Final Environmental Impact Report
Preston Property Residential Project
City of Milpitas, Santa Clara County, California

State Clearinghouse No. 2012022075

Prepared for:

City of Milpitas
Planning and Neighborhood Services Department
455 E. Calaveras Boulevard
Milpitas, CA 95035
408.586.3278

Contact: Mr. Sheldon Ah Sing, Senior Planner

Prepared by:

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Contact: Jason M. Brandman, Project Director
Grant Gruber, Project Manager

Michael Brandman Associates

October 22, 2013

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SECTION 1: INTRODUCTION

In accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15088, the City of Milpitas, as the lead agency, has evaluated the comments received on the Preston Property Residential Project. The responses to the comments and other documents, which are included in this document, together with the Mitigation Monitoring and Reporting Program, comprise the Final Environmental Impact Report (Final EIR) for use by the Milpitas City Council in its review.

This document is organized into these sections:

- **Section 1 - Introduction.**
- **Section 2 - Responses to Written Comments on the Draft EIR:** Provides a list of the agencies, organizations, and individuals that commented on the Draft EIR. Copies of all of the letters received regarding the Draft EIR and responses thereto are included in this section.
- **Section 3 - Errata:** Includes an addendum listing refinements and clarifications on the Draft EIR, which have been incorporated.

Because of its length, the text of the Draft EIR is not included with these written responses; however, it is included by reference in this Final EIR. None of the corrections or clarifications to the DEIR identified in this document constitutes "significant new information" pursuant to CEQA Guidelines Section 15088.5. As a result, a recirculation of the Draft EIR is not required.

SECTION 2: RESPONSES TO WRITTEN COMMENTS

A list of public agencies, organizations, and individuals who provided comments on the Draft EIR is presented below. Each comment has been assigned a code. Individual comments within each communication have been numbered so comments can be crossed-referenced with responses. Following this list, the text of the communication is reprinted and followed by the corresponding response.

Author **Author Code**

State Agency

Regional Water Quality Control Board.....RWQCB

Local Agencies

Santa Clara Valley Transportation Authority.....VTA
Milpitas Unified School District .....MUSD

2.1 - Responses to Comments

2.1.1 - Introduction

In accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15088, the City of Milpitas, as the lead agency, evaluated the comments received on the Draft EIR (State Clearinghouse No. 2012022075) for the Preston Property Residential Project, and has prepared the following responses to the comments received. This Response to Comments document becomes part of the Final EIR for the project in accordance with CEQA Guidelines Section 15132.

2.1.2 - Comment Letters and Responses

The comment letters reproduced in the following pages follow the same organization as used in the List of Authors.

December 31, 2012
CIWQS Place No. 789536

Sent via electronic mail: No hardcopy to follow

City of Milpitas, Planning and Neighborhood Services Department
455 East Calaveras Boulevard
Milpitas, CA 95035

Attn: Sheldon Ah Sing (sahsing@ci.milpitas.ca.gov)

Subject: Preston Property Residential Project, Draft Environmental Impact Report
SCH No. 2012022075

Dear Mr. Ah Sing:

San Francisco Bay Regional Water Quality Control Board (Water Board) staff have reviewed the *Preston Property Residential Project, Draft Environmental Impact Report* (DEIR). The DEIR assesses potential impacts associated with implementing the Preston Property Residential Project (Project) to construct 220 dwelling units at the 15.4-acre Project site, located at 133 Bothelo Lane, Milpitas, CA. Water Board staff have the following comments on the DEIR. RWQCB-1

Comment 1
Section 3.3.3, Biological Resources, Regulatory Framework, State (pages 3.3-1 through 3.3-9).
This section of the DEIR lacks a discussion of the Water Board's authority over biological resources under the State of California's Porter-Cologne Water Quality Control Act (California Water Code, Division 7). The DEIR only addresses impacts to wetlands that are subject to the jurisdiction of the Army Corps of Engineers (ACOE) under Section 404 of the Clean Water Act (CWA). The DEIR should note that Ford Creek is subject to ACOE jurisdiction under Section 404 of the CWA as a water of the Unites States (U.S.). RWQCB-2a

The DEIR should also be revised to include the Water Board's jurisdiction over Ford Creek under both Section 401 of the Clean Water Act and the State of California's Porter-Cologne Water Quality Control Act. The Water Board has regulatory authority over wetlands and waterways under both the federal Clean Water Act (CWA) and the State of California's Porter-Cologne Water Quality Control Act. Under the CWA, the Water Board has regulatory authority over actions in waters of the United States, through the issuance of water quality certifications (certifications) under Section 401 of the CWA, which are issued in conjunction with permits issued by the ACOE, under Section 404 of the CWA. When the Water Board issues Section 401 certifications, it simultaneously issues general Waste Discharge Requirements for the project, under the Porter-Cologne Water Quality Control Act. Activities in areas that are outside of the jurisdiction of the ACOE (e.g., isolated wetlands, vernal pools, seasonal streams, intermittent streams, channels that lack a nexus to navigable waters, or stream banks above the ordinary high water mark) are regulated by the Water Board, under the authority of the Porter-Cologne Water RWQCB-2b

Quality Control Act. Activities that lie outside of ACOE jurisdiction may require the issuance of either individual or general waste discharge requirements (WDRs). RWQCB-2b CONT

The *San Francisco Bay Basin Water Quality Control Plan* (Basin Plan) defines the beneficial uses of waters of the state. The Basin Plan assigns the following beneficial uses to Berryessa Creek: warm freshwater habitat; wildlife habitat; and contact and non-contact water recreation. Ford Creek is a tributary to Berryessa Creek. By the tributary rule, the beneficial uses assigned to a creek are assumed to apply to that creek's tributary creeks. Therefore, the Basin Plan should have been included in the discussion of state laws and regulations related to biological resources. RWQCB-2c

Comment 2
Section 3.7, Hydrology and Water Quality, Section 3.7.2, Environmental Setting, Ford Creek (page 3.7-2).
Text on Page 3.7-2 of the DEIR notes that Ford Creek was realigned to its current location along the eastern boundary of the Project site in 1999. The 1999 creek alignment was made under permits issued by the ACOE (ACOE File no. 23289S) and the Water Board (Site No. 02-43-C0141). Existing vegetation along Ford Creek was planted as mitigation for the channel realignment. Any modification of vegetation along Ford Creek that was planted as mitigation for the 1999 creek realignment is likely to require authorization from the Water Board. RWQCB-3

Comment 3
Section 3.7, Hydrology and Water Quality, Section 3.7.6, Project Impacts and Mitigation Measures, MM HYD-2 (page 3.7-16).
The DEIR contains a list of proposed post-construction stormwater treatment measures that would be implemented at the Project site for conformance with the San Francisco Bay Region Municipal Regional Stormwater NPDES Permit (MRP) (NPDES Permit No. CAS612008). The list includes oil/water separators. Oil/water separators are most effective when used to treat oily wastewaters from service facilities that use oils and fuels. The effluent stream from a well-functioning oil/water separator usually contains oil and grease at concentrations on the order of 10 to 15 milligrams per liter. Since stormwater runoff from parking lots and streets typically contains oil and grease in the range of 10 to 15 milligrams per liter, even a well-functioning oil/water separator would not be expected to significantly improve the quality of urban stormwater runoff. Therefore, Regional Board staff recommend deleting oil and grease separators from the list of potential BMPs at the site. RWQCB-4a

Mitigation Measure MM HYD-2 only provides a list of best management practices (BMPs) that may be used at the Project site to comply with the requirements of the MRP. The DEIR should be revised to include a discussion of the actual post-construction stormwater BMPs that will be used to comply with the treatment requirements in Provision C.3 of the MRP. The revised discussion of compliance with the MRP in the DEIR should include sufficient design detail to evaluate whether or not the Project has set aside sufficient land area for appropriately sized treatment measures to adequately mitigate pollutant and flow-related impacts to waters of the state. Stormwater BMPs should consist of landscape-based treatment devices, such as vegetated swales, detention basins, or bio-retention cells. In general, the use of mechanical separators or media filters is discouraged, because these devices require much more rigorous oversight and maintenance than landscape-based treatment devices. RWQCB-4b

The DEIR includes a proposed site layout to provide 220 dwelling units at the Project site, but does not indicate where stormwater treatment BMPs would be located. Since landscape-based stormwater treatment measures require that some of the site surface area be set aside for their RWQCB-4c

construction, the proper sizing and placement of these features should be evaluated early in the design process to facilitate incorporation of the features into the site landscaping. This information should be included in the CEQA document, so that compliance with the MRP can be evaluated during the public review stage. Proposed mitigation measures should be presented in sufficient detail for readers of the CEQA document to evaluate the likelihood that the proposed remedy will actually reduce impacts to a less than significant level. RWQCB-4c CONT.

Comment 4
Section 3.7, Hydrology and Water Quality, Section 3.7.6, Project Impacts and Mitigation Measures, MM HYD-5b (page 3.7-20).
Mitigation Measure MM HYD-5b requires that the dredging project for Wrigley-Ford Creek be completed prior to issuing the first certificate of occupancy for residences at the Project site. This mitigation measure states that: RWQCB-5

> If the City has not completed the dredging project during this time frame, then the applicant shall be required to do so under the existing regulatory permits, subject to fair-share contribution towards the project.

The Wrigley-Ford Creek dredging project was authorized by the ACOE (ACOE File No. 2011-00097S) and certified (Site No. 02-43-C0648) by the Water Board under a CWA Individual Permit on August 29, 2011. The conditions of certification required the implementation of the *City of Milpitas, Wrigley, Ford, and Wrigley-Ford Creeks Maintenance Project Mitigation and Monitoring Plan* (MMP) (H.T. Harvey & Associates, August 22, 2011). The DEIR should clarify the extent to which the Project would be responsible for implementing any elements of the MMP.

Comment 5
Section 7.2.3, Biological Resources, Riparian Habitat or Other Sensitive Natural Community (page 7-3).
According to this section of the DEIR:

> Ford Creek is a small, ephemeral drainage that is located along a portion of the project's eastern boundary. The drainage feature is contained in a culvert north and south of the project site and would not be considered to contain sensitive natural or riparian habitat. RWQCB-6a

This text is not correct. Any vegetation along Ford Creek is regulated by the Water Board as riparian habitat, especially if that habitat was planted as mitigation for the 1999 realignment of Ford Creek.

Figure 2 of the MMP (see Comment 4), shows areas of riparian habitat at the Project site that were to be impacted by implementation of the City of Milpitas, Wrigley, Ford, and Wrigley-Ford Creeks Maintenance Project and areas of riparian habitat that were required to be preserved during implementation of the City of Milpitas, Wrigley, Ford, and Wrigley-Ford Creeks Maintenance Project. Since documentation prepared on behalf of the City of Milpitas clearly established the presence of riparian habitat at the Project site, it is strange that the DEIR asserts that there is no riparian habitat at the Project site. RWQCB-6b

Please contact me at (510) 622-5680 or bwines@waterboards.ca.gov if you have any questions. All future correspondence regarding this Project should reference the CIWQS Place Number indicated at the top of this letter. RWQCB-7

Sincerely,

Brian K. Wines

Brian Wines
Water Resources Control Engineer
Watershed Division

cc: State Clearinghouse (state.clearinghouse@opr.ca.gov)

State Agencies

Regional Water Quality Control Board (RWQCB)

Response to RWQCB-1

The agency provided introductory remarks to open the letter. No response is necessary.

Response to RWQCB-2a

The agency stated that the regulatory framework section of the Biological Resources section lacks a discussion of the State's Porter-Cologne Water Quality Control Act. The agency stated that the Draft EIR only addresses impacts to wetlands that are subject to the jurisdiction of the United States Army Corps of Engineers (USACE) under Clean Water Act Section 404. The agency stated that the Draft EIR should note that Ford Creek is subject to USACE jurisdiction under Clean Water Act Section 404.

Discussions of the Clean Water Act and state wetlands requirements have been added to the Regulatory Framework section. The addition is noted in Section 3, Errata.

Response to RWQCB-2b

The agency stated that the Draft EIR should be revised to include the RWQCB's jurisdiction over Ford Creek under both Clean Water Act Section 401 and the Porter-Cologne Water Quality Control Act. The agency recited regulatory responsibilities under both acts.

Discussion of Ford Creek falling under USACE, California Department of Fish and Wildlife (CDFW), and RWQCB jurisdiction has been added and the change is noted in Section 3, Errata.

Response to RWQCB-2c

The agency noted that the San Francisco Bay Basin Water Quality Control Plan (Basin Plan) assigns beneficial uses to Berryessa Creek, of which Ford Creek is tributary. As such, the agency noted that these beneficial uses apply to Ford Creek and, therefore, the Basin Plan should be mentioned in the regulatory framework section.

Discussion of the Basin Plan has been added to the Regulatory Framework section. The addition is noted in Section 3, Errata.

Response to RWQCB-3

The agency referenced the discussion on page 3.7-2 of the Draft EIR concerning the realignment of Ford Creek that occurred in 1999 and stated that existing creek vegetation was planted as mitigation for the realignment. The agency stated that any modification of vegetation along Ford Creek that was planted as mitigation is likely to require reauthorization by the RWQCB.

The proposed project involves the installation of a pedestrian/bicycle trail parallel and adjacent to Ford Creek to link Railroad Avenue and Hammond Way. As established in Mitigation Measure PSR-4b, the trail is required to be located outside of the waterway banks. The City and applicant intend to

avoid any impacts to the creek channel, banks, and vegetation, thereby precluding any impacts to vegetation planted previously as mitigation for 1999 realignment.

Response to RWQCB-4a

The agency referenced Mitigation Measure HYD-2 and stated that it lists oil/water separators as a potential post-construction stormwater treatment measure. The agency stated that such devices are unlikely to be very effective in treating project runoff and recommended that they be deleted.

Mitigation Measure HYD-2 has been amended to strike "oil/water separators" and the change is noted in Section 3, Errata.

Response to RWQCB-4b

The agency stated that Mitigation Measure HYD-2 should be revised to include a discussion of the actual post-construction stormwater Best Management Practices that will be used to comply with the treatment requirements in Provision C.3 of the Municipal Regional Permit. The agency stated that the revised mitigation measure should include discussion of compliance with the Municipal Regional Permit in the Draft EIR to include sufficient design detail to evaluate whether the project has set aside sufficient land area of appropriately sized treatment measures. The agency stated that stormwater Best Management Practices should consist of landscape-based treatment devices such as vegetated swales, detention basins, or bio-retention cells.

Mitigation Measure HYD-2 has been revised to include the phrase "Best Management Practices that comply with the treatment requirements in Provision C.3 of the Municipal Regional Permit." The change is noted in Section 3, Errata. Note that the text of the mitigation measure currently identifies "Strategically placed landscaped bioswales and landscaped areas that promote percolation of runoff" as one example of a measure that could be included in the plan.

CEQA Guidelines Section 15126.4 (a)(1)(B) establishes that "mitigation measures may specify performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way" as an acceptable approach in terms of formulating mitigation measures. Mitigation Measure HYD-2 outlines a process by which the applicant must prepare and submit a stormwater management plan to the City of Milpitas for review and approval and identifies potential methods that may be employed by the plan to achieve the objective of mitigating project impacts on polluted runoff. As such, Mitigation Measure HYD-2 complies with the requirements of CEQA Guidelines Section 15126.4 (a)(1)(B) and, therefore, it is not necessary to further revise the mitigation measure to provide design-level information about the potential Best Management Practices.

Response to RWQCB-4c

The agency stated that the site plan contained in the Draft EIR does not indicate where stormwater treatment Best Management Practices would be located. The agency stated that because landscaped-based stormwater treatment measures require that some of the site surface area be set aside for their

construction, proper sizing and placement of these features should be evaluated early in the design process to facilitate incorporation of the features into the landscaping.

Refer to Response to RWQCB-4b.

Response to RWQCB-5

The agency noted that Mitigation Measure HYD-5b requires that the dredging project for Wrigley-Ford Creek be completed prior to issuing the first certificate of occupancy for the proposed project. The agency noted that the Wrigley-Ford Creek project was authorized by the applicable regulatory agencies in August 2011 and the conditions of certification required the implementation of a project-specific mitigation monitoring plan. The agency stated that the Draft EIR should clarify the extent to which the project would be responsible for implementing any elements of the mitigation monitoring plan.

Mitigation Measure HYD-5b requires the dredging project to be completed prior to issuance of the first certificate of occupancy. The mitigation measure states that the applicant shall be the party responsible for completing the project if the City has not otherwise done so by the time of the issuance of the first certificate of occupancy. Because the proposed project is unlikely to break ground until 2014 at earliest, it would be expected that the City of Milpitas would have sufficient time to complete the dredging project in advance of the issuance of the first certificate of occupancy. However, should this not occur, the applicant would be required to complete it to ensure that downstream drainage facilities have adequate capacity.

Response to RWQCB-6a

The agency referenced the discussion of riparian habitat or other sensitive natural habitat in Section 7, Effects Found Not To Be Significant, and stated that it is not correct because the habitat along Ford Creek is considered riparian habitat by the RWQCB.

The text has been revised to note that although riparian habitat associated with Ford Creek is located within the project site boundaries, the activities contemplated by the proposed project would not impact these features. The change is noted in Section 3, Errata.

Response to RWQCB-6b

The agency referenced the Wrigley-Ford Creek project mitigation monitoring plan and stated that Figure 2 shows areas of riparian habitat at the project site that would be impacted by the dredging project. The agency stated that because the document clearly establishes the presence of riparian habitat at the project site, it is strange that the Draft EIR asserts that there is no riparian habitat within the project site.

Refer to Response to RWQCB-6a.

Response to RWQCB-7

The agency provided closing remarks to conclude the letter. No response is necessary.

January 2, 2013

City of Milpitas
Planning Division
455 East Calaveras Boulevard
Milpitas, CA 95035-5479

Attention: Sheldon Ah Sing

Subject: Preston Property Residential

Dear Mr. Ah Sing:

Santa Clara Valley Transportation Authority (VTA) staff have reviewed the Draft EIR for 220 high density dwelling units on 15.4 acres at 133 Bothelo Avenue. We have the following comments. VTA-1

Pedestrian Accommodations

VTA commends the project applicant for proposing to provide pedestrian paths between the project site and Main Street on the west side of Railroad Avenue and between the project site and Curtis Avenue on the east side of Hammond Way. In addition, the TIA notes that "the project proponent has agreed to pursue" a pedestrian connection from the north end of the project site to the Calaveras overcrossing, although such a crossing would require encroachment permits from Caltrans (p. 30-31). VTA supports the statement that "from a planning perspective, the site's geographic proximity to Midtown presents an opportunity to provide a strong connection between the residential and retail uses" (p. 30-31) and notes that improved pedestrian connectivity would encourage daily tasks to be accomplished by walking, thereby incrementally reducing automobile trips and greenhouse gas emissions. VTA recommends that the above mentioned pedestrian improvements be included as specific, enforceable Conditions of Approval for the project. VTA-2

Coordination with Berryessa Extension Project

VTA encourages the City to require the builder to coordinate their construction activities with VTA's Berryessa Extension Project and the many other public and private construction activities that will be occurring in the project vicinity. Also, it should be noted that in the Transportation Section (3.1.1) the document indicates that the BART extension is expected to open in 2014. VTA's Berryessa Extension Project is expected to open in the 2017 time frame. VTA-3

Noise Analysis

The proposed project is located adjacent to the UPRR Milpitas Yard which is now a major distribution center on the west coast for automobiles. Therefore, the noise analysis should be VTA-4

coordinated with UPRR and take into account the somewhat random nature of automobile deliveries. VTA-4 CONT.

Thank you for the opportunity to review this project. If you have any questions, please call me at (408) 321-5784. VTA-5

Sincerely,

Roy Molseed
Senior Environmental Planner

ML1202

Local Agencies

Santa Clara Valley Transportation Authority (VTA)

Response to VTA-1

The agency provided introductory remarks to open the letter. No response is necessary.

Response to VTA-2

The agency stated that it commends the project applicant for the proposed streetscape improvements along Railroad Avenue and Hammond Way and the proposed pedestrian connection to the Calaveras Boulevard Overcrossing. The agency noted that these improvements would encourage daily tasks to be accomplished by walking. The agency recommended that pedestrian improvements be included as specific, enforceable Conditions of Approval.

Mitigation Measure LU-2 requires the project applicant to install the streetscape improvements along Railroad Avenue and Hammond Way, as well as the onsite pedestrian connection between Railroad Avenue and Hammond Way. As is standard practice, the City of Milpitas typically includes all mitigation measures as Conditions of Approval.

Response to VTA-3

The agency stated that it encourages the City of Milpitas to require the applicant to coordinate its construction activities with VTA's BART extension to Berryessa and the many other public and private construction activities that will be occurring in the project vicinity. The agency also noted that the Draft EIR incorrectly indicates that the BART extension is expected to open in 2014, and stated that 2017 is the opening year.

As indicated on Draft EIR page 3.11-15, the BART alignment would be located 700 feet east of the project site on the east side of the Union Pacific Railroad Milpitas Yard. Furthermore, access to the BART alignment is not taken from any of the streets that serve the project site (Railroad Avenue, Hammond Way, Sinnott Lane). Thus, construction activities associated with the BART project and the proposed project would not impact or be in conflict with each other.

In addition, the nearest other construction project in the project vicinity is located at the intersection of Great Mall Parkway/Main Street, approximately 1 mile south of the project site. This distance is sufficiently far enough away that construction activities associated with this project and the proposed project would not impact or be in conflict with each other.

Finally, the date of the BART extension opening has been corrected. The change is noted in Section 3, Errata.

Response to VTA-4

The agency noted that the proposed project is adjacent to the Union Pacific Railroad Milpitas Yard, which is a major distribution center for automobiles. The agency stated that the noise analysis should

be coordinated with Union Pacific Railroad to account for the "somewhat random nature" of automobile deliveries.

The noise and vibration analysis in Section 3.9, Noise and Vibration included short-term and long-term noise monitoring on the project site in January 2012. The noise measurement locations are depicted in Exhibit 3.9-1. The noise measurements specifically accounted for railroad activity; refer to the "Railroad Activity" paragraphs on page 3.9-6. These noise measurements were used as the basis for assessing project noise impacts on page 3.9-19 through page 3.9-31. Moreover, Mitigation Measures NOI-1b and NOI-1c require the installation of various noise attenuation measures such as sound walls and mechanical ventilation systems to reduce noise exposure from rail activities. As such, the Draft EIR accounted for rail activities in the nearby Union Pacific Railroad facilities and sets forth mitigation measures to reduce impacts to a level of less than significant.

Response to VTA-5

The agency provided closing remarks to conclude the letter. No response is necessary.

Valued ☆ Challenged ☆ Successful

Milpitas Unified School District

1331 E. Calaveras Blvd., Milpitas, CA 95035
Web site: www.musd.org

Cary Matsuoka
Superintendent
Tel. (408) 635-2600 ext. 6013 Fax (408) 635-2616
E-mail: cmatsuoka@musd.org

City Manager
DEC 20 2012
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December 18, 2012

Mr. Thomas C. Williams
Milpitas City Manager
455 East Calaveras Boulevard
Milpitas, CA 95035

Dear Mr. Williams:

Milpitas Unified School District was informed that "*Preston Property Residential Project*" prepared an Environmental Impact Report for the City of Milpitas. The proposed report is to provide new residential dwellings, as many as 220 units on the project site. MUSD-1

In November 2011, the District conducted an enrollment projection study. This study forecasted a rise of more than 600 students in the next five years. The growth will have a tremendous impact on facilities and District school capacity has reached its limit to provide space. MUSD-2

In addition, the potential residential units are too far from our existing elementary schools, therefore, are not feasibly located where students can walk or cycle to school without other types of transportation. This will place additional hardship to the students, parents and District. MUSD-3

After review of the report, Milpitas Unified School District is strongly against "*Preston Property Residential Project*" proposal. MUSD-4

Sincerely,

Cary Matsuoka

Cary Matsuoka
Superintendent

Milpitas Unified School District (MUSD)

Response to MUSD-1

The agency provided introductory remarks to open the letter. No response is necessary.

Response to MUSD-2

The agency stated that the School District conducted an enrollment projection study in November 2011 that indicated that enrollment would increase over 600 students during the next five years. The agency stated that the growth will have a tremendous impact on facilities and School District school capacity has reached its limit to provide space.

The 2011 enrollment study projections were referenced on page 3.10-3 of the Draft EIR. Project student generation was forecast on page 3.10-25 of the Draft EIR. The Draft EIR noted on page 3.10-25 that Government Code 65995 establishes that payment of fees is the "full and complete mitigation" for provision of adequate school facilities and prohibits cities and counties from assessing additional fees or exactions for school impacts. As such, payment of fees is the only method by which the applicant can mitigate the project's impact on school facilities.

Response to MUSD-3

The agency stated that the potential residential units are too far from existing elementary schools to allow students to walk or cycle to school without use of other types of transportation. The agency stated that this will place additional hardship on students, parents, and the School District.

As discussed on page 2-12 of the Draft EIR and in Exhibit 2-7a, the project applicant is proposing streetscape improvements to Railroad Avenue that would involve the installation of sidewalk, landscaping, and fencing between the project site and Main Street. Additionally, the applicant would install a pedestrian connection from Railroad Avenue to the Calaveras Boulevard overcrossing. This latter improvement would allow for a direct "crow flies" pedestrian route to Anthony Spangler Elementary School from the project site of roughly 0.7 mile in length.

Many infill sites formerly supported nonresidential uses and they are generally located farther away from school sites than those that were originally developed for residential uses. As such, longer-than-desired school travel distances are an inherent trade-off associated with infill development. However, this in of itself is not a significant CEQA impact, as the Draft EIR has proposed mitigation measures to improve pedestrian access in the project vicinity in accordance with City standards.

Finally, it should be noted that the proposed Railroad Avenue streetscape improvements that occur within the Union Pacific Railroad right-of-way would be subject to California Public Utilities Commission review, including for applicable pedestrian safety standards.

Response to MUSD-4

The agency stated that it is strongly against the proposed project. No response is necessary.

SECTION 3: ERRATA

The following are revisions to the Draft EIR for the Preston Property Residential Project. These revisions are minor modifications and clarifications to the document, and do not change the significance of any of the environmental issue conclusions within the Draft EIR. The revisions are listed by page number. All additions to the text are underlined (underlined) and all deletions from the text are stricken (~~stricken~~).

Section 2, Project Description

Page 2-25, Project Objectives

The introduction has been amended to note that the project objectives reflect the applicant's priorities.

> Pursuant to CEQA Guidelines Section 15124(b), the project objectives should include the "underlying purpose" of the project. In this case, the objectives are reflective of the applicant's priorities and not the City's adopted plans and policies. The objectives of the proposed project are to:
>
> - Promote economic growth through new capital investment, an expanded population base, and payment of development fees.
> - Provide new residential opportunities to accommodate forecasted population growth within the City of Milpitas.
> - Provide single-family and townhouse product types in one development that would cater to various segments of the community.
> - Facilitate the logical and orderly transition of an underutilized light industrial site to higher-and-better residential uses.
> - Provide a high-quality residential development project that offers recreational and open space amenities for residents.
> - Promote land use compatibility with neighboring light industrial and commercial uses through appropriate site planning measures.

Section 3.3, Biological Resources

Page 3.3-5, Fourth Paragraph

The paragraph has been revised to clarify the relationship of Ford Creek to the project site, and to note that the waterway is considered a "Water of the United States" and falls under the jurisdiction of the United States Army Corps of Engineers, the California Department of Fish and Wildlife, and the Regional Water Quality Control Board.

Water Features

There is one water feature, Ford Creek, that was identified during MBA's site visit of the project site. Ford Creek forms a portion of the eastern boundary of the project site. ~~Although not located within the project boundaries, it is immediately adjacent to the eastern boundary of the project site.~~ The portion of the creek within and adjacent to the project site is daylighted and culverted north and south of the project site. Ford Creek is considered a "Water of the United States" and falls under the jurisdiction of the United States Army Corps of Engineers, the California Department of Fish and Wildlife, and the Regional Water Quality Control Board.

Page 3.3-7, After First Paragraph

Discussions of the Clean Water Act and state requirements for wetlands have been added to the Regulatory Framework discussion.

Clean Water Act

Waters of the United States

The federal government, acting through the United States Army Corps of Engineers (USACE) and the Environmental Protection Agency (EPA), has jurisdiction over all "waters of the United States" as authorized by Section 404 of the Clean Water Act (CWA) and Section 10 of the Rivers and Harbors Act of 1899. Waters of the United States include navigable waters, some wetlands, and some other waters. Wetlands are transitional habitats between upland terrestrial areas and deeper aquatic habitats such as rivers and lakes. Under federal regulation, wetlands are defined as those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal conditions do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Swamps, marshes, bogs, fens, and estuaries are all defined as wetlands, as are seasonally saturated or inundated areas such as vernal pools, alkali wetlands, seeps, and springs. In addition, portions of the riparian habitat along a river or stream may be a wetland where the riparian vegetation is at or below the ordinary high water mark and thus meets the wetland hydrology and hydric soil criteria. A wetland is jurisdictional if it is adjacent to a traditionally navigable water or a non-navigable tributary that is relatively permanent, meaning that it contains flow year-round or has continuous flow at least seasonally (typically for a minimum of 3 months). Streams that do not have relatively permanent flow and their adjacent wetlands are jurisdictional only if a significant nexus exists between the wetland and non-relatively tributary and a traditionally navigable water. The significant nexus evaluation includes an assessment of hydrological and ecological factors of any tributary and adjacent wetlands to determine if these areas have more than an insubstantial or speculative effect on the physical, chemical, and/or biological integrity of the traditionally navigable water.

Section 404

The objective of the CWA is to restore and maintain the chemical, physical, and biological integrity of the nation's waters. Section 404 of the CWA prohibits the discharge of dredge or fill material into waters of the United States, including jurisdictional wetlands, without a permit. Under regulations developed by the EPA, in order to obtain a 404 permit, applicants must first demonstrate that they have avoided all impacts to the extent practicable, that they have minimized unavoidable impacts, and, finally, that all unavoidable impacts will be fully mitigated. The USACE implements the federal policy embodied in Executive Order 11990, which, when implemented, is intended to result in no net loss of wetland functions and values.

Section 401

Section 401 of the CWA requires that an applicant for a Section 404 permit (to discharge dredged or fill material into a water of the United States) first obtain certification from the appropriate state agency stating that the project is consistent with the State's water quality standards and criteria. In California, the authority to grant certification is delegated by the State Water Resources Control Board to the nine regional boards. The San Francisco Bay Regional Water Quality Control Board (RWQCB) is the appointed authority for Section 401 compliance over the project site. In evaluating a request for certification, the RWQCB will review a project to determine if it is consistent with the water quality standards included in the RWQCB's Basin Plan. The water quality certification includes mitigation measures found necessary to meet the established water quality standards, and such measures become conditions of the USACE 404 permit.

State

Wetlands

The RWQCB regulates activities in wetlands and other waters through Section 401 of the CWA. Section 401 requires a state water quality certification for projects subject to Section 404 regulation. Requirements of the certification include mitigation for loss of wetland habitat. The RWQCB may take the lead over the USACE in determining wetland mitigation requirements. California Fish and Game Code Sections 1600-1607 require the CDFW be notified of any activity that could affect the bank or bed of any stream that has value to fish and wildlife. Upon notification, the CDFG has the discretion to execute a Streambed Alteration Agreement. The CDFG defines streams as follows:

> . . . a body of water that flows at least periodically . . . through a bed or channel having banks and supporting fish and other aquatic life. This includes watercourses having a subsurface flow that supports or has supported riparian vegetation (Stream Bed Alteration Program, California Department of Fish and Wildlife).

In practice, CDFW authority is extended to any "blue line" stream shown on a USGS topographic map, as well as unmapped channels with a definable bank and bed. Wetlands, as defined by USACE, need not be present for CDFW to exert authority.

Section 3.6, Hazards and Hazardous Materials

Page 3.6-28, Rail Transport of Hazardous Materials

The discussion of rail transport of hazardous materials has been revised to reflect Milpitas Fire Department records of the incidents.

Rail Transport of Hazardous Materials

The Union Pacific Railroad Milpitas Yard is primarily used for storing and sorting of "auto racks" (rail cars used for transport of automobiles) associated with the adjacent Automobile Distribution Facility. These types of rail cars typically do not transport large quantities hazardous materials. The yard is also used for storing and sorting of other types of freight cars that serve local industries.

The Milpitas Fire Department and the United States Pipeline and Hazardous Materials Safety Administration indicate~~s~~ that three ~~two~~ reportable hazardous materials incidents have occurred in or near the rail yard since January 1, 2001:

- **September 26, 2004:** Twenty rail cars were involved in a collision that resulted in a release of 1,500 to 2,000 gallons of diesel fuel on the ground. No injuries were reported.
- **September 13, 2007:** An employee detected a chemical odor near a tank car carrying ethanol isopropanol. The car was inspected and loose bolts were detected. The bolts were tightened. No evidence of a chemical release was observed. No emergency responders were summoned and no evacuation occurred.
- **August 27, 2009:** The "O" rinks associated with a pressure relief valve on a tank car carrying ethanol isopropanol failed, resulting in the release of a solvent mixture of approximately 10 percent xylene and toulene in a solution greater than 90 percent water that was isolated to the rail yard. ~~1 liquid gallon of the substance.~~ Police and fire crews responded to the incident. Employees at the facility were evacuated for approximately 4 hours; however, neighboring land uses were not.

As indicated above, during the past decade, there have~~has~~ been ~~only~~ two incidents ~~one incident~~ involving the release of ~~a~~ hazardous materials in the rail yard. Neither incident involved a significant release of hazardous materials such that injuries, fatalities, or evacuations of neighboring land uses occurred. ~~That incident involved a very small release of a hazardous substance and, thus, was not classified as "serious" by the United States Pipeline~~

~~and Hazardous Materials Safety Administration. Furthermore, surrounding land uses were not evacuated, signifying that emergency responders did not consider the general public to be at risk.~~ This serves to indicate that the frequency and severity of incidents in the rail yard is not considered to be extraordinary ~~unusually high~~ such that residents of the project could be reasonably be expected to be at risk of hazardous materials exposure.

Section 3.7, Hydrology and Water Quality

Page 3.7-16, Mitigation Measure HYD-2

Mitigation Measure HYD-2 has been revised to reflect recommendations provided by the Regional Water Quality Control Board.

MM HYD-2 Prior to the issuance of building permits for the proposed project, the project applicant shall submit a stormwater management plan to the City of Milpitas for review and approval. The stormwater management plan shall contain Best Management Practices that comply with the treatment requirements of Provision C.3 of the Municipal Regional Permit (including Low Impact Development) and Milpitas Municipal Code Title XI, Chapter 16 and identify pollution prevention measures and practices to prevent polluted runoff from leaving the project site. Examples of stormwater pollution prevention measures and practices to be contained in the plan include but are not limited to:

- Strategically placed bioswales and landscaped areas that promote percolation of runoff
- Pervious pavement
- Roof drains that discharge to landscaped areas
- Trash enclosures with screen walls
- Stenciling on storm drains
- Curb cuts in parking areas to allow runoff to enter landscaped areas
- Rock-lined areas along landscaped areas in parking lots
- Catch basins
- ~~Oil/water separators~~
- Regular sweeping of parking areas and cleaning of storm drainage facilities

The project applicant shall also prepare and submit an Operations and Maintenance Agreement to the City identifying procedures to ensure that stormwater quality control measures work properly during operations.

Section 3.8, Land Use

Page 3.8-10 through Page 3.8-11, Impact LU-2

Impact LU-2 has been revised to provide addition discussion of the project's context as it relates to the City of Milpitas General Plan.

General Plan Consistency

Impact LU-2:	**The proposed project may conflict with the applicable provisions of the City of Milpitas General Plan.**

Impact Analysis

The proposed project consists of the development of as many as 220 dwelling units on the 15.4-gross-acre project site. The proposed project would require a General Plan Amendment, which is evaluated in detail below. In addition, the proposed project's consistency with the applicable goals and policies of the General Plan is considered.

General Plan Land Use Designation Consistency Analysis

A General Plan Amendment is proposed to change the land use designation from "Manufacturing and Warehousing" to "Multi-Family Residential High Density" (14.2 acres) and "Parks and Open Space" (1.2 acres); refer to Exhibits 2-5a and 2-5b. The project site is not currently designated or zoned for the residential and recreational uses proposed by the project; however, approval of the requested General Plan Amendment and rezone would bring the project into compliance and would conform to the Goals and Policies set forth in the City's General Plan.

By designating and zoning the site for residential uses and developing the proposed project, the City would need to assess whether the project is consistent with the General Plan's policies regarding the jobs and housing balance. The Land Use Element, as well as the Housing Element of the General Plan, indicates the City's intent to encourage the provision of a variety of housing types close to industrial uses and transit services. To the extent feasible, this EIR will ensure through mitigation that offsite improvements are completed to integrate the neighborhood into the Milpitas community. Conditions of approval through the entitlement process will require further enhancements to the project to obtain this goal. In addition, the General Plan emphasizes the importance of considering the redesignation of lands for specific residential projects on a project-specific basis.

According to the City's General Plan, the Multi-Family Residential High Density land use designation permits 12 to 20 units per gross acre. This density range is intended to accommodate a variety of housing types ranging from row houses to triplexes and four-plexes, stacked townhouses, and walk-up garden apartments. The proposed project consists of 220 dwelling units on the 14.2 acres contemplated for the Multi-Family Residential High Density land use designation, which equates to a density 15.5 dwelling units per acre. (Note

that the 1.2-acre private open space area is excluded from the average density calculation). As such, the residential uses for the proposed project are consistent with the General Plan's prescribed uses for the Multi-Family Residential High Density land use designation.

The current Manufacturing and Warehousing land use designation would allow the continued use and expansion of large warehouses or light manufacturing uses with outside storage areas visible from SR-237 because of the overcrossing's elevation above grade necessary to span the railyard. The proposed Multi-Family Residential High Density land use designation would not allow warehouse development, thereby creating a neighborhood with a different visual characteristic but limiting industry and job-generating potential.

General Plan Goals and Policies Consistency Analysis

Table 3.8-2 provides discussion of the proposed project in context ~~summarizes the proposed project's consistency~~ with all applicable principles ~~goals~~ and policies of the General Plan. As shown in the table, the proposed project is mostly consistent with all applicable principles and policies. Mitigation is proposed where necessary to achieve consistency with the General Plan, which would reduce impacts to a level of less than significant. Note that the table includes additional context about certain principles and policies in the interests of informed decision making.

Page 3.8-30 through Page 3.8-34, Impact LU-3

Impact LU-4 has been revised to provide addition discussion of the project's context as it relates to the Midtown Specific Plan.

Specific Plan Consistency

Impact LU-3:	**The proposed project may conflict with the applicable provisions of the Midtown Specific Plan.**

Impact Analysis

The Midtown Specific Plan serves as the zoning for the project site and consists of eight elements. The proposed project would require a Specific Plan Amendment, which is evaluated in detail below. In addition, the proposed project's consistency with the applicable goals and policies of the Specific Plan is considered.

Specific Plan Land Use Designation Consistency Analysis

The project site is designated "Manufacturing and Warehouse" by the Specific Plan. In addition, the Specific Plan identifies the project site as being within a "Future Study Area" that spans from Calaveras Boulevard south to the Hetch Hetchy right-of-way.

~~However, a~~ A Specific Plan Amendment is proposed to change the land use designation from "Manufacturing and Warehouse" to "Multi-Family Residential High Density" for the residential component of the development and "Parks and Recreation" for the private open

space area and proposed trail along Ford Creek. As discussed above, this would provide recreational opportunities to future residents consistent with the Specific Plan goals and policies, while also providing a range of housing options at the project site. The residential uses for the proposed project are consistent with the Specific Plan's prescribed uses and density for the Multi-Family Residential High Density land use designation. Note that the "Future Study Area" designation would remain unchanged.

Specific Plan Goals and Policies Consistency Analysis

Table 3.8-3 provides discussion of the proposed project in context ~~summarizes the proposed project's consistency~~ with all applicable goals and policies of the Specific Plan. ~~As shown in the table, the proposed project is consistent with all applicable goals and policies.~~ The project proposes a rezone to Multi-Family High Density Residential (R3). Accordingly, development standard consistency is discussed under Municipal Code Consistency (LU-4) below, since the Midtown Specific Plan Design Guidelines and Development Standards do not apply to the Multi-Family High Density Residential (R3) zoning district. ~~Impacts would be less than significant.~~ Although the proposed project is found to be inconsistent with one goal and two policies of the Midtown Specific Plan, this does not rise to the level of a significant impact because such inconsistencies do not result in physical impacts on the environment. Impacts would be less than significant.

Table 3.8-3: Midtown Specific Plan Consistency Analysis

Element	Goal/~~Objective/~~Policy		Consistency Determination
	No.	Text	
3 – Land Use	Goal 1	Encourage a compatible mixture of residential, retail, office, service-oriented commercial and industrial uses within the Midtown Area.	**Consistent:** The proposed project consists of a 220-dwelling unit residential development. The development would be compatible with the neighboring commercial and industrial land uses.
	Goal 2	Provide for a significant component of new housing within the area in order to: improve the vitality of the Midtown Area; address local and regional housing needs; and reinforce the use of transit.	**Consistent:** The proposed project would provide up to 220 dwelling units. Although none of these dwelling units are assumed to occur on the project site, they nonetheless further the Midtown Specific Plan's objectives of infill residential development in central Milpitas. ~~Moreover, the subject site is located within the vicinity of the Bay Area Rapid Transit (BART) extension from Warm Springs (Fremont) to San Jose that is currently under construction.~~

Table 3.8-3 (cont.): Midtown Specific Plan Consistency Analysis

Element	Goal/~~Objective/~~Policy		Consistency Determination
	No.	Text	
	Goal 3	Promote an intensity of development in the Midtown Area that is appropriate to its central location.	**Inconsistent:** ~~**Consistent:**~~ As many as 220 dwelling units would be developed on the site in a geographically disconnected area of Midtown. Specifically, the proposed pedestrian improvements are not direct, as those contemplated by the Midtown Specific Plan for the "Future Study Area," which includes a pedestrian/vehicular crossing over the railroad to connect with Main Street. ~~As discussed above, the development would be located near existing and proposed transit services as well as commercial uses.~~
	Policy 3.1	Allow for up to 1,100 new housing units in Milpitas Midtown.	**Consistent:** The proposed project would provide up to 220 dwelling units in Midtown~~, consistent with this policy~~. Although none of these dwelling units are assumed to occur on the project site, they nonetheless further the Midtown Specific Plan's objectives of infill residential development in central Milpitas.
	Policy 3.9	Establish a "Future Study Area" on a portion of the rail yards (between Calaveras Boulevard and the Hetch Hetchy right-of-way). Maintain the current manufacturing and warehousing zoning within the Future Study Area and re-zone the area upon resolution of circulation and access issues.	**Inconsistent:** ~~**Consistent:**~~ The project neither analyzed the "Future Study Area" nor contemplated how the project will complement the adjacent uses and provide the pedestrian/vehicular connection necessary for the study area over the railroad tracks to Main Street. The requested rezone and associated development would include some mitigation measures to address circulation and access issues, but not enough to meet the intent of Policy 3.9. Refer to Section 3.9, Transportation for further discussion.
	Policy 3.23	Require public parks and open space as conceptually located in Figure 3.2. Park size, design, and layout will be determined through the development review process.	**Consistent:** The proposed project would include a 1.2-acre private park as well as a trail along Ford Creek. Although these recreational facilities are not contemplated by the Specific Plan, they do further the policy of providing new park and recreational facilities within the Midtown area.

Table 3.8-3 (cont.): Midtown Specific Plan Consistency Analysis

Element	Goal/~~Objective/~~Policy		Consistency Determination
	No.	Text	
4– Circulation	Goal 1	Improve the viability of the pedestrian, bicycle and transit systems.	**Consistent:** The proposed project would provide an onsite network of internal bicycle and pedestrian facilities that would be linked to Railroad Avenue and Hammond Way. In addition, Mitigation Measure LU-2 requires the project applicant to install offsite sidewalks and other streetscape improvements along Railroad Avenue, Hammond Way, and Sinnott Lane (east of Hammond Way) to improve bicycle and pedestrian circulation and safety in the project vicinity. These features would connect to existing and proposed bikeways in the project vicinity. Additionally, the project is located near existing and proposed transit services. As such, the proposed project would be consistent with the objective of improving the viability of pedestrian, bicycle, and transit systems.
	Policy 4.5	Maintain an interconnected pattern of streets within the Midtown Area. More specifically, streets developed to serve new developments should be pedestrian in scale and interconnected with the existing street system (see Figure 4.3).	**Inconsistent:** ~~**Consistent:**~~ The proposed project would implement mitigation measures to mitigate for its impact on intersection operations, roadway operations, and queuing. This mitigation would contribute to maintaining an interconnected pattern of streets within the Midtown Area. Refer to Section 3.9, Transportation for further discussion. The project neither analyzed the "Future Study Area" nor contemplated how the project would be meet the objectives of creating a crossing over the railroad to Main Street.
	Policy 4.9	Continue to require site specific traffic studies for each proposed new development that would generate more than 100 trips, in conformance with existing congestion management procedures.	**Consistent:** Hexagon Transportation Consultants evaluated the proposed project's traffic impacts in a Traffic Impact Analysis that was prepared in accordance with CMP guidelines. The findings of the analysis are summarized in Section 3.9, Transportation.
	Policy 4.14	Require a public access easement through new developments, when	**Consistent:** The proposed project includes using the area adjacent to

Table 3.8-3 (cont.): Midtown Specific Plan Consistency Analysis

Element	Goal/~~Objective/~~Policy		Consistency Determination
	No.	Text	
		necessary, to ensure that public parks and the City's trail network are accessible to the general public.	Ford Creek for recreational purposes, including a bicycle route to connect Railroad Avenue and Hammond Way. In addition, Mitigation Measure LU-2 requires the project applicant to install offsite sidewalks and other streetscape improvements along Railroad Avenue, Hammond Way, and Sinnott Lane (east of Hammond Way) to improve bicycle and pedestrian circulation and safety in the project vicinity.
6 – Utilities and Public Services	Policy 6.2	Reduce water consumption through a program of water conservation measures, such as use of recycled water, water saving fixtures, and drought-tolerant landscaping.	**Consistent:** The proposed project would implement a variety of water conservation design features and mitigation measures, including those identified in Policy 6.2.
	Policy 6.8	Encourage creativity in design of new development in order to reduce stormwater runoff, increase percolation, and improve water quality.	**Consistent:** Mitigation included in this EIR would ensure that appropriate stormwater facilities would be incorporated into the proposed project. Refer to Section 3.6, Hydrology and Water Quality for further discussion.
	Policy 6.10	Require project developers to coordinate with the appropriate service providers to provide electrical, gas and telecommunications services to new development.	**Consistent:** The proposed project would coordinate with the appropriate service providers concerning electricity, gas, and telecommunications services. Refer to Section 3.11, Utility Systems for further discussion.
	Policy 6.11	Incorporate energy saving devices into new development in order to promote energy conservation.	**Consistent:** The proposed project would comply with Title 24. Further, the project would implement a number of design features and mitigation measures to reduce energy and water consumption. Refer to Section 6, Other CEQA for further discussion.
	Policy 6.12	Require the undergrounding of new utilities.	**Consistent:** The proposed project would include the undergrounding of utilities.
	Policy 6.18	Promote recycling of construction and demolition debris.	**Consistent:** Mitigation is proposed that would require the project applicant to recycle construction and demolition debris and provide

Table 3.8-3 (cont.): Midtown Specific Plan Consistency Analysis

Element	Goal/~~Objective/~~Policy		Consistency Determination
	No.	Text	
			onsite recycling facilities. These measures would be in accordance with the California Integrated Waste Management Act. Refer to Section 3.11, Utility Systems for further discussion.
	Policy 6.19	Ensure that adequate Fire, Police and Emergency Services are in place to serve new development in Midtown.	**Consistent:** ~~As concluded by the Fire Department and Police Department, adequate~~ Adequate emergency services would be available to serve the proposed project, including acceptable response times for fire apparatus. Refer to Section 3.9, Public Services and Recreation for further discussion.
Source: Midtown Specific Plan, 2008; MBA, 2012.			

Level of Significance Before Mitigation

Potentially significant impact.

Mitigation Measures

Implement Mitigation Measure LU-2.

Level of Significance After Mitigation

Less than significant impact.

Section 3.11, Transportation

Page 3.11-15, First Paragraph

The paragraph describing the proposed Bay Area Rapid Transit extension to San Jose has been corrected to note that service is anticipated to begin in 2017.

Bay Area Rapid Transit

VTA is currently constructing an extension of the Bay Area Rapid Transit (BART) system from Warm Springs (Fremont) to Berryessa (San Jose). The BART tracks would be located approximately 700 feet east of the project site, paralleling the east side of the Union Pacific Railroad Milpitas Yard. The closest station would be the Milpitas station, located near the intersection of Montague Expressway/ Great Mall Parkway, approximately 1.5 miles south of the project site. Service is scheduled to commence in 2017 ~~2014~~. When operational, the BART extension would provide passenger service to destinations in Alameda, Contra Costa, San Francisco, and San Mateo Counties.

Section 5, Alternatives to the Proposed Project

Page 5-3, First Sentence

A typographical error has been corrected.

> The purpose of this alternative is to evaluate the CEQA-required No Project Alternative ~~Alterative~~ in order to provide decision makers and the public with what would be reasonably expected to occur if the proposed project does not advance.

Page 5-3, Third Paragraph

The conclusion discussion of the No Project/Existing Land Use Activities Alternative has been amended.

> **5.3.2 - Conclusion**
>
> The No Project/Existing Land Use Alternative would avoid the proposed project's significant unavoidable impacts and would have less impact on all environmental topical areas. The No Project/Existing Land Use Alternative would advance some of the project objectives, such as promote land use compatibility with neighboring uses and promote economic growth through new capital investment and payment of development fees; and expanded population (daytime workforce) base. Nothing precludes new investment on the project site through re-tenanting the economically viable former "Sun Microsystems" building. However, this alternative would not advance any of the other project objectives, including those related to ~~economic growth and an expanded tax base,~~ additional residential housing opportunities, the transition from industrial to residential, and enhanced housing diversity in the Midtown area~~, and recreational and open space opportunities~~. As such, the No Project/Existing Land Use Alternative would not achieve some ~~any~~ of the objectives ~~benefits~~ of the proposed project. However, this alternative does not increase any costs for police or fire service providers.

Page 5-8, Third and Fourth Paragraphs

The conclusion discussion of the Reduced Density Alternative has been amended.

> **5.4.2 - Conclusion**
>
> The Reduced Density Alternative would result in the same significant unavoidable impacts as the proposed project, although the severity of these impacts would be substantially lessened. In addition, this alternative would lessen the severity of other impacts, including those associated with air quality and greenhouse gas emissions, hydrology and water quality, noise and vibration, public services and recreation, transportation, and utility systems.
>
> This alternative would advance most of the project objectives, albeit to a lesser degree than the proposed project, because it would result in fewer residential dwelling units. The alternative similar to the project itself does not promote land use compatibility with

neighboring uses. The alternative just like the project does not analyze the "Future Study Area" to facilitate the logical and orderly transition of the site. Since this alternative includes fewer dwelling units, this results in a smaller population base and fewer costs to supplying services such as police and fire relative to the proposed project. ~~For example, this alternative would include fewer dwelling units, resulting in a reduced population base, costs to supplying services such as police and fire, and tax base relative to the proposed project.~~

Page 5-14, Third and Fourth Paragraphs

The conclusion discussion of the Mixed Use Center Alternative has been amended.

5.5.2 - Conclusion

The Mixed Use Center Alternative would result in the same significant unavoidable impacts as the proposed project, and the severity of these impacts relating to air quality and transportation would be increased. In addition, this alternative would increase the severity of other impacts, including those associated with aesthetics, light, and glare; air quality and greenhouse gas emissions; cultural resources; hydrology and water quality; noise and vibration; and transportation. Otherwise, this alternative would have impacts similar to the proposed project.

This alternative would advance most of the project objectives, albeit to a lesser degree than the proposed project, because it would result in a reduced number of dwelling units. The alternative similar to the project itself does not promote land use compatibility with neighboring uses. The alternative just like the project does not analyze the "Future Study Area" to facilitate the logical and orderly transition of the site. This alternative would generate fewer housing opportunities at the project site. The project would include an expanded daytime population base (workforce and residential), and it would promote economic growth through new investment and payment of development fees. A logical site plan could provide open space and recreational opportunities. ~~For example, this alternative would generate fewer housing opportunities and less housing diversity at the project site. Although the proposed commercial space under this alternative would contribute to an expanded tax base, fewer open space and recreational opportunities would be provided under the Mixed Use Alternative.~~

Section 7, Effects Found Not To Be Significant

Page 7.3, First Paragraph

The discussion of riparian habitat has been revised to acknowledge that a portion of Ford Creek located within the project site boundaries contains riparian habitat.

Riparian Habitat or Other Sensitive Natural Community

The project site is in an urban, built-up condition, with minimal ornamental landscaping provided in the parking area, along the main building's front facade and along Ford Creek. Ford Creek is a small, ephemeral drainage that is located within and along a portion of the project site's eastern boundary. The drainage features contains riparian habitat; however, the development activities contemplated by the proposed project would not affect the creek or its habitat. ~~The drainage feature is contained in a culvert north and south of the project site and would not be considered to contain sensitive natural or riparian habitat.~~ No other potentially sensitive natural or riparian communities are located within the project site. This condition precludes the possibility of the project causing adverse impacts to such communities. No impacts would occur.

Draft
Environmental Impact Report
Preston Property Residential Project

State Clearinghouse No: 2012022075

City of Milpitas • November 15, 2012

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DRAFT
Environmental Impact Report
Preston Property Residential Project
City of Milpitas, Santa Clara County, California

State Clearinghouse No. 2012022075

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ACRONYMS AND ABBREVIATIONS

AB	Assembly Bill
ADA	Americans with Disability Act
AM Peak	Weekday morning peak hour (7 a.m. to 9 a.m.)
AQP	Air Quality Plan
ARB	California Air Resources Board
ASF	age sensitivity factor
AST	aboveground storage tank
ATCM	Airborne Toxic Control Measures
BAAQMD	Bay Area Air Quality Management District
BART	Bay Area Rapid Transit
BMP	Best Management Practices
BTEX	benzene toluene ethylbenzene xylenes
BVOC	biogenic volatile organic compound
C	Celsius
CAAQS	California Ambient Air Quality Standards
CalEPA	California Environmental Protection Agency
CalOSHA	California Occupational Health and Safety Administration
Caltrans	California Department of Transportation
CAP	Clean Air Plan
CAP	Corrective Action Plan
CAPCOA	California Air Pollution Control Officers Association
CDFG	California Department of Fish and Game
CEQA	California Environmental Quality Act
CESA	California Endangered Species Act

CFC	chlorofluorocarbon
CH_4	methane
CNDDB	California Natural Diversity Database
CNEL	Community Noise Equivalent Level
CNPS	California Native Plant Society
CO	carbon monoxide
CO_2e	carbon dioxide equivalent
CPUC	California Public Utilities Code
CWA	Clean Water Act
dB	decibel
DIPE	Diisopropyl ether
DPM	diesel particulate matter
DTSC	Department of Toxic Substances Control
EIR	Environmental Impact Report
EMF	electromagnetic field
EPA	United States Environmental Protection Agency
ESA	Endangered Species Act
F	Fahrenheit
FAR	floor area ratio
FEMA	Federal Emergency Management Agency
FESA	Federal Endangered Species Act
FHWA	Federal Highway Administration
FIRM	flood insurance rate map
GWh/y	gigawatt-hours per year
GWP	global warming potential

HCM	Highway Capacity Manual
HFC	hydrofluorocarbon
HRA	Health Risk Assessment
HVAC	heating, ventilation, and air conditioning
Hz	hertz
I	Interstate
IPCC	United Nations Intergovernmental Panel on Climate Change
ITE	Institute of Transportation Engineers
L_{dn}	day/night average sound level
L_{eq}	equivalent sound level
LOS	Level of Service
MBA	Michael Brandman Associates
MBTA	Migratory Bird Treaty Act
mgd	million gallons per day
MMI	Modified Mercalli Intensity
mph	miles per hour
MTBE	methyl tertiary butyl ether
MTC	Metropolitan Transportation Commission
$MTCO_2e$	metric tons of carbon dioxide equivalent
N_2O	nitrous oxide
NAAQS	National Ambient Air Quality Standards
NAVD	North American Vertical Datum
NESHAP	National Emissions Standards for Hazardous Air Pollutants
NO_2	nitrogen dioxide
NOC	Notice of Completion

NOP	Notice of Preparation
NO_x	nitrogen oxides
NPDES	National Pollutant Discharge Elimination System
O_3	ozone
OEHHA	California Office of Environmental Health Hazard Assessment
PCB	polychlorinated biphenyl
PCE	perchloroethylene
pCi/L	picoCuries per liter
PFC	perfluorocarbon
PG&E	Pacific Gas and Electric Company
Phase I ESA	Phase I Environmental Site Assessment
Phase II ESA	Phase II Environmental Site Assessment
PM Peak	Weekday afternoon peak hour (4 p.m. to 6 p.m.)
PM_x	particulate matter
ppb	parts per billion
ppm	parts per million
PPV	peak particle velocity
PVC	polyvinyl chloride
RCRA	Federal Resource Conservation and Recovery Act
RMP	Risk Management Plan
rms	root mean square
ROG	reactive organic gases
RPS	Renewable Portfolio Standards
RWQCB	Regional Water Quality Control Board
SB	Senate Bill

SCVWD	Santa Clara Valley Water District
SF_6	sulfur hexafluoride
SO_2	sulfur dioxide
SR	State Route
SWPPP	Stormwater Pollution Prevention Plan
SWRCB	State Water Resources Control Board
TAC	toxic air contaminants
TAME	Tertiary-amyl methyl ether
TCM	transportation control measures
TDS	total dissolved solids
Tg	teragram
therms/y	therms per year
TPH	total petroleum hydrocarbons
USACE	United States Army Corps of Engineers
USFWS	United States Fish and Wildlife Service
USGS	United States Geological Survey
UST	underground storage tank
VMT	vehicle miles traveled
VTA	Santa Clara Valley Transportation Agency
WDR	Waste Discharge Requirements

EXECUTIVE SUMMARY

Purpose

This Draft Environmental Impact Report (Draft EIR) is prepared in accordance with the California Environmental Quality Act (CEQA) to evaluate the potential environmental impacts associated with the implementation of Preston Property Residential Project (State Clearinghouse No. 2012022075). This document is prepared in conformance with CEQA (California Public Resources Code, Section 21000, et seq.) and the CEQA Guidelines (California Code of Regulations, Title 14, Section 15000, et seq.).

The purpose of this Draft EIR is to inform decision makers, representatives of affected and responsible agencies, the public, and other interested parties of the potential environmental effects that may result from implementation of the proposed project. This Draft EIR describes potential impacts relating to a wide variety of environmental issues and methods by which these impacts can be mitigated or avoided.

Project Summary

Project Location

The project site is located in the City of Milpitas, Santa Clara County, California (Exhibit 2-1). The project site is located at 133 Bothelo Lane, Milpitas, CA 95035. The 15.4-gross-acre project site is bounded by the Union Pacific Railroad Warm Springs Subdivision (west); the Calaveras Boulevard (State Route 237) overcrossing (north); the Union Pacific Railroad Milpitas Yard, Ford Creek, and Bothelo Lane (east); and single-family residential uses, the Macedonia Missionary Baptist Church, and Sinnott Lane (south).

Project Description

The proposed project consists of the development of as many as 220 dwelling units on the project site. Primary vehicular access would be taken from Railroad Avenue and secondary vehicular access would be taken from Hammond Way. The project would provide open space amenities, including a 1.2-acre private park. The proposed project requires approval of a General Plan Amendment, Midtown Specific Plan Amendment, Zone Change, Tentative Subdivision Map, Planned Unit Development, Site Development Permit, and Conditional Use Permit. Refer to Section 2, Project Description for a complete project description.

Project Objectives

The objectives of the proposed project are to:

- Promote economic growth through new capital investment, an expanded population base, and payment of development fees.

- Provide new residential opportunities to accommodate forecasted population growth within the City of Milpitas.
- Provide single-family and townhouse product types in one development that would cater to various segments of the community.
- Facilitate the logical and orderly transition of an underutilized light industrial site to higher-and-better residential uses.
- Provide a high-quality residential development project that offers recreational and open space amenities for residents.
- Promote land use compatibility with neighboring light industrial and commercial uses through appropriate site planning measures.

Significant Unavoidable Adverse Impacts

The proposed project would result in the following significant unavoidable impact:

- **Year 2030 Traffic:** The proposed project would contribute new trips to transportation facilities that are anticipated to operate below acceptable levels of service during Year 2030 Conditions. Mitigation is proposed requiring the applicant to pay all transportation-related development fees to fund planned transportation improvements; however, feasible improvements are not available for all impacted facilities and, therefore, the residual significance of this impact is significant and unavoidable.

Summary of Project Alternatives

Below is a summary of the alternatives to the proposed project considered in Section 5, Alternatives to the Proposed Project.

No Project/Existing Land Use Activities Alternative

The proposed project would not be implemented and the current land use activities on the project site would continue for the foreseeable future.

Reduced Density Alternative

A medium-density residential project consisting of 164 dwelling units would be developed on the project site. This represents a 25-percent reduction in dwelling units relative to the proposed project. The Reduced Density Alternative is the Environmentally Superior Alternative.

Mixed Use Center Alternative

A horizontal mixed-use center consisting of 80,000 square feet of commercial uses and 160 apartments would be developed on the project site. As part of this alternative, Carlo Street would be

extended across the Union Pacific Warm Springs Subdivision to provide direct access to the project site.

Areas of Controversy

Pursuant to CEQA Guidelines Section 15123(b), a summary section must address areas of controversy known to the lead agency, including issues raised by agencies and the public, and it must also address issues to be resolved, including the choice among alternatives and whether or how to mitigate the significant effects.

A Notice of Preparation (NOP) for the proposed project was issued on February 28, 2012. The NOP describing the original concept for the project and issues to be addressed in the EIR was distributed to the State Clearinghouse, responsible agencies, and other interested parties for a 30-day public review period extending from February 28, 2012 through March 28, 2012. The NOP identified the potential for significant impacts on the environment related to the following topical areas:

- Aesthetics, Light, and Glare
- Air Quality and Greenhouse Gas Emissions
- Biological Resources
- Cultural Resources
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use
- Noise and Vibration
- Public Services and Recreation
- Transportation
- Utility Systems

Pursuant to CEQA Guidelines Section 15082(c), the City of Milpitas held a public scoping meeting on Wednesday, March 28, 2012 at Milpitas City Hall, 455 E. Calaveras Boulevard, Milpitas, CA 95035. Several members of the public attended the meeting and comments were received regarding the scope and content of the environmental review process.

Disagreement Among Experts

This Draft EIR contains substantial evidence to support all the conclusions presented herein. It is possible that there will be disagreement among various parties regarding these conclusions, although the City of Milpitas is not aware of any disputed conclusions at the time of this writing. Both the CEQA Guidelines and case law clearly provide the standards for treating disagreement among experts. Where evidence and opinions conflict on an issue concerning the environment, and the lead agency knows of these controversies in advance, the EIR must acknowledge the controversies, summarize the conflicting opinions of the experts, and include sufficient information to allow the public and decision-makers to make an informed judgment about the environmental consequences of the proposed project.

Potentially Controversial Issues

Below is a list of potentially controversial issues that may be raised during the public review and hearing process of this Draft EIR:

- Aesthetics and Visual Character
- Air Quality and Greenhouse Gas Emissions
- Biological Resources
- Population Growth
- Land Use Plan Consistency
- Noise and Vibration
- Public Services and Utilities
- Transportation

It is also possible that evidence will be presented during the Draft EIR public review period that may create disagreement. Decision-makers would consider this evidence during the public hearing process.

In rendering a decision on a project where there is disagreement among experts, the decision-makers are not obligated to select the most environmentally preferable viewpoint. Decision-makers are vested with the ability to choose whatever viewpoint is preferable and need not resolve a dispute among experts. In their proceedings, decision-makers must consider comments received concerning the adequacy of the Draft EIR and address any objections raised in these comments. However, decision-makers are not obligated to follow any directives, recommendations, or suggestions presented in comments on the Draft EIR, and can certify the Final EIR without needing to resolve disagreements among experts.

Public Review of the Draft EIR

Upon completion of the Draft EIR, the City of Milpitas filed a Notice of Completion (NOC) with the State Office of Planning and Research to begin the public review period (Public Resources Code, Section 21161). Concurrent with the NOC, this Draft EIR has been distributed to responsible and trustee agencies, other affected agencies, surrounding cities, and interested parties, as well as all parties requesting a copy of the Draft EIR in accordance with Public Resources Code 21092(b)(3). During the public review period, the Draft EIR, including the technical appendices, is available for review at the City of Milpitas Planning and Neighborhood Services Department offices and the Milpitas Library. The address for each location is provided below:

City of Milpitas
Planning and Neighborhood Services Department
455 E. Calaveras Boulevard
Milpitas, CA 95035
Hours:
Monday – Friday: 8 a.m. to 5 p.m.

Milpitas Library
160 N. Main Street
Milpitas, CA 95035
Hours:
Monday – Thursday: 10 a.m. to 9 p.m.
Friday – Saturday: 10 a.m. to 6 p.m.
Sunday: 12 p.m. to 6 p.m.

Agencies, organizations, and interested parties have the opportunity to comment on the Draft EIR during the public review period. Written comments on this Draft EIR should be addressed to:

Mr. Sheldon Ah Sing, Senior Planner
City of Milpitas
Planning and Neighborhood Services Department
455 E. Calaveras Boulevard
Milpitas, CA 95035
Phone: (408) 586-3278
Fax: (408) 586-3305
Email: sahsing@ci.milpitas.ca.gov

Submittal of electronic comments in Microsoft Word or Adobe PDF format is encouraged. Upon completion of the public review period, written responses to all significant environmental issues raised will be prepared and made available for review by the commenting agencies at least 10 days prior to the public hearing before the City of Milpitas on the project, at which the certification of the Final EIR will be considered. Comments received and the responses to comments will be included as part of the record for consideration by decision makers for the project.

Executive Summary Matrix

Table ES-1 below summarizes the impacts, mitigation measures, and resulting level of significance after mitigation for the relevant environmental issue areas evaluated for the proposed project. The table is intended to provide an overview; narrative discussions for the issue areas are included in the corresponding section of this EIR. Table ES-1 is included in the EIR as required by CEQA Guidelines Section 15123(b)(1).

Table ES-1: Executive Summary Matrix

Environmental Impact	Mitigation Measures	Level of Significance After Mitigation
Section 3.1 - Aesthetics, Light, and Glare		
Impact AES-1: The proposed project would not substantially degrade the visual character of the project site or its surroundings.	**MM AES-1:** Prior to the issuance of building permits, the project applicant shall submit to the City of Milpitas a landscaping and open space plan for the project site. The plan shall illustrate that the project incorporates landscaping and open space as required by Section XI-10-4.05 of the Milpitas Municipal Code.	Less than significant impact.
Impact AES-2: The proposed project may result in the addition of new sources of substantial light and glare that would adversely affect daytime or nighttime views.	**MM AES-2:** Prior to issuance of building permits, the project applicant shall prepare and submit building plans to the City of Milpitas depicting design techniques intended to avoid or minimize project exposure to nighttime lighting associated with the Union Pacific Railroad Automobile Distribution Facilities. Such techniques may include but are not limited to (1) minimizing the number of windows facing the facility, (2) use of blackout blinds or comparable devices on widows that face the facility, (3) planting of landscaping along the eastern project site boundary, (4) or the establishment of a park buffer along the eastern project site boundary. The approved plans shall be incorporated into the proposed project.	Less than significant impact.
Section 3.2 - Air Quality/Greenhouse Gas Emissions		
Impact AIR-1: The project would not conflict with or obstruct implementation of the applicable air quality plan.	Implement Mitigation Measure AIR-2.	Less than significant impact.
Impact AIR-2: The project would not violate any air quality standard or contribute substantially to an existing or projected air quality violation.	**MM AIR-2:** During construction activities, the following air pollution control measures shall be implemented: • Exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day. • All haul trucks transporting soil, sand, or other loose material offsite shall be covered.	Less than significant impact.

Table ES-1 (cont.): Executive Summary Matrix

Environmental Impact	Mitigation Measures	Level of Significance After Mitigation
	• All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. • All vehicle speeds on unpaved roads and surfaces shall be limited to 15 miles per hour. • All roadways, driveways, and sidewalks shall be paved as soon as possible. • A publicly visible sign shall be posted with the telephone number and person to contact at the City of Milpitas regarding dust complaints. This person shall respond and take corrective action within 48 hours of a complaint or issue notification. The BAAQMD's phone number shall also be visible to ensure compliance with applicable regulations.	
Impact AIR-3: The project would not result in a cumulatively considerable net increase of any criteria pollutant for which the project region is nonattainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors).	No mitigation is necessary.	Less than significant impact.
Impact AIR-4: The project would not expose sensitive receptors to substantial pollutant concentrations.	No mitigation is necessary.	Less than significant impact.
Impact AIR-5: The project would not create objectionable odors affecting a substantial number of people or expose people to objectionable odors from existing odor sources.	No mitigation is necessary.	Less than significant impact.
Impact AIR-6: The proposed project may emit significant amounts of greenhouse gases or conflict with an applicable plan, policy or regulation concerning greenhouse gas reduction.	No mitigation is necessary.	Less than significant impact.

Table ES-1 (cont.): Executive Summary Matrix

Environmental Impact	Mitigation Measures	Level of Significance After Mitigation
Impact AIR-7: The project would not conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases.	No mitigation is necessary.	Less than significant impact.
Section 3.3 - Biological Resources		
Impact BIO-1: Development of the proposed project may adversely affect special-status species.	**MM BIO-1:** If vegetation removal associated with development of the property is to occur during the nesting bird season (generally February 15 through August 31), a qualified biologist shall conduct a pre-construction survey for nesting birds to identify any potential nesting activity. The pre-construction surveys for nesting birds shall be conducted within 14 days prior to any construction-related activities (grading, ground clearing, etc.). If nesting birds are identified on the site, a 100-foot buffer shall be maintained around the nests; no construction-related activities shall be permitted within the 100-foot buffer. A qualified biologist shall monitor the nests, and construction activities may commence within the buffer area at the discretion and presence of the biological monitor. The pre-construction survey for nesting birds shall not be required if construction activities occur outside of the nesting bird season (September 1 through February 14).	Less than significant impact.
Impact BIO-2: Development of the proposed project may adversely affect riparian habitat or other sensitive natural communities.	Implement Mitigation Measure HYD-1a.	Less than significant impact.
Impact BIO-3: The proposed project would not have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act.	No mitigation is necessary.	Less than significant impact.

Table ES-1 (cont.): Executive Summary Matrix

Environmental Impact	Mitigation Measures	Level of Significance After Mitigation
Impact BIO-4: The proposed project may conflict with the City of Milpitas tree maintenance and protection ordinance.	**MM BIO-4:** Prior to the issuance of grading or building permits, the project applicant shall obtain a tree removal permit from the City of Milpitas for any trees slated for removal with a trunk circumference of 37 inches or more, measured at 4.5 feet above ground level. Replacement trees shall be performed in accordance with the requirements of the Tree Maintenance and Protection Ordinance. Removed trees that are not covered by the Tree Maintenance and Protection Ordinance, (i.e., less than 37 inches in circumference at 4.5 feet above ground level) shall be replaced onsite with a similar tree species at no less than a 1:1 ratio.	Less than significant impact.
Section 3.4 – Cultural Resources		
Impact CUL-1: Subsurface construction activities associated with the proposed project may damage or destroy previously undiscovered historic resources.	**MM CUL-1:** If potentially significant cultural resources are encountered during subsurface earthwork activities for the project, all construction activities within a 50-foot radius of the find shall cease until a qualified archaeologist determines whether the resource requires further study. The applicant shall include a standard inadvertent discovery clause in every construction contract to inform contractors of this requirement. Any previously undiscovered resources found during construction shall be evaluated for significance in terms of California Environmental Quality Act criteria by a qualified archaeologist and, if significant, recorded on appropriate California Department of Parks and Recreation (DPR) forms. Potentially significant cultural resources consist of but are not limited to stone, bone, glass, ceramics, fossils, wood, or shell artifacts, or features including hearths, structural remains, or historic dumpsites. If the resource is determined significant under CEQA, the qualified archaeologist shall prepare and implement a research design and archaeological data recovery plan that will capture those categories of data for which the site is significant. The archaeologist shall also conduct appropriate technical analyses, prepare a comprehensive report and file it with the appropriate Information Center, and provide for the permanent curation of the recovered materials.	Less than significant impact.

Table ES-1 (cont.): Executive Summary Matrix

Environmental Impact	Mitigation Measures	Level of Significance After Mitigation
Impact CUL-2: Subsurface construction activities associated with the proposed project may damage or destroy previously undiscovered archaeological resources.	Implement Mitigation Measure CUL-1.	Less than significant impact.
Impact CUL-3: Subsurface construction activities associated with the proposed project may damage or destroy previously undiscovered paleontological resources.	**MM CUL-3:** If the proposed project involves excavation activities at depths of more than 10 feet below ground surface, prior to issuance of grading permits, the project applicant shall retain a qualified paleontologist to prepare and submit a paleontologic mitigation monitoring program to the City of Milpitas for review and approval. The program shall at a minimum contain the following elements: (1) require monitoring by a qualified paleontologist of excavation activities below 10 feet, (2) empower monitor(s) to temporarily halt or divert equipment to allow removal of abundant or large specimens, and (3) identify steps for fossil salvaging. For the latter item, salvaged specimens shall be appropriately preserved, including curation of specimens into an established, accredited museum repository with permanent retrievable paleontologic storage, as appropriate. At the conclusion of monitoring, the paleontologist shall prepare and submit a report of findings to the City of Milpitas with an appended, itemized inventory of specimens and confirmation of the curation of recovered specimens into an established, accredited museum repository. This mitigation measure does not apply if excavation activities are limited to no more than 10 feet below ground surface.	Less than significant impact.
Impact CUL-4: Subsurface construction activities associated with the proposed project may damage or destroy previously undiscovered human remains.	**MM CUL-4:** In the event of the accidental discovery or recognition of any human remains, all activities must cease within 50 feet of the find and the following procedures shall be implemented, as applicable: 1. There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until the Santa Clara County Coroner is contacted to determine if the remains are Native American and if an investigation of the cause of death is required. If the county coroner determines the remains are Native American, the coroner	Less than significant impact.

Table ES-1 (cont.): Executive Summary Matrix

Environmental Impact	Mitigation Measures	Level of Significance After Mitigation
	shall contact the Native American Heritage Commission (NAHC) within 24 hours, and the NAHC shall identify the person or persons it believes to be the "most likely descendant" (MLD) of the deceased Native American. The MLD may make recommendations to the landowner or the person responsible for the excavation work within 48 hours, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code Section 5097.98. 2. Where the following conditions occur, the landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity either in accordance with the recommendations of the MLD or on the project site in a location not subject to further subsurface disturbance: • The NAHC is unable to identify an MLD or the MLD failed to make a recommendation within 48 hours after being notified by the NAHC. • The MLD fails to make a recommendation. • The landowner or his authorized representative rejects the recommendation of the descendant, and mediation by the NAHC fails to provide measures acceptable to the landowner.	
Section 3.5 – Geology, Soils, and Seismicity		
Impact GEO-1: The development of the proposed project may expose persons or structures to seismic hazards.	**MM GEO-1:** Prior to issuance of building permits, the project applicant shall submit a design-level geotechnical report to the City of Milpitas for review and approval. The design-level investigation shall be prepared in accordance with California Building Code Standards and Milpitas Municipal Code standards and address the potential for seismic hazards to occur onsite, and it shall identify abatement measures to reduce the potential for such an event to acceptable levels. The recommendations of the approved design-level geotechnical report shall be incorporated into the project plans.	Less than significant impact.

Table ES-1 (cont.): Executive Summary Matrix

Environmental Impact	Mitigation Measures	Level of Significance After Mitigation
Impact GEO-2: Construction activities associated with the project may result in substantial soil erosion or the loss of topsoil.	Implement Mitigation Measure HYD-1.	Less than significant impact.
Impact GEO-3: The development of the proposed project would not expose persons or structures to hazards associated with unstable geologic units or soils.	No mitigation is necessary.	Less than significant impact.
Impact GEO-4: The development of the proposed project may expose persons or structures to hazards associated with expansive soils.	No mitigation is necessary.	Less than significant impact.
Section 3.6 - Hazards and Hazardous Materials		
Impact HAZ-1: The development of the proposed project may result in the exposure of persons or the environment to hazardous materials associated with past and present uses of the project site.	**MM HAZ-1a:** Prior to the issuance of building permits, a soil characterization shall be completed to identify areas of contaminated soil within the project site. The project applicant shall implement excavation and subsequent transport and disposal of identified contaminated soils in accordance with local, state, and federal regulations. Resulting soil conditions shall be tested to ensure all identified contaminants are properly remediated and do not exceed the applicable screening levels established by the appropriate regulatory agencies. **MM HAZ-1b:** Prior to the issuance of building permits, the project applicant shall complete groundwater remediation efforts as indicated in the current Corrective Action Plan, including the reconsideration of the MTBE groundwater cleanup criteria, in coordination with the Santa Clara County Department of Environmental Health. Groundwater contamination levels must conform to the applicable screening levels established by the appropriate regulatory agencies. **MM HAZ-1c:** Upon completion of soil and groundwater remediation efforts, and prior to the issuance of building permits, the project applicant shall perform additional characterization to determine the extent of contaminated soil vapor. Should soil	Less than significant impact.

Table ES-1 (cont.): Executive Summary Matrix

Environmental Impact	Mitigation Measures	Level of Significance After Mitigation
	contamination still be present, the project applicant shall implement remedial methods, which may include, but not be limited to excavation, in situ oxidation, or soil vapor extraction to ensure contamination levels are within the applicable screening levels established by the appropriate regulatory agencies. **MM HAZ-1d:** Prior to demolition of any structures located on the project site that was constructed prior to 1978, the project applicant shall retain a certified contractor to remove and properly dispose of all hazardous materials located on the project site associated with current onsite industrial land uses. During removal, any spills shall be noted and remediated in accordance with standards maintained by the Santa Clara County Department of Environmental Health. All removal, disposal, and remediation activities shall be completed prior to the commencement of demolition. **MM HAZ-1e:** Prior to demolition of any structures located on the project site that was constructed prior to 1978, the project applicant shall retain a certified contractor to remove and properly dispose of all materials containing asbestos, mercury, CFCs, and lead paint in accordance with federal and state law. All removal and disposal activities shall be completed prior to the commencement of demolition.	
Impact HAZ-2: The proposed project would not create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials or through reasonably foreseeable upset and accident conditions.	No mitigation is necessary.	Less than significant impact.
Impact HAZ-3: The proposed project would not interfere with emergency response or evacuation.	No mitigation is necessary.	Less than significant impact.

Table ES-1 (cont.): Executive Summary Matrix

Environmental Impact	Mitigation Measures	Level of Significance After Mitigation
Section 3.7 – Hydrology and Water Quality		
Impact HYD-1: Construction activities associated with the proposed project have the potential to degrade water quality in downstream water bodies.	**MM HYD-1:** Prior to the issuance of grading permits for the proposed project, the applicant shall prepare and submit a Stormwater Pollution Prevention Plan (SWPPP) to the City of Milpitas that identifies specific actions and Best Management Practices (BMPs) to prevent stormwater pollution during construction activities. The SWPPP shall adhere to the applicable provisions of the Municipal Regional Permit (including Low Impact Development) and identify a practical sequence for BMP implementation and maintenance, site restoration, contingency measures, responsible parties, and agency contacts. The SWPPP shall include but not be limited to the following elements: • Temporary erosion control measures shall be employed for disturbed areas. • No disturbed surfaces shall be left without erosion control measures in place during the winter and spring months. • Sediment shall be retained onsite by a system of sediment basins, traps, or other appropriate measures. • The construction contractor shall prepare Standard Operating Procedures for the handling of hazardous materials on the construction site to eliminate or reduce discharge of materials to storm drains. • BMP performance and effectiveness shall be determined either by visual means where applicable (e.g., observation of above-normal sediment release), or by actual water sampling in cases where verification of contaminant reduction or elimination (such as inadvertent petroleum release) is required by the RWQCB to determine adequacy of the measure. In the event of significant construction delays or delays in final landscape installation, native grasses or other appropriate vegetative cover shall be established on the construction site as soon as possible after disturbance, as an interim erosion control measure throughout the wet season.	Less than significant impact.

Table ES-1 (cont.): Executive Summary Matrix

Environmental Impact	Mitigation Measures	Level of Significance After Mitigation
Impact HYD-2: Operational activities associated with the proposed project have the potential to degrade water quality in downstream water bodies.	**MM HYD-2:** Prior to the issuance of building permits for the proposed project, the project applicant shall submit a stormwater management plan to the City of Milpitas for review and approval. The stormwater management plan shall comply with the requirements of the Municipal Regional Permit (including Low Impact Development) and Milpitas Municipal Code Title XI, Chapter 16 and identify pollution prevention measures and practices to prevent polluted runoff from leaving the project site. Examples of stormwater pollution prevention measures and practices to be contained in the plan include but are not limited to: • Strategically placed bioswales and landscaped areas that promote percolation of runoff • Pervious pavement • Roof drains that discharge to landscaped areas • Trash enclosures with screen walls • Stenciling on storm drains • Curb cuts in parking areas to allow runoff to enter landscaped areas • Rock-lined areas along landscaped areas in parking lots • Catch basins • Oil/water separators • Regular sweeping of parking areas and cleaning of storm drainage facilities The project applicant shall also prepare and submit an Operations and Maintenance Agreement to the City identifying procedures to ensure that stormwater quality control measures work properly during operations.	Less than significant impact.
Impact HYD-3: The proposed project does not have any characteristics that would contribute to groundwater overdraft or contamination.	No mitigation is necessary.	Less than significant impact.

Table ES-1 (cont.): Executive Summary Matrix

Environmental Impact	Mitigation Measures	Level of Significance After Mitigation
Impact HYD-4: The proposed project would not increase impervious surface coverage and, therefore, would not have the potential to contribute to downstream flooding.	No mitigation is necessary.	Less than significant impact.
Impact HYD-5: The proposed project may place housing and structures within a 100-year flood hazard area and may impeded or redirect flood flows.	**MM HYD-5a:** Prior to the issuance of grading or building permits, the project applicant shall submit grading and site plans to the City of Milpitas for review and approval demonstrating that the lowest adjacent grade to any residential structure exceeds the Base Flood Elevation by at least 1 foot, as set forth in the latest adopted Flood Insurance Rate Map or Letter of Map Revision (whichever applies). In addition, features that could obstruct the flow of floodwater to the north of the project site shall not be included in the proposed onsite park. **MM HYD-5b:** Prior to issuance of the first certificate of occupancy for production homes, the dredging project (Wrigley-Ford Creek) shall be completed. If the City has not completed the dredging project during this time frame, then the applicant shall be required to do so under the existing regulatory permits, subject to fair-share contribution towards project.	Less than significant impact.
Impact HYD-6: The proposed project may expose people or structures to a significant risk of loss, injury or death involving the failure of a levee or dam.	No mitigation is necessary.	Less than significant impact.
Section 3.8 – Land Use		
Impact LU-1: The proposed project would not physically divide an established community.	No mitigation is necessary.	Less than significant impact.
Impact LU-2: The proposed project may conflict with the applicable provisions of the City of Milpitas General Plan.	**MM LU-2:** Prior to issuance of certificate of occupancy for the first production unit, the project proponent shall commence construction of the offsite improvements, including sidewalks and other streetscape improvements along Railroad Avenue, Hammond Way, and Sinnott Lane (east of Hammond Way), to improve bicycle and	Less than significant impact.

Table ES-1 (cont.): Executive Summary Matrix

Environmental Impact	Mitigation Measures	Level of Significance After Mitigation
	pedestrian circulation and safety in the project vicinity. These features would connect to existing and proposed bikeways in the project vicinity, thereby providing and accommodating both recreational and transportation uses of the trail system. The project shall construct the onsite improvements including the area adjacent to Ford Creek for recreational purposes, including a bicycle route to connect Railroad Avenue and Hammond Way. Implementation of such facilities would provide recreational opportunities and link facilities.	
Impact LU-3: The proposed project may conflict with the applicable provisions of the Midtown Specific Plan.	Implement Mitigation Measure LU-2	Less than significant impact.
Impact LU-4: The proposed project would be consistent with the applicable policies of the Milpitas Municipal Code.	No mitigation is necessary.	Less than significant impact.
Section 3.9 – Noise and Vibration		
Impact NOI-1: The proposed project may result in exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies.	**MM NOI-1a:** During construction activities the project applicant shall require construction contractors to adhere to the following noise attenuation requirements: • Construction activities shall be limited to the hours between 7 a.m. to 7 p.m. Construction activities shall not occur on holidays. The City of Milpitas shall have the discretion to permit construction activities to occur outside of allowable hours or on federal holidays if compelling circumstances warrant such an exception (e.g., weather conditions necessary to pour concrete). • All construction equipment shall use noise-reduction features (e.g., mufflers and engine shrouds) that are no less effective than those originally installed by the manufacturer. If no noise reduction features were installed by the manufacturer, then the contractor shall require that at least a muffler be installed on the equipment. • Construction staging and heavy equipment maintenance activities shall be performed a minimum distance of 300 feet from the nearest residence or church, unless safety or technical factors take	Less than significant impact.

Table ES-1 (cont.): Executive Summary Matrix

Environmental Impact	Mitigation Measures	Level of Significance After Mitigation
	precedence (e.g., a heavy equipment breakdown). • A minimum 10-foot high temporary noise barrier shall be placed along the shared property line with 87 Sinnott Lane, 121 Sinnott Lane, and 133 Sinnott Lane. The temporary noise barrier shall be installed prior to commencement of demolition activities and shall not be removed until completion of grading activities. The noise barrier shall be constructed with a minimum of ½-inch plywood or OSB. **MM NOI-1b:** Prior to issuance of building permits, the project applicant shall prepare and submit plans to the City of Milpitas depicting the sound walls detailed below and depicted on Exhibit 3.9-3. Each sound wall shall be free of cutouts or openings and constructed of wood, concrete, stud and stucco, plate glass, plexiglass, or vinyl and have a surface density of at least 2 pounds per square foot. • Minimum 6-foot high sound walls shall be placed around the perimeter of all private yards for the northernmost residential Lots 1, 6, and 7. • A minimum 6-foot high sound wall, berm or combination thereof along the eastern property line, in either of the proposed locations provided in Exhibit 3.9-3. • A minimum 7-foot high sound wall, berm or combination thereof along the western property line. **MM NOI-1c:** Prior to issuance of building permits, the project applicant shall prepare and submit plans to the City of Milpitas for review and approval demonstrating that all residences would be constructed with a mechanical ventilation system.	
Impact NOI-2: The proposed project would not result in exposing persons to or generation of excessive groundborne vibration or groundborne noise levels.	No mitigation is necessary.	No mitigation is necessary.

Table ES-1 (cont.): Executive Summary Matrix

Environmental Impact	Mitigation Measures	Level of Significance After Mitigation
Impact NOI-3: The proposed project would not result in substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project.	No mitigation is necessary.	Less than significant impact.
Impact NOI-4: The proposed project may result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.	Implement Mitigation Measure NOI-1a.	Less than significant impact.
Section 3.10 – Public Services and Recreation		
Impact PSR-1: The proposed project may adversely impact fire and emergency medical services.	**MM PSR-1:** Prior to the issuance of building permits, the project applicant shall submit project plans to the City of Milpitas Fire Department for review and approval. The plans shall demonstrate project compliance with all applicable emergency vehicle access and fire safety standards, including provision of minimum required turning radii for fire apparatus. The approved plans shall be incorporated into the proposed project.	Less than significant impact.
Impact PSR-2: The proposed project would not adversely impact police protection.	**MM PSR-2a:** Prior to the issuance of building or grading permits for the proposed project, the applicant shall prepare and submit a description of security measures to be implemented during project construction. The measures shall include but not be limited to the provision of 24-hour onsite security personnel. during the duration of construction activities. The provision of 24-hour onsite security personnel may cease once construction is completed. **MM PSR-2b:** Prior to the issuance of the first certificate of occupancy for the proposed project, the applicant shall prepare and submit a description of security measures that would be implemented at the project site. The Police Department shall review and comment on the proposed measures. The measures may include but are not limited to video surveillance and adequate security lighting.	Less than significant impact.

Table ES-1 (cont.): Executive Summary Matrix

Environmental Impact	Mitigation Measures	Level of Significance After Mitigation
Impact PSR-3: Development of the proposed project would not result in a need for new or physically altered school facilities in order to maintain acceptable pupil-teacher ratios or other performance objectives.	No mitigation is necessary.	Less than significant impact.
Impact PSR-4: Development of the proposed project may result in a need for new or physically altered parks in order to maintain acceptable park land ratios.	**MM PSR-4a:** Prior to the issuance of building permits, the project applicant shall coordinate with the City of Milpitas to determine the amount of park land and/or in-lieu fees required to be provided pursuant to Municipal Code Section XI-1-9. Park land shall be incorporated into the proposed project and the in-lieu fees shall be paid prior to the issuance of building permits. **MM PSR-4b:** Prior to recordation of the final map, the project applicant shall depict a trail along Ford Creek (but outside of the waterway banks) and dedicate this land to the City of Milpitas.	Less than significant impact.
Impact PSR-5: Development of the proposed project would not result in a need for new or physically altered library facilities.	No mitigation is necessary.	Less than significant impact.
Section 3.11 – Transportation		
Impact TRANS-1: The proposed project would not contribute new trips to transportation facilities that operate below acceptable level of service during Existing Plus Project Conditions.	No mitigation is necessary.	Less than significant impact.
Impact TRANS-2: The proposed project would not contribute new trips to transportation facilities that operate below acceptable level of service during Baseline Conditions.	No mitigation is necessary.	Less than significant impact.

Table ES-1 (cont.): Executive Summary Matrix

Environmental Impact	Mitigation Measures	Level of Significance After Mitigation
Impact TRANS-3: The proposed project may contribute new trips to transportation facilities that operate below acceptable levels of service during Year 2030 Conditions.	**MM TRANS-3:** Prior to issuance of each building permit for the proposed project, the project applicant shall provide the City of Milpitas with all transportation-related fees in accordance with the latest adopted fee schedule. Such fees are anticipated to include but not to be limited to the Calaveras Boulevard Widening Traffic Impact Fee.	Significant unavoidable impact.
Impact TRANS-4: The proposed project may substantially increase hazards due to a design feature or incompatible uses.	**MM TRANS-4a:** Prior to issuance of building permits, the project applicant shall prepare and submit plans to the City of Milpitas for review and approval demonstrating that all driveways have adequate site distances and are free and clear of obstructions. Any landscaping and signage shall be located in such a way to insure an unobstructed view for drivers entering and exiting the site. The approved plans shall be incorporated into the proposed project. **MM TRANS-4b:** Prior to issuance of building permits, the project applicant shall prepare and submit plans to the City of Milpitas for review and approval demonstrating the two 90-degree bends on the main drive aisle onsite have painted centerlines and be signed as 10 miles per hour. The approved plans shall be incorporated into the proposed project.	Less than significant impact.
Impact TRANS-5: The proposed project may result in inadequate emergency access.	Implement Mitigation Measure PSR-1.	Less than significant impact.
Impact TRANS-6: The proposed project may conflict with adopted policies, plans, or programs supporting alternative transportation.	Implement Mitigation Measure LU-2 and: **MM TRANS-6a:** Prior to issuance of grading permits for the proposed project, the improvement plans for the private open space area shall depict at least one bicycle rack with space for a minimum of 10 bicycles located in an accessible and convenient area. The approved improvement plans shall be incorporated into the proposed project. **MM TRANS-6b:** Prior to approval of the final map, the project applicant shall prepare and submit plans to the City of Milpitas for review and approval that depicts fencing along either side of the Union Pacific Railroad Warm Springs Subdivision railroad right-of-way to deter pedestrian crossings of the tracks. The fence shall	Less than significant impact.

Table ES-1 (cont.): Executive Summary Matrix

Environmental Impact	Mitigation Measures	Level of Significance After Mitigation
	extend from the southern project boundary to Curtis Avenue. The property owner (or Home Owners Association) shall be responsible for maintaining the fence. The approved plans shall be incorporated into the proposed project.	
Section 3.12 –Utility Systems		
Impact US-1: The proposed project may not be served with adequate long-term water supplies.	**MM US-1:** Prior to issuance of building permits, the project applicant shall pay the Water Impact Fee to the City of Milpitas.	Less than significant impact.
Impact US-2: The proposed project may require additional wastewater treatment or offsite conveyance facilities.	**MM US-2:** Prior to issuance of building permits, the project applicant shall pay the Wastewater Impact Fee to the City of Milpitas.	Less than significant impact.
Impact US-3: The proposed project would provide adequate onsite storm drainage facilities and would not require the construction of offsite facilities.	Less than significant impact.	No mitigation is necessary.
Impact US-4: The proposed project may generate substantial amounts of solid waste during both construction and operations.	**MM US-4a:** Prior to issuance of building permits, the project applicant shall retain a qualified contractor to perform construction and demolition debris recycling with the objective of diverting a minimum of 50 percent of the waste stream from landfills. The project applicant shall provide documentation to the satisfaction of the City of Milpitas demonstrating that construction and demolition debris was recycled. **MM US-4b:** Prior to issuance of occupancy permits, the project applicant shall provide one or more centralized solid waste and recycling facilities within the project boundaries. Such facilities shall be enclosed and screened from public view and shall provide containers or dumpster identifying whether they are intended for solid waste or recyclable materials. The solid waste and recycling facilities shall adhere to City of Milpitas and the franchise waste hauler's design standards for such facilities.	Less than significant impact.

Table ES-1 (cont.): Executive Summary Matrix

Environmental Impact	Mitigation Measures	Level of Significance After Mitigation
Impact US-5: The proposed project would not result in the inefficient, unnecessary, or wasteful consumption of energy.	No mitigation is necessary.	Less than significant impact.

SECTION 1: INTRODUCTION

1.1 - Overview of the CEQA Process

This Draft Environmental Impact Report (Draft EIR) is prepared in accordance with the California Environmental Quality Act (CEQA) to evaluate the potential environmental impacts associated with the implementation of the Preston Property Residential Project (State Clearinghouse No. 2012022075). This document is prepared in conformance with CEQA (California Public Resources Code, Section 21000, et seq.) and the CEQA Guidelines (California Code of Regulations, Title 14, Section 15000, et seq.). This Draft EIR is intended to serve as an informational document for the public agency decision makers and the public regarding the proposed project.

1.1.1 - Overview

The proposed project consists of the development of as many as 220 dwelling units on a 15.4-acre site in Milpitas, California. Primary vehicular access would be taken from Railroad Avenue and secondary vehicular access would be taken from Hammond Way. The project would provide open space amenities, including a 1.2-acre private park. The proposed project requires approval of a General Plan Amendment, Midtown Specific Plan Amendment, Zone Change, Tentative Subdivision Map, Planned Unit Development, Site Development Permit, and Conditional Use Permit. Section 2, Project Description provides a complete description of the project.

1.1.2 - Purpose and Authority

This Draft EIR provides a project-level analysis of the environmental effects of the project. The environmental impacts of the proposed project are analyzed in the EIR to the degree of specificity appropriate, in accordance with CEQA Guidelines Section 15146. This document addresses the potentially significant adverse environmental impacts that may be associated with the planning, construction, or operation of the project. It also identifies appropriate and feasible mitigation measures and alternatives that may be adopted to significantly reduce or avoid these impacts.

CEQA requires that an EIR contain, at a minimum, certain specific elements. These elements are contained in this Draft EIR and include:

- Table of Contents
- Introduction
- Executive Summary
- Project Description
- Environmental Setting, Significant Environmental Impacts, and Mitigation Measures
- Cumulative Impacts
- Significant Unavoidable Adverse Impacts
- Alternatives to the Proposed Project

- Growth-Inducing Impacts
- Effects Found Not To Be Significant
- Areas of Known Controversy

1.1.3 - Lead Agency Determination

The City of Milpitas is designated as the lead agency for the project. CEQA Guidelines Section 15367 defines the lead agency as ". . . the public agency, which has the principal responsibility for carrying out or approving a project." Other public agencies may use this Draft EIR in the decision-making or permit process and consider the information in this Draft EIR along with other information that may be presented during the CEQA process.

This Draft EIR was prepared by Michael Brandman Associates, an environmental consultant. Prior to public review, it was extensively reviewed and evaluated by the City of Milpitas. This Draft EIR reflects the independent judgment and analysis of the City of Milpitas as required by CEQA. Lists of organizations and persons consulted and the report preparation personnel are provided in Section 8 of this Draft EIR.

1.2 - Scope of the EIR

This Draft EIR addresses the potential environmental effects of the proposed project. The City of Milpitas issued a Notice of Preparation (NOP) for the proposed project on February 28, 2012, which circulated between February 28, 2012 and March 28, 2012 for the statutory 30-day public review period. The scope of this Draft EIR includes the potential environmental impacts identified in the NOP and issues raised by agencies and the public in response to the NOP. The NOP is contained in Appendix A of this Draft EIR.

One comment letter was received from the Santa Clara Valley Transportation Authority in response to the NOP and is provided in Appendix A of this Draft EIR.

1.2.1 - Scoping Meeting

Pursuant to CEQA Guidelines Section 15082(c), the City of Milpitas held a public scoping meeting at 5 p.m., Wednesday, March 28, 2012 at Milpitas City Hall, 455 E. Calaveras Boulevard, Milpitas, California, 95035 to solicit comments on the scope and content of the EIR. The following persons attended and signed in:

- Henry Santos
- Robert L. Finnie
- Sylvia Leury
- Arminta Jensen

1.2.2 - Environmental Issues Determined Not To Be Significant

The NOP identified topical areas that were determined not to be significant. An explanation of why each area is determined not to be significant is provided in Section 7, Effects Found Not To Be Significant. These topical areas are as follows:

- Agricultural and Forest Resources
- Mineral Resources
- Population and Housing

In addition, certain subjects with various topical areas were determined not to be significant. Other potentially significant issues are analyzed in these topical areas; however, the following issues are not analyzed:

- Scenic Vistas (Section 3.1, Aesthetics, Light, and Glare)
- State and Scenic Highways (Section 3.1, Aesthetics, Light, and Glare)
- Riparian Habitat or Other Sensitive Natural Community (Section 3.3, Biological Resources)
- Federally Protected Wetlands(Section 3.3, Biological Resources)
- Native Resident or Migratory Fish or Wildlife Species(Section 3.3, Biological Resources)
- Habitat, Natural Community, or Other Conservation Plan(Section 3.3, Biological Resources)
- Unstable Geologic Units or Soils (Section 3.5, Geology, Soils, and Seismicity)
- Expansive Soils (Section 3.5, Geology, Soils, and Seismicity)
- Septic or Alternative Wastewater Disposal Systems (Section 3.5, Geology, Soils, and Seismicity)
- Exposure of Schools to Hazardous Materials (Section 3.6, Hazards and Hazardous Materials)
- Airports (Section 3.6, Hazards and Hazardous Materials)
- Private Airstrips (Section 3.6, Hazards and Hazardous Materials)
- Wildland Fires (Section 3.6, Hazards and Hazardous Materials)
- Seiches, Tsunamis, or Mudflows (Section 3.7, Hydrology and Water Quality)
- Conservation Plans (Section 3.8, Land Use)
- Aviation Noise (Section 3.9, Noise and Vibration)
- Air Traffic Patterns (3.11, Transportation)

An explanation of why each issue is determined not to be significant is provided in Section 7, Effects Found Not To Be Significant.

1.2.3 - Potentially Significant Environmental Issues

The NOP found that the following topical areas may contain potentially significant environmental issues that will require further analysis in the EIR. These sections are as follows:

- Aesthetics, Light, and Glare
- Air Quality and Greenhouse Gas Emissions
- Biological Resources
- Cultural Resources
- Geology, Soils, and Seismicity
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use
- Noise and Vibration
- Public Services and Recreation
- Transportation
- Utility Systems

1.3 - Organization of the EIR

This Draft EIR is organized into the following main sections:

- **Section ES: Executive Summary.** This section includes a summary of the proposed project and alternatives to be addressed in the Draft EIR. A brief description of the areas of controversy and issues to be resolved, and overview of the Mitigation Monitoring and Reporting Program, in addition to a table that summarizes the impacts, mitigation measures, and level of significance after mitigation, are also included in this section.
- **Section 1: Introduction.** This section provides an introduction and overview describing the purpose of this Draft EIR, its scope and components, and its review and certification process.
- **Section 2: Project Description.** This section includes a detailed description of the proposed project, including its location, site, and project characteristics. A discussion of the project objectives, intended uses of the Draft EIR, responsible agencies, and approvals that are needed for the proposed project are also provided.
- **Section 3: Environmental Impact Analysis.** This section analyzes the environmental impacts of the proposed project. Impacts are organized into major topic areas. Each topic area includes a description of the environmental setting, methodology, significance criteria, impacts, mitigation measures, and significance after mitigation. The specific environmental topics that are addressed within Section 3 are as follows:
    - **Section 3.1 - Aesthetics, Light, and Glare:** Addresses the potential visual impacts of development intensification and the overall increase in illumination produced by the project.
    - **Section 3.2 - Air Quality/Greenhouse Gas Emissions:** Addresses the potential air quality impacts associated with project implementation, as well as consistency with the Bay Area Air Quality Management District Clean Air Plan. In addition, the section also evaluates project emissions of greenhouse gases.
    - **Section 3.3 - Biological Resources:** Addresses the project's potential impacts on habitat, vegetation, and wildlife; the potential degradation or elimination of important habitat; and impacts on listed, proposed, and candidate threatened and endangered species.

- **Section 3.4 - Cultural Resources:** Addresses the project's potential impacts on cultural resources, including any impacts on known or potential historical, archeological, and paleontological resources.
- **Section 3.5 - Geology, Soils, and Seismicity:** Addresses the potential for the presence of geologic, soil, and seismic hazards on the project site and in the project area that may have the potential to impact human health or property.
- **Section 3.6 - Hazards and Hazardous Materials:** Addresses the potential for the presence of hazardous materials or conditions on the project site and in the project area that may have the potential to impact human health.
- **Section 3.7 - Hydrology and Water Quality:** Addresses the potential impacts of the project on local hydrological conditions, including drainage areas, and changes in the flow rates.
- **Section 3.8 - Land Use:** Addresses the potential land use impacts associated with division of an established community and consistency with the City of Milpitas General Plan, Midtown Specific Plan, and Milpitas Municipal Code.
- **Section 3.9 - Noise and Vibration:** Addresses the potential noise and vibration impacts during construction and at project buildout from mobile sources. The section also addresses the impact of noise generation on neighboring uses.
- **Section 3.10 - Public Services and Recreation:** Addresses the project's potential impacts upon service providers, including fire protection, police protection, schools, and recreational facilities.
- **Section 3.11 - Transportation:** Addresses the impacts on the local and regional roadway system, public transportation, bicycle, and pedestrian access.
- **Section 3.12 - Utility Systems:** Addresses the project's potential impacts upon utility providers, including water supply, wastewater, storm drainage, solid waste, and energy providers.

- **Section 4: Cumulative Effects.** This section analyzes the proposed project's environmental impacts in combination with the impact of other past, present, and probable future projects.

- **Section 5: Alternatives to the Proposed Project.** This section compares the impacts of the proposed project with three land-use project alternatives: the No Project/Existing Land Use Activities Alternative, the Reduced Density Alternative, and the Mixed Use Center Alternative. An environmentally superior alternative is identified. In addition, alternatives initially considered but rejected from further consideration are discussed.

- **Section 6: Other CEQA Required Sections.** This section provides a summary of significant environmental impacts, including unavoidable and growth-inducing impacts. This section discusses the cumulative impacts associated with the proposed project, including the impacts of past, present, and probable future projects. In addition, the proposed project's energy demand is discussed.

- **Section 7: Effects Found Not To Be Significant.** This section contains analysis of the topical sections not addressed in Section 3.
- **Section 8: Organizations and Persons Consulted/List of Preparers.** This section contains a full list of persons and organizations that were consulted during the preparation of this Draft EIR, as well as the authors who assisted in the preparation of the Draft EIR, by name and affiliation.
- **Section 9: References.** This section contains a full list of references that were used in the preparation of this Draft EIR.
- **Appendices:** This section includes all notices and other procedural documents pertinent to the Draft EIR, as well as all technical material prepared to support the analysis.

1.4 - Documents Incorporated by Reference

As permitted by CEQA Guidelines Section 15150, this Draft EIR has referenced several technical studies, analyses, and previously certified environmental documentation. Information from the documents, which have been incorporated by reference, has been briefly summarized in the appropriate section(s). The relationship between the incorporated part of the referenced document and the Draft EIR has also been described. The documents and other sources that have been used in the preparation of this Draft EIR include but are not limited to:

- Milpitas General Plan
- Midtown Specific Plan
- Milpitas Municipal Code
- City of Milpitas 2010 Urban Water Management Plan
- City of Milpitas Water Master Plan
- City of Milpitas Sewer Master Plan
- City of Milpitas Storm Drain Master Plan
- Santa Clara Valley Water District 2010 Urban Water Management Plan

These documents are specifically identified in Section 9, References, of this Draft EIR. In accordance with CEQA Guidelines Section 15150(b), the General Plan, Municipal Code, and the referenced documents and other sources used in the preparation of the Draft EIR are available for review at the City of Milpitas offices at the address shown in Section 1.6 below.

1.5 - Documents Prepared for the Project

The following technical studies and analyses were prepared for the proposed project:

- Air Quality Analysis, prepared by Michael Brandman Associates. (The analysis is wholly contained in Section 3.2, Air Quality and Greenhouse Gas Emissions; modeling data is provided in Appendix B.)
- Biological Resources Assessment, prepared by Michael Brandman Associates. (The analysis is wholly contained in Section 3.3, Biological Resources; supporting information is provided in Appendix C.)
- Phase I and Phase II Environmental Site Assessments, prepared by ENGEO Incorporated (Appendix D).
- Hydrology and Water Quality Review, prepared by Schaaf & Wheeler (Appendix E).
- Noise and Vibration Study, prepared by Veneklasen Associates (Appendix F).
- Preston Pipe Site Development Application Review, prepared by Citygate Associates (Appendix G).
- Transportation Impact Report, prepared by Hexagon Transportation Consultants (Appendix H).
- Water & Sewer Analysis, prepared by RMC (Appendix I).
- Fiscal Impact Analysis, prepared by ALH Urban & Regional Economics (Appendix J).

1.6 - Review of the Draft EIR

Upon completion of the Draft EIR, the City of Milpitas filed a Notice of Completion (NOC) with the State Office of Planning and Research to begin the public review period (Public Resources Code, Section 21161). Concurrent with the NOC, this Draft EIR has been distributed to responsible and trustee agencies, other affected agencies, surrounding cities, and interested parties, as well as all parties requesting a copy of the Draft EIR in accordance with Public Resources Code 21092(b)(3). During the public review period, the Draft EIR, including the technical appendices, is available for review at the City of Milpitas Planning and Neighborhood Services Department offices and the Milpitas Library. The address for each location is provided below:

City of Milpitas
Planning and Neighborhood Services Department
455 E. Calaveras Boulevard
Milpitas, CA 95035
Hours:
Monday – Friday: 8 a.m. to 5 p.m.

Milpitas Library
160 N. Main Street
Milpitas, CA 95035
Hours:
Monday – Thursday: 10 a.m. to 9 p.m.
Friday – Saturday: 10 a.m. to 6 p.m.
Sunday: 12 p.m. to 6 p.m.

Agencies, organizations, and interested parties have the opportunity to comment on the Draft EIR during the public review period. Written comments on this Draft EIR should be addressed to:

Mr. Sheldon Ah Sing, Senior Planner
City of Milpitas
Planning and Neighborhood Services Department
455 E. Calaveras Boulevard
Milpitas, CA 95035
Phone: (408) 586-3278
Fax: (408) 586-3305
Email: sahsing@ci.milpitas.ca.gov

Submittal of electronic comments in Microsoft Word or Adobe PDF format is encouraged. Upon completion of the public review period, written responses to all significant environmental issues raised will be prepared and made available for review by the commenting agencies at least 10 days prior to the public hearing before the City of Milpitas on the project, at which the certification of the Final EIR will be considered. Comments received and the responses to comments will be included as part of the record for consideration by decision makers for the project.