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APPENDIX E

BIOLOGICAL RESOURCES

**FLEA MARKET TRANSIT-ORIENTED
COMMUNITY PROJECT
BIOLOGICAL IMPACT ASSESSMENT**

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ENVIRONMENTAL SETTING

PROJECT DESCRIPTION

The Flea Market, Inc., proposes to construct new housing on its property located at 1590 Berryessa Road, in San Jose, Santa Clara County, California. The 120.3-acre project site is located on both sides of Berryessa Road and Upper Penitencia Creek between Coyote Creek and the Union Pacific Railroad tracks north of Mabury Road. The proposed development includes up to 2,818 residential units and up to 368,322 square feet of industrial/commercial-use space, which could include offices, research and development, neighborhood retail, and/or retail uses.

The project will result in construction of a new road connecting the development to Mabury Road in the south, and two new clear span bridges over Upper Penitencia Creek connecting the southern and northern portions of the property. Prior to construction of the two new bridges, the two existing bridges will be removed. Preliminary concepts show the eastern most bridge in approximately the same location as the existing bridge, with the location of the west bridge proposed approximately 200 feet further to the west of the current bridge location. For purposes of this analysis, a worst-case scenario was considered relative to potential impacts in which both proposed clearspan bridges would not be constructed within the alignment of the existing bridges that would be removed by the project. For all other construction, a 100-foot setback from all riparian corridors is currently planned.

GENERAL PROJECT AREA DESCRIPTION

The Flea Market transit-oriented community project site is located at the confluence of Upper Penitencia Creek and Coyote Creek, north of the Bayshore Freeway (Highway 101) in San Jose, California. The property is currently used as a flea market and is separated into two sections by Berryessa Road and Penitencia Creek: the flea market area and parking lot to the southeast and an additional parking lot to the northwest. There is currently one pedestrian pathway crossing under Berryessa Road and over Upper Penitencia Creek (a culvert bridge) and two road bridges that cross over Upper Penitencia Creek connecting to Berryessa Road. The downstream road bridge is a clearspan bridge; the upstream bridge has large concrete footings in the stream channel. The current topography of the site is approximately 75-85 feet in elevation and the site is relatively flat (United States Geological Survey (USGS) San Jose East and San Jose West Quadrangles). The National Wetlands Inventory (NWI) map classifies both Coyote Creek and Upper Penitencia Creek as Palustrine scrub-shrub saturated, semi-permanent, seasonal wetlands and the remainder of the site as upland.

Coyote Creek and Upper Penitencia Creek are naturally occurring streams that drain nearly 350 square miles of Santa Clara County and eventually empty into the San Francisco Bay. The project site currently consists of almost entirely impervious ground for a majority of the 120-acre San Jose Flea Market, a commercial enterprise that accommodates up to four million visitors a year. Upper Penitencia Creek parallels Berryessa Road, which bisects the flea market property. The confluence of Upper Penitencia Creek with Coyote Creek occurs along the western edge of

the property immediately south of Berryessa Road. The areas of the project site not bounded by creek are adjacent to roads, residential communities or industrial operations.

The riparian habitat of Coyote Creek in the vicinity of the project area is of moderate quality. Upper Penitencia Creek provides lower quality habitat than Coyote Creek in the area due to debris, disturbance, and litter associated with the flea market, and the predominance of eucalyptus and ornamental pine trees throughout the reach of the creek within the project boundaries. Coyote Creek flows along the northern parking lot with the edge of the riparian corridor and top-of-bank coinciding with the pavement and fenceline. The confluence of Coyote and Upper Penitencia Creek occurs at the Berryessa Road underpass. The first 900 feet of Coyote Creek immediately downstream of Mabury Road adjacent to the southern parking lot of The Flea Market Inc., has an existing riparian setback that ranges from 40 to 100 feet.

BIOTIC SURVEYS

H.T. Harvey & Associates first conducted reconnaissance-level field surveys of the project site in February 2005 for a riparian survey (H.T. Harvey & Associates 2005). Plant ecologist Amanda Breen, Ph.D., and wildlife ecologist Laird Henkel, M.S., subsequently visited the site on 7 March 2006. The purpose of these surveys was to provide a project-specific impact assessment to: 1) assess impacts to regulated habitats; 2) assess potential impacts to special-status wildlife species; and 3) identify potential mitigation sites. The entire project area was surveyed on foot.

SPECIAL-STATUS SPECIES

An overview of special-status species regulations is provided in Appendix A. No special-status plant species are expected to occur on the project site. The only special-status animal species with the potential to breed on or immediately adjacent to the project site, or to use the site regularly and thus be impacted by project implementation, are the steelhead (*Oncorhynchus mykiss*), western pond turtle (*Emys marmorata*), and Cooper's Hawk (*Accipiter cooperii*).

Special-status Wildlife Species

Reconnaissance-level field surveys were conducted throughout the entire site on 7 March 2006 for habitats with the potential to support special-status animals. Prior to the site visit, a query of the California Natural Diversity Database (CNDDDB 2006) was performed to identify special-status animal species potentially occurring within a 5-mile radius of the project vicinity. Special-status animal species that occur in the vicinity in habitats similar to those found on the project site are described below. Expanded descriptions are included only for those species for which potentially suitable habitat occurs on or in the general vicinity of the project site, or species for which resource agencies have expressed particular concern and for which more expanded discussion is required.

Some special-status species may occur on the project area only as uncommon to rare visitors, migrants, or transients, or may forage on the site while breeding in adjacent areas. However, these species are not expected to breed on the site, or to be affected by site development. These species include the American Peregrine Falcon (*Falco peregrinus anatum*), Merlin (*Falco columbarius*), Sharp-shinned Hawk (*Accipiter striatus*), California Yellow Warbler (*Dendroica petechia brewsteri*), and Loggerhead Shrike (*Lanius ludovicianus*).

Two federally-listed species that occur regionally, the California red-legged frog (*Rana aurora draytonii*) and the California tiger salamander (*Ambystoma californiense*) are considered absent from the project site. No habitat is present on or nearby the site, for the California tiger salamander. This species breeds in permanent or temporary ponds in grasslands and oak woodlands. These habitats are not present on the project site, and the surrounding urbanization precludes dispersal onto the site from potential off-site habitat. California red-legged frogs have been reported in Upper Penitencia Creek approximately five miles from the project site (CNDDDB 2006), but this species is considered extirpated from the urbanized portion of the Santa Clara Valley floor (H. T. Harvey & Associates 1997). No potential breeding habitat is present in the portions of Upper Penitencia Creek or Coyote Creek adjacent to the project area, due to a lack of calm pool habitat, and it is extremely unlikely that an individual from remote portions of these watersheds would disperse downstream as far as the project site.

The Burrowing Owl (*Athene cunicularia*), a California Species of Special Concern, has been previously recorded at several locations within five miles of the project site, including a major colony at the San Jose International Airport, about two miles west of the project site (CNDDDB 2006). However, no Burrowing Owls were observed on or adjacent to the project site during reconnaissance-level surveys conducted for this assessment, and habitat on the project site during the March 2006 site visit appeared unsuitable for Burrowing Owls. The small section of non-

native annual grassland and ruderal habitat adjacent to Coyote Creek does not provide adequate foraging habitat for this species, and the surrounding development makes use of this small patch of habitat by Burrowing Owls extremely unlikely. Burrowing Owls are considered absent from the project site.

The only special-status animal species with the potential to breed on or immediately adjacent to the project site, or to use the site regularly and thus be impacted by project implementation are the steelhead, western pond turtle, and Cooper's Hawk. These species are discussed in greater detail below.

In addition, several native bird species, such as Mourning Doves (*Zenaida macroura*) and House Finches (*Carpodacus mexicanus*) could potentially nest in the ornamental trees or on buildings on the project site. These species, including active nests, are protected under federal and state law. Because these species are common locally, impacts to active nests would not be considered a significant impact under CEQA. However, measures to avoid violation of federal and state law are provided in the section Compliance with *Additional Laws and Regulations Applicable to Biotic Resources of the Project Site*.

Steelhead (*Oncorhynchus mykiss*), Central California DPS. Federal Listing Status: Threatened; State Listing Status: Species of Special Concern. The steelhead is an anadromous form of rainbow trout that migrates upstream from the ocean to spawn. Steelhead usually migrate upstream to spawning areas in late fall or early winter, when flows are sufficient to allow them to reach suitable habitat in far upstream areas. Spawning occurs between December and June. Steelhead eggs remain in gravel depressions, known as redds, for one and one-half to four months before hatching. After hatching, young steelhead use the deeper reaches of streams as rearing areas, and will remain in freshwater for one to four years before migrating to the ocean. After migration, steelhead typically grow rapidly for two to three years before returning to freshwater streams to spawn. Unlike other salmonids, steelhead do not necessarily die after spawning. Many adults survive and return to the ocean after spawning, coming back to spawn for one or more additional seasons.

Steelhead populations have declined due to degradation of spawning habitat, introduction of barriers to upstream migration, over-harvesting by recreational fisheries, and reduction in winter flows due to damming and spring flows due to water diversion. Steelhead and other salmonids have been categorized into subpopulations, or Evolutionarily Significant Units (ESUs). In 1997, the National Marine Fisheries Service (NMFS; now NOAA Fisheries) published a final rule to list the Central California ESU of the steelhead as threatened under the FESA. This ESU includes all steelhead spawning from the Russian River (Sonoma County) south to Aptos Creek (Santa Cruz County), including drainages of San Francisco Bay. In 2006, NOAA Fisheries re-listed all previously listed ESUs of steelhead as Distinct Population Segments (DPSs) as opposed to ESUs (NOAA 2006). This action did not change the listing status of any steelhead populations in California.

Relatively low numbers of steelhead occur in both Coyote Creek and Upper Penitencia Creek (Leidy et al. 2003). Although the portions of these creeks adjacent to the project site are likely used primarily as rearing habitat for juveniles and as migration routes for adults spawning farther

upstream, a steelhead redd was found near the confluence of Coyote Creek and Upper Penitencia Creek in 1990 (Leidy et al. 2003). In 2000, NMFS proposed critical habitat for each steelhead ESU as all accessible reaches of all rivers within the range of each listed ESU, but this critical habitat designation was vacated (rescinded) in 2002. In 2005, NOAA Fisheries designated new critical habitat, including specific accessible streams (NOAA 2005). This critical habitat includes portions of Coyote Creek and Upper Penitencia Creek adjacent to the project site.

Direct impacts to steelhead could result from work in the stream channel related to the removal of the pier supporting the eastern bridge over Upper Penitencia Creek. Indirect impacts to steelhead may result from a net loss of approximately 404 linear feet of shaded riverine aquatic (SRA) habitat, but the proposed 100-foot riparian setback and the mitigation proposed for impacts to SRA are potentially beneficial to steelhead.

Western Pond Turtle (*Emys marmorata*). Federal Listing Status: None; State Listing Status: Species of Special Concern. The western pond turtle occurs in ponds, streams, and other wetland habitats in the Pacific Slope drainages of California and northern Baja, Mexico. Two subspecies have been described, the northwestern pond turtle (*E. m. marmorata*) and the southwestern pond turtle (*E. m. pallida*), but central California appears to be an intergrade zone. Adult western pond turtles occur in a variety of aquatic habitats, including streams and ponds. Ponds or slack-water pools with suitable basking sites (such as logs) are an important habitat component, and western pond turtles do not occur commonly along high-gradient streams. Breeding occurs in late spring or early summer (typically May-June). Females lay eggs in upland habitats, in clay or silty soils in unshaded (often south-facing) areas within a few hundred meters of aquatic habitat. Juveniles feed and grow in shallow aquatic habitats (often creeks) with emergent vegetation and ample invertebrate prey. Breeding habitat is typically found within 600 feet of aquatic habitat, but if no suitable breeding habitat can be found close by, adults may travel overland considerable distances to breed. Adults may also spend several months during winter up to 1500 feet or more from aquatic habitats, typically in areas with heavy leaf litter or duff.

Although pond turtles typically occur in ponds, they may also occur in perennial streams, and could occur in Upper Penitencia Creek and Coyote Creek adjacent to the project site. Pond turtles have been found less than one mile east of the site, off McKee Road, and have been found at two locations in Coyote Creek less than five miles from the project site; one site upstream and one site downstream (H. T. Harvey & Associates 1999, CNDDDB 2006).

Western pond turtles are unlikely to nest on the project site. Habitat along Upper Penitencia Creek is too narrow and impacted by human use to allow for turtle nesting. There is a very low possibility that turtles could nest within the riparian corridor of Coyote Creek, in areas that will not be affected by project implementation. Although no nesting habitat will be affected, direct impacts to western pond turtles could result from work in the stream channel related to the removal of the eastern bridge and its pier on Upper Penitencia Creek.

Cooper's Hawk (*Accipiter cooperii*). Federal Listing Status: None; State Listing Status: Species of Special Concern. The Cooper's Hawk is a small raptor that preys upon medium-sized birds (e.g., jays, doves, and quail) and occasionally takes small mammals and reptiles.

Cooper's Hawks are found most often where wooded areas occur in patches and groves, which facilitates the ambush hunting tactics employed by this species. Breeding pairs in California prefer nest sites within dense stands of live oak woodland or riparian areas, and prey heavily on young birds during the nesting season. Cooper's Hawks have been found nesting in the riparian corridor of Coyote Creek within San Jose, and could potentially nest in larger trees along both creeks in the project area.

IDENTIFICATION OF REGULATED HABITATS

Overviews of both United States Army Corps of Engineers (USACE) and California Department of Fish and Game (CDFG) jurisdictions are provided in Appendix A.

United States Army Corps of Engineers Jurisdiction

USACE jurisdiction generally extends to lakes, streams, tidal marshes, vernal pools, wetlands, and drainages, which are often referred to as "Waters of the U.S." (Appendix A). USACE jurisdiction also extends to navigable waterways and historic waters regulated under Section 10 of the Rivers and Harbors Act (1899) (Appendix A).

The reach of Coyote and Upper Penitencia Creeks bordering the project site are natural in origin and have been identified as USGS blue-line stream courses. Both streams supported flood-flows at the time of the March 2006 survey. Wetland vegetation is scattered along the creek course and riparian species occur throughout riparian corridors. Activities affecting either creek will require permits from the USACE under Section 404 of the Clean Water Act.

California Department of Fish and Game Jurisdiction

CDFG jurisdiction typically includes the bed and banks of stream, creek and river channels (Appendix A). The CDFG can also choose to exert jurisdiction in excavated ditches when they provide habitat for riparian-dependent terrestrial wildlife.

Both Coyote Creek and Upper Penitencia Creek have been identified as USGS blue-line streams on the USGS San Jose East and San Jose West quadrangles. CDFG jurisdiction is ordinarily limited to the area within the top-of-bank, or the outer extent of riparian canopy rooted within the top-of-bank. Activities affecting riparian vegetation within CDFG jurisdiction will require a Streambed Alteration Agreement.

Regional Water Quality Control Board Jurisdiction

RWQCB jurisdiction typically includes drainage swales, seasonal wetlands, and creeks within the state (Appendix A). Activities affecting Coyote Creek or Upper Penitencia Creek may require permits from the RWQCB under section 401 of the Clean Water Act.

IMPACTS AND MITIGATION

SIGNIFICANCE CRITERIA

The proposed project may have effects on the biological resources of the project site. The California Environmental Quality Act (CEQA) and the CEQA Guidelines provide guidance in evaluating project impacts and determining which impacts will be significant. CEQA defines “significant effect on the environment” as “a substantial adverse change in the physical conditions which exist in the area affected by the proposed project.” Under CEQA Guidelines section 15065 and Appendix G, a project’s effects on biotic resources may be significant when the project would:

- “have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory”
- “have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service”
- “have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service”
- “have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act”
- “interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites”
- “conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance”
- “conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan”

KEY ASSUMPTIONS

The following impact analysis is based upon the General Development Plan provided by HMM Engineers (December 23, 2003) and subsequent correspondence with project planners. Construction activities will directly impact the riparian corridor of Upper Penitencia Creek at four locations (two existing bridges will be removed, and two new bridges will be built) and will not impact the remainder of Upper Penitencia Creek or Coyote Creek and associated vegetation.

The pedestrian pathway under Berryessa Boulevard, with associated culvert bridge, was not addressed in these plans.

The project will remove the two existing bridges over Penitencia Creek and construct two new clearspan (*i.e.*, no footings in creek channel) bridges over Penitencia Creek. The existing upstream bridge is 56 feet wide and has a span of 25 feet with an existing concrete footing in the creek. The existing downstream bridge is 56 feet wide and has a span of 60 feet with no footings in the creek, but with loose riprap that currently extends into the creek channel.

The currently proposed upstream bridge will be 46 feet wide and would span 70 feet. The currently proposed downstream bridge will be 74 feet wide and would span 70 feet. A 10-foot construction buffer around each proposed bridge will be required. The proposed clearspan bridges may not be built within the alignment of the existing bridges. Therefore, for purposes of this analysis a worst-case scenario was assumed in which both proposed clearspan bridges would not be constructed within the alignment of the existing bridges and new bridge construction would thereby impact existing riparian habitat.

IMPACTS FOUND TO BE LESS-THAN-SIGNIFICANT

Impacts to Cooper's Hawks

Cooper's Hawks, while considered a California Species of Special Concern, are not rare locally, and are at no risk of local or regional extirpation. Habitat for this species is abundant regionally. Impacts to an active nest or to habitat for this species would not be considered a significant impact under CEQA. However, as discussed above, loss of an active nest would be in violation of other state and federal laws. Measures to avoid violation of these laws are provided below, in *Regulatory Overview for Birds*.

Loss of Habitat for Special-Status Wildlife Species

Although several special-status wildlife species, such as Peregrine Falcons and Sharp-shinned Hawks, may occasionally use the site for foraging, loss of foraging habitat for these species would not be a significant impact. Foraging habitat for all special-status species that may occur on the site is regionally abundant, and the project site does not provide any unique or uncommon habitat value.

IMPACTS FOUND TO BE LESS-THAN-SIGNIFICANT WITH MITIGATION

Encroachment Within the 100-foot Riparian Corridor Setback

This project, with the planned 100-foot riparian corridor setback, vastly improves riparian habitat conditions along both creeks by removing hardscape currently located near the creeks, greatly increasing the buffer to riparian habitats, and by planting native vegetation in these areas. An educational and recreation trail system is proposed within the 100-foot setback area, however, encroachment of hardscape features associated with the proposed trail system should not occur within 50 feet of the riparian corridor boundary.

Mitigation Measure 1a. Avoid and Minimize any Encroachment. Temporary and permanent encroachment within the riparian corridor setback will be avoided to the maximum extent practicable. All temporary staging areas and construction access roads, if necessary, will be located away from these areas. Riparian corridor boundaries will be clearly demarcated with Environmentally Sensitive Area fencing to avoid inadvertent disturbance during construction activities.

Mitigation Measure 1b. Creation or Restoration of Habitat. Any encroachment within the 50-foot “no-encroachment zone” will be mitigated by planting native vegetation within areas of the corridor where non-natives have been removed at a 1:1 (area of mitigation:area of encroachment) ratio. Plantings within the new setback area and mitigation, if necessary, will contain native tree species such as coast live oak (*Quercus agrifolia*) and valley oak (*Quercus lobata*) along with the already present California buckeye (*Aesculus californica*), box elder (*Acer negundo*), and blue elderberry (*Sambucus cerulea*). Native shrub species could include California rose (*Rosa californica*), coffeeberry (*Rhamnus californica*) and toyon (*Heteromeles arbutifolia*).

Permanent Loss of, and Construction-Phase Disturbance to, Riparian Habitat

Based upon preliminary development plans, the project will result in the construction of two new bridges connecting the southern portion of the property to the northern portion of the property over Upper Penitencia Creek. The project will remove the two existing bridges over Penitencia Creek and construct two new clearspan (*i.e.*, no footings in creek channel) bridges over Penitencia Creek. The impact area for all four bridge removal or construction locations consists of the extent of riparian vegetation (including canopy cover) that would be affected and was calculated by adding 10 feet to either side of each bridge for construction-related impacts.

The new bridges will impact approximately 11,880 square feet (0.27 acres) and approximately 9,600 square feet (0.22 acres) of riparian vegetation, respectively. Impacts to riparian vegetation in the area of the bridges that will be removed are limited to 10 feet on either side of the bridge (6,400 square feet, 0.14 acres). Overall, the project will therefore affect approximately 27,880 square feet (0.64 acres) of riparian vegetation. There will also be a net loss of 404 linear feet of SRA habitat for steelhead. This loss of SRA habitat could affect steelhead primarily through loss of shading.

Mitigation Measure 2a. Avoid and Minimize Disturbance to and loss of Riparian Habitat. Disturbance to and loss of the riparian habitat associated with Upper Penitencia Creek will be avoided to the maximum extent practicable. All temporary staging areas and construction access roads, if necessary, will be located away from the 100-foot setback area. Drainage/wetland boundaries will be clearly demarcated with Environmentally Sensitive Area fencing to avoid inadvertent disturbance during construction activities.

Mitigation Measure 2b. Creation or Restoration of Riparian Habitat. Riparian habitat that will be permanently impacted by bridge construction, or indirectly affected by setback encroachment, will be replaced at a level that will ensure no net loss of habitat functions and values. All mitigation sites will be protected in perpetuity.

The following are guidelines for gauging riparian habitat quality:

- High quality – Native overstory with continuous understory or occurring in dense thickets; dense native overstory with sparse, non-native or no understory; native willow thicket. Typically mitigated at 3:1.
- Medium quality – Sparse native overstory with sparse, non-native or no understory, non-native overstory with native understory, and dense non-native overstory with sparse, non-native or no understory. Typically mitigated at 2:1.
- Lower quality – Sparse non-native overstory with sparse, non-native or no understory, or ruderal and grassland habitats within riparian corridors. Typically mitigated at 1:1.

Mitigation for any direct and indirect impacts to the riparian habitat, including SRA, should be mitigated at a 2:1 (mitigation:impacts) ratio based upon the degraded quality of the riparian habitat affected. Because of its proximity to the flea market, this portion of Upper Penitencia Creek has debris, is overhung in many places by hardscape and/or flea market infrastructure, and, along the Berryessa Road sidewalk, is eroded and devoid of vegetation in places. Mitigation plantings should be accommodated within the proposed 100-foot setback area. Additionally, mitigation credit could be achieved by removing the undesirable and non-native species that occur within the riparian habitat, particularly the giant reed (*Arundo donax*) and cape ivy.

There is also a pedestrian bridge that crosses the creek at the confluence of Upper Penitencia Creek and Coyote Creek that is not addressed in the development plans. Upper Penitencia Creek is forced into a culvert to go under this bridge, and could potentially be removed or replaced with a clearspan bridge to further enhance the creek habitat.

The required mitigation area will be determined based on the actual impacts calculated from a final grading plan and an evaluation of the as-built condition. As currently proposed, the project would require 55,760 square feet (1.28 acres) of riparian mitigation, and at least 808 linear feet of new SRA plantings. The riparian habitat and proposed setback provide ample mitigation opportunities throughout the site to accommodate this need.

A Mitigation and Monitoring Plan will be prepared by a qualified restoration ecologist and will provide the following:

1. Summary of habitat impacts and proposed mitigation ratios
2. Goal of the restoration to achieve no net loss of habitat functions and values
3. Location of mitigation site(s) and description of existing site conditions
4. Mitigation design:
 - existing and proposed site hydrology
 - grading plan if appropriate, including bank stabilization or other site stabilization features

- soil amendments and other site preparation elements as appropriate
 - planting plan
 - irrigation and maintenance plan
 - remedial measures/adaptive management, etc.
5. Monitoring plan (including final and performance criteria, monitoring methods, data analysis, reporting requirements, monitoring schedule, etc.)
 6. Contingency plan for mitigation elements that do not meet performance or final success criteria

Permits would be required from the regulatory agencies prior to project construction or mitigation installation that will impact jurisdictional wetlands, drainages, streams etc. These agencies would typically include the USACE, CDFG, RWQCB, and (due to the potential for impacts to steelhead) NOAA Fisheries.

Direct Impacts to Steelhead and Western Pond Turtles During Bridge Demolition

All new bridges will clearspan bridges, and no footings will be required within the creek channel. However, demolition of existing bridges could result in debris entering Upper Penitencia Creek, and demolition of the footings for the upstream (eastern) bridge will require work within the live creek channel. These activities could result in inadvertent direct harm to steelhead or western pond turtles (*e.g.*, through crushing by heavy machinery or bridge debris). The following mitigation measures will reduce these impacts to a less than significant level. In addition, because of the possibility of take of steelhead, consultation with NOAA Fisheries will be required.

Mitigation Measure 3a. Maintain connectivity of the stream channel during construction.

Because it is possible that juveniles could be moving downstream during any time of year, including the dry season, measures should be taken to ensure that movement of steelhead is not prevented by any water diversion structures used during construction, regardless of when construction occurs. Diversion of the entire creek will not be necessary, but small diversion dams may be required for the demolition of existing footings of the upstream (eastern) bridge on Upper Penitencia Creek. These diversion dams will minimally encroach into the creek and will be temporary. Measures will be taken to ensure constant flow suitable for fish passage. Immediately prior to installation of the diversion dams, a survey will be conducted by a qualified biologist for western pond turtles. If any pond turtles are found within the work area, they will be relocated to an adjacent portion of the creek outside of the work area (as approved by the CDFG). The diversion dams will be installed from upstream to downstream, and efforts will be taken to avoid inadvertent entrainment of steelhead. After the installation of the diversion dams, a survey will be conducted by a qualified biologist for any steelhead that may have been inadvertently trapped within the diversion dam. If any steelhead are found within the dam, they will be relocated to the live stream channel (as approved by NOAA Fisheries).

Mitigation Measure 3b. Creek Protection. During demolition, the live stream channel of Upper Penitencia Creek will be protected within 25 feet upstream and downstream of the

demolition area. The contractor will take measures to ensure that demolished portions of the bridges will not enter into the creek.

Indirect Impacts to Steelhead and Other Aquatic Species Due to Degradation of Water Quality during Construction

Construction in and near creeks could have a significant adverse effect on water quality downstream from the project site due to increased turbidity and siltation, if ground-disturbing activities occur during the wet season or if soil is allowed to enter the creek. Soil could also potentially enter creeks from activities in existing upland and/or developed habitats above the top of bank, as the banks of Penitencia Creek are quite steep. Degradation of water quality downstream resulting from construction constitutes a potentially significant impact to aquatic wildlife species, including steelhead. The following mitigation measure will reduce these impacts to a less-than-significant level.

Mitigation Measure 4a. Implementation of Best Management Practices for Water Quality. Implementation of the following Best Management Practices will reduce this potential impact to aquatic species to a less-than-significant level.

- 1) No equipment will be operated in the live stream channel.
- 2) No debris, soil, silt, sand, bark, slash, sawdust, cement, concrete, washings, petroleum products, or other organic or earthen material shall be allowed to enter into or be placed where it may be washed by rainfall or runoff into waters of the U.S./State. Installation of temporary diversion dams around the footings of the existing upstream bridge during demolition.
- 3) Standard erosion control and slope stabilization measures will be required for work performed in any area where erosion could lead to sedimentation of a waterbody.
- 4) Work in riparian areas will be limited to the dry season (June 15 to October 15).

COMPLIANCE WITH ADDITIONAL LAWS AND REGULATIONS APPLICABLE TO BIOTIC RESOURCES OF THE PROJECT SITE

CITY OF SAN JOSE TREE ORDINANCE

Tree Removal

The City of San Jose Tree Removal Controls, Chapter 13.32 of the Municipal Codes, to promote the health, safety, and welfare of the city by controlling the removal of trees in the city, states that any live or dead tree cannot be removed unless:

- Removal of the tree is required pursuant to the provisions of Chapter 13.28; or
- A development permit that allows the removal of the tree has been issued and accepted by the permit applicant pursuant to the provisions of Title 20 of this municipal code; or
- An amendment to a development permit that allows the removal of the tree has been issued and accepted pursuant to the provisions of Title 20 of this municipal code; or
- A tree removal permit that allows the removal of that tree has been issued and accepted pursuant to the provisions of this chapter.

A permit would therefore be required to remove any tree growing in the riparian area of either Coyote Creek or Upper Penitencia Creek or in any area of the parking lots or flea market itself. If impacts to any of these trees cannot be avoided through project design, a comprehensive tree survey should be conducted and the appropriate tree removal permits obtained.

REGULATORY OVERVIEW FOR BIRDS

The Migratory Bird Treaty Act

The federal Migratory Bird Treaty Act (MBTA; 16 U.S.C., §703, Supp. I, 1989) prohibits killing, possessing, or trading in migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. This act encompasses whole birds, parts of birds, and bird nests and eggs. Construction disturbance during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment, a violation of the MBTA.

California State Fish & Game Code

Migratory birds are also protected in and by the state of California. The State Fish and Game Code §3503 (and other sections and subsections) emulates the MBTA and protects birds' nests and eggs from all forms of take. Disturbance that causes nest abandonment and/or loss of reproductive effort is considered "take" by the CDFG.

Raptors (*i.e.*, eagles, hawks, and owls) and their nests are specifically protected in California under Fish and Game Code Section 3503.5. Section 3503.5 states that it is “unlawful to take, possess, or destroy any birds in the order Falconiformes or Strigiformes (birds of prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by this code or any regulation adopted pursuant thereto.”

Project Applicability

The majority of birds likely to be found on the project site are protected under the MBTA, and by Fish and Game Code. Project construction has the potential to take nests, eggs, young or individuals of these protected species. Construction disturbance during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to the abandonment of nests. Although this impact is not significant under CEQA due to the local and regional abundance of the species in question and the low magnitude of the potential impact, we recommend that the following measures be implemented to reduce the risk of a violation of the MBTA and the California Fish and Game Code.

Compliance Measures

Measure 1. Avoidance. Avoid nesting season construction. Construction should be scheduled to avoid the nesting season to the extent feasible. The nesting season for most birds, including most raptors, in the San Francisco Bay area extends from February through August.

Measure 2. Pre-construction/Pre-disturbance Surveys. If it is not possible to schedule demolition and construction between September and January, then pre-construction surveys for nesting birds should be conducted by a qualified ornithologist to ensure that no nests will be disturbed during project implementation. This survey should be conducted no more than 14 days prior to the initiation of demolition/construction activities during the early part of the breeding season (February through April) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May through August). During this survey, the ornithologist will inspect all trees and other potential nesting habitats (*e.g.*, buildings, bridges) in and immediately adjacent to the impact areas for nests. If an active nest is found sufficiently close to work areas to be disturbed by these activities, the ornithologist, in consultation with CDFG, will determine the extent of a construction-free buffer zone to be established around the nest, typically 250 feet, to ensure that no nests of species protected by the MBTA or State Code will be disturbed during project implementation.

Measure 3. Inhibiting Nesting. If vegetation and buildings are to be removed by the project and all necessary approvals have been obtained, potential nesting substrate (*e.g.*, bushes, trees, grass, buildings) that will be removed by the project should be removed before the start of the nesting season (February) to help preclude nesting.

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**APPENDIX A.
REGULATIONS**

Special-status Species Regulations Overview

Federal and state endangered species legislation gives several plant and animal species known to occur in the vicinity of the project site special status. In addition, state resource agencies and professional organizations, whose lists are recognized by agencies when reviewing environmental documents, have identified as sensitive some species occurring in the vicinity of the project site. Such species are referred to collectively as “species of special status” and include: plants and animals listed, proposed for listing, or candidates for listing as threatened or endangered under the Federal Endangered Species Act (FESA) or the California Endangered Species Act (CESA), animals listed as “fully protected” under the California Fish and Game Code, animals designated as “Species of Special Concern” by the CDFG, and plants listed as rare or endangered by the CNPS in the *Inventory of Rare and Endangered Plants of California* (2001).

Federal Endangered Species Act provisions protect federally listed threatened and endangered species and their habitats from unlawful take. “Take” under FESA includes activities such as “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any of the specifically enumerated conduct.” The U.S. Fish & Wildlife Service’s (USFWS) regulations define harm to mean “an act which actually kills or injures wildlife.” Such an act “may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering” (50 CFR § 17.3). Activities that may result in “take” of individuals are regulated by the USFWS. The USFWS produced an updated list of candidate species September 19, 1997 (50 CFR Part 17). Candidate species are not afforded any legal protection under FESA; however, candidate species typically receive special attention from federal and state agencies during the environmental review process.

Provisions of CESA protect state-listed threatened and endangered species. CDFG regulates activities that may result in “take” of individuals (*i.e.*, “hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill”). Habitat degradation or modification is not expressly included in the definition of “take” under the California Fish and Game Code. The CDFG, however, has interpreted “take” to include the “killing of a member of a species which is the proximate result of habitat modification . . .” Additionally, the California Fish and Game Code contains lists of vertebrate species designated as “fully protected” (California Fish & Game Code §§ 3511 [birds], 4700 [mammals], 5050 [reptiles and amphibians], 5515 [fish]). Such species may not be taken or possessed without a permit.

The CDFG has also produced three lists (amphibians and reptiles, birds, and mammals) of “species of special concern” that serve as “watch lists.” Species on these lists either are of limited distribution or the extent of their habitats has been reduced substantially, such that threat to their populations may be imminent. Thus, their populations should be monitored. They may receive special attention during environmental review.

Plants listed as rare or endangered by the CNPS (2001), but which have no designated status under state endangered species legislation, are defined as follows:

- List 1A. Plants considered by the CNPS to be extinct in California.
- List 1B. Plants rare, threatened, or endangered in California and elsewhere.
- List 2. Plants rare, threatened, or endangered in California, but more numerous elsewhere.
- List 3. Plants about which we need more information - A review list.
- List 4. Plants of limited distribution - A watch list.

United States Army Corps of Engineers Jurisdiction

Areas meeting the regulatory definition of “Waters of the U.S.” (jurisdictional waters) are subject to the jurisdiction of the USACE under provisions of Section 404 of the Clean Water Act (1972) and Section 10 of the Rivers and Harbors Act (1899). These waters may include all waters used, or potentially used, for interstate commerce, including all waters subject to the ebb and flow of the tide, all interstate waters, all other waters (intrastate lakes, rivers, streams, mudflats, sandflats, playa lakes, natural ponds, etc.), all impoundments of waters otherwise defined as “Waters of the U.S.,” tributaries of waters otherwise defined as “Waters of the U.S.,” the territorial seas, and wetlands (termed Special Aquatic Sites) adjacent to “Waters of the U.S.” (33 CFR, Part 328, Section 328.3). Wetlands on non-agricultural lands are identified using the *Corps of Engineers Wetlands Delineation Manual* (Environmental Laboratory 1987).

Construction activities within jurisdictional waters are regulated by the USACE. The placement of fill into such waters must comply with permit requirements of the USACE. No USACE permit will be effective in the absence of state water quality certification pursuant to Section 401 of the Clean Water Act. The State Water Resources Control Board is the state agency (together with the Regional Water Quality Control Boards) charged with implementing water quality certification in California.

California Department of Fish and Game Jurisdiction

The CDFG potentially extends the definition of stream to include “intermittent and ephemeral streams, rivers, creeks, dry washes, sloughs, blue-line streams (USGS), and watercourses with subsurface flows. Canals, aqueducts, irrigation ditches, and other means of water conveyance can also be considered streams if they support aquatic life, riparian vegetation, or stream-dependent terrestrial wildlife” (CDFG 1994). Such areas on the site were determined using methodology described in *A Field Guide to Lake and Streambed Alteration Agreements, Sections 1600-1607* (CDFG 1994).

Activities that result in the diversion or obstruction of the natural flow of a stream, or which substantially change its bed, channel or bank, or which utilize any materials (including vegetation) from the streambed, may require that the project applicant enter into a Streambed Alteration Agreement with the CDFG.

Regional Water Quality Control Board Jurisdiction

Under California’s Porter-Cologne Water Quality Control Act, the Regional Water Quality Control Board (RWQCB) regulates the “discharge of waste” to “waters of the state.” Both of the terms “discharge of waste” and “waters of the state” are broadly defined in Porter-Cologne.

Waters of the state are defined as any surface water or groundwater, including saline waters, within the boundaries of the state. Examples include, but are not limited to, rivers, streams, lakes, bays, marshes, mudflats, unvegetated seasonally ponded areas, drainage swales, sloughs, wet meadows, natural ponds, vernal pools, diked baylands, seasonal wetlands, and riparian woodlands. Any activity that results or may result in a discharge that directly or indirectly impacts waters of the state or the beneficial uses of those waters are subject to waste discharge requirements (WDRs). All parties proposing to discharge waste that could affect waters of the state must file a report of waste discharge with the appropriate regional board. The regional board will then respond to the report of waste discharge by issuing (WDRs) in a public hearing, or by waiving WDRs (with or without conditions) for that proposed discharge.

03-42 Flea Market Planned Development

0=Dead 1=Very Low Vigor 2=Low Vigor 3=Moderate Vigor 4=High Vigor 5=Very High Vigor

Tree #	Common Name	Scientific Name	Circumference in Inches at 2 Feet Above Grade	Multi-Stem	Health and Vigor	SJ Ord. Tree	Notes
1	Eucalyptus	<i>Eucalyptus sp.</i>	26		3		
2	Eucalyptus	<i>Eucalyptus sp.</i>	7,6,2,8,7,4,3,4	X	3		
3	Eucalyptus	<i>Eucalyptus sp.</i>	24		3		
4	Eucalyptus	<i>Eucalyptus sp.</i>	66		3	X	
5	Eucalyptus	<i>Eucalyptus sp.</i>	26		3		
6	Eucalyptus	<i>Eucalyptus sp.</i>	13		3		
7	Eucalyptus	<i>Eucalyptus sp.</i>	46		3		
8	Eucalyptus	<i>Eucalyptus sp.</i>	28		3		
9	Eucalyptus	<i>Eucalyptus sp.</i>	53		3		
10	Eucalyptus	<i>Eucalyptus sp.</i>	20		3		
11	Eucalyptus	<i>Eucalyptus sp.</i>	21		3		
12	Eucalyptus	<i>Eucalyptus sp.</i>	48		3		
13	Eucalyptus	<i>Eucalyptus sp.</i>	36		3		
14	Eucalyptus	<i>Eucalyptus sp.</i>	21		3		
15	Eucalyptus	<i>Eucalyptus sp.</i>	53		3		
16	Eucalyptus	<i>Eucalyptus sp.</i>	47		3		
17	Eucalyptus	<i>Eucalyptus sp.</i>	18		3		
18	Eucalyptus	<i>Eucalyptus sp.</i>	43		3		
19	Eucalyptus	<i>Eucalyptus sp.</i>	34		3		
20	Eucalyptus	<i>Eucalyptus sp.</i>	53		3		
21	Eucalyptus	<i>Eucalyptus sp.</i>	37		3		
22	Eucalyptus	<i>Eucalyptus sp.</i>	41		3		
23	Eucalyptus	<i>Eucalyptus sp.</i>	47		3		
24	Eucalyptus	<i>Eucalyptus sp.</i>	47		3		
25	Eucalyptus	<i>Eucalyptus sp.</i>	40		1		
26	Eucalyptus	<i>Eucalyptus sp.</i>	39		3		
27	Eucalyptus	<i>Eucalyptus sp.</i>	54		3		
28	Eucalyptus	<i>Eucalyptus sp.</i>	26		3		
29	Eucalyptus	<i>Eucalyptus sp.</i>	49		3		
30	Eucalyptus	<i>Eucalyptus sp.</i>	29		3		
31	Eucalyptus	<i>Eucalyptus sp.</i>	51		3		
32	Eucalyptus	<i>Eucalyptus sp.</i>	38		3		
33	Eucalyptus	<i>Eucalyptus sp.</i>	18		3		
34	Eucalyptus	<i>Eucalyptus sp.</i>	39		3		
35	Eucalyptus	<i>Eucalyptus sp.</i>	47		3		
36	Eucalyptus	<i>Eucalyptus sp.</i>	30		3		
37	Eucalyptus	<i>Eucalyptus sp.</i>	40		3		
38	Eucalyptus	<i>Eucalyptus sp.</i>	40		3		
39	Eucalyptus	<i>Eucalyptus sp.</i>	22		3		
40	Eucalyptus	<i>Eucalyptus sp.</i>	45		3		
41	Eucalyptus	<i>Eucalyptus sp.</i>	36		3		
42	Eucalyptus	<i>Eucalyptus sp.</i>	41		3		
43	Eucalyptus	<i>Eucalyptus sp.</i>	46		3		
44	Eucalyptus	<i>Eucalyptus sp.</i>	25		3		
45	Eucalyptus	<i>Eucalyptus sp.</i>	39		3		
46	Eucalyptus	<i>Eucalyptus sp.</i>	38		2		
47	Eucalyptus	<i>Eucalyptus sp.</i>	31		3		
48	Eucalyptus	<i>Eucalyptus sp.</i>	40		3		

03-42 Flea Market Planned Development

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Tree #	Common Name	Scientific Name	Circumference in Inches at 2 Feet Above Grade	Multi-Stem	Health and Vigor	SJ Ord. Tree	Notes
49	Eucalyptus	<i>Eucalyptus sp.</i>	53		3		
50	Eucalyptus	<i>Eucalyptus sp.</i>	35		3		
51	Eucalyptus	<i>Eucalyptus sp.</i>	45		3		
52	Eucalyptus	<i>Eucalyptus sp.</i>	31		3		
53	Eucalyptus	<i>Eucalyptus sp.</i>	52		3		
54	Eucalyptus	<i>Eucalyptus sp.</i>	51		3		
55	Eucalyptus	<i>Eucalyptus sp.</i>	43		3		
56	Eucalyptus	<i>Eucalyptus sp.</i>	34		3		
57	Eucalyptus	<i>Eucalyptus sp.</i>	15		2		
58	Eucalyptus	<i>Eucalyptus sp.</i>	59		3	X	
59	Eucalyptus	<i>Eucalyptus sp.</i>	29		3		
60	Eucalyptus	<i>Eucalyptus sp.</i>	47		2		
61	Eucalyptus	<i>Eucalyptus sp.</i>	37		2		
62	Eucalyptus	<i>Eucalyptus sp.</i>	40		2		
63	Eucalyptus	<i>Eucalyptus sp.</i>	37		2		
64	Eucalyptus	<i>Eucalyptus sp.</i>	22		2		
65	Eucalyptus	<i>Eucalyptus sp.</i>	55		2		
66	Eucalyptus	<i>Eucalyptus sp.</i>	10,24,22,10	X	3	X	
67	Eucalyptus	<i>Eucalyptus sp.</i>	11,10,16,9,40,14,19,47	X	3	X	
68	Eucalyptus	<i>Eucalyptus sp.</i>	5,9,6,10,10,8,10,8	X	3	X	
69	Eucalyptus	<i>Eucalyptus sp.</i>	40,22,15,49	X	3	X	
70	Eucalyptus	<i>Eucalyptus sp.</i>	20,18,19,10,4	X	3	X	
71	Eucalyptus	<i>Eucalyptus sp.</i>	13,21,23,12,16,16	X	3	X	
72	Eucalyptus	<i>Eucalyptus sp.</i>	8,6,11,5,5,8,3	X	2		
73	Eucalyptus	<i>Eucalyptus sp.</i>	49,16,20,16,16,16,4	X	3	X	
74	Eucalyptus	<i>Eucalyptus sp.</i>	40,45,21,22,44	X	3	X	
75	Eucalyptus	<i>Eucalyptus sp.</i>	14,12,17,15,12	X	3	X	
76	Eucalyptus	<i>Eucalyptus sp.</i>	22,21	X	3		
77	Eucalyptus	<i>Eucalyptus sp.</i>	21,46,25,17,15,22	X	3	X	
78	Eucalyptus	<i>Eucalyptus sp.</i>	19,19,47,18,14	X	3	X	
79	Eucalyptus	<i>Eucalyptus sp.</i>	19,25,22,16	X	3	X	
80	Eucalyptus	<i>Eucalyptus sp.</i>	12,15,15,36,7	X	3	X	
81	Eucalyptus	<i>Eucalyptus sp.</i>	9,12,22,20,18,17	X	3	X	
82	Eucalyptus	<i>Eucalyptus sp.</i>	17,35,22,21,14,30	X	3	X	
83	Eucalyptus	<i>Eucalyptus sp.</i>	20,35,10,32	X	3	X	
84	Eucalyptus	<i>Eucalyptus sp.</i>	10,6,7	X	3		
85	Eucalyptus	<i>Eucalyptus sp.</i>	27,55	X	3	X	
86	Eucalyptus	<i>Eucalyptus sp.</i>	85		3	X	
87	Eucalyptus	<i>Eucalyptus sp.</i>	26,37,10	X	3	X	
88	Eucalyptus	<i>Eucalyptus sp.</i>	40		3		
89	Eucalyptus	<i>Eucalyptus sp.</i>	34,16,20,17,9	X	3	X	
90	Eucalyptus	<i>Eucalyptus sp.</i>	20,6,20,29	X	3	X	
91	Eucalyptus	<i>Eucalyptus sp.</i>	90		3	X	
92	Eucalyptus	<i>Eucalyptus sp.</i>	8,5,2,2,6,8,28,28	X	3	X	
93	Eucalyptus	<i>Eucalyptus sp.</i>	24		2		
94	Eucalyptus	<i>Eucalyptus sp.</i>	17,6,5,9,10	X	3		
95	Eucalyptus	<i>Eucalyptus sp.</i>	58		3	X	
96	Eucalyptus	<i>Eucalyptus sp.</i>	11,10,35	X	3	X	

03-42 Flea Market Planned Development

0=Dead 1=Very Low Vigor 2=Low Vigor 3=Moderate Vigor 4=High Vigor 5=Very High Vigor

Tree #	Common Name	Scientific Name	Circumference in Inches at 2 Feet Above Grade	Multi-Stem	Health and Vigor	SJ Ord. Tree	Notes
97	Eucalyptus	<i>Eucalyptus sp.</i>	59		3	X	
98	Eucalyptus	<i>Eucalyptus sp.</i>	15,35,44	X	3	X	
99	Eucalyptus	<i>Eucalyptus sp.</i>	7,10,5,7,18,8,5	X	2	X	
100	Eucalyptus	<i>Eucalyptus sp.</i>	56		3	X	
101	Eucalyptus	<i>Eucalyptus sp.</i>	4,7,7,8,1,4,3,7,7,11,8,8,7,7,8	X	3	X	
102	Eucalyptus	<i>Eucalyptus sp.</i>	12,9,37,8	X	3	X	
103	Eucalyptus	<i>Eucalyptus sp.</i>	45		2		
104	Eucalyptus	<i>Eucalyptus sp.</i>	17,9,7,22	X	3		
105	Eucalyptus	<i>Eucalyptus sp.</i>	32,38,25,19,12,14,11,8,28	X	3	X	
106	Eucalyptus	<i>Eucalyptus sp.</i>	87		3	X	
107	Eucalyptus	<i>Eucalyptus sp.</i>	41		3		
108	Eucalyptus	<i>Eucalyptus sp.</i>	37		3		
109	Eucalyptus	<i>Eucalyptus sp.</i>	44		3		
110	Eucalyptus	<i>Eucalyptus sp.</i>	53		3		
111	Eucalyptus	<i>Eucalyptus sp.</i>	33		3		
112	Eucalyptus	<i>Eucalyptus sp.</i>	43		3		
113	Eucalyptus	<i>Eucalyptus sp.</i>	55		3		
114	Eucalyptus	<i>Eucalyptus sp.</i>	47		3		
115	Eucalyptus	<i>Eucalyptus sp.</i>	28		3		
116	Eucalyptus	<i>Eucalyptus sp.</i>	30		3		
117	Eucalyptus	<i>Eucalyptus sp.</i>	48		3		
118	Eucalyptus	<i>Eucalyptus sp.</i>	40		3		
119	Eucalyptus	<i>Eucalyptus sp.</i>	17		1		
120	Eucalyptus	<i>Eucalyptus sp.</i>	44		3		
121	Eucalyptus	<i>Eucalyptus sp.</i>	55		3		
122	Eucalyptus	<i>Eucalyptus sp.</i>	37		3		
123	Eucalyptus	<i>Eucalyptus sp.</i>	36		3		
124	Eucalyptus	<i>Eucalyptus sp.</i>	44		3		
125	Eucalyptus	<i>Eucalyptus sp.</i>	38		3		
126	Eucalyptus	<i>Eucalyptus sp.</i>	48		3		
127	Eucalyptus	<i>Eucalyptus sp.</i>			3		
128	Eucalyptus	<i>Eucalyptus sp.</i>			3		
129	Eucalyptus	<i>Eucalyptus sp.</i>			3		
130	Eucalyptus	<i>Eucalyptus sp.</i>			3		
131	Eucalyptus	<i>Eucalyptus sp.</i>			3		
132	Eucalyptus	<i>Eucalyptus sp.</i>			3		
133	Eucalyptus	<i>Eucalyptus sp.</i>			3		
134	Eucalyptus	<i>Eucalyptus sp.</i>			3		
135	Eucalyptus	<i>Eucalyptus sp.</i>			3		
136	Eucalyptus	<i>Eucalyptus sp.</i>			3		
137	Eucalyptus	<i>Eucalyptus sp.</i>			3		
138	Eucalyptus	<i>Eucalyptus sp.</i>			3		
139	Eucalyptus	<i>Eucalyptus sp.</i>			3		
140	Eucalyptus	<i>Eucalyptus sp.</i>			3		
141	Eucalyptus	<i>Eucalyptus sp.</i>			3		
142	Eucalyptus	<i>Eucalyptus sp.</i>			3		
143	Eucalyptus	<i>Eucalyptus sp.</i>			3		
144	Eucalyptus	<i>Eucalyptus sp.</i>			3		

03-42 Flea Market Planned Development

0=Dead 1=Very Low Vigor 2=Low Vigor 3=Moderate Vigor 4=High Vigor 5=Very High Vigor

Tree #	Common Name	Scientific Name	Circumference in Inches at 2 Feet Above Grade	Multi-Stem	Health and Vigor	SJ Ord. Tree	Notes
145	Eucalyptus	<i>Eucalyptus sp.</i>			3		No access. Trees located behind barb-wire fencing.
146	Eucalyptus	<i>Eucalyptus sp.</i>			3		
147	Eucalyptus	<i>Eucalyptus sp.</i>			3		
148	Eucalyptus	<i>Eucalyptus sp.</i>			3		
149	Eucalyptus	<i>Eucalyptus sp.</i>	25-45 est.		3		
150	Eucalyptus	<i>Eucalyptus sp.</i>	56 est.		3	X	
151	Eucalyptus	<i>Eucalyptus sp.</i>	56 est.		3	X	
152	Eucalyptus	<i>Eucalyptus sp.</i>	25-45 est.		3		
153	Eucalyptus	<i>Eucalyptus sp.</i>	62		3	X	
154	Eucalyptus	<i>Eucalyptus sp.</i>	23		3		
155	Eucalyptus	<i>Eucalyptus sp.</i>	42		3		
156	Eucalyptus	<i>Eucalyptus sp.</i>	65		3	X	
157	Eucalyptus	<i>Eucalyptus sp.</i>	68		3	X	
158	Eucalyptus	<i>Eucalyptus sp.</i>	59		3	X	
159	Eucalyptus	<i>Eucalyptus sp.</i>	21		3		
160	Eucalyptus	<i>Eucalyptus sp.</i>	59		3	X	
161	Eucalyptus	<i>Eucalyptus sp.</i>	55		3		
162	Eucalyptus	<i>Eucalyptus sp.</i>	67		3	X	
163	Eucalyptus	<i>Eucalyptus sp.</i>	31		3		
164	Eucalyptus	<i>Eucalyptus sp.</i>	76		3	X	
165	Eucalyptus	<i>Eucalyptus sp.</i>	32		3		
166	Eucalyptus	<i>Eucalyptus sp.</i>	43		3		
167	Eucalyptus	<i>Eucalyptus sp.</i>	63		3	X	
168	Eucalyptus	<i>Eucalyptus sp.</i>	41		3		
169	Eucalyptus	<i>Eucalyptus sp.</i>	29		3		
170	Eucalyptus	<i>Eucalyptus sp.</i>	39		3		
171	Eucalyptus	<i>Eucalyptus sp.</i>	45		3		
172	Eucalyptus	<i>Eucalyptus sp.</i>	81		3	X	
173	Eucalyptus	<i>Eucalyptus sp.</i>	52		3		
174	Eucalyptus	<i>Eucalyptus sp.</i>	17		3		
175	Eucalyptus	<i>Eucalyptus sp.</i>	53		3		
176	Eucalyptus	<i>Eucalyptus sp.</i>	70		3	X	
177	Eucalyptus	<i>Eucalyptus sp.</i>	67		3	X	
178	Eucalyptus	<i>Eucalyptus sp.</i>	23		3		
179	Eucalyptus	<i>Eucalyptus sp.</i>	70		3	X	
180	Eucalyptus	<i>Eucalyptus sp.</i>	44		3		
181	Eucalyptus	<i>Eucalyptus sp.</i>	71		3	X	
182	Eucalyptus	<i>Eucalyptus sp.</i>	20		3		
183	Eucalyptus	<i>Eucalyptus sp.</i>	49		3		
184	Eucalyptus	<i>Eucalyptus sp.</i>	55		3		
185	Eucalyptus	<i>Eucalyptus sp.</i>	42		3		
186	Eucalyptus	<i>Eucalyptus sp.</i>	58		3	X	
187	Eucalyptus	<i>Eucalyptus sp.</i>	45		3		
188	Eucalyptus	<i>Eucalyptus sp.</i>	51		3		
189	Eucalyptus	<i>Eucalyptus sp.</i>	59		3	X	
190	Eucalyptus	<i>Eucalyptus sp.</i>	36		3		
191	Eucalyptus	<i>Eucalyptus sp.</i>	39		3		
192	Eucalyptus	<i>Eucalyptus sp.</i>	24		3		

03-42 Flea Market Planned Development

0=Dead 1=Very Low Vigor 2=Low Vigor 3=Moderate Vigor 4=High Vigor 5=Very High Vigor

Tree #	Common Name	Scientific Name	Circumference in Inches at 2 Feet Above Grade	Multi-Stem	Health and Vigor	SJ Ord. Tree	Notes
193	Eucalyptus	<i>Eucalyptus sp.</i>	60		3	X	
194	Eucalyptus	<i>Eucalyptus sp.</i>	34		3		
195	Eucalyptus	<i>Eucalyptus sp.</i>	25		3		
196	Eucalyptus	<i>Eucalyptus sp.</i>	58		3	X	
197	Eucalyptus	<i>Eucalyptus sp.</i>	36		3		
198	Eucalyptus	<i>Eucalyptus sp.</i>	25		3		
199	Eucalyptus	<i>Eucalyptus sp.</i>	23		3		
200	Eucalyptus	<i>Eucalyptus sp.</i>	59		3	X	
201	Eucalyptus	<i>Eucalyptus sp.</i>	36		3		
202	Eucalyptus	<i>Eucalyptus sp.</i>	51		3		
203	Eucalyptus	<i>Eucalyptus sp.</i>	51		3		
204	Eucalyptus	<i>Eucalyptus sp.</i>	67		3	X	
205	Eucalyptus	<i>Eucalyptus sp.</i>	42		3		
206	Eucalyptus	<i>Eucalyptus sp.</i>	62		3	X	
207	Eucalyptus	<i>Eucalyptus sp.</i>	35		3		
208	Eucalyptus	<i>Eucalyptus sp.</i>	64		3	X	
209	Eucalyptus	<i>Eucalyptus sp.</i>	56		3	X	
210	Eucalyptus	<i>Eucalyptus sp.</i>	62		3	X	
211	Monterey Pine	<i>Pinus radiata</i>	60		2	X	
212	Monterey Pine	<i>Pinus radiata</i>	23		2		
213	Monterey Pine	<i>Pinus radiata</i>	57		2	X	
214	Monterey Pine	<i>Pinus radiata</i>	52		2		
215	Monterey Pine	<i>Pinus radiata</i>	48		2		
216	Eucalyptus	<i>Eucalyptus sp.</i>	114		3	X	
217	Monterey Pine	<i>Pinus radiata</i>	47		3		
218	Fan Palm	<i>Washingtonia sp.</i>	55		3		
219	Bottlebrush	<i>Callistemon sp.</i>	36		3		
220	Bottlebrush	<i>Callistemon sp.</i>	32		3		
221	Bottlebrush	<i>Callistemon sp.</i>	29		3		
222	Bottlebrush	<i>Callistemon sp.</i>	30		3		
223	Bottlebrush	<i>Callistemon sp.</i>	31		3		
224	Bottlebrush	<i>Callistemon sp.</i>	34		3		
225	Bottlebrush	<i>Callistemon sp.</i>	36		3		
226	Bottlebrush	<i>Callistemon sp.</i>	29		3		
227	Bottlebrush	<i>Callistemon sp.</i>	31		3		
228	Bottlebrush	<i>Callistemon sp.</i>	35		3		
229	Mulberry	<i>Morus alba</i>	23		3		
230	Mulberry	<i>Morus alba</i>	19		3		
231	Bottlebrush	<i>Callistemon sp.</i>	28		3		
232	Bottlebrush	<i>Callistemon sp.</i>	26		3		
233	Bottlebrush	<i>Callistemon sp.</i>	25		3		
234	Bottlebrush	<i>Callistemon sp.</i>	24		3		
235	Bottlebrush	<i>Callistemon sp.</i>	29		3		
236	Bottlebrush	<i>Callistemon sp.</i>	24		3		
237	Bottlebrush	<i>Callistemon sp.</i>	34		3		
238	Fan Palm	<i>Washingtonia sp.</i>	106		3	X	
239	Flowering Pear	<i>Pyrus calleryana</i>	21		3		
240	Flowering Pear	<i>Pyrus calleryana</i>	26		3		

03-42 Flea Market Planned Development

0=Dead 1=Very Low Vigor 2=Low Vigor 3=Moderate Vigor 4=High Vigor 5=Very High Vigor

Tree #	Common Name	Scientific Name	Circumference in Inches at 2 Feet Above Grade	Multi-Stem	Health and Vigor	SJ Ord. Tree	Notes
241	Flowering Pear	<i>Pyrus calleryana</i>	25		3		
242	Flowering Pear	<i>Pyrus calleryana</i>	22		3		
243	Flowering Pear	<i>Pyrus calleryana</i>	26		3		
244	Italian Cypress	<i>Cupressus sempervirens</i>	14		3		
245	Italian Cypress	<i>Cupressus sempervirens</i>	14		3		
246	Italian Cypress	<i>Cupressus sempervirens</i>	14		3		
247	Pine	<i>Pinus sp.</i>	18		3		
248	Ash	<i>Fraxinus sp.</i>	46		2		
249	Ash	<i>Fraxinus sp.</i>	27		2		
250	Ash	<i>Fraxinus sp.</i>	35		2		
251	Ash	<i>Fraxinus sp.</i>	33		2		
252	Ash	<i>Fraxinus sp.</i>	33		2		
253	Ash	<i>Fraxinus sp.</i>	37		2		
254	Ash	<i>Fraxinus sp.</i>	31		2		
255	Ash	<i>Fraxinus sp.</i>	39		2		
256	Ash	<i>Fraxinus sp.</i>	37		2		
257	Ash	<i>Fraxinus sp.</i>	32		2		
258	Ash	<i>Fraxinus sp.</i>	35		2		
259	Ash	<i>Fraxinus sp.</i>	32		2		
260	Ash	<i>Fraxinus sp.</i>	31		2		
261	Ash	<i>Fraxinus sp.</i>	29		2		
262	Ash	<i>Fraxinus sp.</i>	56 est.		2	X	No access
263	Monterey Pine	<i>Pinus radiata</i>	34		3		
264	Monterey Pine	<i>Pinus radiata</i>	45		3		
265	Monterey Pine	<i>Pinus radiata</i>	17		3		
266	Coast Redwood	<i>Sequoia sempervirens</i>	11		2		
267	Coast Redwood	<i>Sequoia sempervirens</i>	11		2		
268	Chinese Pistache	<i>Pistacia chinensis</i>	16		3		
269	London Plane	<i>Platanus acerifolia</i>	20		3		
270	Chinese Pistache	<i>Pistacia chinensis</i>	18		3		
271	London Plane	<i>Platanus acerifolia</i>	22		3		
272	Chinese Pistache	<i>Pistacia chinensis</i>	8		3		
273	London Plane	<i>Platanus acerifolia</i>	25		3		
274	Chinese Pistache	<i>Pistacia chinensis</i>	19		3		
275	London Plane	<i>Platanus acerifolia</i>	22		3		
276	Chinese Pistache	<i>Pistacia chinensis</i>	18		3		
277	London Plane	<i>Platanus acerifolia</i>	23		3		
278	Chinese Pistache	<i>Pistacia chinensis</i>	9		2		
279	London Plane	<i>Platanus acerifolia</i>	22		3		
280	Mulberry	<i>Morus alba</i>	35		3		
281	Mulberry	<i>Morus alba</i>	28		3		
282	Mulberry	<i>Morus alba</i>	22		3		
283	Mulberry	<i>Morus alba</i>	39		3		
284	Mulberry	<i>Morus alba</i>	29		3		
285	Mulberry	<i>Morus alba</i>	31		3		
286	Ash	<i>Fraxinus sp.</i>	56 est.		3	X	No Access
287	Mulberry	<i>Morus alba</i>	17		3		
288	Mulberry	<i>Morus alba</i>	21		3		

03-42 Flea Market Planned Development

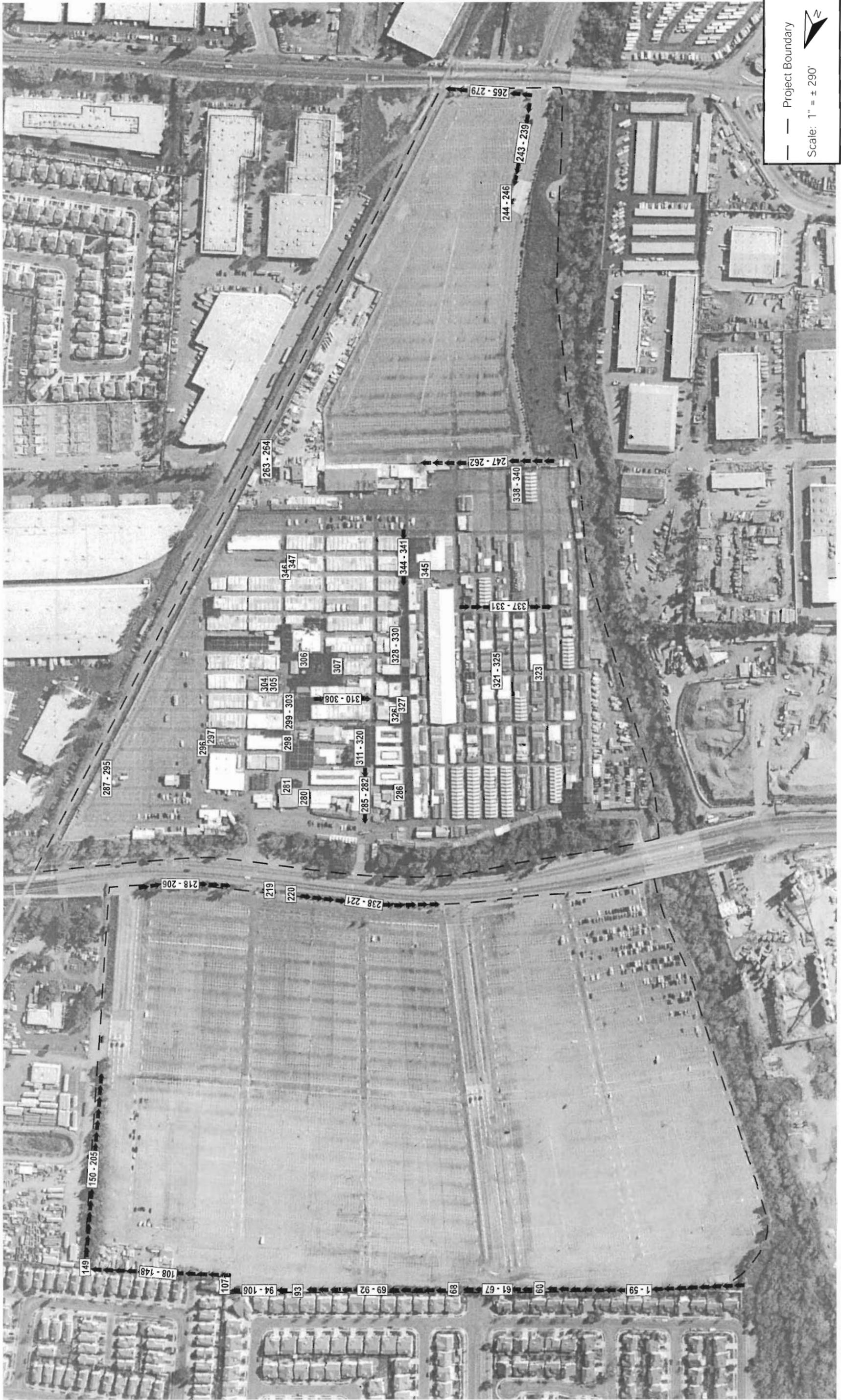
0=Dead 1=Very Low Vigor 2=Low Vigor 3=Moderate Vigor 4=High Vigor 5=Very High Vigor

Tree #	Common Name	Scientific Name	Circumference in Inches at 2 Feet Above Grade	Multi-Stem	Health and Vigor	SJ Ord. Tree	Notes
289	Mulberry	<i>Morus alba</i>	23		3		
290	Mulberry	<i>Morus alba</i>	25		3		
291	Mulberry	<i>Morus alba</i>	28		3		
292	Mulberry	<i>Morus alba</i>	19		3		
293	Mulberry	<i>Morus alba</i>	23		3		
294	Mulberry	<i>Morus alba</i>	21		3		
295	Mulberry	<i>Morus alba</i>	22		3		
296	Mulberry	<i>Morus alba</i>	32		3		
297	Mulberry	<i>Morus alba</i>	33		3		
298	Ash	<i>Fraxinus sp.</i>	94		3	X	
299	California Pepper	<i>Schinus molle</i>	45		3		
300	Silk Tree	<i>Albizia julibrissin</i>	33		3		
301	Silk Tree	<i>Albizia julibrissin</i>	23		3		
302	Mulberry	<i>Morus alba</i>	29		3		
303	Ash	<i>Fraxinus sp.</i>	42		3		
304	Olive	<i>Olea europaea</i>	46		3		
305	Olive	<i>Olea europaea</i>	79		3	X	
306	Silver Maple	<i>Acer saccharinum</i>	24		3		
307	Ash	<i>Fraxinus sp.</i>	32		3		
308	Mulberry	<i>Morus alba</i>	38		3		
309	Mulberry	<i>Morus alba</i>	32		3		
310	Mulberry	<i>Morus alba</i>	45		3		
311	Mulberry	<i>Morus alba</i>	24		3		
312	Mulberry	<i>Morus alba</i>	26		3		
313	Mulberry	<i>Morus alba</i>	23		3		
314	Mulberry	<i>Morus alba</i>	25		3		
315	Mulberry	<i>Morus alba</i>	35		3		
316	California Pepper	<i>Schinus molle</i>	120		3	X	
317	Carob	<i>Ceratonia siliqua</i>	25		3		
318	Mulberry	<i>Morus alba</i>	36		3		
319	Bottlebrush	<i>Callistemon sp.</i>	29,19,15		3	X	
320	Mulberry	<i>Morus alba</i>	37		3		
321	Silver Maple	<i>Acer saccharinum</i>	24		3		
322	Silver Maple	<i>Acer saccharinum</i>	24		3		
323	Silver Maple	<i>Acer saccharinum</i>	24		3		
324	Silver Maple	<i>Acer saccharinum</i>	27		3		
325	Silver Maple	<i>Acer saccharinum</i>	24		3		
326	Willow	<i>Salix sp.</i>	7,11,9,6,10,11,10		3	X	
327	Willow	<i>Salix sp.</i>	9		3		
328	Mulberry	<i>Morus alba</i>	26		3		
329	Mulberry	<i>Morus alba</i>	23		3		
330	Mulberry	<i>Morus alba</i>	25		3		
331	Silver Maple	<i>Acer saccharinum</i>	20		1		
332	Silver Maple	<i>Acer saccharinum</i>	28		3		
333	Silver Maple	<i>Acer saccharinum</i>	33+/-		3		
334	Silver Maple	<i>Acer saccharinum</i>	33		3		
335	Silver Maple	<i>Acer saccharinum</i>	46		3		
336	Silver Maple	<i>Acer saccharinum</i>	27		3		

03-42 Flea Market Planned Development

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Tree #	Common Name	Scientific Name	Circumference in Inches at 2 Feet Above Grade	Multi-Stem	Health and Vigor	SJ Ord. Tree	Notes
337	Silver Maple	<i>Acer saccharinum</i>	25		3		
338	Mulberry	<i>Morus alba</i>	20		3		
339	Mulberry	<i>Morus alba</i>	26		3		
340	Mulberry	<i>Morus alba</i>	25		3		
341	Mulberry	<i>Morus alba</i>	37		3		
342	Mulberry	<i>Morus alba</i>	28		3		
343	Mulberry	<i>Morus alba</i>	21		3		
344	Mulberry	<i>Morus alba</i>	34		3		
345	Mulberry	<i>Morus alba</i>	39		3		
346	Mulberry	<i>Morus alba</i>	34		3		
347	Mulberry	<i>Morus alba</i>	33		3		



TREE SURVEY

FIGURE 1