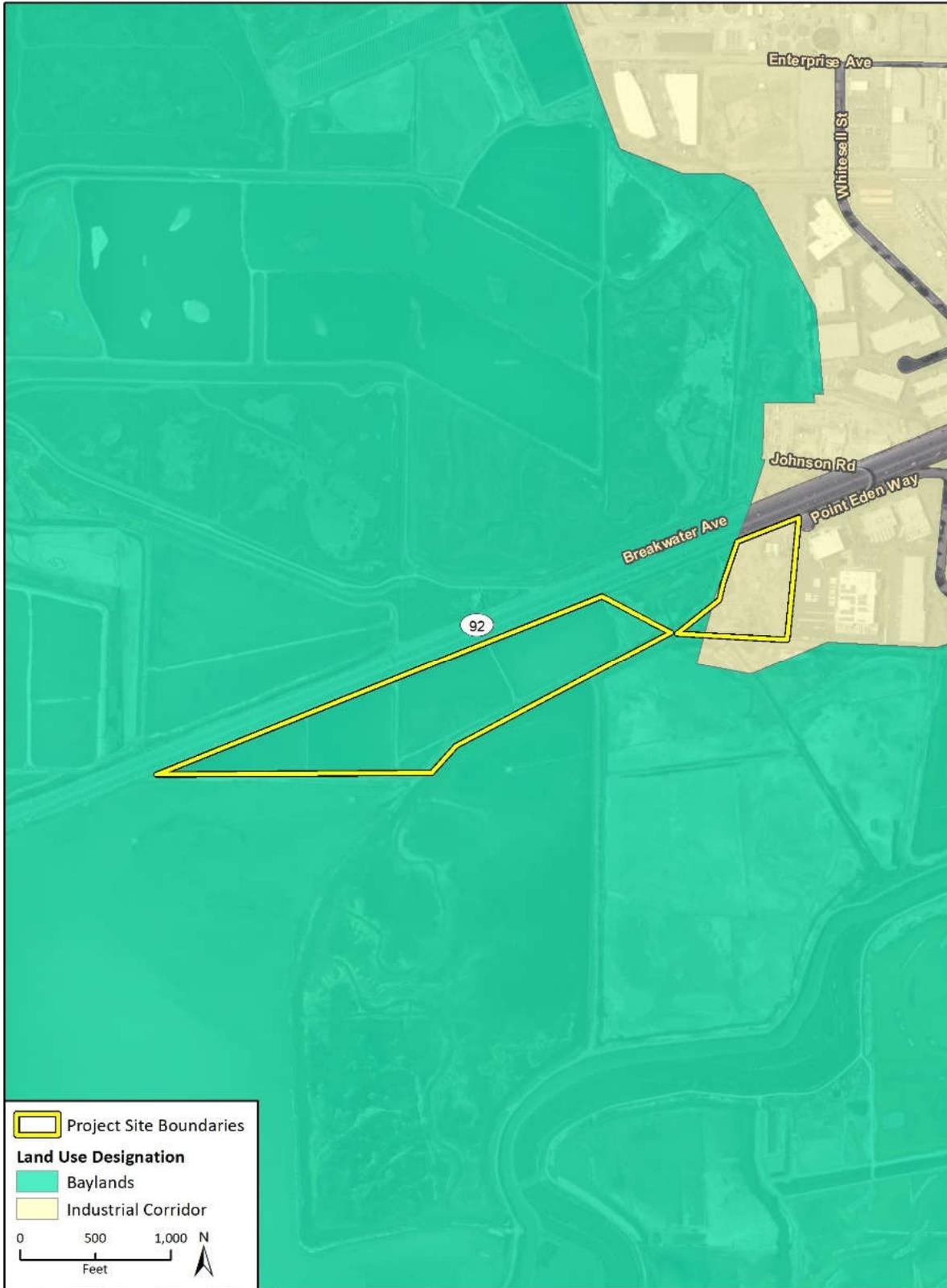
## 2.5 Project Characteristics

The proposed project would involve construction of a new industrial building on the eastern component of the project site and preservation of an open space/wetland preserve on the western component. The project would commence with demolition and removal of existing structures on the eastern component of the project site associated with the former Oliver Brothers Salt Works operations. After demolition and removal of existing structures and materials, construction of the new industrial building would begin. The proposed industrial building would be approximately 50 feet in height to finished roof. The proposed building would provide approximately 114,059 square feet of warehouse space and a 2,785-square-foot of office, for a total size of approximately 116,844 square feet. The office space would be provided at the north end of the building, facing State Route 92. During operation of the project, approximately 20 to 25 employees would be present. A conceptual site plan for the eastern component is shown in Figure 2-7, and a conceptual landscape plan is shown in Figure 2-8.

The San Francisco Bay Trail is located on the eastern edge of the eastern component of the project site, within APN 461-0085-020-01. The proposed project includes a land swap for East Bay Regional Park District to relocate the Bay Trail from the current location along the eastern property line to meander along the northern property line and then to turn south to run along the western property line of APN 461-0085-020-02, until meeting its current location on Point Eden Way, as shown in Figure 2-9. The swap would transfer ownership of APN 461-0085-020-01 to the project applicant and grant an easement to the East Bay Regional Park District for the trail to cross APN 461-0085-020-02.

The proposed project also includes establishing an approximately 32-acre preserve on the western component of the project site, within APN 461-0061-001-00, 461-0090-001-00, and 461-0090-002-00. These parcels are currently characterized by salt evaporation ponds from the former salt production operation on the project site that would remain in place. This 32-acre area (Preserve) contains six old salt ponds totaling 26 acres. The 32-acre Preserve would be preserved in perpetuity via recordation of a deed restriction or other appropriate legal mechanism, ensuring that the salt ponds are permanently preserved as open space in perpetuity. No conservation easement or conservator endowment would be provided. Because the 32-acre area would be preserved in perpetuity with a deed restriction or other appropriate legal mechanism, without management activities, no management plan or improvement plan is proposed.

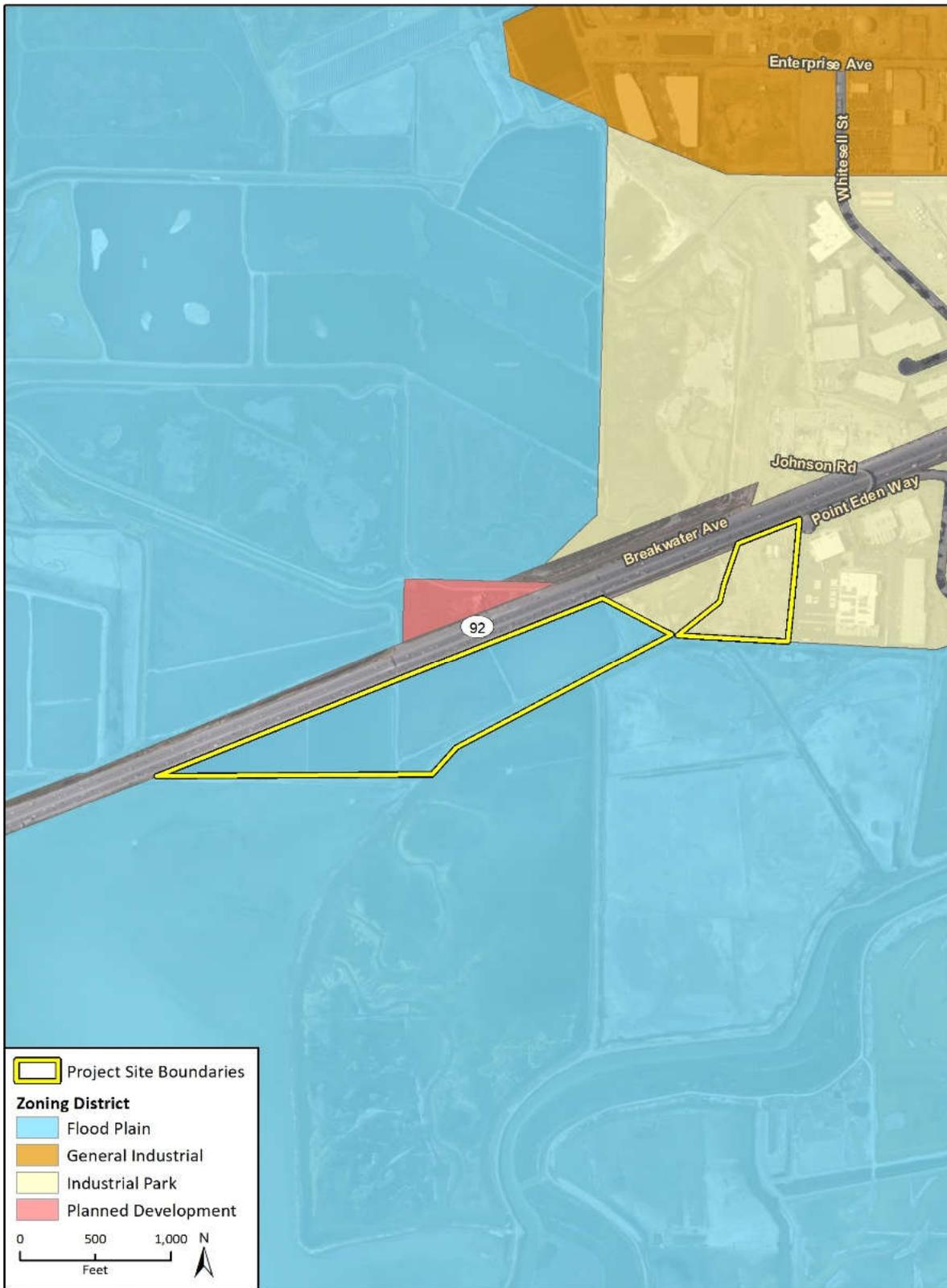
Figure 2-4 Land Use Designations



Imagery provided by Microsoft Bing and its licensors © 2020.  
Land use data provided by City of Hayward, 2018.

Fig. 3 Land Use Designations

Figure 2-5 Zoning Districts



Imagery provided by Microsoft Bing and its licensors © 2020.  
Zoning data provided by City of Hayward, 2020.

Fig. 2 Zoning Districts

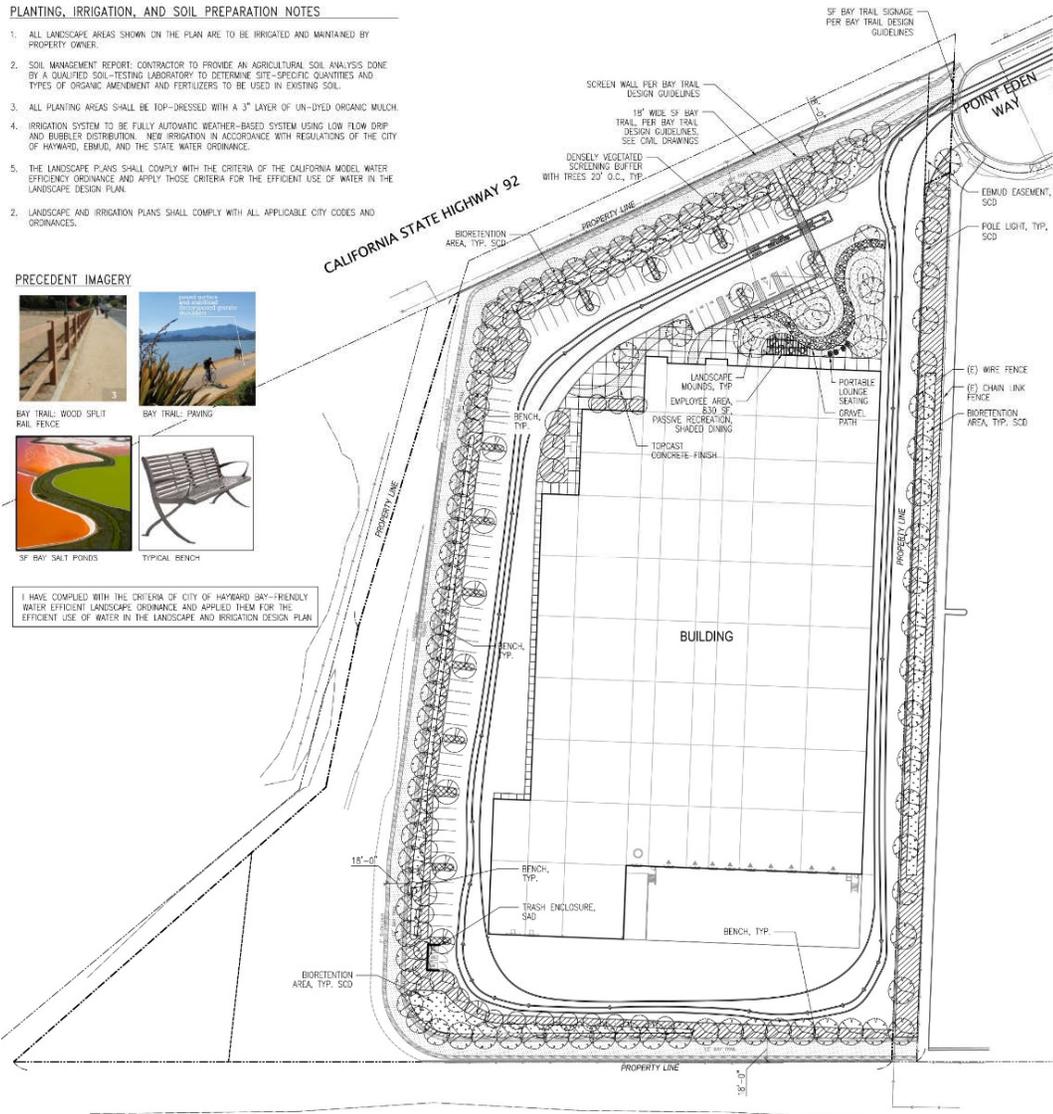
Figure 2-6 Surrounding Land Use



Fig 5 Surrounding Land Use



Figure 2-8 Conceptual Landscape Plan



- PLANTING, IRRIGATION, AND SOIL PREPARATION NOTES**
1. ALL LANDSCAPE AREAS SHOWN ON THE PLAN ARE TO BE IRRIGATED AND MAINTAINED BY PROPERTY OWNER.
  2. SOIL MANAGEMENT REPORT: CONTRACTOR TO PROVIDE AN AGRICULTURAL SOIL ANALYSIS DONE BY A QUALIFIED SOIL-TESTING LABORATORY TO DETERMINE SITE-SPECIFIC QUANTITIES AND TYPES OF ORGANIC AMENDMENT AND FERTILIZERS TO BE USED IN EXISTING SOIL.
  3. ALL PLANTING AREAS SHALL BE TOP-DRESSED WITH A 3" LAYER OF UN-DIED ORGANIC MULCH.
  4. IRRIGATION SYSTEM TO BE FULLY AUTOMATIC WEATHER-BASED SYSTEM USING LOW FLOW DRIP AND BUBBLER DISTRIBUTION. NEW IRRIGATION IN ACCORDANCE WITH REGULATIONS OF THE CITY OF HAYWARD, EBMUD, AND THE STATE WATER ORDINANCE.
  5. THE LANDSCAPE PLANS SHALL COMPLY WITH THE CRITERIA OF THE CALIFORNIA MODEL WATER EFFICIENCY ORDINANCE AND APPLY THOSE CRITERIA FOR THE EFFICIENT USE OF WATER IN THE LANDSCAPE DESIGN PLAN.
  2. LANDSCAPE AND IRRIGATION PLANS SHALL COMPLY WITH ALL APPLICABLE CITY CODES AND ORDINANCES.

**PRECEDENT IMAGERY**



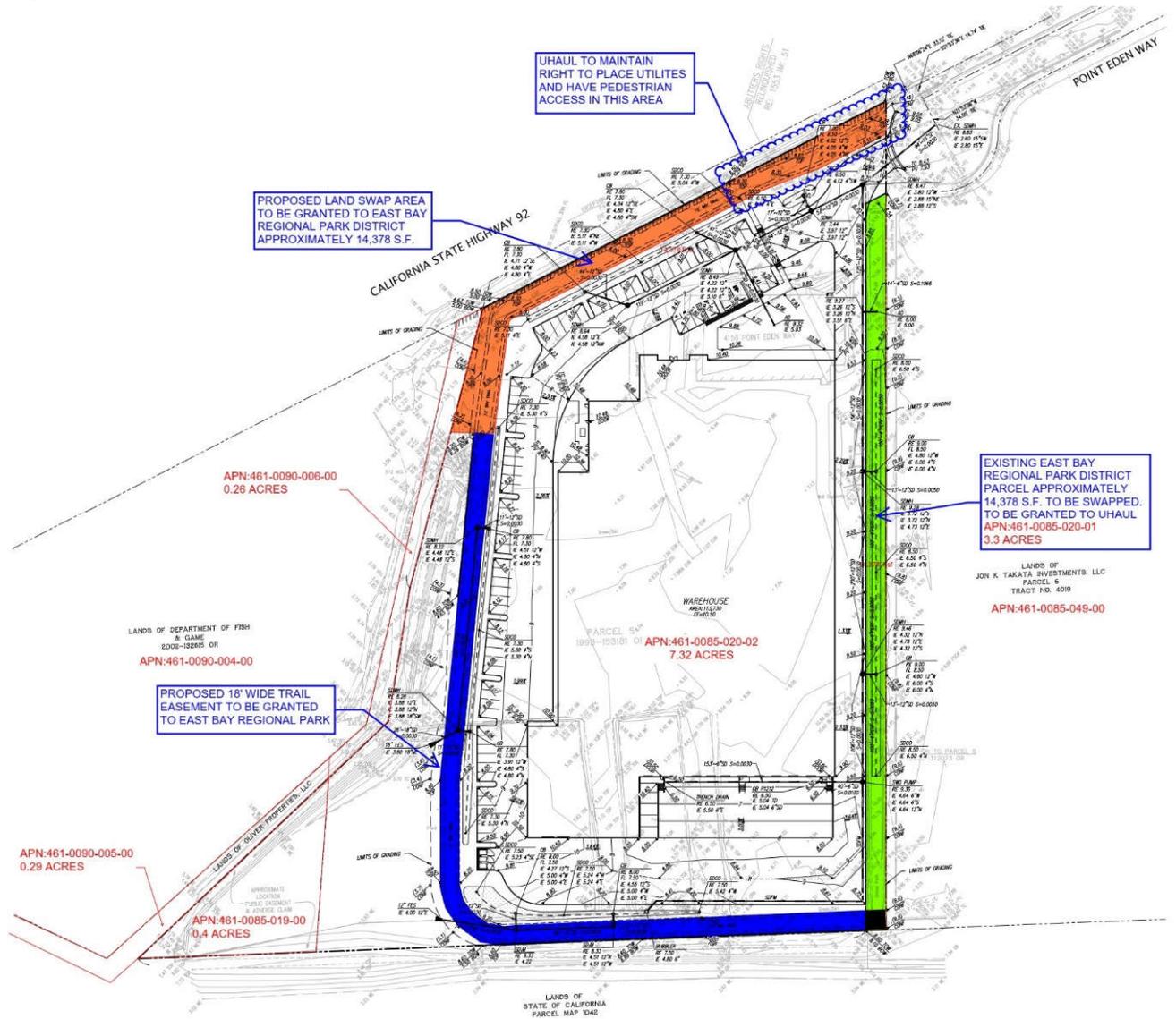
I HAVE COMPLIED WITH THE CRITERIA OF CITY OF HAYWARD BAY-FRIENDLY WATER EFFICIENT LANDSCAPE ORDINANCE AND APPLIED THEM FOR THE EFFICIENT USE OF WATER IN THE LANDSCAPE AND IRRIGATION DESIGN PLAN.

SYMBOL	BOTANICAL NAME	COMMON NAME	SIZE	SPACING	WATER SIZE (GAL)	NOTES
<b>TREES</b>						
	OLEA EUROPAEA 'MONHEE'	MALLESIC BEAUTY OLIVE	15 GAL	PER PLAN	25'X25'	L
	PLATANUS RACEMOSA	CA SYCAMORE	15 GAL	PER PLAN	60'X40'	M
	UMBELLULARIA CALIFORNICA	CALIFORNIA LAUREL	15 GAL	PER PLAN	60'X60'	M
<b>PARKING LOT TREES</b>						
	LULIUS P. 'EMERALD SUNSHINE'	EMERALD SUN ELM	15 GAL	PER PLAN	35'X25'	L
<b>FLOWERING ACCENT TREES</b>						
	CEANOTHUS 'RAY HARTMAN'	RAY HARTMAN WILD LILAC	15 GAL	PER PLAN	20'X20'	L
	CERCIS OCCIDENTALIS	WESTERN REDBUD	15 GAL	PER PLAN	20'X20'	L
	MELALEUCA NESOPHILA	PINK MELALEUCA	5 GAL	PER PLAN	20'X20'	L
<b>LOW SHRUBS, GRASSES &amp; PERENNIALS</b>						
	CAREX DIVULSA	BERKLEY SEDGE	1 GAL	7'-8" OC		L
	COSMOS X KRIBBI	CREeping MIRROR PLANT	1 GAL	6'-8" OC		L
	DELOSPHERA COOPERI	PURPLE ICE PLANT	1 GAL	3'-6" OC		L
	DELOSPHERA 'RED MOUNTAIN FLAME'	RED MOUNTAIN FLAME	1 GAL	1'-8" OC		L
	LAMPRANTHUS ALBEUS 'ORANGE'	ORANGE ICE PLANT	1 GAL	2'-8" OC		L
	LAMPRANTHUS 'HOT FLASH'	HOT FLASH ICE PLANT	1 GAL	3'-8" OC		L
	LANTANA 'NEW GOLD'	NEW GOLD LANTANA	1 GAL	2'-8" OC		L
	LIBERTIA PERGRANNS	ORANGE LIBERTIA	1 GAL	1'-8" OC		L
	LOMANORA LONGIFOLIA 'BREEZE'	DWARF MAT RUSH	1 GAL	3'-8" OC		L
	PITTIOSPORUM 'WHEELERS DWARF'	MOCK ORANGE	5 GAL	4'-8" OC		L
<b>PARKING LOT SHRUBS AND GROUNDCOVER</b>						
	DIETES BICOLOR	FORTNIGHT LILY	1 GAL	3'-8" OC		L
	LIMNIMUM PEREGRINUM	SEA LAVENDER	1 GAL	3'-8" OC		L
	MUHLENBERGIA RIGENS	DEER GRASS	1 GAL	4'-8" OC		L
	PHORMIUM SP.	DWARF PHORMIUM	1 GAL	2'-8" OC		L
	RUSCHIA 'NANA'	DWARF CARPET OF STARS	5 GAL	6" OC		L
<b>BUFFER PLANTING AND GROUNDCOVER</b>						
	ACACIA REDOLENS 'DESERT CARPET'	PROSTRATE ACACIA	5 GAL	6"-8" OC		L
	AMBUTUS UNEDO 'COMPACTA'	DWARF STRAWBERRY TREE	5 GAL	5'-8" OC		L
	ARCTOSTAPHYLOS X 'SUNSET'	SUNSET MANZANITA	5 GAL	5'-8" OC		L
	BACCHARIS PULILLARS 'PIGEON POINT'	DWARF COYOTE BRUSH	1 GAL	4'-8" OC		L
	CEANOTHUS 'CONCH'	CONCHA CEANOTHUS	5 GAL	6'-8" OC		L
	PITTIOSPORUM TOBIRA	MOCK ORANGE	5 GAL	4'-8" OC		L
	FRUNUS CAROLINIANA 'COMPACTA'	DWARF CAROLINA LAUREL CHERRY	5 GAL	4'-8" OC		L
	RHAMNUS CALIFORNICA 'LEATHERLEAF'	COFFEEBERRY	5 GAL	6'-8" OC		L
	RIBES VIBURNIFOLIUM	CATALINA CURRANT	1 GAL	4'-8" OC		L
	ROMNEYA COLTIERI	MATELDA POPPY	5 GAL	6'-8" OC		L
	SALVA CLEVELANDII 'WINFRED GILMAN'	CLEVELAND SAGE	5 GAL	4'-8" OC		L
<b>STORMWATER PLANTING MIX</b>						
	CHONDROPETALUM TECTORIUM	CAPE RUSH	1 GAL	3'-8" OC		L
	ESCHSCHOLZIA CALIFORNICA	CA POPPY	1 GAL	1'-8" OC		VL
	LEYMUS TRITICOIDES 'LAGUNITA'	LAGUNITA WILD RYE	1 GAL	2'-8" OC		L
	MIMULUS 'PESTA MARGOLD'	PESTA MARGOLD MONKEY OWER	1 GAL	2'-8" OC		VL
	MUHLENBERGIA RIGENS	DEER GRASS	1 GAL	4'-8" OC		L

SYMBOL	DESCRIPTION	SYMBOL	DESCRIPTION
[Symbol]	CONCRETE PAVING	[Symbol]	36" WOOD SPLIT RAIL FENCE
[Symbol]	CONCRETE PAVING - DECORATIVE FINISH	[Symbol]	BENCH
[Symbol]	DECORATIVE GRAVEL	[Symbol]	AC PAVING, SEE CIVIL DWGS
[Symbol]	BIORETENTION AREA	[Symbol]	GRAVEL PAVING, SEE CIVIL DWGS



Figure 2-9 Conceptual San Francisco Bay Trail Land Swap Plan



### 2.5.1 Parking and Site Access

Ingress and egress to the industrial building would be from a new driveway on Point Eden Way. Approximately 79 parking spaces would be provided, including two spaces dedicated for electric vehicles and two accessible spaces compliant with the Americans with Disabilities Act (ADA). Two bike lockers and two bike stalls would also be provided on-site near the industrial building. Landscaping would be installed on all sides of the new building but would be concentrated on the north side of the building facing State Route 92. Landscaping would include trees, low shrubs, grasses, and perennials. No physical changes are proposed for the western component.

### 2.5.2 Utilities

The proposed industrial building would require utility and drainage improvements including new sanitary sewer, storm drain, and domestic water lines. These new utilities would connect to existing utilities within the right-of-way of Point Eden Way. Bioretention areas (see Figure 2-8) would be constructed on-site to collect and treat stormwater runoff prior to discharge into the City's storm drain system.

### 2.5.3 Construction and Grading

Estimated construction duration of the proposed project would be 12 to 18 months, tentatively beginning in 2021. Maximum construction depth would generally be approximately 7 feet below ground surface; however, displacement piers would be used in the foundation and require drilling to depths of approximately 20 feet below ground surface. Construction would begin with demolition of existing structures on the project site. Construction would involve standard and typical equipment, such as excavators, graders, backhoes, dump trucks, and power tools. Construction would also involve site preparation, consisting primarily of grading the site to achieve desired drainage and suitable building area. Grading would require permanent placement of fill material on-site, including within jurisdictional waters of the United States (i.e., wetlands). The proposed project would generate approximately 18,200 cubic yards of fill and 6,000 cubic yards of cut material, resulting in approximately 12,200 cubic yards of material for import. Construction would not require the removal of trees.

## 2.6 Project Objectives

The objectives for the proposed project are to:

- Develop an industrial building to house U-Haul corporate headquarters and warehouse.
- Locate the building at the western edge of Hayward in proximity to a regional highway and other industrial, warehousing and logistics uses to avoid land use conflicts.
- Create new employment and economic growth opportunities by redeveloping a vacant and underutilized property.
- Establish a wetland preserve adjacent to the San Francisco Bay.
- Remove a dilapidated and unsafe structure from a currently underutilized property at the gateway to the City.

## 2.7 Required Approvals

The following approvals and permits from the City of Hayward would be required for the proposed project:

- Site Plan Review
- Grading and Building Permits

The City of Hayward is the lead agency with responsibility for approving the proposed project. Construction of the project would also involve fill of wetlands, which would require approval from the United States Army Corps of Engineers and the San Francisco Bay Regional Water Quality Control Board. Consultation with the United States Fish and Wildlife Service will be required since the proposed project may affect endangered species protected pursuant to the federal Endangered Species Act. The proposed project will also require consultation with the State Historic Preservation Office.

The East Bay Regional Park District must also consider approval of the proposed land exchange included in the project for relocation of the San Francisco Bay Trail.

The San Francisco Bay Conservation and Development Commission (BCDC) has regulatory responsibility over development in San Francisco Bay and along the Bay's nine-county shoreline, including shoreline in Alameda County. It is necessary to obtain a BCDC permit prior to undertaking work in the San Francisco Bay or within 100 feet of the shoreline. The project site is approximately 2,000 feet from the shoreline of the San Francisco Bay. Thus, BCDC permits would not be required.

## 3 Environmental Setting

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This section provides a general overview of the environmental setting for the proposed project. More detailed descriptions of the environmental setting for each environmental issue area evaluated in this EIR can be found in Section 4, *Environmental Impact Analysis*.

### 3.1 Regional Setting

The project site is in the far eastern portion of the City of Hayward, which is in southwest Alameda County in the San Francisco Bay Area. Hayward is bound by the San Francisco Bay to the west and the East Bay Hills to the east. The shoreline of the San Francisco Bay is approximately 2,000 feet to the west of the project site. Because of the proximity to the Bay, the region around the project site is largely characterized by marshlands and tidal zones. The Mediterranean climate of the region and the coastal influence produce moderate temperatures year-round, with rainfall concentrated in the winter months.

### 3.2 Project Site Setting

As described in Section 2, *Project Description*, the project site has an eastern component (APN 461-0085-019-00, 461-0085-020-01, and 461-0085-020-02) and a western component (APN 461-0061-001-00, 461-0090-001-00, and 461-0090-002-00), which are non-contiguous but nearly adjacent. The eastern component is located at 4150 Point Eden Way, while the western component has no public road access. Figure 2-1 and 2-2 in Section 2, *Project Description*, shows the regional location of the project site and the near vicinity.

As shown in Figure 2-6 in Section 2, *Project Description*, the project site is located directly south of State Route 92, and north of the CDFW Eden Landing Ecological Reserve. North of State Route 92 is open space, and east of the eastern component are office and light industrial uses.

The western component of the project site has a General Plan land use designation of Baylands and is zoned Floodplain District and is characterized primarily by dormant salt ponds associated with the former Oliver Brothers Salt Works operations. Topography on the western component of the project site is generally flat, with some small mounds and embankments several feet in height. The eastern component has a General Plan land use designation of Industrial, with the westernmost corner is designated as Baylands. The eastern component is zoned Industrial Park District. The eastern component of the project site contains the primary structure associated with the former Oliver Brothers Salt Works operation, as well as other components of the salt operation that have largely deteriorated over time. Vegetation in the eastern component of the project site is mostly comprised of either invasive or ruderal species. The eastern component of the project site has numerous topographic low areas that remain as a result of contaminated soil removal and replacement measures conducted at this site.

### 3.3 Cumulative Development

In addition to the specific impacts of individual projects, CEQA requires EIRs to consider potential cumulative impacts of the proposed project. CEQA defines “cumulative impacts” as two or more

**4150 Point Eden Way Industrial Development Project**

individual impacts that, when considered together, are substantial or will compound other environmental impacts. Cumulative impacts are the combined changes in the environment that result from the incremental impact of development of the proposed project and other nearby projects. For example, noise impacts of two nearby projects may be less than significant when analyzed separately but could have a significant impact when analyzed together because their combined noise levels could be substantial. Cumulative impact analysis allows the EIR to provide a reasonable forecast of future environmental conditions and can more accurately gauge the effects of a series of projects.

CEQA requires cumulative impact analysis in EIRs to consider either a list of planned and pending projects that may contribute to cumulative effects or a forecast of future development potential. As described above in Section 3.1, Regional Setting, the project site is in proximity to the San Francisco Bay in the eastern portion of Hayward. Currently planned and pending projects in the western portion of Hayward, generally between the Bay and Interstate 880, are listed in Table 3-1. These projects are considered in the cumulative analyses in Section 4, *Environmental Impact Analysis*.

**Table 3-1 Cumulative Projects List**

Project Status	Project Location	Land Use
Approved	24765 Hesperian Boulevard	13-Unit Residential Subdivision
Under Review	1000 La Playa Drive	46-Unit Residential Project
Under Construction	1401 W. Winton Avenue	66,278 Square-Foot Public Facilities/Fire Department
Approved	3760 Depot Road	3,362 Square-Foot Recycling Center
Approved	23986 Foley Street	9,000 Square-Foot Industrial/Warehouse
Approved	2595 Depot Road	126-Unit Residential Project
Approved	25080 Monte Vista Drive	2-Unit Residential with Accessory Dwelling Units
Approved	27501 Loyola Avenue	2-Unit Residential Project
Under Review	25800 Clawiter Road	616,000 Square-Foot Industrial Campus
Under Review	25450 Clawiter Road	387,271 Square-Foot Industrial Campus
Under Review	24763 Mohr Drive	5-Unit Residential Project
Under Review	24493 Clawiter Road	157,000 Square-Foot Industrial Building

Note: Cumulative projects are based on applications the City has either received or processed at the time of preparation of this EIR.

## 4 Environmental Impact Analysis

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This section discusses the possible environmental effects of the 4150 Point Eden Way Industrial Project for the specific issue areas that were identified through the scoping process as having the potential to experience significant effects. A “significant effect” as defined by the *CEQA Guidelines* §15382:

means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance. An economic or social change by itself shall not be considered a significant effect on the environment. A social or economic change related to a physical change may be considered in determining whether the physical change is significant.

The assessment of each issue area begins with a discussion of the environmental setting related to the issue, which is followed by the impact analysis. In the impact analysis, the first subsection identifies the methodologies used and the “significance thresholds,” which are those criteria adopted by the City and other agencies, universally recognized, or developed specifically for this analysis to determine whether potential effects are significant. The next subsection describes each impact of the proposed project, mitigation measures for significant impacts, and the level of significance after mitigation. Each effect under consideration for an issue area is separately listed in bold text with the discussion of the effect and its significance. Each bolded impact statement also contains a statement of the significance determination for the environmental impact as follows:

- **Significant and Unavoidable.** An impact that cannot be reduced to below the threshold level given reasonably available and feasible mitigation measures. Such an impact requires a Statement of Overriding Considerations to be issued if the project is approved per §15093 of the CEQA Guidelines.
- **Less than Significant with Mitigation Incorporated.** An impact that can be reduced to below the threshold level given reasonably available and feasible mitigation measures. Such an impact requires findings under §15091 of the CEQA Guidelines.
- **Less than Significant.** An impact that may be adverse but does not exceed the threshold levels and does not require mitigation measures. However, mitigation measures that could further lessen the environmental effect may be suggested if readily available and easily achievable.
- **No Impact.** The proposed project would have no effect on environmental conditions or would reduce existing environmental problems or hazards.

Following each environmental impact discussion is a list of mitigation measures (if required) and the residual effects or level of significance remaining after implementation of the measure(s). In cases where the mitigation measure for an impact could have a significant environmental impact in another issue area, this impact is discussed and evaluated as a secondary impact. The impact analysis concludes with a discussion of cumulative effects, which evaluates the impacts associated with the proposed project in conjunction with other planned and pending developments in the area listed in Section 3.0, *Environmental Setting*.

The Executive Summary of this EIR summarizes all impacts and mitigation measures that apply to the proposed project.

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## 4.1 Biological Resources

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This section analyses the proposed project's impacts related to biological resources. Information contained in this section comes primarily from a Biological Resources Technical Report prepared for the proposed project by WRA, Inc. (WRA 2020). The Biological Resources Technical Report is provided as Appendix A to the Initial Study, which is included as Appendix A to this EIR.

### 4.1.1 Setting

#### **a. Regional Setting**

The project site is located in the City of Hayward, in Alameda County, California. The city is bordered by the San Francisco Bay to the west, the City of San Leandro to the north, the East Bay Hills to the east, and the California Department of Fish and Wildlife (CDFW) Eden Landing Ecological Reserve to the south. Due to the city's proximity to the San Francisco Bay, Hayward supports multiple vegetation types and habitats for numerous plant and animal species. Suitable habitat for special status species in the region includes the foothill areas in the eastern portion of the City, salt marsh adjacent to the Bay Shoreline, and riparian areas that run throughout the City.

#### **b. Project Site Setting**

##### **Topography and Hydrology**

The eastern component of the project site is approximately six to eight feet in elevation above mean sea level (msl). Numerous small depressions occur throughout the eastern component of the project site as a result of remediation grading. These undulations and slight topographic depressions, especially in the parking lot areas, are a byproduct of when dirt piles were created and removed from the site and from all construction related to remediation of the soils. As such, there is depressional topography that now collects precipitation that does not readily drain owing to the underlying compacted soils. Rather, water evaporated from these minor depressions, as indicated by the alkaline/salt crusts and colonization by salt tolerant, wetland plants.

There are two historic finishing salt ponds along the southwestern boundary of the eastern component of project site. These ponds were originally constructed as part of a salt processing plant, known as the Oliver Brothers Salt Works. These salt ponds are several feet higher in elevation than the adjacent salt ponds to the south associated with the Eden Landing Ecological Reserve. Both of the salt ponds on the eastern component of the project site are hydrologically isolated from adjacent salt ponds to the south by elevation and by levees/berms that were constructed at the turn of the last century. Historically, these higher elevation salt ponds were infrequently flooded with Bay water, and hypersaline brines and salt were concentrated in the ponds via evaporation for salt production. The water control structures are in a dilapidated condition, and no longer appear to be operational. Currently these salt ponds only receive water from precipitation and surface runoff from the former working surfaces of the salt plant operation area. They are not subject to tidal influence.

There are six former salt ponds in the western component of the project site. The former use of these salt ponds as evaporation ponds for salt production is evident by the remaining salt crusts in the impounded areas. Old water control structures that used to convey water into these ponds are

in poor and dilapidated condition and do not function now. Currently, each pond supports varying depths of standing water, and/or is dry over the course of the year.

The local watershed is Ward Creek-Frontal San Francisco Bay Estuaries (HUC 12: 180500040804) and the regional watershed is San Francisco Bay (HUC 8: 18050004). The project site is located in the lower portion of the Ward Creek watershed but does not contribute flow to Ward Creek. There are no blue-line streams within the project site (USGS 2015). The project site does not include mapped resources in the National Wetlands Inventory (NWI; U.S. Fish and Wildlife [USFWS] 2018a), and California Aquatic Resources Inventory (CARI; SFEI 2018), however the salt ponds adjacent to the south of the project site are included as mapped resources. While the project site is relatively flat, water appears to drain in the southwest direction towards the drainage ditches and salt ponds on-site, and towards the adjacent salt ponds and San Francisco Bay further to the west and south.

### **Vegetation Communities and Land Cover Types**

Four land cover types occur within the eastern component of the project site including: developed; ruderal habitats dominated by upland vegetation; wetlands; and historic salt ponds. Remedial action measures associated with removal of contaminated soil that have been taking place for years have altered the plant communities in the eastern component of the project site. The vegetation communities and land cover types within the eastern component of the project site are shown in Table 4.1-1 and Figure 4.1-1. A brief description of each vegetation community and land cover type follows Figure 4.1-1.

Vegetation communities and land cover types were not delineated or classified in detail for the western component of the project site because no project activities are proposed within the western component other than preservation of existing conditions. Therefore, it was unnecessary to map or delineate vegetation communities in the western component of the project site. However, some of the same plant species and communities that occur in the eastern component also occur in the western component of the project site. These are noted in the brief vegetation community and land cover type descriptions that follow Figure 4.1-1.

**Table 4.1-1 Land Cover Types on the Eastern Component of the Project Site**

<b>Vegetation Community/Land Cover Type</b>	<b>Sensitive Status</b>	<b>Rarity Ranking</b>	<b>Acres within the Project Site (Eastern Component)</b>
Developed	Non-sensitive	None	1.45
Ruderal Uplands	Non-sensitive	None	5.17
Seasonal Wetland	Sensitive	S3G4; USACE-; RWQCB-Jurisdictional	0.28
Former Salt Pond/Salt Marsh	Sensitive	S3G4; USACE-; RWQCB-Jurisdictional	1.41

Source: WRA 2020; Appendix A of the Initial Study

Note: Table does not include western component of the project site.

**Figure 4.1-1 Vegetation Community and Land Cover Types: Eastern Component of Project Site**



Source: WRA 2020; see Appendix A of the Initial Study

**DEVELOPED AREA (NO VEGETATION ALLIANCE). CDFW RANK: NONE**

A portion of the eastern component of the project site is characterized by the abandoned and dilapidated Oliver Brothers Salt Works plant, including one remnant building and two smaller structures located in the northeast corner of the project site. A portion of the San Francisco Bay Trail occurs at the eastern edge of the eastern component of the project site.

**RUDERAL UPLANDS (NO VEGETATION ALLIANCE). CDFW RANK: NONE**

Ruderal (weedy) communities are assemblages of plants that thrive in areas that have been disturbed by human activity. Dominant upland plant species on the eastern component of the project site include non-native species such as soft chess (*Bromus hordeaceus*), ripgut grass (*Bromus diandrus*), slender wild oat (*Avena barbata*), broad-leaf filaree (*Erodium botrys*), white-stem filaree (*Erodium moschatum*), wall barley (*Hordeum murinum leporinum*), bitter lettuce (*Lactuca virosa*), dove's foot geranium (*Geranium molle*), cut-leaf geranium (*Geranium dissectum*), California burclover (*Medicago polymorpha*), stinkwort (*Dittrichia graveolens*), short-podded mustard (*Hirschfeldia incana*), Italian thistle (*Carduus pycnocephalus pycnocephalus*), bristly ox-tongue (*Helminthotheca echioides*), common vetch (*Vicia sativa*), white sweet clover (*Melilotus albus*), and bindweed (*Convolvulus arvensis*). These are just a few of the non-native weedy species found on the project site. The uplands also support a few scattered native species, including common spikeweed (*Centromadia pungens pungens*) and coyote brush (*Baccharis pilularis ssp. consanguinea*). These same species characterize much of the upland areas of the western component of the project site.

**SEASONAL WETLANDS. (SALICORNIA/SARCOCORNIA PACIFICA AND SALICORNIA DEPRESSA HERBACEOUS ALLIANCE). CDFW RANK: S3G4, SENSITIVE**

Seasonal wetlands include areas which hold water for part of the year, typically during the rainy season (between October and March), which are dominated by hydrophytic vegetative cover, such as hyssop loosestrife (*Lythrum hyssopifolia*), cut-leaf plantain (*Plantago coronopus*), and Mediterranean barley (*Hordeum marinum ssp. gussoneanum*), rabbit's-foot grass (*Polypogon monspeliensis*), birdfoot trefoil (*Lotus corniculatus*), and plants that withstand higher salinities including perennial pickleweed (*Salicornia pacifica*), annual pickleweed (*Salicornia depressa*), tumbleweed (*Salsola tragus*), slender-leaved iceplant (*Mesembryanthemum nodiflorum*), and brass-buttons (*Cotula coronopifolia*).

**SALT PONDS/SALT MARSH (SARCOCORNIA PACIFICA AND SALICORNIA DEPRESSA HERBACEOUS ALLIANCE). CDFW RANK: S3G4, SENSITIVE**

There are two man-made, salt ponds and associated ditches at the southwestern edge of the eastern component of the project site that are associated with the former salt production that operated on the project site for over 50 years, as is evident from historical aerial photographs available on Google Earth. These features were abandoned when the salt production ceased operations in 1981. The salt ponds and associated ditches on the site are dominated by perennial pickleweed, Mediterranean barely, cut-leaf plantain, fathen (*Atriplex prostrata*), alkali heath (*Frankenia salina*), and tall flatsedge (*Cyperus eragrostis*). These areas are not tidally influenced and occur in drainage ditches and diked basins within the eastern component of the project site that are seasonally ponded or saturated.

The six man-made salt ponds within the western component of the project site support a fringe of perennial pickleweed around the outer perimeter of the ponds. Other species observed around the

edges of the salt ponds included annual pickleweed, slender-leaved iceplant, brass-buttons, alkali heath, Mediterranean barley, saltgrass (*Distichlis spicata*), and fleshy jaumea (*Jaumea carnosa*).

## **Special-Status Species**

WRA biologists reviewed relevant databases and literature for baseline information on biological resources occurring and potentially occurring at the project site and in the immediate surrounding area. Database searches (i.e., CNDDDB, CNPS) focused on the Redwood Point, Hunters Point, San Leandro, Hayward, Newark, Mountain View, Palo Alto, Woodside, and San Mateo USGS 7.5-minute quadrangles for special-status plants and wildlife. A complete bibliography including citations for each literature and database source listed above is provide in the Biological Resources Technical Report (see Appendix A of the Initial Study, which is provided as Appendix A to this EIR).

On June 19, 2020, WRA biologists completed a field review of the project site to document: (1) land cover types (e.g., terrestrial communities, aquatic resources); (2) existing conditions and to determine if such provide suitable habitat for any special-status plant or wildlife species; (3) if and what type of aquatic natural communities (e.g., wetlands) are present; and, (4) if special-status species are present. The presence of suitable habitat for special-status species was evaluated during the site visit based on physical and biological conditions of the site, as well as the professional expertise of the investigating biologists. The potential for each special-status species to occur on the project site was then determined according to the following criteria:

- **No Potential.** Habitat on and adjacent to the site is clearly unsuitable for the species requirements (foraging, breeding, cover, substrate, elevation, hydrology, plant community, site history, disturbance regime).
- **Unlikely.** No suitable habitat is present on the site, but suitable habitat may be located adjacent to the site. The species is unlikely to be found on the site but may be found in nearby habitat.
- **Low Potential.** Few of the habitat components meeting the species requirements are present, and/or the majority of habitat on the site is unsuitable or of very poor quality. The species has a low probability of being found on the site.
- **Moderate Potential.** Some of the habitat components meeting the species requirements are present, and/or only some of the habitat on or adjacent to the site is unsuitable. The species has a moderate probability of being found on the site.
- **High Potential.** All of the habitat components meeting the species requirements are present and/or most of the habitat on or adjacent to the site is highly suitable. The species has a high probability of being found on the site.

Based upon their review of literature and database resources, WRA determined that 11 special-status plant species have been documented in the vicinity of the project site. Most of the plant species documented from the vicinity were determined unlikely to occur on the project site for one or more of the following reasons:

- Suitable hydrologic conditions, such as rivers, are absent;
- Suitable soil types are absent;
- Topographic conditions, such as north-facing slopes, are absent;
- Unique pH conditions, such as acidic bogs, are absent;
- Project site is isolated from historic range of plant species; and
- Past activity on-site has degraded suitable habitat.

No special-status plants were found during the site surveys conducted by WRA in 2020, or during previous surveys conducted by Monk & Associates in 2015 and 2016. Accordingly, it was determined that special-status plant species are not expected to occur on the project site (see Appendix A of the Initial Study).

Twenty-six special-status wildlife species were documented within the vicinity of the project site. Some were excluded from occurring on the project site due to a lack of suitable habitat features, such as perennial streams and ponds; tidal marshland; serpentine soil; sandy beaches; and caves. The absence of such habitat features eliminates components critical to the survival or movement of most special-status species found in the vicinity. Although some species have no potential to occur, WRA determined that 13 special-status species have potential to occur either on the project site, and/or adjacent or near adjacent to the project site. The 13 species with potential to occur in or near the project site are presented in Table 4.1-2.

**Table 4.1-2 Special-Status Wildlife Species Potentially Present**

Species	Status	Habitat Preferences	Potential to Occur
Western snowy plover ( <i>Charadrius alexandrinus nivosus</i> )	FT CDFW SSC USFWS BCC	Breed primarily above the high tide line on coastal beaches, sand spits, dune-backed beaches, sparsely vegetated dunes, beaches at creek and river mouths, and salt pans at lagoons and estuaries. Nests typically occur in flat, open areas with sandy or saline substrates where vegetation and driftwood are usually sparse or absent.	<b>Unlikely.</b> The project site is unlikely to be used by western snowy plovers because it is not open enough for western snowy plovers to nest. However, the species may nest in the restored salt ponds within the CDFW's Eden Landing Ecological Reserve near the project site.
California least tern ( <i>Sterna antillarum brownii</i> )	FE/SE FP	Typically nest in loose colonies on flat sand-shell beaches, mud or gravel flats, and man-made habitats including airports, landfills, and dredge-fill sites, relatively free of plant growth.	<b>Unlikely.</b> The project site is not open enough for the least terns to nest. However, the species may nest in the restored salt ponds within the CDFW's Eden Landing Ecological Reserve near the project site.
California Ridgway's rail ( <i>Rallus obsoletus obsoletus</i> )	FE/SE FP	Occurs only within salt and brackish marshes. Typically inhabits salt marshes dominated by pickleweed and cordgrass.	<b>Unlikely.</b> The project site does not support tidal sloughs or dense tidal marsh habitat typically associated with the species foraging and nesting habitat. Potential habitat for California Ridgway's rail is present within 700 feet of the project site, across State Route 92 in tidal marsh habitats at Hayward

California black rail ( <i>Laterallus jamaicensis coturniculus</i> )	ST FP USFWS BCC	Occurs in California coastal salt and brackish marshes from Bodega Bay to Morro Bay, with additional populations known from freshwater marshes near or in the northern Sierra Nevada foothills.	Landing and Johnson Landing.
Black skimmer ( <i>Rynchops niger</i> )	CDFW SSC USFWS BCC	Nests colonially on undisturbed earthen islands or levees, often with terns	<b>Unlikely.</b> The project site does not support tidal marsh habitat typically associated with California black rail habitat. However, species are known to occur in tidal habitat north and south of the project site.  <b>Unlikely.</b> Species is not known to nest on the berms or levees associated with former salt ponds on the project site. However, the species may nest nearby.
Alameda song sparrow ( <i>Melospiza melodia pusillula</i> )	CDFW SSC USFWS BCC	Prefers tidally influenced marsh, and taller shrubs such as gumplant are required for breeding.	<b>Low potential.</b> The project site does not support tidal marsh habitat typically associated with Alameda song sparrow habitat; however, the species may nest near the project site.
Burrowing owl ( <i>Athene cunicularia</i> )	CDFW SSC	Typical habitat is annual or perennial grassland, although human-modified areas such as agricultural lands and airports are also used. Species is dependent on burrowing mammals to provide the burrows that are characteristically used for shelter and nesting.	<b>Low potential.</b> The project site does not contain a large number of suitable burrows or burrow surrogates for this species. However, burrowing owls may use the levees around the project site for wintering and nesting habitat.
San Francisco (saltmarsh) common yellowthroat ( <i>Geothlypis trichas sinuosa</i> )	CDFW SSC	Found in freshwater marshes, coastal swales, riparian thickets, brackish marshes, and saltwater marshes. Requires thick, continuous cover such as tall grasses, tule patches, or riparian vegetation down to the water surface for foraging and prefers willows for nesting.	<b>Unlikely.</b> The project site does not contain suitable nesting habitat. However, the salt marshes near the project site may support suitable nesting habitat.
White-tailed kite ( <i>Elanus leucurus</i> )	FP	Resides in open to semi-open habitats throughout the lower elevations of California, including grasslands, savannahs, woodlands, agricultural areas and wetlands. Nests are constructed mostly of	<b>Low potential.</b> The shrubs in the eastern portion of the eastern component of the project site may provide marginal nesting habitat for this species. The project site and surrounding salt marshes,

<p>Salt marsh harvest mouse  <i>(Reithrodontomys raviventris)</i></p>	<p>FE/SE  FP</p>	<p>twigs and placed in trees, often at habitat edges.</p> <p>Found only in and adjacent to suitable salt- and brackish-marsh habitat in the greater San Francisco Bay, San Pablo Bay, and Suisun Bay areas. Habitat associated with the species is pickleweed-dominated marsh, though more recent studies have shown that the species is supported equally in pickleweed-dominated and mixed-vegetation (including native and non-native salt- and brackish-marsh species).</p>	<p>however, offer suitable foraging habitat.</p> <p><b>High potential.</b> Salt marsh harvest mouse is known to occur in abundance near the project site. Marginal pickleweed habitat is present at the former salt ponds within the project site.</p>
<p>Salt-marsh wandering shrew  <i>(Sorex vagrans halicoetes)</i></p>	<p>CDFW SSC</p>	<p>Inhabits salt marsh that is inundated daily by tides</p>	<p><b>Unlikely.</b> The project site does not support tidal marsh habitat typically associated with salt marsh wandering shrew.</p>
<p>Pallid bat  <i>(Antrozous pallidus)</i></p>	<p>CDFW SSC  WBWG High Priority</p>	<p>Typically occurs in association with open, rocky areas. Roosts must offer protection from high temperatures and are typically in rock crevices, mines, caves, or tree hollows; manmade structures are also used, including buildings and bridges.</p>	<p><b>Moderate potential.</b> The Oliver Brothers Salt Works building on-site may provide marginal roosting habitat, hibernacula, or maternity sites.</p>
<p>Western mastiff bat  <i>(Eumops perotis californicus)</i></p>	<p>CDFW SSC  WBWG High Priority</p>	<p>Roosts are primarily located high on cliffs under exfoliating rock slabs but have also been found in similar crevices in large boulders and buildings.</p>	<p><b>Moderate potential.</b> The Oliver Brothers Salt Works building on-site may provide marginal roosting habitat, hibernacula, or maternity sites.</p>

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Source: WRA 2020; see Appendix A of the Initial Study

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## Wetlands and Other Waters of the U.S.

On January 7, 2015 Monk and Associates biologists conducted a wetland delineation of the eastern component of the project site, using criteria prescribed in the USACE 1987 Wetland Delineation Manual and the USACE Regional Supplement for the Arid West Region (USACE 1987; 2008). A draft wetland delineation map was submitted to the USACE along with a Request for a Jurisdictional Determination on March 27, 2015. The USACE conducted the site verification on November 10, 2015 and issued the Preliminary Jurisdictional Determination letter and map on January 27, 2016. The confirmed Preliminary Jurisdictional Determination Map of the eastern component of the

project site is included in the Biological Resources Technical Report, which is provided as Appendix A to the Initial Study. The Initial Study is Appendix A to this EIR.

According to the confirmed Preliminary Jurisdictional Determination map a total of 1.69 acres of potentially jurisdictional wetlands are located within the eastern component of the project site. This includes 1.41 acres of salt marsh and 0.28 acres of seasonal wetlands considered to be federally protected wetlands as defined by CWA Section 404.

Monk and Associates conducted a wetland delineation of the western component of the project site on October 12, 2016. Monk and Associates delineated 19 wetlands within the western component of the site, with a total land area of approximately 0.95 acre, combined. Wetlands consist generally of fringe or narrow strips along the edges of the former salt ponds. The former salt ponds within the western component were delineated as "Other Waters" and total approximately 26.14 acres. Additionally, another approximately 3.2 acres of "Other Waters" were delineated in the form of barren mudflats and approximately 0.57 acre of "Other Waters" was delineated in the form of a ditch. The USACE has not issued a Preliminary Jurisdictional Determination letter or map for the delineation of the western component of the project site. However, the delineation map of the western component of the project site is included in the Biological Resources Technical Report, provided as Appendix A to the Initial Study.

### **Wildlife Movement Corridors**

Wildlife movement corridors, or habitat linkages, are generally defined as connections between habitat patches that allow for physical and genetic exchange between otherwise isolated animal populations. Such linkages may serve a local purpose, such as providing a linkage between foraging and denning areas, or they may be regional in nature. The key to a functioning corridor or linkage is that it connects two larger habitat blocks, also referred to as core habitat areas. Some habitat linkages may serve as migration corridors, wherein animals periodically move away from an area and then subsequently return. Others may be important as dispersal corridors for young animals. A group of habitat linkages in an area can form a wildlife corridor network. The California Essential Habitat Connectivity Project commissioned by the California Department of Transportation (Caltrans) and CDFW; identifies "Natural Landscape Blocks" which support native biodiversity and the "Essential Connectivity Areas" which link them (Spencer et al. 2010).

Wildlife movement corridors can be both large and small in scale. The South Bay Salt Pond Restoration Project was developed by the CDFW and USFWS, in partnership with the California Coastal Commission and the U.S. Army Corps of Engineers (USACE), among others. That restoration effort will restore and enhance wetlands in South San Francisco Bay, while providing flood management and wildlife-oriented public access and recreation (EDAW et al. 2007). One of the goals of the South Bay Salt Pond Restoration Project is to restore a habitat mosaic to represent the historic pre-salt-pond landscape. Since the decommissioning of the salt ponds that were previously used for salt production in the South Bay, thousands of acres of salt ponds have been preserved and restored to provide habitat for listed species. Most of these ponds are currently publicly owned and managed for the benefit of fish and wildlife (EDAW et al. 2007).

One of the large salt pond complexes of the South Bay Salt Pond Restoration Project includes CDFW's Eden Landing Ecological Reserve. As described above, wildlife corridors must provide a link between two areas of suitable habitats. While the eastern and western components of the project site are located adjacent to Eden Landing, they are otherwise bordered by State Route 92 and developed areas in the City of Hayward. The location of the project site adjacent to these substantial barriers to terrestrial passage, as well as the sparse nature of vegetation present within the project

site, limit its potential value as a wildlife corridor. The eastern and western components of the project site provide marginal wildlife corridor value as a stepping-stone area for migratory birds, based primarily on their proximity to Eden Landing. However, this value is only marginal given the small size of the site in relation to the size of Eden Landing, and the factors related to edge disturbance from adjacent developed areas.

## 4.1.2 Regulatory Setting

The following sections explain the regulatory context of the biological assessment, including applicable laws and regulations that were applied to the field investigations and analysis of potential project impacts.

### **a. Federal and State Regulations**

#### **Vegetation and Aquatic Communities**

CEQA provides protections for particular vegetation types defined as sensitive by CDFW, and aquatic communities protected by laws and regulations administered by the USACE, State Water Resources Control Board (SWRCB), and RWQCB. The laws and regulations that provide protection for these resources are summarized below.

##### *Sensitive Natural Communities*

Sensitive natural communities include habitats that fulfill special functions or have special values. Natural communities considered sensitive are those identified in local or regional plans, policies, regulations, or by the CDFW. CDFW ranks sensitive communities as "threatened" or "very threatened" (CDFG 2010, CDFW 2018) and keeps records of their occurrences in its California Natural Diversity Database (CNDDDB; CDFW 2018). CNDDDB vegetation alliances are ranked 1 through 5 based on NatureServe's (2018) methodology, with those alliances ranked globally (G) or statewide (S) as 1 through 3 considered sensitive. Impacts to sensitive natural communities identified in local or regional plans, policies, or regulations or those identified by the CDFW or USFWS must be considered and evaluated under CEQA (CCR Title 14, Div. 6, Chap. 3, Appendix G).

##### *Waters of the United States, Including Wetlands*

The USACE regulates "Waters of the United States" under Section 404 of the Clean Water Act (CWA). Waters of the United States are defined in the Code of Federal Regulations (CFR) as including the territorial seas, and waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, such as tributaries, lakes and ponds, impoundments of waters of the U.S., and wetlands (33 CFR 328.3). Potential wetland areas, according to the three criteria used to delineate wetlands as defined in the USACE Wetlands Delineation Manual (Environmental Laboratory 1987), are identified by the presence of (1) hydrophytic vegetation, (2) hydric soils, and (3) wetland hydrology. Unvegetated waters including lakes, rivers, and streams may also be subject to Section 404 jurisdiction and are characterized by an ordinary high water mark (OHWM) identified based on field indicators such as the lack of vegetation, sorting of sediments, and other indicators of flowing or standing water. The placement of fill material into Waters of the United States generally requires a permit from the USACE under Section 404 of the CWA.

The USACE also regulates construction in navigable waterways of the U.S. through Section 10 of the Rivers and Harbors Act (RHA) of 1899 (33 USC 403). Section 10 of the RHA requires Corps approval

and a permit for excavation or fill, or alteration or modification of the course, location, condition, or capacity of, any port, roadstead, haven, harbor, canal, lake, harbor or refuge, or enclosure within the limits of any breakwater, or of the channel of any navigable water of the United States. Section 10 requirements apply only to navigable waters themselves, and are not applicable to tributaries, adjacent wetlands, and similar aquatic features not capable of supporting interstate commerce.

#### *Waters of the State, Including Wetlands*

The term “Waters of the State” is defined by the Porter-Cologne Act as “any surface water or groundwater, including saline waters, within the boundaries of the state.” The SWRCB and nine RWQCBs protect waters within this broad regulatory scope through many different regulatory programs. Waters of the State in the context of a CEQA Biological Resources evaluation include wetlands and other surface waters protected by the State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State. The SWRCB and RWQCB issue permits for the discharge of fill material into surface waters through the State Water Quality Certification Program, which fulfills requirements of Section 401 of the CWA and the Porter-Cologne Water Quality Control Act. Projects that require a Clean Water Act permit are also required to obtain a Water Quality Certification. If a project does not require a federal permit, but does involve discharge of dredge or fill material into surface waters of the State, the SWRCB and RWQCB may issue a permit in the form of Waste Discharge Requirements.

#### *California Fish and Game Code, Sections 1600-1616*

Streams and lakes, as habitat for fish and wildlife species, are regulated by CDFW under Sections 1600-1616 of California Fish and Game Code (CFG). Alterations to or work within or adjacent to streambeds or lakes generally require a 1602 Lake and Streambed Alteration Agreement. The term “stream”, which includes creeks and rivers, is defined in the California Code of Regulations (CCR) as “a body of water that flows at least periodically or intermittently through a bed or channel having banks and supports fish or other aquatic life [including] watercourses having a surface or subsurface flow that supports or has supported riparian vegetation” (14 CCR 1.72). The term “stream” can include ephemeral streams, dry washes, watercourses with subsurface flows, canals, aqueducts, irrigation ditches, and other means of water conveyance if they support aquatic life, riparian vegetation, or stream-dependent terrestrial wildlife (CDFG 1994). Riparian vegetation has been defined as “vegetation which occurs in and/or adjacent to a stream and is dependent on, and occurs because of, the stream itself” (CDFG 1994). Removal of riparian vegetation also requires a Section 1602 Lake and Streambed Alteration Agreement from CDFW.

#### *San Francisco Bay and Shoreline*

Enacted in 1965, the McAteer-Petris Act (California Government Code Section 66600 et seq.) established the San Francisco Bay Conservation and Development Commission (BCDC) as a state agency charged with preparing a plan for the long-term use of the Bay. BCDC has several areas of jurisdiction, including: San Francisco Bay (including sloughs and marshlands lying between mean high tide and five feet above mean sea level) and a shoreline band consisting of all territory located between the shoreline of the Bay and a line 100 feet landward of and parallel with the shoreline (California Government Code 66610). Any person or governmental agency wishing to place fill, to extract materials, or to make any substantial change in use of any water, land or structure within BCDC jurisdiction must secure a permit from BCDC.

## Special-Status Species

### *Endangered and Threatened Plants, Fish and Wildlife*

Specific species of plants, fish, and wildlife species may be designated as threatened or endangered by the federal Endangered Species Act (ESA), or the California Endangered Species Act (CESA). Specific protections and permitting mechanisms for these species differ under each of these acts, and a species' designation under one law does not automatically provide protection under the other.

The ESA (16 USC 1531 et seq.) is implemented by the USFWS (USFWS) and the National Marine Fisheries Service (NMFS). The USFWS and NMFS maintain lists of "endangered" and "threatened" plant and animal species (referred to as "listed species"). "Proposed" or "candidate" species are those that are being considered for listing and are not protected until they are formally listed as threatened or endangered. Under the ESA, authorization must be obtained from the USFWS or NMFS prior to take of any listed species. Take under the ESA is defined as "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." Take under the ESA includes direct injury or mortality to individuals, disruptions in normal behavioral patterns resulting from factors such as noise and visual disturbance and impacts to habitat for listed species. Actions that may result in "take" of an ESA-listed species may obtain a permit under ESA Section 10, or via the interagency consultation described in ESA Section 7. Federally listed plant species are only protected when take occurs on federal land.

The ESA also provides for designation of critical habitat, which are specific geographic areas containing physical or biological features "essential to the conservation of the species". Protections afforded to designated critical habitat apply only to actions that are funded, permitted, or carried out by federal agencies. Critical habitat designations do not affect activities by private landowners if there is no other federal agency involvement.

The CESA (California Fish and Game Code 2050 et seq.) prohibits a "take" of any plant and animal species that the California Fish and Game Commission determines to be an endangered or threatened species in California. CESA regulations include take protection for threatened and endangered plants on private lands, as well as extending this protection to "candidate species" which are proposed for listing as threatened or endangered under CESA. The definition of a "take" under CESA ("hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill") only applies to direct impact to individuals, and does not extend to habitat impacts or harassment. CDFW may issue an Incidental Take Permit under CESA to authorize take if it is incidental to otherwise lawful activity and if specific criteria are met. Take of these species is also authorized if the geographic area is covered by a Natural Community Conservation Plan (NCCP), as long as the NCCP covers that activity.

### *Fully Protected Species and Designated Rare Plant Species*

This category includes specific plant and wildlife species that are designated in the CFGC as protected even if not listed under CESA or the ESA. Fully Protected Species includes specific lists of birds, mammals, reptiles, amphibians, and fish designated in CFGC. Fully protected species may not be taken or possessed at any time. No licenses or permits may be issued for take of fully protected species, except for necessary scientific research and conservation purposes. The definition of "take" is the same under the CFGC and the CESA. By law, CDFW may not issue an Incidental Take Permit for Fully Protected Species. Under the California Native Plant Protection Act (NPPA), CDFW has listed 64 "rare" or "endangered" plant species, and prevents "take", with few exceptions, of these species.

CDFW may authorize take of species protected by the NPPA through the Incidental Take Permit process, or under a NCCP.

### *Special Protections for Nesting Birds and Bats*

The federal Bald and Golden Eagle Protection Act provides relatively broad protections to both of North America's eagle species (bald [*Haliaeetus leucocephalus*] and golden eagle [*Aquila chrysaetos*]) that in some regards are similar to those provided by the ESA. In addition to regulations for special-status species, most native birds in the United States, including non-status species, have baseline legal protections under the Migratory Bird Treaty Act (MBTA) of 1918 and CFGC, i.e., sections 3503, 3503.5 and 3513. Under these laws/codes, the intentional harm or collection of adult birds as well as the intentional collection or destruction of active nests, eggs, and young is illegal. For bat species, the Western Bat Working Group (WBWG) designates conservation status for species of bats, and those with a high or medium-high priority are typically given special consideration under CEQA.

### *Species of Special Concern, Movement Corridors, and Other Special Status Species Under CEQA*

To address additional species protections afforded under CEQA, CDFW has developed a list of special species as "a general term that refers to all of the taxa the CNDDDB is interested in tracking, regardless of their legal or protection status." This list includes lists developed by other organizations, including for example, the Audubon Watch List Species, the Bureau of Land Management (BLM) Sensitive Species, and USFWS Birds of Special Concern. Plant species on the California Native Plant Society (CNPS) Rare and Endangered Plant Inventory (Inventory) with California Rare Plant Ranks (Rank) of 1, 2, and 3 are also considered special-status plant species and must be considered under CEQA. Rank 4 species are typically only afforded protection under CEQA when such species are particularly unique to the locale (e.g., range limit, low abundance/low frequency, limited habitat) or are otherwise considered locally rare. Additionally, any species listed as sensitive within local plans, policies and ordinances are likewise considered sensitive. Movement and migratory corridors for native wildlife (including aquatic corridors) as well as wildlife nursery sites are given special consideration under CEQA.

## **b. Local Regulations**

### **Hayward 2040 General Plan**

On July 1, 2014, the Hayward City Council approved the Hayward 2040 General Plan and certified the Final General Plan Environmental Impact Report. The Natural Resources Element (Part 3 of the Hayward 2040 General Plan) establishes goals and policies to protect and enhance the natural resources within the Hayward Planning Area. The goals and policies address a variety of topics, including biological resources. The biological resources goals and policies that are relevant to the proposed project are presented below.

**Goal NR-1:** Protect, enhance, and restore sensitive biological resources, native habitat, and vegetation communities that support wildlife species so they can be sustained and remain viable.

**Policy NR-1.1: Native Wildlife Habitat Protection.** The City shall limit or avoid new development that encroaches into important native wildlife habitats; limits the range of

listed or protected species; or creates barriers that cut off access to food, water, or shelter of listed or protected species.

**Policy NR-1.2: Sensitive Habitat Protection.** The City shall protect sensitive biological resources, including State and Federally designated sensitive, rare, threatened, and endangered plant, fish, and wildlife species and their habitats from urban development and incompatible land uses.

**Policy NR-1.3: Sensitive Species Identification, Mapping, and Avoidance.** The City shall require qualified biologists to identify, map, and make recommendations for avoiding all sensitive biological resources on the project site, including State and Federally sensitive, rare, threatened, and endangered plant, fish, and wildlife species and their habitats using methods and protocols in accordance with the U.S. Fish and Wildlife Service, California Department of Fish and Wildlife, and California Native Plant Society for all development applications proposed within sensitive biological resource areas.

**Policy NR-1.4 Shoreline Protection and Enhancement.** The City shall coordinate with the Hayward Area Shoreline Planning Agency, Bay Conservation and Development Commission, and California Coastal Commission to conserve, protect, and enhance natural and cultural resources along the San Francisco Bay shoreline by balancing uses that support multiple community needs, such as recreation, tourism, cultural resource preservation, and natural resource protection.

**Policy NR-1.5 Large-Scale Natural Area Access.** The City shall support efforts to improve access to publicly owned large-scale natural areas located within the Planning Area, including the shoreline, creeks, regional parks, riparian corridors, and hillside open space areas, by allowing them to be open for controlled access to improve public enjoyment and education, while also limiting access to extremely sensitive natural habitat and minimizing human-related environmental impacts.

**Policy NR-1.6 Migratory Bird Habitat Protection.** The City shall support the efforts of the Hayward Area Shoreline Planning Agency and other agencies to preserve and protect tidal flats and salt ponds with low salinity for migratory waterfowl that depend on these areas.

**Policy NR-1.9 Native Plant Species Protection and Promotion.** The City shall protect and promote native plant species in natural areas as well as in public landscaping.

### 4.1.3 Impacts Analysis

#### a. Methodology and Significance Thresholds

This section describes the potential environmental impacts of the proposed project relevant to biological resources. The impact analysis is based on the Biological Resources Technical Report prepared by WRA which included a background review of pertinent literature and resource databases (e.g. CNDDDB and CNPS online inventory), desktop vegetation mapping and a reconnaissance-level biological survey (WRA 2020; see Appendix A of the Initial Study). The results of the reconnaissance survey and literature/background review were used to determine the potential for biological resources to occur in the biological study area and evaluate potential project impacts and mitigation measures.

According to the adopted Appendix G of the State *CEQA Guidelines*, impacts related to biological resources from the proposed project would be significant if the project would:

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, regulations, or by CDFW or USFW or as defined under *CEQA Guidelines* Section 15380;
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 a state or Federally protected wetlands (including but not limited to, marsh vernal pool, coastal, etc.) through direct removal, filling, or 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, or 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; or
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.

These topics were utilized in completing the analysis of potential project impacts for CEQA purposes. For the purposes of this analysis, a “substantial adverse effect” is generally interpreted to mean that a potential impact could directly or indirectly affect the resiliency or presence of a local biological community or species population. Potential impacts to natural processes that support biological communities and special-status species populations that can produce similar effects are also considered potentially significant. Impacts to individuals of a species or small areas of existing biological communities may be considered less than significant if those impacts are speculative, beneficial, *deminimis*, and/or would not affect the resiliency of a local population.

Impacts associated with CEQA checklist items 4 through 6 were determined to be less than significant or no impact in the Initial Study prepared for the proposed project and included with this EIR as Appendix A. Therefore, no further analysis is warranted, and these topics will not be discussed further in this section.

## **b. Impact Analysis**

**Threshold 1:** Would the project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?

**Impact BIO-1** THE PROPOSED PROJECT WOULD HAVE A SUBSTANTIAL ADVERSE EFFECT ON SPECIES IDENTIFIED AS A CANDIDATE, SENSITIVE, OR SPECIAL STATUS, SUCH AS SALT MARSH HARVEST MOUSE, BURROWING OWL AND OTHER BIRDS, AND BATS. IMPACTS WOULD BE LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATED.

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### **Plant Species**

As described above in Section 4.1.1, *Setting*, special-status plant species do not occur within the eastern and western components of the project site. Ground disturbance required for construction

of the proposed project would be limited to the eastern and component of the project site and roadway areas of Point Eden Way. Therefore, the proposed project would have no impacts on special-status plant species.

## **Wildlife Species**

Given the project site's relative proximity to sensitive habitats on the San Francisco Bay, many species documented nearby are obligates to marine or tidal marsh habitats which are not present on or in the immediate vicinity of the project site. Thirteen special status wildlife species have some potential to occur either on the project site and/or adjacent or near adjacent to the project site; however, many of these species are considered unlikely to occur on the project site (see Table 4.1-2). No special status wildlife species were observed on the project site at the time of the field surveys. The salt marsh harvest mouse (SMHM), a federally and state endangered species, is considered to have a high potential for occurrence on the project site due to the number of records of SMHM in the vicinity and presence of marginal pickleweed habitat at former salt ponds on-site, including on both the eastern and western components of the site. Nesting special status bird species and/or nesting migratory birds protected under CFGC may occur throughout the project site and its vicinity. Additionally, two special status bat species have a moderate potential to occur within the existing building on the eastern component of the project site.

The proposed project would not involve construction or operation activities within the western component of the project site. No maintenance or management activities would be conducted within the western component of the project site. Therefore, establishment of the preserve area within the western component of the project site would have no impacts on special-status wildlife species.

Potential impacts to special-status wildlife species from project activities and facilities on the eastern component of the project site are described below.

### *Salt Marsh Harvest Mouse and Salt Marsh Wandering Shrew*

The closest known CNDDDB record of SMHM is located just north of the project site in the EBRPD Salt Marsh Harvest Mouse Preserve in the Hayward Marsh Regional Shoreline, located north of Highway 92 (CNDDDB Occurrence No. 54) (the project site is south of Highway 92). SMHM are also known from pickleweed habitats south of the project site along the Mt. Eden Creek channel within the CDFW's Eden Landing Ecological Reserve (CNDDDB Occurrences No. 85 and 86). They are also known further to the south of CDFW Eden Landing Ecological Reserve in the tidal salt marshes (CNDDDB Occurrence Numbers 77, 87, 89 and 90). The closest CNDDDB record for salt marsh wandering shrew (SMWS) dates from 1951 in the tidal marsh habitat near Johnson Landing, northwest of the project site (CNDDDB Occurrence No. 14).

Project construction activities on the eastern component of the project site could result in direct mortality and/or harassment of the federal and State endangered SMHM and CDFW special-status SMWS. Additionally, the project would potentially result in impacts to marginal pickleweed habitat for these species. No construction activities would occur within the western component of the project site, where most of the former salt ponds and pickleweed habitat occurs. However, construction of the proposed building and parking lot would occur partially within pickleweed habitat at a former salt pond in the eastern component of the project site. Further, disturbance of the upland area immediately adjacent to the salt pond in the eastern component would disturb habitat that could become increasingly important to SMHM and SMWS as escape refugia during flooding and inundation. These impacts to SMHM and SMWS are regarded as potentially significant.

Therefore, Mitigation Measures BIO- 1a through BIO-1c listed below would be required to reduce potential impacts to SMHM and SMWS to a less-than-significant level.

In addition to protections under FESA, SMHM is also a State Fully Protected species under the CFGC. Fully Protected species are listed in CFGC Sections 3511, 4700, 5050, and 5515, which state that CDFW is unable to authorize incidental take of such species when activities are proposed in areas inhabited by those species. Therefore, mitigation measures would be required to avoid take of these species to comply with federal, State and local regulations.

#### *Burrowing Owl*

The closest CNDDDB record for burrowing owl is located southeast of the project site (CNDDDB Occurrence No. 946). This species was observed in 2006, wintering in a ground squirrel burrow in sparse non-native grassland along Marina Drive in Hayward. The project site contains very few suitable burrows or burrow surrogates for this species; however, burrowing owls may use the levees the project site for wintering and nesting habitat. Project activities, including vegetation removal and ground disturbance during construction could affect burrowing owl by causing auditory, vibratory, and/or visual disturbance of a sufficient level to cause abandonment of the site or active nests. Impacts would be potentially significant. Therefore, Mitigation Measure BIO-1d would be required to reduce potential impacts to burrowing owl to a less-than-significant level.

#### *California Least Tern, Western Snowy Plover, and Black Skimmer*

The closest CNDDDB record for California least tern is located northwest of the project site on a sandy island within the EBRPD Hayward Regional Shoreline (CNDDDB Occurrence No. 82). There is another record southwest of the project site in the salt ponds of CDFW Eden Landing Ecological Reserve (CNDDDB Occurrence No. 70).

The closest CNDDDB record for western snowy plover is located south of the project site in the restored salt ponds within the CDFW's Eden Landing Ecological Reserve (CNDDDB Occurrence No. 136). Nesting has been recorded in numerous ponds, and the associated marsh habitats. There is an additional record for western snowy plover located northwest of the project site on a man-made island within the restored tidal salt marsh within the EBRPD Hayward Regional Shoreline (CNDDDB Occurrence No. 122). This record location is on the other side of Highway 92 from the project site.

The closest CNDDDB record for black skimmer is located northwest of the project site (CNDDDB Occurrence No. 3). This species was observed in 1994 nesting on an upland island in a brackish marsh, east of Johnson Landing. This record location is on the other side of Highway 92 from the project site. This species is not known to nest on the berms or levees associated with the on-site salt ponds or within the CDFW's Eden Landing Ecological Reserve, but it may nest near the project site.

California least tern, western snowy plover, and black skimmer are not expected to forage or nest on the project site. Mr. John Krause, CDFW's manager of the Eden Landing Ecological Reserve, states that the project site is unlikely to be used by these bird species. Hence, the proposed project would not result in direct impacts to California least tern, western snowy plover and black skimmer; however, these species could nest in restored salt ponds or along levees within the Eden Landing Ecological Reserve that is located next to the project site (WRA 2020; see Appendix A of the Initial Study).

Noise and visual impacts associated with construction of the project could result in nest abandonment, loss of young, reduced health and vigor of eggs and/or nestlings (resulting in reduced survival rates). These potential effects could result in potentially significant impacts to California

least terns, western snowy plover, and black skimmer. Therefore, Mitigation Measure BIO-1e would be required to reduce potential impacts to California least terns, western snowy plover, and black skimmer to a less than-significant level.

#### *Other Special-Status and Common Nesting Birds*

The project site does not support tidal marsh habitat typically associated with Alameda song sparrow or San Francisco common yellowthroat nesting habitat; however, these species may nest near the project site. In addition, white-tailed kite may nest on or near the project site. Common songbirds (passerine birds) could also nest on the project site. All of these birds are protected under the Migratory Bird Treaty Act (50 CFR 10.13) and their eggs and young are protected under CFGC Sections 3503, 3503.5. Potential impacts to these nesting bird species from the project include disturbance to nesting birds and possibly death of adults and/or young. Impacts to these nesting bird species would be considered a potentially significant impact. Therefore, Mitigation Measure BIO-1e would be required to reduce potential impacts to nesting bird species to a less-than-significant level.

#### *Pallid Bat and Western Mastiff Bat*

The existing Oliver Brothers Salt Works building may provide marginal roosting habitat, hibernacula, or maternity sites for special-status bat species on the eastern component of the project site. The closest CNDDDB record for pallid bat is located two miles east of the project site (CNDDDB Occurrence No. 130). Potential impacts to bat species could result from building demolition associated with the proposed project. Accordingly, impacts to pallid bat and western mastiff bat are regarded as potentially significant. Therefore, Mitigation Measure BIO-1f would be required to reduce potential impacts to special-status bat species to a less-than-significant level.

#### *Other Impacts*

Construction of the project would require the use of heavy machinery, such as dozers and backhoes within the eastern component of the project site. Heavy machinery would generate noise that could disturb the life patterns of any of the aforementioned special-status species that occur either within or adjacent to the eastern component of the project site. However, mitigation measures BIO-1a through BIO-1h, below, would ensure that these species and their habitat are properly protected during construction of the project. Impacts would be less than significant with implementation of these mitigation measures.

Construction of the project would generate small quantities of solid waste. For example, construction workers could pack meals to the site, which would include food packaging that would be discarded as waste. Discarded food waste could attract nuisance species or predator species, such as Norway rats, that could either harm or displace special-status species. This would be a potentially significant impact, but mitigable. Implementation of Mitigation Measure BIO-1g would be required to reduce impacts to less than significant. Mitigation Measure BIO-1g requires removal of food wrappers and waste at the end of each construction workday. During operation common wastes, such as food and beverage wrappers, would be placed in standard trash dumpsters that would be within an enclosed area. Common solid waste generated during operation would be minimal and consistent with waste quantities and types already generated nearby, such as at existing offices to the east of the project site. Operational impacts would be less than significant.

The proposed building and associated parking area would include exterior lighting. Light pollution can affect bird nesting behavior, flight patterns of bats during night, and other similar wildlife

impacts. However, proposed exterior lighting and parking lot lighting must comply with Hayward Municipal Code Section 10-1.1606. Specifically, exterior lighting and parking lot lighting must be designed by a qualified lighting designer and erected and maintained so that light is confined to the property and will not cast direct light or glare upon adjacent properties or public rights-of-way. Mandatory compliance with Section 10-1.1606 would ensure that the proposed project does not create substantial new sources of light that adversely affect wildlife in the areas near the project site, including the Caltrans Pond between the eastern and western components of the project site. Impacts on special-status species from project lighting would be less than significant with mandatory compliance with Hayward Municipal Code Section 10-1.1606.

Relocation of the San Francisco Bay Trail to the western edge of the eastern component of the project site would put trail users in closer proximity to the Caltrans Pond and other salt marsh habitat to the west of the Caltrans Pond, including the western component of the project site. Although use of the trail would not permit trail users to trespass onto adjacent property, some users may choose to leave the trail surface and enter the areas of salt marsh habitat to the west. If people enter the salt marsh habitat, habitat destruction for special-status species could result, which would be a potentially significant impact. Therefore, Mitigation Measure BIO-1h would be required to reduce this potential impact to a less-than-significant level.

## **Mitigation Measures**

### *BIO-1a SMHM and SMWS Habitat Fencing*

Prior to ground disturbing activities adjacent to potential SMHM and SMWS habitat, temporary exclusion barriers and/or fencing shall be installed to exclude individuals of these species from areas of active construction. The design of the exclusion barriers and fencing shall be approved by a qualified biologist and shall be installed in the presence of a qualified biological monitor. The fence will be made of a material that does not allow SMHM or SMWS to pass through, and the bottom shall be buried to a depth of a minimum of four inches so that these species cannot crawl under the fence. All support for the exclusion fencing shall be placed on the inside of the project footprint. Additionally, removal of marsh or associated ruderal vegetation shall be completed using only hand tools and in the presence of a biological monitor. The barriers and/or fencing shall remain in place for the duration of construction of the project.

### *BIO-1b Qualified Biological Monitor*

A qualified biological monitor shall be present during wildlife exclusion fence installation and removal, and during all vegetation clearing and initial ground disturbance which take place in marsh habitats of the former salt ponds and the vegetation adjacent to marsh habitats. The monitor will have demonstrated experience in biological construction monitoring and knowledge of the biology of the special-status species that may be found in the project site, including SMHM and SMWS. The monitor(s) shall have the authority to halt construction, if necessary, if noncompliance actions occur. If a federal or State listed species is observed at any time during construction, work shall not be initiated or shall be stopped immediately until the animal leaves the vicinity of the work area of its own volition. If the animal in question does not leave the work area, work shall not be reinitiated until the qualified biological monitor has contacted the appropriate agency to discuss on how to proceed with work activities. The biological monitor shall direct the contractor on how to proceed accordingly.

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The biological monitor(s) shall be the contact person for any employee or contractor who might inadvertently kill or injure a special-status species or anyone who finds a dead, injured, or entrapped special-status species. Following fence installation, vegetation removal in potential habitat areas, and initial ground disturbance in potential habitat areas, the biologist shall train an onsite monitor to continue to document compliance. The biologist shall conduct weekly site checks to provide guidance for fence maintenance, provide environmental sensitivity training, and document compliance with permit conditions.

*BIO-1c Worker Environmental Awareness Program Training*

The biological monitor shall provide an endangered species training program to all personnel involved in project construction. At a minimum, the employee education program shall consist of a brief presentation by persons knowledgeable about the biology of sensitive species with potential to occur in the project footprint, and about their legislative protection to explain concerns to contractors and their employees involved with implementation of the project. The program shall include a description of the species and their habitat needs, any reports of occurrences in the area; an explanation of the status of these species and their protection under State and federal legislation; and a list of measures being taken to reduce impacts to these species during construction.

*BIO-1d Burrowing Owl Pre-Construction Surveys and Avoidance*

A qualified biologist shall conduct pre-construction clearance surveys prior to ground disturbance activities within suitable natural habitats and ruderal areas throughout the eastern component of the project site to confirm the presence/absence of active burrowing owl burrows. The surveys shall be consistent with the recommended survey methodology provided by CDFW (2012). Clearance surveys shall be conducted within 30 days prior to construction and ground disturbance activities. If no burrowing owls are observed, no further actions are required. If burrowing owls are detected during the pre-construction clearance surveys, the following measures shall apply:

- Avoidance buffers during the breeding and non-breeding season shall be implemented in accordance with the CDFW (2012) and Burrowing Owl Consortium (1993) minimization mitigation measures.
- If avoidance of burrowing owls is not feasible, then additional measures such as passive relocation during the nonbreeding season and construction buffers of 200 feet during the breeding season shall be implemented, in consultation with CDFW. In addition, a Burrowing Owl Exclusion Plan and Mitigation and Monitoring Plan shall be developed by a qualified biologist in accordance with the CDFW (2012) and Burrowing Owl Consortium (1993).

*BIO-1e Nesting Bird Avoidance and Pre-Construction Surveys*

Project activities, such as vegetation removal, grading, or initial ground-disturbance, shall be conducted between September 1 and January 31 to the greatest extent feasible. If project activities must be conducted during the nesting season (February 1 to August 31), a pre-construction nesting bird survey shall be conducted by a qualified biologist no more than 14 days prior to vegetation removal or initial ground disturbance. Additional nesting surveys shall be conducted if project construction activities cease for more than 14 days during this period. The survey shall include the project site plus a 200-foot buffer around the eastern component of the project site if feasible, and a 500-foot buffer, if feasible, for California least tern, western snowy plover, and black skimmer, to identify the location and status of any nests that could potentially be affected either directly or

indirectly by project activities. A survey of the western component of the project site shall be optional and not required because no ground disturbance or construction activities are proposed in the western component of the project site.

If active nests are identified during the nesting bird survey, an appropriate avoidance buffer shall be established within which no work activity will be allowed which would impact these nests. The avoidance buffer would be established by the qualified biologist on a case-by-case basis based on the species and site conditions. In no cases shall the buffer be smaller than 50 feet for passerine bird species, 250 feet for raptor species, or 600 feet for California least tern, western snowy plover, and black skimmer. Larger buffers may be required depending upon the status of the nest and the construction activities occurring in the vicinity of the nest. Buffers shall be delineated by orange construction fencing that defines the buffer where it intersects the project site.

If a California least tern, western snowy plover, or black skimmer nest is found within 500 feet of the project site, USFWS and CDFW will be immediately notified. USFWS and CDFW shall be consulted on appropriate avoidance and minimization methods, which would likely include work restrictions within 500 feet of the nest, biological monitoring for activity within the nest' line-of-sight, etc. The buffer area(s) shall be closed to all construction personnel and equipment until juveniles have fledged and the nest is inactive. The qualified biologist shall confirm that breeding/nesting is completed, and young have fledged the nest prior to removal of the buffer.

#### *BIO-1f Special-Status Bat Avoidance and Pre-Construction Surveys*

To avoid impacts to roosting special-status bats, focused surveys to determine the presence/absence of roosting bats shall be conducted prior to the initiation of demolition of buildings and removal of mature trees large enough to contain crevices and hollows that could support bat roosting. If active maternity roosts are identified, a qualified biologist shall establish avoidance buffers applicable to the species, the roost location and exposure, and the proposed construction activity in the area. If active non-maternity day or night roosts are found on the project site, measures shall be implemented to passively relocate bats from the roosts prior to the onset of construction activities. Such measures may include removal of roosting site during the time of day the roost is unoccupied or the installation of one-way doors, allowing the bats to leave the roost but not to re-enter. These measures shall be presented in a Bat Passive Relocation Plan that shall be submitted to, and approved by, CDFW.

#### *BIO-1g Trash Removal*

During construction of the project, all food-related trash items such as wrappers, cans, bottles, and food scraps shall be disposed of in solid, closed containers (trash cans) and removed at the end of each workday from the project site to eliminate an attraction to predators of special-status species.

#### *BIO-1h Public Access Exclusion Fencing*

Access by all project construction personnel into the Eden Landing Ecological Reserve shall be prohibited. Upon completion of the development project a permanent fence shall be installed on the eastern component of the project site to prevent access from the San Francisco Bay Trail relocated segment and the new industrial development into the adjacent salt ponds and associated marsh habitats to the west. In addition, signs shall be posted stating that public access into the salt ponds and associated marsh habitat is strictly prohibited owing to the sensitivity of the habitat and to ensure the continued use of this habitat by special-status species.

## Significance After Mitigation

Implementation of these mitigation measures would reduce potential impacts to special-status species and their habitats to a level that is less than significant.

**Threshold 2:** Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?

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### **Impact BIO-2 THE PROPOSED PROJECT WOULD REQUIRE IMPACTS TO SEASONAL WETLANDS AND SALT MARSH ON THE EASTERN COMPONENT OF THE PROJECT SITE, WHICH ARE CONSIDERED SENSITIVE NATURAL COMMUNITIES. IMPACTS WOULD BE LESS THAN SIGNIFICANT WITH MITIGATION.**

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There are no streams or open freshwater areas on the project site that support adjacent riparian habitat. Riparian habitat does not occur on the project site. Therefore, the proposed project would have no impact on riparian habitat.

As described above under *Vegetation Communities and Land Cover Types*, sensitive natural communities within the project site include seasonal wetlands scattered throughout the project site and northern coastal salt marsh and associated unvegetated waters in the remnant salt ponds on the project site. The proposed project would not involve construction or operation activities within the western component of the project site. No maintenance or management activities would be conducted within the western component of the project site. Therefore, establishment of the preserve area within the western component of the project site would have no impacts on sensitive natural communities.

Project construction activities on the eastern component of the project site would result in the fill of 0.28 acre of seasonal wetlands and 0.69 acre of salt marsh and associated unvegetated waters in the remnant salt ponds on the eastern component project site. These impacts to sensitive natural communities under the jurisdiction of CDFW would be potentially significant. Implementation of Mitigation Measure BIO-3 would require compensatory mitigation for loss of wetlands and would reduce the potential impacts to sensitive natural communities to a less-than-significant level. Implementation of Mitigation Measure BIO-1h, above, would prevent people from accessing and damaging off-site marsh habitat. This impact would be less than significant with implementation of mitigation.

## Mitigation Measures

Implementation of Mitigation Measure BIO-1h, as described above under Impact BIO-1.

Implementation of Mitigation Measure BIO-3, as described below under Impact BIO-3.

## Significance After Mitigation

Implementation of Mitigation Measures BIO-1h and BIO-3 would reduce potential impacts to sensitive natural communities to a less-than-significant level.

**Threshold 3:** Would the project 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?

**Impact BIO-3 THE PROPOSED PROJECT WOULD REQUIRE THE PERMANENT FILL OF APPROXIMATELY 0.28 ACRE OF SEASONAL WETLANDS AND 0.69 ACRE OF SALT MARSH AND ASSOCIATED UNVEGETATED WATERS IN REMNANT SALT PONDS ON THE EASTERN COMPONENT OF THE PROJECT SITE. IMPACTS WOULD BE LESS THAN SIGNIFICANT WITH MITIGATION.**

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The proposed project would not involve construction or operation activities within the western component of the project site. The proposed project would have no impacts on wetlands or other waters within the western component of the project site.

According to the confirmed Preliminary Jurisdictional Determination map a total of 1.69 acres of potentially jurisdictional wetlands are located within the eastern component of the project site. This includes 1.41 acres of salt marsh and 0.28 acres of seasonal wetlands considered to be federally protected wetlands as defined by CWA Section 404. Of these total on-site wetlands, construction of the proposed project would require the permanent fill of approximately 0.28 acre of seasonal wetlands and 0.69 acre of salt marsh and associated unvegetated waters in remnant salt ponds on the eastern component of the project site. Fill would be permanent because a portion of the proposed parking lot and relocated San Francisco Bay Trail segment would be constructed on top of the fill material. Although the proposed project would include preservation of all wetlands and other waters on the western component of the project site, the fill of approximately 0.28 acre of seasonal wetlands and 0.69 acre of salt marsh on the eastern component would be a potentially significant adverse impact. Implementation of Mitigation Measure BIO-3 would be required to reduce potential impacts to protected wetlands to a less-than-significant level.

### **Mitigation Measure**

#### *BIO-3 Protected Wetlands Mitigation Credits*

To compensate for impacts to approximately 0.97 acre of waters of the U.S., the project applicant shall purchase wetland mitigation credits at a minimum of 1:1 mitigation ratio from an approved mitigation bank with a Service Area that covers the project site. The San Francisco Bay Wetland Mitigation Bank currently has "Tidal Wetland and Other Waters Creation" credits available for purchase. Either the U.S. Army Corps of Engineers or the CDFW may adjust the mitigation ratio and the applicant shall comply, but in no case shall the mitigation ratio be less than 1:1.

### **Significance After Mitigation**

Implementation of Mitigation Measure BIO-3 would reduce potential impacts to federally protected wetlands to a less-than-significant level.

## **4.1.4 Cumulative Impacts**

The cumulative setting for biological resources includes proposed development and construction within Hayward that is west of Interstate 880. This cumulative extent is appropriate because it encompasses the mosaic of representative habitat types (and associated biological resources) affected by the proposed project, including a variety of wetlands habitats and industrial uses along the shoreline. Areas to the east of Interstate 880 are urban until the foothills of the East Bay Hills, which provide habitat unlike that in areas west of Interstate 880, including the project site and San Francisco Bay shoreline.

The project site is located just north of the CDFW Eden Landing Ecological Reserve and west of existing office/light industrial uses. Implementation of the proposed project would be consistent

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with both of these surrounding uses, as part of the project would construct a new industrial building and the other part would involve preservation of an open space/wetland preserve on the western side of the project site. Project activities would occur entirely on the project site, and the interaction between the affected environment and project activities and facilities would be limited to this area.

Cumulative projects within the assessment area are listed in Table 3-1, in Section 3, Environmental Setting. The projects listed in Table 3-1 are not along the shoreline of the San Francisco Bay. There are no salt ponds at cumulative project sites because they are not along the shoreline of the Bay and were not used for salt production, unlike the project site. Therefore, cumulative projects in Table 3-1 would not impact special-status species found in salt marsh habitat, such as salt marsh harvest mouse or salt marsh wandering shrew. However, cumulative project sites may support other special-status species that could also be impacted by the project, such as migratory nesting birds or special-status bat species. For example, the residential subdivision project proposed at 24765 Hesperian Boulevard is on a property with trees and vegetation cover, which could be used by nesting birds. Cumulative projects may also contain wetlands and riparian habitat. Specifically, construction of the cumulative projects could result in:

- Trampling, and degradation of sensitive habitats
- Disruption of habitat values associated with edge habitat
- Degradation of wetlands, creeks, drainages, riparian habitat, water quality, associated habitat values and functions, and ecosystems services; including channelization of storm runoff that may increase stream flow, erosion, and sedimentation
- Disruption of wildlife utilization of biological resources for foraging; hydration; cover, shelter, aestivation/hybernacula; nesting and breeding; movement, dispersal, and migration, sensitive and native nesting birds, and special-status bats.
- Loss of sensitive natural communities including seasonal wetlands
- Introduction of litter (including human foods), urine and fecal matter, illegal off-leash dogs (causing harassment and mortality of wildlife)

Taken cumulatively, these impacts would result in degradation of the suite of habitat types and associated biological resources that occur within the cumulative setting in the Hayward Regional Shoreline area and could result in overall diminished regional ecological functions and values. However, impacts to biological resources would be considered and mitigated on a project-by-project basis. Permanent losses of sensitive habitats, including sensitive natural communities and listed species, associated with cumulative development would be mitigated to a less than significant level. As such, the project's contribution to cumulative impacts would be significant but mitigable, and after mitigation would not be cumulatively considerable.

Mitigation measures for biological resources identified in this EIR would reduce project-level impacts to a less than significant level. Mitigation Measure BIO-3 would require the project applicant to compensate for impacts to 0.97 acre of waters of the U.S. by purchasing wetland mitigation credits at a 1:1 ratio from an approved mitigation bank within a service area covering the project site. This would mitigate permanent loss of waters of the U.S., and also support preservation of essential habitat for the SMHM to promote the recovery of the species in the region. Implementation of these mitigation measures outlined in this section and above in Impact BIO-1 would reduce project-level impacts to a less than significant level and would ensure that the project's contribution to cumulative biological resources impacts would not be cumulatively considerable.

## 4.2 Cultural Resources

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This section assesses the potential for the proposed project to result in impacts to cultural resources, including historic resources and prehistoric or archaeological resources.

### 4.2.1 Setting

#### a. Regional Setting

##### Prehistory

The project site is in the San Francisco Bay Area archaeological region (Milliken et al. 2007, Moratto 1984). Following Milliken et al. (2007), the prehistoric cultural chronology for the Bay Area can be generally divided into five periods: The Early Holocene (8,000-3,500 BCE), Early (3,500-500 BCE), Lower Middle (500 BCE to CE 430), the Upper Middle (CE 430-1050), and the Late Period (CE1050-contact). The five general prehistoric periods are summarized below.

##### *Early Holocene (8,000-3,500 BCE)*

Archaeological evidence from the early Holocene is limited, as many sites dating to this period are likely buried under Holocene alluvial deposits (Moratto 1984; Ragir 1972). The available data suggest that the Early Holocene in the San Francisco Bay Area is characterized by a mobile forager pattern and the presence of millingslabs, handstones, and a variety of leaf-shaped projectile points.

##### *Early Period (3,500-600 BCE)*

The Early Period saw the introduction of new ground stone technologies (i.e., mortar and pestle), an increase in regional trade, and the first cut shell beads. By 1,500 BCE, mortars and pestles had almost completely replaced millingslabs and handstones. The advent of the mortar and pestle indicates a greater reliance on processing nuts such as acorns. The earliest cut bead horizon is also associated with this period. (Milliken et al. 2007).

##### *Lower Middle Period (500 BCE-CE 430)*

Rectangular shell beads, common during the Early Period, disappear completely and are replaced by split-beveled and saucer Olivella beads during the Lower Middle Period. Mortars and pestles continued to be the dominant grinding tool (Milliken et al. 2007). Evidence for the Lower Middle Period in the Bay Area comes from sites such as the Emeryville shell mound (CA-ALA-309) and Ellis Landing (CA-CCO-295) (Moratto 1984).

##### *Upper Middle Period (CE 430-1050)*

Around CE 430, Olivella saucer bead trade networks that had been established during earlier periods collapsed and over half of known sites occupied during the Lower Middle Period were abandoned. New types of material culture appear at sites, including elaborate, decorative blades, fishtail charmstones, new Haliotis ornament forms, and mica ornaments. Sea otter bones became more abundant, suggesting changes in faunal exploitation patterns from earlier periods (Milliken et al. 2007).

### *Late Period (CE 1050-Contact)*

The Late Period saw an increase in social complexity, indicated by differences in burials, and an increased level of sedentism relative to preceding periods. Small, finely worked projectile points associated with bow and arrow technology appear around CE 1250 (Milliken et al. 2007). This period saw an increase in the intensity of resource exploitation that correlates with an increase in population (Moratto 1984).

## **Ethnographic Overview**

The project site is an area traditionally occupied by the Ohlone (or Costanoan) people. The pre-contact Ohlone were semi-sedentary, with a settlement system characterized by base camps and seasonal reserve camps composed of tule reed houses with thatched roofs made of matted grass (Schick 1994; Skowronek 1998). Just outside a base camp, there was sometimes a large sweat house built into the ground near stream banks used for spiritual ceremonies and possibly hygiene (Schick 1994, Jones 2015).

Ohlone cemeteries were set away from villages and visited during the annual Mourning Anniversary (Leventhal and DiGiuseppe 2009). Some Ohlone graves have been found with ritually buried animals, such as wolf, squirrel, deer, mountain lion, gray fox, elk, badger, grizzly bear, blue goose, and bat ray. Similar to human burials, ceremonial offerings were added to ritually buried animal graves like shell beads, ornaments, and exotic goods (Kroeber 1925; Field and Leventhal 2003; Jones 2010).

Ohlone subsistence was based on hunting, gathering, and fishing (Kroeber 1925:467, Skowronek 1998). Smaller game was hunted and snared on a regular basis (Schick 1944:17). Like the rest of California, the acorn was an important staple and was prepared by leaching acorn meal both in openwork baskets and in holes dug into the sand (Kroeber 1925:467). Fishing was done with nets and gorge hooks out of tule reed canoes (Schick 1994:16-17). Mussels were a particularly important food resource (Kroeber 1925:467), along with sea mammals (Kroeber 1925:467).

Seven Franciscan missions were built within Ohlone territory in the late 1700s, and all members of the Ohlone group were eventually brought into the mission system (Kroeber 1925:462, Skowronek 1998). After the establishment of the missions, Ohlone population dwindled from roughly 10,000 people in 1770 to 1,300 in 1814 (Skowronek 1998).

## **History**

The Post-European contact history of California is generally divided into three periods: the Spanish Period (1769–1822), the Mexican Period (1822–1848), and the American Period (1848–present). Each of these periods is briefly described below.

### *Spanish Period (1769 – 1821)*

Spanish exploration of California began when Juan Rodriguez Cabrillo led the first European expedition into the region in 1542, but it took more than 200 years to establish a settlement (Bean 1968; Rolle 2003). In the autumn of 1769, an expedition led by Gaspar de Portolá entered San Francisco Bay. Portola sent a detachment led by Jose Francisco de Ortega in search of a land route to Point Reyes. By November, the party reached a stream that was most likely Alameda Creek, whose course passes approximately 2.5 miles southeast of the project site. On March 31, 1776, an expedition led by Juan Bautista de Anza established a campsite at Arroyo de la Harina, near what is now Hayward City Hall (Circa 2009).

During this period, the influx of European settlers brought the local Native American population in contact with European diseases which they had no immunity against, resulting in a catastrophic reduction in native populations throughout the state (McCawley 1996).

#### *Mexican Period (1821 – 1848)*

The Mexican Period commenced when news of the success of the Mexican War of Independence (1810 – 1821) against the Spanish crown reached California in 1822. This period saw the privatization of mission lands in California with the passage of the Secularization Act of 1833. During this era, a class of wealthy landowners known as *rancheros* worked large ranches based on cattle hide and tallow production. In the early 1840s, the area now comprising Hayward was granted as two ranchos making up separate divisions of Rancho San Lorenzo. In 1841, Mexican Governor Juan Alvarado granted Guillermo Castro a 600-acre tract. Two years later, Governor Juan B. Alvarado granted Castro an additional six leagues of “former mission grazing lands” in 1843. Castro eventually constructed an adobe residence near the present location of Mission Boulevard and C Street in downtown Hayward. In 1842 and 1844, neighboring lands located south of San Lorenzo Creek were issued to Francisco Soto (Circa 2009; Kyle 2003).

#### *American Period (1848 – Present)*

The Mexican Period officially ended in early January 1848 with the signing of the Treaty of Guadalupe Hidalgo, formally concluding the Mexican-American War. Under the treaty, the United States agreed to pay Mexico \$15 million for conquered territory, including California, Nevada, Utah, and parts of Colorado, Arizona, New Mexico, and Wyoming. The discovery of gold in Northern California in 1848 led to the California Gold Rush (Workman 1935; Guinn 1976). The Gold Rush significantly transformed Northern California and contributed to an exponential increase in the territory’s population overall. During this time, San Francisco became California’s first true city, growing from a population of 812 to 25,000 in only a few years. California was admitted as a state in 1850, and by 1853, its population exceeded 300,000.

#### *Hayward (ca. 1850 – Present)*

American-era settlement in what is now Hayward began in the latter half of the 19<sup>th</sup> century with the establishment of a handful of small communities, including Hayward (originally named Haywards), Russell City, and Mt. Eden. The nearby San Francisco Bay shoreline was home to important shipping points for produce farmed in the Amador and Livermore valleys. The arrival of the rail service in Hayward in 1865 eventually undercut local shipping ventures but made Hayward a local overland transportation hub. Along the shoreline, industry was shaped by several solar salt producers, who established plants with large evaporating ponds amid the bay’s tidal marshes. John Johnson built the first of these near Mt. Eden in 1853. Salt plants soon proliferated, and by the 1890s several operations run by families or small corporations existed in the area. Among these outfits was that of Swedish immigrant Andrew August Oliver, who established the Acme Salt Company near Mt. Eden in 1872. His sons would later run the Oliver Brothers Salt Company, which developed the current project site as a salt works (Watt et al. n.d.; Anonymous 2020).

As was the case in many California communities, the state’s population boom was felt locally, as Hayward’s population increased from 6,700 in 1940 to 72,000 in 1960. Demand for housing helped to inflate local real estate prices, convincing many farmers to sell their holdings to residential and commercial developers. As Hayward expanded, it annexed several outlying communities to the

south and west, including Russell City, Mt. Eden, and the area comprising the project site (Circa 2009; 2010).

## **b. Project Site Setting**

### **Records Search**

Rincon Consultants requested a search of the California Historical Resources Information System (CHRIS) at the Northwestern Information Center (NWIC), located at Sonoma State University. NWIC staff conducted the search and Rincon Consultants received the results on August 24, 2020. The CHRIS search included a review of the NRHP, CRHR, the California Points of Historical Interest list, the California Historical Landmarks list, the Archaeological Determinations of Eligibility list, the Built Environment Resource Directory, and the California State Historic Resources Inventory list. The records search results identified 45 previously conducted cultural resources studies within a 0.5-mile radius of the project site, of which seven studies included a portion of the project site: S-001743, S-009768, S-02300, S-023200a, S-023200b, S-023200c, and S-023200d. Eight previously recorded cultural resources were also identified through the records search. These include five historic archaeological sites, three historic buildings or structures, and one historic landscape. Two of these resources are present within the project site; one is included in the western component (a historical-period archaeological site), one is included in the eastern component (the Oliver Brothers Salt Company), and one is adjacent. The historical-period archaeological site recorded within the project site was completely collected at the time of its recording and is therefore no longer present.

### **Historical Aerial Imagery Review**

Rincon Consultants conducted a review of historical aerial photographs and topographic maps to identify potential cultural resources concerns within the project site. The research individuated that salt fields began development in 1942, with three buildings and evaporators emerging by 1958. Grading within the eastern component of the project site is identified from 1987 to the present day.

### **Pedestrian Field Survey**

Rincon Consultants conducted a pedestrian field survey of the project site on September 22, 2020. All areas of exposed ground surface were examined for artifacts (e.g., flaked stone tools, tool-making debris, stone milling tools, ceramics, fire-affected rock), ecofacts (marine shell and bone), soil discoloration that might indicate the presence of a cultural midden, soil depressions, and features indicative of the former presence of structures or buildings (e.g., standing exterior walls, postholes, foundations) or historic debris (e.g., metal, glass, ceramics). Ground disturbances such as burrows and drainages were also visually inspected. Transects were generally spaced 10 to 20 meters throughout the survey based on surface visibility. All buildings, structures, and landscaped features within the project site were visually inspected, documenting their style, method of construction, and physical condition.

Results of the survey indicated that the project site has been heavily disturbed. Disturbance was evident throughout the project site in the form of soil spoils piles, nonlocal gravel, concrete and construction debris, and levee construction. Ground visibility was limited by the presence of standing water in the water storage ponds in the western portion of the project site and by vegetation in the eastern portion of the project site. No archaeological resources were identified within the project site during the field survey.

## Soil Remediation

To obtain further understanding of the sensitivity of the project site, Rincon Consultants reviewed the soil remediation studies conducted by Aqua Science Engineers, Inc. (2013). In 1998 two underground storage tanks containing diesel-fuel and hydrocarbons were removed from the project site and from 1998 to 2012 soil remediation efforts included multiple soil samples taken of the contaminated areas, and groundwater assessments to determine the extent of the site contamination (Aqua Science Engineers 2013). Additionally, “hot spots” were identified within the project site, which were excavated, bioremediated onsite, then backfilled. Other soil remediation efforts included overexcavation, in-situ soil treatment, and groundwater monitoring. Other remediation efforts included the destruction of 12 monitoring wells, the deepest well approximately 360 feet below ground surface (Aqua Science Engineers 2013). Soil remediation efforts covered approximately 16 percent of the western component of the project site, and approximately 81 percent of the eastern component of the site.

### 4.2.2 Regulatory Setting

Cultural resources, including built environment and archaeological resources, may be designated as historic by national, state, or local authorities. For a resource to qualify for listing in the National Register of Historic Places (NRHP), the California Register of Historical Resources (CRHR), or as a locally significant resource, it must meet one or more identified criteria of significance. The resource must also retain sufficient historic integrity, defined in National Register Bulletin 15 as the “ability of a property to convey its significance” (National Park Service 1990). An explanation of these designations follows.

#### a. Federal Regulations

##### *National Register of Historic Places*

The National Register of Historic Places (NRHP) was established by the National Historic Preservation Act (NHPA) of 1966 as “an authoritative guide to be used by Federal, State, and local governments, private groups and citizens to identify the Nation’s cultural resources and to indicate what properties should be considered for protection from destruction or impairment” (CFR 36 CFR 60.2). The NRHP recognizes properties that are significant at the national, state, and local levels. To be eligible for listing in the NRHP, a resource must be significant in American history, architecture, archaeology, engineering, or culture. Districts, sites, buildings, structures, and objects of potential significance must also possess integrity of location, design, setting, materials, workmanship, feeling, and association. A property is eligible for the NRHP if it is significant under one or more of the following criteria:

- Criterion A:** It is associated with events that have made a significant contribution to the broad patterns of our history; or
- Criterion B:** It is associated with the lives of persons who are significant in our past; or
- Criterion C:** It embodies the distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction; and/or
- Criterion D:** It has yielded, or may be likely to yield, information important in prehistory or history.

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In addition to meeting these criteria, a property must retain historic integrity, which is defined in National Register Bulletin 15 as the “ability of a property to convey its significance” (National Park Service 1990). In order to assess integrity, the National Park Service recognizes seven aspects or qualities that, considered together, define historic integrity. To retain integrity, a property must possess several, if not all, of these seven qualities, which are defined in the following manner in National Register Bulletin 15:

- **Location.** The place where the historic property was constructed or the place where the historic event occurred;
- **Design.** The combination of elements that create the form, plan, space, structure, and style of a property;
- **Setting.** The physical environment of a historic property;
- **Materials.** The physical elements that were combined or deposited during a particular period of time and in a particular pattern or configuration to form a historic property.
- **Workmanship.** The physical evidence of the crafts of a particular culture or people during any given period in history or prehistory;
- **Feeling.** A property’s expression of the aesthetic or historic sense of a particular period of time; and/or
- **Association.** The direct link between an important historic event or person and a historic property.

**b. State Regulations**

*California Environmental Quality Act*

Under CEQA, a “project that may cause a substantial adverse change in the significance of an historic resource is a project that may have a significant effect on the environment” (California Public Resources Code [PRC] Section 21084.1). Answering this question is a two-part process: first, the determination must be made as to whether the proposed project involves historic resources; second, if historic resources are present, the proposed project must be analyzed for a potential “substantial adverse change in the significance” of the resource.

*California Register of Historical Resources*

The CRHR helps government agencies identify, evaluate, and protect California’s historical resources, and indicates which properties are to be protected from substantial adverse change (PRC Section 5024.1(a)). The CRHR is administered through the State Office of Historic Preservation, a part of the California State Parks system.

A historic resource is evaluated under four CRHR criteria to determine its historical significance. A resource must be significant at the local, state, or national level in accordance with one or more of the following criteria set forth in the State CEQA Guidelines at Section 15064.5(a)(3):

1. It is associated with events that have made a significant contribution to the broad pattern of California’s history and cultural heritage.
2. It is associated with the lives of persons important in our past.
3. It embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values.

4. It has yielded, or may be likely to yield, information important in prehistory or history.

In addition to meeting one or more of the above criteria, the CRHR requires that sufficient time must have passed to allow a “scholarly perspective on the events or individuals associated with the resource.” Fifty years is used as a general estimate of the time needed to understand the historical importance of a resource according to State Historic Preservation Office publications. CRHR also requires a resource to possess integrity, 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. Integrity is evaluated with regard to the retention of location, design, setting, materials, workmanship, feeling, and association.” Archaeological resources can sometimes qualify as “historical resources” [CEQA Guidelines, Section 15064.5(c)(1)].

According to CEQA, all buildings constructed over 50 years ago that possess architectural or historical significance may be considered potential historic resources. Most resources must meet the 50-year threshold for historic significance, but resources less than 50 years in age may be eligible for listing on the CRHR if it can be demonstrated that sufficient time has passed to understand their historical importance.

If a project can be demonstrated to cause damage to a unique archaeological resource, the lead agency may require reasonable efforts to permit any or all of these resources to be preserved in place or left in an undisturbed state. To the extent that resources cannot be left undisturbed, mitigation measures are required (PRC Section 21083.2[a], [b], and [c]).

PRC Section 21083.2(g) defines a unique archaeological resource as an artifact, object, or site about which it can be clearly demonstrated that, without merely adding to the current body of knowledge, there is a high probability that it meets any of the following criteria:

- 1) Contains information needed to answer important scientific research questions and that there is a demonstrable public interest in that information
- 2) Has a special and particular quality such as being the oldest of its type or the best available example of its type
- 3) Is directly associated with a scientifically recognized important prehistoric or historic event or person

Two other programs are administered by the state: California Historical Landmarks and California “Points of Historical Interest.” California Historical Landmarks are buildings, sites, features, or events statewide significance and that have anthropological, cultural, military, political, architectural, economic, scientific or technical, religious, experimental, or other historical value. California Points of Historical Interest are buildings, sites, features, or events of local (city or county) significance and that have anthropological, cultural, military, political, architectural, economic, scientific or technical, religious, experimental, or other historical value.

Impacts to significant cultural resources are considered a significant effect on the environment if they affect the characteristics of any resource that qualify it for the NRHP or adversely alter the significance of a resource listed in or eligible for listing in the CRHR. These impacts could result from physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired (CEQA Guidelines, Section 15064.5 [b][1], 2000). Material impairment is defined as demolition or alteration in an adverse manner [of] those characteristics of an historical resource that convey its historical significance and that justify its inclusion in, or eligibility for inclusion in, the CRHR (CEQA Guidelines, Section 15064.5[b][2][A]).

### *Codes Governing Human Remains*

The CEQA Guidelines Section 15064.5 also assign special importance to human remains and specifies procedures to be used when Native American remains are discovered. The disposition of human remains is governed by Health and Safety Code Section 7050.5 and PRC Sections 5097.94 and 5097.98; it falls under the jurisdiction of the Native American Heritage Association (NAHC). If human remains are discovered, the county coroner must be notified within 48 hours and there should be no further disturbance to the site where the remains were found. If the remains are determined by the coroner to be Native American, the coroner is responsible to contact the NAHC within 24 hours. The NAHC, pursuant to PRC Section 5097.98, will immediately notify those persons it believes to be most likely descended from the deceased Native Americans so they can inspect the burial site and make recommendations for treatment or disposal.

### **c. Local Regulations**

#### *City of Hayward*

The City of Hayward adopted a Historic Preservation Ordinance in 1989, and comprehensively updated that the Ordinance in 2010. The purpose of this Ordinance is to promote the public health, safety and general welfare of the inhabitants of the City by providing for the identification, protection, enhancement, perpetuation and use of historical resources, including buildings, structures, signs, objects, features, sites, historic and prehistoric archaeological sites, places, districts, designed landscapes, cultural landscapes and areas within the City that reflect special elements of the City's architectural, artistic, cultural, engineering, aesthetic, historical, political, social and other heritage (Article 11, Section 10-11.010). The City or any property owner may request the designation of an historical resource or a potentially significant historical resource or the designation of an historic district by submitting an application for such designation to the Planning Division. The Planning Commission is authorized to approve in whole or in part, or disapprove in whole or in part, the application for designation of the resource as an historical resource on the local register (Article 11, Section 10-11.090). The Ordinance specifies that a property may be determined historically significant if it possesses one of the following:

- 1) An association with events that have made a significant contribution to the broad patterns of national, state and/or local history and cultural heritage
- 2) An association with the lives of persons significant in national, state and/or local past
- 3) The embodiment of the distinctive characteristics of a type, period, region, or method of construction, or that represent the work of a master or important creative individual, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction
- 4) Details that have yielded, or may be likely to yield, information important in prehistory or history

### 4.2.3 Impact Analysis

#### **a. Methodology and Significance Thresholds**

This section describes the potential environmental impacts of the proposed project relevant to cultural resources. The analysis evaluates the potential for proposed activities to result in impacts to cultural resources, based on records of resources within the project site, observations of the

pedestrian survey completed by Rincon Consultants in September 2020, and the history and sensitivity of the project vicinity. Complete documentation of the records search and pedestrian survey, including potential impacts to resources, is provided in the Cultural Resources Assessment Report, prepared by Rincon Consultants, Inc. in February 2021. The Cultural Resources Assessment Report is provided as Appendix B to this EIR.

According to Appendix G of the State *CEQA Guidelines*, impacts related to cultural resources from the proposed project would be significant if the project would:

1. Cause a substantial adverse change in the significance of a historical resource pursuant to §15064.5;
2. Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5; or
3. Disturb any human remains, including those interred outside of formal cemeteries.

## b. Impact Analysis

<b>Threshold 1:</b> Would the project cause a substantial adverse change in the significance of a historical resource pursuant to §15064.5?
---

**Impact CUL-1 DEMOLITION OF THE OLIVER BROTHERS SALT COMPANY PROCESSING PLANT AND FILLING OF PORTIONS OF THE ASSOCIATED SALT EVAPORATION PONDS ON THE EASTERN COMPONENT OF THE PROJECT SITE WOULD ADVERSELY IMPACT FEATURES THAT CONTRIBUTE TO THE SIGNIFICANCE OF A HISTORICAL RESOURCE. IMPACTS WOULD BE SIGNIFICANT AND UNAVOIDABLE.**

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The proposed project would not involve construction or operation activities within the western component of the project site. The proposed wetland preserve within the western component of the project site would involve no maintenance or operational activities. Therefore, the proposed wetland preserve would have no impacts on historic resources within the western component of the project site.

The field survey and background research identified one built-environment historical resource in the eastern component of the project site: the Oliver Brothers Salt Company. The resource has been determined eligible for listing in the NRHP and is listed in the CRHR; the property, therefore, qualifies as a historical resource as defined by CEQA. The project site, including the eastern and western component of the site, are also part of a historic landscape affiliated with the former salt production operations. Although the proposed project would not result in the demolition or alteration of the salt evaporation ponds and levees located on the western component of the project site, it would result in the demolition of the processing plant and filling of portions of existing salt evaporation ponds located on the eastern component of the project site. The eastern component of the site is essential in the larger property's ability to convey its significance, as it contains the only remaining buildings on the project site and is the location of the primary salt processing activities. Due to proposed demolition and construction activities that would impact contributing features within the eastern component, the proposed project would cause the material impairment of the resource, meaning it would alter in an adverse manner those physical characteristics that convey its historical significance and that justify its inclusion in the NRHP and CRHR. Filling the salt ponds and demolishing the building on the eastern component of the site would also alter the historic landscape, as would constructing a new industrial building. The project would therefore result in a substantial adverse change to the significance of a historical resource and result in a significant impact pursuant to CEQA.

Although not capable of reducing impacts to below the level of significance, two mitigation measures are required which would minimize project impacts relating to the demolition of the Oliver Brother Salt Company property to the maximum extent feasible: CUL-1a and CUL-1b.

### **Mitigation Measures**

#### *CUL-1a Building Recordation*

Archival documentation of as-built and as-found condition shall be prepared for the Oliver Brothers Salt Company prior to demolition. Prior to issuance of demolition permits, the City of Hayward shall ensure that documentation of the buildings and structures proposed for demolition is completed that follows the general guidelines of Historic American Building Survey (HABS)-level III documentation. The documentation shall include high resolution digital photographic recordation, a historic narrative report, and compilation of historic research. The documentation shall be completed by a qualified professional who meets the standards for history, architectural history, or architecture as set forth by the Secretary of the Interior's Professional Qualification Standards (36 CFR, Part 61). The original archival-quality documentation shall be offered as donated material to the Hayward Library and/or Hayward Area Historical Society to make it available for current and future generations. Archival copies of the documentation shall be submitted to the City of Hayward where it shall be available to local researchers.

#### *CUL-1b Interpretive Display*

An interpretive display shall be developed and installed on site to commemorate the history of the Oliver Brothers Salt Company. The display may include historic photographs, drawings, and text to convey the history of the site and the significance of salt processing in Alameda County. The display shall be reviewed and approved by the City prior to installation at a site to be chosen by the City. The installation shall occur prior to issuance of a Certificate of Occupancy.

### **Significance After Mitigation**

Although not capable of reducing impacts to below the level of significance, mitigation measures CUL-1a and CUL-1b would minimize project impacts relating to the demolition of the Oliver Brother Salt Company property. Impacts would remain significant and unavoidable.

**Threshold 2:** Would the project cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?

**Impact CUL-2 CONSTRUCTION OF THE PROPOSED PROJECT WOULD INVOLVE GROUND-DISTURBING ACTIVITIES THAT HAVE THE POTENTIAL TO UNEARTH OR ADVERSELY IMPACT PREVIOUSLY UNIDENTIFIED ARCHAEOLOGICAL RESOURCES WITHIN THE EASTERN COMPONENT OF THE PROJECT SITE. IMPACTS WOULD BE LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATED.**

The proposed project would not involve construction or excavation activities within the western component of the project site. The proposed project would have no impacts on potential subsurface archaeological resources within the western component of the project site.

Construction of the proposed project, including the proposed industrial building, surface parking, utilities and landscaping, and relocated segment of the San Francisco Bay Trail, would involve excavation and ground disturbance on the site's eastern component. For example, the proposed industrial building would require subsurface utility connections that requiring trenching below

existing ground surface. Although the project site has been heavily disturbed due to salt works operations and soil remediation efforts from 1998 to 2012, ground-disturbing activities would have the potential to unearth previously unidentified archaeological resources. Project impacts to unanticipated discoveries would be significant but mitigable.

## Mitigation Measures

### *CUL-2 Unanticipated Discovery of Archaeological Resources*

In the event that archaeological resources are unexpectedly encountered during ground-disturbing activities, work in the immediate area shall be halted and an archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards for archeology (National Park Service 1983) shall be contacted immediately to evaluate the find. If the find is prehistoric, then a Native American representative should also be contacted to participate in the evaluation of the find. If necessary, as determined by the archaeologist in consultation with the City, the evaluation may require preparation of a treatment plan and archaeological testing for California Register of Historical Resources (CRHR) eligibility. If the discovery proves to be eligible for the CRHR and cannot be avoided by the modified project, additional work, such as data recovery excavation, may be warranted to mitigate impacts to archaeological resources.

<b>Threshold 3:</b> Would the project disturb any human remains, including those interred outside of formal cemeteries?
---

**Impact CUL-3 THE DISCOVERY OF HUMAN REMAINS IS ALWAYS A POSSIBILITY DURING GROUND-DISTURBING ACTIVITIES. GROUND DISTURBANCE REQUIRED FOR CONSTRUCTION OF THE PROPOSED PROJECT COULD DISTURB OR DAMAGE KNOWN OR UNKNOWN HUMAN REMAINS WITHIN THE EASTERN COMPONENT OF THE PROJECT SITE. THIS IMPACT WOULD BE LESS THAN SIGNIFICANT DUE TO MANDATORY ADHERENCE TO EXISTING REGULATIONS.**

The discovery of human remains is always a possibility during ground disturbing activities extending at least several feet into the ground surface. If human remains are found, the State of California Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the County Coroner has made a determination of origin and disposition pursuant to Public Resources Code Section 5097.98. In the event of an unanticipated discovery of human remains, the County Coroner must be notified immediately. If the human remains are determined to be prehistoric, the Coroner will notify the NAHC, which will determine and notify a most likely descendant (MLD). The MLD has 48 hours to make recommendations for the disposition of the remains. The MLD has 48 hours from being granted site access to make recommendations for the disposition of the remains. If the MLD does not make recommendations within 48 hours, the landowner shall reinter the remains in an area of the property secure from subsequent disturbance.

The proposed project would not involve construction or excavation activities within the western component of the project site. The proposed project would have no impacts on potential human remains, if present, within the western component of the project site.

Construction within the eastern component of the project site would require ground disturbance to several feet or more below ground surface, such as grading for relocation of the San Francisco Bay Trail, utility connections for the industrial building, or drilling for the displacement pier supports for the building foundation. These project activities would have potential to encounter and disturb unknown or previously undiscovered human remains, since this is usually a possibility regardless of

project or location. However, mandatory adhere to existing regulations to protect human remains, such as Public Resources Code Section 5097.98 would prevent significant impacts. Impacts would be less than significant.

### **Mitigation Measures**

No mitigation measures are indicated.

### **Significance After Mitigation**

Impacts would be less than significant without mitigation.

## **4.2.4 Cumulative Impacts**

The cumulative impacts assessment area for cultural resources consists of the project site, including both the western and eastern components of the project site. The project site was determined to be appropriate because implementation of the proposed project would result in no structural demolition or ground disturbance or associated potential to impact buried cultural resources beyond the boundaries of the project site. Likewise, historic resources on the project site occur solely on the project site and not within the sites of other cumulative projects, list in Table 3-1 in Section 3, *Environmental Setting*.

There are no other ongoing or reasonably foreseeable future projects within the project site other than the proposed project. Potential impacts to cultural resources associated with implementation of the proposed project are described above. Implementation of the proposed project would result in significant and unavoidable impacts to historic resources associated with demolition of the former Oliver Brothers Salt Company structure and alterations to salt evaporation ponds within the eastern component of the project site. The proposed project would have no impacts to historic resources located elsewhere in the City because project activities would be limited to the project site. However, because the proposed project would result in direct significant impacts to historic resources on the project site, there would be fewer historic resources remaining in the City, and the cumulative impact would be significant and unavoidable. Within implementation of mitigation measures CUL-1a and CUL-1b, impacts would be reduced, but would remain significant and unavoidable.

The reasonably foreseeable future projects listed in Table 3-1 of Section 3, *Environmental Setting*, would require ground disturbance and excavation during construction. Ground disturbance and excavation activities would have the potential to encounter previously unidentified or unknown subsurface cultural resources. Construction of the proposed project would also require excavation and result in the same potential to encounter or damage subsurface resources. However, implementation of Mitigation Measure CUL-2 would be required and would reduce impacts to less than significant. Other projects would undergo environmental review with the City as lead agency, and mitigation would be required to reduce or avoid significant impacts, similar to the proposed project. Therefore, there would be no significant cumulative impacts to archaeological resources and human remains.

## 4.3 Hazards and Hazardous Materials

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This section evaluates the potential impacts relating to hazards and hazardous materials associated with the proposed project.

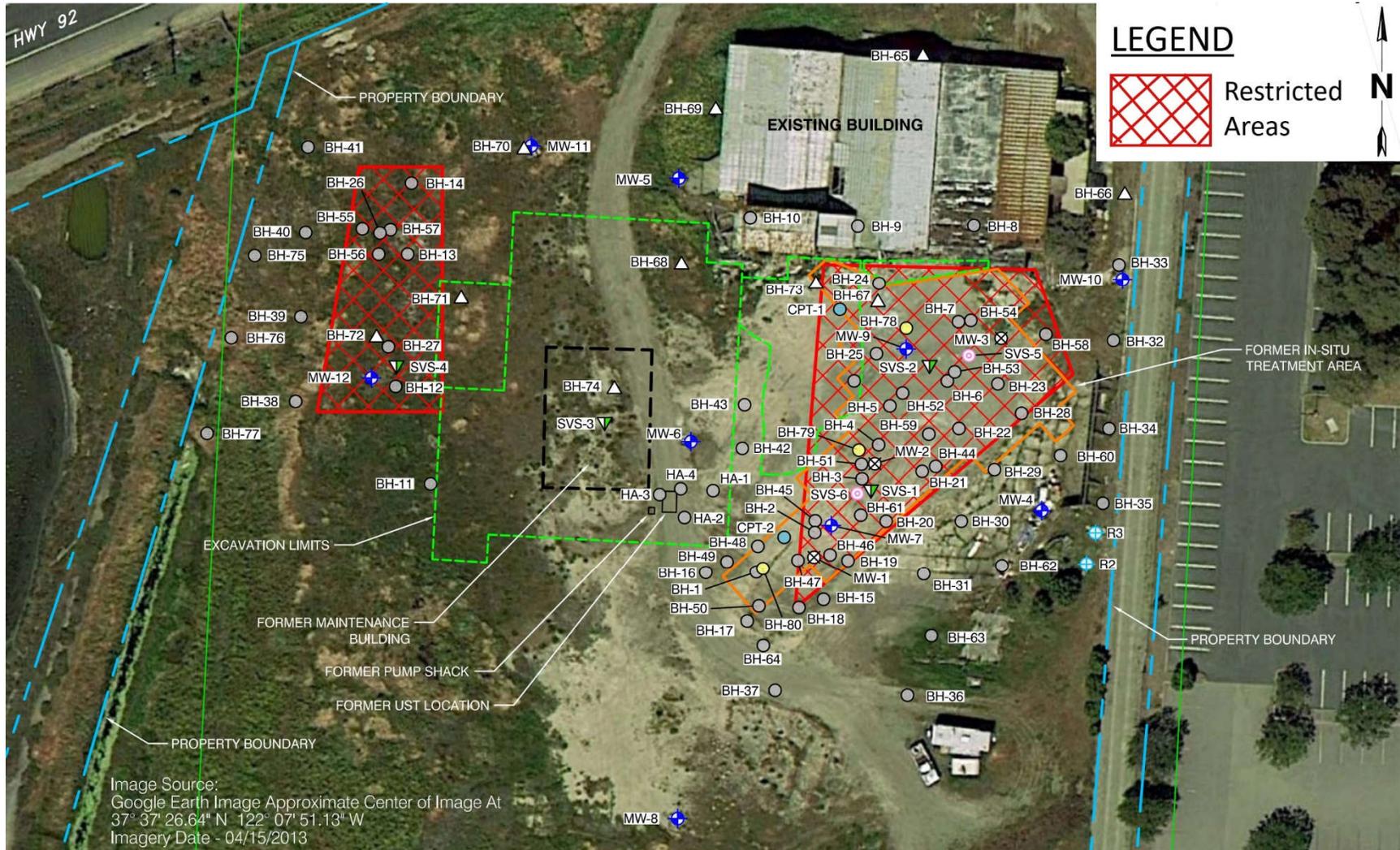
### 4.3.1 Setting

#### a. Project Site

A Phase I Environmental Site Assessment (ESA) was prepared for the project site by Cornerstone Earth Group in March 2017. The Phase I ESA is included as Appendix E to the Initial Study, and the Initial Study is included as Appendix A to this EIR. The Phase I ESA focuses on the eastern component of the project site. According to the Phase I ESA, a salt production and processing facility, known as Oliver Brothers Salt Works, operated on the east component of the project site until approximately 1981. The salt facility consisted of a processing plant and a shop, both of which were on the eastern component of the project site. The shop has since been demolished. A salt pile or heap was located south of the plant on the eastern component of the site, as were salt rinsing ponds. The salt pile is no longer present, but the former salt ponds remain. Former salt ponds are also located on the western component of the project site. Railroad tracks were used to transport salt between ponds and the processing plant. Much of the track system no longer remains, but some evidence, such as old railroad ties and spikes, can still be found on-site. A gasoline-powered locomotive was reportedly used to move railroad cars along the tracks, and an underground storage tank and associated pump were reportedly located next to the railroad track south of the shop, on the eastern component of the site. According to the Phase I ESA, the gasoline tank had capacity for approximately 100 gallons. Additionally, a 500-gallon underground storage tank with diesel fuel was also on-site and associated with the former salt production operations. Both underground storage tanks were removed in 1998. Petroleum-related contamination was detected in underlying soil and groundwater after the tanks were removed. Subsequent remedial activities were conducted through 2008. Soil sampling conducted in 2013 indicated there were additional areas outside of the remediated areas where elevated concentrations of contaminants of potential concern remain. In addition, elevated concentrations of contaminants of potential concern were also detected in samples collected from temporary soil vapor probes in 2012, and in groundwater monitoring well samples collected in 2013. The contaminants of potential concern consisted primarily of benzene, TPHo, and 1,2-DCA. Additionally, the groundwater sampling in 2013 revealed residual concentrations of TPH-G and BTEX that exceed ESL and/or MCL thresholds.

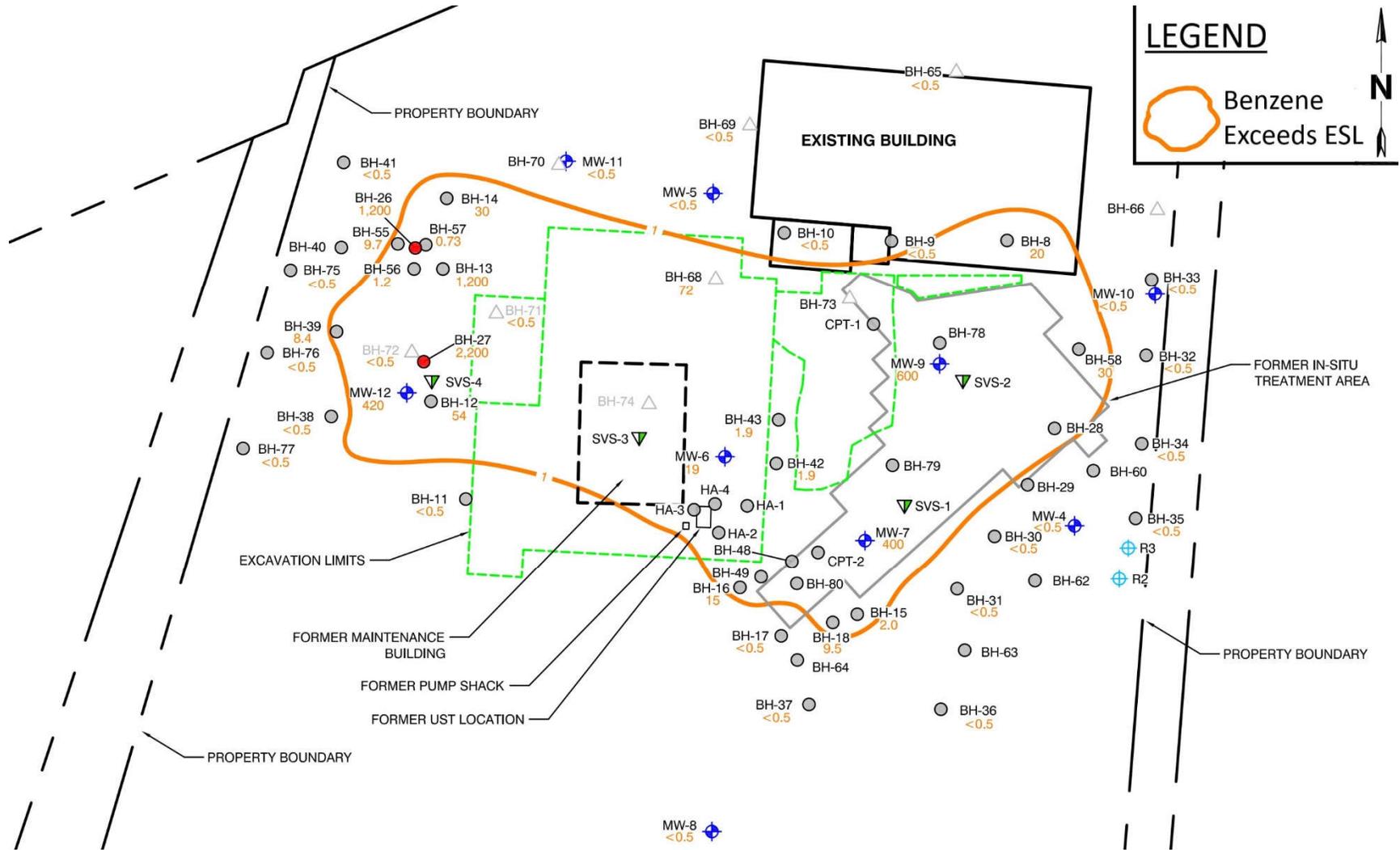
The potential for residual petroleum contamination is the only Recognized Environmental Condition identified in the Phase I ESA. Additionally, a Risk Management Plan (RMP) prepared for the project site in 2014 identifies residual petroleum hydrocarbons as a concern within soil and groundwater. According to the RMP, the project site is acceptable for redevelopment without restrictions except for two areas on the eastern component of the site where residual petroleum hydrocarbons remain within soil and groundwater. These two areas are referred to as the restricted areas and are shown on Figure 4.3-1. Benzene concentrations in groundwater beneath the restricted areas and in an area slightly beyond the restricted areas exceed the commercial non-drinking water Environmental Screening Level (ESL) of 27 parts per billion (ppb) set by the RWQCB, which was established based on potential vapor intrusion to indoor air situations. The extent of benzene contamination exceeding ESL in groundwater is shown on Figure 4.3-2.

Figure 4.3-1 Restricted Areas



Source: ASE 2014

Figure 4.3-2 Extent of Benzene Exceeding ESLs in Shallow Groundwater



Source: ASE 2014

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The RMP, which is provided as an Appendix to the Phase I ESA, provides general protocols for managing soil and groundwater at the site; recommendations for soil vapor mitigations for future structures; and restricted areas where detectable concentrations of contaminants of potential concern may be present. On December 23, 2014, a deed restriction was recorded with Alameda County. The deed restriction identified that the project site was contaminated by petroleum products, and requires the following:

- Property must be used consistent with the 2014 RMP
- Inhabited structures built on-site must be compliant with the RMP
- Excavation on-site must be compliant with the RMP
- Future uses on-site must preserve integrity of cap, vapor barrier, or installed ventilation systems
- No water wells may be installed on-site unless approved by the State Water Resources Control Board
- The State Water Resources Control Board must be notified if the integrity of cap, vapor barrier, or installed ventilation systems is compromised

The State Water Resources Control Board granted case closure for the project site on February 18, 2015. However, the State Water Resources Control Board noted that the case does not meet all criteria of the low-threat closure policy, but no further action was still appropriate because:

- The contamination plume is defined and on-site
- The exposure pathways have been defined and assessed
- Pollutant sources have been reportedly removed or remediated
- Groundwater contamination plumes appear to be decreasing
- Risk management measures appear appropriate

The State Water Resources Control Board noted that “there may be residual petroleum-contaminated soil and groundwater at the site that could pose an unacceptable risk as a result of future construction/development activities” and “proper management may include sampling risk assessment, additional cleanup work, mitigation measures, or some combination of these tasks.”

**b. Asbestos and Lead-Based Paint**

The Phase I ESA also indicates that existing on-site structures associated with the former Oliver Brothers Salt Works operation may contain asbestos due to their age. These structures may also contain lead-based paint. Both asbestos and lead are harmful to human health.

**c. Off-site Sources of Contamination**

According to the Phase I ESA, there are 11 sites within approximately 0.25 mile of the project site (see Appendix E of the Initial Study). None of these sites are listed as active contamination cases, and some are noted to generate hazardous waste but have no known contamination associated with them. One of the 11 sites, located at 4125 Breakwater Avenue, approximately 0.1 mile to the north of the eastern component of the project site, and known as “Big Al’s Waste Hauling,” is noted to have potential contamination requiring evaluation.

## 4.3.2 Regulatory Setting

### **a. Federal Regulations**

#### **Toxic Substances Control Act (1976) and the Resource Conservation and Recovery Act of 1976 (RCRA)**

These acts established a program administered by the USEPA for the regulation of the generation, transportation, treatment, storage, and disposal of hazardous waste. RCRA was amended in 1984 by the Hazardous and Solid Waste Act, which affirmed and extended the “cradle to grave” system of regulating hazardous wastes. Among other things, the use of certain techniques for the disposal of some hazardous wastes was specifically prohibited by the Hazardous and Solid Waste Act.

#### **Comprehensive Environmental Response, Compensation and Liability Act, amended by the Superfund Amendments and Reauthorization Act (1986)**

This law was enacted in 1980 and provides broad federal authority to respond directly to releases or threatened releases of hazardous substances that may endanger public health or the environment. Among other things, Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) established requirements concerning closed and abandoned hazardous waste sites, provided for liability of persons responsible for releases of hazardous waste at these sites, and established a trust fund to provide for cleanup when no responsible party could be identified. CERCLA also enabled revision of the National Contingency Plan, which provided the guidelines and procedures needed to respond to releases and threatened releases of hazardous substances, pollutants, or contaminants. The National Contingency Plan also established the National Priorities List.

#### **Federal Insecticide, Fungicide, and Rodenticide Act**

This Act (7 U.S. Code [USC] 136 et seq.) provides Federal control of pesticide distribution, sale, and use. The USEPA was given authority under the Act to study the consequences of pesticide usage, and to require users (farmers, utility companies, and others) to register when purchasing pesticides. Later amendments to the law required users to take exams for certification as applicators of pesticides. All pesticides used in the United States must be registered (licensed) by the USEPA. Registration assures that pesticides will be properly labeled and that, if used in accordance with specifications, they will not cause unreasonable harm to the environment.

#### **Lead-Based Paint Regulations**

Regulations for Lead-Based Paint (LBP) are contained in the Lead-Based Paint Elimination Final Rule, 24 CFR 33, governed by the U.S. Housing and Urban Development (HUD), which requires sellers and lessors to disclose known LBP and LBP hazards to prospective purchasers and lessees. Additionally, all LBP abatement activities must be in compliance with California Occupational Safety and Health Administration (Cal/OSHA) and Federal OSHA and with the State of California Department of Health Services requirements. Only LBP-trained and -certified abatement personnel are allowed to perform abatement activities. All LBP removed from structures must be hauled and disposed of by a transportation company licensed to transport this type of material at a landfill or receiving facility licensed to accept the waste.

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Regulations to manage and control exposure to lead-based paint are also described in CFR Title 29, Section 1926.62 and California Code of Regulations Title 8 Section 1532.1. These regulations cover the demolition, removal, cleanup, transportation, storage, and disposal of lead-containing material. The regulations outline the permissible exposure limit, protective measures, monitoring, and compliance to ensure the safety of construction workers exposed to lead-based materials. Cal/OSHA's Lead in Construction Standard requires project proponents to develop and implement a lead compliance plan when lead-based paint would be disturbed during construction. The plan must describe activities that could emit lead, methods for complying with the standard, safe work practices, and a plan to protect workers from exposure to lead during construction activities. Cal/OSHA requires 24-hour notification if more than 100 sf of lead-based paint would be disturbed.

### **U.S. Environmental Protection Agency**

The USEPA is the agency primarily responsible for enforcement and implementation of Federal laws and regulations pertaining to hazardous materials. Applicable Federal regulations pertaining to hazardous materials are contained in the CFR Titles 29, 40, and 49. Hazardous materials, as defined in the CFR, are listed in 49 CFR 172.101. The management of hazardous materials is governed by the following laws:

1. Resource Conservation and Recovery Act of 1976 (42 USC 6901 et seq.); Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (also called the Superfund Act) (42 USC 9601 et seq.)
2. Federal Insecticide, Fungicide, and Rodenticide Act (7 USC 136 et. Seq.)
3. Superfund Amendments and Reauthorization Act of 1986 (Public Law 99 499)

These laws and associated regulations include specific requirements for facilities that generate, use, store, treat, and/or dispose of hazardous materials. USEPA provides oversight and supervision for Federal Superfund investigation/remediation projects, evaluates remediation technologies, and develops hazardous materials disposal restrictions and treatment standards.

### **Asbestos Regulations**

Asbestos is a naturally occurring fibrous material that was extensively used as a fireproofing and insulating agent in building construction materials before such uses were banned by the USEPA in the 1970s. Asbestos-containing materials (ACMs) were commonly used for insulation of heating ducts as well as ceiling and floor tiles. Undisturbed ACMs contained within building materials present no significant health risk because there is no exposure pathway. However, once these tiny fibers are disturbed, they can become airborne and become a respiratory hazard. The fibers are very small and cannot be seen with the naked eye. Once they are inhaled, they can become lodged into the lungs, and may cause cancer, lung disease or other pulmonary complications.

The USEPA regulations under Title 40 CFR Part 61 regulate the removal and handling of ACMs. The statute is implemented by the Monterey Bay Air Resources District (MBARD). The federal Occupational Safety and Health Administration also has a survey requirement under Title 29 CFR that is implemented by Cal/OSHA under Title 8 California Code Regulations. These regulations require facilities to take all necessary precautions to protect employees and the public from exposure to asbestos.

## **b. State Regulations**

### **Department of Toxic Substances Control**

As a department of the California EPA, the Department of Toxic Substances Control (DTSC) is the primary agency in California that regulates hazardous waste, cleans up existing contamination, and looks for ways to reduce the hazardous waste produced in California. DTSC regulates hazardous waste in California primarily under the authority of RCRA and the California Health and Safety Code.

DTSC also administers the California Hazardous Waste Control Law (HWCL) to regulate hazardous wastes. While the HWCL is generally more stringent than RCRA, until the USEPA approves the California program, both state and federal laws apply in California. The HWCL lists 791 chemicals and approximately 300 common materials that may be hazardous; establishes criteria for identifying, packaging, and labeling hazardous wastes; prescribes management controls; establishes permit requirements for treatment, storage, disposal, and transportation; and identifies some wastes that cannot be disposed of in landfills.

Government Code Section 65962.5 requires the DTSC, the State Department of Health Services, the SWRCB, and CalRecycle to compile and annually update lists of hazardous waste sites and land designated as hazardous waste sites throughout the state. The Secretary for Environmental Protection consolidates the information submitted by these agencies and distributes it to each city and county where sites on the lists are located. Before the lead agency accepts an application for any development project as complete, the applicant must consult these lists to determine if the site at issue is included.

If any soil is excavated from a site containing hazardous materials, it would be considered a hazardous waste if it exceeded specific criteria in Title 22 of the California Code of Regulations. Remediation of hazardous wastes found at a site may be required if excavation of these materials is performed, or if certain other soil disturbing activities would occur. Even if soil or groundwater at a contaminated site does not have the characteristics required to be defined as hazardous waste, remediation of the site may be required by regulatory agencies subject to jurisdictional authority. Cleanup requirements are determined on a case-by-case basis by the agency taking jurisdiction.

### **Hazardous Waste Control Act**

The hazardous waste management program enforced by DTSC was created by the Hazardous Waste Control Act (California Health and Safety Code Section 25100 et seq.), which is implemented by regulations described in CCR Title 26. The State program is similar to, but more stringent than, the Federal program under RCRA. The regulations list materials that may be hazardous, and establish criteria for their identification, packaging, and disposal. Environmental health standards for management of hazardous waste are contained in California Code of Regulations (CCR) Title 22, Division 4.5. As required by California Government Code Section 65962.5, DTSC maintains a Hazardous Waste and Substances Site List for the State called the Cortese List.

### **California Department of Pesticide Regulation, Department of Food and Agriculture, and the Department of Public Health**

The California Department of Pesticide Regulations (DPR), a division of California Environmental Protection Agency, in coordination with the California Department of Food and Agriculture, a division of Measurement Standards and the California Department of Public Health have the primary responsibility to regulate pesticide use, vector control, food, and drinking water safety. CCR

Title 3 requires the coordinated response between the County Agricultural Commissioner and the Sonoma County Department of Health Services to address the use of pesticides used in vector control for animal and human health on a local level. DPR registers pesticides; the County tracks pesticide use. Title 22 is used also to regulate both small and large California Department of Public Health water systems.

## **California Fire Building Code**

The 2016 Fire and Building Code (2016) establishes the minimum requirements consistent with nationally recognized good practices to safeguard the public health, safety, and general welfare for the hazards of fire, explosion, or dangerous conditions in new and existing buildings, structures and premises, and to provide safety and assistance to firefighters and emergency responders during emergency operations. The provisions of this code apply to the construction, alteration, movement enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal, and demolition of every building or structure or any appurtenances connected or attached to such building structures throughout the State of California.

### **c. Local Regulations**

#### **Alameda County Local Hazard Mitigation Plan**

The Alameda County Local Hazard Mitigation Plan assesses hazards, risks, and capabilities for hazard mitigation, and then provides a blueprint for a mitigation strategy. The hazard and risk assessment focuses on dam failure inundation, drought, earthquake, flood, landslide, liquefaction, tsunami, and wildfire. The Alameda County 2016 Local Hazard Mitigation Plan was adopted by the County Board of Supervisors in January 2016, and was approved by FEMA in October 2016.

#### **Alameda County Department of Environmental Health**

The mission of the Alameda County Department of Environmental Health (ACDEH) is to protect the health, safety and well-being of the public through the promotion of environmental quality. The department's Hazardous Materials Division contains the Clean Water Program, Waste Tire Program, and the Certified Unified Program Agency (CUPA).

#### **Alameda County Water Department (ACWD)**

The Alameda County Water District (ACWD) manages the Niles Cone Groundwater Basin, which underlies the project site, through comprehensive programs that protect and improve water supplies for groundwater users. The project site is also located within ACWD's jurisdictional boundary. ACWD is identified within the Sustainable Groundwater Management Act (SGMA) as the exclusive local agency within its statutory boundaries to comply with SGMA with its boundaries. ACWD is also the Groundwater Sustainability Agency for the Niles Cone Groundwater Basin and has an approved Alternative to a Groundwater Sustainability Plan.

#### **City of Hayward General Plan**

The Hazards Element of the City of Hayward General Plan defines hazardous materials and provides the following information:

*Hazardous materials are toxic, ignitable, corrosive, or reactive substances that can cause harm to people. Hazardous materials are used by households and businesses within urban*

*areas. The improper use and disposal of hazardous materials can contaminate soil and groundwater resources and compromise the health and quality of life of residents. Accidents involving the transportation of hazardous materials can also cause explosions or spills that endanger the lives and property of nearby residents and businesses.*

The Hazards Element of the City of Hayward General Plan includes the following goals and policies that aim to reduce potential damage from hazardous materials:

**Goal HAZ-6:** Protect people and environmental resources from contaminated hazardous material sites and minimize risks associated with the use, storage, transport, and disposal of hazardous materials.

**HAZ-6.2:** The City shall require site investigations to determine the presence of hazardous materials and/or waste contamination before discretionary project approvals are issued by the City. The City shall require appropriate measures to be taken to protect the health and safety of site users and the greater Hayward community.

**HAZ-6.7:** The City shall coordinate with State, Federal, and local agencies to develop and promote best practices related to the use, storage, transportation, and disposal of hazardous materials.

Goal HAZ-6 and its supporting policies are designed to establish strategies to minimize exposure to hazardous materials through the documentation, monitoring, clean-up, and re-use of hazardous material sites; and the implementation of best practices for the routine use, storage, transport, and disposal of hazardous materials.

### 4.3.3 Impact Analysis

#### **a. Methodology and Thresholds of Significance**

According to *CEQA Guidelines* Appendix G, impacts related to hazards and hazardous materials are considered significant if implementation of the proposed project would:

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, would create a significant hazard to the public or the environment;
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; or
7. Expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires.

CEQA checklist items 1, 3, and 5 through 7 were found to be less than significant in the Initial Study (Appendix A). Therefore, no further analysis is warranted, and these topics will not be discussed further in this section.

**Threshold 2:** Would the project 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?

**Impact HAZ-1 THE PROJECT HAS THE POTENTIAL TO 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 DUE TO POTENTIAL HAZARDOUS MATERIALS THAT MAY BE PRESENT IN THE EXISTING ON-SITE STRUCTURES. THIS IMPACT WOULD BE POTENTIALLY SIGNIFICANT BUT MITIGABLE.**

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The proposed project would preserve the western component of the project site as it currently exists. No construction activities or ground disturbance would occur within the western component of the project site. Additionally, no operational activities would occur within the western component of the project site. There are no on-site structures or known contamination on the western component of the project site. Because the project would not involve activities or occupancy on the western component, the proposed preserve would have no potential to create a significant hazard to the public or environment.

Due to the age of the former Oliver Brothers Salt Works structures on the eastern component of the project site, they could contain LBP and/or ACM (see Phase I ESA included as Appendix E to the Initial Study). Project construction would include demolition of the existing structures. During demolition, LBP and/or ACM, if present could become mobilized as dust or directly handled by construction workers. Exposure to lead can cause adverse health effects, including disturbance of the gastrointestinal system, anemia, kidney disease, and neuromuscular and neurological dysfunction (in severe cases). Lead-based paint and other lead-containing materials associated with the proposed project would be required to be handled in compliance with Cal/OSHA regulations regarding lead-based paints and materials. The California Code of Regulations, Section 1532.1, requires testing, monitoring, containment, and disposal of lead-based paints and materials, such that exposure levels do not exceed Cal/OSHA standards. Compliance with applicable Cal/OSHA regulations would ensure impacts related to LBP would be less than significant.

Friable ACMs are regulated as a hazardous air pollutant under the Clean Air Act, and the Bay Area Air Quality Management District (BAAQMD) regulates ACM in Regulation 11, Rule 2, which governs the proper handling and disposal of ACM for demolition activities. As a worker safety hazard, they are also regulated under the authority of Cal/OSHA. In structures slated for demolition, any ACMs would be abated in accordance with state and federal regulations prior to the start of demolition or renovation activities and in compliance with all applicable existing rules and regulations. However, in order to ensure the presence of asbestos is known, Mitigation Measure HAZ-1, which requires a demolition plan and asbestos testing, would be required. Adherence to these regulatory requirements if asbestos is detected would ensure that asbestos removal would not result in the release of hazardous materials to the environment that could impair human health. Therefore, the impact related to ACMs would be less than significant with mitigation implemented.

## Mitigation Measures

### HAZ-1 *Project Demolition Activities*

In conformance with State and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be conducted prior to the demolition of on-site building(s) to determine the presence of asbestos-containing materials (ACMs) and/or lead-based paint (LBP). Documentation of the survey shall be provided to the City prior to commencement of demolition activities.

During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Title 8, California Code of Regulations (CCR), Section 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of lead being disposed.

All potentially friable asbestos containing materials (ACMs) shall be removed in accordance with National Emission Standards for Air Pollution (NESHAP) guidelines prior to demolition or renovation activities that may disturb ACMs. All demolition activities shall be undertaken in accordance with Cal/OSHA standards contained in Title 8, CCR, Section 1529, to protect workers from asbestos exposure.

A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above in this mitigation measure. Materials containing more than one-percent asbestos are also subject to Bay Area Air Quality Management District (BAAQMD) regulations. Removal of materials containing more than one-percent asbestos shall be completed in accordance with BAAQMD requirements and notifications.

Based on Cal/OSHA rules and regulations, the following conditions shall be implemented to limit impacts to construction workers:

- Prior to commencement of demolition activities, a building survey, including sampling and testing, shall be completed to identify and quantify building materials containing lead-based paint.
- During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, CCR, Section 1532.1, including employee training, employee air monitoring and dust control.
- Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of waste being disposed.

## Significance After Mitigation

Mitigation Measure HAZ-1 would reduce impacts by requiring testing to indicate whether lead-based paint or asbestos is present in the structures slated for demolition. If lead or asbestos is detected, these materials would be abated in accordance with state, federal, and local regulations to ensure they would not be released to the environment or impair human health.

**Threshold 4:** Would the project be located on a site that is included on a list of hazardous material sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

**Impact HAZ-2** THE PROJECT WOULD INVOLVE DEVELOPMENT ON A SITE THAT IS INCLUDED ON A LIST OF HAZARDOUS MATERIAL SITES COMPILED PURSUANT TO GOVERNMENT CODE SECTION 65962.5, AND DUE TO THE POTENTIAL TO ENCOUNTER RESIDUAL SOIL AND GROUNDWATER CONTAMINATION ON THE EASTERN COMPONENT OF THE PROJECT SITE, IMPACTS WOULD BE POTENTIALLY SIGNIFICANT BUT MITIGABLE.

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### **Project Construction**

The western component of the project site is not located on a site listed on Government Code Section 65962.5. Additionally, the proposed project would not involve ground disturbance or operational activities on the western component of the site. Therefore, there would be no potential for a significant hazard to the public as a result of the proposed preserve on the western component of the project site.

The eastern component of the project site is included on a list of hazardous material sites compiled pursuant to Government Code Section 65962.5 as a result of leaking underground storage tanks that were once present on the eastern component of the project site, as described in Section 4.3.1 above. Remediation after removal of the tanks has resulted in less on-site contamination hazard, and the State Water Resources Control Board granted case closure for the project site on February 27, 2015. In the closure letter, SWRCB notes that there may be residual contamination, and that therefore contractors performing subsurface activities should be prepared to encounter soil and groundwater contaminated with petroleum hydrocarbons, and that if encountered, it must be properly managed. To address this, a Risk Management Plan (RMP) was prepared.

The RMP identifies two areas within the eastern component of the project site where residual contamination levels are of concern. These areas are referred to as the restricted areas and are shown on Figure 3 of the RMP. Soil within the restricted areas could contain detectable concentrations of TPH-G, TPH-D, and BTEX. These compounds are referred to as chemicals of potential concern (COPCs). In addition, COPCs are present at moderate concentrations in groundwater in a slightly larger area surrounding the restricted areas. According to the RMP, elevated concentrations of the COPCs in soil could be encountered during construction activities at depths of 5-feet below ground surface or deeper, within the restricted areas on the eastern component of the project site.

Therefore, project construction activities involving excavation to approximately 5 feet below ground surface, such as construction of the proposed building foundation or buried utility connections, could disturb contaminated soils or groundwater and expose construction workers. Because contaminated soils generally exist on-site at depths greater than 5 feet below ground surface, other shallow ground disturbance during project construction, such as relocating the segment of the San Francisco Bay Trail, would have less potential to disturb contaminated soils and expose construction workers to contamination. Nonetheless, the potential for construction workers to be exposed to contaminated soil or groundwater during project construction would be a potentially significant but mitigable impact. Mitigation Measure HAZ-2a would reduce this impact to a less than significant level.

Likewise, project construction would generate dust. If soils from the contamination areas are stockpiled on site and become airborne dust, either from wind erosion or construction equipment, off-site receptors could be exposed, as well as project construction workers. Reuse of contaminated soils as fill material on site could also expose workers to contamination, as well as future employees of the industrial building or people using the San Francisco Bay Trail. Impacts would be potentially significant but mitigable. Mitigation Measure HAZ-2a would reduce this impact to a less than significant level.

The proposed industrial building would be constructed atop the restricted areas on the eastern component of the project site. The building would be constructed using pursuant to recommendations of the Geotechnical Engineering Services Report prepared by Professional Services Industries, Inc., an Intertek company, in January 2018 for the project. Mitigation Measure GEO-1 in the Initial Study (see Appendix A) requires that recommendations of the geotechnical report be incorporated into the project design and construction. The geotechnical report includes the use of displacement piers to support the foundation of the proposed industrial building. Displacement piers use a hollow mandrill that is filled with crushed rock that is vibrated into the ground to a preselected depth and is then raised and lowered, while vibrating, to densify the gravel and the surrounding soils. This produces a column of compacted gravels and increases the density of the surrounding soils. The column of gravel created from displacement piers would create a potential pathway for migration of contaminated groundwater plume to aquifers at depths of up to 20 feet below ground surface, as that is the recommended depth of the piers for the project. Due to the site's proximity to the bay, the displacement piers may also create a preferential pathway for groundwater associated with sea level rise, as the piers would displace lower permeable materials (e.g., clays and silts). Migration of the groundwater contamination plume into aquifers would be potentially significant but mitigable. Mitigation Measure HAZ-2c would reduce this impact to a less than significant level.

## **Project Operation**

The proposed industrial building would be constructed atop the restricted areas on the eastern component of the project site. During project operation, vapors from contaminated soil and groundwater could potentially infiltrate the proposed industrial building, including spaces within the building where employees would be routinely present. The accumulation of vapors in the breathing zone inside the building could present a potential hazard to human health. Therefore, the potential for soil vapor intrusion during operation would be a potentially significant but mitigable impact. Mitigation Measure HAZ-2a would reduce this impact to a less than significant level.

Some stormwater runoff from impervious surfaces of the project would be directed to bioretention areas. The bioretention areas would slow runoff and aid infiltration in order to reduce the amount of runoff discharge to the storm drain system. However, if improperly designed, the bioretention areas could result in contaminants leaching from soil into groundwater or result in migration of the existing contamination plume within groundwater. At least one of the proposed bioretention swales would be located partially within the restricted areas. Migration or leaching of contamination would be a potentially significant environmental impact, but mitigable. Mitigation Measure HAZ-2b would reduce this impact to a less than significant level.

## **Mitigation Measures**

### *HAZ-2a Implementation of the RMP*

The project shall implement the appropriate handling procedures and worker health and safety measures during excavating or dewatering activities, as well as the use of an engineered vapor barrier as described in the site-specific RMP developed for the project in 2014. The RMP is an appendix to the Phase I ESA. The Phase I ESA is included as Appendix E to the Initial Study, which is provided as Appendix A to this EIR. Measures included in the RMP to control potential hazardous contamination and exposure include, but are not limited to the following:

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- Construction contractors shall implement dust control mitigation measures during construction activities at the project site to minimize the generation of dust. Examples of dust control measures that shall be implemented include limiting construction vehicles speeds to 5 miles per hour when on-site; routinely applying water to exposed soils while performing excavation activities; and, covering soil stockpiles with plastic sheets at the end of each workday. Additional dust control measures shall be implemented by the selected contractor, as necessary, especially if windy conditions persist during site grading and excavation. These measures may include moisture, conditioning the soil, using dust suppressants, or covering the exposed soil and stockpiles with weighted plastic sheeting to prevent exposure of the soil.
- To prevent or minimize construction equipment from tracking polluted spoils off the site onto roadways, construction equipment that contacts soils deeper than 5-feet below ground surface shall be decontaminated prior to leaving the site. Decontamination methods shall include brushing and/or vacuuming to remove loose dirt on vehicle exteriors and wheels. In the event that these dry decontamination methods are inadequate, methods such as steam cleaning, high pressure washing, and cleaning solutions shall be used, as necessary, to thoroughly remove accumulated dirt and other materials. Decontamination activities shall be performed in an on-site decontamination facility established by the contractor.
- All project construction workers performing construction activities at depths below 5-feet below ground surface in the restricted areas shall adhere to decontamination procedures when exiting the area. Decontamination measures shall include: (a) vacuuming the surface of coveralls, head covers, and footwear to remove accumulated soil particles and changing into other clean clothes if practical; (b) vacuuming or washing small tools, hand tools, or personal equipment to remove accumulated soil particles; and, (c) placing work clothes and personal equipment in sealed plastic bags or other suitable containers for transportation or on-site storage.
- In the event that disturbed soil appears to contain contaminants of potential concern (COPCs), such as odors, staining, and/or discoloration, work should halt in that area and an environmental professional (EP), such as a geologist, engineer, industrial hygienist, or environmental health specialist with expertise in these matters, shall be called to the site to oversee the work and determine safe construction and soil handling procedures.
- The EP shall be present on-site during excavations greater than 5-feet below ground surface in the restricted areas to observe field conditions and measure hydrocarbon vapors using a hand held photoionization detector (PID). If PID readings are measured in a specific area showing concentrations in excess of construction worker screening levels published by the Regional Water Quality Control Board (RWQCB), construction activities in that area shall halt until appropriate risk mitigation measures are implemented. If necessary, HAZWOPER trained personnel shall be called to the site to complete the construction activities in that area.
- Soil excavated from deeper than 5-feet below ground surface in the restricted area shall only be reused on-site as backfill after sampling and analysis soil proves the soil is acceptable to remain on site. Commercial ESLs shall be used as the threshold to determine if soils may remain on site or require off-site disposal. All appropriate regulatory sampling methods, holding times, and detection limits shall be followed.
- A health and safety plan shall be developed and implemented for project construction that incorporates measures and procedures to minimize direct contact by construction workers with site groundwater, particularly in the restricted areas. The health and safety plan shall

be approved by either the City or the RWQCB, or both as applicable, prior to excavation activities.

- If groundwater is encountered within the former remediation area during construction of the project, as shown on Figure 4 of the RMP, an EP shall be called to the site to determine safe handling procedures. The groundwater shall be pumped into appropriate containers and samples shall be obtained for chemical analysis of the COPCs in accordance with a site sampling plan and the requirements of the waste disposal facility to which the material is sent. If water sample analytical results indicate the water is free of all detectable concentrations of COPCs, such water can be re-used at the site if deemed appropriate by Alameda County and the RWQCB. If water sample analytical results indicate the water contains concentrations of COPCs above appropriate RWQCB screening levels, such water shall not be re-used at the site. The contractor and the EP shall elect to: (a) treat the groundwater on-site to render it free of detectable concentrations of COPCs (e.g. by activated carbon filtration); or, (b) transport the groundwater to a local treatment or disposal facility for appropriate handling.
- The proposed industrial building shall be constructed on top of a minimum of a 5-foot bioattenuation zone within the restricted areas. This bioattenuation zone shall consist of a minimum of 5-feet of soil above the anticipated shallowest groundwater elevation, and the soil shall not contain total petroleum hydrocarbons greater than 100 parts per million.
- An engineered vapor barrier shall be employed to further protect against possible vapor intrusion of COPCs into the proposed industrial building. The vapor barrier shall be designed to meet the needs of building. Vapor barriers are generally constructed using membranes constructed with high-density polyethylene (HDPE) or other polyolefin-based resins. The vapor barrier shall be resistant to VOCs. The vapor barrier shall meet the American Society for Testing and Materials (ASTM) guideline for a vapor barrier and have a permeance rating of 0.1 perms or less. The thickness and strength of the vapor barrier shall be based on the needs for the building, but the architect and contractor shall use a material strong enough to easily withstand the building construction and other building considerations. The selected vapor barrier shall be approved by the RWQCB prior to installation.

#### *HAZ-2b Bioretention Design Coordination*

The project applicant shall consult with the City on location and/or design of the on-site bioretention basins to ensure protection of the groundwater basin, which may include, but is not limited to, locating the basins outside of the restricted areas or use of a liner in the detention basin. The final design and location of the on-site bioretention basins shall demonstrate that groundwater would be protected from contamination.

#### *HAZ-2c Displacement Pier Design and Construction*

The project applicant shall retain a geotechnical engineer to design the displacement piers for support of the building foundation. The displacement piers shall be designed in a way to prevent creating a preferential pathway between shallow groundwater at approximately 5 feet below ground surface and deeper groundwater. The displacement pier design developed by the geotechnical engineer shall be incorporated into project plans prior to commencement of construction. This mitigation measure shall apply to all displacement piers within the restricted areas or the larger area where benzene concentrations exceed ESLs, as shown in Figure 4.3-2 of the EIR. Additionally, air-jetting shall not be used to create the holes for the displacement piers within the restricted areas to avoid bringing subsurface soils to the ground surface.

## Significance After Mitigation

With incorporation of Mitigation Measure HAZ-2a, the provisions of the RMP would reduce potential hazardous materials impacts associated with the past on-site contamination to a less than significant level. Mitigation Measures HAZ-2b and HAZ-2c would require coordination with local agencies to ensure that groundwater quality is protected and reduce the environmental impact associated with the existing contamination that may be affected by the bioretention basin and that the displacement piers be designed and constructed to result in a less than significant impact.

### 4.3.4 Cumulative Impacts

A project's environmental impacts are "cumulatively considerable" if 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" (*CEQA Guidelines* Section 15065[a][3]). The geographic scope for cumulative hazardous materials impacts is limited to projects within Hayward that are west of Interstate 880. This geographic scope is appropriate for hazardous materials because risks associated with hazards and hazardous materials occur largely in a site-specific and localized context as adverse impacts from a hazardous materials release or spill diminish in magnitude with distance. Cumulative development in the vicinity of the project site is identified in Table 3-1. Continued urban development has the potential to increase exposure to hazards. However, overall, hazards and hazardous materials impacts associated with individual developments are site specific in nature and must be addressed on a case-by-case basis. The magnitude of hazards for individual projects would depend upon the location, type, and size of development and the specific hazards associated with individual sites. Since hazards and hazardous materials are required to be examined as part of the permit application and environmental review process, it is anticipated that potential impacts associated with individual projects will be adequately addressed and mitigated prior to permit approval. Compliance with regulatory requirements would avoid potential hazard impacts associated with cumulative development. With adherence to existing policies and other local, regional, state, and federal regulations, no significant cumulative human or environmental health impacts are anticipated.

## 4.4 Transportation

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This section analyzes impacts related to transportation. The analysis is based largely on the Transportation Analysis Memorandum prepared by Kittelson & Associates and dated January 27, 2021. The Transportation Analysis Memorandum, contained in its entirety in Appendix C to this EIR, provides information relative to existing, existing plus project, future, and future plus project conditions based on project traffic volumes and an analysis of vehicle miles traveled (VMT).

### 4.4.1 Setting

#### **a. Roadway Network**

The project site is accessed by vehicle from Point Eden Way, primarily via Eden Landing Road and State Route 92. Point Eden Road and Eden Landing road are two-lane undivided roadways with a functional classification of local roadways in the City's General Plan Circulation Element. State Route 92 (SR 92) is a six-lane freeway under the jurisdiction of the California Department of Transportation (Caltrans). SR 92 is one of the primary routes used for access between East Bay and the Peninsula in the San Francisco Bay.

Key intersections to access the site are the signalized intersection at Clawiter Road at SR-92 eastbound ramps, and the stop-controlled intersections at Clawiter Road at SR-92 westbound ramps, and at Eden Landing Road at Point Eden Way.

#### **b. Transit, Bicycle, and Pedestrian Facilities**

The Alameda-Contra Costa Transit District provides transit/bus service in the City of Hayward. The nearest AC Transit bus route to the project site is transit route 86. Route 86 begins at the Hayward Bart station and travels west on Winton Avenue, south on Cabot Boulevard, and east on Depot Road. It then travels south on Industrial Boulevard and east on Tennyson Road before terminating at the South Hayward BART station. The nearest bus stop along route 86 is on Industrial Boulevard at Depot Road, approximately 1 mile from the project site.

There are no pedestrian sidewalk connections to the project site on Point Eden Way. Additionally, Point Eden Way contains no formal bicycle lanes. However, the San Francisco Bay Trail is located along the eastern edge of the project site. The San Francisco Bay Trail is open to both pedestrian and bicycle travel and provides access through much of the Bay Area.

#### **c. Vehicle Miles Traveled**

Vehicle miles traveled (VMT) is a measure used extensively in transportation planning for a variety of purposes. It measures the amount of travel for all vehicles in a geographic region over a given period of time, such as a 24-hour period or a one-year period. It is calculated as the sum of the number of miles traveled by each vehicle.

The City has calculated and mapped the existing or baseline VMT for each Transportation Analysis Zone (TAZ) or census block within the incorporated limits of Hayward. According to the City's GIS portal, the project site is in a TAZ with an existing VMT of 18.23 per capita or employee. The regional average VMT per employee is 18.15.

## 4.4.2 Regulatory Setting

### a. State Regulations

#### *State Senate Bill 743*

On September 27, 2013, California Governor Jerry Brown signed Senate Bill (SB) 743 into law and started a process that changes transportation impact analysis as part of CEQA compliance. SB 743 requires the Governor's Office of Planning and Research (OPR) to identify new metrics for identifying and mitigating transportation impacts within CEQA. In January 2018, OPR transmitted its proposed CEQA Guidelines implementing SB 743 to the California Natural Resources Agency for adoption, and in January 2019 the Natural Resources Agency finalized updates to the CEQA Guidelines, which incorporated SB 743 modifications. As of July 1, 2020, localities are required to rely on vehicle miles traveled (VMT), instead of traffic delay, as the primary metric for evaluating transportation impacts in CEQA documents. Under SB 743, automobile delay, as described solely by level of service or traffic congestion, shall not be considered a significant environmental impact except for certain types of transportation projects (Public Resource Code, § 21099 (b)(2)).

#### **State CEQA Guidelines Section 15064.3**

Originating from SB 743, Section 15064.3 of the State CEQA Guidelines establishes vehicle miles traveled (VMT) as the most appropriate measure of transportation impacts, shifting away from the level of service analysis that evaluated a project's impacts on traffic conditions on nearby roadways and intersections. The primary components of new section 15064.3 include:

- Identifies VMT (amount and distance of automobile traffic attributable to a project) as the most appropriate measure of transportation impacts;
- Declares that a project's effect on automobile delay shall not constitute a significant environmental impact except for projects increasing roadway capacity;
- Creates a rebuttable presumption of no significant transportation impacts for (a) land use projects within one-half mile of either an existing major transit stop or a stop along an existing high quality transit corridor, (b) land use projects that reduce VMT below existing conditions, and (c) transportation projects that reduce or have no impact on VMT;
- Allows a lead agency to qualitatively evaluate VMT if existing models are not available; and
- Gives lead agencies discretion to select a methodology to evaluate a project's VMT but requires lead agencies to document that methodology in the environmental document prepared for the project.

In December 2018, OPR issued a *Technical Advisory on Evaluating Transportation Impacts in CEQA* (OPR 2018). The technical advisory contains technical recommendations regarding assessment of VMT, thresholds of significance, and mitigation measures. The technical advisory suggests a significance threshold for VMT that is based on state mandated GHG emission reduction targets. The technical advisory recommends a quantitative per capita or per employee VMT that is 15 percent below that of existing development as a possible threshold of significance that would comply with the state's long-term climate goals.

## **b. Regional and Local Regulations**

### *Metropolitan Transportation Commission*

The Metropolitan Transportation Commission (MTC) is designated by the State as the regional transportation planning agency for the nine-county San Francisco Bay Area. MTC is responsible for updating the Regional Transportation Plan (RTP), which plans the future transit, highway, roadway, railroad, bicycle and pedestrian facilities. MTC portions out federal funding to local agencies for transportation projects and determines their compliance with the Regional Transportation Plan.

### *Regional Transportation Plan and Sustainable Communities Strategy*

MTC recently updated its RTP which was adopted by ABAG and MTC in July 2017. This new plan, 2040 Plan Bay Area, specifies how future transportation spending will occur through 2040. The new plan incorporates a California mandated Sustainable Communities Strategy. It also focuses on reducing greenhouse gas emissions as it relates to transportation, per the requirements set out in the California Sustainable Communities and Climate Protection Act of 2008. Part of this effort includes the goal to increase non-auto mode share. Other main transportation goals of the plan include reducing vehicle operating and maintenance costs due to pavement conditions and reduce per-rider transit delay due to aged infrastructure.

### *Alameda County Transportation Commission*

The Alameda County Transportation Commission (ACTC) coordinates transportation planning efforts throughout Alameda County and programs local, regional, State and federal funding for project implementation. It prepares the CMP, a program mandated by California law to describe the strategies to address congestion problems on the CMP network, which includes state highways and principal arterials. The CMP requires analysis of Metropolitan Transportation System (MTS) roadway and transit system and uses level-of-service standards as a means to measure congestion and has established level-of-service standards to determine how local governments meet the standards of the CMP.

### *City of Hayward VMT Thresholds of Significance*

CEQA Guidelines Section 15064.3(b) indicates that land use projects would have a significant impact if the project resulted in VMT exceeding an applicable threshold of significance. In June 2020, the City of Hayward adopted the following thresholds of significance for VMT analysis according to the guidance from OPR:

- Residential: 15 percent below existing average VMT per capita for the City
- Employment – Office: 15 percent below existing regional average VMT per employee
- Employment – Industrial: Below existing regional average VMT per employee
- Retail: Net increase in total regional VMT

In addition, the City of Hayward has developed screening criteria to provide project applicants with a conservative indication of whether a project could result in potentially significant VMT impacts. If the screening criteria are met by a project, the applicant would not need to perform a detailed VMT assessment for their project. The thresholds and screening criteria that apply to the proposed project are discussed further in Section 4.4.3, *Impact Analysis*.

### 4.4.3 Impact Analysis

#### a. Methodology and Significance Thresholds

##### Methodology

The analysis presented herein is derived primarily from a Transportation Analysis prepared by Kittelson & Associates for the proposed project, included as Appendix C to this EIR. The Analysis, dated January 2021, assesses the VMT impact of the project.

Before undertaking the VMT analysis, the project underwent a screening assessment to determine if the impact can be screened out as having a less than significant impact according to criteria adopted by the City of Hayward, discussed further under *Significance Thresholds* below. The proposed preserve area on the western component of the project site would generate no vehicle trips or associated VMT because no activities are proposed within this portion of the project site. Similarly, the relocated segment of the San Francisco Bay Trail would generate no VMT because the trail realignment would change the number of people who drive to use the trail. Therefore, the project's potential VMT impacts were analyzed as two major components:

- **Office:** the approximately 2,785 square-foot office portion of the proposed industrial building would house U-Haul's regional corporate offices. The screening criteria and thresholds of significance for employment-office projects was applied to this project component.
- **Industrial:** the approximately 114,059 square foot warehouse portion of the proposed building would be used to house U-Haul storage pods, materials, and trucks. The screening criteria and thresholds of significance for employment-industrial projects were applied to this project component.

The screening criteria and thresholds of significance adopted by the City for employment-office projects and employment-industrial projects are discussed further under *Significance Thresholds* below.

##### Significance Thresholds

According to the adopted Appendix G of the State *CEQA Guidelines*, impacts related to transportation and circulation from the proposed project would be significant if the project would:

1. Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities;
2. 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 uses (e.g., farm equipment); or
4. Result in inadequate emergency access.

Impacts associated with CEQA checklist items 1, 3, and 4 were determined to be less than significant or no impact in the Initial Study prepared for the proposed project and included with this EIR as Appendix A. Therefore, no further analysis is warranted, and these topics will not be discussed further in this section.

Section 15064.3 of State CEQA Guidelines, referenced in significance threshold 3 above, pertains to VMT. The City of Hayward adopted VMT thresholds for specific land use types. The adopted VMT

thresholds for each land use are presented in Table 4.4-1, and Table 4.4-2 shows the City’s screening criteria for projects to be considered to have a less than significant VMT impact.

**Table 4.4-1 City of Hayward VMT Thresholds of Significance**

Land Use	VMT Threshold	Precedent
Residential	15% below existing average VMT per capita for City of Hayward	Governor’s Office of Planning and Research (OPR)
Employment - Office	15 % below existing regional average employee per employee	OPR
Employment – Industrial	Below existing regional average VMT per employee	City of San José
Retail	Net increase in total regional VMT	OPR

Source: Appendix C

**Table 4.4-2 City of Hayward Screening Criteria for Development Projects**

Screen Type	Screening Criteria
Small Infill Projects	<ul style="list-style-type: none"> <li>▪ Single-family detached housing of 15 units or less</li> <li>▪ Single-family attached or multi-family housing of 25 units or less</li> <li>▪ Office of 10,000 square feet of gross floor area or less</li> </ul>
Local Serving Retail	<ul style="list-style-type: none"> <li>▪ 50,000 square feet of total gross floor area or less</li> </ul>
Local Serving Public Facilities	<ul style="list-style-type: none"> <li>▪ Local public serving facility (determined with staff input, depending on the land use)</li> </ul>
Residential and Employment-Office Land Use Projects or Components	<ul style="list-style-type: none"> <li>▪ <b>Location:</b> within a half mile of a major transit stop1 or in an area with low (below the threshold) VMT per capita/employee and in an area with planned growth</li> <li>▪ <b>Density/FAR:</b> <ul style="list-style-type: none"> <li>-Minimum gross floor area ratio (FAR) of 0.75 as applicable for employment project</li> <li>- Minimum of 35 units per acre as applicable for residential projects</li> <li>- If located in an area where zoning calls for lower than 0.75 FAR or fewer than 35 units per acre, the maximum FAR or units per acre density allowed must be used</li> </ul> </li> <li>▪ <b>Parking:</b> No more than the minimum number of parking spaces required; in cases where no minimum is required and a maximum is identified, no more than the maximum number of parking spaces</li> <li>▪ Does not replace affordable residential units (including naturally occurring affordable residential units) with a smaller number of moderate- or high-income residential units</li> <li>▪ <b>Consistent</b> with local plans for development priorities</li> </ul>
Restricted Affordable Residential Projects or Components	<ul style="list-style-type: none"> <li>▪ <b>Affordability:</b> 100% deed-restricted affordable housing (exception for the manager’s unit(s)); affordability must extend for a minimum of 55 years for rental homes or 45 years for for-sale homes. Affordability for this purpose is restricted to households making 80% or less of the area’s median income.</li> <li>▪ <b>Location:</b> within an area with below average VMT per capita</li> </ul> <p><b>Parking:</b> no more than the minimum number of parking spaces required; in cases where no minimum is required and a maximum is identified, no more than the maximum number of parking spaces</p>

Source: Appendix C

**Threshold 2:** Would the project conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b)?

**Impact TR-1 THE PROPOSED PROJECT WOULD GENERATE 18.23 VMT PER EMPLOYEE, WHICH EXCEEDS THE VMT THRESHOLD OF THE EXISTING REGIONAL AVERAGE OF 18.15 BY 0.5 PERCENT. IMPACTS WOULD BE POTENTIALLY SIGNIFICANT, BUT MITIGABLE.**

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Pursuant to the City of Hayward's guidelines, projects should undergo a screening assessment by land use type. The proposed project is comprised of a trail realignment, establishment of a preserve, an office use, and an industrial use.

*Realignment of the San Francisco Bay Trail and Preserve Establishment*

These project components would not generate trips and would have no effect on VMT. Realignment of the trail segment would not generate new trail users. Preservation of the western component of the project site would not generate vehicle trips or associated VMT because no development or maintenance activities are proposed within the preserve area.

*Office Use Component*

The City's VMT screening criteria for employment-office land uses provide an opportunity to screen out small projects such as offices of 10,000 square feet of gross floor area or less. The proposed building would contain approximately 2,785 square feet of office space. Therefore, the proposed office use on the project site would be below the screening criteria for employment-office land uses. Projects that do not exceed the screening criteria have less than significant VMT impacts and require no additional analysis or mitigation.

*Industrial Use Component*

Pursuant to the City's screening criteria presented in Table 4.4-2, above, employment projects located in areas with low baseline VMT and/or within a half mile of a major transit stop or corridor and include features that support low VMT can be assumed to have less than significant impacts and additional analysis is unnecessary. As described above in Section 4.1, *Setting*, the nearest transit stop to the project site is approximately 1 mile away. Therefore, the project site is not within a half mile of a major transit stop. The City's VMT mapping also indicates that the project site is not within a low baseline VMT area. Therefore, the warehouse portion of the proposed project does not meet VMT screening criteria.

According to the City's GIS portal, the project site is in a TAZ with an existing VMT of 18.23 per capita or employee. Therefore, the Transportation Analysis determined that the proposed project, including both the industrial warehouse space and the office space would also generate 18.23 VMT per capita, consistent with the baseline VMT of the TAZ (see Appendix C). As presented in Table 4.4-2, above, employment-industrial land uses result in significant impacts if VMT would exceed the existing regional average VMT per employee, which is 18.15. Because the project would generate VMT of 18.23 per employee, it would exceed the regional average of 18.15 by approximately 0.5 percent. Impacts would be potentially significant. Therefore, Mitigation Measure TR-1 would be required to reduce this potential impact to a less-than-significant level.

## **Mitigation Measures**

*TR-1 Travel Demand Management*

The project applicant shall implement at least one of the measures described below:

- **Voluntary Employer Commute Program:** The project applicant shall encourage alternative modes of transportation through a program that may include elements such as: a carpool or vanpool program, subsidized or discounted transit passes, bike amenities, commute trip-reduction marketing, and preferential parking permit program.
- **Employer Carpool Program:** The project applicant shall encourage carpooling by providing ride matching assistance to employees, providing priority parking for carshare vehicles, and providing incentives for carpooling.

The applicant shall provide to the City documentation that at least one of the above measures is implemented. Documentation shall be provided annually.

## Significance After Mitigation

Impacts would be less than significant with implementation of Mitigation Measure TR-1. As described above, project VMT would exceed the threshold of significance by approximately 0.5 percent. As demonstrated below, each of the measures in Mitigation Measure TR-1 would reduce project VMT by at least 0.5 percent.

The Transportation Analysis prepared for the project recommends an additional mitigation to reduce VMT consisting of an employer transit pass subsidy. The measure would require the project applicant to partially subsidize transit passes for project employees. This measure is not included as mitigation in this EIR because the project site is approximately 1 mile from the nearest transit stop. Given the distance between the project site and transit stop, and that Point Eden Way contains no sidewalks, it is unlikely a transit pass subsidy would effectively reduce impacts to less than significant.

### *Voluntary Employer Commute Program*

As described in Appendix C, assuming that 100 percent of employees would be eligible to participate in the program, a VMT reduction of 6 percent would occur. This would exceed the 0.5 percent reduction required to reduce the impact to a less than significant level.

### *Employer Carpool Program*

As described in Appendix C, assuming that 100 percent of employees would be eligible to participate in the program, a VMT reduction of 8 percent would occur. This would exceed the 0.5 percent reduction required to reduce the impact to a less than significant level.

## 4.4.4 Cumulative Impacts

The cumulative impacts assessment area for transportation is the City of Hayward. This area is appropriate because some VMT is evaluated using citywide thresholds, making the City the appropriate geographic extent for the cumulative impacts assessment.

Some cumulative growth in the City would increase residency in the City, and thus the number of vehicles that operate in the City. Increased vehicle use could result in increased VMT in the City, depending on the origin and destination of trips. Because reasonably foreseeable future projects would increase VMT, cumulative impacts could be potentially significant. As described under Impact TR-1, the proposed project would have a less than significant VMT impact with implementation of

**4350 Point Eden Way Industrial Development Project**

Mitigation Measure TR-1. With implementation of the indicated mitigation, VMT of the proposed project would be below the existing regional VMT, and the proposed project would not have a cumulatively considerable contribution to cumulative VMT impacts.

## 5 Other CEQA Required Discussions

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This section discusses growth-inducing impacts and irreversible environmental impacts that would be caused by the proposed project.

### 5.1 Growth Inducement

Section 15126(d) of the CEQA Guidelines requires a discussion of a proposed project's potential to foster economic or population growth, including ways in which a project could remove an obstacle to growth. Growth does not necessarily create significant physical changes to the environment. However, depending upon the type, magnitude, and location of growth, it can result in significant adverse environmental effects. The proposed project's growth inducing potential is therefore considered significant if project-induced growth could result in significant physical effects in one or more environmental issue areas.

#### 5.1.1 Population Growth

As discussed in Section XIII, *Population and Housing*, of the Initial Study (Appendix A), the proposed project would not directly induce substantial population growth because it is not a large technology campus or medical facility or similar type of development that would create jobs that attract people to relocate to the region from other areas of the state or country. The project would result in approximately 20-25 on-site employees. It is likely that most of these would be drawn from the existing workforce in the Bay Area.

#### 5.1.2 Economic Growth

The proposed project would generate employment opportunities during construction. Because construction workers would be expected to be drawn from the existing regional work force, construction of the project would not be growth-inducing from a temporary employment standpoint. However, the proposed project would also add 20-25 long-term employment opportunities associated with operation of the proposed industrial building. The proposed project would not induce substantial economic expansion to the extent that direct physical environmental effects would result. Moreover, the environmental effects associated with future development in or around the City of Hayward would be addressed as part of the CEQA environmental review for such development projects.

#### 5.1.3 Removal of Obstacles to Growth

The project site is located adjacent to urbanized areas of the City of Hayward. As discussed in Section XVII, *Utilities and Service Systems*, of the Initial Study (Appendix A), there are existing water, wastewater treatment, stormwater drainage, electric power, natural gas, and telecommunication facilities in the right-of-way of Point Eden Way that are available to serve the project. The project would not require the extension of, or add substantial capacity to, roads or other infrastructure that would facilitate or accommodate development beyond the project site. The project would also include relocation of the San Francisco Bay Trail but would not extend the trail to new areas of the Bay. Because the project does not involve or require the extension of new infrastructure through or to undeveloped areas, or increase infrastructure capacity in such a way as to facilitate or

accommodate growth beyond the project site, project implementation would not remove an obstacle to growth.

## 5.2 Irreversible Environmental Effects

The CEQA Guidelines require that EIRs contain a discussion of significant irreversible environmental changes. This section addresses non-renewable resources, the commitment of future generations to the proposed uses, and irreversible impacts associated with the proposed project.

Construction and operation of the project would involve an irreversible commitment of construction materials and non-renewable energy resources. The project would involve the use of building materials and energy, some of which are non-renewable resources, to construct the overall building floor area. Likewise, relocation of the San Francisco Bay Trail would require energy consumption. Consumption of these resources would occur with any development in the region and are not unique to the proposed project.

The proposed project would also irreversibly increase local demand for non-renewable energy resources such as petroleum products and natural gas. However, increasingly efficient building design would offset this demand to some degree by reducing energy demands of the project. The project would be required to comply with standards set forth in California Building Code (CBC) Title 24, which would minimize the wasteful, inefficient, or unnecessary consumption of energy resources during operation. CALGreen (as codified in CCR Title 24, Part 11) requires implementation of energy-efficient light fixtures and building materials into the design of new construction projects. Furthermore, the 2019 Building Energy Efficiency Standards (CBC Title 24, Part 6) requires newly constructed buildings to meet energy performance standards set by the CEC. These standards are specifically crafted for new buildings to achieve energy efficient performance. The standards are updated every three years, and each iteration increases energy efficiency standards. For example, according to the CEC, nonresidential buildings will use about 30 percent less energy due mainly to lighting upgrades (CEC 2018c). The City also has a Reach Code that requires efficiency beyond CalGreen, which would be applicable to the proposed project. Furthermore, the project would continue to reduce its use of nonrenewable energy resources as the percentage of electricity generated by renewable resources provided by PG&E continues to increase to comply with state requirements through Senate Bill 100, which requires electricity providers to increase procurement from eligible renewable energy resources to 33 percent of total retail sales by 2020, 60 percent by 2030, and 100 percent by 2045.

Additional vehicle trips associated with the proposed project would incrementally increase local traffic and regional air pollutant and GHG emissions. However, as discussed in Section 3, *Air Quality*, and Section 7, *Greenhouse Gas Emissions*, of the Initial Study (Appendix A), development and operation of the project would not generate air quality or GHG emissions that would result in a significant impact. Additionally, Section 4.4, *Transportation*, of this EIR concludes that impacts associated with the proposed project would be less than significant with mitigation based on adopted City thresholds.

The project would also require a commitment of law enforcement, fire protection, water supply, wastewater treatment, and solid waste disposal services. However, as discussed in Section 15, *Public Services*, and Section 19, *Utilities and Service Systems*, of the Initial Study, impacts to these service systems would not be significant.

CEQA requires decision makers to balance the benefits of a proposed project against its unavoidable environmental risks in determining whether to approve a project. The analysis contained in this EIR concludes that the proposed project would result in impacts that are less than significant or less than significant with mitigation, except for potential impacts to historic resources. As described in Section 4.2, *Cultural Resources*, and below in 5.3, *Significant and Unavoidable Impacts*, implementation of the project would result in potentially significant unavoidable impacts to historic resources due to proposed demolition of the Oliver Brothers Salt Works structures.

### 5.3 Significant and Unavoidable Impacts

The proposed project includes demolition of the Oliver Brothers Salt Works structures. As described in Section 4.2, *Cultural Resources*, demolition of the structures and development of the project site would result in potentially significant impacts to historic resources. Implementation of mitigation measures CUL-1a and CUL-1b, as described in Section 4.2, would be required. However, impacts would remain significant and unavoidable with implementation of mitigation measures.

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## 6 Alternatives

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As required by Section 15126.6 of the *CEQA Guidelines*, this EIR examines a range of reasonable alternatives to the proposed project that would attain most of the basic project objectives (stated in Section 2.0, *Project Description*, of this EIR) but would avoid or substantially lessen the significant adverse impacts.

As discussed in Section 2.0, *Project Description*, the objectives for the proposed project, are as follows:

- Develop an industrial building to house U-Haul corporate headquarters and a warehouse.
- Locate the building at the western edge of Hayward in proximity to a regional highway and other industrial, warehousing and logistics uses to avoid land use conflicts.
- Create new employment and economic growth opportunities by redeveloping a vacant and underutilized property.
- Establish a wetland preserve adjacent to the San Francisco Bay.
- Remove a dilapidated and unsafe structure from a currently underutilized property at the gateway to the City.

Included in this analysis are three alternatives, including the CEQA-required “no project” alternative, that involve changes to the project that would reduce the project-related potentially significant environmental impacts as identified in this EIR. Alternatives have been developed to provide a reasonable range of options to consider that would help decision makers and the public understand the general implications of revising or eliminating certain components of the proposed project.

The following alternatives are evaluated in this EIR:

- Alternative 1: No Project
- Alternative 2: Enterprise Avenue Alternate Site
- Alternative 3: Reduced Project

Detailed descriptions of the alternatives are included in the impact analysis for each alternative. The potential environmental impacts of each alternative are analyzed in Sections 6.2 through 6.4.

### 6.1 Potentially Significant Impacts

According to Section 15126.6(b) of the State CEQA Guidelines, the discussion of EIR alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening significant effects of the project. The City prepared an Initial Study and this EIR to analyze the project for potentially significant impacts related to each of the environmental issues or resource areas contained in Appendix G of the State CEQA Guidelines (see Appendix A to this EIR). The results of the Initial Study and EIR analyses determined that the proposed project would have potentially significant and unavoidable impacts to historic resources (see Section 4.2, *Cultural Resources*).

Additionally, mitigation measures are identified in this EIR for the following topics that would reduce the respective potentially significant impacts of the project to less than significant levels:

- Biological Resources, specifically effects on special-status wildlife species and their habitat and natural communities (mitigated to less-than-significant impact level by Mitigation Measures BIO-1a through 1h)
- Biological Resources, specifically effects on jurisdictional wetlands (mitigated to less-than-significant impact level by Mitigation Measure BIO-3)
- Cultural Resources, specifically effects related to previously unidentified subsurface resources (mitigated to less-than-significant impact level by Mitigation Measures CUL-1 through CUL-3)
- Hazards and Hazardous Materials, specifically effects related to exposure of project construction personnel to lead paint and/or asbestos containing materials during demolition of existing structures hazardous (mitigated to less-than-significant impact level by Mitigation Measure HAZ-1)
- Hazards and Hazardous Materials, specifically effects related to exposure of persons or groundwater to hazardous contamination (petroleum hydrocarbons, soil vapor, etc.) during construction and operation (mitigated to less-than-significant impact level by Mitigation Measures HAZ-2a through 2c)
- Transportation, specifically effects related to vehicle miles traveled (VMT), as the project VMT per employee would exceed the regional average by 0.5 percent (mitigated to less-than-significant level by Mitigation Measures TR-1)

## 6.2 Alternative 1: No Project Alternative

### 6.2.1 Description

The No Project Alternative assumes that the industrial building, surface parking, driveway, landscaping, and other project components associated with the proposed industrial building are not constructed. Additionally, the San Francisco Bay Trail would remain in its current location and would not be realigned. Likewise, a wetland preserve would not be established on the western component of the project site. The western component of the project site would not be preserved in perpetuity via recordation of a deed restriction or other appropriate legal mechanism; therefore, the salt ponds and other areas of the western component of the site could be utilized for flood plain and agricultural uses such as chemical extraction from baywater, crop and tree farming, dredging, farming or ranching and limited sales of materials grown on site. The project site would remain in its current unused state, and the existing structures associated with the former Oliver Brothers Salt Works operation would not be demolished.

The No Project Alternative would not fulfill any of the project objectives.

### 6.2.2 Impact Analysis

#### **a. Biological Resources**

Under the No Project Alternative, the new medical office building would not be constructed and operated on the project site, nor would the various utility, landscape, and street improvements occur. There would be no change to listed species or habitat, including that of the salt marsh harvest mouse or burrowing owl, and the San Francisco Bay Trail would not be relocated. No riparian or wetland habitat would be affected. As no construction would occur on the site, no potential impacts to nesting birds would occur. There would be no biological resources impacted or enhanced under this alternative compared with existing conditions. However, effects unrelated to the project, such

as the potential for sea level rise to impact habitat for salt marsh harvest mouse, would occur regardless of the potential implementation of this alternative or the proposed project.

The proposed project's impacts related to biological resources would be less than significant with mitigation (see Section 4.1, *Biological Resources*). Because the No Project Alternative would have no impact, biological resources impacts would be reduced compared to the proposed project and no mitigation measures would be required.

## **b. Cultural Resources**

The No Project Alternative would not involve construction or ground disturbance on the project site. Therefore, there would be no potential for encountering or damaging potential buried cultural resources. Because this alternative would preclude development of the project site, the former Oliver Brother Salt Works building on the eastern component of the project site would not be demolished. The structure would remain in place but would be subject to continued natural deterioration, weathering and squatting by homeless individuals. The No Project Alternative would have no impact on cultural resources.

As described in Section 4.2, *Cultural Resources*, the proposed project would have significant and unavoidable impacts to historic resources resulting from demolition of the Oliver Brother Salt Works building, and mitigation measures would be required. Because the No Project Alternative would avoid this significant impact, as well as potential impacts to subsurface resources, impacts would be reduced compared to the proposed project and no mitigation would be required.

## **c. Hazards and Hazardous Materials**

Under the No Project Alternative, there would be no demolition of the existing on-site structures and no new construction, and no impacts related to potential exposure to lead or asbestos-containing materials. Additionally, the proposed building would not be constructed, including displacement piers for the building foundation or on-site bioretention areas for stormwater management. Therefore, the No Project Alternative would have no potential to create new preferential pathways for shallow contaminated groundwater to reach deeper groundwater. Additionally, because the proposed building would not be constructed, it also would not be occupied and there would be no potential for vapor intrusion risk. The No Project Alternative would have no impacts related to hazards and hazardous materials.

As described in Section 4.3, *Hazards and Hazardous Materials*, the proposed project would have potentially significant but mitigable impacts related to hazards materials and hazardous contamination. Because the No Project Alternative would have no impact, impacts of this alternative would be reduced compared to the proposed project and no mitigation would be required.

## **d. Transportation**

The No Project Alternative would result in no new development or changes to the project site. Currently, the project site is unused and does not generate VMT. Therefore, the No Project Alternative would generate no new VMT, as the site would continue to be unused. Additionally, the No Project Alternative would have no conflicts with plans or programs pertaining to circulation, including bicycle, pedestrian, and transit circulation. The San Francisco Bay Trail would remain in its current alignment and available for bicycle and pedestrian travel. The No Project Alternative would have no impacts on transportation.

As described in Section 4.4, *Transportation*, the proposed project would generate new VMT that exceeds the regional average VMT per employee. Impacts would be potentially significant but mitigable. Because the No Project Alternative would have no transportation impacts, impacts of this alternative would be reduced compared to the proposed project and no mitigation would be required.

## 6.3 Alternative 2: Enterprise Avenue Alternate Site

### 6.3.1 Description

Under the Enterprise Avenue Alternate Site Alternative, the proposed industrial building would be constructed on an approximately 10.8-acre property located at 3636 Enterprise Avenue in Hayward. The property is identified as APN 439-0099-036-02, and is zoned as General Industrial (IG). The property is mostly vacant with the exception of several radio communication towers scattered across the property. A small structure is located at the base of one tower and is associated with the tower operations. Vegetation is present across nearly the entire property, and based on aerial photography, consists primarily of low grasses, weeds, and shrubs.

Alternative 2 assumes that the industrial building and associated surface parking lot would be approximately the same size and design as the proposed project, only located on the Enterprise Avenue property instead of the project site. However, because the Enterprise Avenue property is an upland area, Alternative 2 would not include establishing a wetland preserve on-site or off-site. Likewise, this alternative assumes the existing structures and ponds associated with the former Oliver Brothers Salt Works operation on the project site would remain unchanged from current conditions, because Alternative 2 would involve no activities or development at the project site.

The San Francisco Bay Trail is not adjacent the Enterprise Avenue property. Therefore, Alternative 2 would not involve relocation of the trail or coordination with the East Bay Regional Parks District. However, Alternative 2 would include relocating the existing radio communication towers and associated building that currently exist on the Enterprise Avenue property.

The Enterprise Avenue Alternate Site Alternative would fulfill some project objectives but not all objectives. For example, this alternative would develop an industrial building to house U-Haul corporate headquarters and a substantial warehouse at the western edge of Hayward in proximity to regional roadways. Alternative 2 would also be near other industrial and warehousing land uses and would create new employment opportunities by developing a property that is currently vacant. However, Alternative 2 would not fulfill project objectives to establish a wetland preserve adjacent to the San Francisco Bay or to remove the dilapidated Oliver Brothers Salt Works structures from the State Route 92 gateway to the City.

### 6.3.2 Impact Analysis

#### **a. Biological Resources**

The Enterprise Avenue site is not in proximity to salt marsh habitat. Therefore, implementation of the Enterprise Avenue Alternate Site Alternative would have no potential to impact species associated with salt marsh habitat, such as salt marsh harvest mouse or salt marsh wandering shrew. Additionally, the existing structure on the Enterprise Avenue site is a small shed-like structure associated with current operations of the on-site radio communication towers. Because

the towers are currently operated and maintained, it is assumed that bats do not actively roost in the structure, and this alternative would have no impact to special-status bats.

The Enterprise Avenue site consists primarily of open grass. The radio communication towers may provide perching spots for foraging raptor species, given that the towers are in open grassland. Additionally, the towers or the grass habitat may be used for nesting migratory bird species, and the grassland habitat specifically could be suitable for burrowing owl. Construction of the Enterprise Avenue Site Alternative would require removal of the radio communication towers and grass habitat. The site would be converted into the proposed industrial building and associated surface parking and landscaping. Therefore, the Enterprise Avenue Alternate Site Alternative would have potentially significant but mitigable impacts to special-status species. Implementation of Mitigation Measures BIO-1b through BIO-1e and BIO-1g would be required for this alternative.

According to the U.S. Fish and Wildlife Service, there are no wetland areas on the Enterprise Avenue site (U.S. Fish and Wildlife Service 2020). Therefore, construction of an industrial building on the site would have no impacts on wetlands. Because the site is upland grass, construction of this alternative would also have no impacts on sensitive natural communities.

Overall, the Enterprise Avenue Alternate Site Alternative would have potentially significant but mitigable impacts on special-status species, but fewer special-status species would be impacted compared to the proposed project. Additionally, while the proposed project would have potentially significant but mitigable impacts to wetlands and sensitive natural communities, the Enterprise Avenue Alternate Site Alternative would have no impact. Accordingly, impacts of the Enterprise Avenue Alternate Site Alternative would be less than significant with mitigation and reduced compared to the proposed project.

## **b. Cultural Resources**

Construction of the Enterprise Avenue Alternate Site Alternative would require demolition or removal of the on-site radio communication towers and associated shed-like structure. Based on a review of aerial photography, the towers and associated structure were constructed sometime after 1982 but before 1987 (Historic Aerials 2021). Based on the apparent age of these structures (approximately 39 years to 34 years), the Enterprise Avenue site contains no known historic structures or potentially historic structures. Therefore, construction of the Enterprise Avenue Alternate Site Alternative would have unknown but expected less than significant effect on historic resources because historic structures are not known to be present.

Construction of the Enterprise Avenue Alternate Site Alternative would require ground disturbance and excavation for the building foundation, utility connections, and other subsurface project components. There is always potential for previously unknown or unidentified subsurface cultural resources to be uncovered during ground disturbance and excavation. If construction of the Enterprise Avenue Alternate Site Alternative were to encounter resources and result in damage or destruction of the resource or resources, impacts would be potentially significant but mitigable. Implementation of the Mitigation Measure CUL-2 in Section 4.2, *Cultural Resources*, would be required for this alternative. Implementation of mitigation would reduce impacts to less than significant.

Overall, the Enterprise Avenue Alternate Site Alternative would likely avoid or reduce the project's potentially significant and unavoidable impact to historic resources. Impacts to buried or subsurface resources would be reduced to less than significant with implementation of mitigation measures. Because the Enterprise Avenue Alternate Site Alternative would completely avoid significant and

unavoidable impacts to historic resources, impacts would be reduced compared to the proposed project.

### **c. Hazards and Hazardous Materials**

Construction of the Enterprise Avenue Alternate Site Alternative would require demolition or removal of the existing on-site radio communication towers and associated shed-like structure. Based on a review of aerial photography, the towers and associated structure were constructed sometime after 1982 but before 1987 (Historic Aerials 2021). Because the towers and shed-like structure were constructed in the 1980s, lead-based paint and asbestos would not have been used in their construction. Therefore, demolition or removal of the towers and structure would not expose construction workers or others to potential hazards. The Enterprise Avenue Alternate Site Alternative would have no impact related to reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.

According to the State Water Resources Control Board (SWRCB) and California Department of Toxic Substances Control (DTSC), the project site is not on a list of hazardous material sites compiled pursuant to Government Code Section 65962.5 (SWRCB 2021; DTSC 2021). Therefore, construction of the Enterprise Avenue Alternate Site Alternative would have negligible potential to create a significant hazard to the public or the environment. The Enterprise Avenue Alternate Site Alternative would have less than significant impacts. The Enterprise Avenue Alternate Site Alternative would have a reduced hazards and hazardous materials compared to the proposed project.

### **d. Transportation**

According to the City's GIS portal, the average VMT per employee within the traffic analysis zone (TAZ) containing the Enterprise Avenue Site is 20.64 (City of Hayward 2020). As described in Section 4.4, *Transportation*, the regional average VMT per capita or employee for industrial projects is 18.15. Therefore, the Enterprise Avenue Alternate Site Alternative would require a VMT reduction of approximately 14 percent to achieve a less than significant impact. This is higher than the proposed project site's VMT per employee of 18.23, which requires a 0.5 percent reduction. Therefore, the VMT impact of the Enterprise Avenue Alternate Site Alternative would be potentially significant. Compared with the proposed project, impacts of this alternative would be greater and additional mitigation would be required compared to the proposed project.

## **6.4 Alternative 3: Reduced Project Alternative**

### **6.4.1 Description**

The Reduced Project Alternative assumes that, like the proposed project, the industrial building, surface parking, driveway, landscaping, and other project components associated with the proposed industrial building would be constructed on the eastern component of the project site. Additionally, the San Francisco Bay Trail would be realigned to encompass the eastern component of the site, like the proposed project. Likewise, a wetland preserve would be established on the western component of the project site, consistent with the proposed project. However, the industrial building and surface parking lot would be reduced in size by approximately 50 percent and shifted south within the eastern component of the project site in order to avoid demolition of the former

Oliver Brothers Salt Works building in the northeast part of the site. The existing building would be left in place.

The Reduced Project Alternative would fulfill most but not all project objectives. For example, this alternative would involve development of an industrial building to house U-Haul corporate headquarters and a warehouse at the western edge of Hayward in proximity to regional roadways. Alternative 3 would also be near other industrial and warehousing land uses and would create new employment opportunities by developing a property that is currently unused. Additionally, Alternative 3 would also fulfill the project objective to establish a wetland preserve adjacent to the San Francisco Bay. However, Alternative 3 would not fulfill the project objective to remove the dilapidated Oliver Brothers Salt Works structures from the State Route 92 gateway to the City. In addition, this alternative would reduce the space available for the proposed project elements compared to the proposed project, which would result in smaller office and warehouse spaces by approximately 50 percent.

## 6.4.2 Impact Analysis

### a. Biological Resources

The Reduced Project Alternative would be constructed on the eastern component of the project site. Therefore, construction of this alternative would impact the same biological resources as the proposed project, including special-status species, wetlands, and sensitive natural communities. However, the Reduced Project Alternative would require the industrial building and surface parking to be located farther south within the eastern component of the project site, result in additional wetland impacts compared to the proposed project. Additional wetland impacts would occur because the southern portion of the eastern component of the project site consists of wetlands. Establishment of the preserve in the western component of the project site would have no impact to biological resources because no construction, maintenance, or management activities would be conducted within the western component of the project site under this alternative, same as for the proposed project.

Overall, the Reduced Project Alternative would have significant but mitigable impacts to biological resources. Implementation of all mitigation measures in Section 4.1, *Biological Resources*, would be required. These mitigation measures include BIO-1a through BIO-1h and BIO-3. Compared to the proposed project, the Reduced Project Alternative would result in slightly greater impacts because this alternative would impact more wetland areas.

### b. Cultural Resources

Because no construction, maintenance, or management activities would occur within the preserve area on the western component of the project site, establishment of a wetland preserve under this alternative would result in no impacts to cultural resources, as with the proposed project.

Under the Reduced Project Alternative, the salt plant structure from the former Oliver Brothers Salt Works on the eastern component of the project site would be retained. Demolition of the structure would not be required because the project would be designed to avoid the structure. While the structure would be retained, construction of the Reduced Project Alternative would require placement of fill within former salt ponds at the south end of the eastern component of the project site. Therefore, the Reduced Project Alternative would result in impacts to components of the historic Oliver Brothers Salt Works site. Additionally, the proposed industrial building would be of modern design and construction and could conflict with the historic landscape designation of the

existing structure on the project site. While retention of the salt plant structure, as well as preservation of all former salt ponds in the western component of the project site, would help to retain the historic integrity of the Oliver Brothers Salt Works site, required filling of salt ponds on the eastern component of the site could have potentially significant impacts on historic resources.

The Reduced Project Alternative would involve construction and ground disturbance in the eastern component of the project site. Although the proposed industrial building and surface parking lot would be reduced in size, the excavation required for utility connections and foundation supports would have the potential to uncover and disturb previously unknown or unidentified archaeological resources or human remains within the eastern component of the project site. Grading required for relocation of the San Francisco Bay Trail would also have the potential to uncover and disturb or damage subsurface archaeological resources. Disturbance or damage to archaeological resources would be a potentially significant but mitigable impact. Implementation of the Mitigation Measure CUL-2 in Section 4.2, *Cultural Resources*, would be required for this alternative. Implementation of mitigation measures would reduce impacts to archaeological resources to less than significant. Compliance with existing regulations, such as Public Resources Code Section 5097.98, would prevent significant impacts related to discovery of human remains.

Overall, the Reduced Project Alternative would have potentially significant impacts to historic resources and significant but mitigable impacts to archaeological resources. Compared to the proposed project, the Reduced Project Alternative would result in reduced impacts because this alternative would avoid demolition of the Oliver Brothers Salt Works salt plant structure, which is a prominent component of the historic site and historic landscape.

### **c. Hazards and Hazardous Materials**

Because no construction, maintenance, or management activities would occur within the preserve area on the western component of the project site, establishment of a wetland preserve under this alternative would result in no impacts related to hazards and hazardous materials.

The Reduced Project Alternative would not require demolition of the former Oliver Brothers Salt Works salt plant structure, which could contain lead paint or asbestos containing materials. Because demolition would be avoided, there would be no potential for construction workers to be exposed to these hazards accidentally during construction. Impacts would be less than significant.

The Reduced Project Alternative would be constructed on the eastern component of the project site. Therefore, construction of this alternative would require construction within the restricted areas, where soil and groundwater contamination exist (see Section 4.3, *Hazards and Hazardous Materials*). During construction, workers could be exposed to hazardous contamination, especially during excavation activities reaching depths of five feet or more below ground surface. Likewise, construction would generate dust. If soils from the contamination areas are stockpiled on site and become airborne dust, either from wind erosion or construction equipment, off-site receptors could be exposed, as well as project construction workers. Impacts would be potentially significant but mitigable. Implementation of Mitigation Measure HAZ-2a in Section 4.3, *Hazards and Hazardous Materials*, would be required, and impacts would be reduced to less than significant.

Given the extent and location of the restricted areas within the eastern component of the project site, the proposed industrial building would at least partially overlie the areas under this alternative, despite the building be positioned closer to the south end of the site. Displacement piers required for the building foundation could create a preferential pathway for shallow groundwater contamination to reach deeper groundwater. Likewise, bioretention areas for this alternative could

result in leaching of runoff through multiple underlying aquifers, creating a pathway for contamination. Impacts would be potentially significant but mitigable. Mitigation Measures HAZ-2b and HAZ-2c would reduce this impact to a less than significant level.

Additionally, because the building would be atop the restricted areas, there would be potential for vapor intrusion, exposing office and warehouse workers to hazardous vapors. Impacts would be potentially significant. Mitigation Measure HAZ-2a would reduce this impact to a less than significant level.

Overall, the Reduced Project Alternative would have significant but mitigable impacts related to hazards and hazardous materials. Implementation of all Mitigation Measures HAZ-2a, HAZ-2b, and HAZ-2c in Section 4.3, *Hazards and Hazardous Materials*, would be required. Compared to the proposed project, the Reduced Project Alternative would result in slightly reduced impacts because this alternative would avoid potential impacts related to the accidental release of lead or asbestos.

#### **d. Transportation**

Realignment of the San Francisco Bay Trail would not generate new VMT compared to existing conditions because realignment would not increase vehicle trips from new trail users. Likewise, because no maintenance or management activities would occur within the preserve area on the western component of the project site, establishment of a wetland preserve under this alternative would generate no VMT.

The proposed industrial building would be reduced in size if the Reduced Project Alternative were implemented. Despite being reduced in size compared to the proposed project, the Reduced Project Alternative would generate the same VMT per employee as the proposed project. The VMT would be the same because it is based on the average VMT per employee for the traffic analysis zone (TAZ) where the project site is located. Therefore, like the proposed project, the Reduced Project Alternative would generate 18.23 VMT per employee. As described in Section 4.4, *Transportation*, the regional average VMT per capita or employee for industrial projects is 18.15. Therefore, the Reduced Project Alternative would generate VMT exceeding the regional average VMT, and impacts would be potentially significant but mitigable. Implementation of Mitigation Measure TR-1 in Section 4.4, *Transportation*, would be required and would reduce impacts to less than significant levels. Impacts of the Reduced Project Alternative would be similar to the proposed project.

## 6.5 Alternatives Considered but Rejected

Section 15126.6 of the State *CEQA Guidelines* states that:

“An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation. An EIR is not required to consider alternatives which are infeasible.

The lead agency is responsible for selecting a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives. There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason.”

Among the factors that may be used to eliminate alternatives from detailed consideration in an EIR are: (1) failure to meet most of the basic project objectives, (2) infeasibility, or (3) inability to avoid significant environmental impacts. Among the factors that may be taken into account when addressing the feasibility of alternatives are site suitability, economic viability, availability of infrastructure, general plan consistency, other plans or regulatory limitations, jurisdictional boundaries (projects with a regionally significant impact should consider the regional context), and whether the proponent can reasonably acquire, control or otherwise have access to the alternative site (or the site is already owned by the proponent). An EIR need not consider an alternative whose effect cannot be reasonably ascertained and whose implementation is remote and speculative.

The California Supreme Court, in *Citizens of Goleta Valley v. Board of Supervisors* (1990), indicated that a discussion of alternative sites is needed if the project “may be feasibly accomplished in a successful manner considering the economic, environmental, social, and technological factors involved” at another site. Several criteria form the basis of whether alternative sites need to be considered in detail. These criteria take the form of the following questions:

1. Could the size and other characteristics of another site physically accommodate the project?
2. Is another site reasonably available for acquisition?
3. Is the timing of carrying out development on an alternative site reasonable for the applicant?
4. Is the project economically feasible on another site?
5. What are the land use designation(s) of alternative sites?
6. Does the lead agency have jurisdiction over alternative sites? and
7. Are there any social, technological, or other factors which may make the consideration of alternative sites infeasible?

Site characteristics that could support a project that meets the project objectives include: appropriate size to accommodate an economically viable industrial building that also can house U-Haul corporate headquarters; proximity to a regional highway in Hayward; and proximity to other industrial, warehousing, and logistics land uses to avoid land use conflicts. In order to accommodate the needed industrial and office uses, the industrial building must be located on a property or contiguous properties measuring approximately 6.8 acres or larger. Additionally, the property must be zoned Industrial Park or for industrial uses.

The following alternative sites were initially considered. However, for reasons discussed below, they were dismissed from further consideration.

### 6.5.1 4327 Breakwater Avenue Site Alternative

Under this alternative, the proposed building would have been constructed on a property at 4327 Breakwater Avenue identified as APN 439-0099-017-04. The property is adjacent to the north side of State Route 92, opposite of the project site. The property is currently vacant, but there is a freeway billboard on the property, adjacent to State Route 92. The property is in proximity to a regional highway, given that is adjacent to State Route 92. The property is zoned as Industrial Park, which would allow for an industrial warehouse. However, the property measures approximately 1 acre in size, and adjoining properties are either developed or consist of marshland that cannot be developed. Because the property measures only approximately 1 acre, which is less than the 6.8 acres needed for the industrial warehouse, the 4327 Breakwater Avenue Site Alternative was dismissed from further consideration.

### 6.5.2 3590 Enterprise Avenue Site Alternative

Under this alternative, the proposed building would have been constructed on a property at 3590 Enterprise Avenue identified as APN 439-0099-003-07. The property is located at the southwest corner of the intersection of Enterprise Avenue and Whitesell Street in eastern Hayward. The property is currently vacant and has been scraped or cleared of vegetation. The property is in proximity to State Route 92. The property is zoned as General Industrial, which would allow for an industrial warehouse. However, the property measures approximately 3.9 acres in size, which is less than the 6.8 acres needed for the industrial warehouse. Therefore, the 3590 Enterprise Avenue Site Alternative was dismissed from further consideration.

### 6.5.3 Arden Road Site Alternative

Under this alternative, the proposed building would have been constructed on a property accessible from an existing driveway on Arden Road identified as APN 461-0040-004-04. The property is adjacent to an existing warehouse to the west and an asphalt parking surface to the north. Railroad tracks are located immediately east of the property. Wetlands and the Eden Ecological Reserve area located south of the property. Industrial Boulevard is to the east, less than a mile, and provides access to State Route 92 to the north.

The property is currently vacant but does appear disturbed in some areas, and there is a dirt road in the southern portion. The property measures approximately 34.6 acres in size, which is beyond sufficient for the 6.8 acres needed for the industrial warehouse. However, according to the U.S. Fish and Wildlife Service, much of the property is freshwater ponds that are either permanently or seasonally inundated (U.S. Fish and Wildlife Service 2020). Therefore, the developable area of the property is less than 34 acres. The configuration of the mapped ponds on the property do not provide large contiguous developable areas of at least 6.8 acres. Additionally, the property is zoned as Open Space District, which does not allow for development of an industrial building. Because the property contains ponds that reduce developable area to less than needed for the industrial building, and the property is zoned as Open Space District, the Arden Road Site Alternative was dismissed from further consideration.

## 6.6 Environmentally Superior Alternative

Table 6-1 indicates whether each alternative's environmental impact is greater than, less than, or similar to that of the proposed project for each of the issue areas studied in this section of the EIR. Based on the alternatives analysis provided above, Alternative 1 would be the environmentally superior alternative, though it is the No Project Alternative, and therefore would not meet the objectives of the proposed project. The environmentally superior development alternative would be Alternative 2, as it would reduce impacts in the categories of biological resources, cultural resources, and hazards and hazardous materials, but it would result in greater impacts regarding transportation. Alternative 2, however, would not meet all the objectives of the proposed project, such as establishing a wetland preserve or removing a dilapidated structure from the gateway to the City. Neither of the alternatives analyzed above would create significant or unavoidable impacts, but the proposed project would have a significant and unavoidable impact to historic resources.

**Table 6-1 Impact Comparison of Alternatives**

<b>Issue</b>	<b>Proposed Project Impact Classification<sup>1</sup></b>	<b>Alternative 1: No Project Alternative</b>	<b>Alternative 2: Enterprise Avenue Alternate Site Alternative</b>	<b>Alternative 3: Reduced Project Alternative</b>
Biological Resources	Less than Significant with Mitigation	+	+	-
Cultural Resources	Significant and Unavoidable	+	+	+
Hazards and Hazardous Materials	Less than Significant with Mitigation	+	+	+
Transportation	Less than Significant with Mitigation	+	-	=

<sup>1</sup> Most severe level of impact determination for proposed project is presented in this table.

+ Superior to the proposed project (reduced level of impact)

- Inferior to the proposed project (increased level of impact)

= Similar level of impact to the proposed project

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## 7.2 List of Preparers

This EIR was prepared by the City of Hayward, with the assistance of Rincon Consultants, Inc. Consultant staff involved in the preparation of the EIR are listed below.

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