

MILPITAS REDEVELOPMENT AMENDMENTS

*Thirteenth Amendment to the Redevelopment Plan for the Milpitas Project Area No. 1
Sixth Amendment to the Great Mall Redevelopment Plan*



FINAL ENVIRONMENTAL IMPACT REPORT

State Clearinghouse No. 2009092025



March 2010

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Sixth Amendment to the Great Mall Redevelopment Plan*



FINAL ENVIRONMENTAL IMPACT REPORT

State Clearinghouse No. 2009092025

MILPITAS REDEVELOPMENT AGENCY
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March 2010



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1. INTRODUCTION

PURPOSE OF THIS DOCUMENT

This document contains public comments received on the Draft Environmental Impact Report (Draft EIR) for the Thirteenth Amendment to the Redevelopment Plan for the Milpitas Project Area No. 1 and the Sixth Amendment to the Great Mall Redevelopment Plan (proposed project or Amendments). This document has been prepared in accordance with the California Environmental Quality Act (CEQA). Written comments were received by the Milpitas Redevelopment Agency (Agency) during a comment period held from December 3, 2009 through January 26, 2010. This Final EIR includes written responses to each comment received on the Draft EIR. The responses correct, clarify, and/or amplify text in the Draft EIR as appropriate. These changes do not alter the conclusions of the Draft EIR.

BACKGROUND

The City of Milpitas (City) has two redevelopment project areas, the Milpitas Redevelopment Project Area No. 1 (Project Area No. 1) and the Great Mall Redevelopment Project. These two project areas were merged in 2006. The redevelopment plans for these project areas remain distinct and subject to separate amendment processes. These redevelopment plans are administered by the Milpitas Redevelopment Agency (Agency).

The original Redevelopment Plan for Milpitas Redevelopment Project No. 1 (Redevelopment Plan) was adopted by the Milpitas City Council by Ordinance No. 192 on September 21, 1976, and consisted of approximately 577 acres located in the central portion of the City (Original Project Area). Since the original adoption of Project Area No. 1, the Redevelopment Plan has been amended twelve times, including the 2006 merger.

The Great Mall Redevelopment Project (Great Mall Project) was adopted by the City Council on November 2, 1993, by Ordinance No. 192.8 and consists of 150 acres. The Great Mall Project has been amended five times.

SUMMARY OF THE PROJECT DESCRIPTION

The Agency proposes the following amendments to the Redevelopment Plan for Project Area No. 1, collectively referred to as the Thirteenth Amendment:

- Extend by 10 years the effectiveness time limit and time period to repay debt/collect tax increment of the Original Project Area and Amendment Areas No. 1 and 2 (collectively referred to as the Amendment Areas)
- Repeal the debt establishment limit for the Amendment Areas
- Increase the tax increment limit and bonded indebtedness limit
- Add projects and facilities to the list of eligible project and facilities the Agency may fund
- Reinstate eminent domain over non-residential uses in the Amendment Areas

- Add territory totaling approximately 600 acres (Added Area)
- Make certain technical corrections, revise and update the various text provisions within the Redevelopment Plan to conform to the requirements of the California Community Redevelopment Law (CRL)

The Agency also proposes the following technical amendment to the Redevelopment Plan for the Great Mall Project, referred to as the Sixth Amendment:

- Delete a non-contiguous area developed with a freeway sign (Sixth Amendment Deleted Area). The area identified for deletion is within the area proposed to be added to Project Area No. 1.

Collectively, the Thirteenth Amendment and the Sixth Amendment are referred to as the Amendments, or the proposed project.

The Preliminary Report (Keyser Marston Associates, November 23, 2009) prepared on behalf of the Agency determined that blighting conditions continue to persist in both the Amendment Areas and Added Area, collectively referred to as the Analysis Area for purposes of the EIR. Blighting conditions present in the Analysis Area include physical blighting factors and economic blighting factors. Physical blighting factors present in the Analysis Area include:

- Buildings in which it is unsafe or unhealthy for persons to live or work. These conditions may be caused by serious building code violations, serious dilapidation and deterioration caused by long-term neglect, construction that is vulnerable to serious seismic or geologic hazards, and faulty or inadequate water or sewer utilities.
- Conditions that prevent or substantially hinder the viable use or capacity of buildings or lots. These conditions include buildings of substandard design, defective or obsolete design or construction, given the present general plan, zoning, or other development standards.
- The existence of subdivided lots that are in multiple ownership and whose physical development has been impaired by their irregular shapes and inadequate sizes, given present general plan and zoning standards and present market conditions (Selwyn/Shirley Area).

Economic blighting factors present in the Analysis Area include:

- Depreciated or stagnant property values.
- Abnormally high business vacancies, abnormally low lease rates, or an abnormally high number of abandoned buildings (Town Center Area).
- Serious residential overcrowding that has resulted in significant public health and safety problems (Adams and Selwyn/Shirley Areas).
- A high crime rate that constitutes a serious threat to the public safety and welfare (Adams and Selwyn/Shirley Areas).
- Impaired investments, due in significant part to hazardous wastes on property where the agency may be eligible to use its authority.

REQUIRED PROJECT APPROVALS/ENTITLEMENTS

MILPITAS REDEVELOPMENT AGENCY

- Certification of the EIR and adoption of Findings of Fact and a Statement of Overriding Considerations
- Adoption of the Milpitas Redevelopment Project Area No. 1 Thirteenth Amendment
- Adoption of the Great Mall Project Sixth Amendment

INTENDED USES OF THE ENVIRONMENTAL IMPACT REPORT

This EIR will serve as the CEQA compliance document for the adoption of the Thirteenth Amendment and the Sixth Amendment by the City of Milpitas City Council (City Council), and for subsequent actions by the Agency and City in furtherance of the Amendments that are determined to be within the scope of this EIR. This EIR will be used by the following responsible agencies, public agencies, and boards in the approval of implementation activities under the Amendments:

- City of Milpitas City Council (City Council)
- Milpitas Redevelopment Agency (Agency)
- Milpitas Planning Commission
- All departments of the City that must approve implementation activities undertaken in accordance with the Amendments
- All other public agencies that may approve implementation activities undertaken in accordance with the Amended Plan

TYPE OF DOCUMENT

This EIR has been prepared by the Milpitas Redevelopment Agency (Agency), as the Lead Agency under the CEQA.

This document is a Program EIR, prepared to evaluate the potentially significant effects of public improvements and development that may be encouraged by the Amendments. Adoption and implementation of the Amendments would provide tools and funding to facilitate public infrastructure improvements and the rehabilitation, reconstruction, and new construction of buildings and housing in the Analysis Area that would result in physical changes to the environment, and is thus considered a “project” as defined by Section 15378 of the CEQA Guidelines. As such, completion of an environmental review is required to determine the Amendments’ potential for resulting in significant environmental impacts. Use of a Program EIR allows the Lead Agency to evaluate the impacts of the Amendments’ implementation at a comprehensive level of detail, focusing on area-wide and cumulative impacts and programmatic mitigation measures.

This Program EIR serves as the environmental baseline for subsequent project level approvals for Redevelopment engendered projects within the project area. As individual activities pursuant to the Amendments are proposed, the City, as the permitting agency, must examine the individual activities to determine whether their effects have been fully

evaluated in the Program EIR, and if not, what additional steps should be taken. Additional environmental review for private development engendered by the Amendments would be required if any of the conditions outlined in CEQA Guidelines Sections 15162 or 15163 were to occur. This includes identification of significant impacts from detailed site and design information that were not identified in this programmatic level EIR. Additional steps may include preparation of a project-level Negative Declaration or EIR.

This EIR is an informational document intended to disclose to the Agency and the public the environmental consequences of approving and implementing the proposed project. The preparation of the Final EIR focuses on the responses to comments on the Draft EIR. The Lead Agency (Milpitas Redevelopment Agency) must certify that the EIR adequately discloses the environmental effects of the project and has been completed in conformance with CEQA, and that the decision-making bodies independently reviewed and considered the information contained in the EIR prior to taking action on the project. The Final EIR must also be considered by the Responsible Agencies, which are public agencies with discretionary approval authority over the project in addition to the Lead Agency. The City will consider this program EIR in subsequent approvals of Redevelopment engendered projects.

CEQA Guidelines Section 15132 specifies that the Final EIR shall consist of:

- The Draft EIR or revision of the draft
- Comments and recommendations received on the Draft EIR either verbatim or in summary
- A list of persons, organizations, and public agencies commenting on the Draft EIR.
- The responses of the Lead Agency to significant environmental points raised in the review and consultation process
- Any other information added by the Lead Agency

The Draft EIR is hereby incorporated by reference. This document contains the list of commenters, the comment letters, and responses to the significant environmental points raised in the comments.

ORGANIZATION OF THIS DOCUMENT

For this Final EIR, comments and responses are grouped by comment letter. Responses to these comments are included in this document to provide additional information for use by the decision makers.

The comments and responses that make up the Final EIR, in conjunction with the Draft EIR, as amended by the text changes, constitute the EIR that will be considered for certification by the Agency.

The Final EIR is organized as follows:

CHAPTER 1 – INTRODUCTION

This chapter includes a summary of the project description and the process and requirements of a Final EIR.

CHAPTER 2 - LIST OF AGENCIES AND PERSONS COMMENTING

This chapter contains a list of all of the agencies or persons who submitted comments on the Draft EIR during the public review period, ordered by date.

CHAPTER 3 - COMMENTS AND RESPONSES

This chapter contains the comment letters received on the Draft EIR and the corresponding response to each comment. Each letter and each comment within a letter has been given a number. Responses are provided after the letter in the order in which the comments were assigned.

CHAPTER 4 – MITIGATION MONITORING PLAN

This chapter contains the Mitigation Monitoring Plan (MMP) to aid the Agency and the City in their implementation and monitoring of measures adopted in the EIR.

PUBLIC PARTICIPATION AND REVIEW

The Agency notified all responsible and trustee agencies and interested groups, organizations, and individuals that the Draft EIR for the Amendments was available for review. The following list of actions took place during the preparation, distribution, and review of the Draft EIR:

- A Notice of Preparation (NOP) for an EIR was filed with the Governor's Office of Planning and Research, State Clearinghouse and Planning Unit (State Clearinghouse) on September 10, 2009. The 30-day public review comment period for the NOP was established starting on September 10, 2009 and ending on October 12, 2009.
- A Notice of Completion (NOC) and copies of the Draft EIR were filed with the State Clearinghouse on December 3, 2009. An official 45-day public review period for the Draft EIR was established by the State Clearinghouse, ending on January 19, 2010 and a Notice of Availability (NOA) was distributed to interested individuals, agencies, and organizations.
- The Notice of Availability (NOA) was published in the Milpitas Post, a newspaper of general circulation, on December 3, 2009.
- Copies of the Draft EIR were available for review at the Milpitas Redevelopment Agency, 455 East Calaveras Boulevard, Milpitas, CA 95035.

2.0 LIST OF AGENCIES AND PERSONS COMMENTING

All comment letters on the Thirteenth Amendment to the Redevelopment Plan for the Milpitas Project Area No. 1 and the Sixth Amendment to the Great Mall Redevelopment Plan Draft EIR are listed below (Table 2-1) with an alphabetic designation assigned for cross-referencing purposes. This list represents all comments received during the comment period. The verbatim comment letters, and responses to environmental issues raised in those letters, are presented in Section 3.0. The alphabetic designation appears in the upper right corner of each letter.

**TABLE 2-1
LIST OF COMMENTS RECEIVED**

Letter	Source	Commenter	Date Received
A	Governor's Office of Planning and Research, State Clearinghouse	Scott Morgan, Acting Director, State Clearinghouse	1/21/10
B	Department of Toxic Substances Control	Henry Chui, PE., Brownfields and Environmental Restoration Program	1/19/10
C	California Department of Transportation (Caltrans)	Lisa Carboni, District Branch Chief, Local Development - Intergovernmental Review	1/20/10

3.0 COMMENTS AND RESPONSES

COMMENT LETTERS

The written comments received on the Draft EIR and the responses to those comments are provided in this section. Each comment letter received is reproduced in its entirety and is followed by responses to the comment letter.

The first letter (on the following page) is not a comment letter, but a formal disclosure from the State Clearinghouse. The letter states that the State Clearinghouse received the Draft EIR and it was sent to select state agencies for review from December 3, 2009 to January 19, 2010.



ARNOLD SCHWARZENEGGER
GOVERNOR

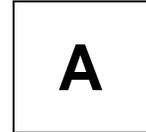
STATE OF CALIFORNIA
GOVERNOR'S OFFICE of PLANNING AND RESEARCH
STATE CLEARINGHOUSE AND PLANNING UNIT



CYNTHIA BRYANT
DIRECTOR

January 21, 2010

Diana Barnhart
City of Milpitas
455 E. Calaveras Boulevard
Milpitas, CA 95035



Subject: 13th Amendment to Milpitas Redevelopment Project Area No. 1 and 6th Amendment to the Great Mall Project
SCH#: 2009092025

Dear Diana Barnhart:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on January 19, 2010, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Scott Morgan
Acting Director, State Clearinghouse

Enclosures
cc: Resources Agency

1400 10th Street P.O. Box 3044 Sacramento, California 95812-3044
(916) 445-0613 FAX (916) 323-3018 www.opr.ca.gov

A-1

3. COMMENTS AND RESPONSES

**Document Details Report
State Clearinghouse Data Base**

SCH# 2009092025
Project Title 13th Amendment to Milpitas Redevelopment Project Area No. 1 and 6th Amendment to the Great Mall
Lead Agency Project
 Milpitas, City of

Type EIR Draft EIR
Description The project Area No. 1 Thirteenth Amendment would 1) Extend by 10 years the effectiveness time limit and time period to repay debt/collect tax increment of the eligible Amendment Areas; 2) Repeal debt establishment limit for Amendment Areas, 3) Increase tax increment limit and bonded indebtedness limit; 4) Add projects and facilities to list of eligible project and facilities the Agency may fund; 5) Reinstate eminent domain over non-residential uses in Amendment Areas, 6) Add territory totaling approximately 600 acres, and 7) Make certain technical corrections, revise and update the various text provisions within the Redevelopment Plan to conform to current legal requirements. The Great Mall Project Sixth Amendment would delete a non-contiguous area developed with a freeway sign, and add it to Project Area No. 1.

Lead Agency Contact

Name Diana Barnhart
Agency City of Milpitas
Phone (408) 586-3059 **Fax**
email
Address 455 E. Calaveras Boulevard
City Milpitas **State** CA **Zip** 95035

Project Location

County Santa Clara
City Milpitas
Region
Lat / Long
Cross Streets
Parcel No. various
Township **Range** **Section** **Base**

Proximity to:

Highways Hwy 237; I-880; I-680
Airports
Railways
Waterways
Schools
Land Use Various

Project Issues Archaeologic-Historic; Drainage/Absorption; Flood Plain/Flooding; Noise; Public Services; Schools/Universities; Sewer Capacity; Toxic/Hazardous; Traffic/Circulation; Water Quality; Water Supply; Landuse; Cumulative Effects; Recreation/Parks; Solid Waste; Air Quality

Reviewing Agencies Resources Agency; Department of Fish and Game, Region 3; Office of Historic Preservation; Department of Parks and Recreation; Department of Water Resources; California Highway Patrol; Caltrans, District 4; Regional Water Quality Control Board, Region 2; Department of Toxic Substances Control; Native American Heritage Commission

Date Received 12/03/2009 **Start of Review** 12/03/2009 **End of Review** 01/19/2010

Note: Blanks in data fields result from insufficient information provided by lead agency.

COMMENT LETTER A

GOVERNOR'S OFFICE OF PLANNING AND RESEARCH STATE CLEARINGHOUSE AND PLANNING UNIT

January 21, 2010

Scott Morgan
Acting Director, State Clearinghouse

Response to Comment A-1:

This letter confirms that the State Clearinghouse circulated the Draft EIR to selected state agencies for review. The State Clearinghouse comment period was initiated on December 3, 2009 and closed on January 19, 2010. A letter from the California Department of Toxic Substances Control (DTSC) was received by the Clearinghouse and under separate cover and is included as Letter B, below. A letter from the California Department of Transportation (Caltrans) was also received under separate cover and is included as Letter C, below.

This letter clarifies that the Lead Agency received a comment letter after the comment period ended and that the Lead Agency does not have to respond to the late comment letter. This letter from Caltrans has been responded to and is included as Letter C, below.



Linda S. Adams
Secretary for
Environmental Protection



Department of Toxic Substances Control

Maziar Movassaghi
Acting Director
700 Heinz Avenue
Berkeley, California 94710-2721



Arnold Schwarzenegger
Governor

B

January 19, 2010

Ms. Diana Barnhart
Economic Development Manager
Milpitas Redevelopment Agency
455 East Calaveras Boulevard
Milpitas, California 95035

Dear Ms. Barnhart:

Thank you for the opportunity to comment on the draft Environmental Impact Report for the 13th Amendment to Milpitas Redevelopment Project Area No. 1 and 6th Amendment to the Great Mall Project (SCH #2009092025). As you may be aware, the California Department of Toxic Substances Control (DTSC) oversees the cleanup of sites where hazardous substances have been released and regulates hazardous waste pursuant to the California Health and Safety Code, Division 20, Chapters 6.5 and 6.8. As a potential responsible agency, DTSC is submitting comments to ensure that the California Environmental Quality Act (CEQA) documentation prepared for this project adequately addresses any management of hazardous wastes and remediation of hazardous substance releases that may be necessary.

The Environmental Firstsearch Report identified 411 sites on various state and federal environmental databases within the project area. The report recommends a detailed review of the current site conditions to determine if they pose any potential concerns. If upon further investigation that results in discovery of releases of hazardous substance to soil or groundwater, the area should be adequately characterized as soon as possible so that any necessary, special handling procedures can be identified and be remediated if necessary.

DTSC can assist your agency in overseeing characterization and cleanup activities through our Voluntary Cleanup Program. A fact sheet describing this program is enclosed. We are aware that projects such as this one are typically on a compressed schedule, and in an effort to use the available review time efficiently, we request that DTSC be included in any meetings where issues relevant to our statutory authority are discussed.

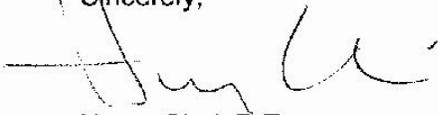
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Ms. Barnhart
January 19, 2010
Page 2

Please contact me at (510) 540-3759 or by email at hchui@dtsc.ca.gov if you have any questions. Thank you in advance for your consideration of our comments

Sincerely,



Henry Chui, P.E.
Brownfields and Environmental Restoration Program

Enclosure

cc: (without enclosure)

Governor's Office of Planning and Research
State Clearinghouse
State.clearinghouse@opr.ca.gov

Nancy Ritter
CEQA Tracking Center
Department of Toxic Substances Control
nritter@dtsc.ca.gov

Alyssa De La Cruz
Department of Toxic Substances Control
ADelacr1@dtsc.ca.gov

COMMENT LETTER B

DEPARTMENT OF TOXIC SUBSTANCES CONTROL

January 19, 2010

Henry Chui, PE.
Brownfields and Environmental Restoration Program

Response to Comment B-1:

Thank you for the information regarding the assistance offered by DTSC for oversight of site characterization and cleanup activities. As noted in the Draft EIR, all subsequent redevelopment projects must undergo individual environmental review to determine whether hazardous substances are present on the site and what measures are needed to remediate the site. Site characterization and cleanup activities will be defined at that time as appropriate.

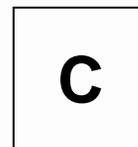
DEPARTMENT OF TRANSPORTATION

P. O. BOX 28660
 OAKLAND, CA 94623-0860
 PHONE (510) 622-5491
 FAX (510) 286-5559
 TTY 711



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January 20, 2010



SCL-GEN
 SCL000207
 SCH2009092025

Ms. Diane Barnhart
 City of Milpitas
 455 E. Calaveras Blvd.
 Milpitas, CA 95035

Dear Ms. Barnhart:

Milpitas Redevelopment Amendments – Draft Environmental Impact Report (DEIR)

Thank you for including the California Department of Transportation (Department) in the environmental review process for the Thirteenth Amendment to the Redevelopment Plan for the Milpitas Project Area No. 1 and the Sixth Amendment to the Great Mall Redevelopment Project (proposed project or Amendments). We have reviewed the DEIR and have the following comments to offer.

Highway Operations

1. Although a Traffic Impact Analysis is not warranted at this time, please provide three separate roadway maps each showing: all impacted roadway segments, freeway segments and intersections. C-1
2. Feasible Traffic Demand Management programs should be provided to reduce and mitigate traffic demand and congestion around the analysis area. C-2
3. Under the 2035 Plan a list of State of California and Santa Clara Valley Transportation Authority potential capital improvements and cumulative projects for the City of Milpitas, Great Mall Parkway should be provided to view the land uses that would inhibit or generate traffic impacts. C-3

Encroachment Permit

Please be advised that any work or traffic control that encroaches onto the State Right of Way (ROW) requires an encroachment permit that is issued by the Department. To apply, a completed encroachment permit application, environmental documentation, and five (5) sets of plans clearly indicating State ROW must be submitted to the address below. Traffic-related mitigation measures should be incorporated into the construction plans during the encroachment permit process. C-4

"Caltrans improves mobility across California"

Ms. Diane Barnhart
January 20, 2010
Page 2

Office of Permits, California DOT, District 4
P.O. Box 23660
Oakland, CA 94623-0660

See the website link below for more information.
<http://www.dot.ca.gov/hq/traffops/developserv/permits/>

Should you have any questions regarding this letter, please call José L. Olveda of my staff at (510) 286-5535.

Sincerely,



LISA CARBONI
District Branch Chief
Local Development – Intergovernmental Review

c: Scott Morgan (State Clearinghouse)

"Caltrans improves mobility across California"

COMMENT LETTER C

CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS)

January 20, 2010

Lisa Carboni
District Branch Chief
Local Development - Intergovernmental Review

Response to Comment C-1:

Redevelopment projects over the 30 year life of the Amendments are unknown at this time, thus there is no new information to assess in a traffic impact study. At this point in time, as discussed in the Draft EIR, all development anticipated in furtherance of the Redevelopment Plan would be consistent with adopted General Plan land use designations, as amended by the Specific Plans. Cumulative traffic impacts at the programmatic level were considered for these land uses at the time the City General Plan was adopted. The programmatic traffic discussion in the Draft EIR therefore relied on this General Plan analysis, but also reviewed current information to ensure that the original analysis was consistent with the rate of development that has occurred in the City.

It is assumed the commenter is requesting more detailed maps that will reflect the roadway segments as identified in current Specific Plans. The requested maps are located following the response to Comment Letter C and are labeled Figures 3-1, 3-2, and 3-3. Please note that these maps show segments and intersections that *intersect* the Analysis Area. Future project-specific traffic impact analyses will be needed to identify *impacted* segments and intersections as projects are proposed on a case-by-case basis over the life of the Amendments.

Response to Comment C-2:

Redevelopment projects are unknown at this time, thus there are no projects on which to base a “feasible Traffic Demand Management program”. All subsequent redevelopment projects must undergo individual environmental review and mitigation. At the time that a site-specific project is being designed, the City may develop and require a Traffic Demand Management program to reduce and mitigate traffic demand and congestion around the project site.

The Redevelopment Plan is a financing and regulatory mechanism intended to remove existing barriers to planned development and revitalization within the older part of the City, and provide infrastructure improvements to accommodate such planned development. Redevelopment would provide funding assistance for the implementation of such projects where they are located in the Project Area, which could move up their priority for regional funding. In addition, Redevelopment would fund streetscape and pedestrian enhancements, and encourage economic development in the local commercial sector, to provide better non-vehicular access and more opportunities locally to avoid driving. While no site-specific traffic demand mitigations are warranted at this time for unknown projects with unknown impacts,

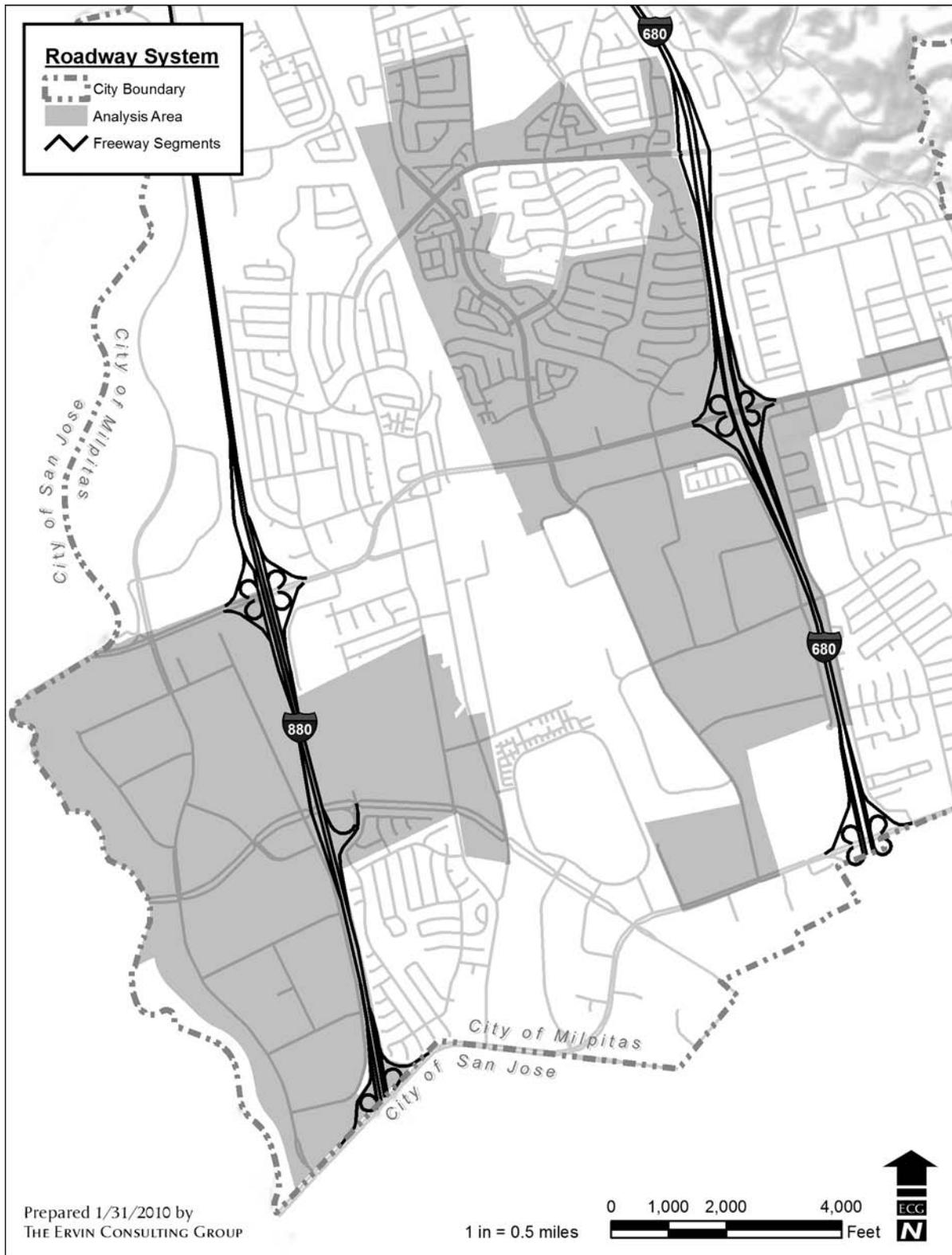
overall the Amendments may provide funding assistance for projects that reduce existing traffic congestion.

Response to Comment C-3:

Pages 6.7-13 and 6.7-14 of the Transportation and Circulation subchapter identify projects listed in the Transportation 2035 Plan for the San Francisco Bay Area (2035 Plan). Land uses were analyzed for traffic impacts when those land uses were adopted, and as stated in the Draft EIR, the 2035 Plan was based on those adopted land uses. As stated in Chapter 3, Project Description and throughout the Draft EIR, the proposed Amendments would not change land uses. Therefore, there are no land uses proposed that would inhibit or generate traffic impacts that were not previously considered in the 2035 Plan and in the Specific Plans and General Plan.

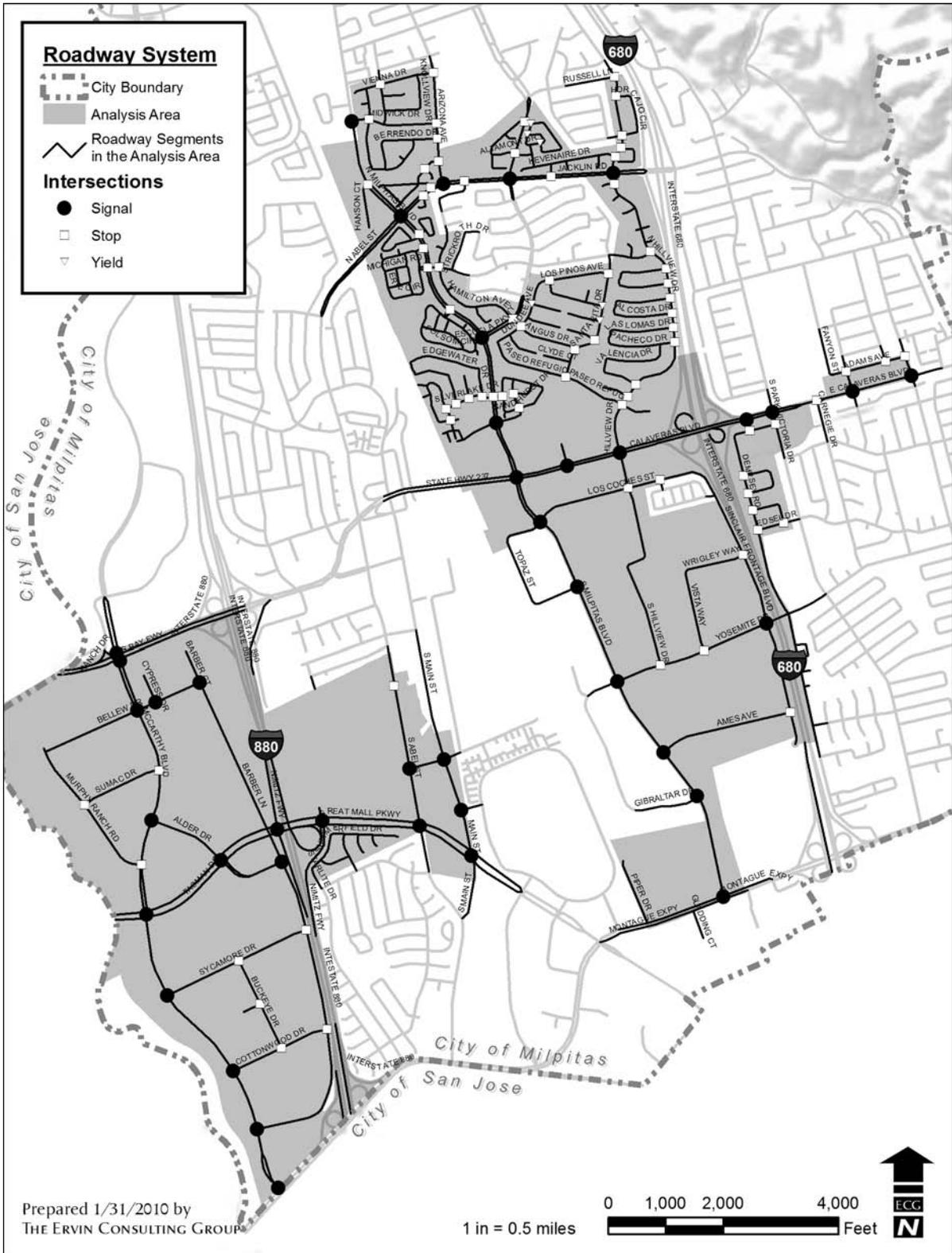
Response to Comment C-4:

Redevelopment projects are unknown at this time. All subsequent redevelopment projects must undergo individual environmental review and permitting. If a site-specific project includes work or traffic control that encroaches into the State right-of-way, then the project proponent will need to obtain an encroachment permit from Caltrans. The requirements for an encroachment permit have been forwarded to the Milpitas Redevelopment Agency staff.



Source: The Ervin Consulting Group (2010)
City of Milpitas GIS (2009)

FIGURE 3-2
FREWAY SEGMENTS



Source: The Ervin Consulting Group (2010)
City of Milpitas GIS (2009)

**FIGURE 3-3
INTERSECTIONS**

4.0 MITIGATION MONITORING PLAN

INTRODUCTION

The California Environmental Quality Act (CEQA) requires review of any project that could have significant adverse effects on the environment. In 1988, CEQA was amended to require reporting on and monitoring of mitigation measures adopted as part of the environmental review process. This Mitigation Monitoring Plan (MMP) is designed to aid the Milpitas Redevelopment Agency (Agency) in their implementation and monitoring of measures adopted from the Thirteenth Amendment to the Redevelopment Plan for the Milpitas Project Area No. 1 and the Sixth Amendment to the Great Mall Redevelopment Project (proposed project or Amendments) Draft Environmental Impact Report (Draft EIR) for redevelopment-engendered projects.

MITIGATION MEASURES

The mitigation measures are taken from the Amendments Draft EIR and are assigned the same number as in the Draft EIR. The MMP describes the actions that must take place to implement each mitigation measure, the timing of those actions, and the entities responsible for implementing and monitoring the actions.

MMP COMPONENTS

The components of each monitoring requirements are addressed briefly, below.

IMPACT

This column summarizes the significant impact stated in the Draft EIR.

MITIGATION MEASURE

All mitigation measures that were identified in the Amendments Draft EIR are presented, and numbered accordingly.

ACTION

For every mitigation measure, one or more actions are described. These are the center of the MMP, as they delineate the means by which EIR measures will be implemented, and, in some instances, the criteria for determining whether a measure has been successfully implemented. Where mitigation measures are particularly detailed, the action may refer back to the measure.

IMPLEMENTING PARTY

This item identifies the entity that will undertake the required action.

TIMING

Each action must take place prior to the time at which a threshold could be exceeded. Implementation of the action must occur prior to or during some part of approval, project design, construction, or on an ongoing basis. The timing for each measure is identified.

MONITORING PARTY

The City of Milpitas, as the Responsible Agency under CEQA, is responsible for ensuring that most mitigation measures are successfully implemented for development projects within the Amendment Areas as they go through individual entitlement processes.

Impact	Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party
Draft EIR Section 6.1 Air Quality					
<p>Impact 6.1-2 Redeveloped- engendered development and infrastructure construction activities would generate short-term emissions of regional criteria pollutants.</p>	<p>Mitigation Measure 6.1-2 Future redevelopment projects shall comply with all current Basic Construction Mitigation Measures at the time of development approvals.</p>	<p>Incorporate Basic Construction Mitigation Measures into construction documents</p>	<p>Developer</p>	<p>Before demolition and construction</p>	<p>City Building & Safety Department shall verify compliance during construction</p>
<p>Impact 6.1-4 Redeveloped- engendered development could increase the number of sensitive receptors exposed to significant levels of diesel particulate matter.</p>	<p>Mitigation Measure 6.1-4a For any residential project within 1,000 feet of I-680 or I-880:</p> <ul style="list-style-type: none"> a) Locate livable structures and associated heating, ventilating, and air conditioning (HVAC) intakes as far from the freeway as possible; b) Plant tiered redwood and/or deodar cedar trees between the freeway and livable structures; and c) Meet current Bay Area Air Quality Management District (BAAQMD) requirements for evaluating and mitigating diesel particulate matter (DPM) effects. <p>Mitigation Measure 6.1-4b For any residential project that increases the number of dwelling units within 1,000 feet of I-680 or I-880, the applicant shall prepare a health risk assessment (HRA) to the satisfaction of the Bay Area Air Quality Management District (BAAQMD) and the Milpitas Redevelopment Agency.</p>	<p>Work with BAAQMD to develop any necessary project-specific mitigation measures during project level environmental review. Incorporate required mitigations into construction documents</p>	<p>City, Agency and Developer</p>	<p>Entitlement Process and during construction</p>	<p>BAAQMD City Building & Safety Department shall verify compliance during construction</p>

Impact	Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party
Draft EIR Section 6.2 Climate Change					
<p>Impact 6.2-1 Redevelopment-engendered development and infrastructure construction activities would generate greenhouse gas emissions that could contribute to Global Climate Change.</p>	<p>Mitigation Measure 6.2-1 Redevelopment construction activities shall implement the most current BAAQMD performance-based best management practices (BMPs) to the satisfaction of the BAAQMD, including but not limited to:</p> <ul style="list-style-type: none"> a) Alternative-fueled (e.g., biodiesel, electric) construction vehicles/equipment of at least 15% of the fleet b) Local building materials of at least 10% c) Recycle at least 50% of construction waste or demolition materials 	<p>Work with BAAQMD to develop any necessary project-specific mitigation measures during project level environmental review. Incorporate required mitigations into construction documents</p>	<p>City, Agency and Developer</p>	<p>Entitlement Process and during construction</p>	<p>BAAQMD City Building & Safety Department shall verify compliance during construction</p>
Draft EIR Section 6.3 Cultural and Historic Resources					
<p>Impact 6.3-1 Redevelopment projects and redevelopment-engendered development could cause a substantial adverse change in the significance of an archaeological resource, including human remains.</p>	<p>Mitigation Measure 6.3-1a For any project involving ground penetrating activities, the Northwest Information Center (NWIC) at Sonoma State University shall be consulted to determine if a proposed project would require archaeological study and/or testing be conducted as part of the site specific environmental review. Recommended study and/or testing shall be completed prior to completion of environmental review.</p>	<p>The developer or Agency shall provide the City with a copy of the NWIC report for the project site. If determined necessary by the Planning Director, the developer or Agency shall retain a qualified archaeologist to complete the recommended study and/or testing, and file report with the Office of Historic Preservation.</p>	<p>Developer Agency City</p>	<p>Entitlement process and before issuance of building permits.</p>	<p>The Agency or City shall include a copy of the NWIC report and any survey or testing results in the project file.</p>

Impact	Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party
	<p>Mitigation Measure 6.3-1b Foremen and key members of major excavation, trenching, and grading for site preparation shall be instructed to be wary of the possibility of destruction of buried cultural resource materials. They shall be instructed to recognize signs of prehistoric use and their responsibility to report any such finds (or suspected finds) immediately, as specified by measure 6.3-1c below, so damage to such resources may be prevented.</p>	<p>The developer shall provide the City Building & Safety Department with a copy of contract requirements that include the conditions for the contractor for the project. Include mitigation measures as conditions in construction contract documents.</p>	<p>Developer Agency City</p>	<p>Entitlement process and before demolition and /or construction</p>	<p>City Building & Safety Department shall verify compliance during construction</p>
	<p>Mitigation Measure 6.3-1c Any unanticipated discovery of cultural resources during construction will be evaluated by a qualified archaeologist. If the find is determined to be potentially significant, the archaeologist, in consultation with the City and appropriate Native American group(s), will develop a treatment plan. All work in the immediate vicinity of the unanticipated discovery shall cease until the qualified archaeologist has evaluated the discovery, or the treatment plan has been implemented.</p>	<p>The developer shall provide the City Building & Safety Department with a copy of contract requirements that include the conditions for the contractor for the project. Developer shall retain qualified archeologist to evaluate any unanticipated discoveries and conduct consultations. Include mitigation measures as conditions in construction contract documents.</p>	<p>Developer Agency City</p>	<p>Entitlement process and before demolition and /or construction</p>	<p>City Building & Safety Department shall verify compliance during construction</p>

4. MITIGATION MONITORING PLAN

Impact	Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party
<p>Impact 6.3-2 Redevelopment projects and redevelopment-engendered development could cause a substantial adverse change in the significance of a paleontological resource.</p>	<p>Mitigation Measure 6.3-1d If human remains are encountered unexpectedly during construction excavation and grading activities, State Health and Safety Code §7050.5 requires that no further disturbance shall occur until the County Coroner has made the necessary findings as to origin and disposition pursuant to PRC §5097.98. If the remains are determined to be of Native American descent, the coroner has 24 hours to notify the Native American Heritage Commission (NAHC). The NAHC will then identify the person(s) thought to be the Most Likely Descendent of the deceased Native American, who will then help determine what course of action should be taken in dealing with the remains.</p>	<p>The developer shall provide the City Building & Safety Department with a copy of contract requirements that include the conditions for the contractor for the project. Developer shall retain qualified archeologist to evaluate any unanticipated discoveries and conduct consultations. Include mitigation measures as conditions in construction contract documents.</p>	<p>Developer Agency City</p>	<p>Entitlement process and before demolition and /or construction</p>	<p>City Building & Safety Department shall verify compliance during construction</p>
<p>Impact 6.3-2 Redevelopment projects and redevelopment-engendered development could cause a substantial adverse change in the significance of a paleontological resource.</p>	<p>Mitigation Measure 6.3-2 If paleontological resources, such as fossilized bone, teeth, shell, tracks, trails, casts, molds, or impressions are discovered during ground-disturbing activities, work will stop in that area and within 25 feet of the find until a qualified paleontologist can assess the significance of the find and, if necessary, develop and implement appropriate treatment measures in consultation with the City.</p>	<p>The developer shall provide the City Building & Safety Department with a copy of contract requirements that include the conditions for the contractor for the project. Developer shall retain qualified paleontologist to evaluate any unanticipated discoveries and conduct consultations. Include mitigation measures as conditions in construction contract documents.</p>	<p>Developer Agency City</p>	<p>Entitlement process and before demolition and /or construction</p>	<p>The Agency or City Project Coordinator shall include a copy of the construction conditions in the project file. City Building & Safety Department shall verify compliance during construction</p>

Impact	Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party
Draft EIR Section 6.4 Hazards and Hazardous Materials					
<p>Impact 6.4-1 Redevelopment-engendered development and infrastructure project construction could disturb unidentified contaminated soil and structures.</p>	<p>Mitigation Measure 6.4-1a A thorough examination of past property uses shall be required for redevelopment projects involving demolition or reuse of older properties or construction on vacant parcels, prior to demolition or construction. This examination shall conform to the Phase I Environmental Site Assessment (ESA) process established by the American Society for Testing and Materials (ASTM), and shall include a site reconnaissance, a review of regulatory databases, interviews with persons knowledgeable of the property, and a review of past property uses using appropriate historical sources. A Phase II ESA shall be conducted if deemed necessary based on the Phase I ESA results.</p>	<p>Developer shall retain qualified environmental engineer to complete Phase I, and shall follow recommendations, including any necessary soil or groundwater testing to characterize site, and any required remediation to the satisfaction of the City.</p>	<p>Developer Agency</p>	<p>Before demolition and /or construction</p>	<p>Planning Director and shall verify site clearance prior to permitting. City Building & Safety Department shall verify compliance during construction.</p>
<p>Mitigation Measure 6.4-1b If discolored soil, vapors, or contaminated groundwater are encountered during construction activities, all work shall cease until a qualified environmental professional assesses the situation and appropriate action is taken to ensure the safety of workers and the public.</p>	<p>Mitigation Measure 6.4-1b If discolored soil, vapors, or contaminated groundwater are encountered during construction activities, all work shall cease until a qualified environmental professional assesses the situation and appropriate action is taken to ensure the safety of workers and the public.</p>	<p>Include mitigation measures as conditions in construction contract documents</p>	<p>Developer Agency</p>	<p>Before demolition and /or construction</p>	<p>City Building & Safety Department shall verify compliance during construction.</p>

4. MITIGATION MONITORING PLAN

Impact	Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party
	<p>Mitigation Measure 6.4-1c If the Phase I/II indicates the potential for unremediated soil and/or groundwater contamination or underground storage tanks to be disturbed during construction, the Milpitas Redevelopment Agency (Agency) shall require in construction contract documents that a hazardous materials removal team be on-call and available for immediate response during site preparation, excavation, and other construction activities. Hazardous material removal activities must be contracted to a qualified hazardous materials removal contractor.</p> <p>Construction contract documents shall require the hazardous material removal contractor or subcontractor to comply with the following:</p> <p>(1) Prepare a hazardous material discovery and response contingency plan for review by the MFD. The MFD will act as the first responder to a condition of extreme emergency (i.e., fire, emergency medical assistance, etc).</p>	<p>Developer or Agency shall include construction monitoring conditions in construction contract.</p>	<p>Developer Agency</p>	<p>Before demolition and /or construction</p>	<p>City Building & Safety Department shall verify compliance during construction.</p>

Impact	Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party
	<p>(2) In the event that a condition or suspected condition of soil and/or groundwater contamination are discovered during construction, work shall cease or be restricted to an unaffected area of the site as the situation warrants and the City shall be immediately notified. Upon notification, the City shall notify the HCMD of the contamination condition, and the hazardous material removal contractor shall prepare a site remediation plan and a site safety plan, the latter of which is required by OSHA for the protection of construction workers. Similarly, the hazardous material removal contractor shall follow and implement all directives of the HCMD and any other jurisdictional authorities that might become involved in the remediation process.</p> <p>(3) Preparation of any remediation plan shall include in its focus measures to be taken to protect the public from exposure to potential site hazards and shall include a certification that the remediation measures would clean up the contaminants, dispose of the wastes properly, and protect public health in accordance with federal, state, and local requirements.</p> <p>(4) Obtain closure and/or No Further Action letters from the appropriate agency(ies).</p>				

4. MITIGATION MONITORING PLAN

Impact	Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party
<p>Impact 6.4-2 Redevelopment could result in the rehabilitation or demolition of buildings likely to contain asbestos, lead-based paint, or other hazardous substances.</p>	<p>(5) Construction contract documents shall include provisions for the proper handling and disposal of contaminated soil and/or dewatering water (including groundwater and contaminated rainwater) in accordance with federal, state, and local requirements.</p> <p>Mitigation Measure 6.4-2a Prior to any Agency rehabilitation or demolition activities, the Agency shall conduct an interior survey to evaluate the presence of ACM, lead based paint, PCB-containing electrical and hydraulic fluids, and/or chlorofluorocarbons (CFCs), as well as any other potential environmental concerns (i.e., aboveground/underground fuel tanks, elevator shafts/hydraulic lifts, floor drains/sumps, chemical storage/disposal) which may be present within structures on a project site.</p>	<p>Developer or Agency shall retain a qualified assessor to conduct an interior survey and abate any identified contamination</p>	<p>Developer Agency</p>	<p>Before demolition and /or rehabilitation</p>	<p>City Building & Safety Department shall verify compliance during demolition or rehabilitation.</p>
	<p>Mitigation Measure 6.4-2b A project applicant for a project subject to the Redevelopment Plan for Project Area No. 1 shall provide written documentation to the Agency that ACM and lead-based paint has been abated and any remaining hazardous substances and/or waste have been removed in compliance with applicable federal, state, and local laws and regulations.</p>	<p>Developer shall provide Agency and Town with proof of abatement.</p>	<p>Developer Agency</p>	<p>Before demolition and /or rehabilitation</p>	<p>City Building & Safety Department shall verify compliance during demolition or rehabilitation.</p>

Impact	Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party
Draft EIR Section 6.5 Noise					
<p>Impact 6.5-1 Redevelopment-engendered development and infrastructure projects could result in construction noise at sensitive receptors. Future redevelopment construction activities within 1,500 feet of residential units or other sensitive receptors, as determined by the Planning Director, shall implement the following measures for the duration of the construction period:</p>	<p>Mitigation Measure 6.8-1a Properly muffle and maintain all construction equipment powered by internal combustion engines.</p>	<p>Incorporate mitigation measures into construction contracts</p>	<p>Developer</p>	<p>Before demolition and /or construction</p>	<p>City Building & Safety Department shall verify compliance during construction</p>
	<p>Mitigation Measure 6.8-1b Prohibit unnecessary idling of internal combustion engines.</p>	<p>Incorporate mitigation measures into construction contracts</p>	<p>Developer</p>	<p>Before demolition and /or construction</p>	<p>City Building & Safety Department shall verify compliance during construction</p>
	<p>Mitigation Measure 6.8-1c Locate all stationary noise-generating construction equipment, such as air compressors, as far as practical from existing nearby residences and other noise sensitive land uses. Such equipment shall also be acoustically shielded.</p>	<p>Incorporate mitigation measures into construction contracts</p>	<p>Developer</p>	<p>Before demolition and /or construction</p>	<p>City Building & Safety Department shall verify compliance during construction</p>
	<p>Mitigation Measure 6.8-1d Select quiet construction equipment, particularly air compressors, whenever possible. Fit motorized equipment with proper mufflers in good working order.</p>	<p>Incorporate mitigation measures into construction contracts</p>	<p>Developer</p>	<p>Before demolition and /or construction</p>	<p>City Building & Safety Department shall verify compliance during construction</p>

4. MITIGATION MONITORING PLAN

Impact	Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party
	<p>Mitigation Measure 6.8-1e A noise disturbance coordinator responsible for responding to any local complaints about construction noise shall be designated. The disturbance coordinator shall determine the cause of any noise complaint (e.g., starting too early, bad muffler, etc.) and will require that reasonable measures be implemented to correct the problem. A telephone number for the disturbance coordinator shall be conspicuously posted at the construction site.</p>	<p>Incorporate mitigation measures into construction contracts</p>	<p>Developer</p>	<p>Before demolition and /or construction</p>	<p>City Building & Safety Department shall verify compliance during construction</p>