

## **APPENDIX J: FINAL INDIVIDUAL SECTION 4(F) EVALUATION OF TWO PARKS IN SANTA CLARA COUNTY**



California High-Speed Rail Authority

# San Jose to Merced Project Section

Final Individual Section 4(f) Evaluation  
of Two Parks in Santa Clara County

March 2022



The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being or have been carried out by the State of California pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated July 23, 2019, and executed by the Federal Railroad Administration and the State of California.



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## ACRONYMS AND ABBREVIATIONS

APE	area of potential effect
Authority	California High-Speed Rail Authority
BART	Bay Area Rapid Transit
C.F.R.	Code of Federal Regulations
DDV	Diridon design variant
Draft EIR/EIS	<i>San Jose to Merced Project Section Draft Environmental Impact Report/Environmental Impact Statement</i>
EIR	environmental impact report
EIS	environmental impact statement
Fed. Reg.	<i>Federal Register</i>
Final EIR/EIS	<i>San Jose to Merced Project Section Final Environmental Impact Report/Environmental Impact Statement</i>
FHWA	Federal Highway Administration
FRA	Federal Railroad Administration
HSR	high-speed rail
HST	high-speed train
I-	Interstate
IAMF	impact avoidance and minimization feature
IOOF	Independent Order of Odd Fellows
MOU	memorandum of understanding
MOWF	maintenance of way facility
MOWS	maintenance of way siding
mph	miles per hour
NEPA	National Environmental Policy Act
NHPA	National Historic Preservation Act
NOA	Notice of Availability
NRHP	National Register of Historic Places
OCS	overhead contact system
OWJ	official with jurisdiction
PA	Programmatic Agreement among the Federal Railroad Administration, the Advisory Council on Historic Preservation, the California State Historic Preservation Officer, and the California High-Speed Rail Authority Regarding Compliance with Section 106 of the National Historic Preservation Act, as it Pertains to the California High-Speed Train Project
PG&E	Pacific Gas and Electric Company
project	San Jose to Central Valley Wye Project Extent



Revised/Supplemental Draft EIR/EIS	<i>San Jose to Merced Project Section Revised Draft Environmental Impact Report/Supplemental Draft Environmental Impact Statement, Biological Resources Analysis</i>
RSA	resource study area
SHPO	State Historic Preservation Officer
SR	State Route
TCE	temporary construction easement
TDV	tunnel design variant
UPRR	Union Pacific Railroad
US	U.S. Highway
U.S.C.	United States Code
USEPA	U.S. Environmental Protection Agency
VTA	(Santa Clara) Valley Transportation Authority



# 1 INTRODUCTION

This report provides the analysis to support the California High-Speed Rail Authority's (Authority) determinations to comply with the provisions of 49 United States Code (U.S.C.) Section 303 (hereinafter referred to as Section 4(f)) regarding two park units under the jurisdiction of the Santa Clara County Parks and Recreation Department (Department or official with jurisdiction).

Under Section 4(f), an operating administration of the U.S. Department of Transportation may not approve a transportation project that uses protected properties unless there are no prudent or feasible alternatives to such use and the project includes all possible planning to minimize harm to such properties or if the use would have a *de minimis* impact on the property. Section 4(f) protected properties are publicly owned lands of a park, recreation area, or wildlife and waterfowl refuge or a historical site, publicly or privately owned, that is listed or determined eligible for listing in the National Register of Historic Places (NRHP). To demonstrate compliance with Section 4(f), this chapter:

- Describes the statutory requirements associated with Section 4(f)
- Identifies the properties protected by Section 4(f) in the resource study area (RSA)
- Determines whether the San Jose to Central Valley Wye Project Extent (project) would result in the use of those properties
- Identifies feasible and prudent alternatives, to the extent any exist, that would avoid or minimize use of the properties
- Identifies measures to minimize harm
- Provides a least overall harm analysis for project alternatives that would result in the use of Section 4(f) properties

The *San Jose to Merced Project Section Final Environmental Impact Report/Environmental Impact Statement* (Final EIR/EIS) (Project) (Authority 2022) evaluated resources within the RSA for Section 4(f) applicability and use. The Final EIR/EIS found that most uses of parks, recreation facilities, and wildlife and waterfowl refuges would result in a *de minimis* impact. With a *de minimis* impact determination, individual resource avoidance assessments are not required. This report provides individual resource avoidance assessments for Section 4(f) uses of one park resource that did not receive the official with jurisdiction's (OWJ) concurrence for a *de minimis* impact, Coyote Creek Parkway County Park, and two park resources, Field Sports County Park and Coyote Creek Parkway County Park, that did not receive OWJ concurrence for a temporary occupancy exception. The Authority has previously consulted with the OWJ, which is the Santa Clara County Parks and Recreation Department, for these two park units. The Department did not concur with the Authority's preliminary Section 4(f) *de minimis* determination for Coyote Creek Parkway County Park and temporary occupancy exemption for temporary use of Coyote Creek Parkway County Park and Field Sports County Park. Therefore, the Authority has determined that the Project would result in a permanent use and temporary occupancy of a portion of Coyote Creek Parkway County Park, and a temporary occupancy of a portion of the Field Sports County Park. The Authority provided an individual Section 4(f) evaluation for Coyote Creek Parkway County Park and Field Sports County Park to the Santa Clara County Parks and Recreation Department on January 7, 2022, and the Department provided comments in a letter dated February 2, 2022 and received by the Authority on February 22, 2022.

This comment letter is provided as Attachment A to this report. Several minor revisions were made to this Section 4(f) evaluation as a result of the Department's comments, but no major revisions were required.

Additional information on publicly owned parks, recreation lands, wildlife and waterfowl refuges, and historic sites is provided in Final EIR/EIS Section 3.7, Biological and Aquatic Resources; Section 3.15, Parks, Recreation, and Open Space; Section 3.17, Cultural Resources, and the *San Jose to Merced Project Section Historic Architectural Survey Report* (Authority 2019a).

## 1.1 Laws, Regulations, and Orders

### 1.1.1 Federal Railroad Administration, Procedures for Considering Environmental Impacts (64 Federal Register 28545)

On May 26, 1999, the Federal Railroad Administration (FRA) released *Procedures for Considering Environmental Impacts* (64 Federal Register [Fed. Reg.] 28545–28556). These FRA procedures supplement the Council on Environmental Quality Regulations (40 Code of Federal Regulations (C.F.R.) Part 1500 et seq.) and describe the FRA’s process for assessing the environmental impacts of actions and legislation proposed by the agency and for the preparation of associated documents (42 U.S.C. § 4321 et seq.).<sup>1,2</sup> The FRA *Procedures for Considering Environmental Impacts* states that “the EIS should identify any significant changes likely to occur in the natural environment and in the developed environment. The EIS should also discuss the consideration given to design quality, art, and architecture in project planning and development as required by U.S. Department of Transportation Order 5610.4.” These FRA procedures state that an EIS should consider possible impacts on Section 4(f) resources.

### 1.1.2 U.S. Department of Transportation Act (23 U.S.C. § 138 and 49 U.S.C. § 303(c))

Projects undertaken by an operating administration of the U.S. Department of Transportation or that may receive federal funding or discretionary approvals from an operating administration of U.S. Department of Transportation must demonstrate compliance with Section 4(f). Section 4(f) protects publicly owned parks, recreational areas, and wildlife and waterfowl refuges. Section 4(f) also protects historic sites of national, state, or local significance on public or private land that are listed on or eligible for listing on the NRHP. As of November 28, 2018, the FRA adopted the regulations in 23 C.F.R. Part 774 as FRA’s Section 4(f) implementing regulations. The FRA also considers the interpretations provided in the Federal Highway Administration’s (FHWA) *Section 4(f) Policy Paper* (FHWA 2012) when implementing these regulations. Pursuant to 23 U.S.C. Section 237, under the National Environmental Policy Act (NEPA) Assignment Memorandum of Understanding (MOU) between FRA and the State of California, effective July 23, 2019, the Authority is the federal lead agency and is responsible for compliance with NEPA and other federal environmental laws, including Section 4(f) (49 U.S.C. § 303) and related U.S. Department of Transportation orders and guidance.

The Authority may not approve the use of a Section 4(f) property, as described in 49 U.S.C. Section 303(c), unless it determines that there is no feasible and prudent alternative to avoid the use of the property and the action includes all possible planning to minimize harm resulting from such use, or the project has a *de minimis* impact consistent with the requirements of 49 U.S.C. Section 303(d).

An alternative is not feasible if it cannot be built as a matter of sound engineering judgment. In determining whether an alternative is prudent, the Authority may consider if the alternative would result in any of the following:

- The alternative does not meet the Project’s stated Purpose and Need
- The alternative would entail unacceptable safety or operational problems
- After reasonable mitigation, the alternative would result in severe social, economic, or environmental impacts; severe disruption to established communities; severe

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<sup>1</sup> While the EIR/EIS was being prepared, FRA adopted new NEPA compliance regulations (23 C.F.R. Part 771). Those regulations only apply to actions initiated after November 28, 2018. See 23 C.F.R. Section 771.109(a)(4). Because this EIR/EIS was initiated prior to that date, it remains subject to FRA’s Environmental Procedures rather than the Part 771 regulations.

<sup>2</sup> The Council on Environmental Quality issued new regulations on July 14, 2020, effective September 14, 2020, updating the NEPA implementing procedures at 40 C.F.R. Parts 1500–1508. However, this project initiated NEPA before the effective date and is not subject to the new regulations, relying on the 1978 regulations as they existed prior to September 14, 2020. All subsequent citations to Council on Environmental Quality regulations in this environmental document refer to the 1978 regulations, pursuant to 40 C.F.R. § 1506.13 (2020) and the preamble at 85 Fed. Reg. 43340.

disproportionate impacts on minority populations or low-income populations; or severe impacts on environmental resources protected under other federal statutes

- The alternative would require additional construction, maintenance, or operational costs of an extraordinary magnitude.
- The alternative would pose other unique problems or unusual factors.
- The project would entail multiple factors that, while individually minor, would cumulatively cause unique problems or impacts of extraordinary magnitude.

If the Authority determines both that there is the use of a Section 4(f) property and that there is no prudent and feasible alternative to the use of the resource, the Authority must require that the project employ all possible planning (including coordination and concurrence of the OWJs over the property) to minimize harm to the property, including all reasonable measures to minimize harm or mitigate impacts (49 U.S.C. § 303(c)(2)). OWJs are defined in 23 C.F.R. Section 774.17.

After making a Section 4(f) determination and identifying the reasonable measures to minimize harm, if there is more than one alternative that results in the use of a Section 4(f) property, the Authority must also compare the project alternatives to determine which project alternative has the potential to cause the least overall harm in light of the purpose of the statute. The least overall harm may be determined by balancing the following factors:

- The ability to mitigate adverse impacts on each Section 4(f) property (including any measures that result in benefits to the property)
- The relative severity of the remaining harm—after mitigation—to the protected activities, attributes, or features that qualify each Section 4(f) property for protection
- The relative significance of each Section 4(f) property
- The views of the OWJ(s) over each Section 4(f) property
- The degree to which each alternative meets the project Purpose and Need
- After reasonable mitigation, the magnitude of any adverse impacts on resources not protected by Section 4(f)
- Substantial differences in costs among the project alternatives

## 1.2 Resource Study Area

The RSA was established, as defined below, to identify the Section 4(f) properties to be considered for evaluation. Figure 4-1 in Chapter 4 illustrates the alignments, stations, and any associated high-speed rail (HSR) system facilities site alternatives for the project.

### 1.2.1 Public Park and Recreation Lands, and Wildlife and Waterfowl Refuges

The boundaries of the RSA for parks, recreation facilities, and wildlife and waterfowl refuges generally extend beyond the project footprint. For parks, recreation, and wildlife and waterfowl refuges, the RSA is the project footprint, as described in Chapter 2, Alternatives, in the Final EIR/EIS<sup>3</sup>, plus at least 1,000 feet from the edge of the project footprint, including stations, maintenance facilities, and any road construction. For temporary laydown areas, utility relocations, or any other land used temporarily to implement the HSR system that would be returned to its original condition, the RSA for 4(f) use is the area of direct impact unless the temporary use prevents access to a potential 4(f) protected property. **Error! Reference source not found.** through **Error! Reference source not found.** in Section 4.5.1, Parks, Recreation, and Wildlife and Waterfowl Refuges, of the Final EIR/EIS illustrate the parks, recreation, and open-space resources within the RSA.

<sup>3</sup> Available: <https://hsr.ca.gov/programs/environmental-planning/project-section-environmental-documents-tier-2/san-jose-to-merced-project-section-draft-environmental-impact-report-environmental-impact-statement/>

## 1.2.2 Historic Properties

As described in Section 1.3, Section 4(f) Applicability, historic properties listed or eligible for listing in the NRHP may qualify for protections under Section 4(f). Because the HSR project is a federal undertaking, it must comply with the National Historic Preservation Act (NHPA). The First Amendment to the Programmatic Agreement among the Federal Railroad Administration, the Advisory Council on Historic Preservation, the California State Historic Preservation Officer, and the California High-Speed Rail Authority Regarding Compliance with Section 106 of the National Historic Preservation Act, as it Pertains to the California High-Speed Train Project (PA) amended July 21, 2021, outlines an approach for compliance with Section 106 of the NHPA for the HSR program. The Section 106 implementing regulations at 36 C.F.R. Section 800.4(a)(1) require the establishment of an area of potential effect (APE). For Section 106 compliance, the APE is used for the technical reports that document the identification of historic properties and the assessment of effects. The APE is the geographic area or areas within which an undertaking may directly or indirectly alter the character or use of historic properties, if any such properties exist. Therefore, the APE serves as the RSA for Section 4(f) historic properties that are listed or eligible for listing in the NRHP. See Appendix B, Area of Potential Effects Map, of the *San Jose to Merced Project Section Historic Architectural Survey Report* (Authority 2019a), and Appendix A of the *San Jose to Merced Project Section Archaeological Survey Report* (Authority 2019b) for maps showing the APE.

The APE for archaeological and architectural resources are described in the following subsections.

### Archaeological APE

The archaeological APE includes the area of ground to be disturbed before, during, and after project construction as well as during operations. This includes excavation for the vertical and horizontal profiles of the alignment, station location footprints, geotechnical drilling, grading, cut and fill, easements, staging/laydown areas, utility relocation, borrow sites, spoils areas, temporary or permanent road construction, grade separations features, infrastructure demolition, biological mitigation areas, and all permanent rights-of-way (i.e., the project footprint). The archaeological APE also includes a vertical component in the area of Tunnel 1 and Tunnel 2, with the APE extending to the ground surface above the area where project activities would take place below grade.

### Built Resources APE

The methodology for establishing the historic built resources APE follows standard practices for the discipline, Attachment B of the Section 106 PA, and the Authority's *Cultural Resources Technical Guidance Memorandum #1* (Authority 2013), and is detailed in the project Historic Architectural Survey Report (Authority 2019a). The historic built resources APE includes all legal parcels<sup>4</sup> intersected by the HSR right-of-way for all project alternatives, including ancillary features such as grade separations, stations, maintenance facilities, utilities, and construction staging areas. The APE includes properties where historic materials or associated landscape features would be demolished, moved, or altered by construction. The types of resources encountered in the project vicinity and the project construction activities guided the delineation of the APE.

The historic built resources APE is larger than the project footprint. It is delineated to take into consideration effects, such as visual, audible, or atmospheric intrusions onto a property, the potential for vibration-induced damage, demolition of resources located on the surface above

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<sup>4</sup> A *legal parcel* is a parcel that was created in accordance with state and local subdivision laws in effect at the time of its creation. Determination of the legal status of a parcel created prior to the California Subdivision Map Act is made by the city or county in which the parcel in question is located under authority granted by the Subdivision Map Act. Assignment of an Assessor's Parcel Number does not create a legal parcel, nor does recordation of a deed that fails to comply with the California Subdivision Map Act.

tunnels, or isolation of a property from its setting. Visual and audible changes have the potential to affect character-defining features of some historic built resources.

### 1.3 Section 4(f) Applicability

A park or recreational area qualifies for protection under Section 4(f) if it is:

- Publicly owned at the time at which the use occurs
- Open to the general public
- Being used for recreation
- Considered significant by the OWJ
- A publicly owned recreation property designated in a formal plan
- A public school with a joint use agreement for public recreation use of the school grounds/recreation facilities
- Private schools with a joint use agreement for public recreation use of the school grounds/recreation facilities

Section 4(f) does not apply in the following circumstances:

1. Publicly owned facilities whose major purpose is for commercial reasons, such as professional sport or music venues, rather than for park or recreation purposes
2. Land that is privately owned, even if it is designated in a formal plan
3. Where no joint use agreement for use of public or private school recreational facilities exists
4. Publicly owned facilities, where park, recreational, or refuge activities would be incidental, secondary, occasional, or dispersed
5. Publicly owned land or facilities whose major purpose, as described by the agency with jurisdiction, is transportation, even when recreational activities may occur within the facility
6. Privately owned golf course
7. Planned facilities that are not publicly owned by the entity

A wildlife or waterfowl refuge qualifies for protection under Section 4(f) if it (1) is publicly owned at the time at which the use occurs, (2) the land has been officially designated as a wildlife and/or waterfowl refuge by a federal, state, or local agency, (3) its primary designated purpose is consistent with its primary function and how it is intended to be managed, and (4) is considered significant by the OWJ. Coordination with the OWJ and examination of the land management plan for the area will be necessary to determine if Section 4(f) should apply to an area that would be used by a transportation project.

For publicly owned multiuse land holdings, Section 4(f) applies only to those portions of a property that are designated by statute or identified in an official management plan of the administering agency as being primarily for public park, recreation, or wildlife and waterfowl refuge purposes, and are determined to be significant for such purposes.

Historic sites listed or eligible for listing in the NRHP are protected under Section 4(f). Although the statutory requirements of Section 106 and Section 4(f) are similar, if a proposed action results in an “adverse effect” under Section 106, there is not automatically a Section 4(f) use. To determine whether a use of an NRHP-protected property would occur, the Authority completes a separate Section 4(f) analysis and determination, in addition to those completed in compliance with the Section 106 process.

For a property to be eligible for listing in the NRHP, it must meet at least one of the four NRHP criteria (i.e., Criteria A–D) described in this section. The quality of significance in American history, architecture, archaeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association and meet one or more of the following criteria:

- Criterion A—Properties that are associated with events that have made a significant contribution to the broad patterns of our history
- Criterion B—Properties that are associated with the lives of persons significant in our past
- Criterion C—Properties that embody distinctive characteristics of a type, period, or method of construction; or that represent the work of a master; or that possess high artistic values; or that represent a significant and distinguishable entity whose components may lack individual distinction
- Criterion D—Properties that have yielded, or may be likely to yield, information important in prehistory or history

An archaeological resource that is eligible only under NRHP Criterion D is considered valuable primarily in terms of the data that can be recovered from it. For such resources (such as pottery scatters and refuse deposits), it is generally assumed that there is minimal value attributed to preserving such resources in place. Conversely, resources eligible under Criterion A, B, or C are considered to have value intrinsic to the resource's location. In other words, Section 4(f) does not apply to a site if it is important chiefly because of what can be learned by data recovery and has minimal value for preservation in place.

## 1.4 Section 4(f) Use Definition

### 1.4.1 Permanent Use

A permanent use of a Section 4(f) resource occurs when land is permanently incorporated into a proposed transportation facility. This might result from partial or full acquisition, permanent easements, or temporary easements that exceed limits for temporary occupancy as defined in the next section.

### 1.4.2 Temporary Occupancy/Temporary Use

A temporary construction use of a Section 4(f) property results in a “temporary occupancy” of a Section 4(f) resource when a Section 4(f) property is required for construction-related activities and meets specific conditions of use. If the activity does not meet the temporary occupancy conditions, even if the property is not permanently incorporated into a transportation facility, the temporary construction use would be considered a Section 4(f) use. Such use may be found to be *de minimis*. Temporary occupancy of property does not constitute a use of a Section 4(f) resource when the following conditions are satisfied:

- The occupancy must be of temporary duration (e.g., shorter than the period of construction) and must not involve a change in ownership of the property.
- The scope of use must be minor, with only minimal changes to the protected resource.
- There must be no permanent adverse physical impacts to the protected resource or temporary or permanent interference with activities or purpose of the resource.
- The property being used must be fully restored to a condition that is at least as good as existed before project construction.
- There must be documented agreement of the appropriate officials having jurisdiction over the resource regarding the foregoing requirements.

### 1.4.3 Constructive Use

A constructive use of a Section 4(f) resource occurs when a transportation project does not permanently incorporate or temporarily use a protected resource, but the proximity of the project results in impacts after incorporation of mitigation (e.g., noise, vibration, visual, access, ecological) that are so severe that the protected activities, features, or attributes that qualify the resource for protection under Section 4(f) are substantially impaired. Substantial impairment



occurs only if the protected activities, features, or attributes of the resource are substantially diminished. This determination is made after taking the following steps:

- Identifying the current activities, features, or attributes of the resource that may be sensitive to proximity impacts
- Analyzing the potential proximity impacts on the resource
- Consulting with the appropriate officials having jurisdiction over the resource

It is important to note that erecting a structure over a Section 4(f) property, and thus requiring an air lease, does not, by itself, constitute a use, unless the effect constitutes a constructive use. Further, an adverse effect under Section 106 of the NHPA to a historic property does not in and of itself result in a constructive use. Pursuant to 23 U.S.C. Section 327, under the NEPA Assignment MOU between the FRA and the State of California, effective July 23, 2019, the Authority can make the determination that there is no constructive use. The Authority cannot make any determination that an action constitutes a constructive use of a publicly owned park, public recreation area, wildlife refuge, waterfowl refuge, or historic site under Section 4(f) without first consulting with FRA and obtaining FRA’s views on such determination.

**1.4.4 De minimis Impact**

According to 49 U.S.C. Section 303(d), the following criteria must be met to reach a *de minimis* impact determination:

- For parks, recreation areas, and wildlife and waterfowl refuges, a *de minimis* impact determination may be made if the Authority concludes that the transportation project would not adversely affect the activities, features, and attributes qualifying the property for protection under Section 4(f) after mitigation. In addition, to make a *de minimis* impact determination:
  - The OWJ over the property must be informed regarding the intent to make a *de minimis* impact determination, after which, public notice and opportunity for public review and comment must be provided.
  - After consideration of comments, if the OWJ over the property concurs in writing that the project would not adversely affect the activities, features, or attributes that make the property eligible for Section 4(f) protection, then the Authority may finalize the finding of a *de minimis* impact.
- For a historic site, a *de minimis* impact determination may be made only if, in accordance with the Section 106 process, the Authority determines that the transportation program or project would have no effect or no adverse effect on historic properties, has received written concurrence from the OWJ over the property (e.g., the State Historic Preservation Officer [SHPO]), and has taken into account the views of consulting parties to the Section 106 process as required by 36 C.F.R. Part 800.

While *de minimis* is generally applied where there is a permanent conversion of land, if a temporary use of a 4(f)-protected property during construction does not meet the conditions required for the temporary occupancy exception under Section 774.13(d), it may be possible to make a *de minimis* impact determination.

Prior to making *de minimis* impact determinations, the following coordination must be undertaken:

1. For parks, recreation areas, and wildlife and waterfowl refuges:
  - i. Public notice and an opportunity for public review and comment concerning the effects on the protected activities, features, or attributes of the property must be provided. This requirement can be satisfied in conjunction with other public involvement procedures, such as a comment period provided on a NEPA document.
  - ii. The Administration shall inform the OWJ(s) of its intent to make a *de minimis* impact finding. Following an opportunity for public review and comment as described in 23 C.F.R. Section 774.5(b)(2)(i), the OWJ(s) over the Section 4(f) resource must concur in

writing that the project would not adversely affect the activities, features, or attributes that make the property eligible for Section 4(f) protection. This concurrence may be combined with other comments on the project provided by the official(s).

2. For historic properties:

- i. The Administration must receive written concurrence from the pertinent SHPO or Tribal Historic Preservation Officer and from the Advisory Council on Historic Preservation if participating in the consultation process, in a finding of “no adverse effect” in accordance with 36 C.F.R. Part 800. The Administration shall inform these officials of its intent to make a *de minimis* impact determination based on their concurrence in the finding of “no adverse effect”.
- ii. Public notice and comment, beyond that required by 36 C.F.R. Part 800, is not required.

## 2 COORDINATION

49 U.S.C. Section 303(b) requires cooperation and consultation with the Secretary of the Interior (and the Secretaries of Housing and Urban Development and Agriculture, if appropriate) and with the state in developing transportation plans and programs that include measures to maintain or enhance the natural beauty of lands crossed by transportation activities or facilities. Throughout the EIR/EIS process, the Authority consulted with the SHPO, local jurisdictions, the California Department of Fish and Wildlife, the Native American Heritage Commission and interested Tribes, and the National Park Service. Section 4(f) requires consultation with the SHPO, pursuant to 36 C.F.R. Part 800, and agencies of jurisdiction in identifying Section 4(f) properties and assessing impacts on the properties. Letters of initial consultation and requests for additional information were sent to the agencies and jurisdictions that have potential Section 4(f) resources within the RSA.

### 2.1 Coordination with Officials with Jurisdiction

The OWJ for both the Coyote Creek Parkway County Park and the Field Sports County Park is Santa Clara County Parks and Recreation Department. The Authority has continued to consult with this OWJ regarding the effects of the project on the features and attributes of the Section 4(f) properties. The Authority's Section 4(f) determinations will be made as part of the Record of Decision for this project.

Table 2-1 shows the coordination to date with the Santa Clara County Parks and Recreation Department and related agencies.

**Table 2-1 Section 4(f) Evaluation Consultation Summary**

Date	Form	Participants	General Topic(s)
Received by Authority on February 22, 2022	Comment Letter	Santa Clara County Parks and Recreation Department	Comments from Department on Draft Individual Section 4(f) Evaluation requested minor revisions in the report and requested consultation with the Department during subsequent design and construction phases concerning protections of park resources.
January 7, 2022	Draft Report	Santa Clara County Parks and Recreation Department	Authority provided Draft Individual Section 4(f) Evaluation to Department
December 16, 2021	Email	Santa Clara County Parks and Recreation Department	Department identified that preparation of an Individual Section 4(f) Evaluation is the recommended approach.
December 10, 2021	Meeting	Santa Clara County Parks and Recreation Department	Discussion about the plan for pursuing an Individual Section 4(f) Evaluation with a 45-day OWJ review period.
December 8, 2021	Meeting	Santa Clara County Parks and Recreation Department	Discussion about next steps for securing OWJ concurrence at Board of Supervisors meeting.
November 22, 2021	Meeting	Santa Clara County Parks and Recreation Department and Planning Department	Review of Section 4(f) impacts on Santa Clara County parks and next steps for OWJ concurrence.

Date	Form	Participants	General Topic(s)
September 14, 2021	Meeting	Santa Clara County Parks and Recreation Department	Update on process for OWJ concurrence.
August 25, 2021	Meeting	Santa Clara County Parks and Recreation Department	Update on process to route OWJ concurrence to Board of Supervisors for approval.
June 26, 2021	Letter	Santa Clara County Parks and Recreation Department	Request for concurrence on Section 4(f) determinations for Coyote Creek Parkway County Park ( <i>de minimis</i> impact) and Field Sports County Park (temporary occupancy exception)
May 27, 2021	Meeting	Santa Clara County Parks and Recreation Department	Discussion of Section 4(f) <i>de minimis</i> impacts and temporary occupancy exceptions on Santa Clara County parks
July 23, 2020	Meeting	Santa Clara County Parks and Recreation Department	Discussion of community enhancement concepts and evaluation
March 2, 2020	Meeting	Santa Clara County Parks and Recreation Department	Design coordination including Creek Trail Network Master Plan
January 23, 2020	Meeting	Santa Clara County Parks and Recreation Department	Follow up to Technical Working Group meeting, discussion of Environmental Justice enhancements.
February 9, 2017	Meeting	Santa Clara County Staff, including Roads, Parks, Planning, and Airport Departments	Impact of project on County facilities
January 31, 2017	Letter	Several agencies, including Santa Clara County Parks and Recreation Department	Initiating consultation, providing project background, and requesting information confirmation
September 9, 2010	Meeting	Santa Clara County Parks and Recreation Department	Coyote Creek Parkway County Park and Trail Section 4(f) impacts
December 10, 2010	Meeting	Santa Clara County Parks and Recreation Department	Discussion of Supplemental Alternatives Analysis - UPRR alignment alternative, US 101–Downtown Gilroy alignment alternative, countywide trails
August 30, 2010	Letter	Several agencies, including Santa Clara County Parks and Recreation Department and Santa Clara County Open Space Authority	Initiating consultation, providing project background, and describing study area
January 29, 2009	Telephone	Santa Clara County Parks and Recreation Department	Coyote Creek Parkway County Park and Trail and County plans and policies

OWJ = official with jurisdiction; UPRR = Union Pacific Railroad; US = U.S. Highway.

On February 22, 2022, the Santa Clara County Parks and Recreation Department provided comments on the Draft Individual Section 4(f) Evaluation (Attachment A) in a letter dated February 2, 2022. These comments are summarized and responded to in Table 2-2 below.

**Table 2-2 Santa Clara County Parks and Recreation Department Comments on Draft Individual Section 4(f) Evaluation**

Topic	Summary of Comment	Authority Consideration of Comment
Section 1.1, Laws, Regulations, and Orders,	The report should add the Public Park Preservation Act of 1971	Comment noted. The Section 4(f) analysis in this report follows the requirements of 23 U.S.C. § 138, 49 U.S.C. § 303, and 23 C.F.R. Part 774, which require federal transportation projects to avoid or, where avoidance is not feasible and prudent, minimize harm to public parks, recreation areas, wildlife and waterfowl refuges, and historic sites. State laws are not factors that are considered when determining a Section 4(f) use under 23 U.S.C. § 138, 49 U.S.C. § 303, and 23 C.F.R. Part 774.
Section 1.1, Laws, Regulations, and Orders,	The report should add Section 604 of the Santa Clara County Charter regarding need for consistency with Park Charter Fund.	Comment noted. Since an agency of the State of California is the project proponent, the project is not subject to local government general plan policies, zoning regulations, or local land use controls.
Section 5, Section 4(f) Applicability Analysis,	The Department concurs with the Authority's conclusion that Coyote Creek Parkway County Park and Field Sports County Park are Section 4(f) resources and contribute significantly to unique recreational opportunities in Santa Clara County.	Comment is noted.
Section 5, Section 4(f) Applicability Analysis,	The Department's preference is that the Authority select the alternative that minimizes temporary and permanent impacts to Coyote Creek Parkway County Park and temporary impacts to Field Sports County Park.	As shown in the analysis in this evaluation, the Preferred Alternative (Alternative 4 with the Diridon Design Variant and the Tunnel Design Variant) is the alternative that causes least overall harm to the two park units.

Topic	Summary of Comment	Authority Consideration of Comment
Section 6.2, Individual Section 4(f) Evaluation,	The Department requests active participation in the preparation of any technical memorandum or architectural designs (Per Impact Avoidance and Minimization Measure PK-IAMF#1) to ensure recreational access is not altered because of the permanent occupancy of the 0.31 acre of Coyote Creek Parkway County Park....Coordination with the Department will ensure that any permanent improvements associated with the High-Speed Rail will not restrict or prohibit current or future recreational use of a parcel, which would likely be considered significant harm to a Section 4(f) resource like Coyote Creek Parkway County Park. In addition, coordination will ensure that proposed permanent improvements (e.g., wildlife undercrossings to reduce impacts on wildlife) will be compatible with current and anticipated public recreational access.	The Authority will consult with the Department and provide a Draft of any technical memorandum or designs prepared per PK-IAMF#1 for Coyote Creek Parkway County Park to the County for review and input prior to finalization. This commitment is identified as mitigation measure 4F-MM#1 in the Mitigation Monitoring and Enforcement Plan.
Section 6.2, Individual Section 4(f) Evaluation,	The Department requests that the Authority consult with the Department prior to approval of any technical memorandums (per Mitigation Measure PR-MM#2) to ensure that access for recreation is maintained during the temporary occupancy. Any temporary occupancy of either of these two County parks must be coordinated with the Department to minimize disruption to all public recreational uses. Consultation with the Department will ensure that High-Speed Rail has minimized harm to both County parks.	The Authority will consult with the Department and provide a Draft of any technical memorandum or designs prepared per Mitigation Measure PR-MM#2 for Coyote Creek Parkway County Park and Field Sports County Park to the County for review and input prior to finalization. This commitment is identified as mitigation measure 4F-MM#1 in the Mitigation Monitoring and Enforcement Plan (MMEP).
Section 8, Measures to Minimize Harm,	In accordance with the California Public Park Preservation Act, any temporary or permanent acquisition by the Authority of County parkland, even when the authority is exercising eminent domain, will require sufficient compensation to the County, consistent with Public Resources Code Section 5404 and Section 5405, for the loss of, or impact to, parklands and recreational opportunities.	Comment noted.

## 2.2 Public Review and Comment

In April 2020, public notice regarding the availability and the circulation of the Draft EIR/EIS (Authority 2020) was provided pursuant to California Environmental Quality Act and NEPA requirements, and text of the public notice was prepared in English, Spanish, Mandarin, and Vietnamese. Notice included publication of an announcement in newspapers with general circulation in areas potentially affected by the proposed project. The advertisement indicated that the Draft EIR/EIS was available on the Authority's website for review. It also noted the dates, times, and locations of community open houses and the public hearing, locations where the document could be viewed, and the period during which public comments would be received. The announcement was advertised in the following newspapers:

- Bay Area News Group
- Gilroy Dispatch
- Merced Sun-Star/Los Banos Enterprise
- Morgan Hill Times
- El Observador (Spanish language newspaper)
- Sing Tao (Mandarin language newspaper)
- Vietnam Daily News (Vietnamese language newspaper)

A letter and Notice of Availability (NOA) were provided in English, with brief summary statements and contact information translated into Spanish, Mandarin, and Vietnamese. These were distributed by direct mail to elected officials; local, regional, state, and federal agencies; school districts with facilities within 0.25 mile of the project footprint; schools located within 0.5 mile of the project footprint; and members of the public who subscribed to the project mailing list, had attended project events (e.g., scoping, public meetings), or had sent comments or questions via email or the Authority's website. In addition, notice was sent to property owners adjacent to the four project alignment alternatives. In addition, this information was distributed through the Authority's social media accounts. Emails were also sent to stakeholders who had previously registered to receive information via email about the Draft EIR/EIS.

On April 24, 2020, the U.S. Environmental Protection Agency (USEPA) published the NOA for the Draft EIR/EIS in the *Federal Register*, indicating a 45-day public review period ending on June 8, 2020. On May 15, 2020, the Authority notified USEPA that the review and comment period was being extended to end on June 23, 2020, and the USEPA published the revised notice in the *Federal Register* on May 22, 2020. The NOA included dates, times, and locations for three community open houses and a public hearing, planned to occur in May 2020. However, due to public health and safety requirements related to COVID-19, limited access in compliance with Governor Newsom's executive shelter-in-place order (Executive Order N-33-20), and applicable County Health Officer directives, the community open houses and public hearing were held as online teleconference meetings. Public meeting and hearing dates and locations were also posted on the Authority's website.

The USEPA published the NOA for the *San Jose to Merced Project Section Revised Draft Environmental Impact Report/Supplemental Draft Environmental Impact Statement, Biological Resources Analysis* (Revised/Supplemental Draft EIR/EIS) (Authority 2021) in the *Federal Register* on April 23, 2021, for a 45-day public review period ending on June 9, 2021. No community open houses or public hearings were held for the Revised/Supplemental Draft EIR/EIS. Advertisements were placed in the same newspapers and materials were distributed in the same manner as was done for the Draft EIR/EIS.

Additional notices for both the Draft EIR/EIS and Revised/Supplemental Draft EIR/EIS publications included the following:

- Notices of Completion indicating the availability of both documents were filed with the State Clearinghouse and printed and electronic copies were sent to state agencies.
- The NOAs were filed electronically with the county clerk offices in Santa Clara, San Benito, and Merced Counties.

The entire Draft EIR/EIS and Revised/Supplemental Draft EIR/EIS were available on the Authority's website ([www.hsr.ca.gov/](http://www.hsr.ca.gov/)), and electronic copies of these documents and associated technical reports were available upon request by phone or email from the Authority.

The Authority identified 11 repository locations, including public libraries, county clerk offices, and Authority offices, where printed and electronic versions of the Draft EIR/EIS and Revised/Supplemental Draft EIR/EIS would be made available to the public during the review and comment periods. However, because of public health and safety requirements related to the COVID-19 pandemic, hardcopy materials were not distributed to the libraries or county clerk offices, given they were closed or operating with limited access in compliance with state and local COVID-19 directives. As a result, printed and electronic versions of the Draft EIR/EIS were only

available at the Authority's Headquarters at 700 L Street, Suite 620, Sacramento, CA 95814, and Northern California Regional Office at 100 Paseo de San Antonio, Suite 300, San Jose, CA 95113. Due to continued closures and limited operating hours, printed and electronic copies of the Revised/Supplemental Draft EIR/EIS were only available to the public at the Authority's Sacramento and San Jose offices as well as the Gilroy Library, Merced County Library, Los Banos Branch Library, and Morgan Hill Library. The rest of the repository locations remained closed or did not have the capacity to receive and maintain the distribution materials for public review.

During the public review period on the Draft EIR/EIS, the Authority received a total of 747 comment submissions through a combination of letters, emails, comment cards, and oral comments provided at the public hearing. The 747 submissions yielded a total of 4,889 discrete comments. During the public review period for the Revised/Supplemental Draft EIR/EIS, the Authority received a total of 16 comment submissions through a combination of letters and emails. These 16 submissions yielded a total of 226 discrete comments.



### 3 PURPOSE AND NEED

The purpose of the California HSR System is to provide a reliable electric-powered HSR system that links the major metropolitan areas of the state and delivers predictable and consistent travel times. An additional objective is to provide an interface with commercial airports, mass transit, and the highway network, and to relieve capacity constraints of the existing transportation system as California intercity travel demand increases, in a manner sensitive to and protective of California's unique natural resources (Authority and FRA 2005).

The purpose of this project is to implement the San Jose to Merced section of the California high-speed train (HST) system: to provide the public with electric-powered HSR service that provides predictable and consistent travel times between major urban centers and connectivity to airports, mass transit systems, and the highway network in the south San Francisco Bay Area and Central Valley; and to connect the Northern and Southern portions of the statewide HST system.

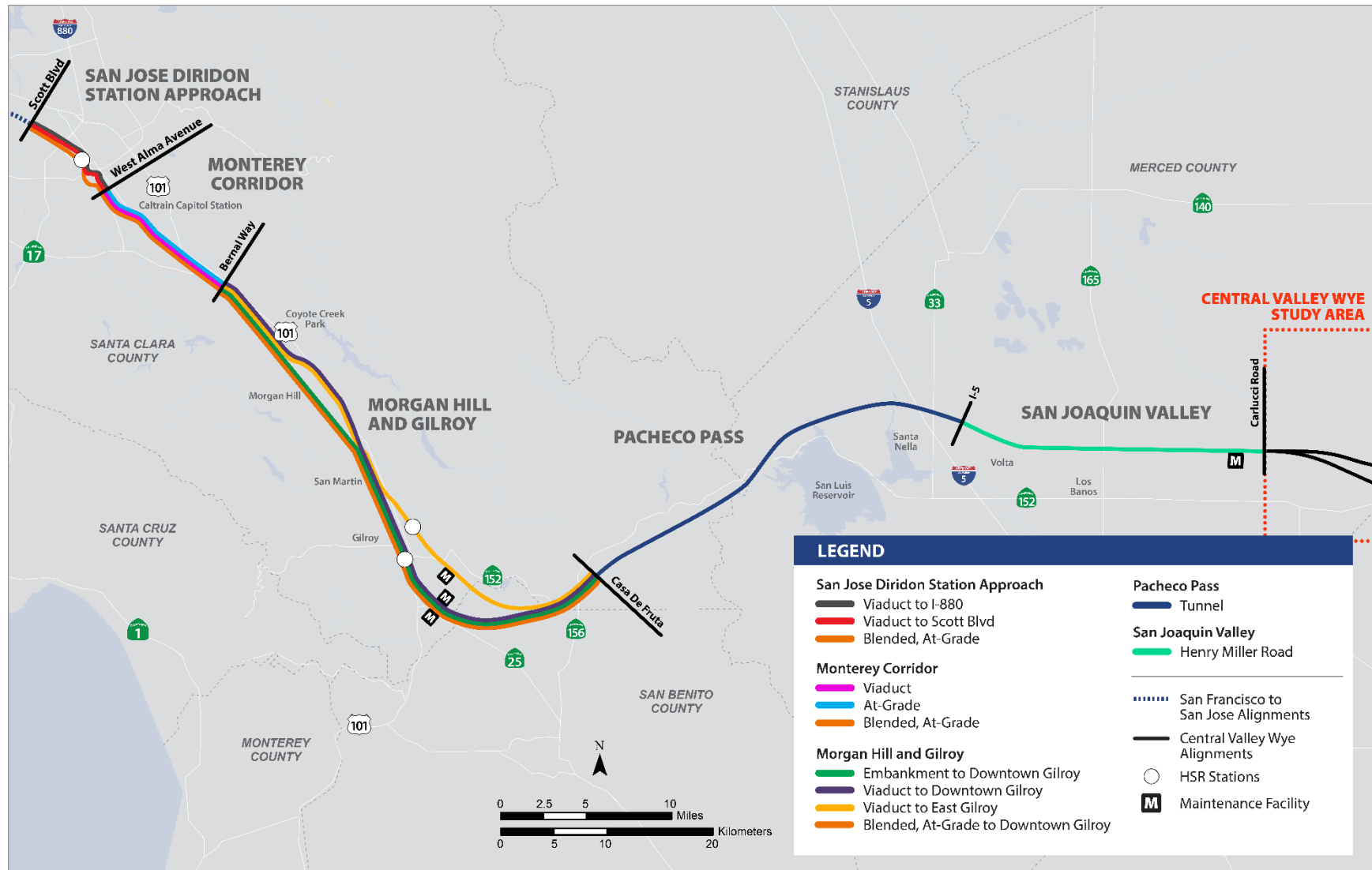
For more information on the project objectives and the need for the HSR system in California and in the San Jose to Merced region, refer to Chapter 1, Project Purpose, Need, and Objectives, of the Final EIR/EIS.



## 4 ALTERNATIVES

This section summarizes the No Project Alternative and the project alternatives, which are described in detail in Chapter 2 of the Final EIR/EIS. The project extends from Scott Boulevard in Santa Clara County to Carlucci Road in Merced County. The project alternatives most closely follow the preferred alignment identified in the Record of Decision for the *Final Program EIR/ EIS for the Proposed California High-Speed Train System* (Authority and FRA 2005). Stations would be built in the San Jose, Gilroy, and Merced areas; station alternatives related to the corresponding project alternatives are discussed in this section. Additionally, a maintenance of way facility (MOWF) in the Gilroy area and a maintenance of way siding (MOWS) west of Turner Island Road in the San Joaquin Valley Subsection are proposed. The project alternatives are described in more detail in Chapter 2 of the Final EIR/EIS, are briefly summarized in this chapter, and are illustrated on Figure 4-1. The project comprises the following five subsections:

- **San Jose Diridon Station Approach**—Extends approximately 6 miles north of San Jose Diridon Station at Scott Boulevard in Santa Clara to West Alma Avenue in San Jose. This subsection includes the San Jose Diridon Station and overlaps the southern portion of the San Francisco to San Jose Project Section.
- **Monterey Corridor**—Extends approximately 9 miles from West Alma Avenue to Bernal Way in the community of South San Jose. This subsection is entirely within the city of San Jose.
- **Morgan Hill and Gilroy**—Extends approximately 30–32 miles from Bernal Way in the community of South San Jose to Casa de Fruta Parkway/State Route (SR) 152 in the community of Casa de Fruta in Santa Clara County.
- **Pacheco Pass**—Extends approximately 25 miles from Casa de Fruta Parkway/SR 152 to Interstate (I-) 5 in Merced County.
- **San Joaquin Valley**: Extends approximately 18 miles from I-5 to Carlucci Road (the western limit of the Central Valley Wye) in unincorporated Merced County.



Note: The San Jose to Merced alternatives are described in Chapter 2, Alternatives, of the Final EIR/EIS.  
 Source: Authority 2020

NOVEMBER 2018

Figure 4-1 HSR Alternatives by Subsection

The Authority has developed four end-to-end alternatives for the project: Alternative 1, Alternative 2, Alternative 3, and Alternative 4. Table 4-1 shows the design options for each alternative by subsection. Please refer to Chapter 2, Alternatives, of the Final EIR/EIS for a description of two design variants, the Diridon design variant (DDV) and the tunnel design variant (TDV), that were considered in the analysis.

**Table 4-1 San Jose to Central Valley Wye Design Options by Subsection**

Subsection/Design Options	Alternative 1	Alternative 2	Alternative 3	Alternative 4
<b>San Jose Diridon Station Approach</b>				
Viaduct to Scott Blvd	–	X	X	–
Viaduct to I-880	X	–	–	–
Blended, at grade	–	–	–	X
<b>Monterey Corridor</b>				
Viaduct	X	–	X	–
At grade	–	X	–	–
Blended, at grade	–	–	–	X
<b>Morgan Hill and Gilroy</b>				
Embankment to Downtown Gilroy	–	X	–	–
Viaduct to Downtown Gilroy	X	–	–	–
Viaduct to East Gilroy	–	–	X	
Blended, at grade to downtown Gilroy	–	–	–	X
<b>Pacheco Pass</b>				
Tunnel	X	X	X	X
<b>San Joaquin Valley</b>				
Henry Miller Road	X	X	X	X

Source: Authority 2020  
 X = present; – = absent  
 I-880 = Interstate 880

## 4.1 No Project Alternative

Evaluation of the No Project Alternative considers the effects of growth planned for the region as well as existing and planned improvements to the highway, aviation, conventional passenger rail, and freight rail systems in the project extent study area through 2040 for the environmental analysis. It does not include construction of the HSR or any associated facilities and would thus have no impact on any Section 4(f) resources. Also, the No Project Alternative would not address the Purpose and Need for the project. This alternative is insufficient to meet existing and future travel demand; current and projected future congestion of the transportation system would continue to result in deteriorating air quality, reduced reliability, and increased travel times. Because the No Project Alternative does not meet the project Purpose and Need, it is neither feasible nor prudent as an avoidance alternative for any Section 4(f) resources.

## 4.2 Alternative 1

Development of Alternative 1 was intended to minimize the project footprint, minimize ground disturbance, minimize continuous surface features, and decrease necessary right-of-way acquisition through extensive use of viaduct structures. It would minimize land use displacements and conversion by staying predominantly within the existing transportation corridor right-of-way, thereby minimizing impacts of the HSR infrastructure footprint on local communities and environmental resources. The vertical footprint would be increased to minimize ground intrusion. Alternative 1 would include the short viaduct option, operating in blended service between Scott Boulevard and I-880 before transitioning to viaduct through most of the San Jose Diridon Station Approach Subsection. Alternative 1 would continue predominantly on viaduct through the Monterey Corridor and Morgan Hill and Gilroy Subsections. This alternative is distinguished by an alignment around downtown Morgan Hill and a low viaduct approach to an aerial downtown Gilroy station. Alternative 1 would include a MOWF south of Gilroy. The alignment would continue predominantly on viaduct and embankment across the Soap Lake floodplain before entering a short tunnel west of Casa de Fruta. The alignment and guideway in the Pacheco Pass Subsection would be the same for all four project alternatives, entailing a long tunnel around the northern arm of the San Luis Reservoir and viaducts over the California Aqueduct, Delta-Mendota Canal, and I-5. The alignment and guideway in the San Joaquin Valley Subsection would similarly be common to all four project alternatives. East of the I-5 overcrossing, the guideway would be predominantly on embankment along the south side of Henry Miller Road to Carlucci Road, traveling on viaduct over major watercourses and through the Grasslands Ecological Area. Several local roadways would be relocated on bridges over the HSR embankment. A MOWS would be located near Turner Island Road in the San Joaquin Valley Subsection.

Overall, the HSR guideway under this project alternative would comprise two tunnels totaling 15 miles, 45.4 miles of viaduct, 21.9 miles of embankment, and 2.3 miles at grade in an excavated hillside cut.

## 4.3 Alternative 2

Alternative 2 is the alternative that most closely approximates the alignment and structure types identified in the prior program-level documents. The alignment closely follows the existing Union Pacific Railroad (UPRR) and Monterey Road transportation corridor. The San Jose Diridon Station Approach Subsection under Alternative 2 would be on a viaduct, ascending to aerial structure near Scott Boulevard. Blended service with Caltrain would occur north of Scott Boulevard. The alignment would be at grade through the Monterey Corridor Subsection and through Morgan Hill, and on embankment on approach to and through Gilroy, maintaining a lower profile than the viaduct structures under Alternatives 1 and 3 through these areas.

Alternative 2 would operate on a dedicated viaduct from Scott Boulevard through the San Jose Diridon Station Approach Subsection. The alternative would be predominantly at grade east of the UPRR alignment through the Monterey Corridor Subsection, continuing at grade east of UPRR through Morgan Hill to an embankment approach to the Downtown Gilroy Station through the Morgan Hill and Gilroy Subsection. Like Alternative 1, Alternative 2 would include a South Gilroy MOWF, continuing on predominantly viaduct and embankment across the Soap Lake floodplain before entering a short tunnel west of Casa de Fruta. The alignment and guideway in the Pacheco Pass Subsection are the same for all four project alternatives, including a long tunnel around the northern arm of the San Luis Reservoir and viaducts over the California Aqueduct, Delta-Mendota Canal, and I-5. The alignment and guideway in the San Joaquin Valley Subsection are also common to all four project alternatives. Eastward from the I-5 overcrossing, the guideway would be predominantly on embankment along the south side of Henry Miller Road to Carlucci Road and on viaduct over major watercourses and across the Grasslands Ecological Area. Several local roadways are relocated on bridges over the HSR embankment. A MOWS would be located near Turner Island Road in the San Joaquin Valley Subsection.

Overall, this project alternative would comprise two tunnels with a combined length of 15 miles, 20.9 miles on viaduct, 41 miles on embankment, and 3.2 miles at grade in excavated hillside cut.

## 4.4 Alternative 3

Alternative 3 was designed to minimize the project footprint through the use of viaduct and by circumventing downtown Morgan Hill, as is proposed in Alternative 1. Alternative 3 would bypass downtown Gilroy to an East Gilroy Station, further minimizing interface with the UPRR corridor in comparison to Alternative 1. Like Alternative 2, Alternative 3 would include a viaduct to Scott Boulevard. Alternative 3 would incorporate the same alignment and profile as Alternative 1 in the Monterey Corridor, Pacheco Pass, and San Joaquin Valley Subsections, and the same alignment and profile as Alternative 2 in the San Jose Diridon Station Approach Subsection. The MOWS near Carlucci Road would be the same as under Alternatives 1 and 2.

Alternative 3 would operate in a dedicated viaduct from Scott Boulevard through the San Jose Diridon Station Approach Subsection. The alternative would continue predominantly on viaduct through the Monterey Corridor and Morgan Hill and Gilroy Subsections on an alignment around downtown Morgan Hill to an embankment approach to the East Gilroy Station. Alternative 3 would include an MOWF and would continue predominantly on viaduct and embankment across the Soap Lake floodplain before entering a short tunnel west of Casa de Fruta. The alignment and guideway in the Pacheco Pass Subsection would be the same for all four project alternatives, entailing a long tunnel around the northern arm of the San Luis Reservoir and viaducts over the California Aqueduct, Delta-Mendota Canal, and I-5. The alignment and guideway in the San Joaquin Valley Subsection would also be common to all four project alternatives. East from the I-5 overcrossing, the guideway would be predominantly on embankment along the south side of Henry Miller Road to Carlucci Road, and on viaduct over major watercourses and across the Grasslands Ecological Area. Several local roadways would be relocated on bridges over the HSR embankment. A MOWS would be located near Turner Island Road in the San Joaquin Valley Subsection.

Overall, this project alternative would comprise two tunnels with a combined length of 15 miles, 43.2 miles of the alignment on viaduct, and 24.9 miles on embankment.

## 4.5 Alternative 4

Development of Alternative 4 was intended to minimize the project footprint and decrease non-transportation right-of-way acquisition by staying at grade within the existing Caltrain and UPRR right-of-way between Scott Boulevard in Santa Clara and Gilroy. It would minimize land use displacements and conversion by staying predominantly within the existing transportation corridor right-of-way, thereby minimizing impacts of the HSR footprint on local communities and environmental resources. The project alternative is distinguished by a blended at-grade alignment with Caltrain at a 110 miles per hour (mph) maximum operating speed. The Authority has developed the DDV, which would allow for higher speeds in the approaches and through San Jose Diridon Station than the preliminary design for Alternative 4 would provide. The rationale for the Alternative 4 preliminary design without the DDV was to bring HSR service to San Jose Diridon Station with minimum changes to the Peninsula Corridor Electrification Project infrastructure, where track geometry restricts speeds approaching and through the station to 15 mph. The Authority has developed the DDV to provide design speeds of 40 mph to, from, and through San Jose Diridon Station, comparable to the design speeds provided by Alternatives 1, 2, and 3.

Alternative 4 would begin at Scott Boulevard in blended service with Caltrain on an at-grade profile. The blended at-grade alignment would continue to enter new dedicated HSR platforms at grade at the center of San Jose Diridon Station. Continuing south, the blended at-grade three-track alignment remains in the Caltrain right-of-way through the Gardner neighborhood. In the Monterey Corridor Subsection, unlike Alternatives 1, 2, and 3, Alternative 4 would be in blended service with Caltrain on an at-grade profile within the Peninsula Corridor Joint Powers Board and UPRR right-of-way. In the Morgan Hill and Gilroy Subsection, Alternative 4 would be blended service with Caltrain on an at-grade profile within the Peninsula Corridor Joint Powers Board and UPRR right-of-way with an at-grade Downtown Gilroy Station. Past the Gilroy station, HSR would enter the fully grade-separated, dedicated track needed to operate HSR trains at speeds above 125 mph. The alignment and guideway in the Pacheco Pass Subsection would be the same for

all four project alternatives, entailing a long tunnel around the northern arm of the San Luis Reservoir and viaducts over the California Aqueduct, Delta-Mendota Canal, and I-5. The alignment and guideway in the San Joaquin Valley Subsection would also be common to all four project alternatives. East from the I-5 overcrossing, the guideway would be predominantly on embankment along the south side of Henry Miller Road to Carlucci Road, and on viaduct over major watercourses and across the Grasslands Ecological Area. Several local roadways would be relocated on bridges over the HSR embankment. A MOWS would be located near Turner Island Road in the San Joaquin Valley Subsection.

Overall, this project alternative would comprise 15.2 miles on viaduct, 30.3 miles at grade, 25.9 miles on embankment, 2.3 miles in trench, and 2 tunnels with a combined length of 15 miles.



## 5 SECTION 4(f) APPLICABILITY ANALYSIS

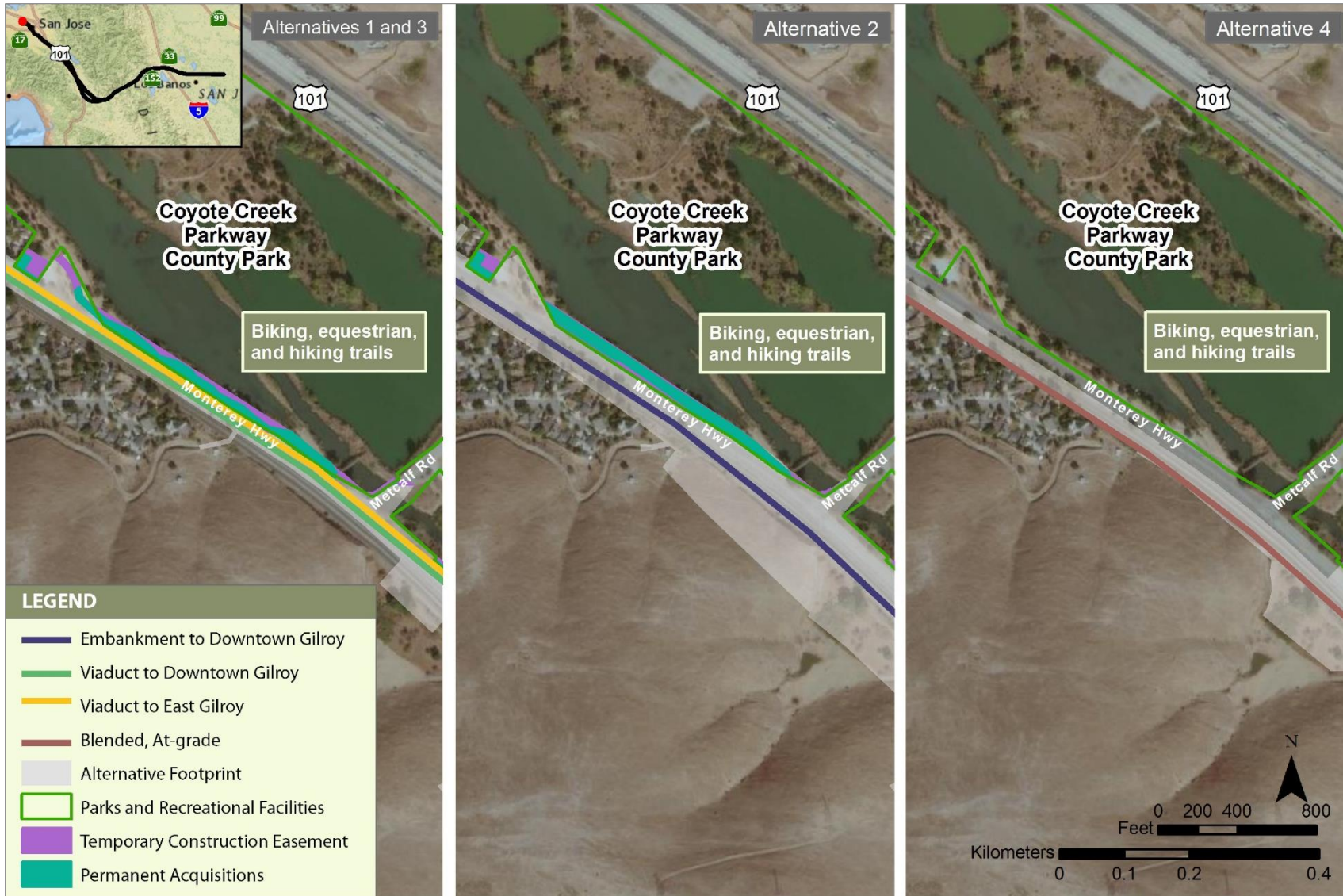
This chapter provides a description of two park units that are affected by the HSR project, qualify for a use, and are under the jurisdiction of the Santa Clara County Parks and Recreation Department. Table 5-1 summarizes the features of these resources.

**Table 5-1 Two Parks and Recreation Areas Subject to Section 4(f) Use**

Name	Description	Distance to Nearest Project Feature <sup>1</sup>
Coyote Creek Parkway County Park	<p><b>Location:</b> Coyote Ranch Rd, San Jose</p> <p><b>Size:</b> 1,414 acres/15 miles</p> <p><b>Features:</b> Biking, equestrian, hiking, fishing, historic site, picnic areas, trails</p> <p><b>Agency with Jurisdiction:</b> Santa Clara County Parks and Recreation Department</p> <p><b>Section 4(f) Applicability:</b> Publicly owned park</p>	Alternatives 1–4: 0 feet (within footprint)
Field Sports County Park	<p><b>Location:</b> 9580 Malech Rd, San Jose</p> <p><b>Size:</b> 102 acres</p> <p><b>Features:</b> Firing range, picnicking, league activities, and special events</p> <p><b>Agency with Jurisdiction:</b> Santa Clara County Parks and Recreation Department</p> <p><b>Section 4(f) Applicability:</b> Publicly owned park</p>	Alternatives 1–4: 0 feet (within TCE)

<sup>1</sup>The nearest project feature could be a TCE or part of the project footprint (e.g., permanent right-of-way, easement)  
TCE = temporary construction easement

Figures 5-1 through 5-7 show these two locations and the different project alternative alignments. Alternative 1 is the Viaduct to Downtown Gilroy alignment. Alternative 2 is the embankment to downtown Gilroy alignment. Alternative 3 is the Viaduct to East Gilroy alignment. The Preferred Alternative, Alternative 4, is the blended, at-Grade alignment.



MAY 2021

**Figure 5-1 Coyote Creek Parkway County Park (Part A)**



MAY 2021

Figure 5-2 Coyote Creek Parkway County Park (Part B)



MAY 2021

Figure 5-3 Coyote Creek Parkway County Park (Part C)



Figure 5-4 Coyote Creek Parkway County Park (Part D)



Figure 5-5 Coyote Creek Parkway County Park (Part E)



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Figure 5-6 Coyote Creek Parkway County Park (Part F)



MAY 2021

**Figure 5-7 Field Sports County Park**



## 6 SECTION 4(f) USE ANALYSIS

### 6.1 Section 4(f)

Impacts on the two Section 4(f) properties discussed in this report were assessed by reviewing the project alternatives' construction limits and considering projected right-of-way and temporary construction easement (TCE) needs compared to the locations of the properties.

#### 6.1.1 No Build Alternative

Evaluation of the No Project Alternative considers the effects of growth planned for the region as well as existing and planned improvements to the highway, aviation, conventional passenger rail, and freight rail systems in the project extent study area through 2040 for the environmental analysis. It does not include construction of the HSR or any associated facilities and would thus have no impact on any Section 4(f) resources.

#### 6.1.2 Build Alternatives—Operations (Permanent Use)

A permanent use of a Section 4(f) resource occurs when land is permanently incorporated into a proposed transportation facility. This might result from partial or full acquisition, permanent easements, or temporary easements that exceed limits for temporary occupancy as defined in Section 6.1.4, Build Alternatives—Construction (Temporary Occupancy). As assessed in Section 6.2.1, Coyote Creek Parkway County Park, the project alternatives would result in the permanent use of one park resource: Coyote Creek Parkway County Park.

#### 6.1.3 Build Alternatives—Operations (Constructive Use)

None of the project alternatives would result in a constructive use of Section 4(f) eligible resources.

#### 6.1.4 Build Alternatives—Construction (Temporary Occupancy)

A temporary construction use of a Section 4(f) property results in a temporary occupancy of a Section 4(f) resource when a Section 4(f) property is required for construction-related activities and meets specific conditions of use. If the activity does not meet the temporary occupancy conditions, even if the property is not permanently incorporated into a transportation facility, the temporary construction use would be considered a Section 4(f) use. Such use may be found to be a *de minimis* impact. Temporary occupancy of property does not constitute a use of a Section 4(f) resource when the following conditions are satisfied:

- The occupancy must be of temporary duration (e.g., shorter than the period of construction) and must not involve a change in ownership of the property.
- The scope of use must be minor, with only minimal changes to the protected resource.
- There must be no permanent adverse physical impacts on the protected resource or temporary or permanent interference with activities or purpose of the resource.
- The property being used must be fully restored to a condition that is at least as good as existed before project construction.
- There must be documented agreement of the appropriate OWJs over the resource regarding the foregoing requirements.

As assessed in Sections 6.2.1 and 6.2.2, Field Sports County Park, the project alternatives would result in the temporary occupancy of two park resources: Coyote Creek Parkway County Park and Field Sports County Park. These resources meet all the above conditions for a *de minimis* impact except for the documented agreement of the OWJ.

## 6.2 Individual Section 4(f) Evaluation

This chapter presents the use assessments for the two park resources under the jurisdiction of the Santa Clara County Parks and Recreation Department in the RSA that have permanent or

temporary uses. Impacts and use assessments for the Coyote Creek Parkway County Park and Field Sports County Park are summarized in Table 6-1, and detailed use assessments are included in Section 6.2.1 and Section 6.2.2, respectively. Subsequent chapters provide an assessment of avoidance alternatives (Chapter 7), measures to minimize harm (Chapter 8), and a least harm analysis (Chapter 9).

**Table 6-1 Parks and Recreation Areas Subject to Section 4(f) Use**

Build Alternative	Distance to Nearest Project Feature <sup>1</sup>	Construction Impact	Operations Impact
<b>Coyote Creek Parkway County Park</b>			
Alternative 1	0 feet (within footprint)	Permanent use of 2.42 acres (0.17%) of the parkway; temporary use of 9.62 acres of the parkway. TCEs at one of many access points northeast of Monterey Rd would diminish but not eliminate access. Incorporation of project features and mitigation measures will maintain access to the parkway.	Discussion of proximity impacts is not required because a permanent use has been established.
Alternative 2	0 feet (within footprint)	Permanent use of 3.34 acres (0.24%) of the parkway; temporary use of 11.21 acres of the parkway. Access impacts would be slightly less than under Alternative 1.	Same as Alternative 1.
Alternative 3	0 feet (within footprint)	Permanent use of 2.42 acres (0.17%) of the parkway; temporary use of 9.62 acres of the parkway. TCEs at one of many access points northeast of Monterey Rd would diminish but not eliminate access. Incorporation of project features and mitigation measures will maintain access to the parkway.	Same as Alternative 1.
Alternative 4	0 feet (within footprint of parkway); 19.4 feet from trail	Permanent use of 0.31 acre (0.02%) of the parkway; temporary use of 3.52 acres of the parkway. Access impacts would be slightly less than under Alternative 1. Incorporation of project features and mitigation measures will maintain access to the parkway.	Same as Alternative 1.
<b>Field Sports County Park</b>			
All Project Alternatives	0 feet (within TCE)	No permanent use; temporary occupancy of 2.04 acres. No changes in access would occur.	Minor proximity impacts from changes in noise and in the visual environment. Noise and visual impacts would not be of a severity that the protected activities, features, or attributes that qualify Field Sports County Park for protection under Section 4(f) would be substantially impaired, and no constructive use would result.

<sup>1</sup>The nearest project feature could be a TCE or part of the project footprint (e.g., permanent right-of-way, easement).

TCE = temporary construction easement

For full text of impact avoidance and minimization features (IAMFs) referenced in the analysis below, please refer to the Final EIR/EIS, Appendix 2-E, Project Impact Avoidance and Minimization Features. For the full text of mitigation measures referenced in the analysis below, please refer to the Mitigation Monitoring and Enforcement Plan (MMEP). Some are also further described in the Final EIR/EIS Section 3.7.8, Mitigation Measures (Biological and Aquatic Resources), Section 3.8.7, Mitigation Measures (Hydrology and Water Resources), and Section 3.15.7, Mitigation Measures (Parks, Recreation, and Open Space).

### 6.2.1 Coyote Creek Parkway County Park

Coyote Creek Parkway County Park is a 15-mile-long County Park that begins just south of Hellyer Avenue in the north and continues south along Coyote Creek to Cochrane Road, east of U.S. Highway (US) 101. The park features a network of paved walking/bicycle trails and unpaved equestrian trails, providing a popular bicycle route along the scenic Coyote Creek. The park also features several picnic areas and recreation fishing areas. In 2007, the Santa Clara County Board of Supervisors approved the *Integrated Master Plan for the Coyote Creek Parkway County Park*, responding to recent regional changes, such as growth, water distribution, riparian resource management, and development in integrated public and private lands. The park is operated by the Santa Clara County Parks and Recreation Department.

All four project alternatives would require permanent use of land from the parkway. In total, Alternatives 1 and 3 would result in the permanent use of 2.42 acres of the parkway (0.17 percent of the total area of the parkway). Alternative 2 would require the permanent use of 3.34 acres of the parkway (0.24 percent of the total area of the parkway). Alternative 4 would require permanent use of 0.31 acre (0.02 percent of the total area of the parkway). Alternatives 1 and 3 also would temporarily require use of 9.62 acres of parkland during construction, Alternative 2 would temporarily require use of 11.21 acres of parkland, and Alternative 4 would temporarily require use of 3.52 acres of parkland. The permanent encroachments are primarily due to existing wildlife crossings within the park. For all alternatives, the temporary and permanent uses of Coyote Creek Parkway County Park are alongside Monterey Highway, within utility easements, and adjacent to interior roadways.

For Alternatives 1, 2, and 3, one area of the affected parkland—south of Forsum Road, between Monterey Road and the lake within the parkway—is near the western edge of the park. TCEs within this area on the western edge of the park will include staging areas, temporary roadways for construction crews to access construction sites, and utility relocations would be necessary during construction. TCEs northeast of Monterey Road would diminish access at one access point under all project alternatives; however, access would be maintained at many other access points. Permanent use would be required for a possible location of a radio site and conversion of an existing driveway entrance to a parking lot into a roadway for realigning Monterey Road. Alternatives 1–3 would leave most of the park intact and contiguous for continued use of the park during construction and operation, because the areas of permanent incorporation would be around the edges and periphery of the parkway and would not affect any of the primary areas of the parkway that people use. In two areas, between Bailey Avenue and Tom’s Trail and at Laguna Avenue, Alternative 4 would use park property for wildlife crossings. These permanent uses would adversely affect the protected activities, features, or attributes that qualify the park for protection under Section 4(f).

Project features (PK-IAMF#1) will maintain access to park and recreation facilities because the contractor will prepare and submit to the Authority a technical memorandum that identifies project design features to be implemented to minimize impacts on parks and recreation facilities, such as providing safe and attractive access for existing travel modes (e.g., motorists, bicyclists, pedestrians) to existing park and recreation facilities. At the request of the Santa Clara County Parks and Recreation Department, the Authority has further committed to seeking the County’s input prior to Authority approval of any technical memorandum produced pursuant to PK-IAMF#1 for Coyote Creek Parkway County Park. This commitment is further described in the MMEP (4F-

MM#1). Upon approval by the Authority, the contractor will implement the project design features identified in the technical memorandum and they will be incorporated into the design specifications and will be a pre-condition requirement (PR-MM#4). Additionally, mitigation measures (PR-MM#1) will provide alternative access via a temporary detour to park resources using existing roadways or other public rights-of-way, and prior to construction, the contractor will prepare a technical memorandum for the Authority documenting how the contractor will maintain connections to the unaffected park portions or nearby roadways during construction (PR-MM#2). The technical memorandum would be submitted to the Authority for review and approval. At the request of the Santa Clara County Parks and Recreation Department, the Authority has further committed to seeking the County's input prior to Authority approval of any technical memorandum produced pursuant to PR-MM#2 for Coyote Creek Parkway County Park. This commitment is further described in the MMEP (4F-MM#1). Upon approval by the Authority, the contractor would implement the activities identified in the technical memorandum. In addition, temporary construction impacts on access and traffic, such as road closures and other disruptions, will be minimized by providing detours and signage so that motorists and pedestrians will continue to have access to parks, recreation, open space resources, and school district play areas (TR-IAMF#2, TR-IAMF#4, TR-IAMF#5, and TR-IAMF#7). IAMFs would be incorporated into the design specifications and would be a pre-construction requirement. These technical memoranda would be provided to the OWJ to demonstrate how access would be maintained.

This temporary construction use would meet most, but not all, of the conditions for the Temporary Occupancy exception (23 C.F.R. § 774.13(d)) because it would be of shorter duration than construction; there would be no change in ownership of the land; the scope of the work would be minor; there would be no temporary or permanent adverse changes to the activities, features, or attributes of the property; and the property would be fully restored to a condition at least as good as it was prior to the project. However, there is no documented agreement from the OWJ over the property (Santa Clara County Parks and Recreation Department) that the temporary occupancy meets the conditions for a temporary occupancy exception under Section 4(f), and thus this construction use is considered a temporary occupancy.

While the IAMFs above will minimize the four project alternatives' effects on the park, the permanent use would be of a severity that the protected activities, features, or attributes that qualify the parkway for protection under Section 4(f) would be adversely affected. Therefore, the Authority has determined that Alternatives 1, 2, 3, and 4 would result in a permanent use of this resource. In addition, since the OWJ has not concurred with the use of a temporary occupancy exception, the project alternatives would also result in a temporary occupancy.

### **6.2.2 Field Sports County Park**

Field Sports County Park is located at 9580 Malech Road in San Jose. It is 102 acres and contains a firing range, picnicking areas, and league activities, and it can host special events.

No land from Field Sports County Park would be permanently incorporated into the project under any project alternative; therefore, no permanent use would result. However, 2.04 acres would be used during construction, resulting in temporary occupancy of the park under all alternatives. Land in the southwestern half of the park would be used for Pacific Gas and Electric Company (PG&E) network upgrades to support the project alternatives. These portions of the park are currently vegetated and open space. The PG&E network upgrades would not affect any of the primary features of the park, such as the buildings, firing range, parking lots, or roadways, leaving the park intact and contiguous for continued use during construction and operations. However, any trees or vegetation located within the PG&E network upgrade boundary would be removed during construction. Prior to any ground-disturbing activities at the park, the contractor will prepare a restoration plan addressing specific actions, sequence of implementation, parties responsible for implementation, and successful achievement of restoration of temporary impacts, such as replanting trees and vegetation that will be removed (LU-IAMF#3). Before beginning construction use of land, the contractor would submit the restoration plan to the Authority for review and obtain Authority approval. Additionally, the contractor will prepare a technical memorandum for the Authority documenting how the contractor will maintain connections to the

unaffected park portions or nearby roadways during construction (PR-MM#2). The technical memorandum would be submitted to the Authority for review and approval. At the request of the Santa Clara County Parks and Recreation Department, the Authority has further committed to seeking the County's input prior to Authority approval of any technical memorandum produced pursuant to PR-MM#2 for Coyote Creek Parkway County Park. This commitment is further described in the MMEP (4F-MM#1).

The Authority has determined that this temporary construction use would constitute a use because it does not meet all of the conditions for temporary occupancy exception under Section 4(f). While this temporary occupancy would be of shorter duration than overall construction, there would be no change in ownership of the land, the scope of the work would be minor, and there would be no temporary or permanent adverse changes to the activities, features, or attributes of the property, and the property would be fully restored to a condition at least as good as it was prior to the project, there is no documented agreement from the OWJ (Santa Clara County Parks and Recreation Department) that the temporary occupancy meets the conditions for a temporary occupancy exception under Section 4(f). Consequently, the temporary occupancy during construction is considered a use under Section 4(f).

Proximity impacts on Field Sports County Park associated with HSR operations under the project alternatives would not occur because Field Sports County Park is located over 2,000 feet from the centerline of any of the project alternatives. Accordingly, operational visual and noise impacts would not be of a severity that the protected activities, features, or attributes that qualify Field Sports County Park for protection under Section 4(f) would be substantially impaired, and no constructive use would result under any alternative.



## 7 AVOIDANCE ALTERNATIVES

Section 4(f) requires the selection of an alternative that avoids the use of Section 4(f) properties if that alternative is deemed feasible and prudent. The Purpose and Need statement presented in Chapter 1 of the Final EIR/EIS tiers off the approved program EIR/EIS documents (Authority and FRA 2005). The project alternatives evaluation process conducted as part of the concluded that there was no feasible and prudent HSR alternative within the study area that did not result in a use of a Section 4(f) resource (Authority and FRA 2010, 2011a, 2011b). Although the project alternatives analysis process considered multiple criteria, the screening emphasized the project objective to maximize the use of existing transportation corridors and available rights-of-way to the extent feasible; the result of this effort was the carrying forward of the north-south alignment alternatives that follow the existing Caltrain and UPRR rail corridor. The project alternatives evaluation process resulted in the conclusion that, in accordance with 49 U.S.C. Section 303(c), there was no feasible and prudent HSR alternative within the study area.

The reason for this finding is as follows:

- All HSR alternatives were designed to follow existing railroad corridors to the extent allowed by design speeds. Locating the HSR alignment along these corridors is an objective of the project intended to minimize impacts on the natural and human environment. Any alternative that did not follow these or other transportation corridors would substantially increase the number of displacements, overall community disruption, adverse impacts on natural environment resources, and adverse social and economic impacts.
- Any alternative that did not follow these or other transportation corridors would not meet the Purpose and Need of the project because such an alternative would fail to link the major metropolitan areas of the state, deliver predictable and consistent travel times, and relieve capacity constraints of the existing transportation system as intercity travel demand in California increases, in a manner sensitive to and protective of California's unique natural resources.

The Authority and the FRA solicited input from the public and agencies through the project-level environmental review process from commencement in 2009 through 2017. The development of initial project-level alternatives in 2009 followed the process described in *Alternatives Analysis Methods for Project Level EIR/EIS, Version 2* (Authority 2009). The Authority evaluated potential alternatives against HSR system performance criteria. The project alternatives screening process and evaluation criteria are discussed in detail in Section 2.5, Alternative Consideration Process and in Appendix 2-I, Alternative Screening, of the Final EIR/EIS. Each alternative was evaluated to isolate concerns and to screen and refine the overall alternative to avoid key environmental issues or improve performance.

Each alternative was evaluated to isolate concerns and to screen and refine the overall alternative to avoid key environmental issues or improve performance. For example, all four project alternatives would avoid a Section 4(f) use of the Cottonwood Creek Wildlife Area through the tunnel design modification that was incorporated into the project alternatives. The North Pacheco Pass deep tunnel, Tunnel 2, which was designed in 2016 to minimize impacts on the wildlife area, would entail construction of tunnels below portions of the Cottonwood Creek Wildlife Area under all project alternatives. The tunnels would be at a depth of at least twice the diameter of the tunnel below the ground surface of the wildlife management area. At such a depth, surface disruptions related to construction and operation of the tunnel are not anticipated at the wildlife management area, and no harm to the purposes of this area would result. Under Section 4(f), tunneling is a means by which to avoid a Section 4(f) use. Therefore, the determination is that the four project alternatives would not result in a Section 4(f) use of the wildlife area. Because these design modifications have been incorporated into the project alternatives, a Section 4(f) use has been avoided and an individual resource avoidance assessment is not required. The project alternatives not carried forward had greater direct and indirect environmental impacts, were impracticable, or failed to meet the Purpose and Need for the project.

The No Project Alternative, which includes improvements that would be implemented independent of the project and is fully described in Chapter 2 of the Final EIR/EIS would not

include the construction of the HSR project or any associated facilities and would thus have no impact on any Section 4(f) resources associated with the construction and operations of the HSR system. However, there could be impacts on Section 4(f) resources as a result of the existing and planned improvements associated with the No Project Alternative. This alternative would not address the state's Purpose and Need for the project. This alternative is insufficient to meet existing and future travel demand; current and projected future congestion of the transportation system would continue to result in deteriorating air quality, reduced reliability, and increased travel times. Because the No Project Alternative does not meet the project Purpose and Need, it is not prudent and is not discussed further as an avoidance alternative for any Section 4(f) resources.

Greater detail on alternatives considered but dismissed is provided in Section 2.4, HSR System Infrastructure, of the Final EIR/EIS and in the *Final Program EIR/EIS for the Proposed California High-Speed Train System* (Authority and FRA 2005), the *Alternatives Analysis Methods for Project EIR/EIS, Version 2* (Authority 2009), *San Jose to Merced Preliminary Alternatives Analysis Report* (Authority and FRA 2010), and two San Jose to Merced Supplemental Alternatives Analysis reports (Authority and FRA 2011a, 2011b).

There would be no use of parks, recreation facilities, and wildlife and waterfowl refuges or a *de minimis* impact, with two exceptions. With a *de minimis* impact determination, individual resource avoidance assessments are not required. The following section provides individual resource avoidance assessments for Section 4(f) uses of the two park resources (Coyote Creek Parkway County Park and Field Sports County Park) and nine cultural resources. Cultural resources with only a *de minimis* or temporary occupancy determinations are also not included in the following section.

## 7.1 Individual Resource Avoidance Assessments—Park Resources

### 7.1.1 Coyote Creek Parkway County Park

Coyote Creek Parkway County Park is a 15-mile-long county park that traverses from San Jose just south of Hellyer Avenue through areas of unincorporated Santa Clara County to Cochrane Road east of US 101. The park features a network of paved walking/bicycle trails and unpaved equestrian trails, as well as picnic areas and recreation fishing areas. For the purposes of Section 4(f), it is considered to be a resource of high value.

All four project alternatives would require permanent use of land from the parkway. In total, Alternatives 1 and 3 would result in the permanent use of 2.42 acres, Alternative 2 would require the permanent use of 3.34 acres, and Alternative 4 would require permanent use of 0.31 acre of the parkway. Alternatives 1 and 3 also would temporarily require 9.62 acres of parkland during construction, Alternative 2 would temporarily require 11.21 acres of parkland, and Alternative 4 would temporarily require 3.52 acres of parkland. The permanent encroachments are primarily due to existing wildlife crossings within the park. Because construction of Alternatives 1, 2, 3, and 4 would change the character of the park, the four project alternatives would result in a Section 4(f) permanent use of Coyote Creek Parkway County Park.

The design team evaluated multiple design modifications for Alternatives 1, 2, 3, and 4 to determine if the resource could be avoided. Due to the park's position west of US 101 and east of Monterey Road, altering the track alignment east or west would have the following issues:

- An alternative alignment to the east of US 101 would cause more severe impacts on farmland and biological resources. Additionally, given the topography east of US 101, this alternative would require more excavation and grading and would have much greater temporary and permanent effects to Field Sports County Park.
- Shifting Alternative 4 west of Monterey Road to avoid Coyote Creek Parkway while staying at grade would abandon the existing UPRR right-of-way, would not parallel Monterey Road, and would result in an increased impact on farmland and biological resources. Shifting Alternatives 1, 2, and 3 west of Monterey Road would also increase impacts on farmland and



biological resources. For all four alternatives, not following existing transportation corridors would have much greater impacts on farmland and biological resources.

- An alignment within US 101 was considered, but the highway alignment is designed for much slower speeds than required for the HSR service. Additionally, connections to and from a US 101 alignment would result in greater displacements of land uses than the current alternatives.
- Underground alignments were also considered but are cost prohibitive (and thus would not be a reasonable public expenditure), as underground alignments are much costlier than at-grade, embankment, and aerial alignments.

Because Alternatives 1, 2, and 3 have more impacts on the parkway than Alternative 4, Alternative 4, the Preferred Alternative, is most reasonable. Therefore, given the physical constraints on the resource, the severe impacts to biological resources, farmland, and displacements associated with aboveground alternatives, the inability of a US 101 alternative to meet the project’s requirements, and the extraordinary magnitude of the costs of an underground alternative, it would not be prudent to avoid the resource under Alternatives 1, 2, 3, and 4. There are no reasonable and prudent alternatives to the Section 4(f) permanent use.

### 7.1.2 Field Sports County Park

Field Sports County Park is in San Jose. It encompasses 102 acres and contains a firing range, picnicking area, league activities, and area to host special events. For the purposes of Section 4(f), it is considered to be a resource of high value.

Under all four project alternatives, 2.04 acres of the park would be used during construction, resulting in temporary use of the park. Land in the southwestern half of the park would be used for PG&E network upgrades to support the project alternatives. These portions of the park are currently vegetated and open space. Any trees or vegetation located within the PG&E network upgrade boundary would be removed during construction. These changes would temporarily affect the character of the park, but these areas would be restored following construction.

The temporary construction use would meet most, but not all, of the conditions for the Temporary Occupancy exception (23 C.F.R. § 774.13(d)) because it would be of shorter duration than construction; there would be no change in ownership of the land; the scope of the work would be minor; there would be no temporary or permanent adverse changes to the activities, features, or attributes of the property; and the property would be fully restored to a condition at least as good as it was prior to the project. However, there is no documented agreement from the OWJ over the property (Santa Clara County Parks and Recreation Department) that the temporary occupancy meets the conditions for a temporary occupancy exception under Section 4(f), and thus this construction use is considered a temporary occupancy.

The design team evaluated design modifications for Alternatives 1, 2, 3, and 4 to determine if the resource could be avoided. However, this would be infeasible because there are no alternatives to the method and location of upgrading the PG&E network within this area that are feasible or less impactful than what is proposed under the project alternatives. Building new power transmission lines outside the park’s boundaries could incur biological and land use impacts or additional project costs compared to the proposed upgrading of existing power transmission lines.

Therefore, given the physical constraints on the resource, the severe increase in impacts to biological resources and other land use impacts due to construction of new power transmission lines, and due to extraordinary increase in cost of constructing new power transmission lines compared to using existing power transmission lines, it would not be prudent to avoid the resource under Alternatives 1, 2, 3, and 4. There are no reasonable and prudent alternatives to the Section 4(f) temporary occupancy.

## 7.2 Individual Resource Avoidance Assessments—Cultural Resources

While the following cultural resources are not under the jurisdiction of Santa Clara Parks and Recreation Department, an assessment of avoidance alternatives relative to these cultural

resources that would have a use by one or more of the project alternatives is provided in this report in order to have a complete assessment of avoidance alternatives relative to Section 4(f) resources. Descriptions of project effects on these cultural resources, which are considered Section 4(f) resources, are provided in Chapter 4 in the Final EIR/EIS.

### **7.2.1 Southern Pacific Depot (Diridon Station/Hiram Cahill Depot)**

The Southern Pacific Depot (Diridon Station/Hiram Cahill Depot) is in downtown San Jose. The depot was restored to Secretary of the Interior standards in 1994, and continues to function as a rail station as it did historically, serving Amtrak, Caltrain, Altamont Corridor Express, and (Santa Clara) Valley Transportation Authority (VTA) light rail. Additionally, multiple bus lines are serviced from the depot, retaining and expanding its function as a transportation hub. The depot remains an important resource and landmark in San Jose, and is considered a high value resource.

All four project alternatives would result in a Section 4(f) use of Southern Pacific Depot (Diridon Station/Hiram Cahill Depot) because all entail the construction of a modern multistory station infrastructure to the north, south, and west of the existing Diridon Station/Hiram Cahill Depot. In addition, the demolition or destruction of character-defining features would occur during construction. The design team evaluated design modifications to determine if the use of the resource could be avoided. Changes to the vertical profile of the project alternatives could involve underground, tunnel, or at-grade options. However, an underground alternative would conflict with the future Bay Area Rapid Transit (BART) station at Diridon. The tunnel option was eliminated from consideration because of the level of the water table. At-grade alternatives would require additional right-of-way, would be constrained by existing VTA tracks on the west side of the station as well as existing residential buildings and Cahill Park, which is also a Section 4(f) resource. The SAP Center at San Jose and associated features are to the east of the station. Therefore, these vertical profile changes are either not feasible because of engineering constraints or not prudent because of existing physical constraints, cost, displacements, and the potential for use at Cahill Park.

Horizontal alignment changes were also evaluated. Shifting the station location to avoid the resource would require shifting the track and station away from existing transportation corridors, which would deviate from a requirement of Prop 1A. Also, having HSR at Diridon Station is an essential component of the HSR system and having a San Jose station located elsewhere to avoid the Section 4(f) resource would not meet the purpose of the project. Additionally, there are existing VTA tracks on the west side of the station as well as existing residential buildings and Cahill Park, while the SAP Center at San Jose and associated features are to the east of the station. Therefore, these horizontal profile changes are not prudent because of existing constraints, project objectives, displacements, the potential for use at Cahill Park, and cost.

One other potential design modification could include moving the bents to avoid the historic fence, which would require increasing the height of the viaduct to accommodate longer spans. This would be an expensive design modification, and it would not ultimately avoid the use of the property.

Therefore, avoidance of this resource is not possible because Diridon Station/Hiram Cahill Depot is an integral part of the HSR system and modifications to the resource are necessary to accommodate HSR service. Additionally, the relative value of this resource to the community would remain intact because it would still function as a transportation hub. Therefore, there is no prudent avoidance alternative.

### **7.2.2 Sunlite Baking Company**

The Sunlite Baking Company is south of and adjacent to the existing Diridon Station. Prior to 2016, AT&T operated out of the building, but in late 2016 an investment firm, Rhyolite Enterprises LLC, bought the parcel, likely to develop the area to complement San Jose's real estate boom. It is unclear what the property is used for currently, but it is likely vacant or being rented for industrial purposes, inconsistent with its historic use. Considering there are additions outside the

period of the significance and the property is in fair condition, it is considered a moderate-value resource.

Alternatives 1, 2, and 3 would result in a Section 4(f) use of the Sunlite Baking Company because a portion of the resource is in the path of the new HSR right-of-way, with track on viaduct, and a new permanent roadway right-of-way with bike lane. Alternatives 1, 2, and 3 would also entail construction of a new HSR station parking lot in the western half of the parcel, and drop-off and pick-up areas in the center of the parcel. These facilities would result in demolition of the building.

The design team evaluated design modifications to determine if the use of the resource could be avoided. Changes to the vertical profile of Alternatives 1, 2, and 3 could involve underground, tunnel, or at-grade options. However, an underground alternative would conflict with the future BART station at Diridon. The tunnel option was eliminated from consideration because of the level of the water table. At-grade alternatives would require additional right-of-way, would be constrained by existing VTA tracks on the west side of the station as well as existing residential buildings and Cahill Park, which is also a Section 4(f) resource. The SAP Center at San Jose and associated features are to the east of the station. Therefore, these vertical profile changes are either not feasible because of engineering constraints or not prudent because of existing physical constraints, cost, displacements, and the potential for use at Cahill Park.

The design team also evaluated horizontal alignment changes. Shifting the station location to avoid the resource would require shifting the track and station away from existing transportation corridors (Prop 1A states that the HSR system be designed to follow existing transportation and utility corridors to the extent feasible and functionally viable), and would require substantial right-of-way acquisition elsewhere as well as result in conflicts with city zoning and the general plan. Also, having HSR at Diridon Station is an essential component of the HSR system and having a San Jose station located elsewhere to avoid the Section 4(f) resource would not meet the purpose of the project. Because the Sunlite Baking Company building is adjacent to Diridon Station, it cannot be avoided. Additionally, there are existing VTA tracks on the west side of the station as well as existing residential buildings and Cahill Park, while the SAP Center at San Jose and associated features are to the east of the station. Therefore, these horizontal profile changes are not prudent because of existing constraints, project objectives, displacements, the potential for use at Cahill Park, and cost.

Therefore, avoidance of this resource is not possible under Alternatives 1, 2, and 3 because Diridon Station/Hiram Cahill Depot is an integral part of the HSR system and modifications to the resource are necessary to accommodate HSR service. Additionally, the relative value of Sunlite Baking Company to the community is moderate, the resource is currently vacant, and it is not providing significant value to the community. It would not be prudent to expend the resources necessary to avoid this resource. Therefore, because of the extensive cost, right-of-way, and displacements that would be required to avoid this resource, and the relative value of this resource, there is no prudent avoidance alternative under Alternatives 1, 2, and 3. The use of Sunlite Baking Company could be avoided by selecting Alternative 4, which would avoid the resource. Alternative 4 is the feasible and prudent alternative to the Section 4(f) use that would result from Alternatives 1, 2, and 3.

### **7.2.3 Stevens/Fisher House**

The Stevens/Fisher House is on Monterey Road in Morgan Hill. There has been some infill of modern structures. Additionally, the property has been subdivided over the years, and is now adjacent to large, modern residential properties that detract from the historic feeling and setting. For the purposes of Section 4(f), it is considered to be a resource of moderate value.

Under Alternative 2, the Monterey Road right-of-way would be shifted to the east and would encroach within the western half of the parcel that contains the Stevens/Fisher House. New telecommunications and electrical utilities would be placed adjacent to the road right-of-way on the current location of the Stevens/Fisher House. The road right-of-way and utilities would demolish the residence, the Stevens/Fisher House. These project activities would result in a Section 4(f) use of the property.

The design team evaluated design modifications for Alternative 2 to see if the resource could be avoided. The design team evaluated a tunnel option, but this would cause significant disturbance during construction to both this property and to 586 Monterey Road because the tunnel would need to span both of these properties, in addition to being significantly more expensive. Cut-and-cover construction would be an expensive undertaking that would cause significant disturbance to the residence, requiring the residence to be temporarily relocated, stored, and protected during construction. Changing the horizontal alignment to the west is not feasible because of the UPRR right-of-way. Therefore, given the physical constraints on the resource and the cost, and given the relative value of the resource, it would not be prudent to avoid the resource under Alternative 2.

The use of Stevens/Fisher House under Alternative 2 could be avoided by selecting either Alternative 1 or Alternative 3, which would result in a *de minimis* impact, or Alternative 4, which would result in no impact. Under Alternatives 1 and 3, the relocated Monterey Road would encroach into the historic property boundary, resulting in a permanent use of the property. The existing roadway is currently 42 feet from the residence's primary (west) façade. The road right-of-way would pass approximately 20 feet in front of the residence's primary façade. Although Alternatives 1 and 3 would alter the character-defining features of the property and its historic setting, the project alternatives would not change the ultimate use of the property. Therefore, this encroachment and permanent use would not adversely affect the activities, features, and attributes that qualify the resource for protection under Section 4(f) and the impact would be *de minimis*. Additionally, Alternative 4 would result in no use of the resource because it would be approximately 90 feet southwest of the Stevens/Fisher House. Therefore, Alternatives 1, 3, and 4 are the feasible and prudent alternatives to the Section 4(f) use that would result from Alternative 2.

#### 7.2.4 Barnhart House

The Barnhart House is adjacent to Monterey Road in Morgan Hill. One modern structure as well as a modern vineyard, paved driveway, and nonhistoric landscape features are deviations from its historic configuration. However, its setting remains rural, and the property is still in use as a residence. For the purposes of Section 4(f), it is considered to be a resource of moderate value.

Under Alternative 2, the Barnhart House would be in the path of a new permanent roadway right-of-way, electrical and telecommunications utilities, and TCE. The resource and adjacent outbuildings would be demolished as a result of construction. Because construction of Alternative 2 would require the demolition of the resource and would materially alter its physical characteristics such that the qualities that qualify it for listing would be destroyed, Alternative 2 would result in a Section 4(f) use of the Barnhart House.

The design team evaluated design modifications for Alternative 2 to see if the resource could be avoided. A viaduct structure would avoid the resource, which is the design for Alternatives 1 and 3. The design team evaluated a tunnel option, but this would cause significant disturbance to this property, in addition to being significantly more expensive. Cut-and-cover construction would be an expensive undertaking that would cause significant disturbance to the residence, requiring the residence to be temporarily relocated, stored, and protected during construction. Changing the horizontal alignment to the west is not feasible because of the UPRR right-of-way.

The design team also evaluated other structural design changes. Retaining walls could be installed for a grade separation, but this would still result in demolition of the property. Increasing the span of the grade separation to avoid footings in the property would require a 1,100-foot span over the UPRR tracks, Monterey Road, the HSR right-of-way, and the Barnhart property. Under this option, the jug handle would have to be extended farther east, which would then result in impacts on Coyote Creek Parkway County Park, another Section 4(f) resource, and would be expensive. The jug handle is needed to provide connection between Palm Avenue and Monterey Road with the new grade separation that is required to cross HSR.

Therefore, given the physical constraints on the resource and the cost, and given the relative value of the resource, it would not be prudent to avoid the resource under Alternative 2. The use

of Barnhart House could be avoided by selecting either Alternative 1, 3, or 4, all of which would avoid the resource. Alternatives 1, 3, and 4 are the feasible and prudent alternatives to the Section 4(f) use that would result from Alternative 2.

### 7.2.5 Madrone Underpass

Madrone Underpass is an underpass along Monterey Road in Morgan Hill. The setting of the underpass has experienced low-density residential development since the property was constructed in 1933, but the girder bridge, abutments, and pedestrian passage have not been visibly altered. Additionally, the property has been in consistent use as a railroad underpass since its construction, making this a moderate-value resource.

Under Alternative 4, the HSR right-of-way would be placed on approximately 15-foot-high ballasted fill within the existing Caltrain right-of-way, which passes over the Madrone Underpass. To accommodate the new HSR right-of-way in this location, the Madrone Underpass would be demolished and replaced by a new box girder overpass structure, resulting in a Section 4(f) use because the Madrone Underpass cannot support the new HSR tracks in its existing condition.

The design team evaluated design modifications for Alternative 4 to see if the resource could be avoided. It was determined that the tracks could not be shifted to the north because there is an existing wetland area that would be affected, and the tracks could not be shifted to the south because the El Toro Fire Station would then be affected and displaced. The design team also evaluated a tunnel option, but this would cause significant disturbance to the surrounding area, in addition to being significantly more expensive.

Therefore, given the physical constraints on the resource, additional displacements, and transportation and community impacts, it would not be prudent to avoid the resource under Alternative 4. Madrone Underpass could be avoided by selecting Alternatives 1, 2, or 3, which would avoid the resource. Alternative 1, 2, or 3 is a feasible and prudent alternative to the Section 4(f) use that would result from Alternative 4.

### 7.2.6 San Martin Winery

San Martin Winery is in San Martin adjacent to the existing UPRR tracks. While the site has experienced some infill with modern buildings not related to its period of significance, it is still an active expression of wine making in the Santa Clara Valley, and has been in consistent use as a winery since 1933. For the purposes of Section 4(f), it is considered to be a resource of moderate value.

Under Alternatives 1 and 3, new HSR tracks on viaduct (35-foot-high structure plus additional 27-foot overhead contact system [OCS] poles) would be constructed on the current site of the historic building cluster and tree-lined drive, which are along the western edge of the historic property adjacent to the UPRR tracks and Monterey Road. Construction of the HSR viaduct would require demolition of the resource. Under Alternative 2, new HSR tracks on an at-grade ballasted track on retained fill would be constructed on the current site of the historic building cluster and would also require demolition of the resource. Alternatives 1, 2, and 3 would result in a Section 4(f) use.

The design team evaluated design modifications for Alternatives 1, 2, and 3 to see if the resource could be avoided. Under Alternatives 1 and 3, which are on viaduct, avoiding the property would require a 1,280-foot clear span, as well as increasing the height of the viaduct substantially. This would cause additional visual impacts in the area and would greatly increase the construction cost. In addition, this option would still affect the property because the viaduct would be directly over the property and could result in a constructive use due to the amount of the viaduct that would span the property and the scale of it. The design team evaluated a tunnel option, but this would cause significant disturbance to this property, in addition to being significantly more expensive. Cut-and-cover construction would be an expensive undertaking that would cause significant disturbance to the resource, requiring the residence to be temporarily relocated, stored, and protected during construction. The resource is also constructed of masonry materials,

which are heavy and not easily moved or transported without sustaining damage, which would add more challenges to moving the resource.

A horizontal alignment shift of 800 feet to the east would also be required to completely avoid the property. Shifting the alignment to avoid the resource would require shifting the track away from existing transportation corridors (Prop 1A states that the HSR system be designed to follow existing transportation and utility corridors to the extent feasible and functionally viable), and would require substantial right-of-way acquisition elsewhere as well as result in conflicts with city zoning and the general plan. This shift would also cause additional impacts on creeks, water quality, biological resources, and agricultural property acquisitions. Additionally, the straddle bents under Alternatives 1 and 3 cannot be shifted to completely avoid the resource because the span between bents would be too large. Changing the horizontal alignment to the west is not feasible because of the UPRR right-of-way.

Therefore, given the physical constraints on the resource and the cost, it would not be prudent to avoid the resource under Alternatives 1, 2, and 3, despite the relatively high value of the resource. However, the use of San Martin Winery under Alternatives 1, 2, and 3 could be avoided by selecting Alternative 4, which would result in a *de minimis* impact. Under Alternative 4, a retaining wall would be constructed along the HSR right-of-way, approximately 10 feet inside the historic property boundary, resulting in a permanent use of the property. However, the retaining wall would remain below eye level, and the security fencing would be visually permeable, such that these new elements would not separate the resource from the adjacent railroad right-of-way. Although Alternative 4 would result in a permanent use, it would not materially impair the characteristics that qualify it for listing, or change the property's use. Therefore, this encroachment and permanent use would not adversely affect the activities, features, and attributes that qualify the resource for protection under Section 4(f) and the impact would be *de minimis*. Therefore, Alternative 4 is the feasible and prudent alternative to the Section 4(f) use that would result from Alternatives 1, 2, and 3.

### 7.2.7 IOOF Orphanage

Independent Order of Odd Fellows (IOOF) Orphanage is located at 290 IOOF Avenue in Gilroy. The site has experienced some expansion and infill not related to its period of significance, but it has operated continuously as an orphanage and foster care center since it was opened. It remains the last operating Odd Fellow children's home in the United States and is the last active expression of the IOOF child care programs of the late 19th and early 20th centuries. For the purposes of Section 4(f), it is considered to be a resource of high value.

Under Alternative 2, a Section 4(f) use would result because the footprint of the new parking lot and turnaround would overlap the current parking lot and adjacent cluster of trees in this location and would encroach approximately 20 feet into the historic property boundary and replace a portion of the lawn that makes up the western portion of the IOOF Orphanage Home. In addition, it would indirectly impair the historic setting and feeling.

The design team evaluated design modifications for Alternative 2 to see if the resource could be avoided. The alignment could not be shifted east, as that would result in greater impacts on the resource; nor could it be shifted farther west, as that would disrupt Monterey Road and lead to additional displacements and community impacts. The impacts on the west side of the resource result from the need to realign Millers Slough, which necessitates the IOOF Orphanage Home parking lot to be moved farther into the grassy area. It is not possible to move this parking lot to another location without causing additional impacts on the resource.

There is also an impact from a new drainage pump station, whose purpose is to keep the IOOF Avenue undercrossing dry. The design team determined that the drainage pump station could be moved from within the IOOF Orphanage Home to an area between the UPRR tracks and Monterey Road. This design change would reduce the overall impact on the resource, but it would not completely eliminate it because impacts from the relocated parking lot would still occur.

Therefore, given the physical constraints on the resource, additional displacements, and transportation and community impacts, it would not be prudent to avoid the resource under

Alternative 2. IOOF Orphanage Home could be avoided by selecting Alternatives 1, 3, or 4, which would avoid the resource, or in the case of Alternative 1, would require a temporary occupancy, but would not result in a use. Alternative 1, 3, or 4 is a feasible and prudent alternative to the Section 4(f) use that would result from Alternative 2.

### 7.2.8 Live Oak Creamery

The Live Oak Creamery is adjacent to the existing Caltrain right-of-way. It is vacant and has not been used as a dairy or creamery (as it had been historically) since the 1940s; it appears to have been vacant since the 1970s. While character-defining features such as the brick-bond walls and flat roof remain intact, the creamery is extremely deteriorated, and no attempt appears to have been made to maintain or restore the property. The southern addition has been demolished. It is considered a low-value resource for the purposes of Section 4(f).

Under Alternatives 1, 2, and 4, the resource would be demolished because it is in the path of the HSR right-of-way, resulting in a Section 4(f) use. The design team evaluated design modifications for Alternatives 1, 2, and 4 to see if the resource could be avoided. The viaduct height could be increased so that it could clear the top of the building, but a footing would still be present within the property boundary, resulting in structure demolition. The design team evaluated a tunnel option, but this would cause significant disturbance to this property, in addition to being significantly more expensive. Cut-and-cover construction would be an expensive undertaking that would cause significant disturbance to the resource, requiring the residence to be temporarily relocated, stored, and protected during construction.

The horizontal alignment could be shifted to the east, but this could cause additional impacts on the IOOF Orphanage Home and Japanese School, other Section 4(f) resources, which are resources of higher value. Changing the horizontal alignment to the west is not feasible because of the UPRR right-of-way. Additionally, shifting the alignment west would cause the acquisition and demolition of many other buildings in downtown Gilroy that are adjacent to the right-of-way, including portions of the Monterey Street Downtown District.

Therefore, because of engineering constraints, cost, additional displacements, and additional impacts on other Section 4(f) resources, avoidance of this resource is not prudent under Alternatives 1, 2, and 4. In addition, the relative value of this resource to the community is low because of its current state of disrepair. It would not be prudent to expend the resources necessary to avoid this resource. Live Oak Creamery could be avoided by selecting Alternative 3, which would be approximately 742 feet from the resource. Alternative 3 is a feasible and prudent alternative to the Section 4(f) use that would result from Alternatives 1, 2, and 4.

### 7.2.9 Cozzi Family Property

The Cozzi Family Property is south of Henry Miller Road. One modern structure not related to the historic residence, as well as a new metal fencing system, is present; however, the property retains its rural feeling and character-defining features, and is therefore considered a moderate-value resource for the purposes of Section 4(f).

Under all four project alternatives, new HSR tracks on viaduct—a 40-foot-high structure plus 27-foot OCS poles—would pass through the parcel that contains the Cozzi Family Property and would be constructed directly over the resource. All project alternatives would therefore require demolition of the resource, resulting in a Section 4(f) use. The design team evaluated design modifications for all project alternatives to see if the resource could be avoided. For the viaduct to clear the buildings, the track profile would need to be increased to above 40 feet, which would require additional viaduct structures and additional bents. The additional straddle bents would still be within the property boundary. The design team evaluated a tunnel option, but this would cause significant disturbance to this property, in addition to being significantly more expensive. Cut-and-cover construction would be an expensive undertaking that would cause significant disturbance to the residence, requiring the residence to be temporarily relocated, stored, and protected during construction, and would affect Los Banos Creek. Because of engineering constraints and cost, these options would not be prudent.

A horizontal alignment shift of 240 feet north would be required to avoid the property, but this would require permanent incorporations of other Section 4(f) resources, such as Negra Ranch and Los Banos Wildlife Area, and would disrupt agricultural businesses, potentially resulting in severe disruption of existing farm operations (e.g., through severance of a parcel by the project footprint). Shifting the alignment to the south by 500 feet would result in similar impacts on existing farm operations. Such a modification would have both cost and schedule implications.

Therefore, because of engineering constraints, cost, additional displacements, and additional impacts on other Section 4(f) resources and other agricultural resources, avoidance of this resource is not feasible or prudent. In addition, the relative value of the Cozzi Family Property to the community is moderate; it would not be prudent to expend the resources necessary to avoid this resource. In view of these factors, there is no feasible and prudent avoidance alternative.

### 7.3 Summary of Avoidance Alternatives

Table 7-1 shows a summary of which alternatives could be used as an avoidance alternative for the resources that incur a Section 4(f) use.

**Table 7-1 Summary of Section 4(f) Avoidance Alternatives**

Resource	Alternative 1	Alternative 2	Alternative 3	Alternative 4	No Avoidance Alternative
<b>San Jose Diridon Station Approach Subsection</b>					
Southern Pacific Depot (Diridon Station/Hiram Cahill Depot)					X
Sunlite Baking Company				X	
<b>Monterey Corridor Subsection</b>					
None					
<b>Morgan Hill and Gilroy Subsection</b>					
Coyote Creek Parkway County Park					X
Field Sports County Park					X
Stevens/Fisher House	X		X	X	
Barnhart House	X		X	X	
Madrone Underpass	X	X	X		
San Martin Winery				X	
IOOF Orphanage Home	X		X	X	
Live Oak Creamery			X		
<b>Pacheco Pass Subsection</b>					
None					
<b>San Joaquin Valley Subsection</b>					
Cozzi Family Property					X

IOOF = Independent Order of Odd Fellows



## 8 MEASURES TO MINIMIZE HARM

Measures to minimize harm include IAMFs that are incorporated into the project design to avoid or minimize impacts. The application of IAMFs does not imply there is use of Section 4(f)–protected properties. Mitigation and enhancement measures to compensate for unavoidable project impacts mitigate project impacts that cannot be avoided or minimized with the incorporation of IAMFs; Section 4(f)–protected properties for which impacts are mitigated may therefore be subject to a Section 4(f) use, including temporary occupancy determinations. Each applicable IAMF and mitigation measure is described in Table 8-1, as applicable to each Section 4(f)–protected property, as required by 49 U.S.C. Section 303(c)(2). Additionally, avoidance alternatives have been developed to avoid uses of Section 4(f) properties where possible, as described in Chapter 7, Avoidance Alternatives, and will be coordinated with the OWJs over the resource. The Authority is continuing ongoing coordination, as appropriate, with these officials. During the Authority’s consideration of its decision and during final design, additional measures may be identified to further reduce potential impacts on Section 4(f) properties.

**Table 8-1 Measures to Minimize Harm**

Impact	Measures to Minimize Harm <sup>1</sup>
<ul style="list-style-type: none"> <li>▪ Acquisition of land from park</li> <li>▪ Temporary construction activities in the park</li> <li>▪ Temporary changes in access</li> </ul>	<ul style="list-style-type: none"> <li>▪ Final design will continue to minimize right-of-way impacts on Coyote Creek Parkway County Park and Field Sports County Park. Acquisition of land will be pursuant to California Code of Civil Procedure Section 1240 for the permanent use of land in each park.</li> <li>▪ The Authority will continue to work with the agencies with jurisdiction on the establishment of appropriate compensation in terms of allowance or additional property to accommodate displaced park use during construction. Options could include preparing a plan for alternative public recreation resources during the period of closure and preparing signs and newsletters describing the project, its schedule, and alternative public recreational opportunities.</li> <li>▪ The Authority will coordinate public involvement efforts prior to construction activities to notify the public about any changes to park access.</li> <li>▪ The Authority will maintain access to park and recreation facilities to the greatest extent practicable.</li> <li>▪ Prior to construction-related ground-disturbing activities affecting trails, the contractor will prepare a technical memorandum documenting how connections to the unaffected portions of trails and nearby roadways will be maintained during construction. The contractor will provide alternative access via a temporary trail detour using existing roadways or other public rights-of-way. The contractor will provide detour signage and lighting and alternative routes that meet public safety requirements. Upon approval by the Authority, the contractor will implement the activities identified in the technical memorandum. The activities will be incorporated into the design specifications and will be a pre-condition requirement.</li> <li>▪ Prior to construction-related ground-disturbing activities affecting park access, the contractor will prepare a technical memorandum documenting how connections to the unaffected park portions or nearby roadways will be maintained during construction. Upon approval by the Authority, the contractor will implement the activities identified in the technical memorandum. The activities will be incorporated into the design specifications and will be a pre-condition requirement.</li> <li>▪ During the design phase, the contractor will prepare a technical memorandum documenting how access to parks will be maintained or established following completion of construction activities. The technical memorandum will be submitted to the Authority for review and approval.</li> <li>▪ Upon approval by the Authority, the contractor will implement the project design features identified in the technical memorandum prepared as part of PK-IAMF#1: Parks,</li> </ul>

Impact	Measures to Minimize Harm <sup>1</sup>
	<p>Recreation, and Open Space. The project design features will be incorporated into the design specifications and will be a pre-condition requirement.</p> <ul style="list-style-type: none"> <li>▪ To minimize potential impacts on public and private water supplies derived from groundwater resources, including water supply wells, springs, and seeps, as well as from surface water resources supported by groundwater, the Authority proposes to implement a long-term Groundwater Adaptive Management and Monitoring Program (GAMMP), which will include ongoing monitoring, management, and reporting activities to detect, address, and remedy groundwater and hydrology impacts that may arise during and after tunneling in a timely manner. See HYD-MM#1: Prepare and Implement a Groundwater Adaptive Management and Monitoring Program in Section 3.8, Hydrology and Water Resources, of the Final EIR/EIS for more details.</li> <li>▪ To avoid, minimize, and mitigate for potential impacts on wetlands, creeks, ponds, springs, riparian vegetation, special-status plant and wildlife species, and protected trees, the Authority will prepare and implement a GAMMP prior to, during, and after tunnel construction to implement the requirements described under HYD-MM#1 and as described below concerning biological resources as described under BIO-MM#9. Prior to construction, the GAMMP will be submitted to the USFWS, CDFW, SWRCB, and RWQCB for review (and approval where applicable). See BIO-MM#9: Prepare and Implement a Groundwater Adaptive Management and Monitoring Plan in Section 3.7 of the Final EIR/EIS for more details.</li> </ul>

<sup>1</sup> For full text of impact avoidance and minimization features (IAMFs) referenced in the analysis below please refer to the Final EIR/EIS, Appendix 2-E, Project Impact Avoidance and Minimization Features. For the full text of mitigation measures referenced in the analysis below, please refer to Section 3.7.8, Mitigation Measures (Biological and Aquatic Resources), Section 3.8.7, Mitigation Measures (Hydrology and Water Resources), and Section 3.15.7, Mitigation Measures (Parks, Recreation, and Open Space).

CDFW = California Department of Fish and Wildlife; EIR/EIS = environmental impact report/environmental impact statement; GAMMP = groundwater adaptive management and monitoring plan; RWQCB = Regional Water Quality Control Board; SWRCB = State Water Resources Control Board; USFWS = U.S. Fish and Wildlife Service

## 9 SECTION 4(f) LEAST HARM ANALYSIS

When there is no feasible and prudent avoidance alternative to using Section 4(f) resources, the Authority must approve the alternative that causes the least overall harm to Section 4(f) resources, taking into consideration the preservation purpose of the statute. To ascertain which alternative that uses Section 4(f) properties would cause the overall least harm, the Authority considers the following seven factors:

- Ability to mitigate adverse impacts on each Section 4(f) property (including any measures that result in benefits to the property)
- Relative severity of the remaining harm, after mitigation, to the protected activities, attributes, or features that qualify each Section 4(f) property for protection
- Relative significance of each Section 4(f) property
- Views of the OWJ(s) over each Section 4(f) property
- Degree to which each alternative meets the Purpose and Need for the project
- After reasonable mitigation, the magnitude of any adverse impacts on resources not protected by Section 4(f)
- Substantial differences in costs among the project alternatives

The first four factors relate to the net harm that each project alternative would cause to the Section 4(f) property, and the remaining three factors consider concerns with the project alternatives that are not specific to Section 4(f).

Based on the identification of the project’s use of Section 4(f) properties and the alternatives assessment, there is no feasible and prudent avoidance alternative to the use of these Section 4(f) properties, regardless of which project alternative is selected.

The following discussion demonstrates that Alternative 4 (which is the Preferred Alternative) is overall the least harm alternative for impacts in the project footprint.

### 9.1 Least Harm Analysis for Coyote Creek Parkway County Park and Field Sports County Park

The Authority has completed the following least harm analysis for the project. Table 9-1 characterizes each alternative using the seven least harm analysis factors (23 C.F.R. § 774.3(c)).

**Table 9-1 Least Harm Analysis for Coyote Creek Parkway County Park and Field Sports County Park**

Least Harm Factor	Alternative 1	Alternative 2	Alternative 3	Alternative 4
<p>Section 4(f) property incurring a use</p>	<p>Use or <i>de minimis</i> impact finding for 11 resources:</p> <ul style="list-style-type: none"> <li>▪ Los Gatos Creek Trail and Park</li> <li>▪ Guadalupe River Trail, Reach 6</li> <li>▪ Southern Pacific Depot (Diridon Station/Hiram Cahill Depot)</li> <li>▪ Sunlite Baking Company</li> <li>▪ Coyote Creek Trail</li> <li>▪ Coyote Creek Parkway County Park</li> <li>▪ Field Sports County Park</li> <li>▪ Stevens/Fisher House</li> <li>▪ San Martin Winery</li> <li>▪ Live Oak Creamery</li> <li>▪ Cozzi Family Property</li> </ul>	<p>Use or <i>de minimis</i> impact finding for 16 resources:</p> <ul style="list-style-type: none"> <li>▪ Reed Street Dog Park</li> <li>▪ Reed and Grant Streets Sports Park</li> <li>▪ Los Gatos Creek Trail and Park</li> <li>▪ Guadalupe River Trail, Reach 6</li> <li>▪ Southern Pacific Depot (Diridon Station/Hiram Cahill Depot)</li> <li>▪ Sunlite Baking Company</li> <li>▪ Coyote Creek Trail</li> <li>▪ Coyote Creek Parkway County Park</li> <li>▪ Field Sports County Park</li> <li>▪ Stevens/Fisher House</li> <li>▪ Barnhart House</li> <li>▪ Morgan Hill Community and Cultural Center</li> <li>▪ San Martin Winery</li> <li>▪ IOOF Orphanage Home</li> <li>▪ Live Oak Creamery</li> <li>▪ Cozzi Family Property</li> </ul>	<p>Use or <i>de minimis</i> impact finding for 12 resources:</p> <ul style="list-style-type: none"> <li>▪ Reed Street Dog Park</li> <li>▪ Reed and Grant Streets Sports Park</li> <li>▪ Los Gatos Creek Trail and Park</li> <li>▪ Guadalupe River Trail, Reach 6</li> <li>▪ Southern Pacific Depot (Diridon Station/Hiram Cahill Depot)</li> <li>▪ Sunlite Baking Company</li> <li>▪ Coyote Creek Trail</li> <li>▪ Coyote Creek Parkway County Park</li> <li>▪ Field Sports County Park</li> <li>▪ Stevens/Fisher House</li> <li>▪ San Martin Winery</li> <li>▪ Cozzi Family Property</li> </ul>	<p>Use or <i>de minimis</i> impact finding for 8 resources:</p> <ul style="list-style-type: none"> <li>▪ Southern Pacific Depot (Diridon Station/Hiram Cahill Depot)</li> <li>▪ Fuller Park</li> <li>▪ Coyote Creek Parkway County Park</li> <li>▪ Field Sports County Park</li> <li>▪ Madrone Underpass</li> <li>▪ San Martin Winery</li> <li>▪ Live Oak Creamery</li> <li>▪ Cozzi Family Property</li> </ul>
<p>Factor 1: The ability to mitigate adverse impacts on each Section 4(f) property (including any measures that result in benefits to the property)</p>	<p>Los Gatos Creek Trail, Guadalupe River Trail (Reach 6), and Coyote Creek Trail: A <i>de minimis</i> impact is anticipated; measures to minimize harm will maintain access to the trails and parks.</p> <p>Coyote Creek Parkway County Park: Project features and mitigation can reduce adverse impacts but would not avoid temporary occupancy or permanent use.</p> <p>Field Sports County Park: Project features and mitigation can reduce adverse impacts but would not avoid temporary occupancy.</p> <p>Southern Pacific Depot (Diridon Station/Hiram Cahill Depot), Sunlite Baking Company, San Martin Winery, Live Oak Creamery, and Cozzi Family Property: Impacts for structure demolition or demolition of contributing features cannot be mitigated.</p> <p>Stevens/Fisher House: A <i>de minimis</i> impact is anticipated and therefore no mitigation is proposed.</p>	<p>Alternative 2 would affect the same resources in the same manner as described for Alternative 1, with the following additional resources affected.</p> <p>Reed Street Dog Park: A <i>de minimis</i> impact is anticipated; measures to minimize harm will maintain access to the park.</p> <p>Reed and Grant Streets Sports Park: Impacts of reducing the size of 3 of the 5 soccer fields can be mitigated through reconfiguration of the fields to maintain usability.</p> <p>Morgan Hill Community and Cultural Center: A <i>de minimis</i> impact is anticipated; measures to minimize harm will reduce construction noise impacts and maintain access.</p> <p>Stevens/Fisher House, and Barnhart House: Impacts of structure demolition cannot be mitigated.</p> <p>IOOF Orphanage Home: Impact from changes to historic setting and feeling cannot be mitigated.</p>	<p>Alternative 3 would affect the same resources in the same manner as described for Alternative 1, except Live Oak Creamery would not be affected under Alternative 3, and with the following additional resource affected.</p> <p>Reed Street Dog Park: A <i>de minimis</i> impact is anticipated; measures to minimize harm will maintain access to the park.</p> <p>Reed and Grant Streets Sports Park: Impacts of reducing the size of 3 of the 5 soccer fields can be mitigated through reconfiguration of the fields to maintain usability.</p>	<p>Fuller Park: A <i>de minimis</i> impact is anticipated; measures to minimize harm will maintain access to the park.</p> <p>Coyote Creek Parkway County Park: Project features and mitigation can reduce adverse impacts but would not avoid temporary occupancy or permanent use.</p> <p>Field Sports County Park: Project features and mitigation can reduce adverse impacts but would not avoid temporary occupancy.</p> <p>Southern Pacific Depot (Diridon Station/Hiram Cahill Depot), Madrone Underpass, Live Oak Creamery, and Cozzi Family Property: Impacts for structure demolition or demolition of contributing features cannot be mitigated.</p> <p>San Martin Winery: A <i>de minimis</i> impact is anticipated and therefore no mitigation is proposed.</p>

Least Harm Factor	Alternative 1	Alternative 2	Alternative 3	Alternative 4
<p>Factor 2: The relative severity of the remaining harm, after mitigation, to the protected activities, attributes, or features that qualify each Section 4(f) property for protection</p>	<p>Los Gatos Creek Trail and Park and Guadalupe River Trail, Reach 6, and Coyote Creek Trail: The relative severity of harm would be similar under Alternatives 1, 2, and 3 but Alternative 4 would not result in use of these three trail/park units.</p> <p>Southern Pacific Depot (Diridon Station/Hiram Cahill Depot), Sunlite Baking Company, San Martin Winery, Live Oak Creamery, and Cozzi Family Property: Mitigation will not reduce overall harm to the structure or contributing features because part of it will be demolished.</p> <p>Coyote Creek Parkway County Park: Impacts would be slightly more under Alternatives 1, 2, and 3 than under Alternative 4 and would interfere with the protected activities, attributes, or features of the park. Mitigation would not eliminate adverse effects on the protected features, attributes, or activities, after considering any avoidance, minimization, mitigation, or enhancement measures.</p> <p>Field Sports County Park: Mitigation would not eliminate temporary adverse effects on the protected features, attributes, or activities, after considering any avoidance, minimization, mitigation, or enhancement measures.</p> <p>Stevens/Fisher House: A <i>de minimis</i> impact would not result in the loss of integrity that qualifies the resources for protection.</p>	<p>Alternative 2 would affect the same resources in the same manner as described for Alternative 1, with the following additional resources affected.</p> <p>Reed Street Dog Park and Reed and Grant Streets Sports Park: The relative severity of harm would be the same for Alternatives 2 and 3; therefore, severity is not a differentiating factor related to these parks.</p> <p>Stevens/Fisher House and Barnhart House: Mitigation will not reduce overall harm to the structure because part of it will be demolished.</p> <p>Morgan Hill Community and Cultural Center: Only Alternative 2 would affect this resource; therefore, severity is not a differentiating factor related to this resource.</p> <p>IOOF Orphanage Home: Only Alternative 2 would affect this resource; therefore, severity is not a differentiating factor related to this resource.</p>	<p>Alternative 3 would affect the same resources in the same manner as described for Alternative 1, except Live Oak Creamery would not be affected under Alternative 3, and with the following additional resources affected.</p> <p>Reed Street Dog Park and Reed and Grant Streets Sports Park: The relative severity of harm would be the same for Alternatives 2 and 3; therefore, severity is not a differentiating factor related to these parks.</p>	<p>Fuller Park: A <i>de minimis</i> impact is anticipated. Only Alternative 4 would affect this resource, so severity is not a differentiating factor related to this resource.</p> <p>Coyote Creek Parkway County Park: Impacts would be less under Alternative 4 than under Alternatives 1, 2, and 3 but Alternative 4 would still interfere with the protected activities, attributes, or features of the park. Mitigation would not eliminate adverse effects on the protected features, attributes, or activities, after considering any avoidance, minimization, mitigation, or enhancement measures.</p> <p>Field Sports County Park: Mitigation would not eliminate adverse temporary effects on the protected features, attributes, or activities, after considering any avoidance, minimization, mitigation, or enhancement measures. The relative severity of harm would be the same under all project alternatives; therefore, severity is not a differentiating factor related to this park.</p> <p>Southern Pacific Depot (Diridon Station/Hiram Cahill Depot), Live Oak Creamery, and Cozzi Family Property: Impacts for structure demolition or demolition of contributing features cannot be mitigated. The relative severity of harm would be the same under Alternatives 1, 2, and 4, but Alternative 3 would not affect the Live Oak Creamery.</p> <p>Madrone Underpass: Impacts for structure demolition or demolition of contributing features cannot be mitigated. Only Alternative 4 would affect this resource.</p> <p>San Martin Winery: A <i>de minimis</i> impact is anticipated with Alternative 4, which would have a lower impact than Alternatives 1, 2, and 3.</p>
<p>Factor 3: The relative significance of each Section 4(f) property</p>	<p>Los Gatos Creek Trail and Park and Guadalupe River Trail, Reach 6: Significant recreational resource to the City of San Jose. They are considered high-value resources for the purposes of Section 4(f).</p> <p>Southern Pacific Depot (Diridon Station/Hiram Cahill Depot): The Southern Pacific Depot, also known as Diridon Station, is listed on the NRHP and is a City of San Jose landmark. The site has six extant contributing features. The depot was restored to SOI's standards in 1994, and continues to function as a rail station as it did historically, serving Amtrak, Caltrain, ACE, and VTA light rail. Additionally, multiple bus lines are serviced from the depot, retaining and expanding its function as a transportation hub. The depot remains an important resource and landmark in San Jose and is considered a high-value resource for the purposes of Section 4(f).</p> <p>Sunlite Baking Company: The Sunlite Baking Company is eligible for listing on the NRHP as a distinctive example of Art Moderne architecture interpreted for an industrial production facility. Prior to 2016, AT&amp;T operated out of the building, but in late 2016 an investment firm, Rhyolite Enterprises LLC, bought the parcel, likely to develop the area to complement San Jose's real estate boom. It is unclear what the property is</p>	<p>Alternative 2 would affect the same resources in the same manner as described for Alternative 1, with the following additional resources affected.</p> <p>Reed Street Dog Park: Recreational resource in Santa Clara. The affected portion is less significant than other portions of the park because it is on the periphery. It is considered a high-value resource for the purposes of Section 4(f).</p> <p>Reed and Grant Streets Sports Park: Recreational resource in Santa Clara. It is one of the few sports parks in the area. It is considered a high-value resource for the purposes of Section 4(f).</p> <p>Barnhart House: The Barnhart House is a privately owned residential property. It was determined eligible for the NRHP for its intact display of the Craftsman, Prairie, and Colonial Revival architecture. One modern structure as well as a modern vineyard, paved driveway and nonhistoric landscape features are deviations from its historic configuration. However, its setting remains rural, and the property is still in use as a residence. For the purposes of Section 4(f), it is considered to be a resource of moderate value.</p> <p>Morgan Hill Community and Cultural Center: Recreational and community resource in Morgan Hill. The affected portion</p>	<p>Alternative 3 would affect the same resources in the same manner as described for Alternative 1, except Live Oak Creamery would not be affected under Alternative 3, and with the following additional resources affected.</p> <p>Reed Street Dog Park: Recreational resource in Santa Clara. The affected portion is less significant than other portions of the park because it is on the periphery. It is considered a high-value resource for the purposes of Section 4(f).</p> <p>Reed and Grant Streets Sports Park: Recreational resource in Santa Clara. It is one of the few sports parks in the area. It is considered a high-value resource for the purposes of Section 4(f).</p>	<p>Southern Pacific Depot (Diridon Station/Hiram Cahill Depot): The Southern Pacific Depot, also known as Diridon Station, is listed on the NRHP and is a City of San Jose landmark. The site has six extant contributing features. The depot was restored to SOI's standards in 1994, and continues to function as a rail station as it did historically, serving Amtrak, Caltrain, ACE, and VTA light rail. Additionally, multiple bus lines are serviced from the depot, retaining and expanding its function as a transportation hub. The depot remains an important resource and landmark in San Jose and is considered a high-value resource for the purposes of Section 4(f).</p> <p>Fuller Park: Recreational resource in San Jose. The affected portion is less significant than other portions of the park because it is on the periphery and currently contains a train control site. It is considered a moderate-value resource for the purposes of Section 4(f).</p> <p>Coyote Creek Parkway County Park : Significant recreational resource to the County of Santa Clara. It is considered a high-value resource for the purposes of Section 4(f). The affected portion is less significant than other sections of the park because it is on the periphery</p>

Least Harm Factor	Alternative 1	Alternative 2	Alternative 3	Alternative 4
	<p>used for currently, but it is likely vacant or being rented for industrial purposes, inconsistent with its historic use. Considering there are additions outside the period of the significance and the property is in fair condition, it is considered a moderate-value resource for the purposes of Section 4(f).</p> <p>Coyote Creek Parkway County Park and Coyote Creek Trail: Significant recreational resource to the County of Santa Clara. It is considered a high-value resource for the purposes of Section 4(f). The affected portion is less significant than other sections of the park because it is on the periphery.</p> <p>Field Sports County Park: Significant recreational resource to the County of Santa Clara. It is considered a high-value resource for the purposes of Section 4(f). The affected area would not be in the active sports area used for archery; the affected area would be in an area not used actively for any recreational activity where the project would temporarily encroach to upgrade an existing power transmission line.</p> <p>Stevens/Fisher House: The Stevens/Fisher House is a privately owned Queen Anne-style residence. It was determined eligible for the NRHP for its association with the early settlement of the Coyote Valley. There has been some infill of modern structures. Additionally, the property has been subdivided over the years, and is now adjacent to large, modern residential properties that detract from the historic feeling and setting. For the purposes of Section 4(f), it is considered to be a resource of moderate value.</p> <p>San Martin Winery: The San Martin Winery is an active winery and is currently owned by ASV Wines, Inc. It is eligible for listing on the NRHP for its association with the re-establishment of the post-Prohibition wine industry in California, and for the main building's intact Spanish Eclectic architecture as applied to an industrial building. While the site has experienced some infill with modern buildings and vineyards not related to its period of significance, it is still an active expression of wine making in the Santa Clara Valley, and has been in consistent use as a winery as it was historically since 1933. For the purposes of Section 4(f), it is considered to be a resource of moderate value.</p> <p>Live Oak Creamery: The Live Oak Creamery is individually listed on the NRHP. It was found to be significant for its association with early industry in Gilroy. It is vacant and has not been used as a dairy or creamery as it had been historically since the 1940s. It appears to have been vacant since the 1970s. While character-defining features such as the brick-bond walls and flat roof remain intact, the creamery is extremely deteriorated, and no attempt appears to have been made to maintain or restore the property. The southern addition has been demolished. It is considered a low-value resource for the purposes of Section 4(f).</p> <p>Cozzi Family Property: The Cozzi Family Property is a privately owned rural residence that is eligible for listing in the NRHP for its Queen Anne and Folk Victorian-style</p>	<p>is less significant than other portions of the center because it is on the periphery. For the purposes of Section 4(f), it is considered to be a resource of high value.</p> <p>IOOF Orphanage Home: The IOOF Orphanage Home was found eligible for listing on the NRHP as a prominent example of the work of the IOOF, and as a distinctive example of Spanish Revival-style architecture. The subject property is currently operated by Rebekah Children's Services, a nonprofit organization that provides foster care and adoption services, mental health resources, and other programs for at-risk children. The site has experienced some expansion and infill not related to its period of significance, but it has operated continuously as an orphanage and foster care center since it was opened. It remains the last operating Odd Fellows children's home in the United States and is the last active expression of the IOOF child care programs of the early 19th century. For the purposes of Section 4(f), it is considered to be a resource of high value.</p>		<p>Field Sports County Park: Significant recreational resource to the County of Santa Clara. It is considered a high-value resource for the purposes of Section 4(f). The affected area would not be in the active sports area used for archery; the affected area would be in an area not used actively for any recreational activity where the project would temporarily encroach to upgrade an existing power transmission line.</p> <p>Madrone Underpass: The Madrone Underpass is an active railroad underpass that supports the operations of Caltrain and the UPRR. It is eligible for listing on the NRHP for its association with the earliest railroad and highway traffic safety programs implemented in Santa Clara County in the 20th century. The setting of the underpass has experienced low-density residential development since the property was constructed in 1933, but the girder bridge, abutments, and pedestrian passage have not been visibly altered. Additionally, the property has been in consistent use as a railroad underpass since its construction. For the purposes of 4(f), it is considered to be a resource of moderate value.</p> <p>San Martin Winery: The San Martin Winery is an active winery and is currently owned by ASV Wines, Inc. It is eligible for listing on the NRHP for its association with the re-establishment of the post-Prohibition wine industry in California, and for the main building's intact Spanish Eclectic architecture as applied to an industrial building. While the site has experienced some infill with modern buildings and vineyards not related to its period of significance, it is still an active expression of wine making in the Santa Clara Valley, and has been in consistent use as a winery as it was historically since 1933. For the purposes of Section 4(f), it is considered to be a resource of moderate value.</p> <p>Live Oak Creamery: The Live Oak Creamery is individually listed on the NRHP. It was found to be significant for its association with early industry in Gilroy. It is vacant and has not been used as a dairy or creamery as it had been historically since the 1940s. It appears to have been vacant since the 1970s. While character-defining features such as the brick-bond walls and flat roof remain intact, the creamery is extremely deteriorated, and no attempt appears to have been made to maintain or restore the property. The southern addition has been demolished. It is considered a low-value resource for the purposes of Section 4(f).</p> <p>Cozzi Family Property: The Cozzi Family property is a privately owned rural residence that is eligible for listing in the NRHP for its Queen Anne and Folk Victorian-style architecture. One modern structure not related to the historic residence, as well as a new metal fencing system, is present. However, the property retains its rural feeling and character-defining features, and is therefore considered a moderate-value resource for the purposes of Section 4(f).</p>

Least Harm Factor	Alternative 1	Alternative 2	Alternative 3	Alternative 4
	<p>architecture. One modern structure not related to the historic residence, as well as a new metal fencing system, is present. However, the property retains its rural feeling and character-defining features, and is therefore considered a moderate-value resource for the purposes of Section 4(f).</p>			
<p>Factor 4: The views of the official(s) with jurisdiction over each Section 4(f) property</p>	<p>Los Gatos Creek Trail and Park: Coordination is ongoing with the Santa Clara County Parks and Los Gatos Parks and Public Works Department.</p> <p>Guadalupe River Trail, Reach 6: Coordination is ongoing with the City of San Jose Department of Parks, Recreation &amp; Neighborhood Services.</p> <p>Southern Pacific Depot (Diridon Station/Hiram Cahill Depot): The property is individually listed in the NRHP, NRHP Reference No. 93000274, certified on NRHP on April 1, 1993. Consultation with the SHPO is anticipated to yield a finding of adverse effect under Section 106.</p> <p>Sunlite Baking Company: The SHPO concurred with the NRHP eligibility of the property on July 12, 2019. Consultation with the SHPO is anticipated to yield a finding of adverse effect under Section 106.</p> <p>Coyote Creek Parkway County Park and Coyote Creek Trail: Coordination is ongoing with the Santa Clara County Department of Parks and Recreation.</p> <p>Field Sports County Park: Coordination is ongoing with the Santa Clara County Department of Parks and Recreation.</p> <p>Stevens/Fisher House: The SHPO concurred with the NRHP eligibility of the property on July 12, 2019. Consultation with the SHPO is anticipated to yield a finding of no adverse effect under Section 106.</p> <p>San Martin Winery: The SHPO concurred with the NRHP eligibility of the property on July 12, 2019. Consultation with the SHPO is anticipated to yield a finding of adverse effect under Section 106.</p> <p>Live Oak Creamery: The property is individually listed in the NRHP, NRHP Reference No. 82002263, certified on March 11, 1982. Consultation with the SHPO is anticipated to yield a finding of adverse effect under Section 106.</p> <p>Cozzi Family Property: The SHPO concurred with the NRHP eligibility of the property on July 12, 2019. Consultation with the SHPO is anticipated to yield a finding of adverse effect under Section 106.</p>	<p>Alternative 2 would affect the same resources in the same manner as described for Alternative 1, with the following additional resources affected.</p> <p>Reed Street Dog Park: Coordination is ongoing with the City of Santa Clara Parks and Recreation.</p> <p>Reed and Grant Streets Sports Park: Coordination is ongoing with the City of Santa Clara Parks and Recreation.</p> <p>Stevens/Fisher House: The SHPO concurred with the NRHP eligibility of the property on July 12, 2019. Consultation with the SHPO is anticipated to yield a finding of adverse effect under Section 106.</p> <p>Barnhart House: The SHPO concurred with the NRHP eligibility of the property on July 12, 2019. Consultation with the SHPO is anticipated to yield a finding of adverse effect under Section 106.</p> <p>Morgan Hill Community and Cultural Center: Coordination is ongoing with the City of Morgan Hill Recreation and Community Services Department.</p> <p>IOOF Orphanage Home: The SHPO concurred with the NRHP eligibility of the property on July 12, 2019. Consultation with the SHPO is anticipated to yield a finding of adverse effect under Section 106.</p>	<p>Alternative 3 would affect the same resources in the same manner as described for Alternative 1, except Live Oak Creamery would not be affected under Alternative 3, and with the following additional resources affected.</p> <p>Reed Street Dog Park: Coordination is ongoing with the City of Santa Clara Parks &amp; Recreation.</p> <p>Reed and Grant Streets Sports Park: Coordination is ongoing with the City of Santa Clara Parks and Recreation</p>	<p>Southern Pacific Depot (Diridon Station/Hiram Cahill Depot): The property is individually listed in the NRHP, NRHP Reference No. 93000274, certified on NRHP on April 1, 1993. Consultation with the SHPO is anticipated to yield a finding of adverse effect under Section 106.</p> <p>Fuller Park: The City of San Jose concurred with the determination of a <i>de minimis</i> impact to this resource.</p> <p>Coyote Creek Parkway County Park: Coordination is ongoing with the Santa Clara County Department of Parks and Recreation.</p> <p>Field Sports County Park: Coordination is ongoing with the Santa Clara County Department of Parks and Recreation.</p> <p>Madrone Underpass: The SHPO concurred with the NRHP eligibility of the property on July 12, 2019. Consultation with the SHPO is anticipated to yield a finding of adverse effect under Section 106.</p> <p>San Martin Winery: The SHPO concurred with the NRHP eligibility of the property on July 12, 2019. Consultation with the SHPO is anticipated to yield a finding of no adverse effect under Section 106.</p> <p>Live Oak Creamery: The property is individually listed in the NRHP, NRHP Reference No. 82002263, certified on March 11, 1982. Consultation with the SHPO is anticipated to yield a finding of adverse effect under Section 106.</p> <p>Cozzi Family Property: The SHPO concurred with the NRHP eligibility of the property on July 12, 2019. Consultation with the SHPO is anticipated to yield a finding of adverse effect under Section 106.</p>
<p>Factor 5: The degree to which each alternative meets the Purpose and Need for the project</p>	<p>Meets the project Purpose and Need. Minimizes the project footprint and decreases necessary right-of-way acquisition.</p>	<p>Meets the project Purpose and Need. Most closely approximates the alignment and structure types identified in the prior program-level documents.</p>	<p>Meets the project Purpose and Need. Minimizes the project footprint through the use of viaduct and would also minimize interface with the UPRR right-of-way.</p>	<p>Meets the project Purpose and Need. Minimizes the project footprint and decreases non-transportation right-of-way acquisition by staying at grade within the existing Caltrain and UPRR right-of-way between Scott Boulevard in Santa Clara and Gilroy.</p>

Least Harm Factor	Alternative 1	Alternative 2	Alternative 3	Alternative 4
<p>Factor 6: After reasonable mitigation, the magnitude of any adverse impacts on resources not protected by Section 4(f)</p>	<p>Third-most moderate (1,444) and severe (439) noise impacts at residential locations.</p> <p>Third-greatest number (90) of waterbodies realigned, modified, or otherwise affected.</p> <p>Third-greatest number of displacements: 147 residential, 217 commercial and industrial, 49 agricultural property, and 14 community and public facility displacements.</p> <p>Second-greatest conversion of Important Farmland (1,035.5 acres).</p> <p>Third-greatest impact on jurisdictional aquatic resources (236.6 acres).</p> <p>Second-greatest impact on habitat for special-status plants (nonoverlapping) (1,629.3 acres).</p>	<p>Second-most moderate (1,740) and severe (1,092) noise impacts at residential locations.</p> <p>Greatest number (96) of waterbodies realigned, modified, or otherwise affected.</p> <p>Greatest number of displacements: 603 residential, 348 commercial and industrial, 53 agricultural property, and 16 community and public facility displacements.</p> <p>Third-greatest conversion of Important Farmland (1,181.3 acres).</p> <p>Greatest impact on jurisdictional aquatic resources (249.5 acres).</p> <p>Greatest impact on habitat for special-status plants (nonoverlapping) (1,663.4 acres).</p>	<p>Fewest moderate (1,071) and severe (276) noise impacts at residential locations.</p> <p>Second-greatest number (88) of waterbodies realigned, modified, or otherwise affected.</p> <p>Second-greatest number of displacements: 157 residential, 157 commercial and industrial, 49 agricultural property, and 10 community and public facility displacements.</p> <p>Greatest conversion of Important Farmland (1,192.5 acres).</p> <p>Second-greatest impact on jurisdictional aquatic resources (230.0 acres).</p> <p>Third-greatest impact on habitat for special-status plants (nonoverlapping) (1,648.0 acres).</p>	<p>Most moderate (895) and severe (2,580) noise impacts at residential locations.</p> <p>Least number (81) of waterbodies realigned, modified, or otherwise affected.</p> <p>Least number of displacements: 68 residential, 66 commercial and industrial, 40 agricultural property, and 2 community and public facility displacements.</p> <p>Least conversion of Important Farmland (1,024.3 acres).</p> <p>Least impact on jurisdictional aquatic resources (203.7 acres).</p> <p>Least impact on habitat for special-status plants (nonoverlapping) (1,572.6 acres).</p>
<p>Factor 7: Substantial differences in costs among the project alternatives</p>	<p>Alternative 1 would have the third-highest capital costs: \$20.50 billion.</p>	<p>Alternative 2 would have the second-highest capital costs: \$17.74 billion.</p>	<p>Alternative 3 would have the highest capital costs: \$20.76 billion.</p>	<p>Alternative 4 would have the lowest capital costs: \$13.61 billion.</p>
<p>Summary</p>	<p>Alternative 1 would result in <i>de minimis</i> impacts on three park resources and one cultural resource and uses of two park resources and five cultural resources. Of the six permanent uses, two are high value (Coyote Creek Parkway County Park, and the Southern Pacific Depot), three are moderate value (Sunlite Baking Company, San Martin Winery, Cozzi Family Property), and one is low value (Live Oak Creamery).</p> <p>Alternative 1 would result in the second-greatest conversion of Important Farmland and impact on habitat for special-status species and the third-greatest noise impacts on residential locations, impacts on waterbodies, displacements, jurisdictional aquatic resources, and land cover types.</p> <p>Alternative 1 would also have the third-highest capital costs.</p>	<p>Alternative 2 would result in <i>de minimis</i> impacts on six park resources and uses of two park resources and eight cultural resources. Of the nine permanent uses, three are high value (Coyote Creek Parkway County Park, Southern Pacific Depot, and IOOF Orphanage Home), five are moderate value (Sunlite Baking Company, Stevens/Fisher House, Barnhart House, San Martin Winery, and Cozzi Family Property), and one is low value (Live Oak Creamery).</p> <p>Alternative 2 would result in the greatest impacts on waterbodies, displacements, jurisdictional aquatic resources, and habitat for special-status plants, but the second-greatest number of noise impacts on residential locations and the third-greatest conversion of Important Farmland. It would have the second-highest capital costs.</p>	<p>Alternative 3 would result in <i>de minimis</i> impacts on five park resources and one cultural resource and uses of two park resources and four cultural resources. Of the five permanent uses, two are high value (Coyote Creek Parkway County Park and the Southern Pacific Depot) and three are moderate value (Sunlite Baking Company, San Martin Winery, and Cozzi Family Property).</p> <p>Alternative 3 would result in the least number of noise impacts on residential locations, and second-greatest impacts on waterbodies, displacements, and impacts on jurisdictional aquatic resources. It would result in the third-greatest impact on habitat for special-status plants and the greatest conversion of Important Farmland. It would also have the highest capital costs.</p>	<p>Alternative 4 would result in <i>de minimis</i> impacts on one park resource and one cultural resource and uses of two park resources and four cultural resources. Of the five permanent uses, two are high value (Coyote Creek Parkway County Park and Southern Pacific Depot), two are moderate value (Madrone Underpass and Cozzi Family Property), and one is low value (Live Oak Creamery).</p> <p>Alternative 4 would result in the most noise impacts on residential locations, but the least impacts on waterbodies, displacements, Important Farmland, jurisdictional aquatic resources, and land cover types. It would also have the lowest capital costs.</p>

ACE = Altamont Corridor Express  
 IOOF = Independent Order of Odd Fellows  
 NRHP = National Register of Historic Places  
 SHPO = State Historic Preservation Officer  
 SOI = Secretary of the Interior  
 VTA = (Santa Clara) Valley Transportation Authority  
 UPRR = Union Pacific Railroad



## 9.2 Net Harm to Section 4(f) Property

Factors one through four in Table 9-1 consider the net harm that each alternative would cause to a Section 4(f) property.

Overall, Alternative 4 would affect the fewest Section 4(f) resources (8), compared to Alternative 1 (11), Alternative 3 (12), and Alternative 2 (16).

Alternative 4 would result in *de minimis* impacts, temporary occupancy, or permanent use of the fewest park, recreation, and open-space resources (three), compared to five resources under Alternative 1, eight resources under Alternative 2, and seven resources under Alternative 3. With all alternatives, there would be one permanent park use (Coyote Creek Parkway County Park) and two temporary park uses (Coyote Creek Parkway County Park, Field Sports County Park); the remaining impacts on park, recreation, and open-space resources would be *de minimis*.

Regarding historic properties, all four project alternatives would result in the permanent use and demolition of two resources or contributing features to these resources: Southern Pacific Depot (Diridon Station/Hiram Cahill Depot) and Cozzi Family Property. Impacts on these two properties are the same under all project alternatives and so are not differentiating factors among the project alternatives and are not discussed further. In addition to these two historic properties, each alternative would affect other Section 4(f) historic properties in which the relative value of each resource should be considered.

Alternative 1 would result in a permanent use of the Sunlite Baking Company, San Martin Winery, and Live Oak Creamery because of structure demolition, and *de minimis* impacts at Stevens/Fisher House because of minor property acquisitions. Live Oak Creamery is considered a low-value resource because it is currently unused and surrounded by chain-link fencing, has been neglected for many years, and is in an advanced state of disrepair. Sunlite Baking Company and Stevens/Fisher House are both resources of moderate value. Sunlite Baking Company was purchased in late 2016 by an investment firm, Rhyolite Enterprises LLC, likely in order to develop the area to complement San Jose's real estate boom. It is currently vacant or being rented for industrial purposes, inconsistent with its historic use, but the property is in fair condition. Stevens/Fisher House has experienced infill of modern structures, subdivision over the years, and is now adjacent to large, modern residential properties that detract from the historic feeling and setting. However, Alternative 1 would only result in *de minimis* impacts at Stevens/Fisher House because of minor property acquisitions, which would not result in the loss of the resources. San Martin Winery is also a resource of moderate value because it is still an active expression of wine making in the Santa Clara Valley and has been in consistent use as a winery as it was historically since 1933.

Alternative 2 would result in permanent uses at Sunlite Baking Company, Stevens/Fisher House, Barnhart House, San Martin Winery, IOOF Orphanage Home, and Live Oak Creamery because of structure demolition or property acquisitions. Live Oak Creamery is considered a low-value resource and was discussed in the preceding paragraph. Sunlite Baking Company, Stevens/Fisher House, Barnhart House, and San Martin Winery are moderate-value resources; Sunlite Baking Company, Stevens/Fisher House, and San Martin Winery were discussed in the preceding paragraph. Barnhart House is a moderate-value resource because there have been deviations from its historic configuration, but its setting remains rural, and the property is still in use as a residence. IOOF Orphanage Home is considered a high-value resource because it remains the last operating Odd Fellow children's home in the United States; however, Alternative 2 would not cause any structure demolition of any of the buildings on the property.

Alternative 3 would have the same 4(f) historic property impacts as Alternative 1, except Alternative 3 would not require demolition of Live Oak Creamery, a low-value resource.

Alternative 4 would result in permanent uses at Madrone Underpass and Live Oak Creamery, and *de minimis* impacts at San Martin Winery. Live Oak Creamery is a low-value resource discussed under Alternatives 1 and 2. San Martin Winery is a moderate-value resource discussed under Alternative 1; however, Alternative 4 would only result in *de minimis* impacts on the winery

because of minor property acquisitions, which would not result in the loss of the resource. Madrone Underpass is a moderate-value resource because the girder bridge, abutments, and pedestrian passage have not been visibly altered, and the property has been in consistent use as a railroad underpass since its construction.

In total, relative to Section 4(f) historic properties, Alternative 1 would affect one low-value resource, four moderate-value resources, and one high-value resource; Alternative 2 would affect one low-value resource, five moderate-value resources, and two high-value resources; Alternative 3 would affect four moderate-value resources and one high-value resource; and Alternative 4 would affect one low-value resource, three moderate-value resources, and one high-value resource. Therefore, after considering the relative value of these resources, Alternative 2 would have the greatest impacts on Section 4(f) historic property resources, and Alternative 4 would result in the least impacts on Section 4(f) historic property resources.<sup>5</sup>

As discussed in Chapter 7, Avoidance Alternatives, there are no feasible and prudent alternatives that would avoid the Section 4(f) uses identified for the project alternatives. Since Alternative 4 would result in the least impacts on Section 4(f) resources of the project alternatives, including the least impacts on park, recreation, and open-space resources and least impacts on historic property resources, Alternative 4 has the least overall harm.

### 9.3 Impacts on Environmental Resources Outside of Section 4(f) Uses

Factors five through seven in Table 9-1 show a comparison with non-Section 4(f) considerations and are helpful in determining overall least harm where the impacts on the Section 4(f) qualifying attributes of the resources do not provide a clear distinction. As shown in Table 9-1, while all four project alternatives are consistent with the project's Purpose and Need, each would result in different comparative impacts on the other resource areas. For example, Alternative 2 would result in the greatest number of displacements, impacts on habitat for special-status plants, jurisdictional aquatic resources, and waterbodies and the largest conversion of Important Farmland. Alternative 4 would have the lowest capital costs and would result in the least number of impacts on waterbodies, displacements, Important Farmland, jurisdictional aquatic resources, and land cover types. Impacts on jurisdictional aquatic resources and habitat for special-status plants are the primary considerations of the U.S. Army Corps of Engineers in its determination of the Least Environmentally Damaging Practicable Alternative. Alternative 1 would result in the second-greatest conversion of Important Farmland and impacts on habitat for special-status species and the third-greatest displacements, noise impacts on residential locations, impacts on waterbodies, jurisdictional aquatic resources, and land cover types. Alternative 1 would also have the third-highest capital costs. Alternative 3 would result in the second-greatest impacts on waterbodies, displacements, and impacts on jurisdictional aquatic resources. It would result in the third-greatest impact on habitat for special-status plants and the greatest conversion of Important Farmland. It would also have the highest capital costs.

Based on this information, while each of the project alternatives would cause impacts on resources not protected by Section 4(f), Alternative 4 would cause the least amount of impacts on non-Section 4(f) resources compared to Alternatives 1, 2, and 3.

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<sup>5</sup> Alternatives 3 and 4 would affect the same number of historic property 4(f) resources, but Alternative 3 would affect 4 moderate-value resources, while Alternative 4 would affect 1 low-value and 3 moderate-value resources, so Alternative 4 would have slightly less effects to historic property 4(f) resources.

## 10 FINAL SECTION 4(f) DETERMINATION

Based on the above considerations and consideration of the Santa Clara Parks and Recreation Department comments on the draft version of this evaluation, the Authority has determined that there is no prudent and feasible avoidance alternative to the use of the land from Coyote Creek Parkway County Park and Field County Sports Park and the proposed action includes all possible planning to minimize harm to Coyote Creek Parkway County Park and Field County Sports Park resulting from such use. The Authority's final determinations are as follows for the following properties:

- Coyote Creek Parkway County Park—Temporary occupancy and permanent use
- Field Sports County Park—Temporary occupancy

The Authority circulated a draft of this report to Santa Clara County, including the Parks and Recreation Department, for a 45-day comment period. The Authority received the Department's comments on February 22, 2022.



## 11 REFERENCES

- California High-Speed Rail Authority (Authority). 2009. *Alternatives Analysis Methods for Project Level EIR/EIS, Version 2*. Sacramento, CA.
- \_\_\_\_\_. 2013. *Cultural Resources Technical Guidance Memorandum #1: Setting the Area of Potential Effect Relative to Existing Rail Facilities*. March 26, 2013. Sacramento, CA.
- \_\_\_\_\_. 2019a. *San Jose to Merced Project Section Historic Architectural Survey Report*. June 2019.
- \_\_\_\_\_. 2019b. *San Jose to Merced Project Section Archaeological Survey Report*. July 2019.
- \_\_\_\_\_. 2020. *San Jose to Merced Project Section Draft Environmental Impact Report/Environmental Impact Statement*. April. Sacramento, CA.
- \_\_\_\_\_. 2021. *San Jose to Merced Project Section Revised Draft Environmental Impact Report/Supplemental Draft Environmental Impact Statement, Biological Resources Analysis*. April. Sacramento, CA.
- \_\_\_\_\_. 2022. *San Jose to Merced Project Section Final Environmental Impact Report/Supplemental Draft Environmental Impact Statement*. February. Sacramento, CA.
- California High-Speed Rail Authority (Authority) and Federal Railroad Administration (FRA). 2005. *Final Program Environmental Impact Report/Environmental Impact Statement (EIR/EIS) for the Proposed California High-Speed Train System*. August 2005. Sacramento, CA and Washington, DC.
- \_\_\_\_\_. 2010. *San Jose to Merced Preliminary Alternatives Analysis Report*. Prepared by Parsons. June 2010.
- \_\_\_\_\_. 2011a. *Executive Summary Supplemental San Jose to Merced Alternatives Analysis Report*. Prepared by Parsons. May 2011.
- \_\_\_\_\_. 2011b. *San Jose to Merced Section Supplemental Alternatives Analysis Report*. July 2011.
- Federal Highway Administration (FHWA). 2012. *Section 4(f) Policy Paper*. <https://www.environment.fhwa.dot.gov/legislation/section4f/4fpolicy.pdf> (accessed December 14, 2021).



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**Attachment A**  
**Santa Clara County Parks and Recreation Department**  
**Comments on Draft Individual Section 4(f) Report**





# County of Santa Clara

## Parks and Recreation Department

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[www.parkhere.org](http://www.parkhere.org)



February 2, 2022

VIA EMAIL ONLY

California High-Speed Rail Authority  
Attn: Brett Rushing  
100 Paseo de San Antonio  
San Jose, CA 95113

**SUBJECT: Draft Individual Section 4(f) Evaluation of Two Parks in Santa Clara County for San Jose to Merced Project Section of the California High-Speed Rail System**

The County of Santa Clara ("County") received the Draft Individual Section 4(f) Evaluation of Two Parks in Santa Clara County ("Section 4(f) Evaluation" or "Evaluation") on January 7, 2022. The Evaluation is part of the California High-Speed Rail Authority ("Authority")'s California High-Speed Rail – San Jose to Merced Project Section ("Project Section") Draft Environmental Impact Report/Environmental Impact Statement (Draft EIR/EIS) in accordance with the California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA). The Authority has determined that the Coyote Creek Parkway County Park and the Field Sports County Park are Section 4(f) resources; are within the resource study area of the Project Section; and that the County has jurisdiction with respect to these resources.

Section 4(f) of the United States Department of Transportation Act of 1966, as amended, and codified in 49 United States Code (U.S.C.) Section 303, declares that "it is the policy of the United States Government that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges and historic sites." The Authority is responsible for Section 4(f) compliance for the High-Speed Rail Program pursuant to 23 U.S.C. Section 237. Under the NEPA Assignment Memorandum of Understanding between the Federal Railroad Administration and the State of California, effective July 23, 2019, the Authority is the federal lead agency and is responsible for compliance with NEPA and other federal environmental laws, including Section 4(f) and related U.S. Department of Transportation orders and guidance.

Board of Supervisors: Mike Wasserman, Cindy Chavez, Otto Lee, Susan Ellenberg, S. Joseph Simitian

County Executive: Jeffrey V. Smith



The County's Parks and Recreation Department (Department) operates and maintains recreational infrastructure, amenities, and opportunities on behalf of the County in Coyote Creek Parkway County Park and Field Sports County Park. The Department is responsible to provide, protect, and preserve regional parklands, including management of natural resources, protected species, and sensitive habitats. The Department has participated in numerous agency meetings held by the Authority, submitted several comment letters on the Project Section, including the Draft EIR/DEIS, and coordinated with the Authority on the Section 4(f) analysis.

As stated in the Evaluation and cover letter provided on January 7, 2022, "...the Authority has preliminarily determined that there is no prudent and feasible avoidance alternative to the use of the land from Coyote Creek Parkway County Park and Field County Sports Park and the proposed action includes all possible planning to minimize harm to Coyote Creek Parkway County Park and Field County Sports Park resulting from such use." These impacts include the temporary occupancy of 3.52 acres and permanent use of 0.31 acre of Coyote Creek Parkway County Park and temporary occupancy of 2.04 acres of Field Sports County Park.

The Department submits the following comments on the preliminary determination for impacts to Section 4(f) resources. The comments provided are solely based upon the Department's analysis of the Project Section and Section 4(f) Evaluation for impacts to County parklands. The comments are not based on the County's support for the Project Section or an alternative identified in the Draft EIR/EIS or Section 4(f) Evaluation.

- Section 1.1, *Laws, Regulations, and Orders*, identifies the applicable laws, regulations, and orders that apply to this Evaluation.

In addition to the regulations identified in the Evaluation, parklands in California are also protected under the Public Park Preservation Act of 1971 (commencing at California Public Resources Code section 5400 and following). This Act requires that any public agency that is acquiring public parkland for a non-park use must provide sufficient compensation, land, or both to enable the agency with jurisdiction to replace the parkland and recreational facilities.

The Department also has restrictions on the uses of County parkland under Section 604 of the County of Santa Clara Charter, which is approved by the voters of Santa Clara County and is referred to as the Park Charter Fund. The Park Charter Fund can only be used for the acquisition, development, operation, and maintenance of County parks. Any use of parklands that may be required for the Project Section must be consistent with the Park Charter Fund or may require transfer of property rights and compensation.

Board of Supervisors: Mike Wasserman, Cindy Chavez, Otto Lee, Susan Ellenberg, S. Joseph Simitian

County Executive: Jeffrey V. Smith



- Section 5, *Section 4(f) Applicability Analysis*, identifies two Parks and Recreation Areas that are subject to Section 4(f) use, Coyote Creek Parkway County Park and Field Sports County Park, that are under the jurisdiction of the Department.

The Department concurs with the Authority's conclusion that Coyote Creek Parkway County Park and Field Sports County Park are Section 4(f) resources and contribute significantly to unique recreational opportunities in Santa Clara County. Coyote Creek Parkway County Park includes a 15-mile segment of the Coyote Creek Trail, a heavily utilized (about 63,000 users in 2021) regional trail that is the backbone of the County's 880+ mile existing and planned countywide trail network. Field Sports County Park is the County's only publicly owned firing range and provides ranges for rifle/pistol and trap/skeet.

- Section 5, *Section 4(f) Applicability Analysis*, identifies the potential permanent acquisitions and temporary construction easements under each High-Speed Rail alternative.

The Department seeks to minimize all impacts to County parklands. For the purposes of this Evaluation, the Department's preference is that the Authority select the alternative that minimizes temporary and permanent impacts to Coyote Creek Parkway County Park and temporary impacts to Field Sports County Park.

- Section 6.2, *Individual Section 4(f) Evaluation*, states that for Coyote Creek County Park, "Project features (PK-IAMF#1) will maintain access to park and recreation facilities because the contractor will prepare and submit to the Authority a technical memorandum that identifies project design features to be implemented to minimize impacts on parks and recreation facilities, such as providing safe and attractive access for existing travel modes (e.g., motorists, bicyclists, pedestrians) to existing park and recreation facilities."

The Department requests active participation in the preparation of any technical memorandum or architectural designs to ensure recreational access is not altered because of the permanent occupancy of the 0.31 acre of Coyote Creek Parkway County Park. The Department has existing infrastructure and recreational amenities in Coyote Creek Parkway County Park, as well as planned improvements identified in the adopted Coyote Creek Parkway Integrated Natural Resources Management Plan and Master Plan (2007). Coordination with the Department will ensure that any permanent improvements associated with the High-Speed Rail will not restrict or prohibit current or future recreational use of a parcel, which would likely be considered significant harm to a Section 4(f) resource like Coyote Creek Parkway County Park. In addition, coordination will ensure that proposed permanent improvements (e.g., wildlife undercrossings to reduce impacts on wildlife) will be compatible with current and anticipated public recreational access.

Board of Supervisors: Mike Wasserman, Cindy Chavez, Otto Lee, Susan Ellenberg, S. Joseph Simitian

County Executive: Jeffrey V. Smith



- In addition, Section 6.2, *Individual Section 4(f) Evaluation*, states, "...the contractor will prepare a technical memorandum for the Authority documenting how the contractor will maintain connections to the unaffected park portions or nearby roadways during construction" (PR-MM#2 of the Draft EIR/EIS).

The Department requests that the Authority consult with the Department prior to approval of any technical memorandums to ensure that access for recreation is maintained during the temporary occupancy. Any temporary occupancy of either of these two County parks must be coordinated with the Department to minimize disruption to all public recreational uses. Consultation with the Department will ensure that High-Speed Rail has minimized harm to both County parks.

The Department will monitor construction of the High-Speed Rail to ensure that public recreation and transportation mitigation measures from the Draft EIR/EIS are implemented. These measures include providing alternative access via temporary detours to park resources (PR-MM#1) and providing adequate signage and advanced notification so that motorists and pedestrians will continue to have access to parks, recreation, and open space resources.

- Section 8, *Measures to Minimize Harm*, states "Final design will continue to minimize right-of-way impacts on Coyote Creek Parkway County Park and Field Sports County Park. Acquisition of land will be pursuant to California Code of Civil Procedure Section 1240 for the permanent use of land in each park."

In accordance with the California Public Park Preservation Act, any temporary or permanent acquisition by the Authority of County parkland, even when the Authority is exercising eminent domain, will require sufficient compensation to the County, consistent with Public Resources Code Section 5404 and Section 5405, for the loss of, or impact to, parklands and recreational opportunities.

The Department appreciates the opportunity to provide comments on the Draft Individual Section 4(f) Evaluation of Two Parks in Santa Clara County. If you have questions related to these comments, please contact me at (408) 355-2360 or e-mail at [Jeremy.Farr@prk.sccgov.org](mailto:Jeremy.Farr@prk.sccgov.org).

Sincerely,

DocuSigned by:  


80620979E487437  
Don Rocha, Director  
County of Santa Clara, Parks and Recreation Department

Board of Supervisors: Mike Wasserman, Cindy Chavez, Otto Lee, Susan Ellenberg, S. Joseph Simitian

County Executive: Jeffrey V. Smith

